



LITHGOW CITY COUNCIL

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

16 APRIL 2007

AT 7.00pm

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# AGENDA

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## **PRESENT**

### **QUESTIONS FROM THE PUBLIC GALLERY**

### **PRESENTATIONS -NIL**

### **CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 19 MARCH 2007**

### **DECLARATION OF INTEREST - NIL**

### **NOTICES OF MOTION - NIL**

### **NOTICE OF RESCISSION - NIL**

### **MAYORAL MINUTE - Code of Conduct Committee**

## **CORRESPONDENCE AND REPORTS**

General Manager Reports  
Regional Services Reports  
Community and Corporate Services Reports

### **CLOSED REPORTS - Xstrata**

### **REPORTS FROM DELEGATES - PACT Meeting**

### **COMMITTEE MEETINGS - Code of Conduct Committee**

### **QUESTIONS WITHOUT NOTICE**

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**COMMITTEE MEETINGS**

**ITEM: 17      CODE OF CONDUCT COMMITTEE**

## **MAYORAL MINUTE**

**ITEM:1            DELE - 16/04/07 - MAYORAL MINUTE - CODE OF CONDUCT COMMITTEE**

### **REPORT FROM: NEVILLE CASTLE - MAYOR**

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#### **SUMMARY**

This Mayoral Minute seeks to bring forward the Conduct Committee report and contains a recommendation to formerly censure Councillor Martin Ticehurst and also recommends a series of actions to address a breach of the Council's Code of Conduct by Councillor Ticehurst.

#### **COMMENTARY**

A report contained in this business paper from the Council's Conduct Committee presents the final position taken by the Committee on a Code of Conduct complaint raised by Councillor Fisher concerning the actions of Councillor Ticehurst.

Further, I am concerned enough having reviewed this issue, and with consideration of the impact upon the Council's reputation, to give notice that I intend to move the recommendation at the end of this minute for Council to formerly censure Councillor Ticehurst, in accordance with clause 440G of the Local Government Act 1993, for misbehaviour.

Following the completion of a Code of Conduct enquiry and a number of meetings by the Code of Conduct Committee following a complaint by Councillor H K Fisher against Councillor Ticehurst, I now need to report to Council the deliberations of that Committee.

The report is in relation to a complaint by Councillor Fisher that Councillor Ticehurst had failed to comply with Council's direction to him as of 16 October 2006 in accordance with a Council resolution. A number of items were called for and from that an investigation has taken place by the Code of Conduct Committee. As can be seen by the attachments to the report an extensive investigation was undertaken and due process followed.

The Committee has formed the view that Councillor Ticehurst has breached the Code of Conduct in his failure to make an apology.

Council should note that there are a number of recommendations with the report however I bring the report before Council and as should be the case allow Council to make its own determination in the matter.

The grounds of the censure relates to breaches of the Council's Code of Conduct:

- Failure to comply with the resolution of Council as at 16 October 2006 (06-339) in that Councillor Ticehurst failed to apologise for his actions.

#### **POLICY IMPLICATIONS**

NIL

#### **FINANCIAL IMPLICATIONS**

NIL

## **LEGAL IMPLICATIONS**

NIL

## **ATTACHMENTS**

NIL

## **RECOMMENDATION**

### **THAT:**

1. Council formerly censure Councillor Martin Ticehurst for misbehaviour due to breaches of the Code of Conduct relating to not apologising in regard to the Council resolution of 16 October 2006 (resolution 06-339).
2. Councillor Ticehurst apologise to the Council, in writing, for his actions which amount to misbehaviour under Council's Code of Conduct and that this apology be published in full in the local media.
3. Council further consider other actions in relation to the report from the Code of Conduct Committee.

## GENERAL MANAGER REPORTS

### ITEM:2 GM - 16/04/07 - RELAY FOR LIFE

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#### REFERENCE

NIL

#### SUMMARY

This report outlines congratulations to Lithgow City Council from the Cancer Council in relation to the Relay for Life.

#### COMMENTARY

Council received correspondence from the Coordinator of The Cancer Council, Relay for Life that was held recently in Lithgow in which was a huge success.

Twenty Two teams joined in over the 18 hours together with a large group of survivors and carers at the opening lap of honour and people from the wider community who took part in the Candlelight Ceremony of Hope.

A provisional total of \$20,000 was announced at the closing ceremony and we have already reached this figure and expect it to rise over the next couple of weeks! Our heartfelt congratulations and thanks go to Council and all the other sponsors, entertainers, participants, donors and of course the hard working committee for producing such a great weekend.

Importantly the event was a great partnership between the Cancer Council NSW and the communities of Lithgow and district in helping The Cancer Council NSW with tis mission to defeat cancer.

#### POLICY IMPLICATIONS

NIL

#### FINANCIAL IMPLICATIONS

NIL

#### LEGAL IMPLICATIONS

NIL

#### ATTACHMENTS

NIL

#### RECOMMENDATION

**THAT** the information be noted.

**ITEM:3 GM - 16/04/07 - NSW CABINET - NEW MINISTERS**

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**REFERENCE**

NIL

**SUMMARY**

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

**COMMENTARY**

On Friday 30 March 2007 NSW Premier Morris Iemma announced he would recommend to the Governor the appointment of ten new Ministers to the NSW Cabinet.

"This is the biggest injection of new talent into a Cabinet line up NSW has seen". Mr Iemma said.

"The Parliamentary Labour Party has been refreshed and reinvigorated by the election result and that has given me an opportunity to make significant changes to the front bench line up", Mr Iemma said.

"Each of the MP's that I will nominate to the Governor will bring talent, energy and intellect to the Cabinet and I am very proud of them and I confident they will serve the people of NSW well", Mr Iemma said.

The new Ministers to be nominated to the Governor are:

Matthew Brown	Graham West
Linda Burney	Nathan Rees
Verity Firth	Paul Lynch
Barbara Perry	Phil Koperberg
Kevin Greene	Kristina Keneally

"I have made a promise to the people of NSW to deliver real improvements in the services that hardworking families rely on and my new Cabinet team will be working hard to deliver that promise". Mr Iemma said.

"There is an enormous amount of hard work ahead to deliver the commitments we have made. I am confident the Cabinet I am naming will serve the people well". Mr Iemma said.

"I would like to take this opportunity to thank the retiring Ministers for their service to the people of NSW", Mr Iemma said.

The new Cabinet were sworn in on Monday 2 April 2007.

**NSW Government - Cabinet List (30 March 2007)**

- **Iemma, Morris** Premier  
Minister for Citizenship
- **Watkins, John** Deputy Premier  
Minister for Transport  
Minister for Finance

- 
- **Brown, Matthew**      Minister for Housing  
Minister for Tourism
  
  - **Burney, Linda**      Minister for Fair Trading  
Minister for Youth  
Minister for Volunteering
  
  - **Campbell, David**    Minister for Police  
Minister for the Illawarra
  
  - **Costa, Michael**      Treasurer  
Minister for Infrastructure  
Minister for the Hunter
  
  - **Della Bosca, John**   Minister for Education  
Minister for Industrial Relations  
Minister for the Central Coast  
Minister Assisting the Minister for Finance
  
  - **Firth, Verity**        Minister for Women  
Minister for Science and Medical Research  
Minister Assisting the Minister for Health (Cancer)  
Minister Assisting the Minister for Climate Change  
(Environment)
  
  - **Perry, Barbara**      Member for Auburn  
Minister for Juvenile Justice  
Minister Assisting the Premier on Citizenship
  
  - **Greene, Kevin**        Minister for Community Services
  
  - **Hatzistergos, John**   Attorney General  
Minister for Justice
  
  - **Kelly, Tony**            Minister for Lands  
Minister for Rural Affairs  
Minister for Regional Development
  
  - **Keneally, Kristina**    Minister for Ageing  
Minister for Disabilities
  
  - **Koperberg, Phil**      Minister for Climate Change, Environment and Water
  
  - **Lynch, Paul**            Minister for Local Government  
Minister for Aboriginal Affairs  
Minister Assisting the Minister for Health (Mental Health)
  
  - **MacDonald, Ian**      Minister for Primary Industry  
Minister for Energy  
Minister for Mineral Resources  
Minister for State Development

- **Meagher, Reba** Minister for Health
- **Rees, Nathan** Minister for Emergency Services  
Minister for Water Utilities
- **Roosendaal, Eric** Minister for Roads  
Minister for Commerce
- **Sartor, Frank** Minister for Planning  
Minister Redfern – Waterloo  
Minister for Arts
- **Tripodi, Joe** Minister for Small Business and Regulatory Reform  
Minister for Ports and Waterways
- **West, Graham** Minister for Gaming and Racing  
Minister for Sport and Recreation

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

NIL

**RECOMMENDATION**

**THAT** the information be noted.

## REGIONAL SERVICES REPORTS

ITEM:4            REG - 16/04/07 - PROPOSED COAL UNLOADER AT PIPERS FLAT

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

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### **SUMMARY**

To advise of correspondence received from the Residents Against Coal Unloader Facility Committee, seeking a resolution to support the relocation of the proposed Coal Unloader at Pipers Flat.

### **COMMENTARY**

Council is in receipt of correspondence from the Residents Against Coal Unloader Facility Committee, seeking a resolution from Council supporting the relocation of the Coal Unloader from the proposed Pipers Flat site to one to the north of the township of Portland.

Council will be aware that the proposal must go through due process of public consultation and assessment. Until such a proposal is lodged with the Department of Planning and Council has an opportunity to examine the proposal and the impacts, it would seem rather premature to formulate a position supporting the relocation of the proposed facility.

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

### **ATTACHMENTS**

Nil

### **RECOMMENDATION**

**THAT** Council advise the Residents Against Coal Unloader Facility Committee, whilst it is sympathetic to their concerns, Council cannot support the relocation of the proposed facility until such time as the formal proposal is submitted to the Department of Planning and Council is afforded the opportunity to examine the impacts in detail.

**ITEM:5            REG - 16/04/07 - FISH RIVER WATER SUPPLY - DROUGHT  
MANAGEMENT**

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

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**SUMMARY**

To advise of a change to the Fish River Water Supply Drought Management Strategy due to the continuing depletion of Oberon Dam.

**COMMENTARY**

The Fish River Water Supply Drought Management Strategy adopts a number of restriction levels applicable to its customers related to the storage of Oberon Dam. For example, at current level 4 restrictions, as Oberon Dam is at 19.75%, Lithgow Council may only access 80% of its allocation. The Fish River Water Supply Customer Council has decided, given the potential gravity of the situation to alter the percentage when level 7 restrictions take effect from 5% to 10% of dam storage. The impact of level 7 restrictions to Council would mean that it could only access 50% of its allocation.

Whilst, even taking into consideration the Delta trade, Council only draws on roughly half of its entitlement; it is considered to be very prudent to review its drought management strategy to further control water consumption. The difficulty for the Lithgow LGA will be to achieve equity in any restrictions that may arise as a result of a drought management strategy. That is, consumers who access the Farmers Creek supply, may not see a need to be placed on the same restrictions as those that access Fish River Water due to its more stable storage levels. Other water saving schemes are being prepared with a proposed rainwater tank policy and rebate scheme and rebate scheme for water saving dishwashers and washing machines nearly ready for Council consideration.

**POLICY IMPLICATIONS**

It will be suggested as an action that Council also review its own Drought Management Strategy.

**FINANCIAL IMPLICATIONS**

No specific financial implications at this stage.

**LEGAL IMPLICATIONS**

No specific legal implications at this stage.

**ATTACHMENTS**

Nil.

**RECOMMENDATION**

**THAT** the information be noted and a review of Council's drought management strategy be undertaken with a draft Strategy to be submitted for consideration prior to public exhibition.

**ITEM:6            REG - 16/04/07 - LITHGOW SEWER MODELLING ASSESSMENT OF TENDERS**

**REPORT BY: STRATEGIC ENGINEER - LEANNE KEARNEY**

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**REFERENCE**

Min 07 - 123: Finance and Services Committee 2 April 2007

**SUMMARY**

Request for formal ratification to award Contract No WW/002/06 – Sewer Flow Modelling and Assessment to Connell Wagner.

**COMMENTARY**

Further to the report presented to Council's Finance and Services Committee meeting held on Monday, 2 April 2007, in accordance with Section 377 of the Local Government Act 1993, formal ratification of the recommendations are required by Council.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Council has received a grant of \$107,500.00 from the Sydney Catchment Authority, which represents a 50% contribution toward the flow gauging and modelling project, and Council has an allocation of \$107,500.00 in the 2006/2007 budget for this project.

**LEGAL IMPLICATIONS**

Nil

**ATTACHMENTS**

Nil.

**RECOMMENDATION**

**THAT**

1. The conforming tender received from Connell Wagner for Contract No WW/002/06 – Sewer Flow Modelling and Assessment for \$98,549.00 (including GST) be accepted and a contract to undertake the work be offered to Connell Wagner;
2. Council accept the option to provide a bureau service to assist Council in the application of this model to other aspects of the Council's operations such as Asset Management, Developer Policy and Planning, after the completion of this contract as outlined in Connell Wagner's tender submission, at an annual cost of \$2,000.00. and
3. Council resolves to affix the common seal to Contract WW/001/06 – Sewer Flow Gauging and the Mayor and General Manager be authorised to execute any documentation.

**ITEM:7            REG - 16/04/2007 - 010/07DA STAGE 2 - LITHGOW SEWERAGE  
TREATMENT PLANT UPGRADE**

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

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**REFERENCE**

635/03DA Stage 1 approval for Lithgow Sewerage Treatment Plant upgrade.

**SUMMARY**

The purpose of this item is to report and recommend a determination of a development application for the Stage 2 upgrade of the Lithgow Sewerage Treatment Plant.

**COMMENTARY**

Council is in receipt of a development application it's Policy and Planning Division for Stage 2 of the proposed upgrade of the Sewerage Treatment Facility in Geordie Street Lithgow. Stage 1 (covered by 635/03DA) was completed in July 2006 and included the construction of chemical dosing facilities, a storm retention pond and safety improvement works. Stage 2 will include the construction of an intermittently decanted extended aeration (IDEA) reactor, a new electrical switchroom and control equipment, a chlorine contact tank, a third sludge lagoon, conversion of effluent pond No 1 to increase storm retention capacity and the decommissioning of humus tanks, humus return pumping station and effluent ponds. The upgrade will cater for a capacity of 23,000 equivalent persons.

The project has been designed by the Department of Commerce. It is a 'nominated integrated development' under the Environmental Planning and Assessment Regulation 2000 and accordingly was notified for the minimum of 30 days. During this time no submissions from the community were received. The application has been approved by the Mine Subsidence Board and General Terms of Approval were issued by the Department of Environment and Conservation and the Sydney Catchment Authority.

The site is part of the property known as Lot 1 DP 125085 and Part Portion 2. It accesses off Geordie Street Lithgow, with the actual treatment plant located at the most northern part of the block.

The site currently retains:

- Pump Station No. 1,
- 2 sedimentation tanks,
- 2 humus tanks,
- dosing syphons,
- six trickling filters (biological beds),
- 2 anaerobic sludge digesters (primary and secondary),
- 2 sludge lagoons,
- 3 tertiary effluent (maturation) ponds,
- boilers house,
- amenities/switch room building
- chemical dosing facilities and
- a storm retention pond

The land is zoned Rural 1 (a) under Lithgow's Local Environmental Plan 1994.

## **POLICY IMPLICATIONS**

As the application has been submitted by Council and relates to Council land the application is required to be determined by the elected Council. There are no other specific policy implications relating to the development.

## **FINANCIAL IMPLICATIONS**

No developer contributions are required as part of this application. In Council's separate role as applicant/developer funding for further design of the upgrade is included in the 2006/2007 budget and funding for the construction of the project will be available in the 2007/2008 budget. The upgrade is part funded under the Country Towns Water and Sewerage Scheme and the accelerated scheme of the Sydney Catchment Authority.

## **LEGAL IMPLICATIONS**

The prime legal issues relate to assessing the application against the heads of consideration under Section 79C of the Environmental Planning and Assessment Act as follows.

### **Any Environmental Planning Instrument**

The application is permissible in the zone under the provisions of Council's Local Environmental Plan 1994.

The STP is located within the Sydney Catchment Area and as such is subject to the Drinking Water Catchments Regional Environmental Plan (REP) No. 1. In this case the proponent has undertaken the Neutral or Beneficial Test (NorBE) as required by the plan and it is believed that the post development (construction, operation and decommissioning) pollution load (contained within surface waters, groundwater and soil) leaving the site is the same or less than the pre-development load. In fact the whole purpose of the application is to improve the standard of treated effluent leaving the site, as such having a beneficial affect on the catchment.

The application was referred to the Sydney Catchment Authority for their assessment, who subsequently approved the application with General Terms of Approval. Their comments and conditions are included later in this report.

State Environmental Planning Policy 33, Hazardous and Offensive Development is applicable to the development, and by definition the development is considered to be a "potentially hazardous industry". As such the proponent submitted a preliminary hazard analysis as part of their Statement of Environmental Effects, which identified the types and quantities of all dangerous goods to be used and described the storage and safeguards to be implemented in the event of an accident. The analysis detailed that the total requirement for dangerous goods on the site is less than the 50 tonne threshold; therefore a more detailed preliminary hazard analysis was not required.

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

There are no draft planning instruments relevant to the application.

### **Any Development Control Plan**

The Interim Policy for Flood Affected Land is applicable to part of the development. The main access road to the development appears to traverse the 1 in 100 year flood level. However, in the event of a flood the property could be accessed from Council's existing road to the Lithgow landfill, which would be outside the flood zone. A condition will be applied on the development consent for any plant and infrastructure proposed within the flood zone to be appropriately flood proofed to prevent any chemical overflow. The emergency detention dam will be within the flood zone, however the environmental benefits of the detention basin during all periods of heavy rainfall will far outweigh any possible overflow during a rare flooding event.

The Development Control Plan 6, Industrial development may be considered applicable to the development, with Clause 5 detailing the industrial requirements for rural zones. The DCP raises issues such as visual character, ribbon development, relationships with agricultural uses, concentration of industrial uses, services and advertising. In this case the development will be providing a primary service to the town of Lithgow, and is located adjacent to the pound, recycling centre and the Lithgow landfill. The closest residential area is approximately 800m away, with the primary concern of residents being odour (raised in the Stage 1 application). This issue will be addressed in any conditions of consent. The DCP also has specific requirements for outdoor storage areas which will be reinforced in any conditions of consent. The development is considered to comply with the DCP.

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

There is no planning agreement relevant to the development.

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

The applicant was referred to Council's Development Manager who advised there are no building issues relating to the development.

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

**Amenity** - The construction and modification involved in the development are considered of a minor nature, and are compatible with the existing plant. The footprint of the proposed works will be located within the bounds of the existing STP, and will not require any undisturbed areas to be cleared. Additionally, the development is shielded from nearby residences by existing vegetation.

**Water Quality**- A potential risk to receiving water quality could arise as a result of construction activities. However, this would mainly be from sediment moving off site. A sediment control plan is required prior to commencement of construction to help minimise this risk. In terms of operational risks to the water quality, the proponent is proposing to upgrade the plant to comply with the requirements of the DEC as such improving water quality and preventing untreated effluent from entering into the catchment system.

**Traffic and Access** - Construction vehicles would regularly access the site during construction, however there is adequate room on site for any additional parking required for construction workers. A traffic management plan will be required as a condition of consent for the construction phase to ensure wide load vehicles do not traverse the busy town sectors and create minimum nuisance to motorists and residents. The upgrade will not increase the amount of operational vehicles already accessing the site.

**Heritage** - The site has been used since 1912 for sewerage works, the Heritage Act affords protection to infrastructure over 50 years old. However, no existing infrastructure is to be affected by this Stage of the development, as all demolition was approved as part of Stage 1.

**Flora & Fauna** - It is not envisaged that the proposed work will have any impacts on any significant areas of land containing flora or fauna. However, the most likely areas of flora and fauna to be impacted on would be those within the river system and as previously discussed, this development would be significantly improving the quality of water discharged into the creek. Additionally, monitoring of the creek is regulated under Council's environment protection licence through the Department of Environment and Conservation.

**Waste management** - A certain amount of excavation will be required to construct the sludge lagoon, some of which may be used onsite for fill or foundations; however the residual will be need to be transported off site.

As such, as a condition of approval Council should require that all spoil and virgin excavated natural material (VENM) for disposal at the Lithgow Solid Waste Facility is to be certified suitable for Solid Waste Class 1 Classification.

Odours - The proponent advised (as part of Stage 1 development application) that odour generation is possible from the STP under abnormal conditions, and may arise due to overloading of the plant, algal blooms in the effluent ponds and illegal dumping of toxic substances into the sewerage system. An odour mitigation extraction system was required as a condition of 635/03DA and has not yet been provided, therefore it will also be conditioned as part of this application.

Acoustic Environment - It is anticipated that the main time when noise could be an issue as a result of the development would be during construction. However, Council will require the proponent to comply with any reasonable requests from Council in the event that a complaint is received regarding noise. It not anticipated that operational noise will be an issue.

Air Quality - The main possible impact on air quality from the development could be from dust created as a result of construction. A condition of consent will be required to ensure that all dust emissions are maintained within the site boundary.

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

The site is considered to be suitable for the proposed development.

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

General Terms of Approval have been issued by the Department of Environment and Conservation and the Sydney Catchment Authority. These are included in the proposed conditions of consent. The Mine Subsidence Board were also referred the proposed plans and have stamped them indicating their consent.

The application was also referred to the Department of Natural Resources, the Department of Commerce, Council's Development Engineer and Council's Environmental Health Officer, however no further conditions were required.

### **The public interest**

The development is nominated integrated development under Clause 5 (1) (b) of the Environmental Planning and Assessment Regulation 2000, requiring a minimum advertising period of 30 days. During this time no submissions were received from members of the public.

The reporting of development applications on Council's land is considered to be in the public interest as it provides additional transparency in the process.

## **ATTACHMENTS**

1. Site Plan
2. Flow Schematics for Stage 1 and 2 of the upgrade.

## **RECOMMENDATION**

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

**Administrative Conditions**

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

**Department of Environment & Conservation**

2. That the developments include the installation and operation of a nitrification/de-nitrification reactor.
3. That the unused tertiary ponds be adequately decommissioned as part of the development.

**Sydney Catchment Authority**

4. That the Stage 2 upgrade of the Lithgow Sewage Treatment Plant should be designed, installed and operated in accordance with:
  - the recommendations of the State of Environmental Effects (SEE) prepared by the Department of Commerce (dated December 2004) and associated reports;
  - The Neutral or Beneficial Effects (NorBE) assessment provided in a letter from Council (dated 25 August 2004); and
  - Supplementary plans and information provided in a letter from Council (dated 13 February 2007);
5. The augmentation of the STP and associated treatment process must, as a minimum, meet all the design performance standards for all pollutants as indicated in the Statement of Environmental Effects (SEE) prepared by the Department of Commerce (dated December 2004) and the supplementary information provided in a letter from Council (dated 13 February 2007);
6. The decommissioning of the tertiary effluent ponds, humus tanks and humus return pumping station should be carried out as per industry best practices to prevent contamination of groundwater and/or potential discharges to Farmers Creek during wet weather;
7. Additional emergency storage of untreated sewage beyond the capacity of the Storm Retention Pond is to be provided via a gravity connection to one of the disused maturation ponds, with a barrier created across the existing pond to provide a capacity of approximately 40-50 megalitres. The reason for this additional storage capacity is to seek to eliminate periodic overflow of untreated sewage into Farmers Creek during storm or high inflow events;
8. The additional storage provided in the former maturation pond is to be appropriately sealed to prevent groundwater contamination. The Storm Retention Pond and new Sludge Lagoon are also to be sealed as indicated in the SEE;

**Amenity**

9. That the applicant shall prepare an odour management plan for the STP and any associated functions on site as required by 635/03DA. This shall identify any areas of the STP which emanate odour and if necessary propose alternatives for mitigating offensive odour. This may include, but not be limited to, an odour extraction system as indicated in the Statement of Environmental effects.
10. Should any complaints be received during construction, the applicant shall comply with any reasonable requests by Council to mitigate the nuisance.

11. The hours of operation for the construction and demolition works are to be restricted to Monday to Friday, 7am to 6pm and on Saturday 8am to 1pm. No work shall take place on Sundays or public holidays.
12. That dust emissions are to be maintained within the site boundary, due care is to be taken to comply with any Council water restrictions.

**Environmental Protection**

13. Effective erosion and sediment controls are to be installed prior to any construction activity. The controls must prevent sediment entering drainage depressions and watercourses and are to be regularly maintained and retained until works have been completed and groundcover established.

**Waste Management**

14. That any spoil and virgin excavated natural material (VENM) as a result of excavations, for disposal at the Lithgow Solid Waste Facility is to be certified suitable for Solid Waste Class 1 Classification. All materials must be pulverised to less than 80mm prior to disposal at the Lithgow Solid Waste Facility.

**Other Conditions**

15. That all chemicals are stored in accordance with the manufacturer's requirements. In the event of a spill discarded chemicals will need to be transported by an approved waste contractor and taken to an approved waste facility.
16. That the operation of the sewerage treatment plant is to be in accordance with the Lithgow City Council Occupational Health and Safety Management System and Safe Work Method Statements for the handling of chemicals.
17. Any plant and infrastructure located within the 1 in 100 year flood zone is to be appropriately flood proofed to prevent any potential chemical overflow in the event of a 1 in 100 year flood.
18. That the facility operates in accordance with the approved licence issued by the Department of Environment and Conservation.
19. That any outdoor storage areas are to comply with the provisions of Council's Industrial Development Control Plan No. 6.

**COMMUNITY AND CORPORATE SERVICES REPORTS**

**ITEM:8            COMM - 16/04/07 - SEC 356 DONATIONS**

**REPORT FROM: COMMUNITY AND CULTURE MANAGER – P. HALL**

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**REFERENCE**

- Minute 06-162: Finance and Services Committee 5 June 2006
- Minute 06-183: Council Meeting 19 June 2006
- Minute 06-229: Finance and Services Committee 7 August 2006
- Minute 06-292: Finance and Services Committee 4 September 2006
- Minute 06-332: Finance and Services Committee 3 October 2006
- Minute 06-378: Finance and Services Committee 6 November 2006
- Minute 06-439: Finance and Services Committee 4 December 2006
- Minute 07-51: Council Meeting 19 February 2007
- Minute 07-103: Council Meeting 19 March 2007

**SUMMARY**

To advise Council of payments allocated in 2006/07 from Local Government Act Section 356 donations which have been approved by Council resolution or as previously approved through the process to adopt the Management Plan for 2006/07 and to further seek Council consideration for current requests.

**COMMENTARY**

Council allocated \$20,000 in the 2006/09 Management Plan for donations approved under Section 356 of the Local Government Act.

As at 19 March 2007 the following payments have been made:

DATE	ORGANISATION	ASSISTANCE	AMOUNT
<b>Management Plan Allocation 2006/07</b>			<b>\$20,000.00</b>
24.07.06	GLATSIC Naidoc Week	Cont :Min 06-162 05.06.06	500.00
04.08.06	Lithgow High School	Presentation Day : as per Policy	50.00
07.08.06	Bicentennial National Trail	Refund DA Fees: Min 06-229	261.95
04.09.06	Lithgow Country Women's Assoc	General Rate Component Min 06-292	417.21
04.09.06	Wallerawang Country Women's Assoc	General Rate Component Min 06-292	408.69
04.09.06	Portland Dist Motor Sports	Sponsorship (Following Advertising) Min 06-292	60.00
04.09.06	Lithgow & District Poultry Club	Sponsorship Min 06-292	300.00
04.09.06	Lithgow Golf	Sponsorship (Following Advertising) Min 06-292	1,000.00
04.09.06	Crystal Theatre Com Cinema	Sponsorship (Following Advertising) Min 06-292	500.00
04.09.06	Lithgow Greyhound Club	Sponsorship (Following Advertising) Min 06-292	4,350.00
03.10.06	Mitchell Conservatorium Inc	Scholarships for local students Min 06-332	275.00
03.10.06	Pied Piper Preschool	Assistance with equipment purchase Min 06-332	50.00
06.11.06	Blinky Bill Child Care	Assistance with Fundraising	50.00

		Min 06-378	
06.11.06	Portland Golf Club	Sponsorship Min 06-378	750.00
06.11.06	Portland Central School	Annual Presentation Min 06-378	50.00
06.11.06	Ironfest	Assistance with rental 2005/06 Min 06-378	2,840.00
04.12.06	Cullen Bullen Progress Assoc	Rates assistance Min 06-439	\$313.21
04.12.06	Lithgow Small Arms Rifle Club	Open championship prize Min 06-439	\$50.00
04.12.06	Lithgow Workmen's Valley Women's Bowling Club	Assistance with Versatility Sixes Min 06-439	\$50.00
04.12.06	Rydal A H & P Society	Cash and in-kind – Heavy horses display Min 06-439	\$300.00
04.12.06	Xmas and Beyond	Xmas for disadvantaged Min 06-439	\$100.00
04.12.06	Cullen Bullen Public School	Annual Presentation Min 06-439	\$50.00
04.12.06	Zig Zag Public School	Annual Presentation Min 06-439	\$50.00
04.12.06	Cooerwull Public School	Annual Presentation Min 06-439	\$50.00
04.12.06	Lithgow Public School	Annual Presentation Min 06-439	\$50.00
19.02.07	First Portland Scout Group	Donation unspecified Min 07-51	\$50.00
19.02.07	Western Academy of Sport	Reimbursement of pool fees Min 07-51	\$138.00
19.02.07	Lithgow Show Society	Sponsorship (following advertising) Min 07-51	\$8,000.00
19.02.07	Lithgow Enterprise Dev..Agency	Assist. with final audit fees Min 07-51	\$869.00
16.03.07	Joel White – Film	Waive Civic Ballroom fees of \$220 Min 07-103	\$220.00
<b>Total: Sec 356 Donations to 19 March 2007</b>			<b>\$22,153.66</b>
<b>2006/07 Allocation Remaining</b>			<b>\$Nil</b>
<b><u>BUDGET OVERSPENT BY \$2,2153.66</u></b>			

Council is in receipt of the following requests for assistance:

1. **Lithgow Muzzleloaders** 2006 Council rates – \$642.85 rates for 2006/7 requested.
2. **Lithgow Valley Movie Club** Requested – Renewal of the public risk insurance Period of insurance covers 01/02/07 – 01/02/08. Payment of the years premium in advance on the Club's behalf and the Club repay Council in quarterly instalments totalling \$1,165.43.

### **POLICY IMPLICATIONS**

Council's Interest Free Policy was considered with regard to the Lithgow Valley Movie Club request however the policy requires the loan to be for the purpose of conducting a Council function.

### **FINANCIAL IMPLICATIONS**

Donations of \$22,153.66 have already been approved from \$20,000 allocated in the 2006/07 Management Plan creating a deficit of \$2,153.66 to be adjusted in the March quarterly review.

### **LEGAL IMPLICATIONS**

Nil

## ATTACHMENTS

1. Lithgow valley Movie Club
2. First Australian Muzzleloading Gun Rifle and Pistol Club Inc

## RECOMMENDATION

### THAT:

1. Council note donations of \$22,153.66 made under Section 356 arising from previous resolutions or as included in the Council's Management Plan and those assessed in accordance with Council's Donations Policy;
2. No payments be made from the donations budget as the budget is already overspent;
3. Any requests received before the closing date of exhibition for the Draft 2007/08 Management Plan be treated as submissions for funding in 2007/08;
4. Applicants seeking Council donations be advised no funding is available until 2007/08.

## ITEM:9            COMM - 16/04/07 - POLICY UPDATES

### REPORT FROM: POLICY & PLANNING MANAGER – A MUIR

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## REFERENCE

Min 07-53: Council Meeting, 19 February 2007

## SUMMARY

This report provides details of the public exhibition results and recommends adoption of the Property Leases Policy and Payment of Expenses and Provision of Facilities to Councillors.

## COMMENTARY

Further to Council's resolution of 19 February 2007, the Draft Property Leases Policy (reported as Draft Leasing of Council Property Policy) and the Draft Payment of Expenses and Provision of Facilities to Councillors were placed on public exhibition and during this time no submissions were received.

Therefore, it is suggested that Council adopt the two policies as final versions as attached to the Business Paper.

The Payment of Expenses and Provision of Facilities to Councillors is required to be presented to the Department of Local Government and this is also recommended to Council. Council determined at the time the policy was updated and placed on exhibition to provide the Department with a copy of the Draft version and advise upon completion of the exhibition, the finalised policy would be forwarded.

## POLICY IMPLICATIONS

If adopted the policies will be added to Council's Policy Register in their final format.

## **FINANCIAL IMPLICATIONS**

NIL

## **LEGAL IMPLICATIONS**

The Draft Property Leases Policy requires that standard leases be utilised which will comply with all legislative requirements.

## **ATTACHMENTS**

1. Property Leases Policy.
2. Payment of Expenses and Provision of Facilities to Councillors

## **RECOMMENDATION**

### **THAT:**

1. The Property Leases Policy and Payment of Expenses and Provision of Facilities to Councillors be adopted;
2. The Payment of Expenses and Provision of Facilities to Councillors be sent to the Department of Local Government.

**ITEM:10            COMM - 16/04/2007 - LIFELINE CONTROL WEST INC. REQUEST FOR ASSISTANCE: FOLLOW UP**

**REPORT FROM: COMMUNITY AND CULTURE MANAGER P. HALL**

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## **REFERENCE**

Min. No. 06-336 Finance and Services Committee Meeting – 03 October 2006  
Min. No. 07-72 Policy and Strategy Committee Meeting – 05 March 2007

## **SUMMARY**

Council resolved at its 05 March 2007 Policy and Strategy meeting to take a number of actions on behalf of Lifeline Central West Inc. in order to support their services so they could continue to operate in the Lithgow local government area.

## **COMMENTARY**

Council resolved to provide \$2,000 in the 2006/07 budget to assist with the rent or services if in kind premises can be found and for Council to consider a donation of \$4,000 in subsequent budgets.

Council approached Sydney West Area Health Service to investigate the possibility of Lifeline Central West Inc. occupying office space at the Portland community hospital and has been advised there has been an offer of rent free accommodation there until July 2007.

Council has attempted to identify and advise Lifeline of any community grants for their programme. Three options were considered:

1. Beyond Blue: the national depression initiative was approached but grants are not given for accommodation of community services
2. Easy grants: ANZ Foundation for Rural and Regional Renewal to fund small, rural and regional not for profit organisations that have projects and activities that aid the growth of their community. Up to \$10,000 per annum is available per group. Closing date for applications is April 30 2007.
3. Inquiries through Sydney West Area Health service have been made and information regarding the opportunity at Portland Community Hospital forwarded to Jennifer Janes the Manager of Lifeline Central West Inc.

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

The financial implications are noted above.

#### **LEGAL IMPLICATIONS**

Nil

#### **RECOMMENDATION**

**THAT** Council's actions have now been completed and the information needs to be noted.

**ITEM:11            COMM - 16/04/2007 - ESKBANK HOUSE & MUSEUM - COLLECTION MANAGEMENT**

**REPORT FROM:    CULTURAL DEVELOPMENT OFFICER – DEBORAH MCGRATH**

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**REFERENCE**

This matter is in response to a comment from Councillor M F Ticehurst at the Committee meeting of 5 March 2007 regarding items reported to be missing from the collection at Eskbank House and Museum.

**SUMMARY**

The matter raised by Councillor M F Ticehurst relates to a photograph thought to be missing from the Lithgow Pottery Exhibition and a dress thought to have been loaned to the Historical Society approximately twenty years ago.

In addition to this a search has been done on Dataworks for any further correspondence relating to 'missing items' and a letter received in December 2006 regarding the location of the Arthur Butler Illuminated Address has been noted.

**COMMENTARY**

As Council is aware the complete care and management of Eskbank House and Museum was returned to Council on 1 July 2003.

Council Officers are endeavouring to implement 'best practice' procedures in relation to the preservation, conservation and exhibition of the items within the collection and the property. In 2005 a Preservation Needs Survey was carried out by Elwing & Gurney Archival which made a number of recommendations in relation to the exhibition and preservation of the collection.

Over the years many of the items in the collection have suffered from poor storage and collection management. In addition to this, many of the items have not been accessioned into the collection and as such have not been appropriately documented.

Since 2003, Council Officers have implemented procedures in relation to the accessioning of items into the collection and have in fact increased the number of items within the collection. No items have been removed from the collection, however many have been placed into storage onsite in response to recommendations made in the Preservation Needs Study. It should further be noted that as the items are a Council Asset, de-accessioning of items would be the subject of a report to Council following a full investigation into the item, its provenance and appropriate recommendations as to its disposal would be made.

As a result of the Preservation Needs Survey delicate ledgers which were previously on display in the Barton Building as part of the Lithgow Pottery display have been removed from the exhibition and placed into storage in the Museum Storeroom. These items have deteriorated in response to environmental factors (temperature fluctuations, humidity and light) in the Barton Building. The photographs on display in the exhibit are in fact copies of photographs held at the Lithgow Library and in other local collections. These photographs are on disc allowing reproductions to be made without damage to originals. Although the issue of a photograph missing from the display is still under investigation, preliminary findings indicate that the photographic display in the Lithgow Pottery Exhibit has not been altered since pre-July 2003.

In relation to a dress, which is alleged to be missing from the collection, it appears that this is a costume piece which was loaned to members of the historical society some twenty years ago to be worn at a historical re-enactment function at the Hartley Historic Site. There are no records of this item being held in the collection. However the person making the enquiry into this matter alleges that her mother was informed, at the time that the dress could be returned on request to her or members of her family. The enquirer does have photograph/s of the dress however investigations as a result of a verbal description have not uncovered the dress within the collection. All clothing items are in storage in the Museum Storeroom.

A letter has been received from Mr Tony Griffiths, author of the recently published “Lithgow Small Arms Factory and Its People, Volume 1” enquiring as to the location of the Arthur Butler Illuminated Address. This item is currently in storage along with many other paintings, framed photographs and the Sandford Illuminated Addresses. The item in question, along with a number of other artworks is in an extremely fragile state and requires costly restoration works to be carried out in order for it to be exhibited on a temporary basis as part of a rotating exhibition. A number of recommendations have been made as part of the Preservation Needs Survey in relation to the artworks in the collection which includes a conservation study to be undertaken and the denuding of artworks and flat storage with limited public access to protect the works.

Mr Griffiths notes that Arthur Butler “...was General Secretary of the SAF Employees Association before and during the First World War. This was the major internal Factory Union.” The Illuminated Address was presented to Mr Butler in appreciation of his service to the SAF Employees Association. Mr Griffith further states that in his opinion “...it should be in the SAF Museum...and if it was given to the Museum, they might consider having it restored before it deteriorates beyond redemption”. This is a matter which should be carefully investigated. Due to its provenance with the Small Arms Factory it is considered appropriate that this item be housed within the Small Arms Factory Museum Collection. However, this would need to be carefully considered in relation to other items within the Eskbank House & Museums’ collection relating to the Butler family and also following discussions with the Small Arms Factory Museum Board of Directors to ascertain their desire to obtain and conserve the piece.

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

Nil

#### **LEGAL IMPLICATIONS**

Nil

#### **ATTACHMENTS**

Nil

#### **RECOMMENDATION**

**THAT** it be noted that there are no missing items from the Eskbank House and Museum collection.

**ITEM:12            COMM - 16/04/07 - DRAFT MANAGEMENT PLAN 2007/08 - 2009/10**

**REPORT FROM: POLICY & PLANNING MANAGER – A MUIR**

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**REFERENCE**

Nil

**SUMMARY**

The Draft Management Plan 2007/08 – 2009/10 has been prepared and is provided for the consideration of the Council to place on public exhibition.

**COMMENTARY**

The Draft Management Plan 2007/08 – 2009/10 has been prepared and details Council's activities for the next 3 years and the Revenue Policy for the next year. It introduces a new format for the management plan which incorporates the visions and key theme areas developed by the community and adopted by Council for the Strategic Plan (Policy and Strategy Committee Meeting of 3 October 2006, Minute No. 06-315). It utilises these visions and key theme areas as the principal activity areas and their statements of intent.

The Draft Management Plan is provided for Council's consideration to place on public exhibition for a period of 28 days from 19 April to 16 May 2007.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

Funding for the Draft Management Plan preparation and exhibition is provided in the 2006/07 Recurrent Budget.

**LEGAL IMPLICATIONS**

The Local Government Act 1993 and Local Government (General) Regulation 2005 outline requirements for the preparation, exhibition and adoption of management plans. The Draft Management Plan must be exhibited for a period of 28 days.

**ATTACHMENTS**

1. Draft Management Plan 2007/08 – 2009/10 is provided in Councillors Business Paper Packages.

**RECOMMENDATION**

**THAT** the Draft Management Plan 2007/08 – 2009/10 be placed on public exhibition for a period of 28 days from 19 April to 16 May 2007.

**ITEM:13          COMM - 16/04/07 - DRAFT STRATEGIC PLAN**

**REPORT FROM: POLICY & PLANNING MANAGER – A MUIR**

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**REFERENCE**

Nil

**SUMMARY**

The Draft Strategic Plan has been prepared and is provided for the consideration of the Council to place on public exhibition.

**COMMENTARY**

The Draft Strategic Plan has been prepared and details strategies which will guide the direction of the Local Government Area for the next 10 to 20 years. It is based on the community's vision and issues which were developed or identified during consultations in April and September 2006. Council will recall that at its Policy and Strategy Committee Meeting of 3 October 2006, it resolved to adopt the community's visions for the Strategic Plan (Minute No. 06-315).

The Draft Strategic Plan is provided for Council's consideration to place on public exhibition for a period of 28 days from 19 April to 16 May 2007.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

Funding for the Draft Strategic Plan preparation and exhibition is provided in the Planning Reform Grant.

**LEGAL IMPLICATIONS**

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

**ATTACHMENTS**

1. Draft Strategic Plan is provided in Councillors Business Paper Packages.

**RECOMMENDATION**

**THAT** the Draft Strategic Plan be placed on public exhibition for a period of 28 days from 19 April to 16 May 2007.

**ITEM:14            COMM - 16/04/07 - PROPOSED RELINQUISHMENT OF TRUSTEESHIP FOR CROWN RESERVES BEING LOTS 17-19 SECTION 1, DP 758855, PORTLAND**

**REPORT FROM: POLICY & PLANNING MANAGER – A MUIR**

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**REFERENCE**

Min 1837: Council Meeting, 27 November 1989  
Min 06-333: Finance and Services Meeting, 3 October 2006  
Min 06-348: Council Meeting, 16 October 2006

**SUMMARY**

This report proposes the relinquishment of Council's trusteeship over 3 parcels of Crown Reserve in Lett and Vale Streets, Portland.

**COMMENTARY**

Council will recall that at its meeting of 3 October 2006 it resolved to lease Lots 17 and 18 Section 1 to Blinky Bill Child Care Centre for the period of 1 October 2006 to 30 September 2009 (Minute No. 06-333). Also at its meeting of 16 October 2006 Council resolved to affix the Common Seal to the lease documentation (Minute No. 06-348). In accordance with the resolutions of Council, the lease was prepared. However, the lease has not been signed to date.

In the interim, the Blinky Bill Portland Child Care Centre Incorporated through BF Cosier and Associates has written to Council expressing their willingness to become trust managers for 3 Crown Reserves in Lett and Vale Streets, Portland. These Reserves are occupied by the operations of the Blinky Bill Child Care Centre.

The Department of Lands has provided correspondence and verbally confirmed that Council is the trust manager for the subject Crown Reserves which are described in the following:

- Reserve No. 71140, being Lot 17, Section 1, DP 758855
- Reserve No. 71722, being Lot 18, Section 1, DP 758855
- Reserve No. 1000233, being Lot 19, Section 1, DP 758855.

It should be noted that the Crown Reserve No. 1000233 contains the old fire station building which is dedicated for a fire station. Council's records reveal that the building was vacated by the New South Wales Fire Brigades on 15 May 2001. This issue was identified in an answer to a question from the Public Gallery at the Policy and Strategy Committee Meeting of 2 April 2007.

As these Crown Reserves are currently occupied and serve no other community purpose other than the use relating to a child care centre, it is suggested that Council relinquish the trusteeship of the subject Crown Reserves and request the Department of Lands to consider Blinky Bill Portland Child Care Centre Incorporated as the future trustee. If Council adopts the recommendations, correspondence will be forwarded to the Department of Lands.

**POLICY IMPLICATIONS**

Policy implications are of a financial nature and detailed in the financial implications section of this report.

### **FINANCIAL IMPLICATIONS**

Council has received an account for \$388.30 being for the preparation of the lease documentation for Blinky Bill Child Care Centre Incorporated in accordance with Council's resolutions of 3 and 16 October 2006. Council's Policy states that the lessee will be responsible for all reasonable legal costs in association with preparing a lease. However, if Council is of the mind not to seek these costs from Blinky Bill Portland Child Care Centre Incorporated, it should be noted that the expenditure is not budgeted and the matter will need to be reviewed in the March quarterly review. Furthermore, it is suggested that Council expend no further funds on this matter.

### **LEGAL IMPLICATIONS**

If trusteeship is relinquished, Council will have no responsibility for the parcels of Crown Reserve.

### **ATTACHMENTS**

Nil

### **RECOMMENDATION**

#### **THAT:**

1. The trusteeship be relinquished over Reserve No. 71140, being Lot 17, Section 1, DP 758855; Reserve No. 71722, being Lot 18, Section 1, DP 758855; Reserve No. 1000233, being Lot 19, Section 1, DP 758855 as it is considered the Crown Reserves serve no other community purpose other than the use relating to a child care centre.
2. The Department of Lands be asked to consider Blinky Bill Portland Child Care Centre Incorporated as the future trustee of the subject Crown Reserves.
3. No further funds be expended on this matter.

## **DELEGATES REPORTS**

**ITEM:15          DELE - 16/04/07 - PACT MEETING**

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

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### **REFERENCE**

NIL

### **COMMENTARY**

Following the latest Pact Meeting information has been received that the figures that we were given at the previous meeting that showed a good general trend in the crime statistics were indeed relating to Lithgow and not for the whole of the Chifley Local Area Command.

It was also reported to the last Pact meeting the crimes that have occurred mostly in relation to motor vehicles in the Eagle View Estate.

The Police have again been asked about the repairs that are required for the Police sign at Wallerawang. This is now been a question that has been asked for more than 12 months. It is disappointing that something as simple as a sign has not been able to have been fixed or replaced in this time.

Council has also asked for a report regarding how many staff are on long term sick leave or other duties in the Lithgow area. We have now been informed that of the nearly 50 Police in our area, approx 6 are on long term leave. One of these is about to be replaced.

### **POLICY IMPLICATIONS**

NIL

### **FINANCIAL IMPLICATIONS**

NIL

### **LEGAL IMPLICATIONS**

NIL

### **ATTACHMENTS**

NIL

### **RECOMMENDATION**

**THAT** the information be received.

## CLOSED REPORTS

**ITEM:16            REG - 16/04/07 - CONFIDENTIAL REPORT - XSTRATA LAND RATIONALISATION**

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

### **Reason for Confidentiality**

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

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

It is considered the discussion of this matter in Open Council would be contrary to the Public interest as it would prejudice Council's position in negotiating the matter, accordingly, it would not be in the public interest to discuss this matter in open Council.

### **REFERENCE**

Council's resolution of 18 December 2006 that 'the information be received and no action be taken at this stage.

### **SUMMARY**

To advise Council of the outcome of recent discussions with Xstrata representatives in regard to lands the company has for disposal.

### **RECOMMENDATION**

**THAT** Council consider this report in the closed Council pursuant to the provision of Sec 10(A) (2) (c) & (d)(ii) of the Local Government Act 1993.

## COMMITTEE MEETINGS

### ITEM:17      16/04/07 - CODE OF CONDUCT COMMITTEE

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#### REFERENCE

NIL

#### SUMMARY

This is the financial report of the Conduct Committee regarding a complaint from Councillor H K Fisher against Councillor M F Ticehurst.

#### COMMENTARY

The complaint by Councillor Fisher was that Councillor Ticehurst had failed to comply with Council's directions to him on 16 October, 2006 in accordance with Council's Resolution 06-339, in breach of Council's Code of Conduct. Those directions were:-

1. Council formally censure Councillor Martin Ticehurst for misbehaviour due to breaches of the Code of Conduct relating to the publication of confidential materials and behaviour which does not illustrate leadership in accordance with the key principles in Council's Code of Conduct;
2. Council advise Councillor Ticehurst that he must ensure the removal within seven days of this resolution of all confidential material from the website of which he is the registrant;
3. Council advise Councillor Ticehurst that within twenty-eight days of this resolution he is to ensure that the subject website is closed;
4. Councillor Ticehurst apologise to the Council in writing for his actions which amount to misbehaviour under Council's Code of Conduct and that this apology be published in full in the local media within seven days.

The Committee determined that of the four actions enumerated in Council's Resolution, Recommendation 2, only those numbered 1 and 4 came within the ambit of Council's Code of Conduct, and that failure to comply with the directions for removal of the material from the website and failure to close the website did not constitute a breach of the Code as those directions were not made in accordance with the Code. Accordingly, the Committee formed the view that Councillor Ticehurst's only breach of the Code arising from any failure to carry out actions required of him by Council would be his failure to apologise.

Accordingly, the Committee has examined only Councillor Ticehurst's alleged failure to apologise to Council as required by Council's directions of 16 October, 2006.

The Committee held its preliminary meeting on 19 December, 2006, and met again on 12 January, 2007, 24 January, 2007, 15 February, 2007, 9 March, 2007 and 15 March, 2007. Councillor Ticehurst was invited to attend each of the last four meetings of the Committee, but declined to do so.

Considerable correspondence was entered into between Councillor Ticehurst and the Committee.

Enclosed and forming part of this report, are copies of all Minutes of meetings and all correspondence between Councillor Ticehurst and the Committee.

At its meeting of 15 March, 2007, the Committee determined to confirm its interim findings of 9 March, 2007, namely:-

1. On 16<sup>th</sup> October, 2006 Council resolved, inter alia, that Councillor Ticehurst should apologise to the Council in writing for his actions in publishing Council confidential material on his website, such conduct constituting misbehaviour under the Council's Code of Conduct, and that this apology be published in full in the local media within seven days.
2. Council's direction to Councillor Ticehurst to apologise in writing for his actions is permissible under Clause 10.15 of the Council's Code of Conduct adopted 24<sup>th</sup> January, 2005.
3. The applicable Code of Conduct in this instance is the Code of Conduct adopted 24<sup>th</sup> January, 2005.
4. There is no evidence of any apology given by Councillor Ticehurst in accordance with the aforesaid directions, notwithstanding that the Committee has twice invited Councillor Ticehurst to provide such evidence.
5. Councillor Ticehurst has as a matter of fact failed to apologise in accordance with the aforesaid direction of Council.
6. Councillor Ticehurst's failure to apologise in accordance with the aforesaid direction constitutes breaches of Council's Code of Conduct, Clause 5.1 (contravenes Council's relevant administrative requirement; is detrimental to the pursuit of the Charter of a Council; is improper; amounts to misconduct) and Clause 11.1 (failure by Councillor to comply with an applicable requirement of the Code of Conduct).

The Committee determined that Councillor Ticehurst's failure to apologise as per Council's Resolution 06-339 of 16 October, 2006 constitutes a prima facie breach of Council's Code of Conduct, Clauses 5.1 and 11.1.

The Committee resolved at its meeting on 15 March, 2007 to notify Councillor Ticehurst of its findings, to notify Councillor Fisher of its findings, and to report to Council regarding its findings and to recommend to Council that subject to Council finding that a breach of the Code has occurred determines that in accordance with Clause 10.15 of Council's Code of Conduct:-

1. Councillor Ticehurst be censured.
2. Councillor Ticehurst's breach of the Code be referred to the Department of Local Government and the Minister for further consideration as this is his second breach of the Code.
3. That Council make public Councillor Ticehurst's inappropriate conduct in breaching the Code in this instance.

Councillor Ticehurst and Fisher have been informed of the Committees findings and reasons for these findings, in accordance with the Code.

The Conduct Committee met again on 3 April 2007 and following no further advice being provided by Councillor Fisher or Councillor Ticehurst resolved to submit this report to Council for consideration.

**POLICY IMPLICATIONS**

There are no policy implications arising from this report.

**FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report other than the expense considered in resolving this matter.

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

1. Minutes and Correspondence

**RECOMMENDATION**

**THAT:**

1. Councillor Ticehurst be censured.
2. Councillor Ticehurst's breach of the Code be referred to the Department of Local Government and the Minister for further consideration as this is his second breach of the Code.
3. That Council make public Councillor Ticehurst's inappropriate conduct in breaching the Code in this instance.