



MINUTES

ORDINARY MEETING OF COUNCIL

HELD ON

27 NOVEMBER 2017

AT 7.00pm

**MINUTES OF THE CITY OF LITHGOW COUNCIL MEETING
HELD AT THE CIVIC CENTRE, LITHGOW ON 27 NOVEMBER 2017**

Meeting Commenced 7.00pm

ACKNOWLEDGEMENT OF COUNTRY

Public: 61

PRESENT

His Worship the Mayor
Councillor S Lesslie
Councillor W McAndrew
Councillor C Coleman
Councillor D Goodsell
Councillor D Goodwin
Councillor S Ring
Councillor J Smith
Councillor M Statham
Councillor R Thompson

APOLOGIES

Nil

Also in attendance

Mr Graeme Faulkner, General Manager
Mr Andrew Muir, Director Economic Development and Environment
Mr Ross Gurney Chief Financial and Information Officer
Mr Iain Stewart, Director Operations
Mr Michael McGrath, Manager Organisational Development and Community
Mrs Trinity Newton, Minutes Secretary

CONFIRMATION OF MINUTES

RESOLVED 17-331

Confirmation of the Minutes of the Ordinary Meeting of Council held on the 23 October 2017 were taken as read and confirmed by Councillors S Lesslie and W McAndrew with the Traffic Committee Minutes to be itemised to separate out the three numbers of items.

RESOLVED 17-332

Confirmation of the Minutes of the Extra Ordinary Meeting of Council held on the 30 October 2017 were taken as read and confirmed by Councillors W McAndrew and S Ring.

RESOLVED 17-333

Confirmation of the Minutes of the Extra Ordinary Meeting of Council held on the 20 November 2017 were taken as read and confirmed by Councillors C Coleman and S Ring.

CARRIED

DECLARATION OF INTEREST

His Worship the Mayor called for Declarations of Interest on any matter before the Meeting.

Councillor M Statham declared a Conflict of Interest in item 39 and item 5, due to a personal interest in both items. She will vacate the Chambers for item 39 but remain in the chambers for item 5 but abstain from voting.

Councillor C Coleman declared a Non Pecuniary in item 26 and item 30, due to a relative being mentioned in both items. She will vacate the Chambers.

COMMEMORATIONS AND ANNOUNCEMENTS

Clr Coleman wished to congratulate Daffodils at Rydal for their great work for the community.

PRESENTATION

The Audit Office of NSW and Crowe Horwath gave a presentation on Lithgow City Council Audit.

Cr Ring left the Chambers at 7:17pm.

Cr Ring returned to the Chambers at 7:19pm.

PUBLIC FORUM

At 7:31 pm Members of public gallery were invited to participate in the Public Forum Session.

PF – 27/11/17 – Mr Alan Cherry

Mr Cherry made a statement in relation to Item 8 on the agenda.

PROCEDURAL MOTION

THAT an extension of time be granted to Mr Cherry.

MOVED: Councillor W McAndrew

SECONDED: Councillor J Smith

The Mayor thanked Mr Cherry for his statement.

The Director of Economic Development and Environment gave advice on the matter.

PF – 27/11/17 – Mr John Morrison

Mr Morrison made a statement in relation to Item 8 on the agenda.

The Mayor thanked Mr Morrison for his statement.

PF – 27/11/17 – Mrs Linda Lawrence

Mrs Lawrence made a statement in relation to Item 8 on the agenda.

The Mayor thanked Mrs Lawrence for her statements.

PF – 27/11/17 – Mrs Lindsey Foster

Mrs Foster made a statement in relation to Item 8 on the agenda.

The Mayor thanked Mrs Foster for her statements.

PF – 27/11/17 – MR ARNOLD STOFELLS

Mr Stoffels made a statement in relation to item 8 on the agenda.

The Mayor thanked Mr Stofels for his statement.

PF – 27/11/17 – Mrs Sue Graves

Mrs Graves made a statement in relation to item 1, item 17, item 28 and item 32 on the agenda.

PROCEDURAL MOTION

THAT an extension of time be granted to Mrs Graves.

MOVED: Councillor C Coleman

SECONDED: Councillor J Smith

The Mayor thanked Mrs Graves for her statements.

PF – 27/11/17 – Mr Martin Ticehurst

Mr Ticehurst made a statement in relation to item 24 on the agenda.

The Mayor thanked Mr Ticehurst for his statements.

PF – 27/11/17 – Mr Col Hunter

Mr Hunter made a statement in relation to item 17 on the agenda.

The Mayor thanked Mr Hunter for his statement.

PF – 27/11/17 – Mr Josh Allan

Mr Adams made a statement in relation to item 8 on the agenda.

The Mayor thanked Mr Adams for his statement.

PF – 27/11/17 – Mr Alan Cherry

Mr Cherry made a statement in relation to item 9 on the agenda.

The Mayor thanked Mr Cherry for his statements.

The Director of Economic Development and Environment gave advice on the matter.

PF – 27/11/17 – Mr Abdul Howat

Mr Howat made a statement in relation to item 8 on the agenda.

The Mayor thanked Mr Howat for his statement.

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PROCEDURAL MOTION

THAT Council bring Item 8 forward to be dealt with at this point in the meeting.

MOVED: Councillor W McAndrew

CARRIED

ITEM-8 ECDEV - 27/11/17 - DA283/16 PROPOSED MULTI DWELLING DEVELOPMENT AT 37 ATKINSON STREET LITHGOW

RECOMMENDATION

THAT

1. That Development Application DA283/16 for 18 dwellings at 37 Atkinson Street, Lithgow be approved by Council in accordance with the attached 79C report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

17-334 RESOLVED

THAT

1. The development application is REFUSED for the following reasons:

Under the Environmental Planning and Assessment Act 1979, Section 79C Evaluation, the application has not appropriately considered the following sections:

1 (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

1 (c) the suitability of the site for the development,

These reasons result from the proposed bulk, scale and the development not being in character with the surrounding area.

2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

MOVED: Councillor W McAndrew

SECONDED: Councillor S Ring.

A **DIVISION** was called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

Divisions – Unanimous

FOR

Councillor S Lesslie
Councillor W McAndrew
Councillor C Coleman
Councillor D Goodsell
Councillor D Goodwin

Councillor S Ring
Councillor J Smith
Councillor M Statham
Councillor R Thompson

AGAINST

Nil

GENERAL MANAGERS REPORTS

ITEM-1 GM - 27/11/17 - TRANSPORT NSW - BATHURST BULLET TRAIN SERVICE

17-335 RESOLVED

THAT council note the responses from:

1. Transport NSW Trainlink received 31/10/17.
2. The Minister for Transport and Infrastructure, the Hon Andrew Constance MP received 10/11/2017.

MOVED: Councillor C Coleman

SECONDED: Councillor W McAndrew.

CARRIED

ITEM-2 GM - 27/11/17 - COMMITTEES

17-336 RESOLVED

THAT Council reconfirms the councillor appointments made to the s355 Committees of Council and External Committees and Organisations.

Internal Committees	2016/17 Representative
Environmental Advisory	Councillor Ring Councillor Coleman
Operations Committee	Councillor Thompson Councillor Ring Councillor McAndrew
Traffic Advisory Local (TALC)	Councillor Lesslie
Sports Advisory Committee	Councillor Smith Councillor Goodwin
Audit Committee	Councillor Goodsell Councillor McAndrew (Alternate)
Economic Development	All Councillors
Community Development	Councillor Coleman Councillor Statham

Youth Advisory Committee	Councillor Lesslie Councillor Coleman
Lithgow Crime Prevention	Cr Coleman Cr Goodwin
Mining Taskforce	Councillor Lesslie Councillor Thompson Councillor McAndrew
General Manager Performance Review	All Councillors
Heritage Committee	Councillor Lesslie Councillor Ring
Finance Committee	Councillor McAndrew Councillor Ring Councillor Thompson
External Committees	
Arts Out West Committee	Councillor Lesslie
Bells Line of Road Group	Councillor Goodwin Councillor Statham
NSW Rural Fire Service Senior Management Team	Councillor Lesslie
Lithgow Information & Neighbourhood Centre Inc. (LINC)	Councillor Thompson Councillor Goodsell (alternate)
Upper Macquarie County Council	Councillor Thompson Councillor Lesslie
Centroc	Councillor Lesslie General Manager
Pine Dale Coal Mine Community Committee	Councillor Thompson
Cullen Valley Coal Mine Community Committee	Councillor Lesslie
Invincible Coal Mine Community Committee	Councillor Lesslie
Clarence Coal Mine Community Committee	Councillor Thompson
Centennial Coal Western Community Consultative Committee	Councillor Statham
Association of Mining Related Councils	Councillor McAndrew
Lithgow Correctional Centre Committee	Councillor Coleman
Airly Mine Community Consultative Committee	Councillor McAndrew
Newnes Sand and Kaolin Project Community Consultative Committee	Councillor Lesslie
Inglenook Exploration & Charbon Colliery Community Consultative Committee	Councillor Thompson
Eskbank Rail Heritage Centre Committee	Councillor Ring
Wolgan Valley Wilderness Railway Committee	Councillor Coleman
Rural Fire Service Lithgow District Liaison Committee	Councillor Lesslie Councillor Statham
Wallerawang Quarry Consultative Committee	Councillor Smith
Skillset	Councillor Statham

2. Council resign its membership from the Association of Mining Related Councils.

MOVED: Councillor R Thompson

SECONDED: Councillor C Coleman.

CARRIED

**ITEM-3 GM - 27/11/17 - CODE OF CONDUCT COMPLAINTS STATISTICS 1
 SEPTEMBER 2016 TO 31 AUGUST 2017**

17-337 RESOLVED

THAT the report on the Code of Conduct complaints statistics for 2016/17 be noted.

MOVED: Councillor W McAndrew

SECONDED: Councillor S Ring.

CARRIED

ITEM-4 GM - 27/11/17 - MODEL CODE OF CONDUCT REVIEW

Cr Statham declared a Non Pecuniary Interest and remained in the chambers.

17-338 RESOLVED

THAT

1. Council notes the Draft Model Code of Conduct and Draft Procedures for the Administration of the Model Code of Conduct for Local Council's in NSW
2. Authorises the General Manager to provide a response on behalf of Lithgow City Council.

MOVED: Councillor W McAndrew

SECONDED: Councillor D Goodwin.

CARRIED

ECONOMIC DEVELOPMENT AND ENVIRONMENT REPORTS

**ITEM-5 ECDEV - 27/11/17 - APPLICATION TO WAIVE HIRE FEES - COOK STREET
 PLAZA**

Cr Statham declared a Non Pecuniary Interest and remained in the chambers.

17-339 RESOLVED

THAT Council waive fees up to a maximum of \$125 for the hire of Cook Street plaza by Women in Lithgow District (W.I.L.D) for the shop local car promotion.

MOVED: Councillor S Ring

SECONDED: Councillor J Smith.

CARRIED

ITEM-6 ECDEV - 27/11/17 - LITHGOW HALLOWEEN 2017

17-340 RESOLVED

THAT

1. Council note the report on the wrap up of Lithgow Halloween 2017.
2. A date for a debrief with Councillors be set prior to the Christmas break.

MOVED: Councillor C Coleman

SECONDED: Councillor S Ring.

CARRIED

**ITEM-7 ECDEV - 27/11/17 - ROCKY TRAIL ENTERTAINMENT - JET BLACK 24 HOUR
MOUNTAIN BIKE RACE EVENT ATTRACTION APPLICATION**

17-341 RESOLVED

THAT Council allocate funding of \$5,000 (ex GST) under its Event Attraction Package to Rocky Trail Entertainment for the Jet Black 24 Hour Mountain Bike event in March 2018.

MOVED: Councillor C Coleman

SECONDED: Councillor S Ring.

CARRIED

**ITEM-8 ECDEV - 27/11/17 - DA283/16 PROPOSED MULTI DWELLING
DEVELOPMENT AT 37 ATKINSON STREET LITHGOW**

Item 8 was dealt with earlier in the meeting.

**ITEM-9 ECDEV - 27/11/17 - DA228/17 PROPOSED REMOTE AREA FIRE FIGHTING
 TRAINING FACILITY**

17-342 RESOLVED

THAT

1. That Development Application DA228/17 be supported by Council in accordance with the attached 79C report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

MOVED: Councillor J Smith

SECONDED: Councillor S Ring.

CARRIED

A **DIVISION** was called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

Divisions – Unanimous

FOR

Councillor S Lesslie
Councillor W McAndrew
Councillor C Coleman
Councillor D Goodsell
Councillor D Goodwin
Councillor S Ring
Councillor J Smith
Councillor M Statham
Councillor R Thompson

AGAINST

Nil

ITEM-10 ECDEV - 27/11/17 - DA2941/7 PROPOSED SHELTER AT LITHGOW GOLF CLUB

17-343 RESOLVED

THAT

1. The Development Application DA294/17 for a shelter be approved subject to conditions of consent as detailed in the attached Section 79C report.
2. A division be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

MOVED: Councillor M Statham

SECONDED: Councillor W McAndrew.

CARRIED

A **DIVISION** was called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

Divisions – Unanimous

FOR

Councillor S Lesslie
Councillor W McAndrew
Councillor C Coleman
Councillor D Goodsell
Councillor D Goodwin
Councillor S Ring
Councillor J Smith
Councillor M Statham
Councillor R Thompson

AGAINST

Nil

ITEM-11 ECDEV - 27/11/17 - PROPOSED RE-NAMING OF OLD WESTERN ROAD RYDAL AND WARDS ROAD MEGALONG VALLEY

17-344 RESOLVED

THAT:

1. Council notify affected landowners, the Local Aboriginal Land Council and any relevant authorities of the proposed road names (including “Commissariat Road” and “Caloola Halt Road”) and accept public submissions for a period of twenty-eight (28) days.
 2. Any submissions (including objections and proposed road names) be reported back to Council for consideration, prior to commencing the online road naming process. If no submissions against the proposal are received, Council proceed with the online road naming process and gazette the road names of “Commissariat Road” and “Caloola Halt
-

Road" accordingly. Council is then to notify appropriate landowners and authorities of the new address changes.

MOVED: Councillor R Thompson **SECONDED:** Councillor S Ring.

CARRIED

**ITEM-12 ECDEV - 27/11/17 - PROPOSED REHABILITATION OF BELL QUARRY
WASTE FACILITY**

The Mayor left the Chamber at 8:44 pm

Director of Economic Development and Environment also left the Chamber.

Deputy Mayor, Cr McAndrew took the chair.

RECOMMENDATION

THAT the information on the Bell Quarry Rehabilitation/Waste Facility be noted.

17-345 RESOLVED

THAT the information on the Bell Quarry Rehabilitation/Waste Facility be noted and that Council management prepare a media release explaining Council's position to the Community.

MOVED: Councillor R Thompson **SECONDED:** Councillor C Coleman.

CARRIED

The Deputy Mayor vacated the Chair and the Mayor returned to the chamber and resumed the chair at 8:50pm.

The Director of Economic Development and Environment returned to Chamber at 8:50pm.

**ITEM-13 ECDEV - 27/11/17 - CHANGES TO THE MINE SUBSIDENCE
COMPENSATION SYSTEM IN NSW**

17-346 RESOLVED

THAT the advice on the changes to the Mine Subsidence Compensation system in NSW be noted.

MOVED: Councillor M Statham **SECONDED:** Councillor D Goodwin.

CARRIED

ITEM-14 ECDEV - 27/11/17 - WALLERAWANG POULTRY FARM UPDATE

17-347 RESOLVED

THAT Council:

1. Note the information regarding odour issues at the Wallerawang Poultry Farm.
2. Council continue to undertake routine odour monitoring of the area.

MOVED: Councillor R Thompson

SECONDED: Councillor C Coleman.

CARRIED

ITEM-15 ECDEV - 27/11/17 - WASTE & RECYCLING STRATEGY

17-348 RESOLVED

THAT Council adopt the Waste & Recycling Strategy as attached to the business paper.

MOVED: Councillor S Ring

SECONDED: Councillor W McAndrew.

CARRIED

OPERATION REPORTS

**ITEM-16 OPER - 27/11/17 - OPERATIONS BACKFLOW PREVENTION -
CONTAINMENT POLICY**

17-349 RESOLVED

THAT

1. The Draft Policy 3.4 - Backflow Prevention – Containment be put on public exhibition for 28 days; and
2. Upon closure of this period the results of the public exhibition be reported to Council for consideration.

MOVED: Councillor R Thompson

SECONDED: Councillor D Goodwin.

CARRIED

ITEM-17 OPER - 27/11/17 - TRANSFER OF CROWN ROADS

RECOMMENDATION

THAT Council:

1. Apply to the NSW Department of Lands (Crown Lands) to transfer the ownership of the Crown Public Roads listed as per Attachment 1 within the Lithgow Local Government Area to Lithgow City Council; and
2. Authorise the affixing of the Council seal.

17-350 RESOLVED

THAT the matter be referred back to the Operations Committee with a report on potential cost implications for the transfer and ongoing maintenance.

MOVED: Councillor W McAndrew

SECONDED: Councillor R Thompson.

CARRIED

ITEM-18 OPER - 27/11/17 - WATER REPORT

17-351 RESOLVED

THAT Council notes the report.

MOVED: Councillor S Ring

SECONDED: Councillor D Goodsell.

CARRIED

FINANCE AND ASSETS REPORTS

ITEM-19 FIN - 27/11/17 - COUNCIL INVESTMENT REPORT

17-352 RESOLVED

THAT Investments of \$30,300,000.00 and cash of \$212,616.31 for the period ending 31 October 2017 be noted.

MOVED: Councillor R Thompson

SECONDED: Councillor M Statham.

CARRIED

ITEM-20 FIN - 21/11/17 - EXCESSIVE WATER ACCOUNT - PROP 13390

RECOMMENDATION

THAT

1. Offer no further consideration additional to the \$200.00 rebate previously applied to the water consumption charges on the property.
2. Advise the property owner in writing of Council's resolution and confirm the availability of a negotiated repayment arrangement under policy.

17-353 RESOLVED

THAT the property owner be charged \$495.49 on the water account for the property.

MOVED: Councillor R Thompson

SECONDED: Councillor D Goodwin.

CARRIED

ITEM-21 FIN - 27/11/17 - BOUNDARY ADJUSTMENT BETWEEN LITHGOW CITY COUNCIL AND MID-WESTERN REGIONAL COUNCIL

17-354 RESOLVED

THAT Council:

1. Receive the report by the Chief Financial and Information Officer on the Council Locality boundary adjustment between Lithgow City Council and Mid-Western Regional Council.
 2. Approve the boundary adjustment transferring part of Lot 1 DP 1221421 totalling 4381m² to Mid-Western Regional Council from Lithgow City Council.
-

3. Approve the amendment of rates related to Lot 1221421 from the date the boundary adjustment is proclaimed in the Government Gazette and cease to raise rates applicable from the date the land ceases to become rateable within the Lithgow City Council area.
4. Confirms no rates arrears relating to that part of Lot 1 DP 1221421, totalling 4381m2, will be accepted by Mid-Western Regional Council upon Proclamation.
5. Confirms no provision for rates will need to be made in the Council boundary adjustment Proclamation.

MOVED: Councillor S Ring

SECONDED: Councillor R Thompson.

CARRIED

**ITEM-22 FIN - 27/11/17 - FINANCIAL RESULT FOR THE PERIOD ENDING 31
OCTOBER 2017**

17-355 RESOLVED

THAT Council notes the financial result for the period ending 31 October 2017 for the General, Water and Sewer funds.

MOVED: Councillor C Coleman

SECONDED: Councillor S Ring.

CARRIED

ITEM-23 FIN - 27/11/17 - LARGE SITES STREETLIGHTING CONTRACT

17-356 RESOLVED

THAT Council:

1. Note the report in relation to the new electricity agreement for large sites and public street lighting and
2. Ratify the decision of the General Manager taken in accordance with the legal advice from CENTROC.

MOVED: Councillor C Coleman

SECONDED: Councillor S Ring.

CARRIED

ITEM-24 FIN - 27/11/17 - QUARTERLY BUDGET REVIEW

17-357 RESOLVED

THAT

1. The deficit of \$812,077.98 for the 2017/18 Operational Plan as detailed in the Quarterly Performance Report for the period 1 July to 30 September 2017 be adopted.
2. Council adopts the variations to the Council budget as outlined in the attached report.
3. Council notes that the Financial Services Manager, as Responsible Accounting Officer has reviewed the statements and certifies as required by the Local Government (General) Amendment (Planning and Reporting) Regulation 2009, (s203) that Council's 2016/17 Operational Plan has been reviewed and the financial position of Council is unsatisfactory.

MOVED: Councillor S Ring

SECONDED: Councillor J Smith.

CARRIED

ORGANISATION DEVELOPMENT AND COMMUNITY

ITEM-25 ORG - 27/11/17 - 2016/17 ANNUAL REPORT

17-358 RESOLVED

THAT Council adopt the:

1. Lithgow City Council 2016/17 Annual Report - A Year in Review
2. Lithgow City Council 2016/17 Annual Report – Supplementary Report.

MOVED: Councillor C Coleman

SECONDED: Councillor W McAndrew.

CARRIED

ITEM-26 ORG - 27/11/17 - S353 COMMITTEE MEMBERSHIP INFORMATION

Clr Coleman vacated the premises at 9:13pm

17-359 RESOLVED

THAT Council:

1. Appoints Katie Coleman as an official member of the Youth Advisory Committee.
2. Reviews the Terms of Reference for all s 355 Committees in order to ensure broad and diverse committee membership.
3. Notes the difficulty in filling positions on the Youth Advisory Committee and supports direct appointment to the committee of young people between the ages of 11 and 24.

MOVED: Councillor W McAndrew

SECONDED: Councillor R Thompson.

CARRIED

Cr Coleman returned to the chambers at 9:15pm.

ITEM-27 COMM - 27/11/17 - BLAST FURNACE FUNDING

17-360 RESOLVED

THAT Council allocate an amount of \$220,000 from its Building Reserve as Council's matching contribution for the Blast Furnace toilet and lighting project.

MOVED: Councillor S Ring

SECONDED: Councillor M Statham.

CARRIED

ITEM-28 COMM - 27/11/17 - LITHGOW WINS REGIONAL SUSTAINABILITY AWARD

17-361 RESOLVED

THAT Council:

1. Note the report on the NSW Blue Star Sustainability Awards 2017.
2. Write a letter of appreciation to Lithgow Tidy Towns, thanking them for their hard work in promoting positive change in the Lithgow community.

MOVED: Councillor C Coleman

SECONDED: Councillor D Goodsell.

CARRIED

COUNCIL COMMITTEE MINUTES

ITEM-29 COMM - 27/11/17 - COMMUNITY DEVELOPMENT COMMITTEE MINUTES

17-362 RESOLVED

THAT Council Notes the minutes of the Community Development Committee meeting held 10 October 2017.

MOVED: Councillor C Coleman

SECONDED: Councillor J Smith.

CARRIED

ITEM-30 COMM - 27/11/17 - YOUTH COUNCIL MINUTES 18 OCTOBER 2017

Cr Coleman vacated the premises at 9:19pm

17-363 RESOLVED

THAT Council notes the minutes of the Youth Council meeting held on 18 October 2017.

MOVED: Councillor W McAndrew

SECONDED: Councillor S Ring.

CARRIED

Cr Coleman returned to the chambers at 9:19pm

**ITEM-31 OPER - 27/11/17 - SPORTS ADVISORY COMMITTEE MEETING MINUTES -
31 OCTOBER 2017**

Cr Ring left the chambers at 9:20pm

17-364 RESOLVED

THAT Council note the Sports Advisory Committee Meeting Minutes.

MOVED: Councillor J Smith

SECONDED: Councillor D Goodwin.

CARRIED

**ITEM-32 OPER - 27/11/17 - OPERATIONS COMMITTEE MEETING MINUTES - 6
NOVEMBER 2017**

Cr Ring returned to the chambers at 9:21pm.

17-365 RESOLVED

THAT Council note the Operations Committee Meeting Minutes and:

1. The General Manager write to Mr. Paul Toole or the Hon. Melinda Pavey to clarify ownership and responsibility of the roadkill along the Great Western Highway and other arterial roads, and;
2. That the verbal advice given at the Council meeting from the Director of Operations that the information concerning the ongoing maintenance of the medium strip from Marrangaroo to Wallerawang turnoff be noted and Mr Toole be thanked for his representations on behalf of Lithgow City Council, and;
3. The General Manager engage with the RMS to help develop a relationship and organise to meet to further discuss frequency of mowing, and;
4. The owner of the property be notified that the amount outstanding of \$855 is required to be paid and if failure to make payment, the amount will be sent to SR Law as a property debt against 33 Falnash Street, Portland, and;
5. Council continue to negotiate with Centennial Coal for the future upgrades and operation of the Clarence Water Transfer Scheme, and;
6. Appropriate actions and reporting be undertaken in relation to the items raised during general business.

MOVED: Councillor W McAndrew

SECONDED: Councillor R Thompson.

CARRIED

**ITEM-33 ECDEV - 27/11/17 - ECONOMIC DEVELOPMENT COMMITTEE MINUTES OF
20 NOVEMBER 2017**

17-366 RESOLVED

THAT the recommendations of the Economic Development Committee be Adopted.

MOVED: Councillor S Ring

SECONDED: Councillor D Goodsell.

CARRIED

ITEM-34 OPER - 27/11/17 - SPORTS ADVISORY COMMITTEE MEETING MINUTES - 21 NOVEMBER 2017

17-367 RESOLVED

THAT Council note the Sports Advisory Committee Meeting Minutes.

MOVED: Councillor J Smith

SECONDED: Councillor D Goodwin.

CARRIED

NOTICE OF MOTION

ITEM-35 NOTICE OF MOTION - 27/11/17 - APPEAL AGAINST ADJUSTMENT OF WATER ACCOUNT

REPORT BY: COUNCILLOR RAY THOMPSON

17-368 RESOLVED

THAT in respect of property number 95000 that an amount of \$455.00 be written off water usage charges in addition to the amount granted by Council on 31 October 2016.

MOVED: Councillor R Thompson

SECONDED: Councillor W McAndrew.

CARRIED

ITEM-36 NOTICE OF MOTION - 27/11/17 - CROQUET CLUB

REPORT BY: COUNCILLOR CASSANDRA COLEMAN

17-369 RESOLVED

THAT council report on the feasibility, cost and time frame for the extension of the playing lawns at the Lithgow Croquet Club on the corner of Young and James Streets, Lithgow, in line with the Club's recent submission to Council.

MOVED: Councillor C Coleman

SECONDED: Councillor J Smith.

CARRIED

BUSINESS OF GREAT URGENCY

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

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

Cr Statham left the Chambers at 9:38pm

UB – Cr Ring raised for the Chamber of Commerce and WILD that Christmas Decorations be installed on Main Street this year.

The Mayor asked the Council to vote as to whether the matter was urgent.

Moved: Cr Ring Seconded: Cr Thompson

LOST

The Mayor advised that Council did not agree that the matter was urgent.

CLOSED COUNCIL

The Mayor asked if there were any objections from the Public with regards to the confidential reports being in closed Council.

There were Nil objections.

The Mayor declared a 5 minute adjournment at 9:39pm.

The meeting resumed at 9:48pm.

17-370 RESOLVED

THAT Council move into Closed Council to consider the confidential reports in Items 37, 38 and 39.

MOVED: Councillor C Coleman

SECONDED: Councillor S Ring

CARRIED

At 9:48pm the Council resolved to move into Closed Council.

MOVED: Councillor C Coleman

SECONDED: Councillor S Ring

CARRIED

Closed Council started at 9:48pm.

CONFIDENTIAL REPORTS

ITEM-37 **CONFIDENTIAL - CLOSED REPORT - OPER - 27/11/17 - WOLGAN ROAD EMBANKMENT RECONSTRUCTION**

17-371 RESOLVED

THAT Council:

1. Modify Council's 2017/18 Operational Plan to reallocate \$40,000.00 from the Palmers Oakey Road reconstruction project (PJ100286) to facilitate the remediation investigation and design of the Wolgan Road embankment within the Wolgan Valley; and
2. Accept the quote from Golder Associated Pty Ltd at a price of \$32,780.00 (incl. GST) for the remediation investigation and design of the Wolgan Road embankment within the Wolgan Valley.

MOVED: Councillor S Ring

SECONDED: Councillor R Thompson.

CARRIED

ITEM-38 **CONFIDENTIAL REPORT - ECDEV - 27/11/17- GUMNUT HOUSE - CHILD CARE CENTRE LEASE**

RECOMMENDATION

THAT Council

1. Authorise the General Manager to continue to negotiate and execute a lease for 21 Proto Ave with ECEC Management Services Pty Ltd generally in accordance with the following terms:
 - Commencement Date – 1 February or later date as determined in negotiation
 - Permitted Use – Early Childcare Education Centre
 - 20year lease term – First term 10years with 2x5 year option period
 - Annual Rental - \$88,000 plus GST and all outgoings
 - 3% Annual Increase during first 10 year lease period. Market rental review to apply to each at the commencement of each five year option period with 3 % annual increase between each period.
 - A bank guarantee or security bond equivalent to the amount of three month's rent.
 - Lessee to hold \$20,000.000 Public Liability Insurance in each year of the lease.
 2. Authorise the affixing of the Council seal to the lease documentation.
 3. Inform SDN Children's Services of Council's intention to terminate its lease of 21 Proto Avenue and provide at least one month's notice of the date to vacate the premises as mutually agreed between themselves and the new tenant.
 4. Thank SDN Children's Services for their contribution to the provision of child care services in the Lithgow community but advise its final offer fell significantly short of the assessed market rental and the offer by ECEC.
-

5. Provide any assistance possible to facilitate a smooth transition of the centre operation from SDN Childcare Services to ECEC Management Services Pty Ltd

PROCEDURAL MOTION

THAT the Council move into a committee of the whole.

MOVED: Cr Thompson

CARRIED

MOTION

THAT the lease be awarded to SDN Children Services.

MOVED: Councillor M Statham

SECONDED: Councillor D Goodsell.

The Motion was PUT and was LOST

A **DIVISION** was called by Councillors M Statham and D Goodsell.

Divisions -

FOR

Councillor M Statham
Councillor D Goodsell
Councillor D Goodwin
Councillor S Ring

AGAINST

Councillor S Lesslie
Councillor W McAndrew
Councillor C Coleman
Councillor J Smith
Councillor R Thompson

17-372 RESOLVED

THAT Council

1. Authorise the General Manager to continue to negotiate and execute a lease for 21 Proto Ave with ECEC Management Services Pty Ltd generally in accordance with the following terms:
 - Commencement Date – 1 February or later date as determined in negotiation
 - Permitted Use – Early Childcare Education Centre
 - 20year lease term – First term 10years with 2x5 year option period
 - Annual Rental - \$88,000 plus GST and all outgoings
 - 3% Annual Increase during first 10 year lease period. Market rental review to apply to each at the commencement of each five year option period with 3 % annual increase between each period.

- A bank guarantee or security bond equivalent to the amount of three month's rent.
 - Lessee to hold \$20,000,000 Public Liability Insurance in each year of the lease.
2. Authorise the affixing of the Council seal to the lease documentation.
 3. Inform SDN Children's Services of Council's intention to terminate its lease of 21 Proto Avenue and provide at least one month's notice of the date to vacate the premises as mutually agreed between themselves and the new tenant.
 4. Thank SDN Children's Services for their contribution to the provision of child care services in the Lithgow community but advise its final offer fell significantly short of the assessed market rental and the offer by ECEC.
 5. Provide any assistance possible to facilitate a smooth transition of the centre operation from SDN Childcare Services to ECEC Management Services Pty Ltd

MOVED: Councillor W McAndrew

SECONDED: Councillor C Coleman.

CARRIED

A **DIVISION** was called by Councillors W McAndrew and S Lesslie.

Divisions

FOR

Councillor C Coleman
Councillor D Goodwin
Councillor S Lesslie
Councillor W McAndrew
Councillor S Ring
Councillor R Thompson
Councillor J Smith

AGAINST

Councillor M Statham
Councillor D Goodsell

PROCEDURAL MOTION

THAT Council move back into full Council.

MOVED: Councillor C Coleman

CARRIED

ITEM-39 GM - 27/11/17 - CONFIDENTIAL REPORT - INVESTIGATION INTO ALLEGED BREACH OF COUNCIL'S CODE OF CONDUCT - COUNCILLOR MAREE STATHAM

Cr Statham vacated the chambers at 10:18pm.

PROCEDURAL MOTION

THAT the Council move into a Committee of the whole.

MOVED: Cr McAndrew

CARRIED

RECOMMENDATION

THAT Council determine what sanctions, if any, it will impose on Councillor Maree Statham in relation to the breach of its Code of Conduct.

17-373 RESOLVED

THAT Council having received the findings of the independent investigator as outlined below viz:

“Whilst considering all the material and information obtained, along with the political machinations and toxic relationship that exists and the inter-familial environment, it can be established that the then Mayor, Councillor Marie Statham, sought certain information that was not needed for Council business (s.7.8(a) of the *Model Code of Conduct*). Furthermore, Councillor Statham, by her own admission, states she has engaged in what must be considered inappropriate in her actions in relation to Council staff (s.6.7(a)), such interaction, she maintains was necessary, due to the discussion of bullying of staff by the then General Manager, Mr Bailey.

Prima facie, the information sought over a period of time by Councillor Statham was persistent and she utilised various methods that were not, in my opinion, related to ongoing Council business.

The evidence produced has demonstrated a pattern of behaviour over a period of time from 24 March 2016 to 31 October 2016 in which Councillor Statham conducted an ongoing and strenuous exercise to obtain information that was not relevant to Council functioning and it was not necessary that she should possess such information. Pursuant to Part 8 of the *Procedures for the administration of the Model Code of Conduct for Local Councils in New south Wales* (March 2013), should an investigator determine that the conduct investigated constitutes a breach of the Code of Conduct, the investigator may make one or more of the following recommendations:

- (a) That the Council revise any of its policies or procedures.
- (b) That the subject person undertake any training or other education relevant to the conduct giving rise to the breach.
- (c) That the subject person be counselled for their conduct.
- (d) That the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation;
and

After considering the criteria outlined in s.8.37, I regard the breach as one of a serious nature and the breach formed part of a pattern of conduct with a degree of reckless intentional or negligence on the part of Councillor Statham.

Accordingly I make the recommendations outlined above, that 8.35(a), (b), (c), (d) and in addition, make the recommendation that Council provide some form of induction training to incoming Councillors and incoming office holders in relation to their obligations under the *Model Code of Conduct*.”

Therefore Council adopts the recommendations of the Independent Conduct Reviewer Mr Joseph Dalzell and resolves as follows:

1. That Council revise any relevant policies or procedures as they relate to the code of conduct breach. GM to provide a report to Council on the appropriate policies/procedures.
2. That Councillor Statham undertakes training and/or other education relevant to the conduct giving rise to the breach.
3. That Councillor Statham be counselled for her conduct.
4. That
 - Councillor Statham be required to apologise unreservedly to Mr Roger Bailey, and those persons affected by the breach referred to in the Independent Investigators report and confirmed by the General Manager, by 31 December 2017, in writing, and that the apology contains the words “that I make an unreserved apology to Mr Roger Bailey, for my inappropriate actions towards him in the period leading up to the 19 October 2016 as indicated in the findings of the Independent Investigator that I have breached Council’s Code of Conduct.”
 - Council note that “*Abject refusal to comply with a resolution of Council irrespective of whether a Councillor feels that he or she is right or wrong is a serious breach of the Code of Conduct.*”(Pecuniary Interest and Disciplinary Tribunal)
 - That in the event that Clr Statham refuses or declines to abide by the recommendations above, the General Manager be directed to refer the matter directly to the Office of Local Government for further action under the misconduct provisions of the Act.

Council further resolves that:

5. In accordance with Part 8.56 (b) of the code of conduct procedures that the findings of the inappropriate conduct be made public.
6. That the General Manager in consultation with the OLG determines the appropriate counselling, training and education applying to Councillor Statham in relation to the code of conduct breach.

MOVED: Councillor W McAndrew

SECONDED: Councillor R Thompson.

CARRIED – Unanimously

PROCEDURAL MOTION

THAT Council back into a full Council.

MOVED: Councillor W McAndrew

SECONDED: Councillor R Thompson.

At 11:01pm the Council resolved to refer to open Council and recommend the resolutions of Closed Council.

MOVED: Councillor W McAndrew

SECONDED: Councillor R Thompson

CARRIED

The Mayor announced the resolutions of the Closed Council.

**ITEM CONFIDENTIAL – CLOSED REPORT – OPER – 27/11/17 – WOLGAN ROAD
 EMBANKMENT RECONSTRUCTION**

RESOLVED

THAT Council:

1. Modify Council's 2017/18 Operational Plan to reallocate \$40,000.00 from the Palmers Oakey Road reconstruction project (PJ100286) to facilitate the remediation investigation and design of the Wolgan Road embankment within the Wolgan Valley; and
2. Accept the quote from Golder Associated Pty Ltd at a price of \$32,780.00 (incl. GST) for the remediation investigation and design of the Wolgan Road embankment within the Wolgan Valley.

MOVED: Councillor S Ring

SECONDED: Councillor R Thompson.

CARRIED

ITEM ORDINARY MEETING OF COUNCIL HELD 27 NOVEMBER 2017

RESOLVED

THAT Council

1. Authorise the General Manager to continue to negotiate and execute a lease for 21 Proto Ave with ECEC Management Services Pty Ltd generally in accordance with the following terms:
 - Commencement Date – 1 February or later date as determined in negotiation
-

- Permitted Use – Early Childcare Education Centre
 - 20year lease term – First term 10years with 2x5 year option period
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 - Lessee to hold \$20,000,000 Public Liability Insurance in each year of the lease.
2. Authorise the affixing of the Council seal to the lease documentation.
 3. Inform SDN Children's Services of Council's intention to terminate its lease of 21 Proto Avenue and provide at least one month's notice of the date to vacate the premises as mutually agreed between themselves and the new tenant.
 4. Thank SDN Children's Services for their contribution to the provision of child care services in the Lithgow community but advise its final offer fell significantly short of the assessed market rental and the offer by ECEC.
 5. Provide any assistance possible to facilitate a smooth transition of the centre operation from SDN Childcare Services to ECEC Management Services Pty Ltd

MOVED: Councillor W McAndrew **SECONDED:** Councillor J Smith.

**ITEM GM – 27/11/17 – CONFIDENTIAL REPORT – INVESTIGATION INTO
ALLEGED BREACH OF COUNCIL'S CODE OF CONDUCT – COUNCILLOR
MAREE STATHAM**

RESOLVED

THAT Council having received the findings of the independent investigator as outlined below viz:

“Whilst considering all the material and information obtained, along with the political machinations and toxic relationship that exists and the inter-familial environment, it can be established that the then Mayor, Councillor Marie Statham, sought certain information that was not needed for Council business (s.7.8(a) of the *Model Code of Conduct*). Furthermore, Councillor Statham, by her own admission, states she has engaged in what must be considered inappropriate in her actions in relation to Council staff (s.6.7(a)), such interaction, she maintains was necessary, due to the discussion of bullying of staff by the then General Manager, Mr Bailey.

Prima facie, the information sought over a period of time by Councillor Statham was persistent and she utilised various methods that were not, in my opinion, related to ongoing Council business.

The evidence produced has demonstrated a pattern of behaviour over a period of time from 24 March 2016 to 31 October 2016 in which Councillor Statham conducted an ongoing and strenuous exercise to obtain information that was not relevant to Council functioning and it was not necessary that she should possess such information. Pursuant to Part 8 of the *Procedures for the administration of the Model Code of Conduct for Local Councils in New south Wales* (March 2013), should an investigator determine that the conduct investigated constitutes a breach of the Code of Conduct, the investigator may make one or more of the following recommendations:

- (a) That the Council revise any of its policies or procedures.
- (b) That the subject person undertake any training or other education relevant to the conduct giving rise to the breach.
- (c) That the subject person be counselled for their conduct.
- (d) That the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation;
and

After considering the criteria outlined in s.8.37, I regard the breach as one of a serious nature and the breach formed part of a pattern of conduct with a degree of reckless intentional or negligence on the part of Councillor Statham.

Accordingly I make the recommendations outlined above, that 8.35(a), (b), (c), (d) and in addition, make the recommendation that Council provide some form of induction training to incoming Councillors and incoming office holders in relation to their obligations under the *Model Code of Conduct*.”

Therefore Council adopts the recommendations of the Independent Conduct Reviewer Mr Joseph Dalzell and resolves as follows:

1. That Council revise any relevant policies or procedures as they relate to the code of conduct breach. GM to provide a report to Council on the appropriate policies/procedures.
2. That Councillor Statham undertakes training and/or other education relevant to the conduct giving rise to the breach.
3. That Councillor Statham be counselled for her conduct.
4. That
 - Councillor Statham be required to apologise unreservedly to Mr Roger Bailey, and those persons affected by the breach referred to in the Independent Investigators report and confirmed by the General Manager, by 31 December 2017, in writing, and that the apology contains the words “that I make an unreserved apology to Mr Roger Bailey, for my inappropriate actions towards him in the period leading up to the 19 October 2016 as indicated in the findings of the Independent Investigator that I have breached Council’s Code of Conduct.”
 - Council note that “*Abject refusal to comply with a resolution of Council irrespective of whether a Councillor feels that he or she is right or wrong is a serious breach of the Code of Conduct.*”(Pecuniary Interest and Disciplinary Tribunal)
 - That in the event that Clr Statham refuses or declines to abide by the recommendations above, the General Manager be directed to refer the matter directly to the Office of Local Government for further action under the misconduct provisions of the Act.

Council further resolves that:

5. In accordance with Part 8.56 (b) of the code of conduct procedures that the findings of the inappropriate conduct be made public.
6. That the General Manager in consultation with the OLG determines the appropriate counselling, training and education applying to Councillor Statham in relation to the code of conduct breach.

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

There being no more business the meeting closed at 11:08pm.