



LITHGOW CITY COUNCIL

MINUTES

POLICY AND STRATEGY COMMITTEE
MEETING OF COUNCIL

HELD ON

06 MAY 2008

**MINUTES OF THE LITHGOW CITY COMMITTEE MEETING
HELD AT THE CIVIC CENTRE, LITHGOW ON 6TH MAY 2008**

Meeting Commenced at 6.00pm

Public Gallery: 12

PRESENT

His Worship the Mayor
Councillor Neville Castle
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

An apology was received and accepted from B P Morrissey who was out of city on business

MOVED: Councillor W McAndrew

SECONDED: Councillor M J Wilson.

P08-40 RESOLVED

CARRIED

Also in attendance

General Manager, Mr Paul Anderson
Group Manager Regional Services, Mr Andrew Muir
Group Manager Community and Corporate Services, Ms Suzanne Lollback
Minutes Secretary, Miss Casey Clarke

CONFIRMATION OF MINUTES

Confirmation of the Minutes of the Policy and Strategy Committee Meeting of Council held on the 7th April 2008 were taken as read and confirmed by Councillors M M Collins and B S Moran

P08-41 RESOLVED

CARRIED

DECLARATION OF INTEREST

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

NIL

QUESTIONS FROM THE PUBLIC GALLERY

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

NIL Questions were raised.

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MAYORAL MINUTE

MAYORAL MINUTE - CONFIDENTIAL - 06/05/08 - GAS WORKS SITE

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

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 not in the public interest to reveal all details of the proposed contract for sale. The Company has provided sensitive information about their proposed operations in the confidence that their details will not be made public by council. The practice of publication of sensitive information provided in the proposal could result in the withholding of such information in the future and reduction in the provision of information relevant to council's decision.

REFERENCE

- 06-143 - Ordinary Council Meeting held on 15/05/06
- 07-06 - Policy and Strategy Committee Meeting held on 5/2/07
- 07-57 - Ordinary Council Meeting held on 19/02/07
- 07-161 - Policy and Strategy Committee Meeting held on 7/5/07
- 07-347 - Policy and Strategy Committee Meeting held on 6/8/07
- 07-429 - Ordinary Council Meeting held on 17-9/07
- P08-23 - Policy and Strategy Committee Meeting held on 03/03/08
- P08-39 - Policy and Strategy Committee Meeting held on 07/04/08

SUMMARY

This report seeks the endorsement of a contract for the sale of the former Gas Works Site and the affixing of the Common Seal to all necessary documents.

P08-42 RESOLVED

THAT Council consider this report in closed Council pursuant to Section 10A(2)(c) of the Local Government Act 1993.

MOVED: Councillor M J Wilson

SECONDED: Councillor W McAndrew.

CARRIED

ITEM:1 NOTICE OF MOTION - 06/05/08 - COUNCILLOR MCANDREW - INSURANCE MATTERS - HOWARD AND SONS

**LITHGOW CITY COUNCIL
NOTICE OF MOTION**



MOTION TITLE/TOPIC: Insurance matters – Howard & Sons

Listed by Councillor Wayne McAndrew

DATE: 29th April 2008

BACKGROUND:

Council would be aware of the reported problems being faced by a number of families in the Wallerawang district with insurance claims following the internationally significant incident that occurred at the Howard and Sons Pyrotechnics factory on the 8th December 2007.

As Councillors who attended the public meeting in Wallerawang on 24/4/08 heard, many families whose properties have been severely damaged as a result of the explosion are yet to receive a fair or equitable resolution to any claim. The argument being mounted by the insurance companies is that they are awaiting the work cover report to determine the cause and liability before any such claims can be resolved.

This is in direct contrast to the process that has recently occurred in Western Sydney whereby the Premier was involved and assisted families to negotiate and resolve insurance claims in a relatively short period of time.

Given that the work cover report may be many more months away and will need to be considered by the NSW Coroner before any public finding can be made, many of the Wallerawang families may have to wait indefinitely whilst insurance companies continue to blame each other and play a waiting game. This scenario is obviously not acceptable.

Council needs to consider requesting the Local Member, Mr Gerard Martin to make direct representations to the Premier to seek his involvement in gaining a solution to this unacceptable problem being faced by families in Wallerawang.

RECOMMENDATION:

That:

1. Council requests the local member Mr. Gerard Martin to make all representations to the Premier of NSW Hon. Morris Iemma to step in and assist with the resolutions of outstanding insurance claims as a result of the major incident at the Howard & Sons Pyrotechnics factory on 8th December 2007.
2. Council requests the local member Mr. Gerard Martin to make all representations to NSW Minister Dellabosca so that the work cover investigation, its findings and recommendations are finalized as a matter of urgency.

Signed: _____

Councillor W McAndrew

P08-43 RESOLVED

THAT:

1. Council requests the local member Mr. Gerard martin to make all representations to the Premier of NSW Hon. Morris lemma to step in and assist with the resolutions of outstanding insurance claims as result of the major incident at the Howard and Sons Pyrotechnic factory on 8th December 2007.
2. Council requests the local member Mr. Gerard Martin to make all representations to NSW Minister Dellabosca so that the work cover investigation, its findings and recommendations are finalised as a matter of urgency.

MOVED: Councillor W McAndrew

SECONDED: Councillor H K Fisher.

CARRIED

GENERAL MANAGER REPORTS

ITEM:2 GM - 06/05/08 - PRE-ELECTION SEMINARS FOR THE LOCAL GOVERNMENT ELECTIONS

REFERENCE

NIL

SUMMARY

This report details a circular received from the Department of Local Government in relation to coordinating pre-election seminars for the Local Government Elections 2008.

COMMENTARY

The Department of Local Government have issued a circular in relation to the Local Government Elections 2008.

Local Government Learning Solutions are coordinating pre-election seminars for the elections in September 2008 on a cost recovery basis.

The topics to be covered at these seminars include:

- Why do I want to be a councillor
- What is local government
- What is expected of a councillor
- What support is provided to councillors
- How do I get elected?

The seminars coordinated by Local Government Learning Solutions (LGLS) are different from those coordinated by the NSW Electoral Commission which is just focusing on the electoral process. The LGLS seminars only cover the electoral process in a ten minute segment during the three hour seminar.

The duration of the seminars is three hours including time for questions. The seminars will cost \$1,540 inclusive of GST plus the presenters travelling expenses.

Councils wanting to deliver their own three hour seminar can contact Learning Solutions for a PowerPoint presentation and guide for \$55 inclusive of GST.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

If Council decides to run a seminar for interested parties, the costs to Council would be \$1,540.00 for the course and \$55.00 for the materials to be presented. Therefore the costs to Council would be \$1,595.00 in total.

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council determine if it wishes to provide the Pre election Seminar(s) for prospective candidates in the upcoming Local Government Election to be held on 13th September 2008.

P08-44 RESOLVED

THAT Council not provide the Pre Election Seminar(s) for prospective candidates in the upcoming Local Government Elections to be held on 13th September 2008.

MOVED: Councillor H K Fisher

SECONDED: Councillor M J Wilson.

CARRIED

ITEM:3 GM - 06/05/08 - CONSTIUTIONAL RECOGNITION FOR LOCAL GOVERNMENT

REFERENCE

NIL

SUMMARY

This report details a circular received from the Department of Local Government in relation to the Australian Local Government Association commencing it campaign to achieve constitutional recognition for local government.

COMMENTARY

The Department of Local Government has issued a circular in relation to the Australian Local Government Association (ALGA) commencing its campaign to achieve constitutional recognition for local government.

The Associations will be sending out material prepared by ALGA to assist our Council to discuss and develops a council position. With the information that the Council provides the ALGA, they will be able to table a NSW position to their summit in December.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

P08-45 RESOLVED

THAT the information be noted.

MOVED: Councillor B S Moran

SECONDED: Councillor M J Wilson.

CARRIED

ITEM:4 GM - 06/05/08 - AMBULANCE SERVICES NSW

REFERENCE

QWN - Councillor McAndrew - Policy and Strategy Committee Meeting held on 3rd March 2008

SUMMARY

This report provides the Committee with an update to the urgent question raised by Councillor McAndrew to the Policy and Strategy Committee Meeting held on 3rd March 2008.

COMMENTARY

The Committee will recall Councillor McAndrew's question regarding the provision of Ambulance Service after 8.30pm in the Lithgow Local Government Area.

Council wrote to the services requesting information as to what arrangements were in place and the services provided after 8.30pm. The services has now advised Council that;

"there is one crew (two officers) on duty from 6.00pm through to 8.00am the next day. There is also an additional crew (two officers) on call from 6.00pm through until 8.00am the next day. The Service is currently reviewing the rosters at Lithgow and the provision of on call coverage is included in this review".

Councils concern will be included and considered in the operational review as referred to.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT the Committee note the response from Ambulance Services NSW with respect to after hour's coverage and services provided to Lithgow.

P08-46 RESOLVED

THAT the Committee note the response from Ambulance Services NSW with respect to after hour's coverage and services provided to Lithgow.

MOVED: Councillor B S Moran

SECONDED: Councillor M M Collins.

CARRIED

A **MATTER OF ARISING** was moved that:

1. Council request the State Member to make representations to the relevant Government Department to have the Lithgow Police Command reinstated to an inspectorial command and;
2. If this can't happen, Council to seek information as to why the Command was downgraded in the first place.

P08-47 RESOLVED

MOVED: Councillor A E Thompson

SECONDED: Councillor W McAndrew.

CARRIED

REGIONAL SERVICES REPORTS

ITEM:5 REG - 06/05/08 - PLANNING REFORMS

REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

REFERENCE

Ordinary Meeting of Council – 17 December 2007 – Min 07-532

SUMMARY

To advise of the recent call for submissions on the Environmental Planning & Assessment Amendment Bill 2008 and the Building Professionals Amendment Bill 2008.

COMMENTARY

Council will recall its resolution of 17 December 2007 to prepare a detailed submission to the Discussion Paper "Improving the NSW Planning System" for lodgement with the Department for Planning. Following, consideration of submissions on the discussion paper the NSW Government released two draft exposure Bills being the Environmental Planning & Assessment Amendment Bill 2008 and the Building Professionals Amendment Bill 2008.

The intent of the amendments proposed in these Bills is to simplify, speed up, and make cheaper the processing of development applications and appeals, improve certifier accountability and also impose greater accountability on Councils in the collection and subsequent application of section 94 contribution monies. However, aspects of the Bills have come in for criticism from a number of sources including the Local Government Association, Shires Association and the Development and Environmental Professionals' Association. A period of three weeks was given for comments on the draft Bills and due to the short timeframe it was difficult to report and gain the weight of a formal resolution from Council, however submissions were made to the Department of Planning which will be outlined in this report. The key aspects of the two Bills are:

NEW PLANNING BODIES

New planning bodies are proposed:

1 Planning Arbitrator (PA)

PA's will have functions in relation to reviews of "small scale" development applications. The Minister will approve persons to be listed on a register kept by the Director General. PA's may be designated by area or type of development. They may include current employees of Councils. PA's must have expertise in one or more of planning, architecture, heritage conservation or urban design. Regulations have yet to be drafted setting out the procedure to be followed by PA's.

2 Joint Regional Planning Panels (JRPP)

The Minister establishes JRPP's for specified parts of the State. They shall consist of five members, three appointed by the Minister and two nominated by Councils.

Ministerial appointees must have expertise in at least one of planning architecture, heritage conservation, environmental conservation, urban design, property development, land economics, tourism, transport or government and public administration. At least one of the Council appointees must have expertise in planning or architecture.

JRPP functions will include:

- Acting as consent authority where designated by an environmental planning instrument (EPI).
- Acting as planning administrators and panels.
- Giving advice to the Minister.
- Applicant and third party merit reviews.

The Government envisages JRPP's will be identified in future SEPP's as the consent authority for a new class of development to be known as "regional development", anticipated to include designated development, nominated development (such as Crown development) over \$5 million, and residential, commercial or retail development over \$50 million.

3 Planning Assessment Commission (PAC)

PAC's will have the following functions:

- Decision maker for Part 3A projects (where delegated by the Minister).
- Consent authority for development applications (where delegated by the Minister).
- Providing planning advice to the Minister.
- Review body (Joint Regional Planning Panel determinations and third party merit appeals).

The Minister appoints a chairperson and between three to eight members who have expertise in nominated areas. Additional casual members can be appointed on an "as needs" basis. Each member must have expertise in at least one of planning, architecture, heritage conservation, environmental conservation, urban design, property development, land economics, transport or government and public administration.

4 Independent Hearing and Assessment Panel (IHAP)

These are panels constituted by Council and selected from persons approved by the Director General. The IHAP concept is not a new one and has been used by a number of the better resourced city councils where a panel of independent experts (usually from outside the local government area) are employed to assess applications with pre-determined criteria, e.g. numerous objections. The EP&A Amendment Bill proposes that a council must constitute an IHAP to assess any aspect of a development application or any planning matter if required by an environmental planning instrument, e.g. LEP or SEPP.

5 Complying Development Expert Panel

This is a non-statutory body engaged by the Department of Planning to develop State-wide codes for complying development with the intention of bringing 50% of development applications within such standards (currently only 11% of development applications apparently constitute complying development).

DEVELOPMENT APPLICATIONS

1 Development Assessment by Council

The following changes are proposed:

- Period for rejecting development applications increased from 7 to 14 days.
- Abolition of the “stop the clock” provisions during assessment.
- Alteration of “deemed refusal” times to 50, 70 and 90 days.
- Discretion (sometimes obligation) to appoint IHAP's to provide advice.

2 Complying Development

- Complying development will be designated in EPI's and can now apply to land that is critical habitat, part of a wilderness area, subject to an interim heritage order, or an item of environmental heritage.
- Public notification requirements are to be removed from Council's DCP's and to be inserted in the Environmental Planning and Assessment Regulations (the Regulations).
- Non-complying development may be treated as complying if Council or the certifier considers the non-compliance is of a minor nature and “not likely to cause any substantial net adverse impact on owners of adjoining land or the land on which the development is carried out”.
- It is suggested that the Regulations will oblige Council or the certifier to give public notice of the determination.
- The Complying Development Expert Panel is preparing State-wide codes and standards for complying development, responding to different lot sizes, environmental and amenity issues.

3 Regional and State Significant Development

- The Minister will continue to be the consent authority for critical infrastructure and major strategic projects.
- The PAC is expected to deal with about 80% of State significant projects.
- JRPP's will deal with projects of regional significance as classified by amendments to the Major Projects SEPP.

APPEAL PROCEDURES

The current system provides for section 82A reviews by Council of their initial decision and rights of appeals to the Land and Environment Court, whether or not there has been a section 82A review. The proposed new system will abolish section 82A reviews and significantly limit those matters which are capable of being appealed to the Land and Environment Court, providing instead for alternative merits review procedures by:

- PA's.
- JRPP's.
- PAC's.

Where appeals may still be allowed to be made to the Land and Environment Court, the time limits for such appeals are significantly reduced from twelve months to three months (although the period for appealing against refusal of modification applications is extended from two months to three months, presumably to provide uniformity).

PA Review of Council Development Application Decisions

- Unless Council and the Applicant agree to the contrary, appeals against “small scale development” must initially be referred to a PA. This will apply only to certain classes of development yet to be specified and currently suggested to be residential development under \$1 million – to be prescribed in the Regulations.
- The PA’s decision is deemed to be that of Council, and there is then a subsequent right of appeal by the Applicant to the Land and Environment Court.
- Council has no right of appeal against the PA’s decision.

Council Development Application Decisions - Non-PA Matters

- Where the proposal is not for small scale development, the Applicant has a choice of appeal to the applicable JRPP (or if no JRPP constituted, to the PAC) or to the Court.
- If the applicable JRPP makes the decision on appeal, it is deemed to be that of Council. There is no right of appeal against the JRPP decision.

JRPP Consent Authority

- The Applicant has a choice of a review by the PAC or appeal to the Court.
- If the PAC makes the decision on appeal, it is deemed to be that of Council. There is no right of appeal against the PAC decision.

PAC Consent Authority

There is a right of appeal to the Land and Environment Court by the Applicant against a determination of the PAC unless there has been a public hearing.

Third Party Objector Appeals

- To date, there have only been third party merit appeal rights in respect of designated development. It is proposed that the Regulation will extend the classes of development in respect of which objectors can appeal on the merits. It is envisaged that any development which exceeds specified development standards such as height or floor space ratio in an EPI by more than 25% will give rise to such rights of appeal. This is yet to be prescribed by the Regulations.
- The objector’s right of review is not to the Land and Environment Court but to the applicable JRPP in respect of a Council determination and to the PAC in respect of a JRPP determination.
- The existing designated development appeal provisions to the Land and Environment Court in section 98 remain unchanged.

Land and Environment Court – Costs

The Land and Environment Court will be **required** to make an order for payment of all the costs of the Council if the Court approves a development application that is “significantly different” from the application the subject of the appeal, where the changes were made at the request of the Applicant.

ENVIRONMENTAL PLANNING INSTRUMENTS

- 1 Regional Environmental Plans are to be abolished and existing REP's treated as SEPP's.
- 2 Local Environmental Plans may now be made by the Minister and amended of his own volition.
- 3 The procedure under which Councils will in future make LEP's is fundamentally altered. In essence:
 - Council submits a proposal with justification to the Minister for a “gateway determination”.
 - The Minister determines whether the matter is to proceed and what consultation should be undertaken.
 - The Minister further determines whether there should be a public hearing.
 - Regulations will specify the nature of the consultation in respect of each type of LEP.
 - PAC's and JRPP's may review a planning proposal where there has been delay.
 - Council does **not** draft the LEP; this is done by the Department of Planning **after** the proposal in plain English terms has been through consultation etc, if it is to proceed.

ACCREDITED CERTIFIERS

- 1 This is primarily covered by the Building Professionals Amendment Bill 2008.
- 2 The essential provisions are that:
 - Council officers will have to hold accreditation to certify building work.
 - Private certifiers must be engaged by the owner of the property.
 - Private certifiers may not earn more than 20% of their total annual income from certification work from the same person or company.
 - The State Government may limit the number of certificates an individual certifier can issue for any one client.
 - Accredited certifiers must provide annual reports to the Building Professional Board.
- 3 Councils will be allowed to:
 - Require certifiers and builders to answer questions and provide information. Failure to do so will be an offence.
 - Issue on the spot fines and stop work orders without first having to issue a notice of intention to issue an order.
 - Obtain a performance bond on the developer which can be used to fund action taken to deal with unauthorised building works.
 - Recover the costs of issuing orders under section 121B by way of a compliance cost notice.
- 4 Certifiers acting as principal certifying authority will be given powers to direct a land owner to comply with a development consent.
- 5 Penalties will be substantially increased.

- 6 A new accreditation scheme will be introduced to allow accredited fire safety engineers to prepare designs and issue design certificates, including the preparation of fire safety systems which were alternative solutions to the BCA requirements.
- 7 Certifiers will be able to request advice from Councils as to whether the design and construction of buildings are consistent with development consents. Failure to respond within fourteen days will be deemed to be advice in the affirmative. Advice of consistency (or where such advice is deemed) will prevent Councils from taking proceedings or action to challenge the issue of a construction certificate or occupation certificate on the basis of such non-consistency.
- 8 In relation to complaints upheld regarding misconduct, the Building Professionals Board will be allowed to suspend or cancel a certificate of accreditation without having to go to the Administrative Decisions Tribunal. The certifier will then have a right of appeal to that Tribunal.

DEVELOPER CONTRIBUTIONS

- 1 There are effectively three new defined concepts:
 - Community infrastructure contributions.
 - State infrastructure contributions.
 - State contribution areas.
- 2 Key community infrastructure will include:
 - Local roads.
 - Local bus infrastructure.
 - Local parks.
 - Local sporting facilities.
 - Drainage and water management works.
 - Land for community infrastructure.
 - District roads, parks etc having a direct connection with the development.
- 3 A section 94 plan cannot provide levies for other forms of infrastructure without express ministerial approval.
- 4 The Minister has the power to direct that monies collected are expended within a reasonable time.
- 5 Where the current section 94 plan is funding infrastructure which is not key community infrastructure, it can only continue to do this if it has already entered into legally binding arrangements to use the money.

State Infrastructure Contributions

These enable the Minister to determine contributions within a State contribution area. This is in addition to any community infrastructure contribution.

Voluntary Planning Agreements

Councils can enter into such agreements for key community infrastructure without ministerial approval, but cannot enter into agreements for additional community infrastructure without prior ministerial approval.

State Infrastructure Fund

The Minister may direct a consent authority to impose state infrastructure contributions and can also direct the consent authority to sell or transfer any land it receives from a state infrastructure contribution. The Act also contains savings and transitional provisions, but envisages the staged repeal of all existing section 94 contributions plans by 30 June 2015.

OTHER MISCELLANEOUS MATTERS

- Building certificates – Councils may charge a fee equivalent to a development application fee where the Applicant carried out unauthorised building work (or caused it to be carried out) in the previous twelve months.
- Statement of Environmental Effects to be mandatory with a development application.
- Councils can impose an “operating hours review” condition under section 80A(10B) in respect of certain premises such as hotels, nightclubs and entertainment facilities. Where a consent is subject to a condition limiting the hours of operation, the consent may be subject to an additional condition that the consent authority may review those hours at any time or at intervals specified in the consent. There is a right of appeal.
- Amendments in relation to places of public entertainment.
- Definition of “physical commencement” to be prescribed by regulation.

COUNCIL’S SUBMISSIONS

Two submissions were lodged in relation to the draft Bills which, in addition to supporting submissions by CENTROC and the Local Government and Shires Associations, also made to following specific points:

“Reviews and appeals

The Bill proposes a range of changes to the existing system of reviews and appeals that appear to be very complex. Council is concerned as to the complexity of the proposed system, the potential for additional costs and the possibility of opening up potential corruption risks.

Private Certification

The proposals in this area are of most concern to Council in that there seems to be a platform of further amplifying an already fundamentally flawed private certification system.

There will be a cost and training imposition on councils. Smaller councils in particular will struggle to accommodate training and accreditation costs. The main issue for Lithgow Council is that the provisions have been removed for council accreditation and for automatic accreditation to A3 level for council building assessment staff. This will create major operational and training costs. The training costs alone now faced by this Council if the Bill passes, will be in the order of \$25,000 to \$30,000.

At Lithgow one staff member will meet the requirements for all levels of accreditation out of 5 employees through Ordinance 4 qualifications. The other employees who are very experienced and skilled to A2 level, but do not have the specific stated qualifications will not be accredited.

All have university qualifications in environmental science with building attainment but not the specific qualifications or AIBS/BSAP accreditation. Council will be up for the cost of training these people and in the interim 2-4 years will only have one person available (the Manager) to act as a certifier. This will not work. Accreditation of all staff to at least A3 level is the only possible solution otherwise council will be unable to perform this role. There are no local certifiers who council would be confident in using to do this work.

A number of council staff have let BSAP and AIBS accreditation lapse as it was not considered relevant and was only a means of AIBS raising money through the provision of ineffective training that could only be accessed by people in the city.

Council is also concerned about accountability and the role that the Building Professionals Board are to be afforded. The Bill proposes that the BPB be able to take disciplinary action against accredited certifiers working at councils that can involve significant fines. Councils already have oversight, accountability, performance and disciplinary mechanisms in place and to bring into to place a system where individuals within an organisation can also be dealt with by the BPB not only is an unnecessary duplication but also unfair to local government employees in a 'double jeopardy' sense.

Council believes that the BPB's role should be restricted to acknowledging it is the council's responsibility and any enquiry or investigation should be conducted through the Council. That is, it is the council's responsibility not the individual employee's.

General Comments

The 3 week period for submissions on such critical pieces of proposed legislation is far too short to allow any meaningful review and comment and cannot be considered to be a genuine attempt at consultation. Previous experience has shown that whilst scant regard seems to be given to submissions in relation to 'planning reform' Council strongly believes that it must at least register its concerns.

It should be noted that Council does not disagree 'in principle' that the NSW planning system requires change particularly in order to simplify the Environmental Planning and Assessment Act 1979 which has now evolved into an over complicated and unwieldy piece of legislation primarily due to previous attempts at 'reform'. However, the government's proposed changes only succeed in introducing further complexity.

The draft bills will reduce the role of local councils role in planning decisions. The proposed changes to the already fundamentally flawed private certification system are of grave concern and Council would submit that these proposals in particular need to be withdrawn and reassessed immediately."

POLICY IMPLICATIONS

No immediate policy implications arise as a result of this report.

FINANCIAL IMPLICATIONS

If the Bills pass there will be financial implications imposed on councils. For example, the costs of training already experienced staff to meet certification accreditation requirements and potentially the costs of setting up and supporting IHAP's.

However, one positive proposal is to require the Land and Environment Court to make an order for payment of all the costs of the Council if the Court approves a development application that is “significantly different” from the application the subject of the appeal, where the changes were made at the request of the Applicant. It is not uncommon for a proposal, first considered by a council, to be substantially different when eventually approved by the Land and Environment Court on appeal. In these circumstances it is only fair that the proponent pays a council’s costs in relation to changes that they have initiated.

LEGAL IMPLICATIONS

Substantially the subject of this report.

P08-48 RESOLVED

THAT the information be received.

MOVED: Councillor M J Wilson

SECONDED: Councillor W McAndrew.

CARRIED

COMMUNITY AND CORPORATE SERVICES REPORTS

ITEM:6 **COMM - 06/05/08 - CONFIDENTIAL REPORT - UPDATE ON ABORIGINAL PLACE NOMINATION AND MANAGEMENT OF CROWN RESERVE CONFIDENTIAL**

REPORT FROM: POLICY & PLANNING MANAGER – AMANDA MUIR

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

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

- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land

This matter is classified confidential as it contains information on the location of an item of Aboriginal heritage. It is of significant cultural value to the local indigenous community and therefore it is not in the public interest to reveal the details of the site.

REFERENCE

Min 07-430: Council Meeting 17 September 2007

SUMMARY

This report provides an update on the nomination of an Aboriginal Place and the management arrangements for a Crown Reserve.

P08-49 RESOLVED

THAT Council consider this report in closed Council pursuant to Section 10A(2)(h) of the Local Government Act 1993.

MOVED: Councillor H K Fisher

SECONDED: Councillor M J Wilson.

CARRIED

ITEM:7 COMM - 05/05/08 - DRUG ACTION NEWSLETTER

REFERENCE

NIL

SUMMARY

This project is aimed at supporting Councils by providing information to help them respond effectively to drug and alcohol issues within their communities. This project will be an important resource when creating the Lithgow Crime Prevention Plan.

COMMENTARY

The main drug and alcohol issues of concern to Local Government (as stated in their letter dated 13/02/08) relate to the increased incidence of alcohol fuelled crime, the increasing numbers of under age drinkers, the level of rising community concern and the fear associated with escalating violence to property and people, the cost of managing the impact of substance misuse in the community and the negative impact this misuse has on the community.

All these factors can also lead to a particular community receiving a poor reputation and other related stigmas that often overshadow the positive aspects of the area.

The Local Government and Shires Association has recently completed the Local Government Drug and Information reference for NSW Councils. This guide is available at: http://www.lgsa.org.au/resources/documents/alcohol-and-other-drugs-a-reference-guide_240108.pdf

Other information on this project can be found at: www.lgsa.org.au/druginfo

The Drug Action Newsletter which is published by NSW Health and supported by the Local Government and Shires Association can be found at:

http://www.communitybuilders.nsw.gov.au/drugs_action/newsletter_index.html

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

P08-50 RESOLVED

THAT the information be received.

MOVED: Councillor M J Wilson

SECONDED: Councillor B S Moran.

CARRIED

ITEM:8 COMM - 06/05/08 - ONSITE SEWERAGE MANAGEMENT STRATEGY

Reported by: Trade Waste and Onsite Wastewater Management Officer – C. Hanrahan

REFERENCE

Min 99-178 Council Meeting 15 March 1999

Min 99-390 Council Meeting 7 June 1999

Min 99-680 Council Meeting 20 September 1999

SUMMARY

This report provides information about the changes made during the review of Council's On-site Sewerage Management Strategy

COMMENTARY

Following the recent appointment of Council's Trade Waste and Onsite Wastewater Management Officer Council's on-site sewerage management strategy, originally adopted by Council in November 1999, has been comprehensively reviewed in consultation with the Sydney Catchment Authority. Following is a list of major changes that have been made to the strategy (others are listed in the version control table in Appendix 1 of the strategy).

- Section 1.6 (prev 1.7) add “starting from when inspections begin” (relating to reporting for State of the Environment Report)
- Section 3.1.1 addition of “and vermin” and the removal of “Residuals, such as composted material, should be handled carefully. Treated sewage should not be used on edible crops that are consumed raw.” (relating to the prevention of public health)
- Section 4.2 addition of “eg investigate the feasibility of utilising GPS and palm held recording system, additional inspection staff” (with regard to identifying additional resources)
- Section 4.4 addition of “eg look at connecting un-sewered areas of townships to the sewer system, investigate the need for a pump out service based in Lithgow.” (with regard to identifying additional public infrastructure)
- Section 5.2.4 in dot point 1 addition of “These are still of concern, however stringent approval requirements under REP no.1 have assisted the situation.” (with regard to potential problem areas)
- Section 5.2.4 removal of dot point 4. (relating to sewer extension for un-sewered areas of Lithgow)
- Section 5.2.5 Update planning instrument to “Drinking water catchments regional environmental plan no.1” including associated information. (update from SEPP No.58)
- Section 5.3.3 addition of “This will be carried out by a competent person; such as a member of the Australian Society of Soil Science (Certified Professional Soil Scientist), or an agronomist, environmental scientist/engineer who is recognised by their industry body as being proficient.” (with regard to soil testing)
- Section 5.3.6 changes to inspection regime (low risk moving from no inspections to random inspections, medium risk from 3-5 years to every 5 years, high risk same at annual inspection, AWTS’ from inspections based on risk category to random inspections)
- Section 5.4.3 change from “may also choose to determine weightings” to “will use predetermined weightings” (relating to assigning risk category to a system)
- Section 5.4.5 inspection regime altered to reflect changes in Section 5.3.6 (refer to information on Section 5.3.6 above)
- Section 5.5.4 change from “48 hours” to “12 hours” (relating to inspecting an emergency)
- Section 5.5.9 change from “council officers will visit the site and conduct the required inspection, fees to be charged for the visit are to be determined by council” to “a Council Officer may inspect the on-site wastewater system. Inspection fees to be charged for the visit are to be determined by Council. Council may issue a Penalty Infringement Notice.” (relating to inspecting an AWTS that is not providing service reports as required)
- Section 5.6.1 change from “48 hours” to “12 hours” (relating to inspecting an emergency)
- Section 6.2 as a whole (6.2.1 – 6.2.7) updated legislation and addition of legislation details.
- Section 6.3 new section “Educational Materials”
- Section 6.4 renamed and updated 6.3 from version 1. “Standards and Guidelines Applying to On-site Sewage Management Systems”
- Section 6.5 update heading to Planning Instruments and updated the relevant planning instruments
- Attachment 1 – some changes to risk factors, addition of weightings on risk levels

- Attachment 2 – replaced with: Risk Assessment Factors: Definitions and Parameters. To be used in conjunction with Attachment 1. Old attachment 2 needs to be redeveloped as an inspection sheet from the information in new Attachment 6.
- Attachment 6 – replaced. Old attachment 6 details are located in section 6.4 with updated information. New section 6 – Inspection checklist, which the inspection sheet will be based around.

It is important to note that the onsite sewage management strategy is a State directed process that Council is required to undertake with the aim to manage public health and environmental impacts. However, Council now has the resources of a dedicated officer to substantially fulfil its inspection and upgrading obligations. To this end it will be necessary to satisfy the aims of the program to ensure any failing systems are upgraded.

An education program has commenced, with information on the program available on the Council website. Further education will take place prior to inspections and charging of residents. Information has appeared in the Council column and Council Connections, and letters have started to be sent to residents explaining the program, informing them of their upcoming inspection and any charges they are likely to face. Other information has also appeared in the local media. Inspections are booked to start in the first week of May and many residents have already received their 5 year “approval to operate” (licence).

POLICY IMPLICATIONS

Implementation of the strategy will commence fully once the revised strategy is endorsed by Council. An implementation regime has been devised and is included as an attachment to this report.

FINANCIAL IMPLICATIONS

Following are the fees and charges that are to be collected from the implementation of the strategy. These fees are already listed in the 07/08 Council Management Plan and some changes are proposed in the draft 2008/2009 fees and charges currently on exhibition. The implementation of the strategy is designed to be a “user-pays” system.

Council Charges	Fee	Details of Fee
Approval to operate	\$150	Approval to operate is currently for a period of 5 years except for any systems assessed as being high risk, where the charge is an annual charge
Inspection Fee	\$70	Inspection frequency depends on the risk category assigned to a property.
Re-inspection Fee	\$70	If there are problems with a system more inspections may be required.

Council has also been awarded a grant from the Sydney Catchment Authority for \$20,000 to use in the purchase of a vehicle for the position. There are a number of conditions on this, most of which have been met.

LEGAL IMPLICATIONS

Council has obligations under the Local Government Act 1993, Environmental Planning and Assessment Act 1979, and Protection of the Environment Operations Act 1997 that relate to the approval, regulation and monitoring of on-site wastewater management systems.

P08-51 RESOLVED

THAT changes to the strategy be adopted so that the implementation of the program can proceed.

MOVED: Councillor H K Fisher

SECONDED: Councillor M J Wilson.

CARRIED

QUESTIONS WITHOUT NOTICE

QWN - 06/05/08 - COUNCILLOR H K FISHER

1. Mr Mayor can Council please investigate as to why residents are being sent to Bathurst and Katoomba for X-Rays and as to why they are not able to have them done in Lithgow? Does Lithgow not have the facilities?

The Mayor deemed this as urgent and advised that Council will write to the State Member seeking his advice.

2. Mr Mayor can Council explain as to why the Community Health Committee has still not been formed?

The General Manager through the Mayor advised that only two applicants were received in relation to interest of this committee. Council at this time still has not had any interest from SWAHS, local GP's or Local Dentists, hence the reason for a committee not being formed.

3. Mr Mayor I refer to the proposed Aquatic Centre and ask if a public meeting can be held to seek just how many people do support this proposal?

The Mayor deemed this as urgent and advised that a survey was completed by the residents and support was given. A public meeting was not supported whilst the plan was on exhibition and that was the process to be used with the Management Plan briefings.

QWN - 06/05/08 - COUNCILLOR B S MORAN

1. Mr Mayor can Council advise if we have representatives on the SWAHS Board?

The Mayor advised that there are no Council representatives but a community member, Mr Stan Williams.

P08-52 A SUSPENSION OF STANDING ORDERS was moved to complete the Policy and Strategy Committee Agenda at 6.30pm.

MOVED: Councillor M J Wilson

SECONDED: Councillor M M Collins.

CARRIED

QWN - 06/05/08 - COUNCILLOR MCANDREW

1. Mr Mayor are you aware that Councillor Ticehurst has a new website with references on YouTube in regards to Council? Does Councillor Ticehurst have a login and of so, what is it?

The Mayor deemed this as urgent and Councillor Ticehurst advised Council that he is not aware of this new website.

2. Mr Mayor I refer to the proposed Aquatic Centre and ask Council if a petition is classed as a submission for the Centre?

The Mayor deemed this as urgent and advised that yes petitions are classed as submissions but as a single submission only.

QWN - 06/05/08 - COUNCILOR A E THOMPSON

1. Mr Mayor I refer to Lithgow being without a Chamber Magistrate for the past two months. Can Council make representations to the Local Member to see when they will be replaced?

The Mayor deemed this as urgent and advised that Council was not aware of this but will write to the Local Member requesting for an investigation into this matter.

P08-53 The meeting suspended at 6.41pm. A **SUSPENSION OF STANDING ORDERS** was moved to deal with the remainder of the agenda at the end of the Finance and Services Committee Meeting.

Moved: Councillor H K Fisher
CARRIED

SECONDED: Councillor M J Wilson.

The meeting reopened at 7.40pm

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

MAYORAL MINUTE - CONFIDENTIAL - 06/05/08 - GAS WORKS SITE

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

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 not in the public interest to reveal all details of the proposed contract for sale. The Company has provided sensitive information about their proposed operations in the confidence that their details will not be made public by council. The practice of publication of sensitive information provided in the proposal could result in the withholding of such information in the future and reduction in the provision of information relevant to council's decision.

ITEM: 6 COMM - 06/05/08 - CONFIDENTIAL - UPDATE ON ABORIGINAL PLACE NOMINATION AND MANAGEMENT OF CROWN RESERVE

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

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

- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land

This matter is classified confidential as it contains information on the location of an item of Aboriginal heritage. It is of significant cultural value to the local indigenous community and therefore it is not in the public interest to reveal the details of the site.

The General Manager asked for objections from the Public as to the confidential report. There were NIL objections to this report.

Policy Closed Meeting started at 7.40

CLOSED REPORTS

MAYORAL MINUTE - CONFIDENTIAL - 06/05/08 - GAS WORKS SITE

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

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It is not in the public interest to reveal all details of the proposed contract for sale. The Company has provided sensitive information about their proposed operations in the confidence that their details will not be made public by council. The practice of publication of sensitive information provided in the proposal could result in the withholding of such information in the future and reduction in the provision of information relevant to council's decision.

P08-54 RESOLVED

THAT:

1. Council agree to a conditional contract for the sale of the former Gas Works Site as outlined.
2. The Common Seal be affixed to the contract of sale between Council and Ultra Services Pty Ltd.

MOVED: Councillor Neville Castle
CARRIED

SECONDED: Councillor W McAndrew.

ITEM: 6 COMM - 06/05/08 - CONFIDENTIAL - UPDATE ON ABORIGINAL PLACE NOMINATION AND MANAGEMENT OF CROWN RESERVE

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

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- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land

This matter is classified confidential as it contains information on the location of an item of Aboriginal heritage. It is of significant cultural value to the local indigenous community and therefore it is not in the public interest to reveal the details of the site.

P08-55 RESOLVED

THAT the information be received.

MOVED: Councillor W McAndrew
CARRIED

SECONDED: Councillor M J Wilson.

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 report:

MAYORAL MINUTE - CONFIDENTIAL - 06/05/08 - GAS WORKS SITE

P08-54 RESOLVED

THAT:

1. Council agree to a conditional contract for the sale of the former Gas Works Site as outlined.
2. The Common Seal be affixed to the contract of sale between Council and Ultra Services Pty Ltd.

MOVED: Councillor Neville Castle
CARRIED

SECONDED: Councillor W McAndrew.

**ITEM: 6 COMM - 06/05/08 - CONFIDENTIAL - UPDATE ON ABORIGINAL
PLACE NOMINATION AND MANAGEMENT OF CROWN RESERVE**

P08-55 RESOLVED

THAT the information be received.

MOVED: Councillor W McAndrew
CARRIED

SECONDED: Councillor M J Wilson.

The Meeting closed at 7.45pm.