



A CENTRE OF REGIONAL EXCELLENCE

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

28 JULY 2014

AT 7.00pm

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# AGENDA

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## **ACKNOWLEDGEMENT OF COUNTRY**

## **APOLOGIES**

## **PRESENT**

## **CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 30 JUNE 2014**

## **DECLARATION OF INTEREST**

## **PUBLIC FORUM**

## **PRESENTATIONS - NIL**

## **MAYORAL MINUTES - NIL**

## **STAFF REPORTS**

General Managers Reports  
Environment and Development Reports  
Operation Reports  
Corporate and Community Reports

## **COUNCIL COMMITTEE MINUTES**

Operations Committee Meeting Minutes - 5 June 2014  
Youth Council Minutes - 24 June 2014  
Sports Advisory Committee Meeting Minutes - 24 June 2014  
Crime Prevention Committee Minutes- 30 June 2014  
Disability Access Committee Minutes - 2 July 2014  
Traffic Advisory Local Committee - 3 July 2014  
Operations Committee Meeting Minutes - 3rd July 2014  
Economic Development Advisory Committee Meeting Minutes - 9 July 2014

## **DELEGATES REPORTS - NIL**

## **NOTICES OF MOTION**

Local Government Act and Council Model Code Of Conduct - Reportable Donations - Councillor M Ticehurst  
Sections 328a and 328b of the Local Government Act 1993 - Councillor M Ticehurst  
Council Model Code of Conduct - Inappropriate Interactions - Councillor M Ticehurst  
Tenders for Stage 2 Farmers Creek Flood Mitigation Project - Belated Error - Councillor M Ticehurst

Legal Advice on Councils 50 Metre Swimming Pool and Report on Bio-Retention Basin  
South Bowenfels - Councillor M Ticehurst  
Low Frequency Infrasound Noise - Clarence - Councillor J McGinnes  
Indoor Aquatic Centre - Councillor J McGinnes

**QUESTIONS WITH NOTICE - NIL**

**NOTICE OF RECISSIONS - NIL**

**BUSINESS OF GREAT URGENCY**

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

**CLOSED COUNCIL**

Stockade Close Lithgow Bio-Retention Basin

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CLOSED REPORT

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**ITEM-29**            **CONFIDENTIAL - CLOSED REPORT - GM - 28/07/14 - STOCKADE**  
**CLOSE LITHGOW BIO-RETENTION BASIN**

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## **GENERAL MANAGERS REPORTS**

**ITEM-1**            **GM - 28/07/14 - PORTLAND GOLF CLUB**

**REPORT BY: R BAILEY - GENERAL MANAGER**

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## **REFERENCE**

Min No 11-38:            Ordinary Meeting of Council held on 14 February 2011  
Min No 11-111:         Ordinary Meeting of Council held on 28 February 2011  
Min No 12-314:         Ordinary Meeting of Council held on 3 September 2012  
Min No 12-411:         Ordinary Meeting of Council held on 5 November 2012  
Min No 14-486:         Ordinary Meeting of Council held on 17 December 2012  
Min No 14-269:         Ordinary Meeting of Council held on 30 June 2014

## **SUMMARY**

Council resolved to provide a loan of up to \$150,000 to the Portland Golf Club to enable it complete a subdivision of land that would allow the Club's operations to continue.

Council has since resolved that a report be provided on the status of the loan.

## **COMMENTARY**

Council previously resolved:

### **14-269 RESOLVED**

**THAT** the General Manager and/or Senior Council Officers provide a report to Councillors at the next Ordinary Meeting of the Lithgow City Council on the current status of the \$150,000 nil interest mortgage and loan arrangement with the Portland Golf Club in relation to the Clubs development of residential land in Bell Street Portland.

### **Background**

In 2012, due to financial difficulties, Council was approached to provide a loan of up to \$150,000 to the Portland Golf Club. The Club advised that it had suffered financial difficulties in recent years and as a result sold several of its poker machines to assist keeping the club afloat financially. To help the situation the Club also made the decision to reduce the number of holes that the Club maintains and reverted to the old nine hole course. The Club further reduced its operating expenditure by reducing the number of

paid positions to two part-time bar staff. It was advised at the time that the Club had approximately 200 members.

Prior to this request and to assist the Club, Council resolved to provide in-kind assistance to the Club and in March 2011. This assistance was in the 2010/11 financial year of up to \$10,000 in in-kind works to generally assist with the maintenance of areas of the Portland golf course and car parking areas.

In order to overcome its financial difficulties the Club proposed to develop seven (7) housing blocks that would face Bell St, Portland, and a residual allotment for the Club. Council had granted approval in 21 March 2012 (DA016/12) for these allotments to be developed. The Club then applied for a modification of consent to permit the staging of the subdivision. This modification was granted on 8 October 2012.

The blocks were unserviced and the consent required that these parcels be serviced before the individual parcels may be separately excised. The Club advised that it did not have the financial capability to service all of the allotments fully and therefore wished to stage the work to enable it to sell some lots and then progress to the next stage. The modified consent is designed so this staging may occur.

In order to complete the works the Club sought a loan of \$150,000 to allow it to complete the subdivision. It was indicated that the water and sewer costs were estimated at \$50,000 and electricity costs at \$100,000. It was proposed that the monies would be repaid as the land was sold with a proportion going to the Club to assist with ongoing operations and the remainder repaying the Council loan.

To assist the Club Council resolved the following:

**12-486 RESOLVED**

**THAT** Council:

1. Formally provide a loan of up to \$150,000 at NIL interest to the Portland Golf Club to allow the Club to develop land in Bell Street Portland;
2. Enter into a mortgage and loan arrangement with the Portland Golf Club in relation to these monies with the Club being responsible for all legal and associated costs of the arrangement, with the repayment period not to exceed 5 years;
3. Authorise the General Manager to negotiate the draw down and repayment schedules of the loan; and
4. Authorise the Council seal to be affixed to any documentation requiring the seal.

Discussions were held with a representative of the Portland Golf Club in relation to entering into a mortgage; loan agreement; draw down of the loan and repayment schedule. Repayment of the loan was based upon 50% of the sale price with a minimum of \$30,000 being repaid for each allotment sold until the loan is repaid.

Since this time the Portland Golf Club has been working to complete the subdivision of the land. It is understood that most of the infrastructure items required under the consent have been completed and the plans are being prepared to finalise the completion of the subdivision. Once the plans are completed and release authorised contracts for the sale

of the land will then be prepared. The Club has advised that it expects these matters to be finalised within the month.

Council has advanced the Portland Golf Club \$106,794 of the \$150,000 loan. The first advance to the Club on 17 July 2014 and last advance made on 28 May 2014.

Council has taken out mortgages over the parcels as well as entering into a Loan Agreement. Council also holds the title deeds as security under the mortgage.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**RECOMMENDATION**

**THAT** Council note the report in relation to the status of the loan to the Portland Golf Club for the development of residential land in Bell Street Portland.



## ITEM-2 GM - 28/07/14 - RESOURCES FOR REGIONS 2014/15

REPORT BY: R BAILEY - GENERAL MANAGER

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### REFERENCE

Min No 13-80: Ordinary Meeting of Council held on 18 March 2013  
Min No 13-369: Ordinary Meeting of Council held on 28 October 2013  
Min No 13-370: Ordinary Meeting of Council held on 28 October 2013

### SUMMARY

Project nominations have been invited from NSW Government agencies, local councils, community groups, local businesses and non-government organisations for the next round of funding under the Resources for Regions program. Project nominations involving partnerships between groups are being encouraged.

Expressions of Interest for nominations close on 15 August 2014.

### COMMENTARY

The *Resources for Regions* program was established under the NSW Government's Restart NSW Fund with \$217 million committed over four years from 2011-12 to 2014-15. The Program is managed by Infrastructure NSW and the objective of program is to fund projects that will improve local infrastructure in mining affected communities.

Council was successful in both 2013-14 funding rounds receiving funding of:

- \$3.5 million for the redevelopment of Black Bridge; and
- \$10.05 million for a new Waste Water Treatment Plant at Portland

The following infrastructure projects have been approved previously:

#### 2012-13 Program

**Muswellbrook Hospital Emergency Department Upgrade – \$4 million**  
Hunter New England Local Health District

**Herbert Street Bridge Replacement, Broke – \$1.9 million**  
Singleton Council

**Bridgeman Road - New England Highway Intersection Upgrade – \$2 million**  
Singleton Council

**Pioneer Road Extension, Huntview – \$2 million**  
Singleton Council

## **2013-14 First Round**

**Cobar Waste Water Treatment Plan – \$7.8M**

Cobar Council

**Replacement of Black Bridge Wallerawang – \$3.5M**

Lithgow Council

**Ulan Road Upgrade – \$9.5M**

Mid-Western LGA

**Roads safety and improvement project including an over dimension vehicle bypass and industrial services centre road network – \$7.6M**

Muswellbrook Council

**CBD renewal project to improve traffic flows – \$9M**

Singleton Council

**Upgrade Cordeaux Road and bridge – \$4.5M**

Wollongong Council

## **2013-14 Second Round**

**A new Waste Water Treatment Plant – \$10.05M**

Lithgow Council

**Developments at Mudgee Airport - \$2M**

Mid Western Council

**Cope Road project – \$6.7M**

Mid Western Council

**Upgrades to the regional airport runway at Cobar – \$2.5M**

Cobar Council

**Upgrades to Cobar's sewerage system – \$2.1M**

Cobar Council

**Help replace twin pipelines from Cobar to Nyngan, to reduce water losses and lower the risk of pipeline failures - \$5M**

Cobar and Bogan councils

**Safety and productivity upgrades to the Denman Intersection in Muswellbrook - \$3.5M**

Muswellbrook Council

**Address safety risks and maintenance costs in Denman, Bylong & Muswellbrook as part of the Hunter's Mine Affected Roads Package - \$7.2M**

Combined areas

**Upper Hunter Tertiary Education Centre to help address skill needs in the coal industry - \$4M**

Upper Hunter Council

**Support road works, shared pathways and cliff stabilisation at the Shortland Esplanade in Newcastle - \$5.6M**

Newcastle Council

**Towards the Ryan Avenue Pavement and Safety project in Singleton - \$2.9M**

Singleton Council

**Upgrades to the Regional Livestock Markets in Singleton - \$6M**

Singleton Council

**Narrabri Water Supply Augmentation project - \$12.3M**

Narrabri Council

**Upgrades and expansion at Narrabri Airport - \$5.9M**

Narrabri Council

In accordance with the 2013 Economic Assessment of Mining Affected Communities, the following 11 Local Government Areas (LGAs) have been identified as eligible for the *Resources for Regions* program in 2014-15:

- Broken Hill
- Cessnock
- Cobar
- **Lithgow**
- Maitland
- Mid-Western Regional
- Muswellbrook
- Narrabri
- Newcastle
- Singleton
- Wollongong

Project nominations have now been invited from NSW Government agencies, local councils, community groups, local businesses and non-government organisations in the above local government areas. Project nominations involving partnerships between groups are being encouraged. An example may be a business project that delivers infrastructure with common user benefits.

The *Resources for Regions* program is open to projects that cater for both economic and social infrastructure.

Economic infrastructure includes roads, rail, local facilities to improve the movement of freight, airports, public transport, local water and sewerage projects.

Social infrastructure includes schools, hospitals, recreational facilities and child care services as well as projects that support affordable housing and aboriginal employment and businesses.

As funding for *Resources for Regions* comes from the sale of publicly owned assets, the focus will be on projects that involve the creation or enhancement of publicly owned assets.

The application procedure is a two-step process:

1. Expressions of Interest
2. Detailed Applications

Important milestones for the Program include:

- 15 July 2014 - Expressions of Interest open
- 15 August 2014 - Expressions of Interest close
- September 2014 - Announcement of shortlisted projects, and invitations to submit Detailed Applications issued
- Date to be advised – Detailed Applications close
- Quarter 1 2015 - Announcement of successful projects

Projects will be recommended to the NSW Government by Infrastructure NSW, following review by the Regional Independent Assessment Panel. Only Expressions of Interest that comply with the application requirements will be assessed. The projects will be assessed based on the following Program Criteria:

**1. Strategic Assessment**

- Consistency with the objectives and purpose of the Restart NSW Fund, in this instance, 'infrastructure projects that will improve local infrastructure in regional areas that are affected by mining operations'.
- Alignment with NSW Government priorities, including the strategic infrastructure objectives outlined in the NSW 2021 Plan, the State Infrastructure Strategy, Community Strategic Plans and other regional strategies and policies.
- Consistency with the objectives set out in the NSW Government's Response to the 2013 Economic Assessment of Mining Affected Communities.

**2. Economic Assessment**

- Demonstrated capacity to improve economic growth and productivity in the State through the creation or enhancement of publicly owned assets.

**3. Affordability**

- Affordability of the project relative to the available funding, taking into account net life-cycle cost impacts and allowing for on-going operating and maintenance requirements.

**4. Deliverability**

- Demonstrated capacity of the proponent to deliver the project through robust strategies for procurement, project management and risk management.

Projects that may be considered by Council to submit Expressions of Interest for include:

- Cullen Bullen Sewerage
- CBD Street revitalisation
- Adventure Playground
- Walkway/Cycleway
- Rural Fire Service building upgrade and helipad
- Union Theatre
- Blast Furnace

### **Conclusion**

Lithgow has had a long and proud association with mining and as a result many hundreds of millions of dollars, if not billions, have been paid in royalties from the region since mining began here. The argument for Lithgow for this funding will not likely be on the stresses of rapid growth of the industry here, instead the argument is to be better made on dealing with deteriorating infrastructure, expanding services or diversifying the economy.

There appears to be no limit to the number of nominations that may be made.

Council has also been advised that COC Limited will also again be submitting an application for a Rail Heritage Centre. Council previously resolved to support their application. Council's support is again being sought.

### **POLICY IMPLICATIONS**

NIL

### **FINANCIAL IMPLICATIONS**

Expression(s) of interest for grant funding.

### **LEGAL IMPLICATIONS**

NIL

### **RECOMMENDATION**

**THAT** Council:

1. Endorse applications for the following projects:
  - Cullen Bullen Sewerage
  - CBD Revitalisation
  - Rural Fire Service building upgrade and helipad
2. Provide support to COC Limited in its endeavour to attract funding for the Eskbank Rail Heritage Centre.

**ITEM-3            GM - 28/07/14 - RETURNS UNDER SEC 449 - LG ACT 1993  
DISCLOSING INTERESTS OF COUNCILLORS AND DESIGNATED  
PERSONS**

**REPORT BY -    R BAILEY - GENERAL MANAGER**

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**SUMMARY**

To advise Council of the returns required to be lodged with the General Manager under Section 449 of the Local Government Act 1993 for Councillors & Designated Person for the period 1 July 2013 to 30 June 2014.

**COMMENTARY**

Section 449 of the Local Government Act requires Councillors and designated persons to lodge returns under Section 449 for the period 1 July 2013 to 30 June 2014.

Section 449 Provides:

*449 Returns disclosing interests of councillors and designated persons*

1. *A councillor or designated person must complete and lodge with the general manager, within 3 months after becoming a councillor or designated person, a return in the form in Part 1 of Schedule 3.*
2. *A person need not lodge a return within the 3-month period after becoming a councillor or designated person if the person lodged a return in the previous year or if the person ceases to be a councillor or designated person within the 3-month period.*
3. ***A councillor or designated person holding that position at 30 June in any year must complete and lodge with the general manager within 3 months after that date a return in the form in Part 1 of Schedule 3.***
4. *A person need not lodge a return within the 3-month period after 30 June in a year if the person lodged a return under subsection (1) within 3 months of 30 June in that year.*
5. *Nothing in this section prevents a councillor or designated person from lodging more than one return in any year.*
6. *Nothing in this section or Schedule 3 requires a person to disclose in a return lodged under this section an interest of the person's spouse or de facto partner or a relative of the person.*

Section 450A requires the returns lodged under section 449 to be tabled at a meeting of Council.

Section 441 defines designated persons as:

- *the general manager*
- *other senior staff of the council*
- *a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions under this or any other Act*

*(such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest*

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

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

- Group Manager Building & Development
- Group Manager Operations
- Group Manager Corporate & Community
- Finance Manager
- Development Manager
- Water & Waste Manager
- Information Technology Manager
- Community & Culture Manager
- Tourism Manager
- Works Engineer
- Team Leader Building
- Team Leader Planning
- Team Leader Environment
- Strategic Land Use Planner(s)
- Property Officer
- Building & Development Officers (4)

The Returns have now been issued to all persons (councillors and designated persons) and are due to be returned by no later than 30 September 2014.

#### **POLICY IMPLICATIONS**

NIL

#### **FINANCIAL IMPLICATIONS**

NIL

#### **LEGAL IMPLICATIONS**

NIL

#### **RECOMMENDATION**

**THAT** Council:

1. Note the report on Disclosure of Interests under Section 449 of the Local Government Act 1993 for the period 1 July 2013 to 30 June 2014

2. Note that the relevant forms have been issued to all councillors and designated staff
3. Note that the Returns are to be provided to the General Manager by no later than 30 September 2014.



**ITEM-4 GM - 28/07/14 - LITHGOW HOCKEY ASSOCIATION**

**REPORT BY: R BAILEY - GENERAL MANAGER**

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**SUMMARY**

Council has been approached by the Lithgow Hockey Association seeking support for the replacement of one of the two hockey fields at the Glanmire Oval.

**COMMENTARY**

Located at the Glanmire Oval are two synthetic water based hockey fields. The newer field was built in 2010 as part of the Regional and Local Community Partnerships Program (RLCIP) at the time replacing an older sand based field while the older one (southern) was constructed some twenty years ago and has now reached the end of its useful life and requires replacement.

The Lithgow Hockey Association has advised that typically such fields have an average useful life of ten years but with diligent boards the field has lasted somewhat longer than this but there are now safety concerns as a result of the condition of the field. The Association is now seeking for the field to be replaced prior to the commencement of the 2015 hockey season. A recent quote of \$320,000 has been provided to the Association for these works to proceed. The Association has indicated that it is willing to contribute \$120,000 towards the project. This figure is higher than the amount indicated in the letter and came from a more recent verbal undertaking.

At this point in time Council has a large number of very significant projects on foot with the possibility of more if it is successful with the current round of Resources for Regions. The addition of another project at this point in time will be difficult for staff to manage. It would be better suited if this project were to commence at the conclusion of the 2015 hockey season in September 2015.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

The funds requested by the Lithgow Hockey Association have not been allocated in the 2014/15 Operational Plan.

**LEGAL IMPLICATIONS**

The Glanmire Oval complex is a parcel of freehold land described as lots 45 DP 171939 owned by Council. The land is classified as Community Land. Council's generic Community Lands Plan of Management (POM), 2013 categorises the land as Sportground. The replacement of the hockey field is consistent with the core objectives of the sportground land categorisation under the POM compliant with the POM.

## ATTACHMENTS

1. Letter; Lithgow Hockey Association 4 July 2014
2. Lithgow Hockey Association Financial Statements
3. Quote for the replacement of the hockey field from Sports Technology International

## RECOMMENDATION

**THAT** Council advise the Lithgow Hockey Association that it is prepared to:

1. Provide financial assistance of 50% of the cost of replacing the southern hockey field located at the Glanmire Oval up to the value of \$160,000, with the Association's contribution to be paid to Council prior to the acceptance of any tenders;
2. Project manage the replacement of the field from the conclusion of the 2015 hockey season.

**ITEM-5 GM - 28/07/14 - LOCAL GOVERNMENT NSW CONFERENCE**

**REPORT FROM: R BAILEY - GENERAL MANAGER**

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**SUMMARY**

The Local Government NSW's conference will be held in Coffs Harbour from Sunday 19 to Tuesday 21 October 2014. Local Government NSW has called for councils to identify issues that they believe are causing them concerns in their local government areas.

**COMMENTARY**

The Local Government NSW will be holding its annual conference in Coffs Harbour from 19 - 21 October 2014.

Following feedback from the delegates in 2013 in Sydney the Board has set the first day of business as the primary time to discuss all issues and motions. The Association has written to all councils requesting them to identify the most important issues which they believe are causing concern to the Council and/or the local community.

Councils are to provide their identified issues and any accompanying notes or motions prior to Friday 1 August 2014. Councils have been requested to identify issues or motions relating to the following overall categories;

1. Industrial relations and employment
2. Economic
3. Environmental
4. Governance/Civic Leadership
5. Social Policy

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.

The Association will review all responses received and then identify the top issues as identified overall by member councils. These issues will then be put to the Conference for debate and deliberation as part of the business sessions.

Issues identified by councils that fall outside of the issues will be considered by the Board prior to the conference and Council will be informed by the President of the outcome of these deliberations.

Following a request to councillors there have been no issues been identified as areas of concern to this Council.

**POLICY IMPLICATIONS**

NIL to Lithgow City Council.

## **FINANCIAL IMPLICATIONS**

NIL

## **LEGAL IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. Letter from Local Government NSW - 29 May 2014
2. LGNSW Conference Business Sessions Submission Form - <http://www.lgnsw.org.au/events-training/local-government-nsw-annual-conference>

## **RECOMMENDATION**

### **THAT** Council:

1. Note the request for input towards the inaugural Local Government NSW Conference
2. Appoint the Mayor, Deputy Mayor and another councillor as voting delegates to the Conference
3. Authorise the General Manager to attend the Conference as an observer
4. Authorise the Mayor to appoint alternate delegates or additional observers if required

## **ENVIRONMENT AND DEVELOPMENT REPORTS**

**ITEM-6            ENVIRO - 28/07/14 - 035/08DA (S96018/14) - REMOVAL OF SPORTING FIELDS AND MEDIUM DENISITY HOUSING OF 24 UNITS - 3 STAGES, LOT 1 DP 868379 - HOSKINS AVENUE LITHGOW NSW 2790**

**REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT**

### **REFERENCE**

Min No F08-90:            Finance & Services Committee Meeting held on 5 August 2008  
Min No O08-162:        Ordinary Meeting of Council held on 21 October 2008

### **SUMMARY**

To assess and recommend determination of a section 96 modification of consent application S96018/14 associated with DA035/08 that seeks to amend and delete conditions which relate to staging, drainage and car parking.

### **COMMENTARY**

Council is in receipt of an application to modify development consent for the removal of sporting fields (tennis courts) and the demolition of associated structures and the construction of 24 medium density housing units. The medium density units will consist of fourteen 2 bedroom units and ten 3 bedroom units. This modification seeks to amend and delete conditions that relate to staging, drainage and carparking.

The original plans were approved in 3 stages. Stage A being 4 units, stage B being 4 units and stage C being 16 units. A copy of the original staging plan is attached. The applicant proposes to amend this staging to allow it to be carried out in three non-sequential stages. A copy of the new plan for flexible staging is attached.

The amended staging is to allow for the issuance of separate Construction Certificates at the completion of each proposed stage and so that each stage would have individual infrastructure and assets. Infrastructure is currently being installed to service the entire development.

A separate Torrens title subdivision application (073/08 DA) for the property was approved on 25 February 2009 and incorporated 4 lots i.e. Lot 1 which contains the old RSL Club and Lot 2, Lot 3 with Lot 4. A copy of this plan is attached.

The applicant proposes to amend conditions 53 to 56 of the consent imposed by the Sydney Catchment Authority that relate to stormwater treatment. This was referred to the Sydney Catchment Authority to re-assess and their comments are provided in the Section 79C report. The SCA has not objected to the removal of those conditions on the

basis that some of those conditions will be added to the SCA's stormwater management conditions for this modification application.

Condition 63 is proposed to be deleted as it relates to a community title management plan. The applicant proposes the development to be on four separate titles via Development Application 037/08DA being a 4 lot subdivision approval which would no longer involve community titles.

Additionally Condition 62 is proposed to be deleted as it relates to a subdivision certificate for a separate development application which has been issued.

### **OTHER ISSUES**

No other issues arise.

### **CONCLUSION**

The application has been thoroughly assessed under Section 96 1(A) and Section 79C of the *Environmental Planning and Assessment Act 1979* and is appropriate for a recommendation of approval subject to conditions.

### **POLICY IMPLICATIONS**

The application was originally called in by Council. The Resolution F08-90 from Council's Finance & Services Committee Meeting date 5 August 2008, called in the application.

The development was approved at Council's Ordinary Meeting on the 21 October 2008.

As the modification proposes to delete the condition that relates to community title subdivision, and as the development was previously approved by Council, the modification is required to be determined at a Council meeting.

### **FINANCIAL IMPLICATIONS**

#### **Planning Agreements**

A planning agreement was entered into as part of the original application (Condition 49.). The proposed modification will not impact upon this agreement.

### **LEGAL IMPLICATIONS**

The application must be assessed in accordance with the heads of consideration of Section 79C of the Environmental Planning & Assessment Act 1979. Furthermore, the application requires concurrence from the Sydney Catchment Authority (SCA). Concurrence was given by the SCA subject to conditions. A full assessment is reported in the attached Section 79C assessment report.

### **ATTACHMENTS**

1. Complete 79C Planning Report under separate cover.
2. Current proposal – Flexible staging
3. Original Staging Plan
4. Subdivision Plan

## RECOMMENDATION

### THAT:

1. The Section 96 Modification of Consent application S96018/14 associated with 035/08DA be **APPROVED** subject to conditions being amended and added to the consent as shown in bold in the attached Section 79C report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-7            ENVIRO - 28/07/14 - AIRLY COAL MINE MODIFICATION PROPOSALS**

**REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT AND DEVELOPMENT**

**SUMMARY**

To update Council on Major Project Modification 3 submitted to the Department of Planning and Environment to allow for the continuation of mining for a period of 12 months beyond the expiry date of the current approval for Airly Mine. Additionally, to update Council of the State Significant Development proposal to extend the Airly Mine operations into the eastern section of the lease.

**COMMENTARY**

Council's role in both applications is to provide its comments in relation to local social, environmental and economic factors and any issues relating to development contributions it considers are relevant. The assessment of these applications lies with the Department of Planning and Environment under the Environmental Planning and Assessment Act.

**Major Project Modification 3- Proposed extension for continuation of mining for 12 months**

**Proposal:**

Centennial Airly Pty Limited is proposing to modify Airly Mine's Development Consent to allow for the continuation of mining for a period of 12 months beyond the expiry date of the current approval. The original consent DA162/91 is to expire on 12 October 2014, with the extension proposing to allow for operations until 31 October 2015.

No other operational changes will be made and mining will continue under the current consent which permits extraction up to 1.8Mtpa. This will allow Airly to continue operating while the proposed extension of mining operations to the east is assessed and determined by the Department of Planning & Environment (the Department).

**Status:**

The application was placed on exhibition from the 23 June 2014 to 9 July 2014, with Council raising no concerns or recommendations for the extension of operation time. The proponent is now reviewing submissions for final assessment by the Department.

**State Significant Development- Proposed extension of mining operation to the east**

**Proposal:**

The Airly Mine Extension Project seeks approval to extend mining operations into the eastern section of Airly Mine's existing Mining Lease ML1331 and within its Authorisation Area A232. The Project proposes to maintain coal production at 1.8 Mtpa using contemporary mining methods and mine design criteria that would limit vertical subsidence to 100, ±25 millimetres.



The Project will utilise the existing mine infrastructure, and upgrade the infrastructure if required. The coal product will continue to be dispatched off site using rail transport.

This proposal is for a 20 year operation using partial extraction methods and onsite coal handling plant, with a proposed Reject Emplacement Area to be constructed for the life of mine. The operation will be 24 hours a day, 7 days a week with 135 full time staff and approximately 20 contractors to be employed.

**Status:**

Director General's Requirements (DGRs) for the environmental assessment have been issued for the project. A preliminary Environmental Impact Statement has been supplied to Council and assessed in relation to the DGRs with no Council issues raised with the Department.

The development is yet to be placed on exhibition for comments and recommendations by the public and government authorities. At this stage Council will provide comments in relation to social, environmental and economic factors (including Section 94A Contributions) for the proposal.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

There will be no financial implications in relation to Modification 3 extension of time for operations.

When Council provides comments for the proposed extension of mining to the east it will reference Council's Section 94A Contributions Plan which imposes a 1% Contribution on all development over \$200,000. This should be applied where the proponent will not enter into a Voluntary Planning Agreement for the proposal.

**LEGAL IMPLICATIONS**

Airly Mine Modification 3 is to be assessed under Part 3A of the *Environmental Planning and Assessment Act 1979* as a major project by the Department, being the consent authority.

As the proposal for extension of mining to the east is classed as State Significant Development under *Environmental Planning and Assessment Act 1979* the Department will be the consent Authority for this proposal also.

Council will be given the opportunity to comment and provide recommendations on these proposals as part of the assessment process.

**RECOMMENDATION**

**THAT:**

1. The information in the report on Airly Coal Mine's two proposed modifications being the extension of 12 months operating time under current approval and the proposed extension of mining to the east be noted.

2. Council provide a submission to the NSW Department of Planning & Environment indicating its overall position as not objecting to the proposal but highlighting appropriate controls that need to be put in place, and potential Council contribution for the proposed extension of mining to the east.
3. In Council's submission to the Department of Planning and Environment it requests the inclusion of a condition requiring the applicant to comply with the provisions of Council's Section 94A Development Contributions Plan 2012.

## **OPERATION REPORTS**

### **ITEM-8            OPER - 28/07/14 - PEDESTRIAN ACCESS AND MOBILITY PLAN FOR THE GREAT WESTERN HIGHWAY THROUGH LITHGOW**

**REPORT BY: I STEWART - GROUP MANAGER OPERATIONS**

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## **SUMMARY**

To advise Council of the completion of the Pedestrian Access and Mobility Plan (PAMP) and subsequent list of prioritised works for the Great Western Highway through the Lithgow urban area.

## **COMMENTARY**

Cardno (NSW/ACT) Pty Ltd was engaged by Council to prepare a Pedestrian Access and Mobility Plan (PAMP) for the Great Western Highway commencing at the intersection with Magpie Hollow Road through to Lockyer Street.

The PAMP has now been completed. A three tiered priority system has been established to identify the sections for work to be completed in regard to pedestrian facilities along the Great Western Highway. Copies of these tabled priorities are attached for reference. See Table 8

- High priority works comprise those sections of the Great Western Highway that have no existing pedestrian facilities
- Medium priority works are based on sections of the highway where pedestrian facilities exist but require upgrade and/or maintenance and are either along a seniors route or school route
- Low priority works are all those defined works that are neither high nor medium priority

Indicative costs have been provided to address the identified deficiencies. These include high priority \$747,480, medium priority \$936,190 and low priority \$159,050. The total programme costing \$1,842,720.

The list of priorities has been determined through:

1. A list of objectives as outlined in the consultant brief
2. Stakeholder consultation
3. Community consultation
4. Council committee feedback
5. Public exhibition-community comments
6. Consultant audits of the study area

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

NIL

## **LEGAL IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. PAMP final report

## **RECOMMENDATION**

### **THAT** Council:

1. Note the final report on the Pedestrian Access and Mobility Plan for the Great Western Highway through Lithgow and refer the list of priorities to the Operations Committee to determine an action plan to address some of the identified priorities; and
2. Seek possible funding from relevant programs such as BlackSpot funding to undertake some of these works.

**ITEM-9            OPER - 28/07/14 - PORTLAND SEWERAGE AUGMENTATION, INVESTIGATION AND CONCEPT DESIGN SERVICES FOR NEW SEWERAGE TREATMENT PLANT**

**REPORT BY: I STEWART – GROUP MANGER OPERATIONS**

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**SUMMARY**

To advise Council of a proposal from the Department of Public Works to proceed with the investigation and concept design for the new sewerage treatment plant recently granted \$10.05 million in funds from Resources for Regions.

**COMMENTARY**

Following meetings with NSW Public Works, a proposal has been received to provide investigation and concept design services for the augmentation of Portland Sewerage Treatment Plant. The proposal covers the preconstruction activities for the new STP and related infrastructure and includes:

- 72 hour influent monitoring at the existing STP;
- Engineering surveys;
- Geotechnical investigations;
- Conceptual design; and
- Environment impact assessment via review of environmental factors.

The above works will provide a solid base for initiation of subsequent detailed design, documentation and tendering preconstruction activities for the delivery of the project. The design capacity is expected to be in the range of 3,500 – 4,000 equivalent persons and will be similar in design to the Intermittently Decanted Extended Aeration IDEA Base Plant recently commissioned at Wallerawang.

A draft program for the delivery of the project has been supplied and is included in the attachments. Based on the information received it will take up to 18 weeks for the concept design and review of environmental factors to be completed.

**Fee Schedule**

The total fee including GST is \$247,390 and is broken up in the following cost activities:

	<b>Item</b>	<b>Fee Amount</b>
<b>1</b>	<b>Project Management</b>	<b>\$76,657</b>
	• Design and liaison management	\$64,347
	• Investigations team	\$5,082
	• Concept team	\$7,228
<b>2</b>	<b>Survey</b>	<b>\$18,001</b>
	• Administration	\$578
		\$13,662

	<ul style="list-style-type: none"> <li>• Fieldwork</li> <li>• Drawings and finalisation</li> </ul>	\$3,761
<b>3</b>	<b>Geotechnical Investigation</b> <ul style="list-style-type: none"> <li>• Administration</li> <li>• Fieldwork</li> <li>• Engineering services</li> <li>• Borelogs and report</li> <li>• Testing</li> </ul>	<b>\$16,364</b> \$1,919 \$4,928 \$4,207 \$1,419 \$3,891
<b>4</b>	<b>72 Hour Influent Sewage Monitoring</b> <ul style="list-style-type: none"> <li>• Sampling</li> <li>• Report</li> </ul>	<b>\$18,050</b> \$11,040 \$7,010
<b>5</b>	<b>REF</b>	<b>\$12,310</b>
<b>6</b>	<b>Concept Design</b> <ul style="list-style-type: none"> <li>• Site visit/inspection</li> <li>• Process/civil concept</li> <li>• Mechanical concept</li> <li>• Electrical concept</li> <li>• Report preparation</li> </ul>	<b>\$45,668</b> \$3,064 \$5,567 \$5,178 \$5,539 \$26,310
<b>9</b>	<b>Disbursements</b> <ul style="list-style-type: none"> <li>• Surveying</li> <li>• Geotech driller</li> <li>• Other geotech</li> <li>• 72 hr sampling</li> <li>• 72 hr lab testing</li> <li>• REF site inspection</li> <li>• REF sub-consultants</li> <li>• Concept</li> </ul>	<b>\$37,840</b> \$1,734 \$4,640 \$884 \$1,608 \$6,000 \$196 \$22,000 \$788

Following the completion of the concept design phase the following budget allowances are considered appropriate for subsequent phases of the work covered by this proposal:

- Detailed design and documentation - \$400,000
- Tendering services up to award of contract - \$60,000

At this stage it is only proposed to commit to the preparation of the concept design and associated work.

It is important that the new STP to be constructed at Portland is of similar design to the STPs at Lithgow and Wallerawang. There are obvious benefits in achieving this type of construction.

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

This project is part funded by an allocation of \$10.05 million from the NSW Resources for Regions programme with the balance up to \$15 million being provided by Council.

## **LEGAL IMPLICATIONS**

Under Section 55 of the Tendering Regulations in the Local Government Act, Council is not required to call tenders for the provision of these services when engaging with the Crown, a Minister of the Crown or a Statutory body representing the Crown.

## **ATTACHMENTS**

1. Portland Sewerage Augmentation Proposal Number: WSP 14029

## **RECOMMENDATION**

**THAT** Council **ACCEPT** the proposal from the Department of Public Works to provide investigation and concept design services for the augmentation of the Portland Sewerage Treatment Plant at a total fee cost of \$247,390 inclusive of GST.

**ITEM-10 OPER - 28/07/14 - WATER REPORT**

**REPORT BY: I STEWART – GROUP MANAGER OPERATIONS**

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**REFERENCE**

Min No 14-281: Ordinary Meeting of Council held on 30<sup>th</sup> June 2014

**SUMMARY**

This report provides an update on various water management issues as per Minute Number 14-281.

**COMMENTARY**

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

**Current Dam Levels for both Farmers Creek and Oberon**

Farmers Creek Dam # 2 capacity on Monday, 14<sup>th</sup> July 2014 was 100% full. Oberon Dam capacity on Monday, 14<sup>th</sup> July 2014 was 65% full.

**Current Water Usage from Each Supply**

Table 1 below indicates total output from the Oakey Park Water Treatment Plant (consumption), the volume transferred from the Clarence Water Transfer System (CWTS) and the volume of water purchased from Fish River for 2013/2014 and Table 2 below indicates total output from the Oakey Park Water Treatment Plant (consumption), the volume transferred from the Clarence Water Transfer System (CWTS) and the volume of water purchased from Fish River for 2012/2013.

**Table 1 - Oakey Park Monthly Output and Clarence Transfer 2013/2014**

<b>Month</b>	<b>Oakey Park WTP (ML)</b>	<b>Clarence Transfer (ML)</b>	<b>Fish River Supply (ML)</b>
July 2013	93	0	44
August 2013	96	0	67
September 2013	102	0	73
October 2013	130	0	58
November 2013	106	0	61
December 2013	100	0	47
January 2014	111	0	109
February 2014	93	0	73
March 2014	62	0	68
April 2014	105	0	61
May 2014	118	0	59
June 2014	101	0	67
<b>TOTAL</b>	<b>1,217</b>	<b>0</b>	<b>787</b>



**Table 2 - Oakey Park Monthly Output and Clarence Transfer 2012/2013**

<b>Month</b>	<b>Oakey Park WTP (ML)</b>	<b>Clarence Transfer (ML)</b>	<b>Fish River Supply (ML)</b>
July 2012	107	0	53
August 2012	106	0	49
September 2012	115	0	55
October 2012	140	0	65
November 2012	140	5	62
December 2012	135	81	76
January 2013	146	73	68
February 2013	92	0	66
March 2013	114	0	81
April 2013	109	0	106
May 2013	123	0	62
June 2013	154	0	70
<b>TOTAL</b>	<b>1,481</b>	<b>159</b>	<b>813</b>

**Oakey Park Water Quality Summary**

Oakey Park Water Treatment Plant is currently supplying water to Lithgow. No health-based ADWG values were exceeded for the period 21/6/2014 – 18/7/2014.

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 with Lithgow prioritising back flow to the villages during certain periods whilst repairs are carried out to the Fish River Supply. No health-based ADWG values were exceeded for the period 21/6/2014 – 18/7/2014.

**Current Water Restrictions Update**

Level 1 restrictions are effective from Monday, 17<sup>th</sup> March 2014.

**Water Saving Schemes or Processes Update**

Council’s Rainwater Tank and Domestic Appliance Rebate Program continued with Council approving 3 applications for household appliance rebates and 0 applications for water tank rebates for the period 21/6/2014 – 18/7/2014.

**Dirty Water Complaints**

No complaints were received during the period 21/6/2014 – 18/7/2014 concerning water quality issues in the reticulation system.

**FINANCIAL IMPLICATIONS**

NIL

**POLICY IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**RECOMMENDATION**

**THAT** Council note the water report.

## CORPORATE AND COMMUNITY REPORTS

### ITEM-11 CORP - 28/07/14 - REVIEW OF LITHGOW CITY COUNCIL POLICIES

**REPORT BY: J BROZEK - GROUP MANAGER CORPORATE & COMMUNITY**

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## REFERENCE

Min No 09-189: Ordinary Meeting of Council held on 9 May 2009  
Min No 13-398: Ordinary Meeting of Council held on 25 November 2013

## SUMMARY

This report provides Council with Policies from the group 8 - Finance section for consideration. Following the outcome of a recent review of Council policies it recommends amendments to the Policy Register.

## COMMENTARY

A review of Council policies has been completed by the Executive Management Team and there are a number of suggested changes to the Policy Register for Council's consideration.

It has been determined that a number of policies are no longer relevant or outdated due to the implementation of new processes or changes in legislation and as such are being recommended for deletion. In order to provide a clearer Policy Register it is proposed that all the policies be re-numbered.

At the Ordinary Meeting of Council held on Monday 25 November 2013 it was resolved to review the recommended amendments to Council policies in sections, hence Policies 8.4, 8.6, 8.7 and 8.8 are presented to Council for consideration.

The remaining policies in section 8 will be presented to the next Council meeting.

Existing Policy No.	Policy Name	Proposed Changes	New Policy No.
8.4	Bonds Held for Works	Rescinded - not required. Bond conditions should be clearly stated in the Conditions of Consent.	Nil
8.6	Excessive Water Usage Allowance for Breakages	Minor Changes - formatting, change from Internal Services to Finance, minor rewording	8.1
8.7	Change in Category for Rating Purposes	Formatting	8.2
8.8	Main Street Facade Restoration Program	Formatting, removal of duplicate information	8.3

The proposed changes to these Policies are not considered to be major and therefore does not require public exhibition as they will only refine Council's policy position.

### **POLICY IMPLICATIONS**

The proposed changes will refine Council's policy position.

### **FINANCIAL IMPLICATIONS**

NIL

### **LEGAL IMPLICATIONS**

The policies have been reviewed in terms of legislative requirements and subsequently amendments have been made.

### **ATTACHMENTS**

1. Policy 8.4 - Bonds Held for Works
2. Policy 8.6 - Excessive Water Usage Allowance for Breakages
3. Policy 8.7 - Change in Category for Rating Purposes
4. Policy 8.8 - Main Street Facade Restoration Program

### **RECOMMENDATION**

**THAT** Council:

1. **ADOPT** Policies
  - Excessive Water Usage Allowance for Breakages
  - Change in Category for Rating Purposes
  - Main Street Facade Restoration Program
2. Renumber the policies according to the schedule.

**ITEM-12 CORP - 28/07/14 - 2014/15 FEES & CHARGES**

**REPORT BY: J BROZEK – GROUP MANAGER CORPORATE & COMMUNITY**

**REFERENCE**

- Min No 14-166: Ordinary Meeting of Council held on 14 April 2014
- Min No 14-177: Extra Ordinary Meeting of Council held on 17 April 2014
- Min No 14-178: Extra Ordinary Meeting of Council held on 17 April 2014
- Min No 14-179: Extra Ordinary Meeting of Council held on 17 April 2014
- Min No 14-180: Extra Ordinary Meeting of Council held on 17 April 2014
- Min No 14-182: Extra Ordinary Meeting of Council held on 17 April 2014
- Min No 14-206: Ordinary Meeting of Council held on 12 May 2014
- Min No 14-214: Ordinary Meeting of Council held on 12 May 2014
- Min No 14-245: Ordinary Meeting of Council held on 2 June 2014

**SUMMARY**

This report recommends the adoption of the amendments to regulatory charges in the 2014/15 Fees and Charges.

**COMMENTARY**

Since the endorsement of the 2014/15 Fees and Charges document we have received advice on new Fees and Charges for Companion Animals and minor amendments have been identified for:

- Library charges which have now been identified as regulatory charges; and
- Government Information Public Access Act fees which are legislated fees.

A minor amendment to wording in the tables has been identified to ensure that all regulatory fees are identified as follows:

- Change of wording from Legislated Fee to Legislated or Regulatory Fee.
- Change of wording in the Inter Library Loans Legislated Fee column from No to Yes.

**Companion Animals Registration**

Description	Fee Charge Basis	Policy Link/s	Legislated Or Regulatory Fee	Taxable	Responsible Department	13/14 Fees	14/15 Fees	New Fee
Non-desexed companion animal	Per dog	5.6	Yes	No	Environment	182.00	189.28	188.00
Desexed Companion Animal	Per dog		Yes	No		49.00	50.96	51.00
Non-desexed companion animal owned by registered breeder	Per dog		Yes	No		49.00	50.96	51.00

Desexed companion animal owned by an eligible pensioner	Per dog		Yes	No		19.00	19.76	20.00
Working Dog	Per dog		Yes	No		New Fee		0.00
Assistance Animal	Per Animal		Yes	No		New Fee		0.00

## Inter Library Loans

Description	Fee Charge Basis	Policy Link/s	Legislated Or Regulatory Fee	Taxable	Responsible Department	13/14 Fees	14/15 Fees	New Fee
Non NSW Libraries	Per item		Yes	Yes	Community and Culture	17.10	17.70	15.00
Inter Library loans for LGA customers	Per inspection		Yes	Yes		7.75	8.02	7.50

## Government Information Public Access Act 2009

Description	Fee Charge Basis	Policy Link/s	Legislated Or Regulatory Fee	Taxable	Responsible Department	13/14 Fees	14/15 Fees	New Fee
Original	Per application		Yes	No	Finance	30.00	31.05	30.00
Review	Per review		Yes	No		40.00	41.40	40.00

### POLICY IMPLICATIONS

NIL

### FINANCIAL IMPLICATIONS

When adopted the 2014/15 Fees and Charges forms part of Council's Revenue Policy for the 2014/15 financial year.

### LEGAL IMPLICATIONS

NIL

### RECOMMENDATION

**THAT** the minor amendments to the 2014/15 Fees and Charges be adopted as follows:

#### Companion Animals Registration

Description	Fee Charge Basis	Policy Link/s	Legislated Or Regulatory Fee	Taxable	Responsible Department	13/14 Fees	14/15 Fees	14/15 GST Amnt
Non-desexed companion animal	Per dog	5.6	Yes	No	Environment	182.00	188.00	N/A
Desexed Companion Animal	Per dog		Yes	No		49.00	51.00	N/A
Non-desexed companion animal owned by registered breeder	Per dog		Yes	No		49.00	51.00	N/A
Desexed companion animal	Per dog		Yes	No		19.00	20.00	N/A

owned by an eligible pensioner								
Working Dog	Per dog		Yes	No		New Fee	0.00	N/A
Assistance Animal	Per Animal		Yes	No		New Fee	0.00	N/A

### Inter Library Loans

Description	Fee Charge Basis	Policy Link/s	Legislated Or Regulatory Fee	Taxable	Responsible Department	13/14 Fees	14/15 Fees	14/15 GST Amnt
Non NSW Libraries	Per item		Yes	Yes	Community and Culture	17.10	15.00	1.36
Inter Library loans for LGA customers	Per inspection		Yes	Yes		7.75	7.50	0.68

### Government Information Public Access Act 2009

Description	Fee Charge Basis	Policy Link/s	Legislated Or Regulatory Fee	Taxable	Responsible Department	13/14 Fees	14/15 Fees	14/15 GST Amnt
Original	Per application		Yes	No	Finance	30.00	30.00	N/A
Review	Per review		Yes	No		40.00	40.00	N/A

**ITEM-13 CORP - 28/07/14 - COUNCIL INVESTMENTS HELD TO 30 JUNE 2014**

**REPORT FROM: J BROZEK - GROUP MANAGER CORPORATE AND COMMUNITY**

**REFERENCE**

- Min No 13-302: Ordinary meeting of Council held on 19 August 2013
- Min No 13-323: Ordinary meeting of Council held on 9 September 2013
- Min No 13-385: Ordinary meeting of Council held on 28 October 2013
- Min No 13-406: Ordinary meeting of Council held on 25 November 2013
- Min No 13-435: Ordinary meeting of Council held on 16 December 2013
- Min No 14-61: Ordinary meeting of Council held on 10 February 2014
- Min No 14-94: Ordinary meeting of Council held on 3 March 2014
- Min No 14-141: Ordinary meeting of Council held on 24 March 2014
- Min No 14-165: Ordinary meeting of Council held on 14 April 2014
- Min No 14-212: Ordinary meeting of Council held on 12 May 2014
- Min No 14-284: Ordinary meeting of Council held on 30 June 2014

**SUMMARY**

To advise Council of investments held as at 30 June 2014 in the 2013/14 financial year.

**COMMENTARY**

Council's total investment portfolio, as at 30 June 2014 when compared to 31 May 2014, has reduced by \$1,030,135.36 from \$16,513,907.80 to \$15,483,672.44.

The CBA Call account holding was \$914,186.35 at 30 June 2014, the same as the 31 May 2014 balance.

Cash held in Council's general fund bank account as at 30 June 2014 when compared to 31 May 2014 has increased by \$976,831.60 from \$2,696,831.25 to \$3,673,662.85.

This results in an overall decrease in cash and investments of \$53,403.76

<b>INVESTMENT REGISTER 2013/14</b>								
<b>INSTITUTION</b>	<b>INV TYPE</b>	<b>DATE LODGED</b>	<b>DATE DUE</b>	<b>DAYS</b>	<b>INT</b>	<b>VALUE 31.05.14</b>	<b>VALUE 30.06.14</b>	<b>% OF TOTAL</b>
CBA	On Call				2.45	914,186.35	914,186.35	5.90%
	TD	26.05.14	26.08.14	92	3.50	1,000,000.00	1,000,000.00	6.46%
IMBS	TD	07.04.14	07.07.14	91	3.50	1,569,673.67	1,569,673.67	10.14%
	TD	30.04.14	29.07.14	90	3.50	522,218.87	522,218.87	3.37%
	TD	19.05.14	18.08.14	91	3.50	1,000,000.00	1,000,000.00	6.46%
	TD	23.06.14	22.09.14	91	3.50	1,000,000.00	500,000.00	3.23%
NAB	TD	27.05.14	25.08.14	90	3.57	1,009,173.34	1,009,173.34	6.52%
	TD	22.04.14	21.07.14	90	3.65	1,109,393.22	1,109,393.22	7.16%
	TD	08.03.14	07.06.14	91	3.66	539,260.02	0.00	0.00%
	TD	13.03.14	11.07.14	120	3.68	1,500,000.00	1,500,000.00	9.69%
	TD	16.06.14	15.09.14	91	3.55	1,000,000.00	1,009,024.66	6.52%
WESTPAC	TD	02.04.14	02.07.14	91	3.41	1,274,701.97	1,274,701.97	8.23%
	TD	07.03.14	07.07.14	122	3.56	1,000,000.00	1,000,000.00	6.46%

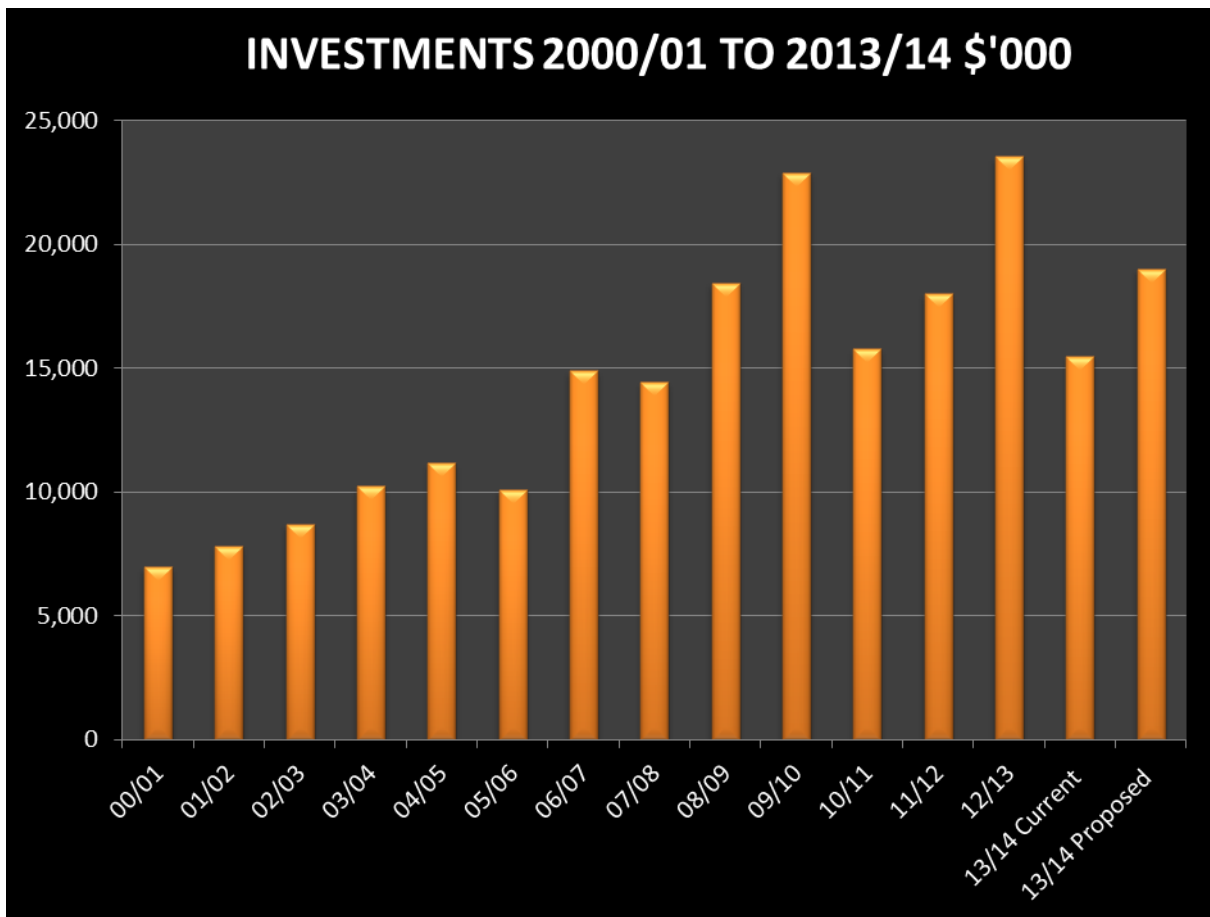


	TD	10.04.14	10.07.14	90	3.46	533,746.44	533,746.44	3.45%
	TD	12.03.14	08.09.14	180	3.60	500,000.00	500,000.00	3.23%
ST GEORGE	TD	19.04.14	19.08.14	122	3.50	933,724.52	933,724.52	6.03%
	TD	12.05.14	11.08.14	91	3.30	555,198.43	555,198.43	3.59%
	TD	26.05.14	25.08.14	91	3.29	552,630.97	552,630.97	3.57%
<b>Total</b>						<b>16,513,907.80</b>	<b>15,483,672.44</b>	<b>100.00%</b>
INTERNAL LN (Commercial Loan Int Rate)	Gen to Sew	15.01.11	On Receipt of Ext Loan		7.41	2,750,000.00	2,750,000.00	
I, Juli-Ann Brozek, Lithgow City Council's Manager Corporate & Community certify as required under Local Government (General) Regulations 2005, that Council's investments have been made in accordance with the Local Government Act 1993, Regulations and Lithgow City Council's Investment Policy.								

The movement in Investments for the month of June 2014 were as follows:

Opening Balance as at 31 May 2014	\$16,513,907.80
Plus New Investments – June 2014	\$1,009,024.66
Less Investments redeemed – June 2014	\$2,039,260.02
Closing Balance as at 31 June 2014	\$15,483,672.44

On the graph below historical and current investments to 30 June 2014 are shown.



A large proportion of Council's investments are held as restricted assets for specific purposes. Restricted assets may consist of externally restricted assets which must be spent for the purpose for which they have been received e.g. Water, Wastewater, Stormwater, Domestic Waste, Parking, or internally restricted assets which have been set aside by Council resolution. Some internal restrictions are held to fund specific liabilities such as employee leave entitlements and bonds and deposits.

## **POLICY IMPLICATIONS**

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing funds. On 13 February 2012 Council adopted a draft of the Investment Policy as Policy 8.2 which includes the Minsters Investment Order of 12 January 2011.

## **FINANCIAL IMPLICATIONS**

Interest received to 30 June 2014 is \$626,402.94 and is paid on the maturity date of the investment. This amount of interest does not include an accrual for interest revenue earned up to 30 June, but not yet received. This accrual will be taken up as part of the annual financial statements process. The budget for interest income is determined by the average level of funds held and the rate of return. Adjustments to the budget estimate are processed through Council's Quarterly Budget Review process. Interest Returns are determined by average funds invested and the rate of interest return. Council held significant funds at the 30 June 2013 in the form of carry over works in progress and unexpended grant funds, as these works have been progressed in 2013/14, the level of investments have reduced to fund this expenditure.

## **LEGAL IMPLICATIONS**

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. On 13 February 2012 Council adopted a draft of the Investment Policy as Policy 8.2 and investments will comply with this Policy which includes the following:

- Local Government Act 1993 - Section 625
- Local Government Act 1993 - Order dated 12 January 2011
- Local Government (General) Regulation 2005
- Trustee Amendment (Discretionary Investments) Act 1997 Section 14A (2), 14c(1) & (2)

## **RECOMMENDATION**

**THAT** Investments of \$15,483,672.44 and cash of \$3,673,662.85 for the period ending 30 June be noted.

## **COUNCIL COMMITTEE MINUTES**

### **ITEM-14        OPER - 28/07/14 - 5 JUNE 2014 - OPERATIONS COMMITTEE MEETING MINUTES**

**REPORT BY: I STEWART – GROUP MANAGER OPERATIONS**

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#### **SUMMARY**

Details of the Minutes of the Operations Committee Meeting held on Thursday, 5<sup>th</sup> June 2014 for Council adoption.

#### **COMMENTARY**

At the Operations Committee Meeting held on Thursday, 5<sup>th</sup> June 2014 there were a number of items discussed by the Committee, with all items being actioned under the Committee's delegated authority.

Items discussed included:

- Road Safety Programme
- Review Of Major Capital Works
- Water Loss Management Plan
- Farmers Creek Tenders

#### **POLICY IMPLICATIONS**

NIL

#### **FINANCIAL IMPLICATIONS**

NIL

#### **LEGAL IMPLICATIONS**

NIL

#### **ATTACHMENTS**

1. Minutes of the Operations Committee Meeting held on Thursday, 5<sup>th</sup> June 2014.

#### **RECOMMENDATION**

**THAT** Council note the minutes of the Operations Committee meeting held on Thursday, 5<sup>th</sup> June 2014.

**REFERENCE**

Min No 13-69:	Ordinary Meeting of Council 25 February 2013
Min No 13-104:	Ordinary Meeting of Council 18 March 2013
Min No 13-133:	Ordinary Meeting of Council 15 April 2013
Min No 13-187:	Ordinary Meeting of Council 27 May 2013
Min No 13-214:	Ordinary Meeting of Council 17 June 2013
Min No 13-249:	Ordinary Meeting of Council 8 July 2013
Min No 13-353:	Ordinary Meeting of Council 30 September 2013
Min No 13-411:	Ordinary Meeting of Council 25 November 2013
Min No 13-439:	Ordinary Meeting of Council 16 December 2013
Min No 14-99:	Ordinary Meeting of Council 3 March 2014
Min No 14-169:	Ordinary Meeting of Council 14 April 2014
Min No 14-215:	Ordinary Meeting of Council 12 May 2014
Min No 14-290:	Ordinary Meeting of Council 30 June 2014

**SUMMARY**

This report details the minutes of the Youth Council meeting held on 24 June 2014.

**COMMENTARY**

At the Youth Council meeting held on 24 June 2014 various items were discussed including:

1. The new Youth Space at Lithgow Library
2. PCYC Scholarship Program
3. Volunteering
4. Youth Council work program

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

Local Government Act NSW 1993

**ATTACHMENTS**

1. Minutes of the Youth Council meeting 24 June 2014.

## **RECOMMENDATION**

**THAT** Council note the minutes of the Youth Council meeting held 24 June 2014.

**ITEM-16            OPER - 28/07/14 - SPORTS ADVISORY COMMITTEE MEETING  
MINUTES - 24 JUNE 2014**

**REPORT BY: I STEWART - GROUP MANAGER OPERATIONS**

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**REFERENCE**

Min No 14-289:            Ordinary Meeting of Council held on 30 June 2014

**SUMMARY**

This report details the Minutes of the Sports Advisory Committee Meeting held on 24<sup>th</sup> June 2014.

**COMMENTARY**

At the Sports Advisory Committee held on 24<sup>th</sup> June 2014, there were numerous items discussed by the Committee including:

- 2014 LJ Hooker Reg Cowden Sports Star of the Year Awards
- Booking Requests

The following items were outside the Committee's delegations and require Council to formally approve the recommendation:

- Financial Assistance Requests

Council provide Misty Walsh with \$500.00 toward the cost of participating in the Korean Taekwondo Open at Gyeongsu, Korea and Emily Thompson with \$400.00 toward the cost of participating in the NSW School Girls Hockey Team at Hobart and the PSSA State Championships at Eastern Creek.

- Lithgow & District Basketball Assoc Inc – New Member

Council accept Mr. Richard Marjoram as the Sports Advisory Committee representative from the Lithgow & District Basketball Assoc Inc.

- Lithgow & District Netball Assoc Inc – New Members

Council accept Ms. Alison Murphy and Ms. Karen Beltran as the Sports Advisory Committee representatives from the Lithgow & District Netball Assoc Inc.

**ATTACHMENTS**

1. Minutes from the Sports Advisory Committee meeting of 24<sup>th</sup> June 2014.

## RECOMMENDATION

### **THAT** Council:

1. Note the minutes of the Sports Advisory Committee held on the 24<sup>th</sup> June 2014.
2. Provide Misty Walsh with \$500.00 toward the cost of participating in the Korean Taekwondo Open at Gyeongsu, Korea and Emily Thompson with \$400.00 toward the cost of participating in the NSW School Girls Hockey Team at Hobart and the PSSA State Championships at Eastern Creek.
3. Accepts Mr. Richard Marjoram as the Sports Advisory Committee representative from the Lithgow & District Basketball Assoc Inc.
4. Accepts Ms. Alison Murphy and Ms. Karen Beltran as the Sports Advisory Committee representatives from the Lithgow & District Netball Assoc Inc.

**ITEM-17            CORP - 28/07/14 - CRIME PREVENTION COMMITTEE MINUTES- 30  
JUNE 2014**

**REPORT BY -    V GULABOVSKI – COMMUNITY DEVELOPMENT OFFICER**

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**REFERENCE**

Min No 13-67:            Ordinary Meeting of Council held on 25 February 2013  
Min No 13-134:         Ordinary Meeting of Council held on 15 April 2013  
Min No 13-188:         Ordinary Meeting of Council held on 26 May 2013  
Min No 13-306:         Ordinary Meeting of Council held on 19 August 2013  
Min No 14-65:           Ordinary Meeting of Council held on 10 February 2014  
Min No 14-168:         Ordinary Meeting of Council held on 12 April 2014

**SUMMARY**

This report details the Minutes of the Crime Prevention Committee Meeting held on 30 June 2014.

**COMMENTARY**

At the Crime Prevention Committee meeting held on 30 June 2014, a number of items were discussed by the Committee including;

1. CCTV Cameras
2. Police Report

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

1. Minutes from the Crime Prevention Committee meeting of 30 June 2014.

**RECOMMENDATION**

**THAT** Council notes the minutes of the Crime Prevention Committee held on the 30 June 2014.



**ITEM-18            CORP - 28/07/14 - DISABILITY ACCESS COMMITTEE MINUTES - 2  
JULY 2014**

**REPORT BY: V GULABOVSKI - COMMUNITY DEVELOPMENT OFFICER**

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## **REFERENCE**

Min No 13-275:    Ordinary Meeting of Council held on 29 July 2013  
Min No 13-325:    Ordinary Meeting of Council held on 9 September 2013  
Min No 13-389:    Ordinary Meeting of Council held on 28 October 2013  
Min No 13-410:    Ordinary Meeting of Council held on 25 November 2013  
Min No 14-66:     Ordinary Meeting of Council held on 10 February 2014  
Min No 14-250:    Ordinary Meeting of Council held on 2 June 2014

## **SUMMARY**

This report details the minutes of the Disability Access Committee meeting held 2 July 2014.

## **COMMENTARY**

At the Disability Access Committee meeting held on 2 July 2014 various items were discussed by the committee including the Disability Access Plan.

## **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 Disability Access Committee meeting 2 July 2014.

## **RECOMMENDATION**

**THAT** Council note the minutes of the Disability Access Committee meeting held 2 July 2014.

**ITEM-19 OPER - 28/07/14 - TRAFFIC ADVISORY LOCAL COMMITTEE - 3  
JULY 2014**

**REPORT BY: I STEWART - GROUP MANAGER - OPERATIONS**

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## **SUMMARY**

This report details the Minutes of the Traffic Advisory Local Committee Meeting held on 3 July 2014.

## **COMMENTARY**

At the Traffic Advisory Local Committee meeting held on 3 July 2014, the following items discussed by the Committee including;

- Bus movement issues at the intersection of Hayley Street and Railway Parade Lithgow
- Alpine Classic Car Rally event 2014
- Sir Thomas Mitchell Drive Lithgow-road safety issues
- Psyfari music festival-traffic management plan 2014
- Central Business District revitalisation plan- traffic and transport consultant brief
- Carers Pollie Pedal event 2014
- Glen Alice Community Association requests

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

NIL

## **LEGAL IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. Minutes from the Traffic Advisory Local Committee meeting of 3 July 2014.

## **RECOMMENDATION**

**THAT** Council:

1. Note the minutes of the Traffic Advisory Local Committee held on the 3 July 2014
2. Extend the No Stopping zone by six metres in a northerly direction on the western side of Hayley Street.

**ITEM-20 OPER - 28/07/14 - 3RD JULY 2014 - OPERATIONS COMMITTEE MEETING MINUTES**

**REPORT BY: I STEWART – GROUP MANAGER OPERATIONS**

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## **SUMMARY**

Details of the Minutes of the Operations Committee Meeting held on Thursday, 3<sup>rd</sup> July 2014 for Council adoption.

## **COMMENTARY**

At the Operations Committee Meeting held on Thursday, 3<sup>rd</sup> July 2014 there were a number of items discussed by the Committee, with all items being actioned under the Committee's delegated authority.

Items discussed included:

- Urban Road Sealing Program
- Review of Major Capital Works
- Local Funding for Bridges and Heavy Vehicle Programs

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

NIL

## **LEGAL IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. Minutes of the Operations Committee Meeting held on Thursday, 3<sup>rd</sup> July 2014.

## **RECOMMENDATION**

**THAT** Council note the minutes of the Operations Committee meeting held on Thursday, 3<sup>rd</sup> July 2014.

**ITEM-21 EXEC - 28/07/14 - ECONOMIC DEVELOPMENT ADVISORY COMMITTEE MEETING MINUTES - 9 JULY 2014**

**REPORT BY - M BREWSTER – ECONOMIC DEVELOPMENT OFFICER**

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## **REFERENCE**

Min No 12-409: Ordinary Meeting of Council held on 5 November 2012  
Min No 13-138: Ordinary Meeting of Council held on 15 April 2013  
Min No 14-100: Ordinary Meeting of Council held on 3 March 2014

## **SUMMARY**

This report details the Minutes of the Economic Development Advisory Committee Meeting held on 9 July 2014.

## **COMMENTARY**

At the Economic Development Advisory Committee held on 9 July 2014, there were various items discussed by the Committee.

1. Regional Development Australia – Draft Key Studies
2. 2015/15 Update of the 201-14 Economic Development Strategy and Investment Prospectus
3. Quarterly Development Statistics and Investor Enquiry
4. Recent Promotions and Marketing Activity
5. Round table Economic Sector Updates

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

NIL

## **LEGAL IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. Minutes from the Economic Development Advisory Committee meeting of 9 July 2014

## **RECOMMENDATION**

**THAT** Council note the minutes of the Economic Development Advisory Committee held on the 9 July 2014.

## NOTICES OF MOTION

### ITEM-22 NOTICE OF MOTION - 28/07/14 - LOCAL GOVERNMENT ACT AND COUNCIL MODEL CODE OF CONDUCT - REPORTABLE DONATIONS - COUNCILLOR M TICEHURST

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## REFERENCE

Agenda Item 9 and related Attachment 9 of the Ordinary Meeting of the Lithgow City Council Meeting on 25 February 2013

Council Resolution 13 – 50 made at the Ordinary Meeting of the Lithgow City Council Meeting on 25 February 2013.

Section 451 (2) of the Local Government Act 1993.

## COMMENTARY

At the Ordinary Meeting of the Lithgow City Council on 25 February 2013, the Council resolved by resolution 13 -50:

**THAT** Council:

1. Adopts the new Model Code and Procedures; and
2. Calls for expressions of interest, either individually and/or with other Councils or Centroc, for Conduct Reviewers.

**MOVED:** Councillor R Thompson                      **SECONDED:** Councillor W McAndrew

The implementation of the new Lithgow City Council Model Code of Conduct commenced from 1 March 2013, following the Lithgow City Council Elections on the 8 September 2012.

All Councillors would have no doubt noted that this Lithgow City Council Model Code of Conduct also included the new Model Code and Procedures for 'Reportable Political Donations. Here are those relevant passages:

### **Reportable political donations**

4.20 Councillors should note that matters before Council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.

4.21 Where a councillor has received or knowingly benefitted from a reportable political donation:

1. made by a major political donor in the previous four years, a

- b) where the major political donor has a matter before council, then the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 4.16(b). (**See below**)

4.22 For the purposes of this Part:

- a) a “reportable political donation” is a “reportable political donation” for the purposes of section 86 of the *Election Funding, Expenditure and Disclosures Act 1981*,
- b) a “major political donor” is a “major political donor” for the purposes of section 84 of the *Election Funding, Expenditure and Disclosures Act 1981*.

4.23 Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.

4.24 If a councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 4.21, that councillor is not prevented from participating in a decision to delegate council’s decision-making role to council staff through the general manager or appointing another person or body to make the decision in accordance with the law (see clause 4.19 above).

4.16 If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:

- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official
- b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply.

By way of confirmation, Section 451 (2) of the Local Government Act 1993 states:

#### **451 Disclosure and presence in meetings**

- (2) The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
  - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
  - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

## **RECOMMENDATION**

**THAT** the Council, Councillors and General Manager note this information on Reportable Donations outlined in Councils Model Code of Conduct and the Local Government Act.

**ITEM-23 NOTICE OF MOTION - 28/07/14 - SECTIONS 328A AND 328B OF THE LOCAL GOVERNMENT ACT 1993 - COUNCILLOR M TICEHURST**

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**REFERENCE**

Sections 328A and 328B of the Local Government Act 1993.

General Manager's Performance Agreement with the Lithgow City Council.

**COMMENTARY**

Following a recent Councillors Information Session on the General Manager's Performance Agreement with the Lithgow City Council, it may now be appropriate for the following legal obligations as described under Sections 328A and 328B of the Local Government Act 1993 to also be included into the General Manager's Performance Agreement Appraisal.

**LOCAL GOVERNMENT ACT 1993 - SECT 328A**

**General manager to keep register of political donation disclosures**

**328A General manager to keep register of political donation disclosures**

- (1) The General Manager is required to keep a register of copies of current declarations of disclosures of political donations lodged with the Election Funding Authority by or on behalf of Councillors of the Council concerned (including in their capacity as Candidates for election as Councillors).
- (2) For the purposes of this section, current declarations of disclosures of political donations are declarations lodged under Part 6 of the [Election Funding, Expenditure and Disclosures Act 1981](#) in respect of the relevant disclosure period that includes the date of the last election (other than a by-election) and all subsequent relevant disclosure periods.

**Note :** Part 6 of the *Election Funding, Expenditure and Disclosures Act 1981* makes provision for disclosure by councillors and candidates for civic office (and parties registered in connection with local government elections) of political donations and electoral expenditure.

**LOCAL GOVERNMENT ACT 1993 - SECT 328B**

**Reference by general manager to Director-General of political donation matters**

**328B Reference by general manager to Director-General of political donation matters**

- (1) If the general manager reasonably suspects that a councillor has not complied with the provisions of the code of conduct under section 440 relating to the disclosure of political donations or the manner of dealing with any perceived



conflict of interest in relation to political donations, the general manager is to refer the matter to the Director-General.

## **RECOMMENDATION**

**THAT** the Mayor and Deputy Mayor include the legal obligations as described under Sections 328A and 328B of the Local Government Act 1993 into the General Manager's Performance Agreement Appraisal, prior to requesting submissions this year from all Councillors.

**ITEM-24 NOTICE OF MOTION - 28/07/14 - COUNCIL MODEL CODE OF CONDUCT - INAPPROPRIATE INTERACTIONS - COUNCILLOR M TICEHURST**

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## **REFERENCE**

Lithgow City Council Model Code of Conduct, adopted at the Ordinary Meeting of the Lithgow City Council on 25 February 2013.

## **COMMENTARY**

All Councillors would have no doubt noted that the Lithgow City Council Model Code of Conduct includes guidelines for Councillors and Council staff for Inappropriate Interactions. Here are those relevant passages:

### **Inappropriate interactions**

6.7 You must not engage in any of the following inappropriate interactions:

- a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
- b) Council staff approaching councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
- c) Council staff refusing to give information that is available to other councillors to a particular councillor.
- d) Councillors and administrators who have lodged a development application with council, discussing the matter with council staff in staff only areas of the council.
- e) Councillors and administrators being overbearing or threatening to council staff.
- f) Councillors and administrators making personal attacks on council staff in a public forum.
- g) Councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.
- h) Council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
- i) Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.

- j) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by council associated with current or proposed legal proceedings unless permitted to do so by council's general manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.

## **RECOMMENDATION**

**THAT** the Council, Councillors and General Manager note this information on inappropriate Interactions as outlined above from the Councils Model Code of Conduct.

**ITEM-25 NOTICE OF MOTION - 28/07/14 - TENDERS FOR STAGE 2 FARMERS CREEK FLOOD MITIGATION PROJECT - BELATED ERROR - COUNCILLOR M TICEHURST**

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**REFERENCE**

Lithgow City Council Mayoral Media Release ‘Proud to be Mayor’ dated 11 July 2014.  
Agenda Item 1 Extraordinary Meeting of the Lithgow City Council on Tuesday 24 June 2014.

Minutes of the Extraordinary Meeting of the Lithgow City Council on Tuesday 24 June 2014.

**COMMENTARY**

At the Extraordinary Meeting of the Lithgow City Council on Tuesday 24 June 2014, Agenda Item 1 was listed as **TENDERS FOR STAGE 2 FARMERS CREEK FLOOD MITIGATION PROJECT**.

**The full report to Council and Councillors is as follows.**

**REPORT BY: M BAILEY – PROJECT ENGINEER**

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**REFERENCE**

Min No 14-164: Ordinary meeting of Council held on 14th April 2014

**SUMMARY**

This report seeks a determination from Council to award a tender for the Construction of Stage 2 of the Farmers Creek Flood Mitigation Scheme.

**COMMENTARY**

Following the completion of stages 1A and 1B of the Farmers Creek Flood Mitigation Scheme in 2011, Council engaged Geolyse Pty Ltd to prepare detailed design documentation for Stage 2 of the Farmers Creek Flood Mitigation Scheme.

Stage 2 of the Farmers Creek Lithgow Flood Mitigation Scheme involves the widening of the existing channel from the termination of Stage 1 works at Tony Luchetti Sportsground to approximately 100 meters east of the Albert Street Bridge. This work will entail the full redevelopment of the existing Farmers Creek Channel on both the northern and southern sides for a total length of 376 metres, including the widening of the channel, construction of new retaining walls, new channel floor, and the relocation of services.

Following the design phase, which was conducted in consultation with Office Environment & Heritage, Council called for tenders for the construction of Stage 2 via the

Open Tendering process, pursuant to the provisions of Section 55 of the Local Government Act 1993 and Part 7 of the Local Government (General) Regulation 2005.

A compulsory pre-tender site meeting was held on Friday 23rd April 2014, with representatives from all companies submitting tenders in attendance.

Tenders for this project closed on Thursday 15th May 2014. Tenderers were asked to provide a Conforming price and indicative timeline schedule for the project. Contrary to the Conforming submissions, there were also a number of Non-Conforming submissions received for Council consideration. A summary of both Conforming & Non-Conforming tenders received and prices is outlined below.

Council was successful in obtaining a \$4,276,670.00 grant from the NSW Government Office of Environment & Heritage (OEH) for Stage 2 of the Farmers Creek Flood Mitigation Scheme on a 2:1 funding ratio, with Council to contribute a further \$2,138,335.00. This brings the total budget allocation for this project to \$6,415,005.00.

OEH has requested that Council urgently award a tender for the construction of Stage 2 of the Farmers Creek Flood Mitigation Scheme, in order for a lump sum grant payment of two million dollars (\$2,000,000.00) to be processed prior to 27 June 2014. OEH have requested that a contract for this project is awarded prior to close of business on 25 June 2014.

## Tenders

Six (6) conforming tenders were received by the closing time/date of 4:00pm on 15 May 2014.

Conforming Tenderer Submissions	Price (ex GST)	Price (incl GST)
Dukes Civil Pty Ltd	\$4,180,729.00	\$4,598,801.90
Graceys Earthmoving and Craven, Elliston & Hayes (CEH)	\$3,262,677.70	\$3,588,945.47
Peters Earthmoving	\$2,164,916.20	\$2,381,407.82
Central West Civil	\$3,769,839.17	\$4,146,823.09
Josa Group Pty Ltd	\$3,643,968.00	\$4,008,364.80
Earthtec Pty Ltd	\$4,188,511.95	\$4,607,363.15

In addition to the confirming tenders, a further 4 non-conforming tenders were received:

Non Conforming Tender Submissions	Departures from Specifications	Price (ex GST)	Price (incl GST)
Graceys Earthmoving and Craven, Elliston & Hayes (CEH)	Reduced Spec	\$3,192,909.39	\$3,512,200.33
Earthtec Pty Ltd	Gabi Block	\$3,909,663.00	\$4,300,629.30
Earthtec Pty Ltd	Gabion	\$3,501,708.00	\$3,851,878.80
Earthtec Pty Ltd	Gabion & Reno	\$3,502,923.00	\$3,853,215.30

## Evaluation Panel

In accordance with Council's Tendering Policy 1.4, a tender evaluation panel was formed to evaluate the tenders, consisting of:

- Iain Stewart, Group Manager Operations
- David Mitchell, Urban Overseer
- Maddison Bailey, Project Engineer

## Selection Criteria

Each tender was evaluated according to the following criteria, in order of priority and weighting:

Criteria		Weighting
1	Price	40%
2	Demonstrated Understanding	30%
3	Relevant Experience	10%
4	Key Personnel skills/experience	10%
5	Tenderer's resources	10%

## Scoring System

Each company was given a score from 0 – 10 for each selection criteria item using the following scoring system:

Score	Definitive Answers	Value Judgement
0	Unsatisfactory	Fails to meet the requirement.
		Unimaginative/No apparent economic benefit.
2	Poor	Minimal Compliance.
		Moderately creative/benefits difficult to assess
4	Satisfactory	Moderately satisfies the requirement.
		Worthwhile concept/may realise benefits.
6	Good	Partially satisfies the requirement.
		Creative/enduring benefits over time.
8	Very Good	Satisfies the majority of the requirement.
		Highly creative/enduring high benefits.
10	Excellent	Fully satisfies the requirement.
		Exceptional/immediate & enduring high benefits.

## Evaluation Summary – Qualitative Criteria

Each tenderer was assessed based on Qualitative Criteria, being Demonstrated Understanding (30%), Relevant Experience (10%), Key Personnel Skills/Experience (10%), and tenderers resources (10%), to give a total Qualitative Score of 60%.

Dukes Civil Pty Ltd - Dukes Civil have extensive resources to complete the project, their staff are qualified and experienced, and the company has earthworks experience, particularly in mining related projects. The tender submitted by Dukes Civil did not demonstrate a comprehensive understanding of the project requirements. SCORE = 5.56/10

WEIGHTED SCORE = 3.33/6

Graceys Earthmoving and Craven, Elliston & Hayes (CEH) - Graceys Earthmoving submitted a tender in conjunction with Craven, Ellison and Hayes (CEH), with CEH to provide project management and surveying services. Graceys tender demonstrated thorough research and an impressive understanding of the key project requirements and potential challenges. The comprehensive submission reflected Gracey Earthmoving's experience in projects of similar magnitude. The company has access to adequate plant and human resources.

SCORE = 8.44/10  
 WEIGHTED SCORE = 5.07/6

Peters Earthmoving - Peters Earthmoving employs qualified staff experienced in large scale earthworks, and have access to extensive plant resources. Peters Earthmoving tender did not demonstrate a thorough understanding of project requirements, with only a basic work breakdown structure submitted. The tender also failed to demonstrate experience in projects of a similar nature.

SCORE = 5.33/10  
 WEIGHTED SCORE = 3.2/6

Central West Civil (CWC) - Central West Civil have experience in projects of a similar nature, employ a range of experienced and qualified staff, and have extensive resources. A detailed Work Breakdown Structure was provided with the tender.

SCORE = 7.33/10  
 WEIGHTED SCORE = 4.4/6

Josa Group Pty Ltd - Josa Group provided a comprehensive understanding of project requirements, and employ experienced and qualified staff. They have some experience in projects of a similar nature, and adequate resources for the project.

SCORE = 7.44/10  
 WEIGHTED SCORE = 4.47/6

Earthtec Pty Ltd - Earthtec were the most experienced of all tenderers, with an impressive background delivering a number of geotechnical construction projects. Earthtec indicated that plant hire would be subcontracted.

SCORE = 6.72/10  
 WEIGHTED SCORE = 4.03/6

### Non-Conforming Tenders

The tender evaluation panel reviewed the four (4) non-conforming tenders and recommended that none be considered in the evaluation for the following reasons:

- None of the non-conforming tenders demonstrated added value over the conforming submissions
- The alternative style of retaining wall offered by Earthtec’s non-conforming submissions, Rock Gabions, is more susceptible to vandalism than the specified MassBloc system.
- The Rocla MassBloc retaining wall system was utilised successfully in Stage 1 of the Scheme, and it is preferential to continue with the same material throughout Stage 2 for aesthetic value.

### Evaluation Summary – Price Component

Price was given a score out of 10 based on the below formula:

$$Price\ score = \frac{Lowest\ Tender\ Price}{Tendered\ Price} \times 10$$

Tenderer	Peters	Gracey	Dukes
Price (\$)	\$2,164,916.20	\$3,262,677.70	\$4,180,729.00
Price Score /10	10.00	6.64	5.18
Weighted Price Score /4	4.00	2.65	2.07

Tenderer	CWC	Josa	Earthtec
Price (\$)	\$3,769,839.17	\$3,643,968.00	\$4,188,512.00
Price Score /10	5.74	5.94	5.17
Weighted Price Score /4	2.30	2.38	2.07

## Final Scores

The scores for qualitative and price criteria were added to give a final total score.

	Peters	Gracey	Dukes	CWC	Josa	Earthtec
Qualitative Score /6	3.20	5.07	3.33	4.40	4.47	4.03
Price Score /4	4.00	2.65	2.07	2.30	2.38	2.07
<b>Total Score /10</b>	<b>7.20</b>	<b>7.72</b>	<b>5.40</b>	<b>6.70</b>	<b>6.84</b>	<b>6.10</b>

## Recommendation of Tender Evaluation Panel

The tender evaluation panel recommend that the tender for the construction of Farmers Creek Flood Mitigation works Stage 2 is awarded to Graceys Earthmoving Pty Ltd and Craven, Elliston & Hayes for the tendered price of Three Million, Two Hundred and Sixty Two Thousand, Six Hundred and Seventy Seven Dollars, Seventy Cents GST exclusive (\$3,262,677.70 ex GST). Gracey's tender achieved the highest overall score of 7.72 out of a possible 10.

Although this tender was not the cheapest, it is the opinion of the tender evaluation panel that this tender is the most advantageous to Council in terms of value for money, and it is evident through their tender submission that Graceys Earthmoving and Craven, Elliston & Hayes have the skills and experience required to complete this project successfully. The tender submission demonstrated thorough research and a comprehensive understanding of the project requirements.

## POLICY IMPLICATIONS

NIL

## FINANCIAL IMPLICATIONS

Council will receive prior to 30<sup>th</sup> June 2014 grant funding of \$4,276,670 to be allocated to Stage 2 of the Farmers Creek Lithgow Flood Mitigation Scheme. The funding ratio is 2:1, with Council required to contribute 1/3 of the total cost of the scheme, being \$2,138,335. Provision has been made in the draft budget for this contribution to be made over the next two financial years.

## LEGAL IMPLICATIONS

NIL

## RECOMMENDATION

**THAT** Council:

1. Accept the tender submission from Graceys Earthmoving Pty Ltd and Craven, Elliston & Hayes for Three Million, Five Hundred and Eighty Eight Thousand, Nine Hundred and Forty Five Dollars, Forty Seven Cents GST inclusive (\$3,588,945.47 incl GST).for construction Stage 2 of the Farmers Creek Flood Mitigation Scheme.



2. Authorise the affixing of the Council seal to any necessary documentation in relation to this tender

Councillors would be aware that after the Extraordinary Meeting of the Lithgow City Council on Tuesday 24 June 2014, the next regular Ordinary Meeting of the Lithgow City Council was held on the following Monday 30 June 2014.

At that Council Meeting, neither the Council's Group Manager Operations, the Council's General Manager or the Council's Mayor presented any Late Reports or Mayoral Minutes on any issues or concerns about the previous weeks Agenda Item 1 listed as TENDERS FOR STAGE 2 FARMERS CREEK FLOOD MITIGATION PROJECT from the Extraordinary Meeting of the Lithgow City Council on Tuesday 24 June 2014.

Recently on the 11 July, 2014, nearly three weeks after the original Extraordinary Meeting of the Lithgow City Council on Tuesday 24 June 2014 and the next Ordinary Meeting of the Lithgow City Council held on the following Monday 30 June 2014, the Mayor issued a Media Release 'Proud to be Mayor' in which the Mayor has now publicly said,

"Following the discovery of an incorrect disclosure in the text of the Stage 2 Farmers Creek Flood Mitigation tender report, I directed Senior Officers to investigate this error as a matter of urgency. As a result, it was determined that the incorrect inclusion of a subcontractor as a joint tenderer was simply an error and had no bearing in the consideration and outcome of the tenders. Council's Group Manager of Operations, Iain Stewart, advised that one of the tenderers listed included the name of a subcontractor which should not have been included on the list of tenderers, this was reported in error. However, it should be noted that the outcome of the tender report was not affected by this inclusion."

## **ATTACHMENTS**

1. Lithgow City Council Mayoral Media Release 'Proud to be Mayor' dated 11 July 2014.
2. Agenda Item 1 Extraordinary Meeting of the Lithgow City Council on Tuesday 24 June 2014.
3. Minutes of the Extraordinary Meeting of the Lithgow City Council on Tuesday 24 June 2014.

## **RECOMMENDATION**

**THAT** Council and Councillors note the information in this Notice of Motion.

**ITEM-26 NOTICE OF MOTION - 28/07/14 - LEGAL ADVICE ON COUNCILS 50 METRE SWIMMING POOL AND REPORT ON BIO-RETENTION BASIN SOUTH BOWENFELS - COUNCILLOR M TICEHURST**

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**REFERENCE**

Ordinary Meeting of the Lithgow City Council on 12 May 2014, Council Resolution 14 – 196.

Ordinary Meeting of the Lithgow City Council on 24 March 2014, Council Resolution 14 – 119.

**COMMENTARY**

At the Ordinary Meeting of the Lithgow City Council on 12 May 2014, the Council resolved by resolution 14 – 196:

THAT the report be noted and presented to a Councillor Information Session before an urgent report be brought back to a future meeting of Council detailing legal advice with regards to Section 731 of the Local Government Act.

MOVED: Councillor P Pilbeam                      SECONDED: Councillor F Inzitari

Further at the Ordinary Meeting of the Lithgow City Council on 24 March 2014, the Council resolved following a Late Mayoral Minute by resolution 14 – 119:

THAT a full report be given to Council with regards to the Bio-Retention Basin.

MOVED: Councillor M Statham                      SECONDED: Councillor R Higlett

Q. Could the General Manager and/or Senior Council Officers provide a report to Councillors at this Ordinary Meeting of the Lithgow City Council on the current status of:

1. The legal advice with regards to Section 731 of the Local Government Act concerning the Councils Consultants Report on the current condition of the Councils 50 metre Outdoor Swimming Pool? and
2. When after more than four months, the Council and Councillors will receive the Mayor or General Managers full report with regards to the Bio-Retention Basin in Stockade Close, South Bowenfels?

**RECOMMENDATION**

**THAT** the Mayor, General Manager and/or Senior Council Officers provide a report to Councillors at this Ordinary Meeting of the Lithgow City Council on the current status of:

1. The legal advice with regards to Section 731 of the Local Government Act concerning the Councils Consultants Report on the current condition of the Councils 50 metre Outdoor Swimming Pool? and
2. When after nearly four months, the Council and Councillors will receive the Mayor or General Managers full report with regards to the Bio-Retention Basin in Stockade Close, South Bowenfels?

General Manager's Comment:

Councillors were advised at a recent council meeting that the report on the Bio-Retention Basin would be provided to Council by at least the Council meeting to be held on 28 July 2014, i.e. this meeting, the report is provided as Item 30

**ITEM-27 NOTICE OF MOTION - 28/07/14 - LOW FREQUENCY INFRASOUND NOISE - CLARENCE - COUNCILLOR J MCGINNES**

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**REFERENCE**

Ordinary Meeting of the Lithgow City Council on 30 June 2014 Public Gallery

**COMMENTARY**

Mr Norm Allan raised the problem of continual low frequency infrasound noise variously peaking at some 76 to 96 DB at around midnight inside his residence at Clarence and which he claimed could be emanating from recently installed mine ventilation infrastructure on the Newnes Plateau.

**RECOMMENDATION**

**THAT** Senior Council Officers provide a verbal report to Councillors at this Ordinary Meeting of the Lithgow City Council on any information or results of any investigations it has conducted into the low frequency infrasound noise problems raised by local resident and ratepayer Mr Norm Allan at the Ordinary Council Meeting of 30 June 2014.

## **REFERENCE**

Notice of Motion Item 28 Ordinary Meeting of the Lithgow City Council on 30 June 2014

## **COMMENTARY**

The Minutes Of the Aquatic Centre Committee of 11 September 2013 confirm that the Council consultant advised that the ongoing cost and installation of a Dehumidification (Air Conditioning) system in the Lithgow Aquatic Centre Heated Pool Enclosure are exorbitant and the facility has been designed to allow natural ventilation and controlled air flows to moderate (?) the air temperature of the pool hall.

From the research I have conducted natural ventilation is only suitable in the tropics. Townsville would be a good example where the lowest and highest temperatures for the current month up until the 15th July 2014 ranged between 8.3 degrees C Min to 22.8 degrees C Max which compares to Lithgow with minus 6 degrees C Min to 6.6 degrees C Max!

This equates to a air temperature difference of around 14 degrees C between the two locations!

Source;

<http://www.bom.gov.au/climate/dwo/IDCJDW4128.latest.shtml> Australian Bureau of Meteorology Townsville July 2014 Daily Weather Observations

<http://www.bom.gov.au/climate/dwo/IDCJDW2075.latest.shtml> Australian Bureau of Meteorology Lithgow July 2014 Daily Weather Observations

## **RECOMMENDATION**

**THAT** Senior Council officers provide a verbal report to this Ordinary Meeting of Lithgow City Council on issues raised on a front page story published in the Lithgow Mercury on 17th July 2014 regarding the lack of adequate heating of the airspace of the Lithgow Aquatic Centre Heated Indoor Pool. Senior Officers to include in this report the projected temperature of the water in various locations in the indoor pool and in the absence of any air conditioning or dehumidification system and the use of natural ventilation shutters, the temperature of the air space which will be constantly maintained in the pool enclosure and whether this temperature will be affected by the outside air temperature at any one time, considering outside air temperatures in Lithgow can fall to minus six degrees in the mid winter season.

## **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 COUNCIL

**ITEM-29            CONFIDENTIAL - CLOSED COUNCIL - GM - 28/07/14 - STOCKADE  
CLOSE LITHGOW BIO-RETENTION BASIN**

**REPORT BY: R BAILEY - GENERAL MANAGER**

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### **Reason for Confidentiality**

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

- (a) personnel matters concerning particular individuals (other than councillors),
- (e) information that would, if disclosed, prejudice the maintenance of law,
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

### **SUMMARY**

Council previously requested that a report be prepared in relation to the approval of the creation of a Bio-Retention Basin in land off Stockade Close Lithgow.

The report has been deemed to be confidential under the provisions of 10A(2)(a), (e) and (g) of the Local Government Act.

### **RECOMMENDATION**

**THAT** Council consider the report on the Stockade Close, Lithgow Bio-Retention Basic in Closed Council pursuant to Section 10A(2)(a), (e) and (g) of the Local Government Act 1993.