



LITHGOW CITY COUNCIL

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

20 AUGUST 2007

AT 7.00pm

# AGENDA

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**PRESENT**

**QUESTIONS FROM THE PUBLIC GALLERY**

**PRESENTATIONS - NIL**

**CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 16 JULY 2007**

**DECLARATION OF INTEREST**

**NOTICE OF MOTION - NIL**

**NOTICE OF RECISSION - NIL**

**MAYORAL MINUTES**

Confidential - Code of Conduct - Complaint about a staff member  
Code of Conduct Complaint

**REPORTS**

General Manager Reports  
Regional Services Report  
Community and Corporate Services Reports

**COMMITTEE MEETINGS - NIL**

**DELEGATES REPORT - NIL**

**QUESTIONS WITHOUT NOTICE**

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## MAYORAL MINUTE

### ITEM:1            MAYORAL MINUTE - 20/8/07 - CONFIDENTIAL REPORT - CODE OF CONDUCT COMPLAINT ABOUT A STAFF MEMBER

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ITEM: x    20/08/2007 - CONFIDENTIAL REPORT – CODE OF CONDUCT COMPLAINT ABOUT A STAFF MEMBER

REPORT FROM: MAYOR, COUNCILLOR NEVILLE CASTLE

#### SUMMARY

Council is provided with a report from the Conduct Committee and Council will now be in a position to finalise this issue. As this issue concerns a member of staff the matter is confidential.

#### COMMENTARY

In accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, in my opinion, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

**Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.**

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it,
  - or
  - (ii) confer a commercial advantage on a competitor of the council,
  - or
  - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

This item is classified **CONFIDENTIAL** under section 10A(2)(a) 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)

This matter is classified confidential because it contains personal matters relating to a staff member. It is not in the public interest to reveal personal information about a staff member.

**RECOMMENDATION**

**THAT** Council consider this report in the closed Council pursuant to the provision of Sec 10(A) (2) (a) of the Local Government Act 1993.

**ITEM:2            MAYORAL MINUTE - 20/8/07 - CODE OF CONDUCT COMPLAINT - COMPLAINT ABOUT COUNCILLOR TICEHURST FROM THE GENERAL MANAGER**

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ITEM: x    20/08/2007 CODE OF CONDUCT COMPLAINT - COMPLAINT ABOUT COUNCILLOR TICEHURST FROM THE GENERAL MANAGER

**REPORT FROM: MAYOR, COUNCILLOR NEVILLE CASTLE**

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**SUMMARY**

Council is provided with a report from the Conduct Committee and Council will now be in a position to finalise this issue arising from a complaint received concerning Councillor Ticehurst.

**COMMENTARY**

I also present to the Council the Committee's consideration of a matter brought to the Committee's attention via a written complaint. I make the recommendation below with regard to those considerations.

I bring to the Council's attention the following extract from the report which highlights the seriousness of the issues at the heart of the report's findings.

*"If Council finds prima facie breaches of the Code by Councillor Ticehurst, as found by the Committee, do in fact constitute breaches of the Code, the Committee advises and recommends as follows.*

*In this matter there has been a pattern of behaviour about which the Committee notes there have been 3 formal censures that have been made against Councillor Ticehurst by the Council. These censures took place on:-*

- a) 18 August 2003 (resolution of the Council is attached as "F"),*
- b) 16 October 2006 (resolution of Council is attached as "G"),*
- c) 16 April 2007 (resolution of Council is attached as "H").*

*Arising out of the resolution of 16 April 2007, a further resolution was made by Council that the Director General of the Department of Local Government be informed of the second censure of the Council and a letter dated 3 May 2007 was forwarded to the Director which is attached as "I."*

The Committee's report is substantial and concludes that there has been breaches of the Code of Conduct by Councillor Ticehurst and I support and move that the recommendations of the Code of Conduct Committee's be endorsed and resolved by Council as they appear at the bottom of this mayoral minute be considered by Council.

**POLICY IMPLICATIONS**

Council's Code of Conduct applies.

**FINANCIAL IMPLICATIONS**

Legal expenses will apply to the investigation.

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

1. REPORT TO THE LITHGOW CITY COUNCIL CONCERNING COMPLAINT BY PAUL ANDERSON, GENERAL MANAGER OF THE LITHGOW CITY COUNCIL AGAINST COUNCILLOR MARTIN TICEHURST

**RECOMMENDATION**

**THAT:**

1. With regard to the complaint received alleging inappropriate conduct by Councillor Martin Ticehurst a finding of the numerous prima facie breaches of the Code of Conduct as detailed in the Code of Conduct Committee's report arising out of the publications considered in the report is accepted by Council, and that arising from this:
  - a) Councillor Ticehurst be censured for the incidents of misbehaviour; and
  - b) Councillor Ticehurst be referred to the Director General of Local Government seeking his suspension for a period of 6 months; and
  - c) Council issue a further censure as a consequence of the incidents arising out of the complaints made by the General Manager and the matter be referred on this basis to the Director General of the Department of Local Government with the recommendation for a period of suspension from civic office of 6 months; and
  - d) Council require Councillor Ticehurst to publicly apologise to the General Manager, Paul Anderson and Senior Staff, for the breaches of the Code of Conduct particularised as detailed in the Code of Conduct Committee report. Such apology to be published, without qualification, in the Lithgow Mercury within 28 days; and
  - e) Council write a letter to the Director General that should he be of the view that if he finds there has been a technical breach of any of the formal requirements on the part of the Code of Conduct Committee or of Council, the Director-General himself, initiate the process for suspension of the Councillor from civic office pursuant to subsection 440(3) of the Local Government Act, 1993 having regard to the circumstances of all the circumstances surrounding the disruptive behaviour of the Councillor.

Signed: N. Castle  
MAYOR

Date: 16/8/07

TOTAL P.83

**ITEM:3            MAYORAL MINUTE - 20/8/07 - VISIT TO SHREWSBURY, ENGLAND  
AND EMIRATES RESORT, DUBAI**

**REPORT FROM: NEVILLE CASTLE, MAYOR**

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**REFERENCE**

NIL

**COMMENTARY**

On a very recent overseas trip I was able to carry out some Council business in furthering the possibility of a Sister City relationship with Shrewsbury in the United Kingdom and to visit the Al Maha Resort that the Emirates own in Dubai.

Having received several pieces of correspondence between Shrewsbury and Lithgow and following on the excellent work that John and Anne Wellings had begun, we were able to set up a meeting with the Mayor of Shrewsbury and a couple of his Senior Staff.

The common link is of course Charles Darwin, with Charles Darwin having visited this area more than a century ago, scientifically "discovering" the platypus and having been born in Shrewsbury. Shrewsbury has a similar "Learning Cities" concept to Lithgow and are planning major celebrations in 2009 for the 150<sup>th</sup> Anniversary of Charles Darwin's voyage of the Beagle.

The Committee organising these celebrations are hoping to have a global 'hook-up' of places of significant importance in the voyage of the Beagle, including: Shrewsbury, Easter Island and Lithgow among others. The idea would be an educational debate looking at a hypothetical scientific line of enquiry, through the schools. They are also looking to see if the British Ministry of the Arts would be able to fund some representatives of these schools to attend the UK in person.

As I was having a stop-over in Dubai on my way to the United Kingdom, it was suggested by Joost Heymeijer (working for the Emirates on the Wolgan Valley Project) approximately 2 months after I had fully paid my fare to the UK, that I should visit their Al Maha Resort in Dubai to see what type of facility we can expect to see in the Wolgan Valley.

Two booklets I have given to Council indicate that their resorts are of the highest quality. The Resort at Al Maha, combines normal leisure activities, with a conservation area (similar to what is being planned in the Wolgan Valley). They also provide the highest class of service in a relatively isolated area. I believe that the Emirates Resort in the Wolgan Valley will provide a high class resort facility in our area as well as more than 100 jobs of which many will be able to be sourced locally.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

NIL

**RECOMMENDATION**

**THAT:**

1. The information be received
2. Council continue to formalise a Sister City relationship with Shrewsbury with a further report to come to Council regarding this relationship.

## GENERAL MANAGER REPORTS

### ITEM:4            GM - 20/8/07 - DIRECTORSHIP CENTRAL WEST GROUP APPRENTICES

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#### REFERENCE

Min 05-37:        Ordinary Meeting 24 January 2005

Min 05-620:     Planning, Policy and Development Committee Meeting 12 December  
2005

#### SUMMARY

Central West Group Apprentices have written to Council to determine attendance and the nomination of the voting delegate for the Annual General Meeting to be held in October in Bathurst. In addition, Council has been advised that the director position held by Councillor Ticehurst will expire at the meeting and have requested a nomination for this position be provided.

#### COMMENTARY

As a member of the Central West Group Apprentices, Council is entitled to nominate a person for the position of Director.

Councillor Ticehurst is the current nomination but with the notification from the Group for the time and date of the Annual General Meeting, Council has also been advised that Councillor Ticehurst's directorship expires at the meeting.

Council is asked to advise of the nomination for the directorship.

Council is advised that the Directorship is a paid position.

Council is also asked to nominate a voting delegate for the Annual General Meeting.

#### POLICY IMPLICATIONS

There are no policy implications arising from this report.

#### FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

#### LEGAL IMPLICATIONS

There are no legal implications arising from this report.

#### CONCLUSION

Council will consider the attendance and nomination of a director for the Central West Group Apprentices organisation as a result of the consideration of this report.

#### ATTACHMENTS

- 1.Nomination form.

## **RECOMMENDATION**

### **THAT:**

1. Council nominate its representative for the directorship of Central West Group Apprentices;
2. Council authorise the General Manager, or his delegate, to attend the annual general meeting as the member representative to vote on behalf of the Council at the AGM.

## REGIONAL SERVICES REPORTS

### ITEM:5            REG - 20/8/07 - CONFIDENTIAL REPORT - LINING OF SLUDGE LAGOONS - LITHGOW WATER TREATMENT PLANT

#### REPORT BY: GROUP MANAGER REGIONAL SERVICES - ANDREW MUIR

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##### Reason for Confidentiality

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

**Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.**

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

This item is classified **CONFIDENTIAL** under section 10A(c) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

As there has only been one tenderer and the most advantageous price is being sought, further negotiations may be necessary and an advantage may be conferred upon the tenderer by providing knowledge of the budget situation and the likely timeframe of the works.

Pursuant to section 10A(4), the public are invited to make representations to the council meeting before any part of the meeting is closed, as to whether that part of the meeting should be closed.

## **REFERENCE**

Finance and Services Committee 05/02/07.

Finance and Services Committee 06/08/07.

## **SUMMARY**

To advise Council of the progress of the tender process for lining the sludge lagoons at the Lithgow Water Treatment Plant.

## **RECOMMENDATION**

**THAT** Council consider this report in the closed Council pursuant to the provision of Sec 10(A) (2) (c) of the Local Government Act 1993.

## **ITEM:6            REG - 20/8/07 - FARMERS CREEK TENDER ACCEPTANCE**

### **REPORT FROM:        WORKS ENGINEER - CHRIS SCHUMACHER**

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## **SUMMARY**

To advise Council of the tender process for the next stage of the Farmers Creek Flood Mitigation Works.

## **COMMENTARY**

Tenders for the next stage of the Farmers Creek Flood Mitigation Works have now closed and have been assessed. Two tenders were advertised for the various components of the proposed works.

Conforming tender and non conforming tender options were advertised for the supply and delivery of precast concrete panels and/or an alternate option. This tender was left open to provide Council with an alternative to the original design, allowing the industry to provide an alternate design to reduce construction costs. Council received three (3) complying tenders and one (1) non complying tender which proposed the use of a permeable segmental retaining wall system known as 'Massbloc'.

A second tender was advertised for the supply, delivery and installation of 'Galvanised Steel Soldier Piles' as part of the structural wall. Three (3) tenders were received. It should be noted that the galvanised steel soldier piles is part of the structural wall design and is to be used in conjunction with the precast concrete panels (complying tender) above.

From the analysis of the two tenders it is evident that there is a cost benefit to Council if it was to accept the non-complying tender being for the supply, design and delivery of Rocla 'Concrete Mass Blocks'. Construction of the concrete mass block retaining wall system will also necessitate the construction of a substantial concrete footing. In assessing this option Council has had designed and costed a complete concrete footing. Together, the non complying tender for the supply and delivery of the mass blocks and the construction of the concrete footing provides Council with a substantial cost advantage over and above the option of precast concrete panels and steel sheet piling.

It is therefore recommended that Council accept the non conforming tender for the supply, design and delivery of the concrete mass blocks. It is further recommended that Council not accept any tenders for the supply, delivery and installation of Galvanised Steel Sheet Piling and that this contract be cancelled.

### **POLICY IMPLICATIONS**

Policy 3.1 'Contracts - Disclosure on request of information contained in Council contracts' which identifies information contained in Council contracts which may be publicly disclosed upon request is potentially applicable should a contract be awarded.

Policy 9.11 'Tenders - canvassing/lobbying of Councillors and staff' was applicable to the process.

### **FINANCIAL IMPLICATIONS**

Funds are available in the 2007/08 Management Plan

### **LEGAL IMPLICATIONS**

The tendering procedure has been undertaken pursuant to the provisions of Sec 55, Local Government Act 1993 and the Local Government (General) Regulations 2005

### **ATTACHMENTS**

1. Confidential Report (Councillors only)

### **RECOMMENDATION**

#### **THAT:**

1. Council accept the tender from Rocla Pipeline Products for the supply, design and delivery of Rocla Massblocs in the sum of \$223234 plus GST.
2. Council not accept any tenders for the supply, delivery and installation of Galvanised Steel Sheet Piling and that the contract be cancelled.

**ITEM:7            REG - 20/8/07 - RTA REPORT - EXPENDITURE IN LITHGOW LGA**

**REPORT FROM: GROUP MANAGER REGIONAL SERVICES- ANDREW MUIR**

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**SUMMARY**

To advise of receipt of a report from the Roads and Traffic Authority advising of planned projects for the 2007/2008 financial year in the Lithgow Local Government Area.

**COMMENTARY**

Council has received from the Roads & Traffic Authority a report on the expenditure in the Lithgow LGA. Council is in receipt of a program report which shows the work that is planned for the 2007/2008 financial year. The projects are as follows:

1.        Reseal on The Bells Line of Road near Lithgow- \$150000
2.        Curve widening and delineation near Cullen Bullen- \$270000
3.        South Bowenfels centre wire rope- \$60000
4.        Great Western Highway intersection improvement- Gemalong Close and Curly Dick Roads \$50000
5.        MR253 Glenroy (South of Great Western Highway) Chain wire replacement \$640000
6.        MR253 South Hampton- chainwire replacement- \$400000
7.        Great Western Highway & Portland Road- design protected right turn bay-\$ 35000
8.        Martini& Methven Streets, Lithgow, traffic signals- \$187000

These are Roads & Traffic Authority projects. They are in addition to any projects that the RTA has provided funds to Council for specific projects.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil

**ATTACHMENTS**

Nil

**RECOMMENDATION**

**THAT** the report be received.

**ITEM:8            REG - 20/8/07 - WATER RESTRICTIONS**

**REPORT FROM: GROUP MANAGER, REGIONAL SERVICES – ANDREW MUIR**

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**REFERENCE**

Council's Ordinary meeting of 21 May 2007.

**SUMMARY**

To advise of the results of submissions received regarding residential water restriction times, propose alterations having regard to those submissions and formally adopt restrictions for Public Commercial and Industrial consumers.

**COMMENTARY**

At Council's Ordinary Meeting of 21 May 2007 it was resolved that:

1. Council adopt the restrictions for Residential Premises to be effective from 1 June 2007 across the Lithgow Local Government Area with the level of restriction equating to the levels in the Fish River Water Supply Drought Management Strategy. The restrictions be advertised and revised after a period of one month having regard to any public submission made during that period.
2. The proposed restrictions for Public Commercial and Industrial consumers be advertised for a period of 28 days and comments be brought back to Council for consideration prior to final adoption.

At Council's ordinary meeting of 16 July 2007 it was resolved:

**THAT** Council reconsider the level of water restrictions currently in place for all premises connected to the reticulated water supply with a view of reducing restrictions to level 3.

During the submission period in relation to residential restrictions there were several submissions primarily relating to watering during winter time. The initial restriction for hand held watering was from 6:00AM to 8:00AM and 5:00PM to 7:00PM. Submissions contended that these times are only suitable for summer and customers have requested more realistic watering hours. This is a reasonable point and it will be recommended that the hand held watering time should be changed to 8:00AM to 10:00AM and 4:00PM to 6:00PM during the winter period 1 June – 31 August.

In relation to Public Commercial and Industrial restrictions there were submissions received from schools and nursing homes in relation to hand held watering times. The gardeners working in schools, nursing homes have set working hours. Hence the watering becomes difficult during 5:00PM to 6:00PM. It is proposed that hand held watering for schools, nursing homes etc will be altered to 7:00AM to 9:00AM which is consistent with submissions received.

In relation to public gardens and sports grounds it is also operationally more sensible to have the restriction hours in a daytime block, ie 7.00am – 3.00pm for levels 1 and 2 and 7.00am – 11.00am for level 3.

Taking into consideration all submissions the following watering hours are recommended.

Garden Watering During Winter

8:00am to 10:00am and 4:00pm to 6:00pm – for the winter period, i.e. 1 June – 31 August – Levels 1, 2 and 3.

Bowling greens/motels/nursing homes/schools

7.00am to 3pm – Level 1, 7.00am – 11.00am – Level 2, 7.00am to 9.00am Monday/Wednesday/Friday – Level 3, 8.00am – 9.00am – Levels 4 and 5.

Public gardens and sports grounds

7.00am – 3.00pm for levels 1 and 2 and 7.00am – 11.00am for level 3.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Potential loss of revenue from reduced consumption. Potential reduced treatment costs.

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

1. Amended Water Restriction Table

**RECOMMENDATION**

**THAT:**

1. Residential water restrictions include the following amendments:

Garden Watering During Winter

8:00am to 10:00am and 4:00pm to 6:00pm – for the winter period, i.e. 1 June – 31 August – Levels 1, 2, 3 and 4.

2. Public Commercial and Industrial restrictions be formally adopted and include the following amendments from the exhibited document:

Bowling greens/motels/nursing homes/schools

7.00am to 3pm – Level 1, 7.00am – 11.00am – Level 2, 7.00am to 9.00am  
Monday/Wednesday/Friday – Level 3, 8.00am – 10.00am – Levels 4 and 5.

Public gardens and sports grounds

7.00am – 3.00pm for levels 1 and 2 and 7.00am – 11.00am for level 3.

## COMMUNITY AND CORPORATE SERVICES REPORTS

### ITEM:9 COMM - 20/08/07 - SEC 356 DONATIONS

#### REPORT FROM: COMMUNITY AND CULTURE MANAGER – P. HALL

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#### REFERENCE

Minute 07-258: Extraordinary Meeting 28 June 2007

Minute 07-289: Council meeting 16 July 2007

#### SUMMARY

To advise Council of Section 356 donation requests which have been received since the 2007/08 Management Plan has been adopted.

#### COMMENTARY

At the Council meeting on 16 July 2007 it was resolved that subject to the necessary advertisement Council support the following donations:

1.	Kidney Health Kar Rally	\$100.00
2.	Quota – Hire of the Union Theatre	\$300.00

Council should note the remaining balances in the donations funds in 2007/08 from the budgeted \$22,000 are \$445.58 in the general donations funds and \$238.00 from the budgeted \$3,000 for the donation of fees to hire Council facilities remaining after this allocation.

As at 7 August 2007 Council is in receipt of the following requests for assistance:

1. **Portland District Motor Sports Club**– Requested sponsorship of one race \$60 - \$480 annually  
**Recommendation:** \$60.00
2. **Charles Sturt University** Requested – Assistance in raising \$30,000 for the ongoing benefit of students through a ‘Lifetime’ scholarship whereby donors commit \$30,000 which can be paid in a lump sum over five years.

It should be noted that Council has recently developed a Health Scholarship in partnership with Sydney West Area Health Service

**Recommendation:** Nil

In addition a **Portland Pool** Donation was resolved to be made at the Extraordinary meeting of Council on 28 June 2007 in the adoption of the Management Plan. It was resolved that a \$5,000 donation be given to the Portland Pool Association. This has already been included as an additional allocation to the budget increasing the general donation budget to \$22,000 from the advertised figure of \$17,000 that was included in the Draft Management Plan 2007/08. The recommendation seeks to place this on exhibition prior to payment in accordance with s356 of the Local Government Act.

Request	Reason	Amount requested	Amount recommended
1. Portland District Motor Sports Club	Sponsorship for a trophy	\$60.00	\$60.00
2. Charles Sturt University	Lithgow Community Scholarship Appeal	\$30,000.00	Nil
3. Portland Pool Association	Donation for cost of pool operations	\$5,000.00	\$5,000.00

### **POLICY IMPLICATIONS**

Donation payments are made in line with Council's policies including "Donations – Section 356 of the Local Government Act" and "Request for donation by waiving of fees for council facilities"

### **FINANCIAL IMPLICATIONS**

General donations budget provides \$385.00 remaining and \$238.00 remaining in the hire of facilities donations budget.

### **LEGAL IMPLICATIONS**

Local Government Act 1993 s356 applies

### **ATTACHMENTS**

1. Portland District Motor Sports
2. Charles Sturt University

### **RECOMMENDATION**

#### **THAT:**

1. Council note the remaining budget in the general donations vote is \$385.58 with the inclusion of the \$5,000 for the Portland Pool and \$60.00 for the Portland District Motor Sports Club;
2. Council note the remaining budget for the waiving of hire fees for Council facilities is \$238.00;
3. Council advertise the Portland District Motor Sports Club and Portland Pool donations for 28 days.

**ITEM:10            COMM - 20/8/07 - LOCAL GOVERNMENT AND SHIRES ASSOCIATION - POSITION TABLE ON THE INDEPENDENT INQUIRY INTO THE FINANCIAL SUSTAINABILITY OF NSW LOCAL GOVERNMENT**

**REPORT FROM:    GROUP MANAGER – COMMUNITY AND CORPORATE – K. WOOLLEY**

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**REFERENCE**

Min 06-250:    Policy and Planning Committee 7 August 2006

**SUMMARY**

Council has received advice from the Local Government Association regarding the findings of the Strengthening Local Government Task Force and have used the assessment to form a positions table on the 49 recommendations from the Independent inquiry into Financial Sustainability of NSW Local Government.

**COMMENTARY**

In July 2007 the Association was provided with the Task Force's response to the Association's recommendations from the review completed in August 2006.

The Taskforce was comprised of executives and staff of the Association and representatives of the industry including Local Government Managers Australia, Institute of Public Works Engineering Australia and the Department of Local Government.

The recommendation is to seek a whole of government response to the challenges facing local government.

The following priority issues have been identified and positions formed taking in to consideration the Task force and the Associations' endorsed action list as detailed in the attached table are summarised under the following headings:

- Intergovernmental Relations
- Integrated Planning and Reporting
- Asset Management
- Resource sharing
- Rate pegging and Financial Assistance grants
- Reform assistance

**POLICY IMPLICATIONS**

There are no policy implications.

**FINANCIAL IMPLICATIONS**

There are no financial implications.

**LEGAL IMPLICATIONS**

There are no legal implications.

## **CONCLUSION**

The issues arrived at and the comments made by the Local Government and Shires Association illustrate their key priorities derived from assessment of the issues facing local government.

## **ATTACHMENTS**

1. LGSA Positions on the Recommendations of the Local Government Inquiry – 5 July 2007

## **RECOMMENDATION**

**THAT** Council note the information.

### **ITEM:11            COMM - 20/8/07 - CONFIDENTIAL REPORT - PURCHASE OF TWO BACKHOE / LOADERS AND TRADE IN OF REPLACEMENT PLANT**

#### **REPORT FROM: INTERNAL SERVICES MANAGER – C.FARNSWORTH**

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## **REASON FOR CONFIDENTIALITY**

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

**Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.**

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

This item is classified **CONFIDENTIAL** under section 10A(2)(d)(i) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

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

Tender details, should they be revealed, may result in commercial disadvantage to parties involved in the tender process. Some information provided to council by tenderers is provided on the basis that council will treat it as commercial in confidence.

It is not in the public interest to reveal all details of these tenders or the assessment process. Tenderers have provided sensitive information about their operations in the confidence that their details will not be made public by council. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information by tenderers and reduction in the provision of information relevant to council's decision.

Pursuant to section 10A(4), the public were invited to make representations to the council meeting before any part of the meeting is closed, as to whether that part of the meeting should be closed.

## **REFERENCE**

Min 07-258: Extraordinary Meeting 28 June 2007

## **SUMMARY**

To advise Council of the assessment of tenders received for the purchase of two backhoe / loaders with a recommendation for purchase and acceptance of trade in.

## **RECOMMENDATION**

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

**ITEM:12            COMM - 20/8/07 - CONFIDENTIAL REPORT - PURCHASE OF TWO  
MOTOR GRADERS AND TRADE IN OF REPLACEMENT PLANT**

**REPORT FROM: INTERNAL SERVICES MANAGER - CAROL FARNSWORTH**

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**REASON FOR CONFIDENTIALITY**

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

**Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.**

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

This item is classified **CONFIDENTIAL** under section 10A(2)(d)(i) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

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

Tender details, should they be revealed, may result in commercial disadvantage to parties involved in the tender process. Some information provided to council by tenderers is provided on the basis that council will treat it as commercial in confidence.

It is not in the public interest to reveal all details of these tenders or the assessment process. Tenderers have provided sensitive information about their operations in the confidence that their details will not be made public by council. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information by tenderers and reduction in the provision of information relevant to council's decision.

Pursuant to section 10A(4), the public were invited to make representations to the council meeting before any part of the meeting is closed, as to whether that part of the meeting should be closed.

## REFERENCE

Min 07-258: Extraordinary Meeting 28 June 2007 Adoption of the 2007/08 Management Plan

## SUMMARY

To advise Council of the assessment of tenders received for the purchase of two graders with a recommendation for purchase and acceptance of a suitable sale price of the replacement items of plant.

## RECOMMENDATION

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

## ITEM:13            **COMM- 20/8/07 - CONFIDENTIAL REPORT - SALE OF MITSUBISHI MG130 - REGISTRATION SVK371**

### **REPORT FROM: INTERNAL SERVICES MANAGER – C. FARNSWORTH**

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## REASON FOR CONFIDENTIALITY

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

**Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.**

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

This item is classified **CONFIDENTIAL** under section 10A(2)(c) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

Tender details, should they be revealed, may result in commercial disadvantage to parties involved in the tender process. Some information provided to council by tenderers is provided on the basis that council will treat it as commercial in confidence.

It is not in the public interest to reveal all details of these tenders or the assessment process. Tenderers have provided sensitive information about their operations in the confidence that their details will not be made public by council. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information by tenderers and reduction in the provision of information relevant to council's decision.

Pursuant to section 10A(4), the public were invited to make representations to the council meeting before any part of the meeting is closed, as to whether that part of the meeting should be closed.

## **REFERENCE**

Min 07-258: Extraordinary Meeting 28 June 2007

## **SUMMARY**

To advise Council of the assessment of tenders received for the sale and removal of Mitsubishi MG motor grader registration SVK 371.

## **RECOMMENDATION**

**THAT** Council consider this report in the closed Council pursuant to the provision of Sec 10(A) (2) (c) of the Local Government Act 1993.

**ITEM:14          COMM - 20/8/07 - TENDERS FOR SUPPLY OF PLANT FOR 2007/08**

**REPORT BY: INTERNAL SERVICES MANAGER – CAROL FARNSWORTH**

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**REFERENCE**

NIL

**SUMMARY**

This report seeks a determination from Council to use the open tendering process, pursuant to s167 of the Local Government (General) Regulation 2005, for the procurement of plant in 2007/08.

**COMMENTARY**

Council is required by s55 of the Local Government Act to invite tenders by one of the following methods:

- (a) the open tendering method.(s167)
- (b) the selective tendering method by which invitations to tender for a particular proposed contract are made following a public advertisement seeking expressions of interest. (s168)
- (c) the selective tendering method by which recognised contractors selected from a list adopted by Council are invited to tender for proposed contracts.(s169)

The recommendation is for Council to use the open tendering method, for the procurement of plant, pursuant to s167.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

NIL

**LEGAL IMPLICATIONS**

NIL

**RECOMMENDATION**

**THAT** Council use the open tendering method, pursuant to s167 of the Local Government (General) Regulation 2005, for the procurement of plant in 2007/08.

**ITEM:15            COMM - 20/8/07 - TENDERS FOR AUDIT SERVICES 2007/08 - 2012/13**

**REPORT BY: INTERNAL SERVICES MANAGER – CAROL FARNSWORTH**

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## **REFERENCE**

NIL

## **SUMMARY**

This report seeks a determination from Council to use the selective tendering process, pursuant to s168 and s169 of the Local Government (General) Regulation 2005 for audit services from 2007/08 - 2012/13.

## **COMMENTARY**

Council is required by s55 of the Local Government Act to invite tenders by one of the following methods:

- (a) the open tendering method.(s167)
- (b) the selective tendering method by which invitations to tender for a particular proposed contract are made following a public advertisement seeking expressions of interest. (s168)
- (c) the selective tendering method by which recognised contractors selected from a list adopted by Council are invited to tender for proposed contracts.(s169)

The recommendation is for Council to use the selective tendering method, for audit services, pursuant to S168 and S169.

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

NIL

## **LEGAL IMPLICATIONS**

NIL

## **RECOMMENDATION**

**THAT** Council use the selective tendering method, pursuant to s168 and s169 of the Local Government (General) Regulation 2005 for audit services from 2007/08 - 2012/13.

**ITEM:16            COMM - 20/8/07 - 50M PORTLAND POOL RESURFACING TENDER**

**REPORT FROM:    GROUP MANAGER – COMMUNITY AND CORPORATE – K. WOOLLEY**

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**REFERENCE**

Min 05-325:    Extraordinary Meeting 27 June 2005  
Min 05-496:    Council Meeting 4 October 2005  
Min 06-369:    Policy and Strategy Meeting 6 November 2006  
Min 07-99:     Ordinary Meeting 9 March 2007  
Min 07-291:    Ordinary Meeting 16 July 2007

**SUMMARY**

Re-consideration of the works for the re-surfacing of the 50 metre pool at Portland.

**COMMENTARY**

Council considered the tenders at the 19 July 2007 Council meeting and determined to reject all the tenders but seek the tenderers interest in providing services for the re-surfacing of the 50M pool only.

The three companies who supplied proposals all indicated they remain interested in the project.

Council has included in its Management Plan for 2007/08 the decision to borrow up to \$200,000 to enable the completion of the works. Works to complete the 50M project in the tenders submitted were below the budgeted figure hence Council's consideration of the smaller scope of works. The Pool management Committee tender panel member indicated that the works on the learner's pool could be undertaken by the Committee itself as part of their concession that the scope of works was beyond the budget limit Council had set for the project. Given Council has to borrow to finance this project, this approach to financial management is essential.

At the 16 July 2007 Council meeting, two pieces of documentation regarding two of the companies who submitted tenders was tabled. The following summarises the investigation of the two items:

**Item 1: Report from Liverpool City Council dated 5 February 2007**

Discussion with the project manager at Liverpool City Council has confirmed that investigation into Hydrocare's financial rating subsequent to the February 2007 report for tenders called for works on the Michael Wendon Pool corrected the financial assessment rating from unsatisfactory to acceptable.

The company indicated that the request for information for the purposes of the Kingsway Financial Assessment was sought over the Christmas break and given the holiday period information was not provided in time to be used to inform the assessment. The officer in charge of this project from Liverpool Council confirmed this assessment by Hydrocare and also affirmed that subsequent investigation into the financial rating of Hydrocare was undertaken with a satisfactory result.

Liverpool Council confirmed that they had sought quotations from Hydrocare on other projects subsequent to those relating to this particular project which further indicates their satisfaction with the company. This project was substantially larger than the proposed works for the Portland Pool with a budget of \$500,000 overall.

**Item 2: Listing from the Consumer, Trader and Tenancy Tribunal of NSW sitting in June 2007.**

The matter has been settled with Ocean Blue Pool Liners offering, and having had accepted, the provision of a new liner. The matter related to the failure of a new type of pool lining material that is being developed by Ocean Blue in conjunction with other national and international companies that is designed specifically for the domestic or small commercial application. It is not the recommended solution for the Portland Pool job.

**Consideration of the three proposals:**

**Metz:** Councillors and staff inspected the Bathurst Regional Council Aquatic Centre where Metz has been used for tiling services and confirmed the quality of the work and products from this company to be of a high standard. As noted in the initial report, the Metz solution of partially or fully tiling the pool would provide the “best” solution in terms of longevity but at the most expensive price point. The proposal does offer options for the community group to be involved in the removal of tiles to reduce the overall costs.

**Hydrocare:** Council staff inspected the Hydrocare job at the Oberon Council swimming complex and spoke with the Council staff involved in that project. The tasks were completed to the satisfaction of Oberon Council. The quotation for the 50M pool remains unchanged from the version already seen by Council.

**Ocean Blue Pool Liners:** Council received confirmation that the offer initially made for the 50M pool would remain as per their initial quote.

In each case, the proponents indicated there would need to be an extension to the timetable to have the works completed between mid to late October.

The Hydrocare and Ocena Blue Pool Liner proposals both suggest the use of the same pool liner with its associated warranty period.

**PRICE COMPARISION – 50M pool only**

<b>METZ prices</b>	<b>PRICE</b>	<b>with GST</b>
OPTION 1 – PAINT	<b>\$167,800</b>	<b>\$184,580</b>
OPTION 2 – PAINT AND PARTIAL TILE	<b>\$199,100</b>	<b>\$219,010</b>
OPTION 3 – FULLY TILED	<b>\$212,600</b>	<b>\$233,860</b>

<b>HYDROCARE prices</b>	<b>PRICE</b>	<b>with GST</b>
50M Pool scum and gutter rectification	\$ 56,000.00	\$61,600.00
New liner interior including lanes and wall targets	\$ 125,000.00	\$137,500.00
	<b>\$ 181,000.00</b>	<b>\$199,100.00</b>

<b>OCEAN BLUE POOL LINERS</b>		
Scum gutter	\$ 46,992.00	\$51,691.20
Interior surface lining, step edging and hand rails	\$ 110,178.00	\$121,195.80
Seal and paint underside of scum gutter and tile edge	\$ 4,232.00	\$4,655.20
<b>TOTAL</b>	<b>\$ 161,402.00</b>	<b>\$177,542.20</b>

## **POLICY IMPLICATIONS**

There are no policy implications arising from this report.

## **FINANCIAL IMPLICATIONS**

Council has previously resolved to borrow up to \$200,000 in 2007/08 to provide the funds for this work. The Ocean Blue Pool Liners option, being the least expensive, sets the costs at between \$161,402 and \$193,682.40 (exl GST) with the latter amount having the 20% contingency suggested to Council in the previous report applied.

For comparative purposes the Hydrocare proposal is estimated between \$181,000 and \$217,200 while the Metz solution is estimated to be between \$167,800 and \$201,360 for option 1, \$199,100 to \$238,920 for option 2 or \$212,600 to \$255,120 for option 3.

While for some years Council has supplied up to \$30,000 p.a. to the Portland Pool Committee, in 2007/08 the contribution is budgeted at to \$28,000 as approved by Council in adopting the Management Plan through a \$5,000 cash contribution as a donation and an estimated \$23,000 p.a. in loan repayments (principal and interest for the loan period of 15 years – to be finalised when the loan is drawn down).

## **LEGAL IMPLICATIONS**

There are no legal implications arising from this report.

## **CONCLUSION**

The Council is provided with the three responses to works on the 50M pool for consideration. While the Metz submission involves options for paint and tile in various scenarios the Ocean Blue and Hydrocare options both propose a pool liner solution.

The Ocean Blue proposal is suggested to Council as the preferred option.

## **ATTACHMENTS**

- 1.Ocean Blue quotation
- 2.Hydrocare quotation
- 3.Metz quotation

## **RECOMMENDATION**

### **THAT:**

1. Ocean Blue Pool Liners and Covers Pty Ltd be selected as the company to complete the works on the Portland Pool;
2. All necessary documents to enact the works may be executed under the council's seal.

**COMMITTEE MEETINGS**

Nil.

**QUESTIONS WITHOUT NOTICE**

Nil.

## Water Restrictions

See the table below for full details of the restrictions currently in place. This restrictions only relates to properties utilizing reticulated water supply.

CONSUMER /ACTIVITY	WATER RESTRICTION LEVEL (See notes below for more details)					
	1	2	3	4	5	6
<b>DOMESTIC</b>						
Garden Watering	<b>Sprinklers</b> 8hrs a day 6am-10am & 5pm-9pm  (other than winter) 8.am -10am 4pm - 6pm (Winter)  <b>Hand Held Hose - No Restriction</b>	<b>Sprinklers</b> 8hrs a day 6am-10am & 5pm-9pm  (other than winter) 8.am -10am 4pm - 6pm (Winter)  <b>Hand Held Hose - No Restriction</b>	<b>Sprinklers</b> 4hrs a day 8am-10am & 3pm-5pm  <b>Hand held hoses &amp; Micro Systems</b> for 4 hrs a day between 6am-8am 5pm - 7pm (other than winter) 8.am -10am 4pm - 6pm (Winter)	<b>Sprinklers</b> As per Level 3 but on an Odds & Even system  <b>Hand held hoses &amp; Micro Systems</b> for 4 hrs a day between 6am-8am 5pm - 7pm (Summer) 8am-10am 4pm - 6pm (Winter)	<b>Buckets only</b>  <b>Sprinklers prohibited</b>	Reused water Bore water only  Or tankwater only
Swimming Pools Private  New pools may be filled after installations	No Restrictions	Filling of pools prohibited (Top up ok)	Filling pools prohibited  Top up only with hand held hose for 4hrs between (6am-8am and 5pm - 7pm )	Filling and topping up of pools prohibited  Except by tank or bore water	Filling and topping up of pools prohibited	Filling and topping up of pools prohibited  Except by tank or bore water

Wash paved areas and roof	No Restrictions	Buckets or Trigger hoses only	Buckets or Trigger Hoses only	Buckets only	prohibited except with council approval	prohibited except with council approval
Washing Motor Vehicles	No Restrictions	No Restrictions	Buckets or Trigger Hoses only	Buckets or Trigger Hoses only	Buckets only	Prohibited
<b>PUBLIC/COMMERCIAL</b>						
Public Gardens & Sports Grounds	Sprinklers 8hrs a day 7am – 3pm	Sprinklers 8hrs a day 7am-3pm	Sprinklers 4hrs a day 7am – 11am	Sprinklers 2hrs/day 7am-9am	Sprinklers 2hr/day Mon/Wed/Friday 7am - 9am	Reused water only
Market Gardens and Orchards	Sprinklers 8hrs/day 6am-10am & 5-9pm	Sprinklers 6hrs/day 7am-10am 4pm-7pm	Sprinklers 4hrs/day 7am-9am 5pm-7pm	Sprinklers 2hrs/day 7am-9am	Sprinklers 1hrs/day 7AM-8AM	With Council approval only
Nurseries and Commercial Flower Gardens	Sprinklers 8hrs/day 7-11am & 5-9pm	Sprinklers 4hr/day 8am-10am 4pm-6pm	Hand held hoses & micro systems only 4hrs/day 7am-9am 5pm-7pm	Hand held hoses 2hrs/day 7am-9am	With Council APPROVAL only	With Council approval only
Public Car Wash	No restrictions	No restrictions	Machine - recirculation system only	Machine - recirculation only	Machine – recirculation	Council permission
Car Dealers (Display Vehicles)	No restrictions	No restrictions	Trigger hose and chamois only, 8am - 10.30am, Detailing sale vehicles - anytime within purpose built wash facilities.	Trigger hose and chamois only, 8am - 10.30am Monday, Wednesday, Friday Detailing sale vehicles - anytime within purpose built wash facilities	Trigger hose and chamois only, 8am - 10.30am Monday, Wednesday, Friday Detailing sale vehicles - anytime within purpose built wash facilities	Prohibited except with council approval

Bowling greens, motels nursing homes, schools	Sprinklers 8hrs/day 7AM – 3PM	Sprinklers 4hr/day 7am-11am	Sprinklers 2hrs on alternate days for "in use" fields only  Mon/Wed/Fri 7am-9am	Hand held hoses 2hr/day on alternate days for "in use" fields only  Mon/Wed/Fri 8am – 10am	Hand Held hoses 1hr/day  8am – 9am	Reused water only
Fountains	No restrictions	Topping up prohibited	Banned	Banned	Banned	Banned
Water Cartage from Town Supply	No restrictions	No restrictions	Stock or domestic purposes only.  Otherwise with Council permission only	With Council approval only	With Council approval only	With Council approval only
Automatic cycle flush toilets	No restrictions	No restrictions	No restrictions	No Restrictions	Banned	Banned
<b>INDUSTRIAL</b>						
Soft Drink Manufacturer	No restrictions	No restrictions	No restrictions	8hrs/day operation only	With Council approval only	Banned
Ready Mixed Concrete.	No restrictions	No restrictions	No restrictions	8hrs/day operation only	With Council approval only	Banned
Abattoirs	No restrictions	No restrictions	No restrictions	With Council approval only	With Council approval only	With Council permission only
Others	No restrictions	No restrictions	No restrictions	8hrs/day operation only	With Council approval only	With Council permission only

## Penalties

Use of water contrary to this notice may result in:

- Court action where a maximum penalty of up to \$550,000 in the case of a corporation or \$5,500 in the case of an individual may be sought;
- Authorised officers may issue an on-the-spot penalty notice for \$220 to either a corporation or an individual and/or;

- A restriction on service or disconnection of water supply. (Note that in the case of restoration of supply, a reconnection fee will apply)

### **Privately Owned Water Supplies**

If your property is supplied with water from a tank, bore, well or creek (under licence or otherwise) it is mandatory for you to display a sign clearly visible from the street adjoining the property being watered whilst restrictions are in place. The notice should be large enough to be visible from the street and should state: Well Water/Bore Water/Creek Water/Enviro-Cycle Water\* used On Property? (\* which ever applies).

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
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key structural, financial and administrative reforms.

Commonwealth Government for implementing major reforms including the introduction of asset management, integrated long term strategic and financial planning and reporting, and resource sharing.

- The LGSA noted that their submission to the DLG papers on integrated planning and reporting and on asset management and financial planning calls for the establishment of State Government financial incentives and professional assistance for issues including integrated planning and reporting and asset management.
- The LGSA noted that the joint press release on the release of the DLG asset management and financial planning paper issued by LGSA, LGMA, IPWEA, The Water Directorate and The Local Government Auditors Association on 17 May 2007 calls for \$3m funding for implementing an asset management capacity building program.

- Joint press release issued by LGSA, LGMA, IPWEA, The Water Directorate and The Local Government Auditors Association on 17 May 2007 calling for \$3m funding for implementing an asset management capacity building program.

**46 Surplus Budget**

All councils make a concerted effort to achieve within three to five years a surplus on their operating budgets (excluding capital grants as income).

Not supported. Occasional operating deficits can be appropriate. However, ongoing deficits are unsustainable.

- The LGSA agreed that an annual deficit can be an appropriate use of operational funds over the life of any organisation and that ongoing annual deficits are unsustainable. In this regard, a minimum 10-year outlook appears to be an appropriate financial cycle for local government.
- The LGSA support jointly with LGMA and IPWEA the adoption of the financial indicators of the NAMS national Infrastructure Financial Management Guidelines and their insertion in the Local Government Accounting Code.

**47 Financial Governance**

Supported in principle.

- The LGSA agreed that any financial governance statement should form part of the improvements currently being undertaken of the Local Government Accounting Code and be based on the

- LGSA submission on

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
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Each council include in its annual report a financial governance statement as outlined in Appendix B plus a comparison of the results for its key financial ratios against the targets and upper/lower limits shown in the table in recommendation 39 above. In addition, each year the DLG or LGSA prepare and publish a consolidated version of this statement for each of the metropolitan, regional and rural categories of councils as well as for Local Government as a whole.

The recommended template should inform the improvements of the Local Government Accounting Code

directions of the national Infrastructure Financial Management Guidelines (IFMG) being prepared by the NAMS Committee.

- The LGSA generally support, as part of the strategic planning framework proposed under recommendation 34, the implementation of improved financial reporting and monitoring through the template along the lines proposed in recommendation 47.
- The LGSA will further investigate alternative models ensuring they comply with the new Australian Audit Standards and more broadly focused models such as the Corporate Governance Statements of the ASX.

the DLG Integrated Planning and Reporting Paper to the Minister on 17 May 2007.

**48 Summit Conference**

Stage a Local Government summit to which all interested parties would be invited. The purpose of this conference would be to consider, debate and

Not supported.  
The Strengthening Local Government Task force comprising key Local Government stakeholders was

- The LGSA noted that the task force was established as an alternative framework to respond to the findings and recommendation of the inquiry;
- The LGSA noted that the task force comprised key Local Government stakeholders; LGSA, LGMA (NSW); IPWEA (NSW), Associate Professor Graham Sansom (UTS Centre for Local Government) and DLG as permanent observer;
- The LGSA noted that the task force established five working groups comprising a wide range of experts, professionals and councillors to develop responses to the recommendations; and

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
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hopefully endorse all or most of the recommendations of the Inquiry.

established as an alternative framework to respond to the Inquiry recommendations

- The LGSA noted that the task force widely consulted throughout NSW through business and community roundtables and many workshops.
- The LGSA noted that the development of the positions and actions/responses contained in this report was guided by principles including:
  - o The positions and actions should be sectoral ones including all key Local Government stakeholders;
  - o Stakeholders should work together in partnership;
  - o Existing initiatives should be recognised and actively promoted in order to not duplicate efforts; and
  - o Deliberations should be consensus based, open and transparent.

**49 Independent Commission**

Not supported.

- The LGSA noted that the Associations expressed reservations as to the merit of an independent commission and resolved that the framework led by the SLG Task Force was adequate to develop a response to the Inquiry which should subsequently be submitted to the NSW Government for its consideration and response.

The summit consider proposing to the State Government an independent commission consisting of equal representative from the LGSA and the state to assess the gravity of the problems facing Local Government, to recommend urgent action to be undertaken, to help implement such changes in cooperation with Local Government and to monitor progress in achieving agreed outcomes.

Item 16.

TOTAL P.02



# Ocean Blue Pool Liners & Covers Pty Ltd

Vinyl Fabricators ACN 073 418 416 ABN 57 073 418 416

Unit 8, 23 Childs Road, Chipping Norton NSW 2170  
Telephone: (02) 9755 1812 Fax: (02) 9724 2437

31 July 2007  
Ms Kathy Woolley  
Group Manager  
Lithgow City Council

Dear Ms Woolley

Re: Portland Pool Tender

I wish to confirm our interest in undertaking works on the 50M pool only. Priced is as per original tender application. Price will remain as per tender for the learners pool for a period of 6mths. If our bid is accepted a payment breakdown for the 50M pool, only, will follow.

We thank you for your courtesy and remain at your service.

Yours Sincerely,

Dennis Bennell

**For International Enquiries:**

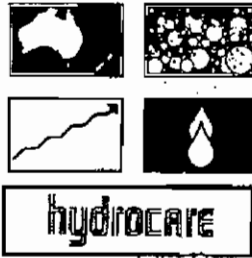
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1. Aug. 2007 9:45

No. 6310 P. 2



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 TELEPHONE 61 2 9604 8396 FAX 61 2 9725 1468  
 P.O. BOX 711 SPRINGHILL QUEENSLAND 4084.

1st August, 2007

LITHGOW CITY COUNCIL

**ATTENTION: KATHY WOOLLEY.**

Dear Ms Woolley,

**RE: TENDER - PORTLAND POOL - NEW INTERIOR.**

Further to your correspondence on 17th July 2007, we are pleased to provide our quotation for works to the Portland 50M Pool. The 31st of September completion date is no longer achievable and the works will now be completed late October.

Our recommendation of reinforced Aquaforce Pool Ice Blue Liner. We have now completed The Oberon installation and would be happy to arrange an inspection.

**Technical Specifications & Works Pricing Schedule.**

**50M Pool Resurfacing Works.**

- 1 Prepare pool interior for lining.
- 2 Remove tiles and grind back floor.
- 3 Remove angle iron and repair surface.
- 4 Grind back walls.
- 5 Carry out minor repairs.
- 6 Install floor liner.
- 7 Seal and waterproof scum gutters.
- 8 Install scum gutter and wall liner.
- 9 Install lane markers and targets.

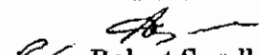
Scum Gutter Rectification \$ 56,000.00

New Liner Interior Including Lanes and Wall Targets \$125,000.00

Please note the above pricing excludes GST.

This schedule is subject to weather conditions and unforeseen hazards or latent conditions.

Yours faithfully,

  
 Robert Savell.

**METZ PTY LTD**

ACN: 069 454 075 ABN: 94 069 454 075  
 12 Turbo Road , Kings Park, NSW 2148 Australia  
 PO Box 76 Marayong, NSW 2148 Australia  
 Int'l Phone: 61-2-9671 1311 Int'l Facsimile: 61-2-9671 4292  
 Phone: (02) 9671 1311 Facsimile: (02) 9671 4292  
 Website: www.metz.net.au Email: info@metz.net.au



**Lithgow City Council**  
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**TENDER SUBMISSION**

14 AUG 2007

**OUR REF:** C7220-2 **SHEET 1 OF 2**

**DATE:** 14<sup>th</sup> August 2007

**TO:** Lithgow City Council

**ATTENTION:** Ms Kathy Woolley **FAX:** 02 6351 4259

**SUBJECT:** Portland Pool Refurbishment

Doc. No .....  
 GDA Ref. ....  
 Years .....

We are pleased to provide the following revised submission for the proposed resurfacing works to the Portland Pool. As requested we provide various options for works to the 50m pool only.

For each option we provide an outline of the scope of works and general inclusions and cost for same.

**Option 1**

Tiled Walls – Painted Floor

This option will provide much of the visual improvement of the full tile option with least expenditure.

**Includes**

- Antiskid Tiling to both end walls including wall lane lines from floor to concourse level
- Gloss tiles to side walls from floor to concourse level (i.e above gutter)
- Antiskid ribbed nosing tile to the gutter ledge (water spill-over) set to correct height/level
- Depth marking tiles
- Removal and tipping of existing tiles
- Preparation and grinding of existing painted surfaces
- Smoothing screed to floor to receive new paint finish
- Epoxy swimming pool paint to floors including lane lines
- Caulking to existing joints
- Additional caulking to new tile joints
- Removal of the metal angle on pool floor

C7220-2

Page 2 of 2

**Price** **\$167,800.00 + GST**

**Option 2**

Tiled Walls and Current Floor – Painted Floor to deep end bowl

This option includes all works as in option 1 plus tiled floor to the commencement of the sloped bowl section (i.e. extent of current tiling) and will provide virtually all of the visual improvement of the full tile option, with lower ongoing maintenance costs. As the deep bowl floor area is also less visible (due to the depth of water) the requirement to re-paint may well be less frequent.

Includes above plus

- Antiskid floor tiles and lane lines from shallow end wall to start of deep bowl area.

**Price** **\$199,100.00 + GST**

**Option 3**

Fully Tiled Walls and Floors

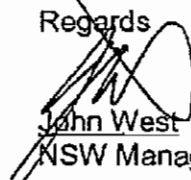
This option includes full tiling to all 50m walls and floors to provide a lining requiring minimal ongoing maintenance to the lining.

**Price** **\$212,600.00 + GST**

Other cost savings possibilities may include council concessions with provision of equipment/plant for use in demolition and/or tipping costs. A substantial portion of costs also relates to tile removal, which is largely manual unskilled labour. There may be interest in this work being carried out, even in part, by the community group. We have also removed any wet weather allowance from our quotation and would be prepared to make an arrangement on wet weather costs.

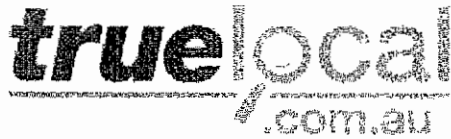
All other terms and conditions remain as per out tender submission. We would be pleased to further discuss any of these options.

Regards

  
John West

NSW Manager, Sales Manager – Australia

Direct: 02 8822 1313  
Mobile: 0407 435 324



Lithgow City Council  
Scanned

18 JUL 2007

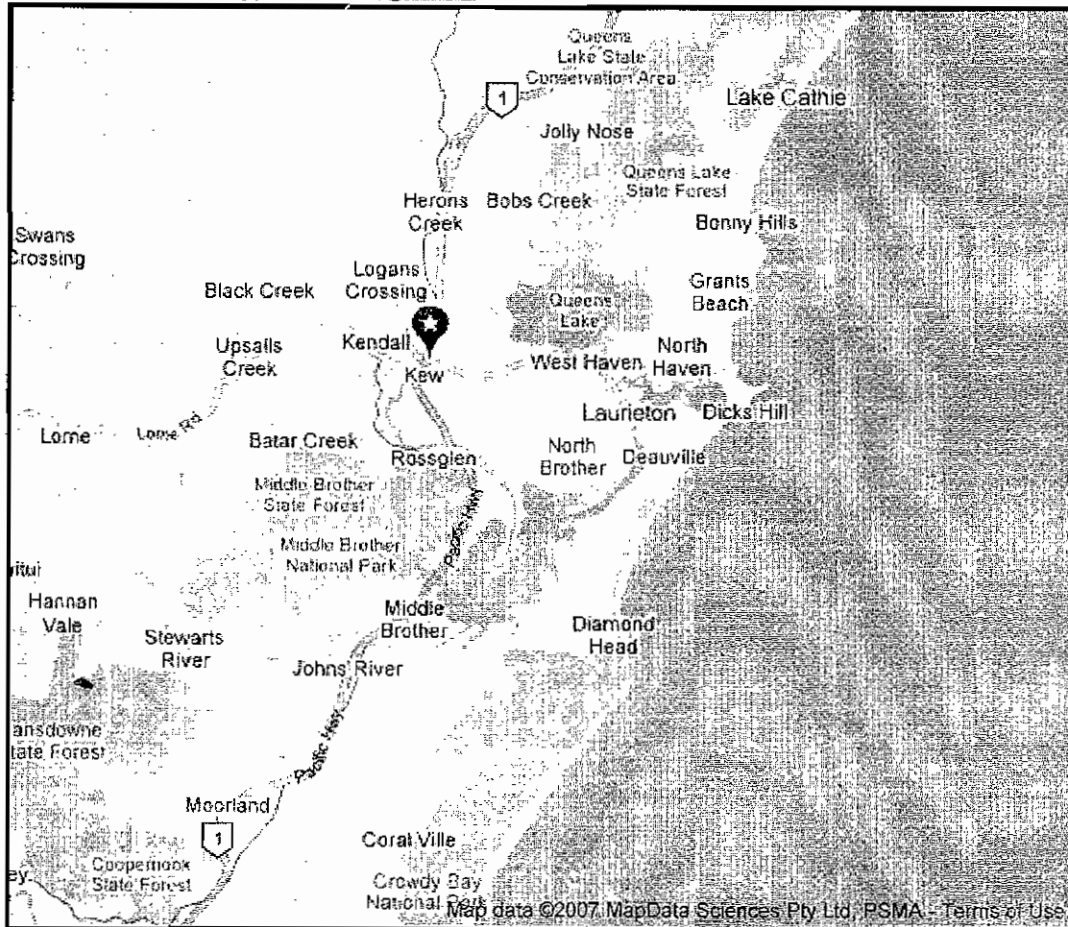
### The Beach Learn To Swim Centre

Address: Unit 1, 7-9 Ocean Dr, Kew, NSW 2439

Phone: (02) 6559 4829

Business Type: Swimming School

Doc. No .....  
GDA Ref .....  
Years .....



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These search terms have been highlighted: **ocean blue pool liners**

### Consumer, Trader and Tenancy Tribunal of NSW

#### Port Macquarie 18 Jun 2007

There are no matters listed in Port Macquarie today

#### Port Macquarie 19 Jun 2007

##### 9:15 AM at Port Macquarie Court House 24-26 Murray Street Port Macquarie

HB 07/00962	Mc Donald	Executive Pools Australia Pty Ltd
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##### 1:15 PM at Port Macquarie Court House 24-26 Murray Street Port Macquarie

RT 07/22327	Richards & Others	Brown
RP 07/28689	Hastings Riverside Company Pty Ltd T/As Riverside Residential Village	Stevens
RT 07/29943	Merritt & Others	Fenner
RT 07/28810	N S W Land And Housing Corporation	Manny Mathis Giovanni Toldo

##### 2:15 PM at Port Macquarie Court House 24-26 Murray Street Port Macquarie

RT 07/23588	Thompson & Others	Alderson
RT 07/29834	Paine & Others	Paine & Others
* GEN 07/26327	The Beach Learn To Swim Centre	<b>Ocean Blue Pool Liners &amp; Covers Pty Ltd</b>
RT 07/25059	Wilson	Mc Arthur - Evans
RT 07/26353	Boyd & Others	Jacobs & Others

##### 11:30 AM at Port Mac. Fair Trading Centre 143 Horton Street Port Macquarie

GEN 07/15158	Morley	Country Comfort Motel
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Print

Close

18 JUL 2007

LIVERPOOL CITY COUNCIL

Doc. No. ....

GDA Ref. ....

Year: .....

**ASSETS & INFRASTRUCTURE REPORT****ORDINARY MEETING****05/02/2007**

<b>ITEM NO:</b>	<b>AIR 02</b>	<b>FILE NO:</b>	<b>2006/1417</b>
<b>SUBJECT:</b>	<b>TENDER WT1084 WENDEN POOL &amp; WATER TREATMENT PLANT UPGRADE</b>		
<b>AUTHOR:</b>	<b>DAVID COCHRANE - PROJECT MANAGER BUILDING &amp; RECREATION CITY ASSETS</b>		

**EXECUTIVE SUMMARY:**

Tenders were invited from suitably experienced and qualified contractors to carry out the Pool and Water Treatment Plant Upgrade which comprises the renovation of the existing indoor program pool. The work includes:

- Remove the walls to the indoor Learn to Swim pool
- Reform the walls to include a "wet deck" return water system
- Remove the existing plant
- Install new filtration plant, including pumps and UV / sand filtration system

Tenders were invited on 31 October and 7 November 2006, and closed on 3 pm Thursday 23 November 2006, with one (1) submission received from Hydrocare Pool Services Pty Ltd.

This report recommends that Council declines to accept the Tender and to negotiate with suitably qualified contractors with a view of entering into a contract in relation to WT1084 Michael Wenden Indoor Pool & Water Upgrade.

**STEERING COMMITTEE:**

The Steering Committee on this project comprised:-

David Cochrane - Project Manager, Building & Recreation  
 Sandra Kubecka - Manager, Recreation & Open Space  
 Mike O'Hara - Senior Contracts Administrator, Procurement Services  
 Sue Sommerfield - Tendering Coordinator

## EVALUATION OF TENDERS:

Preliminary assessment of the tender submission was carried out to check for compliance with the requirements of the selection criteria and the tender document. It was found that the tender from Hydrocare Pool Services complied.

\* As part of the evaluation Kingsway Financial Assessments completed a financial assessment of Hydrocare Pool Services Pty Ltd financial capacity to perform the contract. The assessment determined an unsatisfactory rating. It was proposed to the company that a 20% Bank Guarantee would be required to ensure completion of the contract. This was rejected by Hydrocare Pool Services Pty Ltd.

Further discussions between the Tenderer and the Senior Contracts Administrator revealed that the Tenderer would require payment for unfixed plant. The tender documents specifically did not include for the payment of unfixed plant. Consideration by the Senior Contracts Administrator, in consultation with the Manager Procurement Services, determined that the discussions regarding the payment of unfixed plant had the potential to materially alter the Tender and place Council in a position where the financial and construction risks were unacceptable.

It is the Steering Committee's opinion that the submissions received for the subject tender have undergone a fair and comprehensive evaluation. The Committee concluded that the Council should decline to accept any tenders at this stage and this recommendation is based on the unsatisfactory financial rating by Kingsway Financial Services and the rejection of the Tenderer to increase the level of security of 20%, without materially altering the Tender.

Council has been able to negotiate with the contracted pool operators a two month period, from the 1<sup>st</sup> May to 29<sup>th</sup> June 2007, when the indoor pool maybe closed. If the pool is closed for longer than the period nominated Council may incur penalties. Hence there is a need for the contract to be expedited.

Therefore the Committee recommends that Council enter into negotiations with suitably qualified contractors with the view to formulating a contract. The Committee further concluded that a contract negotiation panel, under the leadership and direction of the Corporate Manager Assets & Infrastructure comprising of:

- David Cochrane - Project Manager, City Assets.
- Sandra Kubecka - Manager Recreation and Open Space
- Mike O'Hara - Senior Contracts Administrator, Procurement

be authorised to negotiate the contractual and financial arrangements for Tender WT1084 Wenden Pool & Water Treatment Plant Upgrade. Following successful negotiations, the Corporate Manager Assets & Infrastructure could enter into contract for the Michael Wenden Indoor Pool & Water Upgrade under delegation.

The Steering Committee's full Evaluation Report is contained in File 2006/1417.

Council's Internal Audit Unit has reviewed this tender to ensure that Council's Tendering Policy and Procedures have been complied with.

**BUDGET IMPACT:**

The available funds in the 2006-2007 budget for upgrading the indoor pool at the Michael Wenden Leisure Centre is \$280,000.

Based on the current tender price it is likely that additional funds will be required. This will be submitted for consideration as part of the second quarter Budget Review.

**RECOMMENDATION:**

That Council:

1. In accordance with Clause 178(1)(b) of the Local Government (General) Regulation 2005, decline to accept any tender submitted for WT1084 Wenden Pool & Water Treatment Plant Upgrade.
2. In accordance with Clause 178(3)(e) of the Local Government (General) Regulation 2005, enter into negotiations with any person (whether or not that person was a tenderer) with a view of entering into a contract in relation to WT1084 Michael Wenden Indoor Pool & Water Upgrade.
3. In accordance with Clause 178(4) of the Local Government (General) Regulation 2005, note that the reasons for entering into negotiations and not calling fresh tenders are:
  - a. The Tenderer received an unsatisfactory financial rating by Kingsway Financial Services and the Tenderer is unwilling to increase the level of security to 20% for contract sum to provide Council with security if the Tenderer was to default.
  - b. Other potential tenders did not submit a tender for a number of reasons, including not being able to meet the tender deadline.
  - c. The market of companies that are capable of installing commercial plant and carrying out concrete restoration work for swimming pools is limited.
  - d. The window of opportunity to carry out this work is limited from 1 May to 29 June 2007.
4. Subject to sufficient funds being allocated in December Budget Review, the Corporate Manager Assets & Infrastructure be authorised to enter into a contract for the Michael Wenden Indoor Pool & Water Upgrade.

**SIGNED BY:**

**Wal Petschler**  
Manager  
City Assets

**Wayne Cooper**  
Corporate Manager  
Assets & Infrastructure



## MEMORANDUM

**TO:** COUNCILLORS  
**FROM:** GENERAL MANAGER  
**SUBJECT:** DEVELOPMENT APPLICATIONS

- 
- LIST OF NEW APPLICATIONS RECEIVED BY COUNCIL
  - LIST OF APPROVED APPLICATIONS
- 

28 JULY 2007 TO 10 AUGUST 2007

  
Mr Paul Anderson  
GENERAL MANAGER

(02) 6354 9999  
(02) 6351 4259

[www.lithgow.nsw.gov.au](http://www.lithgow.nsw.gov.au)  
[council@lithgow.nsw.gov.au](mailto:council@lithgow.nsw.gov.au)

ADDRESS CORRESPONDENCE  
TO GENERAL MANAGER  
PO BOX 19, LITHGOW NSW 2790

DEVELOPMENT & CONSTRUCTION APPROVALS 28 JULY 2007 TO 10/08/2007

Appl/Proc ID	Property Address	Property Owners	Description	Clock Days	Neigh Not
145/07DACC	59 HILL STREET LITHGOW NSW 2790	MR JP KEARNEY & MS KM COOKE	RETAINING WALL	28	N
146/07DACC	11 MALVERN STREET LITHGOW NSW 2790	MR W PUDDLE	INGROUND SWIMMING POOL	35	N
122/07DACC	45 READ AVENUE LITHGOW NSW 2790	MRS JM BARKER	GARAGE	15	Y
012/07CDDC	40 VICTORIA AVENUE LITHGOW NSW 2790	MR IW HARRIS & MRS DL HARRIS	PATIO	13	N
132/07DACC	14 THORNLEY CLOSE LITHGOW NSW 2790	MR MU PEARCE & MRS KL PEARCE	OPEN PATIO	14	N
143/07DACC	5 STOCKADE CLOSE SOUTH BOWENFELS NSW 2790	MR DP THOMPSON & MRS DA THOMPSON	DWELLING	18	Y
151/07DACC	5 BUNDARRA PLACE MARRANGAROO NSW 2790	MR DJ SPILLETT & MRS BC SPILLETT	GARAGE	26	N
111/07DACC	3 WOLGAN STREET PORTLAND NSW 2847	MR ML METCALF & MRS SJ METCALF	OFFICE ALTERATIONS AND DEMOLITION	21	Y
019/07DA	400 HARTLEY VALE ROAD HARTLEY VALE NSW 2790	MR G MORTIMER & MS ML WERNER	OF OUTSIDE TOILET DWELLING	36	Y
300/06DA	MAIN STREET WALLERAWANG NSW 2845	MR G HABIB & MR G MASSIH	FACTORY SHEDS	8	N
009/07DACC	39 PITTS ROAD HARTLEY NSW 2790	MR MD JEMMETT	DWELLING	10	N
137/07DACC	9 NUMIETTA ROAD GLEN ALICE NSW 2849	TATAMA PTY LTD	DWELLING	18	N

13 APPLICATIONS

18 days

APPLICATIONS RECEIVED 28 JULY TO 10 AUGUST 2007

Appl/Proc ID	Date 01	Description	Property Address	Target Date	Neigh Not
158/07DACC	1-Aug-07	DWELLING ADDITIONS	14 SHAFT STREET LITHGOW NSW 2790	22/08/2007	N
160/07DACC	6-Aug-07	CLUBHOUSE ALTERATIONS	33 ALBERT STREET LITHGOW NSW 2790	27/08/2007	N
162/07DACC	6-Aug-07	GARAGE	17 CHIFLEY ROAD LITHGOW NSW 2790	20/08/2007	N
061/07DA	31-Jul-07	4 LOT SUBDIVISION	429 MAGPIE HOLLOW ROAD SOUTH BOWENFELS NSW 2790	21/08/2007	Y
157/07DACC	31-Jul-07	GRANNY FLAT/GARAGE	MEADOW STREET RYDAL NSW 2790	21/08/2007	N
159/07DACC	2-Aug-07	SHED & EARTHWORKS	WALLERAWANG PUBLIC SCHOOL BARTON AVENUE WALLERAWANG NSW 2845	16/08/2007	N
161/07DACC	6-Aug-07	GARAGE	20 MORRIS PLACE LITTLE HARTLEY NSW 2790	20/08/2007	N
163/07DACC	8-Aug-07	DWELLING	51 GREEN STREET PORTLAND NSW 2847	29/08/2007	N

8 APPLICATIONS

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
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**26 Developer Contributions**

Local councils be more accountable to property owners for the use of developer contributions derived from the development of their properties.

Supported.

The LGSA will coordinate research into the level of contributions, the application of contributions and the affects of recent amendments involving s94A;

The LGSA will review how s94 contributions are incorporated into reporting guidelines;

The LGSA will investigate better ways to improve public understanding of the purpose and application of development contributions; and

The LGSA will produce a public fact sheet on the purpose and use of s94 contributions.

Productivity Commission study into Local Government revenue raising capacity including impacts of state regulatory limits.

**27 Financial Assistance Grants (1)**

The Commonwealth Government set its financial assistance grant (FAG) to Local Government at a fixed percentage of gross domestic product (GDP) so that it is tied to the growth of the Australian economy as most Commonwealth taxes are. In addition the level of such assistance be lifted from 0.18 per cent (2003/04) to 0.22 per cent of GDP.

Supported in principle.

LGSA prefer linking FAGs to total Commonwealth taxation revenue (see alternative recommendation 28).

[[The LGSA considered recommendations 27, 28 and 29 together. For actions see recommendation 28.]

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
<p><b>28 Financial Assistance Grants (2)</b></p> <p>Alternatively, Local Government FAGs be set at 0.86 per cent of all taxes (including GST) collected by the Commonwealth or 1.27 per cent of total income taxes, which would be equivalent to 0.22 per cent of GDP initially.</p>	<p>Supported in principle</p> <p>The link should be set as 1% of total Commonwealth taxation revenue consistent with the ALGA campaign for increased FAGs</p>	<p>[Actions cover recommendations 27, 28 and 29]</p> <ul style="list-style-type: none"> <li>The LGSA agreed that the purpose of intergovernmental transfers, particularly FAGs, is not to support disadvantaged councils but to provide a fair share of national taxation revenue to Local Government to address the existing vertical fiscal imbalance;</li> <li>The LGSA will continue to campaign for increased FAGs, based on a fixed share of 1% of total Commonwealth taxation revenue; and</li> <li>The LGSA support the ALGA campaign for increased FAGs and the establishment of a Local Community Infrastructure Renewals Fund.</li> </ul>	<ul style="list-style-type: none"> <li>ALGA/PwC report calling for a Local Government Community Infrastructure Renewal Fund.</li> <li>ALGA election campaign calling for increased FAGs under development.</li> </ul>
<p><b>29 Financial Assistance Grants (3)</b></p> <p>If FAGs were not increased as envisaged in recommendations 27 and 28, then the method of allocating them be changed to increase the relative assistance given to the most infrastructure-disadvantaged councils given that these are the least financially sustainable units of Local Government.</p>	<p>Not supported.</p> <p>The purpose of intergovernmental transfers, called FAGs, is not exclusively to support disadvantaged councils but to provide a fair share of national taxation revenue to Local Government.</p>	<p>[The LGSA considered recommendations 27, 28 and 29 together. For actions see recommendation 28.]</p>	

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
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**30 Disability Data** Supported. The NSW Local Government Grants Commission publicly disclose its calculations of disability of each council.

**31 State Grants** Supported. The NSW Government publicly document its total assistance to NSW Local Government and show its breakdown by major categories of assistance.

- 32 Governance Structure** Not supported.
- The task force supported a governance framework which articulates the principles of good governance and the governance structure proposed by the working group Promoting Local Government Leadership.
- The LGSA call on the NSW Government seeking increased levels of financial assistance;
  - The LGSA will recommence discussions with NSW Treasury about including report on funding to Local Government in budget papers; and
  - The LGSA will explore potential advantages of further direct Commonwealth funding.

- The State Government amend the LG Act to provide for a choice of governance structures as outlined below.
- (a) Corporate Board structure
  - (b) Parliamentary/Executive structure
- [Actions include recommendation 33]
- The LGSA agreed that any governance framework and structure for NSW Local Government needs to be interlinked with and underpin the integrated strategic planning and reporting framework proposed for NSW Local Government by the DLG (see recommendation 34);
  - The LGSA support the development of a corporate governance framework articulating the principles of good governance for NSW Local Government which encapsulate and reinforce universal principles relating to leadership, financial accountability and transparency, community engagement and ethical behaviour. The final framework should be the "umbrella" for the other core initiatives including the DLG Integrated Planning and Reporting Project, the NSW Infrastructure Task Force's asset management and financial planning paper and the actions/responses prepared by SLG Task Force and endorsed by LGSA. The principles of good governance should include:
    - o Setting strategic directions and desired outcomes;
    - o Services and business planning;

- LGSA submission on the DLG Integrated Planning and Reporting Paper to the Minister on 17 May 2007.

Inquiry Recommendation	LGSA Position	Action	Achievements / Related Initiatives and Developments
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<p><b>33 Councillor Remuneration</b></p> <p>The State Government raise the maximum permissible remuneration level for councillors.</p>	<p>The framework and structure need to underpin the integrated strategic planning and reporting framework.</p> <p>Supported. Remuneration needs to be associated with their role and responsibilities under the proposed governance and strategic planning framework and adequately recognise the time and effort and the</p>	<ul style="list-style-type: none"> <li>o Regular reviews of council capacity to respond to community needs, priorities and service delivery issues;</li> <li>o Establishing appropriate internal control and risk management processes (in line with relevant Australian Standards);</li> <li>o Setting performance targets (Key Performance Indicators) for council linked to strategic directions and desired outcomes; and</li> <li>o Monitoring performance and outcomes against them and preparation of council performance improvement plans;</li> </ul> <ul style="list-style-type: none"> <li>• The LGSA support the plain English governance framework and structure including definition of leadership suggested in the <i>Strategic Leadership Report</i> prepared by the SLG working group Promoting Local Government with a view to advocating that the NSW Government adopt a similar approach in amending the NSW Local Government Act; and</li> <li>• The LGSA refer the <i>Strategic Leadership Report</i> prepared by the SLG working group Promoting Local Government Leadership to the working group to be established by DLG on integrated strategic planning and reporting, financial management and asset management.</li> </ul> <p>[See also recommendation 34, 41 and 42]</p> <p>[The LGSA considered recommendation 33 mainly within recommendation 32. For the main actions see recommendation 32.]</p> <ul style="list-style-type: none"> <li>• The LGSA noted that councillor remuneration needs to be associated with their role and responsibilities under the proposed governance and strategic planning framework and adequately recognise the time and effort and the expertise that councillors bring to the good governance of their local areas.</li> </ul>	<ul style="list-style-type: none"> <li>• LGSA submission to the Local Government Remuneration Tribunal of 1 February 2007.</li> </ul>
--	---	--	---

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
------------------------	---------------	--------	--

expertise that councillors bring to the good governance of their local areas.

**34 Long-term plan**

All councils develop and adopt a long-term strategic and financial plan in close consultation with their communities that would be subject to annual external compliance audits and updated in the first year of each council's term.

Supported.

[Actions include recommendations 10, 11 and 16]

- The LGSA noted the release of the DLG Integrated Planning and Reporting Options Paper and the DLG position paper on asset management and financial planning, jointly developed with IPWEA, LGSA and LGMA, on 16 May 2007.
- The LGSA will actively promote the papers for feedback by councils;
- The LGSA support mandatory strategic community planning and council-term delivery programs to advance that strategy, underpinned by mandatory long term financial and strategic asset management planning as a principal function of councils;
- The LGSA agreed that long term strategic and financial planning needs to be supported by an adequate governance model addressing roles and responsibilities, and framing roles and associated obligations of elected members and senior management (See recommendation 32); and
- The LGSA remind the NSW Government that, under current circumstances, many councils, particularly in regional and rural areas, need financial and technical support to implement long term strategic and financial planning and that frameworks need to be provided and a capacity building program be established along the lines of what is envisaged by the NSW Infrastructure Task Force in relation to asset management.

[See also recommendations 32 and 35]

- Policy workshop has taken place and LGSA has prepared a comprehensive submission based on the workshop outcomes.
- DLG options paper on integrated planning and reporting released in November 2006.
- LGSA submission on the DLG Integrated Planning and Reporting Paper to the Minister on 17 May 2007.

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
------------------------	---------------	--------	--

**35: Performance measures**

The DLG in conjunction with the LGSA and a representative cross section of councils devise new key performance indicators (KPIs) for NSW Local Government using logics analysis to derive an outcomes hierarchy showing the causal link between core council goals, desired results, intermediate results and services.

Supported.

- The LGSA noted that an outcomes-focussed performance measurement framework would assist to lift the performance standards of councils across NSW;
- The LGSA agreed that an outcomes-focussed performance measurement framework needs to be interlinked with and underpin the integrated strategic planning and reporting framework proposed for NSW Local Government by the DLG (see recommendation 34);
- The LGSA support the development of an outcomes-focussed performance measurement framework for NSW Local Government. The outcomes-focussed framework and its associated suite of performance indicators should be built on quadruple bottom line (QBL) considerations incorporating the social, environmental, economic and governance capabilities of councils. The final framework should:
  - o Assist councils to measure and improve their performance;
  - o Provide a platform for comparative analysis;
  - o Highlight synergies with other government agencies and facilitate intergovernmental relations; and
  - o Aggregate data to provide evidence for industry-wide advocacy re: role, scope, effectiveness and financing of Local Government; and
- The LGSA agreed that the lead agencies for the project be the LGSA, DLG and LGMA underpinned by close consultation with key stakeholders.

[See also recommendations 34 and 32]

**36 Performance benchmarking**

Each council on a regular basis (at least once every three years) benchmark its administrative capacity and performance with the results used to identify the most

Supported.

- The LGSA noted the importance for all councils to be able to access best practice information on administrative KPIs and benchmarks; and
- The LGSA supported the establishment of a collaborative project initiative dovetailing with the work of the DLG's New Directions Paper and integrated planning and reporting initiative on benchmarking.

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
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pressing organisational improvements for incorporation into the management plan.

**37 Resource sharing** Supported:

The DLG and the LGSA jointly undertake a functional analysis to determine which, if any, of the services that councils deliver would benefit from being provided by contractually-based resource sharing or outsourcing arrangements including jointly owned shared service centres and sizeable third party providers (e.g. regional electricity authorities).

[Actions cover recommendation 13 and 37]

- The LGSA noted the ongoing work of the Strategic Alliance Network (SAN) and recommend that councils participate in the SAN Conference which is tentatively scheduled for 27 August 2007; and
- The LGSA agreed that industrial relations and workforce planning issues need to be part of the SAN program.

- Strategic Alliance Network Conference scheduled for 27 August 2007.

**38 Financial data** Supported.

The DLG amends its Code of Accounting Practice and Financial Reporting for councils to standardise key accounting and reporting policies,

- The LGSA recommend that the Local Government Accounting Advisory Group (LGAAG) give favourable consideration to changing the current arrangements in the Local Government Accounting Code regarding special schedule 7 (SS7) based on the directions of the national Infrastructure Financial Management Guidelines (IFMG) being prepared by the NAMS Committee;

- The LGSA recommend to the LGAAG that:
    - o Changes in relation to the reporting of generalised performance indicators be issued as a
- LGAAG advised that:
- SS7 be retained for the immediate future.
  - Asset indicator for renewal gap 'Capital Renewal

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especially in relation to asset condition assessment, asset valuation, depreciation rates, capital expenditure (including the distinction between asset maintenance, renewal and expansion), a high-level chart of accounts, a workforce profile database (each with agreed definitions of terms as exists in the NSW general government sector) and key financial indicators.

- change to Note 13 of the General Purpose Financial Report as prescribed by the Code, i.e., Statement of Performance Measurement; and
  - Changes to the Code be consistent with the development of the national Infrastructure Financial Management Guidelines (IFMG);
- The LGSA noted that these recommendations were made to LGAAG for consideration for inclusion in the current update of the LG Accounting Code; and
- The LGSA noted the relevance and use of SS7 data in its current format and the difficulty of including IFMG indicators until these have been firm'd up and are consistent across the board.
- The LGSA noted that LGAAG has advised that for the immediate future SS7 will be retained but an optional indicator measuring the infrastructure renewal gap be included in the Local Government Accounting Code.

expenditure / annual average asset consumption (depreciation) where result was expected to be > or = 1, be included in the performance measures (e.g. in Note 13) for asset classes that have been revalued at fair value with the ratio to be reported by asset class until all assets have been revalued at fair value.

LGAAG has subsequently decided that while the use of the ratio is recommended that it will remain optional in the next edition of the Code.

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**39 Financial Benchmarks**

The LGMA reissue its Sustainable Financial Health Check Manual with an expanded list of financial KPIs and an appropriate range of lower and upper benchmarks for each KPI along the lines shown in the table below [table in final report].

Supported.

The LGSA recommend to the LGMA that a further reissue of the LGMA Sustainable Financial Health Check will not be required if the performance measures in the Code of Accounting Practice and Financial Reporting are updated to include key financial performance indicators such as asset condition management and that these indicators follow the development of the NAMS national Infrastructure Financial Management Guidelines (IFMG), particularly the indicators espoused in position paper 3 "Performance Measures" of the NAMS initiative;

The LGSA noted that in respect of the Key Financial Performance Indicators recommended by the Inquiry in recommendation 39 the recommendation includes an over-emphasis on the use of debt as a funding source;

The LGSA support that councils, as part of the strategic planning framework proposed under recommendation 34, develop a revenue and financing policy to provide a comprehensive approach in determining the funding sources for operating, renewal and capital expenditure; and

The LGSA support that an alignment of funding sources with capital expenditure is required such as the case in New Zealand Local Government, i.e.:

1. Asset renewals are funded from equity reserves created by the depreciation expense;
2. New assets to support population growth are funded from developer contributions; and
3. Assets created to provide increased levels of service are funded by loans.

**40 Infrastructure Borrowings**

Councils increase their use of borrowing to fund necessary infrastructure spending.

Supported in principle.

The use of borrowing was overly emphasised by the Inquiry. Borrowings need to be considered on a council by council basis as one of many fiscal options.

The LGSA agree that the use of borrowing was overly emphasised by the Inquiry and that borrowings need to be considered on a council by council basis as one of many fiscal options;

The LGSA will initiate discussions with ALGA on a process to set up a National/State Local Government body as a vehicle to develop and market infrastructure bond initiatives; and

The LGSA will engage discussions with ALGA and the Australian Taxation Office regarding the availability, through a tax office ruling, of the tax incentives to investors of the infrastructure bond (the investment bank that will structure the arrangement will be the one to advice on this).

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**41 Financial Responsibility**

The State Government amend Section 232 of the LG Act to clarify that councillors are responsible and accountable for a council's financial governance in general and its financial sustainability in particular.

Supported.

The LGSA support, as part of the governance framework and structure proposed under recommendation 32, an amendment to section 232 of the Local Government Act 1993 so that councillors are made clearly accountable for the financial governance and sustainability of their respective councils;

The LGSA support, as part of the strategic leadership program proposed under recommendation 42, that all councillors be encouraged to undertake training in Local Government financial management and reporting and that the financial management training package for councillors be reviewed to take into account long term strategic and financial issues for councils.

[See recommendation 32 and 42]

**42 Councillor Training**

The DLG in conjunction with the LGSA and relevant professional bodies provide all councillors with specific training in the tools they need to undertake the expanded financial governance role envisaged in recommendation 41.

Supported.

The LGSA support that effective strategic leadership necessitates an adequate governance model for councils addressing roles and responsibilities, and framing roles and associated obligations of elected members and senior management as recommended by the working group Promoting Local Government Leadership in its report entitled *Strategic Leadership Report* (ATTACHMENT II) (see also recommendation 32);

While noting that the Inquiry recommended that councillors receive financial management training, the LGSA agreed that improved leadership requires a broader program of training and other measures designed to improve leadership (such as mentoring and networking, and promoting best practice), under the umbrella of a strategic leadership program;

The LGSA support the establishment of the Strategic Leadership Partnership as recommended by the SLG working group Promoting Local Government Leadership in its report entitled *Strategic Leadership Report* to develop and implement the strategic leadership program including the following six elements:

- o Expanded councillor training and development programs;
- o Expanded professional development programs for senior managers;
- o A "Councillor Mentoring Program";
- o An "Executive Leadership Program" which would address the skills needed to implement the DLG's proposals and targeted primarily at mayors/councillors and general managers/directors;

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- o A "Leading Council" scheme to recognise and disseminate best practice in strategic leadership; and
- o A "Peer Review Network" (for both elected members and managers) to enable councils to help each other introduce improved leadership practices;
- The LGSA agreed that the Strategic Leadership Partnership comprise LGSA, LGMA, IPWEA and DLG;
- The LGSA agreed that the Strategic Leadership Partnership develop and implement stage 1 of the program as recommended in the *Strategic Leadership Report* (development of a conceptual framework, including outline proposals and costings as necessary, for the various elements of the strategic leadership program, plus expression of interest (EOI) documentation for new activities over and above those already undertaken by members of the Partnership - by engaging a suitable consultant to undertake the tasks identified in stage 1, in collaboration with LGSA Learning Solutions);
- The LGSA agreed that LGSA Learning Solutions be tasked to design and implement a councillor mentoring program and expanded councillor professional programs as part of the Strategic Leadership Partnership; and
- The LGSA recommend that councils be required to adopt a policy which ensures all councillors receive training in the core responsibilities of strategic leadership guided by the South Australian policy model which identifies training needs and funding sources, and a wide range of delivery strategies.

[See also recommendation 32, 34 and 41]

**43 Sustainability Ratings** Supported.

The LGSA obtain the agreement of its members to appoint an independent expert organisation to regularly 'rate' the long-term financial situation and

• The LGSA noted that the working group Financial Management had a comprehensive presentation on the MAV Viability Index at its meeting on 29 May 2007.

• The LGSA will further investigate the feasibility of adopting of the MAV Viability Index in NSW (noting that the MAV Index is very comprehensive and resource intensive and that the adoption of the process would have resource implications; see working group report).

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
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outlook of each council using an appropriate assessment methodology agreed in advance with the LGSA.

**44 Industry Database**

The LGSA undertake a facilitation and coordination role in improving the financial governance and management of Local Government by providing a dedicated resource library, up-to-date statistical data base, best practice manuals, case studies and registry of recognised experts working within councils and accredited external consultants with the requisite expertise.

Supported in principle.

The instruments recommended by the Inquiry should be provided by the most appropriate organisation in the Local Government sector.

- The LGSA noted that a resources and information section (including links to other information sources) has already been established on the Strengthening Local Government website ([www.StrengtheningLG.org.au](http://www.StrengtheningLG.org.au));

- The LGSA will maintain and regularly update the Strengthening Local Government website as a database;

- The LGSA noted that the strategic leadership program recommended by the working group Promoting Local Government Leadership in its report entitled *Strategic Leadership Report* includes a "Leading Council" scheme to recognise and disseminate best practice in strategic leadership;

- The LGSA support in general LGMA in the development of the Good Practice Toolkit.

- The LGSA recommend to LGMA that a module on financial management be included in the LGMA Good Practice Toolkit.

- LGMA Good Practice Toolkit

- SLG website including links to other databases by State associations, the DLG reform initiatives and Local Government Procurement.

**45 Reform Assistance**

The State Government provide financial incentives and professional assistance to councils to facilitate

Supported.

- The LGSA will actively promote the need for the State Government to support meaningful structural reforms in Local Government. This support should be in the form of financial assistance grants to councils, capital subsidies for investment in facilities, priority access to funding programs for councils, professional advice and training to help councils upgrade their strategic planning, financial management and policy/administrative skills.

- The LGSA will lobby jointly with LGMA and IPWEA for financial assistance from the State and

- LGSA submission on the DLG Integrated Planning and Reporting Paper to the Minister on 17 May 2007.

Achievements /Related Initiatives and Developments	Action	LGSA Position	Inquiry Recommendation
<ul style="list-style-type: none"> <li>based on the workshop outcomes.</li> <li>LGSA submission on the DLG Integrated Planning and Reporting Paper to the Minister on 17 May 2007.</li> <li>DLG has released its position paper on asset management and financial planning, jointly developed with IPWEA, LGSA and LGMA, on 16 May 2007.</li> <li>DLG has released its position paper on asset management and financial planning on 16 May 2007.</li> <li>Joint press</li> </ul>	<ul style="list-style-type: none"> <li>The LGSA noted that a Policy Workshop/Roundtable with Executive Members has been conducted in February 2007 and a comprehensive submission based on the workshop outcomes provided to the Minister for Local Government on 17 May 2007.</li> </ul>	<p>an adequate framework of strategic planning, asset management and financial planning developed and accepted by the sector.</p>	<p>restrain operating expenditure by adopting an 'optimalist' approach to new recurrent services until their physical assets are restored to a satisfactory condition.</p>
			<p><b>6 Infrastructure Management</b></p> <p>The State Government provide financial incentives and technical assistance to enable all councils within three years to adopt a total asset management</p>
	<ul style="list-style-type: none"> <li>The LGSA noted that the recommendation had been referred to the NSW Infrastructure Task Force;</li> <li>The LGSA noted that the introduction of adequate asset management systems and practices is being considered as part of the review of the DLG position paper on asset management and financial planning entitled Asset Management Planning for NSW Local Government (responses due 13 July 2007); and</li> <li>The LGSA noted that they and other peak bodies have jointly called for \$3m funding from the NSW Government for implementing an asset management capacity building program.</li> </ul>		

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
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(TAM) system with consistent asset accounting practices.

release issued by LGSA, LGMA, IPWEA, The Water Directorate and The Local Government Auditors Association on 17 May 2007 calling for \$3m funding for implementing an asset management capacity building program.

- Staged introduction of fair value valuation and NAMS IFMG<sup>2</sup>

<sup>2</sup> The National Asset Management Strategy (NAMS) Committee is in the process of finalising the first national infrastructure financial management guidelines (IFMG).

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**7 Infrastructure Funding**

To overcome the infrastructure crisis, increase council funding by the order of \$900 million per annum through a combination of increased Commonwealth and state grants (\$200 million), council expenditure savings (\$200 million) and higher rates, fees and charges (\$500 million).

Supported in principle.

Infrastructure funding needs to be increased by at least \$900 million per annum through a combination of the funding sources mentioned.

However, the recommended general composition of the funding sources is rejected, because the actual funding mix will vary from council to council dependent on their particular circumstances.

The LGSA noted that the issue of advocacy for increased grants been responded to under recommendations 27 to 29 and 45;

The LGSA noted that the issue of higher rates, fees and charges has been responded to under recommendations 21 to 24, 26 and 40;

The LGSA noted that the issue of expenditure savings has been responded to under recommendations 12 to 14, 25 and 37;

The LGSA agreed that the identified backlog of \$1.0 billion in water and sewerage infrastructure, which had been excluded from the calculation of the \$900 million per annum<sup>3</sup>, needs to be included because it cannot be funded from water and sewerage charges;

The LGSA rejects the recommended composition of the funding sources because the actual funding mix will vary from council to council dependent on their particular circumstances;

The LGSA agreed that each council needs to assess their infrastructure funding needs and funding options through an adequate asset management and financial planning process;

The LGSA noted that only the consolidation of the individually identified funding needs of councils will make it possible to identify the total funding shortfall for NSW Local Government; and

The LGSA agreed that the joint initiative of the NSW Infrastructure Task Force and the DLG position paper on asset management and financial planning represent a preliminary step to enabling councils to identify their individual infrastructure needs and funding options through proper asset management and financial planning.

- ALGA/PwC report calling for a Local Government Community Infrastructure Renewal Fund.

- ALGA election campaign calling for increased FAGs, under development.

- LGSA State election campaign securing improved funding for timber bridges and country town water supply and sewerage

<sup>3</sup> The calculation is based on an infrastructure backlog of \$5.3billion. The identified backlog of \$1.0billion for water and sewerage was excluded because then DEUS claimed that this backlog has been planned for in sound council 30 year strategic business and financial plans for local water utilities and all projected capital and operating expenditures for delivering its sewerage services can be met by typical water charges (see Inquiry page 120).

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**8 Depreciation Funding**

Each council aim to fully cash-fund its asset depreciation within three to five years and dedicate such funds exclusively for asset renewals.

Not concluded.

The issue of depreciation funding is still being considered as part of the review of the DLG position paper/Asset Management Planning for NSW Local Government.

- The LGSA noted that the recommendation has been referred to the NSW Infrastructure Task Force which has jointly with DLG developed the position paper on asset management and financial planning.
- The LGSA noted that the issue of depreciation funding is still being considered as part of the review of the DLG position paper Asset Management Planning for NSW Local Government.

**9 Regional Roads**

The NSW Government assume responsibility for all regional roads in rural shires since such councils do not have the financial capacity and asset management systems to maintain and renew them.

Supported in principle as option if adequate funding is not provided, but there is a need to investigate the situation affecting all councils.

Any transfer of responsibility should not be limited to "regional roads in rural shires" but apply to all regional roads.

- The LGSA agreed that this recommendation is a "last resort option" and should only be considered after other funding options for regional roads are exhausted and extensive consultation with affected councils have taken place;
- The LGSA will ensure that the response to the recommendation is not limited to "regional roads in rural shires" (wording of the recommendation) but apply to regional roads in all councils (noting that according to roads classification administered by the RTA a regional road is a local road of regional significance and that the RTA can reclassify roads as it thinks fit);
- The LGSA agreed that the term "responsibility" as used in the recommendation refers to the actual operation of regional roads and funding of life cycle cost. The LGSA noted that inadequacy of RTA funding and other funding sources and lack of capacity on the part of councils to contribute are the main shortcomings with present arrangements;
- The LGSA noted that, as effective asset management systems are introduced as part of the NSW Infrastructure Task Force, the sustainability or otherwise of present arrangements will be established and Local Government will then be able to present a compelling argument (supported by essential data) to the NSW Government and the Commonwealth Government for additional road funding;

- DLG has released its position paper on asset management and financial planning on 16 May 2007 for feedback by 13 July 2007.
- Introduction of fair value valuation and NAMS IFMG
- DLG has released its position paper on asset management and financial planning on 16 May 2007 for feedback by 13 July 2007.

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
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- The LGSA referred to the LGSA Roads and Transport Standing Committee the following matters, inter alia, with the aim of developing options for a report/submission:
  - Development of a strategy calling on the NSW Government to support an inquiry into the funding of regional roads in NSW;
  - Identification of any funding shortfall for regional roads following this inquiry and the introduction of effective asset management systems and taking account of potential liability issues arising out of funding shortfalls; and
  - Evaluation of legal options for and legal implications of handing back of or refusing to take on responsibility for regional roads due to a lack of funding.

[The LGSA considered recommendation 10 within recommendation 34. See recommendation 34.]

Supported.

**10 Opinion Survey**

Each council periodically (at least at the start of its four year term) conduct an opinion survey of its residents to find out how they rate the importance of each of its major services and how they rate their satisfaction with each service.

[The LGSA considered recommendation 11 within recommendation 34. See recommendation 34.]

Supported.

**11 Future Needs**

All councils should develop and adopt a long-term services plan that takes into account demographic, political, economic, environmental, social

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and technological trends as well as existing community's priorities based on opinion surveys and community consultations that disclose the costs and benefits of alternative scenarios.

**12 Procurement Practices**

The DLG permit the LGSA to undertake joint purchasing arrangements on behalf of Local Government, perhaps using a council network of commodity action teams, to identify where savings could best be made. In addition, the LGSA should develop best practice procurement guidelines to assist councils to better align and integrate their service plans and policies with their procurement processes and practices.

Supported.

- The LGSA noted that permission to undertake joint purchasing arrangements has been granted and that LGSA has established Local Government Procurement (LGP) to provide a fully integrated procurement service to councils and associated organisations in NSW;
- The LGSA noted that LGMA NSW has developed and made public as part of their Good Practice Toolkit a module on procurement; and
- The LGSA will continue to promote LGP and the maintenance of the procurement module of the LGMA Good Practice Toolkit.

- Local Government Procurement (LGP) established
- LGMA Good Practice Toolkit – module on procurement

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**13 Innovative Solutions**  
 Local Government pursue innovative solutions to expenditure saving and revenue enhancement to help boost its infrastructure funding capacity under Recommendation 7.

Supported. [The LGSA considered recommendations 13 and 37 together. See recommendation 37.]

- Strategic Alliance Network Conference scheduled for 27 August 2007.

**14 Commercialise Businesses**  
 Councils further commercialise their business operations (especially category 2 business) so that they set their prices to fully recover economic costs, including the cost of capital, and pay dividends like a normal business. Any community service obligations imposed on such a business activity by a council or another tier of government should be fully subsidised from taxpayer funds rather than commercial income.

Supported. [The LGSA considered recommendations 14 and 25 together. See recommendation 25.]

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**15 Planning Documentation**

The State Government introduce a single planning document to apply to whatever land-use control format is adopted (e.g. land zones, land parcels or localities).

Supported partially.  
The land use planning instrument needs to be integrated with and informed by the community strategic plan as proposed by the DLG Integrated Planning and Reporting Initiative.

The LGSA agreed that the new framework for Local Environment Plans (LEPs) represents a significant step forward to introducing a single land use planning instrument;

- The LGSA will continue to advocate that the LEP needs to be integrated with and informed by the community strategic plan as proposed by the DLG Integrated Planning and Reporting Initiative and that generally land use planning does not override community strategic planning; and
- The LGSA will continue to advocate that any single planning instrument needs to be flexible enough to enable consideration of the needs of individual communities.

[see recommendation 34]

- LGSA submission on the DLG Integrated Planning and Reporting Paper to the Minister on 17 May 2007.
- LGSA submission, evaluation of the LEP Review Panel (April 2007).
- LGSA submission to the draft standard LEP (November 2005).

**16 Future Needs**

All councils develop and adopt a long-term land usage plan that takes into account demographic, political, economic, environmental, social and technological trends as well as existing community s

Supported.  
[The LGSA considered recommendation 16 within recommendation 34. See recommendation 34.]

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priorities based on opinion surveys and community consultations that disclose the costs and benefits of alternative scenarios.

**17 Council Delegations**

Increase the number of development decisions that can be delegated by councils to certified planners or architects so as to enable faster processing times of the remaining DAs.

Not concluded.  
LGSA policy position is still being developed.

[Actions cover recommendations 17, 18, 19 and 20]

- The LGSA deferred the response to these recommendations until such time as there is further analysis available of the use of panels, delegation of decisions, and other procedural issues in the area of development application assessment including developments in other jurisdictions including South Australia; and
- The LGSA are currently undertaking a survey of NSW councils on planning panels and that a report is expected to be completed July 2007 to inform policy debate in NSW.

- LGSA survey on planning panels is expected to be completed July 2007 to inform policy debate in NSW.
- Minister for Planning, Frank Sartor has been examining use of panels in other states.

**18 Advisory Panels**

Establish independent advisory panels to consider and advise councils on disputed DAs and to consider appeals from third parties.

Not concluded.  
LGSA policy position is still being developed.

[The LGSA considered recommendation 18 together with recommendations 17, 19 and 20. For actions see recommendation 17.]

- See above.

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**19 Voting Record**

All councils introduce a system for recording how individual councillors vote on planning policy matters and individual development applications as well as any explanations they offer for their actions. Where a council departs from a recommendation by an independent advisory panel its collective reasons for doing so should also be recorded.

Not concluded.

LGSA policy position is still being developed.

[The LGSA considered recommendation 19 together with recommendations 17, 18 and 20. For actions see recommendation 17.]

**20 Planning Commission**

The State Government establish an independent State Planning Commission to make recommendations on major projects removed from council control by the Minister for Planning with the State Cabinet deciding the outcome of such DAs if the Minister rejects the commission's advice.

Not concluded.

LGSA policy position is still being developed.

[The LGSA considered recommendation 20 together with recommendations 17, 18 and 19. For actions see recommendation 17.]

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**21 Rate Pegging (1)**

The State Government free councils to determine their own income by removing statutory limitations on their rates (i.e. rate pegging) and certain fees (e.g. development application processing fees) in return for councils adopting longer-term strategic and financial planning with outcome targets.

Supported.

[Actions cover recommendations 21 and 22]

- The LGSA will continue to lobby for the removal of rate pegging as a long term objective;
  - The LGSA will renew their efforts to have the NSW Government adopt a Local Government Cost Index (e.g. the model developed by the LGSA Rate Pegging Task Force) as the basis of the rate pegging determination of the rate pegging limit; and
  - The LGSA will publish an annual Local Government Cost Index.
- LGSA 2007 State Election Policy Platform (October 2006) called for the abolition or relaxation of rate pegging.
  - LGSA submission on the DLG Integrated Planning and Reporting Paper on 17 May 2007 calls for the abolition of rate pegging.
  - Productivity Commission study into Local Government revenue raising capacity including impacts of state regulatory limits.

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**22 Rate Pegging (2)**

If recommendation 21 is not acceptable, the State Government instead (a) permit councils whose rates were relatively low when rate pegging started or whose past rate rises have not kept pace with peg rises to bring them into line with those councils whose rates are in the top quartile; and (b) tie rate pegging to a published price or cost index such as the Sydney CPI, NSW GDP deflator index or a specifically designed Local Government cost index.

[The LGSA considered recommendation 22 together with recommendation 21. For actions see recommendation 21.]

Supported as default option. The recommendation is only supported as long as recommendation 21 cannot be implemented.

**23 Rate Exemptions**

The State Government should review and remove rate exemptions for all land use for commercial or residential purposes regardless of ownership.

Supported.

- The LGSA will undertake research to identify, review and quantify all rate exemptions;
- The LGSA will prepare a submission to NSW and Commonwealth Governments (including Productivity Commission) recommending amendment of relevant acts to remove nominated concessions; and/or
- The LGSA call on NSW Government to conduct a review of rate exemptions.

- Productivity Commission study into Local Government revenue raising capacity including impacts of state regulatory limits.

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**24 Pensioner Concessions**

The NSW Government, like all other state governments, fully rebate council's for its policy of pensioner rate concessions, otherwise councils be given permission to introduce rate deferrals for the unfunded component of such concessions. Deferred rates and accrued interest thereon would be charged against a pensioner's estate.

Supported.  
The introduction of rate deferrals is supported as optional for councils.

- The LGSA will identify, review and update research on pensioner rate rebates;
- The LGSA reaffirms standing policy that mandatory pensioner rate rebates be fully financed by state and federal government;
- The LGSA will advocate policy for gradual phasing out of voluntary (over and above) rebates by councils; and
- The LGSA will survey the extent of voluntary pensioner rate rebates.

- Productivity Commission study into Local Government revenue raising capacity including impacts of state regulatory limits.

**25 Pricing Guidelines**

The Department of Local Government issue best-practice guidelines on the pricing principles and key cost concepts necessary for pricing council services, especially of a commercial nature.

Supported.

- [Actions cover recommendations 14 and 25]
- The LGSA advocate that DLG, in partnership with LGSA and LGMA conduct a joint review and prepare (in consultation with the local government accounting and financial planning professionals) best practice pricing guidelines; and
  - The LGSA agreed that any guidelines should:
    - o Recognise that councils must be free to determine the level and pricing of services in consultation with their communities;
    - o Not promote reduced community services;
    - o Recognise the capacity of communities to pay for services;
    - o Recognise the tension between competitive business services and community services;
    - o Consider the extent to which the State Government funds (or should fund) the provision of services;
    - o Consider the standardisation of service provision arrangements between State and Local Government (e.g.: grants, service level agreements and other contractual arrangements) taking into account councils long term strategic plans and pricing structures.

- Guideline principles developed by working group Resource Optimising and Capacity Building
- Productivity Commission study into Local Government revenue raising capacity incl. impacts of state regulatory limits.

## **CODE OF CONDUCT COMMITTEE**

### **Report to Lithgow City Council concerning complaint by Paul Anderson, General Manager of the Lithgow City Council against Councillor M Ticehurst 14<sup>th</sup> August, 2007**

#### **INTRODUCTION**

On 11<sup>th</sup> December 2006 a letter was written to the Council making a number of formal complaints by the General Manager of Lithgow City Council, Paul Anderson. The complaints arose out of allegations concerning inappropriate conduct on the part of Councillor Ticehurst ("the complaints").

The complaints made by the General Manager to the Council were made pursuant to the provisions of the Model Code of Conduct which had been adopted by the Lithgow City Council on 24 January 2005 and which was current at all material times ("the Code").

The Mayor of the Council initially called a meeting of the Code of Conduct Committee on 18 December 2006 to consider the complaints and determine whether it was one which would warrant a formal referral to the Committee for enquiries. The Committee reviewed the complaints and supporting material and determined to consider the complaints in accordance with the Code of Conduct. Relevantly, the matters of complaint arose from an interview conducted by the Channel 7 television show, Today Tonight and Councillor Ticehurst. The Councillor made certain comments regarding, amongst other things, the alleged lack of investigation and alleged lack of honesty by the General Manager in relation to an issue concerning the use of spoils and road base placed on private lands by Council officers as a consequence of the construction of a Council road.

The television broadcast was followed up by a 2 page publication titled "As Seen on TV' Lithgow City Council rocked by Today Tonight Report" in which a transcript of the

broadcast was reproduced and a referral was made to the Channel 7 website as well as a website known as [www.lithgowcouncil.com](http://www.lithgowcouncil.com).

The Committee determined to consider the complaints pursuant to the Code, however, noted that it was important to establish the precise terms of the complaints with the General Manager so that the terms could be put to Councillor Ticehurst for his response.

### **THE COMPLAINTS**

Following correspondence confirming the complaints with the General Manager, the complaints made by the complainant were advised by letter dated 24 January 2007 to Councillor Ticehurst and are as follows:-

1. In complaining of the General Manager's conduct, you failed to make such complaint under the Code as is required regarding the General Manager's conduct which seriously questioned his ethics and behaviour such that due process should have been followed providing him with a fair and equitable hearing, or the opportunity for a response.
2. You called for the General Manager to be dismissed without proper justification or investigation.
3. You inferred that all senior staff acted inappropriately.
4. You published confidential material, namely the General Manager's salary package, which was to remain confidential until its usual publication in the 2006/2007 Annual Report.
5. You falsely made claims that road base was placed on regional ratepayers' property, rather than spoils, and assert that it is an inappropriate activity which was not properly investigated.

6. You state at your Website Publication, [www.lithgowcouncil.com](http://www.lithgowcouncil.com) that *"Any excuse that the Council gives that this is above board is a lie. The reality is that fill went on a property at a time when that fill was meant to go on the road."* This allegation, it is asserted by the General Manager, is false and misleading and, as such, is a breach of the Code of Conduct to be reviewed by the Committee and not an assertion to be made unsupported to the public through the internet.
7. The link from the Website Publication [www.lithgowcouncil.com](http://www.lithgowcouncil.com) (a site to which you have declared yourself to be the Registrant) brings the General Manager and Council into disrepute and casts aspersions on the operations of the Council and the integrity of all staff.
8. The General Manager asserts further that you attempt to discredit him and bring the Council into disrepute, together with the Council staff, through your quote in your interview in the Telecast and your subsequent letterbox drop in which a document was produced entitled "As seen on TV". Lithgow City Council rocked by Today Tonight Report" in which a transcript of the Telecast is reproduced. Further, the end of the document refers the reader to the Website [www.lithgowcouncil.com](http://www.lithgowcouncil.com). The interview and the document states, *"and I think he needs to forget about his \$195,000.00 wage and he needs to go"* and *"he is the General Manager, he needs to take action, if he doesn't take action, then he needs to go."*

## **THE CODE OF CONDUCT COMMITTEE INVESTIGATION**

### **3.1 Process**

18 December 2006

The Committee initially met to consider the letter containing the complaints and the material including the video of the Today Tonight Program together with the original

unsigned letter which had attached to it black and white photos (which were the subject of the report by the Today Tonight program) The documents which had been provided to the General Manager and were the subject of allegations of maladministration by the General Manager related to the construction of Blackheath Creek Road, Little Hartley, and the appropriateness or otherwise of the depositing of spoils taken from the road and the placement of road base on private property during the course of the construction of the Council road.

The Committee resolved that the matter should be referred to the Committee for investigation pursuant to the Code and a further meeting was arranged for 12 January 2007.

12 January 2007

The Committee on 12 January 2007 resolved that:-

1. There was a prima facie case for the Councillor to answer;
2. A letter written to the General Manager requesting his confirmation of the complaints made by him as set out in his letter requesting his confirmation or clarification in relation to the complaints.
3. If the complaints were confirmed or clarified by the General Manager, a letter to be sent to Councillor Ticehurst advising him of the complaints and that the Committee was investigating the issues.

16 January 2007

A letter was forwarded by Tim Le Fevre to the Lithgow City Council Records Department enquiring:-

1. Was any written complaint made under Council's Code of Conduct Policy against any council officer in particular, the General Manager, over the road issue which was televised on Channel 7 "Today Tonight Report"?
2. Was any written complaint made to the General Manager or any other senior officer of the Council in relation to the status of the investigations into the road issue? If so, when, and to whom was the complaint made?

24 January 2007

A letter was forwarded to Councillor Ticehurst dated 24 January 2007 which is attached and marked with the letter "A". The letter indicated that the Committee would be meeting on 8 February 2007 providing a period for him in which to address the Committee to clarify any matters in relation to the complaints made against him or to address or answer any questions which the Committee may have.

29 January 2007

Mr Le Fevre of the Committee made available those documents sought by Councillor Ticehurst other than a letter he sought from Mayor Castle to Channel 7 which was not in his possession. The response to Councillor Ticehurst was in the form of a letter dated 29 January 2007 which is attached and marked with the letter "B".

8 February 2007

The Code of Conduct of Committee met on 8 February 2007 and reviewed the correspondence in detail determining that due to the numerous and complex issues, the Committee should meet at a later date when there would be sufficient time made available. The General Manager attended briefly and provided the Committee

with a document entitled "Media Release Embargoed till 9am Thursday, 31 January 2007 Councillor responds to Council General Manager's Defamation Action Against Today Tonight, Media, Councillor and Rate Payer".

Councillor Ticehurst did not attend the Committee meeting.

15 February 2007

Letter received from Lithgow City Council responding to the request made by the Committee's letter of 16 January 2007 requesting records of complaints made concerning the General Manager over the road issue which was televised on the Channel 7 Today Tonight Program, a copy of which is attached and marked "C".

7 March 2007

On 7 March 2007, Mr Le Fevre wrote to Councillor Ticehurst, a copy of which is attached and marked "D".

This letter to Councillor Ticehurst notes that there was no outstanding matters arising from earlier correspondence and accordingly, the Committee sought a response to the letter of 29 January 2007 and that the next meeting would deal with the complaint and he was invited to attend to make any submissions.

12 March 2007

On 12 March 2007, Councillor Ticehurst wrote to Mr Le Fevre indicating that he still required a full copy of the letters written by the Mayor which were forwarded to and received by Channel 7, Today Tonight and reporter Liz Kefford. He noted that whilst he understood that the Committee may be reluctant to provide all the relevant documentation in the matter, that unless he received copies of these known

documents, he would not be in any future position to assist the Committee's investigation into the matter.

15 March 2007

A letter dated 15 March 2007 addressed to Councillor Ticehurst was hand delivered to his address. A copy of which is attached and marked "E".

On 15 March 2007, a further meeting was held at the Council, however, as a consequence of an illness, the meeting did not proceed and Councillor Ticehurst had been advised of this.

22 March 2007

The Code of Conduct Committee met and resolved to invite Councillor Ticehurst to come to the next Committee meeting to address the Committee. The Committee fixed a further date on 3 April 2007 to meet with a view to hearing Councillor Ticehurst and any further submission he wished to put to the Committee and to prepare a draft report for the Council.

3 April 2007

A further meeting was held on 3 April 2007 and Councillor Ticehurst was invited to attend this meeting and did not attend. The Committee undertook a detailed consideration of the complaints and compiled a partial draft report.

7 May 2007

A further Committee meeting was held at which time the Committee continued its deliberations, and finalised the draft report.

28 June 2007

A further Committee meeting was held. Minor amendments were made to the report and the Committee resolved to adopt the report as amended, subject to any further submissions from Councillor Ticehurst and Mr. Anderson. The Committee resolved to provide copies to Councillor Ticehurst and Mr. Anderson and to invite their written response within ten days and to meet again after that period to consider any further submissions and take those submissions into account in preparing a final report to Council.

9 August, 2007

The Committee met again. It was noted that on 12 July, 2007 copies of the amended report were provided to Councillor Ticehurst and Mr. Anderson with a request for their response by 22 July, 2007. It was noted that no response had been received. It was noted that the date of this meeting had only been determined the previous day and that, despite several attempts, it had not been possible to notify Councillor Ticehurst and the Committee resolved to notify him of a further meeting to be held on 14 August, 2007 and invite his attendance for making of final oral submissions. During the meeting Councillor Ticehurst was notified by telephone and email of the next meeting to be held on 14 August, 2007.

14 August, 2007

The Committee met again. It was noted that Councillor Ticehurst had been notified by telephone and email and a further letter delivered to his home and that he was not in attendance at the appointed commencement time nor thirty minutes thereafter. The Committee noted that Councillor Ticehurst had been provided with a copy of the proposed report to Council as previously amended. No response had been received from Councillor Ticehurst. The Committee resolved to adopt the report as previously approved by it, subject to minor amendments and subject to the inclusion of reference to the Committee's meetings held on 28

June, 2007, 9 August, 2007 and 14 August, 2007. The Committee noted that these amendments were not of a substantive nature. The Committee resolved to submit the report to Council via the Mayor for inclusion in a Mayoral Minute for consideration by Council and to provide confidential copies of same to Councillor Ticehurst and Mr. Anderson.

### **3.2 Matters for Notation**

Councillor Ticehurst has been invited to make both written and oral submissions at relevant stages of the process of the investigation by the Committee, however, the following have been noted by the Committee:-

1. No material has been provided by Councillor Ticehurst in response to the Committee's requests.
2. Councillor Ticehurst has not accepted the invitation of the Committee to attend meetings to make submissions or answer any questions of the Committee.
3. All relevant information sought by Councillor Ticehurst has been furnished to him.
4. On written enquiry by the Committee to the Council it was ascertained that no written request or enquiry was made of the Council by Councillor Ticehurst as to his concerns relating to the lack of investigation or status of investigation into the construction of Blackheath Creek Road alleged by Councillor Ticehurst in the broadcast and subsequent publication.
5. Neither the General Manager or Councillor Ticehurst has raised objection to the constitution of the Committee.

6. Neither the General Manager or Councillor Ticehurst has objected to the form in which the meetings were held.
7. Every opportunity has been given to the General Manager and Councillor Ticehurst to address the Committee so as to afford natural justice concerning any matters relevant to the deliberations of the Committee.
8. The General Manager, Paul Anderson, availed himself of the invitation expressed by the Committee and did on one occasion, briefly address the Committee.
9. The Model Code of Conduct published by the Department of Local Government had been adopted by the Lithgow City Council on 24 January 2005.

## **INVESTIGATION & FINDINGS**

The Committee:-

1. Reviewed the following material and documentation:-
  - Complaint by the General Manager dated 11 December 2006;
  - Tape of the Today Tonight Channel 7 broadcast;
  - Publication titled "As Seen on TV' Lithgow City Council rocked by Today Tonight Report";
  - Unsigned "concerned residents" letter received by Lithgow City Council on 13 November 2006 together with attached photocopied black and white photographs;
  - A copy of a letter from the Mayor to Channel 7 dated 11 December 2006;

- Letter from Kathy Woolley of Lithgow City Council dated 15 February 2007 responding to the Committee's letter requesting information from the Records Department dated 16 January 2007;
  - Media Release titled "Media Release Embargoed till 9am Thursday, 31 January 2007 Councillor responds to Council General Manager's Defamation Action Against Today Tonight, Media, Councillor and Rate Payer".
  - Council's previous censure resolutions regarding Councillor Ticehurst.
2. Interviewed Andrew Muir, Group Manager, Regional Services as to the investigations which he had carried out regarding the road base material and unusable materials during the road construction which was the subject of the allegations in the broad cast and publication.
3. Had the benefit of a brief oral submission provided by the General Manager which he made to the Committee on 8 February 2007.

#### **THE COMMITTEE'S FINDINGS**

The Code of Conduct Committee, based on findings of fact, has determined that the complaints made by the General Manager have disclosed that there have been a number of prima facie breaches of the Code of Conduct for the reasons below and make recommendations in accordance with the Code of Conduct and the Local Government Act, 1993.

The Committee makes the following findings in relation to each of the complaints:-

##### **COMPLAINT 1**

*In complaining of the General Manager's conduct, you failed to make such complaint under the Code as is required regarding the General Manager's conduct which seriously questioned his ethics and behaviour such that due process should have been followed providing him with a fair and equitable hearing, or the opportunity for a response.*

- 1.1 The Committee finds that the telecast and subsequent website publication alleges corrupt conduct, maladministration and waste of public resources. This being so, the Model Code of Conduct which had been adopted by Lithgow City Council on 24 January 2005 and was current at all material times, requires that each suspected breach of the Code be reported to the Mayor, preferably in writing, who will report the matter to the Code of Conduct Committee ("the Committee"). The Committee finds that Councillor Ticehurst did not so report such matters.
- 1.2 In this instance, the Committee finds that there has been a prima facie breach by Councillor Ticehurst of clause 10.4 of the Code.

#### *COMPLAINT 2*

*You called for the General Manager to be dismissed without proper justification or investigation.*

- 2.1 The Committee finds that the telecast and website publication call for the General Manager's resignation without proper justification or investigation. Councillor Ticehurst has failed to provide answers to the Committee's questions directed to this issue.
- 2.2 The Committee finds this to be a prima facie act of misbehaviour under clause 5.1 of the Code in that it is improper and unethical and comprises intimidatory conduct.
- 2.3 The Committee finds the following prima facie breaches of the Code:-
  - a) clause 5.2 in not exercising a reasonable degree of care and diligence;
  - b) clause 5.3 in not treating the General Manager with respect by following the correct process under the Code and providing the General Manager appropriate opportunity to respond to Councillor Ticehurst's concerns;

- c) clause 5.4 in that Councillor Ticehurst did not deal with the matter in a fair way as he failed to extend procedural fairness to the General Manager;
- d) clause 5.5 in that Councillor Ticehurst did not avail himself of all relevant facts.

### COMPLAINT 3

*You inferred that all senior staff acted inappropriately.*

- 3.1 The Committee finds that Councillor Ticehurst did infer that all senior staff acted inappropriately in that during the course of the broadcast he made the statements *"any excuse that Council gives that this is above board is a lie. The reality is that that fill went on that property at a time when that fill was meant to go on the road"*, and *"Its funny how the video has now surfaced showing exactly what's been going on and clearly with the consent of the senior management of Council and they've done nothing about it"*, and *"And I think he needs to forget about his \$195,000 wage and he needs to go"* when referring to the General Manager.
- 3.2 The Committee finds the following prima facie breaches of clause 5 of the Code:-
  - a) clause 5.1 in that it is improper, unethical and comprises intimidatory conduct;
  - b) clause 5.2 in not exercising a reasonable degree of care and diligence;
  - c) clause 5.3 in not treating all senior staff with respect by following the correct process under the Code and providing the senior staff with the appropriate opportunity to respond to Councillor Ticehurst's concerns;
  - d) clause 5.4 in that Councillor Ticehurst did not deal with the matter in a fair way as he failed to extend procedural fairness to senior staff;

- e) clause 5.5 in that Councillor Ticehurst did not avail himself of all of the relevant facts.

3.3 The Committee also finds the following prima facie breaches of the Code:-

- a) clause 10.1 in that Councillor Ticehurst failed to report all senior staff whom he suspected of maladministration and corrupt conduct, serious and substantial waste of Council resources as he asserted, in accordance with Council's internal reporting policy.
- b) clause 10.3 as regards all senior staff that he suspects of having breached the Code of Conduct, other than the General Manager, in that he should have reported the suspected breaches to the General Manager and he failed to do so.
- c) clause 10.4 as regards the General Manager, as a member of senior staff, in that Councillor Ticehurst should have reported suspected breaches of the Code of Conduct by the General Manager to the Mayor and failed to do so.

*COMPLAINT 4*

*You published confidential material, namely the General Manager's salary package, which was to remain confidential until its usual publication in the 2006/2007 Annual Report.*

- 4.1 The Committee finds that Councillor Ticehurst did publish confidential material namely the General Manager's salary package which was to remain confidential until its usual publication in the 2006/2007 Annual Report ("the confidential material").

4.2 The Committee finds that in publishing the confidential material Councillor Ticehurst prima facie breached clause 9.7 of the Code in that he failed to use Council information as he should in his capacity as a Councillor:-

- Protect confidential information
- Only access information needed for council business
- Not use confidential information for any non-official purpose
- Only release confidential information if you have authority to do so
- Only use confidential information for the purpose it is intended to be used
- Only release other information in accordance with established council policies and procedures and in compliance with relevant legislation
- Not use council information for personal purposes

4.3 The Committee also finds that Councillor Ticehurst prima facie breached clause 9.12 of the Code in that he did not take care to maintain the integrity and security of confidential information in his possession by publishing the confidential material.

#### COMPLAINT 5

*You falsely made claims that road base was placed on regional ratepayers' property, rather than spoils, and assert that it is an inappropriate activity which was not properly investigated.*

5.1 The Committee interviewed Andrew Muir, Manager of Regional Services who advised that he investigated allegations that a private property owner had received the benefit of material which should have been used for the construction of the road. Mr Muir stated that only road base material was to be used for the road construction and that unusable material ("*spoils*") were not useful for road construction. Mr Muir interviewed the road construction crew, property owner and also visited the site and satisfied himself that road base was only temporarily stock piled on private property then promptly redirected to the construction of the road. He established that only spoil was left on private property, consistent with Council

practice. A site visit by Mr Muir confirmed to him that no road base was left on the private property as alleged. The Committee finds that Councillor Ticehurst claimed that material intended for road construction, was placed on a rate payer's property and implied that it was inappropriately so placed and that the private property owner thereby obtained the benefit.

- 5.2 The Committee finds that such material was placed on private property only for a short interim period during the course of construction of the road and that such conduct was not inappropriate as inferred by Councillor Ticehurst. The Committee further finds that the private property owner did not receive any benefit from the temporary deposit of the material intended for the road construction.
- 5.3 The Committee finds at the time the publication and telecast being made, the General Manager had not been afforded the opportunity to complete a full and proper investigation into the allegations by Councillor Ticehurst of inappropriate conduct and that Councillor Ticehurst wrongly inferred that the General Manager failed to properly investigate the matter.
- 5.4 Consequently, the Committee finds that Councillor Ticehurst has prima facie breached clause 5.1 of the Code in that he breached Council's relevant administrative requirements by failing to report the General Manager's suspected breach to the Mayor; and his behaviour constitutes conduct detrimental to the pursuit of the charter of the Council.
- 5.5 The Committee also finds the following further prima facie breaches of the Code:-
  - a) clause 5.2 in that Councillor Ticehurst failed to act with a reasonable degree of care and diligence in carrying out his functions;
  - b) clause 5.5 in that Councillor Ticehurst failed to take all relevant facts known into account, including the current status of an investigation underway;

- c) clause 10.3 in that Councillor Ticehurst failed to report suspected breaches of the Code of Conduct by reporting suspected breaches of inappropriate activity relating to senior staff to the General Manager, preferably in writing ; and
- d) clause 10.4 in that Councillor Ticehurst failed to report suspected breaches with respect to inappropriate conduct for breaches of administrative requirements to the Mayor, preferably in writing, who would have reported the matter to the Conduct Committee.

#### COMPLAINT 6

*You state at your Website Publication, [www.lithgowcouncil.com](http://www.lithgowcouncil.com) that "Any excuse that the Council gives that this is above board is a lie. The reality is that fill went on a property at a time when that fill was meant to go on the road." This allegation, it is asserted by the General Manager, is false and misleading and, as such, is a breach of the Code of Conduct to be reviewed by the Committee and not an assertion to be made unsupported to the public through the internet.*

6.1 The Committee finds that Councillor Ticehurst on his website publication stated *"any excuse that Council gives that this is above board is a lie. The reality is that fill went on a property at a time when that fill was meant to go on the road."* The Committee finds that this allegation is false and misleading for the reasons as set out in Complaint 5 above, and that as such, the Committee finds that Councillor Ticehurst has committed the following prima facie breaches of the Code:-

- a) clause 5.2 in that Councillor Ticehurst failed to act with a reasonable degree of care and diligence in carrying out his functions;
- b) clause 5.5 in that Councillor Ticehurst failed to take all relevant facts known into account, including the current status of an investigation underway;

- c) clause 10.3 in that Councillor Ticehurst failed to report suspected breaches of the Code of Conduct by reporting suspected breaches of inappropriate activity relating to senior staff to the General Manager, preferably in writing ; and
- d) clause 10.4 in that Councillor Ticehurst failed to report suspected breaches with respect to inappropriate conduct for breaches of administrative requirements to the Mayor, preferably in writing, who would have reported the matter to the Conduct Committee.

#### COMPLAINT 7

*The link from the Website Publication [www.lithgowcouncil.com](http://www.lithgowcouncil.com) (a site to which you have declared yourself to be the Registrant) brings the General Manager and Council into disrepute and casts aspersions on the operations of the Council and the integrity of all staff.*

- 7.1 The Committee finds that the link from the website publication connects to the transcript of the telecast. The Committee finds that the content of the transcript is false and misleading and wrongly alleges maladministration, corrupt conduct and a waste of public resources and as such, the Committee further finds that the link brings the General Manager and Council into disrepute and casts aspersions on the operations of Council and integrity of the management and staff of Council.
- 7.2 The Committee finds prima facie breaches of clause 5.1 of the Code in that Councillor Ticehurst's behaviour in publishing the said material on the link is detrimental to the pursuit of the charter of the Council in not being a responsible employer by treating members of staff with respect and having the issues as alleged against them dealt with through the procedural steps set out in the Code of Conduct or by making appropriate complaints to the Independent Commissioner Against Corruption.

7.3 The Committee finds that Councillor Ticehurst's publication of material on the website link constitutes the following prima facie breaches of the Code:-

- a) the Committee finds this to be an act of misbehaviour under clause 5.1 of the Code in that it is improper and unethical and comprises intimidatory conduct; and
- b) clause 10 for the reasons set out in 7.4 e), f) and g) below.

7.4 The Committee finds the following prima facie breaches of the Code:-

- a) clause 5.2 in not exercising a reasonable degree of care and diligence;
- b) clause 5.3 in not treating the General Manager and senior staff with respect by following the correct process under the Code and providing the General Manager and Senior Staff with the appropriate opportunity to respond to Councillor Ticehurst's concerns;
- c) clause 5.4 in that Councillor Ticehurst did not deal with the matter in a fair way as he failed to extend procedural fairness to the General Manager and other senior staff;
- d) clause 5.5 in that Councillor Ticehurst did not avail himself of all of the relevant facts and the publication of the material;
- e) clause 10 in that Councillor Ticehurst failed to report all senior staff and the General Manager whom he suspected of maladministration and corrupt conduct, serious and substantial waste of Council resources as he asserted on the website link, in accordance with Council's internal reporting policy;

- f) clause 10.3 as regards all senior staff that he suspected of having breached the Code other than the General Manager, in that he should have reported the suspected breaches to the General Manager and he failed to do so;
- g) clause 10.4 as regards the General Manager, in that Councillor Ticehurst should have reported the suspected breaches of the Code by the General Manager to the Mayor and failed to do so but rather, published material on a website link without regard to the Code and Council's internal reporting policy.

#### COMPLAINT 8

*The General Manager asserts further that you attempt to discredit him and bring the Council into disrepute, together with the Council staff, through your quote in your interview in the Telecast and your subsequent letterbox drop in which a document was produced entitled "As seen on TV'. Lithgow City Council rocked by Today Tonight Report" in which a transcript of the Telecast is reproduced. Further, the end of the document refers the reader to the Website [www.lithgowcouncil.com](http://www.lithgowcouncil.com). The interview and the document states, "and I think he needs to forget about his \$195,000.00 wage and he needs to go" and "he is the General Manager, he needs to take action, if he doesn't take action, then he needs to go."*

#### 8.1 The Committee finds that:-

- a) Councillor Ticehurst's allegations of misconduct and maladministration on the part of the General Manager are without foundation.
- b) the statement in the interview and transcript "*he needs to go*" is an attempt to publicly discredit the General Manager. As such, the Committee finds that Councillor Ticehurst's conduct in publishing this comment constitute the following prima facie breaches of the Code:

- a) clause 5.1 in that Councillor Ticehurst's conduct is improper and unethical, an abuse of power and amounts to intimidation;
- b) clause 5.2 in that Councillor Ticehurst has made such statement without exercising a reasonable degree of care and diligence in establishing the facts which would be necessary to justify such a statement;
- c) clause 5.3 in not treating the General Manager with respect;
- d) clause 5.4 in not exercising fairness in making such statement.

## **SANCTIONS**

The Committee finds there have been a substantial number of prima facie breaches of the Code of Conduct. The Council has a number of available remedies to it where it comes to a conclusion that a Councillor has breached the Code of Conduct. The Council may, by resolution, decide to:-

- Censure the Councillor for misbehaviour in accordance with s440G of the Local Government Act, 1993;
- Require the Councillor to apologise to any person adversely affected by the breach;
- Counsel the Councillor;
- Make public the findings of inappropriate conduct;
- Refer the matter to an appropriate investigative body if the matter is serious (for example the Department of Local Government, The Independent Commission Against Corruption, the NSW Ombudsman or the NSW Police);

- Prosecute for any breach of law.

Section 440 of the Local Government Act, 1993, provides for the provision of Codes of Conduct. In particular s440(5) provides relevantly that:-

*“Councillors, members of staff and delegates of a council **must comply** with the applicable provisions of:-*

- a) The **Council’s adopted Code** except to the extent of any inconsistency with the Model Code as in force for the time being, and*
- b) . . . . .*

Chapter 14, Part 1, Division 3 of the Local Government Act provides for provisions relating to *misbehaviour*.

Section 440F provides a definition of *misbehaviour* of a Councillor as meaning, relevantly:-

*“(b) a failure by the Councillor to comply with an applicable requirement of a Code of Conduct as required under s440(5), . . . .”*

In other words if a Councillor fails to comply with the adopted Code then it is considered to be an act of *misbehaviour*.

Section 440G provides that the Council may formally censure a Councillor for *misbehaviour* (as defined).

Section 440G(3) provides that *“a council may pass a formal censure resolution only if it satisfied that the councillor has misbehaved on one or more occasions”*. Subsection (4)

provides "*the council must specify in the formal censure resolution the grounds on which it is satisfied that the councillor should be censured*".

Section 440H of the Act provides the process for the suspension of a Councillor from civic office for misbehaviour, which can be initiated by a request being made by the Council to the Director General of the Department of Local Government. In this case, a request may be made by the Council by resolution communicated to the Director General stating its belief that grounds may exist that warrant the Councillor's suspension. There are other ways in which a Councillor may be suspended but they are not at the initiation of the Council and are not relevant for the purposes of this report.

Section 440I of the Act provides the grounds upon which a Councillor may be suspended. They are where:-

- the Councillor's behaviour has been disruptive over a period, and
- involved more than one incidence of misbehaviour during that period, and
- the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the Councillor's suspension (see s440I(1)(a)).

Alternatively, the Councillor's behaviour has involved one incident of misbehaviour that is of such a *sufficiently serious nature* as to warrant the Councillor's suspension (see s440I(1)(b)).

Subsection 440I(2) provides that the process for the suspension of a Councillor from civic office cannot be initiated by a request made by the Council unless:-

- a) where the Councillor's behaviour has been *disruptive* over a period, the Councillor has on two or more occasions been formally censured for the incidents of misbehaviour, or

- b) at least on one occasion been expelled from a meeting of the Council or a committee of the Council for an incident of misbehaviour or
  
- d) where the Councillor's behaviour has involved *one incident of misbehaviour* that is of such a *sufficiently serious nature* as to warrant the Councillor's suspension, the Councillor has been formally censured for the incident of misbehaviour concerned, or been expelled from a meeting of the Council or a committee of the Council for the incident of misbehaviour concerned.

### **RECOMMENDED SANCTIONS**

If Council finds prima facie breaches of the Code by Councillor Ticehurst, as found by the Committee, do in fact constitute breaches of the Code, the Committee advises and recommends as follows.

In this matter there has been a pattern of behaviour about which the Committee notes there have been 3 formal censures that have been made against Councillor Ticehurst by the Council. These censures took place on:-

- a) 18 August 2003 (resolution of the Council is attached as "F"),
  
- b) 16 October 2006 (resolution of Council is attached as "G"),
  
- c) 16 April 2007 (resolution of Council is attached as "H").

Arising out of the resolution of 16 April 2007, a further resolution was made by Council that the Director General of the Department of Local Government be informed of the second censure of the Council and a letter dated 3 May 2007 was forwarded to the Director which is attached as "I".

### First Grounds for Suspension

The matters of complaint which arise in this report are of such *serious nature* and demonstrate a continued pattern of disruptive behaviour to the proper running of Council business that they alone are sufficient grounds to warrant a request being made pursuant to s440l(1)(a) of the Act for the Councillor to be suspended on the basis of there having been 3 previous censures. That alone provides the Council with the basis for a referral to the Director General requesting the suspension of Councillor Ticehurst.

#### Second Grounds of Suspension

Additionally, the Councillor's behaviour in the numerous breaches of the Code each one an act of misbehaviour as defined in the Act, which have arisen out of the publications and which are the subject of this report, constitutes *misbehaviour of sufficiently serious nature* as to warrant suspension in its own right under s440l(a) and (b) of the Act. The Council may therefore:-

1. Censure the Councillor for this sufficiently serious breach of the Code; and
2. Refer the matter to the Director General for the Councillor's suspension on this ground alone after the censure has taken place.

In accordance with the Council's Code of Conduct, the Committee recommends that the Council:-

1. For the finding of the numerous prima facie breaches of the Code arising out of the publications, that have cumulatively formed such an incident of misbehaviour that is sufficiently serious to warrant a Councillor's suspension from civic office, the Councillor be:-
  - a) censured for the incidents of misbehaviour; and

- b) that if the Councillor is censured under the Code of Conduct, he be referred to the Director General of Local Government seeking his suspension for a period of 6 months.
2. Issue a further censure as a consequence of the incidents arising out of the complaints made by the General Manager and the matter be referred on this basis to the Director General of the Department of Local Government with the recommendation for a period of suspension from civic office of 6 months.
  3. Require Councillor Ticehurst to publicly apologise to the General Manager, Paul Anderson and Senior Staff, for the breaches of the Code of Conduct particularised in this report. Such apology to be published, without qualification, in the Lithgow Mercury within 28 days.
  4. Write a letter to the Director General that should he be of the view that if he finds there has been a technical breach of any of the formal requirements on the part of the Code of Conduct Committee or of Council, the Director-General himself, initiate the process for suspension of the Councillor from civic office pursuant to subsection 440I(3) of the Local Government Act, 1993 having regard to the circumstances of all the circumstances surrounding the disruptive behaviour of the Councillor.

"A"  
**Le Fevre & Co.**

**Solicitors & Attorneys**

Incorporating Thompson and Le Fevre. Est. 1907

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Our Ref: TJJ:24144

24 January, 2007

Councillor M Ticehurst  
P O Box 578  
LITHGOW NSW 2790

COPY

Dear Councillor Ticehurst,

**Re: LITHGOW CITY COUNCIL  
CODE OF CONDUCT COMMITTEE  
COMPLAINT BY PAUL ANDERSON**

A complaint against you by Council's General Manager Paul Anderson has been referred to the Code of Conduct Committee for consideration under Council's Code of Conduct ("the Code"). The complaint arises out of statements made by you, and your participation in the telecast on Monday, 4 December, 2006 of the Channel 7 "Today Tonight Report" (the "Telecast") and the publication of the transcript of the Telecast on your website [www.lithgowcouncil.com](http://www.lithgowcouncil.com) ("the Website Publication"), which, the General Manager asserts, constitute breaches of the Code.

The complaint alleges breaches by you of the Code in that in both the Telecast and the Website Publication:-

1. In complaining of the General Manager's conduct, you failed to make such complaint under the Code as is required regarding the General Manager's conduct which seriously questioned his ethics and behaviour such that due process should have been followed providing him with a fair and equitable hearing, or the opportunity for a response.
2. You called for the General Manager to be dismissed without proper justification or investigation.
3. You inferred that all senior staff acted inappropriately.
4. You published confidential material, namely the General Manager's salary package, which was to remain confidential until its usual publication in the 2006/2007 Annual Report.

---

*Principal: Allan J. Lindsay  
Consultant: Tim Le Fevre*

**108 Main Street, Lithgow NSW 2790**

P.O. Box 67, Lithgow NSW 2790

DX 3151 Lithgow

ABN: 27 759 019 416

Telephone: (02) 6352 2699 Facsimile: (02) 6352 1351

Email: [info@lefevreco.com.au](mailto:info@lefevreco.com.au)

Hours: 9 a.m. to 5 p.m. Monday to Friday

*Conveyancer: Fran Le Fevre*

5. You falsely made claims that road base was placed on regional ratepayers' property, rather than spoils, and assert that it is an inappropriate activity which was not properly investigated.
6. You state at your Website Publication, [www.lithgowcouncil.com](http://www.lithgowcouncil.com), that "*Any excuse that the Council gives that this is above board is a lie. The reality is that fill went on a property at a time when that fill was meant to go on the road.*" This allegation, it is asserted by the General Manager, is false and misleading and, as such, is a breach of the Code of Conduct to be reviewed by the Committee and not an assertion to be made unsupported to the public through the Internet.
7. The link from the Website Publication [www.lithgowcouncil.com](http://www.lithgowcouncil.com) (a site to which you have declared yourself to be the Registrant) brings the General Manager and Council into disrepute and casts aspersions on the operations of the Council and the integrity of all staff.
8. The General Manager asserts further that you attempt to discredit him and bring the Council into disrepute, together with the Council staff, through your quote in your interview in the Telecast and your subsequent letterbox drop in which a document was produced entitled "As seen on T.V.' Lithgow City Council rocked by Today Tonight Report" in which a transcript of the Telecast is reproduced. Further, the end of the document refers the reader to the Website [www.lithgowcouncil.com](http://www.lithgowcouncil.com). The interview and the document states, "*and I think he needs to forget about his \$195,000.00 wage and he needs to go*" and "*he is the General Manager, he needs to take action, if he doesn't take action, then he needs to go.*"

The Code of Conduct Committee comprising the Mayor, Councillor Neville Castle, Councillor Barbara Moran, and Independent Committee Member Tim Le Fevre, considered the matter, assisted by Counsel Assisting the Committee, Ian Woodward of Storey & Gough Solicitors of Parramatta, and the Committee Resolved to investigate the matter. The Committee Resolved to inform you of the complaints as set out above, inform you that the complaints were being investigated, and invite your response in writing by 6 February, 2007.

Further, the Committee Resolved to submit to you the questions set out below, and invite your written response to those questions by 6 February, 2007. These questions are:-

1. What was the nature and extent of enquiries carried out by you in relation to the road issue before the interview took place in the Telecast of 4 December, 2006?
2. Are you aware of the General Manager having carried out any investigations into the road issue? If so, what knowledge of the investigations did you have and how did this knowledge come to your attention and when?
3. Do you have any comment regarding the Committee making the assumption, based on admissions by you at a Council Meeting, that you continue to be the Registrant of Website [www.lithgowcouncil.com](http://www.lithgowcouncil.com) (the "Website").

4. In both the Telecast and links on the Website, the annual salary of the General Manager was stated; do you agree that this information was confidential at the time of disclosure by you and had yet to be published in the 2006/2007 Annual Report of Council?
5. Did you or someone acting on your behalf contact the Today Tonight Report program or a representative of Channel 7 to arrange for the interview of yourself on the program? If yes, who contacted the program; when; and, who at the program was contacted? If no, who at the program contacted you for the interview?
6. Did you or someone acting on your behalf advise the Today Tonight Report program of the whereabouts of the General Manager on his vacation (either directly or indirectly)?
7. Did you arrange to place the General Manager's vacation on your Website?

Your response in writing by 6 February, 2007 is sought. Your reply should be directed to this office.

You are invited to attend the Code of Conduct Committee Meeting at 5.00 p.m. on 8 February, 2007, to lettepresent any submissions or material which you may wish to do in relation to the above complaint.

Yours faithfully,  
LE FEVRE & CO.

Per:  
T.J. Le Fevre

" B "

# Le Fevre & Co.

## Solicitors & Attorneys

Incorporating Thompson and Le Fevre. Est. 1907

Our Ref: TJL:24144

29 January, 2007

Councillor M Ticehurst  
P O Box 578  
LITHGOW NSW 2790

Dear Councillor Ticehurst,

**Re: LITHGOW CITY COUNCIL  
CODE OF CONDUCT COMMITTEE  
COMPLAINT BY PAUL ANDERSON**

Thank you for your letter of 27 January, 2007, received by us by facsimile this morning.

I reply to your five requests as follows:-

1. Mr. Anderson's complaint was contained in a letter provided as a Protected Disclosure pursuant to Council's Protected Disclosures Policy, and as such I am not able to provide you with a copy of same at this time; however, the complaints as detailed in our letter to you of 24 January, 2007 set out in precise terms the General Manager's complaints.
2. A preliminary meeting of the Committee was held on 18 December, 2006, primarily to determine whether the matter should be referred to the Committee for investigation, as the complaint was by the General Manager and, accordingly, the General Manager could not make such a determination himself. A subsequent meeting of the Committee was held on 12 January, 2007.
3. A copy of the Minutes of the meeting of 18 December, 2006 is enclosed, same having been adopted at the meeting of 12 January, 2007. A copy of the Minutes of the meeting of 12 January, 2007 will be made available when adopted.
4. The following documents have been considered by the Committee at its meeting of 18 December, 2006:-
  - a) Council's Code of Conduct adopted 24 January, 2005.
  - b) Council's Code of Conduct adopted 4 December, 2006.
  - c) General Manager's letter of complaint of 11 December, 2006.

*Principal: Allan J. Lindsay  
Consultant: Tim Le Fevre*

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*Conveyancer: Fran Le Fevre*

- d) Copy of unsigned letter by "Concerned Residents".
- e) Video tape of the Telecast, the subject of the complaint.
- f) Two page document apparently circulated through a letterbox drop in Lithgow entitled "As Seen on T.V. Lithgow City Council Rocked by Today Tonight Report".
- g) Copy of Council's Privacy Management Plan adopted 29 July, 2003.
- h) Council Resolution 06-414.
- i) Council Resolution of 16 October, 2006, Reference Minute 05-35.

The Committee's comments regarding the General Manager's letter are as above. You already have access to the Council Minutes and Codes of Conduct. Minutes of the Committee Meeting of 18 December, 2006 are enclosed, together with copy of the document circulated by letterbox drop referred to above. You have access to Council's Privacy Management Plan adopted 29 July, 2003. The video recording of the Telecast cannot be released to you, but you are invited to view same at the next meeting of the Committee, to which you are invited as previously mentioned. I am not holding a copy of the unsigned letter by "Concerned Residents", and you may view same when viewing the video.

5. At present the Committee does not hold a copy of any letter written by the Mayor as referred to by you. However, a copy or copies of any such letter or letters is being sought, and the Committee will review same when received. In the meantime, please advise what relevance you attach to any such correspondence.

Yours faithfully,  
LE FEVRE & CO.

Per:  
T.J. Le Fevre  
Encls.



# LITHGOW CITY COUNCIL

180 Mort Street, Lithgow, NSW, 2790. Telephone: (02) 6354 9999

ABN: 59 986 092 492

15 February, 2007

Councillor Neville Castle  
Mayor and Code of Conduct Committee member

Dear Mr Mayor

I refer to the letter from Le Fevre and Company on behalf of the Code of Conduct committee dated 16 January 2007 which was directed to the Records Department.

Investigation of the Council's records indicate the following:

1. No written complaint concerning any council officer, in particular the General Manager, over the road issue which was televised on Channel 7 "Today Tonight" has been discovered in searches of Council's records systems as a submission under Council's Code of Conduct;
2. There are 2 pieces of correspondence which have been located which refer to the matter, although neither are specifically identifying a breach of the Code of Conduct. One is an email which was insufficiently addressed to permit a response and the other is a letter of complaint about the behaviour of Councillor Ticehurst from the United Services Union. Both are attached.
3. A third letter to the General Manager was discovered in the search of Council's records seeking clarification on issues relating to requirements of a development application process related to the storing of stockpile or spoil on properties, and specifically relating to the property in question. This letter does not allege any inappropriate behaviour by staff and therefore is not an item for the Committee's consideration.
4. There is evidence of correspondence from the General Manager to a ratepayer seeking confirmation of that person's authorship of an unsigned letter and a video tape placed in the mail box at the general manager's private residential address. The contents are thought to be the basis for the materials used on the Channel 7 Today Tonight show but no response has been located in Council's records system and hence no further action has been taken.
5. There are a series of statements from staff involved in the works confirming their actions which were used by Senior staff to assess the processes undertaken on the site. They do not contain requests for referral to the Conduct Committee nor any content which would require referral is contained in them hence they have not been forwarded for the Committee's assessment.

Kathy Woolley  
Group Manager -- Community and Corporate

"D"

# Le Fevre & Co.

## Solicitors & Attorneys

Incorporating Thompson and Le Fevre. Est. 1907

Our Ref: TJL:24144

7 March, 2007

Councillor M Ticehurst  
P O Box 578  
LITHGOW NSW 2790

COPY

**CONFIDENTIAL**

Dear Sir,

**Re: LITHGOW CITY COUNCIL - CODE OF CONDUCT COMMITTEE  
COMPLAINT BY P. ANDERSON AGAINST YOURSELF**

We refer to our letter of 29 January, 2007 and enclose herewith copy of the Minutes of Committee Meeting held on 12 January, 2007, together with a copy of the unsigned letter by "Concerned Residents" referred to in the penultimate paragraph of our letter of 29 January, 2007.

It appears there are no outstanding matters arising from your earlier correspondence and accordingly the Committee now seeks your response to my letter of 29 January, 2007 and this letter, prior to the next Code of Conduct Committee meeting dealing with this complaint, which will be held on 15 March, 2007 at Council Chambers Committee Room. You are invited to attend that meeting at 5.00 p.m. on that date and to make any submissions or ask any questions you may wish.

Yours faithfully,  
LE FEVRE & CO.

Per:  
T.J. Le Fevre  
Encl

*Principal: Allan J. Lindsay  
Consultant: Tim Le Fevre*

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*Conveyancer: Fran Le Fevre*

" E "

# Le Fevre & Co.

## Solicitors & Attorneys

Incorporating Thompson and Le Fevre. Est. 1907

---

Our Ref: TJL:24144

15 March, 2007

Councillor M Ticehurst  
PO Box 578  
LITHGOW NSW 2790

COPY

### CONFIDENTIAL

Dear Councillor Ticehurst,

**Re: LITHGOW CITY COUNCIL - CODE OF CONDUCT COMMITTEE  
COMPLAINT BY P ANDERSON AGAINST YOURSELF**

I acknowledge receipt of your letter of the 12<sup>th</sup> March, 2007. Your request for a copy of the letter written by the Mayor Neville Castle to Channel Seven has been noted. That letter is entirely irrelevant to the Inquiry by the Committee into the Complaint by the General Manager concerning yourself. The Mayor provided a copy of the letter to the Committee, at the Committee's request, and the Committee has determined that the letter has no relevance to the present Inquiry, it being a letter concerning issues between the Mayor and Channel Seven, relating to the actions of Ms Kefford and her reporting of statements attributed by her to the Mayor, and issues arising therefrom. No mention is made in the letter of yourself or any statements or actions attributed to you. On this account, the Committee considers the document irrelevant to its Inquiry into the Complaint by Mr. Anderson. The Committee will not be taking it into account in any way in its conduct of the Inquiry. If the Committee were persuaded that it should furnish you with a copy of same, notwithstanding its irrelevance, the Committee would require you to furnish it with letters of permission from both Ms Kefford and the General Manager of Channel Seven to release a copy of the letter to you and confirming that no action would be taken against the Committee or the Mayor as a consequence of the release of a copy of the letter to you. We await your further advices in this regard.

Your suggestion of bias on the part of the Committee, which you have made on previous occasions in other matters also, is unwarranted and reflects your lack of comprehension of the role of the Committee. The Committee does not perform a role of an advocate for the complainant or the party complained of in relation to inquiries.

Should you furnish the Committee with the letters referred to above from Ms Kefford and Channel Seven, the Committee may reconsider your request, notwithstanding the irrelevant nature of the letter so far as the present Inquiry into Mr. Anderson's complain is concerned.

The meeting scheduled for the Committee to further investigate Mr. Anderson's complaint,

*Principal: Allan J. Lindsay  
Consultant: Tim Le Fevre*

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*Conveyancer: Fran Le Fevre*

for 4.00pm Thursday instant has been cancelled due to the ill health of Mr. Ian Woodward, Independent Committee Member, and a further date and time will be fixed and notified to you in due course. The Code of Conduct Committee Meeting regarding Councillor Fisher's complaint against you remains scheduled for 4.00 pm today.

Yours faithfully,  
LE FEVRE & CO.

Per:  
T.J. Le Fevre

File Copy

**ITEM 13. BREACH OF COUNCIL CODE OF CONDUCT BY  
COUNCILLORS J J MC GINNES AND MF TICEHURST****AUTHOR:** MR IAIN STEWART, GENERAL MANAGER**FILE:** 12437:OR/ELM/02

Councillors M F Ticehurst moved an amendment, which was **DECLARED LOST**.

**RESOLVED****THAT:**

1. Council censure Councillors M F Ticehurst and J J McGinnes for breaches of the Code of Conduct in regard to the Coolimigal Road press releases and the allegations contained in the email issued by Councillor M F Ticehurst on the 25 July 2003.
2. Council seek legal advice on behalf of the Mayor, General Manager, Manager Engineering Operations, and other officers and that Council meet the costs of legal remedies that may arise from the legal advice.
3. Council request a formal apology from both Councillors in regard to their recent allegations against the Mayor, the General Manager, the Manager Engineering Operations, Tourism Manager and other officers.
4. Council formally offer counselling to Councillors M F Ticehurst and J J McGinnes in an attempt to ensure that their future behaviour and activities comply with the adopted Code Of Conduct

**MOVED:** Councillor A E Thompson**SECONDED:** Councillor M M Collins**CARRIED**

1137

## MAYORAL MINUTE – 16/10/06 CODE OF CONDUCT ENQUIRY

### SUMMARY

This Mayor minute seeks to bring forward the Conduct Committee report and contains a recommendation to formerly censure Councillor Martin Ticehurst and also recommends a series of actions to address a breach of the Council's Code of Conduct by Councillor Ticehurst.

### REPORT

A report contained in this business paper from the Council's Conduct Committee presents the final position taken by the Committee on a Code of Conduct complaint raised by Councillor Fisher concerning the actions of Councillor Ticehurst.

I would like to have this matter dealt with and will recommend in the motion I intend to move that this happens to allow the consideration of this issue at the beginning of our meeting.

Further, I am concerned enough having reviewed this issue, and with consideration of the impact upon the Council's reputation, to give notice that I intend to move the recommendation at the end of this minute for Council to formerly censure Councillor Ticehurst, in accordance with clause 440G of the Local Government Act 1993, for misbehaviour.

The grounds of the censure relates to breaches of the Council's Code of conduct:

- Councillor Ticehurst's behaviour in publishing comment on Lithgow City Council through a website which he has acknowledged he is the registrant is detrimental to the pursuit of the charter of the Council as it is not illustrative of community leadership (Code of Conduct clause 5.1);
- Councillor Ticehurst has demonstrated misbehaviour in that the content of subject website breaches the Code of Conduct (cl 9.7) with regard to the onus on Councillors to keep confidential information protected, not to use confidential information for non-official purposes and to only release confidential information if the Councillor has been given the authority to do so;
- Councillor Ticehurst's behaviour does not promote the principles of leadership and example to maintain and strengthen the public's trust and confidence in the integrity of the Council which is a key principle of Council's Code of Conduct (cl 4.2).

### 06- 339 RESOLVED

#### **Recommendation 1:**

Council bring forward in the order of business the report on the Code of Conduct so that the contents can be considered by Council at the start of this meeting.

**MOVED:** Councillor Neville Castle

**SECONDED:** Councillor H K Fisher.

**CARRIED**

**Recommendation 2:**

Having considered the report of the Conduct Committee, I move that:

1. Council formerly censure Councillor Martin Ticehurst for misbehaviour due to breaches of the Code of Conduct relating to the publication of confidential materials and behaviour which does not illustrate leadership in accordance with the key principles in Council's Code of Conduct;
2. Council advise Councillor Ticehurst that he must ensure the removal within 7 days of this resolution of all confidential material from the website of which he is the registrant;
3. Council advise Councillor Ticehurst that within 28 days of this resolution he is to ensure that the subject website is closed;
4. Councillor Ticehurst apologise to the Council, in writing, for his actions which amount to misbehaviour under Council's Code of Conduct and that this apology be published in full in the local media within 7 days.

**MOVED:** Councillor Neville Castle  
**CARRIED**

**SECONDED:** Councillor H K Fisher.

A **Supplementary Motion** was moved Councillor H K Fisher and Councillor M J Wilson that if Councillor M F Ticehurst does not adhere to the recommendation, all relevant information be referred to the relevant Minister for action.

The amendment was put and voted for and therefore become the MOTION.

**CARRIED**

Councillor M F Ticehurst voted against the recommendation.

*Paul Anderson, General Manager declared a non pecuniary interest in this item and vacated the Chambers. The Group Manager Community and Corporate moved into the Chair of Acting General Manager for this item.*

## COMMITTEE MEETINGS

ITEM:17      CODE OF CONDUCT COMMITTEE

## REFERENCE

NIL

## SUMMARY

This is the financial report of the Conduct Committee regarding a complaint from Councillor H K Fisher against Councillor M F Ticehurst.

## COMMENTARY

The complaint by Councillor Fisher was that Councillor Ticehurst had failed to comply with Council's directions to him on 16 October, 2006 in accordance with Council's Resolution 06-339, in breach of Council's Code of Conduct. Those directions were:-

1. Council formally censure Councillor Martin Ticehurst for misbehaviour due to breaches of the Code of Conduct relating to the publication of confidential materials and behaviour which does not illustrate leadership in accordance with the key principles in Council's Code of Conduct;
2. Council advise Councillor Ticehurst that he must ensure the removal within seven days of this resolution of all confidential material from the website of which he is the registrant;
3. Council advise Councillor Ticehurst that within twenty-eight days of this resolution he is to ensure that the subject website is closed;
4. Councillor Ticehurst apologise to the Council in writing for his actions which amount to misbehaviour under Council's Code of Conduct and that this apology be published in full in the local media within seven days.

The Committee determined that of the four actions enumerated in Council's Resolution, Recommendation 2, only those numbered 1 and 4 came within the ambit of Council's Code of Conduct, and that failure to comply with the directions for removal of the material from the website and failure to close the website did not constitute a breach of the Code as those directions were not made in accordance with the Code. Accordingly, the Committee formed the view that Councillor Ticehurst's only breach of the Code arising from any failure to carry out actions required of him by Council would be his failure to apologise.

Accordingly, the Committee has examined only Councillor Ticehurst's alleged failure to apologise to Council as required by Council's directions of 16 October, 2006.

The Committee held its preliminary meeting on 19 December, 2006, and met again on 12 January, 2007, 24 January, 2007, 15 February, 2007, 9 March, 2007 and 15 March, 2007. Councillor Ticehurst was invited to attend each of the last four meetings of the Committee, but declined to do so.

Considerable correspondence was entered into between Councillor Ticehurst and the Committee.

Enclosed and forming part of this report, are copies of all Minutes of meetings and all correspondence between Councillor Ticehurst and the Committee.

At its meeting of 15 March, 2007, the Committee determined to confirm its interim findings of 9 March, 2007, namely:-

1. On 16<sup>th</sup> October, 2006 Council resolved, inter alia, that Councillor Ticehurst should apologise to the Council in writing for his actions in publishing Council confidential material on his website, such conduct constituting misbehaviour under the Council's Code of Conduct, and that this apology be published in full in the local media within seven days.
2. Council's direction to Councillor Ticehurst to apologise in writing for his actions is permissible under Clause 10.15 of the Council's Code of Conduct adopted 24<sup>th</sup> January, 2005.
3. The applicable Code of Conduct in this instance is the Code of Conduct adopted 24<sup>th</sup> January, 2005.
4. There is no evidence of any apology given by Councillor Ticehurst in accordance with the aforesaid directions, notwithstanding that the Committee has twice invited Councillor Ticehurst to provide such evidence.
5. Councillor Ticehurst has as a matter of fact failed to apologise in accordance with the aforesaid direction of Council.
6. Councillor Ticehurst's failure to apologise in accordance with the aforesaid direction constitutes breaches of Council's Code of Conduct, Clause 5.1 (contravenes Council's relevant administrative requirement; is detrimental to the pursuit of the Charter of a Council; is improper; amounts to misconduct) and Clause 11.1 (failure by Councillor to comply with an applicable requirement of the Code of Conduct).

The Committee determined that Councillor Ticehurst's failure to apologise as per Council's Resolution 06-339 of 16 October, 2006 constitutes a prima facie breach of Council's Code of Conduct, Clauses 5.1 and 11.1.

The Committee resolved at its meeting on 15 March, 2007 to notify Councillor Ticehurst of its findings, to notify Councillor Fisher of its findings, and to report to Council regarding its findings and to recommend to Council that subject to Council finding that a breach of the Code has occurred determines that in accordance with Clause 10.15 of Council's Code of Conduct:-

1. Councillor Ticehurst be censured.
2. Councillor Ticehurst's breach of the Code be referred to the Department of Local Government and the Minister for further consideration as this is his second breach of the Code.
3. That Council make public Councillor Ticehurst's inappropriate conduct in breaching the Code in this instance.

Councillor Ticehurst and Fisher have been informed of the Committees findings and reasons for these findings, in accordance with the Code.

The Conduct Committee met again on 3 April 2007 and following no further advice being provided by Councillor Fisher or Councillor Ticehurst resolved to submit this report to Council for consideration.

#### **POLICY IMPLICATIONS**

There are no policy implications arising from this report.

#### **FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report other than the expense considered in resolving this matter.

#### **LEGAL IMPLICATIONS**

NIL

#### **RECOMMENDATION**

##### **THAT:**

1. Councillor Ticehurst be censured.
2. Councillor Ticehurst's breach of the Code be referred to the Department of Local Government and the Minister for further consideration as this is his second breach of the Code.
3. That Council make public Councillor Ticehurst's inappropriate conduct in breaching the Code in this instance.

*Paul Anderson, General Manager declared a declaration of interest and vacated the chambers.*

Councillor Martin Ticehurst moved a **MOTION** that:

1. Council call upon the new Minister for Local Government along with the Legal Services Commission, ICAC and the Ombudsman to carry out an investigation into the conduct of the Lithgow Councils Code of Conduct Committee.
2. Council recommend that the Lithgow City Council Conduct Committee immediately release all documents along with full details of all fees and costs incurred in this matter.

This motion **LAPSED** due to having no seconder.

**07-146 RESOLVED**

**THAT:**

1. Councillor Ticehurst be censured.
2. Councillor Ticehurst's breach of the Code be referred to the Department of Local Government and the Minister for further consideration as this is his second breach of the Code.
3. That Council make public Councillor Ticehurst's inappropriate conduct in breaching the Code in this instance.

**MOVED:** Councillor H K Fisher

**SECONDED:** Councillor M J Wilson.

**CARRIED**

*Paul Anderson returned to the Chambers and resumed the role of General Manager.*

"I"

3 May 2007

Gary Payne  
Director General  
Department of Local Government  
Locked Bag 3015  
NOWRA NSW 2541

Dear Gary

I am writing to you in my capacity of Mayor of Lithgow City Council to request you to take the necessary actions to consider the suspension of one of my Councillors, Councillor Martin Ticehurst.

Council is of the opinion that the behaviour of Councillor M F Ticehurst has been (and continues to be) disruptive and has resulted in Council having to formally censure Councillor M F Ticehurst on two (2) occasions for a breach of Council's Code of Conduct.

Council resolved at its last meeting to refer this matter to your Department to enable the suspension proceedings to be considered.

Enclosed with this letter and request are copies of the reports from the Conduct Committee on both occasions, my Mayoral Minute and the resolution of Council.

Council is deeply and gravely concerned with the continued misbehaviour of this particular Councillor and the impact such behaviour is having on Council's ability to meet the needs and aspirations of the community and deliver services from our Management Plan.

Council's General Manager, Mr Paul J Anderson has declared a Conflict of Interest in this matter and as such any enquires should be directed to myself as Mayor.

If you require any further information, please contact me via my Personal Assistant, Miss Casey Clarke on 0263 549 912.

Yours Faithfully

Clr Neville Castle  
MAYOR

P.O. Box 578  
Lithgow NSW 2790

12 March 2007

**URGENT FACSIMILE**

Mr Tim Le Fevre  
Le Fevre & Co. Solicitors  
108 Main Street  
LITHGOW NSW 2790

Fax: 6352 1351

Dear Mr Le Fevre

I am writing in reply to your letter of the 7 March 2007, "Lithgow City Council – Code of Conduct Committee Complaint by P. Anderson Against Yourself."

Contrary to your comments in the above letter and prior to providing your Lithgow City Council Code of Conduct Committee with any response in this matter, I would appreciate if you could as a matter of urgency, provide me as **previously requested** (letter of 27 January 2007) with the following outstanding correspondence: -

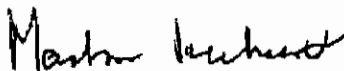
5. A full copy of the letters written by Mayor Neville Castle that were forwarded to and received by Channel Seven, Today Tonight and Reporter Liz Kefford.

Whilst I understand your Lithgow City Council Code of Conduct Committee's may be reluctant to provide ALL relevant documentation in this matter, I advise that unless the Lithgow City Council and this Lithgow City Council Code of Conduct Committee provides me with a copy of the known above document, I will not be in any future position to assist in the Committee's investigation into this matter.

I can advise your Lithgow City Council Code of Conduct Committee, that I have been in touch with Channel Seven Today Tonight Reporter Liz Kefford and they have raised no objections to the Lithgow City Council providing me with a copy of their above document.

As such, the urgent assistance of the Lithgow City Council and the Lithgow City Council's Code of Conduct Committee in providing me with the above documents under Section 9 of the Lithgow City Council's Code of Conduct would be most appreciated and can be forwarded to the above address.

Yours sincerely



Martin Ticehurst  
Councillor  
Lithgow City Council

Rec'd 13/03/07

P.O. Box 578  
Lithgow NSW 2790

27 January 2007

Mr Tim Le Fevre  
Le Fevre & Co. Solicitors  
108 Main Street  
LITHGOW NSW 2790

Fax: 6352 1351

Dear Mr Le Fevre

I am writing in reply to your letter of the 24 January 2007, "Lithgow City Council – Code of Conduct Committee Complaint by Paul Anderson."

Prior to providing any response to your Lithgow City Council Code of Conduct Committee in this matter, I would appreciate if you could provide me as a matter of urgency with: -

1. A full copy of the said complaint by Paul Anderson, as provided to the Lithgow City Council Code of Conduct Committee in this matter.
2. Confirmation of the date and/or dates of the Lithgow City Council Code of Conduct Committee Meetings, held in relation to this complaint by Paul Anderson.
3. A full copy of the Minutes, including the names of all those in actual attendance at the Lithgow City Council Code of Conduct Committee Meetings, held in relation to this complaint by Paul Anderson.
4. A full copy of all documents provided or submitted to and considered by the Lithgow City Council Code of Conduct Committee Meetings, held in relation to this complaint by Paul Anderson.
5. A full copy of the letters written by Mayor Neville Castle that were forwarded to and received by Channel Seven, Today Tonight and Reporter Liz Kefferd.

The urgent assistance of the Lithgow City Council and the Lithgow City Council Code of Conduct Committee in providing the above documents under Section 9 of the Lithgow City Council Code of Conduct would be most appreciated and can **be made available for my personal pickup from your Lithgow Office at 108 Main Street Lithgow from 4.30pm on Monday 29 January 2007.**

Yours sincerely



Martin Ticehurst  
Councillor  
Lithgow City Council

## Notice of AGM and Call for Director Nominations

Central West Group Apprentices will hold its Annual General Meeting on **Wednesday 25<sup>th</sup> October 2007** at the Professional Development Centre at Charles Sturt University Bathurst from 12-1pm.

At the meeting the following Directors terms will expire:

Director's Name	Member Organisation
Martin Ticehurst	Lithgow City Council
Brian Matthews	Parkes Shire Council
Position vacant	Bathurst Chamber of Commerce

The three Directors whose terms expire are eligible to stand for another 3 year term.

As a Member of Central West Group Apprentices your organisation is entitled to nominate Directors for the CWGA Board and send a member representative to vote on your behalf at the AGM.

If you would like to nominate a person for Director please complete the form below and fax it back to Danielle Campbell on **6331 9450** by **8<sup>th</sup> October 2007**.

---

### Nomination for Director of Central West Group Apprentices Ltd

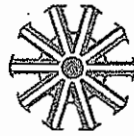
Name of Nominee \_\_\_\_\_ Phone \_\_\_\_\_

Nominated by \_\_\_\_\_ (Member Representative) on behalf of

\_\_\_\_\_ (Member Organisation)

Nominator's signature \_\_\_\_\_ Date \_\_\_\_\_

Nominee's signature \_\_\_\_\_ Date \_\_\_\_\_



# Central West Group Apprentices

Mayor Neville Castle  
Lithgow City Council  
180 Mort Street  
Lithgow NSW 2790

Dear Mayor Castle,

I am writing to provide you with notice of the Central West Group Apprentices Ltd Annual General Meeting. The meeting will be held at **12 midday on Wednesday October 24<sup>th</sup>** at the Centre for Professional Development at Charles Sturt University, Bathurst.

Lithgow City Council is one of eight Member organisations of CWGA and you are the currently the member representative entitled to vote at the AGM.

Your current nominee for the Board is Martin Ticehurst. Martin Ticehurst term will expire at the Annual General Meeting.

Please find enclosed a Nomination of Directors form. Should your nominee be elected it will be for a 3 year period. Please note Board members are elected "as a natural person". If you wish to nominate a Director for the Board please complete the form and send it back to Danielle Campbell by Monday 8<sup>th</sup> October 2007.

On the 15<sup>th</sup> October 2007 we will circulate the Annual Report, details of the nominees and a proxy voting form for those who are unable to attend the AGM in person.

If you have any questions about this process please contact me on 0408 656 928 or Scott Ferguson, Chairperson, on 0418 637 828.

Yours sincerely,

Ben Bardon  
Chief Executive Officer  
Central West Group Apprentices

Central Office PO Box 646 BATHURST NSW 2795 02 6331 3655 P 02 6331 9450 F accounts@cwga.com.au E	Bathurst Office PO Box 2178 BATHURST NSW 2795 02 6331 6211 P 02 6331 8270 F bathurst@cwga.com.au E	Cowra Office PO Box 6 COWRA NSW 2794 02 6341 1044 P 02 6341 1045 F cowra@cwga.com.au E	Orange Office PO Box 2108 ORANGE NSW 2800 02 6362 0277 P 02 6362 0778 F orange@cwga.com.au E	Parkes Office Shop 4, 364 Clarinda Street PARKES NSW 2870 02 6862 5935 P 02 6862 5967 F parkes@cwga.com.au E	Lithgow Office PO Box 440 LITHGOW NSW 2790 02 6353 1627 P 02 6353 1653 F lithgow@cwga.com.au E	Dubbo Office PO Box 1864 DUBBO NSW 2830 02 6884 8100 P 02 6881 4542 F dubbo@cwga.com.au E	Young Office PO Box 626 YOUNG NSW 2594 0427 951 558 P 8588 1286 F young@cwga.com.au E
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The three Directors whose terms expire are eligible to stand for another 3 year term.

As a Member of Central West Group Apprentices your organisation is entitled to nominate Directors for the CWGA Board and send a member representative to vote on your behalf at the AGM.

If you would like to nominate a person for Director please complete the form below and fax it back to Danielle Campbell on **6331 9450** by **8<sup>th</sup> October 2007**.

---

### Nomination for Director of Central West Group Apprentices Ltd

Name of Nominee \_\_\_\_\_ Phone \_\_\_\_\_

Nominated by \_\_\_\_\_ (Member Representative) on behalf of

\_\_\_\_\_ (Member Organisation)

Nominator's signature \_\_\_\_\_ Date \_\_\_\_\_

Nominee's signature \_\_\_\_\_ Date \_\_\_\_\_

Item 9.



# PORTLAND DISTRICT MOTOR SPORTS CLUB INC.

P.O. BOX 72, PORTLAND 2847

President, **Ray Blackley** Ph/Fax (02) 63590518

Secretary, **Jodie Blackley** Ph/Fax (02) 63590582  
A.B.N. 84 488 152 691

Lithgow City Council  
Scanned

01 AUG 2007

Doc. No .....  
26-07-2007 DA Ref. ....  
Years .....

Dear Sir / Madam

The Portland District Motor Sports Club acknowledges your generous support at our race meetings in the past. We are continuing with our series of race meetings with the next event scheduled for Saturday 22<sup>nd</sup> September 2007

To make this night a success we are again seeking sponsorship, price for one (1) race consists of three (3) Trophies, which cost \$60 or \$480 annually. Should you wish to sponsor a race, you will have your assistance acknowledged by having your company name published in the local newspaper THE LITHGOW MERCURY and THE WESTERN ADVOCATE also broadcasted on the day.

If you are interested in sponsorship your cheque and business card may be forward to the CLUB SECRETARY: P.O. BOX 72 PORTLAND NSW 2847.

Once again, thank you for your support in the past; we look forward to your assistance in the future

Yours in Motor Sports  
Secretary  
Jodie Blackley  
*JBlackley*



**CHARLES STURT**  
UNIVERSITY

CHARLES STURT FOUNDATION

Panorama Avenue  
Bathurst NSW 2795  
Australia

Tel: +61 (02) 6338 4832  
Fax: +61 (02) 6338 4833  
ABN 23 002 557 459  
Web: [www.csu.edu.au/foundation](http://www.csu.edu.au/foundation)

**Lithgow City Council**  
Scanned

31 July 2007

01 AUG 2007

Councillor Neville Castle  
Mayor  
Lithgow City Council  
180 Mort Street  
Lithgow NSW 2790

Doc. No .....  
GDA Ref. ....  
Years .....

Dear Councillor Castle

Each year, some 182 students from the Lithgow City Council region undertake fulltime study at one of Charles Sturt University's (CSU) five Campuses located at Albury-Wodonga, Bathurst, Dubbo, Orange or Wagga Wagga.

These students and their families are faced with the annual challenge of finding funds to pay for the many and varied costs associated with tertiary education, such as travel, accommodation, textbooks and HECS fees. Many more talented Lithgow students with the potential for tertiary education may miss out each year because the costs are simply beyond their reach.

I believe there is an opportunity for the Lithgow City Council to lead a community and business initiative to assist local students to realise their education ambitions by relieving some of this financial burden. This initiative will also provide great promotional benefits to the Council, but at little or no cost.

The Charles Sturt Foundation was established with the sole purpose of providing a fabric of support for the University, its students, and their educational activities. The Foundation administers and funds scholarships at all of the University's main campuses. Through generous donations from organisations and individuals it has assisted more than 2,000 students with in excess of \$5 million in scholarships over the past 23 years.

In 2007 the Foundation provided 235 students with an excellent start and on-going support for their University studies, however, there is still a great need for more scholarships with just 2% of CSU's internal students receiving financial assistance, demonstrating that a large number of deserving students miss out each year.

The Foundation has recently introduced a 'Lifetime' scholarship, whereby donors commit \$30,000 which can be paid in a lump sum or over five years. These funds are invested by the Foundation for the purpose of funding projects that assist the University, its students and their educational activities. The performance of the fund during the year ended 31 December, 2006 was impressive with an 18.2% return achieved, and follows a 16.6% return on the previous year. These results were achieved through the commitment of a dedicated and enthusiastic Investment Committee.

By working with staff in our Office, I believe there is an opportunity for Lithgow City Council to launch a campaign locally to motivate local businesses, community groups and individuals to donate towards a Lithgow Community Scholarship Appeal to raise the required \$30,000, for the ongoing benefit of local students.



Just 30 businesses, Rotary and other service Clubs and generous individuals willing to commit \$1,000 each would be needed to create a scholarship that would provide a lifetime of benefits to local students. I believe some of your major businesses would give more. All donations to the appeal would also be tax deductible, providing additional benefits and incentives for support.

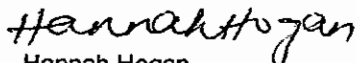
All of the ongoing administration and promotion to students would be conducted by the Charles Sturt Foundation once the scholarship was established, so there would be no ongoing strain on Council resources.

Scholarships are awarded at scholarship presentation ceremonies held on each campus in May each year to which we invite sponsors or their representatives so they might meet the scholars and their families. These are special occasions and present an opportunity for photographs and media coverage as well as the chance to meet other donors who represent a broad cross-section of the business community, both local and national, thereby creating a significant business networking opportunity.

I have included a sample letter that Lithgow City Council might consider using as a basis for approaches to local businesses to seek support, but would be happy to discuss how my office can assist you with this process. We can also work with you to launch the Appeal to the local media through publicity and I have included a sample media release for consideration. Please also find enclosed the 2007 Scholarship Presentation Ceremony booklet as well as some frequently asked questions.

If you would be interested in discussing this opportunity in more detail, please do not hesitate to contact me at [hhogan@csu.edu.au](mailto:hhogan@csu.edu.au) or on 6338 4832.

Yours sincerely,



Hannah Hogan  
Donor Relations Officer  
Charles Sturt Foundation



# PORTLAND DISTRICT MOTOR SPORTS CLUB INC.

P.O. BOX 72, PORTLAND 2847

President, **Ray Blackley** Ph/Fax (02) 63590518

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**Lithgow City Council**

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01 AUG 2007

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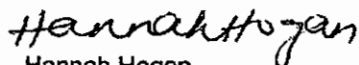
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Yours sincerely,



Hannah Hogan  
Donor Relations Officer  
Charles Sturt Foundation

## LGSA Positions on the Recommendations of the Local Government Inquiry – 5 July 2007

Positions and actions outlined below on all 49 recommendations of the Independent Inquiry into the Financial Sustainability of NSW Local Government (Local Government Inquiry) were endorsed by the Local Government and Shires Associations of NSW (LGSA) on 5 July 2007.

The positions and actions have mainly been developed by the Strengthening Local Government Task Force (SLG Task Force) and its expert working groups. The development was guided by principles including:

- The positions and actions should be sectoral ones including all key Local Government stakeholders;
- Stakeholders should work together in partnership;
- Existing initiatives should be recognised and actively promoted in order to not duplicate efforts; and
- Deliberations should be consensus based, open and transparent.

Inquiry Recommendation	LGSA Position	Action	Achievements / Related Initiatives and Developments
<p><b>1 Constitutional Recognition</b></p> <p>The LGSA seek recognition of Local Government as a separate independent tier of government in the Australian constitution through a national campaign by ALGA and the state members aimed at obtaining the signed pledge of a majority of ratepayers in a majority of states to supporting such a course of action if a constitutional referendum were held.</p>	<p>Supported.</p>	<ul style="list-style-type: none"> <li>• The LGSA noted that the House of Representatives and the Senate in 2006 passed an historic resolution recognising Local Government as an important step towards bipartisan support of constitutional recognition;</li> <li>• The LGSA noted that ALGA has primary carriage of the recognition of the Local Government under the Australian Constitution; and</li> <li>• The LGSA referred the inquiry recommendation to the ALGA Board and recommends that ALGA and other state associations continue to advocate that the role of Local Government should be recognised under the Australian Constitution.</li> </ul>	<ul style="list-style-type: none"> <li>• On 17 October and 7 September 2006 respectively, the House of Representatives and the Senate passed a resolution recognising local government.</li> </ul>

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
------------------------	---------------	--------	--

**2 Intergovernmental Agreement**

Supported.

The State Government and the NSW Local Government and Shires Associations enter into an intergovernmental agreement (IGA) that draws on both the Memorandum of Understanding in South Australian and the Local Government Policy of the New Zealand Government.

The LGSA noted that the NSW Opposition has entered into an MOU which included a commitment that a Coalition Government will enter into the IGA;

The LGSA noted that constructive discussions are currently taking place with the NSW Government and that a suitable clause regarding the issue of industrial relations legislation is being developed;

The LGSA will continue to advise councils and stakeholders of these developments and encourage them to call on the NSW Government to enter into an IGA; and

The LGSA will only agree to sign the proposed agreement if both the NSW Premier and the NSW Minister for Local Government sign it for the NSW Government.

- MoU with NSW Opposition.

- NSW Cabinet endorsed IGA in December 2006 subject to an additional clause advocating that the IGA promote the use of the NSW industrial relations system.

**3 Cost Shifting**

Supported.

The LGSA build on the work of the Inquiry and undertake an annual survey of all councils to establish the total cost to Local Government of the main regulatory and policy responsibilities imposed by other tiers of government and any changes thereto over the previous year.

The LGSA will undertake an annual survey on cost shifting based on a representative sample of councils (including the councils that participated in the Inquiry's cost shifting survey) using the methodology of the Allan Report;

The LGSA will widely promote the survey to all NSW councils.

The LGSA will ensure that this year's survey commence in July 2007 and report by October 2007.

The LGSA will develop a process for councils to identify and/or provide feedback on new examples of cost shifting;

The LGSA will prepare a regular report card on the survey promoting the results among councils, the community, State and Commonwealth Government and other stakeholders;

The LGSA will establish a communication campaign to ensure that councils do not enter into self-inflicted cost shifting. In this respect, the LGSA noted that Local Government is often the "last resort" provider of services when other levels of government withdraw from their responsibilities

- LGSA is in the process of developing and undertaking an annual cost shifting survey. This year's survey is expected to report in October.

Inquiry Recommendation	LGSA Position	Action	Achievements /Related Initiatives and Developments
------------------------	---------------	--------	--

(e.g. medical service provision in rural areas), but emphasise that Local Government should say "No" and advise the community that provision of those services is the responsibility of other levels of government; and

- The LGSA will encourage councils to implement processes to deal with cost shifting (e.g. regular cost shifting item in council business papers, regular report to local members of State and Commonwealth Parliament).
- The LGSA will ensure that the definition of cost shifting in the survey is consistent with the national *Intergovernmental Agreement Establishing Principles Guiding Intergovernmental Relations on Local Government Matters*, (2006).

#### 4 Red Tape

The State Government undertake a review of the Commonwealth and state red tape applying to Local Government with a view to eliminating unnecessary requirements.

- The LGSA noted the State Government's election commitment to undertake a red tape review<sup>1</sup> of the *Local Government Act (NSW) 1993*;

The LGSA noted that the Department of Local Government (DLG) Integrated Planning and Reporting initiative includes an examination of the statutory planning and reporting requirements imposed upon councils under the Local Government Act;

- The LGSA noted that the DLG intends to establish a joint working party to consider the responses to the Integrated Planning and Reporting paper; and

The LGSA call on the Minister for Local Government to establish the joint working party to conduct a review of red tape affecting Local Government and a subsequent review of the Local Government Act (report by December 2007) for consideration by the Minister and the Presidents of the Associations.

#### 5 Revised Role

All councils with an infrastructure renewal gap and backlog voluntarily agree to

- Not supported.
- The role of Local Government needs to be clarified through
- The LGSA noted the release of the DLG Integrated Planning and Reporting Options Paper and the DLG position paper on asset management and financial planning, jointly developed with IPWEA, LGSA and LGMA, on 16 May 2007;
- The LGSA will continue to actively promote the papers for feedback by councils; and

- Policy workshop has taken place and LGSA has prepared a comprehensive submission

<sup>1</sup> Lemma M, NSW Election 2007, Working with Local Government, pages 1 and 3.