



A CENTRE OF REGIONAL EXCELLENCE

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

04 FEBRUARY 2013

AT 7.00pm

AGENDA

ACKNOWLEDGEMENT OF COUNTRY

APOLOGIES

PRESENT

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 17 DECEMBER 2012

DECLARATION OF INTEREST

PUBLIC FORUM

PRESENTATIONS

Audit Presentation of the 2011/12 General Purpose and Special Purpose Financial Reports

MAYORAL MINUTES

Legends of Racing Celebration - Financial Contribution

NOTICES OF MOTION

South Bowenfels Water including new Reservoir at Goulds Hill - Councillor P Pilbeam
Public Liability insurance required by Council - Councillor W McAndrew

NOTICE OF RECISSIONS - NIL

CORRESPONDENCE AND REPORTS

General Managers Reports
Environment and Development Reports
Operation Reports
Finance Reports

COMMITTEE MEETINGS

Operations Works Committee - Minutes 24 January 2013
Sports Advisory Committee - Minutes 17 December 2012

REPORTS FROM DELEGATES - NIL

BUSINESS OF GREAT URGENCY

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

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MAYORAL MINUTES

ITEM-1 MAYORAL MINUTE - 04/02/13 - LEGENDS OF RACING CELEBRATION - FINANCIAL CONTRIBUTION

REPORT FROM: MAYOR MAREE STATHAM

SUMMARY

This report recommends that Council allocate funds to match a financial contribution by the Lithgow Workmen's Club in support of the "Legends of Racing Celebration" in Bathurst on Sunday 24 February 2013.

COMMENTARY

Rising Prince was the most outstanding race horse to come from the Lithgow area and was one of the most recognised horses in NSW in the 1980's.

On Sunday 24 February 2013 the Bathurst Thoroughbred Racing (BTR) will be hosting a "Legends of Racing Celebration" at Tyers Park in Bathurst.

This is an opportunity to showcase Lithgow and support the area's history. This horse was raced by a syndicate from Lithgow, several of these men will attend this race meeting.

Lithgow Workmen's Club has pledged \$1,500 towards this event and it is recommended that Council allocate \$1,500 in support of this event. This is based on Exclusive naming rights to the "City of Lithgow Rising Prince Gold Nugget"

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

This amount was not allocated in the 2012/13 operation and delivery program and the amount of \$1,500 will have to be amended in the March reviews.

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council provide \$1,500 in sponsorship to Bathurst Thoroughbred Racing (BTR) for Exclusive naming rights to the "City of Lithgow Rising Prince Gold Nugget" for the "Legends of Racing Celebration" on 24 February 2013.

NOTICE OF MOTION

ITEM-2 NOTICE OF MOTION - 04/02/13 - SOUTH BOWENFELS WATER INCLUDING NEW RESERVOIR AT GOULDS HILL - COUNCILLOR P PILBEAM

COMMENTARY

South Bowenfels water supply in the Hillcrest area, especially in the higher areas of Hillcrest is poor. Many of the residents of this area has to put up with very poor water pressure and even no water at all times. To alleviate this a new water tank has been built at Gould Hill, this tank was supposed to be commissioned approximately 18 months ago and as yet has not been commissioned due to leaks in the water system.

It has been suggested that this tank will not alleviate the problems of low water pressure or no water to some residents of Hillcrest even when it is commissioned.

RECOMMENDATION

THAT Council officer provide a report at the next meeting of council including;

1. the cost over the previous 18 months of this tank that has been incurred by the Council in relation to wages, phone calls, water, time etc. of Council officers to try and rectify the problem that this tank has;
2. any investigation by council in recovering these costs to the ratepayers of Lithgow; and
3. whether this tank will alleviate the pressure problems of the residents of Hillcrest.

**ITEM-3 NOTICE OF MOTION - 04/02/13 - PUBLIC LIABILITY INSURANCE
REQUIRED BY COUNCIL - COUNCILLOR W MCANDREW**

COMMENTARY

The Council meeting of 17th December 2012 at Item 1 Footpath Trading Policy decided amongst other things to review the Draft Policy 5.4 Footpath Trading as it relates to the amount of Public Liability Insurance required by Council.

The issue of Public Liability Insurance required by Council has been a vexatious issue especially amongst local business operators and is not only applicable to footpath trading.

As I understand, it is applicable to anyone or any organisation that uses Council land and/or buildings to undertake revenue raising and/or other activities not under Council control or responsibility.

RECOMMENDATION

THAT To allow Councillors to make an informed decision on the matter the following issues/answers be provided by way of a written report to Council:

- 1) A comparison be made of similar Councils as to their Public Liability Insurance Policy requirements, eg \$10m or \$20m.
- 2) A formal letter be provided by Council's insurers to Council clearly stating their position as to what they require \$10m or \$20m coverage and the reasons why.
- 3) A clear position from the General Manager outlining who the Policy is to apply to.
- 4) Should the Policy be amended to reflect different risk scenarios, eg footpath trading seven days a week versus markets which occur on limited times during a year.
- 5) Any other matter deemed relevant to this issue.

GENERAL MANAGERS REPORTS

ITEM-4 GM - 04/02/13 - CENTRAL WEST REGIONAL ACTION PLAN

REPORT FROM: R BAILEY - GENERAL MANAGER

SUMMARY

The Minister for Western New South Wales, the Hon Kevin Humphries MP has recently released the Central West Regional Action Plan. The Regional Action Plans are aligned to the NSW 2021 State Goals and have been developed to deliver on community priorities, to increase opportunities and to improve the quality of life of people living in regional New South Wales.

COMMENTARY

The Minister for Western New South Wales, the Hon Kevin Humphries MP has recently released the Central West Regional Action Plan. The purpose of the Plan, like the other Regional Action plans across the State, is to identify the immediate actions that can be undertaken by the New South Wales Government to deliver on community priorities, to increase opportunities and to improve the quality of life of people living in the Central West. The Regional Action Plans are aligned to the NSW 2021 State goals, guiding both policy and budget decision-making by the Government, and will give planning into the longer term for the future of the State.

Last year the New South Wales Government held forums for the NSW 2021 Regional Action plans. The State Government was looking for feedback from communities as to what they consider should be priority actions of the New South Wales Government and the ways in which they could be delivered.

NSW 2021 is the Government's 10-year strategic business plan to rebuild the economy, return quality services, renovate infrastructure, strengthen our local environment and communities, and restore accountability to government. The regional action plans have been designed to complement longer-term strategies that may already be underway in the regions by identifying actions that can be delivered in a shorter time frame.

Items in the Plan that directly name Lithgow include:

- Return Quality Services – Crime Prevention Partnership Plan (Lithgow) (p3).
- Safer Community Compacts (SCC) Program – the City of Lithgow received \$50,000 for its “Get Home Safely” program (p15).
- Improve awareness and participation in Work and Development Orders – Work and Development Orders (WDOs) allow vulnerable people to clear outstanding fines debt through unpaid work, vocational, educational or life skills courses and medical or mental health treatment programs. WDOs are sponsored by approved not for profit organisations, government agencies or health practitioners in

Bathurst, Cowra, Forbes, Lithgow, Orange and Parkes are participating in the WDO scheme. Lead Agency: Department of Attorney General (p15).

- Deliver road upgrades to the Great Western Highway - Four lanes between Emu Plains and Katoomba by 2015; and Safety improvements between Katoomba and Lithgow by 2016 (p17).

Another area of interest in the Plan is the Bells Line of Road which is mentioned on page 17 through 'Improve Regional Infrastructure' action of 'Bells Line of Road Long Term Strategic Corridor Plan'.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Central West Regional Action Plan

RECOMMENDATION

THAT Council note the report on the release of the Central West Regional Action Plan.

**ITEM-5 GM - 04/02/13 - EXPRESSIONS OF INTEREST FOR SEC 355
COUNCIL COMMITTEES**

REPORT FROM: R BAILEY - GENERAL MANAGER

SUMMARY

This report provides the successful applicants for Expressions of Interest on the following Committees:

- Aquatic Centre Committee
- Tourism Advisory Committee
- Crystal theatre Management Committee
- Environmental Advisory Committee
- Meadow Flat Hall Committee
- Union Theatre Management Committee

COMMENTARY

At the end of 2012 Council advertised for Expressions of Interest from the community to join its committees to assist in the decision making process. Expressions of Interest were to be submitted by COB on the 20th December 2012.

Council called for Expressions of Interest for the following Council Committees:

- Crime Prevention Committee
- Community Development Committee
- Youth Council Committee
- Tourism Advisory Committee
- Flash Gift Committee
- Economic Development Committee
- Crystal Theatre Committee
- Environmental Advisory Committee
- Meadow Flat Hall Committee
- Union Theatre Committee
- Aquatic Centre Committee

The requirements for membership and the principal responsibilities of the Committee can be found on the Committees Terms of Reference.

Council received responses to the following Committees:

- Aquatic Centre Committee
- Tourism Advisory Committee
- Crystal theatre Management Committee
- Environmental Advisory Committee
- Meadow Flat Hall Committee
- Union Theatre Management Committee

Following careful consideration by each of the Committees, the following expressions of Interest have been successful:

Aquatic Centre Committee

There were 5 nominations received in total for the Aquatic Centre Committee. It was resolved to accept all 5 nominated representatives onto the Committee.

- Maree Evans - Learn to Swim
- Karen Luka - Swimming Club
- Darren King - Community Representative
- Terry Cambourn - Community Representative
- Jodie Stewart - Community Representative

Tourism Advisory Committee

There were 9 nominations received in total for the Tourism Advisory Committee. It was resolved to accept 6 of these nominated representatives onto the Committee.

- Domino Houlbrook-Cove - Jenolan Caves
- Jennifer Menchin - Wallerawang Railway Cafe
- Barbara Bretherton - Corner milkbar in Portland
- Margaret Edwards - iMag tourism magazine
- Renae Difranco - Bianca Villa
- Helen Riley – Mingann

Crystal Theatre Management Committee

The Terms of Reference for the Committee provide for 2 Art Purchase Society representatives and one alternate and it will be necessary for the Portland Art Purchase Society to clarify which of its three nominees will be the alternate member.

Previous members of the Committee have not reapplied despite a reminder at the last meeting. As they were valuable members of the last committee it is suggested they be provided one further opportunity to apply.

It has been recommended that:

- Mary Hampton, Jacque Terry and Guy Hampton be accepted as committee members with the Portland Art Purchase Society to formally clarify which member will be the alternate.
- Mrs Barbara Bretherton be accepted as a member on the Crystal Theatre Management Committee representing the Portland Development Association and Mrs Laurel Scotte be accepted as an alternate member.
- Mrs Beverly Morris be accepted as a member of the Crystal Theatre Management Committee representing the Crystal Theatre Cinema Committee.

Environmental Advisory Committee

All members of the previous Committee were advised at the last meeting of the previous committee and specifically emailed with advice of the process to nominate for the new Committee and closing date. However, to date the only responses received are from the Hawkesbury-Nepean Catchment Management Authority, Lithgow Environment Group and Lithgow Tidy Towns.

It is therefore recommended that:

- Elwin Wolfenden be accepted as a community member on the Environmental Advisory Committee.
- Peter Evans be accepted as the Hawkesbury-Nepean Catchment Management Authority representative on the Environmental Advisory Committee
- Sue Graves be accepted as the Lithgow Tidy Towns' member on the Environmental Advisory Committee and Kathleen Compton be accepted as the alternate member.
- Thomas Ebersoll be accepted as the Lithgow Environment Group member and Julie Favell be accepted as the alternate member.

Meadow Flat Hall Committee

Telephone contact was attempted with all members of the previous committee who had not re-nominated. One additional nominee was expected from this contact which had not been received at the close of reports for the business paper and one member could not be contacted.

It is therefore recommended that Bruce Gunning, Liz Reen and Ellen McManus be accepted as members of the Meadow Flat Hall Committee.

Union Theatre Management Committee

It recommended that the Union Theatre Management Committee accept the following nominations:

- Leo Vliegthart as a community member of the Union Theatre Management Committee.
- Al Ritchie as the Greater Lithgow Arts Council's member on the Union Theatre Management Committee.
- Rae Burton as Lithgow Musical Society member on the Union Theatre Management Committee.

POLICY IMPLICATIONS

In accordance with the terms of reference of S355 Committees of Council.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council:

1) Appoints the following applicants as nominated representatives on the Council Committees:

- i) **Aquatic Centre Committee**
 - Maree Evans - Learn to Swim
 - Karen Luka - Swimming Club

- Darren King - Community Representative
 - Terry Cambourn - Community Representative
 - Jodie Stewart - Community Representative
- ii) **Tourism Advisory Committee**
- Maree Evans - Learn to Swim
 - Karen Luka - Swimming Club
 - Darren King - Community Representative
 - Terry Cambourn - Community Representative
 - Jodie Stewart - Community Representative
- iii) **Crystal Theatre Management Committee**
- Mary Hampton, Jacquie Terry and Guy Hampton (one as alternate)
 - Mrs Barbara Bretherton representing the Portland Development Association and Mrs Laurel Scotte be accepted as an alternate member
 - Mrs Beverly Morris representing the Crystal Theatre Cinema Committee.
- iv) **Environmental Advisory Committee**
- Elwin Wolfenden as a community member on the Environmental Advisory Committee.
 - Peter Evans as the Hawkesbury-Nepean Catchment Management Authority representative
 - Sue Graves as the Lithgow Tidy Towns' member
 - Thomas Ebersoll as the Lithgow Environment Group member and Julie Favell be accepted as the alternate member.
- v) **Meadow Flat Hall Committee**
- Bruce Gunning, Liz Reen and Ellen McManus.
- vi) **Union Theatre Management Committee**
- Leo Vliegthart as a community member.
 - Al Ritchie as the Greater Lithgow Arts Council's member.
 - Rae Burton as Lithgow Musical Society member.

2) Readvertise any vacant positions to Council Committees.

ITEM-6 GM - 04/02/13 - ELECTED MEMBER SEMINAR BY THE ELECTION FUNDING AUTHORITY

REPORT FROM: R BAILEY - GENERAL MANAGER

SUMMARY

A report to notify Councillors at the 2012 September Local Government Election of their ongoing obligations to comply with provisions of the Elections Funding, Expenditure and Disclosure Act 1981.

COMMENTARY

Councillors and Mayors elected at the 2012 September Local Government election have ongoing obligations to comply with provisions under the Election Funding, Expenditure and Disclosure Act 1981.

Every twelve months each elected member is required to lodge with the Election Funding Authority (EFA) a disclosure of political donations received and electoral expenditure incurred.

Council recently received correspondence from the EFA proposing to hold one hour seminars in April and May of this year in preparation for the disclosure period ending 30 June 2013. These seminars are to provide information to re-elected and newly elected Councillors and Mayors on their disclosure obligations under the Act which includes the obligations for the period ending 30 June 2013, ongoing disclosure obligations, the appointment and role of Official Agents, Campaign accounts and political donations and electoral expenditure.

The EFA is seeking advice on whether Council is interested in them conducting a seminar at Lithgow City Council.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council advise the Electoral Funding Authority that it wishes the Authority to hold a seminar in Lithgow on obligations to comply with the *Election Funding, Expenditure and Disclosure Act 1981*.

ITEM-7 GM - 04/02/13 - COUNCIL MEETING LOCATIONS

REPORT FROM: R BAILEY - GENERAL MANAGER

REFERENCE

Min No 12-341: Ordinary Meeting of Council 15 October 2012
Min No 12-483: Ordinary Meeting of Council 17 December 2012

SUMMARY

Unfortunately the Crystal Theatre at Portland is now unavailable for the meeting that Council scheduled for Monday 25 February 2013. Another date for this location or another date will be required.

COMMENTARY

Council resolved at its 17 December 2012 meeting:

12-483 RESOLVED

THAT Council trial the holding of a Council meeting at alternative locations with the Council meeting scheduled for Monday 25 February 2013 be held at the Portland Crystal Theatre and a report be provided on this at a subsequent meeting.

Unfortunately the Crystal Theatre is now unavailable for Council to hold the next Council meeting at and either a new venue for this meeting needs to be selected or alternatively another date for the same venue.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Some additional costs will be incurred, particularly in relation to the setting up of the meeting and then retrieval of equipment etc.

LEGAL IMPLICATIONS

By Council resolution under Clause 5 of Council's Code of Meeting Practice Council may hold meetings at alternative locations.

RECOMMENDATION

THAT the Council trial for the holding of the Council meetings away from the Council Chambers be amended to:

- Monday 25 February 2013 being at the Council Chambers, Mort Street, Lithgow; and
- Monday 18 March 2013 to be held at the Portland Crystal Theatre.

ITEM-8 GM - 04/02/13 - CHARLES ARTHUR PINCH TRUST - MUSEUM THE GLEN

REPORT FROM: R BAILEY - GENERAL MANAGER

SUMMARY

Barry F Cosier & Associates have made contact with Council regarding the Charles Arthur Pinch Trust in relation to appointment of new Trustees for the Museum known as "The Glen", Cullen Bullen Road, Portland.

COMMENTARY

The current Trustees of the Museum known as "The Glen" Cullen Bullen Road, Portland are in the process of appointing five new Trustees in accordance with the provisions of Charles Arthur Pinch's Will establishing the Trust.

Clause 14 of the Will sets down certain criteria to which the Trustee should "have regard" in appointing new Trustees. In particular, Clause 14.1 specifies that "one trustee should be a Councillor from the local Council".

The Trust's solicitor has approached Council seeking advice as to "whether Council might be prepared to endorse Councillor Hunter as a proposed Trustee for the future operation of the Trust.

Council has sought legal opinion on this matter and have been informed that Council has no obligation to appoint or "endorse" a Trustee, and indeed should not do so. Any Councillor who wishes to be appointed as a Trustee would do so in his or her own right as an individual and not as a nominee, endorsee or representative of Council.

Any Councillor who wishes to be a Trustee of the Trust would not in any way be representing Council or Council's interest and should be mindful of any possible conflicts of interest in their role as Trustee and that of Councillor.

The legal advice provided to Council indicated that there is no reason that a Councillor could not be appointed by the existing Trustees as a new Trustee however it would be a matter between the Councillor and the Trustees, and not a matter in which Council would be involved.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS
NIL

RECOMMENDATION

THAT Council advise the Charlie Pinch Trustee's solicitor indicating that the existing Trustees should approach individual persons to be a member of the Trust.

ITEM-9 GM - 04/02/13 - NSW DECADE OF DECENTRALISATION POLICY

REPORT FROM: R BAILEY - GENERAL MANAGER

SUMMARY

The NSW Government is seeking submissions in relation to the Decade of Decentralisation Policy.

COMMENTARY

The NSW Government has announced that it is seeking submissions from regional stakeholders to inform the Decentralisation Taskforce. The Taskforce was established in November 2012 to pursue opportunities for regional development and government decentralisation.

The Taskforce, led by Northern Tablelands MP Richard Torbay, will advise the Government's Decade of Decentralisation Strategy and regional policies.

The other Taskforce members will include; Greg Aplin MP, Member for Albury; Craig Baumann MP, Member for Port Stephens and Parliamentary Secretary for Regional Planning; Thomas George MP, Member for Lismore and Deputy Speaker; and Paul Toole MP, Member for Bathurst and Parliamentary Secretary to the Deputy Premier and Asia-Pacific Trade.

Boosting regional economies was identified as a priority for the Government and a range of initiatives to encourage jobs and economic growth in the regions has been led by the Government.

The NSW Government's *Decade of Decentralisation* policy was an election commitment implemented to stimulate regional development, manage the State's predicted population growth and deliver greater opportunities to rural and regional communities.

The Decentralisation Taskforce is specifically seeking views and comments on:

- the Decade of Decentralisation Strategy, its associated policies and programs, and how the Government's decentralisation efforts can be improved;
- the Regional Relocation Grant program, the Jobs Action Plan (regional component), Restart NSW (regional component), Resources for the Regions, and NSW Government agency relocations to the regions.

The Taskforce will report to Government by the end of March 2013 with recommendations informed by this consultation process.

Unfortunately the time period to report on this is extremely tight. The Centroc Group of Councils is preparing a submission and input will be provided to this.

Lithgow has in the past benefited from the decentralisation of sections of the Police Assistance Line (PAL) and State Debt Recovery Office. Construction of the offices were completed in early 2004 and approximately 180 plus staff are presently employed in the offices.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Letter from Richard Torbay, Member for Northern Tablelands and Chair of the Decade of Decentralisation Taskforce.

RECOMMENDATION

THAT Council:

1. Note the report on the review of the NSW Decade of Decentralisation Policy;
2. Note that Centroc will be making a submission for the councils of the Central West; and
3. Authorise the Mayor to make a submission on behalf of Lithgow City Council.

SUMMARY

The New South Wales State Government has released its Transport Master Plan. This report provides an outline of the impact of the Plan on the Central West region.

COMMENTARY

The final NSW Long Term Transport Master Plan was released late last year (2012) by the Minister for Transport, the Hon. Gladys Berejiklian and Minister for Roads and Ports, the Hon. Duncan Gay.

The Master Plan is designed to set a direction for transport in New South Wales for the next 20 years by bringing together all modes of transport, across all regions of the State into an integrated network. The Master Plan includes 220 short, medium and long term actions and financially supported through a four year investment of over \$53 billion in initial funding to lift the standard of transport in NSW.

The most direct references to the Central West are located on page 256 of the document and state:

Central West

The Central West is a major agricultural, industrial and commercial region, spanning the Central Tablelands and plains. It includes the regional centres of Orange, Dubbo, Bathurst, Lithgow, Parkes, Forbes and Cowra. The Central West has significant employment in retail, agriculture and forestry, health and social assistance, education and manufacturing sectors.

The major roads in the region are the Golden Highway (B84), Newell Highway (A39), Mid Western Highway (B64), Great Western (A32) and Mitchell (A32) Highways, Lachlan Valley Way, Bells Line of Road (B59) and Castlereagh Highway (B55). The main rail lines are the Main West Line (freight and passenger), the Main Orange to Broken Hill Line (freight and passenger) and the network of freight branch lines.

The region has major interstate corridors that need to be maintained, including Sydney-Adelaide-Perth (road and rail) and Melbourne-Brisbane (Newell Highway - A39). Access to and across the Blue Mountains is an ongoing priority for the region.

In October 2012, a new daily Bathurst to Sydney return rail service was introduced. This express service provides a fast and reliable rail link between the growing Bathurst region and Sydney.

Short term

Our road network program will focus on the Newell Highway (A39) upgrade including the Trewilga realignment near Peak Hill. We will also complete work to address localised congestion on the Great Western Highway (A32) in the Blue Mountains and in Kelso and on the Mitchell Highway (A32) in Bathurst, Orange and Dubbo. We completed the study into the Bells Line of Road in October 2012 and will protect the corridor for future transport needs.

We will work on the realignment of Goanna Hill on the Mitchell Highway (A32) near Molong.

We are improving train services with the introduction of a daily return service between Bathurst and Sydney.

The development of the Central West Regional Transport Plan and the renewal of bus contracts within the next five years offer opportunities to seek better outcomes for bus users in the region. As part of our commitment to increasing public transport use to reduce reliance on cars, we will consider whether more flexible bus services tailored to the region's needs will achieve better outcomes.

We will conduct heavy-duty pavement upgrades to accommodate heavy vehicle traffic on the heavy vehicle bypass at West Wyalong.

Medium to longer term

As traffic levels increase on the Newell Highway (A39), further upgrades and additional overtaking lanes will be required to alleviate constraints and unsafe operations. Similar actions will be required on the Mitchell (A32), Great Western (A32) and Mid Western (B64) Highways to cater for growing travel between Bathurst and Sydney and Bathurst and Dubbo.

We will work with community groups, regional transport coordinators, local councils and local bus operators to continue to enhance the public transport system so that it meets the needs of the region's customers and businesses. Ongoing monitoring of bus contracts will offer the opportunity to review operational guidelines and address issues that emerge.

We will provide pedestrian facilities in Cowra on the Mid Western Highway (B64) to improve pedestrian access and safety in the town centre.

We will enhance town and regional bus services to increase access to the key regional centres of Bathurst, Orange and Dubbo and to connect smaller communities.

The Bridges for the Bush program part two will upgrade three timber bridges in the region: McKanes Bridge over the Cox River, Warroo Bridge across the Lachlan River and Gooloogong with the Holman Bridge on Nanima Road.

The McKanes Bridge is located on the MCKane's Falls Road, in the Lithgow Local Government area.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Transport Master Plan Summary

The Plan is an extremely large file and can be located at:
<http://www.transport.nsw.gov.au/sites/default/files/b2b/publications/nsw-transport-masterplan-final.pdf>

RECOMMENDATION

THAT Council note the report on the release of the New South Wales Transport Master Plan.

ENVIRONMENT AND DEVELOPMENT REPORTS

ITEM-11 ENVIRO - 04/02/13 - DEVELOPMENT APPLICATION REPORT -
DA180/12 - PROPOSED GARAGE- 1 GOLF LINKS ROAD
MARRANGAROO NSW 2790

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To recommend determination of Development Application 180/12 for a garage at Lot 15 in DP 1029863 where it is proposed to gain access off Council owned land at Lot 1 DP840412, 1 Golf Links Road, Marrangaroo NSW 2790.

COMMENTARY

Council is in receipt of a Development Application 180/12 for a garage on land known as Lot 15 in DP 1029863, 1 Golf Links Road, Marrangaroo NSW.

The allotment currently retains a dwelling and attached garage. The proposal is for a new additional garage of 12m x 9m to obtain access off Lot 1 DP 840412 being land owned by Council adjacent to the golf club.

The location and access of the proposed garage is due to the irregular shape of the allotment and an easement of 2m that runs along the south boundary.

The access over Council's land will require legalisation through a Right Of Carriageway prior to any works being carried out on the garage. Additionally, the access will be required to be constructed to a Council standard as determined by the Operations Department prior to final occupation.

Further, the shed is proposed to be set back from the side boundary by 1.5m which is a variation of the Marrangaroo Development Control Plan being a minimum 2.5m. However, given that existing screening on the boundary will minimise this impact it is considered this variation is acceptable. The neighbouring property was notified of the development in which no submissions were received.

The proposal did not receive any submissions from the public over the 14 day period.

CONCLUSION

The proposed Development Application has been assessed under Section 79C of the *Environmental Planning and Assessment Act 1979*. It is recommended that the Development Application be approved.

POLICY IMPLICATIONS

Policy 7.6 Development Applications by Councillors and Staff and Relatives Or On Council Owned Land, is relevant given that the proposal seeks to access the new garage

over Council owned land. Therefore, the proposal will need to be determined by the elected Council.

FINANCIAL IMPLICATIONS

There are no other financial implications of the development on Council and creating the Right of Carriageway will full cost to the applicant.

LEGAL IMPLICATIONS

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the *Environmental Planning and Assessment Act 1979*. A full assessment of these matters is provided as an attachment to this report.

ATTACHMENTS

1. A Section 79C report pursuant to the Environmental Planning and Assessment Act 1979.
2. Plan of approximate garage and access location Lot 15 DP1029863.

RECOMMENDATION

THAT:

1. That Development Application 180/12DA be approved subject to conditions specified in the attached Section 79C assessment.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-12 ENVIRO - 04/02/13 - DEVELOPMENT CONSENT 190/09 HOWARD
SONS PYROTECHNICS COMMUNITY LIASION COMMITTEE**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

REFERENCE

Min No 12-470: Ordinary Meeting of 17 December 2012

SUMMARY

To advise Council of discussions with Howard & Sons Pyrotechnics on the status of Development Consent 190/09 and to recommend to Council the adoption of the Terms of Reference for the Howard & Sons Pyrotechnics Community Liaison Committee should it be determined that the consent has been activated.

COMMENTARY

Council at its meeting of 17 December 2012 resolved to establish the Community Liaison Committee for Howard & Sons Pyrotechnics. An advertisement has been placed calling for nominations as community representatives on this committee which will be reported back to Council following the closing date.

It is necessary for Council to adopt Terms of Reference for the committee. A draft document incorporating Terms of Reference for the Howard & Sons Pyrotechnics Community Liaison Committee is attached for consideration. It should be noted that the Mayor is designated as the Chairperson and Council's representative on the committee and the Deputy Mayor as the alternate representative.

Discussions were held with company representatives on 16 January 2013. The aim of these discussions was to determine if Development Consent 190/09 had been activated or whether the previous Development Consent was still in force. It was agreed that the company would make a submission following a detailed review of the existing consent. They advised that the operation of the facility had changed since the consent was granted and that no pyrotechnics display fireworks are being manufactured on site. If this is still the case, and the development has not undertaken works or carried out operations contemplated by Development Consent 190/09 then it is likely that this consent has not been activated.

Should it be determined that the consent has not been activated, then it will not be necessary to establish the Community Liaison Committee as the condition relates to 190/09DA.

FINANCIAL IMPLICATIONS

Council will be providing administrative support to the Committee if established.

ATTACHMENTS

1. Draft Terms of Reference Howard & Sons Pyrotechnics Community Consultative Committee.

RECOMMENDATION

THAT:

- 1) Council adopt the Terms of Reference for the Howard & Sons Pyrotechnics Community Liaison Committee.
- 2) The Mayor be appointed as Chairperson and Council's representative on the Committee.
- 3) The Deputy Mayor be appointed as the alternate Council representative on the Committee.
- 4) Nominations for community representatives on the Committee be submitted to Council for consideration after the closing date.
- 5) The formalisation of the Committee only occur if it is determined that 190/09DA has been activated.

**ITEM-13 ENVIRO - 04/02/13 - FAIR TRADING DELEGATION TO COUNCIL -
PLUMBING DRAINAGE ACT 2012**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

To recommend to Council the adoption of a delegation from the Commissioner for Fair Trading for Council to perform functions under the provisions of the Plumbing and Drainage Act 2012.

COMMENTARY

The Commissioner for Fair Trading has advised that as from 1 January 2013, Fair Trading became the single regulator of the Plumbing and Drainage Act 2012 and the Plumbing and Drainage Code across NSW. This involves responsibility for all plumbing and drainage regulation including inspections currently carried out by Councils.

Whilst Fair Trading have taken over control of plumbing and drainage regulation, in NSW country areas they do not have staff to regulate it and need to rely on councils in this role.

The intent of Fair Trading is to delegate certain functions back to all local councils in order to continue the important regulatory role of Councils in their local areas. Fair Trading has been providing information to council staff through a number of seminars to explain the new system and the role of Council. Council will continue to perform its current role in plumbing and drainage regulation with the only major change being the requirement for Fair Trading to now delegate this role to Council.

Section 21 of the Act allows the plumbing regulator to delegate any of the plumbing regulators functions to a local council. The Council may, in turn, sub delegate any of these functions but only as set out in the Act.

An "Instrument of Delegation" has been prepared by Fair Trading and has been provided to Council for this purpose. Similar instruments have been provided to Councils throughout NSW.

It is appropriate for Council to authorise acceptance of the delegation by the General Manager who can sub delegate to appropriate council officers.

FINANCIAL IMPLICATIONS

No change. Fees and charges are set by Council through the budget process.

LEGAL IMPLICATIONS

Council will be required to enforce the provisions of the relevant legislation.

ATTACHMENTS

1. Copy of the letter from the Commissioner for Fair Trading and the Instrument of Delegation.

RECOMMENDATION

THAT:

1. Council accept the delegation of functions under the Plumbing and Drainage Act 2012 from the Commissioner for Fair Trading and to execute the instrument of delegation under Council Seal.
2. The functions under the Plumbing and Drainage Act 2012 be delegated to the General Manager.

ITEM-14 ENVIRO - 04/02/13 - FOOD INSPECTION FEES SCHOOLS AND CHARITABLE INSTITUTIONS

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Min No 12-292: Ordinary Meeting of 13 August 2012
Min No 12-322: Ordinary Meeting of 3 September 2012

SUMMARY

To formally amend Council's Fees and Charges for the remainder of 2012/2013 so that no food inspection fees be charged for schools, charitable institutions or not for profit organisations.

COMMENTARY

At its Ordinary meeting of 3 September 2012 Council resolved:

THAT:

1. The food inspection fees imposed in 2011/12 for schools, charitable organisations and not for profit organisations be waived for the initial inspection only and not for any reinspection that is required.
2. That for the interpretation purposes the following definitions are adopted:
 - School – School canteens (Any kitchen or canteen run by a private contractor is not exempt)
 - Charitable institution - a religious or other institution set up to provide charitable services that does not charge a fee for any service that it provides. This includes a Hospital Auxiliary. (Any kitchen or canteen run by a private contractor is not exempt)
 - Not for profit organisation – a sporting, service club or cultural club that does not distribute any surplus of funds from its activities other than for the purpose of its activities nor charge entry fees to its activities or events. (Any kitchen or canteen run by a private contractor is not exempt).
3. Council advertise for a period of 28 days its intention to amend its fees and charges proposing that no food inspection fees be charged for schools, charitable institutions or not for profit organisations.

Following exhibition of the intention to change no fees for the remainder of 2012/2013 no submissions were received. To finalise the process to amend its fees and charges it will be necessary for Council to formally adopt a zero charge for schools, charitable institutions or not for profit organisations.

FINANCIAL IMPLICATIONS

Council will lose some revenue but this is not expected to be significant.

LEGAL IMPLICATIONS

The Local Government Act provides that a council may charge and recover an approved fee for a service that it provides (s608); waive or reduce fees (s610E); provide at least 28 days notice for a proposed change in fees (610F(3) if after adoption of the Operational Plan.

RECOMMENDATION

THAT Council charge no food inspection fees for schools, charitable institutions or not for profit organisations for the remainder of 2012/2013 and this be reflected in its Fees and Charges as 'nil charge'.

**ITEM-15 ENVIRO - 04/02/13 - NEW SMOKE-FREE REFORMS IN OUTDOOR
PUBLIC PLACES**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Min No 11-434: Ordinary Meeting of 31 October 2011
Min No 12-93: Ordinary Meeting of 26 March 2012

SUMMARY

To advise Council of amendments to the Smoke Free Environment Act 2000.

COMMENTARY

Some Councillors may recall from Council's Ordinary Meeting of 26 March 2012 a report on a proposal by the NSW Government to introduce smoke-free legislation covering busy outdoor public places, including playgrounds and outdoor dining areas.

Correspondence has now been received from Dr Kerry Chant, Chief Health Officer and Deputy Director-General, Population and Public Health, NSW Ministry of Health informing Council of amendments made to the *Smoke-free Environment Act 2000* to make the following settings smoke free from 7 January 2013:

- In public playgrounds within 10 metres of children's play equipment;
- In open areas of public swimming pools;
- In major sporting facilities and at public sports grounds;
- At public transport stops and stations;
- Within 4 metres of the pedestrian access point to a public building; and
- From 2015, commercial outdoor dining areas.

Authorised Inspectors from the NSW Health Public Health Units, located in Local Health Districts, will be responsible for enforcement of compliance with the new smoking bans. Where Councils have introduced 'by-laws' (eg Policies) under the *Local Government Act 1993* which prohibit smoking in settings not covered by the statewide legislation, or where 'by-laws' go further than the state bans, these will continue to be enforced by Local Council officers.

Under the reforms, occupiers of certain premises will be required to display signage to indicate that smoking is not permitted. The new law also allows the Ministry of Health to work with local councils and other Government agencies to develop signage appropriate to the different types of settings.

A state wide community education campaign will be carried out prior to the commencement of the new smoke-free laws to ensure a high level of awareness and compliance by the general public and business community.

Council also received a report at its Ordinary Meeting of 31 October 2011 which included an overview of other legislative and policy provisions, including the *Smoke-free Environment Act 2000* at the time. These are otherwise unchanged and include:

- 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 Workplace 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.
- 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.

The main problem with the amendments to the *Smoke-free Environment Act 2000* relates to enforcement. Authorised Inspectors from the NSW Health Public Health Units will be responsible for enforcement of compliance with the new smoking bans. The Public Health Officers for the area health service are located outside the Lithgow Local Government Area (primarily Penrith) and the practicalities of being able to patrol and enforce the legislation across the area will be difficult.

Council could request that councils also be given authority to enforce the legislation and this be delegated to appropriate officers, eg Environmental Health Officers and Rangers. Perhaps Police officers could also be suggested, subject to consultation with the Police. This, of course, does add additional workload to already fully committed officers and even though more personnel would be available for enforcement, 'being in the same place at the same time' as an offender is problematic. There is also a philosophical argument that such an important public health issue should remain the domain of State Government.

Council could also consider prohibiting smoking in certain public areas under the provisions of the Local Government Act. Under this option, there still remains resourcing and practical enforcement issues as well as potential confusion between the two pieces of legislation.

In October 2011 Council resolved not to move towards the prohibition of smoking in all public places adjacent to public buildings, considering at the time that there was not enough evidence of a public interest to warrant such a commitment. Unless the current

Council is of the view that this position has changed it will be suggested that Council maintain this position.

POLICY IMPLICATIONS

Council Policy 10.3 – Smoke Free Environment applies.

FINANCIAL IMPLICATIONS

Nil at this stage. However, should Council wish to become involved in an oversight and enforcement role there will be likely cost implications.

LEGAL IMPLICATIONS

Outlined in report.

ATTACHMENTS

1. Correspondence from NSW Ministry of Health dated 22 November 2012.

RECOMMENDATION

THAT Council note the amendments to the *Smoke-free Environment Act 2000*.

ITEM-16 ENVIRO - 04/02/13 - REQUEST FOR EXEMPTION OF SECTION 94A CONTRIBUTIONS DANIEL COLLINS AND DEANNA JOHNSON

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Min No 12-315 Ordinary Meeting of 3 September 2012

SUMMARY

To advise Council of a request received from Daniel Collins and Deanna Johnson for Council to exempt them from the payment of Section 94A Contributions for DA119/12 – Proposed Dwelling at Lot 51 DP 1103064 22 Kirkley Street, South Bowenfels NSW 2790.

COMMENTARY

Council is in receipt of a submission from Daniel Collins and Deanna Johnson seeking an exemption of Section 94A Contributions of \$2,760.00, payable in accordance with Councils 'Section 94A Development Contributions Plan 2012'.

A copy of the submission is attached that seeks an exemption on the following grounds:

Mr Collins & Ms Johnson claim that they signed their building application on 9 June 2012 and left it with their builder, M & M Building Contractors. Their builder advised them that to his knowledge there was no advance public notification of the implementation of the Section 94A Development Contributions Plan, nor was there any direct notification of the Plan sent to builders in the district and he did not receive any advanced notification and accordingly was unaware of the need for urgency in lodging their application and did not lodge it with Council until 27 July 2012.

Mr Collins & Ms Johnson claim that had they been aware of the impending implementation of the Section 94A Development Contributions Plan their application would have been lodged prior to 19 July 2012 and their situation arose because Council had not adequately pre-warned the public and builders of its intention to introduce the Plan.

Mr Collins & Ms Johnson are requesting that Council consider their individual case under Section C7(n) of the Section 94A Development Contributions Plan which specifically allows Council to grant exemption for 'any other development which Council considers an exemption is warranted'.

As Councillors may be aware, Council at its meeting of 23 April 2012 considered a Draft Section 94A Development Contributions Plan and resolved:

THAT Council

1. Refer the attached Draft Lithgow City Council Section 94A Plan to the NSW Department of Planning and Infrastructure for their concurrence to publicly exhibit the Plan.
2. Provide the General Manager with delegated authority to make any minor amendments to the Plan that do not alter policy content, as may be required by the NSW Department of Planning and Infrastructure and place the Draft Plan on public exhibition in accordance with the EP & A Regulations, 2000.
3. Resolve to repeal all existing development contributions plans upon commencement of the Plan once adopted by Council.
4. Resolve to review the current Planning Agreements Policy of Council.

The Draft Section 94A Development Contributions Plan was placed on public exhibition for a period of twenty-eight days between 18 May 2012 and 15 June 2012. During this period the Draft Plan and explanatory fact sheet was available for public viewing at Council's Administration Building. Notification of the public exhibition was undertaken by public notice in the Lithgow Mercury each week of the exhibition period as well as being placed on Council's website. No public submissions or enquiries were received during this period.

Following this Council considered a further report at its Ordinary Meeting of 25 June 2012 and resolved:

THAT :

1. Council adopts the Section 94A Development Contributions Plan for Lithgow City Council.
2. Council gives public notice of its decision in the local newspaper within 28 days of its resolution, the date of which will become the commencement date of the new plan.

The Section 94A Development Contributions Plan came into effect on 19 July 2012.

At its Ordinary Meeting of 3 September 2012 Council considered a Notice of Motion from Councillor McAndrew and resolved as follows:

12-315 RESOLVED THAT:

1. Council utilise the provisions of Section C7 (n) of the Lithgow Section 94A Development Contributions Plan to exempt all development applications submitted and/or with a building contract date prior to the 19th July, 2012.
2. A report be provided to Council outlining all costs applicable to applications including charges levied by other bodies.

In respect to No 2, the only other 'developer contributions' that could be payable to Council would be for water and sewerage, for example for a subdivision in South Bowenfels there is a currently a contribution of \$1,032 for water and \$1,161 for sewer. These contributions are not applicable to applications for single dwellings. The only other known contribution from another authority may relate to electricity provision where, for example, design is sometimes necessary but this is usually at subdivision stage.

In regard to No 1, unfortunately Mr Collins and Ms Johnson did not lodge their application until 27 July and did not have a building contract in place prior to 19 July 2012. Consequently, their request does not fall into a category that may be exempted.

Whilst not unsympathetic to the request, it should be noted that Council did undertake the required public notification and exhibition processes. Should Council agree to an exemption in this case it may also leave itself open to other claims whereby people were not aware of the impending changes. Whilst there may be an argument to extend consultation processes beyond legislative requirements, Council followed due process in this instance and providing an exemption in this instance may give rise to further claims that would be difficult to resist notwithstanding that Council has followed its legislative responsibilities.

POLICY IMPLICATIONS

No specific policy implications arise.

FINANCIAL IMPLICATIONS

Should Council decide to exempt Mr Collins and Ms Johnson in this instance, it would forgo \$2,760.00.

LEGAL IMPLICATIONS

The Contributions Plan has been duly made under the provisions of Section 94A of the Environmental Planning and Assessment Act.

ATTACHMENTS

1. Correspondence from Daniel Collins and Deanna Johnson dated 5 December 2012.

RECOMMENDATION

THAT the information in the report be noted and Council advise Mr Daniel Collins and Ms Deanna Johnson that it is not able to provide an exemption to Section 94A Contributions in relation to DA119/12.

**ITEM-17 ENVIRO - 04/02/13 - ROAD NAMING DA 5606 OFF JOHN GRANT
ROAD LITTLE HARTLEY NSW 2790**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To advise Council of road naming proposal for a new road off John Grant Road, Little Hartley NSW 2790.

COMMENTARY

Council has received a submission on the naming of an internal road in regards to a consent condition within an approved 10 Lot subdivision. The applicant has requested that Council name this road Melliodora Place which is a reference to the botanical name for Yellow Box which was once dominant in the area but is now an endangered local woodland eucalypt.

POLICY IMPLICATIONS

These roads will be named in accordance with Council's Road Naming Policy.

FINANCIAL IMPLICATIONS

Council will incur some minor advertising costs in accordance with its Road Naming Policy, although the costs of the signs will be borne by the applicant.

ATTACHMENTS

1. Plan showing the subdivision.

RECOMMENDATION

THAT in accordance with Council's Policy for the naming of roads, Council advertise the road name as indicated on the attached plan in the Lithgow Mercury calling for submissions to be made for the statutory period of twenty-eight (28) days.

ITEM-18 ENVIRO - 04/02/13 - TREEVIEW ESTATE MODIFICATION TO A VOLUNTARY PLANNING AGREEMENT

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To advise and seek endorsement of a modified Planning Agreement for Treeview Estate.

COMMENTARY

A Voluntary Planning Agreement was previously endorsed for Treeview Estate (DA 062/06). Treeview Estates Pty Ltd submitted a Section 96 Modification Application to increase the number of proposed seniors living units from 128 attached units, to 148 detached units. This modification was approved on 2 November 2012. Although the Modification was able to be assessed under delegation, it prompted a revision of an existing Voluntary Planning Agreement to refer to the current approved number of units. This revision of the Planning Agreement requires the endorsement of Council.

The original agreement provided contributions for mapping and rehabilitation works to a wetland, a bus turnaround circle and landscaping, which have all been completed. The amended agreement includes a contribution for community facilities for the additional units which will continue to be paid prior occupation of the dwellings for each stage in the development. The amount to be paid continues to be \$660 per unit.

The appropriate notification process has been carried out with no submissions being received. The agreement is ready for endorsement by Council.

POLICY IMPLICATIONS

Policy 7.12 – Planning Agreements applies.

FINANCIAL IMPLICATIONS

The financial implications for Council are the receipt by Council of a development contribution being a monetary contribution or the provision of a material public benefit in the form of infrastructure, facilities, amenities and services.

LEGAL IMPLICATIONS

The legislative basis for the Planning Agreement is incorporated in the Environmental Planning and Assessment Act 1979 (Sections 93F – 93L) and the Environmental Planning and Assessment Regulations (clauses 25B – 25H).

ATTACHMENTS

1. Draft Planning Agreement

RECOMMENDATION

THAT Council endorse the modified Voluntary Planning Agreement in relation to Treeview Estate.

**ITEM-19 ENVIRO - 04/02/13 - DEVELOPMENT APPLICATION REPORT -
01911DA - PROPOSED DEMOLITION OF COTTAGE AND SHEDS -
IVANHOE COLLIERY PORTLAND ROAD PIPERS FLAT NSW 2790**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To recommend determination of Development Application 019/11 from Ivanhoe Coal Pty Ltd for the demolition of a cottage and surrounding sheds at Lot 5 in DP 858201, Portland Road, Pipers Flat.

COMMENTARY

Council is in receipt of a Development Application from Ivanhoe Coal Pty Ltd for the demolition of a cottage and surrounding sheds.

The dwelling was originally constructed at Sunny Corner between 1870 and 1880, and was relocated piece by piece to Piper's Flat Road in about 1902, when the Portland Cement Works was getting under way. At the time, three cottages were relocated to the site with two previously being demolished.

The dwelling was reconstructed from most of its original fabric and appears to be structurally sound but in a poor condition. The dwelling is clad with vertical timber boards sealed with timber batons, some walls are galvanised iron, and the front/back verandas have been enclosed with fibro panelling. Some timber lattice is utilised at the front. The roof is painted corrugated iron and there are two brick chimneys, neither of which is in use. Foundations are brick and the internal floors are timber. Window frames are a mix of aluminium and timber, with some side windows being double hung timber framed.

The outbuildings include a large galvanised iron shed/garage, a galvanised iron toilet building and zincalume storage shed.

There are remnants of the original garden around the dwelling, including exotic and native trees and shrubs, roses and spring bulbs.

Access to the subject lot is off the Pipers Flat Road. It crosses the rail line and veers off to the east towards the dwelling.

Beyond the dwelling the land has some minor grazing areas. The majority of the land to the north is bushland. There is one entrance onto Pipers Flat Road across the railway line.

The proposed demolition did not receive any submissions from the public over the 14 day period. One objection was received prior to the lodgement of the application in regards to the heritage status of the dwelling. The dwelling is not located on Councils LEP 1994 or proposed to be on Councils new LEP as a heritage significant building.

Although the building is not identified as being heritage listed within Council's Local Environmental Plan 1994 or Council's Draft Heritage List, it still contains heritage significance as it was reconstructed to provide housing for the Portland Cement Works (which is heritage listed). Public interest was also shown prior to the submission of the application indicating opposition to the demolition. A Statement of Heritage Impact was therefore submitted to Council with the application and a review was sought by Council's Heritage Advisor.

Council's Heritage Advisor reviewed the Statement of Heritage Impact (SOHI) and recommended that as the cottage is a sound lightweight structure, an appropriate course of action would be to relocate the cottage.

The Heritage Advisor made the following suggestions:

1. Contact be made with the family member to discuss the family issues;
2. Contact be made with the National Trust to obtain copies of the formal comments (if any) mentioned in the SOHI;
3. Contact the community groups in Portland and Sunny Corner to investigate opportunities for relocation;
4. Contact the Progress Association/Community Group in Sunny Corner to see whether the cottage would be relocated back to Sunny Corner, either to the community centre site or to another site in the village. There was a small group active a few years ago in Sunny Corner trying to start a 'main street' improvement program for the village.

The suggestions were put to the applicant who advised:

- Although the building has some elements of its original fabric, there has been a significant alteration that have taken place that detracts from any heritage value it may have had;
- The cottage is not in a suitable safety standard to be occupied as a dwelling purpose;
- The applicant is not willing to relocate the building.

Although Council's Heritage Advisor made recommendations in relation to possible relocation, a decision has to be made on balance and in this regard the following has to be considered:

- The building is only of local significance and is not particularly rare;
- The applicant has submitted a detailed heritage assessment which discusses potential relocation of the building and indicates that no one appears to be interested in taking the building (of course re-location would also require approval for the new site);
- The heritage assessment concludes that the heritage significance is not high and that many other buildings of the same representative style exist in this area.

As the building is not heritage listed, is in poor condition (though structurally sound) and the has been modified extensively (veranda closed in, internal toilet added, fireplaces boarded up, 50's-60's kitchen cupboards, internal walls covered in many places with fibro and ply wood and 2 original windows closed up) it is unreasonable to refuse the application based upon the heritage advice.

CONCLUSION

The proposed Development Application has been assessed under Section 79C of the *Environmental Planning and Assessment Act 1979*. It is therefore recommended that the Development Application be approved.

POLICY IMPLICATIONS

The application was called in under Policy 7.7 – Calling in of Development Applications by Councillor Hunter. Accordingly, the Development requires determination by the elected Council.

FINANCIAL IMPLICATIONS

There are no other financial implications of the development.

LEGAL IMPLICATIONS

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the *Environmental Planning and Assessment Act 1979*. A full assessment of these matters is provided as an attachment to this report.

ATTACHMENTS

1. A Section 79C modification report pursuant to the Environmental Planning and Assessment Act 1979.

RECOMMENDATION

THAT:

1. Development Application 019/11DA be approved subject to conditions specified in the attached Section 79C assessment.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-20 ENVIRO - 04/02/13 - DEVELOPMENT CONSTRUCTION APPROVALS
- 2008 - 2012 COMPARATIVE FIGURES**

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

To provide statistical information on approvals processed.

SUMMARY

In addition to the detailed report provided to Councillors every 3 weeks on development approvals and applications received, this twelve monthly report with comparisons back to 2008 is submitted to provide an overview of development and construction approvals.

COMMENTARY

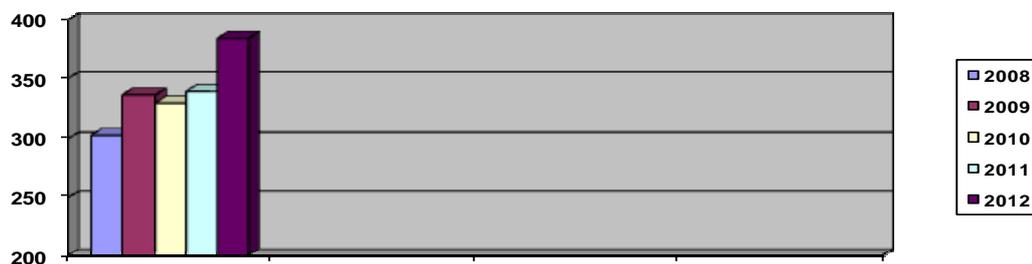
The table below provides a summary of all approvals for each 12 month period from 2008 to 2012. This includes Development Applications, Combined Development Application/Construction Certificates, Construction Certificates and Complying Development Certificates. There was a 13% rise in the number approvals issued in 2012 compared to 2011 with a rise in mean and median approval days. There has been a drop in the total cost of developments but it must always be remembered that the total cost of development approved does not necessarily transfer to that actually built.

DEVELOPMENT APPROVALS 1ST JANUARY TO 31 DECEMBER – 2008 to 2012.

	2008	2009	2010	2011	2012
DA's	55	63	61	70	201
DACC's	209	221	208	207	*
CC's	39	29	32	41	172
CDC's	-	23	28	21	11
Number of Consents Issued	303	336	329	339	384
Average Approval Days (All Applications)	17	16	20	17	21
Median	12	14	14	13	20
Total Cost of Developments	\$31 847 638	\$80 462 882	\$112 757 962	\$63 449 725	\$61 516 752

*Due to a system upgrade in 2012, DA/CC's (Combined applications) no longer exist in the system. Applications are now separated in the system with the DA being the 'parent' record and CC's the 'child'. Whilst this properly reflects their legal status customers can still apply for development and construction approvals together.

TOTAL APPLICATION APPROVALS FOR 2008 – 2012



The graph above indicates the number of approvals on an annual basis between 2008 and 2012.

RECOMMENDATION

THAT the report on development application and construction certificate approvals be received.

ITEM-21 ENVIRO - 04/02/13 - COALPAC CONSOLIDATION PROJECT

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Min No 12-151: Ordinary Meeting of 14 May 2012
Min No 12-323: Ordinary Meeting of 3 September 2012

SUMMARY

To provide Council with an update on the current position of the Coalpac Consolidation Project.

COMMENTARY

By now Councillors would be aware of the report issued by the Planning and Assessment Commission (PAC) in relation to the Coalpac Consolidation Project. The Planning and Assessment Commission conducted a review of the Project in accordance with the specific terms of reference issued by the NSW Minister for Planning, The Hon Brad Hazzard MP as follows:

I, the Minister for Planning and Infrastructure request the Planning Assessment Commission to:

- (1) Carry out a review of the Coalpac Consolidation Project, and:
 - a. Consider the Environmental Assessment of the project, all issues raised in submissions on the project, and any information provided on the project during the course of the review;*
 - b. Assess the merits of the project as a whole, paying particular attention to the potential:
 - Local health and amenity impacts of the project, particularly dust, noise and blasting impacts noting its proximity to the village;*
 - Biodiversity impacts of the project;*
 - Water resource impacts of the project; and**
 - c. Recommend appropriate measures to avoid, minimise and/or offset these impacts.**
- (2) Conduct public hearings during the carrying out of the review.*
- (3) Submit the final report on the review to me by 14 November 2012 unless the Director General of the Department of Planning and Infrastructure agrees otherwise.*

On 12 November 2012 the Commission sought an extension to provide its review report and recommendations by 14 December 2012 which was approved by the Director General of the Department of Planning of Infrastructure by 19 November 2012. The Commissioners that carried out the review were Dr Neil Shepherd AM, Mr Garry Payne AM, and Mr Joe Woodward PSM. Dr Shepherd chaired the Commission for the Project review which also sought expert advice from a consultant, Professor David Cliff from the

University of Queensland and further consulted with the NSW Department of Health and Environment Protection Authority. Two public hearings were also held in addition to meetings with Council and other authorities. Council provided a submission to one of the public hearings.

The PAC concluded that it has substantial concerns about the impacts of the development and was of the opinion that the impacts of the proposal substantially outweighed the benefits. It recommended the Project not be approved. Without resiling from its overall recommendation, the PAC also made a full set of recommendations to the Minister. A copy of the executive summary of the PAC review report and the recommendations are attached to the business paper.

There were a number of issues that appear to have on balance caused concern to the PAC primarily in relation to dust/air quality impacts, noise, blasting and biodiversity. Of most concern, if it is accurate, would be impacts of air quality on the surrounding community of Cullen Bullen. However, it is understood that the company believes that it can adequately address this issue in its response to the NSW Department of Planning and Infrastructure. Of concern to Council may be the PAC's position on placing some emphasis on the Gardens of Stone Stage 2 proposal which is understood not to have any legal status at this stage.

It is understood from discussions with the NSW Department of Planning and Infrastructure that the company have been given an opportunity to respond to the issues raised in the PAC report. It may be that the proposal requires modification. The process from there would be that the officers of the Department of Planning and Infrastructure would be to prepare a report on the proposal which would go to a newly constituted PAC for final determination.

In an endeavour to try and ensure Council that it had taken into account and adequately addressed Council's previous comments in relation to the proposal, Coalpac has provided a response to each of the issues that Council had raised in its submission of 14 September 2012. Coalpac's letter is attached to the business paper and reproduced as follows:

Council previously requested that mining is not to take place within 500 metres of the village, residents residing outside of the village and the cemetery itself.

In response to Council's concerns, and as noted in the Response to Submissions, we will not approach within 500m of any properties within the village. The only properties where we will approach within 500m are either under an agreement or owned by Coalpac.

A condition survey will be undertaken, to the satisfaction of Council, of all structures in the cemetery prior to any mining activity within 500m of the cemetery.

Mining will not approach within a 250m radius of the cemetery and blasts will be designed to limit vibration and over pressure levels to that which will not cause future damage to structures in the cemetery. We had previously committed to limiting ground vibration to 50mm/second at the cemetery.

In recognition of the importance of the site we will further reduce this level down to 20mm/second. This will ensure that there are no blasting related impacts upon the cemetery.

Moreover no blasting will occur on days when services are scheduled at the Cemetery and no mining or coal haulage within a 1,500 m radius will occur within two hours of formal services at the Cemetery.

There have never been any plans to highwall mine beneath the cemetery and this remains the case.

It is proposed that a detailed Management Plan developed specifically for the cemetery and this will be developed in consultation with Council.

Council previously requested that Coalpac be required to lodge a substantial guarantee in a special fund (bond) that will be forfeited in the event that the relevant standards are not met.

Coalpac has previously noted the fact that the Division of Resources and Energy will hold a substantial (multi-million dollar) bond against the rehabilitation of the mine. Council's position was that this did not specifically address their concern regarding financial penalties applying for non-compliance with Project approval conditions.

Coalpac is already subject to the scrutiny of a number of Government regulators in terms of their performance against approval, licence and mining lease conditions. The scale of the penalties which can be brought to bear are summarised below;

Planning Approval

A Major Project Application (MPA) 10_0178 was accepted by the Department of Planning and Infrastructure (DP&I) in October 2010 and is currently being assessed under former Part 3A of the Environmental Planning and Assessment Act 1979 NSW (EP&A Act) for the Coalpac Consolidation Project (CCP). If the CCP is approved the Minister for the Department of Planning and Infrastructure (DP&I) will be the consent authority and will issue the relevant Project Approval (PA) in accordance with the EP&A Act. As such Coalpac will be required to manage its mining activities in accordance with the conditions stipulated in the PA as directed by the Minister.

In the unlikely event that Coalpac does not achieve regulatory compliance under its PA, the Minister has the power, as the Consent Authority, to take regulatory action against Coalpac. This may include penalties under Section 126 and Section 127A of the EP&A Act. Individuals and corporations would be potentially liable for prosecution and fines under Section 284 and schedule 5 of the Environmental Planning and Assessment Regulation 2000. It should be noted that these fines can amount to millions of dollars depending on the severity of the regulatory non-compliance.

Environmental Protection Licence

Prior to the commencement of any construction or mining activities for the CCP Coalpac will require an Environmental Protection Licence issued by the Environmental Protection Authority (EPA), under the Protection of the Environment Operations Act 1997 (POEO Act). In the event of a regulatory non-compliance the POEO Act identifies a three tier penalty system depending on the severity of the offence. The POEO Act states for tier 1

offences that: A person who is found guilty of an offence under this Part is liable, on conviction:

- (a) In the case of a corporation – to a penalty not exceeding \$5,000,000 for an offence that is committed wilfully or \$2,000,000 for an offence that is committed negligently, or
- (b) In the case of an individual – to a penalty not exceeding \$1,000,000 or 7 years imprisonment, or both, for an offence that is committed wilfully or \$500,000 or 4 years imprisonment, or both, for an offence that is committed negligently.

Mining Authorities

Further to the above Coalpac operates in accordance with relevant Mining Leases and Exploration licences issued by the Department of Primary Industries – Division of Resources and Energy (DRE) under the Mining Act 1992 (Mining Act). Coalpac is required to conduct its mining operations in accordance with the conditions of its ML's and EL's. The Minister for DRE has the power to take regulatory action under the Mining Act in the event that regulatory non-compliance is not achieved. The severity of the penalties under schedule 11 of the Mining Regulation 2010 can amount to millions of dollars or imprisonment.

The summary above demonstrates that there are very harsh penalties available at law to ensure that Coalpac complies fully with conditions under any approval, licence and mining lease conditions.

3) Council agrees that Option 1 for the Red Springs Road Crossing is the most appropriate, subject to further discussion and agreement from Country Rail Infrastructure Authority and Roads and Maritime Services. Council notes that all road diversion and re-establishment works are to be at no cost to Council.

Coalpac notes any crossing over Red Springs Road would require agreement from the relevant agencies. Coalpac agrees to hold Council free from the costs of any diversion and re-establishment works.

4) Council would like to maintain its concerns regarding the impact of an additional 128 trucks per day along the Great Western Highway, particularly between South Bowenfels and Mount Victoria. However, we defer to the knowledge and expertise of the Roads and Maritime Services in relation to this matter.

In response to Council's concerns regarding additional road transport levels in the wider area beyond current approved levels Coalpac is considering the removal of sand mining from the Project.

5) Council previously requested that Coalpac include a Commitment indicating trucking of sand will not commence prior to the completion of the Castlereagh Highway overpass.

Coalpac confirm that trucking of sand would not commence prior to the completion of the Castlereagh Highway overpass.

6) Council notes the information provided in relation to the real-time monitoring system. However, it is still considered that in the interest of transparency and ongoing compliance, that the response to real-time monitoring should be reportable on a yearly basis. Such information would be valuable when examining the cause of any potential exceedances.

Coalpac propose to report on the performance of the real-time monitoring system in the Annual Environmental Management Report and will also report to the Community Consultative Committee regarding issues arising and improvements and changes made to operations in response to the experience gained with the real-time monitoring system.

7) Council acknowledges that no changes are proposed in relation to the adopted background noise levels. Council maintains its concern with this issue however, we defer to the knowledge and expertise of the Environment Protection Authority in relation to this matter.

Coalpac notes Council's concerns and will continue to work closely with the Government regulators in this area to set appropriate noise levels.

8) Council acknowledges that Coalpac have indicated that they will provide Council and the Department of Planning and Infrastructure with copies of all formalised landholder agreements (without commercially in-confidence information). However, as the Environment Protection Authority is the regulatory authority for licence issues, it is considered they should also be provided with the relevant information. Also Council still considers it may be appropriate for such issues to be addressed as part of any required reporting process.

Coalpac notes Council's concerns and has no problem with copies of all formalised landholder agreements (without commercially in-confidence information) being made available to the relevant authorities. We would need to seek the agreement of the landowner in question before disclosing the details of any agreement.

Coalpac considers that the requirement to report performance under any landholder agreement would only arise where there is a point of dispute between the parties. If this situation should arise it would be best addressed via the proposed dispute resolution mechanism outlined under the next point rather than reporting.

9) Council previously raised the issue of a dispute resolution mechanism in the event that communication breaks down between Coalpac and Landowner in relation to compliance with landholder agreements. Council maintains its concern that this matter has not been adequately addressed, and requests that this issue is addressed by a condition of the Project Approval should the project be approved.

Our current landholder agreements contain a dispute resolution clause as follows:

Dispute Resolution

1. The parties must seek for twenty-one (21) days to resolve any dispute by discussions in good faith.

2. *If a dispute is not resolved under clause 1 the dispute must be referred to the Australian Commercial Disputes Centre for binding resolution by it by such processes as it determines.*
3. *If the dispute is not resolved under clause 2 within sixty (60) days either party may commence legal proceedings.*
4. *This clause does not prejudice the right of a party to institute court proceedings to seek urgent injunctive or declaratory relief in relation to any matter arising under this agreement nor for an order for specific performance as provided in this agreement.*

We believe that this should provide landholders with a clear, fair and independent dispute resolution process.

In addition, any trigger of compulsory acquisition would be governed by the State resolution process which we have attempted to summarise below.

“Where the proponent and the landholder are unable to resolve an issue arising under a landholder agreement it is proposed that either party may refer the matter to the Director - General of DP&I. Upon receiving such a request, the Director-General shall appoint an independent arbitrator to assess the circumstances surrounding the issue and identify the terms upon which the matter is to be resolved. The independent arbitrator is to:

- Consider submissions from both parties;
- Determine a fair and reasonable resolution and/or terms upon which the matter is to be resolved;
- Prepare a detailed report setting out the reasons for any determination; and
- Provide a copy of the report to both parties.

Within 14 days of receiving the independent arbitrators report, the proponent will make a binding written offer to the landowner to resolve the matter based on the terms of independent arbitrators report.

However, if either party disputes the independent arbitrator’s terms, then within 14 days of receiving the independent arbitrators report, they may refer the matter to the Director-General for review. Following consultation with the independent arbitrator and both parties the Director-General will determine fair and reasonable terms to resolve the matter.

Within 14 days of this determination, the proponent will make a binding written offer to the landowner to resolve the matter based on the Director-Generals determination.

If the landowner refuses to accept the proponent’s binding written offer under this condition within six months of the offer being made, then the proponent’s obligation to resolve the matter shall cease, unless the Director-General determines otherwise.”

10) The Response to Submissions indicates that the Department of Planning and Infrastructure will likely include conditions on any Project Approval confirming those landholders with the right to request that their property be

acquired by Coalpac at "Market Value". Council would like to maintain its concern is that the project may devalue some properties, thereby decreasing "market value", and therefore decreasing the compensation. Accordingly, it is requested that this matter be fully considered by the department of Planning and Infrastructure.

Coalpac notes that there is a property valuation process which is followed to protect the landholder in the event of any acquisition rights being triggered. Coalpac notes Council's concerns and will continue to work closely with the Government regulators on this issue.

11) Council acknowledges that the Response to Submissions indicates that the Department of Planning and Infrastructure will identify who is entitled to compulsory acquisition. However, Council maintains its concern that some properties will potentially endure an increase of over 10dBA at night time, and because of the Adopted Intrusive Noise Criteria, would not be considered within the EA as actually be experiencing an exceedance. Accordingly, it is requested that this matter is fully considered by the Department of Planning and Infrastructure.

The Project EA was prepared in line with Government guidelines and policy regarding noise levels. Coalpac notes Council's concerns and will continue to work closely with the Government regulators on this issue.

12) Council would like to maintain its concern regarding the level of detail provided in relation to the proposed bunds. It is considered that should the project be approved that the proponent be required to prepare a detailed plan which addresses the proposed rehabilitation and slope of bunding, particularly for bunding adjacent to the Castlereagh Highway. It is requested that Council be consulted prior to the approval of this plan to enable consideration of the visual impact such bunds will have on users of the Castlereagh Highway.

Coalpac notes Council's concerns and will add a commitment to its statement of commitments to this effect.

13) Council previously raised the issue of the potential for subsurface heating to be exacerbated by new mining and notes that the Department Resources and Energy has suggested a limit of mining within 1km of the subsurface heating area. Council supports the Department Resources and Energy's recommendations on this issue and notes that Coalpac has not committed to altering their proposal to rectify this matter.

The Division of Resources and Energy recommended "Extinguishment of all subsurface combustion in overburden emplacements and underground mine working before mining is conducted within 1km of these areas." This also noted that the mine plan did not require operations to approach within 1km until year 12 of the Project. They noted that "this gives the proponent sufficient time to ensure all heating is permanently extinguished before mining operations are impacted".

Coalpac is working closely with the Division of Resources and Energy to finalise an agreed plan of works to address the subsurface heating issues at Cullen Valley Mine and

are confident that a long term solution to the issues can be developed and implemented as part of the Project.

Coalpac strongly believes that the Project, once approved, will provide enormous benefit to the local community and understands that Council need to see that the appropriate controls are put in place to provide the confidence that the community and environment will be afforded the protection they deserve.

LEGAL IMPLICATIONS

The proposal is proceeding under the provisions of Part 3A of the Environmental Planning and Assessment Act being a project which had been formulated prior to the repeal of Part 3A.

ATTACHMENTS

1. Correspondence from Coalpac Pty Ltd dated 16 January 2013
2. NSW Planning Assessment Commission – Coalpac Consolidation Project Review: Main Report – Executive Summary & Recommendations

RECOMMENDATION

THAT:

1. Council indicate to the NSW Department of Planning and Infrastructure it is satisfied with the response provided by Coalpac to its previous submissions in relation to the Project.
2. Council request a copy of Coalpac's response to the Department of Planning and Infrastructure on the PAC review so it may specifically appraise itself of how impacts of air quality and noise raised by the PAC are to be addressed and/or whether evidence is provided that the PAC's conclusions are disputed.
3. The Department of Planning and Infrastructure be requested to provide a copy of the report that it will be submitting to the newly constituted Planning and Assessment Commission when available.
4. Clarification be sought from the National Parks and Wildlife Service as to the current status of the Gardens of Stone Stage 2 proposed extension.

ITEM-22 ENVIRO - 04/02/13 - COAL SEAM GAS EXPLORATION LICENCES

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Min No 12-481: Ordinary Meeting of 17 December 2012

SUMMARY

To inform Council of advice received from the NSW Department of Trade and Investment – Resources and Energy in response to a Notice of Motion from Cr M Ticehurst.

COMMENTARY

In response to a Notice of Motion at Council’s ordinary meeting of 17 December 2012 the Titles Office of the NSW Department of Trade and Investment - Resources and Energy was contacted to provide an appropriate response.

The advice received was that the following Petroleum Exploration Licences (PELs) have been issued that cross Council boundaries and encroach on areas within the Lithgow Local Government Area.

Description	Location	Licensee	Main Council Impact	Status
PEL460	47km E Kandos	Macquarie Energy	Singleton/Putty Area	Pending Renewal
PEL468	39.81km NE Kandos	Leichhardt Resources	Mid West/Upper Hunter/Muswellbrook	Pending Renewal

Such a licence entitles the holder to apply for exploration operations such as drilling or seismic surveys upon land within the licence area providing a landholder agreement has been obtained with the owner of the surface lands and a Review of Environmental Factors (REF) has been submitted and approved by the Division of Resources and Energy. To date the only operations that have been carried out in respect of drilling have occurred in areas within the licence area situated in the Singleton Local Government Area. Council has been advised that should an operation be proposed anywhere within the Lithgow Local Government Area then Council would be advised. Furthermore it can be seen from the attached plans that a small section of PEL468 also falls within the Lithgow Local Government Area and a drilling activity has been undertaken within the Mid West Regional Council Area.

There are no additional PELs proposed within Council’s boundaries at this time. The Division has verbally advised that there is no known gas in any existing Lithgow mining operations. However, an application for a Petroleum Special Prospecting Authority (PSAPP 60) has been lodged by the NSW Aboriginal Lands Council. Plans are attached to the business paper which indicates this application covers a vast part of the state including a large section of the Lithgow LGA. If granted, a PSAPP is a basic title that

allows desktop searches and access to information from any previous titles. It is basically a first step that, depending on the results, may lead to an application for a PEL.

ATTACHMENTS

1. Maps indicating the location of PL460 and PL468 and PSAPP 60.

RECOMMENDATION

THAT the information contained in the report on Coal Seam Gas Activities in the Lithgow Local Government Area be noted.

OPERATION REPORTS

ITEM-23 OPER - 04/02/13 - WATER REPORT - JANUARY 2013

REPORT BY: I STEWART - GROUP MANAGER OPERATIONS

REFERENCE

Min No 12-423: Ordinary Meeting 17/12/12

SUMMARY

This report provides an update on various water management issues as per Minute Number 12-493.

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 Tuesday 29 January was 100%. Oberon Dam capacity on Monday 21 January was 90.9%

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 (CWTS) for 2012/13.

Table 1 - Oakey Park Monthly Output and Clarence Transfer

Month Total	Oakey Park WTP (ML)	Clarence Transfer (ML)	Dam Accumulative Yield (ML)
July	107	0	107
August	106	0	213
September	115	0	327
October	140	0	467
November	140	5	607
December	135	81	742
January	141	68	883
2011/12 Monthly Av	121	0	
Rolling 12 Month Total	1,374	154	1,220

Table 2 - Oakey Park Daily Output and Clarence Transfer

Oakey Park WTP	Avg Daily Use kL	Avg Daily CWTS Transfer kL
January	4,859	2,431
December	4,369	2,615
Last Week	4,480	3,260
Previous Week	4,428	3,145

OAKEY PARK WATER QUALITY SUMMARY

Oakey Park Water Treatment Plant is currently supplying water to Lithgow. No health-based ADWG guideline values were exceeded in December. One Total Aluminium result was higher than the aesthetic guideline.

Monitoring results for the licence to operate the water treatment plant have been published on the Lithgow City Council website as required by the *Protection of the Environment Operations Act 1997*.

Fluoridation commenced on 10th December for the Lithgow distribution zones. The Fluoridation Commencement Communication Plan was successfully completed with only two formal enquiries being made for information. One of these was a complaint in opposition to fluoridation. A further 2 complaints have been made since the introduction of fluoride to the water supply.

FISH RIVER WATER SCHEME WATER QUALITY SUMMARY

The FRWS is currently supplying water to Marrangaroo, Wallerawang, Lidsdale, Portland, Cullen Bullen, Glen Davis and Rydal. No health-based ADWG guideline values were exceeded. One Total Coliform sample exceeded guidelines and was investigated.

CURRENT WATER RESTRICTIONS UPDATE

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

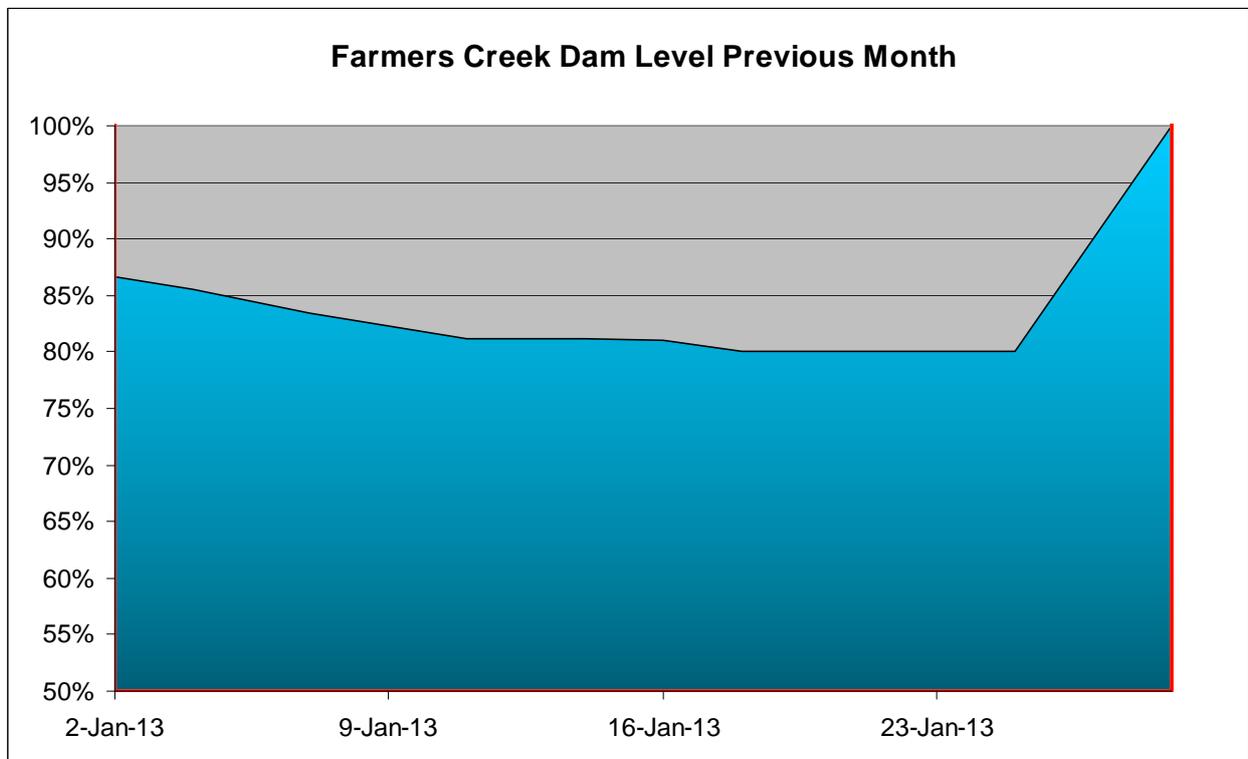
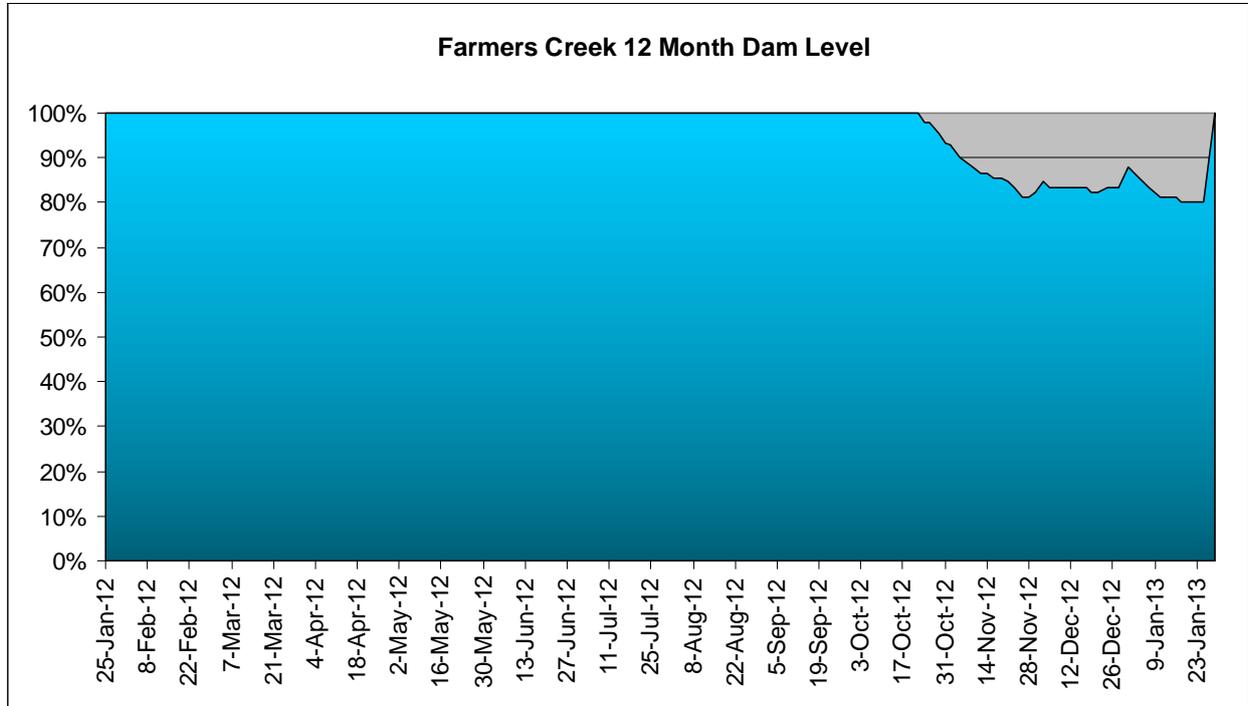
WATER SAVING SCHEMES OR PROCESSES UPDATE

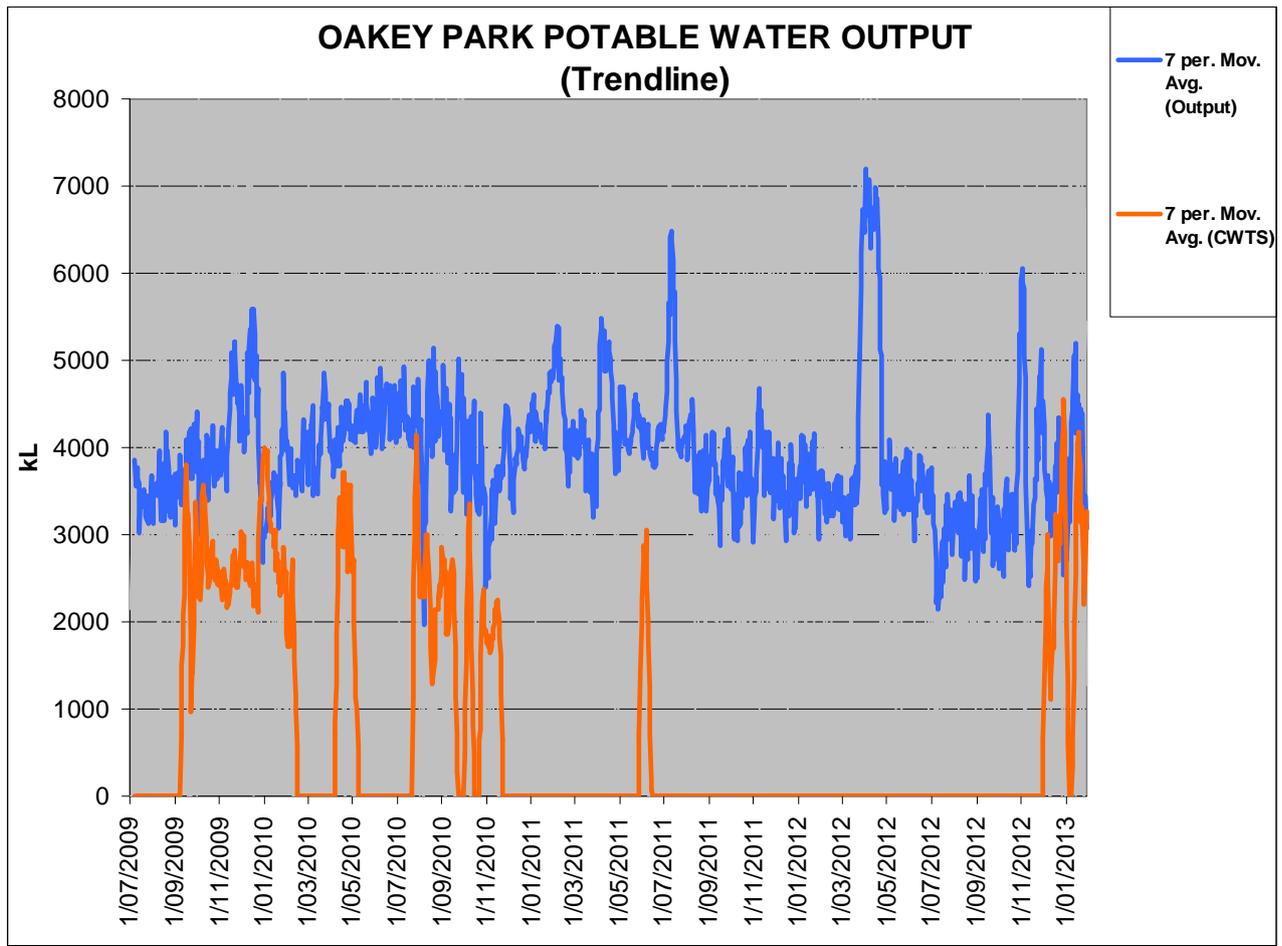
Council's Rainwater Tank and Domestic Appliance Rebate Program continued in December with Council approving two applications for a household appliance rebate and one application for a water tank rebate.

FARMERS CREEK DAM 12 MONTH LEVELS

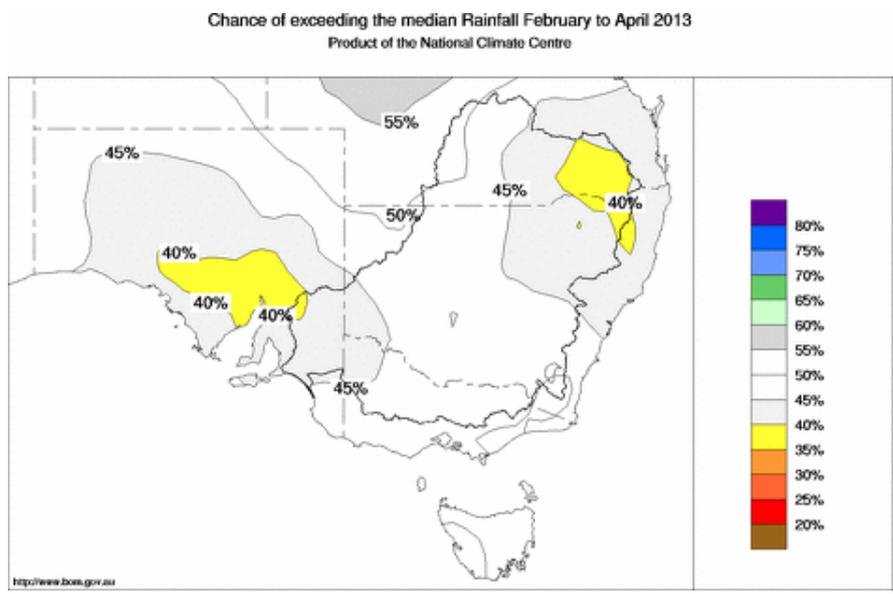
The attached chart shows the storage data to date for the last twelve months.

Graph 1 Farmers Creek Dam #2 over 12 Months





The southeast Australian outlook for February to April 2013 indicates that a drier than normal season is likely for central agricultural regions of SA and northeast NSW. This outlook is a result of warmer than normal waters in the Indian and Pacific Oceans. The tropical Pacific remains neutral with respect to ENSO (El Niño-Southern Oscillation). Climate models surveyed by the Bureau of Meteorology suggest sea surface temperatures in the tropical Pacific Ocean are likely to stay at neutral levels during early 2013.



ALTERNATE WATER SOURCES UPDATE

The Lithgow villages and Marrangaroo Zone are currently being supplied from Fish River Water Scheme (FRWS).

WATER SUPPLY PRESSURES AT HILLCREST ESTATE

Consultants are being engaged to undertake Hydraulic Analysis and an Options Report to address the issues of poor water pressure within the Hillcrest Estate to ensure that adequate water pressures are maintained within the estate.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council note the water report.

**ITEM-24 OPER - 04/02/13 - TENDERING FOR SUPPLY AND INSTALLATION
OF TWO NEW SEWAGE PUMP STATIONS AND ASSOCIATED
PIPELINES AT SOUTH LITTLETON AND SOUTH BOWENFELS**

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

REFERENCE

Min No 12-421: Ordinary Meeting 5 November 2012

SUMMARY

This report provides an outline of the Selective Tender Response process undertaken and the results of that tender process for the construction of two (2) sewage pump stations and their associated pipelines - one each at South Littleton and South Bowenfels. The report recommends that Council not accept either of the tenders received but readvertises the same work by the open tender process in accordance with the *Local Government (General) Regulation 2005, clause 167*.

COMMENTARY

Background

In the beginning the project plan was to replace the rapidly deteriorating South Littleton sewage pump station (SPS) with two new SPS's designed to meet the ultimate development of their separate catchments (after a further 50 years growth). The sewage from these two SPS's was intended to be pumped into the gravity network and thereby to gravitate to the Sewage Treatment Works via SPS No 1 – provided there was sufficient capacity in the gravity network.

Following an assessment by NSW Public Works Department (PWD) the existing gravity network from the point of discharge of the rising main to the Sewerage Treatment Plant was evaluated as not having the capacity to carry the loads from the two new pump stations. This has necessitated the construction of a duplicate gravity main to be basically laid in parallel with the existing reticulation. This proposal is complicated by the need to construct the new main under Main Street and railway line. This new pipeline has been designed as have the necessary crossings of Main street and the railway line. This portion of the work was not included in the original budget for the upgrade of the South Littleton/South Bowenfels scheme.

The tender documents for the upgraded system became known as TEN 08/12

Details of the Selective Tender Process

Council resolved to invite tenders for TEN 08/12 – South Bowenfels Sewerage Scheme Upgrade Works - from a list of six selected tenders chosen by the Expression of Interest Process and approved by Council under item 27 of the meeting held on 5-11-12. In response to the tender published through Tenderlink.com - two valid and one invalid

responses were received. The invalid response was received from a tenderer who failed to attend the mandatory site meeting.)

The PWD estimate and the prices obtained from this process are tabled below. The table shows amongst other things that TWS is 18% and Haslin is 36% above the estimate provided by the NSW Public Works Department of \$3,540,000.

	Separable portion 1	Separable portion 2	Separable portion 3	Separable portion 4	All Separable portions	%
Description Entity	Pipelines	Road rail & Creek Crossings	South Bowenfels pump station	South Littleton pump station		
NSW Public Works Dept	\$1,300,000	\$980,000	\$710,000	\$550,000	\$3,540,000	100%
TWS	\$1,850,000	\$620,000	\$950,000	\$760,000	\$4,180,000	118%
Haslin	\$2,100,000	\$440,000	\$1,200,000	\$1,100,000	\$4,840,000	136%

Comments on the Results of the Tender Process

Tendering interest in the project has steadily waned since the Expression of Interest (EOI) was first published. 16 contractors responded to the EOI, which was subsequently reduced to six in the culling process. Three of selected contractors failed to submit tenders.

The two tenders received were of a high quality prepared by reputable contractors well known to the local industry. However, the competitive environment, so necessary for transparent public accountability, was not achieved. For this reason the formal tender evaluation process (published with the tender) has not been performed to date.

FINANCIAL IMPLICATIONS

Due to the low number of tenders received it is considered that calling fresh open tenders may produce more competitive tenders for this project. There is a large discrepancy between the tenders received and the preconstruction estimate provide by the Department of Public Works. It will be necessary depending upon the tenders received to review sources of funds for this project as there are insufficient funds to finance this project. Whilst this project is urgent consideration could be given to staging the works following a review of tenders received and financing arrangements.

LEGAL IMPLICATIONS

Clause 178 of the New South Wales Local Government Tendering Regulations permits Council to decline to accept any of the tenders received and Clause 178(3) permits Council to invite fresh tenders.

RECOMMENDATION

THAT in accordance with clause 178 (Acceptance of Tenders) Council decline to accept any tenders and invite fresh tenders in accordance with clause 167 (Open Tendering) - Local Government (General) Regulation, 2005.

ITEM-25 OPER - 04/02/13 - NSW GOVERNMENT FUNDING FOR LOCAL ROADWORKS ROUND 2

REPORT FROM: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

The purpose of this report is to advise Council of the offer of a second round of funding of \$200,000 by the State Member Mr Paul Toole which is to be matched dollar for dollar by Lithgow City Council for Local road works.

COMMENTARY

Last year \$200,000 in funding was offered to Council to be matched on a dollar for dollar basis for improvements to Councils road network.

Advice has been received from the State Member for Bathurst of a second round of funding for \$200,000 again to be matched dollar for dollar by Council.

In association with the grant the State Member advises that funding has been secured from the RMS to undertake works to improve the access into and out of Pearsons Lookout. However this funding offer was subject to Lithgow City Council providing \$50,000 of its own funds to match the \$50,000 proposed to be allocated from the \$200,000 offer of grant funding.

The balance of whatever funding is required to update the access in and out of the site from the highway will be funded by the RMS.

In addition it is suggested by the State Member that \$30,000 of the \$200,000 grant be allocated to the upgrade of the lookout. The offer was also conditional upon Council considering a sum of \$30,000 of matched funding from its own sources to do upgrade work to the lookout, ie \$30,000 from Lithgow City Council and \$30,000 from the \$200,000 grant. This will involve further discussion with Council, the RMS and the Department of Lands.

It should be noted that Council does not have in its budget an allocation of \$50,000 for the access to the lookout nor does it have \$30,000 for the upgrade of Pearsons Lookout.

Further discussions have been held with the local member, Paul Toole, and he is agreeable to the Council portion to also be funded from this allocation. This would leave \$40,000 for Council to allocate in addition to an existing project.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Council may use existing project funding to match this funding allocation.

LEGAL IMPLICATIONS

As the Department of Lands is the current owner of the land upon which Pearsons Lookout is located, it is not clear at this stage whether this ownership and any associated liabilities will be transferred to Council following completion of the improvement works

ATTACHMENTS

1. Correspondence from Member for Bathurst Paul Toole dated 9 January 2013

RECOMMENDATION

THAT Council:

1. Accept the grant of \$200,000 from the NSW State Government for local roadworks;
2. Allocate \$60,000 of the funding to the upgrade of Pearson's Lookout, representing \$30,000 from Local member Paul Toole and \$30,000 from Council.
3. If Department of Lands decline the opportunity to undertake works on Pearson's Lookout the Council complete the works. This shall be on the basis that Council does NOT become responsible for the lookout;
4. Allocate \$100,000 of the funding for the upgrade of the access to Pearson's Lookout with works to be completed by the RMS. The funding here is represented by \$50,000 from Local member, Paul Toole and \$50,000 from Council;
5. Allocate \$40,000 to Urban reseals (Lithgow). The main project for urban reseals here would be Lithgow Street; and
6. Thank the local member, Paul Toole, for the funding.

**ITEM-26 OPER - 04/02/13 - WATTLEMOUNT SUBDIVISION - UPDATE ON
ACCESS ROAD**

REPORT BY: I STEWART - GROUP MANAGER OPERATIONS

REFERENCE

Min No 12-291: Ordinary Meeting of Council 13 August 2012

SUMMARY

To advise Council on the current developments regarding resolution 12-291 that was passed by Council at the meeting held on 13 August 2012.

COMMENTARY

On 15 January 1991, Council approved a subdivision of the Wattlemount property being portions 165 and Lot 23 DP633083 in the Parish of Cullen Bullen County of Roxburgh.

This subdivision created 7 lots with access from Main Road 531 being the road between Portland and Cullen Bullen. This subdivision was approved by Council at the time with Crown Road access being provided to a number of the lots and a right of carriageway over two of the existing lots providing access to the other five lots in this subdivision.

As Council will be aware, Wattlemount Road has been the subject of a number of complaints concerning its condition and it should be noted that whilst the road was upgraded in conjunction with the subdivision approval there has been little or no maintenance on this road since this subdivision was approved in 1991.

The primary cause of problems is that the road is not under Council's care and control. The first section of the road being a right of carriageway and the rest of the road being a track which is located in part on a crown road reserve.

At the Ordinary meeting of Council held on 13 August 2012 (12-291), Council resolved that:

1. Council apply for the dedication of the section of Wattlemount Road to the end of the subdivision being approximately 2.55km from Main Road 531 being the Portland/Cullen Bullen Road.
2. That Council authorise the affixing of the Council seal.
3. On completion of the transfer, Council maintain the road.
4. Council seek the ownership of the right of carriageway that provides access to Wattlemount Road.

The current resolution (12-291) is still valid and commits Council to proceeding with the acquisition of the right of carriageway which traverses two separate lots and the track that is contained in part of a crown road reserve.

Following recent discussion with Council's solicitor to undertake these tasks will require a property title search, a complete survey of this section of road and right of carriageway to be acquired and preparation of necessary subdivision plans and contents from the relevant owners, whose land will be affected.

Council is still awaiting approximate costs for the legals which will be an expensive component of acquiring the land for public road purposes and may involve some lengthy legal procedures to bring the matter to completion.

With regard to the maintenance of the road, the road is beyond regular maintenance and requires some reasonably major capital improvements including gravelling and rectifying of a number of drainage issues.

The current estimate of cost to bring the road to a standard where it can be maintained on a regular basis is in the vicinity of \$200,000. This estimate provides for the application of a gravel wearing course and cleaning out of existing drains which are defective. The annual maintenance costs for routine grading (not including gravel resheeting) would be in the vicinity of \$20,000 per annum

This matter has been referred to the Operations Works Committee for further consideration and at this stage Council is proceeding with compliance of resolution 12-291 in regard to the dedication of the Crown Road Reserve as Public Road and acquisition of the right of carriageway and subsequent dedication of the right of carriageway to Public road.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council note the report on Wattlemount Road.

ITEM-27 OPER - 04/02/13 - TENDERS FOR THE CLARENCE COLLIERY WATER TRANSFER SYSTEM UPGRADE

REPORT FROM: I STEWART - GROUP MANAGER OPERATIONS

SUMMARY

This report provides an outline of the tender process undertaken and results for the Clarence Colliery Water Transfer System (CCWTS) Upgrade. It makes a recommendation that a contract be entered into with a preferred tenderer subject to final approval by the Commonwealth Department of Sustainability, Environment, Water, Populations and Communities.

COMMENTARY

The tender package for the construction of the CCWTS is being undertaken in 2 Parts, the following tender assessment has been undertaken on Part 1 of the Tender Package and includes the Upgrade of the Council Pump Station, rising main extension and new gravity pipeline to Farmers Creek Dam. Tenders for Part 2 will be called in the near future.

The tender process for the CCWTS Upgrade was undertaken by Council staff consistent with the Tender Evaluation Plan. The following reports on the outcome of this tender process.

Tenders Received

Tenders were called on 18th December 2013 and closed on 25th January 2013. The following 7 tenders were received:

Tenderer	Tender Amount \$	Assessed Tender Amount ¹ \$	Total Score ²	Recommended Tender Amount ³ \$
Poonindie Pty Ltd T/A TWS Ted Wilson & Sons	1,933,202.20	1,835,372.20	69	1,835,372.20
Haslin Constructions Pty Ltd	1,860,542.20	1,860,542.20	56.5	
Ledonne Constructions P/L	2,112,360.80	1,895,738.90	56.5.	
Kerroc Constructions P/L	2,063,952.00	1,863,952.00	49	
TCM Civil P/L	2,089,450.00	2,215,950.00	55	
JR Engineering	Not Assessed			
Allflow Systems and Solutions	Not Assessed			

Notes:

1. The 'Assessed Tender Amount' is the Tender Amount plus (or minus) the Assessed Values of qualifications and departures in the tender and any loadings that apply
2. The 'Total Score' includes the scores for price and non-price criteria.

3. The 'Recommended Tender Amount' is the Tendered Amount plus (or minus) adjustments offered by the tenderer to withdraw qualifications and departures AND including prices offered by the tenderer.

JR Engineering and Allflow Systems and Solutions were received after the Deadline for the submission for tender and were not considered further consistent with the requirements of the *Local Government (General) Regulations 2005, Part 7 Tendering, Division 4 section 177*.

Examination of Tenders

Pre-Evaluation Actions

A Tender Evaluation Plan consistent with the Conditions of Tendering in the RFT documents was prepared and signed off by the Tender Evaluation Committee prior to close of tenders.

The evaluation method included weighted price and non-price criteria with a price: non-price ratio of 25:75.

Four (4) addenda were issued during the tender period. The Review of Environmental Factors was issued as an addendum (link provided to the document due to the size of the electronic file) and was to be included as part of the Tender Documents. The addenda issued reduced the pre-tender estimate based on alternative pipeline routes and pipe laying methodology that were not included in the specification.

A Mandatory Site meeting was held on Monday 14 January 2013 commencing at 10.30am, all tenders received had representation at the mandatory site meeting.

Initial Evaluation

All tenders received were examined for conformance. All tenders included the completed schedules required to be submitted with the tender and all but one (1) tenderer, TCM Civil Pty Ltd acknowledged receipt of the four (4) addenda that were issued.

Haslin Constructions did not provide Professional Indemnity Insurance and marked the requirement of the RFT as not applicable. Council Insurer requests that Council ask for \$20m, all other tenderers offered cover of \$20m. Except for the qualifications and departures dealt with in Evaluation of Price, all tenders met the requirements of the RFT documents.

Evaluation of Non- Price Criteria

The information submitted by the tenderers was evaluated against the non-price criteria, in accordance with the Tender Evaluation Plan. The total non-price scores are summarised below:

Tenderer	Total non-price score	Ranking
Poonindie Pty Ltd T/A TWS Ted Wilson & Sons	44	1
Haslin Constructions P/L	34	4
Ledonne Constructions P/L	39	3
Kerroc Constructions P/L	29	5
TCM Civil P/L	40	2
JR Engineering	Not Assessed	Not Assessed
Allflow Systems and Solutions	Not Assessed	Not Assessed

Evaluation of Price

- Examination of Tendered Rates:

All tenders were assessed for price excluding the tenders that were received after the tender deadline.

- Assessment of Qualifications and Departures:

All tenders included qualifications and departures. In order to compare the tenders on an equal basis, the values of the qualifications and departures of all tenders were assessed excluding offers made seeking to withdraw and/or reduce the level of Professional Indemnity Insurance

- Assessed Tender Amounts:

The tenders were compared on the basis of Assessed Tender Amounts, calculated by adding the assessed values of qualifications and departures to the original Tendered Amounts.

The Assessed Tender Amounts were used to calculate the weighted and normalised price scores using the method set out in the Tender Evaluation Plan. The price scores are summarised below;

Tenderer	Weighted price score	Ranking
Poonindie Pty Ltd T/A TWS Ted Wilson & Sons	25	1
Haslin Constructions P/L	22.5	2
Ledonne Constructions P/L	17.5	4
Kerroc Constructions P/L	20	3
TCM Civil P/L	15	5
JR Engineering	Not Assessed	Not Assessed
Allflow Systems and Solutions	Not Assessed	Not Assessed

Selection of Preferred Tenderer

Total scores were obtained for each of the 5 tenderers by adding the total non-price score and weighted price score as shown below:

Tenderer	non-price score	price score	Total score	Ranking
Poonindie Pty Ltd T/A TWS Ted Wilson & Sons	44	25	69	1
Haslin Constructions P/L	34	22.5	56.5	2(equal)
Ledonne Constructions P/L	39	17.5	56.5	2 (equal)
Kerroc Constructions P/L	29	20	49	5
TCM Civil P/L	40	15	55	4
JR Engineering	Not Assessed	Not Assessed	Not Assessed	Not Assessed
Allflow Systems and Solutions	Not Assessed	Not Assessed	Not Assessed	Not Assessed

The tenderer with the highest total score was TWS Ted Wilson and Sons.

The Adjusted Tender Amount of \$1,835,372.20 from TWS Ted Wilson and Sons is considered reasonable and it represents the best value for money from the five tenders received.

The Adjusted Tender Amount of TWS Ted Wilson and Sons is less than the Assessed Tender Amounts of Haslin Constructions P/L and Ledonne Construction P/L, and TWS Ted Wilson and Sons was therefore identified as the Recommended Tenderer.

TWS Ted Wilson and Sons has confirmed that its tender price will remain valid until 26/03/13.

The Recommended Tender Amount is \$1,835,372.20

Comments on Preferred Tenderer

TWS Ted Wilson and Sons has worked for the NSW Office of Public Works or the former NSW Department of Commerce. Past contractor performance reports have been provided by TWS Ted Wilson and Sons. The company has completed contracts for Upper Lachlan Council, Bega Valley Council and Orange Council. A check on recent similar type of contracts completed by the company indicated that the company has the necessary skill, experience and capability to complete the works under this contract satisfactorily.

TWS Ted Wilson and Sons OHS Management System has been accredited by Sydney Water as meeting the NSW Government OHS Management System Guidelines (4th edition).

TWS Ted Wilson and Sons has demonstrated satisfactory Occupational Health and Safety management and satisfactorily environmental management on previous projects and has been confirmed by NSW Public Works through Contractor Performance Reporting on other project TWS Ted Wilson and Sons have complete under contracts with Public Works.

TWS Ted Wilson and Sons has confirmed that it has the resources required to complete the work.

TWS Ted Wilson and Sons is considered capable of completing the Works satisfactorily.

Other Comments

The following other comments are made on the tender:

- The tender evaluation process followed the agreed Tender Evaluation Plan.
- The tender evaluation process complied with the NSW Government Tendering Guidelines and the Local Government (General) Regulation 2005.
- The Recommended Tender Amount represents best value for money.
- The site is available to meet the requirements in the proposed contract.
- The Tender Evaluation Checklist has been completed.

POLICY IMPLICATIONS

Policy 1.4 – Tendering and Policy 9.11 Tenders – Canvassing/Lobbying of Councillors and Staff is applicable.

FINANCIAL IMPLICATIONS

The project is funded by the Australian Government through the Sustainable Rural Water Use and Infrastructure fund. Approved funds for the construct of the project are \$3,985,728

LEGAL IMPLICATIONS

NIL

RECOMMENDATION**THAT:**

1. Subject to final approval by the Department of Sustainability, Environment, Water, Populations and Communities the tender submitted by TWS Ted Wilson and Sons, in the Recommended Tender Amount of \$1,835,372.20 be accepted for the Clarence Colliery Water Transfer System Upgrade –Part 1.
2. The use of the Common Seal be authorised for the relevant contract documentation.

ITEM-28 OPER - 04/02/13 - CEMETERY OPERATIONS POLICY

REPORT FROM: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

The submitted draft Cemetery Operations Policy has been developed to achieve the objectives of providing appropriate standards for the services provided at Council operated cemeteries and provide a consistent approach to the operation of all cemeteries owned and operated by Lithgow City Council

COMMENTARY

The draft policy has been developed to apply to all individuals, organisations, businesses and Council staff who enter a cemetery under Council’s control. The draft document has been circulated to regional funeral directors and their comments incorporated into the policy where appropriate.

The policy has been developed to provide individuals, organisations, businesses and Council staff with information on the standard conditions of burials. The policy details what is required by individuals, organisations, businesses and Council staff in the burial process.

POLICY IMPLICATIONS

As per attached policy document

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Cemetery Operations Draft Policy Version 1

RECOMMENDATION

THAT the draft Cemetery Operations Policy as submitted be adopted.

ITEM-29 OPER - 04/02/13 - APPOINTMENT OF TEMPORARY DEPUTY LOCAL EMERGENCY MANAGEMENT OFFICER

REPORT BY: I STEWART - GROUP MANAGER OPERATIONS

SUMMARY

Council will be aware that the current appointed Deputy Local Emergency Management Officer (LEMO) is on Maternity Leave and following the recent Section 44 Bushfire Emergency it became apparent that it is necessary for Council to appoint an Acting Deputy LEMO, during the absence of the existing Deputy LEMO.

COMMENTARY

Council is responsible for providing Emergency Management Support to the various response agencies during various emergencies and Council's LEMO is the Group Manager of Operations.

It seems appropriate that the Works Manager, Mr Chris Schumacher, who deputises for the Group Manager during periods of leave should be temporarily appointed to the position of Deputy LEMO.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Mr Chris Schumacher, Council's Works Manager, be appointed to the position of acting Deputy LEMO during the period of absence of the previously appointed Deputy LEMO.

FINANCE REPORTS

ITEM-30 FINAN - 04/02/13 - AUDIT PRESENTATION OF THE 2011/12 GENERAL PURPOSE AND SPECIAL PURPOSE FINANCIAL REPORTS

REPORT BY – C FARNSWORTH - FINANCE MANAGER

REFERENCE

Min No 12-371: Ordinary Meeting of Council 15 October 2012
Min No 12-499: Ordinary Meeting of Council 17 December 2012

SUMMARY

To advise Council that Auditors, The Morse Group, will be at the meeting of 4 February 2013 to make a presentation of the 2011/12 General Purpose Financial Reports, Special Purpose Financial Reports and special Schedules.

COMMENTARY

In compliance with Section 418 (3) of the Local Government Act, due notice has been provided in the local media, at the Administration Centre, Libraries and on Council's website that Auditors, The Morse Group will present the 2011/12 audited reports to the meeting of the 4 February 2013. All interested members of the public have been invited to attend and in accordance with Section 420 of the Local Government Act 1993, Council will accept submissions, in writing, for a period of seven days following the audit address. Submissions will close at 4.30pm on the 12 February 2013.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

The 2011/12 General Purpose Financial Reports, Special Purpose Financial Reports and Special Schedules represent Council's position as at 30 June 2012.

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT:

1. Council thank Ms Leanne Smith of the Morse Group for her presentation
2. Council accept submissions, in writing, for a period of seven days following the audit address until 4.30pm on the 12 February 2013

ITEM-31 FINAN - 04/02/13 - COUNCIL INVESTMENTS HELD TO 31 DECEMBER 2012

REPORT FROM: C FARNSWORTH - FINANCE MANAGER

REFERENCE

Min 12-330: Investments as at 31 July 2012
 Min 12-372: Investments as at 30 Aug 2012 & Sept 2012
 Min 12- 462: Investments as at 31 Oct 2012
 Min 12-500: Investments as at 30 Nov 2012

SUMMARY

To advise Council of investments held as at 31 December 2012 in the 2012/13 financial year.

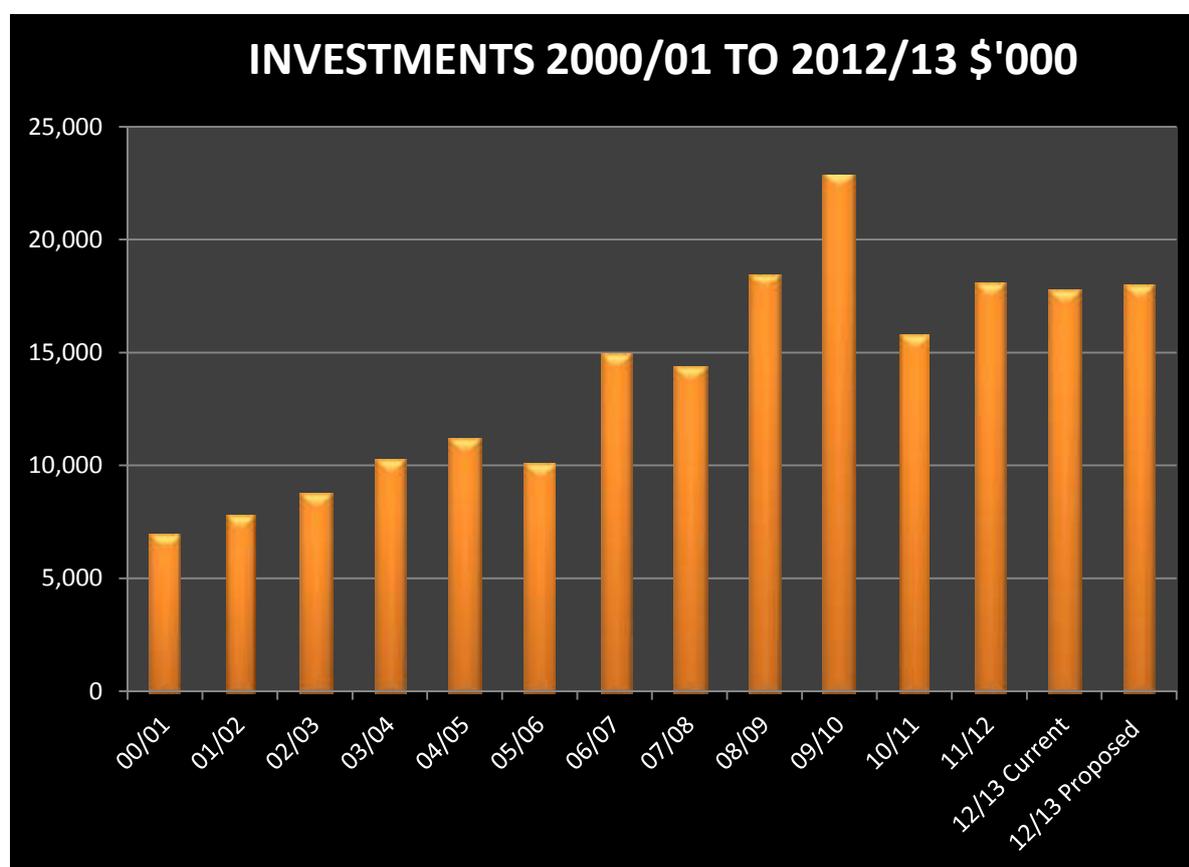
COMMENTARY

Council's total investment portfolio, as at 31 December 2012 when compared to 30 November 2012, has decreased by \$317,775.62 from \$18,078,456.18 to \$17,760,680.56

INVESTMENT REGISTER 2012/13								
INSTITUTION	INV TYPE	DATE LODGED	DATE DUE	DAYS	INT	VALUE 30.11.12	VALUE 30.12.12	% OF TOTAL
ANZ	TD	10.12.12	11.03.13	91	4.60	848,782.23	858,516.48	4.84%
	TD	10.12.12	11.03.13	91	4.06	505,732.88	511,469.14	2.88%
	TD	28.11.12	26.02.13	90	4.31	511,156.92	511,156.92	2.88%
	TD	04.12.12	04.03.13	90	4.07	1,000,000.00	1,011,712.33	5.70%
CBA	On Call				3.45	1,435,304.55	1,435,304.55	8.09%
IMBS	TD	26.10.12	25.01.13	90	4.50	1,146,636.72	1,146,636.72	6.46%
	TD	26.10.12	25.01.13	90	4.50	760,021.59	760,021.59	4.28%
NAB	TD	03.12.12	.03.03.13	90	4.51	1,133,080.52	1,147,050.01	6.47%
	TD	25.07.12	25.01.13	182	5.07	1,029,469.05	1,029,469.05	5.80%
	TD	10.12.12	10.03.13	90	4.65	506,238.36	512,404.76	2.89%
WESTPAC	TD	09.07.12	07.01.13	179	5.05	585,942.01	585,942.01	3.30%
	TD	30.11.12	29.05.13	179	4.51	1,209,871.74	1,209,871.74	6.82%
	TD	11.07.12	09.01.13	179	5.05	257,190.41	257,190.41	1.45%
	TD	12.06.12	11.12.12			411,279.92	0.00	0.00%
	TD	12.12.12	14.03.13	91	4.41	1,000,000.00	1,024,954.80	5.78%
	TD	05.09.12	05.03.13	180	4.90	500,000.00	500,000.00	2.82%
ST GEORGE	On Call				3.50	21,510.27	21,510.27	0.12%
	TD	04.10.12	04.01.13	92	4.66	543,823.15	543,823.15	3.07%
	TD	19.10.12	19.04.13	180	4.00	882,288.54	882,288.54	4.97%
	TD	12.10.12	12.04.13	182	4.47	524,496.33	524,496.33	2.96%
	TD	09.08.12	11.02.13	186	4.81	518,803.81	518,803.81	2.92%
	TD	19.11.12	24.05.13	186	4.42	522,553.92	522,553.92	2.95%
	TD	25.10.12	25.01.13	91	4.35	500,000.00	500,000.00	2.82%
SUNCORP	TD	08.08.12	07.02.13	92	4.45	1,204,335.49	1,204,335.49	6.79%
	TD	22.10.12	21.01.13	91	4.08	519,937.77	519,937.77	2.93%
			TOTAL			18,078,456.18	17,739,449.79	100.00%
INTERNAL LN (Commercial Loan Int Rate)	Gen to Sew	15.01.11	On Receipt of Ext Loan		7.31	2,750,000.00	2,750,000.00	

I, Carol Farnsworth, Lithgow City Council's Finance Manager (Responsible Accounting Officer) certify as required under Local

On the graph below historical and current investments to 31 December 2012 are shown.



POLICY IMPLICATIONS

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing funds. On 21 November 2011 Council adopted a draft of the Investment Policy as Policy 8.2 which includes the Ministers Investment Order of 12 January 2011.

FINANCIAL IMPLICATIONS

Interest received to 31 December is \$300,856.81 of an estimated \$519,045 for the 2012/13 financial year.

Interest is paid on the maturity date of the investment.

LEGAL IMPLICATIONS

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. On 21 November 2011 Council adopted a draft of the Investment Policy as Policy 8.2 and investments will comply with this Policy which includes the following:

- Local Government Act 1993 - Section 625
- Local Government Act 1993 - Order dated 12 January 2012
- Local Government (General) Regulation 2005

- Trustee Amendment (Discretionary Investments) Act 1997 Section 14A(2), 14c(1) & (2)

RECOMMENDATION

THAT Investments of \$17,739,449.79 for the period ending 31 December 2012 be noted.

**ITEM-32 FINAN - 04/02/13 - 2010/11 RETURN FROM CLR TICEHURST UNDER
SEC 449 - LG ACT 1993 DISCLOSING INTEREST**

REPORT BY - C FARNSWORTH - FINANCE MANAGER

REFERENCE

Min 11-409: Returns under Sec 449: LG Act 1993

SUMMARY

To advise Council of 2010/11 returns lodged with the General Manager under Section 449 of the Local Government Act 1993 Councillors Ticehurst and McGinnes with a recommendation that the returns be acknowledged.

COMMENTARY

Council at the meeting of 10 October 2011 received a report on the 2010-11 Disclosure Returns, under Sec 449 of the Local Government Act 1993, of Councillors and designated persons.

The following was resolved by Minute 11-409:

THAT:

1. *Council acknowledge the disclosures received under Section 449 of the Local Government Act 1993 for the period 1 July 2010 to 30 June 2011 from all designated persons and seven Councillors;*
2. *Note that as at the due date of the return 30 September 2011 Councillors Joseph McGinnes and Martin Ticehurst had not submitted a disclosure under Section 449 of the Local Government Act 1993 for the period 1 July 2010 to 30 June 2011;*
3. *Reaffirm the following positions as ‘designated persons’ for the period 1 July 2010 to 30 June 2011;*
4. *Council report to the Division of Local Government the returns not received from Councillor Ticehurst & Councillor McGinnes.*

The returns by Councillors and designated staff were to be submitted by 30 September 2011. As required by point 4 a letter was forwarded to the Department of Local Government on 28 October 2012 advising that Councillors McGinnes and Ticehurst had failed to lodge a return by the due date. The letter further advised that Councillor J McGinnes did submit a return, after the Council report, on the 14 October 2011.

The Department of Local Government investigated and subsequently referred the matter of Councillor Ticehurst failing to lodge a Sec 449 return to the Pecuniary Interest &

Disciplinary Tribunal, for preliminary conference and directions, on 30 November 2012. Following this hearing Councillor Ticehurst lodged his return, with Council, on 20 December 2012, some 15 months after the due date. The Department of Local Government have since been notified.

Section 450A requires the return to be tabled at a meeting of Council and as such the return is available at this meeting.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Tabled: 2010/11 Sec 449 Disclosures by Councillors Ticehurst and McGinnes.

RECOMMENDATION

THAT Council acknowledge the 2010/11 Disclosures of Councillors Ticehurst and McGinnes received under Section 449 of the Local Government Act 1993.

COMMITTEE MEETINGS

**ITEM-33 OPER - 04/02/13 - OPERATIONS WORKS COMMITTEE - MINUTES 24
JANUARY 2013**

REPORT FROM: I STEWART - GROUP MANAGER OPERATIONS

SUMMARY

This report details the Minutes of the Operations Works Committee held on 24 January 2013

COMMENTARY

At the Operations Works Committee held on 24 January 2013 there were five items discussed by the Committee.

1. Lake Lyell Caretakers Position Expressions of Interest.
2. Wattlemount Road Update.
3. Strategic business plans for water and sewerage - proposed workshop.
4. Hill Crest Subdivision water pressure issues
5. Wolgan Road Upgrade project

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes from the Operations Works Committee meeting of 24 January 2013.

RECOMMENDATION

THAT Council notes the minutes of the Operations Works Committee meeting of 24 January 2013.

ITEM-34 OPER - 04/02/13 - SPORTS ADVISORY COMMITTEE MEETING MINUTES - 17 DECEMBER 2012

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

Details of the Minutes of the Sports Advisory Committee Meeting held on Monday, 17 December 2012 for Council adoption.

COMMENTARY

At the Sports Advisory Committee Meeting held on Monday, 17 December 2012, there were eight (8) items discussed by the Committee, with all items being actioned under the Committee's delegated authority, and requiring Council to note the items.

Items discussed included:

- Financial Assistance Requests
- LJ Hooker Reg Cowden Memorial Sports Star of the Year Awards for November 2012
- Booking Requests
 - Coerwull Public School (Swimming Carnival – Lithgow Swimming Pool)
 - Lithgow High School (Swimming Carnival – Lithgow Swimming Pool)
 - La Salle Academy (Cross Country – Lake Wallace)
 - La Salle Academy (Athletics Carnival – Jim Monaghan)
 - Lithgow Workmen's Club Rugby League (Season Competition and training – Tony Luchetti)
 - Lithgow Cricket Association (Cricket Finals – Tony Luchetti)
 - Lithgow Flash Carnival (Training and Competition 2012/13 – Watsford Oval)
- Portland Development Association Bond Refund request
- General Business including:
 - Reg Cowden – Presentation Issues
 - Cricket - Complaints
 - Touch Football – Lighting Fees
 - Athletics – Maintenance Issues
 - Golf – Special Event
 - Possibility of a basketball ring to be installed behind the swimming pool or at the skate park.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes of the Sports Advisory Committee Meeting held on Monday, 17 December 2012.

RECOMMENDATION

THAT Council:

1. Note the minutes of the Sports Advisory Committee meeting held on Monday, 17 December 2012.
2. Investigates the funding options for the relocation of the electrical scoreboard at the Tony Luchetti Sportsground.
3. Weather proof the referees change room from the Tony Luchetti Sportsground Maintenance budget at a cost of \$1600.
4. Grants Financial Assistance of \$300 to Isabelle Radburn to compete in the PSSA hockey team.
5. Refunds \$260 bond refund to the Portland Development Association.

**ITEM-36 LATE REPORT - ENVIRO - 04/02/13 - CENTENNIAL COAL -
LIDSDALE SIDING UPGRADE PROJECT - CORPORATE
SPONSORSHIP**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To advise Council of the results of negotiations with Centennial Coal in relation to Voluntary Planning Agreements and the like and advise of the outcome of discussions relating to the Lidsdale Siding Upgrade Project.

COMMENTARY

The Mayor, Deputy Mayor, General Manager and Group Manager Environment & Development have been involved in ongoing discussions with representatives of Centennial Coal with a view to formulating a Voluntary Planning Agreement/s (VPA) in relation to a number of their upcoming development proposals in the Lithgow Local Government Area. In this regard, initial discussions have taken place and in order to not impact on the approval process for the Lidsdale Siding Upgrade Project. The Lidsdale Siding Upgrade Project will upgrade the Lidsdale Siding facility to improve its operational efficiency and increase its throughput capacity to approximately 6.3 million tonnes per annum. The train loading process would be automated by establishing a coal stockpile with underground reclaimers feeding a conveyor leading to a train loading bin. The total stockpile capacity would be approximately 50,000 tonnes. The project has an estimated Capital Investment Value of \$16,000,000.

The approval pathway for the proposal is through the State Government as a Part 3A project. Whilst Part 3A has now been repealed, revised Director General's Requirements (DGRs) for the EA were issued prior to the repeal on 7 July 2011. As such, the Project is a "transition Part 3A" project to which the provisions of Part 3A continue to apply. The process is nearing completion with draft conditions of approval currently being reviewed.

Centennial did not see the application of a Voluntary Planning Agreement to be applicable in this case but were quite willing to provide a contribution for community infrastructure. A position was then reached in the discussions whereby Centennial Coal would undertake to provide Council with a contribution of \$10,000 in the form of a corporate sponsorship for such facilities as parks, playgrounds and the like in the Wallerawang area. Centennial also sought acknowledgement of its current \$150,000 sponsorship of the Lithgow Aquatic Centre project.

The acceptance of \$10,000 as corporate sponsorship in this instance would be a reasonable result to provide some additional infrastructure for example, shade structures at Wallerawang Parks. It is considered appropriate for Council to endorse this contribution. Developing a VPA or VPA's for the remainder of the Centennial projects will be the subject of further discussions.

Whilst Council's Section 94A Plan does not apply in this instance, if lodged under Part 4 of the Environmental Planning and Assessment Act after the adoption of that Plan, a \$16,000,000 project would attract a minimum contribution of \$160,000. Therefore, through acknowledgement of the aquatic centre contribution and the additional \$10,000 contribution, equity is achieved.

POLICY IMPLICATIONS

NIL as this falls outside the terms of Council's Policy on Voluntary Planning Agreements

FINANCIAL IMPLICATIONS

If Council accepts the contribution an additional \$10,000 will be available for parks and gardens infrastructure embellishment in the Wallerawang area.

LEGAL IMPLICATIONS

There are no immediate legal implications and this corporate sponsorship will be outside the terms of Section 94, Section 94A or Section 93F of the Environmental Planning & Assessment Act.

RECOMMENDATION

THAT:

1. Council endorse the acceptance of corporate sponsorship of \$10,000 from Centennial Coal to be allocated to parks and gardens infrastructure in the Wallerawang area. Such contribution to be paid to Council upon the commencement of works for the Lidsdale Siding Upgrade Project.
2. Council acknowledge Centennial Coal's corporate sponsorship of \$150,000 for the Lithgow Aquatic Centre Project as part of its community contribution arising from the Lidsdale Siding Upgrade Project.

BUSINESS OF GREAT URGENCY

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

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

CLOSED COUNCIL

ITEM-35 **CONFIDENTIAL REPORT - GM - 04/02/13 - COUNCILLORS ONLY - COUNCIL ORGANISATION STRUCTURE**

REPORT BY: R BAILEY - GENERAL MANAGER

Reason for Confidentiality

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

- (a) personnel matters concerning particular individuals (other than councillors)

SUMMARY

Council is required by the NSW Local Government Act 1993 to re-determine the organisation within 12 months of an Ordinary Council election. This report will deal with such a review.

RECOMMENDATION

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