



A CENTRE OF REGIONAL EXCELLENCE

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

28 SEPTEMBER 2015

AT 7.00pm

AGENDA

ACKNOWLEDGEMENT OF COUNTRY

APOLOGIES

PRESENT

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 7 SEPTEMBER 2015

DECLARATION OF INTEREST

PUBLIC FORUM

PRESENTATIONS - NIL

MAYORAL MINUTES - NIL

STAFF REPORTS

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

COUNCIL COMMITTEE MINUTES

Lithgow Local Heritage Advisory Committee - 11 August 2015
Youth Council Minutes - 25 August 2015

DELEGATES REPORTS - NIL

NOTICES OF MOTION

Safety Fence for the Footpath on the Great Western Highway - Councillor F Inzitari
Renaming of South Littleton Hall to Kiddle Hall - Councillor F Inzitari

QUESTIONS WITH NOTICE - NIL

NOTICE OF RECISSIONS

Operations Committee Meeting Minutes - Mt Sandy Road Kanimbla Valley

BUSINESS OF GREAT URGENCY

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

CLOSED COUNCIL

Tender 03/15 for Restoration and Remedial Works at Lithgow Blast Furnace

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GENERAL MANAGERS REPORTS

ITEM-1 GM - 28/09/15 - COUNCILLORS' WORK HEALTH AND SAFETY OBLIGATIONS

REPORT BY: R BAILEY - GENERAL MANAGER

SUMMARY

According to legal advice received by Local Government NSW it has been confirmed that councillors have obligations under the WHS Act in the Council workplace.

COMMENTARY

To assist councillors in their role legal advice was sought by Local Government NSW (LGNSW). The legal advice provided to LGNSW confirms that councillors are covered by the *Work Health and Safety Act 2011* (the "WHS Act").

The WHS Act imposes a range of duties and obligations on various people, however, it is sometimes assumed incorrectly, that councillors are not covered by the Act.

The confusion has arisen due to the fact that, although the WHS Act imposes a duty on an "officer" and a "person conducting a business or undertaking", the definitions of "officer" and "person conducting a business or undertaking" include exclusions for an elected member of a local authority in that capacity.

However, legal advice sought by LGNSW specifies that section 29 of the WHS Act imposes a health and safety duty on all persons at a workplace, including councillors. Section 29 is in the following terms:

"29 Duties of other persons at the workplace

A person at a workplace (whether or not the person has another duty under this Part) must:

take reasonable care for his or her own health and safety, and take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons, and comply, so far as the person is reasonably able, with any reasonable instruction that is given by the person conducting the business or undertaking to allow the person conducting the business or undertaking to comply with this Act."

A councillor may be in breach of section 29 of the WHS Act if, by act or omission, they adversely affect their health and safety or the health and safety of other persons at a workplace.

A health and safety duty is enforceable by fine under sections 31, 32 and 33 of the WHS Act, and if recklessness is established and serious injury or illness results then the penalty may also include a prison term of up to five years.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

As outlined above.

RECOMMENDATION

THAT Council note the report in relation to Councillors' Work Health and Safety Obligations.

ITEM-2 GM - 28/09/15 - PROVISION OF UNIFORMS TO ELECTED MEMBERS

REPORT BY: R BAILEY – GENERAL MANAGER

REFERENCE

Min No 15-218: Ordinary Meeting of Council held on 7 September 2015

SUMMARY

To provide information to Council on the provision of uniforms for councillors.

COMMENTARY

At its Ordinary Meeting of Council held on 7 September 2015 Council requested that a report be provided in relation to the provision of uniforms to councillors.

Neighbouring councils were contacted including Bathurst Regional Council, Blue Mountains City Council, Mid Western Council, Oberon Council and Orange City Council. The following was found:

BATHURST REGIONAL COUNCIL

Councillors are provided with assistance in purchasing a Council uniform. The initial purchase will be subsidised to a maximum of \$800 and thereafter an annual allowance for maintenance of a maximum \$200 per annum. A councillor who is re-elected for a new term of office shall, during the first year of that term, be entitled to an allowance of up to a maximum of \$400 and thereafter the annual maintenance amount will apply. Where Councillors are required to wear personal protective equipment (PPE), this will be provided up to a maximum of \$500 in any one term of Council.

Councillors are able to select from a full Corporate Uniform range that includes suits, collared shirts, skirts, winter jackets, jumpers, ties, casual shirts, rain coats etc.

The majority of Councillors have purchased from the Corporate Uniform range.

BLUE MOUNTAINS CITY COUNCIL

Under Blue Mountains City Council's Payment of Expenses and Provision of Facilities to Councillors it currently states that "At the commencement of Council Term, a Councillor will be provided with one (1) corporate jacket with Council logo for the term of the Council to the value of \$250 per Councillor. All additional expenses such as dry cleaning and/or alterations are at the Councillor's own expense. Councillors may wear the corporate jacket when representing Council at functions and events".

The jacket is not provided to Councillors unless requested and currently only one councillor has a jacket. BMCC is in the process of reviewing this policy and it was indicated that amendments may occur to this section of the policy.

MID WESTERN COUNCIL

Do not provide any corporate uniform to their councillors.

OBERON

Do not provide any corporate uniform to their councillors.

ORANGE CITY COUNCIL

Each year Councillors are reimbursed 50% of uniform expenses up to a maximum of \$415. Currently none of the councillors have utilised this provision.

Councillors are able to select from a full Corporate Uniform range (same as provided for staff) that includes suits, collared shirts, skirts, Winter jackets, jumpers, ties etc.

Only one Councillor has a Council jacket.

Note: A winter jacket is currently provided to councillors of Lithgow City Council.

POLICY IMPLICATIONS

In order to provide the uniform Council's Policy 9.5 Payment of Expenses and Provision of Facilities to Councillors, currently on public exhibition, would need to be amended and readvertised. Council is required to report on the adoption or readoption of the Policy by 30 November 2015 (s.22).

FINANCIAL IMPLICATIONS

NIL at this stage.

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council note the report on the provision of uniforms for elected members.

ENVIRONMENT AND DEVELOPMENT REPORTS

ITEM-3 ENVIRO- 28/09/15 - PROPOSED CHANGES TO THE PRE-GATEWAY REVIEW PROCESS

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To inform Council of the proposed changes to the pre-Gateway Review process recommended by a review undertaken by the Department of Planning and Environment.

COMMENTARY

Local Environment Plans (LEPs) start with a 'planning proposal' usually initiated by a local council or a developer and assessed by the Department of Planning and Environment. The Department of Planning and Environment decides whether the planning proposal can proceed (with or without variation) and subject to other matters including further studies being undertaken, public consultation, public hearings, agency consultation and time frames. This is called the 'Gateway' process.

A Planning Proposal is a document that explains the intended effect of a proposed Local Environmental Plan (LEP) and sets out the justification for making the proposed LEP. It is the first step in preparing and LEP which could range from a change to zoning of a site or sites; an alteration to permissible uses on a site all the way through to a comprehensive LEP for a local government area.

Two review mechanisms were introduced in October 2012 for the Gateway process. One of these was the 'pre-Gateway Review' process.

The 'pre-Gateway Review' process was introduced in 2012 as part of a package of reforms aimed at improving the plan-making process under Part 3 of the Environmental Planning and Assessment Act 1979. Under this process, a proponent may request a pre-Gateway review where the relevant local council has determined not to support a planning proposal or has failed to make a decision within 90 days of lodgement of a planning proposal. Under the policy the Department makes the final decision on each pre-Gateway review request.

Where a pre-Gateway review recommends that a proposal should proceed, either the Council; the Joint Regional Planning Panel or Planning and Assessment Commission can be appointed as the relevant planning authority (RPA) to administer the remainder of the process. Usually the role of RPA is offered the local council unless they expressly indicate a preference not to do so.

Prior to the pre-Gateway review, there was no formal process for reviewing the merit of a planning proposal (rezoning) that a Council refused to submit to the Gateway or delayed submitting to the Gateway for determination to proceed. The pre-Gateway review meant

rezoning proposals that demonstrated strategic merit could be supported after being independently considered by either a Joint Regional Planning Panel (JRPP) or Planning Assessment Commission (PAC) making a recommendation to the Department of Planning and Environment.

SUMMARY OF THE KEY FINDINGS AND RECOMMENDATIONS OF THE REVIEW

KEY FINDINGS

A recent Review of the pre-Gateway process carried out by the Department of Planning and Environment found that there had been 75 pre-Gateway review requests since the system commenced. Of these 6 had been withdrawn and 46 determined, 17 of which were refused. Of the reviews finalised 56% were successful and 44% were not. Two thirds (55/75) of review requests had been submitted following Council refusal.

A relevant planning authority has been appointed for 25 out of 29 review requests determined to proceed. The relevant council agreed to be the relevant planning authority 15 times. The JRRP was appointed on the other 10 occasions.

KEY RECOMMENDATIONS

The Review recommended retaining the pre-Gateway process and for the Minister to adopt a suite of administrative and procedural changes that aim to improve transparency and certainty, reduce time frames for decisions on review requests, and strengthen the requirement for proposals to be consistent with relevant state, regional and local planning strategies.

The key proposed changes are:

1. The Department will no longer undertake an initial assessment
2. All review requests should be automatically referred to the relevant JRPP/PAC within 3 days of receipt
3. The Council will be notified upon receipt of an application and requested to provide any comments, additional information and confirmation that the proposal is consistent with that considered by Council to the JRPP.
4. A revised strategic merit test will be applied by the JRPP/PAC to clarify in more detail the basis upon which a review will be considered, including taking into account the time that has elapsed since the last zoning of the land took place.
5. Proposals that do not meet the strategic merit test will not be able to proceed to Gateway.
6. Those that do meet the new strategic merit test will also have to meet the existing site-specific merit test before they can be recommended for a Gateway by the JRPP/PAC.
7. The power to appoint an alternative relevant planning authority will be delegated to the JRPPs/PAC.
8. Plan making powers will be delegated to the JRPPs/PAC. This is consistent with the delegations to Council, as relevant planning authorities to make plans.
9. Requests for review will be uploaded to the JRPP/PAC public application tracking system within five working days of receipt.
10. If the JRPP/PAC recommends that a proposal should proceed to Gateway, it will concurrently notify the relevant Council and ask if it will accept the role of relevant planning authority to take the proposal to the Gateway and then finalise the proposal.

11. Councils will have 42 days to accept the relevant planning authority role; otherwise the relevant JRPP/PAC will appoint itself as the relevant planning authority.
12. The Department's Guide to Preparing Planning Proposals and the Guide to Preparing LEPs will be amended to note that in specified circumstances councils consider the benefit of community participation at an early stage prior to making a decision on the merits of a spot rezoning or LEP amendment.

PLANNING COMMENT

The above recommendations should generally improve the pre-Gateway review process. Mandated referral times should assist with processing well prepared proposals and councils will still be afforded the opportunity to become the relevant planning authority. The revised strategic merit test and notification of councils should ensure that a level playing field is provided and consideration through the pre-Gateway process is consistent with what was originally considered by a council in a situation where the council refused the proposal in the first instance.

POLICY IMPLICATIONS

NIL arising from this report

FINANCIAL IMPLICATIONS

NIL arising from this report

LEGAL IMPLICATIONS

NIL arising from this report

ATTACHMENTS

1. Pre-Gateway Review – Findings and Recommendations Report – NSW Planning and Environment - September 2015

RECOMMENDATION

THAT Council:

1. Note the report on the proposed changes to the pre-Gateway review process.
2. Advise the NSW Department of Planning and Environment that it does not object to the recommendations of the review report.

ITEM-4 ENVIRO - 28/09/15 - AWNING IMPROVEMENT PROGRAM

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

REFERENCE

Min No 13-118: Ordinary Meeting of Council held on 15 April 2013

NSW Planning and Infrastructure Circular BS 13-001.

SUMMARY

To update Council of progress on the Awning Improvement Program for street awnings constructed over Council footpaths.

COMMENTARY

Council at its Ordinary meeting of 15 April 2013 considered a report about the safety of street awnings identified in NSW Planning and Infrastructure Circular BS 13-001. The circular was in response to recommendations of the Coroner following a coronial inquest into a fatal accident in Sydney involving the collapse of a street awning.

The Coroner made the following recommendations 1-5, which were adopted by Council in its resolution, with the additional Item 6 being included by Council:

13-118 RESOLVED

THAT the following components of a street awning safety improvement program be implemented:

1. Identify owners of building with awnings over public lands.
2. Notify owners of their responsibility to keep awnings in good order in all conditions, including during storms.
3. Advise owners to seek legal advice about liability for failure or collapse of their awning.
4. Advise owners that awnings more than 10 years old are more susceptible to failure and should be inspected by a professional engineer for structural adequacy. Practice Note 18 "Inspection and Assessment of Existing Tied Awnings", issued in July 2008 by the Association of Consulting Structural Engineers of NSW to be provided in the advice to owners of processes for the determination of awning safety.
5. Request owners to provide details of any inspections and works to Council.
6. **As an option to comply with 5 above, to obtain expressions of interest from owners of buildings with awnings over public lands on obtaining a "bulk rate" from a structural engineer to:**
 - Inspect their awning
 - Recommend repairs if necessary or provide certification of compliance if not necessary

- Oversee repairs if necessary
- Certify compliance once repairs have been carried out if necessary.

Actions in Response to Min No 13-118

1. A detailed survey was carried out to determine the location of all street awnings. This information was then referenced to owner records. A total of 133 awnings were identified from the survey.
2. A letter was forwarded to the owners of all awnings advising them of their responsibility to keep the awning in good repair, recommending that they seek legal advice about liability for failure or collapse of their awning, that awnings more than 10 years old should be inspected by an engineer for structural adequacy, and requested that the owner provide details to Council of any inspections or works to the awning. An option was given for owners to nominate to be part of a bulk awning inspection program coordinated by Council.
3. The response to the first letter from Council resulted in a number of owners contacting Council over an extended period to discuss options. Some owners nominated to be part of a bulk assessment program. They were advised that once a larger percentage of owners had responded that they would be provided more information on a bulk inspection program subject to Council obtaining suitable expressions of interest. Some owners provided certification/documentation for their awnings.
4. A second letter was sent to those owners that had not contacted Council confirming the information in the first letter and requesting a response. A number of owners responded to this letter as for item 3 above.
5. Structural engineering firms were contacted to discuss providing quotations for a bulk assessment program. Responses were received from Calare Civil (Bathurst) and CG Hilder (Katoomba). The quotation from Calare Civil was accepted and those owners who had expressed interest in being part of this program were advised in writing of the cost for the inspections and requested to provide their agreement.
6. A further letter was sent to those owners that had not provided any response to Council advising that they risked further action if they failed to respond. A number of owners responded advising that they would arrange certification.
7. Calare Civil commenced inspections of awnings in January 2015 as part of the bulk inspection program. Inspection reports were then forwarded to owners advising them of the outcome of these inspections.
8. A fourth letter was sent to the remaining 36 owners that had failed to respond to any Council correspondence. A total of 19 owners responded to this letter advising what action they were taking to ensure compliance.
9. As a result of the bulk inspection program and action taken by some owners independently of this program, 49 awnings have been certified as compliant, 48 as non-compliant, and 19 currently under assessment (Item 8). The main problem that arose during inspections was the difficulty in being able to properly inspect the structural ties above the awning because they are usually embedded in the parapet brickwork.
10. There are 17 owners that have not responded to any Council correspondence.

The awning inspections by Calare Civil have revealed that the most efficient way of addressing non-compliance is for posts to be installed to support the awning. This reduces the importance of the structural ties above the awning that cannot be properly inspected or certified because they are usually embedded in the parapet brickwork. There is also an issue with the integrity of the brickwork in the parapets to support the

awning ties. Council will be aware that posts have been installed to a number of awnings in the Lithgow and Portland CBDs for this reason.

Some owners have identified the cost of required works to awnings as an issue and have asked about the availability of Council funding. The advice provided is that there is no council funding currently available for structural repairs to awnings and it is the owners responsibility to ensure the safety of their awnings.

The approach that has been taken to date is if owners are working toward submission of a development application then there is no need for any enforcement action to be taken. This does need to be monitored as the works will still need to be done in a timely manner. It is intended to pursue those owners who have ignored all correspondence to date through the Orders process provided under the Environmental Planning and Assessment Act.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL for Council but there are financial implications to owners.

LEGAL IMPLICATIONS

Provisions exist under the Environmental Planning & Assessment Act, the Local Government Act and the Roads Act to enforce action to ensure the public safety of street awnings.

RECOMMENDATION

THAT the action taken in relation to the safety of awnings over public land be noted.

**ITEM-5 ENVIRO - 28/09/15 - DA042/15 - WESTFUND VOLUNTARY
PLANNING AGREEMENT**

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To advise and seek endorsement of a Draft Planning Agreement for Westfund Limited.

COMMENTARY

On 1 September 2015 DA042/15 on behalf of Westfund was approved for an office fit out and refurbishment within the old Lithgow RSL Club on land known as Lot 1 DP 1198292, 59 Read Avenue Lithgow.

The estimated cost for this development is \$3.5 million. Council's *Section 94A Development Contributions Plan 2012* states that Council is to seek to negotiate a Planning Agreement for major development including development having a cost in excess of \$1 million. In accordance with this requirement discussions were held in relation to a Voluntary Planning Agreement and an offer of an agreement consisting of a contribution of \$50,000 to go toward the expansion of a footpath/cycleway around Lake Pillans was made.

A condition of development consent was imposed as follows:

"5. Pursuant to section 80A(1) of the Environmental Planning and Assessment Act the draft Planning Agreement that relates to the Development Application, the subject of this consent must be finalised and paid prior to the issue of the Construction Certificate."

However, the agreement must be endorsed by Council. Once Council has endorsed the Draft Planning Agreement, the required public notification process may proceed.

POLICY IMPLICATIONS

Policy 7.10 – Planning Agreements applies. The Policy provides that a draft VPA is to be reported to Council for approval to be placed on public exhibition and also for final endorsement following exhibition.

FINANCIAL IMPLICATIONS

In this case the proposed VPA will realise an additional \$15,000 revenue than would have been realised under Section 94A.

LEGAL IMPLICATIONS

The legislative basis for the Planning Agreement is incorporated in the Environmental Planning and Assessment Act 1979 (Sections 93F – 93L) and the Environmental Planning and Assessment Regulations (Clauses 25B – 25H). Section 935 of the Environmental Planning and Assessment Act provides that public notice must be given of a proposed Planning Agreement for at least 28 days before it can be entered into.

ATTACHMENTS

1. Draft Planning Agreement

RECOMMENDATION

THAT:

1. Council endorse the Voluntary Planning Agreement proposed by Westfund for a contribution of \$50,000 to the expansion of a footpath/cycleway around Lake Pillans.
2. The Voluntary Planning Agreement be placed on public exhibition for a period of 28 days.

**ITEM-6 ENVIRO - 28/09/15 - DA157/15 - PROPOSED PATIO - LOT 1 DP
1029863 - 16 WINDARRA PLACE MARRANGAROO NSW 2790**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To assess and recommend determination of DA157/15, with the recommendation being approval subject to the conditions listed in the 79C report.

COMMENTARY

A Development Application has been lodged on behalf of Councillor Wayne McAndrew and Rhonda McAndrew by Spanline Home Improvement for the erection of a patio cover on Lot 19, DP 1029863, No. 16 Windarra Place Marrangaroo.

The proposal consists of patio with a floor area of 61.46m² to be located attached to the rear of the existing dwelling.

In accordance with Policy 7.5 '*Notification of Development Applications*', the proposal was not required to be neighbour notified.

The application has been assessed in accordance with relevant planning requirements that relate to the land. The proposal has an acceptable impact on the surrounding neighbourhood and environment and can be approved subject to conditions.

POLICY IMPLICATIONS

Council's Policy 7.6 '*Development Applications by Councillors and Staff and Relatives or on Council Owned Land*' applies to this development as it requires that any development application lodged by a councillor must be referred to Council for consideration and determination. It further provides that no aspect of the application be dealt with under delegated authority.

FINANCIAL IMPLICATIONS

Lithgow Section 94A Contributions Plan June 2012 is not applicable for the proposed patio development as the total construction was estimated at approximately \$22,166.

LEGAL IMPLICATIONS

The application must be assessed in accordance with the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979

ATTACHMENTS

1. Complete 79C Planning Report under separate cover.
2. Proposed plans

RECOMMENDATION

THAT:

1. Development Application DA157/15 be **APPROVED** with conditions of consent as detailed in the attached 79C report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-7 ENVIRO - 28/09/15 - MEADOW FLAT RECREATION TRUST -
REQUEST FOR REFUND OF FEES - DA146/15 CC135/15**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Development Application 146/15
Construction Certificate 135/15

SUMMARY

To advise of a request from the Meadow Flat Recreation Trust for all Council fees to be waived for the construction of a new toilet block at the Meadow Flat Recreation Reserve. The recommendation is for the fees to be waived for this project.

COMMENTARY

The Meadow Flat Recreation Trust has requested that Council waive all fees associated with the Development Application/Construction Certificate/Compliance Certificates/Section 68 On Site Waste Application for the construction of a small toilet block at the Meadow Flat Recreation Reserve. The value of the work is **\$16,000** and fees totalling **\$921.70** were paid to Council (GST Inclusive):

DA Fee	\$218.00
DA Archival Fee	\$57.00
Construction Certificate	\$171.70
Compliance Inspections	\$175.00
Section 68 (On Site Waste)	\$300.00
Total	\$921.70
Total Refundable	\$921.70

The construction of a new toilet block is important for the continued use of the recreation reserve by the local community. It also allows the Trust to meet its obligations to provide accessible toilet facilities for persons with disabilities.

The request to refund the Council fees applicable to this project is made to assist to reduce the financial impact on an important community facility. It is considered reasonable for Council to refund all associated Council fees for this project.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Council will be refunding fees to the vale of \$921.70.

LEGAL IMPLICATIONS

There are no restrictions on Council refunding fees under the provisions of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

1. Letter of 3 September 2015 from Maureen Gunning on behalf of the Meadow Flat Recreation Trust requesting waiver of fees.

RECOMMENDATION

THAT Council refund fees to the value of \$921.70 to Meadow Flat Recreation Trust, being all fees payable to Council for the Development Application, Construction and Compliance Certificates, and Section 68 application for the proposed new toilet block at Meadow Flat Recreation Reserve.

**ITEM-8 ENVIRO - 28/09/15 - DA096/15 - PROPOSED UPGRADES,
REFURBISHMENT, WALKWAYS, PLATFORMS, FENCING AND
CARPARKING WORKS AT BLAST FURNACE PARK LITHGOW**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To assess and recommend determination of DA096/15. The recommendation is for approval subject to conditions.

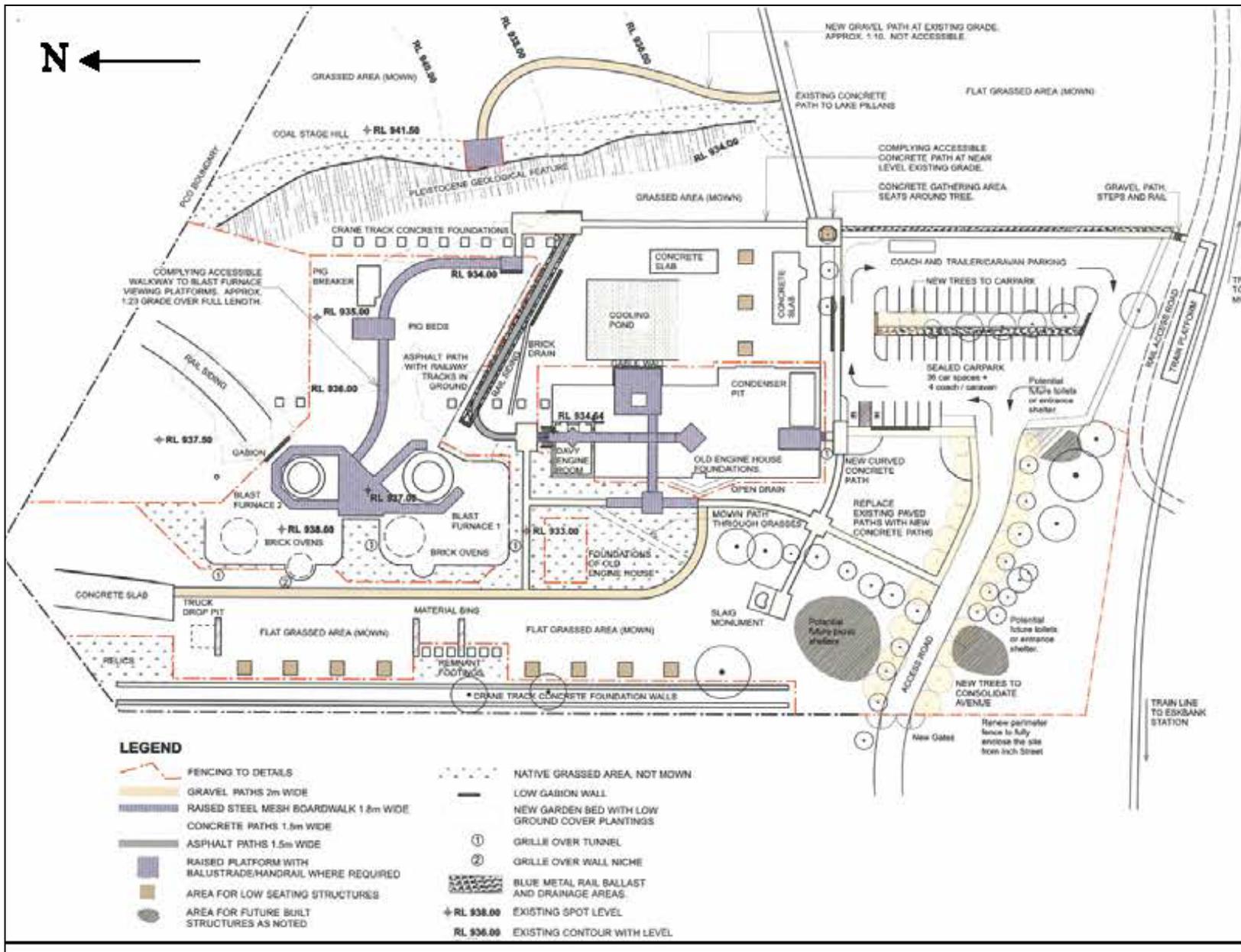
COMMENTARY

Council is in receipt of a Development Application DA096/15 for refurbishment, walkways, pathways, platforms, fencing & car park upgrades at Blast Furnace Park known as Lot 2 DP 776568, Inch Street Lithgow.

The Blast Furnace is an industrial ruin from the early 20th Century and is significant to Australia's early iron works. The ruins have deep pits and brick structures that are a safety issue to visitors. Therefore, the proposal seeks to undertake works to improve the area for community use in the following stages:

- Stage 1-**
- a) Stabilisation of ruins (repair of brickwork, remove plant growth from brickwork, replace broken/damaged metal tie rods, waterproofing and capping tops of brickwork, repairing spalling concrete lintels and remove and replace embedded metal parts)
 - b) Site fencing
- Stage 2 -**
- a) Path Access at grade around the park and boardwalk access to the hill top furnace bases
 - b) Boardwalk access to the boiler house platforms
 - c) External connections - carpark and hill top path and platform
 - d) Interpretive signage

The following plan shows the proposed works to be undertaken, including pathways, fencing, platforms, carpark and walkways:



PERMISSIBILITY:

The development being a 'Community Facility' as defined below is considered permissible under Lithgow Local Environmental Plan 2014 (LEP2014) for RE1 Public Recreation zoning, subject to development consent.

community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

The proposal meets the objectives of the RE1 Public Recreation zone as it is a space to be used by the public and it will protect and enhance the environment for recreational purposes. The land is known to be heritage listed locally and at a state level and requires assessment by the NSW Heritage Office.

The proposed development is to enhance the historical significance of the land and allow for an improved interaction for visitors in a safe manner for the ruins and visitors themselves. Interpretive signage will also increase the preservation and improve education and understanding of the significance of the Blast Furnace ruins.

The development will have a positive impact on the heritage significance subject to conditions of consent to allow the development to be undertaken in a sympathetic manner. Therefore, the development will have a positive impact on heritage conservation within the locality and is an appropriate development of the site.

In relation to earthworks and stormwater management, the development has been assessed by Water NSW and Council's Building Officers and is considered to be compliant subject to conditions of consent being imposed for the existing site development. The development therefore complies with the provisions of the LEP2014.

EXHIBITION AND COMMUNITY CONCERNS:

The proposal was sent to the NSW Heritage Office, Water NSW, Transport NSW, Council's Heritage Advisor and Council's Building Officer for commenting with no objections subject to conditions of consent as per the attached 79C assessment report.

The proposal was also sent to adjoining neighbours, advertised and placed on public display in Councils Administration Building for a period of 30 days, with no submissions received.

OTHER MATTERS**State Environmental Planning Policy No 55—Remediation of Land**

The proposal requires an assessment under SEPP 55 in relation to potential contamination given the previous industrial uses of the site. The proposal seeks to undertake work in the soils for the footings in stage 2 and establish picnic areas for the public and therefore, Council is required to be satisfied that the soil is not likely to cause harm or health issues to users. However, given the heritage significance of the site, the works associated with obtaining a contamination report for assessment under the SEPP would require approval from the NSW Heritage Council. Conversely, the NSW Heritage

Council cannot provide approval until consent has been issued by Council for the development. For this reason it is proposed to request preliminary contamination testing to be undertaken in stage 1 and submitted prior to Stage 2 through the following proposed condition of consent:

- A preliminary contamination investigation shall be provided in relation to the ongoing use of the land for recreational purposes having regard to potential disturbance of the site through construction activities and opportunities for increased human contact in picnic areas. Should preliminary investigations conclude the site (in context of this application), requires further investigation, remediation or ongoing maintenance this shall be detailed. Stage 2 of the development may not proceed until the preliminary investigation and any additional investigation, remediation and validation is complete.

The is to be for the stage 2 works only to allow the development approval process and Section 60 process for works under the Heritage Act 1979. This process will then allow for the testing of soils to commence under Stage 1 to obtain a contamination report for assessment under this SEPP for Stage 2 works and is considered the appropriate course of action for this proposal.

POLICY IMPLICATIONS

7.6 Development Applications by Councillors and Staff or on Council Owned Land

1. *That, subject to the exemptions in Part 2 of this Policy, any development application lodged where the applicant is a Councillor or a member of staff, or where a Councillor or member of staff is the owner of the land to which the application relates, or where the development application is on Council owned land, that such an application be referred to Council for consideration and determination.*

The proposal is not subject to exemptions in Part 2 of the policy and is a proposed development on Council owned land being Lot 2 DP 776568. Therefore, the proposal is subject to determination by the elected Council at a Council meeting.

FINANCIAL IMPLICATIONS

Lithgow Section 94A Development Contributions Plan 2012 is applicable for the proposed development on land being Lot 2 DP776568 which is owned by Council and considered a recreational area and carpark. The development cost is estimated at \$422,000 and therefore the following provisions of the Lithgow City Council Section 94A Development Contributions Plan 2012 (S94A Plan) applies:

Schedule 2- Summary of Section 94A Levy Rates:

Type of Development	Levy (%)
All development types valued at \$100,000 or less	0.0%
All development types valued at \$100,001 and up to \$200,000	0.5%
All development types valued in excess of \$200,000	1%

A contribution of \$4,220 would apply for this development. However, it has been requested by the applicant that consideration to the following provision of the S94A Plan be applied:

C7- Are there any exemptions to the levy?

Council may consider exempting developments or component of developments from the Section 94A plan involved in the following applications:

- h) An application for or on behalf of Lithgow City Council for community infrastructure such as libraries, community facilities, child care facilities, sport and recreational facilities, recreation areas or carparks.*

The development is lodged by Lithgow City Council and is to enhance an existing community facility and carpark that is a State Heritage item, significant to Lithgow. Therefore, it is considered that an exemption under Clause 7 of the S94A Plan should be accepted.

LEGAL IMPLICATIONS

The application must be assessed in accordance with the heads of consideration of Section 79C of the Environmental Planning & Assessment Act 1979. A full assessment under Section 79C is attached.

ATTACHMENTS

1. Complete 79C Planning Report under separate cover.

RECOMMENDATION

THAT

1. An exemption to the Section 94A Development Contribution Plan 2012 levy be applied to DA096/15 given the development is by Council for recreational areas.
2. Development Application 096/15 for Blast Furnace Park be **APPROVED**, subject to the conditions outlined in the attached 79C report.
3. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

OPERATION REPORTS

ITEM-9 OPER - 28/09/15 - WATER REPORT

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

REFERENCE

Min No 15-221: Ordinary Meeting of Council held on 7th September 2015

SUMMARY

This report provides an update on various water management issues as per Minute Number 15-221.

COMMENTARY

Current Dam Levels for both Farmers Creek and Oberon

Farmers Creek Dam # 2 capacity on Monday, 14th September 2015 was 100%. Oberon Dam capacity on Monday, 14th September 2015 was 64%.

Current Water Usage from Each Supply

Table 1 below indicates total output from the Oakey Park Water Treatment Plant (consumption), the volume transferred from the Clarence Water Transfer System (CWTS) and the volume of water purchased from Fish River for 2015/2016. Table 2 below indicates total output from the Oakey Park Water Treatment Plant (consumption), the volume transferred from the Clarence Water Transfer System (CWTS) and the volume of water purchased from Fish River for 2013/2014 & 2014/2015.

Table 1 - Oakey Park Monthly Output and Clarence Transfer 2015/2016

Month	Oakey Park WTP (ML)	Clarence Transfer (ML)	Fish River Supply (ML)
July	113	0	50
August	112	0	66
TOTAL	225	0	116

Table 2 - Oakey Park Monthly Output and Clarence Transfer 2013/2014 & 2014/2015

Month	2013/14			2014/15		
	Oakey Park WTP	Clarence Transfer	Fish River Supply	Oakey Park WTP	Clarence Transfer	Fish River

	(ML)	(ML)	(ML)	(ML)	(ML)	Supply (ML)
July	93	0	44	80	0	63
August	96	0	67	145	0	45
September	102	0	73	105	0	66
October	130	0	58	112	0	61
November	106	0	61	120	0	65
December	100	0	47	84	0	36
January	111	0	109	89	0	100
February	93	0	73	95	0	66
March	62	0	68	143	0	67
April	105	0	61	99	0	71
May	118	0	59	105	0	55
June	101	0	67	131	0	74
TOTAL	1,217	0	787	1,308	0	769

Clarence Transfer System

Water has not been transferred from the Clarence Colliery Dam to Farmers Creek No 2 Dam since January 2013 when 158 ML were transferred during the period November 2012 to January 2013.

Oakey Park Water Quality Summary

Oakey Park Water Treatment Plant is currently supplying water to Lithgow. No health-based ADWG values were exceeded for the period 29/8/2015 to 18/9/2015.

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

Fish River Water Supply is currently supplying water to Marrangaroo, Wallerawang, Lidsdale, Portland, Cullen Bullen, Glen Davis and Rydal. No health-based ADWG values were exceeded for the period 29/8/2015 to 18/9/2015.

Current Water Restrictions Update

Level 1 restrictions are effective from Monday, 17th March 2014.

Water Saving Schemes or Processes Update

Council's Rainwater Tank and Domestic Appliance Rebate Program continued with Council approving one (1) application for household appliance rebates and two (2) applications for water tank rebates for the period 29/8/2015 to 18/9/2015.

Water Reticulation Complaints

Nine (9) varying complaints were received during the period 29/8/2015 to 18/9/2015 concerning water quality issues in the following areas:

Locality	Concern	Notes
Malvern Street, Lithgow	Caller stated that Council should let people know that dirty water will come out after pipe work has been done. Caller did advise that her water did come clean after being run for a little while. She stated that if you were filling a jug and didn't notice people would be boiling dirty water.	Discoloured water caused by adjacent works in Ordnance Avenue.
Coerwull Road, Lithgow	Caller stated that they have very dark brown water.	Discolouration caused by trunk main break mains. Flushed and alert issued.
Ferro Street, Lithgow	Caller advised that their water is very muddy. He began last night around 7:30 but it's getting worse.	Discolouration caused by trunk mains break. Mains flushed and alert issued.
Wrights Road, Lithgow	Dirty water. Been dirty for the last hour. He has been running bath the whole time.	Trunk main break. Mains flushed. Alert issued.
Calero Street, Lithgow	Caller stated he has dirty water. Please flush.	Trunk main break. Mains flushed. Alert issued.
Thornley Close, Lithgow	Caller advised that the water is quite dirty yellow brown colour.	Trunk main break. Mains flushed. Alert issued.
Thompson Street, Lithgow	Caller stated that the water at property is "filthy dirty".	Trunk main break. Mains flushed. Alert issued.
Andrew Street, Lithgow	Caller advised that she is experiencing dirty water.	Trunk main break. Mains flushed. Alert issued.
Lockyer Street, Lithgow	Customer advised that water is very dirty. Can the Council investigate and flush the mains.	Trunk main break. Mains flushed. Alert issued.

There was a major discoloured water alert issued for Lithgow consumers on 10th September 2015 following a break in the 450mm high pressure delivery pipeline between the Oakey Park Water Treatment Plant and Lithgow's water supply reservoirs. The water quality around the network was closely monitored for the following week to ensure minimum chlorine residuals were maintained. In addition, a comprehensive flushing regime was undertaken to mitigate adverse impacts for residents. Water quality has generally returned to a satisfactory standard in most locations. The break in the trunk main in Lithgow did not affect consumers in the Wallerawang & Portland areas.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council note the water report.

**ITEM-10 OPER - 28/09/15 - EXPRESSIONS OF INTEREST FOR THE
CONSTRUCTION OF PORTLAND WASTEWATER TREATMENT
PLANT**

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

This report seeks a determination from Council to use the selective tendering process, in accordance with section 168 of the Local Government (General) Regulation 2005, for the procurement of suitable contractors for the construction of the Portland Wastewater Treatment Plant.

COMMENTARY

Council previously secured funding for the construction of the Portland Wastewater Treatment Plant project. The detailed design has now reached 90% completion, and the construction works are scheduled for commencement in early 2016, with project completion estimated for mid 2017.

The construction of a Wastewater Treatment Plant requires highly skilled and experienced contractors. In addition, the new plant will be constructed adjacent to the existing plant, whilst operation of the plant continues. To ensure a high quality of work, optimal ongoing operation of the existing plant, and best value for money, a two stage tendering process has been adopted. This process involves a pre-qualification process through EOIs using the open tender method, to short list a panel of 3-5 applicants who have best demonstrated the appropriate assessment criteria stipulated under the EOI document. The successful applicants from the EOI stage will then be invited to tender for the Portland Wastewater Treatment Plant Project.

Expressions of Interest (EOI) submissions for the construction were called for on the 12th August 2015, closing on the 8th September 2015.

Submissions

Thirteen submissions were received from the following tenderers

- Abergeldie Contractors Pty Ltd (Abergeldie)
- BMD Constructions Pty Ltd (BMD)
- Cockram Construction trading as Cockram Envico (Cockram)
- Diona Pty Ltd (Diona)
- Fulton Hogan Construction Pty Ltd (Fulton Hogan)
- Gongues Constructions Pty Ltd (Gongues)
- Guidera O'Conner Pty Ltd (Guidera O'Conner)
- Haslin Constructions Pty Ltd (Haslin)
- Hines Constructions Pty Ltd (Hines)
- Leed Engineering and Construction Pty Ltd (Leed)

- Precision Civil Infrastructure Pty Ltd (Precision Civil)
- Resource Equipment Limited (REL)
- York Civil Pty Ltd (York Civil)

Evaluation Panel

In accordance with Council’s Tendering Policy 1.4, a tender evaluation panel was formed to evaluate the tenders, consisting of:

- Works Coordinator (Evaluation Panel Chair) Lithgow City Council
- Water & Wastewater Manager Lithgow City Council
- Project Manager – NSW Public Works
- Project Manager – NSW Public Works

Selection Criteria

Project Specific Criteria were developed to assess the EOI submissions received. These were developed into a Tender Evaluation Plan that is attached as Attachment 1.

Mandatory Criteria were assessed on a pass/fail basis, with any tenderer failing mandatory criteria being eliminated from further consideration.

Project Specific Criteria was assessed according to the following chart:

Criteria		Weighting
1	Applicants experience and performance	40%
2	Proposed Personnel	35%
3	Understanding of Project Requirements	25%

Scoring System

Each tenderer was given a score for the above project specific criteria based on the scoring criteria outlined in the Tender Evaluation Plan attached as Attachment 1.

Evaluation Summary – Mandatory Criteria

One tenderer, REL, failed to submit the Application Form and Returnable Schedules, and was passed over. The remaining twelve submissions returned the Application Form and Returnable Schedules, and met the requirements of the EOI document. The mandatory requirements were then examined.

Four tenderers failed to meet the mandatory criteria and were passed over:

- Abergeldie failed the NSW Public Works financial check.
- BMD failed to demonstrate capacity to manage WHS and Environmental Management, due to three serious WHS and two serious Environmental incidents.
- Precision Civil failed NSW Public Works financial check.
- York Civil failed to provide the information required to complete the NSW Public Works financial check with their tender, despite being requested numerous times prior to evaluation

The remaining tenderers complied with the mandatory criteria.

Evaluation Summary – Project Specific Criteria

Each of the remaining tenders were assessed in accordance with the Project Specific Criteria. A summary of the scoring is provided below

Tenderer	Score	Ranking
Cockram	78.75	2
Diona	43.50	8
Fulton Hogan	62.25	5
Gongues	77.25	3
Guidera O’Conner	60.00	6
Haslin	68.25	4
Hines	53.75	7
Leed	83.25	1

The review of EOI Applicants resulted with three (3) applications having best demonstrated satisfactory compliance with the requirements of the EOI document.

These Applicants in their order of ranking is as follows:

- Leed
- Cockram
- Gongues

The remaining five (5) EOI applications did not fully satisfy the requirements of the EOI document. The EOI Evaluation Assessment Panel agreed to discard these submissions.

Recommendation of the Tender Evaluation Panel

Leed, Cockram and Gongues were able to demonstrate through their tender that they have the capability, capacity and experience to complete this project to the highest standard.

Therefore the tender evaluation panel recommends that Council invite these companies to submit a tender for the Construction of the Portland Waste Water Treatment Plant.

It is noted NSW Public Works is currently reviewing the recommendation in accordance with their tendering policies and procedures and endorsement is scheduled by the 25th September 2015.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

The total cost for this project is expected to be \$15 million, with \$10.05million to be funded under the Resources for Region program, and the remaining \$5 million to be funded by Council.

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Tender Evaluation Plan

RECOMMENDATION

THAT Council:

1. Use the selective tendering method, pursuant to s168 of the Local Government (General) Regulation 2005, for the construction of Portland Wastewater Treatment Plant.
2. Invite tender submissions from Leed Engineering and Construction Pty Ltd, Cockram Construction trading as Cockram Envico, and Gongues Constructions Pty Ltd, for the construction of Portland Wastewater Treatment Plant.

ITEM-11 OPER - 28/09/15 - DRAFT POLICY 2.1 - CEMETERY OPERATIONS

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

REFERENCE

Min No 15-182: Ordinary Meeting of Council held on 27 July 2015

SUMMARY

This report is to present revised Policy 2.1 – Cemetery Operations to Council for adoption.

COMMENTARY

Policy 2.1 – Cemetery Operations Policy has been reviewed and was submitted to Council on 27th July 2015. Subsequently the document was placed on public exhibition for a 28 day period and was advertised from 6th August 2015 to 4th September 2015 for public comment. One comment was received.

During discussions at Council’s Operations Committee Meeting on 16th July 2015, it was recommended that details of a buy back scheme for unused plots be reviewed. The policy at that stage stated that Council has the discretion to buy back unused sites at a value equal to 80% of the current costs of a burial plot, niche position and garden position.

- Over the last two years only five plots have been repurchased

Council accepted the recommendation from the Operations Committee and proceeded to advertise a revised Cemetery Operations Policy with the deletion of the clause relating to the buyback of unused plots. The revised policy is submitted for adoption.

POLICY IMPLICATIONS

Policy 2.1 – Cemetery Operations Policy will be added to the Council’s policy register.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Policy 2.1 – Cemetery Operations

RECOMMENDATION

THAT Council **ADOPT** Policy 2.1 – Cemetery Operations.

CORPORATE AND COMMUNITY REPORTS

ITEM-12 CORP - 28/09/15 - COUNCIL INVESTMENTS HELD TO 31 AUGUST 2015

REPORT BY: M JOHNSON – ACTING GROUP MANAGER CORPORATE AND COMMUNITY

REFERENCE

Min No 15-45: Ordinary meeting of Council held on 2 March 2015
Min No 15-63: Ordinary meeting of Council held on 23 March 2015
Min No 15-88: Ordinary meeting of Council held on 20 April 2015
Min No 15-123: Ordinary meeting of Council held on 1 June 2015
Min No 15-176: Ordinary meeting of Council held on 27 July 2015
Min No 15-197: Ordinary meeting of Council held on 17 August 2015

SUMMARY

To advise Council of investments held as at 31 August 2015 in the 2015/16 financial year.

COMMENTARY

Council's total investment portfolio, as at 31 August 2015 when compared to 31 July 2015, has increased by \$1,427,042.75 from \$17,177,153.30 to \$18,604,196.05. Cash at bank has increased in the same period by \$2,650,880.07 from \$3,118,893.48 to \$5,769,773.55.

There is an overall increase in cash and investments of \$4,077,922.82 since 31 July 2015.

INVESTMENT REGISTER 2015/16								
INSTITUTION	INV TYPE	DATE LODGED	DATE DUE	DAYS	INT	VALUE 31.07.15	VALUE 31.08.15	% OF TOTAL
AMP	On Call	26.08.14			2.55	1,025,298.11	1,027,442.53	5.52%
CBA	On Call				1.95	1,517,948.37	1,520,462.34	8.17%
AMP	TD	31.07.15	30.10.15	91	2.75	0.00	1,000,000.00	5.38%
	TD	24/8/2015	16.12.15	114	2.75	0.00	1,000,000.00	5.38%
IMBS	TD	17.08.15	18.11.15	90	2.75	1,033,700.93	1,000,000.00	5.38%
	TD	02.07.15	30.09.15	90	2.75	1,008,476.71	1,016,848.45	5.47%
NAB	TD	24.08.15	02.12.15	100	2.90	1,044,036.94	1,000,000.00	5.38%
	TD	21.07.15	21.10.15	90	2.95	1,008,737.04	1,016,281.85	5.46%
	TD	01.07.15	29.09.15	91	2.90	1,000,000.00	1,000,000.00	5.38%
WESTPAC	TD	09.07.15	09.10.15	92	2.65	1,000,000.00	1,006,881.10	5.41%
ST GEORGE	TD	19.06.15	19.09.15	92	2.50	963,455.81	963,455.81	5.18%
	TD	26.06.15	26.10.15	122	2.60	1,007,522.86	1,000,000.00	5.38%
ME BANK	TD	24.08.15	25.11.15	93	2.80	504,300.68	1,000,000.00	5.38%
	TD	24.06.15	23.09.15	91	2.95	1,000,000.00	1,000,000.00	5.38%

	TD	31.07.15	30.10.15	91	2.80	1,000,000.00	1,000,000.00	5.38%
NEWCASTLE PERMANENT	On Call	25.05.15			2.00	1,024,410.78	1,024,410.78	5.51%
FAMILY FIRST CREDIT UNION	TD	05.08.15	03.11.15	90	2.55	1,021,476.31	1,028,413.19	5.53%
	TD	31.07.15	30.10.15	91	2.70	0.00	1,000,000.00	5.38%
TOTAL						17,177,153.30	18,604,196.05	100.00%

I, Matthew Johnson, Lithgow City Council's Acting Group Manager Corporate & Community certify as required under Local Government (General) Regulations 2005, that Council's investments have been made in accordance with the Local Government Act 1993, Regulations and Lithgow City Council's Investment Policy.

The movement in Investments for the month of August 2015 were as follows:

Opening Balance of cash and investments as at 31 July 2015	\$20,296,046.78
<u>Plus</u> New Investments – August 2015	\$4,077,922.82
<u>Less</u> Investments redeemed – August 2015	\$0.00
Closing Balance of cash and investments as at 31 August 2015	\$24,373,969.60

If the movement in the bank account is negative, this is shown as a net redemption. If the movement in the bank account is positive this is shown as a net new investment.

On the graph below historical and current investments to 31 August 2015 are shown.



A large proportion of Council's investments are held as restricted assets for specific purposes. Restricted assets may consist of externally restricted assets which must be spent for the purpose for which they have been received e.g. Water, Wastewater, Stormwater, Domestic Waste, Parking, or internally restricted assets which have been

set aside by Council resolution. Some internal restrictions are held to fund specific liabilities such as employee leave entitlements and bonds and deposits.

As at 31 August 2015 Council had made an investment into the CBA at Call account for \$3,000,000.00 but this transfer was effected the next working day by the Commonwealth Bank.

POLICY IMPLICATIONS

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing funds. On 27 October 2014 Council adopted a draft of the Investment Policy as Policy 8.7 which includes the Minister's Investment Order of 12 January 2011.

FINANCIAL IMPLICATIONS

Interest earned to 31 August 2015 is \$37,944.90. Interest is paid on the maturity date of the investment, however an entry is performed at month end to account for interest earned but not yet received. The budget for interest income is determined by the average level of funds held and the rate of return. Adjustments to the budget estimate are processed through Council's Quarterly Budget Review process. Interest Returns are determined by average funds invested and the rate of interest return.

LEGAL IMPLICATIONS

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. On 27 October 2014 Council adopted a draft of the Investment Policy as Policy 8.7 and investments will comply with this Policy which includes the following:

- Local Government Act 1993 - Section 625
- Local Government Act 1993 - Order dated 12 January 2011
- Local Government (General) Regulation 2005
- Trustee Amendment (Discretionary Investments) Act 1997 Section 14A (2), 14c(1) & (2)

RECOMMENDATION

THAT Investments of \$18,604,196.05 and cash of \$5,769,773.55 for the period ending 31 August be noted.

ITEM-13 CORP - 28/09/15 - ASBESTOS MANAGEMENT ESKBANK HOUSE

REPORT BY: M JOHNSON – ACTING GROUP MANAGER CORPORATE AND COMMUNITY

SUMMARY

This report advises Council of the discovery of exposed, friable asbestos in “Possum” the steam locomotive and three traction engines in the grounds of Eskbank House and Museum, that the removal of the accessible asbestos and remediation of three of the engines will be shortly undertaken and seeks Council’s approval to dispose of one engine at landfill.

COMMENTARY

In June 2015 the possible presence of asbestos was identified in the three traction engines and Possum the steam locomotive in the grounds of Eskbank House. The engines were immediately fenced off from the public and a specialist asbestos contractor engaged to undertake an audit and provide treatment recommendations.

The asbestos audit laboratory results later confirmed that the four engines contained friable asbestos. The audit report rated the risks in different areas from moderate to very high.

The audit report found that complete removal of the asbestos material is not practical or achievable due to its extent and inaccessible locations and that removal of accessible asbestos, sealing and restoration would make the engines safe for ongoing display.

The audit findings and recommendations are as follows:

1. Possum Locomotive

Loose asbestos lagging was found around the firebox and boiler. Accessible lagging needs to be removed where the steel lining is damaged and the surfaces containing asbestos lagging to be sealed with steel, where possible, and with other robust material of epoxy paint compound where not.

Engine gaskets with friable asbestos seals were found. These will need to be sealed with epoxy paint compound.

Asbestos lagging residue was found on the soil surface below the locomotive. This will need to be removed and the soil surface excavated to a depth of 5 cm and transported to landfill as asbestos contaminated waste.

2. Buffalo Pitts Engine, Pioneer Roller and Marshall Steam engine

Friable asbestos lagging was found on the Buffalo steam tractor boiler and firebox, in the heating pipes and on engine gaskets.

Friable asbestos was found on some Pioneer roller gaskets, pipe lagging, cloth strapping, brake linings and in packing around the cooling coils.

Friable asbestos was found on the Marshall traction engine heater pipe packing and hot water tank linings.

This will require the same types of treatments as with Possum.

3. The Audit report also recommended:

- The remediation should be undertaken in conjunction with restoration of the engines and weather covering to prevent adverse weather impacts.
- That surveillance air monitoring be undertaken to determine if the community has been exposed to asbestos fibres. This monitoring has commenced and found no detectable asbestos at the property boundary.
- An asbestos management plan will need to be prepared and yearly monitoring by visual inspections carried out.
- All works are to be undertaken by a contractor with a Class A asbestos removal licence and works are to be undertaken in accordance with WorkCover guidelines.

Significance and Options

Council then engaged Ray Christison of High Ground Consulting to assess the local heritage significance of the engines prior to any decision on their future. The significance assessment made the following findings and recommendations:

Barford & Perkins Pioneer Roller

Possibly manufactured in the 1920's, this petrol driven roller, was used for a number of agricultural purposes and during the 1950's was modified for use in the demolition of derelict worker housing at Lithgow Woollen Mills. It is one of few surviving pieces of plant associated with the former Lithgow Woollen Mills and is representative of the modification of second hand plant and equipment to undertake tasks for which it was not manufactured.

The roller has local historical significance, rarity, representativeness and a high degree of integrity.

Significance Study Recommendations

- Conserve in a local museum after asbestos removal/sealing.
- Store under cover
- The machine should not be repainted
- Interpret as part of the story of Lithgow Woollen Mills
- List on the Lithgow LEP Heritage Schedule.

Buffalo Pitts Engine No.10440

The Buffalo Pitts traction engine at Eskbank House Museum is one of the surviving elements of the coalmining industry that developed in the Lidsdale-Blackmans Flat area in the late 19th century. The engine was used to haul coal from Neubeck's Commonwealth Colliery from 1917 to 1924 and was subsequently used at Neubeck's Lidsdale Sawmills until 1969.

Constructed in Buffalo New York, it is one of only a few Buffalo Pitts 14 horsepower engines preserved in collecting institutions in the Central West and is representative of the devices used to haul coal from mines to rail loading facilities in the Western Coalfield. It is also representative of machines used to power sawmills in the Lithgow region.

The engine has local historical, historical association and technical/research significance, rarity, representativeness and a high degree of integrity.

Significance Study Recommendations

- Conserve in a local museum after asbestos removal/sealing.
- Reconstruct the engine and firebox using detached components on site.
- Install new corrugated galvanised roofing for weather protection.
- Store under cover
- Interpret as part of the story of the Commonwealth Colliery and Neubeck family.
- List on the Lithgow LEP Heritage Schedule.

Marshall portable steam engine

The Marshall portable steam engine appears to have been used to provide power to the Neubeck family Lidsdale sawmills until replaced by a Buffalo Pitts traction engine sometime after 1924. The engine was subsequently cannibalised.

It was relocated to Eskbank House Museum prior to 1979 and is representative of portable steam engines used for pastoral, agricultural, forestry and industrial purposes across Australia in the 19th and early 20th centuries.

It has local historical and historical association significance, representativeness and a low degree of integrity.

Significance Study Recommendations

- May be conserved at Eskbank House Museum following asbestos removal or sealing.
- Alternately it could be offered for sale and restoration following de-accessioning from the Eskbank House & Museum collection and removal or sealing of asbestos.

Officer Note

The recommendation to retain the Marshall traction engine at Eskbank House Museum is not supported due to its poor state of integrity. Further, the recommendation to make it safe for sale and restoration is not supported due to higher cost and the liability risks involved in disposing of a contaminated item to a member of the public.

It is proposed instead that the Marshall engine be made safe for disposal at landfill.

Possum – Manning Wardle B/N1802 of 1912

Possum was purchased by Hoskins Bros in 1919 from the UK where it had worked for Vickers Limited in its Barrow-on-Furness Shipyard, to support expanded operations at their Lithgow Iron and Steel works.

Possum worked at Lithgow until 1928 when it was transferred to the new iron and steel works at Port Kembla where it worked until retired in 1967. It was donated to the Lithgow District Historical Society in 1969.

Possum is a physical manifestation of the historical link between the Lithgow and Port Kembla iron and steel works. It is also an important artefact of the development of Australia's iron and steel industry from World War 1 until the late 1960s.

It is one of two surviving steam locomotives that worked at the G & C Hoskins iron and steel works in the Lithgow Valley and one of only three surviving Manning Wardle industrial locomotives in NSW.

It has state historical and historical association significance, rarity, representativeness and a high degree of integrity.

Significance Study Recommendations

- Conserve at Eskbank House Museum after asbestos removal/sealing
- Store under cover and repaint to match existing colour scheme.
- Interpret as part of the story of the Lithgow iron and steel industry.
- List on the NSW State Heritage Register.

Coal Skips

The significance assessment also made recommendations in relation to the preservation and interpretation of two coal skips in the Eskbank House grounds which were relocated there in the past from State Mine. This report does not consider these matters further due to the absence of any asbestos in the skips.

Asbestos Removal and Treatment Costs

Council has obtained quotes from licensed asbestos management contractors for the removal and disposal of the friable asbestos and the remediation of the Possum Locomotive, Buffalo Pitts Engine and Pioneer roller and for the disposal of the Marshall engine at landfill. The cost is shown below.

Possum Locomotive: \$13,694

Buffalo Pitts Engine and Pioneer roller: \$15,300

Marshall portable steam engine: Make safe for disposal at landfill: \$4,270 (assuming waiver of landfill fees)

Air Monitoring during remediation and Clearance Certification: \$16,800

Total \$50,000 ex GST

Alternative quotes to remediate Possum only and to make the Buffalo Pitts Engine, Pioneer roller and Marshall portable steam engine safe for disposal at landfill were not significantly cheaper than the remediation option above due to the cost of crantage and transport.

The costs of painting and weather covering as recommended in the significance assessment will be additional and can be considered in the 2016/17 budget deliberations.

The presence of friable exposed asbestos in a public location requires prompt attention. Ongoing air-monitoring will also involve significant costs while the asbestos remains untreated. Given the long association of the engines with Eskbank House, the local heritage significance of the Buffalo Pitts Engine and Pioneer roller and the national heritage significance of Possum, it is proposed that the works be undertaken immediately.

Council has allocated \$40,000 for capital works at Eskbank House in the 2015/16 budget from the Eskbank Bracey Reserve Trust, established by the Bracey Family for capital works at Eskbank House. An amount of \$2,000 has already been expended leaving a remaining balance of \$38,000. Most of these remaining funds were earmarked for completion of fencing, pathways and garden beds in the kitchen garden at the rear of the property and to allow for disabled access to the building. These works form stage 2 of building works completed in 2014/15. In view of the urgency of addressing the asbestos issue, it is proposed that fencing, garden and pathway works be deferred until 2016/17 in order to fund the asbestos remediation and removal immediately.

The \$38,000 balance in the Bracey Reserve Trust will be supplemented with a further \$5,000 savings identified in the Eskbank House signage budget and \$7,000 in the Community and Culture events budget giving a total of \$50,000 in savings for allocation to asbestos remediation and removal.

POLICY IMPLICATIONS

Policy 9.13 Work Health Safety Policy

FINANCIAL IMPLICATIONS

The total cost for the remediation of the Possum Locomotive, Buffalo Pitts Engine and Pioneer roller, and to make the Marshall engine safe for disposal at landfill is \$50,000 to be funded from the Bracey Reserve Trust, Eskbank House signage budget and the Community and Culture events budget.

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Asbestos Audit Possum Locomotive
2. Asbestos Audit Steam Tractors and Pioneer Roller
3. Report on Moveable Heritage Significance Assessment by Ray Christison

RECOMMENDATION

THAT Council:

1. Note the above report on the discovery of friable asbestos in the Possum steam locomotive and three traction engines at Eskbank House and the proposed treatments to remediate Possum, the Buffalo Pitts Engine and the Pioneer roller and to make the Marshall engine safe for disposal at landfill at a cost of \$50,000.
2. Authorise that these costs be funded from the Bracey Reserve Trust (\$38,000), Eskbank House signage budget (\$5,000) and Community and Culture events budget (\$7,000).
3. **APPROVE** the disposal at landfill of the Marshall engine.

COUNCIL COMMITTEE MINUTES

ITEM-14 ENVIRO - 28/09/15 - LITHGOW LOCAL HERITAGE ADVISORY COMMITTEE - 11 AUGUST 2015

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Min No 14-416: Ordinary Meeting of Council held on 27 October 2014
Min No 14-333: Ordinary Meeting of Council held on 18 August 2014
Min No 15-59: Ordinary Meeting of Council held on 23 March 2015
Min No 15-124: Ordinary Meeting of Council held on 1 June 2015

SUMMARY

This report details the Minutes of the Lithgow Local Heritage Advisory Committee Meeting held on 11 August 2015.

COMMENTARY

At the Lithgow Local Heritage Advisory Committee meeting held on 11 August, 2015, there were seven items on the agenda as summarised in the attached minutes. The key items are as follows:

- Lithgow LGA – Items listed on State Heritage Register and local items with assessed state significance
- Preliminary Draft Heritage Chapter – Comprehensive Development Control Plan
- Update from the LLHAC Working Party – Heritage Walk/Trail using technology

All items were discussed and no items are recommended to Council for further consideration. The actions of the Committee in relation to each item are identified in the attached minutes.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes from the Lithgow Local Heritage Advisory Committee meeting of 11 August, 2015.

RECOMMENDATION

THAT the minutes of the Lithgow Local Heritage Advisory Committee held on the 11 August, 2015 be noted.

ITEM-15 CORP - 28/09/15 - YOUTH COUNCIL MINUTES - 25 AUGUST 2015

REPORT BY: M JONES – COMMUNITY DEVELOPMENT OFFICER

REFERENCE

Min No 15 -89: Ordinary Meeting of Council held on 20 April 2015
Min No 15 -126: Ordinary Meeting of Council held on 1 June 2015
Min No 15 -181: Ordinary Meeting of Council held on 27 July 2015

SUMMARY

This report details the minutes of the Youth Council meeting held 25 August 2015.

COMMENTARY

At the 25 August 2015 Youth Council meeting, various items were discussed including:

- Donation to Youth Council
- Halloween 2015 volunteering opportunities
- Skate Park shades
- Youthweek 2016

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

Local Government Act 1993

ATTACHMENTS

1. Minutes of the Youth Council meeting held 25 August 2015.

RECOMMENDATION

THAT Council note the minutes of the Youth Council meeting held 25 August 2015.

NOTICES OF MOTION

ITEM-16 NOTICE OF MOTION - 28/09/15 - SAFETY FENCE FOR THE FOOTPATH ON THE GREAT WESTERN HIGHWAY- COUNCILLOR F INZITARI

SUMMARY

Council to erect safety fence on the newly constructed footpath on the Eastern side of the Great Western Highway adjacent to La Salle Academy, from Rabaul St to the bottom of the hill (Sydney Bound)

COMMENTARY

Since the new footpath was finished some months ago, in conjunction with the South Bowenfels Sewer upgrade, there is a section that I feel is very dangerous in relation to the steep embankment that it sits upon.

It would be wise for Council to address this issue before any member of the public is seriously hurt. I would also suggest that the fencing used, would be that which is the same as the one used in the medium strip opposite McDonalds on the Great Western Highway.

RECOMMENDATION

THAT:

1. Council to erect safety fence (in this financial year) on the newly constructed footpath on the Eastern side of the Great Western Highway adjacent to La Salle Academy, from Rabaul St to the bottom of the hill (Sydney Bound).
2. The fencing used, would be that which is the same as the one used in the medium strip opposite McDonalds on the Great Western Highway.

ITEM-17 NOTICE OF MOTION - 28/09/15 - RENAMING OF SOUTH LITTLETON HALL TO KIDDLE HALL - COUNCILLOR F INZITARI

SUMMARY

Council to consider renaming the South Littleton Hall to Kiddle Hall.

COMMENTARY

Since the sad passing of iconic Lithgow resident Molly Kiddle some weeks ago, I feel that her and her late husband Max should never be forgotten for what they achieved as life long citizens of Lithgow.

Max and Molly Kiddle were instrumental in raising funds for Careflight for many years in our local area, and were extremely well known to most of those who reside in this area.

Since Council have not long agreed to lease the South Littleton Hall to the 'Lithgow Chapter No.39 Order of the Eastern Star', where Molly was a member, it would be fitting if the Hall in question be renamed 'Kiddle Hall', in memory of Max and Molly Kiddle.

RECOMMENDATION

THAT Council refer the renaming of the South Littleton Hall to Council's Community Development Committee, advising the Committee of the preference for Kiddle Hall.

NOTICES OF RESCISSION

ITEM-18 NOTICE OF RESCISSION MOTION - 28/09/15 - OPERATIONS COMMITTEE MEETING MINUTES - MT SANDY ROAD KANIMBLA VALLEY

Council has recently considered the closure of an unformed road in the Kanimbla Valley where the following resolution was made:

15-229 RESOLVED

THAT Council:

1. Note the minutes of the Operations Committee held on 20th August 2015;
2. Enters negotiations with the affected land owner to close the unformed road known as Mount Sandy Road in the Kanimbla Valley; and
3. Agree to provide two second hand drainage pipes and one days slashing as requested by the organisers of the Lake Wallace Arboretum.

Since the Council resolution concerns have been raised by members of the Kanimbla and Megalong Valley Communities in relation to the proposal to permanently close the unformed road.

We the undersigned hereby give notice that is it our intention to rescind the council resolution.

This Notice of Rescission has been duly signed by 3 Lithgow City Councillors.

Councillor Frank Inzitari
Councillor Peter Pilbeam
Councillor Ray Thompson

RECOMMENDATION

THAT Council rescind part 2 of Resolution 15-229, i.e: "*Council enters negotiations with the affected land owner to close the unformed road known as Mount Sandy Road in the Kanimbla Valley*".

Should the rescission be successful then the following recommendation is offered:

RECOMMENDATION

THAT Council take NO further action to close the unmade road across Mount Sandy. Access should continue to be maintained for those wishing to use the unmade road for walking, bikes (including motor bikes) and horse riders.

BUSINESS OF GREAT URGENCY

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

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

CLOSED COUNCIL

**ITEM-19 CLOSED COUNCIL - CONFIDENTIAL - CORP - 28/09/15 - TENDER
03/15 FOR RESTORATION AND REMEDIAL WORKS AT LITHGOW
BLAST FURNACE**

**REPORT BY: M JOHNSON – ACTING GROUP MANAGER CORPORATE AND
COMMUNITY**

Reason for Confidentiality

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

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

SUMMARY

This report seeks a determination from Council to award tender 03/15 for restoration and remedial works at Lithgow Blast Furnace.

RECOMMENDATION

THAT Council consider the tender for restoration and remedial works at Lithgow Blast Furnace in Closed Council pursuant to Section 10A(2)(d)(i) of the Local Government Act 1993.