

From: Martin Ticehurst [karmar2790@bigpond.com]

Sent: Wednesday, 12 November 2014 12:12:21 AM

To: Lithgow City Council; Mr John Robertson MP LOP; Cass Coleman; Clr Maree Statham; Paul Toole - Minister for LG; Division of Local Government; Premier & Cabinet - Department; Troy Grant Deputy Premier; Fred Nile MP CDP

CC: Clr Ray Thompson; Clr Wayne McAndrew; Clr Colin Hunter; Clr Joe McGinnes; Clr Ross Higlett; Clr Frank Inzitari; Clr Martin Ticehurst; Clr Peter Pilbeam

Subject: URGENT: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Paul Toole
Minister for Local Government

FORMAL COMPLAINT

Minister

I acknowledge for the record that despite great urgency, more than 48 hours has passed since my email directly below was sent last Sunday to the Mayor of Lithgow City Council, Maree Statham. The same email was also sent to your Ministerial email address.

Whilst most locals are of the opinion that the Mayor is an apparent long-term personal friend and political ally of yours, it is still somewhat disappointing that the Lithgow Mayor has chosen not to respond to the serious issues of Public Health and alleged Council Maladministration as detailed below over the Lithgow Aquatic Centre..

The Lithgow City Council Mayor's continued failure to act as requested does now in my opinion, put the direct legal and moral onus upon you as the State Member for Bathurst and Minister for Local Government to immediately close the Lithgow Aquatic Centre.

This is particularly more so now after additional information was received following the Lithgow Mercury's recent public disclosure of ducks inhabiting the Lithgow Aquatic Centre.

These following two websites indicate that many germs that might be found in bird droppings can infect humans. Duck droppings, in particular might contain germs such as E.Coli; Salmonella and Cryptosporidium or 'crypto' for short.

Centre for Disease Control and Prevention: <http://www.cdc.gov/healthywater/swimming/pools/animals/birds-and-pools.html>

Swimming with Ducks may be hazardous to your health: <http://patch.com/california/lagunaniguel-danapoint/swimming-with-ducks-can-be-hazardous-to-your-health>

Also, additional information was provided today that in the first weeks of the opening of the 50 metre Open Public Swimming Pool this season in early October, two women became quite sick for some days, including one who missed several days at work after swimming in the Pool's water.

Minister, I repeat for your attention as I said above, the Lithgow City Council Mayor's continued failure to act as requested does in my opinion, put the direct legal and moral onus upon you as the State Member for Bathurst and Minister for Local Government to immediately close the Lithgow Aquatic Centre.

As the Minister for Local Government, I impose upon you to demonstrate public leadership and immediately close the Lithgow Aquatic Centre due to the serious risk of the public's health.

Martin Ticehurst
Councillor
Lithgow City Council

From: [Martin Ticehurst](#)

Sent: Sunday, November 09, 2014 3:20 PM

To: [Lithgow City Council](#) ; [Mr John Robertson MP LOP](#) ; [Cass Coleman](#) ; [Clr Maree Statham](#) ; [Paul Toole - Minister for LG](#) ; [Division of Local Government](#) ; [Premier & Cabinet - Department](#) ; [Troy Grant Deputy Premier](#) ; [Fred Nile MP CDP](#)

[Cc: Clr Ray Thompson](#) ; [Clr Wayne McAndrew](#) ; [Clr Col Hunter](#) ; [Clr Joe McGinnes](#) ; [Clr. Higlett](#) ; [Clr. Inzitari](#) ; [Clr Martin Ticehurst](#) ; [Clr Peter Pilbeam](#)

Subject: RE: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Maree Statham
Mayor
Lithgow City Council

Maree

With respect to my original and subsequent emails below regarding my request for the Council's General Manager Roger Bailey to immediately provide ALL Councillors, the Minister and Office of Local Government with all copies of any documentation confirming his public statements in the presence of some 26 people at the most recent Ordinary Meeting of the Lithgow City Council, that the Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers had '*signed off*' on the Lithgow City Council opening the current 50 metre Public Swimming Pool; I can now advise that finally after some seven business days, I and all other Councillors including yourself have now received an emailed response from Mr Bailey, a copy which is directly below.

I note that Mr Bailey did not copy either the Office of Local Government or the Minister for Local Government, Mr Paul Toole into the same email that he sent to all Councillors.

Following Mr Bailey's email in reply, Councillor McAndrew subsequently provided a further email response, a copy of which is also directly below.

I note that no other Lithgow City Councillors, including yourself as Mayor provided any response, nor for that matter any challenge to my original and subsequent emails as set out below.

Mayor, I once again stridently re-affirm to you my original opinion and position as set out below. Under Section 731, the so called good faith provisions of the Local Government Act 1993 titled, Liability of councillors, employees and other persons, that now with the written confirmation by the Council's General Manager, Roger Bailey after a lengthy wait of seven business days, that the Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers had NOT in fact as previously publicly stated by the General Manager, '*signed off*' on the Lithgow City Council opening the current 50 metre Public Swimming Pool.

Both Councillors, employees and other persons may now all, on the civil balance of probabilities, be in possible breach of Section 731 of the above Act and the Lithgow City Council's Code of Conduct.

On the issue of the Lithgow City Council initially opening and which it is still keeping open the current 50 metre Public Swimming Pool, it has now been confirmed: -

That the Lithgow City Council's Solicitors, Le Fevre & Co. have not '*signed off*'; and
That the Lithgow City Council's Insurance Brokers, JLT have not '*signed off*'; and
That the Lithgow City Council's Insurer's, Statewide Mutual have not '*signed off*'; and
That the Lithgow City Council's Consultant Stephen Johansson – Director of Facility Design Group and author of the attached Lithgow 50 metre Pool Condition Report, have not '*signed off*'.

Additionally, at the most recent Ordinary Meeting of the Lithgow City Council, the Council and Councillors were advised by the General Manager Roger Bailey and Councillor McGinnes of numerous incidents of injuries at the Lithgow Aquatic Centre during the last Swimming Season 2013 – 2014.

IN LIGHT OF ALL OF THE INFORMATION ABOVE AND BELOW IN THIS EMAIL, I AM NOW ASKING THAT AS THE COUNCIL'S MAYOR YOU EXERCISE YOUR AUTHORITY AS PRESCRIBED UNDER SECTION 226 OF THE LOCAL GOVERNMENT ACT, IN WHAT NOW IS AN UNAMBIGUOUS CASE OF LEGAL NECESSITY UNDER THE GOOD FAITH PROVISIONS OF SECTION 731 OF THE SAME ACT, DUE TO THE POSSIBILITY NOW OF FUTURE LITIGATION BEING TAKEN AGAINST COUNCILLORS, EMPLOYEES AND OTHER PERSONS ARISING OUT OF THE SERIOUS HEIGHTENED PUBLIC RISK OF INJURY TO ALL USER'S OF THE COUNCIL'S 50 METRE PUBLIC SWIMMING POOL.

THIS MAYORAL AUTHORITY UNDER SECTION 226 INCLUDES IMMEDIATELY CLOSING THE LITHGOW CITY COUNCIL'S AQUATIC CENTRE TO ANY FUTURE PUBLIC USE UNTIL THE STATE GOVERNMENT'S

\$3.1M GRANT IS AVAILABLE AND ABLE TO TOTALLY REFURBISH THE COUNCIL'S 50 METRE PUBLIC SWIMMING POOL.

Martin Ticehurst
Councillor
Lithgow City Council

From: [Roger Bailey](#)

Sent: Friday, November 07, 2014 8:02 AM

To: [Clr Martin Ticehurst - private](#)

Cc: [Clr Ray Thompson](#) ; [Clr Colin Hunter](#) ; [Clr Martin Ticehurst](#) ; [Clr Joe McGinnes](#) ; [Clr Wayne McAndrew](#) ; [Clr Frank Inzitari](#) ; [Clr Peter Pilbeam](#) ; [Clr Ross Higlett](#) ; [Clr Maree Statham](#)

Subject: RE: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Martin

In reference to your email below I can advise that I did not use the term 'signed off'.

My advice to Council was that myself and the group managers had met with a broker from JLT and that he had been advised of the pool report and further that Council had provided him with a copy of the report.

I would also like to clarify your comments in relation to my position with Statewide. Statewide Mutual is a NSW Local Government mutual and the Scheme is not insurance but rather it is a "self insurance mutual" which is backed by reinsurance principally placed through the London markets.

As I understand it the membership of the Mutual in NSW includes all but about 18 councils.

Regards

Roger Bailey | General Manager
LITHGOW CITY COUNCIL
PH (02) 6354 9999 | FAX (02) 6351 4259 |

From: [Wayne McAndrew](#)

Sent: Friday, November 07, 2014 10:00 AM

To: [Roger Bailey](#) ; [Clr Martin Ticehurst - private](#)

Cc: [Clr Ray Thompson](#) ; [Clr Colin Hunter](#) ; [Clr Martin Ticehurst](#) ; [Clr Joe McGinnes](#) ; [Clr Wayne McAndrew](#) ; [Clr Frank Inzitari](#) ; [Clr Peter Pilbeam](#) ; [Clr Ross Higlett](#) ; [Clr Maree Statham](#)

Subject: Re: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Roger,

For clarity, I asked the question along the lines that "have our insurers and legals read the report and are they satisfied with council's actions and response to it" to which you responded "yes and yes"

Macca

regards

Wayne McAndrew

General Vice President

CFMEU Mining & Energy Division

Level 11 215-217 Clarence St SYDNEY NSW 2000

Mobile: 0417 230 441

National Office Phone: 02 9267 1035

Lithgow Office Phone: 02 6352 3177

Email: wmcandrew@cfmeu.com.au

Website: www.cfmeu.com.au

From: [Martin Ticehurst](#)

Sent: Friday, November 07, 2014 8:46 AM

To: [Lithgow City Council](#) ; [Mr John Robertson MP LOP](#) ; [Cass Coleman](#) ; [Clr Maree Statham](#) ; [Paul Toole - Minister for LG](#) ; [Division of Local Government](#) ; [Premier Mike Baird](#) ; [Troy Grant Deputy Premier](#)

Cc: [Clr Ray Thompson](#) ; [Clr Wayne McAndrew](#) ; [Clr Col Hunter](#) ; [Clr Wayne McAndrew](#) ; [Clr Joe McGinnes](#) ; [Clr Ray Thompson](#) ; [Clr. Higlett](#) ; [Clr Martin Ticehurst](#) ; [Clr. Inzitari](#)

Subject: Fw: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

**Maree Statham
Mayor
Lithgow City Council**

Maree

Whilst for the record I acknowledge this morning that all other Councillors and I have still not been provided with any documentation relating to the content of my previous emails below, please find below a copy of the email of the 20 June this year that I originally referred to below and which was sent by you without a subject to the General Manager Roger Bailey and to all other Lithgow City Councillors and Mr Stewart, the Councils Operations Manager.

Whilst the State Member for Bathurst may have worked something of a miracle as you say below for a belated \$3.1 millions dollars last June to totally replace what was then and still is a seriously defective Lithgow City Council 50 metre Public Swimming Pool, he's clearly since become somewhat of a lame duck Minister when it comes to issues involving the conduct and administration of the Lithgow City Council within his Electorate, as compared to other NSW Local Government Areas.

As a matter of interest, if as you say below that only two State Government Ministers (Stoner & Beard) were supportive and there was a lot of opposition to the Lithgow City Council receiving a belated \$3.1 million dollars for the replacement of it's seriously defective Lithgow City Council 50 metre Public Swimming Pool, including opposition from the former Premier Barry O'Farrell, you may like to enlighten everyone on how the State Member Paul Toole achieved such a miracle when he's clearly not related to Eddie?

Also despite two poor attempts, I believe Mike Beard is in fact spelt Mike Baird; gather that you were no fan of the former Premier Barry O'Farrell and note that Andrew Stoner has now left the Ministry and will leave Parliament at the next Election.

I still await your reply and response as soon as possible and most assuredly before someone is either injured or fatally injured during the season at the Lithgow Aquatic Centre.

**Martin Ticehurst
Councillor
Lithgow City Council**

-----Original Message-----

From: Maree Statham

Sent: Friday, June 20, 2014 12:56 PM

To: Roger Bailey

Cc: Clr Ray Thompson ; Frank Inzitari ; Peter Pilbeam ; Clr Ross Higlett - private ; Clr Colin Hunter ; Joe McGinnes ; Clr Martin Ticehurst ; Clr Wayne McAndrew - private ; Iain Stewart

A couple of important letters Roger that I am sure you will agree that need to be written....Paul for the pool funding, this was truly a miracle we received this money.

After speaking with Mike Beard I realised the work Paul put in to attain this money.....no other ministers were supportive except Andrew Stoner and Mike Beard, there was a lot of opposition to this.

Mike made it very clear, Barry OFarrell was against the funding, pleased we have a new Premier!!

Thank you Roger,

Kind Regards

Mayor Maree Statham

Lithgow City Council

Ph. (02) 6354 9999

From: [Martin Ticehurst](#)

Sent: Tuesday, November 04, 2014 7:24 AM

To: [Paul Toole - Minister for LG](#) ; [Division of Local Government](#) ; [Clr Maree Statham](#) ; [Mr John Robertson MP LOP](#) ; [Cass Coleman](#) ; [Lithgow City Council](#)

Cc: [Clr Ray Thompson](#) ; [Clr Colin Hunter](#) ; [Clr Martin Ticehurst](#) ; [Clr Joe McGinnes](#) ; [Clr Wayne McAndrew](#) ; [Clr Frank Inzitari](#) ; [Clr Peter Pilbeam](#) ; [Clr Ross Higlett](#)

Subject: Re: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Maree Statham
Mayor
Lithgow City Council

Maree

Whilst for the record I acknowledge this morning that you have still not provided any reply or response on the content of my email, I'm pleased to inform you and acknowledge that the old and still retiring Saint in the Lithgow Mercury has thankfully responded to my email below and published the following article this morning in his newspaper: [What majority rule?](#)

For a Fairfax owned community newspaper that get's over \$40,000 from the Lithgow City Council each year, the old Editor:

- still delights in giving and giving, having now published over four major articles over the past three editions of the Lithgow Mercury and it's Facebook page; and

- after all these years, still doesn't let the real facts or journalistic balance get in the way of a favourable Council story, notably and curiously missing the main point of the email below which was that despite the General Managers public statement on the record and made in the presence of the Editor of the Lithgow Mercury, neither Mayor Maree Statham or any Councillors have received any of the requested written documentation that the Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have in fact as publicly stated, 'signed off' on the Lithgow City Council opening the current 50 metre Public Swimming Pool?

I still await your reply and response as soon as possible or before the next edition of the Lithgow Mercury.

Martin Ticehurst
Councillor
Lithgow City Council

From: [Martin Ticehurst](#)

Sent: Monday, November 03, 2014 8:42 AM

To: [Paul Toole - Minister for LG](#) ; [Division of Local Government](#) ; [Clr Maree Statham](#) ; [Mr John Robertson MP LOP](#) ; [Cass Coleman](#) ; [Lithgow City Council](#)

Cc: [Clr Ray Thompson](#) ; [Clr Colin Hunter](#) ; [Clr Martin Ticehurst](#) ; [Clr Joe McGinnes](#) ; [Clr Wayne McAndrew](#) ; [Clr Frank Inzitari](#) ; [Clr Peter Pilbeam](#) ; [Clr Ross Higlett](#)

Subject: Re: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Maree Statham
Mayor
Lithgow City Council

Maree

With respect to your email of 20 June 2014 to Roger Bailey and copied to all Councillors and my request as outlined in the email below to the Council's General Manager Roger Bailey last Wednesday, I can now advise that after 3 clear business days in which to reply, I and I would believe all other Councillors, the Office of Local Government and the Minister Paul Toole, have not yet received any of the requested written documentation that the Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have in fact as publicly stated, 'signed off' on the Lithgow City Council opening the current 50 metre Public

Swimming Pool.

Given that the Council's General Manager Roger Bailey is also a Director of the Councils Insurer, Statewide Mutual, I don't believe that it would have been beyond him to have already held such critical information and to have provided the requested written 'signed off' documentation within the requested timeframe and by now thereafter.

In light of the Councils General Manager Roger Bailey ongoing omission to date to urgently provide all Councillors, the Office of Local Government and the Minister Paul Toole with the requested written documentation, I now seek that you as the Mayor under the Local Government Act, take all formal action as deemed necessary to IMMEDIATELY CLOSE the Lithgow Aquatic Centre to the public and visitors on the grounds of ensuring their personal public safety against the serious major non-compliance assets as outlined in the attached Councils Consultants Condition Report on the 50 metre Public Swimming Pool that was presented before last Monday night's Council Meeting.

As Mayor and Chair of last Monday night's Council Meeting, you would be well aware that in light of the General Manager Roger Bailey's public statement to the Council and Councillors that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers (Statewide Mutual / Jardines) had in fact 'signed off' on the Council re-opening the current 50 metre Public Swimming Pool, a majority of Councillors took on-board the General Managers 'signed off' advice and public confirmation to subsequently support the recommendation before the Councillors to leave the Councils 50 metre Public Swimming Pool open to the public.

Further as the Councils Mayor, you would be aware of Section 731, the so called good faith provisions of the Local Government Act 1993 titled, Liability of councillors, employees and other persons. It is now my opinion that without any written confirmation to date by the Council's General Manager, Roger Bailey that the Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have in fact as publicly stated, 'signed off' on the Lithgow City Council opening the current 50 metre Public Swimming Pool; Councillors, employees and other persons may possibly be in breach of Section 731 of the above Act and the Council's Code of Conduct.

Finally, given that you speak on a regular basis with the former Mayor of Bathurst Regional Council and now State Member for Bathurst and Minister for Local Government, you may like to take the opportunity to run this issue past him. I'm sure that given the recent overwhelming resurgence of interest in the Bathurst State Electorate over the past week by the State Opposition Leader John Robertson and his local Labor candidate, Cass Coleman; the last thing your fellow Nationals colleague and Minister would not like to see in the run up to the State Election in just over four months time, are emotionally distressed parents contacting Sydney Media and Radio Shock Jocks to complain about their children having being injured by any of the serious major non-compliance assets as outlined in the attached Councils Consultants Condition Report on the 50 metre Public Swimming Pool that was presented before all Councillors at last Monday night's Council Meeting.

Before arrangements are confirmed to have this issue questioned before the NSW State Parliament, your immediate confirmation on when the Council's 50 metre Public Swimming Pool will be immediately closed as requested would be most appreciated.

You may also like to enjoy the attached photograph taken one morning just last week by a swimmer using the Pool, showing some of the numerous ducks and ducklings at home after being displaced by the nearby Councils works on Farmers Creek, using and no doubt contaminating the daily water quality of the Council's 50 metre Public Swimming Pool. The daily morning appearance of a raft of ducks on the water surface of the 50 metre Public Swimming Pool may explain the reported daily morning hosing down from the surrounding concrete concourses.

**Martin Ticehurst
Councillor
Lithgow City Council**

From: [Martin Ticehurst](#)

Sent: Tuesday, October 28, 2014 10:15 PM

To: [Roger Bailey](#) ; [Paul Toole - Minister for LG](#) ; [Division of Local Government](#)

Cc: [Clr Ray Thompson](#) ; [Clr Colin Hunter](#) ; [Clr Martin Ticehurst](#) ; [Clr Joe McGinnes](#) ; [Clr Wayne McAndrew](#) ; [Clr Frank Inzitari](#) ; [Clr](#)

[Peter Pilbeam](#) ; [Clr Ross Higlett](#) ; [Clr Maree Statham](#)

Subject: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Roger Bailey
General Manager

At last night's Ordinary Meeting of the Lithgow City Council, in reply to a question put to the Mayor and yourself by Councillor Wayne McAndrew, you informed him, the Council and Councillors that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers (Statewide Mutual / Jardines) had in fact 'signed off' on the Council re-opening the current 50 metre Public Swimming Pool; following on from the Consultants Report on the current defective Condition of Councils 50 metre Pool.

In light of your verbal confirmation to the Council and Councillors, could you please provide immediately to ALL Councillors, the Minister and Office of Local Government with all copies of any documentation confirming your public statement that the Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers had 'signed off' on the Lithgow City Council opening the current 50 metre Public Swimming Pool.

Whilst all Councillors and I are aware of your current position as a Board Member of the Council's Insurer Statewide Mutual, they and I would understand that the written advice requested above would already be in either your or the Councils possession and I am sure that all Councillors, the Minister and the OLG would appreciate the receipt of that written documentation before the close of business tomorrow, Wednesday 29 October 2014.

Your assistance in providing that written documentation as requested above will be most appreciated by all Councillors, Minister and OLG.

Martin Ticehurst
Councillor
Lithgow City Council

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From: Martin Ticehurst [karmar2790@bigpond.com]

Sent: Thursday, 13 November 2014 8:33:38 AM

To: Lithgow City Council; Mr John Robertson MP LOP; Cass Coleman; Clr Maree Statham; Paul Toole - Minister for LG; Division of Local Government; Premier & Cabinet - Department; Troy Grant Deputy Premier; Fred Nile MP CDP; Jillian Skinner - Minister Health; Nepean District Health Board

CC: Clr Ray Thompson; Clr Wayne McAndrew; Clr Colin Hunter; Clr Joe McGinnes; Clr Ross Higlett; Clr Frank Inzitari; Clr Martin Ticehurst; Clr Peter Pilbeam

Subject: Re: URGENT: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Jillian Skinner
Minister for Health

Please find enclosed below a series of emails surrounding the Lithgow Aquatic Centre.

Whilst everyone awaits action by your junior Minister for Local Government, for the record I understand that the Ministry and Department of Health and the Nepean Health Board may also have an interest as well.

Martin Ticehurst
Councillor
Lithgow City Council

From: [Martin Ticehurst](#)

Sent: Wednesday, November 12, 2014 12:12 AM

To: [Lithgow City Council](#) ; [Mr John Robertson MP LOP](#) ; [Cass Coleman](#) ; [Clr Maree Statham](#) ; [Paul Toole - Minister for LG](#) ; [Division of Local Government](#) ; [Premier & Cabinet - Department](#) ; [Troy Grant Deputy Premier](#) ; [Fred Nile MP CDP](#)

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Subject: URGENT: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Paul Toole
Minister for Local Government

FORMAL COMPLAINT

Minister

I acknowledge for the record that despite great urgency, more than 48 hours has passed since my email directly below was sent last Sunday to the Mayor of Lithgow City Council, Maree Statham. The same email was also sent to your Ministerial email address.

Whilst most locals are of the opinion that the Mayor is an apparent long-term personal friend and political ally of yours, it is still somewhat disappointing that the Lithgow Mayor has chosen not to respond to the serious issues of Public Health and alleged Council Maladministration as detailed below over the Lithgow Aquatic Centre..

The Lithgow City Council Mayor's continued failure to act as requested does now in my opinion, put the direct legal and moral onus upon you as the State Member for Bathurst and Minister for Local Government to immediately close the Lithgow Aquatic Centre.

This is particularly more so now after additional information was received following the Lithgow Mercury's recent public disclosure of ducks inhabiting the Lithgow Aquatic Centre.

These following two websites indicate that many germs that might be found in bird droppings can infect humans. Duck droppings, in particular might contain germs such as E.Coli; Salmonella and Cryptosporidium or 'crypto' for short.

Centre for Disease Control and Prevention: <http://www.cdc.gov/healthywater/swimming/pools/animals/birds-and-pools.html>

Swimming with Ducks may be hazardous to your health: <http://patch.com/california/lagunaniquel->

Also, additional information was provided today that in the first weeks of the opening of the 50 metre Open Public Swimming Pool this season in early October, two women became quite sick for some days, including one who missed several days at work after swimming in the Pool's water.

Minister, I repeat for your attention as I said above, the Lithgow City Council Mayor's continued failure to act as requested does in my opinion, put the direct legal and moral onus upon you as the State Member for Bathurst and Minister for Local Government to immediately close the Lithgow Aquatic Centre.

As the Minister for Local Government, I impose upon you to demonstrate public leadership and immediately close the Lithgow Aquatic Centre due to the serious risk of the public's health.

Martin Ticehurst
Councillor
Lithgow City Council

From: [Martin Ticehurst](#)

Sent: Sunday, November 09, 2014 3:20 PM

To: [Lithgow City Council](#) ; [Mr John Robertson MP LOP](#) ; [Cass Coleman](#) ; [Clr Maree Statham](#) ; [Paul Toole - Minister for LG](#) ; [Division of Local Government](#) ; [Premier & Cabinet - Department](#) ; [Troy Grant Deputy Premier](#) ; [Fred Nile MP CDP](#)

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Subject: RE: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Maree Statham
Mayor
Lithgow City Council

Maree

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Public Swimming Pool, it has now been confirmed: -

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That the Lithgow City Council's Insurance Brokers, JLT have not 'signed off'; and

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That the Lithgow City Council's Consultant Stephen Johansson – Director of Facility Design Group and author of the attached Lithgow 50 metre Pool Condition Report, have not 'signed off'.

Additionally, at the most recent Ordinary Meeting of the Lithgow City Council, the Council and Councillors were advised by the General Manager Roger Bailey and Councillor McGinnes of numerous incidents of injuries at the Lithgow Aquatic Centre during the last Swimming Season 2013 – 2014.

IN LIGHT OF ALL OF THE INFORMATION ABOVE AND BELOW IN THIS EMAIL, I AM NOW ASKING THAT AS THE COUNCIL'S MAYOR YOU EXERCISE YOUR AUTHORITY AS PRESCRIBED UNDER SECTION 226 OF THE LOCAL GOVERNMENT ACT, IN WHAT NOW IS AN UNAMBIGUOUS CASE OF LEGAL NECESSITY UNDER THE GOOD FAITH PROVISIONS OF SECTION 731 OF THE SAME ACT, DUE TO THE POSSIBILITY NOW OF FUTURE LITIGATION BEING TAKEN AGAINST COUNCILLORS, EMPLOYEES AND OTHER PERSONS ARISING OUT OF THE SERIOUS HEIGHTENED PUBLIC RISK OF INJURY TO ALL USER'S OF THE COUNCIL'S 50 METRE PUBLIC SWIMMING POOL.

THIS MAYORAL AUTHORITY UNDER SECTION 226 INCLUDES IMMEDIATELY CLOSING THE LITHGOW CITY COUNCIL'S AQUATIC CENTRE TO ANY FUTURE PUBLIC USE UNTIL THE STATE GOVERNMENT'S \$3.1M GRANT IS AVAILABLE AND ABLE TO TOTALLY REFURBISH THE COUNCIL'S 50 METRE PUBLIC SWIMMING POOL.

Martin Ticehurst
Councillor
Lithgow City Council

From: [Roger Bailey](#)

Sent: Friday, November 07, 2014 8:02 AM

To: [Clr Martin Ticehurst - private](#)

Cc: [Clr Ray Thompson](#) ; [Clr Colin Hunter](#) ; [Clr Martin Ticehurst](#) ; [Clr Joe McGinnes](#) ; [Clr Wayne McAndrew](#) ; [Clr Frank Inzitari](#) ; [Clr Peter Pilbeam](#) ; [Clr Ross Higlett](#) ; [Clr Maree Statham](#)

Subject: RE: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Martin

In reference to your email below I can advise that I did not use the term 'signed off'.

My advice to Council was that myself and the group managers had met with a broker from JLT and that he had been advised of the pool report and further that Council had provided him with a copy of the report.

I would also like to clarify your comments in relation to my position with Statewide. Statewide Mutual is a NSW Local Government mutual and the Scheme is not insurance but rather it is a "self insurance mutual" which is backed by reinsurance principally placed through the London markets.

As I understand it the membership of the Mutual in NSW includes all but about 18 councils.

Regards

Roger Bailey | General Manager
LITHGOW CITY COUNCIL
PH (02) 6354 9999 | FAX (02) 6351 4259 |

From: [Wayne McAndrew](#)

Sent: Friday, November 07, 2014 10:00 AM

To: [Roger Bailey](#) ; [Clr Martin Ticehurst - private](#)

Cc: [Clr Ray Thompson](#) ; [Clr Colin Hunter](#) ; [Clr Martin Ticehurst](#) ; [Clr Joe McGinnes](#) ; [Clr Wayne McAndrew](#) ; [Clr Frank Inzitari](#) ; [Clr Peter Pilbeam](#) ; [Clr Ross Higlett](#) ; [Clr Maree Statham](#)

Subject: Re: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have signed off¹ on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Roger,
For clarity, I asked the question along the lines that " have our insurers and legals read the report and are they satisfied with council's actions and response to it" to which you responded "yes and yes"

Macca
regards
Wayne McAndrew
General Vice President
CFMEU Mining & Energy Division
Level 11 215-217 Clarence St SYDNEY NSW 2000
Mobile: 0417 230 441
National Office Phone: 02 9267 1035
Lithgow Office Phone: 02 6352 3177
Email: wmcandrew@cfmeu.com.au
Website: www.cfmeu.com.au

From: [Martin Ticehurst](#)

Sent: Friday, November 07, 2014 8:46 AM

To: [Lithgow City Council](#) ; [Mr John Robertson MP LOP](#) ; [Cass Coleman](#) ; [Clr Maree Statham](#) ; [Paul Toole - Minister for LG](#) ; [Division of Local Government](#) ; [Premier Mike Baird](#) ; [Troy Grant Deputy Premier](#)

Cc: [Clr Ray Thompson](#) ; [Clr Wayne McAndrew](#) ; [Clr Col Hunter](#) ; [Clr Wayne McAndrew](#) ; [Clr Joe McGinnes](#) ; [Clr Ray Thompson](#) ; [Clr. Higlett](#) ; [Clr Martin Ticehurst](#) ; [Clr. Inzitari](#)

Subject: Fw: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Maree Statham
Mayor
Lithgow City Council

Maree

Whilst for the record I acknowledge this morning that all other Councillors and I have still not been provided with any documentation relating to the content of my previous emails below, please find below a copy of the email of the 20 June this year that I originally referred to below and which was sent by you without a subject to the General Manager Roger Bailey and to all other Lithgow City Councillors and Mr Stewart, the Councils Operations Manager.

Whilst the State Member for Bathurst may have worked something of a miracle as you say below for a belated \$3.1 millions dollars last June to totally replace what was then and still is a seriously defective Lithgow City Council 50 metre Public Swimming Pool, he's clearly since become somewhat of a lame duck Minister when it comes to issues involving the conduct and administration of the Lithgow City Council within his Electorate, as compared to other NSW Local Government Areas.

As a matter of interest, if as you say below that only two State Government Ministers (Stoner & Beard) were supportive and there was a lot of opposition to the Lithgow City Council receiving a belated \$3.1 million dollars for the replacement of it's seriously defective Lithgow City Council 50 metre Public Swimming Pool, including opposition from the former Premier Barry O'Farrell, you may like to enlighten everyone on how the State Member Paul Toole achieved such a miracle when he's clearly not related to Eddie?

Also despite two poor attempts, I believe Mike Beard is in fact spelt Mike Baird; gather that you were no fan of the former Premier Barry O'Farrell and note that Andrew Stoner has now left the Ministry and will leave Parliament at the next Election.

I still await your reply and response as soon as possible and most assuredly before someone is either injured or fatally injured during the season at the Lithgow Aquatic Centre.

Martin Ticehurst
Councillor
Lithgow City Council

-----Original Message-----

From: Maree Statham

Sent: Friday, June 20, 2014 12:56 PM

To: Roger Bailey

Cc: Clr Ray Thompson ; Frank Inzitari ; Peter Pilbeam ; Clr Ross Higlett - private ; Clr Colin Hunter ; Joe McGinnes ; Clr Martin Ticehurst ; Clr Wayne McAndrew - private ; Iain Stewart

A couple of important letters Roger that I am sure you will agree that need to be written....Paul for the pool funding, this was truly a miracle we received this money.

After speaking with Mike Beard I realised the work Paul put in to attain this money.....no other ministers were supportive except Andrew Stoner and Mike Beard, there was a lot of opposition to this.

Mike made it very clear, Barry OFarrell was against the funding, pleased we have a new Premier!!

Thank you Roger,

Kind Regards

Mayor Maree Statham

Lithgow City Council

Ph. (02) 6354 9999

From: [Martin Ticehurst](#)

Sent: Tuesday, November 04, 2014 7:24 AM

To: [Paul Toole - Minister for LG](#) ; [Division of Local Government](#) ; [Clr Maree Statham](#) ; [Mr John Robertson MP LOP](#) ; [Cass Coleman](#) ; [Lithgow City Council](#)

Cc: [Clr Ray Thompson](#) ; [Clr Colin Hunter](#) ; [Clr Martin Ticehurst](#) ; [Clr Joe McGinnes](#) ; [Clr Wayne McAndrew](#) ; [Clr Frank Inzitari](#) ; [Clr Peter Pilbeam](#) ; [Clr Ross Higlett](#)

Subject: Re: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Maree Statham

Mayor

Lithgow City Council

Maree

Whilst for the record I acknowledge this morning that you have still not provided any reply or response on the content of my email, I'm pleased to inform you and acknowledge that the old and still retiring Saint in the Lithgow Mercury has thankfully responded to my email below and published the following article this morning in his newspaper: [What majority rule?](#)

For a Fairfax owned community newspaper that get's over \$40,000 from the Lithgow City Council each year, the old Editor:

- still delights in giving and giving, having now published over four major articles over the past three editions of the Lithgow Mercury and it's Facebook page; and

- after all these years, still doesn't let the real facts or journalistic balance get in the way of a favourable Council story, notably and curiously missing the main point of the email below which was that despite the General Managers public statement on the record and made in the presence of the Editor of the Lithgow Mercury, neither Mayor Maree Statham or any Councillors have received any of the requested written documentation that the Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have in fact as publicly stated, 'signed off' on the Lithgow City Council opening the current 50 metre Public Swimming Pool?

I still await your reply and response as soon as possible or before the next edition of the Lithgow Mercury.

Martin Ticehurst

Councillor

Lithgow City Council

From: [Martin Ticehurst](#)

Sent: Monday, November 03, 2014 8:42 AM

To: [Paul Toole - Minister for LG](#) ; [Division of Local Government](#) ; [Clr Maree Statham](#) ; [Mr John Robertson MP LOP](#) ; [Cass Coleman](#) ; [Lithgow City Council](#)

Cc: [Clr Ray Thompson](#) ; [Clr Colin Hunter](#) ; [Clr Martin Ticehurst](#) ; [Clr Joe McGinnes](#) ; [Clr Wayne McAndrew](#) ; [Clr Frank Inzitari](#) ; [Clr Peter Pilbeam](#) ; [Clr Ross Higlett](#)

Subject: Re: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Maree Statham
Mayor
Lithgow City Council

Maree

With respect to your email of 20 June 2014 to Roger Bailey and copied to all Councillors and my request as outlined in the email below to the Council's General Manager Roger Bailey last Wednesday, I can now advise that after 3 clear business days in which to reply, I and I would believe all other Councillors, the Office of Local Government and the Minister Paul Toole, have not yet received any of the requested written documentation that the Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have in fact as publicly stated, 'signed off' on the Lithgow City Council opening the current 50 metre Public Swimming Pool.

Given that the Council's General Manager Roger Bailey is also a Director of the Councils Insurer, Statewide Mutual, I don't believe that it would have been beyond him to have already held such critical information and to have provided the requested written 'signed off' documentation within the requested timeframe and by now thereafter.

In light of the Councils General Manager Roger Bailey ongoing omission to date to urgently provide all Councillors, the Office of Local Government and the Minister Paul Toole with the requested written documentation, I now seek that you as the Mayor under the Local Government Act, take all formal action as deemed necessary to IMMEDIATELY CLOSE the Lithgow Aquatic Centre to the public and visitors on the grounds of ensuring their personal public safety against the serious major non-compliance assets as outlined in the attached Councils Consultants Condition Report on the 50 metre Public Swimming Pool that was presented before last Monday night's Council Meeting.

As Mayor and Chair of last Monday night's Council Meeting, you would be well aware that in light of the General Manager Roger Bailey's public statement to the Council and Councillors that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers (Statewide Mutual / Jardines) had in fact 'signed off' on the Council re-opening the current 50 metre Public Swimming Pool, a majority of Councillors took on-board the General Managers 'signed off' advice and public confirmation to subsequently support the recommendation before the Councillors to leave the Councils 50 metre Public Swimming Pool open to the public.

Further as the Councils Mayor, you would be aware of Section 731, the so called good faith provisions of the Local Government Act 1993 titled, Liability of councillors, employees and other persons. It is now my opinion that without any written confirmation to date by the Council's General Manager, Roger Bailey that the Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have in fact as publicly stated, 'signed off' on the Lithgow City Council opening the current 50 metre Public Swimming Pool; Councillors, employees and other persons may possibly be in breach of Section 731 of the above Act and the Council's Code of Conduct.

Finally, given that you speak on a regular basis with the former Mayor of Bathurst Regional Council and now State Member for Bathurst and Minister for Local Government, you may like to take the opportunity to run this issue past him. I'm sure that given the recent overwhelming resurgence of interest in the Bathurst State Electorate over the past week by the State Opposition Leader John Robertson and his local Labor candidate, Cass Coleman; the last thing your fellow Nationals colleague and Minister would not like to see in the run up to the State Election in just over four months time, are emotionally distressed parents contacting Sydney Media and Radio Shock Jocks to complain about their children having being injured by any of the serious major non-compliance assets as outlined in the attached Councils Consultants Condition Report on the 50 metre Public Swimming Pool that was presented

before all Councillors at last Monday night's Council Meeting.

Before arrangements are confirmed to have this issue questioned before the NSW State Parliament, your immediate confirmation on when the Council's 50 metre Public Swimming Pool will be immediately closed as requested would be most appreciated.

You may also like to enjoy the attached photograph taken one morning just last week by a swimmer using the Pool, showing some of the numerous ducks and ducklings at home after being displaced by the nearby Councils works on Farmers Creek, using and no doubt contaminating the daily water quality of the Council's 50 metre Public Swimming Pool. The daily morning appearance of a raft of ducks on the water surface of the 50 metre Public Swimming Pool may explain the reported daily morning hosing down from the surrounding concrete concourses.

Martin Ticehurst
Councillor
Lithgow City Council

From: [Martin Ticehurst](#)

Sent: Tuesday, October 28, 2014 10:15 PM

To: [Roger Bailey](#) ; [Paul Toole - Minister for LG](#) ; [Division of Local Government](#)

Cc: [Clr Ray Thompson](#) ; [Clr Colin Hunter](#) ; [Clr Martin Ticehurst](#) ; [Clr Joe McGinnes](#) ; [Clr Wayne McAndrew](#) ; [Clr Frank Inzitari](#) ; [Clr Peter Pilbeam](#) ; [Clr Ross Higlett](#) ; [Clr Maree Statham](#)

Subject: Confirmation in writing that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers have 'signed off' on the Lithgow City Council re-opening the current 50 metre Public Swimming Pool.

Roger Bailey
General Manager

At last night's Ordinary Meeting of the Lithgow City Council, in reply to a question put to the Mayor and yourself by Councillor Wayne McAndrew, you informed him, the Council and Councillors that Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers (Statewide Mutual / Jardines) had in fact 'signed off' on the Council re-opening the current 50 metre Public Swimming Pool; following on from the Consultants Report on the current defective Condition of Councils 50 metre Pool.

In light of your verbal confirmation to the Council and Councillors, could you please provide immediately to ALL Councillors, the Minister and Office of Local Government with all copies of any documentation confirming your public statement that the Council's Solicitors (Le Fevre & Co.) and Insurers / Brokers had 'signed off' on the Lithgow City Council opening the current 50 metre Public Swimming Pool.

Whilst all Councillors and I are aware of your current position as a Board Member of the Council's Insurer Statewide Mutual, they and I would understand that the written advice requested above would already be in either your or the Councils possession and I am sure that all Councillors, the Minister and the OLG would appreciate the receipt of that written documentation before the close of business tomorrow, Wednesday 29 October 2014.

Your assistance in providing that written documentation as requested above will be most appreciated by all Councillors, Minister and OLG.

Martin Ticehurst
Councillor
Lithgow City Council

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7 November 2014



Clr Joe McGinnes
81 Macauley Street
Lithgow NSW 2790

Dear Joe

Council Meeting Statements - Lithgow Pool

During the Council meeting held on Monday 27 October 2014 you stated that there were injuries to people that required first aid from cutting themselves on sharp and exposed tiles at the pool.

You went on to state that from the reports that you have had that there were far more than one such injury where people have cut themselves on the tiles.

During the meeting the Mayor asked, on at least two occasions, that you provide information on where you obtained this information from however you refused to respond to this request.

To ensure that Council's systems are accurate would you please advise of where you have obtained this information and the contact details of the people involved.

Yours sincerely

R W Bailey
GENERAL MANAGER