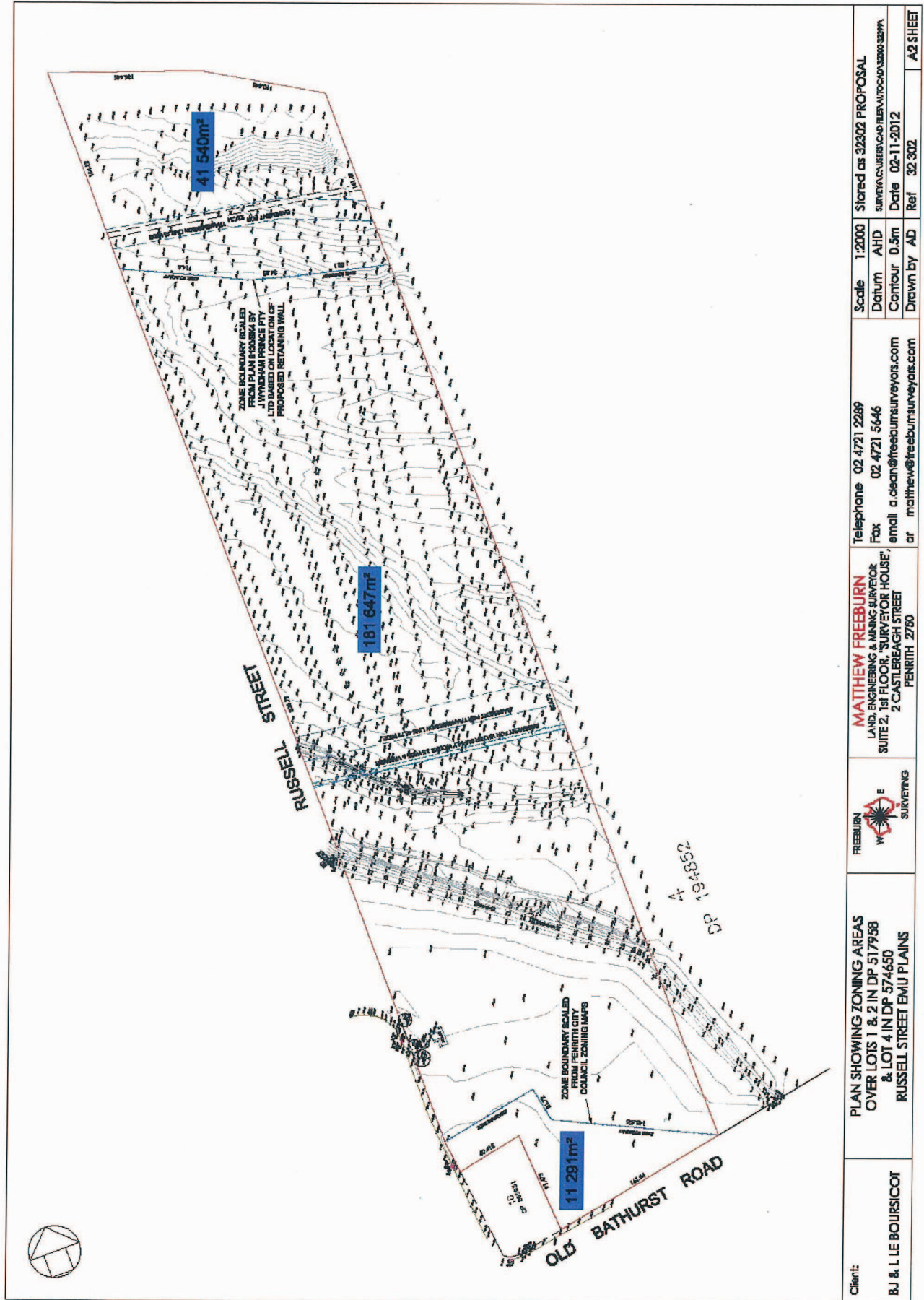


ANNEXURE A: SURVEY PLAN



3 Planning Proposal - Land at 1-4 Old Bathurst Road, Emu Plains

Compiled by: Paul Grimson, Sustainability & Planning Manager

Authorised by: Paul Grimson, Sustainability & Planning Manager

Objective	<i>We plan responsibly for now and the future</i>
Community Outcome	<i>A Council that plans responsibly for a sustainable future (3)</i>
Strategic Response	<i>Build our City's future on the principles of sustainability (3.1)</i>

Procedural note: Section 375A of the Local Government Act 1993 requires that a division be called in relation to this matter.

Executive Summary

This report presents the outcomes of two separate independent assessments undertaken in relation to the proposed rezoning of land at 1-4 Old Bathurst Road, Emu Plains (Lots 1-2, DP 517958 and Lots 3-4 DP 574650) (the Site) and recommends a process for moving this matter forward. The location of the Site is indicated in Figure 1 of the Department of Planning and Infrastructure's (the Department) September 2012 Evaluation Report (Attachment 1).

The proponents of the rezoning are seeking the application of an IN2 Light Industrial zone to approximately 18 hectares of the Site, along with a minimum lot size for subdivision of 2000m² and a maximum height of building of 12 metres. The remainder of the Site is proposed to be zoned E3 Environmental Management. The extent of the requested zones is provided in *Figure 3 Proposed Land Zoning Map* of the September 2011 Planning Proposal prepared by Cityscape Planning and Projects (included within the Department's September 2012 Evaluation Report (Attachment 1)).

While a part of the Site (1.1 hectares) was zoned IN2 Light Industrial in September 2010, the remainder of the Site was deferred from Stage 1 of the City-wide Local Environmental Plan (the City-wide Plan), since published as *Penrith Local Environmental Plan 2010*, to allow for further evaluation of flooding matters.

The presentation of the requested rezoning to Council has been prompted by the Director General's 25 September 2012 advice, provided in response to a request for an independent evaluation. The Department's advice concludes that *"there is sufficient strategic justification to demonstrate the land is suitable for future industrial uses subject to future planning studies (including a review of flooding) and the proposal should proceed to the Gateway to consider future industrial uses for the Site"*.

Background

In February 2006, Council received an application for the rezoning of the Site to 4(a) General Industrial under *Penrith Local Environmental Plan 1996 (Industrial Lands)*. Before the application was formally reported to Council it was withdrawn by the applicants in response to a resolution made by Council in the adoption of its *Employment Planning Strategy* (March 2007), to rezone the Site to 4(a) General Industrial in Stage 1 of the City-wide Plan.

The preparation of Stage 1 of the City-wide Plan included an analysis of the planning and environmental constraints affecting the Site and an assessment of the proposed zone under the Minister of Planning and Infrastructure's statutory directions for local environmental plan making and amending. That assessment recommended that the part of the Site (1.1 hectares) above the flood planning level (as identified at that time) be zoned IN1 General Industrial.

The IN1 General Industrial zone was introduced by the New South Wales Government's Standard Instrument Template for Local Environmental Plans and is considered the equivalent of the 4(a) General Industrial zone.

In considering the submissions received during the public exhibition of Stage 1 of the City-wide Plan Council resolved, in 2009, to amend the exhibited IN1 General Industrial zone to an IN2 Light Industrial zone in response to community concerns regarding the potential impacts of industrial development on the amenity of the neighbouring residential area. The extent of the zoning remained the same as that which was exhibited, namely, on land above the flood planning level (as identified at that time). Council also resolved that the land below the flood planning level be deferred to Stage 2 of the City-wide Plan with the flood planning level for the property to be determined by a flood study.

The preparation of Stage 2 of the City-wide Plan commenced in 2010 and to date has included a number of Councillor Briefings on the matters that need to be resolved to progress Stage 2 of the City-wide Plan, including the implementation of Council's 2009 resolution concerning the Site. At the briefing on the matters that needed to be considered to implement the 2009 resolution, a number of Councillors raised concerns about the process to date and if the proposal was being dealt with objectively.

In light of these concerns, the General Manager sought an independent evaluation of the rezoning proposal by the Minister for Planning and Infrastructure. On 30 July 2011, the Minister referred the requested rezoning to the Joint Regional Planning Panel (JRPP). On 22 March 2012, the JRPP provided its report for Council's consideration concluding that:

- A. There is a significant supply of vacant employment land in Penrith LGA. This land has been through all of the assessments associated with rezoning and appears to be largely free of significant constraints, in contrast to the flood affectation of the subject site; and*
- B. At the present time uncertainties exist in relation to the environmental impacts of proposed flood mitigation works, on-going maintenance responsibilities and costs, and the consistency of the proposed development with floodplain management policies. Thus, the panel considers that any rezoning now would be premature and inappropriate.*

Thus, the Panel sees no reason to give priority to the rezoning of the subject site in the near term.

Attachment 2 provides a copy of the JRPP's 22 March 2012 report.

Upon receipt of the JRPP's 22 March 2012 report, advice was sought from the Director General of the Department seeking clarification of the status of the JRPP's advice and whether a view is to be expressed by the Minister of Planning and Infrastructure in relation to the requested rezoning. On the 25 September 2012, the Department provided an Independent Evaluation Report (the Report), recommending that Council:

- A. Note that the Evaluation Report concludes there is sufficient strategic justification to demonstrate the land is suitable for future industrial uses subject to future planning studies (including a review of flooding) and the proposal should proceed to the Gateway to consider future industrial uses for the Site; and*
- B. Consider the findings of the Evaluation Report as part of any submission to the Gateway, should Council resolve to progress a planning proposal, which would seek to rezone the site for industrial purposes.*

The Department's Report also identified that flooding issues are a fundamental consideration in any proposed rezoning of the Site and recommended that a review of these issues should be considered as part of any future rezoning process. The Report included some suggested 'terms of reference' that could form the basis of the brief for an independent review of flooding issues.

Attachment 1 provides a full copy of the Department's Independent Evaluation Report.

Next Steps

The preparation of a planning proposal is the first step in preparing or amending a local environmental plan and is a document that explains the intended effect of a proposed local environmental plan (or an amendment to an existing local environmental plan) and sets out the justification for making that plan (or amendment). Planning proposals must also be technically competent and founded on an accurate assessment of the likely impacts of the proposal and supported where necessary by technical studies and investigations.

Throughout the course of preparing the proposed local environmental plan (or an amendment to an existing local environmental plan), the planning proposal evolves. This is particularly the case for complex proposals in which the initial 'gateway determination' will confirm the technical studies and consultation required to justify the proposal. As the studies and consultation are undertaken, relevant parts of the planning proposal will be updated, amended and supplemented.

The Gateway process is a statutory process established under the *Environmental Planning and Assessment Act 1979* governing the preparation of new or amended local environmental plans. The Gateway process allows a planning proposal to be reviewed at an early stage to make a decision on whether it should proceed further. After reviewing a proposal, the Minister for Planning and Infrastructure issues a 'Gateway Determination' which identifies:

- Whether a planning proposal will proceed, with or without variation;
- The level of community consultation required;
- Which Commonwealth, State and local government authorities need to be consulted;
- The necessity for a public hearing by the Planning Assessment Commission or other body; and
- The appropriate timeframes for the remaining stages of the gateway process.

To assist in the Department's recent independent evaluation, the proponents for the rezoning of the Site engaged a planning consultant to prepare a Planning Proposal (the Proposal) that builds on their original 2006 rezoning application. The Proposal describes the proposed

zones for the site, namely the IN2 Light Industrial and E3 Environmental Management zones, along with proposed controls for subdivision and the maximum height of buildings. The extent of the requested zones is provided in *Figure 3 Proposed Land Zoning Map* of the September 2011 Planning Proposal prepared by Cityscape Planning and Projects (included in the Department's September 2012 Evaluation Report (Attachment 1)).

Subject to Council's resolution and some minor refinements of the Proposal to meet contemporary local environmental plan making requirements, the Proposal now needs to be submitted to the Department's 'Gateway' for a determination.

In addition, and in light of the Department's recommendation that an independent review of flooding matters be undertaken, the submission of the Proposal to the Gateway will also seek confirmation of the 'terms of reference' for such a review. The terms of reference will be jointly prepared with the proponent and, subject to the Gateway's confirmation of the terms of reference, it is intended that the selection of and funding of an engineering consultant will also be jointly undertaken.

The Department will also determine whether any proposed rezoning progresses as part of Stage 2 of the City-wide Plan or as a stand alone local environmental plan amendment. It is likely, given the Minister's instruction that Stage 2 of the City-wide Plan must be completed by mid 2013 and the time required to complete the recommended independent review of flooding matters, that any rezoning of the Site will be progressed in parallel to Stage 2 of the City-wide Plan.

Conclusion

In response to the Department's recent advice, it is recommended that:

- A. The Proposal, the original rezoning application (2006) and supporting documentation be forwarded to the Department's Gateway seeking its determination;
- B. The Department be requested, in its Gateway Determination, to confirm the terms of reference for an independent review of flooding matters and any other specific further investigations required under Section 56 of the *Environmental Planning and Assessment Act 1979*.
- C. Once terms of reference for the independent review of flooding matters have been confirmed, the engagement of a suitably qualified consultant for an independent review of flooding matters be agreed with the proponents.

RECOMMENDATION

That:

- 1. The information contained in the report on Planning Proposal - Land at 1-4 Old Bathurst Road, Emu Plains be received.
- 2. In accordance with Sections 55 and 56 of the *Environmental Planning and Assessment Act 1979*, that the Planning Proposal prepared by Cityscape Planning and Projects dated September 2011, the original rezoning application dated February 2006 and supporting documentation, and the Department of Planning and Infrastructure's 25 September 2012 Evaluation Report be forwarded to the Department of Planning and Infrastructure

seeking a Gateway Determination.

3. The Department of Planning and Infrastructure be requested to include in its Gateway Determination confirmation of the terms of reference for an independent review of flooding matters and any other specific further investigations required under Section 56 of the *Environmental Planning and Assessment Act 1979*.
4. The engagement of a suitably qualified consultant be agreed between Council and the proponent to conduct an independent review of flooding matters based on the terms of reference confirmed by the Department of Planning and Infrastructure's Gateway Determination.
5. Council officers be authorised to request the proponents to make any minor amendments to the Planning Proposal necessary to meet the Department of Planning and Infrastructure's guidelines for the content and format for Planning Proposals.

ATTACHMENTS/APPENDICES

- | | | |
|--|-----------|------------|
| 1. Department of Planning and Infrastructure Evaluation Report | 171 Pages | Attachment |
| 2. Joint Regional Planning Panel Report | 30 Pages | Attachment |

**REPORT AND RECOMMENDATIONS OF THE
POLICY REVIEW COMMITTEE MEETING
HELD ON 8 OCTOBER, 2012**

PRESENT

His Worship the Mayor, Councillor Mark Davies, Deputy Mayor, Councillor Ross Fowler OAM and Councillors Bernard Bratusa, Prue Car (arrived 7:17pm), Kevin Crameri OAM, Marcus Cornish, Greg Davies, Maurice Giroto, Jackie Greenow, Tricia Hitchen, John Thain and Michelle Tormey.

LEAVE OF ABSENCE

Leave of Absence was previously granted to Councillor Ben Goldfinch for the period 25 September 2012 to 17 October 2012 inclusive.

Leave of Absence was previously granted to Councillor Karen McKeown for the period 25 September 2012 to 14 October 2012 inclusive.

Leave of Absence was requested by Councillor Tricia Hitchen for the period 11 October 2012 to 19 October 2012 inclusive.

RECOMMENDED that Leave of Absence be granted to Councillor Tricia Hitchen for the period 11 October 2012 to 19 October 2012 inclusive.

APOLOGIES

An apology was received for Councillor Jim Aitken OAM.

CONFIRMATION OF MINUTES - Policy Review Committee Meeting - 13 August 2012

The minutes of the Policy Review Committee Meeting of 13 August 2012 were confirmed.

DECLARATIONS OF INTEREST

Councillor Ross Fowler OAM declared a Non-Pecuniary Conflict of Interest – Less than Significant in Item 3 - *Planning Proposal - Land at 1-4 Old Bathurst Road, Emu Plains* as he was a member of the Joint Regional Planning Panel (JRPP) that had previously considered the matter. Councillor Fowler OAM indicated that he would remain in the room for the item.

DELIVERY PROGRAM REPORTS

A LEADING CITY

2 Penrith City Council Community Survey 2012

Councillor Prue Car arrived to the meeting, the time being 7:17pm.

Councillor John Thain left the meeting, the time being 7:26pm.

Councillor John Thain returned to the meeting, the time being 7:27pm.

Group Manager Leadership, Ruth Goldsmith introduced the report and invited Michael Di Leo, Research Director from IRIS Research to give a presentation.

RECOMMENDED

That:

1. The information contained in the report on Penrith City Council Community Survey 2012 be received.
2. IRIS Research be thanked for their work in conducting the Community Survey.

A CITY OF OPPORTUNITIES

6 Draft NSW Long Term Transport Master Plan

Councillor Kevin Crameri OAM left the meeting, the time being 8:08pm.

Councillor Kevin Crameri OAM returned to the meeting, the time being 8:13pm.

Councillor John Thain left the meeting, the time being 8:12pm.

Councillor John Thain returned to the meeting, the time being 8:13pm.

Engineering Services Manager, Adam Wilkinson introduced the report and invited Noel Child of NG Child and Associates to give a presentation.

RECOMMENDED

That:

1. The information contained in the report on Draft NSW Long Term Transport Master Plan be received.
2. Council officers prepare a detailed submission on the NSW Long Term Transport Master Plan, including a Sub Plan for Penrith and refer it to Council for endorsement prior to submission to Transport for NSW by 26 October 2012.

5 Penrith Business Alliance Limited (PBA) 2012-2013 Business Plan

Acting Group Manager, People & Places, Paul Grimson introduced the report and invited Paul Brennan, Chairman of PBA to give a presentation.

RECOMMENDED

That:

1. The information contained in the report on Penrith Business Alliance Limited (PBA) 2012-2013 Business Plan be received.
2. Council agree to the PBA Business Plan for 2012-2013, and provide funding through two separate six-monthly payments of \$243,630 (plus GST) in accordance with the provisions of the Deed of Agreement.

A LEADING CITY

1 Funding for Emergency Services - Discussion Paper

RECOMMENDED

That:

1. The information contained in the report on Funding for Emergency Services - Discussion Paper be received.
2. A further report be brought to the next Ordinary Council meeting, outlining Council's position on this matter.

4 Draft Policy on the Payment of Expenses and Provision of Facilities to Mayor, Deputy Mayor and Councillors

RECOMMENDED

That:

1. The information contained in the report on Draft Policy on the Payment of Expenses and Provision of Facilities to Mayor, Deputy Mayor and Councillors be received.
2. Council advertise for 28 days a public notice of its intention to adopt the amended Policy on the Payment of Expenses and Provision of Facilities to Mayor, Deputy Mayor and Councillors.

A GREEN CITY

7 Review of On-Site Sewage Management and Greywater Reuse Policy

RECOMMENDED

That:

1. The information contained in the report on Review of On-Site Sewage Management and Greywater Reuse Policy be received.
2. The revised On-Site Sewage Management and Greywater Reuse Policy be placed on public exhibition for 30 days.

A LEADING CITY

3 Planning Proposal - Land at 1-4 Old Bathurst Road, Emu Plains

Councillor Maurice Giroto left the meeting, the time being 10:05pm

RECOMMENDED

That:

1. The information contained in the report on Planning Proposal - Land at 1-4 Old Bathurst Road, Emu Plains be received.

2. In accordance with Sections 55 and 56 of the *Environmental Planning and Assessment Act 1979*, that the Planning Proposal prepared by Cityscape Planning and Projects dated September 2011, the original rezoning application dated February 2006 and supporting documentation, and the Department of Planning and Infrastructure's 25 September 2012 Evaluation Report be forwarded to the Department of Planning and Infrastructure seeking a Gateway Determination.
3. The Department of Planning and Infrastructure be requested to include in its Gateway Determination confirmation of the terms of reference that are identified in the Independent Evaluation Report, prepared by the Department of Planning and Infrastructure for an independent review of flooding matters and any other specific further investigations required under Section 56 of the *Environmental Planning and Assessment Act 1979*.
4. The engagement of a suitably qualified consultant be agreed between Council and the proponent to conduct an independent review of flooding matters based on the terms of reference confirmed by the Department of Planning and Infrastructure's Gateway Determination.
5. Council officers be authorised to request the proponents to make any minor amendments to the Planning Proposal necessary to meet the Department of Planning and Infrastructure's guidelines for the content and format for Planning Proposals.

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

For

Councillor Prue Car
Councillor Greg Davies
Councillor John Thain
Councillor Michelle Tormey
Councillor Jackie Greenow
Councillor Marcus Cornish
Councillor Mark Davies

Against

Councillor Tricia Hitchen
Councillor Kevin Crameri OAM
Councillor Ross Fowler OAM
Councillor Bernard Bratusa

Councillor Maurice Giroto returned to the meeting, the time being 10:07pm.

There being no further business the Chairperson declared the meeting closed the time being 10:12pm.

RECOMMENDATION

That the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 8 October, 2012 be adopted.

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

ON MONDAY 15 OCTOBER 2012 AT 7:33PM

NATIONAL ANTHEM

The meeting opened with the National Anthem.

STATEMENT OF RECOGNITION

His Worship the Mayor, Councillor Mark Davies 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 Mark Davies, Deputy Mayor, Councillor Ross Fowler OAM and Councillors Jim Aitken OAM, Bernard Bratusa, Prue Car, Kevin Crameri OAM, Marcus Cornish, Greg Davies, Maurice Giroto, Jackie Greenow, Karen McKeown, John Thain and Michelle Tormey.

LEAVE OF ABSENCE

Leave of Absence was previously granted to Councillor Ben Goldfinch for the period 25 September 2012 to 17 October 2012 inclusive.

Leave of Absence was previously granted to Councillor Tricia Hitchen for the period 11 October 2012 to 19 October 2012 inclusive.

APOLOGIES

There were no apologies.

CONFIRMATION OF MINUTES - Ordinary Meeting - 24 September 2012

311 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Marcus Cornish that the minutes of the Ordinary Meeting of 24 September 2012 be confirmed, as amended, with Minute No. 291 to now read:

"291 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Jim Aitken OAM that Council appoint Councillors Mark Davies and Ross Fowler OAM to the Joint Regional Planning Panel."

DECLARATIONS OF INTEREST

Councillor Kevin Crameri OAM declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 2 – 2012-13 Financial Assistance Grant*, with regard to events proposed to be held in Llandilo, as he is a resident of this area.

Councillor Jim Aitken OAM declared a Pecuniary Interest in *Item 6 - Council Property - Owner's Consent to DA Submission over Lot 3 DP234477 Billington Place, Emu Plains to DA12/0194 over Lot 1 DP91022 and Lot 10 DP807323 Lamrock Street, Emu Plains* as he owns property in the vicinity of these properties.

Councillor Ross Fowler OAM declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 3 of Report and Recommendations of the Policy Review Committee meeting held on 8 October, 2012*, as he was a member of the Joint Regional Planning Panel that previously considered this matter.

Councillor Ross Fowler OAM declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 8 – Community Assistance Program Planned Component 2012-13*, as he is the Auditor/Accountant of a number of organisations listed in this report.

MAYORAL MINUTE

1 Congratulations Ruth Goldsmith - 2012 Public Service Excellence Award

312 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Ross Fowler OAM that the Mayoral Minute on Congratulations Ruth Goldsmith - 2012 Public Service Excellence Award be received.

Councillors Ross Fowler OAM, John Thain, Greg Davies, Jim Aitken OAM and Jackie Greenow congratulated Ms Goldsmith on being presented with this prestigious award.

REPORTS OF COMMITTEES

1 Report and Recommendations of the Local Traffic Committee Meeting held on 8 October 2012

313 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor John Thain that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 8 October, 2012 be adopted.

2 Report and Recommendations of the Policy Review Committee Meeting held on 8 October 2012

314 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Jim Aitken OAM that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 8 October, 2012 be adopted, with the exception of Item 3 – Planning Proposal – Land at 1-4 Old Bathurst Road, Emu Plains.

Item 3 - Report and Recommendations of the Policy Review Committee Meeting held on 8 October 2012 (Planning Proposal – Land at 1-4 Old Bathurst Road, Emu Plains)

315 A MOTION was moved by Councillor John Thain seconded Councillor Greg Davies

That:

1. The information contained in the report on Planning Proposal - Land at 1-4 Old Bathurst Road, Emu Plains be received.
2. In accordance with Sections 55 and 56 of the *Environmental Planning and Assessment Act 1979*, that the Planning Proposal prepared by Cityscape Planning and Projects dated September 2011, the original rezoning application dated February 2006 and supporting documentation, and the Department of Planning and Infrastructure's 25 September 2012 Evaluation Report be forwarded to the Department of Planning and Infrastructure seeking a Gateway Determination.
3. The Department of Planning and Infrastructure be requested to include in its Gateway Determination confirmation of the terms of reference that are identified in the Independent Evaluation Report, prepared by the Department of Planning and Infrastructure for an independent review of flooding matters and any other specific further investigations required under Section 56 of the *Environmental Planning and Assessment Act 1979*.
4. The engagement of a suitably qualified consultant be agreed between Council and the proponent to conduct an independent review of flooding matters based on the terms of reference confirmed by the Department of Planning and Infrastructure's Gateway Determination.
5. Council officers be authorised to request the proponents to make any minor amendments to the Planning Proposal necessary to meet the Department of Planning and Infrastructure's guidelines for the content and format for Planning Proposals.

An AMENDMENT was moved by Councillor Jim Aitken OAM seconded Councillor Ross Fowler OAM that consideration of this matter be deferred to enable a site inspection by Councillors to take place, and that a Briefing be arranged for the Council on the matter.

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

The AMENDMENT was PUT.

The AMENDMENT was LOST, the voting being:

For

Councillor Michelle Tormey
Councillor Maurice Giroto
Councillor Kevin Crameri OAM
Councillor Jim Aitken OAM
Councillor Ross Fowler OAM
Councillor Bernard Bratusa

Against

Councillor Prue Car
Councillor Greg Davies
Councillor John Thain
Councillor Karen McKeown
Councillor Jackie Greenow
Councillor Marcus Cornish
Councillor Mark Davies