

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

**ON MONDAY 12 DECEMBER 2011 AT 7:07PM**

**NATIONAL ANTHEM**

The meeting opened with the National Anthem.

**STATEMENT OF RECOGNITION**

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

**LEAVE OF ABSENCE**

November 2011 to 21 December 2011 inclusive.

**APOLOGIES**

There were no apologies.

**CONFIRMATION OF MINUTES - Ordinary Meeting - 21 November 2011**

333 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Kevin Crameri OAM that the minutes of the Ordinary Meeting of 21 November 2011 be confirmed.

**DECLARATIONS OF INTEREST**

Councillor Jim Aitken OAM declared a Pecuniary Interest in the *Report and Recommendations of the Local Traffic Committee held on 5 December, 2011* as he owns property close to one of the items subject to the report.

Councillor Ben Goldfinch declared a Pecuniary Interest in *Item 12 Tender Reference 11/12-05, Alterations and Additions to 114 Henry Street, Penrith* as he is a Director of a Company subject of the report.

Councillors Tanya and Mark Davies declared Non-Pecuniary Conflict of Interests – Less than Significant in *Item 5 Youth Week 2012 Program* as the church they attend is a recipient of one of the recommended grants.

## MAYORAL MINUTE

### 1 [Council wins LGSA Local Government Excellence in the Environment Awards](#)

Councillor Karen McKeown spoke in support of the Mayoral Minute.

334 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Karen McKeown that the Mayoral Minute on Council wins LGSA Local Government Excellence in the Environment Awards be received.

## REPORTS OF COMMITTEES

### 3 [Report and Recommendations of the Penrith Valley Community Safety Partnership Meeting held on 30 November 2011](#)

335 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Mark Davies that the recommendations contained in the Report and Recommendations of the Penrith Valley Community Safety Partnership meeting held on 30 November, 2011 be adopted.

### 1 [Report and Recommendations of the Policy Review Committee Meeting held on 5 December 2011](#)

336 RESOLVED on the MOTION of Councillor Prue Guillaume seconded Councillor Marko Malkoc that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 5 December, 2011 be adopted.

### 2 [Report and Recommendations of the Local Traffic Committee held on 5 December, 2011](#)

Having previously declared a Pecuniary Interest Councillor Jim Aitken OAM left the meeting, the time being 7:18pm.

337 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Mark Davies that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 5 December, 2011 be adopted with the exception of *Item 2 - Billington Place Car Park, Emu Plains - Request for Provision of 2-Hour Parking Restrictions.*

Councillor Karen McKeown requested that a further report be brought to a future Council Meeting on this item including an audit of current and future parking needs in the area including shops at the Great Western Highway.

Councillor Jim Aitken OAM returned to the meeting, the time being 7:20pm.

## DELIVERY PROGRAM REPORTS

### A LIVEABLE CITY

#### 9 [Tender Reference 11/12-09, Supply and Delivery of Pavers and Bluestone Kerbs](#)

##### Procedural Motion

338 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Ben Goldfinch that *Item 9 - Tender Reference 11/12-09, Supply and Delivery of Pavers and Bluestone Kerbs* be moved to Committee of the Whole to consider a:

##### *Commercial Matter*

*This item has been referred to committee of the whole as the report refers to information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business and discussion of the matter in open meeting would be, on balance, contrary to the public interest.*

*Note: A further resolution on this matter is included at Minute No. 359 of these Minutes, when the matter was recommitted for consideration of Council.*

### A LEADING CITY

#### 2 [Decision Making Arrangements During the Christmas/New Year Council Recess](#)

339 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Jackie Greenow

That:

1. The information contained in the report on Decision Making Arrangements During the Christmas/New Year Council Recess be received
2. Development Applications which would normally warrant reporting to Council between 13 December 2011 and 5 February 2012 inclusive be determined under the General Manager's delegation by the General Manager, after consultation with the Mayor.
3. A report be presented to the Ordinary Council Meeting (if required) to be held on 6 February 2012 relating to the operations of the organisation during this period.

#### 4 [Summary of Investments and Banking for the period 1 November 2011 to 30 November 2011](#)

340 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Jackie Greenow

That:

1. The information contained in the report on Summary of Investments and Banking for the period 1 November 2011 to 30 November 2011 be received.
2. The Certificate of the Responsible Accounting Officer and Summaries of Investments and Performance for the period 1 November 2011 to 30 November 2011 be noted and accepted.
3. The graphical investment analysis as at 30 November 2011 be noted.

**1 Preparations and Financial Settings for the 2012-13 Operational Plan**

341 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Kevin Cramer OAM

That:

1. The information contained in the report on Preparations and Financial Settings for the 2012-13 Operational Plan be received.
2. Council make initial identification of particular matters to be considered in the preparation of the Draft 2012-13 Operational Plan.
3. Preparation of the Draft 2012-13 Operational Plan continue in the terms discussed in this report.
4. A further report be brought to a future Council Meeting detailing how Council can generate its own electricity and other electricity generation alternatives.
5. A further report be brought to a future Council Meeting discussing the potential of liaising with other WSROC Councils to negotiate more favourable banking alternatives.
6. A further report be brought to a future Council Meeting on the condition, maintenance and renewal of Council's roads.

**3 Tender Reference RFT 11-12/11 - Provision of Election Services**

342 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Tender Reference RFT 11-12/11 - Provision of Election Services be received
2. The tender from RMK Investments Pty Ltd ATF Kidd Family Trust Trading As Australian Election Company (AEC) for the sum of \$599,613.56 excl GST be accepted for the provision of an election service for Penrith City Council's local government election in 2012, subject to any price adjustments agreed to between the Council and the AEC, as a result of services taken on by the Council that were outsourced by AEC
3. The Common Seal of the Council of the City of Penrith be placed on all documentation as necessary.

4. A letter be sent to the NSW Premier, the Hon Barry O'Farrell, MP thanking the Government for the changes made to the Local Government Act 1993 allowing Councils to be responsible for the conduct of elections in 2012, but raising concerns at the position taken by the NSW Electoral Commissioner in not wanting to enter into a partnership with local government in the conduct of the election. Council to also seek from the NSW Premier clarification of who would be responsible for any costs associated with a potential audit of the Election process should the NSW Electoral Commission conduct an investigation.

## A CITY OF OPPORTUNITIES

### 5 [Youth Week 2012 Program](#)

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

That:

1. The information contained in the report on Youth Week 2012 Program be received.
2. Council endorse the three recommended projects and funding amounts to the total value of \$6,150 as outlined in Table 1 of this report.

## A LIVEABLE CITY

### 6 [Development of a new playing field on the 'Old Jam Factory' site on Roper Road, Colyton – land contamination and grant funding](#)

344 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Development of a new playing field on the 'Old Jam Factory' site on Roper Road, Colyton – land contamination and grant funding be received.
2. Council support the reallocation of project grant funding to sites at Ridge Park and Shepherd Street Park and that a formal approach be made to the NSW Department of Sport and Recreation and the Federal Governments Regional and Local Facility Infrastructure Program to amend the grant locations.
3. Council allocate \$100,000 from the TAF Reserve as matching funds to the NSW Department of Sport and Recreation Grants following the formal approved from both the NSW Department of Sport and Recreation and Federal Governments Regional and Local Facility Infrastructure Program to amend the grants to the proposed sites.
4. Further investigations be undertaken into the responsibility and liability for the

management of site contamination on Department of Planning land in accordance with the terms and conditions under which Council assumed care, control and management of this site, with the outcome of these investigations to be the subject of a further report to Council.

**8 Development of Netball Courts at Jamison Park**

345 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Development of Netball Courts at Jamison Park be received
2. Council allocate \$100,000 from the District Open Space Contributions Plan to forward fund the construction of five (5) new seal netball courts at Jamison Park.
3. Council allocate \$4,000 from the District Open Space Contributions Plan for the design and installation of conduits for future lighting
4. A further report be provided to Council on the outcome of the grant application by Penrith District Netball Association and the remaining improvements, including funding sources.

**10 Tender Reference 11/12-04 Public Domain Cleaning Services**

346 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Tender Reference 11/12-04 Public Domain Cleaning Services be received.
2. A contract for a period of two (2) years with an option to extend for a further two (2) x one (1) year periods, (with provision for rise and fall), subject to satisfactory performance be awarded to Amazon Cleaning & Security Pty Ltd for the annual cost of \$298,574 for the provision of Public domain cleaning services within the Penrith and St Marys CBDs.

**11 Tender Reference 11/12-08 for the Supply and Installation of Field Lighting, Mark Leece Sporting Complex, Endeavour Avenue, St Clair**

347 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Tender Reference 11/12-08 for the Supply and Installation of Field Lighting, Mark Leece Sporting Complex, Endeavour Avenue, St Clair be received.

2. The tender from Master Electrical Pty Ltd for the sum of \$142,402.00 excl GST be accepted for the supply and installation of 100 Lux lighting to Field No 1,2 and 3 at the Mark Leece Sporting Complex, Endeavour Avenue, St Clair.
3. The Common Seal of the Council of the City of Penrith be placed on all documentation as necessary.

**13 Tender Reference 11/12-10, Upgrading Works on Mamre Road and Erskine Park Road, Erskine Park.**

348 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Tender Reference 11/12-10, Upgrading Works on Mamre Road and Erskine Park Road, Erskine Park. be received
2. NACE Civil Engineering Pty Ltd be engaged as contractor for the intersection upgrade works of Mamre Road & Erskine Park Road for the amount of \$4,485,275.58 ex GST subject to the Roads & Maritime Services provide concurrence to proceeding with the construction.
3. The Common Seal of the Council of the City of Penrith be placed on all documentation if necessary.

**15 Proposed additional Alcohol Prohibited Area**

349 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Marko Malkoc

That:

1. The information contained in the report on the Proposed additional Alcohol Prohibited Area be received.
2. Council support the progression of the consultation process for the establishment of an additional Alcohol Prohibited Area at the proposed location.
3. A further report be submitted to Council on completion of the advertising and consultation period.

**7 Seating and Pathway to Bridge Link – Boronia Park and Whalan Reserve, North St Marys**

350 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Jackie Greenow

That:

1. The information contained in the report on Seating and Pathway to Bridge Link – Boronia Park and Whalan Reserve, North St Marys be received.
2. The estimated cost for these works be listed for consideration in the

development of the 2012/13 Council budget.

**12 Tender Reference 11/12-05, Alterations and Additions to 114 Henry Street, Penrith**

Having previously declared a Pecuniary Interest Councillor Ben Goldfinch left the meeting, the time being 7:32pm.

351 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Marko Malkoc

That:

1. The information contained in the report for - Alterations and Additions to 114 Henry Street, Penrith be received.
2. Elite Commercial Solutions (ECS) be appointed as contractor for the Alterations and Additions to 114 Henry Street, Penrith for the amount of \$571,810 (inc GST).
3. The Common Seal of the Council of the City of Penrith be placed on all documentation if necessary.

Councillor Ben Goldfinch returned to the meeting, the time being 7:33pm.

**14 International White Ribbon Day**

352 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Jackie Greenow

That:

1. The information contained in the report on International White Ribbon Day be received.
2. A report be presented to Council scoping the requirements to expand International White Ribbon Day to an annual community event involving all relevant stakeholders and potential “champions” including, for example, young men from local high schools, business chambers, local charities and churches.
3. Council investigate the distribution of the “Nepean Domestic Violence Information & Referral Guide” to all School Counsellors within the Penrith Local Government Area.

His Worship the Mayor, Councillor Greg Davies then led the Councillors, staff and members of the public in taking the White Ribbon Oath:

*“I swear:*

*Never to commit violence against women,*

*Never to excuse violence against women, and*

*Never to remain silent about violence against women,*

*This is my oath.”*

**A VIBRANT CITY**

**16 [2011/2012 Heritage Assistance Fund](#)**

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

That:

1. The information contained in the report on 2011/2012 Heritage Assistance Fund be received
2. The list of successful applicants for the 2011/2012 Heritage Assistance Fund outlined in the report be endorsed by Council

**17 [Magnetic Places Neighbourhood Renewal Community Cultural Grant Program 2011-12](#)**

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

That:

1. The information contained in the report on Magnetic Places Neighbourhood Renewal Community Cultural Grant Program 2011-12 be received.
2. The 12 projects listed in Tables 1 and 2 of this report to the value of \$42,987 be funded.

**18 [2012 Seniors Week Grants Program](#)**

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

That:

1. The information contained in the report on 2012 Seniors Week Grants Program be received.
2. Council approve grants to fifteen (15) local community organisations to the value of \$6,500.00 for activities to celebrate Seniors Week 2012 as outlined in this report.

**19 [Fire Safety Report - NSW Fire and Rescue](#)**

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

That:

1. The information contained in the report on Fire Safety Report – NSW Fire and Rescue be received.

2. Council continue to monitor the three premises as part of its Fire Safety compliance process to ensure essential fire safety measures are being undertaken, completed and maintained in the buildings.
3. Council advise NSW Fire and Rescue of its decision.

Councillors Mark Davies and Jim Aitken OAM left the meeting, the time being 7:46pm.

## **REQUESTS FOR REPORTS AND MEMORANDUMS**

### **RR 1 Tender Procedures**

Councillor Greg Davies requested a report to a future Council Meeting concerning a tender procedures policy including local content.

Councillors Mark Davies and Jim Aitken OAM returned to the meeting, the time being 7:48pm.

His Worship the Mayor, Councillor Greg Davies took the opportunity to congratulate Council's Major Projects Manager, Mr Craig Ross for his 42 years service with the Council and wished him all the best for his future.

## COMMITTEE OF THE WHOLE

357 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Kevin Crameri OAM that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 7:49pm.

### 1 Presence of the Public

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

#### *A Leading City*

### 2 [Commercial Matter - Council Property - Leasing of Shop 1 at 144 Henry Street, Penrith](#)

*This item has been referred to Committee of the Whole as the report refers to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and discussion of the matter in open meeting would be, on balance, contrary to the public interest.*

### 3 [Tender Reference 11/12-09, Supply and Delivery of Pavers and Bluestone Kerbs](#)

*This item has been referred to committee of the whole as the report refers to information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business and discussion of the matter in open meeting would be, on balance, contrary to the public interest.*

The meeting resumed at 8:09pm and the General Manager reported that the Committee of the Whole met at 7:49pm on Monday 12 December 2012, the following being present

His Worship the Mayor, Councillor Greg Davies, Deputy Mayor, Councillor Jackie Greenow, Councillors Jim Aitken OAM, Kaylene Allison, Kevin Crameri OAM, Mark Davies, Tanya Davies, Ross Fowler OAM, Ben Goldfinch, 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 - Council Property - Leasing of Shop 1 at 144 Henry Street, Penrith**

RECOMMENDED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Marko Malkoc

CW2 That:

1. The information contained in the report on Commercial Matter - Council Property - Leasing of Shop 1 at 144 Henry Street, Penrith be received.
2. Council grant Dr Nadi Hanna a new 5 year lease with a 5 year option over Shop 1 at 144 Henry Street Penrith in accordance with the terms and conditions as outlined in the report.
3. The Common Seal of the City of Penrith be placed on all necessary documentation.

**3 Tender Reference 11/12-09, Supply and Delivery of Pavers and Bluestone Kerbs**

RECOMMENDED on the MOTION of Councillor John Thain seconded Councillor Marko Malkoc

CW3 That the information contained in the report on Tender Reference 11/12-09, Supply and Delivery of Pavers and Bluestone Kerbs be received.

**ADOPTION OF COMMITTEE OF THE WHOLE**

358 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Jackie Greenow that the recommendations contained in the Committee of the Whole and shown as CW1, CW2 and CW3 be adopted.

***Recommittal of Item 9 - Tender Reference 11/12-09, Supply and Delivery of Pavers and Bluestone Kerbs.***

**9 Tender Reference 11/12-09, Supply and Delivery of Pavers and Bluestone Kerbs**

359 A MOTION was moved by Councillor John Thain seconded Councillor Marko Malkoc

That:

1. The Council declines to accept any of the tenders referred to in the report on Tender Reference 11/12-09, Supply and Delivery of Pavers and Bluestone Kerbs.
2. In accordance with clause 178(3)(e) of the Local Government (General) Regulation 2005 the General Manager enter into negotiations with both Melocco Pty Ltd and Sam The Paving Man Pty Ltd for the most cost

effective supply of the tender material up to the amounts set out by the tenderers in their respective tender submissions and on the basis that the material is sourced and processed in Australia.

3. The General Manager be authorised to use his delegated authority in consultation with the Mayor as outlined in the report to the Ordinary meeting of 12 December 2011 titled 'Decision Making Arrangements During the Christmas/New Year Council Recess' to order and enter into a contract for the supply of the tender material.
4. That the results of the negotiation be reported to the first Ordinary meeting of Council in February 2012.
5. In accordance with clause 178(4)(b) of the Local Government (General) Regulation 2005 the reasons for declining to accept any of the tenders and for determining to enter into negotiations in accordance with both Melocco Pty Ltd and Sam The Paving Man Pty Ltd are:
  - a. To secure the most cost effective outcome for the Council.

An AMENDMENT was MOVED by Councillor Ross Fowler OAM seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Tender Reference 11/12-09, Supply and Delivery of Pavers and Bluestone Kerbs be received.
2. Melocco Pty Ltd be appointed as the preferred contractor for the supply and delivery of pavers and bluestone kerbs for a period of two (2) years with the option to extend for a further two (2) x one (1) year periods subject to the following;
  - (i) Submission of certification confirming the origin of the stone at the commencement of the contract,
  - (ii) Submission of one set of test results certified by an accredited testing company at the commencement of the contract at its own expense,
  - (iii) Satisfactory performance, and
  - (iv) Allowing for rise and fall provisions.
3. Sam The Paving Man Pty Ltd be appointed as the secondary contractor for pavers only and be engaged in the event the highest ranked contractor is unable to provide the service subject to the following;
  - (i) Submission of samples and acceptance of them prior to the time of engagement,
  - (ii) Submission of certification confirming the origin of the stone at the time of engagement,
  - (iii) Submission of one set of complying test results certified by an accredited testing company at the time of engagement at its own expense, and
  - (iv) Allowing for rise and fall provisions.

The AMENDMENT was PUT.

The AMENDMENT was LOST.

The MOTION was PUT.

The MOTION was CARRIED and on becoming the SUBSTANTIVE MOTION was also CARRIED.

There being no further business the Chairperson declared the meeting closed the time being 8:21pm.

I certify that these 14 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 12 December 2011.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date