



LITHGOW CITY COUNCIL

**MINUTES**

ORDINARY MEETING OF COUNCIL

HELD ON

02 NOVEMBER 2009

AT 7.00pm

**MINUTES OF THE LITHGOW CITY COUNCIL MEETING  
HELD AT THE CIVIC CENTRE, LITHGOW ON 2<sup>nd</sup> NOVEMBER 2009**

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Meeting Commenced 7.01pm

Public Gallery: 38

**PRESENT**

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

**APOLOGIES**

An apology was received from and leave of absence granted to from Councillor R Thompson who is out of the City on personal business.

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

**09-434 RESOLVED  
CARRIED**

**Also in attendance**

General Manager, Mr Roger Bailey  
Acting Group Manager Operations, Mr Iain Stewart  
Group Manager Regional Services, Mr Andrew Muir  
Group Manager Community and Corporate Services, Ms Suzanne Lollback  
Internal Services Manager, Mrs Carol Farnsworth  
Minutes Secretary, Miss Casey Clarke  
Executive Assistant, Mrs Kim Neilson

**CONFIRMATION OF MINUTES**

Confirmation of the Minutes of the Ordinary Meeting of Council held on the 6<sup>th</sup> October 2009 were taken as read and confirmed by Councillors H K Fisher and Councillor W Marshall

**09-435 RESOLVED  
CARRIED**

## **DECLARATION OF INTEREST**

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

Councillor W McAndrew declared a Pecuniary Conflict of Interest in item 4, due to his wife being employed by the Lithgow Golf Club. He will vacate the Chambers.

Councillor G Danaher declared a Pecuniary Interest in Item 8, due to having a Development Application up for consideration of Council. He will vacate the Chambers.

## **Congratulations**

The Mayor congratulated the following:

1. Councillor McGinnes on receiving an Award for a revolutionary trailer in which he placed first in the final of The Land and NSW Farmers Association Farm Inventor of the Year competition at the Australian National Field Days (ANFD) in Orange.
2. The Tidy Towns Committees on receiving the following awards at the recent Tidy Towns Presentation Weekend in Tamworth:
  - Portland - 3 major awards - Category C - Overall Tidy Towns Award, 1<sup>st</sup> Place in Packaging Stewardship Forum Waste Management and Litter Reduction Award, and the Country Energy Bush Spirit Award.
  - Lithgow - 2 Awards - 1<sup>st</sup> place in Department of Environment, Climate Change and Water Wildlife Corridors and Habitats Conservation Award and 2<sup>nd</sup> place in the Overall Tidy Towns Award
  - Rydal - 1 award - Highly Commended in the Country Energy Bush Spirit Award

## **PUBLIC FORUM**

Members of public gallery were invited to participate in the Public Forum Session.

### **PF - 02/11/09 - LYNNE NELSON JONES**

1. Congratulated the Council and it's Staff on the Live Well Campaign. It has been successful and you have done a great job. I would also like to say thankyou to Council for the help in relation to the open day at Lithgow Croquet Club.

*The Mayor advised that the thanks for the Live Well Project will be passed onto Angela Mills.*

**PF - 02/11/09 - WAYNE LEVI**

1. Congratulated the Council on the Live Well Project and he presented a letter to Council on the Gardens Project.

*The Mayor advised that this letter may be handed to Council and consideration will be taken.*

**PF - 02/11/09 - GREG HARDINA**

1. Protested against the proposed industrial shed in Franks Place, Hartley. The shed is of an immense size, is in close proximity to homes, there are no drainage locations identified, there is no access road and there are various other issues. This is very out of character for this area. Can Council please explain why was an application not placed as a combined application?

**PF - 02/11/09 - IAN LITCHFIELD**

1. With reference to the Septic Safe Program, why doesn't the Council supply information to assist owners to better understand how to maintain their septic systems? Why can't grey water be piped over paddocks with the sun being the best way to sterilise the runoff?

*The Council now sends out information to all Septic System owners prior to undertaking inspections. This includes information on frequently asked questions.*

**PF - 02/11/09 - ROBYN HARDINA**

1. Protested against the proposed shed at Franks Place Hartley and has objections to the size and position of the shed, as it is close to our home. Can Council restrict the size of the shed? I encourage Council to defer this decision for further investigation into the application has taken place. Can the height of the roof be restricted and can mature trees of a size of 6 feet be planted?

Thanked the Councillors for the onsite meeting held last week.

**PF - 02/11/09 - BRUCE GRAHAM**

1. Referring to the Wallerawang Quarry and ask has Council been approached by Department of Planning and if so why has work commenced? Has legal advice been sought about the legality of works at the Wallerawang Quarry.

*Through the Mayor the Group Manager Regional Services advised that Legal advice had been received by Council this afternoon.*

**PF - 02/11/09 - BRONWYN LANG**

1. Referred to the Wallerawang Quarry and ask Council is there a timeframe for Council to put forward a representative for the Committee? Mr Mayor have any plans from the Wallerawang Quarry been submitted to the Department of Planning?

*The Mayor advised that he is unaware of any plans being submitted to the Department of Planning but will take this on notice and Council will further investigate.*

*Through the Mayor, the Group Manager Regional Services advised that a Committee representative will be arranged.*

**PF - 02/11/09 - ERIN HARDINA**

1. Referred to the proposed shed at Franks Place Hartley and advised of her objection to this shed. Mr Mayor if this DA goes through are you aware that Hartley will become a highly built up area? Mr Mayor why hasn't Council considered the area around this DA?

*The Mayor advised that Council considers every Development Application on its merits.*

**PF - 02/11/09 - IAN LITCHFIELD**

1. Why are farm based septic systems being assessed under the same rules as urban septic systems?

*The Group Manager Community and Corporate advised that Council officers were finding failures in septic systems in both rural and urban areas. The same rules were applicable to all areas. In the Hampton area run off may affect the Sydney Catchment Management Area. In other areas of the Local Government Area other river systems may be affected such as the Macquarie or Hawkesbury/Nepean Rivers.*

2. When it is considered that a system requires major upgrade it can be expensive and some people may not be able to afford to do the work. What consideration is Council giving to property owners who cannot afford to replace or significantly upgrade their septic systems?

*The Mayor advised that anyone experiencing financial hardship may apply for assistance from the Council at any time under its Hardship Policy (Policy 8.3)*

**09-436** An **EXTENSION OF TIME** was moved to allow further questions at 7.30pm.  
**MOVED:** Councillor M F Ticehurst                      **SECONDED:** Councillor H K Fisher  
**CARRIED**

**PF - 02/11/09 - BOB TRIMING**

1. Referred to National Disability Day which is December 3<sup>rd</sup>. I also refer to Item 11 in the agenda and request Council to go ahead with the resolutions for the Lithgow Croquet Club. I would also point out that I am looking forward to meeting with Council in relation to the car park at the Croquet Club and thank the staff for the recent work.

**PF - 02/11/09 - MR O'BRIEN**

1. Referred to the Wallerawang Quarry and asked have the rules in relation to the Mining Act been observed regarding the Wallerawang Quarry?

*The Group Manager Regional Services through the Mayor advised that Council had abided by the rules of the Mining Act.*

**PF - 02/11/09 - TREVOR BUTELL**

1. The Lithgow Little Athletics Association would like to thank the Council for the new shed that we now have at the field. Referred to problems we have with vandalism as there is poor visibility from streets. The Association has tried to stop the vandalism with no luck, so we are now asking for the Council for help?

*The Mayor advised that Council staff will investigate the problem.*

**PF - 02/11/09 - SUE GRAVES**

1. Presented to Council two of the awards that the Lithgow Tidy Towns received at the recent Tidy Towns Presentation weekend in Tamworth.

**PF - 02/11/09 - CHRIS BIRD**

1. Referred to a rate notice received recently which included an information leaflet on the weeds we have in our local government area. I would like to congratulate Council for providing this information to the ratepayers. I would also like to congratulate Councillor McGinnes on his recent award.

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## MAYORAL MINUTES

### ITEM:1            MAYORAL MINUTE - 02/11/09 - PORTLAND DISTRICT OLYMPIC                           POOL - REQUEST FOR FINANCIAL ASSISTANCE

#### REPORT FROM: THE MAYOR COUNCILLOR NEVILLE CASTLE

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### REFERENCE

Min 05-325: Extraordinary Meeting 27 June 2005  
Min 05-496: Council Meeting 04 October 2005  
Min 06-369: Policy and Strategy Committee Meeting 06 November 2006  
Min 07-99: Ordinary Meeting 19 March 2007  
Min 07-291: Ordinary Meeting 16 July 2007  
Min 07-367 Ordinary Meeting 20 August 2007  
Min 07-476: Finance and Services Committee Meeting 05 November 2007  
Min F08-118: Finance and Services Committee Meeting 7 October 2008

### SUMMARY

To advise Council of a request from Portland and District Olympic Pool for financial assistance.

### COMMENTARY

A community meeting was held on Monday 19 October 2009 and attended by about 70 people where it was outlined that there were problems and outstanding debts from the previous pool committee.

Following the holding of this meeting a new Portland and District Olympic Swimming Pool Committee was appointed and correspondence has now been received from the Committee seeking additional financial assistance.

A new committee was elected including:

President	Mr Shane Taylor
Vice President	Mr Michael Stanford
Secretary	Mr John Kearns
Treasurer	Mr Doug McManus

Committee Members: Maree Beljion, Herb Coleman, Simone Taylor and Anne Brackening

The new committee is keen to operate the Portland Pool in the coming season and many members of the Portland community are also prepared to work with the Committee to have the facility operating by early December.

The difficulty for the new Committee is the outstanding debts for the facility. The following are the current outstanding debts of the Portland District Olympic Pool identified by the Committee:

Chlorine Purchases	\$4,000
Council Rates/Water	\$37,500
Taxation	\$5,000
Integral Energy	\$4,700 plus interest
Insurances	\$20,000

In order to allow the facility to operate in the coming season the Committee is making two requests:

1. Dispensation on the Council rates and water charges amounting to \$37,783.61 as at 21 September 2009. Included in this amount is the sum of \$25,538.21 for water/sewer usage; and
2. Further financial backing of \$20,000 from Council to help ensure that the facility is running efficiently.

Council considered a motion on financial assistance to the Portland District Olympic Pool at a meeting of the Finance and Services Committee on 7 October 2008. At that meeting it was resolved that:

F08-118 RESOLVED

*THAT*

1. *Council release to the Portland and District Olympic Pool Association the \$5,500 remaining from the \$200,000 loan already taken out for improvements at the facility.*
2. *Council request that the Portland and District Olympic Swimming Pool Association provide financial statements for the past three (3) years and make no further allocation until this information has been received.*

On 20 November 2008, following this resolution, Council requested audited reports from the Portland Pool Committee. No audited financial statements have been received by Council.

Despite this the Committee has indicated that it is seeking financial assistance and fundraising events from other organisations in an effort to save the pool. The pool is the main leisure activity in Portland for the local community during the summer period and is used by both schools. This is a much needed community facility for the Portland community.

The pool has been operated by a group of volunteers for a number of years since the facility was handed over by Boral. Without this volunteer work it is likely that the pool would not be operating

## **POLICY IMPLICATIONS**

Policy 4.4 - Donations – Section 356 of the Local Government Act would apply should Council resolve to provide a donation to Pool Committee.

Policy 4.5 - Financial Assistance to Community Groups and Organisations – Interest Free Loans could also potentially apply should Council resolve to provide assistance via an interest free loan.

Should this occur Council would need to consider varying its policy in this instance as the premises is not located on 'Council owned community land.' However, an agreement is in place should the Pool ever be voluntarily wound up its transfer its surplus assets, including the pool, to Council and Council shall classify the land as community land.

### **FINANCIAL IMPLICATIONS**

Council has a budget allocation of \$30,000 in the current financial year for Portland Pool plus \$5,500 remains unexpended from the \$200,000 loan taken out to carry out improvements to the facility. Should Council resolve to allocate additional funds then it would impact on Council's budget position.

### **LEGAL IMPLICATIONS**

No specific implications except those identified inferred earlier.

### **RECOMMENDATION**

**THAT** Council:

1. Immediately provide funding from the current year's Council allocation of \$30,000 to the Portland District Olympic Pool Committee
2. Publically advertise under Section 356 of the NSW Local Government Act 1993 that it is Council's intention to provide a further \$20,000 to the Portland District Olympic Pool Committee in the 2009/10 financial year;
3. Continue to make available \$5,500 for capital improvements from the loan funds taken out for improvement at the facility;
4. Write off the outstanding sum of \$25,538.21 in water / sewer usage charges currently owed; and
5. Provide advice and minor in-kind assistance to the Portland District Olympic Pool Committee to open the pool for the 2009/10 season.

### **MOTION**

**THAT** Council:

1. Publically advertise under Section 356 of the NSW Local Government Act 1993, its intention to provide funding from the current year's Council allocation of \$30,000 to the Portland District Olympic Pool Committee **and**
2. Publically advertise under Section 356 of the NSW Local Government Act 1993 that it is Council's intention to provide a further \$20,000 to the Portland District Olympic Pool Committee in the 2009/10 financial year;
3. Continue to make available \$5,500 for capital improvements from the loan funds taken out for improvement at the facility;
4. Write off the outstanding sum of \$25,538.21 in water / sewer usage charges currently owed; and
5. Provide advice and minor in-kind assistance to the Portland District Olympic Pool Committee to open the pool for the 2009/10 season.
6. Council seek an audit every six months and copy of their bank statements every 3 months on the new pool committee for future years

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor W McAndrew.

**AMENDMENT**

**THAT:**

1. Council request that the Portland and District Olympic Pool provide financial statements for the past three years and make no further allocation until the information has been received.
2. Up to \$1500 to obtain audit on the financial statements for the last 3 years

**MOVED:** Councillor M F Ticehurst

**SECONDED:** Councillor J J McGinnes

On being put the **AMENDMENT** was declared **LOST**

**09-437 RESOLVED**

**THAT** Council:

1. Publically advertise under Section 356 of the NSW Local Government Act 1993, provide funding from the current year's Council allocation of \$30,000 to the Portland District Olympic Pool Committee;
2. Publically advertise under Section 356 of the NSW Local Government Act 1993 that it is Council's intention to provide a further \$20,000 to the Portland District Olympic Pool Committee in the 2009/10 financial year;
3. Continue to make available \$5,500 for capital improvements from the loan funds taken out for improvement at the facility;
4. Write off the outstanding sum of \$25,538.21 in water / sewer usage charges currently owed; and
5. Provide advice and minor in-kind assistance to the Portland District Olympic Pool Committee to open the pool for the 2009/10 season.
6. Council seek an audit every six months and copy of their bank statements every 3 months on the new pool committee in future years

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor W McAndrew.

**CARRIED**

A **DVISION** was called by Councillors H K Fisher and J J McGinnes

**FOR**

Councillor N L Castle  
Councillor H K Fisher  
Councillor W McAndrew  
Councillor G Danaher  
Councillor W Marshall  
Councillor C Hunter

**AGAINST**

Councillor M F Ticehurst  
Councillor J J McGinnes

**ITEM:2            MAYORAL MINUTE - 02/11/09 - NSW WIND RENEWABLE ENERGY  
                      PRECINCTS**

**REPORT FROM: THE MAYOR, COUNCILLOR NEVILLE CASTLE**

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**REFERENCE**

NIL

**SUMMARY**

This report relates to an update on the NSW Wind Renewable Energy Precincts initiative and the establishment of a Precinct Advisory Committee.

**COMMENTARY**

Correspondence has been received from the Minister for Climate Change and the Environment updating Council on the NSW Wind Renewable Energy Precincts initiative and the establishment of a Precinct Advisory Committee in our local government area.

The NSW Government is working hard to encourage the uptake of renewable energy in NSW and to promote the expansion of green jobs.

The expanded national Renewable Energy Target Scheme (RET) is predicted to drive major investment in renewable energy across NSW. It is expected that most of the expanded renewable energy supply under the RET will be initially met by wind energy developments.

To help facilitate wind farm development in NSW, the State Government has established Renewable Energy Precincts in areas with strong wind resources - the New England Tablelands, Upper Hunter, Central Tablelands, NSW/ACT border areas, South Coast and Cooma/Monaro.

A key focus of the Precincts initiative is enhanced local government and community consultation. This will complement the development approval process and ensure that regionally specific issues are properly considered and that the community has access to information about wind farms.

Precinct Advisory Committees will be established to provide advice to facilitate the development of renewable energy within their Precinct. Expressions of interest are now being sought to build broad community participation on the Precinct Advisory Committees, along with local council representatives, which will be coordinated by the Local Government and Shires Association.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

NIL

**RECOMMENDATION**

**THAT** Council determine its involvement in this matter

**09-438 RESOLVED**

**THAT:**

1. The report on the NSW Wind Renewable Energy Precincts initiative and the establishment of a Precinct Advisory Committee be noted.
2. Council seek further information and report on the matter

**MOVED:** Councillor Neville Castle  
**CARRIED**

**SECONDED:** Councillor W McAndrew.

A **DIVISION** was called by Councillors H K Fisher and G Danaher

It was passed **UNANIMOUSLY**

## NOTICES OF MOTION

### ITEM:3 NOTICE OF MOTION - 02/11/09 - PORTLAND POOL - COUNCILLOR M F TICEHURST

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#### MOTION TITLE/TOPIC

Questions with Notice from Councillor Martin Ticehurst.

Listed by: Councillor Martin Ticehurst Date: 22 October 2009.

#### QUESTIONS WITH NOTICE

The Mayor, Councillor Neville Castle and some other Councillors may be aware that a well attended Public Meeting was recently chaired by the Mayor at Portland at which a new Management Committee was elected for the Portland & District Olympic Pool Association Incorporated.

I understand from various reports following the Public Meeting, that it was disclosed that the Portland & District Olympic Pool Association Incorporated currently held debts of approximately \$65,000 and would now require up to an additional \$30,000 from the Lithgow City Council to allow it to re-open the Portland Swimming Pool Centre for the coming Summer season for the benefit of it's ratepayers and residents.

Q. Could the General Manager confirm to the Council: -

- the current and future financial position of the Portland & District Olympic Pool Association Incorporated and its future operation of the Portland Swimming Pool Centre?
- what funds or in-kind financial support the Lithgow Council has already guaranteed and/or committed to the Portland & District Olympic Pool Association Incorporated and its future operation of the Portland Swimming Pool Centre?
- if following on from the Councils Auditors (MorseGroup) letter to the Finance and Services Committee Meeting of the 5 June 2006 that the "*Councils recognition of Portland Pool as a controlled asset, based on the specific conditions of the agreement between the parties is in accordance with the requirements of the relevant accounting standards and regulatory framework in which Council operates.*"; and as the

Lithgow "*Council controls the majority of the risk and benefits relating to the asset*", that the Council is now be responsible for the outstanding past debts and any future debts of the Portland & District Olympic Pool Association Incorporated?

- an update on Lithgow City Council Resolution F08 – 118 as made at the Councils Finance & Services Committee Meeting on 7 October 2008 as follows:

**F08-118 RESOLVED THAT**

1. Council release to the Portland and District Olympic Pool Association the \$5,500 remaining from the \$200,000 loan already taken out for improvements at the facility.
2. Council request that the Portland and District Olympic Swimming Pool Association provide financial statements for the past three (3) years and make no further allocation until this information has been received.

**M:** Cr M F Ticehurst     **S:** Cr W McAndrew.     **CARRIED**

- if with respect to this matter, the Council has asked for and received advice from the Minister or her Department of Fair Trading and the Councils Auditors, Morse Group, Bathurst?

**RECOMMENDATION**

**THAT** the General Manager provide a report to the Council, Councillors and ratepayers as soon as possible with respect to the above Questions without Notice.

**MOTION**

**THAT** the General Manager provide a report to the Council, Councillors and ratepayers as soon as possible with respect to the above Questions without Notice outlining:

1. if following on from the Councils Auditors (MorseGroup) letter to the Finance and Services Committee Meeting of the 5 June 2006 that the “*Councils recognition of Portland Pool as a controlled asset, based on the specific conditions of the agreement between the parties is in accordance with the requirements of the relevant accounting standards and regulatory framework in which Council operates*”; and
2. if with respect to this matter, the Council has asked for and received advice from the Minister or her Department of Fair Trading and the Councils Auditors, Morse Group, Bathurst.

**MOVED:** Councillor M F Ticehurst

**SECONDED:** Councillor J J McGinnes

On being put the **MOTION** was declared **LOST**

**ITEM:4 NOTICE OF MOTION - 02/11/09 - LITHGOW GOLF CLUB -  
COUNCILLOR M F TICEHURST**

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**MOTION TITLE/TOPIC**

Confirmation of the Lithgow City Councils compliance with Section 55 of the Local Government Act 1993; with respect to Lithgow City Councils current contract Lease (Clause 20 – Council to maintain Golf Course and Grounds) and any future proposed Lease with the Lithgow Golf Club Ltd.

Listed by: Councillor Martin Ticehurst

Date: 22 October 2009.

**REFERENCES**

Min 07-519: Policy and Strategy Committee, 3 December 2007

Min 05-09: Ordinary Meeting of Council, 27 January 2009

Min 09-162: Ordinary Meeting of Council, 20 April 2009

Min 09-301: Ordinary Meeting of Council, 13 July 2009

Min 09-351: Ordinary Meeting of Council, 24 August 2009

Min 09-399: Ordinary Meeting of Council 14 September 2009

Lithgow Mercury 17 Sept 2009 “Councillors stance on Golf Club.”

<http://www.lithgowmercury.com.au/news/local/news/general/councillors-stance-on-golf-club/1625876.aspx>

Lithgow Mercury 17 Sept 2009 “McGinnes defends his protest.”

<http://www.lithgowmercury.com.au/news/local/news/general/mcginnes-defends-his-protest/1625879.aspx>

**BACKGROUND**

Following the above references confirming that the Lithgow City Councils average annual expenditure is some \$250,000 arising out of Clause 20 (*Council to maintain Golf Course and Grounds*) of the Lithgow Councils current contract Lease with the Lithgow Golf Club Ltd. and recent concerns raised at the Ordinary Meeting of the Lithgow City Council on 14 September 2009, (reported in the Lithgow Mercury), confirmation is being sought from the General Manager and Senior Council Officers of the Lithgow City Councils compliance with Section 55 of the Local Government Act 1993 as set out below, with respect to Lithgow Councils current contract Lease and any future proposed Lease with the Lithgow Golf Club Ltd.

I understand that the current specified or regulated rate under the relevant Section 55 of the Local Government Act is \$150,000.

**Section 55 What are the requirements for tendering?**

- (1) A council must invite tenders before entering into any of the following contracts:
  - a. a contract to carry out work that, by or under any Act, is directed or authorised to be carried out by the council,
  - b. a contract to carry out work that, under some other contract, the council has undertaken to carry out for some other person or body,
  - c. a contract to perform a service or to provide facilities that, by or under any Act, is directed or authorised to be performed or provided by the council

- d. a contract to perform a service or to provide facilities that, under some other contract, the council has undertaken to perform or provide for some other body,
  - e. a contract for the provision of goods or materials to the council (whether by sale, lease or otherwise),
  - f. a contract for the provision of services to the council (other than a contract for the provision of banking, borrowing or investment services),
  - g. a contract for the disposal of property of the council,
  - h. a contract requiring the payment of instalments by or to the council over a period of 2 or more years,
  - i. any other contract, or any contract of a class, prescribed by the regulations.
- (2) Tenders are to be invited, and invitations to tender are to be made, by public notice and in accordance with any provisions prescribed by the regulations.
- (2A) Nothing in this section prevents a council from tendering for any work, service or facility for which it has invited tenders.
- (3) This section does not apply to the following contracts:
- subject to the regulations, a contract for the purchase of goods, materials or services specified by a person prescribed by the regulations made with another person so specified, during a period so specified and at a rate not exceeding the rate so specified
  - a contract entered into by a council with the Crown (whether in right of the Commonwealth, New South Wales or any other State or a Territory), a Minister of the Crown or a statutory body representing the Crown
  - a contract entered into by a council with another council
  - a contract for the purchase or sale by a council of land
  - a contract for the leasing or licensing of land by the council, other than the leasing or licensing of community land for a term exceeding 5 years to a body that is not a non-profit organisation (see section 46A)
  - a contract for purchase or sale by a council at public auction
  - a contract for the purchase of goods, materials or services specified by the State Contracts Control Board or the Department of Administrative Services of the Commonwealth, made with a person so specified, during a period so specified and at a rate not exceeding the rate so specified
  - a contract for the employment of a person as an employee of the council

a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders

contract for which, because of provisions made by or under another Act, a council is exempt from the requirement to invite a tender

a contract made in a case of emergency

a contract to enter into a public-private partnership

if a council has entered into a public-private partnership—a contract entered into by the council for the purposes of carrying out a project under the public-private partnership (but only to the extent that the contract is part of the project that has been assessed or reviewed under Part 6 of Chapter 12)

a contract involving an estimated expenditure or receipt of an amount of less than \$100,000 or such other amount as may be prescribed by the regulations.

- (4) A council that invites tenders from selected persons only is taken to comply with the requirements of this section if those persons are selected:
- (a) from persons who have responded to a public advertisement for expressions of interest in the particular contract for which tenders are being invited, or
  - (b) from persons who have responded to a public advertisement for recognition as recognised contractors with respect to contracts of the same kind as that for which tenders are being invited.

As such, confirmation is being sought from the General Manager and Senior Council Officers of the Lithgow City Councils compliance with Section 55 of the Local Government Act 1993 as set out above, with respect to Lithgow Councils current contract Lease and any future proposed Lease with the Lithgow Golf Club Ltd.

## RECOMMENDATION

**THAT** Council seek a report from the General Manager, confirming the Lithgow City Councils financial compliance with Section 55 of the Local Government Act 1993 with respect to the Lithgow City Councils average annual expenditure of some \$250,000 arising out of Clause 20 (*Council to maintain Golf Course and Grounds*) of the Lithgow Councils current (and any future) contract Lease with the Lithgow Golf Club Ltd.

Councillor McAndrew declared an interest and vacated the Chambers at 8.28pm

## **MOTION**

**THAT** Council seek a report from the General Manager, confirming the Lithgow City Councils financial compliance with Section 55 of the Local Government Act 1993 with respect to the Lithgow City Councils average annual expenditure of some \$250,000 arising out of Clause 20 (*Council to maintain Golf Course and Grounds*) of the Lithgow Councils current (and any future) contract Lease with the Lithgow Golf Club Ltd.

**MOVED:** Councillor M F Ticehurst

**SECONDED:** Councillor J J McGinnes

On being put the **MOTION** was declared **LOST**

**A DIVISION** was called by Councillors H K Fisher and G Danaher  
**FOR**

Councillor M F Ticehurst

Councillor J J McGinnes

**AGAINST**

Councillor N L Castle

Councillor H K Fisher

Councillor G Danaher

Councillor W Marshall

Councillor C Hunter

Councillor McAndrew returned to the Chambers at 8.30pm

## GENERAL MANAGER REPORTS

### ITEM:5 GM - 02/11/09 - COUNCIL ORDINARY MEETING DATES FOR 2010

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#### REFERENCE

NIL

#### SUMMARY

This report outlines the proposed dates for the Ordinary Council Meetings for 2010.

#### COMMENTARY

Council now has a program of holding Council meetings on a three weekly basis and on a Monday. The program that has operated for the past nine or ten months has operated well. The use of a three weekly meeting rotation involves a great level of planning on the Council's behalf and a schedule of meetings needs to be made. Items that need to be considered when planning the council meetings include:

- Conferences
- Public holidays
- Possibly holidays - school

The two major conferences to be held involving Lithgow City Council are the Local Government Conference and the Shires Association Conference. Lithgow Council has traditionally been more reliant on the Local Government Conference. These are to be held:

- The Association Conference: May 31 – June 2, 2010
- The Government Association Conference: October 23 – 27, 2010

Public Holidays in 2010 include:

	<b>2010</b>
New Years Day	Friday 1 <sup>st</sup> January
Australia Day	Tuesday 26 <sup>th</sup> January
Good Friday	Friday 2 <sup>nd</sup> April
Easter Sunday	Saturday 3 <sup>rd</sup> April
Easter Monday	Monday 5 <sup>th</sup> April
Anzac Day	Monday 26 <sup>th</sup> April
Queens Birthday	*Monday 14 <sup>th</sup> June
Labour Day	*Monday 4 <sup>th</sup> October
Christmas Day	Saturday 25 <sup>th</sup> December
Boxing Day	Monday 27 <sup>th</sup> December

\* these public holidays are yet to be proclaimed.

With NSW School holidays to be held on:

<b>NSW Government School Holidays 2010</b>		
<b>Summer Holidays</b>	Friday 18 <sup>th</sup> December 2009	Wednesday 27 <sup>th</sup> January 2010
<b>Autumn Holidays</b>	Thursday 31 <sup>st</sup> March 2010	Monday 19 <sup>th</sup> April 2010
<b>Winter Holidays</b>	Friday 2 <sup>nd</sup> July 2010	Monday 19 <sup>th</sup> July 2010
<b>Spring Holidays</b>	Friday 24 <sup>th</sup> September 2010	Monday 11 <sup>th</sup> October 2010
<b>Summer Holidays</b>	Friday 17 <sup>th</sup> December 2010	Wednesday 2 <sup>nd</sup> February 2011

The proposed dates for the Ordinary Meetings of Council for 2010 are as follows:

**Ordinary Council Meetings for 2010 (note that there are two period of a four week cycle)**

Monday 18<sup>th</sup> January  
Monday 8<sup>th</sup> February  
Monday 1<sup>st</sup> March  
Monday 22 March  
Monday 12<sup>th</sup> April  
Monday 3<sup>rd</sup> May  
Monday 24<sup>th</sup> May  
Monday 21<sup>st</sup> June \*\*  
Monday 12<sup>th</sup> July  
Monday 2<sup>nd</sup> August  
Monday 23<sup>rd</sup> August  
Monday 20<sup>th</sup> September \*\*  
Monday 11<sup>th</sup> October  
Monday 1<sup>st</sup> November  
Monday 22<sup>nd</sup> November  
Monday 13<sup>th</sup> December

The Ordinary Council Meeting will commence at 7pm.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

## ATTACHMENTS

NIL

## 09-439 RESOLVED

**THAT** Council hold the Ordinary Council meetings during 2010 generally on Mondays on a three weekly basis on the following dates:

Monday 18<sup>th</sup> January  
Monday 8<sup>th</sup> February  
Monday 1<sup>st</sup> March  
Monday 22 March  
Monday 12<sup>th</sup> April  
Monday 3<sup>rd</sup> May  
Monday 24<sup>th</sup> May  
Monday 21<sup>st</sup> June  
Monday 12<sup>th</sup> July  
Monday 2<sup>nd</sup> August  
Monday 23<sup>rd</sup> August  
Monday 20<sup>th</sup> September  
Monday 11<sup>th</sup> October  
Monday 1<sup>st</sup> November  
Monday 22<sup>nd</sup> November  
Monday 13<sup>th</sup> December

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor W Marshall

## REGIONAL SERVICES REPORTS

### ITEM:6 REG - 02/11/09 - REGIONAL AND LOCAL COMMUNITY INFRASTRUCTURE GRANTS - ROUND 2

#### REPORT FROM: PROJECT CO-ORDINATOR – LEANNE KEARNEY

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### REFERENCE

Minute 11-09 (Ordinary Meeting 27 January 2009) and Minute 09-308 (13 July 2009).

### SUMMARY

This report details criteria for projects seeking funding available under the Regional and Local Community Infrastructure Programme (Round 2), and recommends projects to be included in Council's submission.

### COMMENTARY

The Commonwealth Government has made an additional \$220 million available to boost the Regional and Local Community Infrastructure Program (RLCIP). This investment is intended to support local jobs during the global economic downturn and provide long-term benefits to communities by assisting councils to build and modernise local infrastructure.

Under this newly released funding, there are two (2) components consisting of a non-competitive, direct allocation of \$100 million shared amongst all local governments and a competitive component where \$120 million will be made available for a limited number of large strategic projects seeking a minimum Commonwealth contribution of \$1 million.

Funds under the RLCIP \$100 million will be provided directly to Councils as a one-off payment, and an allocation of \$208,000 has been made available to Lithgow City Council.

Funding will be provided for community infrastructure, including new construction and major renovations or refurbishments of assets such as:

- social and cultural infrastructure (e.g. art spaces, gardens);
- recreational facilities (e.g. swimming pools, sports stadiums);
- tourism infrastructure (e.g. walkways, tourism information centres);
- children, youth and seniors facilities (e.g. playgroup centres, senior citizens' centres);
- access facilities (e.g. boat ramps, footbridges); and
- environmental initiatives (e.g. drain and sewerage upgrades, recycling plants).

Examples of community infrastructure eligible for funding include:

<b>Social and Cultural Infrastructure</b>	
• Town halls	• Community centres
• Libraries	• Local Heritage sites
• Museums	• Cultural Centres
• Enhancement of Main Streets and Public Squares	• Theatre / music / art spaces
• Historic Buildings	• Parks and Gardens
• Internet kiosk infrastructure	• Kitchens for organisations
• Community market areas	• Resources for cultural facilities
• Public market places and saleyards	
<b>Recreation Facilities</b>	
• Sportsgrounds and facilities	• Sports stadiums
• Community recreation spaces	• Playgrounds
• Rail trails	• Swimming Pools
• Walking tracks and bicycle paths	• Skate parks
• BMX / mountain bike parks / trails	• Surf lifesaving clubs
<b>Tourism Infrastructure</b>	
• Convention or trade centres	• Memorial halls / walkways
• Tourism information centres	• Community public attractions
• Buildings for exhibits	• Local infrastructure to support or provide access to tourist facilities
<b>Children, youth and seniors facilities</b>	
• Playgroup centres	• Youth centres
• Scout / guide halls	• Senior citizens centres
• Community childcare centres	
<b>Access facilities</b>	
• Disabled access infrastructure	• Footbridges
• Bus / rail terminal upgrade	• Jetties / wharfs / piers / pontoons / bollards
• Foreshore development	• Boat ramps
• Airport infrastructure and terminals	
<b>Environmental initiatives</b>	
• Water source and treatment	• Drain and sewerage upgrades
• Water conservation infrastructure	• Waste management and processing infrastructure
• Wastewater infrastructure	• Water recycling plants
• Water catchments	• Recycling plants

Where they are minor components of the RLCIP project, funding may be used for engineering, geotechnical, or architectural works, land surveys and site investigations.

Projects must provide a clear and direct benefit to the local communities within a council's jurisdiction. Examples of projects that are ineligible for this reason include those which support council operations (such as an upgrade of council offices), those which make a direct contribution to private businesses, or those which benefit specific individuals (such as the renovation of a caretaker's residence).

Funding will not be approved to bolster funding for existing projects which have exceeded their original budget forecasts.

Funding cannot be used for artworks, or for Information Technology and Communications hardware and software, or ongoing costs (e.g. operational costs and maintenance), roads or related infrastructure covered by the Roads to recovery or Black Spots programs; and project management costs.

The closing date for applications is expected to be early November 2009, with approved projects requiring commencement within three (3) months of execution of the Funding Agreement, and completion of the project required by 31 December 2010.

As part of the application process, councils will be required to submit project application(s) that account for the entirety of their funding allocation. Councils are encouraged to submit a number of prioritised projects, the aggregate value of which may exceed their allocation. Should the Department find that a higher priority project is ineligible, a lower priority yet eligible project may then be substituted in its place.

Councils' Funding Agreements may not be available for execution until councils have completed and properly acquitted their projects under the original \$250 million allocated component of the RLCIP.

Local governments are responsible for community consultation and determining the priority given to potential infrastructure projects within their jurisdictions. Councils are encouraged to include projects in their application that address the needs of the local indigenous population. Councils are also encouraged to consider environmental sustainability when preparing project proposals, and how their RLCIP activities will promote green building technologies, design practices and operations.

At Council's meeting held on Monday, 27 January 2009, Council resolved under Minute Number 11-09:

*2. Make the following prioritised allocations should any of the preferred items not be eligible:*

<b>Lithgow</b>	<b>\$</b>
<i>Playground Equipment – replace and upgrade Queen Elizabeth Park and Brook Street Park</i>	40,000
<i>Civic Ballroom refurbishment – partial ceiling replacement, general asset improvement</i>	60,000
<i>Eskbank House BBQ and Shelter</i>	10,000
<b>Portland</b>	<b>\$</b>
<i>Crystal Theatre upgrade – completion of all upgrade works, eg stage, additional fire upgrading</i>	200,000
<i>Electric BBQ for Saville Park</i>	8,000
<i>Playground equipment – Kremer Park</i>	30,000
<b>Wallerawang</b>	<b>\$</b>
<i>Playground upgrades – Lake Wallace</i>	30,000
<i>Picnic and BBQ facilities</i>	15,000

At Council's Ordinary meeting held on Monday, 13 July 2009, Council further resolved under Minute Number 09-308:

**THAT:**

1. Council accept the revised tender price of \$473,172.00 (excluding GST) from M Bruton Building Co. for the upgrading works at Crystal Theatre, Portland.
2. Council allocate additional funding for the upgrading of the Crystal Theatre, Portland from projected savings of \$20,000 on the Union Theatre Walkway project.
3. The shortfall and contingency amount as outlined in this report be covered by the recently announced Community Infrastructure program.
4. Should the guidelines for the Community Infrastructure program not allow expenditure on a project previously funded by the Federal Government then a report be brought back to Council indicating how funds can be re-allocated from currently funded projects.
7. If Council is successful in its request for a special rate variation then a further report be provided adjusting the funding required for the Crystal Theatre.

The guidelines for the RLCIP Round 2 funding would appear to rule out funding a shortfall in an existing project and the balance of the Crystal project will require funding from other sources. The Civic Ballroom kitchen ceiling has been separately funded and completed. Staff are developing another project where it is hoped to recommend the allocation of developer contributions for a subdivision at Wallerawang toward the upgrade of the playground facilities at Lake Wallace. Additional funding could be provided from RLCIP funds. Whilst some suggestions will be included in the recommendation, the Council may wish to allocate funds to projects with more perceived benefit than barbeque facilities and may wish to consider allocations to other areas in the Local Government Area and/or different demographic groups.

**POLICY IMPLICATIONS**

Nil.

## **FINANCIAL IMPLICATIONS**

Nil – the programme does not require a contribution from Council.

## **LEGAL IMPLICATIONS**

Nil.

## **ATTACHMENTS**

Nil.

## **RECOMMENDATION**

**THAT** Council allocate distribution of funds from the RLCIP Round 2 funding as follows:

- Upgrade play equipment at Queen Elizabeth Park - \$40,000
- Upgrade Play Equipment at Lake Wallace - \$30,000
- Upgrade Play Equipment at Kremer Park - \$30,000
- Accessibility upgrade Lithgow Croquet Club - \$3,000
- Marjorie Jackson Oval (Develop project with Soccer Association) - \$50,000
- Hermitage Hall (Develop project with Hermitage Hall Committee) - \$15,000
- The balance of \$70,000 - to be determined by Council.

## **ADDENDUM REPORT - REG – 02/11/09 – REGIONAL AND LOCAL COMMUNITY INFRASTRUCTURE GRANTS – ROUND 2 - ADDITIONAL INFORMATION**

### **COMMENTARY**

The report in the business paper on RLCIP Round 2 funding makes recommendations on potential allocation of funding. To assist the Council in making its decision the following further information is provided having regard to discussions that have occurred with other community groups, and a review of previous requests for project that may be eligible for funding under Round 2 of the programme.

These include:

- The Lithgow District Soccer Association Inc request for a number of improvements to facilities at Marjorie Jackson Oval including:
  - Major Improvements (upward from \$260,000)
    - Upgrading of existing change room facilities (shower fittings, doors and other associated fixtures) and construction of a new officials room / meeting room (\$10,000);
    - New male and female change rooms located on the northern side of the existing facilities (\$50,000);
    - Upgrading of existing power supply to the grounds, including switch board and meter to allow for load growth from extra buildings and floodlighting (\$10,000);
    - Additional floodlighting and improvements to existing floodlighting including additional poles and underground circuits, and public announcement system (\$100,000);

- Installation of bench spectator seating and appropriate shade cover surrounding grounds (\$10,000);
- Extension of the awning over the canteen, providing a bbq and café style area for spectators / players (\$10,000)
- Refurbishment of the canteen making a larger space, and including the installation of a large range hood and general painting etc (\$20,000)
- Repairs and extension to irrigation system on Paul Houghton Number 1 field (cost unknown);
- Establishment of a new carparking area and improvements to traffic management on the site (\$30,000); and
- Construction of amenities at the far end of the fields (\$30,000)
- Minor Improvements (upward of \$9,000)
  - Repairs to fencing surrounding Paul Houghton Number 1 field (\$1,000);
  - Completion of construction of western fencing (cost unknown);
  - Top dressing of all playing surfaces, concentrating on goal areas (\$4,000);
  - Erection of Alcohol Free Zone signage (\$1,000);
  - Erection of No Parking signage (\$1,000);
  - Repairs to log fencing along car park (\$500);
  - Installation of additional recycling bins around the canteen area (\$1,000); and
  - Additional lighting of Clubhouse / amenities building (\$500)
- Eskbank Street Taxi Rank Amenities – investigations have been ongoing into the provision of amenities at the revamped Eskbank Street Taxi Rank due to the closure of the public toilets located at the rear of Council’s Administration Building due to constant vandalism (\$70,000);
- Lake Wallace, Wallerawang – boating pontoon to supplement the new Community Boating Shed, however, further details on size, construction materials and specifications have not been provided, and therefore the cost is unknown;
- Men’s Shed – either construction of a new building or renovation of an existing building to be utilised as a Men’s Shed for Lithgow. Suitable locations have not been fully investigated, and as such, the cost is unknown.
- Accessibility upgrade Lithgow Croquet Club – construction of a concrete access ramp from Clubhouse to croquet fields (\$3,000)
- Hermitage Hall (Develop project with Hermitage Hall Committee) - \$15,000
- Construction of new cricket training nets at Watsford Oval, Lithgow - \$70,000 (These have been “planned” for some time for the northern end of Watsford Oval depending on available funding. Construction could not commence until completion of the current flood mitigation works.

Preliminary discussions have been held with representatives of the Department of Infrastructure, Transport, Regional Development and Local Government have not provided a clear direction at this stage as to whether the Eskbank Street Taxi Rank Amenities will be eligible for funding. However, given the position taken on the Round 1 funding, it is not expected that a standalone toilet facility would be eligible.

It may be possible to fund the playground upgrade at Lake Wallace through other sources (ie developer contributions) and this information should be available prior to Council's decision. If this is possible and Council accepted the other recommendations as reported, then \$70,000 would be available for the Cricket Nets or any other eligible project the Council wishes. With this in mind it is suggested that the following projects be submitted:

- Upgrade play equipment at Queen Elizabeth Park - \$40,000
- Upgrade Play Equipment at Kremer Park - \$30,000
- Marjorie Jackson Oval (seating and shade cover, extension of canteen awning and construction of new amenities on far end of fields) - \$50,000
- Accessibility upgrade Lithgow Croquet Club - \$3,000
- Hermitage Hall (Develop project with Hermitage Hall Committee) - \$15,000
- The upgrade of playground equipment at Lake Wallace - \$30,000 **only** be included if it is not able to be funded from another source. If it is able to be separately funded then it will be separately reported for inclusion in the Management Plan.
- Should the upgrade of the playground equipment at Lake Wallace **not** be included then Council consider the allocation of \$70,000 to the Watsford Oval Cricket Training nets or other eligible project as it sees fit.
- Should the upgrade of playground equipment at Lake Wallace be funded from RLCIP Round 2 then Council determine the allocation of the remaining \$40,000.

Of the projects canvassed, but not recommended, possibly the most meritorious would be other works at the Marjorie Jackson Oval and these could be considered in a 'reserve' list. Of course, the Council may not agree with any or all of the suggested allocations and may have other suggested priorities. The only issue the Council needs to be aware of is the closing date for submissions being 20 November 2009.

### **09-440 RESOLVED**

#### **THAT:**

1. Council receive the addendum report on RLCIP Funding Round 2.
2. Council allocate distribution of funds from the RLCIP Round 2 funding as follows:
  - Upgrade play equipment at Queen Elizabeth Park - \$40,000
  - Upgrade Play Equipment at Kremer Park - \$30,000
  - Accessibility upgrade Lithgow Croquet Club - \$3,000
  - Marjorie Jackson Oval (Develop project with Soccer Association) - \$50,000
  - Hermitage Hall (Develop project with Hermitage Hall Committee) - \$15,000
3. The balance be deferred to the Extra Ordinary Meeting of Council to be held on Monday November 16<sup>th</sup>, 2009.

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor G Danaher

**09-441 SUBSEQUENT MOTION**

**THAT** as a matter of urgency staff prepare a report on the costs and funding opportunities for the South Littleton Hall.

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor W McAndrew

**CARRIED**

**ITEM:7            REG - 02/11/09 - DA 045/09 AND DA 046/09 SUBDIVISION OF LAND INTO 15 LOTS AND 8 LOTS RESPECTIVELY - USE OF COUNCIL LAND FOR ROAD PURPOSES - OFF GREAT WESTERN HIGHWAY BOWENFELS / MARRANGAROO**

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

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**SUMMARY**

To advise Council of a request from developers seeking Council's consent as landowner to the lodgement of development applications 045-09 and 046-09 which propose to gain access over Council owned land (Lot 68 in DP 813538) for the purposes of a road (being the continuation of Bundarra Place, Marrangaroo). This would be for a distance approximately 200 metres and being a 20 metre wide road reserve to accommodate the 15 lots subdivision development under DA045/09 and the 8 lots subdivision development under DA046/09.

**COMMENTARY**

Council is in receipt of Development Application 045/09 from Eagle Nest Estate Pty Ltd. for subdivision of land into 15 lots on Lot 702 in DP 1135310 being known as Lot 702 Great Western Highway, Bowenfels. Additionally, Council is also in receipt of Development Application 046/09 from Lithgow Mountain Estate Pty Ltd. for subdivision of land into 8 lots on Lot 58 in DP 751655 being known as Lot 58 Great Western Highway, Bowenfels.

The applicants have indicated in the respective Statements of Environmental Effects (SoEE) that they seek Council support to extend Bundarra Place, Marrangaroo to gain access to each development. The allotment in question being Lot 68 DP 813538 is currently in the ownership of Council and is accessed by Bundarra Place.

The applications propose to create 15 and 8 lots respectively and wish to utilise the Bundarra Place extension which is currently partially constructed. The applicants seek to extend the road as part of DA 045-09 to accommodate the 15 lot proposal and also utilise the Bundarra Place extension as part of DA 046-09 as well as existing crown road reserve.

Normally the land owners consent for a development application involving Council land so the application may be lodged could be undertaken by the General Manager.

However, in this particular instance the potential public interest and implications make it necessary for the elected Council to be informed as early as possible and determine from a strategic perspective if it wishes to support the applications from a landholder perspective.

At this time no assessment has been carried out on either of the applications and as part of current policy the applications would be required to be determined by Council should land owners consent for the application be given. Any land owners consent for the applications to be lodged does not infer any approval of the developments.

### **POLICY IMPLICATIONS**

The following policies will apply to each development should Council resolve to approve the applications:

- 1.3 ACQUISITION AND DISPOSAL OF ASSETS – ASSET DISPOSAL.
- 7.6 DEVELOPMENT APPLICATIONS BY COUNCILLORS AND STAFF AND RELATIVES OR ON COUNCIL OWNED LAND.

### **FINANCIAL IMPLICATIONS**

All costs associated with the proposal should be met by the applicant. Council may also wish to consider if it requires payment from the applicants as compensation for allowing road access through council owned land. A valuation may be necessary to allow such negotiations to occur.

### **LEGAL IMPLICATIONS**

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979.

### **CONCLUSIONS**

It is recommended that the land owners consent for the lodgement of the applications be granted given that the sign off no way implies support or approval for the applications.

### **RECOMMENDATION**

**THAT** Council provide its consent as landowner on both DA 045-09 & 046-09 and indicate to the applicants that this consent in no way implies support or approval of the applications.

### **09-442 RESOLVED**

**THAT** Council seek from the developer proposed traffic management plan, intersection plan and access plan prior to Council determining if it will give its consent to the lodgement of its development application utilising Council land.

**MOVED:** Councillor G Danaher

**SECONDED:** Councillor W McAndrew.

**CARRIED**

**ITEM:8            REG - 02/11/09 - DEVELOPMENT / CONSTRUCTION CERTIFICATE  
                         165/09 - COUNCILLOR G DANAHER**

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

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### **SUMMARY**

To advise Council of the submission of Development/Construction Certificate Application No.165/09 by Councillor GA Danaher and recommend approval.

### **COMMENTARY**

An application has been received from Councillor GA Danaher for the construction of a brick veneer and tiled roof addition to an existing dwelling and the construction of a free-standing timber framed steel roofed carport at Lots 608/609 DP 5255, No.50 Malvern Street, Lithgow.

### **POLICY IMPLICATIONS**

Council's Policy **Development Applications by Councillors and Staff and Relatives or on Council Owned Land** requires that any Development Application lodged where the applicant is a Councillor must be referred to Council or its appropriate committee for consideration and determination and that no aspect of the application be dealt with under delegated authority.

### **FINANCIAL IMPLICATIONS**

Nil.

### **LEGAL IMPLICATIONS**

The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act.

Councillor G Danaher declared an interest and vacated the Chambers at 8.56pm

### **09-443 RESOLVED**

#### **THAT:**

**A.** Development/Construction Certificate Application No.165/09 be approved subject to the following conditions:

1. All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No work

2. That existing plumbing and drainage fixtures affected by the building works are modified or relocated in accordance with the requirements of the Council.

3. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
4. That the proposed rainwater drains are connected to the existing rainwater disposal system.
5. To ensure structural integrity, the maintenance of minimum health standards, the management of the buildings surrounds and the protection of the environment, compliance certificates are to be issued at significant stages throughout the construction period. These stages are:
  - d) Framing when external wall and roof cladding is in place and prior to internal linings.
  - e) Stormwater drainage between building and discharge point (drainage pipes, soakage pits and the like) prior to covering.
  - f) Completion of the development and sign off to all conditions of the consent including landscaping, prior to occupation and use.At each inspection, erosion and sediment control measures and site management will be inspected.
6. That the external roofing of the new carport be of a natural tone, non-reflective finish.
7. Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:
  - a) which that person can be contacted outside working hours.
  - b) Stating that unauthorised entry to the work site is prohibited and
  - c) Showing the name, address and telephone number of the Principle Certifying Authority for the work.The sign/s are to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
8. The existing vehicular layback located on the western side of the property is to be removed. The kerb / gutter and nature strip to be reinstated prior to the issue of a final occupation certificate. All costs are to be borne by the applicant.
9. A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times.
10. That the building is to be protected from the attack of subterranean termites by employing construction methods conforming to Australian Standard 3660.1. A durable notice must be permanently fixed to the building in a prominent location (such as the meter box) indicating:
  - (iv) the method of protection and
  - (v) the date of installation of the system and
  - (vi) the installer's or manufacturers recommendations for the scope and frequency of future inspections for termite activity.

11. Prior to the commencement of any works, documentary evidence of structural adequacy prepared by an approved practising Structural Engineer are submitted to and approved by Council in respect to the following building elements. (**Note:** any such Certificate is to set forth the extent to which the Engineer has relied on relevant specifications, rules, codes of practice or publications in respect of the construction):
- a) footings;
  - b) steel beams;
  - c) timber beams;
12. Upon completion of the addition, the submission to the principal certifying authority of a registered surveyors report showing the distances of walls and roof structure from the western side boundary.
13. That truss validation details supplied by the truss manufacturer shall be provided to Council or the accredited certifier at or prior to the time of frame inspection (**alternatively, full design details are to be submitted prior to commencement of construction**).
- Details shall include:
- (i) job address and builder's name;
  - (ii) design wind velocity;
  - (iii) terrain category;
  - (iv) truss spacing;
  - (v) roof pitch;
  - (vi) material of roof;
  - (vii) roof batten/purlin spacing;
  - (viii) material of ceiling;
  - (x) job number
- This includes design wind speed of the site incorporating tie-down details and bracing details in accordance with AS 1684.2-2006 (Residential Timber Framed Construction). Also includes window assembly being certified to AS 1288 (Glazing) and AS 2047 (Wind Speed Pressure).

## REASONS FOR CONDITIONS

To protect the environment.

To ensure construction and operation of development is undertaken with minimal impact to the locality.

To prevent, minimise, and/or offset adverse environmental impacts.

To provide for the on-going environmental management of the development.

To ensure orderly development to the site.

To facilitate the manoeuvring of vehicles.

To ensure lots are adequately serviced.

To maintain the amenity of the local area.

To ensure there is no unacceptable impact on the water quality.

To ensure compliance with the South Bowenfels Development Control Plan.

To ensure compliance with the requirements of the Rural Fire Services.

To ensure appropriate management of traffic.

To ensure adequate soil conservation and protect against movement of soil and sediments.

To ensure provisions are in place for public transportation.  
To ensure adequate provision of community and recreation facilities.

**B.** A Division be called in accordance with the requirements of Section 375A(3) of the Local Government Act 1993.

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor W Marshall

A **DIVISION** was called by Councillors H K Fisher and W Marshall

**CARRIED UNANIMOUSLY**

Councillor G Danaher returned to the Chambers at 8.57pm

**ITEM:9            REG - 02/11/09 - DACC166-09 - ERECTION OF A SHED - 60 FRANKS PLACE, HARTLEY**

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

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### **SUMMARY**

To assess and recommend determination of DACC 166/09.

### **COMMENTARY**

Council is in receipt of combined Development Application/Construction Certificate 166-09 for the construction of a rural shed on land described as Lot 22 DP 881878, 60 Franks Place Hartley.

The applicant seeks to construct a 24x9m rural shed (216m<sup>2</sup>) on the land which is currently vacant. The proposal seeks to construct the shed on the southern section of the property approximately 10m from the closest boundary. Through the course of the assessment process the application was forwarded to adjoining landowners for comment. During this time Council received 3 submissions all objecting to the application on the following grounds:

- The shed is too large in the zone
- The shed is an industrial development
- The amenity of the existing subdivision will be compromised
- The height of the shed is similar to that of a two storey building
- The 10m setback is too close to adjoining properties
- The use of the shed will change in the future
- The shed will devalue surrounding properties
- The shed is in an inappropriate location
- The shed will affect adjoining landowners view.

Given the concerns raised Council officers held an onsite meeting with adjoining owners to discuss issues associated with the development. During this meeting Council officers indicated as follows:

- The shed will be of a non-reflective natural tone, should approval be issued
- The shed is not for industrial purposes
- Under the current application the shed is not to be used as a dwelling/house. Council officers informed the group that generally Council would allow temporary use of any shed (should it comply with the provisions of the BCA) as a dwelling in conjunction with the approval for a permanent residence on-site. This approval is typically no longer than 6 months.
- Councils Development Control Plan for the Rural Small Holdings zone does not limit setbacks however traditionally; setbacks for development in the 1(c) zone are 5m at side boundaries. This application proposes a 10m setback, which is twice the traditional.

As a result of the onsite meeting Council officers referred the landowner concerns to the applicant for comment. In correspondence received the applicant made the following amendments:

- The shed will be moved 4m closer to Franks Place frontage which in turn increases the side boundary setback at the southern corner to 12m.
- It is intended to plant semi mature trees along the southern and western boundaries to ameliorate the impact of the proposed shed.

Given the amendment, the application was re-notified to adjoining owners for comment. As a result of the second notification Council received 4 submissions being two objections and two support letters. One of the support letters was a retraction from a previous objection given the amendment by the applicant and answers to questions received at the on-site meeting.

The objections received indicated that the applicant has not attempted to address previous concerns raised in objections and no attempt has been made to mitigate perceived impacts.

As a result of the resident concerns the application has been called in by Councillor McGuinness under the below mentioned policy.

An on-site inspection was scheduled for 29 October 2009 so Councillors could further understand the proposal.

### **POLICY IMPLICATIONS (OTHER THAN DCP's)**

POLICY 7.7 CALLING IN OF DEVELOPMENT APPLICATIONS OR DEVELOPMENT APPLICATION/CONSTRUCTION CERTIFICATES BY COUNCILLORS applies.

The Policy provides that:

3. Should written notice, signed by a minimum of one (1) Councillor, be received by the General Manager prior to determination of a development application or development application/construction certificate, the application shall not be determined under delegated authority but shall be:

- Reported to the next Ordinary Meeting for the information of Council that the development application or development application/construction certificate has been 'called in'; and
- Reported to an Ordinary Meeting of Council for determination.

#### **FINANCIAL IMPLICATIONS (eg Section 94)**

There are no financial implications of the development in relation to assessment of the application.

#### **LEGAL IMPLICATIONS**

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979. This assessment has been undertaken and the final version will be supplied to Councillors following the on site inspection of 29 October.

#### **ATTACHMENTS**

NIL

### **ADDENDUM REPORT - DEVELOPMENT ASSESSMENT REPORT - DACC166/09 - ERECTION OF A SHED - 60 FRANKS PLACE, HARTLEY**

#### **PROPOSAL**

Council is in receipt of Combined Development Application/Construction Certificate 166-09 for the construction of a rural shed on land described as Lot 22 DP 881878, 60 Franks Place Hartley.

The applicant seeks to construct a 24x9m rural shed (216m<sup>2</sup>) on the land which is currently vacant. The proposal seeks to construct the shed on the southern section of the property approximately 12m from the closest boundary. The development additionally seeks consent to landscape the western and southern elevations (around the shed) to minimise the perceived impact. The shed is to be used for rural/residential pursuits to house things such as a boat, caravans, tractor, lawn mower, motorbikes and workshop. No industrial or commercial use is being proposed as part of the application. The shed is for the housing of personal belongings that the applicants use for recreational activities or used in conjunction with maintenance of the land.

#### **SUMMARY**

The purpose of this report is to assess and recommend determination of DA 166/09DACC. Recommendation will be for approval subject to conditions.

#### **LOCATION OF THE PROPOSAL**

60 Franks Place, Hartley Parish of Hartley. being owned by D & L Lincoln. The property has a total area of 2ha and is vacant land with a dam at the front of the property. The property retains direct access onto Franks Place.

## ZONING

The land is zoned 1(c) Rural Small Holdings in accordance with Councils planning Local Environmental Plan 1994.

The **objectives of the 1(c) zone**, followed by Planning comments in italics, are:

- (a) to allow development of land for rural small holdings if the land is identified as suitable for that purpose, *the land is currently zoned rural small holdings 1(c) in accordance with Council's current local planning instrument.*
- (b) to ensure that allotments created for rural small holdings are of an area and subject to arrangements that:
  - (i) enable the provision of an adequate water supply,  
*N/A*
  - (ii) enable effective disposal of domestic waste,  
*N/A*
  - (iii) minimise the creation of traffic hazards,  
*N/A*
  - (iv) do not contribute to pollution of water supply catchments, and  
*NorBE has been undertaken for the development in accordance with REP 1 and NorBE can be achieved with no further notification to the SCA.*
- (v) do not impact unfavourably on water quality within the Nepean-Hawkesbury River System. The development is not within the Hawkesbury Nepean Catchment.
- (c) to ensure that development is carried out in a way that is sensitive to the environmental characteristics of the land, *the application has been lodged in accordance with the appropriate legislative provisions that will ensure the development is carried out being sensitive to the surrounding environment.*
- (d) to minimise the cost to the community of providing, extending and maintaining public amenities and services, *no public amenities or services will be impacted by the proposed development.*
- (e) to ensure that rural small holdings development does not prejudice the interests of agricultural producers in the vicinity, *N/A*, and
- (f) to allow development for a range of purposes which are compatible with the environmental capabilities of the land and which are unlikely to adversely affect land or other development in the vicinity or create unscheduled demands for service infrastructure. *The development complies with this provision.*

The development is considered to comply with the provisions of the 1(c) zone and therefore is consistent with the aims and objectives of the zone.

**PERMISSIBILITY** – the development is considered permissible as the development is not prohibited in the zone.

## POLICY IMPLICATIONS (OTHER THAN DCP's)

The following policy applies to the land and as such is forwarded to Council for its determination;

## 7.7 CALLING IN OF DEVELOPMENT APPLICATIONS OR DEVELOPMENT APPLICATION/CONSTRUCTION CERTIFICATES BY COUNCILLORS

**OBJECTIVE:** To provide a consistent approach that allows Councillors to “call in” certain development applications or development application/construction certificates that may otherwise be determined under delegated authority.

**POLICY:**

1. Councillors will be provided with a list of all development applications and development application/construction certificates received by Council within the reporting period in their Business Paper Packages for Ordinary Meetings of Council.
2. Should Council resolve to “call in” a development application or development application/construction certificate by a method which complies with Clause 241 of the Local Government (General) Regulation 2005 and Council’s Code of Meeting Practice\* the application shall not be determined under delegated authority but referred to an Ordinary Meeting of Council for determination.
3. **Should written notice, signed by a minimum of one (1) Councillor, be received by the General Manager prior to determination of a development application or development application/construction certificate, the application shall not be determined under delegated authority but shall be:**
  - **Reported to the next Ordinary Meeting for the information of Council that the development application or development application/construction certificate has been ‘called in’; and**
  - **Reported to an Ordinary Meeting of Council for determination.**

**FINANCIAL IMPLICATIONS (eg Section 94)**

There are no financial implications of the development.

**LEGAL IMPLICATIONS**

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979. These matters for consideration are as follows:

**Any Environmental Planning Instrument**

*Consider SEPPs, REPs & LEPs. RELEVANT Provisions of LEP (eg permissibility, development standards, heritage listing, advertising requirements of another authority who administers a SEPP or REP). Is a SEPP1 objection required?*

The development is permissible in the 1(c) zone subject to development consent. The application has been lodged in accordance with Clause 14 of Council’s current planning instrument Local Environmental Plan 1994.

The objectives of the 1(c) zone are considered as follows:

*To allow development of land for rural small holdings if the land is identified as suitable for that purpose.*

The land has been identified for this type of development.

*To ensure that allotments created for rural small holdings are of an area and subject to arrangements for water supply, domestic waste disposal, reduce traffic hazards, no pollution of catchments and water quality.*

N/A.

*To ensure that development is carried out in a way that is sensitive to the environmental characteristics of the land.*

The development complies with this provision. It meets the standards outlined in Council's DCP and is permissible in the zone.

*To minimize the cost to the community of providing, extending and maintaining public amenities and services.*

All services are already in the vicinity.

*To ensure that rural small holdings development does not prejudice the interests of agricultural producers in the vicinity.*

N/A.

*To allow development for a range of purposes which are compatible with the environmental capabilities of the land and which are unlikely to adversely affect land or other development in the vicinity or create unscheduled demands for service infrastructure.*

The development is compatible with this provision and is not prohibited in the zone.

The application is required to be assessed in accordance with Clause 11 of the LEP which is for General considerations for development in rural areas. The Clause states:

*Before determining a development application relating to land within Zone No. 1(a) or 1(c), the Council must take into consideration the effect that the proposed development would have on:*

(a) *the present use of the land, and the potential for sustained agricultural production of so much (if any) of the land as is prime crop and pasture land;*

The land has been used for rural/residential pursuits to date. As previously discussed this development will not negatively affect the agricultural ability of the land, or surrounding lands.

(b) *vegetation, land capability and water resources (including the quality of the water, stability of water courses, ground water storage and riparian rights);*

No tree clearing is required for the development which might increase the potential for soil erosion and sedimentation. Any future dwelling site would need to be located so as to be clear of watercourses. Earthworks will be required for the construction of the slab and will be required to comply with Council's requirements regarding soil and sedimentation control.

(c) *the future recovery from known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials;*

No known reserves of these are located on the site or in the vicinity.

(d) *the protection of areas of nature conservation significance or of high scenic or recreational value, and of items of heritage significance;*

The development should not detract from the scenic nature of the local landscape. Other development in the vicinity has similar type development approved. Most allotments in the subdivision have a large shed or multiple number of smaller sheds approved.

(e) *the cost of providing, extending and maintaining public amenities and services;*  
Services are already available in the vicinity.

(f) *development on adjoining land and on other land in the locality, including any cumulative impact;*

There are no known cumulative impacts associated with this development that may impact on adjoining land. This has been minimised through assessment against existing DCP's and substantially restrictive conditions of consent.

(g) *the future expansion of settlements in the locality.*

N/A.

Drinking Water Catchments Regional Environmental Plan No 1

The application required assessment under the provisions of NorBE. Prior to the issue of approval Council must assess the application against the provisions Neutral or Beneficial Effects test to ensure the development will have a neutral or beneficial impact on water quality. The test is attached below.

NorBE satisfied

Page 1 of 1



NorBE satisfied

Save

[About the NorBe Assessment Tool...](#) [Details of the application](#) [Pre-Assessment Checklist](#) [Check the documentation is](#)  
[com...](#) [Documentation summary](#) [Referrals and other issues](#) [Pre-assessment complete](#) [Module 1](#) [Development](#)  
[Risks](#) [Actions](#) [Standard Stormwater Questions...](#) [NorBE satisfied](#)

NorBE satisfied

1. fill out the date and assessing officer details
2. print this page (File > Print) and attach to the documentation
3. click the SAVE button. This will save your work as a "bookmark". Please label your bookmark as 166/09dacc.
4. continue processing the application

Date (please enter today's date):\*

20/10/09

Assessing Officer:\*

Mark Dicker

Council: Lithgow  
DA number: 166/09dacc  
Assessing officer: Mark Dicker  
Sub-catchment: Mid Coxs River  
Development class: A

Property: 22  
Deposited plan: 881878  
Owner: Inzitari  
Applicant:

Your answers to the questions were:

Q1\_01. No

Q1\_02. No

Q1\_03. Yes, apply standard erosion controls (aas per 'the Blue Book'), then go to Q1.05.

Q1\_04.

Q1\_05. No

Q1\_06. No

Q1\_07. No

Q1\_08. No, NorBE is satisfied.

CONCLUSION: NorBE satisfied

In the event of any inconsistency with the final conclusion and the actions listed above refer the matter to the SCA.

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20/10/2009

**Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority**

If applicable, is the development consistent with the objectives of the draft instrument?

None.

**Any Development Control Plan**

Is the proposal consistent with the DCP? If not, is a variance warranted and has it been justified?

Council's **Rural Residential Development Control Plan** applies to the development. The development complies generally with the provisions of that document as follows:

(a) To provide opportunities for rural small holdings development on certain land within the city that has been identified as being suitable for that purpose.

*The development is compatible with this provision.*

(b) To ensure that allotments created for rural small holdings are of an area and an arrangement that:

- i. Enables the provision of an adequate water supply.
- ii. Enables effective disposal of domestic waste.
- iii. Minimises the creation of traffic hazards.
- iv. Does not contribute to pollution of water supply catchments and
- v. Does not impact on water quality within the Nepean-Hawkesbury River System.

N/A

(c) To enable other forms of development to be carried out on land within the area and the zone of the plan if they are in keeping with the rural character of the locality and are compatible with the existing or likely future rural residential land uses.

*The development complies with this provision.*

(d) To ensure that development is carried out in a way that is sensitive to land and environmental characteristics.

*Compliance with the provisions of this DCP, BCA and conditions of consent will ensure sustainable, responsible and environmentally effective treatment of the land.*

(e) To minimise the cost to the community of providing, extending and maintaining public amenities and services.

*No services are required to be extended.*

(f) To ensure that rural small holdings development does not prejudice the interests of agricultural producers in the vicinity.

N/A

(g) To encourage further development within the city whilst minimising adverse impact on the natural attractions and amenity enjoyed by permanent residents and visitors.

*It is not expected that the proposed development would have an adverse impact on the natural attractions and amenity of the city, due to the location.*

**Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?**

None required.

**Any matters prescribed by the regulations that apply to the land**

Refer to clause 92, 93, & 94 of the Regulation. If a DA for demolition, the provisions of AS 2601-1991; The Demolition of Structures. Fire Safety considerations – DA that does not seek the rebuilding, alteration, enlargement or extension of the building. Consent Authority may require buildings to be upgraded – DA comprising the rebuilding, alteration enlargement or extension, take into consideration whether it is appropriate to require the building to be brought into conformity with the BCA.

The building issues have been addressed in Councils Building Officers report under the submission section of this report.

**The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The relevant matters are up to assessment and merit. **As a guide only**, the following may be considered if they are considered to be of relevance to the proposal. Amenity, streetscape, scenic quality, bulk, scale character, density, design, adjacent landuse compatibility, solar access, noise, access & traffic, utility services, heritage, water, soils, air, flora & fauna, wastes, safety, security, crime prevention, natural hazards, social, economic & cumulative impacts.

**Amenity.** The development is considered to be a large shed, permissible in the zone to be constructed subject to appropriate assessment. The applicant has indicated that the shed is to be cut in to reduce the size of the structure and is 12m from the existing side boundary. The applicant has further indicated that semi mature screening will accompany the shed to minimise the visual amenity along the southern boundary and in front of the western elevation. This will alleviate any potential impact the shed may impose on any adjoining owner.

The Franks Place development is scattered with large sheds or combinations of smaller sheds that have and have not been landscaped. It is considered that with appropriate landscaping the sheds impact will be minimised.

**Access.** The development will be accessed by existing Franks Place. The entrance will need to be constructed in accordance with the Subdivision and Development Code.

**Utilities.** The applicant will need to satisfy Council that services such as electricity can be provided to the development.

**Bushfire.** The development is not considered to be affected by bushfire prone land, and is not required to be forwarded to the Rural Fire Services for assessment.

**The Suitability of the site for the development**

Does the proposal suit the site? Bulk/Scale/Sensitivity? Are there any natural or man made hazards?

The development is compatible with the objectives of the zone and is considered to comply with the aims and objectives of the 1(c) rural small holdings zone. As such it is considered that the development is suitable for the site.

**Any submissions made in accordance with this Act or the Regulations**

If relevant, consider public and authority submissions. Do submissions relate to valid Planning issues?

As part of the development Council notified adjoining landowners of the application and sought comment. During this time Council received three (3) submissions all objecting to the application on the following grounds:

- The shed is too large in the zone
- That the shed is an industrial development
- The amenity of the existing subdivision will be compromised
- The height of the shed is similar to that of a two storey building
- The 10m setback is too close to adjoining properties
- The use of the shed will change in the future
- The shed will devalue surrounding properties
- The shed is in an inappropriate location
- The shed will affect adjoining landowners view.

Given the concerns raised Council officers held an onsite meeting with adjoining owners to discuss issues associated with the development. During this meeting Council officers indicated as follows:

- The shed will be of a non-reflective natural tone, should approval be issued
- The shed is not for industrial purposes
- Under the current application the shed is not to be used as a dwelling/house. Council additionally informed the group that generally Council would allow temporary use of any shed (should it comply with the provisions of the BCA) as a dwelling in conjunction with the approval for a permanent residence on-site. This approval is typically no longer than 6 months.
- Councils Development Control Plan for the Rural Small Holdings zone does not limit setbacks however traditionally, setbacks for development in the 1(c) zone are 5m at side boundaries. This application proposes a 10m setback, which is double the traditional setback required.

As a result of the onsite meeting Council officers referred the landowner concerns to the applicant for comment. In correspondence received the applicant made the following amendments;

- The shed will be moved 4m closer to Franks Place frontage which in turn increases the side boundary setback at the southern corner to 12m.
- It is intended to plant semi mature trees along the southern boundary of the land and western elevation of the shed to ameliorate the impact of the proposed shed.

Given the amendment the application was then re-notified to adjoining owners for comment.

As a result of the second notification Council received four (4) submissions being two objections and two support letters. One of the support letters was a retraction from a previous objection given the amendment by the applicant and answers to questions received at the on-site meeting.

The objections received asserted that the applicant has not attempted to address previous concerns raised in objections and no attempt has been made to mitigate perceived impacts.

As a result of the objections raised an on site meeting was proposed to be arranged and highlighted below.

### **On-site Meeting**

As part of the assessment phase of the abovementioned application Council sought to hold an onsite meeting between the applicant and the adjoining neighbour to discuss issues raised by the objectors prior to the application being determined.

As a result an onsite meeting was held on 29 October 2009. The minutes of that meeting are highlighted below:

Meeting opened 4.25pm in attendance were Mayor, Clrs Fisher, Hunter, Marshall, McGuinness & Thompson, Roger Bailey, Andrew Muir, Jim Nichols, Jim Sheehan, Gary Wallace the applicant, the adjoining objectors and 8 other public persons. Apologies were received by Clrs Danaher Ticehurst and McAndrew.

- Overview of the application was made by Andrew Muir outlining the current proposal in its amended form
- Applicant indicated the area of the shed (which had been highlighted on the ground) and outlined the proposed height.
- The objectors indicated that the height of the shed is of major concern and will detrimentally affect the views from their property.
- The applicant indicated that the amended plan moved the shed further forward and included advanced landscaping that would significantly reduce the impact of the shed.
- Questions were asked of the objector seeking clarification to whether the same objection would have been raised if the application were for a house in the same location that was 2 storeys.
- The adjoining objectors indicated that if it were a house then they may not have objected as much given that a house has windows and isn't a blank colorbond wall, 5.5m high.
- A height stick was placed on approximately the middle ridge height of the shed to give an indication of the height from the adjoining property.
- The major concern of the objector other than those previously raised in submissions is that the shed will devalue their house in the vicinity of \$50,000 to \$100,000 according to a real estate source.
- Council officers indicated that value is subjective and there is no provision under the Environmental Planning & Assessment Act 1979 to allow for this as a consideration.

- It was further indicated by Council staff to clarify this statement was the shed could potentially hinder a potential purchaser's offer should the current dwelling be for sale. However there is no provision in the current legislation to accommodate potential land values.
- Concerns were raised over the pitch of the shed. The applicant indicated the pitch had been designed to meld in with the future dwelling.
- Council concluded that the development would be forwarded to its ordinary meeting 2 November 2009 for determination.
- Meeting concluded 5.40pm.

The minutes will be included into the Council 79(c) report that accompany the Council report to be determined at Councils next ordinary meeting dated 2 November 2009.

### Councils Building Officer

Council officers assessed the application in accordance with the provisions of the Building Code of Australia. In response Councils Building Officer indicated that the development can be approved subject to the following conditions:

#### **General Requirements**

The development shall take place in accordance with the approved development plans containing Council's approved development stamp and all associated documentation submitted with the application, except as modified in red by Council and/or any conditions of this consent.

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

That the external cladding and roofing of the garage are of a natural tone, non-reflective colour.

Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense.

#### **Requirements prior to commencement of construction**

A landscaping plans shall be submitted and approved by Council prior to any further work being undertaken. In this regard landscaping is to be in place prior to issue of any interim or final occupation certificate.

Prior to commencing any construction works, Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.

To contain soil and sediment on the property, controls are to be implemented prior to clearing of the site vegetation and the commencement of site works.

This will include:

- a) The installation of a sediment fence with returned ends across the low side of the site so that all water flows through. These shall be maintained at no less than 70% capacity at all times. Drains, gutters, roadways etc., shall be kept clean and free of sediment.
- b) To prevent the movement of soil off site, a single entry/exit point to the property shall be constructed of 40mm blue metal aggregate or recycled concrete to a depth of 150mm. The length must be at least 5 metres with the width at least 3 metres.

Soil erosion fences shall remain and must be maintained until all disturbed areas are restored by turfing, paving, revegetation.

Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:

- a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person can be contacted outside working hours.
- b. Stating that unauthorised entry to the work site is prohibited and
- c. Showing the name, address and telephone number of the principle certifying authority for the work.

The sign/s are to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Any vegetation requiring removal for the purpose of access, dwelling construction or provision of asset protection zone shall be immediately mulched or chipped and stockpiled on site to be used for restoration on the completion of the works.

That minimal disturbance is caused to the site during construction works and any disturbed areas are to be generally made good and revegetated to the satisfaction of Council. Any excavated and filled areas are graded and drained and all constructed batters are to be topsoiled, and turfed. Batters exceeding a ratio of 3 horizontal to 1 vertical must be retained with retaining walls, stoneflagging or terracing prior to occupation. (Note retaining walls over 800mm in height require Development Consent).

### **Requirements during construction**

To ensure structural integrity, the maintenance of minimum health standards, the management of the buildings surrounds and the protection of the environment, compliance certificates are to be issued at significant stages throughout the construction period. These stages are:

- a) Internal drainage prior to covering,
- b) Reinforcing steel in position and before concrete is poured (slabs, footings, lintels, beams, columns, floors, walls and the like.
- c) Stormwater drainage between building and discharge point (drainage pipes, soakage pits and the like) prior to covering.
- d) Completion of the development and sign off to all conditions of the consent including landscaping, prior to occupation and use.

At each inspection, erosion and sediment control measures and site management will be inspected.

**Note: forty-eight (48) hours notice shall be given to Council prior to inspections.**

All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No work

That the rainwater drains are connected to water storage tanks to the satisfaction of Council.

That seepage and surface waters are collected and diverted clear of the garage site by a drainage system to the satisfaction of Council. Care is to be taken to ensure that no nuisance is created to adjoining properties.

The garage is not to be used for industrial or commercial purposes.

The garage is not to be used for residential purposes without appropriate assessment and consent from Council.

That the internal access road from the Franks Place boundary to the garage is to be all weather and allow for 2WD access at all times.

A window is required to be installed in the bathroom in accordance with part 3.8 of the Building Code of Australia.

Cut and fill shall be suitably retained with either retaining walls or natural batter at a ratio of 3m horizontal for every vertical metre.

### **Requirements prior to issue of Occupation certificate**

Prior to the use/occupation of the structure an Occupation Certificate must be issued by the Principal Certifying Authority.

### **The public interest**

Have any genuine Planning issues been raised in by the wider public? Is there genuine irrefutable concerns relating to public health & safety?

There are no wider public issues relevant to this application.

## **DISCUSSION AND CONCLUSIONS**

The application has been assessed in accordance with the relevant legislation, regulations and policies and is considered appropriate for the site subject to conditions.

## **RECOMMENDATION**

**THAT** the application be approved subject to the following conditions:

### **Administrative Conditions**

- 1 That the development be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans submitted with the application and any further information provided during the process unless otherwise amended by the following conditions.

### **General Requirements**

- 2 The development shall take place in accordance with the approved development plans containing Council's approved development stamp and all associated documentation submitted with the application, except as modified in red by Council and/or any conditions of this consent.
- 3 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 4 That the external cladding and roofing of the garage are of a natural tone, non-reflective condition.
- 5 Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense.

### **Requirements prior to commencement of construction**

- 6 A landscaping plans shall be submitted and approved by Council prior to any further work being undertaken. In this regard landscaping is to be in place prior to issue of any interim or final occupation certificate.
- 7 Prior to commencing any construction works, Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.
- 8 To contain soil and sediment on the property, controls are to be implemented prior to clearing of the site vegetation and the commencement of site works. This will include:
  - a) The installation of a sediment fence with returned ends across the low side of the site so that all water flows through. These shall be maintained at no less than 70% capacity at all times. Drains, gutters, roadways etc., shall be kept clean and free of sediment.
  - b) To prevent the movement of soil off site, a single entry/exit point to the property shall be constructed of 40mm blue metal aggregate or recycled concrete to a depth of 150mm. The length must be at least 5 metres with the width at least 3 metres.

Soil erosion fences shall remain and must be maintained until all disturbed areas are restored by turfing, paving, revegetation.

- 9 Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:
  - a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person can be contacted outside working hours.
  - b. Stating that unauthorised entry to the work site is prohibited and
  - c. Showing the name, address and telephone number of the principle certifying authority for the work.

The sign/s are to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- 10 Any vegetation requiring removal for the purpose of access, dwelling construction or provision of asset protection zone shall be immediately mulched or chipped and stockpiled on site to be used for restoration on the completion of the works.
- 11 That minimal disturbance is caused to the site during construction works and any disturbed areas are to be generally made good and revegetated to the satisfaction of Council. Any excavated and filled areas are graded and drained and all constructed batters are to be topsoiled, and turfed. Batters exceeding a ratio of 3 horizontal to 1 vertical must be retained with retaining walls, stoneflagging or terracing prior to occupation. (Note retaining walls over 800mm in height require Development Consent).

### Requirements during construction

- 12 To ensure structural integrity, the maintenance of minimum health standards, the management of the buildings surrounds and the protection of the environment, compliance certificates are to be issued at significant stages throughout the construction period. These stages are:
  - a) Internal drainage prior to covering,
  - b) Reinforcing steel in position and before concrete is poured (slabs, footings, lintels, beams, columns, floors, walls and the like.
  - c) Stormwater drainage between building and discharge point (drainage pipes, soakage pits and the like) prior to covering.
  - d) Completion of the development and sign off to all conditions of the consent including landscaping, prior to occupation and use.

At each inspection, erosion and sediment control measures and site management will be inspected.

**Note: forty-eight (48) hours notice shall be given to Council prior to inspections.**

- 13 All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No work

- 14 That the rainwater drains are connected to water storage tanks to the satisfaction of Council.
- 15 That seepage and surface waters are collected and diverted clear of the garage site by a drainage system to the satisfaction of Council. Care is to be taken to ensure that no nuisance is created to adjoining properties.
- 16 The garage is not to be used for industrial or commercial purposes.
- 17 The garage is not to be used for residential purposes without appropriate assessment and consent from Council.

- 18 That the internal access road from the Franks Place boundary to the garage is to be all weather and allow for 2WD access at all times.
- 19 A window is required to be installed in the bathroom in accordance with part 3.8 of the Building Code of Australia.
- 20 Cut and fill shall be suitably retained with either retaining walls or natural batter at a ratio of 3m horizontal for every vertical metre.

#### **Requirements prior to issue of Occupation certificate**

- 21 Prior to the use/occupation of the structure an Occupation Certificate must be issued by the Principal Certifying Authority.
- 22 Access to the development is to be undertaken in accordance with Council's Subdivision & Development Code to the satisfaction of Group Manager Operations.

#### **REASONS FOR CONDITIONS**

To protect the environment.

To ensure construction and operation of development is undertaken with minimal impact to the locality.

To prevent, minimise, and/or offset adverse environmental impacts.

To provide for the on-going environmental management of the development.

To ensure orderly development to the site.

To facilitate the maneuvering of vehicles.

To maintain the amenity of the local area.

To ensure there is no unacceptable impact on the water quality.

To ensure appropriate management of traffic.

To ensure adequate soil conservation and protect against movement of soil and sediments.

#### **RECOMMENDATION**

##### **THAT:**

1. Council determine DACC 166-09 in accordance with the recommendations of the Section 79C report separately provided following the site inspection of 29 October 2009.
2. A division be called in accordance with the requirements of section 375A(3) of the Local Government Act, 1993.

#### **09-444 RESOLVED**

##### **THAT:**

1. Council receive the addendum report on DACC 166-09
2. That semi mature trees to a height of 1.8m be planted along the southern and western boundaries to reduce the impact of the proposed shed on adjoining premises.
3. A division be called in accordance with the requirements of section 375A(3) of the Local Government Act, 1993.

**MOVED:** Councillor M F Ticehurst  
**CARRIED**

**SECONDED:** Councillor G Danaher

**DIVISION**  
**CARRIED UNANIMOUSLY**

**SUPPLEMENTARY MOTION**

**THAT** a Report be brought back on rural residential control plan regarding combined applications of the shed and dwellings.

**MOVED:** Councillor J J McGinnes

**SECONDED:** Councillor M F Ticehurst.

On being put the **MOTION** was **LOST**.

**ITEM:10            REG - 02/11/09 - CULLEN VALLEY MINE - REACTIVATION OF  
COMMUNITY CONSULTATIVE COMMITTEE**

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

**SUMMARY**

This report is to seek Council nomination for the re-activation of the Cullen Valley Mine Community Consultative Committee, required as part of Condition 8(a) of Schedule 6 of an approval issued by the Minister for Planning in 2003.

**COMMENTARY**

Cullen Valley Mine has previously operated in the Cullen Bullen area since 2003. As part of that operation Councillor Howard Fisher sat as Councils delegate on the Community Consultative Committee. In 2007 the mine was placed in 'care and maintenance' which meant no production was undertaken at the time and as such the Community Consultative Committee (CCC) which existed for the operation was not required to operate. In 2009 the mine was bought by Coalpac Pty Ltd and it is with this purchase that operations at the mine have recommenced. As such, the company have now invited Council to elect a representative for the new CCC.

As part of the approval Condition 8(a) in Schedule 6 indicates that a requirement for one representative of the Council to be a member on the Community Consultative Committee (CCC). Other members of the Committee are to be 2 representatives of the proponent, at least 4 representatives from the local community and an independent Chair.

It is recommended that one member of Council be nominated for the committee.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil.

### **LEGAL IMPLICATIONS**

Conditions of consent that must be satisfied are the prime legal implication although being a State government approval they will not necessarily relate to Council.

### **ATTACHMENTS**

Nil.

### **RECOMMENDATION**

**THAT** a Councillor be nominated to sit on the Community Consultative Committee for the Cullen Valley Open Cut Mine.

### **09-445 RESOLVED**

**THAT** Councillor H K Fisher be nominated as the Council representative on the Community Consultative Committee for the Cullen Valley Open Cut Mine.

**MOVED:** Councillor W McAndrew  
**CARRIED**

**SECONDED:** Councillor G Danaher

**ITEM:11            REG - 02/11/09 - LITHGOW CROQUET CLUB**

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

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### **REFERENCE**

Nil

### **SUMMARY**

To report on progress and proposed actions in relation to issues raised on behalf of the Lithgow Croquet Club.

### **COMMENTARY**

Councillors will recall correspondence and a meeting with Mr Bob Triming on 29 September 2009 who raised various issues on behalf of the Lithgow Croquet Club. From these discussions a number of investigations and actions were proposed. These are as follows:

### **ACCESSIBLE CAR PARKING**

It was decided at the meeting that firstly Council officers would investigate the proposal put forward by Mr Triming for an access and simple car park and if not feasible the other option of a dedicated inlaid space with concrete pathway to the croquet clubhouse ramp be investigated.

Initial investigations reveal that the construction of a layback entrance can be achieved with adequate site distance to the intersection. A grassed carpark only involving delineation by a bollarding or fencing arrangement and linkage to concrete paths could be constructed. Costs for this project have been obtained and indicate that the project would be in the vicinity of \$10,000. An on-site meeting has been arranged with Mr Triming to work through the issues prior to a final recommendation being made to Council.

### **VARIOUS BUILDING WORKS**

A number of items were identified as requiring attention as follows:

- Relocate the hand basin in the toilet and provide hand lever style taps.
- Replace the door handle with an 'L' or 'D' design.
- Provide signage.
- Provide toilet roll holder.
- Undertake works to front door threshold to rectify height difference.
- Install 'L' or 'D' handle to front door.
- NB: It was agreed that small discrepancies in door widths were minor and it served no purpose to undertake the works to increase the widths to achieve 'technical compliance'
- Retrofit existing handrail and construct a second handrail to achieve compliance with AS 1428.1.

At the time of writing this report most of these minor works had been completed although the works required for the handrails may take a little longer to complete.

### **STAIRS/RAMP TO CROQUET GREENS**

It was agreed that Council will investigate design and costing to provide an accessible ramp to the greens. This would then be reported to Council for determination but if this is not financially feasible in the short term it would be suggested to Council that the works be considered as a part of deliberations on the draft 2010/2011 budget. Should that be the case, Council would make short term adjustments to the stairs in terms of the handrail/s; installation of TGSI's; and contrast strips. Notwithstanding the above, it is suggested in a separate report in the business paper that an amount be allocated from the RLCIP Round 2 program to construct the ramp.

### **HOT WATER SYSTEM**

It was agreed that Council would investigate whether any works are required in terms of compliance with relevant standards. On investigation, a boil water unit was observed at the premises as indicated by Mr Triming. It has not been determined who installed the unit or when but it is certainly not appropriate to use as a hot water system. The removal of the system and replacement with a small hot water system is suggested as the appropriate solution. Whilst it may be open to debate as to whether this should be funded by Council or the Croquet Club, it is suggested that this work be done by Council at its cost in this instance. The cost will be approximately \$1,000.

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Council will incur costs if the works as recommended proceed.

### **LEGAL IMPLICATIONS**

No specific legal implications arise.

### **09-446 RESOLVED**

#### **THAT:**

1. Council, at its cost, remove the boil water unit and install a small hot water system to Croquet club house.
2. Council construct a concrete access ramp to the Croquet fields with such works to be funded from RLCIP Round 2 funding at a maximum cost of \$3,000.
3. A further report be provided in relation to the construction of accessible parking and concrete pathway linkages to the Lithgow Croquet Club.

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor G Danaher

### **ITEM:12 REG - 02/11/09 - REPLACEMENT OF SEWER RISING MAIN - PUMP STATION NUMBER 1 TO SEWERAGE TREATMENT PLANT**

**REPORT BY: WATER AND WASTE MANAGER – CHRIS LANE**

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### **REFERENCE**

Quarterly 2009/2010 Budget Review

### **SUMMARY**

A recent condition assessment of the rising main leading to Lithgow STP has identified the need for priority replacement.

### **COMMENTARY**

On the 9th October 2009 a section of the rising main between Sewage Pump station 1 and the inlet channel at the Lithgow Sewage Treatment Plant burst. The EPA were notified as per licence requirements and all sewage spilled was contained in a lagoon at the Lithgow Sewage Treatment Plant. Repairs were completed by 2am on 10th October. This rising main has failed on several occasions in the last 12 months.

In assessing the cause of the incident it was determined that the age and condition of the pipe was the main contributor. As a consequence a recommendation for replacement of the rising main is necessary. This is a project that was not identified in the mains renewal program but the post incident condition assessment gives a high priority for the replacement.

The SPS1 to LSTP Rising Main Replacement Project should be a supply and construct project through an Open tender process.

**POLICY IMPLICATIONS**

Policy for ACQUISITION AND DISPOSAL OF ASSETS section 1.4.1 states "All goods to be purchased with an apparent value of greater than \$150,000 shall be undertaken through a tender process; "

The TENDERING STANDARD WORKING PROCEDURE states "All tenders shall be determined by a resolution of Council" and "The relevant Manager will submit a report to Council recommending either Open or Selective tendering be used and then manage the process of the tender."

**FINANCIAL IMPLICATIONS**

The Capital Budget 2009/2010 has provision in Sewer for Mains Renewal. It is proposed a provision of \$250,000 be made as part of the quarterly budget review for the PS1 to STP Rising Main Project.

**LEGAL IMPLICATIONS**

This project is necessary to demonstrate good environmental management under the Environmental Protection Authority licence for Lithgow Sewage Treatment Plant.

**09-447 RESOLVED**

**THAT:**

1. A provision of \$250,000 be made for the PS1 to LSTP Rising Main Project as part of the quarterly budget review.
2. The SPS1 to LSTP Rising Main Replacement Project be a supply and construct project through an Open tender process.

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor G Danaher

**ITEM:13 REG - 02/11/09 - NAMING OF PARK - CARSON SIDING ROAD, CULLEN BULLEN**

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

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**SUMMARY**

To update Council on proposed name for a park at Lot 144 & 145 DP 755769, Carson Siding Road, Cullen Bullen.

**COMMENTARY**

At its Ordinary Meeting of 14 September 2009 Council resolved to call for submissions on the naming of the park at Lot 144 & 145 DP 755769, Carson Siding Road, and Cullen Bullen. The proposed name of this park is 'Merv Crane Memorial Park. The proposed name has been advertised in the Lithgow Mercury calling for submissions from the public for the statutory twenty eight (28) day period which no submissions were made.

All councillors would be aware of the contributions to the Cullen Bullen Community made by Mr Crane over many years. Staff also had many positive dealings with Mr Crane over the years and it is considered fitting that recognition is provided in this manner.

**POLICY IMPLICATIONS**

That this naming be carried out in accordance with Council's Naming of Council Facilities Policy 10.4.

**FINANCIAL IMPLICATIONS**

That Council provide appropriate signage for the new park name.

**LEGAL IMPLICATIONS**

Nil

**RECOMMENDATION**

**THAT** the name suggested by Cullen Bullen Tidy Towns, being 'Merv Crane Memorial Park', be adopted as the park name for the Lot 144 & 145 DP 755769, Carson Siding Road, Cullen Bullen and that Council arrange for appropriate signage of this park.

**09-448 RESOLVED**

**THAT:**

1. The name suggested by Cullen Bullen Tidy Towns, being 'Merv Crane Memorial Park', be adopted as the park name for the Lot 144 & 145 DP 755769, Carson Siding Road, Cullen Bullen and that Council arrange for appropriate signage of this park.
2. Council consult with the Cullen Valley Mine Committee to determine if any funding is available to assist with signage for the park.

**MOVED:** Councillor G Danaher

**SECONDED:** Councillor W McAndrew.

**CARRIED**

**ITEM:14            REG - 02/11/09 - WALLERAWANG QUARRY**

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

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**REFERENCE**

Nil

**SUMMARY**

This report provides an update on the proposed Wallerawang Quarry.

**COMMENTARY**

At Council's Ordinary Meeting of 14 September 2009 a number of questions were asked in relation to the proposed Wallerawang Hard Rock Quarry. The Council will recall that consent was issued by the then Minister for Planning on 19 October 2004. Due to time constraints in the process, Council officers lodged an Appeal in the Land and Environment Court but after due consideration of all the issues the Council resolved not to proceed with the Appeal (Minute 5-33 - Ordinary Meeting of Council 24 January 2005).

Council officers have discussed the issue of the possible lapsing of the consent if works had not physically commenced by 19 November 2009. Councillors may recall that there were a number of 'pre-conditions' on the consent which, at face value, precluded any physical development on the site until they were satisfied. Reports have been received that some works have taken place on the site although it is unclear on what basis the works were carried out; if these works were lawful given the pre-conditions; and if such works activate the consent. Under the circumstances it was considered prudent to seek a legal opinion to determine the legal status of the matter. The results of this opinion are considered important should Council consider any additional action or more formal inquiries to the Department of Planning. This opinion was not available at the time of writing this report.

It has also been ascertained that its Finance and Services meeting of 3 March 2008 Council resolved that:

**“THAT:**

1. Councillor B S Moran be elected as the Council representative on the Community Consultative Committee for the Wallerawang Quarry operations.
2. The Mayor, Neville Castle be nominated as the alternative representative.”

With the election of the new Council it will be necessary to nominate a Councillor to the committee.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil at this stage.

## **LEGAL IMPLICATIONS**

Legal advice is being sought.

## **RECOMMENDATION**

**THAT** the information on the Wallerawang Quarry be received.

## **09-449 RESOLVED**

### **THAT:**

1. The information on the Wallerawang Quarry be received.
2. A report on the legal advice be presented to the Extra Ordinary Meeting to be held Monday November 16<sup>th</sup>
3. Representatives of the Department of Planning be requested to attend the meeting to provide their views on the current compliances of the development.

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor W McAndrew.

## **ITEM:15      REG - 02/11/09 - WALLERAWANG PUBLIC TOILETS**

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

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## **REFERENCE**

Council Minute No.09-289 of 13 July 2009.

## **SUMMARY**

To inform Council on progress in relation a proposal for public toilets at Wallerawang Railway Station.

## **COMMENTARY**

Council resolved on 13 July 2009 that a further report be provided responding to issues identified in the establishment of public toilets at Wallerawang Railway Station. The issues to be addressed include opening and closing times, access, lease arrangements and maintenance.

Investigations into this matter are in response to representations by Andrew Wilson Photography who have a lease (5x5x5) with Australian Rail Track Corporation Ltd. (ARTC) for the premises. The existing toilet amenities at Wallerawang are located in Daintree Lane. It is proposed in the 2011/12 budget to replace this building with a new facility in the same location.

Andrew Wilson on behalf of his company has presented a petition from business people in Wallerawang requesting relocation of public toilets to the Wallerawang Station site. Letters have subsequently been received from Wallerawang Tidy Towns and the former owner of the Wallerawang Post Office, Mr Morrissey, requesting that the Daintree Lane toilets remain as they are more central to Main Street. Wallerawang Tidy Towns support Andrew Wilson, but suggest that the Daintree Lane toilets are also retained and upgraded.

Following discussions with Andrew Wilson the following answers are provided to the other issues raised by Council:

- The facility would be opened and closed by the business operator in normal business hours. Outside these hours Council would be required to arrange access to the building.
- The building would be accessible through the station building and from the car park at the front.
- Council would require a lease directly through ARTC.
- Council would be responsible for maintenance to the building.

Andrew Wilson Photography will not be contributing any funds towards the construction of a toilet facility within the railway building and has advised that they do not see any particular benefit to their business from the establishment of such a facility.

It is not considered feasible to maintain two separate toilet blocks in Wallerawang. As indicated below, additional funding is available from ARTC for a facility located at the Railway Station, and for this reason this may be the most viable option.

Council could provide some nominal assistance to Andrew Wilson Photography by making available its Heritage Advisor to assist in developing plans.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

The ARTC has advised that they are prepared to contribute \$20,000 towards any upgrading of the building at Wallerawang Railway Station were it to be used as a toilet facility. No funds have been allocated by Council at this time for this proposal.

## **LEGAL IMPLICATIONS**

Council would need to lease the railway building directly through ARTC to protect it against possible tenancy issues.

## **ATTACHMENTS**

NIL

## **RECOMMENDATION**

**THAT** Council further investigate the feasibility of upgrading the Wallerawang Railway Station building through the development of suitable architectural plans in consultation with its Heritage Advisor.

**09-450 RESOLVED**

**THAT** Council provide assistance to the upgrading of the Wallerawang Railway Station building through the provision of heritage advice only.

**MOVED:** Councillor W Marshall

**SECONDED:** Councillor W McAndrew.

**CARRIED**

## COMMUNITY AND CORPORATE SERVICES REPORTS

### ITEM:16            **COMM - 02/11/09 - REVIEW OF COUNCIL FINANCIAL ASSISTANCE POLICY**

#### **REPORT FROM: MANAGER COMMUNITY AND CULTURE – MATTHEW JOHNSON**

### **REFERENCE**

Min No 06-349 – Council Meeting 16 October 2006

Min No 08-33 – Policy and Strategy Committee Meeting of Council 7 April 2008

Min No 08-136 – Policy and Strategy Committee Meeting of Council 4 November 2008

Min No 17-09 - Ordinary Meeting 27 January 2009

Min No 09-67 - Ordinary Meeting 16 February 2009

Min No 09-227 - Ordinary Meeting 1 June 2009

### **SUMMARY**

At the Ordinary Meeting of Council held on 1 June 2009, Council resolved (Minute 09-227) as follows:

**THAT** Council place the following revised policies on public exhibition for 28 days:

1.            4.4 Financial Assistance – Section 356 Of The Local Government Act  
and
2.            4.6 Request For Financial Assistance By Waiving Of Fees For Council  
Facilities

### **COMMENTARY**

#### **Policy 4.4 Financial Assistance – Section 356 Of The Local Government Act**

In summary, the revised policy 4.4 :

1. Retains the “Recurrent” Category of Financial Assistance.
2. Replaces the “Annual Management Plan” and “As Resolved Donations throughout the Year” categories with a single “Non-recurrent Financial Assistance” category with two funding rounds – in April and October each year.
3. Retains financial assistance throughout the year for the waiving of fees and charges by the General Manager.
4. Requires all organisations to submit their requests on the Council Application Form and to submit their constitution.
5. Enhances the acquittal and reporting processes.
6. Allows for organisations to receive more than one donation per year.
7. Replaces the term “Donation” with “Financial Assistance”.

#### **Policy 4.6 Request For Financial Assistance By Waiving Of Fees For Council Facilities**

The only change to the existing policy was to replace the term “Donation” with “Financial Assistance”.

The revised policies were placed on public exhibition for 28 days. No public comment was received. It is therefore recommended that Council adopt the revised policies.

**POLICY IMPLICATIONS**

The Policies will include amendments as outlined.

**FINANCIAL IMPLICATIONS**

The revised Financial Assistance Program Policy and Guidelines will enable Council to better meet community needs, tighten the application and acquittal processes. The revised policies do not alter the amount of funding provided by Council.

**LEGAL IMPLICATIONS**

Local Government Act NSW 1993

**09-451 RESOLVED**

**THAT** having placed the following policies on exhibition for 28 days and the expiry of the exhibition period, that Council now adopts the revised policies:

1. 4.4 Donations Section 356 of the Local Government Act
2. 4.6 Request For Financial Assistance By Waiving Of Fees For Council Facilities

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor G Danaher

A **DIVISION** was called by Councillors M F Ticehurst and J J McGinnes

**FOR**

Councillor N L Castle  
Councillor H K Fisher  
Councillor W McAndrew  
Councillor G Danaher  
Councillor W Marshall  
Councillor C Hunter

**AGAINST**

Councillor M F Ticehurst  
Councillor J J McGinnes

**ITEM:17            COMM - 02/11/09 - SECTION 356 - FINANCIAL ASSISTANCE TO  
                          COMMUNITY ORGANISATIONS**

**REPORT BY: COMMUNITY DEVELOPMENT OFFICER – JASON HOPKINS**

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**REFERENCE**

MIN No 09-331 – Ordinary meeting of Council dated 3 August 2009.  
MIN No 09-333 – Ordinary meeting of Council dated 3 August 2009.  
MIN No 09-425 – Ordinary meeting of Council dated 6 October 2009.

**SUMMARY**

The report recommends that Council consider allocating funding to the Lithgow District Car Club.

**COMMENTARY**

In adopting the Management Plan for 2009/10 – 2011/12 Council identified the provision of financial assistance to not-for-profit community groups. This report outlines a request from the following organization for financial assistance.

**Lithgow District Car Club**

Lithgow District Car Club has submitted a request for Council to waive rates on their property at Mt Piper on which they propose to construct a Motorsport Club. The park will include driver training facilities for children aged 12 years and over, a 4 wheel drive training course, a hillclimb track as well as motorkhana and khanacross areas. The Car Club states that it provides much needed driver education program and brings visitors to Lithgow area to compete in family friendly and affordable motorsport.

The General Rate Component of their rates is \$950.57.

Council has allocated \$7,310 for “as resolved” financial assistance throughout the year of which \$2,661.14 remains. It is recommended that Council approve financial assistance to the value of \$950.57.

**POLICY IMPLICATIONS**

Financial Assistance is provided under policy 4.4 Financial Assistance – 356 of the Local Government Act

**FINANCIAL IMPLICATIONS**

In adopting the 2009/10 Management Plan, Council allocated \$7,310 for “as resolved” financial assistance throughout the year including Council fee and hall hire waiver requests as approved under delegation by the General Manager. To date, \$4,648.86 has been allocated leaving \$2,661.14 remaining for this financial year.

**LEGAL IMPLICATIONS**

NIL

## 09-452 RESOLVED

**THAT** Council provides financial assistance to the value of \$950.57 as a contribution for the 2009/10 General Rate Component of the Lithgow District Car Club rates on their property at Mt Piper.

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor C Hunter

## ITEM:18            **COMM - 02/11/09 - COMPLIANCE TIMES FOR SEPTIC SAFE PROGRAM**

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

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### **REFERENCE**

Min 08-51 – Policy and Strategy Meeting 6 May 2008  
Min 09-433 - Ordinary Council Meeting 14 September 2009

### **SUMMARY**

This report details the information requested by Council at the Ordinary Meeting of Council 14 September 2009, the legislative basis of the Septic Safe Program, and the arrangements that Council has established to administer the program.

### **COMMENTARY**

At the Ordinary Council Meeting held on 14 September 2009, the Council resolved:

*THAT*

1. *A report be brought back to the next meeting of Council regarding property owners being given 28 days notice to ensure their septic tanks comply with relevant legislation.*
2. *The report provides information on the following:*
  - Were the septic tanks approved by Council in the first instance?*
  - How many times have property owners been notified regarding the non-compliance of their septic tanks?*
  - Do these septic tanks potentially affect water catchment areas?*
  - What is the legal action should septic tanks not comply within 28 days?*

Regulatory reforms require councils within NSW to register, inspect, and licence all domestic onsite wastewater systems. Lithgow's inspection program to date has found that approximately 60% of the septic systems inspected are failing to meet basic performance and operational objectives. Timeframes for residents to repair or upgrade failing systems varies depending on the risk the failure poses to public health and the environment.

In 1998 the NSW Government introduced a package of local government regulatory reforms and guidelines to enable more effective council regulation and performance supervision of small domestic wastewater systems.

These reforms required all NSW councils to register all on-site wastewater systems, inspect high-risk wastewater systems, and to give 'operational approvals' (licenses) for all on-site wastewater systems.

After public consultation, Lithgow City Council adopted a Sewage Management Strategy that incorporated the registration and licensing of all Aerated Water Treatment Systems (AWTS) and Septic Systems, and inspection of all septic systems starting with those within the drinking water catchment.

Failing wastewater systems release dangerous levels of sewage pollution to the environment. Sewage pollution causes contamination of water, which can spread disease and lead to environmental degradation. Research conducted after the Sydney Water Cryptosporidium and Giardia scare in 1999 has shown that failing septic systems and sewage treatment plants pose the greatest biological risk to drinking water catchments.

Today the installation of the septic systems is approved by councils after a site and soil assessment has been completed by an appropriately qualified person. In the past both NSW Health and Local Government have had a role in approving septic systems at varying times. NSW Health's main role now is to accredit all treatment systems such as septic tanks and AWTS for domestic purposes while councils assess the application including the site and soil assessment.

To date approximately 200 septic inspections have been completed within the LGA with 60% of systems failing to meet basic performance and operational objectives. Prior to this, inspections were only conducted after the initial installation.

Failures can largely be attributed to poor soils and a lack of maintenance of the systems. Minor failures are identified on an inspection sheet and a copy given to the owner of the system requesting that they complete necessary works at their earliest convenience.

With more serious failures a letter is written requesting works to be completed within a reasonable timeframe. Timeframes are decided by the Council Officer inspecting the system who considers the risk to public health and the environment and consults with the owner of the system. Council Officers working on this project are adequately experienced and qualified to make informed decisions.

For example, a septic tank requiring a de-sludge (removal of solids from the tank) might be required to be pumped out within 28 days whereas to replace septic trenches 60-90 days is typically given, depending on the risk to public health and the environment.

When works are not completed councils have the option of issuing notices and orders under the *Local Government Act 1993* and *Protection of the Environment Operations Act 1997*. Other regulatory tools include the issuing of Notices of Entry, where entry is denied to a property, and the issuing of penalty infringement notices under the above Acts. To date no penalty infringement notices have been issued.

In summary, the program is legislated and Council has a responsibility to implement the program. Failure rates are high, further demonstrating the need for the program. Where possible Council works with residents and provides adequate timeframes for maintenance and upgrades of failing systems.

#### Public Information Sessions

In order to improve the knowledge of residents of the Septic Safe Program, Council will coordinate a series of public information sessions in selected locations prior to the commencement of inspections. Residents within the prescribed location will be notified of the information sessions along with the notice that inspections will be carried out.

### **POLICY IMPLICATIONS**

NIL

### **FINANCIAL IMPLICATIONS**

Fees and charges are set annually and are set out in the Council's Management Plan.

### **LEGAL IMPLICATIONS**

Local Government Act 1993

Protection of the Environment Operation Act 1997

### **RECOMMENDATION**

**THAT** the Council notes the information on implementation and compliance of the Septic Safe Program.

### **09-453 RESOLVED**

#### **THAT:**

1. The Council notes the information on implementation and compliance of the Septic Safe Program.
2. Council arrange a series of public meetings as a matter of urgency.

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor G Danaher

A **DIVISION** was called by Councillor H K Fisher and G Danaher  
**CARRIED UNANIMOUSLY**

**ITEM:19            COMM - 02/11/09 - NOMINATIONS FOR TOURISM ADVISORY COMMITTEE**

**REPORT BY: GROUP MANAGER COMMUNITY AND CORPORATE – SUZANNE LOLLBACK**

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**REFERENCE**

Min 09-402: Ordinary Meeting of Council, 14 September 2009

**SUMMARY**

Following the resignation of two members of the Tourism Advisory Committee, expressions of interest have been received for their replacement. This report recommends the appointment of two new members.

**COMMENTARY**

At the Ordinary Meeting of Council, 14 September 2009 the Council resolved the following:

2. *Council call for Expressions of Interest for membership of the Tourism Advisory Committee following the resignation of two committee members.*
4. *Council encourage the Hartley Historic Village provide an application for a member on this Committee.*

Five nominations were received. Councillors Marshall and Fisher have reviewed the nominations with the Group Manager Community and Corporate in attendance. A meeting was held with each nominee. Information on all nominations has been provided to the Councillors under separate cover.

It is recommended that the following people be appointed to the tourism advisory committee:

1. Mr Michael Forbes

Mr Forbes is a foundation member of the Zig Zag Railway and has been the Chairman of the Board, and is now the General Manager. Over the last 35 years the Zig Zag Railway has grown to become the fourth largest passenger carrying railway in NSW. In his role as General Manager, Mr Forbes is actively involved in tourism both locally and on a national level. He has a sound understanding of the industry.

2. Mr John Eggenhuizen

Mr Eggenhuizen is the Owner/Operations Manager of Getabout 4WD Adventures Pty Ltd. He has long been involved with both the tourism industry and 4WD training. Getabout is a well respected member of the tourism community. They are currently contracted with NRMA to conduct all of their advertised 4WD tours. Much of the 4WD training conducted by the company is held in Wallerawang.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

Local Government Act 1993, s355.

**ATTACHMENTS**

NIL

**09-454 RESOLVED**

**THAT** Mr Michael Forbes, General Manager of the Zig Zag Railway and Mr John Eggenhuizen Owner/Operations Manager of Getabout 4WD Adventures Pty Ltd be appointed to the Lithgow Tourism Advisory Committee.

**MOVED:** Councillor W Marshall  
**CARRIED**

**SECONDED:** Councillor W McAndrew.

**ITEM:20          COMM - 02/11/09 - MENS SHED - LITHGOW AND PORTLAND**

**REPORT FROM: COMMUNITY DEVELOPMENT OFFICER – JASON HOPKINS**

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**REFERENCE**

nil

**SUMMARY**

Council has been approached for support in establishing Men's Shed projects in Portland and Lithgow. This report summarises the discussions to date and identifies options for Council to consider in supporting these projects.

**COMMENTARY**

The Men's Shed concept is a way for men to come together, create, form social connections and contribute to Lithgow through the creation of valuable community building projects.

As seen in other areas, Men's Shed are varied in the kind of work they do. Projects can range from building toys for charity to the restoration of old buildings.

The men's shed is not just for handymen, it also provides a space for men to talk and learn some new skills and meet people with similar interests.

When you look at our local demographics it is not hard to see why a men's shed would be of benefit. At present we have 10,017 men in Lithgow compared to 9,739 women with the average age of these men being 40 years

Beside smaller projects that will be done on site, the Portland and Lithgow Men's Shed aim is to

- Generate building projects within the wider community
- Work with local schools to pass on building skills
- Hold community days to display work
- Hold family days for members.

### **Portland**

In discussion with a number of men from Portland, an existing pavilion was identified as a suitable location for Men's Shed at Kremer Park. This pavilion, situated at the back of the park, was chosen because it has the potential to be used as a shed that could also include a kitchen, meeting room and indoor toilet. Another larger pavilion next to it was deemed unsuitable due to its dilapidated state. At present there are decorations for use in cemeteries being stored in shed which would need to be relocated.

The men were recently given access to the building for a period of two weeks in order to identify the necessary works required to bring the shed to a suitable standard. A document detailing these works is attached to this report.

A large portion of this work will be at no cost to Council as the men involved in the project have most of the materials and tools to complete the work themselves. A letter to this effect is attached to this report.

In order to commence this work, the men have asked that Council bring electrical and other fittings up to a safe standard. The council will undertake these works as part of their building maintenance program.

### **Lithgow**

The men who are interested in running a shed in Lithgow have met with Council staff on a number of occasions to identify potential sites however to date no suitable site has been found.

Should a suitable location be found, the men have enough members to undertake the work on a premise and can source the tools and other materials through fundraising and other community support.

### **Fundraising**

In a meeting held on 19 October 2009, both the Portland and Lithgow Community members were encouraged to approach local clubs to seek financial assistance through fundraising.

It was also suggested that they seek community interest in a Men's Shed by promoting through the Lithgow Mercury. This will help to raise the profile of the men's shed and may assist with getting donations such as money, and tools

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Council will undertake to replace electrics and other fittings in order to make the pavilion at Portland's Kremer Park suitable for use for a Men's Shed. This work will be undertaken as part of the building maintenance program to the approximate value of \$2,500..

## **LEGAL IMPLICATIONS**

Nil

## **09-455 RESOLVED**

**THAT** Council approves the use of the pavilion at Kremer Park in Portland for a Men's Shed.

**MOVED:** Councillor W McAndrew  
**CARRIED**

**SECONDED:** Councillor G Danaher

## **ITEM:21          COMM - 02/11/09 - REVIEW OF CODE OF CONDUCT**

**REPORT BY: GROUP MANAGER COMMUNITY AND CORPORATE – SUZANNE LOLLBACK**

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## **REFERENCE**

Minute 07-453 – Council Meeting 15 October 2007  
Minute 08-31 – Council Meeting 17 March 2008  
Minute P08-77 – Policy and Strategy Committee 1 July 2008  
Minute P08-88 – Policy and Strategy Committee 5 August 2008  
Minute 09-400 – Council Meeting 14 September 2009.

## **SUMMARY**

At the Ordinary Meeting of Council held on 14 September 2009, Council resolved (Minute 09-400) as follows:

**THAT** the Council:

1. Contacts Oberon Council and Mid-Western Council along with Mr Tim Le Fevre and Mr Ian Woodward of Lithgow to confirm the ongoing commitment of the conduct review committee members.

## **COMMENTARY**

Under section 440 of the Local Government Act 1993 councils must adopt a code of conduct that incorporates the provisions of the Model Code (or is consistent with the Model Code).

Council must appoint suitably qualified reviewers. Councils can have conduct review committees or sole reviewers. These are independent of council and can act in the role for more than one council. The operating guidelines are provided in the Model Code. The General Manager and Mayor are not members of the conduct review committee. They may only act in an advisory capacity to the conduct review committee or sole conduct reviewer. Conduct reviewers must be independent, qualified persons of high standing in the community who are appointed by council. The council must appoint 3 or more persons with a sole conduct reviewer being chosen from the appointed persons. Council may determine whether it is going to meet out of pocket expenses and/or pay a fee for the service.

The Council determined on 14 September 2009 to contact Oberon Shire Council and Mid-Western Regional Council along with Ian Woodward and Tim Le Fevre to confirm their representatives for the Conduct Review Committee. Letters have been received confirming the following:

- Mr Tim Le Fevre, Solicitor, Lithgow LGA
- Mr Ian Woodward, Solicitor, Lithgow LGA
- Mr Steve Flynn, Solicitor, Mid-Western LGA
- Mr Russel Seare, Solicitor, Mid-Western LGA
- Mr David Clarke, Solicitor, Mid-Western LGA
- Mr Stephen Blackadder, Solicitor Mid-Western LGA
- Mr Pat Bird, Solicitor, Oberon LGA

## **POLICY IMPLICATIONS**

Council readopted the Model Code of Conduct on 14 September 2009.

## **FINANCIAL IMPLICATIONS**

The Council may determine whether it is going to meet out of pocket expenses and/or pay a fee for the service.

## **LEGAL IMPLICATIONS**

Councils under section 440 of the Local Government Act 1993 must adopt a code of conduct and review the code within 12 months of an election.

## 09-456 RESOLVED

**THAT** the Council resolved to endorse the following people as reviewers:

- Mr Tim Le Fevre, Solicitor, Lithgow LGA
- Mr Ian Woodward, Solicitor, Lithgow LGA
- Mr Steve Flynn, Solicitor, Mid-Western LGA
- Mr Russel Seare, Solicitor, Mid-Western LGA
- Mr David Clarke, Solicitor, Mid-Western LGA
- Mr Stephen Blackadder, Solicitor Mid-Western LGA
- Mr Pat Bird, Solicitor, Oberon LGA

**MOVED:** Councillor W McAndrew  
**CARRIED**

**SECONDED:** Councillor G Danaher

## INTERNAL SERVICES REPORTS

### ITEM:22 INTS - 02/11/09 - NEGOTIATION OF LOCAL FUNDS OF \$5,450,000 FOR THE 2009/10 LOAN BORROWING PROGRAM

#### REPORT FROM: INTERNAL SERVICES MANAGER - CAROL FARNSWORTH

### REFERENCE

Min 09-229: Adoption of the 2009-10 Management Plan

Min 09-309: Tender Acceptance Lithgow STP Stage 2 Upgrade

Min 09-268: 2009/10 Loan Borrowing Program and Ministers Order of 13 May 2009

### SUMMARY

To advise Council of future negotiations to drawdown \$5,450,000 in loan funds as proposed in the 2009/10 loan borrowing program adopted in the 2009/10 Management Plan.

### COMMENTARY

Council proposed in the 2009/10 Management Plan to borrow \$6,930,000 to commence major Wastewater infrastructure works at Lithgow and Wallerawang Treatment Plants.

Loans were to be raised for the following purposes over the next three financial years:

PURPOSE	2010/11	2011/12	2012/13
<b>WASTEWATER FUND:</b>			
STP Lithgow	5,450,000	6,243,000	
STP Wallerawang	1,480,000	1,175,000	1,525,000
STP Portland			4,270,000
<b>TOTAL</b>	<b>6,930,000</b>	<b>7,418,000</b>	<b>5,795,000</b>

Minute 09-309, from the meeting of 13 July 2009, accepted a tender of \$18,924,743.00, for Contract No 0800013 from Haslin Constructions P/L to undertake Stage 2 of the Lithgow Sewerage Treatment Plant upgrade. The contract is scheduled to commence in coming weeks and it is appropriate for Council to drawdown the loan component required to partially fund the project.

The Department of Local Government, in Circular 09-21, advised that the Minister for Local Government handed down revised orders for Council loan borrowings.

The Minister for Local Government, Barbara Perry MP, pursuant to Section 624 of the Local Government Act 1993, has released new restrictions on borrowings by a Council. From the date of the Order, 13 May 2009, Councils may not borrow from any source outside the Commonwealth of Australia nor in any other currency other than Australia currency.

Circular 09-21 also reminds Councils that under their Charter they must have regard to the long term and cumulative effects of their decisions, and accordingly must exercise reasonable care and diligence that a prudent person would exercise when borrowing funds.

In accordance with the regulations (Clause 230 of the Local Government (General) Regulation 2005) Council is required, pursuant to DLG Circular 09-13 of 13 April 2009, to advise the Director General when funds borrowed have been completed.

Quotes for such a loan will be obtained from a number of lending institutions and Council will only be provided 24 hours to respond once an interest rate has been quoted. As an indication of the current interest rate on offer a quote of x.x% was obtained on 23 October 2009.

In the current economic climate lending institutions may not be in a position to offer a loan over a period of 30 years but it is expected they will offer a fixed interest rate for a term of 5 to 10 years and with the opportunity to renegotiate the balance of the loan for the remaining period. Loan repayments will be for equal value consisting of principal and interest made at six monthly intervals.

It would be appropriate for Council to provide delegate authority to the General Manager to negotiate with appropriate lending institutions for the an appropriate loan and the accepted loan will be reported to a future meeting of Council.

#### **POLICY IMPLICATIONS**

Loan funds are borrowed in accordance with:

- Local Government Act 1993 - Section 621 to 624
- Local Government Act 1993 – Borrowing Order dated 13 May 2009
- Local Government (General) Regulation 2005

#### **FINANCIAL IMPLICATIONS**

Drawdown of \$5,450,000 which is part of the 2009/10 Loan borrowing program of \$6,930,000 accepted in the 2009/10 - 2011/12 Management Plan

#### **LEGAL IMPLICATIONS**

Nil

## **09-457 RESOLVED**

### **THAT:**

1. Council note the proposed drawing of a loan of \$5,450,000 as approved in the 2009/10 Management Plan. for the purpose of major construction at the Lithgow Sewerage Treatment Plant
2. Council authorise the General Manager to negotiate with appropriate lending institutions to borrow the funds
3. Council authorise the affixing of the Common Seal pursuant to Section 220 of the Local Government Act 1993 to all documents in pertaining to the loan
4. A report be prepared for a future meeting of Council advising of loan funds accepted

**MOVED:** Councillor G Danaher  
**CARRIED**

**SECONDED:** Councillor W McAndrew.

**ITEM:23            INTS - 02/11/09 - REQUEST FOR AGGREGATION AND RATE LEVEY  
ADJUSTMENT UNDER SECTION 531B**

**REPORT FROM: INTERNAL SERVICES MANAGER - CAROL FARNSWORTH**

## **REFERENCE**

Nil

## **SUMMARY**

To advise Council of an approach by the owners of 60-62 Wolgan Rd, Lidsdale to aggregate their two adjoining properties for rating purposes with a recommendation that this action be completed from 1 July 2009 for the 2009/10 rate levy.

## **COMMENTARY**

Council has been requested by the owner of 60-62 Wolgan Road Lidsdale to aggregate their existing house block with a 23 square metres of adjacent land recently purchased. The purchase of the small area of land has created a boundary adjustment and requires the Valuer General (VG) to amalgamate the land upon request. This was done by the VG and advised to Council on a supplementary rating list on 26 July 2009. As the VG advice is after the 1 July 2009 the normal process is for Council to issue two rate notices for the 2009/10 rating year and on one assessment for the 2010/11 rating year, however the owner is requesting Council allow the valuation amalgamation take effect for the current 2009/10 rating year.

Considering the minor boundary adjustment completed by the owner Council is authorised to aggregate the parcels under section 531B of the Local Government Act 1993.

Rates levied for the existing house block and newly purchased area for the 2009/2010 rating year are \$1,615.19 and \$1,063.61 respectively. The individual values supplied by the VG for the existing house block and the 23 square metres of land are \$72,000 and \$500 respectively. The value supplied by the VG for the amalgamated valuation, which would have been effective from 1 July 2010, for the 2010/11 rating year, is \$72,000.

It is recommended that Council approve the aggregation of the two properties for rating purposes on the basis that the property accommodates a single residential dwelling and that the levying of charges on a small boundary adjustment may be applied be considered inappropriate.

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

If Council approve the aggregation of the properties from 1 July 2009, the valuation supplied by the Valuer General on the 26 July 2009 will be used and the impact would be a reduction in permissible rate income of \$1,063.61 in the 2009/2010 rating year.

#### **LEGAL IMPLICATIONS**

Nil

#### **09-458 RESOLVED**

##### **THAT:**

1. Council approve the aggregation of Property 101048, an existing house block known and adjoining Property 105020 recently purchased 23 sq metres of land by the same owner for a boundary adjustment under Sec 531B of the Local Government Act 1993
2. Approve the amalgamation from 1 July 2009, effective for the 2009/10 rate levy
3. Apply a valuation of \$72,000 as supplied by the Valuer General on 26 July 2009
4. Authorise the write off \$1,063.61 previously levied for the 2009/2010 rating year.

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor G Danaher

**ITEM:24 INTS - 02/11/09 - COUNCIL INVESTMENTS HELD TO 30 SEPTEMBER 2009**

**REPORT FROM - INTERNAL SERVICES MANAGER - C FARNSWORTH**

**REFERENCE**

Min 09-299: 13 July 2009 (June 2009)  
 Min 09-354 24 August 2009 (July 2009)  
 Min 09- 393 14 September 2009 (August 2009)

**SUMMARY**

To advise Council of investments held as at 30 September 2009 for the 2009/10 financial year.

**COMMENTARY**

Council's total investment portfolio, as at 30 September 2009 when compared to 31 August 2009, has increased by \$2,024,740.01.

INVESTMENT REGISTER 2009/10								
INSTITUTION	INV TYPE	DATE LODGED	DATE DUE	DAYS	INT	VALUE 30.09.09	VALUE 31.08.09	% OF TOTAL
ANZ	TD	17.08.09	12.02.10	179	4.00	513,587.03	513,587.03	2.82%
BANKWEST	TD	12.08.09	11.09.09			0.00	536,146.65	0.00%
	TD	10.08.09	09.11.09	90	4.00	508,379.08	508,379.08	2.79%
	TD	24.08.09	23.11.09	91	4.00	503,082.19	503,082.19	2.76%
CBA	On Call				2.95	1,025,129.24	1,025,129.24	5.63%
	Ethical Nt	06.11.06	06.11.11	1,825	**	56,500.00	56,500.00	0.31%
	TD	03.09.09	06.10.09	33	3.58	1,000,000.00	0.00	5.50%
CITIBANK	TD	10.08.09	10.11.09	92	4.30	283,157.69	283,187.69	1.56%
	TD	17.08.09	16.10.09	60	4.21	505,609.59	505,609.59	2.78%
	TD	24.08.09	24.11.09	92	4.38	503,698.50	503,698.50	2.77%
	TD	23.09.09	23.12.09	90	4.50	505,547.95	500,000.00	2.78%
LGFS	On Call				2.90	7,159.79	7,159.79	0.04%
IMBS	TD	02.09.09	02.12.09	90	4.35	1,487,753.48	1,472,324.33	8.18%
	TD	05.08.09	03.11.09	90	4.30	920,466.85	920,466.85	5.06%
NAB	TD	14.08.09	14.11.09	90	4.00	1,010,676.72	1,010,676.72	5.55%
	TD	17.08.09	17.11.09	90	4.00	757,767.13	757,767.13	4.16%
WESTPAC	TD	15.09.09	15.02.10	150	4.81	1,013,526.03	1,000,000.00	5.57%
	TD	29.09.09	29.12.09	120	4.56	760,978.56	750,000.00	4.18%
	TD	03.09.09	03.02.10	150	4.79	750,000.00	0.00	4.12%
MACQUARIE	TD	19.05.09	19.11.09	180	4.10	2,000,000.00	2,000,000.00	10.99%
ST GEORGE	TD	19.05.09	19.11.09	180	4.10	750,000.00	750,000.00	4.12%
	TD	04.08.09	04.11.09	90	4.15	505,041.10	505,041.10	2.78%
	On Call				3.20	47,207.38	47,207.38	0.26%
	TD	25.06.09	07.10.09	104	4.10	500,000.00	500,000.00	2.75%
	TD	03.09.09	02.12.09	90	4.00	750,000.00	0.00	4.12%
SUNCORP	TD	04.09.09	04.10.09	30	4.09	1,015,224.78	1,005,041.10	5.58%
	TD	17.09.09	17.12.09	90	4.50	516,699.85	511,478.56	2.84%
			<b>TOTAL</b>			<b>18,197,222.94</b>	<b>16,172,482.93</b>	<b>100.00%</b>

I, Carol G Farnsworth, Lithgow City Council Internal Services Manager (Responsible Accounting Officer) certify as required under Local Government (General) Regulations 2005, that Council's investments have been made in accordance with the Local Government Act 1993, Regulations and Lithgow City Council's Investment Policy.

## **POLICY IMPLICATIONS**

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. On 21 October 2008 Council adopted the current version of the Investment Policy as Policy 8.2.

## **FINANCIAL IMPLICATIONS**

Interest received to 30 September 2009 is \$81,488.42 of an estimated \$525,000.00 which is shown in the 2009/10 Management Plan. Interest is paid on the maturity date of the investment.

\*\* The interest on the CBA Ethical note is subject to the global financial markets and therefore interest is subject to change.

## **LEGAL IMPLICATIONS**

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. On 21 October 2008 Council adopted the current version of the Investment Policy as Policy 8.2 and all future investments will comply with this Policy which accords with the requirements of the:

- Local Government Act 1993 - Section 625
- Local Government Act 1993 - Order dated 31 July 2008
- Local Government (General) Regulation 2005
- Trustee Amendment (Discretionary Investments) Act 1997- Section 14A(2), 14c(1) & (2)

## **09-459 RESOLVED**

**THAT** Investments of \$18,197,222.94 for the period ending 30 September 2009 be noted.

**MOVED:** Councillor G Danaher  
**CARRIED**

**SECONDED:** Councillor W Marshall

**ITEM:25 INTS - 02/11/09 - AFFIXING OF THE COUNCIL SEAL TO LEGAL DOCUMENTS ASSOCIATED WITH THE SALE OF LAND FOR UNPAID RATES ON 26TH SEPTEMBER 2009**

**REPORT FROM - INTERNAL SERVICES MANAGER - C FARNSWORTH**

**REFERENCE**

Min No 09-94: Ordinary Meeting of Council 9<sup>th</sup> March 2009

Min No 09- 394: Ordinary Meeting of Council 14<sup>th</sup> September 2009

**SUMMARY**

This report requests Council authorise the Mayor and the General Manager to affix the official Council Seal to properties sold, or currently for sale, for unpaid rates pursuant to Division 5, Sect 713 of the Local Government Act 1993 on the 26 September 2009.

**COMMENTARY**

Pursuant to Division 5, Section 713 of the Local Government Act 1993 Council offered by public auction, properties in the local government area which had accrued rates and charges in excess of five years.

The properties which are sold, or are currently listed for sale with Councils Real Estate Agent, are listed below:

DESCRIPTION	ADDRESS
Lt 1 DP 793509	Hazel St, Portland
Lt 35 Sec 4 DP 758446	Naroo Circuit, Glen Davis
Lt 58 DP 28254	2 Third St, Lithgow
Lt13 Sec11 DP 758855	Lime St, Portland
Lt 12-13 DP 251935	Great Western Hwy, Lithgow
Lt 1 DP 134204 Lt 1 DP 134205	Ernest St, Lithgow
Lt 98 DP 237413	Donald Rd, Clarence
Lt 1-2 Sec 15 DP 758890 Lt 11-12 Sec 15 DP 758890	Quarry St, Rydal
Lt 5 DP 755770	Dulabree Rd, Dark Corner
Lt 1 DP 911661	Bells Rd, Lithgow
Lt 7 Sec 28 DP 758770	Glenowlen St, Newnes

Council Minute: 09-394, of 14 September 2009, authorised the Mayor and General Manager to sign documentation in relation the sale properties and it is now evident that the land transfers which are to be forwarded to the Department of Lands must be executed under seal. Accordingly it would be appropriate for Council to authorise use of the seal for this purpose.

**POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Sale of Land for unpaid rates pursuant to Division 5, Section 713 of the Local Government Act 1993

## **09-460 RESOLVED**

**THAT** Council authorise the affixing of the Common Seal pursuant to Section 220 of the Local Government Act 1993 to all documents in pertaining to properties sold, or currently listed for sale, from the Sale of Land for Unpaid Rates on 26 September 2009.

- Lt 1 DP 793509 Hazel St, Portland
- Lt 35 Sec 4 DP 758446 Naroo Circuit, Glen Davis
- Lt 58 DP 28254 Third St, Lithgow
- Lt13 Sec11 DP 758855 Lime St, Portland
- Lt 12-13 DP 251935 Great Western Hwy, Lithgow
- Lt 1 DP 134204 & Lt 1 DP 134205 Ernest St, Lithgow
- Lt 98 DP 237413 Donald Rd, Clarence
- Lt 1-2 Sec 15 DP 758890 Lt 11-12 Sec 15 DP 758890 Quarry St, Rydal
- Lt 5 DP 755770 Dulabree Rd, Dark Corner
- Lt 1 DP 911661 Bells Rd, Lithgow
- Lt 7 Sec 28 DP 758770 Glenowlen St, Newnes

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

## COMMITTEE MEETINGS

**ITEM:26            OPER - 02/11/09 - SPORTS ADVISORY COMMITTEE - MINUTES  
                         28TH SEPTEMBER 2009 AND 26TH OCTOBER 2009**

**REPORT BY:    PROJECT CO-ORDINATOR – LEANNE KEARNEY**

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### **SUMMARY**

Details of the Minutes of the Sports Advisory Committee Meeting's held on Monday, 28 September 2009 and Monday, 26 October 2009 for Council adoption.

### **COMMENTARY**

At the Sports Advisory Committee Meeting held on Monday, 28 September 2009, there were ten (10) items discussed by the Committee, and fifteen (15) items discussed at the meeting held on Monday, 26 October 2009, and it is considered that all these items be adopted by Council as per the Committee's resolutions.

### **POLICY IMPLICATIONS**

Nil.

### **FINANCIAL IMPLICATIONS**

Nil.

### **LEGAL IMPLICATIONS**

Nil.

### **09-461 RESOLVED**

**THAT** the minutes of the Sports Advisory Committee held on Monday, 28 September 2009 and Monday, 26 October 2009 be adopted.

**MOVED:** Councillor H K Fisher      **SECONDED:** Councillor G Danaher  
**CARRIED**

**ITEM:27            COMM - 02/11/09 - LITHGOW FLASH GIFT COMMITTEE MINUTES  
19TH AUGUST 2009**

**REPORT BY: ACTING TOURISM MANAGER – KELLIE BARROW**

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**REFERENCE**

Min No 09-235 – Ordinary Meeting 1 June 2009.  
Min No 09-305 – Ordinary Meeting 13 July 2009.

**SUMMARY**

This report details the Minutes of the Lithgow Flash Gift Committee held on 19 August 2009 for Council adoption.

**COMMENTARY**

At the Lithgow Flash Gift Committee meeting held on 19 August 2009, there were (6) six items discussed by the Committee.

- 1.Sponsorship update
- 2.NSW Athletics League update
- 3.Little Athletics update
- 4.Marketing & expenditure – Lithgow Flash Gift
- 5.Action list
- 6.General business

The minutes contain updates on the Lithgow Flash Gift Committee.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil

**09-462 RESOLVED**

**THAT** Council notes the minutes of the Lithgow Flash Gift meeting held on 12 August 2009.

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor G Danaher

**CARRIED**

**ITEM:28            COMM - 02/11/09 - TOURISM ADVISORY COMMITTEE MINUTES -  
1ST SEPTEMBER 2009**

**REPORT BY: ACTING TOURISM MANAGER – KELLIE BARROW**

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**REFERENCE**

Min No 09-234 – Ordinary Meeting 1 June 2009  
Min No 09-338 – Ordinary Meeting 3 August 2009  
Min No 09-381 – Ordinary Meeting 14 September 2009 Item 5  
Min No 09-338 – Ordinary Meeting 14 September 2009 Item 25

**SUMMARY**

This report details the Minutes of the Tourism Advisory Committee Meeting held on 1 September 2009 for Council adoption.

**COMMENTARY**

At the Tourism Advisory Committee Meeting held on 1 September 2009, there were (12) twelve items discussed by the Committee.

1. Confirmation of Minutes
2. Business Arising
3. Reviewing your Tourism Business Through a Submission to the Tourism Awards
4. Tourism Survey Results
5. Membership Forum
6. Marketing and Branding Strategy
7. Committee Membership
8. World Masters Games
9. Business Plan – Update on actions
10. Feedback from Committee
11. Tourism Manager's Report
12. General Business

It was resolved in Item 5 of the Council Meeting on 14 September 2009 minute number 09-381 that the Terms of Reference to the Tourism Advisory Committee be amended to include:

1. A member ceases to be a member of a Committee if the member (other than the Mayor)
2. Has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the Committee for the members absences; or
3. Has been absent from at least half of the meetings of the Committee held during the immediately preceding year without having given to the Committee acceptable reasons for the member's absence.

These have been dealt with in accordance with the resolution.

It was resolved in Item 25 of the Council Meeting on 14 September 2009 minute number 09-402 that:

1. Call for nominations to the Tourism Advisory Committee to fill the vacancy on the committee following the resignation of Ms Janelle Johnson and Mr Peter Phillips.
2. A letter be sent to thank Ms Johnson and Mr Phillips for their input over many years.

This has been dealt with in accordance with the resolution.

The minutes contain updates on the Tourism Advisory Committee with recommendations for Council.

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

Nil

#### **LEGAL IMPLICATIONS**

Nil

#### **ATTACHMENTS**

1. Minutes of the Tourism Advisory Committee held on 1 September 2009
2. Results of Tourism Survey

#### **09-463 RESOLVED**

**THAT** Council:

1. Note the minutes of the Tourism Advisory Committee held on 1 September 2009.
2. Receives the report on the results of the Tourism Survey and develops a “Tourism Awareness Campaign” for those sectors who have some level of involvement in tourism but who are not directly involved.

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

**ITEM:29            COMM - 02/11/09 - TOURISM ADVISORY COMMITTEE MEETING -  
MINUTES - 7TH OCTOBER 2009**

**REPORT BY: ACTING TOURISM MANAGER – KELLIE BARROW**

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**REFERENCE**

Min No 09-234 – Ordinary Meeting 1 June 2009  
Min No 09-338 – Ordinary Meeting 3 August 2009  
Min No 09-381 – Ordinary Meeting 14 September 2009 Item 5  
Min No 09-338 – Ordinary Meeting 14 September 2009 Item 25

**SUMMARY**

This report details the Minutes of the Tourism Advisory Committee Meeting held on 7 October 2009 for Council adoption.

**COMMENTARY**

At the Tourism Advisory Committee Meeting held on 7 October 2009, there were (11) eleven items discussed by the Committee.

1. New Chairperson and Deputy
2. Present and Apologies
3. Confirmation of minutes from the previous meeting.
4. Business arising from previous minutes
5. Membership Forum
6. Marketing and Branding Strategy
7. Committee Membership
8. World Masters Games
9. Proposal from Marc Aussie-Stone
10. Tourism Manager's Report
11. General Business

The minutes contain updates on the Tourism Advisory Committee with recommendations for Council.

**POLICY IMPLICATIONS**

Policy 9.2 – Appointment of Mayor to Committee  
Policy 9.5 – Council appointment of Chairperson of Council Committees or working groups.

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil

**09-464 RESOLVED**

**THAT** Council:

1. Note the minutes of the Tourism Advisory Committee held on 7 October 2009.
2. That Councillor Wayne Marshall be appointed Chairperson and Councillor Howard Fisher be appointed Deputy Chairperson of the Tourism Advisory Committee.

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

**ITEM:30            OPER - 02/11/09 - TRAFFIC AUTHORITY LOCAL COMMITTEE MEETING - MINUTES 6TH AUGUST 2009 AND 1ST OCTOBER 2009**

**REPORT FROM: ACTING MANAGER OPERATIONS – CHRIS SCHUMACHER**

**REFERENCE**

Nil

**SUMMARY**

Details of the Minutes of the Traffic Authority Local Committee Meeting held on 6 August, 2009 & 1 October 2009.

**COMMENTARY**

At the Traffic Authority Local committee meeting held on 6 August 2009 & 1 October 2009 there were a number of 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

## 09-465 RESOLVED

**THAT** Council note the report on the Minutes of the Traffic Authority Local Committee Meetings for 6 August 2009 & 1 October 2009 with the following recommendations:

1. The Committee await further information on the issue bells Road and Victoria Avenue from Jones Bros Bus Company
2. The Committee consult with the Tourist Information Centre on the issue of who is responsible for the road blocks and traffic control for the World Masters Games Parade. Details of the road closure are to be advertised on local radio and in the Mercury.
3. A No Parking - Emergency Vehicles Accepted 9am-5pm” signed be installed along with an extension of the zone at 136 main Street, Lithgow.
4. An onsite meeting will be organised with RTA and the Manager of the Medical Centre, 136 Main Street Lithgow to identify where the signs need to be installed and the length of the parking zone required.
5. An onsite meeting be held at the Vale of Clwydd Hall to identify the signs and what type of signs need to be installed.
6. An onsite meeting will be held by members of TALC to discuss the areas where the loading zones should be placed in the Main Street Lithgow.
7. A meeting be held with the Lithgow Soccer Association in relation to traffic congestion and confusion at Marjorie Jackson Hockey Fields.
8. The Committee seek a more detailed traffic management plan that includes the traffic control plan for special events.
9. 136 main Street, Lithgow - “no Parking - Emergency Vehicles Accepted 9am-5pm” signs be installed along with an extension of the zone. An onsite meeting be organised with RTA and the Manager of the Medical Centre to identify where the signs need to be installed and the length of the parking zone required.
10. Appropriate “No Stopping” and “No Standing” signage be installed as per RTA and LCC on site meeting details for Vale Clwydd Hall
11. An onsite meeting will be held by members of TALC to discuss the areas where the loading zones should be placed in the Main Street Lithgow.
12. Two way traffic to remain at Marjorie Jackson Soccer Fields. No parking signage to be installed along the RLS Side of the soccer fields from Sandford Avenue through the laneway which exits onto Read Avenue.
13. Council and the RTA to have an onsite meeting with the Lithgow Soccer Association to discuss a separate parking issue.
14. A traffic control plan for the Hartley Spring Festival held on Sunday 25<sup>th</sup> October 2009 be prepared.
15. An onsite meeting with the Parish Council of the Anglican Church be arranged to discuss a possible wheelchair accessible ramp being installed.
16. Council to investigate whether the car park at Portland Hospital is on private land or not.
17. The Committee to ask Ironfest to prepare a traffic management plan, including traffic control plans.

**MOVED:** Councillor G Danaher

**SECONDED:** Councillor H K Fisher.

**CARRIED**

**09-466 MOTION**

**THAT** the late report in relation to the Centroc Water Security Study be received.

**MOVED:** Councillor G Danaher

**SECONDED:** Councillor H K Fisher

**CARRIED**

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**LATE REPORT - 02/11/09 - CENTROC WATER SECURITY STUDY**

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**REFERENCE**

NIL

**SUMMARY**

This report is to provide an outline of the outcomes of the now public Centroc Water Security Study.

The report also seeks Council endorsement in principle of the Study.

**COMMENTARY**

In May 2006 State Water presented to the Centroc Board in Lithgow and members were advised of the parlous levels of water in the big dams used for irrigation where consideration was being given to pulsing the Lachlan below Wyangala to ensure supply into towns such as Cowra, Parkes, Lake Cargelligo, and Forbes. Interestingly over three years on after this presentation the situation within the Central West has reverted back to this same situation or even worsened in some cases.

The Centroc Board resolved to seek federal and state support to improve water security in the region. Subsequently the State Government approved 100% funding for a Water Security Study subject to 100% demonstrated support from members and engagement with industry, particularly mining.

Work on the Study was tendered with significant interest in the tender from both national and international companies which was ultimately awarded to MWH Global.

Centroc members were consulted and the community was engaged in the process including irrigators, stock and domestic users, representatives of environmental users and the mining industry. The project has been overseen by a steering committee comprising members of the Centroc Infrastructure Team and State Water.

The Study is now completed and, in line with the funding, it has two components:

- Component 1: An audit of existing infrastructure for bulk water supply; and
- Component 2: An options paper for improving water supply security across the region to 2059. The paper assesses the feasibility of water supply security options considering environmental, social and economic objectives.

The Study also gives consideration to climate change and as such it is considered well ahead of other strategic work being undertaken around the nation.

At the same time both the Federal and State Governments have been taking a keen interest in management arrangements for water utilities, particularly those in the Murray Darling Basin. Therefore close consideration of the Study's recommendations with regard to risks and opportunities in this sector will form part of a later report developed by the Centroc Infrastructure Team.

The Study provides advice which is likely to be of use to Centroc members when making applications for funding to the Federal Government. There are three grant rounds for funding infrastructure to improve water security in the next two months. These are:

- 6 November for the Program (SBCP)
- 1 December National Water Security Plan for Cities and Towns
- 11 December Stormwater harvesting and reuse projects

• **6 November for the Program (SBCP).**

\$200m is available for Basin communities for improvements to water security. The objective for this round of the SBCP is to support projects that improve urban water security through water saving initiatives that reduce demand on potable supplies by:

- reducing water loss in distribution systems;
- reducing potable water use; and/or
- providing 'fit for purpose' water that can replace potable water.
- Eligible activities may include, but are not limited to:
  - recycling and reuse;
  - leakage and pressure reduction;
  - smart metering;
  - efficient urban irrigation technologies;
  - development and implementation of a demand management program within the funding period;
  - devolved grant arrangements, which may include consolidated proposals for
  - multiple community facilities such as installation of rainwater tanks and greywater
  - systems;
  - stormwater capture and reuse schemes;
  - desalination; and
  - water sensitive urban design initiatives.
- Activities not eligible include:
  - water supply projects that increase net extraction from groundwater or surface water
  - resources such as bores, dams, or transfer pipelines;
  - research activities;
  - proposals that are not consistent with the National Water Initiative or are not
  - supported by sound water supply planning;

- irrigation infrastructure for agricultural production;
- household rainwater or greywater systems, unless part of an integrated communitywide
- strategy;
- exit assistance;
- structural adjustment payments or grants for the development of new enterprises;
- funding for communities to buy water entitlements; and
- on-going operation and maintenance costs.

• **1 December National Water Security Plan for Cities and Towns**

The National Water Security Plan for Cities and Towns is a key component of Water for the Future. Under the plan, the Australian Government is providing \$254.8 million over five years to cities and towns with fewer than 50,000 people to upgrade older pipes and water systems, to install new infrastructure and for practical projects to save water and reduce water losses. The Government has already committed over \$100 million to projects identified in the 2007 election to assist communities to adjust and adapt to a future with less water. Projects currently funded under the first stage are listed in the National Water Security Plan for Cities and Towns program page.

Under this second stage of the Plan, competitive grants will be available to develop and implement practical projects that improve urban water security through water saving initiatives that reduce demand on potable supplies in cities and towns nationwide.

Urban water service providers, State, Territory or local governments and authorities, and the private sector are eligible to apply. Applicants are eligible to apply either individually, as a member of a consortium or an established regional organisation of councils.

The guidelines make provision for devolved grant arrangements, which may include consolidated proposals for multiple community facilities such as installation of rainwater tanks and greywater systems.

A proposed project must:

- be located in a city or town with a population fewer than 50,000 people
- have total costs of at least \$500,000, with at least fifty percent contribution provided or obtained by the applicant
- be part, or support, the long-term water supply plan for the city or town, and
- be completed by 30 June 2012.

Eligible activities may include but not limited to

- recycling and reuse
- leakage and pressure reduction
- smart metering
- efficient urban irrigation technologies
- stormwater capture and reuse schemes

- desalination, and
- water sensitive urban design initiatives

Projects which are not permitted include those that increase net extraction from groundwater or surface water resources such as bores, dams or transfer pipelines, or activities that are not supported by sound water supply planning.

• **11 December Stormwater harvesting and reuse projects**

As part of the Water for the Future framework, the National Urban Water and Desalination Plan will provide an investment of \$1 billion for desalination, water recycling and stormwater harvesting projects to assist major towns and cities in securing their long term water supply. In March 2009, the Government decided to enhance the scope of the National Urban Water and Desalination Plan by providing greater incentives for urban stormwater harvesting projects in order to reduce the demand on potable water supplies.

The objective of the special call is to support stormwater harvesting and reuse projects in both large and small cities and towns that contribute to:

- Improving the security of water supplies in Australia, without adding to greenhouse gas emissions
- Reducing the demand on potable water supplies
- Helping to reduce the impact of urban runoff on water quality in receiving waters. Subject to suitable proposals, the National Urban Water and Desalination Plan will provide a minimum of \$200 million for stormwater harvesting and reuse projects.

Project funding is available for 50 per cent of eligible capital costs. The minimum project size is \$4 million (eligible for funding of \$2 million). While there is no maximum project size, funding is capped at \$20 million (GST exclusive) per project. Funding is available for project work to be completed by 30 June 2013. State, territory and local government, public water utilities and private companies are eligible to apply.

Projects that are **not** eligible under this special call include:

- Stormwater management that does not include a significant reuse component (eg projects primarily for flood mitigation or water quality purposes)
- Rainwater reuse from residential buildings using domestic rainwater tanks
- Combined effluent and stormwater reuse schemes
- Harvesting stormwater from predominantly non-urban catchments (eg rural or forested)
- Irrigation schemes using aquifers, streams or river water from largely non-urban catchments; and
- Projects that are being implemented to meet local, state, territory or Australian Government requirements. For example, stormwater infrastructure required to meet development conditions such as local government development controls or BASIX (in New South Wales).

**Water Security Study – Component 1**

The primary purpose of the Component 1 Report is to provide the necessary background information to allow water security options to be identified, modelled and assessed. The report provides an overview of the bulk water supplies of the region. This report contains:

- Background context and key project drivers to this water security study which are identified as the severe and ongoing drought in the Murray-Darling Basin (MDB), the need for growth and regional development which leads to significant water shortages for towns and irrigators, the increasing need to share water among the environmental and other users, and the expected impacts of climate change on water resources.
- A definition of the area of study as the Local Government Areas (LGAs) in Central NSW that are member of Centroc. The Centroc region falls within the upper Macquarie River as well as much of the Lachlan River catchments, both of which are part of the Murray Darling Basin (MDB). Characteristics of the Centroc study area include:
  - Over 236,000 people in an area of more than 70,000 square kilometres. Centroc is comprised of the local government entities (and their corresponding major water demand nodes) set out in Table below:

<b>Centroc Local Government Areas and Demand Nodes LOCAL GOVERNMENT AREAS</b>	<b>DEMAND NODES</b>
Bathurst Regional Council	Bathurst
Blayney Shire Council	Blayney-Carcoar (supplied by CTW)
Boorowa Shire Council	Boorowa
Cabonne Shire Council	Molong Cumnock-Yeoval
Central Tablelands Water	Canowindra-Woodstock Cudal-Cargo-Manildra Gooloogong-Eugowra (towns include those above and Blayney, Millthorpe, Lyndhurst, Mandurama, Carcoar, Canowindra, Grenfell and Quandialla)
Cowra Shire Council	Cowra-Koorawatha
Forbes Shire Council	Forbes
Harden Shire Council	Murrumburrah (supplied by Goldenfields Water)
Lachlan Shire Council	Condobolin Lake Cargelligo
Lithgow City Council	Lithgow-Portland
Oberon Council	Oberon
Orange City Council	Orange
Parkes Shire Council	Parkes-Peak Hill
Upper Lachlan Shire Council	Crookwell
Weddin Shire Council	Grenfell (supplied by Central Tablelands Water)
Wellington Council	Wellington-Geurie
Young Shire Council	Young (supplied by Goldenfields Water)

- An average annual population growth rate of 0.29% for the region, which is based on Scenario C of the 2006-2031 population demographic projection report completed by the Western Research Institute for Centroc. The growth rate assumes 10% of new mining, health-related and high technology jobs and 5% of other new jobs will be filled by people migrating into the LGA, while the remainder will be filled by the existing workforce.
- Most of the region's water resources are part of the Macquarie-Castlereagh and Lachlan River systems, including Wyangala Dam, Carcoar Dam and Lake Rowlands in the Lachlan Valley, Burrendong Dam, Windamere Dam and Chifley Dam in the Macquarie Valley, and a number of groundwater systems known as Groundwater Management Units (GMUs) across the region.
- According to the "best estimate" of climate change from CSIRO's MDB Sustainable Yields Project, surface water availability in the Centroc region will be reduced by 8% in the Macquarie and 11% in the Lachlan systems by 2030. The project also found that current groundwater extraction levels in the region are not sustainable, and that water resource availability will further diminish with increasingly dry climate change scenarios.
- The water supplies of the Centroc region are neighboured by other water supply networks such as the Shoalhaven system and the Goldenfields Water network.
  - The approach taken to collect data for this audit,
  - A macro-level audit of existing water infrastructure that introduces each Local Water Utility (LWU) and State Water as the legal owners of many of the assets.

The audit includes:

- Major bulk water supply infrastructure such as dams, weirs and lakes;
- Water supply distribution infrastructures such as transfer mains, pump stations and service reservoirs for bulk and raw water; and
- Treatment infrastructure such as water treatment plants (WTP), sewage treatment plants (STP) and stormwater harvesting facilities.
  - A review of water management approaches, legislations and frameworks currently implemented to manage the demand and supply of urban and non-urban water in the Centroc region, including:
    - Policy and regulatory contexts in the form of the *Water Management Act 2000* at the State Government level and the National Water Initiative (NWI) framework at the national level. DWE is the main body that regulates water and energy management for authorities of LWUs within the Centroc region.
    - Summaries of Bulk Access Regimes under the *Water Management Act 2000* that govern water sharing for the Lachlan and Macquarie systems, including basic landholder rights, requirements for licences and limitations to available water.
    - Water supply pricing for bulk water supplied by State Water Corporation and town water supply/articulation by individual LWUs, including pricing structures, unit charges and typical residential bills.
    - A summary of the demand and drought management programs currently implemented by Centroc LWUs.

- A high level overview of other water related assets that possess economic, environmental, social and cultural value to the community. These include those utilised in irrigation, mining and other large water-using industry, recreational water bodies and their surrounding reserves, national parks and wetlands.

These assets help define the catchment context for this study and the potential flow or benefit from some town water security options.

### **Water Security Study – Component 2**

This is an options paper for improving water supply security across the region to 2059. The paper assesses the feasibility of water supply security options considering environmental, social and economic objectives. It was determined that over the 50 year planning horizon that a number of towns within the Centroc region will require a water security improvement.

Identifying and assessing the relative performance of options to improve water security for the this 50 year period was the next step necessary to develop an effective long term, region-wide town water security strategy for the region.

Underpinning each of the strategies developed was the need for efficient town water demands, that is demand management of the water supplies. Elements of this program are already in place in a number of the member council areas. It was identified that these Councils may be able to take a lead role in assisting with the design and implementation of this program across the region.

The water demand forecasting and conservation modelling work demonstrated that it is expected that this water efficiency program will offset the additional water demands associated with growth across the Centroc region. In addition, it is recommended that a program of uniform (across-connected supplies) water restrictions be put in place. For the river towns, restrictions will be triggered when the storages of Wyangala or Burrendong reach a set trigger level (i.e. that level representing the lowest 10% of years). In this way, the towns will enter restriction regimes in manner that is sympathetic with allocation reductions on other water users but is consistent with best drought management practice in urban areas.

Following assessment, two region-wide strategies emerged as potential solutions to improve water supply security in the Centroc region which were very close on the Triple Bottom Line (TBL) assessment.

Both options involved a core regional supply and distribution network to provide for the supplementary water requirements of the towns of Cowra, Forbes, Orange and Parkes sourcing water from either:

- An augmented Lake Rowlands (from current capacity of 4,500 ML to 26,500 ML) (Region-wide Strategy 2a); or
- The existing Chifley Dam (Region-wide Strategy 3a).

In addition to the core supply and distribution network, water security to other urban centres is also addressed in both strategies through:

- Pipeline connection between Bathurst and Oberon to provide supplementary water for Oberon and reduce pressure on the Fish River Water Supply, improving outcomes for **Lithgow** as a result;
- Pipelines from the storages of Burrendong and Chifley dams to Wellington and Bathurst respectively are recommended to save water lost in the delivery of these supplies through river channels.
- A series of local solutions, including new minor storages at Cumnock, Condobolin, Lake Cargelligo and Yeoval are recommended.

The recommended option for the supply of the core distribution network is the amplification of Lake Rowlands (Strategy 2a). Whilst more expensive than Strategy 3a, the amplification of Lake Rowlands is preferred on the following basis:

- Lake Rowlands is significantly higher in elevation than Chifley Dam (~170m), thus reducing the energy and greenhouse gas emissions associated with moving water to points of need in the region. The costs of energy are expected to rise significantly into the future and on this basis, sensitivity testing favoured Strategy 2a;
- If population growth is greater than assumed, the augmented Lake Rowlands supply is better placed to support the greater associated demands;
- Assessments of the costs of augmenting Lake Rowlands vary. The costs adopted in the TBL assessment are higher than some existing estimates. The adoption of the existing estimates in the sensitivity testing supports the adoption of Strategy 2a.
- This strategy has greater social acceptability.

Note: Unfortunately the modelling of the FRWS was beyond the scope of this Study.

The recommended region-wide strategy (2a) includes:

- Lake Rowlands Augmentation;
- Lake Rowlands-Millthorpe Pipeline (CTW Trunk Mains D and F duplication) 2;
- CTW-Orange Pipeline via Millthorpe;
- Lake Rowlands to Gooloogong Pipeline (CTW Trunk Mains P and C duplication);
- Gooloogong-Forbes Pipeline (including connection to Parkes);
- Woodstock-Cowra Pipeline (presently in planning);
- Orange-Molong Creek Dam pipeline (lower priority action resulting from the level of surety around the security of Molong. There is an existing pipeline from Molong Creek Dam into which this new pipeline would connect);
- New minor storage and water treatment facilities at Cumnock;
- New minor storage water treatment facilities at Yeoval;
- New minor storage at Condobolin (off-stream from Lachlan River);
- New pipeline replacing existing channel and minor storage at Lake Cargelligo;
- Burrendong-Wellington Pipeline;
- Chifley-Bathurst Pipeline;
- Chifley-Oberon Pipeline; and
- Belubula Creek-Cadia Hill pipeline (already available).

Priority elements include the connection between Bathurst and Oberon, the provision of a Lachlan River connection to Lake Cargelligo and the connection between CTW and Cowra which is already in planning as well as the storages for Cumnock, Condobolin, Lake Cargelligo and Yeoval.

The implementation of the recommended region-wide strategy is in addition to:

- The ongoing management and maintenance of the existing water supplies of each town;
- The ongoing implementation of the best-practice demand management programs of each council; and
- The ongoing development and implementation of the existing Integrated Water Cycle Management Strategies completed by a number of the member council's including Bathurst, CTW, Orange and Parkes.

In addition to these there are also recommendations to do the following, amongst other things, on a region wide basis:

- Develop and implement a uniform drought restrictions regime based on the source of supply.
- Provided the State with advice regarding the recommendations of this report for consideration in their current determination of the way forward for water utilities management in Central NSW.

### **Centroc Position**

The position taken by the Centroc Board at its meeting held on 29 October 2009, is that:

1. The Centroc Board has endorsed option 2A of the Centroc Water Security Study. This is outlined in the attached Executive Summary;
2. The Centroc Water Security Study has been adopted in principle;
3. The Centroc Water Security Study be immediately provided to members for a two week consultation period seeking feedback;
4. Upon the completion of the consultation period, the Centroc Infrastructure Team meet to provide a report to the Centroc Board meeting 26 November
5. The advice from the Centroc Infrastructure team include implementation and modelling for funding purposes
6. Centroc policy supports the independence of members and trades on the benefits of co-operation
7. The Centroc Water Security Study be endorsed in the meantime for the purposes of advocacy particularly at the Federal Community Cabinet in Bathurst, 9 November 2009
8. Centroc notify the community with regard to the Study and invite stakeholders to a presentation
9. Consultation be undertaken with the Central West and Lachlan CMAs with regard to progressing the recommendations of the Study

## **Conclusion**

At the meeting held on Thursday 29 October 2009, the members of Centroc voted unanimously in support of the Centroc Water Security Study. The Study considered climate change as well as demand management and opportunities for saving water across the region. Opportunities for the irrigation sector and mining were also considered.

The Study is clearly of national importance and demonstrates the benefits of a region working together. It fits well with the National Water Initiative and demonstrates that local government in the Central West of NSW is sound for infrastructure investment to ensure the sustainable growth of this region with its significant industry base.

The Study looks to provide water security to 2059 and identifies solutions that need to happen in the short, medium and longer terms. There are a variety of solutions suggested in the preferred option including an augmentation of Lake Rowlands, a network of pipes (including one that would connect the Oberon community with Chifley Dam) and some new smaller dams for communities.

Further work is to be undertaken by the Centroc Infrastructure Team, with feedback from the member councils with regard to the best ways to seek State and Federal Funding for infrastructure.

Centroc now has a meeting with Minister Penny Wong at the Federal Community Cabinet in Bathurst on 9 November 2009 to brief her with regard to the outcomes of the study.

While the Study contains only minor recommendations for the Lithgow LGA community it is a clear demonstration that the councils within the region are prepared to work together to find solutions to regional problems and issues. This is important given the recent report into

As Council is aware the Lithgow City has been progressing a separate study in relation to the Clarence Transfer with the final options report for the Clarence Water Transfer System has been received from consultants, Parsons Brinkerhoff. The study assessed the feasibility of sourcing additional water from the Clarence Colliery as a supplementary supply of water for Lithgow Council's potable water system.

The major drivers of this project are the need to become less reliant on the drought affected Fish River Water Supply Scheme and future growth within the Local Government Area .

Three options were investigated to satisfy the objectives of the project. Each option was sized to deliver 14 megalitres per day (ML/d):

- Option 1: Augmentation of the existing Clarence Colliery Transfer System. The existing system is operated by Centennial Coal's Clarence Colliery as part of their mine dewatering operations. Water from the mine workings is treated by the colliery and pumped across the Newnes Plateau to Farmers Creek Dam.

This scheme was not considered feasible in the long term as the mine is likely to cease operation by approximately 2040. Estimated capital cost: \$3.0 million.

- Option 2: Installation of a new borehole pump station in the north east corner of the Clarence Colliery mine lease area, transferring this water by a 16 km long pipeline via the existing Clarence Transfer System settling ponds to Farmers Creek Dam. A treatment plant is proposed adjacent to the settling ponds to allow discharge into a tributary of Farmers Creek Dam. Estimated Capital Cost: \$23.0 million.
- Option 3: Installation of a new borehole pump station in the north east corner of the Clarence Colliery mine lease area, transferring this water by a 13km long pipeline via the Motor Cycle Club to Farmers Creek Dam. A treatment plant is proposed adjacent to the Motor Cycle Club to allow discharge into a tributary of Farmers Creek Dam. Estimated Capital Cost: \$21.9 million.

Option 3 was identified as the preferred option. This option satisfies the objective of achieving a sustainable bulk water supply while minimising impacts to the environment. However, notwithstanding Option 3 being the preferred option, the capital cost brings into question the project viability given the current funding available, ie \$4 million in total. Therefore, Option 1 was assessed as the most viable option in the short to medium term.

Council resolved to adopt Option 1 as the preferred option for the Upgrade of the Clarence Water Transfer System. Project planning is now underway in consultation with officers of the Department of Environment, Water, Heritage and the Arts. This will lead to a formal funding agreement with the Commonwealth.

#### **POLICY IMPLICATIONS**

NIL

#### **FINANCIAL IMPLICATIONS**

NIL

#### **LEGAL IMPLICATIONS**

NIL

#### **09-467 RESOLVED**

##### **THAT:**

1. Note the release of the Centroc Water Security Study;
2. Endorse, in principle, the Centroc Water Security Study; and
3. Continue to work together with other councils in the NSW Central West to provide water security to the communities of the region.

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor G Danaher

**09-468 MOVED**

**THAT** Council Change the **ORDER OF BUSINESS** to deal with business of an urgent nature before going into closed council.

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor W McAndrew

**CARRIED**

### **BUSINESS OF GREAT URGENCY**

In accordance with Clause 241 of the Local Government (General) Regulations 2005 business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. However, this can happen only of:

- a) A motion is passed to have the business transacted at the meeting: and
- b) The business proposed to be brought forward is ruled by the Chairperson to be of great urgency.

### **UB - 02/11/09 - COUNCILLOR H K FISHER**

1. Mr Mayor I refer to correspondence relating to there being no cancer care facility in our Lithgow Local Government area. Patients are required to travel to Orange or Nepean Hospital in Penrith for treatment and I would like to ask Council to raise this with Minister Roxon at the Community Cabinet meeting on November 9<sup>th</sup>, 2009.

### **09-469 RESOLVED**

**THAT** the matter of a Cancer Care facility for Lithgow be declared as urgent and dealt with at this meeting.

**MOVED:** Councillor G Danaher      **SECONDED:** Councillor W McAndrew  
**CARRIED**

The Mayor declared the matter to be of great urgency in accordance with clause 241 of the Local Government (General) Regulations.

### **09-470 RESOLVED**

**THAT** Council formally support the efforts to have a Cancer Care Facility in the Lithgow Local Government Area.

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

A **DIVISION** was called by Councillors H K Fisher and G Danaher

**CARRIED UNANIMOUSLY**

**ITEM: 31 INTS - 02/11/09 - CONFIDENTIAL REPORT - PURCHASE OF WATER TANKER**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2) 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

The DLG Tendering guidelines for NSW Local Government states in Section 1.3 'Confidentiality' "*that council staff or councillors must not disclose information regarding the specific details of a tendering process, including recommendation of the tender evaluation or assessment panel before the Council has made a resolution on the matter at a Council meeting.*"

**09-471 RESOLVED**

**THAT** Council consider this report in closed Council pursuant to Section 10A(2)(D)(1) of the Local Government Act 1993.

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

**09-472 RESOLVED**

**THAT** Council receive the late report in relation to the Lithgow Flash Gift Trademark

**MOVED:** Councillor W McAndrew    **SECONDED:** Councillor G Danaher  
**CARRIED**

**COMM - 02/11/09 - LATE REPORT - CONFIDENTIAL - LITHGOW FLASH GIFT TRADEMARK**

**Reason for Confidentiality**

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

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

**REFERENCE**

NIL

**SUMMARY**

This report requests Council authorises the affixing of the official Council Seal to the Deed of Agreement between Lithgow City Council and John Ernest Scott in relation to the revocation of the trademark for “The Lithgow Flash - Gift”.

**09-473 RESOLVED**

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

**MOVED:** Councillor W McAndrew    **SECONDED:** Councillor G Danaher  
**CARRIED**

The Mayor asked if there were any objections from the Public with regards to the confidential reports being in closed Council.

There were NIL objections

**09-474 RESOLVED**

At 9.57pm the Council resolved to move into closed Council.

**MOVED:** Councillor H K Fisher    **SECONDED:** Councillor G Danaher  
**CARRIED**

Closed Council started at 9.58pm.

**ITEM:31 INTS - 02/11/09 - CONFIDENTIAL REPORT - PURCHASE OF WATER TANKER CONFIDENTIAL**

**REPORT FROM: INTERNAL SERVICES MANAGER - CAROL FARNSWORTH**

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**09-475 RESOLVED**

**THAT:**

1. The tender from West Orange Motors the supply and delivery of one Fuso FV51JKM2RFAB with the Barry Burrows Engineering water tanker body for \$213,869.00 (including GST) be accepted.
2. The tender from Gamers Auction for the purchase of Hino water tanker AM03BA for the sale price of \$18,000 (including GST) be accepted.

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor C Hunter

Councillor Danaher declared an interest and vacated the Chambers at 10.01pm

**COMM - 02/11/09 - LATE REPORT - CONFIDENTIAL - LITHGOW FLASH GIFT TRADEMARK**

**09-476 RESOLVED**

**THAT:**

1. Council endorses the actions outlined in the report
2. Council authorises the affixing of the Council Seal pursuant to Section 220 of the Local Government Act 1993 to documents relating to the Lithgow Flash Gift Trademark.

**MOVED:** Councillor W McAndrew  
**CARRIED**

**SECONDED:** Councillor H K Fisher

**Councillor Danaher returned to the Chambers at 10.04pm.**

**09-477 RESOLVED**

At 10.04pm the Council resolved to refer to open Council and recommend the resolutions of Closed Council.

**MOVED:** Councillor H K Fisher  
**CARRIED**

**SECONDED:** Councillor G Danaher

The General Manager announced the recommendations of the Closed Council.

**09-478 RESOLVED**

**THAT** Council adopt the recommendations of the closed Council.

**MOVED:** Councillor W McAndrew

**SECONDED:** Councillor H K Fisher

**CARRIED**

Meeting closed at 10.07pm