



Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Wednesday 5 March 2025

at 6:00 PM

ORDER OF BUSINESS

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Acknowledgement of Country

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Lithgow City Council acknowledges Wiradjuri Elders past and present of the Wiradjuri nation - the original custodians of the land on which the Lithgow's communities reside. The Council also extends our respects to our neighbouring nations.

Declaration of Webcasting

I inform all those in attendance at this meeting, that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements concerning any person, Councillor or employee, and refrain from discussing those matters subject to Closed Council proceedings as indicated in clause 14.1 of the code of meeting practice.

Present

Apologies

Declaration of Interest

Ethical Decision Making and Conflicts of Interest

A guiding checklist for Councillors, officers and community committees

Oath or Affirmation of Office

Councillors are reminded of the Oath or Affirmation taken of office, made under section 233A of the *Local Government Act 1993* when elected.

Ethical decision making

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

Conflict of interest

A conflict of interest is a clash between private interest and public duty. The test for conflict of interest:

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of 'corruption' – using public office for private gain.
- Important to consider public perceptions of whether you have a conflict of interest.

There are two types of conflict:

- **Pecuniary** – regulated by the *Local Government Act 1993* and Office of Local Government. A person with a pecuniary interest should at least disclose and not vote, but it would also in these cases be appropriate to leave the chamber.
- **Non-pecuniary** – regulated by Codes of Conduct and policy. ICAC, Ombudsman, Office of Local Government (advice only). If declaring a Non-Pecuniary Conflict of Interest, a person with a non-pecuniary interest can choose to either disclose and vote, disclose and not vote or leave the Chamber.
- Local Government Act 1993 and Model Code of Conduct

For more detailed definitions refer to the *Local Government Act 1993*, Chapter 14 Honesty and Disclosure of Interest and adopted Code of Conduct.

Identifying problems

1st Do I have private interests affected by a matter I am officially involved in? **2nd** Is my official role one of influence or perceived influence over the matter? **3rd** Do my private interests conflict with my official role?

Disclosure of pecuniary interests / non-pecuniary interests

Under the provisions of Section 440AAA(3) of the *Local Government Act 1993* (pecuniary interests) and the Model Code of Conduct it is necessary for you to disclose the nature of the interest when making a disclosure of a pecuniary interest or a non-pecuniary conflict of interest at a meeting.

A Declaration form should be completed and handed to the General Manager as soon as practicable once the interest is identified. Declarations are made at Item 3 of the Agenda: Declarations - Pecuniary, Non-Pecuniary and Political Donation Disclosures, and prior to each Item being discussed: The Declaration Form can be downloaded at

Confirmation of Minutes

Commemorations and Announcements

On behalf of Lithgow City Council the Mayor expressed sincere sympathy and condolences to families who had lost loved ones since the last council meeting.

Public Forum

Any person registered to speak during Public Forum on a matters included in the business paper and registered via the Council website prior to 12 Noon on the day of the meeting will have the opportunity to speak. There will be only two speakers for and against, on each matter on the business paper.

Public forum will be allocated half an hour time in total with each speaker having 3 minutes to speak.

Speaker not registered for public forum will have an opportunity to speak on matters on the business paper if time permits.

1. Notices of Motion

1.1. NOM - 05/03/2025 - Main Street Footpath

Report by Councillor Darryl Goodwin
Councillor Eric Mahony
Councillor Steve Ring

Commentary

At the Council meeting of the February 2025 it was moved that “That the Administration seek a cost for undertaking the upgrade of the Southern footpath concurrently with the proposed works that an Extraordinary Council Meeting is called to determine if Council will immediately seek a loan to immediately undertake the works” As part of the resolution for item 3.3.1 I&E – 24/02/2025 - Main Street Footpaths – Scope of works and Communications.

Attachments

1. Request for Extra Ordinary Meeting of Council [1.1.1 - 1 page]
2. 3898 Lithgow Main Street Restoration Stage 2 Phase 1 Separable Portions [1.1.2 - 1 page]
3. CONFIDENTIAL - Main Street BOQ Report Info [1.1.3 - 3 pages]
4. CONFIDENTIAL - VP R 750932 [1.1.4 - 4 pages]
5. Volume 3 - Specification TE N 17 24 Main Street CBD Footpath Improvements Stage 2 [1.1.5 - 7 pages]

Recommendation

THAT:

1. Administration table the costing for undertaking the upgrade of footpath on the Southern Side of Main Street between Bridge and Eskbank Streets.
2. The Council determine if it is willing to secure a loan to undertake the proposed works concurrently with the current contracted works.

Management Comment

Project Details

A tender was released for Stage 2 works, located in Bridge Street (western side from Main Street Lane to Main Street), Main Street from Bridge Street to Eskbank Street (both northern and southern sides).

Council’s tender expected works to take place with the condition that disruptions and impacts during construction to the operating businesses would be minimised. Tenderers were advised that local businesses are still recovering from impacts experienced because of Black Summer Bushfires, COVID-19 pandemic and recent natural disaster declared flooding events. Ongoing trading (where possible) being available during construction is vitally important and was factored into the project scope.

Works forming the original tender for this project included:

- Removal of existing paved surfaces (including brick kerb);
- Replacement of property stormwater pipes from property boundary to kerb;
- Replacement / reinstatement of utility service pit lids;
- Installation of new footpath surface (concrete, decorative brick banding and blue stone pavers) and kerb;
- Construction of a new raised pedestrian crossing (at Pioneer Park) and associated line marking and streetlighting infrastructure;

- Installation of new power supply infrastructure in Pioneer Park;
- Construction of new disabled parking / loading zone ramps;
- Installation of signage cleats and pavement line marking; and
- Installation of new landscaping features, drainage and associated plantings.

One conforming tender price was received (VPR750932). The original tendered price summary was \$2,935,401. This summary is included as a confidential attachment to this report.

In response, Council sought to create two separable portions so that we could respond to the loss of Commonwealth funding while still delivering the NSW Government-funded portion within the grant funding deadline. Attachment 3898 *Lithgow Main Street Restoration Stage 2 Phase 1 Separable Portions* shows the revised scope. This was determined in conjunction with Council's designers considering time constraints, budget constraints, impacts on uncompleted works and business impact considerations.

Once the separable portions were identified, a Bill of Quantities (BoQ) report was produced to formalise the revised tender price. This is included in the confidential attachment titled *Main Street BOQ Report Info*, showing the changes to the scope and requirements to complete works.

The BoQ report provides:

- full scope details and Construction report summary of the project including Council's QS estimate (\$3,600,158.10), the original tendered price (2,935,241.10) and the revised negotiated price (\$1,848,768.90); and
- Project Report Summary showing if Council was to proceed with the southern side the estimated costs to do so, including 4.6% inflation value for 2025 costs (as provided by WT Partnerships QS report), utility costs (estimated based on current stage works), and project management estimates. These prices have not been confirmed by the Contractor or Project Management Consultant and have been provided using past supplied information.

Therefore, the required loan value would be:

(A) Original tender value (north and south sides) (incl. GST)	\$2,935,241.10
(B) Revised tender value (southern side only) (incl. GST)	\$1,848,768.90
Contractor construction costs (northern side) (plus 20% escalation) [(A – B) x 1.2]	\$1,303,766.64
Project management costs (9 months)	\$272,000
NBN pit servicing	\$70,000
Sub-total (incl. GST)	\$1,645,766.64
Contingency (25%)	\$411,441.66
Total (incl. escalation, contingency and GST)	\$2,057,208.30

NOTE: These figures are indicative only. With the time provided, the administration has not yet been able to commence negotiation with the contractor. Only after this negotiation would the administration be certain of the contractor's availability and applicable costs. With this understanding, the administration has been relatively conservative with the amounts provided and possible escalation. Once this negotiation has occurred, the administration will follow up with a memo to the Council on the outcomes, including amendments to cost and time schedules.

Normally, a variation to a contract of a value that exceeds the original tender value would be flagged as problematic. In such a circumstance, it could be argued that there might have been greater market interest had the tender included the full scope of the project (both the northern and southern sides of Main Street in this circumstance). However, this is not a problem in this instance as Council's original tender that was publicised pre-Christmas, already included the full scope of the northern and southern sides of the street.

With this understanding, this variation can be authorised by Council under Section 55 (Requirements for Tendering), Part 3, subsection (i) of the Local Government Act 1993, which reads:

(3) This section does not apply to the following contracts -

(i) a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.

The justification for processing this engagement as a variation rather than an entirely new tender is:

1. Unavailability of competitive tenders: Council tendered for the full scope of the Main Street project (inclusive of both the northern and southern side of Main Street between Bridge Street and Eskbank Street) less than 6 months ago. Civil Constructions Pty. Ltd. were the sole tenderer while also demonstrating significant and applicable experience.
2. Extenuating circumstances:
 - a. Works on the northern side of Main Street have commenced. There are legitimate savings to be made if Council is to vary the existing contract before the current contractor de-mobilises.
 - b. This project is very similar in scope and complexity to the northern side of Main Street.

Financial Details

The financial implications of securing a loan to undertake the upgrade of the southern footpath have been calculated, based on both a 5-year repayment term and a 10-year repayment term and are summarised in the table below.

Financial Impact	Loan Impact	Benchmark	Current Projected 24/25 Result	Revised Projected 24/25 Result
5-Year Repayment Term				
Annual Repayment	\$490,425			
Total Interest Cost	\$302,123			
Operating Result	(\$26,499)	\$0	(\$1,216,219)	(\$1,242,718)
Bottom Line Result	(\$122,606)	\$0	\$0	(\$122,606)
Debt Service Ratio	(1.9)	2.0	23.4	21.5
Interest Cover Ratio	(6.2)	4.0	90.5	84.3
10-Year Repayment Term				

Annual Repayment	\$281,597			
Total Interest Cost	\$665,973			
Operating Result	(\$29,240)	\$0	(\$1,216,219)	(\$1,245,459)
Bottom Line Result	(\$70,399)	\$0	\$0	(\$70,399)
Debt Service Ratio	(1.2)	2.0	23.4	22.2
Interest Cover Ratio	(6.8)	4.0	90.5	83.7

As shown in the table above, the interest expenses associated with a loan will result in a decline in the projected operating result in each year of the loan term and increase the projected operating deficit for 2024/2025. The total repayment amount has a negative impact upon Council's projected bottom-line result. To live within Council's means and maintain a balanced overall budget, reductions in other programs and works will need to be made to offset this cost, again in each year of the loan term.

While the annual impact of a 10-year loan will be lower than a 5-year loan, the overall interest cost is \$363,850 higher over the term of the Long-Term Financial Plan.

The Debt Service and Interest Cover Ratios indicate that Council has sufficient borrowing capacity to be able to pay for a loan, however there are significant large-scale projects for both wastewater, waste and water that are required in the mid-term and it is therefore important to maintain surplus borrowing capacity to service the loan required in future. The Council also needs to develop a funding plan to clear the recently quantified road renewal backlog. In principle, it is not considered to be good practice to borrow funds for asset renewal.

Should Council approve the sourcing of a loan for the Main Street Footpaths project, a loan would be sourced from a lending institution approved by the Office of Local Government.

2. Business of Great Urgency

In accordance with Clause 241 of the Local Government Act (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 if:

- 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.