

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

ON MONDAY 26 NOVEMBER 2018 AT 7:00PM

NATIONAL ANTHEM

The meeting opened with the National Anthem.

STATEMENT OF RECOGNITION

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

PRAYER

The Council Prayer was read by the Rev Neil Checkley.

PRESENT

His Worship the Mayor, Councillor Ross Fowler OAM, Deputy Mayor, Councillor Greg Davies (arrived at 7:02pm), and Councillors Jim Aitken OAM, Bernard Bratusa, Todd Carney, Brian Cartwright, Robin Cook, Marcus Cornish, Kevin Crameri OAM, Mark Davies, Aaron Duke, Tricia Hitchen, Karen McKeown OAM, Kath Presdee and John Thain.

APOLOGIES

There were no apologies.

CONFIRMATION OF MINUTES - Ordinary Meeting - 29 October 2018

277 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Jim Aitken OAM that the minutes of the Ordinary Meeting of 29 October 2018 be confirmed.

DECLARATIONS OF INTEREST

Councillor Aaron Duke declared a Non-Pecuniary Conflict of Interest – Less Than Significant in *COW Item 5 - Dedication of Council Land for Road Purposes - Lot 11 DP 264298* as he previously resided in the street the subject of this report and his parents still reside in the street.

Councillor Jim Aitken OAM declared a Non-Pecuniary Conflict of Interest – Less Than Significant in *COW Item 3 - Update on Proceedings against the Penrith Business Alliance Ltd and Others* as he is a Director on the Board of the Penrith Business Alliance Ltd.

REPORTS OF COMMITTEES

1 Report and Recommendations of the Access Committee Meeting held on 10 October 2018

278 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Karen McKeown OAM that the recommendations contained in the Report and Recommendations of the Access Committee meeting held on 10 October, 2018 be adopted.

2 Report and Recommendations of the Local Traffic Committee Meeting held on 5 November 2018

279 RESOLVED on the MOTION of Councillor Karen McKeown OAM seconded Councillor Marcus Cornish that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 5 November, 2018 be adopted.

3 Report and Recommendations of the Policy Review Committee Meeting held on 12 November 2018

280 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Robin Cook that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 12 November, 2018 be adopted.

DELIVERY PROGRAM REPORTS

OUTCOME 2 - WE PLAN FOR OUR FUTURE GROWTH

1 Planning Proposal for Winter Sporting Facility at 2-4 Tench Avenue, Jamisontown

281 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Kath Presdee

That:

1. The information contained in the report on Planning Proposal for Winter Sporting Facility at 2-4 Tench Avenue, Jamisontown be received
2. Council endorse the Planning Proposal (provided separately and tabled tonight), subject to any further changes resulting from Item 4 below.
3. Council officers forward the Planning Proposal to the Minister for Planning with a request to issue a Gateway Determination. (The submission will include a request to issue Council with Delegation for plan making authority).
4. The General Manager be granted delegation to make any necessary changes to the Planning Proposal referred to in Item 2 above:
 - a. prior to Council's submission of the Planning Proposal to the Minister for Planning to request a Gateway Determination.
 - b. as a result of negotiated changes sought by DPE in the lead up to the issuing of the Gateway Determination.
 - c. prior to public exhibition in response to the conditions of the Gateway Determination or negotiations with public authorities and other stakeholders.
5. A Development Control Plan be prepared for the subject site, to be publicly exhibited concurrently with the Planning Proposal.

6. Council publicly exhibit the Planning Proposal for a period to be specified in the Gateway Determination, and in accordance with the community consultation requirements of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.

7. A further report be presented to Council following the public exhibition.

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

For

Against

Councillor Kath Presdee
Councillor Robin Cook
Councillor Greg Davies
Councillor Todd Carney
Councillor Aaron Duke
Councillor Karen McKeown OAM
Councillor John Thain
Councillor Kevin Crameri OAM
Councillor Jim Aitken OAM
Councillor Mark Davies
Councillor Brian Cartwright
Councillor Tricia Hitchen
Councillor Bernard Bratusa
Councillor Marcus Cornish
Councillor Ross Fowler OAM

2 Tender Reference 18/19-14: Studies and Strategies for Penrith's Local Environmental Plan Review

282 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Marcus Cornish

That:

1. The information contained in the report on Tender Reference 18/19-14: Studies and Strategies for Penrith's Local Environmental Plan Review be received.
2. Ethos Urban be awarded the contract to undertake the Local Housing Strategy for an amount of \$185,500 (excluding GST).
3. City Plan Strategy & Development be awarded the contract to undertake the Rural Lands and Villages Study and Strategy, including Scenic and Cultural Landscape Strategy for an amount of \$90,420 (excluding GST).
4. SGS Economics and Planning be awarded the contract to undertake the St Marys Town Centre Economic Analysis and Development Strategy for an amount of \$97,706 (excluding GST).
5. The Common Seal of the Council of the City of Penrith be placed on all documentation as necessary.

OUTCOME 4 - WE HAVE SAFE, VIBRANT PLACES

4 Draft Penrith Community Safety Plan 2018-22

283 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Marcus Cornish

That:

1. The information contained in the report on Draft Penrith Community Safety Plan 2018-22 be received
2. Council adopt the Plan to guide the strategic delivery of community safety priorities and projects for the next four (4) years;
3. Council support the submission of the Plan to the New South Wales Department of Justice, seeking formal endorsement as a Safer Community Compact.

6 RFT 18/19-11 Waters Edge Platforms

284 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Marcus Cornish

That:

1. The information contained in the report on RFT 18/19-11 Waters Edge Platforms be received
2. Talis Civil Pty Ltd be awarded the Contract subject to the execution of a formal agreement for the Waters Edge Platforms for an amount of \$203,298 (excluding GST).
3. Talis Civil Pty Ltd be awarded the 3-year contract for the construction of future Waters Edge platforms on the banks of Nepean River based on the schedule of rates.
4. The Common Seal of the Council of the City of Penrith be placed on all documentation if necessary.

3 Acquisition of Council Land by Transport for NSW for Penrith Transport Interchange Northern Concourse Stairs (Part Lot 3012 DP1184498)

285 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Marcus Cornish

That:

1. The information contained in the report on Acquisition of Council Land by Transport for NSW for Penrith Transport Interchange Northern Concourse Stairs (Part Lot 3012 DP1184498) be received.
2. Council provide concurrence to the compulsory acquisition as per the terms and conditions listed in the report.
3. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

5 Control and Management of the Pioneer Church of England Cemetery in Castlereagh

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

That:

1. The information contained in the report on Control and Management of the Pioneer Church of England Cemetery in Castlereagh be received
2. Notification be provided to The Manager, Parish Property Services, Anglican Church that arrangements are to be made for the transfer of title to Council for Lot 281, Pioneer Cemetery, Castlereagh, along with the attendant management responsibilities.
3. A further report be provided to Council, confirming the transfer of title Lot 281, Pioneer Cemetery, Castlereagh.
4. Council officers submit a report to a future Heritage Committee meeting to consider having the Pioneer Cemetery heritage listed.

OUTCOME 5 - WE CARE ABOUT OUR ENVIRONMENT

7 Nepean River Flood Study

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

That:

1. The information contained in the report on the Nepean River Flood Study be received.
2. Council adopt the Nepean River Flood Study Final Report dated 12 November 2018.
3. Council adopt an interim flood planning level:
 - a. of 26.5 metres AHD (1% Annual Exceedance Probability flood level plus 0.5 metres freeboard) for the area in Emu Plains identified in Appendix 2.
 - b. of 1% Annual Exceedance Probability flood level plus 1.0 metres freeboard for the areas of Cranebrook identified in Appendix 3.
4. The Nepean River Flood Study Final Report dated 12 November 2018 be published and made available on Council's website.
5. Council write to those who made submissions advising of Council's resolution.
6. Council write to owners of the ten (10) properties in Agnes Banks located east of Castlereagh Road with advice on the Nepean River Flood Study.
7. Council write to relevant State and Federal Members of Parliament advising them of the adoption of the Nepean River Flood Study and thanking them for their continued support of Council's Floodplain Management Program.

8. Council's Engineering Services Department staff be thanked for their dedication to the preparation of the Nepean River Flood Study.

8 RFT 17/18-08 Part E - Effluent Collection Services

288 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Brian Cartwright

That:

1. The information contained in the report on RFT 17/18-08 Part E - Effluent Collection Services be received
2. Council accept the bid from Staples Brothers (Nowra) Pty Ltd, trading as Premier Pump outs.
3. Council authorise the Waste & Resource Recovery Manager and Chief Governance Officer to finalise the terms of contract.
4. The Common Seal of the Council of the City of Penrith be affixed to all necessary documentation.
5. A report be presented to a Policy Review Committee meeting regarding the 18 Council properties which are not connected to the sewer.

OUTCOME 6 - WE ARE HEALTHY AND SHARE STRONG COMMUNITY SPIRIT

9 NSW Government's ICC World T20 2020 Cricket Legacy Fund

289 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Brian Cartwright

That:

1. The information contained in the report on NSW Government's ICC World T20 2020 Cricket Legacy Fund be received
2. Council accept the grant award of \$15,000 from NSW Government's ICC World T20 2020 Cricket Legacy Fund for the construction of a synthetic cricket wicket at the Village Oval, Jordan Springs.
3. A letter be provided to Penrith Cricket Association notifying the Club that it can accept the grant award of \$82,700 for the purpose of the specified infrastructure development at Rance Oval.
4. A letter of appreciation be provided to The Hon. Stuart Ayres MP, Minister for Sport, for the NSW Government's funding contribution through the Government's ICC World T20 2020 Cricket Legacy Fund.
5. A letter of appreciation be provided to Cricket NSW for its funding contribution to the projects at Rance Oval, Werrington and the Village Oval Jordan Springs.

10 NSW Government's 2018 Community Building Partnership Program

290 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Brian Cartwright

That:

1. The information contained in the report on NSW Government's 2018 Community Building Partnership Program be received
2. Council accept the grants awarded of \$77,500 from NSW Government's Community Building Partnership.
3. Letters be provided to successful community organisations authorising them that they can accept the grants on Council land.
4. A letter of appreciation be provided to The Hon. Stuart Ayres MP, The Hon. Tanya Davies MP, and Ms Prue Car MP, for the NSW Government's funding contribution through the Government's Community Building Partnership Program.

11 RFT 18/19-09 Kingsway Amenities Building

291 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Brian Cartwright

That:

1. The information contained in the report on RFT 18/19-09 Kingsway Amenities Building be received
2. Austfield Pty Ltd be awarded the Contract subject to the execution of a formal agreement for the Construction of Kingsway Amenities Building for an amount of \$ \$925,246.48 excluding GST.
3. The Common Seal of the Council of the City of Penrith be placed on all documentation as necessary.

12 RFT 18/19-13 Penrith Street and Sportsfield Tree Project

292 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Brian Cartwright

That:

1. The information contained in the report on RFT 18/19-13 Penrith Street and Sportsfield Tree Project be received
2. Asplundh Tree Expert Australia Pty Ltd be awarded the Contract subject to the execution of a formal agreement for the Penrith Street and Sports Field Tree Project for an amount of \$77,348.15 (excluding GST).
3. Asplundh Tree Expert Australia Pty Ltd be awarded the 3-year contract for the tree planting works in Penrith LGA based on the schedule of rates they have provided.
4. The Common Seal of the Council of the City of Penrith be placed on all documentation if necessary.

13 RFT 18/19-04 Construction of Play and Recreational Facilities in Sienna Gardens

293 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Brian Cartwright

That:

1. The information contained in the report on RFT 18/19-04 Construction of Play and Recreational Facilities in Sienna Gardens be received
2. Growth Civil Landscapes Pty Ltd be awarded the contract subject to the execution of a formal agreement for Construction of Play and Recreational Facilities in Sienna Gardens, for an amount of \$414,754 excluding GST.
3. The Common Seal of the Council of the City of Penrith be placed on all documentation if necessary.

OUTCOME 7 - WE HAVE CONFIDENCE IN OUR COUNCIL

15 Organisational Performance and Financial Review - September 2018

294 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Aaron Duke

That:

1. The information contained in the report on Organisational Performance and Financial Review - September 2018 be received.
2. The *Organisational Performance and Financial Review - September 2018* as at 30 September 2018, including the revised estimates outlined in this report and detailed in the *Organisational Report - September 2018* be adopted.

16 2019 Proposed Council Meeting Calendar

295 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Aaron Duke

That:

1. The information contained in the report on 2019 Proposed Council Meeting Calendar be received.
2. The draft Meeting Calendar for 2019 be adopted.

17 2017-18 Penrith City Council Annual Report

296 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Aaron Duke

That:

1. The information contained in the report on 2017-18 Penrith City Council Annual Report be received

2. The 2017-18 Annual Report be endorsed for submission to the NSW Office of Local Government by 30 November 2017, subject to minor amendments.

18 Summary of Investments & Banking for the Period 1 October 2018 to 31 October 2018

297 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Aaron Duke

That:

1. The information contained in the report on Summary of Investments & Banking for the Period 1 October 2018 to 31 October 2018 be received.
2. The certificate of the Responsible Accounting Officer and Summary of Investments and Performance for the period 1 October 2018 to 31 October 2018 be noted and accepted.
3. The graphical investment analysis as at 31 October 2018 be noted.

14 Code of Conduct - Report on Complaints Statistics

298 RESOLVED on the MOTION of Councillor Marcus Cornish seconded Councillor Karen McKeown OAM

That:

1. The information contained in the report on Code of Conduct - Report on Complaints Statistics be received
2. A copy of this report along with the complaints statistics provided in accordance with 12.1 of the Model Code Procedures be forwarded to the Office of Local Government.

REQUESTS FOR REPORTS AND MEMORANDUMS

RR 1 Achievements of Council Staff Member

Councillor Greg Davies requested that a Mayoral letter of congratulations be forwarded to Council's Senior Waste Planning Officer, Joshua Romeo in recognition of him being a finalist in the Waste Management Association of Australia Young Professional of the Year Award.

RR 2 Proposed Cemetery at Wallacia

Councillor Todd Carney requested a memo reply to all Councillors providing an update on the proposed cemetery development at Wallacia.

RR 3 Event Space for Malayalee Kootayama Association

Councillor John Thain requested that Council officers investigate and provide a memo to all Councillors on the availability of a suitable venue where the Malayalee Kootayama Association could hold their annual cultural celebration event.

RR 4 Luddenham Community Centre - Toilet Facilities

Councillor John Thain requested that Council officers investigate the provision of improved toilet facilities at the Luddenham Community Centre.

RR 5 Committee of the Whole – Office of Local Government

Councillor John Thain requested that a matter be referred to Committee of the as it refers to alleged contraventions of any code of conduct requirements applicable under section 440 and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

RR 6 Projected Population Figures - Penrith Lakes, Berkshire Park and Llandilo

Councillor Kevin Crameri OAM requested a memo to all Councillors concerning the projected population and housing figures for the areas of Penrith Lakes, Berkshire Park and Llandilo.

RR 7 Raiding of Recycling Bins

Councillor Tricia Hitchen requested a memo to all Councillors regarding the increasing occurrence of raiding of yellow recycling bins, which may be a commercial enterprise, causing disruption to neighbourhoods in Erskine Park, Claremont Meadows and Caddens areas.

RR 8 Security of Historical School Building in Henry Street, Penrith

Councillor Tricia Hitchen requested that the historical school building in Henry Street, Penrith be fenced and secured immediately to prevent it from sustaining irreparable damage.

RR 9 2018 NSW Open Golf Championship

Councillor Bernard Bratusa thanked Penrith City Council for its support of the 2018 NSW Open Golf Championship which was held at Twin Creeks Golf and Country Club from 8-11 November.

RR 10 Provision of Escalators at Penrith Railway Station

Councillor Marcus Cornish requested that Transport for NSW be requested to provide escalators at Penrith Railway Station.

RR 11 Provision of New Accommodation for Llandilo Rural Fire Service

Councillor Marcus Cornish requested that providing a more suitable location for the accommodation of Llandilo Rural Fire Service vehicles be investigated as a matter of priority.

RR 12 White Ribbon Day Walk 2018

Councillor Karen McKeown OAM congratulated Council officers involved in the organising of Penrith's White Ribbon Day Walk for 2018 which was held on 25 November.

COMMITTEE OF THE WHOLE

299 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Brian Cartwright that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 7:48pm.

1 Presence of the Public

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

Outcome 1

2 50 Belmore Street, Penrith - Contract Execution

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 7

3 Update on Proceedings against the Penrith Business Alliance Ltd and Others

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.

4 Proposed Lease of Shop 2, 134-138 Henry Street Penrith (Gaymark Lane) to Phillip John Hughes (Trading as No Bottom Feeders)

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 4

5 Dedication of Council Land for Road Purposes - Lot 11 DP 264298

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.

6 Office of Local Government

This matter has been referred to Committee of the Whole as it refers to alleged contraventions of any code of conduct requirements applicable under section 440 and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

The meeting resumed at 8:30pm and the General Manager reported that the Committee of the Whole met at 7:48pm on 26 November 2018, the following being present

His Worship the Mayor, Councillor Ross Fowler OAM, Deputy Mayor, Councillor Greg Davies, and Councillors Jim Aitken OAM, Bernard Bratusa, Todd Carney, Brian Cartwright, Robin Cook, Marcus Cornish, Kevin Crameri OAM, Mark Davies, Aaron Duke, Tricia Hitchen, Karen McKeown OAM, Kath Presdee and John Thain.

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

CONFIDENTIAL BUSINESS

2 50 Belmore Street, Penrith - Contract Execution

RECOMMENDED on the MOTION of Councillor Tricia Hitchen seconded Councillor Robin Cook

CW2 That:

1. The information contained in the report on 50 Belmore Street, Penrith - Contract Execution be received
2. Council authorise the General Manager to undertake the steps recommended by this report and provide a further report to Council on the outcomes.
3. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation for the sale of the property.

3 Update on Proceedings against the Penrith Business Alliance Ltd and Others

RECOMMENDED on the MOTION of Councillor Mark Davies seconded Councillor Kath Presdee

CW3 That the information contained in the report on Update on Proceedings against the Penrith Business Alliance Ltd and Others be received.

Councillor Greg Davies left the meeting, the time being 7:56pm.

4 Proposed Lease of Shop 2, 134-138 Henry Street Penrith (Gaymark Lane) to Phillip John Hughes (Trading as No Bottom Feeders)

RECOMMENDED on the MOTION of Councillor Mark Davies seconded Councillor Bernard Bratusa

CW4 That:

1. The information contained in the report on Proposed Lease of Shop 2, 134-138 Henry Street Penrith (Gaymark Lane) to Phillip John Hughes (Trading as No Bottom Feeders) be received.
2. Council approve a two (2) year lease of Shop 2, 134 – 138 Henry Street, Penrith (Gaymark Lane) as per the terms and conditions in the report.
3. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

Councillor Greg Davies returned to the meeting, the time being 8:02pm.

5 Dedication of Council Land for Road Purposes - Lot 11 DP 264298

RECOMMENDED on the MOTION of Councillor Mark Davies seconded Councillor Greg Davies

CW5 That:

1. The information contained in the report on Dedication of Council Land for Road Purposes - Lot 11 DP 264298 be received
2. Council approve the dedication of Lot 11 DP264298 for the purposes of Public Road in accordance with the terms and conditions listed in the report.
3. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

6 Office of Local Government

Councillor John Thain left the meeting at 8:20pm and did not return.

RECOMMENDED on the MOTION of Councillor Aaron Duke seconded Councillor Brian Cartwright

CW6 That the information received in relation to the operations of the Office of Local Government be received.

ADOPTION OF COMMITTEE OF THE WHOLE

300 RESOLVED on the MOTION of Councillor Bernard Bratusa seconded Councillor Tricia Hitchen that the recommendations contained in the Committee of the Whole and shown as CW1, CW2, CW3, CW4, CW5 and CW6 be adopted.

There being no further business the Chairperson declared the meeting closed the time being 8:31pm.

I certify that these 14 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 26 November 2018.

Chairperson

Date