



BUSINESS PAPER

Extra Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 1 August 2022

at 7:00 PM

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1. Acknowledgement of Country

Acknowledgement of Country

I would like to begin this meeting by acknowledging the Traditional Owners of this land on which we meet today. I would also like to pay respect to Elders both past, present and emerging.

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.

2. Present

3. Apologies

4. Declaration of Interest

Under Clause 3.23 Statement of ethical Obligations in the Code of Meeting Practice as adopted by Council at the Ordinary Meeting of Council held on 26 April 2022 (Min No 22-86),

3.23 Business papers for all ordinary and extraordinary meetings of the council and committees of the council must contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.

Councillors are reminder of the oath or affirmation which was taken at the Ordinary Meeting of Council held on 22 December 2021

Oath Of Councillor

I swear that I will undertake the duties of the office of Councillor in the best interests of the people of Lithgow local government area and the Lithgow City Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Affirmation Of Councillor

I solemnly and sincerely declare and affirm that I will undertake the duties of the office of Councillor in the best interests of the people of Lithgow local government area and the Lithgow City Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Councillors have the opportunity to declare any interests in items on the agenda and inform the Council and public if they will be leaving the Chambers during the debate and voting on the item.

5. 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.

6. Mayoral Minutes

The Mayor is able to table a Mayoral minute at the meeting if required.

7. Notices of Rescission

7.1. Notice of Rescission - 01/08/2022 - DA070/22 - Geotechnical Investigation Works, Lake Lyell

Report by the General Manager

Commentary

At the Ordinary Meeting of 25 August 2022, the Council dealt with a report relating to a development application – DA070/22. The decision of the Council, by resolution, was that the development application be approved subject to conditions of consent.

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.

10.1.1.2. ECDEV - 25/07/2022 - DA070/22 - Geotechnical Investigation Works, Lake Lyell

22 -135 RESOLVED

THAT:

1. Development Application DA070/22 be APPROVED subject to conditions of consent as detailed in the attached planning assessment report.
2. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

MOVED: Councillor C O'Connor

SECONDED: Councillor S McGhie

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 August are also within this business paper.

In the Public Forum section of the 25 July Meeting a number of submissions were made about the development application. It is unclear whether an aspect of the motion stems from the matters raised in the Public Forum. In any event, these matters do take the form of submissions on the development application. To facilitate the consideration of this motion a comment is provided here by Council's Director for Planning about each of the key contentions raised -

1. It was contended that consultation with first nation people or their representatives, and consideration of the potential for impacts on first nations people's heritage or artefacts has not been properly conducted –this matter has been fully dealt with in the original report with Council's planners commenting - "The application is supported by an Aboriginal Heritage Due Diligence Assessment Report which has addressed potential impacts on cultural heritage. The report has been undertaken by qualified and reputable consultants who have engaged with relevant Aboriginal stakeholders. In addition, Council specifically notified key stakeholders in the local Aboriginal community providing the opportunity to comment and review the proposal."
2. It was contended that the environmental assessment for the development application is not of an adequate standard - this matter has been fully dealt with in the original report with Council's planners commenting - "The flora and fauna assessment and other environmental impact assessment considerations for the proposal has been undertaken by reputable and

qualified consultants on behalf of the applicant. Council is satisfied with the quality and extent of the environmental assessment undertaken.”

3. It was contended that various matters relating to a potential proposal for a pumped hydro scheme at Lake Lyell – this development application is confined, entirely, to geotechnical investigation works substantially involving drilling to establish ground conditions.
4. It was contended that this is the last chance that the Council will have to determine its position on a potential proposal for a pumped hydro scheme at Lake Lyell- if a future DA is advanced for a pumped hydro scheme it is likely that the NSW Government will be the consent authority. The planning laws provide for extensive community consultation on such proposals, including through consultation with Council. Council would receive a report and it would take a position for or against any proposal based on its merits. That position would be a matter for the NSW Government’s consent authority to consider.

Further verbal advice can be provided at the meeting on the above four points.

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

Attachments

1. Recission Notice 25 July 2022 [7.1.1 - 1 page]
2. Item 10.1.1.2. ECDEV - 25-07-2022 - D A 070-22 - Geotechnical Investigation Works, Lake Lyell [7.1.2 - 7 pages]
3. 10.1.1.2.1.- Statement-of- Environmental- Effects- D A 070-22 [7.1.3 - 69 pages]
4. 10.1.1.2.2.- Engineering- Design- Drawings- D A 070-22 [7.1.4 - 23 pages]
5. 10.1.1.2.3 Flora and Fauna Assessment - D A 07022 [7.1.5 - 106 pages]
6. 10.1.1.2.4.- Aboriginal- Heritage- Due- Diligence- Assessment- D A 070-22 [7.1.6 - 46 pages]
7. 10.1.1.2.5.- Applicants- Response-to- Issues- Raised-in- Submissions- D A 070-22 [7.1.7 - 9 pages]
8. 10.1.1.2.6.- Planning- Assessment- Report-and- Recommended- Consent- Conditions- D A 070-22-1 [7.1.8 - 20 pages]

Recommendation

THAT the resolution 22-135 in relation to ITEM 10.1.1.2 DA070/22 - Geotechnical Investigation Works, Lake Lyell of the Ordinary Meeting of Council held 25 July 2022 be rescinded.

8. Business of Great Urgency

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.