



LITHGOW CITY COUNCIL

A CENTRE OF REGIONAL EXCELLENCE

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

31 October 2011

AT 7.00pm

AGENDA

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 10TH OCTOBER 2011

PUBLIC FORUM

DECLARATION OF INTEREST

MAYORAL MINUTES - NIL

NOTICE OF RESCISSIONS - NIL

NOTICES OF MOTION -

- Councillor M F Ticehurst - Department of Local Government Circular 11-31 Amendment of the Public Interest Disclosures Act 1994
- Councillor M F Ticehurst - Lithgow Mercury Media Report "Enthusiasm Lacking"
- Councillor M F Ticehurst - Update on the Burial at Lithgow Cemetery on 20th July 2011
- Councillor M F Ticehurst - Scrutiny of Australian Business Numbers (ABN's) provided by creditors to the Lithgow City Council
- Councillor M F Ticehurst - Sydney media Report - "Power Company says River Pollution to Stop"

CORRESPONDENCE AND REPORTS

- General Managers Reports
- Environment and Development Reports
- Operation Reports
- Community and Strategy Reports
- Finance Reports

COMMITTEE MEETINGS

- Lithgow Flash Gift

REPORTS FROM DELEGATES - NIL

BUSINESS OF GREAT URGENCY

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

CLOSED REPORTS - NIL

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NOTICE OF MOTIONS

ITEM-1 NOTICE OF MOTION - 31/10/11 - DEPARTMENT OF LOCAL GOVERNMENT CIRCULAR 11-31 AMENDMENT OF THE PUBLIC INTEREST DISCLOSURES ACT 1994

REFERENCE

Listed by Councillor Martin Ticehurst

20 October 2011.

Department of Local Government Circular 11 – 31 Amendment of the Public Interest Disclosures Act 1994.

COMMENTARY

On the 17 October 2011, the Department of Local Government publicly released Circular 11 – 31 ‘Amendment of the Public Interest Disclosures Act 1994’ which reads:

“The purpose of this circular is to advise councils of upcoming amendments to the *Public Interest Disclosures Act 1994 (Act)*. This Act sets out a comprehensive framework for protecting public officials who disclose wrongdoing in accordance with the Act. This circular should be read in conjunction with the Division’s previously issued Circular to Councils 11-13.

New legislative changes to the Act will take effect on 1 November 2011.

One of the changes will require councils to update their public interest disclosures policies. From 1 November 2011, every public interest disclosures policy must require the local government authority to acknowledge receipt of a disclosure, and send a copy of its policy, to a person who makes a public interest disclosure within 45 days of the person making the disclosure.

General Managers of local government authorities must ensure that their councils’ policies reflect the changes taking effect on 1 November 2011.

The changes to the Act that take effect on 1 November 2011 are summarised below.

- Every public interest disclosures policy must require the local government authority to acknowledge receipt of a disclosure, and send a copy of its policy, to a person who makes a public interest disclosure within 45 days of the person making the disclosure.
- The general manager of a local government authority must ensure that the authority has a public interest disclosures policy, that the policy designates at least one officer of the authority as being responsible for receiving disclosures on behalf of the authority, that staff are aware of the policy and the protections of the Act and that the authority complies with the policy and the Act.
- Clarification regarding to whom a public authority and an investigating authority must refer evidence or a brief of evidence relating to an offence of taking detrimental action against a person making a disclosure.

- Council officials will be able to disclose a wider range of wrongdoing directly to the Chief Executive, Local Government and receive the protections of the Act. In addition to public interest disclosures about serious and substantial waste of local government money, the Chief Executive will be able to receive disclosures about corrupt conduct, maladministration, breaches of pecuniary interest obligations under the *Local Government Act 1993* and a failure to exercise functions properly in accordance with the *Government Information (Public Access) Act 2009* by councils.
- Disclosures made in accordance with the Act will be known as public interest disclosures (formerly protected disclosures).

The NSW Ombudsman has established the Public Interest Disclosures Unit to help agencies by providing education, advice and assistance.

Information about the legislative changes and other guidance is available on the NSW Ombudsman's website at www.ombo.nsw.gov.au or via email to pid@ombo.nsw.gov.au

General Managers should ensure this circular is brought to the attention of all councillors and staff.

RECOMMENDATION

THAT Council note the information.

ITEM-2 NOTICE OF MOTION - 31/10/11 - LITHGOW MERCURY MEDIA REPORT "ENTHUSIASM LACKING" - COUNCILLOR M F TICEHURST

REFERENCE

Listed by Councillor Martin Ticehurst

20 October 2011.

Lithgow Mercury media report on 18 October 2011 "Enthusiasm lacking".
<http://www.lithgowmercury.com.au/news/local/news/general/enthusiasm-lacking/2326481.aspx>

COMMENTARY

On the 18 October 2011, the Lithgow Mercury reported under the headline, "Enthusiasm lacking";

"IT'S sad to note that the Lithgow Business Association has had to abandon plans for the 2011 Business Awards.

Seems that only six businesses bothered to nominate in any of the categories (the Lithgow Mercury was one of the six) and with time running out to attract a representative entry list the LBA had no choice but to pull the plug.

A few years ago the annual business awards were one of the gala highlights of the year, glitzy affairs which fittingly acknowledged the achievers in the district's business community.

But they involved a lot of hard work by the organisers and a small number of people to do the work. This year's awards were to be on a more manageable scale but nonetheless important. Seems that not too many were prepared to sing their own praises and let the independent assessors in to have a say.

Hopefully this same level of disinterest will not be evident when the LBA shortly calls for support for its other all important business community annual venture, Celebrate Lithgow.

Sitting on one's hands and letting someone else do the hard yards never achieved anything."

RECOMMENDATION

THAT Council note the information.

ITEM-3 NOTICE OF MOTION - 31/10/11 - UPDATE ON BURIAL AT LITHGOW CEMETERY ON 20TH JULY 2011 - COUNCIL RESOLUTION 11-355 - COUNCILLOR M F TICEHURST

REFERENCE

Listed by Councillor Martin Ticehurst 20 October 2011.

Lithgow City Council Resolution 11 – 355 at the Ordinary Meeting of Lithgow City Council on 12 September 2011.

COMMENTARY

At the Ordinary Meeting of Lithgow City Council on 12 September 2011, the Council, as recorded in the Minutes, resolved:

11-355 RESOLVED

THAT the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with an updated report to the next Ordinary Meeting of the Council on the circumstances surrounding concerns with respect to a burial at the Lithgow Cemetery on 20 July 2011?

Q. Could the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with an updated report of Council resolution 11 -355 at this Council Meeting on the circumstances surrounding concerns with respect to a burial at the Lithgow Cemetery on 20 July 2011?

RECOMMENDATION

THAT the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with a updated report of Council resolution 11 -355 at this Council Meeting on the circumstances surrounding concerns with respect to a burial at the Lithgow Cemetery on 20 July 2011?

ITEM-4 NOTICE OF MOTION - 31/10/11 - SCRUTINY OF AUSTRALIAN BUSINESS NUMBERS (ABN's) PROVIDED BY CREDITORS TO THE LITHGOW CITY COUNCIL - COUNCILLOR M F TICEHURST

REFERENCE

Australian Government Websites of www.business.gov.au and www.ato.gov.au.

COMMENTARY

Q. Could the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with a report at the next Council Meeting on what action the Lithgow City Council takes where it's Creditors, including Consultants, etc. undertake work for the Council whilst providing a long cancelled Australian Business Number or ABN?

RECOMMENDATION

THAT the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with a report on what action the Lithgow City Council takes where it's Creditors, including Consultants, etc. undertake work for the Council whilst providing long-time cancelled Australian Business Number or ABN?

ITEM-5 NOTICE OF MOTION - 31/10/11 - SYDNEY MEDIA REPORT "POWER COMPANY SAYS RIVER POLLUTION TO STOP" - COUNCILLOR M F TICEHURST

REFERENCE

Listed by Councillor Martin Ticehurst

20 October 2011.

Sydney Morning Herald media report 18 October 2011, "Power Company says river pollution to stop."

<http://www.smh.com.au/environment/water-issues/power-company-says-river-pollution-to-stop-20111017-1ltdz.html>

COMMENTARY

On the 18 October 2011, the Sydney Morning Herald reported under the headline, "Power Company says river pollution to stop";

"A POWER company has admitted polluting a river that feeds Sydney's drinking water supply with toxic metals and has agreed to stop, as part of a settlement in an environmental court case.

Delta Electricity, the owner of Wallerawang power plant, admitted that it discharged a range of metals including boron, zinc, arsenic and aluminium into the Cox's River, near Lithgow, between May 2007 and August 2011, and has agreed to treat the waste water in future.

The Blue Mountains Conservation Society discovered the pollution in 2007 while undertaking Stream watch testing. Further investigation by University of Western Sydney researcher Ian Wright found dangerously high levels of metals, including copper and boron, in the river, which is a popular trout fishing and swimming spot.

The community group began legal action in 2009 and the matter was due to be heard in the Land and Environment Court in December this year. But a settlement was reached via mediation yesterday.

Under the terms of the settlement, Delta has admitted it polluted the river and will submit an application to the Environmental Protection Authority by October 25 to vary its licence to limit the amount of copper, zinc, aluminium, boron, fluoride, arsenic, salt and nickel it can discharge.

It will also apply for conditions in its licence which will require it to complete a program of works by the end of 2015, so that water is fully treated before it is discharged.

The conservation group's president, Tara Cameron, welcomed the result and said the outcome was a tribute to what volunteers could do. "Let's not forget that it's taken two years of litigation by an environmental group, not the EPA, to get to this point," she said.

She said the conclusion underscored the problems with allowing companies to self regulate and showed why it was necessary to strengthen the Environmental Protection Authority.

The state government recently announced it would boost the powers of the authority and overhaul environmental laws in the wake of the Orica chemical leak at Stockton in August.

Elaine Johnson, a solicitor with the Environmental Defenders Office, said the result also showed companies are not automatically authorised to emit a certain type of pollutant just because it is not specifically mentioned in their licence.

The power company's chief executive, Greg Everett, said the outcome reinforced the company's "commitment to sustainability and working with our stakeholders".

ATTACHMENTS

NIL

RECOMMENDATION

THAT Council note the information.

GENERAL MANAGERS REPORTS

ITEM-6 GM - 31/10/11 - LOCAL GOVERNMENT ELECTIONS

REFERENCE

NIL

SUMMARY

This report is to update Council on the position in relation to Local Government Elections. A further report will be required once clarification is provided by the Premier in relation to the issue.

COMMENTARY

Earlier this year the NSW Parliament passed the *Local Government Amendment (Elections) Act 2011*. The Amending Act related, in part, to the conduct of council elections.

The Act now provides that council elections and constitutional referendums and polls are to be administered by the general manager of the council concerned. However, a council may, within 12 months after an ordinary election of councillors for the area, resolve to enter into a contract or make arrangements with the Electoral Commissioner for the NSW Electoral Commission to administer all elections for the council (other than elections of mayors and deputy mayors by councillors). If such a contract is entered into or such arrangements made, the Electoral Commissioner is to administer all the elections, constitutional referendums and polls of the council until the conclusion of the following ordinary election for councillors.

The Act also now provides that a council need not invite tenders before entering into a contract with the Electoral Commissioner for the administration of the council's elections, constitutional referendums and polls.

For the purposes of the conduct of the September 2012 ordinary elections the Act currently provides that a council may resolve, before 30 November 2011 to retain the Electoral Commissioner to administer its elections.

At the time the Local Government and Shires Associations of NSW (LGSA) applauded the passing of the Bill.

The Associations however requested a deferral of the decision date by which councils must decide how they are running their elections from 30 November 2011 to 31 March 2012. It was felt that this deferment is essential to enable councils to go through the correct procurement processes and adequate decision making process.

Representatives of the Associations met with both the Premier O'Farrell and the Minister for Local Government, Don Page MP on 19 September 2011; however they are still awaiting an answer to the request to defer the date.

It will be necessary for a further report to come to Council in relation to this matter.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

The cost to Lithgow Council for the 2008 election was \$102,631

LEGAL IMPLICATIONS

Should Council fail to make a decision on this issue by the specified time then the conduct of the 2012 election will be automatically allocated to the general manager.

ATTACHMENTS

1. Circular 11-11 Conduct of Local Government Elections

RECOMMENDATION

THAT Council note the report on Local Government Elections.

ITEM-7 GM - 31/10/11 - REVIEW OF THE MODEL CODE OF CONDUCT

REFERENCE

NIL

SUMMARY

The Division of Local Government has released a position paper on the review of the Model Code of Conduct and is now calling submissions in relation to the Paper.

COMMENTARY

The original version of the Model Code came into effect on 1 January 2005 with a revised version operating from 27 June 2008.

The Division identified that over the three years in which the revised Model Code has been in operation a number of areas where the Model Code has not operated in the manner in which it was intended or where its operation could be improved.

The Division commenced the review process earlier this year with a discussion paper being issued in June 2011 outlining issues raised about the operation of the current version of the Model Code.

Lithgow City Council submitted one of 122 submissions made in relation to the review.

The Division has now released a position paper and is seeking the views on the general the general direction of the proposed changes. Once the broad direction of the proposed changes has been determined, the Division will be seeking stakeholders' further views on the technical detail that will underpin and give effect to the proposed changes. The Division will issue a draft of the revised Model Code and associated procedures and any ancillary proposals for the purposes of seeking comment on the technical detail of the proposed changes.

Some of the changes proposed by the Division include:

- A proposal to mandate the written disclosure of all offers of gifts and benefits regardless of their value and whether or not the gift or benefit was accepted or refused. Council officials will be required to disclose the following in writing; the nature of the gift or benefit; its estimated value; whether it was accepted or refused; if it was accepted why it was not refused; and if it was accepted, what was done with it (ie was it surrendered or kept)
- Provide greater guidance on how the code of conduct could be made to apply to volunteers and contractors
- Proposing to prescribe regional arrangements for the administration of complaints made under councils' codes of conduct. It is likely that these will be based on existing Regional Organisations of Councils (ROCS).
- A "regional panel coordinator" be appointed to ensure conduct reviewers meet the eligibility requirements for membership of the regional panel of conduct reviewers and to address issues of unsatisfactory performance by a conduct reviewer. A regional panel coordinator will be able to remove a conduct reviewer from a regional panel on grounds that they have failed to exercise their role in a satisfactory manner or that they no longer meet the eligibility requirements for membership of the panel.
- the general manager will be required to nominate a senior and suitably qualified member of staff of the council to serve as a "complaints coordinator"
- Councils will be required to nominate by resolution the general manager of another council in the regional group of councils or any allied regional group of councils to serve as the council's "complaints assessor" and one or more others as an alternate to that role.
- Increasing the suspension period available to the Director General from one to three 3 months
- A failure by a councillor to comply with a requirement under an order issued by the Director General under the section will constitute grounds for suspension from civic office by the Director General or referral to the Tribunal. To support this an amendment to section 440F is proposed to expand the definition of misbehaviour to include "a failure to comply with an order made by the Director General under this Division".

- Increasing the Tribunal's powers to impose sanctions in relation to misbehaviour matters to align it with the powers the Tribunal currently exercises in relation to pecuniary interest matters. This will, in effect, confer on the Tribunal additional power to disqualify a councillor from holding civic office for a period of up to 5 years for misbehaviour.

Submissions on the position paper will be received by the Division up to 5 December 2011.

A number of regional workshops are to be held in relation to the position paper. These will be held on:

- **Thursday, 10 November 2011 at 6pm:** Discovery Room, Novotel Sydney Brighton Beach, Cnr The Grand Parade and Princess Street, Brighton le Sands
- **Monday, 21 November 2011 at 6pm:** Tamworth Regional Council Chambers - Ray Walsh House, 4th Floor, 437 Peel Street, Tamworth
- **Tuesday, 22 November 2011 at 6pm:** Dubbo Civic Administration Building – Central Conference Room, Ground Floor, Church Street, Dubbo (entry from Darling Street)
- **Wednesday, 23 November 2011 at 6.30pm:** Wagga Wagga Civic Centre, Cnr Baylis and Morrow Street, Wagga Wagga.

Workshop numbers have been restricted to 40.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

This will necessitate a change to Council's Code of Conduct.

ATTACHMENTS

1. Circular 11-32 Review of the Model Code of Conduct for Local Councils - Request for Submissions on Position Paper
2. Review of the Model Code of Conduct for Local Councils in NSW – Position Paper

RECOMMENDATION

THAT Council authorise the Mayor, Deputy Mayor and General Manager to make a submission on the Position Paper in relation to the review of the Model Code of Conduct.

**ITEM-8 GM - 31/10/11 - CODE OF CONDUCT INVESTIGATION -
 COUNCILLOR MARTIN TICEHURST**

REFERENCE

NIL

SUMMARY

The purpose of this report is to provide Council with the findings of the investigation following a matter brought to the General Manager's attention under the Code of Conduct with respect to Cllr Martin Ticehurst.

COMMENTARY

A complaint dated 25 May 2011 was received stating (in part):

“I believe that a media release issued by Councillor Martin Ticehurst on the 3rd April 2011 through the Lithgow Ratepayers Association has brought discredit upon Lithgow City Council. This media release was published in the Lithgow Mercury on Tuesday 12th April 2011.

“In Councillor Ticehurst’s media release he states “... that internal polling and local door-knocking by both the Labor and National Parties highlighted serious issues of due diligence and corporate governance involving the Lithgow City Council.

“This is clearly a statement that is false and misleading and one that is intended to bring the Council into disrepute and encourage a lack of confidence in the Council amongst the community generally. It is also an act that is contrary to the Charter of Councils.

“It was no surprise however to see the following Saturday’s edition of the Mercury that there was a complete denial to the accusations by both the successful Nationals candidate Mr Paul Toole as well as a denial by Gerard Martin on behalf of the Labor candidate.

A copy of the media release attributed to Cr Ticehurst was attached to the complaint.

The complaint was assessed and referred to a sole conduct reviewer, Mr David Clarke.

Mr Clarke has since reviewed the matter and provided a report and indicates that he spoke with the candidates for the State Election who indicated that polling had not brought forth any such comments.

Contact had also been made with Cllr Ticehurst who raised issues either not relevant to his inquiry or beyond his powers under the Code. He states that Cllr Ticehurst did not address any of the substance of the complaint, nor has he received any correspondence from him since that date which addresses that matter.

Mr Clarke views the breaches in this matter as serious and considers that Cllr Ticehurst either made no effort to ensure that what he was circulating was correct or made a deliberate decision to circulate it knowing it to be wrong. Mr Clarke sees no mitigating circumstances in the material before him.

Mr Clarke considers that Councillor Ticehurst's conduct in issuing a press release containing allegations about the Council which were wrong and misleading to be inappropriate. It is not consistent with a councillor's obligations under the Code. Mr Clarke felt that the circulation of the press release was likely to bring the Council and its Councillors into disrepute, thus breaching clause 6.1. He did not exercise a reasonable degree of care and diligence in circulating the press release, and given that it was issued in the name of "Cr Martin Ticehurst" it must be regarded as having been released by him in the course of carrying out his functions as a Councillor under the Act. This breaches clause 6.2. He showed a complete lack of respect for the Council, his fellow Councillors and the two candidates for the seat of Bathurst in circulating the press release knowing, or not troubling to discover, that the allegations contained in it were untrue, thus breaching clause 6.3.

The Reviewer has found that there is a prima facie breach of the Code of Conduct and recommendations have been made.

Mr Clarke recommends that Council take the following action in relation to the breach:

- (a) Councillor Ticehurst be censured for misbehaviour.
- (b) Councillor Ticehurst be required to apologise in writing to Mr Toole and Mr Turner, the candidates for the seat of Bathurst at the March State elections, and to deliver a copy of his apology to the General Manager.
- (c) These findings be made public.

Council may now either:

- adopt the recommendation of the Sole Conduct Reviewer;
- amend the recommendation of the Sole Conduct Reviewer; or
- reject the recommendation of the Sole Conduct Reviewer.

The Sole Conduct Reviewer's report is shown as ATTACHMENT 1 for consideration by Council.

If a censure motion is passed by Council then the following additional clauses of the Code of Conduct become relevant:

Councillor misbehaviour

- 12.26 Under section 440G a council may by resolution at a meeting formally censure a councillor for misbehaviour.
- 12.27 Under section 440H, the process for the suspension of a councillor from civic office can be initiated by a request made by council to the Director General of the Department of Local Government.

- 12.28 The first ground on which a councillor may be suspended from civic office is where the councillor's behaviour has been disruptive over a period, involving more than one incident of misbehaviour during that period, and the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the councillor's suspension.
- 12.29 Council cannot request suspension on this ground unless during the period concerned the councillor has been:
- formally censured for incidents of misbehaviour on two or more occasions, or
 - expelled from a meeting of the council or a committee of the council for an incident of misbehaviour on at least one occasion.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

The cost for this Code of Conduct Review was \$2450

LEGAL IMPLICATIONS

The investigation has been conducted in accordance with the Local Government Act 1993 and the Council's Code of Conduct.

Should Council choose to censure Councillor Ticehurst then the provisions of 12.27-12.29 come into play and under Section 440H of the Local Government Act Council may request the Chief Executive of the Division of Local Government for his suspension. Such a resolution is to read:

That Council formally advise the Chief Executive Officer of the Division of Local Government that Council believes that, in accordance with Section 440H of the NSW Local Government Act 1993, grounds may exist that warrant the councillor's suspension and that Council requests that the process of the councillor being suspended be commenced.

ATTACHMENTS

1. Report by the Sole Conduct Reviewer.

RECOMMENDATION

THAT Council:

1. Adopt the finding and recommendations of the Sole Conduct Reviewer in relation to a Code of Conduct complaint against Councillor Martin Ticehurst that there is evidence of a prima facie breach of the Council's Code of Conduct by the Councillor and that:
 - (a) Councillor Ticehurst be censured for misbehaviour.
 - (b) Councillor Ticehurst be required to apologise in writing to Mr Toole and Mr Turner, the candidates for the seat of Bathurst at the March State elections, and to deliver a copy of his apology to the General Manager
 - (c) These findings be made public.

ITEM-9 GM - 31/10/11 - UPDATE ON BURIAL AT LITHGOW CEMETERY ON 20 JULY 2011

REFERENCE

NIL

SUMMARY

This report provides additional information in relation to Council resolution 11-355.

COMMENTARY

Council previously resolved that:

11-355 RESOLVED

THAT the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with an updated report to the next Ordinary Meeting of the Council on the circumstances surrounding concerns with respect to a burial at the Lithgow Cemetery on 20 July 2011.

During the debate on the matter it was emphasised that the issue was more in relation to a failure by Council to respond to a letter from the family than the circumstances of the burial itself. Councillor Ticehurst orally advised that he had received a letter from the family expressing dissatisfaction with no response from Council.

Since the matter has been brought to the attention of staff phone calls and letters have been sent to family members apologising for the inability of Council to provide a second internment at the location requested by Family. Correspondence has also been sent offering Council's sympathies and apologising for what had occurred. As extremely regrettable the situation was there was little choice but to make alternative arrangements. These arrangements were made through the undertaker to the family. No conclusive reason can be found for what happened though it is believed that the likely cause was some subsidence of the grave during the first internment in the early 1990's.

Following the Council meeting (12 September 2011) the following has occurred in relation to correspondence:

- 13 September 2011 – Following the Notice of Motion being considered at Council a search of Council records was carried out for any correspondence in relation to the issue. No correspondence was found in Council's systems.
- 13 September 2011 – phone contact was made with a family member by a senior Council officer and an apology offered. The family member indicated that they believed that a letter may have been sent. A request was made to provide a copy of the letter sent to Council
- 27 September 2011 – email sent to Clr Ticehurst requesting a copy of the letter sent to him concerning the issue
- 9 October 2011 – email sent to Clr Ticehurst requesting a copy of the email sent to him
- 16 October 2011 am – email sent to Clr Ticehurst requesting a copy of the email sent to him

- 16 October 2011 pm – email received from a member of the family providing copies of two letters sent to Council (each councillor has since received a copy of this email)
- 17 October 2011 – family member phoned and an apology offered. It was indicated that they believed that a previous letter had been emailed.
- 17 October 2011 – a further check of Council's systems has been undertaken to see if any correspondence had been received. No correspondence was found. A check was also done of Council's email systems.
- 19 October 2011 – a check was done of Council's auto reply to email correspondence. The system was found to be working. A check was then done to see if other emails had been received by the email server from the correspondents email address on 16th October 2011. No other emails had been received from that address apart from the recent enquiry.

Note: Councillor Ticehurst has not responded to any of the requests to provide a copy of the letter provided to him.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

NIL

RECOMMENDATION

THAT Council note the report on the update of the burial at Lithgow Cemetery on 20 July 2011.

ITEM-10 GM - 31/10/11 - NSW GOVERNMENT - IMPROVEMENTS TO SPEED ZONING

REFERENCE

NIL

SUMMARY

This report outlines correspondence received from the NSW Government, Transport Roads and Traffic Authority in relation to improvements to speed zoning in NSW.

COMMENTARY

Lithgow City Council has received correspondence from the NSW Government in relation to its 100 Day Action Plan to make improvements to speed zoning in NSW.

The audit of speed zones is about getting the balance right between ensuring Council have the right speed limits for the road conditions and not having an excessive number of speed changes.

Lithgow City Council was advised that the Audit has delivered a number of key changes to speed zoning policy and practice in NSW that will be delivered in the coming months:

- **Safer Roads NSW Website**
The Safer Roads website was launched on 19th July 2011. This website allows motorists to nominate the roads where they feel speed limits and signs need to be changed without putting safety at risk. This website allows the public to subscribe to an email alert service, advising them of any changes to speed limits in the area.
- **NSW Speed Zone Review of 12 Routes**
The RTA has completed the review of 12 routes across NSW which were announced by the Minister for roads and ports on 21st August 2011. This review reduced the number of speed zone changes on a number of routes while balancing mobility and safety.
- **Top 100 Roads, a Government Priority**
The Minister for Roads and Ports has called on the community to have their say through the Safer Roads NSW website. This website will collect information from the community which along with crash data will help the RTA prioritise speed zones for review.
- **NSW Speed Zoning Guidelines**
The RTA has undertaken a review of the NSW Speed Zoning Guidelines to improve speed zoning policy and practices. The key changes to the guidelines include a route based approach to speed zoning, policy for the speed zoning of at-risk locations, a review and restricted use of 70km/h and 90km/h speed limits and a review of 50km/h General urban Speed Limits in accordance with new guidelines.

Lithgow City Council was advised that a key aspect of the new policy is to improve engagement with our key stakeholders and the community. The revised Guidelines will provide an opportunity for councils to participate in the review of speed zones in their local area as outlined below:

- Council will be notified when a speed zone review is being conducted in their area and will be provided with a copy of the crash analysis report.
- A Council representative(s) will be invited to attend a site inspection with the RTA speed zoning practitioner responsible for undertaking the review.
- Council will be advised on the outcome of the speed zone review.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

NIL

RECOMMENDATION

THAT Council note the report on the NSW Government - Improvements to Speed Zones.

ENVIRONMENT AND DEVELOPMENT REPORTS

ITEM-11 ENVIRO - 31/10/11 - LEGAL ACCESS ISSUES - CLARENCE

REPORT BY: ANDREW MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Min No 11-309 – Ordinary Meeting of 1 August 2011

Min No 11-366 – Ordinary Meeting of 12 September 2011

SUMMARY

To provide Council with an update of the legal access issues at Clarence in the vicinity of Zig Zag Railway.

COMMENTARY

Council will recall this issue, whereby certain landowners in the Clarence area do not currently enjoy legal access to their properties. A plan attached indicates the affected properties and what has become the favoured option of stakeholders whereby a section of the existing road known as Newnes Forest Road would be converted to a public road. A meeting was held with various stakeholders and a favoured option was put forward, involving the dedication of an existing access road which currently goes past the Zig Zag Railway through a Council owned strip of land and subsequently onto Crown Land. Whilst not a public road, this road is known as Newnes Forest Road. If this option was pursued then other issues could also be addressed by Council and Zig Zag Railway swapping land so that a proper legal access joins the Chifley Road. It should also be noted that this would require the construction of an upgraded intersection to current modern day standards. At its Ordinary Meeting of 1 August 2011, Council resolved the following in relation to this matter:

11-309 RESOLVED

THAT Council:

1. Note the report on legal access issues and the meeting held in relation to the matter on 7 July 2011;
2. Approach the Member for Bathurst, Mr Paul Toole MP requesting that he investigate what possible funding sources may exist to resolve this problem;
3. Formally seek a response from the NSW Department of Lands as to whether they may be able to assist in funding a solution to this matter;
4. Formally seek a response from State Forests to ascertain if they would be willing to fund ongoing maintenance of a public road should one be created over the existing road;
5. Make enquiries to the Rail Safety Regulator to determine the standards and requirements for a level crossing that Council would be required to provide should it accept dedication of a public road over the existing rail crossing;
6. An assessment and report of the costs for the survey, dedication and ongoing maintenance of a public road be investigated prior to Council making a final decision in relation to this matter; and

7. Advise Mr Jeff Turner, property owner in the area, that it has no objection to him obtaining a Right of Carriageway over Council land adjacent to the Clarence/Dargan Bushfire Brigade Shed on the basis that the survey and dedication be entirely at his own cost; the position of the Right of Carriageway be undertaken in consultation with the Clarence/Dargan Bushfire Brigade to ensure that it does not interfere with their operations; approval is obtained from Zig Zag Railway so that the Right of Carriageway traverses through their property onto Mr Turner's property; and all legal and construction costs to be bourn by Mr Turner.

SUPPLEMENTARY MOTION

11-310 RESOLVED

THAT Council:

1. Take steps to change the title of land owned by Lithgow City Council from freehold to Public land;
2. Negotiate with Zig Zag for land swap to give Lithgow City Council access to RTA connection; and
3. Include in next budget funds for sealing a section from RTA to Zig Zag car park and legal costs for creating a legal road.

Subsequently, at Council's Ordinary Meeting of 12 September 2011, the following was additionally resolved:

11-366 RESOLVED

THAT:

1. The information on the Land & Property Management Authority's response to legal access issues in Clarence be noted; and
2. A report be provided to Council in relation to:
 - a. the offer of survey work by a graduate surveyor from Land and Property Information Bathurst when available; and
 - b. proceeding with the acquisition of land through portion 168 DP821851 on the southern boundary of an area of approx 1ha

In relation to Council resolution 11-309, the following actions/responses are now to hand:

2. Approach the Member for Bathurst, Mr Paul Toole MP requesting that he investigate what possible funding sources may exist to resolve this problem;

Correspondence was provided to Mr Paul Toole's office on 16 August 2011. Mr Toole wrote back to Council and requested that further information be provided to him when Council received advice from the NSW Department of Lands as to whether they may be able to assist in funding a solution to this matter; a response from State Forests was received to ascertain if they would be willing to fund ongoing maintenance of a public road; and an assessment and report of the costs for the survey dedication and ongoing maintenance of a public road was undertaken.

3. Formally seek a response from the NSW Department of Lands as to whether they may be able to assist in funding a solution to this matter;

As Council would be aware from a report to its Ordinary Meeting of 12 September 2011, a response has been received from the NSW Department of Lands indicating that the Crown Lands Division is not in a position to provide any formal funding support as was previously provided in another matter, where the Crown assisted with survey costs for the provision of legal access at Williwa Creek Road. The LPMA indicated that the Williwa Creek Road situation was a unique set of circumstances involving a Trust appointed to manage a Common and an opportunity to engage a graduate surveyor who was looking for work through Land & Property Information, Bathurst. The LPMA also advised that whilst they are not in a position to offer any form of funding support with regard to legal access, if a further opportunity was to arise regarding survey work for a graduate surveyor, they would keep this in mind for the Clarence situation. The LPMA further advised that in terms of the possible road opening within the reserve area that this would need to occur via an acquisition process, subject to just terms compensation.

4. Formally seek a response from State Forests to ascertain if they would be willing to fund ongoing maintenance of a public road should one be created over the existing road;

Correspondence was received from Forests NSW on 12 September 2011 who advised that it has contributed to the maintenance of non State Forest sections of the road in the past. They suggest Council seek funding from the NSW & Federal Government through their road grant allocation mechanisms.

5. Make enquiries to the Rail Safety Regulator to determine the standards and requirements for a level crossing that Council would be required to provide should it accept dedication of a public road over the existing rail crossing;

An Officer from Independent Transport Safety Regulator met with Council Officers and representatives of Zig Zag Railway on 21 September 2011 to discuss requirements for a level crossing. The Independent Safety Transport Regulator replied on 10 October 2011 following this meeting, providing advice on the requirements for signage on approaches to the crossing. The signage required appears to be standard and should not represent a significant cost, indeed it appears that Zig Zag Railway would be required to provide most of the signage.

6. An assessment and report of the costs for the survey, dedication and ongoing maintenance of a public road be investigated prior to Council making a final decision in relation to this matter; and

Preliminary investigations have been carried out to try and ascertain the costs that would need to be borne by Council should it wish to proceed with the option to dedicate a new public road over what is essentially the current Newnes Forest Road. Enquires have been made and an attempt has been made to estimate the costs involved in the acquisition of lands, land swap with Zig Zag, survey costs, legal costs etc. These estimated costs are reflected in the following table:

Newnes Forest Road Estimated Costs	
Survey	\$10,000
Legals	\$7,500
Valuations	\$1,500
Signage	\$1,500
Furnishings e.g. Guideposts	\$1,000
Drainage	\$20,000
Intersection with Chifley Road (Hotmix)	\$75,000
Total	\$116,500
Other Costs	
Acquisition of Road through Crown Land	Unable to be determined
Maintenance Grades (2-3 times per year)	\$5,000 each grade
Resheet Road (every 10 years)	\$50,000

7. Advise Mr Jeff Turner, property owner in the area, that it has no objection to him obtaining a Right of Carriageway over Council land adjacent to the Clarence/Dargan Bushfire Brigade Shed on the basis that the survey and dedication be entirely at his own cost; the position of the Right of Carriageway be undertaken in consultation with the Clarence/Dargan Bushfire Brigade to ensure that it does not interfere with their operations; approval is obtained from Zig Zag Railway so that the Right of Carriageway traverses through their property onto Mr Turner's property; and all legal and construction costs to be bourn by Mr Turner.

Correspondence has been provided to Mr Turner on 8 August 2011, indicating Council's resolution and providing him with the option of making his own survey and legal arrangements to enable registration of a right of carriageway or whether he would wish Council to undertake this at his cost. He was also invited to provide details of Zig Zag Railway's agreement as the right of carriageway would have to traverse their land. In this regard, Zig Zag Railway has been approached by Council Officers and it is understood they will consider the matter at their next Board Meeting. Council will also recall representations from other landowners in the area indicating they had corresponded with the RTA in 2004 seeking the same arrangement as Mr Turner. The RTA has now written to Council advising that it will not make any further comment until Council has 'completed its investigations'. In this regard, there are no investigations to be carried out in respect of the allowance of a Right of Way that will alleviate problems for one of the property owners whilst a longer term solution is finalised. Council has made its resolution in regard to Mr Turner's access. However, it could choose to allow Right of Way to Mr & Mrs DeBeuzeville on the same terms and conditions providing the RTA concurred.

Supplementary Motions

1. Take steps to change the title of land owned by Lithgow City Council from freehold to Public land;

As this will incur legal costs for which Council currently does not currently have a budget, it is suggested that any action should not proceed until Council has allocated a budget to this matter.

2. Negotiate with Zig Zag for land swap to give Lithgow City Council access to RTA connection; and

Council Officers did meet with representatives of Zig Zag Railway on 21 September 2011 who has indicated that there are no issues in relation to this matter. Once again, however, as there is no dedicated budget, it is suggested that action can only commence when a budget is provided to undertake this land swap.

3. Include in next budget funds for sealing a section from RTA to Zig Zag car park and legal costs for creating a legal road.

It will be suggested in the recommendation to this report that this matter proceed should Council vote budget funds for the 2012/13 financial year.

As Council is clearly aware, this is a very complicated matter that will require a significant allocation of funds to finally resolve. In this regard, having regard to the correspondence from Mr Paul Toole on 22 August 2011, it is suggested that Council concentrate on initially seeking his assistance with regard to land acquisition costs through Crown Land, a possible contribution from the Crown to offset survey costs, and, a commitment from State Forests to make a contribution towards maintenance of the road should Council take this over as a public road and State Forests intends to undertake further logging in the area.

POLICY IMPLICATIONS

Should Council proceed to acquire land from Zig Zag Railway, and dispose of land to Zig Zag Railway through a land swap arrangement then Policy 1.2 Acquisition will apply, as will Policy 1.3 Asset Disposal.

FINANCIAL IMPLICATIONS

As indicated within the body of the report, there would be significant financial implications should Council proceed with the option to formalise Newnes Forest Road.

LEGAL IMPLICATIONS

Several legal implications, both private and public may possibly present themselves as a result of this issue. Firstly, in relation to private legal implications, it will be necessary, for a formal right of carriageway to be created over the land that Council owns which is occupied by the Clarence Bushfire Shed. Public legal implications relate to the Crown Lands Act, Land Acquisition (Just Terms Compensation Act), and Roads Act in relation to access onto Chifley Road.

ATTACHMENTS

1. Letter from Paul Toole, dated 18 August 2011
2. Letter from Crown Lands, dated 8 August 2011
3. Letter from State Forests, dated 6 September 2011
4. Letter from RTA, dated 19 September 2011
5. Letter from Independent Transport Safety Regulator, dated 10 October 2011

RECOMMENDATION

THAT:

1. The information on progress with legal access issues in the Clarence area be noted
2. Further representations be made to Mr Paul Toole MP in relation to the matter, requesting that he make representations specifically on the following points:
 - The Crown forgoing any compensation for the acquisition of Crown Land required to formalise Newnes Forest Road
 - Representations to the Land & Property Management Authority requesting that they reconsider making a contribution towards the survey costs
 - Representations be made to State Forests requesting they make a contribution to maintenance of the road, if acquired by Council, should logging operations be planned in the area
3. Council consider allocating funds in the Draft 2012/13 Budget in the amount of \$130,000 to resolve the matter, however this only proceed should agreement be reached with the Crown that it waives its right to compensation for the acquisition of Crown Land
4. Council indicate to Mr & Mrs De Beuzeville that it has no objection to them becoming a party to a Right of Way across the Clarence Bushfire Brigade Land under the same terms and conditions afforded to Mr Turner providing the RTA has no objection should the RTA object then Council reaffirm its resolution allowing a Right of Way for Mr Turner only

**ITEM-12 ENVIRO - 31/10/11 - ANGUS PLACE COLLIERY MODIFICATION -
NOTICE OF DETERMINATION, WOLGAN ROAD, LIDSDALE NSW
2790**

**REPORT BY: ANDREW MUIR – GROUP MANAGER ENVIRONMENT AND
DEVELOPMENT**

SUMMARY

The purpose of this report is to inform Council of the Department of Planning's determination of modification to the Angus Place Colliery approval.

COMMENTARY

Angus Place Colliery currently comprises an underground mine and a range of surface infrastructure.

The Modification to the Angus Place Coal owned by Centennial Coal includes:

- the development of two additional underground longwall panels, north of longwall panel 900 and west of the 900 district main headings;
- increasing the annual extraction rate from 3.5 million tonnes per annum (Mtpa) to 4 Mtpa;
- development of an additional dewatering borehole at the eastern end of longwall panel 910;
- augmentation of existing road, power and water management infrastructure; and
- extension of the project approval for two years until 2014.

The above modification application was referred to the Planning Assessment Commission for determination under Ministerial delegation of 28 May 2011.

Part of the proposed longwalls is outside the proponent's mining lease area. However, sublease has been obtained to enable extraction of the resource. The modification will not require any changes to coal transport or hours of operation.

Following the exhibition of the modification application with the Department of Planning, the proposal has been amended to remove the proposed dewatering borehole and associated infrastructure at the eastern end of LW910. This amendment was to address issues raised in agencies and public submissions concerning native vegetation clearing, risk of bushfire initiation and increased discharges to the Wolgan/Colo Rivers Catchment. Accordingly, the final proposal increases the approved mine water discharge rate from 3.23 to 7.08 megalitres per day to the Kangaroo Creek/Coxs River Catchment.

The proposed modification received a total of 8 submissions, 5 from public authorities and 3 from special interest groups. The Department identified the key issues were:

- Subsidence-induced impacts; and
- Potential surface water and groundwater impacts.

Other issues raised in submissions included:

- Increase in annual coal production;
- Biodiversity;
- Rehabilitation and monitoring management;
- Traffic;
- Noise;
- Air quality;
- Greenhouse gas emission;
- Aboriginal and European heritage; and
- Socio-economic and community.

The approval documentation and conditions is attached and was determined on 29 August 2011.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

As part of the process Centennial Coal entered into a Voluntary Planning Agreement with Council and will provide \$68,000 for community projects in the Lidsdale area.

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Angus Place Project Approval

RECOMMENDATION

THAT Council note the report on the Department of Planning's approval of the modification application for Angus Place Colliery.

**ITEM-13 ENVIRO - 31/10/11 - POSSIBLE PROHIBITION OF SMOKING IN
PUBLIC AREAS ADJACENT TO COUNCIL BUILDINGS**

**REPORT BY: ANDREW MUIR – GROUP MANAGER ENVIRONMENT AND
DEVELOPMENT**

REFERENCE

Nil

SUMMARY

To advise Council on the options for the possible prohibition of smoking in public areas adjacent to Council buildings.

COMMENTARY

Following representations from a member of the public in relation to possible prohibition of smoking at the bus stop adjacent to the Lithgow Library Learning Centre, a wider investigation has been undertaken looking at what options may be available to Council to limit smoking adjacent to and near entries to public buildings owned by Council. A number of councils have implemented smoking bans in public places. For example, North Sydney Council has a policy prohibiting smoking in the vicinity of children's playgrounds and equipment, sports grounds and recreational facilities, outdoor dining facilities, enclosed bus shelters and taxi ranks.

To provide Council with an overview of legislative and policy provisions, the following summary is provided:

- Council Policy 10.3 – Smoke Free Environment already provides that smoking is not permitted in or within 3 metres of any buildings/premises either owned and/or controlled by Council, nor in Council plant, machinery or motor vehicles. Whilst the Policy does indicate a restriction within 3 metres of a Council building or premises, it is only practicably enforceable as it relates to Council staff.
- Council's Occupational Health & Safety System provides a Standard Operating Procedure which prohibits smoking within 3 metres of any designated areas, Council trucks, vans and/or motor vehicles, Council buildings and/or Council worksites. Once again, this internal system is more practical to enforce as it relates to Council staff rather than members of the public.
- The Smoke-Free Environment Act 2000 provides for smoke free areas in public places including theatres, cinemas, libraries and galleries but a smoke free area only applies to any enclosed public space.
- Under the Local Government Act 1993 (s.632(1)(2)(e)), Council has the power to erect suitably worded notices in 'public places' (such places including but not limited to public reserves, crown reserves, public bathing reserves, public baths, public swimming pools, public parks, public roads and public land) prohibiting smoking.
- Any authorised person, usually a Ranger may serve a penalty notice (penalty \$110) upon any person who fails to comply with the terms of any such notice, c.679 of the Act.

- Any authorised person can also demand the name and address of any person reasonably expected of failing to comply.

In summary, it would appear feasible to prohibit smoking in public places, such as bus stops or other lands not being Council buildings, providing the appropriate signage is erected in accordance with the requirements of the Local Government Act. Of course patrolling and enforcement would be an issue, as it could not be guaranteed that Council Rangers undertake specific patrols on a regular basis.

The issue has not been widely canvassed through submissions so it is not clear if there is great community support to limit smoking in public areas. Therefore, there is no evidence at this stage to suggest this is a significant issue for the local community. However, having said that, Council may choose to take the lead on what could be considered to be a significant issue of public health.

Under the current circumstances, it is not considered necessary at this stage to try and prohibit smoking in all public areas by the provision of signage and patrols by Council Rangers.

POLICY IMPLICATIONS

Currently Council Policy 10.3 – Smoke Free Environment applies.

FINANCIAL IMPLICATIONS

Minimal at this stage, although some minor costs may be associated with erecting signage.

LEGAL IMPLICATIONS

Primarily the subject of this report.

ATTACHMENTS

Nil

RECOMMENDATION

THAT Council not move towards the prohibition of smoking in all public places adjacent to public buildings at this stage

ITEM-14 ENVIRO - 31/10/11 - DRAFT WASTE AND RECYCLING STRATEGY

REPORT BY: ANDREW MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Min No 10-519 – Ordinary Meeting of 13 December 2010
Min No 11-137 – Ordinary Meeting of 18 April 2011
Min No 11-271 – Ordinary Meeting of 11 July 2011
Min No 11-364 – Ordinary Meeting of 12 September 2011
Min No 11-395 – Ordinary Meeting of 10 October 2011

SUMMARY

To advise Council on the results of the public exhibition of the Draft Waste & Recycling Strategy and recommend that the Strategy be adopted, subject to changes as a result of the public exhibition process.

COMMENTARY

As Council would be aware, it resolved on 11 July 2011 to place a Draft Waste & Recycling Strategy on public exhibition for a period of 40 days and also conduct an extensive information campaign. This period was subsequently extended to 30 September 2011 following feedback from community groups that had been notified of the Draft Strategy.

The information campaign consisted of two press releases, radio and television interviews, information on Council's website, advertisements in Council's Weekly Column and providing copies of the Strategy and compact discs to a number of local community associations and groups. As a result of the exhibition period, a total of 15 submissions were received from one government authority, a number of community groups and private individuals. A summary of the submissions received is as follows with comments and suggested actions shown in italics:

Public Authorities & Community Groups

Lithgow Tidy Towns

- Generally supports recycling through kerbside collection of waste, greenwaste and recycling through mobile bins, not open crates
- Holds the view that Lithgow people should take their waste to a disposal and recycling centre in Lithgow with final rubbish transferred to Blackmans Flat
- There should be a sales area in Lithgow
- Concerned illegal dumping will increase when people have to drive to Blackmans Flat
- A full recycling and disposal centre in Lithgow will lessen illegal dumping and increase recycling

Comments/Suggested Actions from Submission

The comment in support of utilising mobile bins rather than open crates as recommended in the Draft Strategy is useful from a group such as Lithgow Tidy Towns. Other comments in relation to Blackmans Flat and transfer stations are not as relevant, given that the life of the Strategy expires before the commencement of the construction of the Blackmans Flat Solid Waste Facility.

Lithgow Environment Group Inc

- Congratulates Council on its initiative
- Supports most of the proposed actions in Table 9
- In particular, supports the closure of current unattended rural landfills
- Expresses concern about the development of the Blackmans Flat facility, given the potential life of the Lithgow Solid Waste Facility, i.e. potential environmental impacts of the Blackmans Flat facility
- Believes that Best Practice could be developed at the Lithgow Solid Waste Facility which questions the need to develop the Blackmans Flat facility
- Encourages close consultation with large industries
- Supports the continuation of the employment of a Sustainability Officer
- Highlights the need for 'special communications' in relation to the closure of landfill sites at Capertee, Cullen Bullen and Glen Davis

Comments/Suggested Actions from Submission

It is gratifying to receive positive comments from local environmental groups in relation to Council's initiative and acknowledgement of the importance of the closure of unattended rural landfills. The groups' comments on Blackmans Flat in relation to possible environmental impacts have already been assessed as part of the Environmental Impact Statement and Development Consent for that facility and are not issues that can be taken into consideration for the Waste Strategy itself. The comment regarding supporting the continued employment of the Sustainability Officer was not a matter raised in the Draft Strategy and as such is not specifically applicable. The comments in relation to the special communications required in relation to the closure of landfill sites at Capertee, Cullen Bullen and Glen Davis is noted and agreed with. It will be recommended that a specific action from the Draft Strategy relate to the implementation of a Communication Strategy when the closure of such a facility is impending with an appropriate time lag.

NetWaste

- NetWaste's submission related to Section 4.1 of the Draft Strategy and some suggestions were made to improve its accuracy

Comments/Suggested Actions from Submission

The wording of Section 4.1 will be amended accordingly.

Capertee Valley Alliance Inc

- Indicates that there is an opportunity for both village and rural areas to further develop thus arguing for waste facilities in rural areas rather than a centralised system

- Contends that there has been an apparent lack of concern and respect for those residents who live in the northern end of the shire and that this area requires special communication including individual mail outs to all residents
- Applauds comparatively low waste charges in rural areas
- Urges Council to further develop the Lithgow Solid Waste Facility but agrees that the development consent for Blackmans Flat should not be allowed to lapse
- Agrees with set up of initial waste transfer station with recycling options at Blackmans Flat
- Agrees that closure of rural landfills will cause community concern and that further community engagement will be necessary
- No reason given for the dates for closure of Cullen Bullen and Capertee rural landfills
- Concern for indiscriminate dumping on closure of rural landfills
- Contends that for the villages of Capertee and Glen Davis, that it is necessary to continue with the provision of landfills rather than transfer stations, given their isolation and use
- Indicates that the residents of Glen Alice and Glen Davis don't have a kerbside collection service so they must make many trips to the nearest tip
- Concerned as to illegal dumping in the Capertee Valley and nearby national park which will be exacerbated with the closure of Glen Davis and Capertee tips
- Believes that transfer stations need to be developed prior to closure of landfills
- Urges Council to consider all links in the waste chain, particularly where it is impractical to physically 'man' either a landfill or transfer station. An alternative could be to consider locking the landfill or waste transfer station at night
- Concerned that charges at landfills will encourage indiscriminate dumping of asbestos
- No evidence of a cost benefit analysis to consider various options
- Urges exhibition period be extended (*this was undertaken*)
- Rural residents be provided with an Executive Summary of the Waste & Recycling Strategy
- That before any decision is taken to close any rural tip that a cost benefit analysis be undertaken for all possible options, including recycling at existing landfill areas
- That use of the Lithgow SWF be considered for the full 34 years life left in it
- The DA for Blackmans Flat landfill be extended by the establishment of a waste transfer station with recycling facilities
- A public education program should be implemented, pointing out the benefits of Council's chosen option when it is adopted
- No closure of Glen Davis or Capertee landfills because of distance to travel to other landfills or transfer stations
- Provision is made for dumping of large items and hazardous drums etc at a stipulated time and place in the rural stations if a waste transfer station is the preferred option.
- Cost of dumping of asbestos at Lithgow SWF is reviewed so as to encourage the proper disposal of this hazardous material

Comments/Suggested Actions from Submission

The comment about the apparent lack of concern and respect for residents who live in the northern end of the 'shire' and need for special communication including individual mail outs is noted, however, the reason for individually notifying community associations and groups was to target the peak bodies for those areas, that they may represent the views of the citizens of those areas and if necessary, seek further community views.

The comment about ensuring the development consent for Blackmans Flat should not lapse is agreed with and specific works have already been undertaken at the facility to ensure that the consent will not lapse.

The comment regarding community engagement for the closure of rural landfills is noted and agreed with.

The comment in relation to no reason given for the dates for the closure of Cullen Bullen and Capertee landfills is noted, however it is considered that the draft Strategy explain that they would have reached their capacity. This is in addition to the wishes of the Office of Environment and Heritage that unmanned rural landfills should be phased out.

The contention that the villages of Capertee and Glen Davis require the continuation of landfills rather than transfer stations is unrealistic. The implications of planning for the extension and/or creation of new landfills in rural areas requiring full environmental impact assessment preparation and processes is significant. Even if Development Consent could be obtained, the potential difficulties in obtaining an Environment Protection Licence from the OEH should not be underestimated as it is the concerns raised by OEH that is a significant contributor to the necessity for their closure in the first instance. The provision of rural transfer stations, however, is a realistic option that provides a reasonable service to the community.

The comment regarding the residents of Glen Alice and Glen Davis not having access to a kerbside collection system is noted. This could certainly be explored as part of a tender process by inclusion of an option so this could be costed.

The comment that transfer stations need to be developed before the closure of landfills is noted and generally agreed with, however, due to the limited area available at Angus Place this has simply not been possible, so in such a circumstance, some type of interim measure agreed with.

The comments in relation to the impracticability to physically man either a landfill or transfer station and the consideration of locking the landfill or transfer station at night is agreed with. This is already undertaken at several existing landfills. Hampton Transfer Station utilises an arrangement whereby keys are provided to residents for a nominal deposit fee so that they may be given a new key should they lose their initial key. This limits indiscriminate dumping by residents who do not reside in the locality.

*The comment in relation to a cost benefit analysis is noted, however, as the rural landfills **must** close, there is no other option to weigh the costs and benefits against. Consequently undertaking a cost benefit analysis would be pointless.*

The comment in relation to providing a copy of the Executive Summary of the Waste & Recycling Strategy to all rural residents is not supported. As previously stated, the purpose of specifically involving community groups and associations was so that they could represent the wishes of their local communities and if necessary, further seek comments specific to their areas.

The comment in relation to a public education program pointing out the benefits of Council's chosen option is not supported. What Council should be undertaking is a program to properly communicate the service or facility that is chosen and how it will operate.

The comment in relation to the dumping of large items and hazardous drums at rural transfer stations is noted. What will be proposed as part of any new or upgraded transfer station is the provision of security cameras and signage so as to deter illegal dumping. It will also be proposed that any new or upgraded transfer station be subject to a key arrangement which is only provided to residents in the locality and it be further stipulated that transfer stations are for domestic waste and recycling only. It will be further recommended that an annual clean up of bulky items be implemented whereby rural residents can take bulky items to the transfer stations on an annual basis, similar to bulk clean ups undertaken in town and village areas.

Office of Environment & Heritage

- OEH supports the development of the Draft Strategy where real/beneficial environmental outcomes will be achieved
- The draft Strategy contains a number of document inconsistencies e.g. superseded legislation/regulation/guidance material
- Waste hierarchy i.e. identifying the types of waste and the quantities of these wastes generated and recommends that Council consider undertaking a waste audit to assist in developing the Draft Strategy
- Supports regional collaboration and recommends that Council fully utilise, if not already doing so, the opportunities and resources provided by NetWaste
- OEH has undertaken numerous studies into what constitutes an effective kerbside collection of municipal waste system
- Data indicates that a three bin system is most effective. However, in regional and rural areas, many Local Governments do not operate a three bin system due to a number of constraints and many of these Local Governments have now moved to a two bin system which has been highly successful
- Recommends that the current kerbside collection of municipal waste be reviewed and that Council move towards the following kerbside collection of municipal waste system: 1 municipal waste bin, 1 co-mingled recycling bin, targeted organic waste disposal days/pick ups and targeted bulky waste disposal days/pick ups
- Recommends that the Draft Strategy pay particular attention to the imposition of a levy for waste from the Sydney Metro Area & Regional Regulation Area
- Supports the development of a best practice transfer station between the activation of the Development Approval/Consent and when the Blackmans Flat Waste Management Facility commences operation as a waste disposal facility

- Believes that Council should look to make a firm decision as to the future of the Lithgow Solid Waste Facility and have this decision included in the Draft Strategy
- Portland Garbage Depot and other unlicensed landfills – keen to see action progressed for the closure of rural landfills

Comments/Suggested Actions from Submission

The comment from the Office of Environment & Heritage in relation to document inconsistencies e.g. superseded legislation is noted and the final document will be updated accordingly and provided to OEH to ensure that it is up to date. The comments in relation to the recommended kerbside waste and recycling system are noted and it is intended that this be reflected in the final document. It will be further recommended that Council consider tendering for more than one option to be able to compare costs. The comment in relation to the imposition of a levy from the Sydney Metro and Regional Regulated Area is noted. It will be recommended that Council, as a matter of Policy does not allow any waste generated from outside the Lithgow Local Government Area to be accepted at any of its landfills or transfer stations.

Private Submissions

Private Submission No 1 – Resident of Round Swamp

- Sorry that Council has decided to put out such a negative document and not put forward positives or opportunities
- Contends there is opportunities for both village and rural areas to develop and population to increase thereby requiring waste facilities in rural areas instead of a centralised system
- Contends that there has been an apparent lack of concern and respect for those residents who live in the northern end of the shire and that this area requires special communication including individual mail outs to all residents
- Applauds comparatively low waste charges in rural areas
- Urges Council to further develop the Lithgow Solid Waste Facility but agrees that the development consent for Blackmans Flat should not be allowed to lapse
- Agrees with set up of initial waste transfer station with recycling options at Blackmans Flat
- Agrees that closure of rural landfills will cause community concern and that further community engagement will be necessary
- No reason given for the dates for closure of Cullen Bullen and Capertee rural landfills
- Concern for indiscriminate dumping on closure of rural landfills
- Contends that for the villages of Capertee and Glen Davis, that it is necessary to continue with the provision of landfills rather than transfer stations, given their isolation and use
- Indicates that the residents of Glen Alice and Glen Davis don't have a kerbside collection service so they must make many trips to the nearest tip
- Concerned as to illegal dumping in the Capertee Valley and nearby national park which will be exacerbated with the closure of Glen Davis and Capertee tips
- Believes that transfer stations need to be developed prior to closure of landfills
- Urges Council to consider all links in the waste chain, particularly where it is impractical to physically 'man' either a landfill or transfer station. An alternative could be to consider locking the landfill or waste transfer station at night

- Concerned that charges at landfills will encourage indiscriminate dumping of asbestos
- No evidence of a cost benefit analysis to consider various options
- Urges exhibition period be extended (*this was undertaken*)
- Rural residents be provided with an executive summary of the Waste & Recycling Strategy
- That before any decision is taken to close any rural tip that a cost benefit analysis be undertaken for all possible options, including recycling at existing landfill areas
- That use of the Lithgow SWF be considered for the full 34 years life left in it
- The DA for Blackmans Flat landfill be extended by the establishment of a waste transfer station with recycling facilities
- A public education program should be implemented, pointing out the benefits of Council's chosen option when it is adopted
- No closure of Glen Davis or Capertee landfills because of distance to travel to other landfills or transfer stations
- Provision is made for dumping of large items and hazardous drums etc at a stipulated time and place in the rural stations if a waste transfer station is the preferred option.
- Cost of dumping of asbestos at Lithgow SWF is reviewed so as to encourage the proper disposal of this hazardous material

Comments/Suggested Actions from Submission

This submission was basically the same as the submission from the Capertee Valley Alliance. For comments/actions see comments under Capertee Valley Alliance submission.

Private Submission No 2 – Resident of Wallerawang

- Expresses concerns about the proposed closure of rural rubbish tips
- Uses the local tip a great deal in relation to tree pruning and other garden waste
- Concerns that if dumps are closed, there will be dumping in local bushland and pine forests

Comments/Suggested Actions from Submission

Comments in relation to closure of rural tips and concerns for illegal dumping are noted. It is acknowledged that the closure of rural tips will have the potential to create additional dumping. Education campaigns noting potential penalties and other options available to residents will need to be undertaken to assist in alleviating this potential problem. There is also a potential over time for the need for additional Ranger patrols which may place a strain on current resources.

Private Submission No 3 – Resident of Bogee

- What can be left at the new transfer stations?
- The document does not tell me how and where I am able to dispose of old whitegoods, mattresses, furniture or other non household type waste
- The implication is I may have to travel to Lithgow
- Criticises the document as not being easy to read

Comments/Suggested Actions from Submission

The comment in relation to what can be left at the new transfer stations was not something canvassed in the Strategy document, however, any transfer station would only be available to receive household waste and recyclables. The comment in relation to disposal of old whitegoods, mattresses etc is noted and it will be recommended that an action be implemented whereby a bulky goods clean up collection be provided at each transfer station on an annual basis so that rural residents are provided with a service similar to urban residents.

Private Submission No 4 – Resident of Lidsdale

- Welcomes the planning and direction Lithgow Council is taking to provide acknowledged services for the current and future needs of its community
- Makes a number of complaints about the approval of the landfill at Blackmans Flat and other developments in the area

Comments/Suggested Actions from Submission

The comments about the approval of the Blackmans Flat facility and other developments in the area are not relevant to the Strategy.

Private Submission No 5 – Resident of Wolgan Valley

- The proposed closure of rural landfill sites and negative impact on rural residents who do not have kerbside Council provided waste collection services
- The report's misrepresentation of who/what uses the Angus Place landfill site
- The lack of consultation with and information provided to rural residents that use rural landfill sites
- The timing of the closure of the Angus Place landfill site on Wolgan Road
- Request an extension of the life of Angus Place landfill site until such time as Council has consulted with Wolgan Valley residents

Comments/Suggested Actions from Submission

The comment in relation to the possible provision of a kerbside waste collection service has already been considered and a survey has been sent to all residents in the Wolgan Valley to seek their views on this. The comment regarding lack of consultation is rejected as there has been an extensive information campaign and two bulk mail outs to residents of Wolgan Road and nearby areas. The comment in relation to the extension of the life of the Angus Place landfill is simply not practical as there is no available room, however, at least a short term measure is being put in place with installation of skip bins and a further recommendation will be made as to a waste transfer station at Angus Place.

Private Submission No 6 – Resident of Lithgow

- In favour of determination of the recycling black crate to be replaced with a full size wheelie lidded bin

Comments/Suggested Actions from Submission

Comment is noted.

Private Submission No 7 – Resident of Wallerawang

- We can have a fortnightly 240 litre recycling bin and 120 garbage bin weekly, this would be the most cost effective option for low income earners especially

Comments/Suggested Actions from Submission

The comment in relation to a fortnightly 240 litre recycling bin and a 120 litre garbage bin weekly is noted. However, the concern is that moving to a smaller garbage bin is likely to create community objection.

Private Submission No 8 – Resident of Lithgow

- Increasingly frustrated with the current set up whereby an open tub is provided for all recycling materials for the week
- The tub is too small
- Desperately need a larger wheelie bin
- Because the tub is open material gets sodden in the rain and blows over the street
- Urges a small wheelie bin for recycling

Comments/Suggested Actions from Submission

Comments noted which will be reflected in an action to replace the existing recycling crate.

Private Submission No 9 – Resident of Cullen Bullen

- Not against closure of Cullen Bullen tip but would like to see more investigation before it is closed
- Understands that the tip is running out of room
- Would it be possible to investigate opening old trenches
- Concerned about illegal dumping
- Urges Council to investigate keeping the Cullen Bullen tip open for a few more years or come up with a good alternative

Comments/Suggested Actions from Submission

The comment in relation to opening old trenches would not be feasible. However, the possibility of a transfer station for residents of the locality only and for household waste and recyclables only is still an option.

Conclusions

Whilst a total of 15 submissions across the Local Government Area may not be significant, it has at least provided enough feedback to enable some alterations to be made to the Draft Strategy to reflect what are considered generally to be reflective of urban and rural communities. Therefore, it will be recommended that when the tender for a new garbage and recycling service occur that it includes options so that each potential contractor provide more than once price and when considering engaging the contractor, Council can also consider the options that best suit the overall community. For example, it will be recommended that with regard to the garbage and kerbside collection service that two options go out to tender. Number one being, a 240 litre garbage bin and a 140 litre recycling bin to be collected on a weekly basis, and number two, to be a 240 litre garbage bin, a 140 litre recycling bin and 240 litre organic waste disposal bin to be collected on a fortnightly basis.

Other options that will be recommended for inclusion in the tender documents will be the extent of the kerbside. An option will be to include a price for the Glen Davis, Glen Alice and Wolgan Valley areas whilst another service option will see these areas not included. This will provide Council with an understanding of the costs involved and the potential benefits that may be achieved.

It will be recommended that a targeted Communication Strategy be developed and implemented on each occasion when it is proposed to undertake a change in waste and recycling services. For example, when it is intended to close a rural waste facility, it will be recommended that the Communication Strategy include various measures with a time lag of at least 6 months prior to the closure of the facility. However, it will be further recommended that in conjunction with the closure of the facility, that a rural transfer station be constructed at the site of the former tip. This will be in lieu of the option to develop a regional transfer station at the Blackmans Flat facility. The consent for Blackmans Flat has been activated and if the community wish to have transfer stations closer to their traditional localities, then it will be recommended that Council should respect that wish.

It will be further recommended that where a new transfer station is provided, or an additional transfer station is upgraded that this be a locked facility whereby keys are provided to members of the local community upon payment of a deposit (in case they lose the key). It will also be noted that any transfer station will only be provided once the existing rural landfill has reached its capacity and further that it will only be used for disposal of household waste and recyclables. It will be further recommended that if the landfill reaches capacity prior to the operation of the transfer station that an interim arrangement with skip bin, be put in place.

It will be also recommended that at each rural transfer station, that two dedicated days be provided on an annual basis whereby residents may take their bulky goods to the transfer station area and these be collected by Council for disposal. This will provide equity with the service provided to urban residents.

Finally, it will be recommended that Council implement a policy whereby it accepts no waste at any of its landfills or transfer stations if that waste is generated from outside the Lithgow Local Government Area.

POLICY IMPLICATIONS

Nil at this stage.

FINANCIAL IMPLICATIONS

There is a possibility that when Council goes to tender for a new garbage and recycling service, targeted for March 2011, that given the passage of time, there may be increases in the cost of the service, on the basis that at the very least, the existing crate will be replaced with a new bin. Should Council wish to construct additional rural waste transfer stations, then the estimated cost for one transfer station is in the order of \$85,000. This can be funded from the Waste Reserve. Average running costs for each existing transfer station in 2010/2011 was approximately \$37,700. This compares with the costs of running Angus Place Tip in 2010/2011 of \$36,639.

As pointed out in two submissions, the current rural garbage charge is comparatively low being \$76.50 in 2011/12. It may be necessary to increase this charge in coming years to assist in covering the cost of the construction of transfer stations.

LEGAL IMPLICATIONS

The draft Strategy outlines the various relevant information.

ATTACHMENTS

1. Submissions on the Draft Waste & Recycling Strategy.

RECOMMENDATION

THAT:

1. The Draft Waste & Recycling Strategy be adopted subject to the following changes in the final Strategy:
 - i. When Council goes to tender for a new garbage and recycling contract, that two options be provided for the service, (i) being a 240 litre garbage bin and 140 litre recycling bin to be collected on a weekly basis, and (ii) being a 240 litre garbage bin, 140 litre recyclable bin and 240 litre green waste bin with the green waste bin to be collected on a fortnightly basis.
 - ii. In the tender documents for the new garbage and recycling service, the option be placed to include the localities of Glen Davis, Glen Alice and the Wolgan Valley and another option be for the exclusion of these areas
 - iii. In conjunction with the tender process, community information be provided outlining what options Council will be considering when it considers tenders
 - iv. The residents of Glen Davis/Glen Alice and Wolgan Valley be individually notified
 - v. Furthermore, as the residents of Glen Davis and Glen Alice have not been canvassed, their views are sought on the option of gaining access to a kerbside garbage and recycling service
 - vi. A specific communication strategy be developed and implemented each time a change in waste services/facilities are proposed
 - vii. A locked transfer station is provided at each rural landfill once it has reached full capacity for the disposal of household waste and recyclables
 - viii. A key will be provided to residents in the locality upon the payment of a deposit (in case the key is lost) and will only be for household waste and recyclables (NOTE if the landfill reaches capacity prior to the operation of the transfer station, then an interim arrangement with skip bin will be put in place)
 - ix. An amount of \$85,000 be included in the September Quarterly Budget Review for the construction of a rural waste transfer and recycling facility at Angus Place. This to be funded from the Waste Reserve.
 - x. Two dedicated days per year be provided for rural transfer stations whereby key holders of each transfer station be afforded the opportunity to provide bulky goods for disposal at the transfer station, similar to the service provided to urban residents

- xi. A Policy be prepared for Council adoption to the effect that no waste shall be accepted at any landfill or transfer station within the Local Government Area if it has been generated from outside the Local Government Area
- 2. Changes to the final Strategy, including the Action Plan, be made having regard to the contents of this report and No. 1 above.

OPERATION SERVICES REPORTS

**ITEM-15 OPER - 31/10/11 - DEDICATION OF PUBLIC ROAD - LOT 1 DP
1168156 LIDSDALE**

REPORT BY: MADDISON BAILEY – TRAINEE CIVIL ENGINEER

SUMMARY

The RTA has requested that Council take over ownership of a section of crown road over the Duncan Street flood levee, Lidsdale.

COMMENTARY

The RTA have proposed that the area of crown road known as Lot 1 DP 1168156 be transferred to Lithgow Council to be dedicated as a public road, in order to protect the existing flood levee. An easement for the levee will then be created by the RTA.

Maps are attached depicting the proposed levee easement and the section of crown road known as Lot 1 DP 1168156.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Correspondence from the RTA.
2. The section of crown road known as Lot 1 DP 1168156.

RECOMMENDATION

THAT Council:

1. Agree to the proposed dedication of Lot 1 DP 1168156 as a public road in order to protect existing flood levee protection for residences in Duncan Street;
2. Complete the necessary documentation for transfer of Public Crown Roads; and
3. Authorise the affixing of the Council Seal to any document necessary.

**ITEM-16 OPER - 31/10/11 - EASEMENT CREATION AT LITHGOW SEWERAGE
TREATMENT PLANT**

REPORT BY: IAIN STEWART – GROUP MANAGER OPERATIONS

REFERENCE

Nil

SUMMARY

A Council resolution is sought for the attachment of the Council Seal to the Plan of Easement for Overhead Power Lines, Easement for Underground Cables and Easement for Padmount Substation at Lithgow Sewage Treatment Plant.

COMMENTARY

As per Endeavour Energy's (formerly Integral Energy) Network Connections General Terms and Conditions, Council is required to create an Easement for Overhead Power Lines, Easement for Underground Cables and Easement for Padmount Substation in favour of Endeavour Energy at Lithgow Sewage Treatment Plant, Lot 1 DP 947828, pursuant to *section 88B of the Conveyancing Act 1919*. Endeavour Energy currently holds a Property Tenure Bond of \$11,000 in lieu of a registered easement being created.

All works are now complete including the Plan Easement which now requires the Council Seal to be attached prior to lodging the Deposited Plan and conditions of the easement.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

After the creation of Easement has been registered Council will be reimbursed the Property Tenure Bond of \$11,000

LEGAL IMPLICATIONS

Nil

RECOMMENDATION

THAT Council resolve to affix the Common Seal of Council to the 88B Instrument for the creation of Easements at the Lithgow Sewerage Treatment Plant

**ITEM-17 OPER - 31/10/11 - DEDICATION OF PUBLIC ROAD - MAXWELL
DRIVE GOOD FOREST**

REPORT BY: MADDISON BAILEY – TRAINEE CIVIL ENGINEER

SUMMARY

Advice has been received from the Lands and Property Management Authority advising that Maxwell Drive, Good Forest is classified as a Crown Road. In the past, this road has been maintained by Council.

COMMENTARY

The LPMA have advised that their records indicate that Maxwell Drive, off Jenolan Caves Road Good Forest, is classified as a Crown Road. This road was constructed by a developer at Council's request many years ago, and is currently maintained by Council. The LMPA have suggested the situation be rectified by Council completing the appropriate documentation requesting that Maxwell Drive be transferred from a Crown Road to a Public Road Reserve.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Map of Maxwell Drive, Good Forest

RECOMMENDATION

THAT Council:

1. Complete the necessary documentation requesting transfer of a Public Crown road known as Maxwell Drive Good Forest; and
2. Authorise the affixing of the Council Seal to any documentation necessary from the acquisition.

**ITEM-18 OPER - 31/10/11 - FLOODPLAIN MANAGEMENT PROGRAM -
FARMERS CREEK, LITHGOW**

REPORT BY: CHRIS SCHUMACHER – WORKS MANAGER

SUMMARY

Successful Grant Application of \$150,000 through Office of Environment & Heritage (OEH) for extended Floodplain Management Program works 2011/2012 financial year.

COMMENTARY

The Honorable Robyn Parker Minister for the Environment has announced that Lithgow City Council has been successful in securing another round of funding of \$150,000 for ongoing works to the Farmers Creek Flood Mitigation Programme.

The funding arrangement is based on a 2:1 Expenditure basis (\$150,000:\$75,000) totaling \$225,000 with Lithgow City Council being required to contribute \$75,000.

The funding for 2011/2012 will allow Lithgow City Council to undertake further survey and design investigation for 'future' Stage 2 works. It is expected that the investigation work will determine the new northern and southern canal alignment for stage 2 works, and in addition will also pin point what existing services such as water, sewer, telecommunication and power may have to be relocated prior to stage 2 works to commencing. It is also anticipated during the design process to give consideration to future expansion/extension of shared pedestrian/bicycle footways adjacent to future works where possible. This will not only provide for better public amenity for the community, but also give greater aesthetic appeal to the existing Farmers Creek precinct.

Given the sum of monies that may be involved to undertake the survey investigation and design concept for stage 2 works, it may be necessary to call Open Tenders'. In this instance, it is expected that Tendering documents could be ready and advertised for potential consultants mid to late November 2011.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

The 2011/12 management plan included provision for Council's share of this programme totalling \$75,000

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Successful Grant letter from the Hon. Robyn Parker Minister for the Environment

RECOMMENDATION

THAT Council accept the grant offer of \$150,000 from the Minister of Environment for the continuation of the Farmers Creek Flood Mitigation scheme in 2011/12.

**ITEM-19 OPER - 31/10/11 - ENDEAVOUR ENERGY PADMOUNT SUBSTATION
RENEWAL AND ACQUISITION OF EASEMENT - TARRONE PLACE,
WALLERAWANG**

REPORT BY: CHRIS SCHUMACHER – WORKS MANAGER

SUMMARY

Endeavour Energy's upgrade of electricity assets in Tarrone Place, Wallerawang and offer of compensation relating to Council granting approval for creation of formal easement over new underground assets within Public Reserve.

COMMENTARY

Council will recall representations by Endeavour Energy regarding a proposal to upgrade their electricity asset in Tarrone Place Wallerawang, hence requiring acquisition of an easement within a Lithgow City Council Public Reserve.

Council at its Ordinary Meeting 11th July 2011, approved for Endeavour Energy to construct new electrical assets in Tarrone Place, Wallerawang. As part of the approval Endeavour Energy have now made an offer of compensation for the grant of easements to protect new assets. The compensation amount that has been offered equates to \$7,050 plus GST and encompasses the following areas of land:

- Easement for Padmount substation with dimensions of 5.5m x 2.75m
- Easement for Underground Cables 1m wide as shown yellow of the attached plan.
- A 3 metre fire restriction zone around the substation to ensure appropriate building standards is met should a building be constructed near the substation on the reserve.

Endeavour Energy intends to define the new easement on a plan of survey, should Council wish to accept the amount of \$7,050 plus GST.

Furthermore, Endeavour Energy is prepared to compensate Lithgow City Council for all transfer and legal costs incurred by Council in the matter.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. The drawing outlining the proposed new electrical Padmount Station and the route of the underground service easement.

RECOMMENDATION

THAT:

1. Council accept the offer of compensation from Endeavour Energy of \$7,505 plus GST for the creation of all easements associated with the upgrade of the padmount station in Tarrone Place;
2. All costs associated with the creation of the plan of survey and legal documentation be met by Endeavour Energy; and
3. Authorise the affixing of the Council Seal to any necessary documentation in relation to this sale.

ITEM-20 OPER - 31/10/11 - WATER REPORT

REPORT BY: IAIN STEWART – GROUP MANAGER OPERATIONS

SUMMARY

This report provides an update on various water management issues as per Minute Number 10-03.

COMMENTARY

In relation to current water management issues the following information is provided.

CURRENT DAM LEVELS FOR BOTH FARMERS CREEK AND OBERON

Farmers Creek Dam #2 capacity on Monday 17th October 2011 was 100%. Oberon Dam capacity on Tuesday 4th October 2011 was 58.91%.

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 2011.

Table 1 - Oakey Park Monthly Output and Clarence Transfer

Month Total	Oakey Park WTP (ML)	Clarence Transfer (ML)	Dam Yield (ML)
January	139	0	
February	121	0	
March	122	0	
April	140	0	
May	133	14	
June	122	19	
July	149	0	
August	119	0	
September	112	0	
October to date	56	0	
Monthly Average 2011	128.5	3.67	
Monthly average 2010	123.0	9.67	

Table 2 - Oakey Park Daily Output and Clarence Transfer

Oakey Park WTP	Avg Daily Use kL	Avg Daily CWTS Transfer kL	FRWS Avg Daily Use kL
August	3,847	0	1,788
September	3,727	0	1,900
October	3,312	0	
Last Week	3,296	0	
Previous Week	3,459	0	

LITHGOW WATER QUALITY

No health-based Australian Drinking Water Guidelines guideline values were exceeded in October.

Commissioning of the South Bowenfels Water Reservoir continued during October.

Table 3 - Oakey Park Process Monitoring Clearwater Results August

Colour Avg	5
Colour Max	7
Colour Min	2
Turbidity Avg	0.19
Turbidity Max	0.40
Turbidity Min	0.04
pH Avg	7.62
pH Max	8.11
pH Min	6.15
Chlorine Avg	1.5
Chlorine Max	1.7
Chlorine Min	1.3
Iron <0.3 Aesthetic	0.06
Aluminium <0.2 Aesthetic	0.06
Manganese <0.1 Aesthetic	0.15

FISH RIVER WATER SCHEME WATER SUPPLY

No health based Australian Drinking Water Guideline values were exceeded in October.

CURRENT WATER RESTRICTIONS UPDATE

Level 1 (summer) water restrictions are in place for all residents through Lithgow and villages receiving water from both the Lithgow and the Fish River water supplies.

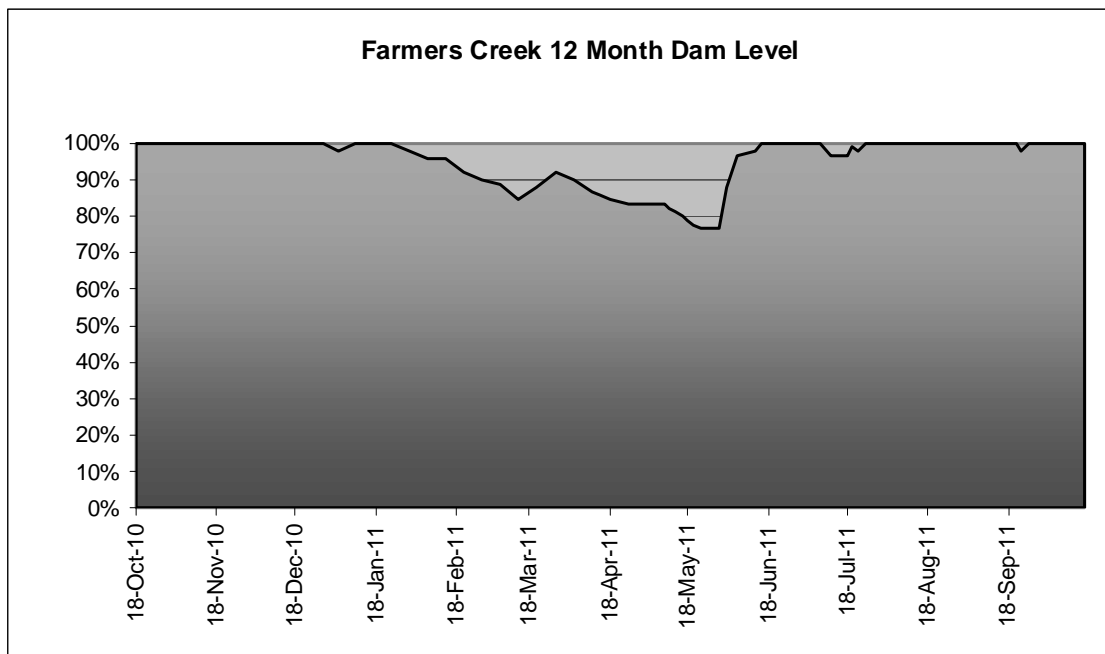
WATER SAVING SCHEMES OR PROCESSES UPDATE

Council's Rainwater Tank and Domestic Appliance Rebate Program continued in October with Council approving 2 applications for a household appliance rebate and 1 application for a water tank rebate.

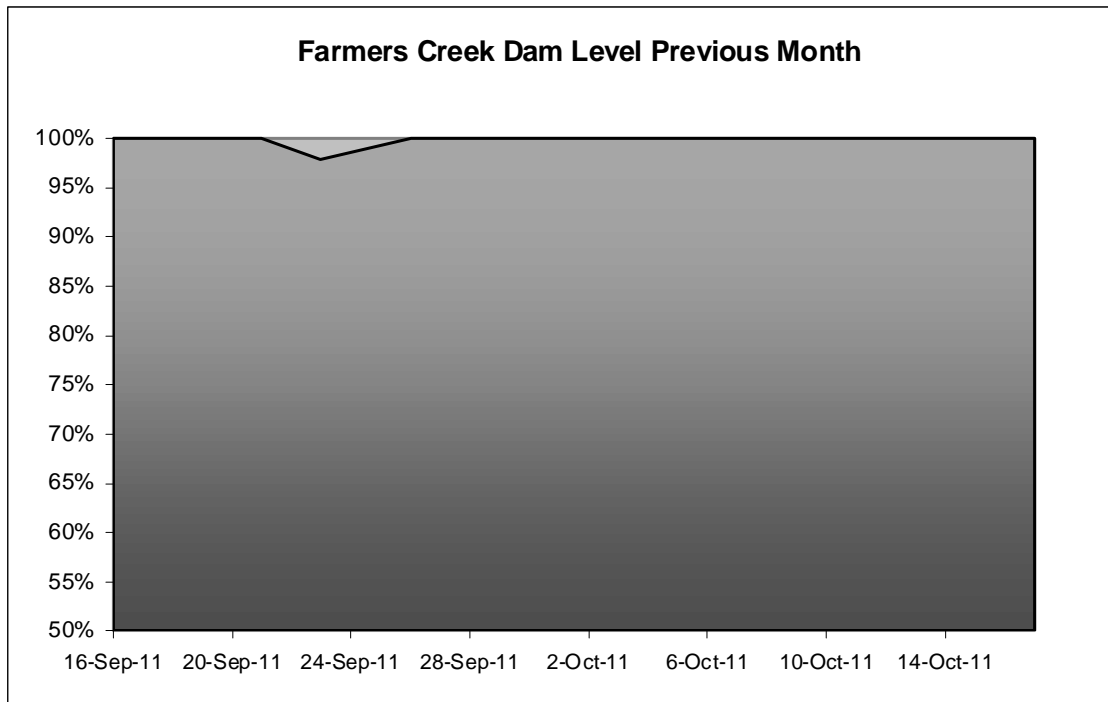
FARMERS CREEK DAM 12 MONTH LEVELS

The attached chart shows the storage data to date for the last twelve months and for the previous month

Graph 1 Farmers Creek Dam #2 over 12 Months



Graph 2 Farmers Creek Dam #2 over 1 Month



ALTERNATE WATER SOURCES UPDATE

The Marrangaroo Zone continues being supplied from the Oakey Park Water Treatment Plant via Cook St High Level Reservoir.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT the information in relation to water management issues be noted.

**ITEM-21 OPER - 31/10/11 - BROWNS GAP SLOPE RISK ASSESSMENT AND
REMEDIAL OPTIONS CONSULTANTS REPORT**

REPORT BY: WORKS ENGINEER – CHRIS SCHUMACHER

REFERENCE

Min No11-255: Council Meeting of 11 July 2011

SUMMARY

This report provides a summary of the reports received from Council's specialist consultants, Golder Associates, being:

1. Slope Risk Assessment Browns Gap Road and
2. Remedial Options (Appendix A)

COMMENTARY

As requested at the Ordinary Meeting of Council 11th July 2011, Council has received a report from its consultant, Golder Associates, concerning the alleged instability of the upper slope on the top 700m section of Browns Gap Rd.

The first section of the report outlines

- (1) The "Slope Risk Assessment associated with Slope Instability' and
- (2) "Remedial Options (Appendix A)".

The report is in response to concerns of the risk and likelihood of possible rockfalls/landslides on the section of road known as Browns Gap.

1. Slope Risk Assessment Browns Gap Road

The objective of this report is the preparation of a plan to provide Council with a tool to manage the risk of rockfall on this section of Browns Gap Rd and to develop procedures to deal with the effects of a rockfall.

This report addresses the probable mechanisms that are likely to trigger rockfalls/landslides on the upper slopes being:

- Rainfall – water pressures in joints behind blocks
- Wetting and drying of fine grained rocks which result in fretting, reduction in strength and erosion. This leads to loss of support for overlying sandstone blocks isolated from the face by jointing.
- Root jacking by trees
- Rainfall runoff – erosion of colluvial soils supporting rock blocks above the crest of the slope

To assist Council with the development of a Management Plan, the report includes recommendations that are similar to recent measures and reporting standards that have been commissioned for the Wolgan Gap.

2. Remedial Options (Appendix A)

This section of the report presents an assessment of the slope remedial options for Council to consider and provide guidance for Council to assess various remedial options on a cost benefit basis to manage the risks associated with the rockfall hazards.

The objective of (Appendix A) is to:

- Develop design concepts for various remedial options
- Estimate the cost within a range for comparative purposes
- Assess the benefit for reducing the risk (particularly the likelihood) of rockfalls

The report describes the Slope Instability Risk Assessment in terms of the Assessed Risk level (ARL). The ARL is applied to slopes on a scale of 1 (highest risk) to 5 (lowest risk). The reports advises that slopes with a risk level of ARL1 or 2 are unacceptable without remedial work and that slopes with ARL3 to 5 may be tolerable but require further investigation and monitoring.

Table 3 of the attached report indicate two areas within the area assessed with an ARL of 1 & 2. The report indicates that the risk of a rockfall of large boulders is not tolerable to Council and should be addressed to reduce the risk level. The report provides recommendations for various remedial measures for both ARL1, ARL2 and even ARL3 sites.

Appendix A does provide details of remedial option comparisons for the four identified zones, including details of the cost benefit of remedial options.

It should be noted that the lower the score in the final column of the table indicates the greater benefit. Therefore, remedial measures with scores of 9, 10, 11, 12, and 13 are deemed to provide the greatest cost benefit and are considered to be the minimum necessary to be implemented and provide the greatest benefit to affected stakeholders.

The greatest Assessed Risk Levels (ARL's) defined in this report are as follows and are recommended for immediate works include:

- Section 2 – ARL 1 - \$140,000
- Section 2 – ARL 2 - \$55,000
- Section 4 – ARL 2 - \$115,000 + \$70,000

The total of initial recommended works is \$380,000. It should be noted that Council has no specific funds allocated or available for this work.

Council will also need Golder & Associates develop a formal Construction Management Plan to physically implement the Remedial Options. It is estimated that this plan could cost approx \$12,000.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

No funds are currently available from Council Financial management Plan 2011/2012 for allocation to the remediation works required on Browns Gap Road. In the absence of other funding sources it will be necessary for Council to consider reviewing the 2011/12 works programme and allocate the necessary funds for this project from other projects.

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Slope Risk Assessment & Remedial Options (Dated October 2011)

RECOMMENDATION

THAT Council:

1. Accept the report prepared by Golder Associates in regard to the instability of Browns Gap escarpment;
2. Investigate possible funding sources from the State and Federal Governments to assist in financing the works;
3. Review at the next Council meeting the allocation of funds to specific road projects in the 2011/12 works programme with a view to providing funds totalling \$400,000 for this identified remediation works;
4. Notify Council's Insurer of the Golder Associates 's report and recommendations.

COMMUNITY AND STRATEGY REPORTS

ITEM-22 **COMM - 31/10/11 - DRAFT LITHGOW LAND USE STRATEGY 2010 - 2030**

REPORT FROM: STRATEGIC LAND USE PLANNER – SHERILYN HANRAHAN

REFERENCE

Min No 07-518:	Policy and Strategy Committee Meeting 3 December 2007
Min No 07-519:	Policy and Strategy Committee Meeting 3 December 2007
Min No 08-78:	Policy and Strategy Committee Meeting 1 July 2008
Min No 08-134:	Ordinary Meeting of Council 19 August 2008
Min No 008-227:	Ordinary Meeting of Council 15 December 2008
Min No 10-138:	Ordinary Meeting of Council 12 April 2010
Min No 10-160:	Extra Ordinary Meeting of Council 27 April 2010
Min No 11-23:	Ordinary Meeting of Council 24 January 2011
Min No 11-24:	Ordinary Meeting of Council 24 January 2011
Min No 11-231:	Ordinary Meeting of Council 20 June 2011

SUMMARY

This report presents recommendations to Council to amend the Draft Lithgow Land Use Strategy 2010-2030 as a response to community and government authority consultation.

The attached detailed report summarises the consultation process with respect to the issues raised during the exhibition period. It discusses the recommended amendments to policy directions of the Draft Strategy as a result of the public exhibition process for Council's consideration prior to referring the Strategy to the NSW Department of Planning for final endorsement at the State Government level.

COMMENTARY

The Draft Lithgow Land Use Strategy 2010-2030 was placed on continuous public exhibition from 5th May 2011 until the 31st July 2011 following a resolution of Council on 20th June 2011 to extend the exhibition from 16th June until the 31st July, 2011. Two related supporting documents being the Draft Open Space and Recreational Needs Study and Draft Heritage DCP Study were also placed on joint exhibition.

A total of 527 submissions were received of which 510 were private submissions and 17 were public authority/agency submissions

The detailed report has been broken into the following sections:

Section 1 Public exhibition process

This section outlines the public exhibition process undertaken and the key outcomes. The key issue areas of the submissions are summarised and a relevant response provided.

Section 2 Discussion of key rural planning issues and revised planning direction

This section discusses the key issues of dwelling entitlements and rural minimum lot size and presents further revised options for Council's consideration.

Section 3 Discussion of key urban planning issues and revised planning direction

This section discusses the key urban issues raised by submissions or picked up through a further internal review of the draft strategy that require amendment within the draft strategy. Key areas discussed include:

- Plaza/Pottery shopping precinct
- South Bowenfels business area
- Boral site at Portland
- Rydal and Capertee Villages

Section 4 Supporting Studies

This section discusses the outcomes of the public exhibition program for the following studies that were placed on joint exhibition with the draft land use strategy:

- Draft Open Space and Recreational Needs Study
- Draft Heritage DCP Study.

Section 5 Conclusion

This section includes a summary conclusion.

POLICY IMPLICATIONS

The recommended actions of this report will amend the Draft Lithgow Land Use Strategy 2010-2030 that will, upon endorsement by the NSW Department of Planning, provide the future policy direction for all land use planning decisions

FINANCIAL IMPLICATIONS

The project is jointly funded by Council and the Department of Planning through the Planning Reform Fund.

LEGAL IMPLICATIONS

The land use strategy once finalised will underpin the preparation of Council's Comprehensive Local Environmental Plan which is the instrument that legislates land use management and control for the LGA.

Possible class action

A number of submissions raised the potential for members of the community to seek legal recourse through a class action legal challenge should Council proceed with the recommendations of the exhibited draft strategy in relation to the rural minimum lot size.

In this regard Council's Solicitors have advised the following:

“That to be successful any class action would need to establish the following:

- 1. Council had a duty of care*
- 2. That there was a breach of the duty*
- 3. That the claimants had suffered damage.*

Even if it were established that there was a duty of care, we are unable to discern any basis on which it could be established that there was a breach of that duty in circumstances where Council's decision to increase the minimum lot size was based on a rural planning strategy which was based on proper principles including the Rural Lands State Environmental Planning Policy and input from relevant government agencies.

Section 123 of the Environmental Planning and Assessment Act, 1979 (“the Act”) entitles any person to bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of the Act. ...

The proceedings are generally on technical grounds where there has been a failure to follow process, such proceedings may also allege invalidity on grounds such as bad faith or denial of natural justice.

Based on the information to hand, we are unable to discern at this stage any basis on which such a proceeding could be brought against the Council.”

Pecuniary interests

In making decisions in relation to the making, altering or repealing of an environmental planning instrument, Councillors are reminded of their obligations in relation to pecuniary and non pecuniary conflicts of interest.

The consideration of the new comprehensive Local Environmental Plan will require a quorum of the elected Council. Should Council not be able to form a quorum due to pecuniary interests obligations it will be necessary for the General Manager to make application to the Minister of Local Government (on behalf of the affected Councillors) for an exemption under Section 458 of the Local Government Act 1993.

The attached Department Local Government Circular 06-02 dated 4 October 2006 outlines the process for applying for a pecuniary interest exemption under the Act.

ATTACHMENTS

1. Detailed Planning Report
2. Department of Local Government Circular 06-62 dated 4 October 2006

RECOMMENDATION

THAT:

1. Council amends the exhibited Draft Lithgow Land Use Strategy 2010-2030 to provide effect to the following:

Section A Urban Land Use

- i. Retention of a primary production zone over the Blackmans Flat area in the new Local Environmental Plan and identification of the land as a strategic site for future industrial land use in the strategic framework.
- ii. Inclusion of an action in the Land Use Strategy to provide specific provisions and controls within the comprehensive development control plan to manage future land use conflict in the Blackmans Flat area.
- iii. Extension of the Lithgow mixed use business zone around Lithgow St, to encompass the land bounded by the Bowling Club, Mines Rescue Facility and Childcare Centre as shown in Figure 1 of the attached report.
- iv. Alteration of the land use designation for the Pottery Estate Lithgow to identify lands of highest hazard and constraints within an environmental zone and retain the residential zoned land as shown in Figure 1 of the attached report.
- v. Correction of the mapping anomalies over the existing commercial uses off Bent and Silcock St and existing residential development along Hassans Walls Road, Lithgow.
- vi. Provision of a neighbourhood business area at South Bowenfels as identified in Figure 2 of the attached report.
- vii. Correction of anomalies in the landuse designations for the following areas as shown in Figure 3 of the attached report:
 - a. The slither of land between the railway line and the Great Western Highway, opposite the Reserve Rd intersection at Marrangaroo which is currently identified as rural to remain rural in the Local Environmental Plan directions but be identified as a future urban land use in the strategic framework plans to signify that this land may have a higher use once commencement of the development of the Marrangaroo Release Area occurs.
 - b. The area along Coerwull Rd, Lithgow, containing the existing caravan park, currently shown as environmental in the Local Environmental Plan directions to be shown as residential.
- viii. Introduction of an environmental land use designation to that part of the former Boral Site, Portland, not proposed for mixed use or industrial landuse as shown in the Figure 4 of the attached report.

- ix. Application of a minimum lot size of 4000m² for the following areas:
 - a. area to the north of Roxburgh St and east of High St Portland
 - b. area to the south of Purcell St, Portland.
- x. Alteration to the identified land use for the area to the west of Charles St, Rydal, and north of Quarry St, Rydal, from rural to large lot residential with a minimum allotment size for the erection of a dwelling of 2ha.
- xi. Alteration to the identified land use for the area to the west of the railway line bounded by Charles St, Quarry St and Railway St, Rydal, from rural to large lot residential with a minimum allotment size for the erection of a dwelling of 4000m².
- xii. Alteration to the existing southeast Rydal village zone from village to large lot residential with a minimum allotment size for the erection of a dwelling of 4000m².
- xiii. Alteration to the proposed extension to the Rydal village area to the north to large lot residential with a minimum allotment size for the erection of a dwelling of 2ha.
- xiv. Introduction of a minimum allotment size for the erection of a dwelling in the zoned Rydal Village area of 4000m².
- xv. Modification of the existing village boundaries of Capertee and introduction of a large lot residential area as follows:
 - a. Extension of the village zone to the north over existing small lots
 - b. Provision of a large lot residential area to the north west of the existing village boundary and south of the Castlereagh Highway and rail line.
- xvi. Application of a 4000m² minimum lot size to both the Capertee village and large lot residential areas.

Section B Rural Land Use

- xvii. Carry over of all dwelling provisions within the operating Local Environmental Plans through a savings clause in the new Local Environmental Plan without a sunset period. To be clear this includes all allotments less than 40ha defined as existing holdings in the operating Local Environmental Plans and all allotments created by an approved subdivision under any previous planning instrument.
- xviii. Monitoring of the take up of these provisions over time and reviewing this position at the first comprehensive review of the new Local Environmental Plan as part of overall rural land use policy.

- xix. Adoption of a variable rural minimum lot size using both 40ha and 100ha as detailed in Option 1 of the attached report.
 - xx. Introduction of a new existing holding clause in the new Local Environmental Plan to enable holdings between 40ha and 100ha to have a dwelling erected upon them notwithstanding any new minimum lot size that applies.
 - xxi. Review of the rural minimum lot size following the completion of further strategic documents such as the biodiversity strategy, cultural landscape assessment, housing strategy and ageing strategy.
-
- 2. Council provides the General Manager with the delegation to make any minor amendments to the Draft Lithgow Land Use Strategy 2010-2030 that do not alter policy intent.
 - 3. Council adopts the amended Lithgow Land Use Strategy 2010-2030.
 - 4. Council refers the adopted Lithgow Land Use Strategy 2010-2030 to the NSW Department of Planning for final endorsement.
 - 5. Council adopts in principle the recommendations of the Open Space and Recreational Needs Study and Heritage Development Control Plan Study to inform the development of the comprehensive Local Environmental Plan and other Council planning and management documents.
 - 6. Councillors wishing to seek an exemption under Section 458 of the Local Government Act 1993 nominate their intent in relation to the preparation of the new comprehensive Local Environmental Plan with the General Manager by the 21 November 2011.

**ITEM-23 COMM - 31/10/11 - INTEGRATED PLANNING AND REPORTING -
DRAFT COMMUNITY STRATEGIC PLAN**

**REPORT FROM: CORPORATE STRATEGY AND COMMUNICATIONS
OFFICER – DEBORAH MCGRATH**

REFERENCE

Min No 06-05:	Policy and Strategy Committee Meeting 6 February 2006
Min No 06-57:	Policy and Strategy Committee Meeting 6 March 2006
Min No 06-93:	Policy & Strategy Committee Meeting 3 April 2006
Min No 06-153:	Policy & Strategy Committee Meeting 5 June 2006
Min No 06-281:	Policy & Strategy Committee Meeting 4 September 2006
Min No 07-142:	Ordinary Meeting of Council 16 April 2007
Min No 07-251:	Ordinary Meeting of Council 18 June 2007
Min No 09-218:	Ordinary Meeting of Council 1 June 2009
Min No 09-507:	Ordinary Meeting of Council 23 November 2009

SUMMARY

In October 2009, NSW Parliament passed the Local Government Amendment (Planning and Reporting) Bill 2009 requiring all NSW local Councils to develop an Integrated Planning and Reporting Framework consisting of a 10 year Community Strategic Plan, Resourcing Strategy (Long-term Financial Plan, Workforce Plan and Asset Management Strategy), 4 year Delivery Program and Annual Operations Plan. Council is required to comply with this legislative requirement by 30 June 2012.

Following a review of the Strategic Plan 2007 and audit of all recent plans and strategies, a draft Community Strategic Plan and supporting documents has been developed for exhibition.

COMMENTARY

In 2007, following an extensive community visioning and engagement process, Council adopted the Strategic Plan 2007, Our Place....Our Future. The Strategic Plan 2007 was developed to guide the direction of the local government area for the next 10 – 20 years.

In 2009, NSW Parliament passed the Local Government Amendment (Planning and Reporting) Bill 2009 requiring all NSW local Councils to develop an Integrated Planning and Reporting Framework (see below) by 30 June 2012. The key component of the Integrated Planning and Reporting Framework is the 10 year Community Strategic Plan and supporting Community Engagement Strategy.



Lithgow City Council Integrated Planning and Reporting Framework

As Council, had already undergone an extensive community visioning and engagement process to develop the Strategic Plan 2007 and has continued to engage with the community to develop a number of short-term strategies it was considered appropriate to develop the draft Community Strategic Plan based on:

1. A review of the 2007 Strategic Plan to identify achievements and ongoing actions from 1 July 2007 to 30 June 2011; And
2. A desktop review of all strategies, plans and studies developed since the implementation of the Strategic Plan 2007.

The theme for the Draft Community Strategic Plan, Our Place...Our Future was developed as part of the community visioning for the Strategic Plan 2007 and has been retained as the theme for the suite of documents which will make up the Integrated Planning and Reporting Framework. Five Principle Activity Areas have been identified following a rationalisation of the 10 areas developed for the Strategic Plan 2007 with the vision statements retained as guiding principles for the Community Strategic Plan.

Three documents have been developed to guide the community to make informed submissions as part of the exhibition of the Draft Community Strategic Plan:

- Our Place...Our Future, Draft Community Strategic Plan 2021.
- Our Place...Our Future, Community Strategic Plan 2021 Community Engagement Strategy.
- Our Place...Our Future, Strategic Plan 2007 Report Card to the Community.

Community Engagement

The Draft Community Strategic Plan 2021 is provided for Council's consideration to place on public exhibition for a period of 46 days from 1 November to 16 December. During this period Council will be undertaking a community survey and two community forums; A Community Leaders Forum and a Youth Forum.

The exhibition period has been extended from 28 days to 46 days to enable Council to contact local community groups, providing them with a copy of the Draft Community Strategic Plan and supporting documents and inviting a representative to attend the Community Leaders Forum. The forum will be held on Monday 12 December and it is anticipated that the additional time will be adequate for local community groups to discuss the Draft Community Strategic Plan and provide comments for their nominated representative to bring to the forum.

The Youth Forum will be held on Wednesday 14 December. School Principals, School Captains and representatives from local youth services networks and youth groups will be invited to attend.

A Community Survey has been developed and will be undertaken to ascertain a) how important various facilities and services are to the community and b) the level of satisfaction with the facilities and services. It will establish important trend data on usage, community awareness and community priorities. The results will be used to inform the final Community Strategic Plan 2021, the Asset Management Strategy and Long-term Financial Plan.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Our Place, Our Future – Draft Community Strategic Plan 2021
2. Our Place, Our Future – Community Strategic Plan 2021 Community Engagement Strategy.
3. Our Place, Our Future – Strategic Plan 2007 Report Card to the Community

RECOMMENDATION

THAT the Draft Community Strategic Plan be placed on public exhibition for a period for 46 days from 1 November to 16 December 2011.

ITEM-24 COMM - 31/10/11 - REPORT ON TIDY TOWNS AWARDS

REPORT BY: GROUP MANAGER COMMUNITY AND STRATEGY – SUZANNE LOLLBACK

REFERENCE

Min No 11-177: Ordinary Meeting of Council 9 May 2011

SUMMARY

This report provides an overview of activities being undertaken at the NSW Tidy Towns Awards being held in Lithgow on the 4-6 November 2011 and the Council's role in the Awards.

COMMENTARY

At the Ordinary Meeting of Council held on the 9 May 2011, the Council resolved:

THAT the Lithgow Tidy Towns be requested to provide a report to Council when the event draws closer, in relation to the staging of the NSW and National Tidy Towns Awards and identify any assistance that Council can provide that will assist the Tidy Towns in the running of the events.

NSW Awards 4-6 November

The NSW Keep Australia Beautiful Tidy Towns Awards will be held from the 4-6 November in Lithgow.

The Lithgow Tidy Towns Committee has liaised with Council staff regarding their needs for the successful staging of the Awards. This follows from the requirements as set out with the Keep Australia Beautiful Committee.

The program during this time will be:

Friday 4 November

Registration from 12 noon
Welcome dinner from 6.30pm

Saturday 5 November

Category Awards 9.30am – 11.30am
Lunch in Queen Elizabeth Park from 12.30pm
Bus tours from 1.30pm
Awards Dinner from 6.30pm

Sunday 6 November

Breakfast from 7.30am at the State Mine Heritage Park

Her Excellency, Professor Marie Bashir AC, CVO, Governor of NSW and Patron of Keep Australia Beautiful NSW will be in attendance for the Saturday Morning Awards Presentations. The Governor will arrive at the Union Theatre at 8.45am Saturday 5 November to meet with Council VIPs and Tidy Towns

The Hon. Robyn Parker MP, Minister for Environment and Heritage will be in attendance at the Awards Dinner on Saturday Evening.

Council's in-kind includes the following:

- Usage of the Civic Ballroom, Usage of the Union Theatre and Queen Elizabeth Park
- Cleaning of the Union Theatre and Civic Ballroom
- Set up of tables and chairs at the Civic Ballroom for Friday and Saturday
- Set up of chairs at Queen Elizabeth Park and State Mine Heritage Park
- Erection of marquees as required
- Assistance with putting up directional signs and banners
- Ensuring public areas such as streets and parks are clean and tidy
- Assistance as provided by the Visitor Information Centre with bookings and event co-ordination.

Australian Awards April 2012

The Council has been advised that in all likelihood, the Australian Awards will be held in Canberra, not in Lithgow.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

A sum of \$20,000 included in the 2011/2012 Management Plan with \$10,000 being allocated to the Lithgow Tidy Towns Committee and \$10,000 to be allocated as in-kind for the work undertaken by the Council.

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

NIL

RECOMMENDATION

THAT the Council notes the program of activities for the staging of the 2011 NSW Keep Australia Beautiful Tidy Towns Awards and the support that the Council is providing.

FINANCE REPORTS

ITEM-25 FINAN - 31/10/11 - 2009/10 DLG COMPARATIVE INFORMATION ON NSW COUNCILS

REPORT FROM - FINANCE MANAGER - CAROL FARNSWORTH

REFERENCE

Nil

SUMMARY

To advise Council of the release of the 2009/10 Comparative Information on NSW Councils by the Division of Local Government with a recommendation that the report be received.

COMMENTARY

The Division of Local Government has recently released the 2009/10 Comparative Information on NSW Councils.

The publication provides comparative information on the performance of all local councils in NSW and is designed to help both the community and councils assess a broad range of activities across a diverse range of local government areas.

The Australian classification of local government groups classifies each council into one of 22 categories according to their socioeconomic characteristics and their capacity to deliver a range of services to the community.

Councils are firstly classified as either urban or rural. Urban councils are then divided into four categories, capital city, metropolitan developed, regional town / city or fringe and rural councils into three categories, significant growth, agricultural or remote. The final classification for both urban and rural councils is based upon population.

In the publication the DLG have combined all NSW Councils into 11 groups instead of 22 because some of the categories contained only one or two councils making it difficult to compare performance in a meaningful way. It should be noted that the groupings are based on broad demographic variables and as a result there are often large differences between councils in the same group. It is recommended that the information should not be relied upon by a Council in isolation to argue for policy change.

Lithgow City Council is classified in 'Group 4,' defined as a medium, urban, regional town or city with a population density of less than 30 persons per square kilometre, or a total population of up to 30,000.

There are 33 councils in Group 4 and include areas such as Orange, Bathurst, Mid Western Regional, Dubbo, Ballina, Eurobodalla, Kempsey, Goulbourn, Lismore, Tamworth and Singleton.

The following summary compares the neighbouring Councils of Lithgow, Bathurst, Orange, and Mid Western Regional as well as the average for Group 4 councils and the average for all NSW councils.

**DIVISION OF LOCAL GOVERNMENT
 COMPARATIVE INFORMATION NSW COUNCILS 2009/10**

CATEGORY	LITHGOW	BATHURST	ORANGE	MID WESTERN	GROUP 4 AVG	NSW AVG
Population	20,980	39,339	38,685	22,677	-	-
Area	4,514	3,818	284	8,758	-	-
Rate: Residential	557.90	733.54	1,029.20	849.55	785.79	660.00
Rate: Farmland	1,017.45	1,233.59	1,551.63	2,151.91	1,454.97	1,834.00
Rate: Business	2,857.44	3,582.34	4,700.74	1,673.27	2,910.00	1,841.00
Rates Outstanding	4.64%	8.71%	5.87%	4.43%	5.85%	6.20%
Revenue: % Rates	48.82%	40.10%	35.08%	36.39%	42.34%	39.60%
Revenue: % User Fees	8.43%	26.56%	23.32%	20.10%	21.56%	16.60%
Revenue: % Interest	6.40%	3.51%	4.29%	3.27%	4.87%	3.60%
Revenue: Per Capita	1,002.96	1,273.57	1,693.26	1,351.53	1,201.92	1,339.00
Expenditure: % Employee	40.67%	38.74%	36.14%	39.64%	35.83%	39.00%
Expenditure: % Materials	26.83%	30.28%	33.89%	25.84%	28.43%	27.00%
Expenditure: % Loans	2.29%	1.04%	2.13%	1.18%	3.12%	1.20%
Expenditure: % Dep'n	19.31%	18.71%	20.16%	22.25%	23.36%	20.30%
Expenditure: % Other Exp	10.91%	11.23%	7.69%	11.09%	9.71%	10.70%
Expenditure: Per Capita	997.86	1,313.30	1,255.16	1,692.07	1,272.48	1,401.00
Unrestricted Current Ratio	3.94	1.58	4.40	3.07	2.26	2.83
	2.88	6.16	7.31	2.65	7.66	3.30

Debt Ratio	Service						
Number equivalent time staff	full	186	347	312	280	312	196
Building Capital	Renewal	308.00	34.76	11.63	84.89	72.98	84.40
Environment Per Capita	MR:	7.53	33.33	10.39	35.41	37.34	36.00
Recreation Per Capita	MR:	92.42	107.93	125.76	103.01	104.84	100.00
Community Per Capita	MR:	27.65	75.09	161.95	126.60	78.49	54.00

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

Nil

RECOMMENDATION

THAT Council acknowledge the 2009/10 Comparative Information on NSW Councils recently released by the Division of Local Government.

**ITEM-26 FINAN - 31/10/10 - CODE OF CONDUCT INVESTIGATION -
 COUNCILLOR JOE MCGINNES**

REPORT BY: CAROL FARNSWORTH - FINANCE MANAGER

REFERENCE

NIL

SUMMARY

The purpose of this report is to provide Council with the findings of the investigation following a matter bringing brought to the General Manager's attention under the Code of Conduct with respect to Clr Joe McGinnes.

COMMENTARY

A complaint was received that related to a paid advertisement appearing in the Lithgow Mercury on 28 May 2011 titled 'Misconduct or Persecution'. Given the nature of the complaint the matter was dealt with by the Council's Finance Manager.

The complaint was assessed and referred to a sole conduct reviewer, Mr Russell Sear.

Mr Sear reviewed the matter and provided a report and indicates that he contacted both the complainant and Clr McGinnes with both parties responding. Further comment was invited from Clr McGinnes along with further attempts at contact in relation to the draft report as well as an invitation to address the Conduct Reviewer prior to the report being presented to Council. No response was provided.

The complaint listed four grounds and the Conduct Reviewer found that there are breaches of the Council's Code of Conduct.

Mr Sear recommends that this breach of the Code by Councillor McGinnes may be dealt with by way of censure and counselling as deemed appropriate as provided for in Clause 12.7 of the Code.

Council may now either:

- adopt the recommendation of the Sole Conduct Reviewer;
- amend the recommendation of the Sole Conduct Reviewer; or
- reject the recommendation of the Sole Conduct Reviewer.

The Sole Conduct Reviewer's report is shown as ATTACHMENT 1 for consideration by Council.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Not known at the time of writing the report.

LEGAL IMPLICATIONS

The investigation has been conducted in accordance with the Local Government Act 1993 and the Council's Code of Conduct.

ATTACHMENTS

1. Report by the Sole Conduct Reviewer.

RECOMMENDATION

THAT Council:

1. Resolve that there is a prima facie breach of the Council's Code of Conduct by Councillor Joe McGinnes; and
2. Censure and counsel Councillor McGinnes for his actions.

ITEM-27 FINAN - 31/10/11 - 2010/11 GENERAL PURPOSE AND SPECIAL PURPOSE FINANCIAL REPORTS

REPORT FROM - FINANCE MANAGER - CAROL FARNSWORTH

REFERENCE

Min No 11-408: Ordinary Meeting of Council 10 October 2011

SUMMARY

The purpose of this report is to advise Council the 2010/11 General Purpose Financial Reports and been finalised, as presented to the meeting of 10 October 2011, and Council will advertise the reports for a period of 21 days prior to the Auditors formal presentation to the meeting of 21st November 2011. Following this meeting Council will accept submissions, in writing, for a period of seven days.

COMMENTARY

The 2010/11 General Purpose Financial Reports and Special Purpose Finance Reports have been finalised for the financial year ending 30 June 2011 and are tabled at the meeting.

Following the meeting of the 31 October due notice will be provided in the local media and on Council's website of the finalisation of the reports and that Auditors, The Morse Group, will present the reports to the meeting of the 21 November 2011. Interested members of the public will be invited to attend and in accordance with Section 420 of the Local Government Act 1993, Council will accept submissions, in writing, within seven days following the audit address.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The 2010/11 General Purpose Financial reports and Special Purpose Schedules represent Council's position as at 30 June 2011.

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. General Purpose Financial Statements

RECOMMENDATION

THAT Council accept the 2010/11 General Purpose Financial Reports & Special Purpose Financial Reports and advertise the Auditors presentation of the reports to the meeting of 21st November 2011.

COMMITTEE MEETINGS

ITEM-28 **COMM - 31/10/11 - LITHGOW FLASH GIFT COMMITTEE MEETING MINUTES - 13TH OCTOBER 2011**

REPORT FROM: EVENTS CO-ORDINATOR – ROBERT PARK

REFERENCE

Min No 10-147:	Ordinary Meeting of Council 12 April 2010.
Min No 10-362:	Ordinary Meeting of Council 23 August 2010
Min No 10-455:	Ordinary Meeting of Council 1 November 2010
Min No 10-548:	Ordinary Meeting of Council 13 December 2010
Min No 11-34:	Ordinary Meeting of Council 24 January 2011
Min No 11-286:	Ordinary Meeting of Council 11 July 2011
Min No 11-287:	Ordinary Meeting of Council 11 July 2011

SUMMARY

This report details the Minutes of the Lithgow Flash Gift Committee Meeting held on 13 October 2011.

COMMENTARY

At the Lithgow Flash Gift Committee Meeting held on 13 October 2011, there were fourteen (14) items discussed by the Committee.

1. Present and Apologies.
2. Confirmation of Minutes from the Previous Meeting.
3. Business Arising from Previous Minutes.
4. Review of the prize money for the women's Lithgow Flash Gift sprint event
5. Lithgow Flash Gift application for regional event flagship funding
6. 2011 Lithgow Flash Gift Carnival Finalist in the BMLot Tourism Awards for Excellence
7. Market Stalls and Fresh produce
8. Local Sports Expo
9. Children's Entertainment
10. Athletics Clinic
11. Little A's athletic clinics
12. Lithgow Triathlon
13. Revised Terms of Reference for the Lithgow Flash Gift Committee
14. General Business

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes from the Lithgow Flash Gift Committee meeting of 13 October 2011

RECOMMENDATION

THAT Council:

1. Notes the minutes of the Lithgow Flash Gift Committee held on 13 October 2011.
2. Sends a letter to New South Wales Athletic League regarding the concerns of the Lithgow Flash Gift Committee members in relation to information that Queanbeyan is now offering \$16,000 for a women's race and that a urgent meeting with New South Wales Athletic League and the Lithgow Flash Gift Committee members be held as soon as possible.
3. Notes that other events being planned include Markets, a local sports expo, children's entertainment, athletics clinics, Little A's Athletic clinics and a triathlon on the Sunday to attract more competitors over the two days.
4. Notes the approval to operate the markets as it is part of a large community event and they do not conflict with the resolution of Council regarding itinerant stall holders hiring Council buildings.
5. Endorses the proposed changes to the Terms of Reference for the Lithgow Flash Gift Committee that a representative of the Lithgow Triathlon be appointed to the committee and the Event Coordinator and/or Tourism Manager to act as executive officer.

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.*