

## **CONFIRMED MINUTES**

### **OF THE ORDINARY MEETING OF PENRITH CITY COUNCIL HELD IN THE COUNCIL CHAMBERS**

**ON MONDAY 21 JUNE 2010 AT 7:34PM**

#### **NATIONAL ANTHEM**

The meeting opened with the National Anthem.

#### **STATEMENT OF RECOGNITION**

The Deputy Mayor, Councillor Ross Fowler OAM read a statement of recognition of Penrith City's Aboriginal and Torres Strait Islander Cultural Heritage.

#### **PRAYER**

The Council Prayer was read by the Rev Neil Checkley.

#### **PRESENT**

The Deputy Mayor, Councillor Ross Fowler OAM, Councillors Jim Aitken OAM, Kaylene Allison, Robert Ardill, Greg Davies, Mark Davies, Tanya Davies, Ben Goldfinch, Jackie Greenow, Prue Guillaume, Marko Malkoc, Karen McKeown, Kath Presdee and John Thain.

#### **LEAVE OF ABSENCE**

Leave of Absence was previously granted to the Mayor, Councillor Kevin Crameri OAM for the period 21 June 2010 to 25 June 2010 inclusive.

#### **APOLOGIES**

There were no apologies.

#### **CONFIRMATION OF MINUTES - Ordinary Meeting - 24 May 2010**

188 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Marko Malkoc that the minutes of the Ordinary Meeting of 24 May 2010 be confirmed.

#### **DECLARATIONS OF INTEREST**

Nil.

#### **SUSPENSION OF STANDING ORDERS**

189 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Jim Aitken OAM that Standing Orders be suspended to allow members of the public to address the meeting, the time being 7:37 pm.

**Ms Christine Borg**

*Item 11 - Major Project - Proposal for Waste and Resource Management Facility on Lot 40 DP 738126 (No. 123-179) Patons Lane, Orchard Hills . Applicant: Dellara Pty Ltd; Owner: Dellara Pty Ltd*

Ms Borg, an affected neighbour, spoke against the proposal on the grounds of safety and health. Ms Borg stated that she lives only 600 m from the site of the proposed development and has safety concerns regarding air quality resulting from dust emanating from the site, in particular affecting children in her care. Ms Borg also expressed her concern that the dust from concrete crushing may also contain asbestos.

**Mr Tom Thornton**

*Item 11 - Major Project - Proposal for Waste and Resource Management Facility on Lot 40 DP 738126 (No. 123-179) Patons Lane, Orchard Hills . Applicant: Dellara Pty Ltd; Owner: Dellara Pty Ltd*

Mr Thornton, an affected person, representing affected residents, spoke in opposition to the proposal, stating his concerns for the environment of Blaxland Creek and the endangered Cumberland Plain Woodland. Mr Thornton stated that he was particularly concerned that alternative proposals to regenerate the site had not been considered by the proponent. Mr Thornton also stated that he did not believe there was a demand for this type of facility in the Western Sydney area.

**Procedural Motion**

190 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Greg Davies that Mr Thornton be granted an extension of time to complete his address, the time being 7:49 pm.

Mr Thornton outlined other alternative uses for the site, after its rehabilitation, including a heritage or tourist area. Mr Thornton also thanked Councillors Tanya Davies and Prue Guillaume for their ongoing support of residents and the Residents Against Industrial Dump in the affected area.

**Ms Lisa Harrold**

*Item 11 - Major Project - Proposal for Waste and Resource Management Facility on Lot 40 DP 738126 (No. 123-179) Patons Lane, Orchard Hills . Applicant: Dellara Pty Ltd; Owner: Dellara Pty Ltd*

Ms Harrold, speaking on behalf of the Mulgoa Landcare Group, spoke in opposition to the proposal, particularly noting the threat from pollutants to endangered Cumberland Plain Woodland and the need to preserve this significant vegetation corridor.

**Mr Rick Miller**

*Item 11 - Major Project - Proposal for Waste and Resource Management Facility on Lot 40 DP 738126 (No. 123-179) Patons Lane, Orchard Hills . Applicant: Dellara Pty Ltd; Owner: Dellara Pty Ltd*

Mr Miller, the applicant, spoke in support of the proposal and stated that the development would contain no toxic waste or asbestos. Mr Miller stated that no leachate would be disposed of onsite and that all water would be tested before being discharged into Blaxland Creek. Mr Miller also addressed residents' concerns regarding traffic issues, air quality and the recycling facility.

Mr Miller then answered questions from several Councillors about the proposed development.

**Mr Rob Corkery**

*Item 11 - Major Project - Proposal for Waste and Resource Management Facility on Lot 40 DP 738126 (No. 123-179) Patons Lane, Orchard Hills . Applicant: Dellara Pty Ltd; Owner: Dellara Pty Ltd*

Mr Corkery, representing the proponent, spoke in support of the proposal. Mr Corkery stated that he believed the community's concerns regarding asbestos and other pollution were unfounded and that the project contains best practice techniques to minimise dust and noise emanating from the site. Mr Corkery also stated that the proposal was focussed on the level of recycling in the Penrith City Council area, and encouraged residents to visit the site.

Mr Corkery then answered questions from several Councillors about the proposed development.

**Mr Jason Kozlovsky**

*Item 12 – Proposal to Fence one of the City's Dog Off Leash Exercise Areas*

Mr Kozlovsky, an interested citizen, spoke in support of a fenced dog off leash exercise area at Jamison Park. Mr Kozlovsky outlined the advantages of fencing dog off leash exercise areas, including socialisation of dogs, resulting in less aggressive and noisy dogs, as well as providing a safe play environment for families and their dogs using the park. Mr Kozlovsky cited examples of other, popular fenced dog off leash areas in other Local Government Areas and noted that residents of Penrith travel to those areas in order to have access to a fenced area in which to exercise their dogs. Mr Kozlovsky advised that over 600 people had signed a petition to have a fenced dog off leash exercise area.

**Procedural Motion**

191 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Robert Ardill that Mr Kozlovsky be granted an extension of time to complete his address, the time being 9:00 pm.

Mr Kozlovsky concluded by noting that fencing the Park would make it safer for all users, having regard to the busy roads that bound the Park, in particular Racecourse Road.

### **Mr Creese Syred**

#### *Item 12 – Proposal to Fence one of the City's Dog Off Leash Exercise Areas*

Mr Syred, an interested citizen, spoke in support of a fenced dog off leash exercise area at Jamison Park. Mr Syred noted the popularity and high usage of fenced dog off leash exercise areas in other Local Government Areas, and stated that the boundary of a fenced park results in less aggressive dogs and less anxious owners as it provides for the migration and socialisation of dogs. Mr Syred stated that a fenced dog off leash facility is needed in the Penrith local government area so that dog owners no longer have to travel to other Local Government Areas to exercise their dogs in a safe environment.

### **RESUMPTION OF STANDING ORDERS**

192 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Karen McKeown that Standing Orders be resumed, the time being 9:08 pm.

### **Procedural Motion**

193 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Marko Malkoc that consideration of *Item 11 - Major Project - Proposal for Waste and Resource Management Facility on Lot 40 DP 738126 (No. 123-179) Patons Lane, Orchard Hills* . Applicant: *Dellara Pty Ltd*; Owner: *Dellara Pty Ltd* and *Item 12 – Proposal to Fence one of the City's Dog Off Leash Exercise Areas* be brought forward to be considered before other Delivery Program items.

### **REPORTS OF COMMITTEES**

#### **1 Report and Recommendations of the Waste Services Committee Meeting held on 13 May 2010**

194 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Kath Presdee that the recommendations contained in the Report and Recommendations of the Waste Services Committee meeting held on 13 May, 2010 be adopted, with an amendment that the next meeting now take place on 15 July 2010 instead of 8 July 2010.

**2 Report and Recommendations of the Local Traffic Committee Meeting held on 7 June 2010**

195 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Jackie Greenow that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 7 June, 2010 be adopted.

**DELIVERY PROGRAM REPORTS**

**A GREEN CITY**

**11 Major Project - Proposal for Waste and Resource Management Facility on Lot 40 DP 738126 (No. 123-179) Patons Lane, Orchard Hills. Applicant: Dellara Pty Ltd; Owner: Dellara Pty Ltd**

A number of Councillors took the opportunity to express their concern about the proposed development and the concerns of the community with the proposed development.

The Deputy Mayor, Councillor Ross Fowler OAM noted that on page 109 of the report, dot point 4 should read "*Penrith should not be seen as Sydney's dumping ground for waste.*"

196 RESOLVED on the MOTION of Councillor Tanya Davies seconded Councillor Prue Guillaume

That:

1. The information contained in the report on Major Project - Proposal for Waste and Resource Management Facility on Lot 40 DP 738126 (No. 123-179) Patons Lane, Orchard Hills be received.
2. Council forward to the Department of Planning and the Minister for Planning the submission outlining concerns in relation to the proposed Waste resource Management facility on Lot 40 DP 738126 Patons Lane, Orchard Hills and express its strong opposition to the proposed development and request the Development Application be refused due to the overwhelming and compelling issues identified.
3. Council write to the Members for Mulgoa and Penrith seeking their support for the position being put by Council that the Waste Management Facility not be approved by the Minister for Planning.
4. Council write to the Minister for Climate Change and the Environment outlining our concerns with the current regulatory regime governing the waste industry and in particular the disposal of asbestos.
5. Council prepare a motion to the next Local Government and Shires Association conference in relation to the inadequacies of the self regulatory nature of the waste industry as it relates to the disposal of construction and demolition waste material.
6. The cost associated with convening the two Residents Against Industrial Dump community meetings at the St Marys Memorial Hall be paid for from the Corporate budget.
7. A copy of the submission be made available to the Committee members of the Residents Against Industrial Dump action group.

In accordance with Section 375A of the Local Government Act 1993, a DIVISION was then called with the following result:

**For**  
Councillor Kaylene Allison  
Councillor Prue Guillaume  
Councillor Karen McKeown  
Councillor Kath Presdee  
Councillor Greg Davies  
Councillor John Thain  
Councillor Jackie Greenow  
Councillor Jim Aitken OAM  
Councillor Robert Ardill  
Councillor Mark Davies  
Councillor Ben Goldfinch  
Councillor Tanya Davies  
Councillor Marko Malkoc

**Against**

Councillor Ross Fowler OAM

The Deputy Mayor, Councillor Ross Fowler OAM adjourned the meeting, the time being 9:38 pm, with the following Councillors being present:

Councillors Kaylene Allison, Prue Guillaume, Karen McKeown, Kath Presdee, Greg Davies, John Thain, Jackie Greenow, Jim Aitken OAM, Robert Ardill, Mark Davies, Ben Goldfinch, Tanya Davies, Marko Malkoc and Ross Fowler, OAM.

Councillors Tanya Davies, Prue Guillaume, Karen McKeown, Marko Malkoc, Mark Davies, Jim Aitken OAM and Ben Goldfinch left the meeting, the time being 9:38 pm.

Councillors Ben Goldfinch and Karen McKeown returned to the meeting, the time being 9:41 pm.

The meeting resumed at 9.41 pm, with the following Councillors being present:

Councillors Kaylene Allison, Karen McKeown, Kath Presdee, Greg Davies, John Thain, Jackie Greenow, Robert Ardill, Ben Goldfinch and Ross Fowler OAM.

Councillor Jim Aitken OAM returned to the meeting, the time being 9:42 pm.

Councillors Prue Guillaume, Marko Malkoc and Mark Davies returned to the meeting, the time being 9:43 pm.

## **A LIVEABLE CITY**

### **12 Proposal to Fence one of the City's Dog Off Leash Exercise Areas**

Councillor Tanya Davies returned to the meeting, the time being 9:45 pm.

197 RESOLVED on the MOTION of Councillor Prue Guillaume seconded Councillor Kath Presdee

That:

1. The information contained in the report on Proposal to Fence one of the City's Dog Off Leash Exercise Areas be received.
2. An urgent report be presented to the next Ordinary Meeting of Council, investigating the establishment of a dog off-leash area at Jamison Park, with the possibility of funding from the recently announced Regional and Local Community Infrastructure Program.
3. The report to Council contain an analysis of the use of the existing St Clair fenced dog off leash area and contain the current costs with respect to maintaining the area.

Councillor Prue Guillaume left the meeting, the time being 9:55 pm.

**A LEADING CITY**

**3 Workers Compensation**

198 RESOLVED on the MOTION of Councillor Ben Goldfinch seconded Councillor Greg Davies

That:

1. The information contained in the report on Workers Compensation be received.
2. Council endorse the acceptance into WorkCover's Burning Cost Scheme from 2010-11 for a period of 3 years.
3. The expected savings in premium costs of approximately \$700,000 be transferred to reserve.

**5 Summary of Investments & Banking for the period 1 May to 31 May 2010**

199 RESOLVED on the MOTION of Councillor Ben Goldfinch seconded Councillor Greg Davies

That:

1. The information contained in the report on Summary of Investments & Banking for the period 1 May to 31 May 2010 be received.
2. The Certificate of the Responsible Accounting Officer and Summaries of Investments and Performance for the period 1 May 2010 to 31 May 2010 be noted and accepted.
3. The graphical investment analysis as at 31 May 2010 be noted.

**21 Regional and Local Community Infrastructure Program Additional \$721,000 Council Allocation**

200 RESOLVED on the MOTION of Councillor Ben Goldfinch seconded Councillor Greg Davies that the information contained in the report on Regional and Local Community Infrastructure Program Additional \$721,000 Council Allocation be received.

**1 Adoption of the Community Strategic Plan 2031, the Delivery Program 2009-2013, the Operational Plan 2010-2011, the Resource Strategy and the Community Engagement Strategy**

Councillor Prue Guillaume returned to the meeting, the time being 9:57 pm.

201 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on Adoption of the Community Strategic Plan 2031, the Delivery Program 2009-2013, the Operational Plan 2010-2011, the Resource Strategy and the Community Engagement Strategy be received
2. The proposed changes to the exhibited draft documents detailed in the report, including variations to the draft budget, Fees and Charges, staff establishment and tasks, be endorsed
3. In accordance with the Local Government Act 1993, Local Government (General) Regulation 2005 and Local Government Amendment (Planning and Reporting) Act 2009, Council adopt the Community Strategic Plan 2031, Delivery Program 2009-2013, Operational Plan 2010-2011 (including the Fees and Charges), Resource Strategy and Community Engagement Strategy, incorporating amendments detailed in this report
4. Council approve for expenditure the budget as detailed in the Operational Plan 2010-2011, and on that basis formally vote these funds for the 2010-2011 financial year
5. Individuals and organisations who made submissions on Council's draft Community Strategic Plan 2031, Delivery Program 2009-2013, Operational Plan 2010-2011, Resource Strategy and Community Engagement Strategy be thanked for their comments, provided with a response, and advised of Council's decision.
6. Those projects in the Operational Plan 2009-2010, which were approved by Council in the March Quarter Review 2010 to be carried forward, are included in the adopted Operational Plan 2010-2011.

## **2 Making of the Rates & Charges 1 July 2010 to 30 June 2011**

202 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies

That:

1. The information contained in the report on Making of the Rates & Charges 1 July 2010 to 30 June 2011 be received.

**2. Ordinary Rate**

In accordance with Section 535 of the Local Government Act 1993, an ordinary rate named Residential ordinary in accordance with Section 543(1) of point three seven seven nine two (.37792) cents in the dollar being ad valorem amount on the land value of all rateable land in the City categorised as residential under Section 493 and that an ordinary rate named Farmland ordinary of point one eight eight nine six (.18896) cents in the dollar on the land value of all rateable land in the City categorised as farmland and that an ordinary rate named Business ordinary of point six five seven three eight (.65738) cents in the dollar on all rateable land in the City categorised as business and that an ordinary rate being a subcategory of Business rate named Penrith CBD Rate of point seven five two three (.7523) cents in the dollar and that an ordinary rate being a subcategory of Business rate named St Marys Town Centre Rate of one point zero one four five eight (1.01458) cents in the dollar be now made for the period 1 July 2010 to 30 June 2011 subject to a minimum rate under Section 548(5) of seven hundred and fourteen dollars and twenty cents (\$714.20) in respect of each separate parcel of land categorised as Residential and Farmland and that each separate parcel of land categorised as Business or as a subcategory of Business be subject to a minimum rate under Section 548(5) of the Local Government Act, 1993 of nine hundred and thirteen dollars and eighty cents (\$913.80).

**3. Service of Rate Notices**

The rate or charge for the 2010-11 rate year be levied on the land specified in a rates and charges notice by the service of that notice, and the General Manager be and is hereby authorised, to prepare and serve such notice for and on behalf of Council.

**4. Charges**

The charges attached to the report to the Ordinary meeting on 21 June 2010, titled Making of Rates and Charges for 1 July 2010 to 30 June 2011, be made (see attachment).

**5. Interest**

For the purpose of calculating the interest on overdue rates and charges in accordance with Section 566(3) of the Local Government Act, 1993, Council make the interest charge for 2010-11 nine (9.0) percent per annum.

**6. Pension Rebate**

All eligible pensioners under Section 575 of the Local Government Act, 1993 be granted a rebate of 50% of the ordinary rate and domestic waste management service up to a maximum of \$250.00 under Section 575(3) of the Local

Government Act, 1993.

#### **4 Changes by the State Government to Development Contributions**

203 RESOLVED on the MOTION of Councillor Ben Goldfinch seconded Councillor Marko Malkoc that Councillor Mark Davies be granted an extension of time to complete his address, the time being 10:07 pm.

204 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Greg Davies

That:

1. The information contained in the report on Changes by the State Government to Development Contributions be received.
2. Council endorse participation in a media campaign to ensure that the NSW Government, media, the property and development industries, and residents understand the full implications of the introduced changes.
3. Council meet with local State members to advise them of the serious financial implications that would impact on Council and its community as a consequence of these initiatives.
4. Council endorse deferring the issue of development consents for development applications where Development Contributions in excess of \$20,000 would otherwise be charged, until such time as satisfactory arrangements are made for the funding and delivery of all infrastructure identified in the relevant Development Contributions Plan, through a legally binding commitment with the applicant, or through other appropriate means.
5. Council write to the Local Government Association asking whether there was any discussion between the Department of Planning, the Minister for Planning and the Local Government Association prior to changes being made to the Development Contribution planning process.

#### **A CITY OF OPPORTUNITIES**

#### **7 Grant Application - St Marys Seniors Centre Kitchen upgrade**

'205 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Grant Application - St Marys Seniors Centre Kitchen upgrade be received.
2. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.
3. Correspondence be forwarded to the Minister for Ageing, Disability Services, Volunteering and Youth thanking the NSW Government for the grant to complete the work as outlined in this report.

**6 Request for a Councillor Nomination for the Community Relations Commission of NSW Nepean Blacktown Regional Advisory Council**

'206 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor John Thain

That:

1. The information contained in the report on Request for a Councillor Nomination for the Community Relations Commission of NSW Nepean Blacktown Regional Advisory Council be received.
2. Councillor Karen McKeown continue her role as Councillor representative to the Nepean Blacktown Regional Advisory Council for a term expiring in June 2012.

**8 Youth Week 2010 Activities Evaluation**

Councillor Ben Goldfinch congratulated staff on the preparation of the report.

'207 RESOLVED on the MOTION of Councillor Ben Goldfinch seconded Councillor Karen McKeown that the information contained in the report on Youth Week 2010 Activities Evaluation be received.

**A GREEN CITY**

**19 Grant Funding for Environmental work along the Nepean River**

208 RESOLVED on the MOTION of Councillor Robert Ardill seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Grant Funding for Environmental work along the Nepean River be received.
2. The grant funding of \$10,500 (pre GST) offered to Penrith City Council by the Hawkesbury Nepean Catchment Management Authority be accepted.

**9 Development Application DA 10/0039, Proposed Split Level Dwelling, Indoor Swimming Pool and Tennis Court at Lot 806, DP 1068323 (No. 27-29) Belleview Avenue, Mt Vernon. Applicant: Design Corp Australia Pty Ltd; Owner: Joumana Kalach-Warda**

209 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Tanya Davies

That:

1. The information contained in the report on Development Application DA 10/0039, Proposed Split Level Dwelling, Indoor Swimming Pool and Tennis Court at Lot 806, DP 1068323 (No. 27-29) Belleview Avenue, Mt Vernon be received.
2. The terms of clause (b) of Restrictive Covenant fourthly referred to in the 88B Instrument attached to Lot 806, DP 1068323, be varied as follows as it applies to Lot 806 only:
  - (b) All development erected on the subject lot will be in accordance with the proposed building envelope indicated on the Site Plan, Drawing No J06 for Reference Number 2009-143, prepared by Design Corp. This clause does not preclude the construction of a tennis court outside the nominated building envelope.
3. The Common Seal of Penrith City Council be affixed to the necessary documentation.
4. Development Application No DA10/0039 for the construction of a Split Level Dwelling, Swimming Pool and Tennis Court be approved subject to the proposed conditions of Development Consent as follows:

**Standard Conditions**

- 4.1 A008 – Works to BCA requirements
- A009 – Residential Works DCP
- A019 – Occupation Certificate
- A046 – Issue of Construction Certificate
- D001 – Sedimentation and Erosion Controls
- D009 – Covering Waste Storage area
- E001 – BCA compliance
- E005 – Smoke Alarms
- F010 – Septic distance from house
- H001 – Stamped plans and erection of site notice
- H011 – Engineering plans and specifications
- H013 – Further details of building components
- H014 – Slab design
- H015 – Termite protection
- H036 – Rainwater tank
- H037 – Safe supply from catchment

- H038 – Connection of rainwater tank supply
- H039 – Rainwater tank pumps
- H041 – Hours of work
- H034 – Bushfire roof sarking
- I003 – Roads Act approval
- J009 – Backyard Pool Safety
- J010 - Pool Board/Sign
- K017 – Stormwater and sewerage plan
- L001 – General landscaping
- L008 – Tree preservation order
- Q001 – Notice of commencement and appointment of PCA

**Special Conditions**

- 4.2 The development must be implemented substantially in accordance with the plans drawn by Design Corp, reference No 2009-143, Drawings No J01 – J07, the application form, the BASIX Certificate, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions
- 4.3 All boundary fences are to be low profile, open style and rural in character. The front fence is not to exceed 1.5m in height. The brick dwarf wall is not to exceed 350mm above natural ground level at any point.
- 4.4 Prior to the issue of a Construction Certificate for the development, the variation of the Restriction on the Use of land numbered 4(b) in DP 1068323, shall be registered with the Land and Property Information division of the Department of Lands  
  
The variation to the covenant shall be in the terms approved by resolution of Penrith City Council as follows;  
  
All development erected on the subject lot will be in accordance with the proposed building envelope indicated on the Site Plan, Drawing No J06 for Reference Number 2009-143.. This clause does not preclude the construction of a tennis court outside the nominated building envelope.
- 4.5 The dwelling is not to be used or converted for use as a dual occupancy.
- 4.6 Cut and fill operations on the property are only permitted in conjunction with the building works and shall be strictly limited in

depth and extent to that detailed on the approved plans and specifications

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

- 4.7 All house sewer and plumbing work shall be carried out in accordance with Sydney Water's requirements or the Local Government (Water, Sewerage and Drainage) Regulation 1993
- a) Penrith City Council is both the consent authority and certifying authority for the installation of the On Site Sewage Management System (OSSM), otherwise known as a septic tank system. It is your responsibility to contact Council's Building Approvals and Environment Protection Department to organise all inspections required for the installation of the system. In this regard, the following will require inspection:
- All internal and external drainage lines and septic tanks before they are backfilled/covered
  - On completion of the system's installation and prior to its commissioning, ensuring compliance with those conditions specific to the installation of the system

A copy of the satisfactory inspection reports carried out by Council shall be submitted to the Principal Certifying Authority if Council is not the Principal Certifying Authority

- i. The septic tank, drainage lines and effluent disposal area shall not be altered without the prior approval of Council. In addition, the septic tank shall not be buried or covered
- ii. There shall be no effluent runoff from the subject property to adjoining premises, public places or reserves
- iii. There shall be available all year round, adequate water supply that is available to the property

- 4.8 The Effluent Management Area shall have a minimum area of 1660m<sup>2</sup>, containing an Effluent Disposal Area of 840m<sup>2</sup> and shall be prepared in accordance with the “Environmental and Health Protection Guidelines On Site Sewage Management for Single Households” and AS1547:2000

The effluent shall be disposed of via subsurface drip irrigation.

Prior to the issue of the Occupation Certificate and the issue of an operational licence for the OSSM system by Penrith City Council, the effluent disposal area shall be:

- Prepared/ landscaped in accordance with the stamped - approved plans

All stormwater and seepage shall be diverted away from the disposal area by using an agricultural drain or earthen bund and dish drain

- 4.9 Prior to the commencement of construction works:
- (a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
- A standard flushing toilet connected to a public sewer, or
  - If that is not practicable, an accredited sewage management facility approved by the council, or
  - Alternatively, any other sewage management facility approved by council
- 4.10 Prior to the issue of a construction certificate a positive covenant shall be registered over the land to which the development relates. The positive covenant shall be in terms approved Penrith City Council and specify that in the event that the airport at Badgery’s Creek becomes operational, the works identified in the report by RSA Acoustics, Report No 4597, dated December 2009 will be required to be installed in the development.

Alternatively, the recommended construction details to reduce aircraft noise intrusion to meet indoor design sound levels, as detailed in the report prepared by RSA Acoustics, report No 4597, and dated December 2009 are to be undertaken during construction. As the recommended construction details are carried out and on completion of the development, a qualified acoustic consultant shall certify that the development has been constructed to meet the indoor design sound levels in accordance with the approved acoustic report.

- 4.11 Any lighting to the tennis court area shall be located and directed so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 “Control of the obtrusive effects of outdoor lighting.

- 4.12 The swimming pool is required to be provided with a child resistant barrier in accordance with AS1926 "Swimming Pool Safety". Restriction of access to the pool area shall also comply with the Swimming Pools Act, 1992. A plan detailing how compliance with the Act and the Standard will be achieved is to be submitted for approval prior to the issue of a Construction Certificate.
- 4.13 The swimming pool is to be provided with filtration equipment that does not require a backwash facility e.g. a cartridge filtration system.
- 4.14 The proposed pond is to be less than 300mm in depth, or alternatively is to be provided with a safety barrier which meets the requirements of AS1926 "Swimming Pool Safety".
- 4.15 Roof and surface water shall be disposed of in accordance with the approved drainage design. Overflow from the existing in-ground rainwater tank is to be disposed of via a level spreader system.
- 4.16 The existing trees to the perimeter of the property shall be retained and duly protected during the construction of the development. Tree protection measures shall be installed before any works can commence on site including the clearing of site vegetation
- 4.17 Landscape plan is to be completed in accordance with drawing No LS001, prepared by Green Tree Design and dated 25.03.10. Additional landscaping to the area between the tennis court and the side boundary is to be provided.
- 4.18 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the dwelling. The commitments listed in the BASIX Certificate are to be completed prior to the issue of the Occupation Certificate

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding. This includes submitting the following documentation to the Principal Certifying Authority:

- (a) Written documentation or Compliance Certificate from Penrith City Council certifying to the satisfactory completion of works approved under the Roads Act 1993
- (b) Written documentation or certification attesting to the satisfactory installation of, and the Licence to Operate the on site sewage management system issued by Penrith City Council
- (c) Certification from a qualified acoustic consultant certifying that the development has been constructed in accordance with the approved acoustic report/to meet the indoor design sound levels in accordance with the approved acoustic report, unless evidence of registration of Positive Covenant has been previously

provided.

- 4.19 A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority. In the event that a Compliance Certificate was issued by the Principal Certifying Authority certifying compliance that all conditions of the development consent required to be met has in fact been met as well as any documentation stated above, shall be submitted to Penrith City Council if Council is not the Principal Certifying Authority.

In accordance with Section 375A of the Local Government Act 1993, a DIVISION was then called with the following result:

<b>For</b>	<b>Against</b>
Councillor Kaylene Allison	
Councillor Prue Guillaume	
Councillor Karen McKeown	
Councillor Kath Presdee	
Councillor Greg Davies	
Councillor John Thain	
Councillor Jackie Greenow	
Councillor Jim Aitken OAM	
Councillor Robert Ardill	
Councillor Mark Davies	
Councillor Ben Goldfinch	
Councillor Tanya Davies	
Councillor Marko Malkoc	
Councillor Ross Fowler OAM	

**10 Proposed Department of Planning initiative to delegate certain Joint Regional Planning Panel powers to Council Staff**

210 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on the Proposed Department of Planning initiative to delegate certain Joint Regional Planning Panel powers to Council Staff be received.
2. Council does not support the proposal to delegate certain applications back to Council, which are currently determined by the Joint Regional Planning Panel, in its current form.
3. Council write to the Department of Planning requesting that the process for the assessment and determination of Regional Planning Panel applications revert back to Council and the process followed prior to the inception of the JRPP.
4. Councillor Representatives on the Joint Regional Planning Panel be paid a fee of up to \$600 (if claimed by a particular Councillor) in recognition of the additional responsibilities for the Councillor.

In accordance with Section 375A of the Local Government Act 1993, a DIVISION was then called with the following result:

**For**  
Councillor Kaylene Allison  
Councillor Prue Guillaume  
Councillor Karen McKeown  
Councillor Kath Presdee  
Councillor Greg Davies  
Councillor John Thain  
Councillor Jackie Greenow  
Councillor Jim Aitken OAM  
Councillor Robert Ardill  
Councillor Mark Davies  
Councillor Ben Goldfinch  
Councillor Tanya Davies  
Councillor Marko Malkoc  
Councillor Ross Fowler OAM

**Against**

**A LIVEABLE CITY**

**15 Assessments for proposed physical closure of selected Pedestrian Laneways**

211 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Assessments for proposed physical closure of selected Pedestrian Laneways be received.
2. Council approve the physical closure of Morningbird Lane, St Clair; McCartney Lane, St Clair and Vista Lane, Penrith through the installation of suitable security gates to prevent public access at each laneway.
3. Letters be sent to local residents at each location to advise them of the laneway closures.
4. A public notice be placed in the local media to inform the wider community of the laneway closures.
5. Rodley Lane, Penrith and Ball Lane, Colyton remain open and be subject to further investigations for possible community safety strategies to minimise negative impacts on adjoining properties.

**17 Tender Reference 36-09/10 for the provision of Arborist & Tree Maintenance Services**

212 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Tender Reference 36-09/10 for the provision of Arborist & Tree Maintenance Services be received.
2. The tenders received from Bolans Tree Services Pty Ltd, Advanced Arbor Services Pty Ltd, Plateau Tree Service, Citywide Solutions Pty Ltd, Friendly Fred's Tree Services, Sydney Metro Tree Services Pty Ltd, Utility Services Corporation and JL Trees for the provision of arborist and tree maintenance services be accepted as the panel of approved contractors for a period of 3 years with an option to extend the arrangements for a further 12 months subject to satisfactory performance.

**20 Tender Reference 38-09/10 Supply & Installation of Public Domain Lighting**

'213 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Tender Reference 38-09/10 Supply & Installation of Public Domain Lighting be received.
2. Council accept the tender from Connect Infrastructure Construction Pty Ltd for the supply and installation of public domain lighting at various locations throughout Cranebrook for a lump sum cost of \$349,000 (excluding GST.)

### **13 Pole Posters**

'214 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Pole Posters be received.
2. Council makes representations to the State Government (through the Local Government Association Conference Motions) to amend the *Protection of the Environment Operations Act* to include an offence for attaching advertising posters/signs on roadside power poles.

### **14 Feasibility of Community Gardens in the Penrith Local Government Area**

Councillor Kath Presdee thanked staff for their efforts in preparing the report.

'215 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor John Thain

That:

1. The information contained in the report on Feasibility of Community Gardens in the Penrith Local Government Area be received.
2. An internal working party, with representatives from Council's Community and Cultural Development, Sustainability and Parks Departments be established to conduct further detailed investigations into the feasibility of establishing a new community garden within the City and the outcomes of these investigations be reported to Council.

### **16 Federal Government 2010/2011 "Nation Building Black Spot Program" Funding Offer**

216 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Federal Government 2010/2011 "Nation Building Black Spot Program" Funding Offer be received.
2. Council accept the grant funding of \$360,000 offered for the three successful Black Spot projects under the 100% Federally Funded "Nation Building Black Spot Program" for the 2010/2011 financial year.
3. Council note the Roads and Traffic Authority will undertake upgrade works to the value of \$1,130,000 across three RTA intersections in the Penrith LGA.

### **18 Reconstruction of Peppertree Oval**

217 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Tanya Davies

That:

1. The information contained in the report on Reconstruction of Peppertree Oval be received.
2. The senior fields at Peppertree Oval be reconstructed in 2010/11 with funds from WASIP and a contribution from St Clair Rugby League Club.
3. The St Clair Rugby League Club be thanked for its generous contribution towards this important work.

## **REQUESTS FOR REPORTS AND MEMORANDUMS**

### **RR 1 Removal of Pedestrian Crossings - Desborough Road, St Marys**

Councillor Tanya Davies requested a memo reply to all East Ward Councillors concerning the decision by Council to remove all pedestrian crossings along Desborough Road, St Marys, with the memo to include:

- a) research and rationale to remove, when Bennett Road has crossings on all sides;
- b) consultation undertaken with community and St Marys South Public School and Lutheran pre-school;
- c) cost to install and maintain a standard, basic pedestrian crossing.

### **RR 2 Storage facilities - Surveyors Creek Community Centre**

Councillor Prue Guillaume requested a memo reply providing results of an investigation into ways that Council can assist in providing greater storage facilities for the Glenmore Park Girl Guides, based at Surveyors Creek Community Centre.

### **RR 3 Process for Committing Council Funds**

Councillor Greg Davies requested a memo reply to all Councillors outlining the process to be followed when requesting allocation of Council funds.

**RR 4 CUA Stadium Upgrade**

Councillor Greg Davies requested a report to Council outlining options for the preservation of the historic scoreboard at CUA Stadium, during the proposed upgrades of the Stadium.

**URGENT BUSINESS**

**UB 1 Election of New Member for Penrith**

Councillor John Thain requested that Stuart Ayres, the new Member for Penrith, be congratulated on his recent election.

**UB 2 'Pink Panther' Game - Friday 25 June 2010**

Councillor Tanya Davies requested that the local community be informed of the second year of the 'Pink Panther' game, which is to be held on Friday night, 25 June 2010, to raise awareness and funds in the Harvey Norman Women in League round, which is combining its fundraising efforts with the McGrath Foundation.

**UB 3 Election of New Member for Penrith**

Councillor Mark Davies requested that the Mayor, Councillor Kevin Crameri OAM, write to the new Member for Penrith, Stuart Ayres, congratulating him on his election and also inviting him to Council for a meeting with the Mayor and General Manager, to be briefed about important issues facing Penrith City Council.

**UB 4 The Late Bruce Oliver, Glenmore Park**

Councillor Prue Guillaume requested that Council write to the family of the Late Bruce Oliver, of Glenmore Park, who recently passed away, recognising his work in the community, especially in the establishment of the Glenmore Park Action Group.

**UB 5 Leave of Absence**

Councillor Robert Ardill requested Leave of Absence from 26 July 2010 to 20 August 2010 inclusive.

218 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Jim Aitken OAM that the matter be brought forward and dealt with as an urgent matter.

The Deputy Mayor, Councillor Ross Fowler OAM, ruled that the matter was urgent and should be dealt with at the meeting.

219 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Jim Aitken OAM that Leave of Absence be granted to Councillor Robert Ardill from 26 July 2010 to 20 August 2010 inclusive.

#### **UB 6 Great Walk Fundraising Event**

Councillor Greg Davies requested that \$500 from each Ward's voted works (totalling \$1,500) be allocated towards the Great Walk Fundraising event, which was attended by members of the Penrith community, walking from Bathurst to Penrith.

220 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken OAM that the matter be brought forward and dealt with as an urgent matter.

The Deputy Mayor, Councillor Ross Fowler OAM, ruled that the matter was urgent and should be dealt with at the meeting.

221 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken OAM \$500 from each Ward's voted works (totalling \$1,500) be allocated towards the Great Walk Fundraising event, which was attended by members of the Penrith community, walking from Bathurst to Penrith.

#### **COMMITTEE OF THE WHOLE**

222 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor John Thain that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 10:45 pm.

Councillor Marko Malkoc left the meeting, the time being 10:47 pm and did not return.

Councillor Mark Davies left the meeting, the time being 10:47 pm.

Councillor Mark Davies returned to the meeting, the time being 10:49 pm.

#### **1 Presence of the Public**

CW1 RESOLVED on the motion of Councillor John Thain seconded Councillor Jim Aitken OAM that the press and public be excluded from Committee of the Whole to deal with the following matters:

#### ***A Green City***

#### **2 Legal Matter - Compliance Issues at 123-179 Patons Lane, Orchard Hills**

*This item has been referred to Committee of the Whole as the report refers to information that would, if disclosed, prejudice the maintenance of law and discussion of*

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*the matter in open meeting would be, on balance, contrary to the public interest.*

The meeting resumed at 11:04 pm and the General Manager reported that the Committee of the Whole met at 10:45 pm on 21 June 2010, the following being present

The Deputy Mayor, Councillor Ross Fowler OAM, Councillors Jim Aitken OAM, Kaylene Allison, Robert Ardill, Greg Davies, Mark Davies, Tanya Davies, Ben Goldfinch, Jackie Greenow, Prue Guillaume, Karen McKeown, Kath Presdee and John Thain

and the Committee of the Whole excluded the press and public from the meeting for the reasons set out in CW1 and that the Committee of the Whole submitted the following recommendations to Council.

**CONFIDENTIAL BUSINESS**

**2 Legal Matter - Compliance Issues at 123-179 Patons Lane, Orchard Hills**

RECOMMENDED on the MOTION of Councillor John Thain seconded Councillor Tanya Davies

CW2 That the information contained in the report on Legal Matter - Compliance Issues at 123-179 Patons Lane, Orchard Hills be received.

**ADOPTION OF COMMITTEE OF THE WHOLE**

223 RESOLVED on the MOTION of Councillor Tanya Davies seconded Councillor Greg Davies that the recommendations contained in the Committee of the Whole and shown as CW1 and CW2 be adopted.

There being no further business the Chairperson declared the meeting closed the time being 11:05 pm.

I certify that these 24 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 21 June 2010.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date