



LITHGOW CITY COUNCIL

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

15 DECEMBER 2008

AT 6.00pm

AGENDA

PRESENT

QUESTIONS FROM THE PUBLIC GALLERY - NIL

PRESENTATIONS -

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 18TH NOVEMBER 2008

DECLARATION OF INTEREST

NOTICES OF MOTION - Councillor G Danaher
Councillor W Marshall

NOTICE OF RESCISSION - NIL

MAYORAL MINUTE - NIL

CORRESPONDENCE AND REPORTS

General Manager Reports
Regional Services Reports
Community and Corporate Reports

CLOSED REPORTS - 1. Upgrade of Portland Crystal Theatre.

REPORTS FROM DELEGATES - NIL

COMMITTEE MEETINGS - Sports Advisory
Tourism Advisory
Lithgow Flash Gift

QUESTIONS OF AN URGENT NATURE

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NOTICE OF MOTION

ITEM:1 NOTICE OF MOTION - 15/12/08 - COUNCILLOR G DANAHER -
PROPOSED IMPROVEMENTS TO THE ENTRANCE TO OUR TOWN

APPENDIX SIX (6) NOTICE OF MOTION



MOTION TITLE/TOPIC:

Proposed improvement to the entrance to our town

Listed by Councillor: **Grahame Danaher**

DATE: **8th December 2008**

BACKGROUND:

Improvement to the entrance to our town.

Obviously the Entrances to our Town, chiefly through the Great Western Highway (G.W.H.) and the Scenic Hill are quite important in how our Council area is perceived.

We are aware that our G.W.H. approach is quite good, however, the Scenic Hill approach is not so scenic and has languished as somewhat of an eyesore over the years.

Issues have been raised repeatedly from the community that "our image" should be continually improved.

RECOMMENDATION:

That Council

- Investigate a tree planting/beautification plan for the Lithgow City (Council) Area.
- Review its current branding of the local government area and develop an overall tourism plan, including signage for the area
- Include in the land use strategy the consideration of the use of medium density housing in the Corney Town, Hartley Road and Clwydd Street areas of Lithgow.

Signed:

**ITEM:2 NOTICE OF MOTION - 15/12/08 - COUNCILLOR W MARSHALL -
RECORDING OF COUNCIL MINUTES - ORDINARY COMMITTEE
MEETINGS**

NOTICE OF MOTION



MOTION TITLE/TOPIC:

Recording of Council Minutes - Ordinary Committee Meetings.

Listed by Councillor W Marshall DATE: 1/12/2008

BACKGROUND:

To accurately record motions put forward by Councillors to allow transparency and clearer clarification of Council resolutions. For example: When a complex motion is put, the verbal communication of that motion can be inaccurate and miscommunicated if not recorded correctly.

RECOMMENDATION:

That: A report be instigated to investigate the cost of installing larger monitors and the appropriate software to allow Councillors and the public a clearer understanding and wording of the motions moved and subsequently automate the process of recording which will give an instant visual recognition of the motion.

Signed: _____

A handwritten signature in black ink, appearing to be 'W Marshall', is written over a horizontal line. The signature is enclosed in a hand-drawn oval.

GENERAL MANAGER REPORTS

ITEM:3 GM - 15/12/08 - REGIONAL AND LOCAL COMMUNITY INFRASTRUCTURE PROGRAM 2008/09

SUMMARY

Council has been allocated \$529,000 as part of the Regional and Local Community Infrastructure Program.

COMMENTARY

The Government is making available \$300 million to local government to stimulate growth and economic activity across Australia.

One-off funding of \$250 million in 2008-09 is being provided to local councils under the Regional and Local Community Infrastructure Program (RLCIP). Lithgow City Council is to receive \$529,000 from this fund.

Additionally, under the Regional and Local Community Infrastructure Program - Strategic Projects, up to \$50 million will be available to local government in 2008-09. Councils and shires will be required to meet guidelines in order to receive their share of the \$250 million component.

Councils and shires will need to meet guidelines and go through a competitive process in order to have projects selected for funding under the \$50 million component.

This \$300 million funding will be delivered as follows:

1. \$250 million allocation

Minimum payment: Each council or shire will receive a minimum payment of \$100,000.

\$300,000 Growth Component: *Councils and shires with populations of more than 30,000 people, which are also categorised as 'urban fringe', 'urban regional' or 'rural significant growth' by their State and Territory Local Government Grants Commissions, will receive an additional \$300,000. These councils generally face relatively greater pressures to provide or renew community infrastructure.*

Balance of funds: *For councils and shires with more than 5,000 people, the balance of the \$250 million is allocated in accordance with the annual Financial Assistance Grants formulas used by the independent State and Territory Local Government Grants Commissions.*

2. \$50 million Strategic Projects

- *\$50 million Strategic Projects competitive for larger-scale community infrastructure to help deliver an additional injection of investment in communities; and*
- *this will be competitive, application-based, accountable and open only to those projects seeking a minimum Commonwealth contribution of \$2 million.*

The Government has released the guidelines for the RLCIP program. These guidelines are attached.

Councils will be required to provide the Department with details of projects that will be funded through the \$250M allocation by **30 January 2009**. Council will be required to enter into an agreement prior to receipt of the payment. Funding must be expended by **30 September 2009**.

To be considered for funding under the Regional and Local Community Infrastructure Program – Strategic Projects local governments are required to complete an application form and send it together with the required information and documentation to the Department of Infrastructure, Transport, Regional Development and Local Government. Included in the application form, amongst other items, are requests for:

- progress on any development approvals
- cash flow projections
- feasibility study
- business plan
- authorisation to undertake an independent viability assessment

The application form and supporting documentation must be received by the Department by **4pm, 23 December 2008**. Incomplete application forms will not be considered for funding.

The Minister for Infrastructure, Transport, Regional Development and Local Government expects to announce successful Strategic Projects by **February 2009**.

Project Eligibility

The RLCIP will provide funding to local governments for community infrastructure including new construction and major renovations or refurbishments of assets such as:

- social and cultural infrastructure (e.g. art spaces, gardens);
- recreational facilities (e.g. swimming pools, sports stadiums);
- tourism infrastructure (e.g. walkways, tourism information centres);
- children, youth and seniors facilities (e.g. playgroup centres, senior citizens' centres);
- access facilities (e.g. boat ramps, footbridges); and
- environmental initiatives (e.g. drain and sewerage upgrades, recycling plants).

Projects that can be funded need to be consistent with the list provided with the guidelines.

Funding can be used for:

- construction or fit-out;
- preparatory work such as necessary engineering and geotechnical studies;
- land surveys and site investigations; and
- project management costs.

Funding will not be available for activities such as ongoing costs (e.g. operational costs and maintenance); transport infrastructure, such as roads; or related infrastructure covered by the Roads to Recovery or Black Spots programs.

Proposals

A significant amount of comment about possible projects has been made with the following suggestions being made:

- Skate/Bike Park – Lithgow
- Skate/Bike Facility – Wallerawang
- Skate/Bike Facility – Portland
- Internet Café Lithgow – in a Council shop Main St
- Improvements for Villages (Parks, Playgrounds, - Capertee, Cullen Bullen, Rydal etc)
- Proper seating for Tony Luchetti grandstand
- Youth initiatives in the LGA
- Portland and Lithgow Pool upgrades
- Public halls
- Union Theatre
- Glanmire cricket nets
- Roads main St Lithgow including plan for redo of Main St one-way (ineligible)
- Parking bays marked then identified hot spots (ineligible)
- Water provision Clarence transfer for water to Wallerawang and Portland (note – Funded elsewhere)
- Sewerage works (note – Funded elsewhere)
- Refuse Bin - complete overhaul (bin location, fencing, signage, trees planted for screening) (note – Funded elsewhere)
- Cultural infrastructure
- Community halls
- Vale Hall kitchen
- Improvement and development of performing arts facilities
- New storage spaces for regional galleries
- War Memorial Cenotaph monument statue in Queen Elizabeth II Park
- Rydal Village - television reception
- Upgrade on Visitor Information Centre - new sign and handle on Miners Lamp
- Wolgan Valley Rail Trail feasibility
- Skate park (and BMX track) at Watsford Oval (opposite pool)
- Books for the library including a section for small businesses and home based businesses
- Assess requirements of Wallerawang and Portland to see if remaining funds can be provided to improve assets already there or small project constructions – dependent upon issues such as demographic make-up of areas, etc.
- Improved signage
- Branding
- Promotional materials for economic development
- Lithgow Hockey field
- Crystal Theatre - additional to meet any funding shortfall

- Wallerawang Library
- Union Theatre/Hoskins Building
- Options Study for Cultural Precinct
- Lithgow Civic Ballroom (note Council budget funding of \$80,000 in 2008/09)
- Union Theatre - complete the link with Hoskins building
- New toilet facility at the newly reconstructed Taxi Terminal in Eskbank Street, Lithgow.
- New footpath from the new retirement village to the hospital - western side of the highway from Magpie Hollow Road all the way to Main Street.
- Aquatic centre
- Sculptures of turtles from local artist
- Painting of Lithgow Library
- Wheelchair Swing - Queen Elizabeth Park
- Hermitage colliery
- Lake Wallace Community Boat Centre
- State Mine Heritage Park and railway
- Lithgow Tennis Courts

From this, Funding allocated under the \$250 million component of the Regional and Local Infrastructure Program must be spent on Council owned infrastructure, only. However, the \$50 million strategic component can be applied for by Council to be utilised on assets/infrastructure owned by not-for-profit organisations and community groups providing a memorandum of understanding is in place outlining all future requirements and arrangements.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil – the program does not require a Council contribution.

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Guidelines Regional and Local Community Infrastructure Program (RLCIP), Department of Infrastructure, Transport, Regional Development and Local Government.

RECOMMENDATION

THAT Council make the following allocations from the Commonwealth Government's Regional and Local Community Infrastructure Program 2008-09:

Projects	\$
Lithgow Skate Park	200,000
Wallerawang Skate Park	64,000
Union Theatre/Hoskins Building – complete linking	40,000
Union Theatre Toilets	10,000
Crystal Theatre – contribution to upgrade	80,000
Wallerawang Library	30,000
Lithgow Civic Ballroom	30,000
Lithgow Hockey field	75,000
Vale Hall Kitchen	10,000
Total	529,000

ITEM:4 GM - 15/12/08 - LITHGOW HOCKEY ASSOCIATION

REFERENCE

Nil

SUMMARY

The Lithgow Hockey Association has requested financial support from Council to upgrade the current sand based hockey field at Glanmire Reserve. The estimated cost of the project is \$800,000.

COMMENTARY

According to the information provided by the Lithgow Hockey Association the current sand based hockey field was constructed in 1991 and is now coming to the end of its useful life. The Association would like to upgrade this field to a water based facility.

The field is currently located on the Glanmire Sports Ground a Council owned (freehold) and maintained parcel of land.

A presentation was given by the Lithgow Hockey Association to the Council's Policy and Strategy Committee meeting held on Tuesday December 2, 2008 and the Committee resolved that:

P08-145 RESOLVED

THAT:

1. Council write to the State Member seeking advice as to the status of the grant that the Hockey Association applied for.
2. Council meet with the Lithgow Hockey Association to develop a business plan for the proposed development of a second water based hockey field in Lithgow.
3. The Lithgow Hockey Association provide an undertaking to approach significant business in the area to also provide funding to this proposal.

An approach has been made to the local State Member, Mr Gerard Martin, in relation to the status of the grant for the Association. Mr Martin advised that the Regional Sporting Facilities grants have been undergoing a revue and applications will be called in January and closing in February 2009. It is expected that the announcements of the successful applications will not be known until later in the year.

The Association indicated that they would like to complete this project prior to the commencement of the hockey season in April 2009.

At the time of writing the report the business plan was still being prepared.

The Association have indicated that the cost of the new field would be \$800,000 and has indicated that the following funds are available to complete the works:

Lithgow Hockey Association	\$ 75,000
LHA – Sub Committees	50,000
Federal Government Grant – approved	100,000

This leaves a funding shortfall of \$575,000. The Association is requesting that Council provide a grant of \$75,000 and provide an interest free loan of up to \$500,000 to allow them to complete the project.

Council Finances

At this point in time the Council finances are in a 'fair' position with invested funds in excess of \$15,000,000. The estimated interest to be earned from these funds in the current year is over \$750,000, though interest rates are currently in decline.

Council has a policy that it will make available to community groups an interest free loan facility. The current policy states that the maximum total amount that it will make available to the community will be \$200,000. Council has also indicated, and is currently advertising, the proposal to amend this policy and remove any such restriction.

An interest free loan of \$500,000 would see Council foregone interest of \$25,000 in year one based upon an interest rate of 5%pa. At this point the Association are proposing to borrow funds for 13 years. Council would also be foregoing the ability to use the principal during this period until it is repaid.

The Lithgow Hockey Association is currently very financially viable and appears to have managed themselves very well over the years. However as a community group there is no guarantee that they will not fold at any time. Then depending upon the structure of the group e.g. a committee, an incorporated body etc may determine if Council's is ever repaid. To seek security to ensure that a 'community group' repay a loan for a facility on Council controlled land would be inappropriate. However Council would still need to ensure that it is satisfied the Association has the ability to repay the loan. This would be done, as requested by Council, through a business plan.

POLICY IMPLICATIONS

There

FINANCIAL IMPLICATIONS

Donations Policy

LEGAL IMPLICATIONS

The subject of much of this report.

ATTACHMENTS

Formal agreements would need to be executed.

Note further budget information is yet to come.

CONCLUSION

Ideally this matter should be considered as part of the overall management plan process and prioritised against other priorities at the time rather than considering it in isolation. A loan of this size would also affect the ability of the Council to provide assistance to other community and sporting groups.

The completion of this upgrade would be an asset to the Lithgow community and mean that the Lithgow Hockey Association could attract significant hockey events and thus attract many visitors to the area. The Council should support the project, however the level of support may need to be less than that requested.

RECOMMENDATION

THAT Council:

1. Note the report on the request by the Lithgow Hockey Association for funding from Council to upgrade the sand based hockey field;
2. Agree to provide a contribution from the funding from the Regional and Local Community Infrastructure Program to the Association of \$75,000 for the purpose of upgrading the sand based hockey field at Glanmire Reserve, providing that this project is completed prior to September 2009;
3. Provide an interest free loan of up to \$100,000 to the Lithgow Hockey Association for up to 15 years for the purpose of upgrading the sand based hockey field at Glanmire Reserve;
4. Provide a loan of up to \$400,000 for up to 15 years to the Lithgow Hockey Association for the purpose of upgrading the sand based hockey field at Glanmire Oval. The interest rate for this loan is to be set at the average interest reviewed rate on Council investments at the time of taking out the loan and review annually on that basis; and
5. Authorise the General Manager to finalise the loan negotiations and any other matter relating to Council's assistance to the Lithgow Hockey Association
6. Authorise the Council Seal to be affixed to any documents.

ITEM:5 GM - 15/12/08 - LOCAL GOVERNMENT REMUNERATION TRIBUNAL

REFERENCE

Min 07-259: Extraordinary Meeting 26 June 2007.
Min : Ordinary Meeting of Council 17th December 2007

SUMMARY

The Local Government Remuneration Tribunal has advised Council that it has commenced its annual review of the remuneration provided to Councillors. Council may wish to make a submission.

COMMENTARY

As part of this year's review, the Tribunal has indicated that it would welcome a submission from Council if so resolved. Submissions are required by 13th February 2009.

It would be helpful if Council was able to outline the issues it wishes to raise with the Tribunal if it determines a submission is to be made.

Lithgow City Council is determined by the tribunal to be a category 4 Council. The Tribunal is now seeking comment on the changes that have occurred to Councils since the review. Submissions should address the following matters:

- Should the existing categories be reduced / expanded and if so on what basis
- Whether the current categorisation is appropriate. If not, where you consider it should be categorised and on what basis you consider this re-categorisation should be granted.
- Significant changes in the role and responsibilities of councillors and mayors since 2006.
- Other matters you may wish the tribunal to consider as part of this review.

In any response to the Tribunal you should relate any changes that have taken place since the last review in 2006 to the categorisation criteria as provided in Section 240 of the Act.

Council resolved as part of the 2007/08 Management Plan total annual fees for Councillors at \$8,500 and for the Mayor \$18,000 (Min 07-259). In accordance with Council's policy for "*Payment of Expenses and Provision of Facilities to Councillors*", \$2,000 is paid by the Mayor for the private use of the Mayoral vehicle.

POLICY IMPLICATIONS

Policy 9.9 Payment of Expenses and provision of facilities to Councillors applies.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Letter from Local Government Remuneration Tribunal (Doc: 466771)

RECOMMENDATION

THAT:

1. Council not make a submission to the Local Government Remuneration Tribunal on Councillor fees is to be made and identify any particular issues it wishes be included;

ITEM:6 GM - 15/12/08 - MOUNT VICTORIA TO LITHGOW - UPGRADE OF THE GREAT WESTERN HIGHWAY

COMMENTARY

The RTA has identified five possible corridors that are being considered for the upgrade of the Great Western Highway between Mount Victoria and Lithgow. The RTA has also been undertaking community consultation in relation to these corridors and is seeking community comment, closing on Monday December 22, 2008.

The Australian and NSW governments, with the community, are currently investigating this section of the Great Western Highway to determine the preferred alignment for an upgrade.

The RTA proposes that a highway upgrade would:

- Improve road safety.
- Improve road freight efficiency.
- Cater for the mix of through, local and tourist traffic.
- Be sensitive to the area's natural environment, heritage and local communities.

Corridor investigations – Mount Victoria to Lithgow study area

The Mount Victoria to Lithgow study area was announced in May 2008. Four corridors have been identified in which route options may be feasible. This investigation was based on a review of existing data and desktop research, with the input of stakeholders and the community.

The RTA is now consulting the community on these corridors. They will then be confirmed. Field studies and community involvement are then needed to examine if feasible routes can be located within those corridors. This next process is expected to be completed by approximately mid 2009. Corridors will progress to the next stage with the preferred route to be selected in late 2009.

Strategic review of a Newnes Plateau corridor

The strategic review of a Newnes Plateau corridor was commissioned in response to requests by some members of the community to examine whether a route through the Newnes Plateau area was feasible. The study focused on collating known environmental and land use constraints, testing if a route could be built to agreed road standards, and examining data relating to current and future traffic.

This strategic review has been completed and following community consultation and confirmation of this corridor, this area will then be subjected to the same investigations as the other corridors in which route options may be feasible between Mount Victoria and Lithgow.

There are some differences in the methodology of each study, partly given the differences in the areas investigated.

The studies were undertaken independently (by separate consultants). The methodologies were similar in that the constraints known at this stage were carefully considered.

The key difference is that in the Mount Victoria to Lithgow study area, several quite separate feasible corridors were considered possible. This was not the case for the Newnes Plateau.

Community involvement

The Australian and NSW governments, with the community, are investigating this section of the Great Western Highway to determine the preferred alignment for an upgrade.

A number of community meetings, workshops and displays have been held since mid 2008, with the most recent round of community consultations just completed.

Submissions

The feedback now being sought by the RTA relates to:

- Any issues that the RTA has left out or not considered in any of the proposed corridors
- Any other information that the RTA may need to know at this time about any of the corridors, prior to field studies commencing in early 2009
- Any other comments that interested persons may like to make that may assist the RTA?

It is not seen that interested parties make an indication, at this point, of the preferred corridor.

Funding

It is important to point out that at this time there is no funding for the construction of the project and only funding for the investigation of the project. Thus the commencement of the upgrade could be many years away.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

CONCLUSION

While it is not essential at this point in time to indicate a preferred route there are some significant points in the matter that Council might like to comment on including:

- That none of the routes are proposing a four lane expressway. The routes through the Hartley Valley are based upon combinations of three and four lanes routes. While the route through the Newnes Plateau is based upon a combination of a two and three lane route.
- There is some concern at the takeoff point at Clarence/Newnes Junction, particularly in relation to the railway crossing
- The need for a socio-economic impact assessment to be made for Lithgow if the town is to be by-passed
- If the Newnes Plateau route is to be further considered then the effect on the Lithgow town water supply would need to be considered.

ATTACHMENTS

1. Corridor diagram.

RECOMMENDATION

THAT Council make a submission to the RTA on the Mount Victoria to Lithgow corridor supporting the need for an upgrade of the route and in particular on the following items:

1. That the corridors should all be based upon a four lane expressway standard;
2. Further investigations be made in relation to the takeoff point at Clarence/Newnes Junction, particularly in relation to railway crossing;
3. The need for a socio-economic impact assessment to be included for Lithgow if the town is to be by-passed; and
4. If the Newnes Plateau route is to be further considered then the impact on the Lithgow town water supply would need to be assessed.

**ITEM:7 GM - 15/12/08 - NATIONAL BROADBAND NETWORK - TELSTRA
PROPOSAL**

REFERENCE

NIL

COMMENTARY

Correspondence has been received from the Telstra Corporation informing Council that Telstra recently submitted a proposal to the Federal Government to build a world - class, open access national broadband network (NBN).

Telstra believe the high-speed broadband is a critical technology that will enable substantial benefits for business, health, education and other government services, carbon emissions reduction and the wider Australian community.

Telstra's proposal outlines that they would spend up to \$5 billion of shareholder money on an NBN capable of delivering high-speed broadband to up to 90 per cent of Australians. In the past three year Telstra has delivered world leading capabilities to Australians through the integrated Next G and Next IP networks. They believe that their proven track record in the scale and speed of delivery of those two networks, plus our financial capacity and the real capital commitment in their NBN proposal, are unmatched by any NBN competitor.

The NBN would employ 4000 skilled staff during construction and create many more jobs indirectly. Telstra is serious in their proposal to build the NBN. Telstra can only do this if there are no business model changes which destroy the economic incentives or their capabilities, such as further separation or fracturing of their network - a network which is critical in providing end - to - end services for customers and for the national security.

The Minister Senator Conroy, indicated that the government accepted Telstra's proposal for consideration under its NBN Request for Proposals process.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT the information from Telstra regarding it proposal for a National Broadband Network (NBN) be noted.

**ITEM:8 GM - 15/12/08 - SPECIAL RATE APPLICATION FOR
 INFRASTRUCTURE WORKS 2009/10**

REFERENCE

Nil

SUMMARY

This report seeks Council's resolution to apply for a special rate variation for proposed infrastructure works in the 2009/10 Management Plan.

COMMENTARY

The Department of Local Government will call for applications for special rate variations in the near future. It is considered appropriate that Council submit an application for this purpose to provide infrastructure improvements in the local government area.

Local infrastructure has been deteriorating and in many cases regarded as being in very poor condition. A matter that has been highlighted recently with meetings with councillors, community concerns for infrastructure and also with the responses to the request for projects under the Regional and Local Community Infrastructure Program. Infrastructure such as roads and buildings are of particular concern and require an immediate injection of funds to improve the situation. Many Council buildings are in need of urgent maintenance, e.g. community halls. Other assets such as library relevant books at the Lithgow Learning Centre are rapidly depleting.

The condition of Council's public works infrastructure is highlighted in Special Schedule 7 of the 2007/08 General Purpose Financial Reports as follows:

CONDITION OF PUBLIC WORKS								
ASSET CLASS	ANNUAL DEP'N	AT COST	FAIR VALUE	ACC DEP'N	WDV	EST COST TO SATISFACTY STANDARD	REQUIRED ANNUAL MAINT	CURRENT ANNUAL MAINT
	\$000	\$000	\$000	\$000	\$000	\$000	\$000	\$000
BUILDINGS	805		72,936	33,061	39,875	5,138	1,178	982
ROADS	551	203,133		89,077	114,056	30,870	4,262	1,665
WATER	621		52,070	28,948	23,122	5,459	1,485	1,142
SEWERAGE	951		52,994	38,041	14,953	14,523	2,456	1,889
DRAINAGE	142	14,790		10,673	4,117	535	133	111
TOTAL	3,070	217,923	178,000	199,800	196,123	56,525	9,514	5,789

In summary public roads require an injection of \$30,870,000 to bring them to an acceptable standard and for this to be achieved Council would need to commit annual maintenance expenditure of \$4,262,000. The current maintenance allocation of \$1,665,000 is well short of this estimation.

A similar story exists in relation to public buildings. \$5,138,000 is required to bring Council buildings up to an acceptable standard and this would be possible with annual maintenance of \$1,178,000 but only \$982,000 is currently being spent.

It is proposed to apply to the DLG for a special variation of 5% above the ordinary rate (after rate pegging) for 2009/10 which if approved will be permanently ongoing. It is also to be proposed that Council consider additional applications of 5% in each of the following two financial years. These subsequent applications will require further additional work to enable the applications to be made. The main focus of a proposed application for additional rate revenue would be the Council's road network with possible additional funds, in the first instance being allocated to building maintenance and an increased book vote.

To make application for a Special Rate Variation the following guidelines and are available for Council to consider:

What does Council want to do?	Section of LG Act	Consequences	What is required to extend the special variation approval?
Increase the general income by more than the rate peg % in eg 2008/09 and then apply the rate peg on top of that figure each year thereafter for a number of fixed years.	508(2)	Council will be required to reduce its general income in the year after the approval period ends. The amount to be reduced will be the \$ amount of the special increase plus the equivalent cumulative proportion of the increase from any general or special variation increases approved during the approval period.	A new application would be required in the year that Council has to reduce its general income.
Increase the general income by more than the rate peg % in eg 2008/09 and then apply the rate peg on top of that figure each year thereafter on an ongoing basis (not for a fixed period).	508(2)	Council will never have to reduce its general income as the increase is ongoing.	Not applicable as the special variation approval was permanent/ongoing.
Increase the general income by a % which is higher than the rate peg % in each of the next number of years (up to a maximum of 7 years).	508A	Council will never have to reduce its income. % increases approved for each year are cumulative. At the expiration of the approval period, the rate peg limit would apply to the level of income generated in the previous year.	A new application would need to be submitted.

If Council wishes to apply for a Special Rate Variation for the 2009/10 financial year it will be included in the Draft 2009/10 to 2011/12 Management Plan this will be subject to Council's approval and extended consultation with the community.

POLICY IMPLICATIONS

There are no policy implications as a result of this report.

FINANCIAL IMPLICATIONS

The financial implications of an application a special rate variation and associated expenditure will be open for further discussion with the presentation of the Draft 2009/10 to 2011/12 Management Plan.

LEGAL IMPLICATIONS

The application for a special rate variation must be submitted to the Department of Local Government by 31 March 2009.

ATTACHMENTS

Nil

RECOMMENDATION

THAT an application for a special rate variation for infrastructure improvements be prepared and submitted to the Department of Local Government under section 508(2) of the Local Government Act and included in the Draft Management Plan 2009/10 to 2011/12.

REGIONAL SERVICES REPORTS

ITEM:9 REG - 15/12/08 - DA 030/08, 4 UNIT DEVELOPMENT - 9 PARK AVENUE PORTLAND

REPORT BY: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

SUMMARY

To assess and recommend determination of DA 030-08. Recommendation will be for approval subject to conditions of consent.

COMMENTARY

Council is in receipt of Development Application 030/08, from Mr Z Drapac who is seeking to construct a block of 4 residential townhouses/units in two stages. The proposal is for 4 single storey 2 bedroom townhouses, with underground parking facilities to conform with the undulating terrain. All units will access off a Park Avenue. The proposal seeks to utilise the sloping site by stepping down the four townhouses as part of the development.

The land is known as Lot 22 DP 842893, 9 Park Avenue, Portland. The site is currently vacant and scattered with local grasses. The proposal is permissible given development consent.

As a result of the notification process, 16 submissions have been received, all objecting to the development. A summary of those submissions are outlined below with comments in italics by the assessing Council Officer.

- The number of units proposed on the site will dramatically affect the outlook and privacy of existing residences. *It is considered that the development would not significantly affect the adjoining residents given the proposed design of the units.*
- The proposed development could be considered an overdevelopment of the site given the slope and proposed use of the site. *The development conforms with Council's policy for Residential Unit Development, and has been designed to utilise the slope of the land to incorporate garages under the unit development..*
- It is considered that property values could be affected by the development. *This is very hard to determine and is considered that the development (which is permissible) can be lawfully erected on the land.*
- It appears that there is insufficient visitor parking. *The proposal conforms with the requirements of Council's policy for Residential Unit Development by providing 5 visitor car spaces.*
- The development is not compatible with the surrounding development. *The development is permissible and complies with the aims and objectives of the 2(v) zone required in Council's local planning instrument.*

- The application does not comply with provisions placed on the land previously subdivided by Boral indicating that the land must contain single dwellings of not less than 80% brick. *The entirety of the development will be of brick construction and hence conform with the covenant in relation to the 80% criteria. Additionally, the covenants produced by Boral indicate that no main building **or buildings** shall be erected or permitted to be erected on each lot unless exterior walls are made from brick veneer or equivalent. The applicant has indicated that the covenant will not be breached.*
- The development has the potential to have an impact on traffic congestion in a small “dead end” street. This in turn increases the potential for accidents and in turn increases safety concerns. *It is considered through discussion with Council’s development engineer that the road and current unformed part of its laneway will need to be constructed as part of this development should approval be recommended.*
- Aesthetically, the unit development is not in keeping with the existing heritage dwellings in the area. *Given that other development in the vicinity is modern the development will be aesthetically adequate for the area proposed.*
- No statement indicating that the development complies with the covenants placed on the subdivision by Blue Circle Southern Cement Ltd. *In correspondence received it is stated that the covenants outlined by Blue Circle Southern will be adhered to.*
- The current application will be detrimental to the area and will be additional development to that which has been approved (3 unit development across the road). *Each application must be dealt with on a merits based assessment. The application has been considered on its merit and given the cumulative affect of this development, conditions of consent have been proposed to address this requirement.*
- Current sewer and stormwater systems cannot support such an application. *An investigation of this matter with Council’s Sewer and Stormwater overseer indicated, it was considered that the proposed development would have minimal impact on the current system.*
- Privacy issues are of a concern as the development will overlook many residents. *Any development within that land has the potential to overlook the adjoining lands. Development conditions proposed to be included into any application will seek to minimise these concerns.*
- Water and drainage will be of a concern to adjoining residents. *This has been addressed through conditions of consent.*
- We have been told by Council that these will be for ‘low rental use’. *This has never been indicated by Council. Additionally the applicant has indicated that the application has not been lodged pursuant to the provisions of ‘affordable housing’.*
- Issues are current within the street that garbage and emergency vehicles cannot turn. *Conditions of consent, should the application be recommended for approval, will address these concerns.*

Council forwarded a summary of the submissions to the applicant who responded to the concerns, as outlined below:

- The three units proposed on the site are single storey, stepped down design that follow the slope of the land, blending perfectly with existing residences and streetscape and will have no negative affect on the outlook or privacy of the neighbouring properties. The landscaping will take care of any necessary 'screening' to satisfy Council's requirements.
- The area of the allotment (1193m²) is sufficient for five units, according to Council's Policy and Guidelines for Residential Unit Development. Accordingly, it is underdeveloped and the natural slope has been utilised to achieve a pleasing design.
- Serious consideration has been given to values in the proximity and if anything the development will enhance the value of surrounding properties, particularly those older style houses ready for redevelopment.
- Parking facilities are in accordance with Council's Policy and Guidelines, with one garage and one visitor parking per unit, plus one additional.
- The project is compatible with the surrounding development. It is single-storey, it is not bulky, will not cause any overshadowing, will retain and enhance existing streetscape and will not cause any loss of privacy or scenic amenity to neighbouring properties. The materials and colours used will reflect the general character of the area.
- Borals provisions (covenants) on the subdivision have not been breached.
- The development will have no significant impact on traffic congestion on the 'dead-end' which is actually a continuation of Park Avenue, the same in width and construction. The units have two bedrooms and are targeted at working couples and older retired people. It is hard to see how they are likely to cause traffic congestion and increase traffic hazards in the area, given adequate parking facilities and the usage patterns of this demographic.
- The development is designed to aesthetically blend with existing dwellings in the area, none of which have been declared of heritage significance. Blending allows for diversity and does not require the monotonous repetition of stereotypes. This is already the case with the existing harmonious blend of old and new architecture in the street and this development follows the existing trend.
- Finally, the project conforms with the Blue Circle Southern Cement Ltd covenants and construction is in sympathy with existing dwellings in the area.

It is considered that through conditions of consent issues pertaining to concerns from residents can be adequately addressed. As such it is considered that the application should be approved subject to conditions.

POLICY IMPLICATIONS

The application has been 'called in' by Council in accordance with Section 7.7 of Councils current Policy Register.

FINANCIAL IMPLICATIONS (eg Section 94)

Should approval be recommended conditions of consent indicating the applicant be required to meet the requirements of the Water Management Act 2000, would be conditioned.

LEGAL IMPLICATIONS

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979. This assessment has been undertaken as part of attachment 1.

ATTACHMENTS

1. Full Section 79(c) assessment

RECOMMENDATION

THAT Council:

1. Approve development application 030-08 subject to the conditions outlined in the attached section 79(c) report.
2. Call a division in relation to voting on this development.

ITEM:10 REG - 15/12/08 - DEVELOPMENT APPLICATION NO 014/08DA IVATT STREET SUBDIVISION 5 LOTS

REPORT FROM: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

REFERENCE

Development Application Consent No.014/08 and report to Finance and Services Committee
2 December 2008.

SUMMARY

To advise council of a request by the applicant for a site meeting with councillors and residents to discuss issues arising from the development consent.

COMMENTARY

Council approved Development Application No.014/08 with a number of conditions. The applicant has requested to meet on site with councillors and council officers to discuss issues arising from the consent. These issues include:

- The requirement for a constructed laneway for access to neighbours at the applicants cost
- The location of the council stormwater drain through the applicants property.
- The proposed land transfer on Sandford Avenue.
- What trees council wishes to retain.

The applicant advises they would like to work with Council and the residents to ensure all concerns are appropriately addressed. It is considered that a site meeting would be valuable in resolving the relevant issues.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Council has resolved that it will not be contributing to subdivision costs.

LEGAL IMPLICATIONS

Nil unless an appeal is lodged.

ATTACHMENTS

NIL

RECOMMENDATION

THAT Council note the report on Development Consent No.014/08 and set a date in the New Year for a site meeting.

ITEM:11 REG - 15/12/08 - LOT, 2, DP 579085 - TARANA ROAD, TARANA - DA 036/08 DWELLING

REPORT FROM: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

SUMMARY

To assess and recommend determination of DA 036/08. Recommendation will be for approval subject to conditions.

COMMENTARY

Council is in receipt of Development Application 036/08 from Anthony Daintith Town Planning Pty Ltd. on behalf of EG Flood and KM Pynsent for erection of a dwelling on Lot 2 in DP 579085 on Tarana Road, Tarana.

The subject lot does not comply with the development standard requirement of minimum land area for erection of a dwelling under Clause 18A of Lithgow City Local Environmental Plan 1994. The applicant has provided an objection to the minimum area standard under State Environmental Planning Policy No.1 (SEPP1) – Development Standards.

The application can only be referred to NSW Department of Planning (DoP) with the support of Council for erection of a dwelling on subject Lot 2 in DP 579085.

Previously, under the control of the former Evans Shire Council (ESC) a consent for the erection of a dwelling was supported and in return approved by the Department of Planning. This approval seeks further support now from Lithgow City Council as the previous consent has now lapsed.

The subject site is relatively flat and accessed via Tarana Road. The site is relatively clear land and retains a number of trees.. A location map has been included in ATTACHMENT 1.

A single storey dwelling has been proposed on Lot 2 in DP 579085. A proposed plan has been included in ATTACHMENT 2.

POLICY IMPLICATIONS

There is no policy implication perceived as part of this application.

FINANCIAL IMPLICATIONS

The applicant has agreed to enter into a planning agreement, should the application be supported and approved by Council and DoP.

LEGAL IMPLICATIONS

The application must be assessed in accordance with the heads of consideration of Section 79C of the Environmental Planning & Assessment Act 1979. An objection to a development standard may only be considered through an objection under SEPP No 1.

Further, the application requires concurrence from the Australian Rail Track Corporation (ARTC) Ltd. Concurrence was given by the ARTC subject to conditions. Furthermore, the application required the approval of the NSW Rural Fire Service who raises no concerns or issues in relation to bush fire. Additionally, the application was referred to Council Building. A full assessment is reported in the attached Section 79C assessment report.

CONCLUSIONS

The application has been assessed in accordance with the relevant Acts and Environmental Planning Instruments that relate to the land. Accordingly the assessment shows that the development can comply with all requirements, thus having an acceptable impact on the surrounding neighbourhood.

Therefore, the application can be supported subject to conditions.

ATTACHMENTS

1. Location Map
2. Proposed Plan
3. Complete 79C Planning Report under separate cover.

RECOMMENDATION

THAT:

1. Development Application 036-08 be supported and referred to Department of Planning subject to all conditions outlined in the attached Section 79C report.
2. Council call a division in relation to the voting on this DA.

ITEM:12 REG - 15/12/08 - ROAD NAMING - STRATHLONE ESTATE

REPORT BY: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

SUMMARY

To update Council on a proposal to name the road at Lot 10 & 11 DP 1074721, Strathlone Estate Stage 2, South Bowenfels

COMMENTARY

Following a report presented to the Finance & Services Meeting of Council on 06/08/07 regarding the proposed naming of the roads at Strathlone Estate Council resolved that Beech Place would not be accepted and to call for submissions on the naming of this road in accordance with Council's Road Naming Policy. The proposed name of this road is now Cedar Court. The proposed name has been advertised in the Lithgow Mercury calling for submissions from the public for the statutory twenty eight (28) day period in accordance with Council's Road Naming Policy. In this time no submissions were received in relation to this matter.

POLICY IMPLICATIONS

Council's Road Naming Policy applies.

FINANCIAL IMPLICATIONS

The applicant is to pay all costs associated with the acquisition and erection of signage.

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Plan showing the subdivision.

RECOMMENDATION

THAT the road name Cedar Court be adopted as the road name for the road shown on the attached plan for Stage 2 Strathlone Estate and that Council advise the Emergency Services and Government Gazette of this road name.

ITEM:13 REG - 15/12/08 - TENDERS FOR SHOULDER WIDENING, BROWNS GAP ROAD

REPORT FROM: OPERATIONS MANAGER - STEPHEN DARLINGTON,

SUMMARY

To advise of the results of an expression of interest process for shoulder widening works and recommend proceeding with selective tenders.

COMMENTARY

Council is advised that the Expressions of Interest (EOI01/08) for shoulder widening works, Browns Gap Road have now closed. Invitations to tender under the selective tendering provisions of s166(b) of the Local Government (General) Regulation 2005 should now proceed.

A total of 4 Expressions of Interest were received as outlined below:

1. Sharpe Bros, West Gosford.
 - Specialist asphalt company, utilising a fully adjustable, Sidewinder, purpose built milling and shoulder paving machine, allowing a one pass operation up to 2m width. Estimated timeframe to complete is 1-2 weeks allowing the full completion of up to 400m per day
2. Ellis Profiling Pty Ltd, Maldon.
 - Specialist profiling company, utilising a Wirtgin four tracked 1.0m wide road profiler and a secondary road shoulder paving machine. Estimated time to complete is 3 weeks.
3. The Asphalt Man, Charmhaven
 - Limited details provided. Estimated time to complete is 3 weeks, providing up 200m – 300m per day
4. J&E Excavations & Plant Hire Pty Ltd, Schofields
 - No operational details are provided. The company appears to have experience in laying asphalt paving, not specifically shoulder widening.

The specific nature of the works comprises milling out insitu material to a fixed depth and variable width, replacing insitu material with roadbase and/or hotmix and compacting the material, utilising a job specific one pass machine.

From examination of the above submissions for procurement of a suitable contractor, it is recommended that Sharpe Bros and Ellis Profiling Pty Ltd be invited to submit a formal tender for the shoulder widening on Browns Gap Rd, given their ability to perform the above outlined operations.

POLICY IMPLICATIONS

Policy 1.4 Tendering applies as does Policy 9.11 Tenders – Canvassing/Lobbying of Councillors and staff.

FINANCIAL IMPLICATIONS

Funding of \$500,000 has been made available under the Black Spot Funding Programme, through the RTA, for the work to be completed in 2008/09.

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

Nil

RECOMMENDATION

THAT Council use the selective tendering method to invite Sharpe Bros and Ellis Profiling Pty Ltd, to submit a formal tender for the shoulder widening works on Browns Gap Road.

ITEM:14 REG – 15/12/08 – ROAD CONSTRUCTION – DARK CORNER RD

REPORT BY: OPERATIONS MANAGER – S. DARLINGTON

REFERENCE

SUMMARY

This report provides details on the current status of construction works on Dark Corner Rd

COMMENTARY

In May, 2004, Lithgow City Council entered into a Memorandum of Understanding (MOU) with State Forests of NSW (now known as Forests NSW) for the reconstruction and bitumen sealing of 5.6km of Dark Corner Rd. The work involved the removal of the existing failed, narrow sealed pavement, full reconstruction providing an 80kph design speed and an 11.0m wide pavement, and a final two coat bitumen seal.

The MOU's key points are:

- Agreed value of works \$1.46M (ex GST), with Forests NSW providing 75% funding (\$1.095M) and LCC providing 25% funding (\$365000)
- The agreed value is based on an estimate prepared on 10 May 2004.
- The MOU is a fixed price arrangement with no CPI increases or rise and fall provisions

- Progress payments made by Forests NSW are based on claims made by LCC together with compaction test results confirming that standards are being maintained.
- Each payment made by Forests NSW is subject to a 10% retention, with such retention payable upon full completion of the works.

Work has progressively taken place over the past two years, with all earthworks, drainage and pavement completed up to the completion of the final seal. Forests NSW and Council have agreed that the project at this point in time is 85% complete.

Total expenditure by Council to date	\$1,667,129
Total value of Forests NSW component (incl retention) to date:	\$ 923,722
Remaining value of Forests NSW contribution	\$ 177,277
Funds allocated in Council's programme (RTR)	\$ 446,566
Value of remaining work to complete project (final trim and two coat seal)	\$ 504,000

It can be seen by the above figures that

1. The project cost to date and to ultimate completion far exceeds the funds available. The estimated cost of the project is based on figures that are now 4 years old. In that time the cost of road construction, particularly the procurement of products such as processed gravels and bitumen have doubled due to the significant price in oil during that period. As an example, 2 coat bitumen sealing rates of \$4.50/m² in 2004 are now \$9.92/m²
2. There is no provision for CPI increases or a rise and fall component in the MOU. Regular meetings with Forests NSW have discussed this issue, however the legality of the signed MOU is such that increases in the fixed amount available is not negotiable. To illustrate the importance of this issue, if a nominal rise and fall component was included in the MOU, the project budget would have increased in line with current 'actual' expenditure.
3. At the most recent meeting with Forests NSW, they indicated that they would be prepared to terminate the MOU now as they have completed the logging programme for which the road was being reconstructed for. Forests NSW have made it quite clear that there are no additional funds available to allocate to this project.
4. Council has already incurred significant cost overruns, even before the \$504,000 required for the final seal, Council's contribution of this component would be \$326,723
5. The justification of proceeding to complete the sealing of Dark Corner Rd must now be questioned. Recent traffic counts undertaken in October 2008 reveal that the Average Daily Traffic Count is between 88 - 92 vpd. Compared to other Council roads, these numbers are very low with roads such as Browns Gap Rd (1520vpd), Cox's River Rd (656vpd), Magpie Hollow Rd (743vpd) and Mid Hartley Rd (1210vpd) having figures significantly higher than Dark Corner Rd. All these roads require significant expenditure to make them safe.

There is a strong expectation from the local community that the Dark Corner Road will be completed to a bitumen sealed standard. As Council is already overspent on this project, insufficient funds are currently available for this to proceed. From an asset management perspective, it is difficult to justify any further expenditure on this road at the expense of other roads in the council network.

If Council were to proceed now with the completion of the Dark Corner Project to a bitumen seal standard, the following cost implications need to be considered.

Expenditure to date	\$1,667,129
Estimated total expenditure to complete	\$2,171,129
Agreed Project Cost in May 2004	\$1,460,000
Total funds available from Forests NSW (75%)	\$1,095,000
Total funds to be committed by Council to complete	\$1,076,129
Funds currently committed by Council in RTR program	\$ 446,566
Shortfall in funding	\$ 629,563

Options available for Council's consideration include

1. Resolve to terminate the MOU with Forests NSW and not proceed with the bitumen sealing of Dark Corner Rd and advise the local residents at a community access meeting.
2. Resolve to terminate the MOU with Forests NSW and to include the sealing of the Dark Corner Rd in future years after completion of the very necessary upgrades to the existing local road network.
3. Resolve to terminate the MOU with Forests NSW and to allocate funds in a future programme (eg RTR Programme) to a shoulder widening program on the Dark Corner Rd from the LCC boundary to the intersection of West Mitchell Rd.
4. Resolve to continue with the MOU and fund the shortfall from future RTR programmes by reallocating work from higher priority projects.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

Nil

RECOMMENDATION

THAT

1. Council terminate the agreement with State Forests and not proceed with the final seal of Dark Corner Road at this stage.
2. The local community be advised that Council will examine the staged sealing of the section of road as part of its deliberations for the 2009/2010 draft management plan.

**ITEM:15 REG - 15/12/08 - BRIDGE NAMING - WALLERAWANG COXS RIVER
 CROSSING**

REPORT BY: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

SUMMARY

To update Council on a proposal to name the bridges that cross the Cox's River on the Great Western Highway at Wallerawang.

COMMENTARY

Following a report presented to the Finance & Services Meeting of Council on 3 December 2007 regarding the proposed naming of the twin bridges on the Great Western Highway at Wallerawang, Council resolved to call for submissions on the naming of the bridges in accordance with Council's Naming Policy. The proposed name of this Bridge was 'Jack Wilson Bridge' which was requested by the Wilson family to identify an important member of a pioneering family who settled in the area in 1853. The proposed name has been advertised in the Lithgow Mercury calling for submissions from the public for the statutory twenty eight (28) day period in accordance with Council's Road Naming Policy. In this time one submission was made suggesting the bridge be called 'Wilson Bridge' to incorporate the whole family. This submission has since been resolved with the family and it has been concluded that it should still be named 'Jack Wilson Bridge' as it is significant to this specific area.

The Roads & Traffic Authority were also consulted on the proposal and advised such a naming will be considered if such a naming is supported by Council.

POLICY IMPLICATIONS

That this bridge naming be carried out in accordance with Council's Naming Policy.

FINANCIAL IMPLICATIONS

The applicant is to pay all costs associated with the acquisition and erection of signage.

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

Nil

RECOMMENDATION

THAT the twin bridges on the Great Western Highway at Wallerawang be named 'Jack Wilson Bridge' and that Council advise the Emergency Services and Government Gazette.

ITEM:16 REG - 15/12/08 - CLARENCE TRANSFER SYSTEM FUNDING AGREEMENT

REPORT BY: OPERATIONS MANAGER – STEPHEN. DARLINGTON

SUMMARY

This report provides seeks Council approval to enter into a funding agreement with the Commonwealth of Australia for the upgrading of the Clarence Water Transfer System

COMMENTARY

As previously announced, Council has received Commonwealth Funding in the sum of \$4,000,000 for the investigation, design and construction of an upgrade to the Clarence Transfer System. The objectives of project are:

- Complete investigation and Options Study – Stage 1
- Environmental assessment and preliminary design
- Detailed design and tender documentation
- Construction

The purpose of the project is to reduce the requirement to supply water to various users in and around Lithgow via the Fish River Water Scheme by increasing the current supply of water from Clarence Colliery. This will involve construction of infrastructure to provide and additional 10 – 20ML/day to Farmers Creek.

The Australian Government will contribute up to \$4 million to this project. In return for this investment at least half the water that is that is currently transferred from Oberon to Lithgow through the Fish River System will be transferred to the Commonwealth.

The funding agreement specifies a preliminary timetable of milestones which will be firmed up upon completion of the Stage 1. At this stage the following milestones are preliminary beyond Stage 1

- Sign Funding Agreement – 19 Dec 2008
- Engage consultant for Options Study – 22 Dec 2008
- Complete Options Study – 30 April 2009
- Determine preferred option to proceed – 30 June 2009
- Engage consultants for environmental assessment and preliminary design – 30 July 2009
- Finalise detailed tender and design – March 2010
- Commence construction - September 2010
- Finalise project including transfer of saved water entitlements – April 2011

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Funding to Council for this project is conditional on Council signing the funding agreement

LEGAL IMPLICATIONS

Nil

RECOMMENDATION

THAT Council enter into a funding agreement with the Commonwealth of Australia for the upgrade of the Clarence Transfer System and that the common seal of Council be affixed to the appropriate documents.

ITEM:17 REG - 15/12/08 - BOGEE RURAL FIRE BRIGADE

REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

REFERENCE

Nil

SUMMARY

To advise of the request by Bogee Rural Fire Brigade to be administered by Cudgegong Rural Fire District through Mid West Regional Council.

COMMENTARY

Attached to this report is correspondence from the Lithgow Volunteer Bush Fire Advisory Committee, including minutes of their meeting of 3 November 2008, recommending that “Bogee Brigade be administered by Cudgegong Rural Fire District through Mid West Regional Council with Lithgow City Council paying the 13.3%, with the amount to be reviewed annually.”

The reference to 13.3% refers to a Council’s contribution to the rural fire fighting fund. The brigade appears to service an area roughly 80% in the Lithgow Local Government area. Whilst the desire by the Bogee Brigade to be administered through Mid West Regional Council may be logical, given the location, Council may consider further discussions with Mid West Regional Council and the Rural Fire Service desirable in the relation to the proportion of funding.

POLICY IMPLICATIONS

Nil as a result of this report.

FINANCIAL IMPLICATIONS

It will be suggested that further discussions take place on the issue.

LEGAL IMPLICATIONS

Nil as a result of this report.

ATTACHMENTS

1. Correspondence and Minutes of the Lithgow Volunteer Bush Fire Advisory Committee. (Doc No. 462952 & 463486)

RECOMMENDATION

THAT Council agree 'in principle' to the Bogee Rural Fire Brigade being administered by the Cudgegong Rural Fire District through Mid West Regional Council subject to further discussions being held with Mid West Regional Council and the Rural Fire Service on the proportion of funding arrangements.

ITEM:18 REG - 15/12/08 - DEPARTMENT OF PLANNING REPORT ON COUNCIL PERFORMANCE

REPORT FROM: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

SUMMARY

To provide information on the Local Development Performance Monitoring Report 2007/08 from the Department of Planning.

COMMENTARY

Council has received the report from the Department of Planning titled "Local Development Performance Monitoring: 2007/08."

This is an annual report by the Department of Planning that includes statistical information collected from all council's giving an overview of how councils compare in relation to development approval statistics. The report highlights gaps in the data collection process with estimates being used in some areas. Lithgow City Council provided all the requested information through a computerised system provided by the Department. The data collection is a very time consuming process and the information is then used by the Department of Planning to highlight perceived deficiencies in Council approval processes.

The report highlights those councils having the highest mean/median determination times for development applications, councils taking more than 100 days to process development applications worth less than \$100,000, councils with the highest proportion of appeals upheld, Councils with the highest reported legal costs being publicised, and large amounts of other statistical information.

Council did not fall into any of the categories targeted by the Department for improvement with statistics being generally better than most councils, having a mean net approval time for all applications of 16 days. This level of performance could be considered to be exceptional based on statewide statistics.

What should be of concern to Council is that this process is being reported by the government through the Minister for Planning as highlighting the need to cut council "red tape". Council would be aware of the ongoing moves by the State government to relieve councils of their planning powers through Part 3A of the EPA Act, the extension of the private certification system, and the current push by the government for council building assessment staff to be accredited similar to private certifiers to fund the Building Professionals Board (BPB). The accreditation of council officers may result in Council being unable to provide a building approval and inspection service to its ratepayers because of the onerous qualification requirements being suggested by the BPB for staff having many years experience providing this service. A further report will be submitted to Council in the new year with a detailed submission on the proposals being put forward by the State government on this issue.

Councils are in the best position to represent their communities. It is considered that Council should resist any push by the State government to relieve local government of further planning powers using the so called "Council Report Card" which highlights approval times in a small number of large city councils. Council can make representations through the Local Government and Shires Association's and the Local Member to have its concerns raised with the Minister for Planning.

The LGSA urges Councils to look closely at the report and consider potential future impacts on local government.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Any further erosion of council planning powers will have a further impact on income from fees and contributions.

LEGAL IMPLICATIONS

Council is bound by the provisions of the relevant legislation. This would prevent Council from acting should the government legislate to take further planning controls away from councils.

ATTACHMENTS

1. The Local Development Performance Monitoring report from the Department of Planning can be provided upon request.

RECOMMENDATION

THAT Council make representations to the Local Member and the Local Government and Shires Association's expressing its concern at the potential further erosion of local government planning controls through government action as a response to the Local Development Performance Monitoring Report.

**ITEM:19 REG - 15/12/08 - COMPLYING DEVELOPMENT APPLICATION 021/08
 CDC GUMNUT HOUSE**

REPORT FROM: REGIONAL SERVICES MANAGER – ANDREW MUIR

SUMMARY

To advise council of the submission of a Complying Development Certificate (CDC) Application No. 021/08 for Gumnut House for an awning addition to the rear of the child care centre on Council owned land in Proto Avenue, Lithgow and recommend approval.

COMMENTARY

An application has been received for the construction of an awning/shelter addition to the rear of the existing Gumnut House Child Care Centre located on Lot 298 DP 751650 No.21 Proto Avenue, Lithgow, owned by Lithgow City Council.

The proposal involves the construction of an unenclosed awning to provide shelter for children during outdoor activities located behind the existing building. The project does not require lodgement of a Development Application because of the minor nature of the development covered by the provisions State Environmental Planning Policy (SEPP) 60 Exempt and Complying Development.

POLICY IMPLICATIONS

Council's policy "Development Applications by Councillors and Staff and Relatives or on Council Owned Land" requires that applications be referred to Council or its appropriate committee for consideration and determination and that no aspect of the application be dealt with under delegated authority. Although this is not a Development Application it is considered appropriate that it be submitted to Council as it involves construction of a building on Council owned land.

FINANCIAL IMPLICATIONS

Council is partially funding the project though the 2008/09 Management Plan with the remainder of the funding accessed by Lithgow Rural Multi-purpose Child Care Association Pty Ltd through a Federal Government Grant.

LEGAL IMPLICATIONS

The application has been assessed in accordance with the provisions of Section 85A(3) the Environmental Planning and Assessment Act for Complying Development.

RECOMMENDATION

A. THAT Complying Development Certificate Application No 021/08 be approved subject to the following conditions:

CONDITIONS

1. To ensure structural integrity, the maintenance of minimum health standards, the management of the buildings surrounds and the protection of the environment, compliance certificates are to be issued at significant stages throughout the construction period. These stages are:
 - a) Pier holes/pad footings before filling with concrete.
 - b) Framing when external wall and roof cladding is in place.
 - c) External drainage (including onsite waste disposal system) installed by a licensed plumber and prior to covering.
 - d) Stormwater drainage between building and discharge point (drainage pipes, soakage pits and the like) prior to covering.
 - e) Completion of the development and sign off to all conditions of the consent including landscaping, prior to occupation and use.

At each inspection, erosion and sediment control measures and site management will be inspected.

Note: forty-eight (48) hours notice shall be given to Council prior to inspections.

2. All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No work

3. That existing plumbing and drainage fixtures affected by the building works are modified or relocated in accordance with the requirements of the Council.
4. That all plumbing and drainage work be carried out by a licensed plumber and drainer and inspected by Council officers.
5. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
7. The person constructing any works shall install, prior to any construction work, adequate sediment and soil erosion controls. The controls shall be in accordance with the Department of Infrastructure Planning & Natural Resources current guidelines for erosion and sediment control.
8. The building certificate must not be used or occupied until an Occupation Certificate has been issued by the Principal Certifying Authority (Council).

B. Further that Council call a division in relative to the voting in this DA.

ITEM:20 REG - 15/12/08 - LITHGOW TOWN CLOCK

REPORT FROM: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

REFERENCE

Notice of Motion Councillor Ticehurst Policy and Strategy Committee Meeting 4/11/2008 Minute No.P08-125.

SUMMARY

To recommend that Council consider allocating funds in the 09/10 budget for the replacement of the town clock.

COMMENTARY

A brief history is provided from a report presented to Council on 5/03/07 to assist Council:

The Lithgow Town Clock has been inoperative for a number of years. The clock was installed many years ago by Lithgow Rotary Club on the building at 114 Main Street, Lithgow that was previously owned by Council and operated as a Ladies Rest Room until 1987 when the building was sold. The clock was maintained by the Rotary Club until about 2002 when they advised that they were no longer able to continue with the arrangement.

In 2005 quotations were obtained for the repair of the clock and Council resolved to approach the Rotary Club to enter into a joint arrangement to cover the cost of the necessary repairs. Rotary advised that they were unable to assist in this regard and could not contribute. The estimated cost of repairs at the time was \$10,000 which involved the installation of a new clock mechanism and crane hire.

The building on which the clock was located is no longer owned by Council. There is an agreement with the present owner to allow access subject to any associated costs being Council's responsibility.

The current situation:

Council resolved on 5/03/07 "that as an interim measure the clock mechanism be removed and the structure sheeted over and painted." This work was carried out and the clock has remained in that condition since then.

There would appear to be three options available to Council in relation to this issue.

- Repair the clock in its present location. The estimated cost is now \$14,000.
- Install a new free standing clock in a location to be determined. The estimated cost of a period style clock similar to the clock at the intersection of the Great Western Highway and the main street at Wentworth Falls is \$16,000. A small digital style clock could be installed for substantially less but is possibly inappropriate in the location.

- Remove the existing structure from 114 Main Street and not replace the clock. From correspondence over a number of years it is evident that the community like the idea of a town clock in the CBD.

It is considered that replacement of the Town Clock in its present location is the most appropriate option. It is in a location that provides a Town Clock that can be easily viewed from both ends of Main Street and is aesthetically acceptable. It is potentially the most cost effective option other than the no clock or small digital option which would not be suitable in the Main Street precinct.

It is suggested that Council consider allocating \$14,000 towards the replacement of the Lithgow Town Clock in its 2009/10 budget deliberations.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

\$14,000 proposed for the 2009/10 draft budget.

LEGAL IMPLICATIONS

The owner has provided written advice to Council allowing access to the building.

ATTACHMENTS

Nil

RECOMMENDATION

THAT Council note the report on the Lithgow Town Clock and consider allocating an amount of \$14,000 towards its replacement in the current location at 114 Main Street in the 2009/10 budget.

ITEM:21 REG - 15/12/08 - WOLGAN GAP ROCK STABILITY

REPORT BY: OPERATIONS MANAGER – STEPHEN DARLINGTON

REFERENCE

Notice of Motion – Councillor Ticehurst 4/11/08.

SUMMARY

This report provides details of current and proposed actions in relation to rock stability on the Wolgan Gap section of the Wolgan Rd

COMMENTARY

Following a rockfall on 09 September 2009 on the Wolgan Rd, Council engaged the services of specialist geotechnical consultants Golder and Associates to undertake a risk stability assessment of the rockface on the Wolgan Gap. The rockfall was well reported in the press at time and involved approximately 20T of material closing the road for approximately 2 hours.

Golder and Associates visited the site on 09 October 2009 and this follows a previous site visit in January 2006 when they carried out an earlier geotechnical risk assessment of this section of the road. The May 2006 report recommended that further regular assessments by a geotechnical engineer be undertaken. This current assessment is part of that process.

The site is generally a sandstone cliff feature up to an approximate height of 60 – 70m. At the south end (upper end) of the road is a section of colluvium. The risk assessments for the geotechnical hazards are based on the RTA's "Guide to Slope Risk Assessment Version 3.1" and the Australian Geomechanics Society "Landslide Risk Management Concepts and Guidelines" 2002.

Mechanisms that are likely to trigger rockfalls on the slope faces are:

- Rainfall – water pressure in joints behind blocks.
- Wetting and drying of fine grained rocks which results in fretting, reduction in strength and erosion.
- Root jacking by trees
- Rainfall runoff – erosion of colluvial soils supporting rock blocks above the crest of the slope.

The Consultant, in his report, has concluded that the likelihood of a rockfall is relatively high for most of the slope hazards considered. However the temporal probability of a rock hitting a car or a car impacting a rock is relatively low due to the low speed and traffic volume. The Consultant considers that rockfalls of the type that occurred in September 08 could occur on an average of one every few years. Given this, and the specific ARL (Assessed Risk Level) assigned to the rock face with the large overhang (Slope face 4), the Consultant considers that Council should prepare a Risk

Management Plan for the potential rockfalls for this section of road. The consultant has also suggested a series of physical remedial measures to reduce the likelihood of future rockfalls. These include removing trees from the overhang, scale loose blocks, rockbolting and the use of shotcrete and/or draped mesh.

The Risk Management Plan would include:

- A register of rockfalls including date, volume, location, road closure time, clean up time, rainfall records etc
- Annual geotechnical inspections and photographic records of the condition of the face.
- Increase signage including a contact telephone number in the event of a rockfall.
- Document the course of action of Council personnel in the event of a rockfall, including practices and procedures.
- Assess the costs of the suggested remedial measures indicated above. A cost/benefit analysis can then be made to form the basis of Council decision making.

It is recommended that Council proceed with the development of the Risk Management Plan for the Wolgan Gap section of the Wolgan Rd. As the development of a Risk Management plan is a highly specialized technical field, Council's consultants have been requested to prepare a fee proposal and action plan to undertake the Risk Management Plan and to prepare cost estimates of the suggested remedial works.

Golder and Associates have responded to Council request and have provided the following information:

1. Develop a Risk Management Plan - \$15000 (ex GST)
2. Provide costings of proposed remedial actions - \$20000 (ex GST) (NB – Specialist subcontractors will be engaged to assist in the assessment & preparation of this report).

It is therefore prudent that Council proceed with the engagement of Golder and Associates to prepare a Risk Management Plan and an assessment of possible remedial actions including a cost benefit analysis for the Wolgan Gap.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Conditional of the findings of the Risk Management Plan, Council may need to include an annual budget amount for the ongoing assessment and future remediation of the Wolgan Gap section of the Wolgan Rd.

LEGAL IMPLICATIONS

Nil

RECOMMENDATION

THAT Council engage Golder and Associates for the preparation of a Risk Management Plan and a report on remedial options for the Wolgan Gap section of the Wolgan Rd and that a further report be provided to Council upon receipt of the reports.

**ITEM:22 REG - 15/12/08 - CONFIDENTIAL REPORT - TENDER 06/08
CRYSTAL THEATRE UPGRADING**

REPORT FROM: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

Reason for Confidentiality

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councilors)
- (b) the personal hardship of any resident or ratepayer
- (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:
 - (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
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councilors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(e) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business*

SUMMARY

This report provides details of tenders recently called for the upgrading work proposed at the Crystal Theatre, Portland and recommends that further discussions be held with the lowest tenderer to achieve an acceptable price.

RECOMMENDATION

THAT THAT Council consider this report in closed Council pursuant to Section 10A(2)(c) of the Local Government Act 1993.

ITEM:23 REG - 15/12/08 - UPPER MACQUARIE COUNTY COUNCIL - CHIEF WEEDS OFFICERS REPORT FOR NOVEMBER 2008

REPORT FROM: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

REFERENCE

Nil.

SUMMARY

To advise of the most recent Upper Macquarie County Council Weeds Report.

COMMENTARY

Attached is the Upper Macquarie County Council Chief Weeds Officer Report for November 2008.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

Nil.

ATTACHMENTS

1. Upper Macquarie County Council Chief Weeds Officer's Report for November 2008 (Doc:465446).

RECOMMENDATION

THAT the Upper Macquarie County Council Chief Weeds Officer's Report for November 2008 be received.

COMMUNITY AND CORPORATE SERVICES REPORTS

ITEM:24 COMM - 15/12/08 - RURAL LAND PLANNING POLICY ISSUES ARISING FROM STATE ENVIRONMENT PLANNING POLICY (RURAL LANDS) 2008 AND A RECENT LAND AND ENVIRONMENT COURT DECISION

REPORT FROM: STRATEGIC LAND USE PLANNER – SHERILYN HANRAHAN

REFERENCE

Min P07-517: Policy and Strategy Committee 3 December 2007
Min F08-130: Finance and Services Committee 4 November 2008

SUMMARY

The purpose of this report is:

- To advise Council of the findings of the Central West Rural Lands Inquiry and the legislative response to the State Environmental Planning Policy (Rural Lands) 2008 (SEPP); and
- To discuss the strategic land use planning issues arising from the Inquiry, SEPP and a recent Land and Environment Court decision involving a large rural subdivision near Tarana for Agonic Holdings P/L.

COMMENTARY

BACKGROUND:

CENTRAL WEST RURAL LANDS INQUIRY

In February 2007 the NSW Government established the Central West Rural Lands Panel to advise on rural land use in the Central West Region of NSW. The Minister for Planning and Primary Industries released the Report of the Central West Rural Lands Panel on 22 August 2007.

The Panel determined that the *“Department of Primary Industries’ current methodology for determining minimum allotment sizes in rural zones, recently promoted throughout the region is inappropriate as a planning tool and should therefore be abandoned for that purpose. It has been found that the methodology is based solely on economic viability and does not recognise the changing face of agriculture”*.

It also found that *“there is no substantial evidence to indicate that the current LEPs are causing any major land use planning threat to the ongoing viability of agriculture in the Central West or that current minimum allotment sizes have resulted in the fragmentation of rural land.”* It therefore concluded that *“there is no strong case to vary existing minimum allotment sizes in the Region”*.

The major recommendations of the Panel included:

- Retaining existing minimum lot sizes, which may be varied by councils but only based on appropriate criteria;

- Retaining existing rights to build new homes on rural land based on subdivision that have already been approved;
- Preparation of a new State Environmental Planning Policy (SEPP) to support a strategic approach to rural planning across councils and manage land-use conflicts;
- Removal of concessional lot provisions on rural land – which have been misused in the past – through a SEPP;
- Establishing an Independent Hearing and Assessment Panel to advise councils on development applications that fall outside of normal planning controls but may be subject to exceptional circumstances within appropriate criteria;
- Requiring new local environmental plans (LEPs) to recognise the changing face of agriculture, such as smaller farms, share farming, leasing or farms that may consist of a number of separate holdings;
- The outcomes of the Panel could be extended across other rural areas within the State.

STATE ENVIRONMENTAL PLANNING POLICY (RURAL LANDS) 2008 PROVISIONS AND ISSUES

In response to the Panel's findings, State Environmental Planning Policy (Rural Lands) 2008 has been introduced by the NSW Government. The SEPP is the first step to implementing the outcomes of the Central West Rural Lands Panel. The SEPP is also supported by a new Section 117 Direction (issued by the Minister to give effect to particular principles, aims, objectives and policies within planning instruments).

The SEPP achieves this by:

- Introducing rural planning principles to provide guidance for local councils when preparing new comprehensive LEPs or amending LEPs in respect to rural and environment protection zones;
- Introducing rural subdivision principles to provide guidance for local councils which seek to vary existing minimum lot sizes in rural and environment protection zones;
- Enabling subdivision of rural land for the purpose of primary production below the minimum lot size without allowance for a dwelling;
- Introducing heads of consideration for the assessment of land use conflict when councils consider development applications for rural areas;
- Removing concessional lot provisions from LEPs to minimise land use conflicts and fragmentation of rural lands;
- Enabling the Minister to identify State significant agricultural land and limit certain types of development on such land;
- Enabling the Minister to establish rural lands planning panels to provide advice to the Director-General on developments that propose to vary development standards.

Rural planning principles

The rural planning principles in the SEPP identify the range of matters that should be considered when preparing LEPs for rural areas. In general the principles require council to have regard for social, economic and environmental planning considerations when preparing a new LEP.

Minimum lot size

The SEPP does not require council to review their minimum lot size(s) or change those lot sizes in an existing LEP. Council may transfer the existing minimum lot size(s) currently applying into the new LEP. Alternatively Council may voluntarily choose to review its minimum lot size(s) when preparing its new comprehensive LEP in accordance with the Standard Instrument.

If Council chooses to review the minimum lot size provisions it can consider a range of lot sizes that may be appropriate for its rural area. This response may better reflect the existing and emerging trends of agriculture in the local government area and assist in providing a range of appropriately located housing opportunities.

Rural subdivision for agricultural purposes

The SEPP provides that land may be subdivided for the purpose of primary production to create a lot of a size smaller than the minimum lot size provided that it has no existing dwelling. No dwelling can be built on a lot created for primary production under this provision.

Removal of concessional lots

The SEPP directly amended both the Lithgow City Local Environmental Plan 1994 and Rylstone Local Environmental Plan 1996 to remove the provisions that permitted subdivision for concessional lots.

The Department of Planning encourages Council to undertake strategic planning for the provision of rural residential development to provide opportunities for rural lifestyle in appropriate locations in rural areas.

Dwellings in rural areas

The SEPP does not affect any provisions within the LEPs that permit the erection of a dwelling within the rural zones, other than provisions that allow for the erection of a dwelling on a concessional lot. The SEPP includes a savings provision which saves dwelling entitlements on concessional lots already created. This means that any lot that has a dwelling entitlement under the LEP retains that dwelling entitlement. This is a policy position of the Department of Planning that it is reasonable to preserve such entitlements.

In preparing the new LEP Council may decide to change or sunset its rural dwelling provisions. In this regard Council will need to be mindful of equity implications of each option and ensure that any proposed changes are broadly communicated in the community.

Rural Land Use Conflict

The SEPP requires that before granting consent to a subdivision for the purposes of a dwelling or to the erection of a dwelling, Council must consider any impacts the development will have on other uses in the locality. This consideration should include any current and emerging trends in agriculture such as transition from extensive agriculture to intensive agriculture such as horticulture and intensive livestock.

State significant agricultural land

The SEPP, as gazetted, does not identify any lands within this category. It is likely that this provision will only be utilised in exceptional and limited circumstances.

It is unlikely that any lands within the Lithgow City Local Government Area (LGA) would fall into this category.

Rural Lands Planning Panels

The SEPP, as gazetted, does not establish any panel.

The SEPP provides that the Minister may establish a panel to provide advice to the Director-General on rural lands development applications that contravene a development standard. A panel may be established for a region or one or more local government areas where the SEPP applies.

ISSUES ARISING FROM LAND AND ENVIRONMENT COURT DECISION - LITHGOW CITY COUNCIL V'S AGONIC HOLDINGS P/L

As stated in the report to Council on 4 December 2008, this decision of the Land and Environment Court should not be used to establish Council's policy position on such matters as appropriate minimum rural lot sizes. That is, it does not provide justification on a LGA wide basis to maintain, without review, the existing 40 hectare minimum lot size with a dwelling attached.

It is clear within the following extract from the judgement issued from Commissioner Murrell that the decision was based solely on consideration of the existing planning framework.

"In the current proceedings there are no adopted plans, policies or codes that the respondent (Council) can rely on to say that the minimum allotment size should be greater than 40ha...."

"It would appear that the respondent (Council) is seeking to establish a policy position through these proceedings. The Court however must assess the development application against the statutory planning framework and other adopted policies available to the public. The Council has adopted the development standard of 40 ha in Clause 12(2) of the LEP in all previous assessments and determinations. As such it would appear that the aims and objectives are seen to be satisfied by the inclusion of the provision of a 40 ha standard."

Commissioner Murrell in the judgement made several other references to the absence of any strategic planning to otherwise influence the decision, thus highlighting the need for Council to review its rural planning policy including minimum lot sizes to attract a dwelling entitlement.

POLICY IMPLICATIONS

The current planning instruments operating within the LGA have not been reviewed in over a decade either through a comprehensive review of the instrument or through the development of supporting planning tools such as development control plans.

The current minimum lot size provisions of the operating LEPs as well as rural dwelling provisions have no strategic basis for either the protection of primary production lands or the appropriate location of rural lifestyle living opportunities. This has been highlighted in the findings and assessment of both the Rural Lands Inquiry and the abovementioned Land and Environment Court decision.

It is therefore considered imperative that Council strategically review the rural minimum lot size(s) and present a series of options in the Draft Land Use Issues Paper and Strategy currently under preparation. This process will involve extensive consultation with the community and government agencies. Once adopted and endorsed the Land Use Strategy will provide Council's policy position on rural planning to be implemented through the new LEP.

FINANCIAL IMPLICATIONS

Nil arising from this report.

LEGAL IMPLICATIONS

The SEPP is a legal environmental planning instrument that Council must implement when exercising its functions under both Part 3 and Part 4 of the Environmental Planning and Assessment Act, 1979.

ATTACHMENTS

1. Report to the Minister for Planning August 2007 – Review of Land Use Planning in the Central West.
2. Department of Planning Circular PS 08-002.

RECOMMENDATION

THAT:

1. The information on the Rural Land Planning Policy issue be noted.
2. Council resolve to strategically review minimum lot size(s) within its rural areas as part of the Draft Land Use Strategy currently under preparation.

ITEM:25 COMM - 15/12/08 - SECTION 356 - DONATIONS TO COMMUNITY ORGANISATIONS

REPORT BY: MANAGER COMMUNITY AND CULTURE – MATTHEW JOHNSON

REFERENCE

Minute O08-72: Extraordinary Meeting of Council 10 June 2008
Minute F08-88: Finance and Services Committee 1 July 2008
Minute F08-92: Finance and Services Committee 5 August 2008
Minute O08-128: Ordinary Meeting 19 August 2008
Minute P08-115: Policy and Strategy Meeting 7 October 2008

SUMMARY

The report recommends that Council consider allocating funding for the following not-for-profit organisations.

COMMENTARY

On the 10 June 2008 the Council adopted its Management Plan for 2008/09 – 2010/11 in which it identified its provision of donations to not-for-profit community groups. This report outlines requests from the following organizations for donations.

Lithgow Aeromodelling Club

Lithgow Aeromodelling Club has submitted a request for Council to waive hire fees for their events at Lake Wallace on 29-30 November 2008 and 10 -11 January 2009, a total of \$736. The Club states that in addition to their members, over 35 participants and their families from NSW and Victoria will attend the events.

It is recommended that fees be waived to the value of \$500.

Absolute Dance Studios

Absolute Dance Studios is requesting that Council provide donations, gifts or other in-kind support for their annual concert on 14 December 2008. Absolute Dance Studios states that the event will be attended by over 400 people from across Lithgow LGA. As Absolute Dance Studios is a for-profit business it is recommended that no donation or in-kind support be offered by Council.

Portland Development Association

Portland Development Association is requesting that Council waive Street Closure Application fees in relation to their Annual Spring Fair held on 1 November 2008.

It is recommended that fees be waived to the value of \$500

POLICY IMPLICATIONS

Donations are provided under Policy 4.4 Donations – Section 356 of the Local Government Act.

FINANCIAL IMPLICATIONS

The Council provides Financial Assistance to not-for-profit community groups. The Council has set aside some \$20,000 for distribution throughout the 2008/09 Financial Year. \$8,406.74 has been allocated to date leaving \$11,593.26 for distribution. The total of recommended donations in this report is \$3,665.14 which leaves a further \$7,928.12 for distribution in the second half of the financial year.

Year. \$12,071.88 has been allocated to date leaving \$7928.12 for distribution. The total of recommended donations in this report is \$1000.00 which leaves a further \$6,928.12 for distribution in the second half of the financial year.

LEGAL IMPLICATIONS

Local Government Act NSW 1993, Section 356

ATTACHMENTS

1. Letter from Lithgow Aero modelling Club Dataworks Document 465265
2. Letter from Absolute Dance Studios Dataworks Document 458174
3. Letter from Portland Development Association Dataworks Document 464992

RECOMMENDATION

THAT Council provides:

1. \$ 500 to Lithgow Aeromodelling Club to waive hire fees in respect of recent events held at Lake Wallace
2. Not provide a donation to Absolute Dance Studios to assist them with their annual concert to be held on the 14th December
3. \$500 to Portland Development Association to waive street closure for event held on the 1 November 2008.

**ITEM:26 COMM - 15/12/08 - LITHGOW CITY COUNCIL ANNUAL REPORT
2007/08**

**REPORT FROM: GROUP MANAGER COMMUNITY AND CORPORATE – SUZANNE
LOLLBACK**

REFERENCE

Minute O08-194 – Ordinary Meeting of Council – 18 November 2008

SUMMARY

This report informs the Council that the full audited financial reports have been forwarded to the Minister for Local Government

COMMENTARY

Following further information from the Department of Local Government it is advised that it is a requirement under legislation that a copy of the council's full audited financial reports, including the general purpose financial reports (plus notes) and the special purpose financial reports (plus notes) are to be included in the annual report either in the body of the report or as an appendix to the report.

The Annual Report tabled at the Ordinary Meeting of the Council on the 18 November contained a summary of the full audited financial reports. The full audited financial reports were circulated to Councillors under separate cover.

A copy of the Lithgow City Council Annual Report containing Council's full audited financial reports, including the general purpose financial reports (plus notes) and the special purpose financial reports (plus notes) was forwarded to the Minister for Local Government by the required reporting time of 30 November 2008.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

The Annual and State of the Environment Reports were prepared in accordance with the requirements of the Local Government Act 1993, Local Government (General) Regulation 2005, Freedom of Information Protection Act 1998, Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.

RECOMMENDATION

THAT the Council notes that a copy of the Lithgow City Council Annual Report containing Council's full audited financial reports, including the general purpose financial reports (plus notes) and the special purpose financial reports (plus notes) was forwarded to the Minister for Local Government by the required reporting time of 30 November 2008.

ITEM:27 COMM - 15/12/08 - RETURNS SEC 449 LG ACT 1993: DISCLOSING INTERESTS OF COUNCILLORS AND DESIGNATED PERSONS AS AT 30 JUNE 2008

REPORT FROM - INTERNAL SERVICES MANAGER - C FARNSWORTH

REFERENCE

Nil

SUMMARY

To advise Council of returns lodged with the General Manager under Section 449 of the Local Government Act 1993 for Councillors and designated persons as at 30 June 2008 with a recommendation that the two registers of returns be received and designated persons be determined for future returns.

COMMENTARY

Section 449 of the Local Government Act 1993 requires Councillors and designated persons of Council holding that position as at 30 June 2008 to lodge a return disclosing their interests by 30 September 2008.

Section 449 states:

Division 2 Disclosure of interests in written returns

Table of Provisions

449 Returns disclosing interests of councillors and designated persons

- (1) A councillor or designated person must complete and lodge with the general manager, within 3 months after becoming a councillor or designated person, a return in the form in Part 1 of Schedule 3.*
- (2) A person need not lodge a return within the 3-month period after becoming a councillor or designated person if the person lodged a return in the previous year or if the person ceases to be a councillor or designated person within the 3-month period.*
- (3) A councillor or designated person holding that position at 30 June in any year must complete and lodge with the general manager within 3 months after that date a return in the form in Part 1 of Schedule 3.*
- (4) A person need not lodge a return within the 3-month period after 30 June in a year if the person lodged a return under subsection (1) within 3 months of 30 June in that year.*
- (5) Nothing in this section prevents a councillor or designated person from lodging more than one return in any year.*
- (6) Nothing in this section or Schedule 3 requires a person to disclose in a return lodged under this section an interest of the person's spouse or de facto partner or a relative of the person.*

Section 450A requires the returns lodged under section 449 to be tabled at a meeting of Council and as such the returns are available at this meeting.

As at the due date of the returns, 30 September 2008, three of the nine elected Councillors as at 30 June 2008 had responded, four were received after the due date and as at 2 December 2008 two returns remain outstanding (ex Councillors).

Of 32 nominated designated persons, 21 employees had responded by 30 September 2008, eight (8) were received after the due date and as at 2 December 2008, three returns remain outstanding.

A further report will be presented to Council at the meeting of 27 January 2009 which will table the Councillor returns three months after declaration of the poll of the September 2008 election.

Section 441 defines who designated persons are:

- the general manager
- other senior staff of the council
- a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
- a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

Therefore for future returns designated persons are the General Manager, with *other senior staff* of Council being the Group Manager Regional Services and the Group Manager Community and Corporate.

Council must identify employee positions held by other designated persons.

It is recommended the following positions fall within this category:

- Divisional Managers (9)
- Employee positions with Development Application consent delegations

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

Tabled: Registers of Disclosures by Councillors and Designated Persons Section 449 Local Government Act 1993

RECOMMENDATION

THAT:

1. Council acknowledge two registers of disclosures made under Section 449 of the Local Government Act 1993 by elected Councillors and designated persons holding those positions as at 30 June 2008.
2. Council define senior staff as Group Manager Community and Corporate, and Group Manager Regional Services.
3. Council define the following positions as those held by designated officers for future returns as Divisional Managers (9), and employee positions with Development Application consent delegations.

ITEM:28 COMM - 15/12/08 - CASH COMPARISONS - VARIOUS COUNCILS

REPORT FROM - INTERNAL SERVICES MANAGER - C FARNSWORTH

REFERENCE

Min 08 – 167: Ordinary Meeting of Council 21 October 2008

SUMMARY

To advise Council of a comparison of cash and investments held for various NSW local government areas with a recommendation that the information be received.

COMMENTARY

Council requested a report outlying comparable cash and investments with other Councils of similar size. Research has been undertaken on local government areas by population and area, and also those neighbouring Lithgow. The information provided is summarised in the following table. It may be noted the value of cash and investments held by a Council is not normally collated as statistical information.

A number of local government areas have not yet finalised their 2007/08 reporting and 2006/07 information is provided which would be comparable.

CASH COMPARISONS VARIOUS COUNCIL'S							
CASH AND INVESTMENT HELD							
COUNCIL	YEAR	POP	L G AREA (KM2)	EXTERNAL RESTRICT \$'000	INTERNAL RESTRICT \$'000	UNRESTRICTED \$'000	TOTAL CASH & INVEST \$000
Oberon	2007/08	5,447	3,626.5	\$2,302	\$2,448	\$1,303	\$6,053
Blayney	2006/07	6,773	1,524.7	\$3,417	\$1,880	\$2	\$5,299
Lithgow	2007/08	20,889	4,566.7	\$9,915	\$3,361	\$1,653	\$14,929
Griffiths	2007/08	25,140	1,640.4	\$19,840	\$3,430	\$314	\$23,584
Bryon	2006/07	30,827	566.8	\$40,735	\$19,122	\$3	\$59,860
Eurobodalla	2007/08	36,389	3,422.2	\$11,674	\$5,449	\$15,830	\$32,953
Bathurst	2007/08	37,001	3,819.6	\$24,170	\$14,644	\$569	\$39,383
Orange	2007/08	37,791	284.8	\$45,410	\$13,626	\$7,428	\$66,464
Dubbo	2007/08	39,263	3,427.8	\$39,328	\$16,036	\$2,482	\$57,846
Armidale Port	2006/07	47,247	313.2	\$21,037	\$2,072	\$346	\$23,455
Stephens Port	2006/07	63,579	857.7	\$6,778	\$12,977	\$12,986	\$32,741
Macquarie	2007/08	70,581	3,687.4	\$42,295	\$12,156	\$201	\$54,652

Externally restricted cash and investments are those that are held for specific purpose grants, unexpended loan funds, section 94 developer contributions etc. Internally restricted assets are reserves that a Council has identified for its own defined purposes which may include employees leave entitlements, land and buildings, elections etc. Unrestricted cash is cash that has not been identified for a specific purpose.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

Nil

RECOMMENDATION

THAT the information on cash comparisons of various councils be received.

ITEM:29 COMM - 15/12/08 - FEDERAL GOVERNMENT GUARANTEE FEE FOR INVESTMENTS ABOVE \$1,000,000 HELD BY AN INDIVIDUAL INSTITUTION

REPORT FROM: INTERNAL SERVICES MANAGER – C FARNSWORTH

REFERENCE

NIL

SUMMARY

To advise Council of the Federal Government guarantee fee applicable from 28 November 2008 for investments held by an individual investor above \$1,000,000, with a recommendation that Council determine its position with regard to the payment of the fee.

COMMENTARY

On 12 October 2008, the Australian Government announced it would guarantee all deposits held by Australian banks, building societies, credit unions and Australian subsidiaries to foreign owned banks. The guarantee became effective immediately and applied to all eligible deposits including savings, passbook cheque accounts and term deposits.

On 24 October 2008 the Government announced further details of fees which would apply to the deposit guarantee effective from 28 November 2008. In summary the conditions are:

- Deposits of up to and including \$1,000,000 will be free.
- From 28 November 2008 to obtain the benefits of the guarantee a fee will apply on deposits greater than \$1,000,000 per investor. For example for total deposits of \$1,500,000 the first \$1,000,000 would be guaranteed free and a fee would apply to the remaining \$500,000.
- Fees are not compulsory.
- Coverage will be up until December 2011.
- The fee will be calculated at time of lodgement.
- The fee will be forwarded directly to the Federal Government by the bank.

The fee structure is based on the institutions credit rating.

Banks are progressively advising the process they will use to collect fees and there are many different options such as:

- 1.00% difference on the current interest rate offered on an investment at time of lodgement. For example if the interest rate on offer is 5.00% it will be reduced to 4.00%
- Monthly direct debit from a nominated account
- Monthly invoice for payment
- The investment institution will cover the fee regardless of value held per investor which at this stage only appears to be the Macquarie Bank

The current structure of Council's investment portfolio would attract a fee of approximately \$45,000 to \$50,000 per annum and coverage may need to be up until December 2011.

To avoid fees a wider circle of investing institutions will be sourced which are covered by the Federal Governments guarantee. For example during December a new term deposit of \$500,000 was lodged with Suncorp Metway in compliance with Lithgow Council Investment Policy of 21 October 2008. This would appear to solve the problem but at times it may not be practical as funds invested may be held by seventeen, eighteen or nineteen institutions, good interest rates may be ignored because the \$1,000,000 limit has been reached with an individual institution or quotes may stagnate due to a limited number of institutions available for consideration.

The banking industry advises that Australian banks remain fundamentally sound, profitable, well capitalised and regulated and are amongst the top rated banks globally.

Council will continue to source additional investment institutions which comply with the Minsters Investment Order of July 2008 and Lithgow Council Investment Policy 8.2 of 21 October 2008 and in relation to the Federal Governments guarantee fee Council has two options:

OPTION 1:

Commence paying the guarantee fee on investments greater than \$1,000,000 with an individual institution which will safeguard funds in the event of a financial collapse and include \$20,000 in the December quarterly review as provision for the guarantee fee for the remaining six months of 2008/09 financial year.

OPTION 2:

Not commence paying the guarantee fee on investments greater than \$1,000,000 with an individual institution acknowledging that Australian banks remain fundamentally sound, profitable, well capitalised and regulated.

POLICY IMPLICATIONS

Should Council 'opt-in' to pay the guarantee fee a change of policy will be required.

FINANCIAL IMPLICATIONS

Should Council 'opt-in' to pay the guarantee fee an adjustment of \$20,000 would need to be included in the December quarterly review as provision for the remaining six months of the 2008/09 financial year.

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council

1. Maintain a spread of its investment funds across a range of investment bodies
2. Not commence paying the guarantee fee on investments greater than \$1,000,000 with an individual institution acknowledging that Australian banks remain fundamentally sound, profitable, well capitalised and regulated.

ITEM:30 COMM - 15/12/08 - COUNCIL INVESTMENTS TO 30TH NOVEMBER 2008

REPORT FROM - INTERNAL SERVICES MANAGER - C FARNSWORTH

REFERENCE

Meeting: 19 August 2008 (July 2008)
Meeting: 07 October 2008 (Aug 2008)
Meeting: 21 October 2008 (Sept 2008)
Meeting: 18 November 2008 (Oct 2008)

SUMMARY

To advise Council of investments held for the 2008/09 financial year to the period ending 30 November 2008.

COMMENTARY

The amount invested as at 30 November 2008 when compared to 31 October 2008 has decreased by \$47,847.98.

INVESTMENT REGISTER 2008/09								
INSTITUTION	INV TYPE	DATE LODGED	DATE DUE	DAYS	INT	VALUE 30.11.08	VALUE 31.10.08	% OF TOTAL
ANZ	TD	30.10.08	01.12.08	32	6.23	1,000,000.00	1,000,000.00	6.62%
	TD	19.11.08	19.12.08	30	5.19	500,000.00	0.00	3.31%
BANKWEST	TD	29.10.08	27.01.09	90	7.20	536,248.57	536,248.57	3.55%
	TD	03.11.08	05.01.09	63	6.75	536,656.37	529,816.65	3.56%
	TD	07.11.08	09.02.09	94	6.40	516,910.15	513,681.70	3.42%
	TD	19.11.08	19.12.08	30	5.60	500,000.00	0.00	3.31%
CBA	CMS Nt*					0.00	500,000.00	0.00%
	On Call				5.20	549,579.05	549,020.29	3.64%
	Ethical Nt	06.11.06	06.11.11	1,825	9.25	220,000.00	220,000.00	1.46%
	TD	10.11.08	10.12.08	30	5.30	254,199.66	252,540.35	1.68%
	TD Shield	21.11.07	05.06.09	547	***	750,000.00	750,000.00	4.97%
CITIBANK	TD	12.11.08	12.12.08	30	5.75	582,675.53	571,850.79	3.86%
	TD	10.11.08	10.12.08	30	5.80	516,688.68	513,765.15	3.42%
	TD	30.10.08	01.12.08	32	6.90	1,000,000.00	1,000,000.00	6.62%
LGFS**	On Call					0.00	280,916.50	0.00%
	TD					0.00	306,524.05	0.00%
	TD	05.09.08	04.12.08	90	7.60	1,000,000.00	1,000,000.00	6.62%
	On Call				5.15	7,159.79	7,159.79	0.05%
IMBS	On Call					0.00	28,611.97	0.00%
	TD	06.11.08	05.12.08	29	5.75	1,180,961.09	1,158,477.11	7.82%
	TD	29.10.08	01.12.08	33	6.49	886,777.92	886,777.92	5.87%
MACQUARIE	TD	22.08.08	18.02.09	180	8.08	2,000,000.00	2,000,000.00	13.25%
ST GEORGE	TD	20.11.08	19.01.09	60	5.50	1,056,541.49	1,036,855.44	7.00%
	TD	03.09.08	02.12.08	90	7.63	1,500,000.00	1,500,000.00	9.94%
			TOTAL			15,094,398.30	15,142,246.28	100.00%

I, Carol G Farnsworth, Lithgow City Council Internal Services Manager (Responsible Accounting Officer) certify as required under Local Government (General) Regulations 2005, that Council's investments have been made in accordance with the Local Government Act 1993, Regulations and Lithgow City Council's Investment Policy.

*****CBA TD Shield \$750,000:**

The CBA deposit of \$750,000 which matures on the 5 June 2009 states the following:

Principal Protection:

The investment is principal protected if held to maturity. Your investment amount is an unsecured obligation of the Commonwealth Bank which ranks equally with other unsecured obligations of the Commonwealth Bank”

The original 2006 prospectus for this investment estimated a return of 16% which was based on historical investment performance over prior years. The current financial climate proves that the expected return will not be achieved and Council currently expects a nil return on this investment at maturity.

POLICY IMPLICATIONS

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. On 21 October 2008 Council adopted the current version of the Investment Policy as Policy 8.2

FINANCIAL IMPLICATIONS

Interest received to 30 November 2008 is \$215,303.90 of an estimated \$788,728.00 for the 2008/09 financial year. Interest is paid on the maturity date of the investment and earnings derived from managed funds are reported quarterly. For end of year reporting purposes accrued interest to 30 June 2008 previously brought to account has been reversed.

As Council would be aware interest rates at this time are extremely volatile and are proving to fluctuate daily. Estimated interest to be received for 2008/09 will be reviewed in conjunction with the quarterly review of the Management Plan and reported to Council.

LEGAL IMPLICATIONS

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. On 21 October 2008 Council adopted the current version of the Investment Policy as Policy 8.2 and all future investments will comply with this Policy which accords with the requirements of the:

- Local Government Act 1993 - Section 625
- Local Government Act 1993 - Order dated 31 July 2008
- Local Government (General) Regulation 2005
- Trustee Amendment (Discretionary Investments) Act 1997- Section 14A(2), 14c(1) & (2)

RECOMMENDATION

THAT Council notes:

1. Council's 2008/09 investments for the period ending 30 November 2008.
2. The Internal Services Manager (Responsible Accounting Officer) certifies as required under Local Government (General) Regulations 2005, that Council's investments have been made in accordance with the Local Government Act 1993, Regulations and Lithgow City Council's Investment Policy.

ITEM:31 COMM - 15/12/08 - REVIEW OF COUNCIL INVESTMENTS

REPORT FROM: GROUP MANAGER COMMUNITY AND CORPORATE, SUZANNE LOLLBACK AND INTERNAL SERVICES MANAGER, CAROL FARNSWORTH

REFERENCE

Minute No P08-123: Policy and Strategy Committee – 4 November 2008

SUMMARY

This report responds to the resolution made at the Policy and Strategy Committee Meeting of the 4 November 2008 that an investment advisor review all current investments with the Council and that an extraordinary meeting of Council be held.

COMMENTARY

At the Policy and Strategy Committee Meeting held 4 November 2008, the Council resolved the following:

THAT:

1. *All Councillors be provided as soon as possible with all documents involving:*
 - a) *Council's invested Commonwealth Bank of Australia Ethical Note of 6 November 2006*
 - b) *Council's invested TD Shield Commonwealth Bank of Australia of 21 November 2007*
 - c) *Council's investment with Alliance*
2. *Council hold an Extra Ordinary Council Meeting with an investment advisor to review all current investments held by Lithgow City Council.*

Information concerning all investments held by the Council throughout October and November 2008 has been provided to Councillors under separate cover.

With regards the financial advisor, discussion has been held with a number of agencies that provide financial advice such as on all current investments held by Lithgow City Council.

Preliminary quotations have been received from:

Grove: \$5,000
Oakvale: \$10,000 for one-off advice.
Morse: Would like a full written brief with reference to the scope of the review prior to quotation.

POLICY IMPLICATIONS

All of Council's investments are held in accordance with Lithgow City Council's Investment Policies (See Legal Implications). The current investment policy is Policy 8.2: Investment Policy Version 2. Some of Council's investments were invested under two previous policies.

FINANCIAL IMPLICATIONS

Information provided may inform the placement of future investments.

The securing of an investment advisor to provide advice to the Council is identified above. No allocation for such purposes is contained within the existing budget and would need to be considered at the December quarterly review of the Management Plan.

LEGAL IMPLICATIONS

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. On 21 October 2008 Council adopted the current version of the Investment Policy as Policy 8.2 and all future investments will comply with this Policy which accords with the requirements of the:

- Local Government Act 1993 - Section 625
- Local Government Act 1993 - Order dated 31 July 2008
- Local Government (General) Regulation 2005
- Trustee Amendment (Discretionary Investments) Act 1997- Section 14A(2), 14c(1) & (2)

ATTACHMENT

Provided under separate cover: Information concerning all investments held by the Council as at 31 October 2008 and 30 November 2008.

RECOMMENDATION

THAT Council:

1. Receives the information concerning all investments held by the Council as at 31 October 2008 and 30 November 2008 as per documents provided under separate cover.
2. Council not proceed with an Extra Ordinary Council Meeting with an investment advisor to review all current investments held by Lithgow City Council.

ITEM:32 COMM - 15/12/08 - RENEWAL LEASE OF FIRE STATION - CRIPPS AVENUE WALLERAWANG TO THE MINISTER FOR EMERGENCY SERVICES

REPORT FROM – FINANCE OFFICER – S HALL

REFERENCE

Nil

SUMMARY

To advise Council of a request for a renewal lease of the Fire Station at Cripps Ave Wallerawang with Minister for Emergency Services (New South Wales Fire Brigades), on behalf of her Majesty Queen Elizabeth II, with a recommendation that the lease be renewed and executed under seal.

COMMENTARY

The current tenant of Fire Station at Cripps Ave Wallerawang, the Minister for Emergency Services (New South Wales Fire Brigades), on behalf of her Majesty Queen Elizabeth II, has requested a renewal lease in the following terms:

- Commencing Date: 1 July 2008
- Terminating Date: 30 June 2013
- Annual Rental: \$1,868.71 (GST Exc) payable in monthly Instalments of \$155.73 (GST Exc)
- Term: 5 years
- Max term under lease: 10 years
- Water & sewerage: Payable by tenant
- Lease preparation: Payable by tenant
- Property manager: L J Hooker

The lessee is responsible for insurance noting the lessor's interest on a relevant Certificate of Currency with public liability of \$10,000,000.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Annual rental of \$1,868.71 (GST Exc) payable in monthly instalments of \$155.73 (GST Exc). Water and sewerage charges to be paid by the tenant and all costs incurred in relation to the preparation of this lease.

LEGAL IMPLICATIONS

Real Property Act 1900

ATTACHMENTS

Nil.

RECOMMENDATION

THAT:

1. Council enter into a lease with for the Fire Station at Cripps Ave Wallerawang with Minister for Emergency Services (New South Wales Fire Brigades), on behalf of her Majesty Queen Elizabeth II, in the following terms:
 - a) Commencing Date: 1 July 2008
 - b) Terminating Date: 30 June 2013
 - c) Annual Rental: \$1,868.71 (GST Exc) payable in monthly Installments of \$155.73 (GST Exc)
 - d) Term: 5 years
 - e) Max term under lease: 10 years
 - f) Water & sewerage: Payable by tenant
 - g) Lease preparation: Payable by tenant

2. Council affix the common seal to all documents pertaining to the lease of the premises.

**ITEM:33 COMM - 15/12/08 - LEASE FOR PREMISES - 25 ESKBANK STREET
ST LITHGOW**

REPORT FROM – FINANCE OFFICER: S HALL

REFERENCE

Nil

SUMMARY

To advise Council of a request to reassign the lease of 25 Eskbank St Lithgow to Tracey Ann and Laura Ann Sheppard, due to sale of the current business. A recommendation is included that the lease be renewed and executed under seal.

COMMENTARY

The current tenant of 25 Eskbank St Lithgow has sold the hairdresser operations of the premises to Tracey Ann and Laura Ann Sheppard. The new tenants have requested reassignment of the lease as follows:

- Commencing Date: 16 October 2008
- Terminating Date: 15 October 2010
- Annual Rental: \$11,270.18 (GST Exc) payable in monthly
Instalments of \$939.18 (GST Exc)
- Term: 2 years
- Option to renew: 2 years
- Water & sewerage: Payable by tenant
- Lease preparation: Payable by tenant
- Property manager: L J Hooker

The lessee is responsible for insurance noting the lessor's interest on a relevant Certificate of Currency with public liability of \$10,000,000.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Annual rental of \$11,270.18 (GST Exc) payable in monthly instalments of \$939.18 (GST Exc). Water and sewerage charges to be paid by the tenant and all costs incurred in relation to the preparation of this lease.

LEGAL IMPLICATIONS

Real Property Act 1900

ATTACHMENTS

Nil

RECOMMENDATION

THAT

1. Council enter into a lease with Tracey Ann and Laura Ann Sheppard for 25 Eskbank St Lithgow, under the following terms:
 - a) Commencing Date: 16 October 2008
 - b) Terminating Date: 15 October 2010
 - c) Annual Rental: \$11,270.18 (GST Exc) payable in monthly Installments of \$939.18 (GST Exc)
 - d) Term: 2 years
 - e) Option to renew: 2 years
 - f) Water & sewerage: Payable by tenant
 - g) Lease Preparation: Payable by tenant

2. Council affix the common seal to all documents pertaining to the lease of the premises.

ITEM:34 COMM - 15/12/08 - RENEWAL LEASE OF FIRE STATION - BREN STREET LITHGOW TO THE MINISTER FOR EMERGENCY SERVICES

REPORT FROM – FINANCE OFFICER – S HALL

REFERENCE

Nil

SUMMARY

To advise Council of a request for a renewal lease of the Fire Station at Bren Street Lithgow with Minister for Emergency Services (New South Wales Fire Brigades), on behalf of her Majesty Queen Elizabeth II, with a recommendation that the lease be renewed and executed under seal.

COMMENTARY

The current tenant of Fire Station at Bren Street Lithgow, the Minister for Emergency Services (New South Wales Fire Brigades), on behalf of her Majesty Queen Elizabeth II, has requested a renewal lease in the following terms:

- Commencing Date: 1 July 2008
- Terminating Date: 30 June 2013
- Annual Rental: \$5,813.76 (GST Exc) payable in monthly Instalments of \$484.48 (GST Exc)
- Term: 5 years
- Max term under lease: 10 years
- Water & sewerage: Payable by tenant
- Lease preparation: Payable by tenant
- Property manager: L J Hooker

The lessee is responsible for insurance noting the lessor's interest on a relevant Certificate of Currency with public liability of \$10,000,000.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Annual rental of \$5,813.76 (GST Exc) payable in monthly instalments of \$484.48 (GST Exc). Water and sewerage charges to be paid by the tenant and all costs incurred in relation to the preparation of this lease.

LEGAL IMPLICATIONS

Real Property Act 1900

ATTACHMENTS

Nil.

RECOMMENDATION

THAT

1. Council enter into a lease with for the Fire Station at Bren Street Lithgow with Minister for Emergency Services (New South Wales Fire Brigades), on behalf of her Majesty Queen Elizabeth II, in the following terms:
 - a) Commencing Date: 1 July 2008
 - b) Terminating Date: 30 June 2013
 - c) Annual Rental: \$5,813.76 (GST Exc) payable in monthly Installments of \$484.48 (GST Exc)
 - d) Term: 5 years
 - e) Max term under lease: 10 years
 - f) Water & sewerage: Payable by tenant
 - g) Lease preparation: Payable by tenant

2. Council affix the common seal to all documents pertaining to the lease of the premises.

ITEM:35 COMM - 15/12/08 - RENEWAL LEASE SUITES 20, 21, 22 HARTLEY BUILDING - MORT STREET LITHGOW TO HAWKESBURY NEPEAN CATCHMENT AUTHORITY

REPORT FROM – FINANCE OFFICER – S HALL

REFERENCE

Nil

SUMMARY

To advise Council of a request for a renewal lease of Suites 20,21,22 Hartley Building, Corner Mort Street and Eskbank Street Lithgow from Hawkesbury-Nepean Catchment Authority with a recommendation that the lease be renewed and executed under seal.

COMMENTARY

The current tenant of Suites 20, 21,22 Hartley Building, Mort St Lithgow, the Hawkesbury Nepean Catchment Authority have requested a renewal lease in the following terms:

- Commencing Date: 2 October 2008
- Terminating Date: 1 October 2010
- Annual Rental: \$10,067.20 (GST Exc) payable in monthly Instalments of \$838.92 (GST Exc)
- Max term under lease: 2 years with no option to renew
- Water & sewerage: Payable by tenant
- Lease preparation: Payable by tenant
- Property manager: L J Hooker

The lessee is responsible for insurance noting the lessor's interest on a relevant Certificate of Currency with public liability of \$10,000,000.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Annual rental of \$10,067.20 (GST Exc) payable in monthly instalments of \$838.92 (GST Exc). Water and sewerage charges to be paid by the tenant and all costs incurred in relation to the preparation of this lease.

LEGAL IMPLICATIONS

Real Property Act 1900

ATTACHMENTS

Nil

RECOMMENDATION

THAT

1. Council enter into a lease with the Hawkesbury Nepean Catchment Authority for Suites 20, 21,22 Hartley Building, Mort St Lithgow, in the following terms:
 - a) Commencing Date: 2 October 2008
 - b) Terminating Date: 1 October 2010
 - c) Annual Rental: \$10,067.20 (GST Exc) payable in monthly Installments of \$838.92 (GST Exc)
 - d) Max term under lease: 2 years with no option to renew
 - e) Water & sewerage: Payable by tenant
 - f) Lease preparation: Payable by tenant

2. Council affix the common seal to all documents pertaining to the lease of the premises.

**ITEM:36 COMM - 15/12/08 - INDOOR AQUATIC CENTRE ADVISORY
 COMMITTEE**

**REPORT FROM: GROUP MANAGER COMMUNITY AND CORPORATE – SUZANNE
LOLLBACK**

REFERENCE

Minute O08-72: Extraordinary Meeting of Council 10 June 2008

SUMMARY

This report presents the Draft Terms of Reference for the Indoor Aquatic Centre Advisory Committee and recommends their adoption and the calling of expressions of interest for membership from the public.

COMMENTARY

As part of the preparation of the 2008/09 – 2010/11, the Council proposed a special rate variation to assist with the funding of an Indoor Aquatic Centre.

Following extensive community consultation and feedback, the Council resolved not to proceed with the special rate variation.

However at the Extraordinary Meeting of the Council held on 10 June 2008 the Council resolved:

That Council create an Indoor Aquatic Centre Committee for further consideration of an Indoor Aquatic Centre.

Legislation and Policies

The Local Government Act 2003 (the Act), the Local Government (General) Regulations 2005 (the Regulations), the Council's Code of Meeting Practice and a number of Council's Policies provide direction for the establishment and conduct of Council appointed committees.

The Council may under provisions of the Act establish Committees and delegate certain powers to those committees.

Section 355 of the Act provides the Council with the power to establish Committees:

s355 How does a council exercise its functions?

A function of a council may, subject to this Chapter, be exercised:

(b) by a committee of the council ...

Clause 260 of the Regulations states that:

A Council may, by resolution, establish such Committees as it considers necessary.

Clause 261 of the Regulations states that:

The Council MUST specify the FUNCTIONS of each of its Committees when the Committee is established, but may from time to time amend those functions.

Policy 9.2 Appointment of Mayor to Committees states:

That the Mayor, by virtue of holding the office of Mayor, is appointed as a member of all committees established by the Council and that the appointment of the Mayor as a member of any committee established by the Council need not to be taken into account when determining a Quorum for a meeting of the committee.

Policy 9.5 Council Meetings – Appointment of Chairpersons of Council Committees/Working Groups states:

When Council resolves to establish a Committee or, when Council resolves to establish a Sunset Committee/Working Group:

- (i) A Councillor will be elected as the Chairperson of the respective Committee/Working Group.*
- (ii) The Chairperson will be elected by the Council at the same time the Committee/Working Group is established.*

Recommendations

It is recommended that the Council:

- Adopt the Draft Terms of Reference as attached
- Call for Expressions of Interest for membership
- Nominates two councillors to the committee
- Appoints a Councillor as Chairperson of the committee.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. DRAFT Terms of Reference Indoor Aquatic Centre Advisory Committee

RECOMMENDATION

THAT the Council:

1. Adopt the Draft Terms of Reference for the Indoor Aquatic Centre Advisory Committee.
2. Call for Expressions of the Interest from the Community for membership to the Committee.
3. Appoint two Councillors as Council's representatives to the Committee.
4. Appoint one Councillor as the Chairperson to the Committee with the second Councillor the alternate to the Chairperson.

COMMITTEE MEETINGS

ITEM:37 REG - 15/12/08 - SPORTS ADVISORY COMMITTEE MEETING
MINUTES 8TH DECEMBER 2008

REPORT BY: STRATEGIC ENGINEER – LEANNE KEARNEY

SUMMARY

Details of the Minutes of the Sports Advisory Committee Meeting held on Monday, 8 December 2008 for Council adoption.

COMMENTARY

At the Sports Advisory Committee Meeting held on Monday, 8 December 2008, there were sixteen (16) items discussed by the Committee, and it is considered that all these items be adopted by Council as per the Committee's recommendations.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Item 4 will require \$550.00 to be expended from the current allocation for Financial Assistance for Sporting Representations (approved financial assistance to Joseph Radburn (\$250.00), and Alana Case (\$300.00)).

LEGAL IMPLICATIONS

Nil.

ATTACHMENTS

1. Minutes of the Sports Advisory Committee Meeting held on Monday, 8 December 2008.

RECOMMENDATION

THAT:

1. Mr Ray Stoneley pursue the proposed date for the Lithgow High School's Support Unit Athletics Carnival.
2. Ben Houlison be approached to be the guest presenter at the 2008 Reg Cowden Memorial Sports Star of the Year Awards if Kurt Fearnley is unavailable.
3. The Junior Sports Star Award be awarded to Joseph Radburn (Hockey) for the month of October 2008, and the Senior Sports Star Award be awarded to Nigel Kable (Camp Drafting) for the month of October 2008.
4. Financial assistance be provided to Joseph Radburn (\$250.00), and Alana Case (\$300.00).
5. The 2009 Sports Advisory Committee meeting's be held on Mondays, 19 January, 23 February, 23 March, 27 April, 25 May, 29 June, 27 July, 31 August, 28 September, 26 October, and 7 December 2009.
6. Ms Tracey Curran be advised to contact the Wallerawang Indoor Sports Association for further information regarding the indoor soccer competition.

7. Permission be granted to Johannes Berggren to use Tony Luchetti Sportsground, in Lithgow for three (3) days and nights (being a Thursday, Friday and Saturday) in January 2009 to conduct an outdoor inflatable cinema event, subject to the following conditions:
 - a. Grounds are not to be used on the proposed Saturday until after 6.30pm to not conflict with the booking by the Lithgow District Cricket Association;
 - b. applicant has to provide Council with details of security of the site;
 - c. applicant has to provide Council with details of proposed crowd, behaviour and noise control;
 - d. applicant has to pay the fees as per the adopted Annual Management Plan; and
 - e. applicant has to provide proof of adequate public liability insurance and food handling certification.
8. Permission be granted to Portland Central School to use Kremer Park, Portland between 8.00am and 12.00pm on Saturday, 28 March 2009 in conjunction with their major street parade for their 125 year celebrations.
9. Permission be granted to Lithgow Workmen's Club RLFC to conduct pre-season training on Tuesday and Thursday evenings between 6.00pm and 8.00pm at Tony Luchetti Sportsground, Lithgow, from 13 January 2009, and for competition matches on Sundays between 10.00am and 6.00pm from 10 May 2009 until 13 September 2009, provided the following conditions are adhered to:
 - a. No training on number 1 field under any circumstances;
 - b. No training on the cricket wickets under any circumstances;
 - c. Grounds are unavailable on Thursdays, 2 April 2009 and 23 April 2009 due to previously approved bookings; and
 - d. A draw is provided to Council once finalised.
10. The item regarding the fees and charges for the Lithgow War Memorial Olympic Swimming Pool, Lithgow be deferred until the next meeting to allow appropriate comment from the Lithgow Swimming Club.
11. A report be provide to the next Sports Advisory Committee meeting regarding advertising for the Reg Cowden Memorial Sports Star Awards.
12. The Committee write a congratulatory letter to the Lithgow Swimming Club on the success of their recent triathlon event.
13. Council investigate replacing the damaged lights at Tony Luchetti Sportsground, Lithgow, and for a report on the costs and timeframe for this project to be presented to the next Committee meeting.

ITEM:38 COMM - 15/12/08 - TOURISM ADVISORY COMMITTEE

REPORT FROM: GROUP MANAGER COMMUNITY AND CORPORATE – SUZANNE LOLLBACK

REFERENCE

Minute No F08-135: Finance and Services Committee 4 November 2008

Minute No P08-151: Policy and Planning Committee 2 December 2008

SUMMARY

This report recommends to the Council members to the Tourism Advisory Committee following the calling of Expressions of Interest from the public.

COMMENTARY

At the Finance and Services Committee meeting of 4 November 2008, the Council declared all positions vacant and advertised seeking expressions of interest for board members for a new Tourism Advisory Committee.

At the Policy and Strategy Committee meeting held 2 December 2008 the Council resolved to appoint Councillors Danaher and Marshall, the General Manager and six community representatives to the Tourism Advisory Committee.

Expressions of interest closed on 28 November with some 10 expressions of interest received from the public as well as the National Parks and Wildlife Services and Blue Mountains Tourism Limited confirming their wish for continuing on the Board.

Councillors Danaher and Marshall met with the General Manager and recommend the names as below to the Council for membership to the Lithgow Tourism Advisory Committee.

A summary of all Expressions of Interest has been provided to the Councillors under separate cover.

POLICY IMPLICATIONS

This report relates to Council's:

Policy 4.1 Community representatives – Appointment of to the Committee or Working Groups

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NSW Local Government Act 1993

ATTACHMENTS

1. A summary of all Expressions of Interest has been provided to the Councillors under separate cover.

RECOMMENDATION

THAT the Council appoint the following representatives to the Lithgow City Council Tourism Advisory Committee:

- Council's representative to the Blue Mountains Tourism Limited: Malcolm Wells
- Janelle Johnstone
- Danny Whitty
- Thomas Ebersoll
- Peter Phillips
- Margaret Edwards
- Kate Faithorn

**ITEM:39 COMM - 15/12/08 - LITHGOW FLASH GIFT COMMITTEE MINUTES
HELD ON 19TH NOVEMBER 2008**

REPORT BY: TOURISM MANAGER – JODIE RAYNER

SUMMARY

This report Details of the Minutes of the Lithgow Flash Gift Meeting held on 19 November 2008 for Council adoption.

COMMENTARY

At the Lithgow Flash Gift Meeting held on Monday, 19 November 2008, there were nine (9) items discussed by the Committee.

- 1.Election of a Chairperson
- 2.Terms of Reference
- 3.Sponsorship update
- 4.Event program
- 5.Implementation
- 6.Event marketing
- 7.Proposal as submitted by John Scott
- 8.Council contribution
- 9.Actions arising

The minutes contain updates on the Lithgow Flash Gift with recommendations for Council.

POLICY IMPLICATIONS

Terms of reference to be adopted for the Lithgow Flash Gift Working Party

FINANCIAL IMPLICATIONS

Proposed financial commitment of \$5,000 for sponsorship for the Lithgow Flash Gift in addition to an in-kind contribution for event management

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

- 1.Minutes of the Lithgow Flash Gift Meeting held on 19th November 2008
- 2.Terms of Reference Lithgow Flash Gift

RECOMMENDATION

THAT

1. Council notes the minutes of the Lithgow Flash Gift Working Party for the meeting held on Monday 19 November 2008.
2. Council adopt the Terms of Reference for the Lithgow Flash Gift Working Party.
3. Council provide \$5,000 towards the running of the Lithgow Flash Gift along with an in-kind contribution associated with the management of the event.

QUESTIONS OF AN URGENT NATURE

In accordance with Clause 241 of the Local Government (General) Regulations 2005 business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. However, this can happen only of:

- a) A motion is passed to have the business transacted at the meeting: and
- b) The business proposed to be brought forward is ruled by the Chairperson to be of great urgency.