

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

ON MONDAY 20 FEBRUARY 2012 AT 7:35PM

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 Rev Neil Checkley.

PRESENT

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

LEAVE OF ABSENCE

period of 22 days, as disclosed in her Councillor request.

26 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Marko Malkoc that Leave of Absence be granted to Councillor Kevin Crameri OAM for the period 20 February 2012 to 24 February 2012.

APOLOGIES

27 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Robert Ardill that an apology be received from Councillor Ben Goldfinch.

CONFIRMATION OF MINUTES - Ordinary Meeting - 6 February 2012

28 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor John Thain that the minutes of the Ordinary Meeting of 6 February 2012 be confirmed.

DECLARATIONS OF INTEREST

Councillor Jim Aitken OAM declared a Pecuniary Interest in the *Report and Recommendations of the Policy Review Committee Meeting held on 13 February 2012* as he owns a property in the area to which *Item 6 - Billington Place Car Park, Emu Plains - Request for Provision of 2-Hour Parking Restrictions* relates to. Councillor Jim Aitken OAM indicated he intended on staying in the Chambers, unless discussion takes place, at which place he would leave the Chambers.

Councillor Jim Aitken OAM declared a Pecuniary Interest in *Committee of the Whole - Item 4 Land and Environment Court ruling, North Western Surveys Pty Ltd v Penrith City Council* as

he owns property in the area referred to in the report. Councillor Jim Aitken OAM indicated he would leave the Chambers for consideration of the item.

MAYORAL MINUTES

1 [The passing of Isobel Lowe](#)

29 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Tanya Davies that the Mayoral Minute on The passing of Isobel Lowe be received.

Following the reading of the Mayoral Minute, a one minute silence was observed at 7.48pm.

2 [Community pulls together over severe storm event](#)

Councillor John Thain spoke in support of the Mayoral Minute.

30 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor John Thain

That:

1. That the Mayoral Minute on Community pulls together over severe storm event be received.
2. Council write to the State Emergency Service, Rural Fire Service and other emergency services thanking them for their assistance and efforts throughout the storm event.

3 [Nepean Legacy 50th Anniversary](#)

Councillor Ross Fowler OAM spoke in support of the Mayoral Minute.

31 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Ross Fowler OAM that the Mayoral Minute on Nepean Legacy 50th Anniversary be received.

REPORTS OF COMMITTEES

1 [Report and Recommendation of the Local Traffic Committee Meeting held on 6 February 2012](#)

32 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Karen McKeown that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 6 February, 2012 be adopted.

2 [Report and Recommendations of the Policy Review Committee Meeting held on 13 February 2012](#)

Having previously declared a Pecuniary Interest, Councillor Jim Aitken OAM,

left the meeting the time being 7:52pm.

33 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Robert Ardill that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 13 February, 2012 be adopted subject to an amendment to *Item 6 - Billington Place Car Park, Emu Plains - Request for Provision of 2-Hour Parking Restrictions*, so that it now reads:

“That:

- 1. The information contained in the report on Billington Place Car Park, Emu Plains - Request for Provision of 4-Hour Parking Restrictions be received.*
- 2. Council prepare a detailed submission to Transport for NSW seeking their urgent review and reconsideration of our request for the allocation of not less than 61 (4P) parking spaces in Billington Place, Emu Plains.*
- 3. Council further write to Transport for NSW, the minister for Transport, the Minister for Roads and the local Members of Parliament to seek engagement in the review process of parking requirements around Railway Stations including Emu Plains Railway Station.*
- 4. A detailed audit be conducted to determine the current usage and demand within the Billington Place car park and other surrounding car parks in the vicinity.*
- 5. Council investigates the implementation of a park in marked bay scheme along the length of Railway Row.*
- 6. The shop owners and shop keepers who signed the petition be advised of the response from the Roads and Maritime Services and Council’s resolution.”*

Councillor Jim Aitken OAM returned to the meeting, the time being 7:58pm.

DELIVERY PROGRAM REPORTS

A LEADING CITY

1 [Delivery Program Six Month Progress Report](#)

34 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Marko Malkoc that the information contained in the report on Delivery Program Six Month Progress Report be received.

4 [Summary of Investments for the period 1 January 2012 to 31 January 2012](#)

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

That:

1. The information contained in the report on Summary of Investments for the period 1 January 2012 to 31 January 2012 be received.

2. The Certificate of the Responsible Accounting Officer and Summaries of Investments and Performance for the period 1 January 2012 to 31 January 2012 be noted and accepted.
3. The graphical investment analysis as at 31 January 2012 be noted.

2 2011-12 Operational Plan - December Quarter Review

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

That:

1. The information contained in the report on 2011-12 Operational Plan - December Quarter Review be received.
2. The 2011-12 Operational Plan Review as at 31 December 2011, including the revised estimates and revotes identified in the recommended budget outlined in this report and detailed in Attachment 1 – *2011-12 Operational Plan, Services Performance and Financial Review Summary* be adopted.

3 2012 Australian Local Government Association (ALGA) National General Assembly of Local Government

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

That:

1. The information contained in the report on 2012 Australian Local Government Association (ALGA) National General Assembly of Local Government be received.
2. Council nominate His Worship the Mayor, Councillor Greg Davies as its voting delegate for the 2012 National General Assembly of Local Government.
3. Council nominate Councillor Marko Malkoc and any other interested Councillors to attend as observers at the 2012 National General Assembly of Local Government.
4. Leave of Absence be granted to all Councillors attending the 2012 National General Assembly of Local Government to be held in Canberra from 17-20 June 2012.
5. A further report detailing suggested motions be considered at Council's Policy Review Committee meeting to be held on 16 April 2012.

A CITY OF OPPORTUNITIES

- 5 [Development Application DA11/1034 existing masonry outbuilding, front boundary fence and entrance gate at Lot 816 DP 1068323 \(No. 174 - 186\) Capitol Hill Drive, Mount Vernon](#) Applicant: Patrick Hurley;
Owner: Cornelius D Cipri & Catrina Stylianou

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

That:

1. The information contained in the report on Development Application DA11/1034 existing masonry outbuilding, front boundary fence and entrance gate at Lot 816 DP 1068323 (No. 174 - 186) Capitol Hill Drive, Mount Vernon be received
2. That DA11/1034 for Masonry Outbuilding Front Boundary Fence and Entrance Gate Masonry Outbuilding Front Boundary Fence and Entrance Gate at 174-186 Capitol Hill Drive MOUNT VERNON NSW 2178, be approved subject to the attached conditions (Development Assessment Report Part B)
3. **Standard Conditions**
 - 3.1 A008 – Works to BCA requirements
A009 – Residential Works DCP
A019 – Occupation Certificate
A020 – Use of Building
D001 – Sedimentation and Erosion Controls
D009 – Covering Waste Storage area
E001 – BCA compliance
F010 – Septic distance from house
H001 – Stamped plans and erection of site notice
H041 – Hours of work
K017 – Stormwater and sewerage plan
L008 – Tree preservation order
Q01F – Notice of commencement and appointment of PCA2

Special Conditions

- 3.2 The development must be implemented substantially in accordance with the plans drawn by Mira Husar Design and Drafting Services Drawing Number A-01 to A-06, dated July 2011, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions
- 3.3 All boundary fences are to be low profile, open style and rural in character. The front fence is not to exceed 1.8m in height

- 3.4 You are required to submit a construction certificate for the yet to be constructed portion. An engineer's certificate is to form part of the application attesting to the structural adequacy of the existing building. Note: This relates to the portion of the building yet to be constructed
- 3.5 Prior to the issue of a Construction Certificate for the development, the variation of the Restriction on the Use of land numbered 4(b) in DP 1068323, shall be registered with the Land and Property Information division of the Department of Lands

The variation to the covenant shall be in the terms approved by resolution of Penrith City Council. The plan attached to the documentation shall indicate that an additional building envelope is to be provided which represents the footprint of the outbuilding approved by this development

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

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

- i. The septic tank and drainage lines shall not be altered without the prior approval of Council. In addition, the septic tank shall not be buried or covered
- ii. There shall be no effluent runoff from the subject property to adjoining premises, public places or reserves
- iii. There shall be available all year round, adequate water supply that is available to the property
- 3.7 **Prior to the commencement of construction works:**
- (a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of

- 20 persons employed at the site. Each toilet provided must be:
- A standard flushing toilet connected to a public sewer, or
 - If that is not practicable, an accredited sewage management facility approved by the council, or
 - Alternatively, any other sewage management facility approved by council

- 3.8 Roof and surface water shall be disposed of in accordance with the approved drainage design. Overflow from the existing in-ground rainwater tank is to be disposed of via a level spreader system
- 3.9 All landscaping works are to be constructed in accordance with the stamped-approved plan by PGH Environmental Planning drawing No. PGH-110397-LS0001 dated 26/10/2011 and sections F5 "Planting Techniques", F8 "Quality Assurance Standards", F9 "Site Management Plan" of Penrith Councils Landscape Development Control Plan

Landscaping shall be maintained:

- In accordance with the approved plan, and
- In a healthy state, and
- In perpetuity by the existing or future owners and occupiers of the property

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation which dies or was removed

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

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

For

Against

Councillor Kaylene Allison
Councillor Prue Guillaume
Councillor Karen McKeown
Councillor Kath Presdee
Councillor Greg Davies
Councillor John Thain
Councillor Marko Malkoc
Councillor Ross Fowler OAM
Councillor Robert Ardill

Councillor Jim Aitken OAM
Councillor Mark Davies
Councillor Tanya Davies

A LIVEABLE CITY

6 [Tender Reference 11/12-06, Scheduled Maintenance of Mechanical Services Minor Buildings](#)

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

That:

1. The information contained in the report on Tender Reference 11/12-06, Scheduled Maintenance of Mechanical Services Minor Buildings be received.
2. CBD Mechanical Electrical be appointed as the preferred contractor for the provision of Scheduled Maintenance of Mechanical Services in Minor Buildings for a period of 3 years for a lump sum price of \$13,500 (ex GST, with the option to extend for a further two (2) X one (1) year periods subject to satisfactory performance.

7 [Tender Reference 11/12-07, Scheduled Maintenance of Mechanical Services Major Buildings](#)

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

That:

1. The information contained in the report on Tender Reference 11/12-07, Scheduled Maintenance of Mechanical Services Major Buildings be received
2. Hirotec Maintenance Pty Ltd be appointed as the preferred contractor for the provision of Scheduled Maintenance of Mechanical Services in Major Buildings for a period of 3 years for a lump sum price of \$170,994.78, with the option to extend for a further two (2) X one (1) year periods subject to satisfactory performance.

REQUESTS FOR REPORTS AND MEMORANDUMS

RR 1 Hoon Driving and Anti-Social Behaviour - Tukara Street, South Penrith

Councillor John Thain requested a memo reply concerning Council making representations to the Penrith Local Area Command to seek their assistance in providing increased monitoring of the area surrounding Tukara Street, South Penrith due to recent increases, in hoon driving and anti-social behaviour. The area near the Masonic Lodge on Homestead Road, should also be included in this request.

RR 2 Restoration of Nature Strips

Councillor Kath Presdee requested a memo reply in relation to the restoration of nature strips and in particular who is responsible for restoring them to original condition after the work is complete. If it is not Council's responsibility to restore the land, what role does Council have in ensuring that other service providers restore land appropriately so that public safety is not compromised.

RR 3 Contamination - 92 Mulgoa Road, Jamisontown

Councillor Prue Guillaume requested a memo reply requesting that the State Government Urgently advise Jamisontown residents about how they will be affected by the disclosure of contaminants coming from 92 Mulgoa Road, Jamisontown.

RR 4 Roundabout Audit

Councillor Greg Davies requested a report to the Local Traffic Committee providing an audit on roundabouts within council's LGA which details issues in relation to visibility caused by overgrowth.

COMMITTEE OF THE WHOLE

41 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Prue Guillaume that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 8:12pm.

1 Presence of the Public

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

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2 [Property Matter - Assignment of Lease by Sapphires Cafe at 31 Blue Hills Drive Glenmore Park](#)

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 [Property Matter - Penrith Swimming Pool Site off Station 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.

4 [Land and Environment Court ruling, North Western Surveys Pty Ltd v Penrith City Council](#)

This item has been referred to Committee of the Whole as the report refers to advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

The meeting resumed at 8:26pm and the General Manager reported that the Committee of the Whole met at 8:12pm on Monday, 20 February 2012, the following being present

His Worship the Mayor Councillor Greg Davies, Councillors Jim Aitken OAM, Kaylene Allison, Robert Ardill, Mark Davies, Tanya Davies, Ross Fowler OAM, 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 [Property Matter - Assignment of Lease by Sapphires Cafe at 31 Blue Hills Drive Glenmore Park](#)

RECOMMENDED on the MOTION of Councillor Marko Malkoc seconded Councillor Ross Fowler OAM

CW2 That:

1. The information contained in the report on Property Matter - Assignment of Lease by Sapphires Cafe at 31 Blue Hills Drive Glenmore Park be received.
2. Council grant an Assignment of Lease to Jenna Vicary, Tarryn Ireland, Jack Vicary and Kelly Vicary in accordance with the terms and conditions as outlined in the report.
3. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

3 [Property Matter - Penrith Swimming Pool Site off Station Street Penrith](#)

RECOMMENDED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Jim Aitken OAM

CW3 That:

1. The information contained in the report on Property Matter - Penrith Swimming Pool Site off Station Street Penrith be received.
2. Council agree to purchase Part Lot 1 DP 998482 from the subject owner in accordance with the purchase price as indicated in the Summary of the report.
3. Funding for the proposed acquisition be financed by way of loan borrowing with debt servicing costs to be funded from the Property Development Reserve.
4. Investigations commence to reclassify the land subject of this report from "Community" to "Operational", in accordance with the Local Government Act, 1993.
5. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

4 [Land and Environment Court ruling, North Western Surveys Pty Ltd v Penrith City Council](#)

Having previously declared a Pecuniary Interest, Councillor Jim Aitken OAM left the meeting the time being 8:17pm.

RECOMMENDED on the MOTION of Councillor Ross Fowler OAM seconded Councillor John Thain

CW4 That:

1. The information contained in the report on Land and Environment Court ruling, North Western Surveys Pty Ltd v Penrith City Council be received.
2. The General Manager be given delegated authority to instruct Council's external legal advisors to lodge an appeal against the Commissioner's decision in the matter of North Western Surveys Pty Limited v Penrith City Council.
3. A further report be presented to Council upon resolution of the appeal.
4. Council continue to lobby the Minister for Planning and Infrastructure and the Department of Planning and Infrastructure, and local Members of State Parliament to achieve either abandonment of the cap or its significant amendment to ensure essential local infrastructure can be provided without further burden on ratepayers.
5. A further report on the planning options in response to the ruling be presented to Council in the near future.
6. A written request be made to the Local Government Association seeking monetary contributions towards Council's legal costs for this matter.

Councillor Jim Aitken OAM returned to the meeting, the time being 8:28pm.

ADOPTION OF COMMITTEE OF THE WHOLE

42 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Kath Presdee That the recommendation contained in the Committee of the Whole and shown as CW1, CW2, CW3 and CW4 be adopted.

There being no further business the Chairperson declared the meeting closed the time being 8:28pm.

I certify that these 12 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 20 February 2012.

Chairperson

Date