



LITHGOW CITY COUNCIL

MINUTES

POLICY AND STRATEGY COMMITTEE
MEETING OF COUNCIL

HELD ON

07 MAY 2007

**MINUTES OF THE LITHGOW CITY COUNCIL MEETING
HELD AT THE CIVIC CENTRE, LITHGOW ON 7 MAY 2007**

Meeting Commenced 6.02pm

Public Gallery: 22

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 J Anderson
Group Manager Regional Services, Mr Andrew Muir
Group Manager Community and Corporate, Ms Kathy Woolley
Minutes Secretary, Miss Casey Clarke
Executive Assistant, Miss Courtney Wood

CONFIRMATION OF MINUTES

Confirmation of the Minutes of the Policy and Strategy Committee Meeting of Council held on the 2 April 2007 were taken as read and confirmed by Councillors B S Moran and M J Wilson

07-152 RESOLVED

CARRIED

DECLARATION OF INTEREST

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

Councillor A E Thompson declared a pecuniary interest in item 10 due to commercial reasons and she vacated the Chambers.

Councillor H K Fisher declared a pecuniary interest in number 1 of Martin Ticehurst questions and he vacated the Chambers.

Councillor M J Wilson declared a pecuniary interest in items 5, 7 and 11 due to Delta Electricity being his employer and he vacated the Chambers.

Councillor M F Ticehurst declared a pecuniary interest in item 6 due to being a Board Member of the adjoining building and he vacated the Chambers.

Councillor B S Moran declared a pecuniary interest in item 5 due to her husband being employed by Centennial Coal and she vacated the Chambers.

QUESTIONS FROM THE PUBLIC GALLERY

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

QPG - 07/05/07 - Jeff Oliver

1. Mr Mayor can Lithgow Council advise myself as to the total cost so far, to process the development application for the adult store? Please include legal costs, council time in monetary value, consultant's fees and administrative costs etc.

As council may decide to lodge an appeal it would be premature to report on this issue.

2. Can council confirm that to date the total cost including legal costs for processing the Adult Store DA has exceeded \$70,000 which includes council staff time in a monetary value? Can you also advise, at what meeting was it agreed to expend ratepayer's funds to fight the appeal lodged by myself?

Council's legal costs to date are nowhere within the vicinity of \$70,000 and to date are less than \$20,000. Staff time is not individually costed to legal expenses which are already committed to salaries. The matter of Mr Oliver's Court Action against Council was reported to Council's meetings of 4 December 2006 and an update in confidential reports to the Policy and Strategy meeting of 5 February 2007 was provided.

3. Can council advise the meeting why the adult store DA was required to install a disabled toilet? And why previous occupants and other new business to the same area have not been required to do the same. Does council agree that this requirement was not appropriate based on the ruling from the Land and Environment Court? And will council now review this condition in light of the ruling from the Land and Environment Court in relation to future development applications?

The provision of a disabled toilet is standard practice depending on the nature of the business and having regard to the officer's assessment of an application considering the Building Code of Australia and Disability Discrimination Act. The Council must protect itself from possible actions under the Disability Discrimination Act and does not have the protection the Court had in its decision. It would be strongly recommended that Council maintain its standard practice in relation to this issue.

4. Does council believe that the Draft LEP objectives for the business zone are no longer relevant based on the stand taken by council in regard to the adult store DA, will council now review the Draft LEP to make the necessary changes in light of the ruling handed down by the Land and Environment Court?

The draft LEP is with the Department of Planning for final checking prior to submission to the Minister. It should be noted that Mr Oliver did not put in a submission on the draft LEP when it was on exhibition. No need is seen to interfere with this process particularly if the matter may be subject to appeal.

5. Will council conduct a review of the Restricted Premises Policy? In light of the Commissioners comments that there are no aims or objectives to assist in understanding why restricted premises are permitted in the core business district but not at ground level and should be 80 meters away from other restricted premises, schools, churches, childcare centre or recreational facility.

There would be no intention to review the policy at this stage particularly if the matter may be subject to appeal. The draft Policy was exhibited for a period of 28 days. Mr Oliver did not make a submission on the draft policy.

6. If Council reviews the Restricted Premises Policy how will council ensure that the community is part of the development phase and not simply advised of the policy? Will council allow interested community groups, individuals and relevant adult industry representatives like myself to develop the policy thus ensuring that the future document is more detailed, comprehensive and relevant to community expectations.

There would be no intention to review the policy at this stage particularly if the matter may be subject to appeal. The draft Policy was exhibited for a period of 28 days. Mr Oliver did not make a submission on the draft policy.

7. Can council explain why they were not able, or prepared to be more flexible in accommodating the adult store when assessing the DA.? Considering the two main points were the disabled toilet which was not required by legislation and the first floor or basement requirement which is questioned by the L&EC, surely the council could have negotiated with the applicant and considering these two points would have had little impact on the development as a whole, thus saving the rate payer ten of thousands of dollars in unnecessary legal costs?

The matter of the disabled toilet is addressed in the answer to No 2. The first floor and basement requirement are Council policy and the subject of the draft LEP. Whilst the Commissioner indicated that weight would be given to these issues, he appears to have not given any weight. These are the issues that appear to make an appeal a viable option, subject to a barrister's opinion being obtained.

QPG - 07/05/07 - Michael Gillies

1. Mr Mayor, regarding item 6 to be discussed this evening, given the community interest in the case can Council please advise of the possibility of financial contributions to a Council fund covering all or the bulk of the cost of the barristers' opinion. There are many members of the business and general community that feel strongly about the matter, and greatly appreciate Councils stand. These people would like to further show their support financially - they'd like to put their money where their mouth is. Your advice in the matter will be appreciated.

Council advised that Council Officers have undertaken an investigation and there would not appear to be any impediment to Council receiving a donation and it would then be up to Council to resolve how it should spend the proceeds of that donation.

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CLOSED COUNCIL REPORTS

ITEM:9 **GM - 07/05/07 - CONFIDENTIAL - SALE OF THE FORMER GAS
WORKS SITE CONFIDENTIAL**

ITEM:10 **GM - 07/05/07 - CONFIDENTIAL - LAND PURCHASE
CONFIDENTIAL**

ITEM:11 **GM - 07/05/07 - CONFIDENTIAL - PROPOSED WATER
AUGMENTATION - FUNDING / FINANCING OPTIONS
CONFIDENTIAL**

MAYORAL MINUTE

ITEM:1 MAYORAL MINUTE - CANCER COUNCIL COMMUNITY PARTNERSHIPS

REFERENCE

NIL

COMMENTARY

Cancer directly affects one in three people in the community – and everyone else will see and feel the impact in physical and emotional suffering, premature death and financial burden. Many Australians have identified cancer as their number one health concern.

While Local Government doesn't have control over spending in hospitals or on Medicare, there are many ways to help reduce the impact of cancer on our local community, and Council is well placed to provide a real boost to the wellbeing of residents.

The Cancer Council NSW has been working with Local Government across NSW on an informal basis for a long time through a range of activities, including Relay For Life, Smoke-free playgrounds, advice on sun-safety for workers, and the provision of free cancer information through local libraries.

The Cancer Council NSW has now formally approached Council to enter into a community partnership: a formal relationship between The Cancer Council NSW and Lithgow City Council. This involves Council affirming its commitment to reduce the impact of cancer in the local community by –

- Learning about and adopting new policies that will lead to a reduction in the incidence of cancer;
- Supporting Cancer Council advocacy campaigns that benefit the residents of Lithgow City Council;
- Using Council communication channels, venues, staff and networks to disseminate Cancer Council health promotion and patient support materials;
- Helping the Cancer Council to support patients and their families in your community by facilitating the use of Council venues for support group meetings and education programs; and
- Supporting Cancer Council efforts to raise money in the local area.

When a Council becomes a Community Partner, The Cancer Council NSW will provide materials, draft policies, and a suggested range of activities free of charge. Each year, new programs will be developed to help educate and support councils, their residents and their staff. In the coming year these will include the provision of cancer information and support centres in local libraries; advice on shade provision in childcare centres and skin cancer prevention materials for older residents.

The Cancer Council NSW will also provide free health-related copy for use in Council columns in newspapers and in Council newsletters.

Council will be required to nominate two staff as Relationship Managers with the Cancer Council. These people will receive all correspondence from The Cancer Council NSW regarding the Partnership, and will facilitate future contact with appropriate Council staff as needed.

The Cancer Council NSW will provide information updates on a quarterly basis to Council's Relationship Managers. Council will then be able to decide which programs to participate in.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

07-153 RESOLVED

THAT Lithgow City Council acknowledges the high level of physical and emotional suffering, premature death and financial burden caused by cancer in this community. By becoming a Cancer Council Community Partner, we undertake to help lower the impact of this insidious disease in our community by:

- Learning about and adopting new policies that will help reduce the incidence of cancer in our area.
- Supporting Cancer Council advocacy campaigns that will benefit the people of our community.
- Using our communication channels, venues and networks to help deliver Cancer Council information and education.
- Supporting Cancer Council efforts in our area to raise money for cancer research, prevention and support.

MOVED: Councillor Neville Castle**SECONDED:** Councillor M M Collins.**CARRIED**

GENERAL MANAGER REPORTS

ITEM:2 GM - 07/05/07 - WESTERN REGION ACADEMY OF SPORT 2006 ANNUAL REPORT

REFERENCE

NIL

SUMMARY

This report highlights correspondence received from the Western Region Academy of Sport in relation to their 2006 Annual Report.

COMMENTARY

The Academy is sincerely grateful for the contribution of Lithgow City Council and there is no doubt that Western Region Academy of Sport (WRAS) would be unable to provide the same quality programs to the Western Region without the support of all local Councils. We sincerely thank you for the 2006/07 contribution of \$1044.

The board, staff and volunteers of the Academy are committed to providing development for the regions most talented sportspeople and have been doing so since 1991. Our programs have been extremely successful with many past and present athletes going on to achieve selection in regional, state and national teams. Without the quality sports development programs the Academy has provided for the past 16 years, these talented athletes may not have been able to realise their full potential and these significant feats may not have been possible to accomplish.

In 2006, the Academy provides opportunities in all local government areas for sports people of all levels through the RACE (Regional Athlete and Coach Education) and Talent Search programs. Each year though these programs WRAS sends specialist sports science staff into the community to conduct education and testing. This enables sports persons based in your region to have relevant, up to date information and opportunities delivered to them in their own local area.

In 2007, WRAS will extend the programs and opportunities it offers throughout the Western Regional. For the past few years the Academy has been working towards building a financial reserve to enable s to increase the quantity and quality of our staff. A marketing Manager was appointed in early 2007 to help raise the profile of WRAS and the sportspeople it services and decrease the costs for athletes. Later this month we will also employ a fully qualified Program Manager to undertake management of the talent development programs and education. These two positions will improve the quality of WRAS operations and also increase the number of programs that the Academy is able to offer.

To enable WRAS to continue to provide the services it currently offers and assist in its expansion of programs the Academy Board is asking that councils continue their current contribution of 5c per capita.

This will ensue that our standard of service is maintained and that we can provide squad programs, talent search testing and education sessions in every council area. Using the latest population figures from the NSW Local Government Directory (20831), this would mean a contribution for Lithgow City Council of \$1040.

Once again the WRAS than you for your past contributions and look forward to the continued association of Lithgow City Council and WRAS in the future.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

07-154 RESOLVED

THAT the information be received.

MOVED: Councillor B P Morrissey

SECONDED: Councillor W McAndrew.

CARRIED

ITEM:3 GM - 07/05/07 - GREAT ESCAPE

REPORT FROM: TOURISM MANAGER: JODIE RAYNER

REFERENCE

NIL

SUMMARY

This report provides Council with information on a proposed event, The 2008 Great Escapade, which is hosted by Bicycle NSW and Bicycle Victoria. These groups are currently seeking locations to stage this event and Lithgow is considered to be a staging area for this event.

COMMENTARY

Bicycle NSW and Cycle Victoria are currently preparing for the 2008 Great Escapade for New South Wales, with plans to hold the ride on The Tablelands Way, taking in the Lithgow region. The ride potentially will consist of between 2500- 3000 riders participating on the nine day ride, to potentially be held at the end of March 2008.

Cycle Victoria has successfully organised other similar events in Victoria titled “*The Great Victorian Bike Ride*”, which attracts approximately 4-5,000 entries for the nine day event. Bicycle NSW conducts “*The Big Bike Ride*” which has in the past attracted approximately 1,000 entries to the event. In 2008 these two agencies will work together on the NSW Ride, ensuring that greater community engagement and promotion of the event occurs.

A major PR campaign is associated with the event

The Great Escapade Target Markets

The primary target markets for the Great Escapade are:

Overnight, prime markets	Overnight niche markets	Day Visits
<ul style="list-style-type: none"> Event Participants (Bike riders associated with the event) VFR (Visiting friends & relatives) 	<ul style="list-style-type: none"> Groupies (specifically those that attend similar events) 	<ul style="list-style-type: none"> Locals

Economic Impacts of the Great Escapade

Estimations for economic contribution to New South Wales for the Great Escapade is \$2.1 Million expenditure into the State’s Economy by Riders. It is estimated that the Great Escapade would have the following economic benefits to the region:

Date of Event:	March 2007
Total Attendance:	2500
Visitor Expenditure:	\$125,000 (based on average \$50 per visitor. Average spend of visitors per day)

Benefits for the Lithgow Area

In attracting the Great Escapade to Lithgow, the following benefits would be derived:

- Community Benefit – Health and fitness awareness for the greater community. Encourage locals participation.
- Economic Benefits - Spend during the Ride, tourism benefit with the Opportunity for Return Visits due to promotion of riding trails
- Promotion Benefits – a promotional campaign geared specifically to this target market

The Great Escape will be promoted in the following ways:

- Ride specific marketing brochure – 200,000+
- Web based marketing campaign – 50,000 per month
- PR Campaign - TV, Press, Radio
- Promotional DVD
 - Featuring the route and towns visited
 - Distribution to every Ride Participant – 2500 – 3000

Council Investment for the Big Bike Ride

Organisers of the 2008 Great Escapade will require the following from Council:

- \$6,000 per night to invest in the marketing of your region with Ride promotions
- Local promotion and awareness of the Ride and Route
- A space to camp 3000+ people (Lithgow Tourist and Van Park, Lake Lyell or Lithgow Showground could be used for this purpose)
- Access to water & liquid waste points (available at Lithgow Tourist and Van Park)
- Access to electricity (available at Lithgow Tourist and Van Park, Lake Lyell and Lithgow Showground)
- Provision of waste services – skips and wheelie bins

Lithgow Tourism Operators Support

The Lithgow Tourism Operators fully support in principle this event being encouraged to use the Lithgow region as an overnight location for the event. It is further considered appropriate that Council review its budget to ascertain where the \$6,000 investment for the event could be funded from. The Tourism Operators believe that this should not be funded from the Tourism budget.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Funding of \$6,000 required to host the event

LEGAL IMPLICATIONS

NIL

07-155 RESOLVED**THAT:**

1. A letter of in principle support be forwarded in regards to this event.
2. A budget review be conducted for the \$6,000 investment be included in the 2007/08 budget, not funded from the tourism budget
3. Lithgow Tourism work with Bicycle NSW and Cycle Tourism to progress this event

MOVED: Councillor M M Collins

SECONDED: Councillor A E Thompson.

CARRIED

REGIONAL SERVICES REPORTS

ITEM:4 REG - 07/05/2007 - WATER SAVING INCENTIVE SCHEMES

REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

SUMMARY

To present to Council for adoption water saving incentive schemes for adoption.

COMMENTARY

As Council will recall when the trade was undertaken with Delta Electricity of part of its Fish River Water Allocation, it was seen as important that the revenue was put toward water saving schemes for both Council operations and for the community. Schemes have now been prepared for rainwater tank rebates and rebates for water efficient appliances, ie washing machines and dishwashers. Key features of the scheme will be:

- Rebate of \$200 per residential premises for a tank of 5000 litres or more where the tank is for garden use only, i.e. not connected for toilet flushing and washing machine use.
- Rebate of \$800 per residential premises for a tank of 5000 litres or more where the tank is connected for toilet flushing and washing machine use.
- Rebate of \$150 per appliance/per household for dishwashers and washing machines that have a 4 star WELS rating or better or a AAAAA rating.
- Rebates will only apply to existing premises and not new premises where such measures are likely to relate to a mandatory BASIX requirement.
- Rebates will not be retrospective and will only apply to tanks and appliances installed after 14 May 2007.
- Tanks connected to a reticulated supply shall provide for backflow prevention, must be installed by a licensed plumber and will be subject to a Section 68 approval under the Local Government Act. Such approval must be obtained prior to installation to be eligible for a rebate.
- In certain circumstances, e.g. where a tank is in excess of 3 metres in height, development consent may be necessary.

POLICY IMPLICATIONS

The scheme will not actually be formal Council policy but will operate similarly. The life of the scheme will be monitored against its effectiveness and available funds.

FINANCIAL IMPLICATIONS

Council has restricted \$53,000 revenue from the trade of water allocation from the Fish River Water scheme with Delta electricity for such schemes.

LEGAL IMPLICATIONS

In certain circumstances Section 68 approval or development consent may be required.

07-156 RESOLVED

THAT Council formally adopt the water saving schemes in accordance with the key features as outlined in the report.

MOVED: Councillor B P Morrissey

SECONDED: Councillor A E Thompson.

CARRIED

ITEM:5 REG - 07/05/07 - LAMBERTS GULLY COMMUNITY CONSULTATIVE COMMITTEE

REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

SUMMARY

This report is to inform Council of correspondence received by the Minister for Planning for the Lamberts Gully Open Cut Colliery Mine Extension submitted by Centennial Coal Pty Limited, regarding community representation for the Community Consultative Committee and seek Council concurrence.

COMMENTARY

The NSW Department of Planning has advised that it has considered submissions from the public concerning representation on the Lamberts Gully Community Consultative Committee (CCC) and has now proposed five residents located within the vicinity of the development it considers adequate for community representation for the Community Consultative Committee for the Lamberts Gully development.

As part of the approval Condition 9 in Schedule 5 requires at least four representatives from the local community for representation on the Community Consultative Committee (CCC). Other members of the Committee include two representatives of the proponent, and an independent Chairperson, or Council representative, previously resolved by Council to include Councillor Fisher and the General Manager or delegate.

The Department has indicated that it has now considered the submissions and seeks Council's concurrence in supporting the following residents for the committee. They include the following four persons:

Michelle Vincent of Blackman's Flat
Doug Newsome – of Blackman's Flat.
Chris Jonkers – of Blackmans Flat.
Paul Curran – of Tunnel Hill.

Additionally, the Department has indicated that it nominates the following three people as alternatives for the committee, for Council's consideration. Those being:

Wayne Vincent – of Blackman's Flat.

Kim Newsome – Blackman's Flat.

Julie Favell – of Blackman's Flat.

Council in its deliberation of this matter must take into consideration other committees for mines in the surrounding locality. Recently, four members on the Pine Dale Community Consultative Committee resigned indicating a '*vote of no confidence*' within the committee. Two members of the Department's proposed committee have recently resigned from the Pine Dale CCC (being a member and an alternate) and Council may have a concern in their nomination to another committee.

Whilst Council can support all nominated residents for the proposed Community Consultative Committee it is considered that the Department require further consideration in seeking appropriate nominations for the Lamberts Gully CCC given recent resignations from members of other committees.

It must be noted that any Community Consultative Committee is an advisory committee only. Its role is for members to relay appropriate information to other residents and act as a sounding board for perceived concerns to be brought to the attention of the proponent. It is not a decision making committee. The appropriate regulatory authorities are responsible for ensuring compliance with development conditions and appropriate decision making.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Conditions of consent that must be satisfied are the prime legal implication although being a State Government approval they will not necessarily be enforced by Council.

RECOMMENDATION

THAT Council indicate to Springvale Coal that it concurs with the proposed representatives for the Lamberts Gully Open Cut Extensions however the Department of Planning be advised of recent resignations pertaining to another committee within the locality and request that the nominees be fully briefed on the functions of a Community Consultative Committee and their role as a committee member prior to the acceptance of their nomination.

Councillor B S Moran and Councillor M J Wilson declared a pecuniary interest and vacated the Chambers.

07-157 RESOLVED**THAT:**

1. Council indicate to Springvale Coal that it concurs with the proposed representatives for the Lamberts Gully Open Cut Extensions, however the Department of Planning be advised of recent resignations pertaining to another committee within the locality and request that the nominees be fully briefed on the functions of a Community Consultative Committee and their role as a committee member prior to the acceptance of their nomination.
2. Council write to Minister Sartor advising of difficulties with meetings of consultative committees.
3. Council seek a delegation with the relevant Minister and advise of concerns with consents issues and impacts to Blackman's Flat.

MOVED: Councillor H K Fisher**SECONDED:** Councillor B P Morrissey.**CARRIED****ITEM:6 REG - 07/05/07 - LITHGOW CITY COUNCIL V'S JEFF OLIVER
RESTRICTED PREMISES - 183 MAIN STREET LITHGOW****REPORT FROM: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR****SUMMARY**

To inform Council that the Land and Environment Court has upheld the appeal from Mr Jeff Oliver approving Development Application No.297/06 for a restricted premises at 183 Main Street, Lithgow.

COMMENTARY

Council is aware that a hearing in this matter was held in the Land and Environment Court on 12 March 2007. Following consideration of the evidence, Commissioner Bly handed down his Judgement on 23 April 2007 upholding the appeal and approving the application subject to conditions.

In his Judgement the Commissioner gave little weight to the argument that Council's Draft Local Environmental Plan Amendment and Council's Restricted Premises Policy both preclude the establishment of such a premises on the ground floor in the Core Business District. The Commissioner in clause 19 of his Judgement states that: "The requirement of the Draft LEP that restricted premises not occur at ground floor level is not a prohibition and is instead, a matter for consideration in the determination of the application. Whilst this requirement must attract some weight, the question of whether it attracts determinative weight requires consideration of its underlying purpose. This purpose cannot be ascertained from the aims of the plan, which relatively simply seek to control the location of, inter alia, restricted premises in the Lithgow Local Government Area." The Commissioner draws similar conclusions in regard to the policy.

Council's solicitor has advised that there may be grounds for appeal as the Judgement has not given due consideration to the Restricted Premises Policy or the Draft LEP Amendment. He suggests that if Council is interested in pursuing the matter, that a barristers opinion be obtained to determine the possible success of an appeal.

The options for Council in this matter are:

1. Accept the decision of the Land and Environment Court allowing the development to proceed subject to the determined conditions.
2. Obtain an opinion from a barrister to determine if an appeal could be pursued.
3. Lodge an appeal against the decision.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The estimated cost of a barrister's opinion is \$1,500. Should Council appeal then its costs would be in the order of \$10,000 not including any costs orders that may follow the event, i.e. should Council be successful then an application for its costs may be lodged and vice versa.

LEGAL IMPLICATIONS

Any appeal must be lodged within 28 days from the date of the decision, that is, by 20 May 2007.

RECOMMENDATION

THAT:

1. An opinion from a barrister be sought to determine if solid grounds for an appeal exist and the possibility of success of any appeal.
2. The General Manager by delegated authority to lodge the appeal if the barrister's opinion indicates a reasonable prospect of success.

Councillor Ticehurst declared a pecuniary interest and vacated the Chambers.

07-158 RESOLVED

THAT:

1. An opinion from a barrister be sought to determine if solid grounds for an appeal exist and the possibility of success of any appeal.
2. The General Manager by delegated authority to lodge the appeal if the barrister's opinion indicates a reasonable prospect of success.
3. Council delegate to the General Manager to enter into negotiations on behalf of Council with Michael Gilles to extend the offer.

MOVED: Councillor H K Fisher

SECONDED: Councillor M M Collins.

CARRIED

ITEM:7 REG - 07/05/07 - PINE DALE CONSULTATIVE COMMITTEE**REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR**

SUMMARY

This report is to inform Council of the resignation of four members of the Pine Dale Community Consultative Committee (CCC) and seek Councils direction on the process of initiating a new committee in accordance with the developments conditions of consent.

COMMENTARY

Recently, four members on the Pine Dale Community Consultative Committee resigned indicating a '*vote of no confidence*' within the committee as their reason for resignation.

The four members being, Michelle Vincent, Ann Forrest, John Rensen and the alternative Chris Jonkers have indicated that they *had absolutely no confidence in the Pine Dale CCC* and indicated that the previously mentioned four members immediately resign. A number of largely unsubstantiated allegations are made in the letter of resignation.

The remaining single member of the committee, Mr Peter Barnes, has indicated that he has no intention of resigning from the committee as it serves a purpose.

It must be noted that any Community Consultative Committee is an advisory committee only. Its role is for members to relay appropriate information to other residents and act as a conduit between concerned residents and the proponent. It is not a decision making committee. The appropriate regulatory authorities are responsible for ensuring compliance with development conditions and appropriate decision making.

The committee's role is to provide information and ideas to relevant statutory authorities and act as a presence around the development to ensure each development is undertaken with minimal impacts on adjoining landowners.

As a result of the resignation of the four members, Council will be required to seek further nominations for the committee. It is proposed that Council re advertise for adequate representation to nominate for the Pine Dale Committee.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Conditions of consent that must be satisfied are the prime legal implication although being a State Government approval they will not necessarily be enforced by Council.

Councillor M Wilson declared a pecuniary interest and vacated the chambers.

07-159 RESOLVED**THAT:**

1. Council note the resignation of four current members of the Pine Dale Community Consultative Committee and the former committee members be invited to attend a meeting with the General Manager to substantiate a number of allegations made within their resignation letter.
2. Council start the re-advertising process seeking nomination for local residents to sit on the Pine Dale Community Consultative Committee.

MOVED: Councillor H K Fisher**SECONDED:** Councillor W McAndrew.**CARRIED****ITEM:8 REG - 16/04/07 - TERMINATION OF LOAD REDUCTION AGREEMENT - LITHGOW SEWERAGE TREATMENT PLANT****REPORT FROM: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR**

SUMMARY

To advise of the termination of a Load Reduction Agreement and the requirement to repay fee savings.

COMMENTARY

Load Reduction Agreements (LRA's) are voluntary agreements between licensees and the Department of Environment and Conservation (DEC/EPA) that provide immediate fee reductions on load based licence fees subject to an undertaking to reduce pollution. If at the end of an LRA, the agreed loads have not been achieved, the licensee must repay the excess fee reductions.

In August 2000 Council entered into a LRA for the Lithgow Sewerage Treatment Plant up until July 2004 indicating that the upgrade of the Sewerage Treatment Plant was schedule for completion prior to July 2003. Council terminated the agreement in May 2003 as it could not achieve the load reductions due to delays in the construction of the new plant and licensing fees of \$118,523.01 were repaid to the EPA. A further Load Reduction agreement was entered into for the period from 1 August 2002 to 30 July 2006. This agreement was on the basis that the STP upgrade would be completed by 10 August 2005. This agreement was terminated in January 2006.

POLICY IMPLICATIONS

No policy implications are apparent.

FINANCIAL IMPLICATIONS

Council must now repay the EPA \$479,546.92 which represents the load based licensing fees (plus interest) that would have been saved if the plant upgrade could have been achieved within the agreed timeframe. The EPA has agreed to a payment schedule of \$79,546.92 by 30 June 2007, \$200,000 by 1 September 2007 and \$200,000 by 1 September 2008. This expenditure has been included in the quarterly budget review and draft management plan.

LEGAL IMPLICATIONS

Load Reduction Agreements are possible under the terms of the Protection of the Environment Operations Act and Council is legally obliged to repay the monies that would have been saved if the scheme could have been completed on time.

07-160 RESOLVED

THAT the information be received.

MOVED: Councillor W McAndrew

SECONDED: Councillor M J Wilson.

CARRIED

CLOSED REPORTS

ITEM:9 GM - 07/05/07 - CONFIDENTIAL - SALE OF THE FORMER GAS WORKS SITE CONFIDENTIAL

Reason for Confidentiality

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

It is considered not to be in the public interest to consider this report in open council as it may reveal commercial in confidence information supplied to Council may limit the Council's ability to negotiate the matter. It is therefore not considered to be in the public interest to consider this matter in open council.

REFERENCE

NIL

SUMMARY

This report provides an update to Council on the Expressions Of Interests received during the recent readvertising of the sale of the former Gas Works Site.

07-161 RESOLVED

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

MOVED: Councillor M M Collins

SECONDED: Councillor B S Moran.

CARRIED

**ITEM:10 GM - 07/05/07 - CONFIDENTIAL - LAND PURCHASE
CONFIDENTIAL**

Reason for Confidentiality

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

It is considered the discussion of this matter in Open Council may confer a competitive advantage to a person Council is considering conducting business with and may impact on Council's ability to negotiate the matter. Therefore it would not be in the public interest to discuss this matter in open council.

REFERENCE

Nil

SUMMARY

This report will provide Council with information relating to the Strategic purchase of land for future operational purposes.

Councillor A Thompson declared a pecuniary interest and vacated the chambers.

07-162 RESOLVED

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

MOVED: Councillor M J Wilson

SECONDED: Councillor B S Moran.

CARRIED

**ITEM:11 GM - 07/05/07 - CONFIDENTIAL - PROPOSED WATER
AUGMENTATION - FUNDING / FINANCING OPTIONS
CONFIDENTIAL**

Reason for Confidentiality

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

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REFERENCE

NIL

SUMMARY

This report provides Council with an option to finance and fund the augmentation of the water supply.

07-163 RESOLVED

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

MOVED: Councillor W McAndrew

SECONDED: Councillor M J Wilson.

CARRIED

COMMITTEE MEETINGS

ITEM:12 **TOURISM ADVISORY COMMITTEE MEETING - MINUTES HELD ON 3 APRIL 2007**

REPORT FROM: TOURISM MANAGER - JODIE RAYNER

REFERENCE

NIL

SUMMARY

This report contains the minutes of the Tourism Advisory Committee Meeting held on 3 April 2007.

COMMENTARY

The Tourism Advisory Committee held a meeting on the 3 April 2007 to discuss:

- Great Escapade 2008 – Big Bike Ride
- Online Reservation Management System
- 2007/08 Business and Marketing Plan

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

07-164 RESOLVED

THAT the minutes be noted.

MOVED: Councillor B S Moran

SECONDED: Councillor M J Wilson.

CARRIED

QUESTIONS WITHOUT NOTICE

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

1. Could the Lithgow Council advise if there has been any update regarding the sale of former Xstrata 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?

With regard to Lot 12 DP 1077891, containing 10 dwellings, as previously advised the land has now been transferred to a company, Marie Edward Pty Ltd. Correspondence has been forwarded to the company advising that the future of those who occupy premises on the land has been the subject of some concern and requesting a meeting be held with appropriate company representatives to discuss any future plans and how these may impact on existing residents. The correspondence stressed through goodwill and co-operation that any fears of residents may be allayed without having any adverse impact on the company's intentions for the land.

Councillor H K Fisher declared an pecuniary interest in Number 1 and vacated the chambers.

2. Could the Lithgow Council advise is there is any update regarding the proposed construction by the Lithgow RSL in upgrading the War Memorial in Queen Elizabeth Park?

The Sub Branch have advised they would like the works to proceed. The works are scheduled to commence prior to the end of June 2007, but the sub branch will be advised of a more definitive date when available.

8. Could the Lithgow City Council advise of the update on the Stacks road closure at Rydal/Hampton? Has all legal process now been finalised and have all monies been paid to the Stacks?

Council's Solicitor wrote to Stack's Solicitor, PT Fowler & Sons, on 12 April 2004 providing copies of CV's of Council's nominated Valuer, as requested by PT Fowler. A response is awaited so that a Valuer may be appointed. With this in mind, Council's Solicitor has also written to PT Fowler and Sons on 4 May 2007 objecting to a story on Prime Television where a representative of the property owner incorrectly alleged that Council was holding up the process. Council's Solicitor has requested a public correction.

QWN - 07/05/07 - COUNCILLOR W MCANDREW

1. Mr Mayor, there were two (2) purchases of land at Crane Road. Where are we up to with the first purchase?

The Mayor advised the negotiations were moving along in due process.

QWN - 07/05/07 - COUNCILLOR H FISHER

1. Mr Mayor, can a report be brought back to Council concerning Williwa Creek Road, Portland and the problems associated with Mr Denis Taylor?

07-165 RESOLVED

THAT a report be brought back to the next Ordinary Meeting of Council.

Moved: Councillor H K Fisher Seconded: Councillor W McAndrew

2. Mr Mayor, can a report be brought back to Council regarding the Brake Van at Eskbank Station.

07-166 RESOLVED

THAT a report be brought back to Council

Moved: Councillor H K Fisher Seconded:

QWM - 05/07/07 - COUNCILLOR B MORRISSEY

1. Mr Mayor, has there been a Social Impact Study done on the gaol, or was the two addendums that we received all that was done? Can we request a full Social Impact Study be brought back to Council?

07-167 RESOLVED

THAT a full Social Impact Study be brought back to Council.

Moved: Councillor B Morrissey Seconded: Councillor W McAndrew

2. Mr Mayor, can we request copies of submissions made from the Department of Corrective Services?

The Mayor advised copies of submissions can be requested from the Department of Corrective Services.

QWN - 07/05/07 - COUNCILLOR M WILSON

1. Mr Mayor, can a report come back to Council regarding the status of Pottery Estate, especially Silcock Street?

The Mayor advised that a report can be brought back to Council

The General Manager advised the Public that Council will now consider the Closed Confidential reports. The reports were confidential in nature due to:

Item 9 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

Item 10 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

Item 11 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

The General Manager asked for objections from the Public as to the confidential reports.

There were NIL objections

It was resolved that the reports would be considered in Closed Committee.

07-168 RESOLVED

MOVED: Councillor M M Collins

SECONDED: Councillor M J Wilson.

CARRIED

Closed Committee started at 6.53pm

CLOSED COUNCIL REPORTS

ITEM:9 GM - 07/05/07 - CONFIDENTIAL - SALE OF THE FORMER GAS
WORKS SITE CONFIDENTIAL

Reason for Confidentiality

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

It is considered not to be in the public interest to consider this report in open council as it may reveal commercial in confidence information supplied to Council may limit the Council's ability to negotiate the matter. It is therefore not considered to be in the public interest to consider this matter in open council.

REFERENCE

NIL

SUMMARY

This report provides an update to Council on the Expressions Of Interests received during the recent readvertising of the sale of the former Gas Works Site.

RECOMMENDATION

THAT Council consider the option for the sale (or otherwise) of the land known as the "old gas works site", as outlined in this report.

07-161 RESOLVED

THAT Council obtain an up to date market valuation of the land and report back to Council.

MOVED: Councillor B S Moran

SECONDED: Councillor W McAndrew.

CARRIED

**ITEM:10 GM - 07/05/07 - CONFIDENTIAL - LAND PURCHASE
CONFIDENTIAL**

Reason for Confidentiality

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

It is considered the discussion of this matter in Open Council may confer a competitive advantage to a person Council is considering conducting business with and may impact on Council's ability to negotiate the matter. Therefore it would not be in the public interest to discuss this matter in open council.

REFERENCE

Nil

SUMMARY

This report will provide Council with information relating to the Strategic purchase of land for future operational purposes.

Councillor A Thompson declared a pecuniary interest and vacated the chambers.

RECOMMENDATION

THAT Council consider the purchase of the land as referred to in this report.

Councillor A Thompson declared a pecuniary interest and vacated the chambers.

07-162 RESOLVED

THAT:

1. Council enable the Mayor and General Manager to bid on behalf of Council for the purchase of the land referred to in the report with a reserve price as set by Council.
2. The land for purchase be classified as Operational Land
3. The Committee recommend to council that the Common seal be affixed to any relevant documents as required.
4. Council delegate the authority to the General Manager to bid at the auction.

MOVED: Councillor B S Moran

SECONDED: Councillor M J Wilson.

CARRIED

**ITEM:11 GM - 07/05/07 - CONFIDENTIAL - PROPOSED WATER
AUGMENTATION - FUNDING / FINANCING OPTIONS
CONFIDENTIAL**

Reason for Confidentiality

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

It is considered the discussion of this matter in Open Council may confer a competitive advantage to a person Council is considering conducting business with and may impact on Council's ability to negotiate the matter. Therefore it would not be in the public interest to discuss this matter in open council.

REFERENCE

NIL

SUMMARY

This report provides Council with an option to finance and fund the augmentation of the water supply.

RECOMMENDATION

THAT:

1. Council determine if it wishes to become a bulk raw water supplier to Delta Electricity.
2. Council determine if it wishes to continue negotiations for the supply of water via the Clarence Transfer Scheme.
3. Council request approval from the department Local Government to secure a \$M4.0 loan to fund the infrastructure upgrade to facilitate No. 1 above should Council decide to do so.

Councillor Michael Wilson declared a pecuniary interest and vacated the chambers.

07-163 RESOLVED

THAT:

1. Council become a bulk raw water supplier to Delta Electricity.
2. Council continue negotiations for the supply of water via the Clarence Transfer Scheme.

3. Council request approval from the department Local Government to secure a loan to fund the infrastructure upgrade to facilitate No. 1
4. Council to enable the General Manager to negotiate on the loan on behalf of Council.
5. The Committee recommend to Council that the Common seal be affixed to the loan documents, MOU and the contract as required.

MOVED: Councillor B S Moran

SECONDED: Councillor H K Fisher.

CARRIED

Closed Council finished at 7.24pm

The Mayor reopened the meeting to the public and the General Manager advised them that the following resolutions were made in relation to the confidential reports:

Item 9: Sale of the Former Gas Works Site

THAT:

1. Council obtain an up to date market valuation of the land and report back to Council.

Item 10: Land Purchase

THAT:

1. Council enable the Mayor and General Manager to bid on behalf of Council for the purchase of the land referred to in the report with a reserve price as set by Council.
2. The land for purchase be classified as Operational Land
3. The Committee recommend to council that the Common seal be affixed to any relevant documents as required.
4. Council delegate the authority to the General Manager to bid at the auction.

Item 11: Proposed Water Augmentation - Funding / Financing Options

THAT:

1. Council become a bulk raw water supplier to Delta Electricity.
2. Council continue negotiations for the supply of water via the Clarence Transfer Scheme.
3. Council request approval from the department Local Government to secure a loan to fund the infrastructure upgrade to facilitate No. 1
4. Council to enable the General Manager to negotiate on the loan on behalf of Council.
5. The Committee recommend to Council that the Common seal be affixed to the loan documents, MOU and the contract as required.

07-169 RESOLVED

MOVED: Councillor M J Wilson

SECONDED: Councillor W McAndrew.

CARRIED

The meeting closed at 7.24pm.

A suspension of Standing Orders was moved that Council not proceed with the Finance and Services Committee Meeting at 7.26pm.

07-170 RESOLVED

MOVED: Councillor M J Wilson

SECONDED: Councillor M M Collins.

CARRIED

A suspension of Standing orders was moved that Council advise Mr Oliver of the Council resolution to Item 6 - Lithgow City Council v's Jeff Oliver Restricted Premises - 183 Main Street Lithgow.

07-171 RESOLVED

MOVED: Councillor B S Moran

SECONDED: Councillor B P Morrissey.

CARRIED