

**UNCONFIRMED MINUTES
OF THE ORDINARY MEETING OF PENRITH CITY COUNCIL HELD REMOTELY USING
AUDIO VISUAL LINKS, AUDIO STREAMED ON THE COUNCIL WEBSITE AND IN THE
COUNCIL CHAMBERS ON MONDAY 24 MAY 2021 AT 7:02PM**

NATIONAL ANTHEM

The meeting opened with the National Anthem.

WEBCASTING STATEMENT

Her Worship the Mayor, Councillor Karen McKeown OAM read a statement advising that Council Meetings are recorded and webcast.

STATEMENT OF RECOGNITION

Her Worship the Mayor, Councillor Karen McKeown 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 Christine Bayliss Kelly.

PRESENT

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

LEAVE OF ABSENCE

80 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Todd Carney that Leave of Absence be granted to Councillor Aaron Duke from 24 May 2021 to 7 June 2021 inclusive.

APOLOGIES

There were no apologies.

CONFIRMATION OF MINUTES - Ordinary Meeting - 26 April 2021

81 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Jim Aitken OAM that the minutes of the Ordinary Meeting of 26 April 2021 be confirmed.

DECLARATIONS OF INTEREST

Councillor Marcus Cornish declared a Pecuniary Interest in *COW Item 3 – Claim for Reimbursement of Legal Costs* as he is the subject of the reimbursement claim.

Councillor Bernard Bratusa declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 9 – Acceptance of Grant funding - Greater Sydney Crown Land Open Space Activation Program and categorisation of Crown Reserves*, and *Item 10 - Acceptance of Grant Funding - NSW Public Spaces Legacy Program, City Park* as he is employed by the State Government. Councillor Bratusa stated that he would remain in the meeting but not participate in the debate or voting on these matters.

Councillor Mark Davies declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 7 - Tender RCL 202101 - Residential Builder Partnering Panel* as a friend of his works for one of the companies listed in this tender report. Councillor Mark Davies stated that he would remain in the meeting but not participate in the debate or voting on these matters.

SUSPENSION OF STANDING ORDERS

82 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Kath Presdee that Standing Orders be suspended to allow members of the public to address the meeting, the time being 7:07pm.

Mr Damon Ausling

Item 1 – Proposed Winter Sporting Facility at 2 Tench Avenue, Jamisontown.

Mr Ausling, representing Hometown, owner of the Nepean Shores site, spoke in support of the recommendation to refuse the proposal. Mr Ausling provided background on the tenancy of residents at Nepean Shores and noted that this community has been in place for approximately 40 years. Mr Ausling noted that overshadowing from the proposed development would be detrimental to the amenity of numerous residents of the residential community at this location, and that there would likely be financial ramifications for the affected residents.

Procedural Motion

83 RESOLVED on the MOTION of Councillor Marcus Cornish seconded Councillor Todd Carney that an extension of time be granted to enable the speaker to conclude his address, the time being 7:12pm.

Mr Ausling concluded by stating that the proposed development would impact negatively on home owners in the Nepean Shores community and that it would be unreasonable to expect the burden of the resulting loss of amenity to be borne by Hometown and the residents of Nepean Shores.

Mr Peter Magnisalis

Item 1 – Proposed Winter Sporting Facility at 2 Tench Avenue, Jamisontown.

Mr Magnisalis, the applicant, spoke in opposition to the recommendation for refusal of the proposed development. Mr Magnisalis outlined the advantages of the proposed development of an indoor skiing facility which would be the only one in Australia and noted that this development would be surrounded by other recreational facilities in the area, which would encourage visitors to the Penrith LGA. Mr Magnisalis went on to state his commitment to resolving the overshadowing issue to ensure all permanent dwellings in Nepean Shores received full winter sun exposure, and requested that Council support the continuation of the planning process to support the establishment of a world class facility.

Mr Tone Wheeler*Item 1 – Proposed Winter Sporting Facility at 2 Tench Avenue, Jamisontown.*

Mr Wheeler, Architect for the proponent, spoke to the recommendation and outlined why the site in Tench Avenue had been selected for the proposed development. Mr Wheeler stated that the development needed to be located in a financially viable area and that the site is suitable for the length of the indoor ski slope which would be provided. Mr Wheeler went on to specify that the planning proposal is for an envelope, not a specific building and that adjustments could be made, however some overshadowing would still occur.

Ms Amy Sutherland*Item 1 – Proposed Winter Sporting Facility at 2 Tench Avenue, Jamisontown.*

Ms Sutherland, the applicant's Town Planner, spoke in opposition to the recommendation for refusal of the planning proposal. Ms Sutherland provided details on solar access issues and outlined the significant economic benefit of the proposed development for the Penrith area, which would include stimulus to the local economy as well as increased ongoing employment. Ms Sutherland concluded by asking Council to support the proposed development.

RESUMPTION OF STANDING ORDERS

84 RESOLVED on the MOTION of Councillor Todd Carney seconded Councillor Jim Aitken OAM that Standing Orders be resumed, the time being 7:56pm.

MAYORAL MINUTES**1 150th Anniversary of Penrith's proclamation as a municipality**

Councillor Todd Carney left the meeting, the time being 7:57pm.

Councillor Todd Carney returned to the meeting, the time being 7:59pm.

85 RESOLVED on the MOTION of Councillor Karen McKeown OAM seconded Councillor Tricia Hitchen that the Mayoral Minute on 150th Anniversary of Penrith's proclamation as a municipality be received.

2 7News Young Achiever Award Winner Larissa Moore

86 RESOLVED on the MOTION of Councillor Karen McKeown OAM seconded Councillor Kath Presdee that the Mayoral Minute on 7News Young Achiever Award Winner Larissa Moore be received.

3 Baker and Provan 75th Anniversary

87 RESOLVED on the MOTION of Councillor Karen McKeown OAM seconded Councillor Ross Fowler OAM that the Mayoral Minute on Baker and Provan 75th Anniversary be received.

QUESTIONS ON NOTICE

1 Power of Entry

Councillor Kevin Crameri OAM ASKED:

As I understand council cannot enter a property without consent of the owner or with a court order. When did this come into force and is there any other reason that it can happen?

Council Response:

Powers of entry exist under a variety of acts such as the Environmental Planning and Assessment Act, Protection of the Environment Operations Act and Local Government Act.

Council officers exercising relevant functions under those acts can enter on any property. Before entering onto a property, Officers are required to provide written notice, unless there is an emergency situation (i.e. imminent danger to health and safety), or the owner has given consent or by Order of a Court.

Officers are not able to enter any portion of the premises used as a residence. Either a Court order, warrant, or consent of the owner is required to enter any part of the premises used as a residence.

These powers were introduced with the introduction of each of the Acts (being 1979, 1993, and 1997). Prior to that, the Local Government Act 1919 provided similar powers.

Councillor Mark Davies left the meeting, the time being 8:17pm.

Councillor Todd Carney left the meeting, the time being 8:17pm.

Councillors Mark Davies and Todd Carney return to the meeting, the time being 8:19pm.

2 Civil Works Plan

Councillor Kevin Crameri OAM ASKED:

That council allow councillors to see the Civil Works Plan for Judd street.

Response from Council:

A memo response to Councillors which deals with this request was sent to all Councillors on 18 May 2021. The memo detailed that due to copyright reasons a copy of the plan cannot be provided, however Councillors are welcome to come and inspect the plan at Council by request.

REPORTS OF COMMITTEES

1 Report and Recommendations of the Access Committee Meeting held on 14 April 2021

88 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Robin Cook that the recommendations contained in the Report and Recommendations of the Access Committee meeting held on 14 April, 2021 be adopted.

2 Report and Recommendations of the Local Traffic Committee Meeting held on 3 May 2021

89 RESOLVED on the MOTION of Councillor Robin Cook seconded Councillor Marcus Cornish that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 3 May, 2021 be adopted.

DELIVERY PROGRAM REPORTS

OUTCOME 2 - WE PLAN FOR OUR FUTURE GROWTH

2 Public Exhibition of Draft Employment Lands Strategy

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

That:

1. The information contained in the report on Public Exhibition of Draft Employment Lands Strategy be received.
2. Council approve the Draft Employment Lands Strategy to be placed on public exhibition for a period of at least 8 weeks together with supporting documents including the Penrith Industrial Precincts Technical Report 2021, Mecone North-South Corridor Study 2021, and HillPDA Penrith Employment Lands Use Study and Addendum 2020, provided as a separate enclosure to this report.
3. Delegation be granted to the General Manager to make minor changes to the draft Employment Lands Strategy and supporting documents prior to exhibition, if required.

4 Submissions to Various State Government Planning Reform Matters on Exhibition

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

That:

1. The information contained in the report on Submissions to Various State Government Planning Reform Matters on Exhibition be received.
2. Council endorse the attached submissions to be forwarded to the Department of Planning, Industry and Environment for their consideration.

1 Proposed Winter Sporting Facility at 2 Trench Avenue, Jamisontown

92 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Marcus Cornish

That:

1. The information contained in the report on Proposed Winter Sporting Facility at 2 Trench Avenue, Jamisontown be received
2. Council endorses the Planning Proposal presented in this report and which has been provided to Councillors as a separate enclosure and is publicly available on Council's website.
3. Council prepares, publicly notifies and executes a Planning Agreement reflecting the terms presented in the Voluntary Planning Agreement offer provided at Attachment 4.
4. Council endorses the draft amendment to the Penrith Development Control Plan 2014 provided at Attachment 3.
5. The Planning Proposal is to be submitted to the Department of Planning, Industry and Environment after a Planning Agreement that supports the Planning Proposal in respect to provision of a traffic contribution has been publicly notified and executed.
6. The draft amendment to the Penrith Development Control Plan 2014 provided is to take effect upon making of the LEP amendment sought by the Planning Proposal.

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

Against

Councillor Robin Cook

3 Public Exhibition of Draft Green Grid Strategy

93 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Kath Presdee

That:

1. The information contained in the report on Public Exhibition of Draft Green Grid Strategy be received
2. Council endorse the draft Green Grid Strategy, to be publicly exhibited for a period of at least 8 weeks.
3. Delegation be granted to the General Manager to make minor changes to the draft Green Grid Strategy prior to exhibition, if necessary.

OUTCOME 4 - WE HAVE SAFE, VIBRANT PLACES

5 RFT20/21-27 Harold Corr Athletics Track Upgrade

94 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Greg Davies

That:

1. The information contained in the report on RFT20/21-27 Harold Corr Athletics Track Upgrade be received
2. Polytan Asia Pacific Pty Ltd be awarded the contract subject to the execution of a formal agreement for the RFT20/21-27 Harold Corr Athletics Track Upgrade, Cambridge Park, for an amount of \$3,920,020 excluding GST.
3. The Common Seal of the Council of the City of Penrith be placed on all documentation as necessary.

OUTCOME 6 - WE ARE HEALTHY AND SHARE STRONG COMMUNITY SPIRIT

6 RFT 20/21-25 Landscape Construction for Regatta Park

95 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Kevin Crameri OAM

That:

1. The information contained in the report on RFT 20/21-25 Landscape Construction for Regatta Park be received
2. Glascott Landscape & Civil Pty Ltd be awarded the Contract subject to the execution of a formal agreement for the RFT20/21-25 Regatta Park Landscape Construction for an amount of \$8,687,902.82 excluding GST
3. The Common Seal of the Council of the City of Penrith be placed on all documentation as necessary.

Councillor Bernard Bratusa requested that his name be recorded as having voted against the recommendations.

Councillor Kevin Crameri OAM left the meeting, the time being 8:59pm.

Councillor Mark Davies left the meeting, the time being 8:59pm.

OUTCOME 7 - WE HAVE CONFIDENCE IN OUR COUNCIL

7 Tender RCL 202101 - Residential Builder Partnering Panel

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

That:

1. The information contained in the report on Tender RCL 202101 - Residential Builder Partnering Panel be received.
2. The Recognised Contractor List be established for the provision of the following construction project types for a three (3) year term with two (2) x one (1) year extension options:
 - (a) Single low-density residential building developments where Council is the developer and the head contract value is less than \$20m.
 - (b) Multi low density residential building developments where Council is the developer and the head contract value is less than \$20m.
3. Council appoint the following firms to the RCL panel:
 - i. Beechwood Homes Constructions Pty Limited
 - ii. Simonds Homes NSW Pty Ltd
 - iii. Eden Brae Holdings Pty Limited
 - iv. Hudson Homes Pty Ltd
 - v. The Trustee for Metricon Homes Unit Trust

8 The Straight Road Mulgoa - Permanent Partial Road Closure

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

That:

1. The information contained in the report on The Straight Road Mulgoa - Permanent Partial Road Closure be received
2. The Endeavour Energy electrical infrastructure located within the section of road reserve to be closed, be removed prior to gazettal.
3. Part The Straight Road Mulgoa, as identified within the report, be permanently closed in accordance with the Roads Act 1993
4. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation
5. The parcel of closed road, once registered and vested in Council, be classified as Operational Land.

9 Acceptance of Grant funding - Greater Sydney Crown Land Open Space Activation Program and categorisation of Crown Reserves

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

That:

1. The information contained in the report on Acceptance of Grant funding - Greater Sydney Crown Land Open Space Activation Program and categorisation of Crown Reserves be received
2. Council accept the grant funding of \$1,500,000 offered under the Greater Sydney Crown Land Open Space Activation Program and delegate authority to the General Manager to enter into the funding agreement with the Department of Planning, Industry and Environment.
3. Council acknowledge the appointment of Crown Land Manager of Crown Reserves 90020 and 69111 and delegate authority to the General Manager to make the necessary applications to progress the initial categorisation of the Crown land parcels for General Community Use.
4. Council write to the Minister for Planning, the Hon Rob Stokes MP and the Local Member, the Hon Stuart Ayres MP, thanking them for grant funding.
5. The Common Seal of the Council of the City of Penrith be affixed on any documentation as necessary.

10 Acceptance of Grant Funding - NSW Public Spaces Legacy Program, City Park

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

That:

1. The information contained in the report on Acceptance of Grant Funding - NSW Public Spaces Legacy Program, City Park be received
2. Council accept the funding amount of \$4million under the Department of Planning Industry & Environment, NSW Public Spaces Legacy Program for the City Park, Penrith project.
3. Council allocate \$4 million to replace Council funding to repay the COVID-19 internal loan.
4. Letters of thanks be sent to the Minister for Planning, the Hon Rob Stokes MP, and the Local Member, the Hon Stuart Ayres MP.
5. The Common Seal of the Council of the City of Penrith be placed on all documentation as necessary.

11 Organisational Financial Review - March 2021

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

That:

1. The information contained in the report on Organisational Financial Review - March 2021 be received.
2. The Organisational Financial Review - March 2021 as at 31 March 2021, including the revised estimates outlined in this report and detailed in the *Organisational Report – March 2021*, be adopted.

12 Local Government Remuneration Tribunal Determination for Mayor and Councillors for 2021-2022

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

That:

1. The information contained in the report on Local Government Remuneration Tribunal Determination for Mayor and Councillors for 2021-2022 be received.
2. The fees payable to the Mayor and Councillors for 2021-22 be set at the maximum level permitted.

13 Summary of Investment & Banking for the Period 1 April 2021 to 30 April 2021

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

That:

1. The information contained in the report on Summary of Investment & Banking for the Period 1 April 2021 to 30 April 2021 be received.
2. The certificate of the Responsible Accounting Officer and Summary of Investments and Performance for the Period 1 April 2021 to 30 April 2021 be noted and accepted.
3. The graphical Investment Analysis as at 30 April 2021 be noted.

Councillor Kath Presdee left the meeting, the time being 9:03pm.

Councillor Marcus Cornish left the meeting, the time being 9:03pm.

REQUESTS FOR REPORTS AND MEMORANDUMS AND URGENT BUSINESS**RR 1 Passing of Frank Lawton**

Councillor Todd Carney advised that Frank Lawton had recently passed away and conveyed his condolences to the family, and then highlighted the significant contribution that Frank had made to the St Marys community and in particular the St Marys Sub Branch of the RSL.

Councillor Kevin Crameri OAM returned to the meeting, the time being 9:04pm.

Councillor Mark Davies returned to the meeting, the time being 9:04pm.

Councillor Kath Presdee returned to the meeting, the time being 9:05pm.

Councillor Kath Presdee returned to the meeting, the time being 9:05pm.

Councillor Marcus Cornish returned to the meeting, the time being 9:07pm.

RR 2 Wallacia

Councillor Bernard Bratusa acknowledged the efforts of Council staff regarding parks and recreation facilities in the LGA, as well as those of the Member for Mulgoa, Tanya Davies MP, and Councillor Ross Fowler OAM, in opposing the establishment of a cemetery in Wallacia. Councillor Bratusa also thanked Council staff for providing updates regarding this matter.

UB 1 Live sites for 2021 Olympics

Councillor Tricia Hitchen requested that an equal allocation be made from all three Wards' voted works to pay for Olympic Live sites to be located in the Mondo at Penrith and also at Coachman's Park in St Marys.

103 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Ross Fowler OAM that the matter be brought forward and dealt with as a matter of urgency.

Her Worship the Mayor, Councillor Karen McKeown OAM, ruled that the matter was urgent and should be dealt with at the meeting.

104 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Ross Fowler OAM that an equal allocation be made from all three Wards' voted works to pay for Olympic Live sites to be located in the Mondo at Penrith and also at Coachman's Park in St Marys.

RR 3 Wallacia Golf Course

Councillor Ross Fowler OAM commended Councillor Bernard Bratusa on his efforts regarding this matter and requested that Council begin to investigate that in the likely event that the cemetery doesn't proceed, Council and the leadership team put in place a plan for Council to take over interim control of the course until it returns to full operation again, with the objective to secure a large piece of critical recreational space in the southern part of the LGA.

COMMITTEE OF THE WHOLE

105 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Tricia Hitchen that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 9:11pm.

Councillor Marcus Cornish left the meeting at 9:11pm and did not return.

Councillor Mark Davies left the meeting at 9:11pm and did not return.

1 Presence of the Public

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

Outcome 7

2 Council Property - Lease Agreement - Shop 1, 114-116 Henry Street, Penrith

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.

3 Claim for Reimbursement of Legal Costs

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 9:25pm and the General Manager reported that the Committee of the Whole met at 9:11pm on 24 May 2021, the following being present

Her Worship the Mayor, Councillor Karen McKeown OAM, Deputy Mayor, Councillor Tricia Hitchen, and Councillors Jim Aitken OAM, Bernard Bratusa, Todd Carney, Brian Cartwright, Robin Cook, Kevin Crameri OAM, Greg Davies, Ross Fowler 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 Council Property - Lease Agreement - Shop 1, 114-116 Henry Street, Penrith

RECOMMENDED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Kath Presdee

CW2 That:

1. The information contained in the report on Council Property - Lease Agreement - Shop 1, 114-116 Henry Street, Penrith be received
2. Council approve the proposed new lease agreement under the terms and conditions listed within the report.
3. The Common Seal of the Council of The City of Penrith be placed on all necessary documentation.

3 Claim for Reimbursement of Legal Costs

A MOTION was moved by Councillor Kevin Crameri OAM seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Claim for Reimbursement of Legal Costs be received.
2. Councillor Cornish be reimbursed his legal costs outlined in the report.

A FORESHADOWED MOTION was moved by Councillor John Thain seconded Councillor Ross Fowler OAM:

CW3 That:

1. The information contained in the report on Claim for Reimbursement of Legal Costs be received.
2. Councillor Cornish is not to be reimbursed his legal costs outlined in the report, for the following reasons:
 - (a) Council is not satisfied that when Councillor Cornish carried out his functions as a Councillor at meetings held on 24 November 2014 and 8 December 2014, those functions were carried out in good faith;
 - (b) In addition, and in relation to his claim for reimbursement of his legal costs of the investigation of Ms Thane, the findings in that matter were not substantially favourable to Councillor Cornish.

Upon being PUT to the meeting, the MOTION was LOST.

Upon being PUT to the meeting, the FORESHADOWED MOTION was CARRIED and on becoming the SUBSTANTIVE MOTION was also CARRIED.

ADOPTION OF COMMITTEE OF THE WHOLE

106 RESOLVED on the MOTION of Councillor Brian Cartwright seconded Councillor John Thain that the recommendations contained in the Committee of the Whole and shown as CW1, CW2 and CW3 be adopted.

There being no further business the Chairperson declared the meeting closed the time being 9:26 pm.

I certify that these 14 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 24 May 2021.

Chairperson

Date