

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

**ON MONDAY 26 MARCH 2012 AT 7:36PM**

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

**LEAVE OF ABSENCE**

March 2012 to 7 April 2012 inclusive.

57 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor John Thain that Leave of Absence be granted to Councillor Jim Aitken OAM for the period 16 April 2012 to 11 May 2012 inclusive.

**APOLOGIES**

58 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Mark Davies that an apology be received from Councillor Robert Ardill.

**CONFIRMATION OF MINUTES - Ordinary Meeting - 5 March 2012**

59 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Marko Malkoc that the minutes of the Ordinary Meeting of 5 March 2012 be confirmed.

**DECLARATIONS OF INTEREST**

There were no declarations of interest.

## MAYORAL MINUTES

### 1 [Congratulations on successful Working Truck Show 2012](#)

60 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jackie Greenow that the Mayoral Minute on Congratulations on successful Working Truck Show 2012 be received.

## REPORTS OF COMMITTEES

### 1 [Report and Recommendations the Access Committee Meeting held on 8 February 2012](#)

61 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Prue Guillaume that the recommendations contained in the Report and Recommendations of the Access Committee meeting held on 8 February, 2012 be adopted.

### 2 [Report and Recommendations of the Local Traffic Committee Meeting held on 5 March 2012](#)

62 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Marko Malkoc that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 5 March, 2012 be adopted.

### 3 [Report and Recommendations of the Policy Review Committee Meeting held on 19 March 2012](#)

63 RESOLVED on the MOTION of Councillor Ben Goldfinch seconded Councillor Mark Davies that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 19 March, 2012 be adopted.

## DELIVERY PROGRAM REPORTS

### A LEADING CITY

#### 1 [Property Matter - Proposed Sale of the Former Scrap Metal Yard 141-151 High Street, Penrith](#)

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

That:

1. The information contained in the report on Property Matter - Proposed Sale of the Former Scrap Metal Yard 141-151 High Street, Penrith) be received.
2. Prominent Real Estate Agents be appointed in accordance with Council's Procurement Policy to call an "Expression of Interest" over the sale of the former Scrap Metal Site and adjoining site.
3. A further report be presented to Council following the "Expression of

Interest”.

**5 2011-12 Borrowing Program**

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

That:

1. The information contained in the report on 2011-12 Borrowing Program be received.
2. Council borrow the amount of \$8,263,000 on a 10 or 15 year repayment schedule.
3. Council’s General Manager be given delegated authority to negotiate the loans in accordance with this resolution.
4. The Common Seal of the Council of the City of Penrith be affixed to those documents that are necessary to finalise these borrowings.
5. The final terms and conditions of the borrowings be reported to Council upon completion of the contracts.

**6 Summary of Investments and Banking for the period 1 February to 29 February 2012**

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

That:

1. The information contained in the report on Summary of Investments and Banking for the period 1 February to 29 February 2012 be received.
2. The Certificate of the Responsible Accounting Officer and Summaries of Investments and Performance for the period 1 February 2012 to 29 February 2012 be noted and accepted.
3. The graphical investment analysis as at 29 February 2012 be noted.

**2 Panthers Planning Proposal**

67 RESOLVED on the MOTION of Councillor Ben Goldfinch seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Panthers Planning Proposal be received.
2. Council endorse the changes made to the Panthers Penrith Planning Proposal as shown in Attachment 3.
3. The General Manager be granted delegation to make any necessary minor changes required to the Planning Proposal before submitting it to the Minister

for Planning and Infrastructure.

4. The Panthers Penrith Planning Proposal, as amended and attached (Attachment 4 provided separately to Councillors on CD and available on Council's website ), be forwarded to the Minister for Planning and Infrastructure after a Voluntary Planning Agreement (VPA) for the provision of State road infrastructure and a separate VPA for the ongoing management of the outlet centre is signed by the proponent with a request that:
  - a) the Minister consider the changes made to the Planning Proposal in response to the public exhibition, and
  - b) make a determination as to whether the Planning Proposal is to be re-exhibited in accordance with s58 of the Environmental Planning and Assessment Act 1979.
5. The Minister be requested to make the plan in accordance with the Environmental Planning and Assessment Act 1979, should he determine that re-exhibition and/or independent review and referral of the Planning Proposal to the Planning and Assessment Commission is not required.

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

**For**

**Against**

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

**3 [Funding Options to Provide Suitable Cover for Housing Council's Bennett Wagons](#)**

68 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Funding Options to Provide Suitable Cover for Housing Council's Bennett Wagons be received.
2. A further report be presented to Council at a future Policy Review Committee meeting detailing potential housing options for Council's Bennett Wagons taking into account any study undertaken regarding the South Creek Corridor Precinct.

4 [Audit Committee](#)

69 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Audit Committee be received.
2. A letter be sent to Professor Robert Coombes thanking him for his contribution as Chair of the Audit Committee.
3. Council acknowledge and welcome the appointment of Frank Gelonesi as the new Chairperson of the Audit Committee and Jayant Gulwadi as the new Deputy Chairperson of the Audit Committee.

**A CITY OF OPPORTUNITIES**

7 [Development Application DA11/1057 for a Secondary Dwelling at Lot 20 DP 258357 \(No. 20\) Thomas Street, St Marys](#) Applicant: Willco Consulting; Owner: Allen Greenwood

70 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on Development Application DA11/1057 for a Secondary Dwelling at Lot 20 DP 258357 (No. 20) Thomas Street, St Marys be received.
2. The SEPP 1 objection for the variation to the rear set back not be supported as the submission was not consistent with the policy.
3. DA11/1057 for a Secondary Dwelling at 20 Thomas Street, St Marys be refused for the following reasons:
  - 3.1 The application is not satisfactory for the purpose of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal does not comply with the following provisions of Penrith Local Environmental Plan 1998 (Urban Land):

Clause 6 - The proposed development is inconsistent with the following objectives:

- to promote the community's desired character by ensuring that future development in all residential localities reflects features or qualities of traditional detached houses that are surrounded by private gardens
- to enhance the essential character and identity of established residential areas

- to promote development which safeguards the residential amenity of the area
- to provide for high levels of residential amenity, particularly acoustic and visual privacy, accessibility to services, climatic comfort of the indoor environment and safety and security

Clause 9 - The proposed development is inconsistent with the following objectives of the 2b) Low Density:

- to reinforce the importance of natural landscape settings and areas with heritage conservation values

Clause 12 (3) - The proposal does not demonstrate a minimum of 50% landscaped area on the site.

Clause 12 (3) - The proposal does not provide a 4 metre rear setback, cannot demonstrate that the rear setback is used for the purposes of landscaped areas and the submitted objection to this standard is not in the required form and is not well founded pursuant to State Environmental Planning Policy No.1 Development Standards (SEPP 1).

Clause 14 - The proposal is inconsistent with the following design principles:

- reflection of the forms, features or qualities of traditional residential neighbourhoods across Penrith local government area,
- consistency or compatibility with the scale, design and amenity of neighbouring development,
- provision for contemporary standards of amenity within each dwelling and the associated private open space.

3.2 The application is not satisfactory for the purpose of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is not consistent with the provisions of State Environmental Planning Policy No. 1 Development Standards.

3.3 The application is not satisfactory for the purpose of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal does not comply with the following provisions of Penrith Development Control Plan 2006 – Section 4.3 Residential – Dual Occupancy:

Clause 5.3 – the proposal does not comply with the 4m rear setback requirement, there are encroachments within the setback and extensive landscaping has not been incorporated into the design.

Clause 5.5 – the proposal has not demonstrated compliance with the landscaping requirements.

Clause 6.7 – the proposal has not demonstrated compliance with the garden design requirements.

- 3.4 The application is not satisfactory for the purpose of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979 as it has not been demonstrated through compliance with the relevant provisions that the site is suitable for the proposed development.
- 3.5 The application is not satisfactory for the purpose of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 as the proposal would have a negative impact on the surrounding character of the area and would set an undesirable precedent for non-compliant dual occupancy developments in the locality. Therefore the proposal is not in the public interest.

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

**For**

**Against**

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

- 8 [Development Application DA11/1095 for a Dan Murphy's Liquor Store at Centro Lennox Shopping Centre Lot 1 DP 610862 Pyramid Street, Emu Plains](#) Applicant: McKenzie Group Consulting; Owner: CPT Custodian Pty Ltd DA11/1095

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

That:

1. The information contained in the report on Development Application DA11/1095 for a Dan Murphy's Liquor Store at Centro Lennox Shopping Centre Lot 1 DP 610862 Pyramid Street, Emu Plains be received
2. Development Application DA11/1095 for a Dan Murphy's Liquor Store at Centro Lennox Shopping Centre Lot 1 DP 610862 Pyramid Street, Emu Plains be approved subject to the following conditions:

**Standard Conditions**

- 2.1 A001 Approved plans
- A019 Occupation Certificate

- A038 Lighting locations
- A039 Graffiti
- A046 Obtain Construction Certificate before commencement of works
- D009 Waste storage
- E01A BCA compliance
- E002 Fire exits
- E006 Access and sanitary facilities

**Special Conditions**

- 2.2 The development is to be carried out and operated in accordance with the documentation contained in the attachment to the Statement of Impact (see Appendix No. 4) lodged with Council addressing the following Strategies as referred to in the document:
  - 1) Surveillance and Lighting
  - 2) Territorial Reinforcement
  - 3) Space/Activity Management
  - 4) Access Control
- 2.3 Store management must be available at a mutually convenient time, at the invitation of Penrith City Council and/or the NSW Police, to discuss and take action on any agreed Community Safety, Security or other issues in conjunction with other local stakeholders in the areas should the need arise
- 2.4 In accordance with the requirements of Clause 94 of the Environmental Planning and Assessment Regulation 2000, the following works are to be completed to upgrade the fire safety of the existing building:
  - (i) A Fire Hydrant system is to be provided to serve the building in accordance with E1.3 of the BCA and AS 2419.1. A report from a Hydraulic Engineer is to be provided to confirm the suitability of the existing system or whether the street hydrant is sufficient
- 2.5 A Waste Management Plan is to be submitted and approved by Council prior to issue of the Construction Certificate, addressing the following matters:
  - a) The types and volumes of wastes and recyclables likely to be generated as a result of the development;
  - b) How wastes and recyclables will be stored and treated on site;
  - c) How wastes and recyclables are to be disposed of;
  - d) How ongoing waste management will operate once the development is complete
- 2.6 The operating hours and delivery and service activities associated with the development are to be restricted to from 9 am to 9pm Mondays to



Sundays

- 2.7 The applicant is to submit to Council plans and details for approval of the proposed pedestrian customer /trolley paths from the premises particularly addressing the issue of eliminating pedestrian/ vehicular conflict on the adjacent driveway. The plans are to be submitted and approved prior to issue of the Construction Certificate for the development and are to be implemented as part of the overall development
3. The individuals who made a submission be advised of Council's decision and of the consideration given to their concerns.

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

**For**

**Against**

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

**A LIVEABLE CITY**

**9 [Coachmans Park Improvement Project](#)**

72 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Marko Malkoc that consideration of this matter be deferred to a further Ordinary Meeting of Council subject to Council Officers providing additional information regarding the colouring of the bitumen and access issues.

**A VIBRANT CITY**

**10 [Progress on the Implementation of the Women's Services Sector Advocacy Strategy 2009 - 2012](#)**

73 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Jackie Greenow that the information contained in the report on Progress on the Implementation of the Women's Services Sector Advocacy Strategy 2009 - 2012 be received.

Councillor Mark Davies left the meeting, the time being 8:02pm.

Councillor Mark Davies returned to the meeting, the time being 8:03pm.

## REQUESTS FOR REPORTS AND MEMORANDUMS

### **RR 1 ALGWA Conference appointments to the Executive Committee**

Deputy Mayor, Councillor Jackie Greenow reported to Council that she had been elected to the Executive Committee at the ALGWA Conference and she also congratulated Councillor Karen McKeown and Council Officers Bev Spearpoint and Helen Copper who were also elected to the Executive Committee. Councillor Greenow also advised that Julie Griffiths had been elected as the ALGWA NSW Branch President.

### **RR 2 Footpath construction at William Howell Drive, Glenmore Park**

Councillor Prue Guillaume requested that the construction of the footpath at William Howell Drive at Glenmore Park be deferred pending a memorandum to South Ward Councillors detailing the background to the issues relating to the construction of the footpath.

### **RR 3 Feasibility of holding a 'New Residents Night'**

Councillor Prue Guillaume requested that a report be presented to Council regarding the feasibility of holding 'New Resident Nights' in Penrith.

### **RR 4 Traffic concerns on Mulgoa Road, Regentville**

Councillor Prue Guillaume requested that a report be presented at a future Local Traffic Committee meeting detailing what the State Government is doing to address the traffic created on Mulgoa Road, Regentville near Spencer Street, as a result of the drivers turning right southbound into the service station.

## URGENT BUSINESS

### **UB 1 Leave of Absence request**

Councillor Kath Presdee requested a Leave of Absence from 22 April 2012 to 27 April 2012 inclusive.

74 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Jackie Greenow that the matter be brought forward and dealt with as an urgent matter.

His Worship the Mayor, Councillor Greg Davies, ruled that the matter was urgent and should be dealt with at the meeting.

75 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Jackie Greenow that Councillor Kath Presdee be granted Leave of Absence from 22 April 2012 to 27 April 2012 inclusive.

Councillor Prue Guillaume left the meeting, the time being 8:09pm.

## COMMITTEE OF THE WHOLE

### 1 Presence of the Public

CW1 RESOLVED on the motion of Councillor Jackie Greenow seconded Councillor Marko Malkoc that the meeting be closed to the press and the public to discuss Confidential Business as recommended in Item 1 of the report to Committee of the Whole.

Councillor Prue Guillaume returned to the meeting, the time being 8:12pm.

#### *A Leading City*

### 2 [Legal Matter - 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.*

#### *A Vibrant City*

### 3 [Legal Matter - Development Application DA10/0402 - Proposed Rural Industry at Lot 18 DP 30265 \(No. 1247-1253\) Mamre Road, Kemps Creek - Land and Environment Court Proceedings 10943 of 2011 Applicant: Innovation Planning Australia Pty Ltd; Owner: Eagle Refrigerated Transport Pty Ltd](#)

DA10/0402

*This item has been referred to Committee of the Whole as the report refers to information that would, if disclosed, prejudice the maintenance of law and discussion of the matter in open meeting would be, on balance, contrary to the public interest.*

### 4 [Commercial Matter - Penrith Brand Strategy](#)

*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.*

The meeting resumed at 8:20pm and the General Manager reported that the Committee of the Whole met at 8:10pm on 26 March 2012, the following being present

His Worship the Mayor Councillor Greg Davies, Deputy Mayor Councillor Jackie Greenow, Councillors Kaylene Allison, 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 [Legal Matter - Land and Environment Court ruling, North Western Surveys Pty Ltd v Penrith City Council](#)**

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

CW2 That:

1. The information contained in the report on Legal Matter - Land and Environment Court ruling, North Western Surveys Pty Ltd v Penrith City Council be received.
2. Council endorse the actions as described within the report.
3. Council Officers be congratulated on their actions which led to the outcome.

**3 [Legal Matter - Development Application DA10/0402 - Proposed Rural Industry at Lot 18 DP 30265 \(No. 1247-1253\) Mamre Road, Kemps Creek - Land and Environment Court Proceedings 10943 of 2011](#)**

**Applicant: Innovation Planning Australia Pty Ltd; Owner: Eagle Refrigerated Transport Pty Ltd**

**DA10/0402**

RECOMMENDED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Ben Goldfinch

CW3 That the information contained in the report on Legal Matter - Development Application DA10/0402 - Proposed Rural Industry at Lot 18 DP 30265 (No. 1247-1253) Mamre Road, Kemps Creek - Land and Environment Court Proceedings 10943 of 2011 be received.

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

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

**4 Commercial Matter - Penrith Brand Strategy**

RECOMMENDED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Ben Goldfinch

CW4 That:

1. The information contained in the report on Commercial Matter - Penrith Brand Strategy be received.
2. Council endorse the actions as described within the report.

**ADOPTION OF COMMITTEE OF THE WHOLE**

76 RESOLVED on the MOTION Councillor Kath Presdee seconded Councillor Jackie Greenow 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 8:22pm.

I certify that these 13 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 26 March 2012.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date