

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

**ON MONDAY 18 APRIL 2016 AT 7:30PM**

**NATIONAL ANTHEM**

The meeting opened with the National Anthem.

**STATEMENT OF RECOGNITION**

Her Worship the Mayor, Councillor Karen McKeown read a statement of recognition of Penrith City's Aboriginal and Torres Strait Islander Cultural Heritage.

**PRAYER**

The Council Prayer was read by the Rev Neil Checkley.

**PRESENT**

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

**LEAVE OF ABSENCE**

Leave of Absence was previously granted to Councillor Michelle Tormey for the period 8 April 2016 to 27 April 2016 inclusive.

97 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Jackie Greenow OAM that leave of absence be granted to Councillor Jim Aitken OAM for his non-attendance at the meeting.

**APOLOGIES**

There were no apologies.

**CONFIRMATION OF MINUTES - Ordinary Meeting - 21 March 2016**

98 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Tricia Hitchen that the minutes of the Ordinary Meeting of 21 March 2016 be confirmed.

**DECLARATIONS OF INTEREST**

Her Worship the Mayor Councillor Karen McKeown declared a Non-Pecuniary Conflict of Interest – Less than Significant in *COW Item 2 – Status on Litigation and Compliance Matters* and *COW Item 5 - Legal Status of Development Application DA14/0622.02 Section 96 Modification to Approved Earthworks, Shed and Truck Parking Including Amendment of the Approved Shed Location, Shed Design, Operational Conditions of Consent and Lighting Lot 122 DP 709303 (No. 41-47) Jolly Street, Castlereagh* as her son was previously employed by a company which is one of the subjects of this report.

## **SUSPENSION OF STANDING ORDERS**

99 RESOLVED on the MOTION of Councillor Jackie Greenow OAM seconded Councillor Kevin Crameri OAM that Standing Orders be suspended to allow members of the public to address the meeting, the time being 7:36pm.

### **Mr Alex Karavas**

#### *Item 3 – Reclassification of Public Land in St Marys Town Centre*

Mr Karavas, an interest citizen and business owner, spoke against the proposed recommendation, clarifying the role he believed green space will play for St Marys residents in the future. Mr Karavas then expressed concern about the loss of car parking spaces in the Queen Street business district, which would not support the local businesses in Queen Street.

100 RESOLVED on the MOTION of Councillor Prue Car MP seconded Councillor Ross Fowler OAM that an extension of time be granted to enable the speaker to complete his address, the time being 7:42pm

Mr Karavas concluded by requesting Council not to reclassify the lands referred to in the report.

### **Mr Neil Ingham**

#### *Item 3 – Reclassification of Public Land in St Marys Town Centre*

Mr Ingham, representing Scentre Group, spoke against the proposed recommendation, stated his concern that the proposed reclassification of Lang Park and Kokoda Park in St Marys Town Centre is inconsistent with the recommendations of the report. Mr Ingham expressed that the open space planning for town centres needs to carefully examine not just the quantity but also the quality of open space, the location of where it is located, the availability of the land, accessibility and how it is developed to best serve the future development of the centre. Mr Ingham also expressed concern that Westfield in Penrith has not been given similar opportunities.

101 RESOLVED on the MOTION of Councillor Marcus Cornish seconded Councillor Jackie Greenow OAM that an extension of time be granted to enable the speaker to complete his address, the time being 7:53pm.

Mr Martin concluded that this reclassification proposal requires a total re-evaluation of the adopted strategy and require that the reclassification of the community land encompassing the open space parkland of Kokoda Park and Lang Parl not take place until these key matters have been resolved.

### **Mr Phillip Martin**

#### *Item 3 – Reclassification of Public Land in St Marys Town Centre*

Mr Martin, an interested citizen, spoke against the proposed recommendation and expressed his concerns regarding areas 1 and 2 of attachment two from Community land to Operational land, however stated that he had no objection to the reclassification of areas 3, 4, 5 and 6.

Mr Martin voiced his concern about the impact redevelopment will have on shops in Queen Street and he is against the reduction of open space within the St Marys Town Centre.

## **RESUMPTION OF STANDING ORDERS**

102 RESOLVED on the MOTION of Councillor Jackie Greenow OAM seconded Councillor Kevin Crameri OAM that Standing Orders be resumed, the time being 8:08pm.

Mr Martin concluded by expressing his concern that the population in St Marys will increase while the open space will be reduced. Mr Martin believes that St Marys Village Shopping Centre can be further developed by building over the existing carparks at the Village site allowing Kokoda and Lang Parks remain as community land.

## **MAYORAL MINUTES**

### **1 Recognising the role of women in our City**

Councillors Greg Davies, Prue Car MP, Marcus Cornish, John Thain, Mark Davies, Kevin Crameri OAM, Tricia Hitchen, Bernard Bratusa and Maurice Giroto spoke in support of the Mayoral Minute.

103 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Ross Fowler OAM that the Mayoral Minute on Recognising the role of women in our City be received.

### **2 Eight staff awarded the Louise Petchell Sustainability Scholarship 2016**

104 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Ross Fowler OAM that the Mayoral Minute on the Eight staff awarded the Louise Petchell Sustainability Scholarship 2016 be received.

## **REPORTS OF COMMITTEES**

### **1 Report and Recommendations of the Local Traffic Committee Meeting held on 4 April 2016**

105 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Tricia Hitchen that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 4 April, 2016 be adopted.

## **DELIVERY PROGRAM REPORTS**

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

#### **1 Penrith City Children's Services Cooperative (PCCSC) Ltd – Composition of the Board**

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

That:

1. The information contained in the report on Penrith City Children's Services Cooperative (PCCSC) Ltd – Composition of the Board be received.

2. Council endorse the appointment of Susan Day to a community representative Director position on the Penrith City Children's Services Cooperative Ltd.

### Procedural Motion

107 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Kevin Crameri OAM that *Item 3 – Reclassification of Public Land in St Marys Town Centre* be brought forward to be considered immediately following *Item 1 – Penrith City Children's Services Cooperative (PCCSC) Ltd – Composition of the Board*.

## OUTCOME 2 - WE PLAN FOR OUR FUTURE GROWTH

### 3 Reclassification of Public Land in St Marys Town Centre

Councillor Greg Davies left the meeting, the time being 8:50pm

Councillor Greg Davies returned to the meeting, the time being 8:52pm

108 A MOTION was MOVED by Councillor Greg Davies seconded Councillor Prue Car MP that an eighth recommendation be added.

That:

1. The information contained in the report on Reclassification of Public Land in St Marys Town Centre be received.
2. Council proceed with the proposed reclassification of the land identified in Attachment 2.
3. The General Manager be granted delegation to make any necessary minor changes required to the Planning Proposal (provided separately to Councillors as a separate enclosure and available on Council's website) before submitting it to the Minister for Planning.
4. Council officers forward the Planning Proposal to the Minister for Planning with a request that he make the necessary amendments to *Penrith Local Environmental Plan 2010*.
5. Any commercial transaction for the Land identified in Attachment 2 include a requirement that any future development must demonstrate how it will deliver the strategic objectives identified in this report.
6. Should any sale of the land identified in Attachment 2 be agreed in the future, Council undertake an exercise to identify spending commitments and priorities for the proceeds of that sale.
7. Penrith Development Control Plan 2014 be amended to secure implementation of the strategic directions identified in this report.
8. Council determine a consultation plan regarding any proposals on the reclassified land at St Marys and further to that, that the plan include a Working Party, the makeup of that Working Party to include nominated community representatives and St Marys Town Centre management who will have input into any future proposals.

An AMENDMENT was MOVED by Councillor Kevin Crameri OAM seconded Councillor Marcus Cornish that the item be deferred until the next Ordinary Council meeting to allow for community consultation.

The AMENDMENT was PUT.

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

**For**

Councillor Maurice Giroto  
Councillor Kevin Cramer OAM  
Councillor Jackie Greenow OAM  
Councillor Marcus Cornish

**Against**

Councillor John Thain  
Councillor Ben Goldfinch  
Councillor Bernard Bratusa  
Councillor Prue Car MP  
Councillor Karen McKeown  
Councillor Greg Davies  
Councillor Mark Davies  
Councillor Ross Fowler OAM  
Councillor Tricia Hitchen

The AMENDMENT was LOST.

The MOTION was PUT.

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

**For**

Councillor John Thain  
Councillor Ben Goldfinch  
Councillor Bernard Bratusa  
Councillor Prue Car MP  
Councillor Karen McKeown  
Councillor Greg Davies  
Councillor Mark Davies  
Councillor Ross Fowler OAM  
Councillor Tricia Hitchen

**Against**

Councillor Maurice Giroto  
Councillor Kevin Cramer OAM  
Councillor Jackie Greenow OAM  
Councillor Marcus Cornish

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

**2 Development Application DA15/0636 for Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building containing 39 Apartments & Basement Car Parking at Lots 103-104 DP 14333 (Nos 12-14) Fulton Street, Penrith Applicant: Morson Group Pty Ltd; Owner: ~Melissa Wise & Arioke Degei**

Councillors Marcus Cornish and Jackie Greenow OAM left the meeting, the time being 9:05pm

Councillor Marcus Cornish returned to the meeting, the time being 9:08pm

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

That:

1. The information contained in the report on Development Application DA15/0636 for Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building containing 39 Apartments & Basement Car Parking at Lots 103-104 DP 14333 (Nos 12-14) Fulton Street, Penrith be received.
2. The variation to the maximum building height standard under Clause 4.6 of

Penrith Local Environmental Plan 2010 be supported.

3. Development Application DA15/0636 for Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building containing 39 Apartments & Basement Car Parking at Lots 103-104 DP 14333 (Nos 12-14) Fulton Street, Penrith be approved subject to the following conditions of consent:

**Standard Conditions**

- A001 - Approved plans
- A008 - Works to BCA requirements
- A014 - Lot consolidation
- A019 - Occupation Certificate
- A038 - Lighting system
- A046 - Obtain Construction Certificate before commencement of works
- B002 - AS for Demolition and disposal to approved landfill site
- B003 - Asbestos
- B004 - Dust
- B005 - Mud/soil
- B006 - Hours of work
- D001 - Implement approved erosion and sediment control measures
- D007 - Cut and fill limited to footprint
- D009 - Covering of waste storage area
- D010 - Appropriate disposal of excavated or other waste
- E01A - BCA compliance
- E009 - Annual fire safety statement
- F006 - Rainwater tank and nuisance
- G002 - Section 73 Certificate
- G004 - Endeavour Energy clearance
- G006 - NBN connection
- H001 - Stamped plans and erection of site notice
- H002 - During construction requirements
- H025 - Garbage room requirements
- H036 - Rainwater tank construction requirements
- H037 - Safe supply of water from rainwater tank catchment area
- H038 - Connection of rainwater tank supply
- H039 - Rainwater tank pumps
- H041 - Hours of work
- H042 - Adaptable dwelling certification
- K101 - Works at no cost to Council

- K201 - Infrastructure bond
- K202 - Roads Act works and structures
- K203 - Roadworks requiring approval of civil drawings
- K209 - Stormwater discharge
- K210 - Stormwater management
- K211 - Stormwater discharge for basement car parks
- K223 - Access, car parking and manoeuvring
- K224 - Construction traffic management plan
- K225 - Performance bond
- K302 - Traffic control plan
- K405 - Turf to verge
- K501 - Penrith City Council clearance for Roads Act works
- K502 - Works as executed plans
- K504 - Stormwater compliance
- K505 - Restriction as to user and positive covenant (OSD and WSUD)
- K515 - Maintenance bond
- K601 - Stormwater management system operation and maintenance
- L001 - Landscape approved plans
- L002 - Landscape construction
- L003 - Landscape report requirements
- L005 - Planting of plant material
- L006 - Landscape AS requirements
- L007 - Tree protection measures
- L008 - Tree preservation order
- N001 - Section 94 contribution: Cultural Facilities (\$12,877)
- N002 - Section 94 contribution: District Open Space (\$133,835)
- N003 - Section 94 contribution: Local Open Space (\$48,393)
- Q01F - Notice of commencement and appointment of PCA
- Q006 - Occupation Certificate

**Special Conditions**

- 3.1 Prior to the issue of a Construction Certificate, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
  
- 3.2 Prior to the issue of an Occupation Certificate, a design verification

statement from a qualified designer shall be submitted. The design verification statement shall verify that the development achieves the design quality shown in the approved Construction Certificate plans and specifications, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

- 3.3 All mechanical ventilation equipment, ducts, air conditioner services and the like shall be shown on the Construction Certificate documentation as being contained within the building.
- 3.4 All required boundary fencing and retaining walls shall be constructed at full cost to the applicant/developer. Timber retaining walls are not permitted.
- 3.5 A minimum of 4 dwellings shall be constructed as adaptable units to meet the requirements for persons with a disability. The Construction Certificate application shall be accompanied by certification from an accredited access consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299- 2009).
- 3.6 User/sensor electronic security gates shall be installed at car park entrances/exits, garbage and storage areas, etc or alternative access control measures provided.
- 3.7 Graffiti resistant coatings shall be used to external surfaces including blank walls, fences and outdoor furniture throughout the development.
- 3.8 Prior to the issue of an Occupation Certificate, in order to facilitate waste collection a “Loading Zone” restriction is to be implemented in front of the indented loading bay on Fulton Lane as shown on the approved site plan. The “Loading Zone” restriction shall apply to at least 14.5m north of the driveway entry to allow for the parking and loading of waste collection vehicles.

This arrangement is to be approved by Council’s Local Traffic Committee prior to implementation and installed at no cost to Council.

- 3.9 Prior to the issue of an Occupation Certificate, a Traffic Management Plan (TMP) is to be prepared by a suitably qualified traffic consultant addressing the one way traffic flow in Fulton Lane (north to south). This plan is to be submitted to Council’s Local Traffic Committee and the RMS prior to implementation and installed at no cost to Council.

This information is to be submitted to Council's Local Traffic Committee for approval prior to implementation and installed at no cost to Council.



- 3.10 The following plan amendments shall be shown on the Construction Certificate plans:
- (a) The east facing bedroom windows to Unit 408 are to be provided with fixed screens to mitigate privacy impacts.
  - (b) The eastern balcony edges to Units 401, 402 and 501 are to be revised to provide for external screens with a minimum height of 1.8m to mitigate privacy impacts.
  - (c) The southern balcony edges to Units 403 and 404 are to be revised to provide for external screens with a minimum height of 1.8m to mitigate privacy impacts to adjoining properties.
- 3.11 Prior to works commencing on site and prior to the issue of a Construction Certificate, a dilapidation report is to be prepared that provides a photographic record of the condition of adjoining structures on adjoining properties and associated structures and a photographic record of the state of Council infrastructure, including the local road reserve and adjoining cemetery.
- 3.12 Prior to the issue of an Occupation Certificate, a dilapidation report is to be prepared that provides a photographic record of the condition of adjoining structures on adjoining properties and associated structures and a photographic record of the state of Council infrastructure, including the local road reserve and adjoining cemetery.
- Should damage be identified, rectification works are to be carried out at full cost to the developer and these rectification works are to be completed prior to the issue of an Occupation Certificate.
- 3.13 A public footpath is to be provided along both street frontages and the detailed design shall align with Penrith City Council specifications and be detailed in the Construction Certificate application and approved by Council via a Roads Act application.
- 3.14 The development is to accommodate 2 x 1,100 litre residual waste bins, 2 x 1,100 litre recycling bins and 2 x 1,100 litre service bins. Provision for these bins is to be shown on the Construction Certificate plans and bins are to be moved to the collection bay in Fulton Lane on collection day by the Building Manager and then returned to the basement after collection.
- 3.15 Prior to the issue an Occupation Certificate, the property owner or agent acting for the owner shall arrange for the commencement of a domestic waste service with Council. The service is to be arranged no earlier than two days prior to occupancy and no later than two days after occupancy of the development. All requirements of Council's domestic collection service must be complied with at all times. Please telephone Council on (02) 4732 7615 for the commencement of waste services.

4. The individuals who made a submission be advised of Council's decision.

**For**

**Against**

Councillor Prue Car MP  
Councillor Greg Davies  
Councillor John Thain  
Councillor Ross Fowler OAM  
Councillor Maurice Giroto  
Councillor Kevin Crameri OAM  
Councillor Mark Davies  
Councillor Ben Goldfinch  
Councillor Tricia Hitchen  
Councillor Bernard Bratusa  
Councillor Marcus Cornish  
Councillor Karen McKeown

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

**4 Glenmore Park Youth and Community Centre - Request for Licence Agreement by Quasar Constructions Commercial Pty Ltd**

110 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Marcus Cornish that the matter be deferred to a future Councillor Briefing to allow for further information to be provided including details on rental terms.

**5 Council Property - License to Lease Part of Union Road Car Park Penrith for a Mobile Food Unit**

Councillor Greg Davies left the meeting, the time being 9:12pm

Councillor Greg Davies returned to the meeting, the time being 9:17pm

Councillor Greg Davies left the meeting, the time being 9:22pm and did not return.

Councillor Jackie Greenow OAM returned to the meeting, the time being 9:23pm

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

That:

1. The information contained in the report on Council Property - License to Lease Part of Union Road Car Park Penrith for a Mobile Food Unit be received
2. Council not grant a Licence Agreement to Char Char Food Truck.
3. A policy for Mobile Food Vans in the city be developed and brought to a future council meeting.

**6 RFT15/16-10, Tender for the Construction of CBD Drainage Upgrade, Penrith**

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

That:

1. The information contained in the report on RFT15/16-10, Tender for the

- Construction of CBD Drainage Upgrade, Penrith be received
2. Josa Constructions Pty Ltd be awarded the contract for RFT15/16-10, Tender for the Construction of CBD Drainage Upgrade, Penrith, for an amount of \$3,342,400 excluding GST subject to the appropriate bank guarantee being provided.
  3. The provisional sum of \$1,100,000 be approved for the services adjustment works
  4. Council approve the expenditure of funds and the carrying out of the required project works on private land at no cost to the property owner as detailed in the report.
  5. The Common Seal of the Council of the City of Penrith be placed on all documentation if necessary.

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

### **7 Australian Disability Enterprises and Disability Service Reform**

Councillor John Thain left the meeting, the time being 9:24pm

Councillor John Thain returned to the meeting, the time being 9:27pm

Councillor Kevin Crameri OAM left the meeting, the time being 9:28pm

113 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Marcus Cornish

That:

1. The information contained in the report on Australian Disability Enterprises and Disability Service Reform be received.
2. Council express its concern to the United Voice and Health Services Union in relation to their application to the Fair Work Commission to vary the award for employees in supported employment.
3. Council forward a copy of this report to the United Voice and Health Services Union.
4. Representatives from National Disability Services, the peak body for Australian Disability Enterprises and representatives from local service providers be invited to deliver a presentation to Council on the impacts of the proposed changes to the setting of wages for employees in supported employment.

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

**8 Exhibition of the Revised Delivery Program 2013-17 (incorporating the 2016-17 Draft Operational Plan and Fees and Charges)**

Councillor Kevin Crameri OAM returned to the meeting, the time being 9:32pm

114 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Mark Davies

That:

1. The information contained in the report on Exhibition of the Revised Delivery Program 2013-17 (incorporating the 2016-17 Draft Operational Plan and Fees and Charges) be received.
2. In accordance with the Local Government Act 1993 and Local Government (General) Regulation 2005, Council endorse for public exhibition of the *revised Delivery Program 2013-17* (incorporating the draft *Operational Plan* for 2016-17 and draft *Fees and Charges 2016-17*), including any amendments made at tonight's meeting.
3. In accordance with the Local Government Act 1993 and Local Government (General) Regulation 2005, the revised *Delivery Program 2013-17* (incorporating the *Operational Plan* for 2016-17 and draft *Fees and Charges 2016-17*) be placed on public exhibition for 28 days commencing on Wednesday 27 April 2016 and closing on Wednesday 25 May 2016.
4. The public exhibition arrangements are implemented as detailed in this report, and submissions from the community are invited.

**9 Summary of Investments & Banking for the period 1 March 2016 to 31 March 2016**

115 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on Summary of Investments & Banking for the period 1 March 2016 to 31 March 2016 be received.
2. The Certificate of the Acting Responsible Accounting Officer and Summaries of Investments and Performance for the period 1 March 2016 to 31 March 2016 be noted and accepted.
3. The graphical investment analysis as at 31 March 2016 be noted.
4. The Agency collection methods as at 31 March 2016 be noted.

**REQUESTS FOR REPORTS AND MEMORANDUMS and URGENT BUSINESS**

**RR 1 Petition - Skate Park - Cambridge Gardens/Cambridge Park**

Councillor John Thain requested a report to Council on the site identified by students of Cambridge Gardens School and investigate other sites that may be suitable in the vicinity for a skate park

**RR 2 Anti-social behaviour in park on Epping Close**

Councillor John Thain requested a reply memo to all Councillors investigating the possibility of installing bollards to prevent vehicle access to park from back yards in this location.

**RR 3 Notice for Approval to Burn**

Councillor Kevin Crameri OAM requested that the Notice of Approval to Burn be changed to Notice of Requirements to Burn, on the envelope and also top of the letter.

**RR 4 Adult change rooms at St Marys and Penrith**

Councillor Tricia Hitchen requested a report to Council which identifies one place in both Penrith and St Marys CBD that would be suitable for an adult change room. The report is to include the costs of each room and identify any funding opportunities that may be available.

**COMMITTEE OF THE WHOLE**

116 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Jackie Greenow OAM that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 9:50pm.

Councillors Jackie Greenow OAM, Marcus Cornish and Tricia Hitchen left the meeting, the time being 9:51pm

**1 Presence of the Public**

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

**Outcome 2**

**2 Status on Litigation and Compliance Matters**

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

- 3 DA02/2551.03 Modification application for removal of condition of consent requiring dedication of land for five (5) x townhouses at Lot 2 DP 1176279 (No. 67) Jones Street, Kingswood Applicant: Avant Constructions Pty Ltd & Avsta Pty Ltd; Owner: ~Avant Constructions Pty Ltd & Urban Approvals Pty Ltd**

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

**Outcome 1**

- 4 Advocacy Program**

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

**Outcome 2**

- 5 Legal Status of Development Application DA14/0622.02 Section 96 Modification to Approved Earthworks, Shed and Truck Parking Including Amendment of the Approved Shed Location, Shed Design, Operational Conditions of Consent and Lighting Lot 122 DP 709303 (No. 41-47) Jolly Street, Castlereagh Applicant: Ty & Deanne Gosling; Owner: ~Ty & Deanne Gosling**

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

The meeting resumed at 10:27pm and the General Manager reported that the Committee of the Whole met at 9:51pm on 18 April 2016, the following being present

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

and the Committee of the Whole excluded the press and public from the meeting for the reasons set out in CW1 and that the Committee of the Whole submitted the following recommendations to Council.

**CONFIDENTIAL BUSINESS**

**2 Status on Litigation and Compliance Matters**

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

CW2 That the information contained in the report on Status on Litigation and Compliance Matters be received.

Councillor Tricia Hitchen returned to the meeting, the time being 9:54pm

**3 DA02/2551.03 Modification application for removal of condition of consent requiring dedication of land for five (5) x townhouses at Lot 2 DP 1176279 (No. 67) Jones Street, Kingswood Applicant: Avant Constructions Pty Ltd & Avsta Pty Ltd; Owner: ~Avant Constructions Pty Ltd & Urban Approvals Pty Ltd**

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

CW3 That:

1. The information contained in the report on DA02/2551.03 Modification application for removal of condition of consent requiring dedication of land for five (5) x townhouses at Lot 2 DP 1176279 (No. 67) Jones Street, Kingswood be received.
2. Council offer to purchase the lot for up to \$17,720. In the event that the Applicant does not agree to the sale of the lot for this price, then Council enter into consent orders in Class 4 proceedings (in the event those proceedings are instigated by the Applicant) to agree to the removal of conditions 31 and 37 of the consent.

Councillor Jackie Greenow OAM returned to the meeting, the time being 9:56pm.

**4 Advocacy Program**

RECOMMENDED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Mark Davies

CW4 That the information contained in the report on Advocacy Program be received.

Councillor Marcus Cornish returned to the meeting, the time being 9:58pm

Councillor Maurice Giroto left the meeting, the time being 10:21pm

**5 Legal Status of Development Application DA14/0622.02 Section 96 Modification to Approved Earthworks, Shed and Truck Parking Including Amendment of the Approved Shed Location, Shed Design, Operational Conditions of Consent and Lighting Lot 122 DP 709303 (No. 41-47) Jolly Street, Castlereagh Applicant: Ty & Deanne Gosling; Owner: ~Ty & Deanne Gosling**

RECOMMENDED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Prue Car MP

CW5 That:

1. The information contained in the report on Legal Status of Development Application DA14/0622.02 Section 96 Modification, Lot 122 DP 709303 (No.

- 41-47) Jolly Street, Castlereagh be received.
2. That consent orders be entered in the Land and Environment Court proceedings (10683/15) in accordance with the terms referred to in the report subject to condition 21 clearly stating that exterior flood lighting is not permitted at any time, in addition to all other lighting being in compliance with AS 4282 (1997).
  3. Condition 13 as outlined in the table of the report, be amended to allow truck movements to only occur on a Saturday between 6am and 6pm as opposed to 6am and 8pm.
  4. Condition 18 as outlined in the table to be removed subject to the applicant carrying out the drainage works as marked up in red in Attachment 3 to this report titled Proposed Drainage Concept Plan. Should these works not occur, Condition 18 should remain.
  5. Council oppose in relation to land and environment court proceedings number 10684/15 the granting of a building certificate in respect of the colour bond fence.

Councillor Prue Car MP left the meeting, the time being 10:24 and did not return.  
Councillor Maurice Giroto returned to the meeting, the time being 10:24pm.

**ADOPTION OF COMMITTEE OF THE WHOLE**

117 RESOLVED on the MOTION of Councillor Ben Goldfinch seconded Councillor John Thain that the recommendation contained in the Committee of the Whole and shown as CW1, CW2, CW3, CW4 and CW5 be adopted.

There being no further business the Chairperson declared the meeting closed the time being 10:28pm.

I certify that these 16 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 18 April 2016.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date