

# Business Paper



Extra Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 8 July 2024

at 6:00 PM

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# ORDER OF BUSINESS

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<b>1. Notices of Rescission.....</b>	<b>5</b>
<b>1.1. Notice of Rescission – 08/07/2024 - F&amp;G - Lake Lyell Lease - Proposed Excise of Lot 2         in DP792415 and Related Matters .....</b>	<b>5</b>
<b>2. Business of Great Urgency.....</b>	<b>7</b>

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## Acknowledgement of Country

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### Acknowledgement of Country

Lithgow City Council acknowledges Wiradjuri Elders past and present of the Wiradjuri nation - the original custodians of the land on which the Lithgow's communities reside. The Council also extends our respects to our neighbouring nations.

### Declaration of Webcasting

I inform all those in attendance at this meeting, that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements concerning any person, Councillor or employee, and refrain from discussing those matters subject to Closed Council proceedings as indicated in clause 14.1 of the code of meeting practice.

## Present

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## Apologies

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## Declaration of Interest

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### Ethical Decision Making and Conflicts of Interest

#### *A guiding checklist for Councillors, officers and community committees*

#### Oath or Affirmation of Office

Councillors are reminded of the Oath or Affirmation taken of office, made under section 233A of the *Local Government Act 1993* when elected.

#### Ethical decision making

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

#### Conflict of interest

A conflict of interest is a clash between private interest and public duty. The test for conflict of interest:

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of 'corruption' – using public office for private gain.
- Important to consider public perceptions of whether you have a conflict of interest.

#### There are two types of conflict:

- **Pecuniary** – regulated by the *Local Government Act 1993* and Office of Local Government. A person with a pecuniary interest should at least disclose and not vote, but it would also in these cases be appropriate to leave the chamber.
  - **Non-pecuniary** – regulated by Codes of Conduct and policy. ICAC, Ombudsman, Office of Local Government (advice only). If declaring a Non-Pecuniary Conflict of Interest, a person with a non-pecuniary interest can choose to either disclose and vote, disclose and not vote or leave the Chamber.
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- Local Government Act 1993 and Model Code of Conduct  
For more detailed definitions refer to the *Local Government Act 1993*, Chapter 14 Honesty and Disclosure of Interest and adopted Code of Conduct.

### Identifying problems

**1st** Do I have private interests affected by a matter I am officially involved in? **2nd** Is my official role one of influence or perceived influence over the matter? **3rd** Do my private interests conflict with my official role?

### Disclosure of pecuniary interests / non-pecuniary interests

Under the provisions of Section 440AAA(3) of the *Local Government Act 1993* (pecuniary interests) and the Model Code of Conduct it is necessary for you to disclose the nature of the interest when making a disclosure of a pecuniary interest or a non-pecuniary conflict of interest at a meeting.

**A Declaration form should be completed and handed to the General Manager** as soon as practicable once the interest is identified. Declarations are made at Item 3 of the Agenda: Declarations - Pecuniary, Non-Pecuniary and Political Donation Disclosures, and prior to each Item being discussed: The Declaration Form can be downloaded at .....

### Public Forum

Any person registered to speak during Public Forum on a matters included in the business paper and registered via the Council website prior to 12 Noon on the day of the meeting will have the opportunity to speak. There will be only two speakers for and against, on each matter on the business paper.

Public forum will be allocated half an hour time in total with each speaker having 3 minutes to speak.

Speaker not registered for public forum will have an opportunity to speak on matters on the business paper if time permits.

## 1. Notices of Rescission

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### 1.1. Notice of Rescission – 08/07/2024 - F&G - Lake Lyell Lease - Proposed Excise of Lot 2 in DP792415 and Related Matters

**Report by** Councillor Cassandra Coleman  
Councillor Stephen Lesslie  
Councillor Eric Mahony

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#### Commentary

At the Ordinary Meeting held on 25 June 2024, the Council dealt with a report in relation to a request from EnergyAustralia NSW Pty Ltd (**EA**) to excise part of Lot 2 in DP792415 (**Lot 2**) from the Lake Lyell lease, the addition of option terms to the Lake Lyell lease and an amendment to the restrictive covenant affecting Council owned land at Lake Lyell.

A notice of motion to rescind the resolution was submitted for the above matter. The motion was signed by three councillors and accords with the Code of Meeting Practice. A copy of the motion is attached.

The resolution, which is the subject of the motion, is copied below.

### **3.9 F&G - 24/06/2024 - Lake Lyell Lease - Proposed Excise of Lot 2 in DP792415 and Related Matters**

#### **RESOVLED 24-131**

THAT Council:

1. Agree to excise part of Lot 2 (as outlined in this report) from the Lake Lyell lease, in the event that EA proceeds to construct temporary workforce accommodation, should the proposed Lake Lyell Pumped Hydro project be approved.
2. Endorse negotiation of option terms to the Lake Lyell lease between Council and EnergyAustralia NSW Pty Ltd.
3. Endorse an amendment to the restrictive covenant affecting the Council owned land to allow for a commercial use, including but not necessarily limited to being the operation of a primitive camping ground.
4. Authorise the General Manager to negotiate a monetary contribution to the Council as an offset to the public being unable to use the portion of the land that would be excised from the lease for a number of years.
5. Authorise the General Manager to sign all documents and do all things necessary to give effect to the resolutions made.

The matter is returned to Council for the purpose of dealing with this motion. To facilitate Council's consideration of this motion, the subject report and attachments from the meeting of 25 June 2024 are also included as attachments to this business paper.

The resolution which was carried will not be given effect to until the motion of rescission has been dealt with.

**Attachments**

1. NOTICE OF RECISSION - Received 24 June 2024 [1.1.1 - 1 page]
2. Report 24/06/2024 - Lake Lyell Lease Proposed Excise of Lot 2 in DP792415 and Related Matters [1.1.2 - 7 pages]

**Recommendation**

THAT we the undersigned Councillors hereby submit a motion to rescind the council decision which was arising from the debate on Item 3.9 F&G 24/06/2024 - Lake Lyell Lease – Proposed Excise of Lot 2 in DP 792415 and related Matters:

THAT Council:

1. Agree to excise part of Lot 2 (as outlined in this report) from the Lake Lyell lease, in the event that EA proceeds to construct temporary workforce accommodation, should the proposed Lake Lyell Pumped Hydro project be approved.
2. Endorse negotiation of option terms to the Lake Lyell lease between Council and EnergyAustralia NSW Pty Ltd.
3. Endorse an amendment to the restrictive covenant affecting the Council owned land to allow for a commercial use, including but not necessarily limited to being the operation of a primitive camping ground.
4. Authorise the General Manager to negotiate a monetary contribution to the Council as an offset to the public being unable to use the portion of the land that would be excised from the lease for a number of years.
5. Authorise the General Manager to sign all documents and do all things necessary to give effect to the resolutions made.

## **2. Business of Great Urgency**

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In accordance with Clause 241 of the Local Government Act (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 if:

- 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.