

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

ON MONDAY 29 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 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 - 8 November 2010

396 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Ben Goldfinch that the minutes of the Ordinary Meeting of 8 November 2010 be confirmed.

DECLARATIONS OF INTEREST

Councillor Marko Malkoc declared a Pecuniary interest in Item 4 - *Draft Planning Proposal for Penrith Local Environmental Plan 2012 (Stage 2) - St Marys* in the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 as he has an interest in a property located in St Marys which will be affected by the proposed zoning. Councillor Marko Malkoc indicated he would leave the room for discussion of this item.

Councillor Tanya Davies declared a Pecuniary Interest in Items 1-7 in the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 as she has interests in property located in some of the areas covered by the reports and her husband holds a Real Estate licence and works in the Real Estate industry in areas covered by the report. Councillor Tanya Davies stated her intention to leave the room for consideration of these items.

Councillor Ben Goldfinch declared a Pecuniary Interest in Item 12 - *Development Application DA10/0275 - Proposed 2 Lot Torrens Title Subdivision at Lot 200 DP 811535 (No. 28 - 30) Grays Lane, Cranebrook. Applicant: Freeburn Surveying; Owner: Lexie and Giovanni Cettolin* as he exchanged preferences with one of the owners at the last local government election.

Councillor Mark Davies declared a Pecuniary Interest in Items 1-7 in the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 as he has interests in property located in the areas covered by the reports and holds a Real Estate licence and works in the Real Estate industry in areas covered by the reports. Councillor Mark Davies stated his intention to leave the room for consideration of these items.

Councillor Ross Fowler OAM declared a Pecuniary Interest in Items 4,5,6 & 7 in the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 as he is a Director of, Accountant for, Auditor for or owns a property in the areas that are the subject of the reports. Councillor Ross Fowler OAM indicated he would leave the room for consideration of the items.

Councillor Ross Fowler OAM also declared a Pecuniary Interest in Item 12 - *Development Application DA10/0275 - Proposed 2 Lot Torrens Title Subdivision at Lot 200 DP 811535 (No. 28 - 30) Grays Lane, Cranebrook. Applicant: Freeburn Surveying; Owner: Lexie and Giovanni Cettolin* as the owners are a client of his.

Councillor Jim Aitken OAM declared a Pecuniary Interest in Items 1-7 in the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 as he has an interest in properties located in areas that are the subject of the reports. Councillor Jim Aitken OAM indicated his intention to leave the room for consideration of these items.

Councillor Jackie Greenow declared a Pecuniary Interest in Item 4 - *Draft Planning Proposal for Penrith Local Environmental Plan 2012 (Stage 2) - St Marys* in the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 as she has interests in properties located in St Marys which will be affected by the proposed zoning. Councillor Jackie Greenow indicated she would leave the room for consideration of this item.

Councillor John Thain declared a Non-Pecuniary Conflict of Interest – Less than Significant in Item 7 - *Draft Planning Proposal for Penrith Local Environmental Plan 2012 (Stage 2) - Urban Areas except for the suburbs of St Marys, Leonay, Glenmore Park and Kingswood* in the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 as he has interests in properties located in North St Marys and Colyton, however the zonings proposed are similar to the current zonings. Councillor John Thain indicated his intention to remain in the room for consideration of the item.

Councillor Kath Presdee declared a Non-Pecuniary Conflict of Interest – Less than Significant in Item 7 - *Draft Planning Proposal for Penrith Local Environmental Plan 2012 (Stage 2) - Urban Areas except for the suburbs of St Marys, Leonay, Glenmore Park and Kingswood* as she has an interest in properties located in Werrington Downs and Penrith, however the zonings proposed are similar to the current zonings. Councillor Kath Presdee indicated her intention to remain in the room for consideration of the item.

Councillor Karen McKeown declared a Pecuniary Interest in Item 6 - *Draft Planning Proposal for Penrith Local Environmental Plan 2012 (Stage 2) - Leonay and Glenmore Park* in the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 as she has an interest in properties in Leonay. Councillor Karen McKeown indicated her intention to leave the room for consideration of the item.

Councillor Karen McKeown also declared a Non-Pecuniary Conflict of Interest – Less than Significant in Item 7 - *Draft Planning Proposal for Penrith Local Environmental Plan 2012 (Stage 2) - Urban Areas except for the suburbs of St Marys, Leonay, Glenmore Park and* in the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 as she has interests in properties located in Emu Plains and South Penrith, however the zonings proposed are similar to the current zonings. Councillor Karen McKeown indicated her intention to remain in the room for consideration of the item.

Councillor Prue Guillaume declared a Non-Pecuniary Conflict of Interest – Less than Significant in Items 4,6 &7 of the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 as she has interests in properties located in St Marys, Glenmore Park and Emu Plains, however the zonings proposed are similar to the current zonings. Councillor Prue Guillaume indicated her intention to remain in the room for consideration of the item.

Councillor Kaylene Allison declared a Non-Pecuniary Conflict of Interest in Item 7 - *Draft Planning Proposal for Penrith Local Environmental Plan 2012 (Stage 2) - Urban Areas except for the suburbs of St Marys, Leonay, Glenmore Park and Kingswood* in the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 as she has an interest in properties located in Claremont Meadows and Jamisontown, however the zoning proposed is similar to the current zoning. Councillor Kaylene Allison indicated she would remain in the room for consideration of this item.

Councillor Kevin Cramer OAM declared a Non-Pecuniary Conflict of Interest – Less than Significant in Item 7 - *Draft Planning Proposal for Penrith Local Environmental Plan 2012 (Stage 2) - Urban Areas except for the suburbs of St Marys, Leonay, Glenmore Park and Kingswood* in the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 as he has an interest in a property located in Cranebrook, however the zoning proposed is similar to the current zoning. Councillor Kevin Cramer OAM indicated he would remain in the room for consideration of this item.

Councillor Kevin Cramer OAM declared a Non-Pecuniary Conflict of Interest – Significant in Item 12 - *Development Application DA10/0275 - Proposed 2 Lot Torrens Title Subdivision at Lot 200 DP 811535 (No. 28 - 30) Grays Lane, Cranebrook. Applicant: Freeburn Surveying; Owner: Lexie and Giovanni Cettolin* as he exchanged preferences with one of the owners at the last local government election.

SUSPENSION OF STANDING ORDERS

397 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 7.48pm.

Mr Vince Hardy

Item 12 - Development Application DA10/0275 - Proposed 2 Lot Torrens Title Subdivision at Lot 200 DP 811535 (No. 28 - 30) Grays Lane, Cranebrook. Applicant: Freeburn Surveying; Owner: Lexie and Giovanni Cettolin

Mr Hardy, the applicant's planning consultant, spoke in opposition of the recommendation. Mr Hardy then addressed areas of concern including adverse impact on the character of the local area. Mr Hardy stated that the development, whilst inconsistent with the development standard, would not cause any inconsistency with the zone objectives, and that approval would not create a precedent. Mr Hardy requested that Council refer the Development Application to the Department of Planning

Mr Spencer Buchanan

Item 13 - Development Application DA09/0164 proposed demolition of existing buildings, extension to existing quarry, office, road transport terminal and boundary adjustment at Lot 228 DP 1134016 Lot 2 DP 221313 Lot 229 DP 1134016 (No. 1513 - 1519) Elizabeth Drive, Kemps Creek. Applicant: Hi Quality Quarry (NSW) Pty Ltd; Owner: Tranteret Pty Ltd

Mr Buchanan, the consultant town planner, spoke in opposition of the recommendation and outlined the proposal. Mr Buchanan, detailed the planning issues of the site and the historical background. Mr Buchanan provided an alternative subdivision proposal involving consolidation of lots in lieu of boundary adjustment and requested Council to consider approval of the proposal or defer the application for further discussions with Council staff.

Mr Patrick Hallinan

Item 13 - Development Application DA09/0164 proposed demolition of existing buildings, extension to existing quarry, office, road transport terminal and boundary adjustment at Lot 228 DP 1134016 Lot 2 DP 221313 Lot 229 DP 1134016 (No. 1513 - 1519) Elizabeth Drive, Kemps Creek. Applicant: Hi Quality Quarry (NSW) Pty Ltd; Owner: Tranteret Pty Ltd

Mr Hallinan, applicant spoke in opposition of the recommendation and requested Council support the proposal. Mr Hallinan detailed the historic use of the site as a quarry and recycling site and claimed that the site would be rehabilitated using best practice techniques. Mr Hallinan believes there is a benefit to Council having a facility such as this approved which can receive materials such as soil, concrete and brick and that there is the potential to boost local employment.

RESUMPTION OF STANDING ORDERS

398 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Mark Davies that Standing Orders be resumed, the time being 8.02pm.

MAYORAL MINUTES

1 Max Harrison Retirement

399 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Jim Aitken OAM that the Mayoral Minute on Max Harrison Retirement be received.

Councillors Jim Aitken OAM, Greg Davies, Jackie Greenow, Ross Fowler OAM and John Thain spoke in support of the Mayoral Minute and requested appropriate formal recognition be arranged to express Council's congratulations and thanks to Max and his wife Dulcie.

His Worship the Mayor, Councillor Kevin Crameri OAM indicated that the Mayoral Minute would be amended to reflect the omission of Mr Harrison's OAM.

REPORTS OF COMMITTEES

1 Report and Recommendations of the Local Traffic Committee Meeting held on 8 November 2010

400 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Jim Aitken OAM

That the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 8 November, 2010 be adopted.

2 Report and Recommendations of the Policy Review Committee held on 22 November, 2010

401 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Greg Davies that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 22 November, 2010 items 8-12 and Committee of the Whole items 1 & 2 be adopted.

Having previously declared a Pecuniary Interest in Items 1-7 of the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 Councillors Jim Aitken OAM, Mark Davies and Tanya Davies left the meeting, the time being 8:18pm.

402 RESOLVED on the MOTION of Councillor Ben Goldfinch seconded Councillor John Thain that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 22 November, 2010 items 1,2 & 3 be adopted.

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

For

Councillor Jackie Greenow
Councillor Ben Goldfinch
Councillor Marko Malkoc
Councillor Robert Ardill
Councillor Kath Presdee

Against

Councillor John Thain
Councillor Prue Guillaume
Councillor Greg Davies
Councillor Karen McKeown
Councillor Kevin Crameri OAM
Councillor Ross Fowler OAM
Councillor Kaylene Allison

Having previously declared a Pecuniary Interest in item 4,5,6 & 7 of the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 Councillor Ross Fowler OAM left the meeting, the time being 8:19pm.

Having previously declared a Pecuniary Interest in item 4 of the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 Councillors Jackie Greenow and Marko Malkoc left the meeting, the time being 8:19pm.

403 RESOLVED on the MOTION of Councillor Ben Goldfinch seconded Councillor Kath Presdee that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 22 November, 2010 item 4 be adopted.

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

For

Against

Councillor Ben Goldfinch
Councillor Robert Ardill
Councillor Kath Presdee
Councillor John Thain
Councillor Prue Guillaume
Councillor Greg Davies
Councillor Karen McKeown
Councillor Kevin Crameri OAM
Councillor Kaylene Allison

Councillors Jackie Greenow and Marko Malkoc returned to the meeting, the time being 8:20pm.

404 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Marko Malkoc that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 22 November, 2010 item 5 & 7 be adopted.

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

For

Against

Councillor Jackie Greenow
Councillor Ben Goldfinch
Councillor Marko Malkoc
Councillor Robert Ardill
Councillor Kath Presdee
Councillor John Thain

Councillor Prue Guillaume
Councillor Greg Davies
Councillor Karen McKeown
Councillor Kevin Cramer OAM
Councillor Kaylene Allison

Having previously declared a Pecuniary Interest in item 6 of the Report and Recommendations of the Policy Review Committee held on 22 November, 2010 Councillor Karen McKeown left the meeting, the time being 8:21pm.

405 RESOLVED on the MOTION of Councillor Ben Goldfinch seconded Councillor Marko Malkoc that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 22 November, 2010 item 6 be adopted.

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

For

Against

Councillor Jackie Greenow
Councillor Ben Goldfinch
Councillor Marko Malkoc
Councillor Robert Ardill
Councillor Kath Presdee
Councillor John Thain
Councillor Prue Guillaume
Councillor Greg Davies
Councillor Kevin Cramer OAM
Councillor Kaylene Allison

Councillors Jim Aitken OAM, Mark Davies, Tanya Davies, Ross Fowler OAM and Karen McKeown returned to the meeting, the time being 8:22pm.

DELIVERY PROGRAM REPORTS

A LEADING CITY

1 Council Meeting Calendar for 2011

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

That:

1. The information contained in the report on Council Meeting Calendar for 2011 be received.
2. The draft Meeting Calendar for 2011 be adopted.

3 Transfer of Land from Department of Planning to Council - Lots 280/281 DP 1020286, No. 17 Bellevue Road, Regentville

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

That:

1. The information contained in the report on Transfer of Land from Department of Planning to Council - Lots 280/281 DP 1020286, No. 17 Bellevue Road, Regentville be received.
2. Council accept the transfer of Lots 280/281 DP 1020286 from the Department of Planning for Open Space.
3. The land be classified as “community” land.
4. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

4 Progress Report on Activities to Respond to Climate Change

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

That the information contained in the report on Progress Report on Activities to Respond to Climate Change be received.

6 Future Community Infrastructure Program

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

That:

1. The information contained in the report on Future Community Infrastructure Program be received.
2. Intensive consultation commences immediately to determine the community’s views on potential funding opportunities and delivery timetables and to confirm priorities and the extent of the delivery program.
3. Council Officers consult with the Division of Local Government and Independent Pricing and Regulatory Tribunal regarding the intention to explore funding opportunities.

Procedural Motion

410 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor John Thain that consideration of Item 2 - Provision of External Legal Services to Council be deferred for discussion in Committee of the Whole because the report refers to commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the council and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

5 Investigations into Alternate and Renewable Energy Technologies

411 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Tanya Davies

That:

1. The information contained in the report on Investigations into Alternate and Renewable Energy Technologies be received.
2. A further report be prepared on Alternate and Renewable Energy Technologies to include:
 - Possible partners and sites for technologies outside of Penrith City Council's area.
 - Water turbine, solar thermal and bio-energy technology
 - Cost benefit analysis on alternative and renewable energy technologies

7 Summary of Investments and Banking for the period 1 October 2010 to 31 October 2010

412 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Greg Davies

That:

1. The information contained in the report on Summary of Investments and Banking for the period 1 October 2010 to 31 October 2010 be received.
2. The Certificate of the Responsible Accounting Officer and Summaries of Investments and Performance for the period 1 October 2010 to 31 October 2010 be noted and accepted.
3. The graphical investment analysis as at 31 October 2010 be noted.
4. Commentary on the impact of wages inflation in the general economy and potential effect on increased rates to Council be included in the Summary of Investments and Banking report to the February 2010 Ordinary meeting.

A CITY OF OPPORTUNITIES

8 Community Assistance Program Planned Component 2010/2011

413 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on Community Assistance Program Planned Component 2010/2011 be received.
2. Council approve funding the applications and amounts totalling \$39,000.00 from the Planned Component of the 2010 Community Assistance Program and \$150.00 from the Rolling Component as outlined in Table 3 of this report.

10 Bells Line of Road - Long Term Strategic Corridor Plan

414 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on Bells Line of Road - Long Term Strategic Corridor Plan be received.
2. Council make a submission, based on the contents of this report, to the Roads and Traffic Authority in relation to the preparation of the Long Term Strategic Corridor Plan for Bells Line of Road.
3. Council make representations to the Roads and Traffic Authority requesting a presentation on the Plan as soon as practicable.

9 Services for Men Project

415 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Prue Guillaume

That:

1. The information contained in the report on Services for Men Project be received.
2. Council endorse the Services for Men Project Action Plan included in Attachment 1 of this report for implementation.
3. A meeting of interested service providers and mens groups be convened to investigate the establishment of a men's shed in the Penrith Local Government Area.

11 Development Application DA09/0753 Proposed 3 Lot Subdivision for Lot 86 DP 270417 (No. 38) Twin Creeks Drive, Luddenham. Applicant: Cityscape Planning + Projects; Owner: E & K Awad

416 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Greg Davies

That:

1. The information contained in the report on Development Application DA09/0753 Proposed 3 Lot Subdivision for Lot 86 DP 270417 (No. 38) Twin Creeks Drive, Luddenham be received.
2. The objection to the lot density provisions of clause 35 of Penrith LEP 201 under State Environmental Planning Policy No.1 - Development Standards not be supported.
3. The application be refused for the following reasons:
 - 3.1 Pursuant to *79C(1)(a)(i) – Any Environmental Planning Instrument* the proposed development is inconsistent with the following provisions of Clause 35 of Penrith LEP 201:
 - 3.1.1 Minimum density objective
 - 3.1.2 Allotment size and shape criteria
 - 3.2 The objection to Clause 35 at Penrith LEP 201 under SEPP 1 is not well founded as compliance with the standard is reasonable and necessary in the circumstances
 - 3.3 Pursuant to *Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instrument (Draft) Penrith LEP 2010* the proposed development is inconsistent with following the provisions of Penrith LEP 2010 in terms of minimum allotment area:

Clause 35(3) (c)

All lots created by the development twill be compatible in size and shape with the physical nature of the land, adjoining land uses and the likely use of the land in the future

Clause 35(3) (d)

The size and layout of lots that have boundaries with rural properties consider the interface between the rural residential estate and the potential for land use conflict.
 - 3.4 Pursuant to *Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instrument (Draft) Penrith LEP 2010* the proposed development is inconsistent with the following aims and zone objectives of (*Draft*) Penrith LEP 2010:
 - *To provide for low - impact residential development in areas with special ecological, scientific or aesthetic values*
 - *To ensure that residential development does not have an adverse effect on those values*

- 3.5 Pursuant to *Section 79C(1)(e) – Public Interest* Approval of the development is not in the public interest as it will set an undesirable precedent.

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

For

Against

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

12 Development Application DA10/0275 - Proposed 2 Lot Torrens Title Subdivision at Lot 200 DP 811535 (No. 28 - 30) Grays Lane, Cranebrook. Applicant: Freeburn Surveying; Owner: Lexie and Giovanni Cettolin

Having previously declared Pecuniary Interests in Item 12, Councillors Ross Fowler OAM and Ben Goldfinch left the meeting, the time being 8:55pm.

Having previously declared a Non-Pecuniary Conflict of Interest – Significant in Item 12, His Worship the Mayor, Councillor Kevin Crameri OAM left the meeting, the time being 8:55pm.

The Deputy Mayor Councillor Jim Aitken OAM, took the Chair for consideration of the item, the time being 8:56pm.

417 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor John Thain

That:

1. The information contained in the report on Development Application DA10/0275 - Proposed 2 Lot Torrens Title Subdivision at Lot 200 DP 811535 (No. 28 - 30) Grays Lane, Cranebrook be received.
2. The SEPP 1 objection to Clause 11 of Penrith LEP 1991 be supported
3. The application be referred to the Department of Planning for concurrence in accordance with Clause 7 of SEPP No1.
4. Depending on the outcome of recommendation 3. Above, Development

Application DA10/0275 - Proposed 2 Lot Torrens Title Subdivision at Lot 200 DP 811535 (No. 28 - 30) Grays Lane, Cranebrook be reported to Council with a recommendation for approval subject to relevant conditions or refusal with relevant reasons.

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

For

Against

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

His Worship the Mayor, Councillor Kevin Crameri OAM, Councillors Ross Fowler OAM and Ben Goldfinch returned to the meeting, the time being 8:58pm.

**13 Development Application DA09/0164 proposed demolition of existing buildings, extension to existing quarry, office, road transport terminal and boundary adjustment at Lot 228 DP 1134016 Lot 2 DP 221313 Lot 229 DP 1134016 (No. 1513 - 1519) Elizabeth Drive, Kemps Creek.
Applicant: Hi Quality Quarry (NSW) Pty Ltd; Owner: Tranteret Pty Ltd**

418 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Karen McKeown

That:

1. The information contained in the report on Development Application DA09/0164 proposed demolition of existing buildings, extension to existing quarry, office, road transport terminal and boundary adjustment at Lot 228 DP 1134016 Lot 2 DP 221313 Lot 229 DP 1134016 (No. 1513 - 1519) Elizabeth Drive, Kemps Creek be received.
2. A separate report/s be brought to Council regarding unauthorised works on this and adjacent land.
3. The SEPP No.1 objection not be supported.
4. The proposed development be refused on the following grounds:
 - 4.1 The proposed development is inconsistent with State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 in that:

- 4.1.1 Clause 7(3) – The importation of material and uses are considered to be ‘Waste’ which is not permitted on the site.
- 4.1.2 Clause 12 – The proposal does not provide sufficient public benefit
- 4.1.3 Clause 14 – Details relating to groundwater have not been submitted to conduct a detailed and accurate assessment of the proposal.
- 4.1.4 Clause 17 & Clause 18 – The proposal is inconsistent due to the receipt of imported materials and use for rehabilitation

(Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*).

- 4.2 The proposed development is inconsistent with the objectives of the 1 (a) (Rural “A” Zone—General) and 1(b)(Rural “B” Zone—Smallholdings) zone under Penrith Local Environmental Plan No.201 in that the proposal would be incompatible with the rural character of the area due to the commercial nature of the development. (Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*)
- 4.3 The proposed development does not comply with Clause 11 - Subdivision within of Penrith Local Environmental Plan No.201 in that the proposed subdivision does not achieve the minimum size requirement for the 1 (a) (Rural “A” Zone—General) and 1(b)(Rural “B” Zone—Smallholdings) zones and has not demonstrated that the variation to the Development Standard is unreasonable or unnecessary in the circumstances under State Environmental Planning Policy No.1 – Development Standards (Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*)
- 4.4 The proposed development is inconsistent with State Environmental Planning Policy No.33 – Hazardous and Offensive Development as there is insufficient detail to conduct a detailed and accurate assessment of the proposed storage of fuels and chemicals at the site (Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*)
- 4.5 The proposed development is inconsistent with State Environmental Planning Policy No.55 – Remediation of Land as there is insufficient detail to conduct a detailed and accurate assessment of the potential contamination of the site and associated recommendations in accordance with ‘Planning Guidelines for Contaminated Land’ (Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*)
- 4.6 The proposed subdivision is not permitted in RU4 Rural Small Holdings Zone under the Draft Penrith Local Environmental Plan 2008 in that the importation of material onto site does not conform with the land use definition ‘extractive industry’ (Section 79C(1)(a)(ii)

of the *Environmental Planning and Assessment Act 1979*)

- 4.7 The proposed subdivision is inconsistent with Objectives of the RU4 Rural Small Holdings Zone of the Draft Penrith Local Environmental Plan 2008 in that the proposed would not be compatible with the long term planning and environmental capability of the land (Section 79C(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*)
- 4.8 The proposed subdivision does not comply with Clause 4.1 - Minimum Subdivision Lot Size of Draft Penrith Local Environmental Plan 2008 in that the proposed subdivision does not comply with the minimum subdivision requirement of two (2) hectares (Section 79C(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*)
- 4.9 The proposed subdivision does not comply with Clause 4.6 - Exceptions to development standards of Draft Penrith Local Environmental Plan 2008 in that the proposed variation to the minimum subdivision requirement outlined in Clause 4.1 – Minimum Subdivision Lot size does not meet 90% of the prescribed Development Standard (Section 79C(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*)
- 4.10 The proposed subdivision does not comply with Section 2.9 – Waste Planning of the Penrith Development Control Plan 2006 as a Waste Management Plan was not submitted with the Development Application (Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*)
- 4.11 The proposed development consists of a number of independent activities to the dominant use on the site which together with the proposed subdivision, the severance of these uses to operate in an independent manner is inconsistent with the long term planning for the area (Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*)
- 4.12 The proposed development could potentially be severed from the dominant use for the site and is therefore considered to be unsuitable for the site (Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*)
- 4.13 The proposed subdivision is not supported on the basis of its permissibility and impact to the surrounding areas as noted in a submission received during the public exhibition of the subject Development Application (Section 79C(1)(d) of the *Environmental Planning and Assessment Act 1979*)

- 4.14 The extent of subdivision and the potential segregation of uses on the site would create an undesirable precedent for inappropriate development which is not in the public interest. (Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*).

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

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

A GREEN CITY

14 E-Waste

419 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Kath Presdee

That:

1. The information contained in the report on E-Waste be received.
2. Council partner with Sims recycling for a E-Waste "Drop Off" Service trial.
3. Funding for the trial be provided from the Domestic Waste Management Reserve.
4. The report be referred to the Penrith Business Alliance to investigate options for overseas partnerships to recycle and dispose of E-Waste.
5. A report be provided to the Waste Services Committee on possible collection and disposal of chemical waste, batteries and tyres or alternatively a report on the promotion of collection and disposal initiatives of chemical waste, batteries and tyres.

15 Waste & Sustainability Improvement Payments

420 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Karen McKeown

That:

1. The information contained in the report on Waste & Sustainability Improvement Payments be received.
2. The proposed funding for the Waste & Sustainability Improvements Payments be approved as outlined in this report.

A LIVEABLE CITY

16 Penrith Schools' Boatshed Management Committee

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

That:

1. The information contained in the report on Penrith Schools' Boatshed Management Committee be received.
2. The following persons be appointed to the Penrith Schools' Boatshed Management Committee for 2010/2011:
 - Ian McRae – President
 - Ray Green - Vice President
 - Steven Taite – Secretary and Treasurer
 - Greg Corner – Boatshed Captain
 - James Robertson – General Committee Member
 - David Lunn – General Committee Member.

19 Penrith District Grade Cricket Club Grounds Maintenance Subsidy

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

That:

1. The information contained in the report on Penrith District Grade Cricket Club Grounds Maintenance Subsidy be received.
2. \$9,110 is made available from the Penrith Panthers Precinct Reserve for the purpose of reimbursing Penrith District Grade Cricket Club for the construction of the maintenance shed at Howell Oval.
3. \$5,750 is made available from the Recreation Reserve for the purpose of reimbursing Penrith District Grade Cricket Club for the repair Cook Park wicket and sight screen at Rance Oval.

4. A further report be submitted to Council regarding an increase in the grounds maintenance subsidy as part of the 2011-2012 budget process.

21 Tender Reference 08-10/11, Provision of Pre-mixed Concrete

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

That:

1. The information contained in the report on Tender Reference 08-10/11, Provision of Pre-mixed Concrete be received
2. Total Concrete Solutions P/L & South Coast Basalt Pty Ltd (trading as Western Suburbs Concrete) be appointed as the preferred contractor for the supply and delivery of Pre-Mixed Concrete for a period of two (2) years with an option to extend for a further one (1) year period, subject to satisfactory performance, allowing for rise and fall provisions.
3. PF Concrete NSW Pty Ltd be appointed as the secondary contractor to be engaged in the event that the preferred contractor is unable to provide the service.

22 Tender Reference 13-10/11 Construction of Concrete Path Paving

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

That:

1. The information contained in the report on Tender Reference 13-10/11 Construction of Concrete Path Paving be received.
2. Devcon Civil Pty Ltd be appointed as the preferred contractor for the construction of concrete path paving for a period of two (2) years with an option to extend for a further two (2) by twelve (12) months periods subject to satisfactory performance, allowing for rise and fall provisions.
3. Danste Pty Ltd be appointed as the secondary contractor to be engaged in the event that the preferred contractor is unable provide the service.

23 Tender Reference 11-10/11 Provision of a Suction Eductor Pit Cleaner

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

That:

1. The information contained in the report on Tender Reference 11-10/11 Provision of a Suction Eductor Pit Cleaner be received.

2. An order be placed with Schwarze Industries Australia Pty Ltd for the supply and delivery of a Suction Eductor Pit Cleaner for the lump sum purchase cost of \$279,636
3. The existing unit to be replaced is returned to Schwarze Industries Pty Ltd as a trade in at a value of \$10,000 to be offset against the capital cost of the new unit.

Councillor Mark Davies left the meeting, the time being 9:15pm.

17 Wearing of Helmets at Council Skate Parks

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

That:

1. The information contained in the report on Wearing of Helmets at Council Skate Parks be received.
2. An education program be developed for implementation from July 2011 within available resources.

Councillor Mark Davies returned to the meeting, the time being 9:18pm.

18 Glenmore Park Stage 2 - Sports and Recreation Facilities

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

That:

1. The information contained in the report on Glenmore Park Stage 2 - Sports and Recreation Facilities be received.
2. Further consultation and an assessment of need be undertaken to determine the final configuration of sports grounds and potential users of the facility.

20 Pathway construction from Carinya Avenue, St Marys to St Marys Village Shopping Centre

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

That:

1. The information contained in the report on Pathway construction from Carinya Avenue, St Marys to St Marys Village Shopping Centre be received.
2. Council accept the offer of funding from Mirvac Funds Limited for the sum of \$27,700 (x GST).
3. The \$20,000 shortfall in funding for the project be allocated from East Ward Voted Works.

24 Chameleon Reserve Basketball Court

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

That:

1. The information contained in the report on Chameleon Reserve Basketball Court be received.
2. The installation of a single basketball hoop at a cost of \$3,000 be arranged with funding provided from East Ward Voted Works.

28 Castlereagh Anglican Cemetery and Sir John Jamison Cemetery - installation of security fencing and gates

Councillor Ben Goldfinch left the meeting, the time being 9:49pm.

430 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Greg Davies

That:

1. The information contained in the report on Castlereagh Anglican Cemetery and Sir John Jamison Cemetery - installation of security fencing and gates be received.
2. The Development Application for the Castlereagh Cemetery be brought back to the Ordinary meeting held on 7 February 2011.

Councillor Ben Goldfinch returned to the meeting, the time being 9:50pm.

Councillor Greg Davies left the meeting, the time being 9:50pm.

A VIBRANT CITY

25 Sponsorship of Sydney Dance Company & Australian Chamber Orchestra "Festival Inside Out" at Regatta Centre

431 RESOLVED on the MOTION of Councillor Robert Ardill seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Sponsorship of Sydney Dance Company & Australian Chamber Orchestra "Festival Inside Out" at Regatta Centre be received.
2. Council provide sponsorship of \$10,000 to the Sydney Festival "Festival Inside Out" funded from the City Marketing and Sponsorship budget.
3. A memo reply be provided to all Councillors detailing how Council will be involved in helping to promote the event.

26 Health Strategy

432 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Robert Ardill

That:

1. The information contained in the report on Health Strategy be received.
2. The Health Strategy attached to this report be adopted by Council
3. A letter of appreciation be sent to stakeholders who contributed during the consultation and public exhibition periods.

27 Heritage Assistance Fund 2010/2011

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

That:

1. The information contained in the report on Council's Heritage Assistance Fund be received.
2. The proposed list of successful applicants for the 2010/2011 Heritage Assistance Fund be endorsed.
3. An Evaluation Report on the funding process to date and recommendations for the future Heritage Assistance funding process be reported to Council.

Councillor Greg Davies returned to the meeting, the time being 9:59pm.

REQUESTS FOR REPORTS AND MEMORANDUMS

RR 1 Disability Parking Design

Councillor Tanya Davies requested a memo reply detailing the design of disability parking bays and whether Council operates to a set standard. Councillor Davies would like the memo to include information concerning size, location and numbers of disability parking bays in the city and whether or not a city wide audit has been conducted on the size number and location to identify potential non-compliant bays.

RR 2 Colyton High School Zone

Councillor Tanya Davies requested a memo reply to all East Ward Councillors concerning the location of the 40km school zone on the Great Western High outside Colyton High School. Councillor Tanya Davies has received representations from a resident, that due to the pedestrian desire line, that it would be appropriate to relocate the school zone from adjacent to the Shell Service station to adjacent to the Mobil Service Station.

RR 3 Roper Road - Pedestrian Refuge Island

Councillor Tanya Davies requested a memo reply to all East Ward Councillors with an update on the timeline from the RTA for installation of a refuge island at Roper Road, Colyton.

RR 4 Penrith Lakes Development

Councillor John Thain requested a report to Council on the current status of the Penrith Lakes Development.

RR 5 Parkview Proposal

Councillor John Thain requested a report to Council detailing the Parkview proposal and the history of the development proposals.

RR 6 James Courtney Recognition

Councillor John Thain requested a report to Council detailing how Council can honour James Courtney.

RR 7 Advertising Distribution Update

Councillor John Thain requested a report to the Advertising Working Party in February regarding an update on the current advertising arrangement and in particular distribution issues.

RR 8 Seat/Bench installation - St Clair

Councillor Greg Davies requested a report to Council providing quotations and costs for installation of a seat/park bench at the St Clair off leash dog area.

RR 9 7 Fauna Road, Erskine Park

Councillor Greg Davies requested a memo reply to All East Ward Councillors providing an update on the tree issue at 7 Fauna Road, Erskine Park.

RR 10 Speeding Issues - The Lakes Drive, Glenmore Park

Councillor Prue Guillaume requested a memo reply on what can be done to mitigate speeding on The Lakes Drive, particular around the corner of William and Howell Drive.

RR 11 Speeding - Tarrabundi Drive, Glenmore Park

Councillor Prue Guillaume requested a memo reply on options to mitigate speeding on Tarrabundi Drive, Glenmore Park.

RR 12 Antisocial Behaviour - Glenmore Park & St Clair

Councillor Prue Guillaume requested a memo reply on ways that Council can work with Penrith and St Marys LACs to address significant antisocial behaviour issues at Tarrabundi

Drive and Winna Place, Glenmore Park and Blackwell Avenue, St Clair.

RR 13 Footpaving - Glenmore Park

Councillor Prue Guillaume requested a memo reply detailing any plans to provide footpaths along The Lakes Drive, (near William Howell Drive), Tarrabundi Drive and Luttrell Street, Glenmore Park. Councillor Guillaume also requested what the costing of providing these footpaths would be.

RR 14 Glenmore Park Loch

Councillor Prue Guillaume requested a memo reply regarding what can be done to address an overgrowth of water hyacinth in the Glenmore Loch.

RR 15 Glenmore Park Town Centre - Emergency Service Parking Bay

Councillor Prue Guillaume requested a memo reply regarding organising Council rangers to patrol the emergency services parking bays at Glenmore Park Town Centre.

RR 16 Congratulate Council Staff

Councillor Prue Guillaume requested that Council staff be congratulated for the improvements to the footpath at Womra Place, Glenmore Park as she had received thankful representations from a resident in this area.

COMMITTEE OF THE WHOLE

434 RESOLVED on the MOTION of Councillor Prue Guillaume seconded Councillor Ben Goldfinch that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 10:10pm.

1 Presence of the Public

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

A Liveable City

2 Commercial Matter - Penrith Football Stadium, Naming Rights Sponsor

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 - Provision of External Legal Services to Council

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 confer a commercial advantage on a competitor of the council and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

The meeting resumed at 10:53pm and the General Manager reported that the Committee of the Whole met at 10:10pm on 29 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 - Penrith Football Stadium, Naming Rights Sponsor

RECOMMENDATION

CW2 That the information be received and no further action be taken.

3 Commercial Matter - Provision of External Legal Services to Council

RECOMMENDATION

CW3 That the information be received.

ADOPTION OF COMMITTEE OF THE WHOLE

That the recommendation contained in the Committee of the Whole and shown as CW1, CW2 & CW3 be adopted.

Recommittal of Item 2 – Provision of External Legal Services to Council

2 Provision of External Legal Services to Council

RECOMMENDATION

That:

1. The information contained in the report on Provision of External Legal

Services to Council be received.

2. Sparke Helmore Lawyers be appointed to the Council's external panel.
3. Marsdens Law Group and Adams & Partner Lawyers be appointed where Sparke Helmore Lawyers and Gadens Lawyers have a conflict or more independence is required.
4. Letters be sent to the unsuccessful firms who submitted an expression of interest thanking them for their submissions.

There being no further business the Chairperson declared the meeting closed the time being 10:53pm.

I certify that these 25 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 29 November 2010.

Chairperson

Date