

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

**ON MONDAY 30 SEPTEMBER 2013 AT 7:34PM**

**NATIONAL ANTHEM**

The meeting opened with the National Anthem.

**STATEMENT OF RECOGNITION**

His Worship the Mayor, Councillor Ross Fowler OAM read a statement of recognition of Penrith City's Aboriginal and Torres Strait Islander Cultural Heritage.

**PRAYER**

The Council Prayer was read by Council's Senior Governance Officer, Glenn Schuil.

**PRESENT**

His Worship the Mayor, Councillor Ross Fowler OAM, Deputy Mayor, Councillor Jim Aitken OAM and Councillors Bernard Bratusa, Prue Car, Kevin Crameri OAM, Marcus Cornish, Greg Davies, Mark Davies, Maurice Giroto, Ben Goldfinch, Jackie Greenow OAM, Tricia Hitchen, Karen McKeown, John Thain and Michelle Tormey.

**APOLOGIES**

There were no apologies.

**CONFIRMATION OF MINUTES - Ordinary Meeting - 23 September 2013**

246 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Kevin Crameri OAM that the minutes of the Ordinary Meeting of 23 September 2013 be confirmed.

**DECLARATIONS OF INTEREST**

Councillor Mark Davies declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 3 - Development Application DA13/0656 single storey dwelling & variation of 88B instrument to remove trees and build within a restricted area at Lot 18 DP1083294 (No. 26-28) Manifold Crescent, Glenmore Park* as one of the owners of the property works part time in his wife's office. Councillor Mark Davies indicated he would leave the meeting during discussion of the matter.

Councillor Marcus Cornish declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 4 - Development Application DA13/0592 proposed demolition of existing structures, construction of a new community facility for supported employment at Lot 1 DP132721 (47-49) Rance Road, Werrington* as he has previously worked for the Thorndale Foundation. Councillor Marcus Cornish indicated he would leave the meeting during discussion of the matter.

His Worship the Mayor, Councillor Ross Fowler OAM declared a Pecuniary Interest in *Item 4 - Development Application DA13/0592 proposed demolition of existing structures, construction of a new community facility for supported employment at Lot 1 DP132721 (47-49) Rance Road, Werrington* as he is the auditor for the owners of the property. His Worship the Mayor, Councillor Ross Fowler OAM indicated he would leave the meeting and vacate the chair for discussion of the matter.

### **SUSPENSION OF STANDING ORDERS**

247 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Karen McKeown that Standing Orders be suspended to allow members of the public to address the meeting, the time being 7:40pm.

#### **Ms Diane Pelle**

*Item 2 – Development Application 12/0721 Childcare centre at Lot B DP389004 & Lot A DP389004 (No. 168-170) Stafford Street, Penrith*

Ms Pelle, the proponent, spoke in support of the proposed development and stated her view that there was a community need for the proposed childcare centre. Ms Pelle cited a shortage of 0-2 age group child care places in the area and stated that this facility will provide 16 places. Ms Pelle also outlined the positive impact the development would have on the area with parents able to return to work, the provision of employment opportunities and choice for parents as to which childcare centre to use.

#### **Ms Suzy Bechaye**

*Item 2 – Development Application 12/0721 Childcare centre at Lot B DP389004 & Lot A DP389004 (No. 168-170) Stafford Street, Penrith*

Ms Bechaye, an affected person, spoke in opposition to the proposed development as she believed it was not in the best interests of the community. Ms Bechaye stated that there were issues concerning lack of carparking spaces, traffic impact, impact on the surrounding environment, and DCP requirements for toilets. Ms Bechaye concluded by stating that she believed the site was unsuitable for the proposed childcare centre.

#### **Ms Diane Burke**

*Item 2 – Development Application 12/0721 Childcare centre at Lot B DP389004 & Lot A DP389004 (No. 168-170) Stafford Street, Penrith*

Ms Burke, an affected person, spoke in opposition to the recommendation and stated concerns surrounding parking and traffic issues, as traffic in the area was already heavy and that the development of a childcare centre in the street would compound the problem.

**Mr Vikas Nagrad**

*Item 2 – Development Application 12/0721 Childcare centre at Lot B DP389004 & Lot A DP389004 (No. 168-170) Stafford Street, Penrith*

Mr Nagrad, an affected person, spoke in opposition to the proposed development, stating that he works at the High Street Pre-school and they have a 50% vacancy in the 0-2 year old places.

**Ms Belinda Colombrita**

*Item 4- Development Application DA13/0592 proposed demolition of existing structures, construction of a new community facility for supported employment at Lot 1 DP132721 (47-49) Rance Road, Werrington*

Ms Colombrita, General Manager of Thorndale Foundation Ltd, spoke in support of the recommendation and provided advice on the support service the Foundation provides to people with disabilities.

**Ms Shallon McDonald**

*Item 2 – Development Application 12/0721 Childcare centre at Lot B DP389004 & Lot A DP389004 (No. 168-170) Stafford Street, Penrith*

Ms McDonald, an affected person, spoke in opposition to the proposed development, stating that she was the Manager of Bright Stars Kindergarten for 12 years. Ms McDonald cited concerns regarding car parking, noise limitations, and that all vacancies would not be likely to be filled at the proposed development.

**Mr William Linehan**

*Item 5 -Development Application DA13/0405 Proposed Dwelling Addition to Existing Residence at Lot 97 DP 706003 (No. 4) Ogden Close, St Clair Applicant: Evolving Design & Drafting; Owner: Kerry Miles*

Mr Linehan, the applicant, was present to answer any questions from the Council on the proposed development.

**Ms Gai Hawthorn**

*Item 6- High Street, Penrith - "Triangle Park" Proposed Road Closure*

Ms Hawthorn, representing the Penrith CBD Corporation, spoke in support of the recommendation, expressing her support for the process undertaken to date with the Masterplan and Tactical Urban workshop. Ms Hawthorn stated that the project is an opportunity for growth and that the closure of the road should be supported as the project is worth pursuing.

## RESUMPTION OF STANDING ORDERS

248 RESOLVED on the MOTION of Councillor Jackie Greenow OAM seconded Councillor Kevin Crameri OAM that Standing Orders be resumed, the time being 8:28pm.

## REPORTS OF COMMITTEES

### 1 [Report and Recommendations of the Access Committee Meeting held on 14 August 2013](#)

249 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Jim Aitken OAM that the recommendations contained in the Report and Recommendations of the Access Committee meeting held on 14 August, 2013 be adopted.

### 2 [Report and Recommendations of the Local Traffic Committee Meeting held on the 2 September 2013.](#)

250 RESOLVED on the MOTION of Councillor Marcus Cornish seconded Councillor Jackie Greenow OAM that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 2 September, 2013 be adopted.

### 3 [Report and Recommendations of the Penrith Community Safety Partnership Meeting held on 4 September 2013](#)

251 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Tricia Hitchen that the recommendations contained in the Report and Recommendations of the Penrith Community Safety Partnership meeting held on 4 September, 2013 be adopted.

### 4 [Report and Recommendations of the Policy Review Committee Meeting held on 9 September 2013](#)

252 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 9 September, 2013 be adopted.

## DELIVERY PROGRAM REPORTS

### OUTCOME 1 - WE CAN WORK CLOSE TO HOME

#### 1 [The Penrith Progression](#)

253 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on The Penrith Progression be received.

2. Council, because of the extenuating circumstances not call tenders for the provision of the services outlined in the report for the reasons also set out in the report.
3. Council enter into a Contract with Kerr Partnering as outlined in the report for the provision of the Principle Implementation Advisor.
4. Council become the lead agency in the partnership between the PBA and Council for the implementation of The Penrith Progression.

## OUTCOME 2 - WE PLAN FOR OUR FUTURE GROWTH

### 2 [Development Application 12/0721 Childcare centre at Lot B DP389004 & Lot A DP389004 \(No. 168-170\) Stafford Street, Penrith](#) Applicant: **Nor'side Investments Pty Ltd; Owner: Nor'side Investments Pty Ltd**

254 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Mark Davies

That:

1. The information contained in the report on Development Application 12/0721 Childcare centre at Lot B DP389004 & Lot A DP389004 (No. 168-170) Stafford Street, Penrith be received.
2. The objection pursuant to State Environmental Planning Policy No. 1 – Development Standards regarding landscaped area development standard under Clause 12(3) of Penrith Local Environmental Plan 1998 (Urban Land) be supported.
3. Development Application 12/0721 Childcare centre at Lot B DP389004 & Lot A DP389004 (No. 168-170) Stafford Street, Penrith be approved subject to the following conditions:

#### **Standard Conditions**

- |     |      |                               |
|-----|------|-------------------------------|
| 3.1 | A001 | Approved plans                |
|     | A008 | Works to BCA requirements     |
|     | A009 | Residential works DCP         |
|     | A011 | Engineering works DCP         |
|     | A012 | Food shop                     |
|     | A019 | Occupation Certificate        |
|     | A020 | Use of building               |
|     | A021 | Business registration         |
|     | A023 | Limit number of children (24) |
|     | A026 | Advertising sign              |
|     | A029 | Hours of operation            |
|     | A039 | Graffiti                      |

A043	Air conditioning unit
A046	Obtain Construction Certificate before commencement of works
B002	Australian Standard for demolition and disposal to approved landfill site and Occupational Hygienist clearance report prior to Occupational Certificate.
B003	Asbestos disposal
B004	Dust suppression
B005	Mud/Soil
B006	Hours of work
D001	Implement approved sediment and erosion control measures
D005	No filling without prior approval
D009	Covering of waste storage area
D010	Appropriate disposal of excavated or other waste
D014	Plant and equipment noise
E001A	BCA compliance (Class 2-9)
E002	BCA issued to be addressed
E006	Disabled access and facilities
E009	Annual fire safety – essential fire safety (Class 2-9 buildings)
F022	Commercial kitchens
G002	Section 73 (not for single dwellings)
G004	Integral Energy
H001	Stamped plans and erection of site notice
H002	Provision of site facilities prior to commencement of construction works
H006	Implementation of waste management plan
H013	Further details of building components
H024	Glass installations to comply with AS 1288
H041	Hours of construction work
K101	Works at no cost to Council
K202	Roads Act- Minor Works
K203	S138 – Roads Act
K210	On site detention

K213	Water quality
K221	Access car parking and manoeuvring
K501	Roads Authority Clearance
K502	Works as executed plans
K503	Stormwater compliance
K504	Restriction as to user
L001	Approved landscaping plans
L003	Landscaping report requirements
L005	Planting of plant material
L006	Australian Standard landscaping requirements
L007	Tree protection measures
L008	Tree preservation order
Q01F	Notice of commencement and appointment of PCA
Q006	Occupation Certificate

#### **Special Conditions**

- 3.2 The development shall comply with the following community safety and CPTED (Crime Prevention Through Environmental Design) matters:
- (a) All gates shall be lockable.
  - (b) The landscaping in the form of shrubs to the front of the car parking area shall be low in height. Dense vegetation with concentrated top to bottom foliage shall be avoided. The use of low vegetation will improve surveillance, provide clear lines of sight and avoid concealment areas along the frontage of the site.
  - (c) The external lighting facing the driveway area shall have a wide beam of illumination which reaches to the beam of the next light, or the perimeter of the area being traversed (i.e. the car parking area)
  - (d) Lighting shall be directed towards access/egress routes to illuminate potential offenders as well as the areas where people are most vulnerable
  - (e) Lighting shall be contained within the property boundary and no light shall be projected upwards
  - (f) Where appropriate, movement sensitive and diffused lights shall be used
  - (g) All lighting shall be vandal resistant where practical.
- 3.3 Waste Management Plan for the development shall be in accordance with the relevant provisions of Section 2.9 (Waste Planning) of Penrith Development Control Plan 2006 and the childcare centre component must have as a minimum a weekly collection of the waste

- organised via a private contractor.
- 3.4 All car parking and manoeuvring must be in accordance with AS2890.1-2004; AS2890.6-2009 and Council's requirements.
- Appropriate sight lines shall be maintained from the driveway in accordance with AS 2890.1 (2004)
- 3.5 Dust suppression techniques are to be employed during demolition and construction to reduce any potential nuisances to surrounding properties.
- 3.6 The hours of operation for the centre are 7:00am to 6.00pm Monday to Friday. The centre is not to operate on weekends or public holidays. Staff are not to generate noise that can be heard from an adjacent premises before 7am. Deliveries and waste removal are to occur between 7.00am and 6.00pm Monday to Friday, excluding public holidays.
- 3.7 A maximum of sixty two (62) children are permitted in the centre at any one time.
- 3.8 An additional toilet shall be provided. Details shall accompany the application for a construction certificate.
- 3.9 A maximum of sixteen (16) children aged between 0-2 years are allowed to play outside at any one time and twenty (20) children aged between 3-5 years are allowed to play outside at any one time.
- 3.10 The use of a public address system or amplified music is not permitted to be used in the outdoor play area. The use of amplified music within the building shall not be audible from residential boundaries.
- 3.11 The windows and doors of the indoor play rooms are to be kept closed when children are playing indoors.
- 3.12 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the "Noise Assessment" by Acoustic Logic (dated 31/1/2013, refer 20120617.1/3007A/R1/JZ, revision 1). The recommendations provided in the above-mentioned documents are to be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application.
- 3.13 A report is to be obtained from a qualified acoustic consultant certifying that the development meets the relevant noise criteria and conditions of this consent. This report is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 3.14 A noise barrier is to be provided along all boundaries as recommended in the acoustic report entitled "Noise Assessment" by Acoustic Logic (dated 31/1/2013, refer 20120617.1/3007A/R1/JZ, revision 1). The noise barrier is to be 2.2 metres in height, of



construction certified by the acoustic consultant.

- 3.15 Detailed plans and specifications of the sound barrier walls are to be submitted to Council prior to the issue of a Construction Certificate. The walls are to be satisfactorily completed prior to the issue of an Occupation Certificate.
- 3.16 Within 12 months from the date of issuing the Occupation Certificate, a compliance report is to be prepared by a suitably qualified acoustic consultant to ensure that noise levels from and inside the development meet the noise emissions criteria set in the "Noise Assessment" by Acoustic Logic (dated 31/1/2013, refer 20120617.1/3007A/R1/JZ, revision 1).

A Compliance Report on this testing is to be prepared using the test data and it is to determine whether the noise emissions criteria for the development are being complied with and whether any mitigation works are required.

This report is to be prepared and provided to Council within sixty days of the testing. The report is to be approved by Council, with any recommendations being implemented in accordance with the approved report within twenty-one days from the direction of Council unless otherwise specified by Council. If Council is not the certifying authority for this development, the report is required to be provided to Penrith City Council for approval.

- 3.17 A Noise Management Plan (NMP) is to be prepared and submitted to Penrith City Council for consideration and approval prior to the issue of an Occupation Certificate. The NMP shall be prepared by a suitably qualified consultant and may need to be amended to include the any comments provided by Council. The NMP is to:
- a) address all noise related aspects of the development's construction and operational phases, including:
    - i) how the restriction on the number of children playing outside will be managed; and
    - ii) a schedule describing the times of outdoor play for each group of children; and
    - iii) the management of visitors in the carpark attending the site picking up/dropping of children.
  - b) Address the relevant conditions of this consent
  - c) Recommend any systems/controls to be implemented to minimise the potential for any adverse noise impact(s).
  - d) Incorporate a program for ongoing monitoring and review to ensure that the NMP remains contemporary with relevant environmental standards.

The approved Noise Management Plan is to be implemented and

complied with at all times.

- 3.18 Appropriate signage is to be provided to the carpark and entrance of the centre requesting patrons to minimise noise and protect the amenity of the surrounding neighbourhood. Prior to the issue of an occupation certificate a suitable signage plan is to be submitted to Council for approval. The signage plan is to provide details on the location, sizing and wording of the proposed signs. The signs are to be erected prior to the issue of an occupation certificate.
- 3.19 A public contact number is to be displayed on the childcare centre signage and this phone line must be operational during business hours. A complaint register is to be maintained and must include complaint details and any actions taken to address those complaints. A copy of the complaint register is to be provided to Council upon request.
- 3.20 In the event of on going noise complaints relating to the development being received by Council, the owner and/or occupier of the development maybe required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community. The noise impact assessment report is to be prepared and provided to Council within 45 days of being requested. The assessment report is to be approved by Council, with any recommendations being implemented in accordance with the approved assessment report.
- 3.21 Prior to the issue of the Occupation Certificate, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways.

Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

- 3.22 A designated hand wash basin must be supplied within the food preparation area for hand washing only. It must be supplied with warm water through a common spout in compliance with AS 4674-2004 and Food Safety Standard 3.2.3. The hand wash basin must also be supplied with soap and paper towel. The hand wash basin must be hands free as required by AS 4674-2004. If there is a separate bottle preparation area within the Centre then it must also be supplied with an additional hand wash basin supplied with warm water through a common spout.
- 3.23 The garbage area must be constructed and maintained in accordance with the requirements of Food Safety Standard 3.2.3 and the

*Protection of the Environment Operations Act 1997*. Specifically, external garbage storage areas are to be paved, graded, drained to a waste disposal system and provided with a hose tap to facilitate cleaning.

- 3.24 If the Centre wishes to utilize a dishwasher to sanitise food utensils and equipment, it must be capable of reaching 80°C for 2 minutes, 75°C for 10 min or 70°C for 15 min in the rinse cycle as required by A S4674-2004.
- 3.25 As required by AS 4674-2004, mechanical ventilation shall be provided in accordance with AS1668 Parts 1 & 2 to the dishwasher if it vents steam into the surrounding area to the extent that there is, or likely to be, condensation collecting on walls and ceilings. If required, the installer of the exhaust system shall certify and submit appropriate documentation to Council prior to the issuing of the Occupation Certificate that the system has been installed in accordance with AS1668.
- 3.26 All floors within the food business are to be constructed, finished and appropriately coved in accordance with AS 4674 – 2004.
- 3.27 All walls within the food business are to be of solid construction and finished in accordance with AS 4674 – 2004.
- 3.28 The ceiling is to be constructed in accordance with AS 4674 – 2004. Please note drop-in panels are not permitted.
- 3.29 The premise is to be proofed against the entry of pests in accordance with AS 4674 – 2004.
- 3.30 In addition to the hand wash basin located in the food preparation area, a hand wash basin with warm water through a common spout in compliance with AS 4674-2004 and Food Safety Standard 3.2.3 must be installed within or immediately adjacent to the toilet. This hand wash basin must also be supplied with soap and paper towel.
- 3.31 Wastewater generated from mop buckets, cleaning mops and other cleaning activities must be disposed of in a cleaner's sink or other approved facility.
- 3.32 A food business notification reference number shall be obtained from the NSW Food Authority prior to commencement of business operations and a copy of the notification shall be submitted to Council. Notification can be completed on the NSW Food Authority's Food Notify website at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au).
- 3.33 A satisfactory inspection from Council's Environmental Health Department will be required prior to the issuing of the Occupation Certificate and operation of the business. The occupier is to contact

the department to organise an appointment.

- 3.34 The recommendations of the Arboriculture Impact Assessment Report prepared by Urban Landscape Planners P/L shall be complied with. The trees required to be retained in accordance with this report shall be retained and at least 6 trees shall be planted on site to compensate for those removed.
  - 3.35 The child care centre shall comply with the requirements of the Children’s Services Regulation 2004 and shall be appropriately licensed by NSW Community Services prior to the commencement of operation.
  - 3.36 Trucks entering and leaving the site carrying construction materials that may generate dust shall be covered. Stockpiles of soil or other materials shall be covered or sprayed with water on a regular basis, particularly during dry or windy conditions.
4. Those who made submissions be advised of Council’s decision.

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 Prue Car	Councillor Michelle Tormey
Councillor Greg Davies	Councillor Maurice Giroto
Councillor John Thain	Councillor Kevin Cramer OAM
Councillor Karen McKeown	Councillor Tricia Hitchen
Councillor Jim Aitken OAM	Councillor Bernard Bratusa
Councillor Mark Davies	
Councillor Ben Goldfinch	
Councillor Marcus Cornish	
Councillor Ross Fowler OAM	
Councillor Jackie Greenow OAM	

Having previously declared a Non-Pecuniary Conflict of Interest – Less than Significant in Item 3, Councillor Mark Davies left the meeting, the time being 8:49pm.

**3 [Development Application DA13/0656 single storey dwelling & variation of 88B instrument to remove trees and build within a restricted area at Lot 18 DP1083294 \(No. 26-28\) Manifold Crescent, Glenmore Park](#)  
**Applicant: Cityscape Planning & Projects; Owner: Parkes (Survey) Pty Ltd****

255 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Greg Davies

That:

- 1. The information contained in the report on Development Application DA13/0656 single storey dwelling & variation of 88B instrument to remove trees and build within a restricted area at Lot 18 DP1083294 (No. 26-28)

Manifold Crescent, Glenmore Park be received.

2. The restrictive covenant on the use of land numbered 9 referred to in the Section 88B Instrument of the Conveyancing Act 1919 applying to Lot 18 in DP 1083294 (known as No. 26-28) Manifold Crescent Glenmore Park be lifted/released to allow building within the restricted area.
3. All other lots burden by the restrictive covenant on the use of land numbered 9 (being Lots 6, 7, 19, 21 in DP1083294) also be lifted/released.
4. The Common Seal of Penrith City Council be affixed to all necessary documentation to vary/release the covenant.
5. The application be approved subject to the following conditions.

**Standard Conditions**

- a. A001 – Stamped approved plans  
A008 – Works to BCA requirements  
A019 – Occupation Certificate  
A046 – Construction Certificate  
D001 – Sediment and erosion controls  
D009 – Waste storage  
D010 – Disposal of waste  
E001 – BCA compliance  
F006 – Water tank  
H001 – Stamped plans and erection of site notice  
H002 – All forms of construction  
H022 - Survey  
H036 – Water tank  
H037 – Safe supply of water  
H038 – Connection of tank  
H039 – Tank pump  
H041 – Hours of work  
K016 – Stormwater  
K026 – Stabilised access  
P002 – Fees  
Q01F – Notice of commencement  
Q05F – Occupation Certificate

**Special Conditions**

- 5.2 To further protect the trees being retained, the dwelling is to be positioned 1 metre closer to the North Eastern boundary of Manifold Crescent.

The revised dwelling position must maintain a rear setback of 4 metres measured to the external wall of the theatre room.

Amended plans showing the revised setbacks are to be submitted to the Principal Certifying Authority **prior to the issue of a Construction Certificate.**

- 5.3 Cut operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint or where tree protection measures are required. **All fill is to be contained within the building footprint by the use of dropped edge beams.**

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

- 5.4 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council prior to the issue of a Construction Certificate. The bond is based upon the estimated value of the works with a bond of \$500.00 payable for the subject development.

The bond is refundable once a final inspection has been carried out by Council's Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works. Contact Council's City Works Department on 4732 7777 or visit website to obtain the form and request for final inspection.

- 5.5 Prior to the issue of a Construction Certificate a Roads Act application, including payment of application and inspection fees shall be lodged with Penrith City Council, as the Roads Authority, for the

following works:

- a) Provision of a vehicular crossing/s.
- b) Opening the road reserve for the provision of services including stormwater.
- c) Placing of hoardings, containers, waste skips, etc. in the road reserve.

All works within the road reserve shall be carried out in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

- 5.6 Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works within the road reserve have been inspected and approved by Penrith City Council.
- 5.7 Prior A landscape plan is to be prepared by a professional listed in Council's Approved Landscape Consultants Register and submitted to the Principal Certifying Authority for consideration and approval **prior to the issue of a Construction Certificate**. The landscape plan should include suitable replacement trees for those being removed.

All landscape works are to be constructed in accordance with the approved plan and Sections F5 "Planting Techniques", F8 "Quality Assurance Standards", F9 "Site Management Plan" of Penrith Council's 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 died or was removed.

- 5.8 The development is to be carried out in accordance with the stamped-approved Tree Impact Report No. 3406, by Monaco Designs P/L, and dated 07th June 2013, including:
  - Replacement trees must be planted and the trees to be retained must be protected.
  - The recommendations in the Tree Impact Report must be

adopted.

- The owner/builder must employ an arborist to supervise and install tree protection measures in accordance with the Tree Impact Report and AS4970- 2009 Australian Standard® Protection of Trees on Development Sites **prior to commencement of any works or construction.**

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

**For**

**Against**

Councillor Prue Car  
Councillor Greg Davies  
Councillor John Thain  
Councillor Karen McKeown  
Councillor Michelle Tormey  
Councillor Jackie Greenow OAM  
Councillor Maurice Giroto  
Councillor Kevin Crameri OAM  
Councillor Jim Aitken OAM  
Councillor Ben Goldfinch  
Councillor Tricia Hitchen  
Councillor Bernard Bratusa  
Councillor Marcus Cornish  
Councillor Ross Fowler OAM

Councillor Mark Davies returned to the meeting, the time being 8:51pm.

Having previously declared a Non-Pecuniary Conflict of Interest – Less than Significant in Item 4, Councillor Marcus Cornish left the meeting, the time being 8:52pm.

Having previously declared a Pecuniary Interest in Item 4, His Worship the Mayor, Councillor Ross Fowler OAM left the meeting, the time being 8:52pm.

Deputy Mayor, Councillor Jim Aitken OAM then took the Chair for consideration of Item 4, the time being 8:52pm.

**4 [Development Application DA13/0592 proposed demolition of existing structures, construction of a new community facility for supported employment at Lot 1 DP132721 \(47-49\) Rance Road, Werrington](#)  
**Applicant: Paynter Dixon; Owner: Thorndale Foundations Ltd****

256 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Maurice Giroto

That:

1. The information contained in the report on Development Application DA13/0592 proposed demolition of existing structures, construction of a new community facility for supported employment at Lot 1 DP132721 (47-



- 49) Rance Road, Werrington be received.
2. The request to waive the Section 94 Contributions be supported based on the information contained within this report.
  3. Development Application 13/0592 at Lot 1 DP 132721 (47-49) Rance Road be granted consent subject to the following conditions:
    - 3.1 A001 The development must be implemented substantially in accordance with the plans and documents contained within the table below and stamped approved by Council, 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.

Plan/Document	Reference No.	Prepared by	Dated
Proposed Site Plans	Project Number 12-0091 Dwg No.s: DA-A-050, DA-A-051, DA-A-052	Quattro Architecture	12 June 2013
Administration and Day Programs	Project Number 12-0091 Dwg No.s: DA-A-100 DA-A-101, DA-A-102	Quattro Architecture	12 June 2013
Warehouse and Production Space	Project Number 12-0091 Dwg No.s: DA-A-120, DA-A-121, DA-A-122, DA-A-123	Quattro Architecture	12 June 2013
Plan/Document	Reference No.	Prepared by	Dated
Finishes Schedule	DA-A-1000	Quattro Architecture	12 June 2013
Perspective Site Views	DA-A-1001	Quattro Architecture	12 June 2013
Landscape Plans	SS12-2556 Dwg No. 101 & 102 Rev B	Site Image	12 June 2013
Stormwater Concept Plans & Erosion and Sediment Control Plans	2248 Drawing No. SW-1 to SW-5 Issue B	Abel & Brown Pty Ltd	August 2013
Traffic and Parking Assessment Report	12163 Rev B	Transport and Traffic Planning Associates	May 2013
Statement of	SA 4764	Urbis	June 2013

Environmental Effects			
Acoustic Report	20130727.1/2907A/R 0/JZ	Acoustic Logic	29 July 2013
Accessibility Report	Thorndale Foundation DA Access Report	Access Australia	12 June 2013

- A019 The development shall not be used or occupied until an Occupation Certificate has been issued.
- A029 The operating hours are from 8 am to 5 pm Mondays to Fridays. Delivery and service vehicles generated by the development are limited to 7am and 6 pm Monday to Friday.
- A039 Procedures should be in place to ensure that any vandalism, damage or broken fixtures are repaired promptly. This includes replacement of broken lights, removal of graffiti, litter removal and other general maintenance to ensure the development is clean and tidy.
- A046 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- B002 All **demolition** works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". Prior to demolition, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.
- All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition.**
- B003 **Prior to commencement of demolition works on site** the Principal Certifying Authority is to be satisfied that:
- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
  - The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.
- Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.
- All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the

Environmental Protection Authority to receive asbestos wastes.

B004 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.

B005 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

B006 Demolition works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

D001 Erosion and sediment control measures shall be installed prior to the commencement of works on site including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Housing NSW "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Urban Growth NSW on (02) 98418600).

D006 No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to the PCA and Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- based on the fill classification) determine whether the fill material

is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

- D009 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.
- D010 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.
- Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.
- All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.
- E006 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 “Design for Access and Mobility”. Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.
- E008 A fire safety list of essential fire or other safety measures shall be submitted to Penrith City Council prior to the issue of the Construction Certificate. The fire safety list shall specify all measures (both current and proposed) that are required for the building so as to ensure the safety of persons in the building in the event of fire. The fire safety list must distinguish between:
- the measures that are currently implemented in the building premises, and
  - the measures that are to be proposed to be implemented in the building premises, and must specify the minimum standard of performance for each measure.
- E009 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety

statement for the building. The annual fire safety statement for a building must:

- a) deal with each essential fire safety measure in the building premises, and
- b) be given:
  - within 12 months after the last such statement was given, or
  - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.
  - As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:
  - must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
  - prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

E01A All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

- a) complying with the deemed to satisfy provisions, or
- b) formulating an alternative solution which:
  - complies with the performance requirements, or
  - is shown to be at least equivalent to the deemed to satisfy provision, or
- c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

H001 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,

- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.
- Signage but no more than 2 signs stating the above details is to be erected:
- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed **when the Occupation Certificate has been issued for the development.**

**H002 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.
- b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
  - must preserve and protect the building from damage, and
  - if necessary, must underpin and support the building in an approved manner, and
  - must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land,

(includes a public road and any other public place).

- d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and any such hoarding, fence or awning is to be removed when the work has been completed.

H011 Detailed engineering plans and specifications relating to the work shall be submitted for consideration and approval **prior to the issue of a Construction Certificate.**

H041 Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

K010 All roadworks, drainage works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

K203 **Prior to the issue of a Construction Certificate** for building or subdivision works the Principal Certifying Authority and/ or Certifying Authority shall ensure that a Roads Act application, including the payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for the following works.

- Provision of kerb and gutter, drainage and ancillary works in Rance Road

- Removal of redundant vehicular crossings and reinstatement of kerb and gutter including associated path paving
- Provisions of heavy-duty vehicular crossing
- Provisions for signage indicating one way movements for Rance Road (for exiting traffic)

Civil design drawings are to be prepared strictly in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

Note:

- 1) Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- 2) Contact Penrith City Council's **Development Engineering Unit** on (02) 4732 7777 to ascertain applicable fees.

K210 Stormwater drainage shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Abel and Brown Pty Ltd, reference number 2248, revision B, dated August 2013.

The proposed development and stormwater drainage system shall be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties.

Engineering plans and supporting calculations for the on-site detention system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

**Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that the on-site detention system has been designed in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

K215 **Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that all habitable floor levels are a minimum of RL 24.7m AHD (standard flood level + 0.5m).

K221 **Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

K223 **Prior to the issue of any Construction Certificate** a performance bond is to be lodged with Penrith City Council for all works in Rance Road.

The value of the bond shall be determined in accordance with Penrith City Council's Bond Policy. The bond will be administered in



accordance with this policy.

Note:

Contact Council's Development Engineering Unit on 4732 7777 for further information relating to bond requirements.

- K501 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority shall ensure that all works within the road reserve have been inspected and approved by Penrith City Council.
- K502 After completion of all civil works, works-as-executed drawings and compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.
- An original set of works-as-executed drawings and copies of compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.
- K503 Prior to the issue of an Occupation Certificate the Principal Certifying Authority shall ensure that the:
- a) Stormwater System & OSD System
    - Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
    - Have met the design intent with regard to any construction variations to the approved design.
    - Any remedial works required to been undertaken have been satisfactorily completed.
- Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.
- K504 Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the:
- a) On-site detention system/s
- Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works.
- K509 **Prior to the issue of an Occupation Certificate** directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.
- K513 **Prior to the issue of an Occupation Certificate** a maintenance bond is

to be lodged with Penrith City Council for all works located in Rance Road.

The value of the bond shall be determined in accordance with Penrith City Council's Bond Policy. The bond will be administered in accordance with this policy.

**Note:**

Contact Council's Development Engineering Unit on 4732 7777 for further information relating to bond requirements.

- L001 All landscape works are to be constructed in accordance with the stamped-approved plan and Sections F5 "Planting Techniques", F8 "Quality Assurance Standards", F9 "Site Management Plan" of Penrith Council's 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 died or was removed.

- Q01F **Prior to the commencement of any earthworks or construction works** on site, the proponent is to:
- a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
  - b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement  
Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

**Special Conditions**

- 3.2 Lighting is to be installed to the building entrance and drop-off point and is to provide sufficient illumination to ensure appropriate levels of visibility.

- 3.3 The catch drain along the northern edge of the site is to be designed to ensure that the accessible path of travel from the street frontage to the building entry is maintained. The final design of the catch drain is to be reviewed by an access consultant and certification provided that the path will continue to meeting relevant access standards. A heel safe, or similar, type drainage grate is to be provided.
- 3.4 The factory production area is only permitted to operate as an ancillary element to the Thorndale Foundation Community Facility. The factory production area is to be used for supported employment and continued development of persons with a disability who are clients of the Thorndale Foundation.
- 3.5 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Acoustic Assessment prepared by Acoustic Logic (dated 29/7/2013 ref 20130727.1/2907A/RO/JZ). The recommendations provided in the above-mentioned documents are to be implemented and incorporated into the design and construction of the development, and shall be **shown on plans accompanying the Construction Certificate application**. In this regard the recommendations are to include:
- The glazing requirements stipulated in Section 6.1; and
  - The detailed review of the mechanical plant prior to Construction Certificate in Section 6.4; and
  - The enclosure constructed around the compressor as detailed in Section 6.4.

A report is to be obtained from a qualified acoustic consultant certifying that the development meets the relevant noise criteria and conditions of this consent. This report is to be submitted to the Principal Certifying Authority and Council **prior to the issue of an Occupation Certificate**.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 3.6 A Noise Management Plan (NMP) is to be prepared and submitted to Penrith City Council for consideration and approval **prior to the issue of an Occupation Certificate**. The NMP shall be prepared by suitably qualified consultants and may need to be amended to include the any comments provided by Council. The NMP is to:
- address all noise related aspects of the development's operational phases, including;
    - management of the car park;
    - Operations of the warehousing component; and
    - Visitors to the site for day programs.
  - address the relevant conditions of this consent.
  - recommend any systems/controls to be implemented to minimise the potential for any adverse noise impact(s).

- incorporate a program for ongoing monitoring and review to ensure that the NMP remains contemporary with relevant environmental standards.

The approved Noise Management Plan is to be implemented and complied with at all times. Any proposed changes to this Plan require approval from Council.

- 3.7 A public contact number is to be displayed on the facility signage and this phone line must be operational during business hours. A complaint register is to be maintained and must include complaint details and any actions taken to address those complaints. A copy of the complaint register is to be provided to Council upon request.

In the event of on going noise complaints relating to the development being received by Council, the owner and/or occupier of the development maybe required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community.

The noise impact assessment report is to be prepared and provided to Council within 45 days of being requested. The assessment report is to be approved by Council, with any recommendations being implemented in accordance with the approved assessment report.

- 3.8 All car parking and manoeuvring must be in accordance with AS2890.1:2004 and AS2890.6-2009.
- 3.9 The required sight lines around the driveway entrance are not to be compromised by street trees, landscaping or fencing.
- 3.10 All vehicles are to enter and leave the site in a forward direction.
- 3.11 Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the access driveway on Rance Road has been designed to facilitate two way heavy vehicular movements between the property boundary and the roadway.
- 3.12 Landscape plantings are to be maintained to ensure passive surveillance from the landscaped terrace and street frontage.

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

**For**

**Against**

Councillor Prue Car  
Councillor Greg Davies  
Councillor John Thain  
Councillor Karen McKeown  
Councillor Michelle Tormey  
Councillor Jackie Greenow OAM  
Councillor Maurice Girotto  
Councillor Kevin Cramer OAM  
Councillor Jim Aitken OAM

Councillor Mark Davies  
Councillor Ben Goldfinch  
Councillor Tricia Hitchen  
Councillor Bernard Bratusa

His Worship the Mayor, Councillor Ross Fowler OAM and Councillor Marcus Cornish returned to the meeting the time being 8:53pm.

His Worship the Mayor, Councillor Ross Fowler OAM took the Chair the time being 8:53pm.

**5 [Development Application DA13/0405 Proposed Dwelling Addition to Existing Residence at Lot 97 DP 706003 \(No. 4\) Ogden Close, St Clair](#)  
Applicant: Evolving Design & Drafting; Owner: Kerry Miles**

257 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Tricia Hitchen

That:

1. The information contained in the report on Development Application DA13/0405 Proposed Dwelling Addition to Existing Residence at Lot 97 DP 706003 (No. 4) Ogden Close, St Clair be received.
2. The SEPP 1 objection be supported.
3. The application be approved subject to the following conditions.
  - 3.1 A001 Approved plans that are architecturally drawn
  - A008 Works to BCA requirements
  - A019 Occupation Certificate
  - A046 Obtain a Construction Certificate
  - D001 Implement approved sediment & erosion control measures
  - D007 Filling of land
  - D009 Covering of waste storage area
  - D010 Appropriate disposal of excavated or other waste
  - E001 BCA compliance
  - ESPECIAL Smoke detector
  - H001 Stamped plans
  - H009 Cut/fill details
  - H030 Roof finishes
  - H041 Hours of Work
  - J004 Pool fencing
  - K016 Stormwater
  - K041 Bond
  - L008 Tree Preservation Order

P002 Fees associated with Council land

Q01F Notice of Commencement of Appointment of PCA

Q05F Occupation/Compliance Certificate

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

**For**

**Against**

Councillor Prue Car  
Councillor Greg Davies  
Councillor John Thain  
Councillor Karen McKeown  
Councillor Michelle Tormey  
Councillor Jackie Greenow OAM  
Councillor Maurice Giroto  
Councillor Kevin Crameri OAM  
Councillor Jim Aitken OAM  
Councillor Mark Davies  
Councillor Ben Goldfinch  
Councillor Tricia Hitchen  
Councillor Bernard Bratusa  
Councillor Ross Fowler OAM  
Councillor Marcus Cornish

**6 Lenore Drive Funding Agreement**

258 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Jackie Greenow OAM

That:

1. The information contained Lenore Drive Funding Agreement be received.
2. Council endorse the signing of the Lenore Drive Funding Agreement and the transfer of \$14,140,000 to the Department of Planning and Infrastructure as full payment for Council's share of total project costs for the Erskine Park Link Road.
3. Council resolve that no additional section 94 contributions be levied by Council under the Erskine Business Park Development Contributions Plan 2008, as all listed works nominated under that Plan have been completed.
4. Council rescind the Erskine Business Park Development Contributions Plan 2008 and notices appear in the local newspaper advising the community of the rescission of the Plan in accordance with the Environmental Planning & Assessment Act and Regulations.

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

**For**

**Against**

Councillor Prue Car  
Councillor Greg Davies  
Councillor John Thain  
Councillor Karen McKeown  
Councillor Michelle Tormey  
Councillor Jackie Greenow OAM  
Councillor Maurice Giroto  
Councillor Kevin Crameri OAM  
Councillor Jim Aitken OAM  
Councillor Mark Davies  
Councillor Ben Goldfinch  
Councillor Tricia Hitchen  
Councillor Bernard Bratusa  
Councillor Marcus Cornish  
Councillor Ross Fowler OAM

**OUTCOME 3 - WE CAN GET AROUND THE CITY**

**7 [WSROC Tender WR06-12/13-Pavement Marking Services](#)**

259 RESOLVED on the MOTION of Councillor Prue Car seconded Councillor Kevin Crameri OAM

That:

1. The information contained in the report on WSROC Tender WR06-12/13-Pavement Marking Services be received.
2. A new three (3) year contract, for the provision of Pavement Marking Services, with an option to extend for a further two (2) x one (1) year periods, subject to satisfactory performance and with provision for rise and fall, be awarded to Complete Linemarking Services Pty Ltd as the primary contractor and Combined Traffic Management Pty Ltd as the secondary contractor.

**8 [Tender Reference 13/14-02 Relocation of Power Poles](#)**

260 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Marcus Cornish

That:

1. The information contained in the report on Tender Reference 13/14-02 Relocation of Power Poles be received.
2. Lend Lease Infrastructure Services Pty Limited be awarded the contract for the Relocation of Power Poles on Great Western Highway for a lump sum cost of \$43,446 (excluding GST)

**9 Tender Reference 12/13-05 Disposal of Construction, Street Sweeper and Drainage Waste**

261 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Bernard Bratusa

That:

1. The information contained in the report on Tender Reference 12/13-05 Disposal of Construction, Street Sweeper and Drainage Waste be received
2. A new three (3) year contract with the option to extend for a further two (2) x one (1) year periods (subject to satisfactory performance) be awarded to Hi Quality Recycling Services for the disposal of Broken Concrete, Broken Concrete Containing Reinforcement, Broken Asphalt, Road Profiled Asphalt Materials, Road Profiled Asphalt and Base Materials, Top Soil, Top Soil Including Vegetation, Clay, Clay Including Tree Roots, General Council Spoils (Combination of above materials) and Green Waste
3. A new three (3) year contract with the option to extend for a further two (2) x one (1) year periods (subject to satisfactory performance) be awarded to Express Waste Pty Ltd for the transport and disposal of Drainage Materials from the Open Drains and Street Sweepers as per the alternate offer provided based on disposal per bin and not weight.

**10 High Street, Penrith - "Triangle Park" Proposed Road Closure**

262 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on High Street, Penrith - "Triangle Park" Proposed Road Closure be received.
2. Prior to the closure of High Street associated with "Triangle Park" the following shall be undertaken:
  - a. the Roads and Maritime Services be requested to consider changes to the signal phasing at the intersection of Henry Street and Riley Street to provide a 12 second hold for Riley Street vehicular traffic as an interim measure. This includes changing the left kerb side lane to "Left Turn Only".
  - b. an application be made to the Roads and Maritime Services requesting consideration and approval for a "Timed Pedestrian Protection" phase at the signalised intersection of Henry Street and Riley Street for left-turning vehicles from Riley Street.
  - c. the Traffic Modelling report prepared by GHD titled "Penrith City Council Penrith Triangle – Traffic Diversion Traffic Modelling Report" be submitted to the Roads and Maritime Services, together with lunchtime pedestrian number counts, to request the RMS to re-phase the existing traffic control signals at the intersection of Henry Street and Riley Street to cater for



the changed traffic conditions due to the proposed road closure.

3. Subject to approval from the Roads and Maritime Services, the following be undertaken:
  - a. the left kerb side lane in Riley Street between Henry and High Street be changed to left turn only immediately prior of the High Street closure. The right kerb side lane be right turn and straight through.
  - b. The interim measure which includes a 12 second hold for Riley Street traffic to give pedestrians crossing Henry Street an opportunity to cross without vehicle conflicts be implemented. A Traffic Control Plan be prepared and implemented to advise pedestrians and motorists of changed traffic conditions for the intersection. These works be implemented immediately prior of the High Street closure.
  - c. immediately prior of the High Street closure, the Traffic Control signals at the intersection of Henry Street and Riley Street be re-phased to accommodate the increase in traffic volume as a result of the High Street closure.
  - d. Council engage a contractor to implement the left turn “Timed Pedestrian Protection” for Riley Street traffic turning left into Henry Street. These works be implemented and operational within six weeks of the closure of High Street.
  - e. Following implementation and commission of the “Timed Pedestrian Protection” for Riley Street traffic turning left into Henry Street the interim measure be decommissioned.
4. Traffic and pedestrian patterns at the intersections of:
  - a. Henry Street/Station Street
  - b. Riley Street/Henry Street
  - c. Station Street High Street
  - d. Riley Street/High Street

be reviewed at a maximum of six weeks, three months, six months and twelve months following the closure of High Street, to ensure efficiency and safety at the intersection is maintained. Should any deficiencies be identified during the reviews, remedial action be undertaken.

5. Council write to the Roads and Maritime Services with regard to Council’s previous requests for additional “Timed Pedestrian Protection” at the intersection of Henry Street/Worth Street and Worth Street/Union Road and Council conduct pedestrian counts at the intersection to determine the volume of pedestrians and provide this information to the Roads and Maritime Services. In addition, Council again write to the Roads and Maritime

Services and request an update on their investigations regarding the provision of "Watch for Pedestrians" signage at the intersection of Henry Street and Worth Street, Penrith.

6. Should the recommended reviews (listed in recommendation 3) identify deficiencies that cannot be remediated through signal re-phasing or remedial action, an urgent report be prepared for the Local Traffic Committee to consider the immediate decommission of the High Street closure and re-opening of High Street to traffic.
7. A copy of this report be provided to the Roads and Maritime Services to satisfy the Roads and Maritime Services conditional approval of the TMP. The Roads and Maritime Services be requested to advise Council if their condition regarding an 'assessment of pedestrian safety' has been satisfied. As required by the Roads and Maritime Services conditional approval, the endorsement is required prior to the closure of High Street.

#### **OUTCOME 4 - WE HAVE SAFE, VIBRANT PLACES**

##### **11 [Penrith Community Safety Plan 2013-2016](#)**

263 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Karen McKeown

That:

1. The information contained in the report on Penrith Community Safety Plan 2013-2016 be received.
2. Council adopt the Penrith Community Safety Plan 2013-2016.
3. Council support the submission of the Penrith Community Safety Plan 2013-2016 to the NSW Department of Attorney General and Justice for their endorsement in accordance with the Children (Protection and Parental Responsibility) Act 1997.

#### **OUTCOME 6 - WE'RE HEALTHY AND SHARE STRONG COMMUNITY SPIRIT**

##### **12 [Community Assistance Program Planned Component 2013-14](#)**

264 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Mark Davies

That:

1. The information contained in the report on Community Assistance Program Planned Component 2013-14 be received.
2. Council receive the report and approve funding of the applications and amounts totalling \$30,794 as outlined in Table 3 of this report.

**OUTCOME 7 - WE HAVE CONFIDENCE IN OUR COUNCIL**

**13 [Audit Committee](#)**

265 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies that the information contained in the report on Audit Committee be received.

**14 [2013-14 Financial Assistance Grant](#)**

266 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies that the information contained in the report on 2013-14 Financial Assistance Grant be received.

**16 [Review of Delegations](#)**

267 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies

That:

1. The information contained in the report on Review of Delegations be received.
2. Council, in accordance with Section 377 of the Local Government Act 1993, approve the delegation of its functions and responsibilities under the Act and other Acts to the General Manager as listed in “Schedule 1 – Proposed Delegations of Authority to the General Manager” that is appended to this report.
3. Council, in accordance with Section 377 of the Local Government Act 1993, delegate authority to Council’s committees, as shown in “Schedule 2 – Delegations of Authority to Committees” that is appended to this report.
4. Council, in accordance with Section 377 of the Local Government Act 1993, delegate authority to the entities as listed in “Schedule 3 – Delegations of Authority to Other Entities” that is appended to this report.
5. Council’s Seal of Authority be placed on the Certificate of Identification for officers with delegated authority under the Swimming Pools Act 1992.

**17 [Lease agreement at 367 - 369 Mamre Road, Orchard Hills](#)**

268 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies

That:

1. The information contained in the report on Lease agreement at 367 - 369 Mamre Road, Orchard Hills be received.
2. The Common Seal of the City of Penrith be placed on all necessary documentation.

**18 Commercial Matter - Council Property - Easement for Stormwater Drainage over Lot 69 DP9969, 29 Australia Street, St Marys**

269 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies

That:

1. The information contained in the report on Commercial Matter - Council Property - Easement for Stormwater Drainage over Lot 69 DP9969, 29 Australia Street, St Marys be received.
2. Council grant T. Makari an easement for drainage 2m wide over Lot 69, DP9969 as per the conditions outlined in this report.
3. Council accept the compensation amount as outlined in this report for the effect of the easement.
4. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

**21 Summary of Investments & Banking for the period 1 August to 31 August 2013**

270 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies

That:

1. The information contained in the report on Summary of Investments & Banking for the period 1 August to 31 August 2013 be received.
2. The Certificate of the Responsible Accounting Officer and Summaries of Investments and Performance for the period 1 August 2013 to 31 August 2013 be noted and accepted.
3. The graphical investment analysis as at 31 August 2013 be noted.

**15 Penrith Business Alliance - Nomination of Board Member**

271 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Greg Davies

That:

1. The information contained in the report on Penrith Business Alliance - Nomination of Board Member be received.
2. Council nominate The Mayor, Councillor Ross Fowler OAM to fill the vacancy on the Penrith Business Alliance.

**19 [Commercial Matter - Station Street, Penrith \(Lot c DP 158845\)](#)**

272 RESOLVED on the MOTION of Councillor Marcus Cornish seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Commercial Matter - Station Street, Penrith (Lot c DP 158845) be received.
2. Council support the proposed Classification as outlined in this report.
3. Under Section 34 of the Local Government Act, the proposed resolution to classify the property as 'Operational' be publicly notified for a period of 28 days.

**20 [Appointment of a Director on the Board of the Penrith Whitewater Stadium Ltd](#)**

273 RESOLVED on the MOTION of Councillor Marcus Cornish seconded Councillor Kevin Crameri OAM

That:

1. The information contained in the report on Appointment of a Director on the Board of the Penrith Whitewater Stadium Ltd be received.
2. Council endorse the appointment of Geoff Hunter to the Board of the Penrith Whitewater Stadium Limited.
3. A letter be sent from the Mayor thanking George Dodds for his contribution to the Penrith Whitewater Stadium Limited.

Councillor Michelle Tormey left the meeting, the time being 9:25pm.

Councillor Michelle Tormey returned to the meeting, the time being 9:27pm.

## **REQUESTS FOR REPORTS AND MEMORANDUMS**

### **RR 1 'Tough Mudder' Event**

Councillor Tricia Hitchen requested a memorandum reply to all Councillors providing an update on the 'Tough Mudder' event, in particular if it will continue to be run in the Penrith area.

### **RR 2 Pedestrian Bridge over Nepean River**

Deputy Mayor, Councillor Jim Aitken OAM requested a report to Council detailing a revision of options for the proposed pedestrian bridge over the Nepean River and considering options for instead building a new road bridge with 2 extra lanes and a safe walkway, allowing 4 lanes for crossing the Nepean River, including the Victoria Bridge.

**RR 3 Proposed high density development in Troy Street, Emu Plains**

Councillor Karen McKeown requested a memorandum reply to all South Ward Councillors providing information regarding any developers that may have contacted Council officers proposing a high density development in Troy Street, Emu Plains between Forbes Street and the Great Western Highway.

**RR 4 Map of land parcel owned by Blue Cattle Dog Hotel**

Councillor Greg Davies requested a map of the land parcel owned by the Blue Cattle Dog Hotel, and also a copy of Council's Signs Policy.

**RR 5 Reclassification of Land in Lockyer Avenue, Werrington**

Councillor Greg Davies requested a memorandum reply to all North Ward Councillors concerning a parcel of land in Lockyer Avenue, Werrington, which is to be reclassified and was to be offered for sale.

**RR 6 Construction of facilities for Little Athletics in Penrith LGA**

Councillor Prue Car requested a memorandum reply to all Councillors detailing what grant funding opportunities may be available for the construction of a new clubhouse and all weather athletics track for Little Athletics in the Penrith LGA.

**URGENT BUSINESS**

**UB 1 Leave of Absence**

Councillor Mark Davies requested Leave of Absence from 14 October 2013 to 25 October 2013 inclusive.

274 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Kevin Crameri OAM that the matter be brought forward and dealt with as a matter of urgency.

His Worship the Mayor, Councillor Ross Fowler OAM, ruled that the matter was urgent and should be dealt with at the meeting.

275 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Kevin Crameri OAM that Leave of Absence be granted to Councillor Mark Davies from 14 October 2013 to 25 October 2013 inclusive.

**COMMITTEE OF THE WHOLE**

276 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Jim Aitken OAM that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 9:41pm.

**1 Presence of the Public**

CW1 RESOLVED on the motion of Councillor John Thain seconded Councillor Jim Aitken OAM that the press and public be excluded from Committee of the Whole to deal with the following matters:

**Outcome 4**

**2 [Commercial Matter - Licence Agreement for Nepean Food Services Incorporated](#)**

*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 - High Street, Penrith](#)**

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

The meeting resumed at 9:47pm and the Acting General Manager reported that the Committee of the Whole met at 9:41pm on 30 September 2013, the following being present

His Worship the Mayor, Councillor Ross Fowler OAM, Deputy Mayor, Councillor Jim Aitken OAM and Councillors Bernard Bratusa, Prue Car, Kevin Crameri OAM, Marcus Cornish, Greg Davies, Mark Davies, Maurice Giroto, Ben Goldfinch, Jackie Greenow OAM, Tricia Hitchen, Karen McKeown, John Thain and Michelle Tormey.

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 - Licence Agreement for Nepean Food Services Incorporated](#)**

RECOMMENDED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor John Thain

CW2 That:

1. The information contained in the report on Commercial Matter - Licence Agreement for Nepean Food Services Incorporated be received.
2. Nepean Food Services Incorporated be offered a new 5 year licence agreement based on the terms outlined in this report.

**3 Commercial Matter - High Street, Penrith**

RECOMMENDED on the MOTION of Councillor Greg Davies seconded Councillor John Thain

CW3 That:

1. The information contained in the report be received.
2. Council purchase the subject property, following satisfactory due diligence, in accordance with Points 1 – 3 as outlined in the conclusion of the report.
3. The General Manager be authorised to negotiate the loan.
4. The Common Seal of the City of Penrith be placed on all necessary documentation.
5. Under Section 34 of the Local Government Act, action be taken to advertise the proposed resolution to classify the property as 'Operational' for period of 28 days.

**ADOPTION OF COMMITTEE OF THE WHOLE**

277 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies that the recommendations contained in the Committee of the Whole and shown as CW1, CW2 and CW3 be adopted.

There being no further business the Chairperson declared the meeting closed the time being 9:48pm.

I certify that these 40 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 30 September 2013.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date