

CONFIRMED MINUTES
OF THE EXTRAORDINARY COUNCIL MEETING OF PENRITH CITY COUNCIL
HELD IN THE
COUNCIL CHAMBERS
ON MONDAY 10 MARCH 2014 AT 7:06PM

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 the 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 and John Thain.

LEAVE OF ABSENCE

Leave of Absence was previously granted to Councillor Michelle Tormey for the period 4 March 2014 to 11 April 2014 inclusive.

APOLOGIES

There were no apologies.

CONFIRMATION OF MINUTES - Ordinary Meeting - 24 February 2014

43 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Marcus Cornish that the minutes of the Ordinary Meeting of 24 February 2014 be confirmed with the deletion of Councillor Jackie Greenow OAM from the list of Councillors who voted on *Item 1-Development Application DA13/0604 for Self-Storage Unit Building with associated Car Parking, Landscaping and Site Works at Lot 8 DP 1105133, (No. 142) Old Bathurst Road, Emu Plains.*

DECLARATIONS OF INTEREST

Councillor Karen McKeown declared a Pecuniary Interest in *Item 1 - Development Application DA13/1257 for Home Improvement Store and Bulky Goods Tenancies at 72-82 Mulgoa Road and 29-45 Regentville Road, Jamisontown* as her husband rents a premises on Regentville Road which is in the area subject to the report.

Councillor Ben Goldfinch declared a Pecuniary Interest in *Item 1 - Development Application DA13/1257 for Home Improvement Store and Bulky Goods Tenancies at 72-82 Mulgoa Road*

and 29-45 Regentville Road, Jamisontown, as he is a Director of a Hardware Store in the area subject to the report.

Councillor Mark Davies declared a Pecuniary Interest in *Item 1 - Development Application DA13/1257 for Home Improvement Store and Bulky Goods Tenancies at 72-82 Mulgoa Road and 29-45 Regentville Road, Jamisontown* as he owns a business in the area subject to the report, and that business has a commercial arrangement with Masters.

SUSPENSION OF STANDING ORDERS

44 RESOLVED on the MOTION of Councillor Jackie Greenow OAM seconded Councillor Greg Davies that Standing Orders be suspended to allow members of the public to address the meeting, the time being 7:13pm.

Anthony Pratt

Item 1 - Development Application DA13/1257 for Home Improvement Store and Bulky Goods Tenancies at 72-82 Mulgoa Road and 29-45 Regentville Road, Jamisontown

Mr Anthony Pratt, the applicant's spokesperson, spoke in support of the recommendation and thanked Council and Council staff for their support, cooperation and engagement throughout the development application process. Mr Pratt reiterated the desire Masters has for a store in Penrith and stated that should consent be granted they look forward to moving ahead with construction quickly and continuing a positive relationship with Council.

John Mullane

Item 1 - Development Application DA13/1257 for Home Improvement Store and Bulky Goods Tenancies at 72-82 Mulgoa Road and 29-45 Regentville Road, Jamisontown

Mr John Mullane, the owner's spokesperson, spoke in support of the recommendation and stated from a planning perspective that he believed the site to be ideally located and zoned for this type of development.

RESUMPTION OF STANDING ORDERS

45 RESOLVED on the MOTION of Councillor Jackie Greenow OAM seconded Councillor Greg Davies that Standing Orders be resumed, the time being 7:26pm.

DELIVERY PROGRAM REPORTS

OUTCOME 2 - WE PLAN FOR OUR FUTURE GROWTH

Having previously declared Pecuniary Interests in the matter, Councillors Karen McKeown, Ben Goldfinch and Mark Davies left the meeting, for consideration of Item 1, the time being 7:27pm.

1 Development Application DA13/1257 for Home Improvement Store and Bulky Goods Tenancies at 72-82 Mulgoa Road and 29-45 Regentville Road, Jamisontown

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

That:

1. The information contained in the report on Development Application DA13/1257 for Home Improvement Store and Bulky Goods Tenancies at 72-82 Mulgoa Road and 29-45 Regentville Road, Jamisontown be received.
2. The Development Application DA13/1257 for Home Improvement Store and Bulky Goods Tenancies at 72-82 Mulgoa Road and 29-45 Regentville Road, Jamisontown be granted deferred commencement consent subject to the following conditions :

SCHEDULE 1 (Conditions to be complied with prior to an operational consent being issued)

- 2.1 Detailed plans shall be submitted to Council for approval that show a signalised access to the development providing right turn into the development but no right turn out movement from the site onto Mulgoa Road subject to the following requirements being met:
 - i) The proposed access shall be located at least 15m south of Stuart Street intersection with Mulgoa Road.
 - ii) The south bound carriageway on Mulgoa Road shall include an additional 90m long through/ left lane north of the access road and 80m long merging lane south of the access road.
 - iii) The northbound carriageway on Mulgoa Road shall include a 90m long right turn bay in approach to the proposed access.
 - iv) The access road shall have dual left turn lanes when exiting the development.
 - v) The developer is required to dedicate a section of their property as public road to allow RMS to locate and maintain traffic signal components. The length of the road area to be dedicated as public road will be determined at detailed design stage and could be up to 15m inwards from the primary stop line.
 - vi) A staged pedestrian crossing shall be provided on the northern arm of Mulgoa Road and pedestrian/cycle crossing shall be provided on the access road.
 - vii) Pedestrian fencing along Mulgoa Road, south of the access road shall be provided to encourage people to cross Mulgoa Road at the proposed pedestrian crossing.

- viii) The right turn bay on Mulgoa Road at its intersection with Batt Street shall be extended to 185m from the stop line.
- ix) The proposed signalised intersection at the site entry and the modification to the intersection of Mulgoa Road and Batt Street shall be designed in accordance with RMS's Traffic Signal Design Manual, Austroads, RMS's supplements and other Australian Standards and endorsed by a suitably qualified practitioner.

2.2 Prior to the issue of an Operational Consent, a revised traffic report is to be submitted to Penrith City Council for approval. The revised traffic report shall model and assess the vehicular impacts from the development site upon the local road network resulting from the Roads and Maritime Services requirement of no right turn from the development site onto Mulgoa Road. The report shall assess, by way of a SIDRA analysis, the vehicular impacts upon the following roads and intersections of Regentville Road, Batt Street, Preston Street, Dent Street and Mulgoa Road (existing traffic signals) as a minimum. The report shall also include an assessment of heavy vehicles and provide turning movements from the development site at the intersections. The report shall make recommendations for intersection upgrade works if required to the local road network as a result of the development. Any intersection upgrade works are to be agreed to by Penrith City Council and are to be at cost to the developer.

2.3 GENERAL CONDITIONS

Standard Conditions

A001	Approved plans
A008	Works to BCA requirements
A017	DA for use
A019	Occupation Certificate
A020	Use of building
A021	Business registration
A032	Goods in buildings
A039	Graffiti
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
D015	Spill prevention and cleanup procedures
D026	Liquid wastes
D06A	Approval for bulk earthworks
D131	Approved noise level
E001A	BCA compliance (Class 2-9)
E002	BCA issues to be addressed
E006	Disabled access and facilities
E008	Fire safety list with construction certificate
E009	Annual fire safety – essential fire safety (Class 2-9 buildings)
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
H011	Engineering plans and specifications
H013	Further details of building components
H024	Glass installations to comply with AS 1288
H041	Hours of construction work
K041	Infrastructure restoration bond
K101	Works at no cost to Council
K202	Roads Act (Minor Roadworks)
K205	Construction Certificate for Subdivision Works
K207	Road Safety Audit

K209	Stormwater Concept Plan
K212	No loading on easements
K213	Water quality
K219	Overland Flow Report Recommendations
K220	Floor levels
K221	Access, Car Parking and Manoeuvring – General
K302	Traffic Control Plan
K406	Drainage Connection
K501	Roads Authority clearance
K502	Works as executed - General
K503	Stormwater Compliance
K506	Splay
K507	Linemarking & Signage
K509	Directional signage
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
M008	Linen Plan
M014	Surveyors Certificate
P001	Costs
Q01F	Notice of commencement and appointment of PCA
Q006	Occupation Certificate
Q008	Subdivision Certificate

2.4 Special Conditions

2.4.1 Store Management shall be available at a mutually convenient time, at the invitation of Penrith City Council and/or the NSW Police, to discuss and action agreed Community Safety, Security or other issues in conjunction with other local stakeholders in the area should the need arise.

2.4.2 Conditions on Crime Prevention through environmental design are as follows:

a) Lighting

All areas intended to be used at night shall allow appropriate levels of visibility.

Car parks must be lit to the minimum Australian Standard AS 1158 with consideration given to AS 4282 (Control of the obtrusive effects of outdoor lighting).

Lighting shall have a wide beam of illumination which reaches to the beam of the next light or the perimeter of the site or area being traversed.

Lights shall be directed towards access/egress routes.

Lighting shall take into account all vegetation and landscaping that may act as an entrapment zone.

Lighting shall be designed so that it is difficult for vandals to break.

All lighting shall be maintained and kept in a clean condition with all broken or burnt out globes replaced quickly.

b) Landscaping

Medium height vegetation with concentrated top to bottom foliage must be avoided.

Trees and plants placed along Mulgoa and Regentville Roads fronting the premises must be adequately spaced or crown raised to allow for natural surveillance of the site from the users of the road and avoid

causing a continuous barrier.

Vegetation must not be placed in any position which might conceivably conceal the building entrance from the car park or the street.

Avoid vegetation or tree canopies in car parks and on road frontages that could impede the effectiveness of all lighting.

All landscape islands in the car park area must avoid medium height vegetation with concentrated top to bottom foliage so as to avoid possible entrapment sites for car park users.

c) Car Parking

Car parks, aisles and manoeuvring shall be designed with safety and function in mind and have dimensions in conformity with Australian Standards 2890 (2890.1, 2890.2 and 2890.3).

Car parks should avoid all traffic/pedestrian space conflict.

The design of the car park should ensure that passive surveillance is possible and where appropriate, incorporate active measures such as cameras.

Car parks should be well lit at night (refer to lighting comments).

All entries and exits to car park should have clear directional signage.

Given the high risk rating of this area for motor vehicle theft and steal from motor vehicles, the car parks should be kept under CCTV surveillance.

d) Building Security and Access Control

The building should be alarmed and monitored after hours.

Any cash handling areas should be covered by CCTV and accompanying signage.

Management should consider the use of CCTV within the premises and accompanying signage.

e) Entrances

Entrances must allow users to see into and out of the building before entering and exiting.

Ensure any open roofs / skylights cannot be accessed from outside.

f) Site and Building Layout

Avoid placing seats or areas that give people an excuse to loiter near bathrooms.

g) Building identification and Signage

Entries and exits of the buildings should have clear directional signage.

h) Vandalism

Any damaged or vandalised property on the premises shall be repaired or cleaned in a timely fashion.

- 2.4.3 All mechanical plant and equipment is to comply with the noise criteria outlined in "Masters, Mulgoa Road, Penrith: Noise Emission Assessment" prepared by Acoustic Logic dated 12 December 2013 Revision 1 (Document Ref. 20131282.1/1212A/R1/LF).

Prior to the issuing of the Construction Certificate, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Council for consideration and approval. Suitable data and information on the noise impacts associated with this plant and equipment is to also be supplied to demonstrate compliance with the established noise criteria.

- 2.4.4 Prior to the issue of the Construction Certificate, a Demolition and Construction Noise Impact Assessment and Management Plan is to be prepared and submitted to Council for approval. This assessment is to consider (at minimum) the details of the demolition and construction program, construction methods, and equipment and vehicles in association with the NSW Department of Environment and Climate Change's (2009) "Interim Construction Noise Guideline".

The recommendations of the approved Management Plan are to be implemented and adhered to during the demolition and construction phase of the development.

2.4.6 Offensive odours are not to be emitted from the site. Vapours, fumes, gases, particles or any other substance that are considered to be harmful to human health or the environment or impact unreasonably on a person outside of the premises are not to be emitted from the site.

2.4.7 Twelve (12) months after the issue of the Occupation Certificate, an Acoustic Compliance Report is to be submitted to and approved by Council. The report is to be prepared by a suitably qualified acoustic consultant and is to address, but is not limited to, all noise generating activities on the site and the level of compliance with the noise criteria set within the "Masters, Mulgoa Road, Penrith: Noise Emission Assessment" prepared by Acoustic Logic dated 12 December 2013 Revision 1 (Document Ref. 20131282.1/1212A/R1/LF). It is also to consider the requirements of the NSW Environment Protection Authority's Industrial Noise Policy.

Should the Compliance Report identify any non-compliance issues, the Report is to provide suitable recommendations for mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council.

2.4.8 The applicant is to grant an easement to Penrith City Council for drainage and overland flow purposes for the existing trunk drainage system and overland flow path and on the basis that no claim for compensation will be made and that the applicant will meet all associated survey and legal costs. The width of drainage easement is to be in accordance with Penrith City Council's Engineering Works Development Control Plan 2006, Section 2.3, Engineering Works and current civil works specifications.

Prior to the issue of an Occupation Certificate, an easement for drainage and overland flow shall be provided and evidence of registration shall be submitted to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority.

2.4.9 A Roads Act approval under Section 138 of the Roads Act is to be obtained from Roads and Maritime Services for any works within the road reserve of Mulgoa Road. In this regard, the Roads Act approval from Roads and Maritime Services is to be obtained prior to the issue of the Construction Certificate for the development and prior to the separate Roads Act approval being granted by Council for the driveway works.

2.4.10 Prior to the issue of an Occupation Certificate the following lots are to be consolidated into proposed Lot 2: Lot 42 DP 1119; Lot 43 DP 1119; Lot 44 DP 1119; Lot 45 DP 1119; Lot 26 DP 1134235; Lot 27 DP 1134235 and Lot 28 DP 1134235. Lot 30 DP 1119; Lot 1 DP945266 and Lot 31 DP 1119 are to be consolidated into proposed Lot 1. Lot consolidation is to be generally in accordance with the Site

- Plan by Leffler Simes Architects, reference 3116, issue A, dated 25/10/2013. Evidence of registration of the plan of consolidation shall be submitted to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority.
- 2.4.11 Prior to the issue of a Construction Certificate a separate Roads Act application, including payment of application and inspection fees shall be lodged with Penrith City Council as the Roads Authority for any intersection upgrade works to the local road network required as a result of the development.
- 2.4.12 Prior to the issue of an Occupation Certificate a Right of Carriageway is to be dedicated over proposed lots 1 and 2 in favour of Lot 32 DP 1119 and Lot 33 DP 774214 generally in accordance with the Site Plan by Leffler Simes Architects, reference 3116, issue A, dated 25/10/2013.
- 2.4.13 The carpark planting blisters are inadequately sized for tree planting and are not accepted as damage to the carpark is likely. Alternative tree planting details are to be submitted for approval prior to the issue of a Construction Certificate. The 5m setback to the building on Regentville Rd is to be fully planted to achieve an appropriate screening effect and to accommodate trees at maturity without damage to the building. Side boundary planting is insufficient to accommodate tree plantings. Alternative designs are to be submitted for approval prior to the issue of a Construction Certificate.
- 2.4.14 The proposed signalised intersection at the site entry and the modification to the intersection of Mulgoa Road and Batt Street shall be designed in accordance with RMS's Traffic Signal Design Manual, Austroads, RMS's supplements and other Australian Standards and endorsed by a suitably qualified practitioner.

The certified copies of traffic signal design and civil design plans as well as swept path analysis shall be submitted to RMS for consideration and approval prior to the release of the construction certificate and commencement of any road works.

RMS fees for administration, plan checking, signal works inspection and project management shall be paid by the developer prior to the commencement of works. A ten year maintenance plan contribution fee payable to RMS will apply to the new signalised intersection.

The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned traffic signal and civil works. The WAD will need to be executed prior to RMS assessment of the detailed traffic signal design plans.

- 2.4.15 All works associated with the proposed intersection shall be at no cost to RMS.

- 2.4.16 A Remedial Action Plan is to be submitted to Council for approval for the remediation of land prior to the issue of a construction certificate. The Remedial Action Plan shall be consistent with the Contaminated Land Planning Guidelines and Policies, including but not limited to SREP No. 20, SEPP 55, the Contaminated Land Management Act and all relevant NSW Environment Protection Authority Guidelines. All works associated with any remediation are required to be completed and validated to the satisfaction of Council.
- 2.4.17 Prior to the issue of a construction certificate a Validation Report, prepared by an appropriately qualified person as defined in the Penrith Development Control Plan 2010, is to be submitted to Council for approval. The report shall certify that the remediation works have been carried out in accordance with an approved Remedial Action Plan, relevant NSW Environment Protection Authority requirements and the Penrith Development Control Plan 2010. The Report is to confirm that the site is suitable for the proposed use.
- 2.4.18 The freestanding pylon sign at the Mulgoa Road frontage of the site shall be reduced in height to 10m. The sign shall be located within the boundaries of the site. Details shall accompany an application for a construction certificate.
- All signage shall be constructed of high quality and durable materials and it shall not incorporate flashing devices.
- 2.4.19 The hours of operation for the approved use are between the hours of 6.00am – 10.00pm 7 days a week.
- 2.4.20 Prior to the issue of an Occupation Certificate, a restriction as to user and positive covenant relating to the:
- a) Stormwater pre-treatment system/s
 - b) Overland flowpath works
- 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.
3. Those that made submissions be advised of Council's decision.
4. Council Officers Craig Butler, Wayne Mitchell, Paul Lemm, Gurbinder Singh and Adam Wilkinson be thanked for their efforts and negotiation in delivering a positive outcome for Penrith on this matter.
5. A letter of thanks be sent to the Member for Penrith, Stuart Ayres MP thanking him for his involvement in delivering a positive outcome for Penrith on this matter.

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 Jackie Greenow OAM
Councillor Maurice Girotto
Councillor Kevin Crameri OAM
Councillor Jim Aitken OAM
Councillor Tricia Hitchen
Councillor Bernard Bratusa
Councillor Marcus Cornish
Councillor Ross Fowler OAM

REQUESTS FOR REPORTS AND MEMORANDUMS

Councillor Greg Davies left the meeting, the time being 7:30pm.

RR 1 Footpath Budget

Councillor Marcus Cornish requested a memorandum to all Councillors on how long it has been since the footpath budget has been increased.

Councillors Karen McKeown, Ben Goldfinch and Mark Davies returned to the meeting, the time being 7:32pm.

RR 2 Alcohol Free Zone Signage

Councillor Bernard Bratusa requested a memorandum to all Councillors on the possibility of erecting Alcohol Free Zone signage on the site directly under the access ramp to the Skipton Arcade rooftop parking.

Councillor Greg Davies returned to the meeting, the time being 7:33pm.

RR 3 St Marys Tennis Courts

Councillor Bernard Bratusa requested a report to Council on St Marys Tennis Courts detailing the cost of repairs to the court and amenities, current leasing arrangements and the involvement of Nepean Tennis Association for interim management.

RR 4 Future Car Park Plans

Councillor Tricia Hitchen requested a memorandum to all Councillors which outlines the future planned car parks for the Penrith CBD area.

RR 5 Telstra Works - Pit, Corndew Crescent, Werrington Downs

Councillor Prue Car requested a memorandum reply concerning making representations to Telstra in regards to the state Corndew Crescent, Werrington Downs has been left after work conducted on a pit.

RR 6 Gordon Street, St Marys - Speeding

Councillor Prue Car requested a memorandum and that the Local Traffic Committee look into reports of dangerous speeding on Gordon Street, St Marys.

RR 7 Carinya Avenue, St Marys - Speeding

Councillor Prue Car requested a memorandum and that the Local Traffic Committee look into reports of dangerous speeding on Carinya Avenue, St Marys.

RR 8 No Stopping - Great Western Highway, Emu Plains

Councillor Jim Aitken OAM requested a report to Council on no stopping on the Great Western Highway, Emu Plains before 10am.

There being no further business the Chairperson declared the meeting closed the time being 7:35pm.

I certify that these 14 pages are the Confirmed Minutes of the Extraordinary Meeting of Penrith City Council held on 10 March 2014.

Chairperson

Date