

## Appendix 16

# Penrith City Council Ordinary Meeting Report and Minutes – 23 March 2020

**5 Planning Proposal 33-43 Phillip Street, St Marys**

**Compiled by:** Madison Foster, Planner  
Natalie Stanowski, Principal Planner

**Authorised by:** Kylie Powell, Director - City Futures

<b>Outcome</b>	<i>We plan for our future growth</i>
<b>Strategy</b>	<i>Protect the City's natural areas, heritage and character</i>
<b>Service Activity</b>	<i>Ensure our strategic planning responds to the requirements of the Greater Sydney Commission's District Plans</i>

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

**Executive Summary**

The purpose of this report is to present the outcomes of the public exhibition and public authority referrals for the Planning Proposal relating to 33-43 Phillip Street, St Marys, known as Station Plaza and seeks Council's endorsement to adopt the Planning Proposal and consider the letter of offer to enter into a Voluntary Planning Agreement (VPA).

The Planning Proposal seeks to amend Penrith Local Environmental Plan (LEP) 2010 by increasing the maximum building height from 32 metres to 61 metres and increasing the floor space ratio for the site from 3.5:1 to 5.5:1.

The Planning Proposal was placed on public exhibition from 19 September 2019 to 18 October 2019. Public authorities identified in the Gateway Determination were consulted concurrently. Council received a total of 3 community submissions during the consultation process. The key issues raised in submissions received are addressed in this report. These relate to matters regarding parking, overshadowing, traffic, future development on the site, availability of green space, utility capacity and heritage.

After a period of negotiation with the proponents, a letter of offer has now been received by Council that commits the proponent to deliver traffic infrastructure works and the provision of affordable housing in addition to public benefits by way of embellishment and dedication of public space between Phillip and Station Street and a monetary contribution towards facility upgrades at Bennett Park. This report addresses all public agency comments and seeks Council's endorsement to adopt the Planning Proposal, subject to the VPA being signed.

**Background**

At the Policy Review Committee meeting of 14 May 2018, Council resolved to endorse a Planning Proposal for amendments to the Height of Building and Floor Space Ratio maps in Penrith LEP 2010 at 33-43 Phillip Street, St Marys, known as Station Plaza. A map of the subject land is provided as Appendix 1.

A Gateway Determination was received on 27 August 2018 from the Department of Planning, Industry and Environment (DPIE). Council has received delegation to make the plan.

The subject land is zoned B4 Mixed Use under Penrith LEP 2010. The Planning Proposal (provided as a separate enclosure) does not seek to change the zone. Any future redevelopment of the site utilising the proposed LEP controls, could be up to 20 storeys high

and contain 600 apartments, 8,300m<sup>2</sup> of retail and commercial floor space and car parking to service the development. Any future development of the site would require development consent.

The proposed redevelopment of the site would:

- Deliver new homes, including more affordable options with a range of apartment designs, close to jobs, shops and services.
- Support and promote the use of existing and proposed public transport by locating new homes and businesses next to an existing rail and bus station.
- Create new jobs, including at least 835 construction jobs and 583 jobs in the shopping centre. This is about 320 more jobs than the shopping centre currently provides.
- Increase activity, spending and the demand for new shops and services across the Town Centre (because of the increased workforce and new residents).
- Deliver an improved designed development than the current shopping centre, that activates local streets and improves the public domain.

### **Local Planning Panel Advice**

A report on this Planning Proposal was not required to be presented to the Local Planning Panel, as the Planning Proposal was endorsed by Council ahead of the new requirements to seek advice from the Panel from 1 June 2018.

### **Gateway Conditions for Traffic Matters**

The proposal was required by the Gateway Determination to consider the planned future growth of the St Marys Centre, including recommendations of the Western City District Plan in respect to traffic and transport impacts.

Working with Transport for NSW (TFNSW), traffic modelling was undertaken on key intersections in the town centre. A number of traffic works, including intersection improvements to both local and state roads were recommended to accommodate future traffic volumes for the St Marys Town Centre Precinct.

Further traffic modelling was undertaken regarding future vehicle movements from the planning proposal site in order to assess the impact of the proposal on traffic in the town centre. The study identified that while the existing road network generally has the ability to accommodate traffic generated by the proposal, some new infrastructure at key locations is required to support any future development. Identified traffic works required to support the development include:

- Signalised intersection and site access at Phillip Street/Blair Avenue.
- Capacity improvements at the Chapel Street/Glossop Street intersection to accommodate the creation of an additional right-hand turn lane.

Council does not currently have a development contributions plan that collects for road infrastructure upgrades in St Marys Town Centre, such as those needed as a result of this planning proposal. As a result, the applicant has submitted a letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council to secure the above infrastructure works, amongst other public benefits.

TFNSW has provided comment and indicated that the proposed signalisation would be subject to meeting warrants and an updated warrants assessment. The intersection upgrade is required in conjunction with the planning proposal, as such the proponent and Council will work together to complete this updated warrant assessment prior to a VPA being prepared.

Whilst the planning proposal would set the expectation of the required intersection upgrades, this would be reassessed at DA stage.

It is intended that we would finalise any VPA arrangement for the above works prior to the planning proposal coming into force.

### **Affordable Housing**

The provision of affordable housing is a key priority within the District Plan and Councils Local Strategic Planning Statement (LSPS). Both documents seek to increase the provision of affordable rental housing in suitable locations in Penrith LGA. St Marys town centre is an ideal precinct for the location of affordable rental housing, due to its current proximity to transport and services and future connection of the North/South rail link.

Council does not have an affordable housing policy specific to our town centres at this time, however we have established affordable housing requirements within our sustainability blueprint for release areas. The blueprint requires a minimum of 3% of dwellings to be provided for the purposes of affordable housing.

Consistent with the Blueprint, the proponent has offered to provide 9 units for affordable housing in perpetuity. This equates to 3% of units that are a result of the uplift of planning controls. The housing will be secured through a VPA.

### **Letter of offer to enter into a VPA for the delivery of Public Benefits**

Further to the above traffic infrastructure works and affordable housing proposed to be delivered under a VPA, the proponent has offered to deliver and contribute towards other public purposes in respect to the provision and embellishment of public open space and include:

- Dedication of Public Plaza of 1,316sqm at no cost to Council;
- Embellishment of the Public Plaza to Councils' specifications and standards;
- A 5-year maintenance period of the Public Plaza; and
- A \$655k cash contribution towards the upgrade of open space facilities at the nearby Bennett Park.

The total value of the above works, excluding traffic works and affordable housing is approximately \$2.8 million. The letter of offer is provided in Appendix 2. A map of the proposed public plaza is provided in Appendix 3.

The dedication and embellishment of a public plaza will provide a publicly accessible link between Phillip Street and St Marys transport interchange, which is required under Penrith DCP 2014. The contribution towards works at Bennett Park will deliver several planned upgrade works identified under the draft Penrith Sport and Recreation Strategy and will support facilities for a growing St Marys population. It also recognises the need for public space and pedestrian connections to the St Marys Interchange, a significant precinct, to be further built upon by the North/South rail link.

It is noted that section 7.11 contributions towards cultural facilities, local and district open space will be requested in addition to the VPA offer. The total value of open space contributions would be \$1.6m. Cultural Facility contributions would be \$104,000. Total contributions payable for a future development would be approximately \$1.7m.

Councils Community Infrastructure Policy was used as a benchmark to assess the offer provided in the letter of offer. Based on the policy, the subject proposal would provide an

infrastructure rate of \$3.5m (based on \$150sq/m). Factoring in a lower floor space rate for St Marys (based on \$120sq/m), the offer of \$2.8m is considered reasonable.

In total, the proposal would provide approximately \$4.5m towards public open space and community infrastructure, in addition to required traffic works and affordable housing.

A draft VPA will be prepared and notified and reported to Council for consideration and execution.

### Public Exhibition and Submissions

Public exhibition of the Planning Proposal commenced on Thursday 19 September 2019 and concluded on Friday 18 October 2019. During the public exhibition, three submissions were received from the community objecting to the proposed amendments.

The submissions raise several issues, and these are summarised in the following table:

Issue	Response
Development will lead to overshadowing on adjoining residential buildings, adversely affecting health	<p>The planning proposal can demonstrate that the proposed increase in height and floor space does not result in an overshadowing impact on surrounding properties that is greater than what is permitted under both Penrith Development Control Plan 2014 and State Environmental Planning Policy 65 Design Quality of Residential Apartment Development.</p> <p>A shadow impact study was provided in the planning proposal showing shadow impacts from 9-3pm on the winter solstice (shortest day of the year). The Urban Design Report and supporting shadow diagrams identify that the potential bulk and scale of a future development can be designed and arranged to minimise overshadowing of neighbouring residential areas to the east and south by amending height of towers from the north to the south of the site and deliver satisfactory residential amenity in relation to noise, access to light and natural ventilation.</p> <p>This will enable buildings surrounding the property to generally receive around 3 hours of direct sunlight during the day, depending on the location of the dwellings.</p> <p>This will be further assessed as part of a future development application.</p>
Capacity of road infrastructure is not adequate to support increased use of subject land.	<p>The site is located opposite St Marys Railway Station and bus interchange and is serviced by the main Western Rail Line and a number of bus services.</p> <p>A traffic assessment and report was undertaken for the proposal. This report assessed the traffic implications of future growth of the centre and the impact of the proposal on future traffic growth. The report established that a number of traffic works were required into the future, including intersection upgrades to both local and state roads to accommodate future traffic volumes for the St Marys town centre precinct. Only local roads require upgrades as a result of this proposal.</p>

	<p>The traffic assessment identifies that while the existing road network generally has the ability to accommodate the traffic generated by the proposal, some new infrastructure will be required at key locations to support the development. The required infrastructure to support the subject development is covered in the letter of offer to enter into a Voluntary Planning Agreement submitted by the applicant.</p> <p>At this time Council is preparing a scope for the preparation of a traffic and transport study of St Marys Centre, in order to inform a future development contributions plan for the Centre and other land use planning relating to the Centre.</p>
Impact on the existing limited on-street parking	<p>The site is located opposite St Marys Railway Station and bus interchange with increased traffic during peak times creating limited on-street parking with the high use of commuters catching public transport and parking in and around the Station and town centre.</p> <p>The DCP 2014 requires the provision of on-site car parking to a standard appropriate to the intensity of the proposed development. Any future development application will have to provide parking in accordance with Council's adopted parking rates in the DCP.</p>
Increasing building height will have negative impact on character and safety of the community	<p>The future desired character of the St Marys Town Centre has been defined by a range of land use planning and strategies undertaken by Council and will continue to be defined by future structure planning and visioning in relation to the location of future of the North/South rail link and interchange at St Marys.</p> <p>The Planning Proposal recommendations are consistent with Council's Community Plan, City Strategy and Landscape Character Strategy. These strategies present statements of desired character for various areas across Penrith area to protect and enhance the visual amenity and preserve the character of St Marys.</p> <p>Character of St Marys is changing, particularly around the rail corridor. The proposal is considered to be consistent with future character of St Marys Centre.</p> <p>Safety and security of both residents and visitors to St Marys Town Centre is critical. Additional residential development within a centre, that activates the street and provides additional 'eyes on the street' can increase the feeling of a safe environment.</p> <p>Any future development on the site would be required to address how the development enhances the safety of the centre, subject to controls in Penrith DCP 2014.</p>
Future development of the site, including interim	<p>The Western City District Plan recognises the need to strengthen St Marys as a Centre. The Planning Proposal is consistent with</p>

arrangements during construction	<p>the Plan actions to support greater housing diversity and densities and improve transport connectivity and walkability within and to St Marys.</p> <p>Currently Station Plaza is an important destination for the community for shopping and services. Any future development on the site will require careful management of existing patrons and the community in general due to its location adjacent to the railway station.</p> <p>Consideration of the construction management and interim access controls will be required at the Development Application stage for future development.</p>
Negative impact of future development on utilities	<p>As part of the Gateway Determination public authorities, including service providers were consulted and feedback was sought, to ensure that any future development could be serviced adequately.</p> <p>Endeavour Energy, Jemena and Sydney Water have provided comments, indicating no objection to the Planning Proposal, however any future development application will require further investigation. This response is discussed further below.</p>
Impact on supply of housing in the centre	<p>Council's has several policy responses concerning, amongst other things, housing, jobs and the City's economy. Council's draft Local Strategic Planning Statement also includes actions to encourage residential development around rail-based centres and the St Marys Town Centre. The planning proposal is consistent with these aims as it provides a diverse choice of housing that is close to services and activities, promotes resource efficiency and efficient land use, and builds on the character of our neighbourhoods and communities.</p>
Lack of green space in surrounding suburb	<p>Studies supporting the Planning Proposal identify that the proposal and the anticipated residential population is not large enough to generate the need for a new community facility, such as a community centre, library, or sporting facility. However, it is acknowledged that the proposal, while not generating the need for new facilities, will place additional pressure on existing facilities. Therefore, any future development will need to make development contributions towards existing and planned facilities in accordance with Council's existing Development Contributions Plans.</p> <p>As part of the letter of offer the proponent proposes to deliver and contribute towards the embellishment of public open space including dedication of a Public Plaza and cash contribution to the upgrade of open space facilities at Bennett Park.</p> <p>The site provides access to open space and community facilities along Queen Street and surrounding areas. Council will consider open space as part of future visioning and structure planning for St Marys. In addition, integrated open space, parks, cycle and pedestrian networks and streetscapes have been identified with</p>



	importance in the future St Marys Strategy.
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### Public Authority referrals

The Planning Proposal was referred to public authorities identified in the Gateway Determination. Public authority recommendations are addressed below.

Issue	Response
Underground main easements	<p>Endeavour Energy has provided comment with no objection to the Planning Proposal, although any future development application will require further investigation with Endeavour Energy.</p> <p>In addition, Jemena has indicated the existing main has sufficient capacity to support future development at this site.</p>
St Marys Railway station State Heritage item	<p>Office of Environment and Heritage (OEH) requested further consideration of the impact of the proposal on the State Heritage item at St Marys Railway Station.</p> <p>Heritage Impacts have been addressed in the Planning Proposal. The subject site is located over 60m from the Station, separated by bus transport infrastructure and will not have a physical impact on the station. Considering the highly urban nature of the town centre, it is not anticipated that the development will have an impact on the heritage significance of the station.</p> <p>The urban form of St Marys City Centre around the train station is likely to change, with the location of the future Metro Interchange. It is our understanding that any heritage impacts to the existing train station will be investigated as part of the planning for the Metro Interchange, and therefore not necessary to be undertaken for this planning proposal at this time.</p>
Bus Services to/from and surrounding St Marys	<p>Transport for New South Wales (TFNSW) commented on the importance of bus services in this area and their frequency and efficiency. They highlight the traffic impacts on the Glossop and Phillip Street intersection and the risk of future bus services being impacted in terms of reliability, travel time and cost.</p> <p>TFNSW has recommended Council clarify any further improvements to the Phillip/Glossop St intersection and/or consider the need to review the wider traffic management and access principles for the St Marys town centre.</p> <p>A traffic assessment is provided in the Planning Proposal. This report assessed the traffic implications of the proposal and identified any potential impact to local traffic and transport. The report concluded that additional upgrades at the signalised intersection of Phillip/Glossop Streets, including an additional short right turn lane and parking restrictions on the Phillip Street approach has been demonstrated to address intersection performance. The applicant has submitted a letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council to</p>



	<p>secure these infrastructure works.</p> <p>It is noted that such a change may necessitate localised road carriageway widening to implement and may not be achievable as part of this planning proposal, due to limited available road reservation at the intersection.</p> <p>An alternative upgrade option at the existing signalised intersection of Chapel Street / Glossop Street, where additional road reserve exists. This has been instead pursued as part of the package of works within a future VPA to secure required infrastructure works to support the development. These works include signalised intersection and site access at Phillip Street/Blair Avenue and improvements at the Chapel Street/Glossop Street intersection to accommodate the creation of an additional right-hand turn lane.</p> <p>In addition, Council is currently undertaking scoping for a traffic and transport study for the St Marys Town Centre, which will address the Phillip/Glossop Street intersection.</p>
Active Street Frontage	<p>TFNSW has suggested that Council introduce development controls for the full activation of all street frontages for the subject site.</p> <p>The Planning Proposal site has been identified as having an Active Street Frontage on Station Street under Penrith's LEP 2010. This clause promotes uses that attract pedestrian traffic along certain ground flood street frontages, essential for the activation of the St Marys station precinct. This clause will be considered at the development application stage for future development.</p>
Minimum Retail/Commercial floor space	<p>TFNSW has suggested defining minimum requirements for retail/commercial floor space for the site, in order to preserve commercial development opportunities.</p> <p>Councils LEP Review, currently seeking a gateway determination with DPIE, provides for a minimum provision of non-residential floor space within St Marys Town Centre.</p>
Maximum parking rates for the site	<p>TFNSW has suggested Council consider the transit-oriented development context of the proposal and leverage the current and future levels of public transport connectivity by minimising parking provision on the site.</p> <p>Penrith DCP 2014 is applicable to the site and provides for minimum parking requirements. Any future changes to parking rates may be considered during the review of Penrith DCP 2014 and would be informed by a comprehensive traffic and transport study of the Centre.</p>
Telecommunication infrastructure	<p>Telstra provided comment with no objection to the Planning Proposal, although any future development would require an upgrade to the existing telecommunications network throughout</p>

	<p>the site. Telstra requires the protection and relocation of the telecommunication infrastructure that may be impacted by future development and is recommended the Telstra 1100 (Dial before you dig) inquiry number should be contacted to obtain location of Telstra plant before commencement of construction work.</p> <p>Any infrastructure and services provided would be further investigated when a development application is submitted.</p>
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### Financial Implications

As outlined in the report the proposal would provide approximately \$4.5m towards public open space and community infrastructure, in addition to required traffic works. A draft VPA is to be prepared and reported to Council for consideration and execution.

### Risk Implications

There are no identified risk implications associated with this report.

### Conclusion

The Planning Proposal was publicly exhibited, and community submissions and agency referrals have been addressed. No changes to the planning proposal are recommended as a result of the submissions.

Council officers have negotiated the provision of a number of material public benefits that are proposed to be delivered by the proponent. An updated letter of offer has been provided in support of the proposal, delivering critical traffic and public realm infrastructure to support future growth within the centre.

It is recommended that the Planning Proposal be adopted as exhibited and is progressed to the next stage of the Gateway process, being to make the amendment to the Penrith Local Environmental Plan 2010. Council has been given delegation to be the plan making authority for the proposal, and as such will liaise with DPIE and Parliamentary Counsel to make the plan. It is recommended that DPIE be requested to not gazette the plan until the execution of the VPA.

### Next Steps

If Council adopts the proposed recommendations below, the following next steps will be undertaken:

1. The Planning Proposal will be finalised.
2. Council officers will forward the Planning Proposal to the Minister for Planning and Public Place and Parliamentary Counsel in accordance with the plan making process, subject to the VPA being signed.
3. Submitters will be notified when the Planning Proposal is made.
4. A draft VPA will be prepared and notified.
5. The VPA will be reported to a future Council meeting for consideration.

## RECOMMENDATION

That:

1. The information contained in the report on Planning Proposal 33-43 Phillip Street, St Marys be received.
2. Council endorse the Planning Proposal for Station Plaza at 33-43 Phillip Street, St Marys provided in the separate enclosure to this report, subject to the VPA being signed.
3. The Department of Planning, Industry and Environment are notified of Councils intention to make the amendment to Penrith Local Environmental Plan 2010 after the VPA is executed.
4. A VPA be prepared in accordance with the Environmental Planning & Assessment Act 1979 and letter of offer, and be notified and executed.
5. The draft VPA be reported back to Council for its consideration.
6. Council officers forward the Planning Proposal to Parliamentary Counsel for an opinion in accordance with the plan making process, after the VPA has been executed.
7. Consistent with our plan making delegations, Council make the required amendment to Penrith Local Environmental Plan 2010.
8. Council authorise the General Manager to execute all necessary documents and do all necessary things to give effect to the Council's decision to make the amendment to the Penrith Local Environmental Plan 2010.
9. The Department of Planning, Industry and Environment be provided with a copy of the amended plan for notification.

## ATTACHMENTS/APPENDICES

- |                                   |         |          |
|-----------------------------------|---------|----------|
| 1. Planning Proposal Subject Site | 1 Page  | Appendix |
| 2. Letter of Offer                | 4 Pages | Appendix |
| 3. Proposed Public Plaza Map      | 1 Page  | Appendix |





## HABEN

PROPERTY FUND

17 March 2020

General Manager  
Penrith City Council  
PO Box 60  
PENRITH NSW 2751

Attn: **Natasha Borgia**

Dear Natasha

**RE: Station Plaza Planning Proposal – 33-43 Phillip Street, St Mary's**

We refer to the Planning Proposal submitted to Penrith City Council at the end of 2016 wherein we requested the rezoning of the land at 33-34 Philip Street St Mary's to amend the floor space ratio and height planning controls.

The original Planning Proposal was amended at Council's request, and the amended proposal was considered by Penrith City Council in April 2018. The Department of Planning and Environment issued Gateway Determination and the study requirements in August 2018. Since that time additional technical studies and addendum reports have been undertaken and submitted to Council. There have been numerous meetings and emails, and in particular various meetings to discuss and resolve the technical traffic implications and public benefits to the community.

We also refer to the opportunity to present, in late 2019, at the briefing to the Councillors on our existing proposed investment and catalyst project in the northern end of the St Mary's town centre at 33-43 Philipp Street, St Mary's. We understand that following the presentation that Council asked the City Planning Manager to liaise with ourselves in relation to discussing a voluntary planning offer that includes additional public benefits over and above that which the proposed rezoning will offer.

This letter is a response to this request and outlines Haben Property offer to enter into a voluntary planning agreement for the direct and indirect public benefits.

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### **The Proposal**

The proposed rezoning will provide:-

- Around 583 jobs in the shopping centre – which is 320 more than current number of jobs.
- It will also create 835 construction jobs.
- Provide a range of housing with good access
- Minor increase to the retail floor space which will not redirect expenditure away from the existing shops and businesses in the existing Town Centre or surrounding centres.
- Activation in the northern end of St Marys town centre through more residents and shoppers
- Include traffic management works as part of a voluntary planning agreement with Council

### **Proposed Offer and Public Benefit**

The purpose of this letter is to confirm that it is Haben Property's intention to offer to enter into a voluntary planning agreement (VPA) with Penrith City Council in relation to three elements, namely:-

#### **(a) the design, costs and works associated with:-**

- Traffic signals at the Blair Ave/ Phillip St/ Entrance intersection, and
- Capacity improvements at the Chapel Street/ Glossop Street intersection to accommodate the creation of an additional right hand turn lane (as depicted in the diagram in Annexure A)
- In broad terms, the objective of the offer proposal will be to allow Haben Property to:
- Enter into a VPA with Council as there is currently no inclusion of the traffic light intersection in a current Local Contributions Plan
- Provide the statutory payment of the Penrith local contributions in addition to the above
- Provide safe and efficient access and movement into the future development, as well as create benefits for the public for easy pedestrian, cycle or vehicular movement within the direct area of the site
- Undertake more analysis, detailed costs and design of the said signalised intersection to ensure the public benefit value is captured

#### **(b) Public benefit embellishment benefit**

We propose a further public benefit of:-

- Public Plaza of 1316 sqm land dedication at no cost to Council. Embellishment of 1,316sqm Public Plaza as Works in Kind and including as a minimum precast pavers, non-irrigated areas, small scale public art, light poles, mass planting (garden beds), 35% mature trees, storm water works, base range seating, seat walls, bubblers, bins, pergolas, bollards, bike racks etc. and to Councils' specifications and standards.
- Haben to undertake a 5 year maintenance period of the Public Plaza.
- A \$655k cash contributions to go towards the upgrade of open space facilities at nearby Bennett Park.

More specifically the proposal creates additional public benefits through:-

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- Constructing and dedicating a proposed civic plaza/public plaza of around 1,316sqm. The Plaza can create a great northern public plaza where people can congregate and socialise, and it also provides a link from the St Mary's station to Phillip Street. In the northern area the civic space is around 20m wide, and the southern area around 7.3m wide. The link is 102m long across the block.
- Working with council and provide a cash contribution to council to undertake the public realm works at our cost (subject to discussion on design with council) which will to enable additional public benefits and a well-designed, activated Bennet Park for the St Marys community.

**(c) Affordable Housing**

We propose to provide affordable housing on the site which is equivalent to 3% of the total number of units of the floor space ratio uplift (namely, the difference between the proposed FSR of 5.5:1 and the current FSR of 3.5:1), which is approximately nine units. The proposed 3% of the units will be held as affordable housing in perpetuity.

**Timeframe**

We propose to enter into a VPA with Council after the gazettal of the Planning Proposal with its operation occurring with the first development application. We have already begun drafting a VPA which we will liaise with Council in the near future. The timing of the implementation of the VPA is prudent, as it is at that stage when detailed design of the intersection and works would have occurred and necessary conditions of consent related to the nexus of the development can occur.

**Conclusion**

We would welcome the opportunity to discuss the above with you, post gazettal of the rezoning. Please do not hesitate to contact me if you have any queries.

Yours sincerely

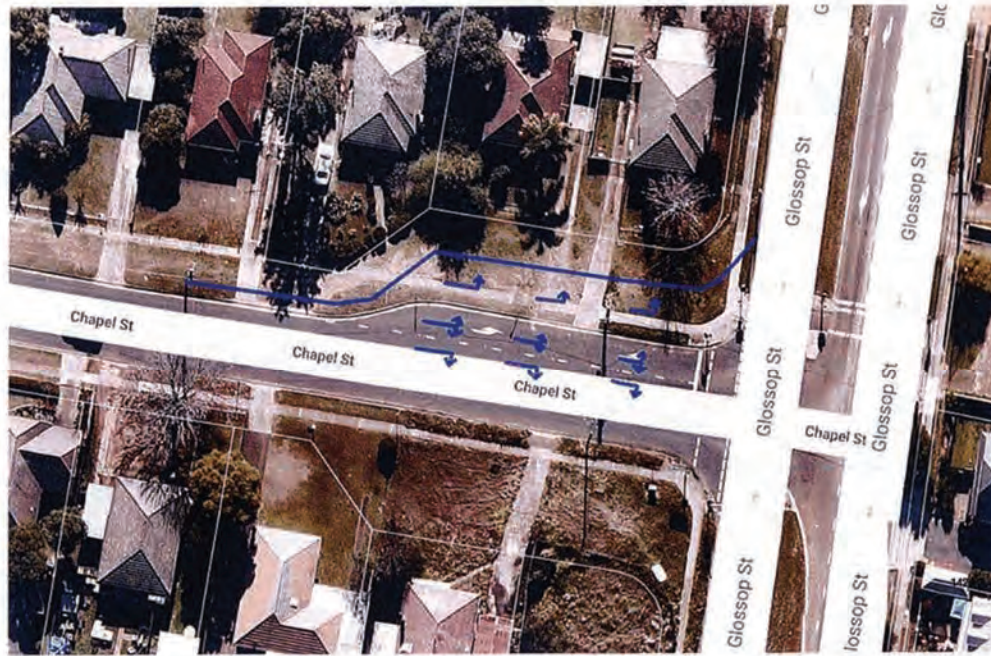


Harold Finger - OAM

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Annexure A





**CONFIRMED MINUTES**  
**OF THE ORDINARY MEETING OF PENRITH CITY COUNCIL HELD IN THE**  
**COUNCIL CHAMBERS**  
**ON MONDAY 23 MARCH 2020 AT 7:04PM**

**NATIONAL ANTHEM**

The meeting opened with the National Anthem.

**WEBCASTING STATEMENT**

His Worship the Mayor, Councillor Ross Fowler OAM read a statement advising that Council Meetings are recorded and webcast.

**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 Governance Co-ordinator, Mr Adam Beggs.

**PRESENT**

His Worship the Mayor, Councillor Ross Fowler OAM, Deputy Mayor, Councillor Karen McKeown OAM, and Councillors Bernard Bratusa (arrived 7:05pm), Todd Carney, Brian Cartwright, Robin Cook, Kevin Crameri OAM, Mark Davies, Aaron Duke, Tricia Hitchen, Kath Presdee and John Thain.

**APOLOGIES**

41 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Brian Cartwright that apologies be accepted from Councillors Aaron Duke, Jim Aitken OAM, Marcus Cornish and Greg Davies.

**CONFIRMATION OF MINUTES - Ordinary Meeting - 24 February 2020**

42 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Todd Carney that the minutes of the Ordinary Meeting of 24 February 2020 be confirmed.

**DECLARATIONS OF INTEREST**

There were no declarations of interest.

## **MAYORAL MINUTES**

### **1 Retirement of Murray Wilcockson**

43 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Tricia Hitchen that the Mayoral Minute on Retirement of Murray Wilcockson be received.

### **2 Council's response to COVID-19**

44 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor John Thain that the Mayoral Minute on Council's response to COVID-19 be received.

## **REPORTS OF COMMITTEES**

### **1 Report and Recommendations of the Access Committee Meeting held on 12 February 2020**

45 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Todd Carney that the recommendations contained in the Report and Recommendations of the Access Committee meeting held on 12 February, 2020 be adopted.

### **2 Report and Recommendations of the Heritage Advisory Committee Meeting held on 19 February 2020**

46 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Todd Carney that the recommendations contained in the Report and Recommendations of the Heritage Advisory Committee meeting held on 19 February, 2020 be adopted.

### **3 Report and Recommendations of the Local Traffic Committee Meeting held on 2 March 2020**

47 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Todd Carney that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 2 March, 2020 be adopted.

## **DELIVERY PROGRAM REPORTS**

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

### **1 Adoption of Penrith's Local Strategic Planning Statement**

48 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor John Thain

That:

1. The information contained in the report on Adoption of Penrith's Local Strategic Planning Statement be received
2. Council adopt the Local Strategic Planning Statement provided in Attachment 1.
3. The immediate actions identified in the Local Strategic Planning Statement be incorporated into Council's 2020-21 Operational Plan.

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

**2 Section 7.12 Development Contributions Plan for non-residential development**

49 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Brian Cartwright

That:

1. The information contained in the report on Section 7.12 Development Contributions Plan for non-residential development be received
2. Council endorse the draft Section 7.12 Development Contributions Plan for non-residential development for public exhibition.
3. The plan is exhibited for a period of 28 days and undertaken in accordance with the requirements of Councils Community Participation Plan and the Environmental Planning & Assessment Act Regulations.
4. A report be presented to Council on submissions received during the public exhibition.
5. Council adopt the draft additional works list for a higher rate level in order to commence discussions with the Department of Planning, Industry and Environment on pursuing a greater rate levy for this Plan.

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 Todd Carney  
Councillor Karen McKeown OAM  
Councillor John Thain  
Councillor Kevin Crameri OAM  
Councillor Mark Davies  
Councillor Brian Cartwright  
Councillor Tricia Hitchen  
Councillor Bernard Bratusa



Councillor Ross Fowler OAM

**3 Penrith Development Control Plan 2014 Housekeeping Amendments for Public Exhibition**

50 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Todd Carney

That:

1. The information contained in the report on Penrith Development Control Plan 2014 Housekeeping Amendments for Public Exhibition be received.
2. The General Manager be authorised to make any minor changes to the draft Penrith Development Control Plan 2014 prior to exhibition.
3. Amendments to draft Penrith Development Control Plan 2014 be publicly exhibited, in accordance with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* and associated Regulations and Councils Community Participation Plan.
4. 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 Todd Carney  
Councillor Karen McKeown OAM  
Councillor John Thain  
Councillor Kevin Crameri OAM  
Councillor Mark Davies  
Councillor Brian Cartwright  
Councillor Tricia Hitchen  
Councillor Bernard Bratusa  
Councillor Ross Fowler OAM

**4 Draft submission to Fernhill Estate Future Use Options Paper**

51 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Robin Cook

That:

1. The information contained in the report on Draft submission to Fernhill Estate Future Use Options Paper be received
2. Council endorse the Fernhill Estate Future Use Submission to be provided to Department of Planning, Industry & Environment for consideration.

**5 Planning Proposal 33-43 Phillip Street, St Marys**

52 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor John Thain

That:

1. The information contained in the report on Planning Proposal 33-43 Phillip Street, St Marys be received.
2. Council endorse the Planning Proposal for Station Plaza at 33-43 Phillip Street, St Marys provided in the separate enclosure to this report, subject to the VPA being signed.
3. The Department of Planning, Industry and Environment are notified of Councils intention to make the amendment to Penrith Local Environmental Plan 2010 after the VPA is executed.
4. A VPA be prepared in accordance with the Environmental Planning & Assessment Act 1979 and letter of offer, and be notified and executed.
5. The draft VPA be reported back to Council for its consideration.
6. Council officers forward the Planning Proposal to Parliamentary Counsel for an opinion in accordance with the plan making process, after the VPA has been executed.
7. Consistent with our plan making delegations, Council make the required amendment to Penrith Local Environmental Plan 2010.
8. Council authorise the General Manager to execute all necessary documents and do all necessary things to give effect to the Council's decision to make the amendment to the Penrith Local Environmental Plan 2010.
9. The Department of Planning, Industry and Environment be provided with a copy of the amended plan for notification.

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 Todd Carney  
Councillor Karen McKeown OAM  
Councillor John Thain  
Councillor Mark Davies  
Councillor Brian Cartwright  
Councillor Tricia Hitchen  
Councillor Bernard Bratusa  
Councillor Ross Fowler OAM

Councillor Kevin Crameri OAM



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

**6 2020-21 Blackspot and Safer Roads Program Funding Offer**

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

That:

1. The information contained in the report on 2020-21 Blackspot and Safer Roads Program Funding Offer be received.
2. Council acknowledge acceptance of grant funding of \$1,250,000 offered for the Blackspot and Safer Roads Projects shown in Tables 1 for the 2020/21 financial year.
3. Council write to relevant State and Federal Members thanking them for their continued support of road safety improvements.

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

**7 Application to NSW Government Infrastructure Grant 2019-20**

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

That:

1. The information contained in the report on Application to NSW Government Infrastructure Grant 2019-20 be received
2. Council endorse the allocation of \$83,750 from the Grant Funded Projects Reserve
3. Council endorse Neighbourhood Renewal's application to the NSW Government's Infrastructure Grant 2019-20 for a new BBQ facility, playspace and dynamic fitness equipment at Robin Wiles Park, North St Marys.

**8 RFT19/20-27 Kingswood Pedestrian Lighting**

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

That:

1. The information contained in the report on RFT19/20-27 Kingswood Pedestrian Lighting be received
2. Remaining available funds from the rescinded Kingswood Neighbourhood Centre Development Contributions Plan be allocated toward the Kingswood Pedestrian Lighting Project.
3. The proposal and Lump sum price from Stowe Australia Pty Ltd of \$529,494.00 excluding GST be accepted for RFT19/20-27Kingswood Pedestrian Lighting, Kingswood.
4. The Common Seal of the Council of the City of Penrith be placed on all documentation as necessary.

**9 RFT19/20-37 Design and Construction of Shade Sails and Structures**

56 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Karen McKeown OAM

That:

1. The information contained in the report on RFT19/20-37 Design and Construction of Shade Sails and Structures be received
2. Tender received from Central Industries Pty Ltd, be accepted to form a three (3) year schedule of rates contract, with an option to extend two (2) x one (1) year periods by mutual agreement, subject to satisfactory performance
3. The Common Seal of the Council of the City of Penrith be placed on all documentation as necessary.

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

**10 Penrith Central Business District Floodplain Risk Management Study and Plan**

57 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Bernard Bratusa

That:

1. The information contained in the report on Penrith Central Business District Floodplain Risk Management Study and Plan be received.
2. The Penrith CBD Floodplain Risk Management Study and Plan Final Report dated March 2020 be adopted.
3. The Penrith CBD Floodplain Risk Management Study and Plan Final Report dated March 2020 be published and made available on Council's website.
4. Council further consider the recommended mitigation works in the Penrith CBD Floodplain Risk Management Study and Plan for inclusion by Council in future Capital Works Programs and for grant funding applications.
5. Council consider the flood planning recommendations listed in the Penrith CBD Floodplain Risk Management Study and Plan Final Report dated March 2020 when reviewing its Development Control Plan 2014, and the Local Environmental Plan 2010.
6. Council write to those who made submissions advising of Council's resolution.
7. Council write to relevant State and Federal Members of Parliament advising them of the adoption of the Penrith CBD Floodplain Risk Management Study and Plan and thanking them for their continued support of Council's Floodplain Management program.

**11 St Marys (Byrnes Creek) Catchment Floodplain Risk Management Study and Plan**

58 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Bernard Bratusa

That:

1. The information contained in the report on St Marys (Byrnes Creek) Catchment Floodplain Risk Management Study and Plan be received.
2. The St Marys (Byrnes Creek) Catchment Floodplain Risk Management Study and Plan Final Report dated February 2020 be adopted.
3. The St Marys (Byrnes Creek) Catchment Floodplain Risk Management Study and Plan Final Report dated February 2020 be published and made available on Council's website.
4. Council further consider the recommended mitigation works in the St Marys (Byrnes Creek) Catchment Floodplain Risk Management Study and Plan for inclusion by Council in future Capital Works Programs and for grant funding applications.
5. Council consider the flood planning recommendations listed in the St Marys (Byrnes Creek) Catchment Floodplain Risk Management Study and Plan Final Report dated February 2020 when reviewing its Development Control Plan 2014, and the Local Environmental Plan 2010.
6. Council write to those who made submissions advising of Council's resolution.
7. Council write to relevant State and Federal Members of Parliament advising them of the adoption of the St Marys (Byrnes Creek) Catchment Floodplain Risk Management Study and Plan and thanking them for their continued support of Council's Floodplain Management program.

**OUTCOME 6 - WE ARE HEALTHY AND SHARE STRONG COMMUNITY SPIRIT**

**12 RFT19/20-36 Construction of Kingsway Sports Fields**

Councillor Todd Carney left the meeting, the time being 7:36pm.

59 RESOLVED on the MOTION of Councillor Bernard Bratusa seconded Councillor Kevin Crameri OAM

That:

1. The information contained in the report on RFT19/20-36 Construction of Kingsway Sports Fields be received
2. The tender received from Romba Pty Ltd, for the amount of \$1,176,445.59 (excluding GST) be accepted for construction the fields and all associated works subject to the provision of additional securities.
3. Tender options one \$223,104.75, option two \$16,500.00, option three \$39,226.00, and option nine \$115,500.00 (all excluding GST) be accepted for a total of \$394,330.75 (excluding GST).
4. The Common Seal of the Council of the City of Penrith be placed on all documentation as necessary.

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

Councillor Todd Carney returned to the meeting, the time being 7:37pm.

**13 Caddens Road Upgrade - Dedication of Council Land for Road Widening Purposes**

60 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Brian Cartwright

That:

1. The information contained in the report on Caddens Road Upgrade - Dedication of Council Land for Road Widening Purposes be received.
2. Council dedicate part Lots 196 -197 DP1169281 and part Lot 4 DP813516 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.

**14 Caddens Road Upgrade - Easement for Electrical Purposes -Lot 499 DP 1197976**

61 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Brian Cartwright

That:

1. The information contained in the report on Caddens Road Upgrade - Easement for Electrical Purposes -Lot 499 DP 1197976 be received.
2. Council grant an easement over Lot 499 DP 1197976 as per 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.

**15 2020 Australian Local Government Association (ALGA) Annual General Assembly**

62 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Robin Cook

That:

1. The information contained in the report on 2020 Australian Local Government Association (ALGA) Annual General Assembly be received.
2. Subject to the Annual General Assembly being held, the motion outlined in tonight's report with respect to the Fire Technician Course be endorsed.

**16 Council Nursery Revitalisation Project - Easement for underground cables - Lot 112 DP774782**

63 RESOLVED on the MOTION of Councillor Robin Cook seconded Councillor Brian Cartwright

That:

1. The information contained in the report on Council Nursery Revitalisation Project - Easement for underground cables - Lot 112 DP774782 be received.
2. Council grant an Easement over Lot 112 DP774782 for the electrical infrastructure as per 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.

**17 Summary of Investment & Banking for the Period 1 January 2020 to 31 January 2020**

64 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Brian Cartwright

That:

1. The information contained in the report on Summary of Investment & Banking for the Period 1 January 2020 to 31 January 2020 be received.
2. The certificate of the Responsible Accounting Officer and Summary of Investments and Performance for the Period 1 January 2020 to 31 January 2020 be noted and accepted.
3. The graphical investment analysis as at 31 January 2020 be noted.

**18 Summary of Investment & Banking for the Period 1 February 2020 to 29 February 2020**

65 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Brian Cartwright

That:

1. The information contained in the report on Summary of Investment & Banking for the Period 1 February 2020 to 29 February 2020 be received.
2. The certificate of the Responsible Accounting Officer and Summary of Investments and Performance for the Period 1 February 2020 to 29 February 2020 be noted and accepted.
3. The graphical investment analysis as at 29 February 2020 be noted

## REQUESTS FOR REPORTS AND MEMORANDUMS

### **RR 1 Refunds for Sportsfield and Recreation Facility Bookings**

Councillor Bernard Bratusa requested a memo reply advising whether refunds could be granted to organisations who have booked sportsfields and recreation facilities which have now become unavailable for hire.

### **RR 2 Fees for Use of Footpath for Dining**

Councillor Kevin Crameri OAM requested a memo reply regarding not charging cafes and restaurants in the Penrith Local Government Area the fee for use of footpaths for outdoor dining during the current Coronavirus crisis, as they are unable to trade in this manner.

### **UB 1 Personnel Matter**

Councillor Ross Fowler OAM requested that a Personnel Matter be referred to Committee of the Whole as the report refers to personnel matters concerning particular individuals and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

## COMMITTEE OF THE WHOLE

66 RESOLVED on the MOTION of Councillor Karen McKeown OAM seconded Councillor Mark Davies that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 7:47pm.

### **1 Presence of the Public**

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

### **Outcome 7**

### **2 Seeking Council resolution to use Reasonable Force - 5 Whitbeck Place, Cranebrook**

*This item has been referred to Committee of the Whole as the report refers to personnel matters concerning particular individuals and discussion of the matter in open meeting would be, on balance, contrary to the public interest.*

### **3 Removal of Easement over Property at 149-155 Boundary Road, Cranebrook**

*This item has been referred to Committee of the Whole as the report refers to personnel matters concerning particular individuals and discussion of the matter in open meeting would be, on balance, contrary to the public interest.*

**4 Property Matter - Proposed Acquisition (Commercial Matter – Diversification of Council's Property Investment Portfolio)**

*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.*

**5 Personnel Matter**

*This item has been referred to Committee of the Whole as the report refers to personnel matters concerning particular individuals and discussion of the matter in open meeting would be, on balance, contrary to the public interest.*

The meeting resumed at 8:05pm and the General Manager reported that the Committee of the Whole met at 7:47pm on 23 March 2020, the following being present

His Worship the Mayor, Councillor Ross Fowler OAM, Deputy Mayor, Councillor Karen McKeown OAM, and Councillors Bernard Bratusa, Todd Carney, Brian Cartwright, Robin Cook, Kevin Crameri OAM, Mark Davies, Tricia Hitchen, 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 Seeking Council resolution to use Reasonable Force - 5 Whitbeck Place, Cranebrook**

RECOMMENDED on the MOTION of Councillor Brian Cartwright seconded Councillor John Thain

CW2 That:

1. The information contained in the report on Seeking Council resolution to use Reasonable Force - 5 Whitbeck Place, Cranebrook be received.
2. Council resolve under s.377(p) of the Local Government Act 1993 allowing Council's Compliance officers and engaged contractors to use reasonable force to enter 5 Whitbeck Place, Cranebrook to give effect to the terms of the Order issued on 13 December 2019.

**3 Removal of Easement over Property at 149-155 Boundary Road, Cranebrook**

RECOMMENDED on the MOTION of Councillor Karen McKeown seconded Councillor Tricia Hitchen

CW3 That:

1. The information contained in the report on Removal of Easement over Property at 149-155 Boundary Road, Cranebrook be received.
2. No further action be taken by Council in this matter except in extenuating circumstances, should they arise.



Councillor Kevin Crameri OAM requested that his name be recorded has having voted AGAINST the MOTION.

**4 Property Matter - Proposed Acquisition (Commercial Matter – Diversification of Council’s Property Investment Portfolio)**

RECOMMENDED on the MOTION of Councillor Mark Davies seconded Councillor Brian Cartwright

CW4 That:

1. The information contained in the report on Property Matter - Proposed Acquisition (Commercial Matter – Diversification of Council's Property Investment Portfolio) be received.
2. Council resolve to adopt the recommendations as listed within the body of this report.
3. The Common Seal of the Council of the City of Penrith be placed on any necessary documentation.
4. A further report be presented to Council detailing the outcome of any negotiations in this matter.

**5 Decision-making arrangements between Council meetings**

RECOMMENDED on the MOTION of Councillor Mark Davies seconded Councillor Brian Cartwright

CW5 That:

1. The information contained in the report on **Error! No document variable supplied.** be received
2. Council’s functions which would normally warrant reporting to Council be determined under the General Manager’s delegation by the General Manager, after consultation with the Mayor, or in his absence the Deputy Mayor.
3. Councillors be advised of the functions of the Council exercised by the General Manager under delegation should such be made.

**ADOPTION OF COMMITTEE OF THE WHOLE**

67 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Mark Davies that the recommendations contained in the Committee of the Whole and shown as CW1, CW2, CW3, CW4 and CW5 be adopted.

There being no further business the Chairperson declared the meeting closed the time being 8:06pm.

I certify that these 13 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 23 March 2020.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date