



# AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

26 MARCH 2018

AT 7.00pm

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# AGENDA

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**ACKNOWLEDGEMENT OF COUNTRY**

**APOLOGIES**

**PRESENT**

**CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 26 FEBRUARY 2018**

**DECLARATION OF INTEREST**

**COMMEMORATIONS AND ANNOUNCEMENTS**

**PUBLIC FORUM**

**MAYORAL MINUTES**

**STAFF REPORTS**

Economic Development and Environment Reports  
Operation Reports  
Water and Wastewater  
People and Services

**COUNCIL COMMITTEE MINUTES**

Traffic Advisory Local Committee Meeting Minutes 19 October 2017  
Traffic Advisory Local Committee Meeting Minutes 1 December 2017  
Crime Prevention Committee Meeting 19 February 2018  
Operations Committee Meeting Minutes 5 March 2018  
Lithgow Local Heritage Advisory Committee Meeting Minutes - 12 March 2018  
Community Development Committee Meeting 13 March 2018  
Sports Advisory Committee Meeting 14 March 2018  
Traffic Advisory Local Committee Meeting Minutes 15 March 2018  
Finance Committee Meeting 19 March 2018

**NOTICES OF MOTION**

Lithgow Community Transport – Councillor Cassandra Coleman

**BUSINESS OF GREAT URGENCY**

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

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## ECONOMIC DEVELOPMENT AND ENVIRONMENT REPORTS

### ITEM-1 ECDEV - 26/03/18 - CALLING IN OF DA022/18 FOR SUBDIVISION OF 1 LOT INTO 79 AT 33 MAGPIE HOLLOW ROAD SOUTH BOWENFELS

**REPORT BY: DIRECTOR ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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## SUMMARY

To inform Council of the 'calling in' of DA022/18 pursuant to Council Policy 7.7 "Calling in of Applications by Councillors".

## COMMENTARY

Council is in receipt of Development Application DA022/18 for a subdivision of 1 lot into 79 at 33 Magpie Hollow Road South Bowenfels NSW 2790. The proposal is an 80 lot subdivision which will create 78 new residential allotments and an open space reserve. Lot 80 is the residue of Lot 3 DP1229039 which will have its boundary adjusted to accommodate part of the road reserve to service the proposal. Attachment 1 shows the proposed subdivision layout as submitted.

The proposal also includes infrastructure for stormwater, reticulated water and sewer services. The development is proposed to be undertaken in six (6) stages being:

- Stage 1= 7 lots (Lots 1 to 7)
- Stage 2= 12 lots (Lots 8 to 19) includes boundary adjustment for Lot 80
- Stage 3= 13 lots (Lots 20 to 32)
- Stage 4= 14 lots (Lots 33 to 46)
- Stage 5= 6 lots (Lots 47 to 52)
- Stage 6= 27 lots (Lots 53 to 79) includes the lot for open space

The proposal has been sent to Water NSW, Rural Fire Service, Roads and Maritime Services, Endeavour Energy, TransGrid and Department of Primary Industries- Water for assessment. The proposal has also been sent to surrounding landowners, advertised and placed on public display in Council's Administration Building for a period of 30 days.

## POLICY IMPLICATIONS

3. *Should written notice, signed by a minimum of one (1) Councillor, be received by the General Manager prior to determination of a development application or development application/construction certificate, the application shall not be determined under delegated authority but shall be:*

This application has been called in by Councillor C Coleman on 19 March 2018 pursuant to Policy 7.7 "Calling in of Applications by Councillors" Item 3 that states:

- Reported to the next Ordinary Meeting for the information of Council that the development application or development application/construction certificate has been "called in"; and
- Reported to an Ordinary Meeting of Council for determination.

This report is in relation to point one above.

## FINANCIAL IMPLICATIONS

- Budget approved - NA
- Cost centre - NA
- Expended to date - NA
- Future potential impact - NA

## LEGAL IMPLICATIONS

The Development Application will be required to be assessed in accordance with the *Environmental Planning & Assessment Act 1979*.

## ATTACHMENTS

1. Subdivision Plan

## RECOMMENDATION

**THAT** the calling in of DA022/18 for subdivision of 1 lot into 79 at Magpie Hollow Road, South Bowenfels be noted.

**ITEM-2            ECDEV - 26/03/18 - DA033/18 DEVELOPMENT APPLICATION  
                         INSTALLATION OF TOILET BLOCK - BLAST FURNACE PARK**

**REPORT BY:     DIRECTOR ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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## **SUMMARY**

To advise Council of the submission of Development Application 033/18 for Lithgow City Council for the installation of a new toilet block on Lot 1 DP433264 Blast Furnace Park Lithgow. The application is recommended for approval subject to conditions.

## **COMMENTARY**

The proposal involves the installation of an Exeloo Jupiter 22 Platinum self cleansing toilet block that includes one ambulant toilet and one unisex accessible toilet and baby change table. There are no existing toilet facilities in this location. This project will provide essential amenities for the anticipated increased visitor numbers resulting from the major improvements recently completed at Blast Furnace Park. The toilet block is similar to that installed in Cook Street Plaza.

## **POLICY IMPLICATIONS**

Council's Policy 7.6 – Development Applications on Council Owned Land are required to be referred to Council for consideration and determination and that no aspect of the development be dealt with under delegated authority. Given Council's ownership of this land the proposal is reported to Council for determination.

## **FINANCIAL IMPLICATIONS**

- Budget approved – N/A in respect of DA
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – N/A

## **LEGAL IMPLICATIONS**

All matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979 have been taken into consideration.

## **ATTACHMENTS**

1. A Section 79C report pursuant to the Environmental Planning and Assessment Act 1979.
2. Site Plan of the proposal.

## **RECOMMENDATION**

### **THAT**

1. Development Application 033/18 be approved subject to conditions specified in the attached Section 79C assessment.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-3            ECDEV - 26/03/18 - DA045/18 DEVELOPMENT APPLICATION  
                         INSTALLATION OF TOILET BLOCK - KREMER PARK PORTLAND**

**REPORT BY:     DIRECTOR ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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## **SUMMARY**

To advise Council of the submission of Development Application 045/18 for Lithgow City Council for the installation of a new toilet block on Lot 531 DP902158 Kiln Street Portland. The application is recommended for approval subject to conditions.

## **COMMENTARY**

The proposal involves the installation of a small Exeloo Super Saturn toilet block that includes a single unisex accessible toilet and baby change table. It will be adjacent to the existing male toilet facility in this location. This project will provide essential compliant accessible amenities for users of the recreation area. An accessible carparking space and pathway will be constructed as part of the project to allow access by persons with disabilities. There are currently no accessible toilet facilities in the location. The toilet block is similar to that installed at the taxi rank in Eskbank Street Lithgow.

## **POLICY IMPLICATIONS**

Council's Policy 7.6 – Development Applications on Council Owned Land are required to be referred to Council for consideration and determination and that no aspect of the development be dealt with under delegated authority. Given Council's ownership of this land the proposal is reported to Council for determination.

## **FINANCIAL IMPLICATIONS**

- Budget approved – N/A in relation to DA
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – N/A

## **LEGAL IMPLICATIONS**

All matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979 have been taken into consideration.

## **ATTACHMENTS**

1. A Section 79C report pursuant to the Environmental Planning and Assessment Act 1979.
2. Site Plan of the proposal.

## **RECOMMENDATION**

### **THAT**

1. Development Application 045/18 be approved subject to conditions specified in the attached Section 79C assessment.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.



**ITEM-4            ECDEV - 26/03/18 - DA046/18 - WAIVING OF DEVELOPMENT  
APPLICATION FEES FOR STATE EMERGENCY SERVICES SHED AT 4  
SILCOCK STREET POTTERY ESTATE**

**REPORT BY:    DIRECTOR ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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**SUMMARY**

- To advise of a request on behalf of the State Emergency Service (SES) Lithgow to waive the Development Application and Construction Certificate fees and determine DA046/18 for a shed at 4 Silcock Street, Lithgow NSW 2790.
- To seek delegated authority for the General Manager to determine the Development Application should no objections be received during the public exhibition process.

**COMMENTARY**

Council is in receipt of a Development Application DA046/18 and Construction Certificate CC039/18 from the NSW State Emergency Service Lithgow for a new shed to be constructed at their headquarters on Lot 3 DP 1005128, 4 Silcock Street Lithgow. The proposed two bay shed will be used for storage of larger vehicles used in SES procedures (see attachment 2 for plans). The land is owned by Council and utilised by the Lithgow Unit of NSW SES and the shed is part of a \$35,000.00 grant received for the project.

**Council's Development Application Fees**

The applicant has requested that Council waive the Development Application Fees as the SES is an emergency service facility with limited resources from the grant and volunteer workers.

The following Fees were paid on lodgement of the Development Application and have been requested to be waived:

<u>DA046/18</u>	
Archive Disposal Fee	\$ 57.00
Development Application Fee	\$263.00
Construction Certificate Fee	\$250.76
Compliance Fee	\$197.00
Long Service Levy	\$107.00
<b>Transaction Total:</b>	<b>\$874.76</b>

Council cannot waive fees for the \$107.00 Long Service Levy Fee as this is a payment to the State Government Long Service Levy Board. Therefore, the total that can be refunded by Council is \$767.76 if approved.

**Development Assessment**

As the proposed shed is to be constructed on Lot 3 DP1005128 which is Council owned land, the application is to be determined by Council. The application was received on 27 February 2018 and is currently being assessed by Council staff. The proposal also requires notification and public exhibition for a period of 14 days requesting submissions. A preliminary assessment of the application has found that there is expected to be minimal impact on the surrounding area as part of the proposal for a shed.

As the application is in relation to a grant process with the NSW SES, it is requested that the determination of the application be considered as part of this report. This will allow for determination of the application prior to the next Council meeting of 23 April 2018 and allow for the SES to more easily meet timing requirements of their grant process. As the notification period is due to end on the 26 March 2018, final assessment could not be provided to this meeting. However, it could be considered by Council as part of this report that if no submissions are received during the notification period that the proposal be determined by delegation without a further report to Council.

## POLICY IMPLICATIONS

### Policy 7.5 Notification of Development Applications

The proposed development is required to be notified to adjoining and adjacent landowners and placed on exhibition for a period of 14 days to allow for submissions. This has been undertaken and ends of the 26 March 2018 and any comments received will be considered as part of assessment.

### Policy 7.6 Development Applications By Councillors And Staff Or On Council Owned Land

This policy is applicable as below, given that Lot 3 DP1005128 is owned by Council:

1. *That, subject to the exemptions in Part 2 of this Policy, any development application lodged where the applicant is a Councillor or a member of staff, or where a Councillor or member of staff is the owner of the land to which the application relates, or where the development application on Council owned land, that such an application be referred to Council for consideration and determination.*

It is requested that Council consider the determination of the application to be via delegation as part of this report, if no submissions during public exhibition are received.

## FINANCIAL IMPLICATIONS

- Budget approved – NA in relation to DA
- Cost centre - NA
- Expended to date – NA
- Future potential impact - If approved, the waiving of Development Application Fees will result in Council forgoing **\$767.76** in revenue.

## LEGAL IMPLICATIONS

The application is to be assessed in accordance with Section 4.15 of the *Environmental Planning & Assessment Act 1979*.

## ATTACHMENTS

1. Letter from SES requesting waiving of Development Application fees.
2. Site plan, floor plan and elevations

## RECOMMENDATION

### THAT

1. Council refund the Development Application & Construction Certificate Fees for DA046/18 & CC039/18 being a total of \$767.76 for the State Emergency Services shed at Silcock Street Lithgow, given it is for emergency services purposes.
2. That if no objections are raised during the public exhibition period for DA046/18, being the SES shed at Silcock Street Lithgow, and subject to a Section 4.15 assessment

under the *Environmental Planning & Assessment Act 1979* being undertaken, the application be determined by delegation to the General Manager and no further report to Council be required for determination of DA046/18.

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

**ITEM-5 ECDEV - 26/03/18 - DA269/17 - SUBDIVISION 1 LOT INTO 11 - LOT 14  
DP1202238, 7 BOWEN CHASE SOUTH BOWENFELS**

**REPORT BY: A MUIR – DIRECTOR ECONOMIC DEVELOPMENT AND ENVIRONMENT**

## SUMMARY

To assess and recommend determination of Development Application DA269/17 for a subdivision of 1 Lot into 11 Lots at Lot 14 DP1202238, 7 Bowen Chase South Bowenfels.

## COMMENTARY

The proposal is to develop 11 residential lots, 2 new public roads and a public open space area to be dedicated to Council. The proposed area for the private open space is 10300m<sup>2</sup>.

The property contains an area of 9.033ha and is proposed to be subdivided as per the following:

- Proposed Lot 1 is to contain an area of 10380m<sup>2</sup>,
- Proposed Lot 2 is to contain an area of 6760m<sup>2</sup>,
- Proposed Lot 3 is to contain an area of 6120m<sup>2</sup>,
- Proposed Lot 4 is to contain an area of 13620m<sup>2</sup>,
- Proposed Lot 5 is to contain an area of 8180m<sup>2</sup>,
- Proposed Lot 6 is to contain an area of 5760m<sup>2</sup>,
- Proposed Lot 7 is to contain an area of 4680m<sup>2</sup>,
- Proposed Lot 8 is to contain an area of 4000m<sup>2</sup>,
- Proposed Lot 9 is to contain an area of 4810m<sup>2</sup>,
- Proposed Lot 10 is to contain an area of 4750m<sup>2</sup> and
- Proposed Lot 11 is to contain an area of 4720m<sup>2</sup>.
- Open space area is to contain an area of 10300m<sup>2</sup>.

The property contains cleared grassed land with a ridgeline located to the west and cleared agricultural land to the north. The development involves the extension of the Bowen Vista residential estate that adjoins the property to the east and south. The proposal also seeks to relocate the existing playground onto more appropriate land than currently located land which will also be dedicated as open space to Council.

The proposed subdivision layout is shown below:



**Permissibility:** At the time of lodgement (5 October 2017) the development being a 'subdivision' was not permissible under Lithgow Local Environmental Plan 2014, as it did not comply with the minimum lot size provisions of Clause 4.1(3). However, LEP2014 has since been amended to incorporate a clause that accommodates for split zoning situations being Clause 4.1B.

Council is satisfied that the development complies with Clause 4.1B(7) of Council's LEP relating to split zones as the proposed residential allotments are located within the R5 Large Lot Residential Zone. The public open space area is proposed to be wholly within the E3 Zone. The development is not proposed to impact the environmental values of the land as surrounding land uses are for residential purposes. There is minimal flora and fauna identified on the property that will not be affected by the development. The development will not impact primary production and will not have a significant impact on the environmental values of the land or the continued protection, or long term maintenance of the area, subject to conditions.

## ASSESSMENT

**Adjoining Landuse:** The surrounding area is generally for residential development along Kirkley Street to the east and Bowen Chase to the south. A ridgeline is located to the west of the property with cleared agricultural land to the north. The proposal will be consistent with the surrounding land uses and not cause any land use conflicts.

**Services:** The development will have connections to Council's reticulated water and reticulated sewer services. Additionally, there is access to electricity and telecommunication services nearby. Therefore, it is considered that the proposal will be adequately serviced.

A concept sewer layout plan was submitted with the application and shows Lots 1 to 4 to drain to the south to an existing manhole at the end of Bowen Chase, Lot 5 to 11 is proposed to drain to an existing manhole near Lot 49 DP 1103064.

The property is located on the eastern side of a ridgeline with water draining to an unnamed waterway to the north of the site.

**Context and Setting:** The proposed development will be located within an established residential area and will have no major impact on the context and setting of the area. The development has been designed to complement existing features of similar development in the area.

The development proposes to plant an avenue of street trees along each road within the development. The Statement of Environmental Effects states that preference is given to a deciduous maple due to the display of colours spring to autumn and to enhance solar access during the cooler months.

**Access/traffic:** The development involves the construction of two new roads. One road will be the extension of Bowen Chase that currently adjoins the property boundary to the south. The road extension will end with a cul-de-sac servicing Lots 4, 5 and 7.

The new road to the east is proposed to service Lots 6, 8, 10 and the public open space area. The road is proposed to end in a cul-de-sac at Lot 6.

The new roads will be constructed to Council's Engineering requirements being 8m width with line marking along the outside edge to delineate a cycleway and pedestrian links through the South Bowenfels area.

A layback access to each lot would be required prior to the issue of the subdivision certificate.

The road network is able to accommodate the additional traffic movements proposed for the development.

The development was referred to Council's Operations Department (Engineers) who are satisfied with the development subject to conditions being placed on the consent.

**Heritage:** The property is not heritage listed under Council's LEP 2014. The development is located within proximity to two heritage items being the old gun emplacement and "Airdrie". "Airdrie" is also known as the Presbyterian Manse (The Old Manse). The building and the gun emplacement is located east of the proposed development and is visually screened by residential dwellings and the Kirkley Gardens Retirement Village. Due to the distance between the proposed development and the heritage items, and as no building structures are proposed at this stage, it is unlikely that the development would impact the gun emplacement and "Airdrie". The heritage items and the location of the proposed development is shown on the map below:



**Flora and Fauna:** The development requires removal of some vegetation onsite, however the area has been previously disturbed with minimal mature trees. The area is located close to residential areas with fauna limited and maintained within the bushland close by. The development is expected to have minimal impact on flora or fauna.

**Social and Economic Impact:** As the proposed development will be generally in keeping with the provisions of the planning instrument and is reasonably compatible with other similar development in the locality, it is expected to have minimal social and economic impact.

**Soils:** The development proposes earthworks to be undertaken for the two new road networks, water and sewer connections and drainage works including the construction of a swale. The development was assessed by Council and Water NSW who advised that the development is satisfactory for the area subject to conditions of consent. These conditions will ensure minimal erosion and sedimentation issues throughout the construction phase of the proposal. Conditions of consent will be imposed to control erosion and sedimentation impacts on the site.

A contamination report was submitted for the adjoining subdivision developments and indicated that the surrounding land is not subject to contamination. As the surrounding land uses past and present are vacant, it is expected that the property does not involve contaminated soils.

**Water:** The proposed development has been assessed using the NorBE tool as required by the *State Environmental Planning Policy (Sydney Catchment Drinking Water) 2011* with a result of satisfied. Therefore with appropriate conditions of consent it is considered that the development will have minimal impact on water.

**Air and Microclimate:** There will be no significant impact on air or microclimate. However, a condition of consent will be imposed requiring that dust suppression be used during construction works to minimise impacts on the surrounding area.

**Natural Hazards:** The land is not known to be bushfire prone. The property is located within the flood prone area (Council's flood study 2017). The property is not located near any free flowing water courses, as Farmers Creek is located approximately 1209m to the north of the property. The area located within the flood mapped area is proposed to contain the open space area (the drainage swale) and a road. The property also has a slope to the north east. As no residential allotments are proposed to be located within the flood mapped area and the area is to be designated for open space purposes, the development would have minimal impact on flooding.

The 100 year flood shows the land hazard as being within mostly low hazard area with some small pockets of high hazard. The maximum flood level for the land is 955.7213 metres on the western side of the property to be dedicated to Council for stormwater infrastructure and open space. As such, no residential allotments will be flood affected and the development will have minimal flood impacts.

**Noise and Vibration:** There are no nearby sources of noise or vibration that would impact detrimentally on the proposal. The proposal is not expected to cause any noise issues in the surrounding area, given it is for future residential use.

**Other Land Resources:** The development will not impact on the value of the land in terms of agricultural potential or mining as it is zoned for residential use and adjacent to an established residential area. The land is not suitable for mining or forestry developments and is close to existing residential areas

## **POLICY IMPLICATIONS**

### **Policy 1.2 Acquisition and Disposal of Assets**

This Policy needs to be considered when Council is considering the acquisition and/or development of assets. A bioretention swale is proposed to be created on the dedicated open space lot to treat water runoff from the roads and lots. Each lot will be required to have a minimum 8,000 litre water tank to catch roof runoff which will be plumbed back into the future dwellings for re-use. The lots will require inter-allotment drainage with the construction of pit and pipe to direct the stormwater across the site and into the bioretention swale for treatment.

It is proposed that Council will take ownership and maintenance of the swale, the open space land and the two new roads as part of the Subdivision Certificate release process.

Council's Director of Operations has advised that these assets satisfy the criteria identified within this Policy. The developer will be required to construct the assets to Council's specifications prior to a maintenance period and subsequent dedication.

### **Policy 7.1 Filling and Levelling of Land**

*Unless otherwise provided by an Environmental Planning Instrument or Development Control Plan, a development application be required in the following circumstances:*

- 1. Where land is subject to inundation by floodwaters, or*
- 2. Where excavation or the depth of fill exceeds 900mm.*

*Separate development applications are not required where the cut and/or fill is identified in a development application for a structure on the land.*

The development proposes earthworks to be undertaken for the two new road networks, water and sewer connections and drainage works including the construction of a swale. These are included as part of the development application.

### **Policy 7.2 Subdivision – Release Of Subdivision Plans**

The proposed development, being for a subdivision, will require compliance with this policy as part of the Subdivision Certificate release.

## Policy 7.5 Notification Of Development Applications

This policy applies to all applications as below:

### **5. Who will be notified under this Policy and how long is the notification period?**

*5.1 Except for specified types of development outlined in 6.3 below, written notice of a development application will be given to landowners adjoining the Lithgow City Council Policy 7.5 – Notification of Development Applications land on which the development is proposed for a period of 14 calendar days. For the purposes of this policy adjoining land is land that directly abuts the subject site; shares a common boundary; or is situated directly opposite to the site where separated by a road, pathway or driveway.*

Therefore the proposal was notified to surrounding landowners and placed on display for a period of 21 days as the development is over 10 allotments within the R5 Zone and therefore complies with Council's Policy.

## Policy 7.10 Voluntary Planning Agreements

- A Voluntary Planning Agreement (VPA) has been negotiated with the developer in relation to this proposal. The developer has agreed to make a contribution of \$66,000 (\$6,000 per residential lot) to go toward community facilities and open space.

## FINANCIAL IMPLICATIONS

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A. However, when Council accepts the land including the bio retention swale it will be required to maintain these structures in perpetuity.
- Future potential impact -The approval will be subject to financial implications on the developer as below:

### **Water Management Act 2000**

Under the Water Management Act 2000, Section 305, an application for Certificate of Compliance must be submitted to Council. This Act states:

- (1) A person may apply to a water supply authority for a certificate of compliance for development carried out, or propose to be carried out, within the water supply authority's area.*
- (2) An application must be accompanied by such information as the regulations may prescribe.*

Therefore Councils Section 64 Contributions under Local Government Act 1993 for water and sewer connections will be required to be paid prior to the release of the Subdivision Certificate release.

Following condition would be included in the condition of consent:

*An application shall be submitted to Council for the supply of a Certificate of Compliance under Section 305 of the Water Management Act. A Final Occupation Certificate or Subdivision Certificate shall not be issued until such time as the contributions applicable to release the Certificate of Compliance are paid in full to Council. The calculations will be based on 11 new residential allotments. These contributions may be found in the current Lithgow Council Fees and Charges or any applicable document adopted by Council in relation to contributions under Section 64 of the Local Government Act 1993.*

## Planning Agreements

A Voluntary Planning Agreement (VPA) has been negotiated with the developer in relation to this proposal. The developer has agreed to make a contribution of \$66,000 (\$6,000 per residential lot) to go toward community facilities and open space. The VPA is to be placed on exhibition for a period of 28 days for comments, if the application is determined as approved.



## LEGAL IMPLICATIONS

The application must be assessed in accordance with the heads of consideration of Section 79C of the *Environmental Planning & Assessment Act 1979*. A full assessment under Section 79C is attached.

## OTHER MATTERS

**Road Extension:** The development requires an addition to a road that will service the lots within the subdivision. As a result, this road extension will be dedicated to Council. Therefore, Council is required to be satisfied that this road will be at a standard acceptable as a roads authority. This is of public interest as the additional road extension will be required to be maintained by Council resulting in future costs to the community.

**Sewer:** The development requires additional connections to Council's reticulated sewer. This requires potential upgrades of existing services to allow for the additional loadings. The cost of these of upgrades will be borne by the developer; however the ongoing maintenance of the services will be the responsibility of Council. It is important for Council to ensure that these services are properly provided to minimise potential unnecessary maintenance in the future. This is of public interest as there are additional sewer services that will be required to be maintained by Council resulting in future costs to the community.

**Water:** The development requires additional connections to reticulated water services. The cost of these of upgrades will be borne by the developer; however the ongoing maintenance of the services will be the responsibility of Council. It is important for Council to ensure that these services are properly provided to minimise potential unnecessary maintenance in the future. This is of public interest as there are additional water services that will be required to be maintained by Council resulting in future costs to the community. However, contributions through the Water Management Act 2000 will be applicable and will provide support to Council's ongoing maintenance of this utility.

**Designation of land and associated assets:** The development proposes to dedicate land to Council which retains the stormwater infrastructure being a bio-retention swale. This land and bio-retention swale will require ongoing maintenance once the land is dedicated to Council. This is of public interest as there is additional land and infrastructure that will require maintenance by Council resulting in future costs to the community. Further, the existing playground equipment is to be moved within land to be dedicated to Council. This process will be covered by proposed conditions of consent if approved.

### Submissions

The proposal was referred to TransGrid, Water NSW, Endeavour Energy, Council's Water & Wastewater Officer and Engineers for comment with recommendations for approval subject to conditions of consent.

The proposal was also sent to surrounding landowners and placed on public display in Council's Administration Building for a period of 21 days with 4 submissions received with issued raised summarised as below.

- *The status of the new public road and the adjoining subdivision that to date has not been registered with the Land and Property Information (LPI).*

**Council Officer's Response:** The road to the boundary of the proposed development has been registered and transferred to Council as part of stage 1 of DA213/04. Council released the subdivision certificate on the adjoining allotment in August 2017 for stage 2. Therefore regardless of the status of the adjoining subdivision the road works have been finalised.

- *Access to back properties that have frontages to Stockade Close.*

**Council Officer's Response:** A former Deposited Plan (DP1086154) showed a right of carriageway for access to adjoining allotments (formally Lots 401, 402 and 403) until such time that the Lot was developed. In 2006, Lot 68 DP 1103064 and adjoining lots along Stockade Close and Kirkley Street were developed for residential purposes. As such the right of carriageway was removed. There is no formal access to the back of properties along Stockade Close which has been the case since owners purchased the subdivided allotments, as they back onto private land. The current application does not change the rear access situation. Legal access is still provided by Stockade Close. This land will become Council's and no formal rear access will be provided to these landowners.

- *Inadequate access to the Great Western Highway and impacts to the intersection.*

**Applicant's Response:** *The intersection of Kirkley Street and the Great Western has a satisfactory geometry to allow the small increase in traffic volumes which would be expected from the development.*

**Council Officer's Response:** The intersection was designed for future subdivisions within the location. The Roads and Maritime Services assessed the access at the time and considered to be suitable for the area and future developments. There are satisfactory turning lanes from the Highway into the estate and Kirkley Street is a very wide street that would be able to contain an additional 11 lot capacity of vehicles. Site distance along the Highway is also considered to be satisfactory.

- *Impacts to flora and fauna on the property.*

**Applicant's Response:** *The construction of the roads will require the removal of a small number of trees that lie within the proposed road corridor. The majority of the existing vegetation will remain. Each lot has an adequate building envelope which does not require the wholesale removal of native vegetation.*

**Council Officer's Response:** The property contains minimal vegetation and is relatively cleared of species. The road works and future dwelling sites would have minimal impact to species. Larger lot sizes are located to the north and east of the site, where similar flora and fauna types are found.

- *Zoning and topography as it very steep.*

**Council Officer's Response:** The development is permissible within the zone. The subdivision has been developed to follow the topography of the land for the road works and potential building envelopes. Future buildings would be required to have retaining walls and controls to minimise environmental impacts.

- *The grey gum tree within the proposed location of the road. The gumtree is a native bird habitat and should remain.*

**Council Officer's Response:** The site plan was amended by the applicant after the submissions were received and the tree will remain.

- *Drainage: the management of drainage and soil and erosion controls.*

**Council Officer's Response:** Stormwater and drainage plans were submitted with the application and were assessed by WaterNSW. WaterNSW are satisfied with the proposed

drainage for the development. Conditions for soil and erosion controls would be included on the consent.

## **ATTACHMENTS**

1. Complete Section 4.15 Report under separate cover.

## **RECOMMENDATION**

### **THAT**

1. The Development Application DA269/17 be **APPROVED** subject to conditions on the consent as shown in the attached Section 4.15 report.
2. Following determination, Council accept the dedication of the road networks and the bioretention swale for ongoing management in accordance with the conditions outlined in the attached 79C report.
3. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-6            ECDEV - 26/03/18 - PLANNING AGREEMENT FOR SUBDIVISION - DA26917  
- 1 LOT INTO 11 - 7 BOWEN CHASE SOUTH BOWENFELS**

**REPORT BY:    DIRECTOR ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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## **SUMMARY**

To seek endorsement of the Draft Voluntary Planning Agreement with Lemdean Pty Limited for a proposed subdivision of 1 Lot into 11 residential Lots at Lot 14 DP1202238, 7 Bowen Chase South Bowenfels NSW 2790.

## **COMMENTARY**

Council is in receipt of a Development Application DA269/17 for 11 residential lots, 2 new public roads and a public open space area to be dedicated to Council. The application is subsequently reported to Council under a separate report.

The applicant proposed an offer for a Voluntary Planning Agreement on the 23 November 2017 for the following:

- \$66,000 in total being \$6,000 (per residential lot) to go toward community facilities and open space;

A Draft Planning Agreement has now been prepared for endorsement so the required public notification process may proceed.

## **POLICY IMPLICATIONS**

Policy 7.10 – Planning Agreements applies. The Policy provides that a draft VPA is to be reported to Council for approval to be placed on public exhibition and also for final endorsement, following exhibition.

## **FINANCIAL IMPLICATIONS**

- Budget approved - NA
- Cost centre - NA
- Expended to date - NA
- Future potential impact – The endorsement of a Voluntary Planning Agreement will assist Council to provide facilities which will be of benefit towards a public purpose.

## **LEGAL IMPLICATIONS**

The legislative basis for the Planning Agreement is incorporated in the *Environmental Planning and Assessment Act 1979* (EP&A Act) (Sections 93F – 93L) and the *Environmental Planning and Assessment Regulations 2000* (Clauses 25B – 25H). Section 935 of the EP&A Act provides that public notice must be given of a proposed Planning Agreement for at least 28 days before it can be entered into.

## **ATTACHMENTS**

1. Draft Voluntary Planning Agreement with Lemdean Pty Ltd

## RECOMMENDATION

### THAT

1. Council endorse the Draft Voluntary Planning Agreement proposed by Lemdean Pty Ltd for DA269/17 being for \$66,000 in total being \$6,000 (per residential lot) to go toward community facilities and and infrastructure.
2. The Draft Voluntary Planning Agreement with Lemdean Pty Ltd for DA269/17 be placed on public exhibition for a period of 28 days.
3. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-7            ECDEV - 26/03/18 - DA317/17 - PROPOSED TELECOMMUNICATION FACILITY, 2430 GREAT WESTERN HIGHWAY, LITTLE HARTLEY**

**REPORT BY:    DIRECTOR ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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## **REFERENCE**

Min No 17-25:        Ordinary Meeting of Council held 6 February 2017 – DA317/16 Call In Report

## **SUMMARY**

### ***Previous Application***

Council was previously in receipt of DA317/16 for a proposed telecommunication facility on Lot 4 DP1192566. This application was 'called in' with a report presented at Council's Ordinary meeting held on 6 February 2017 (Minute Number 17-25). It was resolved at the meeting to hold an onsite meeting before the DA was to be reported to Council for determination.

An onsite meeting was held 10 March 2017 on an adjoining landowner's property due to safety concerns of parking on Browns Gap Road. The meeting was held with Councillors, staff and surrounding landowners.

DA317/16 was subsequently withdrawn due to consent of the Roads and Maritime Services (Property and Acquisition Department) not being obtained prior to the lodgement of the development application.

Meetings were held with the applicant and Roads and Maritime Services (RMS) prior to lodgement of the new development application DA317/17 which is the subject of this report.

### ***Current Application***

To assess and recommend determination of Development Application DA317/16 for a telecommunication facility on land known as Lot 2 DP 1069254, 2430 Great Western Highway, Little Hartley.

The development has been relocated from Lot 4 DP1192566 to the adjoining Lot 2 DP 1069254 which is outside the footprint of the RMS highway upgrade area. RMS have provided concurrence to the application.

As the previous application was 'called in' and due to a number of community concerns, the development is reported to Council for determination.

## **COMMENTARY**

The NBN Corporation is proposing to establish a new fixed wireless facility to enhance internet services within the Hartley Area. The fixed wireless network uses cellular technology to transmit signals to and from antennas fixed on the outside of dwellings and businesses. The facility is proposed to include:

- One 45m monopole;
- One parabolic dish antenna;
- Six panel antennas, to be mounted on a headframe on top of the pole;

- Two outdoor units at ground level
- Ancillary equipment associated with the operation of the facility including cable trays, cabling, safe access methods, bird proofing, earthing, electrical works and air-conditioning equipment.

The facility is proposed to be located within an 8m x 10m compound area that is to be leased from the property owner. The area is also proposed to be enclosed by a 2.4m high chain-link security fence. The facility will not exceed a height of 45m above ground level, including the antennas.

The development is proposed to be connected to electricity supplies and will operate on an unmanned basis.

The property has an area of 2537m<sup>2</sup> and is currently vacant of building structures. Properties surrounding the development are predominantly comprised of rural residential developments. The property adjoins the Great Western Highway to the south and Browns Gap Road to the west.

The topography of the land is relatively flat and is vegetated by trees of varying scale. A new access is proposed to be constructed from Browns Gap Road.

## ASSESSMENT

### ***Lithgow Local Environmental Plan 2014***

The land is zoned SP2 Infrastructure in accordance with Lithgow Local Environmental Plan (LEP) 2014.

The development being a *'telecommunications facility'*, as defined below is not permissible as this SP2 zoned area is for *'roads and traffic facilities'*.

***telecommunications facility*** means:

- any part of the infrastructure of a telecommunications network, or*
- any line, cable, optical fibre, fibre access node, interconnect point equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunications network, or*
- any other thing used in or in connection with a telecommunications network.*

However, the development is permitted with consent under Clause 115 of *State Environmental Planning Policy (Infrastructure) 2007* which overrides the LEP2014, as below:

### **115 Development permitted with consent**

- Development for the purposes of telecommunications facilities, other than development in clause 114 or development that is exempt development under clause 20 or 116, may be carried out by any person with consent on any land.*

The development will not detract from the provision of road infrastructure as the RMS has advised that the development is not within the Highway upgrade project area. The development will not impact on the value of the land in terms of agricultural potential, as it is only using part of the large allotment, which is physically excised from the bulk of the Lot. There are no known heritage, contamination or flora/fauna issues relating to the property. The surrounding development is typical of rural residential developments.

The property is identified as containing ground water vulnerability. The development is not expected to create any adverse impact as minimal earthworks are proposed. Groundwater dependent ecosystems would not be impacted upon by the development as the landscape of the property is proposed to remain. The development is designed, sited and will be managed to avoid any significant adverse environmental impact.

The land is deemed suitable for the proposal and is considered to comply with Council's LEP 2014.

### ***State Environmental Planning Policy (Infrastructure) 2007***

The development is permitted with consent under Clause 115 of *State Environmental Planning Policy (Infrastructure) 2007* which also requires the development to be assessed using the Principles of NSW Telecommunications Facilities Guidelines including Broadband (2010).

The development complies with the principles as the proposed facility will be viewed within the highly modified road corridor that includes earthworks associated with the widening of the Great Western Highway, advertising signage and electrical infrastructure. The development would be painted in a non-reflective colour to blend with surrounding vegetation with the bottom of the infrastructure screened by vegetation. The tower will be slim similar to electrical poles and vegetation in the area. The power cables are proposed to run underground to the pole to avoid external elevated cables.

The location of the development was considered based on construction cost, line of sight to the upstream facility, tenure availability, planning controls, access to power and the ultimately the capability of a facility at the site to service the surrounding community. Co-location with the tower at Mount Victoria would not be suitable as it would cause coverage loss and reduce the total number of properties it is intended to service.

The facility is constructed in accordance with the national and international health authorities such as Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and the World Health Organisation (WHO).

NBN advised in their statement of environmental effects that they ensure their telecommunications facilities are designed and operated so that people are not exposed to above international guideline levels (International Commission on Non-Ionising Radiation Protection (ICNIRP) and national standards (Australian Radio Protection and Nuclear Safety Authority (ARPANSA)).

***State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011***

The application is required to be assessed using the Neutral or Beneficial Effect on Water Quality Assessment Tool. Given the development satisfies this assessment the development complies with the SEPP.

**NOTIFICATION**

During the notification period ten submissions were received, being nine objectors and one in support. A summary of the submissions are outlined below:

**Objections**

***Visual Impact***

- The tower will have visual impacts due to the proposed height and location of the tower being at the entrance to the Lithgow Local Government area. This could also detract tourism to the area.
- The climb ladder and fall arrest would also increase the visibility of the structure, both above and below any remaining nearby trees.
- Due to the RMS road upgrades, the tower would be located next to the Highway in full view of traffic as the vegetation screening would be removed. This would be a distraction to drivers and lead to accidents.
- The tower would be viewed from Hassan's Walls Lookout and visible above the skyline from all directions as the height is greater than the surrounding vegetation. The infrastructure is proposed to be painted green will have an impact to the backdrop of the surrounding area. The SEE should be amended to include the colour pallet for "pale eucalyptus".



- The tower and associated infrastructure would also be viewed from ground level due to limited vegetation cover. The cabinets and fencing have a maximum height of 2.4m. The “metallic grey” colour does not blend with the surrounding bushland, same as the chain wire. This would increase the bulk of the entire facility at ground level.
- Two building envelopes on vacant properties would be located within 40m of the base of the tower and four building envelopes within 100m from the tower. These building envelopes were approved by Council on the adjoining lots as per a previous subdivision approval. Developed properties are approximately 150m away from the tower. The SEE should be amended to address these building envelopes and potential impacts from the tower.

### ***Heritage***

- The tower would not suit the surrounding historic (8 properties identified along the highway as containing historical items) and farming properties. Although the property is not located within the heritage conservation area, it is within proximity to heritage items and would impact due to the scale and size of the development. The objectives of Clause 5.10 under Council's LEP 2014 should be addressed in more detail. It is recommended that a heritage management study be undertaken for the development in consultation with the Heritage Report exhibited with Council's LEP 2014.

### ***Property Prices & Future Development***

- The tower would devalue surrounding properties and may attract the area to large industrial businesses.

### ***Maintenance costs to rate payers***

- Rate payers cost for future maintenance and service of the NBN structure in regard to technological issues.

### ***Demand for nbn™ in Hartley***

- The facility is not required in the area as other service providers satisfactorily service properties in the area.
- The wireless component of the tower would only service 550 homes while other homes in the area would be serviced by an existing telecommunication infrastructure.

### ***Planning Permissibility and location***

- The tower is proposed to be located within the SP2 zone under Council's Local Environmental Plan 2014; therefore the provisions must not impede the roadworks that the land is zoned for.
- The Statement of Environmental Effects should go into more detail alternative locations and co-location with the tower at Mt Victoria given proximity of the tower to the Hartley Valley. More details should be submitted in regard to the issue of distance and technical reasons of co-location. It is recommended that substantiated evidence is provided that co-location is not possible. An alternate location could include the Hartley Rural Fire Shed on Mid-Hartley Road. Other locations besides heritage sites should be investigated and where there is more vegetation cover at ground level.
- The development is not permissible under the SP2 zone under Council's Local Environmental Plan 2014 as the proposed tower is not identified as being ordinarily incidental or ancillary to development for that purpose as a roads and traffic facility. The Statement of Environmental Effects is to provide more detail in regard to zoning permissibility.

- The SEE does not give a clear indication of the number of dwellings nearby, approved sites for dwelling as in the R5 zone nor the additional uses and dwellings that may be approved under the zone.
- The SEE should be amended to address and consider the proposed extensions to the Highway.

### ***Biodiversity***

- Assurance that if the development is approved then the recommended safeguards and management measures listed within the SEE to minimise potential impacts on biodiversity is adhered to.
- The SEE states that 35 trees over a 200m diameter are proposed to be removed. Therefore this would reduce screening to the tower. If dwellings on adjoining lots were required to undertake clearing then there would be no screening between the proposed building envelopes and the tower.
- A diagram of a more accurate tree height against the proposed development should be submitted to show the difference in height.

### ***Construction***

- The method of construction is to be detailed within the SEE. Given the size of the area to be utilised, vegetation would be required to be removed for the construction of the tower. The construction of the tower would also have traffic impacts.

### ***Impact on the nearby Airstrip***

- The SEE states that there are no airports within 30km of the subject site. The Lithgow Hospital is 10km northwest of the site, Medlow Bath airfield is 16km south east, Little Hartley airstrip (that has operated commercially and bushfire helicopters) is less than a kilometre away from the site, Clarence airfield has operated for emergency's is 9km away and Thales has a helipad on their firing range which is 10km northwest of the site. While the location of the monopole may not be a particular issue for aircrafts, given the number of landing places in the area it would likely need a warning light attached to the top and possibly bright coloured surfaces which would make it visible in the night as well as the day. This should be reconsidered and outlined within the SEE.

### ***Health Concerns Relating to EME***

- It is noted that the proximity of the residences has been miscalculated by the applicant. The Electromagnetic energy (EME) levels need to be either recalculated or provide clarification as to how this would not change the result.

### **Support**

The internet is a vital part of daily life for most people, providing social communications, the ability to interact with government and to transact business. The Hartley Valley is not served by a direct TV transmission tower, only by a more expensive and less convenient TV service. The existing ADSL service in Hartley is limited due to the copper cable lengths limit speeds, congestion at peak times due to only one service being available, new residents in the area would be required to be connected to the NBN roll out service rather than connecting to the existing Telstra service.

While it might be preferred that the NBN was delivered by underground cable or fibre-optic, this is not feasible in a relatively sparsely populated semi-rural area such as Hartley.

The location of the tower will mainly be visible from the Highway but the location is not a particularly sensitive area for example it is not located at Hyde Park or within the Hartley Historic Village.

The applicant was provided an opportunity to comment on the proposal with the following response received:

**Applicant's Response:**

***Visual Impact***

*The siting of the proposed monopole on the subject property is considered appropriate given the context of the area and would not detract from the experience of entering Lithgow LGA. The proposed facility will be viewed within the highly modified road corridor which includes earthworks associated with the widening of the Great Western Highway, advertising signage and electrical infrastructure. It would be painted in non-reflective, "pale Eucalypt" colour to blend in with surrounding vegetation and would be screened by mature vegetation of up to 25m in height. The proposed facility and ancillary features are slim and will form a normal part of the vertical elements in the road corridor landscape including electrical poles and vegetation and is thus would not pose a distraction to passing motorists.*

***Heritage***

*The proposed facility has been located on a large allotment which allows for significant separation from immediate residential dwellings, including the Heritage listed items Meads Farm and Hartley Valley Teahouse. The development is located more than 200 metres from Mead's farm (east) and will largely be unseen from this location due to tree screening and the topography of the area. The proposed development is wholly consistent with the objectives of Clause 5.10 under Council's LEP 2014 and would not impact on heritage conservation efforts within the Lithgow LGA. A request for a heritage management study would be unreasonable given the SEE clearly demonstrates that there will be no adverse impact on heritage as a result of the proposal.*

***Property Prices & Future Development***

*The proposed facility will be significantly screened by vegetation and the topography of the landscape from residential development to the north, south, east and west. While it is commonly assumed that telecommunications infrastructure is potentially damaging to property prices, academic studies have argued there is no empirical evidence to suggest that the proximity of houses to a telecommunications monopoles or low impact facilities will result in an impact on property values (Filippova & Rehm 2011). To the contrary it is suggested that in today's society as the world continues to globalise, there is a strong argument to be made that access to high speed wireless broadband is considered something actively sought by home buyers and investors. The proposed development will greatly improve internet access to those within the Little Hartley locality and as such will support the locality both economically and socially.*

*The proposal will be wholly contained within a single lot which is zoned for infrastructure purposes. All land located in the vicinity and beyond the Greater Western Highway to the east and south will be unaffected by the development and continue to be utilised for their permitted purposes. There is no link between industrial development and telecommunications facilities and future industrial development within the locality would be subject to rezoning land as current zones would not facilitate such development.*

***Maintenance costs to rate payers***

*As nbn™ is a Federal Government investment the proposed facility would result in no cost to local rate-payers within Lithgow LGA. Additionally, Council would receive S94A contributions as a result of the proposal to contribute to local infrastructure investment.*

***Demand for nbn™ in Hartley***

The nbn Fixed Wireless facility is designed to offer download speeds of up to 50Mbps and would enable optimal internet performance to surrounding residents and businesses in Little Hartley, Hartley, Hartley Vale, Kanimbla, Good Forest, and South Bowenfels. A preference to retain current internet service levels rather than install new optimised infrastructure is not reduced by the presence of the facility, rather it offers an additional product to residents in the area. nbn™ respectfully submits that the majority of the community would prefer access to fast internet and new technologies. The nbn is provided Australia wide in 3 forms: Fibre, fixed wireless and satellite. Where nbn access via the Little Hartley site is not available it will be provided by alternative means.

### **Planning Permissibility and location**

A number of factors are taken into consideration when identifying a suitable location for nbn fixed wireless facilities, including construction cost, line of sight to the upstream facility, tenure availability, planning controls, access to power and the ultimately the capability of a facility at the site to service the surrounding community. The location of the proposed facility has been the subject of a rigorous and lengthy process of elimination and best achieves all the requirements whilst providing the best service to the surrounding users. Co-location with the tower at Mount Victoria would not be suitable as it would cause severe coverage loss and drastically reduce the total number of premises covered below the level considered acceptable to justify deployment of a Fixed Wireless site in this location.

The proposal is consistent with zoning objectives and the RMS have confirmed that the facility will not impede future expansion of the Great Western Highway. Permissibility is obtained under Clause 115(1) of the SEPP (Infrastructure) 2007 which permits telecommunications development on any land, with consent. LEP permissibility is not required. The proposed location would not impact the ability of future potential land uses to be undertaken within the R5 Large Lot Residential Zone.

### **Biodiversity**

Some clearing of vegetation is required to facilitate the proposal. As a result, an ecological assessment was undertaken to ensure due diligence regarding flora and fauna. The ecological assessment reviewed and assessed the ecological attributes of the study area and potential impacts of the proposal. The assessment determined that the proposal would result in the clearing of up to 0.04 hectares of Southern Tableland Dry Sclerophyll Forest. This vegetation is not consistent with threatened ecological communities listed under the BC Act or EPBC Act. No threatened flora species, threatened fauna species or endangered populations were recorded within the study area during site investigations. All recommended safeguards and mitigation measures as outlined in the ecology report and SEE would be implemented during construction. Clearing of trees would not result in a reduction in screening to the site. The telecommunications facility would be screened by vegetation located to the north and east beyond the compound area.

### **Construction**

The method of construction as outlined in the SEE would include the following activities:

- Stage 1 (Week 1) – Site preparation works, including field testing, excavation and construction of foundations;
- Stage 2 (Weeks 2, 3 and 4) – Construction of the monopole;
- Stage 3 (Weeks 5 and 6) – Construction of the equipment shelter and fences;
- Stage 4 (Weeks 7 – 10) – Installation of antennas and radio equipment, as well as equipment testing.

A total construction period of approximately ten weeks (including Civil works and network integration and equipment commissioning) is anticipated. A truck will be used to deliver the equipment and a crane will be utilised to lift most of the equipment into place. Any traffic impacts associated with construction will be of a short-term duration and are not anticipated to adversely

*impact on the surrounding road network. No traffic impacts will result from the proposal. Open space on the adjoining lot provides adequate space to ensure all works can generally be contained within confines of private property. Conditions of consent implemented by Council can appropriately address any concerns relating to traffic management or plans of construction.*

***Impact on the nearby Airstrip***

*During scoping and design of the proposed facility relevant searches for Obstacle Limitation Surface mapping were made. The proposed development does not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometers of the site and therefore is considered to be adequately sited in this regard.*

*Comment from CASA has been sought. nbn are willing to adopt any requirements recommended to ensure that impact on airspace operations is minimised.*

***Health Concerns Relating to EME***

*nbn™ acknowledges some people are genuinely concerned about possible health effects from EME emissions from telecommunications facilities and are committed to addressing these concerns responsibly. We rely upon the expert advice of national and international health authorities such as Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and the World Health Organisation (WHO) for overall assessments of health and safety impacts.*

*nbn™ ensure that their telecommunications facilities are designed and operated so that people are not exposed to above international guideline levels (International Commission on Non-Ionising Radiation Protection (ICNIRP) and national standards (Australian Radio Protection and Nuclear Safety Authority (ARPANSA)).*

*Australia's radiofrequency (RF) exposure limits, the ARPANSA Standard 2002, are derived from the guidelines of the ICNIRP, the independent scientific body that advises the World Health Organization (WHO). The ARPANSA Standard is one of the most comprehensive and up-to-date RF exposure standards in the world, and is based on thorough scientific research into RF signals and exposure.*

*The proposed facility at Little Hartley will be compliant by a substantial margin. The proposed EME levels are outlined in the ARPANSA EME Report within the subject Development Application and are 1,639 times below the allowable public exposure limits. Additionally, it is worth noting that this report has been modelled on maximum power levels, while in practice the transmitter will often be much lower than this. EME level calculations at residents in the report are accurate.*

**Council Assessment of submissions:**

Council has assessed the submissions and the applicants response with the following comments:

***Visual Impact***

It is considered that the applicant's statement may downplay or understate the visual impacts of the tower. Adjacent trees and power poles are approximately 25m high in which this tower will be more visible to the surrounding area.

For residents in Apple Tree Lane, the tower may slightly interrupt views to the Mount York escarpment. The same will be the case for travellers on the Great Western Highway. The applicant has indicated that the tower will be painted in a 'pale eucalypt' colour. Council recommends that a darker colour would be more suited to match with the surrounding landscape and backdrop of the sky and mountains to reduce the impact further. Similar towers have been placed within the Local Government Area with minimal impact to the visual landscapes subject to appropriate colour selections.

Whilst the pole and antennas will create a visual impact (being only one tower) it will not significantly impact on visitors or residents being able to view the landscape and appreciate the escarpments and rural views of the area. It does not significantly change the views or character of the area, in which some argue wind turbines do, and this development is for one tower at the bottom of a valley and not on a ridgeline.

However, despite acknowledging the impact, the refusal of the application on this basis cannot be supported. A monopole is a reasonably narrow structure and is preferable to a lattice structure.

The following conditions would be included on the consent if approved:

*The colour of the monopole is to be painted in a dark colour like “Jasper” or equivalent. Colour schemes are to be submitted to Council for approval prior to construction work.*

### **Heritage**

The property is not heritage listed under Council’s LEP 2014. There are a number of Heritage Items within proximity to the development. These include: Lyndoch Orchards, the Roman Catholic Cemetery, Meads Farm and Dwelling, Ambermere, Harp of Erin and Bonnie Blink.

The development is not expected to impact the heritage items given the surrounding vegetation and distances between the development and heritage items being over 200m from each other. Therefore it is considered that there is no need for a heritage management report to be undertaken.

### **Property Prices & Future Development**

It is unknown whether the development would impact on property prices and is not a matter for consideration by Council.

### **Maintenance costs to rate payers**

There will be no cost to local ratepayers as nbn is a Federal Government investment.

### **Demand for nbn™ in Hartley**

It is acknowledged that there are other network services in the area that are able to service some of the residents in the Hartley area. The proposed nbn Fixed Wireless facility is designed to offer download speeds of up to 50Mbps. This would be able to provide a higher optimal internet performance and an additional product to the area and surrounds.

### **Planning Permissibility and location**

Permissibility is obtained under Clause 115(1) of the SEPP (Infrastructure) 2007 which permits telecommunications development on any land, with consent.

The property is located within the land acquisition area in which Clause 5.1 of Council’s LEP 2014 states:

#### **5.1 Relevant acquisition authority**

*(3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.*

As such, the State authority for this section of land is RMS and therefore the concurrence from the RMS has been obtained. The RMS has prepared plans for the Mount Victoria to Lithgow upgrade. The proposed facility is outside of the road works footprint and the RMS has determined the tower to not interfere with or compromise the Highway upgrade project.

***Biodiversity***

Minimal clearing is required for the development. An ecological assessment was undertaken by the applicant and determined that the proposal would result in the clearing of up to 0.04 hectares of Southern Tableland Dry Sclerophyll Forest. This vegetation is not listed as a threatened ecological community. No threatened flora species, threatened fauna species or endangered populations are recorded in the area. The mitigation measures as that are outlined in the SEE would be implemented during construction if approved

***Construction***

The applicant has stated that the construction period will be approximately ten weeks. A truck will be used to deliver the equipment with a crane utilised to lift most of the equipment into place. Traffic impacts associated with construction will be minimal and of a short-term duration. There is sufficient space on the property for vehicles and equipment to utilise during the construction period. A condition would be placed on the consent if approved stating that a fully certified traffic control plan and road works signage will be required where machinery may obstruct traffic on Browns Gap Road during construction.

***Impact on the nearby Airstrip***

The development is located on a large allotment and surrounded by vegetation. It is considered that the development would have minimal impacts to a private airstrip in the vicinity

***Health Concerns Relating to EME***

Council is satisfied that the tower complies with the Australian standards.

**OTHER ISSUES**

No other issues arise.

**CONCLUSION**

The proposed development, although may have visual impacts to the surrounding area in a minor nature similar to other infrastructure, the benefits of the development outweighs these impacts. The proposed tower can be viewed from adjoining properties and the Great Western Highway; however the impact will be minimised by vegetation, setbacks and colour and is expected to blend with the surrounding as much as possible for a infrastructure type development. The development will comply with relevant provisions of planning legislation and it is recommended for approval subject to conditions of consent.

**POLICY IMPLICATIONS****Policy 7.5 Notification Of Development Applications**

This policy applies to this application and was notified to surrounding landowners and placed on display for two notification periods, the first period for 14 days (excluding the Christmas closure period) and an additional 14 days due to the applicant submitting the incorrect address on the development application form. The submissions are summarised later in this report. As such the development complies with Council's Policy.

**Policy 7.7 Calling In Of Development Applications By Councillors**

Although this application has **not** been called in pursuant to Policy 7.7 "Calling in of Applications by Councillors", the previous development application (DA317/16) for a proposed NBN tower was.

As the previous application was 'called in' and due to a number of community concerns, the development is reported to Council for determination.

## FINANCIAL IMPLICATIONS

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- Future potential impact - N/A
- Other - Council's Section 94A Contribution Plan 2015 applies to the development with payment to be received by Council prior to the issue of the Construction Certificate.

## LEGAL IMPLICATIONS

In determining a development application, a consent authority is also required to take into consideration the matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979.

## ATTACHMENTS

1. A complete Section 79C Development Consent Report.

## RECOMMENDATION

### THAT:

1. The Development Application DA317/17 be **APPROVED** subject to conditions on the consent as shown in the attached Section 4.15 report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.



**ITEM-8                    ECDEV - 26/03/18 - INFORMATION UPDATE - CHANGES TO THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT**

**REPORT BY:            DIRECTOR ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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## **SUMMARY**

The purpose of this report is to provide an information update on the recent and upcoming changes to the *Environmental Planning and Assessment Act 1979*.

## **COMMENTARY**

The NSW Department of Planning and Environment (DPE) have provided information to Councils in regard to recent and upcoming changes to the *Environmental Planning and Assessment Act 1979* (EP&A Act). The primary points are outlined below.

### **Renumbering into the Decimal System**

The Sections of the EP&A Act have been renumbered into a decimal system in accordance with each Part of the Act. The intention of this is to make identifying the location of relevant Sections within the Act easier for users and to remove the need for lettering. For example, Part 5 which was previously known as “Environmental Assessment” contained Section numbers 110-110E, 111-111A, 112-112E, 113, 114, 115-115ZM and 116-116H (a total 688 Sections), whilst, Part 5, now known as “Infrastructure and Environmental Impact Assessment” contains Sections 5.1 to 5.32 (a total of 32 Sections).

The renumbering has required all Councils to adopt the new Section references and change all documents and correspondence (such as Application Forms, Fees and Charges, Letters, Orders, Reports and other templates) accordingly. It is understood that a number of Council’s have raised concern in regard to the inconvenience and confusion of the renumbering.

The transitional provisions of the Act stipulate that “a reference to the old is a reference to the new”. There is no designated timeframe in which Council documents must be updated to include all relevant Sections. However, the majority of Lithgow City Council’s documents were updated on Thursday 1 March 2017, being the day of commencement.

### **The Independent Planning Commission (IPC)**

The Planning Assessment Commission (PAC), the authority for determining State Significant Development (SSD) Applications, is now known as the Independent Planning Commission (IPC). The IPC will no longer perform duplicative review functions and the public hearing process is currently under review to allow more opportunity for the community to present their concerns at an early stage of the assessment process, and for the IPC to assess the proposal more thoroughly. The name change commenced on Thursday 1 March 2018 and the hearing process changes are proposed to commence in July 2018.

### **Community Participation Plan (CPP)**

All planning authorities are required to create a “Community Participation Plan” (CPP) under Section 2.23 of the EP&A Act, to outline how and when it will undertake community participation when exercising relevant planning functions (such as Development Applications and Planning Proposals). The CPP must adopt the minimum standards prescribed under Schedule 1 of the Act, however, Councils may wish to exceed the minimum standards where it is deemed suitable. A CPP may be outlined within a Development Control Plan (DCP) or Local Environmental Plan (LEP).

Councils are not required to create a CPP if all the requirements of Section 2.23 of the EP&A Act are already provided for within a Community Strategic Plan under Section 402 of the *Local Government Act 1993*.

Council will need to review its current *Policy 7.5 Notification of Development Applications* and *Community Strategic Plan 2030* to determine whether any further action is required. The DPE is to undertake additional consultation on the preparation of CPPs and this stage is not proposed to be implemented until late 2019.

### **Statement of Reasons (SORs)**

Under Section 2.23 of the EP&A Act, planning authorities will also be required to publish a “Statement of Reasons” (SORs) for the determination of their decisions (on matters such as Development Applications and Planning Proposals). It is intended to inform the public on the reasons for Council’s decisions and to demonstrate how community concerns have been met. SORs will also be applied to Modification of Consent Applications under Sections 4.55 of the EP&A Act and the Statement of Reasons outlined under the original consent must be considered in the Section 4.15 Evaluation report. SORs may be simple for simpler DAs and longer for more complex applications. This stage is not proposed to be implemented until 1 July 2018 and DPE is intending to develop guidelines and templates to assist Councils.

### **The E-Planning Portal**

All Councils will be required to utilise the E-Planning Portal, which will allow the online lodgement and referral of Development Applications. However, the Portal is still under construction by DPE. This service may be available within the next 6 to 12 months, however, a definite timeframe has not been provided. The transitional provisions state that the E-Planning Portal will not be used until available.

Council will need to undertake significant changes to the current administration of Development Applications to allow for this service.

### **Local Strategic Planning Statement (LSPS)**

Councils will be required to prepare a “Local Strategic Planning Statement” (LSPS) which is intended to provide a line of site between local, regional and district strategic plans. It will specify the 20 year vision for land-use in the Local Government Area (LGA), identifying how Local Environmental Plans (LEPs) and Development Control Plans (DCPs) will be altered over time. The LSPP will outline the planning priorities of the LGA and how they are to be delivered. It must also include a plan of how Council intends to monitor and report on how these priorities are being implemented. It should be a summary of Council’s values, identified items or areas to be protected, new employment areas etc. DPE will be working with Councils to prepare this document and it is not expected to be implemented for regional areas until Late 2019 to Mid 2020.

### **Local Development Controls and Approvals**

Councils will be required to perform a Local Environmental Plan (LEP) check every five (5) years to ensure it is fit for purpose. This stage is to be implemented in late 2018.

A standard online format for Development Control Plans (DCPs) will be prepared in accordance with new model provisions formulated by DPE. Additional guidance is to be provided to Councils on this matter and the estimated timeframe for the implementation of this stage is Mid 2020.

Where Government Authorities do not provide comment or determination on a Development Application within the legislated timeframes or the advice of two separate authorities is conflicting, the DPE will be provided the reserve power to step-in and perform negotiations to reduce delays. This power will be used sparingly and only under certain circumstances. This stage will be implemented from Mid 2018 and will be associated with the E-Planning Portal.

### **Section 121ZP – Certificates on Orders and Notices**

Section 121ZP (allowing for the creation of Certificates which outline any outstanding notices or orders issued in relation to the land) have not been included, which appears to have been an oversight in the new EP&A Act. DPE is working quickly to have this amended. Some items may not have been picked-up within the new changes, so DPE have requested Councils and the greater public to bring any missing or incorrect items to their attention.

### **Interim Occupation Certificates**

Interim Occupation Certificates are to be removed. The DPE have stated that the benefit of this is that the Certifying Authority will not have to duplicate requirements (a duplication of work between the issue of an Interim and a Final Occupation Certificate). The Building Certification changes will not apply until 1 September 2018.

### **Local Planning Panels (LPPs)**

Independent Hearing Assessment Panels (IHAP) have been renamed to Local Planning Panels (LPPs) and are compulsory for Sydney and Wollongong LGA's, as of 1 March 2018. The Panel consists of a chair, 2 experts (with experience in planning, law, architecture, the Building Code of Australia and government administration etc.) approved by the Minister and a community representative (who is to be provided training). The role of a LPP is to determine contentious Development Applications which would normally be referred to a Council Meeting, with the aim of "depoliticising" development.

Councils located outside of the Sydney and Wollongong area are not required to establish a LPP, however, the department is encouraging Councils to consider it and approach them for assistance if interested.

### **More Information**

The DPE is proposing to supply more information webinars and assistance to Councils on the upcoming stages of implementation (as outlined in Attachment 1). A Guide to the updated EP&A Act is available on the DPE website using the following link and Attachment 2 outlines the relocation of the major Sections of the Act, based on the new decimal numbering.

<http://www.planning.nsw.gov.au/Policy-and-Legislation/Planning-legislations/Guide-to-the-updated-Environmental-Planning-and-Assessment-Act-1979>

### **POLICY IMPLICATIONS**

Council will need to review its current *Policy 7.5 Notification of Development Applications* to ensure that any Community Participation Plan (CPP) is consistent with the requirements of Section 2.23 of the EP&A Act. The DPE is to undertake additional consultation on the preparation of CPPs and this stage is not proposed to be implemented until Late 2019.

### **FINANCIAL IMPLICATIONS**

- Budget approved – NA
- Cost centre – NA
- Expended to date – NA
- Future potential impact – Council may incur additional costs in creating a Community Participation Plan and Local Strategic Planning Statement; adopting the E-Planning Portal, associated programing and training; and reviewing the Local Environmental Plan every five years. The establishment and operation of a Local Planning Panel (although not compulsory for regional Councils) could be expensive. Additionally, the revenue generally sought by Council for the issue of an Interim Occupation Certificate, will be lost.

### **LEGAL IMPLICATIONS**

The information provided in this report is to inform Council of its requirements to comply with the current and upcoming changes to the *Environmental Planning and Assessment Act 1979*.

### **ATTACHMENTS**

1. Stage of Implementation
2. New References

### **RECOMMENDATION**

**THAT** the updates to the *Environmental Planning and Assessment Act 1979* and its implications on Council be noted.

**ITEM-9            ECDEV - 26/03/18 - MODIFICATION OF CONSENT TO DA14815  
SUBDIVISION 1 LOT INTO 21 (STAGES 3 & 4) AT HASSANS WALLS  
ROAD, LITHGOW NSW 2790**

**REPORT BY:    DIRECTOR ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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## **SUMMARY**

To assess and recommend determination of modification of development consent application S96004/18 from Ceedive Pty Ltd, seeking to vary condition of consent 5 for DA148/15 relating to a Voluntary Planning Agreement.

## **COMMENTARY**

The original approval for DA148/15 was completed under delegation on 1 December 2015, for a subdivision of 1 lot into 21 at Lot 702 DP1150747, Hassans Walls Road. The approval is the third and fourth stages of a residential subdivision for Lot 702 DP1150747 with previous Stages 1 & 2 approved under 002/07DA for a 15 lot subdivision. Stages 1 & 2 have now been finalised and this approval extends the road Mayview Drive as per 002/07DA, off Hassans Walls Road, to service Stages 3 & 4.

Council is now in receipt of a modification of development consent application S96004/18 from Ceedive Pty Ltd, seeking to vary condition of consent 5 for DA148/15 relating to the Voluntary Planning Agreement.

Condition 5 states:

*5. The Applicant must enter into a Voluntary Planning Agreement under section 93F of the Environmental Planning and Assessment Act 1979 with Council that is in the terms outlined in the email containing the offer dated 1 December 2015. The general terms of the agreement will be that the developer shall make a contribution to the value of \$50,000 which Council will utilise on the embellishment of facilities at Queen Elizabeth Park. The final executed VPA shall be completed prior to the issue of a Subdivision Certificate for Stage 3.*

The applicant has requested that the condition be reviewed to allow for a works in kind contribution to provide a formed access to the existing Lithgow Pony Club and resident on Lot 1 DP1094395 from the subdivision cul-de-sac. These works would be undertaken by the developer, at the developers cost, on Council's land totalling \$51,920.00 (See attachment 2 for provided Ceedive quote dated 5 February 2018), instead of the proposed Voluntary Planning Agreement for embellishments of \$50,000.00 at Queen Elizabeth Park.

The proposed access to be constructed for the Lithgow Pony Club and the resident on Lot 1 DP 1094395 are works that would be required by Council in the future. The access for the resident and Pony Club has been an ongoing issue as there is no formalised access, although access is allowed by Council. Given the land is owned by Council, works would have inevitably been undertaken without the need for consent, however funding and timing would be issues.

The proposed modification will allow for the works to be undertaken at no cost to Council as part of the subdivision development. The works would be undertaken by the developer on behalf of Council, instead of providing funding to additional embellishments at Queen Elizabeth Park which does not have a direct effect or connection to the subdivision. It is logical that these works be undertaken by the developer while machinery is already within the area and whilst supervision can be provided by Council as part of the subdivision and Subdivision plan release processes. The access to the Pony Club demonstrates a wider community benefit.

It is expected that the formed access creation will benefit the community and surrounding areas. This access is used on a regular basis and should be improved to reduce impacts of the users and surrounding landowners.

The works could not be undertaken by Council for some time and funds would have to be sought and has continuously been raised by the users in this area. As such if the works were undertaken by the developer in accordance with Council requirements, the development would minimise future issues with the land for Council. The works would be completed ahead of time by the developer prior to the subdivision release of development, to ensure works are carried out appropriately.

Therefore, in this instance it is suggested that condition 5 is amended to the following requirements if approved:

5. ~~The Applicant must enter into a Voluntary Planning Agreement under section 93F of the Environmental Planning and Assessment Act 1979 with Council that is in the terms outlined in the email containing the offer dated 1 December 2015. The general terms of the agreement will be that the developer shall make a contribution to the value of \$50,000 which Council will utilise on the embellishment of facilities at Queen Elizabeth Park~~ **at its own cost, undertake works to form an all-weather access road to the Lithgow Pony Club and resident on Lot 1 DP1094395 to the satisfaction of Council as per Ceedive quote dated 5 February 2018. These works are to be supervised by Council Officers and a final inspection undertaken at completion.** ~~The final executed VPA shall be completed prior to the issue of a Subdivision Certificate for Stage 3.~~

## POLICY IMPLICATIONS

### Policy 7.5 Notification of Development Applications

This policy applies to all applications as below:

#### **4. Notification of Section 96 Applications**

*4.2 Section 96(1A) modifications that involve minimal environmental impact will not be notified unless in the opinion of Council, the proposed modification has the potential to increase the impact of the development on adjoining land.*

As there is no change to the environmental impact of the development as the modification relates to the Voluntary Planning Agreement only, it was in the opinion of Council staff that the modification did not require notification in accordance with the policy.

### Policy 7.10 Voluntary Planning Agreements

A planning agreement was negotiated as part of the original proposal. However, the proposed modification seeks to remove this requirement in lieu of works in kind for a formed access on Council's land. Therefore, this policy would not be applicable, if the modification is approved.

### Policy 7.6 Development Applications By Councillors And Staff Or On Council Owned Land

This policy is now applicable as Lot 1 DP 1094395 is owned by Council. Therefore the following is applicable:

1. That, subject to the exemptions in Part 2 of this Policy, any development application lodged where the applicant is a Councillor or a member of staff, or where a Councillor or member of staff is the owner of the land to which the application relates, or where the development application on Council owned land, that such an application be referred to Council for consideration and determination.
2. In the case of staff members who are not Executive Staff, the following applications need not be reported to the Council:
  - (i) dwellings
  - (ii) ancillary building structures
  - (iii) general applications under Section 68 of the Local Government Act 1993.

In such cases the application must be determined by referring to a supervising delegated officer or the General Manager.

In the case of an application lodged by a family member and the Council officer would normally hold delegated authority to determine the application, then the application must be referred to supervising delegated officer or in the absence of such, will be reported to Council.
3. This policy does not apply to applications for the modification of development consent unless the modification represents a significant departure from the original application. However, staff cannot assess or determine modification applications involving their development; their land; or development or land involving a family member.

In relation to 1 above, the land is owned by Council and the development requires determination by Council. The proposal does not meet the exemptions of 2 above and under 3 above the modification now includes land owned by Council for the works of the access. The application should be reported to Council for determination.

## FINANCIAL IMPLICATIONS

- Budget approved - NA
- Cost centre - NA
- Expended to date - NA
- Future potential impact – The proposal seeks to vary the proposed Voluntary Planning Agreement approved under DA148/15 from embellishments of \$50,000 for Queen Elizabeth Park to works in kind at a total of \$51,920.00 to construct a formed access to the Lithgow Pony Club and resident of Lot 1 DP1094395. This will result in a net benefit to land owned by Council and utilised by the community rather than funds from being spent at Queen Elizabeth Park.

## LEGAL IMPLICATIONS

The application has been assessed under Section 4.55 1(A) of the *Environmental Planning and Assessment Act 1979* with development assessment report found in attachment 1.

## ATTACHMENTS

1. Development Assessment Report for S96004/18
2. Ceedive quote dated 5 February 2018 for proposed works

## RECOMMENDATION

### THAT

1. Modification of consent application S96004/18 for DA148/15 be approved to remove the requirements of a Voluntary Planning Agreement for \$50,000 towards embellishments to Queen Elizabeth Park and allow instead for works in kind of \$51,920.00 for the construction of a formed access on Council owned land known as Lot 1 DP1094395 in accordance amended condition of consent Number 5 as per the attached Development Assessment Report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-10 ECDEV - 26/03/18 - VOLUNTARY PLANNING AGREEMENT FOR DA225/16  
SUBDIVISION 1 LOT INTO 25 - KIRKLEY STREET SOUTH BOWENFELS**

**REPORT BY: DIRECTOR ECONOMIC DEVELOPMENT & ENVIRONMENT**

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## REFERENCE

Min No. 17-263: Ordinary Meeting 25 September 2017  
Min No. 18-03: Extra Ordinary Meeting 22 January 2018

## SUMMARY

To seek endorsement of the Voluntary Planning Agreement with Tri-Firma Pty Ltd for DA225/16 subdivision 1 into 25 at Kirkley Street South Bowenfels NSW 2790.

## COMMENTARY

Development Application DA225/16 was supported for a subdivision of 1 lot into 25 at Kirkley Street South Bowenfels at Councils meeting on 25 September 2017. The application was subsequently approved after gazettal of Amendment No. 2 of Lithgow Local Environmental Plan 2014, on 13 October 2017.

A report was submitted to Council at Extra Ordinary Meeting on 22 January 2018 in relation to the Voluntary Planning Agreement proposed by the applicant being:

- \$138,000 in total being \$6,000 (per residential lot) to go toward community facilities and open space; and
- \$4,500 of works in kind for the construction of a concrete cycle path 3m wide at the end of the road servicing the sewer pump station to the northern boundary.

At this meeting the following was resolved:

**THAT:**

1. Council endorse the Draft Voluntary Planning Agreement proposed by Tri-Firma Pty Ltd for DA225/16 being for \$138,000 in total being \$6,000 (per residential lot) to go toward community facilities and open space and \$4,500 of works in kind for the construction of a concrete cycle path 3m wide at the end of the road servicing the sewer pump station to the northern boundary
2. The Draft Voluntary Planning Agreement for Tri-Firma Pty Ltd for DA225/16 be placed on public exhibition for a period of 28 days.

The Draft Voluntary Planning Agreement (VPA) was placed on public exhibition from 26 January 2018 to 26 February 2018, with no submissions received.

## POLICY IMPLICATIONS

Policy 7.10- Planning Agreements applied. This Policy provides that a draft VPA is to be reported to Council for approval, to be placed on exhibition and for the final endorsement following exhibition. The requirements of the Policy have been followed for this process.

## FINANCIAL IMPLICATIONS

- Budget approved - NA
- Cost centre - NA



- Expended to date - NA
- Future potential impact – The endorsement of a Voluntary planning Agreement will assist Council to provide facilities which will be of benefit towards a public purpose.

### LEGAL IMPLICATIONS

The legislative basis for a Planning Agreement is incorporated in the *Environmental Planning and Assessment Act 1979* (EP&A Act) (Section 7.4) and the *Environmental Planning & Assessment Regulation 2000* (Clauses 25B-25H). Section 7.4 of the EP&A Act [provides that public notice must be given of a proposed Planning Agreement for at least 28 days before it can be entered into, which had now been undertaken.

### ATTACHMENTS

1. Voluntary Planning Agreement with Tri-Firma Pty Ltd

### RECOMMENDATION

#### THAT

1. Council endorse the Voluntary planning Agreement proposed by Tri-Firma Pty Ltd for DA225/16 being \$138,000 in total being \$6,000 (per residential lot) to go towards community facilities and open space and \$4,500 of works in kind for the construction of a concrete cycle path 3m wide at the end of the road servicing the sewer pump station to the northern boundary.
2. That notification of the Voluntary Planning Agreement for DA225/16 with Tri-Firma Pty Ltd be provided to the Department of Planning & Environment for registration.
3. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-11            ECDEV - 26/03/18 - WASTE CHARGE INCREASE RESULTING FROM  
CHINA'S RECYLCING BAN POLICY**

**REPORT BY:    DIRECTOR ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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## **REFERENCE**

Minute No 13-201:    Ordinary Meeting of Council 17 June 2013  
Minute No 13-315:    Ordinary Meeting of Council 9 September 2013

## **SUMMARY**

The purpose of this report is to seek Council's endorsement to vary the Waste Services Contract with JR Richards to apply an additional charge to Council of \$165.00 (ex GST) per tonne of recycling collected on behalf of Lithgow City Council from 1<sup>st</sup> April 2018 and that Council note that this charge will be recuperated through an increase in the 2018-19 Domestic Waste Management Charge of approximately \$32. Representations to the State Member is recommended to provide a suitable solution to the current recycling crisis that is resulting on an extra impost on ratepayers.

## **COMMENTARY**

In 2017, China notified the World Trade Organization (WTO) that it planned to ban the import of some recyclable materials (post-consumer plastics, textiles, unsorted paper, artificial fibres, and certain metals along with a variety of solid wastes and recyclables) that are commonly exported by Australian companies.

In addition to materials banned outright, some sub-categories were to be subject to a 0.5% contamination rate (including OCC, Old Corrugated Cardboard) which is so restrictive that the industry views it as an effective ban.

China's import ban (known as the National Sword Policy) was announced in September 2017 and commenced on 1<sup>st</sup> January 2018. The abruptness and uncertainty created by China's announcement has resulted in major disruptions in global recycling markets with effects felt locally. There is insufficient capacity in Australian recycling markets to absorb the materials banned by China.

Operators (private and public) that have entered into contracts for the management of waste and recyclables, based on the conditions and market outlook preceding the announcement of the ban, are now not able to fulfil their obligations due to the collapse of the demand for recyclables.

Lithgow City Council has a Contract with JR Richards for Waste Collection Services and Recycling Processing Services. The Contract includes the collection of kerbside and Transfer Station recycling (yellow-lidded bins) and the transport of this material to another company, Polytrade, in Sydney for further processing and recycling. The Contract was signed in September 2013 (Council resolutions 13-201 and 13-315) and expires 3<sup>rd</sup> November 2023 with an option of two extensions of one year each.

On 9<sup>th</sup> March 2018 JR Richards advised that a gate fee of \$150.00 per tonne (ex GST) would be applied to all recyclable material taken to Polytrade from 1<sup>st</sup> April 2018. In addition, the existing rebate of \$15.00 per tonne would be removed. The total additional cost to Council would

therefore be \$165.00 per tonne. If there is no resolution by 1<sup>st</sup> April 2018, Polytrade will suspend receiving the Lithgow Council recyclables until further notice.

The additional gate fee is required for Polytrade to:

- 1) Help sustain the Materials Recovery Facility (MRF) operation
- 2) Recover the shortfall of the commodity prices, which is trending downwards week by week
- 3) Cover extra labour costs to further reduce the contaminations and reduce the processing speed of the MRF
- 4) Cover extra time that will be lost in reducing processing speed.
- 5) Cover extra costs for transportation to viable markets
- 6) Allow secondary processing to achieve acceptable commodities quality
- 7) Allow onsite storage of processed recyclables awaiting for markets

A recyclables gate fee of \$165.00/t (\$150/t plus removal of \$15/t rebate) equates to approximately \$35 per service for 2018-19 as shown below:

Lithgow Council recyclables delivered to Polytrade in 2017 – 1,410 tonnes  
 2018-19 annual additional cost for \$165/t charge (based on 2017 quantities) - \$232,650  
 Additional cost covering 1<sup>st</sup> April 2018 to 30<sup>th</sup> June 2018 (based on 2017 quantities) - \$58,163  
 Total additional cost for 2018-19 (based on 2017 quantities) - \$290,813  
 Approximate number of resident services – 9,200  
 Cost increase per service per annum - \$31.61 (approximately \$32)

It is proposed that Lithgow Council add the cost increase as a 'special waste charge' under the Domestic Waste Management Charge (DWMC). The 2017-18 DWMC for residential properties and businesses with a kerbside service is \$431.81 (plus GST for commercial services). A \$32 increase would represent a 7.4% increase for the special waste charge alone, plus any increase for the base DWMC.

Some Councils are having their recycling processing suspended altogether. On 28<sup>th</sup> February 2018, recycling company Visy advised JJ Richards that it was suspending receiving recyclables for one of their recycling processing agreements "for reasons beyond Visy Recycling's control" (invoking Force Majeure under the contract). Lithgow Council is better placed than other Councils as they still have an option to process recyclables, albeit at additional cost.

On 23<sup>rd</sup> February 2018 the Victorian Government announced it will provide a \$13 million package for councils and industry to support the ongoing kerbside collection of household recyclable waste (see attached media release). On 8<sup>th</sup> March 2018 the Hon Gabrielle Upton MP (NSW Minister for the Environment, Minister for Local Government, Minister for Heritage) sent Lithgow City Council a letter (attached) advising of the NSW Government response to China's National Sword Policy. The letter offered temporary variations to stockpile requirements on a case by case basis and technical support for licensing and local re-use of some products.

The alternative to not accepting the additional charge is suspension of recycling processing and landfilling of all recyclable material collected in the Lithgow LGA. This would be an unacceptable environmental outcome, significantly reduce the lifespan of the Lithgow Landfill and undo decades of community engagement and education regarding the benefits of recycling.

On Tuesday 20 March 2018, the Minister for Local Government announced a \$47 million package responding to China's National Word Policy to support recycling in NSW. Whilst details are to follow it appears that some funding may become available for councils to offset extra costs associated with recycling. If this comes to fruition it may possibly become apparent that funding from a special waste charge may not be necessary.

## POLICY IMPLICATIONS

Nil

## FINANCIAL IMPLICATIONS

- Budget approved – there will be an additional \$58,163 (approximately) cost to the 2017-18 Waste Budget from recyclables delivered to Polytrade from 1<sup>st</sup> April 2018 until 30<sup>th</sup> June 2018. Council will have to carry this additional unforeseen cost until the new DWMC ‘special waste charge’ can be applied. Both the \$58,163 for this financial year and the \$232,650 additional cost for 2018-19 under the Waste Services Contract will be offset by the additional DWMC ‘special waste charge’.
- Cost centre - 10-4709-3430-61126
- Expended to date - Nil
- Future potential impact – The proposed charge is based on previous quantities of recyclables collected. Any increase in recyclables will have a negative effect on the budget. The proposed charge is based on 1,410 tonnes per annum from 2017. In 2016 this figure was 1,443 tonnes and in 2015 1,398 tonnes. At 1,443 tonnes the negative effect on the budget would be \$5,445 per annum. Due to the uncertainty in the recycling market, there is also a risk that Polytrade will either increase the gate fee or refuse to accept material altogether within the 2018-19 year.

## LEGAL IMPLICATIONS

Whilst any actions in relation to the Waste Services Contract will be undertaken in consultation with Council’s solicitor, the implications of China’s National Sword Policy are likely to be ‘unforeseen circumstances’ as specified in the Contract. Also, the alternative of sending recyclables to landfill is not acceptable.

## ATTACHMENTS

1. MRA Consulting Group (February 2018), Impact of China’s National Sword Policy A submission to Polytrade
2. Victorian Government Media Release, Stepping in to support Industry and Councils with Recycling
3. Letter from Hon Gabrielle Upton MP, China’s National Sword Policy – impacts on NSW local government
4. Email: LGNSW President, Linda Scott calls for support for local government at today’s Senate at Inquiry into Waste and Recycling
5. <http://www.theherald.com.au/story/5244294/recycling-crisis-chinese-ban-hits-hunter-waste-industry/>
6. <http://www.theherald.com.au/story/5269626/calls-for-nsw-government-to-act-as-recycling-crisis-deepens/>
7. Media Release from the Hon Gabrielle Upton - \$47 million to support Recycling in NSW.

## RECOMMENDATION

### THAT

1. Subject to consultation with Council’s solicitor, Council agree to the variation of the JR Richards Waste Services Contract adding a charge of \$165.00 (ex GST) per tonne of recyclable material delivered to Polytrade from Lithgow City Council commencing 1<sup>st</sup> April 2018.
2. Council approve \$58,163 (ex GST) as a transfer from Waste Reserve to the Kerbside Recycling cost centre for 2017-18 to ensure adequate funds are available for this

unforeseen increase in service delivery over the period 1<sup>st</sup> April 2018 to 30<sup>th</sup> June 2018.

3. Council note the need to apply a special waste charge of approximately \$32 in the 2018/2019 financial year depending on whether government funding eventuates.

## OPERATION REPORTS

ITEM-12            OPER - 26/03/18 - WOLGAN ROAD, LIDSDALE - FOOTPATH PROPOSAL

REPORT BY:    EXECUTIVE MANAGER OPERATIONS

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## SUMMARY

This report seeks a resolution from Council with regard to requests from the public to construct a footpath on Wolgan Road, Lidsdale from the Castlereagh Highway to Skelly Road.

## COMMENTARY

To address recent community concern regarding the lack of a formalised footpath on Wolgan Road, Lidsdale, members of the elected Council and Council administration met with members of the community to discuss the issue. At this meeting, it was noted that there is a need for formalised pedestrian access from the Castlereagh Highway to Skelly Road to provide all residents with safe and accessible thoroughfare to the bus shelters on Wolgan Road and the services offered by the United Service Station.

As a result of this meeting, Council engineers have inspected the area with the purpose of assessing feasibility and potential project cost. To achieve satisfactory results, the project requires the following:

- 800 lineal metres of standard concrete pedestrian footpath at a width of 1.8 metres.
  - Estimated cost = \$80,000.00
- Cut and fill to level surface with appropriate tolerances for approximately 40% of the total length
  - Estimated cost = \$25,000.00
- Preparation of the surface for the entire length
  - Estimated cost = \$10,000.00
- Carriageway realignment to allow sufficient space for footpath across bridge including allowance for barrier and line marking
  - Estimated cost = \$45,000.00

From the above, the estimated cost to complete the proposed project would be \$160,000.00. Including a 20% contingency to allow for potential required variation would bring the total required budget allocation to \$192,000.00. This is assuming that the road carriageway and new footpath including protective barrier will fit across the existing bridge. If not, any widening may significantly increase costs.

## POLICY IMPLICATIONS

NIL

## FINANCIAL IMPLICATIONS

- Budget approved – NIL
- Cost centre – NIL
- Expended to date - NIL
- Future potential impact – \$150,000.00 including additional recurrent maintenance expenses

**LEGAL IMPLICATIONS**

NIL

**RECOMMENDATION**

**THAT** Council consider the construction of a footpath on Wolgan Road, Lidsdale subject to an assessment of current project priorities within the draft 2018/19 Operational Plan.

## **WATER AND WASTEWATER**

**ITEM-13            WWW - 26/03/18 - BACKFLOW PREVENTION - CONTAINMENT POLICY**

**REPORT BY:    DIRECTOR WATER AND WASTEWATER**

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## **REFERENCE**

Min 17-149:    Ordinary Meeting of Council held 27 November 2017

## **SUMMARY**

The backflow prevention policy was placed on exhibition for 28 days as per Council minute 17-149. Council received no objections or comments on the policy during the period.

## **COMMENTARY**

A comprehensive policy review is currently underway with regard to the policies administered on behalf of Council by the Operations Department. Due to the number of policies involved it will be necessary to put these to Council once each policy is reviewed. The Backflow Prevention - Containment Policy is now available for Council consideration.

A copy of the Policy is attached to the Business Paper. This policy forms one of the 12 elements of the Drinking Water Quality Management System. This policy will further strengthen Lithgow Council's Commitment to providing safe drinking water to the residents of Lithgow.

## **POLICY IMPLICATIONS**

Implementation of new Policy 3.4 (attached)

## **FINANCIAL IMPLICATIONS**

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – N/A

## **LEGAL IMPLICATIONS**

Policies are prepared to assist in decision making and may provide further guidance with regard to statutory obligations.

## **ATTACHMENTS**

1.     Policy 3.3 Backflow Prevention – Containment

## **RECOMMENDATION**

**THAT** Council adopt the Backflow Prevention - Containment Policy.



**ITEM-14            WWW - 26/03/18 - WATER REPORT**

**REPORT BY:        DIRECTOR WATER AND WASTEWATER**

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**REFERENCE**

Min No 18-28:            Ordinary Meeting of Council 26/02/18

**SUMMARY**

This report provides an update on various water management issues.

**COMMENTARY**

**Current Dam Levels for both Farmers Creek No. 2 Dam and Oberon Dam**

Farmers Creek No. 2 Dam capacity on Monday 12th March 2018 was 72.6%. Oberon Dam capacity on Monday 12th March 2018 was 68.4%.

**Current Water Usage from Each Supply**

Table 1 below indicates total output from the Oakey Park Water Treatment Plant (consumption), the volume transferred from the Clarence Water Transfer System (CWTS) and the volume of water purchased from Water NSW (Fish River Scheme) for 2017/2018.

**Table 1 – Oakey Park Monthly Output and Clarence Transfer 2017/2018**

<b>Month</b>	<b>Oakey Park WTP (ML)</b>	<b>Clarence Transfer (ML)</b>	<b>Fish River Supply (ML)</b>
July	119.4	0	79.3
August	141.5	0	59.3
September	143.5	0	58.4
October	110.5	102.4	73.4
November	59.0	76.0	63.6
December	88.3	12.2	45.5
January	130.7	55.9	116.2
February	112.0	78.3	73.3
<b>TOTAL</b>	<b>904.9</b>	<b>324.80</b>	<b>569.0</b>

**Clarence Water Transfer Scheme**

The Clarence Water Transfer Scheme has been operating since 5th October 2017 and since commencing operation has pumped 380.9 megalitres of water into Farmers Creek No. 2 dam up to 12th March 2018.

### Oakey Park Water Quality Summary

Oakey Park Water Treatment Plant is currently supplying water to Lithgow and was supplying water to the villages for the periods. No health-based ADWG values were exceeded for the period 13/02/18 to 16/03/18.

### Treatment Plants Monitoring Results

Samples are taken on a monthly basis at various locations within the STPs and WTP. Nine samples were taken on 27/02/18 and forwarded to Sydney Water for testing. There were two non-compliances recorded at Council's treatment plants for the month of February 2018. One (1) non-compliance was recorded at the Wallerawang STP and one (1) at Portland STP as detailed in Table 2. All test results are published on the Lithgow City Council website as required by the Protection of the Environment Operations Act 1997.

**Table 2 – Treatment Plants Monitoring Results**

Plant	Non Compliance	Licence Limit	Date Sampled	Cause of Non Compliance	Action Taken to Mitigate Adverse Effects of the Non Compliance	Action Taken to Prevent Future Reoccurrence Of Non Compliance
Wallerawang STP	Total Phosphorus 1.04mg/s litre	0.5 mg/s litre	27/02/18	Partial Blockage of Alum Dosing Line	Effluent diverted to storage lagoons	Increase in cleaning of system
Portland STP	Faecal Coliforms 10,000 units/ 100mL	600 units/ 100mL	27/02/18	Removal of Trickling Filter During Plant Upgrade	Increase Cleaning to Reduce load On Remaining Filter	Augmentation Of Portland Sewerage Treatment Plant

### Fish River Water Scheme Water Quality Summary

Fish River Water Supply supplied water to Lithgow, Marrangaroo, Wallerawang, Lidsdale, Portland, Cullen Bullen, Glen Davis and Rydal. Fish River Water Supply is currently supplying water to Marrangaroo, Wallerawang, Lidsdale, Portland, Cullen Bullen, Glen Davis and Rydal. No health-based ADWG values were exceeded for the period 13/02/18 to 16/03/18.

### Current Water Restrictions Update

Level 3 restrictions are effective from Tuesday, 26th September 2017.

### Water Saving Schemes or Processes Update

Council's Rainwater Tank and Domestic Appliance Rebate Program continued with Council approving three (3) applications for a household appliance rebate and one (1) application for a water tank rebate for the period 13/02/18 to 16/03/18.

### Water Reticulation Complaints

Council received 22 complaints during the period 13/02/18 to 16/03/18 concerning water quality issues. The majority of these complaints were for dirty water following on from Fire & Rescue NSW undertaking testing of hydrants in various areas throughout the Lithgow LGA and following burst mains. The water mains were flushed in all instances of water quality complaints and the water was tested at the location of each complaint with there being no exceedances of ADWG values.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – N/A

**LEGAL IMPLICATIONS**

NIL

**RECOMMENDATION**

**THAT** Council note the water report.

## COUNCIL COMMITTEE MINUTES

### ITEM-15 OPER - 26/03/18 - TRAFFIC ADVISORY LOCAL COMMITTEE MEETING MINUTES 19 OCTOBER 2017

**REPORT BY: EXECUTIVE MANAGER OPERATIONS**

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## SUMMARY

This report details the Minutes of the Traffic Advisory Local Committee Meeting held 19<sup>th</sup> October 2017.

## COMMENTARY

At the Traffic Advisory Local Committee held 19 October 2017, the following items were discussed by the Committee:

- Hartley Historical Village – Speed Zone
- Railway Parade Pedestrian Crossing
- Pindari Place Stop Sign

## POLICY IMPLICATIONS

NIL

## FINANCIAL IMPLICATIONS

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – N/A

## LEGAL IMPLICATIONS

NIL

## ATTACHMENTS

1. Minutes of the Traffic Advisory Local Committee Meeting held 19 October 2017.

## RECOMMENDATION

**THAT** Council;

1. Note the minutes of the Traffic Advisory Local Committee held 19 October 2017; and
2. Subject to final RMS approval and funding;
  - Install Size B R4-237 (High Pedestrian Activity 40) signs on both sides of Old Great Western Highway at the entrance to Hartley Historic Village; and
  - Install Size B R4-1 (80) signs on both sides of Old Great Western Highway at the exit from Hartley Historic Village; and
  - Install Size B R4-1 (40km/h) signs at the South Western Entrance to the village; and

3. Prepare alternative design options for safety improvements to the Railway Parade Pedestrian Crossing for consideration at the next Committee meeting; and
  - Consult with H&R Block regarding the potential impact of design options on their on-street parking; and
4. Replace the existing Give-Way sign at the intersection of James Parade and Pindari Place, Wallerawang with a Stop Sign; and
  - Mark a Stop Line at the intersection.

**ITEM-16 OPER - 26/03/18 - TRAFFIC ADVISORY LOCAL COMMITTEE MEETING  
MINUTES 1 DECEMBER 2017**

**REPORT BY: EXECUTIVE MANAGER OPERATIONS**

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## **SUMMARY**

This report details the Minutes of the Traffic Advisory Local Committee Meeting held 1<sup>st</sup> December 2017.

## **COMMENTARY**

At the Traffic Advisory Local Committee held 1 December 2017, the following items were discussed by the Committee:

- Oakey Forest Road – Short Stacking
- Capertee School Children’s Crossing – Signage Changes

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – N/A

## **LEGAL IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. Minutes of the Traffic Advisory Local Committee Meeting held 1 December 2017.

## **RECOMMENDATION**

**THAT** Council;

1. Note the minutes of the Traffic Advisory Local Committee held 1 December 2017; and
2. Install W7-12-3 (Keep Tracks Clear – 18.5m) sign 55m in advance (West) of the level rail crossing on Oakey Forest Road; and
3. Extend the No Stopping distance on the school side departure side of the Castlereagh Highway pedestrian crossing from 9m to 15m; and
  - Install W8-22 (*Crossing Ahead*) with W6-3 (*Children’s Crossing Symbolic*) on both approaches to the crossing; and
  - Lower the height of existing keep left signs

**ITEM-17 PS - 26/03/18 - CRIME PREVENTION COMMITTEE MEETING 19  
FEBRUARY 2018**

**REPORT BY: EXECUTIVE MANAGER PEOPLE AND SERVICES**

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## **REFERENCE**

Min-17-169: Ordinary Meeting of Council 29 May 2017  
Min-17-283: Ordinary Meeting of Council 25 September 2017  
Min-18-38: Ordinary Meeting of Council 26 February 2018

## **SUMMARY**

This report details the minutes of the Crime Prevention Committee meeting held on 19 February 2018.

## **COMMENTARY**

At the Crime Prevention Committee meeting held 19 February 2018 various items were discussed by the committee, including:

### **Item 4 Bureau of Crime Statistics and Research Quarterly Report**

This report provides crime data for Lithgow LGA for the 12 months to September 2017.

### **Item 5 Police Report**

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

- Budget approved – NIL
- Cost centre – N/A
- Expended to date - NIL
- Future potential impact - NIL

## **LEGAL IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. Minutes of the Crime Prevention Committee meeting held 19 February 2018.

## **RECOMMENDATION**

**THAT** Council notes the minutes of the Crime Prevention Committee meeting held 19 February 2018.

**ITEM-18            OPER - 26/03/18 - OPERATIONS COMMITTEE MEETING MINUTES 5  
                          MARCH 2018**

**REPORT BY:    EXECUTIVE MANAGER OPERATIONS**

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## **SUMMARY**

This report details the Minutes of the Operations Committee Meeting held 5 March 2018.

## **COMMENTARY**

At the Operations Committee held on 5<sup>th</sup> March 2018, the following items were discussed:

- Main Street – Re-Establishment of Open Points
- Cullen Bullen Sewerage Scheme – Update
- CBD Revitalisation Project – Update
- Damaged Footpath Assets
- Portland Roads and Lanes

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

- Budget approved –N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – N/A

## **LEGAL IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. Minutes of the Operations Committee Meeting held 5<sup>th</sup> March 2018.

## **RECOMMENDATION**

**THAT** Council note the Operations Committee Meeting Minutes; and

1. Council urgently seek legal advice regarding the potential liability issues involved with signing off recent excavation works performed by Endeavour Energy and the persistent localized compaction that has occurred thereafter; and
  - a. Council does not sign off the construction works or come to any agreement with Endeavour Energy until such a time that legal advice has been received and assessed.
2. Council note the report on the update of the Cullen Bullen Sewerage Scheme; and
  - a. Provide the details of the Restart Deed of Agreement to the next Operations Committee Meeting; and
3. Council note the progress made to date on the Lithgow CBD Revitalisation Project; and
4. Note the damage caused by large street trees to urban concrete infrastructure; and



- a. With prior discussion by the Operations Committee and Council, Council Officers commence the process of reporting damaging street trees and determining suitable options to replace or move the infrastructure to ensure its longevity.

**ITEM-19            ECDEV - 26/03/18 - LITHGOW LOCAL HERITAGE ADVISORY COMMITTEE  
MEETING MINUTES - 12 MARCH 2018**

**REPORT BY:    DIRECTOR ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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## **REFERENCE**

Min 16-247 Ordinary Meeting of Council 10 October 2016  
Min 16-248 Ordinary Meeting of Council 10 October 2016  
Min 17-154 Ordinary Meeting of Council 29 May 2017  
Min 17-241 Ordinary Meeting of Council 14 August 2017  
Min 18-40 Ordinary Meeting of Council 26 February 2018

## **SUMMARY**

This report details the Minutes of the Lithgow Local Heritage Advisory Committee Meeting held on 12 March 2018.

## **COMMENTARY**

At the Lithgow Local Heritage Advisory Committee meeting held on 12 March 2018, there were eight items on the agenda as summarised in the attached minutes.

All items were discussed and one item was recommended to Council for further consideration. It was raised that the Charlie Pinch Museum Trust have a Councillor be nominated as a representative to the trust. It is recommended that Councillor Steve Ring represent Council on the Charlie Pinch Museum Trust.

The actions of the Committee in relation to each item are identified in the attached minutes.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – N/A

## **LEGAL IMPLICATIONS**

Nil

## **ATTACHMENTS**

1. Minutes from the Lithgow Local Heritage Advisory Committee meeting of 12 March 2018.

## RECOMMENDATION

### THAT

1. Council receives and notes the minutes of the Lithgow Local Heritage Advisory Committee held on the 12 March, 2018.
2. Councillor Steve Ring be nominated to represent Council on the Charlie Pinch Museum Trust.

**ITEM-20 PS - 26/03/18 - COMMUNITY DEVELOPMENT COMMITTEE MEETING**

**REPORT BY: EXECUTIVE MANAGER PEOPLE AND SERVICES**

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## **REFERENCE**

Min No 17-224: Ordinary Meeting of Council held on 17 July 2017  
Min No 17-283: Ordinary Meeting of Council held on 25 September 2017  
Min No 17-362: Ordinary Meeting of Council held on 27 November 2017  
Min No 18-41: Ordinary Meeting of Council held on 26 February 2018

## **SUMMARY**

This report details the Minutes of the Community Development Committee Meeting held on 13 March 2018.

## **COMMENTARY**

At the Community Development Committee held on 13 March 2018 there were numerous items discussed by the Committee including;

Safe Pedestrian crossing of the Great Western Highway in Item 4.

An update on current projects in Item 5

Community transport in rural villages in Item 6.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

- Budget approved - \$0
- Cost centre - N/A
- Expended to date – N/A
- Future potential impact – N/A

## **LEGAL IMPLICATIONS**

Nil

## **ATTACHMENTS**

1. Minutes from the Community Development Committee meeting of 13 March 2018.

## **RECOMMENDATION**

**THAT** Council notes the minutes of the Community Development Committee held on the 13 March 2018.

**ITEM-21            OPER - 26/03/18 - SPORTS ADVISORY COMMITTEE MEETING 14 MARCH 2018**

**REPORT BY:    EXECUTIVE MANAGER OPERATIONS**

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## **SUMMARY**

This report details the Minutes of the Sports Advisory Committee Meeting held on 14<sup>th</sup> March 2018.

## **COMMENTARY**

At the Sports Advisory Committee held on 14<sup>th</sup> March 2018, the following items were discussed:

- 2017 LJ Hooker Reg Cowden Sports Star of the Year Awards
- Booking Requests

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

- Booking Request – Beechworth to Bridge – Fee Waiver for \$1,112.00

## **RECOMMENDATION**

**THAT** the fee waiver for Beechworth to Bridge be approved.

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – N/A

## **LEGAL IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. Minutes of the Sports Advisory Committee Meeting held 14 March 2018.

## **RECOMMENDATION**

**THAT** Council note the Minutes of the Sports Advisory Committee held 14 March 2018.

**ITEM-22 OPER - 26/03/18 - TRAFFIC ADVISORY LOCAL COMMITTEE MEETING  
MINUTES 15 MARCH 2018**

**REPORT BY: EXECUTIVE MANAGER OPERATIONS**

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## **SUMMARY**

This report details the Minutes of the Traffic Advisory Local Committee Meeting held 15<sup>th</sup> March 2018.

## **COMMENTARY**

At the Traffic Advisory Local Committee held 15 March 2018, the following items were discussed by the Committee:

- Ironfest 2018
- Clywdd Street – Parking Restrictions

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

- Budget approved – N/A
- Cost centre – N/A
- Expended to date –N/A
- Future potential impact – N/A

## **LEGAL IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. Minutes of the Traffic Advisory Local Committee Meeting held 15 March 2018.

## **RECOMMENDATION**

**THAT** Council;

1. Note the minutes of the Traffic Advisory Local Committee held 15 March 2018; and
2. Approves the closure of George Coates Avenue between Main Street and Wylde Street between 07:30 and 18:00 on the 21<sup>st</sup> and 22<sup>nd</sup> April 2018 for the running of the Ironfest 2018 event.
  - Approves the closure of George Coates Avenue between James Street and Barton Street between 07:30 and 18:00 on the 21<sup>st</sup> and 22<sup>nd</sup> April 2018 for the running of the Ironfest 2018 event.
  - Approves the closure of Barton St between George Coates Avenue and Fred Burley Drive between 07:30 and 18:00 on the 21<sup>st</sup> and 22<sup>nd</sup> April 2018 for the running of the Ironfest 2018 event.

- Approves the detour of traffic onto Wylde St and Fred Burley Drive during the road closures associated with the undertaking of the Ironfest 2018 event
3. Install 'No Parking: Buses and Coaches Excepted: 12 noon to 6pm signage for the 15m footpath area on Clywdd Street in front of the Zig Zag Motel.

**ITEM-23 FIN - 26/03/18 - FINANCE COMMITTEE MEETING 19 MARCH 2018**

**REPORT BY: CHIEF FINANCIAL AND INFORMATION OFFICER**

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## **SUMMARY**

This report details the Minutes of the Finance Committee Meeting held on 19 March 2018.

## **COMMENTARY**

At the meeting of the Finance Committee held on 19 March 2018, the following items were resolved:

- Confirmation of the minutes of the meeting held on 20 February 2018.
- The monthly scheduling of future meetings.

The following items were noted by the Committee:

- Draft 2018/19 Budget Presentation to the Councillor Information Session
- February monthly performance report to the OLG.
- Report on February 2018 month & year-to-date financial results and budget variances.
- Recommendations included in the Confidential Report – Advocacy for Not-For-Profit Organisation Grant.
- The Audit Action List.

The following business paper recommendations were endorsed by the Committee:

### **February 2018 Investment Report**

THAT

1. Investments of \$29,800,000.00 and cash of \$2,162,721.72 for the period ending 28 February 2018 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.

### **Water and Wastewater Issues Report**

THAT

1. Council note the issues, actions and strategies related to water and wastewater management.
2. Council note that a complete review of the water and wastewater pricing structure will be completed during the preparation of the 2019/20 Operational Plan. A further report will be prepared at that time.
3. Management to provide further information on 2017/18 water usage by businesses to assist in determining tiers for 2018/19 business water usage pricing.

Water Usage Account Write-off – Prop64890

THAT

1. \$7,502.86 be written-off for water usage charges on property 64890.
2. Advise the property owner in writing of Council's resolution.
3. Council note that a new Standard Work Procedure (SWP) for inaccessible water meters will be developed and implemented for the 2018/19 financial year.



### **POLICY IMPLICATIONS**

Nil.

### **FINANCIAL IMPLICATIONS**

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – N/A

### **LEGAL IMPLICATIONS**

Nil.

### **ATTACHMENTS**

1. Minutes from the Finance Committee Meeting held 19 March 2018.

### **RECOMMENDATION**

#### **THAT** Council

1. Note the minutes of the Finance Committee held on 19 March 2018 and the items not requiring a resolution of Council;
2. Note the Committee's endorsement of recommendations proposed in the Finance and Assets business papers to be put to the March Council meeting.
3. Endorse the recommendations proposed in the February 2018 Investment Report, Water and Wastewater Issues Report and the Water Usage Account Write-off – Prop64890.

## NOTICE OF MOTION

ITEM-24            NOM - 26/03/18 - LITHGOW COMMUNITY TRANSPORT

REPORT BY:    COUNCILLOR CASSANDRA COLEMAN

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## COMMENTARY

Lithgow Aged Care recently retired its small Hyundai; the only vehicle now available to transport residents to and from their personal appointments is the Lithgow Aged Care bus.

Given the size of this vehicle, and that some residents may require the use of a lifter to safely enter or exit the vehicle, two staff members are required to transport those residents. The staff transportation fee will therefore be two staff members at \$200 for the first three hours.

Lithgow City Radio Cabs has a wheelchair accessible taxi (WATS) that currently is not being used to its full capacity. It requires a fully accredited driver which Lithgow City Radio Cabs can provide. Under the Taxi Transport Subsidy Scheme the driver is paid \$16.50 by the NSW government to operate the hoist.

If the WATS could be guaranteed a regular clientele the vehicle would be available for use.

## POLICY IMPLICATIONS

Nil

## FINANCIAL IMPLICATIONS

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – N/A

## LEGAL IMPLICATIONS

Nil

## RECOMMENDATION

**THAT** Lithgow City Council facilitate a meeting between Lithgow City Radio Cabs, Lithgow Aged Care and the appropriate Lithgow City Council management to explore the possibility of a partnership, and funding available via the NDIS, to assist in covering transport costs for residents at Lithgow Aged Care for their personal appointments.

## **BUSINESS OF GREAT URGENCY**

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

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

**CLOSED COUNCIL**

**ITEM-25            CONFIDENTIAL - CLOSED COUNCIL - OPER - 26/03/18 - ASPHALT  
CONTRACTS FOR 2017/18 RENEWALS PROGRAM**

**REPORT BY: EXECUTIVE MANAGER OPERATIONS**

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**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A (2) (c) and (d) 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.
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it

**SUMMARY**

This report seeks a determination from Council to award a tender for the provision of asphalt services to Lithgow City Council as part of Council's 2017/18 Operational Plan.

**RECOMMENDATION**

**THAT** Council consider the report Asphalt Contracts for 2017/18 Renewals Program in closed Council in accordance with Section 10A (2) (c) and (d) of the Local Government Act 1993.

**ITEM-26            CONFIDENTIAL - CLOSED COUNCIL - OPER - 26/03/18 - BITUMEN  
CONTRACTS FOR 2017/18 RENEWALS PROGRAM**

**REPORT BY: EXECUTIVE MANAGER OPERATIONS**

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### **Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A (2) (c) and (d) 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.
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it

### **SUMMARY**

This report seeks a determination from Council to award a tender for the provision of bitumen sealing services to Lithgow City Council as part of Council's 2017/18 Operational Plan.

### **RECOMMENDATION**

**THAT** Council consider the report Bitumen Contracts for 2017/18 Renewals Program in closed council in accordance with Section 10A (2) (c) and (d) of the Local Government Act 1993.

ITEM-27            CONFIDENTIAL COUNCIL - PS - 26/03/18 - SKATE PARK TENDER 04-17

REPORT BY:    EXECUTIVE MANAGER PEOPLE AND SERVICES

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### **Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A (2) (c) and (d) 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.
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it

### **SUMMARY**

This report describes the tender process undertaken for Tender 04/17, the Design and Construction of Portland and Wallerawang Skate Parks, and seeks a determination from Council to decline to accept any submissions received.

### **RECOMMENDATION**

**THAT** Council consider Skate Park Tender 04-17 Report in Closed Council in accordance with Section 10A (2) (c) and (d) of the Local Government Act 1993.