



A CENTRE OF REGIONAL EXCELLENCE

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

15 OCTOBER 2012

AT 7.00pm

AGENDA

APOLOGIES

PRESENT

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 3 SEPTEMBER 2012

DECLARATION OF INTEREST

PUBLIC FORUM

PRESENTATIONS - NIL

MAYORAL MINUTES - NIL

NOTICES OF MOTION

Learners Pool at the Lithgow Aquatic Centre - Councillor Ticehurst

Holding of Ordinary Council meetings in Portland, Wallerawang Towns and Villages - Councillor Ticehurst

Relocation of the Senior Citizens in Lithgow - Councillor Ticehurst

Shelter and Water Bubbler for Skate Park - Councillor Inzitari

Traffic Management of the Supercheap Auto and BWS Development - Councillor Ticehurst

Update on the Zig Zag at Clarence - Councillor Ticehurst

Water Charges for Rural Residents - Councillor Inzitari

Water Pricing at Treeview Estate - Councillor Hunter

NOTICE OF RECISSIONS - NIL

CORRESPONDENCE AND REPORTS

General Managers Reports

Environment and Development Reports

Operation Reports

Community and Strategy Reports

Finance Reports

COMMITTEE MEETINGS

Youth Council Committee - 28 August 2012

Traffic Authority Local Committee - 6 September 2012

Sports Advisory Committee - 28 August 2012

Lithgow Indoor Aquatic Centre Advisory Committee - 23 August 2012
Environmental Advisory Committee - 15 August 2012

REPORTS FROM DELEGATES - NIL

BUSINESS OF GREAT URGENCY

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

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NOTICE OF MOTIONS

ITEM-1 NOTICE OF MOTION - 15/10/12 - LEARNERS POOL AT THE LITHGOW AQUATIC CENTRE - COUNCILLOR M TICEHURST

REFERENCE

Lithgow City Council Media Release 4 October 2012 'Delta provides yet another boost for the Lithgow Aquatic Centre'

COMMENTARY

On the 4 October 2012, the Lithgow City Council issued a Media Release stating that, "Delta Electricity has announced that it will be contributing a further \$20,000 towards the Lithgow Aquatic Centre. "The first stage of the Lithgow Aquatic Centre has recently been completed" said the Lithgow City Council Mayor, Councillor Maree Statham, "it is terrific news that Delta has been a funding partner in this project." "Delta Electricity is proud to be contributing to such a vital project providing important recreational, health and social benefits for the whole community" said Luke Welfare, General Manager Western. "Stage 1 of the project has included a new amenities block, new public access, children's splash park, new parking area, public toilets, café and a new concourse area." "These works have been completed at a cost of just over \$2.1m." "With this wonderful announcement by Delta it brings the total business contribution to the project to over \$200,000, with Delta's contribution alone totalling \$40,000." "The other prominent local businesses contributing to the project have included Centennial Coal and Henry's Plant and Equipment, committing significant contributions to the project." "This is a tremendous display of community spirit by these organisations and Council is extremely appreciative of these businesses." "It has been Council's long held ambition to develop an aquatic centre that can be well used year round for a range of fun, fitness, training and social activities and we are moving closer to that goal with the generous contribution and the support of these companies." "Like all areas, health is a very important issue and the research has clearly demonstrated that swimming with its low impact, is the least injury prone recreational activity. Swimming is also an excellent pursuit for older residents." "Efforts are also being made to attract funding for the next stage of the development" concluded Mayor Statham."

- Q.** Could the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with an urgent report at this Council Meeting on what urgent arrangements can be made that will enable this new additional financial contribution of \$20,000 by Delta Electricity for the recently upgraded Lithgow Aquatic Centre, to be immediately expended on providing a new large above ground stand alone pool and fencing that will enable the Department of Sport and Recreation and local Learn to Swim Teachers to continue to hold their Primary School and Learn to Swim Programs during this current Swimming Season?

ATTACHMENTS

1. Lithgow City Council Media Release 4 October 2012 'Delta provides yet another boost for the Lithgow Aquatic Centre'.

RECOMMENDATION

THAT the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with an urgent report at this Council Meeting on what urgent arrangements can be made that will enable this new additional financial contribution of \$20,000 by Delta Electricity for the recently upgraded Lithgow Aquatic Centre, to be urgently expended on providing a new large above ground stand alone pool and fencing that will enable the Department of Sport and Recreation and local Learn to Swim Teachers to continue to hold their Primary School and Learn to Swim Programs during this current Swimming Season?

ITEM-2 NOTICE OF MOTION - 15/10/12 - HOLDING OF ORDINARY COUNCIL MEETINGS IN PORTLAND, WALLERAWANG TOWNS AND VILLAGES - COUNCILLOR M TICEHURST

COMMENTARY

- Q.** Could the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with a report at the next Council Meeting on arrangements that will enable the Lithgow City Council to hold one of their tri-weekly Ordinary Meetings annually in Portland and Wallerawang and once in each of all of the other Towns and Villages in the next four years of this term of Lithgow City Council?
- Q.** Further, that the Council resolve to hold its second tri-weekly Ordinary Meeting of the Lithgow City Council for 2013 in Capertee?

RECOMMENDATION

THAT:

1. The General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with a report at the next Council Meeting on arrangements that will enable the Lithgow City Council to hold one of their tri-weekly Ordinary Meetings annually in Portland and Wallerawang and once in each of all of the other Towns and Villages in the next four years of this term of Lithgow City Council.
2. Council resolve to hold its second tri-weekly Ordinary Meeting of the Lithgow City Council for 2013 in Capertee.

**ITEM-3 NOTICE OF MOTION - 15/10/12 - RELOCATION OF THE SENIOR
CITIZENS IN LITHGOW - COUNCILLOR M TICEHURST**

REFERENCE

NIL

COMMENTARY

- Q.** Could the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with a report at this Council Meeting on the recent relocation of the Senior Citizens Rooms from the Hoskins Building in Lithgow to the Masonic Building in Lithgow?

RECOMMENDATION

THAT the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with a report at this Council Meeting on the recent relocation of the Senior Citizens Rooms from the Hoskins Building in Lithgow to the Masonic Building in Lithgow.

**ITEM-4 NOTICE OF MOTION - 15/10/12 - SHELTER AND WATER BUBBLER
FOR SKATE PARK - COUNCILLOR F INZITARI**

COMMENTARY

The skate park near the Tony Luchetti Sportsground has no shelter from the sun for children, parents and onlookers and no water (drinking) nearby.

RECOMMENDATION

THAT a picnic table shelter be built near or at the skate park as the children need to be able to find shade on hot days and a bubbler be placed near this shelter to provide the children with a regular supply of drinking water.

**ITEM-5 NOTICE OF MOTION - 15/10/12 - TRAFFIC MANAGEMENT OF THE
SUPERCHEAP AUTO AND BWS DEVELOPMENT IN LITHGOW -
COUNCILLOR M TICEHURST**

REFERENCE

Lithgow City Council DA 021/10 and a recent Local News Report.

COMMENTARY

- Q.** Could the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with a report at this Council Meeting on a recent news report concerning lengthy delays to the employment opportunities and the opening of the new Supercheap Auto / BWS development on the corner of Main Street and Lithgow Streets, Lithgow and if it is correct that the pending delays have been caused by Council, Developer and public concerns over the already consented traffic, pedestrian and parking issues involved in the development?

RECOMMENDATION

THAT the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with a report at this Council Meeting on a recent news report concerning lengthy delays to the employment opportunities and the opening of the new Supercheap Auto / BWS development on the corner of Main Street and Lithgow Streets, Lithgow and if it is correct that the pending delays have been caused by Council, Developer and public concerns over the already consented traffic, pedestrian and parking issues involved in the development.

ITEM-6 NOTICE OF MOTION - 15/10/12 - UPDATE ON THE ZIG ZAG RAILWAY AT CLARENCE - COUNCILLOR M TICEHURST

REFERENCE

Media Release by the Minister for Transport Gladys Berejiklian, 'Update on the Zig Zag Railway'.

ABC News Report 'Uncertainty hanging over Zig Zag Railway' September 11, 2012.

<http://www.abc.net.au/news/2012-09-11/zig-zag-future/4254014>

COMMENTARY

On Thursday 6 September 2012, the Minister for Transport issued a Media Release on the update of the Zig Zag Railway which is attached.

Following this, ABC Radio Online reported, "There are fears Lithgow's Zig Zag Railway may close permanently if it is unable to reopen in six months. Further talks have been held about the future of the tourist attraction and management is considering introducing a levy on members to pay for upgrades. It has been closed since June and a recent safety audit found 150 instances where the railway failed to meet safety standards. The General Manager Michael Forbes says they have been given six months to bring it up to scratch and they must meet this deadline. "If we're not running again in six months, it won't run again," he said. "So, we will find the money somehow, through the membership, but I'd say if we're not running in six months, there'll be a bit of a fire sale on bits and pieces." Mr Forbes says introducing a levy on members is one option being considered to raise money for the upgrades. "It's a huge problem because the business is virtually in limbo, if necessary we'll put a levy on our members and you know, raise the money to buy the help we need through levying the membership." It will also discuss applying for ongoing government funding to remain viable. "Yes, it was mentioned, we would hope if we can get ourselves compliant, there may be a source of funds, but I can't put words in her mouth, she didn't say there were going to be funds, and everything really depends on how we go getting ourselves back into business."

Q. Could the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with an updated report at the next Council Meeting on the current and proposed future status of the historic and iconic tourist attraction Zig Zag Railway at Clarence?

ATTACHMENTS

1. Media Release by the Minister for Transport Gladys Berejiklian, 'Update on the Zig Zag Railway'.

RECOMMENDATION

THAT the General Manager and Senior Council Officers provide the Council, Councillors, ratepayers and residents with an updated report at the next Council meeting on the current and proposed future status of the historic and iconic tourist attraction Zig Zag Railway at Clarence.

ITEM-7 NOTICE OF MOTION - 15/10/12 - WATER CHARGES FOR RURAL RESIDENTS - COUNCILLOR F INZITARI

COMMENTARY

Rural rate payers will need to purchase water from Council when rainfall cannot provide fresh water.

These ratepayers pay only the same amount that their fellow town rate payers do. They already have to pay extra for cartage, so it would be unjustified that they have to pay a higher price compared to those who have access to town supply.

RECOMMENDATION

THAT Council consider, in its 2013/14 Revenue Policy, amending the water standpipe charge to be the equivalent charge of step 1 of the residential water charge.

ITEM-8 NOTICE OF MOTION - 15/10/12 - WATER PRICING AT TREEVIEW ESTATE - COUNCILLOR C HUNTER

COMMENTARY

As Treeview Estate is a single title, only one access fee is charged of \$125.00 then consumption is charged at \$2.70 for the first 250kl and \$4.05 for the consumption above 250 kl to the total usage of the 42 units of approximately 9000kl charge mainly at the \$4.05 rate.

Residents cannot claim the pensioner rebate of \$87.50 with the DLG requirement of 1 rebate per property.

As each unit is fitted with a water meter, as a condition of the DA, and storm water is collected and re used on garden beds and lawns, best practice is being achieved.

RECOMMENDATION

THAT single title deed, multiple units fitted with individual water meters be charged at the residential rate of \$2.70 per kl.

GENERAL MANAGER'S COMMENT:

There are a number of single title deed properties that have multiple units. It is not known how many are fitted with individual water meters. If the motion is successful then it would be appropriate to also apply the access charge for each meter. All charges would be the responsibility of the owner of the property.

GENERAL MANAGERS REPORTS

ITEM-9 GM - 15/10/12 - CODE OF CONDUCT REPORT - COUNCILLOR MARTIN TICEHURST

REFERENCE

Minute 11-200:	Ordinary Meeting of Council held 30 May 2011
Minute 11-263:	Ordinary Meeting of Council held 11 July 2011
Minute 11-429:	Ordinary Meeting of Council held 31 October 2011
Minute 12-11:	Ordinary Meeting of Council held 23 January 2012
Minute 12-152:	Ordinary Meeting of Council held 14 May 2012

SUMMARY

The purpose of this report is to provide Council with the findings of the investigation following two complaints being brought to the General Manager's attention under the Code of Conduct with respect to Cllr Martin Ticehurst.

COMMENTARY

The Report, by the independent Sole Conduct Reviewer, Mr Stephen Blackadder of Blackadder Associates Pty Ltd, concerns an alleged breach of the Lithgow City Council's Code of Conduct by Councillor Martin Ticehurst as a consequence of his actions in relation to the awarding of the National Tidy Towns Award to Lithgow.

The original complaints were submitted to another sole conduct reviewer on 4 July 2011 but that reviewer, for health reasons, was unable to complete the review. It was then determined to refer the matter to another sole conduct reviewer, Mr Stephen Blackadder, Director, Blackadder Associates Pty Ltd with the request being made on 30 April 2012.

A Conduct Reviewer was appointed in accordance with the provisions of the Code to conduct an enquiry. This Conduct Reviewer assessed the complaint made against the Councillor and concluded:

It is important to make general findings of fact before making findings as to any breaches of the code of conduct. In this regard it is a fact that Cr Ticehurst has made allegations relating to the National Tidy Towns Award 2011. These allegations are outlined in an email from Cr Ticehurst to Val Southam KABNSW dated 26 April 2011.

There however is no evidence to substantiate the allegations that:

- 1. Lithgow City Council or its representatives read or approved the Tidy Towns application.*
- 2. Lithgow City Council was the applicant or a joint applicant for the Tidy Towns Award.*

3. *Plagiarism of a former Leeton Council Tidy Towns application occurred.*

Some claims by Cr Ticehurst of incorrect information being contained in the Tidy Towns application have been accepted as correct and acknowledged by Mrs Sue Graves, Chairperson Lithgow Tidy Towns Inc.

Having made these preliminary comments a judgement needs to be made as to whether Cr Ticehurst has breached the provisions of the Council's Code of Conduct.

Code of Conduct Breaches

On the balance of probabilities, based on the evidence provided by the complainants and the enquiries made and interviews conducted, it can reasonably be determined that the following conduct of Cr Ticehurst are breaches of the Lithgow City Council Code of Conduct.

4.2 *Leadership*

The conduct of Cr Ticehurst has been detrimental to the pursuit of community leadership. It would not be seen to strengthen the public's trust and confidence in the integrity of the council or promote public duty to others in the council and outside by ethical behaviour. His conduct is a breach of the Code of Conduct.

4.8 *Respect; and*

5.1 *General Conduct Obligations*

Cr Ticehurst has not shown respect for others and his actions cannot be justified in the public interest. It is therefore a breach of the Code of Conduct.

6.1 *(b,c,d,e and g) General Conduct Obligations*

6.2 and 6.3 *General Conduct Obligations*

It was important for Cr Ticehurst to have made adequate enquiries to obtain all relevant information and to ensure that the available information was factually correct and actions were based on facts, not mere conjecture or supposition. Cr Ticehurst, if he made any enquiries, appears to not have made adequate enquiries and when information or clarification was available to him this he ignored substantially. It was also incumbent on him to take appropriate action to correct any mistakes or errors of which he became aware and such rectification should have been both voluntary and prompt. His actions in not so doing are considered to be unreasonable and disrespectful. He has also not exercised a reasonable degree of care and diligence and therefore has breached the Code of Conduct.

6.7 *Harassment and discrimination*

Cr Ticehurst's actions in not making proper enquiries, making allegations publicly on a national scale, foreshadowing Police action and not being prepared to correct false and misleading statements was harassment against colleagues and members of the public. It was a breach of the Code of Conduct.

7.1 *Conflict of interests; and*

7.10 *Non-pecuniary interests*

There is insufficient evidence to support a complaint that Cr Ticehurst had a conflict of interest or a non-pecuniary interest. Whilst the evidence shows that representations were made to the NSW Government by Cr Ticehurst it does not show that Cr Ticehurst was motivated by a private or personal interest.

9.2 (c) *Obligations of councillors and administrators*

Although Council has adopted Policy 9.10 “Provision of Information to and Interaction between Councillors and Staff” Version 2 its procedures are not well documented and there is insufficient evidence to support a complaint that Cr Ticehurst contacted “a member of the staff of the council on council related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager”.

10.8 (c) & (d) *Use of certain council information*

There is insufficient evidence to support a complaint that Cr Ticehurst gained any financial benefit or other improper advantage or released council information inappropriately.

The following recommendations were made by the Conduct Reviewer:

Recommendation 1

A That Councillor Martin Ticehurst be censured for his conduct.

Reasons for Recommendation 1

1a The Council Code of Conduct sets certain standards of conduct of council officials. Poor community leadership and failing to comply with the reasonable guidelines provided by Council policy are unacceptable actions under the Code.

Recommendation 2

A That Lithgow City Council make public the findings of this Code of Conduct review.

Reasons for Recommendation 2

2a Issues associated with this matter were widely published by Cr Ticehurst and it is appropriate that the truth be made known to those individuals and communities affected – in particular the Lithgow Tidy Towns Committee, the Keep Australia Beautiful Council, the Lithgow Community and other entrants in the Tidy Towns Awards of 2010/2011.

Recommendation 3

A. That the Lithgow City Council arrange a Code of Conduct training workshop within 3 months of this recommendation being accepted by the Council at a time and place convenient to all Councillors and facilitated by an external person experienced in governance. Should any Councillor fail to attend, a private session be arranged for that Councillor.

B. That the workshop be educative and also utilised as the opportunity for all Councillors to understand the State standards, review and revise, as appropriate, the Lithgow City Council Code of Conduct and subsequently adopt it as the agreed convention.

C. That the Lithgow City Council consider including in its Councillor training policy a requirement that Code of Conduct training be provided to all Councillors at the commencement of the council term, and at least on one other occasion during the term.

Reasons for Recommendation 3

3a The Code of Conduct is a lengthy, complex and involved document, containing numerous standards and requirements. Guidance, coaching and education of Councillors are required to ensure the important features of the Code are understood and appreciated by all. Code of Conduct Report

3b Councillors need to have the will to make good governance work. Lithgow City Council needs to develop its own approaches to good governance. This has to be achieved by effort and agreement and complied with voluntarily because good governance should be based upon agreed conventions not rules.

3c The Code of Conduct is a statutory requirement of all councils in New South Wales. Section 440 of the Local Government Act indicates the adopted code may include provisions that supplement the model code but has no effect to the extent that it is inconsistent with the model code as in force for the time being.

Recommendation 4

That the Lithgow City Council review its Policy 9.10 “Provision of Information to and Interaction between Councillors and Staff” Version 2 to incorporate the requirements of the Government Information (Public Access) Act (GIPA) Act as well as clarifying issues such as what is information, what is advice and ensuring councillors have as easy an access to information and advice as a member of the public.

Reasons for Recommendation

4a Council should ensure a culture exists where consultation and easy access to information is the norm. This will help ensure that councillors and the community are informed and involved and contribute positively to good governance.

Recommendation 5

That the Lithgow City Council adopt an agreed understanding of roles and relationships between Councillors and between Councillors and employees.

Reasons for Recommendation

5a Good relationships mean good communication and willingness to address and solve issues and problems. The council should develop processes for assisting good governance through working cohesively.

Council may now either:

- adopt the recommendation of the Sole Conduct Reviewer;
- amend the recommendation of the Sole Conduct Reviewer; or
- reject the recommendation of the Sole Conduct Reviewer.

The Sole Conduct Reviewer's report is shown as ATTACHMENT 1 for consideration by Council.

Should Council resolve to censure Clr Ticehurst for his conduct then Council may, in accordance with the Council's Code of Conduct, further resolve to request the suspension of the Councillor.

12.28 The first ground on which a councillor may be suspended from civic office is where the councillor's behaviour has been disruptive over a period, involving more than one incident of misbehaviour during that period, and the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the councillor's suspension.

12.29 Council cannot request suspension on this ground unless during the period concerned the councillor has been:

- *formally censured for incidents of misbehaviour on two or more occasions, or*
- *expelled from a meeting of the council or a committee of the council for an incident of misbehaviour on at least one occasion.*

12.30 The second ground on which a councillor may be suspended from civic office is where the councillor's behaviour has involved one incident of misbehaviour that is of such a sufficiently serious nature as to warrant the councillor's suspension.

12.31 Council cannot request suspension on this ground unless the councillor has been:

- *formally censured for the incident of misbehaviour concerned, or*
- *expelled from a meeting of the council or a committee of the council for the incident of misbehaviour concerned.*

Council has censured Clr Ticehurst on the following previous occasions:

- Meeting of Council held on 30 May 2011 Minute Number 11-200
- Meeting of Council held on 31 October 2011 Minute Number 11-429
- Meeting of Council held on 23 January 2012 Minute Number 12-11
- Meeting of Council held on 14 May 2012 Minute Number 12-155

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

\$14,425.18 including GST for both Code of Conduct Reviews

LEGAL IMPLICATIONS

The investigation has been conducted in accordance with the Local Government Act 1993 and the Council's Code of Conduct.

Council had been advised prior to the elections through the Division of Local Government Circular 12-29 that advised Councils to defer the consideration of code of conduct matters until after the September 2012 local government elections.

ATTACHMENTS

1. Report by the Sole Conduct Reviewer
2. DLG Circular 12-29, *The Consideration of Code of Conduct Matters Prior to the September 2012 Elections*

RECOMMENDATION

THAT Council adopt the following recommendations of the Conduct Reviewer:

- 1A. That Councillor Martin Ticehurst be censured for his conduct.
- 2A. That Lithgow City Council make public the findings of this Code of Conduct review.
- 3A. That the Lithgow City Council arrange a Code of Conduct training workshop within 3 months of this recommendation being accepted by the Council at a time and place convenient to all Councillors and facilitated by an external person experienced in governance. Should any Councillor fail to attend, a private session be arranged for that Councillor.
- 3B. That the workshop be educative and also utilised as the opportunity for all Councillors to understand the State standards, review and revise, as appropriate, the Lithgow City Council Code of Conduct and subsequently adopt it as the agreed convention.
- 3C. That the Lithgow City Council consider including in its Councillor training policy a requirement that Code of Conduct training be provided to all Councillors at the commencement of the council term, and at least on one other occasion during the term.
4. That the Lithgow City Council review its Policy 9.10 "*Provision of Information to and Interaction between Councillors and Staff*" Version 2 to incorporate the requirements of the Government Information (Public Access) Act (GIPA) Act as well as clarifying issues such as what is information, what is advice and ensuring councillors have as easy an access to information and advice as a member of the public.
5. That the Lithgow City Council adopt an agreed understanding of roles and relationships between Councillors and between Councillors and employees.

ITEM-10 GM - 15/10/12 - CODE OF CONDUCT REPORT - COUNCILLOR JOE MCGINNES

REFERENCE

Minute 11-447: Ordinary Meeting of Council held 31 October 2011

SUMMARY

The purpose of this report is to provide Council with the findings of the investigation following two complaints being brought to the General Manager's attention under the Code of Conduct with respect to Cllr Joe McGinnes.

COMMENTARY

The Report, by the independent Sole Conduct Reviewer, Mr Stephen Blackadder of Blackadder Associates Pty Ltd, concerns an alleged breach of the Lithgow City Council's Code of Conduct by Councillor Joe McGinnes as a consequence of his actions in relation to the awarding of the National Tidy Towns Award to Lithgow.

The original complaints were submitted to another sole conduct reviewer on 4 July 2011 but that reviewer, for health reasons, was unable to complete the review. It was then determined to refer the matter to another sole conduct reviewer, Mr Stephen Blackadder, Director, Blackadder Associates Pty Ltd with the request being made on 30 April 2012.

A Conduct Reviewer was appointed in accordance with the provisions of the Code to conduct an enquiry. This Conduct Reviewer assessed the complaint made against the Councillor and concluded that there had been a breach of the Lithgow Council Code of Conduct. The Conduct Reviewer concluded:

It is important to make general findings of fact before making findings as to any breaches of the code of conduct. In this regard it is a fact that Cr McGinnes has made allegations relating to the National Tidy Towns Award 2011. These allegations are outlined in an email from Cr McGinnes to the General Manager dated 11 May 2011.

There is no evidence to substantiate the allegations that:

- 1. Lithgow City Council or its representatives read or approved the Tidy Towns application.*
- 2. Lithgow City Council was the applicant or a joint applicant for the Tidy Towns Award.*
- 3. Plagiarism of a former Leeton Council Tidy Towns application occurred.*

Having made these preliminary comments a judgement needs to be made as to whether Cr McGinnes has breached the provisions of the Council's Code of Conduct.

Code of Conduct Breaches

On the balance of probabilities, based on the evidence provided by the complainants and the enquiries made and interviews conducted, it can reasonably be determined that the following conduct of Cr McGinnes are breaches of the Lithgow City Council Code of Conduct.

4.2 Leadership

The conduct of Cr McGinnes has been detrimental to the pursuit of community leadership. It would not be seen to strengthen the public's trust and confidence in the integrity of the council or promote public duty to others in the council and outside by ethical behaviour. His conduct is a breach of the Code of Conduct.

4.8 Respect; and

5.1 General Conduct Obligations

Cr McGinnes has not shown courtesy to and respect for others and his actions cannot be justified in the public interest. It is therefore a breach of the principles outlined in the Code of Conduct.

6.1 (b,c,d,e and g) General Conduct Obligations

6.2 and 6.3 General Conduct Obligations

It was important for Cr McGinnes to have made adequate enquiries to obtain all relevant information and to ensure that the available information was factually correct and actions were based on facts, not mere conjecture or supposition. Cr McGinnes appears to not have made adequate enquiries and when information or clarification was available to him this he ignored substantially. It was also incumbent on him to take appropriate action to correct any mistakes or errors of which he became aware and such rectification should have been both voluntary and prompt. His actions in not so doing are considered to involve not exercising a reasonable degree of care and diligence and showing disrespect to those involved and therefore breaching the Code of Conduct.

6.7 Harassment and discrimination

Cr McGinnes' actions in not making proper enquiries, making allegations publicly on a national scale and not being prepared to correct false and misleading statements amounted to harassment against colleagues and members of the public. It was a breach of the Code of Conduct.

7.1 Conflict of interests; and

7.10 Non-pecuniary interests

Whilst the evidence shows that representations were made to the NSW Government by Cr McGinnes it does not show that Cr McGinnes is motivated by a private or personal interest.

The following recommendations were made by the Conduct Reviewer:

Recommendation 1

A That Councillor McGinnes be censured for his conduct.

Reasons for Recommendation 1

1a The Council Code of Conduct sets certain standards of conduct of council officials. Poor community leadership and failing to comply with the reasonable guidelines provided by Council policy are unacceptable actions under the Code.

Recommendation 2

A That Lithgow City Council make public the findings of this Code of Conduct review.

Reasons for Recommendation 2

2a The issues associated with this matter were widely published by Cr McGinnes, including an advertisement taken out in the Lithgow Mercury, and it is appropriate that the truth be made known to those individuals and communities affected – in particular the Lithgow Tidy Towns Committee, the Keep Australia Beautiful Council, the Lithgow Community and other entrants in the Tidy Towns Awards of 2010/2011.

Recommendation 3

A That the Lithgow City Council arrange a Code of Conduct training workshop within 3 months of this recommendation being accepted by the Council at a time and place convenient to all Councillors and facilitated by an external person experienced in governance. Should any Councillor fail to attend, a private session be arranged for that Councillor.

B That the workshop be educative and also utilised as the opportunity for all Councillors to understand the State standards, to identify opportunities to review and revise the Code so that a report can be submitted to the Council to adopt the revised Code.

C That the Lithgow City Council consider including in its Councillor training policy a requirement for Code of Conduct training to be provided to all Councillors at the commencement of the council term and at least on one other occasion during the term.

Reasons for Recommendation 3

3a The Code of Conduct is a lengthy, complex and involved document, containing numerous standards and requirements. Guidance, coaching and education of Councillors will ensure the important features of the Code are better understood and appreciated by all.

3b Councillors need to have the will to make good governance work. Lithgow City Council needs to develop its own approaches to good governance. This has to be achieved by effort and agreement and complied with voluntarily because good governance should be based upon agreed conventions not rules.

3c The Code of Conduct is a statutory requirement of all councils in New South Wales. Section 440 of the Local Government Act indicates the adopted code may include provisions that supplement the model code but have no

effect to the extent that the supplementary provisions are inconsistent with the model code as in force for the time being.

Recommendation 4

That the Lithgow City Council adopt an agreed understanding of roles and relationships between Councillors and between Councillors and employees.

Reasons for Recommendation

Good relationships mean good communication and willingness to address and solve issues and problems. The council should develop processes for assisting good governance through working cohesively.

Council may now either:

- adopt the recommendation of the Sole Conduct Reviewer;
- amend the recommendation of the Sole Conduct Reviewer; or
- reject the recommendation of the Sole Conduct Reviewer.

The Sole Conduct Reviewer's report is shown as ATTACHMENT 1 for consideration by Council.

Should Council resolve to censure Cllr McGinnes for his conduct then Council may, in accordance with the Council's Code of Conduct, further resolve to request the suspension of the Councillor.

12.28 *The first ground on which a councillor may be suspended from civic office is where the councillor's behaviour has been disruptive over a period, involving more than one incident of misbehaviour during that period, and the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the councillor's suspension.*

12.29 *Council cannot request suspension on this ground unless during the period concerned the councillor has been:*

- *formally censured for incidents of misbehaviour on two or more occasions, or*
- *expelled from a meeting of the council or a committee of the council for an incident of misbehaviour on at least one occasion.*

12.30 *The second ground on which a councillor may be suspended from civic office is where the councillor's behaviour has involved one incident of misbehaviour that is of such a sufficiently serious nature as to warrant the councillor's suspension.*

- 12.31 Council cannot request suspension on this ground unless the councillor has been:
- formally censured for the incident of misbehaviour concerned, or
 - expelled from a meeting of the council or a committee of the council for the incident of misbehaviour concerned.

Council has censured Clr McGinnes on the following previous occasions:

- Meeting of Council held on 31 October 2011 Minute Number 11-447

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

\$14,425.18 including GST for both Code of Conduct Reviews

LEGAL IMPLICATIONS

The investigation has been conducted in accordance with the Local Government Act 1993 and the Council's Code of Conduct.

Council had been advised prior to the elections through the Division of Local Government Circular 12-29 that advised Councils to defer the consideration of code of conduct matters until after the September 2012 local government elections.

ATTACHMENTS

1. Report by the Sole Conduct Reviewer
2. DLG Circular 12-29, *The Consideration of Code of Conduct Matters Prior to the September 2012 Elections*

RECOMMENDATION

THAT Council adopt the following recommendations of the Conduct Reviewer:

- 1A. That Councillor McGinnes be censured for his conduct.
- 2A. That Lithgow City Council make public the findings of this Code of Conduct review.
- 3A. That the Lithgow City Council arrange a Code of Conduct training workshop within 3 months of this recommendation being accepted by the Council at a time and place convenient to all Councillors and facilitated by an external person experienced in governance. Should any Councillor fail to attend, a private session be arranged for that Councillor.
- 3B. That the workshop be educative and also utilised as the opportunity for all Councillors to understand the State standards, to identify opportunities to review and revise the Code so that a report can be submitted to the Council to adopt the revised Code. 3C. That the Lithgow City Council consider including in its Councillor training policy a requirement for Code of Conduct training to be provided to all Councillors at the commencement of the council term and at least on one other occasion during the term.

4. That the Lithgow City Council adopt an agreed understanding of roles and relationships between Councillors and between Councillors and employees.

ITEM-11 GM - 15/10/12 - CHRISTMAS AND NEW YEAR CLOSURE

SUMMARY

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

COMMENTARY

Lithgow City Council closed part or all of its business over the Christmas to New Year period in past years and will again cease operations over this period from close of business on Friday 21st December 2012 and reopen on Tuesday 2nd January 2013.

The following arrangements have been decided on for the Christmas closure for 2012:

- Council administration areas and depots will close for business from close of business on Friday 21st December 2012 and will re-open on Tuesday 2nd January 2013.
- Staff will have similar arrangements as previous years for leave.
- Outdoor staff will be required to use their RDO's, accrued leave or annual leave to cover the closure period.
- An outdoor "skeleton" crew will be required to work during this period to attend to emergencies.
- A number of staff, supervisors and managers will be required to be on call/available during the period for emergency situations.

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

Essential Services Operating over Christmas/New Year

- Lithgow Visitor Information Centre
- Ranger
- Eskbank House Museum
- Rural Tip Controller
- Cleaner Driver (emptying street bins)
- Streetsweeper
- Water and Sewerage Treatment Plants
- Cleansing Unit
- Parks Crews

CONCLUSION

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

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council note the report on the Christmas and New Year Closure.

ITEM-12 GM - 15/10/12 - COUNCIL MEETING SCHEDULE FOR 2013

SUMMARY

This report outlines the proposed dates for the Ordinary Council Meetings for 2013.

COMMENTARY

Council has a program of holding Council meetings on a general **three** weekly basis and usually on a Monday. The use of a three weekly meeting rotation involves a greater level of planning on the Council's behalf and a schedule of meetings needs to be made. Items that need to be considered when planning the council meetings include:

- Conferences
- Public holidays
- Possibly school holidays

Previously the two major conferences held involving Lithgow City Council were the Local Government Conference and the Shires Association Conference. The two Associations have now amalgamated and the annual conference is yet to be scheduled. Indications are at this stage that the Annual Conference of the One Association is to be held in early November.

Public Holidays in 2013 will include:

- News Year Day - Tuesday 1st January
- Australia Day - Monday 28th January
- Good Friday - Friday 29th March
- Easter Saturday - Saturday 30th March
- Easter Monday - Monday 1st April
- Anzac Day - Thursday 25th April
- Queens Birthday - Monday 10th June
- Bank Holiday - Monday 5th August
- Labour Day - Monday 7th October
- Christmas Day - Wednesday 25th December
- Boxing Day - Thursday 26th December

With NSW School holidays to be held on:

NSW Government School Holidays 2013		
Summer Holidays	Monday 24 December 2012	Monday 28 January 2013
Autumn Holidays	Monday 15 April 2013	Friday 26 April 2013
Winter Holidays	Monday 1 July 2013	Friday 12 July 2013
Spring Holidays	Monday 23 September 2013	Monday 7 October 2013
Summer Holidays	Monday 23 December 2013	Monday 27 January 2014

The proposed dates for the Ordinary Meetings of Council for 2013 are as follows:

Ordinary Council Meetings for 2013

- 4 February
- 25 February
- 18 March
- 15 April **
- 6 May
- 27 May
- 17 June
- 8 July
- 29 July
- 19 August
- 9 September
- 30 September
- 28 October **
- 25 November **
- 16 December

** Represents 4 weeks between meetings

The Ordinary Council Meeting will commence at 7pm.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council hold the Ordinary Council meetings during 2013 generally on a three weekly basis on the following Monday dates:

- 4 February
- 25 February
- 18 March
- 15 April
- 6 May
- 27 May
- 17 June
- 8 July
- 29 July
- 19 August
- 9 September
- 30 September

- 28 October
- 25 November
- 16 December

ITEM-13 GM - 15/10/12 - 2012 COUNCILLOR WORKSHOPS

REFERENCE

DLG Circular 12-33 – 4 September 2012: 2012 Councillor Workshops

SUMMARY

The Division of Local Government, supported by the Local Government and Shires Association, is holding a series of Councillor Workshops for all Councillors across NSW. There is a workshop being held at the Lithgow Workmen's Club on Wednesday 24th October 2012.

COMMENTARY

The workshop to be held by the Division of Local Government at the Workmen's Club on Wednesday 24th October 2012 is designed to help Councillors hit the ground running following the September elections. They aim to assist Councillors in serving their community and fulfilling the responsibilities as a councillor. All councillors and General Managers have been strongly encouraged to attend. The workshop is designed to help all councillors develop and update their skills and knowledge, and allow returning councillors to share their experiences of how to be an effective Councillor.

The workshop will cover the following topics:

- Achieving outcomes for your community – Understand the five things all councillors need to know to achieve positive community outcomes
- Achieving outcomes through civic leadership – Understand your council's role in the local community, the different roles of a councillor and how to manage the challenges involved
- Achieving outcomes by making the most of meetings – Understand the purpose, process and expectations for council meetings and know how to maximise the benefits
- Achieving outcomes through planning and managing resources – Understand how to engage with your community, set the long term direction of council and ensure that money and other resources are used effectively through Integrated Planning and Reporting
- Achieving outcomes through appropriate conduct and ethical decision making – Be updated about the Model Code of Conduct and how to protect and enhance your own, and your council's, credibility and reputation
- Achieving outcomes through learning and professional development – learn from experienced councillors what it takes to be successful in the role and consider what training and support requirements can be undertaken to further professional development for councillors.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

The workshops are free of charge.

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. DLG Circular 12-33 – Official Program Flier

RECOMMENDATION

THAT Council note that the Division of Local Government is holding a Councillor Workshop at the Lithgow Workmen's Club on Wednesday 24th October 2012.

ITEM-14 GM - 15/10/12 - CENTROC SUMMIT 2012 CENTRAL NSW - BATHURST

SUMMARY

Central NSW Councils (Centroc) represents over 236,000 people covering an area of more than 70,000sq kms comprising the Local Government Areas of Bathurst, Blayney, Boorowa, Cabonne, Cowra, Forbes, Harden, Lachlan, Lithgow, Oberon, Orange, Parkes, Upper Lachlan, Weddin, Wellington, Young and Central Tablelands Water.

Centroc exists to advocate and improve operational efficiencies for its members.

Centroc holds annual summits bringing together representatives of State and Local Government to identify, discuss and resolve key issues.

COMMENTARY

Centroc advocates on agreed regional positions and priorities while working co-operatively to benefit the councils and communities of Central NSW. Using Centroc's regional strength and leadership in advocacy Centroc lobbies State and Federal Governments to present a more compelling case for regional priorities.

Currently Centroc's priorities are Bells Line of Expressway, Telecommunications' services, particularly broadband, Environmental Sustainability, Health, Transport and Water Infrastructure and Regional Development.

Centroc is holding a Summit on November 7th and 8th November 2012.

Day one of the summit will address a number of key issues including Energy and Tourism. At the last Centroc Summit the region voted to tackle the increase in electricity charges and various initiatives were undertaken as a result of this. The upcoming summit will provide an update on these initiatives as well as a new opportunity to discuss plans going forward.

The second day of the summit is a panel session with State Government representatives.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Costs are approximately \$200 per attendee. Councils will be invoiced according to the number of people registered through the site, and posted after the Summit.

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Centroc Summit Flyer

RECOMMENDATION

THAT Council note the report on the Centroc Summit and authorise Councillors to attend.

ITEM-15 GM - 15/10/12 - COUNCIL COMMITTEES AND EXTERNAL BODIES

SUMMARY

The purpose of this report is for Council to consider the appointment of councillors to s355 committees of Council and delegates to external (Non Principle) Committees, organisations and other working groups.

COMMENTARY

Currently the following Councillors represent Council on s355 Committees and External Committees and Organisations.

Committees	2011/12 Representative(s)
Citizens Access Committee	All Councillors
Environmental Advisory Committee	Councillor C Hunter Councillor N L Castle
Lithgow Tourism Advisory Committee	Councillor H K Fisher Councillor C Hunter
Sister Cities Committee	Councillor N L Castle Councillor R Thompson
Sports Advisory Committee	Councillor N L Castle Councillor R Thompson
Union Theatre Management Committee	Councillor J J McGinnes
Crystal Theatre Committee	Councillor N L Castle Councillor C Hunter
Meadow Flat Hall Committee	Councillor N L Castle Councillor C Hunter
Community Recognition Committee	Councillor H K Fisher Councillor R Thompson Councillor J J McGinnes
Economic Development Advisory Committee	Councillor N L Castle Councillor H K Fisher
Economic Development Shopfront Committee	Councillor N L Castle Councillor G Danaher
Lithgow Flash Gift	Councillor R Thompson Councillor W McAndrew
Service Committee	Councillor G Danaher Councillor H K Fisher
Business Enquiry Committee	Councillor N L Castle Councillor G Danaher Councillor H K Fisher General Manager
Indoor Aquatic Centre	Councillor C Hunter Councillor R Thompson
Youth Advisory Committee	Councillor N Castle Councillor C Hunter

Ageing Strategy Advisory Group	Councillor G Danaher Councillor H K Fisher
Lithgow Crime Prevention Committee	Councillor W McAndrew Councillor N Castle
Companion Animals Committee	Councillor H K Fisher Councillor G Danaher
Water Committee	Councillor G Danaher Councillor H K Fisher Councillor C Hunter Councillor N L Castle General Manager
Disability Access Committee	Councillor H Fisher Councillor J McGinnes

External Committees and Organisations	2011/12 Representative
Arts Out West Committee	Group Manager Community and Strategy
Bells Line of Road Group	Mayor General Manager (alternate)
Blue Mountains, Lithgow and Oberon RTO	Vacant
Rural Fire Services Bush Fire District Liaison Committee	Mayor Councillor C Hunter General Manager
Lithgow Information & Neighbourhood Centre Inc (LINC)	Councillor R Thompson
Upper Macquarie County Council	Councillor H K Fisher Councillor C Hunter
Lithgow Aged Care Inc	Councillor R Thompson General Manager (alt)
Centroc	Mayor General Manager
Tabulam Management Committee	Councillor N L Castle
Pine Dale Coal Mine Community Committee	Councillor H K Fisher General Manager
Cullen Valley coal Mine Community Committee	Councillor H K Fisher General Manager
Lamberts Gully Coal Mine Community Committee	Councillor H K Fisher General Manager
Invincible Coal Mine Community Committee	Councillor H K Fisher General Manager
Clarence Coal Mine Community Committee	Councillor H Fisher General Manager
Angus Place Coal Mine Community Committee	Councillor H K Fisher General Manager
Association of Mining Related Councils	Councillor N L Castle Councillor W McAndrew
Traffic Authority Local Committee	Councillor H K Fisher General Manager

Lithgow Correctional Centre Committee	Councillor N L Castle General Manager
Internal Audit Committee	Councillor G Danaher Councillor H Fisher (alternate)
Airly Coal Mine Committee	Councillor G Danaher
Newnes Sand and Kaolin Project Community Consultative Committee	Councillor H K Fisher
Portland Working Party	Councillor N L Castle Councillor C Hunter Councillor H K Fisher
Inglenook Exploration Community Liaison Committee	Councillor R Thompson
Men's Shed Committee	Councillor G Danaher Councillor C Hunter
Lithgow District Bush Fire Management Committee	Councillor N L Castle
Hawkesbury Nepean Local Government Group	General Manager

It is proposed that several of these current committees be structured differently and in some cases deleted. In some cases it has previously been difficult to call meetings of these committees due to the limited areas that they cover

The following is to be proposed:

- Companion Animals - Delete
- Citizens Access Committee – Delete
- Operations (Works) Committee be formed with the following responsibilities Water, Sewer (previous Committee) Cemetery (previous Committee), Portland (previous Working Party) plus adding roads and other Operation's responsibilities
- Service Committee – Delete and add responsibilities to meetings with Internal Audit representatives responsibilities
- Delete the Shopfront Committee and Business Enquiry Committee and add these responsibilities to the Economic Development Advisory Committee
- Community Development be formed with the following responsibilities Sister Cities (previous Committee), Community Recognition (previous Committee) plus adding other Community responsibilities such as Eskbank House and Australia Day

POLICY IMPLICATIONS

- Policy 4.1 Community Representatives – Appointment to Committees or Working Groups
- Policy 9.2 Appointment of Mayor to Committees
- Policy 9.5 Council Meetings – Appointment of Chairpersons of Council Committees/Working Groups
- Code of Meeting Practice

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

Local Government Act 1993
Local Government (General) Regulations 2005

RECOMMENDATION

THAT:

1. Council forms the following committees and determines the councillor appointments to be made to the s355 Committees of Council and External Committees and Organisations.

Committees	2012/13 Representative
Environmental Advisory	
Companion Animals	
Operations (Works)	
Traffic Advisory Local (TALC)	
Sports Advisory	
Indoor Aquatic Centre	
Internal Audit	
Lithgow Tourism Advisory	
Lithgow Flash Gift	
Economic Development Advisory	
Community Development	
Youth Advisory	
Lithgow Crime Prevention	
Disability Access	
Blue Mountains Crossing	
Crystal Theatre	
Union Theatre	
Meadow Flat Hall	

External Committees and Organisations	2012/13 Representative
Arts Out West Committee	
Bells Line of Road Group	
Blue Mountains Tourism Limited	
Bush Fire Management	
Lithgow Information & Neighbourhood Centre Inc (LINC)	
Upper Macquarie County Council	
Lithgow Aged Care Inc	
Centroc	
Pine Dale Coal Mine Community Committee	
Cullen Valley Coal Mine Community Committee	
Lamberts Gully Coal Mine Community	

Committee	
Invincible Coal Mine Community Committee	
Clarence Coal Mine Community Committee	
Angus Place Coal Mine Community Committee	
Association of Mining Related Councils	
Traffic Authority Local Committee	
Lithgow Correctional Centre Committee	
Airly coal Mine Committee	
Newnes Sand and Kaolin Project Community Consultative Committee	
Inglenook Exploration Community Liaison Committee	
Hawkesbury Nepean Local Government Group	

2. Authorise the existing community representatives to continue in their role whilst Council calls for fresh community appointments to the committees; and
3. Terms of Reference for these Committees be reviewed and presented to Council.

ITEM-16 GM - 15/10/12 - REVIEW OF POLICY 9.9 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS

SUMMARY

This report is to advise Council the Draft Policy 9.9 for the 'Payment of Expenses and Provision of Facilities to Councillors' has been reviewed as Version 5 and includes a recommendation that it be publically advertised for a period of 28days prior to final consideration by Council.

COMMENTARY

Draft Policy 9.9 for the 'Payment of expenses and Provision of Facilities to Councillors' has been reviewed and is submitted to the business paper as Version 5.

Through their role councillors are entitled to be provided with the necessary resources and facilities including the reimbursement of expenses in order to enable them to fully perform the role of a Councillor.

Council's services, as detailed in this Policy, are available to Councillors while carrying out the functions of civic office. These services, unless specified, are not available for use by a spouse, partner or members of a Councillor's family.

Where possible councillors are encouraged to pool or share facilities where possible in order to make the best use of Council's resources. Councillors are also encouraged to limit their use of the expenses and resources provided for in this Policy to the minimum required whilst still allowing them to effectively and efficiently discharge the functions of their civic office.

Expense limits apply to several categories of expenditure. If an expense limit applies it will be shown against that item. Councillors who exceed an annual limit will be required to reimburse Council. Please note that all expense limits are exclusive of GST.

Facilities supplied to Councillors are not to be converted or modified in any way and may only be used for carrying out the functions of civic office.

This Policy is to be read in conjunction with the Council's Code of Conduct.

The Policy deals with:

PART 1 – PAYMENT OF EXPENSES

- Responsibility and Accountability
- Travel (Inside and outside of the Lithgow City Council LGA and overseas travel)
- Official Engagements and Functions
- Annual Councillor Professional Development Discretionary Vote
- Expenses Associated with Councillors Attending, at their Discretion, Conferences, (including the Annual Local Government Association or Shires Conferences)

Seminars, Councillor Professional Development and Training Programs, Elected Member Courses and Local Government and Shires Associations Industry Working Groups.

- Legal and insurance expenses and obligations

PART 2 FACILITIES

- Stationery
- Postage
- Communications
- Secretarial Services
- Training
- Resource Centre and Office Accommodation
- Additional Expenses and Facilities for the Mayor
- Expenses and Facilities for Councillors with Disabilities
- Carer Expenses

POLICY IMPLICATIONS

Policy 9.9 for the 'Payment of Expenses and Provision of Facilities to Councillors' Version 5.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Draft Policy 9.9, Version 5, for the 'Payment of Expenses and Provision of Facilities to Councillors'.

RECOMMENDATION

THAT Council advertise the revised Draft Policy 9.9 for the 'Payment of Expenses and Provision of Facilities to Councillors,' Version 5, for a period of 28 days.

**ITEM-17 GM - 15/10/12 - FUNDING OF FIRE AND EMERGENCY SERVICES IN
NSW**

SUMMARY

The NSW State Government has released a Discussion Paper in relation to the funding of fire and emergency services in NSW.

COMMENTARY

The fire and emergency services in NSW, including Fire and Rescue NSW, the NSW Rural Fire Service and the NSW State Emergency Service are currently funded through a system that has been described as complicated, inefficient and unfair. The NSW State Government has released a Discussion Paper, 'Funding our Emergency Services', looking at reviewing the system for funding these services.

Presently the bulk of funding (73.7 per cent) for these services is provided by a tax on insurance companies, while the remainder of the funds are provided by local governments (11.7 per cent) and the State Government (14.6 per cent). While emergency services work to prevent and/or limit physical damage, the current funding system provides disincentives to prepare for the financial consequences of fire and emergencies. The tax on insurers increases the price of insurance, leading some people to under-insure and others not to insure at all.

The Discussion Paper outlines that thirty-six per cent of households in NSW do not have home contents insurance. This is a higher proportion than in any other State. The Paper goes on to state:

This makes the current system unfair because not everyone contributes through the tax on insurance; however, the fire and emergency services are available for all. A better and fairer system would spread the costs across the whole community. Recent reviews of the State tax system, including *the Henry Tax Review*, have recognised the weaknesses of the current system and recommended that it be replaced with a property based levy.

During the 2011 State election, the Liberal and Nationals Coalition committed to consulting with the community to identify a better way to fund emergency services in NSW. A wide range of alternative revenue sources have been considered, and it is apparent that if the current arrangements are changed, a property based levy would be the best alternative.

This process is to develop a better, fairer and more efficient way of funding our emergency services. No final decision has been made by the Government, which is now seeking your input on the design, scope, features and transition arrangements to a new levy. Whatever arrangements are used, they will not alter the total level of funds provided for fire and emergency services.

A comparison of funding arrangements by Australian states reveals:

State	Contribution details
New South Wales	Levy on insurance companies (74 per cent), contributions from local government and consolidated revenue.
Victoria	Levy on insurance companies (75 to 77.5 per cent), local government contributions and consolidated revenue. Has announced a move to a property based levy.
Queensland	Property based levy that is collected through local government authorities. The levy varies according to property type and location.
Western Australia	Property based levy collected by the local government authorities. The levy rates vary by property type and by region.
South Australia	Property based levy comprising a fixed fee plus a variable levy based on capital value adjusted for location and land use. A levy is also collected on mobile property such as motor vehicles.
Tasmania	Contributions from local government, insurance companies (30 per cent) and motor vehicle registration.
Australian Capital Territory	Property based levy on residential property (fixed) and commercial property (based on unimproved land value).
Northern Territory	Funded from consolidated revenue.

Those wishing to make a submission on the matter have been asked to respond to a number of key questions. These include:

- 1 Which of the following revenue sources associated with emergency services funding should be replaced by a property levy:
 - a The emergency services levy payments by insurers and the associated stamp duty;
 - b Local government contributions; or
 - c The portion of emergency services funding currently provided from general NSW government revenue?
- 2 Should a property levy be raised as a fixed amount per property, as a proportion or percentage of property value, or some combination of the two?
- 3 Should different rates of tax be applied to different property types?
- 4 Should different tax rates be applied in different parts of the State? If revenue amounts are zoned geographically, where should the boundaries of those zones be?
- 5 Should some proportion of emergency services funding be raised as an annual charge on vehicle registration?

- 6 Should pensioners receive concessional rates for a new property levy that funds emergency services?
- 7 How should the revenue target be set each year to take account of changing costs of fire and emergency services?
- 8 Should revenue from a land based levy be collected by local governments or the Office of State Revenue?
- 9 Is a transitional period required for adjustment of the emergency services levy, and if so how should any funding gap arising from a transitional period be recovered?
- 10 What arrangements are needed to ensure that any reductions in insurance taxes are passed on to consumers?

The Centroc group of councils has prepared a response to this issue and it is proposed that Council endorse this submission.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Lithgow Council currently contributes \$467,345.60 to these services.

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. NSW Treasury and the Ministry for Police and Emergency Services – Funding our Emergency Services Discussion Paper
2. July 2012 - Centroc submission on the Draft Discussion Paper
3. NSW Rural Fire Service Association Inc. - Emergency Services Levy Funding Review

RECOMMENDATION

THAT Council endorse the Centroc submission on the Discussion Paper 'Funding our Emergency Services'

ENVIRONMENT AND DEVELOPMENT REPORTS

**ITEM-18 ENVIRO - 15/10/12 - WITHDRAWAL OF 'CALL IN' OF
DEVELOPMENT APPLICATION - MODIFICATION APPLICATION
319/06DA**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Business of an Urgent Nature 3 September 2012

SUMMARY

To formally advise the Council of the withdrawal of a 'call in' by Councillor Ticehurst in respect of Modification Application 319/06DA.

COMMENTARY

Councillors may be aware of the 'call in' of a Modification Application for 319/06DA in respect of the Helipad at Capertee. This development was approved by the Land & Environment Court on 25th September 2007 and contained a condition which required the cessation of operations on 25th September 2012 unless a new development application was lodged. Legal advice subsequently obtained by both parties confirmed that this could be undertaken by way of a Section 96 Modification Application.

The Modification Application for continuing the use was subsequently lodged and placed on public exhibition. Eight (8) submissions were received. Councillor Ticehurst withdrew his call in of the Development Application on 27th September 2012 and subsequent to this, development consent for the Modification was issued on 28th September 2012.

Members of the community who lodged a submission on the Modification Application have been informed of the determination of the application.

POLICY IMPLICATIONS

Policy 7.7 Calling in of Development Applications by Councillors outlines the process by which Development Applications may be 'called in'. Whilst the Policy is silent on a situation whereby a Councillor withdraws the request to call in the application, it is logical that a Councillor would be given this opportunity should he/she be satisfied that the application may proceed to determination in a more expeditious manner than awaiting the next available Ordinary Meeting of Council.

A review of all planning policies is currently underway and issues such as these can be clarified in this process.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

The original Development Application for the Helipad development at Capertee was refused by Council. Upon appeal to the Land & Environment Court, development consent was granted on 25th September 2007. A Section 96 Modification Application was lodged to modify Condition Number 28 to allow the operation to proceed into the future.

ATTACHMENTS

1. Modification of Consent 319/06DA

RECOMMENDATION

THAT the report on the withdrawal of the 'call in' of Modification Application 319/06DA and subsequent determination of the Modification Application be noted.

**ITEM-19 ENVIRO - 15/10/12 - CENTENNIAL COAL - LIDSDALE SIDING
UPGRDE PROJECT**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To update Council on a Major Project that has been submitted to the Department of Planning and Infrastructure (the Department) for the upgrade of the existing coal siding at the Centennial Coal Lidsdale Siding, Main Street, Wallerawang.

COMMENTARY

Current operations

Ivanhoe Coal Pty Ltd (Centennial) operates the Lidsdale Siding rail loading facility, located opposite the former Presbyterian Church in Main Street Wallerawang. The principal components of the existing Lidsdale Siding are a rail siding, an overland conveyor which delivers coal from the Centennial Coal Western Coal Services site, coal stockpiles, workshop, office and pollution control dams.

Proposal

Centennial Coal proposes to upgrade the Lidsdale Siding facility to improve its operational efficiency and increase its throughput capacity to approximately 6.3 million tonnes per annum. The train loading process would be automated by establishing a coal stockpile with underground reclaimers feeding a conveyor leading to a train loading bin which is intended to decrease noise loading impacts. The total stockpile capacity would be approximately 50,000 tonnes.

The proposal includes a new rail line and parallel siding to enable the shunting of trains whilst being loaded. This track is to be extended 260m south west and will end approximately in line with the rear of the Wallerawang Chinese Restaurant. The railway line will be setback approximately 240m from the Main Street and is proposed to operate 24 hours. A landscaping buffer is proposed at the end of the siding and between the siding and the existing industrial properties on Main Street.

Whilst Part 3A has now been repealed, revised Director General's Requirements (DGRs) for the Environmental Assessment (EA) were issued prior to the repeal on 7 July 2011. As such, the Project is a "transition Part 3A" project to which the provisions of Part 3A continue to apply. Current DGRs for the EA were issued on the 31 January 2012.

Status

The proposal has been placed on exhibition from the 10 September 2012 to the 19 October 2012 at Lithgow City Council Administration Centre, Portland Library, Wallerawang Library and Department of Planning and Infrastructure Information Centre. The exhibition information was placed in the Lithgow Mercury and a media release completed and advertised for the development. However, it is noted that the development does not require to be notified to landowners under Part 6 of the

Environmental Planning and Assessment Regulation 2000 and this process has not been undertaken by the Department of Planning & Infrastructure.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

As the proposal falls within Part 3A, of the *Environmental Planning and Assessment Act 1979* the Department of Planning and Infrastructure will be the consent authority. Council officers will be undertaking an assessment of the documents submitted and will make a submission to Department of Planning and Infrastructure.

ATTACHMENTS

1. Site Plan.

RECOMMENDATION

THAT the report on the Centennial Coal Lidsdale Siding Upgrade Project be noted.

ITEM-20 ENVIRO - 15/10/12 - DA 074/12 - CONVERSION OF SHED TO DWELLING - LOT 5 IN DP 867648 TARANA ROAD TARANA

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To assess and recommend determination of DA 074/12 Recommendation will be for approval subject to conditions/refusal

COMMENTARY

Council is in receipt of Development Application 074/12 for the conversion of a shed to a dwelling on Lot 5 in DP 867648, Tarana Road, Tarana.

The subject lot does not comply with the minimum lot size development standard for the erection of a dwelling under Clause 18A of Lithgow City Local Environmental Plan 1994. This Clause requires a minimum Lot size of 100ha, whereas this allotment is only 4.12ha. The applicant has provided an objection to the minimum area standard under State Environmental Planning Policy No.1 (SEPP 1) – Development Standards. The application requires the concurrence of the NSW Department of Planning and Infrastructure (DoP) and can only be referred to DoP with the support of Council.

A subdivision for the creation of Lot 5 was supported previously by former Evans Shire Council and also approved by the Department Urban Affairs and Planning (Now DoP). The deferred commencement of a dwelling (being 434/04DA) previously issued for the site and superseded by 052/09DA approval for a dwelling on Lot 5 by Lithgow City Council. Therefore, this proposal seeks support from Lithgow City Council to enable the SEPP 1 to proceed and replace the previous DA consent 052/09DA for a dwelling.

The site is relatively clear retaining minimal trees in addition to the existing shed and garden shed. The site is bounded by a railway track along the eastern and northern boundary. Tarana Road runs along the southern boundary and rural residential land is located at the west of the property. The site is physically well connected with Tarana Village Zone area via Tarana Road. The site is compatible with the village character and a location map has been included as ATTACHMENT 1.

A single storey dwelling has been proposed on Lot 5 in DP 867648 that includes two bedrooms, laundry, bathroom and an open plan kitchen, living, dining and library area totalling approximately 110m² as shown in proposed plan in ATTACHMENT 2.

As the land has also been recommended for re-zoning within the Land Use Strategy (LUS) to 'Large Lot Residential', it is considered that the variation to the standard is justified.

LEGAL IMPLICATIONS

The application must be assessed in accordance with the heads of consideration of Section 79C of the Environmental Planning & Assessment Act 1979.

As the proposal adjoins the rail corridor, the application was referred to the Country Regional Network- John Holland Rail Pty Ltd who have requested conditions be placed on any approval. Additionally, the application was referred to Council's Building and Engineering staff for assessment and conditions were requested to be placed on any consent. A full assessment under Section 79C of the Environmental Planning and Assessment Act 1979 is attached, however consent cannot be granted until concurrence is provided by DoP.

CONCLUSIONS

The application has been assessed in accordance with the relevant planning instruments that relate to the land. Accordingly, should concurrence from DoP be obtained the assessment shows that the development can comply with all requirements, thus having an acceptable impact on the surrounding neighbourhood and community in general.

Therefore, the application can be approved subject to concurrence of the DoP.

ATTACHMENTS

1. Location Map
2. Proposed Plan
3. Complete 79C Planning Report under separate cover.

RECOMMENDATION

THAT:

1. Development Application 074/12 be supported and referred to Department of Planning for their concurrence. Should concurrence be granted the application may be determined under delegated authority.
2. A DIVISION be called in accordance with the provisions of Section 375(3) of the Local Government Act 1993.

**ITEM-21 ENVIRO - 15/10/12 - DEVELOPMENT APPLICATION DA125/12
CONSTRUCTION CERTIFICATE CC111/12 - SHED - CALLING IN OF
APPLICATION**

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT & DEVELOPMENT

REFERENCE

Development Application No. DA125/12 & Construction Certificate No. CC111/12.

SUMMARY

To inform Council that this Development Application/Construction Certificate has been called in pursuant to Council policy.

COMMENTARY

A Development Application has been received for a proposed Shed at Lot 75 DP 237413 being 9 Donald Road, Clarence NSW 2790. This application is currently under assessment. The application has been called in for determination by Council by Councillor Martin Ticehurst.

POLICY IMPLICATIONS

The application has been called in pursuant to Policy 7.7 'Calling in of Applications by Councillors' Item 3 that states:

Should written notice, signed by a minimum of one (1) Councilor, be received by the General Manager prior to determination of a development application or development application/construction certificate, the application shall not be determined under delegated authority but shall be:

- *Reported to the next Ordinary Meeting for the information of Council that the development application or development application/construction certificate has been "called in"; and*
- *Reported to an Ordinary Meeting of Council for determination.*

This application is reported pursuant to the first dot point.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT the action of calling in the Development Application DA125/12/Construction Certificate CC111/12 be noted.

ITEM-22 ENVIRO - 15/10/12 - PROPOSED ROAD RE-NAMING- WESTERN SECTION OF GUY STREET

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT & DEVELOPMENT

REFERENCE

Min No 10-526: Ordinary Meeting of 13 December 2010
Min No 11-372: Ordinary Meeting of 12 September 2011

SUMMARY

To progress the road re-naming process for the western section of Guy Street, Lithgow.

COMMENTARY

At Council's meeting of 13 December 2010 it was advised that a resident of Guy Street was having problems with the road naming of Guy Street given that the road is split by Farmers Creek resulting in two disconnected roads with the same name.

It was proposed that Council consider the re-naming of the western section of Guy Street and ask for submissions from Emergency Services, Australia Post and all residents potentially effected.

Council notified the Emergency Services, relevant Authorities and Australia Post with no submissions received. Council proceeded to notify the residents along this section of road and advertised in the paper for suggestions for the road naming on in accordance with the Geographical Names Board guidelines.

ISSUES/ PUBLIC PARTICIPATION

As a result of the notification Council received two submissions as follows:

Submission for the proposal:

Propose the name of **Elizabeth Mort Place**. There is evidence from a resident (purchase contracts) of a house on Guy Street indicating that the land was previously owned by Marianne Elizabeth Mort prior to the house being constructed.

Marianne Elizabeth Macauley was married to Thomas Sutcliffe Mort (his second marriage) in 1874 who were both renowned residents of Lithgow during the 1800's. Some of the achievements during this time included the slaughter house, soap factory and the first freezing works in the world. Marianne Elizabeth Mort became one of the beneficiaries of Thomas Sutcliffe Mort's properties and companies on 9 May 1878. It is evident that Marianne Elizabeth Mort was a significant contributor to Lithgow's history.

Submission against the proposal:

There is one firm objection to the proposal. The objection states that there has been no issue with emergency services finding the area and that there would be a major

inconvenience to change all postal addresses and legal documentation for affected residents. These costs for the change of road name will add to the already increased cost of living.

Given that the proposal to change the road name was suggested by a resident, it is considered that the naming of the road is necessary. It was suggested that the current naming arrangement has caused problems in locating properties in the area with visitors and GPS devices. This concern may cause future problems with emergency services locating the area quickly.

Conclusion

It has been discussed that the road name of the western end of Guy Street being a continuation of Guy Street has caused problems in locating the properties. It is considered that Council should rename this section of the road to alleviate concerns in locating properties and therefore, support the naming of Elizabeth Mort Place given the significance of the name. The proposed name should not cause any confusion with the current street name of Mort Street due to the points of difference using specific Christian names and it being a 'Place' and not a 'Street'.

FINANCIAL IMPLICATIONS

There will be minor costs for signage.

RECOMMENDATION

THAT Council support the name Elizabeth Mort Place and undertake an Expression of Interest notification with residents and emergency services of the proposed naming. If no objection is raised then Council shall proceed to notification of the proposed road name and advise the Emergency Services and Government Gazette of this road name.

ITEM-23 ENVIRO - 15/10/12 - DA076/12 - REFURBISHMENT OF EDUCATION FACILITY LOT 3 DP 1077295 AND LOT 1 DP 379892 BRIDGE STREET LITHGOW NSW 2790

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

Council is in receipt of a Development Application 076/12 from the University of Western Sydney for the refurbishment of an education facility on land known as Lot 3 in DP 1077295 and Lot 1 in DP 379892, Bridge Street Lithgow NSW 2790.

COMMENTARY

The University of Western Sydney proposes to lease the two lots, which are owned by Lithgow City Council, to refurbish the building and operate it as an educational facility.

The building, also known as the Charles Hoskins Memorial Building, is located on Lot 3 DP 1077295 and will contain wet and dry laboratories, a lecture theatre, general teaching spaces and student resource rooms. The existing residential flat will be retained for temporary use of visiting lecturers.

The adjacent Lot 1 will be converted to a car park to service the facility.

Lot 2 DP 1077295 currently contains the Union Theatre. The development proposes to encroach over the rear of this Lot for a ramp to adjoin the carpark to the walkway between the Hoskins Building and the Theatre.

The development will also include:

- Internal alterations including minor demolition works,
- Refurbishment of the residential unit to comprise two bedrooms with en-suites and shared living space,
- Associated landscaping in car park and courtyard areas,
- Signage of building identification and logo.

The hours of operation for the teaching facility will be Monday to Friday 9.00am-9.00pm Saturday and Sunday. It is anticipated that the new facilities will be able to accommodate approximately 168 students, 10 staff members and occasional public events in the lecture theatre which will have a maximum capacity of 100 attendees.

The building is a two storey building which was formerly used as the Lithgow Library from 1907 until 2004. Since 2004 it has been occupied by Lithgow Senior Citizens group, a residential flat and a private gym. The Lithgow Musical Society and Theatre Group used rooms in the building for the storage of props and costumes and change rooms.

The proposed upgrade and use of the building is compatible with the site and the proposed use will potentially bring benefits to the area.

POLICY IMPLICATIONS

Council's Policy 7.6 – Development Applications on Council owned land are required to be referred to Council for consideration and determination and no aspect of the development may be dealt with under delegated authority. Given Council's ownership of this land the proposal is reported to Council for determination.

FINANCIAL IMPLICATIONS

None relevant in the context of Council determining a development application.

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. A complete Section 79C report.

RECOMMENDATION

THAT:

1. Council approve DA076/12 in accordance with the conditions outlined in the attached Section 79C report.
2. A DIVISION be called in accordance with the provisions of Section 375(3) of the Local Government Act 1993

OPERATION REPORTS

ITEM-24 OPER - 15/10/12 - LITHGOW MEMORIAL POOL KIOSK MANAGEMENT 2012/13

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

Uniting Care Lithgow has submitted a proposal to manage the new kiosk at the Lithgow Memorial Pool for the 2012/13 season. This proposal was referred to the Aquatic Centre working party for consideration. It was resolved that in the interests of procedural fairness that public expression of interest be invited from other community organisations, individuals or businesses. Following the advertising process no additional expressions of interest were received.

COMMENTARY

A copy of the detailed proposal from Uniting Care Lithgow (UCL) is attached for information. In essence UCL are proposing to undertake the management of the kiosk situated within the new entrance area of the Lithgow Aquatic centre via a partnership with Council. UCL will assume responsibility for the kiosk including employment of staff and provision of food services. In return for the free lease of the Kiosk, UCL will provide staffing for the entrance to the pool during pool opening times and will provide Kiosk services for opening hours 7.00am to 7.00 pm with a range of hot and cold food and beverages.

Subject to the success of the kiosk operation during the 2012/13 season UCL seeks to reserve the right to explore future options to maintain the management of the kiosk on a longer term basis.

Council called for expressions of interest for the operations of the kiosk and this was the only submission received.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

There will be no cost to Council except for the payment of normal utility service including gas and electricity

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. United Care Lithgow's business proposal

RECOMMENDATION

THAT the offer from United Care Lithgow to manage the Lithgow Pool kiosk be accepted for the 2012/13 season and that an appropriate agreement be signed between Council and UCL incorporating the issues raised in their proposal.

ITEM-25 OPER - 15/10/12 - PURCHASE OF A 12 TONNE TRUCK

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

To advise on the assessment of quotations received for the purchase of one 12 ton truck with a tipping body

COMMENTARY

Council called for and received quotations for the supply and delivery of a 12 tonne truck with a tipping body from Local Government Procurement (LGP) contract no. BUS198-0410.

The new vehicle will replace an existing larger 12 tonne Iveco truck that was financed through a leasing arrangement which has since expired. The vehicle has been returned to the relevant finance company.

The following table details the make, model and prices for trucks were offered.

Company	Make	Model	Cost inc GST
Gilbert and Roach	Isuzu	FVZ1400 Medium	\$170,570.00
Sydney Truck Centre	MAN	TGS26.360	\$195,870.00
Volvo Truck and Bus	Volvo	FE300 HP 6x4	\$200,860.00
Iveco Trucks Australia	Iveco	F2350G (Homealloy body)	\$201,106.40
Iveco Trucks Australia	Iveco	F2350G (A H Peters body)	\$208,432.40
Scania Australia	Scania	LB6X4NSZ	\$211,381.40

There was one other quotation received from Sydney Trucks and Machinery for the supply of a Fuso truck. Fuso trucks are not on the LGP contract and therefore this quotation was not considered.

Council currently operates a similar model Isuzu truck to the truck that is offered, which is fitted with a tilt tray and Hiab crane, and has performed in a very reliable fashion since purchase. The only differences between the two models are the wheel base of the vehicles, the tipper requires a shorter wheel base than the tilt tray and the rear suspension of the tilt tray truck has air bag suspension. Isuzu trucks offer good service and parts back-up. The Isuzu truck offered has the longest wheel base so the sides of the body can be lower to allow easier loading when using a backhoe, the lowest overall weight and the second lowest front axle weight which will give the greatest payload.

Taking the above details into account the following recommendation is considered the most beneficial to Council.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Funded in the 2012 / 2013 Plant Replacement Program

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT the quotation from Gilbert and Roach for the supply and delivery of one Isuzu FVZ1400 Medium, for the price of \$170,570.00 (including GST) be accepted.

ITEM-26 OPER - 15/10/12 - WATER REPORT SEPTEMBER 2012

REPORT BY: I STEWART - GROUP MANAGER OPERATIONS

REFERENCE

Min No 12-327: Ordinary Meeting 03/09/12.

SUMMARY

This report provides an update on various water management issues as per Minute Number 12-327.

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 Friday 2 September was 100%. Oberon Dam capacity on Tuesday 2 September was 99.72%

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 2011/12.

Table 1 - Oakey Park Monthly Output and Clarence Transfer

Month Total	Oakey Park WTP (ML)	Clarence Transfer (ML)	Dam Accumulative Yield (ML)
July	107	0	107
August	106	0	213
September	115	0	327
2011/12 Monthly Av	121	0	
Rolling 12 Month Total	1,350	0	1,350

Table 2 - Oakey Park Daily Output and Clarence Transfer

Oakey Park WTP	Avg Daily Use kL	Avg Daily CWTS Transfer kL
August	3,409	0
September	3,818	0

Table 3 2011/2012 Water Consumption for Fish River Water Scheme

Week Ending	Oberon Dam Level	Oberon Dam Volume in ML	Oberon Dam % Corrected for Carryover	Total Use	Total Carryover balance
					355.6
2/7/12	98.04	43855	91.47%	9.987	355.6
9/7/12	98.78	44218	92.22%	16.143	355.6
16/7/12	100.00	44763	93.44%	11.264	355.6
23/7/12	100.00	44763	93.44%	12.9	355.6
30/7/12	100.00	44763	93.44%	12.729	355.6

Oakey Park Water Quality Summary

Oakey Park Water Treatment Plant is currently supplying water to Lithgow. No health-based ADWG guideline values were exceeded in September. Total Aluminium exceeded recommended aesthetic levels once. Monitoring results for the licence to operate the water treatment plant have been published on the Lithgow City Council website as required by the *Protection of the Environment Operations Act 1997*.

Under the *Fluoridation of Public Water Supplies Act 1957* Lithgow City Council has received the Instrument of Approval in September. It states Lithgow City Council shall maintain fluoride in the Farmers Creek Water Supply in accordance with the *Fluoridation of Public Water Supplies Act 1957*. A communication plan is being developed for dissemination to the community prior to implementation of the addition of fluoride to the water supply

Fish River Water Scheme Water Quality Summary

The FRWS is currently supplying water to Marrangaroo, Wallerawang, Lidsdale, Portland, Cullen Bullen, Glen Davis and Rydal. No health-based ADWG guideline values were exceeded in September.

A FRWS water main break occurred in September and water was distributed from Oakey Park Water Treatment Plant for 5 days with no disruption to service or quality.

Current Water Restrictions Update

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

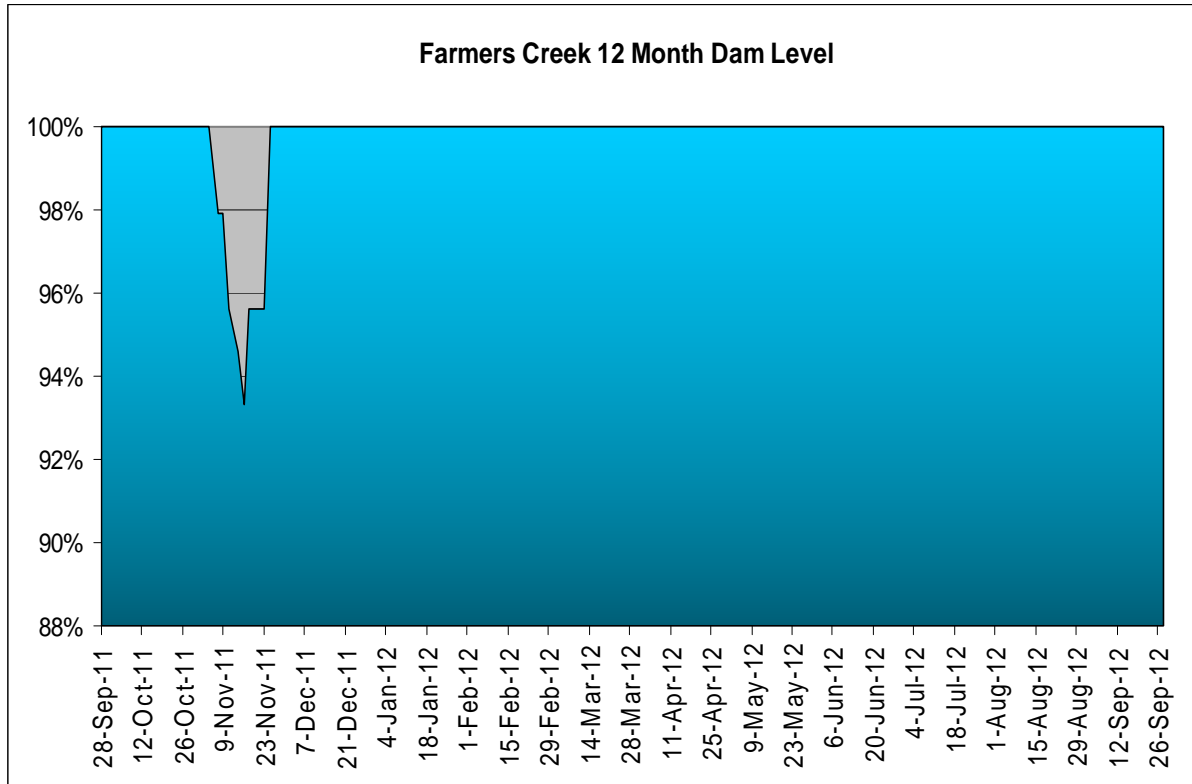
Water Saving Schemes or Processes Update

Council's Rainwater Tank and Domestic Appliance Rebate Program continued in September with Council approving 2 applications for a household appliance rebate and no applications for a water tank rebate.

Farmers Creek Dam 12 Month Levels

The attached chart shows the storage data to date for the last twelve months.

Graph 1 Farmers Creek Dam #2 over 12 Months



The southeast Australian outlook for mid-spring to early summer (October to December) indicates that there are roughly even chances of a wetter or drier season over NSW. This outlook is a result of warmer than normal waters in the tropical Pacific Ocean and warmer than normal waters in the Indian Ocean.

ALTERNATE WATER SOURCES UPDATE

The Lithgow villages and Marrangaroo Zone are currently being supplied from FRWS.

RESERVOIRS

Sealing of the walls and joints of South Bowenfels Reservoir has been completed. There is a problem with sealing the scour valve due to ingress of foreign materials. Before final commissioning the reservoir will have to be re-cleaned and the valve returned to normal operation.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council note the water report.

**ITEM-27 OPER - 15/10/12 - CLARENCE COLLIERY WATER TRANSFER
SCHEME**

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

At the Ordinary Meeting of Council on 3 May 2010, Council resolved to accept a funding offer of \$3,895,728 from the Federal Government for the Clarence Colliery Water Transfer System Upgrade. This offer was subject to Council entering into a funding agreement with the relevant Federal Government Department.

On the 31 May 2010 a Deed of Agreement was signed between the Department of Environment, Water, Heritage and the Arts and the City Of Lithgow City Council regarding this funding agreement for the upgrade of the Clarence Colliery Water Transfer System which would deliver up to 14ML per day to improve the safe yield of the Farmers Creek catchment during drought periods. The funds offered totalled \$3,895,728 exclusive of GST. The activity period for the Agreement commenced from date of signing i.e. 31 May 2010 terminating on 13 March 2012. During this activity period a number of significant milestones had to be achieved.

This project is critical to the drought proofing of Lithgow and its surrounding villages through increasing the flexibility of the Farmers Creek Dam source of water. During the peak of the drought the Oberon Dam, the second major water source for Lithgow area reached critical levels and bordered on complete failure. Should this failure have occurred the Lithgow Local Government Area would have been placed in a very precarious position.

Whilst this project has been an extremely difficult project for Council to manage to this point, especially with the number of stakeholders involved and the overall complexity of the project, Council is very close to being in a position to call tenders for the construction of the whole project.

COMMENTARY

The Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) have now submitted a deed of variation to the funding agreement in relation to the Clarence Colliery Water Transfer System Upgrade indicating that the total funds payable under this Agreement have been reduced to \$3,143,493 due to delays in the delivery of some of the milestones, in particular Milestone 10. (Copy attached)

Whilst Stage 1 (being the upgrade of the pipeline from the Council storage tanks to Farmers Creek Dam bypassing the threatened swamps) was completed well within the milestones, Stage 2 being the upgrade from the Clarence Colliery Dam to Councils receiving reservoirs has been considerably delayed due to a range of factors including lack of available technical details and unexpected environmental issues.

Following resolution of a number of variations concerning the scope of work being undertaken by Council's Consultants GHD which was reported to Council on 13 August 2012 it is still expected that Council will be in a position to have the project completed by Milestone 13 - 1 June 2013 completion of construction works.

The proposed reduction in the funds is considered unacceptable due to the significant importance of the Clarence Transfer System and its impact on the ability of the Farmers Creek Catchment to cope with drought conditions.

Council has now almost achieved the point of going to tender for the work to proceed. This has been after seeking all the approvals and completing all of the studies required of the project. Any withdrawal of funding at this point would likely see the project cease and the work to this point to have been in vain.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Proposed deed variations
2. Report to Council on 13 august 2012 re variations to engagement of consultant .

RECOMMENDATION

THAT:

1. Council seek the reinstatement of the original funding offered for this project being \$3,895,728 in a negotiated variation to the original Deed of Agreement; and
2. Council seek the assistance of the Federal Member for Calare John Cobb to make representations on Council's behalf in regard to this matter to the Federal Minister the Hon Tony Burke.

ITEM-28 OPER - 15/10/12 - FLOURIDATION COMMUNICATION PLAN

REPORT BY: I STEWART - GROUP MANAGER OPERATIONS

REFERENCE

Min No 12-121: Ordinary Meeting 23/04/12.

SUMMARY

This report provides an overview on various communication avenues for notification of the commencement of fluoridation of the Oakey Park Water Treatment Plant supply as per Minute Number 12-121.

COMMENTARY

Oakey Park Water Treatment Plant is currently supplying water to Lithgow. NSW Health Centre for Oral Health Strategy in September advised Council to commence fluoridation at the Oakey Park Water Treatment Plant water supply. They require Council to operate the fluoridation plant in accordance with the NSW Code of Practice for the Fluoridation of Public Water Supplies.

In accordance with the Code of Practice, Council was also advised that "*A Water Supply Authority must not commence fluoridation of the water supply prior to the consumers within that supply area been given adequate warning of the commencement date.*"

The Water and Wastewater Department has developed a Fluoridation Communication Plan to ensure that all consumers within Lithgow have adequate warning regarding the commencement of fluoridation of the water supply. A public communications plan notifying of the commencement of fluoridation will begin in October. Fluoridation will begin in December after a minimum of 30 days from the mailbox delivery and publication of the Public Notice.

Communications activity will include

- a brochure for delivery by Australia Post to each resident
- advertisement of a Public Notice
- inclusion in the print Council Column
- addition to the next Council Connections
- print and electronic media advertising campaigns
- social media campaign
- media relations
- liaison with medical, public health and dental stakeholders (local dental practices; Lithgow Hospital; health centres)
- identification of 3rd party individuals/organisations available to address the issue (New South Wales Department of Oral Health, Centre for Oral Health Strategy; Population Oral Health, Faculty of Dentistry, University of Sydney)
- brochures available at Customer Services counter and Council outlets

- telephone “Messages on Hold”
- speaking points, Q&A’s and briefing deck for Customer Services staff
- Lithgow City Council Operations website-under the “Services” tab is a page entitled “Water.” There will be a new page called “Fluoridation” and a page called “Fluoridation Q&A’s”. The website is available 24 7 to anyone who has Internet access and includes a link to the NSW Water Fluoridation site which contains additional information about supplemental fluoridation. Website allows posting links to other sites for easy access.
- LCC water bills. Customers who receive fluoridated water will receive a notice on their water bill that states “1 ppm fluoride added to water”.
- Letters written to Council registered Water Carriers
- a notice at water standpipes

Key message development will include advice that Fluoridation of drinking water at optimal levels (1.0 mg/L) remains the most significant dental public health program in New South Wales and Australia. Water fluoridation delivers the most effective, cost effective and socially equitable means of achieving community wide exposure to dental caries (decay) preventive effects of fluoride. The advantage of water fluoridation is that the entire community benefits from the preventive measures, regardless of age, socioeconomic level, individual motivation or the availability of a dental workforce. The World Health Organisation has recognised the importance of water fluoridation and has repeatedly endorsed the fluoridation of drinking water as a desirable public health policy based on numerous scientific studies carried out throughout the world. Because of the benefits it confers, water fluoridation has also been endorsed and recommended by more than 150 scientific, health and political organisations throughout the world including the National Health and Medical Research Council of Australia (NHMRC). Communities that have ceased water fluoridation have a demonstrated increase in dental problems. There is also no evidence of adverse health effects attributable to fluoride in communities exposed to a combination of appropriately fluoridated water and discretionary sources of fluoride (such as that obtained from fluoride toothpastes).

In areas where the drinking water supply is artificially fluoridated it is controlled under the following Acts and Regulations;

1. Fluoridation of Public Water Supplies Act 1957
2. Fluoridation of Public Water Supplies Regulations 2007
3. The Code of Practice for the Fluoridation of Public Water Supplies 2002

The purpose of the Acts and Regulations is to authorise and control the addition of fluoride.

For Lithgow consumers drawing water from the Fish River Water Supply scheme, State Water have agreed in principle to the fluoridation of the Fish River Water Supply scheme at the Duckmaloi Water Treatment Plant.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Instrument of Approval - Fluoridation of Farmers Creek Water Supply

RECOMMENDATION

THAT:

1. Council note the Fluoridation Communication Plan.
2. Council note the commencement of Fluoridation in December 2012.

ITEM-29 OPER - 15/10/12 - FUNDING AGREEMENT FOR FINANCIAL ASSISTANCE UNDER THE 2012/13 NSW FLOODPLAIN MANAGEMENT PROGRAM

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

Council submitted an application for funding under the 2012/13 Floodplain Management programme for a review of the Lithgow Flood study. Correspondence has been received from the Hon. Robyn Parker MP, Minister for the Environment Minister for Heritage advising of a grant totalling \$120,000 towards this programme. The funding ratio for this grant is 2:1 and the completion date for the work is 30/04/14

COMMENTARY

The Minister for the Environment recently approved a grant offer of \$120,000 to Council to undertake the above project. The primary objective of this study is to define the flood behaviour under historical and existing flood plain conditions in the Farmers Creek catchment area, whilst addressing possible future variations in flood behaviour due to climate change and provide information for its management.

Subject to budget constraints, it is also proposed to quantify the flood damage that would occur under current flood plain conditions as this assists in understanding the scale of existing impacts and where these may be concentrated.

This study will produce information on flood levels and extents, velocities, flows for a range of flood events, hydraulic categories for the 1% AEP and probable maximum flood events as a minimum. The design events to be investigated will include the probable maximum flood PMF and any other specified extreme flood events including the 0.5%, 1%, 2%, 10% and 20% AEPs.

This study will update the previous Lithgow flood study which was carried out in the 1980s. The grant will be matched by Council providing one third of the total cost being \$60,000. Total grant cost for this project will be \$180,000.

Work is expected to commence following the calling of Expressions of Interest from suitably qualified consultants to undertake the work and then a selective tendering process.

The scope of the project will not only include the Farmers Creek catchment but the State Mine Creek and Vale of Clywdd catchments also. This study will be a precursor to the development of a flood plain risk management study.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Funding Agreement for Financial Assistance under the 2012/13 NSW Floodplain management program.

RECOMMENDATION

THAT Council accept the Grant of \$120,000 under the Floodplain Management program and authorise the funding agreement.

COMMUNITY AND STRATEGY REPORTS

ITEM-30 COMM - 15/10/12 - DIGITAL SWITCHOVER MEGALONG VALLEY

REPORT BY: M JOHNSON - MANAGER COMMUNITY AND CULTURE

REFERENCE

Min – 11-492 Ordinary Meeting of Council 12 December 2011

SUMMARY

This report advises Council of a proposal to upgrade the Megalong Valley analogue television transmission tower to digital transmission.

COMMENTARY

Until June 2012, Council operated four television towers which transmitted analogue television to black-spot areas in Hartley, Capertee Valley, Capertee Village and Portland. These towers were subject to the Australia wide transition to digital only television from 5 June 2012. The commercial broadcasters elected not to fund the digital upgrade of these towers and the cost to Council for the upgrade and ongoing maintenance were prohibitive. As a result, the four towers were switched off in recent months. Residents in these areas have either been able to switch to digital television from a primary tower elsewhere or to connect to the free VAST digital satellite service.

Council and Blue Mountains City Council also jointly manage an analogue television transmitter in the Megalong Valley which falls within the Sydney Metro switchover region, scheduled for switchover to digital only TV on 31 December 2013.

Blue Mountains City Council is the primary manager of this facility and Lithgow City Council pays half the operating costs.

Lithgow City Council resolved on 12 December 2012 (Min 11-492) at the same time it resolved to close the other 4 towers to await further advice in relation to the television transmission tower at Megalong Valley before making a decision on its future.

Blue Mountains City Council has been contacted by TXA, a joint venture company owned equally by the three commercial metropolitan television networks, Seven, Nine and Ten, with a proposal to upgrade the Megalong tower to digital.

The TXA offer is to replace the current 5 analogue television transmitters with digital transmitters and the ongoing maintenance of these. The Councils would be responsible for running costs including electricity, site maintenance costs, providing and maintaining air-conditioning and lease and access arrangements with the private landholder on whose land the tower sits. These ongoing costs will likely be fairly low when shared between the two councils although they would apply for several years. There may also

be additional more substantial costs to the councils in relation to any upgrades to power, building and the antenna if required. TXA has not yet identified if these will be required.

BMCC have not yet made a decision on whether to support the upgrade.

TXA have again written to BMCC advising that they will withdraw their offer if an agreement is not accepted by the Councils by 5 November 2012.

The reasons why TXA would want to fund the upgrade are unclear given that the Megalong Valley has a small population while the regional commercial broadcasters were not prepared to upgrade the Hartley, Portland, Capertee and Glen Davis towers. This apparent inequity may lead to community objections in other areas where the towers were not upgraded to digital.

If the Megalong tower is not upgraded to digital, residents will be able to connect to the VAST satellite service in the same way as other Lithgow residents have.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Electricity, site leasing and maintenance costs are shared equally with Blue Mountains City Council, with the Lithgow City Council share historically being in the order of \$2,000 per year for the analogue transmitter. These costs may be greater for a digital transmitter although these have not been quantified. There will also be decommissioning costs associated with removal of the existing equipment if the upgrade does not go ahead.

LEGAL IMPLICATIONS

Local Government Act NSW 1993

ATTACHMENTS

1. Copy of correspondence from TXA to the General Manager Blue Mountains City Council, detailing their offer.

RECOMMENDATION

THAT Council advises Blue Mountains City Council that it does not support the digital upgrade of the Megalong tower.

**ITEM-31 COMM - 15/10/12 - PROPOSED RENAMING OF COOK STREET
 PLAZA**

REPORT BY: MANAGER COMMUNITY AND CULTURE MATTHEW JOHNSON

REFERENCE

Min – 10-179: Ordinary Meeting of Council 3 May 2010
Min – 12-244: Ordinary Meeting of Council 23 July 2012

SUMMARY

This report details community submissions made during the public exhibition of a proposal by Council to rename Cook Street Plaza to Sir Joseph Cook Plaza.

COMMENTARY

At the Ordinary Meeting of Council dated 23 July 2012 (Min 12-244) Council resolved THAT:

1. Council advertise the proposed renaming of Cook Street Plaza to Sir Joseph Cook Plaza calling for submissions to be made for the statutory period of twenty eight (28) days.
2. If the name change received no submissions, then Council is to proceed with Government Gazette, otherwise a report will be returned to Council for further consideration.

The proposal was subsequently placed on public exhibition for 28 days until 30 August 2012 with three submissions received during this time.

Submission 1

A submission has been received from a long term former resident of Lithgow who provides evidence that Cook Street was named after the County of Cook which itself was named after Captain Cook.

This submission states that the Municipality of Lithgow was created in 1889 and the first survey was undertaken in 1890, at which time Main, Cook, Lett, Esk, Bank and Bridge Streets were surveyed. A copy of a survey plan is provided from 1890 showing Cook Street as well as a reference to Council minutes from 1890 identifying expenditure on Cook Street.

These references to Cook Street all pre-date Joseph Cook rising to political significance.

This submission states that it was common practice in early town surveys to use County and Parish names for street names and that for this reason Cook and Lett Streets were

included in the first survey as the town was situated in the County of Cook and Parish of Lett.

The submission is not opposed to recognition of Sir Joseph Cook, just that it should be at a different location.

Submission 2

A further email submission was received objecting to the renaming as he feels people will still refer to the plaza as Cook Plaza. The submission requests that Council establish signage or a memorial to explain the origins of the name.

Submission 3

A further submission states that Joseph Cook was knighted after he left Lithgow for achievements that had little to do with his time in Lithgow and therefore calling him Joseph Cook fits more with his local role as a man of the people.

Conclusion

Submission 1 provides compelling evidence that Cook Street was named before Sir Joseph Cook rose to political significance. Municipal records held by Council from 1890 also show references to Cook Street.

Research undertaken by local historian Mr Ray Christison for historic signage in Main Street, finds that Joseph Cook didn't migrate to Australia from England until 1885.

As pointed out in submission 1, due to the common practice in early town surveys of using County and Parish names for street names, it is likely that Cook Street was named after the County of Cook.

In view of this, it is recommended that Council not rename Cook Street Plaza to Sir Joseph Cook Plaza although it is open to Council to resolve otherwise.

Councillors are also asked to note that Council resolved at the Ordinary Meeting of Council held 3 May 2010 (Min 10-179) that: Interpretive signage be developed and installed in suitable locations in Main Street, Lithgow to recognise the contribution of the Bracey Family, Sir Joseph Cook and Mr Jim Robson.

This interpretive signage has been designed (copy attached) and is to be installed along Main Street Lithgow over coming weeks.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

The cost of design and fabrication of signage, not yet determined.

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Submission 1 Dataworks Document Number 863398

2. Submission 2 Dataworks Document Number 856213
3. Submission 3 Dataworks Document Number 856249
4. Parish Map - Municipality of Lithgow - Parish of Lett and Cook
5. Main Street Interpretive Signage

RECOMMENDATION

THAT:

1. In view of Cook Street being originally named after the County of Cook, Council not rename Cook Street Plaza to Sir Joseph Cook Plaza.
2. Council note that interpretive signage to Sir Joseph Cook, Jim Robson and the Bracey Family is being installed in Main Street Lithgow.

FINANCE REPORTS

ITEM-32 FINAN - 15/10/12 - RETURNS UNDER SEC 449 LG ACT 1993 DISCLOSING INTERESTS OF COUNCILLORS AND DESIGNATED PERSONS

REPORT BY - C FARNSWORTH - FINANCE MANAGER

SUMMARY

To advise Council of returns lodged with the General Manager under Section 449 of the Local Government Act 1993 for Councillors & Designated Person for the period 1 July 2011 to 30 June 2012 and seek confirmation of the positions noted as designated persons.

COMMENTARY

Section 449 of the Local Government Act requires Councillors and designated persons to lodge returns under Section 449 for the period 1 July 2011 to 30 June 2012.

At the due date for the returns, all designated persons and elected Councillors have responded by supply their completed return.

Councillors elected at the election of 8 September 2012 have been provided returns to be lodged with Council by 8 December 2012 and a report on the returns will be presented to the December Council meeting.

Section 449 states:

Division 2 Disclosure of interests in written returns Table of Provisions

- 449 *Returns disclosing interests of councillors and designated persons*
1. *A councillor or designated person must complete and lodge with the general manager, within 3 months after becoming a councillor or designated person, a return in the form in Part 1 of Schedule 3.*
 2. *A person need not lodge a return within the 3-month period after becoming a councillor or designated person if the person lodged a return in the previous year or if the person ceases to be a councillor or designated person within the 3-month period.*
 3. *A councillor or designated person holding that position at 30 June in any year must complete and lodge with the general manager within 3 months after that date a return in the form in Part 1 of Schedule 3.*

4. *A person need not lodge a return within the 3-month period after 30 June in a year if the person lodged a return under subsection (1) within 3 months of 30 June in that year.*
5. *Nothing in this section prevents a councillor or designated person from lodging more than one return in any year.*
6. *Nothing in this section or Schedule 3 requires a person to disclose in a return lodged under this section an interest of the person's spouse or de facto partner or a relative of the person.*

Section 450A requires the returns lodged under section 449 to be tabled at a meeting of Council and as such the returns are available at this meeting.

Section 441 defines designated persons as:

- *the general manager*
- *other senior staff of the council*
- *a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest*
- *a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.*

In addition to the General Manager the following positions have been classified as designated persons:

- Group Manager Building & Development
- Group Manager Operations
- Group Manager Community & Strategy
- Finance Manager
- Development Manager
- Water & Waste Manager
- Information Technology Manager
- Community & Culture Manager
- Tourism Manager
- Organisation Development Manager
- Works Engineer
- Team Leader Building
- Team Leader Planning

- Team Leader Environment
- Building & Development Officers (4)

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Register of Disclosures by Councillors and Designated Persons Section 449 Local Government Act 1993 as at 30 June 2012.

RECOMMENDATION

THAT:

1. Council acknowledge the disclosures received under Section 449 of the Local Government Act 1993 for the period 1 July 2011 to 30 June 2012 from all designated persons and Councillors
2. Reaffirm the following positions as 'designated persons' for the period 1 July 2012 to 30 June 2013:
 - General Manager
 - Group Manager Building & Development
 - Group Manager Operations
 - Group Manager Community & Strategy
 - Finance Manager
 - Development Manager
 - Water & Waste Manager
 - Information Technology Manager
 - Community & Culture Manager
 - Tourism Manager
 - Organisation Development Manager
 - Works Engineer
 - Team Leader Building
 - Team Leader Planning
 - Team Leader Environment
 - Building & Development Officers
3. A report on the returns from newly elected Councillors will be presented to the December 2012 Council meeting.

ITEM-33 FINAN - 15/10/12 - DRAFT 2011/12 GENERAL PURPOSE FINANCIAL REPORTS

REPORT BY: C FARNSWORTH - FINANCE MANAGER

SUMMARY

To advise Council of the completion Draft 2011/12 General Purpose Financial Reports and seek authorisation as required by Chapter 13, Part 3, Division 2 of the Local Government Act 1993 to submit the reports for final audit.

This report also recommends that Council invite our Auditors, The Morse Group, to present a formal report to the Ordinary Meeting of Council on 26 November 2012.

COMMENTARY

The Draft 2011/12 General Purpose Financial Reports are submitted for acceptance as required by Chapter 13, Part 3 and Division 2 of the Local Government Act 1993.

OVERVIEW: DRAFT 2011/12 GENERAL PURPOSE FINANCIAL REPORTS

Net Operating Result

The draft result for the 2011/12 financial year, including capital income and contributions, is a surplus of \$4,200,000 (10/11 \$4,494,000 surplus, 09/10 \$7,200,000 surplus, 08/09 \$2,965,000 surplus).

Total Assets:\$386,612,000
(10/11 \$364,704,000 09/10 \$341,007,100 08/09 \$249,018,000)

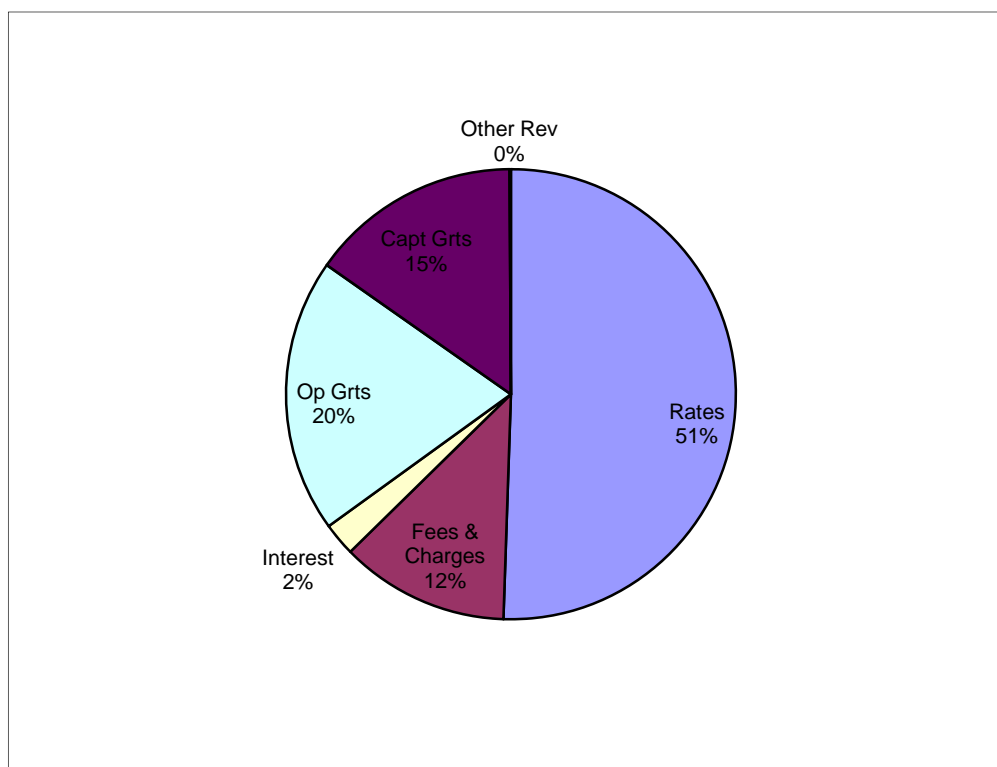
Total Liabilities \$33,236,000
(10/11 \$32,146,000 09/10 \$26,856,723 08/09 \$18,866,000)

Net Operating Result before Capital Grants & Contributions

The 2011/12 Operating Result, before abnormal and capital items, is a deficit of \$1,830,000 mainly attributed to the increased depreciation on assets following the revaluation of the water and wastewater asset class during 2011/12 (10/11 \$3,080,000 deficit, 09/10 \$651,000 surplus 08/09 \$3,566,000 deficit).

Operating Revenue:

Operating Revenue increased by \$579,000 to \$40,309,000 compared to 10/11 \$39,730,000 (09/10 \$37,469,000). This includes capital grants and contributions of \$6,030,000.

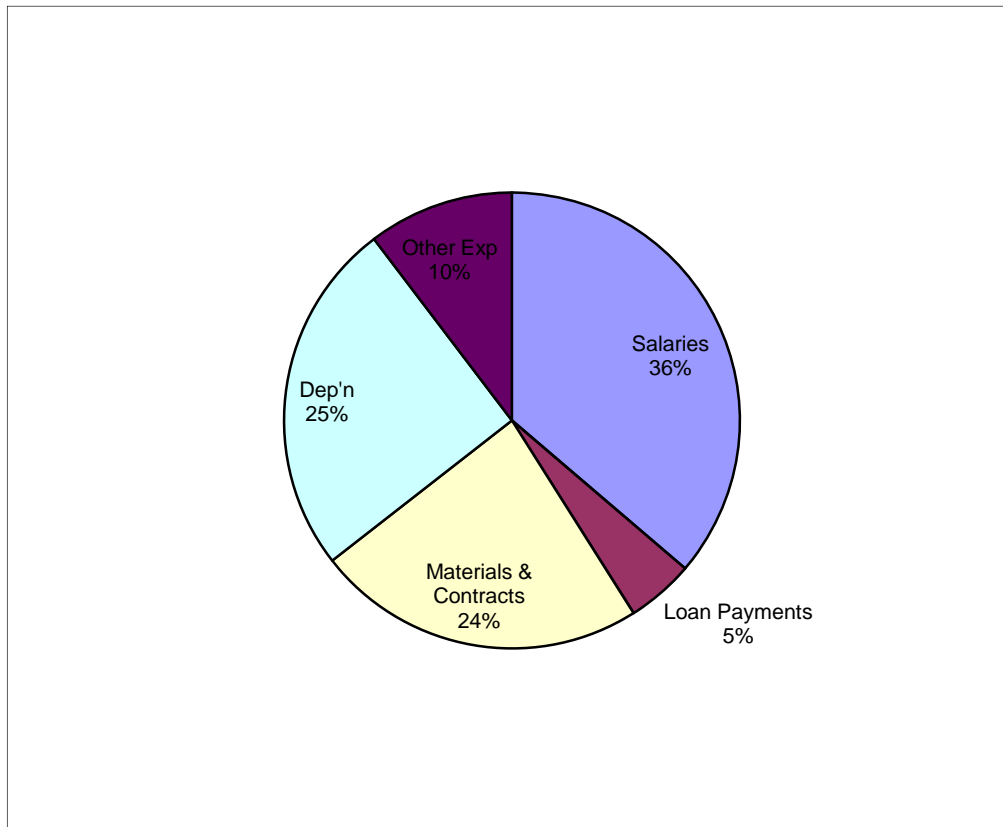
2011/12 REVENUE SOURCES \$'000

Revenue comparatives previous years:

FINANCIAL YEAR	VALUE
2011/12	\$40,309,000
2010/11	\$39,730,000
2009/10	\$37,469,000
2008/09	\$33,710,000
2007/08	\$30,269,000
2006/07	\$27,613,000
2005/06	\$24,871,000
2004/05	\$21,518,000
2003/04	\$23,580,000
2002/03	\$20,390,000

Operating Expenditure:

Operating Expenditure increased by \$873,000 to \$36,109,000 depreciation alone by \$825,000.

2011/12 EXPENDITURE SOURCES \$'000

Expenditure comparatives:

FINANCIAL YEAR	VALUE
2011/12	\$36,109,000
2010/11	\$35,236,000
2009/10	\$30,269,000
2008/09	\$30,745,000
2007/08	\$25,690,000
2006/07	\$24,266,000
2005/06	\$23,912,000
2004/05 (Adjusted AIFRS*)	\$24,767,000
2003/04	\$23,668,000
2002/03	\$22,168,000

* Australian International Financial Reporting Standards

Capital grants and contributions:

Capital grants and contributions of \$6,030,000 contributed to the net operating result and major items are summarised as follows:

Lithgow STP Augmentation	\$1,893,568
Wallerawang STP Augmentation	\$1,663,190
Flood Mitigation	\$150,000
Flood Damage Dec 10	\$317,289
Flood Damage March 12	\$634,795
RMS Additional Local Rd Funds	\$200,000
Federal Roads to Recovery	\$560,000
Clarence Transfer Options Study	\$151,297
Fluoridation of Water Supply	\$70,246

Acquisitions and Improvements to Infrastructure, Property Plant & Equipment:

Asset improvements and additions of \$11,802,000 may be summarised as:

Road & Ancillary	\$2,982,000
Plant: Purchases	\$826,000
Drainage	\$98,000
Sewerage Infrastructure	\$4,566,000
Water Infrastructure	\$618,000
Buildings	\$1,822,000
Other Structures	\$434,000
Other Assets	\$456,000

Depreciation:

Assets have depreciated by \$9,100,000 for the 2011/12 financial year (10/11 \$8,275,000 09/10 \$5,844,000).

The major contributing factor which has seen an increase in depreciation over recent accounting periods is the progressive revaluation of each asset class to fair value. During 2011/12 the Water and Wastewater assets classes have been re-valued, for the second time and the effect on depreciation is noted in the financial reports.

Investments:

During 2011/12 Council's cash and investment portfolio increased from \$15,767,000 to \$18,845,000.

Interest on investments of \$837,000 has been recognised which is a decrease on the previous year of \$929,000 and can be attributed to the recovery of the financial market over a period of time following the economic crisis.

Cash and Investment comparatives:

FINANCIAL YEAR	VALUE
2011/12	\$18,845,000
2010/11	\$15,767,000
2009/10	\$22,903,000

2008/09	\$18,452,000
2007/08	\$14,432,000
2006/07	\$14,905,000
2005/06	\$10,091,000
2004/05	\$11,154,000
2003/04	\$10,222,000
2002/03	\$8,714,000
2001/02	\$7,813,000

Loans:

At 30 June 2012 \$18,956,783 is outstanding as principal due on loans (10/11 \$16,861,390 09/10 \$14,299,701).

Council will note the drawdown of \$2,900,000 in the first quarter of 2012 of the 2011/12 loan borrowing program for the upgrade of the Lithgow STP and rehabilitation of Browns Gap Rd.

An internal loan between General and Wastewater funds of \$2,750,000 remains but is not shown in the consolidated General Purpose Financial Reports due to the fact that internal transactions are eliminated.

During the 2009/10 financial year Council was required to bring to account \$1,553,885 as the discounted interest component of the interest free loan which was received from NSW Planning during that year (Wallerawang STP interest free loan of \$4,897,000). This amount was disclosed on the annual Income Statement and in the subsequent years commencing 2010/11, an expense is shown to 'wind down' the discounted interest. During 2011/12 \$278,000 is shown as an interest expense in the General Purpose Financial Reports.

Cash and Reserves

Note 6 'Cash Assets and Investment Securities' discloses cash and investments of \$18,845,469 (10/11 \$15,767,037 09/10 \$22,903,000) which is held as restricted and unrestricted assets, both for internal and external purposes.

Externally restricted assets total \$7,648,000 and are held for specific purpose grants, unexpended loan funds, Section 94 developer contributions, water, wastewater and waste reserves.

\$7,163,000 is held as internally restricted assets for Council's owned identified purposes such as the employees leave entitlements, election reserve, land and buildings and works in progress.

Council's unrestricted cash is \$4,034,000 compared to \$3,976,000 in 2010/11.

Cash reserved for employees leave entitlements currently stands at \$1,296,000 and provides for 25% of annual and long service leave entitlements for the majority of employees and 100% of the entitlements due to employees 58 years and over.

Financial Ratios:

Note 13 disclose the following ratios:

UNRESTRICTED CURRENT RATIO
LITHGOW 2011/12

Current Assets (Less Ext Rest)	<u>\$15,643,000</u>	1.86:1	2010/11	2.07:1
Current Liabilities	\$8,397,000			

The unrestricted current ratio is to assess the adequacy of working capital and the ability to satisfy obligations in the short term for the unrestricted activities of Council. Council has \$1.86 for every \$1.00 of liability.

2009/10 DLG Comparative Information:

Group Ave	Bathurst	Mid West	Orange
2.26:1	1.58:1	3.07:1	4.40:1

DEBT SERVICE RATIO
LITHGOW 2011/12

Debt Service Cost	<u>\$2,529</u>	7.79%	2010/11	6.25%
Current Liabilities	\$32,449,000			

The debt service ratio excludes capital items, specific purpose grants and contributions. It provides a means to assess the impact of loan principal and interest repayments on the discretionary revenue of Council.

2009/10 DLG Comparative Information:

Group Ave	Bathurst	Mid West	Orange
7.66%	6.16%	2.65%	7.31%

RATE COVERAGE RATIO
LITHGOW 2011/12

Rates & Annual Charges	<u>\$20,019,000</u>	49.66%	2010/11	47.94%
Current Liabilities	\$40,309,000			

The rate coverage ratio is used to assess the degree of dependency upon revenues from rates and annual charges and to assess the security of Council's income.

2009/10 DLG Comparative Information:

Group Ave	Bathurst	Mid West	Orange
42.34%	40.10%	36.39%	35.08%

RATES & ANNUAL CHARGES OUTSTANDING
LITHGOW 2011/12

Rates & Annual Charges O/S	<u>\$990,000</u>	4.70%	2010/11	4.58%
Current Liabilities	\$21,043,000			

The percentage of rates and annual charges outstanding is used to assess the impact of uncollected rates and annual charges on liquidity and the adequacy of Council' Debt recovery processes.

Council persistently pursues outstanding rates and charges by using a combination of internal and external processes. The current reduction in the percentage of rates outstanding compared to previous years proves our practice is successfully working.

It is interesting to note the improvement of the rates and charges outstanding over numerous financial years:

FINANCIAL YEAR	VALUE
2011/12	4.70%
2010/11	4.58%
2009/10	4.64%
2008/09	6.63%
2007/08	7.18%
2006/07	8.24%
2005/06	7.65%
2004/05	8.76%

2009/10 DLG Comparative Information:

Group Ave	Bathurst	Mid West	Orange
5.85%	8.71%	4.43%	5.87%

REAGENDA - ORDINARY MEETING OF COUNCIL TO BE HELD ON 15 OCTOBER 2012

Department of Local Government Circular 06-75 required Council to report on the revaluation of the following classifications of non current assets to 'fair value':

- 2006/07: Water and Wastewater: Completed
- 2007/08: Plant & Equipment: Completed
- 2007/08: Buildings & Operational Land: Completed
- 2008/09: Roads, Bridges, Footpaths, K & G & Drainage: (Deferred by the DLG)
- 2009/10: Roads, Bridges, Footpaths, K & G and Drainage: Completed
- 2010/11: Other Structures & Library Assets to historical cost: Completed
- 2010/11: Community Land to VG valuation: Completed
- 2011/12: Water & Wastewater: Completed

The revaluation of an asset to fair value applies to the entire class of the asset whether it be plant and equipment, buildings and operational land, roads and bridges etc. The fair value comprises the net cost less accumulated depreciation and accumulated impairment costs.

Fair Value is the best estimate of the price reasonably obtainable in the market at the date of valuation and is defined as "amount for which an asset could be exchanged between willing parties in an arms length transaction" in Accounting Standard, AASB 116. It is the most reasonable price obtainable by the seller as well as being the most satisfactory price to the purchaser. The estimate specifically excludes a price inflated or deflated by special terms or circumstances such as financing, sale and leaseback arrangements, or any concession which may be granted by the seller.

In 2011/12 Council re valued Water and Wastewater assets using guidelines issued by the Office of Water and DLG. As a result Water and Wastewater assets have been revalued as follows:

Water Assets:

Network Cost after Revaluation:	\$151,814,091
Acc Dep'n after Revaluation:	\$107,540,469
Fair Value as at 30 June 2012	\$44,273,622

Wastewater Assets:

Network Cost after Revaluation:	\$88,309,988
Acc Dep'n after Revaluation:	\$38,276,788
Fair Value as at 30 June 2012	\$50,033,200

DLG Compliance: General Purpose Financial Reports

The following information should be noted with regard to Council's compliance with the Local Government Act 1993:

- Council's financial reports are prepared and will be audited within 4 months after the end of the reporting year.
- As per Sec 428 (2) (a) the audited financial reports will be included in Council's Annual Report
- As per Sec 418 as soon as practicable after receipt of the auditors' report, no later than 7 November 2012, public notice will be given of presentation of the final report to Council at a public meeting with the auditor present.
- Council will invite the auditor to attend the Ordinary meeting of the 26 November 2012.
- Copies of Council's audited financial reports together with the auditors report will be made available for inspection.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Council's Draft 2011/12 General Purpose Financial Reports which disclose a surplus of \$4,200,000, including Capital Grants and Contributions..

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

Principal Notes:

1. Income Statement
2. Balance Sheet
3. Note 6 Cash Assets and Investment Securities
4. Note 13 Statement of Performance Measurement

RECOMMENDATION

THAT:

1. The draft accounts be referred to auditors, The Morse Group
2. Council advertise the accounts following receipt of the 2011/12 Audit Certificate
3. Council state the following on the General Purpose Financial Reports for the year ended 30 June 2012:

The Council's Annual General Purpose Financial Reports have been drawn up in accordance with:-

- a) *The Local Government Act 1993 (as amended) and the Regulations made there under;*
- b) *The Australian Accounting Standards and professional pronouncements;*
- c) *The Local Government Code of Accounting Practice and Financial Reporting;*
- d) *The Local Government Asset Accounting Manual.*
- e) *To the best of our knowledge and belief, these reports*
- f) *Present fairly the Council's financial position and operating result for the year and*
- g) *Accord with Council accounting and other records.*

The Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer be authorised attesting to the above and that they are not aware of any matter that would render the reports false or misleading in any way.

4. Council state the following on the Special Purpose Financial Statements for the year ended 30 June 2012:-

The attached Special Purpose Financial Statements have been drawn up in accordance with the Local Government Code of Accounting Practice and Financial Reporting and the:

- a) *NSW Government Policy Statement "Application of National Competition Policy to Local Government"*

- b) *Department of Local Government guidelines “Pricing & Costing for Council Businesses: A Guide to Competitive Neutrality”.*
- c) *The Department of Energy, Utilities and Sustainability “Best Practice Management of Water Supply and Sewerage” guidelines.*

To the best of our knowledge and belief, these reports:

- a) *Present fairly the financial position and operating result for each of Council’s declared Business Units for the year, and*
- b) *Accord with Council’s accounting and other records*

The Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer be authorised attesting to the above and that they are not aware of any matter that would render the reports false or misleading in any way.

5. Council invite the auditor, The Morse Group, to present a formal report of the results to the Ordinary meeting of the Council on the 26 November 2012.

**ITEM-34 FINAN - 15/10/12 - COUNCIL INVESTMENTS HELD TO 30
SEPTEMBER 2012**

REPORT BY: C FARNSWORTH - FINANCE MANAGER

REFERENCE

Min 12-330: Investments as at 31 July 2012

SUMMARY

To advise Council of investments held as at 30 September 2012 in the 2012/13 financial year.

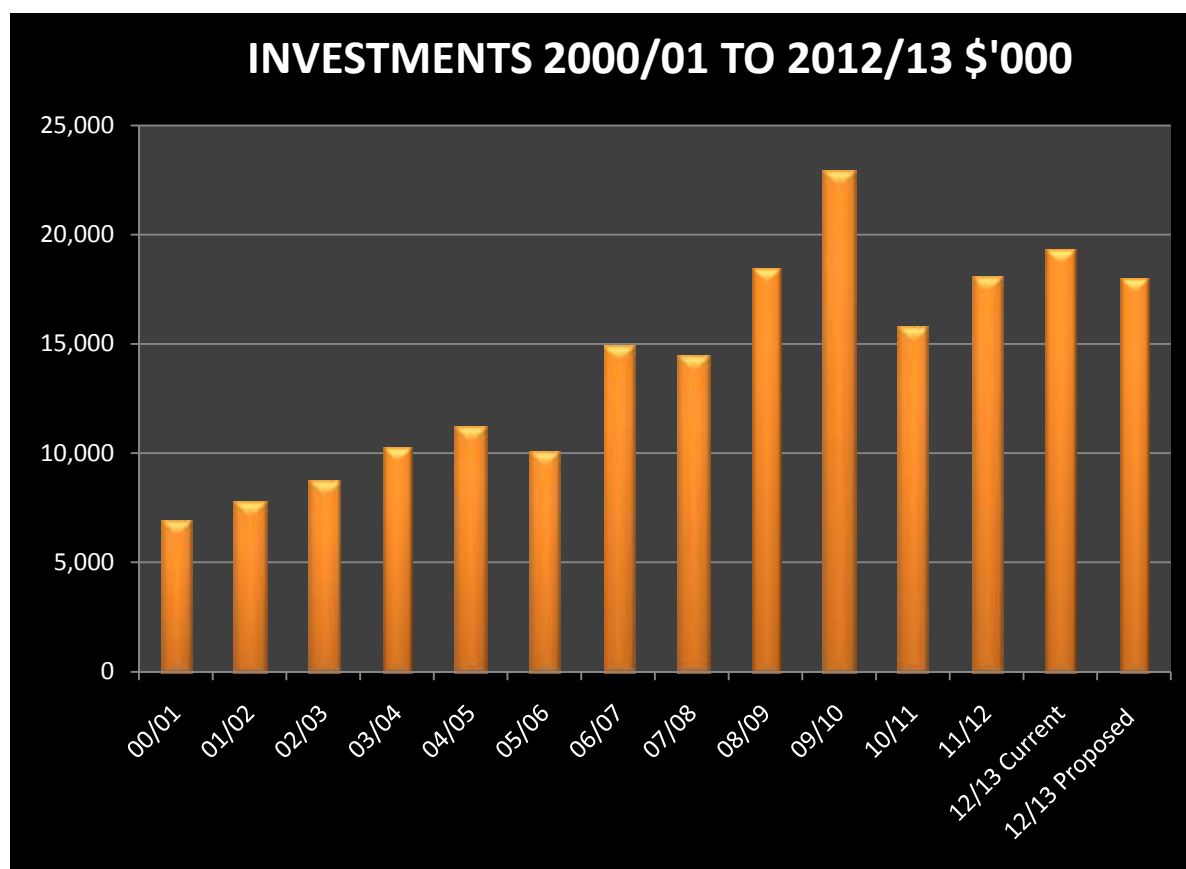
COMMENTARY

Council's total investment portfolio, as at 30 September 2012 when compared to 31 August 2012, has increased by \$1,432,625.25 from \$17,931,491.65 to \$19,364,116.90

INVESTMENT REGISTER 2012/13								
INSTITUTION	INV TYPE	DATE LODGED	DATE DUE	DAYS	INT	VALUE 31.08.12	VALUE 30.09.12	% OF TOTAL
ANZ	TD	10.09.12	10.12.12	91	4.60	845,801.07	848,782.23	4.38%
	TD	11.09.12	11.12.12	90	4.60	500,000.00	505,732.88	2.61%
	TD	30.08.12	28.11.12	90	4.70	505,300.97	505,300.97	2.61%
	TD	05.09.12	04.12.12	90	4.75	0.00	1,000,000.00	5.16%
CBA	On Call				3.45	1,422,477.71	1,926,078.64	9.95%
	TD	14.09.12	15.10.12	30	4.60	0.00	400,000.00	2.07%
IMBS	TD	27.08.12	26.10.12	60	4.80	1,137,660.11	1,137,660.11	5.88%
	TD	27.08.12	26.10.12	60	4.80	754,071.65	754,071.65	3.89%
	TD	14.06.12	12.09.12	90	5.10	1,000,000.00	0.00	0.00%
NAB	TD	04.09.12	04.12.12	90	5.00	1,119,008.60	1,133,080.52	5.85%
	TD	25.07.12	25.01.13	182	5.07	1,029,469.05	1,029,469.05	5.32%
	TD	11.09.12	10.12.12	90	4.94	500,000.00	506,238.36	2.61%
WESTPAC	TD	09.07.12	07.01.13	179	5.05	585,942.01	585,942.01	3.03%
	TD	30.05.12	30.11.12	180	5.10	1,179,546.09	1,179,546.09	6.09%
	TD	11.07.12	09.01.13	179	5.05	257,190.41	257,190.41	1.33%
	TD	12.06.12	11.12.12	179	5.00	411,279.92	411,279.92	2.12%
	TD	13.06.12	12.12.12	179	5.00	1,000,000.00	1,000,000.00	5.16%
	TD	05.09.12	05.03.13	180	4.90	0.00	500,000.00	2.58%
ST GEORGE	On Call				3.50	21,510.27	21,510.27	0.11%
	TD	04.07.12	04.10.12	92	4.66	537,509.69	537,509.69	2.78%
	TD	19.04.12	19.10.12	180	5.75	857,565.97	857,565.97	4.43%
	TD	12.03.12	12.10.12	214	5.91	506,930.96	506,930.96	2.62%
	TD	09.08.12	11.02.13	186	4.81	518,803.81	518,803.81	2.68%
	TD	18.05.12	19.11.12	180	5.10	509,386.62	509,386.62	2.63%
	TD	25.07.12	25.10.12	92	4.55	1,029,070.14	1,029,070.14	5.31%
SUNCORP	TD	08.08.12	07.11.12	91	5.05	1,189,360.95	1,189,360.95	6.14%
	TD	24.07.12	22.10.12	90	5.00	513,605.65	513,605.65	2.65%
			TOTAL			17,931,491.65	19,364,116.90	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 Finance 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 to 30 September 2012 are shown.



POLICY IMPLICATIONS

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing funds. On 21 November 2011 Council adopted a draft of the Investment Policy as Policy 8.2 which includes the Ministers Investment Order of 12 January 2011.

FINANCIAL IMPLICATIONS

Interest received to 30 September 2012 is \$57,968.15 of an estimated \$519,045 for the 2012/13 financial year.

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 November 2011 Council adopted a draft of the Investment Policy as Policy 8.2 and investments will comply with this Policy which includes the following:

- Local Government Act 1993 - Section 625
- Local Government Act 1993 - Order dated 12 January 2012
- Local Government (General) Regulation 2005

- Trustee Amendment (Discretionary Investments) Act 1997 Section 14A(2), 14c(1) & (2)

RECOMMENDATION

THAT Investments of \$19,364,116.90 for the period ending 30 September 2012 be noted.

**ITEM-35 FINAN - 15/10/12 - NSW GOVT GRANTS COMMISSION ADVICE OF
THE ESTIMATED 2012/13 FINANCIAL ASSISTANCE GRANT**

REPORT BY - C FARNSWORTH - FINANCE MANAGER

REFERENCE

Min 12-182: Integrated Planning & Reporting Framework Adoption of the 2012-13 Operational Plan

Min 12-218: NSW Govt Grants Commission Advice of Advance Payment for 2012/13 Financial Assistance Grant

SUMMARY

This report is to advise Council of the 2012-13 estimated entitlement of the financial assistance grant.

COMMENTARY

Local Government Financial Assistance Grants are general purpose grants paid to local councils under the provisions of the Commonwealth Local Government (Financial Assistance) Act 1995. This legislation also details how the total amount of grant funds is determined and how the funds are to be distributed between the states (including the ACT and the NT).

The Grants Commission makes recommendations on the allocation of grants in their state. In NSW the Grants Commission makes recommendations to the NSW Minister for Local Government. If accepted the recommendations are referred to the Commonwealth Minister for Regional Australia, Regional Development and Local Government,

The estimated national entitlement for 2012-13 is \$2.192 billion, which is made up of a general purpose component (\$1.518 billion) and a local roads component (\$674 million).

The general purpose component is distributed on a basis that takes into account each state's share of the national population. NSW receives \$489.4 million, or 32.24% of the national pool.

The local roads component is distributed on the basis of fixed share of the national pool, for NSW it amounts to \$195.4 million (29% of the national funds).

The NSW Minister for Local Government and the Commonwealth Minister for Regional Australia, Regional Development and Local Government have advised that they have approved the Grants Commission's recommendation for 2012-13 Financial Assistance Grant to all Local Government Councils and the 2012-13 estimated entitlement for Lithgow is \$4,526,685 which consists of the following two components:

- General Purpose component of \$3,404,833

- No conditions attached and forms part of Council's consolidated general revenue to be spent in accordance with the adopted Operational Plan & Delivery program
- Local Roads component of \$1,121,852
 - Determined by the population, a local road length formula and a bridge length formula and to be spent in accordance with the adopted Operational Plan & Delivery program

An advance payment, which was based on half of the estimated 202-13 funding, was paid to local authorities in June 2012. Lithgow received \$2,315,197. The advance is disclosed in the 2011-12 General Purpose Financial Reports as a payment for the 2012-13 financial year and held as an internally restricted reserve to be spent as previously provided for in the 2012-13 Operational Plan.

The remaining balance of the grant payment, \$2,108,006 will be paid in four equal quarterly instalments of \$527,001.50.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

2012-13 estimated entitlement of the Financial Assistance Grant to Lithgow of \$4,526,685

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council acknowledge the 2012-13 estimated entitlement of the Financial Assistance Grant of \$4,526,685.

**ITEM-36 FINAN - 15/10/12 - REQUEST FOR EXEMPTION FROM RATES -
 NATURE CONSERVATION TRUST - CONSERVATION
 AGREEMENTS**

REPORT BY: C FARNSWORTH - FINANCE MANAGER

SUMMARY

The purpose of this report is to advise Council of a request for exemption from rates on five properties that have entered into conservation agreements with the Nature Conservation Trust. A recommendation is included that the request be refused on the grounds that Council will forgo unknown general rate revenue, in the current and future years on an undisclosed number of properties in the local government area.

COMMENTARY

The Nature Conservation Trust of NSW (NCT) is a not-for-profit business committed to private land conservation. They combine available science and commercial skills to protect flora and fauna in the State by encouraging private land owners to manage their properties under a voluntary NCT conservation agreement.

The NCT has written to Council advising that they have five conservation covenants in the Capertee Valley which cover a total land area of 185 hectares. They are also finalising an additional covenant in the Hartley, an area of 82 hectares, which will soon be registered and expect a further two covenants in the Capertee Valley to be registered before the end of June 2013. This will make a total of eight covenants within the Lithgow Local Government which will cover a total area of 397 hectares.

The conservation agreements have been finalised with the support of the Hawkesbury Nepean Catchment Management Authority, who in partnership with the NCT has been targeting the Capertee Valley for private conservation reserves since 2008.

NCT further advise that it is likely that they have reached all potential landholders interested in a NCT agreement and they do not expect additional sites to be proposed within the short to medium term, though it must be noted that this is not guaranteed now or in the future.

A NCT covenant identifies preserves and promotes the natural heritage of the Lithgow LGA by not only preserving threatened flora and fauna, but also the landscape and the associated culture.

Council has received applications from three of the five properties who have entered into the NCT trust agreements and they are requesting an exemption on rates charged on the proportion of their land that is protected by the trust agreements. Enquiries have also been received from landowners in the Hartley area, but as mentioned above trust agreements in this area have not been finalised at this stage.

Under Section 555 (1) (b2) and (3) of the Local Government Act 1993 Council *'may'* grant an exemption under the Nature Conservation Trust Act 2001 which states:

Local Government Act 1993 No 30

555 What land is exempt from all rates?

(1) The following land is exempt from all rates:

(b1) subject to subsection (3), land that is the subject of a conservation agreement (within the meaning of the [National Parks and Wildlife Act 1974](#)),

(b2) land that is vested in, owned by, held on trust by or leased by the Nature Conservation Trust of New South Wales constituted by the [Nature Conservation Trust Act 2001](#),

(3) If part of a single parcel of land is the subject of a conservation agreement within the meaning of the [National Parks and Wildlife Act 1974](#) (as referred to in subsection (1) (b1)), any rate levied on that whole parcel (for any period on or after 1 July 2008) is to be reduced by the following percentage:

$$\frac{A_{ca}}{A_{whole}} \times \frac{100}{1}$$

where:

A_{ca} is the area of that part of the parcel that is the subject of the conservation agreement, and

A_{whole} is the area of the whole parcel.

Note. For example, if a parcel of land would normally be subject to a rate of \$1,000, but 40% of the area of the land is subject to a conservation agreement, that rate is to be reduced by 40% to \$600.

Nature Conservation Trust Act 2001

38B Application of rate exemptions under Local Government Act 1993

(1) A council may, by notice in writing to the land holder, exempt from all rates under the [Local Government Act 1993](#) land that is the subject of a Trust agreement.

(2) In such a case, section 555 of the [Local Government Act 1993](#) applies in respect of land the subject of the Trust agreement in the same way as it applies in respect of land the subject of a conservation agreement (within the meaning of the [National Parks and Wildlife Act 1974](#)).

(3) However, a reference in section 555 (3) of the [Local Government Act 1993](#) to a period on or after 1 July 2008 is to be read, in relation to the Trust agreement, as a reference to a period in respect of which the exemption is granted

Council currently grants three local properties an exemption from rating under Conservation Agreements with National Parks and Wildlife Act 1974 under **Section 555 (1) (b1)**. The write off of annual rates, which is approximately \$2,500 per annum, is accounted for on our annual Rating Return to the Division of Local Government. From this return the DLG advises Council of a rating 'shortfall' which we can 'take up' in our general notional yield the following year. This effectively spreads the recovery of the previous years abandonment across all properties in the LGA.

The difference between the existing national Parks and Wildlife conservation agreements and the NCT conservation agreements in the Capertee and Hartley Valleys, which are the subject of this report, is the Section of the Local Government Act 1993 and Nature Conservation Trust Act 2001 under which the agreements have been granted under. **Section 555 (1) (b2) and (3)** of the Local Government Act 1993 has *no* capacity for Council to recover the income lost from exemptions granted in the same way as those which are the subject of a conservation agreement within the meaning of the National Parks and Wildlife Act 1974, Section 555 (1) (b1).

Section 555 (3) defines that a rate exemption granted will apply from the later date of 1 July 2008 or the agreement date and should an exemption be granted on the five properties recommended by the NCT Council will write off income of \$10,170.10 from 1 July 2008 to 30 June 2013 as follows:

Property	Charge Type	Cons Area %	Agreement Date	Exemption 2008/2009	Exemption 2009/2010	Exemption 2010/2011	Exemption 2011/2012	Exemption 2012/2013
71270	RatFrmStd	60.27	6/04/2010	\$0.00	-\$57.50	-\$249.73	-\$237.82	-\$246.81
71270	RatFrmBase	60.27	6/04/2010	\$0.00	-\$43.31	-\$188.04	-\$193.47	-\$200.70
74200	RatRurStd	82.00	11/08/2009	\$0.00	-\$165.37	-\$190.55	-\$323.60	-\$336.16
74200	RatRurBase	82.00	11/08/2009	\$0.00	-\$120.10	-\$138.58	-\$142.68	-\$147.60
74350	RatFrmStd	92.98	7/05/2011	\$0.00	\$0.00	-\$65.22	-\$431.63	-\$447.94
74350	RatFrmBase	92.98	7/05/2011	\$0.00	\$0.00	-\$43.71	-\$298.47	-\$309.62
101348	RatFrmStd	82.36	18/06/2009	-\$9.33	-\$290.26	-\$297.03	-\$439.68	-\$456.29
101348	RatFrmBase	82.36	18/06/2009	-\$8.65	-\$251.20	-\$256.96	-\$264.38	-\$274.26
103592	RatFrmStd	91.22	8/05/2009	-\$55.39	-\$414.97	-\$424.65	-\$465.81	-\$483.41
103592	RatFrmBase	91.22	8/05/2009	-\$39.81	-\$278.22	-\$284.61	-\$292.82	-\$303.76
				-\$113.18	-\$1,620.93	-\$2,139.08	-\$3,090.36	-\$3,206.55

It is recommended that Council not grant exemption from rating for properties subject to a Conservation Agreement with Nature Conservation Trust of New South Wales, under Section 555(1)(b2) and (3) of the Local Government Act 1993 due to the incapacity to recover the abandoned rates on the Division of Local Government's Annual Rating Return and the fact that the number of properties that may be subjected to conservation agreements in the future is unknown.

POLICY IMPLICATIONS

Exemption on rates on all properties entering into a conservation agreement with the Nature Conservation Trust (NCT)

FINANCIAL IMPLICATIONS

Write off of current general rate income of \$10,170.10 and unknown future income.

LEGAL IMPLICATIONS

Provisions of the Local Government Act 1993: Section 555 and the Nature Conservation Trust Act 2001: Section 38B

RECOMMENDATION

THAT Council not grant exemption from rating for properties subject to a Conservation Agreement with Nature Conservation Trust of New South Wales under Section 555(1)(b2) and (3) of the Local Government Act 1993.

**ITEM-37 FINAN - 15/10/12 - ADVICE OF INELIGIBILITY OF DVA PENSIONERS
TO CLAIM A REBATE FOR 2012/13 RATING YEAR**

REPORT BY: C FARNSWORTH - FINANCE MANAGER

SUMMARY

The purpose of this report is to advise Council that five Department of Veteran Affairs pensioners no longer receive a Pension Concession Car which in turns makes them ineligible to receive a rebate on their annual rate notice. A recommendation is included that Council continue to allow the rebate for the 2012/13 financial year at its own cost of \$1,625.

COMMENTARY

As a quarterly process Council's pensioner records are matched with Centrelink to verify the ongoing eligibility of a pensioner to receive a 'Pension Concession Card.' The holder of this card is permitted under the Local Government Act to receive a rebate on annual rates and charges.

During August 2012 five Department of Veteran Affairs (DVA) pensioners were rejected from holding a Pension Concession Card due to their own personal changing circumstances. In turn this made them ineligible to receive a concession on their Council rates.

The personal circumstances of pensioners change on an ongoing basis. Some are granted and rejected a Pension Concession Card on continually but Council may wish to consider the current rejections in isolation.

The rejected pensioners are all war widows, aged in their late 80's or 90's and they have claimed, and been granted, a Council pension rebate for many years. Council officers personally contacted each pensioner to advise that their DVA Pension had been rejected. We also contacted Centrelink who talked generally, advising that some DVA pensions have changed and ultimately the flow on has affected numerous NSW pensioners and their eligibility to receive a Council rebate. The Department of Veteran Affairs officer advised that it is a decision of the individual Council as to whether the pension rebate is continued to be granted under these circumstances.

Council may continue to grant the pension rebate to the rejected DVA pensioners but it must be noted that reimbursement cannot be sought from the State Government and Council will meet the write off by reducing general, water and sewerage rate income.

Each of the properties are granted a pension rebate of \$425.00, so should Council grant the rebate annual general rate income will be reduced by \$750, water rate income \$437.50 and sewerage rate income \$437.50.

The properties involved are:

1. Property No: 12250
2. Property No: 14510
3. Property No: 27350
4. Property No: 52480
5. Property No: 63750

POLICY IMPLICATIONS

Council write off 2012-13 annual income of \$1,625 being the value of the pension rebate due to the five properties listed.

FINANCIAL IMPLICATIONS

Reduction of \$1,625 rate Income as detailed in Council's 2012/13 Operations Plan & 2012/16 Delivery Program.

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT:

1. Council write off 2012-13 annual income of \$1,625 as the equivalent pension rate rebate on the following five DVA pensioner properties:
 - Property No: 12250
 - Property No: 14510
 - Property No: 27350
 - Property No: 52480
 - Property No: 63750
2. Council consider the rebate of the five properties on an annual basis

COMMITTEE MEETINGS

ITEM-38 COMM - 15/10/12 - YOUTH COUNCIL MINUTES - 28 AUGUST 2012

REPORT BY: COMMUNITY DEVELOPMENT OFFICER – VIKTORIA GULABOVSKI

REFERENCE

Min – 11-508:	Ordinary Meeting of Council 12 December 2011
Min – 12-54:	Ordinary Meeting of Council 13 February 2012
Min – 12-100:	Ordinary Meeting of Council 26 March 2012
Min – 12-138:	Ordinary Meeting of Council 23 April 2012
Min – 12-198:	Ordinary Meeting of Council 4 June 2012
Min – 12-222:	Ordinary Meeting of Council 25 June 2012
Min – 12-305:	Ordinary Meeting of Council 13 August 2012

SUMMARY

This report details the minutes of the Youth Council meeting held on 28 August 2012.

COMMENTARY

At the Youth Council meeting held on 28 August 2012 various items were discussed by the committee including:

- Planning for the Union Rock II event and youth film festival to be held on 29 September 2012 at the Union Theatre.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

Local Government Act NSW 1993

ATTACHMENTS

1. Minutes of Youth Council meeting 28 August 2012.

RECOMMENDATION

THAT Council note the minutes of the Youth Council meeting held 28 August 2012.

ITEM-39 OPER - 15/10/12 - TRAFFIC AUTHORITY LOCAL COMMITTEE MINUTES - 6 SEPTEMBER 2012**REPORT BY: I STEWART - GROUP MANAGER OF OPERATIONS**

SUMMARY

This report details the Minutes of the Traffic Authority Local Committee Meeting held on 6 September 2012.

COMMENTARY

At the Traffic Authority Local Committee held on 6 September 2012, there were several items discussed by the Committee;

1. Business arising from the previous minutes
 - Aquatic Centre car park- revised plan
2. Ongoing business from previous meeting held on 2 August 2012
 - Suzuki Classic Dirt event
 - 2012 Alpine Classic Touring Road Event
 - Mountain Sports Tablelands Tour Bike Race
 - Landa Street Lithgow- Daruk and Jingai Crescent- request for speed humps
 - Mountain Sports-The Tablelands Triathlon event January 2012
3. New Business
 - Speed zone review MR 253 Jenolan Caves Road
 - Col Drewe Drive SouthBowenfels
 - Request from Rydal resident- Railway Street and Old Western Road
 - Traffic management issues- Great Western Highway and Mudgee Street
4. General Business
 - Brown's Gap Road- speed zone review request
 - Signage audit- Lithgow local government area
 - Pearson's Lookout at Capertee
 - Ordnance Avenue- disabled parking zone Family First Credit Union
 - Traffic lights at the intersection of Methven Street and Martini Parade
 - Great Western Highway and First Street- vegetation on the centre median strip
 - Oyster Bay Motorcycle Club Championships 23 September 2012
 - Tour de Range Charity Push bike Challenge 18 November 2012
 - Padley Street Lithgow –request for No Parking signage and resident only parking
 - RMS position change- Lithgow TALC member

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes from the Traffic Authority Local Committee meeting of 6 September 2012

RECOMMENDATION

THAT:

1. Council notes the minutes of the Traffic Authority Committee held on 6 September 2012.
2. Council seek funding from the RMS to undertake a feasibility study of the road network and associated traffic flows and volumes north of Main Street extending from George Coates Avenue viaduct and James Street viaduct including Geordie Street crossing Bowenfels Rail Crossing.
3. Council note that no further action be taken at this time in relation to the request for speed humps between Jingai Crescent and Daruk Crescent in Landa Street Lithgow and that the resident be informed of this outcome.
4. Council approve the installation of a hold line at the intersection of Col Drewe Drive and the Bowenfels Medical Centre Road and the statutory No Stopping signage and zones be installed on both corners adjacent to the Bowenfels Medical Centre Road on Col Drewe Drive and Three Tree Drive.
5. Council approve further investigation into the appropriate signage required for the intersection of Old Western Road and Railway Street at Rydal.
6. Council approve the replacement of the existing Give Way signage located on Tourist Road 4011 at Clarence.
7. Council approve investigation into the current use of the disabled zone located adjacent to Family First Credit Union in Ordnance Avenue Lithgow.

**ITEM-40 OPER - 15/10/12 - SPORTS ADVISORY COMMITTEE MINUTES - 28
AUGUST 2012**

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

Details of the Minutes of the Sports Advisory Committee Meeting held on Monday, 28 August 2012 for Council adoption.

COMMENTARY

At the Sports Advisory Committee Meeting held on Monday, 28 August 2012, 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.

Items discussed included:

- Declaration of Interest
- Minutes of the previous meeting held on 30 July 2012
- Business Arising from the minutes
- Financial Assistance Requests
- LJ Hooker Reg Cowden Memorial Sports Star of the Year Awards for March 2012
- Booking Requests
 - Lithgow Athletics Club (Little Athletics Training and Competition)
 - Ironfest (Festival)
 - Portland Tidy Towns (Swap Meet)
- Participation and Facility Program (PFP) Sport and Recreation
- Local Sporting Champions Grant
- 2013 AAMI City versus Country Rugby League
- General Business including:
 - Lithgow Indoor Hockey Sub Committee
 - Tony Luchetti Sportsground Score Board
 - Lithgow Little Athletics Long Jump Mat
 - Lithgow Cricket Association season

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes of the Sports Advisory Committee Meeting held on Monday, 28 August 2012.

RECOMMENDATION

THAT Council note the minutes of the Sports Advisory Committee meeting held on Monday, 28 August 2012.

ITEM-41 OPER - 15/10/12 - LITHGOW INDOOR AQUATIC CENTRE ADVISORY COMMITTEE MINUTES - 23 AUGUST 2012

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

This report details the Minutes of the Lithgow Indoor Aquatic Centre Advisory Committee Meeting held on 23 August 2012.

COMMENTARY

At the Lithgow Indoor Aquatic Centre Advisory Committee meeting held on 23 August 2012, there were various items discussed by the Committee, including;

1. Official Opening;
2. 50 Years Celebration;
3. Catering – Kiosk Management; and

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes from the Lithgow Indoor Aquatic Centre Advisory Committee meeting of 23 August 2012.

RECOMMENDATION

THAT Council note the minutes of the Aquatic Centre Working Party meeting held on 23 August 2012.

**ITEM-42 ENVIRO - 15/10/12 - ENVIRONMENTAL ADVISORY COMMITTEE
MINUTES - 15 AUGUST 2012**

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

This report details the minutes of the Environmental Advisory Committee meeting held 15 August 2012.

COMMENTARY

At the Environmental Advisory Committee held on 15 August 2012 a number of items were discussed including:

- Update regarding the clean up of Farmers Creek
- Hassans Walls Reserve Proposed Boardwalk
- Hassans Walls Reserve Downhill Bike Track
- Lake Pillans Wetlands Reserve

No matters discussed require a formal Council resolution.

POLICY IMPLICATIONS

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

LEGAL IMPLICATIONS

Local Government Act NSW 1993

ATTACHMENTS

1. Minutes of the Environmental Advisory Committee held 15 August 2012.

RECOMMENDATION

THAT Council note the minutes of the Environmental Advisory Committee Meeting held on 15 August 2012.

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.*