

Business Paper



Extra Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Wednesday 10 June 2026

at 6:30 PM

ORDER OF BUSINESS

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Acknowledgement of Country

Acknowledgement of Country

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.

Public Attendance

In accordance with the mandatory requirements of the NSW Local Government Code of Meeting Practice, clause 15.20, members of the public attending a meeting of Council

- (a) must remain silent during the meeting unless invited by the chairperson to speak,
- (b) must not bring flags, signs or protest symbols to the meeting, and
- (c) must not disrupt the meeting.

Council Meeting Emergency Procedures

Procedures to be outlined in the meeting.

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.

1. Administration Reports

1.1. GM - 10/06/2026 - Code of Meeting Practice

Strategic Context for this matter:

Responsible Governance & Civic Leadership: To develop community confidence in the organisation by the way it is directed, controlled and managed.

Author: Ross Gurney - General Manager

Responsible Officer: Ross Gurney - General Manager

Executive Summary

The Local Government (General) Amendment (Model Code of Meeting Practice) Regulation 2025 (Amendment Regulation), which prescribed the 2025 Model Code of Meeting Practice for Local Councils in NSW (2025 Model Meeting Code), has been disallowed by the Legislative Council.

The Office of Local Government has advised that, to ensure compliance with section 360 of the Local Government Act, as the first item of business at their June meeting, Councils should rescind the resolution adopting the 2025 Model Meeting Code. This will have the effect of reinstating the previously adopted Code of Meeting Practice, which contains the mandatory provisions of the 2021 Model Meeting Code. Because more than 3 months have passed since the Council adopted its

current meeting code, the signatures of 3 councillors are not required to rescind the resolution adopting the code.

Administration's Recommendation

THAT Council:

1. Rescind Min. No. 25-239 (Ordinary Meeting held on 22 September 2025), which placed the 2025 Model Code of Meeting Practice on public exhibition and its subsequent adoption, as no public submissions were received. This has the effect of reinstating the previously adopted 2021 Code of Meeting Practice.
2. The draft 2026 Code of Meeting Practice (included as an attachment) be placed on public exhibition for a period of 28 days and members of the community be allowed 42 days in which to comment on the draft code.
3. If no submissions are received during the public submission period or, in the General Manager's view, the submissions do not warrant referral to Council, the Code of Meeting Practice will be adopted.
4. Council endorse the other proposed non-mandatory provisions included in the draft Model Code, which meet best practice as set by the Office of Local Government.
5. Council fix the general order of business included as Appendix 1 of the draft Model Code.

Attachments

1. LCC Draft Code Meeting Practice 2026 [1.1.1 - 41 pages]

Reference to any relevant previous minute

Min. No. 25-202 Ordinary Meeting of Council held on 25 August 2025.

Min. No. 25-239 Ordinary Meeting of Council held on 22 September 2025.

Background and discussion

Under section 41(4) of the Interpretation Act 1987, if a regulation ceases to have effect because of its disallowance, and the regulation amended a regulation that was in force immediately before the amending regulation took effect, the disallowance of the amending regulation has the effect of restoring or reviving the previous regulation as of the day of its disallowance.

The disallowance of the Amendment Regulation therefore means that the 2025 Model Meeting Code is no longer prescribed for the purposes of section 360 of the Local Government Act 1993 (LG Act), and the previous 2021 version of the Model Meeting Code now becomes the prescribed version.

Under section 360 of the LG Act, Councils' adopted Codes of Meeting Practice must not contain provisions that are inconsistent with the mandatory provisions of the prescribed Model Meeting Code. This means that provisions of the adopted Code of Meeting Practice based on the now disallowed 2025 Model Meeting Code that are inconsistent with the mandatory provisions of the previous 2021 Model Meeting Code are no longer permissible.

The disallowance of the 2025 Model Meeting Code also means that mandatory provisions of that Code that were not mandated in the previous 2021 Model Meeting Code are no longer mandatory.

Meetings of the council and committees comprising only of councillors should be conducted in accordance with the reinstated version of the Council's meeting code until such time as it is amended.

The disallowance of the Amendment Regulation does not prevent Councils from including supplementary provisions in the reinstated version of their previous meeting code based on the provisions of the 2025 Model Meeting Code, provided they are not inconsistent with the mandatory provisions of the 2021 Model Meeting Code. If Council wishes to amend the reinstated version of its previous meeting code, it must prepare and exhibit a draft Code in accordance with section 361 of the LG Act.

The Office of Local Government will provide formal advice on a new Code when drafting is complete.

Consultation and Communication

If the recommendation is adopted by Council, the draft LCC Code will be placed on public exhibition for a period of 28 days. The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition, during which submissions may be made to the Council (S361 of the Local Government Act).

Policy

N/A

Legal

The Local Government Act (1993) (the Act) requires Council to adopt a Code of Meeting Practice that incorporates the requirements of the Local Government (General) Regulation 2021 (the Regulation).

Risk Management

The revision of the Code reduces the Council's Legal Compliance Risk, as it meets legislative requirements. Conducting meetings in accordance with a Code of Meeting Practice ensures appropriate behaviour and a standardised approach with transparency to our community, reducing reputational risk.

Financial

There are no financial implications applicable to this report.

1.2. I&PD - 10/06/2026 - Wolgan Road Interim Works – Tender Outcome and Revised Procurement Approach

Strategic Context for this matter:

Responsible Governance & Civic Leadership: To develop community confidence in the organisation by the way it is directed, controlled and managed.

Responsible Officer: Ross Gurney - General Manager

Executive Summary

The Wolgan Road Reconstruction Project remains a critical priority for Council, with the objective of restoring safe and reliable access to the Wolgan Valley following the road closure due to geotechnical risk.

As part of the staged delivery approach, Interim Works were identified to enable a controlled reopening of Wolgan Road while longer term solutions continue to be progressed.

A competitive tender process was undertaken via VendorPanel during May 2026. Despite broad market notification, no tenders were received, necessitating a review of the procurement strategy.

Post tender engagement identified contractor resourcing constraints and a perceived risk profile for the project as contributing factors preventing tenderers providing submissions.

Following consultation with the Probity Advisor and internal stakeholders, a range of procurement options were assessed. In accordance with Clause 178 of the Local Government Regulation 2005, Council is required to determine an appropriate course of action where no tenders are received.

It is recommended that Council resolve to invite fresh applications through a selective local contractor procurement process, focused on Stage 1 Interim Works only. This approach will broaden market participation by reducing barriers to entry and targeting suitably qualified local contractors, while maintaining a structured and probity compliant process via VendorPanel.

Preliminary market engagement indicates that there is strong interest from local contractors to participate in a procurement process. A shortlist of four suitably qualified local contractors has been established and they have expressed an interest in participating in the procurement process. This approach is expected to improve participation and support the timely delivery of Interim Works to enable reopening of Wolgan Road.

Administration's Recommendation

THAT Council:

1. Note that no tender submissions were received for the Wolgan Road Interim Works tender issued via VendorPanel.
2. Approve, in accordance with Clause 178(3)(d) of the Local Government Regulation 2005, an invitation for fresh applications from persons interested in making a tender submission for contracts of the same kind as the proposed contract.
3. Approve a selective procurement process to be undertaken via VendorPanel, inviting submissions from a shortlist of suitably qualified contractors identified through Council's Trade Services Panel and market engagement, to confirm pricing, capability and capacity to deliver the Stage 1 works in a timely manner.
4. Note the following reasons for not undertaking a repeat of the failed open tender process include:
 - a. the limited market response to the original tender due to restrictive prequalification and commercial requirements,

- b. the need to broaden participation through a simplified and targeted procurement approach,
 - c. the requirement to manage delivery risks under a construct-only GC21 framework, and
 - d. the urgency to restore Wolgan Road access in accordance with timeframes agreed with the community and stakeholders.
5. Authorise the General Manager to:
 - a. finalise the procurement process, evaluate submissions and progress to contract award, and
 - b. execute a contract with the preferred contractor where the agreed pricing is within the approved project budget.
 6. Note that the outcome of the procurement process will be reported to the next Council or Infrastructure Committee meeting.

Attachments

1. CONFIDENTIAL - Tender Evaluation Plan Wolgan Road Interim Works 21 May 2026 [1.2.1 - 25 pages]

Background and discussion

Original Procurement Strategy

The original procurement strategy, as formalised in the Tender Evaluation Plan (TEP), was to conduct a competitive Request for Tender (RFT) for a Principal Contractor under a GC21 contract, using a Construct Only delivery model.

A Request for Tender (RFT) for the Wolgan Road Interim Works was issued via VendorPanel on 7 May 2026 in accordance with Council's approved procurement framework and Wolgan Road Interim Works, Tender Evaluation Plan (TEP).

The competitive procurement approach was aimed at achieving best value for money, while ensuring a transparent, standardised and probity compliant evaluation. Procurement was overseen by a formal Tender Evaluation Committee (TEC), supported by a Probity Advisor, and delivery risk was allocated to the contractor under a GC21 construct-only framework. This approach included issuing the tender via VendorPanel using a two-envelope submission process (price and non-price), requiring execution of a Confidentiality Deed Poll prior to accessing documents, mandating attendance at a site briefing and inspection, and undertaking evaluation through a structured TEC process supported by independent probity and technical advisors.

Tenderers were required to meet strict mandatory criteria, including:

- Austroads National Prequalification (R2 and F2),
- VendorPanel LGP420 registration,
- Inclusion on the TfNSW prequalified contractors list, and
- Demonstrated experience in slope rehabilitation construction.

Tender Outcome

The tender box was formally opened via VendorPanel following the close of tenders on 29 May 2026, at which time it was confirmed that no tender submissions had been received.

In response to the tender outcome, a revised procurement strategy has been developed to address the constraints identified in the original process. This includes reducing the scope to Stage 1 only (to

allow the interim reopening of Wolgan Rd) and adopting a selective local contractor procurement approach to broaden market participation while maintaining a structured, probity-compliant process.

Industry Feedback

Following the tender closure, Council officers undertook initial market engagement to understand the reasons for the lack of participation. Contractors who attended the mandatory pre-tender briefing and site inspection were contacted, however, limited formal responses were received at the time of reporting.

Notwithstanding this, feedback received from one contractor during the tender period may offer some insight into the likely drivers behind the lack of submissions.

The feedback indicated that:

- contractor resourcing constraints limited the ability to undertake the tender, and
- the project was perceived to have a risk profile requiring a detailed and resource intensive estimating process.

Proposed Alternative Procurement Approach

The proposed alternative procurement approach is to invite fresh applications in accordance with Clause 178(3)(d) through a selective procurement process via VendorPanel.

This approach includes:

- Inviting submissions from a shortlist of suitably qualified local contractors identified through Council's Trade Services Panel and market engagement;
- Issuing Information Material, including relevant tender documentation, specifications, drawings and environmental approvals, following execution of confidentiality deed requirements;
- Undertaking a structured and probity-compliant procurement process to confirm contractor capability, capacity and pricing; and
- Limiting the scope of works to Stage 1 Interim Works only.

A shortlist of suitably qualified local contractors has been identified through the Council's Trade Services Panel, targeted market engagement, and feedback from the engineering technical advisor, GHD, on contractor suitability. These contractors have demonstrated relevant experience and capability to undertake the interim works and have indicated a willingness to participate in the revised procurement process. The shortlisted contractors are:

- Gracey and Son Earthmoving Pty Ltd,
- Graceys Earthmoving and Excavations Pty Ltd,
- Dukes Earthmoving Pty Ltd, and
- Peters Earthmoving Pty Ltd.

Preliminary discussions with identified contractors have confirmed a strong willingness to participate in the revised procurement process. A pre-tender engagement process is currently underway to support efficient mobilisation following the Council's resolution. This includes distributing an information pack of interim works drawings and specifications to shortlisted contractors, along with planning approval conditions.

This approach aims to inform tenderers early, increase competition, improve responsiveness from the market and support timely delivery of the Interim Works.

Consultation and Communication

Consultation has been undertaken with key internal and external stakeholders throughout the procurement process, including the Executive Oversight Committee, the independent Probity Advisor and the Council's project management and technical advisors.

NSW Reconstruction Authority and Transport for NSW have been informed of the tender outcome and proposed next steps, including procurement approach and indicative timing, to ensure alignment with funding and delivery requirements.

Community stakeholders were also informed of the tender outcome and next steps via email correspondence, advising that no contractor was appointed through the initial procurement process and that Council is reviewing procurement options, with further updates to be provided once timing is confirmed.

Further stakeholder and community communication will be undertaken following the Council's consideration of this report.

Policy

The proposed procurement approach is consistent with the Council's obligations under:

- the Local Government Act 1993,
- the Local Government Regulation 2021, in particular Clause 178, and
- Council's procurement, probity and governance frameworks.

The recommendation to invite fresh applications has been developed in consultation with the Probity Advisor and reflects a compliant and transparent approach in circumstances where no tender submissions have been received.

Legal

Clause 178(3) of the Local Government Regulation 2021 requires Council to determine an appropriate course of action where no tenders are received. One option is to invite fresh applications from persons interested in submitting a tender for contracts of the same kind as the proposed contract (Clause 178(3)(d)).

The original procurement process was conducted in accordance with a structured, probity compliant framework, including strict mandatory prequalification requirements and a GC21 construct-only delivery model. However, these constraints, together with the requirement for tenderers to price and program both Stage 1 and Stage 2 works, limited market participation and resulted in no submissions being received.

It is therefore considered appropriate to adopt a revised procurement approach that invites fresh applications through a more targeted and simplified process. This approach is designed to broaden market participation, reduce barriers to entry, and improve the likelihood of achieving a competitive outcome within the required timeframe.

The proposed approach is consistent with Clause 178(3)(d) and maintains compliance with the Council's procurement and probity obligations.

Risk Management

The proposed alternative procurement approach presents several key risks. Tender pricing may not align with budget expectations, potentially affecting scope, quality and overall value for money. Negotiations under the GC21 framework may also be complex, particularly in agreeing on appropriate insurance provisions and risk allocation. There is also a risk that contractors may not fully satisfy the required design specifications, which could impact delivery outcomes.

These challenges are further exacerbated by the potential for procurement delays and ongoing cost uncertainty, both of which may put pressure on the program and its budget.

Additionally, the accelerated timeframes, driven by community expectations for reopening, may constrain contractors' ability to fully develop their submissions and supporting documentation. This may, in turn, affect pricing accuracy, risk allocation, and the robustness of proposed delivery approaches.

These risks will be mitigated through:

- Early market engagement and independent cost validation to align pricing with current conditions;
- Include contingency allowances, provisional sum allowances and clear pricing structures to reduce uncertainty;
- Provide high quality, well defined scope and specifications to minimise ambiguity;
- Use compliance schedules and strong technical evaluation criteria to ensure capability with engineering technical advisor input and inspections/supervision during delivery;
- Standardise GC21 departures and clarify risk/insurance positions upfront;
- Maintain a disciplined procurement programme with defined milestones;
- Issue early tender information and streamline returnables;
- Allow structured clarification periods to improve submission quality, pricing accuracy, and risk allocation; and
- Ongoing oversight by Council and the Probity Advisor.

The revised approach reduces the risk of further poor market response by lowering barriers to participation and simplifying procurement complexity, while supporting timely project delivery.

Financial

Funding for the Interim Works is available within the Wolgan Road Reconstruction Project budget. A cost estimate of the Stage 1 works has been prepared to inform the budget. Final costs will be confirmed through the procurement process and must align with approved funding limits.

2. Business of Great Urgency

The General Manager / Acting General Manager publicly confirms, that before and during this Ordinary / Extra-Ordinary Meeting of the Lithgow City Council, that they have provided all Councillors with full access to all relevant information necessary for the performance of their official functions and necessary to effectively discharge their official functions.

The General Manager / Acting General Manager is aware that Council Staff Members have provided full and timely relevant information to all Councillors, sufficient to enable them to exercise their official functions and in accordance with Council Procedures.

Ross Gurney
General Manager

In accordance with Clause 241 of the Local Government Act (General) Regulations 2021 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.