

BUSINESS PAPER



Civic Centre

Ordinary Meeting 12 February 2024

7 February 2024

Dear Councillor,

In pursuance of the provisions of the Local Government Act, 1993 and the Regulations thereunder, notice is hereby given that an **ORDINARY MEETING** of Penrith City Council is to be held remotely using audio visual links, audio streamed and in the Pasadena Room, Civic Centre, 601 High Street, Penrith on Monday 12 February 2024 at 7:00PM.

Attention is directed to the statement accompanying this notice of the business proposed to be transacted at the meeting.

Yours faithfully

Andrew Moore
General Manager

BUSINESS

1. LEAVE OF ABSENCE

2. APOLOGIES

3. CONFIRMATION OF MINUTES

Ordinary Meeting – 29 January 2024.

4. DECLARATIONS OF INTEREST

Pecuniary Interest *(The Act requires Councillors who declare a pecuniary interest in an item to leave the meeting during discussion of that item)*

Non-Pecuniary Conflict of Interest – Significant and Less than Significant
(The Code of Conduct requires Councillors who declare a significant non-pecuniary conflict of interest in an item to leave the meeting during discussion of that item)

5. ADDRESSING COUNCIL

6. MAYORAL MINUTES

7. NOTICES OF MOTION TO RESCIND A RESOLUTION

8. NOTICES OF MOTION AND QUESTIONS ON NOTICE

9. ADOPTION OF REPORTS AND RECOMMENDATION OF COMMITTEES

10. DELIVERY PROGRAM REPORTS

11. URGENT BUSINESS

12. COMMITTEE OF THE WHOLE

ORDINARY MEETING
MONDAY 12 FEBRUARY 2024
TABLE OF CONTENTS

WEBCASTING NOTICE

COUNCIL CHAMBER SEATING ARRANGEMENTS

MEETING CALENDAR

CONFIRMATION OF MINUTES

PROCEDURE FOR ADDRESSING COUNCIL MEETING

MAYORAL MINUTES

REPORT AND RECOMMENDATIONS OF COMMITTEES

DELIVERY PROGRAM REPORTS

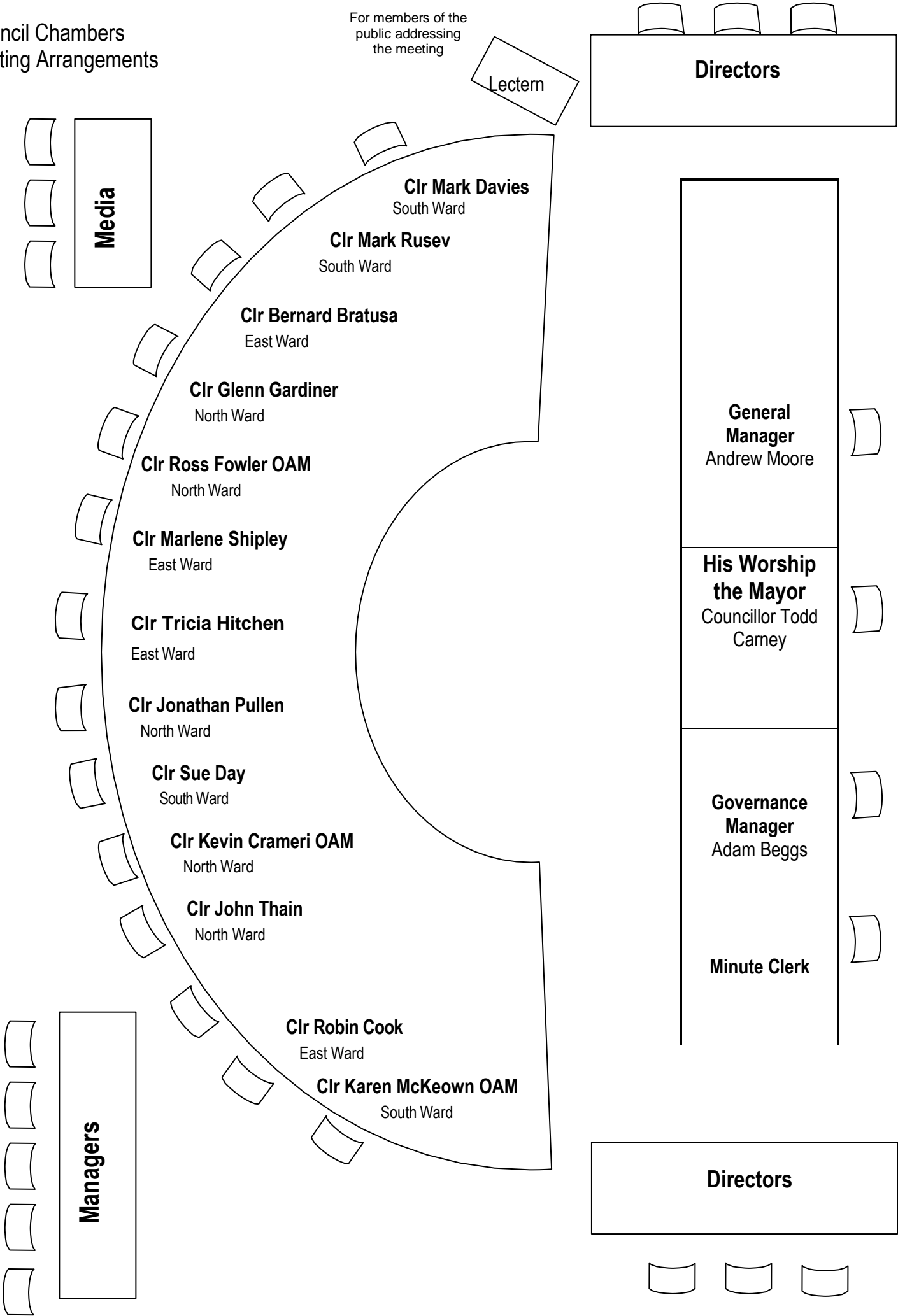
WEBCASTING NOTICE

Please note that tonight's meeting other than the confidential sessions are being recorded and will be placed on Council's website. All in attendance should refrain from making defamatory statements. Council takes all care when maintaining privacy, however members of the public gallery and those addressing Council should be aware that you may be recorded.



Council Chambers
Seating Arrangements

Public Gallery



Oath of Office

I swear that I will undertake the duties of the office of Councillor in the best interests of the people of Penrith and the Penrith City Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Affirmation of Office

I solemnly and sincerely declare and affirm that I will undertake the duties of the office of Councillor in the best interests of the people of Penrith and the Penrith City Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

2024 MEETING CALENDAR

January 2024 - December 2024

(proposed to be adopted by Council – 20 November 2023)

	TIME	JAN	FEB	MAR	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
		Mon	Mon	Mon	Mon	Mon	Mon	Mon	Mon	Mon	Mon	Mon	Mon
Ordinary Council Meeting	7:00pm	29	12 26@	25	29 -	27 #	24*	22	26@	30^	28✓	25∞#+	9
Policy Review Committee	7:00pm		12		8		3		12		14		2

- Meeting at which the draft corporate planning documents (Delivery Program and Operational Plan) are endorsed for exhibition
 - * Meeting at which the draft corporate planning documents (Delivery Program and Operational Plan) are adopted
 - # Meetings at which the Operational Plan quarterly reviews (March and September) are presented
 - @ Meetings at which the Delivery Program progress reports (including the Operational Plan quarterly reviews for December and June) are presented
 - ^ Election of Mayor and/or Deputy Mayor
 - ✓ Meeting at which the 2023-24 Annual Statements are presented
 - ∞ Meeting at which any comments on the 2023-24 Annual Statements are adopted
 - + Meeting at which the Annual Report is presented
 - > Briefing to consider Budget, draft fees & charges and corporate document
-
- Extraordinary Meetings are held as required.
 - Members of the public are invited to observe meetings of the Council (Ordinary and Policy Review Committee, Councillor Briefings are confidential sessions). Should you wish to address Council, please contact Governance Manager, Adam Beggs on 4732 7597.

**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 29 JANUARY 2024 AT 7:00PM**

NATIONAL ANTHEM

The meeting opened with the National Anthem.

WEBCASTING STATEMENT

His Worship the Mayor, Councillor Todd Carney read a statement advising that Council Meetings are recorded and webcast.

STATEMENT OF RECOGNITION

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

PRAYER

The Council Prayer was read by Rev Christine Bayliss-Kelly.

PRESENT – IN PERSON

His Worship the Mayor, Councillor Todd Carney and Councillors Bernard Bratusa, Robin Cook, Kevin Crameri OAM, Sue Day, Ross Fowler OAM, Glenn Gardiner, Karen McKeown OAM, Mark Rusev, Marlene Shipley and John Thain.

PRESENT – ATTENDED REMOTELY

Councillor Tricia Hitchen.

APOLOGIES

1 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Sue Day that the apologies received from Deputy Mayor, Councillor Mark Davies and Councillor Jonathan Pullen be accepted.

CONFIRMATION OF MINUTES - Ordinary Meeting - 11 December 2023

2 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Karen McKeown OAM that the minutes of the Ordinary Meeting of 11 December 2023 be confirmed.

DECLARATIONS OF INTEREST

Councillor Mark Rusev declared a Pecuniary Conflict of Interest – Significant in *Item 4 - Western Sydney International Airport - Draft Environmental Impact Statement on the Preliminary Flight Paths*, as he resides in St Clair which is subject to the report. Councillor Mark Rusev stated that he would leave the meeting during the consideration of this item and will not take part in discussion or voting on the issue.

Councillor Karen McKeown OAM declared a Non-Pecuniary Conflict of Interest – Significant in *Item 1 - Expression of Interest to host 2026 ALGWA NSW State Conference*, as she is City Vice President of the Australian Local Government Women's Association NSW. Councillor Karen McKeown OAM stated that she would leave the meeting during the consideration of this item and will not take part in discussion or voting on the issue.

SUSPENSION OF STANDING ORDERS

3 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Ross Fowler OAM that Standing Orders be suspended to allow members of the public to address the meeting, the time being 7:05pm.

Having previously declared an Interest, Councillor Mark Rusev left the meeting, the time being 7:05pm.

Mr Kenneth Mott

Item 4 - Western Sydney International Airport - Draft Environmental Impact Statement on the Preliminary Flight Paths

Mr Kenneth Mott, interested citizen spoke in opposition to the recommendation. Mr Mott stated that he was against the proposed Penrith City Council submission to the Draft EIS for the flight path design for the Western Sydney International Airport due to the lack of critical analysis in relation to the impact on residents of St Clair. Mr Mott expressed concerns regarding the noise impacts which could lead to further implications consisting of health concerns such as sleep deprivation, increased risk of coronary disease and Alzheimer's disease and negative impacts on cognitive development of children. Mr Mott also raised concerns regarding the negative financial implications associated with residents providing their own sound insulation solutions. Mr Mott then emphasised the importance of protecting the health and wellbeing of the residents within the Penrith LGA and supporting a legislated curfew and movement caps for Western Sydney International Airport. Mr Mott justified his lack of support in relation to the draft submission to the Draft EIS as proposed by Penrith City Council.

RESUMPTION OF STANDING ORDERS

4 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Karen McKeown OAM that Standing Orders be resumed, the time being 7:12pm.

Councillor Mark Rusev returned to the meeting, the time being 7:13pm.

MAYORAL MINUTES

1 In Memory of Citizens of the Community

Councillors Glenn Gardiner, John Thain and Kevin Crameri OAM spoke in support of the Mayoral Minute.

5 RESOLVED on the MOTION of Councillor Todd Carney seconded Councillor Karen McKeown OAM that the Mayoral Minute on In Memory of Citizens of the Community be received.

2 Australia Day Honours 2024

6 RESOLVED on the MOTION of Councillor Todd Carney seconded Councillor Ross Fowler OAM that the Mayoral Minute on Australia Day Honours 2024 be received.

REPORTS OF COMMITTEES

1 Report and Recommendations of the Heritage Advisory Committee Meeting held on 13 December 2023

7 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Mark Rusev that the recommendations contained in the Report and Recommendations of the Heritage Advisory Committee meeting held on 13 December, 2023 be adopted.

2 Report and Recommendations of the Access Committee Meeting held on 13 December 2023

8 RESOLVED on the MOTION of Councillor Robin Cook seconded Councillor Marlene Shipley that the recommendations contained in the Report and Recommendations of the Access Committee meeting held on 13 December, 2023 be adopted.

DELIVERY PROGRAM REPORTS

Councillor Karen McKeown OAM left the meeting, the time being 7:27pm.

OUTCOME 2 - WE ARE WELCOMING, HEALTHY, HAPPY AND CONNECTED

1 Expression of Interest to host 2026 ALGWA NSW State Conference

9 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Mark Rusev That:

1. The information contained in the report on Expression of Interest to host 2026 ALGWA NSW State Conference be received.
2. Council endorse the lodgement of an Expression of Interest to host the 2026 ALGWA NSW State Conference to ALGWA NSW for consideration.
3. A further report come back to the next Councillor Briefing providing further operational and financial detail.

Councillor Karen McKeown OAM returned to the meeting, the time being 7:41pm.

2 Magnetic Places Grants Program - 2022-23 review and 2023-24 recommendations

10 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Marlene Shipley

That:

1. The information contained in the report on Magnetic Places Grants Program - 2022-23 review and 2023-24 recommendations be received.
2. The four projects listed in Table 1 be funded as part of the Magnetic Places Grants Program 2023-24 for a total funding allocation of \$49,832.

3 Request for Community Event Sponsorship - Penrith Panthers Fishing Club

11 RESOLVED on the MOTION of Councillor Tricia Hitchen seconded Councillor Marlene Shipley

That:

1. The information contained in the report on Request for Community Event Sponsorship - Penrith Panthers Fishing Club be received.
2. Council endorse sponsorship of \$1,000 (exc. GST) to Penrith Panthers Fishing Club in support of the 2024 FishFest Nepean and Hawkesbury event.

Councillor Mark Rusev left the meeting, the time being 7:41pm.

OUTCOME 3 - WE PLAN AND SHAPE OUR GROWING CITY

4 Western Sydney International Airport - Draft Environmental Impact Statement on the Preliminary Flight Paths

12 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Western Sydney International Airport - Draft Environmental Impact Statement on the Preliminary Flight Paths be received.
2. The draft submission (Appendix 1) be endorsed as Council's submission.
3. A new advisory planning notation regarding airport affectation, as drafted in this report, be applied to planning certificates for all properties in the Penrith LGA, and, further that, the previous advisory notation adopted by Council be removed from planning certificates. The mandatory notation for properties within the ANEC/ANEF 20 contour will continue to be applied.
4. Council Officers consider the submissions raised by Mr Kenneth Mott, Wallacia residents, Mulgoa residents and various other matters raised, for possible incorporation in the submission if appropriate and councillors to be notified by memo.

Councillor Mark Rusev returned to the meeting, the time being 7:53pm.

OUTCOME 4 - WE MANAGE AND IMPROVE OUR BUILT ENVIRONMENT

5 Infrastructure Betterment Fund

13 RESOLVED on the MOTION of Councillor Bernard Bratusa seconded Councillor Karen McKeown OAM

That:

1. The information contained in the report on Infrastructure Betterment Fund be received.
2. Council endorse acceptance of the Infrastructure Betterment Fund grant funding of \$1,371,963.
3. The General Manager be authorised to enter into Funding Agreements

with the Department of Regional NSW.

OUTCOME 5 - WE HAVE OPEN AND COLLABORATIVE LEADERSHIP

6 Land Classification - 24 Chapman Street and 1 Tramway Avenue Werrington (Lot 1069 DP1272641 and Lot 1226 DP1272642)

14 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Glenn Gardiner

That:

1. The information contained in the report on Land Classification - 24 Chapman Street and 1 Tramway Avenue Werrington (Lot 1069 DP1272641 and Lot 1226 DP1272642) be received.
2. Lot 1069 DP1272641 and Lot 1226 DP1272642 be classified as community land in accordance with Section 31 of the Local Government Act 1993.
3. The land be categorised as a "General Community Uses" in accordance with Section 36 of the Local Government Act 1993.
4. The Common Seal of the Council of the City of Penrith be affixed to all documents as required, and the General Manager (or their delegate) be authorised to sign all necessary legal documents in relation to this matter.

7 Disclosure of Pecuniary Interest - First Returns

15 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Glenn Gardiner

That:

1. The information contained in the report on Disclosure of Pecuniary Interest - First Returns be received.
2. The written first returns be made publicly available in accordance with the requirements of the Government Information (Public Access) Act 2009 subject to appropriate redactions.

8 NSW Rural Fire Fighting Fund 2023-24 Infrastructure Allocations

16 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Glenn Gardiner that the information contained in the report on NSW Rural Fire Fighting Fund 2023-24 Infrastructure Allocations be received.

9 Local Road and Community Infrastructure Program Grant – Phase 3 Alternate Projects

17 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Glenn Gardiner

That:

1. The information contained in the report on Local Road and Community Infrastructure Program Grant – Phase 3 Alternate Projects be received.
2. Council apply to the Department of Infrastructure, Transport, Regional Development and Communications for a Major Variation to LCRI Program

Phase 3.

10 Summary of Investments & Banking for the period 1 December 2023 to 31 December 2023

18 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Glenn Gardiner

That:

1. The information contained in the report on Summary of Investments & Banking for the period 1 December 2023 to 31 December 2023 be received.
2. The certificate of the Responsible Accounting Officer and Summary of Investments and Performance for the period 1 December 2023 to 31 December 2023 be noted and accepted.

COMMITTEE OF THE WHOLE

19 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor John Thain that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 7:57pm.

1 Presence of the Public

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

Outcome 5

2 Council Property - New Licence - First Floor, 207-209 Queen St, St Marys

This item has been referred to Committee of the Whole as the report refers to commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

Outcome 4

3 Federal Grant Programs - Sport and Recreation Projects

This item has been referred to Committee of the Whole as the report refers to commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

The meeting resumed at 8:04pm and the General Manager reported that the Committee of the Whole met at 7:57pm on Monday, 29 January 2024, the following being present

His Worship the Mayor, Councillor Todd Carney and Councillors Bernard Bratusa, Robin Cook, Kevin Crameri OAM, Sue Day, Ross Fowler OAM, Glenn Gardiner, Tricia Hitchen, Karen McKeown OAM, Mark Rusev, Marlene Shipley 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 - New Licence - First Floor, 207-209 Queen St, St Marys

20 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Bernard Bratusa

CW2 That:

1. The information contained in the report on Council Property - New Licence - First Floor, 207-209 Queen St, St Marys be received.
2. Council approves the proposed new licence agreement under the terms and conditions listed within the report.
3. The Common Seal of the Council of the City of Penrith be affixed to all documents as required, and the General Manager be authorised to sign all necessary legal documents in relation to this matter.

3 Federal Grant Programs - Sport and Recreation Projects

21 RESOLVED on the MOTION of Councillor Marlene Shipley seconded Councillor Glenn Gardiner CW3 that the information contained in the report on Federal Grant Programs - Sport and Recreation Projects be received.

ADOPTION OF COMMITTEE OF THE WHOLE

22 RESOLVED on the MOTION of Councillor Marlene Shipley seconded Councillor Glenn Gardiner that the recommendations contained in the Committee of the Whole and shown as CW1, CW2 and CW3 be adopted.

Recommittal of Item 9 - Local Road and Community Infrastructure Program Grant – Phase 3 Alternate Projects

23 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Robin Cook that consideration of *Item 9 - Local Road and Community Infrastructure Program Grant – Phase 3 Alternate Projects* be recommitted for consideration of Council.

9 Local Road and Community Infrastructure Program Grant – Phase 3 Alternate Projects

24 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Glenn Gardiner

That:

1. The information contained in the report on Local Road and Community Infrastructure Program Grant – Phase 3 Alternate Projects be received.
2. Council apply to the Department of Infrastructure, Transport, Regional Development and Communications for a Major Variation to LCRI Program Phase 3.

There being no further business the Chairperson declared the meeting closed the time being 8:11pm.

PENRITH CITY COUNCIL

Procedure for Addressing Meetings

Anyone can request permission to address a meeting, providing that the number of speakers is limited to three in support of any proposal and three against.

Any request about an issue or matter on the Agenda for the meeting can be lodged with the General Manager or Public Officer up until 12 noon on the day of the meeting.

Prior to the meeting the person who has requested permission to address the meeting will need to provide the Public Officer with a written statement of the points to be covered during the address in sufficient detail so as to inform the Councillors of the substance of the address and a written copy of any questions to be asked of the Council in order that responses to those questions can be provided in due course.

In addition, prior to addressing the meeting a person addressing Council or Committee will be informed that they do not enjoy any privilege and that permission to speak may be withdrawn should they make inappropriate comments.

It should be noted that persons who wish to address the Council are addressing a formal part of the Council Meeting. All persons addressing the Meeting should give consideration to their dress attire. Smart casual is a minimum that is thought to be appropriate when addressing such a forum.

It should be noted that speakers at meetings of the Council or Committee do not have absolute privilege (parliamentary privilege). A speaker who makes any potentially offensive or defamatory remarks about any other person may render themselves open to legal action.

Prior to addressing the meeting the person will be required to sign the following statement:

"I (name) understand that the meeting I intend to address on (date) is a public meeting. I also understand that should I say or present any material that is inappropriate, I may be subject to legal action. I also acknowledge that I have been informed to obtain my own legal advice about the appropriateness of the material that I intend to present at the above mentioned meeting".

Should a person fail to sign the above statement then permission to address either the Council or Committee will not be granted.

The Public Officer or Minute Clerk will speak to those people who have requested permission to address the meeting, prior to the meeting at 6.45pm.

It is up to the Council or Committee to decide if the request to address the meeting will be granted.

Where permission is to be granted the Council or Committee, at the appropriate time, will suspend only so much of the Standing Orders to allow the address to occur.

The Chairperson will then call the person up to the lectern or speaking area.

The person addressing the meeting needs to clearly indicate:

- Their name;
- Organisation or group they are representing (if applicable);
- Details of the issue to be addressed and the item number of the report in the Business Paper;
- Whether they are opposing or supporting the issue or matter (if applicable) and the action they would like the meeting to take;
- The interest of the speaker (e.g. affected person, neighbour, applicant, applicants spokesperson, interested citizen etc).

Each person then has five minutes to make their address. Those addressing Council will be required to speak to the written statement they have submitted. Permission to address Council is not to be taken as an opportunity to refute or otherwise the points made by previous speakers on the same issue.

The Council or Committee can extend this time if they consider it appropriate, however, everyone needs to work on the basis that the address will be for five minutes only.

Councillors may have questions about the address so people are asked to remain at the lectern or in the speaking area until the Chairperson has thanked them.

When this occurs, they should then return to their seat.

Adam Beggs
Public Officer
02 4732 7597

DELIVERY PROGRAM REPORTS

Item

Page



COMMITTEE OF THE WHOLE
DELIVERY PROGRAM REPORTS
CONTENTS

Pecuniary Interests

Other Interests

Monday February 12 2024

Item		Page
1	Presence of the Public	1
2	<u>Update 158-164 Old Bathurst Road, Emu Plains</u>	2

1 Presence of the Public

Everyone is entitled to attend a meeting of the Council and those of its Committees of which all members are Councillors, except as provided by Section 10 of the Local Government Act, 1993.

A Council, or a Committee of the Council of which all the members are Councillors, may close to the public so much of its meeting as comprises:

- (a) the discussion of any of the matters listed below; or
- (b) the receipt or discussion of any of the information so listed.

The matters and information are the following:

- (a) personnel matters concerning particular individuals;
- (b) the personal hardship of any resident or ratepayers;
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business;
- (d) commercial information of a confidential nature that would, if disclosed:
 - prejudice the commercial position of the person who supplied it; or
 - confer a commercial advantage on a competitor of the Council; or
 - reveal a trade secret.
- (e) information that would, if disclosed, prejudice the maintenance of the law;
- (f) matters affecting the security of the Council, Councillors, Council staff or Council property;
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.

The grounds must specify the following:

- (a) the relevant provision of section 10A(2);
- (b) the matter that is to be discussed during the closed part of the meeting;
- (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in open meeting would be, on balance, contrary to the public interest.

Members of the public may make representations at a Council or Committee Meeting as to whether a part of a meeting should be closed to the public

The process which should be followed is:

- a motion, based on the recommendation below, is moved and seconded
- the Chairperson then asks if any member/s of the public would like to make representations as to whether a part of the meeting is closed to the public
- if a member/s of the public wish to make representations, the Chairperson invites them to speak before the Committee makes its decision on whether to close the part of the meeting or not to the public.
- if no member/s of the public wish to make representations the Chairperson can then put the motion to close the meeting to the public.

The first action is for a motion to be moved and seconded based on the recommendation below.

RECOMMENDATION

That:

Outcome 5

2 [Update 158-164 Old Bathurst Road, Emu Plains](#)

This item has been referred to Committee of the Whole as the report refers to commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret and discussion of the matter in open meeting would be, on balance, contrary to the public interest.



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