



LITHGOW CITY COUNCIL

MINUTES

POLICY AND STRATEGY COMMITTEE
MEETING OF COUNCIL

HELD ON

02 JULY 2007

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

Meeting Commenced 6.00pm

Public Gallery: 23

PRESENT

Councillor B P Morrissey
Councillor M F Ticehurst
Councillor W McAndrew
Councillor H K Fisher
Councillor B S Moran (Deputy Mayor) in the position of chair person.
Councillor M M Collins
Councillor A E Thompson
Councillor M J Wilson

APOLOGIES

An apology was received and accepted from Mayor Neville Castle as he is out of the City on personal business.

07-260 RESOLVED:

MOVED: Councillor H K Fisher
CARRIED

SECONDED: Councillor A E Thompson.

Also in attendance

General Manager, Mr Paul Anderson
Group Manager Regional Services, Mr Andrew Muir
Policy and Planning Manager, Mrs Amanda Muir
Internal Services Manager, Mrs Carol Farnsworth
Minutes Secretary, Miss Casey Clarke
Minutes Secretary, Miss Courtney Wood

CONFIRMATION OF MINUTES

Confirmation of the Minutes of the Policy and Strategy Committee Meeting of Council held on the 4 June 2007 were taken as read and confirmed by Councillors H K Fisher and A E Thompson

**07-261 RESOLVED
CARRIED**

DECLARATION OF INTEREST

The Chair called for Declarations of Interest on any matter before the Meeting.

Councillor MF Ticehurst declared a pecuniary interest in Item 1, due to requesting Council consider funding his legal costs. He vacated the Chambers.

General Manager Paul Anderson declared a non-pecuniary conflict of interest in Item 1, due to his name being mentioned in the motion and party to the legal challenge. He vacated the Chambers

QUESTIONS FROM THE PUBLIC GALLERY

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

NIL.

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NOTICE OF MOTION**ITEM:1 NOTICE OF MOTION - 02/07/07 - COUNCILLOR M F TICEHURST -
CODE OF CONDUCT INVESTIGATION**

NOTICE OF MOTION**MOTION TITLE/TOPIC:**

Request for the Lithgow City Council to indemnify or reimburse the reasonable legal expenses of Councillor Martin Ticehurst to defend a legal action for alleged Defamation by the Council's General Manager, Paul Anderson in the NSW Supreme Court.

Listed by Councillor Martin Ticehurst

Date: 25 June 2007

BACKGROUND

As reported to the Councils P & S Committee Meeting of 5 February 2007, the Mercury of Thursday 19 March 2007 and a recent QWN from Councillor Morrissey, the Council's General Manager, Paul Anderson has issued legal proceedings in the NSW Supreme Court against Channel Seven Sydney Pty Ltd and Councillor Martin Ticehurst for alleged defamation over a report on the Today Tonight show on Monday 4 December 2006.

Statements of Claim by the General Manager, Paul Anderson have on his behalf been issued by his legal representative, Mr Ross Higgins of Higgins and Higgins Lithgow.

The Statements of Claim are currently before the NSW Supreme Court and attempt to seek unspecified damages for alleged defamation with a final Hearing Date not expected until mid or late 2008.

The Supreme Court action by the General Manager, Paul Anderson for alleged defamation relate to his appearance in a report on Today Tonight's on the Lithgow City Council's involvement in the Federally funded Roads to Recovery rural road reconstruction of the Blackheath Creek Road, Little Hartley. (Item 4. LCC Ordinary Meeting 18 December 06)

Channel Seven Sydney Pty Ltd is strongly defending the Statements of Claim by the General Manager, Paul Anderson in the NSW Supreme Court, as I also intend to do.

Without disclosing my legal defense, it is my position that my appearance and the statements made by me in the Today Tonight report on the 4 December 2006, were made in good faith in the course of my role as a Councillor acting in the best interests of the ratepayers of the Lithgow City Council and as such, there is a high probability that the legal action for alleged defamation by the General Manager, Paul Anderson will be successfully defended by Channel Seven Sydney Pty Ltd and myself.

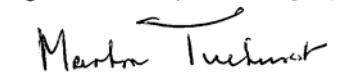
In conclusion, I am now requesting that the Lithgow City Council resolve to indemnify or reimburse reasonable legal expenses incurred by me to defend the legal action by the General Manager, Paul Anderson for alleged defamation in the NSW Supreme Court against Lithgow City Councillor Martin Ticehurst over a report on the Today Tonight show on Monday 4 December 2006.

Whilst it is solely up to individual Councillors to personally consider whether they may hold any conflicts of interest in formally determining this matter, I would respectfully submit that it may be appropriate for the Council to seek to resolve to appoint a mutually agreeable independent legal person to formally determine this request.

RECOMMENDATION

THAT the request for legal assistance be received and that the Lithgow City Council formally resolves to appoint a mutually agreeable, independent legal person to formally determine this request.

Signed:



Councillor MF Ticehurst declared a pecuniary interest and vacated chambers.

General Manager PJ Anderson declared a non-pecuniary conflict of interest and also vacated

RECOMMENDATION:

THAT the request for legal assistance be received and that the Lithgow City Council formally resolves to appoint a mutually agreeable, independent legal person to formally determine this request.

MOVED:

SECONDED:

The motion **LAPSED** due to no mover at all.

REGIONAL SERVICES REPORTS

ITEM:2 REG - 02/07/07 - BLACKHEATH CREEK ROAD - ALLEGATIONS REGARDING DISPOSAL OF ROADWORKS WASTE

REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

SUMMARY

To provide advice received from the Independent Commission Against Corruption (ICAC) in relation to allegations regarding the disposal of roadwork's spoil at Blackheath Creek Road.

COMMENTARY

Council will recall this issue from it's ordinary meeting of 18 December 2006 including advice that it had been necessary to refer the matter to ICAC. ICAC have now provided advice that "the Commission has examined the matter and decided not to investigate". Council will recall that notwithstanding the poor factual basis of the allegations, it was considered prudent to prepare a policy to deal with the offer of otherwise unusable spoil material associated with roadwork's to nearby property owners. This policy was subsequently adopted and the Commission's Corruption, Prevention, Education and Research Division was kind enough to review the policy and provide comments on how it may be improved. These comments will be taken into consideration for an updated version of the policy which will be prepared and presented to Council.

Whilst the allegations were proven to be false and damaging to the staff to which they were levelled against, it is encouraging that one positive outcome has arisen in that Council now has the opportunity to be considered at the forefront of corruption prevention when undertaking a practice common to rural councils. This knowledge can be shared to assist other Council's.

POLICY IMPLICATIONS

It is intended to improve the existing policy and report it back to Council.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Not specifically as a result of this attack.

RECOMMENDATION

THAT:

1. The information be received and the staff accused falsely in this instance be advised of the ICAC's decision not to investigate the matter.
2. A further report be provided on the revised policy in due course.

07-262 RESOLVED

THAT:

1. The information be received and the staff accused falsely in this instance be advised of the ICAC's decision not to investigate the matter.
2. A further report be provided on the revised policy in due course.
3. Council provide a press release showing support for the staff who were falsely accused in this matter.

MOVED: Councillor H K Fisher

SECONDED: Councillor M J Wilson.

CARRIED

Councillor M Ticehurst moved an **AMMENDMENT** that Councillors be provided with the letter of advice from ICAC.

The amendment **LAPSED** due to no seconder

Councillor Ticehurst declared a pecuniary interest due to the above matter being in the courts and vacated the chambers.

**ITEM:3 REG - 02/07/07 - MEADOW FLAT QUARRY - QUESTIONS
 COUNCILLOR M F TICEHURST**

REPORT FROM: REGIONAL SERVICES MANAGER– ANDREW MUIR

SUMMARY

Response to a Question from Councillor Ticehurst to Council at its meeting of 21 May 2007 regarding a possible quarry adjacent to Meadow Flat Cemetery.

COMMENTARY

An inspection revealed that an excavation existed adjacent to Meadow Flat Cemetery and there was no sign of any recent extraction. A numbers of loads had been placed back in the excavation and it appeared that some rehabilitation was occurring. Council's Cemetery Officer has confirmed that no extraction has occurred on site for a number of years.

The owner of the land was contacted and advised that the excavation was for supply of material necessary for maintenance on the farm and that no recent extraction had occurred. They advised that a number of loads of material had been placed in the excavation with a view to long term rehabilitation.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

There is no work on site that requires Council consent.

07-263 RESOLVED

THAT The information be noted.

MOVED: Councillor M F Ticehurst

SECONDED: Councillor W McAndrew.

CARRIED

CORPORATE SERVICES REPORTS

**ITEM:4 COMM - 02/07/07 - CALL FOR EXPRESSIONS OF INTEREST FOR
 THE MANAGEMENT OF COUNCIL'S PROPERTY PORTFOLIO**

REPORT FROM: POLICY & PLANNING MANAGER – A MUIR

REFERENCE

Min 1871: Council Meeting 16 December 2002

SUMMARY

This report seeks Council's concurrence to call for expressions of interest from local real estate agents for the management of Council's property portfolio.

COMMENTARY

Council at its meeting of 16 December 2002 resolved to appoint LJ Hooker as manager of Council's property portfolio and disposal of land and building assets for a period of 3 years commencing on 17 December 2002. Since this time, LJ Hooker has continued in this role. However, it is time to revisit this issue and it is considered appropriate to call for expressions of interest from local estate agents for the management of Council's property portfolio which will include the leasing and selling of Council property.

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.

07-264 RESOLVED

THAT expressions of interest be called from local real estate agents for the management of Council's property portfolio and be reported to Council.

MOVED: Councillor M J Wilson

SECONDED: Councillor W McAndrew.

CARRIED

**ITEM:5 COMM - 02/07/07 - ADVICE FROM MINING RELATED COUNCIL RE -
VALUATION OF MINES**

REPORT FROM - INTERNAL SERVICES MANAGER - C FARNSWORTH

REFERENCE

Nil

SUMMARY

To advise Council of discussions between the Association of Mining Related Councils Inc and the Valuer General with regard to an agreed methodology for the valuation of mines within NSW.

COMMENTARY

Council has been advised by the Association of Mining Related Councils Inc that they are working closely with the Valuer General to progress a consistent and transparent methodology for the valuation of all mines.

The Association's perspective is that following discussions between the Mining Industry and the Department of Primary Industry that a system for the valuation of mines be developed that is transparent, equitable and feasible.

The Valuer General argues that the purpose is a report to the Government that is not solely intended to provide information for investment purposes but must fully disclose all mineralisation, including materials that do not have a reasonable prospect of eventual economic extraction. This is common methodology that is used by the industry for economic reporting to the Stock Exchange, as well as public reporting for the exploration of mineral resources and reserves for the information of investors and to also satisfy regulatory requirements.

At the May meeting of Mine Related Councils the Valuer General detailed a report that discloses that they have established a land value for mining assessments by providing a consistent approach on a royalty basis which may see a significant increase to mining valuations in NSW.

The Valuer General is considering a further consistency measure, which at present is still on the 'drawing board,' but may be implemented by September this year, and will see the engagement of a 'specialist' NSW property valuer to value all mining allotments.

Further developments with regard to mining revaluations will be monitored and progress reported.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Rate income will be achieved by multiplying Council's determined mining levy rate by the valuation as set by the Valuer General. The higher the valuation the greater the rate income. This change would impact upon the 2008/09 year.

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

Nil

07-265 RESOLVED

THAT the information be received.

MOVED: Councillor H K Fisher

SECONDED: Councillor M J Wilson.

CARRIED

ITEM:6 COMM - 02/07/07 - SHARPS DISPOSAL CONTAINER EDUCATION CAMPAIGN

REPORT FROM: POLICY & PLANNING MANAGER – A MUIR

SUMMARY

This report provides information on a Sharps Disposal Container Education Campaign to be undertaken in 2007/08.

COMMENTARY

Needles, syringes, lancets and other community sharps are generated in a wide range of non-clinical situations, including residential and commercial property, public areas and public facilities. Unsafe or inappropriate disposal may represent a risk to council employees, contractors, the community, and the environment.

Council is committed to maintaining high standards of public health, environmental management and workplace safety. To fulfil this objective it is necessary to properly manage the disposal of community sharps to provide safe and healthy environments for our employees, residents and visitors. Therefore, Council has secured through NetWaste a community sharps bin free of charge which is proposed to be installed in the Mort Street Carpark as part of the upgrade to the Taxi Rank. In conjunction with the installation of the community sharps bin, it is proposed to conduct an education campaign to introduce the community sharps bin and the correct way to disposal of sharps from home, based on the following:

- Place used needles and sharps in a plastic container with a screw top lid
- Screw the lid on the container
- Drop the container in the free community sharps bin.

The education campaign will feature in Council Connections, Council's Column of the Lithgow Mercury, on local radio and in a pamphlet.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

The estimated cost of the education campaign is \$1,200 which can be funded from the Waste Budget.

LEGAL IMPLICATIONS

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

07-266 RESOLVED

THAT the information be received.

MOVED: Councillor H K Fisher

SECONDED: Councillor M M Collins.

CARRIED

ITEM:7 COMM - 02/07/07 - KERB AND GUTTER CONSTRUCTIONS - CONTRIBUTIONS POLICY - AMENDMENT

REPORT FROM: GROUP MANAGER COMMUNITY AND CORPORATE – K. WOOLLEY

REFERENCE

Min 07- 231: Finance and Services Committee 4 June 2007

SUMMARY

Council is provided with a revised version of the Kerb and Gutter Construction – Contributions Policy following resolution to include provisions for Council to consider the coverage of costs where construction needs arise from access issues.

COMMENTARY

It is recommended to Council that the Policy be adapted with the addition of the following point:

- B. Council may consider not seeking contributions when a need arises from an accessibility issue.

POLICY IMPLICATIONS

Kerb and Gutter Construction – Contributions Policy applies

FINANCIAL IMPLICATIONS

Council forgoing contributions would have a financial impact which would need to be established on an individual basis.

LEGAL IMPLICATIONS

NIL

CONCLUSION

The amendment to the Policy Kerb and Gutter Construction – Contributions is recommended to Council. It is not considered necessary to exhibit this amendment to the Policy.

07-267 RESOLVED

THAT the Kerb and Gutter Construction – Contributions policy be updated with the addition of section B regarding an option for Council to consider works arising from accessibility issues.

MOVED: Councillor B P Morrissey

SECONDED: Councillor M J Wilson.

CARRIED

QUESTIONS WITHOUT NOTICE

QWN - 02/07/07 - COUNCILLOR AE THOMPSON

MINUTES - POLICY AND STRATEGY COMMITTEE MEETING OF COUNCIL 2 JULY 2007

1. Madam Chair, may I please table a letter in relation to a bus stop in the Kirkley Gardens Retirement Village.

Madam Chair advised the letter would be accepted.

The Meeting Closed at 6.15pm.