

CONFIRMED MINUTES

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

ON MONDAY 8 NOVEMBER 2010 AT 7:37PM

NATIONAL ANTHEM

The meeting opened with the National Anthem.

STATEMENT OF RECOGNITION

His Worship the Mayor, Councillor Kevin Crameri 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

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

APOLOGIES

There were no apologies.

CONFIRMATION OF MINUTES - Ordinary Meeting - 11 October 2010

366 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Greg Davies that the minutes of the Ordinary Meeting of 11 October 2010 be confirmed.

DECLARATIONS OF INTEREST

Nil.

MAYORAL MINUTES

1 Passing of Dame Joan Sutherland AC DBE

367 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Jim Aitken OAM that the Mayoral Minute on Passing of Dame Joan Sutherland AC DBE be received.

Councillors Jim Aitken OAM, John Thain and Greg Davies spoke in favour of the Mayoral

Minute.

2 Passing of Hakusan City Mayor Mitsuo Kado

368 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Jim Aitken OAM that the Mayoral Minute on Passing of Hakusan City Mayor Mitsuo Kado be received.

Councillors Jim Aitken OAM, John Thain and Jackie Greenow spoke in favour of the Mayoral Minute.

3 Councillor Karen McKeown elected to Local Government Association of NSW

369 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Jim Aitken OAM that the Mayoral Minute on Councillor Karen McKeown elected to Local Government Association of NSW be received.

Councillors Jim Aitken OAM, Greg Davies, John Thain, Jackie Greenow and Ross Fowler OAM spoke in favour of the Mayoral Minute.

4 Draft Health Strategy wins Planning Commendation

370 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Jim Aitken OAM

That:

1. The Mayoral Minute on Draft Health Strategy wins Planning Commendation be received.
2. The General Manager pass on Council's congratulations to staff members, Anthony Price and Monique Desmarchelier, who prepared the Draft Health Strategy.

Councillors Jim Aitken OAM and Ross Fowler OAM spoke in favour of the Mayoral Minute.

REPORTS OF COMMITTEES

1 Report and Recommendations of the Penrith Valley Community Safety Partnership Meeting held on 29 September 2010

371 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Marko Malkoc

That:

1. The recommendations contained in the Report and Recommendations of the Penrith Valley Community Safety Partnership meeting held on 29

September, 2010 be adopted.

2. With regard to Item 9, a memo be forwarded to all Councillors regarding the provision of a suitable alternative for people that use Morningbird Lane.

2 Report and Recommendations of the Access Committee Meeting held on 6 October 2010

372 RESOLVED on the MOTION of Councillor Robert Ardill seconded Councillor Prue Guillaume that the recommendations contained in the Report and Recommendations of the Access Committee meeting held on 6 October, 2010 be adopted.

3 Report and Recommendations of the Local Traffic Committee Meeting held on 11 October 2010

373 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Kath Presdee that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 11 October, 2010 be adopted.

4 Report and Recommendations of the Policy Review Committee meeting held on 18 October, 2010

374 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor John Thain that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 18 October, 2010 be adopted.

DELIVERY PROGRAM REPORTS

A LEADING CITY

1 2010-2011 Operational Plan - September Quarter Review

375 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on 2010-2011 Operational Plan - September Quarter Review be received.
2. The amendments to the 2010-2011 Operational Plan KPIs or task deferrals be adopted.
3. The 2010-2011 Operational Plan Review as at 30 September 2010, including the revised estimates and re-vote identified in the recommended budget, be adopted.

2 2010-11 Financial Assistance Grant

376 RESOLVED on the MOTION of Councillor Robert Ardill seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on 2010-11 Financial Assistance Grant be received.
2. Council increase the Financial Assistance Grant roads component budget by \$91,416 to match the actual Financial Assistance Grant roads component received.

3 Audit Committee

377 RESOLVED on the MOTION of Councillor Robert Ardill seconded Councillor Ben Goldfinch that the information contained in the report on Audit Committee be received.

4 Pecuniary Interest Returns

378 RESOLVED on the MOTION of Councillor Robert Ardill seconded Councillor Ben Goldfinch that the information contained in the report on Pecuniary Interest Returns be received.

Note: A further resolution on this matter is included at Minute No. 392 of these Minutes, when the matter was recommitted for consideration of Council.

5 2010 Local Government Association Annual Conference

379 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Robert Ardill

That:

1. The information contained in the report on 2010 Local Government Association Annual Conference be received.
2. A letter of appreciation be sent by the Mayor to the Chairperson of the Deerubbin Local Aboriginal Land Council thanking the DLALC for their attendance and support at the 2010 Local Government Association Conference.
3. Council note that the following Late Motion regarding Freight Transport was raised at the Conference and was referred to the LGA Executive:

The Local Government Association call on the Federal Government to reconsider the location of the proposed Intermodal Terminal facility at Moorebank and request that a feasibility study be conducted with a view to

locating the Intermodal Terminal facility at the discarded Badgerys Creek Airport site.

4. A submission be prepared on the justification and advantages of establishing the Intermodal at Badgerys Creek and that the submission be forwarded on behalf of the Penrith LGA and Western Sydney to the Local Federal Members surrounding the area and to the Prime Minister, Leader of the Opposition, Minister for Transport and Shadow Minister for Transport.

6 Glenmore Park Stage 2 - Voluntary Planning Agreement

380 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Prue Guillaume

That:

1. The information contained in the report on Glenmore Park Stage 2 - Voluntary Planning Agreement be received.
2. Council endorse the finalisation, public notification and signing of the Voluntary Planning Agreement with the Glenmore Park Stage 2 Landowners in accordance with the terms of the Letter of Offer and in accordance with the requirements of the Environmental Planning & Assessment Act and Regulations.
3. Council authorise the Group Manager – Leadership and the Group Manager – Legal and Governance to finalise the terms of the Voluntary Planning Agreement as outlined in the report.
4. The Common Seal of the Council of the City of Penrith be affixed to the Voluntary Planning Agreement developed in accordance with resolution 2 and 3 above.

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 Ross Fowler OAM
Councillor Robert Ardill
Councillor Mark Davies
Councillor Ben Goldfinch
Councillor Tanya Davies
Councillor Marko Malkoc

Against

Councillor Kevin Crameri OAM

7 Revitalisation of Dunheved Business Park in conjunction with "Link Road, St Marys Planning Agreement"

381 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Karen McKeown

That:

1. The information contained in the report on Revitalisation of Dunheved Business Park in conjunction with "Link Road, St Marys Planning Agreement" be received.
2. Council consent to the "Link Road, St Marys Planning Agreement" in conjunction with St Marys Land Limited, Lend Lease Development Pty Ltd and Penrith City Council for the future development of the respective land ownerships by all parties.
3. Public notification of the "Link Road St Marys Planning Agreement" to commence in accordance with the Environmental Planning and Assessment Act.
4. A further report on progress be presented to Council providing an update and status of the Link Road connection from Christie Street.
5. The General Manager be delegated the authority to finalise negotiations with Lend Lease Development Pty Ltd for the Development Management fee for the project.

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

For

Against

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 Ross Fowler OAM
Councillor Robert Ardill
Councillor Mark Davies
Councillor Ben Goldfinch
Councillor Tanya Davies
Councillor Marko Malkoc
Councillor Kevin Crameri OAM

382 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Ross Fowler OAM that *Item 4 – Pecuniary Interest Returns* be referred to Committee of the Whole for further consideration as the report refers to personnel matters concerning particular individuals and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

14 Amendment to 2010 Meeting Calendar

383 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Amendment to 2010 Meeting Calendar be received
2. The 2010 Meeting Calendar be altered so that an additional Policy Review Committee Meeting is scheduled for 6 December 2010.

A CITY OF OPPORTUNITIES

8 Council's 2009-10 Annual Report

384 RESOLVED on the MOTION of Councillor Kaylene Allison seconded Councillor Greg Davies

That:

1. The information contained in the report on Council's 2009-10 Annual Report be received.
2. The Annual Report be endorsed by Council, as amended at page 19 (Councillor Attendance at Meetings: 2009-10), and forwarded to the Department of Local Government as required under the Act.

9 St Marys Spring Festival

385 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jackie Greenow

That:

1. Consideration of this matter be deferred to a future Ordinary Meeting of Council.
2. The General Manager thank the staff involved in organising this year's St Marys Spring Festival.

10 Application to remove a restriction to user on the title for the retention of existing trees on Lots 112 - 118 DP 1063700 (No. 62 - 76) Great Western Highway, Colyton. Applicant: Landcom; Owner: Landcom

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

That:

1. The information contained in the report on Application to remove a restriction to user on the title for the retention of existing trees on Lots 112 - 118 DP 1063700 (No. 62 - 76) Great Western Highway, Colyton be received
2. The restriction to user fifthly referred to in the Section 88b Instrument imposed in accordance with the Conveyancing Act 1919 be removed
3. Council's Common Seal be affixed to necessary documents associated with the removal of the restriction.

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

For

Against

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 Ross Fowler OAM
Councillor Robert Ardill
Councillor Mark Davies
Councillor Ben Goldfinch
Councillor Tanya Davies
Councillor Marko Malkoc
Councillor Kevin Cramer OAM

11 Development Application DA08/1333.02 Proposed Modification to Mixed Use Development at Part Lot 21 Sec 30 & Part Lot 22 Sec 30 DP 1855 & Part Lot 46B DP 411863 (No. 182 - 190) Great Western Highway, Kingswood. Applicant: Cityscape Planning & Projects; Owner: Aesthete Pty Ltd

DA08/1333.02

387 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on Development Application DA08/1333.02 Proposed Modification to Mixed Use Development at Part Lot 21 Sec 30 & Part Lot 22 Sec 30 DP 1855 & Part Lot 46B DP 411863 (No. 182 - 190) Great Western Highway, Kingswood be received.
2. Section 96 application for modification of consent DA08/1333 be approved subject to the following amended and additional conditions:

Amend Condition 1 to read as follows:

- 2.1 The development must be implemented substantially in accordance with the following plans stamped approved by Council, 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

Drawing Title	Drawing No	Issue	Prepared	Dated
Cover page, Location Plan & Drawing Schedule	DA00	K	Turner & Associates	24-08-10
Site Analysis	DA01	B	Turner & Associates	17-12-08
Site Plan / Roof Plan	DA02	G	Turner & Associates	24-08-10
Basement Parking Level 3	DA20	G	Turner & Associates	24-08-10
Basement Parking Level 1 & Level 2	DA21	W	Turner & Associates	24-08-10
Ground & Level 1	DA22	Q	Turner & Associates	24-08-10
Level 2 & Levels 3-6	DA23	P	Turner & Associates	24-08-10
Levels 7 & 8	DA24	P	Turner & Associates	24-08-10
Sections	DA31	K	Turner & Associates	24-08-10
North Elevation	DA41	K	Turner & Associates	24-08-10
West & East Elevation	DA42	K	Turner & Associates	24-08-10
South Elevation	DA43	K	Turner & Associates	24-08-10
Shadow Diagrams	DA70		Turner & Associates	17-12-08

Amend Condition 28 to read as follows:

- 2.2 A preliminary assessment of the plans submitted with the application has disclosed that the following design and/or construction issues need to be addressed prior to the issue of any Construction Certificate to ensure compliance with the Building Code of Australia:
 - a) Two exits are required from the basement level L3 in accordance with Clause D1.2(c)

- b) Two fire isolated exits are required for the Class 2 apartments in accordance with Clause D1.3(a)
- c) Openings within 3 metres of the side boundary require protection in accordance with Clauses C3.2 and C3.4

Amend Condition 35 to read as follows:

- 2.3 A total of 86 off-street parking spaces are to be provided, linemarked and maintained for the development, generally in accordance with the approved schedule of external finishes. A total of 73 car parking spaces are to be provided for the residential component of the development at a rate of one for every dwelling and 12 visitor spaces. The 73 residential spaces are to be separately identified and made accessible to residents and visitors. The parking space dimensions and manoeuvring areas are to comply with AS2890.1 and AS2890.2 the Building Code of Australia and the Commonwealth Disability Discrimination Act.

The parking spaces for persons with disabilities as shown on the approved plans are to be provided in accordance with AS1428.1 and are to be located close to all pedestrian access ways or entrances to the building

Add new Condition 7A & 7B as follows:

- 2.4 Secure bicycle parking shall be provided in appropriate locations. Details shall be submitted to the Principal Certifying Authority prior to the issue of a construction certificate
- 2.5 The acoustic measures recommended under the Acoustic Report dated 19 December 2008 prepared by Vipac Engineers & Scientists Ltd shall be applied to the new apartments at Level 1 of the building

Add new Condition 35A as follows:

- 2.6 Prior to the issue of an Occupation Certificate documentation is to be submitted to Council demonstrating appropriate dedication of parking spaces for each land use and visitor parking arrangements. Subleasing of car parking spaces is not permitted by this consent.

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

Against

Councillor John Thain
Councillor Jackie Greenow
Councillor Jim Aitken OAM
Councillor Ross Fowler OAM
Councillor Robert Ardill
Councillor Mark Davies
Councillor Ben Goldfinch
Councillor Tanya Davies
Councillor Marko Malkoc
Councillor Kevin Cramer OAM

A LIVEABLE CITY

12 Lenore Drive Extension Status

388 RESOLVED on the MOTION of Councillor Prue Guillaume seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on Lenore Drive Extension Status be received.
2. Adjustments be made to the Erskine Business Park S94 Plan expenditure that relates to intersection works once the claims are reconciled with Fitzpatrick Development Corporation.

13 Proposed Renaming of Part Mayo Road, Llandilo

389 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Kath Presdee

That:

1. The information contained in the report on Proposed Renaming of Part Mayo Road, Llandilo be received.
2. Council endorse the proposed renaming of the western section of Mayo Road to Treanor Place and the proposed renaming be advertised in accordance with Council's Road Naming Policy and the Roads Regulation, 2008.
3. Subject to no valid objections being received during the advertising period, Treanor Place be advertised in the local paper and Government Gazette with notification sent to relevant authorities.
4. A note be added to the Treanor Place sign to advise that Treanor Place was 'formerly Mayo Road'.

REQUESTS FOR REPORTS AND MEMORANDUMS

RR 1 Sun Smart Actions

Councillor Tanya Davies requested a memo reply to all Councillors detailing Council's policy on staff employing sun smart actions when fulfilling Council duties outdoors. Councillor Tanya Davies also requested that, if there is no policy for this, that a draft be prepared for discussion.

RR 2 Removal of Structures from Surveyors Creek Area

Councillor Mark Davies requested a memo reply to all Councillors detailing the options for planting shrubs at the base of the structures at Surveyors Creek in order to deter graffiti, rather than remove these structures.

RR 3 Business Delegation to International Partners

Councillor Jackie Greenow requested a comprehensive report to Council outlining the recent overseas delegation to Council's international partners in order that she may report back to the International Friendship Committee.

RR 4 Access and Egress - Kingswood Smash Repairs

Councillor Greg Davies requested a memo reply to all Councillors concerning the camber of the road and kerb and gutter at the driveway of Kingswood Smash Repairs in Cox Avenue, Kingswood, which is causing damage to vehicles entering and exiting the premises.

RR 5 Urban Transport World Conference

Councillor Greg Davies requested a memo to all Councillors seeking interest in attending the Urban Transport World Conference to be held at Darling Harbour from 22 to 24 February 2011.

RR 6 Graffiti - Queen Street, St Marys

Councillor Greg Davies requested a memo reply to all Councillors concerning the repeated appearance of graffiti adjacent to the Department of Community Services building in St Marys, including the installation of 'e-nose' technology.

RR 7 Installation of Closed Circuit TV cameras at Glenmore Park

Councillor Prue Guillaume requested a memo reply to all Councillors outlining the costs of installing closed circuit television cameras, with infra red capability, at the amenities block at Ched Towns Reserve and the Youth and Community Centre, both at Glenmore Park.

RR 8 Provision of Loans to Local Government

Councillor Prue Guillaume noted the recent State Opposition announcement of a policy to provide councils with billion dollar loans and requested a memo to all Councillors detailing how Council would raise the necessary funds to repay such a loan, should Council decide to take the full amount.

COMMITTEE OF THE WHOLE

390 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor John Thain that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 9:12 pm.

1 Presence of the Public

CW1 RESOLVED on the motion of Councillor Marko Malkoc seconded Councillor Ben Goldfinch that the press and public be excluded from Committee of the Whole to deal with the following matters:

A Leading City

2 Commercial Matter - Permanent Road Closures of Timber Lane, Werrington Downs and Javelin Lane, St Clair

This item has been referred to Committee of the Whole as the report refers to commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

3 Commercial Matter - Council Property - Proposed Separation of Existing Tenancy at former Top One Restaurant Located within 114-116 Henry Street, Penrith

This item has been referred to Committee of the Whole as the report refers to commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

4 Personnel Matter

This item has been referred to Committee of the Whole as the report refers to personnel matters concerning particular individuals and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

The meeting resumed at 9:30 pm and the General Manager reported that the Committee of the Whole met at 9:12 pm on 8 November 2010, the following being present

His Worship the Mayor Councillor Kevin Crameri OAM, Councillors Jim Aitken OAM, Kaylene Allison, Robert Ardill, Greg Davies, Mark Davies, Tanya Davies, Ross Fowler OAM, Ben Goldfinch, Jackie Greenow, Prue Guillaume, Marko Malkoc, 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 Commercial Matter - Permanent Road Closures of Timber Lane, Werrington Downs and Javelin Lane, St Clair

RECOMMENDED on the MOTION of Councillor Greg Davies seconded Councillor Ross Fowler

CW2 That:

1. The information contained in the report on Commercial Matter - Permanent Road Closures of Timber Lane, Werrington Downs and Javelin Lane, St Clair be received
2. Council approve the sale of land to the adjoining owners of Timber Lane, Werrington Downs and Javelin lane, St Clair as outlined in the table contained within the report.
3. Council finalise the permanent road closures of Timber Lane, Werrington Downs and Javelin Lane, St Clair.
4. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

3 Commercial Matter - Council Property - Proposed Separation of Existing Tenancy at former Top One Restaurant Located within 114-116 Henry Street, Penrith

RECOMMENDED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Ben Goldfinch

CW3 That:

1. The information contained in the report on Commercial Matter - Council Property - Proposed Separation of Existing Tenancy at former Top One Restaurant Located within 114-116 Henry Street, Penrith be received.
2. Council approve the intended separation of the existing premises to improve and upgrade the commercial sector of the ground floor relating to the Community Connections building as indicated in the report.
3. A further report be submitted to Council at a later date outlining the tender process and seeking appropriate approval to proceed with required works.

4 Personnel Matter

RECOMMENDED on the MOTION of Councillor Jim Aitken OAM seconded Councillor

Ross Fowler OAM that a further report be brought back to the Committee of the Whole regarding designated individuals who are requested to complete a pecuniary interest return.

Recommittal of Item 4 – Pecuniary Interest Returns

391 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Ben Goldfinch that consideration of Item 4 – Pecuniary Interest Returns be recommitted for consideration of Council.

ADOPTION OF COMMITTEE OF THE WHOLE

392 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Ross Fowler OAM that the recommendation contained in the Committee of the Whole and shown as CW1, CW2, CW3 and CW4 be adopted.

Recommittal of Item 4 – Pecuniary Interest Returns

393 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on Pecuniary Interest Returns be received.
2. A further report be brought back to the Committee of the Whole regarding designated individuals who are requested to complete a pecuniary interest return

There being no further business the Chairperson declared the meeting closed the time being 9:37pm.

I certify that these 15 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 8 November 2010

Chairperson

Date