



LITHGOW CITY COUNCIL

A CENTRE OF REGIONAL EXCELLENCE

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

09 MAY 2011

AT 7.00pm

AGENDA

APOLOGIES

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 18TH APRIL 2011

PUBLIC FORUM

DECLARATION OF INTEREST

MAYORAL MINUTES

NOTICE OF RESCISSIONS

NOTICES OF MOTION

CORRESPONDENCE AND REPORTS

General Managers Reports
Environment and Development Services Reports
Operation Services Reports
Finance Services Reports

REPORTS FROM DELEGATES

BUSINESS OF GREAT URGENCY

(As identified by Clause 241 of the Local Government (General) Regulations 2005)

CLOSED REPORTS

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NOTICES OF MOTIONS

ITEM: 1 NOTICE OF MOTION - 09/05/11 - REQUEST FOR UPDATED ON THE OLD GASWORKS SITE AND COUNCIL DEPOT IN MORT ST, LITHGOW - COUNCILLOR M F TICEHURST

REFERENCE

Lithgow Mercury media report dated 12 April 2001: 'Will old depot become a Business Park?'

Objective 3.1.4 of the recent LCC Economic Development Strategy 2010/2014.

COMMENTARY

Recently a long-term ratepayer provided me with the following report from over 10 years ago in the Lithgow Mercury on the setting up of a proposed Business Park embracing the Old Gasworks Site in Mort Street, Lithgow. The Mercury reported:

"Lithgow Council is pressing ahead with a feasibility study of setting up a 'business park' on a site embracing the old gasworks and Council's own works depot in Mort Street. Council is also considering the acquisition of land on the eastern side of the highway at Marrangaroo if the RTA can guarantee safe access to the site. And a private developer has received support in principle for establishment of a 27 block business park at the intersection of Reserve Road and the highway at Marrangaroo. These are the latest moves in a long running and passionate debate over the establishment of a business park after another rejection of a proposal for a site north of Oakey Forest Road at Marrangaroo. The passionate debate has, if nothing else, stirred a sense of urgency in Council after embarrassing admissions that the Business Enterprise Centre and local estate agents have virtually nothing they can show potential investors inquiring after prepared industrial land. Should the Mort Street site be developed for this purpose it would involve the section extending to the library buildings at the western end to the boundary of Henrys' Earthmoving in the east. This would include the relocation of the Council's works depot, possibly to Wallerawang. The works depot was described in Council as presenting a poor image on the highway and railway route through Lithgow and in need of relocation irrespective of the final decision on the business park. Council's Policy and Development Committee had recommended an urgent preparation of a concept plan for the Mort Street site — even suggesting that this should include the Henrys property. However Councillors told the meeting it was never intended to move the Henrys operation and that this would only be included should the company itself vacate the site sometime in the future. The committee said that a car wash business was already seeking approval for part of the gasworks site and recommended approval in principle subject to the concept plan. Final approval would need to be in conjunction with the redevelopment of the entire site. There was also some conjecture over whether Council or AGL would be responsible for the demolition of the old gas holder. Cr Brian Morrissey said he hoped Council officers would treat the study seriously and as a matter of urgency.

He said the proposal to move the Council depot should also be a matter of priority as it was becoming 'more dilapidated year after year' and was not a good advertisement for Lithgow from both the highway and the railway line. "In any event it is not a good location with so much heavy plant and vehicle movement so close to the CBD," he said. Mayor Neville Castle cautioned Councillors to realise that Council still does not own the gasworks site. But he said this would not preclude preparation of a concept plan."

Additionally, the recent Lithgow City Council Economic Development Strategy stated as a Priority that Objective 3.1.4 (was for the Council to) "Investigate opportunities for the former gas works site and Council depot site in Mort Street that may enhance economic development with the consideration of relocating the Council depot."

- Q. Could the General Manager and Council Officers, on the 10th Anniversary of the attached report in the Lithgow Mercury, provide the Council, Councillors and ratepayers with an updated report to Council on the current status of the Old Gasworks Site in Mort Street Lithgow and as also indicated in the report, the current status of relocating the adjoining Council Depot in Mort Street Lithgow, including what monies has the Council allocated for these sites in the current Draft LCC Management Plan for 11/12 to 14/15 which is currently on Public Exhibition?

ATTACHMENTS

1. Lithgow Mercury media report dated 12 April 2001: '*Will old depot become a Business Park?*'

RECOMMENDATION

THAT the General Manager and Council Officers, on the 10th Anniversary of the attached report in the Lithgow Mercury, provide the Council, Councillors and ratepayers with an updated report to Council on the current status of the Old Gasworks Site in Mort Street Lithgow and as also indicated in the report, the current status of relocating the adjoining Council Depot in Mort Street Lithgow, including what monies has the Council allocated for these sites in the current Draft LCC Management Plan for 11/12 to 14/15 which is currently on Public Exhibition?

ITEM: 2 NOTICE OF MOTION - 09/05/11 - QWN - INFORMATION SOUGHT ON PUBLICLY AVAILABLE LITHGOW CITY COUNCILLOR EMAIL ADDRESSES - COUNCILLOR M F TICEHURST

REFERENCE

Listed by Councillor Martin Ticehurst 1 May 2011

COMMENTARY

- Q. Could the General Manager and Council Officers provide the Council, Councillors and ratepayers with an immediate report to this Council Meeting on why emails being personally or professionally forwarded to Lithgow City Councillors, Councillors email addresses, either individually or collectively (clr.ticehurst@lithgow.nsw.gov.au) are:
1. Being automatically blind copied to another email address within the Lithgow City Council?
 2. Which Lithgow City Council Officer is receiving the automatically blind copied Councillor emails made between personal and or professional contacts?
 3. Which Lithgow City Council Officer authorised the blind copying of Councillors emails and on what grounds and legal advice?
 4. How long has this blind copying of Councillors emails made between personal and or professional contacts been taking place?

RECOMMENDATION

THAT the General Manager and Council Officers provide the Council, Councillors and ratepayers with an immediate report to this Council Meeting on why emails being personally or professionally forwarded to Lithgow City Councillors, Councillors email addresses, either individually or collectively (clr.ticehurst@lithgow.nsw.gov.au) are:

1. Being automatically blind copied to another email address within the Lithgow City Council?
2. Which Lithgow City Council Officer is receiving the automatically blind copied Councillor emails made between personal and or professional contacts?
3. Which Lithgow City Council Officer authorised the blind copying of Councillors emails and on what grounds and legal advice?
4. How long has this blind copying of Councillors emails made between personal and or professional contacts been taking place?

ITEM: 3 NOTICE OF MOTION - 09/05/11 - COUNCILS STAGING OF THE NSW AND NATIONAL TIDY TOWN AWARDS IN LITHGOW - COUNCILLOR M F TICEHURST

REFERENCE

Lithgow Winner of the 2010 NSW Tidy Towns.

Lithgow Winner of the 2010/11 National Tidy Towns Award.

COMMENTARY

Could the General Manager and Council Officers provide the Council, Councillors and ratepayers with a report to Council on the Councils future staging of the NSW and National Tidy Town Awards to be held in Lithgow?

RECOMMENDATION

THAT the General Manager and Council Officers provide the Council, Councillors and ratepayers with a report to Council on the Councils future staging of the NSW and National Tidy Town Awards to be held in Lithgow.

ITEM: 4 NOTICE OF MOTION - 09/05/11 - DLG NEGATIVE RESPONSE ON THE LITHGOW CITY COUNCIL ANNUAL REPORT 2009/2010 - COUNCILLOR M F TICEHURST

REFERENCE

Lithgow City Council Annual Report 2009//2010.

NSW Land and Environment Court website at:

<http://www.caselaw.nsw.gov.au/action/PJUDG?jgmtid=150172>

Resolution 11 – 52 at the Ordinary Meeting of the Lithgow City Council on 14 February 2011.

Letter under the hand of the Chief Executive Officer of the Division of Local Government dated 11 April 2011.

COMMENTARY

As all Councillors, ratepayers and residents would be aware, at the Ordinary Meeting of the Lithgow City Council on Monday 13 December 2010, my Notice of Motion at Agenda Item 9 stated:

ITEM: 9 NOTICE OF MOTION - 13/12/10 - LAND AND ENVIRONMENT COURT - COUNCILLOR M F TICEHURST

MOTION

THAT the General Manager provide the Council, Councillors and ratepayers with a response to the following Question with Notice:

Q. Could the General Manager provide the Council, Councillors, ratepayers and residents with a response to the Councils involvement as a current defendant in legal proceedings in the Land and Environment Court involving a matter in the Capertee Valley?

Q. Is it correct that the Council has pleaded guilty to the alleged serious offence and that the matter has been finalised subject to issue of a formal and final financial penalty?

Q. Has this matter ever been formally reported to an Ordinary Meeting of the Council and if not, why not?

Q. Was this matter, which has been ongoing for some years, formally reported in the Lithgow City Councils recent 09/10 Annual Report? If not, why not?

Q. Given the Lithgow City Councils plea of guilty, is it correct that it is expected that the financial penalty handed down will be up to \$50,000?

MOVED: Councillor M F Ticehurst

SECONDED: Councillor J J McGinnes.

The **MOTION** was put and declared **LOST**.

Further, as all Councillors would now be aware with respect to the above Notice of Motion, subsequent Council Resolution 11 – 52 made at the Ordinary Meeting of the Lithgow City Council on 14 February 2011, provided the following Land and Environment Court's judgement which stated:

LITHGOW CITY COUNCIL

Guilty of threatened species offences

On 11 February 2011, the New South Wales Land and Environment Court found Lithgow City Council ('Council') guilty of two offences of picking threatened species on Port Macquarie Road, Glen Alice ('the Road'), which is located in the Capertee Valley NSW. The offences occurred between about 22 April 2008 and 2 May 2008 when a Council works crew was carrying out road maintenance works using heavy machinery. The works damaged, injured and/or crushed 76 *Grevillea obtusiflora* subspecies *fecunda* plants and 1 *Phebalium bifidum* plant. Both are endangered species.

Council pleaded guilty to both charges.

On 11 February 2011, Council was convicted and ordered by the Land and Environment Court to:

- a. **Pay an amount of \$105,000**, to the Derelict Mines Programme, Industry and Investment NSW for use in site rehabilitation at the Glen Davis Oil Shale Quarry Site, located in the Capertee Valley NSW.
- b. **Pay the prosecutor's costs of \$25,000**, and
- c. Place this publication notice (paid for by Council).

Council was prosecuted by the Department of Environment, Climate Change and Water (NSW).

It is noted that the General Manager, as with respect to some previous and most recent Notice of Motions submitted by Councillor Martin Ticehurst; did not at the time take up the public option with respect to my unambiguous Notice of Motion at Agenda Item 9 at the Ordinary Meeting of the Lithgow City Council on Monday 13 December 2010, to attach one of his '**GENERAL MANAGERS COMMENTS**' to the Notice of Motion.

As indicated in the DLG Chief Executive Officers letter, the Division was advised of this matter by way of an email of the 12 February 2011, that was also addressed to the Lithgow City Councils General Manager and other Councillors and also the then Minister for Local Government. This email at the time commented that:

"This adverse decision as made in the Land and Environment Court and the matters past and ongoing secrecy from all Councillors and the ratepayers and residents alike, particularly given the number of questions raised in the above Notice of Motion only just two months ago and that the Lithgow City Council originally entered pleas of guilty in the Land and Environment Court exactly 12 months ago today, represents in my opinion, poor due diligence and corporate

governance by a number of Senior Council Officers of the Lithgow City Council to all Councillors."

This comment has now been supported with the DLG Chief Executive Officers letter formally advising that:

"I advise that section 428 (2) (e) of the Local Government Act 1993 provides that a council is to include in its annual report:

" a summary of the amounts recurred by the council during that year in relation to legal proceedings taken by or against the council (including amounts, costs and expenses paid or received by way of out of court settlements, other than those the terms of which are not to be disclosed) and a summary of the state of progress of each legal proceeding [my emphasis] and (if it has been finalised) the result"

A review of Council's 2009/10 annual report indicates that Council did not appear to report on the state of progress of the abovementioned legal proceedings, as required by the Act. The Division has written separately to the General Manager to clarify the annual reporting requirements in relation to legal proceedings and to request that the requirements are met in future.

Meanwhile, it is appropriate that you have brought your concerns directly to the attention of the General Manager and other Councillors. Council may wish to determine or improve processes to ensure the routine reporting to Council of litigation affecting the Council, particularly where it has a potential significant impact on Councils budget.”

ATTACHMENTS

1. Letter under the hand of the Chief Executive Officer of the Division of Local Government dated 11 April 2011.

RECOMMENDATION

THAT all Senior Council Officers must ensure that all known legal litigation affecting the Councils Budget is formally reported to the Council as soon as possible and reported upon in the Lithgow City Councils Annual Report as required under Section 428 (2) (e) of the Local Government Act 1993.

**ITEM: 5 NOTICE OF MOTION - 09/05/11 - UPDATING OF COUNCIL POLICY
10.18 NATURE STRIP AND MEDIAN STRIP MAINTENANCE -
COUNCILLOR M F TICEHURST**

REFERENCE

Minutes of the Lithgow City Council Meeting on 19 February 2007.
Lithgow City Council Resolutions P08 – 62 and 09 – 189 respectively.
Lithgow City Council Policy 10.18 ‘Nature Strip and Median Strip Maintenance’.

COMMENTARY

Given recent concerns, it is timely to re-visit the information contained within Lithgow City Council Policy 10.18 ‘Nature Strip and Median Strip Maintenance’ to ensure that it is more easily understood by Councillors, ratepayers and residents and local business proprietors.

It would appear that over past years the Lithgow City Council has held several positions on the legal and moral responsibility for the maintenance of nature strips that are located between the front boundary of residential and business properties and the public road.

Historically, **Section 145 (3) of the Roads Act 1993 clearly states that, “All public roads within a local government area (other than freeways and Crown roads) are vested in fee simple in the appropriate roads authority.”**

Further, in the matter of Ellis Vs Lithgow City Council in 2003, the then Councils General Manager, now Group Manager, Operations provided the following sworn evidence in the Bathurst (Civil) District Court that:

(OFFICIAL TRANSCRIPT) IAIN STEWART (1215PM) SWORN AND EXAMINED (Page 61)

Evidence in Chief— Mr Arden for the Council asking questions. (Page 62)

Q. Does Council have a policy in relation to the nature strip between footpaths and kerbing and guttering?

A. Yes, yes we do.

Q. Is it written?

A. No it is not.

Q. For how long has that policy existed in Council?

A. I would be guessing, saying probably about 15 to 20 years.

OBJECTION HIS HONOUR: Q. Don’t guess, otherwise Mr Wilkins will object?

A. Well I’ve been an employee since 1974 - its probably been in force since 1974.

Q. What is the policy in relation to the maintenance of the nature strip between the footpath structure and the kerbing and guttering?

A. The policy is we expect the adjacent residents to maintain the nature strip — sorry, Council expects the adjacent residents to maintain the nature strip.

In the final judgment handed down in favour of the Lithgow City Council, the then sitting District Court Judge, a Justice Goldring commented, **“Another aspect of the council’s policy causes me more concern. This is its policy of making the owners of the adjacent land responsible for the maintenance of the nature strip between the front of their property and the kerb. Mr Stewart said that ratepayers were informed of this in the Council’s regular newsletter or if they enquired, but it seems to me, to the extent that maintenance of the nature strip requires the prevention of hazards, that this is an attempt by the council to delegate a duty which, in law, it may not be possible to delegate. In any event, if it is council’s policy, more, and more effective steps, would need to be taken to bring this policy to the attention of landowners and/or occupiers.”**

Additionally, later and further public clarification was sought and subsequently minuted at the Ordinary Meeting of the Lithgow City Council on 19 February 2007 which recorded publicly that:

11. With respect to the Council’s new Footpath and Maintenance and Repair Policy, could the Council advise have or are ratepayers and landowners to be held legally responsible for the condition or for any of the maintenance of nature strips and footpaths adjacent to their properties?

That is not the intended scope of the Footpath Maintenance and Repair Policy, however Council recognises and appreciates the large effort undertaken by the majority of the community to maintain footpaths in front of residencies, commercial and industrial buildings.

Q. That in light of the above public information on the Lithgow City Councils holding several positions on the legal and moral responsibility for the maintenance of nature strips that are located between the front boundary of residential and business properties and the public road, could the General Manager and Council Officers provide the Council, Councillors and ratepayers with an urgent report back to the Council, including if the information now contained within Lithgow City Council Policy 10.18 ‘Nature Strip and Median Strip Maintenance’ should be updated so as to ensure that it is more easily understood by Councillors, ratepayers and residents and local business proprietors?

RECOMMENDATION**THAT:**

1. In light of the above public information on the Lithgow City Councils holding several positions on the legal and moral responsibility for the maintenance of nature strips that are located between the front boundary of residential and business properties and the public road, could the General Manager and Council Officers provide the Council, Councillors and ratepayers with an urgent report back to the Council, including if the information now contained within Lithgow City Council Policy 10.18 'Nature Strip and Median Strip Maintenance' should be updated so as to ensure that it is more easily understood by Councillors, ratepayers and residents and local business proprietors.

2. The General Manager and Council Officers provide the Council, Councillors and ratepayers with an urgent report back to the Council on what other existing 'unwritten policies' the Lithgow City Council has?

GENERAL MANAGERS REPORTS

ITEM: 6 GM - 09/05/11 - EXCLUSION OF NOTICE OF MOTION

REFERENCE

NIL

SUMMARY

Five Councillor Notices of Motion have been deemed to be unlawful and excluded from the business paper in accordance with Clause 240 of the NSW Local Government (General) Regulation 2005.

COMMENTARY

The General Manager is in receipt of five (5) Notices of Motion (NOM) from a Councillor. These NOMs have been deemed to be unlawful as the matters are considered to be potentially defamatory. The matters have therefore not been included as part of the business paper for this Council meeting.

In accordance with Clause 240 of the NSW Local Government (General) Regulation 2005 the General Manager must report such exclusions to the next meeting of Council.

The relevant sections of the Act and Regulations are:

Clause 240 Agenda and business papers for council meetings

(1) The general manager must ensure that the agenda for a meeting of the council states:

- (a) all matters to be dealt with arising out of the proceedings of former meetings of the council, and
- (b) if the mayor is the chairperson-any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
- (c) subject to subclause (2), any business of which due notice has been given.

(2) The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would be) unlawful. The general manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

NIL

RECOMMENDATION

THAT Council note the report on five (5) Notices of Motion being declared unlawful and excluded from the Business Paper in accordance with Clause 240 of the NSW Local Government (General) Regulation 2005.

ITEM: 7 GM - 09/05/11 - UNAUTHORISED WORK TO COUNCIL GARDEN

REFERENCE

NIL

SUMMARY

Council has requested a further report in relation to the unauthorised work carried out to the Council garden fronting 2A Wolgan St Portland.

COMMENTARY

Council resolved that:

THAT the General Manager and Council Officers provide the Council, Councillors and ratepayers with an report to the next Meeting of the Council in respect of the above subject media report that was recently published in 'The Saint' column of the Lithgow Mercury and that Councillors be provided with all correspondence between the Lithgow City Council, the NSW Police Service and the owner of the Portland Business?

Below is an outline of events in relation to this matter:

1. Council received a phone call from Ms Fitzgerald on 10 January 2011 requesting a pruning of the tree fronting her business in Wolgan Street Portland.
2. Council staff reported that the work requested had been completed on 18 January 2011.
3. Council received an email from Ms Fitzgerald on 14 February 2011 (attached) requesting Council to 'depose' of the gardens fronting her premises in Wolgan Street, Portland.
4. Council's Group Manager Operations contacted Ms Fitzgerald by phone on 15 February 2011 to discuss her concerns. Staff were then instructed to inspect and provide advice on the matter.

5. In the lead up to the Portland Art Show Council staff were instructed to clean up the garden beds in Wolgan Street. During this clean up Ms Fitzgerald approached a parks and gardens staff member to clean up the garden bed in front of her premises in Wolgan Street. The staff member advised Ms Fitzgerald that she was “legally not allowed to prune the mop top or the garden beds, but if the mop top was to droop down she didn’t mind if she removed the undergrowth area of the tree.”
6. Council staff attended a meeting with the Portland Development Association on Friday 25 February in relation to the streetscape for the Portland CBD. During the meeting there was not agreement amongst those present in relation to the future direction for the streetscape. The PDA was requested to discuss the issues amongst its members and provide a consensus view on action to be taken. No action was to be taken until there was feedback from the group. Ms Fitzgerald was in attendance at this meeting.
7. On Sunday evening concerned citizens of the area raised concern that the streetscape in the Portland CBD was being damaged by persons with a chainsaw. The Police were called.
8. Police advised that trees in the area outside of Ms Fitzgerald’s shop had been ‘vigorously’ trimmed and that Ms Fitzgerald admitted to taking the action. Ms Fitzgerald advised the Police that she had received permission from Council via an email to carry out this work. On speaking with Council staff NO permission was given, either by email or orally to cut the tree as it had been. All of the limbs of the tree had been removed.
9. A senior Council officer visited Ms Fitzgerald on Monday 28 February 2011 and spoke with her about the incident. Ms Fitzgerald stated that she was advised that she had received the permission from another employee. On speaking with the Parks Supervisor he indicated that no such permission was given but felt that another junior staff member from the parks and gardens team may have spoken with Ms Fitzgerald. This team member was contacted and they advised that Ms Fitzgerald had spoken with them about trimming of shrubs and general cleaning of the garden but not about cutting back the tree (see point 5 above).
10. During the meeting on 28 February Ms Fitzgerald was advised that no further action would be taken.

Note: There was not written correspondence with the Police.

It would be normal Council practice to contact the Police where there is considered to be interference with a Council asset.

Council is awaiting a proposal from the PDA in relation to the future of the gardens in the Portland CBD.

In addition to the letters outlined below Ms Fitzgerald has also provided another letter of complaint, potential Code of Conduct. Included in this letter, and unrelated to the complaint, Ms Fitzgerald states "I would like to thank Mr Ian Stewart for his support and honesty..."

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Email from Ms Leanne Fitzgerald
2. Letter to the Portland Development Association
3. Letter to Ms Leanne Fitzgerald
4. Statement made by Ms Fitzgerald at the last meeting of Council provided by Clr McGinnes

RECOMMENDATION

THAT Council note the report in relation to the unauthorised work to the Council garden in Portland on 27 February 2011.

ITEM: 8 GM - 09/05/11 - COUNCIL CODE OF MEETING PRACTICE

REFERENCE

NIL

SUMMARY

Council resolved that the Council's Code of Meeting Practice be reviewed. This report outlines that review.

COMMENTARY

Council previously resolved that:

10-514 SUPPLEMENTARY MOTION

RESOLVED THAT:

1. Council review the Code of Meeting Practice in relation to agendas and attention to be placed on Notices of Motion and the use of the Public Forum.
2. Council report back in relation to the DLG Promoting Better Practice Review.

Councillors recently undertook training recently with Mr Gerry Holmes. Mr Holmes has an extensive background in local government law and is a Senior Fellow from the Faculty of Law at the University of Wollongong and also holds a number of qualifications (B.Sc(Hons)., M.Sc., LL.B., Dip.Soc.Stud., Dip.Ad.Ed., Dip.Crim., Dip.OH&S(Mgt)., C.Q.S.W.) and is a Lawyer admitted Barrister with the Supreme Court of NSW.

The training conducted by Mr Holmes centred upon a review councillors understanding and performance for governance, meeting practice and Code of Conduct.

During the training the issues raised in the Council resolution 10-514 were considered and discussed. Mr Holmes recommended several changes to Council's Code of Meeting Practice.

Under Section 360 of the NSW Local Government Act 1993 a council may adopt a code of meeting practice that incorporates the regulations made for the purposes of this section and supplements those regulations with provisions that are not inconsistent with them. Council may amend such a Code.

Under Council's Code of Meeting Practice the Code may be amended in accordance with the provisions of Division 1 Part 2 of Chapter 12 of the Local Government Act. Section 361 provides that a period of 28 days for public exhibition of the Code should occur and a 42 day period for submissions. These periods run concurrently.

Public Forum

Council's present policy in relation to the use of the Public Forum at Council meetings allows for (Clause 65):

- (vi) *Up to 15 minutes of the Ordinary Council Meeting will be made 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, such extension shall be by resolution of 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 be required to state their name and shall be permitted to make an address or to ask two questions.

If time permits members of the public 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 involves:*
- a) *personnel matters concerning particular individuals;*
 - b) *personal hardship of any resident or ratepayer, (unless with the written permission of the subject person(s)).*
 - 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. [LP]*

The Public Forum has been used extensively by the public to this point such that it has on a number of occasions been extended significantly even to the point where the Forum has utilised almost as much time as the Council meeting itself.

In relation to public participation in the Council meeting process the DLG's Meeting Practice Note 16 provides:

2.15 Public Questions and Addresses

2.15.1 Can the public ask questions or address the council at council meetings?

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, at the front of council's meetings business papers and on council's website.

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 single 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).

Throughout time this particular issue has caused concern for different councils and this issue was highlighted by Mr Holmes during his training on the matter. Concern was raised at the level of participation in a Council meeting. Council meetings are the forum in which decisions on key policy and strategic matters are made. They also represent an important accountability mechanism as reflected in the requirement under the Act that council meetings be open to the public, except in limited circumstances.

For a council to exercise its functions effectively and to meet its obligations to the community it serves, it is vital that council meetings are conducted in an orderly and efficient manner. The failure to conduct a council meeting in an orderly manner also has the potential to erode community confidence in the council and in the local government sector as a whole.

At times because of the length of the Public Forum and the issues raised at the Forum there are concerns that the Council meetings at times moves away from the policy and strategic roles. At present councillors are required, unless in a situation of great urgency, to deal with items on the Business Paper only. This enables all councillors and the public to be aware, by reading the agenda, of matters that will be raised at each meeting. It also enables councillors to give careful thought to any pecuniary interest or conflict of interest they might have in a matter, rather than having to hastily confront an issue during the meeting. Likewise it also allows staff to concentrate on those items on the agenda only and not a raft of issues that at times require further research. An opportunity would exist to require that the public, like councillors, be confined to issues on the business paper only.

At the training session it was proposed that:

- the Public Forum be utilised by the public to contribute to matters on the Council agenda only

- participants for the Public Forum register prior to the meeting and indicate the Agenda item number that they wish to speak on

Agendas

Council's current agenda for meetings is:

- 1 Apologies
- 2 Confirmation of Minutes of Previous Meetings
- 3 Public Forum
- 4 Declaration of Interest
- 5 Mayoral Minute
- 6 Notices of Rescissions
- 7 Notices of Motion
- 8 Correspondence and 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

The only change proposed here is to change item 4 from 'Declaration of Interest' to 'Declaration of Interests Pecuniary and Non-Pecuniary' no **other** changes are suggested to the agenda however additions are suggested to the Code in relation to Procedural Motions. A number of such procedural motions are already included in the Code. Following the training with Mr Holmes some additional motions are proposed. This will be discussed below.

Notices of Motion

Clause 19 of Council's Code of Meeting Practice provides for the opportunity for councillors to place items onto the Council Meeting Agenda. Here it states that:

- (i) The Council must not transact business at a meeting of the Council:
 - (a) unless a Councillor has given notice of the business in writing by noon of the day one week immediately preceding the meeting; and
 - (b) unless notice of business has been sent to the Councillors at least 3 days before the meeting, or, in the event of an extraordinary meeting called in an emergency, at least one day.

This clause is subject, however, to Clause 240 of the Local Government Regulations and Clause 18 of Council's Code of Meeting Practice where it is stated that:

- (2) The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would be) unlawful. The general manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council.

In considering such exclusions the general manager is to have regard to:

- proposes unlawful action
- is ultra vires of the Councils jurisdiction
- is defamatory
- is vague and equivocal in language
- is a direct negative of a resolution just passed
- is a repeat of a motion already dealt with at the Meeting

In addition to this the Chair can at any time rule a motion out of order on the basis if it is unlawful or its implementation is unlawful (Reg238 (2)).

As stated above the present closing time for NOMs to be submitted to Council officers is by noon of the day one week immediately preceding the meeting. It is proposed that this be amended to be by the close of business seven (7) working days prior to the Council meeting. In most cases this would be the close of business two Fridays prior to the Council meeting.

Procedural Motions

A number of such procedural motions are already included in the Code. Following the training with Mr Holmes some additional motions are proposed.

It is proposed that Council formally include the following procedural motions into its Code of Meeting Practice:

- Lie on the table (defer indefinitely); as a procedural motion a mover is required but not a seconder. Here the outcome is that the matters subject of the motion are dealt with **and** that any motion can not be discussed at the meeting subsequent to the passing of this motion without giving NOM as required.
- Move to next business; as a procedural motion a mover is required but not seconder. The outcome of the decision is to move to the next item of business. The matter subject to the motion can not be considered at a later stage of the Meeting unless there is a successful motion from the floor for the matter to be considered.

While Council does not currently formally provide for these items to be dealt with in the current Code of Meeting Practice by right of their nature they presently exist. It would be appropriate for the Council to formally include these procedural motions into the Code.

Promoting Better Practice Review

During 2006 the Department of Local Government conducted a Promoting Better Practice (PBP) Review on Lithgow City Council. The Department visited the Council in September 2006 and then issued its final report on Council in June 2007. Within the report there are 38 recommendations.

POLICY IMPLICATIONS

This affects Council's Policy – Code of Meeting Practice V8 and becomes Version 9 of the Code.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

Amendments to the Code of Meeting Practice are to be carried out in accordance with the Code and the NSW Local Government Act. Advertising of changes is to take place and submissions made.

ATTACHMENTS

1. DLG Promoting Better Practice Review - Lithgow 2007
2. Letter from the Department of Local Government dated 25 August 2010

RECOMMENDATION**THAT** Council:

1. Adopt the Draft Code of Meeting Practice Version 9 for public comment with the following amendments:
 - i) the Public Forum be utilised by the public to contribute to matters on the Council agenda only;
 - ii) participants for the Forum register prior to the meeting and indicate the Agenda item number that they wish to speak on;
 - iii) that item 4 in the agenda be amended to 'Declaration of Interests; Pecuniary and Non-Pecuniary';
 - iv) that two procedural motions be included into the Code formalising that motions may be used to:
 - Lie on the table (defer indefinitely) – mover required but no seconder
 - Move to next business – mover required but no seconder
 - v) That Clause 19(i)(a) be amended to read "unless a Councillor has given notice of the business in writing by the close of business seven (7) working days prior to the Council meeting (In most cases this would be the close of business two Fridays prior to the Council meeting).
2. Place the Draft Code of Meeting Practice on public display for a minimum period of 28 days with a report back to Council no earlier than 42 days after the commencement of the advertising.

ENVIRONMENT AND DEVELOPMENT SERVICES REPORTS

ITEM: 9 ENVIRO - 09/05/11 - PROPOSED CONSTRUCTION OF NEW PUBLIC TOILET FACILITIES - QUEEN ELIZABETH PARK - ADOPTION OF TENDER METHOD

REPORT BY: ANDREW MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To adopt the appropriate tender method for the proposed construction of new public toilet facilities in Queen Elizabeth Park in the 2011-12 financial year.

COMMENTARY

Council would be well aware that the Draft Management Plan 2011/12 – 2014/15 is currently on public exhibition. A capital project proposed in the 2011-12 year is the construction of new public toilet facilities in Queen Elizabeth Park. It would be proposed that this would involve the demolition of the existing toilet block in the north-eastern corner and replace it with a new, modern public toilet facility befitting of its location. Naturally, the project can only proceed following adoption of the Management Plan and on the basis that Council in finality concurs with the budget item for 2011-12. However, on the basis that this does occur, the project will need to proceed quickly, particularly as it would be hoped that new toilet facilities could be constructed and in operation prior to the Tidy Towns Presentation Weekend on 4th – 6th November 2011. With this in mind, it seems appropriate to commence the process of adopting the appropriate tender method so that once funds are confirmed the process can commence as soon as possible in the new financial year. Under Council's Policy 1.4 – Tendering, Council must first determine whether to adopt the open tender method or selective tender method. Clause 166 of the Local Government (General) Regulation 2005 indicates that whenever a Council is required by Section 55 of the Local Government Act to invite tenders, Council must decide whether to utilise (a) the open tendering method by which tenders for the proposed contract are invited by public advertisement; (b) the selective tendering method by which invitations to tender for a particular proposed contract are made following a public advertisement asking for expressions of interest; or (c) selective tender method by which recognised contractors selected from a list prepared or adopted by the Council are invited to tender for proposed contracts of a particular kind.

In the case of constructing a toilet block, which is estimated to cost in the vicinity of \$150,000, it is considered that the most advantageous method would be to adopt the selective tendering method by which invitations to tender are made following a public advertisement asking for expressions of interest. This should give an equal opportunity for local contractors to express an interest that they wish to tender on the project. If Council concurs then the process for inviting expressions of interest for persons who wish to be included on a list of proposed tenderers, can be undertaken prior to the adoption of the Management Plan/Budget so that the tender process can proceed as early as practicable in the new financial year.

POLICY IMPLICATIONS

Policy 1.4 – Tendering

FINANCIAL IMPLICATIONS

An amount of \$150,000 is included in the Draft Management Plan to be included in the 2011-12 Draft Budget.

LEGAL IMPLICATIONS

Requirements for tendering and process for open or selective tendering may be found in Section 55 of the Local Government Act and Clauses 163 – 179 in the Local Government Regulations.

RECOMMENDATION

THAT Council adopt the selective tendering method by which invitations to tender are made following a public advertisement asking for expressions of interest in relation to the proposed construction of a new toilet block in Queen Elizabeth Park 2011-12 financial year.

ITEM: 10 ENVIR - 09/05/11 - DEVELOPMENT APPLICATION 070/10, PLACE OF WORSHIP AND BOUNDARY ADJUSTMENT

REPORT BY: ANDREW MUIR – GROUP MANAGER REGIONAL SERVICE

SUMMARY

To assess and recommend determination of 070-10DA. Recommendation will be for approval subject to conditions.

COMMENTARY

Council is in receipt of Development Application 070/10 for the construction of a Place of Worship (Church) and a boundary adjustment to facilitate adjoining landowner access on land described as Lot 51 DP 1107410, being known as Hassan Street, South Bowenfels.

The building will be constructed to be a Place of Worship (a church), and the development proposes to create 128 car parking spaces on the said land to enable parking to be provided on site, as opposed to on-street which could not accommodate such volumes.

The development proposes to limit the number of people to 800 on no more than two occasions a year however, on a weekly basis the proposed occupancy will range between 150-300 people for the development.

The site will be accessed via Hassan Street with the boundary adjustment of the said land allowing for direct access to Hassan Street by an adjoining allotment owner who currently accesses his allotment via a Right of Carriageway over the 'proposed church' land.

The land is currently vacant and slopes to the north, and is located within the Sydney Hydrological Catchment and as such was required to be assessed and supported by the Sydney Catchment Authority (SCA).

The development will be prominent in an otherwise low density residential area and will be visible from Hassan Streets, Kirkley Street and the Great Western Highway. The development will be limited in view from the GWH by the ongoing Treeview development.

However, the proposal is considered to be consistent considering the context of surrounding development including the hospital, a retirement village and other residential/mixed use development.

Council's World War Two Bowenfels Gun Emplacement area is located on the northern side of the proposed development, however, substantial residential development has previously been approved in the locality. It is considered that this proposed development will not have any greater impact than those already approved in the vicinity.

All construction activities will be limited to the said land. The Statement of Environmental Effects (SoEE) indicates that all noise associated with the development will be limited to within the building thus minimising the noise impact on adjoining landowners. Therefore, the only external noise impact perceived from the development is considered to be vehicle noise. The SoEE indicates that this will be minimised by the location of the building and the parking areas being away from the nearest residential receiver. The development is considered to be consistent with the above requirement of Lithgow Local Environmental Plan 1994.

Further, the development complies with Council's requirements in regards to site density, setback, colour and materials, presentation to the street and parking.

The development proposal was notified to adjoining and adjacent landowners from the 8 November to 24 November 2010. From this there were four submissions received and summarised below:

Concerns raised for the proposed development include:

- The impact the development will have on the heritage listed Gun Emplacement Area;
- The development will have a negative impact on the streetscape and the Great Western Highway, given its current location and dominating bland eastern elevation;

- Substantial concern was raised over increased traffic movements within a current one in, one out subdivision. The traffic impacts perceived given the size of the development are of a concern in both Kirkley & Hassan Streets, given it is currently being used as a construction road for another development;
- The applicant needs to look at options available to access the development via Col Drewe Drive;
- The nature of Kirkley and Hassan Streets is quite narrow and the increased traffic movements will likely cause congestion and a potential increase in traffic hazards;
- Concern is raised over potential unacceptable noise impacts from additional traffic movements within the development;
- There is a potential that this development will impact on quality of life for existing residents;
- Concerns raised over the development due to the substantial amount of water that currently traverses the site and the impact diverting this water will have on natural terrain;
- Any landscaping proposed needs to be undertaken using advanced plantings and made to be maintained. Other like developments have seen landscaping diminish and the development becomes a 'blot on the landscape'.

The issues raised have been addressed in the attached Section 79C assessment report.

From the information provided through the application process and the additional modifications made to the application through the assessment process it is considered that the development can be supported in this instance.

POLICY IMPLICATIONS (OTHER THAN DCP's)

There are no policies applicable to the site or development.

FINANCIAL IMPLICATIONS (eg Section 94)

A Certificate of Compliance under Section 305 of the Water Management Act is required for the payment of water and sewer headworks to Council and the Department of Commerce for the new allotment. No Section 94 charges are applicable.

LEGAL IMPLICATIONS

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

1. Complete 79C Assessment in accordance with the Environmental Planning & Assessment Act 1979.

RECOMMENDATION

- A. **THAT** Combined Development Application 070/10DA be approved subject to conditions specified in the attached Section 79C assessment.
- B. **THAT** a **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

OPERATION SERVICES REPORTS

ITEM: 11 OPER - 09/05/11 - LITHGOW CITY COUNCIL AND DAVIES ROAD REALIGNMENT

REPORT FROM: GROUP MANAGER OPERATIONS, IAIN STEWART

REFERENCE

Lithgow City Council and Davies 3989 Glen Alice Road Glen Alice – Road Realignment

SUMMARY

To advise Council that a Deed Agreement has been drafted and is require to be adopted by Council

COMMENTARY

Council is in receipt of a draft deed between Lithgow City Council and Joseph Leslie & Irene Davies 3989 Glen Alice Road Glen Alice which contains recitals to the effect that Council has undertaken the widening of sections of Glen Alice road and wishes to acquire the land from the Davies's for the purpose of widening Glen Alice Road. The Owners and Council have agreed that the land be acquired by way of agreement rather than using the compulsory acquisition process under the Land Acquisition Act, and that the parties enter into a deed to record the terms and conditions of their agreement. A copy of the deed is attached. It should be noted that this acquisition took place in the days of Rylstone Shire Council and has taken a considerable amount of time for it to be legally resolved.

Attached is a copy of the draft deed and the latest correspondence from Council's solicitor, Mr Tim LeFevre & Co.

POLICY IMPLICATIONS

As per the above changes

FINANCIAL IMPLICATIONS

Compensation is payable as detailed in the draft deed.

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Deed of Agreement

RECOMMENDATION

THAT Council authorise the attachment of the Council's Seal to the deed and any other documentation requiring the seal.

**ITEM: 12 OPER - 09/05/11 - ESTABLISHMENT OF WORKING PARTY WITH
 PORTLAND RESIDENTS**

REPORT BY: GROUP MANAGER OPERATIONS, IAIN STEWART

REFERENCE

NIL

SUMMARY

To establish a working party following a public meeting between a number of councillors and residents of Portland to resolve a number of outstanding issues.

COMMENTARY

A public meeting was held on Monday 11 April 2011 attended by Councillors H Fisher, G Danaher, R Thompson, C Hunter, N Castle and A/General Manager Mr I Stewart and a number of residents from the predominately Roxburgh St Area.

The meeting discussed a number of issues including: vegetation issues relating to land owned by Boral including pine trees and weeds at the bottle kiln site, issues of inadequate drainage in the low section of Roxburgh St, the need for future kerb and guttering in Roxburgh St, the operation of septic tank operation in Purcell St, Council's stockpile site adjacent to the Portland Cullen Bullen road and a list of other issues which date back a number of years, relating to the Portland area.

The residents with the councillors' agreement suggested the establishment of a working party to address, discuss and resolve a number of these issues.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

NIL

RECOMMENDATION

THAT the report be received and a working party of the Mayor, and two councillors be established to resolve a number of the issues that were raised at the local meeting held on 11th April 2011 in Roxburgh St, Portland.

**ITEM: 13 OPER - 09/05/11 - FUNDING PROVIDED UNDER COMMUNITY
WATER GRANTS PROGRAM FOR LITHGOW GOLF CLUB
EFFLUENT RE-USE**

REPORT BY: GROUP MANAGER OPERATIONS, IAIN STEWART

REFERENCE

Min No: 08-107: Council Meeting 15 July 2008

SUMMARY

The Department of Sustainability, Environment, Water, Population and Communities (Formerly Department of Environment, Water, Heritage and the Arts) are seeking the refund of funds already provided under the Community Water Grants programs for the re-use of treated effluent at the Lithgow Golf Course.

COMMENTARY

Council made an application for funding of \$50,000 in 2008 under the Commonwealth Government Water Fund, Community Water Grants program which is administered by the Department of Sustainability, Environment, Water, Population and Communities (formerly Department of Environment, Water, Heritage and the Arts) for the use of recycled water on the Lithgow Golf Course.

After the application was approved Council submitted a Project Plan of the works to be undertaken as per the application. After review by the Department of Sustainability, Environment, Water, Population and Communities, it was considered that the project, as originally proposed, did not comply with the requirements of the Community Water Grants program. Subsequently Council amended the Project Plan with the aim to meet the requirements of the program but were still unable to provide a viable project that met the requirements.

A letter was received on the 31 July 2009 from Community Water Grants seeking the refund of the \$50,000 that was already paid to the Council as the period allowed for the completion of projects under the program had not been achieved. Further Project Plans were then provided with the aim to secure and expend the funding provided, this has been unsuccessful.

The Department of Sustainability, Environment, Water, Population and Communities has recently contacted Council seeking the refund of funds provided or alternatively find a project that would see the re-use of treated effluent on the golf course that meets the requirements of the Community Water Grants Program and have the funds expended by mid May. This is unachievable given the short period of time now to complete

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Note that the \$50,000 already paid to Lithgow Council for the community water grants program is to be refunded.

ITEM: 14 OPER - 09/05/11 - WATER REPORT

REPORT BY: GROUP MANAGER OPERATIONS, IAIN STEWART

REFERENCE

Min No 11-147 – Ordinary Meeting of 18 April 2011

SUMMARY

This report provides an update on various water management issues as per Minute Number 10-03.

COMMENTARY

In relation to current water management issues the following information is provided.

CURRENT DAM LEVELS FOR BOTH FARMERS CREEK AND OBERON

Farmers Creek Dam #2 capacity on 2/5/11 was 83.4%. Oberon Dam capacity on 2/5/11 was 53.33%.

CURRENT WATER USAGE FROM EACH SUPPLY

Table 1 below indicates total output from the Oakey Park Water Treatment Plant (consumption) and the volume transferred from the Clarence Transfer System for 2011.

Table 1 - Oakey Park Output and Clarence Transfer

Month	Oakey Park WTP (ML)	Clarence Transfer (ML)
January	139	0
February (to 24/2/11)	121	0
March	122	0
April	140	0
Total 2010	1470	408

Oakey Park WTP	Avg Daily Use	Avg Daily CWTS Transfer
March	3,923	0
April	4,662	0
Last Week	3,917	0
Previous Week	4,201	0

Table 2

2010/11	Water Consumption (ML)					
	Delta Electricity	Lithgow Council	Sydney Catchment Authority	Oberon Council	Minor Consum	Total
Jul	425	50	0	55	20	550
Aug	768	54	0	66	20	907
Sep	603	51	0	51	20	726
Oct	555	51	28	50	20	704
Nov	572	58	155	66	20	900
Dec	130	37	40	45	20	273
Jan	148	73	0	50	20	292
Feb	189	95	0	49	20	353
Mar	493	67	0	52	20	632
Apr						0
May						0
Jun						0
Total	3883	335	224	484	181	5306
1998	7,243	970	3,003	827	192	12,235
1999	7,204	898	3,317	855	171	12,445
2000	7,294	858	3,468	767	179	12,567
2001	8,640	998	3,913	921	180	14,652
2001/2	8,359	1,019	3,677	838	180	14,073
2002/03	8,303	1,183	4,390	911	237	15,023
2003/04	6,734	968	3,005	732	216	11,655
2004/05	4,960	735	1,878	677	162	8,412
2005/06	6,367	959	2,098	725	228	10,378
2006/07	6,590	795	3,115	749	218	11,468
2007/08	4,367	747	1,077	601	150	6,942
2008/09	3,356	699	208	583	240	5,086
2009/10	2,856	554	-	590	158	4,158
MAQ	8,184	2,092	3,650	750	200	14,876

CURRENT WATER RESTRICTIONS UPDATE

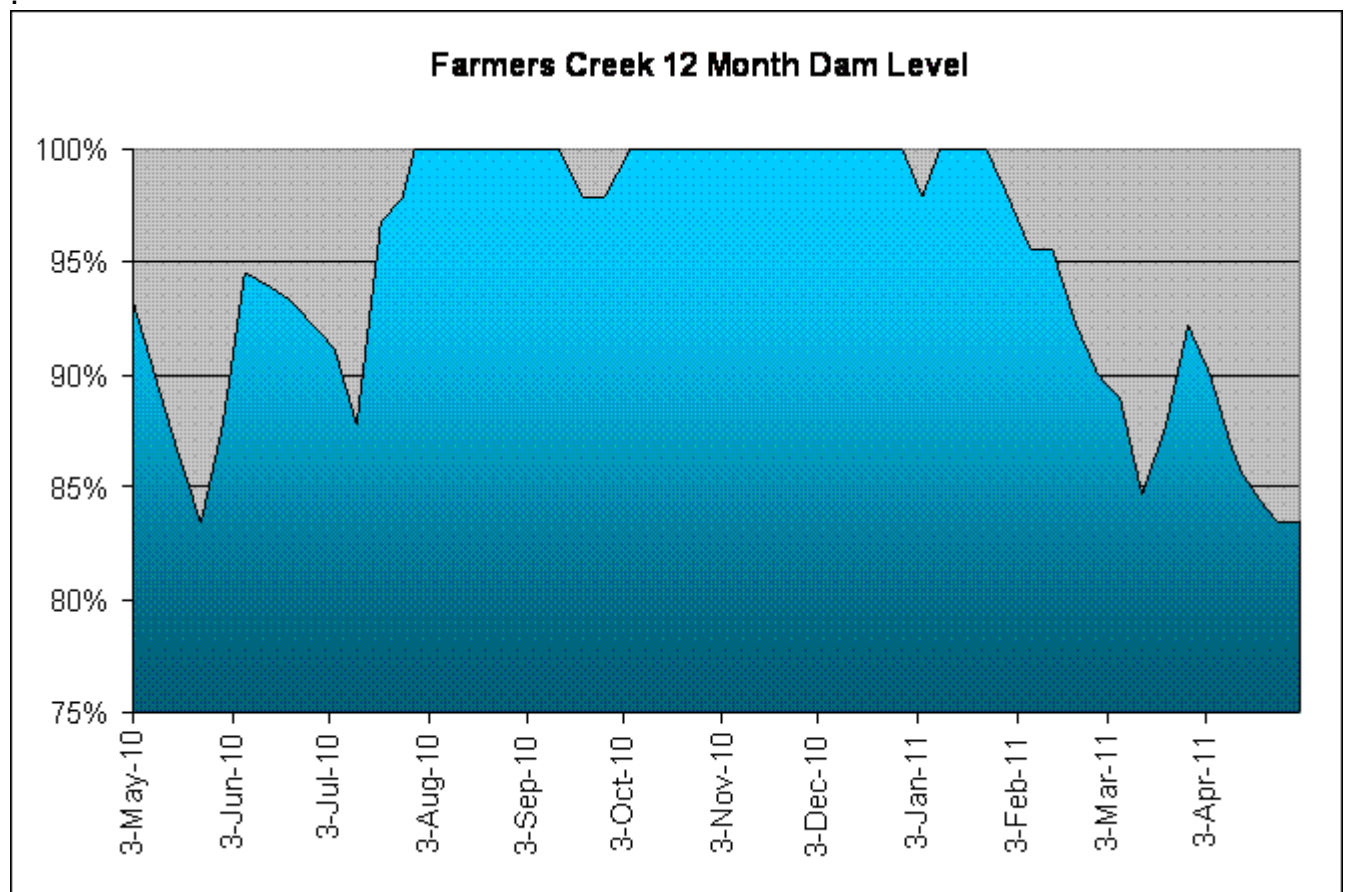
Level 1 water restrictions are now in place for all residents through Lithgow and villages receiving water from both the Lithgow and the Fish River water supplies.

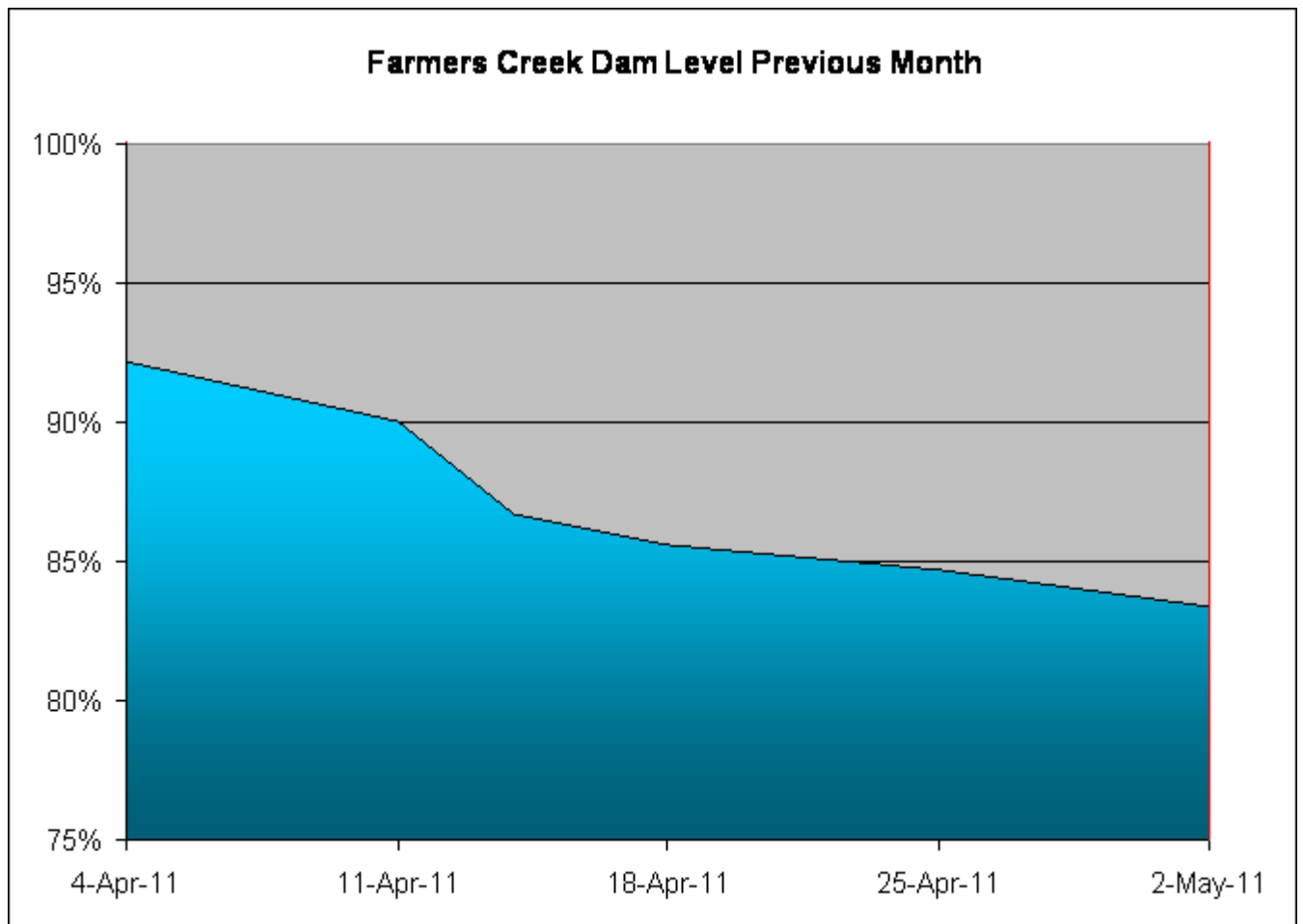
WATER SAVING SCHEMES OR PROCESSES UPDATE

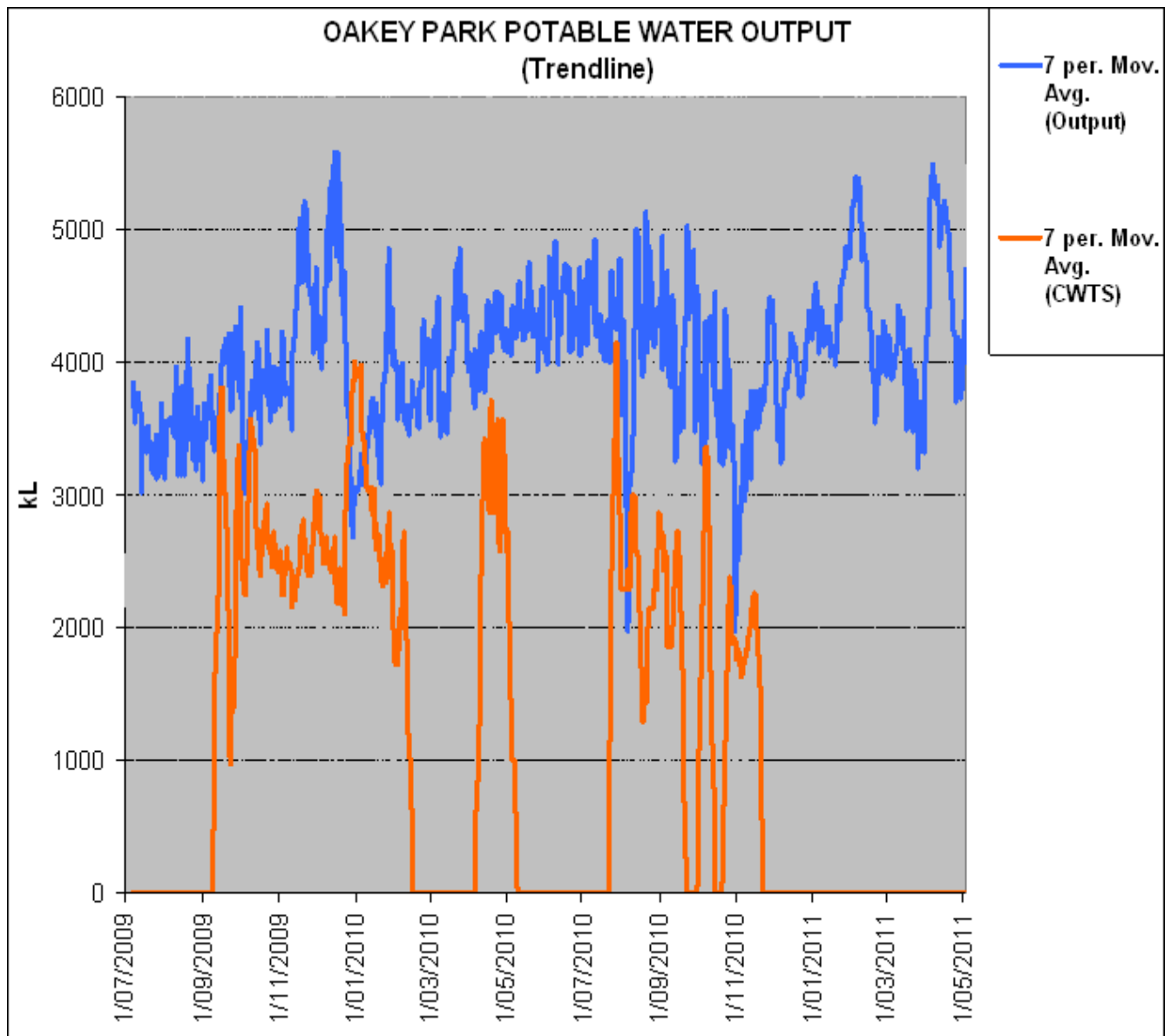
Council's Rainwater Tank and Domestic Appliance Rebate Program continued in March with Council receiving 24 applications for a household appliance rebate and 2 applications for a water tank rebate.

FARMERS CREEK DAM 12 MONTH LEVELS

The attached chart shows the storage tanks to date for the last twelve months and for the previous month







Oakey Park Water Treatment Plant Average Daily Use

February 2011	4330 kilolitres
March 2011	3923 Kilolitres
April 2011	4462 Kilolitres
Week Ending 29/4/11	4201 Kilolitres

ALTERNATE WATER SOURCES UPDATE

Marrangaroo Fields area is currently being supplied from the Oakey Park Water Treatment Plant via Cook St High Level Reservoir and the trial delivery of water from this source to Wallerawang and Portland is programmed to take place after Easter.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

RECOMMENDATION

THAT the information in relation to water management issues be noted.

FINANCE SERVICE REPORTS

ITEM: 15 FIN - 09/05/11 - COUNCIL INVESTMENTS HELD TO 30TH APRIL
2011

REPORT FROM - FINANCE MANAGER C FARNSWORTH

REFERENCE

Min 10-308: 02 August 2010 (June 2010)
Min 10-400: 20 September 2010 (July 2010)
Min 10-401: 20 September 2010 (August 2010)
Min 10-428: 13 October 2010 (September 2010)
Min 10-490: 22 November 2010 (October 2010)
Min 10-543: 20 December 2010 (November 2010)
Min 11-31: 24 January 2011 (December 2010)
Min 11-55: 14 February 2011 (January 2011)
Min 11-121: 28 March 2011 (February 2011)
Min 11-153: 18 April 2011 (March 2011)

SUMMARY

To advise Council of investments held as at 30 April 2011 for the 2010/11 financial year.

COMMENTARY

Council's total investment portfolio, as at 30 April 2011 when compared to 31 March 2011, has decreased by \$1,498,901.70 from \$11,893,161.19 to \$10,394,259.49

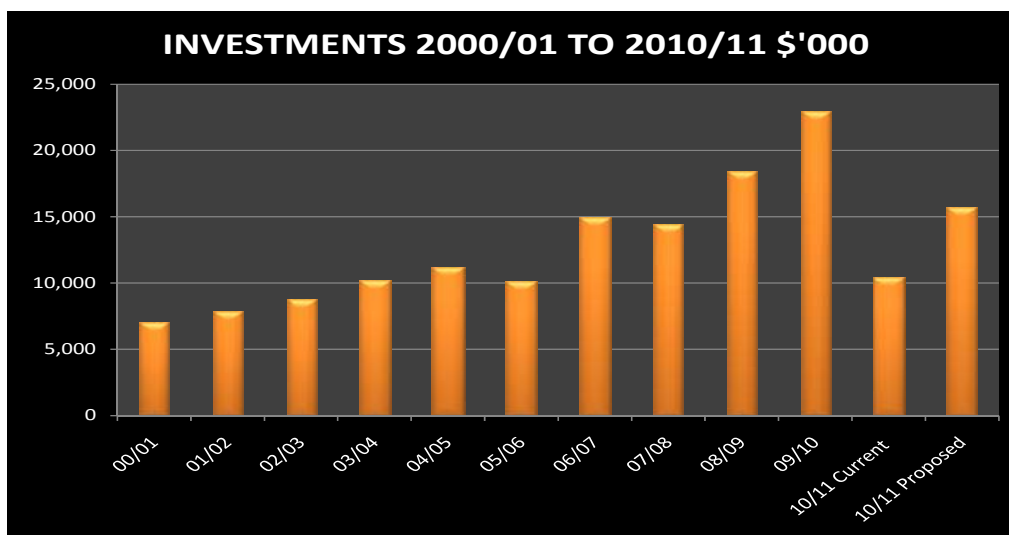
Investments fluctuate as part of the normal process depending on the particular month and the extent of expenditure on major works such as the Lithgow and Wallerawang Sewerage Treatment Plants.

INVESTMENT REGISTER 2010/11								
INSTITUTION	INV TYPE	DATE LODGED	DATE DUE	DAYS	INT	VALUE 31.03.11	VALUE 30.04.11	% OF TOTAL
ANZ	TD	07.03.11	08.04.11	30	5.31	502,186.30	0.00	0.00%
	On Call	21.04.11			4.75	1,281,942.92	787,537.81	7.58%
CBA	On Call				4.70	570,441.13	20,441.13	0.20%
IMBS	TD	28.02.11	30.05.11	91	5.90	1,045,043.24	1,045,043.24	10.05%
	TD	31.03.11	02.05.11	32	5.50	1,019,381.95	1,019,381.95	9.81%
NAB	TD	11.02.11	12.05.11	90	5.78	1,037,808.16	1,037,808.16	9.98%
	TD	02.04.11	02.05.11	30	5.31	811,638.36	815,207.35	7.84%
WESTPAC	TD	08.12.10	08.07.11	212	6.20	266,799.30	266,799.30	2.57%
	TD	08.12.10	08.07.11	212	6.20	533,598.62	533,598.62	5.13%
	TD	20.04.11	20.11.11	212	5.90	1,069,994.05	1,107,357.37	10.65%
	TD	08.12.10	08.07.11	212	6.20	808,030.20	808,030.20	7.77%
ST GEORGE	On Call				4.75	550,351.70	550,351.70	5.29%
		30.04.11	30.05.11	30	5.30	500,000.00	502,169.86	4.83%
	TD	19.02.11	19.10.11	241	6.05	800,805.14	800,805.14	7.70%
SUNCORP	TD	09.03.11	09.06.11	90	5.91	1,099,727.55	1,099,727.66	10.58%
			TOTAL			11,897,748.62	10,394,259.49	100.00%
INTERNAL LN (Commercial Loan Int Rate)	Gen to Sew	15.01.11	On Receipt of Ext Loan		7.31	2,750,000.00	2,750,000.00	

I, Carol Farnsworth, Lithgow City Council's 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 Policy.

On the graph below historical and current investments are shown for 2010/11 as well as the proposed investment balance as at 30 June 2011.

It should be noted that the planned 2010/11 loan borrowing program of \$12.765m for major Sewerage and Water infrastructure is currently under review prior to negotiation with external lending authorities. The loan program will be the subject of a future report to Council and it is expected that the internal loan of \$2.750m from General Fund to Sewerage Fund will progress into the 2011/12 financial year and therefore affect the level of cash held as at 30 June 2011. For this reason the proposed investments to be held for 2010/11 has been reduced.



POLICY 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. The policy is currently under review following the Ministers Order on Circular 11-01.

FINANCIAL IMPLICATIONS

Interest received to 31 March 2010 is \$644,715.12 of an estimated \$553,375.00 shown in the 2010/11 Management Plan. Due to the recovery of the markets following the GFC the interest which will be reviewed in conjunction with the March quarter review. Interest is paid on the maturity date of the investment.

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 Investments of \$10,394,259.49 for the period ending 30 April 2011 be noted.

COMMITTEE MEETINGS

ITEM: 16 OPER - 09/05/11 - TRAFFIC AUTHORITY LOCAL COMMITTEE MEETING MINUTES 7TH APRIL 2011

REPORT BY IAIN STEWART GROUP MANAGER OPERATIONS

REFERENCE

NIL

SUMMARY

This report details the Minutes of the Traffic Authority Local Committee Meeting held on 7 April 2011

COMMENTARY

At the Traffic Authority Local Committee Meeting held on 7 April 2011, there were (4) items discussed by the Committee

1. Confirmation of the Minutes from the previous meeting.
2. Ongoing business from the meeting held on 3 February 2011 – 10 Items
3. New Business – Item 5 – 17 Items
4. General Business – Item 6 – 5 Items.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ATTACHMENTS

1. Minutes from the Traffic Authority Local Committee Meeting held on 7 April 2011.

RECOMMENDATION

THAT Council:

1. Note the minutes of the Traffic Authority Local Committee held on 7 April 2011.
2. Council install a Stop sign at the intersection of McKanes Falls Road and Jenolan Caves Road.
3. Replace the existing Give Way sign located at the exit to the Tony Luchetti Sportsground with a Stop sign.
4. Install a NO Stopping sign and zone starting at the letterbox located at 1117 Great Western Highway through to the community phone box located in front of the Red Rooster fast food outlet

**ITEM: 17 OPER - 09/05/11 - SPORTS ADVISORY COMMITTEE MEETING
MINUTES 18TH APRIL 2011**

REPORT BY: PROJECT CO-ORDINATOR – LEANNE KEARNEY

SUMMARY

Details of the Minutes of the Sports Advisory Committee Meeting held on Monday, 18 April 2011 for Council adoption.

COMMENTARY

At the Sports Advisory Committee Meeting held on Monday, 18 April 2011, there were ten (10) items discussed by the Committee, with all items being actioned under the Committee's delegated authority, and requiring Council to note the items.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

Nil.

ATTACHMENTS

1. Minutes of the Sports Advisory Committee Meeting held on Monday, 18 April 2011.

RECOMMENDATION

THAT Council note the minutes of the Sports Advisory Committee meeting held on Monday, 18 April 2011.

CLOSED REPORTS

ITEM: 18 OPER - 09/05/11 - CONFIDENTIAL REPORT - TENDERS FOR THE DESIGN, SUPPLY AND DELIVERY OF FLUORIDATION EQUIPMENT AT THE LITHGOW WATER TREATMENT PLANT

REPORT FROM: GROUP MANAGER OPERATIONS, IAIN STEWART

Reason for Confidentiality

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

- (d) commercial information of a confidential nature that would if disclosed:
 - (i) prejudice the commercial position of the person who supplied it.

The draft Tendering Guidelines issued by the NSW Department of Local Government indicates that this is a valid reason for reporting tender proposals in closed council.

SUMMARY

This report provides an outline of the tender process undertaken and results for the engagement of suitable Contractors to undertake Design, Supply and Delivery of Fluoridation Equipment at the Lithgow Water Treatment Plant. It makes a recommendation that a contract be entered into with a preferred tenderer subject to final approval by the NSW Office of Water

RECOMMENDATION

THAT Council consider this report in closed Council pursuant to Section 10A(2)(d)(i) of the Local Government Act 1993.

BUSINESS OF GREAT URGENCY

In accordance with Clause 241 of the Local Government (General) Regulations 2005 business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. However, this can happen only of:

- 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.*

CLOSED REPORTS