

**CONFIRMED MINUTES**  
**OF THE ORDINARY MEETING OF PENRITH CITY COUNCIL HELD IN THE**  
**COUNCIL CHAMBERS**  
**ON MONDAY 27 FEBRUARY 2017 AT 7:30PM**

**NATIONAL ANTHEM**

The meeting opened with the National Anthem.

**STATEMENT OF RECOGNITION**

His Worship the Mayor, Councillor John Thain 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**

His Worship the Mayor, Councillor John Thain, Deputy Mayor, Councillor Tricia Hitchen, and Councillors Jim Aitken OAM, Bernard Bratusa, Todd Carney, Marcus Cornish, Kevin Cramer OAM, Greg Davies, Mark Davies, Aaron Duke, Ross Fowler OAM, Joshua Hoole, Karen McKeown, Kath Presdee and Ben Price.

**APOLOGIES**

There were no apologies.

**CONFIRMATION OF MINUTES - Ordinary Meeting - 6 February 2017**

21 RESOLVED on the MOTION of Councillor Aaron Duke seconded Councillor Ross Fowler OAM that the minutes of the Ordinary Meeting of 6 February 2017 be confirmed with the amendment to the *Urgent Business Item 2 – Queen Elizabeth – Sapphire Jubilee* now reading:

*“Councillor Mark Davies requested that Council write a letter of congratulations to Her Royal Highness Queen Elizabeth, offering congratulations on her 65 years on the throne and as Head of the Commonwealth and expressing appreciation of her leadership and reign for the past 65 years.*

*17 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Marcus Cornish that the matter be brought forward and dealt with as an urgent matter.*

*His Worship the Mayor, Councillor John Thain, ruled that the matter was urgent and should be dealt with at the meeting.*

*18 A MOTION was moved by Councillor Mark Davies seconded Councillor Marcus Cornish Councillor Mark Davies requested that Council write a letter of congratulations to Her Royal Highness Queen Elizabeth, offering congratulations on her 65 years on the throne and as Head of the Commonwealth and expressing appreciation of her leadership and reign for the past 65 years.*

Councillor Ross Fowler OAM and Jim Aitken OAM called for a DIVISION.

**For**

Councillor Bernard Bratusa  
Councillor Kevin Crameri OAM  
Councillor John Thain  
Councillor Mark Davies  
Councillor Ross Fowler OAM  
Councillor Tricia Hitchen  
Councillor Marcus Cornish  
Councillor Joshua Hoole  
Councillor Ben Price

**Against**

Councillor Karen McKeown  
Councillor Aaron Duke  
Councillor Todd Carney  
Councillor Kath Presdee

On being PUT to the meeting the MOTION was CARRIED.”

### DECLARATIONS OF INTEREST

Councillor Karen McKeown declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 9 - Compliance and Legal History relating to (No. 41-47) Jolly Street, Castlereagh Applicant: Ty and Deanne Gosling; Owner: ~Ty and Deanne Gosling* as a member of her family was once employed by the applicant.

Councillor Ross Fowler OAM declared a Non-Pecuniary Conflict of Interest – Significant in *Item 10 - Bank Stabilisation of the Nepean River and associated drainage works at Blaxland Crossing Reserve, Wallacia* as he is the President of the Blaxland Crossing recreation and Rest Grounds Trust. Councillor Fowler stated that he would not take part in any discussion and would leave the chambers when this item is considered.

### SUSPENSION OF STANDING ORDERS

22 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Marcus Cornish that Standing Orders be suspended to allow members of the public to address the meeting, the time being 7:38pm.

#### Mr Paul Lemm

*Item 5 – Development Application No. DA16/0936 for Physiotherapy Health Consulting Rooms at Lot 4043 DP 260183, (No. 173) Bennett Road, St Clair Applicant: Amanda Blackburn C/- Paul Lemm Planning; Owner: ~David & Amanda Blackburn*

Mr Lemm, the planning consultant for the owners of the existing business, spoke against the recommendation. Mr Lemm expressed that the recommendation to restrict the operations of the practice to just one practitioner at any one time is an outcome that would result in a significant impact on the business. Mr Lemm indicated it would result in a marked change in patient consultations and hence business viability. Mr Lemm outlined the site constraints that do not allow the required number of car parking spaces to be fully catered for onsite and the existing business has been operating for a number of years with two practitioners and there have been no traffic implications. Mr Lemm argued that as this business is on a main road the street parking and bus stop have been sufficient enough to maintain the car parking demand for this proposed use and other surrounding businesses.

23 RESOLVED on the MOTION of Councillor Bernard Bratusa seconded Councillor Karen McKeown that an extension of time be granted to enable the speaker to complete his address, the time being 7:42pm.

Mr Lemm explained this site is close to St Clair Shopping Centre and is on a main road and the use of the proposed site retains some of the existing residential appeal. Mr Lemm stated that the use has been established for some years and there are no new impacts to existing residential amenity. Mr Lemm advised that the existing residents do not believe the DA as proposed, will result in a loss of amenity. Mr Lemm concluded by expressing his view that a more flexible DCP interpretation to the DA could be made and feels the use is not having an unreasonable impact on the area and the DA should be supported with two practitioners.

**Mr Thomas Lawson**

*Item 8 – Development Application DA16/1375 Music Concert to be held on One (1) Day in May 2017 with a Maximum of 5,000 Attendees Lot 10 DP 615085, Lot 11 DP 615085, Lot 2 DP 541825 and Lot 10 DP 615085 at Fernhill Estate (No. 1041-1187) Mulgoa Road, Mulgoa Applicant: Biofin Pty Ltd; Owner: ~Angus Securities (mortgage in possession)*

Mr Lawson, the applicant and sole director of Biofin Pty Ltd, spoke in support of the recommendation. Mr Lawson highlighted that this area will be a significant place to host a concert. Mr Lawson believes inviting Jimmy Barnes to perform will create a unique Boutique concert and will showcase Penrith and Mulgoa as a tourist destination. Mr Lawson communicated that the success of this concert will further influence Australian and International performers to the area. Mr Lawson concluded by expressing this event will be an event to be proud of and enhance economic growth.

**RESUMPTION OF STANDING ORDERS**

24 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Kath Presdee that Standing Orders be resumed, the time being 7:53pm.

**MAYORAL MINUTES****1 Passing of Peter Dransfield**

25 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Ross Fowler OAM that the Mayoral Minute on Passing of Peter Dransfield be received.

**2 Passing of Garry McCully**

26 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Greg Davies that the Mayoral Minute on Passing of Garry McCully be received.

**REPORTS OF COMMITTEES****1 Report and Recommendations of the Local Traffic Committee Meeting held on 6 February 2017**

27 RESOLVED on the MOTION of Councillor Marcus Cornish seconded Councillor Karen McKeown that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 6 February, 2017 be adopted.

**2 Report and Recommendations of the Access Committee Meeting held on 8 February 2017**

28 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Mark Davies that the recommendations contained in the Report and Recommendations of the Access Committee meeting held on 8 February, 2017 be adopted.

**3 Report and Recommendations of the Policy Review Committee Meeting held on 13 February 2017**

29 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Todd Carney that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 13 February, 2017 be adopted.

**DELIVERY PROGRAM REPORTS**

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

**1 Naming of Western Sydney Airport after Aviator William (Billy) Hart**

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

That:

1. The information contained in the report on Naming of Western Sydney Airport after Aviator William (Billy) Hart be received.
2. The report be deferred to the next Ordinary meeting for Council Officers to investigate the appropriateness of the name Badgerys and its link if any to Penrith.

**2 Tender Reference 16/17-10, Playground Upgrade- Emu Plains**

31 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Bernard Bratusa

That:

1. The information contained in the report on Tender Reference 16/17-10, Playground Upgrade- Emu Plains be received
2. All Seasons Landscapes Pty Ltd be awarded the contract for construction of playground works for the sum of \$130,461.00 ex GST.
3. The Common Seal of the Council of the City of Penrith be placed on all documentation if necessary.

**OUTCOME 2 - WE PLAN FOR OUR FUTURE GROWTH**

**3 Withdrawal of Caveat from the Title of Lot 42 DP 738126, Patons Lane, Erskine Park Applicant: Vic Bates; Owner: ~VACIK Pty Limited**

32 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Withdrawal of Caveat from the Title of Lot 42 DP 738126, Patons Lane, Erskine Park be received.
2. Council resolve to agree to the 'Withdrawal of Caveat' (V121942) from the title of Lot 42 DP 738126.
3. All necessary legal documents required to extinguish the caveat be endorsed under delegation.

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

**For**

Councillor Kath Presdee  
Councillor Bernard Bratusa  
Councillor Kevin Crameri OAM  
Councillor Karen McKeown  
Councillor John Thain  
Councillor Greg Davies  
Councillor Mark Davies  
Councillor Ross Fowler OAM  
Councillor Jim Aitken OAM  
Councillor Tricia Hitchen  
Councillor Marcus Cornish  
Councillor Joshua Hoole  
Councillor Aaron Duke  
Councillor Todd Carney  
Councillor Ben Price

**Against**

**4 Development Application No. DA16/1007 for Place of Public Worship, Freestanding Storage Shed, Car Parking, Landscaping & Ancillary Works at Lot 142 DP 876948, (Nos 17-27) Factory Road, Regentville Applicant: Foothills Vineyard Church; Owner: ~Isaiah's Vision Ltd**

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

That:

1. The information contained in the report on Development Application No. DA16/1007 for Place of Public Worship, Freestanding Storage Shed, Car Parking, Landscaping & Ancillary Works at Lot 142 DP 876948, (Nos 17-27) Factory Road, Regentville be received.
2. Development Application DA16/1007 Development Application No. DA16/1007 for Place of Public Worship, Freestanding Storage Shed, Car Parking, Landscaping & Ancillary Works at Lot 142 DP 876948, (Nos 17-27) Factory Road, Regentville be approved subject to the following conditions of consent:

## 2.1 Standard Conditions

A001	General
A012	Food Act
A019	Occupation Certificate
A021	Business Registration
A029	Hours of Operation and Delivery Times
A046	Obtain Construction Certificate before commencement of works
B004	Dust
B005	Mud/Soil
D001	Implement approved sediment& erosion control measures
D002	Spray grass
D005	No filling without prior approval (may need to add D006)
D009	Covering of waste storage area
D010	Appropriate disposal of excavated or other waste
D013	Approved noise level 1
D026	Liquid wastes
E009	Annual fire safety-essential fire safety (Class 2-9 buildings)
E01A	BCA compliance for Class 2-9
F001	General Fitout
F030	Hot water service
F035	Ceilings
F036	Service pipes
F039	Fly screens
F048	Food prep benches
F050	Light bulbs & tubes
F051	Shelving
F055	Lockers
G002	Section 73 Certificate
F004	Endeavour Energy Clearance
H001	Stamped plans and erection of site notice
H041	Hours of work (other devt)
K101	Works at no cost to Council
K201	Infrastructure Bond
K202	S138 Roads Act – Works and Structures - Minor Works in the public road driveways road openings
K203	S138 Roads Act – Works and structures - Roadworks requiring approval of civil drawings. Civil Construction in the road reserve
K210	Stormwater Management
K213	Flooding - Flood Report Recommendations
K214	Flooding – Floor levels
K216	Flooding – Garage Levels
K219	Flooding - Flood Proofing
K222	Access, Car Parking and Manoeuvring – General
K224	Construction Traffic Management Plan
K225	Performance Bond
K302	Traffic Control Plan
K401	Flooding – Surveyor Verification of floor levels
K403	Major Filling/ Earthworks
K405	Turf to Verge
K501	Penrith City Council clearance – Roads Act/ Local Government Act
K504	Stormwater Compliance
K505	Restriction as to User and Positive Covenant

K515	Maintenance Bond
K516	Subdivision Compliance documentation
K601	Stormwater Management system operation and maintenance
L001	General
L002	Landscape construction
L006	Aust Standard
L008	Tree Preservation Order
L012	Existing landscaping (for existing development)
P001	Costs
P002	Fees associated with Council land (Applies to all works & add K019) Certification
Q01F	Notice of Commencement & Appointment of PCA2 (use for Fast Light only)
Q05F	Occupation Certificate for Class

**Special Conditions**

- 2.2 Prior to the issue of a construction Certificate, further plans are to be submitted to Council for approval which show the layout and details of all fixtures and fittings in the kitchen.

A detailed plan showing the details below must be submitted:

- Details of the finish of the walls and ceiling (note acoustic panels not permitted in food preparation areas);
- Details and location of coving to all floor wall joins;
- Details and location of shelving to the storeroom and storage area;
- Construction material of shelving indicating lowest shelf at least 150mm above ground level;
- Reference to the construction of the premises being in accordance with the Australian New Zealand Food Standards Code, Food Safety Standard 3.2.3 "Food Premises and Equipment" and the AS 4674 – 2004 "Design, Construction and Fit Out of Food Premises";
- Location of separate wash hand basin (taps must be hands free operated and indicated as such on the plan);
- Location of separate sink (minimum single bowl sink);
- Location of any floor wastes;
- Details and location of all equipment in the kitchen including, but not limited to ovens, fridges, freezers, dishwasher etc.
- Details of any hot/cold food storage;
- Detailed plans of the cool room construction indicating the position of motors and compressors;

- Information on how windows/doors will be vermin proofed e.g. Flyscreens, Insect devices, Air Curtain etc.
  - Any fluorescent light fittings being fitted with a smooth faced diffuser and identified on the plan;
  - Location and information of mechanical ventilation for proposed dishwashing machine in accordance with Section 2.2.5 of AS 4674 – 2004 “Design, Construction and Fit Out of Food Premises”; and
  - Location of trade-waste/garbage & recycling bins.
- 2.3 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed for any food business related activities on the site.
- 2.4 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. A copy of Council's approval of the NMP is to be provided to the Private Certifying Authority where Council is not the certifying authority.
- The NMP shall be prepared by suitably qualified persons, and may need to be amended to include any comments provided by Council. The NMP is to:
    - address all noise related aspects of the development's operation, including:
  - Incorporating the operational aspects outlined in the 'Proposed Place of Public Worship: 17-27 Factory Road, Regentville - Development Application Acoustic Assessment' prepared by Wilkinson Murray dated October 2016 (Ref. 03138-DA Version B), such as operational hours for different activities, and the use of amplified music.
  - How the outdoor areas (including play areas, basketball court and outdoor functions) will be managed to ensure that neighbouring properties are not impacted by noise.
  - Address the relevant conditions of this consent; and
  - Recommend any systems/controls to be implemented to minimise the potential for any adverse noise impact(s); and
  - Incorporate a program for ongoing monitoring and review to ensure that the NMP remains contemporary with relevant environmental standards.
- 2.5 All car parking must be in accordance with AS2890.1-2004; AS2890.6-2009 and Council's requirements.
- 2.6 The required sight lines around the driveway entrance are not to be



compromised by landscaping, fencing or signage.

- 2.7 All vehicles are to enter and exit in a forward direction.
- 2.8 Prior to the issue of a Construction Certificate the Certifying Authority shall ensure the sealed car parking area has been extended by a minimum distance of 6m towards the northern boundary to permit the circulation of traffic within the car park.
- 2.9 Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that all areas required for vehicular access, car parking and manoeuvring are concreted or sealed with a bituminous pavement. Full details, including pavement design, are to be submitted with the Construction Certificate.
- 2.10 Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that any filling required for the Stage 1 building pad is limited to within 1m of the building footprint. Fill pads are to be battered back to existing ground levels at a batter slope of 1 in 6 (vertical to horizontal). Full details shall be provided with the Construction Certificate.

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

**For**

Councillor Kath Presdee  
Councillor Bernard Bratusa  
Councillor Kevin Cramer OAM  
Councillor Karen McKeown  
Councillor John Thain  
Councillor Greg Davies  
Councillor Mark Davies  
Councillor Ross Fowler OAM  
Councillor Jim Aitken OAM  
Councillor Tricia Hitchen  
Councillor Marcus Cornish  
Councillor Joshua Hoole  
Councillor Aaron Duke  
Councillor Todd Carney  
Councillor Ben Price

**Against**

- 5 Development Application No. DA16/0936 for Physiotherapy Health Consulting Rooms at Lot 4043 DP 260183, (No. 173) Bennett Road, St Clair Applicant: Amanda Blackburn C/- Paul Lemm Planning; Owner: ~David & Amanda Blackburn**

34 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies  
That:

- 1. The information contained in the report on Development Application No. DA16/0936 for Physiotherapy Health Consulting Rooms at Lot 4043 DP 260183, (No. 173) Bennett Road, St Clair be received.

2. Development Application No. DA16/0936 for Physiotherapy Health Consulting Rooms at Lot 4043 DP 260183, (No. 173) Bennett Road, St Clair be approved subject the following conditions:

**Special Conditions**

2.1 Restricted Operation

The operation of the premise is restricted as follows: -

- No more than two (2) practitioners are permitted to operate from the premise at any one time;
- No more than two (2) patients are to be parked on site at any one time;
- Patients / visitors shall be staggered and arranged on an appointment only basis; and
- Patients are required be advised to utilise the available on-site car parking rather than parking on the street.

2.2 Noise Complaints

In the event of ongoing substantiated noise complaints relating to the development being received by Council, the owner and/or occupier of the development will be required by Council to engage the services of a suitability qualified acoustic consultant to undertake a noise impact assessment on the development to address the effect of the developments activities on the affected residential receivers.

2.3 Boundary Fencing and Retaining Walls

All site boundary fences are to be constructed to height of 1.8 m behind the front building line. Any fencing or retaining walls required as a result of the development are to be paid for entirely by the person having the benefit of this consent. Any damage to boundary fencing during construction is to be rectified by the applicant prior to the issue of an Occupation Certificate.

Any retaining walls required by the proposed development shall:

- (i) be not be more than 600mm high, measured vertically from the base of the development to its uppermost portion, and
- (ii) be separated from any other retaining wall or other structural support on the site by at least 2m, measured horizontally, and
- (iv) have adequate drainage lines connected to the existing stormwater drainage system for the site, and
- (v) be located entirely within the allotment boundary including all footings, drainage and backfilling measures.
- (vi) be constructed of concrete or masonry blocks (timber walls are not permitted).

2.4 Parking Spaces

The garage car space and one stacked driveway car space shall be reserved for staff use only.

### 2.5 Pre-packaged Drinks

If pre-packaged refrigerated drinks are to be sold on site, the refrigerated appliance must be capable of maintaining a temperature of less than 5°C and be provided with a digital thermometer, accurate to 1°C that can be easily observed from outside the appliance.

### 2.6 Lubricant Dispensers

Oils, creams and balms must be dispensed via pumps or single use dispensers so as not to contaminate the products.

### 2.7 Linen and Towel Usage

Linen, towels and single use items must be changed between each client.

### 2.8 Landscape Requirements

Prior to the construction of the approved parking space, a planting plan is to be submitted to, and approved by Council, which provides replacement shrub planting around the accessible parking space and manoeuvring area in the front setback.

### **2.10 Standard Conditions**

- A001 – Approved Plans
- A019 – Occupation certificate
- A024 – Health Care Consulting Room
- A026 – Advertising sign (not for residential)
- A029 – Hours of operation and delivery times
- A030 – No retail sales
- A038 – Lighting locations
- A039 – Graffiti
- A046 – Obtain Construction Certificate before commencement of works
- D001 – Implement approved sediment & erosion control measures
- D007 – Cut and fill of land requiring Validation Certificate
- D009 – Covering of waste storage area
- D010 – Appropriate disposal of excavated or other waste
- E001 – BCA compliance
- E006 – Disabled access and facilities
- F111 – Premises construction
- F137 – Skin Pen approval
- H041 – Hours of work (other devt)
- K101 – Works at no cost to Council
- K201 – Infrastructure Bond
- K202 – S138 Roads Act – Works and Structures
- K209 – Stormwater Discharge – Minor Development

- K504 – Stormwater Compliance
- L012 – Existing landscaping (for existing development)
- Q01F – Notice of Commencement & Appointment of PCA2
- Q006 – Occupation Certificate (Class 2 - 9)

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 Kath Presdee	
Councillor Bernard Bratusa	
Councillor Kevin Crameri OAM	
Councillor Karen McKeown	
Councillor John Thain	
Councillor Greg Davies	
Councillor Mark Davies	
Councillor Ross Fowler OAM	
Councillor Jim Aitken OAM	
Councillor Tricia Hitchen	
Councillor Marcus Cornish	
Councillor Joshua Hoole	
Councillor Aaron Duke	
Councillor Todd Carney	
Councillor Ben Price	

**6 Legal Status of Development Application No. DA16/0255 (SWPP 2016SYW061) for Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Development containing 55 Apartments & Basement Car Parking at Lots A & B DP 381801, (Nos 42-44) Lethbridge Street, Penrith Applicant: Mackenzie Architects; Owner: ~Patricia Leitch**

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

That:

1. The information contained in the report on Legal Status of Development Application No. DA16/0255 (SWPP 2016SYW061) for Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Development containing 55 Apartments & Basement Car Parking at Lots A & B DP 381801, (Nos 42-44) Lethbridge Street, Penrith be received.
2. Council resolve to seek the Land and Environment Court to resume the Section 34 conciliation process and enter into a Section 34 agreement for the approval of Development Application No. DA16/0255 (SWPP 2016SYW061) subject to agreed conditions of consent.

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 Kath Presdee	
Councillor Bernard Bratusa	
Councillor Kevin Crameri OAM	
Councillor Karen McKeown	
Councillor John Thain	

Councillor Greg Davies  
Councillor Mark Davies  
Councillor Ross Fowler OAM  
Councillor Jim Aitken OAM  
Councillor Tricia Hitchen  
Councillor Marcus Cornish  
Councillor Joshua Hoole  
Councillor Aaron Duke  
Councillor Todd Carney  
Councillor Ben Price

**7 State Significant Development (SSD 6236) Proposed Waste to Energy Facility, Honeycomb Drive, Eastern Creek Applicant: The Next Generation NSW Pty Ltd; Owner: ~ThaQuarry Pty Ltd and ACN114843453 Pty Ltd**

Councillor Kevin Crameri OAM left the meeting, the time being 8:24pm

Councillor Kevin Crameri OAM returned to the meeting, the time being 8:25pm

36 A MOTION was MOVED by Councillor Todd Carney seconded Councillor Ben Price

That:

1. The information contained in the report on State Significant Development (SSD 6236) Proposed Waste to Energy Facility, Honeycomb Drive, Eastern Creek be received.
2. Council endorse a submission to the Department of Planning and Environment outlining that the matters raised in this report be closely considered in the assessment and determination of the proposal and that the application not be supported
3. Council write to the Planning Minister and all affected state members advising of the Council's position.
4. Council call on the Member for Mulgoa to publicly reject the proposed development.

An AMENDMENT was MOVED by Councillor Tricia Hitchen seconded Councillor Marcus Cornish

That:

1. The information contained in the report on State Significant Development (SSD 6236) Proposed Waste to Energy Facility, Honeycomb Drive, Eastern Creek be received.
2. Council endorse a submission to the Department of Planning and Environment outlining that the matters raised in this report be closely considered in the assessment and determination of the proposal and that the application not be supported
3. Council write to the Planning Minister and all affected state members advising of the Council's position.

The AMENDMENT was PUT

Councillor Marcus Cornish called for a DIVISION

**For**

Councillor Bernard Bratusa  
Councillor Mark Davies  
Councillor Ross Fowler OAM  
Councillor Jim Aitken OAM  
Councillor Tricia Hitchen  
Councillor Marcus Cornish  
Councillor Joshua Hoole

**Against**

Councillor Kath Presdee  
Councillor Kevin Crameri OAM  
Councillor Karen McKeown  
Councillor John Thain  
Councillor Greg Davies  
Councillor Aaron Duke  
Councillor Todd Carney  
Councillor Ben Price

On being PUT to the meeting the AMENDMENT was LOST.

The MOTION was PUT

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

**8 Development Application DA16/1375 Music Concert to be held on One (1) Day in May 2017 with a Maximum of 5,000 Attendees Lot 10 DP 615085, Lot 11 DP 615085, Lot 2 DP 541825 and Lot 10 DP 615085 at Fernhill Estate (No. 1041-1187) Mulgoa Road, Mulgoa Applicant: Biofin Pty Ltd; Owner: ~Angus Securities (mortgagee in possession)**

37 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Development Application DA16/1375 Music Concert to be held on One (1) Day in May 2017 with a Maximum of 5,000 Attendees Lot 10 DP 615085, Lot 11 DP 615085, Lot 2 DP 541825 and Lot 10 DP 615085 at Fernhill Estate (No. 1041-1187) Mulgoa Road, Mulgoa be received.
2. Council supports the receipt of Development Applications for this site.
3. Development Application number DA16/1375 be determined and subject to the following conditions:
  - 3.01 This consent permits a Music Concert on 7 May 2017. Compliance with all conditions of this consent, must be lodged, and approval obtained, prior to operation.
  - 3.02 Any future events on the site would require a separate development application.
  - 3.03 The maximum number of tickets available for spectators involved in the Music Event is limited to 5,000 people. Evidence of compliance is to be provided to Penrith City Council within two (2) weeks of the event concluding.
  - 3.04 All entertainment and trading including the operation of a Public Address and speaker system is to cease at 10:00pm on the day of the event.
  - 3.05 The 'Bump In' period is limited to four (4) days prior to the event with the 'Bump Out' period limited to two (2) days after each event.
  - 3.06 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.

- 3.07 The development shall comply with the provisions of the Building Code of Australia at all times, with respect to smoke and flame index of materials, emergency lighting, exit signs and firefighting facilities.
- 3.08 Access to car parking area, spectator areas and sanitary facilities for persons with disabilities is to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility".
- 3.09 The temporary tent structures, stages and platforms, when erected, are to fully comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia. A Structural Engineer's Certificate is to be submitted to Council prior to the event, certifying the structural adequacy of the structures.  
  
The maximum number of patrons permitted within any part of the structures is to be clearly displayed in a prominent position on each structure.
- 3.10 The event shall comply with all the requirements and undertakings given to and approved by the NSW Police.
- 3.11 Event organisers will be available at a mutually convenient time, at the invitation of Penrith City Council and/or Penrith Police, to discuss and implement agreed Community Safety or Security issues in conjunction with other local Penrith stakeholders should the need arise.
- 3.12 The event structures are to be inspected by Penrith City Council at least 24 hours before the event operates for the public. Fees for the inspection are to be paid, as detailed in Penrith City Council's Fees and Charges, and will be invoiced accordingly.
- 3.13 The event shall be managed in accordance with the requirements of Schedule 3A - Places of Public Entertainment of the Environmental Planning and Assessment Regulation 2000.
- 3.14 Portable fire extinguishers shall be provided in all areas in accordance with Australian Standard AS 2444-2001 and BCA Part E1.6, with certification submitted to Council prior to the event.
- 3.15 Access to the site for the NSW Fire Brigades/ Rural Fire Service/ NSW Ambulance Service is to be made available at all times during the

operation of the event.

### **Bushfire Protection Requirements**

- 3.16 A Bushfire Management Plan is to be submitted to Penrith Council for approval at least three (3) weeks prior to the event. The evacuation plan is to detail the following:
- a) Under what circumstances the function centre is to be evacuated.
  - b) Where will all persons be evacuated to.
  - c) Roles and responsibilities of persons co-ordinating the evacuation.
  - d) Roles and responsibilities of persons remaining with the function centre after evacuation.
  - e) Procedure to contact the NSW Rural Fire Service / Rural Fire Service and inform them of the evacuation and where they will be evacuated to.

### **Transport Management Plan**

- 3.17 The event applicant is advised that this is a Class 1 Event under the Roads and Maritime Services "*Guide to Traffic and Transport Management for Special Events*", and that all conditions and requirements specified in the Guide must be complied with prior to the event.
- 3.18 The subsequent Traffic Control Plans incorporating all traffic devices be implemented in accordance with the Traffic Management Plan prepared by Who Dares Pty Ltd dated 4 December 2016.
- 3.19 A Transport Management Plan, including a Risk Management Plan, is to be lodged by the event applicant with the Roads and Maritime Services for approval prior to the event. A copy of the Roads and Maritime Services approval must be submitted to Council prior to the event.
- 3.20 The event applicant is to obtain a separate approval from NSW Police and submit a Schedule 1 Form under the Summary Offences Act to the NSW Police prior to the event. A copy of the NSW Police approval must be submitted to Council prior to the event.
- 3.21 The event applicant is to provide confirmation of Public Liability Insurance (usually a Certificate of Currency) of minimum \$10 million, prior to the event. In addition, the applicant is to indemnify Council in writing against all claims for damages and injury which may result from the proposed event.
- 3.23 A Transport Management Plan, including a Risk Management Plan, must be lodged by the event applicant with the Roads and Maritime Services and Transport for NSW Traffic Management Centre for concurrence, prior to the event. A copy of the Roads and Maritime Services and Transport for NSW Traffic Management Centre's approval must be submitted to Council prior to the event.
- 3.24 A Traffic Control Plan is to be submitted to Roads and Maritime Service prior to the event. This Plan shall include:



- Details of the proposed speed limit reduction on Mulgoa Road.
  - Details of a minimum 4.0m emergency lane to be maintained at all times during the event.
  - Details of where variable message signs (VMS) are proposed to be located. The use of VMS are to be in accordance with Roads and Maritime Services Technical Direction TDT2010/07.
- 3.25 The event applicant must arrange to place barricades, traffic cones and provide Roads and Maritime Services accredited Traffic Controllers where required by the endorsed Traffic Management Plan. Where the Traffic Management and Traffic Control Plans indicate Traffic Controllers are to be used, all Traffic Controllers must have current Roads and Maritime Services certification.
- 3.26 The event applicant is to ensure that a traffic controller is provided on Mulgoa Road, Mulgoa, in the vicinity of the southbound approach back of queue to provide feedback to traffic controllers and to warn approaching drivers of the queue.
- 3.27 The event applicant is to ensure that a Road closed – Local Access via St Thomas Road (south) and direction arrow is provided at St Thomas Road (north) intersection with Mulgoa Road, Mulgoa.
- 3.28 The event applicant is to ensure that a traffic controller is provided at the intersection of St Thomas Road and Farm Road, Mulgoa to offer direction to motorist attending the event.
- 3.29 The event applicant to ensure that a traffic controller and Road Closed – Local Traffic Only signage is provided at the intersection of St Thomas Road and Kingshill Road, Mulgoa.
- 3.30 The event applicant is to ensure that Fernhill direction signs are provided facing both the north bound and southbound approaches to The Northern Road to Littlefields Road, Mulgoa.
- 3.31 The event applicant is to ensure that a traffic controller is provided in Farm Road, Mulgoa to monitor and control driver and parking behaviour in the vicinity.
- 3.32 The event organiser must notify the Ambulance Service of NSW, Fire and Rescue NSW, Rural Fire Service, and the State Emergency Services of the proposed event and submit a copy of the notification to Council prior to the event.
- 3.33 A request is to be made to NSW Fire and Rescue and NSW Rural Fire Service that any programmed hazard reduction burning in the region that may impact on the Fernhill Music Concert be postponed for the week of the event.
- 3.34 The event applicant is to provide advice to Council prior to the event that the event complies with the Work Health and Safety Act 2011 and the Work Health and Safety Regulation 2011.
- 3.35 All works as part of this approval are conducted at no cost to Council.
- 3.36 The event applicant must advertise the proposed traffic diversions in local newspapers and other media as described in the Traffic Management Plan, a minimum of two (2) weeks prior to the event.

- 3.37 The event applicant is to notify private bus companies, coach organisations and taxi companies of the proposed event and submit a copy of the notification to Council prior to the event.
- 3.38 Where provided, variable message sign boards are to be located in accordance with the Roads and Maritime Services Technical Direction TDT2010/07.
- 3.39 Any proposed temporary / partial road closures will require the applicant to apply for a Road Occupancy Licence (Form C & D) by contacting the Transport Management Centre's Planned Incidents Unit (02) 83961513 during office hours (8am – 4pm) or 131700 after hours.
- The applicant will be required to submit the Road Occupancy Licence forms/ traffic management plan at least 10 working days prior to the start of works. Plans should be forwarded to the Supervisor Planned Incidents Unit, Transport Operations, Transport Management Centre or on facsimile (02) 8396 1530.

**Potable Water Supply**

- 3.40 A Potable Water Supply Management Plan is to be provided to Council for approval at least three (3) weeks before the event demonstrating how potable water will be supplied to all required fixtures including food stalls, bars, showers, hand wash basins and stations and anywhere else where a potable water supply is required.

The plan shall demonstrate how water quality will be measured, recorded and maintained at the supply, delivery of water to storage tanks and at the point of use throughout the duration of the event.

The plan should also include information on how the water will be provided to the site, storage tanks, pumps and the distribution system, tank cleaning, location of storage tanks and the security of tanks and the water supply.

- 3.41 The potable water supply shall be maintained in accordance with the Australian Drinking Water Guidelines 2016 and the NSW Health Private Water Supply Guidelines 2014. A residual of 0.5 mg/L free chlorine must be maintained in the water supply at all times.
- 3.42 Residual chlorine must be measured and recorded at the supply, delivery of water to storage tanks, and at the point of use throughout the duration of the event. Additional chlorine must be added if residuals cannot be maintained in accordance with the NSW Health Private Water Supply Guidelines 2014. Stored water shall be tested and results recorded a minimum of every 2 hours. Records must be available for Council's Environmental Health Officers to inspect upon request. In the event that the testing shows non-compliance with the NSW Health Private Water Supply Guidelines 2014, Council is to be notified immediately.
- 3.43 Any water carter providing potable water for the event must make available to Council, for inspection, before the event their water carts, cleaning records and logs, and chlorine testing equipment. The supply of water shall be completed in accordance with the NSW Guidelines for Water Carters (NSW Health & NSW Food Authority 2012). The carter

must have approval or licensing from Sydney Water or other Water Authority to take water from their supply and the event coordinator must notify Council before the event where water is being sourced from.

- 3.44 A Quality Assurance Plan must be developed and submitted to Council and the Nepean Blue Mountains Local Health District for approval at least three (3) weeks before the event.

**Food**

- 3.45 A detailed Food Management Plan is to be provided to Council for approval a minimum of three (3) weeks prior to the event, outlining all aspects of food supply, storage, and delivery. The Food Management Plan must cover all food supplied to staff and the public for this event. The Food Management Plan, as a minimum, should include the following:

- Food suppliers;
- Transport of the food to the event;
- Food storage;
- Temperature control (cool rooms etc);
- Hand washing facilities and cleaning facilities;
- Water, electricity and gas supplies;
- Wastewater disposal;
- Garbage bins and disposal;
- Food display and fixtures; and
- Construction of stalls

- 3.46 Council requires all food businesses attending this event to obtain approval to sell food prior to the event. This application must be submitted to Council a minimum of three (3) weeks before the event to allow Council sufficient time to assess the applications. Late applications will not be considered or approved. Council will provide the event organiser with a list of approved food businesses prior to the event.

Application to sell food forms are available on Council's website:

[www.penrithcity.nsw.gov.au](http://www.penrithcity.nsw.gov.au)

Note: A person selling food or operating stalls or mobile vans used for selling food for human consumption, including produce, fruit and vegetables, drinks, or pre-packaged food, is deemed to be a 'food business' under the Food Act 2003. This includes not-for-profit organisations.

- 3.47 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by each individual food business selling potentially hazardous food prior to the event. The Certificate must be available at the day of the event for inspection by Council's Environmental Health Officers.

- 3.48 The proprietor of the food business shall ensure that the requirements of the following legislation, codes, and guidelines are met at all times:
- NSW Food Act 2003;
  - NSW Food Regulation 2015;
  - The Australian and New Zealand Food Standards Code;
  - Guidelines for Temporary Events (NSW Food Authority 2016), and;

- Mobile food vending vehicles: Operation, construction and food handling guidelines (NSW Food Authority 2017)
- 3.49 Coolrooms must be supplied by the event organisers for use by all food businesses and power must be maintained to these coolrooms at all times. The Event Coordinator is to liaise with food businesses as to their coolroom and storage needs. Coolroom temperatures must be routinely monitored and temperatures recorded every two (2) hours during the event. The records must be available at the day of the event for inspection by Council's Environmental Health Officers upon request. An alarm/record system must be provided to ensure correct temperatures are maintained overnight.
- 3.50 Toilets must be provided for all food handlers and maintained in a hygienic condition. These toilets must be separate to other event toilets and not available to the general public, employees or officials. The toilets must be located in the general vicinity of the food stalls. Toilets shall be supplied with a hand washing facilities that provide warm water through a single outlet and be provided with soap and paper towels. A plan demonstrating the number and location of toilets is to be submitted to Council a minimum of three (3) weeks prior to the event.
- 3.51 Hand basins must be provided to all food stalls and mobile vans, be readily accessible, and be no more than 5 metres from any food preparation area. They must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

#### **Waste and Wastewater**

- 3.52 A detailed Wastewater Management Plan for the storage and disposal of all wastewater needs to be supplied to Council for approval within three (3) weeks prior to the event. The plan should reference the Australian Emergency Manuals Series – Manual 2 *Safe and Healthy Mass Gatherings* (EMA 1999) and any NSW Health requirements.
- 3.53 Temporary sanitary facilities, separate from those supplied for food handlers, must be provided for patrons and other event staff in accordance with Table F2.3 of the Building Code of Australia.
- 3.54 The provisions of toilets for the event are to comply with Section 34 and 35 of Chapter 5 in the Emergency Management Practice Manual, prepared by the Attorney General's Department. In addition, hand sanitary stations shall be provided in sufficient numbers for the event.
- 3.55 Showers shall be supplied for any food handlers/event staff who will be staying overnight at the event if this to occur.
- 3.56 All toilet and wastewater facilities are to be operated and located in a suitable location so not to cause water pollution as defined in the provisions of the *Protection of the Environment Operations Act, 1997* and the Regulations made thereunder.
- 3.57 In the event wastewater enters the dams, local water ways or the

- stormwater system, immediate action is to be taken to minimise any environmental or public health impacts. In addition, Council is to be notified of the incident immediately.
- 3.58 Any wastewater discharge or spill is to be cleaned up immediately with the waste being disposed of by a licensed waste contractor.
- 3.59 All toilets and wastewater facilities are to be maintained in a clean manner for the duration of the event. The facilities are to be pumped out at a frequency deemed necessary to maintain cleanliness.
- 3.60 No wastewater is to be discharged to the environment. All wastewater is to be transported and disposed of at a lawful and licensed facility by a NSW EPA licensed contractor. Copies of receipts are to be provided to Council within one week of the event finishing.
- 3.61 A detailed Waste Management Plan for the storage and disposal of all waste needs to be supplied to Council for approval within three (3) weeks prior to the event, including but not limited to the number and location of bins, the waste service contractor and how the waste will be removed off site.
- 3.62 Adequate waste and recycling facilities are to be located around the spectator area to cater of waste disposal. Separate waste and recycling facilities are to be provided for the food and refreshment businesses.
- 3.63 Bins are to be located as to not cause pollution and are to be frequently emptied.
- 3.64 A detailed Wastewater Management Plan for the storage and disposal of all wastewater needs to be supplied to Council for approval within three (3) weeks prior to the event. The plan should reference the Australian Emergency Manuals Series – Manual 2 *Safe and Healthy Mass Gatherings* (EMA 1999) and any NSW Health requirements.
- 3.65 Temporary sanitary facilities, separate from those supplied for food handlers, must be provided for patrons and other event staff in accordance with Table F2.3 of the Building Code of Australia.
- 3.66 The provisions of toilets for the event are to comply with Section 34 and 35 of Chapter 5 in the Emergency Management Practice Manual, prepared by the Attorney General's Department. In addition, hand sanitary stations shall be provided in sufficient numbers for the event.
- 3.67 Showers shall be supplied for any food handlers/event staff who will be staying overnight at the event if this to occur.
- 3.68 All toilet and wastewater facilities are to be operated and located in a suitable location so not to cause water pollution as defined in the provisions of the *Protection of the Environment Operations Act, 1997* and the Regulations made thereunder.
- 3.69 In the event wastewater enters the dams, local water ways or the stormwater system, immediate action is to be taken to minimise any environmental or public health impacts. In addition, Council is to be

notified of the incident immediately.

- 3.70 Any wastewater discharge or spill is to be cleaned up immediately with the waste being disposed of by a licensed waste contractor.
- 3.71 All toilets and wastewater facilities are to be maintained in a clean manner for the duration of the event. The facilities are to be pumped out at a frequency deemed necessary to maintain cleanliness.
- 3.72 No wastewater is to be discharged to the environment. All wastewater is to be transported and disposed of at a lawful and licensed facility by a NSW EPA licensed contractor. Copies of receipts are to be provided to Council within one week of the event finishing.
- 3.73 A detailed Waste Management Plan for the storage and disposal of all waste needs to be supplied to Council for approval within three (3) weeks prior to the event, including but not limited to the number and location of bins, the waste service contractor and how the waste will be removed off site.
- 3.74 Adequate waste and recycling facilities are to be located around the spectator area to cater of waste disposal. Separate waste and recycling facilities are to be provided for the food and refreshment businesses.
- 3.75 Bins are to be located as to not cause pollution and are to be frequently emptied.

**Noise**

- 3.76 Noise generated from the event is not to exceed the background noise level by more than 5 dB(a) at any time. This is to be assessed at the most-affected point on the property boundary or, if that is more than 30m from the residence, at the most-affected point within 30m of the residence.
- 3.77 All music and use of amplified address systems is to cease at 10:00pm.
- 3.78 Access to venue is to be provided to Council's staff for the purpose of undertaking noise assessments during the course of the event.
- 3.79 The requirements of Section 5.3 of the Noise Management Plan (prepared by Wilkinson Murray dated January 2017) are to be complied with at all times.
- 3.80 The compliance noise monitoring shall be undertaken in accordance with Section 6 of the Noise Management Plan (prepared by Wilkinson Murray dated January 2017) and undertaken in accordance with the following frequency:
- Minimum of once during the daytime period (up until 6pm)
  - Minimum of twice during the evening period (6-10pm)
  - In response to complaints received from the community
- 3.81 The requirements of Section 7 through to 9 of the Noise Management

Plan (prepared by Wilkinson Murray dated January 2017) are to be complied with at all times.

- 3.82 The services of a suitably qualified consultant is to be engaged to conduct noise testing during the event and provide an Event Acoustic Report to be submitted to Penrith City Council within twenty eight (28) days of the event.

The Event Acoustic Report is to comply with Australian Standard AS1055 Acoustics - Description of measurement of environmental noise and New South Wales Environment Protection Authority Industrial Noise Source Policy 2000.

- 3.83 The event applicant is to ensure that noise control measures are in place as required by the provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise and the Protection of the Environment Operations (Noise Control) Regulation 2000.

Noise levels generated by the events shall not be audible from the dwellings of neighbouring properties.

- 3.84 A noise complaint hotline (landline and mobile) by the event organisers is to be made available to the surrounding area in case noise nuisance occurs. Any complaints are to be reported to the event manager and where necessary action is to be taken to resolve the noise nuisance. The event manager if so required by a Council authorised officer, the acoustic consultant or the NSW Police Force, must have the authority to order the reduction of noise level produced.

- 3.85 One (1) week prior to the any functions being held on the site, details of the noise complaint hotline (including landline and mobile phone), the dates and times of the events are to be distributed to residents within 1km of the property boundaries of the site.

Details of the function to be held on the site are also to be displayed within the Mulgoa Progress Association Notice Board, located within the Mulgoa Village Shopping Centre.

### **Environmental Management**

- 3.86 Erosion and sediment control measures shall be implemented in and around the car parking areas to prevent mud and soil from vehicular movements from entering dams, tributaries and the stormwater drainage system.
- 3.87 The erosion and sediment control measures shall be installed in accordance with "Managing Urban Stormwater: Soils and Construction" 2004 and be maintained for the duration of the events.
- 3.88 No trees or other vegetation (including native understorey and grass species) are to be removed, ringbarked, cut, topped, lopped or wilfully destroyed without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order Policy. Tree protection measures may be required where vehicles or structures will be near trees.
- 3.89 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental

- Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.
- 3.90 No fill, machinery or materials are to be placed or stored within the drip-line of any tree, unless appropriate tree protection measures are in place.
- 3.91 Dust suppression and minimisation strategies must be employed to manage potential dust nuisances within the site. This is to apply to parking areas, access roads and within the event site.
- 3.92 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 3.93 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.
- 3.94 Any general waste located within the local road network affected by the local traffic diversions (St Thomas road, Farm Road and Littlefields Road) is to be removed from these locations within one (1) week of each event being held.
- 3.95 A Rehabilitation Plan is to be submitted to Council at least three (3) weeks prior to the event. The rehabilitation works are to be inspected by Council within one (1) week of the rehabilitation works being completed. Fees for the inspection are to be paid, as detailed in Penrith City Council's Fees and Charges, and will be invoiced accordingly.

**Security, Drug and Alcohol Management**

- 3.96 A Security Management Plan must be provided to Council at least three (3) weeks prior to the event. The plan must:
- a combination of security personnel and paid Policing for the duration of the event. This includes a number of security guards on the site as determined in conjunction with Penrith Police.
  - Crowd Control procedures to be adhered to by security and event staff throughout the event.
- 3.97 A Drug and Alcohol Management Plan must be submitted to Council at least three (3) weeks prior to the event.
- 3.98 Security and event staff are to promote responsible consumption of alcohol and minimise opportunities for alcohol related antisocial behaviour to occur.
- 3.99 Security personnel must be provided within the on-site car park and at each bar area for crowd control and to monitor intoxicated persons and minimise alcohol-related antisocial behaviour.
- 3.100 Glass containers must not be permitted, with plastic containers or cans to be used instead. All cans must be opened at the bar.
- 3.101 Alcohol must not be brought in to the event, but must only be purchased on site from the licensed vendors. The consumption of alcohol within the car park on the site is not permitted.



- 3.102 Bar areas must comply with all RSA and legislative requirements concerning the sale and service of alcohol.
- 3.103 Free water must be provided at all bar areas and bottle refilling stations.

**Major and Medical Incidents**

- 3.104 The 'Event Management and Operational Plan - Fernhill Estate 2017 Concert' provided by the applicant must be followed by all event staff. Training should be provided to staff to ensure they are familiar with the plans and steps that should be followed in the event of an incident or emergency.
- 3.105 Records should be kept of all incidents at the event, and should include details such as the date, location and time of incident, description of incident, contact details of person involved, and action taken.

**Lighting and Power**

- 3.106 Lighting should be provided to clearly illuminate entry and exit points, food stalls, toilets, first aid areas and stage area.
- 3.107 Access to the main lighting or house lights is essential in case of an emergency. The location of the controls for these lights, and the operation of the controls, must be known to those on-site responsible for emergencies.

**Signage**

- 3.108 Clear signage should be displayed throughout the event to clearly indicate entry/exit points, emergency help points, toilets, first aid, stage locations, telephones, vendors and licensed/non-licensed areas.
  - 3.109 Additional signage is to be displayed throughout the event to clearly mark 'Designated Smoking Areas' and the need to properly dispose of cigarette butts into the correct bins in order to protect the site's heritage items and the environment.
  - 3.110 All signage associated with the event shall be removed upon completion of the event.
4. Those making submissions be advised of Council's decision and the outcome of the Integrated Application under the Heritage Act 1977.

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

**For**

Councillor Kath Presdee  
Councillor Bernard Bratusa  
Councillor John Thain  
Councillor Greg Davies  
Councillor Mark Davies  
Councillor Ross Fowler OAM  
Councillor Jim Aitken OAM  
Councillor Tricia Hitchen  
Councillor Joshua Hoole  
Councillor Aaron Duke  
Councillor Todd Carney  
Councillor Ben Price

**Against**

Councillor Kevin Crameri OAM  
Councillor Marcus Cornish  
Councillor Karen McKeown

**9 Compliance and Legal History relating to (No. 41-47) Jolly Street, Castlereagh Applicant: Ty and Deanne Gosling; Owner: ~Ty and Deanne Gosling**

Councillors Aaron Duke, Tricia Hitchen, Mark Davies and Bernard Bratusa left the meeting, the time being 8:48pm

Councillors Tricia Hitchen and Bernard Bratusa returned to the meeting, the time being 8:49pm

Councillors Greg Davies and Marcus Cornish left the meeting, the time being 8:49pm

Councillor Aaron Duke returned to the meeting the time being 8:50pm

Councillors Marcus Cornish and Mark Davies returned to the meeting, the time being 8:53pm

Councillor Greg Davies returned to the meeting, the time being 9:03pm

Councillor Todd Carney left the meeting, the time being 9:10pm

Councillor Todd Carney returned to the meeting, the time being 9:11pm

Councillors Jim Aitken OAM and Ben Price left the meeting, the time being 9:12pm

Councillor Jim Aitken OAM and Ben Price returned to the meeting, the time being 9:13pm

**38 RESOLVED** on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Jim Aitken OAM

That the information contained in the report on Compliance and Legal History relating to (No. 41-47) Jolly Street, Castlereagh be received.

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

**For**

Councillor Kath Presdee  
Councillor Bernard Bratusa  
Councillor Kevin Crameri OAM  
Councillor Karen McKeown  
Councillor John Thain  
Councillor Greg Davies  
Councillor Mark Davies  
Councillor Ross Fowler OAM  
Councillor Jim Aitken OAM  
Councillor Tricia Hitchen  
Councillor Marcus Cornish  
Councillor Joshua Hoole  
Councillor Aaron Duke  
Councillor Todd Carney  
Councillor Ben Price

**Against**

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

**10 Bank Stabilisation of the Nepean River and associated drainage works at Blaxland Crossing Reserve, Wallacia**

Councillor Ross Fowler OAM left the meeting, having previously declared a pecuniary interest in this item, the time being 9:14pm.

39 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Karen McKeown

That:

1. The information contained in the report on Bank Stabilisation of the Nepean River and associated drainage works at Blaxland Crossing Reserve, Wallacia be received
2. Approval be granted to carry out drainage and bank stabilisation works within Blaxland Crossing Reserve, Wallace with Council funding.
3. The Blaxland Crossing Recreation and Rest Ground Trust be advised of Council's decision.

**11 Works on private land to facilitate safe driveway entry/exit – Affected by Roundabout Construction at Caddens Road & Bringelly Road, Kingswood**

Councillor Ross Fowler OAM returned to the meeting, the time being 9:15pm

40 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Karen McKeown

That:

1. The information contained in the report on Works on private land to facilitate safe driveway entry/exit – Affected by Roundabout Construction at Caddens Road & Bringelly Road, Kingswood be received.
2. Council resolve to fund the proposed turning bays on private land out of the project cost which is fully funded by the Australian Government.

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

**13 Works on private land to facilitate placemaking on Sydney Street, St Marys**

41 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Bernard Bratusa

That:

1. The information contained in the report on Works on private land to facilitate placemaking on Sydney Street, St Marys be received.
2. Council approve the scoping and delivery of public works on private land at no cost to the property owners as described in this report.

**12 Proposed road closure of part Bradley Street, Glenmore Park and consolidation with adjoining Council Land**

42 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Greg Davies

That:

1. The information contained in the report on Proposed road closure of part Bradley Street, Glenmore Park and consolidation with adjoining Council Land be received.
2. Council resolve to submit and undertake an application to the Department of Industry – Lands for a permanent road closure of Part of Bradley Street, Glenmore Park.
3. Proposed Lots 19 and 20 be classified as Community land and dedicated as public reserve upon closure of the subject road.
4. Proposed Lot 19 be consolidated with Lot 18 DP 1155005.
6. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

**14 Tender Reference RFT 16/17-09 Public Domain and Special Places Upgrade**

43 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Greg Davies

That:

1. The information contained in the report on Tender Reference RFT 16/17-09 Public Domain and Special Places Upgrade be received
2. Community Assets & Infrastructure Pty Ltd be awarded the contract for Public Domain and Special Places Upgrade, Queen Street, St Marys for an amount of \$2,963,474 excluding GST.
3. Council approve the expenditure of funds and the carrying out of the required project works on private land at no cost to property owners as detailed in the report.
4. The Common Seal of the Council of the City of Penrith be placed on all documentation if necessary.

**OUTCOME 5 - WE CARE ABOUT OUR ENVIRONMENT**

**15 57th Annual Floodplain Management Australia Conference - Tuesday, 16 May to Friday, 19 May 2017**

44 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Tricia Hitchen

That:

1. The information contained in the report on 57th Annual Floodplain Management Australia Conference - Tuesday, 16 May to Friday, 19 May 2017 be received.

2. Councillors Jim Aitken OAM, Kevin Crameri OAM and Marcus Cornish and any other interested Councillors be nominated as delegates to the 2017 Floodplain Management Australia Conference and Workshops to be held in Newcastle from Tuesday, 16 May to Friday, 19 May 2017 and grant leave of absence as appropriate.

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

##### **16 Western Sydney Academy of Sport - Nomination of Director to Academy Board**

45 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Aaron Duke

That:

1. The information contained in the report on Western Sydney Academy of Sport - Nomination of Director to Academy Board be received
2. Councillor Bernard Bratusa be nominated for the position of Local Government Director on the Western Sydney Academy of Sport Board for appointment until August and for reappointment at future Academy AGM's for the course of Council's term.

##### **17 Licence Agreement - National Training Centre for Women's Rowing**

46 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Licence Agreement - National Training Centre for Women's Rowing be received
2. The licence agreement be signed and authority to execute the licence agreement be granted to Council's Facilities Manager

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

##### **18 Organisational Performance Report - December 2016**

47 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Aaron Duke

That:

1. The information contained in the report on Organisational Performance Report - December 2016 be received.
2. The *Organisational Performance Report - December 2016* as at 31 December 2016, including the revised estimates outlined in this report and detailed in *the Organisational Performance Report* be adopted.

**19 2016-17 Borrowing Program**

48 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Aaron Duke  
That:

1. The information contained in the report on 2016-17 Borrowing Program be received.
2. Council borrow the \$8,260,000 to fund infrastructure assets.
3. The General Manager be granted delegated authority to negotiate the loans in accordance with this resolution.
4. The Common Seal of the Council of the City of Penrith be affixed to those documents that are necessary to finalise these borrowings.
5. The final terms and conditions of the borrowings be reported to the Council upon completion of the loan contracts.

**20 Appointment of a Director on the Board of the Penrith Performing and Visual Arts Limited**

49 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Aaron Duke  
That:

1. The information contained in the report on Appointment of a Director on the Board of the Penrith Performing and Visual Arts Limited be received
2. Council endorse the appointment of Sandy Davies to the Board of the Penrith Performing and Visual Arts Limited as the General Manager's Nominee.

**21 Solar Communities Funding Application**

50 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Aaron Duke  
That:

1. The information contained in the report on Solar Communities Funding Application be received.
2. Council endorse the submission of project applications to the Solar Communities – Election Commitments Program at the following nine facilities:
  - Jamisontown Children's Centre
  - Ridge-ee-Didge Children's Centre
  - Tamara Children's Centre
  - Yoorami Children's Centre
  - Platypus Playground Children's Centre
  - Koala Corner Children's Centre
  - Lewers Gallery
  - St Marys Memorial Hall
  - Werrington County Children's Centre
3. Council officers execute the Funding Agreements for successful project applications.

**22 Licence Agreement to Seymour Whyte Constructions Pty Limited, over part 28 Great Western Highway Emu Plains for a site compound for the Nepean Bridge Project**

51 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Aaron Duke  
That:

1. The information contained in the report on Licence Agreement to Seymour Whyte Constructions Pty Limited, over part 28 Great Western Highway Emu Plains for a site compound for the Nepean Bridge Project be received.
2. Council grant a twelve-month Licence Agreement as detailed in this report.
3. Council resolve to affix the Common Seal of the Council of the City of Penrith to any necessary documentation.

**23 Summary of Investments & Banking for the period 1 January 2017 to 31 January 2017**

52 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Aaron Duke  
That:

1. The information contained in the report on Summary of Investments & Banking for the period 1 January 2017 to 31 January 2017 be received.
2. The certificate of the Responsible Accounting Officer and Summaries of Investments and Performance for the period 1 January 2017 to 31 January 2017 be noted.
3. The commentary and graphical investment analyses as at 31 January 2017 be noted.

**REQUESTS FOR REPORTS AND MEMORANDUMS**

**RR 1 Grey Gums Oval**

Councillor Kath Presdee requested a memo reply requesting Council Officers liaise with the police in relation to the riding of trial bikes on and around Grey Gums Oval. While measures have been taken to prevent the riding of the bikes on the actual ovals, there has been an increase of riding those bikes during the training times of Penrith Giants and the Penrith Rams, causing a significant risk to the safety of those attending training - quite often parents of children. What is being done and for copies to be sent to the Presidents of the Penrith Giants and Penrith Rams as the users of the oval.

**RR 2 Airport Forums**

Councillor Kevin Crameri OAM requested the report regarding airport forums be brought to the next Ordinary Meeting.

**RR 3 Mulgoa Rise Soccer Grounds**

Councillor Todd Carney requested a memo reply regarding the new soccer grounds at Mulgoa Rise and the possibility of the ground being rolled.

**RR 4 Media Monitoring**

Councillor Marcus Cornish requested a memo reply to Councillors regarding how much Council spends on media monitoring and associated works.

**RR 5 Homeless in Penrith**

Councillor Marcus Cornish requested a report back to Council on the costs of supplying six Atco style transportable 6M sheds and 1 portable ablutions block containing showers and toilets to house the homeless in Penrith overnight.

The report to contain:

1. Suitable council, state or federally owned sites to use for this initiative on a trial bases. The site would need to be in a reasonable distance from either Nepean or Mt Druitt hospitals.
2. The practicalities of making these facilities available for night time use only being open before sunset and vacated by 8am in the morning to stop a 'sum' or 'slum mentality, existing.'
3. An appropriate small contribution that would be asked of those using these premises to offset the cost of power, water and maintenance to the ratepayers of Penrith.
4. A realist time line for implementation.

**RR 6 Damage to Russell Street, Emu Plains**

Councillor Ross Fowler OAM requested a memo reply regarding the damage to Russell Street, Emu Plains and provide information of the incident and the follow up.

Councillor Marcus Cornish left the meeting and did not return, the time being 9:27pm.

**COMMITTEE OF THE WHOLE**

53 RESOLVED on the Motion of Councillor Kevin Crameri OAM seconded Councillor Karen McKeown that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 9:28pm.

Councillors Tricia Hitchen and John Thain left the meeting, the time being 9:28pm

Councillor Tricia Hitchen returned to the meeting, the time being 9:29pm

Councillor John Thain returned to the meeting, the time being 9:30pm

**1 Presence of the Public**

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



**Outcome 7****2 Licence of Council owned land at 76 Kurrajong Road North St Marys to The Regency Ramblers Rod and Custom Club**

*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 Lease Council owned property at Shop 1, 144 Henry Street Penrith to Alam Family Australia Pty Ltd**

*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.*

**4 Council Property - Leasing of 35 Colorado Drive St Clair to Little Smarties Pty Ltd under Section 47A of the Local Government Act 1993**

*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.*

**5 Lease of Suite 105, 114-116 Henry Street Penrith to Nepean Area Disabilities Organisation 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.*

**6 Lease for Council owned premises at Shop 1, 225-227 Queen Street St Marys to Paradise Charcoal Chicken Pty Ltd**

*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.*

**Outcome 5****7 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.*

The meeting resumed at 9:37pm and the General Manager reported that the Committee of the Whole met at 9:28pm on 27 February 2017, the following being present

His Worship the Mayor, Councillor John Thain, Deputy Mayor, Councillor Tricia Hitchen, and Councillors Jim Aitken OAM, Bernard Bratusa, Todd Carney, Kevin Crameri OAM, Greg Davies, Mark Davies, Aaron Duke, Ross Fowler OAM, Joshua Hoole, Karen McKeown, Kath Presdee and Ben Price.

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 Licence of Council owned land at 76 Kurrajong Road North St Marys to The Regency Ramblers Rod and Custom Club**

RECOMMENDED on the MOTION on Councillor Tricia Hitchen seconded Councillor Bernard Bratusa

CW2 That:

1. The information contained in the report on Licence of Council owned land at 76 Kurrajong Road North St Marys to The Regency Ramblers Rod and Custom Club be received.
2. Council grant a Licence over 76 Kurrajong Road, North St Marys in accordance with the terms and conditions outlined in this report.
3. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

### **3 Lease Council owned property at Shop 1, 144 Henry Street Penrith to Alam Family Australia Pty Ltd**

RECOMMENDED on the MOTION on Councillor Tricia Hitchen seconded Councillor Bernard Bratusa

CW3 That:

1. The information contained in the report on Lease Council owned property at Shop 1, 144 Henry Street Penrith to Alam Family Australia Pty Ltd be received.
2. Council approve the new lease as set out in the terms and conditions in this report.
3. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

**4 Council Property - Leasing of 35 Colorado Drive St Clair to Little Smarties Pty Ltd under Section 47A of the Local Government Act 1993**

RECOMMENDED on the MOTION on Councillor Tricia Hitchen seconded Councillor Bernard Bratusa

CW4 That:

1. The information contained in the report on Council Property - Leasing of 35 Colorado Drive St Clair to Little Smarties Pty Ltd under Section 47A of the Local Government Act 1993 be received.
2. Council grant a new 5 year Lease to Little Smarties Pty Ltd as outlined in the report.
3. Council approve the consolidation Lot 601 and Lot 600 DP717768 to facilitate the alterations and additions to the existing Child Care Centre.
4. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

**5 Lease of Suite 105, 114-116 Henry Street Penrith to Nepean Area Disabilities Organisation Incorporated**

RECOMMENDED on the MOTION on Councillor Tricia Hitchen seconded Councillor Bernard Bratusa

CW5 That:

1. The information contained in the report on Lease of Suite 105, 114-116 Henry Street Penrith to Nepean Area Disabilities Organisation Incorporated be received.
2. Council approve the Lease Agreement in accordance with the terms and conditions detailed in the report.
3. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

**6 Lease for Council owned premises at Shop 1, 225-227 Queen Street St Marys to Paradise Charcoal Chicken Pty Ltd**

RECOMMENDED on the MOTION on Councillor Tricia Hitchen seconded Councillor Bernard Bratusa

CW6 That:

1. The information contained in the report on Lease for Council owned premises at Shop 1, 225-227 Queen Street St Marys to Paradise Charcoal Chicken Pty Ltd be received.
2. Council approve the proposed new lease agreement as detailed in the report.
3. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

**7 Status on Litigation and Compliance Matters**

RECOMMENDED on the MOTION on Councillor Ross Fowler OAM seconded Councillor Greg Davies

CW7 That:

1. The information contained in the report on Status on Litigation and Compliance Matters be received.
2. The offer from Vodafone be accepted to resolve the Federal Court proceedings relating to the installation of the telecommunications infrastructure on Council's land.
3. Council approach the Attorney General and LGNSW in relation to finding a solution that addresses the court conduct with respect to parties of the court providing surety when dealing with issues such as the Dellara Matter.

**ADOPTION OF COMMITTEE OF THE WHOLE**

54 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Kevin Crameri OAM that the recommendation contained in the Committee of the Whole and shown as CW1, CW2, CW3, CW4, CW5, CW6 and CW7 be adopted.

Councillor Jim Aitken OAM left the meeting, the time being 9:38pm

Councillor Jim Aitken OAM returned to the meeting, the time being 9:40pm

There being no further business the Chairperson declared the meeting closed the time being 9:42pm.

I certify that these 36 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 27 February 2017.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date