



LITHGOW CITY COUNCIL

**MINUTES**

ORDINARY MEETING OF COUNCIL

HELD ON

14 DECEMBER 2009

AT 7.00pm

**MINUTES OF THE LITHGOW CITY COUNCIL MEETING  
HELD AT THE CIVIC CENTRE, LITHGOW ON 14<sup>th</sup> DECEMBER 2009**

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Meeting Commenced 7.01pm

Public Gallery: 26

**PRESENT**

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

**APOLOGIES**

NIL

**Also in attendance**

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

**CONFIRMATION OF MINUTES**

Confirmation of the Minutes of the Extra Ordinary Meeting of Council held on the 16<sup>th</sup> November 2009 were taken as read and confirmed by Councillors H K Fisher and W Marshall

**09-525 RESOLVED**

**CARRIED**

Confirmation of the Minutes of the Ordinary Meeting of Council held on the 23<sup>rd</sup> November 2009 were taken as read and confirmed by Councillors H K Fisher and W McAndrew with the following changes to be made:

- Item 28 - The word “numeration” to be changed to “remuneration”.
- Public Forum - Mr Lyle - stated that it was the State Forests that should not be lost, not the Newnes Plateau

**09-526 RESOLVED  
CARRIED**

**DECLARATION OF INTEREST**

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

Councillor N L Castle, Mayor declared a pecuniary interest in Item 6 as his daughter is employed by the Portland Pool. He vacated the Chambers.

Councillor N L Castle declared a pecuniary interest in the Late Item - Howard and Sons as he is a member of the Joint Regional Planning Panel. He vacated the Chambers.

Councillor C Hunter declared a pecuniary interest in Item 11 as he is a member of the Joint Regional Planning Panel and he vacated the Chambers.

Councillor C Hunter declared an interest in Item 20 and he vacated the Chambers.

Councillor G Danaher declared an interest in the late Item- Howard and Sons as he is a member of the Joint Regional Planning Panel.

## **PUBLIC FORUM**

At 7.01pm members of public gallery were invited to address questions through the Mayor to Councillors and Staff: -

### **PF - 14/12/09 - BRUCE MACCULLAGH**

1. Mr Mayor is there a report on the Howard and Sons Pyrotechnics on the agenda tonight? Is Council aware there are four sheds / bunkers adjacent to the Wallerawang Garbage Tip Road and was there a development application lodged for these bunkers? Also there are another four bunkers, which are different to the models shown to ratepayers recently and I ask did they have permission to build these, what was the development application number and when were they approved?

*The Mayor advised that yes there is a report for the consideration of the Joint Regional Planning Panel. The General Manager advised that Council Officers have been to the site in Wallerawang and inspected these bunkers, further investigations will need to be done.*

### **PF - 14/12/09 - JULIE HEWITT**

1. Mrs Hewitt read out a statement from business owners located in Main Street Lithgow, where the proposed Amusement Centre will back onto their businesses. The businesses have concerns with the location of the centre, the fact that these businesses were not notified of the development and the safety of children who attend the Rock Sounds Music School.

### **PF - 14/12/09 - LYN CORRIGAN**

1. Mr Corrigan advised the Council that in there are currently sand mines located in the Gardens of Stone area and if the proposal for Stage 2 goes ahead, then the sand mines may be forced to close. There are also people employed for logging on Newnes Plateau and a local sawmill and therefore if these plans go ahead for the proposal, their jobs will be in jeopardy.

### **PF - 14/12/09 - DR STYLES**

1. Dr Styles spoke on the Gardens of Stone Stage 2 proposal on behalf of the Blue Mountains Conservation Society and advised that there are a few competing interests. One of those is Coal which can occur under the State conservation area. The Society believes that this will be a new economic arm to the Lithgow area and looks to the long term interest of Lithgow. This will benefit the Lithgow Local Government area and the Society ask for Council to reconsider the proposal.

**PF - 14/12/09 - SHANE TAYLOR**

1. Shane Green, President of the Portland Pool Committee submitted to Council a petition of over 600 signatures from residents in Portland who are in favour of the Portland Pool and also in favour of the Council decision to help with funding. Mr Green also thanked the Council for their support.

**PF - 14/12/09 - MRS BRINKLEY**

1. Mrs Brinkley submitted some photos of West Ridge Road in Wallerawang. This road needs urgent repairs as heavy vehicle activity is causing considerable damage. Mrs Brinkley has asked Council previously for a "No Through Traffic" sign to be placed on this road. Mrs Brinkley also asked Council who inspects the road when work is completed?

*The Group Manager Operations advised that Council is aware of the condition of this road, short term repairs will be carried out and this matter will be referred to the Traffic Authority Local Committee.*

**PF - 14/12/09 - SUE GRAVES**

1. Mr Mayor I refer to the closure of Main Street, Lithgow for the New Years Eve celebrations and ask can Council have discussions with the Lithgow Police regarding a better solution for next years celebrations?
2. Mr Mayor I refer to the Council Lift and ask if Council can look into a new style of lift as this has very poor installation.

**PF - 14/12/09 - BRONWYN LANG**

1. Mr Mayor I refer to Item 14 of the agenda and ask if Council plans of placing signage around the towns so the residents know what water restrictions are in place, what they must comply with etc?
2. Mr Mayor I refer to Item 15 of the agenda and ask Council if it would benefit for a meeting to be held between the Department, Council and the people opposing the quarry to see if this situation can be rectified?

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## MAYORAL MINUTES

### ITEM:1 MAYORAL MINUTE - 14/12/09 - MEETING WITH FEDERAL MINISTER FOR CLIMATE CHANGE IN RELATION TO CARBON POLLUTION REDUCTION SCHEME

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

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## REFERENCE

NIL

## SUMMARY

On Thursday 26 November 2009 representatives from Lithgow Council met with Minister Greg Combet in his role as the Minister Assisting the Minister for Climate Change in relation to the Carbon Pollution Reduction Scheme (CPRS) and Emissions Trading Scheme (ETS).

## COMMENTARY

### Background

Arrangements were made for representatives of Lithgow City Council including Deputy Mayor Councillor Ray Thompson, the General Manager and myself to meet with Minister Greg Combet, Minister Assisting the Minister for Climate Change. Mr Combet is also the Minister for Defence Personnel, Material and Science. This meeting was arranged regarding possible impacts for the Lithgow community in relation to the proposed Emissions Trading Scheme (ETS) and the Carbon Pollution Reduction Scheme (CPRS).

As we are well aware the Lithgow community is heavily reliant on coal mining with nearly 1,000 miners employed in mines in the LGA and power generation with several hundred people employed at our two power stations. With significant debate occurring about the potential affect on these industries a meeting was sought with the Government to discuss these issues.

During the discussion Minister Combet assured the Council representatives that the proposed schemes would have little direct negative effect on the coal mining industry in the Lithgow LGA and in fact may have an overall positive effect. It was indicated that the schemes would have the most major effect on those mines that had high gaseous methane content. It had been pointed out that the mines in the Lithgow LGA have minimal gas output

Minister Combet indicated that some of the key elements in the package were:

- A \$1.23b Coal Sector Adjustment Scheme for transitional assistance to the most emissions-intensive coal mines in the form of permits.
- An Climate Change Abatement Fund to provide grant funding for coal sector abatement projects and capital grants with a priority for electricity generation from waste coal mine gas.



- The Government will undertake public consultation post passage with a view to making amendments before July 2011 (the start of the CPRS) that enhance pass-through of carbon costs under existing contracts between coalmines and coal fired electricity generators.
- The transition period would increase from 5 years to 10 years

The effect on the coal fired power generation would be less positive with a number of coal fired power stations being under threat. These are likely to be the older and/or brown coal fired stations. As many of us are aware the Wallerawang Power Station is one of the older power stations in New South Wales.

To assist the generators the Government will provide new assistance to electricity generators to assist with the transition to a low pollution future and ensure Australia's security of energy supply. The Government will increase the quantum of assistance available under the Electricity Sector Adjustment Scheme (ESAS) from 130.7 million permits to 228.7 million permits (a 75 per cent increase).

The Government will also extend the period over which ESAS is provided from five years to ten, meaning that generators will be required to comply with the existing 'power system reliability test' over this period to continue to receive assistance. This requirement supports energy security by preventing the exit of a generator from the energy market where this would be likely to breach power system reliability standards.

A Low Emissions Transition Incentive will be introduced that will amend the power system reliability test further to allow generators to receive credit for their own investments in replacement capacity. This will improve incentives for ESAS recipients to invest in new low emissions replacement generation capacity while continuing to receive the remaining scheduled ESAS payments.

## **CONCLUSION**

The assistance package proposed at the time of the meeting with Minister Comber was proposed to be worth about \$117 billion over a decade, the revised CPRS would double assistance to electricity generators, give the coal industry an extra \$750 million and exempt agriculture.

Under the proposed program the effect on the coal mines in the Lithgow LGA are likely to be minimally affected by the changes and not likely to be threatened by the changes. In fact the CPRS and ETS may be beneficial to those mines in the Lithgow LGA as mines in other areas will be negatively affected by the proposals. The affect on our two coal fired power stations may be more oppressive and may threaten the continued existence of one of those power stations into the medium to longer term.

The Minister was most personable during the discussion and very knowledgeable on the issues that we discussed and his availability to have the meeting was appreciated.

Unfortunately immediately at the conclusion of the meeting the turmoil in the Coalition ranks started and much of the information provided may now not be applicable.

**09-527 RESOLVED**

**THAT:**

1. Note the meeting between representatives of Lithgow City Council and the Hon. Greg Combet; and
2. Thank Bob Debus for arranging the meeting with Minister Combet.

**MOVED:** Councillor Neville Castle

**SECONDED:** Councillor H K Fisher.

**CARRIED**

## NOTICES OF MOTION

### ITEM:2 NOTICE OF MOTION - 14/12/09 - COUNCIL SERVICES - COUNCILLOR G DANAHER

#### MOTION TITLE/TOPIC

Listed by: Councillor Grahame Danaher  
Date submitted: 2<sup>nd</sup> December, 2009.

#### COMMENTARY

Council provision of efficient friendly service has come under criticism over recent years, first with Councillors raising issues, surveys conducted by Councillors and several complaints that indicate our processes need some review, especially the support provided for more difficult problems.

Many complaints arise from issues arising from roads, some of which are Federal, some are State owned and of course of roads owned by Council.

Our current Organisation Structure does not provide for a Service Manager which does not allow service issues to be coordinated from a central point which can lead to a lack of consistency in our approach to complaints.

In my view, our key functions of skill and ability to allow us to coordinate our service function include:-

1. Compliance and Audit.
2. Finance.
3. Our engineering skills required in roads and water.
4. Town planning
5. Promotional skills to allow communication

#### CONCLUSION

As we do not have a central point of contact for service, making it very difficult to improve service issues and provide a consistent approach.

A clear Policy and Action plan on improving services issues needs to become a key priority of Council.

#### RECOMMENDATION

**THAT** a Service Committee is formed to provide Service Standards and an Action Plan that allows development of improved service through training and system support. A Committee formed with two (2) Councillors (plus the Mayor) two (2) front line service staff, the General Manager and the Operations Manager with the purpose of improving service by Council.

Signed: Grahame Danaher



**09-528 RESOLVED**

**THAT:**

1. A Service Committee is formed to provide Service Standards and an Action Plan that allows development of improved service through training and system support. A Committee formed with two (2) Councillors (plus the Mayor) two (2) front line service staff, the General Manager and the Operations Manager with the purpose of improving service by Council.
2. A Councillor Information Session be held for further discussions on this matter.

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

**SECONDED:** Councillor H K Fisher.

**09-529 RESOLVED**

**THAT** Councillor Danaher and Marshall be appointed as the Council representatives on the Service Committee

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

**SECONDED:** Councillor W McAndrew.

**ITEM:3 NOTICE OF MOTION - 14/12/09 - ECONOMIC DEVELOPMENT -  
COUNCILLOR G DANAHER**

**MOTION TITLE/TOPIC**

Listed by: Councillor Grahame Danaher  
Date submitted: 2<sup>nd</sup> December, 2009.

**COMMENTARY**

The Lithgow area has taken the recent Government grants from infrastructure over the last 15 months which has been spearheaded by the Mayor and General Manager and provided significant infrastructure for the area.

We have been also successful in convincing the State Government of a rate rise to assist our rural roads which has been allocated and is progressing currently and is expected to continue over the next three (3) years.

To capitalise on these on the Infrastructure improvements, in my view, we need to become active to consolidate the gains by:-

1. Development of Prospectus style brochure and the web outlining our economic and lifestyle benefits.
2. A promotion campaign into Sydney highlighting our economic and lifestyle benefits. [2 hours from Sydney, healthy employment rate and low crime figures and a pristine environment (good enough to attend the luxury Emirates Resort).
3. Up-grading of our CBD:-
  - a. Resurfacing of Main Streets where required.
  - b. Active program with shop owners to up-grade shop fronts.
  - c. Regular promotional banners of events throughout the CBD.
4. Continuing development of relations with the Department of Regional Development to continue to develop business opportunities for the area.
5. Signage, particularly that for the entrance of the towns and villages.
6. A fresh logo that ushers forward a new era in the areas economic development and allows consideration of several logos used by Council (this would become more efficient and less costly approach) attached samples.

The goals of the Plan needs to be measured and would be:-

1. Higher than State average employment rate.
2. Population increases 1% per year.

The General Manager would be responsible for the refinement of the Plan and its implementation.

The existing Economic Development Committee with its strategic planning role to assist the General Manager in progress towards these goals.

**RECOMMENDATION**

**THAT:**

1. A Council Committee formed to assist in the process of business enquiries for the area.
2. Council adopt in principle the Plan with the General Manager for progress of the Plan towards the outlined goals.

Signed: Grahame Danaher



**09-530 RESOLVED**

**THAT:**

1. A Council Committee formed to assist in the process of business enquiries for the area.
2. Council adopt in principle the Plan with the General Manager for progress of the Plan towards the outlined goals.

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

**SECONDED:** Councillor H K Fisher.

**09-531 RESOLVED**

**THAT** Councillors Danaher and Fisher and the General Manager, or his delegate, be appointed as the Council representatives on the new Committee to assist in the process of business enquiries for the area.

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

**SECONDED:** Councillor H K Fisher.

**ITEM:4 NOTICE OF MOTION - 14/12/09 - CLOSURE OF MAIN STREET, LITHGOW  
- NEW YEARS EVE - COUNCILLOR M F TICEHURST**

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**MOTION TITLE/TOPIC**

Questions with Notice from Councillor Martin Ticehurst.

Listed by: Councillor Martin Ticehurst Date: 6 December 2009.

**QUESTION WITH NOTICE**

Q. Following recent advice from the Chifley Police Command that they will not be making an application to the Lithgow City Council to formally close-off Main Street, Lithgow for this New Years Eve, it is requested that the matter be formally debated and determined at the Ordinary Meeting of the Lithgow City Council on Monday 14 December 2009?

**RECOMMENDATION**

**THAT** Council formally determines whether it wishes to, as in previous years, formally close-off Main Street, Lithgow for this New Years Eve.

SIGNED: Councillor M F Ticehurst

**MOVED**

**THAT** Council close-off Main Street, Lithgow for this New Years Eve.

**MOVED:** Councillor M F Ticehurst **SECONDED:** Councillor J J McGinnes

**AMENDMENT**

**THAT** the information be noted and considered as part of the TALC Minutes.

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

On being put the Amendment was carried and become the motion.

**09-532 RESOLVED**

**THAT** the information be noted and considered as part of the TALC Minutes.

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

**ITEM:5 NOTICE OF MOTION - 14/12/09 - IMPROVEMENT TO THE ENTRANCE OF OUR TOWN - COUNCILLOR W MARSHALL**

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**COMMENTARY**

It was recommended that the entrance to our town chiefly the Scenic Hill End as it has languished as an eyesore for a number of years be investigated as an area to receive some type of beautification to enhance the image of our town.

**QUESTION**

As this recommendation is almost 12 months old and the area has become far more dilapidated what is being done to rectify this unsightly area.

**RECOMMENDATION**

**THAT** immediate action be instigated to clean up this area and maintain it to a standard that the community can be proud of.

Signed: Councillor W Marshall

**09-533 RESOLVED**

**THAT:**

1. Immediate action be instigated to clean up this area and maintain it to a standard that the community can be proud of.
2. Funds be placed in next years budget for attractive signs to be made and placed around the local government area.

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

**SECONDED:** Councillor H K Fisher.

**09-534 SUPPLEMENTARY MOTION**

**THAT:**

1. The site of the old petrol station on Chifley Road, Lithgow be cleaned up as a matter of urgency ; and
2. a report to come back to Council with regards to this site.

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

**SECONDED:** Councillor G Danaher



## GENERAL MANAGER REPORTS

### ITEM:6 GM - 14/12/09 - PORTLAND DISTRICT OLYMPIC POOL - REQUEST FOR FINANCIAL ASSISTANCE

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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
- Min 09-437: Ordinary Meeting 2 November 2009

#### SUMMARY

Council is to make a determination following the advertising of a proposal to provide assistance to the Portland and District Olympic Pool.

#### COMMENTARY

At the Council meeting held on Monday 2 November 2009 Council resolved:

##### 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

This resolution came about following a community meeting was held on Monday 19 October 2009 that was 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.

The new committee elected includes:

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 indicated that it 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. The pool has now been operating since Saturday 21st November 2009.

The difficulty for the new Committee is the outstanding debts for the facility. The following were identified as outstanding debts of the Portland District Olympic Pool:

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

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

## **POLICY IMPLICATIONS**

Policy 4.4 - Donations – Section 356 of the Local Government Act.

## **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.

The additional allocation, if resolved, of \$20,000 will have to be allocated and will impact on Council's budget position.

## **LEGAL IMPLICATIONS**

Council is permitted under Section 356 of the NSW Local Government Act 1993 to financially assist others. This Section allows:

- (1) A council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

- (2) A proposed recipient who acts for private gain is not ineligible to be granted financial assistance but must not receive any benefit under this section until at least 28 days' public notice of the council's proposal to pass the necessary resolution has been given.
- (3) However, public notice is not required if:
  - (a) the financial assistance is part of a specific program, and
  - (b) the program's details have been included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and
  - (c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and
  - (d) the program applies uniformly to all persons within the council's area or to a significant group of persons within the area.

The proposal has been advertised for a period of 28 days with advertisements first appearing in the local paper on Thursday 5<sup>th</sup> November 2009.

Councillor N L Castle, Mayor declared an interest and he vacated the Chambers. Councillor R Thompson assumed role as Chairman at 7.48pm

## **MOVED**

**THAT** Council:

1. Under Section 356 of the NSW Local Government Act 1993, provide funding of \$50,000 to the Portland District Olympic Pool Committee;
2. Fund the contribution from a budgeted allocation of \$30,000 for the Portland District Olympic Pool plus a further \$20,000 from General Revenue in the 2009/10 financial year; and
3. Advise the Portland District Olympic Pool Committee that this funding is conditional upon financial statements be provided to Council for audit every six months and that a copy of their bank statements be provided to Council every 3 months.

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

## **AMENDMENT**

**THAT:**

1. Council defers any request from the Portland and District Olympic Pool Association Inc for financial assistance of up to \$70,000, until such time as the Lithgow City Council has been provided with a current Independent Financial Audited Statement, as required by all other community organisations requesting similar financial assistance under Lithgow City Council Policy 4.4. Donations - Section 356 of the Local Government Act.

2. Council provides the Portland and District Olympic Pool Association Inc with up to \$1,500 in financial assistance to enable it to obtain a current Independent Financial Audited Statement as required by all other community organisations requesting similar financial assistance under Lithgow City Council Policy 4.4. Donation - Section 356 of the Local Government Act.
3. Council takes this action to ensure that any present and future funding of the Portland and District Olympic Pool Association Inc fully complies with:
  - Lithgow City Councils due diligence and corporate financial governance under Council Policy 4.4 Donations - Section 356 of the Local Government Act to fund all similar applicant community organisations, equally and without bias or discrimination; and
  - A full independent public disclosure of the Portland and District Olympic Pool Association Inc current Financial Audited Statements, including the outlining of its full current Assets and Liabilities, which should also confirm the full extent of any current or future Australian Tax Office obligations and any Public Liability Claims not covered by the Associations now publicly disclosed previous lack of payments of some \$20,000 for appropriate Public Liability Insurance cover.

**MOVED:** Councillor M F Ticehurst

**SECONDED:** Councillor J J McGinnes

On being put the Amendment was **LOST**

A **DIVISION** was called by Councillors H K Fisher and M F Ticehurst

**FOR**

Councillor J J McGinnes

Councillor M F Ticehurst

**AGAINST**

Councillor R Thompson

Councillor H K Fisher

Councillor W McAndrew

Councillor G Danaher

Councillor W Marshall

Councillor C Hunter

**09-535 RESOLVED**

**THAT** Council:

1. Under Section 356 of the NSW Local Government Act 1993, provide funding of \$50,000 to the Portland District Olympic Pool Committee;
2. Fund the contribution from a budgeted allocation of \$30,000 for the Portland District Olympic Pool plus a further \$20,000 from General Revenue in the 2009/10 financial year; and
3. Advise the Portland District Olympic Pool Committee that this funding is conditional upon financial statements be provided to Council for audit every six months and that a copy of their bank statements be provided to Council every 3 months.

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

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

**For**

Councillor R Thompson  
Councillor H K Fisher  
Councillor W McAndrew  
Councillor G Danaher  
Councillor W Marshall  
Councillor C Hunter

**Against**

Councillor J J McGinnes  
Councillor M F Ticehurst

Councillor N L Castle resumed the role as Chair at 8.05pm

**ITEM: 7            GM - 14/12/09 - LITHGOW AQUATIC CENTRE**

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**REFERENCE**

Min No: 09-292            Ordinary Meeting of Council 13 July 2009

**SUMMARY**

Council has been investigating for some time, the options available for the development of an aquatic centre for the greater Lithgow community. The concept of a public private partnership being forged between Council and a private entity to facilitate this proposal, is currently being investigated.

In addition to the above, the Federal Government has opened applications for funding under the Regional and Local Community Infrastructure Program (RLCIP) Round 2. Funding under this program closes on 15 January 2010.

**COMMENTARY**

Council, earlier this year resolved:

**09-292 RESOLVED**

THAT Council:

1. Support in principle and investigate further the feasibility of the concept of entering into a Public Private Partnership for the provision of an Aquatic Centre for the Lithgow Local Government Area; and
2. Advise the Department of Local Government of Council's intentions to investigate a Public Private Partnership in relation to an Aquatic Centre for Lithgow.

The proposal to investigate a joint venture between at least two organisations is one that was considered most likely to provide the best chance to achieve an aquatic centre facility for the Lithgow community. Advertisements have been placed seeking interest in a public private partnership arrangement for the development of a facility.

Councils are permitted to enter into arrangements with other organisations in order to provide community services or facilities. There are many such examples that could be cited. These arrangements are called Public-Private Partnerships and the Department of Local Government has issued guidelines setting out how they may be entered into.

**Public-Private Partnerships**

A public-private partnership (PPP) is considered to be an arrangement between a council and a private person for the purposes of:

- a) Providing public infrastructure or facilities in which the council has an interest, liability or responsibility under the arrangement, and/or;
- b) Delivering services in accordance with the arrangement.

The definition is intended to capture the range of arrangements that include models described as Build, Own, Operate, Transfer (BOOT); Build, Operate, Transfer (BOT); Build, Own, Operate (BOO); Design, Build, Finance, Operate (DBFO); Privately Financed Projects (PFPs) and the like.

A council must not enter into a PPP unless it has complied with the relevant requirements of the Act. The Act refers to the formation of a PPP through an “arrangement”. An arrangement is not limited to the signing of formal contractual or legal documents. The definition of arrangement includes contracts and understandings.

The General Manager(s) of the particular council(s) involved must certify that the assessment is prepared in accordance with the Guidelines. This will need to be attached to each submission made to the DLG and supported by a Council resolution.

The process of assessment is different for projects that are significant and/or high risk, and for projects that are neither significant nor high risk. Significant projects and/or high risk projects, will be assessed for compliance with these Guidelines by a Project Review Committee (PRC) at two stages:

- before the Expressions of Interest (EOI)/Market Testing Stage where councils have developed a project brief and are seeking private sector participants in the project. An assessment from the PRC that the process to this stage complies with the requirements of the Guidelines is necessary for the EOI phase to proceed; and
- at the Pre-Contract Signing Stage where the council has selected a preferred partner(s) from the EOI/Market Testing phase and has negotiated a draft contract for the carriage of the project. Council **MAY NOT** sign the contract until such time as the PRC has endorsed the process council has undertaken as complying with these guidelines.

This project would appear not to meet the definition of significant or high risk.

Projects that are not significant or high risk may proceed to contract development without review by the PRC. This does not remove the obligation on councils to adopt the procedures and processes required of them in these guidelines. The same assessment is still required to be undertaken for scrutiny by the Director General or the PRC if required. A council, having negotiated an arrangement/agreement with a private party, may not proceed to sign a contract establishing a PPP entity without the prior approval of the Minister for Local Government under s.358 of the Act.

### **Regional Local Community Infrastructure Program (RLCIP) – Strategic Projects, Round 2; 2009-10 \$120 million**

On 25 June 2009, the Prime Minister, the Hon Kevin Rudd MP announced that additional funding of \$220 million for the Community Infrastructure Program would be made available in 2009-10.

This funding is to assist councils to build and modernise community facilities, including town halls, libraries, community centres, sports grounds and environmental infrastructure. The program is intended to support local jobs during the global economic recession and provide long-term benefits to communities by renewing and upgrading local infrastructure.

As Council is aware the \$220 million injection into the Community Infrastructure Program is being delivered as follows:

- \$100 million is being allocated to all 566 of Australia's councils (565 councils plus the ACT) on a formula basis; and
- \$120 million for larger Strategic Projects will be available on a competitive basis.

Funding under the Strategic Projects R2 will be made available to councils on a competitive basis for limited number of larger scale strategic projects and all projects must comply with the new round's Guidelines.

Under the \$120 million RLCIP-SP, funding will be available for a limited number of large strategic projects seeking a **minimum** Commonwealth contribution of **\$1 million**. Preference will be given to projects which can demonstrate community benefit and Councils who have completed their \$250 million RLCIP projects. **Partnership funding is required and preference may be given to projects with greater co-contributions.**

Applications will have a greater chance of success if they can quantify or otherwise demonstrate what the project will achieve, what the ongoing community benefits will be and how the project will be sustainable. Councils are encouraged to identify projects 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.

The proponent (Council) must commence construction within six months of the Funding Agreement (contract) being signed by the recipient and the Commonwealth. Commence Construction means to begin a continuous program of on-site construction. Only significant and continuous site preparation work such as major clearing or excavation or placement, assembly, or installation of facilities or equipment at the site is considered to constitute a program of on-site construction.

All RLCIP-SP funds should be expended by 30 June 2011.

Project proposals will be assessed by the Department against the program Guidelines and it is expected that successful projects will be announced during the first quarter of 2010.

### **Aquatic Centre**

As stated above, Council is currently investigating the opportunity for the development of a PPP for the construction of an aquatic centre for the greater Lithgow area. Should this process prove unsuccessful, then Council may need to revisit the development or improvement of facilities at the existing Memorial Pool located within the Tony Luchetti Sporting Precinct.

The existing swimming facility, including the pools and amenities, is reaching the end of its useful life. If Council is to continue to provide such a facility in the Lithgow LGA, then an upgrade/refurbishment of the existing facility will be required. Such an upgrade will require a significant injection of funding.



If a PPP proposal is to be ruled out, then an application for funding for these improvements under the RLCIP should be considered. Such an upgrade may include options to stage the development of an aquatic centre.

Projects involving the modernisation and development of aquatic facilities meet the eligibility criteria for funding under the RLCIP program.

It would be prudent for Council to pursue these opportunities for community infrastructure funding in this regard.

### **POLICY IMPLICATIONS**

NIL

### **FINANCIAL IMPLICATIONS**

Council presently holds \$700,000 from the Federal Government for the development of an aquatic centre facility. Unfortunately this funding is inadequate for the construction of such a facility.

Given that this project included a proposal to include the PCYC then some of these funds may need to be directed to the PCYC.

Further Council funding may be required to support any funding application.

### **LEGAL IMPLICATIONS**

Reference should be made to the Department of Local Government Circular 05-51 and the Guidelines on the Procedures and Processes to be followed by Local Government in Public-Private Partnerships.

### **RECOMMENDATION**

**THAT** Council:

1. Authorise the General Manager, in conjunction with the Lithgow Aquatic Centre Committee, to prepare a funding application under the Regional and Local Community Infrastructure Program (RLCIP) on Council's behalf for the development/improvement of public swimming facilities in Lithgow;
2. Provide funding towards the proposed application plus any grant funds that may be available to the project; and
3. Contact the Federal Department of Health and Ageing to seek a variation of the existing grant funding of \$700,000 to accommodate this application.

**09-536 RESOLVED**

**THAT** Council:

1. Authorise the General Manager, in conjunction with the Lithgow Aquatic Centre Committee, to prepare a funding application under the Regional and Local Community Infrastructure Program (RLCIP) on Council's behalf for the development/improvement of public swimming facilities in Lithgow;
2. Provide funding towards the proposed application totalling a **MAXIMUM** of \$750,000 (\$250,000 from Council reserves and up to \$500,000 in loan funds) plus any grant funds that may be available to the project;
3. Contact the Federal Department of Health and Ageing to seek a variation of the existing grant funding of \$700,000 to accommodate this application; and
4. Seek to retain the full \$700,000 in grant funding

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

**SECONDED:** Councillor H K Fisher

## REGIONAL SERVICES REPORTS

### ITEM:8            REG - 14/12/09 - WALLERAWANG QUARRY COMMUNITY CONSULTATIVE COMMITTEE

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

### REFERENCE

Council Meeting 16/11/09 Minute No.

### SUMMARY

To advise Council of nominations received by the Department of Planning for the chair and community representatives on the Wallerawang Quarry Community Consultative Committee and requesting the opinion of Council on the nominations.

### COMMENTARY

The Department of Planning has advised of the following:

1. Condition 3.13 of the Minister's consent for Wallerawang Quarry requires that a Community Consultative Committee be established.
2. The positions of community representatives and independent chair are appointed by the Director-General, in consultation with Council.
3. The Applicant, Sitegoal Pty Limited, has re-advertised for nominations for members of the CCC at the instruction of the Department, and taking into consideration Council's views favouring re-advertisement. Five nominations were received for the three community representative positions, being:
  - Mr Lance Gillespie;
  - Mr Les Bird;
  - Mr Bradley Boyling, and
  - Mr Ron Vidler.

Mr Paul Curran has nominated for the position of independent chair and whilst the correspondence between Mr Curran and Sitegoal (the developer) indicates he has been accepted to the committee, this is not the role of Sitegoal. However, it is assumed that Mr Curran has nominated for both the Committee and the Independent Chair.

4. The Department requests Council's views on these nominations.

Council, at its Extraordinary Meeting of 16 November 2009, resolved that Councillor Howard Fisher replace former Councillor Barbara Moran as its representative on the Wallerawang Quarry Community Consultative Committee and that the Mayor, Councillor Neville Castle, be the alternative representative. The Council was also of the opinion that nominating a Councillor in no way made any comment in relation to the lapsing date of the consent.

It is necessary for Council to provide comments to the Department of Planning on the nominations for the three community representatives and the position of chairperson.

To assist in this process copies of all nominations are attached. The five people nominating for the positions of committee representatives are members of the Anti Quarry Action Group. That group has advised that they have no issues with any of the nominations to the committee.

Council may wish to put forward its representative on the Community Consultative Committee, Councillor Fisher, as the independent chair or indeed another Councillor may wish to nominate as the Chair.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

The Community Consultative Committee is a requirement of the Development Consent.

## **RECOMMENDATION**

### **THAT:**

1. Council indicate that it has no objections to any of the community nominees to the Wallerawang Quarry Community Consultative Committee being:
  - Mr Lance Gillespie
  - Mr Les Bird
  - Mr Brad Boyling
  - Mr Paul Curran
  - Mr Ron Vidler
2. Council determine if it wishes to put forward a Councillor as independent chair for the Wallerawang Quarry Community Consultative Committee, or alternatively, agree to the nomination of Mr Paul Curran.
3. Should a Councillor be nominated as Chair then Council reaffirm its position that this makes no comment as to the lapsing date of the consent or compliance with preconditions of consent.

## **09-537 RESOLVED**

### **THAT:**

1. Council indicate that it has no objections to any of the community nominees to the Wallerawang Quarry Community Consultative Committee being:
  - Mr Lance Gillespie
  - Mr Les Bird
  - Mr Brad Boyling
  - Mr Paul Curran
  - Mr Ron Vidler

2. Council agree to the nomination for Mr Paul Curran being appointed as the Chairman of the Wallerawang Quarry Community Consultative Committee; and
3. Council reaffirms its position that this makes no comment as to the lapsing date of the consent or compliance with preconditions of consent.

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

**SECONDED:** Councillor W Marshall

**ITEM:9            REG - 14/12/09 - ADMINISTRATION BUILDING LIFT**

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

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**SUMMARY**

To advise Council of problems being experienced with the operation of the Administration Building Lift and recommending that improvements be considered in the preparation of the draft 2010/11 budget.

**COMMENTARY**

The Administration Building accessibility lift was installed in early 2001 to provide access to the first floor of the building, but particularly to allow access to persons with mobility impairment to the Council Chambers. Failure to comply with this requirement would leave Council open to a possible claim under the provisions of the Disability Discrimination Act.

The lift is used infrequently and was originally maintained by the manufacturer who has since advised that they can no longer provide maintenance or parts for the lift. The lift is now being serviced by the technician that services the Otis lift in the Centrelink office but he is experiencing difficulties supplying parts necessary to keep it operating correctly.

The lift has failed twice in the last six months. This situation is clearly unacceptable and needs to be addressed.

Technology has improved since the installation of the lift and there may now be better options for replacement of the lift within the existing lift shaft. The poor service from the lift supplier, Harwel Lifts, should preclude them from any further involvement in this process. The lift only had a twelve month warranty after installation but was the best available technology at that time that was limited by the available budget.

It is suggested that replacement of the Harwel lift within the existing lift shaft be investigated and be given priority in the preparation of Council's 2010/11 draft budget.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Funds will need to be allocated in the 2010/11 draft budget to allow replacement of the lift. Enquiries have been made and the estimated cost of replacement of the lift is \$70,000.

## **LEGAL IMPLICATIONS**

Compliance with Council's obligations under the Disability Discrimination Act

## **RECOMMENDATION**

**THAT** the replacement of the Administration Centre Lift be given priority in consideration of Council's 2010/11 draft budget.

## **09-538 RESOLVED**

**THAT** as a matter of priority Council seek a report on funding and proposals for a new Administration Centre Lift

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

**SECONDED:** Councillor R Thompson

**ITEM:10            REG - 14/12/09 - CRYSTAL THEATRE PROGRESS REPORT**

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

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**REFERENCE**

Minute No.09-308 13/07/09

**SUMMARY**

To advise of progress on the Crystal Theatre project and request budget adjustments to allow for the existing funding shortfall and building contingencies encountered during construction.

**COMMENTARY**

The builder, M.Bruton Building Co., achieved practical completion on the Crystal Theatre project on 1 December 2009. All work has been completed in accordance with the contract documentation which includes a six (6) month defects liability period.

The contract was for an amount of **\$471,414** exc. GST. It was reported to Council on 13/07/09 that there was a shortfall in funding of \$85,200.63, with the shortfall being partially covered by \$20,000 reallocated from the Union Theatre and \$45,000 from the Special Rate Variation. The resultant shortfall remained at **\$20,200**. The report of 13/7/09 also advised that a contingency amount of **\$20,000** should be provided to cover any variations that may arise during construction works on an old building.

It was proposed in the 13/07/09 report that any remaining funding shortfall could possibly be covered from the recently determined Community Infrastructure Funding of \$208,000. Unfortunately, Council was advised that as the project had already commenced, that this funding was not available for the Crystal Theatre project.

During construction it was necessary for a number of small variations to be approved because of the poor construction of the old building (\$7,487) and authorisation of variations because of increases in quoted Prime Cost (PC) amounts, being the kitchen fitout (\$6,853) and the accessible chair lift (\$17,280). The PC increases resulted from changes to the design of the kitchen to ensure structural adequacy and modifications necessary to the accessible entry off Wolgan Street once final floor levels were established. The total for variations on the contract is **\$31,620**.

In respect of the lift, the builder underestimated the cost being unable to properly assess the requirement until after demolition and creation of the new access point and final levels had been determined. Whilst the builder clearly underestimated the amount, as it's a prime cost amount it is an item that Council must accommodate.

The level of variations to the contract is considered to be acceptable as it is usual in building contract to allow an amount of 10% of contract value, which would equate to \$47,141 for variations encountered during the project.

As the contract already had a shortfall of \$20,200 and the provision for a \$20,000 contingency was not able to be funded from the latest RLCIP funding as proposed, the total shortfall is:

Existing Shortfall	\$20,200
Variations	31,620
<b>Total Shortfall</b>	<b><u>\$51,820</u></b>

It is necessary for council to consider its options in relation to funding this shortfall.

### **FUNDING OPTIONS**

There are a number of funding options available to meet this shortfall.

#### Option 1

Investigate transferring funds that may remain available from the installation of the security camera system at the showground. There is potentially \$40,000-50,000 that may remain unspent from this stage of the RLCIP project.

Comment: This option is considered unlikely as it may proportionately reduce RLCIP funding for other stages of this project.

#### Option 2

Transfer funds from the Lithgow Pool Building Repairs of \$15,044 and fund the remainder of the project being \$36,776 from included as a budget item. The repairs at the pool were to be focussed on improving the amenities which could, in terms of priorities, be delayed by another year. With respect to funding the balance from the current budget, at the last Quarterly Budget review a surplus of \$90,000 was reported. Therefore, under this option the remainder of the project would be nominally funded from the budget surplus and thus impact on the final budget position.

Comment: This is the preferred option as the work at the pool could be included in 2010/2011 and at this point it appears as though the current years budget can withstand the additional expenditure.

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

As detailed in the commentary.

### **LEGAL IMPLICATIONS**

Nil.



## 09-539 RESOLVED

### THAT

1. The funding shortfall in the Crystal Theatre project be covered by reallocation of funds from the Lithgow Pool Building repairs of \$15,044 and the project budget for the Crystal Theatre be increased by an additional \$36,776 to be funded from the current years budget.
2. The work on the Lithgow Pool amenities be included in the draft 2010/2011 Budget and the change in activity from 2009/2010 to 2010/2011 be reflected in the Management Plan.

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

**SECONDED:** Councillor R Thompson

**ITEM:11            REG - 14/12/09 - CORONERS REPORT HOWARD AND SONS  
PYROTECHNICS**

**REPORT FROM: DEVELOPMENT MANAGER – JIM NICHOLS**

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## REFERENCE

Development Application/Construction Certificate No.190/09.

## SUMMARY

To inform Council of the Coroners Finding on the explosion on 8/12/07 at the Howard & Sons Pyrotechnics facility at Wallerawang.

## COMMENTARY

On 16/11/09 the NSW State Coroner, Mary Jerram, after listening to evidence from a number of witnesses handed down her finding on the explosion that occurred at the Howard and Sons Pyrotechnics facility at Pipers Flat Road, Wallerawang on 8/12/07.

The Findings of the Coroner were as follows:

“That the fire at **Howard & Sons Pyrotechnics, Pipers Flat Road, Wallerawang** on 8 December 2007 originated in containers 42-54, possibly caused by a person or persons unknown, but evidence can not allow certainty to the required standard. “

The Coroner made the following recommendations under s 22A of the Coroners Act 1980

1. TO THE MINISTER RESPONSIBLE FOR WORKCOVER:

That the positional paper on storage of fireworks recently published by Workcover be disseminated as a requirement throughout the industry and training be implemented where necessary.

2. TO STANDARDS AUSTRALIA:

That revision of Australian Standard 2187 “Explosive – Storage, Transport Use” be expedited.

3. TO LITHGOW CITY COUNCIL:

That consideration of the development approval submitted by Howard & Sons Pyrotechnics be expedited by conferring and co-operating with the company and Workcover in order to facilitate upgrading of the company’s safety compliance.

In relation to recommendation 3 consultation with Council’s solicitor indicated that it will not impact on the normal process for the assessment of the Development Application pursuant to the provisions of the Environmental Planning and Assessment Act. From the recommendation it would appear that the Coroner was unaware in making the recommendation that the application was subject to final determination by the Western Region Joint Regional Planning Panel and not by Council. Furthermore, whether a consent authority could take into consideration such a recommendation in determining a development application may be questionable.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

As discussed in commentary.

## **09-540 RESOLVED**

**THAT** the information on the Coroners report in relation to the Howard and Sons explosion be received.

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

**SECONDED:** Councillor W Marshall

**ITEM:12            REG- 14/12/09 - AIRLY COAL MINE - REACTIVATION OF SPECIAL MONITORING COMMITTEE**

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

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**SUMMARY**

This report seeks Council nomination for the re-activated Airly Coal Mine Special Monitoring Committee (SMC), similar to the now operational Community Consultative Committees, required as part of Condition 31 of an approval issued by the Minister for Planning in 1993.

**COMMENTARY**

For a long period of time the operation of Airly Coal Mine has been placed in 'care and maintenance'. Recently the owners, Centennial Coal, decided to ramp up operations at the site. As part of initial trial operations, a preliminary committee was set up with Council as chair. However, no further meetings have taken place given the nature of operations on site.

Council is now in receipt of correspondence from Centennial Coal seeking Council's nomination for the SMC in accordance with the consent for the Airly Mine project.

As part of the approval, Condition 31 indicates a requirement for one representative from the Council on the Special Monitoring Committee (SMC). Further, it is a requirement of the condition that Council nominate a Chair for the committee.

It is recommended that one member of Council be nominated to chair the committee, and the General Manager, or his delegate, be additional nominees for the committee in accordance with the consent conditions.

**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 Special Monitoring Committee (SMC), for the Airly Coal Mine, and the General Manager, or his delegate, also be nominated to sit on the committee.

**09-541 RESOLVED**

**THAT** Councillor H K Fisher and the General Manager, or his delegate, be appointed as the Council representatives on the Special Monitoring Committee for the Airly Coal Mine.

**MOVED:** Councillor R Thompson  
**CARRIED**

**SECONDED:** Councillor W McAndrew.

**ITEM:13        REG - 14/12/09 - DA 033/09 - AMUSEMENT CENTRE, NAOMI STREET LITHGOW**

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

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**SUMMARY**

To assess and recommend determination of DA 033-09. Recommendation will be made for approval subject to conditions.

**COMMENTARY**

Council is in receipt of a development application to operate an amusement centre from an existing building in Naomi Street, Lithgow. The proposal seeks to fit out an existing vacant shop for the use of an amusement centre. The fit out includes the installation of 18 amusement machines, internet connection, drink and snack facilities in an indoor area and erection of a jumping castle in a covered area.

Proposed hours of operation are:

**Winter times (April to September)**

**School Term**

Monday to Friday:            11.00am to 6.30pm  
Saturday:                        9.00am to 7.30pm

**School Holidays**

Monday to Friday:            9.00am to 6.30pm  
Saturday:                        9.00am to 7.30pm

**Summer times (October to March)**

**School Term**

Monday to Friday:            11.00am to 8.00pm  
Saturday:                        9.00am to 8.00pm

### **School Holidays**

Monday to Friday: 9.00am to 8.00pm  
Saturday: 9.00am to 8.00pm

### **Sunday & Public Holidays: Closed**

Finally as part of the application the proponent and his consultant met with Council officers and proposed some alterations to the development which have also been included as an Attachment. The applicant now seeks a 2 year approval and submits:

- *That prior to the 2 year term expiring should I wish to continue operating I submit a section 96 application to delete the 2 year term limitation.*
- *The section 96 shall be accompanied by information relating to,*
  - *Success of youth programs.*
  - *Details of any complaints and the action taken as a result and feedback obtained.*
  - *Any review of the Management Plan necessary.*
  - *Other information as required by council or the NSW Police.”*

The application was originally notified to surrounding neighbours for a period of 14 days. As a result of this notification there were two (2) submissions received. The following were identified from the submissions:

- The amusement centre will create safety problems for the surrounding business.
- Vandalism in terms of damage and graffiti.
- Poorly lit access
- Social problems
- Security

Following the alterations proposed by the applicant, those who made submissions were notified and given the opportunity to further comment on the application.

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

The application has been called in accordance with POLICY 7.7 CALLING IN OF DEVELOPMENT APPLICATIONS OR DEVELOPMENT APPLICATION/CONSTRUCTION CERTIFICATES BY COUNCILLORS.

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.

### **RECOMMENDATION**

#### **THAT:**

1. Council approve DA 033-09 in accordance with the conditions outlined in the attached Section 79C report separately;
2. A division be called in accordance with the requirements of section 375A (3) of the Local Government Act, 1993.

### **09-542 RESOLVED**

**THAT** in the public's interest Council refuse DA033-09.

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

**SECONDED:** Councillor W Marshall

### **DIVISION**

This was Carried **UNANIMOUSLY**

**ITEM:14            REG - 14/12/09 - DROUGHT MANAGEMENT ISSUES**

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

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**SUMMARY**

To provide information on the current water supply status and drought management issues and to determine trigger points for introduction of water restrictions when Farmers Creek Dam reaches certain levels.

**COMMENTARY**

Lack of rain in recent months coupled with warmer weather has seen an increase in water consumption. In November, the daily potable water demand for Lithgow and Marrangaroo was 4.4ML/day and due to current operational issues at Clarence Colliery, the Clarence Water Transfer Scheme was only able to supply 3.8ML/day. The shortfall in replenishment in this catchment is gradually lowering the level of water in Farmers Creek Dam. Council would be well aware of the the more serious issues facing Oberon Dam which is currently at 12.2%.

At its meeting of 21 May 2007, Council adopted revised residential water restrictions from 1 June 2007 across the Local Government Area and proposed water restrictions for commercial and industrial consumers (Min No. 07-196). These restrictions apply to date.

Water Demand Management Programs over the last year have not been successful in significantly reducing residential water consumption (litres per person per day) with an increase by 11.6% in October and November in potable water supplied by Oakey Park Water Treatment Plant.

- 264 L/p/day in October/November of 2008
- 295 L/p/day in corresponding period in 2009

Level 4 restrictions have been in place with watering limited to four hours per day on an odds and evens rotation. This has not produced the drop in residential water use that was hoped. A review has been undertaken by Council's Water and Waste Manager which indicates that the safe yield of the Farmers Creek Dam (ie, the amount of water we can safely take out each month) has reduced by about 35% because of lower than average rainfall and the current inability of transferring 'usual quantities of water' under the Clarence Water Transfer Scheme 24/7 due to operational issues at the mine. This means that Lithgow's supplied area is currently overdrawing from Farmers Creek Dam, ie the amount coming in to the dam is less than what is being drawn out. This situation needs to be addressed.

To ensure the long term supply of water, issues being pursued include the preservation of existing water supplies - to be achieved through a combination of water restrictions; the promotion of water efficiency; the use of more water efficient appliances; and ways to save water on a day to day basis. Council officers are also investigating projects such as pressure management and leakage control.

In order to be adequately prepared, the determination of trigger points for introduction of water restriction levels when Farmers Creek Dam reaches certain levels is a prudent measure to undertake in advance. Based on the average demand for this quarter, a table of water restriction level trigger points has been prepared based on estimates on ability to supply water during a prolonged drought.

**Table 1**

<b>Water Restriction</b>	<b>Dam Capacity 450ML</b>
Level 4	As per existing points
Level 4a	60%
Level 5	50%
Level 6	40%
Level 7	20%

Level 4a would be a water restriction set so that there would be a degree of transition between four hours watering per day with hoses (Level 4) and buckets only (Level 5). Level 4a would reduce watering for odd numbered houses Sunday, Wednesday and Friday and even numbered houses on Monday, Thursday and Saturday for two 1 hour periods morning and afternoon rather than the current two 2 hour periods on an odds and evens basis. A lay day on Tuesday was chosen because statistically it is the highest demand day of the week and should deliver the greatest water savings. It is proposed that level 4a commence when the dam capacity falls to 60%. As at 8 December 2009, the dam had reached this level.

The capacity of Farmers Creek Dam is 450ML and there are times when the weekly demand can reduce the volume by 5%. This has been experienced recently during pre summer hot spells. Conversely, a major storm event could fill the dam quickly.

At the end of November the dam's capacity was 63% or approximately 283ML. Efforts are being made to increase the amount of water transferred through the Clarence Water Transfer Scheme by running the transfer pumps for longer periods each day however, for operational reasons, the pumps have been unable to run continuously.

Looking further ahead, the Council is committed to replacing the water supply to Lithgow villages with treated water from Oakey Park Water Treatment Plant. Obviously this will increase the rate of drawdown from the dam. While this is planned for, the solution of upgrading the transfer system of the Clarence Water Transfer Scheme still needs to be constructed.

If necessary, Council could switch back to FRWS for Marrangaroo until the dam reaches a determined level, however the wider issues of assisting the Oberon Dam situation would have to be considered. Increasing concerns about areas with continuing pressure problems (possibly due to high demand in the hot spell) may necessitate switch back to FRWS as a short term measure in any event. These water pressure problems are currently being investigated by Council and State Water staff. So far the areas most affected are in the Tunnel Hill/Gemalong Close area during peak demand periods of the day. Flow monitoring and pressure testing is currently underway in conjunction with State Water in order to identify the circumstances of the pressure loss.



### Drought Relief Project

Council would be well aware of the problems that have been encountered in running Farmers Creek water to the Villages. State Water staff had undertaken investigations and it was hoped that the problem had been located, but this was not the case. A meeting was held between professional and operational staff of State Water and Council to brainstorm all the issues and possible causes of the problem. State Water have also engaged specialist Hydraulic Engineers from NSW Department of Commerce to assist. In summary, there have been 2 issues that have arisen as a result of recent trials. Firstly, there is a significant drop in pressure at a location known as Wallerawang Junction. Secondly, there is the major pressure drop (ie no water at all) that has recently occurred at several locations including Gemalong Close, Hill Range Crescent, Lithgow and Korra Street, Marrangaroo. These have occurred outside the trial times and whilst it is thought they primarily relate to peak demand times and hot weather this has not been consistent. It was determined in the first instance that the best way forward was to undertake, at a number of locations, pressure testing and flow logging from Cook Street High Reservoir to East Wallerawang using specialised equipment provided by Department of Commerce to determine where the 'draw' is coming from during peak times which is causing no water at Gemalong Close, Hill Range Crescent, Lithgow and Korra Street, Marrangaroo. This matter needs to be addressed before the issue at Wallerawang Junction can be further investigated. A number of specialised devices are now installed across the network for this to occur.

Whilst it has been frustrating that the trials have not been successful as yet, it has been good to see a team approach from both organisations to try and make the project happen and maintain normal service to customers during testing activities. Furthermore, due to the rapid drawdown at Farmers Creek Dam the urgency of the project must be seen in a different context, i.e. the Farmers Creek Supply must also be protected.

### **POLICY IMPLICATIONS**

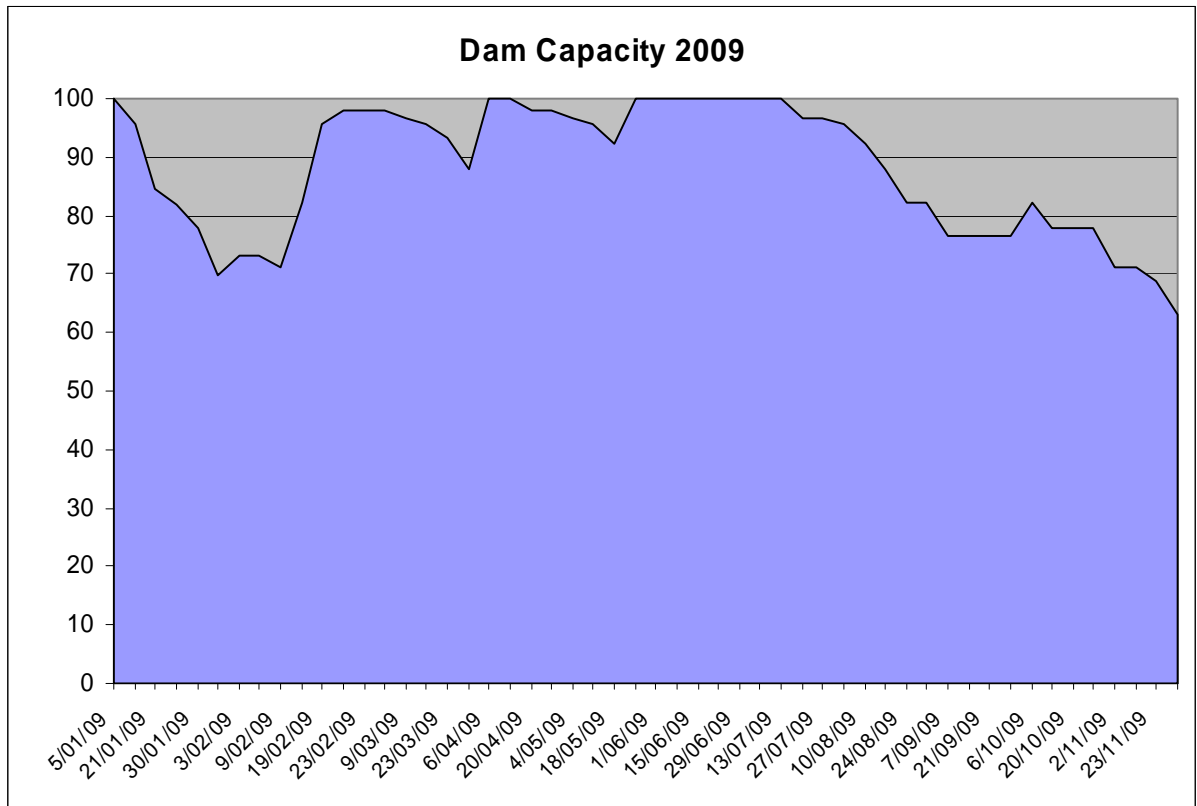
12.2 WATER RESTRICTIONS - This Policy determines Council's response to non-compliance with water restrictions.

### **FINANCIAL IMPLICATIONS**

There would be a financial impact to the 2009/10 water revenue budget estimate of \$1.02/kL due to reduced water consumption. Council still maintains access to the \$400,000 drought relief funds to provide Farmers Creek Water to Villages that has not been called upon yet during the trial phase.

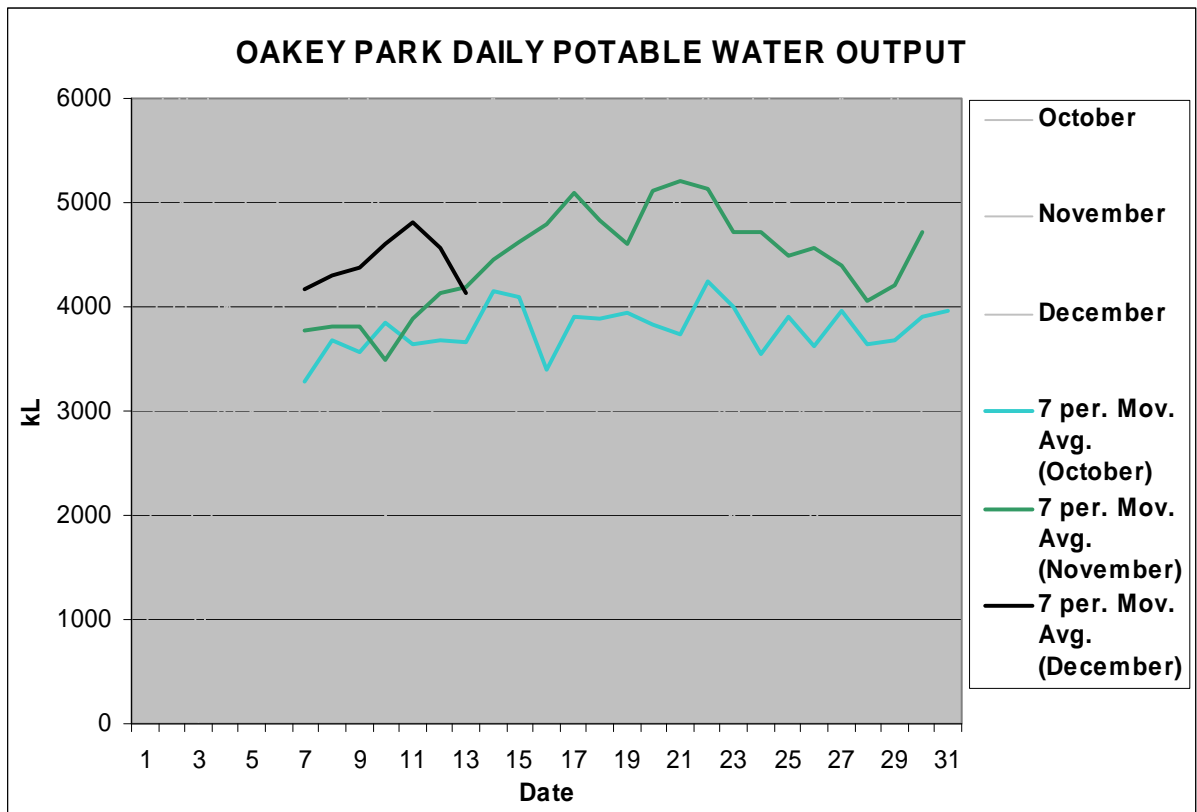
**GRAPHS**

1.



At the end of November 2009 Farmers Creek Dam is at 63% capacity.

2.



As the warmer months approach the daily water consumption is trending upwards.

**RECOMMENDATION**

**THAT:**

1. Council adopt water restriction level trigger points, for consumers on the Farmers Creek water supply, in accordance with the following table.

<b>Water Restriction</b>	<b>Dam Capacity 450ML</b>
Level 4	As per existing points
Level 4a	60%
Level 5	50%
Level 6	40%
Level 7	20%

2. The level 4a restriction limits watering to odd numbered houses Sunday, Wednesday and Friday and even numbered houses on Monday, Thursday and Saturday between the Hours 7.00am - 8.00am & 6.00pm – 7.00pm. No watering by fixed sprinklers or hand held hoses shall take place on Tuesdays.
3. A water education campaign be initiated to educate the community on water saving methods; water restrictions and penalties for breaching water restrictions.

**09-543 RESOLVED**

**THAT:**

1. Council adopt water restriction level trigger points, for consumers on the Farmers Creek water supply, in accordance with the following table.

<b>Water Restriction</b>	<b>Dam Capacity 450ML</b>
Level 4	As per existing points
Level 4a	60%
Level 5	50%
Level 6	40%
Level 7	20%

2. Water Restrictions move immediately to Level 5 and a water saving plan begin in the local government area with water saving measurers to be implemented.
3. A water education campaign be initiated to educate the community on water saving methods including water restrictions and penalties for breaching water restrictions.
4. A double sided flyer be letterbox dropped that provides information on all seven levels and what the current restrictions are.
5. An Additional emergency meeting with Centennial Coal be held in relation to this issue.
6. The use of water from Angus Place Coal Mine be investigated and if possible transferred to Farmers Creek storage.

**MOVED:** Councillor J J McGinnes  
**CARRIED**

**SECONDED:** Councillor M F Ticehurst

**ITEM:15            REG - 14/12/09 - WALLERAWANG QUARRY**

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

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**REFERENCE**

Extraordinary Meeting of Council – 16 November 2009

**SUMMARY**

To advise Council of the 'official' date of lapsing of the development consent for the proposed Wallerawang Quarry should lawful physical works not be carried out.

**COMMENTARY**

Council will recall the diverging advice on the matter of the lapsing date of the development consent from its Solicitor and the developers Solicitor. The Department of Planning requested the separate pieces of advice from both parties in order to determine the correct date. The Department has now advised that the consent will lapse, if not lawfully physically commenced, on 9 December 2009. The Department has been requested to advise of its position as soon as possible after this date to determine whether the consent has lapsed or has commenced.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

The subject of the Departments advice.

**09-544 RESOLVED**

**THAT** the information on the lapsing date of the development consent for Wallerawang Quarry be noted.

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

**SECONDED:** Councillor W McAndrew.

**ITEM:16            REG - 14/12/09 - WALLERAWANG SEWERAGE TREATMENT PLANT  
- NSW COUNTRY TOWNS WATER SUPPLY AND SEWERAGE  
PROGRAM FUNDING**

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

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**REFERENCE**

Ordinary Meeting of 3 August 2009 – Min No 09-322

**SUMMARY**

To advise of a response from the Hon Phillip Costa MP in relation to representations made by Council requesting an increase in funding for the Wallerawang Sewerage Treatment Plant Augmentation.

**COMMENTARY**

At it's Ordinary Meeting of 3 August 2009, Council resolved to make representations to the Minister for Water and Regional Development, the Honourable Phillip Costa, through the local member requesting an increase in funding for the Wallerawang Sewerage Treatment Plant Augmentation.

The Minister accepted a delegation from Council on 24 September 2009 and whilst the formal correspondence indicating that additional subsidy cannot be provided was expected, it is nonetheless disappointing. Correspondence has been prepared for the Minister highlighting that the design level for the growth component of the plant (which cannot be funded under the Country Towns Water and Sewerage Supply Scheme) appears to relate to a Sydney Catchment Authority requirement. As such, irrespective of the level of funding being provided by SCA, Council reaffirms its view that the Sydney Catchment Authority should fund the shortfall.

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

There is currently a shortfall of \$555,000.

**LEGAL IMPLICATIONS**

Nil

**09-545 RESOLVED**

**THAT** Council endorse the actions to provide further correspondence to the Minister highlighting necessity for additional Sydney Catchment Authority funding.

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

**SECONDED:** Councillor R Thompson

## OPERATION SERVICES REPORTS

**ITEM:17            OPER - 14/12/09 - UPPER MACQUARIE COUNTY COUNCIL WEEDS  
REPORT - OCTOBER / NOVEMBER 2009**

**REPORT FROM: ACTING GROUP MANAGER OPERATIONS – IAIN STEWART**

### REFERENCE

Nil

### SUMMARY

To advise of the most recent Upper Macquarie County Council Weeds Report.

### COMMENTARY

Upper Macquarie County Council Chief Weeds Officer Report for October & November 2009.

### POLICY IMPLICATIONS

Nil

### FINANCIAL IMPLICATIONS

Nil

### LEGAL IMPLICATIONS

Nil

### 09-546 RESOLVED

**THAT** the report for Upper Macquarie County Council Chief Weeds Report for October & November 2009 be noted.

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

**SECONDED:** Councillor R Thompson

**ITEM:18 OPER - 14/12/09 - 2009/11 MANAGEMENT PLAN**

**REPORT FROM:ACTING GROUP MANAGER OPERATIONS – IAIN STEWART**

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**REFERENCE**

2009- 2011 Management Plan

**SUMMARY**

To submit detailed work activities for undefined projects contained in the 2009 – 2011 Management Plan.

**COMMENTARY**

The following items in the Capital works section of the 2009 – 2011 Management Plan were adopted with undefined works.

Following detailed works inspections and consultation with Councillors and the public, the following works are proposed for construction in the 2009/2010 works program.

**1. Lithgow/Portland Laneways - \$90,000**

- (a) Burton Street laneway from Burton Street to Ridge Street, Portland – gravel re- sheeting and bitumen seal. Estimated Cost - \$16,000.
- (b) Ilford Street – Sofala Street laneway, Portland - gravel re-sheeting and bitumen seal. Estimated Cost - \$12,000.
- (c) Martini Parade – Rifle Parade Laneway, Lithgow – bitumen reseal. Estimated Cost - \$29,000.
- (d) Villiers Street – Sofala Street Laneway, Portland – gravel re-sheeting and bitumen seal – Estimated Cost \$12,000.
- (e) Piper Street – Purcell Street Laneway, Portland – gravel re-sheeting and bitumen seal – Estimated Cost \$13,000.
- (f) Hartley Valley Road Laneway, Lithgow (adjacent to Hall) – bitumen re seal. Estimated Cost \$8,000.

**2. Kerb and Gutter Construction - \$30,000**

- (a) North side of Villiers Street from Kiln Street, Portland to drain. Estimated Cost \$30,000. (includes drainage work)

**3. Bitumen Reseals - \$52,000 (unallocated)**

- (a) Southern End of Cox Street, Portland - \$12,000.
- (b) Northern End of Green Street, Portland - \$15,000
- (c) Bent Street – Southern End /Western End, Lithgow - \$25,000



## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

NIL

## **LEGAL IMPLICATIONS**

Nil

### **09-547 RESOLVED**

**THAT** the following works be adopted for completion during the 2009/2010 financial year.

#### **1. Lithgow/Portland Laneways - \$90,000**

- (a) Burton Street laneway from Burton Street to Ridge Street, Portland – gravel re- sheeting and bitumen seal. Estimated Cost - \$16,000.
- (b) Ilford Street – Sofala Street laneway, Portland - gravel re-sheeting and bitumen seal. Estimated Cost - \$12,000.
- (c) Martini Parade – Rifle Parade Laneway, Lithgow – bitumen reseal. Estimated Cost - \$29,000.
- (d) Villiers Street – Sofala Street Laneway, Portland – gravel re-sheeting and bitumen seal – Estimated Cost \$12,000.
- (e) Piper Street – Purcell Street Laneway, Portland – gravel re-sheeting and bitumen seal – Estimated Cost \$13,000.
- (f) Hartley Valley Road Laneway, Lithgow (adjacent to Hall) – bitumen re seal. Estimated Cost \$8,000.

#### **2. Kerb and Gutter Construction - \$30,000**

- (g) North side of Villiers Street from Kiln Street to drain. Estimated Cost \$30,000. (includes drainage work)

#### **3. Bitumen Reseals - \$52,000 (unallocated)**

- (a) Southern End of Cox Street - \$12,000.
- (b) Northern End of Green Street - \$15,000
- (c) Bent Street – Southern End /Western End - \$25,000

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

**SECONDED:** Councillor R Thompson

## INTERNAL SERVICES REPORTS

### ITEM:19 INTS - 14/12/09 - COUNCIL INVESTMENTS HELD TO 30 NOVEMBER 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)
Min 09-459	02 November 2009 (September 2009)
Min 09-511	23 November 2009 (October 2009)

#### SUMMARY

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

#### COMMENTARY

Council's total investment portfolio, as at 30 November 2009 when compared to 31 October 2009, has decreased by \$490,758.01. The 2<sup>nd</sup> instalment of the 2009/10 rate notice is due and payable on 30 November 2009.

INVESTMENT REGISTER 2009/10								
INSTITUTION	INV TYPE	DATE LODGED	DATE DUE	DAYS	INT	VALUE 30.11.09	VALUE 31.10.09	% OF TOTAL
ANZ	TD	17.08.09	12.02.10	179	4.00	513,587.03	513,587.03	3.03%
BANKWEST	TD	09.11.09	09.12.09	30	4.45	513,448.94	508,379.08	3.03%
	TD	23.11.09	07.01.10	45	4.70	508,099.23	503,082.19	3.00%
CBA	On Call				3.45	1,687,143.80	478,625.00	9.97%
	Ethical Nt	06.11.06	06.11.11	1,825	**	56,500.00	56,500.00	0.33%
	TD	06.10.09	05.11.09	30	3.46	0.00	1,003,236.71	0.00%
CITIBANK	TD	10.08.09	10.11.09	92	4.30	0.00	283,187.69	0.00%
	TD	15.10.09	18.01.10	90	4.82	509,108.69	509,108.69	3.01%
	TD	24.11.09	24.02.10	90	4.93	509,259.46	503,698.50	3.01%
	TD	23.09.09	23.12.09	90	4.50	505,547.95	505,547.95	2.99%
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	1,487,753.48	8.79%
	TD	03.11.09	01.02.10	90	4.09	930,226.32	920,466.85	5.50%
NAB	TD	10.11.09	10.12.09	30	4.00	1,020,645.04	1,010,676.72	6.03%
	TD	15.11.09	13.02.10	90	3.25	765,241.00	757,767.13	4.52%
WESTPAC	TD	15.09.09	15.02.10	150	4.81	1,013,526.03	1,013,526.03	5.99%
	TD	29.09.09	29.12.09	120	4.56	760,978.56	760,978.56	4.50%
	TD	03.09.09	03.02.10	150	4.79	750,000.00	750,000.00	4.43%
MACQUARIE	TD	19.11.09	15.02.10	88	4.90	2,040,663.01	2,000,000.00	12.06%
ST GEORGE	TD	19.11.09	03.07.10	226	5.20	758,294.37	750,000.00	4.48%
	TD	04.08.09	04.11.09	90	4.15	0.00	505,041.10	0.00%
	On Call				3.20	47,589.17	47,207.38	0.28%
	TD	07.10.09	07.12.09	60	4.00	255,841.10	255,841.10	1.51%
	TD	03.09.09	02.12.09	90	4.00	750,000.00	750,000.00	4.43%
SUNCORP	TD	04.10.09	07.12.09	60	4.51	1,018,865.13	1,018,865.13	6.02%
	TD	17.09.09	17.12.09	90	4.50	516,699.85	516,699.85	3.05%
<b>TOTAL</b>						<b>16,926,177.95</b>	<b>17,416,935.96</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 November 2009 is \$229,376.30 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)

## **09-548 RESOLVED**

**THAT** Investments of \$16,926,177.95 for the period ending 30 November 2009 be noted.

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

## COMMUNITY AND CORPORATE SERVICES REPORTS

### ITEM:20 COMM - 14/12/09 - GARDENS OF STONE STAGE TWO - REVIEW OF REPORTS

REPORT BY: GROUP MANAGER COMMUNITY AND CORPORATE – SUZANNE LOLLBACK

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#### REFERENCE

Min 06-82: Ordinary Meeting of Council 20 March 2006  
Min 06-111: Ordinary meeting of Council 18 April 2006  
Min 06-119: Policy and Strategy Committee 1 May 2006  
Min 06-316: Policy and Strategy Committee 3 October 2006  
Min 09-516: Ordinary Meeting of Council 23 November 2009

#### SUMMARY

This report provides a summary of documents available as they relate to the Gardens of Stone Stage Two proposal and tourism within the proposal. Where possible, and within the limits of the timeframe provided, statements have been sought from key stakeholders to determine their current position on the proposals.

#### COMMENTARY

##### INTRODUCTION

At the Ordinary Meeting of Council held on 16 November 2009 the Council resolved:

*THAT a report on the full proposal of the Gardens of Stone Stage 2 be put to the Council along with the "Seeing the Gardens...the other Blue Mountains" Proposal.*

This was in response to a presentation being provided to the Tourism Advisory Committee in November by the Blue Mountains Conservation Society on the document *Seeing the Gardens, the other Blue Mountains*, which identifies nature-based tourism and recreation in the Gardens of Stone Stage Two Park Proposal.

##### BACKGROUND

This is not the first time that the Gardens of Stone Stage Two proposal has been the subject of a report to the Council.

At its Meeting of 20 March 2006 the Council resolved to invite the Colong Foundation to provide an address on the Gardens of Stone Park Proposal. This address was presented at the meeting of Council on 18 April 2006.

A report was then put to the Policy and Strategy Committee meeting of 1 May 2006. The report concluded that the *"the Gardens of Stone Park proposal Stage 2 Report provides a subjective and biased view which is based on misleading and generalised statements that lack scientific and evidentiary proof. It fails to provide any assessment of the potential impacts of the proposal on local coal, forest and sand resources. It is the economic and social impacts which are of major concern and which need to be fully assessed prior to any decision being made on the proposal"*. See Attachment 1.

At the meeting of 1 May 2006 the Council resolved:

*THAT*

- 1. The Gardens of Stone Park proposal Stage 2 be rejected based on the contents of the Report.*
- 2. A delegation to the Minister for Environment be requested through the local member, Gerard Martin, MP to present Council's position.*

The Council subsequently wrote to the local member and Minister for Environment on 31 May 2006. See Attachment 2.

The Council received a response from the Minister for the Environment which included a copy of the Assessment Report carried out by the Department of Environment and Conservation in August 2006. This was reported to the Council on 3 October 2006. See Attachments 3 and 4.

### **Purpose of This Report to Council**

The purpose of this report to Council is not to repeat the content of previous reports, but to provide an overview of information that is currently available, and which may have been published since October 2006.

Where possible, statements have been sought from some stakeholders to determine their current position on the proposals.

### **PUBLICATIONS**

There are a number of publications which relate to the Gardens of Stone Stage Two proposal, both in terms of reservation under the National Parks Act, and in terms of tourism potential. The following provides an outline of some of the known documents.

**The Gardens of Stone Park Proposal Stage Two** (October 2005, Colong Foundation for Wilderness Ltd). See Attachment 5.

The following provides notes and/or quotations from the report.

The report puts forward a proposal to extend the Gardens of Stone National Park area.

Stage One of the Gardens of Stone National Park was created on the 29 November 1994, covering 11,780 hectares. In December 1995 a further 3,600 hectares of the original proposal were added to the Wollemi National Park to protect Rocky Creek and its cathedral-like slot canyons.

The National Parks and Wildlife Amendment Act, 2001 provides for the reservation of State Conservation Areas that could allow coal mining as well as the protection of areas of high conservation value. Such a reservation would be possible where underground coal mines exist. Centennial Coal owns most of the mining interests within the park proposal (Stage Two) area.

Reservation of Gardens of Stone Stage Two, primarily as a State Conservation Area, would protect the most spectacular pagoda landscapes in Australia. The Reservation would also secure the outstanding ochre coloured cliffs of the Blue Mountain's Western Escarpment and the rare plant communities in the area as extension of either the Blue Mountains National Park, or a Western Escarpment Conservation area.

It is seen in the report that the existing management of public lands in State Forests and Crown Reserves has proven to be inadequate (in terms of coal mining, sand mining, pine plantations, native forest logging, abuse by off road vehicles and unregulated adventure recreation).

The divisions of the proposal include:

- Genowlan Mountain (1,680 hectares)  
Standing over 500 meters above the Capertee Valley, Genowlan Mountain is home to hundreds of pagodas. Notable rock formations include the 'Citadel' and the 'Valley of the Kings' as well as the 'Grotto' with its 30 metre tall Brown Barrel eucalypt trees and four metre tall tree ferns.
- Airly Mountain (2,020 hectares)  
Airly Mountain lies west of Mount Genowlan. Ruins from oil shale mining operations are located on the slopes of Airly Gap. They are of state significance. The area also has pagoda rock formations.
- Wollangambe Wilderness (2,380 hectares)  
Situated in the south east part of Newnes state Forest and north east of the Clarence Colliery pit top. The area is part of the identified Wollemi Wilderness and contains several shrub swamps with rare plants. Gooches Crater is just within the State Forest area.
- Newnes Plateau (22,000 hectares)  
There are range of diverse bioregions on the Plateau with botanical diversity and vast number of rare plants which are related to its altitude, sandstone landscape and location at the western-most extremity of the Blue Mountains.

(Note: Wolgan Reserve (Blackfellows Hands Cave Reserve) sits between the Newnes Plateau and Baal Bone and Long Swamp areas and also forms part of the proposal.) This reserve is currently under the care and management of Lithgow City Council.

- Baal Bone and Long Swamp  
This area contains the Ben Bullen and Wolgan State Forests. Long Swamp, together with the swamps on Lambs and Kangaroo Creeks form the headwaters of the Coxs River. On the other side is Baal Bone Creek whose massed pagodas are reminiscent of Cambodia's forest temples.

- The Western Escarpment

The Western Escarpment is a spectacular and dominating feature of the western Blue Mountains, consisting of an irregular series of tall sandstone cliffs associated with steep pagoda-caped spurs that traverse the Darling Causeway northwards and then run west around the River Lett Valley to Lithgow. Further south the proposal runs around to Hargreaves Lookout on the Shipley Plateau.

The Western Escarpment division consists of all lands recommended for reservation in the Blue Mountains Public Lands Rationalisation Project, Stage 1 and all other crown lands on the Western Escarpment in the Lithgow City Council area.

(Note: Hassans Walls Reserve is included in this part of the proposal as a proposed extension to the Blue Mountains National Park.)

Management issues included in the report (as identified in 2005) include:

- Coal Mining
- Appropriate regulation of coal mining operations
- Sand mining
- The Sydney Construction Materials proposal
- Logging operations
- Off road vehicles
- Access management necessary to protect the area
- Adventure recreation
- Adventure recreation management principles.
- The proposed Bells Line Super Highway
- Helicopter joy flights
- Emirates Eco-tourism Resort

**Assessment Report: Gardens of Stone Stage Two Proposal - State Conservation Areas and Park Extensions** (Department of Environment and Conservation NSW, August 2006). See Attachment 4

DEC, because of the complicated proposal did not see it possible or desirable to treat the proposal as a single proposal given the range of tenures and issues present.

The Discussion and Conclusion of the report provides a summary (pp24-25) which includes the following information.

*“In summary, the Government hopes to continue to pursue reservation over Mt Airly in consultation with DPI (minerals) and Centennial Coal and to resolve the longer term management of the Western Escarpment as part of the Blue Mountains Public Lands Rationalisation process.*”

*Arrangements are already in place to secure the Canyon Colliery site for additions to Blue Mountains National Park. DEC will also explore the possibility of reservation of Ben Bullen and Wolgan State Forests with State Forests and DPI (Minerals) in the medium term.*

*For Newnes Plateau, significant conservation values are clearly apparent but, equally, substantial damage is being done by existing uses. Further, future sand extraction activities have the potential to render conservation management of the land under the NPW Act unworkable and the extent of such activity has not yet been examined. In addition, opposition to reservation within elements of the broader community, make it unlikely that an appropriate management regime could effectively be put in place over these lands. Consequently, the broader Newnes Plateau area should not be pursued for reservation along with the Blackfellows Hand reserve, the Crown land near Clarence and the Hassans Walls and Zig Zag Crown reserves near Lithgow. The reservation of two small areas along the eastern edge of Newnes Plateau and adjoining the national park should be pursued in the medium term. DEC should ensure that copies of its investigations into the area are forwarded to the relevant land managers in an effort to promote improved management of the lands.*

**Seeing the Gardens ... the other Blue Mountains. Nature-Based Tourism and Recreation in the Gardens of Stone Stage Two Park Proposal,**

(July 2009, Blue Mountains Conservation Society and Colong Foundation for Wilderness) See Attachment 6.

The following provides notes and/or quotations from the report.

The Gardens of Stone Park Proposal Stage Two (GoS2) covers an area of 40,000 hectares of sandstone escarpment and plateau in the western Blue Mountains.

The proposal falls into four broad geographic zones:

- The Airly-Genowlan mesas in the upper Capertee Valley
- Ben Bullen State Forest and Wolgan State Forest on the great Diving Range north of Wallerawang.
- Newnes State Forest on Newnes Plateau
- The western escarpment of the main Blue Mountains ridge from Lithgow to Medlow Bath, above the Kanimbla and Megalong Valleys.

Recreational use of the GoS2 is less intense than in the adjacent, more well-known parts of the Greater Blue Mountains World Heritage Area and relatively undeveloped in terms of facilities and promotion.

Informal recreational use independent of facilities is more widespread throughout GoS2 (than in the existing Gardens of Stone NP) and includes vehicle touring, vehicular recreation (4WD and trail bike), dispersed camping, off-track bushwalking, canyoning, rockclimbing and mountain biking. Some of this activity is illegal and some is creating widespread and unmanaged impacts.



The potential of the GoS2 area for low-impact, nature-based recreation and tourism is great, but under-recognised and under-utilised at present. The natural and cultural attractions are many, varied, widespread across the area and highly appealing. Some features (eg Lost City, Carne Creek Gorge, New Hartley mining heritage, Wolgan Valley Rail Trail) have the potential to become iconic attractions of wide fame.

A comprehensive range of visitor opportunities can be established relatively easily across GoS2.... Including touring routes for motor vehicles and bicycles, camping areas, bushwalks, lookouts and cultural and wildlife experiences.

The report outlines an estimate of economic benefit from the more structured development of tourism in the proposed GoS2 area.

**Short Walks on the Newnes Plateau** (Brochure, published by the Blue Mountains Conservation Society and Colong Foundation for Wilderness, June 2009) See Attachment 7

This brochure provides a map of short walks on the Newnes Plateau, part of the proposal for Gardens of Stone Stage Two.

**The Wolgan Valley Rail Trail, The case for up-grading Australia's finest Rail Trail.** (Mark Plummer and Conservation Volunteers Australia, May 2009) See Attachment 8

This document outlines a concept for a "Rail Trail", (*Originally defined as a multi-use recreational corridor located on a closed railway line. It has been expanded to include trails and paths adjacent to an existing and operational railway line*, Plummer)

Over 600 km of trails exist in Victoria, creating a popular tourism experience and contribute to regional economies.

There is significant interest in this project from many mountain bike riders, historic railway interest groups, and bushwalkers, NPWS, Forestry, Zig Zag Railway, etc.

The following information is provided by Thomas Ebersoll. (Newnes Hotel, 30 November 2009).

*Works are currently being undertaken by volunteers including individuals from Newnes, Lithgow Mountain Bike Group and a group of 'Better Earth' Volunteers through Conservation Volunteers Australia.*

*These works include the removal of rocks, some trees and all dead vegetation including many big logs; and new diversions have been cut along the section from Newnes to The Coach Road. Some 7.6km of the track is now cyclable, except for 4 washouts. These need steps installed to make them safer.*

*Once completed the trail will provide access to Newnes for cyclists via the Coach Road and down the 7.6km of Rail Trail.*

*Contrary to the original proposal, it is considered that the The Glow Worm Tunnel should remain for walkers only. To combine cyclists and walkers in this section would be a very expensive exercise and create impossible safety issues with cyclists and walkers sharing a boarded walk through a dark tunnel.*

*It is planned that the cyclable section will be open for Easter.*

### **Save Our Swamp Brochures**

See Attachments 9-17

Some nine information brochures have been produced relating to caring for swamps in the Blue Mountains and Lithgow areas. These brochures include for swamps on the Newnes Plateau. They were funded by a grant from the NSW Environmental Trust Urban Sustainability program.

Blue Mountains City Council and Lithgow City Council, in partnership, were successful in obtaining grant funding in 2008 to protect the nationally threatened temperate highland peat swamps ecological communities within the Local Government Areas.

The project is funded through the NSW Environmental Trust Urban Sustainability program with \$250,000 to be spent over 3 years to rehabilitate degraded Temperate Peat Swamp systems, raise community awareness about these significant vegetation communities and their associated threatened species such as the Blue Mountains Water Skink, as well as develop a community and schools education program, research program and private landholder incentive program.

The project is addressing: conservation of threatened species/communities and protection of World Heritage Area values; erosion, sedimentation and weed invasion associated with urban stormwater; inappropriate fire regimes leading to hydrological change; monitoring the effectiveness of remediation techniques, and climate change influence on swamps; increasing community awareness and knowledge of Threatened Species and Conservation; developing the capacity for change within the community as a whole, public and private; provision of incentives to landholders to effect change; better co-ordination of TS&C recovery by state/local organisations (DECC, HNCMA, State Forests, BMCC, LCC), and improved joint research and delivery of recovery actions.

A Project Officer has been appointed to oversee the project who will be based at Blue Mountains City Council. Lithgow's contribution to the project will be of an inkind nature and will include staff time for planning, workshops, and school education. A Steering Committee and a Project Management Plan have been created.

A notable example of the work undertaken to date as part of this project can be seen at Brown's Swamp just below the Zig Zag Railway where the funds have been used to employ professional bush regenerators to support and extend the work that the volunteers have started as well as undertaking soil conservation works on the edges of the swamps. As part of the project, Zig Zag Railway and Centennial Coal have worked in partnership to construct a fence to protect the swamp and buffer vegetation.

Other works are being carried out around other swamp areas on the Newnes Plateau, particularly to do with the removal of radiata pine seedlings from swamp edges.

## **STAKEHOLDER POSITIONS**

### **Centennial Coal**

Centennial Coal owns most of the mining interests within the park proposal area.

At the time of writing the report (3 December 2009), Richard Tacon from Centennial Coal advised in regard to the Mt Airly proposal that their position originally was that *“as long as it didn’t put more impediments in the way of coal mining they would have supported the proposal. It has become clear that the proposal does put further impediments in place. Unless the relevant legislation is changed to remove those impediments the proposal cannot be supported.”*

Mr Tacon advised that he would provide further information in writing commencing the week of Monday 7 December 2009. Should this information become available it will be tabled for the information of Council.

### **Forests NSW**

The following existing forests are within the Gardens of Stone Stage II proposal:

- Ben Bullen State Forest
- Wolgan State Forest
- Newnes State Forest

Gavin Jeffries, Regional Manager Forests NSW, reports (2 Dec 2009) that *“the Department has not yet developed a position on the Gardens of Stone Stage Two proposal.”*

*“The Regional Office is working towards a formal program for recreational use of the forest areas and will be contacting all stakeholders in the New Year to discuss stakeholder involvement in the program.”*

There are number of documents that refer to forest management in the area along with tourism. Three documents may be of interest and accessed through the following websites. These are:

*Ecologically Sustainable Forest Management Macquarie Region NSW* (Forests NSW 2008) [www.dpi.nsw.gov.au/forests/management/esfm](http://www.dpi.nsw.gov.au/forests/management/esfm) (ESFM)

*Forests NSW Recreation & Tourism Policy P2009/5* (Forests NSW 29/9/2009)  
[www.dpi.nsw.gov.au/publications](http://www.dpi.nsw.gov.au/publications)

*Living, working, playing ... forests 2005-2009* (Forests NSW 2005?)  
[www.dpi.nsw.gov.au/publications](http://www.dpi.nsw.gov.au/publications)

These documents highlight sustainable use of the forests in the region, along with a policy for recreational and tourism use.

With regards tourism, to quote (ESFM):

*State forests offer a wide range of nature-based experiences and complement other tourist attractions within Macquarie Region.*

*Forests NSW assists businesses to conduct commercial tourism and recreation operations on State forests. They include bus and four wheel drive tours, adventure sports or activities such as horse riding and bush walking from tourist accommodation in close proximity to the forest. Special Purpose Permits regulate the activities to ensure that they are carried out within the adopted ecological framework.*

*Forests NSW encourages accreditation of tour operators under ecotourism certification programs and membership of associations with appropriate codes of conduct.*

*Some activities conducted by community groups are highly organised regional, state and national events such as car rallies, horse endurance rides, motor cross, mountain bike events and orienteering. These events are held under the authority of special purpose permits, which contain conditions addressing environmental protection and personal safety. While additional costs are incurred, associated with supervision to ensure asset protection and environmental and participant safety, these activities are facilitated by Forests NSW more as a social obligation than as an economic enterprise.*

*Forests NSW does not generally allow exclusive use of forests. However, where worthwhile recreational pursuits cannot be accommodated on other land tenures and safety of other forest users is an issue, small areas of State forest may be allocated under short term permit or temporary licence.*

The recent World Masters Games and upcoming Orienteering competition to be held in March 2010 and the Australian 4 day Motorcycle Enduro planned for April 2010 will be held in state forests in the Lithgow area.

In July 2009, Council was advised that the toilets and rest area at Bungleboori on the Glow Worm Tunnel was closed due to continued high levels of vandalism.

### **National Parks and Wildlife Service**

Advice along the following lines has been received from Geoff Luscombe (30 Nov 2009) of the Blue Mountains Regional Office of the National Parks and Wildlife Service.

*The Gardens of Stone Stage Two proposal identifies several parcels of land in the western Blue Mountains considered suitable for reservation under the National Parks and Wildlife Act 1974. The Department has assessed the conservation values of the various sites and has undertaken a review of their current and future land uses to determine whether reservation is both warranted and feasible.*

*At Newnes Plateau, the existing and potential extractive land uses, plus the well established recreational use by off-road vehicles, will make it difficult to establish a management regime for this site that is consistent with the Act. Current use of Newnes Plateau is having a significant impact on natural heritage values, with disturbance mapping indicating the majority of the site is either highly or moderately disturbed. Significant resources must therefore be invested in both rehabilitation and recreation management. In addition, the broader community and relevant industries would need to substantially modify their use of the site, as current usage is largely incompatible with any reserve category under the Act.*

*The Department is now pursuing reservation of the Mt Airly - Genowlan area as a State Conservation Area. With an underground coal mining approval at Mt Airly, a State Conservation Area is the most appropriate category of reserve under the Act. NPWS, given the existing mining interests, are working closely with the Department of Industry and Investment (DII, previously the Department of Primary Industries) to progress reservation of Mt Airly.*

*The Department considers that the planning process currently being applied to the proposed Mt Airly State Conservation Area should establish a precedent for further cooperation with DII and other NSW government departments for reservation of Ben Bullen/Wolgan State Forests.*

*The Department considers that these outcomes strike an appropriate balance between the need to protect our natural and cultural heritage and to support the ongoing operation of existing land use activities in the Lithgow area. These outcomes also acknowledge the range of views expressed by the local community.*

The following provides a reference regarding tourism in National Parks. This can be downloaded from the Internet.

*NSW Taskforce on Tourism and National Parks* (State NSW, Dec 2008)

<http://corporate.tourism.nsw.gov.au/Sites/SiteID6/objLib28/Final%20Report%20Text.pdf>

## **LITHGOW CITY COUNCIL**

There are two main reserves under the care and control of Lithgow City Council that are being considered as part of the proposal.

### **a) Wolgan Rd Public Recreation Reserve - Blackfellows Hands Cave Reserve**

The Council has care and management of Crown Reserve No. 42350, commonly known as Blackfellows Hands Cave Reserve. This reserve is proposed as part of the extension to the Gardens of Stone Stage Two proposal.

No Management Plan exists for the Reserve. In July 2008 it was gazetted as an Aboriginal Place. It has caves, hand paintings and both male and female areas.

The Reserve partly sits on both sides of Wolgan Road, commencing near the Angus Place Tip on the east side, and near the top of the gap on the western side. It extends half way down the Wolgan Gap. A significant area of the reserve incorporates the escarpment area.

Blackfellows Hands Road commences on the Eastern side of Wolgan Road and links up with the Glow Worm Tunnel Road. It is recommended as a 4WD track, particularly part of the road through the Reserve. The boundary of the reserve is approximately two kilometres along the road on the eastern side of Wolgan Road.

#### **b) Hassans Walls Reserve**

The Council has care and management over Hassans Walls Reserve (Part Crown Land and part Council). Council is in the process of developing a management plan for the area and has committed some funds in this financial year to develop a study for Hassans Walls Lookout area.

It is proposed that Hassans Walls Reserve may become an extension to the Blue Mountains National Park along with parts of the western escarpment areas from Lithgow around to the Medlow Bath area.

#### **Lithgow Drinking Water Catchment**

The Lithgow drinking water catchment area sits within the Newnes Plateau division of the proposal.

There is some evidence that illegal off-road vehicle activities, particularly motorbikes are impacting upon the drinking water catchment area.

#### **Save Our Swamps**

In 2008, the Council entered into a partnership with Blue Mountains City Council to undertake this fully funded project. See above information.

#### **Bungleboori**

In July 2009 Forests NSW advised the Council that they had removed the toilets from the Bungleboori rest area on the Glow Worm Tunnel Road. The Council resolved in August to request that the toilets be reinstated and that a letter be sent to the State Minister.

At the time of writing the report Forests NSW advised that the toilets and rest area would not be reinstated.

#### **Tourism Advisory Committee**

The Tourism Advisory Committee were provided with a presentation by the Blue Mountains Conservation Society on the document *Seeing the Gardens ... the other Blue Mountains* at its meeting on 3 November 2009. At the meeting in December, the Committee discussed the report. The committee will be recommending to the Council that the Blue Mountains Conservation Society provides a briefing to the Council on *Seeing the Gardens ... the other Blue Mountains*.

## **OFFICER COMMENTS ON TOURISM IN THE PROPOSED AREAS**

### **Tourism Activity**

A significant level of tourism is already happening in the proposed Gardens of Stone Stage Two areas. Many activities are already co-existing with all other industries including coal mining and forestry activities.

This includes, for example, visitation to the following areas:

- Hassans Walls Reserve
- Newnes Plateau including Glow Worm Tunnel, the Lost City, scenic lookouts and gorges.
- Blackfellows Hands Cave and Wolgan Gap
- Zig Zag Railway
- Mt Airly historic mining area
- Mt Genowlan (through private land to the plateau)

As noted above some significant events have been held and will be held in State Forests and the proposed areas including, for example:

- World Masters Games Orienteering, Oct 2009
- NSW Championship Orienteering, March 2010
- National 4 Day Motorbike Enduro, April 2010
- Mountain Bike Championships

There are a considerable number of further opportunities that are or could be explored as tourism opportunities including, for example:

- Wolgan Valley Rail Trail
- Working Saw Mill and logging interpretation
- Coal mining interpretation
- Adventure activities
- 4WD and motorbike adventure tours and trails
- Bushwalking and bird-watching

### **Economic Benefits**

While the *Seeing the Gardens ... the other Blue Mountains* report provides some explanation of the potential economic benefits, the report should be read with caution. It is impossible to estimate accurately the existing benefits and potential benefits of tourism.

Suffice to say that tourism use of the proposed area does currently contribute to the Lithgow economy. Further potential economic benefits could be gained to the Lithgow area should opportunities be developed, whether under the current management regime or another.

### **Management of the Area**

Existing use of some areas of the proposed area by some 4WD vehicles and motorbikes is of growing concern to a number of stakeholders including Forests NSW, the police and other recreational users of the area. There is evidence of significant environmental damage occurring particularly on the Newnes Plateau. Some of this is within the Lithgow Drinking Water Catchment Area.

As noted above, Gavin Jefferies from Forests NSW has stated:

*“The Regional Office is working towards a formal program for recreational use of the forest areas and will be contacting all stakeholders in the New Year to discuss stakeholder involvement in the program.”*

### **POLICY IMPLICATIONS**

NIL

### **FINANCIAL IMPLICATIONS**

NIL

### **LEGAL IMPLICATIONS**

NIL

### **RECOMMENDATION**

**THAT** Council notes the information collated relating to the Gardens of Stone Stage Two proposal contained within this report.

Councillor C Hunter declared an interest and vacated the Chambers at 9.20pm

### **09-549 RESOLVED**

#### **THAT:**

1. Council notes the information collated relating to the Gardens of Stone Stage Two proposal contained within this report; and
2. Council reaffirm its opposition to the Gardens of Stone Stage 2 proposal.

**MOVED:** Councillor W McAndrew

**SECONDED:** Councillor H K Fisher.

**CARRIED**

Councillor C Hunter returned to the Chambers at 9.28pm



**ITEM:21            COMM - 14/12/09 - UPDATE OF THE PROPOSED EXTENSION TO  
WALLERAWANG PUBLIC SCHOOL SITE AND ASSOCIATED  
MATTERS RELATING TO THE INDOOR SPORTS STADIUM**

**REPORT BY: STRATEGIC LAND USE PLANNER – SHERILYN HANRAHAN**

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**REFERENCE**

Min 1008:            Council Meeting 31 August 1998  
Min 04-669:        Council Meeting 15 June 2004  
Min 06-47          Council Meeting 20 February 2006  
Min 06-131        Finance and Services Committee Meeting 1 May 2006  
Min 07-478        Finance and Services Committee Meeting 5 November 2007

**SUMMARY**

This report provides an update of the following associated matters relating to Wallerawang School and Sports Stadium:

- Proposed land acquisition to extend the Wallerawang School site to accommodate a sporting field
- Subdivision to create separate lots to accommodate the sports stadium and sewer pump station
- Joint Use and Management Agreement, and
- Licence Agreement for use of the School's car parking.

In addition the report seeks Council's consideration of a request by the Wallerawang School Principal and Parents and Citizens Association to obtain an agreement to use a small portion of Council land to allow for the extension of the soccer field to full size, and to realign the school fence accordingly. The agreement would also cover the areas used for the diversionary drainage banks.

**COMMENTARY**

The subject matters have had a long and protracted history.

The most recent Council resolution in relation to this matter is as follows:

Finance and Services Committee Meeting 5 November 2007 (Min 07-478)

- *The \$10,000 compensation for the acquisition of part Lot 1 DP 1074586 be accepted*
- *The Right of Carriageway and Licence Agreement involving the Wallerawang Sports Stadium is acknowledged*
- *All documents be executed under Council's Seal for the sale of the Right of Carriageway at the next Council meeting*
- *Wallerawang Public School be advised that no works are to be undertaken on Council owned land until the matter of compensation has been finalised*

- *The Development Application for the subdivision of the Wallerawang Indoor Sports Stadium and sewer pump station be prepared and lodged with Council upon finalisation of the plan of subdivision*
- *Negotiations are held with the Wallerawang Indoor Sports Association to prepare a lease agreement*

### **PUBLIC SCHOOL SITE EXTENSION**

In 2003 the Department of Education and Training (DET) approached Council to acquire an area of land to the north of the existing Wallerawang Public School for the purposes of developing a sporting field (full size soccer field).

Valuations were obtained for the parcel of land and Council in November 2007 resolved to accept compensation to the value of \$10,000 for land acquisition.

In November 2007, Council approved a Development Application for the construction of a shed and the extensions to the sporting field subject to works not being carried out until the acquisition of the land and payment of compensation had been finalised.

In 2008, the works on the sporting field were carried out resulting in part of the sporting field and associated drainage diversion banks being constructed on Council owned land. A subdivision plan was prepared to include the site extension within the school lot as well as create separate lots for the sewer pump station and indoor sports stadium and formalisation of access through the creation of Right of Carriageway.

Correspondence has since been received from the Crown Solicitors office stating that the Minister for Education and Training has not approved the acquisition of Part Lot 1 DP 1074586 for school purposes. The purchase of this land will therefore not be proceeding and no payment of compensation is due.

Following the advice from DET regarding the halt to the land acquisition in 2009, the school boundary fence has been re-erected on its correct alignment. This has meant that the soccer field required shortening to be contained within the school site and that the drainage diversion banks required to protect the field from runoff remain on Council land.

A joint request has now been made by the Wallerawang School Principal and Parents and Citizens Association for Council to now consider alternative arrangements to allow a minor fence realignment at the corner of the sports field to allow the field to meet the dimensions of a full size soccer field as originally proposed. The request also seeks to obtain agreement to enable the diversionary drainage banks to remain constructed on Council land.

Alternatively the Wallerawang Parents & Citizens Association are prepared to enter into negotiations with Council to purchase the necessary land on behalf of DET.

The Council land in question (refer to the map below) is vacant land zoned 2(v) village under the Lithgow Local Environmental Plan 1994 and is classified as operational under Section 26 of the Local Government Act, 1993.

The area of land is currently not required by Council for any use and has not been included in any future management plan for future development and/or disposal.

The land is located partially within an easement for a high voltage transmission line. Therefore the future use of the land is limited



Map showing area for negotiated lease/agreement.

Regardless of the fact that the sporting field was constructed in good faith and with the intention that DET would acquire the land, it is considered that the overall public benefit derived from the use of a full size sporting field for the school community of Wallerawang is such that it is recommended that Council enter into a lease agreement, or other appropriate agreement as advised by Council's Solicitor, with the Wallerawang School (with the approval of DET if required) for the use of the Council land. This agreement would be to allow for the use of Council land for the purposes of extending the sporting field to its original approved size, temporary realignment of the school fence and ongoing use of the diversionary drainage banks.

The lease/agreement would be terminated if and when Council identifies a defined use of the land or to otherwise dispose of the land. At this time the option of the school community purchasing the land could be further considered.

## **SUBDIVISION**

In 2008 a subdivision plan was prepared to formalise the land acquisition and consolidation with the existing school site, create separate allotments for the sports stadium and sewer pump station and to formalise access arrangements to the sports stadium.

To enable plan registration, a Development Application is required to be lodged and approved. DET have provided their consent for lodgement of this application.

Following the advice from DET regarding the halt to the land acquisition, the subdivision plan will now require amendment to reflect the correct property descriptions and land areas.

Following correspondence with DET in October 2009, DET have agreed to meet the costs of the subdivision plan amendments.

Whilst the plans are being amended, Council's Policy and Planning Department will prepare and lodge a Development Application for consideration.

## **JOINT USE MANAGEMENT AGREEMENT AND LICENCE AGREEMENT FOR CARPARK**

Draft documents were prepared by the Crown Solicitors in 2007. These documents have been reviewed by Council's Policy and Planning Department however have not been executed as they are interdependent on the registration of the subdivision plan to formalise the Right of Carriageway.

A further report to Council will be provided once all matters are resolved to enable the execution of these documents.

## **POLICY IMPLICATIONS**

In accordance with Council Policy 1.1 Acquisition and Disposal of Assets – Land (Council) – Leases – Legal Costs.

Wallerawang Public School or their representative will be responsible for all reasonable legal costs incurred by Council associated with the investigation and/or final preparation of any agreement entered into.

## **FINANCIAL IMPLICATIONS**

As the formal acquisition of land will not be proceeding and no compensation is payable Council will not be receiving an anticipated \$10,000 income from the sale of the land.

This amount had not been identified in any Management Plan and therefore no adjustments are necessary.

## **LEGAL IMPLICATIONS**

The lease/agreement will be required to be advised and prepared by Council's Solicitor.

The report does not recommend any actions inconsistent with Council's legal obligations under any relevant legislation.

**09-550 RESOLVED**

**THAT:**

1. Council notes the changes to Council's resolution 07-478 as it relates to the proposed Wallerawang School site extension due to the Department of Education and Training advice that the acquisition of part Lot 1 DP 1074586 will not be proceeding and that no compensation for the land will be received.
2. Council enters into a lease or appropriate agreement as advised by Council's Solicitor with Wallerawang School, to enable the use of Council land adjoining Wallerawang Public School to the north for the following purposes:
  - extending the sporting field to its original approved size;
  - temporary realignment of the school fence
  - ongoing use of the diversionary drainage banks.
3. Wallerawang School be advised that they will be responsible for all reasonable legal costs incurred by Council associated with the investigation and/or final preparation of any agreement entered into.

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

**SECONDED:** Councillor W McAndrew.

**ITEM:22            COMM - 14/12/09 - REQUEST FOR ADDITIONAL SECTION 356  
FINANCIAL ASSISTANCE FUNDING**

**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.  
MIN No 09-452 – Ordinary meeting of Council dated 2 November 2009

**SUMMARY**

This report recommends that Council allocate in 2009/10 an additional \$8,000 for “as resolved” financial assistance requests.

**COMMENTARY**

On 10 June 2009 Council adopted its Management Plan for 2009/10 – 2011/12 in which it identified its provision of financial assistance to not- for profit community groups of \$130, 106.

An amount of \$22,000 identified in the draft Management Plan for “as resolved” financial assistance requests throughout the year was reduced by Council to \$7,310, after additional funding was provided to Lithgow Information and Neighbourhood Centre and Lithgow Valley Community Cinema. Of the \$7,310 remaining “as resolved” financial assistance, \$91.12 remains.

Council receives financial assistance requests from community organisations throughout the year. Additional funds are therefore required so that Council can continue to consider these requests until July 2010.

It is recommended that Council allocate an additional \$8,000 in 2009/10 to the “As Resolved” financial assistance budget.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

This proposal involves an additional expenditure of \$8,000 in 2009/10 bringing the total Financial Assistance expenditure in 2009/10 to \$138,106.

**LEGAL IMPLICATIONS**

Local Government Act NSW 1993, Section 356

### **09-551 RESOLVED**

**THAT** Council allocate an additional \$8,000 in 2009/10 to the “As Resolved” financial assistance budget.

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

**SECONDED:** Councillor H K Fisher.

### **ITEM:23            COMM - 14/12/09 - SECTION 356 - FINANCIAL ASSISTANCE TO COMMUNITY ORGANISATIONS**

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

### **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.  
MIN No 09-452 – Ordinary meeting of Council dated 2 November 2009

### **SUMMARY**

A number of requests for financial assistance have been received. This report recommends that Council allocates financial assistance to the following organisations.

### **COMMENTARY**

In adopting the 2008/09 – 2010/11 Management Plan Council identified its provision of financial assistance to not-for-profit community groups. The Council has set aside \$7,212.88 for distribution throughout the 2009/10 Financial Year of which \$91.12 remains. In a separate report, it is recommended that Council allocate additional funding in 2009/10 to the “as resolved” financial assistance budget.

This report outlines requests from the following organizations for financial assistance.

#### **Cullen Bullen Progress Association**

Cullen Bullen Progress Association has requested that Council reimburse their rates and insurances for the Cullen Bullen community hall. The general rate component of the rates is \$441.89 and the insurance cost is \$3,166.19, a total of \$3,608.08. It is recommended that Council allocate a total of \$1,000 to the Cullen Bullen Progress Association for this purpose.

#### **Glen Alice Community Association Inc**

Glen Alice Community Association Inc has requested that Council waive the general rates component of their annual rates to the value of \$171.99. It is recommended that Council allocate \$171.99 to the Glen Alice Community Association Inc for this purpose.

### **Combined District Kart Club**

The Combined District Car Club has requested financial sponsorship towards their next meeting to be held on the 22<sup>nd</sup> January. This sponsorship is to cover cost on the day with any surplus funds being donated to the Cancer Foundation. No specific amount has been requested. It is recommended that Council allocate \$100 to the Combined District Kart Club for this purpose.

### **Lithgow Aero Modelling Club**

The Lithgow Aero Modeling Club has requested that hire fees for Lake Wallace to the value of \$388.00 be waived for their sports plane event on 28<sup>th</sup> & 29<sup>th</sup> November 2009. This request was considered at the Sports Advisory Meeting held on 7.12.09. It is recommended that Council allocate \$200 to the Lithgow Aero Modeling Club for this purpose.

### **POLICY IMPLICATIONS**

Financial Assistance is provided under Policy 4.4 Financial Assistance – Section 356 of the Local Government Act.

### **FINANCIAL IMPLICATIONS**

The Council provides Financial Assistance to not-for-profit community groups. The Council has set aside \$7,212.88 for distribution throughout the 2009/10 Financial Year of which \$91.12 remains.

### **LEGAL IMPLICATIONS**

Local Government Act NSW 1993, Section 356

### **09-552 RESOLVED**

**THAT** Council does provide financial assistance to the following organisations:

1. Cullen Bullen Progress Association for a combined rates and insurance reimbursement to the value of \$1,000.
2. Glen Alice Community Association Inc for a rates reimbursement to the value of \$171.99
3. Combined District Kart Club for sponsorship of a community event to the value of \$100.
4. Lithgow Aero Modelling Club for fee waiver to the value of \$200.

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

**SECONDED:** Councillor R Thompson



## DELEGATES REPORTS

### ITEM:24 DELEGATES REPORT - 14/12/09 - MINING RELATED COUNCILS MEETING HELD ON 13TH NOVEMBER 2009

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

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### COMMENTARY

At the most recent meeting of the Mining Related Councils, the meeting opened with the Annual General Meeting of the Association with the subsequent election of the Executive. This remained unchanged with John Davis being elected unopposed as Chairman and Ken Bates and myself, unopposed as Deputy Chairs.

The next part of the meeting saw an address from the Honourable Ian McDonald, the then Minister for Minerals. The Minister gave an interesting address on Mining and the future of Mining believing it is an integral part of the States Economy and believing that mining will continue for many years to come because of its significance not only to the State but to Australia.

He also spoke on Climate Change and reminded delegates that regardless of the heat of the day, that climate should be looked at as a very long term prospect and reminded people that dams such as the Hume Weir and Burrinjuck were only built after severe droughts in the early 20<sup>th</sup> Century, which saw people being able to picnic in the Murray River as there was no water in it.

The Minister was then happy to take questions on a wide range of issues, including questions from people who are Carroona Action Group which are trying to stop mining in the Liverpool Plains. The Minister knew of this particular proposal and pointed out that he believed that mining and agriculture should be able to coexist as it has done in the Gunnedah area for over 100 years.

The possibility of cumulative impacts on areas of mining was also discussed at the meeting. In particular a study has been organised for cumulative impacts in parts of the Hunter Region as well as having some testing equipment being placed in and around there for comparative readings. All communities would be looking forward to the outcomes of these results, keeping in mind we have had concerns from residents in the Blackmans Flat in our area in the past regarding the possible cumulative impacts on their area.

The Carbon Pollution Reduction Scheme was also discussed during the meeting and the possible impacts of this on mining communities and communities with power stations. As such as future meeting of the Association will be dedicated to having speakers on this issue and so that delegates will be far better informed in the future of the possible effects on their communities.

It was also interesting to know that the meeting of the Association in February will be looking at the possibility of having royalties being paid to the local communities from where the mining takes place. As such a speaker will be coming from Western Australia where the Western Australian Government has just introduced a new scheme which seems to be a model well worth considering where the Local Governments and mining areas are now receiving some of the royalties from the mining.

**09-553 RESOLVED**

**THAT** the report on the Mining Related Councils Meeting be noted.

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

**SECONDED:** Councillor H K Fisher.

**ITEM:25 DELEGATES REPORT - CENTROC MEETING HELD ON 26TH  
NOVEMBER 2009**

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

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**COMMENTARY**

The most recent meeting of Centroc was held in Boorowa on 26<sup>th</sup> November 2009 and we were welcomed to the Boorowa Shire by their Mayor, Councillor Wendy Tuckerman.

The meeting started with a talk from the Regional Manager of Telstra, Mr Darren Smith. Darren spoke about the future of teleconferencing, as well as Broadband initiatives and the expansion of the 3G network. This particular presentation was quite interesting and certainly showed the potential for meetings in the future with the benefits of the video conferencing technology.

Delegates to Centroc received a number of reports. One of those reports was about the Water Security Study, which was recently completed on behalf of Centroc. Information from that meeting was that the Executive Officer, Mrs Jenny Bennett has been in contact with the Prime Minister's Department to further the study following the Community Cabinet Meeting in Bathurst and the indications are that the Prime Ministers Department will have one of his Chief Water Advisors review the Centroc Study to see how plausible it will be to be able to fund the options in that study into the future.

The Transport Linkages between the Central West and Sydney were also reported upon and it was reiterated that Centroc continues to support the current and proposed upgrades to the Great Western Highway.

It was also pointed out that Centroc continues to have its current main priority of the securing of the corridor for the Bells Line Expressway into the future, particularly the eastern end of the corridor in the western part of Sydney.

Centroc also endorsed the actions of the Executive Officer, Mrs Jenny Bennett, the Secretary, Mr Roger Bailey and myself in speaking to representatives from both sides of State Parliament to try to move towards getting bipartisan support for the project. It certainly seems on this front that we have again made a step forward, although there appears to be many steps on the way.

It was also interesting to note that through Minister Albanese's role that Centroc will be guaranteed a position on the planning of the next stage in looking to identify the exact route for the Bells Line of Expressway and securing the corridor.

An emerging issue for Centroc was the possibility of "rationalisation" of some of the health services for the Greater West Area Health Services. It appears the Acting CEO of SWAHS, Danny O'Connor has indicated that such rationalisation may be happening but unfortunately at this stage he has not been able to speak to a number of councils regarding this. As such Centroc will now be contacting the State members in the area serviced by SWAHS and also the Minister for Health to possibility find out further information regarding this situation.

The final item on the last meeting of Centroc was the Annual General Meeting which saw the re-election of the Executive unopposed for the upcoming 12 months.

**09-554 RESOLVED**

**THAT** the information on the Centroc Meeting held on 26<sup>th</sup> November 2009 be received.

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

**SECONDED:** Councillor H K Fisher.

## COMMITTEE MEETINGS

ITEM:26            REG - 14/12/09 - TRAFFIC AUTHORITY LOCAL COMMITTEE  
MEETING - MINUTES 3RD DECEMBER 2009

**REPORT BY: ACTING GROUP MANAGER OPERATIONS – IAIN STEWART**

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### SUMMARY

Details of the Minutes of the Traffic Authority Local Committee Meeting held on 3 December, 2009 for Council adoption.

### COMMENTARY

At the Traffic Authority Local Committee Meeting held on 3 December, 2009 there were 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

### RECOMMENDATION

#### THAT:

1. The loading zone out the front of Eves shop in Main Street, Lithgow is to remain as is.
2. An all day loading zone is to be placed out the front of the Credit Union in main street with the times on the sign to read – "Loading Zone 6am-6pm be lengthened to 9 metres (1.5 car spaces) so it is back in line with the second large telegraph pole in front of the Credit Union. The first and second pole are to have some type of reflector material on it so that drivers can see them when reversing.
3. The loading zone in front of the Landsdowne Hotel is to remain as is. The signage is to be altered to reflect the 1 hour parking time after the loading zone time ends. The sign is to read "1p 11am-6pm Monday-Friday" and 8.30am-12.30pm Sat. This can be achieved by placing a "1P 6am-11pm Monday-Friday" sign above the current loading zone sign.
4. The loading zone at the top end of Main Street Lithgow be lengthened by approximately 6 metres to the first pole positioned out the front of the Embroidery shop. The signage for the zone is to read 6am-6pm Monday to Friday and 6am-12.30pm Saturdays and one hour parking after these times.

5. The loading zone out the front of the Lithgow Hotel in Main Street be removed.
6. No changes are to be made without consultation taking place with adjacent business houses.
7. All loading zone signs need to be standardised with the new "1P" working.
8. That the procedures being used by Mid West Council for processing applications for special events be obtained and modified to suit local events and a draft document be referred to the next TALC meeting.
9. Council note that a quorum for TALC meetings was discussed and the RTA advised that a quorum is represented by – 1 Council representative (not necessarily a Councillor), 1 RTA representative and 1 Police representative.
10. Council proceed to close Main Street on New Years Eve to through traffic and that the Chifley command be requested to provide licencing officers to liaise with local hoteliers in regard to the nights events.
11. All future correspondence is to be forwarded to the Chifley Commander including agendas and minutes.
12. The installation of tourism directional signs for the Emirates Resort be forwarded to Emirates for their application to NSW Tourism.

## **09-555 RESOLVED**

### **THAT**

1. The loading zone out the front of Eves shop in Main Street, Lithgow is to remain as is.
2. An all day loading zone is to be placed out the front of the Credit Union in main street with the times on the sign to read – "Loading Zone 6am-6pm be lengthened to 9 metres (1.5 car spaces) so it is back in line with the second large telegraph pole in front of the Credit Union. The first and second pole are to have some type of reflector material on it so that drivers can see them when reversing.
3. The loading zone in front of the Landsdowne Hotel is to remain as is. The signage is to be altered to reflect the 1 hour parking time after the loading zone time ends. The sign is to read "1p 11am-6pm Monday-Friday" and 8.30am-12,30pm Sat. This can be achieved by placing a "1P 6am-11pm Monday-Friday" sign above the current loading zone sign.
4. The loading zone at the top end of Main Street Lithgow be lengthened by approximately 6 metres to the first pole positioned out the front of the Embroidery shop. The signage for the zone is to read 6am-6pm Monday to Friday and 6am-12.30pm Saturdays and one hour parking after these times.
5. The loading zone out the front of the Lithgow Hotel in Main Street be removed.
6. No changes are to be made without consultation taking place with adjacent business houses.

7. All loading zone signs need to be standardised with the new "1P" working.
8. That the procedures being used by Mid West Council for processing applications for special events be obtained and modified to suit local events and a draft document be referred to the next TALC meeting.
9. Council note that a quorum for TALC meetings was discussed and the RTA advised that a quorum is represented by – 1 Council representative (not necessarily a Councillor), 1 RTA representative and 1 Police representative.
10. Council on advice from Mr Maddox, Inspector of the Chifley Command, letter dated 9<sup>th</sup> December NOT close main Street Lithgow for New Years Eve celebrations and;
  - a. A copy of Inspector Maddox's letter be included in the minutes; and
  - b. A report to be provided on the New Years 2009 activities in Main Street, Lithgow
11. All future correspondence is to be forwarded to the Chifley Commander including agendas and minutes.
12. The installation of tourism directional signs for the Emirates Resort be forwarded to Emirates for their application to NSW Tourism.

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

**SECONDED:** Councillor H K Fisher.

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

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

**AGAINST**

Councillor M F Ticehurst  
Councillor J J McGinnes

**ITEM:27            OPER - 14/12/09 - SPORTS ADVISORY COMMITTEE - MINUTES 7TH  
DECEMBER 2009**

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

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**SUMMARY**

Details of the Minutes of the Sports Advisory Committee Meeting held on Monday, 7 December 2009 for Council adoption.

**COMMENTARY**

At the Sports Advisory Committee Meeting held on Monday, 7 December 2009, there were twelve (12) items discussed by the Committee, 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

**09-556 RESOLVED**

**THAT** the minutes of the Sports Advisory Committee meeting held on Monday, 7 December 2009 be adopted.

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

**SECONDED:** Councillor G Danaher

**09-557 RESOLVED**

**THAT** Council receive the late report on the Public Meeting at Howard and Sons

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

**SECONDED:** Councillor W McAndrew

Councillors N L Castle, G Danaher and C Hunter declared an interest and they vacated the Chambers at 9.50pm. Councillor R Thompson assumed the role as Chairman.



## LATE REPORT

### REG - 14/12/09 - 190/09DACC PUBLIC MEETING - HOWARDS AND SONS PYROTECHNICS REDEVELOPMENT - COUNCIL SUBMISSION

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## REFERENCE

Min No 09-449: Ordinary Meeting of Council 23<sup>rd</sup> November 2009

## SUMMARY

To outline issues raised as a result of a public meeting held 9<sup>th</sup> December 2009 and determine if a submission should be submitted to the Joint Regional Planning Panel (JRPP) on behalf of Council relating to 190/09DACC.

## COMMENTARY

As a result of a resolution by Council to urgently hold a public meeting regarding the Howards and Sons Pyrotechnic facility rebuild, a meeting was held on 9<sup>th</sup> December 2009 to try and gauge a public opinion and consider if council should lodge a submission in relation to the development.

In attendance at the meeting were Deputy mayor Councillor Thompson, Councillors Marshall and Hunter, General Manager, Council Officers Jim Nichols, Gary Wallace, Jessica Heath and Ally Shelton, Christian Howard on behalf of the applicant and 13 members of the public (including employees of Howard and Sons).

Several issues were discussed at the meeting with the following issues re-iterated as being of interest. They include:

- The development is inappropriate for the area;
- Security of the development is not appropriate for the intended use;
- The development should be removed from the area;
- No certification that it will not happen again;
- Public interest concerns over currently gaining insurance for properties and devaluation of land from the previous explosion.

A full copy of the minutes is attached as “attachment 1” for the public meeting held 9 December 2009.

## POLICY IMPLICATIONS

Nil

## FINANCIAL IMPLICATIONS

Nil

## **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. Any submission by Council in relation to the abovementioned application will be taken into consideration by JRPP as part of their recommendation.

## **09-558 RESOLVED**

### **THAT:**

1. The Minutes of the meeting held on 9 December 2009 pertaining to the public meeting for 190/09DACC be received with the change to reflect that Councillor W McAndrew was an apology to this meeting
2. Council adopt the Draft submission and resolve to lodge it for consideration of the JRPP as part of the assessment of 190/09DACC

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

**SECONDED:** Councillor W McAndrew

Councillors N L Castle, G Danaher and C Hunter returned to the Chambers at 9.52pm. Councillor N L Castle resumed the role as Chairman.

## 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.

NIL

## CLOSED REPORT

ITEM:28           INTS - 14/12/09 - CONFIDENTIAL REPORT - PURCHASE OF A CLASS 8 GRADER AND TRADE OF CATERPILLAR 12 H GRADE ORQ 509 CONFIDENTIAL

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

#### 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.*"

## REFERENCE

Nil

## 09-559 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**

The Mayor sought submission from the public as to why Council should not enter into Closed Council to consider the report.

NIL Submissions

### **09-560 RESOLVED**

At 9.53pm the Council resolved to move into closed Council.

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

Closed Council began at 9.55pm

### **09-561 RESOLVED**

At 9.59pm the Council resolved to refer to open Council and recommend the resolution of Closed Council.

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

The General Manager announced the recommendations of the Closed Council.

### **CLOSED REPORTS**

**ITEM:28 INTS - 14/12/09 - CONFIDENTIAL REPORT - PURCHASE OF A CLASS 8 GRADER AND TRADE OF CATERPILLAR 12 H GRADE ORQ 509 CONFIDENTIAL**

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

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### **09-562 RESOLVED**

#### **THAT:**

1. That the tender from Westrac Pty Ltd for the supply and delivery of one Caterpillar 12M Motor Grader for the price of \$385,000 (including GST) be accepted.
2. That the tender from Westrac Pty Ltd for the purchase of Caterpillar grader - QRQ-509 for the price of \$99,000 (including GST) be accepted.
3. A further report come back to Council on the current plant fleet and usage.

**MOVED:** Councillor W Marshall **SECONDED:** Councillor C Hunter  
**CARRIED**

Council closed at 9.59pm.