



A CENTRE OF REGIONAL EXCELLENCE

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

08 JULY 2013

AT 7.00pm

AGENDA

ACKNOWLEDGEMENT OF COUNTRY

APOLOGIES

PRESENT

CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 17 JUNE 2013

DECLARATION OF INTEREST

PUBLIC FORUM

PRESENTATIONS - NIL

MAYORAL MINUTES - NIL

NOTICES OF MOTION

Urgent request for Officers report on Council Bio-retention pond in Bowen Vista Estate - Councillor J McGinnes

Request for Officers report on Private request for Council to acquire a home and land on Farmers Creek Lithgow - Councillor J McGinnes

NOTICE OF RECISSIONS

Recognition of Sir Joseph Cook and Marjorie Jackson - Councillor M Statham, Councillor W McAndrew, Councillor R Thompson

CORRESPONDENCE AND REPORTS

General Managers Reports

Environment and Development Reports

Operation Reports

Community and Strategy Reports

Finance Reports

COMMITTEE MEETINGS

Operations Works Committee Meeting - 19 June 2013

Sports Advisory Committee Minutes - 25 June 2013

Traffic Authority Local Committee Meeting - 6 June 2013

Youth Council Meeting - 25 June 2013

REPORTS FROM DELEGATES - NIL

CLOSED REPORTS

Legal Action - Illegal Water Connection

BUSINESS OF GREAT URGENCY

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

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NOTICE OF MOTION

ITEM-1 **NOTICE OF MOTION - 08/07/13 - URGENT REQUEST FOR OFFICERS REPORT ON COUNCIL BIO-RETENTION POND IN BOWEN VISTA ESTATE - COUNCILLOR J MCGINNES**

REFERENCE

NIL

COMMENTARY

Q. Council the council advise and update councillors on the current installation of a council Bio-retention Pond in Bowen Vista Estate?

RECOMMENDATION

THAT the Council advise and update councillors on the current installation of a council Bio-retention Pond in Bowen Vista Estate.

**ITEM-2 NOTICE OF MOTION - 08/07/13 - REQUEST FOR OFFICERS
REPORT ON PRIVATE REQUEST FOR COUNCIL TO ACQUIRE A
HOME AND LAND ON FARMERS CREEK LITHGOW - COUNCILLOR
J MCGINNES**

REFERENCES

NIL

COMMENTARY

- Q.** Council the council advise and update councillors on a private request for the council to acquire a home and land in the flood zone on farmers creek Lithgow, near Tank Street?

RECOMMENDATION

THAT the Council advise and update councillors on a private request for the council to acquire a home and land in the flood zone on Farmer Creek Lithgow, near Tank Street?

NOTICE OF RESCISSION MOTION

ITEM-3 NOTICE OF RESCISSION MOTION - 08/07/13 - RECOGNITION OF SIR JOSEPH COOK AND MARJORIE JACKSON

Decision from Ordinary Meeting of Council 27th May 2013

Item 13: Recognition of Sir Joseph Cook and Marjorie Jackson

Since this Council meeting we have received many complaints and concerns from the public of the decision not to rename Cook Street Plaza to the Marjorie Jackson Plaza. The Lithgow Mercury also rightly strongly criticised the decision.

To that end, the below mentioned councillors put by way of a rescission motion, that the above decision be rescinded and replaced with the following:

RECOMMENDATION

THAT Council renames Cook Street Plaza to Marjorie Jackson Plaza in recognition of Lithgow's World-renowned athlete Marjorie Jackson.

General Manager's Comments:

The above proposal would be to rescind the decisions of the Council meeting on 27 May 2013 not to support either of the following names for Cook Street Plaza:

- Lithgow Flash Plaza
- Marjorie Jackson Plaza

Council also made the following decision at this meeting:

13-175 RESOLVED

THAT Council research more fitting locations to honour Sir Joseph Cook

GENERAL MANAGERS REPORTS

ITEM-4 GM - 08/07/13 - PIDT NO 05/2012 - SUSPENSION OF COUNCILLOR MARTIN TICEHURST - FOUR MONTHS

REPORT FROM: R BAILEY - GENERAL MANAGER

REFERENCE

Min No 10-344: Ordinary Meeting of Council held on 23 August 2010
Min No 10-347: Ordinary Meeting of Council held on 23 August 2010
Min No 13-163: Ordinary Meeting of Council held on 27 May 2013

SUMMARY

This report provides formal advice to the Council of the suspension from civic office of Councillor Martin Ticehurst for a period of four months effective from 15 July 2013.

The suspension comes following the Local Government and Pecuniary Interest and Disciplinary Tribunal receiving a complaint from the Director General, Department of Premier and Cabinet, Division of Local Government, who alleged that by his conduct at four meetings of the Council held between March and May 2012, Councillor Ticehurst engaged in behaviour that constituted misbehaviour for the purposes of Chapter 14 of the Local Government Act sufficient to warrant consequential orders by the Tribunal.

COMMENTARY

Council has received orders, dated 25 June 2013, from the Local Government Pecuniary Interest and Disciplinary Tribunal in relation to the matter PIDT No 05/2012 Director-General, Department of Premier and Cabinet Re: Councillor Martin Ticehurst, City of Lithgow Council.

The Tribunal made the following orders:

1. *Pursuant to s.482A(2)(c) of the Local Government Act, the Tribunal ORDERS that Councillor Martin Ticehurst be suspended from civic office for a period of four (4) months from 15 July 2013.*
2. *Pursuant to s.484(3) the Tribunal's Determination and Order will be made publicly available forthwith.*

The suspension comes following the Local Government and Pecuniary Interest and Disciplinary Tribunal receiving a complaint from the Director General, Department of Premier and Cabinet, Division of Local Government, who alleged that by his conduct at four meetings of the Council held between March and May 2012, Councillor Ticehurst

engaged in behaviour that constituted misbehaviour for the purposes of Chapter 14 of the Local Government Act sufficient to warrant consequential orders by the Tribunal.

The suspension is effective from Monday, 15 July 2013 and will commence at the conclusion of his current suspension.

This is the fourth suspension of Councillor Ticehurst by the Tribunal.

Determination by the PIDT

The following comments and points by the Tribunal should be noted:

2. *The Director General, Department of Premier and Cabinet, Division of Local Government, alleges that by his conduct at four meetings of the Council held between March and May 2012, Councillor Ticehurst engaged in behaviour that constituted misbehaviour for the purposes of Chapter 14 of the Local Government Act sufficient to warrant consequential orders by the Tribunal.*
8. *The first meeting that is the subject of the complaint by the Director General was the Ordinary Meeting of the Council held on 26 March 2012.*
9. *According to the minutes of that meeting, at which Councillor Ticehurst was present, at the outset of the meeting a point of order concerning "unfinished business" was called, which included the request by the Mayor of Councillor Ticehurst as to whether he would withdraw and apologise for his previous remark (on 5 March 2012). Councillor Ticehurst refused and the Mayor reminded Councillor Ticehurst of the existing resolution that if he did not withdraw and apologise he would be asked to leave. Councillor Ticehurst said he would not be leaving, and raised the issue of a Code of Conduct complaint against himself.*
20. *On 5 April 2012 and again on 30 May 2012 the Director General sent letters to Councillor Ticehurst in relation to, firstly, the meeting held on 26 March 2012, and then the four meetings which have been outlined above. The Director General invited Councillor Ticehurst to respond to what ultimately became the allegations forming the basis for the complaint before this Tribunal. Councillor Ticehurst did not respond to those letters.*
21. *This notwithstanding, before the Tribunal Councillor Ticehurst maintained that his conduct could not form the basis of any criticism because he did not do anything inconsistent with maintaining order.*
48. *However, quite ironically, by his statutory declaration read by the General Manager to all councillors on 20 June 2012, Councillor Ticehurst effectively admitted that he did in fact insult or make a personal reflection upon another councillor.*

50. *Irrespective of the nature of the precise terms of the resolution requiring the apology to be made by Councillor Ticehurst, and irrespective of the submission by him that his remark was made to another councillor and not a member of the public, the fact remains that at each of the meetings that I have summarised above Councillor Ticehurst refused to address the topic of the making of a disparaging remark. Although he claims that the remark was made to another councillor and not to a member of the public (a matter which, of itself, as referred above would have engaged clause 256(1)(d)) he did not make any positive moves to establish that factor until well after the course of the four meetings set out above, and did not prepare his statutory declaration to that effect until 20 June 2012. Instead, in the face of the request to withdraw the remark, a remark which appears not to be denied (although what is denied is the person to whom the remark was made), Councillor Ticehurst persisted in his refusal to address the topic of the withdrawal of the remark.*
51. *In my view that conduct constituted an act of disorder for the purposes of clause 256(1)(e).*
52. *Furthermore, as was made quite apparently plain by the television coverage of it, at the meeting held on 14 May 2012 Councillor Ticehurst, despite the adjournment of the meeting by the Mayor, continued to berate the meeting in an agitated way whilst standing up, apparently for the benefit of the television crew and the members of the public who were witnessing his behaviour. Compounding that situation, he then proceeded to tear up a code of conduct report that had been prepared in relation to his previous conduct.*
53. *In my view such conduct itself is inconsistent with maintaining order at the meeting and, in the graphic way displayed in the television report, was likely to bring the council into contempt. As such that conduct constituted an act of disorder for the purposes of clause 256(1)(e) of the Regulation.*
54. *In those circumstances there has been misbehaviour that is defined in s.440F(1)(c).*
77. *In the circumstances that have occurred the counselling or reprimand of Councillor Ticehurst is patently inappropriate.*
78. *As referred above Councillor Ticehurst's conduct has been disruptive over a period. Within that period there have been significant incidents of misbehaviour, and in any case there has been a singular incident of misbehaviour that warrants suspension.*
79. *The conduct in this matter may be described as quite remarkable. Councillors should not consider that it is within their individual right or power to conduct themselves at council meetings however they feel to be appropriate at the time. Both the Act and the Regulations (and for that matter the Model Code of Conduct) seeks to establish certain*

principles and guidelines, which, amongst other things, are directed to ensuring that order is kept at meetings.

80. *Whilst, as referred above, Councillor Ticehurst emphasised the invalidity of the original resolution requiring the withdrawal and apology of the remark, emphasising the distinction between that resolution's reference to the remark being made to a member of the public whereas, well after the course of these meetings his presented statutory declaration sought to say that the remark was made to another councillor, that is insufficient to qualify in any sufficient way to diminish the seriousness of the misbehaviour, and hence the period of suspension that should be imposed. So too are aspects of claimed bias by other councillors or by council officers.*
81. *The course of the meetings that I have summarised above originates, without doubt, from a remark made by Councillor Ticehurst during the course of a council meeting. All that followed emanated from that remark. Rather than address what flowed from making of the remark Councillor Ticehurst arguably compounded the circumstances (for himself) by continually refusing to withdraw the remark (to whomever it was made), and most importantly refused to comply with a resolution by the Councillors that he be expelled from the meeting. Those acts, particularly the later ones, are acts of disorder that warrant a significant suspension.*
91. *In the circumstances set out above it is appropriate that an order of suspension be made for a period of four months.*

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL cost to Council in relation to the determination.

Councillor Ticehurst shall not be paid the Councillor remuneration for the period of suspension.

LEGAL IMPLICATIONS

Pursuant to s.482A(1)(c) of the Local Government Act, the Pecuniary Interest and Disciplinary Tribunal has issued ORDERS that Councillor Martin Ticehurst is suspended from civic office for a period of four (4) months from 15 July 2013.

As part of the suspension Cllr Ticehurst **shall NOT** be entitled to be paid councillor fees in that time, s.248A of the Act provides:

248A Annual fees or other remuneration not to be paid during period of suspension

A council must not at any time pay any fee or other remuneration, to which a councillor would otherwise be entitled as the holder of a civic office, in respect of any period during which:

- (a) the councillor is suspended from civic office under this Act, or
- (b) the councillor's right to be paid any fee or other remuneration is suspended under this Act,

unless another provision of this Act specifically authorises payment to be made, or specifically permits a person to authorise payment to be made, when the suspension is terminated.

In addition to the above, Council previously considered reports as a consequence of Cllr Ticehurst's previous suspensions in relation to any participation in a Council meeting during the period of suspension.

At the time it was made clear that the suspended Councillor is not permitted to participate in a council meeting including the Public Forum.

Legal advice was sought at the time and the advice was that seeking to participate as a suspended Councillor is considered to be in breach of the LG Act 1993. The Mayor cannot assist the suspended councillor to break the law therefore the Mayor has no alternative but to rule that the suspended Councillor is out of order. The suspended Councillor should either leave the meeting or if they opt to stay they must remain silent.

The Councillor, should they insist in participating be formally warned that the continued behaviour could constitute a breach of the Code of Meeting Practice, leading to public disorder. If expelled from the meeting it could also be a potential breach of the Council's the Code of Conduct.

ATTACHMENTS

1. Determination and Orders of the Local Government Pecuniary Interest and Disciplinary Tribunal, LGPIDT 05/2012

RECOMMENDATION

THAT Council:

1. Note that the Local Government Pecuniary Interest and Disciplinary Tribunal has issued orders that Councillor Martin Ticehurst is suspended from holding civic office for a period of four (4) months commencing on 15 July 2013.
2. Note that a councillor, while suspended from civic office is not entitled to exercise any of the functions of the civic office, and is not entitled to any fee or other remuneration to which they would otherwise be entitled as the holder of the civic office.
3. Note the Council previous decisions that during a period of suspension that Council not accept any contribution from a suspended councillor during the Council meeting.

ITEM-5 GM - 08/07/13 - PIDT NO 06/2012 - SUSPENSION OF COUNCILLOR MARTIN TICEHURST - TWO MONTH SUSPENSION

REPORT FROM: R BAILEY - GENERAL MANAGER

REFERENCE

Min No 10-344: Ordinary Meeting of Council held on 23 August 2010
Min No 10-347: Ordinary Meeting of Council held on 23 August 2010
Min No 13-163: Ordinary Meeting of Council held on 27 May 2013

SUMMARY

This report provides formal advice to the Council of the suspension from civic office of Councillor Martin Ticehurst for a period of two months effective from 15 November 2013.

The additional suspension comes following the Local Government and Pecuniary Interest and Disciplinary Tribunal receiving a complaint from the Director General, Department of Premier and Cabinet, Division of Local Government, who alleged that by his conduct Councillor Ticehurst engaged in behaviour that constituted misbehaviour for the purposes of Chapter 14 of the Local Government Act sufficient to warrant consequential orders by the Tribunal.

A Conduct Reviewer originally presented a report to the Lithgow Council and on 30 May 2011 the Council passed a resolution in relation to the report, adopting the recommendations of the report, including a requirement that Councillor Ticehurst make a formal apology in writing within 28 days to the General Manager of the Eurobodalla Shire Council.

COMMENTARY

Council has received orders, dated 27 June 2013, from the Local Government Pecuniary Interest and Disciplinary Tribunal in relation to the matter PIDT No 06/2012 Director-General, Department of Premier and Cabinet Re: Councillor Martin Ticehurst, City of Lithgow Council.

The Tribunal made the following orders:

- 1. Pursuant to s.482A(2)(c) of the Local Government Act, the Tribunal ORDERS that Councillor Martin Ticehurst be suspended from civic office for a period of two (2) months from 15 November 2013.*
- 2. Pursuant to s.484(3) the Tribunal's Determination and Order will be made publicly available forthwith.*

The additional suspension comes following the Local Government and Pecuniary Interest and Disciplinary Tribunal receiving a complaint from the Director General, Department of

Premier and Cabinet, Division of Local Government, who alleged that by his conduct Councillor Ticehurst engaged in behaviour that constituted misbehaviour for the purposes of Chapter 14 of the Local Government Act sufficient to warrant consequential orders by the Tribunal.

A Conduct Reviewer originally presented a report to the Lithgow Council and on 30 May 2011 the Council passed a resolution in relation to the report, adopting the recommendations of the report, including a requirement that Councillor Ticehurst make a formal apology in writing within 28 days to Mr Paul Anderson, the General Manager of the Eurobodalla Shire Council.

Councillor Ticehurst never made the apology, including up to the date of the hearing before this Tribunal. In failing to give the apology as required by the resolution the Director General has alleged that Councillor Ticehurst has breached the Code of Conduct, and in turn has breached Chapter 14 of the Act in so far as the failure to comply with the requirement of the Code of Conduct constitutes misbehaviour as defined in that Chapter.

The suspension is effective from Friday, 15 November 2013 and will mean that the next ordinary Council meeting that Councillor Ticehurst will be able to sit at will be in 2014.

This is now the fifth suspension of Councillor Ticehurst by the independent Pecuniary Interest and Disciplinary Tribunal. One further matter relating to alleged misbehaviour by Councillor Ticehurst is still before the Tribunal awaiting determination.

The five suspensions to date include:

1/2008	One month suspension	Publication of confidential material
1/2010	Two month suspension	Failing to follow due process with respect to the Code of Conduct
2/2012	Two month suspension	Failure to lodge a return prescribed by the Regulations
5/2012	Four month suspension	Conduct at four successive Council meetings constituted misbehaviour
6/2012	Two month suspension	Failure to comply with the requirements of the Code of Conduct

Determination by the PIDT

The following comments and points by the Tribunal should be noted:

5. *Mr Woodward presented a report to the Council and on 30 May 2011 the Council passed a resolution in relation to the report, adopting the recommendations of the report, including a requirement that Councillor Ticehurst make a formal apology in writing within 28 days to the General Manager of the Eurobodalla Shire Council.*
6. *Councillor Ticehurst has never actually made such an apology, including up to the date of the hearing before this Tribunal. In failing to give the apology as required by the resolution the Director General has alleged*

- that Councillor Ticehurst has breached the Code of Conduct, and in turn has breached Chapter 14 of the Act in so far as the failure to comply with the requirement of the Code of Conduct constitutes misbehaviour as defined in that Chapter.*
22. *Those submissions commence with reference to the emails themselves. On 12 December 2010 (a Sunday) Councillor Ticehurst sent an email to Mr Anderson, previously the General Manager of the Lithgow City Council, but at that time the General Manager of the Eurobodalla Shire Council. In the email Councillor Ticehurst referred to the Eurobodalla Shire Council website and in particular a media release contained on that website announcing the appointment of Mr Anderson as its new General Manager. The Media Release made reference to Mr Anderson having certain tertiary qualifications "as well as an MBA from Deakin University".*
23. *Councillor Ticehurst then went on in the email to observe (by reference to evidence given before this Tribunal in prior proceedings by Mr Anderson) that as far as Councillor Ticehurst was aware Mr Anderson did not hold such qualifications. Councillor Ticehurst invited a response from Mr Anderson "so that the public record of your correct tertiary qualifications can be confirmed to Councillors, ratepayers and residents of the ESC [Eurobodalla Shire Council]". The email also made reference to Councillor Ticehurst's understanding that there was a requirement to refer the contents of the email to the ICAC.*
46. *As referred above, for the purposes of Chapter 14 misbehaviour of a Councillor is constituted by a breach of a Code of Conduct. The resolution made by the Council, a resolution which this Tribunal is not able to declare invalid or void, required that Councillor Ticehurst provide a written apology to Mr Anderson for matters contained in the emails to Mr Anderson and the Councillors of Eurobodalla Shire Council.*
47. *In simple terms Councillor Ticehurst has failed to comply with a council resolution requiring him to take a certain action in relation to a finding of breach. This is in contravention of 6.4 of the Code of Conduct. Being a contravention of a provision of the Code of Conduct, pursuant s.440F(1)(b) the conduct of Councillor Ticehurst in failing to comply with that resolution (whether it be the commission of omission of something - as to which see s.440F(2)) constitutes misbehaviour, and the Tribunal makes a finding to that effect.*
49. *Throughout the history concerning the subject resolution that I have set out above Councillor Ticehurst has steadfastly resisted any and all aspect of providing an apology to the General Manager of Eurobodalla Shire Council, Mr Anderson. Quite why Councillor Ticehurst would be interested to "correct the public record" with respect to the General Manager of a different Council located some significant distance away from Lithgow is not apparent to me, but presumably his motivation relates to the time in which Mr Anderson was the General Manager of*

- Lithgow City Council whilst Councillor Ticehurst was also a Councillor. That notwithstanding it is clear that Councillor Ticehurst at no time had any intention of providing an apology to Mr Anderson in accordance with the resolution of the Council.*
61. *This notwithstanding the fact remains that the Code of Conduct sets out a process for the basis upon which Councillors are to conduct themselves, and are to make complaints with respect to matters about which they are concerned. In particular, pursuant to Clause 12.10 of the Model Code of Conduct it is the Mayor who is responsible for assessing complaints where there are alleged breaches of the Code of Conduct by the General Manager. As referred above the Tribunal does not propose to go behind the resolution requiring the apology from Councillor Ticehurst. But if it did it is relevant to note that it was wholly inappropriate for Councillor Ticehurst to address the matter that concerned him (for whatever reason) by the means that he chose. Rather, because it involved the General Manager, the matter should have been raised, in accordance with the Model Code of Conduct, with the Mayor of Eurobodalla Shire Council.*
63. *The system sought to be prescribed by the Local Government Act relies upon Councillors complying with the decision of the collegiate body. If that body's processes are objectionable a mere failure to comply with a resolution is not the appropriate way to deal with a concern by a Councillor about such processes.*
64. *Abject refusal to comply with a resolution of Council irrespective of whether a Councillor feels that he or she is right or wrong is a serious breach of the Code of Conduct. This is because that breach is a breach following a process that is contemplated by a Code of Conduct, not necessarily resulting in a sanction of an apology but leading to the possible resolution of a Council, as a whole, giving rise to an apology.*
65. *But for the fact that there was a similar matter in which Councillor Ticehurst was not referred to the Tribunal for failure to apologise the consequence that the Tribunal would have imposed pursuant to s.482A(2) would have been greater. The importance of complying with a resolution, no matter how personally objectionable cannot be over emphasised. If Councillors unilaterally decided that they were on the one hand content to make decisions requiring certain action to be taken upon vote of the collegiate body, but on the other hand when the matter related to them simply ignore such resolution, then it would be difficult to administer any sensible processes pursuant to the Local Government Act.*
66. *In all of the circumstances set out above the Tribunal is of the view that a suspension pursuant s.482A(2)(c) is appropriate, and that the period of suspension be for a period of two (2) months.*

68. *Each of those two other matters concerned conduct that is unrelated to the conduct the subject of this Determination. In such circumstances it is inappropriate that the Order of Suspension as a result of this Determination coincide with the period of suspension in either of those two other matters. Accordingly, the Order of Suspension for a period of two (2) months shall be effective on and from 15 November 2013.*

Note - Mr Woodward being the Conduct Reviewer

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL cost to Council in relation to the determination.

Councillor Ticehurst shall not be paid the Councillor remuneration for the period of suspension.

LEGAL IMPLICATIONS

Pursuant to s.482A(1)(c) of the Local Government Act, the Pecuniary Interest and Disciplinary Tribunal has issued ORDERS that Councillor Martin Ticehurst is suspended from civic office for a period of two (2) months from 15 November 2013.

As part of the suspension Clr Ticehurst **shall NOT** be entitled to be paid councillor fees in that time, s.248A of the Act provides:

248A Annual fees or other remuneration not to be paid during period of suspension

A council must not at any time pay any fee or other remuneration, to which a councillor would otherwise be entitled as the holder of a civic office, in respect of any period during which:

- (a) the councillor is suspended from civic office under this Act, or
- (b) the councillor's right to be paid any fee or other remuneration is suspended under this Act,

unless another provision of this Act specifically authorises payment to be made, or specifically permits a person to authorise payment to be made, when the suspension is terminated.

In addition to the above, Council previously considered reports as a consequence of Clr Ticehurst's previous suspensions in relation to any participation in a Council meeting during the period of suspension.

It has been made clear that a suspended Councillor is not permitted to participate in a council meeting including the Public Forum.

Legal advice was sought at the time and the advice was that seeking to participate as a suspended Councillor is considered to be in breach of the LG Act 1993. The suspended Councillor should either leave the meeting or if they opt to stay they must remain silent.

The Councillor, should they insist in participating be formally warned that the continued behaviour could constitute a breach of the Code of Meeting Practice, leading to public disorder. If expelled from the meeting it could also be a potential breach of the Council's the Code of Conduct.

ATTACHMENTS

1. Determination and Orders of the Local Government Pecuniary Interest and Disciplinary Tribunal, LGPIDT 06/2012

RECOMMENDATION

THAT Council:

1. Note that the Local Government Pecuniary Interest and Disciplinary Tribunal has issued orders that Councillor Martin Ticehurst is suspended from holding civic office for a period of two (2) months commencing on 15 November 2013.
2. Note that a councillor, while suspended from civic office is not entitled to exercise any of the functions of the civic office, and is not entitled to any fee or other remuneration to which they would otherwise be entitled as the holder of the civic office.
3. Note the Council previous decisions that during a period of suspension that Council not accept any contribution from a suspended councillor during the Council meeting.

ITEM-6 GM - 08/07/13 - LOCAL GOVERNMENT REMUNERATION TRIBUNAL DETERMINATION

REPORT FROM: R BAILEY - GENERAL MANAGER

REFERENCE

NIL

SUMMARY

The Local Government Remuneration Tribunal handed down its report for 2012-13. This report deals with the fees to be applied to councillors and the Mayor.

COMMENTARY

The Local Government Remuneration Tribunal (the Tribunal) sets the range of fees for all councillors and mayors in NSW each year.

The Tribunal is responsible for categorising each council, county council and mayoral office for the purpose of determining the minimum and maximum fees payable to councillors, members of county councils and mayors in each category.

This year the Tribunal did not call for general submissions from individual Councils as part of the 2013 review. The Tribunal had advised that it would not be reviewing the categories of Councils.

Prior to the formation of Local Government NSW on Friday 1 March 2013, The Associations made a submission and met with the Tribunal.

The Tribunal is required to make a determination by no later than 1 May each year with annual determinations to take effect from 1 July in that year. This year the Tribunal determined that an increase of 2.5 percent in fees for councillors and mayors is appropriate. The increases are effective on and from 1 July 2013.

The determinations by the Tribunal for 2012-2013 are:

	Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee		Total Mayor/Chairperson Fee	
	Min \$	Max \$	Min \$	Max \$	Min \$	Max \$
Category S1 – Principal City	23,830	34,950	145,810	191,860	169,640	226,810
Category S2 – Major City	15,880	26,220	33,760	76,390	49,640	102,610
Category 1A – Metropolitan Major	15,880	26,220	33,760	76,390	49,640	102,610
Category 1 – Metropolitan	11,910	22,240	25,320	59,100	37,230	81,340

Centre						
Category 2 – Metropolitan	7,930	17,490	16,890	38,160	24,820	55,650
Category 3 – Regional Rural	7,930	17,490	16,890	38,160	24,820	55,650
Category 4 – Rural	7,930	10,480	8,430	22,870	16,360	33,350
Category S4 – County Council Water	1,580	8,740	3,380	14,350	4,960	23,090
Category S3 – County Council	1,580	5,230	3,380	9,540	4,960	14,770

Note: the Mayor is paid both the Councillor Remuneration and the additional fee for the Mayor.

The NSW Local Government Act 1993 requires:

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- (1) *A council must pay each councillor an annual fee.*
- (2) *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (3) *The annual fee so fixed must be the same for each councillor.*
- (4) *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal*

The fees paid by Lithgow City Council in the 2012-13 period were:

- Councillors at \$9,585
- Mayor at \$20,300
- Car lease payable at \$2,255

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

The increase is within the estimates set by Council earlier this year.

LEGAL IMPLICATIONS

Council is required to pay the remuneration in accordance with the limits set by the Tribunal.

ATTACHMENTS

1. Report and Determination of the Local Government Remuneration Tribunal under Sections 239 and 241 Local Government Act 1993, 8 April 2013.
2. DLG Circular 13-27 - Determination of the Local Government Remuneration Tribunal - 26 June 2013.

RECOMMENDATION

THAT Council:

1. Set the remuneration in 2013/14 for Councillors at \$9,825
2. Remuneration in 2012/13 for the Mayor at \$20,810
3. The 2012/13 car lease payable by the Mayor at \$2,310

**ITEM-7 GM - 08/07/13 - REGIONAL DEVELOPMENT AUSTRALIA FUND -
ROUND FIVE**

REPORT FROM: R BAILEY - GENERAL MANAGER

REFERENCE

Min No 11-149: Ordinary Meeting of Council held on 18 April 2011
Min No 12-446: Ordinary Meeting of Council held on 26 November 2012

SUMMARY

Round Five of the Regional Development Australia Fund has been announced with Lithgow being allocated \$344,635 in funding.

Whilst the amount of funding has been allocated Council will still be required to apply for projects for this funding.

COMMENTARY

The Australian Government has announced that it is releasing a further \$150 million for local community infrastructure development through RDAF Round Five. This Round is to give eligible councils the opportunity to build new community infrastructure and renew existing infrastructure in partnership. Lithgow City Council has been allocated \$344,635 in this funding Round.

RDAF Round Five is about providing a boost for 'shovel-ready' projects in communities. Under Round Five, all eligible local councils will receive a base grant of \$30,000, with the remaining funding in each State or Territory distributed to each eligible local government in accordance with the General Purpose component of the local government Financial Assistance Grants for suitable projects.

Funding is being provided for additional capital infrastructure projects, including the construction of new infrastructure and the refurbishment or renovation of existing infrastructure. Unsuccessful applications under previous rounds of RDAF may be applied for in Round Five. However, if a project received funding under a previous RDAF round, an application under Round Five must be for a discrete and further stage of the project.

Outcomes of the RDAF program are:

- sustainable regional economic development, economic diversification, and increases to the economic output of local and regional economies
- strong, dynamic and progressive regional communities which support social inclusion and "Closing the Gap on Indigenous Disadvantage" and are underpinned by quality recreational, arts, cultural and social facilities, and
- development of sustainable partnerships across Australian, state and local government, the private sector and the not-for-profit community to support a shared vision and joint investment in regional communities.

Applications for Round Five opened on 21 June 2013 and close at 5:00 pm on 22 July 2013.

Eligible local governments will receive a 50% up-front payment of the Funding Allocation on execution of a Funding Agreement with the Commonwealth with subsequent payments on the achievement of milestones.

Eligible local governments are expected to make contributions to projects in the form of cash or in-kind contributions.

To be funded, applications must satisfy the following criteria:

Funding Criterion 1: The applicant must be an eligible organisation.

- Eligible organisations are local governments that received funding under the General Purpose component of the local government Financial Assistance Grants in 2012–13.
- Applicants may be supported by a consortium and projects may be delivered by the consortium. Consortium members may include other local governments, state or territory governments, not-for-profit organisations, business and industry organisations, universities and technical colleges, Regional Organisations of Councils, and community organisations.
- The legal and operational arrangements for a consortium are a matter for participants. The Commonwealth will only enter into a Funding Agreement with an eligible organisation.

Funding Criterion 2: The application must be for an eligible project.

- Projects must be for the construction of new infrastructure, or the refurbishment or upgrade to existing infrastructure.
- Projects must be 'investment ready', i.e. the project must be **completed no later than 31 December 2016**. The project must also be ready to **commence construction within 12 months of the execution of the Funding Agreement** between the applicant and the Commonwealth.
- Projects must be maintained for a period of not less than five years following completion of the project.
- Single projects or a package of smaller projects will be supported. There is no limit on the number of projects that may be submitted, however all projects must be included in a single application and, subject to approval, will form a single Funding Agreement between the applicant and the Commonwealth.

Funding Criterion 3: The project must provide community benefit, economic growth, or support the environment.

Projects must benefit the Local Government Area and the communities that reside within it. Benefits may be to:

- develop the community, i.e. projects that support or enhance social capital and regional liveability through the construction, expansion or refurbishment of

community facilities, infrastructure to support housing, streetscapes and civic upgrades, or facilities to support the disadvantaged

- support economic growth, i.e. by sustaining existing growth, enhancing productivity and innovation, supporting industry diversification and value-added activities, contributing to new investment, creating sustainable jobs, exploiting export opportunities, or facilitating workforce re-training and skills development, and/or
- support the environment, i.e. projects that support a transition to clean energy, sewerage upgrades, efficient storage, transformation and use of water, or the effective disposal of waste.

Funding Criterion 4: The project must be viable.

The application must demonstrate that the project is viable by providing:

- **Evidence of approvals**—that approvals are in place, applied for, or otherwise expected to be received to allow the commencement of construction within 12 months of entering into a Funding Agreement with the Commonwealth.
- **Evidence of co-contributions**—that the project will be fully funded through commitment of partnership contributions in cash or in-kind.
- **Evidence of planning**—that the project will be delivered on time and to budget. This will be achieved through the provision of supporting documents, per 3.2 of these Guidelines.
- **Evidence of costing**—that the project has been appropriately costed. The level and detail of the costing, and procurement processes, should be commensurate with the value of the project.

Ineligible Projects

Funding **will not** be provided for:

- local government premises that are occupied by local government for administrative purposes
- artworks
- toilet blocks
- soft infrastructure, such as computer software or hardware
- salaries for service delivery staff, research staff and/or contractors
- purchase of plant and equipment that is not an integral part of the funded project
- administrative overhead items, including office equipment and vehicles
- mobile capital equipment, such as trucks and earthmoving equipment
- provision of services and support activities
- ongoing operational and maintenance costs
- project management, feasibility studies and other costs associated with project management, and
- activities that are eligible to be funded under the National Disaster Relief and Recovery Arrangements.

Some projects that have been suggested for this round include:

- Civic Ballroom – improvements, e.g. concertina doors, fridges, audio visual equipment
- Union Theatre – improvements, e.g. dressing rooms
- Marjorie Jackson Oval – improvements e.g. building and grounds maintenance, ground lighting (Maintenance would not be eligible and will be undertaken as part of the Council maintenance program)
- Shade Shelters
- Park Equipment
- Public Toilets (Ineligible)
- Lithgow Walking/Bike Path Extension
- Skate parks for Wallerawang and Portland
- Walking/Cycle Path Cullen Bullen

A further late report will be presented to Council outlining some costings of these projects.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Council may have to make a financial contribution to the projects.

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Draft Guidelines, Regional Development Australia Fund - Round Five; Local Government - Allocative Round
<http://www.regional.gov.au/regional/programs/files/rdaf-round-five-guidelines-20130621.pdf>

RECOMMENDATION

THAT Council:

1. Note the report on RDAF round five funding and receive a late report in relation to this item
2. Determine projects that are to be applied for under RDAF Round Five funding
3. Identify the priority of the projects
4. Allocate Council funding, if necessary, to support the funding applications

ITEM-8 GM - 08/07/13 - ZIG ZAG RAILWAY UPDATE

REPORT FROM: R BAILEY - GENERAL MANAGER

REFERENCE

NIL

SUMMARY

This report provides an update on the restart of the Zig Zag Railway.

COMMENTARY

Council previously passed the following resolution that:

13-146 RESOLVED

THAT the General Manager and Senior Council Officers seek updated information from the Board of the Zig Zag Railway Co-op Ltd. so as to 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.

Originally the historic Zig Zag Railway was constructed in the 1860's to transport people and more specifically produce from the rich Central West of NSW to Sydney. After serving its purpose very well the railway was replaced in 1910 by a 10 tunnel deviation.

In maintaining these operations the ZZR has supported the local economy (and community), including the tourism sectors of the Lithgow, Oberon and Blue Mountains LGAs. Prior to ceasing passenger movements there was an average 80,000 visiting the Zig Zag Railway annually. With many combining this trip with visiting other neighbouring LGAs and thus contributing approximately \$11.6M to the regional economy.

Until the suspension of passenger operations in June 2012 the Zig Zag Railway operated a very successful tourist railway that had its beginnings in October 1975. Following the suspension of passenger services the Board and members of the Zig Zag Railway have been working hard to facilitate the introduction of an updated Railway Safety Management System, and to enable refurbishment of essential locomotives, passenger carriages, railcars as well as fixed infrastructure, including tunnels and tracks.

The Mayor and General Manager met with representatives of Zig Zag Railway in early June 2013 and advice was provided that the update of the Safety Management System is being successfully. This is being done in conjunction with respected rail safety consultancy Australasian Transport Risk Solutions (ATRS).

Previously it had been anticipated that Zig Zag Railway would make application for restart in June however this was delayed primarily due to heavy rains in March 2013 that

caused land slips and wash aways. Repairs were estimated to be in the order of some \$500,000.

It is now expected that ZZR will make their restart application in late August 2013. All going well the recommencement of limited tourism passenger operations will commence in late October/November. From here it is expected that passenger operations will build up over time.

During the meeting with ZZR Council was requested to provide support for the ZZR to help facilitate a meeting with the Minister for Tourism, particularly in relation to funding for the construction of a terminus/carriage shed.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

RECOMMENDATION

THAT Council note the update report on the Zig Zag Railway.

ITEM-9 GM - 08/07/13 - LITHGOW CBD REVITALISATION ACTION PLAN STEERING COMMITTEE - DRAFT TERMS OF REFERENCE

REPORT FROM: R BAILEY - GENERAL MANAGER

REFERENCE

Min No 13-197: Ordinary Meeting of Council held on 17 June 2013

SUMMARY

Council endorsed the appointment of a Lithgow CBD Revitalisation Action Plan Steering Committee and the preparation of a Terms of Reference (TOR) for this Committee at its Ordinary meeting of 17 June 2013.

COMMENTARY

The full draft Terms of Reference is Attachment A of this Report.

The Committees responsibilities are to:

- Identify the revitalisation objectives to be embodied within the the Lithgow CBD revitalisation Action Plan
- Monitor achievements of project outcomes
- Review draft project outcomes
- Facilitate the exchange of information and advice between the Committee and the wider memberships of the Economic Development Advisory Committee, Tourism Advisory Committee, Operations Committee, Traffic Local Advisory Committee and the Lithgow Business Association where agreed.

Key operational parameters include:

- The Committee will be established under Section 355 of the Local Government Act 1993
- The term of the Committee shall be limited to the extent of time required to oversee the preparation of the Lithgow CBD Revitalisation Action Plan from its inception up to and including its adoption by Council.
- The Committee members will comprise the Mayor, and the Chairs of the Economic Development Advisory Committee, Tourism Advisory Committee, Traffic Local Advisory Committee, Operations Committee, the General Manager and a representative from the Lithgow Business Association.
- The Committee members will be required to observe and be compliant with Councils Code of Conduct and OHS Policies

ATTACHMENTS

1. Lithgow CBD Revitalisation Action Plan Steering Committee draft Terms of Reference

RECOMMENDATION

THAT Council adopt the draft Terms of Reference for the Lithgow CBD Revitalisation Action Plan Steering Committee.

**ITEM-10 GM - 08/07/13 - LOCAL GOVERNMENT NSW INAUGRAL
CONFERENCE**

REPORT FROM: R BAILEY - GENERAL MANAGER

SUMMARY

The Local Government NSW's inaugural conference will be held at the Sydney Town Hall from 1 - 3 October 2013. The Association has called for councils to identify issues that they believe are causing them concerns in their local government areas.

COMMENTARY

On 1 March 2013 the Local Government Association of NSW and the Shires Association of NSW merged to become one association, known as Local Government NSW, or LG NSW representing all councils in NSW. Local Government NSW now represents the interests of its members, including 152 general purpose councils, 12 special purpose councils and the NSW Aboriginal Land Council.

The Association was formerly known as the Local Government and Shires Associations of NSW (LGSA). The two organisations officially became Local Government NSW thus, uniting and strengthening the voice of the local government sector in NSW.

The Local Government NSW will now be holding its inaugural conference which is to be held at the Sydney Town Hall from 1 - 3 October 2013.

The Local Government Association of NSW have written to all council's requesting them to identify the most important 3-5 issues which they believe are causing concern to the Council and/or the local community. The Association will review all responses and then identify the top 3-5 issues as identified overall by member councils. These will then be put to the Conference for debate and deliberation as part of the business sessions.

In addition to identifying issues, **Councils are encouraged to suggest an appropriate solution by including either a motion which could be considered by the Conference or notes which might guide delegates to an agreed position.**

Councils are to provide their identified issues and any accompanying notes or motions prior to Friday 19 July 2013.

Following a request to councillors the following issues have been identified as areas of concern to this Council;

- Privatisation of electricity industry and use of local coal in power generation, not gas fired - securing the Coal and Power industry within the LGA. Making sure that we have assurance that these industries, which are vital to our LGA, are given every opportunity through transparency to grow and expand without interference or influence from minority groups.

- Two extra units for Mt Piper
- National Park expansion effect on coal mining and loss of rate revenue to local government
- Mining Royalties spent in mining regions
- Continuing Government Funding for Current and New Infrastructure - In order to achieve our goals for expansion and growth to our LGA, we need constant support and funding from both the State & Federal Governments. With our ageing infrastructure, and demands for new infrastructure, we need the assistance and funding in order to fulfil these requirements. We have been fortunate and appreciative of past grants which have enabled us to proceed with these most important and needed developments, but we must have assurance that the departments from both the state & federal level, will continue to support our region when it comes to building vital infrastructure needed for the sustainability of our LGA.
- Regional Road funding and the need to expand the network
- Securing of the Bells Line of Road Corridor and the completion of the Great Western Highway between Mt Victoria and Lithgow
- Noxious Weed Control – effective control under 30 that is to replace order 28
- Local Government Reform – that the Association maintains a position of no forced amalgamation of councils and also opposition to the formation of ‘new look’ County Council Model in local government. Council has a proven record of both efficient service to our rate payers, and sustainability, while remaining financially sound. We do not want to compromise or risk what we have successfully achieved and intend on achieving in the future.
- Completion of the Maldon Dombarton Rail Link
- Decentralisation and job creation for rural and regional areas - The relocation of Government agencies to rural regional areas. This would inevitably not only create new jobs for the region, but also attract new permanent residency to the towns, which therefore would create more business opportunities and growth.
- Police Numbers and Crime Prevention - It is vital that if we are striving for growth and development for the region, we have the adequate police numbers to keep up with our demands. In order to maintain a safe and secure society. We do not want to fall behind in crime and unsociable behaviour due to our Police force being under-strength. We need to sustain and maintain the pressure to the State government to guarantee that we will be appropriately accommodated on the policing of our area for both now and in the future.

In past years councils have been required to submit motions that are industry specific rather than isolated to one or a small group of councils. With the change in the Association has come a change in focus on how these matters are to be dealt with and

councils are now required to submit issues, preferably with motions that will outline how to overcome the problem.

Whilst councils may propose issues or motions that are specific to their local government area it will be most unlikely that these issues will then be debated at the Conference as the top three to five issues from across the state will be debated. To have our issues debated Council will therefore need to propose issues that will of concern to a majority of councils.

POLICY IMPLICATIONS

NIL to Lithgow City Council.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Letter from Local Government NSW - 27 May 2013
2. LGNSW Conference Business Sessions Submission Form -
<https://lgsa.wufoo.com/forms/z7a6z5/>

RECOMMENDATION

THAT Council:

1. Note the request for input towards the inaugural Local Government NSW Conference
2. Determine 3-5 issues of concern in the Lithgow Local Government Area and provide them to the Association
3. Appoint the Mayor, Deputy Mayor and another councillor as voting delegates to the Conference
4. Authorise the General Manager to attend the Conference as an observer
5. Authorise the Mayor to appoint alternate delegates or additional observers if required

ENVIRONMENT AND DEVELOPMENT REPORTS

**ITEM-11 ENVIRO - 08/07/13 - DA115/13 - INSTALLATION OF ABOVE
GROUND WATER TANKS - 991 GREAT WESTERN HIGHWAY
LITHGOW**

REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To determine a development application (DA115/13) for the installation of above ground water tanks at 991 Great Western Highway, Lithgow. The application has been called in for determination.

COMMENTARY

Council is in receipt of a Development Application DA115/13 for the installation of four (4) above-ground water tanks at 991 Great Western Highway, Lithgow. The application has been called in for determination by Councillor J McGinnes.

The proposal provides for the installation of four (4) 'Cottage Green' above-ground UPVC rainwater tanks each having a capacity of 10.5 kL and an overall height above natural ground level of 2.4m. The proposed tanks will be grouped in pairs and sited up to 900mm (front-most pair) and 500mm (rear-most pair) from the southern side boundary common with 989 and 985 Great Western Highway respectively.

Associated pumping equipment is to be housed in a soundproof enclosure adjacent to the existing dwelling.

A 1.8m high colorbond fence has recently been erected by the owner of the subject land, sited adjacent to existing side boundary fencing common with No 989 Great Western Highway to the south of the proposed front-most tank pairing.

Prior to the lodgement of the subject development application, certain works were completed by the owner / applicant namely:

- a) Removal of three mature (3) pine trees from the existing tree stand which abuts the southern side boundary common with No 989 Great Western Highway; and
- b) Minor associated earthworks of 150mm cut and 200mm fill (to establish a contained level base with consolidated road-base material for the pairing closest to the road alignment); and
- c) Associated stormwater drainage works (in part) to connect the front portion of the existing workshop roof to the subject tanks.

As a result of an investigation of two (2) customer requests, Council issued written direction on the owners of the subject land to cease associated stormwater management works and to lodge a development application for the consideration of Council.

The owners have complied with this direction to date.

ADJOINING NEIGHBOURS

The subject application was notified to adjoining property owners on 29 May 2013. The owners of the adjoining property to the south, have lodged an objection to the proposed development. The objection(s) and associated assessment comments taken from the attached 79C Planning Assessment are reproduced below:

- ***Three (3) of the four (4) proposed water tanks are already installed and work is in progress on the fourth, despite a stop work order.***

Comment

As previously indicated the owner commenced drainage / earthworks including the positioning of three (3) tanks, establishing a levelling pad and installing a substantial percentage of the overall stormwater drainage prior to Council's investigations and to the issue of the written direction to cease associated works. The owner was apparently unaware of the necessity to gain consent, however has complied with Council's direction to cease further stormwater drainage related works.

Further plumbing and stormwater drainage works need to be carried out prior to commissioning, including the completion of stormwater drainage to the positioned tanks, water service plumbing for irrigation reuse, connection of overflow drainage into existing stormwater drainage.

- ***Water from this property already comes onto our property, our land is much lower and has handled natural runoff but can't cope with this re-directed water, we are already getting.***

Comment

The proposal is necessary to convey roof water from buildings located on the subject property to the street water drainage on the Great Western Highway. Once completed any inappropriate pre-existing roof water discharges will be properly managed. Existing overland surface flow not related to roof water drainage is not a matter that can be addressed by this application.

- ***Water from the workshop and roof of the house is coming onto our property and destroying our house as the existing stormwater drainage system is blocked and the guttering and down-piping to lower roof part of workshop building is missing.***

Comment

As per the above comments under Item No 2. The proper functioning of the altered stormwater drainage system should be verified prior to use. The applicant has submitted photographic evidence demonstrating that stormwater discharges commensurate with the intensity of rain events are being received within the street table drain. New stormwater drainage lines associated with the overflow and first-flush facilities are to be installed and will discharge via a third separate discharge into the street water table

drain. Overall, three (3) discharge outlets are proposed to the street water table drain. A residential property typically would have one (1) outlet.

- ***The land is not of sufficient area to accommodate 4 x 10500 litre water tanks particularly in the event of implementation of subdivision approval vide 048/11DA (one lot into two).***

Comment

The subject site is expansive and can readily accommodate the proposed development without detriment to adjoining properties.

- ***The two (2) tanks setback 1.5m from our house wall may cause the collapse of our sewerage system and drainage system in the event of any water pipe or tank burst.***

Comment

All works are required to be carried out by competent persons including a licensed plumber and drainer. Manufacturer's warranty and proper workmanship serve to ensure that the proposed water tank installations will be serviceable and reliable. The levelling pad for each tank comprises of properly compacted road base material and is considered structurally sufficient to properly support the tanks.

- ***The tanks will block our sunshine, breezes, light, fresh air and outlook.***

Comment

The pair of tanks closest to the Great Western Highway alignment are setback 900mm from the common southern side boundary and will stand up to 2.4m above adjoining natural ground level. It appears that the three (3) cypress pines removed to facilitate the tank placement obstructed solar access, breezes, natural light and northern outlook. Therefore, the proposal serves to improve the amenity of the adjoining residence to the south.

- ***A never-ending supply of water can be directed at our house by deliberate design. Tanks could be sited elsewhere on this 6000 m² property.***

Comment

The subject tanks are considered to be sited appropriately within the subject land and do not materially affect the amenity of adjoining properties. As a general benchmark rainwater tanks are permitted to be erected on land without the need to obtain development consent under Subdivision 32 of State Environmental Planning Policy (Exempt & Complying Codes) 2008 subject to the development:

- a) Not having a capacity of more than 10kL; and
- b) Being located at least 450mm from each lot boundary if the tank has a height of more than 1.8m above natural ground level (existing); and
- c) Being located behind the building line of any road frontage; and
- d) Not resting on the footings of any building for support; and

- e) Being fitted with a first-flush device that causes initial run-off rainwater to bypass the tank; and
- f) Having a sign affixed to it stating the water in it is rainwater; and
- g) Being constructed or installed to prevent mosquitoes breeding in it; and
- h) Having its overflow connected to an existing stormwater drainage line that does not discharge to an adjoining property, or cause a nuisance to adjoining owners; and
- i) Providing for any attached pumps to be housed in a soundproof enclosure; and
- j) Not being interconnected with any reticulated system supplying drinking water to the lot unless it complies with the relevant water authority's requirements.

Other than the maximum allowable capacity the proposal satisfies all of the above 'exempt development' standards.

1. *Noise from pump will be offensive.*

Comment

The proposal provides for pumping equipment to be housed in a sound-proof enclosure.

1. *Roof water from 'green shed' causes discolouration to concrete path.*

Comment

The 'green shed' structure referred is a small garden shed reportedly erected some fifteen (15) years ago and has external dimensions of 2.4 x 3.0m with a ridge height around 2m and is sited 500mm from the common side boundary. This structure is not fitted with guttering, however does not appear to be causing a nuisance to the adjoining property. Any roof water from this structure falls onto a perimeter slab apron and is then dispersed onto the subject grassed site. A concrete hob exists at the base of existing side boundary fencing, which serves to direct any overland flow to the street frontage.

1. *Existing cypress pines alongside the common side boundary fencing obstruct solar access to our property.*

Comment

The removal of three (3) cypress pines to facilitate the siting of the subject front tanks has increased the level of solar access to the northern side elevation of the dwelling located on 989 Great Western Highway. The loss of sunlight caused by the remaining tree stand is a private issue.

OTHER KEY ASPECTS OF THE PROPOSAL

The key issues associated with the proposal have been outlined in this report and no other aspects within the attached Section 79C report need to be specifically highlighted. The only other issue that should be highlighted is the heritage status of the property on which the objector's residence is located. It is not currently listed under Council's Local Environmental Plan but is proposed to be listed under draft LEP 2013. However, as the development application was lodged prior to exhibition of the draft LEP, Council is not required to take the draft plan into consideration.

CONCLUSION

The development proposal satisfies relevant statutory requirements, addresses any valid concerns from the adjoining property owner to the south and on merit should be approved. The proposal also upholds the principles of water conservation, improves the level of solar access to the dwelling on No 989 Great Western Highway and will significantly improve stormwater management from the subject property.

POLICY IMPLICATIONS

Council's *Policy 7.7 – Calling in of Development Applications by Councillors* states that Development Applications that are called in by a Councillor must be referred to the elected Council for consideration and determination and that no aspect of the development is dealt with under delegated authority.

FINANCIAL IMPLICATIONS

Not applicable.

LEGAL IMPLICATIONS

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

ATTACHMENTS

1. Section 79C report under Environmental Planning & Assessment Act 1979.
2. Submission provided on the proposal by adjoining neighbour. (NB – it has been attempted to redact all references that could identify personal details of the objector and the applicant and also references to non executive Council staff)
3. Additional information provided by the applicant in response to concerns raised

RECOMMENDATION

THAT:

1. Development Application DA115/13 be approved subject to the conditions in the attached 79C assessment report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

ITEM-12 ENVIRO - 08/07/13 -DA119/13 - MENS SHED - FRED BURLEY DRIVE

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To determine a development application for internal alterations to the old kiosk and amenities building adjacent to Lithgow Swimming Pool.

COMMENTARY

Council is in receipt of a Development Application for alterations to the existing Council owned building previously used as the kiosk and amenities for the Lithgow Swimming Pool.

The proposal involves minor modifications to the building to allow it to be used by the Lithgow Men’s Shed Association. The work includes separation of the building from the swimming pool grounds by construction of partition walls, removal of any exit doorways opening onto the pool area and installing new doors opening to Fred Burley Drive. Internal doorways will be constructed between the old kiosk and amenities areas to allow for direct internal access. Accessible toilet facilities are to be provided within the building. Existing car parking will be utilized for the premises.

The building will be used by the Men’s Shed as a community facility for their members who are relocating from South Littleton Hall because of the need for more space resulting from increased membership.

The proposed new work will comply with the relevant Deemed-To-Satisfy Provisions of the Building Code of Australia.

The subject land is zoned 6 Open Space and is permissible as a community facility under Council’s LEP 1994.

The subject land is within the Sydney Water Supply Catchment Area and has been assessed as having a neutral or beneficial effect on the catchment.

OTHER KEY ASPECTS OF THE PROPOSAL

The proposal is relatively straight forward and there are no other aspects within the attached Section 79C report that needs to be specifically highlighted.

POLICY IMPLICATIONS

Council’s *Policy 7.6 – Development Applications on Council owned land* requires Development Applications on Council land to be referred to the elected Council for consideration and determination and that no aspect of the development is dealt with under delegated authority. Given Council’s responsibility as the trustee of this Crown Land the proposal is reported to Council for determination.

FINANCIAL IMPLICATIONS

While not relevant to determination of the application, Council is partially funding the works with the Lithgow Men's Shed Association.

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. Section 79C report under Environmental Planning & Assessment Act 1979.

RECOMMENDATION

THAT:

1. Combined Development/Construction Certificate Application No. 119/13DACC be approved subject to the conditions in the attached 79C assessment report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

ITEM-13 ENVIRO - 080713 - CENTENNIAL COAL WASHERY UPGRADE & LOGISTICS PROJECT BLACKMANS FLAT

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Min No 12-130: Ordinary Meeting of Council held on 23 April 2012.

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 washery at the Centennial Coal Services Site, Blackmans Flat.

COMMENTARY

Proposal

Centennial Coal proposes to construct new infrastructure to support its ongoing operations in the Western Coalfield of NSW. Specifically, the Centennial Coal Services Site Upgrade involves:

- Upgrading the existing washery at the Centennial Coal Services Site by constructing additional processing infrastructure adjacent to the existing facility which is capable of processing a combined total of 7.0 Million tonnes per annum;
- Construction of additional conveyors and transfer points and other coal handling requirements to cater for the upgraded washery facility within existing footprint;
- Extension of existing Reject Emplacement Area (REA) for sufficient reject disposal capacity for a 25 year life;
- Construction of a private haul road approximately 1.3km in length linking the Centennial Coal Services site with the existing private haul road from Angus Place Colliery to Mount Piper Power Station. This private road will cross a section of the existing Pine Dale Mine operation and over the Castlereagh Highway via the construction of a road Bridge and through Lithgow City Council land to the Coal Services Site;
- Improve water management systems;
- Include, the remaining rehabilitation, monitoring and reporting requirements associated with the Lamberts Gully Mine which occupies the Centennial Coal Services Site;
- Integrate the existing approved transport and processing of coal at Springvale Mine and Angus Place Colliery into this consent;
- Increasing the rate and utilisation of the return side of existing overland conveyor system to enable up to 6.3 Mtpa to be delivered to Lidsdale Siding;
- Continued use of all existing approved infrastructure, facilities and activities associated with the transport and processing of coal from each mine gate and the

point of delivery to either power station and the Lidsdale Siding including existing conveyors, private haul roads, services, access roads, car parking and buildings.

Status

Director General's Requirements (DGRs) for the environmental assessment (to be prepared by the proponent) have been issued for the project. A preliminary Environmental Impact Statement has been supplied to Council and assessed in relation to the DGRs with the following issues raised with the Department of Planning:

DGR's statement	Information required
Likely interactions with other approved development/projects at the site.	Detailed assessment of how the development will impact on the approved Lithgow City Council Waste Facility. Although it is mentioned in the EIS, it does not indicate how the development will interact given the new Link Road will traverse the area approved for the Waste Facility. This should include a traffic management report for the site considering 96 truck movements per day are proposed on this section.
Plans of any proposed building works.	Detailed architectural drawings, plans and diagrams have not been provided for any structures as part of this development. This includes new buildings, bridges and structures as part of the proposal overall. Although a site plan has been provided, it is not considered adequate. For this stage of the proposal adequate site plans with appropriate measurements are required for assessment.
The EIS must include all relevant plans, architectural drawings, diagrams and relevant documentation required under Schedule 1 of the EP& A Regulation 2000. These documents should be included as part of the EIS rather than as separate document	Detailed architectural drawings, plans and diagrams have not been provided for any structures as part of this development. This includes new buildings, bridges and structures as part of the proposal overall. Although a site plan has been provided, it is not considered adequate. For this stage of the proposal adequate site plans with appropriate measurements are required for assessment.
During the preparation of the EIS you must consult with relevant local, state and Commonwealth Government authorities, service providers, community groups and affected landowners.	It is noted that the applicant has had minimal previous consultation with Lithgow City Council on the development. Council has provided information on inclusions for the DGR's as part of the preliminary proposal, however minimal consultation has been undertaken since this time. This is especially important in regards to the use of Council land which has a current approval for a waste facility. Council requests that consultation on design of the Link Road to the Western Coal Services Site be undertaken with Council being a current landowner and a Local Government Authority.

It is expected that these issues be corrected in the EIS prior to it being placed on exhibition for public and authority comments. However, it must be pointed out that in order for the proposal to proceed, Council must provide its consent as landowner for the part of the development application that is proposed on Council land. At this point this has not been sought or provided. This consent would only relate to the assessment and approvals process and would not include any subsequent agreement to enter onto the land nor does it contemplate any future commercial terms.

FINANCIAL IMPLICATIONS

Additional consultation should be held between Council and Centennial Coal to ensure the project does not impact upon the viability of Council's approved waste depot.

LEGAL IMPLICATIONS

As the proposal falls within Part 4, Division 4.1 of the *Environmental Planning and Assessment Act 1979* the Department of Planning and Infrastructure will be the consent authority

ATTACHMENTS

1. Site Plans.

RECOMMENDATION

THAT:

1. The information in the report on the Centennial Coal Washery Project be noted.
2. Correspondence be provided to Centennial Coal Pty Ltd advising that Council will consider providing its landowners consent for the part of the development proposed to be on Council owned land when a formal request is provided to Lithgow City Council.
3. If and when a formal request for landowners consent be provided to Council, the General Manager determine whether or not to provide that landowners consent.

ITEM-14 ENVIRO - 08/07/13 - VARIATION OF STH BOWENFELS DA094/12 - DWELLING & GARAGE

REPORT BY: A MUIR – GROUPMANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

DA094/12

SUMMARY

To determine a variation to the South Bowenfels Development Control Plan which is greater than can be determined by delegation.

COMMENTARY

Council is in receipt of a Development Application for a dwelling and garage on Lot 53 DP 1176276. The application is nearing completion with all authorities and recommendations finalised, however with one outstanding issue. The land contains a natural drainage area that feeds into the wetlands at the northern end of the property. For this reason, the proposed dwelling is required to be at a level that will not impact on the natural drainage area (by implementing swales) and to prevent impacts of surface water drainage on the dwelling itself.

Therefore the application requests a variation from Council in regards to Clause 6.3.3 of the South Bowenfels DCP which states the following:

6.3 Benching/Cut & Fill

6.3.3 Prescriptive Measures

- a) *Filling in excess of 600mm and up to 1.5m may only be considered where there is no impact on the amenity of the adjoining properties and the fill is contained within the perimeter of the building by means of suitable integrated retaining systems such as slab dropped edge beams.*

The fill proposed in this instance is a maximum of 2.8m and tapering back to the existing current surface level. All fill will be less than 20° slope and vegetated after construction. During construction extensive erosion and sediment control measures will be required to be implemented. The development has been assessed by the Sydney Catchment Authority who has provided conditions of consent to help divert overland flow through the natural drainage area by the establishment of vegetated drainage swales. Although the development does not meet the prescriptive measures in Clause 6.3.3 of the DCP, it is expected that the development will not have an adverse impact on the amenity of adjoining properties and complies with the performance measures for cut and fill as below:

6.3 Benching/Cut & Fill

6.3.2 Performance Criteria

- a) *Proposed residential lots have a demonstrated capacity to accommodate high quality dwellings and any ancillary development including vehicular access without the need for excessive cut and fill, terracing of sites or construction of retaining walls.*
- b) *Disturbance to natural drainage patterns is minimised.*

Given the restrictions of the remaining sections of the property, the proposed location of the dwelling is the only most suitable location available for a dwelling on this allotment. Therefore, the use of fill at a maximum level of 2.8m is required due to the drainage depression, wetlands area and the gun emplacement restrictions of the property. There will be no need for terracing of the site or construction of retaining walls as the fill will be tapered back to the natural surface level at the north of the property. Additionally the proposal has been assessed by the SCA to address the potential disturbance to the natural drainage pattern who has provided no objection to the development subject to conditions being imposed on the consent.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Site Plans showing extent of fill proposed on the property for the dwelling.

RECOMMENDATION

THAT Council approve a variation to Clause 6.3 of the South Bowenfels DCP in this instance and allow fill to a maximum level of 2.8 metres.

**ITEM-15 ENVIRO - 08/07/13 - MODIFICATION OF DEVELOPMENT
APPLICATION REPORT - DA180/12 - PROPOSED GARAGE- 1 GOLF
LINKS ROAD, MARRANGAROO**

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

REFERENCE

Min No 13-16: Ordinary Meeting of Council held on 4 February 2013.

SUMMARY

To recommend determination of the Modification of Consent (S96022/13) for Development Application 180/12 for a garage at Lot 15 in DP 1029863 where it is proposed to gain access off Council owned land at Lot 1 DP840412, 1 Golf Links Road, Marrangaroo NSW 2790.

COMMENTARY

Council is in receipt of a Modification of Consent (S96022/13) for development consent DA180/12 from T & K MacCullagh for a garage on land known as Lot 15 in DP 1029863, 1 Golf Links Road, Marrangaroo NSW.

The original development was approved by Council on 4 February 2013 subject to conditions. However, a Section 96 Modification of Consent has now been applied for to amend one of the conditions of consent, being the following:

19. That prior to any works, the Right of Way is to be registered and an 88b instrument under the *Conveyancing Act 1919* is to be implemented between the property owners of Lot 15 DP1029863 and property owners of Lot 1 DP840412 in which the right of way will be impacted upon, at full cost of the applicant.

The proposal requests that instead of creating the Right of Way under 88b instrument of the *Conveyancing Act 1919*, that the ROW be created by way of a Transfer and Grant documentation. It has been confirmed by Council's Solicitor that a Transfer Granting Easement is of equal force and effectiveness.

If this modification of consent was approved the amended condition of consent 19 would read as follows:

19. That prior to any works, the Right of Way is to be created by way of a Transfer Granting Easement and is to be implemented between the property owners of Lot 15 DP1029863 and property owners of Lot 1 DP840412 in which the right of way will be impacted upon, at full cost of the applicant.

It is considered that this proposal is acceptable.

OTHER KEY ASPECTS OF THE PROPOSAL

The proposal deals with a modification of one condition that simply provides the same legal Right of Way, without the necessity of preparing an instrument under Section 88b of the Conveyancing Act. Council's Solicitor has advised that this is acceptable. No other issues arise.

CONCLUSION

The proposed Development Application has been assessed under Section 79C of the *Environmental Planning and Assessment Act 1979*. It is recommended that the Section 96 Modification of Consent be approved.

POLICY IMPLICATIONS

Policy 7.6 Development Applications by Councillors and Staff and Relatives or On Council Owned Land, is relevant given that the proposal seeks to access the new garage over Council owned land. Therefore, modification will need to be determined by the elected Council.

FINANCIAL IMPLICATIONS

There are no other financial implications of the development on Council and creating the Right of Carriageway will be at full cost to the applicant.

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*. A full assessment of these matters is provided as an attachment to this report.

ATTACHMENTS

1. A Section 79C report pursuant to the Environmental Planning and Assessment Act 1979.
2. Letter from Council's Solicitor.

RECOMMENDATION

THAT:

1. That Section 96 Modification of Consent (S96022/13) for 180/12DA be approved with condition No 19 to be amended to read as follows:
"That prior to any works, the Right of Way is to be created by way of a Transfer Granting Easement and is to be implemented between the property owners of Lot 15 DP1029863 and property owners of Lot 1 DP840412 in which the right of way will be impacted upon, at full cost of the applicant."
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

ITEM-16 ENVIRO - 08/07/13 - DA 127/13 - ADDITIONS & ALTERATIONS - UNION THEATRE

REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT

SUMMARY

To determine a development application/construction certificate for additions and alterations to the Union Theatre at 63-69 Bridge Street Lithgow.

COMMENTARY

Council is in receipt of a Development Application/Construction Certificate for additions and alterations to the existing Council owned Union Theatre building that is used as a public hall.

The proposal involves reconstruction and a small addition to the existing toilets, improved disabled access to the front of the building, removal and replacement of the external steel stairs, and removal and replacement of the existing defective northern side walkway. The toilet facilities will be upgraded to comply with the premises code for accessibility.

The building is used as a public hall with the main user being the Lithgow Musical Society. These improvements are the next stage in an ongoing program of upgrading works to this building.

The proposed new work will comply with the relevant Deemed-To-Satisfy Provisions of the Building Code of Australia..

The subject land is zoned 3 Business and is permissible under Council's LEP 1994.

The subject land is within the Sydney Water Supply Catchment Area and has been assessed as having a neutral or beneficial effect on the catchment.

OTHER KEY ASPECTS OF THE PROPOSAL

The proposal is relatively straight forward. However, with the attached Section 79C report Councillors should be aware that the building is identified as a local heritage item in LEP 1994. A Heritage Impact Statement has been prepared for the proposal and the plans have been submitted to and approved by Councils Heritage Advisor.

POLICY IMPLICATIONS

Council's *Policy 7.6 – Development Applications on Council owned land* requires Development Applications on Council land to be referred to the elected Council for consideration and determination and that no aspect of the development is dealt with under delegated authority. The application therefore referred to Council for determination.

FINANCIAL IMPLICATIONS

While not relevant to determination of the application, the works are being funded by Council in conjunction with a grant under the Community Building Partnership Program and additional funding from the Mineworkers Trust.

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. Section 79C report under Environmental Planning & Assessment Act 1979.

RECOMMENDATION

THAT:

1. Combined Development/Construction Certificate Application 127/13DACC be approved subject to the conditions in the attached 79C assessment report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

OPERATION REPORTS

ITEM-17 OPER - 08/07/13 - MASTER ACCESS DEED BETWEEN RAILCORP & COUNCIL TO ACCESS THE RAILWAY TRACK (GENERALLY) AND FOR THE SOUTH BOWENFELS SEWERAGE SCHEME UPGRADE (SPECIFICALLY)

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

The South Bowenfels Sewerage Scheme Upgrade – two pump stations and their connecting pipe work between South Bowenfels and the penultimate pump station to the Sewage Treatment Works (SPS No1) – by necessity needs to go under the railway track (Near McDonalds) and Farmers Creek. The design has been completed and has been conditionally approved by RailCorp, which requires that the agreement is in the form of the Master Access Deed (MAD) – the subject of this report.

COMMENTARY

The MAD is a general covering document for any and all such operations that require access to the track by Council any time in the next ten years. The first such operation is the construction of the South Bowenfels Sewerage Upgrade Scheme.

The MAD has: been prepared by RailCorp, considered for effectiveness by the project engineer and reviewed by Council's Solicitor. Council's Solicitor recommends the LCC agrees to sign, seal and deliver the MAD to RailCorp with the proviso that the MAD is accompanied by a note (which the Council Solicitor shall provide) to the effect that: ***this MAD embodies the general terms of the agreement so that on each occasion of activation the MAD is - subject to the inclusion of project-specific - details / technical schedules / appendices / drawings etc approved by council's engineer and that the council seal is affixed to all such documents.***

The document appears to cover most eventualities in terms of space, time, engineering alternatives, associated legislative / statutory fields affected and eventual jurisdiction.

POLICY IMPLICATIONS

The policy implication is that if a similar need arises in the next ten years Council can invoke this same document and expect RailCorp to respond in a similar manner to that described within this deed. The MAD may be extended by either party for a further term to be agreed.

FINANCIAL IMPLICATIONS

RailCorp advised that costs for this MAD process would be 'upwards of \$15,000'.

LEGAL IMPLICATIONS

As described within the MAD

ATTACHMENTS

1. Master Access Document
2. South Bowenfels Sewerage Scheme – Upgrade Monthly Report June 2013

RECOMMENDATION

THAT Council authorise the affixing of the Common Seal to the Railcorp Master Access Document.

ITEM-18 OPER - 08/07/13 - PURCHASE OF LIGHT VEHICLES

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

REFERENCE

Min No 12-480: Ordinary Meeting of Council held on 17 December 2012

SUMMARY

To advise Council on the current purchasing procedure for Council light vehicles and associated equipment.

COMMENTARY

The majority of motor vehicles and light vehicles purchased by Council are included in the State Government Contract for the supply of such vehicles. In regard to the purchasing of light vehicles, Council is required to comply with the adopted Purchasing Policy which requires that for goods in excess of \$10,000, two written quotations are obtained. Quotations are generally sought from a number of dealers both local and outside the Council area to ensure competitiveness in pricing. With only one supplier of Parks & Gardens equipment in the Lithgow area, seeking quotations from outside the area is mandatory. Generally for each light vehicle purchased, up to five quotations are obtained.

When considering the quotations received, a number of criteria are examined prior to placing an order for purchase, including the purchase price, suitability for work tasks, running costs, service costs, availability of spare parts and access to service, resale value and availability. Preference is always given to local dealers where the purchase is competitively priced.

In the current financial year to date thirty (30) light vehicles have been purchased. Twenty (20) of these purchases were from local dealers and ten (10) from dealers outside the area. It should be noted that a number of purchases from outside the area were for vehicles not available locally.

The supply of utilities has until recently been a major problem and at one stage Ford were not able to supply any models, Holden had a restricted range available and Toyota had extended delays in delivery time. Utilities from Isuzu and Mitsubishi were readily available.

Restricting purchases to only the existing local dealers will result in the exclusion of models available from Hyundai, Mitsubishi, Isuzu, Mazda and Suburu, some of which have superior trade in value at the present time.

Some potential legal issues have been raised concerning the use by Council of a local preference policy. The Division of Local Government refer to this issue in the Tendering Guidelines for NSW Local Government, October 2009.

In particular, whilst the implementation of local preference policies is not necessarily inconsistent with the principles of National Competition Policy, it should be noted that the use of local preference in the evaluation of tenders and awarding of contracts possesses inherent risks in terms of anti-competitiveness and the maintenance of defensibility, accountability and probity.

If Council wishes to consider local preference as a factor in the supply of goods and services it should develop and adopt an appropriate policy. This policy should be based on sound reasoning and outline the circumstances in which the council would bring this policy into effect. If an additional cost is to be incurred by the Council in implementing its local preference policy, the maximum amount or percentage of that additional cost should be specified and the particular circumstances in which the amount should also be acceptable to the local community.

It therefore may be appropriate to stipulate a percentage advantage where 'all things equal' of say 5% in dollar terms to quotations received from local dealers. For example, if a quotation is received from dealer X being not local of \$30,000 and a quotation for a similar vehicle is received from dealer Y being a local dealer for \$31,500 which exceeds the lowest quote by 5%, the local quotation would be accepted in accordance with Council's adopted Purchasing Standard Working Procedure.

Any policy adopted should be provided to any potential tenderers prior to their decision to submit a tender. Such a policy should also be included in the tender documents and identified in any evaluation process.

POLICY IMPLICATIONS

Council does not have an adopted Local Preference Policy in regard to the sourcing of light vehicles at this time.

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

Council's legal advisor has no issues with this proposal.

ATTACHMENTS

1. Excerpt from Tendering Guidelines for NSW Local Government – Local Preference Policy

RECOMMENDATION

THAT Council note the report on the purchase of light vehicles.

ITEM-19 OPER - 08/07/13 - WATER REPORT

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

REFERENCE

Min No 13-174: Ordinary Meeting of Council held on 27 May 2013

SUMMARY

This report provides an update on various water management issues as per Minute Number 13-174.

COMMENTARY

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

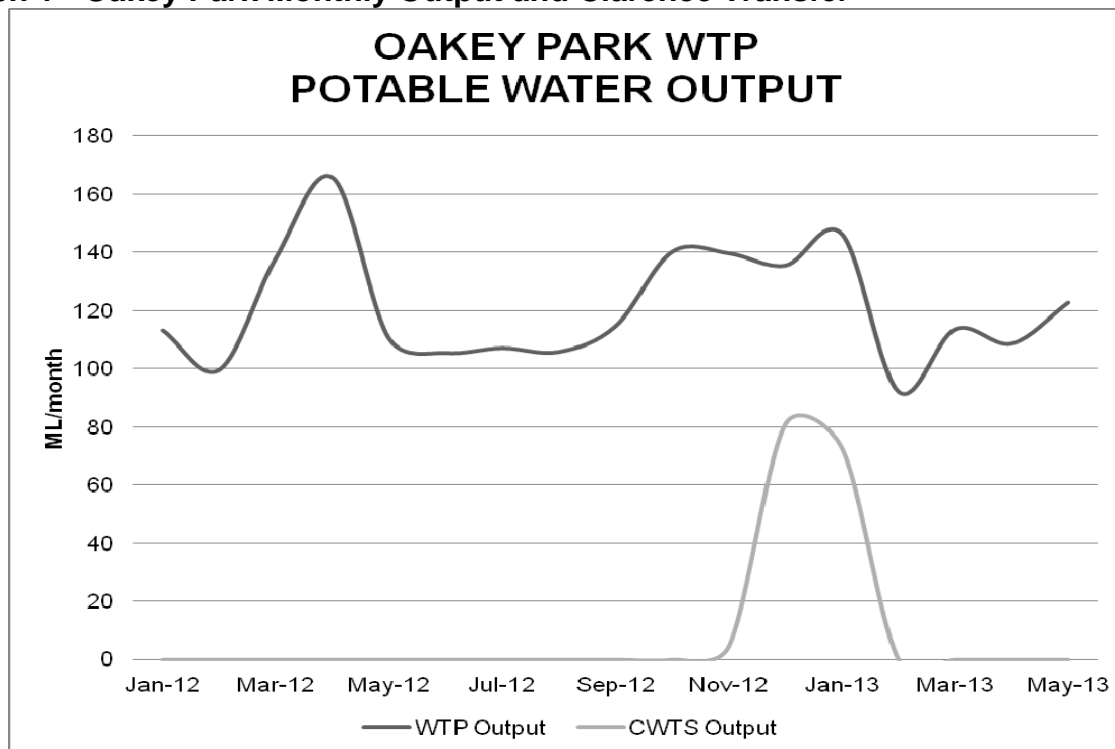
Current Dam Levels for both Farmers Creek and Fish River

Farmers Creek Dam #2 capacity on Friday 21st June was 100%.
Oberon Dam capacity on Monday 24th June was 83.57%

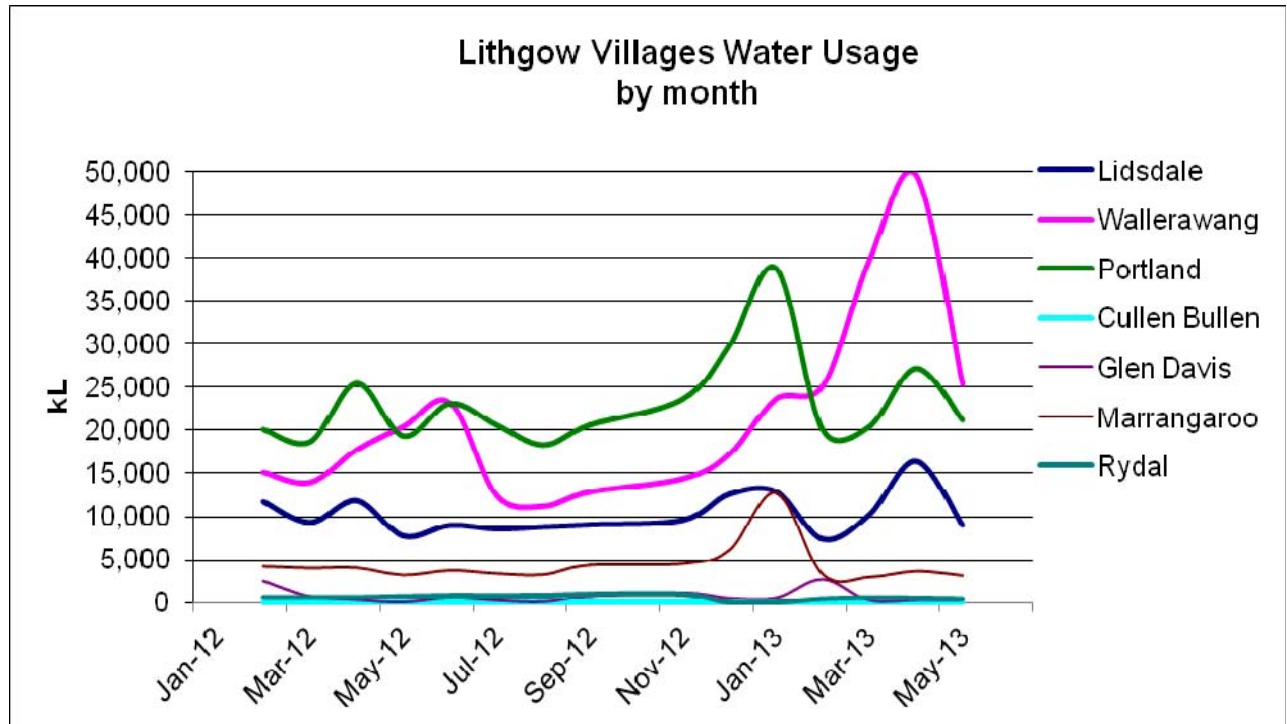
Current Water Usage from Each Supply

Graph 1 below indicates total output from the Oakey Park Water Treatment Plant (OPWTP) and the volume transferred from the Clarence Transfer System (CWTS) for 2012/13.

Graph 1 - Oakey Park Monthly Output and Clarence Transfer



Graph 2 – Lithgow Villages Supply



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 May. Two high Total Coliform results were recorded and were investigated.

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*.

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. One Total Coliform sample exceeded guidelines and one low chlorine result was recorded and were investigated.

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.

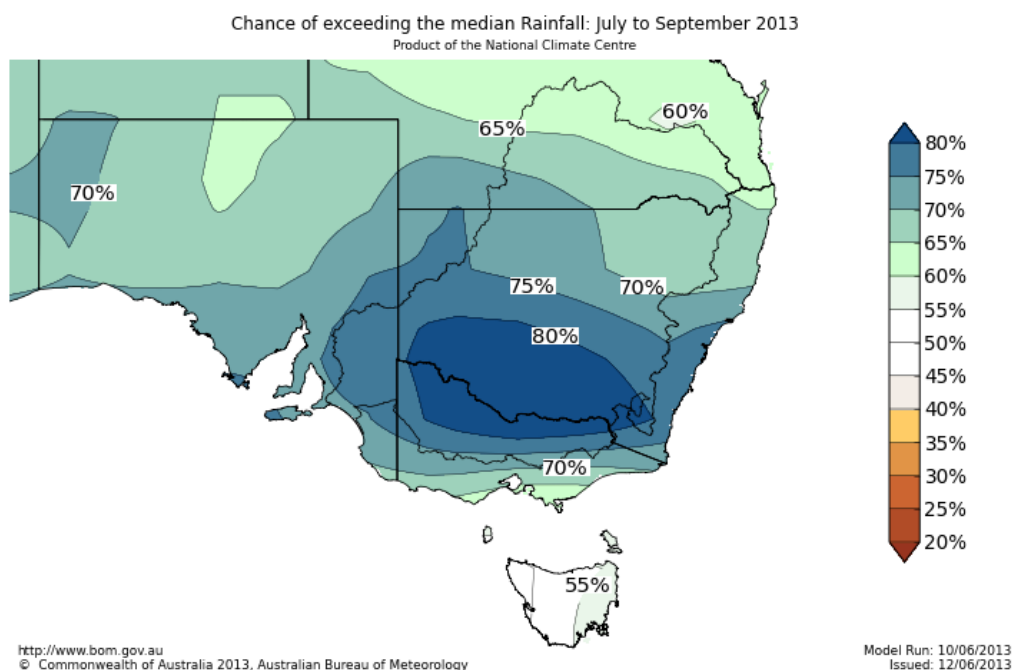
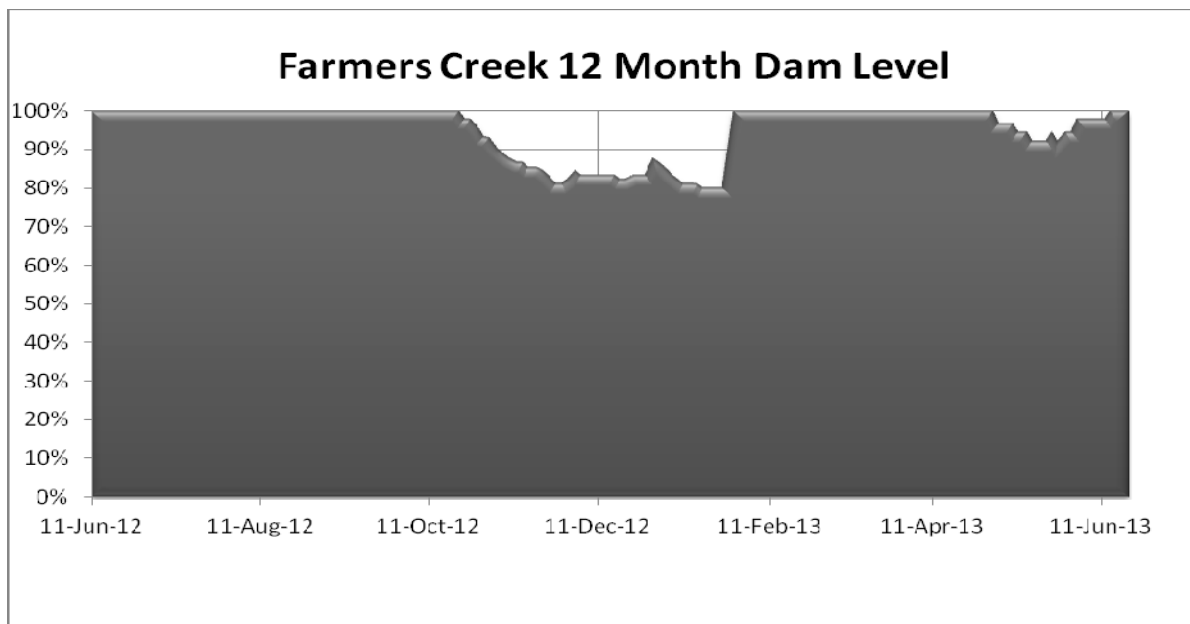
Water Saving Schemes or Processes Update

Council’s Rainwater Tank and Domestic Appliance Rebate Program continued in May with Council approving four applications for a household appliance rebate and one application for a water tank rebate.

Farmers Creek Dam #2 12 Month Levels

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

Graph 3 Farmers Creek Dam #2 over 12 Months



A wetter than normal season is more likely for mainland southeast Australia. A negative Indian Ocean Dipole (IOD) event is favoured to develop during winter-spring 2013. A negative IOD during winter-spring increases the chances of above normal rainfall over southeast Australia, which is reflected in the rainfall outlook

ALTERNATE WATER SOURCES UPDATE

The Lithgow villages and Marrangaroo Zone are currently being supplied from Fish River Water Scheme (FRWS). The Clarence Water Transfer Scheme construction is continuing.

RECOMMENDATION

THAT Council note the water report.

COMMITTEE MEETINGS

ITEM-20 OPER - 08/07/13 - OPERATIONS WORKS COMMITTEE MEETING
MINUTES - 19 JUNE 2013

REPORT BY: I STEWART – GROUP MANAGER OPERATIONS

SUMMARY

Details of the Minutes of Operations Works Committee Meeting held on 19 June 2013 for Council adoption.

COMMENTARY

At the Operations Works Committee Meeting held on 19 June 2013, there were several items discussed by the Committee, including:

- Works Inspections
 - Wolgan Valley Road Upgrade Project
 - Wattlemount Road
 - Kremer Park Grandstand
 - Back Cullen Road
 - Driveway Access Issue – Corner Boulder Road & Back Cullen Road
- Marjorie Jackson Soccer Infrastructure condition
- External Plant Hire Wolgan Valley Road project

ATTACHMENTS

1. Minutes of the Operations Works Committee Meeting held on 19 June 2013.

RECOMMENDATION

THAT Council:

1. Note the minutes of the Operations Works Committee Meeting held on 19 June 2013.
2. **NOT** proceed with the acquisition of the sections of Right of Carriageway and Crown Road on Wattlemount Road with a view to its dedication as Public Road.
3. Investigate other options which may assist the residents to undertake maintenance of Wattlemount Road.

**ITEM-21 OPER - 08/07/13 - SPORTS ADVISORY COMMITTEE MINUTES - 25
JUNE 2013**

REPORT BY: L KEARNEY – ASSETS AND PROJECTS ENGINEER

SUMMARY

Details of the Minutes of the Sports Advisory Committee Meeting held on Tuesday, 25 June 2013 for Council adoption.

COMMENTARY

At the Sports Advisory Committee Meeting held on Tuesday, 25 June 2013, there were eight (8) items discussed by the Committee, with all items except Item 4 being actioned under the Committee's delegated authority, and requiring Council to note the items.

Items discussed included:

- 2013 LJ Hooker Reg Cowden Memorial Sport Star of the Year Awards for April and May
- Booking Requests including:
 - Cricket NSW (Watsford and Conran Ovals, Lithgow)
 - Lithgow Flash Carnival Committee (Tony Luchetti Sportsground and Watsford Oval, Lithgow)
 - Lithgow Storm Junior RLFC (Tony Luchetti Sportsground, Lithgow)
 - Lithgow Public School (Jim Monaghan Athletics Oval, Lithgow)
 - Western School Sports Association (Lithgow War Memorial Olympic Swimming Pool, Lithgow)
- Civic Ballroom use during 2014 by Lithgow Village Markets (possible conflicts)
- General Business including Item 4 relating to financial assistance requests, and the Committee has made a recommendation for Council's consideration.

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

Item 4 will require \$1,000.00 to be expended from the current allocation for Financial Assistance for Sporting Representations (\$500.00 to Bryce Chapman and \$500.00 to Chad Heath).

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes of the Sports Advisory Committee Meeting held on Tuesday, 25 June 2013.

RECOMMENDATION

THAT:

1. Council approve financial assistance of \$1,000.00 from the current allocation for Financial Assistance for Sporting Representations (\$500.00 for Bryce Chapman and \$500.00 for Chad Heath); and
2. Council note the minutes of the Sports Advisory Committee meeting held on Tuesday, 25 June 2013.

**ITEM-22 OPER - 08/07/13 - TRAFFIC AUTHORITY LOCAL COMMITTEE
MEETING MINUTES - 6 JUNE 2013**

REPORT BY: I STEWART - GROUP MANAGER OPERATIONS

SUMMARY

This report details the Minutes of the Traffic Authority Local Committee Meeting held on 6 June 2013.

COMMENTARY

At the Traffic Authority Local Committee held on 6 June 2013, there were several items discussed by the Committee:

1. Business arising from the previous minutes
 - Request for ramp/handrail or disabled parking space Lithgow Mobility Aids Main Street Lithgow.
 - Naomi Street Lithgow- Request for change to traffic direction
 - Speeding vehicles Barton Street Lithgow
2. New Business
 - Request for load limits- various roads Portland
 - Request from Forests NSW- increased load limit for 19 metre B-doubles on All Flats Road at Hampton
 - PsyFari Music Festival- Upper Nile Road Glen Alice August 2013
 - Ironfest 2014- Traffic Flow and parking concept proposal
 - Issues with Speeding traffic- Hartley Valley Road Lithgow
 - Marjorie Jackson Soccer fields-parking issues
 - Pedestrian and mobility access (PAMP) study- Great Western Highway Lithgow
 - Cancer Charity Walk- Wallerawang to Portland
 - Fullagar Avenue Lithgow- issues with speeding vehicles/request for speed humps
3. General Business
 - Quota Park Lithgow- Request for No Stopping signage
 - Convex traffic mirrors- signage required
 - Lithgow Valley Plaza- lack of lighting
 - Request for higher mass vehicles access- Main Street Wallerawang

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

LEGAL IMPLICATIONS

NIL

ATTACHMENTS

1. Minutes from the Traffic Authority Local Committee meeting of 6 June 2013

RECOMMENDATION

THAT Council notes the minutes of the Traffic Authority Committee meeting held on 6 June 2013.

ITEM-23 COMM - 08/07/13 - YOUTH COUNCIL MEETING 25 JUNE 2013

REPORT BY: M JONES - COMMUNITY DEVELOPMENT OFFICER

REFERENCE

Min No 13-69: Ordinary Meeting of Council held on 25 February 2013
Min No 13-104: Ordinary Meeting of Council held on 18 March 2013
Min No 13-133: Ordinary Meeting of Council held on 15 April 2013
Min No 13-187: Ordinary Meeting of Council held on 27 May 2013
Min No 13-214: Ordinary Meeting of Council held on 17 June 2013

SUMMARY

This report details the minutes of the Youth Council meeting held on 25 June 2013.

COMMENTARY

At the Youth Council meeting held on 25 June 2013 various items were discussed by the committee including:

- PCYC Scholarships implementation and promotion.
- Ideas for future youth focused events in Lithgow.
- Ideas for broader consultation with local young people.

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 the Youth Council meeting 25 June 2013.

RECOMMENDATION

THAT Council notes the minutes of the Youth Council meeting held 25 June 2013.

BUSINESS OF GREAT URGENCY

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

- a) A motion is passed to have the business transacted at the meeting: and*
- b) The business proposed to be brought forward is ruled by the Chairperson to be of great urgency.*

CLOSED REPORT

ITEM-24 **CONFIDENTIAL - CLOSED REPORT - FINAN - 08/07/13 - LEGAL - ACTION - ILLEGAL WATER CONNECTION**

REPORT BY: C FARNSWORTH - FINANCE MANAGER

SUMMARY

The purpose of this report is to authorise the General Manager with delegation to prosecute any person or persons who, without having obtained a relevant approval, commits an offence in breach of the Act specifically for the removal of a Council water Meter and ongoing access of the town water supply.

Reason for Confidentiality

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

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

RECOMMENDATION

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