



LITHGOW CITY COUNCIL

## **MINUTES**

FINANCE AND SERVICES COMMITTEE  
MEETING OF COUNCIL

HELD ON

02 OCTOBER 2007

AT 7.00pm

**MINUTES OF THE LITHGOW CITY COUNCIL MEETING  
HELD AT THE CIVIC CENTRE, LITHGOW ON 2 OCTOBER 2007**

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Meeting Commenced at 7.00pm.

Public Gallery: 11

**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 A E Thompson  
Councillor M J Wilson

**APOLOGIES**

NIL

**Also in attendance**

General Manager, Mr Paul Anderson  
Group Manager Regional Services, Mr Andrew Muir  
Group Manager Community and Corporate, Ms Kathy Woolley  
Minutes Secretary, Miss Casey Clarke

**CONFIRMATION OF MINUTES**

Confirmation of the Minutes of the Finance and Services Committee Meeting of Council held on the 3 September 2007 were taken as read and confirmed by Councillors M J Wilson and W McAndrew

**07-437 RESOLVED**

**CARRIED**

**DECLARATION OF INTEREST**

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

NIL

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## **QUESTIONS FROM THE PUBLIC GALLERY**

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

NIL questions

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## REGIONAL SERVICES REPORTS

**ITEM:1            REG - 02/10/07 - UPPER MAQUARIE COUNTY COUNCIL - AUGUST  
                         2007 WEEDS REPORT**

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### **SUMMARY**

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

### **COMMENTARY**

Attached are the reports from the Chief Weeds Officer of Upper Macquarie County Council for August 2007.

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

### **07-438 RESOLVED**

**THAT** the information be received.

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor M J Wilson.

**CARRIED**

**ITEM:2            REG - 02/10/07 - 043/07DA - MARKETS, ZIG ZAG RAILWAY CHIFLEY ROAD, CLARENCE**

**REPORT FROM: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR**

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### **SUMMARY**

This report outlines the assessment of development application 043/07 and recommends consent be granted subject to conditions. The application is referred for determination as it has been 'called in' in accordance with Council policy.

### **COMMENTARY**

Council is in receipt of a Development Application from Zig Zag Railway Co-op Ltd to undertake Sunday markets once a month from the Zig Zag Railway site at Clarence. Stall holders will be required to have their own public liability insurance and the Zig Zag Railway also has its own public liability insurance. The site already has an extensive parking area and it is anticipated that the majority of people going to the markets will already be frequenting the railway. The applicant hopes to attract approximately 50 people extra to the venue.

The development is considered relatively minor and is not incompatible with the existing Zig Zag Railway operations. The markets are likely to attract an estimated additional 50 people to the site once a month, and all existing parking areas and amenities are considered suitable for the proposal. Bushfire is considered an issue for the site and in addition to the Management Plan undertaken for the property an Evacuation Plan will be required to be submitted specifically dealing with the issue of safely removing visitors from the site in the event of an emergency.

**ZONING:**            Rural 1 (a) under Lithgow's Local Environmental Plan 1994.

Legal Description :	Lot 1 DP 826250
Property Address :	CHIFLEY ROAD CLARENCE NSW 2790

The site retains the existing Zig Zag Railway Station, office and toilet block. The area proposed for the stalls is grassed and landscaped. The site retains an existing parking area adjacent to the Chifley Road, which is gravelled. Access to the site is off a road which is understood to be a private road which has been used by Zig Zag Railway for many years. The section of road is potholed and requires repair.

### **POLICY IMPLICATIONS**

The application was called in for Council determination under Policy 7.7 - Calling in of Development Applications by Councillors. The application is now being referred to Council for consideration in accordance with Policy.

### **FINANCIAL IMPLICATIONS**

There are no financial implications for Council as a result of this report.

## **LEGAL IMPLICATIONS**

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

### **Any Environmental Planning Instrument**

#### LEP

The development is defined as a shop under the Environmental Planning and Assessment Model Provisions 1980, which means *"a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this clause, a building or place used for a purpose elsewhere specifically defined in this clause."* Shops are prohibited in the zone, however Clause 32 of the Lithgow LEP allows Council to consent to *"the carrying out on any land, for a maximum period of 28 days whether consecutive or not in any 12 month period, of development otherwise prohibited on that land."*

The Zone No 1 (a) Objectives are as follows:

The objective of the zone is to promote the proper management and utilisation of natural resources by:

- (a) protecting, enhancing and conserving:
  - (i) rural land, in particular prime crop and pasture land, in a manner which sustains its efficient and effective agricultural production potential,
  - (ii) soil, by controlling and locating development in accordance with soil capability,
  - (iii) forests of existing and potential commercial value for timber production,
  - (iv) valuable deposits of minerals, coal and extractive materials, by controlling the location of development for other purposes in order to ensure the efficient extraction of those deposits,
  - (v) trees and other vegetation in environmentally sensitive areas, where the conservation of the vegetation is significant for scenic amenity or natural wildlife habitat or is likely to control land degradation,
  - (vi) water resources for use in the public interest, preventing the pollution of water supply catchment and major water storages,
  - (vii) localities of significance for nature conservation, including places with rare plants, wetlands and significant wildlife habitat, and
  - (viii) items of heritage significance,
- (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture,
- (c) facilitating farm adjustments,
- (d) minimising the cost to the community of:
  - (i) fragmented and isolated development of rural land, and
  - (ii) providing, extending and maintaining public amenities and services,
- (e) providing land for other non-agricultural purposes, in accordance with the need for that development, and
- (f) providing for the separation of conflicting land uses.

The proposed development is not inconsistent with the objectives of the zone.

**SEPP's**

There are no SEPP's relevant to the development as State Environmental Planning Policy No 22—Shops and Commercial Premises is applicable only to business zones.

**REP**

The development does not involve any construction and is not considered to fall under the Drinking Water Catchments REP.

**Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority**

None.

**Any Development Control Plan**

The Off Street Parking DCP is applicable to shops. However, this development is not for shops as traditionally defined, therefore the parking requirement based on Gross Floor Area cannot be applied to the development. The parking area on the site has provision for substantial additional parking. As the applicant has advised that the proposal is aimed at those frequenting the railway already and will attract a likely 50 extra people to the site, the existing parking area is deemed to be suitable for the proposal. However, if the markets start to attract more than the estimated number of customers then parking may need to be revisited.

The Outdoor Advertising DCP is also applicable to the development. The applicant has advised that temporary signage is proposed at the entrance to the site on the days that the markets are proposed. This signage will need to be kept clear of the road reserves and must not impede on traffic flows in any way.

**Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?**

Nil.

**Any matters prescribed by the regulations that apply to the land**

Nil.

**The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The development is not incompatible to the existing Zig Zag Railway, and should only attract an additional 50 people one Sunday a month. The existing parking area for the railway is extensive, however it should be regularly maintained and long term stormwater solutions investigated to minimise continued eroding of the access.

The site for the markets is behind the existing railway station, and is already landscaped with grass, mature trees and pathways. It will not be highly visible from the road.

Inspections will be required prior to markets opening for any food vendors.

### **The Suitability of the site for the development**

Bushfire has been raised as an issue for the site but as the development is only minor in comparison to the existing operations it will not be exacerbating the existing issue. However, an evacuation plan will be required to be formulated for the site as a condition of consent if the development is approved. The development is considered suitable for the site.

### **Any submissions made in accordance with this Act or the Regulations**

#### Environmental Comments

You may like to include the following consent conditions with any approval for the markets:

- That all store holders comply with the *NSW Food Act 2003* and the NSW Food Authority guidelines, "Food Handling Guidelines for Temporary Events(2006)."
- Council's Environmental Health Officer is to be given sufficient notification of the events so as inspections of food vendors can be completed. All inspections will incur an inspection fee in accordance with Council's adopted fees and charges.

#### Building Comments

The applicant plans to hold a market once a month and the proposal does not involve any building works. Existing toilet facilities will be used and the existing onsite waste disposal system has a capacity for approximately 300 people. No building objections are raised to the provision of a market.

#### Roads & Traffic Authority Comments

I refer to your letter dated 12 June 2007 concerning the proposed markets at Zig Zag Railway, Clarence. It is noted that the intersection treatment at the junction of Chifley Road and Petra Avenue provides a protected right and an auxiliary left turn into the site. It is anticipated that this treatment will adequately cater for traffic.

It is noted that the expected additional patronage is 50 additional visitors, however, should the patronage exceed the capacity of existing parking on the site, it will be the responsibility of Zig Zag Co-Operative to amplify existing parking provisions to ensure overflow parking on Chifley Road is eliminated.

The Roads and Traffic Authority (RTA) will raise no objection to the proposed development subject to all parking being contained within the confines of the Zig Zag Development and any signage being located clear of the road reserve.

#### Rural Fire Service Comments

Consultation was undertaken with the RFS who advised it would be appropriate to apply a condition requiring the applicant to develop an evacuation plan to be approved by Council and the RFS

### **The public interest**

No wider public interest issues have arisen as a result of the development application process.

### **DISCUSSION AND CONCLUSIONS**

The application has been assessed in accordance with the relevant legislation, regulations and policies and is considered appropriate for the site subject to conditions.

### **07-439 RESOLVED**

**THAT** the application be approved subject to the following conditions.

#### **Administrative Conditions**

1. That the development be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans submitted with the application and any further information provided during the process unless otherwise amended by the following conditions.
2. Markets are generally to be held once a month as detailed in the application. A maximum of 15 markets are to be held yearly.

#### **Traffic and Access**

3. Should patronage of the market exceed the predicted numbers, parking must be revised to ensure at no time are visitors parking within the Chifley Road reserve.
4. The access road and car park are to be maintained to a suitable standard of construction to avoid the formation of potholes. Existing potholes evident on the access road are to be repaired prior to the first market occurring. Stormwater drainage within the car park is to be upgraded to enable the removal of the existing open drainage ditch traversing the access to the site.

#### **Bushfire**

5. An Emergency Evacuation Plan is required to be submitted for the approval of Council and the Rural Fire Service. The plan is to deal specifically with the safe exit from the site by all visitors and staff in the event of a bushfire or other emergency. This plan is to be approved prior to the commencement of markets on the site.

#### **Health**

6. That all store holders comply with the *NSW Food Act 2003* and the NSW Food Authority guidelines, "Food Handling Guidelines for Temporary Events(2006)."
7. Council's Environmental Health Officer is to be given sufficient notification of the events so as inspections of food vendors can be completed. All inspections will incur an inspection fee in accordance with Council's adopted fees and charges.

**Other Conditions**

8. Any temporary signage is to be erected clear of the Chifley Road reserve.

**MOVED:** Councillor W McAndrew

**SECONDED:** Councillor B S Moran.

**CARRIED**

**ITEM:3            REG - 02/10/07 - LAND AND ENVIRONMENT COURT APPEAL - M  
LILLEY HELIPORT CAPERTEE**

**REPORT FROM: REGIONAL SERVICES MANAGER – ANDREW MUIR**

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**SUMMARY**

To inform Council of the decision of the Land and Environment Court to uphold the appeal by Mr M Lilley for the development of a Heliport at 4675 Castlereagh Highway, Capertee.

**COMMENTARY**

Council refused Development Application No.319/06 at its meeting of 4/6/06. The applicant, Mr M. Lilley subsequently lodged an appeal to the Land and Environment Court. The appeal was heard by the Court at Capertee and Lithgow on 17/18 September 2007.

The Court, after hearing submissions from objectors and supporters of the proposal, three acoustic experts and a court appointed town planner, handed down its decision on 25 September 2007 upholding the appeal. The development can now proceed once the applicant has met the requirements of the Deferred Commencement Consent which requires him to develop a Fly Neighbourly Policy and meet a number of conditions. The Court has placed restrictions on the number of flights and has specifically limited the number of flights that can occur on a weekend. The consent is time limited for five (5) years and requires lodgement of a new Development Application after the expiration of this period.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

The total cost to Council of the legal proceedings is not yet known but will be in the vicinity of \$30,000. Council will also have a policing role in enforcement of the court imposed conditions which will have cost implications which are unknown at this stage.

**LEGAL IMPLICATIONS**

The appeal was upheld.

**07-440 RESOLVED**

THAT the information be received and noted.

**MOVED:** Councillor W McAndrew

**SECONDED:** Councillor M M Collins.

**CARRIED**

**ITEM:4 REG - 02/10/07 - DEVELOPMENT AND CONSTRUCTION APPROVALS**

**REPORT FROM: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR**

**SUMMARY**

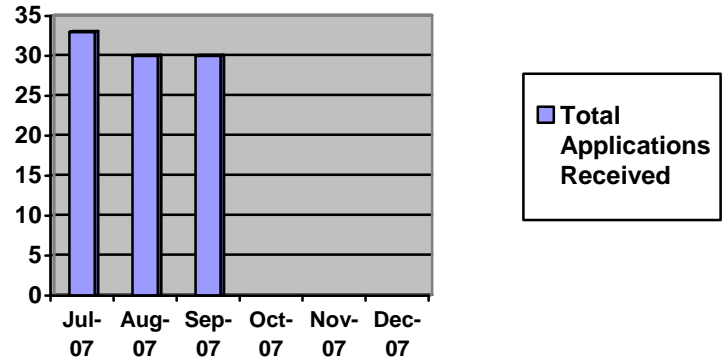
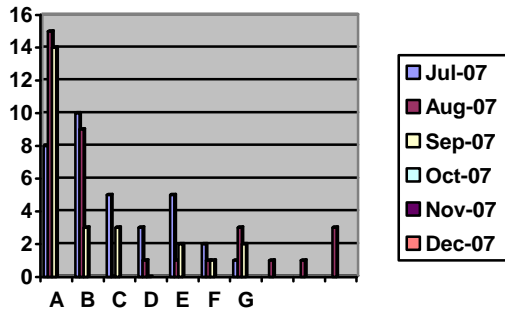
To provide statistical information on Development Applications and Construction Certificates processed.

**COMMENTARY**

The following table indicates Development Applications and Construction Certificates approved in the period between Finance and Services Committee Meetings. A full list of individual applications received and approved is made available to Councillors and the press.

	Minor Development Approvals (including carports, garages and patios) A	Dwelling Approvals B	Dwelling Addition Approvals C	Other Residential Applications (including Dual Occupancies, Flats) D	Rural Subdivision Approvals E	Residential Subdivision Approvals F	Commercial /Industrial Approvals G	Total Applications Received
Jul * 2007	8	10	5	3	5	2	1	33
Aug 2007	15	9	0	1	1	1	3	30
Sep 2007	14	3	3	0	2	1	2	25
Oct 2007								
Nov 2007								
Dec 2007								

\* includes Approvals from 28/08/2007 TO 21/09/2007



**APPROVALS**

Total Estimated Cost:	\$1,012,060
Average Approval Time	31
Total Cost of Approvals from 1/01/2007	\$24,283,974
No. of Applications from 1/01/2007	302

**07-441 RESOLVED**

**THAT** the information be received

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor M J Wilson.

**CARRIED**

## COMMUNITY AND CORPORATE SERVICES REPORTS

ITEM:5            COMM - 02/10/07 - HASSANS WALLS WORKING PARTY

**REPORT FROM: COMMUNITY AND CULTURE MANAGER P.HALL**

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### REFERENCE

Min No. 07-344:            Finance and Services Committee Meeting 6 August 2007 (TALC Minutes)

### SUMMARY

The report provides an update on the Hassans Walls Working Party.

### COMMENTARY

The Hassans Walls Working Party consists of Councillor Michael Wilson, Len Ashworth, Helen Drewe and Tim Breen. There has been progress in upgrading the Hassans Walls Reserve including the gating of the reserve.

The following actions have taken place:

- The grant agreement for the River Lett Project was finalised early in 2007. The Hassans Walls project is part of this but does not receive a huge financial input other than Council's contribution.
- The Traffic Authority Local Committee considered a report about the part time road closure on 6 June 2007. TALC recommended "that a gate be placed at both entrances to Hassans Walls Reserve and that these gates be locked with an e-lock and emergency services be provided with a key for access and that a notice be placed on the gate advising anyone with a legitimate need to gain access (contractors), a telephone number to call so as entry can be made." Council at its Finance and Services Committee Meeting of 6 August 2007 resolved to note the minutes of TALC.
- The final design and associated costings for the gates and Bracey Lookout are currently being completed.

The next meeting of the working party will occur once the final design and costings have been provided.

### POLICY IMPLICATIONS

Nil

### FINANCIAL IMPLICATIONS

Nil

### LEGAL IMPLICATIONS

Nil

**07-442 RESOLVED**

**THAT** the information be received.

**MOVED:** Councillor B S Moran

**SECONDED:** Councillor M J Wilson.

**CARRIED**

**COMMITTEE MEETINGS****ITEM:6            COMM - 02/10/07 - S355 ENVIRONMENTAL ADVISORY COMMITTEE MEETING MINUTES****REPORT FROM: COMMUNITY AND CULTURE MANAGER P.HALL**

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**REFERENCE**

Min No 07-389: Policy and Strategy Committee Meeting 3 September 2007

**SUMMARY**

Minutes of the Environmental Advisory Committee meeting held on 22 August 2007.

**COMMENTARY**

The committee discussed the draft terms of reference which had been prepared by the Environmental Advisory Committee. These were adopted by Council on 3 September 2007.

The representative groups are to be written to asking for a member to be nominated for the S355 Committee as per the membership in the Terms of Reference.

With regard to item 6 – the reference to the proposed agreement between the Council and the Community Nursery is centered around the Community Nursery seeking to establish a formal agreement with Council that will ensure that the Community Nursery can supply Council with its planting needs for the various rehabilitation projects coming up such as the STP's and waste facilities and at the same time provide certainty for the Nursery. Regional Services will review and contact the Community Nursery directly.

**POLICY IMPLICATIONS**

In accordance with the terms of reference of S355 Committees of Council.

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil

**07-443 RESOLVED****THAT** the information be received.**MOVED:** Councillor M M Collins**SECONDED:** Councillor M J Wilson.**CARRIED**

**ITEM:7            REG - 02/10/07 - SPORTS ADVISORY COMMITTEE MINUTES OF  
                         24TH SEPTEMBER 2007**

**REPORT BY: STRATEGIC ENGINEER – LEANNE KEARNEY**

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**SUMMARY**

Details of the Minutes of the Sports Advisory Committee Meeting held on Monday, 24 September 2007 for Council adoption.

**COMMENTARY**

At the Sports Advisory Committee Meeting held on Monday, 24 September 2007, there were fifteen (15) items discussed by the Committee, and it is considered that all these items be adopted by Council as per the Committee's recommendations.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil

**07-444 RESOLVED**

**THAT** Council adopt the recommendations of the Sports Advisory Committee for the meeting held on Monday, 24 September 2007.

**MOVED:** Councillor M J Wilson

**SECONDED:** Councillor W McAndrew.

**CARRIED**

The meeting closed at 7.10pm.