



LITHGOW CITY COUNCIL

**“A Centre of Regional Excellence”**

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

01 MARCH 2010

AT 7.00pm

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# AGENDA

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## **APOLOGIES**

## **CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 8<sup>TH</sup> FEBRUARY 2010**

## **DECLARATION OF INTEREST**

## **PUBLIC FORUM**

## **PRESENTATIONS - NIL**

## **MAYORAL MINUTES - NIL**

## **NOTICES OF MOTION**

Councillor G Danaher - Septic Safe Program  
Councillor M F Ticehurst - Public Information on the Pecuniary Interest Tribunal  
Councillor M F Ticehurst - Lithgow Golf Course  
Councillor M F Ticehurst - Financial Reports  
Councillor M F Ticehurst - Sustainable Water Supply  
Councillor M F Ticehurst - Clarence Water Transfer Scheme  
Councillor M F Ticehurst - Leases  
Councillor M F Ticehurst - Wolgan Valley  
Councillor M F Ticehurst - Model Code of Conduct  
Councillor C Hunter - Septic Safe

## **NOTICE OF RESCISSIONS - NIL**

## **CORRESPONDENCE AND REPORTS**

General Managers Reports  
Regional Services Reports  
Operation Reports  
Community and Corporate Services Reports  
Internal Services Reports

## **COMMITTEE MEETINGS**

Tourism Advisory Committee  
Lithgow Flash Gift Committee  
Lithgow Crime Prevention Committee  
Indoor Aquatic Centre Advisory Committee  
S355 Environmental Advisory Committee  
Environmental Advisory Committee  
Ageing Strategy Committee

## **REPORTS FROM DELEGATES - NIL**

## **BUSINESS OF GREAT URGENCY**

As identified by Clause 241 of the Local Government (General) Regulations 2005

## **CLOSED COUNCIL**

Confidential Report - Tender 02/10 Supply of Road Base (RTA Inspection - 3501), Ex Bin (3 Year Contract)  
Confidential Report - Tender 03/10 Supply of Bitumen Sealing Services (3 Year Contract)

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AND 8TH FEBRUARY 2010

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**ITEM:2 NOTICE OF MOTION - 01/03/10 - PUBLIC INFORMATION ON THE  
PECUNIARY INTEREST TRIBUNAL - COUNCILLOR M F TICEHURST**

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**MOTION**

**Public Information on the Pecuniary Interest Tribunal.**

Listed by Councillor Martin Ticehurst

14 February 2010

**BACKGROUND**

With respect to the current Council and Public debate with respect to the Lithgow City Councils Public Exhibition of a Draft Property Lease between the Lithgow City Council and the ASIC listed Lithgow Golf Club Ltd., the following information with respect to the Pecuniary Interest Tribunal from the [www.findlaw.com.au](http://www.findlaw.com.au) website has been obtained and is enclosed for the information of the Council and all Councillors.

The author I understand was a former Councillor on the Sydney City of Canterbury Council.

**RECOMMENDATION**

**THAT** the Council and Councillors receive and note the attached information on The Pecuniary Interest Tribunal.

**ITEM:3 NOTICE OF MOTION - 01/03/10 - LITHGOW GOLF COURSE -  
QUESTION WITH NOTICE - COUNCILLOR M F TICEHURST**

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**MOTION**

**Question with Notice – Councillor M F Ticehurst.**

Listed by Councillor Martin Ticehurst

14 February 2010

**BACKGROUND**

Q. Could the Councils Mayor and General Manager confirm if the following statement was made Mr Ray Hamment President of the ASIC listed Lithgow Golf Club Ltd. from the Public Gallery at the Lithgow City Council Policy and Strategy Meeting held on 3 April 2006 and if it was recorded in the Official Minutes of the same Committee Meeting?

**“ Mr Mayor we would like to let Council know that we are very appreciative of the help the Council has been on both the Course and the Golf Clubhouse, and it has always been understood that when our financial situation had recovered, we would then begin paying the Council back, both monetarily and with in kind upkeep and restoration of the heritage Clubhouse building and surrounds.**

**As you would be aware the Lithgow Golf Club in 2003 was insolvent and was on the brink of closing, but now with the help of the Council we are certainly on the road to recovery, but we still have a way to go to become a completely viable concern.**

**The amount mentioned (\$16,613) will put a very serious dent in our recovery program, so if some consideration could be given to the amount of IN KIND work that has been carried out on your asset recently (including plumbing, electrical, the painting of the whole interior etc) amounting to some twenty two thousand dollars so far this year (work that the Council as not had to pay for) it would be appreciated.”**

**RECOMMENDATION**

**THAT** the Councils General Manager and the Group Manager Regional Services provide a written or Minuted response to the above Question with Notice.

**ITEM:4 NOTICE OF MOTION - 01/03/10 - FINANCIAL REPORTS - QUESTION WITH NOTICE - COUNCILLOR M F TICEHURST**

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**MOTION**

**Question with Notice – Councillor M F Ticehurst.**

Listed by Councillor Martin Ticehurst

14 February 2010

**BACKGROUND**

Q. Could the General Manager please advise when Public Submissions made under Section 420 of the Local Government Act with respect to the Lithgow City Councils 2008/2009 Financial Reports audited by the Morse Group will come back before the Council?

A Public Submission dated 27 November 2009 was made to the Lithgow City Council in respect of the Lithgow City Councils 2008/2009 Financial Reports audited by the Morse Group and notwithstanding that the Council has already held two Ordinary Meetings of the Lithgow City Council in 2010, any response to the Public Submission still remains outstanding to date.

**RECOMMENDATION**

**THAT** the General Manager advise when Public Submissions made under Section 420 of the Local Government Act with respect to the Lithgow City Councils 2008/2009 Financial Reports audited by the Morse Group will come back before the Council.

ITEM:5 NOTICE OF MOTION - 01/03/10 - SUSTAINABLE WATER SUPPLY -  
QUESTION WITH NOTICE - COUNCILLOR M F TICEHURST

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## MOTION

Question with Notice – Councillor M F Ticehurst.

Listed by Councillor Martin Ticehurst

14 February 2010

## BACKGROUND

Q. 1. Could the Councils General Manager and the Group Manager Regional Services confirm if the following written statement made by the Lithgow City Council to NSW State Water in their '**Submission to the Inquiry into secure and sustainable urban water supply and sewerage services for non-metropolitan NSW**' is not false and misleading?

**Page 9: Effluent Reuse – Lithgow STP to Lithgow Golf Club**

*“Council is proposing a scheme to transfer treated effluent from the Lithgow Sewerage Treatment Plant to the Lithgow Golf Club for use on the golf course. At present the golf course utilises potable drinking water for irrigation at a significant cost. The project is estimated to save the community approximately 20 million litres (20 ML) of potable water per year and cease discharge into Farmers Creek and subsequently into the Sydney Drinking Water Catchment. It appears very positive that the Federal government will contribute to the bulk of this project.”*

Q. 2. Could the Councils General Manager and the Group Manager Regional Services confirm if the above written statement set out in Q. 1. as made by the Lithgow City Council to NSW State Water in their '**Submission to the Inquiry into secure and sustainable urban water supply and sewerage services for non-metropolitan NSW**' is not false and misleading and if so, why it was **NEVER** included into the Lithgow City Councils Lithgow Golf Course Draft or Final Plan of Management?

Q. 3. Could the Councils General Manager and the Group Manager Regional Services confirm if the above written statement set out in Q. 1. as made by the Lithgow City Council to NSW State Water in their '**Submission to the Inquiry into secure and sustainable urban water supply and sewerage services for non-metropolitan NSW**' was also used by the Lithgow City Council to secure and receive Australian Government funding of up to \$350,000 for the Lithgow Golf Club Recycled Water Project under the *Water for the Future – National Water Security Plan for Cities and Towns* and a further \$50,000 from the Australian Government *Community Water Grants Program* (CWG) to transfer treated effluent from the Lithgow Sewage Treatment Plant to the Lithgow Golf Course to be used for irrigation purposes on the course?

## RECOMMENDATION

**THAT** the Councils General Manager and the Group Manager Regional Services provide a written or Minuted response to the above Questions with Notice.

**ITEM:6 NOTICE OF MOTION - 01/03/10 - CLARENCE WATER TRANSFER  
WATER SCHEME - COUNCILLOR M F TICEHURST**

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**MOTION**

**Media information the Clarence Transfer Water Scheme.**

Listed by Councillor Martin Ticehurst

14 February 2010

**BACKGROUND**

With respect to the current Lithgow City Council Drought Management issues involving the Clarence Transfer Water Scheme currently under consideration, the following article from the Lithgow Mercury of Thursday April 10 1986 titled, 'Water Crisis Again Looming' is submitted for the information of the Council and Councillors.

**RECOMMENDATION**

**THAT** the Council and Councillors receive and note the attached information on Clarence Transfer Water Scheme.

**ITEM:7 NOTICE OF MOTION - 01/03/10 - LEASES - QUESTION WITH  
NOTICE - COUNCILLOR M F TICEHURST**

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**MOTION**

**Question with Notice – Councillor M F Ticehurst.**

Listed by Councillor Martin Ticehurst

14 February 2010

**BACKGROUND**

It is noted that within both the current and Draft Lease under the Real Property Act 1900 that under **Clause 8 Insurance and Damage** it is indicated that: -

What Insurances must the Lessee take out?

8.1 The Lessee must keep current an insurance policy covering –

8.1.1. liability to the public in an amount not less than the amount stated in Item 18 in the schedule (for each accident or event;

Q. 1. Could the Councils General Manager confirm media reports that in respect of the current property lease between the Lithgow City Council and the Lithgow Golf Club Ltd.; the Lithgow Golf Club Ltd. has never held nor holds any separate current public liability insurance coverage with respect to the vast area identified as the 18 hole Lithgow Golf Course?

Q. 2. Could the Councils General Manager confirm where in respect of the current and new Draft property lease between the Lithgow City Council and the Lithgow Golf Club Ltd.; the Lithgow Golf Club Ltd. is exempt from holding any separate current public liability insurance coverage with respect to the vast area identified as the 18 hole Lithgow Golf Course?

Q. 3. Could the Councils General Manager confirm, following media reports, how it is legally possible for the Lithgow Golf Club Ltd., under the terms of the legal property lease with the Lithgow City Council, not to hold any separate public liability coverage with respect to the vast area identified as the 18 hole Lithgow Golf Course, particularly when the Lithgow Golf Club Ltd. charges and retains from their Members and Visitors, annual Course fees amounting to some \$100,000 for the use of the Lithgow Golf Course?

Noting that the Solicitors for the Lithgow City Council are indeed the same for the Lithgow Golf Club Ltd. should legal advice on this matter be required, it is recommended that the Council obtain fully independent legal advice matter.

**RECOMMENDATION**

**THAT** the Councils General Manager provide a written or Minuted response to the above Questions with Notice.

**ITEM:8 NOTICE OF MOTION - 01/03/10 - WOLGAN VALLEY - QUESTION WITH NOTICE - COUNCILLOR M F TICEHURST**

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**MOTION**

**Question with Notice – Councillor M F Ticehurst.**

Listed by Councillor Martin Ticehurst

14 February 2010

**BACKGROUND**

Q. 1. Is the Council aware that a number of internet reviews by guests to the new Emirates Resort in the Wolgan Valley, have made the following comments:

**“... you take pretty slowly on the gravel roads. I would recommend only doing this in a 4WD or rental car as most of the road isn't paved.”**

**“... It had been suggested that our four wheel drive would be more appropriate than our low slung European sports car, very good advice as the last part of the road isn't sealed.”**

**“... don't drive your good car.”**

Q. 2. Is the Council aware of previous media reports of numerous motor vehicle accidents, many involving serious injuries that have occurred over the past 18 months on the Council maintained unsealed section of the Wolgan Road, from the top of the Wolgan Gap to the Emirates Resort?

Q. 3. With respect to Q. 2. above, could the Council's Group Manager Operations and Road Safety Officer and/or TALC provide a report to the Council on what action is required to ensure the future safety of the public using the Wolgan Road into Newnes and accessing the Emirates Resort in the Wolgan Valley?

**RECOMMENDATION**

**THAT** the information be noted.

**ITEM:9 NOTICE OF MOTION - 01/03/10 - MODEL CODE OF CONDUCT -  
QUESTION WITH NOTICE - COUNCILLOR M F TICEHURST**

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**MOTION**

**Question with Notice – Councillor M F Ticehurst.**

Listed by Councillor Martin Ticehurst

14 February 2010

**BACKGROUND**

Q. 1. Could the Councils General Manager confirm to the Council and all Councillors if the following Sections and paragraphs from the Lithgow City Council Model Code of Conduct 2008 and the Local Government are currently active and their commencement date?

**Lithgow City Council Model Code of Conduct 2008**

**7 CONFLICT OF INTERESTS – Managing non-pecuniary conflict of interests**

7.16 As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:

- a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
- b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
- c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.

**AND**

**Local Government Act 1993 No 30**

**448 What interests do not have to be disclosed?**

The following interests do not have to be disclosed for the purposes of this Chapter:

- (a) an interest as an elector,
- (b) an interest as a ratepayer or person liable to pay a charge,

- (c) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this Part,
- (d) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part,
- (e) an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not),
- (f) an interest of a member of a council committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee,
- (g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible uses of:
  - (i) land in which the person or a person, company or body referred to in section 443 (1) (b) or (c) has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or
  - (ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i), if the person or the person, company or body referred to in section 443 (1) (b) or (c) would by reason of the proprietary interest have a pecuniary interest in the proposal,
- (h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company,
- (i) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership,**

- (j) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
  - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation,
  - (ii) security for damage to footpaths or roads,
  - (iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract,
- (k) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor),
- (l) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252,
- (m) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor,
- (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,
- (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or member of a council committee,
- (p) an interest arising from appointment of a councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

## **RECOMMENDATION**

**THAT** the Councils General Manager provide a written or Minuted response to the above Question with Notice.

**ITEM:10 NOTICE OF MOTION - 01/03/10 - COUNCILLOR C HUNTER - SEPTIC SAFE**

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**MOTION TOPIC**

Septic Safe

Listed by Councillor Col Hunter on 19.2 10

**BACKGROUND**

Aerated wastewater treatment systems (AWTS) owners are already required to enter into regular maintenance contracts for quarterly servicing at an on going cost. These systems should be encouraged to be used effectively.

**RECOMMENDATION**

**THAT** owners of AWTS should not be inspected or charged for inspection or operation fee by Council, if their system is serviced by a licensed plumber and relevant documents are forwarded to Council quarterly.

## GENERAL MANAGERS REPORTS

### ITEM:11 GM - 01/03/10 - EXCLUSION OF NOTICE OF MOTION

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#### REFERENCE

NIL

#### SUMMARY

A Councillor Notice of Motion has been deemed to be unlawful and excluded from the business paper in accordance with Clause 240 of the NSW Local Government (General) Regulation 2005.

#### COMMENTARY

The General Manager is in receipt of a Notice of Motion (NOM) from a Councillor. The matter has been determined by the General Manager to be unlawful and therefore the Notice has not been included as part of the business paper for this Council meeting.

In accordance with Clause 240 of the NSW Local Government (General) Regulation 2005 the General Manager must report such exclusions to the next meeting of Council. The relevant section of the Regulation is:

#### Clause 240 Agenda and business papers for council meetings

- (1) The general manager must ensure that the agenda for a meeting of the council states:
  - (a) all matters to be dealt with arising out of the proceedings of former meetings of the council, and
  - (b) if the mayor is the chairperson-any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - (c) subject to subclause (2), any business of which due notice has been given.
- (2) The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would be) unlawful. The general manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council.

#### POLICY IMPLICATIONS

NIL

#### FINANCIAL IMPLICATIONS

NIL

#### LEGAL IMPLICATIONS

Local Government (General) Regulations 2005

## **ATTACHMENTS**

NIL

## **RECOMMENDATION**

**THAT** Council note the report on a Notice of Motion being declared unlawful and excluded from the Business Paper in accordance with Clause 240 of the NSW Local Government (General) Regulation 2005.

## REGIONAL SERVICES REPORTS

ITEM:12      REG - 01/03/10 - DEVELOPMENT APPLICATION 002-10 -  
IMPROVEMENTS AND UPGRADES - TONY LUCHETTI  
SPORTSGROUND, LITHGOW

### REPORT FROM: REGIONAL SERVICES MANAGER – ANDREW MUIR

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#### **SUMMARY**

To advise Council and seek determination of Development Application No.002/10 for Lithgow City Council for the improvements and upgrading of Tony Luchetti Sportsground. Recommendations are for approval subject to conditions.

#### **COMMENTARY**

An application has been received on behalf of Lithgow City Council for the improvements and upgrading of Tony Luchetti Sportsground being described as Lithgow Public Park (P590046) Trust of Crown Reserve 590046 (Lot 1 DP 1123449) and being known as Tony Luchetti Sportsground, George Coates Ave, Lithgow.

The application seeks to undertake the works in a staged process. The staging includes as follows:

##### STAGE 1 – Ashley Grandstand Works

- Plumbing and electrical modification and improvements
- Dressing shed modification and improvements
- Canteen modification and improvements
- Club storage area improvements
- Flooring/seating improvements

##### STAGE 2 – General Precinct Works

- New Amenities Block
- Replacement of Public announcement booth
- Drainage improvements
- Fencing upgrades
- Refurbishment of old TOTE building

##### STAGE 3 – Civic Ballroom Works

- Drainage improvements
- Foyer/entrance upgrades
- Disabled access to main entrance
- Upgrading of foyer and ballroom amenities
- Upgrading of kiosk/bar facilities
- Replacement of doors
- Replacement of windows
- Installation of heating/cooling system
- Creation of community meeting rooms

### **POLICY IMPLICATIONS**

Council's policy **Development Applications by Councillors and Staff and Relatives or on Council Owned Land** requires that any Development Application lodged where the applicant is Lithgow City Council must 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. Whilst the land is a Crown Reserve, Council has care and control, therefore the same principles apply.

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

The application has been assessed in accordance with the provisions of Section 79(c) of the Environmental Planning and Assessment Act.

### **ATTACHMENTS**

1. A detailed planning report prepared pursuant to the provisions of Section 79 of the Environmental planning and Assessment Act is attached.

### **RECOMMENDATION**

**A. THAT** development application DA 002/10 be approved in accordance with the conditions highlighted within the attached Section 79(c) report.

#### **B. DIVISION**

A division be called in accordance with the provisions of Section 375(3) of the Local Government Act 1993.

**ITEM:13            REG - 01/03/10 - ADDITIONAL FUNDING FOR SEWERAGE  
TREATMENT PLANT PROJECTS**

**REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR**

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**REFERENCE**

Min No 09-322: Ordinary Meeting of 3 August 2009  
Min No 09-545: Ordinary Meeting of 14 December 2009  
Min No 10-38: Ordinary Meeting of 8 February 2010

**SUMMARY**

To advise Council of additional funding for the Lithgow and Portland Sewage Treatment Plant Projects following representations to the Honourable Phillip Costa, Minister for Water.

**COMMENTARY**

Council will recall this matter involving a funding shortfall of some \$555,000 for the Wallerawang Sewage Treatment Plant project. Representations were made to the Honourable Phillip Costa, Minister for Water on this matter as well as discussions on additional costs for the Lithgow project due to the requirements of the Sydney Catchment Authority for the installation of a permanent generator at Pumping Station No 1. After initially indicating additional funding would not be possible, further representations were made by the Mayor with the assistance of the local State Member, Mr Gerard Martin. This has resulted in an additional \$214,000 being made available for the Lithgow generating facilities and \$186,000 for Wallerawang through the Sydney Catchment Authority.

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

With the recent announcement of an interest free loan through the NSW Government Infrastructure program the budget shortfall for Wallerawang is well and truly covered with over \$6 million in interest payments estimated. The additional funding for both Wallerawang and Lithgow saves these costs being borne by Lithgow ratepayers.

**LEGAL IMPLICATIONS**

Nil

**ATTACHMENTS**

1. Correspondence from the Hon Phillip Costa, Minister for Water.

**RECOMMENDATION**

**THAT:**

1. The report on the additional funding for the Lithgow and Wallerawang Sewage Treatment Plant be received.
2. The Honourable Phillip Costa, Minister for Water and Local Member, Mr Gerard Martin, be thanked for their assistance in this matter.

**ITEM:14 REG - 01/03/10 - DROUGHT MANAGEMENT**

**REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR**

**REFERENCE**

Min No 10-05: Ordinary Meeting of 18 January 2010  
Min No 10-33: Ordinary Meeting of 8 February 2010

**SUMMARY**

This report provides an update on various drought management issues as per Min No 10-03.

**COMMENTARY**

In relation to drought management issues the following information is provided.

**CURRENT DAM LEVELS FOR BOTH FARMERS CREEK AND OBERON**

As at 22 February 2010 Farmers Creek Dam #2 was at 100% and Oberon Dam was at 10.19%. The graph below (Figure 1) indicates current financial year data on levels for Farmers Creek Dam #2.

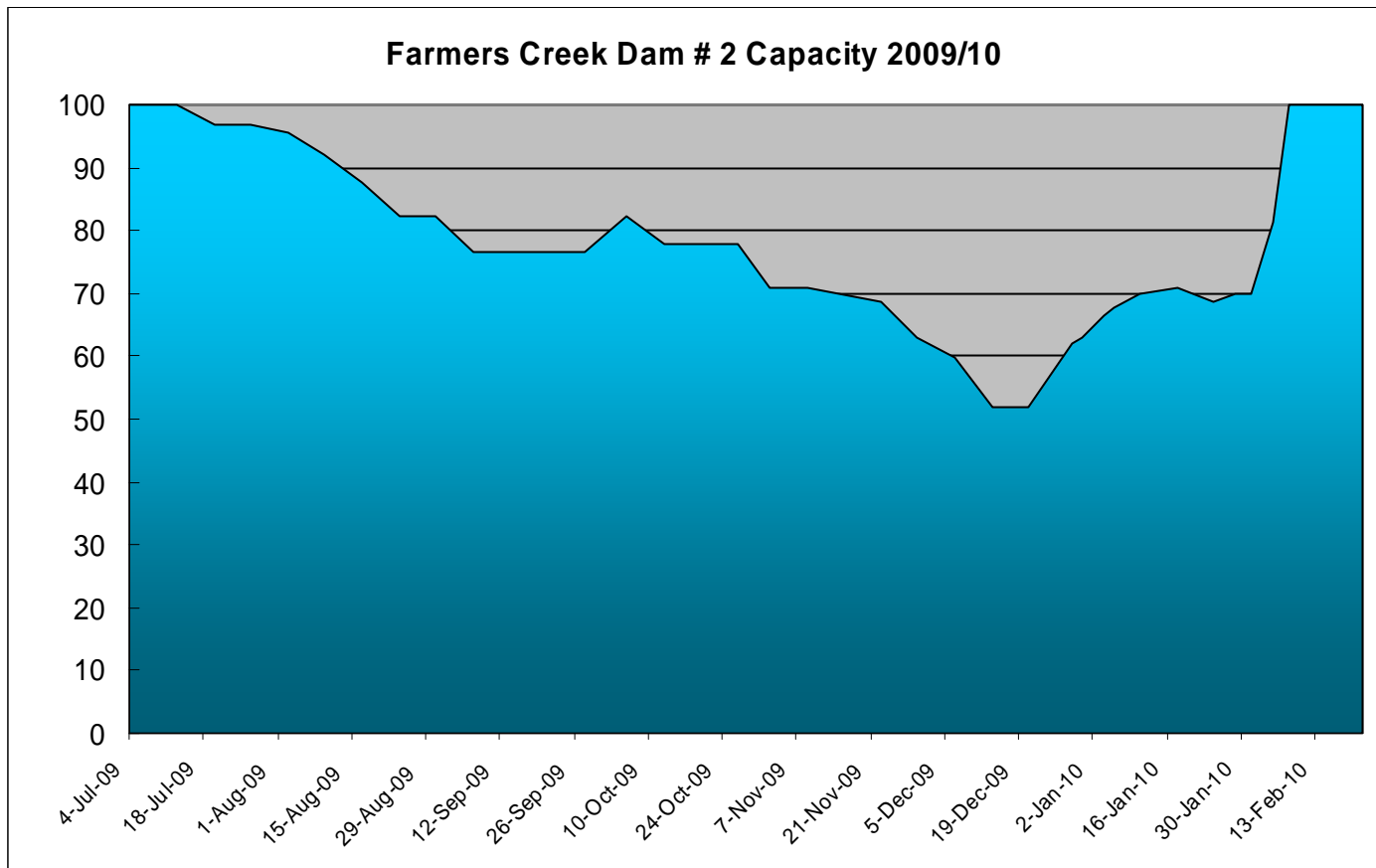


Figure 1 – Farmers Creek Dam # 2 Levels over current financial year

**CURRENT WATER USAGE FROM EACH SUPPLY**

Table 1 below indicates total output from the Oakey Park Water Treatment Plant (consumption) and the volume transferred from the Clarence Transfer system for 2010. The Clarence Transfer pumps have been turned off since the Farmers Creek dam has reached 100%

Oakey Park WTP	Avg Daily Use	Avg Daily Transfer
January	<b>3,662</b>	<b>2,678</b>
February	<b>3,652</b>	<b>1,250</b>
Last Week	<b>3,720</b>	<b>0</b>
Previous Week	<b>3,539</b>	<b>2,714</b>

Table 1 – Oakey Park Output and Clarence Transfer

Table 2 below indicates consumption from customers of the Fish River Water Supply from 1 July 2009 to date. It also provides the Maximum Annual Quantity (MAQ) of each customer and their annual consumption since 2004/05. This shows a general trend of each customer in reducing their consumption.

**Fish River Water Supply Consumption**

2009/10	Water Consumption (ML)					Total
	Delta Electricity	Lithgow Council	Sydney Catchment Authority	Oberon Council	Minor Consumers	
Jul	179	36	0	44	20	278
Aug	328	48	0	58	20	454
Sep	266	45	0	47	20	378
Oct	370	55	0	59	20	504
Nov	356	49	0	50	20	475
Dec	193	61	0	42	20	316
Jan	107	48	0	32	20	0
Feb						0
Mar						0
Apr						0
May						0
Jun						0
<b>Total</b>	<b>1,799</b>	<b>342</b>	<b>-</b>	<b>332</b>	<b>140</b>	<b>2,786</b>
2004/05	4,960	735	1,878	677	162	8,412
2005/06	6,367	959	2,098	725	228	10,378
2006/07	6,590	795	3,115	749	218	11,468
2007/08	4,367	747	1,077	601	150	6,942
2008/09	3,356	699	208	583	240	5,086
<b>MAQ</b>	<b>8,184</b>	<b>2,092</b>	<b>3,650</b>	<b>750</b>	<b>200</b>	<b>14,876</b>

Table 2 - Fish River Water Supply Consumption from 1 July 2009 to date

\* = 12 month total

### **CURRENT WATER RESTRICTIONS UPDATE**

Level 4 Water Restrictions are currently in place for residents of Lithgow and Marrangaroo. Level 5 restrictions apply to consumers on the Fish River Water Supply.

### **WATER SAVING SCHEMES OR PROCESSES UPDATE**

In February 2010 Council has received 12 applications for household appliance rebates and 4 applications for water tank rebates.

### **ALTERNATE WATER SOURCES UPDATE**

#### **Re-commissioning of Farmers Creek Dam No 1**

An on site inspection has now been arranged for consultants who submitted an Expression of Interest. This will lead to final quotations.

#### **Springvale/Angus Place Colliery**

Council will recall from its meeting of 8 February 2010 that preliminary investigations indicated that all water from this system is currently fully committed to Delta Electricity. However, Councillors who participated in the inspection at Clarence Colliery were advised that the opinion expressed at a higher level of the Centennial organisation would indicate that this may not be the case. There are still issues in relation to water quality, treatment and transfer. However, given the potential quantities of water, further investigations are definitely warranted and Centennial's General Manager Operations has offered to facilitate discussions in this regard. A meeting is arranged to discuss the matter.

### **CLARENCE TRANSFER SYSTEM UPDATE**

Nothing further to report at this date.

### **ANY OTHER MATTER RELATING TO THE ISSUE THAT SHOULD BE REPORTED TO COUNCIL**

Due to recent heavy rainfalls in the Blue Mountains, storages have increased to approximately 80% which means the Sydney Catchment Authority have advised it will not need to access water from its Fish River Scheme allocation at this time.

State Water have been able to provide the majority of Delta's water in recent weeks from the Duckmaloi weir. This can occur with no impact on Oberon Dam.

### **THAT ALL ITEMS ABOVE BE REPORTED BACK TO THE MEDIA SO THAT LOCAL RESIDENTS ARE AWARE OF THE SITUATION**

A press release will be issued following Council's consideration of this report.

### **POLICY IMPLICATIONS**

12.2 WATER RESTRICTIONS - This Policy determines Council's response to non-compliance with water restrictions.

### **FINANCIAL IMPLICATIONS**

Council maintains access to the \$400,000 drought relief funds to provide Farmers Creek Water to Villages.

**LEGAL IMPLICATIONS**

No specific legal issues arise as a result of this report.

**RESOLVED**

**THAT** the information in relation to drought management issues be noted.

**ITEM:15            REG - 01/03/10 - COMPLETION OF \$250 MILLION REGIONAL AND LOCAL COMMUNITY INFRASTRUCTURE PROGRAM**

**REPORT BY: PROJECT CO-ORDINATOR – LEANNE KEARNEY**

**REFERENCE**

Min No O08- 246:            Ordinary Meeting of Council 15 December 2008,  
Min No 11/09:                Ordinary Meeting of Council 27 January 2009  
Min No 09/80:                Ordinary Meeting of Council 23 February 2009.

**SUMMARY**

To advise Council on completion of projects identified under the Australian Government’s \$250 million Regional and Local Community Infrastructure Program.

**COMMENTARY**

Council was successful in its application for funding of \$529,000 under the Australian Government’s \$250 million Regional and Local Community Infrastructure Program, designated for improvement works at various facilities within the Lithgow Local Government Area.

The completed works included:

<b>Project</b>	<b>Completed Works</b>	<b>Amount</b>
Crystal Theatre	Provision of disabled access, construction of new public amenities, installation of a heating system, and improvements to the existing kitchen	\$81,370
Lithgow Skate Park	Design and construction of the Lithgow Skate Park	\$260,000
Union Theatre	Construction of a physical linkage between the Union Theatre and adjoining Hoskins Building.	\$50,000
Civic Ballroom	Replacement of the kitchen ceiling and repairs to external brickwork of the building towers	\$23,834
Vale of Clwydd Hall	Upgrade of kitchen facilities at the Vale of Clwydd Community Hall	\$8,630
Lake Wallace Community Boatshed	Provision of a boatshed within the Lake Wallace recreation ground to provide greater efficiencies in storage facilities for local sailing clubs and not-for-profit community groups	\$35,000
Wallerawang Library	Redevelopment and refurbishment of the Wallerawang Brach Library to provide improved library services and increased activity space	\$70,166
<b>TOTAL</b>		<b>\$529,000</b>

Final reports were submitted to the Department of Infrastructure, Transport, Regional Development and Local Government by the closing date of 30 November 2009. Council has received advice from the Department that these final reports have been accepted, and all allocated funds have been acquitted to the Department’s satisfaction.

### **POLICY IMPLICATIONS**

Nil.

### **FINANCIAL IMPLICATIONS**

Nil.

### **LEGAL IMPLICATIONS**

Under the executed Funding Agreement between the Australian Government and Council, Council is legally required to ensure the following:

- Retain records on the conduct of these projects for a period of not less than seven (7) years after the end of the activity period; and
- Required to maintain signage at the project location for a period of two (2) years from the date on which it was erected.

Council has systems in place that will ensure compliance with these requirements.

### **ATTACHMENTS**

Nil.

### **RECOMMENDATION**

**THAT** the information in relation to the completion of the below projects identified under the Australian Government's \$250 million Regional and Local Community Infrastructure Program be noted:

- Crystal Theatre
- Lithgow Skate Park
- Union Theatre
- Civic Ballroom
- Vale of Clwydd Hall
- Lake Wallace Community Boatshed
- Wallerawang Boatshed

**ITEM:16            REG - 01/03/10 - STRUCTURAL RECTIFICATION WORKS - ASHLEY  
GRANDSTAND, LITHGOW**

**REPORT BY: PROJECT CO-ORDINATOR – LEANNE KEARNEY**

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**REFERENCE**

Nil.

**SUMMARY**

To advise Council of the outcome of the investigation into structural rectification works required to be undertaken on the Ashley Grandstand, Lithgow prior to completion of works scheduled under the Regional and Local Community Infrastructure Programme – Strategic Projects, and recommend for additional funding be placed in the draft 2010 / 2011 Budget Plan to allow completion of these projects.

**COMMENTARY**

Council engaged the services of a suitably qualified and experience structural engineering company to undertake an assessment of the current condition of the Ashley Grandstand to determine if works proposed under the Regional and Local Community Infrastructure Programme – Strategic Projects were feasible.

Works proposed include replacing the existing flooring, installing new stadium seating, and incorporation of a public announcement booth (including two (2) caches booths)).

The initial assessment has determined that the current structure is over stressed, and structural rectification works will be required irrespective of the proposed upgrading works.

The existing framing is suitable for a floor loading of 4.0 kPa, however, the current Building Code of Australia requires the floor loading to achieve 5.0 kPa for buildings of a public nature.

Various options have been investigated in relation to the most cost effective and feasible methods of rectification estimated to cost \$300,000, including:

- Demolition of the existing flooring to allow access for structural strengthening;
- Supply and installation of steel bearers (running east to west);
- Supply and installation of additional joists (running north to south in between each existing timber joist);
- Replacement of framing for floor tiers; and
- Replacement of floor lining with compressed fibro board enabling seating to be installed.

This project will take approximately eight (8) weeks to be completed, however, can be completed in sections, allowing use of half the grandstand whilst work is being carried out, and minimising impact on users.

Council's allocation under the Regional and Local Community Infrastructure Programme – Strategic Project grant allows \$200,000 in total for replacing the existing flooring and installing new stadium seating, and supply installation of the seating has been costed at \$100,000.

The remaining \$100,000 could be utilised in the proposed works, which will meet the funding agreement conditions as the work involves replacement of the framing for floor tiers and replacement of floor linings. This project will still require an additional funding allocation \$200,000 for necessary works to proceed.

Further advice indicated that provided there are no large events resulting in excessive use of the Ashley Grandstand (meaning the grandstand being at full capacity), the reduced loading will be adequate for short term use until such time that strengthening occurs.

It is not expected that proposed events including the Lithgow Flash Gift, the Lithgow Show, or Ironfest will attract excessive use of the Ashley Grandstand, and therefore the Grandstand can remain operational until works can be completed. However, further advice will be sought from the structural Engineer to ascertain if some limitation on capacity would be advisable.

It would seem appropriate to request a funding amendment to allow the \$200,000 Regional and Local Community Infrastructure Programme allocation for flooring and seating to be utilised for structural works, and for Council to commit to providing funding of \$200,000 in the 2010 / 2011 draft budget to undertake the flooring and seating works.

These two (2) projects can be carried out in consecutively, and will not affect any of the other alterations proposed for the lower floor of the Ashley Grandstand.

#### **POLICY IMPLICATIONS**

Nil.

#### **FINANCIAL IMPLICATIONS**

Council will be required to allocate \$200,000 toward flooring replacement and seating installation in the 2010 / 2011 draft budget.

Should Council not proceed with this project, Council will have to reimburse the Australian Government the allocated \$200,000 identified for this work as part of the Regional and Local Community Infrastructure Programme – Strategic Projects grant.

#### **LEGAL IMPLICATIONS**

Nil.

#### **ATTACHMENTS**

Nil.

## **RECOMMENDATION**

### **THAT:**

1. Council seek a funding amendment under the Regional and Local Community Infrastructure Program to reallocate \$200,000 from the program to carry out structural works to the Ashley Grandstand.
2. Council provide an allocation of \$200,000 in the 2010/2011 draft budget to undertake flooring and seating improvements at the Ashley Grandstand, Lithgow.

**ITEM:17            REG - 01/03/10 - REPLACEMENT OF SEWER RISING MAIN - PUMP STATION NUMBER 1 TO SEWERAGE TREATMENT PLANT**

**REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR**

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## **REFERENCE**

Min No 09-447: Ordinary Meeting 02/11/09

## **SUMMARY**

This report advises of Council's ability to purchase goods in excess of \$150,000 for this project without the need to go to tender.

## **COMMENTARY**

At its Ordinary meeting of 2 November 2009 Council considered a report on the replacement of the sewer rising main from Pump Station No 1 to the Lithgow Sewage Treatment Plant and resolved the following:

### **THAT:**

1. A provision of \$250,000 be made for the PS1 to LSTP Rising Main Project as part of the quarterly budget review.
2. The SPS1 to LSTP Rising Main Replacement Project be a supply and construct project through an Open tender process.

Advice has since come to hand that Local Government Procurement has already secured a contract for Pipes, Fittings and Fixtures and as such Council is entitled to purchase goods under the contract without the need to go to tender.

Local Government Procurement (LGP) has been established to provide a fully integrated procurement service to councils and associated organisations in NSW.

It is a company formed by the Local Government and Shires Associations of New South Wales on behalf of its members to deliver a procurement operation dedicated to meeting the specific needs of the Local Government sector. LGP has been prescribed under s55 of the Local Government Act, allowing councils to utilise supply arrangements coordinated by LGP without the need to go to tender in their own right. LGP and the Department of Commerce's State Contracts Control Board are the only two NSW entities who have this legislative ability.

In short, this means that councils are able to buy, if they so choose, from LGP contracts in the same way councils can buy off NSW State Government contracts without any further need to go to tender. In this case it means that Council can proceed with the purchase of pipes, fixtures and fittings for the project at an already established 'best price' and separately engage a contractor (which will be less than the tender threshold) to undertake the project.

#### **POLICY IMPLICATIONS**

Policy for ACQUISITION AND DISPOSAL OF ASSETS section 1.4.1 states "All goods to be purchased with an apparent value of greater than \$150,000 shall be undertaken through a tender process". It will be proposed, when this policy is reviewed, to alter the policy to allow for the purchase of goods and services greater than \$150,000 in circumstances where a 'prescribed' organisation has already been through the tender process.

#### **FINANCIAL IMPLICATIONS**

An amount of \$250,000 has been made available by Council, through the budget review process for the project.

#### **LEGAL IMPLICATIONS**

LGP has been prescribed under section 55 of the Local Government Act, allowing councils to utilise supply arrangements coordinated by LGP without the need to go to tender in their own right.

#### **ATTACHMENTS**

Nil.

#### **RECOMMENDATION**

**THAT** notwithstanding Council's resolution of 2 November 2009, the purchase of pipes, fixtures and fittings for the Pump Station No 1 to Lithgow Sewage Treatment Plant project be undertaken in accordance with Local Government Procurement contract LGP908 - Pipes, Fittings and Fixtures.

## **OPERATION SERVICES REPORTS**

### **ITEM:18 OPER - 01/03/10 - 2009/2010 NATION BUILDING BLACK SPOT PROGRAM**

#### **REPORT FROM: CHRIS SCHUMACHER – WORKS ENGINEER**

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#### **SUMMARY**

On 12<sup>th</sup> December 2008 and 3<sup>rd</sup> February 2009 the Prime Minister, the Hon Kevin Rudd MP, announced a comprehensive \$42 billion Nation Building – Economic Stimulus Plan in an effort to strengthen the Australian economy by supporting Australian jobs and businesses through the recent Global Economic Crisis. The Economic Stimulus Plan included an investment in vital infrastructure with an additional \$150 million in funding for two Economic Stimulus Packages in the Nation Building Black Spot Program.

#### **COMMENTARY**

As part of the 2009-2010 National Building Black Spot program, Lithgow City Council received \$265,000 GST exclusive to complete road safety works to 3 kilometre section of the Sunny Corner Road.

It is the objective of Council and the RTA to make the necessary improvement between Ellen Close and the urban limits of the Portland Township. The work involves the construction of shoulder widening and bitumen resealing of the road surface within the accident prone areas of the Sunny Corner Road south of Portland.

The specific nature of the works comprises profiling out existing in-situ material to a fixed depth of 150mm and width of 1.2 wide, reconstructing the shoulder with DGB-20 (RTA 3051) and compacting the material utilizing a job specific one pass machine.

From a previous examination of the submissions to Council for procurement of suitable contractors, an invitation to formally undertake the work was given to Sharpe Bros, based upon their previous ability to perform the above outlined.

The machinery employed for this project has the ability to be height and width adjustable so that all new work matches the surrounding pavement with no dips or bumps. The machinery also has the ability to uniformly cut into the existing hot mix road shoulder in order to achieve parallel uniformity to the existing road pavement.

Work is currently underway and will be completed, weather permitting, by the end of February 2010

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

Funds have been made available in the 2009/2010 Financial Management Plan as part of the National Building Black Spot Program through the Roads and Traffic Authority. No funds are required to be contributed from Council

**LEGAL IMPLICATIONS**

Nil

**ATTACHMENTS**

Nil

**RECOMMENDATION**

**THAT** Council notes that works are being carried out on a 3km section of the Sunny Corner Road under the Northern Building Black Spot Program.

## COMMUNITY AND CORPORATE SERVICES REPORTS

### ITEM:19            COMM - 01/03/10 - SECTION 356 - FINANCIAL ASSISTANCE TO COMMUNITY ORGANISATIONS

#### REPORT BY: COMMUNITY DEVELOPMENT OFFICER – JASON HOPKINS

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#### REFERENCE

MIN No 09-331 – Ordinary meeting of Council dated 3 August 2009.  
MIN No 09-333 – Ordinary meeting of Council dated 3 August 2009.  
MIN No 09-425 – Ordinary meeting of Council dated 6 October 2009.  
MIN No 09-452 – Ordinary meeting of Council dated 2 November 2009  
MIN No 09-551 – Ordinary meeting of Council dated 14 December 2009  
MIN No 09-552 – Ordinary meeting of Council dated 14 December 2009

#### SUMMARY

This report recommends that Council allocates financial assistance to the following organisations:

1.            Australian Air League
2.            Cancer Council
3.            Australian Four Day Enduro

#### COMMENTARY

In adopting the 2008/09 – 2010/11 Management Plan, Council identified its provision of financial assistance to not-for-profit community groups. The Council has set aside \$15,212.88 for distribution throughout the 2009/10 Financial Year of which \$6,419.12 remains.

This report outlines requests from the following organisations for financial assistance:

##### **Australian Air league**

The Lithgow Squadron of the Australian Air League has requested that Council offer a donation to financially support the youth activities that they have planned for 2010.

The Australian Air League is an independent formed organisation; its prime goal is to encourage an interest in aviation for the youth of the community. It is financially self supporting and relies on parade and membership fees, corporate sponsorship and fund raising events by parents and supporters.

The City of Lithgow Squadron has been in existence since October 2004 and has been involved in many community events such as:

- Anzac Day
- Lithgow Show
- Mc Happy Day
- World Masters Games

It is recommended that Council allocate \$500 towards the Lithgow Squadron of the Australian Air League for this purpose.

### **Cancer Council**

The Cancer Council has requested sponsorship for a fundraising walk of 200kms by Jason Francis and Ingrid Helff from Bathurst to Hornsby over 7 days in May 2010. The walk aims to raise \$100,000 towards cancer research.

Depending on the amount of sponsorship given, acknowledgement of this support will be shown by wearing Lithgow City Council's logo on the walkers or supporters vests. The sponsorship categories range from \$5,000 to \$900. It is recommended that Council allocate \$900 towards the Cancer Council for this purpose.

### **Australian Four Day Enduro 2010**

Oyster Bay Motorcycle Club has requested a sporting grant of \$10,000.00 from Lithgow City Council for the Australian Four Day Enduro 2010.

This is the premier enduro motorcycling event in Australia which will be run in the Portland/Sunny Corner area from April 8 – 11 2010.

The event is a reliability and endurance event, similar to a car rally with trail sections, checkpoints and timed sections.

On the final day of competition there is a large "final moto" day that showcases the sport. While the general public are encouraged to watch the entire event, the "final moto" is the day that everyone can easily view the last stages of the A4DE. In the past, attendance for Day 4 has been in excess of 2,000 spectators comprising local, interstate and sometimes international guests.

The event brings together about 350 riders, their families and crews, plus officials and club members which will provide a monetary boost to the local economy.

Council fees for the use of Kremer Park and other Council facilities and services are likely to be in the vicinity of \$2,000.

### **POLICY IMPLICATIONS**

Financial Assistance is provided under Policy 4.4 Financial Assistance – 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 \$15,212.88 for distribution throughout the 2009/10 Financial Year of which \$6,419.13 remains.

### **LEGAL IMPLICATIONS**

Local Government Act NSW 1993, Section 356

## ATTACHMENTS

1. Letter from Australian Air League Dataworks No: 570395
2. Letter and additional information from Cancer Council Dataworks No: 571492
3. Letter from Australian Four Day Enduro 2010 Dataworks No: 573484

## RECOMMENDATION

**THAT** Council provides financial assistance to the following organisations:

1. Australian Air League to the value of \$500
2. Cancer Council to the value of \$900
3. Australian Four Day Enduro 2010 to the value of \$1,000

**ITEM:20            COMM - 01/03/10 - STRATEGIC BUSINESS CLUSTERS PROGRAM**

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

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## REFERENCE

NIL

## SUMMARY

This report provides information on the Department of Industry and Investment Strategic Business Clusters Program and recommends that the Council supports two applications

## COMMENTARY

The Department of Industry and Investment has announced funding opportunities for the Strategic Business Clusters Program.

There are a number of actions which the funding will support, if successful, contained in the Draft Economic Development Strategy, Draft Business and Retail Strategy and Draft Cultural Precinct Study.

This initiative will support the following recommendations in the Draft Economic Development Strategy:

*Population stabilisation and sustainable growth*

- *Liveability*

*Business and Industry Development*

- *Industry development*
- *Expansion of Economic Base*
- *Trade Potential*
- *Import replacement*

*Business Support Services*

- *Assistance for existing business*
- *Assistance for potential new businesses*

*Employment and Skills Development*

- *Diversify skillsbase*
- *Facilitate employment creation*

This initiative will support the following recommendations in the Draft Retail and Business Strategy:

- *Encourage residents to shop locally*
- *Encourage local businesses to strive for excellence*
- *Develop a tourism industry*

This initiative will support the following recommendations in the Draft Cultural Precinct Study:

*Encourage a whole of community approach to supporting the growth of Cultural Industries*

- *Establishment of a cultural industries association*
- *Encouraging business partnerships*
- *Encouraging greater connection between food and cultural industries*

**Funding Program Areas**

There are two funding program areas which are applicable to Lithgow LBA. Both require dollar for dollar support. See Attachment for full details of the grants.

The following provides a summary.

**Business Network Support - \$5,000 plus matching funding (cash or in-kind)**

Support is available for initiatives such as:

- Researching information on markets and opportunities and other services that help members gain and maintain competitive advantage.
- Promoting new business practices and technology through seminars and workshops.
- Promoting member capability through the use of website and promotional material.

The Lithgow Business Association have been informed of this Grant.

**Business Cluster Support - \$10,000 plus matching funding (cash or in-kind)**

Assistance of up to \$10,000 in matched funding is available to business clusters to achieve competitive advantage. Activity that might be supported include:

- Strategic planning and facilitation
- Joint business feasibility and strategic cluster marketing plans
- Collaborative marketing, tendering or showcasing to gain and maintain competitive advantage
- Sponsoring specific skills development
- Domestic and international trade activities and
- Developing links with academia, research and development organisations.

Officers are investigating options to support the development of a Creative Industry Cluster in the Lithgow LGA. Stakeholders that may be involved in such a cluster include (but not exclusive):

- Cultural Tourism
- Events Tourism
- Photographers
- Artists, sculptors, artisans
- Commercial outlets selling locally made products
- Designers
- Film-makers
- Publishers
- Museums, etc

The funding round closes on 5 March 2010.

Council officers have identified a range of industry stakeholders and have been working with them to put together a grant application for the Business Cluster Support Program.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

Council may wish to underwrite these two grant applications in the following ways:

Business Network Support

Council may consider financial assistance of up to \$5,000 to the Lithgow Business Association to match the grant should the application be successful. The Association may wish to provide some of the matching funds, and or provide an in-kind contribution.

### Business Cluster Support

It is envisaged that both the Council's Cultural Development Officer and Economic Development Officer may commit in-kind support to the value of \$10,000 in terms of providing facilitation of the group in the first instance. Should the grant application be successful, the \$10,000 from the grant could be committed to industry development forums and marketing, dependent upon the stakeholders input.

### **LEGAL IMPLICATIONS**

NIL

### **ATTACHMENTS**

1. Expression of Interest Information – Strategic Business Clusters Program

### **RECOMMENDATION**

**THAT** Council:

1. Partner the Lithgow Business Association in an application with funding of up to \$5,000 to match the grant application under the Business Network Support program.
2. Provide matching in-kind contribution to the value of \$10,000 in terms of staff resources to support the Business Cluster Support program should the application be successful.

**ITEM:21            COMM - 01/03/10 - SEPTIC SAFE PROGRAM**

**REPORT FROM: MANAGER COMMUNITY AND CULTURE – MATTHEW JOHNSON**

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**REFERENCE**

Min No 08-51:            Policy and Strategy Meeting 6 May 2008  
Min No 09-433:         Ordinary Council Meeting 14 September 2009  
Min No 09-453:         Ordinary Council Meeting 2 November 2009

**SUMMARY**

Council resolved at the Ordinary Council Meeting 2 November 2009 (Min 09-453) THAT:

1. The Council notes the information on implementation and compliance of the Septic Safe Program.
2. Council arrange a series of public meetings as a matter of urgency.

Public meetings have subsequently been held at Hartley in late November 2009 and Hampton on 16 February 2010. This report advises Council of the concerns expressed by residents at the Hampton public meeting concerning the Septic Safe Program. This report also outlines the legislative basis of the Septic Safe Program and the arrangements that Council has established to administer the Program.

To date, Lithgow City Council has undertaken about 350 inspections of septic systems with the majority of these in the Hartley and Hampton areas. Rydal is the next area to be inspected. Council estimates that there are some 4,000 septic systems across the Lithgow LGA.

**COMMENTARY**

**Background**

In 1998 the NSW Government introduced a package of local government regulatory reforms and guidelines to enable more effective council regulation and performance supervision of small domestic wastewater systems.

These regulatory reforms were in response to a hepatitis outbreak at Wallis Lake near Foster that was linked to the consumption of oysters that had been contaminated with sewage from failing septic systems.

These reforms required all NSW councils to register all on-site sewage systems, inspect high-risk wastewater systems, and to give 'operational approvals' (licenses) for all on-site wastewater systems including septic systems.

After public consultation, Lithgow City Council adopted a sewage management strategy that incorporated the registration and licensing of all aerated wastewater treatment systems (AWTS) and Septic Systems; the inspection of septic systems every 5 years (every 1 year for high risk systems) and random inspections of aerated wastewater treatment systems.

The purpose of the inspections is to ensure that the septic systems meet the required performance standards as specified in the Local Government (General) Regulation 2005 and guidelines and, using a risk matrix, determine the risk rating of each system. Risk assessment factors include soil type, proximity to waterways, slope of land, groundwater levels, proximity to human activity and number of occupants etc.

### **Community Concerns**

Concerns expressed at the Hampton meeting and a similar meeting held in Hartley in November 2009 were:

- Residents felt that Council had no right to inspect septic systems as these systems had in some cases been operating for many years and the owners considered that these systems were operating well with little or no environmental or health impact.
- Residents on large landholdings felt there is minimal impact from septic systems on their properties.
- The cost of inspections and licensing fees.
- That Council did not give appropriate notice of the inspections.

Council has sought advice from the Sydney Catchment Authority, the Department of Local Government and the Local Government and Shires Association.

The Sydney Catchment Authority has advised that every Council in the Sydney Water Catchment with more than 100 onsite systems is involved in the septic safe program in some way.

The Sydney Catchment Authority expects that Councils will initially inspect all onsite systems (septic and aerated) and then low risk systems every 5-7 years and high risk systems every 1 year.

In the experience of the Sydney Catchment Authority, non-compliance (that is where systems do not meet the required performance standards) is high.

The Department of Local Government advice has been that the legislation allows Councils to determine, in consultation with the community, the most appropriate sewage management strategy for local circumstances while minimising costs for landowners and maximizing community benefits. Sewage Management Strategies should set out how Councils intend to monitor and manage the individual and cumulative impacts of sewage pollution. Further, Lithgow's location adjoining the Blue Mountains World Heritage area and being the upper catchment for Sydney's water supply makes it imperative that Council has good practices in environmental protection and natural resource management.

### **The Cost of Inspections and Licensing Fees**

Council charges a fee of \$50.00 for a five year approval (licence) for Septic Systems and a \$70 inspection fee. The septic tank inspection includes inspection of the sludge and scum layers within the tank, structural integrity of the tank and vermin proofing, and inspection of the effluent disposal field. Most property owners will be on a 5 year reinspection cycle with a cost of \$120 over 5 years for inspection and licensing. This equates to \$24 per year.

Council charges a fee of \$150.00 for a five year approval (licence) to licence AWTS systems. Pension card holders are able to pay the \$150 fee over 5 years at \$30 per year.

The AWTS licence fee assists Council to cover the cost of processing these approvals in addition to providing the following services:

- Ensuring that wastewater systems are being serviced, by monitoring quarterly maintenance reports and ensuring that these are submitted to Council.
- Randomly inspecting Aerated Wastewater Treatment Systems (AWTS) to ensure that the irrigation systems used, and the level of servicing are adequate.
- Ensuring that faulty systems are repaired whenever service reports or the service technician has advised Council that works are required.
- Providing residents with information and educational material on how best to manage and operate their AWTS.
- Investigate complaints relating to AWTS such as, when causing odour problems or irrigating into neighbouring properties, bushland, and creeks.

Council incurs considerable costs in checking service reports 4 times a year for each system and sending reminder letters to residents where reports have not been received.

In addition, the AWTS service industry is not regulated as there are no licence requirements or skills requirements for AWTS service providers and the service providers often do not have appropriate insurances. Thus creating a need for Councils to monitor the industry at Local Government level to ensure that the level of servicing is adequate.

### **Powers of Entry**

A number of residents at the Hampton meeting raised concerns that Council did not provide appropriate notice of the inspections and in some cases undertook inspections without the knowledge of the property owner.

Council writes to each property owner indicating that inspections will commence in the next two weeks and advising that they should contact Council if they wish to make an inspection time. Some property owners contact Council to arrange the inspection time. Council would prefer that the owner be present during the inspection so that they can observe any system failures and have the opportunity to discuss how to care for their septic system with Council's inspector. There is some uncertainty about the requirement to give notice and the type of notice to be given. Lithgow Council's approach has been consistent with a number of other Councils. Clarification and a review of this procedure is currently being undertaken.

### **Conclusion**

Under the Septic Safe Program, Councils have some flexibility in the way they undertake inspection and licensing. Each Council develops its own Onsite Sewage Management Strategy which details the frequency and reach of inspections. Under Sections 68 and 68A of the Local Government Act 1993 however, a landowner must seek approval of Council for the operation of their onsite sewage management system which must comply with the performance standards specified in the Local Government (General) Regulation 2005 and guidelines.

experience in the Lithgow LGA to date has shown that around 60% of inspected systems are failing in some way. There is the potential for contamination from these systems to have cumulative negative health impacts on the property, adjoining properties, waterways and the Sydney catchment.

A review of Council's current Onsite Sewage Management Strategy may identify any areas in which changes can be made without compromising the health of the community and the environment.

### **POLICY IMPLICATIONS**

Lithgow Council Onsite Sewerage Management Strategy

### **FINANCIAL IMPLICATIONS**

Fees and charges for the service provided by the Council are contained in Council's Schedule of Fees and Charges

### **LEGAL IMPLICATIONS**

Local Government Act NSW 1993 and Regulations 2005

### **ATTACHMENTS**

NIL

### **RECOMMENDATION**

**THAT** the Council note the report in relation to Council's Onsite Sewage Management Strategy.

## INTERNAL SERVICE REPORTS

**ITEM:22           INTS - 01/03/10 - UPPER MACQUARIE COUNTY COUNCIL  
REQUESTED CONTRIBUTION FOR INCLUSION IN THE DRAFT  
2010/2011 MANAGEMENT PLAN**

### **REPORT FROM - INTERNAL SERVICES MANAGER C FARNSWORTH**

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#### **REFERENCE**

Nil

#### **SUMMARY**

To advise Council of a request from Upper Macquarie County Council (UMCC) for an increase on the 2009/10 contribution equivalent to the 2010/11 rate pegging limit. The report includes a recommendation that \$150,009 be included as a contribution to UMCC in the 2010/11 Management Plan.

#### **COMMENTARY**

The General Manager of the Upper Macquarie Council (UMCC), has advised of the contributions they are seeking from constituent Councils for the 2010/11 financial year.

UMCC had hoped to advise member Councils of budget requirements for the 2010/11 Management Plan in November 2009, but due to uncertainty surrounding grant funding expected from the NSW Government by the introduction of the 'NSW Weed Action Program', the process was delayed. Unfortunately they have now been advised that the State grant is not available and as a result they have determined the annual contributions sought from member Councils.

UMCC has prepared a 2010/11 Management Plan and budget on the basis that the total amount anticipated from member Councils is the value contributed for 2009/10, \$464,151, plus an adjustment in line with the general increase permitted by the Minister for rate pegging. At the time of writing UMCC has assumed the increase would be 3% or \$13,924 but as of Tuesday 16 February 2010, the Minister for Local Government announced a rate peg increase of 2.6%, which will calculate the increase at \$12,068.

**2010/11 Estimated Contributions as follows:**

2010/11	% Due	Contribution with 3% Inc	Contribution with 2.6% Inc
Constituent Council 2009/10		464,151	464,151
Permitted increase of general income 2010/11		3.00%	2.60%
Constituent Council contribution 2010/11		478,076	476,218
<b>Based on agreed formula:</b>			
Bathurst Regional Council	38.46%	183,868	183,154
Lithgow City Council	31.50%	150,594	150,009
Oberon Council	17.72%	84,715	84,385
Blayney Council	12.32%	58,899	58,670
<b>TOTAL</b>	<b>100.00%</b>	<b>478,076</b>	<b>476,218</b>

The amount contributed by Lithgow Council to UMCC in 2009/10 is \$146,208 and using this as base figure and adding an increase in line with the rate pegging announcement of 2.6%, will make the 2010/11 contribution \$150,009.

It must be noted that UMCC have requested a contribution of \$150,594 which was estimating an expected rate peg increase of 3% on the previous year.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

An increase of \$12,068 on the 2009/10 contribution to UMCC of \$146,208 to allow for \$150,009 in the 2010/11 Management Plan.

**LEGAL IMPLICATIONS**

Nil

**ATTACHMENTS**

Nil

**RECOMMENDATION**

**THAT** Council provide for a contribution of \$150,009 to the Upper Macquarie County Council in the Draft 2010/11 Management Plan.

**ITEM:23           INTS - 01/03/10 - LAND AND PROPERTY MANAGEMENT  
AUTHORITY ADVICE WITH REGARD TO REVALUATION OF LAND  
WITH RIGHTS OF CARRIAGEWAY**

**REPORT FROM - INTERNAL SERVICES MANAGER C FARNSWORTH**

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**REFERENCE**

- Min 09-509:     Ordinary Meeting 23/11/09:  
                  Valuer General Proposal for a three year revaluation cycle
- Min 10- 39:     Ordinary Meeting 08/02/10:  
                  Valuer General Advice to commence the revaluation of land which will  
                  apply for the 2010/11 rating year

**SUMMARY**

To respond to a question from the Ordinary Council Meeting of 8 February 2010 with regard to property valuations and the impact on land which contain a right of carriageway.

**COMMENTARY**

At the meeting of 8 February 2010 Council received a report that the Office of the New South Wales Valuer General will commence revaluing land in the Lithgow Local Government area from the 1 July 2010. The meeting resolved to enquire from the Valuer General if 'rights of carriageway' impact on the value of a parcel of land, and if so, how the values are affected.

The District Valuer, from the Land and Property Management Authority, advised the following on the 18 February 2010:

*A Right of Carriageway is a type of easement which is an interest of the land. An easement is an acquired legal right enjoyed by the owner of a parcel of land or the Crown or a public authority over land owned by another person.*

*The rights conferred by a Right of Carriageway are at the expense of the owner of the affected property in favour of the land owner who enjoys the easement.*

*Land Values used for rating purposes are the fee simple interest in land and therefore are made on a hypothetical basis that the land is free of impediments to title, ie free of easements and other impediments.*

*The physical effect of any exercise of an easement's rights, will however be reflected in the determination of Land Value. Works such as transmission lines, access, roads, pipes laid for drainage services are the physical effects of the existence of easements, therefore their effect can be measured.*

*'Physical effects' are only taken into accounts when they exist at the date of valuation and their effect can be measured. Where easement rights have not given rise to a physical effect on the land then there can be no effect to measure for rating land values, ie where an easement exists however there are no physical works constructed no effect can be measured.*

***In determining the land value of land which has the benefit of an easement (eg where a right of carriage way provides legal and physical access to a parcel of land) that benefit will be captured in the value.***

*It is necessary to examine carefully the detriments or benefits that accrue to land because of the physical effects of rights granted by easements. In some cases easements rights may have no substantial effect on value whereas in other cases they may prevent or seriously impede the development potential of land.*

*The proper measure of these effects on value is by way of reference to sales. This involves analysing sales of land similarly affected or comparisons between sale of affected and unaffected land.*

*The effect of any easement including a Right of Carriageway is measured on an individual basis as the effect can vary widely depending on the circumstances.*

As previously advised the Valuer General's office will contact each landowner when their revaluation is complete and at that time should they question how their valuation was determined they will then be able to discuss their individual circumstances.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil

**ATTACHMENTS**

Nil

**RECOMMENDATION**

**THAT** Council note the advice from the District Valuer from the Land and Property Management Authority with regard the revaluation of land containing rights of carriageway.

**ITEM:24           INTS - 01/03/10 - DISCLOSURE OF PECUNIARY AND NON  
PECUNIARY CONFLICT OF INTEREST AT A MEETING BY A  
COUNCILLOR OR DESIGNATED PERSON**

**REPORT FROM - INTERNAL SERVICES MANAGER C FARNSWORTH**

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**REFERENCE**

Nil

**SUMMARY**

To advise Council of a process which will allow Councillors and Committee Members to disclose a pecuniary or non pecuniary conflict of interest, and if the interest is of a significant or non significant nature, in writing, prior to a Council or Committee meeting. A recommendation is included that the process commence for future meetings using the appropriate documentation.

**COMMENTARY**

Councillors and Committee Members are required to disclose pecuniary and non pecuniary interest in compliance with the Local Government Act 1993, s441 to s458 and the Lithgow City Council Code of Meeting Practice Part 6 and 7.

As per the Code of Meeting Practice notice in writing should be provided by a Councillor or a member of a Council Committee to the General Manager to advise that the individual holds a pecuniary or non pecuniary conflict of interest and further advice if the interest is of a non significant nature.

To assist future Council and Committee meetings with this process documentation has been designed, and provided as an attachment to this report, to enable individuals to advise the General Manager, in writing of their disclosure prior to the commencement of a meeting.

All disclosures will be recorded in the Minutes of a meeting as required by the Local Government Act 1993.

Completed pecuniary and non pecuniary conflict of interest, as disclosed will be filed in a public register, as are annual returns under s 449 of the Local Government Act 1993.

Annual disclosure returns, under s 449, are independent to disclosures of pecuniary and non pecuniary conflicts of interest at a meeting and not affected by this report.

The Code of Meeting Practice states:

**60 DISCLOSURE AND PARTICIPATION IN MEETINGS**

- (i) A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the interest and the nature of the interest to the meeting as soon as practicable. [S 451(1)]
- (ii) The general thrust of the Local Government Act 1993 is for greater transparency and accountability of the management and operation of the Council. Given the thrust of the Act, the attention of Councillors, designated persons, members of staff, advisers and delegates is drawn to the following criteria to determine the extent of disclosure of the nature of the interest to the meeting necessary to observe the statutory requirements of section 451 of the Act to satisfy the requirements of the Act for greater transparency and accountability in the management and operation of the Council:
- (a) The details are sufficient to enable other Councillors, Committee members and the public to appreciate in general terms the connection of the person with the matter under consideration.
- (b) The disclosure does not reveal sensitive information which is not relevant to the matter before the Council or Committee.
- (c) The disclosure does not reveal information which may be unnecessarily damaging to the reputation of some person(s) with whom the person disclosing the interest is associated.
- (d) The disclosure will not unnecessarily prejudice a sensitive commercial or legal situation.
- (iii) **A general notice given to the General Manager in writing** by a Councillor or a member of a Council Committee to the effect that the Councillor or member, or the Councillor's or member's spouse, de facto partner or relative, is:
- (a) a member, or in the employment, of a specified company or other body;  
or
- (b) a partner, or in the employment, of a specified person,  
is, unless and until the notice is withdrawn, sufficient disclosure of the Councillor's or member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the Council or Council Committee after the date of the notice. [S 454]
- (iv) The councillor or member must not be present at, or in sight of, the meeting of the council or Committee:
- (a) at any time during which the matter is being considered or discussed by the Council or Committee [S 451(2)(a)], or

- (b) *at any time during which the Council or Committee is voting on any question in relation to the matter. [S 451(2)(b)]*
- 1) *This clause does not prevent a person from taking part in the consideration or discussion of, or from voting on, any question as provided for in clause 59.*
- (vi) *A person who, at the request or with the consent of the Council or a Council Committee, gives advice on any matter at any meeting of the Council or Committee must disclose the pecuniary interest and the nature of any pecuniary interest that the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser. [S 447 & 456]*
- (vii) *A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.[S 457]*

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

Nil

#### **LEGAL IMPLICATIONS**

Local Government Act 1993 s451 to s458  
Local Government (General) Regulations 2005  
Lithgow City Council Code of Meeting Practice

#### **ATTACHMENTS**

1. Disclosure of a Pecuniary Conflict of Interest at a Meeting by a Councillor, Committee Member or Designated Person
2. Disclosure of a Non Pecuniary Conflict of Interest at a Meeting by a Councillor, Committee Member or Designated Person

#### **RECOMMENDATION**

##### **THAT:**

1. Council acknowledge the report with regard to disclosure of pecuniary and non pecuniary conflict of interest at a meeting by a Councillor, Committee member or Designated Person
2. Commence the process of completing appropriate documentation to declare a 'Disclosure of Pecuniary or Non Pecuniary Conflict of Interest', in writing, prior to the commencement of all Council and Committee meetings.
3. Acknowledge that completed disclosures, of pecuniary and non pecuniary conflict of interest, will be filed in a public register and disclosure recorded in the minutes of the meeting.

**ITEM:25           INTS - 01/03/10 - FIRST INTERIM AUDIT FOR THE 2009/10  
FINANCIAL YEAR**

**REPORT FROM - INTERNAL SERVICES MANAGER C FARNSWORTH**

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**REFERENCE**

Nil

**SUMMARY**

To advise Council of the completion of the first interim audit visit by the Morse Group for the 2009/10 financial year with a recommendation that the report be received.

**COMMENTARY**

During the first week of February 2010 Auditors, the Morse Group, completed the first interim audit of Council's records.

The audit covered, but was not limited to, the period 1 July 2009 to 31 January 2010 and a report in relation to this was received on 17 February 2010. A copy of the report is attached for information.

Ms Leanne Smith, Audit Partner advises that the purpose of the visit was to obtain sufficient, appropriate audit evidence to enable the Morse Group to express an opinion on Council's annual financial report. The procedures adopted achieve this purpose in a cost effective and efficient manner while concentrating on areas of materiality and high risk.

The scope of the audit did not include a comprehensive review of all procedures and systems and comments are limited to the operational areas examined which include:

- Purchase & general expenditure transactions
- Receipting system and cashier processes
- Councils reconciliations and sub ledger accounts
- Journals
- Plant
- Water Billing
- Council's minutes
- Sec 94 contributions

The audit has taken into account the extent of Council's internal control measures which consisted of:

- The control environment, incorporating managements policies and procedures
- The information systems, incorporating the final reporting process used to prepare the Council's financial reports: and
- Internal control, being those policies and procedures which management has established to provide reasonable assurance that specific organisation objectives will be achieved

The audit established that the financial management procedures and systems have been controlled effectively in a manner appropriate for Council's structure and resources.

Two issues are reported as a result of the audit and below are the final audit observations and Council's response:

**1) Section 94 Contributions:**

**Audit Observations:**

It was noted that whilst the amounts charged to developers under Developer Contributions Plans have been indexed by the Consumer Price Index (CPI), in accordance with the requirements of the contributions plans, the wording applied to the individual development approvals does not provide the ability for Council to index contributions between the date of the development plans, the date the development approval is issued, and the date it is paid by the applicant.

**Audit Recommendation:**

It is recommended that Council alter the wording of development approvals such that a final indexation adjustment can be applied at the time the developers make actual payment to Council.

When Council issues the development approval the wording of this document will be amended to clearly state that the amount to be charged is subject to changes in the CPI and that the developer will have to pay the appropriate contribution on top of the original amount advised.

**Management Comments:**

Future consents issued for development applications, which include a contribution for Sec 94 Developer Contributions, will include a condition that all contributions will be subjected to a CPI increase on payment.

**2) Tourism Centre - Cancelled Receipts:**

The general ledger contained daily receipt numbers issued by the Visitor Information Centre which were not in sequence. The missing receipts related to cancelled receipts issued but no copies and / or explanations were provided in weekly reports provided by the Visitor Information Centre to the Finance Department for review and approval.

**Audit Recommendation:**

It is recommended that the relevant office at the Visitor Information Centre be reminded of the importance of ensuring that the general ledger reports which contains the daily receipts numbers are in sequence. Copies of cancelled receipts with explanation of the reason for cancellation should be attached for ease of review by the Finance Department. Upon completion, the Finance Department should sign and date the weekly report confirming independent review and authorisation.

**Management Comments:**

Tourism personnel retrained in cash handling procedures emphasizing cancelled receipts to be authorised by cashier and authorised supervisor on the day. Daily cash reconciliation summaries have been altered to ensure administration staff are made aware of cancelled receipts.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil

**ATTACHMENTS**

1. Letter from The Morse Group dated 17 February 2010. Dataworks Document 573007

**RECOMMENDATION**

**THAT**

1. Council note the first interim audit report letter, for the 2009/10 financial year, dated 17 February 2010, from The Morse Group.
2. The audit established that the financial management procedures and systems have been controlled effectively in a manner appropriate for Council's structure and resources and only two minor issues have been addressed.

**ITEM:26           INTS - 01/03/10 - LEASE OF RAIL LAND BATHURST STREET RYDAL  
AND SUB LEASE TO THE RYDAL VILLAGE ASSOCIATION**

**REPORT FROM - INTERNAL SERVICES MANAGER C FARNSWORTH**

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**REFERENCE**

Min 09-510:     Ordinary Meeting of Council 23/11/09

**SUMMARY**

To advise Council of an offer from Australian Rail Track Corporation Ltd to lease land known as the 'Guards Van' in Bathurst Rd Rydal. The land will be used by the Rydal Village Association as public access to a display the guards van and museum. A recommendation is included that Council enter into a lease for a period of five years and conditionally sub lease the area to the Rydal Village Association.

**COMMENTARY**

At the Ordinary Meeting of Council on the 23 November 2009 a request from the Rydal Village Association was considered to negotiate with the Rail Infrastructure Corporation to extend a current lease held over land at the Rydal Railway Station.

The meeting of 23 November 2009 resolved:

**09-510 RESOLVED**

*THAT Council enter into negotiations with Rail Infrastructure Corporation to extend the current lease for land to the north of the Rydal Railway Station, known as the downside of the rail corridor from 181.172km to 181.332km, fronting Bathurst Rd, Rydal to include land that surrounds the guards van to allow public access to the van.*

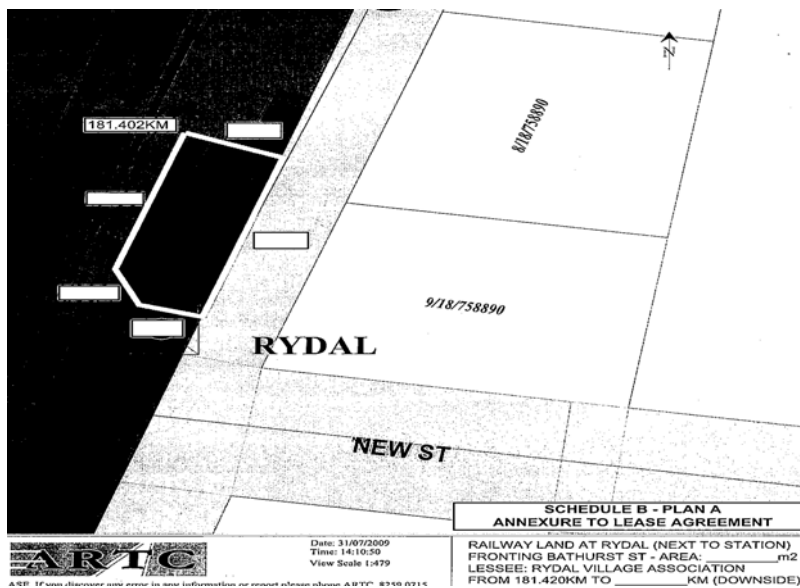
Following Council resolution discussion commenced with Australian Rail Track Corporation Ltd (ARTC) to extend the existing area leased by Council to incorporate land known as the 'Guards Van' area.

Australian Rail Track Corporation Ltd responded, on the 27 January 2010, that they will not agree to altering the existing executed lease which Council has over railway land, Agreement No 207.2737, because the subject site is proposed for a different use than the current land. The proposed new area will be used for a public access to display the guards van and museum. ARTC will however agree to the commencement of a new five (5) year lease subject to the area being sub-leased to the Rydal Village Association Inc under the following conditions:

1. A copy of the draft sub-lease agreement to be provided to ARTC for Legal Counsel review prior to issue to Rydal Village Association
2. An Environmental Management Plan (EMP) be devised in accordance with guidelines enclosed within three (3) months of execution. (refer to clause 16 of the lease)

3. Terms to be included in sub-lease agreement
  - a. The sub-lessee must secure the guards van within the lease area to prevent it from accessing the operational rail network.
  - b. The sub-lessee is required to ensure the guards van is not intrusive of the heritage station precinct it is positioned in by:
    - Painting the exterior of the van 'black', that being colour of which it was painted for the majority of its serviced life. The interior must also be painted in the original colour as identified by heritage records.
    - Affixing an interpretive sign to the van or in close proximity of the van, to explain the history of this class of railway vehicle. This sign, which may be of a basic design, must be approved by the Lessor prior to being erected.

The land proposed in the lease is shown as follows:



A summary of the proposed lease is as follows:

- Annual Rental: \$500.00 (GST Exc) Subject to annual review
- Term: 5 years less one day
- Commencement: 1 February 2010
- Termination: 30 January 2015
- Option to renew: Nil
- Outgoings: Payable by Lessee
- Lease preparation: Payable by Lessee. Advised as \$330.00
- Property manager: Australia Rail Track Corporation Ltd

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Rent in the sum of \$500.00 per annum exclusive of GST to be reviewed annually and legal fees of \$330.00 for lease preparation

### **LEGAL IMPLICATIONS**

Heritage Act 1977

Environmental Act 1997

Real Property Act 1900

### **ATTACHMENTS**

Nil

### **RECOMMENDATION**

#### **THAT:**

1. Council enter into a lease with Australian Rail Track Corporation Ltd for railway land at Rydal, including the former dock siding, located adjacent to the Railway Station, fronting Bathurst Road, extending along the downside of the rail corridor from 181.418km to 181.445km with an area of approximately 243m<sup>2</sup> as indicated in the lease as Plan A of Schedule B.
2. Council agree to sub lease the land to the Rydal Village Association as per the condition stated in the letter of 27 January 2010 from Australian Rail Track Corporation Ltd.
3. Council agree to pay the annual rental of \$500.00 per annum GST exc and legal costs associated with the lease.
4. Council authorise the affixing of the Common Seal of Lithgow City Council to the relevant documentation.

**ITEM:27           INTS - 01/03/10 - COMPULSORY ACQUISITION OF LOTS 1 & 2  
DP1081225, MORRELL ST MEADOW FLAT FROM THE ESTATE OF  
LATE THOMAS HOPE KNOX**

**REPORT FROM - INTERNAL SERVICES MANAGER C FARNSWORTH**

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**REFERENCE**

Min 09-19:       Ordinary Meeting of Council 27 January 2009

Min 09-102:     Ordinary Meeting of Council 9 March 2009

**SUMMARY**

To advise and recommend that Council pay the Valuer General's Determination of Compensation payable under the Land Acquisition (Just Terms Compensation) Act 1991 of \$104,000 for Lots 1 & 2 DP1081225 Morrell St Meadow Flat, plus minor interest and legal fees and authorise the affixing of the Council Seal to relevant documentation.

**COMMENTARY**

At the Council meeting 27 January 2009, Councillor Ticehurst moved the following motion:

***THAT** Council seek advice from it's Solicitors, Le Fevre and Co confirming that it is in receipt of correspondence making a claim on this Councils compulsory acquisition of the land that was situated under the Meadow Flat Hall and was previously owned by the Estate of Thomas Hope Knox.*

In a letter dated 11 February 2009, Le Fevre and Co advised that they were contacted by the Perpetual Trustee Company Limited in its capacity as executor of the estate of Thomas Hope Knox. At the time no claim had been received but the Perpetual Trustee Company believed that the subject land, which had been acquired by Council was an asset of Thomas Hope Knox, and compensation may be payable for the compulsory acquisition of that land which will in turn be distributed to the beneficiaries under his Will.

A number of legal processes have been completed since that date and Council's Solicitors LeFevre & Co, have recently advised they have received a copy of the Valuer General's Determination of Compensation payable under the Land Acquisition (Just Terms Compensation) Act 1991. The valuation has been determined at \$104,000.

Council will be aware at the time of the compulsory acquisition, and as a requirement under the Act, a sum of \$85,000 was reserved, which was the value of the land determined by the Valuer General's on the 1 July 2006. As a result of the current valuation, which Council has received in late January 2010, a shortfall of \$19,000 plus minor interest and legal costs exists.

Under the provisions of the Act, Council is now obliged to submit to the former owner, in this case Perpetual Trustee Company Ltd, as Executor of the Will of the late Thomas Hope Knox, a Compensation Notice in the form of an offer authorised under Seal for \$104,000 plus statutory interest computed from the date of publication of the Acquisition Notice in the Government Gazette. The former owners may accept or reject the offer but Le Fevre & Co indicates that it is expected that the offer will be accepted.

To finalise the process Council will instruct our Solicitors to proceed in serving a Compensation Notice along with the Claim for Compensation Form prepared in accordance with the requirements of the Act and a Deed of Release for Lots 1 & DP 1081225 Morrell St Meadow Flat.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Payment of \$104,000 being the Valuer General's Determination of Compensation which is payable under the Land Acquisition (Just Terms Compensation) Act 1991 plus minor interest and legal expenses associated with the acquisition.

**LEGAL IMPLICATIONS**

Nil

**ATTACHMENTS**

Nil

**RECOMMENDATION**

**THAT**

1. Council agree to pay to Perpetual Trustee Company Ltd, as Executors of the Will of the Late Thomas Hope Knox, \$104,000 as per the Valuer General's Determination of Compensation payable under the Land Acquisition (Just Terms Compensation) Act 1991 plus statutory interest computed from the date of publication of the Acquisition Notice in the Government Gazette.
2. Council pay its own legal costs in relation to the compulsory acquisition.
3. Include an amount of \$104,000 in the March quarterly review of the 2009/10 Management Plan, \$85,000 of which will be a transfer from reserve.
4. Instruct Solicitors Le Fevre & Co to proceed to serve a Compensation Notice along with the Claim for Compensation Form prepared in accordance with the requirements of the Act and a Deed of Release for Lots 1 & DP 1081225 Morrell St Meadow Flat.
5. Council authorise the affixing of the Common Seal of Lithgow City Council to the relevant documentation in relation to the compulsory acquisition.

**ITEM:28           INTS - 01/03/10 - MINISTER APPROVAL FOR A VARIATION OF  
GENERAL RATE INCOME FOR 2010/11 OF 2.6%**

**REPORT FROM - INTERNAL SERVICES MANAGER C FARNSWORTH**

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**REFERENCE**

Nil

**SUMMARY**

To advise Council that the Minister for Local Government, the Hon Barbara Perry, has announced a maximum increase of 2.6% on the general rate for the 2010/11 rating year with a recommendation that Council approve the increase for inclusion in the 2010/11 Management Plan.

**COMMENTARY**

The Minister for Local Government, the Hon Barbara Perry, announced on 16 February 2010, via Circular 10-02, a permitted rate pegging increase of 2.6% in terms of section 506 of the Local Government Act 1993. The applicable increase will apply to the rating year commencing 1 July 2010.

The Minister advised that the rate peg allowance has been announced earlier this year to allow councils more time to communicate with the community and has been calculated by examining a range of economic factors, predominantly inflation which is reflected in the allowed percentage increase announced.

Rate pegging increases over previous years are as follows:

- 2006/07: 3.6%
- 2007/08: 3.4%
- 2008/09: 3.2%
- 2009/10: 3.5%
- 2010/11: 2.6%

For Lithgow the increase will specifically allow Council to achieve additional estimated general rate income of \$271,343 which is calculated by application to the 2009/10 notional yield and it is recommended that Council adopt the rate peg increase for the 2010/11 Management Plan.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Additional general rate income of 2.6%, estimated at \$271,343 for the 2010/11 rating year.

**LEGAL IMPLICATIONS**

Nil

**ATTACHMENTS**

Nil

**RECOMMENDATION**

**THAT** Council adopt the 2010/11 rate pegging increase of 2.6% in terms of section 506 of the Local Government Act 1993 and apply the increase to the 2010/11 Management Plan commencing 1 July 2010.

## COMMITTEE MEETINGS

**ITEM:29      COMM - 01/03/10 - TOURISM ADVISORY COMMITTEE MINUTES 2ND  
FEBRUARY 2010**

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

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### REFERENCE

Min No 09-234 – Ordinary Meeting 1 June 2009  
Min No 09-338 – Ordinary Meeting 3 August 2009  
Min No 09-381 – Ordinary Meeting 14 September 2009  
Min No 09-338 – Ordinary Meeting 14 September 2009  
Min No 09-463 – Ordinary Meeting 2 November 2009  
Min No 09-464 – Ordinary Meeting 2 November 2009  
Min No 09-515 – Ordinary Meeting 23 November 2009  
Min No 10-21 – Ordinary Meeting 18 January 2010

### SUMMARY

This report details the Minutes of the Tourism Advisory Committee Meeting held on 2 February 2010.

### COMMENTARY

At the Tourism Advisory Committee held on 2 February 2010, there were eight (8) items discussed by the Committee.

1. Present and Apologies
2. Confirmation of Minutes from the Previous Meeting
3. Business Arising from Previous Meeting
4. Assessment of Attractions
5. 2011 - Wallerawang Autumn Festival – Celebrations Of Charles Darwin's 175<sup>th</sup> Anniversary Visit To Wallerawang
6. Proposal from Mr Brian Jinks
7. Tourism Manager's Report
8. General Business

### POLICY IMPLICATIONS

Nil

### FINANCIAL IMPLICATIONS

Nil

### LEGAL IMPLICATIONS

Nil

## **ATTACHMENTS**

1. Minutes from the Tourism Advisory Committee held on 2 February 2010.

## **RECOMMENDATION**

**THAT** Council:

1. Notes the minutes of the Tourism Advisory Committee meeting held on 2 February 2010.
2. Considers the priorities for works to be undertaken on tourism assets and/or attractions and considers funding in the Management Plan and Budget for 2010/2011 as proposed by the Tourism Advisory Committee for the following:
  - Toliets at Hassans Walls Lookout
  - Lake Pillians Walkway –
  - The Bunyip Trail
  - Directional Signage – Evans Crown
  - Blast Furnace Park – walkway around the ruins
3. Considers in its Management Plan and Budget 2010/2011 a donation to the value of \$10,000 to the Wallerawang Autumn Festival Committee towards Council support for the preparation of venues, and funding for promotions to assist the development of the event.

**ITEM:30            COMM - 01/03/10 - LITHGOW FLASH GIFT COMMITTEE MINUTES  
10TH FEBRUARY 2010**

**REPORT BY: ACTING TOURISM MANAGER – KELLIE BARROW**

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**REFERENCE**

Min No 09-235 – Ordinary Meeting 1 June 2009.  
Min No 09-305 – Ordinary Meeting 13 July 2009.  
Min No 09-462 – Ordinary Meeting 2 November 2009.  
Min No 09-514 – Ordinary Meeting 23 November 2009.  
Min No 10-22 – Ordinary Meeting 18 January 2010.  
Min No 10-43 – Ordinary Meeting 8 February 2010.

**SUMMARY**

This report details the Minutes of the Lithgow Flash Gift Committee held on 10 February 2010.

**COMMENTARY**

At the Lithgow Flash Gift Committee meeting held on 10 February 2010, there were fourteen (14) items discussed by the Committee.

1. Minutes from the Previous Meeting.
2. Business Arising
3. Sponsorship Update
4. NSW Athletics League
5. Wheel Chair Race
6. Little A's Programme
7. Allocation of Senior Races
8. Budget
9. Update on Marketing Activities
10. Media Launch
11. Entry Forms
12. Action List Update
13. Schedule of meetings leading up to Event
14. General Business

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil

## **ATTACHMENTS**

1. Minutes of the Lithgow Flash Gift Committee held on 10 February 2010.

## **RECOMMENDATION**

**THAT** Council notes the minutes of the Lithgow Flash Gift meeting held on 10 February 2010.

**ITEM:31            COMM - 01/03/10 - LITHGOW CRIME PREVENTION COMMITTEE  
MEETING MINUTES - 9TH NOVEMBER 09, 8TH DECEMBER 09 AND  
8TH FEBRUARY 2010**

## **REPORT FROM SUZANNE LOLLBACK, GROUP MANAGER COMMUNITY AND CORPORATE SERVICES**

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## **REFERENCE**

Minute 09-396 of the Ordinary Meeting of Council held 14 September 2009  
Minute 09-397 of the Ordinary Meeting of Council held 14 September 2009

## **SUMMARY**

Council resolved at the Ordinary Meeting of Council held 14 September 2009 -Min (09-396)

THAT:

1. Council receives the Draft Lithgow Crime Prevention Plan.
2. Council adopts the Draft Terms of Reference for the Lithgow Crime Prevention Committee.

The Crime Prevention Committee held its first meeting on 9 November 2009 and the minutes of this meeting and subsequent meetings held on 8 December 2009 and 8 February 2010 are presented for Council adoption.

## **COMMENTARY**

The Crime Prevention Committee has commenced refinement of the Crime Prevention Strategies identified in the Crime Prevention Plan. The Crime Prevention Plan will then be presented to Council for adoption and public exhibition following which endorsement will be sought from the NSW Attorney General's Department.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Local Government Act NSW 1993

## **ATTACHMENTS**

1. Minutes of the Crime Prevention Committee meetings held on 9 November 2009, 8 December 2009 and 8 February 2010.

## **RECOMMENDATION**

**THAT** the minutes of the Crime Prevention Committee meetings held on 9 November 2009, 8 December 2009 and 8 February 2010 be adopted.

**ITEM:32            OPER - 01/03/10 - INDOOR AQUATIC CENTRE ADVISORY  
COMMITTEE MEETING MINUTES 18TH FEBRUARY 2010**

**REPORT BY: ACTING GROUP MANAGER OPERATIONS – IAIN STEWART**

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## **REFERENCE**

Min No 09-196 – Ordinary Meeting 11 May 2009  
Min No 09-270 – Ordinary Meeting 22 June 2009  
Min No 09-518 – Ordinary Meeting 23 November 2009  
Min No 10-23 – Ordinary Meeting 18 January 2010

## **SUMMARY**

This report details the Minutes of the Indoor Aquatic Centre Advisory Committee Meeting held on 18 February 2010.

## **COMMENTARY**

At the Indoor Aquatic Centre Advisory Committee Meeting held on 18 February 2010, there were two (2) items discussed by the Committee.

1. Minutes of Previous Meeting
2. Business Arising from Previous Minutes

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **ATTACHMENTS**

1. Minutes from the Indoor Aquatic Centre Advisory Committee held on 18 February 2010.

## **RECOMMENDATION**

**THAT** Council notes the minutes of the Indoor Aquatic Centre Advisory Committee meeting held on 18 February 2010.

**ITEM:33            COMM - 01/03/10 - S355 ENVIRONMENTAL ADVISORY COMMITTEE  
SPECIAL MEETING 11TH NOVEMBER 2009**

**REPORT FROM: ENVIRONMENTAL HEALTH OFFICER - DAVID DURIE**

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## **REFERENCE**

Min No 07-389 – Policy & Strategy Committee Meeting 3 September 2007.  
Min No F08-21 – Finance and Services Committee Meeting 3 March 2008.  
Min No 008-153 – Extraordinary Meeting of Council 3 March 2008.  
Min No 008-198 – Ordinary Meeting of Council on 18 November 2008.  
Min No 09-337 – Ordinary Meeting of Council on 3 August 2009

## **SUMMARY**

This report provides a summary of a Special Meeting convened on 11 November 2009 by the Environmental Advisory Committee to present to Councillors and Council Staff on the Yarrowee River trail.

## **COMMENTARY**

On the 11 November 2009 Hedley Thomas, a Town Planner with over 30 years experience in local and state government presented to Councillors, Council Staff and members of the Environmental Advisory Committee his experiences in developing the Yarrowee River Trail in Ballarat.

The following report includes a summary of the presentation and recommendations from the Environmental Advisory Committee as to how Council can best utilise the knowledge gained from Ballarat's experience.

The Yarrowee River runs through the City of Ballarat and became the focal point for an extensive restoration project over the last 20 years. The project transformed the river valley from a mined-out weed-infested dumping ground into a valuable community asset. The project largely completed by Volunteers and Council staff represented the largest community project in Ballarat for 100 years.

The Yarrowee River Trail comprises a 16km walking/cycling track along the Yarrowee River and an additional 20km of trails along the river's tributaries. Nearly 200,000 trees and shrubs were planted including the creation of the Yarrowee Redlan wetlands, resulting in significant improvements in water quality.

The Yarrowee River Trail has been unique in forging a change in public perception of the river valley, from a degraded environment to a valuable reserve to be enjoyed by residents and visitors to Ballarat. Approximately 80 community groups have been involved in the project including 30 schools, service groups and special needs groups. The benefits are numerous and include enhanced biodiversity, protection of remnant native vegetation, provision of a nutrient buffer strip improving stormwater quality and riverbank stabilisation.

Ballarat and Lithgow share a very similar history in regard to the pattern of European settlement including mining, a major railway centre, and key service industries. As a result they also have shared a thoroughly degraded natural environment.

The subsequent reclamation and remediation of the Ballarat landscape therefore bears a number of striking similarities that could be readily duplicated and replicated in the Lithgow LGA, in particular the Farmers Creek Precinct.

Hedley advised that Lithgow is already a lot further ahead than when Ballarat began the process having an Environmental Advisory Committee, a number of projects linked to the concept, planning completed including several consultancy studies, and the involvement of key partners and stake holders. He also noted the many opportunities to link linear reserves to natural features and communities.

To bring it all together Hedley advised that there was a need for an advocate and a key body to take responsibility. There is also a need for planning, consultation, engagement, publicity, awareness raising, lobbying and many meetings. Hedley warned that a significant investment in planning phase was necessary otherwise the project could end up underdone or not achieve desired outcomes.

Of primary importance in developing the Yarrowee River Trail was developing the concept and then turning this into a plan. The plan then become the *modus operandi* providing a process and way of gathering support and grant funding.

There is strong desire in Lithgow from the community at large to improve our degraded lands and link cultural, environmental, heritage and tourism locations through a network of trails that are educational, informative, recreational and purposeful.

Councillors who attended the presentations were very supportive of the concept and Hedley Thomas was personally thanked by the Mayor Neville Castle

The Environmental Advisory Committee would like to recommends to Council further develops the concept of the Farmers Creek Track and Trail Network and take ownership of the project in view of developing a plan; and Council dedicates staff resources to developing the concept and plan.

In addition there are a number of other reports and concepts to which this proposal relates. They are:

- Cyclepath proposals along Farmers Creek
- The Bilby Walking trail
- Plans developed by Lithgow and Oberon Landcare Organisation (LOLA) for restoration of Farmers Creek
- Greening Lithgow Project – Tidy Towns
- Draft Cultural Precinct Study.

### **FINANCIAL IMPLICATIONS**

To be determined

### **ATTACHMENTS**

NIL

### **RECOMMENDATION**

**THAT** Council notes the minutes of the Environmental Advisory Committee Meeting held on 11<sup>th</sup> November 2009 and ;

1. Further develops the concept of the Farmers Creek Track and Trail Network and take ownership of the project by developing a plan that can be implemented over a number of years.
2. Dedicates staff or other resources to developing the concept and plan.

**ITEM:34            COMM - 01/03/10 - ENVIRONMENTAL ADVISORY COMMITTEE  
MEETING MINUTES OF 14TH OCTOBER 2009**

**REPORT BY: ENVIRONMENTAL HEALTH OFFICER – DAVID DURIE**

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**REFERENCE**

Min No 07-389 – Policy & Strategy Committee Meeting 3 September 2007.  
Min No F08-21 – Finance and Services Committee Meeting 3 March 2008.  
Min No 008-153 – Extraordinary Meeting of Council 3 March 2008.  
Min No 008-198 – Ordinary Meeting of Council on 18 November 2008.  
Min No 09-337 – Ordinary Meeting of Council on 3 August 2009

**SUMMARY**

This report details the Minutes of the Environmental Advisory Committee Meeting held on 14 October 2009.

**COMMENTARY**

At the Environmental Advisory Committee meeting held on 14 October 2009, there were four (4) items discussed by the Committee.

1. Apologies
2. Confirmation of Minutes
3. Community Garden – Wayne Levi
4. General Business

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil

**ATTACHMENTS**

1. Minutes of the Environmental Advisory Committee Meeting held on 14 October 2009.

**RECOMMENDATION**

**THAT** Council:

1. Notes the minutes of the Environmental Advisory Committee meeting held on 14 October 2009.
2. Support the concept of a community garden in Lithgow subject to receipt of a detailed submission and public consultation.

**ITEM:35 COMM - 01/03/10 - AGEING STRATEGY ADVISORY GROUP MINUTES  
21ST JANUARY 2010**

**REPORT FROM - SUZANNE LOLLBACK, GROUP MANAGER COMMUNITY AND  
CORPORATE SERVICES**

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**REFERENCE**

Minute 09-352 of the Ordinary Meeting of Council held 24 August 2009

**SUMMARY**

Council resolved at the Ordinary Meeting of Council held 24 August 2009 Min(09-352)  
THAT:

1. Council note that the Ageing Strategy is being developed.
2. Council adopt the attached Lithgow Ageing Strategy Advisory Group Terms of Reference.
3. Two Councillors be appointed to the Advisory Group.

The Ageing Strategy Advisory Group has commenced meeting and the minutes of the Advisory Group's first meeting held on 21 January 2010 are presented for Council adoption.

**COMMENTARY**

The Advisory Group has commenced identifying the scope of the Ageing Strategy, data needs and the development of a consultation strategy.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Local Government Act NSW 1993

**ATTACHMENTS**

1. Minutes of Ageing Strategy Advisory Group meeting held on 21 January 2010

**RECOMMENDATION**

**THAT** the minutes of the Ageing Strategy Advisory Group meeting held on 21 January 2010 be adopted.

## **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.*

Double Click Here to insert the <ClosedCouncil>

## CLOSED COUNCIL

**ITEM:36 OPER - 01/03/10 - CONFIDENTIAL REPORT - TENDER 02/10 SUPPLY OF ROAD BASE (RTA INSPECTION - 3501), EX BIN (3 YEAR CONTRACT)**

**REPORT FROM: CHRIS SCHUMACHER – WORKS ENGINEER**

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### **Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993 (General) Regulation 2005, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would if disclosed:
  - (i) prejudice the commercial position of the person who supplied it

The Tendering Guidelines issued by the NSW Department of Local Government indicates that this is a valid reason for reporting tender proposals in closed council.

### **SUMMARY**

This report provides details of tenders recently called for the supply of road base for the period 1<sup>st</sup> March 2010 to 30<sup>th</sup> June 2012.

### **RECOMMENDATION**

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

**ITEM:37            OPER - 01/03/10 - CONFIDENTIAL REPORT - TENDER 03/10  
                         SUPPLY OF BITUMEN SEALING SERVICES (3 YEAR CONTRACT)**

**REPORT FROM: CHRIS SCHUMACHER – WORKS ENGINEER**

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**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993 (General) Regulation 2005, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would if disclosed:
  - (i) prejudice the commercial position of the person who supplied it

The Tendering Guidelines issued by the NSW Department of Local Government indicates that this is a valid reason for reporting tender proposals in closed council.

**SUMMARY**

This report provides details of tenders recently called for the supply of bitumen sealing services for the period 1<sup>st</sup> March 2010 to 30<sup>th</sup> June 2012.

**RECOMMENDATION**

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

Late

Report

## ITEM                    REG – 01/03/10 LATE REPORT - COOKE'S METAL INDUSTRIES INCIDENT

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**REPORT FROM: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR AND  
MANAGER COMMUNITY AND CULTURE – MATTHEW JOHNSON**

### **REFERENCE**

Min 10.46 – Ordinary Council Meeting 8 February 2010

Min 10.47 – Ordinary Council Meeting 8 February 2010

### **SUMMARY**

To advise Council of the results of meetings and inspections in relation to the incident that occurred at Cooke's Metal Industries that required evacuation of the surrounding community.

### **COMMENTARY**

Council resolved at the Ordinary Meeting of Council held on 8 February 2010 (Min 10.47) that:

*A report be brought back to Council in relation to the ordnance being disposed of at Cooke's Metal.*

Subsequently, a meeting was held on 24 February 2010 between the Group Manager Regional Services, the Manager Community and Culture and officers from the Department of Defence National Contamination Remediation Program. This report details the matters discussed at that meeting and also the results of an inspection of the site conducted with the Environment Protection Authority on 12 February 2010.

#### Background

The Department of Defence is conducting an extensive remediation program on numerous sites across Australia. As part of this program a section of the Defence holding at Marrangaroo was identified as a priority and in association with specialist contractors Defence has now completed a remediation project of approximately 6 hectares of the site. The project recovered Three Hundred x 250lb shell casings and 4000 x 30lb shell casings. Defence took a precautionary approach to the recovery and recycling of the material. It was expected that all casings had been de-militarised at the time they were buried. Nevertheless, during the remediation process the casings were inspected and certified by a trained ordnance technician to ensure that they contained no residual chemical or explosive agent. All of these casings were examined on-site and certified as being free from explosive and free from chemical agents. All the recovered casings (except 4 x 250lb casings) were cut up on site and transported directly to recycling facilities outside the Lithgow Local Government Area. Four casings were kept on site for training purposes until the final approval for disposal had been received. This process requires documentation to be forwarded to the United Nations for approval. Following this approval, the four casings (which had previously been certified as free from explosive and chemical agent) were transported to Cooke's Metal industries to be cut up and transported to recycling facilities outside the LGA.

Of the 4 x 250 pound empty casings taken direct to Cookes Metal Industries in Inch Street one was observed to be leaking a liquid substance. The Ordinance Technician on site was then obliged under a pre-approved Emergency Management Plan to alert NSW Emergency Services to the presence of an unidentified substance. This liquid was later found to be water and benzene (which is contained in fuel products). No residual chemical or explosive material was found. Defence has not been able to determine how the benzene came to be in the casing and suggest that it could have been fuel residual from the time the pit was burnt,

mixed with water. It may also be fuel residue from defence vehicles which have operated on the base.

Prior to commencement of the Marangaroo remediation project, Defence undertook consultation with a number of stakeholder groups including local emergency groups. The activation of the management plan that takes an extremely conservative precautionary approach is consistent with managing such situations where the worst case scenario is assumed so that in the unlikely event the substance is found to be a risk to human health, the public is protected. This, of course, can cause disruption and angst to the affected community but this is seen as far more preferable to subjecting the public to a theoretical risk even though, in reality, this risk is miniscule.

The Marangaroo remediation program has now concluded with no further materials to be sent for recycling. Defence advises that there are no other known Defence sites in the Lithgow LGA that require remediation.

#### EPA Inspection

The inspection was able to be undertaken with the EPA and Council's Environmental Health Officer at short notice on 12 February 2010. The results were as follows:

- It is confirmed that whilst Cooke's Metal Industries is not currently Licensed under the Protection of the Environment Operations Act 1997, the EPA/DECCW remains the Appropriate Regulatory Authority (ARA) for the site.
- The EPA will write to Cookes Metal regarding outcome of inspection as well as serving a notice on the business proprietor under Section 193 of the Protection of the Environment Operations Act 1997 to provide further information and/or records in relation to a number of aspects of the operations at the premises inspection.
- The EPA will review the information provided in response to the Section 193 notice and determine what further action may be necessary.
- Council will provide EPA with copies of correspondence it has received from residents so it may determine if any of the issues raised therein are matters that it may pursue in its role as ARA.
- Basically, any issues such as loading & unloading on the street are matters outside of the control of the ARA. Further investigation is taking place in respect of this issue.
- To assist Council the EPA will include in its 193 notice a requirement to provide "All written evidence/documentation as to what date the operations first commenced at the site". Whilst there appears to be very little doubt, this will be helpful to Council in putting any question of Existing Use Rights for the site beyond any argument.

In summary, issues relating to the site and any environmental impacts from the site are matters for the EPA. The EPA officers are aware of the various concerns raised by the community but will only be able to address these concerns, such as noise, within its powers. Given there is no development consent over the land which would

include conditions relating to parking and unloading, Council will have to further investigate issues of trucks parking and unloading on the street.

At recent Council meetings the possibility of a public meeting has been raised. The EPA have been contacted regarding the possibility of facilitating a meeting and are considering this request.

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

Nil

#### **LEGAL IMPLICATIONS**

The EPA will operate as the ARA for the site under the provisions of the Protection of the Environment Operations Act.

#### **ATTACHMENTS**

NIL

#### **RECOMMENDATION**

##### **THAT:**

1. The information contained within the report be received.
2. Correspondence be forwarded to residential property owners in the Inch Street precinct advising of the information obtained on the incident and actions regarding Cooke's Metal Industries.