



LITHGOW CITY COUNCIL

“A Centre of Regional Excellence”

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

06 OCTOBER 2009

AT 7.00pm

AGENDA

PRESENT / APOLOGIES

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 14th SEPTEMBER 2009

PUBLIC FORUM

DECLARATION OF INTEREST

MAYORAL MINUTES - NIL

NOTICES OF RESCISSIONS - NIL

NOTICES OF MOTION

Councillor M F Ticehurst - Lithgow Golf Club
Councillor M F Ticehurst - QWN - Lithgow Golf Club
Councillor M F Ticehurst - QWN - Lithgow Skate Park

REPORTS

General Manager Reports
Regional Services Reports
Operational Services Reports
Community and Corporate Services Report
Internal Services Reports

REPORTS FROM DELEGATES - NIL

COMMITTEE MEETINGS - NIL

BUSINESS OF GREAT URGENCY (as identified by Clause 241 of the Local Government (General) Regulations 2005)

CLOSED MEETING - Acquisition of Part of Land - Rydal / Hampton Road Rydal

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NOTICES OF MOTION

ITEM:1 NOTICE OF MOTION - 06/10/09 - LITHGOW GOLF CLUB - COUNCILLOR M F TICEHURST

MOTION TITLE/TOPIC:

Confirmation of the Councils compliance of the financial accounting of the Lithgow City Councils current Lease with the Lithgow Golf Club Ltd. in the Councils past and present General Purpose Financial Reports and it's Annual Management Plans with respect to the Australian Accounting Standard Bulletin (AASB) 117 – Leases.

Listed by: Councillor Martin Ticehurst

Date: 28 September 2009.

REFERENCES:

Min 07-519: Policy and Strategy Committee, 3 December 2007

Min 05-09: Ordinary Meeting of Council, 27 January 2009

Min 09-162: Ordinary Meeting of Council, 20 April 2009

Min 09-301: Ordinary Meeting of Council, 13 July 2009

Min 09-351: Ordinary Meeting of Council, 24 August 2009

Min 09-399: Ordinary Meeting of Council 14 September 2009

Lithgow Mercury 17 Sept 2009 "Councillors stance on Golf Club."

<http://www.lithgowmercury.com.au/news/local/news/general/councillors-stance-on-golf-club/1625876.aspx>

Lithgow Mercury 17 Sept 2009 "McGinnes defends his protest."

<http://www.lithgowmercury.com.au/news/local/news/general/mcginnes-defends-his-protest/1625879.aspx>

BACKGROUND

Following the above References and concerns raised at the most recent Ordinary Meeting of the Lithgow City Council on 14 September 2009, (reported in the Lithgow Mercury), confirmation is being sought from the General Manager and Senior Council Officers of the financial accounting of the Lithgow City Councils current Lease with the Lithgow Golf Club Ltd. in the General Purpose Financial Reports and Annual Management Plans is compliant with respect to the Australian Accounting Standard Bulletin 117 – Leases, in particular, paragraphs 49. to 57. inclusive as set out: -

Leases in the Financial Statements of Lessors

Operating Leases

49. Lessors shall present assets subject to operating leases in their balance sheets according to the nature of the asset.

50. Lease income from operating leases shall be recognised in income on a straight-line basis over the lease term, unless another systematic basis is more representative of the time pattern in which use benefit derived from the leased asset is diminished.³

51. Costs, including depreciation, incurred in earning the lease income are recognised as an expense. Lease income (excluding receipts for services provided such as insurance and maintenance) is recognised on a straight-line basis over the lease term even if the receipts are not on such a basis, unless another systematic basis is more representative of the time pattern in which use benefit derived from the leased asset is diminished.
52. Initial direct costs incurred by lessors in negotiating and arranging an operating lease shall be added to the carrying amount of the leased asset and recognised as an expense over the lease term on the same basis as the lease income.
53. The depreciation policy for depreciable leased assets shall be consistent with the lessor's normal depreciation policy for similar assets, and depreciation shall be calculated in accordance with AASB 116 and AASB 138.
54. To determine whether a leased asset has become impaired an entity applies AASB 136.
55. A manufacturer or dealer lessor does not recognise any selling profit on entering into an operating lease because it is not the equivalent of a sale.
56. Lessors shall, in addition to meeting the requirements of AASB 7, disclose the following for operating leases:
 - (a) the future minimum lease payments under non-cancellable operating leases in the aggregate and for each of the following periods:
 - (i) not later than one year;
 - (ii) later than one year and not later than five years;
 - (iii) later than five years;
 - (b) total contingent rents recognised as income in the period;
and
 - (c) a general description of the lessor's leasing arrangements.
57. In addition, the disclosure requirements in AASB 116, AASB 136, AASB 138, AASB 140 and AASB 141 apply to lessors for assets provided under operating leases.

It should be further noted that the Application of AASB 117 applies to: -

- each entity that is required to prepare financial reports in accordance with Part 2M.3 of the Corporations Act and that is a reporting entity;
- general purpose financial reports of each other reporting entity; and
- financial reports that are, or are held out to be, general purpose financial reports (AASB 117.Aus1.1).

and that the Scope of AASB 117 applies to agreements that transfer the right to use assets even though substantial services by the lessor may be called for in connection with the operation or maintenance of such assets.

As such, confirmation is now sought from the General Manager of the compliance of the financial accounting of the Lithgow City Councils current Lease with the Lithgow Golf Club Ltd. in the General Purpose Financial Reports and Annual Management Plans with respect to the Australian Accounting Standard Bulletin 117.

RECOMMENDATION

THAT Council seek from the General Manager confirmation of Councils compliance of the financial accounting of the Lithgow City Councils current Lease with the Lithgow Golf Club Ltd. in the Councils past and present General Purpose Financial Reports and it's Annual Management Plans with respect to the Australian Accounting Standard Bulletin (AASB) 117 – Leases.

ITEM:2 NOTICE OF MOTION - 06/10/09 - QWN - LITHGOW GOLF CLUB - COUNCILLOR M F TICEHURST

MOTION TITLE/TOPIC

Questions with Notice from Councillor Martin Ticehurst.

Listed by: Councillor Martin Ticehurst

Date: 28 September 2009.

QUESTION WITH NOTICE

Q. With respect to Lithgow City Council resolution 09-399 as passed at the Ordinary Meeting of the Lithgow City Council Meeting on Monday 14 September 2009, in particular: -

2. The Council identify the Lithgow Golf Club Limited as the preferred lessee.

Could the General Manager advise the Council, Councillors and ratepayers of what NSW State Government Policies, Department of Local Government Policies or Lithgow City Council Policies, the Lithgow City Council used to grant "the Lithgow Golf Club Limited as the preferred lessee" for the sole use of the 99 acres of Council owned land and Historic Buildings at Marrangaroo valued at nearly \$3m dollars?

RECOMMENDATION

THAT Council Officers provide the Council, Councillors and ratepayers in due course with a written report to the Question without Notice.

**ITEM:3 NOTICE OF MOTION - 06/10/09 - QWN - LITHGOW SKATE PARK -
COUNCILLOR M F TICEHURST**

MOTION TITLE/TOPIC

Questions with Notice from Councillor Martin Ticehurst.

Listed by: Councillor Martin Ticehurst Date: 28 September 2009.

QUESTION WITH NOTICE

Q. Following the recent opening of the new Lithgow Skate Park at the Tony Luchetti Oval off Barton Street, Lithgow could the General Manager advise: -

- what the Council proposes to do to provide adequate Shade for the new facility being used by young people? and
- if the new facility will comply with the attached Cancer Council's guidelines for Sports Grounds?
- what action, if any the Council proposes to take towards the foreseeable adverse risk of young people on scooters, skateboards and bikes, etc. entering onto the unfenced Barton St into the past of passing motor vehicle travelling in a 50km/h speed zone?

RECOMMENDATION

THAT Council Officers provide the Council, Councillors and ratepayers in due course with a written report to the Question without Notice.

GENERAL MANAGER REPORTS

ITEM:4 GM - 06/10/09 - CHRISTMAS AND NEW YEAR CLOSURE

REFERENCE

Min: 07-488 - Ordinary Council Meeting 19 November 2007

Min: 08-157 - Ordinary Council Meeting 21 October 2008

SUMMARY

This report advises Council of the closure of the administration office between Christmas and New Year and the essential service operations that will operate over this time

COMMENTARY

Lithgow City Council closed part or all of its business over the Christmas to New Year period in 2008 and will again cease operations over this period from close of business on Thursday 24 December 2009 and reopen on Monday 4 January 2010.

The following arrangements have been decided on for the Christmas closure for 2009:

- Council administration areas and depots will close for business from close of business on Thursday 24 December 2009 and will re-open on Monday 4 January 2010.
- Staff will have similar arrangements as previous years for leave.
- Outdoor staff will be required to use their RDO's, accrued leave or annual leave to cover the closure period.
- An outdoor "skeleton" crew will be required to work during this period to attend to emergencies.
- A number of staff, supervisors and managers will be required to be on call/available during the period for emergency situations.

Essential service and works staff will remain on duty during the period to ensure all such matters are attended to. An advertising program will be conducted to advise the community along with advertising advice to many of the Council clients.

Essential Services Operating over Christmas/New Year

- Lithgow Visitor Information Centre
- Ranger
- Eskbank House Museum

- Rural Tip Controller
- Cleaner Driver (emptying street bins)
- Streetsweeper
- Water and Sewerage Treatment Plants
- Cleansing Unit

CONCLUSION

This report has advised Council on the office closure during Christmas and New Year in line with many councils, Government Departments and private organisations in New South Wales and Australia.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

NIL

RECOMMENDATION

THAT Council note the report on the Christmas and New Year Closure.

ITEM:5 GM - 06/10/09 - CODE OF CONDUCT

REFERENCE

Min No: 09-383 Ordinary Meeting of Council 14th September 2009

SUMMARY

Council requested a further report in relation to the complaints made under the Council's Code of Conduct for the last period, i.e. July 2008 to June 2009.

COMMENTARY

Council is required under Section 440 of the NSW Local Government Act 1993 to adopt a code of conduct (the "adopted code") that incorporates the provisions of the model code. The adopted code may include provisions that supplement the model code. A council's adopted code has no effect to the extent that it is inconsistent with the model code.

Councillors, members of staff and delegates of a council must comply with the applicable provisions of:

- (a) the council's adopted code, except to the extent of any inconsistency with the model code as in force for the time being, and
- (b) the model code as in force for the time being, to the extent that:
 - (i) the council has not adopted a code of conduct, or
 - (ii) the adopted code is inconsistent with the model code, or
 - (iii) the model code contains provisions or requirements not included in the adopted code.

Each year the General Manager is then to report to Council on code of conduct complaints. This report should include, as a minimum, a summary of the:

- a) number of complaints received,
- b) nature of the issues raised by complainants, and
- c) outcomes of complaints.

Such a report was presented to the September 14, 2009 Council meeting. It was outlined that there had been two complaints received during the 2008/09 period and that the outcome of the complaints was that in accordance with the criteria that one complaint was found to fall within the domain of 13.1(f), that is *whether there is an alternative and satisfactory means of redress* and one complaint was found to fall within the parameters of 13.1(c), that is *whether the complaint is trivial, frivolous, vexatious or not made in good faith*. The complaint received that was NOT referred to Council's Conduct Committee was handled by the General Manager or Mayor, as appropriate.

The Code of Conduct sets out the reporting procedures and complaint handling procedures. These procedures are set out in sections 11 and 12 of the Code.

Reporting breaches of the code of conduct:

- o Suspected breaches of the code of conduct by councillors, members of staff of council (excluding the general manager) or delegates should be reported to the general manager in writing.
- o Where it is believed that the general manager has breached the code of conduct, the matter should be reported to the Mayor in writing.
- o Councillors should not make allegations of suspected breaches of the code at council meetings or in other public forums.

Once a complaint is made in writing then the procedure for handling that complaint under the Code of Conduct is:

Complaint handling procedures – staff, delegate and council committee member conduct (excluding the general manager)

- 12.3 The general manager is responsible for making enquiries, or causing enquiries to be made, into complaints alleging breach of the code of conduct regarding members of staff of council, delegates of council and/or members of council committees (other than councillors), and will determine such matters.
- 12.4 Where the general manager has determined not to enquire into the matter, the general manager will give the complainant the reason/s in writing as provided in clause 13.1 of this Code, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith.
- 12.5 Enquiries made into staff conduct that might give rise to disciplinary action must occur in accordance with the relevant industrial instrument and make provision for procedural fairness including the right of an employee to be represented by their union.

Complaint handling procedures – councillor conduct

- 12.8 The general manager is responsible for assessing complaints, made under Section 11.1, alleging breaches of the code of conduct by councillors, in accordance with the assessment criteria provided at Section 13 of this Code, in order to determine whether to refer the matter to the conduct review committee/reviewer.
- 12.9 The general manager must determine either to:
- a) take no further action and give the complainant the reason/s in writing as provided in clause 13.1 of this Code, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith, or
 - b) resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing, or
 - c) discontinue the assessment in the circumstances where it becomes evident that the matter should be referred to another body or person, and refer the matter to that body or person as well as advising the complainant in writing, or

- d) refer the matter to the conduct review committee/reviewer.
Complaint handling procedures – general manager conduct

Complaint handling procedures – general manager conduct

- 12.10 The Mayor is responsible for assessing complaints, made under clause 11.1, alleging breaches of the code of conduct by the general manager, in accordance with the assessment criteria provided at Section 13 of this Code, in order to determine whether to refer the matter to the conduct review committee/reviewer.
- 12.11 The Mayor must determine either to:
- a) take no further action and give the complainant the reason/s in writing as provided in clause 13.1 of this Code, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith, or
 - b) resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing, or
 - c) discontinue the assessment in the circumstances where it becomes evident that the matter should be referred to another body or person, and refer the matter to that body or person as well as advising the complainant in writing, or
 - d) refer the matter to the conduct review committee/reviewer.

Conduct review committee/reviewer

- 12.12 Council must resolve to appoint persons independent of council to comprise the members of a conduct review committee and/or to act as sole conduct reviewers.
- 12.13 The members of the conduct review committee and/or the persons acting as sole conduct reviewers should be appropriately qualified persons of high standing in the community. These persons do not need to be residents of the local government area of the council that has appointed them.
- 12.14 The conduct review committee, members of such committee and sole conduct reviewers may act in that role for more than one council.
- 12.15 The general manager, or in the case of complaints about the general manager, the Mayor, will undertake the following functions in relation to the conduct review committee/reviewer:
- provide procedural advice when requested
 - ensure adequate resources are provided, including providing secretariat support
 - attend meetings of the conduct review committee if so requested by the committee, and then in an advisory capacity only
 - provide advice about council processes if requested to do so but not so as to take part in the decision making process
 - if attending the conduct review committee meeting to provide advice, must not be present at, or in sight of, the meeting when a decision is taken.

- 12.16 Where a matter is to be considered by the conduct review committee/reviewer, then in each case, the general manager, or Mayor in the case of complaints about the general manager, acting in their capacity as advisor, will either convene a conduct review committee and select its members from those appointed by council or alternatively select a sole conduct reviewer from those appointed by council.
- 12.17 The conduct review committee/reviewer will operate in accordance with the operating guidelines at Section 14 of the code.
- 12.18 The conduct review committee/reviewer operating guidelines (Section 14) are the minimum requirements for the operation of conduct review committees/reviewers. Council may supplement the guidelines, but any additional provisions should not be inconsistent with the guidelines.
- 12.19 The conduct review committee/reviewer is responsible for making enquiries into complaints made under clause 11.1 alleging breaches of the code of conduct by councillors and/or the general manager and must determine either to:
- a) not make enquiries into the complaint and give the complainant the reason/s in writing as provided in clause 13.1 of this Code, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith, or
 - b) resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, making recommendations to the general manager, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing, or
 - c) make enquiries into the complaint, or
 - d) engage another appropriately qualified person to make enquiries into the complaint, or
 - e) not make enquiries or discontinue making enquiries where it becomes evident that the matter should be referred to another body or person, and refer the matter to that body or person as well as advising the complainant in writing. Despite any other provision of this code, this will constitute finalisation of such matters and no further action is required.
- 12.20 Where the conduct review committee/reviewer conducts enquiries or causes enquiries to be conducted, the conduct review committee/reviewer must make findings on whether, in its view, the conduct referred to it comprises a breach of the code of conduct.
- 12.21 Where the conduct review committee/reviewer makes findings, the conduct review committee/reviewer may recommend that council take any actions provided for in this code of conduct that it considers reasonable in the circumstances.
- 12.22 Where the conduct review committee/reviewer makes findings, the conduct review committee/reviewer will report its findings, and the reasons for those findings, in writing to the council, the complainant and the person subject of the complaint.
- 12.23 The conduct review committee/reviewer will report its findings and any recommendations to council only when it has completed its deliberations.

Sanctions

- 12.24 Before a council can impose a sanction it must make a determination that a councillor or the general manager has breached the code of conduct.
- 12.25 Where the council finds that a councillor or general manager has breached the code, it may decide by resolution to:
- a) censure the councillor for misbehaviour in accordance with section 440G of the Act
 - b) require the councillor or general manager to apologise to any person adversely affected by the breach
 - c) counsel the councillor or general manager
 - d) make public findings of inappropriate conduct
 - e) prosecute for any breach of law.

Reporting on complaints

Under clause 12.33 of the Code of Conduct the general manager must report annually to council on code of conduct complaints. This report should include, as a minimum, a summary of the:

- a) number of complaints received,
- b) nature of the issues raised by complainants, and
- c) outcomes of complaints.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

In accordance with the Council's Code of Conduct and the Model Code of Conduct.

ATTACHMENTS

NIL

RECOMMENDATION

THAT Council note the report on the Code of Conduct.

REGIONAL SERVICES REPORTS

ITEM:6 REG - 06/10/09 - PORTLAND AND DISTRICT AGED WELFARE ASSOCIATION INC. WATER RESTRICTION EXEMPTION REQUEST

REPORT BY: WATER AND WASTE MANAGER – CHRIS LANE

SUMMARY

To advise Council of a request from Portland and District Aged Welfare Association Inc. for an exemption to Level 5 Water Restrictions.

COMMENTARY

Council has received a letter from Portland and District Aged Welfare Association Inc. dated 1st September 2009 requesting the exemption from level 5 Water Restrictions for a resident on health grounds. The request relates to a permanent elderly resident who has been described by the Association as having developed an ongoing health problem. The Association has appealed on compassionate grounds to allow the individual to use a hand held hose.

There is currently no authority delegated from Council for exemptions to water restrictions. It would be advisable for such delegated authority to be provided to the General Manager to decide such requests for exemption to the Water Restrictions in the future. The Water and Waste Division would have access to data to assist in making an informed decision after taking into account the need for water conservation, hardship or compassionate considerations and the community interest.

POLICY IMPLICATIONS

Policies that may influence the decision.

12.2 WATER RESTRICTIONS

OBJECTIVE: To determine Council's response to non-compliance with water restrictions.

POLICY:

1. That in circumstances where water supply restrictions are imposed and there is non-compliance with such water supply restrictions, the following procedure shall be applied in each period of twelve (12) months commencing 1 July:

- First offence – warning and information on the water restrictions is issued to the occupier.
- Second offence – a penalty infringement notice is issued.
- Third offence - water supply to premises to be restricted. Reconnection fee to be paid before restoration of normal water supply.
- Fourth and subsequent offence - water supply to be restricted. Reconnection fee to be paid before restoration of normal water supply. Offenders to be prosecuted for misuse of water supply.

2. A reconnection fee as per the adopted Management Plan Fees will be payable for restoration of normal water supply following restriction of water supply resulting from non-compliance with water restrictions and misuse of water supply. Normal water supply reconnection will be carried out only during normal working hours.

3. The General Manager is delegated to take all necessary action to institute prosecutions for offences for misuse of water supply pursuant to Section 637 of the Local Government Act, 1993.

FINANCIAL IMPLICATIONS

There are negligible financial implications in this instance. Any exemptions that may be granted in the future will be very limited in number and impact.

ATTACHMENTS

1. Letter from Portland and District Aged Welfare Association Inc.

RECOMMENDATION

THAT:

1. The resident nominated by the Portland and District Aged Welfare Association be granted exemption from water restrictions while resident at Coleman House.
2. The General Manager be delegated the authority to decide on applications for variations to water restrictions for individuals who display special circumstances such as age, disability, or hardship.

ITEM:7 REG - 06/10/09 - LITHGOW GOLF CLUB HEATING

REPORT FROM: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

SUMMARY

To advise Council of a request from Lithgow Golf Club that the gas heating boiler for the Lithgow Golf Club Clubhouse be replaced by Council.

COMMENTARY

Lithgow Golf Club Limited have advised that the gas heating boiler in the clubhouse is unable to be repaired and is operating at very low capacity. They advise that they consider the boiler to be part of essential building services under the conditions of the existing lease which makes it Council's responsibility for repair/replacement. The cost of replacement is estimated at \$6,000.

The Lithgow Golf Club indicate that they have recently spent almost \$10,000 over the last three years replacing all the hot water radiators in the building at no cost to Council and do not have funds to meet the full cost of replacement of the boiler.

The original coal fired boiler in the building was replaced with a gas boiler by the Golf Club at no cost to Council. On this basis it could be claimed that the Golf Club have taken responsibility for the boiler and they should meet the cost of replacement. This is possibly unreasonable as there is no definition of an essential service in the lease, which usually includes electrical, telephone, emergency and gas services in a building.

A reasonable compromise would be for Council to contribute towards half the cost of replacement of the boiler, estimated at about \$3,000.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

If Council agrees the funds would be sourced from the existing operational budget for the building.

LEGAL IMPLICATIONS

Nil.

RECOMMENDATION

THAT the replacement of the gas hot water boiler at Lithgow Golf Club be part funded by Council to a value of \$3,000 from within the existing Golf Club Operational Budget.

**ITEM:8 REG - 06/10/09 - LITHGOW LANDFILL LIFE AND OVERALL
LANDFILL STRATEGY**

REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

SUMMARY

To advise Council of investigations into the potential life of the existing Lithgow landfill and in this context develops a strategy for all landfill development and operations.

COMMENTARY

At its Ordinary meeting of 13 July 2009 Council resolved to hold an on site meeting at the Lithgow landfill to explore the extension of this facility. Subsequent to this, separate on site meetings were held with officers of the Department of Environment and Climate Change (EPA), Councillors and the landfill contractor. At these meetings the landfill contractor identified two potential areas where further landfilling could take place.

The first location (Area 1), which includes the existing whitegoods area, has been used previously for landfilling. As it has been previously subject to landfilling it would appear that alterations to Council's existing Landfill Environmental Management Plan (LEMP), which forms part of the Environment Protection Licence, to utilise the additional 'airspace' is feasible. This would involve preparing plans and making a submission to the EPA requesting this area be approved as part of the Landfill. Initial 'rough' estimates of the potential capacity of this area would indicate that it make hold enough volume for 5 years.

The second location (Area 2), has been utilised as a 'borrow pit' for cover material over the years. As this area has not been used for landfilling it would not be deemed to be part of the existing 'footprint' for landfill operations. As such, the process for seeking an alteration to the LEMP and the necessary environmental controls (e.g. installation of lining material) would make it necessary to undertake further feasibility investigations to ascertain the specific environmental assessment and approval requirements to proceed.

Whilst Council is committed to the Blackmans Flat facility, any additional life at Lithgow would be an advantage from a number of perspectives, not least of which the number and complexity of major projects currently being undertaken.. The development consent for Blackmans Flat would expire on 4 December 2011 unless works had physically commenced and it would be important for this consent to be 'preserved'.

In this respect it would be advisable to proceed further with the design phase of the Blackman's Flat Facility. In this regard it would be important to choose an appropriate specialist consultant with an understanding of the project and experience in landfill design. HLA Envirosciences was the company engaged to undertake both the Environmental Impact Statement (EIS) and the Draft Landfill Environmental Management Plan for the Blackmans Flat Waste Management Facility. HLA Envirosciences have now been taken over by ENSR AECOM, a large multinational firm specialising in environmental management. The same lead consultant that co-ordinated the EIS/LEMP process would also oversee any further works contracted by Council should ENSR AECOM be further engaged.

ENSR AECOM has provided Council with a detailed cost proposal breaking the overall design project for the facility into 2 phases. To date they have been engaged to complete tasks 1 and 2 of Phase 1 of the design proposal. These tasks involve site investigations, master plan preparation, design of access roads, design of haul roads and design of transfer station pavement. Prior to proceeding to final design, it would be proposed to hold discussions with the consultant to examine what part of the works already completed may be able to proceed to works and constitute physical commencement.

POLICY IMPLICATIONS

No specific policy implications arise as at this stage.

FINANCIAL IMPLICATIONS

Some expenditure from the waste budget would be required to undertake design of the proposed new landfilling area and submission for amendment of the LEMP; investigation into use of the former borrow pit area and any proposed design and/or works at Blackmans Flat.

LEGAL IMPLICATIONS

The Lithgow landfill operates under an Environment Protection Licence under the Protection of the Environment Operations Act. The proposed Blackmans Flat waste facility has the benefit of development consent under the Environmental Planning and Assessment Act.

ATTACHMENTS

Nil.

RECOMMENDATION

THAT:

1. Council arrange for design works for the location described as Area 1 at the Lithgow landfill within this report to allow a submission to the Department of Environment and Climate Change requesting that this area be approved for landfilling as part of the Landfill Environmental Management Plan.
2. Further investigations take place in relation to the area described as Area 2 within this report to ascertain the precise process in terms of environmental assessment, approvals and construction to allow this area to be utilised for landfilling.
3. Council officers hold discussions with ENSR AECOM to determine what parts of the preliminary design works undertaken thus far may most easily proceed to works that would constitute physical commencement at the Blackman's Flat site and preserve the development consent

ITEM:9 REG - 06/10/09 - MOUNT PIPER POWER STATION EXPANSION PROJECT

REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

SUMMARY

To advise Council of the exhibition of the Environmental Assessment for the Concept Plan approval for Mt Piper Power Station expansion project.

COMMENTARY

Council has been advised that the Environmental Assessment for the Concept Plan application for the Mt Piper Power Station Expansion Project will be placed on exhibition by the NSW Department of Planning from 25 September 2009 to 26 October 2009. The project comprises the development of a new baseload power station with generating capacity of up to 2,000 MW adjacent to the existing Mt Piper Power Station to be powered by either coal or natural gas.

Due to the short timeframe it has been difficult for staff to fully assess the proposal at this stage but this will be completed in time for the close of submissions. Staff have provided some preliminary feedback to the consultants preparing the document and have suggested a number of issues for consideration. These include:

If Gas Powered

- Can the extension of gas to Mt Piper be routed to also pick up nearby villages, particularly Portland, and the off take facility installed?
- Impact on housing and services of construction workforce.
- Impact on infrastructure, community facilities and services of upgraded power station.
- Water requirements for cooling (if any), sources and resultant impacts.

If Coal Powered

- Coal transportation to site. Council's strong preferences would be off road transportation with supply from collieries within the Lithgow Local Government Area. (If coal supply is proposed to be sourced from outside the LGA then the economic, employment and social impact on the Lithgow LGA would need to be considered)
- Ash disposal strategy in a manner that mitigates visual, environmental, dust and amenity impacts. This would require special consideration if disposal is continued in proximity of nearby villages.
- Possibilities of utilising ash as a resource (eg construction material) rather than a waste product.
- Water requirements for cooling (if any), sources and resultant impacts.
- Impact on housing and services of construction workforce.
- Environmental impacts of emissions.

If Councillors believe that any other matters should be included in Council's submission (or disagree with any of the above) then it would be appreciated if they could put these forward for inclusion in Council's submission.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil to Council at this stage.

LEGAL IMPLICATIONS

The assessment is proceeding pursuant to Part 3A of the Environmental Planning and Assessment Act.

ATTACHMENTS

Nil.

RECOMMENDATION

THAT a submission on the Mt Piper Power Station expansion project be prepared and submitted generally in accordance with the issues outlined in this report.

ITEM:10 REG - 06/10/09 - DEVELOPMENT APPLICATION 025/09 REAL ESTATE OFFICE - CALLING IN OF APPLICATION

REPORT FROM: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

REFERENCE

Development Application No.025/09.

SUMMARY

To inform Council that this development application has been called in pursuant to Council policy.

COMMENTARY

A Development Application has been received for the establishment of a real estate office at Lot 40/41 Rylstone Street Glen Alice. This application is currently under assessment. The application has been called in for determination by Council by Councillor W McAndrew.

POLICY IMPLICATIONS

The application has been called in pursuant to Policy 7.7 “Calling in of Applications by Councillors” Item 3 that states:

Should written notice, signed by a minimum of one (1) Councillor, be received by the General Manager prior to determination of a development application or development application/construction certificate, the application shall not be determined under delegated authority but shall be:

- Reported to the next Ordinary Meeting for the information of Council that the development application or development application/construction certificate has been “called in”; and
- Reported to an Ordinary Meeting of Council for determination.

This application is reported pursuant to the first dot point.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

No specific implications at this point of the process.

ATTACHMENTS

Nil.

RECOMMENDATION

THAT the action of calling in development application No 025/09 be noted.

**ITEM:11 REG - 06/10/09 - INVINCIBLE COMMUNITY CONSULTATIVE
COMMITTEE - USE OF DEVELOPER CONTRIBUTIONS**

REPORT BY: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

SUMMARY

This report outlines requests from Cullen Bullen Tidy Towns, Cullen Bullen Progress Association, Portland District Motor Sports Club and Portland Youth Centre to use developer contributions from Invincible Colliery.

COMMENTARY

As part of the Ministerial consent issued under Section 75J of the Environmental Planning and Assessment Act 1979 on 7 August 2006 for the establishment of the Invincible Open Cut Coal Mine, condition 12 indicated that a contribution of \$38,857.50 be paid to Council for the 'provision of community facilities in the Cullen Bullen area.' Additionally, as part of a Modification issued by the Minister for Planning an additional \$19,895.05 was paid by the company. As such, after 31 May 2008, \$58,752.55 was collected by Council for provision of community facilities in the Cullen Bullen area.

As a result of a further modification made by the company under the Section 75J of the Environmental Planning and Assessment Act 1979 and issued on 4 December 2008, Condition 15 stipulated that a further \$80,000.00 is to be paid by the company on or before the 30 May 2009 for provision of community facilities in the Cullen Bullen area. This has now been received and as a result a total of \$138,752.55 has been collected by Council for use on community facilities in the Cullen Bullen area.

Council previously resolved to utilise \$63,556.67 (outlined below) toward the Cullen Bullen Park Toilet facilities and then allocate funds to Cullen Bullen Tidy Towns and Cullen Bullen Progress Association for the works below:

Cullen Bullen Tidy Towns – Restoration work Cullen Bullen (Saint Brendan's) Church.

A total of \$12,140.10 was granted for the above restoration work.

Cullen Bullen Progress Association – Proposed Restoration works to Cullen Bullen Hall.

A total of \$51,416.67 was granted for restoration of the Cullen Bullen Hall.

At its meeting 21 July 2009 the Community Consultative Committee (CCC) was furnished with further requests from the Cullen Bullen Tidy Towns for the further restoration of Cullen Bullen (Saint Brendan's) Church, Portland Youth Centre Council for the purchase of recreational equipment and a request from the Cullen Bullen Progress Association for further restoration of the Cullen Bullen Hall. Each request will be dealt with separately below.

Cullen Bullen Tidy Towns – Restoration work Cullen Bullen (Saint Brendan's) Church – the Tidy Towns group have indicated that this church is the only church left in Cullen Bullen open to all denominations. The works include (costs highlighted);

- Preparation and painting of exterior walls and windows **\$4,000.00**
- Purchase of paint for the restoration process **\$459.85**

Additionally, Cullen Bullen Tidy Towns have submitted a quote to undertake fencing work on Councils Park. This includes

- Fencing and Landscaping for the surrounds at the Cullen Bullen Park **\$1,550.00**

The total submission amounts to for **\$6009.85**.

Cullen Bullen Progress Association – Proposed Restoration works to Cullen Bullen Hall – this community hall is used predominantly by the people of Cullen Bullen as a meeting area. The works for the renovation of the ladies toilet which include:

- Remove all existing wall linings, tiles and amenities
- Remove floor boards replace FC sheeting
- Do repairs to bearer and joists as needed
- Maintain bathroom floor height with hall floor height for disabled access
- Fit new 920mm entry door for disabled access
- Install the frames to make two cubicles one disabled
- Fit two new windows
- Reline walls and ceiling
- Conceal all external wiring in walls install new lighting
- Waterproof the floor
- Install new hand basin and plumbing that is required
- Tile floor and walls up to 1200mm high
- Install two new toilets, one disabled
- Paint to chosen colour

Total cost for this work \$23,598.00

Additional to this further requests have been lodged for the replacement of the floor in front of the men's toilet, being

- Removal of old flooring and bearers and joist
- Fill with road base and compact
- Pour 100mm concrete slab to match existing

Total cost for this work \$2739.00

Additional to this further requests have been lodged for the relining of the exterior walls with colorbond, being

- Removal of the old lining to the two sides and back
- Line the wall with colorbond all the way to the ground level
- Install sarking behind the iron

Total cost for this work \$20,271.24

Additional to this further requests have been lodged for the installation of a hot water system, a new fridge and reverse cycle air conditioning, being

- Supply and install new 10l hot water unit **\$1,056.60**
- Purchase and supply of Westinghouse fridge **\$1329.00**
- Purchase and supply of Panasonic Air Conditioner **\$1,840.00**

Total cost for this work \$4,225.60

The total submission amounts to **\$50,833.84** all of which is to be used on the Cullen Bullen Hall.

Portland District Motor Sports Club – replacement of whitegoods hit by lightning, which include:

- Purchase of a Fridge **\$3,600.00**
- Purchase of a Freezer **\$1,400.00**
- Purchase of Air Conditioning **\$1,999.00**

Portland Youth Centre Council – the purchase of recreational equipment for the youth of Portland and surrounding areas. This includes(costs highlighted);

- Purchase of 6 open top paddlers **\$1,794.00**
- Purchase of 3 medium adult life jackets **\$387.00**
- Purchase of 3 small adult life jackets **\$297.00**
- Purchase of 6 paddler oars **\$239.70**

The total submission amounts to **\$2581.80** all of which is to be used in conjunction with the Portland Youth Centre.

It must be brought to the attention of the Council that should the requests be approved they will not be spent on public infrastructure in the sense that none of the facilities are owned by “the public”, i.e. Council. Whilst this is ultimately a matter for Council to determine, such a situation is unusual. However, balanced against this, there is no argument that the Cullen Bullen community would be the beneficiary of any expenditure on the church and the hall. It is suggested that priorities should be to improve functional uses of buildings rather than aesthetic improvements.

The condition of consent from which the funds are obtained provides that the funding is to be used toward community facilities. The concept of a community facility would normally infer a fixed ‘bricks and mortar’ facility available for use by the entire community. Using this test, some of the requests for movable items (e.g. refrigerators, freezers and sporting equipment) would probably fail.

POLICY IMPLICATIONS

No specific policy applies to these set of circumstances.

FINANCIAL IMPLICATIONS

If all the requests were to be approved the cost would be approximately \$59,425.49 with no impact on the Council budget as the contributions are from an external funding source.

LEGAL IMPLICATIONS

The funds have been received as a consequence of a condition of approval which indicates they are to be utilised toward community facilities. Further to this as part of the legal requirement Council has a period of two years, being 29 May 2011 to utilise the funds. Should it be resolved that any or all of the application do not have an overall community benefit Council could resolve to hold the funds and utilise them at another time through the next two years.

RECOMMENDATION

1. **THAT** Council distribute the funding as follows:
 - \$4,459.85 to Cullen Bullen Tidy Towns for the preparation and painting of the St Brendans Church, Cullen Bullen.
 - \$26,337 to Cullen Bullen Progress Association for works on the ladies toilets and floor outside the men's toilets at the Cullen Bullen Hall.
 - \$1,550.00 be allocated to the Cullen Bullen Park for the installation of landscaping and fencing. This work is to be carried out by Cullen Bullen Tidy Towns.
2. Council hold the balance of the monies in the Invincible Community Benefit Fund for a time so as to seek future community projects that could be of a greater community benefit to Cullen Bullen.
3. Council advise all organisations that requested funds accordingly.

OPERATION SERVICES REPORTS

ITEM:12 OPER - 06/10/09 - RECLASSIFICATION OF WATTLEMOUNT ROAD TO PUBLIC ROAD STATUS

REPORT FROM: ACTING MANAGER OPERATIONS – CHRIS SCHUMACHER

REFERENCE

Min No. 09-348 & 09-349 Council Meeting 24 August 2009 & 14 September 2009.

SUMMARY

This report advises Council of the requests from residents on Wattle Mount Road asking Council to consider reclassification of the existing 'Crown Road' and private right of carriageway to a local 'Public Road' status under the ownership, control and maintenance of Lithgow City Council.

COMMENTARY

Council is requested to consider reclassification of rural/residential road known as 'Wattle Mount Road' at Portland. This road is located off the Portland to Cullen Bullen Road, and is approximately 2,550 metres in total length or 2.55km. Wattle Mount Road is classified as a private right of carriageway for some distance of 886m and a 'Crown Road' controlled by Department of Lands, the number of residents whom reside along this road is currently six (6). Council has been requested to consider taking ownership of this road by reclassifying it to a 'Public Road' through an application process with the Department of Lands.

This road does not receive any maintenance work from the Land & Property Management Authority, requiring the residents to resource their funds together for its ongoing upkeep. As advised by the residents, this is proving a very difficult challenge.

Traffic volumes and types have marginally increased along this road over the several years requiring residents to provide for more frequent grading.

If Council were to take control of Wattle Mount Road, Council costs of maintaining this road would be acquired through its ongoing rural roads maintenance program. This program is funded through the federal assistance grant funding that all Councils receive on an annual basis. This funding is also subject to minor incremental increases each financial year of approximately \$4,000 or 3.5% of the total funding received.

Council should note that the first 886 metres of the road is a private right of carriageway and other examples exist where Council has been requested to take over such private roads. The point of difference in this case is the connection to the existing Crown road network. It would not serve a useful purpose to take on the section of Crown road with an intervening section of right of carriageway. It would appear more appropriate if Council were to take total control of both the Right of Carriageway and Crown Road totally formalising the 2.55km section of Wattle Mount Road as a public road.

However, the creation of a public road and extinguishment of the right of carriage way would be a costly for all parties involved.

The issue of maintenance of a right of carriageway, particularly where the right of carriageway is shared between numerous parties, is a critical issue and one which would foreshadow potential disputes between adjoining landowners particularly with regard to contribution to be made towards the physical road maintenance through a contractor. No buyer would enter into a contract for purchase of land accessed through a right of carriageway without being satisfied as to the risks involved, and making the conscious decision to assume such risks.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Legal & Survey works could be in the tens of thousands, proving expensive for Council in creation of the public road.

The Land & Property Management Authority \$220.00 application fee for reclassification of Wattle Mount road to a local Public Road.

Apart from the residents upgrading the 886 metres of Right of Carriageway, Council could incur costs in the order of up to \$80,000 to properly formalise and construct 200m – 300m of upper Wattle Mount Road inclusive of road basing the 1660 metres of Crown Road.

If Council were to reclassify Wattle Mount Road as a Public Road, Council may incur costs in the vicinity of \$7,480 each time that corrective maintenance is required, exclusive of the need for any materials or drainage maintenance.

LEGAL IMPLICATIONS

1. Lithgow City Council would be required to make the necessary arrangements with the Land & Property Management Authority for the existing survey plans and land transfer documentation to reclassify Wattle Mount Road as a Public Road under Lithgow City Council.
2. Negotiations would need to take place with those property owners that benefit from the private right of carriageway.

ATTACHMENTS

1. Copy of deposited plans showing right of carriageway and Crown Road alignment.

RECOMMENDATION

THAT:

1. Subject to the cost to Council and the potential of requests for reclassification of many other Right of Carriageways within Lithgow City Council area, Wattle Mount Road should not be reclassified to a local public road.
2. Council not accede to the requests of the land owners presently served by the right of carriageway & Crown Road to convert the right of carriageway and Crown Road into a Council Public Road.

ITEM:13 OPER - 06/10/09 - RIGHT OF BURIALS - GLEN ALICE CEMETERY

REPORT FROM: ACTING MANAGER OPERATIONS – CHRIS SCHUMACHER

REFERENCE

Nil

SUMMARY

To inform Council of a request for waiving of Council Fees for the purchase of two burial allotments in the Glen Alice cemetery and to formalise right of burial fees for Glen Alice cemetery.

COMMENTARY

An application has been received from a resident requesting Council to consider waiving of the fee for purchase of two (2) burial allotments in the Glen Alice Cemetery. The positions are to be reserved for two long time residents of Glen Alice. The positions would be alongside other family members located in the cemetery.

At the time of the amalgamation in 2004/2005 a community meeting was held with the General Manager, Executive Management & the Glen Alice Community to address a number of issues associated with the amalgamation. As part of that meeting it was discussed that the Glen Alice Cemetery Trust whom controlled the Glen Alice Cemetery in conjunction with Mid-Western Regional Council, that the Right of Burial fee not be charged if you were a long term resident of the community. Long term is deemed to be residents and their families that have resided in the Glen Alice area and have a long term association with Glen Alice.

It was discussed that this practice should continue once Lithgow Council took over the cemetery.

Burials in the Glen Alice Cemetery do not occur on a regular basis and Council has had only 1 full fee burial since taking over the cemetery in October 2007. The current cost of Right of Burials as per the Management Plan is \$854.70 each. Therefore a total cost of \$1709.40 is requested to be waived in this instance.

It has been requested that Council consider waiving the Right of Burial Fee. Currently the Management Plan attracts a fee of \$854.70 for Right of Burials in all of Lithgow Councils cemeteries.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Council would forego income of \$854.70 if the Right of Burial fee was not charged per burial allotment.

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

Nil

RECOMMENDATION

THAT

1. Council do not waive the fee of \$1709.40 being for the purchase of two (2) burial allotments in the Glen Alice Cemetery given that these 2 residents are classified as long term.
2. As a service provided by Council a burial fee of \$854.70 per allotment continue to be charged in accordance with the current 2009/2010 Management Plan.

**ITEM:14 OPER - 06/10/09 - UPPER MACQUARIE COUNTY COUNCIL WEEDS -
MINUTES 06/08/09 AND 04/09/09**

REPORT FROM: ACTING MANAGER OPERATIONS – CHRIS SCHUMACHER

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 Reports for August and September 2009.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Upper Macquarie County Council Reports – August & September 2009.

RECOMMENDATION

THAT the Upper Macquarie County Council Chief Wees Officer's Reports for August & September 2009 be noted.

COMMUNITY AND CORPORATE SERVICES REPORTS

ITEM:15 **COMM - 06/10/09 - SECTION 356 - DONATIONS TO COMMUNITY ORGANISATIONS**

REPORT BY: COMMUNITY DEVELOPMENT OFFICER – JASON HOPKINS

REFERENCE

Min 09-229 Ordinary Meeting of Council 2 June 2009
Min 09-331 Ordinary Meeting of Council 30 August 2009
Min 09-333 Ordinary Meeting of Council 30 August 2009

SUMMARY

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

COMMENTARY

MINGAAN Aboriginal Corporation

Mingaan, an Aboriginal community group established in June 2008, have organised to have a smoking ceremony and traditional dancers perform at the opening ceremony of the World Masters Games in October. As a newly established group they are needing monetary support to provide these services and such they have approached Council requesting a donation. It is recommended that Council offer a donation to the value of \$500

GUMNUT HOUSE

Gumnut House is seeking donations for their upcoming fete to be held on the 14th November 2009. Gumnut House is a community based, non-profit, rural childcare centre and pre-school with 120 children currently enrolled. Donations will go towards art and craft supplies, show bags etc

It is recommended that council offer a donation to the value of \$150

JACK AND JILL PRE-SCHOOL ASSOCIATION

Jack and Jill pre-school is currently seeking donations for their school and their spring fair to be held on the 31 October 2009. Jack and Jill is a non-profit organisation with 130 children enrolled. Donations will go towards the purchases of books, teaching supplies and also show bags etc that will be distributed at the fair

It is recommended that Council offer a donation to the value of \$150

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.

LEGAL IMPLICATIONS

Local Government Act NSW 1993, Section 356

ATTACHMENTS

1. Letter from Gumnut House Dataworks No: 534277
2. Letter from Jack and Jill Pre-school Dataworks No: 534276

RECOMMENDATION

THAT Council provides:

1. \$ 500 to Mingaan Aboriginal Association towards the cost of traditional dancers at the opening ceremony of the World Masters Games
2. \$150 to Gumnut House towards their fete
3. \$150 towards the Jack and Jill Pre-School Association Spring Fair

INTERNAL SERVICES REPORTS

**ITEM:16 INTS - 06/10/09 - FUTURE PURPOSE OF VACANT LAND LOT 67
 GIRRAWEE DRIVE, MARRANGAROO - DP 813538**

REPORT FROM - INTERNAL SERVICES MANAGER - C FARNSWORTH

REFERENCE

Nil

SUMMARY

The purpose of this report is to advise Council of a request to purchase vacant Council owned land, Lot 67 Girraween Drive, Marrangaroo Fields, DP 813538. Council will need to consider the future purpose of the land and resolve if it be retained or offered for sale.

A recommendation is included that Council retain Lot 67 DP 813538 pending future consideration of Stages 4 & 5 Marrangaroo Fields.

COMMENTARY

Council has been approached to sell Lot 67 Girraween Drive Marrangaroo Fields. At this time no resolution exists with regard to its future purpose and hence this report is made available.

Background:

In late 1988 Council commenced a three staged subdivision, Marrangaroo Fields. The subdivision comprised 66 residential lots, one community lot, being Lot 67 and one residue lot, Lot 68.

Lot 67 Girraween Drive has independent title, an unimproved capital land value of \$181,000 and an area of 6,724M. The intended purpose of the lot was *“to be set aside for community use and active recreation, eg tennis court(s)”*. No specific conditions were placed on it except that all services be provided.

Prior to the completion of the subdivision the location of a recreation reserve was reconsidered. Lot 45, which is located at the intersection of Pimpala St and Girraween Drive was a low lying allotment subject to considerable drainage issues and it was considered a preferred site for playground equipment, park benches and a bus shelter rather than its intended use as a residential allotment. To rectify drainage issues additional pipes were installed and the terrain remodelled from the crest of the retention pond to the natural surface on the eastern and southern sides of the allotment and is now the location of the current park.

With the exception of Lot 67 all remaining 66 lots were offered for sale by public auction and if a sale did not eventuate the lots were placed on the open market.

Prior to consideration of Lot 67 it would be appropriate for Council to consider a number of issues.

1. As shown on the map below Lot 67 is predominately located on land proposed as the future Stage 5 of the subdivision and during construction of this stage the lot may be redesigned to enhance future and existing lots and amenities.

MARRANGAROO FIELDS: STAGES 1, 2 & 3



2. With an area of 6,724M Lot 67 is double some residential lots currently in the subdivision and Council may wish to subdivide Lot 67 into two saleable lots.
3. Lot 67 is in close proximity to an adjoining quarry on the western side of the site. The quarry is still operational and for many years has been used to extract silica. The closest lots to the quarry are approximately 500 metres and may be affected by noise and ground vibrations at times. An “acoustical investigation” was conducted in 1981 by Caleb Smith Consulting Pty Ltd which indicated that blast design work was required to minimise subjective and physical effects on residents within 400 metres from ‘shot firing.’ In compliance Council constructed a buffer zone between the quarry and Marrangaroo Fields.
4. Prior to the development of additional lots at Marrangaroo Fields Council may need to consider that the only access to the subdivision is via a single lane, timber decked bridge which crosses the main western railway to connect to the Great Western Hwy. In 1988 access to the subdivision was considered by the ‘Traffic Authority Local Committee’ and objections were received from the Police and the Department of Main Roads who considered that a single lane bridge was inadequate and in the event of further development and increase in the volume of traffic would warrant widening of the bridge to provide two (2) lanes of travel.

Council may consider sale of Lot 67 would be appropriate and if so it would be prudent to offer it at public auction to ensure consistency with previous sales. If the lot remains after auction it may then be placed on the open market.

No major construction work is required to prepare the lot for sale but a market valuation would be obtained and a further report to Council to determine an appropriate reserve price.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

Nil

RECOMMENDATION

THAT Council retain Lot 67 DP 813538 Girraween Drive Marrangaroo Fields pending further staged development of the subdivision

**ITEM:17 INTS - 06/10/09 - RETURNS UNDER SEC 449: LG ACT 1993
DISCLOSING INTERESTS OF COUNCILLORS AND DESIGNATED
PERSONS**

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 all Councillors & Designated Person for the period 1 July 2008 to 30 July 2009.

COMMENTARY

Section 449 of the Local Government Act requires Councillors and designated persons to lodge returns under Section 449 for the period 1 July 2008 to 30 June 2009.

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.

At the due date of returns, all nine elected Councillors have responded as well as all designated persons.

Section 441 defines designated persons as:

- *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.*

For future returns it is recommended Council nominate designated persons as the General Manager, Group Managers, Divisional Managers and employees with Development Application and ordinance enforcement consent.

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 disclosure registers containing disclosures made under Section 449 of the Local Government Act 1993 by elected Councillors and designated persons holding positions as at 30 June 2009.
2. Council define positions held by designated officers for future returns as the General Manager, Group Managers, Divisional Managers (7), and employee positions with Development Application and enforcement consent under LG Act.

ITEM:18 INTS - 06/10/09 - 2008/09 GENERAL PURPOSE FINANCIAL REPORTS

REPORT FROM: INTERNAL SERVICES MANAGER – C FARNSWORTH

REFERENCE

Nil

SUMMARY

To advise of the completion of the 2008/09 General Purpose Financial Reports and seek Council authorisation as required by Chapter 13, Part 3, Division 2 of the Local Government Act 1993 to allow for final audit.

This report also recommends that Council invite our Auditors, The Morse Group, to present a formal report to the Ordinary meeting on the 23 November 2008.

COMMENTARY

Council's 2008/09 Draft General Purpose Financial Reports are submitted to Council for acceptance as required by Chapter 13, Part 3, Division 2 of the Local Government Act 1993 to allow for final audit.

Principal reports are attached and a complete set of reports will be provided following audit.

2008/09 GENERAL PURPOSE FINANCIAL REPORTS – OVERVIEW

Net Operating Result

The draft result for the 2008/09 financial year, including capital income and contributions, is a surplus of \$2,965,000 (07/08 surplus of \$4,859,000). Total assets held are valued at \$249,018,000 (07/08 surplus of \$237,265,000) and liabilities at \$18,866,000 (07/08 \$18,607,000) resulting in a total equity of \$230,152,000 (07/08 \$218,658,000)

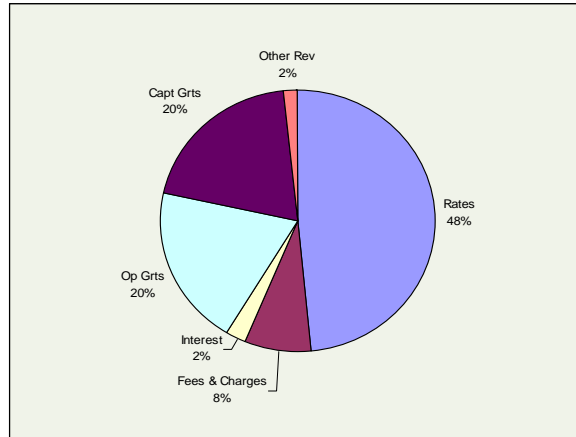
Net Operating Result before Capital Grants & Contributions

The 2008/09 operating result before abnormal and capital items is a deficit of \$3,566,000 (07/08 surplus of \$676,000) and is largely attributed to an increase in depreciation of buildings due to revaluation to fair value of land & building assets for the 07/08 financial year.

Operating Revenue:

Increased by \$3,441,000 to \$33,710,000 compared to the 2007/08 result of \$30,269,000 (includes capital grants and contributions of \$6,531,000)

2008/09 REVENUE SOURCES \$'000



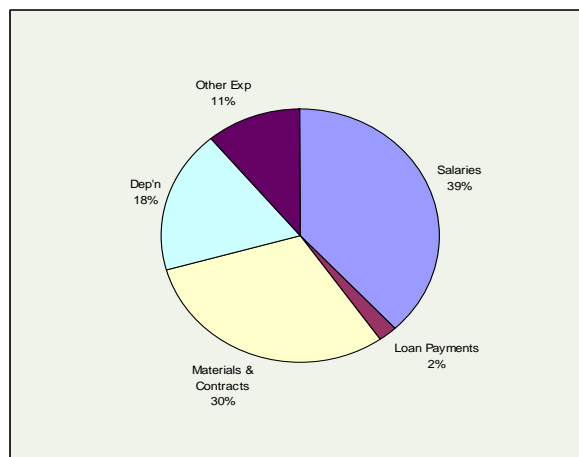
Revenue comparatives previous years:

FINANCIAL YEAR	VALUE
2008/09	\$33,710,000
2007/08	\$30,269,000
2006/07	\$27,613,000
2005/06	\$24,871,000
2004/05	\$21,518,000
2003/04	\$23,580,000
2002/03	\$20,390,000
2001/02	\$18,024,000

Operating Expenditure

Increased by \$5,335,000 to \$30,745,000 and compared to the 2007/08 result of \$25,410,000

2008/09 EXPENDITURE SOURCES \$'000



Expenditure comparatives:

FINANCIAL YEAR	VALUE
2008/09	\$30,745,000
2007/08	\$25,690,000
2006/07	\$24,266,000
2005/06	\$23,912,000
2004/05 (Adjusted AIFRS*)	\$24,767,000
2003/04	\$23,668,000
2002/03	\$22,168,000
2001/02	\$21,841,000

* Australian International Financial Reporting Standards

Capital grants and contributions:

Capital grants of \$6,531,000 contributed to the net operating result and are summarised as follows:

Lithgow STP Augmentation	\$156,407
Wolgan Rd: Emirates, State & Fed	\$1,452,459
RTA Browns Gap	\$500,000
Roads to Recovery	\$989,737
Vale of Clywdd Playground	\$16,000
Flood Mitigation	\$312,000
Sec 94 & Planning Agreements	\$591,000
RLCIP Round 1	\$529,000
RLCIP Round 2	\$1,642,750
Financial Assistance Grant	\$3,898,000

Acquisitions and improvement of Assets:

Improvements and additions to assets of \$6,953,000 are summarised as:

Plant	\$1,497,000
Road & Ancillary Works	\$2,862,000
Drainage (Inc Flood Works)	\$257,000
Sewerage Infrastructure	\$1,392,000
Water Infrastructure	\$520,000
Buildings	\$136,000
Other Structures	\$140,000

Depreciation

Assets have depreciated by \$5,576,000 for the 2008/09 financial year (2007/08 \$4,122,000). The major contributing fact to the increase in depreciation is due the revaluation of the building asset class to fair value in 07/08. Depreciation has increased in this class from \$805,387.52 to \$2,312,571.

Investments

2008/09 has seen the increase of Council's investment portfolio by \$3,523,000 to \$18,452,000 (2007/08 \$14,929,000). Interest of \$753,778 has been received which is a decrease on previous years attributed to the downturn in interest rates during the economic crisis.

Investment comparatives:

FINANCIAL YEAR	VALUE
2008/09	\$18,452,000
2007/08	\$14,432,000
2006/07	\$14,905,000
2005/06	\$10,091,000
2004/05	\$11,154,000
2003/04	\$10,222,000
2002/03	\$8,714,000
2001/02	\$7,813,000
2000/01	\$6,957,000

As reported in 07/08 General Purpose Financial Report, Council has one investment which is exposed to the Collateralised Debt Obligation (CDO) market. The investment is a Commonwealth Bank (CBA) Ethical Note purchased on 06 November 2006 and maturing on 06 November 2011.

Due to the decline of the financial markets the investment was written down to \$220,000 at 30 June 2008 and since this time the principal value has declined to 11.3c per \$100 as at 30 June 09 and accordingly the face value has declined by \$163,500 to \$56,500. As previously reported to Council the Ministers Investment Order of 31 July 2008 will be followed and the investment will be held to maturity and adjusted annually as the future economic climate dictates.

It should be noted that since 20 November 2006 interest has been consistently paid by the CBA each quarter and \$103,260 total interest has been received. At this stage Council expects quarterly payments of interest to continue.

Loans

At 30 June 2009 \$5,955,000 remained outstanding as principal due on loans (2007/08 \$6,386.00). This is following repayment of \$431,000 during 2008/09. As per Council resolution no loans were drawn down in the 2008/09 financial year.

Cash and Reserves

Note 6 'Cash Assets and Investment Securities' discloses cash and investments of \$18,452,000 (2007/08 \$14,929,000). Cash and investments are held restricted assets, and unrestricted assets, both internal and external.

Externally restricted assets total \$12,252,000 and are held for specific purpose grants, unexpended loan funds, section 94 developer contributions, water, wastewater and waste reserves.

\$4,634,000 is held as internally restricted assets for identified purposes such as employees leave entitlements, election expenses, land and buildings and works in progress.

The level of cash reserved for employees leave entitlements currently stands at \$1,094,261 (2007/08 \$1,096,963) and provides for 25% of annual and long service leave entitlements for the majority of employees.

Council's unrestricted cash is \$1,566,000 compared to \$1,653,000 in 2007/08.

FINANCIAL RATIOS:

Note 13 discloses the following ratios:

UNRESTRICTED CURRENT RATIO

LITHGOW 2008/09

Current Assets (Less Ext Rest)	<u>\$10,051,000</u>	2.77:1	2007/08	2.57:1
Current Liabilities	\$3,632,000			

The unrestricted current ratio is to assess the adequacy of working capital and the ability to satisfy obligations in the short term for the unrestricted activities of Council. Council has \$2.77 for every \$1.00 of liability.

2007/08 DLG COMPARATIVE RATIOS:

NSW Avg	Group Ave	Bathurst	Mid West	Orange	Blue Mts
2.86:1	2.31:1	2.91:1	4.61:1	3.50:1	1.44:1

DEBT SERVICE RATIO

LITHGOW 2008/09

Debt Service Cost	<u>\$847,000</u>	3.30%	2007/08	3.41%
Current Liabilities	\$25,631,000			

The debt service ratio excludes capital items, specific purpose grants and contributions. It provides a means to assess the impact of loan principal and interest repayments on the discretionary revenue of Council.

2007/08 DLG COMPARATIVE RATIOS:

NSW Avg	Group Ave	Bathurst	Mid West	Orange	Blue Mts
4.45%	7.27%	7.29%	2.53%	7.05%	6.83%

RATE COVERAGE RATIO

LITHGOW 2008/09

Rates & Annual Charges	<u>\$16,479,000</u>	48.88%	2007/08	51.98%
Current Liabilities	\$33,710,000			

The rate coverage ratio is used to assess the degree of dependency upon revenues from rates and annual charges and to assess the security of Council's income.

2007/08 DLG COMPARATIVE RATIOS:

NSW Avg	Group Ave	Bathurst	Mid West	Orange	Blue Mts
47.61%	41.93%	41.89%	39.33%	32.22%	56.64%

RATES & ANNUAL CHARGES OUTSTANDING

LITHGOW 2008/09

Rates & Annual Charges O/S	<u>\$1,182,000</u>	6.63%	2007/08	7.18%
Current Liabilities	\$17,825,000			

The percentage of rates and annual charges outstanding is used to assess the impact of uncollected rates and annual charges on liquidity and the adequacy of Council' Debt recovery processes.

Council persistently pursues outstanding rates and charges by using internal and external processes. The current drop in the percentage from the previous year proves the practice is successfully working.

2007/08 DLG COMPARATIVE RATIOS:

NSW Avg	Group Ave	Bathurst	Mid West	Orange	Blue Mts
5.2%	5.87%	6.87%	4.02%	5.82%	5.25%

CURRENT REVALUATION OF ASSETS TO FAIR VALUE

Department of Local Government Circular 06-75 required Council to report on the revaluation of the following classifications of non current assets to 'fair value':

- 2006/07 - Water and Wastewater: Status completed
- 2007/08 - Plant and Equipment: Status completed
- 2007/08 - Buildings & Operational Land: Status completed (The DLG has deferred the revaluation of community land at this stage)
- 2008/09 – Roads, Bridges, Drainage & Other Structures (Deferred by the DLG to 30.06.10)

The revaluation of assets to fair value applies to the entire class whether it be plant and equipment, buildings and operational land, roads and bridges etc. The value comprises the re evaluated amount less accumulated depreciation and accumulated impairment costs.

Fair Value is the best estimate of the price reasonably obtainable in the market at the date of valuation and is defined as "amount for which an asset could be exchanged between willing parties in an arms length transaction" in Accounting Standard, AASB 116. It is the most reasonable price obtainable by the seller as well as being the most satisfactory price to the purchaser. The estimate specifically excludes a price inflated or deflated by special terms or circumstances such as financing, sale and leaseback arrangements, or any concession which may be granted by the seller.

In 2006/07 Council re evaluated Water and Wastewater assets and in 2008/09 we have again reviewed values as required using Dept Energy Utilities and Sustainability (DUES) and DLG guidelines. For this reason Water and Wastewater assets have increased in value by \$4,157,000 and \$4,235,000 respectively. The buildings revaluation reserve has been adjusted by \$300,000 and all entries are reflected in the Revaluation Reserve and will impact on depreciation in the 2009/10 financial year.

To revalue roads, bridges, drainage and other structures to Fair Value by 30 June 2010 DLG Circular 09/09 requires Council to report, in the 2008/09 General Purpose Financial Reports, on the progress to date and the future planned action to ensure we met the required deadline.

To achieve this task Council has the following program in place:

- Completed: Work team consisting of Engineering and Internal Services employees
- Completed : The methodology for identifying all assets under Council's control
- Completed: Identification and joining of all databases showing roads, road lengths, values remaining useful life and annual depreciation
- Completed: The methodology used to value each asset
- To complete: Identification of roadside structures
- To complete: Identification of drainage culverts and pits
- To complete: Assessment of each road for condition and future useful life

DLG Compliance: General Purpose Financial Reports

The following information should be noted with regard to Council's compliance with the Local Government Act 1993:

- Council's financial reports are prepared and will be audited within 4 months after the end of the reporting year.
- As per Sec 428 (2) (a) the audited financial reports will be included in Council's Annual Report.
- As per Sec 418 as soon as practicable after receipt of the auditors' report, no later than 7 November 2009, public notice will be given of presentation of the final report to Council at a public meeting with the auditor present.
- Council will invite the auditor to attend the Ordinary meeting of the 23 November 2009.
- Copies of Council's audited financial reports together with the auditors report will be made available for inspection.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Council's final draft result for the 2008/09 financial year, including Capital Income and Contributions is a surplus of \$2,965,000.

Total assets held are valued at \$249,018,000 and liabilities of \$18,866,000 resulting in net assets of \$230,152,000.

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

Principal Notes:

- 1) Income Statement
- 2) Balance Sheet
- 3) Statement in Changes in Equity
- 4) Cash Flow Statement
- 5) Note 6 Cash Assets and Investment Securities
- 6) Note 13 Statement of Performance Measurement

RECOMMENDATION

THAT:

1. The draft accounts be referred to auditors, The Morse Group for final audit
2. Council advertise the accounts following receipt of the 2008/09 Audit Certificate.
3. Council state the following on the General Purpose Financial Reports for the year ended 30 June 2009:-

The Council's Annual General Purpose Financial Reports have been drawn up in accordance with:-

- a). The Local Government Act 1993 (as amended) and the Regulations made there under;*
- b). The Australian Accounting Standards and professional pronouncements;*
- c). The Local Government Code of Accounting Practice and Financial Reporting;*
- d). The Local Government Asset Accounting Manual.*

To the best of our knowledge and belief, these reports

- a) Present fairly the Council's financial position and operating result for the year and*
- b) Accord with Council accounting and other records.*

The Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer be authorised attesting to the above and that they are not aware of any matter that would render the reports false or misleading in any way.

4. Council state the following on the Special Purpose Financial Statements for the year ended 30 June 2009:-

The attached Special Purpose Financial Statements have been drawn up in accordance with the Local Government Code of Accounting Practice and Financial Reporting and the

- a) NSW Government Policy Statement "Application of National Competition Policy to Local Government"*
- b) Department of Local Government guidelines "Pricing & Costing for Council Businesses: A Guide to Competitive Neutrality".*
- c) The Department of Energy, Utilities and Sustainability "Best Practice Management of Water Supply and Sewerage" guidelines.*

To the best of our knowledge and belief, these reports

- a) Present fairly the financial position and operating result for each of Council's declared Business Units for the year, and*
- b) Accord with Council's accounting and other records*

The Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer be authorised attesting to the above and that they are not aware of any matter that would render the reports false or misleading in any way.

5. Council invite the auditor, The Morse Group, to present a formal report of the results to the Ordinary meeting of the Council on the 23 November 2009.

BUSINESS OF GREAT URGENCY

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.

CLOSED REPORTS

ITEM:19 GM - 06/10/09 - CONFIDENTIAL REPORT - ACQUISITION OF PART OF LAND - RYDAL / HAMPTON ROAD RYDAL

Reason for Confidentiality

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

REFERENCE

Min No: 06-411	Policy and Strategy Committee Meeting 04/12/06
Min No: 06-462	Ordinary Meeting Council 18/12/06
Min No: 07-10	Policy and Strategy Committee Meeting 05/02/07
Min No: 07-382	Policy and Strategy Committee Meeting 03/09/07
Min No: 09-87	Ordinary Meeting Council 09/03/09

SUMMARY

This report is in response to Resolution No. 09-87 and is to advise Council of the current position in relation to the acquisition of part lot 342 along the Rydal-Hampton Road, Rydal and to be properly incorporated as road reserve.

RECOMMENDATION

THAT Council consider the report on the Acquisition of Part of Land - Rydal/Hampton Road Rydal in closed Council pursuant to Section 10A(2)(c) of the Local Government Act 1993.