

**LOCAL GOVERNMENT
PECUNIARY INTEREST AND DISCIPLINARY TRIBUNAL
LOCAL GOVERNMENT ACT 1993**

LGPIDT 06/2012

**DIRECTOR GENERAL, DEPARTMENT OF PREMIER AND CABINET
RE: COUNCILLOR MARTIN TICEHURST, CITY OF LITHGOW COUNCIL**

DETERMINATION

1. This matter concerns an alleged breach by Councillor Martin Ticehurst, a Councillor of the City of Lithgow Council, of Chapter 14 of the *Local Government Act*, and in particular as relating to an alleged failure to comply with a resolution of the City of Lithgow Council made on 30 May 2011.
2. On 20 November 2012 the delegate of the Director General, the Department of Premier and Cabinet, Division of Local Government referred this matter to the Tribunal pursuant to s.440N. By its Notice dated 12 December 2012 the Tribunal determined to conduct proceedings in relation to the matter, which proceedings were heard on 4 April 2013. Councillor Ticehurst appeared in person and the Director General was represented by Mr Barley.

FACTUAL CIRCUMSTANCES CONCERNING THE ALLEGED BREACH

3. The specific details of the factual circumstances giving rise to the resolution the subject of the alleged breach will be more fully described below, however, for present purposes it is relevant to note that in about December 2010 Councillor Ticehurst (a Councillor of the City of Lithgow Council) had sent certain emails to, first, the General Manager of the Eurobodalla Shire Council, and then, to the Councillors of the Eurobodalla Shire Council. That General

Manager had previously been the General Manager of the City of Lithgow Council.

4. The emails concerned a press release issued by the Eurobodalla Shire Council concerning their General Manager's appointment, and the assertion in the press release that the General Manager held qualifications that included a Masters of Business Administration (MBA). The emails in turn caused a complaint to be made by the Mayor of Eurobodalla Shire Council to the Lithgow City Council which in turn had undertaken, via a Mr Woodward, Solicitor, an investigation into the conduct of Councillor Ticehurst in order to establish whether his actions were in breach of the Council's Adopted Code of Conduct.
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.

THE CODE OF CONDUCT

7. On 14 September 2009 the City of Lithgow Council resolved to adopt the provisions of the Model of Code of Conduct for Local Councils in NSW (as defined in the Act) as its adopted code.
8. The relevant Clause of the Code of Conduct to this proceeding is Clause 6.4 which provides as follows:

“Where you are a councillor and have been found in breach of the code of conduct, you must comply with any council resolution requiring you to take action as a result of that breach.”

9. The resolution of the Council on 30 May 2011, in so far it is said reflected that requirement in the Code of Conduct, and in respect to which it is alleged there was a breach, was resolution (v) in the following terms:

“Councillor Ticehurst be required to make a formal apology in writing, within 28 days, to the General Manager of Eurobodalla Shire Council, Paul Anderson, for breaching the Lithgow Code of Conduct by not showing him respect in the circulation of the emails in December 2010 concerning his tertiary qualifications (and employment) and a copy of such apology to be provided to the General Manager of the Lithgow City Council.”

10. As referred above it was contended before the Tribunal that no such apology has ever been made. At the hearing this was not denied.
11. In addition to the resolution set out in full above the Council also resolved as part of the overall resolution concerning the matter that it found that Councillor Ticehurst had breached the Code of Conduct in sending the subject emails, and in addition the Council passed a resolution to censure Councillor Ticehurst for breaching the Lithgow Code of Conduct.
12. Chapter 12 of the Code of Conduct deals with “complaint handling procedures & sanctions”. Pursuant to Clause 12.24 before a Council can impose a sanction it must make a determination that a councillor has breached a Code of Conduct. Pursuant to Clause 12.25:

“Where the Council finds that a councillor or general manager has breached the Code, it may decide by resolution to:

- a) censure the councillor for misbehaviour in accordance with s.440G of the Act
- b) require the councillor or general manager to apologise to any person adversely affected by the breach

- c) counsel the councillor or general manager
- d) make public findings of inappropriate conduct
- e) prosecute for any breach of law.”

13. The alternatives contained in Clause 12.25 are neither expressed as being in the alternative, nor cumulative. This matter is raised because the resolution of the council, whilst complying with the requirement of Clause 12.24, imposed two sanctions pursuant to paragraphs 12.25(a) and (b).

MISBEHAVIOUR

14. Division 3 of Part 1 contained within Chapter 14 of the *Local Government Act* is entitled “Misbehaviour”. Pursuant s.440F (as relevant to this hearing):

“*Misbehaviour* of a Councillor means any of the following:

....

- b) a failure by the councillor to comply with an applicable requirement of a code of conduct as required under s.440(5)

....”

15. Section 440(5) is concerned with the adoption by Council of a Code of Conduct.

16. Pursuant to s.440F(2) misbehaviour constitutes not only a positive act but may also consist of an omission or failure to do something.

17. Pursuant to s.440I(1) the grounds on which a councillor may be suspended from civic office under Division 3 (again as relevant to this hearing) are that:

- “b) the councillor’s behaviour has involved one incident of misbehaviour that is of such a sufficiently serious nature as to warrant the councillor’s suspension.”

18. Section 440I(1)(a) also establishes as a ground of suspension from civic office behaviour that has been disruptive over a period and involved more than one incident of misbehaviour during that period. However that provision is not relied upon the Director General in this hearing.
19. As set out above, pursuant to Clause 6.4 of the Code of Conduct, where a Councillor has been found in breach of the Code of Conduct the Councillor must comply with any Council resolution requiring him or her to take action as a result of that breach. The particular action identified in the resolution of the Council made on 30 May 2011 was for the giving of a written apology to the General Manager of the Eurobodalla Shire Council, which apology was not forthcoming.

SUBMISSIONS AGAINST THE FINDING OF MISBEHAVIOUR

20. At the hearing before the Tribunal Councillor Ticehurst denied any misbehaviour sufficient for the purposes of Division 3 primarily on the basis that the circumstances giving rise to the resolution requiring him to provide an apology lacked sufficient foundation for the ultimate making of that resolution.
21. His principal submission was that the allegations contained in the emails that he sent both to Mr Anderson and the Councillors of Eurobodalla Shire Council concerning the error in the press release regarding Mr Anderson's qualifications were factually correct. That is, his assertion that Mr Anderson did not hold an MBA in circumstances where it was represented in a press release that he did was correct and that therefore there was no foundation for any finding in the Code of Conduct inquiry that he had breached the Code of Conduct sufficient to give rise to a resolution requiring him to give an apology. In addition he pointed to the fact that Mr Anderson at no time had complained, let alone asserted that he had been adversely affected.
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.
24. In sending the email Councillor Ticehurst had also programmed a "read receipt". The email was sent at 1:07pm on 12 December 2012 and at 1:11pm that same day Councillor Ticehurst received a read receipt confirmation. However, with the exception of that read receipt confirmation, Councillor Ticehurst had at no time received any response to his email from Mr Anderson.
25. On 15 December 2011 (the Wednesday following) Councillor Ticehurst then sent an email to each of the Councillors of the Eurobodalla Shire Council. He attached the email that he had sent to Mr Anderson and indicated that he was writing to the council as a whole "to seek a formal response to the issues and questions raised in the enclosed email to the General Manager". He requested that the Council as a whole (should) as soon as possible provide him with a written response to their proposed due diligence regarding the Council's corporate governance in the matter.

26. On 18 December 2010 Councillor Ticehurst sent a further email to the Councillors of Eurobodalla Shire Council. In that email he provided further information concerning sources (including persons) whom he alleged might assist in relation to the issued raised in his earlier email.
27. At the Ordinary Meeting of the Eurobodalla Shire Council held on 21 December 2010 the matter of Councillor Ticehurst's email(s) was raised. The minutes record that during the debate in relation to the matter the Mayor had confirmed that the former Mayor had said that Mr Anderson had made no statement to the effect that he had a MBA, and it was unclear how it was that the press release contained an assertion that he did. Somewhat ironically, during the debate another Councillor insisted that the record be corrected and that there be an apology issued to Mr Anderson "whose name has been linked with something not of his doing". Following debate the Council voted on and carried the following motion:
- "That Council write to the Mayor and/or General Manager of Lithgow City Council and indicate that Council is not interested in any further communication of any type from Councillor Martin Ticehurst and we totally reject any innuendo contained in his previous correspondence and ask Council if it is a position held by Lithgow City Council and if the matter should be referred to their Conduct Committee."
28. A further motion was carried "that Council has complete confidence in the present General Manager, Mr Paul Anderson."
29. On 24 December 2010 the Mayor of Eurobodalla Shire Council wrote to the General Manager of the Lithgow City Council in relation to Councillor Ticehurst's emails. In that letter the Mayor referenced the concern by the Council that the sending of the emails may have in fact breached section 6 of the Code of Conduct and invited a review of the matter to determine if the matter should be referred to the (Lithgow) Council's Conduct Review Committee.
30. On the same day the Mayor of Eurobodalla Shire Council also wrote a further letter to the Mayor of Lithgow City Council concerning the emails by Councillor

Ticehurst. In that letter the Mayor sought confirmation “that Councillor Ticehurst is operating in fact on the understanding of Council and that the views expressed in his emails are in fact Council’s views.”

31. On that same day (24 December 2010) the Mayor of Lithgow City Council responded to the effect “that the emails sent by Councillor Martin Ticehurst on this matter are not the views of Lithgow City Council or (sic) has Councillor Ticehurst been authorised to represent Lithgow City Council in such matters.”
32. On 29 December 2010 Councillor Ticehurst sent a further email to the Councillors of the Eurobodalla Shire Council. In that email he addressed the Minutes of the Council’s meeting held on 21 December 2010 and made certain assertions concerning the procedure of that meeting including Councillors’ reliance upon verbal assertions at that meeting. Also, Councillor Ticehurst referred to the fact that the emails had been marked “private and confidential” to the council as a whole, but as the emails had now been discussed in public forum, to the extent that there were any allegations contained in the emails it was the Councillors of the Eurobodalla Shire Council who had published those matters, but not Councillor Ticehurst.
33. On 23 January 2011 Councillor Ticehurst sent a further email to the Mayor of the Eurobodalla Shire Council (also copied to the ICAC). That email constituted a formal complaint under the Eurobodalla Shire Council Code of Conduct in relation to the issue of the General Manager’s qualifications and the media release.
34. On 25 January 2011 the General Manager of the Lithgow City Council responded to the letter dated 24 December 2010 from the Mayor of the Eurobodalla Shire Council. In that letter the General Manager summarised what he described and apparently understood to be that Mayor’s concerns. He also recorded the assertion that it appeared, by reference to the reference to section 6 of the Code in the Mayor’s letter, that a complaint been made that Councillor Ticehurst breached the general conduct provisions in that he has not “treated others with respect at all times” (6.3). Councillor Ticehurst in

submissions to this Tribunal asserted that all of those matters were the drafting, effectively, of the Lithgow City Council General Manager's assertions but were not necessarily drawn from the Mayor's letter, which on assessment of the correspondence is probably correct. Nonetheless the General Manager invited a response to those matters.

35. On 18 February 2011 the Mayor of Eurobodalla Shire Council wrote to Councillor Ticehurst in response to his formal complaint of breach of the code of conduct. In that letter the Mayor indicated that the complaint was dismissed on the grounds of no *prima facie* evidence of a breach of the code of conduct, and that the complaint is trivial, frivolous, vexatious or not made in good faith.

36. On 18 February 2011 the Mayor of Eurobodalla Shire Council also responded to the letter dated 25 January 2011 from the General Manager of the Lithgow City Council and stated:

"I accept the issues raised in your letter accurately reflect the basis of the complaint."

37. As referred above, Councillor Ticehurst in submissions before this Tribunal submitted that the letter by the Lithgow City Council General Manager was actually a summary of his own complaint rather than the Eurobodalla Shire Council's Mayor's complaint, but nonetheless it was as adopted by the Mayor of Eurobodalla Shire Council in his letter of 18 February 2011.

38. That acceptance then gave rise to the undertaking of a Code of Conduct investigation by Mr Woodward, ultimately culminating in the preparation of a Draft Code of Conduct Report that was presented to the Councillors of Lithgow City Council on 30 May 2011, as above referred. That report deals with matters related to the alleged breach by Councillor Ticehurst of the Code of Conduct, matters which I shall not address in this Determination.

39. That notwithstanding, the report records that on 9 March 2011 a letter was sent to Councillor Ticehurst advising of the complaint and inviting his response in relation to the complaint and certain specific matters. Councillor

Ticehurst was said to have acknowledged receipt of the letter but did not respond to the issues raised. This matter was confirmed by Councillor Ticehurst at the hearing before this Tribunal.

40. At the hearing Councillor Ticehurst drew attention to the draft report making no reference to any evidence or statement from Mr Anderson comprising a complaint by him about the subject matter of the email. In addition he pointed to the fact that there was no request by Mr Anderson himself for an apology, but yet in the draft report Mr Woodward had recommended that an apology be required of Councillor Ticehurst and that that was in the absence of any request by Mr Anderson himself.
41. As referred above, on 30 May 2011 the Lithgow City Council considered the Draft Code of Conduct Report prepared by Mr Woodward and passed certain resolutions in relation to that matter, one of which is the subject of the particular complaint to this Tribunal.
42. During the course of the meeting of 30 May 2011 an amended motion was put to the Council by Councillor Ticehurst. That motion was an extensive one but one which included two items that made reference to the fact that the Draft Code of Conduct Report did not report on the fact that on 25 January 2011 the Eurobodalla Shire Council published on its website an addendum to its original media release which corrected the reference to the tertiary qualifications of the General Manager. Councillor Ticehurst says that should have alerted the Councillors to the correctness of his email and to the fact that in consequence of his email the public record was updated.
43. As referred above Councillor Ticehurst did not comply with the resolution requiring the issuing of an apology to Mr Anderson. That conduct (omission) gave rise to a resolution by the Council on 11 July 2011 to advise the Minister for Local Government and the Independent Reviewer of the noncompliance with the Code of Conduct Resolution.

44. On 23 January 2012 Councillor Ticehurst moved a motion that related to the investigation report and the absence of reference in it to the addendum media release that corrected the reference to the tertiary qualifications of Mr Anderson on the Eurobodalla Shire Council website. That motion was not carried.
45. The essence of all of this material, on the submissions of Councillor Ticehurst, was that the underlying assertion in the email concerning Mr Anderson's qualifications was correct. That being the case there was no foundation for any finding by the Council of breach of the Code of Conduct and hence the resolution requiring him to apologise, particularly in circumstances where Mr Anderson himself did not complain and did not seek an apology, was also undermined sufficient for him not to have been required to comply with the resolution.

DECISION ON MISBEHAVIOUR

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 or omission of something – as to which see s.440F(2)) constitutes misbehaviour, and the Tribunal makes a finding to that effect.

48. Also as referred above, pursuant to s.440(1)(b) the grounds on which a Councillor may be suspended from civic office under Division 3 are that the behaviour has involved one incident of misbehaviour that is of such a sufficient serious nature as to warrant the Councillor's suspension.
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.
50. It is apparent that the basis for such resistance is the position maintained by Councillor Ticehurst that he was correct in his assertion concerning the General Manager's qualifications. But in many respects that is not to the point. The fact remains that the issue concerning Councillor Ticehurst's sending of emails concerning the tertiary qualifications of the General Manager was the subject of a Code of Conduct inquiry undertaken by the Lithgow City Council. The inquirer reported to the Council and as a result of that report the Council passed a resolution making a finding about a breach of the Code of Conduct. This hearing is not concerned with an appeal or a redetermination of that finding. Nor is it concerned with an appeal against or a reconsideration of the resolution seeking an apology from Councillor Ticehurst to Mr Anderson.
51. Rather, this Tribunal is concerned with the fact of a resolution by the Council requiring such an apology, and the fact of the resistance by Councillor Ticehurst, as far as the Tribunal is aware including up to today, to comply with that resolution. Although it constitutes an omission over a significant period of time the Tribunal is satisfied that that conduct constitutes an incident of

misbehaviour (being a continuous one) that is of sufficient serious nature as to warrant the Councillor's suspension. That is because it is not for Councillor Ticehurst to decide whether he should or should not comply with the resolution requiring an apology, rather, as the Code of Conduct requires, he was required to comply with the resolution.

52. Accordingly, for the purposes of Division 3 of Chapter 14 the Tribunal finds that Councillor Ticehurst's conduct in failing to comply with the resolution of the Council on 30 May 2011 constituted misbehaviour, and was an incident of misbehaviour of such a serious nature as to warrant Councillor Ticehurst's suspension.

CONSEQUENCE

53. Pursuant to s.482A(2):

"The Tribunal may, if it finds that the behaviour concerned warrants action under this section:

- a) counsel the councillor, or
 - b) reprimand the councillor, or
 - c) suspend the councillor from civic office for a period not exceeding 6 months, or
 - d) suspend the councillor's right to be paid any fee or other remuneration, to which the councillor would otherwise be entitled as the holder of the civic office, in respect of a period not exceeding 6 months (without suspending the councillor from civic office for that period)."
54. As referred in this Tribunal's decision delivered on 25 June 2013 in *Councillor Martin Ticehurst, City of Lithgow Council* (LGPIDT 05/2012) at [82]-[85], s.482A has been amended to insert a new s.482A(3). As this matter was referred to the Tribunal prior to the commencement of operation of that subsection, this matter is to be determined without reference to that new subsection.

55. On the question of consequence the matters set out above concerning the correctness of the allegation contained in Councillor Ticehurst's emails was emphasised by him, and, of course, are relevant to the question of consequence.
56. This notwithstanding it is clear that Councillor Ticehurst abjectly refused to participate in the investigation undertaken by the Code of Conduct Inquirer. It can only be left to speculation as to whether, if he did, that inquirer would have been made aware of the fact that the Eurobodalla Shire Council in fact published an addendum so as to correct the public record concerning Mr Anderson's qualifications. This notwithstanding it is in the realm of possibility that had he done so such participation may have avoided the resolution being made in the first place, let alone a resolution requiring Councillor Ticehurst to make a written apology. Of course, even in those circumstances the resolution may still have been made.
57. In mitigation of the question of consequence Councillor Ticehurst tendered evidence before the Tribunal and made submissions in respect of another Code of Conduct inquiry. Councillor Ticehurst pointed to the fact that in not dissimilar circumstances where allegations had been made concerning a member of parliament, Councillor Ticehurst had also, by resolution, been censured and asked to give an apology. He submitted that the circumstances of that other matter were more relevant than the present case because in that instance the person the subject of the representation by Councillor Ticehurst had himself complained, and had himself sought an apology, unlike Mr Anderson in the present case. He pointed to the fact that notwithstanding the resolution by the Council the Director General, through his Delegate, had specifically advised Councillor Ticehurst that the matter would not be referred to this Tribunal for consideration. In that notification the Director General had given as one of the reasons "the lack of *prima facie* evidence that your conduct adversely affected the two people to whom you were required by the resolution to apologise".

58. This matter is of relevance to the question of consequence because, in some respects, it demonstrates a degree of inconsistency in the reference of matters to this Tribunal, not only concerning Councillors generally, but in particular with respect to Councillor Ticehurst.
59. As with the submission concerning the absence of any complaint by Mr Anderson, Councillor Ticehurst not only points to this fact but also to the fact that there is an absence of evidence that his conduct has adversely affected Mr Anderson. He points to the fact that in the recent correspondence from Mr Anderson (to the Director General) confirming that no apology had been given Mr Anderson still does not make any complaint and makes no assertion of any adverse effect on him by the emails. It is unclear whether he was, expressly or by inference, asked to comment on those matters.
60. Also of relevance to the question of consequence are the matters set out above concerning the effective “drafting” of the concerns and complaint by the current General Manager of the Lithgow City Council (on behalf of the Mayor of the Eurobodalla Shire Council), and the possibility that any reputation damage done to Mr Anderson (if there was any) was effected in the discussion of matters by the general council in December 2011. They of course were entitled to do so, but Councillor Ticehurst submitted that in doing so they were the conveyer of any reputation damage to the public, not he.
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.

62. Thereafter the Code and in particular the Model Code (as adopted by Lithgow City Council) sets out a process for arriving at a point where a Council can vote upon the matter of an alleged breach of the Code of Conduct and decide on that matter. The resolution of the Council is the culmination of that process.
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 this 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.
67. In its decision delivered on 14 May 2013 (LGPIDT 02/2012) the Tribunal determined the complaint lodged by the Director General against Councillor Ticehurst for failure to lodge an annual return. In determining a breach of the Act with respect to that complaint the Tribunal imposed a suspension order for a period of two months from the date of those Orders (14 May 2013). In the Tribunal's decision dated 25 June 2013 (LGPIDT 05/2012) the Tribunal made an Order pursuant to s.482A(2)(c) suspending Councillor Ticehurst from civic office for a period of four (4) months from 15 July 2013. That Determination concerned Councillor Ticehurst's failure to comply with resolutions requiring him to leave certain Council meetings.
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.

Dated: 27 June 2013



Adrian Galasso SC

Local Government Pecuniary Interest and Disciplinary Tribunal

**LOCAL GOVERNMENT
PECUNIARY INTEREST & DISCIPLINARY TRIBUNAL**

LOCAL GOVERNMENT ACT, 1993

LGPIDT 06/2012

**DIRECTOR GENERAL, DEPARTMENT OF PREMIER AND CABINET
RE: COUNCILLOR MARTIN TICEHURST, LITHGOW CITY COUNCIL**

ORDERS

The Tribunal makes 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.

Date: 27 June 2013



ADRIAN GALASSO SC

Local Government Pecuniary Interest & Disciplinary Tribunal