



A CENTRE OF REGIONAL EXCELLENCE

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

29 JULY 2013

AT 7.00pm

AGENDA

ACKNOWLEDGEMENT OF COUNTRY

APOLOGIES

PRESENT

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 8 JULY 2013

DECLARATION OF INTEREST

PUBLIC FORUM

PRESENTATIONS - NIL

MAYORAL MINUTES - NIL

NOTICES OF MOTION

Statements made by Chairperson of Lithgow Tidy Towns Committee - Councillor J McGinnes
Inch Street Railway Bridge (Near old Milk Depot) - Councillor F Inzitari
Update on the Coalpac Consolidation Project - Councillor J McGinnes
State Member for Bathurst Mr Paul Toole MP - Letter to Division of Local Government - Councillor J McGinnes

NOTICE OF RECISSIONS - NIL

CORRESPONDENCE AND REPORTS

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

COMMITTEE MEETINGS

Traffic Authority Local Committee - 4 July 2013
Operations (Works) Committee - 11 July 2013
Environmental Advisory Committee - 19 June 2013
Disability Access Committee - 9 July 2013
Tourism Advisory Committee - 2 July 2013
Blue Mountains Crossing Bicentenary Committee - 3 July 2013

REPORTS FROM DELEGATES - NIL

BUSINESS OF GREAT URGENCY

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

TABLE OF CONTENTS

<u>ITEM</u>	<u>TITLE</u>	<u>PAGE</u>
	<u>NOTICE OF MOTIONS</u>	<u>1</u>
<u>ITEM-1</u>	<u>NOTICE OF MOTION - 29/07/13 - STATEMENTS MADE BY CHAIRPERSON OF LITHGOW TIDY TOWNS COMMITTEE - COUNCILLOR J MCGINNES</u>	<u>1</u>
<u>ITEM-2</u>	<u>NOTICE OF MOTION - 29/07/13 - INCH STREET RAILWAY BRIDGE (NEAR OLD MILK DEPOT) - COUNCILLOR F INZITARI</u>	<u>3</u>
<u>ITEM-3</u>	<u>NOTICE OF MOTION - 29/07/13 - UPDATE ON THE COALPAC CONSOLIDATION PROJECT - COUNCILLOR J MCGINNES</u>	<u>4</u>
<u>ITEM-4</u>	<u>NOTICE OF MOTION - 29/07/13 - STATE MEMBER FOR BATHURST MR PAUL TOOLE MP - LETTER TO DIVISION OF LOCAL GOVERNMENT - COUNCILLOR J MCGINNES</u>	<u>5</u>
	<u>GENERAL MANAGERS REPORTS</u>	<u>7</u>
<u>ITEM-5</u>	<u>GM - 29/07/13 - CODE OF MEETING PRACTICE</u>	<u>7</u>
<u>ITEM-6</u>	<u>GM - 29/07/13 - PIDT 07/2012 - SUSPENSION OF COUNCILLOR MARTIN TICEHURST - TWO MONTH SUSPENSION</u>	<u>10</u>
	<u>ENVIRONMENT AND DEVELOPMENT REPORTS</u>	<u>18</u>
<u>ITEM-7</u>	<u>ENVIRO - 29/07/13 - TRANSPORTABLE OFFICE BUILDING - GEORDIE STREET LITHGOW NSW 2790</u>	<u>18</u>
<u>ITEM-8</u>	<u>ENVIRO- 29/07/13 - DEVELOPMENT APPLICATION 136/13 TELECOMMUNICATIONS MONOPOLE AND INFRASTRUCTURE - OFF WOLGAN ROAD LIDSDALE - CALLING IN OF APPLICATION</u>	<u>20</u>
<u>ITEM-9</u>	<u>ENVIRO - 29/07/13 - CRYSTAL THEATRE MANAGEMENT COMMITTEE & ENVIRONMENTAL ADVISORY COMMITTEE - ADDITIONAL NOMINEES</u>	<u>22</u>
<u>ITEM-10</u>	<u>ENVIRO - 29/07/13 - DA 078/13 THREE DAY MUSIC FESTIVAL EURELLA 602 UPPER NILE ROAD GLEN ALICE NSW 2849</u>	<u>25</u>
<u>ITEM-11</u>	<u>ENVIRO - 29/07/13 - DA207/12 GRAVEL PIT/CIVIL WORKS - 542 PORTLAND ROAD CULLEN BULLEN NSW 2790</u>	<u>29</u>
<u>ITEM-12</u>	<u>ENVIRO - 29/07/13 - PROPOSED ROAD NAMING - 06107DA - NEW ROAD NAME OFF OLD BATHURST ROAD</u>	<u>42</u>
	<u>OPERATION REPORTS</u>	<u>44</u>
<u>ITEM-13</u>	<u>OPER - 29/07/13 - WATER REPORT</u>	<u>44</u>

<u>ITEM-14</u>	<u>OPER - 29/07/13 - TENDERS FOR PLANT HIRE WOLGAN VALLEY ROAD PROJECT</u>	<u>47</u>
	<u>COMMUNITY AND STRATEGY REPORTS</u>	<u>49</u>
<u>ITEM-15</u>	<u>COMM - 29/07/13 - REQUEST BY LITHGOW SMALL ARMS FACTORY FOR DONATION OF COUNCIL HELD ARTWORK</u>	<u>49</u>
<u>ITEM-16</u>	<u>COMM - 29/07/13 - CROWN LANDS LICENSE AGREEMENT WITH LITHGOW MEN'S SHED</u>	<u>51</u>
	<u>COMMITTEE MEETINGS</u>	<u>53</u>
<u>ITEM-17</u>	<u>OPER - 29/07/13 - TRAFFIC AUTHORITY LOCAL COMMITTEE MEETING MINUTES - 4 JULY 2013</u>	<u>53</u>
<u>ITEM-18</u>	<u>OPER - 29/07/12 - OPERATIONS WORKS COMMITTEE MEETING MINUTES - 11 JULY 2013</u>	<u>55</u>
<u>ITEM-19</u>	<u>ENVIRO - 29/07/13 - ENVIRONMENTAL ADVISORY COMMITTEE MINUTES - 19 JUNE 2013</u>	<u>56</u>
<u>ITEM-20</u>	<u>COMM - 29/07/13 - DISABILITY ACCESS COMMITTEE MINUTES - 9 JULY 2013</u>	<u>57</u>
<u>ITEM-21</u>	<u>COMM - 29/07/13 - TOURISM ADVISORY COMMITTEE MEETING MINUTES - 2 JULY 2013</u>	<u>58</u>
<u>ITEM-22</u>	<u>COMM - 29/07/13 - BLUE MOUNTAINS CROSSING BICENTENARY COMMITTEE MEETING MINUTES - 3 JULY 2013</u>	<u>59</u>
	<u>BUSINESS OF GREAT URGENCY</u>	<u>61</u>

NOTICE OF MOTIONS

ITEM-1 NOTICE OF MOTION - 29/07/13 - STATEMENTS MADE BY CHAIRPERSON OF LITHGOW TIDY TOWNS COMMITTEE - COUNCILLOR J MCGINNES

REFERENCE

Signed Statement by Chairperson of the Lithgow Tidy Towns Committee to the Lithgow City Councils Code of Conduct Reviewer.

Question from the Public Gallery at the Ordinary Meeting of the Lithgow City Council 8 July 2013 – Apology by Councillors to the Lithgow Tidy Towns Committee

COMMENTARY

Further to the above references, I have attached below a cut and paste of what the Chairperson of the Lithgow Tidy Towns Committee was asked to explain by the Lithgow City Councils Code of Conduct Reviewer over who and what was the source of information that was being challenged over its receipt of the Award for Australia's Tidiest Town.

4. Mrs Graves was asked to explain who and what was the source of information that was being challenged.

Mrs Graves admitted that she had made a mistake regarding the hospital showers. The hospital was utilising geo thermal technology for heating and the hospital had won a tidy towns award sometime in the region of 2000-2002.

She had contacted two senior officers of Council. She had spoken to Iain Stewart regarding bitumen reuse from profiling by the RTA and she accepted that the statement of 100,000 tonnes was her mistake and that council had achieved a lesser figure. Mr Stewart had spoken directly to the judge.

She had spoken to Andrew Muir in relation to the sewerage treatment plant and now accepted that the bio solids had not started at that point in time. Mr Muir had spoken directly to the judge.

The information in relation to the solar power heating of the pool had come from a member of the Tidy Towns Committee, who had been involved in the heating installation. She had missed the fact that it was now not operating.

Information had been received directly from Delta Electricity and Delta staff had spoken directly to the judge. It was not claimed that trees grew in Lithgow district.

Information in relation to the Furnace, Fire and Forge had been received from a Lithgow historian. Mrs Graves believed that council or Lithgow Museum had won an award. Information had been taken from the citation at the presentation of the award.

ATTACHMENTS

1. Signed Statement by Chairperson of the Lithgow Tidy Towns Committee to the Lithgow City Councils Code of Conduct Reviewer.

RECOMMENDATION

THAT Council and Councillors note the attached signed Statement by Chairperson of the Lithgow Tidy Towns Committee made to the Lithgow City Councils Code of Conduct Reviewer.

General Manager's Comment:

This issue was dealt with as a Code of Conduct Complaint against Councillor Martin Ticehurst and Joe McGinnes. Following consideration of all of the evidence the Conduct Reviewer made extensive findings. Amongst the findings of the reviewer were that Councillors Ticehurst and McGinnes be censured for their conduct and that the findings be made public. Included in the resolution of Council was a requirement that both Councillors Ticehurst and McGinnes apologise to the Tidy Towns Committee and the people of Lithgow for bringing the town into disrepute.

There is no evidence of an apology being given to date.

**ITEM-2 NOTICE OF MOTION - 29/07/13 - INCH STREET RAILWAY BRIDGE
(NEAR OLD MILK DEPOT) - COUNCILLOR F INZITARI**

COMMENTARY

What is the current status regarding ownership of the Hoskins Inch Street Railway Bridge (Milk Depot Siding) which was erected in 1911 to connect the Blast Furnace with the rolling mills across town?

RECOMMENDATION

THAT Given the push for developing the western end of the town as a tourist precinct a laid out in Council's Lithgow Cultural Precinct Study 2010 can a report be brought back to Council to incorporate the structure into a functional plan to create a pedestrian walk way to link Blast Furnace Park with Eskbank House.

General Manager's Comment:

In 2012 Council's Solicitor was requested to provide advice on ownership of the bridge which was built in the early 20th century by Hoskins Ltd to service a private rail line. Whilst Blast Furnace Park and Lake Pillans had been deeded to Council in 1995 by RailCorp, the said bridge was not shown on the attached plans. RailCorp have provided advice that in their opinion, Council owns the bridge.

Legal advice has been received from Council's Solicitor on 22 July 2013 stating that "as the bridge is situated over the road, it is Council which owns everything above and below the road surface". "Accordingly. Council is responsible for the maintenance of the bridge near the Blast Furnace Historic Site entry".

ITEM-3 NOTICE OF MOTION - 29/07/13 - UPDATE ON THE COALPAC CONSOLIDATION PROJECT - COUNCILLOR J MCGINNES

REFERENCE

Various recent media reports in the Lithgow Mercury, ABC Regional Radio, Regional Television News and Ray Hadley's Morning Show on Sydney's 2GB.

COMMENTARY

- Q. Further to various recent media reports in the Lithgow Mercury, ABC Regional Radio, Regional Television News and Ray Hadley's Morning Show on Sydney's 2GB, could the Mayor, General Manager and/or Senior Council Officers advise the Council, Councillors, ratepayers and residents at this Council Meeting if they are aware of when the second PAC Group will be finally handing down its decision on either the approval or dismissal of the Coalpac Consolidation Project at Cullen Bullen?
- Q. Could the Mayor and/or General Manager write to Mr Ray Hadley at Radio Station 2GB and seek a public apology on his Australia wide morning radio show over his recent comments of describing Lithgow as a "Ghost Town"?

RECOMMENDATION

THAT:

1. Following various recent media reports in the Lithgow Mercury, ABC Regional Radio, Regional Television News and Ray Hadley's Morning Show on Sydney's 2GB, could the Mayor, General Manager and/or Senior Council Officers advise the Council, Councillors, ratepayers and residents at this Council Meeting if they are aware of when the second PAC Group will be finally handing down its decision on either the approval or dismissal of the Coalpac Consolidation Project at Cullen Bullen.
2. The Mayor and/or General Manager write to Mr Ray Hadley at Radio Station 2GB and seek a public apology on his Australia wide morning radio show over his recent comments of describing Lithgow as a "Ghost Town".

**ITEM-4 NOTICE OF MOTION - 29/07/13 - STATE MEMBER FOR BATHURST
MR PAUL TOOLE MP - LETTER TO DIVISION OF LOCAL
GOVERNMENT - COUNCILLOR J MCGINNES**

REFERENCE

Agenda Item 8 'Code of Conduct Investigation – Councillor Martin Ticehurst' and Lithgow City Council Resolution 11 – 429 Ordinary Meeting of the Lithgow City Council 31 October 2011.

COMMENTARY

At the Ordinary Meeting of the Lithgow City Council 31 October 2011, the Council and Councillors resolved:

THAT Council:

1. Adopt the finding and recommendations of the Sole Conduct Reviewer in relation to a Code of Conduct complaint against Councillor Martin Ticehurst that there is evidence of a prima facie breach of the Council's Code of Conduct by the Councillor and that:
 - (a) Councillor Ticehurst be censured for misbehaviour.
 - (b) Councillor Ticehurst be required to apologise in writing to Mr Toole and Mr Turner, the candidates for the seat of Bathurst at the March State elections, and to deliver a copy of his apology to the General Manager
 - (c) These findings be made public; and
2. Formally advise the Director General of the Division of Local Government that Council believes that, in accordance with Section 440H of the NSW Local Government Act 1993, grounds may exist that warrant the councillor's suspension and that Council requests that the process of the councillor being suspended be commenced.

MOVED: Councillor H K Fisher **SECONDED:** Councillor G Danaher.

Following this above resolution of the Lithgow City Council, the State Member for Bathurst, Mr Paul Toole MP at the request of the Division of Local Government, provided a written response to the above public resolution of the Lithgow City Council.

ATTACHMENTS

1. Member for Bathurst, Mr Paul Toole MP Letter to the Division of Local Government dated 13 August 2012.

RECOMMENDATION

THAT Council note the attached 45 – page letter dated the 13 August 2012 by the State Member for Bathurst, Mr Paul Toole MP submitted to the Division of Local Government.

General Manager's Comment:

During the proceedings for the Local Government Pecuniary Interest and Disciplinary Tribunal (PIDT) Councillor Martin Ticehurst submitted this letter as evidence. The Tribunal member is an independent person of high legal standing. Councillor Ticehurst has now been suspended by the PIDT on four occasions this year for a Cumulative total of 10 months.

These suspensions relate to:

2/2012	Two month suspension	Failure to lodge a return prescribed by the Regulations
5/2012	Four month suspension	Conduct at four successive Council meetings constituted misbehaviour wherein there was a failure to comply with resolutions requiring him to leave certain Council meetings
6/2012	Two month suspension	Failure to comply with the requirements of the Code of Conduct and comply with a resolution requiring him to issue an apology following the sending of emails to Councillors and the General Manager of another Council
7/2012	Two month suspension	Persistent disorder at a Council meeting necessitating the Police being called to remove him following his refusal to leave the meeting after a resolution to expel him

GENERAL MANAGERS REPORTS

ITEM-5 GM - 29/07/13 - CODE OF MEETING PRACTICE

REPORT FROM: R BAILEY - GENERAL MANAGER

REFERENCE

NIL

SUMMARY

The Council Code of Meeting Practice may be amended from time to time. The Code has been reviewed and it is proposed to place an amended Code on public display for community comment.

COMMENTARY

Meeting procedures contribute to good public decision-making and increase a council's transparency and accountability to its community. The conduct of effective meetings is an indicator of good governance. Well run meetings reflect an effective partnership and relationship between the governing body of council and council administration.

Guidelines and suggestions on holding council meetings are contained in the *Local Government Act 1993* (the Act); the *Local Government (General) Regulation 2005* (the Regulation); the (former) Department of Local Government's 2008 "Model Code of Conduct for Local Councils in NSW" (the Model Code) and the "Guidelines for the Model Code of Conduct for Local Councils in NSW" (the Model Code Guidelines); and the relevant council's adopted Code of Meeting Practice (Meeting Code).

The Meeting Code is made by the council after public consultation. The Meeting Code cannot be inconsistent with the Act, the Regulation or the Model Code, but it can 'fill in the gaps'.

Under the provisions of the Local Government Act 1993 a council may adopt a code of meeting practice that incorporates the regulations made for the purposes of this section and supplements those regulations with provisions that are not inconsistent with them. (S360). Like most councils, if not all, Lithgow City Council has adopted such a Code and this was last revised and adopted on 22 August 2011.

The Act also allows for the amendment of the Code (S363) provided that the procedures set out in the Act (S361 and S362), including

361 Preparation, public notice and exhibition of draft code

- (1) *Before adopting a code of meeting practice, a council must prepare a draft code.*
- (2) *The council must give public notice of the draft code after it is prepared.*
- (3) *The period of public exhibition must not be less than 28 days.*

- (4) *The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to the council.*
- (5) *The council must publicly exhibit the draft code in accordance with its notice.*

362 Adoption of draft code

- (1) *After considering all submissions received by it concerning the draft code, the council may decide:*
 - (a) *to amend those provisions of its draft code that supplement the regulations made for the purposes of section 360, or*
 - (b) *to adopt the draft code as its code of meeting practice.*
- (2) *If the council decides to amend its draft code, it may publicly exhibit the amended draft in accordance with this Division or, if the council is of the opinion that the amendments are not substantial, it may adopt the amended draft code without public exhibition as its code of meeting practice.*

Proposals

The following proposals are suggested for the consideration of Council:

1. Removal of Principal Committees
2. Inclusion into the Code that a suspended councillor cannot participate in the Public Forum
3. Addition of the order of business at a Council meeting into Clause 17 and removal as a Schedule
4. Rearrangement of the order of business
5. Inclusion of Clause 17.1 Public Address at Council Meetings (transfer of Public Forum from Clause 65)
6. Requiring that participants for Public Forum register by midday of the day of the meeting and that questions will be answered in writing in the days following the meeting once adequate information is available
7. Inclusion of Lithgow Mercury into Clause 72, Photographic and Audio Visual Recording of Council and Committee Meetings
8. Inclusion of Guidelines – Request to Address Council

In addition there has been expressions for the time the Council meeting to be amended to commence at 6.30pm

POLICY IMPLICATIONS

This affects Council's Policy – Code of Meeting Practice Version 9 and becomes Version 10 of the Code.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

Amendments to the Code of Meeting Practice are to be carried out in accordance with the Code and the NSW Local Government Act. Advertising of changes is to take place and submissions made.

RECOMMENDATION

THAT Council:

1. Adopt the Draft Code of Meeting Practice Version 10 for public comment including the following amendments:
 - i) Removal of Principal Committees
 - ii) Inclusion into the Code that a suspended councillor cannot participate in the Public Forum
 - iii) Addition of the order of business at a Council meeting into Clause 17 and removal as a Schedule
 - iv) Rearrangement of the order of business
 - v) Inclusion of Clause 17.1 Public Address at Council Meetings (transfer of Public Forum from Clause 65)
 - vi) Requiring that participants for Public Forum register by midday of the day of the meeting and that questions will be answered in writing in the days following the meeting once adequate information is available
 - vii) Inclusion of Lithgow Mercury into Clause 72, Photographic and Audio Visual Recording of Council and Committee Meetings
 - viii) Inclusion of Guidelines – Request to Address Council
2. Place the Draft Code of Meeting Practice on public display for a minimum period of 28 days with a report back to Council no earlier than 42 days after the commencement of the advertising.
3. Also advertise its intention to change the Council meeting time to 6.30pm.

ITEM-6 GM - 29/07/13 - PIDT 07/2012 - SUSPENSION OF COUNCILLOR MARTIN TICEHURST - TWO MONTH SUSPENSION

REPORT FROM: R BAILEY - GENERAL MANAGER

REFERENCE

NIL

SUMMARY

This report provides formal advice to the Council of the suspension from civic office of Councillor Martin Ticehurst for a further period of two months effective from 15 January 2014.

The additional suspension comes following the Local Government and Pecuniary Interest and Disciplinary Tribunal receiving a complaint from the Director General, Department of Premier and Cabinet, Division of Local Government, who alleged that by his conduct Councillor Ticehurst engaged in behaviour that constituted misbehaviour for the purposes of Chapter 14 of the Local Government Act sufficient to warrant consequential orders by the Tribunal.

COMMENTARY

Council has received orders, dated 2 July 2013, from the Local Government Pecuniary Interest and Disciplinary Tribunal in relation to the matter PIDT No 07/2012 Director-General, Department of Premier and Cabinet Re: Councillor Martin Ticehurst, City of Lithgow Council.

The Tribunal made the following orders:

1. Pursuant to s.482A(2)(c) of the Local Government Act, the Tribunal ORDERS that Councillor Martin Ticehurst be suspended from civic office for a period of two (2) months from 15 January 2014.
2. Pursuant to s.484(3) the Tribunal's Determination and Order will be made publicly available forthwith.

The additional suspension comes following the Local Government and Pecuniary Interest and Disciplinary Tribunal receiving a complaint from the Director General, Department of Premier and Cabinet, Division of Local Government, who alleged that by his conduct Councillor Ticehurst engaged in behaviour that constituted misbehaviour for the purposes of Chapter 14 of the Local Government Act sufficient to warrant consequential orders by the Tribunal.

The complaint came following a Council meeting held on 10 October 2011 where at the meeting Councillor Ticehurst persistently interrupted and attempted to speak over the Mayor when comments and observations were being made by the Mayor. Councillor

Ticehurst continued to loudly interject stating that he will not allow the Mayor to make such comments or allow the Mayor to continue. During this time the Mayor informed Councillor Ticehurst that he was out of order. Council resolved to expel Councillor Ticehurst who then refused to leave necessitating the Police being called to remove him.

The suspension is effective from 15 January 2014 and will mean that the next ordinary Council meeting that Councillor Ticehurst will be able to sit at will be in March 2014.

This is now the sixth suspension of Councillor Ticehurst by the independent Pecuniary Interest and Disciplinary Tribunal. There are no further matters relating to alleged misbehaviour by Councillor Ticehurst still before the Tribunal awaiting determination.

The suspensions to date include:

1/2008	One month suspension	Publication of confidential material
1/2010	Two month suspension	Failing to follow due process with respect to the Code of Conduct
2/2012	Two month suspension	Failure to lodge a return prescribed by the Regulations
5/2012	Four month suspension	Conduct at four successive Council meetings constituted misbehaviour wherein there was a failure to comply with resolutions requiring him to leave certain Council meetings
6/2012	Two month suspension	Failure to comply with the requirements of the Code of Conduct and comply with a resolution requiring him to issue an apology following the sending of emails to Councillors and the General Manager of another Council
7/2012	Two month suspension	Persistent disorder at a Council meeting necessitating the Police being called to remove him following his refusal to leave the meeting after a resolution to expel him

The Tribunal has available to it a number of avenues to deal with misbehaviour, this included:

482A Decision of Pecuniary Interest and Disciplinary Tribunal - misbehaviour matters

- (1) *This section applies where a matter has been referred to the Pecuniary Interest and Disciplinary Tribunal under section 440N.*
- (2) *The Tribunal may, if it finds that the behaviour concerned warrants action under this section:*
 - (a) *counsel the councillor, or*
 - (b) *reprimand the councillor, or*
 - (c) *suspend the councillor from civic office for a period not exceeding 6 months, or*
 - (d) *suspend the councillor's right to be paid any fee or other remuneration, to which the councillor would otherwise be entitled as the holder of the civic office, in respect of a period not exceeding 6 months (without suspending the councillor from civic office for that period)*

On this occasion the Tribunal chose to:

44. *Accordingly, in the circumstances of his conduct at the meeting of 10 October 2011 I am satisfied that there was one incident of misbehaviour that was of sufficiently serious nature as to warrant Councillor Ticehurst's suspension.*

With the most serious penalty that the Tribunal could administer, that is suspension, comes the added penalty of loss of councillor remuneration as prescribed by Section 248A of the Local Government Act:

248A Annual fees or other remuneration not to be paid during period of suspension

A council must not at any time pay any fee or other remuneration, or any expenses, to which a councillor would otherwise be entitled as the holder of a civic office, in respect of any period during which:

- (a) the councillor is suspended from civic office under this Act, or*
- (b) the councillor's right to be paid any such fee or other remuneration, or expense, is suspended under this Act,*

unless another provision of this Act specifically authorises payment to be made, or specifically permits a person to authorise payment to be made, when the suspension is terminated.

With the amendments to the Local Government Act earlier this year an additional penalty is now a part of the Act whereby the Tribunal may now:

- (c1) disqualify the councillor from holding civic office for a period not exceeding 5 years, or*

This provision was not available for incidents prior to 1 March 2013 when the new Model Code of Conduct came into effect.

Determination by the PIDT

The following comments and points by the Tribunal should be noted:

- 2. *On 22 November 2012 the Tribunal received from the Director General, through his Delegate, a Departmental Report prepared pursuant to s.440J of the Local Government Act with respect to alleged incidents of misbehaviour at Council Meetings held on 10 October 2011 and 31 October 2011.*
- 3. *On 12 December 2012 the Tribunal issued its Notice of Decision to Conduct Proceedings with respect to one of those council meetings, the council meeting held on 10 October 2011.*
- 7. *The minutes then record the following:*

"Councillor Ticehurst persistently interrupted and attempted to speak over the Mayor when comments and observations

were being made by the Mayor. Councillor Ticehurst continued to loudly interject stating that he will not allow the Mayor to make such comments or allow the Mayor to continue. During this time the Mayor informed Councillor Ticehurst that he was out of order.

Councillor Ticehurst called a point of order. The Mayor heard the point of order and overruled it.

Councillor Ticehurst then continued to loudly interject. The Mayor continued to advise Councillor Ticehurst that he was out of order.

Councillor Ticehurst called a further point of order dissenting from the Mayor's earlier ruling.

The Mayor put the point of order to the Council. The point of order was overruled by the Council.

Councillor Ticehurst continued to loudly state that he would not allow the Mayor to continue. Councillor Ticehurst rose to his feet and continued to loudly interject whilst the Mayor was speaking.

The Mayor requested Councillor Ticehurst to resume his seat and come to order.

After numerous calls which were ignored by Councillor Ticehurst for him to come to order, the following resolution was made:"

8. The resolution that was then made was in the following terms:

"That Councillor Martin Ticehurst be ejected from the Chambers for persistent disorder."

9. Following the resolution the minutes record the following:

"The Mayor requested Councillor Ticehurst leave the Chamber. Councillor Ticehurst refused to leave.

The Mayor called an adjournment for 5 minutes at 7.38pm due to Councillor Ticehurst refusing to leave the Council Chamber.

The Council reassembled at 7.45pm with all of the aforementioned Councillors present...

Councillor Ticehurst remained in his seat in the chamber..."

10. *The minutes then record a further invitation from the Mayor to Councillor Ticehurst to depart the meeting, with the sanction that if he did not the Police will be called, a further adjournment, and the ultimate reconvening of the meeting at 7.55pm with all Councillors originally present, with the exception of Councillor Ticehurst.*

14. *Further, whilst the points of order were taken (as recorded in the minutes and as referred above) Councillor Ticehurst rose to his feet on many occasions and reiterated that he would not permit the Mayor to read the passage. In particular, one Councillor recalled that Councillor Ticehurst had said words during the interchange to the effect "Mayor be quiet"; "you don't have the right to say that"; "you can't continue". Another Councillor recalled Councillor Ticehurst saying to the Mayor words to the effect "while you continue to speak on that matter, I'll continue to speak over the top of you".*

26. *As referred above, Clause 9.5 of the Code of Conduct imports and obligation to act in accordance with the Council's Code of Meeting Practice, if the Council has adopted one. On 27 January 2009 the Lithgow City Council adopted a Code of Meeting Practice. As relevant to this proceeding are the following clauses of that Code of Meeting Practice:*

"12 Chairperson to have precedence

When the Chairperson rises or speaks during the meeting of Council:

- i. any Councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat;*
- ii. every Councillor present must be silent to enable the Chairperson to be heard without interruption.*

40 Questions of order

- i. the Chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.*
- ii. a Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson to the matter.*

thread throughout is to comply with rulings from the Chair, and abide by resolutions made by the Council with respect to points of order. Councillor Ticehurst failed abjectly to comply with those requirements.

49. *....the various obligations that I have set out above, and derived from the legislative framework, make it plain that meetings are to be undertaken in an orderly and structured manner, without the manner of interaction exhibited by Councillor Ticehurst.*
50. *Councillor Ticehurst also submitted that there was an issue concerning the correctness of the minutes. He did this by reference to correspondence that had been sent to the General Manager by a Mr Philips in which it was said that certain conduct of the Mayor, and certain inflections in the way the Mayor had said things at the meeting, had not been recorded in the minutes. Whether or not this is true, it remains the fact that the minutes were considered by the majority of the council at the subsequent meeting held on 31 October 2011 to be correct. It was unclear as to who Mr Philips was, but his correspondence was answered by the General Manager in a manner sufficient to demonstrate that his complaints were not ones which necessitated any correction to the minutes, let alone in any significant way. In any case, the fact remains, as set out above, that Councillor Ticehurst failed to comply with the ruling on order by the Chairman and conducted himself in a manner that was inconsistent with the keeping of order at the council meeting.*
51. *Although he (correctly) sought to have the point of order taken with respect the Mayor's own conduct, that point of order was rejected by the council, as reflected in the minutes. That should have been the end of the matter. However Councillor Ticehurst continued to fail to comply with the point of order made by the Mayor.*

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL cost to Council in relation to the determination.

Councillor Ticehurst shall not be paid the Councillor remuneration for the period of suspension.

LEGAL IMPLICATIONS

Pursuant to s.482A(1)(c) of the Local Government Act, the Pecuniary Interest and Disciplinary Tribunal has issued ORDERS that Councillor Martin Ticehurst is suspended from civic office for a period of two (2) months from 15 January 2014.

As part of the suspension Cllr Ticehurst **shall NOT** be entitled to be paid councillor fees in that time, s.248A of the Act provides:

248A Annual fees or other remuneration not to be paid during period of suspension

A council must not at any time pay any fee or other remuneration, to which a councillor would otherwise be entitled as the holder of a civic office, in respect of any period during which:

- (a) the councillor is suspended from civic office under this Act, or*
- (b) the councillor's right to be paid any fee or other remuneration is suspended under this Act,*

unless another provision of this Act specifically authorises payment to be made, or specifically permits a person to authorise payment to be made, when the suspension is terminated.

In addition to the above, Council previously considered reports as a consequence of Cllr Ticehurst's previous suspensions in relation to any participation in a Council meeting during the period of suspension.

It has been made clear that a suspended Councillor is not permitted to participate in a council meeting including the Public Forum. This has been confirmed with a letter from the Division of Local Government.

The Councillor, should they insist in participating be formally warned that the continued behaviour could constitute a breach of the Code of Meeting Practice, leading to public disorder. If expelled from the meeting it could also be a potential breach of the Council's the Code of Conduct.

ATTACHMENTS

1. Determination and Orders of the Local Government Pecuniary Interest and Disciplinary Tribunal, LGPIDT 07/2012

RECOMMENDATION

THAT Council:

1. Note that the Local Government Pecuniary Interest and Disciplinary Tribunal has issued orders that Councillor Martin Ticehurst is suspended from holding civic office for a period of two (2) months commencing on 15 January 2014.
2. Note that a councillor, while suspended from civic office is not entitled to exercise any of the functions of the civic office, and is not entitled to any fee or other remuneration to which they would otherwise be entitled as the holder of the civic office.
3. Note the Council previous decisions that during a period of suspension that Council not accept any contribution from a suspended councillor during Council meetings.

ENVIRONMENT AND DEVELOPMENT REPORTS

**ITEM-7 ENVIRO - 29/07/13 - TRANSPORTABLE OFFICE BUILDING -
GEORDIE STREET LITHGOW NSW 2790**

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To advise Council of the submission of Development Application (DA132/13) and Construction Certificate (CC110/13) by Lithgow City Council for a transportable office building at Lot 1 DP125085 Geordie Street Lithgow NSW 2790. Approval will be recommended subject to conditions.

COMMENTARY

A development application and construction certificate has been lodged for a transportable office building at Lithgow Pound. The building, which will be an "Atco" type of transportable structure, will be 6 metres x 3 metres and placed on piers. The new facility is required to provide a clean, vermin controlled environment to house equipment; provide workspace and meet with dog owners when they are arranging release of their dogs. The proposed transportable office building will be located adjacent to the existing dog pound buildings with a setback from the existing chain wire fence of approximately 6.2 metres.

The allotment is located within a proclaimed Mine Subsidence District. The Mine Subsidence Board (MSB) has raised no objections to the proposal.

The proposed building will comply with the accessibility provisions of the Premises Standard and requirements of AS1428.1 'Design for Access and Mobility' for persons with a disability.

The building will be compatible with the existing development on site and is part of a number of upgrades planned for the facility to provide a better environment for both staff; customers and impounded animals.

POLICY IMPLICATIONS

Council's *Policy 7.6 – Development Applications on Council owned land* requires Development Applications on Council land to be referred to the elected Council for consideration and determination and that no aspect of the development is dealt with under delegated authority. Given Council's ownership of this land the proposal is reported to Council for determination.

FINANCIAL IMPLICATIONS

All costs associated with the proposal will be met by Council however no development contributions are payable.

LEGAL IMPLICATIONS

In determining a development application, a consent authority is also required to take into consideration the matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979.

OTHER MATTERS

The proposal is relatively straight forward and no other issues arise other than that covered in this report and the attached Section 79C assessment report.

ATTACHMENTS

1. Assessment report under Section 79C of the Environmental Planning and Assessment Act 1979.

RECOMMENDATION

THAT:

1. Council approve DACC 009-12 in accordance with the conditions outlined in the attached Section 79C report.
2. A Division be called in accordance with the provisions of Section 375(3) of the Local Government Act 1993.

**ITEM-8 ENVIRO- 29/07/13 - DEVELOPMENT APPLICATION 136/13
TELECOMMUNICATIONS MONOPOLE AND INFRASTRUCTURE -
OFF WOLGAN ROAD LIDSDALE - CALLING IN OF APPLICATION**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

To inform Council of the ‘call in’ of the subject Development Application pursuant to Council policy and recommend an on-site inspection.

COMMENTARY

The following Development Application has been called in by Councillor Wayne McAndrew:

- DA136/13 for the erection of a telecommunications monopole and associated infrastructure for NBN Co. on Lot 424 DP 751651 off Wolgan Road Lidsdale. The property is entered from Maddox.

A submission with seventy nine (79) signatures has been received from local residents objecting to the proposal and stating that it will have a significant impact on the local community. As a result of this public concern it is considered appropriate to recommend that an on-site meeting be arranged with Councillors, local residents and the applicant so that Council can be properly informed of the proposal when it is presented for determination.

POLICY IMPLICATIONS

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

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

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

This application is reported pursuant to the first dot point.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

No specific implications at this point of the process.

ATTACHMENTS

1. Submission from Lidsdale residents.

RECOMMENDATION

THAT:

1. The calling in of development application No 136/13 be noted.
2. A date for an on-site meeting be set for Councillors to discuss the proposal with local residents and the developer.

**ITEM-9 ENVIRO - 29/07/13 - CRYSTAL THEATRE MANAGEMENT
COMMITTEE & ENVIRONMENTAL ADVISORY COMMITTEE -
ADDITIONAL NOMINEES**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

To advise of additional nominees to the Crystal Theatre Management Committee and Environmental Advisory following a call for further Expressions of Interest.

COMMENTARY

Following the appointment of Section355 Committees, additional nominees were sought for a number of Committees including the Crystal Theatre Management Committee and the Environmental Advisory Committee.

In response to this the following additional nominees have requested appointment to these Committees:

Crystal Theatre Management Committee

Mr Ron Bidwell has nominated for the Crystal Theatre Management Committee as a Community Representative. Mr Bidwell has been a previous member of this committee and has a history of valuable volunteer activities to assist with the operation and ongoing maintenance of the facility.

Mr David Allen has nominated as a member of the Committee on behalf of the Crystal Cinema Committee. Mr Allen has also previously served on the committee and provided a valuable contribution.

Mrs Sue Rose has nominated as an alternate Committee member on behalf of the Crystal Cinema Management Committee.

Committee membership:

The terms of reference for the committee provide the following community based representation:

- 2 members from the Crystal Theatre Cinema Committee and 1 alternative
- 2 members from the Portland Art Purchase Society and 1 alternative
- 2 members of the community
- 1 member of the Portland Development Association and 1 alternative

Should Council accept the latest nominees there will only be one vacancy on the committee for a community representative.

Environmental Advisory Committee

Ms Trish Kidd has nominated to the Environmental Advisory Committee being endorsed by the Lithgow/Oberon Landcare Association. Ms Kidd has extensive experience on the Committee having also served as chair for a number of years.

Committee membership

- 1 nominated member of Lithgow and Oberon Landcare Association and 1 alternate nominated member;
- 1 nominated member of Lithgow Environment Group and 1 alternate nominated member;
- 1 nominated member of Lithgow Tidy Towns and 1 alternate nominated member;
- 1 nominated member of the Community Nursery and 1 alternate nominated member;
- 1 Hawkesbury Nepean Catchment Management Authority representative and 1 alternate;
- 1 Community Representative and 1 alternate member

Should Council approve the latest nomination there will still be vacancies for:

- 1 alternate member of the Lithgow Oberon Landcare Association
- 1 nominated member of the Community Nursery and 1 alternate nominated member
- 1 alternate representative of the Hawkesbury Nepean Catchment Management Authority
- 1 alternate community member

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

Section 355 of the Local Government Act.

RECOMMENDATION

THAT

1. Council appoints the following community representatives to the following Council Committees:

Crystal Theatre Management Committee

Ron Bidwell
Sue Rose
David Allen

Environmental Advisory Committee

Trish Kidd

2. Further advertising take place for community representatives on the Crystal Theatre Management Committee and Environmental Advisory Committee.
3. Correspondence be forwarded to organisations entitled to representation (or further representation) on the Environmental Advisory Committee advising of committee vacancies.

**ITEM-10 ENVIRO - 29/07/13 - DA 078/13 THREE DAY MUSIC FESTIVAL
EURELLA 602 UPPER NILE ROAD GLEN ALICE NSW 2849**

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To determine development application DA 078/13 for a three day music and arts festival at 'Eurella' 602 Upper Nile Road, Glen Alice NSW 2849.

COMMENTARY

Council is in receipt of a Development Application DA078/13 for a 3 day music & art festival on land known as Lot 12 DP 755796, Lot 3 DP 755796 & Lot 11 DP 755796 at 'Eurella' 602 Upper Nile Road Glen Alice NSW 2849.

The existing site is used for grazing, with private property to the west, Upper Nile Road to the east and Wollemi National Park/ World Heritage Area to the south and surrounding the valley area as shown in Attachment 2.

The festival will extend over three day days from Friday to Sunday with a proposed maximum 1800 tickets for patrons and approximately 300 crews, volunteers, artists etc. This is expected to grow in future years of the festival. Camping will be made available to all patrons onsite in a designated area.

The festival is open to all ages with the proposed dates are the 23rd to the 25th August 2013. The set up includes: cooking facilities, restaurants, food and merchandise stalls, workshops, kids zone, cinema, art gallery/exhibition spaces and games areas. There will also be water stations, markets and a first aid area incorporated in the site.

A number of structures are proposed onsite including scaffolding, marquees, caravans and similar temporary structures. Three main structures include:

1. 24hour 'Life Cycle' stage – being electronic producers and DJ's
2. 'Stampede' stage.- being live bands, electronic producers and DJ's
3. 'Zoolu' stage- being markets, workshops, music, performance and chill area.

The event is BYO alcohol, as no licenced premises will be onsite no glass to be taken to the site. Toilets, water, food, and camp fires will be provided for patron's onsite. All patrons will be travelling to the site by car, with other deliveries in vehicles such as trucks, trailers, caravans etc.

The festival will be run off generators, with lights, sound systems and food vendors to use these systems for the three days of the festival.

Key Issues

Whilst there is a full assessment in the attached section 79C report, the following key issues are highlighted.

Access, Transport and Traffic

Access to the proposed development is via Upper Nile Road, which is an unsealed road maintained by Council. The ticketing area at the front of the property off Upper Nile Road will be located 250m inside the property boundaries allowing for a queuing area to minimise traffic impact on the Upper Nile Road.

There are two parking areas, one for camping and another for day/visitor parking which will be marshalled to allow sufficient organisation. Emergency vehicle access will be provided at all times with access to be within the site and kept clear at all times.

The development has been considered by the Roads and Maritime Services, the Traffic Advisory Local Committee and Council's Engineers with recommended conditions. The development details that approximately 781 cars will be travelling to and from and parking at the festival site. The event is for one weekend with majority of traffic movements happening on the Friday and Sunday of the festival.

Adjoining Landuse

The surrounding development is typical of rural developments with national parks and scattered dwellings. The area is generally used for grazing lands by the owner of the property with the adjoining land smaller rural allotments with some dwellings. It is expected that the impact on the adjoining land uses will be minimised by conditions of consent. Specific conditions would be proposed to ensure lighting is diverted from closest dwellings and a letter box drop is undertaken with nearby properties prior to the event.

Noise and Vibration

The property is located within the rural zone. The NSW Industrial Noise Policy 2000 and Noise Guide for Local Government 2004, are required to be used for this assessment. An assessment has been undertaken by Council's Environmental officer with appropriate conditions of consent to be implemented in accordance with this Policy if consent is granted.

Furthermore, the development proposes to implement a noise management plan which includes:

- siting the three stages to be as far away from residents as possible, and using the topography of the site to provide some shielding
- orienting stages and speakers away from residential areas
- instructing sound engineers for each stage to keep the bass noise down
- keeping the local community informed about the music festival operating times and providing them with a contact number for the complaints handling.

Referrals

The proposal was referred to the Rural Fire Service (RFS), Roads & Maritime Services (RMS), Office of Environment & Heritage - National Parkes and Wildlife Services (NPWS), Council's Engineers, Council's Building Officers and Council's Environmental Officer for comment. No objections were raised by these authorities subject to the recommendations detailed in the attached 79C report.

Public Consultation

The development was placed on public exhibition with nearby residents and community groups of the Glen Alice and Glen Davis areas notified. There was a total of 12

submissions received (4 being from community groups), with 3 submissions in support of the proposal, 5 raising concerns but not objecting to the proposal and 4 objections.

The submissions **for** the development outlined the following as main points for the festival:

- That it would be a great benefit to all, boosting the local economy and is a great way of advertising the Capertee Valley;
- Revenue generated could flow onto further improvements i.e. roads. The location is perfect and will minimise noise travelling with all negatives able to be overcome; and
- Anything to get more people into the beautiful valley to promote it for all residents is a positive.

The following points were outlined by submissions as the main **concerns**:

- That security will not be enough to control the crowds from entering private properties or illicit drugs and alcohol consumption with minimal police presence at the festival;
- That additional traffic would cause roads to be degraded and become dangerous in wet weather. Also that competing traffic should be addressed with other activities happening in the area i.e. farmers & bird watchers;
- That it is not clear how the community will benefit from the festival;
- Camp fires need to be controlled
- That there needs to be the availability to communicate with emergency services easily as well as having a complaints procedure and manned telephone at all times;
- That no cost should be transferred to the residents in regards to the festival i.e. road upgrades etc.
- Noise will be for 24 hours a day, may be an issue for residents and will impact on the world heritage area surrounding the proposal on three sides. It is expected that the vegetation on Stacks Ridge will absorb little noise, bouncing back into the valley and over the surrounding area;
- That dust will be a problem with traffic movements
- That Glen Davis waste facility cannot handle waste generated and any general waste should not be allowed to be taken to this facility;
- That the festival conflicts with current local tourism being bird watching and farm stay/other accommodation regarding noise and dust where these tourism industries advertise the quite tranquil wilderness;
- That no flora and fauna assessment report was submitted with the DA to assess any potential impacts;
- That the attendees to the festival is not capped and could continue to grow with increasing impacts;
- That collection of rubbish along the roads will be an issue;
- Toilet facilities should be 100m or more away from watercourses;
- That acoustic measurements should be undertaken prior to the event as a test and during the event at several locations with the report to be supplied to Council for compliance;
- That the development is inconsistent with the objectives of the zoning and rural area under the Local Environmental Plan.

The concerns raised by the objectors have been addressed in detail in the attached 79C Assessment Report. It is considered that implementation of conditions of consent will alleviate concerns raised by the submissions and therefore the application is recommended for approval.

POLICY IMPLICATIONS

Council's *Policy 7.7 – Calling in of Development Applications by Councillors* states that Development Applications that are called in by a Councillor must be referred to the elected Council for consideration and determination and that no aspect of the development is dealt with under delegated authority.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

In determining a development application, a consent authority is also required to take into consideration the matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979.

OTHER MATTERS

Whilst at this stage consent would only be granted for the event in 2013, should it be successful the applicant could apply for future events either by a new development application or modification of the original consent. The event will generate significantly more traffic than would normally occur over a weekend. Council's Engineers and TALC have considered this issue and if approved require specific conditions relating to traffic management and a pre event inspection of Upper Nile Road with any damage from the event rectified.

ATTACHMENTS

1. A complete Section 79C report.
2. Image - locality map, 'Eurella' 602 Upper Nile Road, Glen Alice
3. Image - Site layout for the festival

RECOMMENDATION

THAT:

1. Council approve DA078/13 in accordance with the conditions outlined in the attached Section 79C report.
2. A division be called in accordance with the provisions of Section 375(3) of the Local Government Act 1993.

**ITEM-11 ENVIRO - 29/07/13 - DA207/12 GRAVEL PIT/CIVIL WORKS - 542
PORTLAND ROAD CULLEN BULLEN NSW 2790**

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To determine development application DA 207/12 for a gravel extraction pit (quarry) at 542 Portland Road, Cullen Bullen.

COMMENTARY

Council is in receipt of a Development Application 207/12 for a gravel extraction pit (quarry) on land known as Lot 22 in DP 633083, 542 Portland Road, Cullen Bullen NSW. This application has been called in by Council.

The property is currently used for cattle grazing and contains a shed and a number of dams.

The hours of operation for the quarry are to be Monday to Friday 7am to 6pm and Saturday's 8am to 2pm. The extraction pit would not operate on Sunday's or Public Holidays.

It is stated that at the highest production level the maximum number of truck movements would be 15 loads per day.

Over 3 years it is anticipated that 2 hectares of the site would be excavated, with the total area of the property being 51.91 hectares. 30,000 cubic metres of extractive material will be obtained from the site per annum.

The majority of the site is extensively cleared of vegetation with some isolated trees. The western portion of the site is quite heavily vegetated.

There is no proposal to conduct blasting or hammering on the property. It is mostly extracted via a small excavator. A large dozer may also be required to push up topsoil.

On the 18 June 2013 an on-site meeting was held with the Councillors, Council officers and adjoining landowners. Also a separate site inspection was conducted with the applicant. The meeting started on the adjoining property with the surrounding landowners who stated the issues outlined further in this report. The Councillors and staff then visited the proposed site with the applicant who addressed some of the neighbouring concerns. The applicant's response is located further in this report under the heading '*Adjoining Neighbours*'.

The proposal was sent to the Environment Protection Authority (EPA), Department of Primary Industries (DPI), Roads and Maritime Services (RMS), and Councils Engineers for comment. The proposal was also sent to adjoining neighbours and placed on public display in Councils Administration Building for a period of 14 days.

ADJOINING NEIGHBOURS

During the notification period thirteen (13) submissions were received from adjoining neighbours and nearby residents. The main concerns include:

1. Dust impacts on surrounding properties as the property is located within a high wind area and the use of water tanks not running throughout the whole hours of operation. The creation of dust would be significant for the locality. Water resources are also of great concern.

Applicants Comment: *The location of the quarry is within a sheltered location with hills (heavily vegetated) to the west and south (the location of the prevailing winds). This is only a small quarry and the disturbed area would be minimal at any given time and then progressively remediated as the quarry life continues. There are 7 dams on the property that would provide more than adequate water supplies if required for dust suppression.*

The following measures are proposed with respect to potential dust generation:

- *There will be a 20km/hr speed limit over the site,*
- *A water cart with sprinklers to be in position if the need arises for dust suppression,*
- *No work will be undertaken on windy days,*
- *All truck loads would be covered,*
- *Dust management procedures to be covered in the site induction to site staff and truck drivers,*
- *A Community Liaison person would be nominated and a complaints procedure implemented.*

The proponent would apply feasible and work practices to minimise any potential noise and dust impacts from the quarry operations. It is to be further noted that the development would be a small operation and the impacts are expected to be minor.

Council Officers Comment: The development was referred to the Environmental Protection Authority (EPA) who predicted that dust generation from the quarry would be low and that mitigation measures should be conditioned in the event that excessive dust is generated from the operational areas. The EPA's comments are found further in this report.

As such Council is satisfied that the applicants response is reasonable for the development and therefore if the development was approved then the following condition would be placed on the consent which would minimise dust impacts:

- The proponent shall ensure that all reasonable and feasible avoidance and mitigation measures are employed so that during the construction works and during operation all measures are taken to eliminate/suppress any dust nuisance emanating from the site.
2. Noise/Air Pollution - little information has been given in terms of noise generation and means of mitigation. The closest house is further located within 350 metres of the proposed development. These houses have not been shown on the site plans submitted with the application. The Statement of Environmental Effects indicates 500

metres which is inadequate. The noise from heavy machinery which are required to dig out the pit would impact these houses, as well as affecting livestock breeding and grazing. The shape of the hills would further increase the noise level through echoes which flows through the valley.

Applicants Comment: *There is an existing dwelling to the north east 460m away and 420m to the south east. The dwelling to the south east is over the existing hill (there is no direct sight). With respect to the dwelling north east it is proposed to plant a tree screen along the northern boundary. Due to limitations with respect to area and volume to be extracted, the quarry will only be periodically worked. Any noise impacts would be temporal and any works would be undertaken during daylight hours. Refer to Attachment 2*

The applicant proposes a number of noise mitigation strategies in accordance with the New South Wales Industrial Noise Policy produced by DECCW, including:

- *Controlling noise at the source – The applicant will restrict truck movements on the elevated areas and exposed haul routes where noise can be distributed across a wide area, with truck movements occurring during the hours of operation. Spoil areas shall be shielded by constructing earth mounds if necessary. Noise generating activities such as the use of excavators will be restricted to less sensitive times during the day with equipment such as excavators and haul trucks would be used separately where possible to avoid cumulative noise generative impacts.*

The development shall also provide for operational management practices of plant and equipment such as servicing to ensure optimum performance and restriction of associated noise impacts.

The quarry development is sited in a position that enables natural noise attenuation by natural vegetation screening to noise receptors.

- *Controlling Noise Transmission – Earth mounds and spoil areas would be constructed to ensure suitable noise attenuation barriers to reduce noise impacts.*

The location of the development would create minimal land use conflicts with a distance of 460m from the north east and 420m to the south east from the nearest adjoining residential dwellings. This would enable landuse separation and mitigate against noise susceptibility at the receptor.

The applicant will ensure that noise generated by the operation at the site would not exceed 55Db at the property boundaries during the prescribed 'day' period in accordance with the INP for a rural setting, for any adjacent dwelling house.

- *Other – The following additional measures are proposed:*
 - *Noise induction to all staff and truck drivers, including noise minimisation measures and discussion on project specific noise reduction strategies.*
 - *Implementation of a 'Community Liaison' procedure, which includes a noise management and noise complaint details.*

Council Officers Comment: Council agrees that the applicant's response is reasonable for the development and as such if the development was approved then the following conditions would be imposed on the consent:

- *The applicant is to restrict the amount of truck movements on the elevated areas and exposed haul routes where noise can be distributed across a wide area, with truck movements to only occur during the hours of operation.*
- *The applicant is to ensure that noise generated by the operation at the site would not exceed 55Db at the property boundaries during the prescribed 'day' period in accordance with the INP for a rural setting, for any adjacent dwelling house.*

3. The regeneration of the land after the operations have been ceased.

Applicants Comment: *Regeneration Works would be reinstated as conditions within the consent.*

Council Officers Comment: If the development was approved then appropriate conditions would be imposed on the consent for all rehabilitation works including a plan showing the stages and end use of the works undertaken

4. Surrounding properties may devalue in price.

Applicants Comment: *There is no substantiation provided regarding devaluation of surrounding properties.*

Council Officers Comment: It is advised that the development is to be operational for 3 years and that due to the location; impacts in regards to views, water, agricultural usage, dust and noise would be minimal.

5. Heavy Vehicles on the road as the road would need to be upgraded for the amount of truck movements. The access road is also inadequate and dangerous.

Applicants Comment: *The RMS have provided their conditions of consent and the applicant has no objection meeting the conditions and will upgrade the access as required.*

Council Officers Comment: Councils engineers and the RMS have commented on the proposed development and if it was approved then the following conditions would be imposed on the consent:

- A fully certified Civil Works Plan is to be submitted and approved by Councils Operations Manager prior to commencement of the quarry. Each stage of the road upgrade is to be inspected by Council.
- *The proposed access intersection off Portland Cullen Road is to be constructed to include Auxiliary Right Turn (AUR) and Auxiliary Left Turn (AUL) intersection treatments, as specified in Austroads Guide to Traffic Management Part 6: Intersections, Interchanges and Crossings, Figure 2.5. Auxiliary lanes are to be constructed to a minimum 3.5m in width and 50m in length.*

- *The access driveway and auxiliary lanes shall have a minimum of 150mm of DGB-20 road base applied and compacted providing a smooth transitional surface, and are to be (2) two-coat bitumen sealed (14/7mm pre-coated aggregate) from the edge of Portland Bullen Road to the Property boundary.*
 - *All intersection upgrade works are to be located entirely within the road reserve.*
 - *All associated traffic signage, including “trucks turning” signage is to be provided and installed at the developers full cost on Portland Cullen Bullen Road at the northern and southern approaches to the proposed gravel pit vehicular access. The warning signs shall be removed upon closure of the pit;. All proposed signage is to be shown on the construction certificate and approved by Council prior to the commencement of any civil works.*
 - *All associated linemarking, including edge lines, centre lines, and turning arrows are to be provided at the developers full cost. All proposed linemarking is to be shown on the construction certificate and approved by Council prior to the commencement of any civil works.*
 - *A fully certified traffic control plan and road works signage will be required where machinery may obstruct traffic on Portland Cullen Road whilst construction work is being undertaken. A traffic control plan and certification of fully qualified contractors/persons will be required to be submitted to Council prior to any work commencing on the shoulder of Portland Cullen Road. Failure to comply may result in Work Cover Intervention and may also include Council stop all work immediately until such time the developer complies with a suitable traffic management procedures.*
 - *All Construction Work including the intersection upgrade works and access driveway shall be completed prior to the gravel becoming operational.*
6. The Portland/Cullen Road has a 100km/hr speed limit and is essentially a safe road for light vehicles travelling in either direction. However, there is not adequate vision nor potentially, adequate stopping time for vehicles when faced with a large, slow truck pulling out or turning into the property.

Applicants Comment: *The RMS has provided their conditions of consent and accordingly are satisfied that the proposal will not have a negative impact on the Cullen Bullen Road.*

Council Officers Comment: *Refer to Councils comment above for the previous issue.*

7. The hours of operation are not efficient with other business hours within the locality.

Applicants Comment: *The hours of operation are 7am to 6pm Monday to Friday and 8am to 4pm on Saturdays. No operations occur on Sundays or public holidays. In reality, all works would be undertaken during daylight and would generally be completed by 3.30pm. These hours are consistent with farming operations in the general area. The works are further not full time and the quarry will operate on a very frequent basis.*

Council Officers Comment: Council recommends that the hours of operation are modified and restricted in regards to Saturday operations. This would further be imposed as a condition on the consent if the development was approved and would state:

- The hours of operation are to be restricted between Monday to Friday 7am to 6pm and Saturday's 8am to 2pm. There is to be no quarrying, processing, loading or transportation on Sundays and Public Holidays. No heavy vehicles are to further access or exit the site outside of these hours.
8. Underground fire-The site is extremely close to a former coal mine and the coal seam under this land has been on fire for a number of years. Potentially this is a huge hazard as oxygen penetration into the land could lead to further ignition.

Applicants Comment: *There are no coal operations in the immediate vicinity of the quarry.*

Council Officers Comment: Council referred the development to the Mine Subsidence Board who advised that the quarry site does not contain underground coal. A plan from the Mine Subsidence Board showing the location of the property in regards to the old coal mining area and their comments is outlined further in this report.

9. Eyesore/view with landscaping being destroyed.

Applicants Comment: *There is no vegetation to be removed to facilitate the operation of the quarry.*

Council Officers Comment: The applicant's response is reasonable and that further landscaping is proposed to be undertaken along the boundaries of the property. If the development was approved then the following condition would be imposed on the consent:

- A Landscaping Plan is to be submitted and approved by Council prior to any works/operations are undertaken on the site. The Landscape Plan is to show the location and type of planting on the property particularly along the adjoining boundaries of the properties to minimise impacts.
- Once the Landscaping Plan is approved, all planting must be undertaken within the first 6 months of operation.

10. Community benefits

Applicants Comment: *The quarried material will be used for projects in the locality and support the civil and construction industries.*

Council Officers Comment: Council Officers agree with the applicant's response.

11. Effects on Jews Creek from waste products

Applicants Comment: *Jews Creek is a long distance from the site and there is no identified off site impacts.*

Council Officers Comment: A site inspection as undertaken at the property and it was noted that the creek is not located within close proximity to the development site.

12. Water pollution in regards to water supply to adjoining properties. Concerns were raised in regards to health and contamination impacts.

Applicants Comment: *There is no contamination of water ways identified as there are no chemicals used in the operations. This is a very small scale quarry that will be progressively quarried and remediated.*

Council Officers Comment: Council officers are satisfied with the applicant's response.

13. Aboriginal cultural study.

Applicants Comment: *An aboriginal Cultural Study is not considered warranted in this case as the proposed quarry is on the site of a former quarry – there is no evidence of any cultural influence on this proposal.*

Council Officers Comment: Council officers are satisfied with the applicant's response.

14. Operations have started without Council Approval; specifically fill is being removed from the top side of the hill where a house is located approximately 80 metres away, without erosion control measures or vegetation.

Applicants Comment: *There are no operations commenced with respect to the proposed dwelling.*

Council Comment: Through the development assessment processes Council advised the applicant that no work was to start until he received Council consent. As such the applicant informed Council that fill was transported to upgrade the driveway on the property.

15. No geotechnical reports have been submitted to identify what the type of gravel that is located beneath the surface.

Applicants Officers Comment: *There is no need for a geotechnical report in this instance to enable Council to conduct their assessment of the Development Application.*

Council Comment: Council is satisfied with the applicant's response.

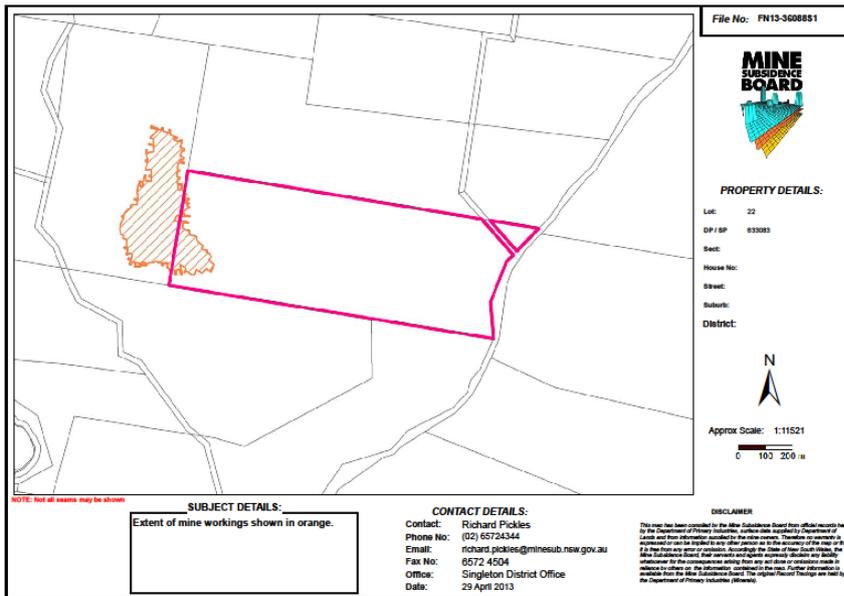
DEPARTMENT OF PRIMARY INDUSTRIES (DPI)

The department inspected the site and has no concerns in relation to this application.

MINE SUBSIDENCE BOARD (MSB)

The Board has no record of a burning coal seam on the site and as discussed it would not likely effect the area proposed for the quarry. As the property is not in a proclaimed Mine Subsidence District, MSB approval is not required.

The map below shows the extent of mine workings on the property:



Map Showing old Coal Mine Site

ENVIRONMENT PROTECTION AUTHORITY (EPA)

The EPA has reviewed the Development Application and has made the following comments:

- The proposed development is not a scheduled activity under Schedule 1 of the Protection of the Environment Operations Act 1997 (POEO Act) as it falls under the environmental protection licensing threshold for extractive industries. As such under the POEO Act, Council would be the appropriate Regulatory Authority (ARA) should the proposed development be approved.
- The Statement of Environmental Effects (SEE) makes a passing reference to potential noise impacts from the proposed development and concludes that owing to the scale of the proposed development, that these impacts are likely to be minimal most of the time. The SEE does not provide any quantitative measure of what the potential impacts may be when not 'minimal' and what measures would be taken to reduce noise from the quarry in noise enhancing conditions or on receipt of a noise complaint. The EPA recommends that Council require that the proponent/consultant investigates this matter further;
- Similarly, dust generation from the quarry is predicted to be low however no mitigation measures are described in the event that excessive dust is generated from the operational areas. Again, the EPA recommends that Council require that the proponent/consultant investigates this matter further;
- The EPA notes that the proponent will prepare an erosion and sediment control plan. The EPA recommends that should the proposed development be approved, that this plan be prepared prior to the commencement of any site works and activities and be prepared in accordance with the publications "Managing urban stormwater: soils and construction", vol. 1 (Landcom 2004) and the addendum to this publication, vol 2 (E) " Mines and quarries" (DECC 2008); and

- The proponent has indicated that up to 30,000 tpa of material will be extracted within a year period. The EPA recommends, to ensure compliance with POEO Act, that Council include, should the proposed development be approved, Conditions of Consent that are consistent with the following:
 - a) Cap the permitted extraction to less than 30,000 tpa during any yearly period (E.g. each calendar year);
 - b) Require the proponent to measure and record the weekly or monthly amount of material extracted;
 - c) Require the proponent to provide a brief Annual Report (covering each calendar year for example) that includes all weekly or monthly results detailed above and provides the total figure of material extracted within the calendar year; and
 - d) Include a condition permitting Council Officer's to inspect the weekly or monthly records at any time.

Applicants Comment: The applicant proposes a number of noise mitigation strategies in accordance with the New South Wales Industrial Noise Policy produced by DECCW, including:

- Controlling noise at the source – The applicant will restrict truck movements on the elevated areas and exposed haul routes where noise can be distributed across a wide area, with truck movements occurring during the hours of operation. Spoil areas shall be shielded by constructing earth mounds if necessary. Noise generating activities such as the use of excavators will be restricted to less sensitive times during the day with equipment such as excavators and haul trucks would be used separately where possible to avoid cumulative noise generative impacts.

The development shall also provide for operational management practices of plant and equipment such as servicing to ensure optimum performance and restriction of associated noise impacts.

The quarry development is site in a position that enables natural noise attenuation by natural vegetation screening to noise receptors.

- Controlling Noise Transmission – Earth mounds and spoil areas would be constructed to ensure suitable noise attenuation barriers to reduce noise impacts.

The location of the development would create minimal land use conflicts with a distance of 460m from the north east and 420m to the south east from the nearest adjoining residential dwellings. This would enable landuse separation and mitigate against noise susceptibility at the receptor.

The applicant will ensure that noise generated by the operation at the site would not exceed 55Db at the property boundaries during the prescribed 'day' period in accordance with the INP for a rural setting, for any adjacent dwelling house.

- Other – The following additional measures are proposed:
 - Noise induction to all staff and truck drivers, including noise minimisation measures and discussion on project specific noise reduction strategies.

- Implementation of a 'Community Liaison' procedure, which includes a noise management and noise complaint details.

Dust Control

The following measures are proposed with respect to potential dust generation:

- There will be a 20km/hr speed limit over the site,
- A water cart with sprinklers to be in position if the need arises for dust suppression,
- No work will be undertaken on windy days,
- All truck loads would be covered,
- Dust management procedures to be covered in the site induction to site staff and truck drivers,
- A Community Liaison person would be nominated and a complaints procedure implemented.

The proponent would apply feasible work practices to minimise any potential noise and dust impacts from the quarry operations. It is to be further noted that the development would be a small operation and the impacts are expected to be minor.

ROADS AND MARITIME SERVICES (RMS)

It is noted that the proposed gravel pit will generate a maximum of 15 loads (30 movements) per day and that access will be obtained via an existing vehicular access off Portland Cullen Bullen Road.

The site has been inspected and the information submitted in support of the development proposal reviewed. The site inspection revealed that the intersections sight distance on the southern approach to the access is approximately 200 metres less than the minimum distance recommended in the Austroads Guide to Road design for a 100kmph speed environment.

The following recommended conditions of consent are provided for Council's consideration:

- The access from Portland Cullen Bullen Road servicing the development shall be constructed in accordance with Austroads Guide to Road Design: Part 4 Figure 7.4 'Standard Rural Property Access' (copy attached) and any relevant RMS Supplements. The access should be sealed a minimum of 20 metres from the edge of the travel lane in Portland Cullen Bullen Road, match existing road levels and not interfere with existing road drainage;
- A basic left (BAL) turn treatment as shown in Figure 8.2 of the Austroads Guide to Road Design: Part 4A (copy attached) shall be provided at the access to the proposed gravel pit. The BAL facility will need to be sealed and built for a 100km/h environment;
- Any gate, grid or similar structure constructed on the access should provide suitable storage capacity for an articulated vehicle from the carriageway;
- Arrange with Lithgow City Council for the installation of "Trucks Turning" signs (W5-205) on Portland Cullen Bullen Road at the northern and southern approaches to the proposed gravel pit vehicular access. The warning signs shall be removed upon closure of the pit;

- The access treatment shall be completed prior to the gravel becoming operational;
- The hours of operation are to be between 7.00am and 6.00pm. No heavy vehicles are to access or exit the site outside of these hours.

COUNCIL'S ENGINEERS

Council's Engineers do not agree with the Roads and Maritime Services (RMS) recommended conditions in regards to the intersection treatment. This road is a Council Regional Road in which Council receives funding from the RMS to manage and maintain it. Therefore Council is able to over-ride the RMS Conditions which is in relation to the intersection to make it more feasible for the development and the road network.

As such Council's Engineers have no objection to the development subject to the following conditions being attached to the consent:

- 1). The proposed access intersection off Portland Cullen Road is to be constructed to include Auxiliary Right Turn (AUR) and Auxiliary Left Turn (AUL) intersection treatments, as specified in Austroads Guide to Traffic Management Part 6: Intersections, Interchanges and Crossings, Figure 2.5. Auxiliary lanes are to be constructed to a minimum 3.5m in width and 50m in length.
- 2). The access driveway off Portland Cullen Road shall have a minimum entry splay of 6.0 metres in width, tapering back into a minimum 4.0 metre wide internal access road.
- 3). The access driveway and auxiliary lanes shall have a minimum of 150mm of DGB-20 road base applied and compacted providing a smooth transitional surface, and are to be (2) two-coat bitumen sealed (14/7mm pre-coated aggregate) from the edge of Portland Bullen Road to the Property boundary.
- 4). All intersection upgrade works are to be located entirely within the road reserve.
- 5). All associated traffic signage, including "trucks turning" signage is to be provided and installed at the developers full cost. All proposed signage is to be shown on the construction certificate and approved by Council prior to the commencement of any civil works.
- 6). All associated linemarking, including edge lines, centre lines, and turning arrows are to be provided at the developers full cost. All proposed linemarking is to be shown on the construction certificate and approved by Council prior to the commencement of any civil works.
- 7). A construction certificate will be required to be lodged to Council prior to the commencement of any Civil Works.
- 8). A fully certified traffic control plan and road works signage will be required where machinery may obstruct traffic on Portland Cullen Road whilst construction work is being undertaken. A traffic control plan and certification of fully qualified contractors/persons will be required to be submitted to Council prior to any work commencing on the shoulder of Portland Cullen Road. Failure to comply may result in Work Cover Intervention and may also include Council stop all work

immediately until such time the developer complies with a suitable traffic management procedures.

OTHER MATTERS

There are no other specific matters except to say that every effort has been made to impose recommendations that seek to address concerns raised by concerned residents. The development, however, is comparatively minor for a quarry and will have a finite life of three years. Therefore, on balance, the recommendation is that approval can be granted subject to conditions.

POLICY IMPLICATIONS

Council's *Policy 7.7 – Calling in of Development Applications by Councillors* states that Development Applications that are called in by a Councillor must be referred to the elected Council for consideration and determination and that no aspect of the development is dealt with under delegated authority.

FINANCIAL IMPLICATIONS

The estimated cost of the development is \$100,000, therefore Section 94A Contributions do not apply for this development.

Discussions were held with the applicant and Councils Planning Officers in regards to the accuracy of this estimated cost of the development. It was advised that the only major cost would involve the upgrade to Portland Road. Other expenses would involve the operations of the trucks and machinery, and additional landscaping around the boundary of the property. The applicant further advised that quotes were obtained in regard to these expenses. Notwithstanding these assertions, should Council grant consent a condition is proposed requiring the applicant to re-assess the estimated cost of the development having specific regard to the Department of Planning and Infrastructure Circular PS 13-002 "Calculating the genuine estimated cost of development". Should this re-assessment determine that the estimated cost is greater than \$100,000 then, prior to the commencement of operations, additional development application fees will be required to be paid as well as a Contribution under Council's Section 94A Contributions Plan.

LEGAL IMPLICATIONS

In determining a development application, a consent authority is also required to take into consideration the matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

1. A complete Section 79C report.
2. Map showing proposed Quarry.

RECOMMENDATION

THAT:

1. Council approve DA 207/12 in accordance with the conditions outlined in the attached Section 79C report.

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

ITEM-12 ENVIRO - 29/07/13 - PROPOSED ROAD NAMING - 06107DA - NEW ROAD NAME OFF OLD BATHURST ROAD

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT & DEVELOPMENT

REFERENCE

Min No 13-88: Ordinary Meeting of Council held on 18 March 2013
Min No 13-168: Ordinary Meeting of Council held on 27 May 2013

SUMMARY

To progress the road naming process for the new road off Old Bathurst Road, South Bowenfels as part of subdivision approval 061/07DA.

COMMENTARY

Background

The road is a new road that requires to be named as part of the subdivision. The original proposed name of 'Serenity Drive' was notified to authorities and advertised in the paper for suggestions for the road naming in accordance with the Geographical Names Board Guidelines (GNBG). As a result of the notification Council received a submission suggesting the name of 'Gipps Road' which was more historically significant to the area. Council resolved to advertise and notify this proposed road name in accordance with the GNBG, with the following submission received:

- That a more appropriate name for the road be 'Governor Gipps Road' to make the name clearer to the public that it is named after Governor George Gipps. Additionally this name would be of a similar convention to the name of a nearby road being 'Sir Thomas Mitchell Drive'.

It is considered that this submission be accepted in this instance as it would help the public assimilate the nature of the road naming being after Governor George Gipps which is historically significant to the area.

CONCLUSION

If there is no objection Council can proceed with the notification of the name in accordance with the Geographical Names Board of NSW Requirements.

POLICY IMPLICATIONS

Council's Road Naming Policy applies.

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.

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT:

1. Council support the name 'Governor Gipps Road' and proceed with notifying authorities.
2. The proposed name be advertised and submissions invited.
3. If no objection is raised then Council proceed to notification of the road name and advise the Emergency Services and Government Gazette of the name 'Governor Gipps Road'.

OPERATION REPORTS

ITEM-13 OPER - 29/07/13 - WATER REPORT

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

REFERENCE

Min No 13-245: Ordinary Meeting of Council held on 8 July 2013

SUMMARY

This report provides an update on various water management issues as per Minute Number 13-245.

COMMENTARY

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

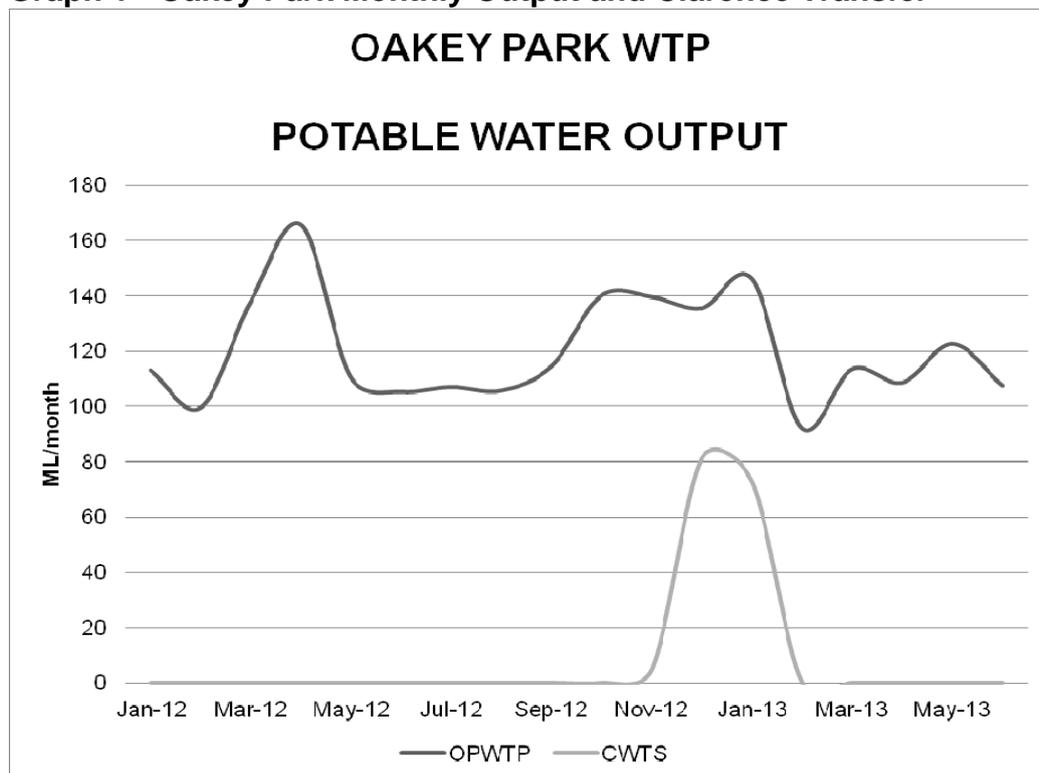
Current Dam Levels for both Farmers Creek and Fish River

Farmers Creek Dam #2 capacity on Monday 15th July was 100%.
Oberon Dam capacity on Monday 15th July was 84.56%

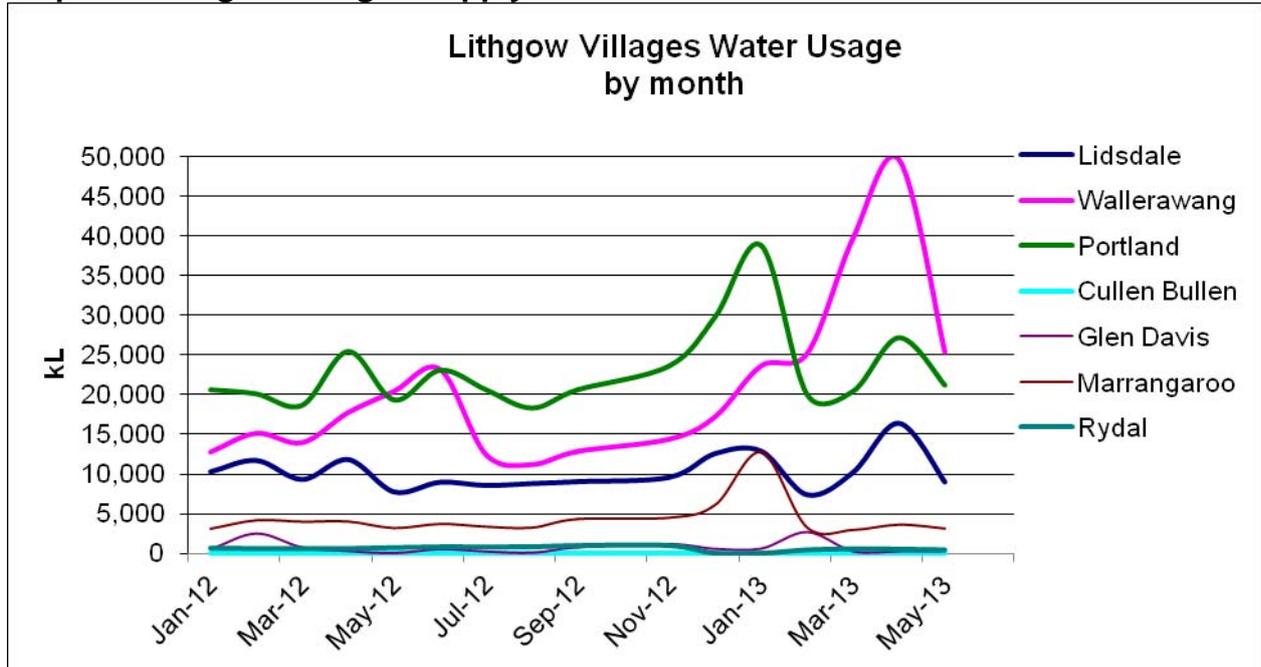
Current Water Usage from Each Supply

Graph 1 below indicates total output from the Oakey Park Water Treatment Plant (OPWTP) and the volume transferred from the Clarence Transfer System (CWTS) from 2012.

Graph 1 - Oakey Park Monthly Output and Clarence Transfer



Graph 2 – Lithgow Villages Supply



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 June.

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*.

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.

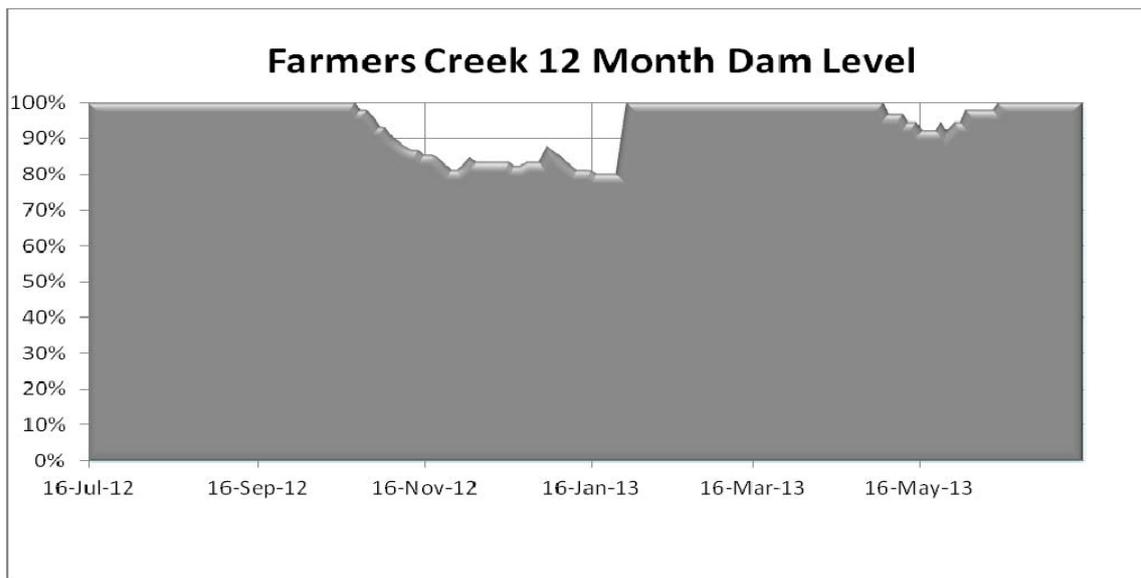
Water Saving Schemes or Processes Update

Council’s Rainwater Tank and Domestic Appliance Rebate Program continued in June with Council approving four applications for a household appliance rebate and no applications for a water tank rebate.

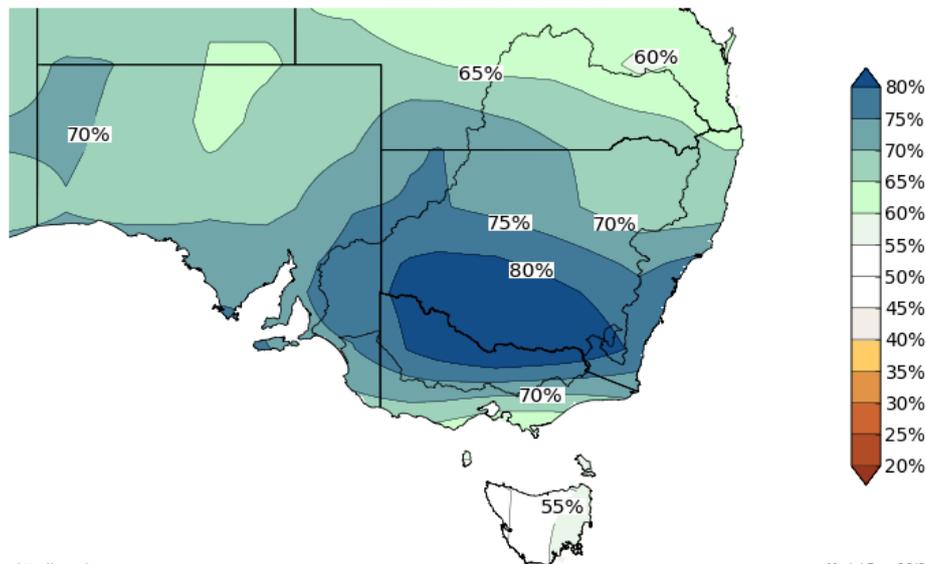
Farmers Creek Dam #2 12 Month Levels

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

Graph 3 Farmers Creek Dam #2 over 12 Months



Chance of exceeding the median Rainfall: July to September 2013
Product of the National Climate Centre



<http://www.bom.gov.au>
© Commonwealth of Australia 2013, Australian Bureau of Meteorology

Model Run: 10/06/2013
Issued: 12/06/2013

A wetter than normal season is more likely for mainland southeast Australia. A negative Indian Ocean Dipole (IOD) event is favoured to develop during winter-spring 2013. A negative IOD during winter-spring increases the chances of above normal rainfall over southeast Australia, which is reflected in the rainfall outlook

ALTERNATE WATER SOURCES UPDATE

The Lithgow villages and Marrangaroo Zone are currently being supplied from Fish River Water Scheme (FRWS). The Clarence Water Transfer Scheme construction is continuing.

RECOMMENDATION

THAT Council note the water report.

ITEM-14 OPER - 29/07/13 - TENDERS FOR PLANT HIRE WOLGAN VALLEY ROAD PROJECT

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

To advise Council of Tenders received for casual plant hire to be utilised on the Wolgan Valley Road Upgrade Project for the remainder of the project.

COMMENTARY

Further to recent advertising for tenders for plant hire to be utilised on the Wolgan Road upgrade project, tenders were received from the following:

- A.C. & H.A. Collins Transport Pty Ltd
- Henry's Plant and Equipment Hire Pty Ltd
- ICF Haulage
- MAAS Plant Hire
- Dukes Civil Pty Ltd
- PJ & HA Gracey's Earthmoving Pty Ltd
- Gracey's Earthmoving and Excavating
- A1 Earthworkx Moving & Civil Pty Ltd
- Australian Grader Hire Pty Ltd
- Central West Civil
- Antquip Plant Hire Pty Ltd
- Peters Earthmoving Pty Ltd

A large variety of plant and equipment was included in the tender. Regretfully the tenders from Henry Plant and Equipment Hire Pty Ltd and A.C. & H.C. Collins Transport did not comply with the tendering requirements and were not considered.

It should be noted that following the completion of the first 5 kilometres of the road it is proposed to scale down the level of plant and equipment required to complete the remaining section of the project. Details of tenders received for each class of plant have been incorporated into the attached spreadsheets which show comparative information. At its meeting held on Wednesday 17 July 2013 the Operations Committee considered the tenders received.

In its deliberations, the Operations Committee considered that based on the excellent performance of the current contractor to date, the benefits of having one major contractor on site as opposed to four or five separate contractors, the fact that the preferred contractor has the full range of plant and equipment required currently on site, his competitive pricing and no extra charges for weekend work and high standard of safety, that the tenders from Gracey's Earthmoving Pty Ltd be recommended for acceptance as the most beneficial to Council. The tendered prices submitted are for casual hire and the plant will be engaged only when required. All rates tendered are inclusive of operator costs and include GST. The total estimated cost of the tender from ICF haulage P/Ltd is

\$143,000. The total estimated cost of the tender from Gracey's Earthmoving and Excavations is \$709,351

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Schedule of tenders received of plant required for project

RECOMMENDATION

THAT Council:

1. Accept the tender from ICF Haulage at an estimated total cost of \$143,000 for the transport of roadbase material from Sibelco Quarry at Excelsior to the work site on Wolgan Road at a rate of \$14.30 per tonne
2. Accept the tender from Gracey's Earthmoving and Excavations at an estimated cost of \$709,351 for the hire of the following items of plant and equipment:
 - Two sets of traffic control signals at the rate of \$825 per week;
 - One high pressure cleaner at the rate of \$93.50 per hour;
 - Cat 12H Grader at the rate of \$148.50 per hour;
 - 40tonne capacity dump truck at the rate of \$165.50 per hour;
 - Cat D5N at the rate of \$148.50 per hour;
 - JCB 4CX Backhoe at the rate of \$93.50 per hour;
 - Volvo N12 Water cart at the rate of \$99.00 per hour;
 - Cat C5573E Padfoot Roller 17 tonne capacity at the rate of \$99.00 per hour;
 - Cat 563E 12 tonne Smooth drum roller at the rate of \$99.00 per hour;
 - Cat 330 CL 30 tonne Excavator at the rate of \$165.00 per hour;
 - Hitachi EX 210H 20 tonne excavator at the rate of \$148.50 per hour;
 - and
 - Truck and Dog trailer at the rate of \$148.50 per hour.

COMMUNITY AND STRATEGY REPORTS

**ITEM-15 COMM - 29/07/13 - REQUEST BY LITHGOW SMALL ARMS
FACTORY FOR DONATION OF COUNCIL HELD ARTWORK**

REPORT FROM: M JOHNSON - MANAGER COMMUNITY AND CULTURE

REFERENCE

NIL

SUMMARY

Lithgow Small Arms Factory Museum has requested that the Arthur Butler Illuminated Address, currently in storage at Eskbank House and Museum, be donated to the Lithgow Small Arms Factory Museum Collection.

COMMENTARY

The Arthur Butler Illuminated Address is an illustrated certificate donated to Arthur Butler, a foreman of the Small Arms Factory, on his leaving the factory. Arthur Butler turned to aviation upon leaving the factory and his company Butler Air Transport Co. went on to become Ansett in later years.

The Address is currently stored at Eskbank House and Museum and is not on display. There is no record of how it came to be in the Eskbank House and Museum collection and as the Address has no connection with Eskbank House and Museum, it is considered more appropriate that it be relocated to the Small Arms Factory Museum. The Address is in poor condition and in need of restoration.

It is recommended that the Address be donated to the Lithgow Small Arms Factory Museum under the condition that they have it restored and that it is exhibited in their Museum, conditions to which they have agreed Lithgow Small Arms Factory Museum in their letter.

POLICY IMPLICATIONS

Policy 4.9 Lithgow City Council Artwork Collection, currently under review.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Letter from Lithgow Small Arms Factory Museum
2. Image of Arthur Butler Illuminated Address

RECOMMENDATION

THAT Council donate the Arthur Butler Illuminated Address to the Lithgow Small Arms Factory Museum under the condition that they have it restored and that it is exhibited in their Museum.

ITEM-16 COMM - 29/07/13 - CROWN LANDS LICENSE AGREEMENT WITH LITHGOW MEN'S SHED

REPORT BY: M JOHNSON - MANAGER COMMUNITY AND CULTURE

REFERENCE

Min No 12-77:	Ordinary Meeting of Council held on 5 March 2012
Min No 12-101:	Ordinary Meeting of Council held on 26 March 2012
Min No 12-139:	Ordinary Meeting of Council held on 23 April 2012
Min No 12-165:	Ordinary Meeting of Council held on 14 May 2012
Min No 12-200:	Ordinary Meeting of Council held on 4 June 2012
Min No 12-226:	Ordinary Meeting of Council held on 25 June 2012
Min No 13-59:	Ordinary Meeting of Council held on 25 February 2013
Min No 13-238:	Ordinary Meeting of Council held on 8 July 2013

SUMMARY

A license agreement has been received from the Crown Lands Division of the NSW Department of Trade and Investment for occupation by Lithgow Men's Shed of the old amenities block, Lithgow Aquatic Centre, Tony Luchetti Sportsground. This report recommends that Council affix the Council seal to the license agreement.

COMMENTARY

Council resolved at the Ordinary Meeting of Council held 25 February 2013 (Min 13-59)

THAT Council:

1. Supports the proposal from the Lithgow Men's Shed Group to use and undertake renovations to the old aquatic centre amenities block.
2. Enters negotiations with the Lithgow Men's Shed to develop a plan for the renovation, including leasing, works to be undertaken, funding responsibility and recommended timeframes.
3. Allocates \$50,000 from the remaining Special Rate Infrastructure Levy funds to the project. A priority of the funding shall be the making good of the site for cohabitation with the pool.

Council further resolved at the Ordinary Meeting of Council held 8 July 2013 (Min 13-238) to approve a Combined Development/Construction Certificate in respect of works by the Men's shed at the amenities block. Works can commence once the Crown Lands License Agreement is signed by Council and the Minister.

The term of the agreement is 5 years from 1 July 2013 to 30 June 2018 at an initial rent of \$434 per annum with annual rental adjustments to apply. The Men's Shed have signed the agreement.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Council has allocated \$50,000 from remaining Special Rate Infrastructure Levy funds for the renovation works to the amenities block.

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. License Agreement between Lithgow Public Park Reserve Trust and Lithgow District Men's Shed Association Inc for occupation of the old amenities block, Lithgow Aquatic Centre, Tony Luchetti Sportsground.
2. Image showing location of the site

RECOMMENDATION

THAT Council authorises the affixing of the Council seal to the License Agreement between Lithgow Public Park Reserve Trust and Lithgow District Men's Shed Association Inc for occupation of the old amenities block, Lithgow Aquatic Centre, Tony Luchetti Sportsground.

COMMITTEE MEETINGS

ITEM-17 OPER - 29/07/13 - TRAFFIC AUTHORITY LOCAL COMMITTEE MEETING MINUTES - 4 JULY 2013

REPORT BY: I STEWART - GROUP MANAGER OPERATIONS

SUMMARY

This report details the Minutes of the Traffic Authority Local Committee Meeting held on 4 July 2013.

COMMENTARY

At the Traffic Authority Local Committee held on 4 July 2013, there were several items discussed by the Committee:

1. Business arising from the previous minutes
 - Main Street laneway- traffic issues from the rear of the Grand Central Hotel to the rear of the Courthouse Hotel
 - Camp Quality Tractor Trek event- certificate of currency for event
2. New Business
 - Naomi Street Lithgow- request for one way street
 - Speeding vehicles Barton Street Lithgow
 - Request for load limits- various roads Portland
 - Marjorie Jackson soccer fields-parking issues
 - Request for higher mass limits- Main Street Wallerawang
 - Alpine Classic 2013 request to conduct event
 - Request for lane to be made one way only- lane located at the rear of Sandford Avenue and Ivatt Street Lithgow
 - Request for resident only parking and No Parking- Sandford Avenue, Young and Frazer Streets Lithgow
 - Sandford Avenue Lithgow-request for speed humps
 - St Vincent Parish Portland-request for lane way to be made one-way only as part of development consent
 - Request for timed parking in the vicinity of 171 Mort Street Lithgow
 - Request for approval-driveway in Martini Parade Lithgow as part of a development application
3. General Business
 - Update on Armco Railing installation request for pedestrian safety- section of the Great Western Highway between First Street and Rabaul Streets Lithgow
 - Correspondence from resident-lack of footpath and pedestrian facilities in the vicinity of Lithgow Hospital Great Western Highway Lithgow
 - La Salle Academy Rabaul Street Lithgow-parking and pedestrian issues – RMS request meeting with Council, Police and La Salle.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes from the Traffic Authority Local Committee meeting of 4 July 2013

RECOMMENDATION

THAT Council:

1. Notes the minutes of the Traffic Authority Committee meeting held on 4 July 2013.
2. Approve the request from Road and Maritime Services for increased higher mass limit access for semi trailers at 45.5 tonne to access Lot 40 Main Street Wallerawang from the Castlereagh Highway.

**ITEM-18 OPER - 29/07/12 - OPERATIONS WORKS COMMITTEE MEETING
MINUTES - 11 JULY 2013**

REPORT BY: I STEWART - GROUP MANAGER OPERATIONS

SUMMARY

Details of the Minutes of the Operations (Works) Committee Meeting held on Thursday, 11 July 2013 for Council adoption.

COMMENTARY

At the Operations (Works) Committee Meeting held on Thursday, 11 July, there were a number of items discussed by the Committee, with all items being actioned under the Committee's delegated authority.

Items discussed included:

- LGNSW Water Management Conference
- Flood Study Review
- Purchase of Flood Prone Property
- South Littleton Sewerage Infrastructure Upgrade Progress Update
- Wolgan Valley Road Project Update
- Plant Hire Tenders for Wolgan Valley Project

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes of the Operations (Works) Committee Meeting held on Thursday, 11 July 2013.

RECOMMENDATION

THAT Council note the minutes of the Operations (Works) Committee meeting held on Thursday 11 July 2013.

**ITEM-19 ENVIRO - 29/07/13 - ENVIRONMENTAL ADVISORY COMMITTEE
MINUTES - 19 JUNE 2013**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

To advise of the minutes of the Environmental Advisory Committee Meeting of 19 June 2013.

COMMENTARY

On 19 June 2013 a meeting of the Environmental Advisory Committee discussed a number of items including Council's Code of Conduct and Code of Meeting Practice; committee membership; the committee's terms of reference; and general business. None of the items require Council ratification for actions to take place.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes of the Environmental Advisory Committee meeting of 19 June 2013.

RECOMMENDATION

THAT the Minutes of the Environmental Advisory Committee meeting of 19 June 2013 be noted.

**ITEM-20 COMM - 29/07/13 - DISABILITY ACCESS COMMITTEE MINUTES - 9
JULY 2013**

REPORT BY: M JONES - COMMUNITY DEVELOPMENT OFFICER

REFERENCE

Min No 13-185: Ordinary Meeting of Council held on 27 May 2013

SUMMARY

This report details the minutes of the Disability Access Committee meeting held on 9 July 2013.

COMMENTARY

At the Disability Access Committee meeting held on 9 July 2013 various items were discussed by the committee. Matters of interest include:

- Discussion about the Main Street improvements and installation of new public toilets.
- Access issues at the Lithgow Valley Plaza.
- Disability Access at the entrance of the Civic Ballroom.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

Local Government Act NSW 1993

ATTACHMENTS

1. Minutes of the Disability Access Committee meeting 9 July 2013.

RECOMMENDATION

THAT Council notes the minutes of the Youth Council meeting held 9 July 2013.

**ITEM-21 COMM - 29/07/13 - TOURISM ADVISORY COMMITTEE MEETING
MINUTES - 2 JULY 2013**

REPORT BY - K BARROW – TOURISM MANAGER

REFERENCE

Min No 13-103: Ordinary Meeting of Council 18 March 2013
Min No 13-183: Ordinary Meeting of Council 27 May 2013
Min No 13-186: Ordinary Meeting of Council 27 May 2013
Min No 13-215: Ordinary Meeting of Council 17 June 2013

SUMMARY

This report details the Minutes of the Tourism Advisory Committee Meeting held on 02 July 2013

COMMENTARY

At the Tourism Advisory Committee held on 02 July 2013, there were numerous items discussed by the Committee including;

- LED Sign.
- Town Entrance Signage

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes from the Tourism Advisory Committee meeting of 02 July 2013

RECOMMENDATION

THAT Council notes the minutes of the Tourism Advisory Committee held on the 02 July 2013.

**ITEM-22 COMM - 29/07/13 - BLUE MOUNTAINS CROSSING BICENTENARY
COMMITTEE MEETING MINUTES - 3 JULY 2013**

REPORT BY - W HAWKES - CULTURAL DEVELOPMENT OFFICER

REFERENCE

Min No 12-331: Ordinary Meeting of Council held on 3 September 2012
Min No 12-463: Ordinary Meeting of Council held on 26 November 2012
Min No 12-508: Ordinary Meeting of Council held on 17 December 2012
Min No 13-68: Ordinary Meeting of Council held on 25 February 2013
Min No 13-137: Ordinary Meeting of Council held on 15 April 2013
Min No 13-184: Ordinary Meeting of Council held on 27 May 2013

SUMMARY

This report details the Minutes of the Blue Mountains Crossing Committee Meeting held on 03 July 2013

COMMENTARY

At the Blue Mountains Crossing Committee held on 03 July 2013, there were a number of items discussed by the Committee including:

- A summary of successful commemorative events held in May and June 2013
- Presentation of Crossings Commemorative Medallions
- Planning for Cox's Road signage

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes from the Blue Mountains Crossing Committee meeting of 03 July 2013

RECOMMENDATION

THAT Council:

1. Notes the minutes of the Blue Mountains Crossing Committee held on the 03 July 2013.

2. Congratulates all those involved in successful bicentenary commemoration events.
3. Amends the Committee Terms of Reference to include representatives from Rydal Village Association, Tarana Bushfire Brigade and National Parkes and Wildlife Service.

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.*