



A CENTRE OF REGIONAL EXCELLENCE

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

10 OCTOBER 2016

AT 7.00pm

AGENDA

ACKNOWLEDGEMENT OF COUNTRY

APOLOGIES

PRESENT

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 29 AUGUST 2016

CONFIRMATION OF THE MINUTES OF THE EXTRA ORDINARY MEETING OF COUNCIL HELD ON 26 AUGUST 2016

CONFIRMATION OF THE MINUTES OF THE EXTRA ORDINARY MEETING OF COUNCIL HELD ON 28 SEPTEMBER 2016

DECLARATION OF INTEREST

PUBLIC FORUM

PRESENTATIONS

MAYORAL MINUTES

Mayoral Christmas Function

STAFF REPORTS

General Managers Reports

Environment and Development Reports

Operation Reports

Corporate and Community Reports

COUNCIL COMMITTEE MINUTES

CBD Revitalisation Committee - 29 June 2016

Traffic Advisory Local Committee - 18 August 2016

Crime Prevention Committee - 22 August 2016

Sports Advisory Committee Meeting Minutes - 30 August 2016

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

TABLE OF CONTENTS

<u>ITEM</u>	<u>TITLE</u>	<u>PAGE</u>
	<u>MAYORAL MINUTE</u>	<u>5</u>
<u>ITEM-1</u>	<u>MAYORAL MINUTE - 10/10/16 – MAYORAL CHRISTMAS FUNCTION</u>	<u>6</u>
	<u>GENERAL MANAGERS REPORTS</u>	<u>6</u>
<u>ITEM-2</u>	<u>GM - 10/10/16 - COUNCIL COMMITTEES AND EXTERNAL BODIES</u>	<u>6</u>
<u>ITEM-3</u>	<u>GM – 10/10/16 - LOCAL GOVERNMENT AMENDMENT (GOVERNANCE AND PLANNING) ACT</u>	<u>12</u>
<u>ITEM-4</u>	<u>GM - 10/10/16 - RETURNS UNDER SEC 449 LOCAL GOVERNMENT ACT 1993 DISCLOSING INTERESTS OF COUNCILLORS & DESIGNATED PERSONS</u>	<u>14</u>
<u>ITEM-5</u>	<u>GM – 10/10/16 - DELEGATIONS TO THE GENERAL MANAGER</u>	<u>17</u>
<u>ITEM-6</u>	<u>GM – 10/10/16 - FIT FOR THE FUTURE – JOINT ORGANISATIONS</u>	<u>20</u>
	<u>ENVIRONMENT AND DEVELOPMENT REPORTS</u>	<u>22</u>
<u>ITEM-7</u>	<u>ENVIRO – 101016 – CALLING IN OF DA244-15 CHILD CARE CENTRE- 22 LITHGOW STREET, LITHGOW NSW 2790</u>	<u>22</u>
<u>ITEM-8</u>	<u>ENVIRO - 10/10/16 - REPRESENTATION ON JOINT REGIONAL PLANNING PANEL</u>	<u>23</u>
<u>ITEM-9</u>	<u>ENVIRO – 10/10/16 – DA190/16 PROPOSED SHELTERED AREA AND RETAINING WALLS – LOT 56 DP 791926 (LAKE LYELL RECREATION PARK) –MAGPIE HOLLOW ROAD SOUTH BOWENFELS</u>	<u>25</u>
<u>ITEM-10</u>	<u>ENVIRO - 10/10/16 - EXEMPTION TO SECTION 94A CONTRIBUTIONS & S64 HEADWORKS CONTRIBUTIONS FOR PROPOSED THREE TREE LODGE EXTENSION</u>	<u>28</u>
<u>ITEM-11</u>	<u>ENVIRO – 10/10/15 – PROPOSED VARIATION TO COUNCIL COVENANT TO ALLOW CONSIDERATION OF DUAL OCCUPANCY - 25 PIMPALA STREET MARRANGAROO</u>	<u>31</u>
<u>ITEM-12</u>	<u>ENVIRO – 10/10/16 – HOWARD & SONS PYROTECHNICS COMMUNITY LIAISON COMMITTEE</u>	<u>33</u>
<u>ITEM-13</u>	<u>ENVIRO - 10/10/16 PROPOSED LOCALITY CHANGE FOR RECOGNITION OF PIPERS FLAT</u>	<u>35</u>
<u>ITEM-14</u>	<u>ENVIRO - 10/10/16 - DA099/16 PROPOSED DELIVERY SPREADING COMPACTING OF CLEAN FILL</u>	<u>39</u>

<u>ITEM-15</u>	<u>ENVIRO - 10/10/16 - STRATEGIC LANDUSE PLANNING PROJECTS STEERING COMMITTEE</u>	<u>43</u>
<u>ITEM-16</u>	<u>ENVIRO – 10/10/16 – OPERATION OF SMALL COMMUNITY HALLS</u>	<u>45</u>
<u>ITEM-17</u>	<u>ENVIRO - 10/10/16 - DA091/16 - SHADE STRUCTURE SKATE PARK LITHGOW</u>	<u>49</u>
<u>ITEM-18</u>	<u>ENVIRO - 10/10/16 - WALLERAWANG INDOOR SPORTS CENTRE USER AGREEMENT AND OTHER ASSOCIATED MATTERS</u>	<u>51</u>
	<u>OPERATION REPORTS</u>	<u>55</u>
<u>ITEM-19</u>	<u>OPER - 10/10/16 - WATER REPORT</u>	<u>55</u>
	<u>CORPORATE AND COMMUNITY REPORTS</u>	<u>59</u>
<u>ITEM-20</u>	<u>CORP - 10/10/16 - COUNCIL INVESTMENTS HELD TO 31 August 2016</u>	<u>59</u>
	<u>COUNCIL COMMITTEE MINUTES</u>	<u>63</u>
<u>ITEM-21</u>	<u>EXEC - 10/10/16 - CBD REVITALISATION COMMITTEE - 29 JUNE 2016</u>	<u>63</u>
<u>ITEM-22</u>	<u>OPER - 10/10/16 - TRAFFIC ADVISORY LOCAL COMMITTEE - 18 AUGUST 2016</u>	<u>64</u>
<u>ITEM-23</u>	<u>COMM - 10/10/16 - CRIME PREVENTION COMMITTEE - 22 AUGUST 2016</u>	<u>65</u>
<u>ITEM-24</u>	<u>OPER - 10/10/16 - SPORTS ADVISORY COMMITTEE MEETING MINUTES - 30 AUGUST 2016</u>	<u>66</u>
	<u>BUSINESS OF GREAT URGENCY</u>	<u>67</u>

MAYORAL MINUTE

ITEM 1 ORDINARY MEETING OF COUNCIL HELD ON 10/10/2016

REPORT BY: COUNCILLOR STEPHEN LESSLIE - MAYOR

SUMMARY

In order to recognise and build relations with the various community groups throughout the Local Government Area it is to be proposed that a Mayoral Christmas function be held.

COMMENTARY

The Lithgow Local Government Area is the home to many community groups that provide such great support to our wonderful community. These community groups are the social fabric to our area who provide the glue that holds the community together and makes it such a friendly and great place to live. These people share many bonds that makes the Lithgow LGA so culturally rich and socially cohesive.

To recognise this and thank those hardworking members of the community I propose that a celebration of their efforts be held in the lead up to Christmas with a Mayoral Christmas Party.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

That Council allocate \$5,000 for the event.

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council:

1. Authorise the holding of a Mayoral Christmas Party to include representatives from various community groups from across the Lithgow Local Government Area
2. Delegate the authority to the Mayor to select those to be invited to the event
3. Allocate a maximum of \$5,000 for the event

GENERAL MANAGERS REPORTS

ITEM-2 GM - 10/10/16 - COUNCIL COMMITTEES AND EXTERNAL BODIES

REPORT BY: R BAILEY – GENERAL MANAGER

SUMMARY

The purpose of this report is for Council to consider the appointment of councillors to s355 committees of Council and delegates to external committees, organisations and other working groups.

COMMENTARY

To assist Council in its role committees are appointed and also delegates to external bodies.

355 How does a council exercise its functions?

A function of a council may, subject to this Chapter, be exercised:

- (a) by the council by means of the councillors or employees, by its agents or contractors, by financial provision, by the provision of goods, equipment, services, amenities or facilities or by any other means, or*
- (b) by a committee of the council, or*
- (c) partly or jointly by the council and another person or persons, or*
- (d) jointly by the council and another council or councils (including by means of a Voluntary Regional Organisation of Councils of which the councils concerned are members), or*
- (e) by a delegate of the council (which may, for example, be a Voluntary Regional Organisation of Councils of which the council is a member).*

377 General power of the council to delegate

- (1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council, other than the following:*
 - (a) the appointment of a general manager,*
 - (b) the making of a rate,*
 - (c) a determination under section 549 as to the levying of a rate,*
 - (d) the making of a charge,*
 - (e) the fixing of a fee,*
 - (f) the borrowing of money,*
 - (g) the voting of money for expenditure on its works, services or operations,*
 - (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),*
 - (i) the acceptance of tenders which are required under this Act to be invited by the council,*

- (j) the adoption of an operational plan under section 405,
 - (k) the adoption of a financial statement included in an annual financial report,
 - (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
 - (m) the fixing of an amount or rate for the carrying out by the council of work on private land,
 - (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,
 - (o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the [Environmental Planning and Assessment Act 1979](#),
 - (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,
 - (q) a decision under section 356 to contribute money or otherwise grant financial assistance to persons,
 - (r) a decision under section 234 to grant leave of absence to the holder of a civic office,
 - (s) the making of an application, or the giving of a notice, to the Governor or Minister,
 - (t) this power of delegation,
 - (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.
- (2) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Departmental Chief Executive except as provided by the instrument of delegation to the council.

The following Committees and delegates were appointed:

Committees	2015/16 Representative
Environmental Advisory	Councillor Ticehurst Councillor Hunter
Operations Committee	Councillor Pilbeam Councillor Hunter Councillor Higlett General Manager
Traffic Advisory Local (TALC)	Councillor Pilbeam Councillor Thompson (Alternate)
Sports Advisory Committee	Councillor Inzitari Councillor Thompson
Internal Audit Committee	Councillor Statham Councillor Pilbeam (Alternate)
Lithgow Tourism Advisory	Councillor Higlett Councillor Statham
Economic Development Advisory	Councillor Higlett Councillor Inzitari

Community Development	Councillor Statham Councillor McAndrew
Youth Advisory Committee	Councillor Inzitari Councillor McAndrew
Lithgow Crime Prevention	Councillor Inzitari Councillor McAndrew
Disability Access	Councillor Statham Councillor Higlett
Crystal Theatre	Councillor Hunter Councillor Statham
Union Theatre	Councillor McGinnes Councillor Hunter
Meadow Flat Hall	Councillor Hunter Councillor Statham
CBD Revitalisation Action Plan Committee Note: Councillors represented are Mayor and Chairs of Council committees (TALC; EDAC; TAC and Operations)	Councillor Statham Councillor Higlett Councillor Inzitari Councillor Pilbeam Councillor Hunter General Manager
Howard & Sons Pyrotechnics Committee	Councillor Statham
Local Lithgow Heritage Advisory Committee	Councillor Statham Councillor Hunter Councillor Pilbeam
Rural Lands Study Project Steering Committee	Councillor Statham Councillor Thompson Councillor McAndrew
Mining Taskforce	Councillor Statham Councillor Thompson Councillor McAndrew
Business Taskforce	Councillor Statham Councillor Thompson Councillor McAndrew
Business and Industry Investment Committee	Councillor Statham Councillor Thompson Councillor McAndrew Councillor Inzitari The General Manager
External Committees and Organisations	
Arts Out West Committee	Councillors Statham
Bells Line of Road Group	Councillor Statham General Manager
Blue Mountains Tourism Limited	Councillor Statham Councillor Higlett (Alternate)
NSW Rural Fire Service Senior Management Team	Councillor Hunter
Lithgow Information & Neighbourhood Centre Inc (LINC)	Councillor Thompson Councillors Statham (Alternate)
Upper Macquarie County Council	Councillor Hunter Councillor Thompson

Centroc	Mayor General Manager
Pine Dale Coal Mine Community Committee	Councillor Hunter
Cullen Valley Coal Mine Community Committee	Councillor Inzitari
Invincible Coal Mine Community Committee	Councillor Statham
Clarence Coal Mine Community Committee	Councillor Pilbeam
Angus Place Coal Mine Community Committee	Councillor Statham
Association of Mining Related Councils	Councillor Statham Councillor Thompson (Alternate)
Lithgow Correctional Centre Committee	To be confirmed
Airly Mine Community Consultative Committee	Councillor Hunter
Newnes Sand and Kaolin Project Community Consultative Committee	Councillor Hunter
Inglenook Exploration Community Liaison Committee	Councillor Thompson
Eskbank Rail Heritage Centre Committee	Councillor Inzitari Councillor Hunter (Alternate)
Wolgan Valley Wilderness Railway Committee	Councillor Hunter Councillor Inzitari (Alternate)
Rural Fire Service Lithgow District Liaison Committee	Councillor Statham Councillor Hunter
Wallerawang Quarry Consultative Committee	Councillor Hunter

ADDITIONAL COMMENTS

Several of these committees are proposed to be dealt with in further detail later in this meeting. Further it is proposed that the following committees no be reformed and combined with other committees:

- Business Taskforce (joined with the Business and Industry Investment Committee).
- Heritage Advisory Committee – (joined with the Environmental Advisory Committee).
- Disability Access Committee – (joined with the Community Development Committee).

POLICY IMPLICATIONS

- Policy 4.1 Community Representatives – Appointment to Committees or Working Groups
- Code of Meeting Practice

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

Local Government Act 1993
Local Government (General) Regulations 2005

RECOMMENDATION

THAT Council:

1. Appoints councillor and others to the following S355 Committees of Council and External Committees and Organisations.

Committees	2016/17 Representative
Environmental Advisory	
Operations Committee	
Traffic Advisory Local (TALC)	
Sports Advisory Committee	
Internal Audit Committee	
Lithgow Tourism Advisory	
Economic Development Advisory	
Community Development	
Youth Advisory Committee	
Lithgow Crime Prevention	
CBD Revitalisation Action Plan Committee	
Mining Taskforce	
Business and Industry Investment	
General Manager Performance Review	
Arts Out West Committee	
Bells Line of Road Group	
NSW Rural Fire Service Senior Management Team	
Lithgow Information & Neighbourhood Centre Inc (LINC)	
Upper Macquarie County Council	
Centroc	
Pine Dale Coal Mine Community Committee	
Cullen Valley Coal Mine Community Committee	
Invincible Coal Mine Community Committee	
Clarence Coal Mine Community Committee	
Angus Place Coal Mine Community Committee	
Association of Mining Related Councils	
Lithgow Correctional Centre Committee	
Airly Mine Community Consultative	

Committee	
Newnes Sand and Kaolin Project Community Consultative Committee	
Inglenook Exploration Community Liaison Committee	
Eskbank Rail Heritage Centre Committee	
Wolgan Valley Wilderness Railway Committee	
Rural Fire Service Lithgow District Liaison Committee	
Wallerawang Quarry Consultative Committee	

2. Authorise these committees to act within the relevant committee's terms of reference and Council's Code of Meeting Practice.
3. Authorise the Councillors appointed to the respective Council committees to review the Terms of Reference for each committee, including committee membership and report to Council on the terms of reference.
4. Call for community nominations for each committee in accordance with the terms of reference.
5. Consider the following committees later in this meeting:
 - Crystal Theatre
 - Union Theatre
 - Mac Scott Memorial Hall
 - Howard and Sons Pyrotechnics
 - Rural Lands Study Project Steering Committee
6. Not reform the following committees:
 - Business Taskforce (joined with the Business and Industry Investment Committee)
 - Heritage Advisory Committee (joined with the Environmental Advisory Committee)
 - Disability Access Committee (joined with the Community Development Committee)

**ITEM-3 GM – 10/10/16 - LOCAL GOVERNMENT AMENDMENT
(GOVERNANCE AND PLANNING) ACT**

REPORT BY: R BAILEY – GENERAL MANAGER

SUMMARY

Through Circulars 16-30 and 16-35 the Office of Local Government has advised of changes to the Local Government Act 1993.

COMMENTARY

The NSW Parliament has passed amendments to the *Local Government Act 1993* (the LGA) known as the Phase 1 reforms. These amendments are focussing mainly on improving council governance and strategic business planning. Some of the amendments are now in force. Other amendments will be put in place over time.

The following relevant amendments are now in force:

- The term of office for a mayor elected by councillors have been **increased to two years** (section 230(1) LGA).
- All councillors, including mayors, are required to take an oath or affirmation of office (section 233A LGA).
- The organisational structure of a council is to be determined by:
 - o The governing body of the council, in consultation with the general manager, for senior staff positions; and
 - o The general manager, for the remainder of the positions in the organisation structure.
- Expenses and facilities policies are to be adopted by a council within 12 months of the term of a new council, instead of annually (section 252 LGA). Amendments to this policy are no longer required to be specifically notified to the Office of Local Government (section 253 LGA).
- The commencement of countback provisions has been deferred until a date prescribed for that purpose (section 291A). Any casual vacancies occurring in the office of a councillor following the 2016 ordinary elections will be required to be filled at a by-election held in accordance with section 291 of the LGA where otherwise required to be filled.
- New purposes and principles for local government;
- New roles and responsibilities for mayors, councillors and governing bodies;
- New functions of general managers;
- A clarification of the role of administrators and temporary administrators;

- An extension to the delegation power of a council to include the acceptance of tenders by the general manager for services, where those services are not currently provided by council staff; and
- A clarification that a mayor elected by councillors does not continue to hold mayoral office if they cease to hold office as a councillor.

The Phase 1 reforms that appoint the Auditor-General as the auditor of all councils come into force on 1 October 2016. Transition arrangements, including for new councils, for the 2015-16 and 2016-17 financial periods are set out in Schedule 8 of the LGA and in the *Local Government (General) Regulation*.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Office of Local Government Circular 16-30, Local Government Amendment (Governance and Planning) Act
2. Office of local Government Circular 16-35, More Phase 1 amendments to the Local Government Act

RECOMMENDATION

THAT Council note the Local Government Amendment (Governance and Planning) Act and the changes outlined in Office of Local Government Circular 16-30 and Circular 16-35.

ITEM-4 GM - 10/10/16 - RETURNS UNDER SEC 449 LOCAL GOVERNMENT ACT 1993 DISCLOSING INTERESTS OF COUNCILLORS & DESIGNATED PERSONS

REPORT BY - R BAILEY - GENERAL MANAGER

SUMMARY

To advise Council of returns lodged with the General Manager under Section 449 of the Local Government Act 1993 for Councillors & Designated Person for the period 1 July 2015 to 30 June 2016 and seek confirmation of the positions noted as designated persons.

COMMENTARY

Section 449 of the Local Government Act requires Councillors and designated persons to lodge returns under Section 449 for the period 1 July 2015 to 30 June 2016.

At the due date for the returns being 30 September 2016, all designated persons and all elected Councillors have now responded by supplying their completed return with the exception of Councillor Martin Ticehurst and Christopher Brice.

Section 449 states:

449 Returns disclosing interests of councillors and designated persons

- 1. A councillor or designated person must complete and lodge with the general manager, within 3 months after becoming a councillor or designated person, a return in the form in Part 1 of Schedule 3.*
- 2. A person need not lodge a return within the 3-month period after becoming a councillor or designated person if the person lodged a return in the previous year or if the person ceases to be a councillor or designated person within the 3-month period.*
- 3. A councillor or designated person holding that position at 30 June in any year must complete and lodge with the general manager within 3 months after that date a return in the form in Part 1 of Schedule 3.*
- 4. A person need not lodge a return within the 3-month period after 30 June in a year if the person lodged a return under subsection (1) within 3 months of 30 June in that year.*
- 5. Nothing in this section prevents a councillor or designated person from lodging more than one return in any year.*
- 6. Nothing in this section or Schedule 3 requires a person to disclose in a return lodged under this section an interest of the person's spouse or de facto partner or a relative of the person.*

Section 450A requires the returns lodged under section 449 to be tabled at a meeting of Council and as such the returns are available at this meeting.

Section 441 defines designated persons as:

- *the general manager*
- *other senior staff of the council*
- *a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest*
- *a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.*

In addition to the General Manager the following positions have been classified as designated persons:

- Group Manager Environment & Development
- Group Manager Operations
- Group Manager Corporate & Community
- Finance Manager
- Development Manager
- Water & Waste Water Manager
- Information Technology Manager
- Community & Culture Manager
- Tourism Manager
- Team Leader Building
- Team Leader Development Planning
- Team Leader Environment
- Strategic Land Use Planner
- Land Use Property Officer
- Building & Development Officers (4)

Newly elected councillors are required under the same section of the Act to provide their completed return within 3 months of being elected, i.e. by 16 December 2016.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council:

1. Acknowledge the disclosures received under Section 449 of the Local Government Act 1993 for the period 1 July 2015 to 30 June 2016 from all designated persons and all Councillors exception of Councillor Martin Ticehurst and Christopher Brice.
2. Reaffirm the following positions as 'designated persons' for the period 1 July 2016 to 30 June 2017:
 - Group Manager Environment & Development
 - Group Manager Operations
 - Group Manager Corporate & Community
 - Finance Manager
 - Development Manager
 - Water & Waste Water Manager
 - Information Technology Manager
 - Community & Culture Manager
 - Tourism Manager
 - Team Leader Building
 - Team Leader Development Planning
 - Team Leader Environment
 - Strategic Land Use Planner
 - Land Use Property Officer
 - Building & Development Officers (4)
3. Note that newly elected councillors are to submit their Disclosure of Interest Returns by 16 December 2016.

ITEM-5 GM – 10/10/16 - DELEGATIONS TO THE GENERAL MANAGER

REPORT BY: R BAILEY – GENERAL MANAGER

SUMMARY

For the effective management of Council delegations need to be provided to certain persons and groups, including to the General Manager.

COMMENTARY

Council is required, under Section 380 of the New South Wales Local Government Act (1993), to review its delegation of functions during the first 12 months of each term of office.

Council may delegate certain functions to the general manager, this delegation must be made by a council resolution (ss 377-381). However Council cannot delegate the functions set out in section 377(1) of the Act.

Under the Act the general manager may in turn sub-delegate a function delegated by the council (s378). However, the general manager still retains responsibility to ensure that any sub-delegated function is carried out appropriately.

Where functions are delegated to the general manager to perform on behalf of a council, it is important for the council to ensure there are policies in place to guide the decision making. Such policies of Council should be kept, and are, under regular review. Most Council policies will be presented to Council for review over the coming months.

Where authority to make a decision is delegated this does not remove a council's authority to make a decision, e.g. the calling in of development applications.

The relevant sections of the Act include:

355 How does a council exercise its functions?

A function of a council may, subject to this Chapter, be exercised:

- (a) by the council by means of the councillors or employees, by its agents or contractors, by financial provision, by the provision of goods, equipment, services, amenities or facilities or by any other means, or*
- (b) by a committee of the council, or*
- (c) partly or jointly by the council and another person or persons, or*
- (d) jointly by the council and another council or councils (including by means of a Voluntary Regional Organisation of Councils of which the councils concerned are members), or*
- (e) by a delegate of the council (which may, for example, be a Voluntary Regional Organisation of Councils of which the council is a member).*

377 General power of the council to delegate

- (1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council, other than the following:
- (a) the appointment of a general manager,
 - (b) the making of a rate,
 - (c) a determination under section 549 as to the levying of a rate,
 - (d) the making of a charge,
 - (e) the fixing of a fee,
 - (f) the borrowing of money,
 - (g) the voting of money for expenditure on its works, services or operations,
 - (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),
 - (i) the acceptance of tenders which are required under this Act to be invited by the council,
 - (j) the adoption of an operational plan under section 405,
 - (k) the adoption of a financial statement included in an annual financial report,
 - (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
 - (m) the fixing of an amount or rate for the carrying out by the council of work on private land,
 - (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,
 - (o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979,
 - (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,
 - (q) a decision under section 356 to contribute money or otherwise grant financial assistance to persons,
 - (r) a decision under section 234 to grant leave of absence to the holder of a civic office,
 - (s) the making of an application, or the giving of a notice, to the Governor or Minister,
 - (t) this power of delegation,
 - (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.
- (2) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Director-General except as provided by the instrument of delegation to the council.

378 Delegations by the general manager

- (1) The general manager may delegate any of the functions of the general manager, other than this power of delegation.

- (2) *The general manager may sub-delegate a function delegated to the general manager by the council to any person or body (including another employee of the council).*
- (3) *Subsection (2) extends to a function sub-delegated to the general manager by the council under section 377 (2).*

POLICY IMPLICATIONS

As outlined in the report.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

As outlined in the report.

This will also satisfy, in part, the requirement of Section 380 of the Local Government Act 1993 to review all delegations within the first 12 months of each term of office.

RECOMMENDATION

THAT Council delegate to the General Manager, Roger William Bailey, the authority to exercise all discretionary functions that Council is capable of delegating and is not prohibited from so doing under section 377 of the Local Government Act, 1993, and also excluding any specific functions which Council has, by resolution, reserved to Council.

ITEM-6 GM – 10/10/16 - FIT FOR THE FUTURE – JOINT ORGANISATIONS

REPORT BY: R BAILEY – GENERAL MANAGER

SUMMARY

The New South Wales Government has released a paper in relation to Joint Organisations and is seeking submissions from councils on the document.

COMMENTARY

Councils in regional and rural NSW will be required to form joint organisations (JOs) in 2017 to undertake regional strategic planning, intergovernmental collaboration and regional leadership and advocacy. JOs are a major part of the NSW Government's plan to strengthen local government and revitalise regional NSW by giving all councils and communities a stronger voice.

The intent is for JOs to make it easier for councils to undertake regional projects by working with the NSW Government to deliver the services for regional and rural communities such as roads and bridges.

The model for JOs is currently being developed and this is being done in consultation with councils.

The NSW Government has released a paper "Joint Organisations: Getting the Boundaries Right". The paper includes a proposed map of JO boundaries for discussion and consideration.

The NSW Government is now moving from piloting JOs to consolidating and forming JOs across the state. Currently there are five Pilot Joint Organisation regions (Central NSW, Illawarra, Hunter, Namoi and Riverina) of which Lithgow is part of the Central NSW JO.

Within the paper it is proposed that Lithgow City Council be included in the Central West Joint Organisation, which includes the following councils:

- Oberon #1
- Bathurst Regional #1
- Blayney #2
- Orange #2
- Cabonne #2
- Cowra
- Weddin
- Forbes
- Parkes
- Lachlan

Note: The councils marked #1 and #2 are currently proposed to be merged.

In past years the current Central West Regional Organisation of Councils (Centroc) has included these councils as well as others such as:

- Mid-Western Regional (not presently a member and proposed for the Orana JO)
- Upper Lachlan (currently a member but proposed for the Canberra Region JO)
- Hilltops (formerly Young, Boorowa and Harden councils of which Young and Boorowa were members of Centroc and Harden a former member but is now proposed for the Canberra Region JO)

Councils are invited to respond to the NSW Government's consultation paper on proposed joint organisation boundaries by Thursday 27 October.

POLICY IMPLICATIONS

As outlined in the report.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

This will involve the formation of a new organisation. Legislation is yet to be written as to how these organisations will operate.

RECOMMENDATION

THAT Council:

1. Note the report in relation to Joint Organisations and the paper "Getting the Boundaries Right"
2. Support the creation of Joint Organisations
3. Support the inclusion of Lithgow City Council in the Central NSW Joint Organisation

ENVIRONMENT AND DEVELOPMENT REPORTS

ITEM-7 ENVIRO – 10/10/16 – CALLING IN OF DA244-15 CHILD CARE CENTRE- 22 LITHGOW STREET, LITHGOW NSW 2790

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

To inform Council of the ‘calling in’ of DA244/15 pursuant to Council Policy 7.7 “Calling in of Applications by Councillors”.

COMMENTARY

A Development Application has been received for a child care centre (85 children and 14 staff) at Lot 1 DP786694, 22 Lithgow Street, Lithgow NSW 2790. This application is currently being reviewed by the Traffic Advisory Local Committee (TALC). The application has been called in for determination by former Councillor Pilbeam.

POLICY IMPLICATIONS

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

3. *Should written notice, signed by a minimum of one (1) Councillor, be received by the General Manager prior to determination of a development application or development application/construction certificate, the application shall not be determined under delegated authority but shall be:*
 - *Reported to the next Ordinary Meeting for the information of Council that the development application or development application/construction certificate has been “called in”; and*
 - *Reported to an Ordinary Meeting of Council for determination.*

This report is in relation to point one above.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

No specific implications at this point of the process.

RECOMMENDATION

THAT the calling in of DA244/15 for a Child Care Centre at 22 Lithgow Street, Lithgow be noted.

**ITEM-8 ENVIRO - 10/10/16 - REPRESENTATION ON JOINT REGIONAL
 PLANNING PANEL**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

To nominate members to the Western Joint Regional Planning Panel

COMMENTARY

Joint Regional Planning Panels provide independent, merit-based decision making on regionally significant development. Applications for regionally significant development are notified and assessed by local council professional staff and then determined by the relevant regional panel.

Regional panels determine the following types of regional development:

- development with a capital investment value (CIV) over \$20 million
- development with a CIV over \$5 million which is:
 - council related,
 - lodged by or on behalf of the Crown (State of NSW)
 - private infrastructure and community facilities, or
 - eco-tourist facilities
- extractive industries, waste facilities and marinas that are designated development,
- certain coastal subdivisions,
- development with a CIV between \$10 million and \$20 million which are referred to the regional panel by the applicant after 120 days,
- modifications to regional development under Section 96 (2) of the *Environmental Planning and Assessment Act 1979* (the Act), and
- crown development applications (with a CIV under \$5 million) referred to the regional panel by the applicant or local council after 70 days from lodgement as undetermined, including where recommended conditions are in dispute.

Developments that meet State Significant Development criteria are not determined by regional panels.

Regional panels may also have a role in planning proposals (rezonings), where the Minister for Planning has appointed the regional panel to act as the relevant planning authority (RPA) or has requested the regional panel to undertake a pre or post Gateway review.

There are six regional panels across New South Wales including one for the western region.

Council is required to nominate two (2) persons as nominees to the Regional Panel to sit on proposals within the Lithgow Local Government Area. In accordance with Schedule 4 of the Environmental Planning & Assessment Act 1979, at least one (1) of the nominated persons must have expertise in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism. The appointment of the Group Manager Environment and Development to the panel has normally covered this role. A Councillor is usually appointed to the other position and an alternate also provided. This has normally been the Mayor and another Councillor nominated as the Alternate. The term of membership to the panel is 3 years.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

The membership and operation of Joint Regional Planning Panels is provided in the Environmental Planning and Assessment Act.

RECOMMENDATION

THAT

1. Council nominate one (1) Councillor and one (1) Alternate Councillor to the Western Joint Regional Planning Panel for the requisite term.
2. Council's Group Manager Environment and Development be nominated to the Western Joint Regional Planning Panel for the requisite term.

**ITEM-9 ENVIRO – 10/10/16 – DA190/16 PROPOSED SHELTERED
AREA AND RETAINING WALLS – LOT 56 DP 791926 (LAKE
LYELL RECREATION PARK) – MAGPIE HOLLOW ROAD
SOUTH BOWENFELS**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

To determine Development Application DA190/16 for a proposed sheltered area and retaining walls at Lake Lyell Recreation Park, Magpie Hollow Road South Bowenfels

COMMENTARY

Council is in receipt of a Development Application DA190/16 on behalf of Lithgow City Council for proposed sheltered area and retaining walls on land known as Lot 56 DP 791926, Lake Lyell Recreation Park, Magpie Hollow Road South Bowenfels. The purpose of this development is to provide users of the park with a sheltered area.

The proposal provides for the construction of a sheltered area having a floor area of 128m². The structures are proposed to be located 3 metres from the existing dwelling and approximately 20m from the Magpie Hollow Road alignment. The gable roofed structures comprise of a steel frame and Colorbond sheet roof having a 12 degree pitch and overall height of approximately 3.25 metres above finished ground level. The proposal also provides for the construction of various retaining walls (as required) to achieve a level building platform.

The site currently contains the existing caretakers residence and associated facilities, garage and visitor carparking areas.

It is considered that the proposal will be of minimal impact on the adjoining properties as land adjoining the site is zoned for the purpose of Electricity Generation. The closest residential property is located on Magpie Hollow Road approximately 700m from the development site.

POLICY IMPLICATIONS

Policy 7.1 Filling and Levelling of Land

The proposal provides for associated earthworks to achieve a level building platform. Given a Development Application has been submitted for consideration the provisions of this policy are satisfied.

Policy 7.5 Notification Of Development Applications

This policy applies to the development, however the following clause does not require Council to notify this particular application:

2. Applications for Which Notification Will Not Be Given Under This Policy

Development applications for the following types of development will not be notified. (NB: Any structure must conform to applicable setback requirements):

- *Any other development of a minor nature that, in the opinion of the assessing officer, does not have the potential to create a negative impact on the amenity of the neighbourhood by way of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.*

Given the isolated nature of the development in respect to residential properties (approximately 700 metres), relatively minor scale of the development and the existing established outdoor recreation use, the development was not notified to adjoining land owners as the development is considered to not have the potential to create a negative impact on the amenity of the neighbourhood.

Policy 7.6 Development Applications By Councillors And Staff Or On Council Owned Land

Clause 1 of this policy states '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 on Council owned land, that such an application be referred to Council' for consideration and determination.

Accordingly as the proposed development is located on Council land, the application must be determined by Council in accordance with the provisions of this policy.

FINANCIAL IMPLICATIONS

The contractor at Lake Lyell will be responsible for all costs associated with this development.

LEGAL IMPLICATIONS

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

ATTACHMENTS

1. Section 79C report.

RECOMMENDATION

THAT:

1. Council approve DA 190/16 for a sheltered area and retaining walls at Magpie Hollow Road South Bowenfels (Lake Lyell Recreation Park), in

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

**ITEM-10 ENVIRO - 10/10/16 - EXEMPTION TO SECTION 94A
CONTRIBUTIONS & S64 HEADWORKS CONTRIBUTIONS FOR
PROPOSED THREE TREE LODGE EXTENSION**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

This report asks Council to consider an exemption to Section 94A contributions required under Section 94A Development Contributions Plan 2015 and Section 64 Headworks contributions under *Local Government Act 1993* in relation to a development proposal for an extension to Three Tree Lodge.

COMMENTARY

A Development Application DA200/16 from Three Tree Lodge has been lodged for land known as Lot 2 DP1068159, 2A Col Drewe Drive, South Bowenfels NSW 2790. The proposal involves::

1. Relocating the existing maintenance shed and enclosure of the annex for maintenance purposes;
2. Construction of a new residential care facility building with nine (9) bed rooms (total eight (8) new beds) and communal facilities;
3. Construction of a new dementia day care facility with two (2) unlicensed rooms with beds for emergency respite;
4. Additional communal spaces including two (2) domestic style kitchenettes & dining;
5. Attachment to existing Building 5 with minor internal reconfiguration and loss of one (1) dementia bedroom;
6. Suitable and secure outdoor landscaped spaced;
7. Additional at-grade car parking area (7 spaces) to east of the new building;
8. Provision of new pedestrian (visitor and staff) accesses to dementia wing and day-care areas
9. Ancillary cut and fill (earthworks) and retaining walls;
10. Associated connections to utilities, landscaping, driveways and vehicle parking and manoeuvring areas.

The applicant has requested that an exemption to the Section 94A Development Contributions Plan 2015 and an exemption to Section 64 headworks contributions, set by the Fees & Charges 2016/2017 as per the *Local Government Act 1993* be considered by Council. The full requests and justification provided in writing by Three Tree Lodge are provided in Attachments to the business paper.

This type of development may be categorised as a privately funded community infrastructure project that will benefit the community. It will assist in addressing the identified need for aged care given the increased ageing population within the Lithgow Local Government Area. Therefore, although an exemption from Section 94A Contributions and Section 64 Contributions will result in Council forgoing

potentially \$58,857.96 in revenue the benefits provided by the development will be significant.

OTHER MATTERS

The application will be determined under delegation once a full assessment has been completed. The application is currently being assessed by the Council officers and Water NSW.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The contributions applicable to the development are detailed below:

Section 94A Development Contribution Plan 2015		
Estimated Cost: \$3,860,796.50	1% Levy for estimated costs over \$200,000	Total Contribution: \$38,607.96
Section 64 Local Government Act 1993- Headworks Contributions		
Water Directorate Section 64 Determinations of Equivalent Tenements (ET) Guidelines - May 2009	2016/2017 Fees & Charges:	Total Contribution:
Table 2: Accommodation per bed, Nursing Home/ Special Care Home: Water = 0.5 ET x 8beds Sewer= 0.75 ET x 8beds	South Bowenfels Water: \$1500.00 per E.T	Water = \$1500.00 x 4 = \$6,000.00
	South Bowenfels Sewer: \$1700.00 per E.T	Sewer = \$1700.00 x 6 = \$10,200.00

A total contribution of \$54,807.96 would apply for this development. However, it has been requested by the applicant that consideration to an exemption of the S94A Plan and Section 64 Headworks Contributions be applied. Therefore Council would not receive the contribution if it agreed to exempt payment of these contributions.

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Letter from Three Tree Lodge requesting exemption to Section 94A Contributions.
2. Letter from Three Tree Lodge requesting exemption to Section 64 Headworks Contributions.

RECOMMENDATION

THAT an exemption to contributions under Council's Section 94A Development Contribution Plan 2015 and Section 64 Headworks Contributions be applied to DA200/16 for Three Tree Lodge, given the development is to be carried out by a non for profit organisation for privately funded essential community infrastructure.

**ITEM-11 ENVIRO – 10/10/15 – PROPOSED VARIATION TO COUNCIL
COVENANT TO ALLOW CONSIDERATION OF DUAL
OCCUPANCY - 25 PIMPALA STREET MARRANGAROO**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

To advise Council of a Development Application for a dual occupancy at 25 Pimpala Street, Marrangaroo NSW 2790 and a request for a variation to a Council imposed covenant so the application may proceed.

COMMENTARY

A Development Application (DA238/16) for a dual occupancy has been submitted for Lot 33 DP793965, 25 Pimpala Street, Marrangaroo. The land currently retains one dwelling on the 4000m² lot which is zoned R2 Low Density Residential under Lithgow Local Environmental Plan 2014 (LEP2014).

This land was subdivided in 1989 by Council as part of the Marrangaroo Estate and at this time the following covenant was imposed on the title:

8. (a) That no more than one (1) main building shall be erected on the land hereby burdened.

Council has the power to vary or modify the above covenant if requested for any land burdened. Therefore, it has been requested that Council consider the variation to the covenant to allow the dual occupancy on Lot 33 DP793965 which is otherwise permissible under LEP2014.

OTHER MATTERS

All landowners within the Marrangaroo Estate are subject to the restriction on dual occupancies and should be provided the opportunity to comment on this proposal. A notification to all landowners should be undertaken prior to the determination of the application.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

The following Clause of the Lithgow Environmental Plan 2014 (LEP) is applicable to the development:

1.9A Suspension of covenants, agreements and instruments

(1) *For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.*

(2) *This clause does not apply:*

- (a) *to a covenant imposed by the Council or that the Council requires to be imposed, or*
- (b) *to any prescribed instrument within the meaning of section 183A of the Crown Lands Act 1989, or*
- (c) *to any conservation agreement within the meaning of the National Parks and Wildlife Act 1974, or*
- (d) *to any Trust agreement within the meaning of the Nature Conservation Trust Act 2001, or*
- (e) *to any property vegetation plan within the meaning of the Native Vegetation Act 2003, or*
- (f) *to any biobanking agreement within the meaning of Part 7A of the Threatened Species Conservation Act 1995, or*
- (g) *to any planning agreement within the meaning of Division 6 of Part 4 of the Act.*

(3) *This clause does not affect the rights or interests of any public authority under any registered instrument.*

(4) *Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).*

When assessing a Development Application, private covenants imposed on lots by a developer are not usually considered due to Clause 1.9A(1) above. However, in this instance, Council was the developer that imposed the covenant on the land as part of the subdivision in 1989 and therefore Clause 1.9A(2)(a) is applicable.

Council is the party empowered to release, vary or modify the covenant. The decision to vary the covenant relates to Council's original role as a developer of the subdivision and not that of a regulatory authority.

RECOMMENDATION

THAT

1. Council notify all relevant landowners within the Marrangaroo Estate of the potential variation to the Council covenant that restricts dual occupancy.
2. If no objections are received to the variation within a period of 14 days the determination of DA238/16 be completed under delegated authority.
3. If any objection is received, DA238/16 be reported to Council for determination.

**ITEM-12 ENVIRO – 10/10/16 – HOWARD & SONS PYROTECHNICS
 COMMUNITY LIAISON COMMITTEE**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

REFERENCE

Min 12-470: Ordinary Meeting of Council held 17 December 2012

SUMMARY

To update Council on the operations of the Howard & Sons Community Liaison Committee.

COMMENTARY

The Howard & Sons Community Liaison Committee (HSC) was created by a development consent condition associated with DA190/09 for the demolition and rebuilding of sheds, magazines and earthworks for a pyrotechnics facility at Pipers Flat Road Wallerawang.

DA190/09 condition 83 states:

83. A Community Liaison Committee is to be established by Council with a charter to monitor strict adherence to the terms of consent.

However, DA190/09 has not been activated for the site and the pyrotechnics facility is still operating under previous approval DA449/00. As a result of representations from an individual claiming to represent the community, it was agreed by Council at its meeting of 17 December 2012, that the HSC could be formed even though the condition of consent for DA190/09 did not require this.

When the HSC was first formed, the committee was interested in works undertaken at the site and ongoing investigations into the previous incident/s at the Wallerawang site. However, recently there have been minimal meaningful discussions and less consistent meeting attendance. The Terms of Reference state that a meeting is to be held quarterly and in the last year only one meeting has been successfully held. At the latest meeting the 27 April 2016, there was minimal discussions regarding operations onsite other than an update from Howard & Sons Pyrotechnics.

Given the condition of consent 83 for DA190/09 is not required to be met and there is minimal concerns being raised, the HSC has become largely redundant. There is a drain on both staff and Councillor time in preparing agenda's, attending meetings, taking minutes and preparing reports to Council with little meaningful outcome. Under these circumstances it is suggested that the committee not be reformed for this term of Council.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Terms of Reference for HSC

RECOMMENDATION

THAT the Howard & Sons Community Liaison Committee not be reformed.

**ITEM-13 ENVIRO - 10/10/16 PROPOSED LOCALITY CHANGE FOR
RECOGNITION OF PIPERS FLAT**

REPORT BY: A MUIR- GROUP MANAGER ENVIRONMENT & DEVELOPMENT

REFERENCE

Min No- 14-331: Ordinary Meeting 18 August 2014
Min No- 15-06: Ordinary Meeting 9 February 2016

SUMMARY

To update Council on the progress of formally recognising ‘Pipers Flat’ as a locality within the Lithgow Local Government Area.

COMMENTARY

The proposal to formally recognise the locality name ‘Pipers Flat’ was initially considered by Council on 18 August 2014 which resolved the following:

THAT

- 1. Council call for submissions on the proposed locality name of “Pipers Flat” as per Map 1 in the preceding report for a period of twenty eight (28) days through advertising in the local newspapers, notifying authorities and affected residents.*
- 2. If objections are received a report be brought back to Council for consideration.*
- 3. If no objections are received Council continue with the locality naming of ‘Pipers Flat’ by notifying the Geographical Names Board of the proposal and advertising in the Government Gazette. Once completed Council will notify appropriate landowners and emergency services of the change and arrange for appropriate signage.*

The advertisement and notification to affected residents and authorities was undertaken with four (4) submissions received. Three (3) residential submissions were in favour of the proposal and one submission from Australia Post was against the proposal. Australia Post raised the following issues with the proposal:

- The proposed changes to parts of both Portland and Wallerawang will adversely affect mail flows for many of our customers.
- Naming this area Pipers Flat, and the assigning of a postcode (only one per locality) whether it be Portland’s 2847 or Wallerawang’s 2845, will result in many residents being further inconvenienced.
- If a customer who currently lives on the Wallerawang side of ‘Pipers Flat’ then has to travel into Portland to get their mail – they’re not going to be happy. The same would apply if a customer lived on the

Portland side of 'Pipers Flat' and now had to travel into Wallerawang to pick up their mail.

- This could also have adverse effects on the Local Post Offices (LPO) that face a loss of business. Wallerawang or Portland LPOs could become unviable if they were to lose Australia Post customers and associated foot traffic through their mixed business stores.
- Australia Post's position is that there is no need for a change to be made. Council could write to their constituents and advise that 'Pipers Flat' has been used in error, advising them of their correct locality.

A report was brought back to Council on 9 February 2015 which resolved:

That:

1. Council continue working with the Australia Post seeking a solution to Australia Post concerns regarding the locality naming of Pipers Flat.
2. Residents who were previously notified of the proposal be advised.
3. The views of the post office operators at Portland and Wallerawang be sought.

A meeting with Australia Post and Council Officers was undertaken to find a solution to the matter and ongoing correspondence was requested over a period of 10 months. Letters were sent on 5 March 2015, 28 September 2015, 10 December 2015 and 21 March 2016. Minimal information to date could be provided by Australia Post with regard to direct impacts on the Post Offices other than the below responses.

The following concerns were raised by Australia Post- Rural South Mail Network on 17 December 2015:

"There is no need to change parts of Portland and Wallerawang to create a new locality called 'Pipers Flat'. Customers who live outside the delivery zone of Portland currently pick their mail up from a Portland LPO.. Customers who live outside the delivery zone of Wallerawang currently pick up their mail from Wallerawang LPO. There has been no issue raised regarding these arrangements. Should the Pipers Flat proposal go ahead customers from one of those current areas are going to be adversely affected. Australia Post has no plans to introduce a mail delivery service in the area. This would result in these customers having to travel to a different LPO location to pick up mail. This in turn could have a dire effect on LPO that loses this custom.

Australia Post is committed to ensuring the viability of our LPO network- reducing the potential customers an LPO services could mean that LPO is no longer viable- which would then effect the whole town. The licences of both Portland and Wallerawang are comfortable with how their businesses are going and do not wish to see any changes to the location boundaries, or names, in their areas."

The following response was received by Portland Post Office on 24 March 2016:

“Subdividing the area will be to our detriment. Leaving the area and the mail service the way it is at the moment would be ideal. We stand to lose massive amounts of revenue and hence, not be feasible to remain open as a business.”

Residents were notified of the Australia Post issues as a result of resolution of Council from 9 February 2015, with the following comments received by two submissions:

- Roadside delivery is not provided and therefore postal addresses would not change as a result of the proposed locality. Everyone has their own postal address and may use whichever post office they prefer.
- There are a number of outlying areas that received a roadside delivery that are more out of town than this area and they all have the same postcode of 2790. This should not be an issue when changing the locality. The road side service to this area would alleviate many of the concerns raised by Australia Post.
- Pipers Flat has played a major role within the history of the community with Pipers Flat Station opening in 15 May 1882 and with the general mining and rail history.
- We do not live in Portland or Wallerawang and Pipers Flat is historic in the community. All locals know where the location is and not changing it will cause emergency services issues.
- We do not live in a Post Office Box and the locality name will not change the customers of the post offices dramatically.

Therefore, as a result of all submissions received by Australia Post and residents, Council was at an impasse and sought the assistance of the Geographical Names Board on a way forward. A response was received on 5 July 2016 with the following comment:

“With reference to your letter dated 2 June 2016, I reviewed the proposal and it meets the principles outlined in the NSW Addressing User Manual (AUM) for a new locality to be considered.

However a major consideration for the Board is the impact on emergency services and other public services (such as mail delivery). Locality proposals should ensure that operations will not be adversely affected.

It is important to note that the proposal has not been considered by the Board and the advice listed above is not endorsed or direction of the Board. The Board will consider each proposal on its merits and will also look at the history of the area and other relevant information when considering a proposal to create a new locality.”

In conclusion, the process undertaken to try and resolve this matter has been arduous. Assigning what is considered to be the traditional locality name seems

quite reasonable. However, the issues raised by Australia Post cannot be discounted and given their position the request for a new locality of Pipers Flat may not be supported by the Geographical Names Board. Therefore, regrettably, it is recommended that the process to officially acknowledge the locality of Pipers Flat not be undertaken at this time.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Proposed Pipers Flat locality boundary

RECOMMENDATION

THAT

1. Council not proceed with the process of officially naming the locality of Pipers Flat.
2. Property owners within the proposed area and emergency services be notified that the locality naming will not be proceeding.

**ITEM-14 ENVIRO - 10/10/16 - DA099/16 PROPOSED DELIVERY
SPREADING COMPACTING OF CLEAN FILL**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

To assess and recommend determination of DA099/16 for the proposed delivery, spreading and compacting of clean fill at State Mine Gully Road, Lithgow NSW 2790.

COMMENTARY

Council is in receipt of a Development Application DA099/16 from COC Limited for the delivery, spreading and compacting of clean fill on land known as Lot 931 DP 868140, State Mine Gully Road Lithgow NSW 2790.

The proposal is for the placement of 10,000 tonnes of clean fill (materials from Bells Line of Road upgrade works) at the old Lithgow Power Station site. The material will be levelled to a height less than 3m with the provision of suitable drainage. Some vegetation (approximately 0.25ha) will be removed from the site as part of the process. The purpose of the fill is to allow for future proposals to improve and develop the site which is difficult in its current state.

Works will be undertaken from 7am to 6pm Monday to Friday and 8am to 1pm Saturdays with no works on Sunday or Public Holidays. The fill will be trucked to site in 30t loads which will require between 300 and 350 truck movements.

Lithgow Local Environmental Plan 2014

The proposed earthworks have been assessed and are not expected to have an adverse effect on the values of the area and are compliant with the objectives of the E3 Environmental Management zoning. The proposal has been assessed by Water NSW in relation to impacts to receiving waters and found to be acceptable subject to conditions of consent.

The proposal will include drainage works to ensure the stability of the site and conditions of consent will be imposed to ensure erosion and sedimentation controls are in place.

The proposal may allow for a better reuse of the site into the future by levelling the land with clean fill. The quality of fill will be appropriate for the area as it has been classified as excavated natural material by Roads and Maritime Services.

The land is within the terrestrial biodiversity and sensitive lands areas under the LEP. However, with appropriate conditions of consent and revegetation it is expected that the development will be of minor impact to these areas. The land has been previously disturbed and the proposal will allow for the potential reuse of the site.

The development complies with the requirements of the LEP.

Access/traffic: The proposal will gain access from State Mine Gully Road which has been assessed by Council's Operations staff and found to be sufficient subject to conditions of consent. The ongoing traffic of trucks may cause dilapidation of the road network and therefore it will be required that the developer provide a report on the roads and undertake upgrade works where required.

Air and Microclimate: There will be no significant impact on air or microclimate. However, a condition of consent will be imposed requiring that dust suppression be used during construction works to minimise impacts on the surrounding area as below:

- *The operator is at all times required to minimise dust through mitigation measures (for example the use of a water truck). The dust suppression measures are to include the unloading of fill, truck movements, spreading of fill onsite and maintaining the land until substantial groundcover has been established.*

Noise and Vibration: The development has potential to cause noise due to large machinery being used and truck movements onsite. However, the hours of operation will be limited to Monday to Saturday and no works Sunday or public holidays. Additionally, to reduce potential impacts further, the following conditions of consent will be imposed:

- *The operator at all times must take all measures to minimise noise and reduce community annoyance. Council may request that additional mitigation measures be undertaken if ongoing validated concerns are raised in relation to noise as a result of the development.*
- *Timing of truck movements is to be undertaken so as to have minimal disturbance on surrounding residential landowners. This may include restricting movements per hour and /or per day.*
- *All truck drivers associated with the development are to be educated on the sensitivity of residential land within the area to ensure that all measures are taken to minimise impact on the surrounding residential streets.*

OTHER MATTERS

Referrals & Notification:

The proposal was sent to Water NSW, Sydney Trains, Endeavour Energy, NSW Office of Water, Council's Building Officer and Engineers for comment with no objections to the proposal subject to conditions of consent being imposed.

The proposal was also sent to surrounding landowners, advertised in the local paper and placed on public display in Council's Administration Building, with one submission received regarding an existing water service pipe through the development lot. This concern is minimised by a condition of consent to ensure the service is retained and upgraded/realigned where necessary.

Lithgow City Council as Landowner:

The land is owned by Lithgow City Council and consideration of potential, lease, licence, potential sale or other arrangements are to be undertaken for the site separate to the assessment of this Development Application. The approval of the development application does not sanction the actual works taking place on the Council owned land.

POLICY IMPLICATIONS

Policy 7.1 Filling and Levelling of Land

This policy applies to fill and levelling of land as below:

Unless otherwise provided by an Environmental Planning Instrument or Development Control Plan, a development application is required in the following circumstances:

- 1. Where land is subject to inundation by floodwaters, or*
- 2. Where excavation or the depth of fill exceeds 900mm.*

Separate development applications are not required where the cut and/or fill is identified in a development application for a structure on the land.

The proposal is for more than 900mm of fill, therefore the development requires consent in accordance with the Policy.

Policy 7.5 Notification of Development Applications

The proposal was notified to surrounding landowners and placed on display for a period of 14 days as required by the Policy. The proposal was also required to be advertised due to requirements under the *Water Management Act 2000* and *Environmental Planning & Assessment Regulations 2000*.

Policy 7.6 Development Applications By Councillors And Staff Or On Council Owned Land

This policy requires:

- 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.*

As Lot 931 DP868140 is owned by Lithgow City Council the policy applies and the application is required to be determined at a Council meeting the subject of this report.

FINANCIAL IMPLICATIONS

Section 94A Development Contributions Plan 2015

Council's Section 94A Contributions Plan applies to this development. However, no levy is applicable for the development as the estimated cost is less than the minimum prescribed under the Plan.

LEGAL IMPLICATIONS

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the *Environmental Planning and Assessment Act 1979*. These matters are detailed under separate cover of Attachment 1- 79C Assessment Report.

ATTACHMENTS

1. 79C Assessment Report

RECOMMENDATION

THAT

1. That Council Approve DA099/16 for the proposed delivery, spreading and compacting of clean fill on Lot 931 DP868140 State Mine Gully Road, Lithgow subject to conditions of consent detailed in the attached 79C assessment.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-15 ENVIRO - 10/10/16 - STRATEGIC LANDUSE PLANNING
PROJECTS STEERING COMMITTEE**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

To propose a new committee to oversee major strategic landuse planning projects.

COMMENTARY

A steering committee currently exists within Council's committee structure to oversee the Rural Lands Study which is nearing a point where the draft study can be placed on exhibition. The main functions of the Rural Lands Study Project Steering Committee has been to:

1. Act as a quality control mechanism for the Project
2. Endorse the Project Scope and Brief
3. Evaluate and recommend the appointment of the consultant to undertake the Project
4. Review and endorse the Project Plan
5. Review and endorse the Community and Stakeholder Engagement Strategy to be recommended to Council for adoption
6. Review and endorse each project deliverable as identified in the Project Plan in particular any Draft Study to be recommended to Council for adoption
7. To resolve any project management issues unable to be resolved by the Project Managers
8. To monitor the Project against time and budget constraints

The committee comprises:

- The Mayor and three Councillors
- A representative of the Western Region Office of NSW Planning and Environment
- General Manager (or delegate)

The Group Manager of Environment and Development and Strategic Land Use Planner also attend meetings to assist the committee.

There may be other projects that arise which could benefit from the oversight of such a steering committee. For example, the current project for the Marrangaroo Masterplan/DCP Project which has just commenced, may benefit from the oversight of such a committee. However, rather than setting up individual steering committees for individual projects, it is suggested that one committee be established to oversee projects as they occur. Initially the new Strategic Landuse Planning Projects Steering Committee would oversee the finalisation of the Rural Lands Study Project and take on the oversight of the Marrangaroo Masterplan/DCP project.

It would be proposed that the Committee comprise of:

- 3 Councillors plus the Mayor
- General Manager (or delegate)
- A representative of the Western Region Office of NSW Planning and Environment (if required on a project by project basis)

The Group Manager of Environment and Development and Strategic Land Use Planner would attend meetings to assist the committee and other specialised staff could be seconded to the committee as necessary.

The terms of reference (attached) would be similar to the Rural Lands Study project steering committee.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Draft Terms of Reference for the proposed Strategic Landuse Projects Steering Committee.

RECOMMENDATION

THAT

1. Council establish a Strategic Landuse Projects Steering Committee to oversee Strategic Landuse Planning Projects in accordance with the attached Terms of Reference.
2. The Steering Committee initially oversee the Rural Lands Study and Marrangaroo Masterplan/DCP Projects.
3. Council appoint the Mayor to the committee.
4. Three Councillors be nominated to the Steering Committee.

ITEM-16 ENVIRO – 10/10/16 – OPERATION OF SMALL COMMUNITY HALLS

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

To advise Council of a proposed new external committee structure for Managing Community Halls.

COMMENTARY

Council has a number of community halls that operate under differing arrangements. Some such as the civic ballroom are completely managed by Council with no involvement, for example, by a management or advisory committee. Others, such as the Vale of Clwydd Hall, are owned by Council but run by the community completely independent of Council. The table below outlines the current situation with respect to each hall/theatre in Council's ownership.

Hall/Theatre	Management Regime	Bookings Taken by	Fees Collected by
Civic Ballroom	Council	Council	Council
Union Theatre	Section 355 Committee	Council	Council
Vale Hall	Vale Ladies Club	Vale Ladies Club	Vale Ladies Club
Hermitage Hall	Hermitage Hall Ladies	Hermitage Hall Ladies	Hermitage Hall Ladies
Crystal Theatre	Section 355 Committee	Council	Council
Mac Scott Memorial Hall	Section 355 Committee	Council	Council

Issues

In relation to hall committees currently run under an 'internal' Section 355 structure the following issues have arisen:

- Difficulties in arranging meetings at suitable times and subsequent non-achievement of quorum's
- Difficulties with committees focusing on their specific terms of reference
- Impost on Council officers time in both administration, agendas, minutes, attendance and reporting

In relation to halls currently run independently of Council the following issues arise:

- Doubt over the incorporation or otherwise of the bodies running these facilities. This potentially raises doubts in relation to insurance coverage.

- Doubt whether these bodies have the legal authority to lawfully charge a fee for these facilities given the limitations provided by section 377 of the Local Government Act.
- Sustainability of these "committees" given that long term membership may wane.

Survey of Other Councils

In order to gain an understanding of how other local councils deal with this issue a survey was conducted of a number of councils in the region. These councils were Cabonne, Blayney, Parkes, Forbes and Young. The results in attachment 2 - Survey of Other Councils results.

Comments

Some further Web based desktop research was also carried out looking at councils such as Byron, Tamworth and Taree. What the survey and research has indicated is that there is no one model with different councils using different systems. It does appear as though some councils are allowing halls to be run by other parties without the implementation of a section 355 committee and that in the running of these halls fees are set outside the council process and bookings are taken by other parties. Some of these characteristics are technically outside the legislative requirements.

Legislative Provisions

The two main provisions of the Local Government Act in relation to this issue are section 355 in section 377.

Section 355 of the Local Government Act 1993 enables councils to delegate some of its functions to other parties including a committee of Council. The membership and operation of a section 355 committee is largely at Council's discretion. The current model employed by this Council provides for councillor membership and other staff membership or staff administration support. However, in principle, there appears no impediment for a section 355 committee to be set up and operate largely independent of the Council.

Section 377 of the local government act 1993 provides councils with the general power to delegate. It provides that a council may, by resolution, delegate to the general manager or any other person or body any of the functions of the council, other than, for example:

- (d) the making of a charge,
- (e) the fixing of a fee,
- (f) the borrowing of money,
- (g) the voting of money for expenditure on its works, services or operations,

The biggest limitation under the current model employed by Council for community halls that are not run by section 355 committees is that the operator of the facility has no legal authority to make a charge, fix a fee or vote money for expenditure.

A New Model Proposed

Firstly, in regard to the Union Theatre the committee has been meeting infrequently and apart from providing input into some plans for extensions has

been little to discuss. Consequently, it will be recommended that this committee not be re-formed. Also, in regard to the Crystal Theatre there has been a struggle in achieving a quorum for meetings and there has also been few issues of substance to discuss.

With regard to the Mac Scott Memorial Hall it will be recommended that this be set up as a section 355 committee with a structure external to Council. The same structure will be proposed for the Vale Hall and the Hermitage Hall. It will be recommended that each committee be set up to handle bookings and payments and be able to maintain their own bank accounts for this purpose. The committees will need to recommend fees to Council annually as this is not delegable.

By setting up committees in this matter it will reduce the required allocation of staff resources which has been found to be of little benefit. However, setting up the committees as section 355 committees will afford the committee protection for insurance purposes as they will be covered by Council's insurance coverage. It will be proposed that each committee be offered an annual allocation of, say \$500, for the promotion of the facility.

It would be envisaged that Council still carry out ongoing reactive and proactive building maintenance of the buildings and payment of all rates, charges and utilities for the buildings remain unchanged. Any funds collected for bookings by each external committee would be expected to be spent on the facility and this would need to be reflected in the terms of reference.

POLICY IMPLICATIONS

Policy 4.1 - Community Representatives - Appointment to Committees or Working Groups is applicable. However, the proposal is not inconsistent with the policy.

FINANCIAL IMPLICATIONS

It will be recommended that each external Section 355 Committee be provided with an initial allocation of \$1,000 and subsequent annual allocation of \$500 to promote their facility. This could be for the running of events, advertising or any other activity that assists in prompting and sustaining the facility. For example, the committee may want to hold a function and funds from ticket sales could be used on the facility. The initial payment would provide 'seed funding' and the ongoing amount would also assist.

LEGAL IMPLICATIONS

Otherwise addressed in this report.

ATTACHMENTS

1. Draft Terms of Reference.
2. Survey of Other Councils.

RECOMMENDATION

THAT:

1. The Union Theatre Management Committee and Crystal Theatre Management Committee not be reformed and the facilities be managed by Council staff.
2. The management of the Mac Scott Memorial Hall, Vale Hall and Hermitage Hall be established under a model where they are section 355 committees of Council.
3. The draft Terms of Reference (attached) be adopted for each committee and Council coordinate the initial set up of each committee.
4. Each external committee be allocated \$1,000 following the set up of each committee and \$500 per annum (financial year) thereafter for the promotion of each facility.

**ITEM-17 ENVIRO - 10/10/16 - DA091/16 - SHADE STRUCTURE SKATE
PARK LITHGOW**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT

SUMMARY

To determine Development Application DA091/16 for the proposed shade structures at Tony Luchetti Sports Centre (skate park) at Geordie Street Lithgow.

COMMENTARY

Council is in receipt of a Development Application DA091/16 on behalf of Lithgow City Council for proposed shade structures on land known as Lot 1 DP 1123449, Tony Luchetti Sports Ground, George Coats Avenue, Lithgow. The purpose of this development is to provide users of the skate park with suitably shaded areas.

The proposal provides for the construction of two (2) shade structures adjoining the northern and western sides of the existing skate park having an area of 56m² and 100m² respectively. The structures are proposed to be located approximately 23 metres and 28 metres from the Geordie Street road alignment. The cantilevered skillion roofed structures comprise of a steel frame and Colorbond sheet roof having a 20 degree pitch and overall height of approximately six (6) metres above finished ground level.

The site currently contains recreational facilities including the existing skate park, the oval, the Ashley Grandstand, stables, and the Brick Pavillion (Civic Ballroom). Other structures onsite include toilet blocks, the entry gateway and various other non-habitable buildings/structures.

The Tony Luchetti Sports Ground is listed in Council's LEP 2014 as being an item of local environmental heritage. Council's Heritage Inventory Sheet (B340) identifies a number of items that are of great local significance including the oval, Ashley Grandstand, the Brick Pavilion (Civic Ballroom) and the entry gates.

The Lithgow Skate Park was constructed in 2009 with the additions of a bubbler, small shade structure (steel frame and Colorbond sheet roof) and fencing erected in 2012. The Lithgow Aquatic Centre was recently constructed and is located adjacent to the skate park on Barton Avenue. The Lithgow Basketball Stadium also adjoins the development. Given the size and location of the two proposed structures, it is considered that the proposal will not impact the heritage significance of the area.

Furthermore, it is considered that the proposal will be of minimal impact on the adjoining properties, as the land to the north east and west within the immediate vicinity makes up the remainder of the Tony Luchetti Sports Centre and the land to the south comprises of the Lithgow Aquatic Centre and five (5) existing residential dwellings (along Geordie Street).

POLICY IMPLICATIONS

Policy 7.5 Notification Of Development Applications

In accordance with this policy the proposal was notified to surrounding landowners and placed on display for a period of 14 days. No public submissions were received during this period.

Policy 7.6 Development Applications By Councillors And Staff Or On Council Owned Land

This policy applies to all applications as below:

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 on Council owned land, that such an application be referred to Council for consideration and determination.

Whilst the proposed development is located on Crown Land and Council is the applicant, it is prudent that the application be determined by Council in accordance with the provisions of this policy.

FINANCIAL IMPLICATIONS

Council is the applicant and will be bare all costs associated with this development.

LEGAL IMPLICATIONS

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

ATTACHMENTS

1. Section 79C report.

RECOMMENDATION

THAT

1. Council approve DA 091/16 shade structures at Tony Luchetti Sports Ground (skate park), in accordance with the conditions outlined in the attached Section 79C report.
2. A Division be called in accordance with the provisions of Section 375(3) of the Local Government Act 1993.

**ITEM-18 ENVIRO - 10/10/16 - WALLERAWANG INDOOR SPORTS
CENTRE USER AGREEMENT AND OTHER ASSOCIATED
MATTERS**

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT & DEVELOPMENT

REFERENCE

Min 1008: Council Meeting 31 August 1998
Min 04-669: Council Meeting 15 June 2004
Min 06-47: Council Meeting 20 February 2006
Min 06-131: Finance and Services Committee Meeting 1 May 2006
Min 07-478: Finance and Services Committee Meeting 5 November 2007
Min 09-550: Council Meeting 14 December 2009

SUMMARY

This report provides an update of the following matters relating to Wallerawang Indoor Sports Stadium and Wallerawang School:

- Joint Use and Management Agreement for the Wallerawang Indoor Sports Stadium between the Minister for Education and Lithgow City Council
- Licence Agreement for use of Car parking at Wallerawang Public School in conjunction with the use and operation of the Wallerawang Indoor Sports Stadium
- Licence Agreement for use of Council land adjoining Wallerawang Public School for school playground.
- Transfer Granting Easement for Right of Carriageway over Department of Education land giving access to the Wallerawang Indoor Sports Stadium and car parking at Wallerawang Public School.

In addition the report seeks Council's endorsement of the four (4) agreements to allow finalisation of the matters.

COMMENTARY

The subject matters have had a long and protracted history. The finalisation and endorsement of each agreement is interdependent of the others and none were able to proceed until the plan of subdivision for the excision of the Wallerawang Indoor Sports Stadium and the adjoining sewer pumping station from the large Council owned Barton Ave site was registered.

The finalisation of the subdivision was complicated by the proposed purchase of Council land by the Department of Education for extension to the Wallerawang

School site, which involved complicated negotiations with the Department of Education and the Crown Solicitors Office and which in finality did not eventuate.

Council's legal representatives have been negotiating with the Crown Solicitors Office and the Department of Education to resolve matters to the satisfaction of all parties, and following the registration of the plan of subdivision in 2015, the final drafting of the legal agreements in relation to this matter was able to occur.

SITE LICENCE – WALLERAWANG PUBLIC SCHOOL

In 2003 the Department of Education and Training (DET) approached Council to acquire an area of land to the north of the existing Wallerawang Public School for the purposes of developing a sporting field (full size soccer field).

Valuations were obtained for the parcel of land and Council in November 2007 resolved to accept compensation to the value of \$10,000 for land acquisition.

In November 2007, Council approved a Development Application for the construction of a shed and the extensions to the sporting field subject to works not being carried out until the acquisition of the land and payment of compensation had been finalised.

In 2008, the works on the sporting field were carried out resulting in part of the sporting field and associated drainage diversion banks being constructed on Council owned land. A subdivision plan was prepared to include the site extension within the school lot as well as create separate lots for the sewer pump station and indoor sports stadium and formalisation of access and parking through the creation of Right of Carriageway.

Subsequent correspondence from the Crown Solicitors office in 2009 advised Council that the Minister for Education and Training did not support the acquisition of Part Lot 1 DP 1074586 for school purposes and therefore the purchase of the land would not be proceeding.

The matter was then reported back to Council on the 14th December 2009, where Council resolved as per Minute 09-550 to:

1. Enter into a lease or appropriate agreement as advised by Council's Solicitors with Wallerawang School with the approval of DET if required, to enable the use of the Council land adjoining Wallerawang Public School to the north for the following purposes:
 - Extending the sporting field to its original approved size
 - Temporary realignment of the school fence
 - Ongoing use of the diversionary drainage banks

The lease/agreement would be terminated if and when Council identifies a defined use of the land or to otherwise dispose of the land. At this time the option of the school community purchasing the land could be further considered.

JOINT USE MANAGEMENT AGREEMENT AND LICENCE AGREEMENT FOR CARPARK

Draft documents for the joint use and management of the Wallerawang School access driveway and carpark were prepared by the Crown Solicitors in 2007. These documents have been reviewed by Council's Solicitor, however were not able to be executed as they were interdependent on the registration of the subdivision plan to formalise the Right of Carriageway.

With the registration of the subdivision plan for the subject land, the Joint Use and Management Agreement can now be endorsed by Council for execution by the General Manager.

POLICY IMPLICATIONS

In accordance with Council Policy 1.1 Acquisition and Disposal of Assets – Land (Council) – Leases – Legal Costs.

Wallerawang Public School or their representative are responsible for all reasonable legal costs incurred by Council associated with the preparation of the licence agreement for the use of Council land for school purposes.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

The agreement have been prepared and reviewed by Council's Solicitor.

The report does not recommend any actions inconsistent with Council's legal obligations under any relevant legislation.

ATTACHMENTS

1. Site map

RECOMMENDATION

THAT Council:

1. Endorse the Joint Use and Management Agreement for the Wallerawang Indoor Sports Stadium between the Minister for Education and Lithgow City Council.
2. Endorse the Licence Agreement for the carparking area at Wallerawang Public School in to be used in conjunction with the use and operation of the Wallerawang Indoor Sports Stadium.
3. Endorse the Licence Agreement for use of Council land adjoining Wallerawang Public School for school playground.
4. Endorse the Transfer Granting Easement for Right of Carriageway over Department of Education land giving access to the Wallerawang Indoor Sports Stadium and car parking at Wallerawang Public School.

5. Authorise Council's General Manager to endorse the agreements as required.
6. Authorise the affixing of the Council seal to any necessary documentation in relation to these matters.
7. Wallerawang School will be responsible for all reasonable legal costs incurred by Council associated with the preparation of the licence agreement entered into for use of Council land for school purposes.

OPERATION REPORTS

ITEM-19 OPER - 10/10/16 - WATER REPORT

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

REFERENCE

Min No 16-227: Ordinary Meeting of Council held on 29 August 2016

SUMMARY

This report provides an update on various water management issues.

COMMENTARY

Current Dam Levels for Farmers Creek No. 2 Dam and Oberon Dam

Farmers Creek No. 2 Dam level on Monday, 26 September 2016 was 100%.
Oberon Dam level on Monday, 26 September 2016 was 95%.

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 2016/2017. 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 2014/2015 and 2015/2016.

Table 1 - Oakey Park Monthly Output and Clarence Transfer 2016/2017

Month	Oakey Park WTP (ML)	Clarence Transfer (ML)	Fish River Supply (ML)
July	112	0	58
August	97	0	66
TOTAL	209	0	124

Table 2 - Oakey Park Monthly Output and Clarence Transfer 2014/2015 & 2015/2016

Month	2014/2015			2015/2016		
	Oakey Park WTP (ML)	Clarence Transfer (ML)	Fish River Supply (ML)	Oakey Park WTP (ML)	Clarence Transfer (ML)	Fish River Supply (ML)
July	80	0	63	113	0	50
August	145	0	45	112	0	66
September	105	0	66	117	0	57
October	112	0	61	123	0	63
November	120	0	65	117	0	75
December	84	0	36	162	63	55
January	89	0	100	120	0	74
February	95	0	66	111	0	77
March	143	0	67	132	0	88
April	99	0	71	119	12	61
May	105	0	55	131	0	43
June	131	0	74	95	0	53
TOTAL	1,308	0	769	1,452	75	719

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 20 August 2016 and 30 September 2016.

Treatment Plants Monitoring Results

Samples are taken on a monthly basis at various locations within the STPs and WTP. Nine samples were taken on 23 August 2016 and forwarded to Australia Laboratory Services (ALS) for testing. All results complied with Council's EPA Licence requirements to operate each plant. All test results are 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 20 August 2016 and 30 September 2016.

Current Water Restrictions Update

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

Water Saving Schemes or Processes Update

Council's Rainwater Tank and Domestic Appliance Rebate Program continued with Council approving three (3) applications for household appliance rebates and no applications for water tank rebates for the period 20 August 2016 and 30 September 2016.

Capital Works Update

Filter Upgrade Works

Works are progressing with the installation of the second and third filters completed and operational. This included Epoxy Coating of filter walls and new dual media system of sand and anthracite. Works have begun on the removal of the existing media and underdrain system in the remaining 3 filters with works to be completed by mid-November 2016.

Portland Sewerage Treatment Plant Augmentation.

This augmentation is a complex upgrade with the site constraints and operational requirements for the existing treatment plant still being enforced. Construction works are progressing with several of the major concrete structures being completed. Bulk earthworks are also advancing with the majority now completed. This project is currently progressing on schedule.

Water Reticulation Complaints

Six (6) complaints were received during the period 20 August 2016 and 30 September 2016 concerning water quality issues in the following areas. Testing of the water was undertaken at these locations.

Locality	Concern	Notes
Reserve Road, Marrangaroo	Customer advised currently experiencing dirty water. Can the Council investigate.	Dead end main fed from Fish River. Flushed & tested. Meets ADWG Health Guideline Value.
Cooerwull Road, Lithgow	Customer advised yellow water at Cooerwull Road. Stated she would like a call regarding this.	Flushed & tested. Meets ADWG Health Guideline Value.
Main Street, Lithgow	Caller stated that there is dirty water. Could you please flush out the lines.	Due to burst main. Flushed and tested. Meets ADWG Health Guideline Value.
Inch Street, Lithgow	Caller stated dirty water at Inch Street. Could Council please flush out the mains.	Due to burst main. Flushed and tested. Meets ADWG Health Guideline Value.

Details of water complaints made since September 2015 are displayed in the attachment.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Water Quality Complaint Trend

RECOMMENDATION

THAT Council notes the water report.

CORPORATE AND COMMUNITY REPORTS

ITEM-20 CORP - 10/10/16 - COUNCIL INVESTMENTS HELD TO 31 August 2016

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

REFERENCE

Min No 16-182: Ordinary meeting of Council held on 18 July 2016
Min No 16-228: Ordinary meeting of Council held on 29 August 2016

SUMMARY

To advise Council of investments held as at 31 August in the 2016/17 financial year.

COMMENTARY

Council's total investment portfolio, as at 31 August 2016 when compared to 31 July 2016, has increased by \$2,440,488.85 from \$22,868,015.08 to \$25,308,503.93. While cash in Council's bank account increased by \$904,897.08 from \$448,690.37 to \$1,353,587.45.

There is an overall increase in cash and investments of \$3,345,385.93 since 31 July 2016. This is primarily due to income for the first rate instalment for 2016/17.

INVESTMENT REGISTER 2016/17								
INSTITUTION	INV TYPE	DATE LODGED	DATE DUE	DAYS	INT	VALUE 31.07.16	VALUE 31.08.16	% OF TOTAL
AMP	TD	02.06.16	30.11.16	181	3.00	1,000,000.00	1,000,000.00	
	TD	10.08.16	08.03.16	210	2.95		1,500,000.00	
	TD	18.08.16	16.03.16	210	2.95		1,500,000.00	
	TD	25.08.16	29.03.17	216	2.95		1,000,000.00	19.76%
CBA	On Call	18.05.16			1.70	1,800,652.05	1,808,365.50	7.15%
NAB	TD	07.05.16	07.08.16	91	2.98	1,000,000.00	0.00	
	TD	06.04.16	09.08.16	125	3.03	1,000,000.00	0.00	
	TD	14.06.16	12.09.16	90	2.93	1,000,000.00	1,000,000.00	
	TD	28.07.16	09.11.16	104	2.90	1,500,000.00	1,500,000.00	
	TD	07.08.16	07.11.16	91	2.85		1,000,000.00	13.83%
WESTPAC	TD	13.04.16	13.08.16	122	2.90	1,025,636.84	0.00	
	TD	13.08.16	12.12.16	121	2.75		1,000,000.00,	3.95%
ST GEORGE	TD	19.05.16	19.08.16	90	2.9	994,049.98	0.00	
	TD	31.03.16	31.07.16	122	3.15	1,000,000.00	0.00	
	TD	05.05.16	05.08.16	92	3.05	500,000.00	0.00	
	TD	12.05.16	12.08.16	90	2.90	1,000,000.00	0.00	
	TD	26.06.16	26.10.16	120	2.9	1,000,000.00	1,000,000.00	

	TD	05.08.16	05.12.16	122	2.95		2,000,138.43	
	TD	19.08.16	19.12.16	122	2.75		2,000,000.00	19.76%
ME BANK	TD	18.05.16	24.08.16	98	2.90	1,000,000.00	0.00	
	TD	29.06.16	20.09.16	83	2.88	1,000,000.00	1,000,000.00	
	TD	05.07.16	04.10.16	91	2.88	1,000,000.00	1,000,000.00	
	TD	31.08.16	04.01.17	126	2.65		2,000,000.00	15.80%
FAMILY FIRST CREDIT UNION	TD	01.05.16	30.07.16	90	2.55	1,047,676.21	0.00	
MY STATE BANK	TD	09.06.16	23.11.16	167	3.00	1,000,000.00	1,000,000.00	3.95%
BEYOND BANK	TD	25.05.16	25.08.16	92	2.95	1,000,000.00	0.00	
	TD	01.06.16	30.08.16	90	3.00	2,000,000.00	0.00	
	TD	01.06.16	28.09.16	119	3.00	1,000,000.00	1,000,000.00	
	TD	08.06.16	07.12.16	182	3.00	1,000,000.00	1,000,000.00	
	TD	30.08.16	04.01.17	127	2.75		2,000,000.00	15.80%
TOTAL						22,868,015.08	25,308,503.93	100.00%

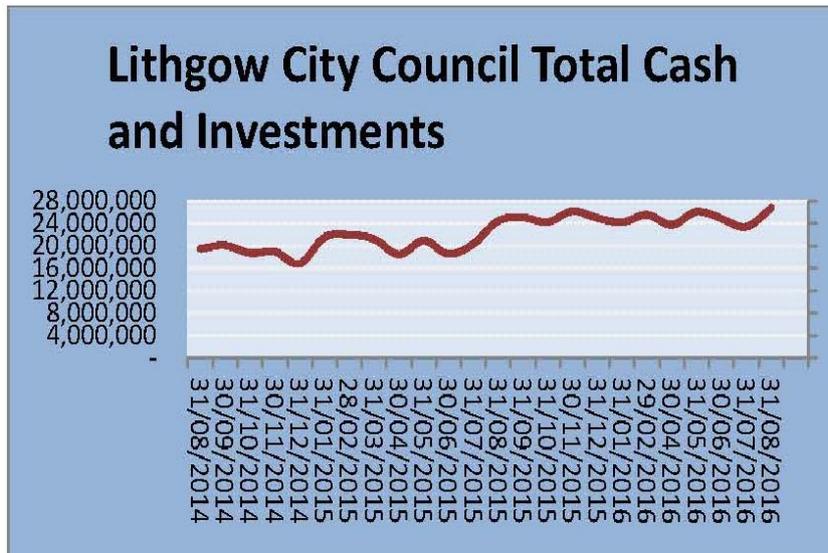
I, Neil Derwent, Lithgow City Council's Acting Responsible Accounting Officer certify as required under Local Government (General) Regulations 2005, that Council's investments have been made in accordance with the Local Government Act 1993, Regulations and Lithgow City Council's Investment Policy.

The movement in Investments for the month of August 2016 were as follows:

Opening Balance of cash and investments as 01 August 2016	\$23,316,705.45
Plus New Investments – August 2016	\$14,912,748.96
Less Investments redeemed – August 2016	\$11,567,363.03
Closing Balance of cash and investments as at 31 August 2016	\$26,662,091.38

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 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.

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 received for month of August 2016 was \$101,266.69. Interest is paid on the maturity date of the investment. 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 \$25,308,503.93 and cash of \$1,353,587.45 for the period ending 31 August 2016 be noted.

COUNCIL COMMITTEE MINUTES

ITEM-21 EXEC - 10/10/16 - CBD REVITALISATION COMMITTEE - 29 JUNE 2016

REPORT BY: R BAILEY – GENERAL MANAGER

REFERENCE

Min No 14-395: Ordinary Meeting of Council held on 29 September 2014
Min No 14-396: Ordinary Meeting of Council held on 29 September 2014
Min No 15-73: Ordinary Meeting of Council held on 20 April 2015

SUMMARY

This report details the Minutes of the CBD Revitalisation Committee Meeting held on 29 June 2016.

COMMENTARY

At the CBD Revitalisation Committee held on 29 June 2016, there were numerous items discussed by the Committee that requires action from Council including;

1. Public Exhibition of the draft Lithgow CBD Revitalisation Action Plan
2. National Stronger Regions Fund (NSRF)
3. Design Development and Documentation for Economic Restructure Project components (Cook St Plaza and Eskbank Square)

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes from the CBD Revitalisation Committee meeting of 29 June 2016.

RECOMMENDATION

THAT Council notes the minutes of the CBD Revitalisation Committee held on the 29 June 2016.

**ITEM-22 OPER - 10/10/16 - TRAFFIC ADVISORY LOCAL COMMITTEE -
18 AUGUST 2016**

REPORT BY: I STEWART - GROUP MANAGER OPERATIONS

SUMMARY

This report details the Minutes of the Traffic Advisory Local Committee Meeting held on 18 August 2016.

COMMENTARY

At the Traffic Advisory Local Committee meeting held on 18 August 2016, the following items were discussed by the Committee:

- Geordie Street Fence
- Laneway Audit Behind Council
- Lithgow Halloween 2016
- Tarana Village Enhancement Meeting
- Wallerawang Black Bridge Line Marking and Crossing

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes of the Traffic Advisory Local Committee meeting held on 18 August 2016.

RECOMMENDATION

THAT Council note the minutes of the Traffic Advisory Local Committee held on 18 August 2016.

**ITEM-23 COMM - 10/10/16 - CRIME PREVENTION COMMITTEE - 22
AUGUST 2016**

REPORT BY: M JOHNSON – MANAGER COMMUNITY & CULTURE

REFERENCE

Minute No 16-60 Ordinary Meeting of Council held on 21 March 2016
Minute No 16- 87 Ordinary Meeting of Council held on 18 April 2016
Minute No 16- 184 Ordinary Meeting of Council held on 18 July 2016

SUMMARY

This report details the Minutes of the Crime Prevention Committee Meeting held on 22 August 2016.

COMMENTARY

At the Crime Prevention Committee meeting held on 22 August 2016, a number of items were discussed by the Committee including;

A report by the Police in Item 5 on local crime incidents for the period May-July 2016 which showed a general downturn in most types of crime incidents

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes from the Crime Prevention Committee meeting of 22 August 2016

RECOMMENDATION

THAT Council notes the minutes of the Crime Prevention Committee held 22 August 2016.

**ITEM-24 OPER - 10/10/16 - SPORTS ADVISORY COMMITTEE MEETING
MINUTES - 30 AUGUST 2016**

REPORT BY: I STEWART - GROUP MANAGER OPERATIONS

SUMMARY

This report details the Minutes of the Sports Advisory Committee Meeting held on 30 August 2016.

COMMENTARY

At the Sports Advisory Committee held on 30 August 2016, there were numerous items discussed by the Committee, including:

- 2016 LJ Hooker Reg Cowden Sports Star of the Year Awards
- Booking Requests

The following items were outside the Committee's delegations and require Council to formally consider the recommendations:

- Financial Assistance Requests

THAT Council provide Shakaya Bott with \$300.00 toward the cost of participating in the National U/13 Championships.

- Lithgow District Junior Cricket Association Inc – New Member

THAT Council accept Michael Cole as the Sports Advisory Committee representative from the Lithgow District Junior Cricket Association Inc.

ATTACHMENTS

1. Minutes of the Sports Advisory Committee meeting held on 30 August 2016.

RECOMMENDATION

THAT Council:

1. Note the minutes of the Sports Advisory Committee held on 30 August 2016;
2. Provide Shakaya Bott with \$300.00 toward the cost of participating in the National U/13 Championships; and
3. Accept Michael Cole as the Sports Advisory Committee representative from the Lithgow District Junior Cricket Association Inc.

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.*