



LITHGOW CITY COUNCIL

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

20 FEBRUARY 2006

AT 7.00pm

AGENDA

PRESENT

QUESTIONS FROM THE PUBLIC GALLERY

PRESENTATIONS

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 19 DECEMBER 2005

CONFIRMATION OF THE CONFIDENTIAL MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 19 DECEMBER 2005

CONFIRMATION OF THE EXTRAORDINARY MEETING OF COUNCIL HELD ON 13 FEBRUARY 2006

DECLARATION OF INTEREST

MAYORAL MINUTES

NOTICES OF MOTION

NOTICES OF RESCISSION

CORRESPONDENCE AND REPORTS

General Manager Reports
Corporate Services Report
Engineering Services Reports
Environment And Planning Services Reports

REPORTS FROM DELEGATES

COMMITTEE MEETINGS

QUESTIONS WITHOUT NOTICE

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GENERAL MANAGER REPORTS

ITEM: 1 EXEC - 20/02/06 - CONFIDENTIAL REPORT - GENERAL MANAGER PERFORMANCE AGREEMENT

Reason for Confidentiality

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

- (a) personnel matters concerning particular individuals (other than councillors)

REFERENCE

NIL

SUMMARY

This report provides information to Council regarding the performance management agreement that is to be entered into between the General Manager and Lithgow City Council.

This report will recommend that Council contract the services of the LGSA Recruitment Solutions to formally review the General Manager in accordance with the review documentation.

RECOMMENDATION

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

ITEM:2 EXEC - 20/02/06 - 2006 KIDNEY HEALTH 4WD ADVENTURE

REFERENCE

NIL

SUMMARY

This report seeks support from Council for the 2006 Kidney Health 4wd Adventure. The following is a reproduction of a letter put to Council from a team in the 2006 trek.

COMMENTARY

The 2006 Kidney 4wd Adventure is a fundraising event organised by Kidney Health Australia (KHA) to raise much needed funds for their very necessary work. It is a family oriented event and all monies raised will go directly to KHA. Kidney Health is a serious issue in Australia:

- Currently there are 1,490 people on waiting lists for a kidney transplant with one person dying each week waiting for a transplant;
- One in three people are at an increased risk of kidney disease.

Some of the educational work that KHA is responsible for include:

- **Wee Week** - a public awareness campaign that highlights the importance of the early detection, better management and prevention of kidney disease in the Australian community.
- **Operational Angel** - the continuing shortfall of kidney donors and the increased percentage of people on dialysis is an alarming trend. Operation Angel is a KHA community awareness campaign which aims to reverse this trend by increasing awareness of organ donation and kidney disease.

How can we help?

Kidney Health Australia relies heavily on the donations and funds raised through their fundraising events such as the Kidney 4wd Adventure. Each entrant in this year's event needs to raise a minimum of \$3570.

Sponsors are being sought to help each team from the minimum entry requirements. All donations greater than \$2 are tax deductible. Can you visualise the following headline appearing in the Lithgow Mercury, Blue Mountains Gazette and the NSW Local Government Newspaper?

"Lithgow City council Welcomes Kidney 4wd Adventure at completion of 4500km trek"

Donations

All financial donations greater than \$2 are tax deductible. Donations can be made out to "Kidney Health Australia" and posted to our address below so we can forward them to KHA with a remittance advice. We can arrange a tax invoice for donations, if required, and upon receipt of donations tax receipts and certificates of recognition are issued.

"Team Joey"
c/- Nick Poriters
Unit 2
42 - 48 Merton Street
Sutherland NSW 2232

Gifts in kind are welcomed and we suggest prepaid fuel cards or a set of good quality all terrain or better 4wd tires (to reduce our running costs).

If you would like to discuss this we can be contacted on 0400 901 875 or we can arrange to meet with Council at a location convenient with you.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Council to consider a donation for the Kidney Health Adventure 2006. Council needs to be cognisant of the fact that all money for this years donations have been fully (and over) expended. Council may wish to consider in kind support of use if our facilities free of charge.

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

NIL

RECOMMENDATION

THAT Council consider a donation for the support of the 2006 Kidney 4wd Adventure.

ITEM:3 EXEC - 20/02/06 - ALLEGED HELICOPTER ACTIVITIES - CAPERTEE

SUMMARY

To advise Council of complaints received alleging helicopter flights in the Capertee area on 28 January 2006.

COMMENTARY

Correspondence has been received alleging that a number of flights took place from a property at Capertee previously the subject of a development application for commercial joyflights on Saturday, 28 January 2006. The complainant alleges witnessing four 10 – 15 minute flights with approximately five minute intervals between flights – two (2) movements from 4675 Castlereagh Highway, Capertee and eight (8) movements from Capertee village.

The complainant advises that there was a fundraising event for Careflight at the Capertee Hotel that day and the helicopter was allegedly landing behind the hotel.

Correspondence was forwarded to the operator of the helicopter seeking information in relation to the allegations to determine if Council has a role to play in the issue.

The helicopter operator has provided correspondence advising that the helicopter flights were donated to help in raising money for Careflight. Permission was gained from the property owner to land the helicopter and the flights were of a private nature. No monies were transferred during this operation. No CASA rules or regulations were breached as part of this process.

Further, in the correspondence received by the operator it was asked that a copy of the complaint be forwarded to him. Council will advise that in order for this to occur an application under the Freedom of Information Act will need to be lodged.

POLICY IMPLICATIONS

No policy issues arise as a result of this report.

FINANCIAL IMPLICATIONS

No financial issues arise as a result of this report.

LEGAL IMPLICATIONS

Although it can be dependent on local issues such as individual LEP's there have been previous decisions in the Land and Environment Court relating to helicopters and the non-requirement to seek development consent for their private use if used as ancillary to the dominant use of the land, ie a dwelling house. To put the issue in context, if the prize offered in the fund raiser was a pony ride, then development consent would not be required for the pony rides. In this situation there has been no suggestion that the flights were commercial in nature and under the circumstances there seems no point in pursuing the matter any further.

ATTACHMENTS

1. Nil

RECOMMENDATION

THAT the information be received.

ENGINEERING SERVICES REPORTS

ITEM:4 ENG - 20/02/06 - ACTION ITEMS

SUMMARY

Progress report on actions undertaken by the Engineering Services Division in relation to Questions Without Notice and Questions from the Public Gallery from Council's meeting held on Monday, 19 December 2005.

REPORT

Question	Action
Questions Without Notice	
Councillor M M Collins	
Mr Mayor can Council please concrete the bricks around the rose bushes in Queen Elizabeth Park as they are being misplaced?	This matter has been placed on the Recreation Works Program for action.
Mr Mayor can Council contact the RTA in relation to the works done to the roads recently in Lidsdale? Is the work that has been done the final outcome?	Discussions with the RTA have revealed that final works have not been completed at this time. An on-site meeting between RTA and Council officers identified works required for completion.
Mr Mayor I refer to the town water being supplied along McKanes Falls Road and ask why the residents were not advised that town water will be available before they put in their own systems?	Not extending new main beyond what is currently in existence. Renewal of old galvanised iron main only.
Mr Mayor can Council please clean up Coerwull Road?	This matter has been placed on the Urban Transport Works Program for action.
Councillor H K Fisher	
Mr Mayor can Council please have the RTA investigate the possibility of a "Give Way" sign at the intersection of Gangbenang Road and Marsden Swamp Road?	Council staff have had an on-site meeting with residents of Gangbenang Road & Marsden Swamp Road and have resolved to undertake remedial action at this location.
Mr Mayor can Council ask the RTA to change the speed limits on Gangbenang Road from 100km/hr to 80km/hr? If this takes place can Council contact Mr and Mrs Richardson to notify them of this?	This matter has been referred to the Traffic Authority Local Committee for consideration.
Councillor M J Wilson	
Mr Mayor are you aware that a phone box in South Littleton has been vandalised and pushed over? Two nights after, another phone box was removed and only the concrete slab left behind. Can Council please contact Telstra and notify them of this and seek whether the phone boxes will be replaced?	Telstra has been contacted regarding the two Telstra pay phone services that were removed from the South Bowenfels area prior to the end of 2005, i.e. one phone vandalised and one phone removed. It was requested from Council that the two services be replaced as indicated from the result of the community need.

	Telstra indicated they would investigate the matter and reply back to Council as soon as a response becomes available.
Councillor M F Ticehurst	
Mr Mayor can an update be given on the Gell Street/Vale of Clywdd sewer extension? Will the Lithgow Valley Colliery be included in this?	Council's contractors are currently finalising detailed survey and design for the Gell Street sewerage and it is anticipated that when these plans are finalised Council will be able to proceed. With regard to the Doctors Gap sewerage extension Council is currently awaiting for a development application to be submitted by the land owners prior to progressing with the design and construction of this project.
Mr Mayor can Council ask TALC to see if there is a possibility for more unrestricted parking behind the Police Station?	This matter has been referred to the Traffic Authority Local Committee for consideration.
Mr Mayor are you aware of how much Sandford Avenue is deteriorating? Can something be done for this?	This matter has been inspected and will be subject of a further report to Council in regard to reseal funding arrangements.
Mr Mayor are you aware that a care flight visit was done in Lithgow recently near Macauley and Atkinson Streets? Can Council have a look at the power lines near these streets, as they are hard to see, can some markers be placed for more visibility of these lines?	Integral Energy are the responsible authority for their assets and undertake risk assessments for areas regularly used by helicopters. In the Lithgow Local Government area helicopters generally land on sporting fields such as Glanmire Oval and Tony Luchetti Sportsground where there are no overhead infrastructure services. When landing at areas other than these locations the onus is on the helicopter pilot to ensure the safety of his landing site.
Councillor A E Thompson	
Mr Mayor I refer to the remediation work done at the creek behind Coalbrook Street and ask Council if it will be graded? There has been new turf placed, will this be ripped up?	Road pavement behind the residences backing onto the Farmers Creek Flood Mitigation project was graded, compacted and sealed in early December 2005. The remainder of the area was topsoiled and turfed with grass effectively to suppress the dust and eliminate any potential for erosion in the event of summer storm activity. It is not envisaged that the turf directly behind the property of Coalbrook Street will be ripped up. However, Council will have to remove the turf on the southern side of Farmers Creek when the next stage of Civil Works commence for that side only.
Councillor B S Moran	
Mr Mayor I received thanks from residents in the Upper Turon for the work done on the road. Can signage be placed near the camping ground advising of possible flooding?	Signage has been ordered and will be erected when received.

RECOMMENDATION

THAT the information be received.

ITEM:5 ENG- 20/02/06 COMPULSORY WATER RESTRICTIONS - LITHGOW LOCAL GOVERNMENT AREA

REFERENCE

In reference to a report that was presented to Council on 21 February 2005 by the Engineering Department.

SUMMARY

Review of water restrictions currently imposed in the Lithgow Local Government Area, to determine if the level of restriction is still warranted.

COMMENTARY

Council's Engineering Services Division presented a report to the Ordinary meeting of Council on 21 February 2005, regarding the current water restrictions in surrounding Local Government areas.

At this meeting, Council resolved to implement Level 2 water restrictions effectively banning the use of fixed sprinklers and hoses between the hours of 8.00am and 4.00pm, seven (7) days per week, in all areas of the Lithgow Local Government Area.

A review of the current water storage levels for both Farmers creek Dam and Oberon Dam have indicated that the current restrictions should remain until the current storage levels of the Oberon Dam increase above 60% (in accordance with State Water Corporations Drought Management Policy).

POLICY IMPLICATIONS

That Council consider as a policy directive that Level 2 water restrictions be imposed at all times whilst water levels remain at below 60%.

FINANCIAL IMPLICATIONS

The imposing water restrictions may have a minimal impact on water sales.

LEGAL IMPLICATIONS

Nil.

ATTACHMENTS

1. Compulsory Water Restrictions of the Lithgow Local Government Area that was presented to Council on 21 February 2005.
2. Council's resolution of the compulsory water restrictions.

RECOMMENDATION

THAT

1. Water restriction preventing the use of fixed hoses and sprinklers between 8.00am and 4.00pm, seven (7) days per week remain, and be further reviewed when water storage levels at Oberon Dam increase.
2. That Council consider as a policy directive that Level 2 water restrictions be imposed at all times whilst water levels remain at below 60%.
3. That the Mayor and General Manager be delegated the authority to alter such restrictions in accordance with the policy.

ENVIRONMENT & PLANNING SERVICES REPORTS

ITEM:6 EPS - 20/2/06 - COMMUNITY CONSULTATIVE COMMITTEE - PINE DALE COLLIERY

SUMMARY

Council approved an application from Enhance Place Pty. Ltd. for the establishment of an Open Cut Coal Mine. As part of the conditions of consent a Community Consultative Committee is to be formed. This report seeks to establish two representatives from Council to represent the community as part of the Pine Dale Open Cut Mine Operations approval, as required by the conditions of consent. Additionally, Council called for community representatives to sit on the committee for the proposal. As a result of the notification, Council received 5 nominations to sit on the committee of which 4 are required.

COMMENTARY

As part of conditions of consent placed on the Pine Dale Open Cut Coal Mine approval Condition 15.1 indicates:

The Applicant shall ensure that there is a Community Consultative Committee to oversee the environmental performance of the development. This committee shall:

(a) be comprised of:

- 2 representatives from the Applicant, including the person responsible for environmental management at the mine;
- **2 representatives from Council; and**
- 4 representatives from the local community, whose appointment has been approved by the Council;

(b) be chaired by a Council Representative

(c) meet at least twice a year; and

(d) review and provide advice on the environmental performance of the development, including any environmental management plans, monitoring results, audit reports, and complaints.

It is recommended that one member of Council be nominated for the committee together with the General Manager or delegate.

Further, as part of the approval process part (c) of Condition 15.1 called for 4 community representatives to sit on the committee. As a result of Council notifying all affected landowners 5 nominations for community representation were received. They include:

1. **Mrs Michelle Vincent** – Michelle is a resident of Blackmans Flat and in her nomination letter indicates that she is directly affected by the proposal and considers that she can relay community concerns in a responsible manner.
2. **Mrs Ann Forrest** – In the nomination response Ann is considered a level headed person who is considered to be very tolerant and easy going. She has been a resident of Blackmans Flat for a long time and has a great attitude towards all who live in the area.
3. **Mr Chris Jonkers** – Is a resident close to the project site. In correspondence received Mr Jonkers indicates that he has no conflict of interest as he is directly not involved in the mining related industry. He indicates that he has a genuine interest in improving the amenity of the

local area for the greater good of the local community and have the ability to work constructively with Council and the Committee to achieve mutually desired outcomes.

4. **Mr John Rensen** - Is a resident close to the project site. In correspondence received Mr Rensen indicates that he has no conflict of interest as he is directly not involved in the mining related industry. He indicates that he has a genuine interest in improving the amenity of the local area for the greater good of the local community and have the ability to work constructively with Council and the Committee to achieve mutually desired outcomes.
5. **Mr Peter Barnes** – Mr Barnes has lived in the area for the past 29 years. He indicates that he has a vast local knowledge of the area which he considers to be of great value. Throughout his working life Mr Barnes indicates that he has been heavily involved in both union and safety committees. In his nomination Mr Barnes indicates that he understands the importance of good consultation and communication between the community and the mining company to avoid confrontation and considers his attributes can be utilised to promote this open communication line.

It is considered that all the above nominations would be a positive inclusion into the Community Consultative Committee. As Council is the authority that needs to form the committee Council must elect 4 members of the nominated 5 to be included into the committee. With each nominee having qualities needed for a positive contribution to the committee it is considered that the representatives be decided at random to give a fair opportunity for all representatives to sit on the committee.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

This committee is a requirement attached to the development approval. Under these conditions the Committee must be established prior to the development beginning operations. The number of persons on the committee are set by the consent and could not be altered except by the modification process. All the nominees appear to be able to make a good contribution to the committee. Under the circumstances it is suggested that 4 nominees be randomly selected and the unsuccessful party be an alternate representative.

RECOMMENDATION

THAT

1. Council elect a Councillor to sit and Chair together with the General Manager or delegate on the Community Consultative Committee for Pine Dale Open Cut Coal Mine.
2. That Council select 4 nominees to finalise the 4 members of the community that will sit on the Committee together with Council.
3. The unsuccessful party being an alternate representative.

ITEM:7 EPS 20/02/06 - ACTION ITEMS

SUMMARY

This report provides Council with an update on the status of Questions Without Notice or Questions from the Public Gallery as they pertain to the responsibilities of the Environmental and Planning Services Division. It should be noted that in the future this report will be forwarded to the appropriate committee for consideration but matters will not be reported if the questions are answered at the meeting at which they were asked.

CURRENT MATTERS & STATUS

Question	Action
Questions Without Notice	
Nil	
Public Gallery	
Mr Mayor are you aware that the samples that have been taken from Marrangaroo Creek, have been tipped out before they can be analysed?	The Council officer that endeavoured to assist the complainant was not trained in water sampling. Therefore, the correct protocol was not followed and the integrity of the samples was compromised. The officer advises that this was explained to the complainant and follow up correspondence was sent on 27 September 2005.
Mr Mayor are you aware that pollution spill in Marrangaroo Creek in September 2005 took a week to clear? Where are the results from those samples? Letters in regards to this were sent to the General Manager on 9 November but no response was given?	The officer that attended the scene advises there was no evidence of a spill. The water was clear except for localised turbidity related to cattle in the creek. The Council officer did not believe the correspondence of 9 November called for a response due to its content and the fact the matter had been addressed both personally and by letter of 27 September.

ATTACHMENTS

1. Nil.

RECOMMENDATION

THAT the information be received.

ITEM:8 EPS - 20/02/2006 - CHILDCARE CENTRE HARTLEY

SUMMARY

To advise Council on the progress of the issues surrounding the Development Application for the Childcare Centre at Hartley.

COMMENTARY

At its meeting of 6 February 2006 Councils Finance & Services Committee resolved to defer determination of the development application to allow discussions to take place with Council Officers and the proponent on possible alternative sites. A supplementary report will be provided on these discussions, for Councillors information at the ordinary meeting.

FINANCIAL IMPLICATIONS

Not specifically in relation to this report

LEGAL IMPLICATIONS

Not specifically as a result of this report

ATTACHMENTS

Nil

RECOMMENDATION

THAT the information be received.

CORPORATE SERVICES REPORTS

ITEM:9 CORP - 20/02/06 - RENEWAL LEASE 24 MAIN ST LITHGOW TO ACCESS INDUSTRIES

REFERENCE

Nil

SUMMARY

This report will seek Council approval to attach the Common Seal to a renewal lease to Access Industries for 24 Main St, Lithgow from the 21 November 2005 to 20 November 2006.

COMMENTARY

Access Industries have occupied Council premises known 24 Main St Lithgow, Lots 12 & 13 DP 13964, being a lock up shop, since 21 November 2002. The original lease contained an 'Option to Renew' for a further three years period. The tenant is exercising this option and a new lease has been completed and forwarded by Councils solicitors, Le Fevre and Co for execution.

PROPOSED DETAILS OF THE LEASE:

- Commencing Date: 21 November 2005
- Terminating Date: 20 November 2006
- Further option to renew: 3 year period
- Annual Rental: \$8,194.87 (GST Exc) \$682.90 per month
- Max term under lease: 4 renewals
- Property manager: L J Hooker

(a) Policy Implications

Nil

(b) Financial Implications

Rental income of \$8,194.87 (GST Exc) per annum.

(c) Legal Implications

Nil

ATTACHMENTS

Nil

RECOMMENDATION

THAT Council affix the Common Seal to the lease to Access Industries, for Lots 12 & 13 DP 13964, 24 Main St Lithgow, from the commencing date of 21 November 2005 to 20 November 2006

**ITEM:10 CORP - 20/02/06 - AGREEMENT WITH ANB INVESTMENTS
PTY LTD FOR ACCESS RFS / SES SILCOCK ST LITHGOW**

REFERENCE

Nil

SUMMARY

This report will seek Councils approval to attach the Common Seal to an Agreement with ANB Investments Pty Ltd for access to the Council premises currently occupied by the RFS / SES in Silcock St Lithgow.

COMMENTARY

The Council owned private premises occupied by the RFS and SES in Silcock St Lithgow gains access via a formed road owned by ANB Investment Pty Ltd. The owner has requested Council enter into a formal agreement to access the land.

Conditions of the agreement are as follows:

RECITING:

- Council owns Lot 3 DP 1005128 Silcock St Lithgow which is used and occupied as a Rural Fire Service and State Emergency Service Facility.
- ANB owns Lots 2 DP 1005128 Silcock St Lithgow which is occupied as a Medical Practice Centre.

THE PARTIES AGREE:

- ANB Investments Pty Ltd grants a licence to Council for the vehicular access to Lot 3 across Lot 2
- Councils grants a licence to ANB to enable vehicles parking on Lot 2 to enter Lot 3 for the purposes of turning into and out of parking spaces on Lot 2
- Each of the parties warrants that it has effected and will at all times maintain public liability insurance in an amount of not less than ten million dollars in respect of damage to person or property on the aforesaid lands owned by them.
- Each of the parties indemnifies and shall hold indemnified the other against all actions, claims, demands, damages, costs and expenses in respect of injury to or loss of property or person arising out of or in connection with the exercise by such party of the rights granted to it pursuant to this licence agreement
- It is a condition of the Licence hereby grants by each party ("Grantor") to the other party ("Grantee") that the Grantee shall comply with its obligations to ensure pursuant to Clause 3. The Grantor may at any time require the Grantee to produce evidence of currency of insurance.

- This agreement may be terminated any time by one months notice in writing from either party to the other at the address of such party as shown herein, or such other addresses as may be notified in writing from time to time.

(a) Policy Implications

Nil

(b) Financial Implications

Nil.

(c) Legal Implications

Legal Agreement

ATTACHMENTS

1. Nil

RECOMMENDATION

THAT Council affix the Common Seal to an Agreement between Lithgow City Council and ANB Investments Pty Ltd for access to Councils premises on Lot 3 DP 1005128 Silcock St Lithgow currently occupied by the RFS and SES.

**ITEM:11 CORP - 20/02/06 - MINOR BOUNDARY ADJUSTMENT
LITHGOW LGA BY TRANSFER FROM MID WESTERN
REGIONAL COUNCIL - LOT 61 DP 755791**

REFERENCE

- 3 May 2004: ITEM CORP SERVICES - Rylstone & Evans Boundary Adjustments
2 August 2004: ITEM CORP SERVICES - Adjustment Rylstone Boundary

SUMMARY

To advise Council of minor boundary alteration requested by Mid Western Regional Council to the Rylstone / Lithgow boundary which marginally differs from the original proposal gazetted by the Boundaries Commission during the amalgamation of the Councils on the 26 May 2004 and subsequent minor alteration in August 2004.

This report will seek a Council resolution to attach the Common seal to all documents to enable the adjustment to occur.

COMMENTARY

A request has been received from Bandanora Pastoral Co Pty Ltd, through Mid Western Regional Council for a minor boundary change to accommodate 15 hectares of land known as Lot 61 DP 755791.

The land currently lies in the Mid Western Regional Council LGA but logically should become the responsibility of Lithgow City Council to adjoin a major parcel of land owned by the same ratepayer which lies within Lithgow. ie "Bandanora," 4601 Castlereagh Hwy, Capertee, Lochaber Rd Capertee and 147 Turon Gates Rd, Capertee. Confirmation of this is supplied by the Department of Lands, Orange.

Given the above, and the fact that there is no access to this lot through the Mid Western LGA it is logical that the subject land be transferred to Lithgow.

Mid Western Regional Council have agreed to the transfer at its meeting of the 16 November, 2005.

Should Lithgow City Council agree to this proposal Mid Western Regional Council will undertake all necessary arrangements with the Department of Local Government and the Boundaries Commission for the transfer to formalise.

(a) Policy Implications

Boundary adjustment to the Lithgow Local Government area.

(b) Financial Implications

Minor adjustment to rate income for 2005/06 for properties owned by Bandanora Pastoral Co Pty Ltd

(c) Legal Implications

Nil

ATTACHMENTS

1. Map of the Lithgow City Council / Mid Western Regional Council boundary showing Lot 61 DP 755791

RECOMMENDATION

THAT Council affix the Common Seal to boundary adjustment documentation pertaining to the transfer of Lot 61 DP 755791 from Mid Western Regional Council to the Lithgow City Local Government Area.

ITEM:12 CORP - 20/02/06 - LEASE SUITE 1 BLAXLAND BUILDING MAIN ST, WALLERAWANG

REFERENCE

Nil

SUMMARY

This report will seek Council approval to attach the Common Seal to a lease to Noel Maybir for Suite 1 Blaxland Shire Building, Main St, Wallerawang for the period 23 January 2006 to 22 July 2006.

COMMENTARY

Noel Maybir wishes to enter into a lease for the Council owned premises known Suite 1 Blaxland Shire Building, Main St Wallerawang, Lots 1, 2 & 3 DP 15256, and Lot 13 DP 17727 for the purpose of establishment of a medical practice. The lease contains an 'option to renew' for a further one year followed by a further option for a period of one year.

PROPOSED DETAILS OF THE LEASE:

- Commencing Date: 23 January 2006
- Terminating Date: 22 July 2006
- Further option to renew: 6 month period
- Annual Rental: \$4,290.00 (GST Exc) \$715.00 per month
- Max term under lease: 2 years 6 months
- Property manager: L J Hooker

(a) Policy Implications

Nil

(b) Financial Implications

Rental income of \$4,290.00 (GST Exc) per annum.

(c) Legal Implications

Nil

ATTACHMENTS

Nil

RECOMMENDATION

THAT Council affix the Common Seal to the lease to Noel Maybir, for Lots 1, 2 & 3 DP 15256, Suite No 1 Blaxland Shire Building, Main St Wallerawang from a commencement date of 23 January 2006 to 22 July 2006

**ITEM:13 CORP - 20/02/06 - TO SEEK LEGAL ADVICE ON OWNERSHIP
OF PART LOT 100 DP 751650 CHIFLEY RD LITHGOW
(CORNEYTOWN)**

REFERENCE

Nil

SUMMARY

To request Council to seek legal advice with regard to part ownership of Part Lot 100 DP 751650 Chifley Rd Lithgow commonly known as Corney town.

COMMENTARY

Council is recorded as a 1/3 owner of the Part Lot 100 DP 751650 Chifley Rd, Lithgow which lies at the southern side, at the base of the Scenic Hill, Lithgow.

Although unsubdivided the property originally contained eight separate dwellings which were valued and rated on occupation. As each dwelling became derelict and subsequently demolished, the Valuer General deleted the parcel and combined the land with the residue valuation which remained.

For a number of years the land has been legally owned by three individual parties who each pay a third share of the rates levied annually, one is Lithgow City Council. At what stage the Council became involved is unclear but it is assumed the mid 1900's.

BACKGROUND INFORMATION:

Council demolition order 21/83 shows ownership of Part Lot 100 DP 751650 in the names of eight ratepayers. Internal Council correspondence of 15 June 1983, between Councils Town Planning Department and the Town Clerk, indicates that one owner offered to sell their eighth share to Council for \$8,000. Following this, and reported to Council on the 20 June 1983, two additional owners were traced and declared deceased or their whereabouts unknown.

At the Council meeting of 7 November 1983 the City Health Surveyor reported that one of the combined ratepayers were prepared to sell an and additional eighth share to Council for the sum of \$3,618 ie \$3,500 plus legal fees of \$118. The proposal was approved and the share legally transferred to Council on 14 February 1984.

CURRENT STATUS:

Another owner of an eighth share has recently passed away and their interest has transferred to a son who has now approached Council indicating he wishes to clarify ownership of the land to sell his share on the open market. He has also indicated he is happy to enter into negotiations with Council should Councils intentions be to retain the residual property.

On 28 September 2005, in an attempt to clarify the situation for all parties, Council wrote to the Dept of Lands providing all known information.

The Dept of Lands replied on 12 October 2005 stating their records show Part Lot 100 DP 751650, 15.93 hectares, was originally held in eight equal shares, one of which was, The Council of the City of Greater Lithgow. A copy of Council's correspondence and the result of the enquiry was forwarded to the Valuer General's Office, by the Dept of Lands.

Discussions have been held between Council Officers and the third owner who still resides on the land. The ratepayers main concern is retaining the area which currently contains his residence. He has verbally indicated that he is not opposed to the possibility of Council offering a nominal consideration in compensation for any interest he has in the residual property as long as Council provides a guarantee of life time tenancy to him. He is also happy to maintain the general area surrounding his residence.

(a) Policy Implications

Nil

(b) Financial Implications

Financial compensation to the owners should Council resolve to purchase the residue land

(c) Legal Implications

ATTACHMENTS

1. Map of the land

RECOMMENDATION

THAT:

1. Following receipt of correspondence from the Valuer General, all current and historical information for the property known as Part Lot 100 DP 751670 Chifley Rd Lithgow, be forwarded to Council Solicitors for legal options available to resolve the ownership of the parcel
2. A report be brought back to Council following legal advice.
3. Ratepayers involved be advised of Council actions and further correspondence will be provided when known.

**ITEM:14 CORP - 20/02/06 - SALE OF PROPOSED LOT 1 DP 1074586
(BEING SUBDIVISION OF LOT 202 DP 1056693) BARTON AVE,
WALLERAWANG**

REFERENCE

15.06.04 Ordinary Council Meeting

Min 04/669 resolved:

THAT

Council enter into discussions with the Department regarding the sale of the land.

Moved Councillors H K Fisher **Seconded** Councillor B P Morrissey

SUMMARY

To advise Council of further correspondence from the Department of Education with regard to the proposed sale of land in Barton Ave Wallerawang to the Department of Education for use by the Wallerawang Public School.

COMMENTARY

The Department of Education and Training have requested Council current position with regard to a proposal to subdivide and purchase Council land in Barton Ave Wallerawang. They have instructed the Department of Commerce to prepare a survey and Plan of Subdivision of the area to allow the acquisition to proceed should Council agree.

The land is currently known as Lot 202 DP 1056693 and it is proposed to subdivide into Lot 1 DP 1074586 (1109m sq) which will adjoin the existing Wallerawang Public School site, and used by school for recreational purposes. The remaining portion will become Lot 2 DP 1074586 and retained by Council for future use.

The Department wish Council to advise if it is willing to:

- 1) Accept the Current market value of the land as the purchase price;
- 2) Accept the market value as provided by Property Valuation Services (formerly the State Valuation Office), or alternatively Council may engage a valuer to negotiate with Property Valuation Services on the Departments behalf.

The Department is willing to acquire the land by transfer rather than a Contract for sale.

As the land proposed may be sold is to an adjoining owner, namely the Department of Education, Councils policy in relation to the public auction of Council land does not apply.

Councillors are aware the Wallerawang Indoor Sports Centre was constructed in 2002 on Council land south of the school site. The proposed legal access to the Centre is via the car park of the school but due to numerous delays a lease for this purpose remains unresolved and is affecting a formal sub lease to the Wallerawang Indoor Stadium Association (a temporary agreement is in place). Should Council consider the sale of Lot 1 DP 1074586 (being subdivision of Lot 202 DP 1056693) it is recommended Council request the stadium access be resolved prior to progressing the subdivision and sale.

(a) Policy Implications

Nil

(b) Financial Implications

Inclusion of the sale in the Draft 2006/07 Management Plan

(c) Legal Implications

Formal lease with the Department of Education for access to the Wallerawang Indoor Sports Centre.

ATTACHMENTS

1. Map of the proposed subdivision of Lot 202 DP 1056693

RECOMMENDATION

THAT:

1. Council agree to the sale of the proposed Lot 1 DP 1074586 (1109m sq) (being a subdivision of Lot 202 DP 1056693) to the Department of Education to adjoin the Wallerawang Public School for recreational use.
2. Council advise the Department of Education that current market valuation will be accepted as the purchase price of the proposed lot
3. Council engage the services of the Property Valuation Services (formerly the State Valuation Office) to provide a current market valuation.
4. The Department of Education to pay all legal, survey and valuation fees associated with the sale.
5. Council advise the Department of Education that prior to finalising a pending sale of proposed Lot 1 DP 1074586 negotiations in regard to legal access for the Wallerawang Indoor Stadium be finalised.
6. That the Council seal be affixed to the Contract of sale for proposed Lot 1 DP 1074586.

ITEM:15 CORP - 20/02/06 - INSURANCE CLAIM HILL ST LITHGOW

REFERENCE

6 February 2006: Finance & Services Committee of Council, Question without Notice Councillor M Ticehurst:

SUMMARY

To advise Council of the position of an insurance claim made by residents of Hill St Lithgow and recommend to Council consider the item for information only.

COMMENTARY

The following is provided for Councillors information in relation to a timeline of events in regard to the lodgement of an insurance claim with Councils insurer on the 9 September 2005.

25 August 2005: Council receives an insurance claim from residents in Hill St
09 September 2005: Claim forwarded to Councils insurer Jardine Llyodd Thompson
15 September 2005: Additional information from Councils Engineering Dept to insurer
19 September 2005: Additional information forwarded to Councils insurer Jardine
10 October 2005: Additional information requested from Councils insurer Jardine
02 December 2005: Information requested gathered by Council & forwarded to Jardine
13 December 2005: Letter to owner cc Council from Jardine advising claim denied but owner may provide further information if available

In summary a sewer problem occurred in Hill St in August / Sept 2004 (quote report provided to Council at the meeting of 6 February in reply to a Question without Notice from Councillor M Ticehurst)

"Council inspected the site and provided advice that the sewer main and the surrounding area would be rectified and the matter would be referred to Councils insurer should a claim be made"

Jardines letter of the 13 December 2005 Cc: to Council advises:

Referring to the above matter and our letter dated 10 October 2005.

In order to hold City of Lithgow Council liable for the damage sustained to your premises you first need to establish negligence on their part.

From the details provided we are unable to identify any act, error and / or omission on part of City of Lithgow Council to render them liable for the alleged damage sustained from the sewer line.

Unless you can provide us with evidence to the contrary we must deny all liability to you on behalf of the City of Lithgow Council.

The matter is currently with of Councils insurer and proceedings should remain in their domain.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Nil

ATTACHMENTS

Nil

RECOMMENDATION

THAT the information be received

COMMITTEE MEETINGS

Nil.

QUESTIONS WITHOUT NOTICE

Nil.

ATTACHMENTS

ITEM:5 ENG- 20/02/06 COMPULSORY WATER RESTRICTIONS - LITHGOW LOCAL GOVERNMENT AREA

PAST REPORT

ITEM ENG - COMPULSORY WATER RESTRICTIONS - LITHGOW LOCAL GOVERNMENT AREA

SUMMARY

Councillor H K Fisher in a Question Without Notice requested that Council review the current compulsory water restrictions which effectively restrict the use of sprinklers and fixed hoses at all times but does allow for hand held watering of gardens and lawns with no restriction on times or days.

REPORT

As advised at the most recent meeting of Council held on Monday, 24 January 2005, Council's Engineering Services Division has investigated water restrictions in surrounding Local Government areas which are as follows:-

SYDNEY, ILLAWARRA AND THE BLUE MOUNTAINS

Mandatory water restrictions are now in place across Sydney, Illawarra and the Blue Mountains. The following restrictions apply until further notice:-

- A ban on sprinklers and watering systems at all times.
- A ban on hosing hard surfaces including vehicles, paths and buildings at all times.
- No hosing of lawns and gardens except hand held hosing before 10.00am and after 4.00pm on Wednesdays, Fridays and Sundays.
- No filling of new or renovated pools greater than 10,000L except with the permission of the Sydney Water Board.

As at 3.00pm on Thursday, 10 February 2005, the available storage in Sydney's water supply and reservoirs was 42.9%. This represented a 0.2% increase from that of the previous week.

FISH RIVER WATER SUPPLY - MAJOR COMSUMERS

The Fish River Water Supply Scheme has implemented level 2 restrictions as per the Fish River Water Supply Drought Management Plan, which effectively restricts the use of fixed sprinklers and hoses between the hours of 8.00am and 4.00pm - 7 days per week.

Major consumers in the form of Delta Electricity and Sydney Catchment Authority have had to restrict bulk water usage significantly to ensure drought protection in the Oberon Dam.

As Council would be aware the Lithgow Local Government Area receives water from three major sources, being Farmers Creek (Oakey Park Water Treatment Plant), and supplementary supply

of up to six megalitres per day from the Clarence Colliery Transfer Station which compliments the Farmers Creek Supply. These two resources adequately maintain a constant water supply to the Lithgow Urban Township. The third supply is sourced from the Fish River Water Supply Scheme out of Oberon Dam which services various locations such as Wallerawang, Portland, Rydal, Cullen Bullen, Glen Davis and many other smaller villages in the rural sector of the Local Government Area.

It is considered imperative that even though Council sources water from three different water supplies, in the interest of simplicity Council should consider maintaining one uniform Mandatory Water Restriction throughout the whole of the Local Government Area.

Whilst Engineering Services Division has pumped six megalitres of water through the Clarence Colliery Transfer System into the Farmers Creek supply for almost 12 months, the demand in the Lithgow Urban Township has not being compromised to the point that the Farmers Creek Dam constantly overflows creating an enjoyable environmental flow into the Farmers Creek System and onward into Lake Lyell for use by Delta Electricity and additional environmental flows into the Cox's River System leading through to Warragamba Dam.

The other point of concern is that whilst the Fish River Water Supply have requested that all Local Government major consumers reduce their consumption (MAQ Maximum Annual Quantity) by at least 20%, it should be noted that Lithgow Council has never consumed in excess of the allowable Maximum Annual Quantity available to the Local Government Area.

The vexing situation that Councillors have to consider is that whilst the urban township of Lithgow enjoys two sources of water, which have maintained 100% capacity over the past 12 months the Oberon Dam currently holds only 39.7% capacity and as such some motherhood restrictions are considered appropriate throughout the Lithgow Local Government area.

Councillors would be pleased to know that the Fish River Water Supply Scheme Management has complimented the Engineering Services Division in its management of the existing drought, due to its effective management of the limited resource available to the local communities without implementing overly dramatic water restrictions that have been placed upon other Local Government Areas throughout the State.

The Fish River Supply Water Scheme Management have also complimented the Engineering Services Division on the mutual cooperation undertaken to enhance the development of the Clarence Colliery Transfer System to increase water yield by up to 3 times that available from the Colliery at present.

Whilst some relieving precipitation has occurred over the past three months. It should be noted that this is not a drought breaking event and as such vigilance in this matter should still be of primary importance and as such it is considered that Council should consider maintaining its stance that there be:-

- No fixed hoses or sprinklers used at any time within the Local Government;
- Council continue to support and encourage the enhancement of the Clarence Colliery Water Transfer System Upgrade works;
- Council continue and work closely with the Fish River Water Supply Scheme and Delta Electricity to ensure that professional management of the Oberon Dam System continues.

In so far as questions pertaining to the interim approval to water new turf in residential areas, it is further considered that the current six week approvals be honoured with no further approvals being permitted until drought restrictions are significantly reduced. It is further noted that public infrastructure such as community playing fields, parks and gardens still enjoy an exemption from the current restrictions due to the massive infrastructure replacement costs should these facilities succumbed to the current water shortages.

Residents should also be advised that whilst the current restrictions limit the use of sprinklers and fixed hoses, microsystems and drip irrigation systems are permitted whilst soaker hoses are considered to be in the same category as sprinklers & therefore banned until further notice.

No restrictions have been placed on the washing of cars or the filling/topping up of residential swimming pools.

RECOMMENDATION

THAT as the matter of Mandatory Water Restrictions is a policy decision, this matter is submitted to the Councillors for debate and determination.

RESOLVED

THAT Lithgow City Council implement level 2 restrictions for the use of fixed sprinklers and hoses between the hours of 8.00am and 4.00pm - 7 days per week in all areas of the Council Shire.

MOVED: Councillor H K Fisher

SECONDED: Councillor W McAndrew.

CARRIED