



LITHGOW CITY COUNCIL

MINUTES

FINANCE AND SERVICES COMMITTEE
MEETING OF COUNCIL

HELD ON

05 JUNE 2006

**MINUTES OF THE LITHGOW CITY COUNCIL MEETING
HELD AT THE CIVIC CENTRE, LITHGOW ON 5 JUNE 2006**

Meeting Commenced at 7.04pm

Public Gallery: 10

PRESENT

His Worship the Mayor
Councillor Neville Castle
Councillor B P Morrissey
Councillor M F Ticehurst
Councillor W McAndrew
Councillor H K Fisher
Councillor B S Moran
Councillor M M Collins
Councillor M J Wilson

APOLOGIES

An apology was received (due to illness) and accepted from A E Thompson
MOVED: Councillor M M Collins **SECONDED:** Councillor H K Fisher.

Also in attendance

General Manager, Mr Paul Anderson
Acting Manager Engineering and Manager Environmental and Planning Services, Mr Andrew Muir
Finance Manager, Mrs Carol Farnsworth
Minutes Secretary, Miss Casey Clarke

CONFIRMATION OF MINUTES

Confirmation of the Minutes of the Finance and Services Committee Meeting of Council held on the 1 May 2006 were taken as read and confirmed by Councillors M J Wilson and B S Moran

**06- 155 RESOLVED
CARRIED**

DECLARATION OF INTEREST

His Worship the Mayor called for Declarations of Interest on any matter before the Meeting.

Councillor B P Morrissey declared a pecuniary interest in Item 9 due to the applicant being his neighbour and he vacated the Chambers.

Councillor M M Collins declared a pecuniary interest in Item 12 as it is an opposing transport company and in Item 10 - DA 166/06 as she is the applicant of the DA. She vacated the Chambers.

Councillor M J Wilson declared a pecuniary interest in Item 12 as he is employed by Delta Electricity who receive coal from the proponent and he vacated the Chambers.

Councillor W McAndrew declared a pecuniary interest in Item 13 as he a member of the Three Tree Lodge Board. He vacated the Chambers.

Councillor M F Ticehurst declared a conflict of interest in Item 13 as he is the complainant. He vacated the Chambers.

Andrew Muir, Manager Environmental Services advised Council DA 93/06 was for his brother but he took no part in the Development Application processing.

QUESTIONS FROM THE PUBLIC GALLERY

At 7.00pm members of public gallery were invited to address questions through the Mayor to Councillors and Staff: -

QPG - CHARLIE NORTH

1. Mr Mayor why does Council paint white lines on the good parts of roads and not on the rough areas which are needed?

Line marking is primarily undertaken to control and delineate the position and movement of traffic on the road, regulate lane changing, passing & overtaking and convey information about the road alignment ahead. Should Mr North have any specific examples that he believes should be line marked having regard to this criteria then I would be pleased to receive his information.

2. Mr Mayor can Council consider allowing the public to take small trees from cuttings etc instead of letting them grow to which will cost Council money?

Whilst Mr North's question is not entirely clear if it is in relation to Council maintaining street trees then this is Council's role. It would be unlikely that Council would incur any substantial savings in its maintenance program by allowing members of the public to take small cuttings.

3. Mr Mayor why does Council get out of town Solicitors and Debt Collectors instead of using local ones?

Solicitors:

Council contracts general legal matters to a local firm of solicitors but some individual cases require the expertise of a legal representative who specialise in a particular field and therefore the matter must be referred on.

Debt Collectors:

The local area does not have the services of a "debt collection agent" and we contract to "Australian Receivables Ltd". It should be noted this company do utilise the services of local process servers and the designated local sheriff.

TABLE OF CONTENTS

<u>ITEM</u>	<u>TITLE</u>	<u>PAGE</u>
	<u>GENERAL MANAGER REPORTS</u>	<u>6</u>
<u>ITEM:1</u>	<u>EXEC - 05/06/06 - WEATHER FORECASTING</u>	<u>6</u>
<u>ITEM:2</u>	<u>EXEC - 05/06/06 - CONFIDENTIAL - STRATEGIC ALLIANCE CONFIDENTIAL</u>	<u>7</u>
	<u>ENGINEERING SERVICES REPORTS</u>	<u>8</u>
<u>ITEM:3</u>	<u>ENG - 05/06/06 - LITHGOW LOCAL GOVERNMENT AREA WATER USAGE</u>	<u>8</u>
<u>ITEM:4</u>	<u>ENG - 05/06/06 - CONFIDENTIAL - PURCHASE OF LAND, MAGPIE HOLLOW ROAD, SOUTH BOWENFELS CONFIDENTIAL</u>	<u>10</u>
<u>ITEM:5</u>	<u>ENG - 05/06/06 - REPAIR OF SANDFORD AVENUE RAILWAY BRIDGE FENCE (RAILCORP)</u>	<u>11</u>
	<u>ENVIRONMENT & PLANNING SERVICES REPORTS</u>	<u>12</u>
<u>ITEM:6</u>	<u>EPS - 05/06/06 - DA 336/04, PROPOSED 74 UNIT DEVELOPMENT, LOT 201 DP 1045422 & LOT 2 DP 868379, HOSKINS AVENUE, LITHGOW</u>	<u>12</u>
<u>ITEM:7</u>	<u>EPS - 05/06/06 - NAIDOC WEEK 2006</u>	<u>24</u>
<u>ITEM:8</u>	<u>EPS - 05/06/06 - UPPER MACQUARIE COUNTY COUNCIL - WEEDS REPORT</u>	<u>25</u>
<u>ITEM:9</u>	<u>EPS - 05/06/06 - DEVELOPMENT & CONSTRUCTION APPROVALS</u>	<u>26</u>
<u>ITEM:10</u>	<u>EPS - 05/06/06 - DEVELOPMENT APPLICATIONS RECEIVED</u>	<u>29</u>
<u>ITEM:11</u>	<u>EPS - 05/06/06 - UPDATE ON LEGAL MATTERS</u>	<u>30</u>
<u>ITEM:12</u>	<u>EPS - 5/6/06 - DA 461/04 MODIFICATION OF DEVELOPMENT CONSENT PINE DALE MINE</u>	<u>32</u>
	<u>COMMENTARY</u>	<u>32</u>
	<u>CORPORATE SERVICES REPORTS</u>	<u>34</u>
<u>ITEM:13</u>	<u>CORP - 05/06/06 - MEDIA RELEASE & EMAILED QUESTIONS COUNCILLOR MARTIN TICEHURST THREE TREE LODGE & PORTLAND POOL</u>	<u>34</u>
<u>ITEM:14</u>	<u>CORP - 05/06/06 - RENTAL REVIEW MID WEST AUDIO 26 MAIN ST LITHGOW</u>	<u>44</u>
<u>ITEM:15</u>	<u>CORP - 05/06/06 - COUNCIL INVESTMENTS MAY 2006</u>	<u>46</u>

<u>ITEM:16</u>	<u>CORP - 05/06/06 - DRAFT LEASE TO GLASTIC 27 ESKBANK ST LITHGOW</u>	<u>48</u>
<u>ITEM:17</u>	<u>CORP - 05/06/06 - 2005/06 & 2006/07 LOAN BORROWING PROGRAMS REVIEW & APPLICATION</u>	<u>50</u>
	<u>CLOSED COUNCIL REPORTS</u>	<u>52</u>
<u>ITEM:2</u>	<u>EXEC - 05/06/06 - CONFIDENTIAL - STRATEGIC ALLIANCE</u>	<u>52</u>
<u>ITEM:4</u>	<u>ENG - 05/06/06 - CONFIDENTIAL - PURCHASE OF LAND, MAGPIE HOLLOW ROAD, SOUTH BOWENFELS</u>	<u>53</u>

GENERAL MANAGER REPORTS

ITEM:1 EXEC - 05/06/06 - WEATHER FORECASTING

REFERENCE

This was reported to Council on the 28 November 2005 with the following being resolved:

1. Council consider providing funds in the 2006/07 and 2007/08 budget for the purchase of the infrastructure for an Automatic Weather Station in Lithgow.
2. Council consider providing the operating and maintenance cost of operating an AWS in the 2007/08 budget for a period of 10 years.
3. Council make a site available at either the Administration building or other suitable location for the installation of an AWS.

MOVED: Councillor M M Collins

SECONDED: Councillor M J Wilson.

SUMMARY

This report advises Council Of the amendments made to the Bureau of Meteorology weather forecasting service for Lithgow.

COMMENTARY

Council will recall a motion from Councillor Collins requesting Council to conduct some research into improving and providing reliable weather forecasting for Lithgow.

Following such a motion Council resolved to look at finding an Automatic Weather Station (AWS) as funds become available. This item was deleted from Councils Draft Management Plan for 2006/07 given the financial prudence with income and expenditure levels.

In recent weeks the Bureau of Meteorology (BOM) has announced that Lithgow will now receive daily forecasts of weather. These forecasts are twice per day to ensure accuracy and timeline. A copy of the information for the BOM site is provided for Councillor information.

Although not achieving our desires to gain a full AWS, the inclusion of Lithgow as a forecast centre is a step in the right direction and will assist in promotion of the area and providing information to emergency services groups of expected conditions during peak hazard periods.

POLICY IMPLICATIONS

This report illustrates the program Council has been able to facilitate on the development of an AWS for Lithgow.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

06- 156 RESOLVED

THAT the report be received and noted.

MOVED: Councillor W McAndrew

SECONDED: Councillor M M Collins.

CARRIED

**ITEM:2 EXEC - 05/06/06 - CONFIDENTIAL - STRATEGIC ALLIANCE
CONFIDENTIAL**

Reason for Confidentiality

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

- (d) commercial information of a confidential nature that would if disclosed:
 - (ii) confer a commercial advantage on a competitor of the council

REFERENCE

NIL

SUMMARY

This report will outline a draft proposal for a Strategic Alliance with our neighbouring Councils and the benefits anticipated.

06- 157 RESOLVED

THAT Council consider this report in the Closed Council pursuant to the provision of Section 10A(2)(d)(ii) of the Local Government Act 1993.

MOVED: Councillor H K Fisher

SECONDED: Councillor B P Morrissey.

CARRIED

ENGINEERING SERVICES REPORTS

ITEM:3 ENG - 05/06/06 - LITHGOW LOCAL GOVERNMENT AREA WATER USAGE

REFERENCE

Nil

SUMMARY

Comparison of figures for 2005 and 2006 for water usage within the Lithgow Local Government Area.

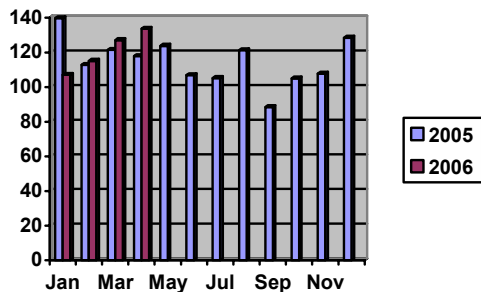
COMMENTARY

The Lithgow Local Government Area sources water from Farmers Creek Dam and the Fish River Water Supply. It should be noted that Council’s maximum annual allocation of water from the Fish River Water Supply is 2,094,000 kilolitres, and to date, Council has utilised 406,460 megalitres of water from this supply, equating to approximately 19% of its annual allocation.

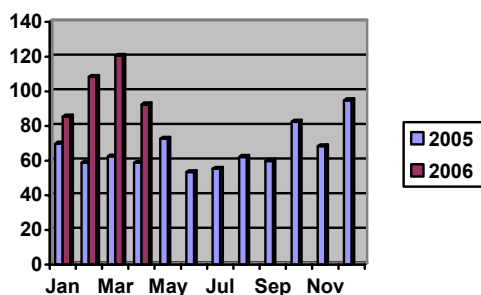
The following table and graphs compares the water usage of both supplies between 2005 and 2006.

	2005			2006		
	Farmers Creek Dam (kL)	Fish River Water Supply (kL)	Total (kL)	Farmers Creek Dam (kL)	Fish River Water Supply (kL)	Total (kL)
January	139,745	69,753	209,498	107,086	85,456	192,542
February	112,835	58,864	171,699	115,126	108,236	223,362
March	121,438	62,414	183,852	127,115	120,423	247,538
April	117,836	58,763	176,599	133,557	92,345	225,902
May	123,884	72,694	196,578			
June	106,872	53,392	160,264			
July	105,235	55,289	160,524			
August	121,397	62,105	183,484			
September	88,470	59,817	148,287			
October	104,953	82,421	187,374			
November	107,772	68,302	176,074			
December	128,566	94,874	223,440			
TOTAL	1,379,003	798,688	2,177,691	482,884	406,460	889,334

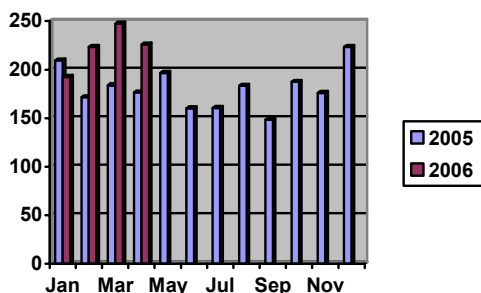
Farmers Creek Dam Usage (ML)



Fish River Water Supply Usage (ML)



Total Water Consumption in Lithgow LGA (ML)



Farmers Creek Dam is currently at 66.5% of its full capacity and Oberon Dam is currently at 42% of its full capacity. Whilst it is not a dam for domestic water supply purposes, the situation at Lake Lyell will be addressed in a separate report to the Policy and Strategy Committee.

POLICY IMPLICATIONS

No specific policy issues at this stage as a result of this report.

FINANCIAL IMPLICATIONS

Councillors should be aware that the following pricing regime now applies to water supplied by the Fish River Water Supply Scheme (State Water):

- Monthly Access Charge = \$53, 520.30 per month
- Water User Charge = 33.3 centres per kilolitre

LEGAL IMPLICATIONS

No specific legal issues at this stage as a result of this report.

06- 158 RESOLVED

THAT the information be received.

MOVED: Councillor W McAndrew

SECONDED: Councillor M J Wilson.

CARRIED

**ITEM:4 ENG - 05/06/06 - CONFIDENTIAL - PURCHASE OF LAND, MAGPIE
 HOLLOW ROAD, SOUTH BOWENFELS CONFIDENTIAL**

Reason for Confidentiality

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

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

REFERENCE

Nil

SUMMARY

This report details the negotiation of an offer to purchase a section of land off Magpie Hollow Road, South Bowenfels, for the construction of a proposed 2 megalitre water supply reservoir and recommends the purchase of the land over an amount provided by valuation.

06- 159 RESOLVED

THAT Council consider this report in the Closed Council pursuant to the provision of Section 10A(2)(d) of the Local Government Act 1993.

MOVED: Councillor H K Fisher

SECONDED: Councillor W McAndrew.

CARRIED

**ITEM:5 ENG - 05/06/06 - REPAIR OF SANDFORD AVENUE RAILWAY
 BRIDGE FENCE (RAILCORP)**

REFERENCE

Nil

SUMMARY

This report provides details of the repair of the damaged Railcorp fence upon the Sandford Avenue railway bridge Sandford Avenue, Lithgow.

COMMENTARY

Council may recall the recent fence damage to the Sandford Avenue Bridge caused by a motor vehicle earlier this year. Council officers have liased with Railcorp to ascertain when the repairs will be carried out. Recent correspondence received from Railcorp advised that repair work will be undertaken over a three day period commencing Monday 5 June and concluding Wednesday 7 June 2006. It is has been advised that there will be minimal disruption to motor vehicle and pedestrian traffic during the repairs.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

RECOMMENDATION

THAT:

1. The information be received
2. Council request Railcorp to upgrade the bridge and footpath to current standards in the next financial year.

06- 160 RESOLVED

THAT:

1. The information be received
2. Council request Railcorp to upgrade the bridge and footpath to current standards in the next financial year.
3. Council seek the assistance of the Local Member, Gerard Martin on this issue.

MOVED: Councillor B P Morrissey

SECONDED: Councillor M J Wilson.

CARRIED

ENVIRONMENT & PLANNING SERVICES REPORTS

**ITEM:6 EPS - 05/06/06 - DA 336/04, PROPOSED 74 UNIT DEVELOPMENT,
 LOT 201 DP 1045422 & LOT 2 DP 868379, HOSKINS AVENUE,
 LITHGOW**

REFERENCE

DA 336/04 - 74 proposed single storey units.

SUMMARY

To determine DA 336/04 for 74 single storey units in 5 stages (A – E).

COMMENTARY

Council is in receipt of Development Application No. 336/04 from Jonathan Homes Pty Ltd for the erection of 74 single storey 2 and 3 bedroom units in 6 stages. A Community title tenure is proposed following approval for construction.

The site is known as Lot 201 DP 1045422 and Lot 2 DP 868379, being off Hoskins Avenue and Hayley Street, Lithgow. The subject land stretches from Hoskins Avenue around to Hayley Street and adjoins the Marjorie Jackson playing field. The site is currently vacant and was previously held in conjunction with the Lithgow RSL Club.

The main access road will be a private road thereby not requiring compliance with the minimum widths usually enforced on new public roads. The majority of the development complies with Council's parking requirements, with the development only lacking 2 spaces overall.

The layout of the development is designed to maximise the number of single storey units on the site, and has provided a minimum road width, minimum area of private open space and minimum amount of visitor parking. However, if approved, conditions of consent will be imposed requiring the development to be a community title development and requiring the road to be a 10km shared zone, thus differentiating from a Torrens Title subdivision by emphasising the community nature of the development.

The roads are not a suitable width to allow cars to park on the street, however the provision of adequate visitor parking and suitable resident parking should minimise the amount of vehicles parking in the street, thereby minimising the potential impact on emergency services and waste collection vehicles.

Whilst the minimum width vehicular access and lack of footpaths for pedestrian access has the potential to create conflict between pedestrians and vehicles, a condition of consent could be imposed requiring a Traffic Management plan detailing how the conflict will be minimised.

POLICY IMPLICATIONS

The application has been assessed in accordance with the relevant Council Plans and Policies. Full assessment of the application under Section 79C of the Environmental Planning and Assessment Act has been provided as an attachment.

SUBMISSIONS

A number of issues were raised during the public notification period including drainage, stormwater, rear pedestrian access to Sandford Avenue residents, access onto Hoskins Avenue, social impact, fencing and construction hours. These issues have been discussed and addressed in the Section 79C report.

FINANCIAL IMPLICATIONS

None specifically as a result of this report.

LEGAL IMPLICATIONS

The Application has been assessed in accordance with Section 79C of the Environmental Planning & Assessment Act 1979. A copy of the Section 79C report is attached.

06- 161 RESOLVED

THAT DA 336/04 be approved subject to the following conditions:

Conditions

- 1 That the development shall be carried out in accordance with the application and plans submitted with the application or otherwise amended by the following conditions:
- 2 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 3 Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:
 - a) in the case of work to be done by a Licensee under that Act:
 - i) has been informed in writing of the Licensee's name and contractor Licence Number, and
 - ii) it is satisfied that the Licensee has complied with the requirements of Part 6 of that Act, or
 - b) in the case of work to be done by any other person:
 - i) has been informed in writing of the person's name and Owner- Builder Permit Number, or
 - ii) has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and material involved in work is less than the amount prescribed for the purposes of the definition of Owner-Builder Work in section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
- 4 All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 5 If an excavation associated with the erection or demolition extends below the level of the base of the footings of the building on an adjoining allotment of land, the person causing the excavation to be made:
 - a) must preserve and protect the building from damage; and
 - b) if necessary must underpin and support the building in an approved manner; and

- c) must, at least seven days before excavating below the level of the base of the footings of a building on an adjoining allotment of land give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- 6 If the work involved in the erection or demolition of a building:
- is likely to cause pedestrian or vehicular traffic in the public place to be obstructed or rendered inconvenient, or
 - building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.
- 7 Care is to be taken to ensure no damage is caused to adjoining properties. Where damage is caused rectification is to be undertaken at full cost to the developer.
- 8 A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- stating that unauthorised entry to the work site is prohibited, and
 - showing the name of person in charge of the work site and telephone number of which that person may be contacted outside working hours.
 - stating name and contact details of the Principal Certifying Authority (PCA) being, Lithgow City Council
 - stating Construction Certificate No. 336/04
- 9 Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of the building is being carried out, the rate of one toilet for every twenty persons or part of twenty persons employed at the site.
- 10 The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- 11 Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 are to be complied with:
- a Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act, and
 - a Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and Form 7 of the Regulations, and
 - Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.
- 12 The applicant is advised that the Construction Certificate plans and specifications must comply with the Building Code of Australia. The following information is to be provided with the Construction certificate application:
- 3 copies of comprehensive plans and specifications showing the construction of separating walls between units, footings, landings, steps, balustrades, garage slabs, timber/steel floor construction, wall and roof construction and compliance with Mine Subsidence Board requirements etc.
 - Details of street hydrant locations.
 - Construction details of separating fire rated walls between dwellings and compliance with Part 3.7.1.8 of the Building Code of Australia and details of airborne and impact sound levels in accordance with part 3.8.6 of the Building Code of Australia.
 - Details from an Approved Practising Structural Engineer for footings, reinforced concrete slabs for garages, retaining walls, any structural steel components, wind/snow load and tie down and bracing details for framework.

- 13 Certification by an approved Practising Structural Engineer upon completion, that the structural integrity of the improvements complies with the Mine Subsidence Boards approval.
- 14 That minimal site disturbance is caused to the site during construction works and any disturbed areas are to be generally made good and revegetated to the satisfaction of Council.
- 15 That the excavated and filled areas are graded and drained and all constructed batters are to be topsoiled and turfed and where batters exceed a ratio of 3 horizontal to 1 vertical, retaining walls, stoneflagging or terracing shall be provided prior to occupation. (Alternative methods not less effective may be considered by Council upon submission of full details).
- 16 Hours of operation during demolition/construction shall be permitted between 7am to 6pm, Monday to Friday and 8am to 1pm, Saturdays. No work shall be permitted on Sundays or Public Holidays.
- 17 The building works are to be inspected during construction, by the Council and documentary evidence of compliance with the relevant terms of the approval/standards of construction detailed in the Building Code of Australia, is to be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages: (**Note:** copies of the stated documentary evidence are to be submitted to the Council upon completion of each specified stage of construction and prior to occupation of the building.):
- a) Footings;
 - b) Floor;
 - c) Wall and roof frame;
 - d) Wet area flashing;
 - e) Steel beams/columns;
 - f) Steel reinforcement;
 - g) Stormwater drainage prior to covering connections;
 - h) Dividing fire rated/sound insulated walls between units
 - i) Final
- In addition, to the above stated inspections, the person carrying out the inspection is required to ensure that adequate provisions are made for the following measures at each stage of construction, to ensure compliance with the approval (*and documentary evidence of compliance is to be provided to the satisfaction of the Principal Certifying Authority*):
- a) Sediment control measures.
 - b) Public safety.
 - c) Fences and hoardings.
 - d) Materials or waste containers upon the footway or road.
- 18 That a minimum distance of 675 mm is provided between the eaves, guttering, or gable end projection and the side boundary alignment. That the external walls (including corners) be separated a minimum of 900mm. A minimum distance of 675mm must be provided between the eaves and guttering.
- 19 That the dwellings are set out by a Registered Surveyor and copies of the Survey Report are submitted to Council on completion of the foundation walls or floor slab.
- 20 That the floor level shall be a minimum of 225 mm above finished ground level to prevent entry of surface or rain waters.

- 21 That the overflow (or surcharge) gully shall be a minimum of 300 mm below finished floor level and a minimum of 150 mm above finished ground level. The plumber or drainer should be advised accordingly.
- 22 That seepage and surface waters are collected and diverted clear of the dwelling site by a drainage system to the satisfaction of Council. Care is to be taken to ensure that no nuisance is created to adjoining properties.
- 23 That details prepared by an approved practising Structural Engineer of the retaining walls are submitted to and approved by Council prior to commencement of that stage of construction. Details shall include method of drainage.
- 24 That the building is to be protected from the attack of subterranean termites by employing construction methods conforming with Australian Standard 3660.1. The proposed method of termite treatment is to be submitted to and approved by Council prior to commencement of work. **A durable notice must be permanently fixed to the building in a prominent location, such as in a meter box or the like, indicating:**
- a) the method of protection; and
 - b) the date of installation of the system; and
 - c) the installer's or manufacturer's recommendations for the scope and frequency of future inspections for termite activity.
- 25 That a minimum clearance of 400 mm shall be provided between the underside of bearer level and the finished ground level.
- 26 That all timber sizes, spacings and spans used in the construction of the building shall comply with the requirements of Australian Standard 1684 - "Timber Framing Code".
- 27 That truss validation details supplied by the truss manufacturer shall be provided to Council or the accredited certifier at or prior to the time of frame inspection (**alternatively, full design details are to be submitted prior to commencement of construction**). Details shall include:
- a) job address and builder's name;
 - b) design wind velocity;
 - c) terrain category;
 - d) truss spacing;
 - e) roof pitch;
 - f) material of roof;
 - g) roof batten/purlin spacing;
 - h) material of ceiling;
 - i) job number
- 28 That the roof cladding is fixed and supported in accordance with the manufacturer's specification.
- 29 That a Certificate from an approved practising Structural Engineer is submitted to Council prior to commencement of the building certifying the adequacy of the building to withstand wind forces in accordance with AS 1170 "Loading Code Part 2 (Wind Forces)".
- 30 That the wall and subfloor area separating the Class 1 buildings must achieve a 60/60/60 fire resistant rating and must extend to the underside of the roof cladding.
- 31 That sarking used in a Class 1 building must have a Flammability Index of not more than 5 pursuant to Clause 3.7.1.9 of the Building Code of Australia, Housing Provisions.

- 32 That the balustrades to balconies, more than one metre above the ground, are to satisfy the following construction requirements (**Note:** Alternate designs may be accepted. Design details, including documentary evidence to satisfy P2.1 and P2.5.2 of the Building Code of Australia, Housing Provisions, are to be submitted to Council or the accredited certifier prior to the commencement of works):
- a) a height of 1,000 mm above the balcony floor; and
 - b) the space between balusters or the width of any opening in the balustrade or the width of any opening in the balustrade is not more than 125 mm except where the space between rails or the height of the opening is not more than 125 mm.
- 33 That every glazed door, glazed panel that is capable of being mistaken for a doorway or unimpeded path of travel and other glazed panel is to be glazed with safety glazing complying with the provisions of Part 3.6, Building Code of Australia, Housing Provisions.
- 34 To provide a safe platform for entering and leaving the premises, external doorways must have landings extending the full width of the doorway openings and be not less than 1 metre wide where the height of the tread is greater than 230mm above finished ground level.
- 35 That an automatic smoke alarm system is installed in the Class 1 building in accordance with the requirements of Part 3.7.2 of the Building Code of Australia, Housing Provisions. The smoke alarm or alarms should be installed in location/s so as to awaken sleeping people when there is a fire. Details of the design are to be submitted to Council for approval prior to installation. **Certification is to be provided to Council or accredited certifier from a competent person on completion of the installation – form attached.** The system must:
- a) be connected to a permanent 240 volt power supply; and
 - b) be provided with a battery backup to activate the alarm unit in the event of failure of the permanent power supply.
- 36 That rainwater drains are connected to the street gutter and/or easements to the satisfaction of Council.
- 37 That all "wet area" floors, including concrete, shall be flashed to walls with approved material so as to effectively prevent moisture entering the structure. Particular attention is to be paid to the flashing of the shower recess. Any wet area flashing shall comply with AS 3740-1994 "Waterproofing of Wet Areas within Residential Buildings". **Any alternative method must be approved by Council prior to installation.**
- 38 That the bathrooms and water closets are provided with artificial light and mechanical ventilation in accordance with part 3.8.4.3 and part 3.8.5 of the Building Code of Australia.
- 39 That subfloor ventilation incorporating cross ventilation shall be provided for the particleboard flooring at the following rates:
- a) 7,300 internal and external wall.
- 40 That the walls separating two class 1a buildings must have airborne and impact sound levels in accordance with Part 3.8.6 Building Code of Australia.
- 41 All development shall constructed in accordance with Lithgow City Councils "Subdivision and Development Code" adopted by Council, 28 September 1992, Minute 1439.
- 42 The applicant shall consult with an Authorised Telecommunications, Electricity and Gas Authorities for the provision of underground telephone, electricity, and gas services to the building development. Confirmation of service availability shall be lodged with Council prior to occupation of development.

- 43 That an application for water connection be submitted to Councils Engineering Division by the licensed plumber and Drainer prior to any plumbing and drainage work commencing on the premises.
- 44 Full engineering plans detailing the 'Hydrological' design of works associated with the development shall be provided prior to the issue of a Construction Certificate. The plans shall include, but not be limited to:
- The means of stormwater treatment and disposal from the development.
 - Impacts on nearby lands and properties 'downstream' of the subdivision.
 - Details of on or off site detention.
 - Details of waterway calculations adjoining existing stormwater infrastructure. The following should be taken into consideration for future subdivision:
 - Inter-allotment drainage.
 - Impacts from lands associated with the later stages of the development.
- All pipe work shall be constructed with adjoining concrete headwalls, bonded together with concrete.
- 45 Provision of a separate metered water service and Council cast iron housing to each lot and/or dwelling shall be provided to the satisfaction of the Manager, Environmental and Planning Services at the full cost to the applicant.
- 46 Provision of a separate sewerage service to each lot and/or dwelling shall be provided to the satisfaction of the Manager, Engineering Services.
- 47 Civil Construction plans shall be submitted with application for review, before approval of any road works associated with the development, prior to the issue of a construction certificate.
- 48 A maintenance bond of 5% of final infrastructure and road construction costs to be paid to Council upon final inspection and approval of all civil works. The value of the maintenance bond shall be approved by Council after witnessing a certified copy of the contract documentation showing all civil and construction costs. The maintenance period shall start from the date of final inspection for a period of 12 months. At the conclusion of the 12 month period a final inspection is to be undertaken by Council at the request of the developer to determine if any defects have arisen during this time. All deficiencies are to be rectified by the developer, should outstanding works remain, and Council reserves the right to expend bond monies on rectification works.
- 49 Only those areas involved in the construction of civil works are to be disturbed, with all other areas of the site to be maintained with existing vegetation cover. Any disturbed areas outside of the construction zone shall be revegetated immediately upon completion of all work.
- 50 Works as Executed Plans (WAE) are to be lodged with Council prior to release of the Linen Plans.
- 51 All water, sewer and storm water infrastructure is to be inspected and approved prior to backfill. Road construction inspections are to be carried out at sub-grade, sub-base, base and surface sealing. Such inspections are to be undertaken by the Councils Development Engineer.

- 52 Road pavement widths and associated infrastructure is to be approved by Council prior to entering into the final design. That internal access ways are to be designed so as to be suitable for garbage trucks.
- 53 Road base material compaction testing to be undertaken by a registered NATA Laboratory prior to sealing. Test results are to be submitted to Councils Development Engineer for assessment and approval prior to commencement of final surface sealing work.
- 54 The Developer will be required to convene an onsite meeting prior to and on completion of civil works, incorporating the successful contractor, Councils Development Engineer and Environmental Planner, prior to the commencement of engineering construction.
- 55 The Developer shall be responsible for the supply of all relevant street signage, traffic control and delineation as shown on all approved Engineering Design Plans, prior to the release of the maintenance bond.
- 56 The Developer shall supply at their full cost aluminium blades, Minimum 150mm in width, with smooth reflective background. Reflective Material is to comply with AS1906. Blades shall be printed with approved street name in black, non reflective writing 100mm high on both sides of the blade in block writing, as per Lettering Serious C and shall also have Councils logo on the blades. 75mm OD galvanized iron posts and iron caps with accompanying aluminium brackets, holes for fixtures to galvanized iron posts and bolts shall be supplied. Council can arrange for the manufacture and installation of the above items, all works will be at the Developers cost.
- 57 All civil engineering works are to be inspected by the principle Certifying Authority prior to the placement of concrete and/or backfilling.
- 58 All roof waters and associated water run-off shall be discharged to a road or directly into Councils system or a defined natural watercourse. In the instance that this cannot be achieved, inter-allotment drainage shall be provided for individual allotments in accordance with Lithgow City Councils "Subdivision and development Code".
- 59 A sub-soil drain shall be put in place from the Hayley Street access, around the rear boundary of the Hayley Street properties to the corner boundary of unit number 16.
- 60 All measures for stormwater and water quality management as set out in the amended water cycle management study (dated 28 March 2006), and the Plan of Site Stormwater Management (drawings 05071-C02-C and 05071-C03-3 amendment C dated 28/2/06) prepared by CPM Engineering are to be implemented;
- 61 All bioretention swales and other stormwater management measures are to be designed consistent with the *WSUD Engineering Procedures* published by Melbourne Water through CSIRO Publishing (2005);
- 62 Except where indicated on the Plan of Site Stormwater Management (drawings 05071-C02-C and 05071-C03-3 amendment C dated 28/2/06) prepared by CPM Engineering, there are to be no works of any kind within one metre of the bioretention swales;
- 63 A management plan for the cleaning and maintenance of all water quality protection measures including bioretention swales is to be prepared to Council's satisfaction;
- 64 Rainwater tanks to be installed on individual villas are to have a minimum capacity of 2500L, with the volume used for mains-water top up to be a maximum of 500L;
- 65 Water-saving devices that are at least AAA-rated are to be installed in all villas;

- 66 A Soil & Water Management Plan (S&WMP) is required if for all site works proposed as part of the development. The S&WMP is to be prepared by a person with knowledge and experience in the preparation of such plans, is to meet the requirements outlined in Chapter 2 of the NSW Landcom's "Soils and Construction" Managing Urban Stormwater" (2004) manual - the "Blue Book" - and is to be agreed to by the Council;
- 67 Effective erosion and sediment controls are to be installed prior to any construction activity (including earthworks for the dwelling and site access). The controls must prevent sediment entering drainage depressions and watercourses and are to be regularly maintained and retained until works have been completed and groundcover established;
- 68 The final layout be submitted for approval by the Mine Subsidence Board. The development is to be carried out in accordance with provisions of the Mine Subsidence Board are to be complied with, being:

On Lot 201

Final drawings for Units 3-8 and 17-31 are to be submitted to the Mine Subsidence Board prior to commencement of construction, and certified by a qualified structural engineer to the effect that the improvements to be constructed meet the specifications of such final drawings will be safe, serviceable and repairable, taking into account the requirements of AS 2870 and:

- Designed for a pothole of nominal diameter of 5,000 mm.
- Certification by a qualified structural engineer upon completion that the structural integrity of improvements complies with the Board's approval given under this building application.
- No cavity or internal brick walls are permitted.
- Absolute maximum height of foundation brickwork is not to exceed 1.5 metres.

Units 1-2, 9-16, 32-34 are to comply with the following provisions:

- Strictly single storey brick veneer dwellings, limited to a maximum length of 30 metres.
- The maximum height of foundation brickwork is not to exceed 1.5 metres.
- No raft or infill slabs are permitted.
- Architectural plans, submitted to the Mine Subsidence Board for approval, must show the location and detailing of articulation/control joints in brickwork to comply with the requirements of the Building Code of Australia and best building practices.

No cavity or solid brick dividing walls are permitted.

The applicant is to be advised that there is a possibility of the guidelines in (a) being relaxed if geotechnical work to investigate the mine workings is carried out.

On Lot 2

Based on the geotechnical and engineering advice provided by Jonathon Homes, the Board will approve the development to proceed subject to partial filling of the mine workings. It is important to note that the filling of the workings is a procedure that will develop as boreholes are drilled and filling takes place. As a result additional grouting points may be required. You will need to demonstrate that filling has met the outcomes stipulated by the engineer and the risk of mine subsidence has been removed. The amended building layout as indicated on Plan dated 26th July 2005 will be approved where this has been achieved.

- 69 That the Remedial Action Plan specified in the Supplementary Environmental Site Assessment and remedial Action Plan of 15 January 2005 by Geotechnique Pty Ltd be completed.
- 70 That a Validation Report certifying that the site is environmentally suitable for the proposed use, be submitted to Council prior to the issue of a Construction Certificate.
- 71 Should any form of fibre-cement and/or asbestos not identified in the Environmental Site Assessment be encountered during any earthworks associated with the development, an appropriately qualified environmental consultant or occupational hygienist must be contacted to inspect and ascertain the extent of the problem and then advise on remediation. If the pieces are found to be bonded (rather than friable) and minor (i.e. a handful of pieces) they may be hand picked (using gloves), placed in a sealed plastic bag and disposed of at a landfill facility licensed to accept asbestos waste.
- 72 If any suspect soils (soils unusually coloured, stained or odorous) are encountered during earthworks associated with the development, all works must cease immediately and an appropriately qualified environmental consultant must be contacted to inspect and ascertain the extent of the problem and then advise on remediation.
- 73 Approval must be obtained from Council's Environmental and Planning Services Division prior to the disposal of any waste (including VENM) at any Council owned facility. Certification of the classification of the waste in accordance with the Environmental Guidelines: Assessment, Classification & Management of Liquid and Non-liquid Wastes and quantities will be required to be submitted. Also, waste receipts will need to be obtained and provided to Council prior to issue of an Occupation Certificate. NOTE: Large quantities of construction and asbestos waste will not be accepted.
- 74 That a Waste Management Plan based on the waste management hierarchy of avoid, reuse, recycle and dispose is provided to Council for approval prior to the commencement of demolition/construction works outlining the following during all phases of the development:
- the type and amount of waste/recyclable material to be generated
 - how waste/recyclable materials will be stored and treated on-site
 - how disposal of waste/recyclable materials will take place.
- 75 That dust emissions be maintained within the site boundary, due care is to be taken to comply with Council's water restrictions. Where a variance to the water restriction is required, an exemption can be applied for through Council.
- 76 The LA₁₀ level measured over a period of not less than 15 minutes when the demolition/construction site is in operation must not exceed the background level by more than 10dB(A). In this regard, the background noise level is to be provided to Council prior to the commencement of demolition/construction.
- 77 An operational noise assessment is to be undertaken in accordance with the NSW EPA Industrial Noise Policy to determine the Project Specific Noise Goal and operational noise level prediction to Council for approval prior to the issue of a Construction Certificate.
- 78 The operation must comply with the approved Project Specific Noise Goal.
- 79 Details are to be provided to Council's satisfaction prior to the issue of a Construction Certificate showing the proposed noise attenuation measures to be undertaken to minimise the acoustic impact of air conditioning units on the residential units and nearby residential areas.

- 80 Coal and wood burning appliances are not permitted within the development.
- 81 That no portion of the building shall encroach onto the easement for electricity purposes identified on Deposited Plan 1045422. The applicant/owner is responsible for identifying the location of the easement prior to work commencing.
- 82 An amended plan is required to showing compliance with AS/NZS 2890.1:2004 Figure B5, (being turn radius for B85 vehicle at a turn radius of 5.8m) for all parking spaces provided.
- 83 That a further Development Application is submitted for Council assessment for the subdivision of the proposed units, showing the development as community titled, prior to the issue of an Occupation Certificate.
- 84 A plan is to be submitted for Council approval (in consultation with the residents) showing the proposed fencing detail for the units adjoining residences in Sandford Avenue. This plan will need to address any potential overlooking issues. A further plan will be required detailing the fencing proposed throughout the development and is to address issues of security and visibility of shared areas.
- 85 That a Landscape Plan be submitted for Council approval detailing the type of plants to be used and their maximum height at maturity. The plan should address areas requiring screening and is to be submitted and approved by Council prior to commencement of construction.
- 86 The access road through the development is to be treated as a 'shared zone' with a 10 kilometre per hour speed limit to be appropriately signposted at the expense of the applicant.
- 87 Details of the proposed arrangement for garbage collection are to be provided to Council for its approval prior to the issue of a Construction Certificate. These details will need to include the designated locations of bin pickup and consultation with the Manager of Environmental and Health.
- 88 A maintenance plan is to be submitted for Council approval prior to the issue of an Occupation Certificate for the access road, detailing how the road will be managed and maintained as a private road.
- 89 Details are to be submitted for Council approval and implementation prior to the issue of an Occupation Certificate, showing the proposed interim traffic measures to be adopted where stages are completed prior to the through road being completed or approved. The staging of the development should be re-assessed by the applicant to ensure appropriate vehicular linkages between Stages B and C.
- 90 Street Lighting shall be located within the development where required, in accordance with Integral Energy specifications, at full cost to the applicant.
- 91 External lighting is to be provided to all parking areas within the site. This lighting shall be adjusted or hooded to prevent glare nuisance to units within the development and adjoining residential premises.
- 92 A further Development Application will be required if it is proposed to implement security gates over the access to the development. This is to enable Council assessment of the potential social impacts and the potential impacts on emergency services.
- 93 Contributions for water and sewer are applicable to the development, therefore an application shall be submitted to Council for the supply of a Certificate of Compliance

under Section 305 of the Water Management Act. A Construction Certificate shall not be issued until such time as a Certificate of Compliance has been issued under Section 307 of that Act.

- 94 Prior to the issue of a Construction Certificate for Stages C & D further investigation will need to be undertaken by the applicant into whether or not there is a pipeline within the easement for pipeline shown on DP 868379. If the pipeline exists and is required details on how the development can be undertaken without affecting the purpose, access and structural integrity of the pipe. If the pipeline does not exist or is not required the easement must be extinguished.
- 95 The access proposed for Stage E off Marjorie Jackson is on Community Land as defined under the Local Government Act 1993. Prior to the issue of a Construction Certificate for Stage E the land is to be dedicated as public road. This process will require a re-classification to operational land for approval by the Department of Planning. If the re-classification is not approved a redesign will be required to ensure all access to the Stage is from within the site.
- 96 A Traffic Management plan is required prior to the issue of a Construction Certificate, to detail how conflict will be minimised and safety maximised between pedestrians and vehicles within the development, as a lack of footpath provision indicates that pedestrians and vehicles will be sharing the access road.
- 97 Pursuant to section 80A(1) of the Environmental Planning and Assessment Act the draft Planning Agreement that relates to the development application the subject of this consent must be entered into prior to the issue of the Subdivision Certificate.
- 98 A Services Management Plan must be provided prior to the issue of a Construction Certificate detailing where the services will be located and how access will be maintained to the services without continual disruption to the road pavement.
- 99 At the completion of Stages A and B the applicant will need to provide a Social Impact Assessment addressing the potential impact of the development on the rental market, the Lithgow housing market in general, the expected take up rate in relation to the sale of units and the possible cumulative impacts of the development. The remaining stages shall not proceed until Council is satisfied with the results of the Assessment.
100. The easement traversing through Lot 100 DP1036114 to be used for the services only specified on the title to the land.

MOVED: Councillor M M Collins

SECONDED: Councillor B S Moran.

CARRIED

ITEM:7 EPS - 05/06/06 - NAIDOC WEEK 2006

SUMMARY

To provide information and request Council's support for a financial contribution to NAIDOC Week Celebrations in the Lithgow Local Government Area.

COMMENTARY

NAIDOC celebrations will be held around Australia in the week from 2 – 9 July to celebrate the history, culture and achievements of Aboriginal and Torres Strait Islander people. A NAIDOC Week Committee has been meeting to plan and carry out activities in Lithgow. This Committee is currently seeking a small financial contribution from Council to assist it to carry out these activities.

Lithgow LGA has a proportionate population of indigenous people above that of NSW. At the 2001 Census, there were 553 people who identified themselves as indigenous, which was 2.88% of the total population for the LGA. This compares with a NSW percentage of 1.88%, and a Central West figure of 3.82%.

POLICY IMPLICATIONS

There are no policy implications as a result of this report.

FINANCIAL IMPLICATIONS

The financial implications would be a donation of \$500, plus in kind involvement through council's Community Development Officer. It is recommended that the NAIDOC Week Committee be provided \$500 in Council's 2006/07 Budget.

06- 162 RESOLVED

THAT a cash contribution of \$500 be provided from the S356 Donation allocation to the NAIDOC Week Committee in the final 2006/2007 budget to be adopted on 19 June 2006.

MOVED: Councillor M M Collins

SECONDED: Councillor W McAndrew.

CARRIED

**ITEM:8 EPS - 05/06/06 - UPPER MACQUARIE COUNTY COUNCIL - WEEDS
 REPORT**

SUMMARY

To advise of the most recent Upper Macquarie County Council Weeds Reports.

COMMENTARY

Attached are reports from the Chief Weeds Officer of the Upper Macquarie County Council for April 2006.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

06- 163 RESOLVED

THAT the information be received

MOVED: Councillor B S Moran

SECONDED: Councillor M J Wilson.

CARRIED

ITEM:9 EPS - 05/06/06 - DEVELOPMENT & CONSTRUCTION APPROVALS

COMMENTARY

The following Development Applications and Combined Development/Construction Certificate Applications have been approved subject to compliance with the requirements of the Environmental Planning and Assessment Act 1979, the Mine Subsidence Act, where applicable, and any special conditions.

DA NUMBER	OWNERS NAME	SITE ADDRESS	PROPOSAL	APPROVAL TIME (DAYS)
546/05	R & L WINKLER	LOT 27, APPLETREE LANE, LITTLE HARTLEY	DWELLING	20
66/06	PR & ML GIBBONS	14 MORTLOCK CLOSE, LITHGOW	GARAGE & AWNING	18
49/06	L HAWKINS	6/8 BRISBANE STREET, LITHGOW	DWELLING EXTENSION	38
112/06	MJ McCREANOR	18 SUTCLIFFE STREET, LITHGOW	GARAGE	5
69/06	BE JEFFREE & LG JACKSON	7 RUSSELL STREET, PORTLAND	DWELLING EXTENSION	18
48/06	ST PAULS ANGLICAN CHURCH	2 ROY STREET, LITHGOW	ERECTION OF SHADE STRUCTURES	18
105/06	VL KELLY	13 CUPRO STREET, LITHGOW	PATIOPORT	6
28/06	LT & GJ DYSON	53 LYON PARADE, WALLERAWANG	RESORT ROOM	11
114/06	RA & SD MONAGHAN	105 RESERVE ROAD, MARRANGAROO	FRONT & BACK VERANDAHS	6
110/06	V & KE DUNDA	24 AMBERMERE DRIVE, LITTLE HARTLEY	GARAGE	4
120/06	LJ & CD MILLS	1 HENNING CRESCENT, WALLERAWANG	GLASS ROOM	13
93/06	DJ & TA MUIR	1 BUNDARRA PLACE, MARRANGAROO	PATIOPORT	18
128/06	ZG & KL BRAY	12 GEORGE PARADE, PORTLAND	GARAGE	7
116/06	NA & FM REYNOLDS	11 PIPER STREET, PORTLAND	GARAGE & RETAINING WALL	5
91/06	SL MILLER	13 SAYWELL STREET, LITHGOW	DWELLING ADDITION &	19

MINUTES – FINANCE AND SERVICES COMMITTEE MEETING OF COUNCIL

			VERANDAH	
109/06	JE HART	1 MAIN STREET, PORTLAND	GARAGE	21
124/06	ML NUGENT	35 ROXBURGH STREET, PORTLAND	DWELLING ADDITION	12
96/06	I & C FITZGERALD	122 KERMA CRESCENT, CLARENCE	SHED	14
103/06	GP & KA DEAN	152/154 MAIN STREET, LITHGOW	REMOVE/REPLACE STAIRWAY	19
111/06	PJ & CJ PILLANS	3584 GWH, LITHGOW	BAR MODIFICATION	21
126/06	PA REEN	1406 SUNNY CORNER ROAD, MEADOW FLAT	DWELLING ADDITION	10
138/06	PJ & AM ROHRICH	5 BATE STREET, PORTLAND	SHED	2
66/05	DC CORNEY	LOT 11 DP 1074721, GWH, SOUTH BOWENFELS	47 LOT SUBDIVISION (STAGE 2)	222
67/05	DC CORNEY & PJ PILLANS	LOT 10/11 DP 1074721, GWH, SOUTH BOWENFELS	54 LOT SUBDIVISION (STAGE 1)	222
36/06	E HOLMES	164 MAIN STREET, LITHGOW	LASER CLINIC	57
81/06	P LAYTON & ASSOC	LOT 1, COL DREW DRIVE, STH BOWENFELS	2 LOT SUBDIVISION	11
70/06	A & S COLEMAN	1 PIPER STREET, PORTLAND	GARAGE	12
123/06	HUNTER MINING METHODS	3 PINTA STREET, WALLERAWANG	MINOR EARTHWORKS	21
151/06	HAWKESBURY POOLS & SPAS	14D BAYONET STREET, LITHGOW	SWIMMING POOL	5
121/06	CR & LM EDWARDS	13 SUVLA STREET, LITHGOW	PATIO COVER	19
108/06	PJ MILHAM & RM PHILLIPS	5 ROXBURGH STREET, LITHGOW	DWELLING ADDITION	18
165/06	DE & LT QUINN	14C BAYONET STREET, LITHGOW	SWIMMING POOL	4
133/06	WW & PA WADE	7 CURTIN PLACE, LITHGOW	PATIOPORT	8
163/06	BG JENKINS & J TAYLOR	23 HENNING CRESCENT, WALLERAWANG	RETAINING WALL	1
102/06	G & BL LANE	60 RAILWAY AVENUE, PORTLAND	GARAGE	22
139/06	GK & JT FORD	89 FOREST RIDGE DRIVE,	ENTRY AREA ADDITION & DECK	8

MINUTES – FINANCE AND SERVICES COMMITTEE MEETING OF COUNCIL

		WALLERAWANG		
100/06	JM FRAME	36 LAURENCE STREET, LITHGOW	GARAGE	24
158/06	SJ & JM COATES	1165 WOLGAN ROAD, WOLGAN VALLEY	EXTENSIONS TO DWELLING	10
146/06	WJ & JT HOWELL	12 MAPLE CRESCENT, LITHGOW	DWELLING ADDITIONS	12
154/06	AR & MP VANAGS	195 BAANERS LANE, LITTLE HARTLEY	DWELLING ALTERATIONS	5
130/06	AB & M BROWN	2 SIDEY PLACE, WALLERAWANG	SHED	10
140/06	RD BATTERSBY	16 PARK AVENUE, PORTLAND	PATIO	11
145/06	GL & ML GILLIES	2 PROTEA PLACE, LITHGOW	DWELLING ADDITION	4
143/06	C & I OSBORNE	11 THORNLEY CLOSE, LITHGOW	PATIOPORT	6
147/06	JM & KC HOUSTON	44 HENNING CLOSE, WALLERAWANG	DWELLING	5
164/06	R & JE WEST	196 KERMA CRESCENT, CLARENCE	DWELLING ADDITION (POOL ENCLOSURE)	3
171/06	G & SL MUIR	3 BLAXLAND STREET, LITHGOW	PATIOPORT	4
84/06	RJ & OR KING	135 & 137 HASSANS WALLS RD, LITHGOW	BOUNDARY ADJUSTMENT	52
60/06	MORTFIVE PTY LTD	5 COL DREWE DRIVE, LITHGOW	NEW KITCHEN TO MOTEL	35
162/06	DELTA ELECTRICITY	LAKE WALLACE FORESHORES	SHELTER & TANK	7
137/06	C CHADWICK	19 FALNASH STREET, PORTLAND	SHED	32

Total Estimated Cost:	\$1,207,533
Average Approval Time	23 days
Total Cost of Approvals from 1/01/06	\$1,2767,586
No. of Applications from 1/01/2006	197

Councillor B P Morrissey declared a pecuniary interest in Item 9 - 66/05 due to the applicant being his neighbour and he vacated the Chambers.

06- 164 RESOLVED

THAT the information be received

MOVED: Councillor M M Collins

SECONDED: Councillor H K Fisher.

CARRIED

ITEM:10 EPS - 05/06/06 - DEVELOPMENT APPLICATIONS RECEIVED

SUMMARY

To inform the Council of recently submitted development applications.

COMMENTARY

In order to keep the Council informed of current development proposals, the following list is provided of development applications which have been received after the last report to the Finance and Services Committee on 3 April 2006. The list excludes dwellings, additions, carports and associated residential proposals or proposals of a minor nature.

Significant Development Applications received			
DA No.	Date Received	Proposal	Property
142/06	24/4/06	Demolish existing service station	41 Lithgow Street, Lithgow
148/06	28/4/06	Subdivision into 12 lots	35 Mid Hartley Road, Little Hartley
150/06	1/5/06	Office alterations	131 Mort Street, Lithgow
152/06	1/5/06	Mountain cross track	Lot 931 State Mine Gully Road, Lithgow
155/06	2/5/06	Subdivision into 2 lots	23 Gemalong Close, Marrangaroo
156/06	3/5/06	Church	Lot 202 Methven Street, Lithgow (ADI site)
157/06	5/5/06	Refurbishment of existing service station	Lot 1 Great Western Highway, Bowenfels
161/06	9/5/06	Subdivision into 2 lots	Lot 154 Cullenbenbong Road, Kanimbla Valley
166/06	12/5/06	Roof structure (awning for trucks)	Lot 1 Neubeck Street, Lidsdale
168/06	12/5/06	Colourbond industrial shed	11 Donald Street, Lithgow
170/06	16/5/06	Strata subdivision into 4 units	Lett Street, Lithgow
172/06	17/5/06	Residential units	13 Park Avenue, Portland
173/06	17/5/06	Residential units	Lot 22 Park Avenue, Portland
183/06	22/5/06	Demolition of single storey buildings nos. 35 & 36	Methven Street, Lithgow (ADI site)

If Councillors wish to receive more detailed information on any of the aforementioned applications, then this can be provided.

POLICY IMPLICATIONS

There are no policy implications as a result of this Report, however, the development applications will be assessed in light of any applicable policies.

FINANCIAL IMPLICATIONS

The costs involved in processing the development applications are the only financial implications at this stage. These costs are budgeted for in the 2005/06 Recurrent Budget.

LEGAL IMPLICATIONS

The applications are subject to the requirements of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

Nil

Councillor M M Collins declared a pecuniary interest in Item 12 as it is an opposing transport company and in Item 10 - DA 166/06 as she is the applicant of the DA. She vacated the Chambers.

06- 165 RESOLVED

THAT the information be received.

MOVED: Councillor M J Wilson

SECONDED: Councillor B S Moran.

CARRIED

ITEM:11 EPS - 05/06/06 - UPDATE ON LEGAL MATTERS

SUMMARY

This report provides an update on three matters that have been the subject of proceedings in the Land and Environment Court.

COMMENTARY

Cutcliffe -v- Council and Dukes – Great Western Highway, Marrangaroo

The matter was heard on 22 May 2006 before his Honour, Justice Biscoe. Council entered a submitting appearance. The Applicant and 2nd respondent proposed consent orders which were subsequently issued by the Court. In summary the main points of the judgement are:

1. Noting that the Applicants discontinued their challenge to development consent 519/02 for the subdivision into two allotments.
2. That development consent 523/02 be declared void for two reasons. Firstly, that the delegated officer had limitations placed on his power to grant consent in the event that objections were received. A submission on the application was deemed in substantive content to be an objection thus the delegated officer's authority was void. Secondly, clause 13 of the LEP had not been considered.

Delaney -v- Council – Peachtree Road Megalong Valley

A statement of basic facts and statement of issues have been provided. Following a telephone callover on 22 May 2006, further particulars were sought by the Applicant. The matter is listed for telephone callover on 5 June 2006.

Charles -v- Council – Tweed Road

On 19 May 2006, the expert appointed by the Court to assist in its deliberations, Mr Kerry Nash, inspected the site and took verbal submissions from residents. He will report his findings to the Court. It is also likely that the Commissioner hearing the matter will want to visit the site in due course and seek formal submissions from the residents prior to the decision.

POLICY IMPLICATIONS

In implementing a practice to review and redetermine delegations to professional officers the General Manager is seeking to put in place procedures to ensure that a situation does not arise whereby an officer acts outside his/her delegations of authority.

FINANCIAL IMPLICATIONS

The final cost of proceedings in the concluded matter is yet to be determined. Should any costs application be submitted against Council then this must be done by 5 June 2006.

LEGAL IMPLICATIONS

NIL

06- 166 RESOLVED

THAT information be received.

MOVED: Councillor M J Wilson

SECONDED: Councillor B P Morrissey.

CARRIED

**ITEM:12 EPS - 5/6/06 - DA 461/04 MODIFICATION OF DEVELOPMENT
CONSENT PINE DALE MINE**

SUMMARY

To advise of the receipt of a Section 96 Modification Application in relation to Coal Haulage from Pinedale Colliery.

COMMENTARY

Council has previously given consent to a designated development application No. 461-04 being the construction and operation of an open cut coal mine being known as Pine Dale Open Cut Coal Mine facility. As part of those conditions Council indicated that:

13.2 Private Roads

13.2.. The Applicant shall ensure that within six months of the commencement of operations, all coal is to be transported to Mt. Piper and Wallerawang Power Stations by means other than public roads.

The applicants have now lodged a Modification of Development Consent Application under Section 96(2) of the Environmental Planning and Assessment Act 1979, seeking to modify the above condition with the following:

13.2 Private Roads

- 13.2.1 This consent sanctions the transportation of coal by public road to Mt Piper and Wallerawang Power Stations for a period of 5 years from the commencement of coal transportation.
- 13.2.2 Within six(6) months of the commencement of coal transportation, the Applicant shall convene a meeting with Council, Delta Electricity, the owner/operator of the Angus Place to Mt Piper Haul Road, the owner/operator of the Angus Place to Wallerawang Haul Road and Centennial Coal, or such of those parties who accept the convening, to discuss ways in which a practicable agreement may be reached to use the Angus Place to Mt Piper Haul Road and the Angus Place to Wallerawang Power Station Haul Road. If these discussions are successful, a timetable shall be implemented to ensure coal purchased from the applicant by Delta Electricity is generally transported to Delta Electricity power stations by private haul road, other than at times when access to the private haul roads may for some reason be unavailable. If these discussions are not successful then condition 13.2.3 shall apply.
- 13.2.3 Notwithstanding the provisions of condition 13.2.1, the applicant may apply to Council to extend the period for the transportation of coal to Mt Piper and Wallerawang Power Stations for the term of this consent on public roads if the discussions outlined in condition 13.2.2 do not result in agreement to utilise either or both of the private haul roads. Should this occur then this extension must be applied for in writing no later than six (6) months prior to the expiration of the five year period as outlined in condition 13.2.1. In determining whether to grant any such extension, the Council may consider previous performance of heavy vehicle haulage and any complaints received by Council or the Community Consultative Committee. Council's granting of an extension under this sub-clause may not be unreasonably withheld.

The modification application has been made under the justification that the applicant considers that sub-clause 13.2 of the consent is arguably, either not consent to its application or is unreasonably imposed, or both, by virtue of:

- a) by restricting the transportation of coal to means other than freely and readily available public roads, the purported consent significantly alters the development in respect of which the application was made so that the purported consent is not a not consent to the application at all; and
- b) the condition fails the common law test of validity in that, the condition imposed is so unreasonable that no reasonable local authority properly advised would impose such a condition.

To understand the basis on which to proceed, the modification application was referred to Council's Solicitors (Pike Pike & Fenwick) for comment on the justification supplied by the applicant. In their reply Pike, Pike and Fenwick indicated in their opinion the condition imposed as part of the original consent is "in legal principle" a valid condition. As such the application will now be exhibited and forwarded to all concerned parties for assessment.

As part of the modification process Council will forward the application to the RTA concerning any issues they may have. An exhibition process involving the local community in particular will need to be undertaken.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Apart from costs of initial legal advice, potentially the applicant or third party (being a designated development) could appeal Council's final decision on the matter. As such, Council would not only need to be sure of its reasoning but also have a sound justification for its decision. However, this in itself will not be a matter for consideration.

LEGAL IMPLICATIONS

See Financial Implications. Also, as indicated in the commentary, the application has been forwarded to Council's Solicitors for comment as part of the process.

Councillor M M Collins declared a pecuniary interest in Item 12 as it is an opposing transport company and in Item 10 - DA 166/06 as she is the applicant of the DA. She vacated the Chambers.

Councillor M J Wilson declared a pecuniary interest in Item 12 as he is employed by Delta Electricity and he vacated the Chambers.

06- 167 RESOLVED

THAT the modification application be placed on public exhibition.

MOVED: Councillor H K Fisher

SECONDED: Councillor B S Moran.

CARRIED

CORPORATE SERVICES REPORTS

**ITEM:13 CORP - 05/06/06 - MEDIA RELEASE & EMAILED QUESTIONS
 COUNCILLOR MARTIN TICEHURST THREE TREE LODGE &
 PORTLAND POOL**

REFERENCE

Nil

SUMMARY

To advise Council of questions and an associated media release submitted by Councillor Martin Ticehurst with regard to the inclusion of Three Tree Lodge and Portland Pool in Councils 2004/05 General Purpose Financial Reports.

COMMENTARY

Council officers received an email from Councillor Martin Ticehurst at 1.05AM on the 15 May 2006 requesting a late report to the Ordinary meeting of Council at 6.00PM on Monday 15 May 2005. The questions posed required investigation and it was not possible for inclusion as a late report to that meeting and as such the report has been composed and presented to the next appropriate meeting of the Finance & Services Committee.

In relation to the email Council sought supplementary information from independent Auditors, Alan Morse and a copy of their reply follows.

The General Manager has also supplied the following information to the Department of Local to assist them to answer the enquiries from Councillor Ticehurst.

THREE TREE LODGE

TRIPARTITE DEED Three Tree Lodge

Health Administration Corporation, Three Tree Lodge, Lithgow City Council

CERTIFICATE OF TITLE 2/1068159

Caveat No AA946010 - Noting the Tripartite Deed

Sec 88E (3) Restricting the use of the property as an Aged Care Facility

COUNCIL MINUTES

Ordinary Meeting 22 March 2004 Min 04-384 Council agrees in principle to the Tripartite Deed

Ordinary Meeting 25 May 2004 Min 04-617 Council agree to enter Tripartite Deed

PORTLAND POOL

DEED Portland Pool Association

Lithgow City Council & Portland & District Olympic Pool Assoc

CERTIFICATE OF TITLE 39/842893

Sec 88E (3) Restricting the use the property as public swim pool & associated facilities

COUNCIL MINUTES

Ordinary Meeting 21 March 2005 Agreement to enter into Deed

Ordinary Meeting 4 October 2005 Min 05-496 Accept Tender Portland Pool

GENERAL PURPOSE FINANCIAL REPORTS

COUNCIL MINUTES

Ordinary Meeting 31 October 2005: GPFR 2004/05 to Council with disclosure of Three Tree Lodge & Portland Pool

Ordinary Meeting 28 November 2005: GPFR 2004/05 to Council - Invitation to Auditors to address the meeting of 19 December 2006

Ordinary Meeting 19 December 2005: GPFR 2004/05 to Council Presentation by Auditors. Note: Auditors commented on the night with regard to the inclusion of Three Tree Lodge & Portland Pool

AUDIT REPORTS

2004/05 General Purpose Financial Reports - Alan Morse & Co

Audit Opinion 6 March 2006 Three Tree Lodge & Portland Pool Joint Venture

Audit Opinion 22 May 2006 Three Tree Lodge & Portland Pool Inclusion 04/05 GPFR



ALAN MORSE & CO
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LRS:804105

22 May 2006

General Manager
City of Lithgow Council
PO Box 19
LITHGOW NSW 2790

Dear Paul

RE: THREE TREE LODGE AND PORTLAND POOL

We are writing in response to your request for a written confirmation of the recognition of assets relating to both Three Tree Lodge and Portland Pool as controlled assets of Council for the year ended 30 June 2005. This request is in response to assertions made by Councillor Martin Ticehurst and Mr Jack Ellis in relation to these matters.

Background

Council decided at 30 June 2005 to bring to account a number of properties over which it determined it had technical control for accounting purposes. These included assets relating to both Three Tree Lodge and the Portland Pool.

Auditing Standard AUS 202 "Objective and General Principles Governing an Audit of a Financial Report" states that the objective of an audit of a financial report is to enable the auditor to express an opinion whether the financial report is prepared, in all material respects, in accordance with an identified financial reporting framework. In Council's case, this means determining whether the recognition of these assets in Council's financial statements was materially compliant with the requirements of Australian Accounting Standards (AASBs), Australian Accounting Standard AAS 27 - Financial Reporting by Local Governments (AAS 27), the Local Government Asset Accounting Manual (the Manual) and the Local Government Code of Accounting Practice (the Code).

AAS 27 requires that the general purpose financial report of a local government is to encompass all business and non-business operations that the governing body controls, either directly or through the operations of controlled entities. In AAS 27 control of an asset means the capacity of the local government to benefit from the asset in the pursuit of its objectives and to deny or regulate the access of others to that benefit.

The Local Government Asset Accounting Manual defines control of an asset as the capacity of the entity (Council) to benefit from the asset in the pursuit of the entity's objectives and to deny or regulate the access of others to that benefit. This definition is consistent with that applied by the AASBs and Statement of Accounting Concept 4 (SAC 4).



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JD O'MALLEY * JA ENRIGHT * MJ THORNHILL * R RICE-WARD * JM SHANKS



COVER OF
EXCELLENCE

The Manual, in accordance with AASBs, requires that an asset be only recognised when it is probable that future economic benefits will eventuate and the cost of the asset is able to be measured reliably.

In our opinion, both of these criteria were met in relation to both Three Tree Lodge and the Portland Pool.

It is important to note that the Manual specifies that the concept of control for accounting purposes does not necessarily require the recognising entity to own or possess the asset. Control relies less on the legal form of the transaction than on the substance.

Portland & District Olympic Pool Association Incorporated

On 22 March 2005, Council entered into a Deed of Agreement with the Portland & District Olympic Pool Association Incorporated (Portland Pool).

The Portland Pool requested Council to grant them \$200,000 to undertake capital works on the pool.

The agreement includes a number of conditions, including but not limited to the following:

- no works are to be undertaken without approval by Council's Recreation Manager.
- all expenditure must be approved by Council, with Council having the right to refuse approval on expenditure if it so chooses.
- the Portland Pool's constitution cannot be altered without Council's approval, which is not to be unreasonably withheld.
- before payment of any money, the title to the land on which the Pool is located required a Restriction on the Use of Land by a Prescribed Authority to be registered in accordance with Subsection 88E(3) of the Conveyancing Act 1919.
- the Portland Pool is not be mortgaged, otherwise encumbered or transferred to another party without Council's written consent.

In addition, should the legal entity be wound up, surplus assets, including the pool, are to be transferred to Council.

It should be noted that the funds provided by Council were by way of a grant and are not loan funds to be repaid by the Portland Pool.

Council's recognition of Portland Pool as a controlled asset, based on the specific conditions of the agreement between the parties is in accordance with the requirements of the relevant accounting standards and regulatory framework in which Council operates.

Three Tree Lodge Lithgow Incorporated

In 28 June 2004, Council entered into a Tripartite Agreement with Three Tree Lodge Lithgow Incorporated (Three Tree Lodge) and the Health Administration Corporation (HAC).

This agreement required that in the event of Three Tree Lodge disposing of the aged care facilities, the proceeds of the disposal were to be vested in Council. Council would then be required to invest these funds into the provision of aged care facilities in the Lithgow Council area.

Council recognised these assets on the basis that they had the ability to deny or regulate the access of the proceeds from this facility to others. That is, that Council has the ultimate control over the proceeds from any disposal of the property.

The title deed to this property contains a caveat which refers to an Office of State Revenue document number AA946010. This document notes Lithgow City Council's interest in the property under the terms of the Tripartite Deed dated 28 June 2004.

Councillor Ticehurst has referred to Council's minute of 22 May 2004 in relation to Council's determination to recognise Three Tree Lodge as a Contingent Asset in Note 18 to the financial statements.

It appears that Councillor Ticehurst's reference to 22 May 2004 in fact referred to Council meetings held on either 25 May 2004 or 22 March 2004. At these meetings Council did note that if the Deed of Agreement were entered into, Three Tree Lodge would be recognised in Note 18 to the financial statements for the year ended 30 June 2004. Such disclosure was made in the general purpose financial report for the year ended 30 June 2004.

It should be noted that although the deed of agreement is dated 28 June 2004, the Caveat was not lodged until 8 September 2004. As such, the arrangement was not finalised at 30 June 2004, giving rise to recognition as a contingent asset, rather than a controlled asset pending registration of the Caveat.

The Local Government Asset Accounting Manual provides a checklist which can be used to assess whether an entity has control over a specific asset. The checklist includes ten (10) questions which can be used to make this assessment.

The control criteria included in this checklist which Council has met in relation to Three Tree Lodge include the following:

1. Council can deny or regulate the access of others to the asset
2. The asset is held to meet the objectives of Council
3. The absolute property right is with Council
4. There are restrictions on the use of the asset
5. The asset is vested in Council
6. Council controls the majority of the risk and benefits relating to the asset

Two (2) of the remaining criteria relate to whether or not Council has involvement in the day to day operation and management of the asset. In this case Council does not, and has clearly stated so in its financial report for the year ended 30 June 2005.

In addition, the checklist contains questions about whether Council has legal title to the asset, and also whether the asset was purchased by Council. Both of the tests are not met in this situation.

However it should be noted that these are not necessarily criteria that would be looked at in isolation to determine whether or not control exists for accounting purposes. That is, legal form and the payment of consideration traditionally receive a lesser weighting in the determination of control for accounting purposes than the substance of the situation.

Council's recognition of Three Tree Lodge as a controlled asset, based on the specific conditions of the agreement between the parties is in accordance with the requirements of the relevant accounting standards and regulatory framework in which Council operates.

Financial Statement Disclosures

The financial report for the year ended 30 June 2005 was presented to Council at its meeting on 31 October 2005. At this meeting, the inclusion of Three Tree Lodge in these results as a controlled Council asset at a value of \$4,820,000 was specifically referred to in Council's business paper. In addition, the inclusion of the Portland Pool at a cost of \$320,000 was also referred to in Council's business paper. In both instances, reference was made to the relevant legal agreements which gave rise to Council's decision to recognise these as assets controlled by Council.

Our Conduct of Audit Report and formal presentation to Council on 19 December 2005 also drew attention to the fact that Council had recognised significant non-cash capital contributions during the year, specifically Portland Pool and Three Tree Lodge.

Councillor Ticehurst has asserted that both Three Tree Lodge and Portland Pool were brought to account by Council as a "full cash asset" in the 2004-'05 financial report. They were in fact brought onto Council's books as non-cash capital contributions. As such, they impacted Council's profit after capital amounts and did not impact on Council's operating result for the year.

These assets were recognised as non-cash additions to property, plant and equipment in Note 9 to the financial statements for the year ended 30 June 2005. The fact that these assets were non-cash capital contributions was also detailed in Note 11 - Reconciliation to Cash Flow Statement, which noted \$5,248,000 in controlled assets acquired through non-cash means. In addition, Note 16 - Significant Variations from Original Budget includes details of the acquisition of control over Three Tree Lodge.

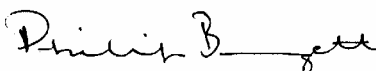
Conclusion

Council's recognition of Three Tree Lodge and Portland Pool by Council in its financial report for the year ended 30 June 2005 complies with the criteria for recognition of control over these assets in accordance with the reporting framework referred to earlier in this letter.

Should you wish to discuss this matter further, please do not hesitate to contact me.

Yours faithfully

ALAN MORSE & CO

Per: 

PHILLIP BURGETT
MANAGING PARTNER

EMAIL 15 MAY 2006 COUNCILLOR TICEHURST:

Councillor Ticehurst asked the following questions in his email of 15 May 2006 (NB general statements made by Council Ticehurst are not addressed.) Councils response to each question follows:

QUESTION 1)

Councillor Ticehurst

The attached letter from NSW Health (Health Administration Corporation) which supports the position that the Tripartite Deed never provided the Lithgow City Council with any ownership of the Three Tree Lodge Aged Care Facility in Lithgow.

QUESTION 2)

Councillor Ticehurst

AASB 1044 and IAS 137 as relevant to the 2004/2005 GPFR's, which were succeeded by AASB 137, particularly paragraphs 10, 27 and 31.

QUESTION 3)

Councillor Ticehurst

Agenda and Minutes of Ordinary Meeting of Council of 22 March and 25 May 2004, Items 81 and 37 respectively by Carol Farnsworth, Manager Finance & Corporate regarding 'Three Tree Lodge/HAC/Lithgow City Council Tripartite Deed', confirming, "Should Council enter into the deed of agreement disclosure of the same will be made in Note 18 (Contingencies) of our General Purpose Financial Reports, which will comply with Departmental requirements."

QUESTION 4)

Councillor Ticehurst

The attached insert from the Department of Local Government Asset Accounting Manual.

Question 5)

Councillor Ticehurst

There were no resolutions of the Lithgow City Council to take over the full ownership of either the Three Tree Lodge Aged Care Facility in Lithgow or the Community Olympic Pool Portland assets.

LITHGOW CITY COUNCIL RESPONSES

RESPONSE QUESTION 1 LCC: Council acknowledges ownership of Three Tree Lodge is with "THREE TREE LODGE LITHGOW INCORPORATED." This was previously reported to Council on the 6 March 2006.

At no stage has Council expected or sought ownership of the facility.

The original report to Council on the 22 March 2004 (attached) stated: *"The Health Administration Corporation and Three Tree Lodge have been working together over past months to reach agreement, which will allow the project to proceed (the project: to accommodate an additional 11 dementia specific low level care beds). This is moving to completion by the subdivision of the Three Tree facility from the entire health campus site to create separate titles for Three Trees and the hospital. **Three Trees will then hold title to their land and will be able to negotiate a mortgage.**"*

The Certificate of Title notes:

Caveat No: AA946010 - Tripartite Deed noting Councils involvement
Sec 88E(3) Restriction of use as an Aged Care facility

RESPONSE QUESTION 2 LCC: As information for Councillors AASB 1044 and IAS 137 refer to 'Provisions for Contingent Liabilities & Contingent Assets'

At the Ordinary meeting of Council on the 22 May 2004 Council agreed to enter into the Tripartite Deed with Three Tree Lodge and the Health Administration Corporation. As at 30 June 2004 the arrangement was not finalised and as a result the agreement was recognised in Note 18 (Contingent Assets) of the 2003/04 Financial Reports.

The Caveat on the Deed was lodged on the 8 September 2004 at which time Council recognised the controlled asset in the 2004/05 Financial Reports.

RESPONSE QUESTION 3 LCC:

At the Ordinary meeting of Council on the 22 May 2004 Council agreed to enter into the Tripartite Deed with Three Tree Lodge and the Health Administration Corporation. As at 30 June 2004 the arrangement was not finalised and as a result the agreement was recognised in Note 18 (Contingent Assets) of the 2003/04 Financial Reports.

The Caveat on the Deed was lodged on the 8 September 2004 at which time Council recognised the controlled asset in the 2004/05 Financial Reports.

RESPONSE QUESTION 4 LCC:

Quote- : Alan Morse & Co (correspondence above 22 May 2006)

"Councils recognition of Three Tree Lodge as a controlled asset, based on the specific conditions of the agreement between the parties is in accordance with the requirements of the relevant accounting standards and regulatory framework in which Council operates."

RESPONSE QUESTION 5 LCC:

Councillor Ticehurst is correct there is no resolution of Lithgow City Council to take over the full ownership of either Three Tree Lodge Aged Care Facility or the Portland Pool. What does exist is a Tripartite Deed and an Agreement Deed both of which clearly state Councils involvement.

Quote (Alan Morse & Co 22 May 2006):

"the Manual specifies that the concept of control for accounting proposes does not necessarily require the recognising entity to own or possess the asset. Control relies less on the legal form of the transaction than on the substance."

MEDIA RELEASE COUNCILLOR TICEHURST:

A recent Media Release issued by Councillor Ticehurst stated inaccuracies which Council should be aware of.

Media Release 1)

Councillor Ticehurst

The Lithgow City Council listed Three Tree Lodge Aged Care Facility as a full cash asset of \$4.82m in their 2004/05 General Purpose Financial Reports which were audited by Alan Morse & Co Bathurst. This action was taken despite written advice on two occasions to the Council and Councillors that the asset would be recorded as an unrecognised Contingency Asset (Note 18) and not as a contribution for capital purposes (Note 16) of their 2004/05 General Purpose Financial Reports.

Media Release 2)

Councillor Ticehurst

Ratepayers are demanding to know why the Council is now seeking approval from the Minister to increase their rates by up to 14.22% or an average of \$160.00

Media Release 3)

Councillor Ticehurst

Given that the Council's 2004/2005 audit was qualified with numerous disclaimers the final discrepancies appear to be greater than \$5m and possibly as high as \$8m dollars.

RESPONSES LCC TO MEDIA RELEASE:**RESPONSE MEDIA RELEASE 1) LCC:**

A number of issues require highlighting from this paragraph

1) Three Tree Lodge and Portland pool were brought to account as non cash capital contributions (not full cash assets) as they impacted on profit after capital amounts and did to impact on the operating result for the year.

The assets were recognised as non cash additions to property, plant and equipment in Note 9 and the fact that they were non cash capital contributions was also detailed in Note 11 Reconciliation to Cash Flow statements which noted the assets were acquired through non cash means.

2) At the Ordinary meeting of Council on the 22 May 2004 Council agreed to enter into the Tripartite Deed with Three Tree Lodge and the Health Administration Corporation. As at 30 June 2004 the arrangement was not finalised and as a result the agreement was recognised in Note 18 (Contingent Assets) of the 2003/04 Financial Reports.

The Caveat on the Deed was lodged on the 8 September 2004 at which time Council recognised the controlled asset in the 2004/05 Financial Reports.

3) Note 16 reports on Budget Variations from Actual and is not reporting, as stated, on 'a contribution for capital purposes.' Note 16 of the 04/05 GPFR duly note details of the acquisition of control of Three Tree Lodge.

RESPONSE MEDIA RELEASE 2) LCC:

Council resolved at the meeting of the 1 May 2006 to place the 2006-09 Draft Management Plan on exhibition until 31 May 2006. The draft plan shows the proposed rate increase for 2006/07 as follows.

(Note: All Councillors were present at this meeting and no objections to the % rate increase were raised)

Rate Pegging 3.6% / Shortfall 5.27%
- Approved allowable increase as per DLG
- Average Residential property \$62.00

Special Rate increase proposed of 0.63%
- All properties
- Average Residential property \$2.17
- Income to be achieved of \$51,000

Lithgow Council does not propose to increase rates by 14.22%

RESPONSE MEDIA RELEASE 3) LCC:

Councils 2004/2005 General Purpose Financial Reports and all preceding financial reports have been duly audited and are UNQUALIFIED, with no discrepancies shown.

Quote: Alan Morse & Co 22 May 2006:

"Councils recognition of Three Tree Lodge and Portland Pool by Council in its financial report for the year ended 30 June 2005 complies with the criteria for recognition of control over these assets in accordance with the reporting framework reported earlier in this letter."

Policy Implications

This report reinforces the General Managers previous advice that such matters comply with policy and previous resolutions of Council and as such satisfies Councils auditors and the Department of Local Government.

Financial Implications

Highlighted is the fact that Councils financial position has not been impacted by the inclusion of Three Tree Lodge and Portland Pool as controlled assets and that the method of inclusion is a standard accounting practice under AAS27 and the related Accounting Standards.

Legal Implications

Nil

CONCLUSION

This report again provides an explanation to Council as to the accounting process that was undertaken by the inclusion of Three Tree Lodge and the Portland Pool as controlled assets of Council. It highlights the fact that both are legal and correct reporting activities and in no way impact upon, or affects Councils operating position.

The report further highlights that Councillor Ticehurst is distributing incorrect information regarding Councils 2004/05 General Purpose Financial Reports through recent media releases in respect of Three Tree Lodge, Portland Pool & the 2006/07 application for a special rate variation.

RECOMMENDATION

THAT the information be received and Council provide a media release to provide the public and all concerned with factual information.

Councillor W McAndrew declared a non pecuniary interest in Item 13 as he a member of the Three Tree Lodge Board. He vacated the Chambers.

Councillor M F Ticehurst declared a conflict of interest in Item 13 as he is the complainant. He vacated the Chambers.

06- 168 RESOLVED

THAT:

1. The information be received and Council provide a media release to provide the public and all concerned with factual information.
2. Council to be furnished with a report on the costs associated with this matter to date.

MOVED: Councillor B S Moran

SECONDED: Councillor B P Morrissey.

CARRIED Unanimously

**ITEM:14 CORP - 05/06/06 - RENTAL REVIEW MID WEST AUDIO 26 MAIN ST
LITHGOW**

REFERENCE

Nil

SUMMARY

To seek Councils consideration with a request for a reduction in rental for 26 Main St Lithgow to Mid West Audio.

COMMENTARY

Mid West Audio currently lease 26 Main St Lithgow and have approached Council with a request to reduce the rental on the premises for a short period:

Mid West Audio advise:

"I am writing to you in regard to the rent that I have at 26 Main St. When I first moved to Lithgow, I strongly felt that a Hi Fi shop was needed. I have observed in the last twelve months that people would rather make music that listen to it, hence the introduction of musical instruments into the store.

As you may appreciate it takes times to establish a business rapport and slowly business is beginning to improve. Unfortunately, due to slow sales to date, I have yet to make a profit and was wondering if you would consider reducing the rental to \$400.00 per month. This would ease my present financial burden until further re evaluation by you."

CURRENT LEASE:

- Rental: \$7,800.00 (GST Inc) \$650.00 per month
- Max term under lease: 12 months

As Council would be aware Mid West Audio is a commercial venture and the current applicable rent is market value. To assist in a rent reduction on this occasion Council may be seen as assisting a private venture.

Mid West Audio have indicated should assistance not be forthcoming their financial situation may see them relocate to the Sydney region. Should Council wish to consider the option to reduce the rental charged it may be for a predefined period, such as three months only and may be provided as a Donation under Sec 356 in the 2006/07 Management Plan.

Policy Implications

Nil

Financial Implications

Reduction in rental income of \$750.00(GST Inc) if approval provided for a three month period

Legal Implications

Nil

RECOMMENDATION

THAT the information be submitted for Council determination

RESOLVED

THAT the information be referred to the next Council meeting.

MOVED: Councillor W McAndrew

SECONDED: Councillor B S Moran.

06- 169 RESOLVED

Councillor H K Fisher and MM Collins moved an **AMENDMENT** that Council stay with the market value.

MOVED: Councillor H K Fisher

SECONDED: Councillor M M Collins.

CARRIED 5 -1

Therefore the Amendment became the MOTION. The Mayor then put the motion which was CARRIED unanimously.

ITEM:15 CORP - 05/06/06 - COUNCIL INVESTMENTS MAY 2006

SUMMARY

To advise Council of investments held and cash movements for the month period ending 30 May 2006.

REPORT

The amount invested as at 30 May 2006 when compared to 30 April 2006 has increased by \$1,349,060.97. This is due to the fourth payment of the Financial Assistance Grant on the 16 May 2005 and collections for the fourth rate payment due on the 31 May 2006.

The most significant outgoing amounts were:

CREDITOR	AMOUNT	PURPOSE
Gracey Earthmoving	15,903.25	Earthmoving
Henry Plant Hire	31,569.67	Plant Hire
Hyrock	12,425.24	Road Base
Jardine Llyodd Thompson	77,901.10	Insurance premiums
Masta Mix Concrete	16,468.10	Concrete
Integral	33,198.71	Electricity
J R Richards	82,899.25	Waste Collection
Geolyse Pty Ltd	101,927.59	Strategic Plan
Shell	21,675.33	Fuel purchases
Telstra	18,535.34	Telephone charges
TOTAL FOR MONTH (ABOVE ONLY SAMPLE)	975,586.52	(Less investment transfers)

INVESTMENT REGISTER 2005/06								
INSTITUTION	INV TYPE	DATE LODGED	DATE DUE	DAYS	INT	VALUE 30.04.06	VALUE 30.05.06	% OF TOTAL

MINUTES – FINANCE AND SERVICES COMMITTEE MEETING OF COUNCIL

ANZ	TD	28.04.06	27.06.06	60	5.76	529,762.15	532,268.29	5.88
CBA	SHIELD	04.12.04	04.12.06	730	6.46	600,000.00	600,000.00	6.63
	On Call				5.70	694,433.79	1,518,247.85	16.77
	TD	30.05.06	28.06.06	30	5.82	0.00	500,000.00	5.52
LG FINANCIAL	TD	12.04.06	13.06.06	63	5.64	1,143,597.02	1,143,597.02	12.63
	TD	29.05.06	28.06.06	30	5.85	582,042.03	760,954.94	8.41
	TD	30.05.06	31.07.06	60	5.86	757,094.38	590,165.10	6.52
IMBS	On Call				5.70	1,922.10	1,922.10	0.02
	TD	10.05.06	10.07.06	61	5.97	517,314.47	524,649.00	5.80
ALLIANCE	Managed	01.04.02	28.02.06	365		1,000,000.00	1,000,000.00	11.05
ST GEORGE	TD	06.05.06	06.07.06	60	4.00	511,996.71	515,419.37	5.69
	TD	NEW	05.06.06	90	5.62	1,000,000.00	1,000,000.00	11.05
	TD	24.04.06	26.06.06	60	5.70	364,917.92	364,917.92	4.03
			TOTAL			7,703,080.62	9,052,141.59	100.00%

I, Carol G Farnsworth, Lithgow City Council Manager of Finance & Corporate Services (Responsible Accounting Officer) certify as required under Local Government (General) Regulations 2005, that Councils investments have been made in accordance with the Local Government Act 1993, Regulations and Lithgow City Councils Investment Policy.

Policy Implications

All Councils investments are held in accordance with the Lithgow City Council Investment Policy.

Financial Implications

Investment income to date, 30 May 2006 totals \$477,192.08. Interest is paid on the maturity date of the investment and managed funds report earning quarterly.

Legal Implications

Investments are held in accordance with the Lithgow City Councils Investment Policy which accords with the requirements of the:

- Local Government Act 1993 - Section 625
 - Local Government Act 1993 - Order (of Minister) dated 17 March 2000
 - The Trustee Amendment (Discretionary Investments) Act 1997- Section 14A(2), 14c(1) & (2)
- The Local Government (General) Regulation 2005

06- 170 RESOLVED

THAT Councils investments for the month of May 2006 be received

MOVED: Councillor H K Fisher

SECONDED: Councillor M J Wilson.

CARRIED

**ITEM:16 CORP - 05/06/06 - DRAFT LEASE TO GLASTIC 27 ESKBANK ST
LITHGOW**

REFERENCE

Nil

SUMMARY

This report will seek Council consideration to a lease to GLASTIC for Council premises, 27 Eskbank St Lithgow from 1 July 2006 to 30 June 2007.

COMMENTARY

Council consideration is required to determine a lease and appropriate rental to GLASTIC for the premises 27 Eskbank St Lithgow.

Council has provided the use of shop front premises at 27 Eskbank St Lithgow to GLASTIC since February 1998. No formal lease is in existence as the property was originally provided as a community service at 'peppercorn rental' of \$35.00 per week. Occupation of the premises is on a Wednesday morning, 4 hours per week.

Property Agent LJ Hooker advised GLASTIC of a rental increase from \$35.00 per week to \$110.00 in line with their normal annual market rental review process. GLASTIC advise they are a non profit aboriginal organisation and are unable to afford the increase. They request if it is possible they would seek larger premises as they have no client confidentiality in the current office. The Member for Bathurst, Gerard Martin MP offers his support to the organisation and the service they provide to the local community.

A meeting was convened between GLASTIC and Councils General Manager to discuss the matter and a number of options were pursued:

- 1) Council offer alternative accommodation in a Council owned building
- 2) Due to the like natures of LINC and GLASTIC Council offered to negotiate with LINC for accommodation in LINC's premises.

Both options have since been exhausted. Council pursued alternative office accommodation but at the present time does not have premises which would be larger than the current arrangement. LINC favorably considered the request to accommodate GLASTIC at their Hayley St premises for 4 hours per week but this was declined as they considered it would not provide client confidentiality.

CONCLUSION

Should GLASTIC continue to occupy the premises a lease should be entered into to formalise the arrangement and market rental of \$110.00 per week charged. Council may then consider a Sec 356 Donation to GLASTIC equivalent to the rental increase which would be \$3,900 per annum to commence with the 2006/07 Management Plan.

If adopted this report will allow a lease to be drafted which will be returned to the Ordinary Council meeting of 19 June 2006 for authority to execute documents under seal.

PROPOSED DETAILS OF THE LEASE:

- Commencing Date: 1 July 2006
- Terminating Date: 30 June 2007
- Annual Rental: \$5,720.00 (GST Inc) per ann \$110.00 (GST Inc) per wk
- Max term under lease: 12 months
- Property manager: L J Hooker

Policy Implications

Nil

Financial Implications

Rental income of \$5,720 (GST Inc) Per annum and a Sec 356 Donation of \$3,900.

Legal Implications

Nil

06- 171 RESOLVED

THAT Council prepare a draft lease agreement with GLASTIC for the rental of premises 27 Eskbank St Lithgow

MOVED: Councillor M J Wilson

SECONDED: Councillor M M Collins.

CARRIED

ITEM:17 CORP - 05/06/06 - 2005/06 & 2006/07 LOAN BORROWING PROGRAMS REVIEW & APPLICATION

REFERENCE

Adoption of the 2005/06 Management Plan and quarterly reviews. Draft 2006/07 Management Plan.

SUMMARY

To advise Council of the proposed changes to the 2005/06 loan borrowing program and pending application to the Department of Local Government for the proposed 2006/07 loan program.

REPORT

2005/06 LOAN BORROWING PROGRAM:

In the 2005/06 financial year Council received approval from the Department of Local Government, to borrow \$1,245,000 'new money', for our loan borrowing program.

The loans were to be raised as follows:

PURPOSE	AMOUNT	CURRENT STATUS
Civic Ballroom	80,000.00	Finalised
Crystal Theatre	100,000.00	Revote for 2006/07
Golf Club Roofing	40,000.00	Finalised
Lithgow Pool	175,000.00	Revote for 2006/07
Portland Pool	200,000.00	Revote for 2006/07
Lithgow STP - Wastewater	650,000.00	Commenced
	1,245,000.00	

As indicated the Civic Ballroom and the Golf Club projects have been finalised and considering Councils surplus shown at the March quarterly review it would be reasonable for Council to consider funding for the projects from the expected surplus rather than borrow new money. This would equate to expected savings of loan repayments, of \$12,925.00 per annum over 15 years.

The remaining projects as indicated are to be revoted in the 2006/07 Management Plan and will be reported to the meeting of 19 June 2006.

Council has reserved unexpended loan funds from the 2004/05 Water loan funding program for the construction of the South Bowenfels reservoir. This project is not complete and it is recommended the value indicated, for the Lithgow STP of \$650,000 in the 2005/06 loan program, be transferred from Water Fund to Wastewater Fund at this stage rather than pursue a new loan. The balance remaining for both programs will then be funded in the 2006/07 program.

2006/07 LOAN BORROWING PROGRAM:

The 2006/07 Management Plan indicated loan funds of \$3,650,000 (Waste, Water and Wastewater funds) which was reported to the Council meeting of the 1 May 2006. Revotes as indicated above include loan funds of \$475,000 (General fund) which will be reported to the Ordinary meeting of Council on the 19 June 2006.

The Department of Local Government requires Council to report its intended 2006/07 loan borrowing program by the 9 June 2006 and as mentioned above will include the following:

PURPOSE	AMOUNT	CURRENT STATUS
INFRASTRUCTURE:		
Waste Fund: Blackmans Flat	2,150,000.00	
Wastewater: STP Lith & Wang	1,500,000.00	
GENERAL FUND:		
Lithgow Pool	175,000.00	Revote for 2006/07
Portland Pool	200,000.00	Revote for 2006/07
Crystal Theatre	100,000.00	Revote for 2006/07
	4,125,000.00	

Budget & Financial Aspects

2005/05 Loan borrowing program \$0.00
 2006/07 Loan borrowing program \$4,125,000 (All funds)

06- 172 RESOLVED
THAT:

1. Council note the changes to the 2005/06 loan borrowing program to as Nil loan to be drawn down and advise the Department of Local Government accordingly
2. Council complete application to the DLG for the 2006/07 loan borrowing program to as \$4,125,000

MOVED: Councillor H K Fisher

SECONDED: Councillor M J Wilson.

CARRIED

Council closed at 8.43pm

MOVED: Councillor W McAndrew

SECONDED: Councillor M J Wilson.

CARRIED

The Mayor seeked any concerns from the community regarding the matters listed for discussion.

Sue Graves raised a question regarding the Strategic Alliance which was answered by the General Manager. There were no other objections from the community.

CLOSED COUNCIL REPORTS

ITEM:2 EXEC - 05/06/06 - CONFIDENTIAL - STRATEGIC ALLIANCE

Reason for Confidentiality

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

- (d) commercial information of a confidential nature that would if disclosed:
 - (ii) confer a commercial advantage on a competitor of the council

06- 157 RESOLVED

THAT:

1. Council agree in principle to the creation of a Strategic Alliance between Lithgow City Council, Mid Western Regional Council and Oberon Shire Council to foster and promote improved levels of service and performance by working corporately together for the ultimate mutual benefit of the individual communities of the regions as a whole.
2. A further report be submitted upon finalisation of the Memorandum of Understanding, Strategic Business Plan and meeting protocols.

MOVED: Councillor H K Fisher

SECONDED: Councillor B P Morrissey.

CARRIED

**ITEM:4 ENG - 05/06/06 - CONFIDENTIAL - PURCHASE OF LAND, MAGPIE
 HOLLOW ROAD, SOUTH BOWENFELS**

Reason for Confidentiality

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

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

06- 159 RESOLVED

THAT:

1. Council accept the agreed sale price for a section of land off Magpie Hollow Road, South Bowenfels as proposed by the land owner and indicated in this report.
2. Council pay all legal and survey costs.
3. The Mayor and General Manager be authorised to sign all documents regarding the purchase of the land.

MOVED: Councillor H K Fisher

SECONDED: Councillor B P Morrissey.

CARRIED

QUESTIONS WITHOUT NOTICE

QWN - COUNCILLOR M F TICEHURST

1. Mr Mayor is the Council aware of the attached email to all Lithgow City Councillors from the Lithgow City Council resigning Manager, Engineering Services, Clive Cawthorne requesting from ALL COUNCILLORS, a written reference indicating "his 16 years of faithful and dedicated service to the Council and the community in the engineering and infrastructure, emergency management and community activity fields"?

As can be seen from the attached email, the request has been made to the Mayor and the Council. Whilst this is unusual for staff to make requests directly to elected members, in some circumstances (i.e. the General Manager), it is the employer. In all other instances Council staff are employed by the General Manager.

Councillors are at liberty to offer references for anyone in a personal capacity but should refrain from making comment upon work history or performance, other than in a generalist form.

2. Mr Mayor what is the Lithgow City Council's policy on the Council or Councillors providing written or verbal references to all resigning Council employees, particularly Senior Management Staff?

Council does not have a policy for the giving of references. Staff have a list of authorities in which to sign letters (including references). As mentioned above under the provision of the Act, staff matters are the domain of the General Manager and should be referred for action.

3. Mr Mayor is the Council aware that last Friday on Prime News, the Minister for Local Government, Mr Kerry Hickey stated that, "Lithgow Councils been put on financial watch, which means the Local Government Department will be watching the financial management of that Council"?

I have received a number of calls from people regarding the story on Prime TV News. There has been no press release or official comment from the Department or the Minister at this stage. The Department of Local Government "watches" the finances of ALL Councils to ensure compliance with the legislation.

4. Mr Mayor is the Council aware that the Department of Local Government have advised, "Only a minute number of Councils are on financial watch"?

Council has not been made aware of these issues.

5. Mr Mayor will greater Lithgow Business, Ratepayers and Residents be fully and promptly informed of:

- When (date) the Minister and the Department of Local Government advised the Lithgow City Council that they had been placed into "financial watch".
- Why the Minister and the Department of Local Government chose to put the Lithgow City Council on "financial watch".

- What were all the financial grounds considered or determined by the Minister and the Department of Local Government, that forced them to place the Lithgow City Council on "financial watch".
- What action or actions does the Minister and the Department of Local Government now expect of both the Lithgow City Council and its Auditors to undertake to have the Lithgow Council removed from "Financial watch".
- Will the Lithgow City Council undertake to inform their businesses, ratepayers and residents of this information by way of a prompt Media release?

Council is happy to fully inform the community about the accurate data relating to council's financial position. This was the rationale behind the public meetings of the management plan so that the community could be fully informed of all the factual data.

As Council has not been formally advised of such matter the remainder of this question is difficult to answer. However, as Council has been informed, strict compliance with our budget, maximising the use of council staff, minimising the reliance on contractors and consultants and a review of works undertaken will ensure better financial management and improve Councils operating position over a number of years. Council needs to be mindful of the costs associated with works, and ensure adequate resources are maintained to meet acceptable service levels. As a theory council will need to fully consider maximising specific grants to ensure adequate exposure to Federal and State level funds, whilst also reviewing customer service levels and user pay philosophies

QWN - COUNCILLOR W MCANDREW

1. Mr Mayor I am in receipt today of a community petition addressed to Minister Hickey and the Premier regarding their happiness that Council is on financial watch and are happy for the Local Government to investigate Councils financial status. Is Council aware of this petition? Does Council know where this petition came from as it is unsigned? Can Council investigate as to who put this petition before the Council and advise them that Council is not under investigation or financial watch?

It is on record that Councillor M F Ticehurst advised that he is not responsible for the community petition.

QWN - COUNCILLOR M M COLLINS

1. Mr Mayor I refer to the Community Management Plan Forums that Council held recently and ask if we can have an overall number of how many people attend these meetings?

This will be part of the Management Plan Adoption report.

QWN - COUNCILLOR M J WILSON

1. Mr Mayor I refer to the State Rail Working Party that was formed a few years ago but has now parted. As there are various issues regarding rail in the Council area, is it possible for Council to investigate getting this Committee up and running again?

Council will be contacting the Minister to determine the best contacts.

QWN - COUNCILLOR B S MORAN

1. Mr Mayor can an update on the Black Bridge at Wallerawang please be brought back to Council? What is the next move for Council on this issue?

A report will be provided in due course.

It was moved that Council move back into OPEN Council.

MOVED: Councillor H K Fisher

SECONDED: Councillor M J Wilson.

CARRIED

It was moved that all resolutions be made public.

MOVED: Councillor H K Fisher

SECONDED: Councillor M J Wilson.

CARRIED

The Closed meeting ended at 8.50pm.