



LITHGOW CITY COUNCIL

MINUTES

ORDINARY MEETING OF COUNCIL

HELD ON

20 MAY 2008

**MINUTES OF THE LITHGOW CITY COUNCIL MEETING
HELD AT THE CIVIC CENTRE, LITHGOW ON 20 MAY 2008**

Meeting Commenced 6.01pm

Public Gallery: 19

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
Group Manager Community and Corporate, Ms Suzanne Lollback
Executive Assistant, Miss Casey Clarke
Minutes Secretary, Miss Cortney Wood

The Mayor noted the sad passing of Councillor Ted Wilson (former Mayor of Blaney Shire Council) and advised of a foundation being set up for Motor Neuron Disease and advised a Mayoral Minute will be brought back to Council on this, and a challenge for Councillors in the Centroc region to be organ donators.

CONFIRMATION OF MINUTES

Confirmation of the Minutes of the Ordinary Meeting of Council held on the 21 April 2008 were taken as read and confirmed by Councillors M M Collins and W McAndrew

**008-57 RESOLVED
CARRIED**

DECLARATION OF INTEREST

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

Councillor Michael Wilson declared a pecuniary interest in Item 4 of the Agenda due to Delta Electricity being his employer. 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: -

A presentation was made by Mr Ted Lester on Item 2 of the Agenda- Proposed Aquatic Centre.

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MAYORAL MINUTE

ITEM:1 MAYORAL MINUTE - CONFIDENTIAL - LATE ITEM - 20/05/08 - REPLACEMENT OF THE GENERAL MANAGER CONFIDENTIAL

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.

Reason for Confidentiality

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

- (a) personnel matters concerning particular individuals (other than councillors)

008-58 RESOLVED

THAT Council consider this report in closed Council pursuant to Section 10A(2)(a) of the local government Act 1993.

MOVED: Councillor Neville Castle
CARRIED

SECONDED: Councillor B S Moran.

NOTICES OF MOTION

ITEM:2 NOTICE OF MOTION - 20/05/08 - COUNCILLOR M F TICEHURST - SPECIAL RATE VARIATION - PROPOSED NEW INDOOR AQUATIC CENTRE

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NOTICE OF MOTION

13 MAY 2008

MOTION TITLE/TOPIC:

Doc. No
GDA Ref.
Years

Special Rate Variation for the proposed new Indoor Aquatic (Heated Pool) Centre Lithgow in the 2008/2009 Lithgow City Council Draft Management Plan – Full public disclosure by the Council of all of the new proposed individual rate levies upon all Lithgow Council ratepayer categories.

Listed by: Councillor Martin Ticehurst

Date: 12 May 2008.

REFERENCE:

Lithgow City Council Draft 2008/2009 Management Plan currently on Public Exhibition until Wednesday 21 May 2008.

BACKGROUND:

Councillors would be aware that there is extensive confusion within the wider Lithgow City Council Local Government Area over the Special Rate Variation for the proposed new Indoor Aquatic (Heated Pool) Centre Lithgow as outline in the 2008/2009 Lithgow City Council Draft Management Plan which is currently on Public Exhibition until Wednesday 21 May 2008.

This Notice of Motion seeks that Council immediately confirm and fully publicly disclose and advertise all of the new proposed rate levies by their individual categories as set under Councils application for a Special Rate Variation for the proposed new Indoor Aquatic (Heated Pool) Centre Lithgow in the 2008/2009 Lithgow City Council Draft Management Plan and in the Councils formal written application for approval by the Minister for Local Government.

A Letter to the Editor of the Lithgow Mercury and a Community Newsletter has been published, indicating the following applicable individual category rating category levies as arising out of the Options as published in the 2008/2009 Lithgow City Council Draft Management Plan: -

| <u>Residential</u> | <u>Annual Rate</u> | <u>20 Years</u> | <u>Business</u> | <u>Annual Rate</u> | <u>20 Years</u> |
|--------------------|--------------------|-----------------|-----------------|--------------------|-----------------|
| Lithgow | \$40.78 | \$815.60 | Lithgow | \$320.50 | \$6,410.00 |
| Wallerawang | \$58.93 | \$1,178.60 | Wallerawang | \$241.51 | \$4,830.20 |
| Portland | \$44.83 | \$896.60 | Portland | \$59.03 | \$1,180.60 |
| S'lone/Littleton | \$60.47 | \$1,209.40 | Lidsdale | \$118.00 | \$2,360.00 |
| M'garoo Fields | \$87.23 | \$1,744.60 | Others | \$91.55 | \$1,831.00 |
| Other/Villages | \$73.35 | \$1,467.00 | Coal Mines | \$9,251.00 | \$185,020.00 |
| Farms | \$89.15 | \$1,783.00 | | | |

This Notice of Motion seeks for the Lithgow City Council to either confirm or deny the above applicable individual category rating levies or alternatively, fully publicly disclose and advertise all of the new proposed rate levies by their individual categories as set under Councils application for a Special Rate Variation for the proposed new Indoor Aquatic (Heated Pool) Centre Lithgow in the 2008/2009 Lithgow City Council Draft Management Plan and in the Councils formal written application for approval by the Minister for Local Government.

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The Lithgow City Councils confirms that the following financial information is the applicable individual category rating category levies as arising out of the Options as published in the 2008/2009 Lithgow City Council Draft Management Plan: -

| <u>Residential</u> | <u>Annual Rate</u> | <u>20 Years</u> | <u>Business</u> | <u>Annual Rate</u> | <u>20 Years</u> |
|--------------------|--------------------|-----------------|-----------------|--------------------|-----------------|
| Lithgow | | | Lithgow | | |
| Wallerawang | | | Wallerawang | | |
| Portland | | | Portland | | |
| S'lone/Littleton | | | Lidsdale | | |
| M'garoo Fields | | | Others | | |
| Other/Villages | | | Coal Mines | | |
| Farms | | | | | |

RECOMMENDATION

THAT Council immediately confirm and fully publicly disclose and advertise all of the new proposed rate levies by their individual categories as set under Councils application for a Special Rate Variation for the proposed new Indoor Aquatic (Heated Pool) Centre Lithgow in the 2008/2009 Lithgow City Council Draft Management Plan and in the Councils formal written application for approval by the Minister for Local Government.

Signed: _____



DataWorks Document Number: 419433

Councillor Ticehurst moved the **MOTION**. The Mayor called for a seconder 3 times. The motion **LAPSED** due to want of a seconder.

**ITEM:4 NOTICE OF MOTION - COUNCILLOR TICEHURST - 20/05/08 -
CRITICAL WATER STORAGE LEVEL AT OBERON DAM**

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NOTICE OF MOTION

13 MAY 2008

Doc. No
GDA Ref.
Years

MOTION TITLE/TOPIC:

Critical water storage level at the Oberon Dam and Level 5 Water Restriction at Oberon.

Listed by: Councillor Martin Ticehurst

Date: 12 May 2008.

REFERENCE:

Lithgow Council Resolution 07-506 at Ordinary Meeting of Council on 19 November 2007.

BACKGROUND:

At the Ordinary Meeting of the Lithgow City Council on Monday 19 November 2007, the Council resolved: -

"**THAT** the General Manager be delegated authority to negotiate with the parties outlined in this report to trade up to 915ML of Council's allocation for one year to achieve the most financially beneficial outcome for Council.

MOVED: Cr B P Morrissey **SECONDED:** Cr H K Fisher. **CARRIED**

The summary of the report and resolution related to the Lithgow City Council extending it's water trade agreement with Delta Electricity for up to 950ml of the Lithgow City Councils annual Fish River Water allocation over to Delta Electricity for an additional 12 months.

As most Councillors may be aware, media reports have indicated that the Oberon Dam is now at a record low of just over 16 per cent and is expected to hit 15 per cent within the next weeks. This is down more than 5% since November 2007 despite substantial rain.

The General Manager of Oberon Shire Council has indicated that at 15%, it will trigger a further 20 per cent cut to Delta Electricity's water allocation and will keep the Oberon community on it's current Level 5 Water Restrictions.

I understand that State Water & Fish River has called a Special Drought Management Meeting for Friday 16 May 2008 to discuss the looming water crisis at the Oberon Dam.

I understand Delta Electricity have publicly said that a cut in their water allocation will not affect power production at Wallerawang and Mt Piper with the company taking extra water from the nearby Springvale Mine at Lidsdale.

RECOMMENDATION

THAT Lithgow City Council immediately suspend it's water trade agreement contract with Delta Electricity under Council Resolution 07-506 until such time as there is a substantial improvement in water storage levels at the Oberon Dam.

Signed: _____

MF Ticehurst

DataWorks Document Number: 419436

Councillor Wilson declared a pecuniary interest in this item due to Delta Electricity being his employer. He vacated the Chamber.

The **MOTION** was **MOVED** by Councillor Ticehurst and **SECONDED** by Councillor Fisher. The Motion was put to a vote and **LOST**.

GENERAL MANAGER REPORTS

ITEM:5 GM - 20/05/08 - ANSWERS TO QUESTIONS - COUNCILLOR M F TICEHURST

REFERENCE

Finance and Services Committee – 3 March 2008

SUMMARY

To provide answers to questions asked by Councillor M Ticehurst to Council's Finance and Services Committee of 3 March 2008.

COMMENTARY

At Council's Finance and Services Committee of 3 March 2008 Councillor M Ticehurst asked a number of questions via a Notice of Motion. In response to these questions it was resolved to provide a report back to the May Ordinary meeting of Council. To this end, the questions and responses are provided below.

1. Could the Mayor provide the Council, Councillors and ratepayers with an update on the current status of the land and building ownership of the CWA Hall in Portland?

The land and buildings at Portland occupied by the CWA are owned by Council. Discussions have been held on lease arrangements but the matter is yet to be finalised.

2. Could the Mayor provide the Council, Councillors and ratepayers with an update on the current status of the Councils land acquisition of Rydal Road involving the stacks at Rydal?

Solicitors for the landholder have provided Council's Solicitor with a copy of a Court of Appeal Judgment which, at face value, appears to have upheld a principle that compensation should include value of works done prior to acquisition. Council's Solicitor has arranged a Barristers opinion prior to proceeding and the landholders Solicitor has been advised.

3. Could the Mayor provide the Council, Councillors and ratepayers with an update on the current status of the next construction stage of Farmers Creek in Lithgow, including full financials for the project?

Work is progressing well on the project with significant excavation undertaken. Two major concrete pours have been completed to provide footings and a number of massblocks have been put in place. This process will continue followed by concreting the floor, backfilling and removal of the obsolete concrete wall. Quotations have also been sought for the replacement pedestrian bridge. Funding for the project is \$1.2million in the 2007/2008 Budget of which \$800,000 is sourced through Regional Flood Mitigation Program. Proposed funding for 2008/2009 is \$900,000 of which \$600,000 is to be sourced through the Regional Flood Mitigation Program.

4. Could the Mayor provide the Council, Councillors and ratepayers if they are aware of any community proposal to establish an indoor Tennis Centre in Lithgow?

There is no known proposal that has been put to Council for the establishment of an indoor tennis centre.

5. Could the Mayor provide the Council, Councillors and ratepayers with any information on the Council's future intentions for Christmas decorations and lights in the Lithgow, Portland and Wallerawang Central Business Districts?

There is no proposal for Christmas decorations and lights in the Lithgow, Portland and Wallerawang Business Districts, nor has any provision been put forward in the draft management plan.

6. Could the Mayor provide the Council, Councillors and ratepayers with an update on the number of infringement notices issued by the Council, the offences, the amount of fines, Council income from infringement notices and separately, a similar individual breakdown for the Lithgow CBD?

The following amounts in fines have been issued for the current financial year:

Parking (Lithgow CBD) \$35 243.00
Food Inspections: \$2 640.00
Companion Animals: \$17 555.00
Protection of the Environment Operations Act \$11 250.00

7. Could the Mayor provide the Council, Councillors and ratepayers with an update on the recent sewerage failures in Tweed Road, the final costing for both the both the maintenance and replacements of three pump stations.

The station consists of 2 pumps - 1 duty and 1 standby (ie only 1 pump operates at any one time). The incident that it is believed Councillor Ticehurst refers was not a major failure. The duty pump was removed temporarily and sent for repair and the standby pump was brought into operation. These repairs were made and the pump returned. Upgrades to a number of pumping stations will be required in the next 5 years particularly in the South Bowenfels Catchment. Major works to Tweed Mills is tentatively planned for 2010/2011.

8. Could the Mayor provide the Council, Councillors and ratepayers with an update on the Council apparent acquisition of substantial quantities of rail ballast from Ralcorp following their recent track work upgrade in Lithgow and how will the Council be using or disposing of the contaminated rail ballast?

No ballast is known to have been acquired by Council. If a Councillor or member of the public has any evidence to the contrary then this should be provided to the General Manager.

9. Could the Mayor provide the Council, Councillors and ratepayers with advice if relatives of the late Thomas Hope Knox, the previous owner of the \$85,000 land upon which the Meadow Flat Hall is located and which Council recently acquired, have lodged a claim for compensation?

There is no further information that can be reported at this stage on this matter.

10. Could the Mayor provide the Council, Councillors and ratepayers with an update on when the previously Council approved development for a Bulky Goods facilities and the Four Cinema Complex on the Pottery Estate (near the Warehouse/Aldi) is proposed to begin?

No record can be found indicating that a development application has ever been lodged for a Cinema Complex/Bulky goods facility in the Pottery Estate area.

POLICY IMPLICATIONS

No specific policy implications arise.

FINANCIAL IMPLICATIONS

No specific financial implications arise except as individually outlined.

LEGAL IMPLICATIONS

No specific legal implications arise except as individually outlined.

008-59 RESOLVED

THAT the information be received.

MOVED: Councillor M F Ticehurst

SECONDED: Councillor M M Collins.

CARRIED

REGIONAL SERVICES REPORTS

ITEM:6 REG - 20/05/08 - INVINCIBLE COMMUNITY CONSULTATIVE COMMITTEE REQUEST - USE OF DEVELOPER CONTRIBUTIONS - CULLEN BULLEN PROGRESS ASSOCIATION AND CULLEN BULLEN TIDY TOWNS

REPORT BY: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

REFERENCE

Finance & Services Committee – 6 May 2008

SUMMARY

This report outlines the results of a meeting with representatives of Cullen Bullen Tidy Towns and Cullen Bullen Progress Association to enable developer contributions from Invincible Colliery to be properly expended on 'public infrastructure' whilst still allowing for the restoration of St Brendan's Church, Cullen Bullen and roof restoration and other remedial works to the Progress Hall at Cullen Bullen.

COMMENTARY

Council will recall its resolution from its Finance and Services Committee of 6 May 2008 that "a meeting be convened between the Mayor, General Manager and Executives of Cullen Bullen Tidy Towns and the Cullen Bullen Progress Association to discuss their submissions on the application of funds from the Section 94 Contributions in relation to the Invincible Open Cut Mine."

Council will also recall that as part of the Ministerial consent issued under Part 3A of the Environmental Planning and Assessment Act 1979 for the establishment of the Invincible Open Cut Coal Mine, condition 12 indicates that a contribution of \$38,857.50 be paid to Council for the 'provision of community facilities in the Cullen Bullen area.' Additionally, as part of a Modification issued by the Minister for Planning an additional \$19,895.05 is to be paid by the company on or before the 31 May 2008. As such, after 31 May 2008, \$58,752.55 will have been collected by Council for provision of community facilities in the Cullen Bullen area.

A Community Consultative Committee (CCC) was also required to be formed as part of the consent and in its role the committee received requests from Cullen Bullen Tidy Towns for the restoration of Cullen Bullen (Saint Brendan's) Church, and the Cullen Bullen Progress Association for restoration of the Cullen Bullen Hall.

Cullen Bullen Tidy Towns – Primarily restoration work Cullen Bullen (Saint Brendan's) Church – the Tidy Towns group have indicated that this church is the only church left in Cullen Bullen open to all denominations. The works include (costs highlighted);

- Purchase and Installation of water tank, stand and fittings to rear of church building **\$1005.10**
- Purchase and installation of carpet and underlay for entire building **\$4,840.00**

- Restoration of 19 pews **\$3,000.00**
- Purchase and installation of two plain solid exterior doors and fittings **\$1938.00**
- Free standing church sign in front churchyard **\$323.00**
- Purchase exterior paint/brushes undercoat for external painting **\$300.00**
- Contribution to Lithgow City Council towards cost of community notice board **\$500.00**
- Complete memorial rock garden in front of Cullen Bullen Progress Hall **\$234.00**

The total submission amounts to \$12,140.10.

Cullen Bullen Progress Association – Proposed Restoration works to Cullen Bullen Hall – this community hall is used predominantly by the people of Cullen Bullen as a meeting area. The works include (costs highlighted);

- Main Hall Roof, Guttering and downpipes **\$18,150.00**
- Catering Area Roof, Guttering and Downpipes **\$7348.00**
- Renovation of toilets at Community hall **\$17,539.83**

The total submission amounts to \$43,037.83 all of which is to be used on the restoration of the Cullen Bullen Hall.

Concerns were brought to Council's attention that should the requests be approved they would not be spent on public infrastructure in the sense that neither facility is owned by "the public", i.e. Council. As a consequence a meeting was convened in accordance with the Finance and Services Committee resolution.

Various options were discussed with both groups but eventually all parties agreed to a solution (subject to Council approval) where the developer contributions, to an amount of \$55,177.93 would be expended on the public toilet development in the Cullen Bullen Park and equal amount would be 'donated' to each group in accordance with their requests. In this way the developer contributions are spent on 'public' infrastructure whilst allowing the other community works to proceed. The balance of \$3,574.62 could be internally restricted for 'public infrastructure works' at Cullen Bullen.

POLICY IMPLICATIONS

No specific policy applies to these set of circumstances.

FINANCIAL IMPLICATIONS

If the suggested solution is approved \$55,177.93 would need to be transferred to the public toilet project from developer contributions and an equivalent amount donated to each group. This will have no impact on the Council budget as the contributions are from an external funding source.

LEGAL IMPLICATIONS

Section 94 of the Environmental Planning and Assessment Act relates to local infrastructure contributions. Section 94 provides that:

“if a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:

- (a) the dedication of land free of cost, or
- (b) the payment of a monetary contribution, or both”

The ‘funding swap’ will allow the contributions to be properly expended on public amenities.

008-60 RESOLVED

THAT:

1. An amount of \$55,177.93 from developer contributions be expended on the Cullen Bullen Public Toilet project in the 2007/2008 budget with the remaining \$14,822.07 of the \$70,000 budget to be funded from Council funds.
2. An amount of \$55,177.93 be transferred from the Cullen Bullen Public Toilet project in the 2007/2008 budget to allow donations of \$12,140.10 to Cullen Bullen Tidy Towns and \$43,037.83 to the Cullen Bullen Progress Association for works outlined in this report.
3. The balance of \$3,574.62 of Invincible Developer contributions be internally restricted for ‘public infrastructure works’ at Cullen Bullen.
4. Invincible Colliery be appropriately acknowledged for its contribution toward the public toilet project.
5. Cullen Bullen Tidy Towns and Cullen Bullen Progress Association be requested to acknowledge Council’s contribution toward their projects.

MOVED: Councillor H K Fisher

SECONDED: Councillor W McAndrew.

CARRIED

ITEM:7 REG - 20/05/08 - XSTRATA LANDS

REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

REFERENCE

Ordinary meeting – 18/12/06
Ordinary meeting – 16/04/07
Policy & Strategy Committee – 04/06/07
Policy & Strategy Committee - 03/12/07

SUMMARY

To advise Council of further negotiations in relation to an Expression of Interest lodged in relation to Xstrata lands.

COMMENTARY

Council will recall its resolution of 3 December 2007 to continue to negotiate the acquisition of land from Xstrata Pty Ltd. The lands in question are known as items 1 (1a – 1e), 2 and 8 in the 'prospectus' document commissioned by Xstrata. Council may recall the details of these parcels as follows:

Parcel 1

This consists of an old 'rail/tram line' at the rear of property in Stephenson Street which has been used as a 'de-facto' laneway and adjoining lands in parcels 1a to 1e on attached maps.

Parcel 2

Parcel 2 is land zoned Open Space off Wirraway Street.

Parcel 8

Part of this parcel 8 adjoins the Lithgow landfill.

The company has put forward a proposal seeking costings from Council to construct a right of carriageway, water and sewerage to a two lot subdivision at the end of Gell Street (see attached plan). This would enable the separation of an existing dwelling onto its own allotment. Under this possible scenario Council would provide services to the potential subdivision at the northern end of Gell Street and in a 'quid pro quo' land off Stephenson Street would be 'sold' to Council for nominal consideration. Preliminary costings have been undertaken for the provision of these services which indicate the following:

- Water \$60,750
- Sewer \$77,100 (in addition, it also appears likely that a pumping station will be required)
- Construct Right of Way to gravel standard - \$11,000
- Contingency (particularly considering likelihood of pumping station) - \$50,000
- Total estimate = \$198,850 say \$200,000

It is considered likely that an amount of \$200,000 would be greater than the value of the land off Stephenson Street and consequently this proposal does not appear to be attractive. It is difficult to conduct any further negotiations as Council has no funds to put to the purchase of land and the company has indicated that the matter needs to be finalised by 30 July 2008. It is suggested that Council request Xstrata to dedicate items 1 (1a – 1e), 2 and part of parcel 8 (adjacent to the Lithgow landfill) identified as such in the 'prospectus' document commissioned by Xstrata. Whilst the company is under no obligation, at least this request should bring the matter to a conclusion.

POLICY IMPLICATIONS

Council's policy on asset acquisition will apply if Council is contemplating acquiring any of the lands. The Policy follows:

OBJECTIVE: To ensure Council considers the full life cost of all asset acquisitions prior to entering into any process to acquire/develop future assets.

POLICY:

When considering the acquisition and/or development of assets, Council will take into consideration;

- *The comparative long term ownership costs of the asset;*
- *Evidence of community demand for the provision or retention of the asset;*
- *The strategic worth of the asset and its community benefit;*
- *Whether the asset provides Council as positive return on the investment, and*
- *The extent to which the asset is subsidised by the community, through the use of general rate revenue.*

The long term ownership costs of asset acquisition and/or development must take into account;

- *Acquisition or Development costs;*
- *The cost of providing finance (i.e. opportunity costs and interest charges);*
- *Any warranty period applicable;*
- *The length, value and cost of any applicable maintenance agreements;*
- *The lifetime maintenance profile and costs;*
- *Energy consumption and projected costs;*
- *Any residual value (where applicable);*
- *An investigation of alternative acquisition arrangements, eg. Purchase, lease, rent, public partnership or resource sharing;*
- *An investigation as to alternative financing arrangements, eg. User pay, grants, loan funds or private sector, and*
- *Taxation issues under competition policy;*

Reports to Council on the acquisition and/or development of assets must include commentary on the above points as well as including details of (commentary in brackets);

- *Community demand* – (there is no known community demand for any of the lands, however if another party acquired parcel 1 there would likely be pressure on Council to intervene and allow continued access to the rear of properties)
- *Strategic Worth to the Community* (the strategic worth to the community is considered negligible)
- *Asset return* (there is potential for some asset return on parcel 1, however development costs are difficult to predict), *and*
- *A comparison of long term ownership costs* (There are likely to be long term ownership costs if Council acquires any of the lands and holds them for a significant period)

FINANCIAL IMPLICATIONS

There will be financial implications to Council depending on whether Council chooses to acquire any of the lands. There is no funding in the 2007/2008 budget nor any proposed for 2008/2009.

LEGAL IMPLICATIONS

Council is under no legal obligation to acquire any of the lands with the exception of privately owned open space lands where the owner may require Council to purchase the land at a market valuation. If Council decides to undertake works on private lands it will need to conform with reporting requirements under the Local Government Act and may also need to consider Public Private Partnership issues.

RECOMMENDATION

THAT Council request Xstrata to dedicate lands identified as items 1 (1a – 1e), 2 and part of parcel 8 (adjacent to the Lithgow landfill) in the ‘prospectus’ document commissioned by Xstrata.

008-61 RESOLVED

THAT

1. Council request Xstrata to dedicate lands identified as items 1 (1a – 1e), 2 and part of parcel 8 (adjacent to the Lithgow landfill) in the ‘prospectus’ document commissioned by Xstrata.
2. The General Manager be delegated to further negotiate for the dedication (free of charge) of the land adjacent to Stephenson Street.
3. The matter be reported to the next meeting of Council.

MOVED: Councillor B P Morrissey

SECONDED: Councillor M J Wilson.

CARRIED

**ITEM:8 REG - 20/05/08 - CONFIDENTIAL REPORT - SOUTH BOWENFELS
WATER PIPELINE - TENDER FOR PIPES AND FITTINGS
CONFIDENTIAL**

REPORT BY: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

Reason for Confidentiality

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)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would if disclosed:
 - (i) prejudice the commercial position of the person who supplied it

It would be prejudicial to the commercial position of the company that will be recommended to be awarded the tender if the specific detail of their tender was published.

008-62 RESOLVED

THAT Council consider this report in closed Council pursuant to Section 10A(2)(d) of the local government Act 1993.

MOVED: Councillor M J Wilson
CARRIED

SECONDED: Councillor B S Moran.

CORPORATE SERVICES REPORTS

**ITEM:9 COMM - 20/05/08 - TRANSFER OF DRAINAGE EASEMENT ON LOT
22 DP 789285, WILLIWA STREET, PORTLAND**

REPORT FROM: POLICY & PLANNING MANAGER – AMANDA MUIR

REFERENCE

Nil

SUMMARY

This report recommends the releasing of a drainage easement on Lot 22 DP 789285, Williwa Street, Portland.

COMMENTARY

Council has received a request to release a 1.8 metre wide drainage easement on Lot 22 DP 789285, Williwa Street, Portland which Council is the beneficiary of. The subject land has been inspected and there is no evidence of any infrastructure within the existing easement and it is not required for any public purpose. Therefore, it is recommended that Council approve the releasing of the easement.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

The releasing of the easement is proposed at a nominal figure of \$1.00.

LEGAL IMPLICATIONS

The transfer to release the easement is occurring under the Real Property Act 1900.

008-63 RESOLVED

THAT the 1.8 metre wide drainage easement on Lot 22 DP 789285 be released for the nominal sum of \$1.00 and any legal costs being borne by the transferee.

MOVED: Councillor B S Moran
CARRIED

SECONDED: Councillor M J Wilson.

COMMITTEE MEETINGS

ITEM:10 REG - 20/05/08 - SPORTS ADVISORY COMMITTEE - MINUTES 28TH
 APRIL 2008

REPORT BY: STRATEGIC ENGINEER – LEANNE KEARNEY

SUMMARY

Details of the Minutes of the Sports Advisory Committee Meeting held on Monday, 28 April 2008 for Council adoption.

COMMENTARY

At the Sports Advisory Committee Meeting held on Monday, 28 April 2008, there were ten (10) items discussed by the Committee, and it is considered that all these items be adopted by Council as per the Committee's recommendations.

POLICY IMPLICATIONS

Council's donations policy provides the following which require consideration where relevant:

- Council's Sports Advisory committee considers **ALL** applications for sporting related sponsorships/donations/waiving of sportsground hire fees and charges.
- The Sports Advisory Committee has existing criteria that sets the level of funding for different sporting achievements, and criteria for the Reg Cowden Memorial Sports Star of the Year Award.
- Council considers the Sports Advisory Committee's recommendations at Committee meetings of Council, and resolves to support or decline the recommendations the Committee makes.
- The request to waive or reduce fees and charges for the hire of Council's sporting facilities are considered by the Sports Advisory Committee then makes recommendations to Council.
- Council must specifically resolve to waive any fee or charge and will do so after considering the Sports Advisory Committee's recommendations.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

008-64 RESOLUTION

THAT Council note the recommendations of the Sports Advisory Committee for the meeting held on Monday, 28 April 2008.

MOVED: Councillor B P Morrissey
CARRIED

SECONDED: Councillor M J Wilson.

**ITEM:11 REG - 20/05/08 - TRAFFIC AUTHORITY LOCAL COMMITTEE
MEETING - MINUTES OF 3RD APRIL 2008**

REPORT BY: GROUP MANAGER REGIONAL SERVICES– ANDREW MUIR

SUMMARY

Details of the Minutes of the Traffic Authority Local Committee Meeting held on 3 April, 2008 for Council adoption.

COMMENTARY

At the Traffic Authority Local Committee Meeting held on 3 April, 2008 there were 9 items discussed by the Committee, and it is considered that all these items be adopted by Council as per the Committee's recommendations.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Minutes of the Traffic Authority

RECOMMENDATION

THAT the Minutes of the Traffic Authority Local Committee be adopted.

008-65 RESOLUTION

THAT

1. The Minutes of the Traffic Authority Local Committee be noted.
2. The Council refer Item 4 back to the Traffic Authority Local Committee with additional information provided that the trees will be pruned.
3. The Council refer Item 9 (Eskbank Street Car Park) back to the Traffic Authority Local Committee with a report outlining issues.

MOVED: Councillor H K Fisher

SECONDED: Councillor M J Wilson.

CARRIED

QUESTIONS WITHOUT NOTICE - URGENT BUSINESS

QWN - 20/05/08 - COUNCILLOR W MCANDREW

1. Mr Mayor, can a report be brought back to Council for the following:

1. What level of contribution to the capital cost of the aquatic centre will be made by the PCYC?
2. It has been suggested that the PCYC will manage the centre, if so, will the PCYC manage the entire centre or just parts of it? If Council is required to play some role in the management of the centre what would be the cost?
3. If PCYC are to fully or partially manage the centre, what will be the terms of the contract between Council and PCYC and more importantly what will be the length of the contract?
4. Aside from capital, management and loan costs, does Council have some idea of what the ongoing costs of the centre may be?

The Mayor advised that this is accepted as a matter of urgency and the General Manager provided verbal answers, however the General Manager will provide the answers in writing to all Councillors.

QWN - 20/05/08 - COUNCILLOR A THOMPSON

1. Mr Mayor can a report be brought back to Council on the percentages rates contribute to infrastructure and facilities?

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

QWN - 20/05/08 - COUNCILLOR MM COLLINS

1. Mr Mayor, has the Rudd Government had any bearing on Regional Partnership projects?

The Mayor advised that Council was successful in regaining regional partnership funding for the Crystal Theatre and the hockey water based turf, however other applications have to be reconsidered.

2. Mr Mayor, has there been an extension for submissions on the Management Plan?

The Mayor advised that there was no extension on submissions to the Management Plan and the closing date is tomorrow 21 May 2008.

QWN - 20/05/08 - COUNCILLOR MF TICEHURST

1. Mr Mayor, will PCYP cover all ongoing costs? Can the council also advise if the public will have to become a member of PCYC to use the pool?

The Mayor advised that there should be no ongoing costs as they will be incurred by PCYC. The Mayor also advised that he will take on notice if the public will have to become a member of PCYC to use the pool.

2. Mr Mayor, Management Plan Meeting that was cancelled, will it be rescheduled?

The Mayor advised that the meeting was cancelled due to staffing matters and will be rescheduled in the near future.

3. Mr Mayor, can the Council provide an update regarding the driveway at Girraween Drive Marrangaroo? There is also a dangerous section joining road way.

The Mayor advised that the job had been completed.

4. My Mayor, is it a breach of privacy disclosing that a complaint had been received by Mrs Anderson?

The Mayor advised that no it was not, he was simply answering the question.

QWN - 20/05/08 - COUNCILLOR B MORRISSEY

1. Mr Mayor, has Councillor Ticehurst apologised to Mrs Anderson?

The Mayor advised that late this afternoon was in receipt of a complaint from Mrs Anderson as she has not received an apology as yet from Councillor Ticehurst.

The Mayor asked Councillor Ticehurst if he had provided an apology to Mrs Anderson. Councillor Ticehurst responded by advising that he was unable to answer the question, due to Mrs Anderson's Solicitor being in the Chamber.

QWN - 20/05/08 - COUNCILLOR B MORAN

1. Mr Mayor, can you provide an update as to the previous complaint regarding the crossing at McDonalds Lane Wallerawang?

The Mayor advised that the residents have been contacted, a replacement mirror is on order and the issues will be reviewed by TALC.

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

MAYORAL MINUTE - CONFIDENTIAL

ITEM:1 MAYORAL MINUTE - CONFIDENTIAL - LATE ITEM - 20/05/08 - REPLACEMENT OF THE GENERAL MANAGER CONFIDENTIAL

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)
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- (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.

Reason for Confidentiality

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- (a) personnel matters concerning particular individuals (other than councillors)

**ITEM:8 REG - 20/05/08 - CONFIDENTIAL REPORT - SOUTH BOWENFELS
 WATER PIPELINE - TENDER FOR PIPES AND FITTINGS
 CONFIDENTIAL**

REPORT BY: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

Reason for Confidentiality

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

- (d) commercial information of a confidential nature that would if disclosed:
 - (i) prejudice the commercial position of the person who supplied it

It would be prejudicial to the commercial position of the company that will be recommended to be awarded the tender if the specific detail of their tender was published.

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

There were NIL objections to these reports.

008-66 RESOLVED

THAT Council go into closed Council to consider the confidential reports.

MOVED: Councillor M M Collins

SECONDED: Councillor M J Wilson.

CARRIED

Closed Council commenced at 7.28pm

**ITEM:8 REG - 20/05/08 - CONFIDENTIAL REPORT - SOUTH BOWENFELS
WATER PIPELINE - TENDER FOR PIPES AND FITTINGS
CONFIDENTIAL**

REPORT BY: GROUP MANAGER REGIONAL SERVICES – ANDREW MUIR

Reason for Confidentiality

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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- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
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- (d) commercial information of a confidential nature that would if disclosed:
 - (i) prejudice the commercial position of the person who supplied it

It would be prejudicial to the commercial position of the company that will be recommended to be awarded the tender if the specific detail of their tender was published.

008-67 RESOLVED

THAT the tender for the supply of pipes and fittings for the construction of a pipeline at South Bowenfels be awarded to Tyco Water Pty Ltd for the tendered amount as outlined in this report.

MOVED: Councillor B P Morrissey

SECONDED: Councillor M J Wilson.

CARRIED

All staff vacated the Chambers except for the General Manager.

MAYORAL MINUTE - CONFIDENTIAL

ITEM:1 MAYORAL MINUTE - CONFIDENTIAL - LATE ITEM - 20/05/08 - REPLACEMENT OF THE GENERAL MANAGER CONFIDENTIAL

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.

Reason for Confidentiality

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

- (a) personnel matters concerning particular individuals (other than councillors)

RECOMMENDATION

THAT:

1. The Information regarding the replacement of the General Manager be noted.
2. A committee of four comprising of the Mayor, Deputy Mayor and two Councillors be selected to carry out the short listing and initial interviews.

008-68 RESOLVED

THAT

1. The Information regarding the replacement of the General Manager be noted.
2. A committee of four comprising of the Mayor, Deputy Mayor and two Councillors, Councillor Collins and Councillor Fisher, be selected to carry out the short listing and initial interviews.

MOVED: Councillor Neville Castle
CARRIED

SECONDED: Councillor B S Moran.

008-69 MATTER ARISING

Council employ a locum General Manager to fulfil the role of Acting General Manager during the period of Vacancy following the departure of the current General Manager

MOVED: Councillor M M Collins
CARRIED

SECONDED: Councillor H K Fisher.

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

ITEM: 8

THAT the tender for the supply of pipes and fittings for the construction of a pipeline at South Bowenfels be awarded to Tyco Water Pty Ltd for the tendered amount as outlined in this report.

MOVED: Councillor B P Morrissey

SECONDED: Councillor M J Wilson.

CARRIED

ITEM: 1

THAT

1. The Information regarding the replacement of the General Manager be noted.
2. A committee of four comprising of the Mayor, Deputy Mayor and two Councillors, Councillor Collins and Councillor Fisher, be selected to carry out the short listing and initial interviews.

MOVED: Councillor Neville Castle

SECONDED: Councillor B S Moran.

CARRIED

MATTER ARISING

Council employ a locum General Manager to fulfil the role of Acting General Manager during the period of Vacancy following the departure of the current General Manager.

MOVED: Councillor M M Collins

SECONDED: Councillor H K Fisher.

CARRIED

The meeting closed at 7.41pm