



LITHGOW CITY COUNCIL

**MINUTES**

POLICY AND STRATEGY COMMITTEE  
MEETING OF COUNCIL

HELD ON

05 MARCH 2007

**MINUTES OF THE LITHGOW CITY COUNCIL MEETING  
HELD AT THE CIVIC CENTRE, LITHGOW ON 5 MARCH 2007**

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Meeting Commenced 6.00pm

Public Gallery: 28

**PRESENT**

His Worship the Mayor  
Councillor Neville Castle  
Councillor B P Morrissey  
Councillor M F Ticehurst (arrived at 6.04pm)  
Councillor W McAndrew  
Councillor H K Fisher  
Councillor B S Moran  
Councillor M M Collins  
Councillor A E Thompson (arrived at 6.15pm)

**APOLOGIES**

An apology was received and accepted from M J Wilson due to being out of the city on personal business

**07- 65 RESOVLED**

**MOVED:** Councillor H K Fisher **SECONDED:** Councillor B S Moran.

**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, Ms Casey Clarke  
Community Manager, Mrs Penny Hall  
Assets Manager, Mr Yogarajah Ajitkumar  
Policy and Planning Manager, Mrs Amanda Muir

**CONFIRMATION OF MINUTES**

Confirmation of the Minutes of the Policy and Strategy Committee Meeting of Council held on the 5 February 2007 were taken as read and confirmed by Councillors H K Fisher and M M Collins

**07-66 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 6.00pm members of public gallery were invited to address questions through the Mayor to Councillors and Staff: -

NIL questions were received.

A presentation from Mr John Irving and Ms Eyeson-Annan from the Northern NSW Oral Health Services gave a brief presentation on water fluoridisation.

It was moved that the Council thank the representatives from Department of Health for the presentation.

**07-67 RESOVLED**

**MOVED:** Councillor H K Fisher **SECONDED:** Councillor M M Collins.

A presentation was given by from Lifeline seeking support from Council to maintain the services in the Lithgow LGA.

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## GENERAL MANAGER REPORTS

ITEM:1           GM - 05/03/07 - QWN COUNCILLOR M F TICEHURST - 5 FEBRUARY 2007

**REPORT BY: RISK AND SAFETY MANAGEMENT OFFICER - DANNY OLDFIELD**

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### REFERENCE

A question from Councillor M F Ticehurst - 5 February 2007

### COMMENTARY

" *Could the Council provide a legal report to Councillors on their personal and Councillor obligations under the NSW Workplace Deaths legislation?*

*Reference is given to the OHS Policy adopted at the meeting of 4 December 2007. The OHS Policy demonstrates a commitment to provide a safe and healthy place of work for all employees, contractors and visitors to Council. The OHS policy forms only one part of Council's overall OHS system, and further information relating to Councillors responsibilities to OHS, and in particular to Part 2A (Workplace Deaths - offence) of the OHS Act will be reported to the Policy and Strategy meeting to be held on 5 March 2007."*

The responsibilities of Councillors within the Council include but are not limited to, the following:

Under the Local Government Act 1993 Councillors, as individually elected representatives, have no direct responsibility for the day - to - day operations of the Council.

Reference is made to Item 12.3 of the Induction, Consultation, Communication and Reporting Section of Councils OH&S Management System. 12.3 lists responsibilities of the Lithgow City Council General Manager in relation to workplace death.

Section 32A of the OH&S Act provides for an offence of reckless conduct, by a person with occupational health and safety duties, causing death at a workplace. A person whose conduct causes the death of another person at a place of work and who owes a duty to the health and safety of that person and who is reckless as to the danger of death or serious injury to any person is guilty of an offence, unless the person proves that there was a reasonable excuse for the conduct.

This liability is in substitution for the liability of directors of the Corporation and each person concerned in the management of the Corporation.

### POLICY IMPLICATIONS

NIL

### FINANCIAL IMPLICATIONS

NIL

**LEGAL IMPLICATIONS**

NIL

**07-68 RESOLVED**

THAT the information be received.

**MOVED:** Councillor M F Ticehurst

**SECONDED:** Councillor M M Collins.

**CARRIED**

**ITEM:2 GM - 05/03/07 - PETROL PRICING**

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**REFERENCE**

Letter to Mr Andren dated 6 November 2006

Min 06-448 - Ordinary Meeting of Council held on 18 December 2006

Letter received from Mr Andren dated 12 December 2006

**SUMMARY**

This report outlines a letter received from Peter Andren, Federal Member for Calare in relation to Petrol prices.

**COMMENTARY**

Mr Peter Andren received correspondence from Lithgow City Council in relation to substantial fuel price differences between Lithgow and the Blue Mountains.

Mr Andren sought assistance from the Parliamentary Library but found they were unable to provide us with the information that we required.

Mr Andren has now on behalf of Council written to the CEO of the Australian Competition and Consumer Commission in regards to this issue on the 9 February 2007.

Once information has been received from the ACCC by Mr Andren, he will contact Lithgow Council.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**07-69 RESOLVED**

**THAT** the information be received.

**MOVED:** Councillor B S Moran

**SECONDED:** Councillor A E Thompson.

**CARRIED**

## **REGIONAL SERVICES REPORTS**

**ITEM: 3            REG - 05/03/2007 – WATER FLUORIDATION**

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

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### **SUMMARY**

This report advises of a presentation to be provided in relation to water fluoridation to tonight's meeting.

### **COMMENTARY**

Council may recall a presentation to its Policy and Strategy meeting of 3 April 2006 from Mr John Irving of the Northern NSW Oral Health Network on water fluoridation. At that meeting, the following was resolved:

1. The presentation from Mr Irving be received.
2. Council request the Department of Health conduct its own survey on the Lithgow population via a letter drop in relation to the position of fluoridisation.
3. A further report on the outcomes to be report to Council.

It is understood that some survey information has now been obtained. Mr Irving and his colleague, Margo Eyeson-Annan have requested the opportunity to address Councillors and they area available to make the presentation to the Policy and Strategy Committee at tonight's meeting.

### **POLICY IMPLICATIONS**

No current policy exists on the issue within Council's Policy Register.

### **FINANCIAL IMPLICATIONS**

It is understood that if Council chose to agree to fluoridation then it would be responsible for ongoing operational and maintenance costs of the equipment.

### **LEGAL IMPLICATIONS**

No immediate legal implications are apparent.

### **ATTACHMENTS**

Nil.

### **RECOMMENDATION**

**THAT** the presentation from Mr Irving and Ms Eyeson-Annan be received and Council determine its position in relation to water fluoridation.



**07-70 RESOLVED**

**THAT:**

1. The Presentation from Mr Irving and Ms Eyeson-Annan be received
2. That Council seek public consultation and ask the department to consider funding for this by using WRI or another suitably qualified research organisation.

**MOVED:** Councillor B P Morrissey

**SECONDED:** Councillor H K Fisher.

**CARRIED**

**ITEM:4            REG - 05/03/07 - DEVELOPMENT APPLICATIONS ON COUNCIL LAND - ALTERATION TO POLICY**

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

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**SUMMARY**

To recommend an alteration to Council Policy so to ensure development applications on Council land are reported to the appropriate committee, or full council, for determination.

**COMMENTARY**

Current Council has an adopted policy, number 7.6, on Development Applications by Councillors, Staff and family members which provides as follows

**“OBJECTIVE:** To provide a transparent protocol for the determination of development applications lodged by Councillors, Staff and Relatives thereof.

**POLICY:**

1. That, subject to the exemptions in Part 2 of this Policy, any development application lodged where the applicant is a Councillor or a member of staff, or where a Councillor or member of staff is in any way connected with a development application, that such application be referred to Council for consideration and determination and that no aspect of the application be dealt with under delegated authority.
2. In the case of staff members who are not Senior Staff, the following applications need not be reported to the Council:
  - a) Dwellings
  - b) Ancillary building structures
  - c) General applications under Section 68 of the Local Government Act 1993

In such cases the application must be determined by referring to a supervising delegate or the General Manager.

3. In the case of an application lodged by a family member and the Council Officer would normally hold delegated authority to determine the application, then the application must be referred to a supervising delegate or in the absence of such, will be reported to Council.”

In the interests of further transparency it is suggested that this policy be amended slightly to also include development applications on Council land. This can be achieved by making simple amendments to the heading, objective and clause 1 making reference to Council land.

**POLICY IMPLICATIONS**

The subject of this report.

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

No specific legal implications arise.

**07-71 RESOLVED**

**THAT** the current policy relating to development applications – councillors, staff and family members be amended to include development applications involving council owned land and the policy become operative immediately.

**MOVED:** Councillor B P Morrissey

**SECONDED:** Councillor W McAndrew.

**CARRIED**

## COMMUNITY AND CORPORATE SERVICES REPORTS

**ITEM:5            COMM - 05/03/07 - REQUEST FOR ASSISTANCE FROM LIFELINE  
CENTRAL WEST**

**REPORT FROM: COMMUNITY & CULTURE MANAGER – P HALL & POLICY &  
PLANNING MANAGER – A MUIR**

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### REFERENCE

Nil

### SUMMARY

Lifeline Central West has requested that Council consider support to maintain the service within the Lithgow Local Government Area. Council has provided \$2,000 in its 2006/07 Budget for Lifeline and this could be utilised for rental assistance. In addition, it is recommended that Council approach the Sydney West Area Health Service to investigate the possibility of Lifeline occupying office space at one of the Health Service Sites in the Local Government Area.

### COMMENTARY

Lifeline Central West is currently located in the Museum Building at the Small Arms Factory, which is where the 24 hour guard is located. However, when the guard is relocated as part of the redevelopment of the site, Lifeline can no longer be located in the premises as it would contravene the firearms licensing requirements. Therefore, Lifeline is looking for an alternative site and/or financial rental assistance to ensure that their telephone counselling service is maintained in Lithgow. As such Lifeline is requesting Council consider the following options for support:

- the provision of in-kind space from Council's property portfolio
- the provision of a cash contribution to enable Lifeline to rent a non Council premises.

Currently Council does have a number of commercial premises which are available for lease, however, they may not be suitable as a bed facility is proposed to be provided within the space. In addition, an amount of \$2,000 has been provided for in the 2006/07 Budget for Lifeline, however, the exact purpose has not been specified and therefore could be utilised for rental assistance.

It is suggested that Council assist by providing the \$2,000 from the 2006/07 Budget for rental assistance and that Council approach the Sydney West Area Health Service with the view to investigating the possible location of Lifeline at one of Health Services Sites in the Local Government Area.

### POLICY IMPLICATIONS

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

### FINANCIAL IMPLICATIONS

The financial implications are discussed above.

## **LEGAL IMPLICATIONS**

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

## **RECOMMENDATION**

### **THAT:**

1. The \$2,000 from the 2006/07 Budget be provided to Lifeline to assist with rent or services if in-kind premises can be found.
2. Council approach the Sydney West Area Health Service to investigate the possibility of Lifeline occupying office space at one the Health Service Sites in the Local Government Area.

## **07-72 RESOLVED**

### **THAT:**

1. The \$2,000 from the 2006/07 Budget be provided to Lifeline to assist with rent or services if in-kind premises can be found.
2. Council approach the Sydney West Area Health Service to investigate the possibility of Lifeline occupying office space at one the Health Service Sites in the Local Government Area.
3. Council to help Lifeline seek accommodation, if SWAHS are not able to help look at other buildings for accommodation.
4. Council to attempt to identify and advise Lifeline of any community grants for this program.
5. Council consider a donation of \$4,000 in subsequent budgets.

**MOVED:** Councillor W McAndrew

**SECONDED:** Councillor B S Moran.

**CARRIED**

**ITEM:6            COMM - 05/03/07 - CENTRAL WEST RURAL LANDS PANEL**

**REPORT FROM: POLICY & PLANNING MANAGER – A MUIR**

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**REFERENCE**

Nil

**SUMMARY**

This report informs Council of the independent inquiry into rural land use in the Central West.

**COMMENTARY**

The Minister for Planning, the Honourable Frank Sartor, MP and the Minister for Primary Industries, the Honourable Ian Macdonald, MP announced on 8 February 2007 the establishment of an independent inquiry into rural land use in the Central West to listen to the community and local councils. In summary the enquiry will involve:

- An independent panel of 4 experts to undertake the review and report back to the Government.
- The establishment of a stakeholder reference group including the Mayor to support the panel.
- The Terms of Reference include:
  - Establish the extent, value and location of agriculture in the Central West Region of NSW;
  - Identify the key land use planning threats to its ongoing viability;
  - Assess the net benefit of agricultural land uses in terms of economic, social and environmental benefits;
  - Advise on a preferred land use planning approach to ensure the continuation of agriculture, which takes into account social, economic and environmental factors. The approach is to identify an appropriate mix of strategic, statutory and incentive based mechanisms; and
  - Provide specific advice on establishing minimum lot sizes and/or subdivision constraints through Local Environmental Plans and the appropriateness of the Department of Primary Industries' methodology for determining minimum lot sizes, including the issue of off-farm income.
- Public hearings will be undertaken in the region over the next 3 months.

A full copy of Minister Sartor's press release is provided as an attachment to the Business Paper.

**POLICY IMPLICATIONS**

The results of this enquiry may have implications for Council's Strategic Plan and new Comprehensive Local Environmental Plan, however, the Department of Planning have verbally advised Council to proceed with the finalisation of the Strategic Plan.

**FINANCIAL IMPLICATIONS**

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

**LEGAL IMPLICATIONS**

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

**07-73 RESOLVED**

**THAT** the information be received.

**MOVED:** Councillor B S Moran

**SECONDED:** Councillor M M Collins.

**CARRIED**

A **MOTION OF STANDING ORDERS** was moved and seconded that Council continue the Policy and Strategy Committee Meeting at 7.00pm.

**07-74 RESOLVED**

**MOVED:** Councillor H K Fisher **SECONDED:** Councillor B S Moran.

**ITEM:7            COMM - 05/03/07 - PREPARATION OF A PLAN OF MANAGEMENT FOR MOUNT YORK RESERVE BY BLUE MOUNTAINS CITY COUNCIL**

**REPORT FROM: POLICY & PLANNING MANAGER – A MUIR**

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**REFERENCE**

Min 06-194: Policy & Strategy Committee Meeting 3 July 2006

**SUMMARY**

This report provides an update on the preparation of a Plan of Management for the Mount York Reserve by Blue Mountains City Council.

**COMMENTARY**

The following correspondence has been received from Blue Mountains City Council in relation to the preparation of the Plan of Management for the Mount York Reserve.

*"I am writing to update you on the Mount York Plan of Management process. A preliminary Draft Plan of Management is currently being completed. This draws from the completed assessments on the sites flora, fauna, heritage and recreational use, as well as the Master Plans for 5 visitor nodes of the reserve.*

*During the development of the Plan of Management, and through the consultation with community and user groups, it became apparent to Council that heritage significance of the place required further detailed investigation and management direction. This work was beyond the scope of the original plan, and consequently one of the major recommendation of the preliminary Draft PoM is to develop a Conservation Management Plan for Mount York and the associated heritage roads.*

*Council has decided to change the development of the Plan of Management by undertaking further investigation of the sites heritage items. This work will enable a greater level of detail in developing management guidelines for the sites heritage items and will address many of the requirements of a Conservation Management Plan.*

*The basis for this decision is to have a single plan that addresses the requirements of the Crown Lands Act as well as the requirement for heritage conservation of items of potential state and national significance.*

*It is anticipated that during the second quarter of 2007, the investigation of the heritage items and the development of policy and management guidelines will be carried out. This information will then feed into the Plan of Management. The planning process of the Plan of Management will then recommence mid 2007. This will involve further consultation and public comment, prior to finalisation and adoption of the Plan by Council and the Minister for Lands.*

*In the interim, Council has commenced maintenance work on Berghofer's Pass, and regeneration work at Bardon's Lookout with the support of a Green Corps team.*

*The Green Corps team will continue to work at Mount York until April 2007 with the support of Council's Walking Track Team and a heritage walking track consultant. Further work will include continued vegetation and drainage maintenance of the heritage roads, repair of sections of walking track, as well as track definition and revegetation work at the Mount York climbing area.*

*I would like to take this opportunity to thank you for your interest in this project and I hope that you will be able to continue to provide input into the process in the future".*

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**LEGAL IMPLICATIONS**

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

**RECOMMENDATION**

**THAT** the information be received.

**07-75 RESOLVED****THAT:**

1. The information be received.
2. Council to inform the RFS of the progress in this matter.

**MOVED:** Councillor M M Collins

**SECONDED:** Councillor B S Moran.

**CARRIED**



**ITEM:8 COMM - 05/03/07 - FM SBS RADIO****REPORT FROM: COMMUNITY AND CULTURE MANAGER P.HALL****REFERENCE**

Minute 06-416: Policy and Strategy Committee Meeting 4 December 2006

**SUMMARY**

Council resolution asked for a more comprehensive report on costings for the installation of services for FM SBS radio services across the LGA as identified in the Council's Social Plan and for inclusion of expenditure in the deliberations to prepare the 2007/08 budget.

**COMMENTARY**

In Council's Social Plan 2006 – 2011 as part of the Action Plan for the Culturally and Diverse Backgrounds it is stated;" Investigate the feasibility of installing and maintaining SBS radio transmitter under grants scheme currently available".

At a recent meeting of the Lithgow Multicultural Agency a motion was passed that the group write to Council urging the Council to commit to the offer of subsidised transmission for SBS radio. Through this report it is recommended that Council commit to this action. The letter from LINC attached supports the Agency's request.

A detailed quote has been received from Rural Electronics Products for FM Radio Service for SBS which will cover most of the Shire from the Hassans Walls transmission site and will have the advantage of providing a new communications hut.

SBS Radio costs structure exclusive of GST would be:

250 watt Linear Broadcast Transmitter	\$6,560
Antenna and cable	\$ 940
New air conditioned communications building (2mx3m sandwich material on concrete base)	\$8,250
Provision of power	\$ 300
Satellite antennae	\$ 300
Satellite receiver	\$ 450
Off air cable and antennae	\$ 100
Installation	\$3,000
Planning	\$ 600
Air conditioned and earth system	\$1,650
<b>TOTAL</b>	<b>\$22,150</b>

SBS digital television services extension for Hartley was the subject of a report to Council in December 2006. The communications hut proposed in this report can also hold the proposed television transmitter and provide separate communications infrastructure for the radio and digital television services under consideration.

If Council is supportive of the project an application will need to be made to SBS to seek the 100% subsidy.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

SBS would fund 100% of the FM Radio service and provision will be made in the draft 2007/08 budget which Council will consider in the next month. Ongoing costs of \$25 per year for licence and approximately \$100 per year for electricity costs to run the transmitter.

**LEGAL IMPLICATIONS**

Nil

**RECOMMENDATION**

**THAT** application be made to SBS for 100% subsidy to enable the installation of FM SBS Radio Services for the Lithgow Local Government Area.

**07-76 RESOLVED**

**THAT** application be made to SBS for 100% subsidy to enable the installation of FM SBS Radio Services for the Lithgow Local Government Area.

**MOVED:** Councillor H K Fisher**SECONDED:** Councillor B S Moran.**CARRIED**

A **MATTER OF ARISING** was moved by Councillor H K Fisher and Seconded by Councillor W McAndrew that Council make representations to the Federal Member in relation to the poor television reception in the Lithgow LGA.

**07-77 RESOLVED****CARRIED**

**ITEM:9            COMM - 05/03/07 - GENERAL MANAGERS DELEGATIONS -  
IMPOUNDING ACT 1993 INCLUSIONS**

**REPORT FROM:    GROUP MANAGER – COMMUNITY AND CORPORATE – K.  
Woolley**

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**REFERENCE**

Minute 05-450: Ordinary Council Meeting 05/09/2005

Minute 05-473: Special Meeting 19 September 2005

Minute 06-363: Policy and Strategy Meeting 6 November 2006

Minute 07-        Ordinary Council Meeting 19 February 2007

**SUMMARY**

Council is presented with additional delegations recommended be added to the General Manager's delegations as resolved in November 2006 to ensure that the operations of the Council can be executed effectively.

**COMMENTARY**

Reference is made to the necessary delegations from the Impounding Act 1993 which are recommended be given to the General Manager to enable the execution of Council's operations, as follows:

- Section 5        Who can impound and what can be impounded  
(1) Impounding officers can impound certain animals and articles, as provided by this Act. The power to impound conferred by this Act on an impounding officer of the Roads and Traffic Authority is limited to the impounding of motor vehicles, unless the regulations otherwise provide.
- Section 7        Dogs can be impounded in certain areas only  
A dog cannot be impounded under this Act unless it is in a national park, historic site, nature reserve, state game reserve, karst conservation reserve or Aboriginal area (as defined in the *National Parks and Wildlife Act 1974*).  
Note. A dog may be able to be impounded in other areas under another law, such as the *Companion Animals Act 1998*.
- Section 6        Areas in which impounding officers can impound  
(1) An impounding officer may impound something under this Act only in the area of operations of the impounding officer.  
(2) This Act does not confer power on an impounding officer to enter a place that the officer could not otherwise lawfully enter.  
(3) Nothing in this Act prevents an impounding officer from entering private land at the invitation of the occupier, so long as it is within his or her "area of operations".  
Note. See the definition of *area of operations* in the Dictionary for the areas in which impounding officers can impound
- Section 9        Animals unattended in public places can be impounded  
(1) An impounding officer may impound an animal that is in a public place in the area of operations of the officer if the officer believes on reasonable grounds that the animal is unattended.  
(2) An animal is not to be regarded as being unattended for the purposes of this section:  
(a) while the animal is in a public place in response to an invitation contained in a notice published by the relevant public authority and in accordance with any conditions specified in that notice, or  
(b) While the animal is in a public place with the consent of the relevant public authority, or  
(c) While the animal is in a public place and its presence there is authorised by or under an Act, or  
(d) in the case of an animal that is stock (as defined in Part 10 of the *Rural Lands Protection Act 1998*) that is unattended on a road or travelling stock reserve, in any circumstances prescribed by section 138 of that Act,

(e) In any circumstances prescribed by the regulations for the purposes of this section.

Section 15      Abandoned and unattended articles can be impounded  
An impounding officer may impound an article found in the officer's area of operations if the officer believes on reasonable grounds that the article has been abandoned or left unattended.

Section 16      Special procedures for impounding of motor vehicles  
(1) An impounding officer must make all reasonable inquiries in an effort to find out the name and address of the owner of a motor vehicle before the officer impounds the vehicle.  
(2) If the impounding officer's inquiries fail to reveal the name and address of the owner, the officer may proceed to impound the vehicle.  
(3) If the impounding officer's inquiries do reveal the name and address of the owner, the officer is not to impound the vehicle until notice of the proposed impounding has been given to the owner and the period specified in the notice has elapsed.  
(4) The notice to the owner must be in writing addressed to the owner and must indicate that the vehicle may be impounded unless it is removed within a specified period (not less than 3 days) and may be destroyed if its value is less than \$500 (or such other amount as may be prescribed under section 18).  
(5) A motor vehicle may be impounded immediately (without following the procedures in this section) if the vehicle is in a public place and the impounding officer is satisfied on reasonable grounds that its immediate removal is justified because it is causing an obstruction to traffic (vehicular or pedestrian) or is or is likely to be a danger to the public.

Section 20      Impounding authority to notify owner  
(1) An impounding authority must make all reasonable inquiries in an effort to find out the name and address of the owner of an impounded item and, in the case of an impounded motor vehicle, must also make a search of the Register under the *Registration of Interests in Goods Act 1986* for registrable interests in the vehicle.  
(2) The inquiries and search must be made as soon as practicable after the item is delivered to the authority's pound or (in the case of an article that is impounded without being delivered to a pound) as soon as practicable after the article is impounded.  
(3) If the impounding authority knows or finds out the name and address of the owner, the authority must cause notice of the impounding to be given to the owner of an impounded item as soon as practicable after becoming aware of the name or address.  
(4) If the impounding authority's search of the Register reveals a registrable interest in the motor vehicle, the authority must also cause notice of the impounding to be given to the person who claims the interest.  
(5) A notice under this section must be in writing addressed to the person to be given the notice. It must clearly indicate that the item has been impounded and will be sold or otherwise disposed of if not claimed within a stated period (not less than 7 days in the case of an animal and not less than 28 days in the case of an article).

(6) Inquiries as to the owner of a motor vehicle need not be made under this section if those inquiries have already been made under another provision of this Act.

(7) This section does not apply to a motor vehicle that has been destroyed or otherwise disposed of under section 18 (Impounded motor vehicles worth less than \$500 may be destroyed).

Note. See section 49 for the ways in which notice can be given.

#### Section 26 Impounding fees and charges

(1) An impounding authority may fix the fees and charges that are to be paid in respect of the impounding, holding and disposing of an item by the authority and its impounding officers. The Commissioner of Police may by order in writing fix the fees and charges that are to be paid in respect of the impounding of an item by a police officer.

(2) The fees and charges that may be fixed are as follows:

- A fee for walking or transporting an impounded animal to the pound or to the address of its owner and to a market or saleyard for sale,
- A charge for providing an impounded animal with food, water and veterinary care,
- A charge for loss or damage attributable to an impounded animal while it was unattended or trespassing,
- A fee for conveying an impounded article to a pound,
- A fee for storing an impounded article at the pound,
- A fee to cover the cost of serving a notice notifying the owner of an impounded item that the item may be or has been impounded.

(3) Fees and charges may be fixed so as to differ according to the kinds of animals or articles impounded.

(4) A fee or charge must not exceed the corresponding maximum fee or charge (if any) prescribed by the regulations, and any amount that is fixed so as to exceed the maximum is reduced to the maximum.

(5) Fees and charges fixed under this section are the fees and charges payable in respect of the impounding, holding and disposing of an item under this Act.

(6) An impounding authority must remit to the Commissioner of Police any fee or charge paid to or deducted or recovered by the authority that was payable in respect of the impounding of an item by a police officer.

(7) An impounding authority may waive payment of a fee or charge, or part of a fee or charge, in respect of the impounding of an animal in a public place that had strayed because a gate or fence had ceased to be animal proof due to fire, flood or other natural disaster.

#### Section 27 General right to recover impounding fees and charges and damages

(1) An impounding authority may recover the following amounts as a debt from the person responsible for an impounded item:

- The fees and charges payable in respect of the impounding, holding and disposing of the item,
- In the case of an animal impounded because it was trespassing—the cost of rectifying any loss or damage attributable to the trespassing of the animal.

(2) The Commissioner of Police may recover as a debt from the owner of an impounded item the fees and charges payable in respect of the impounding of an item by a police officer.

(3) The person responsible for an impounded item for the purposes of this section is the owner of the item unless the owner, within 21 days after being required to do so by the impounding authority by notice in writing:

(a) supplies by statutory declaration to the impounding authority the name and address of the person (being a person who is at least 18 years of age) who was in charge of the item immediately before it was abandoned, became unattended or was permitted to trespass, or

(b) satisfies the impounding authority that he or she did not know and could not with reasonable diligence have ascertained that name and address.

(4) If the owner supplies such a statutory declaration, the person named in it is the person responsible for the impounded item for the purposes of this section.

(5) Amounts recoverable under this section can be recovered only if they have not already been paid, or deducted from proceeds of sale.

(6) An impounding authority must pay any amount recovered by it under this section for loss or damage attributable to the trespassing of an animal on private land to the person who suffered the loss or damage.

(7) For the purposes of subsection (6), an impounding authority is entitled to treat the owner of the land concerned as the person who suffered the loss or damage unless satisfied that the loss or damage was suffered by some other person.

#### Section 42 Impounding officers must have written authorisation

(1) An impounding officer is not authorised to impound except when in possession of a written authorisation issued by the impounding authority. This does not apply to a police officer.

(2) The impounding officer must produce that written authorisation to a person who questions or asks for evidence of the officer's authority, when the officer is or is proposing to exercise the powers of an impounding officer.

(3) The regulations may impose requirements on the form and contents of the authorisation.

(4) The authorisation required by this section may be combined with and form part of another authorisation that an impounding officer has in some other capacity.

Therefore the recommendation is that the Council delegate to the General Manager the powers that are detailed in section 5 (1), Section 6, Section 7, Section 9, Section 16, Section 20, Section 26, Section 27 and Section 42 as shown above.

#### **POLICY IMPLICATIONS**

The recommendations will alter the Council's Delegations Register.

#### **FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

The recommendations provide the necessary legal position to ensure officers can execute impounding functions properly.

**CONCLUSION**

The addition of delegations to the General Manager with regard to impounding functions are recommended to Council.

**07-78 RESOLVED**

**THAT** The Delegations from the Impounding Act 1993 as detailed in the report be added to the General Manager's Delegations.

**MOVED:** Councillor M M Collins

**SECONDED:** Councillor B S Moran.

**CARRIED**

**ITEM:10            COMM - 05/03/07 - ESKBANK HOUSE AND MUSEUM - CALL FOR EXPRESSIONS OF INTEREST**

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

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**REFERENCE**

NIL

**SUMMARY**

Eskbank House and the Museum are greatly underutilised Council facilities which are open to the public three days a week and on weekends. An approach from a commercial operator who is interested in managing the facility has prompted this report to Council to seek interest in pursuing alternate management options for the facility.

**COMMENTARY**

Various ways of improving use of the facility are currently being investigated to improve the usage and promotion of Eskbank House.

One option that has been proposed to Council is to offer the facility to a commercial operator following an approach by a specific operator. The operator has been told that this request would require Council's consent and that the recommendation would be to prepare an Expression of Interest package and seek public submission in an open manner.

It is recommended that Expressions of Interest be called for commercial operators to look at managing Eskbank House events and functions in the long term.

The Trust conditions have been checked and there does not appear to be any impediment to considering this option.

Expressions of interest would seek proposals for operations of Eskbank House with commentary required on, but not limited to the following:

- The ongoing role the operator would expect from Council – responsibilities, expenses etc
- Programs for the maintenance and development of the gardens;
- Maintenance and development of curatorial aspects;
- Staffing management;
- Skills development of staff;
- Marketing program development:
- Functions and utilisation concepts;
- Formal presentations to Council may be required for interested parties to present their ideas;
- Financial implications and fees Council may realise for rental or similar.

There would need to be a formal agreement between both parties prepared as an outcome of a successful Expression of Interest process.

A package would need to be prepared with the current income, events, visitation figures and an example of marketing ideas for the facility as well as specifics any interested parties would be requested to address in their submissions.

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

The aim of seeking involvement from an external operator is to provide increased funds for the development, management and maintenance of the facility and to increase usage to offset some of the costs.

Management and maintenance of Eskbank House currently costs Council \$53,633.60 per annum.

## **LEGAL IMPLICATIONS**

Any agreement would be developed as a legally binding document.

## **CONCLUSION**

Council is presented with an option for what may allow for the ongoing management and development of Eskbank House with a mind to increasing usage from the current low rate. The calling of expressions of interest to seek an external operator to assist with the promotion and usage of the facility is recommended. At the conclusion of the Expression of Interest process, Council would be presented with recommendations arising from the process.



**07-79 RESOLVED**

**THAT** Council prepare an Expressions of Interest pack and call for responses to ascertain options for the ongoing development and usage of Eskbank House.

**MOVED:** Councillor B S Moran

**SECONDED:** Councillor M M Collins.

**CARRIED**

**ITEM:11            COMM - 05/03/07 - SWIMMING POOL SURVEY RESULTS**

**REPORT FROM:    GROUP MANAGER – COMMUNITY AND CORPORATE – K. Woolley**

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**REFERENCE**

Minute 06- 408 Policy and Strategy Meeting 4 December 2006

**SUMMARY**

The Council's community consultation regarding a heated indoor pool has been completed and the results are summarised in this report.

**COMMENTARY**

Attached to the Business Paper is the outcomes and analysis of the survey of over 500 households conducted via telephone contact and via Council's Resident Feedback Register regarding the proposal to build an indoor pool and associated complex which could potentially contain a sports hall, gym, boxing arena, meeting rooms, offices and cafe.

The Council resolved in December 2006 to seek community comment on the proposal to develop a complex.

The proposed centre was described as being potentially located adjacent to the existing Lithgow Pool.

Commentary was specifically sought on the usage of the children's and wading pools which may be affected by the proposal. No determination of the removal of those two facilities has actually been made but the impact upon them has been highlighted throughout the assessment of the community's attitude to the proposed development to ensure transparency is observed.

In summary the survey results indicate:

- 510 household respondents were from localities throughout the LGA with 54% of respondents residing in the Lithgow township. Other localities surveyed included Bowenfels, Cullen Bullen, Capertee, Glen Alice, Hampton, Hartley,

- Hartley Vale, Lidsdale, Little Hartley, Marrangaroo, Meadow Flat, Mt Lambie, Portland, Rydal, Sodwalls, South Bowenfels and Wallerawang;
- 40% of surveyed households used the existing facility during the current financial year and 18% of these people use the facility every week;
  - 60% of those surveyed would use an upgraded facility more often than the current facility is used;
  - Of those using the current facility, the loss of the children's or wading pools would be a deterrent to usage of the facility and the majority (62%) of current users have children;
  - Conversely however, the loss of the wading and/or children's pool was not seen as a major deterrent when all survey respondents answers on this issue are considered. 79% of all respondents indicated the loss of the wading pool would not alter their usage and 75% of respondents would not alter the usage if the children's pool was lost;
  - Current users indicated their usage would increase in 81% of these users with the upgrade;
  - 57% of the households surveyed indicated they would support Council obtaining a loan of up to \$8M to finance the facility;
  - Of those currently using the facility, a large 73% indicated they supported Council seeking the loans to develop the facility while 15% were not supportive of seeking loan funding;
  - Of those not currently using the facility, the margins were closer when considering support or not for loan funding with 47% of respondents agreeing that Council should borrow the proposed \$8M while 39% disagreed with this proposal;
  - Looking at ratepayers who were surveyed, 52% were in favour of paying an additional \$50 per annum while 40% of ratepayers were not in favour of the increase;
  - While 66% of all respondents were in favour of the PCYC involvement in management of the facility, current users were not in favour of this arrangement.

Overall, the survey indicates a high level of acceptance of the idea to construct a new complex.

The need for an indoor heated pool was a clear issue identified in other research Council has completed and is reflected in the Council's Social Plan which was adopted in November 2006 (Minute 06-392). The survey indicates increased usage of the facilities would be likely if the development and enhancements occurred gaining from people who don't use the current facilities for the most part. During the production of the Social Plan consultation with the community indicated the key interest groups of men, people and disabilities, older people, people from cultural and linguistically diverse backgrounds and the children aged between 6 and 11 years all indicated the need for such a facility.

A concern of the outflow of community members accessing this type of facility outside the LGA was identified as an issue in the Social Plan.

Council can also note that with an aging population and the links that can be drawn from the survey results and Council's other research through the development of the Social

Plan, there is an impetus to look closely at the inclusion of a development such as the proposal under consideration in future works and future budget planning.

The survey indicates that Council can be 95% confident that the survey results provide representativeness of LGA's opinions.

The recommendation to Council is to proceed to assess the proposal as part of the development of the Draft Management Plan for 2007/08.

In accordance with the Local Government Act , Council would exhibit the annual budget and Management Plan thus providing further opportunity for the community to comment on the proposal when it has been more fully scoped, particularly in financial terms.

### **POLICY IMPLICATIONS**

NIL

### **FINANCIAL IMPLICATIONS**

Progression of this project will require financial commitment from Council.

Council would need to seek a specific rate variation and prepare materials for that submission as well as preparing necessary materials to make any request for loans for the project. The preparation of these materials takes some time and it is recommended to Council that these actions be initiated.

The presentation of the draft budgets and Management Plan for 2007/08 planned in Councillors workshops scheduled for March will include the financial impact of undertaking loans for the facility's construction and rating models for Council's consideration.

### **LEGAL IMPLICATIONS**

Rate variations must be sought by the end of March each year for the forthcoming financial year.

Council would need to determine the legal relationship and nature of any association with external parties in the project if it proceeds.

### **CONCLUSION**

The results of the consultation regarding the indoor pool and related complex are provided to Council and it is recommended that the Council receive further information on the financial impacts of the project as part of the budget and management plan briefings councillors will receive prior to completion of the Draft Management Plan for 2007/08.

## **07-80 RESOLVED**

### **THAT:**

1. Council note the survey results relating to the proposed indoor pool and associated facilities as outlined in the report and in the attached survey;
2. Council prepare materials and make the necessary representation to the Minister of Local Government to seek a rate variation to be included in the Draft management Plan 2007/08;
3. Council undertake all necessary actions regarding seeking ministerial approval for the loan funds required for the project.

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor M M Collins.

**CARRIED**

## **DELEGATES REPORTS**

**ITEM:12      DEL - 05/03/07 - CENTROC MEETING HELD ON 14 FEBRUARY 2007**

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### **REFERENCE**

NIL

### **COMMENTARY**

At the latest Centroc Meeting a number of important issues were discussed. At the start of the meeting was a presentation from Ian Armstrong who is the Chairperson of BLEG and this consisted of a short DVD and an explanation of the expressway over the Blue Mountains.

Centroc representatives were very impressed with the DVD and hopefully by the time this report comes to Council, the DVD will already be available for the public.

The representatives of Centroc were very supportive of BLEG and after some frank and open discussions, Centroc is looking forward to continuing their support of BLEG in order to try to further the project.

Centroc has also given its support for a radiotherapy unit to be established in Orange. Even though the unit is not within our health care area, we believe people will be able to go to Orange for radiotherapy treatment instead of going to Sydney. Lithgow City Councils contribution is approx \$1600 towards the project, with part of the majority coming from Orange of about \$10,000.

The Broadband Connect Application by Centroc for \$78M from the Federal Government was again mentioned at the meeting. The Centroc Councils as far as we are aware, are the only group of Councils to put in an application for the broadband connect funding in NSW on behalf of their communities. We are hopeful of finding out a decision regarding this application within the next few months. A successful application would mean that all people in the Council areas of Central West NSW would be able to connect to broadband.

In a report from Training Services to Centroc it has been good to see that the overall income to Centroc from training is \$27,000, with savings to member Councils in travel and accommodation etc of around \$120,000 and additional savings in coordination times nearly \$40,000. This coordinated approach to training is beneficial to both staff and to Councils and therefore ultimately to the rate payers.

Finally, the next meeting of Centroc will be in Lithgow in late May. This will be an important event as it has been a number of years since the Centroc meeting has been held in Lithgow. The meeting is being scheduled to coincide with some invites to some Government Department Officials so that Centroc people may be able to talk directly to these Officials either before or after the meeting.

### **POLICY IMPLICATIONS**

NIL

### **FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

NIL

**07-81 RESOLVED**

**THAT** the information be received.

**MOVED:** Councillor Neville Castle

**SECONDED:** Councillor A E Thompson.

**CARRIED**

## QUESTIONS WITHOUT NOTICE

### QWN - 05/03/07 - COUNCILLOR M F TICEHURST

Mr Mayor:

1. Could the Lithgow Council provide an update to the affected Lithgow residents and the community on the current status of the ownership of the two blocks of land that were previously owned by Xstrata Coal in Cobar Park, one block containing one home and the second block involving some 14 homes?

Is the Lithgow Council able to confirm or deny that the new owner of the block of land previously owned by Xstrata Coal containing some 14 homes in Cobar Park is Australian Eco Systems Foundation?

If so, when does the Lithgow Council intend to seek a formal meeting with the Australian Eco Systems to discuss on behalf of affect residents their acquisition of the land from Xstrata Coal?

*Xstrata - Two initial meetings have been held with some residents. Their names have been placed on a database so they can be advised of any developments as they become available. No information is yet available on the 'new owner' but it is intended to arrange a meeting when this information becomes available.*

### QWN - 05/03/07 - COUNCILLOR B S MORAN

1. Mr Mayor I refer to Authorised Entry for Residents during Bushfire Emergencies, I have received correspondence from owner's occupiers in the Clarence area regarding the recent fire emergencies copy of which will be provided.

Could the Council investigate along with the RFS a safe means of access for Clarence Residents to enable them to access their properties in the event of main road closures during an emergency such as the recent bushfire emergency (ie. identified and authorised residents only) Many local residents are members of the local Bush Fire Brigade and in the last emergency some residents found themselves caught on the wrong side of the road closure, thus potentially leaving a large number of properties, pets and animals unattended.

*Should the Council resolve to further investigate this matter. The matter be forwarded to the Local Emergency Management Committee for consideration.*

**07-82 RESOLVED**

**MOVED:** Councillor B S Moran

**SECONDED:** Councillor B P Morrissey.

**CARRIED**

**QWN - 05/03/07 - COUNCILLOR B P MORRISSEY**

1. Mr Mayor I have received notification of a Development application for Enhance Place at Lidsdale, I ask Council if a report can come back on the possibility of this new mining lease as I have concerned residents?

*The Mayor advised that information will be provided to Councillors when available.*

**QWN - 05/03/07 - COUNCILLOR W MCANDREW**

1. Mr Mayor I refer to the current Workchoices. Can Council advise if this Council falls under Workchoices or not?

*The General Manager gave an answer based on the latest advice from the LGSA.*

**QWN - 05/03/07 - COUNCILLOR H K FISHER**

1. Mr Mayor can the General Manager update Council on the Community Health Committee?

*The General Manager advised that he is waiting further contact from the SWAHS.*

The meeting closed at 7.30pm.