



LITHGOW CITY COUNCIL

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

19 NOVEMBER 2007

AT 7.00pm

AGENDA

PRESENT

QUESTIONS FROM THE PUBLIC GALLERY

PRESENTATIONS -

1. Presentation to Gerard Martin - Appreciation of Service Award
2. Presentation to NSW Volunteer of the Year Award
3. Alan Morse & Co. - Auditor's Report

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 15 OCTOBER 2007

DECLARATION OF INTEREST

NOTICES OF MOTION - NIL

MAYORAL MINUTES - NIL

NOTICE OF RESCISSION - NIL

CORRESPONDENCE AND REPORTS

General Manager Reports
Regional Services Reports
Community and Corporate Services Report

CLOSED REPORTS - Water Trade with Delta Electricity

REPORTS FROM DELEGATES - Mining Related Councils Meeting

COMMITTEE MEETINGS - NIL

QUESTIONS WITHOUT NOTICE

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GENERAL MANAGER REPORTS

ITEM:1 GM - 19/11/07 - AGREEMENT - DISTRICT RURAL FIRE SERVICE AND LITHGOW CITY COUNCIL

REFERENCE

NIL

SUMMARY

This report will seek Council's approval to attach the Common Seal to a Rural Fire Service Agreement with The District Rural Fire Services and Lithgow City Council.

COMMENTARY

Lithgow City Council and the District Rural Fire Services have agreed to enter into a rural fire district service agreement pursuant to the provision of section 12A of the Rural Fire Act 1997 (NSW).

The General Manager of Lithgow City Council pursuant to Section 378 (1) of the Local Government Act 1993 (NSW), delegates the Fire Control Officer power and authority, subject to compliance with any policy, regulation or resolution of Council or directive of an authorised officer of Council;

- a) To carry out the regular fire protection services and operations of Council, limited to any single expenditure amount being no greater than \$30,000.00 and within the sums voted by the Council for expenditure within the positions area of responsibility, and
- b) To act as an authorised person within the meaning of the Local Government Act 1993, and
- c) To organise the repairs / maintenance of Council plant and machinery provided for bush fire related purposes and
- d) To authorise the carrying out of works on a contract basis for other business, individuals or government instrumentalities in accordance with Councils guidelines and fee schedules for such works and,
- e) To enter upon any land in accordance with the powers granted under my Act administered by Council, for the purpose of carrying out duties on council's behalf and

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

NIL

RECOMMENDATION

THAT Council affix the Common Seal to an Agreement between Lithgow City Council and the District Rural Fire Services.

ITEM:2 GM - 19/11/07 - CHRISTMAS AND NEW YEAR CLOSURE

REFERENCE

Min: 06-410 - Policy and Strategy Committee Meeting - 4th December 2006

SUMMARY

This report advises Council of the closure of the administration office between Christmas and New Year and the essential service operations that will operate over this time.

COMMENTARY

As Council is aware the Administration building was closed in 2006 between Christmas and New Year.

The Christmas closure for 2007 was discussed at an Executive Management Team meeting and the following arrangements have been decided on.

- Council administration areas will close for business from Tuesday 25th December 2007 and will re-open on Wednesday 2nd January 2008. Only "skeleton" staff will be required to cover 24th December 2007, 2 - 4 January 2008.
- Council depots will be closed from Monday 24th December 2007 and will re-open on Monday 7th January 2008.
- Staff will have the same arrangement as last year for concessional leave. Indoor staff will receive 1.5 days concessional leave to be utilised during this period, with part time staff receiving the leave on a pro-rata basis consistent with their hours worked over the past year. The remaining 1.5 days can be taken as RDO/banked RDO, accrued time in lieu or annual leave.
- Outdoor staff will be required to use their RDO's, accrued leave or annual leave to cover the 7 day shutdown.

- An outdoor "skeleton" crew will be required to work during this period to attend to emergencies.

Essential service and works staff will remain on duty during the period to ensure all such matters are attended to. An advertising program will commence shortly to advise the community along with advertising advice to many of the Council clients.

Essential Services Operating over Christmas/New Year

- Lithgow Visitor Information Centre – only closed Christmas Day
- Eskbank House Museum – only closed Christmas Day
- Rural Tip Controller - works all days except for Christmas Day
- Cleaner Driver (emptying street bins) - works selected days
- Streetsweeper – works selected days
- Water and Sewerage Treatment Plants – necessary staff work every day (limited hours over public holidays)

All staff who are on-call on a weekly basis will be required to be on-call over this period.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

CONCLUSION

This report has advised Council on the office closure during Christmas and New Year in line with many councils, Government Departments and private organisations in New South Wales and Australia.

ATTACHMENTS

NIL

RECOMMENDATION

THAT Council note the closure of the administration building and depots in this report and the arrangements for essential services and works staff as outlined.

ITEM:3 GM - 19/11/07 - WATER FLUORIDATION

REFERENCE

Min: 06-92 - Policy and Strategy Committee meeting of 3 April 2006
Min: 07-305 - Policy and Strategy Committee meeting of 6 August 2007
Min: 07-421 - Ordinary meeting of 17 September 2007

SUMMARY

To advise of the results of a recent public meeting on water fluoridation and provide Council with information so that it may determine its position on water fluoridation.

COMMENTARY

At its Ordinary meeting of 17 September 2007 Council resolved:

THAT Council and the SWAHS convene a public meeting urgently on the issues of fluoridation and report be brought back to Council on the outcome of this meeting.

MOVED: Councillor A E Thompson **SECONDED:** Councillor B P Morrissey.

The meeting subsequently took place at the Union Theatre on 12 November 2007. Approximately 50 people were in attendance (including Councillors, General Manager and SWAHS Staff) and 3 speakers made presentations.

Mr John Irving of the Teeth for Health program spoke in favour of fluoridation. He explained how fluoride is produced and provided statistics on poor decay rates in Lithgow requiring surgical intervention compared to the rest of NSW. Mr Irving also provided information on natural occurrences of fluoride and scientific information on accepted safe levels of fluoride. He also provided information on a number of prominent organisations that support fluoridation of water supplies.

Mr Bill Sanday, a local resident, spoke against the fluoridation of the water supply. Whilst acknowledging that he was not an expert he indicated that he had been on the periphery of the fight against water fluoridation since the 1960's. He maintained that numerous studies indicate fluoride is harmful. He also indicated that fluoride used in water supplies is actually a waste product that causes environmental problems if released into the atmosphere.

Mrs Deborah Morris, a local resident spoke against water fluoridation. Mrs Morris was on Council in 1991 and opposed water fluoridation at the time. Her son is allergic to fluoride and she is still opposed to its use in water supplies as she has been unable to find any information from State or Federal health departments satisfying concerns on its toxic effects. Mrs Morris, like Mr Sanday, maintained that fluoride is not able to be released into the environment and claimed that the only recognised means of disposal was by release into water supplies. Mrs Morris maintained that fluoride is linked to bone cancer and World Health Organisation information shows dental decay has gone down in many countries in any event (this claim was the subject of debate).

Mrs Morris maintained that fluoride is toxic to babies and young children are warned not to swallow fluoride toothpaste. She also indicated that she had set up a survey on a website under her control and claimed that many votes in favour of fluoridation had been placed from the one IP address.

The speakers took questions from the floor. However, it was clear that the majority of attendees were either in favour of fluoridation on public health grounds or vehemently opposed and that 'never the twain would meet'. Of the numerous questions and statements made probably the only significant question to emerge related to notifying the community that the supply is fluoridated and the options open to a person who is allergic to fluoride.

POLICY IMPLICATIONS

There is no formal policy on water fluoridation. The current 'official' position relates to the decision of Council at its Finance and Policies Committee Meeting of 14 October 1991 which resolved "that Council not proceed with the fluoridation of the public water supply in Greater Lithgow".

FINANCIAL IMPLICATIONS

Should Council wish to move toward fluoridation then there would be no up front capital cost. The annual running costs for the required plant have been estimated to be in the vicinity of \$38,000 although this is considered to be at the 'upper end of the scale' with costs estimated to be between \$1.20 and \$2.40 per head of population per year. Council would need to consider covering these additional costs from water consumers if fluoridation was introduced.

LEGAL IMPLICATIONS

No specific legal issues arise as a result of this report.

CONCLUSION

Determining the Council's position on water fluoridation is a matter for the elected Council given the public interest considerations.

The options seen as open to Council are:

1. Proceed with water fluoridation and request the installation of the necessary infrastructure. (NB: This option would require a budget adjustment if it was to occur in the current financial year as there is currently no allocation for running costs and discussions with State Water/Fish River Water Supply as to the appropriate location of any plant to cater for consumers utilising this water supply would be necessary)
2. Not proceed with fluoridation.
3. Refer the matter to the Director General of Health.

ATTACHMENTS

Nil

RECOMMENDATION

THAT Council determine its position on fluoridation of its water supply.

ITEM:4 GM - 19/11/07 - CIVIC BALLROOM

REFERENCE

Nil

SUMMARY

To advise of recent and proposed expenditure undertaken to improve the Civic Ballroom.

COMMENTARY

The Mayor has requested that I provide a report to Council in relation to the program of works (previous and proposed) for the Civic Ballroom. The following table represents income, recurrent and capital expenditure from the financial years 2002/2003 to 2006/2007.

FINANCIAL YEAR	MAINTENANCE	PAINTING	CLEANING	SPECIAL EVENTS	TOTAL MR	CAPITAL	INCOME
2002/03	8,339.86	2,061.55	6,079.57	195.19	16,676.17	0.00	-7,337.18
2003/04	7,382.54	0.00	6,943.36	0.00	14,325.90	9,180.20	-3,732.97
2004/05	2,731.55	10.27	8,212.67	3,235.54	14,190.03	94,284.63	-5,971.35
2005/06	8,722.84	21.78	10,855.00	215.51	19,815.13	70,191.93	-3,420.92
2006/07	4,307.04	122.06	14,271.09	4,431.76	23,131.95	18,999.62	-2,464.55
	31,483.83	2,215.66	46,361.69	8,078.00	88,139.18	192,656.38	-22,926.97

Capital works in recent years have included

- Floor replacement
- New Stage
- Disabled access ramp (Sportsground end entrance)
- New exit door
- Kitchen refurbishment
- New ceiling

Although there are some works required on the facility, the Council will note the income/expenditure gap which makes it difficult to justify significant expenditure. In my opinion this highlights the need to critically review fees and charges for the hire of facilities as part of the preparation of the 2008/2009 draft management plan.

The current Management Plan proposes that an amount of \$15,000 be expended on an upgrade to toilets provided Council is able to secure grant funding. In this regard an Expression of Interest has been submitted under the Regional Partnerships Program to which further information has been requested. An amount of \$11,232 is proposed to be revoted in the September quarterly review for painting and disabled access. This allocation is proposed to be used to support a grant application and 'leverage' maximum funds.

POLICY IMPLICATIONS

Policy 4.6 - Request For Donation By Waiving Of Fees For Council Facilities and policy 4.8 - Union Theatre/Civic Ballroom - Functions By Charitable Organisations are partially relevant to the issue as they may operate to reduce income for hire of facilities.

FINANCIAL IMPLICATIONS

The subject of this report.

LEGAL IMPLICATIONS

No specific legal issues arise as a result of this report.

ATTACHMENTS

Nil

RECOMMENDATION

THAT the information be received.

ITEM:5 GM - 19/11/07 - COUNCIL ORDINARY MEETING AND COMMITTEE MEETING DATES FOR 2008

REFERENCE

NIL

SUMMARY

This report outlines the proposed dates for both the Ordinary Council meetings and the Committee meetings for 2008.

COMMENTARY

The proposed dates for the Ordinary Meetings of Council for 2007 are as follows:

Policy and Strategy / Finance and Services Committee Meetings

Monday 4th February 2008
Monday 3rd March 2008
Monday 7th April 2008
Monday 5th May 2008
Monday 2nd June 2008
Monday 7th July 2008
Monday 4th August 2008
Monday 1st September 2008
Tuesday 7th October 2008
Monday 3rd November 2008
Monday 1st December 2008

The Policy and Strategy Committee Meetings will commence at 6pm and the Finance and Services Committee Meetings will commence at 7pm.

Ordinary Council Meetings

Monday 18th February 2008
Monday 17th March 2008
Monday 21st April 2008
Monday 19th May 2008
Monday 16th June 2008
Monday 21st July 2008
Monday 18th August 2008
Monday 15th September 2008
Monday 20th October 2008
Monday 17th November 2008
Monday 15th December 2008

The Ordinary Council Meeting will commence at 7pm.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

NIL

RECOMMENDATION

THAT Council note the proposed dates.

REGIONAL SERVICES REPORTS

**ITEM:6 REG - 19/11/07 - TRANSFER OF A CROWN ROAD TO COUNCIL -
 OFF BONNIE BLINK DRIVE, LITTLE HARTLEY**

REPORT FROM: DEVELOPMENT ENGINEER- PAUL CREELMAN

REFERENCE

Nil.

SUMMARY

To advise of a request for Lithgow Council to approve the transfer of a Crown Road off the end of Bonnie Blink Drive, Little Hartley to become a public road under Council's control.

COMMENTARY

As a part of Development Application 603/04 for the subdivision of 5 rural Lots off Bonnie Blink Drive Little Hartley, the applicant was required to dedicate a strip of unformed Crown Road as Council public road. A request has now been received from the applicant, Mr Daniel Muir, for Council to accept the transfer of the relevant section of Crown Road. The road has been formed to Lithgow Council's standards as a part of the development and will be an extension of Bonnie Blink Drive. All fees will be paid by the applicant. As part of this process Council will be required to place the Common Seal on the documentation.

POLICY IMPLICATIONS

Council Policy 1.2- Asset Acquisition applies as Council will be taking over ownership of the section of road. Under Council's Code of Meeting Practice affixing of the common seal may only occur by resolution at an ordinary meeting of Council.

FINANCIAL IMPLICATIONS

Council will take on future maintenance of the road and obtain rate income from additional rateable properties created by the subdivision.

LEGAL IMPLICATIONS

Development Consent 603/04 places an obligation on the applicant to construct and dedicate the road to Council. The transfer of the Crown Road is undertaken under the provisions of the Roads Act 1993.

ATTACHMENTS

1. Location mapping and the layout of the approved subdivision.

RECOMMENDATION

THAT Council formally agree to the transfer of the Crown Road as indicated on the attached mapping and the Common seal be affixed to the relevant documentation.

ITEM:7 REG - 19/11/07 - WRITE OFF OF ACCOUNT - GRAVEL SUPPLY - FORESTS NSW

REPORT BY: OPERATIONS MANAGER – S. DARLINGTON

REFERENCE

Nil

SUMMARY

This report seeks to write off an account issued to Forests NSW for the supply of gravel in relation to the Dark Corner project.

COMMENTARY

The 2006/07 works program included a stage of the Dark Corner reconstruction project, funded substantially by Forests NSW. At the same time, Bathurst Regional Council (BRC) was also undertaking reconstruction works in their LGA for Forests NSW. The agreement with Forests NSW included access to a Forests NSW gravel pit at no cost. Bathurst Regional Council also had the same agreement. BRC had accessed the gravel pit and won and stockpiled a large quantity of material at their expense. Lithgow Council staff believed that they had full access to this material but were unaware that BRC had incurred expenses in winning and stockpiling. BRC legitimately invoiced Lithgow Council for the material used, to the value of \$10,129.20. Lithgow Council then attempted to recover this cost by invoicing Forests NSW the full amount of \$10,129.20. Forests NSW have declined to pay on the basis that it had provided access to the quarry at no cost. LCC is responsible for the full cost of winning and stockpiling the gravel from the Forests NSW pit as a legitimate charge against the project

POLICY IMPLICATIONS

Policy No 8.1 Debt Recovery allows the General Manager to write off accounts up to \$1,000 in certain circumstances. This amount exceeds the limits of the policy.

FINANCIAL IMPLICATIONS

An amount of \$23,641 is to be revoted in the September Quarterly review which was unexpended Council funds for the project. The written off amount of \$10,129.20 will be charged to the Dark Corner project as a legitimate charge. In other words the \$10,129.20 will be charged against Council's proportion of funding for the project and not Forests NSW.

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council write off the Forests NSW invoice in the sum of \$10,129.20 and that this amount be charged to the Dark Corner project.

ITEM:8 REG - 19/11/07 - PURCHASE OF LAND - MAGPIE HOLLOW ROAD

REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

REFERENCE

Min: 06-159 - Finance and Services Committee – 5 June 2006

SUMMARY

To advise of the necessary acquisition of a further piece of land at South Bowenfels in relation to the construction of a new reservoir.

COMMENTARY

During survey works to complete the acquisition of land for the proposed new reservoir at South Bowenfels it was discovered that part of the constructed Magpie Hollow Road was actually within the boundaries of the same landholder's land. To determine compensation, Council engaged a Valuer who valued the land at \$3,600. The landholder's Valuer valued the land at \$20,000. Negotiations took place and an amount of \$12,500 was agreed. This is in addition to \$30,000 for the purchase of land for the reservoir site. Whilst it is possible that a lesser amount of compensation may have been obtained should the matter have proceeded to determination by the Land and Environment Court, it is doubtful if overall cost savings could have been achieved given the legal costs and time delay. The common seal must now be affixed to any documentation.

POLICY IMPLICATIONS

Policy 1.2 Asset Acquisition is applicable.

FINANCIAL IMPLICATIONS

Council will pay \$12,500 plus legal costs.

LEGAL IMPLICATIONS

Legal matters are being handled by Council's Solicitor.

ATTACHMENTS

Nil

RECOMMENDATION

THAT:

1. Council acquire the section of land within Lot 180 DP 751650 currently occupied by part of the constructed Magpie Hollow Road and an amount of \$12,500 be paid to the landowners in compensation.
2. Council pay all legal and survey costs associated with the acquisition.
3. The common seal be affixed to the relevant documentation.

ITEM:9 REG - 19/11/07 - BLACK BRIDGE - WALLERAWANG

REPORT BY: OPERATIONS MANAGER – S. DARLINGTON

REFERENCE

NIL

SUMMARY

This report seeks Council's acceptance of an offer of \$20,000 from the Roads and Traffic Authority (RTA) for a preliminary study into a pedestrian overbridge at Wallerawang.

COMMENTARY

Following representations to the RTA, \$20,000 has been made available for Lithgow City Council to progress planning and budgeting of a pedestrian grade separated crossing of the rail line at or near the Black Bridge, Wallerawang.

This special grant will allow the preparation of a concept report for the construction of a shared pedestrian and cycleway grade separated railway crossing. (A grade separated crossing is essentially an overhead bridge rather than a level crossing) It is envisaged that the resultant document will provide sufficient information to bid for funding and include a background to the location and problems, traffic and crash history, proposed pedestrian facility, budget and timeline for completion of proposed works.

Whilst the offer of funding for a preliminary study into a pedestrian overbridge may fall short of Council's preferred solution, it is a very positive development on this issue that has been the subject of numerous representations in recent years.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

The grant of \$20,000 is additional income and expenditure to the 2007/08 budget

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council accept the offer of funding from the RTA in the sum of \$20,000 for the planning of a pedestrian grade separated crossing of the rail line at or near the Black Bridge, Wallerawang.

**ITEM:10 REG - 19/11/07 - LITHGOW SEWERAGE TREATMENT PLANT
UPGRADE - STAGE 2**

REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

REFERENCE

Min: 06-282 - Policy and Strategy meeting - 4 September 2006

Min: 07- 202 - Ordinary meeting - 21 May 2007.

Min: 07-419 - Ordinary meeting -17 September 2007

SUMMARY

To advise of the current status of this project and associated issues.

COMMENTARY

At its Ordinary meeting of 17 September 2007 the Council resolved as follows:

THAT the General Manager be delegated authority to proceed with the most cost effective and least risk option in relation to the design and construction of Stage 2 of the Sewerage Treatment Plant upgrade whether or not this is to be by a design and construct package or the separation of these components.

MOVED: Councillor M M Collins SECONDED: Councillor M J Wilson.

In response to this resolution a quotation was sought from the NSW Department of Commerce for the design of Stage 2. In previous quotations from Commerce concern had been raised in relation to project management costs. However, Commerce have agreed that Council can deal directly with their specialist design section. Commerce has also agreed to absorb a 4% increase in wages since the last quotation was received. The Department of Commerce submitted the following quotation.

Component	Fee
- Initial site inspection/start-up meeting (3 designers)	\$ 4,000
- Sewage treatment plant (civil) structural, mechanical and electrical – concept finalization and design and management	\$260,000
- Design Initiation meeting	\$ 1,500
- Review meeting – 50% completion	\$ 4,000
- Review meeting – 75% completion	\$ 4,000
- Review meeting – 90% completion	\$ 4,000
- Design finalisation meeting	\$ 1,500
- Additional Survey	\$ 4,800
- GC21 Documentation	\$ 7,000
- Telemetry System	\$ 7,000
- Geotechnical	\$ 27,000
- Printing	\$ 3,000
- Sludge Lagoon Remediation	\$ 6,200
TOTAL FEE (Excluding GST)	\$334,000

The additional survey work and geotechnical investigation were deemed as critical and were commissioned immediately so as not to impact on the timeframe. The Sludge Lagoon Design was also critical having regard to operational problems and concerns of the Department of Environment and Conservation (DEC) but could be separated from the Stage 2 design. Therefore, this component has also been commissioned. The supply of GC21 documentation is considered very worthwhile in terms of project risk management and smooth transition to the tender phase. Therefore, the proposal from Commerce has been assessed as being 'the most cost effective and least risk option in relation to the design and construction of Stage 2 of the Sewerage Treatment Plant upgrade'.

Irrespective of the delegation provided to the General Manager by the Council it would normally be necessary to tender for any project over \$150,000 and the tender be determined by the Council. However, the Department of Commerce has an exemption under the Local Government Act as follows:

'55 What are the requirements for tendering?

- (1) A council must invite tenders before entering into any of the following contracts:
 - (a) a contract to carry out work that, by or under any Act, is directed or authorised to be carried out by the council, (etc, etc)
- (2A) Nothing in this section prevents a council from tendering for any work, service or facility for which it has invited tenders.
- (3) This section does not apply to the following contracts:
 - subject to the regulations, a contract for the purchase of goods, materials or services specified by a person prescribed by the regulations made with another person so specified, during a period so specified and at a rate not exceeding the rate so specified (*This section relates to 'Local Government Procurement'*)
 - a contract entered into by a council with the Crown (whether in right of the Commonwealth, New South Wales or any other State or a Territory), a Minister of the Crown or a statutory body representing the Crown (*This includes the Department of Commerce*)

The Department of Commerce confirms that "All NSW government agencies can engage us directly without the need for and cost of tendering. Similarly, councils and local water utilities can also engage Commerce directly as stipulated in Part 3, Section 55 of the Local Government Act." Therefore, the General Manager has exercised the delegation provided by Council and the Department of Commerce have been engaged to undertake the Design of Stage 2 of the Lithgow Sewerage Treatment Plant as it represents the most cost effective and least risk option.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Funding for the project is in the 2007/2008 capital budget. Council is also eligible to receive part funding for the project under the Country Towns Water and Sewerage Scheme.

LEGAL IMPLICATIONS

There are no immediate legal issues as a result of engaging the Department of Commerce except for normal contractual requirements. However, Council should be aware that DEC have issued Council with a Section 193 information notice that can be a pre-cursor to prosecution which is likely to be associated with delays in the project. This relates to a licence condition requiring completion of the upgrade by 31 December 2006. An application to vary the licence has been lodged seeking an extension to 31 December 2009. If this is refused Council will have an opportunity to appeal to the Land and Environment Court. Potentially the Premier is also able to be requested to intervene in disputes between public authorities and DEC in relation to licence issues. Discussions have also been held with DEC's Manager Bathurst Region in relation to what is known as an 'enforceable undertaking'. An amount has also been included in the September Quarterly budget review to fund an 'external environmental audit' of Council's Environment Protection Licences which would form part of an undertaking if such was entered into and is good practice in any event. All options are being explored and legal advice will be sought if necessary to 'reasonably' satisfy DEC and protect Council's position.

ATTACHMENTS

Nil

RECOMMENDATION

THAT the information be received.

ITEM:11 REG - 19/11/07 - CONFIDENTIAL REPORT - WATER TRADE WITH DELTA ELECTRICITY

REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

Reason for Confidentiality

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (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:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

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

If Council discussed the financial figures within this report in open council it would provide an advantage to the parties that Council may negotiate with in terms of trading part of its water allocation.

Pursuant to section 10A(4), the public are invited to make representations to the council meeting before any part of the meeting is closed, as to whether that part of the meeting should be closed.

SUMMARY

To advise Council Delta Electricity's interest in extending the water trade agreement for Fish River Water allocation for an additional 12 months.

RECOMMENDATION

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

COMMUNITY AND CORPORATE SERVICES REPORTS

ITEM:12 **COMM - 19/11/07 - MEADOW FLAT HALL S355 COMMITTEE PROPOSAL**

REPORT BY: GROUP MANAGER – COMMUNITY AND CORPORATE – K. WOOLLEY

REFERENCE

Nil

SUMMARY

Council considered the establishment of committees under section 355 of the Local Government Act 1993 at the June 2007 round of meetings.

This report seeks Council's determination of the potential to create an additional committee for the management of the hall at Meadow Flat.

COMMENTARY

Council may consider the benefit of empowering committees to manage the public hall at Meadow Flat and the attached draft Terms of Reference are recommended to Council to be used as the basis for establishing the responsibilities of the committee.

The Meadow Flat Hall Committee is a new committee and arises from Council's completion of the compulsory acquisition of the Hall. The draft Terms of Reference and composition of the committee would need to be resolved by Council and then a call for Expressions of Interest for Committee membership can be initiated.

Council may wish to consider its own membership on the committees. The recommendation is that one Councillor be appointed to the committee and Council would need to name the Councillor for this purpose and add to the resolution.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

- 1.Draft Terms of Reference for Meadow Flat Hall Committee

RECOMMENDATION

THAT:

1. Council amend its list of Committees formed under section 355 of the Local Government Act 1993 to include the Meadow Flat Hall Committee;
2. Council call for Expressions of Interest for members of the Meadow Flat Hall Committee;
3. Council determine if it wishes to appoint a councillor and nominate the Councillor for membership of the committee;
4. Meadow Flat Hall be delegated to take bookings for Hall usage in accordance with the fees and charges as specified in Council's Management Plan as identified in the Draft Terms of Reference.

ITEM:13 COMM - 19/11/07 - POLICIES REVIEW AND UPDATE

REPORT BY: GROUP MANAGER – COMMUNITY AND CORPORATE - K.WOOLLEY

REFERENCE

NIL

SUMMARY

Council resolved to annually review its Policy Register and this report provides Council with the outcome of the review of policies and recommends amendments and additions be made to the Register.

COMMENTARY

During October 2007, Council's Management Team reviewed policies in the Council's Policy register.

The following recommendations are made to Council arising from this review:

Policy No.	Policy Name	Proposed Change
1.1	Land (Council) – Leases – Legal Costs	Inserted paragraph regarding the payment of fees associated with retail leases in accordance with the Retail Leases Act 1994.
1.2	Asset Acquisition	Inserted additional criteria for long term ownership costs if the asset is

		land i.e. to investigate land contamination to ensure that it is suitable for the intended use in accordance with the strategy "ensuring Council land is suitable for its intended use" in the Strategic Plan.
1.3	Assets Disposal	Addition of criteria for minor assets so that they can be disposed of in a timely manner and identification of disposal of information technology assets and plant items through the best value process after assessment of the asset and its condition. New policy to be drafted to accommodate these changes.
4.4	Donations – Section 356 of the Local Government Act 1993	<p>The time of year for the consideration of applications from the community for donations is suggested to change from February to October/November each year to better align with the management plan and budget preparation processes.</p> <p>Addition of clause to indicate applications for donations of \$10,000 or more will only be considered as part of the assessment of the next financial year's budget and are required to be received in October/November to ensure they are included in budget proposals for the next financial year.</p> <p>Addition of Guidelines and Application form to assist those seeking donations from Council.</p> <p>Addition of a formal agreement template for those seeking \$10,000+ to ensure they are providing Council with adequate reporting.</p> <p>Addition of criteria for the donations for sporting achievements that are done via the Council's Sports Advisory Committee are recommended to provide greater certainty and consistency and ensure that only the Sports Advisory Committee is determining donations</p>

		<p>for sporting purposes for greater consistency and equity. The two guidelines documents have been submitted by the Sports Advisory Committee for Council's consideration.</p> <p>A copy of the policy is attached and given the large number of alterations it is recommended that this be placed on exhibition before being finalised to gather any comments from the community.</p>
5.4	Footpaths – Use of Public Footpaths for Restaurant Seating and Display of Goods	Alerted 2(iv) to read 600mm instead of 600m.
6.1	Copyright of Plans	Added a requirement for the copyright of all documents (i.e. studies, profiles, surveys etc) to belong to Council in addition to plans.
7.6	Development Applications by Councillors and Staff and Relatives or on Council Owned Land	Inserted additional paragraph from Policy No. 10.1, requiring a supervising delegate or the General Manager to determine the listed applications for staff members, not senior staff.
9.4	Competitive Neutrality	Inserted Category 1 businesses i.e. wastewater and water.
9.7	Gifts and Benefits – Councillors and Staff	Inserted words "modest promotional products" in the token gifts and benefits section.
9.12	Records Management	Inserted new draft Policy as placed on exhibition at 5 November Committees meeting..
10.1	Development Applications – Councillors, Staff and Family Members	Deleted as is incorporated in Policy No. 7.6.
10.15	Removal of Trees from Public Land	Inserted 2 new requirements regarding alleged damage to private property.
10.16	Property Leases Policy	Added delegation of authority to the General Manager to sign leases of property which are not owned by Council but Council operations are located upon.

A new policy to provide guidance for those seeking a re-categorisation of the land for rating purposes is proposed.

POLICY IMPLICATIONS

The amendments will alter Council's position in a policy sense.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

Compliance with various Acts applies.

ATTACHMENTS

1. Draft Donations Policy
2. Draft Change in Category for Rating Purposes Policy

RECOMMENDATION

THAT:

1. The recommended changes to the policies in Council's policy register be made as per the report;
2. Council place on exhibition the Draft Donations Policy and Draft Change in Category for Rating Purposes Policy for a period of 28 days and a report be provided back to Council on any submissions received in order to finalise the policies.

**ITEM:14 COMM - 19/11/07 - QUARTERLY PERFORMANCE REPORT ON
MANAGEMENT PLAN 2007/08 - 2009/10 FOR THE PERIOD OF 1
JULY TO 30 SEPTEMBER 2007**

**REPORT FROM: INTERNAL SERVICES MANAGER – CAROL FARNSWORTH &
POLICY AND PLANNING MANAGER - AMANDA MUIR**

REFERENCE

Min 07-258: Extraordinary Meeting 28 June 2007

SUMMARY

This report provides the Quarterly Performance Report on the Management Plan 2007/08 to 2009/10 for the period of 1 July to 30 September 2007.

COMMENTARY

The Quarterly Performance Report on the Management Plan 2007/08 to 2009/10 for the period of 1 July to 30 September 2007 has been prepared and is provided within Councillor's Business Paper Packages. It details the achievement of activities identified in the Management Plan and provides the budget review statement.

The format of the Report has changed to reflect the Management Plan 2007/08 to 2009/10, in particular, it focuses on the principal activity areas and includes reporting on the key performance indicators.

The Report provides a number of variations to the activities listed in the Management Plan 2007/08 to 2009/10 and the Budget Review Statement notes a deficit of \$504,459 after the completion of the budget review which included the actioning of changes as noted in the General Manager's Introduction of the Report.

Copies of the Report are also available for viewing at Council's Administration Centre and the website.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

The financial implications are reported in the Quarterly Performance Report on the Management Plan 2007/08 – 2009/10 for the period of 1 July to 30 September 2007.

The Internal Services Manager, as the Responsible Accounting Officer has reviewed the statements and is satisfied with them with the comment that the current financial position is to be reviewed over the next 3 months with regard to the deficit position.

LEGAL IMPLICATIONS

The Local Government Act 1993 and Local Government (General) Regulation 2005 sets out requirements for the quarterly reporting of the achievement of performance targets and the submission of a budget review statement after the end of each quarter. This report and attachment achieves this requirement.

ATTACHMENTS

1. Copies of the Quarterly Performance Report on Management Plan 2007/08 – 2009/10 for period 1 July to 30 September 2007 are provided in Councillor's Business Paper Packages.

RECOMMENDATION

THAT

1. The deficit of \$504,459 and changes to the Management Plan 2007/08 to 2009/10 as detailed in the Quarterly Performance Report for the September quarter of 2007/08 be noted.
2. Council place \$85,000 internally restricted as the Valuer General's valuation of the Meadow Flat Hall asset and Council seek the determination of the Minister of Lands with regard to the treatment of the money.

**ITEM:15 COMM - 19/11/07 - AFFIXING OF COUNCIL'S SEAL FOR THE SITE
EXTENSION OF WALLERAWANG PUBLIC SCHOOL AND ACCESS
INTO THE WALLERAWANG INDOOR SPORTS STADIUM**

REPORT FROM: POLICY & PLANNING MANAGER – A MUIR

REFERENCE

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

SUMMARY

This report seeks Council's approval to attach the seal in relation to the site extension of Wallerawang Public School and access into the Wallerawang Indoor Sports Stadium.

COMMENTARY

At its Finance and Services Committee Meeting of 5 November 2007, Council resolved that "all documents be executed under Council's Seal for the sale and Right of Carriageway at the next Council meeting" in relation to the site extension of Wallerawang Public School and access into the Wallerawang Indoor Sports Stadium. Therefore, this report recommends that the Council Seal be affixed to documents arising from these matters.

POLICY IMPLICATIONS

Clause 73 of Council's Code of Meeting Practice outlines the requirements for the affixing of Council's Seal.

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

The affixing of the Council Seal to documents requiring such will fulfil Council's legal obligations.

ATTACHMENTS

Nil

RECOMMENDATION

THAT the affixing of Council's Seal on documents arising from the site extension of Wallerawang Public School and access/parking into the Wallerawang Indoor Sports Stadium is approved.

DELEGATES REPORT

ITEM:16 DELEGATES REPORT - 19/11/07 - MINING RELATED COUNCILS MEETING

REPORT FROM: COUNCILLOR WAYNE MCANDREW

REFERENCE

NIL

SUMMARY

This report provides Council with an update of the Mining Related Councils Annual General Meeting held in Quirindi on 9th November 2007. A copy of the business paper is available to any Councillor on request.

COMMENTARY

As fellow Councillors are aware Lithgow City Council is a founding member of the NSW Associations of Mining Related Councils and the Mayor holds an Executive position on the Association. On the 9th November the General Manager and I travelled to Quirindi to attend the AGM. This AGM also acted as a normal meeting of the Association.

The Mayor was once again successfully elected to the executive of the Association.

The meeting considered 3 very important matters:

- a) The Rivers SOS DVD
- b) The CFMEU's position on Climate Change
- c) The NSW Minerals Council's positions on climate Change.

A copy of the CFMEU's paper is attached for Councillors information.

The Association have unanimously endorsed the actions of the CFMEU and NSW Minerals Councils in the position with regards to Climate Change and have agreed to work with these two peak bodies to assist Councils in preparing for the future with Climate Change in mind. It is exciting and pleasing to note that both the industry body and the Union have been able to agree that collectively we can tackle this issue for the betterment and development of many towns and communities.

The NSW Minerals Council also gave an insight into the SOS Rivers DVD which the Association considered at the last meeting. Again following the Council's point of view the Association resolved to take no further action in the matter and refer it to the Minister for his attention. This is a very important step in the process given the emotional and misleading information obtained within.

A pleasing note for 2008 will see the Association hold its AGM in Lithgow. This will be a unique opportunity to showcase local mining operations and provide all Councillors with a opportunity to attend the meeting and observe the Associations deliberations.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

CONCLUSION

This report has provided Council with a briefing of the most recent Mining Related Councils meeting held in Quirindi.

ATTACHMENTS


1. CFMEU's paper

RECOMMENDATION

THAT the Delegates Reports on the Mining Related Councils Meeting be noted.

QUESTIONS WITHOUT NOTICE

ATTACHMENTS

CFMEU	MINING & ENERGY
	Division of the Construction, Forestry, Mining and Energy Union
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	Tel: (02) 9267 1035 Fax: (02) 9267 3198 International - Tel: (+612) 9267 1035 Fax: (+612) 9267 3198
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Climate Change Position Paper

September 2007

The world needs Australia's coal. But emissions from its use are contributing to climate change. They must be substantially reduced.

Purpose

There is underway a very important debate about climate change and global warming. An important aspect of that debate is the role energy production plays in creating greenhouse gases. The principal means of energy production in today's world is the burning of fossil fuels such as coal. Australia is the world's biggest coal exporter.

The CFMEU Mining and Energy Division has a responsibility to protect and advance the interests of its members, most of whom work in the coal mining and power generation industries. Indirectly we have a responsibility to the quarter of a million Australians, mostly in regional areas, that rely on the coal industry for a large proportion of their livelihood.

Our members are stakeholders in the broader Australian and global community. We must contribute responsibly to seeking solutions to the clear threats presented by human-caused climate change.

It is undeniable that there is a scientific consensus that human activity is causing climate change and that this poses a grave threat to the environment.

The union appreciates that our members and all Australians need to be mobilised in their homes, communities and workplaces to discuss climate change and how to combat it.

Many climate change measures can best be devised and implemented through "rank and file" ideas and action. Informing and mobilising people to think about the consequences of their actions (including climate change measures) on other people and communities is an important part of building

consensus, comprehensiveness and social justice in the responses to climate change.

This position paper is designed to assist in that process.

The Kyoto Protocol

The United Nations commenced action on global warming at the Earth Summit in Rio de Janeiro in 1992. That summit produced the United Nations Framework Convention on Climate Change (UNFCCC). Australia has ratified this Convention.

The Kyoto Protocol is an amendment to the Convention assigning mandatory targets for greenhouse gas emissions to ratifying nations.

The ultimate objective of the UNFCCC and the Kyoto Protocol is to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous human interference in the world climate system.

The Kyoto Protocol is a necessary step in combating climate change. Australia must ratify the Protocol immediately. The failure of the Australian Government to do so is a blight on our international reputation. It demonstrates a lack of political will to address a problem to which we contribute. It is appallingly short-sighted.

But ratifying the Protocol is only the first step because in its current form it is not comprehensive enough. It doesn't adequately deal with all sources and sinks of greenhouse gases and it doesn't deal with social justice implications. As a nation we should be engaging with the international community under the auspices of the Kyoto Protocol in a way that helps ensure that the Protocol develops in both an effective and realistic way.

Renewable energy

Renewable energy technologies and fuels - wind power, solar thermal, photovoltaics, ethanol, biodiesel, etc - have a major role to play in reducing net greenhouse gas emissions to the atmosphere.

Many renewable energy technologies are currently expensive relative to fossil fuel technologies, though the trend to substantially higher oil prices is changing that. Many renewable energy technologies currently have inherent limits with respect to reliability and availability that then limit the contribution they can make to energy supply that is required to be 100% or near 100% reliable (notably, electricity supply, which is an essential service).

The role of Australian coal

The vast majority of Australian coal – about 75% - is exported and it is coal exports that are experiencing and likely to continue to experience substantial

growth. Domestic use in power generation and steel making is growing relatively slowly.

The low price of electricity in Australia is based on the availability of coal and its efficient extraction and utilisation. Modern lifestyles rely on safe, reliable, low cost electricity, and a substantial proportion of Australian industry is also based on coal-fired electricity.

Australian black coal is relatively "clean" by world standards in that it is low-sulphur (a cause of acid rain), high in energy content and low in impurities that impair burning.

There is high demand for Australian coal and it is a key component of global energy supply and security, especially given the lack of security for much current oil supply. As a responsible member of the global community Australia has no right to unreasonably withhold the supply of energy to those who need it.

The union specifically rejects the notion that Australian coal mines and/or companies should be directly accountable for the emissions of their customers and other countries. (Which is what is sought in campaigns that oppose new coal mines on the basis of emissions from coal use in overseas destinations.) Under the Kyoto Protocol, accountability for emissions is at point of energy use or emission creation. Placing accountability at point of extraction would, for example, result in responsibility for a large proportion of US emissions from oil use being shifted to the Middle East.

Climate change policies and measures that seek to penalise coal and favour renewables in a simplistic way will impose unnecessarily high costs on coal-producing communities, on Australian industry and on the broader Australian community. They will also be less than optimally effective in reducing emissions.

What should be done

The union supports ratification of the Kyoto Protocol.

The union notes and broadly supports the commitment by the federal parliamentary ALP to work towards an indicative target of a 60% reduction in Australian greenhouse gas emissions below the 2000 level by 2050.

Comprehensive measures to mitigate climate change must deal with the predicted reality – fossil fuel use will increase rather than decrease, irrespective of the growth in renewable energy use.

Energy policy must therefore not only foster renewable energy technologies and demand side management, but include a major commitment to substantially reduce emissions from increasing fossil fuel use.

With respect to coal, the first step is to improve the efficiency of coal-fired power generation through the deployment of new technologies such as Integrated Gasification Combined Cycle (IGCC).

The next step is carbon capture and storage (CCS), together with modification of existing power stations through technologies such as oxy-fuel combustion in order to facilitate CCS.

The union is strongly supportive of CCS. However, these technologies are currently immature and require extensive demonstration and commercialisation. Provided that this effort occurs, CCS offers realistic medium to long term prospects of large reductions in carbon dioxide emissions on a cost-effective basis.

The Australian coal and power generation industries should shoulder a large part of the cost of developing CCS technologies. Governments should strategically facilitate that effort.

The union supports the use of stretching targets for the deployment of renewable energy technologies and fuels in energy supply and transport. While this will inevitably require cross-subsidisation from conventional energy, the financial incentives should be designed so that renewable energy producers / manufacturers do not have a "blank cheque" from government and consumers, and are required to become commercially viable and cost-effective.

All climate change policy should be analysed in terms of its social impacts. Where policies have adverse social impacts they should be discussed with those adversely affected (and/or their representatives) prior to their implementation and mitigation / compensatory measures agreed upon. It should be a fundamental tenet of climate change measures that both the benefits and costs be equitably distributed.

The union supports:

Energy Production

- Stretching emission targets and/or use of carbon offsets for new coal-fired power stations.
- A domestic greenhouse gas emissions trading regime for major energy producers, with the strong proviso that it facilitates deployment of technologies to reduce emissions from fossil fuel use rather than simply penalising coal, and does not act as an effective ban on new industrial development.
- An extension of the Minimum Renewable Energy Target (MRET) for power generation from 2% to 15% by 2020.
- A Clean Energy Target or Carbon Capture and Storage (CCS) target of 5% of power generation from low emission coal and gas power plant by 2020.

- Extensive Australian participation in CCS research and deployment, notably through the Coal21 and associated programs.
- The establishment of a Clean Coal Task Force to bring together the various levels of government, industry and stakeholders to fast-track the development and deployment of Clean Coal Technologies.

Energy Use

- Energy efficiency targets for buildings, vehicles and equipment.
- Reform of electricity tariffs for domestic users, and complementary new technology (eg smart meters) to discourage exponential growth in household energy consumption.
- Greater use and/or targets for deployment of oil alternatives in transport – natural gas, ethanol, biodiesel.

Agriculture and land use

- Controls on land clearing
- Facilitation of forestry as a carbon sink/offset
- Measures to reduce methane emissions from livestock and nitrous oxide loss from farm soils

Climate Change adaptation

- Changes to building design and location to cope with extreme weather events (more hailstorms and cyclones) and sea level rise
- Creation/reservation of pathways for ecosystem relocation
- Public health programs to cope with changes in illness/disease patterns.
- Special consideration to our Pacific neighbours

Community and workplace engagement

Australians need to be mobilised in their homes, communities and workplaces to discuss climate change and how to combat it. Many climate change measures can best be devised and implemented through "rank and file" ideas and action. Informing and mobilising people to think about the consequences of their actions (including climate change measures) on other people and communities is an important part of building consensus, comprehensiveness and social justice in the responses to climate change.

A continuing dialogue

The union believes that a major element in addressing the threat of climate change is an ongoing dialogue among stakeholders. A constructive and continuing dialogue between producer interests, consumers, environmental lobby groups and Government is essential to building the consensus needed to take the steps required to reduce carbon emissions.

It should also not be controversial to observe that no one interest group has a monopoly on knowledge or moral certitude on the question of climate change.

In this regard, the union welcomes any comment or constructive criticism of this position paper.

Comments may be made to:

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