



LITHGOW CITY COUNCIL

"A Centre of Regional Excellence"

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

18 NOVEMBER 2008

AT 6.00pm

AGENDA

PRESENT

QUESTIONS FROM THE PUBLIC GALLERY - NIL

PRESENTATIONS - Lithgow City Auditors

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 21ST OCTOBER 2007

DECLARATION OF INTEREST

NOTICES OF MOTION - NIL

NOTICES OF RESCISSION - NIL

CORRESPONDENCE AND REPORTS

General Manager Reports

Regional Services Reports

Community and Corporate Services Report

REPORTS FROM DELEGATES - NIL

COMMITTEE MEETINGS - Sec355 Environmental Advisory

CLOSED REPORTS - NIL

QUESTIONS WITHOUT NOTICE

TABLE OF CONTENTS

<u>ITEM</u>	<u>TITLE</u>	<u>PAGE</u>
	<u>GENERAL MANAGER REPORTS</u>	<u>3</u>
<u>ITEM:1</u>	<u>GM - 18/11/08 - UNITING CARE MENTAL HEALTH</u>	<u>3</u>
<u>ITEM: 2</u>	<u>GM - 18/11/08 - COUNCIL WORKSHOPS AND BRIEFING SESSIONS</u>	<u>4</u>
<u>ITEM:3</u>	<u>GM - 18/11/08 - CODE OF MEETING PRACTICE</u>	<u>7</u>
	<u>REGIONAL SERVICES REPORTS</u>	<u>22</u>
<u>ITEM:4</u>	<u>REG - 18/11/08 - DOCTORS GAP SEWER</u>	<u>22</u>
	<u>COMMUNITY AND CORPORATE SERVICES REPORTS</u>	<u>24</u>
<u>ITEM:5</u>	<u>COMM - 18/11/08 - AUDIT PRESENTATION OF THE FINAL 2007/08 GENERAL PURPOSE AND SPECIAL PURPOSE FINANCIAL REPORTS</u>	<u>24</u>
<u>ITEM:6</u>	<u>COMM - 18/11/08 - COUNCIL INVESTMENTS TO 31ST OCTOBER 2008</u>	<u>26</u>
<u>ITEM:7</u>	<u>COMM - 18/11/08 - QUARTERLY PERFORMANCE REPORT ON 2008/09 TO 2010/11 MANAGEMENT PLAN FOR THE PERIOD OF 1ST JULY 2008 TO 30 SEPTEMBER 2008</u>	<u>29</u>
<u>ITEM:8</u>	<u>COMM - 18/11/08 - ANNUAL AND STATE OF THE ENVIRONMENT REPORTS</u>	<u>32</u>
<u>ITEM:9</u>	<u>COMM - 18/11/08 - SECTION 356 - DONATIONS TO COMMUNITY ORGANSIATIONS</u>	<u>33</u>
<u>ITEM:10</u>	<u>COMM - 18/11/08 - ECONOMIC DEVELOPMENT ADVISORY COMMITTEE</u>	<u>36</u>
<u>ITEM:11</u>	<u>COMM - 18/11/08 - DOMESTIC TOURISM VISITOR RESEARCH - LITHGOW</u>	<u>39</u>
	<u>COMMITTEE MEETINGS</u>	<u>41</u>
<u>ITEM:12</u>	<u>COMM - 18/11/08 - S355 ENVIRONMENTAL ADVISORY COMMITTEE MEETING MINUTES</u>	<u>41</u>

GENERAL MANAGER REPORTS

ITEM:1 GM - 18/11/08 - UNITING CARE MENTAL HEALTH

REFERENCE

NIL

SUMMARY

This report outlines correspondence received from The Uniting Care Mental Health in relation to seeking support from Lithgow Council in promoting community based mental health support services.

COMMENTARY

Correspondence has been received from the Uniting Care Mental Health in which they are formally requesting the support of Lithgow City Council in promoting community-based mental health support services to consumers and families and carers of those with mental health issues.

The Uniting Care Mental Health provides a number of services across the geographic area of Sydney West Area Health Service (Auburn - Lithgow). The Family and Carer Mental Health Program has been in operation across this area since November 2006 and provides education and training and individual support services to families and carers of those with mental illness. The Family and Carer program is able to provide one - to - one outreach support in client's homes or at a location that is safe and convenient for the family or carer to meet in.

The Family and Carer Mental Health Program has been attempting for some time to provide services to families in the City of Lithgow area, but have not had success either in conducting education and training courses in the area or providing individual support services. Of the nine local government areas the program covers, Lithgow is the second most disadvantaged in terms of health and social indicators of disadvantage. As such, program staff are extremely keen to devote resources to this area to assist in any way possible to shift the disadvantage and isolation so often felt by families and carers and by rural communities.

The support of the Lithgow City Council would be greatly appreciated in assisting the Uniting Care Mental Health to obtain their goal of active service delivery across the Lithgow local government area.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

NIL

RECOMMENDATION

THAT:

1. Council note the information on the Uniting Care Mental Health
2. Council support the Uniting Care Mental Health Services in principle.

ITEM: 2 GM - 18/11/08 - COUNCIL WORKSHOPS AND BRIEFING SESSIONS

REFERENCE

NIL

SUMMARY

To improve communication between staff and councillors and generally improve the information flow to councillors a draft policy has been developed for Council Workshops and Briefing Sessions.

COMMENTARY

Under the NSW Local Government Act 1993 a council can hold a workshop (or sometimes called a briefing session) under its general powers as a body corporate. Workshops are informal committees and can provide useful background information to councillors on issues. Such workshops may involve councillors, council staff and invited participants.

Workshops should not be used for detailed or advanced discussions where agreement is reached and/or a (de-facto) decision is made. Any detailed discussion or exchange of views on an issue, and any policy decision from the options, should be left to the open forum of a formal council or committee meeting.

The Department of Local Government recognises the value of workshops or information sessions in developing councillor knowledge and expertise, and in assisting their role as public officials. However, where briefing sessions are held in relation to issues such as development applications or business enterprises, council needs to remember its obligations and responsibilities under the Model Code, and community perceptions in terms of unfair advantage and transparency of process.

The value of such briefings was also identified in the Lithgow City Council Promoting Better Practice Review conducted by the Department on Council. In the report the Department stated (p30):

Council does not provide regular formal briefing sessions to councillors on items on meeting agendas. Briefings have been provided in relation to specific strategic items such as the management plan and budget. The Mayor and general manager commented that these briefings appeared to promote a better understanding of those items on the part of councillors and reduced the amount of time taken up in meetings by questions in relation to them. In the interests of assisting council to get through its business in a more efficient manner, council may wish to consider trialling regular briefing sessions for councillors on business to be considered at council and committee meetings. (Recommendation 8)

Attendance entitlements in the Act and the Regulation apply only to meetings of the council and its formal committees (made up of councillors only). As workshops are not meetings of the council or its formal committees, the attendance entitlements of councillors and the public do not apply. However Part 9.2 of the Model Code states that “any information given to a particular councillor in the performing of their civic duties must also be available to any other councillor who requests it”.

There is no obligation on councillors to attend workshops.

The meeting procedures in the Act and the Regulation apply only to meetings of the council and its formal committees made up of councillors only. As workshops are not meetings of the council or its formal committees, the meeting procedures in the Act and the Regulation do not apply. Meeting procedures for council workshops is a decision for the council or, failing that, the workshop convenor.

The non-disclosure provisions of sections 664(1) and 664(2) (Disclosure and misuse of information) of the Act apply to workshops but, because they cannot be closed under section 10A of the Act, the confidentiality provisions of sections 664(1A) and 664(1B) do not apply.

Council needs to be mindful about its obligations and responsibilities under the Model Code, and of community perceptions in terms of unfair advantage and transparency of process. There may be a belief that workshops are a means of transacting council business and coming to council decisions in secret.

However these problems may be overcome by ensuring that council decisions are not made at workshops. The Policy therefore includes requirements that workshop papers contain information but no recommendations; or directions that no recommendations are to be put to, and no agreement sought from, the councillors or other workshop participants in the course of the workshop.

Conclusion

The purpose of the Council Workshops and Briefing Sessions would allow the mayor, elected councillors and senior management staff to:

- Exchange information (sometimes confidential) on proposals that are being worked on by staff or proposals that councillors would like to see investigated.
- Provide a forum for discussion on proposed staff initiatives and discuss options for engaging the community in determining Council's strategic corporate direction.
- Assist councillors/executive staff in team building.
- Help develop trust and understanding between those who attend the workshops.

Councillors and staff would be encouraged to have issues put onto an agenda that will be prepared for the meeting. These may consist of notes, memorandums and draft reports, but not including recommendations.

The General Manager, Directors and other staff will provide a five minute update on their responsibility area(s).

This would create an avenue for increased information flow from staff to councillors thus allowing councillors to make more informed decisions.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Draft Council Workshops and Briefing Sessions

RECOMMENDATION

THAT Council advertise the proposal to adopt the Draft Policy – Council Workshops and Briefing Sessions.

ITEM:3 GM - 18/11/08 - CODE OF MEETING PRACTICE

REFERENCE

Min 07-493: Council Meeting, 19 November 2007
Min P08-04: Policy and Strategy Committee Meeting, 4 February 2008
Min O08-39: Ordinary Meeting of Council, 21 April 2008
Min O08-159: Ordinary Meeting of Council, 21 October 2008

SUMMARY

Council has indicated that it would like several matters affecting the running of Council meetings to be reviewed including:

- Frequency of Council meetings
- Commencement times for meetings
- Dealing with Questions Without Notice
- Questions from the public
- Notices of Motions

COMMENTARY

Frequency of Council meetings

The council is required to meet at least 10 times each year, each time in a different month under Section 365 of the NSW Local Government Act 1993. As well as this the Council is free to determine the frequency and time that meetings are held.

Council's current meeting schedule is to hold ordinary meetings on the third Tuesday of each month and also to hold Principal Committee meetings on the first Tuesday of each month. The two principal committees being the Policy and Strategy Committee and the Finance and Services Committee.

The two principal committees being the Policy and Strategy Committee and the Finance and Services Committee. The two principal committees currently comprise all councillors. The role of the Policy and Strategy Committee is to determine and/or make recommendations to Council in relation to the strategic direction of the organisation, business activities, performance and audit. The role of the Finance and Services Committee is to determine and/or make recommendations to Council on matters relating to the provision of services and facilities and reporting of Council's finances. Both committees have delegated functions.

The understood intention behind the establishment of the committees was for them to deal with the bulk of Council's routine business and to leave the ordinary meeting to exercise Council's non-delegable functions and other key tasks. It is further understood that the establishment of the committee structure was to streamline Council's decision-making processes and make the conduct of meetings more efficient. The use of the committees has made the Council meeting a more efficient meeting. However what appears to have happened is that additional Council meetings have been created as the committee meetings are in actual fact defacto Council meetings with all councillors involved and having effectively the same meeting agenda as well as being subject to the Council's Code of Meeting Practice in the same way.

An additional problem with the present use of the Principal Committees has been that they cannot have the full authority of the Council. Under Section 377 of the Local Government Act Council cannot delegate certain functions, including to committees such as the Principal Committees. It is to be proposed that the Principal Committees be used on an as needed basis and the authority given to the Mayor or General Manager to call meetings of these committees, if and when needed. It will be further proposed that the use of these committees be reviewed in 12 months.

The efficiency of a Council meeting comes down to good meeting procedures and the appropriateness of matters being presented to the Council.

Meeting procedures contribute to good public decision-making and increase council's transparency and accountability to its community. While legislation sets out certain procedures that must be followed in council and committee meetings, beyond this meetings procedures vary between councils. These differences usually reflect local cultural practices and priorities as is indicated in the Lithgow Code of Meeting Practice.

All councillors, staff and community members participating in Council meetings must act with good intentions and behave to the standard of conduct expected by the community. These standards have been identified in the Model Code of Conduct as; integrity; leadership; selflessness; objectivity; accountability; openness; honesty and respect. Meetings must be run fairly and the procedures used should improve decision-making, not personal or political advantage.

Many Lithgow City councillors have expressed the desire to hold Council meetings on a three weekly basis and on a Monday rather than the current Tuesday meeting regime. The use of a three weekly meeting rotation will involve a great level of planning on the Council's behalf and a schedule of meetings would need to be made. Items that will need to be considered when planning the council meetings will include:

- Conferences
- Public holidays
- Possibly school holidays

The two major conferences to be held involving Lithgow City Council are the Local Government Conference and the Shires Association Conference. Lithgow Council has traditionally been more reliant on the Local Government Conference. These are to be held:

- The Shires Association Conference: June 1 – 3, 2009
- The Local Government Association Conference: October 24 – 28, 2009.

Public Holidays in 2009 and 2010 include:

	2009	2010
New Year's Day	Thursday, 1 January	Friday, 1 January
Australia Day	Monday, 26 January	Tuesday, 26 January
Good Friday	Friday, 10 April	Friday, 2 April
Easter Saturday	Saturday, 11 April	Saturday, 3 April
Easter Monday	Monday, 13 April	Monday, 5 April
Anzac Day	Saturday, 25 April	Monday, 26 April
Queens Birthday	*Monday, 8 June	*Monday, 14 June
Labour Day	*Monday, 5 October	*Monday, 4 October
Christmas Day	Friday, 25 December	Saturday, 25 December
Boxing Day	Saturday, 26 December	Monday, 27 December

* these public holidays are yet to be proclaimed.

With NSW School holidays to be held on:

NSW Government School Holidays 2009		
Autumn Holidays	Friday, 10 April 2009	Monday, 27 April 2009
Winter Holidays	Monday, 13 July 2009	Friday, 24 July 2009
Spring Holidays	Monday, 05 October 2009	Friday, 16 October 2009
Summer Holidays	Monday, 21 December 2009	Tuesday, 26 January 2010

To avoid the Local Government Conference and proposed public holidays for 2009 the following meeting schedule could be utilized:

- January 27, 2009 (Tuesday)
- February 16, 2009
- March 9, 2009
- March 30, 2009
- April 20, 2009
- May 11, 2009
- June 1, 2009 (note the conflict with the annual Shire's Conference)
- June 22, 2009
- July 13, 2009
- August 3, 2009
- August 24, 2009
- September 14, 2009
- October 6, 2009 (Tuesday)
- November 2, 2009 (pushed one week to avoid Local Government Conference)
- November 23, 2009
- December 14, 2009

Note that it is to be proposed that the next Council meeting be held on the allotted day of Tuesday December 16, 2008. There is a need for this to occur as there is a significant tender to be considered in relation to the Crystal Theatre complex and a decision of Council is required.

Commencement Times for Council Meetings

Councillors have also indicated that they wish to amend the commencement time for meetings. The meetings presently commence at 6.00pm and 15 minutes provided prior to the meeting to allow questions from the public. It has been indicated that this time is considered inconvenient for some. A more appropriate time may be for a 6.30pm commencement, inclusive of a public question time. This would allow the additional time for those wishing to attend and participate in the meeting without it becoming too late bearing in mind that some members, including staff, who may be required to attend the meeting may still have a significant travelling time following the meeting.

It also needs to be pointed out that some councils, such as Bathurst Regional Council, have or are changing their meeting times to an earlier commencement for the reasons outlined above.

Dealing with General Business and Questions Without Notice

Council requested that the issue of dealing with Questions Without Notice at Council Meetings be reviewed. Under the previous Act (1919) councillors were provided with the opportunity to deal with 'General Business'. This was an item on the agenda that permitted councillors to raise and deal with any matters not before it and then make decisions on such matters. This item was considered inappropriate as too many matters were being dealt with under this heading and too many ad hoc and ill conceived decisions being made. Subsequently this was removed from the new Act (1993).

In its place is the following clause of the Regulations:

241 Giving notice of business

- (1) A council must not transact business at a meeting of the council:
 - (a) unless a councillor has given notice of the business in writing within such time before the meeting as is fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by resolution of the council, and*
 - (b) unless notice of the business has been sent to the councillors in accordance with [section 367](#) of [the Act](#).**
- (2) Sub clause (1) does not apply to the consideration of business at a meeting if the business:
 - (a) is already before, or directly relates to a matter that is already before, the council, or*
 - (b) is the election of a chairperson to preside at the meeting as provided by clause 236 (1), or*
 - (c) is a matter or topic put to the meeting by the chairperson in accordance with clause 243, or*
 - (d) is a motion for the adoption of recommendations of a committee of the council.**
- (3) Despite sub clause (1), business may be transacted at a meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:
 - (a) a motion is passed to have the business transacted at the meeting, and*
 - (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.*Such a motion can be moved without notice.*
- (4) Despite clause 250, only the mover of a motion referred to in sub clause (3) can speak to the motion before it is put.*

In addition, Clause 249 of the Regulations provides:

249 Questions may be put to councillors and council employees

- (1) A councillor:
 - (a) may, through the chairperson, put a question to another councillor, and*
 - (b) may, through the general manager, put a question to a council employee.**
- (2) However, a councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.*
- (3) The councillor must put every such question directly, succinctly and without argument.*
- (4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a councillor or council employee under this clause.*

In November 2005 the Department of Local Government issued the Meetings Practice Note – Practice Note 16.

In this document the Department outlined its thoughts on a range of issues relating to the Council meeting process. Included amongst this is the issue of the 'Can a councillor insist that his or her questions be placed on the council's agenda?' with the following comments being made (pp.6-7):

Business to be considered at a meeting would usually be in the form of motions to be moved at the meeting. As the questions to be asked at the meeting are also council business, the general manager could include these questions on the agenda. Or details of the questions could be included in the business papers that come with the agenda, for easy reference at the meeting. This may be useful if there are a lot of questions or if the questions are long. As there is no legal requirement that questions from councillors be included in the agenda or business papers, council's Meeting Code could cover this issue.

Agenda and business papers (other than business papers for a confidential item) must be available for the public to look at or take away (s.9 of the Act). Any non-confidential questions included in the agenda or business papers would also need to be available to the public.

Officers from the Department of Local Government recently visited the Lithgow City Council and the opportunity was taken to raise issues such as Council Meeting procedure, including General Business and Questions Without Notice. The Mayor was involved in these discussions.

The Departmental Officers indicated that such business should not be included on the agenda for Council and would be considered contrary to Clause 241 of the Regulations. The Departmental officers indicated that reference should be made to the Promoting Better Practice Reviews conducted on Newcastle City Council and on Bellingen Shire Council.

In the promoting better practice review conducted on Newcastle City Council the following comments were made (pp34-35)

The review team observed that, in addition to the list of items to be dealt with in a meeting and notices of motion, the meeting business paper contains a 'general business' section that provides for questions without notice. This is supported by clause 68 of Council's code of meeting practice. Clause 68 allows for items of significant public interest, councillor public statements on matters considered of high importance and urgent requests for information from Council staff to be considered under general business.

The provisions of clause 68 of the Council's code of meeting practice appear to be inconsistent with Clause 241 of the Local Government (General) Regulation 2005, which allows only for the following business to be transacted at a meeting of the Council:

- *"business that a councillor has given written notice of within the required time before the meeting (clause 241(1)(a)) and of which notice has been given to councillors (section 367 of the Local Government Act 1993)*

- *business that is already before the Council or directly relates to a matter that is before the Council (clause 241(2)(a)). For example, business that was discussed at the last Council meeting or business in a report made by Council staff in response to an earlier Council request for a report*
- *the election of a chairperson for the meeting (clause 241(2)(b))*
- *a matter raised in a mayoral minute (clause 241(2)(c))*
- *a motion to adopt committee recommendations (clause 241(2)(d))*
- *business ruled by the chairperson to be of great urgency (clause 241(3)) but only after a motion is passed to allow this particular business to be dealt with. This motion can be moved without notice.”*

The provisions of clause 241 of the Regulation make clause 68 of the Council’s Code of Meeting practice outside the provisions of the legislation.

We recommend that Council review clause 68 of its code of meeting practice so that it complies with the provisions of Clause 241 of the Regulation and Part 1.4 of the Department’s Meeting Practice Note No 16 of November 2005. (Recommendation 13).

As the legislation uses the language to the effect that “a council must not transact business at a meeting of the council”, except for the business described in clause 241, the Department suggests that Council should amend clause 68 of its Code, rather than keeping the clause that is contrary to the legislation and adding the provisions that are consistent with the legislation.

The Lithgow Promoting Better Practice Review also raised the following concerns about the then Lithgow City Council Meeting process (pp30.31).

The review team was also concerned that a number of councillors used the meeting to make a number of minor works requests. This represents an inappropriate intrusion into operational matters. Works priorities are the responsibility of the general manager and his staff. If councillors wish to make works requests, they should do so using the process established under council’s policy on the interaction between councillors and staff. (Recommendation 9)

It is noted that council has since sought to discourage councillors from making works requests in meetings by including an action request form in its code of meeting practice. However a review of the minutes of the February and March 2007 meetings of council indicate that councillors continue to raise operational matters that would be more appropriately raised through the completion of works requests.

Also discussions have been held with a number of other councils regarding their meeting procedures with many indicating that General Business and Questions Without Notice were not permitted at their Council meetings.

Advice was also sought from the Legal Officer of the Local Government and Shires Association who provided similar advice to that of the Department of Local Government and referred to 2.4 of the Meetings Practice Note issued by the Department plus the added advice that:

In fact, Clause 241 of the Regs provides that a council must not transact business at a meeting of a council unless a councillor has given notice of the business in writing and notice of the business has been sent to the councillors.

As you are aware, there are exceptions to this in Clause 241 (2) and (3). One such exception is where council have passed a motion to have the business transacted at the meeting and the chairperson has ruled the business to be of great urgency.

Further advice was also sought in relation to any guidelines that may exist that would provide information on what constitutes urgent business. The advice on this was that *“I am not aware of any guidelines as to what would constitute urgent business of a council. It is my opinion that this would be up to the chairperson to decide given the particular circumstances surrounding a matter. A resolution must be passed to allow the urgent business to be dealt with.”*

Council should therefore remove the agenda item of Questions Without Notice and replace it with Matters of Great Urgency. Matters under this heading should then be dealt with in accordance with Clause 241 of the Local Government (General) Regulations 2005 that provides:

“..business may be transacted at a meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:

*(a) a motion is passed to have the business transacted at the meeting, and
(b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.”*

Questions from the Public in Council Meetings

Many councils now provide an opportunity for the public to participate in the Council meeting process. This participation is generally called a Public Forum, Community Consultation or simply Questions by the Public. The processes vary from council to council with some allowing any questions/statements to be asked of the council to questions/statements being limited to only issues on the business paper for that meeting or that they are merely permitted to make some form of address to the council. Some councils hold special forums for the purpose of dealing with questions from the public while others do not permit such a forum at all.

Included under a council’s Charter within Section 8 of the Local Government Act 1993 it is Council’s responsibility to:

- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government

In November 2005 the Department of Local Government issued the Meetings Practice Note – Practice Note 16. In this document the Department outlined its thoughts on a range of issues relating to the Council meeting process.

Included amongst this is the issue of the public asking questions or addressing the council at council meetings with the following comments being made (p.17):

There is no automatic right under the Act or the Regulation for the public to participate in a council meeting, either by written submission or oral presentation. This includes being able to ask questions or address council meetings, or to comment on matters during meetings.

However, providing some form of public participation in council meetings is good practice. If participation is permitted, councils should consider giving basic guidance to potential speakers on meeting processes and practices. This could be done in council's Meeting Code.

Each council can decide whether its Meeting Code should provide for public participation and how that is to occur. This would include how and when any questions are to be tabled and discussed at the council meetings. It would also include deciding if and when members of the public are allowed to speak, and any limitation on the number of speakers or time for speeches. Some councils have a set period during the meeting for members of the public to speak on any matter; others allow the opportunity to speak as the various items of business are debated. There is no correct procedure and members of the public should be guided by the advice of the council.

Speakers should be asked not to make insulting or defamatory statements, and to take care when discussing other people's personal information (without their consent).

This then begs the question of can a councillor speak to the council as a resident or ratepayer in the public access section of a meeting? Again the Guidelines provide (p.18):

Residents or ratepayers can speak to council if allowed under council's Meeting Code or by the chairperson of the meeting. Given the opportunities for a councillor to raise matters at a meeting through notices of motion and questions, it would be unusual for a Meeting Code to allow a councillor to speak to the council from the public access section.

Councillors who aren't allowed to take part in a discussion because of a pecuniary interest cannot escape this by addressing the meeting as a 'resident' or 'ratepayer'. Section 451(2) of the Act states that a councillor must not be present at or in the sight of the meeting of council at any time during which the matter (for which the councillor has declared a pecuniary interest) is being considered, discussed or voted on. This has been interpreted as excluding councillors in both their official capacity and as a member of the public.

Exclusion from speaking to a matter which is the subject of conflict goes beyond discussions on a formulated motion or resolution— see Department of Local Government Circular to Councils "Codes of Meeting Practice — Councillors Invited To Speak After Declaring A Pecuniary Interest In A Matter" (No.05/17) available from www.dlg.nsw.gov.au.

Some concerns have been expressed as to past uses of the Council question time process. The officers of the Department of Local Government during their recent visit pointed to the promoting better practice review conducted on Bellingen Shire Council. In the Review the Department provided the following observation and suggestion (pp28-29):

Council also has a practice to allow community members to ask questions on any topic 24 hours before the meeting. Questions asked in the meeting of 4 December and several previous meetings were examined. It appears that this communication/consultation mechanism, while valid in its intention, may leave the system open to abuse by the most vocal members of the community who are otherwise able to use normal written communication channels to obtain information from Council. In view of the number of repetitive questions asked by a single person and the amount of resources that Council had to dedicate to preparing responses to these questions in the 24 hour period before the meeting, it is suggested that Council reconsiders this practice and consider limiting the questions and/or statements to items that are already in the business papers for the meeting. (Recommendation 16).

While a system of allowing the public to participate in the council meeting process may leave that system open to abuse it is still a process that would provide a valuable contribution to the decision making process for the Council and the community.

If amendments are made to Council's Code of Meeting Practice to permit a Public Forum/Community Consultation then there may be a perception that people using this forum may in fact have a greater right than a councillor. While in this instance this perception may be true there are many other means by which a councillor can participate in the meeting that members of the public are not, such as:

- Moving and seconding motions
- Debating and speaking on motions
- Asking questions on motions
- Use of Notices of Motion
- Participate in briefing sessions, workshops and committee meetings

Notices of Motions

Questions were also raised at the last Council meeting in relation to the use of Notices of Motion.

Clause 241 of the Regulations provides that '*A council must not transact business at a meeting of the council:*

(a) unless a councillor has given notice of the business in writing within such time before the meeting as is fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by resolution of the council, and

This is more commonly referred to as a Notice of Motion, that is the intention of a councillor giving notice that they shall be moving a particular motion at the forthcoming council meeting.

Little information could be found on the use of Notices of Motion. The Guidelines issued by the Department deal primarily on the above (Clause 241 of the Regulations) plus the following comments (p.26):

Can the number of motions put forward by a councillor be limited?

No. As long as notice and other procedures are followed, you can put forward as many motions as you wish. When putting forward motions, you may need to balance your civic responsibility for representing the interests of your community with your obligation to use council's resources effectively and efficiently.

Councils are charged with a range of responsibilities and included amongst those responsibilities, as outlined in Section 8 of the Local Government Act 1993 is the charter (in part) to:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively*
- to exercise community leadership*
- to have regard to the long term and cumulative effects of its decisions*
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible*

Also under Section 232 of the Act the role of a Councillor is defined. Here it states:

- (1) The role of a councillor is, as a member of the governing body of the council:*
- to direct and control the affairs of the council in accordance with this Act*
 - to participate in the optimum allocation of the council's resources for the benefit of the area*
 - to play a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions*
 - to review the performance of the council and its delivery of services, and the management plans and revenue policies of the council.*
- (2) The role of a councillor is, as an elected person:*
- to represent the interests of the residents and ratepayers*
 - to provide leadership and guidance to the community*
 - to facilitate communication between the community and the council.*

In the discussions with the officers from the Department of Local Government the use of the promoting better practice program reviews was suggested, specifically the review conducted on Bellingen Shire Council. In this review the following comments were made (p.29):

The review also observed that some councillors seemed to use to a great extent the notices of motion mechanism and debating times to focus on operational matters. Councillors should consider other, more effective and resource efficient ways of conducting business and achieving outcomes, these could include raising issues such as Council's program of road maintenance through normal communication channels instead of raising issues in council meetings through notices of motion. (Recommendation 17).

The attention of Council should also be drawn to the comments made by the Department during the review conducted on Lithgow City Council were the following comments were made (p.20):

Consistent with its new more strategic approach, council has recently developed a new social plan and is preparing a new comprehensive LEP as required under recent planning law changes. As will be discussed elsewhere in this report, council also has plans to develop a suite of other strategic plans, including an economic development strategy, an ageing strategy and a cultural plan. These projects are reflected in council's draft strategic and management plans.

While council is to be commended for undertaking these projects, there are risks associated with having so many major projects underway at the same time. To ensure that these are completed, council needs to prioritise them, set realistic timeframes for their completion and ensure they are adequately resourced.

Care needs to be taken by the Council not to be requesting works and reports that are really not a priority for the organisation or are operational matters. To assist with the understanding of the priority of a matter consideration should be given to whether it is a matter within the current management plan or alternatively a matter that a councillor may wish to have included in the upcoming management plan. Lithgow Council continues to have a large number of projects underway with some projects that are very significant. The calling for reports on matters that are not established priorities diverts resources away from those adopted projects.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

NIL

RECOMMENDATION

THAT Council:

1. Hold its Council meetings on Mondays on a three weekly cycle with the meetings to commence at 6.30pm
2. Advertise that it will not be holding a Policy and Strategy Committee meeting or Finance and Services Committee Meeting in December 2008 or January 2009
3. Advertise that the Ordinary December Council meeting will be held on Monday December 15, 2008 commencing at 6.30pm
4. Advertise that the first Council meeting to be held in the New Year be held on Tuesday January 27, 2009 commencing at 6.30pm

5. Propose holding Council meetings during 2009 generally on Mondays on a three weekly basis on the following dates:
- January 27th 2009 (Tuesday)
 - February 16th 2009
 - March 9th 2009
 - March 30th 2009
 - April 20th 2009
 - May 11th 2009
 - June 1st 2009
 - June 22nd 2009
 - July 13th 2009
 - August 3rd 2009
 - August 24th 2009
 - September 14th 2009
 - October 6th 2009 (Tuesday)
 - November 2nd 2009 (pushed one week to avoid Local Government Conference)
 - November 23rd 2009
 - December 14th 2009
6. Amend the Code of Meeting Practice in the following manner:
- 6.1 Remove the current sub-clauses (vi) to (xii) in Clause 65 relating to the current method for the asking of questions.
- 6.2 Include within Clause 65 the ability to allow questions by the public for up to 20mins with the following subclauses being included:
- (vi) The first 20 minutes of meetings of Ordinary Council Meetings are available for members of the public to address the Council or submit questions, either verbally or in writing. Priority will be given to those addressing the Council or asking questions on matters included in the Business Paper. Members of the public will be permitted a maximum of 3 minutes to address or ask a question of the Council. An extension of time may be granted if deemed necessary by the Council. Every such address or question is to be put directly, succinctly and without argument. Each member of the public wishing to use this Public Forum Session shall be required to state their name and shall be permitted to make one address or ask one question. If time permits they may be permitted to make further addresses or ask further questions of Council. A précis of the address or question by a member(s) of the public shall be recorded in the Council minutes. Questions may be answered at the meeting or taken on notice and dealt with in accordance with Clause 249 of the NSW Local Government (General) Regulation 2005.
- (vii) Members of the public will not be permitted to use the Public Forum for the purpose of abusing, vilifying, insulting, threatening, intimidating or harassing Councillors, Council staff or other members of the public. Conduct of this nature will be deemed to be an act of disorder and the person engaging in such behaviour will be ruled out of order by the Mayor and may be expelled from the Council Meeting.

- (viii) Members of the public will not be permitted to raise matters or provide information which involve:
- (a) personnel matters concerning particular individuals;
 - (b) personal hardship of any resident or ratepayer;
 - (c) information that would, if disclosed confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business;
 - (d) commercial information of a confidential nature that would, if disclosed:
 - prejudice the commercial position of the person who supplied it, or
 - confer a commercial advantage on a competitor of the Council, or
 - 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 ground of legal professional privilege;
 - (h) on balance, be contrary to the public interest.
- (ix) Members of the public addressing the Ordinary Council Meeting may be sound recorded.

6.3 Amend the Code of Meeting Practice Schedule 'General Order of Business' to read:

1. Apologies
2. Confirmation of Minutes of Previous Meetings
3. Public Forum
4. Declaration of Interest
5. Mayoral Minute
6. Notices of Motion
7. Notices of Rescissions
8. Reports
9. Reports from Delegates
10. Business of Great Urgency (as identified by Clause 241 of the Local Government (General) Regulations 2005)
11. Closed Meeting

6.4 To hold Principal Committee meetings on an as needed basis with the authority to call such meetings delegated to the Mayor or General Manager.

7. Advertise for 28 days and seek public comment on Council's intention to make the above alterations to the Code of Meeting Practice. At the expiry of the 28 day period a further report be prepared for Council for adoption of the revised Code of Meeting Practice considering any formal submissions received.

8. That a Public Forum Facts Sheet be prepared to assist members of the public wishing to use the Forum.
9. Review the Code of Meeting Practice and need for the holding of Principal Committees in 12 months to determine the appropriateness, efficiency and effectiveness of the changes.

REGIONAL SERVICES REPORTS

ITEM:4 REG - 18/11/08 - DOCTORS GAP SEWER

REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

REFERENCE

Policy and Strategy Committee – 02/04/2007 - Min 07/109
Finance and Services Committee - 07/10/08 - QWN – Councillor W McAndrew

SUMMARY

This report provides a response to a question asked by Councillor W McAndrew in relation to the possible extension of reticulated sewerage to Doctors Gap.

COMMENTARY

At Council's Finance and Services Committee Meeting of 7 October 2008 Councillor W McAndrew asked:

“Mr Mayor, Can Councillors be provided with a full report on the sewerage for Doctors Gap.”

The matter was deemed urgent and it was subsequently resolved that Councillors be provided with a full report on the matter.

Particularly for the information of new councillors the following background information is provided and seeks to provide a briefing of the situation previously reported to Council's Policy and Strategy Committee of 2 April 2007 and by memorandum to councillors from the former General Manager on 17 December 2007.

The matter relates to a previous proposal that evolved through representations from the Doctors Gap Landholders Association to provide reticulated sewerage to their dwellings on the basis that they were able to undertake a subdivision to allow their dwellings to be located on their own individual allotments rather than one shared 'tenancy in common'. This subdivision proposal did not proceed as not all members of the Doctors Gap Landholders Association would give their consent to the lodgement of a development application. Consequently, the sewerage extension project did not proceed.

Funding was provided in the 2003/2004, 2004/2005 and 2005/2006 budgets, based on partial cost recovery from resident contributions, however as the subdivision did not proceed the funding lapsed.

If such a project was ever to proceed in the future then due to the limited number of properties, length of extension required and low likelihood for significant future development, then a low pressure sewer system would likely represent the most cost effective option. Low pressure sewer systems are relatively new in Australia, but have been used extensively overseas. They have been adopted for several new sewerage schemes in NSW and have benefits where the distances and number of properties to be serviced make traditional sewer reticulation cost prohibitive.

No funds have been allocated toward the project in the Management Plan 2008/09-2010/11 and consequently there have been no resources committed. However, a project has been identified in the 5 year capital works program commencing in 2011/2012.

Should the Council be of a mind to pursue a project then it would be advisable to approach it in 3 stages. In year 1 the first stage would be a feasibility/concept study to examine the options to sewer the area and recommend the most feasible option. The second stage in year 2 would concentrate on design, costings and sources of funding (which may include landowners). The third stage in year 3 would then focus on construction. Should Council wish to sponsor a feasibility study then should this be considered and approved for the 2009/2010 financial year then this would be consistent with a project commencing in 2011/2012.

POLICY IMPLICATIONS

No specific issues arise at this stage.

FINANCIAL IMPLICATIONS

Not at this stage but should Council wish to proceed then this will require consideration in future reports.

LEGAL IMPLICATIONS

Not at this stage but should Council wish to proceed then this will require consideration in future reports.

ATTACHMENTS

Nil.

RECOMMENDATION

THAT Council consider the inclusion of an amount in the 2008/2009 draft budget for the preparation of a feasibility/concept study for the provision of reticulated sewerage to existing residences in Doctors Gap.

COMMUNITY AND CORPORATE SERVICES REPORTS

ITEM:5 **COMM - 18/11/08 - AUDIT PRESENTATION OF THE FINAL 2007/08 GENERAL PURPOSE AND SPECIAL PURPOSE FINANCIAL REPORTS**

REPORT FROM: INTERNAL SERVICES MANAGER - CAROL FARNSWORTH

REFERENCE

Meeting of Council 21 October 2008: Draft 2007/08 General Purpose and Special Purpose Financial Reports to Auditors.

SUMMARY

To advise Council of the receipt of the 2007/08 General Purpose Financial Report's and Special Purpose Financial Report's audit certificates on the 31 October 2008 and further advise that Councils' Auditors, The Morse Group, will be available to make a presentation at the meeting of 18 November 2008.

COMMENTARY

Council is in receipt of the 2007/08 General Purpose Financial Report's and Special Purpose Finance Report's audit certificates for the financial year ending 30 June 2008.

Due notice has been provided in the local media and on Council's website that Auditors, The Morse Group, will present the Audited 2007/08 General Purpose Financial Reports and Special Purpose Reports at the meeting of the 18 November 2008. All interested members of the public have been invited to attend and in accordance with Section 420 of the Local Government Act 1993, Council will accept submissions in writing within seven days following the audit address.

FINAL RESULT 2007/08 GENERAL PURPOSE FINANCIAL REPORTS

Council's Draft General Purpose Financial Reports predicted a surplus result of \$4,579,000 for the 2007/08 financial year which included capital income and contributions. The operating result, before abnormal and capital items, was predicted as a surplus of \$396,000. Following final audit the accounting treatment to adjust the Commonwealth Bank of Australia (CBA) Ethical Note from \$500,000 to \$220,000 has been reviewed and is now adjusted against Equity and not the Income Statement. The effect of this results in a final 2007/08 surplus of \$4,859,000 including capital, and an operating result of \$676,000.

As further explanation, the accounting standards require that the CBA note, which was held as an 'available-for-sale' financial asset, are revalued directly through the Equity Statement which is unlike investments held at 'fair value which are through profit or loss.

When the asset is disposed of in future years, the amount previously transferred to equity is reversed, and a profit or loss on disposal will be realised. The effect of this is to take volatility in the movements in fair value of the investment over a period of time out of the Income Statement and through Equity.

Revaluation of the investment therefore does not have an impact on Councils final results until it is disposed of.

In addition to this once an asset has been classified into a particular category of a financial instrument ie: at fair value through profit and loss, held to maturity, available for sale or loans and receivables, it is not possible to transfer it out of that category, except in very rare circumstances.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The 2007/08 General Purpose Financial Reports and Special Purpose Financial Reports represent Council's position as at 30 June 2008..

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

Tabled: Final 2007/08 General Purpose Financial Reports and Special Purpose Financial Reports which include the relevant Audit Certificates.

RECOMMENDATION

THAT Council accept the final 2007/08 General Purpose Financial Reports and Special Purpose Financial Reports and thank Mr Phil Burgett of the Morse Group for his presentation.

ITEM:6 COMM - 18/11/08 - COUNCIL INVESTMENTS TO 31ST OCTOBER 2008

REPORT FROM - INTERNAL SERVICES MANAGER - C FARNSWORTH

REFERENCE

Meeting of 19 August 2008 (July 2008)

Meeting 07 October 2008 (Aug 2008)

Meeting 21 October 2008 (Sept 08)

SUMMARY

To advise Council of investments held for the 2008/09 financial year for the period ending 31 October 2008.

COMMENTARY

The amount invested as at 31 October 2008 when compared to 30 September 2008 has decreased by \$1,560,044.27. The second instalment of the 2008/09 rate levy is due for payment on 30 November 2008 along with the 2nd payment of the 2008/09 Financial Assistance Grant mid November 2008.

INVESTMENT REGISTER 2008/09								
INSTITUTION	INV TYPE	DATE LODGED	DATE DUE	DAYS	INT	VALUE 30.09.08	VALUE 31.10.08	% OF TOTAL
ANZ	TD	31.10.08	01.12.08	32	6.23	0.00	1,000,000.00	6.60%
BANKWEST	TD	29.10.08	27.01.09	90	7.20	529,522.90	536,248.57	3.54%
	TD	02.09.08	03.11.08	62	7.60	529,816.65	529,816.65	3.50%
	TD	07.10.08	07.11.08	30	7.40	510,258.65	513,681.70	3.39%
CBA	CMS Nt*	20.06.06	20.06.11	1,825	8.71	500,000.00	500,000.00	3.30%
	On Call				5.95	343,572.43	549,020.29	3.63%
	Ethical Nt	06.11.06	06.11.11	1,825	9.25	220,000.00	220,000.00	1.45%
	TD	10.10.08	10.11.08	30	6.29	549,312.20	252,540.35	1.67%
	TD Shield	21.11.07	05.06.09	547	16.0	750,000.00	750,000.00	4.95%
CITIBANK	TD	12.08.08	14.11.08	92	7.51	571,850.79	571,850.79	3.78%
	TD	10.10.08	10.11.08	30	6.70	510,125.79	513,765.15	3.39%
	TD	31.10.08	01.12.08	32	6.90	0.00	1,000,000.00	6.60%
LGFS (Local Govt Fin Serv)**	On Call				8.22	280,916.50	280,916.50	1.86%
	TD	06.11.07	06.11.08	365	7.55	306,524.05	306,524.05	2.02%
	TD	04.09.08	04.12.08	90	7.60	1,000,000.00	1,000,000.00	6.60%
	On Call				6.90	7,159.79	7,159.79	0.05%
IMBS	On Call				6.00	28,611.97	28,611.97	0.19%
	TD	06.08.08	08.11.08	92	7.70	1,158,477.11	1,158,477.11	7.65%
	TD	22.08.08	27.10.08	66	7.61	520,402.64	0.00	0.00%
	On Call				6.00	848,883.64	0.00	0.00%
	TD	29.10.08	01.12.08	33	6.49	0.00	886,777.92	5.86%
MACQUARIE	TD	30.06.08	30.10.08	92	7.90	2,000,000.00	0.00	0.00%
	TD	21.08.08	21.02.09	180	8.08	2,000,000.00	2,000,000.00	13.21%
ALLIANCE***	Managed					1,000,000.00	0.00	0.00%
ST GEORGE	TD	20.08.08	20.11.08	90	7.70	1,036,855.44	1,036,855.44	6.85%
	TD	02.09.08	02.12.08	90	7.63	1,500,000.00	1,500,000.00	9.91%
			TOTAL			16,702,290.55	15,142,246.28	100.00%

I, Carol G Farnsworth, Lithgow City Council Internal Services Manager (Responsible Accounting Officer) certify as required under Local Government (General) Regulations 2005, that Council's investments have been made in accordance with the Local Government Act 1993, Regulations and Lithgow City Council's Investment Policies.

CBA CMS Note:

The Commonwealth Bank advised Council on the 23 October 2008 of its intention to exercise its right to buy back the \$500,000 CMS note held by Council at an interest rate of 9.25% and as such the investment has been deposited into Council's bank account on the 6 November 2008. The November investment report will reflect this entry.

CBA TD Shield:

As further information for Council the CBA deposit of \$750,000 which matures on the 5 June 2009 states the following:

Principal Protection:

The investment is principal protected if held to maturity. Your investment amount is an unsecured obligation of the Commonwealth Bank which rates equally with other unsecured obligations of the Commonwealth Bank."

REVIEW OF INVESTMENTS OCTOBER 2008:

Following the Federal Government's announcement on 12 October 2008 to guarantee deposits and wholesale funding with financial institutions Council conducted a review of deposits held with all institutions.

The Federal Government's guarantee quotes:

"The guarantees apply to authorised deposit taking institutions (ADIs) incorporated in Australia, which as a group, are of systemic importance to the functioning of the financial system and the broader economy, and which are subject to prudential regulation by the Australian Prudential Regulation Authority (APRA) in accordance with international standards.

The guarantees will be limited to Australian owned bank, Australian ADI subsidiaries of foreign banks, credit unions and building societies ('eligible ADIs'). The guarantee will apply to the foreign branches of eligible ADIs but not their foreign subsidiaries."

ELIGIBLE INSTITUTIONS:

FEDERAL GOVERNMENT GUARANTEE 12 OCTOBER 2008

The following institutions hold Council funds and are listed as eligible institutions by the Federal Government Guarantee:

- ANZ
- Bankwest
- CBA
- Citibank
- IMB Ltd
- Macquarie Bank

ALLIANCE:

Alliance Bernstein did not fall within the guidelines of the guarantee and to ensure the security of Council's funds the return of the investment was organised on 26 October 2008. A deposit was made into Council's bank account on the 28 October 2008.

LOCAL GOVERNMENT FINANCIAL SERVICES:

The Local Government Financial Services (LGFS) has been working with councils in NSW for over 25 years. In October 2004, LGFS was purchased by the Local Government Superannuation Scheme and manages funds for over 70% of NSW Councils who invest in excess of \$750 million.

The then Minister for Local Government, the Hon Paul Lynch stated in the standing 'Investment Order' of 31 July 2008 that a Council may only invest money in a number of forms of investment including:

Clause (f) which states:

A deposit with the Local Government Financial Services Pty Ltd

The Local Government Financial Service is not a bank or credit union and in the event of a financial event its position is unclear with regards to the Federal Government's guarantee of the 12 October 2008. Further research is being conducted but for this reason, and following discussion with Council's General Manager on the 31 October 2008, Council will limit its exposure to the fund.

The LGFS investment of \$306,524.05 was deposited into Council's Bank account on 6 November 2008 and the term deposit of \$1,000,000 due on 4 December 2008 will also be matured.

Additional information, if available, will be provided to Councillors at an investment workshop currently being organised.

POLICY IMPLICATIONS

All Council's investments are held in accordance with Lithgow City Council's Investment Policies (See Legal Implications).

FINANCIAL IMPLICATIONS

Interest received to 31 October 2008 is \$111,352.72 of an estimated \$788,728.00 for the 2008/09 financial year. Interest is paid on the maturity date of the investment and earnings derived from managed funds are reported quarterly. For end of year reporting purposes accrued interest to 30 June 2008 previously brought to account has been reversed.

LEGAL IMPLICATIONS

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. On 21 October 2008 Council adopted the current version of the Investment Policy as Policy 8.2 and all future investments will comply with this Policy which accords with the requirements of the:

- Local Government Act 1993 - Section 625
- Local Government Act 1993 - Order dated 31 July 2008
- Local Government (General) Regulation 2005
- Trustee Amendment (Discretionary Investments) Act 1997- Section 14A(2), 14c(1) & (2)

RECOMMENDATION

THAT

Council's 2008/09 investments for the period ending 31 October 2008 be noted.

**ITEM:7 COMM - 18/11/08 - QUARTERLY PERFORMANCE REPORT ON
2008/09 TO 2010/11 MANAGEMENT PLAN FOR THE PERIOD OF 1ST
JULY 2008 TO 30 SEPTEMBER 2008**

REFERENCE

Min P08-32: Council Meeting 7 April 2008
Min O08-118 Council Meeting 19 August 2008

SUMMARY

This report provides the Quarterly Performance Report on the 2008/09 to 2010/11 Management Plan for the period of 1 July 2008 to 30 September 2008 with a recommendation that the adjusted surplus of \$311,190 be noted.

COMMENTARY

The September Quarterly Performance Report on the 2008/09 to 2010/11 Management Plan has been prepared and is provided within Councillor's Business Papers.

It details the achievement of activities identified in the Management Plan and provides information on variations to activities. The Budget Review Statement notes a surplus of \$311,190.

2008/09 Quarterly Budget Comparisons			
Budget (Inc Internal)	Income \$'000	Expenditure \$'000	Total \$'000
Original	\$61,665	\$61,665	\$0
September Quarter	\$62,063	\$61,752	\$311

VARIATION BY OPERATIONAL PROGRAMS:

PROGRAM	ORIG 08/09 \$'000	REVISED 08/09 \$'000	VARIATION \$'000	
RECURRENT				
Executive	-19,735	-20,129	-394	Add inc
<ul style="list-style-type: none"> o Increase in Financial Assistance Grant on original budget \$217,000 o Increase in rate income due to Valuer General & new subdivisions \$201,000 o Additional Expenditure due to General Manager Consultants \$20,000 o Original budget \$120,000 from Election reserve \$100,000 from reserve required o Tourism payment due to Tablelands Way \$20,000 				
Operations	7,690	7,690		
-Recreation	2,187	2,187		
-Property	1,196	1,196		
Water	1,007	1,007		
Wastewater	998	998		
Waste	-122	-122		
Development	1,654	1,654		
Internal Service	1,438	1,435	-3	Add inc
<ul style="list-style-type: none"> o Additional income fuel tax rebate 				
Policy & Plan	733	798	+65	Add exp
<ul style="list-style-type: none"> o Settlement of Barclay legal & adjustment of debtor account 				
Community	988	978	-10	Add inc
-Library	1,598	1,590	-8	Add Inc
<ul style="list-style-type: none"> o Additional income law enforcement and library fees \$18,000 				
Surplus / Def	-263	-593		
CAPITAL				
Executive	214	214		
Operations	1303	1303		
Water	-1007	-1007		
Wastewater	-998	-998		
Waste	122	122		
Development	-60	-45	+15	Add Exp
<ul style="list-style-type: none"> o Settlement of Barclay legal & adjustment of debtor account 				
Internal Service Plant	461	461		
Information	151	151		
Community	147	151	+4	Add Exp
Surplus / Def	263	282		
Surplus	0	311		

Note: Please note that only major items of variation have been noted in the variations column. Minor adjustments are not noted and therefore, the variations column has not been totalled.

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 September Quarterly Performance Report on the 2008/09 to 2010/11 Management Plan for the September quarter of 2008/09.

The Internal Services Manager, as the Responsible Accounting Officer has reviewed the statements and certifies as required by the Local Government (General) Regulation 2005, that Council's 2008/09 to 2010/11 Management Plan has been reviewed and the financial position of Council is satisfactory.

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 these requirements.

ATTACHMENTS

1. Quarterly Report 1 July – 30 September 2008
2. Report by Divisional Programs
3. Report by Activity

RECOMMENDATION

THAT:

1. The surplus of \$311,190 for the 2008/09 to 2010/11 Management Plan as detailed in the Quarterly Performance Report for the period 1 July 2008 to 30 September 2008 be noted.
2. The Council notes that the Internal Services Manager, as the Responsible Accounting Officer has reviewed the statements and certifies as required by the Local Government (General) Regulation 2005, (s203) that Council's 2008/09 to 2010/11 Management Plan has been reviewed and the financial position of Council is satisfactory.

**ITEM:8 COMM - 18/11/08 - ANNUAL AND STATE OF THE ENVIRONMENT
 REPORTS**

**REPORT FROM: GROUP MANAGER COMMUNITY AND CORPORATE – SUZANNE
LOLLBACK**

REFERENCE

Min 07-541: Ordinary Meeting of Council 17 December 2007.

SUMMARY

This report provides copies of the Annual and State of the Environment Reports to Council for its information.

COMMENTARY

The Local Government Act 1993 states:

Within 5 months after the end of each year, a council must prepare a report as to its achievements with respect to the objectives and performance targets set out in its management plan for that year.

It goes on to also state:

*A report must contain the following:
(c) a report as to the state of the environment in the area*

The Annual and State of the Environment Reports for the year 2007/08 have been prepared and will be forwarded to the Department of Local Government. A copy of both Reports has been provided to Councillors within their Business Paper Packages. In addition, the Reports will be placed on Council's website and a hard copy will be available for viewing at the Council's Administration Centre and the Lithgow Library and Learning Centre.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

The Annual and State of Environment Reports were produced internally and funded from the Policy and Planning recurrent budget.

LEGAL IMPLICATIONS

The Annual and State of the Environment Reports were prepared in accordance with the requirements of the Local Government Act 1993, Local Government (General) Regulation 2005, Freedom of Information Protection Act 1998, Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.

ATTACHMENTS

1. Annual Report 2007/08
2. State of the Environment Report 2007/08

RECOMMENDATION

THAT the Council:

1. Receive the Lithgow City Council Annual Report 2007/08.
2. Receive the Lithgow City Council State of the Environment Report 2007/08.

ITEM:9 COMM - 18/11/08 - SECTION 356 - DONATIONS TO COMMUNITY ORGANISATIONS

REPORT BY: MANAGER COMMUNITY AND CULTURE – MATTHEW JOHNSON

REFERENCE

Minute O08-72: Extraordinary Meeting of Council 10 June 2008
Minute F08 -88: Finance and Services Committee 1 July 2008
Minute F08-92: Finance and Services Committee 5 August 2008
Minute O08-128: Ordinary Meeting 19 August 2008
Minute P08-115: Policy and Strategy Meeting 7 October 2008

SUMMARY

The report recommends that Council consider allocating funding for the following not-for-profit organisations.

COMMENTARY

On the 10 June 2008 the Council adopted its Management Plan for 2008/09 – 2010/11 in which it identified its provision of donations to not-for-profit community groups. This report outlines requests from the following organizations for donations.

Cullen Bullen Progress Association

Cullen Bullen Progress Association has submitted a request for Council to waive rates of \$712.64 and public liability and fire insurances to the value of \$2,965.54 for their community hall.

The hall is an integral part of this small community and is used for school functions and other local gatherings. The hall has recently been extensively refurbished by Council including a new roof and toilets.

The allowable component (base rate only) of the rate waiver is \$425.14.

It is recommended that a donation to the value of \$1,315.14 be provided to the Cullen Bullen Progress Association comprised for a rate waiver of \$425.14 and 30% of their insurance costs to the value of \$890.

Portland Anglican Church

Portland Anglican Church is requesting that Council waive DA/CC charges of \$811.02 for improvements to the entrance of the church hall. The purpose of the work was to improve the appearance of the entrance and to provide a more suitable area for their Play Days group.

It is recommended that a donation to the value of \$500 be made to Portland Anglican Church to waive part of the DA/CC charges in respect of recent improvements.

Australian Air League

The Australian Air League is requesting that Council waive hire fees for the Ballroom and facilities at Toni Luchetti Sports ground for their fundraising dinner dance on Saturday 14th March 2009. They require exclusive use for 14th and 15th March and shared use from Wednesday 11th to Friday 13th March to set up. A total of 5 days. The usual concessional hire fee for this period would be \$780.

It is recommended that a donation to the value of \$500 be made Australian Air League towards the cost of hire fees for the Ballroom and facilities at Toni Luchetti Sports ground.

Portland Art Purchase Society

Portland Art Society is seeking Council's assistance to raise funds for the new Ronald MacDonald House in Orange. The facility will provide accommodation for families whose children attend the hospital. No evidence is provided on the extent to which Lithgow families access Orange Hospital.

It is recommended that no donation be made to Portland Art Society to assist them to raise funds for the new Ronald MacDonald House in Orange.

Mingaan Aboriginal Corporation

Council considered a report concerning Mingaan Aboriginal Corporation at the 7 October 2008 Policy and Strategy meeting of Council (Resolution P08-115).

Mingaan has since submitted a request for financial assistance of \$500 to hold a declaration ceremony on 8th November of Blackfellows Hands as an Aboriginal Place.

It is recommended that a donation to the value of \$500 be made to Mingaan Aboriginal Corporation to assist them to hold a declaration ceremony on 8 November of Blackfellows Hands as an Aboriginal Place.

Regional Migrant Support Project

Bathurst Information and Neighbourhood Centre has submitted a request for financial assistance of \$350 towards the production and distribution of the "Multicultural News", a twice yearly newsletter for people of culturally and linguistically diverse communities which is distributed in Lithgow. Council also funded the "Multicultural News" in 2007/08 to the value of \$350.

It is recommended that a donation to the value of \$350 be made to the Regional Migrant Support Project towards the production and distribution of the “Multicultural News”.

Rydal Show Society

Rydal Show Society has submitted a request for Council to donate a trophy or sponsorship for the 2009 Rydal Show. Council has provided \$500 for each of the last 2 years to the Heavy Horse section of the show.

It is recommended that a donation to the value of \$500 be made to the Rydal Show Society for the Heavy Horse section of the 2009 Rydal Show.

POLICY IMPLICATIONS

Donations are provided under Policy 4.4 Donations – Section 356 of the Local Government Act.

FINANCIAL IMPLICATIONS

The Council provides Financial Assistance to not-for-profit community groups. The Council has set aside some \$20,000 for distribution throughout the 2008/09 Financial Year. \$8,406.74 has been allocated to date leaving \$11,593.26 for distribution. The total of recommended donations in this report is \$3,665.14 which leaves a further \$7,928.12 for distribution in the second half of the financial year.

LEGAL IMPLICATIONS

Local Government Act NSW 1993, Section 356

ATTACHMENTS

1. Letter from the Cullen Bullen Progress Association Dataworks Document 457098
2. Letter from the Portland Anglican Church Dataworks Document 458544
3. Letter from the Australian Air League Dataworks Document 448856
4. Letter from the Portland Art Society Dataworks Document 458081
5. Letter from the Mingaan Aboriginal Corporation Dataworks Document 457739
6. Letter from the Regional Migrant Support Project Dataworks Document 455051
7. Letter from the Rydal Show Society Dataworks Document 449928

RECOMMENDATION

THAT Council:

1. Donates \$1,315.14 to the Cullen Bullen Progress Association comprised of a rate waiver of \$425.14 and 30% of their insurance costs to the value of \$890.
2. Donates \$500 to Portland Anglican Church to waive DA/CC charges in respect of recent improvements.
3. Donates \$500 to the Australian Air League for the cost of hire fees for the Ballroom and facilities at Toni Luchetti Sports Ground.
4. Not provide a donation to Portland Art Society to assist them to raise funds for the new Ronald MacDonald House in Orange.

5. Donates \$500 to Mingaan Aboriginal Corporation to assist them to hold a declaration ceremony on 8 November of Blackfellows Hands as an Aboriginal Place.
6. Donates \$350 to the Regional Migrant Support Project towards the production and distribution of the “Multicultural News”.
7. Donates \$500 to the Rydal Show Society for the Heavy Horse section of the 2009 Rydal Show.

ITEM:10 COMM - 18/11/08 - ECONOMIC DEVELOPMENT ADVISORY COMMITTEE

REPORT FROM: ECONOMIC DEVELOPMENT OFFICER – ARABELLA PERUGINI-SHEERE

REFERENCE

MIN 07-254: Ordinary Meeting of Council 18 June 2007
MIN 008-133: Ordinary Council Meeting 19 August 2008

SUMMARY

This report recommends the adoption of Terms of Reference for the establishment of an Economic Development Advisory Committee to be established under the NSW Local Government Act 1993, Section 355. It also requests that the Council call for expressions of interest for membership and appoint a Council representative to the Committee.

COMMENTARY

As reported at the Ordinary Council Meeting of 19 August 2008 the council has signed a funding agreement with the Department of State and Regional Development. The Department has agreed to provide \$100,000 over a three year period. This agreement outlines the need for the appointment of an economic development officer and the establishment of an Economic Development Working Party (namely an advisory committee). The Economic Development Officer has now been recruited with Ms Arabella Perugini-Sheere commencing employment on 3 November 2008.

Economic Development Advisory Committee

At the meeting of 19 August 2008, the Council resolved:

THAT Council adopt the membership for the Economic Development Working Party. The report recommended that “the membership of the Economic Development Working Party be by invitation only and specifically target a range of industry sectors and relevant skills. Following consultation with the Department of State and Regional Development it was recommended that membership of the Working Party be as follows:

- *Two Councillors*
- *Lithgow City Council General Manager or his nominee*
- *Department State and Regional Development - Business Development Manager*
- *Power Industry - Delta*
- *Mining Industry - Centennial Coal*
- *Tourism*
- *Creative/cultural industry sector*
- *Education and Training*
- *Lithgow Business Association (Retail representative)*
- *Futures Lithgow (Manufacturing representative)*

Council officers (non-voting)

- *Group Manager Community and Corporate or nominee*
- *Economic Development Officer (executive officer)*

Terms of reference to include the principle responsibilities of:

- *Provide input that assists Council in determining the long term economic development needs for the Lithgow City Council area*
- *Provide input that assists with the development of an Economic Development Strategic Plan for the Lithgow City Council area*
- *Provide input that assists with the identification of new business and growth opportunities for existing businesses*
- *Provide input into land use planning that will allow for and stimulate economic growth*
- *Consider social and environmental impacts of anticipated economic growth*
- *In conjunction with the Council identify, seek out and advocate for economic development opportunities for the area.*

In addition, the Mayor as per Council's Policy 9.2, is by virtue of holding the office of Mayor, appointed as a member of all committees established by the Council.

Following the release of the *Lithgow Job Summit Report* (20 August 2008), it is recommended that a representative from the cultural/creative industries be included on the Advisory Committee. This position would represent sectors such as: creative enterprise development; cultural, environmental and heritage tourism; streetscapes and cultural precinct development; the arts; and, the development of cultural centres. The need for the development of such industries has also been highlighted in community consultation for the Council's Cultural Plan the draft of which is planned to be presented to the Council during the first meeting in December.

Councillor Representative to the Economic Development Advisory Committee

At the Extraordinary Meeting of the Council held 29 September 2008, the Council resolved that all Councillors and the General Manager be on the Economic Development Advisory Committee. This is at odds with the intent of the resolution of 19 August 2008.

It is recommended that the Council reconsider its membership to the Economic Development Advisory Committee as per the Draft Terms of Reference.

POLICY IMPLICATIONS

The report relates to Council's Policy 4.1 Community Representatives – Appointment of to Committees or Working Groups

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NSW Local Government Act 1993, Section 355

ATTACHMENTS

1. DRAFT Terms of Reference Lithgow City Council Economic Development Advisory Committee

RECOMMENDATION

THAT Council note this report on the Economic Development Advisory Committee and:

1. The name of the committee be the Economic Development Advisory Committee.
2. The Council adopt the Terms of Reference to the Economic Development Advisory Committee.
3. The Council call for Expressions of Interest for membership from the identified industry sectors.
4. The Council appoint two Councillors to be the Council's representatives on the Economic Development Advisory Committee.
5. The Council appoint a Councillor to be the Chairperson of the Committee.

ITEM:11 COMM - 18/11/08 - DOMESTIC TOURISM VISITOR RESEARCH - LITHGOW

REPORT FROM: TOURISM MANAGER – JODIE RAYNER

SUMMARY

This report provides information on tourism results for domestic travellers to the Lithgow Local Government area.

COMMENTARY

This information is provided to the Council following a request for the information at the Council Information Briefing session held on Monday 20 October 2008.

Tourism Research Australia currently produces a range of tourism research information at the National, State/Territory and Regional level. Data is gathered from the two primary surveys conducted by Tourism Research Australia – the International Visitor Survey (IVS) and the National Visitor Survey (NVS).

Statistics for Local Government Areas has been extrapolated for domestic travel to the Lithgow Local Government area, providing an overview of domestic travel, activity and spend in the region, purpose of visit and visitor profiles.

The following statistics are based on average annual visitation statistics over a three year average up to June 2007.

Domestic Travel to the Lithgow Local Government area

The current status of the domestic tourism industry in Lithgow is as follows:

- Domestic visitor numbers – 123,000 (overnight), 181,000 (domestic day)
- Domestic spend - \$27 million (overnight), \$12 million (domestic day)
- Average stay (nights) – 2.4
- Average spend per trip - \$217 (overnight), \$68 (domestic day)
- Average spend per night - \$91

Profile of domestic visitors to Lithgow

The top market for visitors to Lithgow is Sydney, with 54% of domestic visitors to Lithgow from this market.

Of the total overnight market to Lithgow, 37% stay with Friends and Relatives, 29% stay in hotel, motel or resort and 26% stay in a caravan park, caravan or camp.

Lifecycle groups visiting the area include parents with children – 36% of total visitation, young midlife singles and couples – 32% of the total market, older non working couple – 16% of the total market.

For 101,000 visitors to the Lithgow region, Lithgow was the sole destination for the trip.

RECOMMENDATION

THAT the information on the domestic tourism visitor market in the Lithgow Local Government area be noted.

COMMITTEE MEETINGS

ITEM:12 **COMM - 18/11/08 - S355 ENVIRONMENTAL ADVISORY COMMITTEE MEETING MINUTES**

REPORT FROM: ENVIRONMENTAL HEALTH OFFICER - DAVID DURIE

REFERENCE

Min No 07-389: Policy and Strategy Committee Meeting 3 September 2007
Min No 07-483: Finance and Services Committee Meeting 5 November 2007
Min No F08-21: Finance and Services Committee Meeting 3 March 2008

SUMMARY

This report provides a summary of the Minutes of the Environmental Advisory Committee (EAC) meeting held on Wednesday 13th of August 2008.

COMMENTARY

ITEM 2 MARRANGAROO REMEDIATION PROGRAM

Ross McFarlan (Independent Auditor), Mike Bowman & Dr Gary Smith presented information on the proposed remediation works for Defence Force lands at Marrangaroo.

The presentation provided an overview as both a way of informing the community and inviting feedback. The proposed works are being carried out as part of the Defence Force's ongoing stewardship of the lands. Site risk assessments have been carried out to identify likely contaminants on the site resulting from various activities, as well as areas prioritised for remediation activities.

ITEM 3 MARRANGAROO LAND USE MANAGEMENT PLAN

Action from previous meeting (Item 4 - June 2008). Council to provide an update in regard to Platypus presence in Marrangaroo Creek within the *Marrangaroo Land Use Plan*.

The Committee was advised that the Lithgow Environment Group (LEG) has taken the Department of Environment and Climate Change (DECC) staff to the site. The LEG believes that the Platypus is endangered at a regional level, even though they are not classified as an endangered species. They are concerned about the future zoning of the upstream site. Zoning may impact the permissible type of industry, and if any development occurs it should have specific controls.

Council to provide an update at October meeting.

ITEM 6 ELECTRIC CARS

Sarah Childs has carried out research on the possibility for electric cars at Treeview Estate and would like to generate a proposal requesting support from the LEAC. The Committee is to consider the project proposal in regard to LEAC 'Terms of Reference' and priorities.

POLICY IMPLICATIONS

In accordance with the terms of reference of S355 Committees of Council.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Environmental Advisory Committee Meeting Minutes 9th of April 2008
(Doc: 460408)

RECOMMENDED

THAT the Minutes of the Environmental Advisory Committee Meeting held on 13th August 2008 be received and noted.

QUESTIONS OF AN URGENT NATURE