



LITHGOW CITY COUNCIL

MINUTES

ORDINARY MEETING OF COUNCIL

HELD ON

19 MARCH 2007

**MINUTES OF THE LITHGOW CITY COUNCIL MEETING
HELD AT THE CIVIC CENTRE, LITHGOW ON 19 MARCH 2007**

Meeting Commenced 7.00pm
Public Gallery: 25

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 Services, Ms Kathy Woolley
Minutes Secretary, MS Casey Clarke
Policy and Planning Manager, Mrs Amanda Muir

The Mayor provided congratulations to Mr Len Ashworth on behalf of Council for 50 years of dedicated services to the Lithgow Mercury.

CONFIRMATION OF MINUTES

Confirmation of the Minutes of the Ordinary Meeting of Council held on the 19 February 2007 were taken as read and confirmed by Councillors H K Fisher and W McAndrew with the following corrections needed:

Question Without Notice from Councillor McAndrew - should read - Council to honour the current level of coal tonnage from Angus Place and Springvale Colliery.

**07- 97 RESOLVED
CARRIED**

DECLARATION OF INTEREST

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

Councillor H K Fisher declared a pecuniary interest in a Question Without Notice from Councillor M F Ticehurst in relation to Cobar Park as he has an adjoining property.

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 - 19/03/07 - MRS CRACKNELL

1. What was the progress of this enquiry to date

Correspondence was forwarded to both Enhance Place and the Department of Primary Industries (Mineral Resources) advising of concerns raised by residents and asking that these concerns be taken into consideration.

2. What does council propose to do to assist affected residents particularly those whose private residential properties are affected

A mining lease cannot be granted until development consent is obtained. When and if a development application is lodged, which would likely be under the Part3A process, residents and Council may make submissions.

QPG - 19/03/07 - MRS JULIE FAVELL

1. Mr Mayor could Council please consider a request for Barbeques in various location in Lithgow?

Quotations are currently being sources from a supplier of barbeques for public places. When prices are received a program will be proposed for inclusion in the March Quarterly budget review.

QPG - 19/03/07 - MR KEN BRYCE

1. Mr Mayor on 20/11/06 photos were handed to Council showing unsafe awnings in Portland and Lithgow but because no questions were submitted with these photos, to date nothing has been done towards compliance by thee landowners. On the 20/11/06 and reiterated on 18/12/06 you stated and I quote "there is an ongoing program with Council Building Surveyors carrying out inspections if further action is required", yet on the 16/02/07 I conducted a walk over a two block area of Lithgow's Main Street and have come up with nine awnings which even "blind Freddy" can see would not pass any inspection let alone a Structural engineers. What are Councils Building Surveyors doing not to be able to do the same?

At the Council meeting on 18/12/06 in response to Question 3 you state and I quote "this has resulted in follow up correspondence". What is the result of his follow up correspondence?

On letter head 19708:bu/itl/05am to Mr e Toyer dated 20 March 2000 paragraph 3 states and I quote "in cases where an order is served and the owner does not undertake the work, then Council is empowered to undertake the work and seek to recover the cost from the owner".

Is Council now prepared to act on all the unsafe awnings within its boundaries?

This is answered in Item 3 of the agenda.

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MAYORAL MINUTE

BACKGROUND:

Attached is a request from the Volunteer Rescue Squad asking for an extension to the repayment date for the interest free loan Council provided. The approach to consider this request was made today. Council resolved to provide \$11,000 as an interest free loan in accordance with Council's policy to enable the group to complete the project. The request is to extend from the due date of 31 March 2007 until 14 May 2007.

The Event Organiser assures Council that full repayment of the monies will be achieved by this date.

A one off extension is recommended to Council and given the timing of the issue, with the current due date of 31 March 2007 approaching, this is submitted to Council for consideration as Urgent Business Without Notice via this Mayoral minute.

MOTION:

That

1. Council, having considered the matter as Urgent Business without Notice, give the Lithgow And District Volunteer Rescue Squad Inc. an extension until close of Business on 14 May 2007 to repay in full the monies Council has provided in the form of an interest free loan.
2. Advise the Volunteer Rescue Squad that this is a one off extension and no further extension will be agreed to and repayment on the due date will be required in full.

07-98 RESOLVED

MOVED: Councillor Neville Castle

SECONDED: Councillor W McAndrew.

CARRIED

Mayor N. Castle

DATE: _____

GENERAL MANAGER REPORTS

ITEM:1 GM - 19/03/07 - PORTLAND SWIMMING POOL

REFERENCE

Min 05-325: Special Meeting, 27 June 2005
Min 05-496: Council Meeting, 4 October 2005
Min 06-369: Policy and Strategy Committee Meeting, 6 November 2006

SUMMARY

This report seeks Council approval to undertake the tendering process for the relining of the Portland Swimming Pool in 2006/07 and undertake the works in 2007/08.

COMMENTARY

Council will recall that over a number of financial years it has included an amount of \$200,000 from its loan borrowing program for the relining of the Portland Swimming Pool. These works have not commenced to date nor have the loans ever been initiated. Therefore, the following proposed works are outlined for Council's consideration:

- 2006/07 – commence and finalise the tendering process
- 2007/08 – commence and complete the construction work.

POLICY IMPLICATIONS

The provision of \$200,000 for the Portland Swimming Pool does not comply with Council's Policy on Financial Assistance to Community Groups and Organisations. However, it is acknowledged that this has been a long standing undertaking by Council.

FINANCIAL IMPLICATIONS

The \$200,000 allocation and associated loan was resolved to be revoked in the 2006/07 Budget by Council at its Policy and Strategy Committee Meeting on 6 November 2006. Furthermore, as advised at the Councillor Budget Briefing Session on 12 March 2007, the \$200,000 allocation and associated loan has been placed into the draft 2007/08 Budget for the draft Management Plan 2007/08 to 2009/10.

LEGAL IMPLICATIONS

The tendering requirements of the Local Government Act 1993 and Local Government (General) Regulation 2005 will apply in this case. The previous tender was not entered into and no loan funding has been received to date for this project.

07-99 RESOLVED

THAT the tender process for the relining of the Portland Swimming Pool be undertaken in 2006/07 and works be undertaken during 2007/08.

MOVED: Councillor B S Moran
CARRIED

SECONDED: Councillor W McAndrew.

ITEM:2 GM - 19/03/07 - REVIEW OF RURAL FIRES ACT

REFERENCE

06-387: Ordinary Meeting of Council held on 20 November 2006

SUMMARY

This report outlines correspondence received from the Local Government Association of NSW in relation to a decision from the 2006 Annual Conference of the Local Government Association of NSW.

COMMENTARY

Correspondence has been received from the Local Government Association of NSW in relation to a Motion that was adopted at the 2006 Annual Conference of the Local Government Association of NSW.

Motion 7 was presented by Penrith City Council requesting that a full review be conducted of the Rural Fires Act and associated reimbursement to Local Government.

Motion 8 presented by Council to the Conference was ruled to be covered by the resolution carried by Conference on Motion 7.

Correspondence received from the Minister of Emergency Services, Mr Tony Kelly dated 13 February 2007 states:

"While I am aware of significant changes in bush fire management in the State, particularly over the last 10 years, legislation and policy changes have generally reflected these improvements.

He acknowledges the Associations view that further improvements can be made. I would welcome more detailed proposals so that I am in a position to assess them, taking into consideration the views of other land management agencies.

The Minister is aware of the Associations concerns regarding assets purchased through the Rural Fire Fighting Fund, and no doubt those concerns will be reflected in any proposal I receive from the Association.

Minister Kelly appreciates the commitment from the Association to fostering constructive discussion on matters of mutual concern. He trusts that he can continue working with the Association in a spirit of goodwill and co-operation to the last benefit of the local communities".

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

07-100 RESOLVED

THAT the information be noted.

MOVED: Councillor M M Collins

SECONDED: Councillor B S Moran.

CARRIED

REGIONAL SERVICES REPORTS

ITEM:3 REG - 19/03/07 - AWNING IMPROVEMENT PROGRAM

REPORT FROM: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

SUMMARY

Report for information advising of concerns expressed about the street awning improvement program.

COMMENTARY

Council has received a number of approaches from a local resident expressing concern at the condition of street awnings within Lithgow and Portland. The concerns relate to a perception that Council has failed to follow up on necessary repairs to awnings resulting from structural inspections carried out some years ago on behalf of Council.

Repairs have been completed on most of the awnings identified in the structural reports. It is important to note that the inspections were to determine structural repairs required to make awnings safe and did not specify repairs of a minor nature. Those few awnings that are still outstanding are subject to investigation with notices and orders to be issued as required. A number of follow up inspections have revealed that many owners have voluntarily carried out repairs to their awnings. It appears as though the concerned resident may be under the impression that a number of minor aesthetic issues, other matters relating to development work and recently damaged awnings have a relationship to the structural inspection program as mentioned above and this may have lead to the mistaken belief that this program had not been followed through.

Photographs provided to Council by the complainant reveal a number of awnings requiring minor repairs, but include two awnings being the Court House Hotel and the Old Idle Gossip Café that have Development Consent for major repair work. Discussions are being held with the owners of both premises to ensure that this work proceeds with minimum delay. Structural Engineers have inspected both awnings and their requirements have been implemented to ensure public safety.

Those awnings requiring minor aesthetic repairs will be investigated as part the ongoing program of improvement to all street awnings and necessary directions given as required.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil. The financial obligations are with the owners of the awning.

LEGAL IMPLICATIONS

Council is meeting its legal obligations by requiring repairs to street awnings that present a risk to the public.

07-101 RESOLVED

THAT the information be received and the concerned resident be advised of the situation.

MOVED: Councillor B S Moran

SECONDED: Councillor W McAndrew.

CARRIED

COMMUNITY AND CORPORATE SERVICES REPORTS

ITEM:4 COMM - 19/03/07 - SEC 356 DONATIONS

REPORT FROM: COMMUNITY AND CULTURE MANAGER – P. HALL

REFERENCE

- Minute 06-162: Finance and Services Committee 5 June 2006
- Minute 06-183: Council Meeting 19 June 2006
- Minute 06-229: Finance and Services Committee 7 August 2006
- Minute 06-292: Finance and Services Committee 4 September 2006
- Minute 06-332: Finance and Services Committee 3 October 2006
- Minute 06-378: Finance and Services Committee 6 November 2006
- Minute 06-439: Finance and Services Committee 4 December 2006
- Minute 07-51: Council Meeting 19 February 2007

SUMMARY

To advise Council of payments allocated in 2006/07 from Local Government Act Section 356 donations which have been approved by Council resolution or as previously approved through the process to adopt the Management Plan for 2006/07 and to further seek Council consideration for current requests.

COMMENTARY

Council allocated \$20,000 in the 2006/09 Management Plan for donations approved under Section 356 of the Local Government Act.

As at 19 February 2007 the following payments have been made:

DATE	ORGANISATION	ASSISTANCE	AMOUNT
Management Plan Allocation 2006/07			\$20,000.00
24.07.06	GLATSIC Naidoc Week	Cont :Min 06-162 05.06.06	500.00
04.08.06	Lithgow High School	Presentation Day : as per Policy	50.00
07.08.06	Bicentennial National Trail	Refund DA Fees: Min 06-229	261.95
04.09.06	Lithgow Country Women's Assoc	General Rate Component Min 06-292	417.21
04.09.06	Wallerawang Country Women's Assoc	General Rate Component Min 06-292	408.69
04.09.06	Portland Dist Motor Sports	Sponsorship (Following Advertising) Min 06-292	60.00
04.09.06	Lithgow & District Poultry Club	Sponsorship Min 06-292	300.00
04.09.06	Lithgow Golf	Sponsorship (Following Advertising) Min 06-292	1,000.00
04.09.06	Crystal Theatre Com Cinema	Sponsorship (Following Advertising) Min 06-292	500.00
04.09.06	Lithgow Greyhound	Sponsorship (Following	4,350.00

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	Club	Advertising) Min 06-292	
03.10.06	Mitchell Conservatorium Inc	Scholarships for local students Min 06-332	275.00
03.10.06	Pied Piper Preschool	Assistance with equipment purchase Min 06-332	50.00
06.11.06	Blinky Bill Child Care	Assistance with Fundraising Min 06-378	50.00
06.11.06	Portland Golf Club	Sponsorship Min 06-378	750.00
06.11.06	Portland Central School	Annual Presentation Min 06-378	50.00
06.11.06	Ironfest	Assistance with rental 2005/06 Min 06-378	2,840.00
04.12.06	Cullen Bullen Progress Assoc	Rates assistance Min 06-439	\$313.21
04.12.06	Lithgow Small Arms Rifle Club	Open championship prize Min 06-439	\$50.00
04.12.06	Lithgow Workmen's Valley Women's Bowling Club	Assistance with Versatility Sixes Min 06-439	\$50.00
04.12.06	Rydal A H & P Society	Cash and in-kind – Heavy horses display Min 06-439	\$300.00
04.12.06	Xmas and Beyond	Xmas for disadvantaged Min 06-439	\$100.00
04.12.06	Cullen Bullen Public School	Annual Presentation Min 06-439	\$50.00
04.12.06	Zig Zag Public School	Annual Presentation Min 06-439	\$50.00
04.12.06	Coerwull Public School	Annual Presentation Min 06-439	\$50.00
19.02.07	First Portland Scout Group	Donation Min 06-	\$50.00
19.02.07	Western Academy of Sport	Reimbursement of pool entry fees Min 06	\$138.60
19.02.07	Lithgow Show Society	Sponsorship of the main event Min 06	\$8,000.00
19.02.07	Lithgow Enterprise Development Agency Inc.	Final audit fees Min 06	\$869.00
Total: Sec 356 Donations to 19.02.07			\$21,933.66
2006/07 Allocation Remaining - NIL – over expended			<u>-\$1,933.66</u>

Council is in receipt of the following requests for assistance however as there is no remaining funds in the budget none are recommended to Council. These requests would add \$1,908.43 to make a deficit of \$3,914.09 if Council resolved to support all of the requests listed below.

It would be necessary to locate this expenditure from another budget area and cut other programs to fund additional expenditure above the \$20,000 already budgeted for donations.

The applications are summarised as follows:

1. **Joel White's film production** – Hire of the Civic Ballroom 2 days (3 hours per day) at \$110.00 per day for shooting a film scene (a refundable bond of \$285.00) Request to waive hire fees of \$220.00
2. **Central West NSW Regional Business Awards Request for sponsorship** Support from Council to assist in generating awareness in the program Amount not disclosed.
3. **Winter Soccer Camp July 2 – July 4 2007** Football Excellence Academy Request to waive hire fees for use of the Tony Luchetti Sportsground - \$330 per day (a refundable bond of \$285 per day) In wet weather use of the Civic Ballroom
4. **Kids Alive 14th March 2007** Hire of the Union Theatre waiving of fee 2 x4hour sessions \$330 in total (a refundable bond of \$110.00) Request to waive hire fees \$330
5. **Lithgow Valley Community Cinema** – renewal of the public risk insurance premiums repayment in quarterly instalments \$1,165.43. Period of insurance cover 01/02/07-01/02/08
6. **Junior Rock Eisteddfod Challenge** Request for a cash donation S 356 Donations policy - only one donation made to any particular organisation within a financial year - already received annual presentation Min 06 – 439
7. **LINC Mini Olympics Hire of the Civic Ballroom** Request to waive hire fees in inclement weather \$110 per day. Cannot confirm date of the event.

POLICY IMPLICATIONS

Payments in accordance with Donations Policy are recommended.

FINANCIAL IMPLICATIONS

Donations of \$21,933.66 have already been approved from \$20,000 allocated in the 2006/07 Management Plan. \$1,980.43 is the additional allocation being requested in the applications made as presented in this report. The budget would then be overspent by \$3,914.09 and funding from another program area would need to be cut to accommodate any further over expenditure.

LEGAL IMPLICATIONS

Nil

RECOMMENDATION

THAT:

1. Council note donations of \$21,933.66 made under Section 356 arising from previous resolutions or as included in the Council's Management Plan and those assessed in accordance with Council's Donations Policy;
2. As the Section 356 donations budget is already overspent it is recommended that no further funds be allocated in 2006/07.
3. Council consider the current requests in the 2007/08 donations programs

An **AMENDMENT** was moved that Application one as regarding the Joel White Film Production that Council consider a refund in the March 31st Review and:

1. Council note donations of \$21,933.66 made under Section 356 arising from previous resolutions or as included in the Council's Management Plan and those assessed in accordance with Council's Donations Policy;
2. As the Section 356 donations budget is already overspent it is recommended that no further funds be allocated in 2006/07.
3. Council consider the current requests in the 2007/08 donations programs

07-102 RESOLVED

MOVED: Councillor B S Moran

SECONDED: Councillor H K Fisher.

CARRIED

The Amendment was carried; therefore the amendment became the **MOTION:**

1. Council note donations of \$21,933.66 made under Section 356 arising from previous resolutions or as included in the Council's Management Plan and those assessed in accordance with Council's Donations Policy;
2. As the Section 356 donations budget is already overspent it is recommended that no further funds be allocated in 2006/07.
3. Council consider the current requests in the 2007/08 donations programs
4. Council consider a refund in the March 31st Review for the Joel White Film Production

07-103 RESOLVED

MOVED: Councillor W McAndrew

SECONDED: Councillor A E Thompson.

CARRIED

COMMITTEE MEETINGS

**ITEM:5 MINUTES OF THE TOURISM COMMITTEE MEETING HELD ON 12
 MARCH 2007**

REPORT FROM: TOURISM MANAGER - JODIE RAYNER

REFERENCE

NIL

COMMENTARY

This report outlines the Minutes of the Tourism Advisory Committee meeting held on 12 March 2006 at the Lithgow Visitor Information Centre.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

07-104 RESOLVED

THAT the minutes of the Tourism Advisory Committee meeting held on 12 March 2007 be noted.

MOVED: Councillor M M Collins

SECONDED: Councillor H K Fisher.

CARRIED

QUESTIONS WITHOUT NOTICE

QWN - 19/03/07 - COUNCILLOR M F TICEHURST

Councillor H K Fisher declared a pecuniary interest in Questions 1 and 2 due to owning adjoining property and vacated the Chambers.

1. Could the Lithgow Council advise if there has been any update regarding the proposed sale by Xstrata Coal of their land in the Cobar Park/McKellars Park area in Lithgow which will have a serious legal and social impact for local residents who own old mining homes in that area?

No further information is to hand. The Department of Lands - Land and Property Information Division advised as at 2.30pm on 19 March 2007 that there had been no change in land ownership.

A **MOTION** was moved that Council contact Xstrata seeking permission to get the identity of the proposed owners so as Council can deal with these people directly and see what can be done on this issue to protect the community.

07- 105 RESOLVED

MOVED: Councillor B P Morrissey **SECONDED:** Councillor W McAndrew.

CARRIED

2. Could the Lithgow City Council advise the local residents who own old mining homes in Cobar Park/McKellars Paddock area, whether the land under their homes situated in Lot 12 in DP 1077891 is under the 'Old System' or under the 'Torrens Title System'?

That is, what is the correct definition title of the land situated in Lot 12 in DP 1077891?

The title to lot 12 in DP 1077891 is a Torrens title.

3. With respect to the current DA for the Helicopter Joyrides Helipad at Capertee, could the Council advise if and when, as a Councillor, I will be provided with a copy of the Lithgow City Councils legal advice that was requested and received regarding the question on the DA being a 'Heliport' under the Lithgow City Councils LEP?

The matter has been assessed for Legal Professional Privilege and all Councillors will be provided with a copy. It should be noted that the correspondence in which this advice is located also contains advice on a range of unrelated matters and these have not been provided.

4. With respect to the current DA for the Helicopter Joyrides Helipad at Capertee, when will the Council be advising all those persons and organisation's who made submissions in respect of the DA, that the matter will be coming back to Council for formal determination and will such advise be provided to all with at least 10 days notice?

The matter is still in the assessment phase and no indication can be given as to when the application will be reported for determination. Every effort will be made to give adequate notice to those who made submissions and provided adequate contact details.

5. Could the Council provide an update on the matter of Delaney/Church Corporate Retreat Megalong Valley Vs Lithgow City Council which is currently in the Land and Environment Court?

The Court has directed that submissions by the applicant are due by 23 March and submissions in response by 30 March. The Court Registrar has set aside 29 May 2007 as a hearing date. Separately, representatives from Evensong met with the General Manager and Group Manager Regional Services on 20 February 2007 and Evensong are considering their options.

6. Mr Mayor I refer to Councillor McAndrew's question on the Capertee helipad and advise that it does not tell us that this is a heliport. If it is classed as a commercial premise, then it should not be classed as a helipad, is this correct?

The Mayor advised that this will be looked into.

QWN - 19/03/07 - COUNCILLOR W MCANDREW

1. Mr Mayor I refer to the Capertee helipad and ask Council if this falls into the category of a commercial premises?

The Mayor advised that this will be looked into.

2. Mr Mayor I refer to the "White Rooster Restaurant" at the top end of Main Street. For over 18 months renovations have been taking place here and for months the site has been untidy and has had problems with vandals. Can Council serve a notice to the owners, or has this been done? Can you please give us an update on this site?

The Group Manager Regional Services advised that an initial inspection had taken place and found that the rear of the building was problematic. A further letter will be forwarded to the owners.

QWN - 19/03/07 - COUNCILLOR B P MORRISSEY

1. Mr Mayor I refer to the Capertee Heliport also and ask Council if this becomes classed as a helipad, does it prohibit usage?

The Mayor advised no it doesn't.

QWN - 19/03/07 - COUNCILLOR B S MORAN

1. Mr Mayor I refer to the questions by Mrs Cracknell and ask if we can please advise the residents when the information on Enhance Place is received by Council?

The Mayor advised that yes this can be done.

The Meeting closed at 7.34pm.