



A CENTRE OF REGIONAL EXCELLENCE

AGENDA

EXTRA ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

27 JULY 2016

AT 6.00pm

AGENDA

ACKNOWLEDGEMENT OF COUNTRY

APOLOGIES

PRESENT

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 27 JUNE 2016

DECLARATION OF INTEREST

PUBLIC FORUM

PRESENTATIONS

NIL

STAFF REPORTS

General Managers Reports
Environment and Development Reports

DELEGATES REPORTS

NIL

NOTICES OF MOTION

NIL

QUESTIONS WITH NOTICE

NIL

NOTICE OF RECISSIONS

NIL

BUSINESS OF GREAT URGENCY

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

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ITEM 1 GM - 27/07/2016 - FIT FOR THE FUTURE - LOCAL GOVERNMENT REFORM

REPORT BY: R BAILEY – GENERAL MANAGER

REFERENCE

Min No 14-456: Ordinary Meeting of Council held on 17 November 2014
Min No 15-145: Ordinary Meeting of Council held on 29 June 2015
Min No 15-269: Ordinary Meeting of Council held on 26 October 2015
Min No 15-296: Ordinary Meeting of Council held on 16 November 2015
Min No 16-04: Ordinary Meeting of Council held on 8 February 2016
Min No 16-173: Ordinary Meeting of Council held on 18 July 2016

SUMMARY

Since the NSW Government announced its plans on Friday 18 December 2015 in relation to Local Government Reform in NSW a number of reviews have been held and councils merged. The Government has also indicated that it has in principal support for further mergers to occur. The announcement by the Premier and Minister for Local Government did NOT include any merger proposal for Lithgow.

The Government has approached those councils considered not 'Fit' and NOT subject to a merger to review their Fit for the Future submissions and undertake a reassessment. Lithgow City Council was identified as one of those councils.

COMMENTARY

Last year, NSW councils (excluding eight councils in the far west) participated in a comprehensive review of local government performance, this being the 'Fit for the Future'. The process was designed to transform the system of local government to ensure councils deliver better services and infrastructure to their communities.

Councils that did not meet the sustainability, service and infrastructure and efficiency benchmarks and who are not subject to a merger proposal have been invited to revise their improvement plans and resubmit them for assessment. Those that are assessed as being Fit for the Future will be eligible to access the TCorp borrowing facility.

Lithgow City Council has been identified as one of 14 councils to be invited to participate in the process.

The Office of Local Government has released Reassessment Guidelines for the councils involved in the process. This is the first in a series of reassessment processes and it applies only to the following councils:

- Those not satisfying the Financial Criteria in the IPART assessment; and
- Those not currently subject to a merger proposal.

Councils eligible for the first round of reassessment have until 29 July 2016 to submit their reassessment. A Council resolution is required to support the reassessment.

Fit for the Future

On 10 September 2014 the NSW State Government provided a response to the Independent Local Government Review Panel and Local Government Acts Taskforce reports, Fit For the Future. With the release of the templates and guidance for the Fit for the Future Program Council prepared a proposal consistent with the Fit for the Future criteria.

The package announced by the Government was a \$1 billion program aimed at making local government in NSW stronger and financially sustainable in the long term, and to help deliver jobs and infrastructure such as better roads, footpaths and sporting fields.

At the time the Fit for the Future package included:

1. \$258 million to assist councils who decide to merge and make the changes needed to provide better services to communities;
2. Cheaper finance for councils to build and maintain necessary community facilities, saving them up to \$600 million;
3. Up to \$100 million savings through reduced red tape and duplication;
4. Improvements to the local government system, including the laws that govern it, the way the State works with councils and the support that councils receive.

The Fit for the Future package was based on the Independent Local Government Review Panel's recommendations following three years of research and consultation. Following the release of the package a series of roundtable meetings were held with local councils throughout NSW to discuss the Fit for the Future package.

The NSW Government then asked that all councils undertake a self-assessment against the criteria.

Council will also recall that Centroc became a Pilot Joint Organisation of Councils (a Pilot) as mooted in the "Fit for the Future Joint Organisations a Roadmap for Intergovernmental Collaboration in NSW".

Council also sought input from the community on the issue and also provided advice through the community consultation sessions held in April and May 2015.

The Government established four criteria it considered necessary for a council to be 'Fit for the Future' (FFTF):

- Scale and capacity to engage effectively across community, industry and governments
- Sustainability
- Effectively managing infrastructure and delivering services for communities
- Efficiency

Benchmarks were identified for the above. These included:

1. Sustainability

- Operating Performance Ratio
- Own Source Revenue Ratio
- Building and Asset Renewal

2. Effective Infrastructure and service management

- Infrastructure Backlog Ratio
- Asset Maintenance Ratio
- Debt Service Ratio

3. Efficiency

- Real Operating Expenditure

The Government then asked IPART to perform the role of the independent Expert Panel to assess how council proposals met the FFTF criteria. Councils prepared proposals as to how they would meet the criteria over the medium term (ie, to 2019-20) for submission by 30 June 2015.

According to the Terms of Reference, IPART was to:

1. Develop a methodology for assessing proposals
2. Undertake the assessments of whether each council is FFTF, consistent with the methodology, and
3. Provide the Government with a final assessment report by 16 October 2015.

Original Submission

Council's submission was then prepared and workshopped with councillors. The starting point of this submission was the Local Government Independent Review Panel recommendation of:

“Council in Central West JO”

Therefore it was considered that the Panel believed that Lithgow City Council already had the scale and capacity. Lithgow City Council also assessed and presented its track record of strategic capacity against the elements proposed by the Review Panel.

Added to this, during 2014 Council's Mayor, Deputy Mayor and General Manager met with representatives from the surrounding and nearby councils of Bathurst, Blayney and Oberon to discuss options under the Fit for the Future proposals. The outcome of those discussions was that the councils believed that mergers were not considered appropriate for their respective council areas. Lithgow Council's submission was then prepared on the basis of a “stand alone” Council.

In addition to having scale and capacity as recommended by the Independent Local Government Review Panel (ILGRP), Lithgow City Council met several of the Fit for the Future criteria set by the NSW Government but did not meet all of the criteria.

As part of its submission Council identified that:

- TCorp previously assessed Council as being financially sustainable, with a ‘Sound’ financial sustainability rating
- Lithgow City Council was involved in an amalgamation process in 2004 where areas of the former Evans and Rylstone shires were included in the Lithgow LGA.
- Lithgow City Council had a long track record of operating under regional arrangements, including shared services and resource sharing through CENTROC and strategic alliances.
- Council is operating as per the Independent Review Panel Recommendation as a Council in a joint organisation
- Lithgow City Council is a strong performer in the delivery of large capital projects partnering with State and Federal Government funding bodies
- Council has implemented all recommendations from the 2007 Office of Local Government Promoting Better Practice Review, indicating that it is operating at best practice across all its operations
- Council participated in the NSW Local Government Professionals Operational and Management Effectiveness Survey demonstrating Council’s commitment to benchmarking performance and enabling management decisions to improve its performance
- Council was given a rating of ‘moderate’ in the OLG Infrastructure Audit demonstrating its performance in managing infrastructure

The original submission showed how Council performed in comparison to the set benchmarks as:

Criteria	Original Base Year – 2013/14	Original Target Year – 2019/20
1. Sustainability		
- Operating Performance Ratio	x	x
- Own Source Revenue Ratio	x	✓
- Building and Asset Renewal	✓	x
2. Effective Infrastructure and service management		
- Infrastructure Backlog Ratio	x	✓
- Asset Maintenance Ratio	x	✓
- Debt Service Ratio	✓	✓
3. Efficiency		
- Real Operating Expenditure	x	x

Improvements

Over a series of years Council has made many improvements to the organisation with this culminating in the winning of the AR Bluett Memorial Award. While not all of those improvements were financial ones there have none the less been a considerable number of improvements done to Council’s operations.

In recent years Council has been improving its financial position and/or operations by:

- Improved income through renegotiated rental arrangements for Council buildings and the implementation of S94A contributions
- Improved insurances, e.g. improved workers compensation premiums (this has included improved safety culture and management of claims), renegotiated public liability premiums, and property insurances are currently being renegotiated
- Improving and/or rearranging works practices, e.g. the management of tips, maintenance of street trees, street/park bin collections, online leave approvals, mobile inspection program
- Increased use of contracting, e.g. contract cleaning, street/park bin collections, concreting
- Review of plant fleet and needs resulting in; the disposal of low usage plant; holding light vehicles for longer periods/kilometres; reducing the number of vehicles leased to staff
- Improved internal processes, e.g. budget control, implementation of the PULSE system to improve corporate reporting
- Working collaboratively with the Regional Organisation of Councils (CENTROC) and the more recent Joint Organisation of Councils
- Minimising expenses, e.g. the installation of energy efficient lighting in Council buildings; the construction of the indoor 25 metre heated pool using natural ventilation and environmental friendly design resulting in major reduction in capital and operating costs. Also passive heating used to heat the concourse.
- Improved asset management systems
- Implementation of services that are cost neutral to Council, e.g. Septic Safe program

Reassessment Submission

The FFTF is principally about Council's General Fund. While the program does have impacts on Water and Sewer funds the financial benchmarks relate to General Fund only.

Over a number of years there have been many improvements to Council's financial position and operations, however the biggest negative impact on Council's financial position has been through increased depreciation. This has come about through two main reasons increased assets (e.g. new sealed roads; aquatic centre; public toilets; sporting facilities) and through the revaluation of assets on a rotating five year basis. This will be discussed in more detail below.

The forecasting presented by Council is based upon the Long Term Financial Plan (LTFP) adopted by Council. The base year in the LTFP is now the 2016-17 Operational Plan budget with projections in the LTFP based upon the following assumptions:

Item	Annual % Increase
Operating Revenue	
Rates and Annual Charges	2.4%
User Charges and Fees	3.0%
Interest and Investment Revenue	3.0%

Other Revenues	3.0%
Grants and Contributions – Operating	Static
Grants and Contributions – Capital	Static
Operating Expenses	
Employment Benefits and Oncosts	2.5%
Depreciation and Amortisation #	1.25%
Borrowing Costs	From Council's Loan Schedule
Materials and Contracts	2.0%
Other Expenses	2.0%

It is believed that, for the sake of conservatism, the increase for Depreciation and Amortisation should be increased to 1.5%. Some councils are using lower percentages than this.

The figures for Capital Grant and Contribution funding in the LTFP have been conservative. Following the discussions with officers from the Office of Local Government it was felt that these should be made more optimistic and reflective of past levels.

Depreciation

One of the biggest impacts to Council failing to meet the above criteria was that of depreciation. Councils are required to revalue their assets every five years. When the assets are revalued the depreciation expense typically increases. Given the level of assets that Council has this can have a very significant impact on Council's financial statements, and in fact has done very much so over recent years.

As at 30 June 2015 Council was carrying total Infrastructure, Property, Plant and Equipment assets of \$401,087,000. The assets were valued 'At Cost' or 'At Fair Value' of \$690,330,000 less Accumulated Depreciation of \$289,243,000. One of the targets of the original FFTF Improvement Proposal was to review the depreciation levels of Council. This has since been done and has identified that Council's depreciation levels for Footpaths, Stormwater, and Buildings are being depreciated at a faster rate than other councils in the state. It was also found that the depreciation of Council roads was at a lower level than other councils however this has been dealt with as part of the 2014-15 revaluation. The net result of this is that there is, subject to audit, an improvement of \$1,357,000. Council was allowing \$9,492,000 in the Long Term Financial Plan for the 2015-16 period. While this adjustment cannot be made until at least the 2016-17 period the depreciation level would be expected to be in the vicinity of \$8,135,000. Note that the depreciation expense for the 2014-15 period was \$7,482,000.

The improvement here will impact on several of the ratios but most importantly the Operating Performance Ratio and the Building and Asset Renewal Ratio.

The schedule for the revaluation of assets includes:

Asset Class	Year (by 30 June)	Year (by 30 June)
Community Land, other assets, land improvements	2011	2016
Water & Sewer	2012	2017
Property, plant and equipment, operational land, buildings	2013	2018
Rest Year	-	-
Roads, bridges, footpaths, drainage, bulk earthworks	2015	2020

Future Options

Council will see in the Reassessment Proposal Submission that further improvement is required in Council’s financial position to meet the benchmarks. The most critical benchmark to meet is the Operating Performance Ratio. In order to do this there are several options that Council may wish to consider:

1. Operational savings – without affecting services that Council continue to work on improvements to its operations that will result in savings, such savings would not result in reductions in services and minimal impacts on service levels
2. Reduce service levels – Council would continue to provide the same services but the quality of services would be reduced.
3. Remove services – services, or parts of services, would be removed altogether.
4. Rationalise Council’s asset base – this would include the disposal of Council assets
5. Seek a special rate variation (SRV) – In 2009 Council made application for a small special rate variation of 5%. This was for roads, buildings and improvements at the library. An increase excluding the library improvements of 4.77% was approved. Lithgow Council may wish to seek a further additional SRV to cover any shortfall. At present a SRV in the vicinity of 12% in addition to the 4.77% current SRV would be required to achieve the relevant ratios. The vast majority of councils in the state have in the past sought SRVs and many of these have been very significant increases
6. Increase revenues other than rates – that is increasing fees and charges
7. Look to raise additional revenue – here Council has limited opportunities

Recommended Direction

The Proposal has been prepared on the basis that Council use a combination of the above options and should the target benchmark ratios not be achieved by 30 June 2018 that Council then seek a Special Rate Variation. This would be an SRV in addition to the extension of the current 4.77%.

Based on this Council would then achieve the following benchmarks:

Criteria	Original Base Year – 2013/14	Original Target Year – 2019/20	Revised Target Year – 2020/21
1. Sustainability			
- Operating Performance Ratio	x	x	✓
- Own Source Revenue Ratio	x	✓	✓
- Building and Asset Renewal	✓	x	✓
2. Effective Infrastructure and service management			
- Infrastructure Backlog Ratio	x	✓	✓
- Asset Maintenance Ratio	x	✓	✓
- Debt Service Ratio	✓	✓	✓
3. Efficiency			
- Real Operating Expenditure	x	x	✓

Should any of the options impact on staffing levels the Council has obligations under the Award to consult with employees.

Note: The assumed inflation figure for the real Operating Expenditure Ratio is 2.5%

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

As outlined in the report.

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. FFTF Reassessment Guidelines May 2016
2. Lithgow City Council's Fit for the Future Reassessment submission to the NSW Government – Template 2

RECOMMENDATION

THAT:

1. Council continue to explore options to achieve the Fit For the Future benchmarks
2. Should Council be unable to identify sufficient improvements by 30 June 2018 that work commence on a special rate variation for the 2019-20 that includes a continuation of the existing 4.77% Special Rate Variation
3. Council endorse the Fit For the Future Reassessment Proposal Submission

**ITEM 2 ENVIRO - 27/07/16 - S96006/16 MODIFICATION OF CONSENT FOR
066/95DA - TOURIST TRAIN OPERATIONS - LITHGOW STATE
MINE RAILWAY**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

REFERENCE

Min No 1235: Ordinary Meeting of Council held on 16 October 1995
Min No 16-17: Ordinary Meeting of Council held on 18 July 2016

SUMMARY

To assess and recommend determination of modification of consent S96006/16 for DA066/95. Recommendation will be for approval subject to conditions.

COMMENTARY

Council is in receipt of a modification of development consent application from Lithgow State Mine Railway Ltd for 066/95DA in relation to a tourist train operation from State Mine site to Eskbank Station. The original approval was determined at the Council Meeting of 16 October 1995 in which a one year trial was undertaken and one trip completed. The original approval allowed 7 round trips on Sundays and restricted the use of the steam coal fired locomotive to once a month.

The proposal seeks to:

- Increase tourist train trips to 7 round trips per day for two weekends (Saturday & Sunday) per month, including the public holiday if it should fall on the same weekend.
- Additionally, operate one weekend a month with 14 round trips per day.
- Remove restrictions to the amount of times the steam locomotive can operate, which was once a month in previous consent.
- Set the hours of operation from 8.30am to 6.00pm.
- Change existing conditions that refer to older legislation.

The train route for the tourist train operation includes:

- State Mine Heritage Park
- Lake Pillans
- Blast Furnace Park
- Eskbank Goods Shed

The application was reported to Council on 18 July 2016 which resolved:

***THAT Council defer a decision on the Modification of Consent S96006/16 of
066/95DA until an onsite meeting is held.***

An onsite meeting was held on 23 July 2016 to discuss the application. The meeting was attended by the Mayor, Councillor Maree Statham, Councillor Thompson, Councillor Hunter, Councillor McGinnes and Councillor Pilbeam. 11 members of the

community attended although not all of the attendees were objectors to the proposal. Representatives of the applicant were also in attendance. As a result of this meeting and additional written submissions the following concerns were raised:

- Atkinson Street road and State Mine Gully Road need appropriate repairs as there is loose road surface and narrow sections. The area would benefit from any upgrades of these roads.
- A Flag man should be used at the crossing as it would improve safety and poor visibility for the crossing area.
- Buses for the tourist train operation should be directed to only park at other sites to reduce congestion of the road and issues of off street carparking at the State Mine site.
- A timeframe should be added to the replanting of unsuccessful vegetation for screen planting on the train route.
- A reduction of hours of operation should be implemented to control noise created by operation
- Weekends for the residents of the area should allow for peace and quiet and not 100 plus passenger trains going past.
- The requirement for more than 5 validated concerns should be changed as some areas of concern have small populations along the train line and in consequence would not have a large complaint rate to trigger investigations into noise.
- A speed hump could be implemented to reduce speed of traffic movements and reduce the noise of traffic as a result of the development
- The crossing needs to be clearly marked and better signage.
- The hours of operation proposed should be looked at to reduce impact on surrounding residential areas.

The majority of these issues were previously raised in submissions on this application and assessed within the 79C assessment report. No significant new issues of planning merit have arisen. However, the applicant has provided further justification and response to concerns raised from the community meeting in attachment 2 for Council's consideration on the application. It is noted that the applicant has endeavoured to clarify its intentions regarding the hours of operation, however it has sought a consent for a maximum number of round trips. Although operationally this may never eventuate it still needs to be assessed. Similarly with regard to hours of operation the applicant has endeavoured to explain how operations would dictate that it would be unlikely that trains would run before 10 AM and after 5:30 PM. However, the maximum hours may potentially still occur, albeit unlikely.

From the meeting and subsequent submissions an additional condition is proposed:

The applicant shall develop and implement a complaint/request handling procedure prior to the commencement of operations. Details of documented complaints and/or requests are to be provided to Council upon request.

Additionally, the condition relating landscaping now incorporates a requirement for unsuccessful landscaping to be replanted within 12 months of this consent.

OTHER MATTERS

Although an increase from the original development, the modified proposal is substantially the same and can be assessed under Section 96(1A) of the *Environmental Planning & Assessment Act 1979*. The proposal has been referred to the Rural Fire Service and State Rail Authority for comment in relation to modification, with no objections raised subject to conditions of consent. The application was also been notified to adjoining landowners for a period of 21 days with 9 submissions (8 being objections) received as previously reported to Council.

POLICY IMPLICATIONS

Policy 7.5 Notification of Development Applications

The notification policy was followed for this proposed modification of consent.

Policy 7.7 Calling In Of Development Applications by Councillors

It is considered that in this instance, given the increase of the proposal is significant, the application will be reported to a Council meeting for determination in accordance with this policy.

FINANCIAL IMPLICATIONS

Nil

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.
2. Response from applicant to concerns raised at Community meeting 23 July 2016.

RECOMMENDATION

THAT:

1. Modification of Consent S96006/16 of 066/95DA for tourist train operations be approved, subject to the conditions outlined 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.

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.*