



LITHGOW CITY COUNCIL

## **MINUTES**

POLICY AND STRATEGY COMMITTEE  
MEETING OF COUNCIL

HELD ON

03 SEPTEMBER 2007

**MINUTES OF THE LITHGOW CITY COUNCIL MEETING  
HELD AT THE CIVIC CENTRE, LITHGOW ON 3 SEPTEMBER 2007**

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Meeting Commenced: 6.00pm

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 Anderson  
Group Manager Regional Services, Mr Andrew Muir  
Minutes Secretary, Miss Casey Clarke  
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 6 August 2007 were taken as read and confirmed by Councillors M J Wilson and B S Moran

**07-377 RESOLVED**

**CARRIED**

**DECLARATION OF INTEREST**

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

Councillor W McAndrew declared a pecuniary conflict of interest in Item 3 due to him being the Chairman of the Board. He vacated the Chambers.

Councillor W McAndrew declared a pecuniary interest in Item 12 due to his wife being employed by the Lithgow Golf Club. He vacated the Chambers.

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Councillor M F Ticehurst declared a non pecuniary interest in Item 1 due to legal proceedings being in front of the Court. He vacated the Chambers.

Councillor M J Wilson declared a pecuniary interest in Item 6 and Item 7 due to being employed by Delta Electricity. He 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 - 03/09/07 - MARELENE BRINCKLEY**

1. Mr Mayor are you aware that the majority of Lithgow Ratepayers struggle to pay their Rates and Educate their children on very little money and you are asking them to help further educate the General manager. There is no guarantee he will remain in Lithgow he could leave or could enter politics. If he would like to do this course, I feel as I am sure as do other ratepayers, on a salary of \$195,000 plus perks, he can afford to further educate himself and not further burden the ratepayers of Lithgow.

*As an employer Council has an obligation to provide training and development to all staff within the organisation.*

*As my Mayoral Minute indicates the General Manager has successfully gained a scholarship (meaning free) which I consider beneficial to the Council. It is my opinion that the payment of accommodation and living expenses as warranted and just.*

### **QPG - 03/09/07 - TOM SHIRT**

1. Mr Mayor what is the difference between Community and Operational land?

*Community land can not be sold; leased, licenced or any other estate granted over the land for more than 21 years; and must have a plan of management for it. Alternatively, operational land has no special restrictions other than those that may apply to any piece of land.*

2. Mr Mayor does Council foresee any ramifications for the NSW Rural Fire Service and the SES given the present usage as an emergency operations centre.
-

*No, the recommendation to reclassify the land from community to operational land under the Local Government Act 1993 is made to bring this premises in line with other emergency service property within Council's portfolio.*

## **QPG - 03/09/07 - RAY HAMMENT**

1. Mr Mayor I would like to be made aware of the implications concerning the reclassification of the Lithgow golf club land to operational land.  
Why is this necessary?  
Do council have any plans for the sale or disposal of this land?  
This land was deeded to the community and should remain so.  
What actions are required to make sure that this land stays as community land?

As far as we are aware the restrictions that the local government act imposes in regard to leases, activities and future use of this land do not impact on the golf club whatsoever while it remains as deeded community land, so therefore unless your council officers can convince us of the need to change it, then we believe it should remain as deeded community land.

*The recommendation to change the classification of the Lithgow Golf Club land from community to operational land under the Local Government Act 1993 is made having regard to the current use of the land and the restrictions the Act imposes on community land in terms of leases, activities and future uses such as:*

- *A plan of management must be prepared for all community land and any lease must be expressly authorised in the plan.*
- *The purpose of the lease must be consistent with the core objectives of the sports ground category of land i.e. "to encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games and to ensure that such activities are managed having regard to any adverse impact on nearby residences". This is potentially problematic with commercial activities taking place on the land.*
- *Other leasing requirements include:*
- *A lease can not be granted for a period exceeding 21 years*
- *Tenders must be called for a lease over 5 years unless the lease is to be granted to a non-profit organisation*
- *Council must notify the community and adjoining land owners of its intentions to enter into a lease and consider submissions*
- *The Minister for Local Government has the power to 'call in' leases under 5 years for his concurrence and if the lease is for a period between 5 and 21 years and an objection is received, the Minister determines whether or not to issue a lease*
- *There are further requirements for sub leases.*

*No plans have been made. It should be noted that in accordance with section 377 of the Local Government Act 1993, only the Council can resolve to sell land.*

*A report is before Council tonight which will determine whether or not to proceed with the process to reclassify the land from community to operational land by way of a Local Environmental Plan.*

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**ITEM:1            MAYORAL MINUTE - 03/09/07 - ICAC SCHOLARSHIP - ANU  
CORRUPTION AND ANTI CORRUPTION EXECUTIVE COURSE****REPORT FROM: THE MAYOR, NEVILLE CASTLE**

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**ITEM            MAYORAL MINUTE - 03/09/07 - ICAC SCHOLARSHIP - ANU  
CORRUPTION AND ANTI CORRUPTION EXECUTIVE COURSE****REPORT FROM: MAYOR, NEVILLE CASTLE**

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**REFERENCE**

NIL

**SUMMARY**

This report updates Council on the successful scholarship awarded to the General Manager to attend the ANU Corruption and Anti Corruption Executive course.

**COMMENTARY**

Council's General Manager (with my concurrence) applied via the ICAC for a scholarship in the above course of study. This course is seen as a pathway to a Master degree at a later date.

The scholarship pays for all the course fees and Council now needs to only cover accommodation and living expenses for the 9 day intensive internal study program.

In supporting the General Managers application, I considered that having our most senior officer recognised and qualified in such matters would be of utmost benefit. I also spoke to other Mayors and General Managers who had completed the course previously and discovered its benefits. Given the recent experiences of Council and the accusations made, I feel this program will be of benefit to our Corporation.

I have asked the General Manager to identify the estimated cost in the September quarterly review and fund any additional costs from recruitment savings.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

NIL

**RECOMMENDATION****THAT:**

1. Council note the report
2. Council identify the additional funding required as part of the 31<sup>st</sup> September 2007 quarterly review.

SIGNED: \_\_\_\_\_

MAYOR

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Councillor M F Ticehurst declared a non pecuniary interest in Item 1 due to legal proceedings being in front of the Court. He vacated the Chambers.

**07-378 RESOLVED**

**THAT:**

1. Council note the report
2. Council identify the additional funding required as part of the 31<sup>st</sup> September 2007 quarterly review.

**MOVED:** Councillor Neville Castle

**SECONDED:** Councillor B S Moran.

**CARRIED**

**ITEM: 2 NOTICE OF MOTION - 03/09/07 - COUNCILLOR M F TICEHURST -  
NSW LAND AND ENVIRONMENT COURT**

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**NOTICE OF MOTION**

**MOTION TITLE/TOPIC:**

Request for an updated Lithgow City Council report on current matters before the NSW Land and Environment Court.

Listed by Councillor Martin Ticehurst

Date: 27 August 2007

**BACKGROUND**

I understand that the following matters are currently before the NSW Land & Environment Court: -

1. **EPA Vs Lithgow City Council x 2.**

These matters were last listed and apparently finalised on Monday 20 August 2007 in the Land & Environment Court.

2. **Mark Lilley (Capertee Helicopter) Vs Lithgow City Council.**

This matter was last listed in the week commencing Monday 13 August 2007.

3. **Mount Lambie DA Vs Lithgow City Council.**

This matter was last listed in August 2007.

For the information of all Councillors, it is requested that Council Officers provide an immediate report on the above matters to the Lithgow City Council Committee Meetings Monday 3 September 2007.

**RECOMMENDATION**

**THAT the above information be received and that the Lithgow City Councils Regional Services immediately provide an update to Council, all Councillors and ratepayers at the Lithgow City Council Committee Meeting on Monday 3 September 2007.**

Signed: \_\_\_\_\_



This item **LAPSED** due to the want of a seconder.



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**ITEM:3 NOTICE OF MOTION - 03/09/07 - COUNCILLOR M F TICEHURST - THREE TREE LODGE**


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**NOTICE OF MOTION**

**MOTION TITLE/TOPIC:**

Questions arising over the Lithgow City Councils financial control of a private community asset, including land and buildings at the Three Tree Lodge Aged Care Facility in Col Drewe Drive, South Bowenfels owned, operated and controlled by the Management Committee of Three Tree Lodge Lithgow Incorporated.

Listed by Councillor Martin Ticehurst

Date: 27 August 2007

**BACKGROUND**

As all Councillors, Senior Council Officers and ratepayers would be aware, the Three Tree Lodge Aged Care Facility in Col Drewe Drive, South Bowenfels was included as an alleged 'controlled' asset of the Lithgow City Council in their 2004/2005 and 2005/2006 Annual Financial Statements, valued at up to some \$5 million dollars.

All Councillors, Senior Council Officers and ratepayers would be aware that the Auditors for the Lithgow City Council, Alan Morse & Co. Bathurst have confirmed several times that in fact no joint venture has ever existed between the Lithgow City Council and the Three Tree Lodge Aged Care Facility in Col Drewe Drive, South Bowenfels owned, operated and controlled by the Management Committee of Three Tree Lodge Lithgow Incorporated.

This being the case, I submit this Notice of Motion to have the Lithgow City Council investigate and confirm:

1. Is it correct that the 2005/2006 Audited Financial Statements for Three Tree Lodge Lithgow Inc., submitted to the Federal Department of Health and Ageing, included the Lithgow City Councils some \$5 million dollar asset of the land and buildings of the Three Tree Lodge Aged Care Facility in Col Drewe Drive, South Bowenfels and is it correct that the same Audited Financial Statements confirmed that the Tree Lodge Aged Care Facility asset is indeed solely owned, operated and controlled by Three Tree Lodge Lithgow Inc. and that there was no joint venture existing with Lithgow City Council that would allow Lithgow City Council to continue to include the Tree Lodge Aged Care Facility in their own Financial Statements as a financially 'controlled' asset of some \$5 million dollars?
2. Is it correct that the Lithgow City Council is now in possession of a copy of the 2005/2006 Audited Financial Statements for Three Tree Lodge Lithgow Inc., whose Public Officer is also the Solicitor for the Lithgow City Council, and is it correct that the Audited Financial Statements confirm that the Tree Lodge Aged Care Facility asset is indeed solely owned, operated and controlled by Three Tree Lodge Lithgow Inc. and that there was no joint venture existing with Lithgow City Council that would allow Lithgow City Council to continue to include the Tree Lodge Aged Care Facility in their Financial Statements as a financially 'controlled' asset of some \$5 million dollars?
3. If it is correct, will the Lithgow City Council obtain independent financial advice from the Department of Fair Trading, NSW Treasury, NSW Department of Local Government and the Federal Department of Health and Ageing. to confirm the true financial audit position of the financial ownership of the multi-million dollar land and building assets of the Three Tree Lodge Aged Care Facility in Col Drewe Drive, South Bowenfels?

**RECOMMENDATION**

**THAT the information be received and Council seek urgent independent financial advice from the Department of Fair Trading, NSW Treasury, NSW Department of Local Government and the Federal Department of Health and Ageing. to confirm the true financial audit position of the financial ownership of the multi-million dollar land and building community assets of the Three Tree Lodge Aged Care Facility in Col Drewe Drive, South Bowenfels.**

Signed: \_\_\_\_\_



Councillor W McAndrew declared a pecuniary interest in this item and vacated the Chambers.

This item **LAPSED** due to the want of a seconder.

**ITEM:4 NOTICE OF MOTION - 03/09/07 - COUNCILLOR M F TICEHURST - ROAD NAMING**

**NOTICE OF MOTION**

**MOTION TITLE/TOPIC:**

Current serious public road naming discrepancies by the Lithgow City Council, as the official road naming authority, of Coolamigal Road and Reservoir Road in Portland.

Listed by Councillor Martin Ticehurst

Date: 27 August 2007

**BACKGROUND**

Further information has come to hand from ratepayers and residents in Portland of serious public concerns over the previously disputed location by the Lithgow City Council of the Coolamigal Road in Portland.

Lithgow City Councils own large Shire Roads Map (Greater Lithgow City Council/CMA/1987) has been obtained and clearly identifies the Coolamigal Road as No. 26 and running east to west as the road that runs up to the Portland Pinch Museum, which runs beside the Portland Tip off the Portland-Cullen Bullen Road, Portland. The current Lithgow City Council signposted road is listed on the Greater Lithgow City Council/CMA/1987 Map as No. 102, Williewa Creek Road.

Further, recent correspondence from the Department of Lands has confirmed that the previous Lithgow City Councils identification of the Coolamigal Road in the Government Gazettal notice in NSW Government Gazette No 151 1970 is completely wrong. The Department of Lands has now confirmed that the portion of road identified in NSW Government Gazette No. 151 of 1970 is the roadway within the Portland Common running from Ridge Street down to the Williewa Creek Road Causeway. This appears to confirm Blaxland Shire Maps and Shire Road Lists showing that the Coolamigal Road existed pre-1964.

Further, the www.Google.com.au website now has a new MAPS facility which clearly shows the Coolamigal Road Portland as running east to west as the road that runs up to the Portland Pinch Museum, which runs beside the Portland Tip off the Portland-Cullen Bullen Road, Portland. The current Lithgow City Council signposted road is not identified with any road name. This website facility, which is also used by many Mapping authorities (i.e. Whereis.com.au) emergency services, couriers and the public using GPS facilities. New Council Maps provided to the Local Emergency Services groups when this matter arose in 2003 may be erroneous and in the interests of public safety, should be urgently replaced by the Lithgow City Council. Attached: Three Google Maps.

Additional information has also been provided confirming that there is two Reservoir Roads in the Portland area, which is contrary to the policies of the Geographical Names Board and the Lithgow City Councils own Road Naming Policy on the Councils website.

At the Finance and Services Committee Meeting on Monday 6 August 2007 the General Manager indicated to the Council that a report on the matter of the Coolamigal Road would be considered by staff and brought back in as timely manner as possible.

I believe it is now **urgent and timely** for Group Manager, Regional Services, Lithgow City Council Mr Andrew Muir to provide an urgent report, including Council/Shire Road Maps to the Council, Councillors and ratepayers on the Coolamigal Road and Reservoir Roads and advise of any investigation and any action/s taken as a result of the Councils investigation into the matter.

**RECOMMENDATION**

**THAT the above information be received and that the Lithgow City Councils Group Manager Regional Services, Mr Andrew Muir immediately provide an urgent report, including City of Greater Lithgow Council/Shire Road Maps to the Council, all Councillors and ratepayers at the Committee Meetings on Monday 3 September 2007.**

Signed: \_\_\_\_\_

*M F Ticehurst*

This item **LAPSED** due to the want of a seconder.

## GENERAL MANAGER REPORTS

### ITEM:5 GM - 03/09/07 - COMMUNITY CONSULTATION MEETINGS

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#### REFERENCE

NIL

#### SUMMARY

This report provides an update to Council on the Community Consultation meetings at the recent NSW Government Cabinet Meeting held in Bathurst.

The report recommends Council note the meetings and thanks the relevant Minister and the Local Member for organising the meetings.

#### COMMENTARY

As Council is aware the NSW Government Cabinet met in Orange on the 23<sup>rd</sup> August 2007 and held community consultation services in Bathurst later that day.

Council was successful in gaining a number of meetings with Ministers to follow up on matters of interest and concern to Council and the local community.

The meetings included:

- Minister Roozendaal
  - This meeting discussed the progress of the much needed Bells Line Expressway and the matching of the funds from the Federal Governments Auslink program.
  - A discussion was also had with respect to the condition / concern raised over the "Black Bridge" in Wallerawang
  
- Minister McDonald
  - This meeting was held in conjunction with Upper Macquarie County Council to discuss funding for weeds management by councils in NSW and the increasing costs being borne by council's in the program area.
  
- Minister Sartor
  - This meeting was to raise / discuss the concerns raised by the community at Blackman's Flat and attempt to see if the Government are able to assist the community with this concern. Council also attended a meeting later in the day with the Community regarding concerns/issues raised with the proposed Delta Coal Unloader.
  
- Minister Della Bosca
  - This meeting was seeking to guarantee additional support for the Portland Industry Links program and outline the benefit to our region. This was supported as a vital part of our learning cities program.

- Minister Watkins
  - A discussion was also had with respect to the condition / concern raised over the "Black Bridge" in Wallerawang. Council has now achieved the position of determining ownership and the Department will ensure a Senior Officer meets the General Manager in the coming weeks to review the bridge and future upgrades / replacements. The meeting also discussed Sandford Avenue Bridge and its current condition. Senior Staff of the Department will arrange to inspect this bridge at the same meeting regarding the Black Bridge.
  
- Minister Lynch
  - This meeting discussed the issues raised by Councillors with regard to Pecuniary Interest declarations and the process for Council's unsuccessful special rate variation to fund the supported Indoor Aquatic / Sports Centre.

### **POLICY IMPLICATIONS**

All of these meetings were held to raise concerns / issues with Ministers whilst in the region and as raised by Council or specific sectors of the community. This helps to satisfy parts of Council's Management Plan in lobbying State Government.

### **FINANCIAL IMPLICATIONS**

NIL

### **LEGAL IMPLICATIONS**

Nil

### **CONCLUSION**

The meetings with Cabinet Ministers provided Council with a unique opportunity to raise Council and the communities concerns and issues in a regional forum. The opportunity also arose for the Ministers to view the issues first hand on the way to or from the regional meeting.

### **07-379 RESOLVED**

#### **THAT:**

1. Council note the meetings
2. Council thank the relevant Ministers for their time and effort in holding meetings with Council;
3. Council thank the Local Member, Gerard Martin, for his efforts in securing the meetings, with the NSW Cabinet Ministers.

**MOVED:** Councillor W McAndrew

**SECONDED:** Councillor M J Wilson.

**CARRIED**

**ITEM:6 GM - 03/09/07 - DELEGATION TO HON. IAN MCDONALD - MINISTER FOR ENERGY / STATE DEVELOPMENT**

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**REFERENCE**

NIL

**SUMMARY**

This report updates Council on the outcomes of a recent delegation to the Energy Minister, the Hon. Ian McDonald by the Mayor, Councillor McAndrew and the General Manager. This report will recommend that the information be noted.

**COMMENTARY**

Council will recall the previous resolutions seeking a meeting with the Energy Minister regarding:

- The duplication of Mount Piper Power Station, and
- The privatisation of the NSW Electricity Industry

This meeting has now taken place. Whilst not able to give Council an iron clad or concrete decision regarding the Mount Piper duplication, the Minister did advise that he was aware of the proposal and the benefits of the existing infrastructure with connection to the National Grid etc.

The Minister advised that the Government will soon release the OWEN report which will study the need and necessity of further base load power supply in NSW. Council will receive a copy of this report when released.

The Minister was also able to confirm the Government's position with the privatisation of the NSW electricity industry. The Minister advises that the government is not proposing to sell the assets or generating facilities but is looking at the options of selling the retail sale of electricity.

This process will potentially free up some significant cash which the Government may then use on capital infrastructure developments.

**POLICY IMPLICATIONS**

This report satisfies Council's policy stance on the non privatisation of the power industry and the lobbying of State Government regarding the duplication of Mount Piper Power Station.

**FINANCIAL IMPLICATIONS**

There are no financial implications from this report.

**LEGAL IMPLICATIONS**

NIL

**CONCLUSION**

This report updates Council on the recent delegation to the Minister for Energy, the Hon. Ian McDonald and the positive outcome of the meeting.

Councillor M J Wilson declared a pecuniary interest in this item due to being employed by Delta and vacated the Chambers.

**07-380 RESOLVED**

**THAT** the information be noted.

**MOVED:** Councillor M M Collins

**SECONDED:** Councillor B S Moran.

**CARRIED**

## REGIONAL SERVICES REPORTS

**ITEM:7            REG - 03/09/07 - ADDRESS BY DELTA ELECTRICITY**

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

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### REFERENCE

NIL

### SUMMARY

This report advises Council of an address to the Policy and Strategy Committee on Monday 3<sup>rd</sup> September 2007 by representatives of Delta Electricity.

### COMMENTARY

Council will recall that it has invited representatives of Delta Electricity to provide it with information on issues such as the Western Rail Unloader and possible impacts of the drought upon Delta operations. Representatives of Delta Electricity are in attendance and are available to provide a presentation.

### POLICY IMPLICATIONS

NIL

### FINANCIAL IMPLICATIONS

NIL

### LEGAL IMPLICATIONS

NIL

### RECOMMENDATION

**THAT** the address from Delta Electricity representatives be received.

Councillor M J Wilson declared a pecuniary interest in this item due to being employed by Delta and he vacated the Chambers.

### 07-381 RESOLVED

**THAT** this item be withdrawn due to the Delta Representatives being unable to attend and the address be deferred to next Committee meetings.

**MOVED:** Councillor W McAndrew

**SECONDED:** Councillor H K Fisher.

**CARRIED**

**ITEM:8            REG - 03/09/07 - ACQUISITION OF PART OF LAND - RYDAL / HAMPTON ROAD RYDAL**

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

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**REFERENCE**

NIL

**SUMMARY**

To advise Council of the current position in relation to the acquisition of land at Rydal to be properly incorporated as road reserve.

**COMMENTARY**

Following the receipt of a valuation agreed by Council and the landowner, Council advised the landowner's Solicitors that it accepted the valuation. However, the landowner has objected to the valuation and under the terms of the agreement between the parties, the matter must now proceed to compulsory acquisition. Council's Solicitor has initiated this process.

Council's Solicitor has advised that another parcel of land may also be affected and this is being investigated.

**POLICY IMPLICATIONS**

Council's Assets Acquisition Policy applies.

**FINANCIAL IMPLICATIONS**

Legal and acquisition costs will be incurred.

**LEGAL IMPLICATIONS**

The terms of the Land Acquisition (Just Terms Compensation) Act are relevant.

**07-382 RESOLVED**

**THAT:**

1. The information be noted.
2. Should Lot 14 DP 751651 be affected, the owner be approached seeking acquisition by negotiation. However should this not be successful, the acquisition take place by Compulsory process.

**MOVED:** Councillor B P Morrissey

**SECONDED:** Councillor M J Wilson.

**CARRIED**



**ITEM:9            REG - 03/09/07 - EMERGENCY RISK MANAGEMENT PLAN**

**REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR**

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**SUMMARY**

To advise of the finalisation of an Emergency Risk Management Plan, prepared by a sub committee of the Local Emergency Management Committee, and recommend the Plan be adopted.

**COMMENTARY**

The Local Emergency Management Committee formed a sub committee including members from the NSW Fire Brigade, Sydney West Area Health Service, Volunteer Rescue Association, Lithgow State Emergency Service, Rural Fire Service and Council to assist Echelon Australia prepare a Draft Emergency Risk Management Plan, for submission to the State Emergency Management Committee.

The aim of this plan is to develop and implement a Community Risk Management Plan, in consultation with the wider community. This Plan will form part of Council's Disaster Plan, which is reviewed annually, or after each significant event.

The Plan considers the risks associated with a range of natural, technological, biological and other hazards that would require a significant and co-ordinated emergency response should they occur.

The sub committee discussed numerous hazards that are considered significant for the localised area of the Lithgow Local Government area, and using a standard hazard matrix, determined the rating for these applicable hazards.

The Draft Emergency Risk Management Plan was publicly displayed, and Council received one (1) submission from the District Emergency Management Officer, and slight amendments regarding inclusion of 'Other Hazards' were undertaken.

In summary, thirty five (35) hazards were assessed as being applicable for the Lithgow Local Government Area, and of these, four (4) were considered to present an extreme risk, fourteen (14) presented a high risk, ten (10) presented a medium risk and seven (7) presented a low risk to the community.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Once Council adopts this Plan, it will be able to seek financial assistance from the State Government in relation to any of the emergency events identified in the Plan.

**LEGAL IMPLICATIONS**

Nil

## **07-383 RESOLVED**

**THAT** the Emergency Management Plan be formally adopted, and forwarded to the State Emergency Management Committee, as required under the State Emergency and Rescue Management Act 1989 (as amended).

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor A E Thompson.

**CARRIED**

### **ITEM:10        REG - 03/09/07 - PLANNING CIRCULAR PS07-010 APPOINTMENT OF PLANNING ADMINISTRATOR PANEL**

#### **REPORT FROM: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR**

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#### **SUMMARY**

To inform Council of the gazettal of the Heads of Consideration for the Minister for Planning Frank Sartor to appoint a planning administrator or panel to replace a council's planning role due to unsatisfactory performance.

#### **COMMENTARY**

The Environmental Planning and Assessment Act 1979 (EP&A Act) allows for the appointment of a planning administrator to perform all or part of a council's functions, where a council has been responsible for technical breaches of state planning law.

A new provision was included in the EP&A Act in 2006 to also allow the Minister for Planning to appoint a planning assessment panel to undertake a council's consent authority role or to prepare environmental planning instruments. The Department advises that this provision is to ensure satisfactory and appropriate performance by local councils in their undertaking of legislative functions that relate to planning and development matters.

The Department line is that this is essential in the public interest for good environmental, social and economic outcomes. It can be counter argued that it takes the process out of the hands of Councils that are aware of local issues.

Under the Act the Minister can only appoint a planning administrator or assessment panel if Heads of Consideration have been gazetted and taken into account before making a decision. The gazettal occurred on 19/7/07 and took effect on 1/8/07.

#### **POLICY IMPLICATIONS**

No specific policy issues.

#### **FINANCIAL IMPLICATIONS**

Potential loss of fee income for councils.

**LEGAL IMPLICATIONS**

Council is obliged to comply with the legislation.

**07-384 RESOLVED**

**THAT** the information be received and noted.

**MOVED:** Councillor M M Collins

**SECONDED:** Councillor M J Wilson.

**CARRIED**

## COMMUNITY AND CORPORATE SERVICES REPORTS

ITEM:11            **COMM - 03/09/07 - CHANGES TO THE SMOKE FREE ENVIRONMENT ACT 2000**

**REPORT FROM: ENVIRONMENTAL HEALTH OFFICER - DAVID DURIE**

### REFERENCE

NIL

### SUMMARY

To advise of issues relating to the implementation of the Smoke Free Environment Act 2000.

### COMMENTARY

As of the 2 July 2007 the *Smoke-Free Environment Act 2000* has banned smoking in enclosed areas of hotels, clubs, nightclubs and the casino. The Smoke-Free Environment Amendment Regulation 2006 was introduced for purposes of prescribing guidelines for determining what is an enclosed public place subsequent to this complete indoor ban.

The guidelines are similar to those that apply in other States and are designed to give practical guidance as to areas where smoking is permitted, such as genuine outdoor areas, while banning it in rooms, corridors and other internal spaces. The guidelines do not suggest there is a safe level of environmental tobacco smoke.

From 2 July 2007, proprietors are also required to prevent smoke from drifting from unenclosed places such as balconies, and beer gardens into non-smoking areas.

Proprietors of licensed venues are carrying out refurbishment of their premises to create areas where smoking is allowed and it has come to the attention of the NSW Health Chief Health Officer that a number of proprietors are seeking advice from councils on whether proposed building works comply. Accordingly, the Chief Health Officer has advised Council that there is nothing in the *Smoke-Free Environment Act*, the *Local Government Act* or the *Environmental Planning and Assessment Act* that imposes on Council any role or responsibility in assessing proposed developments for compliance with the *Smoke-Free Environment Act*. The Chief Health Officer further advises that all proprietors intending to allow smoking in their premises should be encouraged to obtain their own legal advice.

The Chief Health Officer has also written to all club and pub proprietors informing them of their obligations under the Act. In addition the NSW Government will put in place a comprehensive education campaign, consisting of television, radio and print advertising to inform patrons, staff and the community of these new changes.

### POLICY IMPLICATIONS

NIL

## **FINANCIAL IMPLICATIONS**

NIL

## **LEGAL IMPLICATIONS**

The Smoke Free Environment Act 2000 is the relevant legislation.

## **07-385 RESOLVED**

**THAT** the information be received.

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor B S Moran.

**CARRIED**

## **ITEM:12          COMM - 03/09/07 - PROPOSED LOCAL ENVIRONMENTAL PLAN TO RECLASSIFY COMMUNITY LAND**

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

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## **REFERENCE**

Min 06-144: Council Meeting 15 May 2006

Min 06-346: Council Meeting 16 October 2006

## **SUMMARY**

This report identifies properties under Council's ownership which are classified as community land under the Local Government Act 1993 and recommends that a Local Environmental Plan be prepared to reclassify these properties to operational land.

## **COMMENTARY**

All public land must be classified by Council as either community or operational land under the Local Government Act 1993. The classification of land can restrict its use and disposal. Community land cannot be sold; leased, licensed or any other estate granted over the land for more than 21 years; and must have a plan of management prepared for it. Alternatively, operational land has no special restrictions other than those that may apply to any piece of land.

There are a number of properties under Council's ownership which are classified community, however, in light of their current and/or future use it is suggested that the classification of the properties listed below be altered to operational land under the Local Government Act 1993.

### **Cary Avenue, Wallerawang**

Council may recall that the residential subdivision in Cary Avenue, Wallerawang had to be staged as 3 allotments (Lots 349 to 351 DP 26070, Lidsdale Street) have a caveat registered on the title by the Register General stating that these lots are Public Reserve.

In addition, it is noted in Council's Asset Register: Land and Buildings that the subject lots are classified community land under the Local Government Act 1993. Therefore, it is suggested to reclassify Lots 349 to 351 DP 26070 Lidsdale Street from community to operational land and cease the reservation as a public reserve.

### **31 Eskbank Street, Lithgow**

In late 2003, Council purchased 31 Eskbank Street, Lithgow from the Roads and Traffic Authority. At the time the property reverted to a community land classification under the Local Government Act 1993. However, in light of its current and future use as a commercial premises, it is considered more appropriate that the property be classified as operational land and therefore the reclassification from community to operational land is suggested for this property.

### **Union Theatre Stables, Bridge Street, Lithgow**

As a result of the subdivision undertaken in 2004 of the allotments containing the Union Theatre, Stables, toilet block and Tin Shed, the Stables are now located on Part Lot 2 DP 1077295 which also contains the Union Theatre. Council's Asset Register: Land and Buildings notes the Union Theatre property as community land under the Local Government Act 1993 and as such Council is unable to complete the sale of the Stables at this point in time as it had resolved on 15 May and 16 October 2006. Therefore, it is suggested to reclassify the area of land on which the Stables are erected from community to operational land.

In the interim a lease for the Stables could be offered to the interested party, but only following the adoption of a plan of management for the property which authorises the lease. There is no current plan of management for the property, however, the preparation of the plan is scheduled to commence shortly.

### **Lithgow Golf Club, Marrangaroo**

The Lithgow Golf Club property is classified as community land which means that Council can only issue a lease if it is expressly authorised in a plan of management; the lease is consistent with the core objectives for the land and is for a purpose permitted under the Local Government Act 1993. Having regard to the current use of this land and the restrictions the Local Government Act 1993 imposes on community land in terms of leases, activities and future uses it is suggested to reclassify the area from community to operational land.

### **Fire Control Centre, Silcock Street, Lithgow**

The current Fire Control Centre property was purchased in 1999 and at the time the property reverted to a community land classification under the Local Government Act 1993. However, it is suggested to change this classification from community to operational land to maintain consistency with other similar land classifications and uses within Council's property portfolio such as emergency services and fire stations.

## **POLICY IMPLICATIONS**

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

## **FINANCIAL IMPLICATIONS**

Costs will be incurred if Council resolves to prepare a Local Environmental Plan for the reclassification of the abovementioned lands.

Whilst it is considered that salary and advertising costs could be absorbed by the Policy and Planning Recurrent Budget, the costs of a public hearing are likely to be reported as an amendment to the budget in the September quarterly review of the Management Plan 2007/08 to 2009/10.

### **LEGAL IMPLICATIONS**

The Local Government Act 1993 and Local Government (General) Regulation 2005 contains provisions concerning the reclassification of community land. This includes the need to reclassify land by a Local Environmental Plan and a requirement to hold a public hearing in respect of a draft Local Environmental Plan to reclassify community land as operational land.

In addition, the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000 set out the legal processes for the preparation of Local Environmental Plans.

### **RECOMMENDATION**

#### **THAT:**

1. A Local Environmental Plan be prepared for the reclassification of Lots 349 to 351 DP 26070 Lidsdale Street Wallerawang, 31 Eskbank Street Lithgow, Part Lot 2 DP 1077295 Bridge Street Lithgow which the Stables are located upon, Lithgow Golf Club Marrangaroo and the Fire Control Centre Lithgow.
2. Subject to the receipt of Department of Planning approval, a Local Environmental Plan be prepared.

Councillor W McAndrew declared a pecuniary conflict of interest in this item due to his wife being employed by the Lithgow Golf Club and he vacated the Chambers.

### **07-386 RESOLVED**

#### **THAT:**

1. A Local Environmental Plan be prepared for the reclassification of lands known as Lots 349 to 351 DP 26070 Lidsdale Street Wallerawang, 31 Eskbank Street Lithgow
2. Subject to the receipt of Department of Planning approval, a Local Environmental Plan be prepared.
3. Council arrange for a copy of Sec 34 of the Local Government Act 1993 be given to all Councillor and the Lithgow Golf Club.

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor A E Thompson.

### **CARRIED**

An **AMENDMENT** was moved by Councillors B S Moran and M M Collins that the recommendation goes ahead with the exclusion of the Lithgow Golf Club. This was amendment was **WITHDRAWN**.

**ITEM:13            COMM - 03/09/07 - CENTRAL WEST RURAL LANDS PANEL**

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

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**REFERENCE**

Min 07-73: Policy and Strategy Committee Meeting 5 March 2007

**SUMMARY**

This report provides the recommendations from the Central West Independent Review Panel and advice from the Department of Planning regarding the preparation of Local Environmental Plans and land use strategies.

**COMMENTARY**

**Department of Planning Advice**

The Director General of the Department of Planning has written to Council with the following advice on the preparation of Local Environmental Plans (LEPs) and land use strategies ahead of the Central West Rural Lands Panel report.

"I am writing to clarify the position regarding the preparation of new LEPs and land use strategies ahead of finalisation of the Central West Rural Lands Panel report. This confirms verbal advice previously provided to you by the Department during Reference Group meetings.

While the Department is supportive of Council continuing to progress work on its new LEP, it is acknowledged that work on minimum lot sizes may be significantly impacted by the findings of the Central West Panel. It is therefore appropriate that Council defer where it chooses to, aspects of the LEP related to rural lands and in particular the calculation of minimum lot size or sizes.

At present it is not proposed that the timeframe for the preparation of a new LEP in accordance with the standard instrument will be changed. However, consideration will be given to the need for any extensions of time after the outcomes of the Central West Panel and any potential impact on strategy and LEP process are known.

I am advised that the final report of the Central West Panel is due shortly and that its implications for rural lands policy in the Central West will then be determined."

**Report to the Minister for Planning: Review of Land Use Planning in the Central West**

The NSW Government released the report into rural land use in the Central West by the Central West Independent Review Panel on 22 August 2007. In summary, this report makes the following recommendations:

- The urgent introduction without consultation of a new State Environmental Planning Policy for Rural Lands that contains provisions to guide new planning controls in relation to rural lands that:
  - Set out the Government's policy direction and principles for rural planning including social, environmental and economic principles;



- Provide separate controls, including zones and requirements for buffers where necessary for Rural Residential, Small Farms and General Rural zones in accordance with land capability, demand for rural lifestyle lots, potential for land use conflicts etc;
  - Identify a comprehensive range of permissible uses in rural zones that would reflect recent trends in rural industry related tourism, restaurants, bed and breakfasts etc;
  - Allow intensive agriculture on land zoned specifically for this purpose or in General Rural zones on merit where appropriate buffers are provided within the allotment to be developed for the intensive agricultural purpose;
  - Remove provisions for Concessional Allotments.
  - Rename "minimum allotment sizes" as "Lot Size for a Dwelling Entitlement" to make the intent of the development standard clearer;
  - Maintain the existing "Lot Size for a Dwelling Entitlement" development standard in General Rural zones in the LGAs unless good cause can be shown why the allotment sizes should be varied;
  - Require where a Council seeks to vary the "Lot Size for a Dwelling Entitlement" development control in the General rural zone, the proposed new allotment size shall be determined based on local circumstances and actual trends including the existing pattern of farming, existing pattern of holdings, current pressure for subdivision/dwellings, current pressure for change, reasons for changes etc and in consultation with the Department of Planning as the lead government agency with other government agencies inputting in an advisory capacity;
  - Include a SEPP 1 like clause that allows variation of the "Lot Size for a Dwelling Entitlement" development control in exceptional circumstances where recommended by the Regional IHAP (refer below);
  - Allow farm adjustment by boundary adjustment/land amalgamation etc (but with no additional dwelling entitlements);
  - Preserve dwelling entitlements on existing allotments with separate title; and
  - Require that new LEPs contain provisions that recognise the changing face of agriculture e.g. smaller farms, share farming, leasing, farms that are not necessarily contiguous and may be made up of a number of holdings many kilometres apart etc".
- Consideration of amending the Standard LEP Template or preparation of a new Rural Standard LEP Template to incorporate controls contained in the proposed new SEPP.
  - The establishment of an Independent Hearing and Assessment Panel (IHAP) to provide advice to councils in relation to applications which fall outside of the planning controls but which are considered to be an exceptional case (ie changes in technology, farming practices, family circumstances etc).
  - Investigate measures to enable legitimate farming activities to continue notwithstanding objections of new residents.
  - Investigate the preparation of educational material for rural lifestylers on the reality of rural living prior to purchasing.

- Investigate a direction to councils to include information on a Section 149 Certificate of properties in agricultural zones relating to common farming practices and the potential impact of these on nearby residential uses.
- Encourage greater use of buffers to separate new residential uses from land used for agricultural pursuits where land use conflicts are likely to rise.
- Further investigations be made into incentive based mechanisms/transferable development rights and the like.

The Minister for Planning, the Honourable Frank Sartor, MP has stated in his Media Release that he is seeking detailed feedback from relevant Departments before a decision will be made on the recommendations.

A full copy of the report and the Minister for Planning's Media Release is provided within Councillors Business Paper Packages.

In relation to the above documentation, Council's comprehensive LEP must be gazetted by 31 March 2009 and prior to this a Land Use Strategy must be prepared to inform the preparation of the comprehensive LEP. Whilst Council has commenced the preparation of the Land Use Strategy, the delivery of directions from the Department of Planning following its consideration of the Central West Independent Review Panel's report is an important factor in determining Council's intentions for the management of rural lands in the comprehensive LEP and whether or not Council can achieve the gazettal deadline of 31 March 2009. As such representations to the Department of Planning to date have requested that they review the gazettal deadline. Therefore, it is suggested that only minimal work be undertaken on rural land management in the Land Use Strategy until the Department of Planning's directions are received/clarified.

Council should also note that the strategic land and water capability assessments from the Sydney Catchment Authority are still outstanding and the delivery of this information may also impact on Council's ability to meet the Department of Planning's deadlines.

#### **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.

#### **07-387 RESOLVED**

**THAT** the information be received.

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor M J Wilson.

**CARRIED**

**ITEM:14          COMM - 03/09/07 - LIBRARY FUNDING REVIEW**

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

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**REFERENCE**

NIL

**SUMMARY**

To advise of an independent review of public library funding in NSW to review the current position, future dispersal of funds and special cases for funding from the State Government.

**COMMENTARY**

In announcing an independent review of public library funding a press release from Minister Frank Sartor stated:

*“Since 1995, State government funding to the public library network has increased by almost 40% but fell by 4% this year to \$23.5 million.*

Dr Tom Parry is to report on the matter by the end of the year. It is recommended to Council that a submission on the need to not only maintain but increase funding from the State Government to public libraries be prepared and submitted to the inquiry.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

At present \$65,000 is budgeted to be received from the State Library which includes the per capita funding and the Special Purpose Grant in 2007/08 which indicates the impact any reduction in funding would have upon Council’s financial position.

**LEGAL IMPLICATIONS**

Nil

**CONCLUSION**

It is recommended that a submission be prepared stressing the importance of the funding source for local communities.

**07-388 RESOLVED**

**THAT** Council prepare a submission to the public library review.

**MOVED:** Councillor M M Collins

**SECONDED:** Councillor B S Moran.

**CARRIED**

**ITEM:15            COMM - 03/09/07 - ENVIRONMENTAL ADVISORY COMMITTEE  
TERMS OF REFERENCE**

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

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**REFERENCE**

NIL

**SUMMARY**

To provide Council with the draft Terms of Reference as prepared by the Environmental Advisory committee.

**COMMENTARY**

Council resolved to create Terms of Reference for the s355 committees and the attached is the draft prepared by the Environmental Advisory Committee for Council's consideration.

**POLICY IMPLICATIONS**

No policy implications arise from this report.

**FINANCIAL IMPLICATIONS**

No financial implications arise from this report.

**LEGAL IMPLICATIONS**

No legal implications arise from this report.

**CONCLUSION**

The draft Terms of Reference for the Environmental Advisory Committee are presented to Council for endorsement.

**07-389 RESOLVED**

**THAT** the Terms of Reference as presented for the Environmental Advisory Committee be adopted.

**MOVED:** Councillor M J Wilson

**SECONDED:** Councillor B S Moran.

**CARRIED**

## QUESTIONS OF AN URGENT NATURE

### QWN - 03/09/07 - COUNCILLOR M M COLLINS

1. Mr Mayor I refer to an information sheet received in relation to increase in ash deposit in Kerosene Vale. Will this be of State significance?

*This item was deemed urgent by the Mayor due to timeframe. The General Manager advised that the application would more than likely meet the definition of a State Significant development under Part 3A of the EPA Act.*

2. Mr Mayor I refer to the services station in Wallerawang and as to whether the road can be sealed near it?

*The Mayor advised that this is a works request and will be investigated.*

### QWN - 03/09/07 - COUNCILLOR H K FISHER

1. Mr Mayor I refer to the fly ash dam that is visible from Neubeck Creek, is council aware of this? Can Council please do something about this?

*The Mayor advised that this question will be passed onto the representatives of Delta at their next presentation.*

### QWN - 03/09/07 - COUNCILLOR A E THOMPSON

1. Mr Mayor I also refer to the fly ash dams and ask as to whether Council seek some representation from the Local Member in relation to what is happening with this issue?

*The Mayor advised that this can be done.*

### QPG - 03/09/07 - COUNCILLOR B P MORRISSEY

1. Mr Mayor I refer to the DA for the open cut colliery east of Blackman's Flat, can Council advise as to what the current status of this colliery is?

*The Mayor advised that this is a works request and will be looked into.*

The meeting closed at 6.54pm.