



LITHGOW CITY COUNCIL

MINUTES

POLICY AND STRATEGY COMMITTEE
MEETING OF COUNCIL

HELD ON

07 OCTOBER 2008

**MINUTES OF THE LITHGOW CITY COUNCIL MEETING
HELD AT THE CIVIC CENTRE, LITHGOW ON 7 OCTOBER 2008**

Meeting Commenced 6.00pm

Public Gallery: 14

PRESENT

His Worship the Mayor
Councillor Neville Castle
Councillor C Hunter
Councillor M F Ticehurst
Councillor W McAndrew
Councillor H K Fisher
Councillor J J McGinnes
Councillor W Marshall

APOLOGIES

An apology was received and leave of absence granted from Councillor R Thompson and Councillor G Danaher due to both being out of the state on personal business.

MOVED: Councillor H K Fisher **SECONDED:** Councillor W McAndrew.

P08-108 RESOLVED

CARRIED

Also in attendance

General Manager, Mr Roger Bailey
Group Manager Regional Services - Mr Andrew Muir
Group Manager Community and Corporate - Ms Suzanne Lollback
Executive Assistant - Miss Cortney Wood

CONFIRMATION OF MINUTES

Confirmation of the Minutes of the Policy and Strategy Committee Meeting of Council held on the 2 September 2008 were taken as read and confirmed.

MOVED: Councillors H K Fisher **SECONDED:** Councillor W McAndrew

P08-109 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: -
There were Nil questions received.

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GENERAL MANAGER REPORTS

ITEM:1 GM - 07/10/08 - NSW CABINET - NEW MINISTERS

SUMMARY

This report outlines a press release from the Premier of New South Wales in relation to the six new faces for the NSW Cabinet.

COMMENTARY

On Monday 8th September 2008 NSW Premier Nathan Rees announced the portfolio responsibilities for his new Cabinet, including six new Ministers.

"The Ministers of my Cabinet have been assigned to Ministries, matching their experience and talent with the challenges presented in their portfolios". Mr Rees said.

"The Ministers have all committed to face the difficult challenges that lie ahead with courage, enthusiasm and hard work".

"We have matched the right people with the right jobs and I am confident that we can now get on with the job and take our State Forward".

NSW Government - Cabinet List (8th September 2008)

- **Nathan Rees** Premier
Minister for the Arts

- **Carmel Tebbutt** Deputy Premier
Minister for Climate Change and the Environment
Minister for Commerce

- **John Della Bosca** Minister for Health
Minister for the Central Coast

- **John Hatzistergos** Minister for Justice
Minister for Industrial relations

- **Eric Roozendaal** Treasurer

- **David Campbell** Minister for Transport
Minister for the Illawarra

- **Verity Firth** Minister for Education and Training
Minister for Women

- **Kristina Keneally** Minister for Planning
Minister for Redfern - Waterloo

- **Joseph Tripodi** Minister for Finance
Minister for Infrastructure
Minister for Regulatory Reform
Minister for Ports and Waterways
- **Ian McDonald** Minister for Primary Industries
Minister for Energy
Minister for Mineral Resources
Minister for State Development
- **Tony Kelly** Minister for Lands
Minister for Police
Minister for Emergency Services
- **Linda Burney** Minister for Community Services
- **Kevin Greene** Minister for Gaming and Racing
Minister for Sport and Recreation
- **Paul Lynch** Minister for Ageing
Minister for Disability Services
Minister for Aboriginal Affairs
- **Barbara Perry** Minister for Local Government
Minister Assisting the Minister for Health (Mental Health)
- **Graeme West** Minister for Juvenile Justice
Minister for Volunteering
Minister for Youth
- **Michael Daly** Minister for Roads
- **Phillip Costa** Minister for Water
Minister for Rural Affairs
Minister for Regional Development
- **Virginia Judge** Minister for Fair Trading
Minister for Citizenship
Minister for Assisting the Premier on the Arts
- **David Borger** Minister for Housing
Minister for Western Sydney
- **Tony Stewart** Minister for Small Business
Minister for Science and Medical Research
Minister Assisting the Minister for Health (Cancer)
- **Jodi Mackay** Minister for Tourism
Minister for the Hunter

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

P08-110 RESOLVED

THAT the report on the new Ministers in the NSW Cabinet be noted.

MOVED: Councillor H K Fisher **SECONDED:** Councillor W Marshall

CARRIED

**ITEM:2 GM - 07/10/08 - TANDERRA NURSING HOME - LOCAL
 GOVERNMENT ELECTION**

REFERENCE

NIL

COMMENTARY

Correspondence has been received from Tanderra Nursing Home in relation to the local government election.

The Director of Nursing wished to place a complaint on behalf of the residents and their families of Tanderra Nursing Home. They were of the understanding the Australian Electoral Commission (AEC) had representatives at their neighbouring Residential Aged Care Facility (Coinda) on Tuesday 9th September 2008.

Tanderra is home to forty seven residents in our community and their right to vote has not been facilitated in any way by the AEC. Understandably this has angered and upset many of the residents and their families.

On Wednesday 10th September 2008, the Director of Nursing made enquiries to the Returning Officer, Mr Andrew Frater who informed the Director that Tanderra was not a "Declared Institution" and therefore residents would not be visited by AEC representatives to facilitate their voting rights, despite the verbal objection from the Director of Nursing. The Director was advised that it was too late for the residents to vote in this election.

The Director of Nursing is appalled by the decision to classify Tanderra as "Not a declared institution". Who makes these decisions? Additionally as part of the Aged Care Standards and Accreditation Agency it is an *"expected outcome that residents participate in the life of the community within and outside the residential care serve"*. As the Manager of the facility, it is the Directors duty to ensure residents maintain their individual rights.

The Director of Nursing advised that despite the fact that all the residents are "high care" many still have an interest in their community and also possess the cognitive skills required to make decision such as voting, however their right to vote in this election has been neglected by the AEC.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

P08-111 RECOMMENDATION

THAT the information be noted and Council seek advice from the AEC as to why this happened and make sure it does not happen in the future.

Councillor W McAndrew declared an interest due to discussions raised in regards to Three Tree Lodge where he is a board member and vacated the chambers at 6.06pm.

Councillor HK Fisher tabled a letter from Three Tree Lodge.

RESOLVED

THAT

1. The information be noted and Council seek advice from the SEC and AEC as to why Tanderra Nursing Home and Three Tree Lodge were not dealt with as declared institutions and seek assurance that they will be in the future.
2. Council make a deputation through the State and Federal Members.

MOVED: Councillor H K Fisher

SECONDED: Councillor W Marshall

CARRIED

Councillor W McAndrew returned to the Chambers at 6.07pm.

ITEM:3 GM - 07/10/08 - CODE OF MEETING PRACTICE

REFERENCE

Min 07-493: Council Meeting, 19 November 2007
 Min P08-04: Policy and Strategy Committee Meeting, 4 February 2008
 Min O08-39: Ordinary Meeting of Council, 21 April 2008

SUMMARY

This report recommends amendments to the Council’s Code of Meeting Practice, version 6, as adopted by the Council on 21 April 2008.

COMMENTARY

All policies of Council must be reconsidered within 12 months of a general election. It is proposed that Council’s policies will be submitted to the Council for consideration over a staged period of time.

As there are 5 new elected Councillors, the Council’s Code of Meeting Practice, version 7, is tabled at the Policy and Strategy Committee meeting for consideration.

However, adoption of the Council’s Code of Meeting Practice, version 7, will be deferred to the Ordinary Meeting of the Council on Tuesday 21 October 2008 as the adoption of the Code of Meeting Practice is a function delegated to the Ordinary Meeting of the Council.

The following changes are proposed to create version 7. These changes have been highlighted in the attached Code of Meeting Practice version 7.

Part	Version 6	Version 7
Part 1, 2 Definitions	<i>“Principal committees means the Committees referred to in the Appendices.”</i>	Definitions to be placed in alphabetical order. The Definition of <i>“Principal Committees”</i> be amended to include <i>“which have delegated authority under section 377 of the Local Government Act 1993”</i> .
Part 2, 5(ii)	Currently reads: <i>“The Council has, by resolution, set the time, date and place of ordinary meetings of the Council. Ordinary meetings of the Council will commence at 6.00pm on the third Tuesday of each month and be held in the Lithgow City Council Chambers, 180 Mort Street, Lithgow.</i>	Be amended to read <i>“The Council will, by resolution, set the time, date and place of ordinary meetings of the Council. Ordinary meetings of the Council will be held in the Lithgow City Council Chambers, 180 Mort Street, Lithgow unless otherwise resolved by the Council.”</i> Note: Removing the day and date from the Code will allow the Council to vary meeting times

		and date by resolution without the need to amend the Code.
Part 3, 11 (ix) and (x)	<p>“(ix) <i>The Councillor appointed as Mayor and Deputy Mayor from time to time under section 369 [S 369] of the Local Government Act 1993 to preside at Council Meetings is authorised, pursuant to a resolution of the Council passed on 28 October 2004, to exercise the power of expulsion of a Councillor from a Council Meeting for engaging in or have engaged in disorderly conduct at the meeting, such disorderly conduct being in the nature identified in clause 256(1) [LGGR 256(1)] of the Regulation.</i></p> <p>(x) <i>The Councillor appointed from time to time as Mayor and Deputy Mayor under section 369 [S 369] of the Local Government Act 1993 to preside at Council Meetings is authorised, pursuant to a resolution of the Council passed on 28 October 2004, to exercise the power of expulsion of a member of the public engaging in or have engaged in disorderly conduct at the meeting.</i>”</p>	<p>Be amended by deleting “pursuant to a resolution of the Council passed on 28 October 2004”.</p> <p>Note: This resolution cannot be found as there is no evidence that a Council meeting was held on this date.</p>
Part 3, 15(iii)	Sections (d) and (e) to be added	<p>Be amended to include:</p> <p>“(d) <i>When a division or a motion is demanded, the Chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council’s minutes. [LGGR 251(4)]</i></p>

		<p>(e) <i>The Chairperson must call for a division of Councillors in respect of each development planning decision [s375A]. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes. [LGGR 251(4)]</i></p> <p>Note: Part (e) responds to new requirements under the Local Government Act, section 375A, for the names of those who vote for and against development planning decision to be recorded in the minutes.</p>
Part 3, 19 (i) (a)	<p>Currently reads:</p> <p><i>“(a) unless a councillor has given notice of the business in writing by noon of the Tuesday immediately preceding the meeting; and”</i></p>	<p>Be amended to delete the word ‘Tuesday’ and be replaced with ‘day one week’ by 9am of the day one week immediately preceding the meeting</p> <p>Note: Removing the day from the Code will allow the Council to vary meeting times and date by resolution without the need to amend the Code.</p>
Part 3, 33 (ii)	<p>Currently reads:</p> <p><i>‘The council will determine the system of voting, that is, either “ordinary ballot”, “first past the post” or other system of voting.’</i></p>	<p>Be amended to add the words ‘open voting’.</p> <p>Note: Schedule 7 of the Local Government (General) Regulations 2005 states that “ballot has its normal meaning of secret ballot” and “Open voting means voting by a show of hands or similar means”</p>
Part 3, 34	<p><i>“SHOW OF HANDS – BY ORDINARY BALLOT”</i></p> <p><i>“... shall be by ORDINARY BALLOT”</i></p> <p><i>“(vi) ... using the ordinary ballot method”</i></p>	<p>Be amended to read “SHOW OF HANDS – BY OPEN VOTING METHOD”; and</p> <p>Be amended to read “... shall be by OPEN VOTING METHOD”.</p> <p>Be amended to read “... using the open voting method”.</p> <p>Note: Schedule 7 of the Local Government (General) Regulations 2005 states that</p>

		<i>“ballot has its normal meaning of secret ballot’ and ‘Open voting means voting by a show of hands or similar means”.</i>
Part 5, 52 (v) and (vi)	<p>(iv) <i>“The Councillor appointed from time to time as chairperson and deputy chairperson under clause 267 of the Regulation [LGGR 267] of the Council’s Principal Committees is authorised, pursuant to a resolution of the Council passed on 28 October 2004, to exercise the power of expulsion of a Councillor from a Committee Meeting for engaging in or have engaged in disorderly conduct at the meeting, such disorderly conduct being in the nature identified in clause 256 of the Regulation [LGGR 256].</i></p> <p>(vi) <i>The Councillor appointed from time to time as chairperson and deputy chairperson under clause 267 of the Regulation [LGGR 267] of the Council’s Principal Committees is authorised, pursuant to a resolution of the Council passed on 28 October, 2004, to exercise the power of expulsion of a member of the public engaging in or have engaged in disorderly conduct at the meeting.”</i></p>	<p>Be amended to <i>“for engaging in or having had engaged in”</i></p> <p>Be amended by deleting <i>“pursuant to a resolution of the Council passed on 28 October 2004”.</i></p> <p>Note: This resolution cannot be found as there is no evidence that a Council meeting was held on this date.</p>
Part 9, 75		Be amended by removing <i>“This council may resolve itself into a committee to consider any matter before the council”</i> as it is a repeat of Part 5, 44.
Part 9, 76	Part 9, 76 of version 6	Part 9, 76 of version 6 to become Part 9, 75 of version 7.
Appendix 2	<i>“Meeting date: Third (3rd) Tuesday of the month commencing at 6.00pm.”</i>	Be amended to read: <i>“Meeting date: As resolved by the Council.”</i>

Appendix 2	<i>“Meeting date: First Tuesday of the month commencing at 6.00pm.”</i>	Be amended to read: <i>“Meeting date: As resolved by the Council.”</i>
Appendix 3	<i>“Meeting date: First Tuesday of the month commencing at 6.30pm.”</i>	Be amended to read: <i>“Meeting date: As resolved by the Council.”</i>

A number of other formatting and minor amendments have been made which do not affect the content of the document.

POLICY IMPLICATIONS

It is proposed that the Code of Meeting Practice, version 7, will replace the Code of Meeting Practice, version 6, as adopted by the Council on 21 April 2008.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

The Local Government Act 1993 states:

Section 360 – *“Conduct of meetings of councils and committees*

- (1) The regulations may make provision with respect to the conduct of meetings of councils and committees of councils of which all the members are councillors.
- (2) A council may adopt a code of meeting practice that incorporates the regulations made for the purposes of this section and supplements those regulations with provisions that are not inconsistent with them.
- (3) A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by it.”

Section 362 - *“Adoption of draft code*

- (2) If the Council decides to amend its draft code, it may publically exhibit amended draft in accordance with this Division or, if the council is of the opinion that the amendments are not substantial, it may adopt the amended draft code without public exhibition as its code of meeting practice.”

Note: Should the Council make substantial changes to the Code, the Council would need to allow, under section 361 of the Act *“a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to the council”*.

It is considered that the above proposed changes to Council’s Code of Meeting Practice are not substantial and thus do not require public exhibition.

P08-112 RESOLVED

THAT:

1. Council's Code of Meeting Practice, version 7, was tabled at the Policy and Strategy Committee meeting for consideration.
2. Adoption of the Council's Code of Meeting Practice, version 7, was deferred to the Ordinary Meeting of the Council on Tuesday 21 October 2008 as the adoption of the Code of Meeting Practice is a function delegated to the Ordinary Meeting of the Council.

MOVED: Councillor H K Fisher

SECONDED: Councillor W McAndrew.

CARRIED

**ITEM:4 GM - 07/10/08 - LOCAL GOVERNMENT ANNUAL CONFERENCE
 2008 - DELEGATES**

SUMMARY

Notification of voting delegates are required to be resolved by Council and advice of the delegates submitted to the Local Government Association.

COMMENTARY

The Local Government Association Annual Conference will be held in Broken Hill, NSW from Saturday 25th October through to Wednesday 29th October 2008 at the Broken Hill Entertainment Centre.

Council is advised that three voting delegates are to be identified for the Conference to enable the ordering of Conference materials. These materials have already been received by Council and once delegates known will be delivered to these Councillors.

Council is requested to specify who the voting delegate will so that appropriate information and arrangements can be made with the Department of Local Government. Department of Local Government. Traditionally the Mayor has been one of the delegates.

Note: The General Manager will also be in attendance as an observer.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council resolve the three voting delegates for the Annual Conference.

P08-113 RESOLVED

Council authorised three voting delegates for the Local Government Annual Conference, being Mayor N Castle, Councillor W McAndrew and Councillor W Marshall.

MOVED: Councillor H K Fisher

SECONDED: Councillor W Marshall

CARRIED

REGIONAL SERVICES REPORTS

**ITEM:5 REG - 07/10/08 - EXPRESSIONS OF INTEREST CRYSTAL THEATRE
 PORTLAND**

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

REFERENCE

Council Resolution P08-70 Policy and Strategy meeting 1 July 2008.

SUMMARY

To advise of the receipt of expressions of interest submissions for the proposed capital works at the Crystal Theatre and recommend that the selected contractors be invited to tender for the project.

COMMENTARY

As previously resolved by council expressions of interest were called for the proposed improvements at the Crystal Theatre, Portland. Advertisements were placed in the Lithgow Mercury and the Sydney Morning Herald. A total of six (6) expressions of interest were received from the following:

- Barker Construction Services, Gladesville.
- Tablelands Builders, Bathurst.
- M.Bruton Building Company, Annangrove.
- C&M Construction Group, Parramatta.
- CBS Refurbishment, Rydalmere.
- Uniport, Mulgrave.

Examination of the expression of interest submissions from each company reveals that they have met the criteria for acceptance of the documentation. Council has previously worked with Barker Construction Services on the Lithgow Library Learning Centre, and M.Bruton Building Company who constructed the caretakers residence at Lake Wallace. The other companies are not known to council but the documentation provided indicates that they have the capabilities to complete the contract and could be requested to tender.

It is noted that no submissions were made by local builders.

POLICY IMPLICATIONS

Councils Tendering Policy requires that Council consider a report from the assessment team with a recommendation to proceed to the tender process for selected tenderers pursuant to the provisions of Section 55 of the Local Government Act, 1993, and Clause 166 of the Local Government (General) Regulation 2005.

FINANCIAL IMPLICATIONS

This project has been included in the 08/09 budget.

LEGAL IMPLICATIONS

Council is required to comply with the tendering provisions of the Local Government Act, 1993, and relevant regulation.

P08-114 RESOLVED

THAT the following companies be invited to tender for the proposed works at the Crystal Theatre, Portland:

- Barker Construction Services
- Tablelands Builders
- M.Bruton Building Company
- C&M Construction Group
- CBS Refurbishment
- Uniport.

MOVED: Councillor H K Fisher

SECONDED: Councillor W McAndrew.

CARRIED

COMMUNITY AND CORPORATE SERVICES REPORTS

ITEM:6 COMM - 07/10/08 - MINGAAN ABORIGINAL CORPORATION

REPORT FROM: MANAGER COMMUNITY AND CULTURE – MATTHEW JOHNSON

REFERENCE

Matter Arising PO8-96 – Policy and Strategy Committee Meeting 5 August 2008

SUMMARY

At the Policy and Strategy Committee meeting of 5 August 2008, Councillor Fisher moved a Matter Arising in relation to a new Aboriginal Committee who wished to have a meeting with the new General Manager and Council Officers to discuss various issues. Councillor Fisher requested that a meeting be arranged in due course.

COMMENTARY

Council has received correspondence from the newly formed organisation called Mingaan Aboriginal Corporation. Members of the organisation are from the Wiradjuri tribe which extends from the bottom of Mt Victoria Pass to Dubbo and Wagga Wagga. Members of Mingaan also met recently with the Mayor and Acting General Manager to discuss a number of matters including those outlined in the attached letter.

The major points in Mingaan's letter are:

- To advise Council of the group's formation.
- To advise Council that Blackfellows Hands Cave Reserve has been declared an Aboriginal Place by the National Parks and Wildlife Service and that an invitation will be sent to Councillors to a celebration on 16 November 2008.
- That Mingaan has, in partnership with three other Aboriginal Communities, formed an agreement with Emirates for the development of cultural activities at the Wolgan Valley Resort.
- To ask if Council has funds specifically for Aboriginal and Torres Strait Islander cultural activities.
(Note: *Mingaan will be provided with an application form for Council's Community Donations program.*)
- To ask if Council has office space from which Mingaan can operate at a nominal rent.
(Note: *Council does not have any such space however Mingaan will be advised to contact local organisations including Lithgow Information and Neighbourhood Centre, LINC, for this purpose.*)

Mingaan also raised a number of matters at the meeting with the Mayor and Acting General Manager:

- Some concerns were expressed about the impact on Aboriginal heritage from the works recently undertaken at Hyde Park Hartley. It was explained to Mingaan members at the meeting that prior to works commencing Council undertook an extensive consultation process with local Aboriginal groups and a detailed Heritage Assessment was undertaken by the Australian Museum.

Works were undertaken in accordance with the Heritage Assessment and with the agreement of the Aboriginal groups consulted. Further, that no Aboriginal artefacts were removed from the site and the major purpose of the works had been to remediate the effects of many years of un-restricted recreational use, to manage future recreational use and to preserve the Aboriginal heritage values of the site.

- Mingaan are interested in developing a consultation protocol with Council for use in the future.

It is considered that the development of such a protocol would be beneficial for future consultation processes with the Aboriginal community. It is recommended that the development of such a process be widely advertised to provide all Aboriginal communities and individuals the opportunity to be involved.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council:

1. Note the above information.
2. Council advise Mingaan that Council is unable to assist with office premises at the present time and that Mingaan should contact local community organisations for assistance.
3. Council develop a consultation protocol with Mingaan and other local Aboriginal organisations and individuals.

P08-115 RESOLVED

THAT:

1. Council note the above information
2. Council advise Mingaan that Council is unable to assist with office premises at the present time and that Mingaan should contact local community organisations for assistance.
3. Council develop a consultation protocol with Mingaan and other local Aboriginal organisations and individuals.
4. A report be provided to Council outlining all Organisations who have sought office space at nominal rent.

MOVED: Councillor H K Fisher
CARRIED

SECONDED: Councillor W McAndrew.

QUESTIONS WITHOUT NOTICE

QWN - 07/10/08 - COUNCILLOR W McANDREW

1. Mr Mayor, As part of the State and Federal Governments election promises, red light cameras are due to be installed across NSW. Dunn's Corner is an extremely dangerous crossing and for this reason can Council make representations to the State Member for a red light camera to be installed?

The Mayor deemed this as urgent.

P08-116 RESOLVED:

That: Council make representations to the State Member for a red light camera to be installed at Dunns Corner (intersection of Great Western Highway and Main Street, Lithgow).

Moved: Councillor W McAndrew
Carried

Seconded: Councillor HK Fisher

QWN - 07/10/08 - COUNCILLOR MF TICEHURST

1. Mr Mayor, is the lift in the foyer currently working, if not, when will it be repaired?

The Mayor advised the question will be taken on notice.

Meeting Closed: 6.19pm