



AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

29 OCTOBER 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 24 SEPTEMBER 2018**

## **DECLARATION OF INTEREST**

## **COMMEMORATIONS AND ANNOUNCEMENTS**

## **PUBLIC FORUM**

## **MAYORAL MINUTES**

Wallerawang Power Station

## **STAFF REPORTS**

General Managers Reports  
Economic Development and Environment Reports  
Water and Wastewater Reports  
Finance and Assets Reports  
People and Services Reports

## **COUNCIL COMMITTEE MINUTES**

Youth Council Minutes - 18 September 2018  
Operations Committee Meeting Minutes - 2 October 2018  
Economic Development Committee Meeting Minutes - 3 October 2018  
Finance Committee Meeting Minutes - 8 October 2018  
Sports Advisory Committee Meeting Minutes - 10 October 2018

## **NOTICES OF MOTION**

Women's Advisory Committee – Councillor Coleman  
ALGWA Lithgow Visit – Councillor Coleman  
32 Ian Holt Drive Lidsdale - Councillor McAndrew  
Banking Services to Council – Councillor McAndrew  
Kanimbla Valley Mobile Phone Black Spot Action Group – Councillor Ring  
Excess Water – Inch Street Lithgow – Councillor Ring

## **BUSINESS OF GREAT URGENCY**

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

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CONFIDENTIAL REPORTS

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## MAYORAL MINUTE

### ITEM-1 MAYORAL MINUTE - 29/10/18 - WALLERAWANG POWER STATION

REPORT BY: MAYOR – COUNCILLOR RAY THOMPSON

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## SUMMARY

The Lithgow Community has for generations enjoyed a comfortable lifestyle and living derived from the coal mining industry. Lithgow Council's first obligation is to its community and those that live and work in the LGA and particularly those employed in our coal mining sector. Those that argue renewables are more often than not employees/individuals that enjoy a lifestyle that is not under threat and therefore find it easy to advocate what others should do regardless of the impact on those that live and work locally, have families and may suffer job loss. Lithgow Council needs to strongly advocate the retention and replacement of Coal fired power stations whilst the Federal Government is considering this issue and in the context of Australia's needs and not those of other Countries who are so remote from the welfare of our citizens.

This paper seeks Council approval to engage with our Federal Local Member Andrew Gee with a view to seeking Federal Government assistance to either

- re-establish a coal fired power generation plant on the Wallerawang site given the natural resources and remaining infrastructure in place or
- facilitate the installation of an additional two Generators at the Mt Piper facility which has made provision already (supporting infrastructure in place) to accommodate two additional generating units or
- purchase the site after remediation by Energy Australia to facilitate industry and/or general economic development.

## COMMENTARY

Background:

On the 14<sup>th</sup> October 2018, the Hon Barnaby Joyce was reported in the media as follows-

By **EAN HIGGINS**, REPORTER

**EXCLUSIVE**

11:00PM OCTOBER 14, 2018

***Barnaby Joyce has reopened the Coalition's energy wars on the new battlefield of the proposed \$4.5 billion Snowy 2.0 pumped hydro project that he says should be shelved or***

***scrapped in favour of new coal-fired power stations.***

***The former deputy prime minister's intervention, which is understood to be privately supported by Tony Abbott, comes just two months before the government will face a final decision on whether to proceed with the scheme.***

Background to the decommissioning of the Wallerawang Power Plant is as follows-

- On the 28<sup>th</sup> March 2013, Council wrote to Paul Toole our local member, seeking assistance and advising that-  
"Council previously partnered with Delta Electricity and the NSW Department of State and Regional Development to investigate the feasibility of developing 10 Ha of the property for industrial land for local business. Council has been

*seeking both private and public development partners to develop the site for industrial purposes.”(refer attachment)*

- On 26 August 2013 Council received advice from Delta Electricity advising that Delta Electricity was proposing to transfer the Mt Piper and Wallerawang power station and related business assets to Energy Australia NSW. The Transaction was to occur on 2 September 2013.
- Council wrote to our local member Paul Toole seeking advocacy for some of the proceeds of the sale to be provided to Council for the Lithgow LGA community
- The associated Property Transfer date in the LCC property system is 7/5/2014.
- In March 2015 then Mayor Maree Statham wrote to the Hon John Barilaro (Minister for Regional Development) seeking assistance to purchase 10ha of the former Minerals Processing site that formed a buffer area to the Wallerawang Power Station site. The Minister advised at the time that his office was liaising with Treasury and Energy Australia to explore the re-use of Wallerawang site.
- In March 2015 Mayor Statham wrote to the Resources and Energy Minister to seek assistance in relation to the former Minerals Processing site. G Berejiklian (then Treasurer) replied advising that as the site was operational at time of sale, the NSW government cannot exercise control over the property stating “its solely a matter for Energy Australia to determine the future use of site it now owns”.
- In June 2015, then Mayor Maree Statham wrote to Energy Australia in relation to the decommissioning, deconstruction and rehabilitation of the Wallerawang Power Station. A Response received in July 2015 that it was “premature to contemplate divesting parts of the site”.
- In August 2015 Mayor Maree Statham again wrote to Managing Director of Energy Australia regarding former Minerals Processing site. A response was received in September 2015 stating “Energy Australia has no plans to divest the property in the foreseeable future”.

There is anecdotal evidence to indicate that Council believed at the time that Delta/Energy Australia was considering divesting the land to Council, however there does not appear to be any record of correspondence in relation to such an undertaking.

It is noted that considerable decommissioning and demolition has already taken place at Wallerawang Power Station and it may be difficult to reverse at this time.

It is also noted that the site is zoned SP2 Infrastructure – Power Generation under LLEP2014. Any other industrial use of the site would require a change of zoning to occur.

### **POLICY IMPLICATIONS**

Council to advocate for the retention and replacement of coal fired power stations.

### **FINANCIAL IMPLICATIONS**

- Budget approved -Nil
- Cost centre –N/A
- Expended to date -Nil
- Future potential impact –To be determined based on potential Federal Government Assistance

### **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

N/A

## ATTACHMENTS

1. Letter from Paul Toole March 2013 – Lithgow Minerals and Industry Park

## RECOMMENDATION

**THAT** Council write to our Federal Local Member the Hon Andrew Gee with a view to engaging the Federal Government in a dialogue concerning the retention and replacement of coal fired power stations with specific reference to Wallerawang and Mt Piper and possible financial assistance for the purchase of the Wallerawang site in the absence of any potential for a replacement coal fired power station on that site.



## GENERAL MANAGERS REPORTS

### ITEM-2            GM - 29/10/18 - COMMITTEES

**REPORT BY:    GENERAL MANAGER**

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## REFERENCE

Min 18-250:    Ordinary Meeting of Council held 24 September 2018.

## SUMMARY

The purpose of this report is for Council to consider the re-appointment of councillors to s355 committees of Council and delegates to external committees, organisations and other working groups after discussion held with Councillors at the recent Councillor Information session on 15 October 2018.

## COMMENTARY

The following councillors represent Council on S355 Committees and External Committees and Organisations for the 2017/18 period.

<b>Internal Committees</b>	<b>2017/18 Representative</b>
Environmental Advisory	Councillor Ring Councillor Coleman
Operations Committee	Councillor Thompson Councillor Ring Councillor McAndrew
Traffic Advisory Local (TALC)	Councillor Lesslie
Sports Advisory Committee	Councillor Smith Councillor Goodwin
Audit Committee	Councillor Goodsell Councillor McAndrew (Alternate)
Economic Development	All Councillors
Community Development	Councillor Coleman Councillor Statham
Youth Advisory Committee	Councillor Lesslie Councillor Coleman
Lithgow Crime Prevention	Cr Coleman Cr Goodwin
Mining Taskforce	Councillor Lesslie Councillor Thompson Councillor McAndrew
General Manager Performance Review	All Councillors
Heritage Committee	Councillor Lesslie Councillor Ring
Finance Committee	Councillor McAndrew Councillor Ring Councillor Thompson

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

## POLICY IMPLICATIONS

Code of Meeting Practice

## FINANCIAL IMPLICATIONS

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

## LEGAL IMPLICATIONS

Local Government Act 1993

Local Government (General) Regulations 2005

## RECOMMENDATION

### THAT Council:

1. (a) Delete the Mining Taskforce Committee.  
 (b) Delete the Bells Line of Road Group.  
 (c) Delete Lithgow Correctional Centre Committee  
 (d) Amend “Centroc” to WSROC”.  
 (e) Replace the Pine Dale Coal Mine Community Committee with “Energy Australia Lithgow Region Community Consultative Committee”. Councillor Smith to be appointed as delegate with Councillor Thompson to be the alternate delegate.  
 (f) Delete the Association of Mining Related Councils.  
 (g) Include the Central Tablelands Alliance Councils Audit Committee. The Mayor being the appointed representative.  
 (h) Include the Mayor’s Mental Health Taskforce with the Mayor and Councillor McAndrew to be the representatives.  
 (i) Combine Eskbank Rail Heritage Centre Committee and Wolgan Valley Wilderness Railway Committee and Councillor Ring to remain as the representative.  
 (j) Strategic Land Use Planning Projects Steering Committee be deleted in favour of an information session and then to Council.
2. Reconfirms the councillor appointments made to the s355 Committees of Council and External Committees and Organisations.

Internal Committees	2018/19 Representative
Environmental Advisory	Councillor Ring Councillor Coleman
Operations Committee	Councillor Thompson Councillor Ring Councillor McAndrew
Traffic Advisory Local (TALC)	Councillor Goodwin Councillor Lesslie
Sports Advisory Committee	Councillor Smith Councillor Goodwin
Economic Development	All Councillors
Community Development	Councillor Coleman Councillor Statham
Youth Advisory Committee	No Councillor Delegates due to new TOR
Lithgow Crime Prevention	Cr Coleman Cr Goodwin
General Manager Performance Review	All Councillors
Heritage Committee	Councillor Lesslie Councillor Ring
Finance Committee	Councillor McAndrew Councillor Ring Councillor Thompson
External Committees	
Arts Out West Committee	Councillor Ring Councillor Coleman (alternate)
NSW Rural Fire Service Senior Management Team	Mayor Councillor Statham (alternate)

Lithgow Information & Neighbourhood Centre Inc. (LINC)	Councillor Goodsell Councillor Goodwin (alternate)
Upper Macquarie County Council	Councillor Ring Councillor Lesslie
WSROC	Mayor Deputy Mayor (alternate) General Manager
Energy Australia Lithgow Region Community Consultative Committee	Councillor Smith
Cullen Valley Coal Mine Community Committee	Mayor Delegate
Invincible Coal Mine Community Committee	Mayor Delegate (alternate)
Clarence Coal Mine Community Committee	Councillor Thompson Councillor Coleman
Centennial Coal Western Community Consultative Committee	Councillor Statham Councillor Smith (alternate)
Airly Mine Community Consultative Committee	Councillor McAndrew
Newnes Sand and Kaolin Project Community Consultative Committee	Councillor Lesslie
Inglennook Exploration & Charbon Colliery Community Consultative Committee	Councillor Ring Councillor Thompson (alternate)
Eskbank Rail Heritage Centre/ Wolgan Valley Wilderness Railway Committee	Councillor Ring
Rural Fire Service Lithgow District Liaison Committee	Mayor Councillor Statham
Wallerawang Quarry Consultative Committee	Councillor Coleman
Skillset	Councillor Statham
Central Tablelands Alliance Councils Audit Committee	Mayor
Glenn Museum at Portland	Councillor Ring Councillor Coleman (alternate)
The Mayor's Mental Health Taskforce	Mayor Councillor McAndrew

**ITEM-3                    GM - 29/10/18 - QUARTERLY MEETINGS WITH FEDERAL AND STATE  
LOCAL MEMBERS**

**REPORT BY:    GENERAL MANAGER**

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**SUMMARY**

This paper seeks Council approval to approach Local Members, the Hon Paul Toole MP, and the Hon Andrew Gee, Member for Calare, to meet with Lithgow Councillors on a quarterly basis throughout each year to discuss local issues and develop a cohesive relationship with a view to benefiting the Lithgow community.

**COMMENTARY**

Lithgow Council has over the last 12 months met with a range of political representatives at State and Federal level and taken the opportunity to lobby on behalf of the Lithgow community for issues ranging from coal mining, power generation, aged care services and mental health services, to name a few.

Both Local, State and Federal Local Members have been supportive of the Lithgow community in facilitating grant funding, where possible, and a list of grants received, together with Council's contribution, is set out below by way of update.

<b>Funding Program</b>	<b>Amount requested</b>	<b>Status</b>
<b>Regional Cultural Fund</b>		
<b>Union Theatre upgrade</b>  Enhanced facilities and equipment to cater for local and visiting performances.	\$775,664 request plus \$400,000 Council contribution	Successful - \$775,664 approved. \$400,000 Council contribution in current year budget.  Tender documentation being prepared with intention to call for tenders in November
<b>Stronger Country Communities Fund Round 1</b>		
<b>Adventure Playground</b>  Construct adventure playground in Endeavour Park Lithgow	\$1,042,308 funding request  Total project cost is \$1,744,900  \$702,592 shortfall funded by remaining Centennial Coal Community contribution funds	Successful - \$1,042,308 Approved  Project underway with scheduled December 2018 completion

<b>Funding Program</b>	<b>Amount requested</b>	<b>Status</b>
	received to date plus internal Council loan serviced by future funds from Centennial Coal.	
<b>Lithgow Tennis Club improvements</b>  Construct 3 new hotshot courts (smaller tennis courts) and a new practice hitting wall.	\$109,110 funding request Plus \$20,000 Council contribution	Successful - \$109,110 approved plus \$20,000 Council contribution  Some delays with project due to previously unknown site/soil conditions.
<b>Lithgow Basketball Court Improvements</b>  Replacement of clocks, scoreboards, backboards and rings, seating bays, lighting systems and the refurbishment of flooring to bring facilities in-line with national sporting standards.	\$225,198 request Plus \$20,000 Council contribution and \$9,500 contribution by Lithgow Basketball Association	Successful - \$225,198 approved plus \$20,000 Council contribution  Project underway with December /January scheduled completion
<b>Farmers Creek Masterplan</b>  Construction of environmental and recreational works along Farmers Creek.	\$400,000 request Plus \$120,000 Council contribution	Unsuccessful – resubmitted in Round 2
<b>Total approved Round 1 Funds</b>		<b>\$1,376,616</b>
<b>Sporting Stream</b>		
<b>Stronger Country Communities Fund Round 2</b>  A total of \$1,182,312 is available for Round 2 Lithgow projects: Community Stream - \$591,156 Sporting Stream - also \$591,156	<b>Amount requested</b>	<b>Status</b> Only some announcements made to date.
<b>Community Stream</b>		
Three Tree Lodge aged care facility solar installation	\$87,473 plus \$10,000 co-contribution (not by Council)	\$87,473 approved
Fatima Hall Lithgow upgrades	\$50,000	
Farmers Creek Masterplan Cycleway	\$500,000 plus \$187,857 Council co-contribution	

Portland and Wallerawang skateparks	\$400,000 Plus \$200,000 Council contribution	\$400,000 approved plus \$200,000 Council contribution in current year budget
Kremer Park Precinct Portland works	\$250,000	
Portland Pool upgrades	\$58,399	
Marjorie Jackson fields lighting	\$242,480	
Lithgow Croquet Club works	\$160,405	
Combined District Kart Club works	\$101,120	\$101,120 approved
Saville Park Portland amenities block	\$320,000	
Lithgow District Car Club works	\$50,000	\$50,000 approved
Lithgow Golf Club works	\$99,640	
Lithgow Sports Stadium investigation	\$64,850	
Club Lithgow works	\$97,448	
Cullen Bullen raceway works	\$57,300 plus \$10,000 co-contribution (not by Council)	\$67,361 approved
<b>Announced to date</b>		<b>\$705,954</b>

<b>Funding Program</b>	<b>Amount requested</b>	<b>Status</b>
<p><b>Restart NSW (Resources for Regions Fund)</b></p> <p><b>Stage 1 CBD Revitalisation Works</b></p> <p>Council has applied to Resources for Regions for funding to free up \$1,159,600 of Council funds already committed as Council's contribution to stage 1 CBD Revitalisation works (funded by National Stronger Regions Fund) so that these Council funds can be used as contributing money for future grant applications for Stage 2 CBD Revitalisation works.</p>	<p><b>Stage 1 CBD Revitalisation works are currently funded as follows:</b></p> <p>Total Project Cost \$2,899,000 National Stronger Regions Fund Grant \$1,304,550 Lithgow Council contribution \$1,594,450</p> <p><b>Stage 1 CBD Revitalisation works will be funded as follows if R4R application is successful:</b></p> <p>Total Project Cost \$2,899,000 National Stronger Regions Fund Grant \$1,304,550 Restart NSW (R4R) \$1,159,600 Lithgow City Council \$434,850</p>	Unsuccessful

<b>Funding Program</b>	<b>Amount requested</b>	<b>Status</b>
<b>Regional Sporting Infrastructure Fund</b>		
<b>Wallerawang Stadium</b> Upgrade works	\$1,628,602 request Plus \$50,000 Council contribution	Awaiting advice
<b>Building Better Regions Fund Round 3</b>	Council proposes to submit an application for Upgrades to Main Street footpaths from Bridge St intersection to Cook St Plaza and upgrades to Pioneer Park.  Applications close 15/11/18	Est \$2.7m, 50% grant funded.
<b>Public Reserves Management Fund</b>		
Weed Management Hassans Walls	\$29,900.00	Successful \$29,900 approved
Upgrade works Kremer Park	\$247,363 plus \$10,000 Council contribution	Unsuccessful Also submitted to Stronger Country Communities Fund Round 2
<b>Environmental</b>		
Local Land Services - Roadside Vegetation Management Plan	\$35,850.00	Successful
Environment & Waterways Alliance - Habitat and Hollows Project	\$20,000.00	Successful

<b>EPA- Waste Less Recycle More</b>		
Waste infrastructure Grant – Lithgow Resource Recovery Centre	\$1,000,000	Unsuccessful
<b>Museums and Galleries NSW</b>		
	\$5,500 for cost of building assessment for Eskbank House Museum	\$5,500 approved  Once building assessment completed, Council will be able to apply to Museums and Galleries NSW for \$15,000 annually to



		implement the identified works.
<b>Family &amp; Community Services Liveable Communities Program</b>  Intergenerational Playgroup	\$16,200 for playgroup at Tabulam Cottages	\$16,200

Administration recommends Council request quarterly meetings with our Local, State and Federal Members to update them on issues important to our community and to establish an ongoing and cordial relationship between all parties.

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

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

#### **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

Political and reputational Risk reduction.

#### **RECOMMENDATION**

**THAT** the Mayor on behalf of Council extend an invitation to both State and Federal local members to meet with Council informally on a quarterly basis in each year to discuss local issues of relevance and to further develop a positive ongoing relationship.

**ITEM-4                    GM - 29/10/18 - EMERGENCY DROUGHT RELIEF PACKAGE**

**REPORT BY:    GENERAL MANAGER**

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**REFERENCE**

Min 18-214:            Ordinary Meeting of Council held 27 August 2108.

**SUMMARY**

To acknowledge the receipt of the correspondence from Member for Bathurst Electorate Paul Toole MP in relation to Emergency Drought Relief Package.

**COMMENTARY**

Correspondence has been received from Paul Toole MP, Member of Bathurst Electorate as a direct result of the resolution of the carried at the 27 August 2018 Ordinary Meeting of Council.

**18-214 RESOLVED**

**THAT** Council:

1. Ask the State and Federal Governments provide grant funds to affected farmers in lieu of no interest and low interest loans, both of which have the effect of increasing the indebtedness of farmers in a climate where they have no capacity to service the loans, and consequently increase the likelihood of farm loss in the medium term to lenders.
2. Note the advice of local farmers that the shortage of water is impacting the quality of fruit and vegetables grown such that they are not competitive with imported produce. Should this trend continue food security for NSW will be affected as consumers and retailers increase their dependency on imported foods and there needs to be a willingness by Australian consumers to purchase Australian grown produce for the industry to survive.
3. Canvass support from regional and rural Councils to develop a NSW and Australian food security strategy and education campaign to raise the profile of these issues with Australian consumers and retailers.
4. Call on both Federal and NSW State Governments to refine the assistance distribution networks to farmers so that relevant financial and other assistance is properly administered, targeted and distributed as efficiently as possible, avoiding wastage and best intentioned assistance that is of limited relevance for farming families and communities.
5. Publicise the information available to farmers on our web site.

It is recommended that Council note and thank Mr Toole for his correspondence and the supply of the documentation from the Department of Primary Industries “Managing and preparing for drought 2018” and also informing Council of the NSW Government of the Emergency Drought Relief package which was announced on the 30 July 2018.

*“The package included the announcement of a \$190 million Drought Transport Subsidy program. The subsidies will cover up to 50 per cent of the full cost of transporting fodder, water and or livestock with \$20,000 available per year for*

*each eligible farm business which equates to \$30,000 over 18 months from 1 January 2018 to 30 June 2019”*

*“An Additional \$150 million was announced to bolster the popular Farm Innovation Fund to a total to a total \$650 million. This Fund offers farmers long-term, low interest loans enable farmers to implement permanent capital works like constructing silos, dams, bores, fencing, irrigation, all of which can contribute to future drought preparedness. Under the package, holders of the Fund will be refunded interest for the 2017-18 and 2018-19 financial years.”*

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

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

#### **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

Nil

#### **ATTACHMENTS**

1. Letter from Paul Toole MP – Member for Bathurst Electorate
2. Managing and preparing for drought 2018

#### **RECOMMENDATION**

**THAT** Council notes the correspondence received from Paul Toole and extends its appreciation for the information received.

**ITEM-5                    GM - 29/10/18 - RETURNS UNDER SEC 449 - LG ACT 1993**  
**DISCLOSING INTERESTS OF COUNCILLORS AND DESIGNATED**

**REPORT BY:    GENERAL MANAGER**

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**SUMMARY**

To advise Council of returns lodged with the General Manager under Section 449 of the Local Government Act 1993 for Councillors & Designated Person for the period 1 July 2017 to 30 June 2018 and seek confirmation of the positions noted as designated persons.

**COMMENTARY**

Section 449 of the Local Government Act requires Councillors and designated persons to lodge returns under Section 449 for the period 1 July 2017 to 30 June 2018.

At the due date for the returns being 28 September 2018, all designated persons and all elected Councillors with the exception of one had responded by supplying their completed return. The late form was lodged on 8 October due to the designated person being on extended leave.

Section 449 states:

*Division 2 Disclosure of interests in written returns*  
*Table of Provisions*

*449       Returns disclosing interests of councillors and designated persons*

- 1.   A councillor or designated person must complete and lodge with the general manager, within 3 months after becoming a councillor or designated person, a return in the form in Part 1 of Schedule 3.*
- 2.   A person need not lodge a return within the 3-month period after becoming a councillor or designated person if the person lodged a return in the previous year or if the person ceases to be a councillor or designated person within the 3-month period.*
- 3.   A councillor or designated person holding that position at 30 June in any year must complete and lodge with the general manager within 3 months after that date a return in the form in Part 1 of Schedule 3.*
- 4.   A person need not lodge a return within the 3-month period after 30 June in a year if the person lodged a return under subsection (1) within 3 months of 30 June in that year.*
- 5.   Nothing in this section prevents a councillor or designated person from lodging more than one return in any year.*
- 6.   Nothing in this section or Schedule 3 requires a person to disclose in a return lodged under this section an interest of the person's spouse or de facto partner or a relative of the person.*

Section 450A requires the returns lodged under section 449 to be tabled at a meeting of Council and as such the returns are available at this meeting.

Section 441 defines designated persons as:

- *the general manager*
- *other senior staff of the council*
- *a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest*
- *a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.*

In addition to the General Manager the following positions have been classified as designated persons:

- Director Economic Development and Environment
- Director Infrastructure Services
- Director Water and Waste Water
- Director People and Services
- Chief Finance and Information Officer
- Development Manager
- Information Technology Manager
- Community & Culture Manager
- Economic Development Manager
- Tourism Manager
- Team Leader Building
- Team Leader Planning
- Team Leader Environment
- Strategic Land Use Planner
- Property Officer
- Building & Development Officers
- Finance Manager

#### **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. Register of Disclosures by Councillors and Designated Persons Section 449 Local Government Act 1993 as at 8 October 2018

## **RECOMMENDATION**

### **THAT**

1. Council acknowledge the disclosures received under Section 449 of the Local Government Act 1993 for the period 1 July 2017 to 30 June 2018 from all designated persons and all Councillors
2. Reaffirm the following positions as 'designated persons' for the period 1 July 2017 to 30 June 2018:
  - General Manager
  - Director Economic Development and Environment
  - Director Infrastructure Services
  - Director Water and Waste Water
  - Director People and Services
  - Chief Finance and Information Officer
  - Development Manager
  - Information Technology Manager
  - Community & Culture Manager
  - Economic Development Manager
  - Tourism Manager
  - Team Leader Building
  - Team Leader Planning
  - Team Leader Environment
  - Strategic Land Use Planner
  - Property Officer
  - Building & Development Officers
  - Finance Manager

**ITEM-6                    GM - 29/10/18 - VOTING AT COUNCIL MEETINGS**

**REPORT BY:    GENERAL MANAGER**

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**REFERENCE**

Min No 13-335:            Ordinary meeting of Council held on 30 September 2013.

**SUMMARY**

The Code of Meeting Practice (the Code), adopted by Council on 30 September 2013, applies to all meetings of Council and its committees (where committee members are Councillors). The adopted Code complies with all current legislative and regulatory requirements.

This report seeks to clarify the recording of voting at Council meetings (Section 32 of the Code of Meeting Practice).

**COMMENTARY**

Section 32 of the Code of Meeting Practice states:

**32    VOTING AT COUNCIL MEETINGS**

- (i)    Each Councillor is entitled to one vote. [S 370(1)]
- (ii)   However, the chairperson has, in the event of an equality of votes, a second or casting vote. [S 370(2)]
- (iii)   A Councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion. (This subclause does not apply to a Councillor who does not vote because he or she has pecuniary interest in the subject matter of the motion.) [LGGR 251(1)]
- (iv)   If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.[LGGR 251(2)]

It has been the recent practice of the Council meeting Minutes Secretary to record the decisions of Council as “unanimous” where all Councillors have voted for a motion. Where a division on a motion is called or required, the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes (S32 (vi)).

For the purposes of clarity and transparency, it is proposed that Council record in the meeting minutes, the names of all Councillors who vote for or against all motions. Where a vote on a motion is unanimous and a division has not been called, the unanimous vote will be recorded in the minutes, without the necessity of recording the names of all Councillors voting for the motion.

It is also proposed that the voting record-keeping requirements will only apply to Council meetings and not to meetings of committees of Council.

### **POLICY IMPLICATIONS**

Recording the names of all Councillors who vote for or against a motion is consistent with the adopted Code of Meeting Practice.

### **FINANCIAL IMPLICATIONS**

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

### **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

Nil.

### **RECOMMENDATION**

**THAT** Council record in the meeting minutes the names of all Councillors who vote for or against all motions. Where a vote on a motion is unanimous and a division has not been called, the unanimous vote will be recorded in the minutes without the inclusion of the names of Councillors. The voting record-keeping requirements will only apply to Council meetings and not to meetings of committees of Council.



## ECONOMIC DEVELOPMENT AND ENVIRONMENT REPORTS

### ITEM-7            ECDEV - 29/10/18 - DA218/18 - CHANGE OF USE FROM OFFICE TO MEDICAL CENTRE (CHIROPRACTIC, CHINESE HERBAL)

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

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## SUMMARY

To advise Council of a Development Application (DA218/18) lodged for the change of use of an office to a medical centre on land known as Lot 5 DP 840077, 180-184 Mort Street Lithgow NSW 2790, which is owned by Lithgow City Council.

## COMMENTARY

### Details of Proposal

Lot 5 DP 840077 (approximately 1505m<sup>2</sup>) currently contains a carpark and a large commercial building consisting of various business, office and retail premises. The proposed development will be located on the north-western end of the building and involves a change of use from an office premises to a medical centre.

The proposed medical centre (approximately 50m<sup>2</sup>) will provide chiropractic and acupuncture services and the provision of Chinese herbal medicine. The premises will be fitted out to include two health consulting rooms and a reception area. Three signs are proposed to be erected on the western and northern external walls of the building. Two staff/medical practitioners will be practicing from the centre and the proposed hours of operation include:

Mondays to Fridays	8:30am to 6:30pm
Saturdays	9:00am to 12:00pm
Sundays and Public Holidays	Closed



Figure 1 – Existing Frontage of Proposed Medical Centre – View from Eskbank Street



Figure 2 – Location of Proposed Medical Centre within Lot 5 DP 840077

### Permissibility

The land is zoned B2 Local Centre under *Lithgow Local Environmental Plan (LEP) 2014*, in which the development of a medical centre (defined below) is permitted with consent.

**medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

**Note.** Medical centres are a type of **health services facility**—see the definition of that term in this Dictionary.

**health care professional** means any person registered under an Act for the purpose of providing health care.

**health services facility** means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- a) a medical centre,
- b) community health service facilities,
- c) health consulting rooms,
- d) patient transport facilities, including helipads and ambulance facilities,
- e) hospital

The applicant is currently registered only as a chiropractic health care professional and therefore, the development is permitted, subject to the following condition of consent:

1. The health care services provided by the medical centre, must only include the services for which the associated health care professional is registered under an Act for the purpose of providing health care. Appropriate medical qualifications and registrations must be maintained by all health care professionals for the entire duration of the period that the medical centre operates on Lot 5 DP 840077.

## **POLICY IMPLICATIONS**

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

Council Policy 7.6 is applicable to the proposed development as it is to be located on land owned by Lithgow City Council. In accordance with Clause 1 of Policy 7.6, the application is required to be referred to the Ordinary Meeting of Council for determination.

#### **OBJECTIVE:**

To provide a transparent protocol for the determination of development applications lodged by councillors, staff and relatives thereof or development applications for development on Council owned land.

#### **POLICY:**

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.

## **FINANCIAL IMPLICATIONS**

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

### **Section 94A (Section 7.12) Development Contributions Plan 2015**

Council's Section 94A (Section 7.12) Development Contributions Plan 2015 is applicable to all land within the Lithgow LGA and prescribes the following types of development as exempt from requiring payment of the levy:

#### **C7 Are there any exemptions to the levy?**

##### **Other development exempted from the levy**

The following types of development or components of development will also be exempted from a levy under this Plan:

- a) Development by or on behalf of Lithgow City Council;

- b) An application for an industrial, retail or commercial development where there is no intensification of use or increase in floor space of an existing building.

The proposed development will not intensify the previous use of the site and will be located on land owned by Lithgow City Council. Accordingly, no Section 94A Development Contributions are required to be paid as part of this application.

## LEGAL AND RISK MANAGEMENT IMPLICATIONS

### ***Environmental Planning and Assessment Act 1979***

All matters of relevance under Section 4.15 of the *Environmental Planning and Assessment Act 1979* have been taken into consideration, as addressed in Attachment 1.

### ***Mine Subsidence Compensation Act 1961***

The development is integrated under the *Mine Subsidence Compensation Act 1961* via Section 4.46 of the *Environmental Planning and Assessment Act 1979*. A deemed approval for the change of use from an office premises to a medical centre is granted by Subsidence Advisory NSW. Therefore, the proposal will comply with the provisions of this Act.

### ***Local Government Act 1993***

The land on which the building situated is classified as Operational.

## ATTACHMENTS

1. Development Assessment Report as required by Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

## RECOMMENDATION

### **THAT**

1. Development Consent be granted to Development Application (DA218/18), subject to the conditions specified in the attached Section 4.15 Development Assessment Report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the *Local Government Act 1993*.

**ITEM-8                    ECDEV - 29/10/18 - COMMUNITY FEEDBACK ON THE PLANNED  
CLOSURE OF CULLEN BULLEN LANDFILL**

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

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## **REFERENCE**

Min No 17-348 – Ordinary Meeting of 27 November 2017  
Min No 18-160 – Ordinary Meeting of 25 June 2018

## **SUMMARY**

The purpose of this report is to advise Council on the outcome of the Cullen Bullen & Ben Bullen Community consultation for the planned closure of the Cullen Bullen landfill. The closure will be in accordance with the adopted Waste & Recycling Strategy 2016-2026. The Community Consultation Survey Report & Consultation Strategy are available as attachments to this report.

## **COMMENTARY**

To ensure compliance with the EPA Environmental Guidelines for Solid Waste Landfills and Council's Waste & Recycling Strategy, it is proposed to close the Cullen Bullen landfill early in the 2019/20 financial year. In addition to complying with the above, Cullen Bullen landfill has exhausted all available landfilling space making operations unsustainable.

It is recommended that a waste transfer station is not constructed on the rehabilitated landfill site due to the proximity of the Portland & Capertee landfills and the considerable construction and operational costs involved. Discontinuing all waste operations at Cullen Bullen landfill will provide the opportunity for improved resource recovery at a central rural waste facility such as Portland and a reduction in illegal dumping from out of area waste due to its proximity to the Castlereagh Highway. It should be noted that a kerbside waste and recycling service are currently provided to Cullen Bullen and a limited number of Ben Bullen properties.

## **RATIONALE FOR CLOSURE**

**Existing Services:** Cullen Bullen residents have a kerbside collection which provides two bulky waste, and four green waste collections per year. Residents not offered kerbside collection (outside of village) are closer than the 15 mins maximum, needed to access an alternative landfill.

**Environmental Benefits:** Closure allows rehabilitation of the entire site. Rehabilitation prevents windblown litter and dust, improves water management and allows the land to be revegetated. Closure also reduces the risk of illegal dumping including hazardous waste (e.g. asbestos) and unauthorised disposal. Greater resource recovery will be achieved with waste being diverted to the Portland landfill.

**EPA Regulation:** All the airspace at the landfill is used up and Council cannot extend the life of the Cullen Bullen landfill. The NSW Environment Protection Authority exempted small landfills in existence before 2008 from needing retrospective licence approval. A new landfill or extension would require EPA licence and approval.

**Unauthorised Waste:** The depot is unattended and remote, making it vulnerable to dumping of commercial waste and waste from outside the LGA. Attempts to control deliveries to the landfill, via remote cameras, resulted in vandalism and theft. Unauthorised dumping will continue to be a problem if the site becomes a transfer station, especially due to its proximity to the Castlereagh Highway. Using a larger facility (e.g. Portland) with existing and more effective security will encourage use by those intended.

**Cost of closure, transfer station and haulage:** Council has budgeted \$350,000 for the closure of Cullen Bullen. Construction of a transfer station would be additional, and in the order of \$100,000. Council estimates the annual cost of emptying the bins at a transfer station is estimated to be approximately \$30,000.

### Delivery Method of Community Consultation

Table 1: Method of Community Consultation undertaken within Cullen Bullen & Ben Bullen.

Method	Why
Media release <ul style="list-style-type: none"> <li>- Local community radio, and newspaper</li> </ul>	<ul style="list-style-type: none"> <li>➤ Let Cullen Bullen residents know Council is undertaking consultation</li> </ul>
Letter to resident <ul style="list-style-type: none"> <li>- A4 double sided</li> </ul> Front of letter will include: <ul style="list-style-type: none"> <li>- background information, direction to online survey, option to fill in survey and mail back and info about drop in session.</li> <li>- council contact - Team Leader Environment</li> </ul> Back of letter will include: <ul style="list-style-type: none"> <li>- survey</li> <li>- mailed directly to residents of Cullen Bullen, and the Progress Association</li> <li>- limited no. made available at key locations in village</li> </ul>	<ul style="list-style-type: none"> <li>➤ direct way to provide information and directions to survey &amp; drop in session</li> <li>➤ direct mail out – greater success rate of engagement and completion of survey</li> </ul>
Survey <ul style="list-style-type: none"> <li>- made available online via LLC website</li> <li>- mailed directly to residents via letter.</li> <li>- promotion via council website/council's waste website &amp; flyer</li> <li>- media release local community radio, and newspaper</li> <li>- LLC will collate data and enter into excel for analyses and reporting by Impact Environmental</li> </ul>	<ul style="list-style-type: none"> <li>➤ efficient way to collect and analysis data</li> <li>➤ utilise existing promotional tools</li> <li>➤ making available online and direct mail out will increase rate of engagement and completion rate.</li> </ul>
Drop in information session <ul style="list-style-type: none"> <li>- hold one drop in information session</li> <li>- 4.30pm – 5.30pm</li> <li>- held in Cullen Bullen Progress Hall</li> <li>- facilitated by Team Leader Environment</li> </ul>	<ul style="list-style-type: none"> <li>➤ provides face to face contact</li> <li>➤ opportunity for council to provide more information and residents to ask questions in person</li> </ul>
Sign at entrance to landfill Will include: <ul style="list-style-type: none"> <li>- brief background information</li> <li>- direction for online survey</li> <li>- contact details for paper copy survey (Team Leader Environment)</li> </ul>	<ul style="list-style-type: none"> <li>➤ informs and engages landfill users directly</li> </ul>

## **RESULTS OF THE COMMUNITY CONSULTATION SURVEY**

There were 205 pre-paid self-addressed envelopes containing a general introduction letter and the Cullen Bullen landfill closure surveys posted to Cullen Bullen & Ben Bullen residents with the aim of achieving a meaningful response from the community. A media release was published on the 22nd August further advising residents of the information session held at the Cullen Bullen Progress Association Community Hall on Thursday 23rd August 2018.

There was a good local representation at the information session with 18 community members in attendance. There were 75 respondents to the survey providing Council with a snapshot of the community response to the planned closure of the Cullen Bullen landfill.

### **Support for the closure can be based on the following:**

- Respondents indicated a willingness to drive the time required to access Portland or Capertee waste facilities, with over 70% of responders indicated they would be willing to drive the 9 minutes south to Portland landfill, or 15 minutes north to access Capertee; and
- Half of the respondents indicated they would not be impacted by a full closure of the site with only 50% indicating they would like to see a transfer station established on the site,
- The bulky waste collection is underutilised as a form of waste disposal, with an overwhelming majority (71%) having never used the service, and only 18% of respondents indicating this service was not available. This is resulting in an over reliance on regular trips to the landfill for 78% of respondents using Cullen Bullen landfill at least monthly. The over usage of the site could add to some of the reluctance of the community to see the landfill closed, which was experienced at the information session at the Cullen Bullen Progress Hall on the 23<sup>rd</sup> August 2018. The bulky waste collection needs to be better advertised to the Cullen Bullen community as it's currently underutilised.

### **Opposition to the closure can be based on the following:**

- Half of the respondents indicated they wanted a transfer station to replace the landfill,
- Respondents had a clear preference for quantity over quality; 63% preferred Council maintain the existing number of waste facilities at the expense of recycling and amenity.

## **Conclusion**

The significant findings of the survey were the underutilisation of the bulky waste collection service, and that 63% of respondents preferred Council to maintain the existing number of waste facilities at the expense of recycling and amenity. Council's recent interactions with the Environmental Protection Authority (EPA), has highlighted that maintaining the status quo at rural landfills will not be acceptable into the future. While maintaining Cullen Bullen landfill is not possible due to the lack of available landfill space, there is also strong regulatory pressure forcing closure of rural landfills.

In conclusion, it is important to note the NSW Waste and Resource Recovery Strategy 2014-21 sets a target to increase waste diversion from landfill from 63% in 2010-11 to 75% in 2021-22. The current landfill diversion rate for the Lithgow LGA is approximately 25%, significantly below these State targets. For Lithgow Council to achieve these targets for waste diversion from landfill, significant improvement in resource recovery must be achieved. Maintaining current rural landfilling practices will not improve resource recovery.

Only by reducing the number of waste collection points such as landfills and transfer stations and increasing the level of service and education at these locations will improve in resource recovery and provide other environmental benefits.

#### **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**

Section 76 of the *Protection of the Environment Operations Act 1997*, specifies post-closure requirements for licenced waste facilities, including preparation of a closure plan. Cullen Bullen landfill is not covered by a licence condition requiring submission of a closure plan. Notwithstanding this, the requirements under this section have been considered and a closure plan has been developed for this site to ensure best practice.

#### **ATTACHMENTS**

1. Consultation Strategy – Cullen Bullen Landfill Closure
2. Cullen Bullen Closure Consultation Survey Report

#### **RECOMMENDATION**

**THAT** Closure and rehabilitation of the Cullen Bullen landfill continue as scheduled in early 2019/20 financial year, and Council confirm that a waste transfer station not be constructed.



**ITEM-9                    ECDEV - 29/10/18 - DA021/18 - PROPOSED 86 LOT SUBDIVISION & DRAFT PLANNING AGREEMENT, 43 HILLCREST AVENUE**

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

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**SUMMARY**

To assess and recommend determination of Development Application DA021/18 and to seek endorsement of the Draft Voluntary Planning Agreement for a proposed subdivision of 1 lot into 87 lots on land known as Lot 1 DP1230208, 43 Hillcrest Avenue, Bowenfels.

**COMMENTARY**

The development is for a two (2) stage subdivision of 1 lot into 87. Lot 1 DP1230208 contains an area of 11.62ha and is located along two ridgelines with Hillcrest Estate bordering the property to the south.

The proposed subdivision is for 86 residential lots, all consisting of areas greater than 800m<sup>2</sup> with one drainage lot comprising of four drainage reserves. The development also proposes two loop roads providing access from Hillcrest Avenue and Thornton Avenue, one pathway and one temporary right of way. These are proposed to be dedicated to Council.

It is important to note that much of the subject site cannot be connected to sewer in the short term apart from twenty (20) of the proposed lots. These twenty lots are proposed as Stage 1.

It is also important to note that Roads and Maritime Services (RMS) have advised that this area of South Bowenfels can accommodate only fifty (50) more lots before the intersection of James O'Donnell Drive with the Great Western Highway becomes unsafe for traffic crossing the Highway. The Service has indicated that only 20 lots of this subdivision should be released, after which time a link road to Col Drewe Drive will need to be constructed.

The proposal includes infrastructure for stormwater and reticulated water & sewer services. These proposed services include development on the adjoining allotment being Lot 4 DP 1230208. Adjoining properties being Lot 1 DP 1082148 and Lot 2 DP 1049398 are also required for access purposes to Col Drewe Drive.

The stages of the development include:

- Stage 1= 20 lots and one drainage reserve (Lots 1 to 10 & 50 to 59 & Pt Lot 87)
- Stage 2= 66 lots and three drainage reserves (Lots 11 to 49 & 60 to 86 & remaining Part Lot 87)

The property contains minimal vegetation and is currently vacant of building structures. As part of the subdivision development, an existing easement for overhead power lines is proposed to be extinguished.

The applicant proposed an offer for a Voluntary Planning Agreement on 12 February 2018 for the following:

- \$533,200 in total being \$6,200 (per residential lot) to go toward community facilities and open space. It would be proposed that \$200 of this contribution per allotment go towards further embellishments at the existing local park at Thornton Avenue with the balance to go toward community facilities and open space in the vicinity.

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

## NOTIFICATION

The proposal was sent to surrounding landowners and placed on public display in Council's Administration Building for a period of 30 days with seven (7) submissions received. One submission was in favour of the development. The applicant was invited to respond to any issues. Whilst a response was received and contained some detail, it essentially said that the issues are for Council to address. A summary of the submissions are outlined below in italics followed by Planning comments.

- *Frontage widths are too narrow.*

All frontage widths comply with the former DCP (as a guide) apart from Lot 17 located on a curvature.

- *Areas of the allotments are too small.*

All lots comply with the minimum lot size stipulated in the LEP being 800m<sup>2</sup>.

- *The population density is too great.*

The density complies with the LEP.

- *Safety Issue: Dwellings built on smaller blocks without the provision of side access means the vehicles are stored in front garages with 'overflow' forced to driveways or roads. This limits visibility on both road uses and pedestrians and reduces reaction opportunities should a child, adult, animal or other car enter the roadway.*

800m<sup>2</sup> lots with 18m frontages allow for rear vehicular access if desired. Regardless, cars will inevitably park on the street. The proposal provides for 8m wide carriageways which are ample width for safe on street parking to occur.

- *Resource Limitations: Garbage collection will be hindered if more vehicles are parked on the roadway due to 'garage overflow'.*

As above, the road designs accord with Council's current standards.

- *Safety Issue: smaller blocks mean increased bushfire risk spreading between dwellings which are close together. Having a fire break in the form of a driveway beside the house would be of great benefit however is only possible with wider allotments.*

Bushfire risk will be assessed on a case by case basis for each new dwelling. The bushfire risk has been assessed as a moderate risk for only a few lots and only principally being Lot 1.

- *Resource Limitations: The NBN has not yet commenced in Lithgow, but information received details that Hillcrest Estate will only be receiving the "budget" option (fibre to the node- FTTN). This technology is heavily affected by user load and with the increase of 92 lots; internet speed and reliability will be affected. This is an essential service especially for people who work from home.*

NBN Co has verbally indicated that it will extend its current greater Lithgow rollout into all new urban subdivisions without any loss to service levels.

- *Precedent: Hillcrest is currently 140 blocks ranging in size from 856m<sup>2</sup> to 1980m<sup>2</sup> being an average of 1180m<sup>2</sup> with frontages of 23.1m to 30m. Compared to the current proposal with an average of 985m<sup>2</sup> with widths of 12.8m to 25.5m. This is a significant reduction. These need to increase to maintain the current Hillcrest standard.*

Whilst the lots sizes in the established subdivision of Hillcrest Estate are generally a minimum lot size of 900m<sup>2</sup> with many lots of 1000m<sup>2</sup>, as mentioned the application complies with LEP. Steeper lots are generally larger in size with most of the smaller 800m<sup>2</sup> lots being located on the flatter land and predominantly on slopes of less than 15%. Subject to the modifications made by the applicant to reduce the lot yield by five (5) lots, no further objection is raised.

- *Significantly increased traffic movements, creating further need to improve the already constrained intersections and entrance to Hillcrest Estate.*

Council's engineers have not raised any concerns with traffic generation other than at the Highway. Council did require the applicant to provide the Hillcrest Avenue extension to be a loop road however in order to split some of the new traffic generated via Kirby Avenue.

The RMS does not support traffic lights at the intersection of James O'Donnell Drive and the Great Western Highway as it will be seeking funding approval to provide lights on the Col Drewe Drive intersection in due course. The RMS has agreed to a solution whereby a road link back to Col Drewe Drive from the subdivision is to be constructed after the first twenty lots and right turn movements are then prevented from Rabaul Street and James O'Donnell Drive on to the Great Western Highway. If consent is granted, a condition has been included in accordance with these requirements.

- *At this intersection it is a competing issue that involve pedestrians and the ever increasing number of school children that attempt to cross the GWH twice a day when there is no pedestrian crossing at all.*

This issue has been identified by Council (as below). The applicant proposed traffic lights in order to address this however the RMS will not allow lights to be installed. No improvements for pedestrian crossings are currently proposed. Any improvements are controlled by the RMS.

- *The Great Western Highway is the main western corridor that supports 9,000 traffic movements on an average day, 81% light vehicles and 19% heavy vehicles (RMS Traffic Statistics 2007). The highway is the main support hub for freight transport into and out of the Central Western Area and beyond, the additional traffic generation associated with the new subdivision development will increase the total lot yield for this estate to 232 residential lots. Since building the estate in 2011 we have seen the ever increasing traffic generation and issues that have become a real safety concern, traffic queuing and attempting to cross both the east and west bound dual lane road.*
- *Councillors in 2014 in conjunction with Roads and Maritime Services engaged a consultant Cardno Pty Ltd to conduct a Pedestrian Access Mobility Plan (PAMP) Study of the South Bowenfels area identifying deficiencies and future need of the developing area. [http://archive.lithgow.nsw.gov.au/exhibitions/PedestrianAccessMobilityPlan\\_FinalDraft.pdf](http://archive.lithgow.nsw.gov.au/exhibitions/PedestrianAccessMobilityPlan_FinalDraft.pdf) Within this plan were a number of recommendations which was undertaken 4 years ago and the traffic and situation has worsened since then. There needs to be more remediation works then that contained within the recommendations of this report.*

- *The existing intersection of James O'Donnell Drive and the GWH needs to be upgraded appropriately with traffic lights and correct intersection design to cater for the additional traffic. Currently, one only turning traffic lane provision exists for vehicles entering into the estate from the east bound direction. No turning traffic lane provisions exist for motorists turning into the estate from west bound direction and this format will not cater for additional traffic.*
- *Council need to bring the intersection with the highway to the current Australian Standards for residential development before serious accidents happen as a result of the proposal.*
- *The James O'Donnell Drive access would be placed under tremendous stress should there be a bushfire and every resident would need to potentially use it as an evacuation route.*
- *Children ride bikes in the street and while under supervision the new subdivision would mean a much busier street and therefore impact the current lives of people in the estate. This will also impact on the quietness as it is used as a thoroughfare for another estate. Alternative access should be provided to disperse traffic.*
- *James O'Donnell Drive is currently in a serious state of disrepair and the edges of the road continuously falling apart as there is no kerb and gutter. The road is narrow along the length coming into the estate and vehicles continuously drive on the wrong side of the road due to narrow sections and dodging parts that are falling apart.*
- *The width and entrance road to the estate with soft edges is not appropriate now, the building of new homes with increased traffic and builders/ commercial vehicles for construction require a wider access road.*
- *James O'Donnell Drive needs to be resurfaced, line marked and kerb and guttered to allow the development.*
- *James O'Donnell Drive needs to be line marked to divide it for safety reasons.*

Answers to the intersection and highway issues are provided earlier in the report. In relation to James O'Donnell Drive, council's engineers have not raised concerns.

- *The current state was exposed to strict covenants which have now been removed allowing any type of dwelling to be built. What happens when 92 blocks are sold and people put flats and duplexes? Why should this be allowed now?*

It is understood this to refers to the repeal of the South Bowenfels DCP - February 2006. The DCP was repealed as it was overdue for an overhaul. Due to State legislative reform it did not have the status or legal weight that DCPs once held. Lithgow LEP 2014 is now the governing legislation. Applications for dual occupancies will need to be dealt with on a case by case basis.

- *Could the developer be asked to plant mature street trees along all the road reserves as part of the development?*

This will be placed as a condition of consent.

## **OTHER ISSUES**

Nil identified.

## POLICY IMPLICATIONS

### Policy 1.2 Acquisition and Disposal of Assets

This Policy needs to be addressed when Council is considering the acquisition and/or development of assets. This Development Application proposes to construct bio-retention basins, stormwater infrastructure, two roads and a pathway. Four drainage reserves and new road networks will be dedicated to Council as an asset as part of the Subdivision Certificate release process.

Council's Acting Director Infrastructure Services 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 if the development is approved.

**Road Extension:** The development requires an extension to Hillcrest Avenue and Thornton Avenue. As a result, these road extensions will be dedicated to Council. Therefore, Council is required to be satisfied that this will be at an acceptable standard.

**Sewer:** The development requires additional connections to Council's reticulated sewer and sewer upgrades (including a new pumping station by Council) to allow for the additional loadings. The cost of these 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.

**Water:** The development requires additional connections to the 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.

**Dedication of land and associated assets:** The development proposes to dedicate land to Council which retains the stormwater infrastructure within four constructed bio-retention basins. These lands will require ongoing maintenance once the land is dedicated to Council.

### 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 does not apply to development applications that are required to be notified under specific legislation.*

The application is for 'Integrated Development' therefore the proposal was notified to surrounding landowners and placed on display for a period of 30 days to coincide with the required newspaper advertising period and therefore complies with Council's Policy. Wide notification occurred given the potential increase in traffic to Hillcrest Estate. Written notification was undertaken to all Hillcrest Estate and surrounding or adjacent landowners.

### Policy 7.10 Voluntary Planning Agreements

A Voluntary Planning Agreement (VPA) has been negotiated with the developer in accordance with Section 7.4 of the *Environmental Planning & Assessment Act 1979* in relation to this proposal. The plan has been created as per the Policy and will be advertised appropriately for compliance.

The developer has agreed to make a contribution of \$6200 per lot (total of \$533,200) to go toward community facilities and open space.

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.

Council's Open Space and Recreation Needs Study has been used to inform how open space in Bowenfels should be embellished or supplied.

In conclusion, the subdivision has now been through notification and receipt of submissions from authorities and the public. A full assessment has been carried out and development consent can be issued subject to the conditions outlined in the Section 4.15 assessment report attached to the business paper.

### **FINANCIAL IMPLICATIONS**

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- 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. Land dedicated to Council will require ongoing maintenance.

### **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

In determining a development application, a consent authority is also required to take into consideration the matters of relevance under Section 4.15 of the Environmental Planning and Assessment Act 1979.

The legislative basis for the Planning Agreement is incorporated in the *Environmental Planning and Assessment Act 1979* (EP&A Act) (Section 7.4 – 7.10) and the *Environmental Planning and Assessment Regulations 2000* (Clauses 25B – 25H). Section 7.5 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. A complete Section 4.15 Development Assessment Report.
2. Draft Voluntary Planning Agreement.

### **RECOMMENDATION**

#### **THAT**

1. The Development Application DA021/18 be **APPROVED** subject to conditions on the consent as shown in the attached Section 4.15 report.
2. Council endorse the Draft Voluntary Planning Agreement for DA021/18 being \$6,200 (per residential lot) to go toward community facilities and open space.
3. The Draft Voluntary Planning Agreement for DA021/18 be placed on public exhibition for a period of 28 days.
4. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-10                    ECDEV - 29/10/18 - DA022/18 - PROPOSED 79 LOT SUBDIVISION &  
DRAFT PLANNING AGREEMENT, 33 MAGPIE HOLLOW**

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

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To assess and recommend determination of Development Application DA022/18 and to seek endorsement of the Draft Voluntary Planning Agreement for a proposed subdivision of 1 lot into 79 on land known as Lot 2 & 3 DP 1229039, 33 Magpie Hollow Road South Bowenfels.

**COMMENTARY**

The property is currently used as grazing land with some scattered vegetation, Bowen Creek and intermittent drainage lines. The site contains remnants of an old slaughterhouse and a sheep/cattle yard that is proposed to remain on the property.

The proposal is for a 79 lot subdivision, creating 78 new residential allotments and an open space reserve. Proposed Lot 80 (shown on the subdivision plans) is the residue of Lot 3 DP1229039 which will have its boundary adjusted to accommodate part of the road reserve to service the proposal.

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=        4 lots (Lots 47, 48, 51 and 52)
- Stage 6=        29 lots (Lots 49, 50 and 53 to 79) includes the lot for open space

The applicant proposed an offer for a Voluntary Planning Agreement on the 9 October 2018 for the following:

The Developer shall make cash contributions and carry out works as follows:

1. The Developer shall pay to Council an amount of \$2,550 per allotment to go towards community facilities and open space.
2. The Developer shall construct a cycleway 250 metres long within Lot 79 linking the proposed active Open Space area within lot 79 to the new public road in the vicinity of lot 36 (see CEH Survey Drawing 4786\_C\_RD dated 28 December 2017).
3. The Developer shall construct a cycleway 140 metres long within Lot 79 linking the proposed active Open Space area within lot 79 to the new public road in the vicinity of lot 58 (see CEH Survey Drawing 4786\_C\_RD dated 28 December 2017).
4. The Developer shall upgrade the sewer crossing linking the two cycleways within lot 79 to a 2 metre wide minimum steel bridge to cater for bicycles and pedestrian traffic (see CEH Survey Drawing 4786\_C\_RD dated 28 December 2017).
5. Construct a shared cycleway from the intersection of the Great Western Highway to a point adjacent to lot 10 (see CEH Survey Drawing 4786\_C\_RD dated 28 December 2017).

The total of cash and 'works in kind' contributions equate to \$6,200 per allotment. A Draft Planning Agreement has now been prepared for endorsement so the required public notification process may proceed.

## **NOTIFICATION**

The proposal was sent to surrounding landowners and placed on public display in Council's Administration Building for a period of 30 days with two (2) submissions received. One submission represented eight property owners (four properties). The concerns raised in this submission are detailed below:

### **1. Access to Magpie Hollow Road:**

*The proposal shows that at least 8 allotments will not have access to internal proposed roads and access would be from Magpie Hollow Road. Additionally, other 10 allotments have the choice to access from Magpie Hollow Road or internal proposed roads.*

- This is unacceptable and is nothing more than ribbon development along Magpie Hollow Road, a busy road leading to lake Lyell and villages such as Rydal, Tarana and beyond.*
- The traffic and safety implications are very negative*
- All blocks in the subdivision should have entry/exit from the proposed roads within the subdivision and no direct access to magpie Hollow Road.*
- On this basis the application should be amended or rejected.*

### **2. Street width and parking:**

*Street width is shown as 15 to 20 metres. This width includes the distance from front boundary to front boundary of the opposite lots and does not show the actual width of the sealed roads. Nor does it show the distance from sealed road to property boundary (i.e. "footpath" area).*

- Given the traffic and parking congestion experienced in other subdivisions in Lithgow (eg Hillcrest Estate, Strathlone Estate and Bowen Vista), there should be dedicated areas for overflow parking in parking bays along the streets and in dedicated off street overflow parking areas.*
- On this basis the approval should be withheld until adequate road width and parking areas are provided.*

### **3. Stage development:**

*The subdivision is planned in stages with Stage 1 restricted to allotments with access onto Magpie Hollow Road*

- Does this mean that minimal subdivision development is required for stage 1 (i.e. no roads or services are required?)*
- This also raises a question about the planned sewerage pumping station which is located at the southern boundary of Block 79 in Stage 6.*

### **4. Open Space:**

*The plan includes development for 77 home building blocks with one small area of 1492 square metres shown as open space and another 9.17 hectares open space. Both spaces are not included until Stage 6 of the development which could be years away.*

- This seems very adequate until the landform is considered. Block 79 is steep, wooded watercourse and generally inaccessible; it is also under control of Sydney Water Catchment Authority. This cannot be seen as open space for residents or for picnic or playground equipment, in spite of the cycle ways shown in Lot 79.*
- On this basis the proposal should be withheld until adequate, accessible open space with recreational and playground installations are included.*



**5. Bus Stop:**

*There is no provision on the plans for an off road bus stop bay to serve the needs of school bus transport and community bus transport. Given the number of blocks planned, it can be expected that there would be significant number of young people travelling to school for approximately 201 days per year and a safe off-road bus stop must be provided.*

**6. Fencing:**

*Fencing around each building block should be attractive, rural style fencing, not colour bond along boundaries facing Magpie Hollow Road, to maintain the rural, open space appeal of the area.*

*Boundary fencing should be maintained to prevent dogs from entering adjoining properties and causing harm to livestock and pets.*

**7. Emergency Access between properties:**

*Access from an adjoining property through the proposed development for bushfire evacuation purposes should be maintained. This was a verbal agreement between the property owners.*

**Applicant Comments:**

N.B - The applicants 6 comments do not match up with the 7 points raised by objectors.

*1) The development proposes that 9 lots will gain access from Magpie Hollow Road. No other lots will be allowed an access from Magpie Hollow Road. There are currently 15 existing dwellings on other properties which gain access from Magpie Hollow Road. A majority of these have the potential to be subdivided with the majority of these potential new lots having a frontage to Magpie Hollow Road. It is considered that the addition of 9 lots to front Magpie Hollow Road is not a significant concern given the current and likely future development of this road.*

*2) Road reserve widths are as per the council engineering guidelines and the now repealed South Bowenfels DCP. They are deemed suitable for the scale of vehicular traffic which will be developed by the proposal. Off street parking is a consideration of each individual dwelling application. The size the lots proposed (minimum 2000m<sup>2</sup>) as opposed to Bowen Vista (800m<sup>2</sup>) allows for much more space for off street parking.*

*3) The sewage pump station is to be relocated in the first stage of development.*

*4) Lot 79 is to be dedicated to council as open space. The land is zoned E3 and must remain as a single allotment under clause 4.1B of the LEP. The land is not under the control of Water NSW (which is assumed to be what is meant by the Sydney Water Catchment Authority). The land however is subject to SEPP (Sydney Drinking Water Catchment) 2011. As such, water quality modelling has been completed and water quality treatment measures proposed as part of the development. The open space area does contain some steep land around the riparian zones, but there are large areas of flatter land alongside road 1 (opposite lots 56 to 58), at the south western part of lot 79 and also the southern part of lot 79.*

*5) Off road bus stops are not required by any council or RMS guidelines for residential streets. The NSW road rules prevent parking around designated bus stops.*

*6) The fencing of each residential allotment will be at the discretion of the individual allotment owner.*

**Planning Officer's Comments:**

The applicant's comments are considered reasonable and are generally agreed with. The proposal is for a subdivision that complies with Council's controls and guidelines. The following specific points are made:

- It is considered reasonable that some lots front Magpie Hollow Road due to the land opposite being able to do so. The speed limit needs to be reduced in any case and this has been raised with Roads and Maritime Services.
- It is prudent to build the sewer pump station at stage 1.
- Lot 79 is of little value to Council. Therefore a Voluntary Planning Agreement has been drafted to provide open space and community facilities elsewhere or enhance the open space areas of Lot 79.
- Council will not be requiring the provision for bus stops.
- Urban and rural land use conflict often occurs at the interface. As boundary fencing is not governed by Council, it is felt best to leave this issue to private property owners. Fencing falls under the Dividing Fences Act 1991.
- The development does not give provisions for an emergency evacuation route for the adjoining property. As there is and has never been a formal arrangement or requirement from the Rural Fire Service, an emergency access road for the adjoining property to gain access through the development is not required.

In conclusion, the subdivision has now been through notification and receipt of submissions from authorities and the public. A full assessment has been carried out and development consent can be issued subject to the conditions outlined in the Section 4.15 assessment report attached to the business paper.

#### **OTHER ISSUES**

No other matters arise

#### **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. This Development Application proposes to construct bio-retention basins, stormwater infrastructure and four roads. The open space/drainage reserves and the new road networks will be dedicated to Council as an asset as part of the Subdivision Certificate release process.

Council's Acting Director of Infrastructure Services 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 if the development is approved.

##### **Policy 7.7 Calling in of Applications by Councillors**

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.

##### **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 types of development outlined in 6.3 below, written notice of a development application will be given to landowners adjoining the 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 30 days to coincide with the required advertising period and therefore complies with Council's Policy.

**Policy 7.10 Voluntary Planning Agreements**

A Voluntary Planning Agreement (VPA) has been negotiated with the developer as per Section 7.4 of the *Environmental Planning & Assessment Act 1979* in relation to this proposal. The plan has been created as per the Policy and will be advertised appropriately for compliance.

The Developer shall make cash contributions and carry out works as follows:

6. The Developer shall pay to Council an amount of \$2,550 per allotment to go towards community facilities and open space.
7. The Developer shall construct a cycleway 250 metres long within Lot 79 linking the proposed active Open Space area within lot 79 to the new public road in the vicinity of lot 36 (see CEH Survey Drawing 4786\_C\_RD dated 28 December 2017).
8. The Developer shall construct a cycleway 140 metres long within Lot 79 linking the proposed active Open Space area within lot 79 to the new public road in the vicinity of lot 58 (see CEH Survey Drawing 4786\_C\_RD dated 28 December 2017).
9. The Developer shall upgrade the sewer crossing linking the two cycleways within lot 79 to a 2 metre wide minimum steel bridge to cater for bicycles and pedestrian traffic (see CEH Survey Drawing 4786\_C\_RD dated 28 December 2017).
10. Construct a shared cycleway from the intersection of the Great Western Highway to a point adjacent to lot 10 (see CEH Survey Drawing 4786\_C\_RD dated 28 December 2017).

The total of cash and 'works in kind' equates to \$6,200 per residential allotment. 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 - N/A
- Cost centre - N/A
- Expended to date - N/A
- 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 AND RISK MANAGEMENT IMPLICATIONS**

Nil

## ATTACHMENTS

1. A complete Section 4.15 Development Assessment Report.
2. Draft Voluntary Planning Agreement.

## RECOMMENDATION

### THAT

1. The Development Application DA022/18 be **APPROVED** subject to conditions on the consent as shown in the attached Section 4.15 report.
2. Council endorse the Draft Voluntary Planning Agreement proposed for DA022/18 equating to cash and 'works in kind' to a value of \$6,200 (per residential lot) to go toward community facilities and open space.
3. The Draft Voluntary Planning Agreement for DA022/18 be placed on public exhibition for a period of 28 days.
4. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-11                    ECDEV - 29/10/18 - DA142/18 - PROPOSED 137 LOT SUBDIVISION &  
DRAFT PLANNING AGREEMENT, GREAT WESTERN HIGHWAY**

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

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**SUMMARY**

To assess and recommend determination of Development Application DA142/18 and to seek endorsement of the Draft Voluntary Planning Agreement for a proposed six (6) stage subdivision of 1 lot into 137 lots on land known as Lot 2 DP 1049398, Lot 5 DP1230208 and Lot 1 DP 1082148 (Sweetbriar), 994, 998 and Sweetbriar, Great Western Highway, Bowenfels.

**COMMENTARY**

Lot 2 DP 1049398 being the subject site measures 20.9ha and is located between the Great Western Highway and bordering the existing Hillcrest Estate to the west. The site is cleared grazing land and minimal vegetation exists. The proposed subdivision is for 134 residential lots of greater than 800m<sup>2</sup> in size; one development lot; one drainage lot comprising one drainage reserve with various roads providing access from James O'Donnell Drive and Thornton Avenue and one public reserve. All proposed drainage reserves, roads and the public reserve are to be dedicated to Council.

The proposal also includes infrastructure for stormwater, reticulated water and sewer services.

A plan of the proposed subdivision is included in the Section 4.15 Development Assessment report attached to the business paper.

The development is proposed to be undertaken in six (6) stages being:

- Stage 1=            1 development lot.
- Stage 2=            29 residential lots, one drainage reserve and link road reserve to Col Drewe Drive.
- Stage 3=            21 lots (and construction of link road to Col Drewe Drive).
- Stage 4=            34 residential lots and one open space lot.
- Stage 5=            27 lots.
- Stage 6=            23 lots.

Roads and Maritime Services (RMS) have advised that this area of South Bowenfels can accommodate only fifty (50) more lots before the intersection of James O'Donnell Drive with the Great Western Highway becomes unsafe for traffic crossing the Highway. The Service has indicated that only 30 lots of this subdivision should be released, after which time a link road to Col Drewe Drive will need to be constructed

The applicant proposed an offer for a Voluntary planning Agreement on the 4 June 2018 for the following:

The Developer will contribute a total value of \$6,200.00 per allotment for open space and community facilities. This will be comprised of:

1. The dedication of 2.08 hectares of land for Public Reserve. This will comprise of 0.88 hectares as a condition of consent and 1.2 hectares offered under the VPA.
2. Payment to Council an amount of \$5,582.99 per allotment. Of this amount, \$1924.50 is to be allocated to embellish the Public Reserve Lot 235 and \$3658.49 is to be allocated to nearby community facilities.

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

## NOTIFICATION

The proposal was sent to surrounding landowners and placed on public display in Council's Administration Building for a period of 30 days. One (1) submission was received with the concerns that were raised summarised below in italics. The applicant was invited to respond to these issues. Whilst a response was received and contained some detail, it essentially said that the issues are for Council to address. This is agreed with and a Planning Comment is therefore provided below.

- *Frontage widths are too narrow.*

All frontage widths comply with the former DCP (as a guide only) apart from Lot 229 that is situated off a cul-de-sac.

- *Area of the allotments are too small.*

All lots comply with the minimum lot size stipulated in the LEP being 800m<sup>2</sup>.

- *The population density is too great.*

The density complies with the LEP.

- *Safety Issue: Dwellings built on smaller blocks without the provision of side access means the vehicles are stored in front garages with 'overflow' forced to driveways or roads. This limits visibility on both road uses and pedestrians and reduces reaction opportunities should a child, adult, animal or other car enter the roadway.*

800m<sup>2</sup> lots with 18m frontages would allow for rear vehicular access if desired. Regardless, cars will inevitably park on the street. The proposal provides for 8m wide carriageways which is ample width for safe on street parking to occur.

- *Resource Limitations: Garbage collection will be hindered if more vehicles are parked on the roadway due to 'garage overflow'.*

As above, the road designs accord with Council's current standards.

- *Safety Issue: smaller blocks mean increased fire risk spreading between dwellings which are close together. Having a fire break in the form of a driveway beside the house would be of great benefit however is only possible with wider allotments.*

Bushfire risk will be assessed on case by case basis for each new dwelling.

- *Resource Limitations: The NBN has commenced in Lithgow, information received details that Hillcrest Estate will only be receiving the "budget" option (fibre to the node-FTTN). This technology is heavily affected by user load and with the increase of 134*

*plus 92 lots, internet speed and reliability will be effected. This is an essential service especially for people who work from home.*

NBN Co has verbally indicated that it will extend its current greater Lithgow rollout into all new urban subdivisions without any loss to service levels.

- *Precedent: Hillcrest is currently 140 blocks ranging in size from 856m<sup>2</sup> to 1980m<sup>2</sup> being an average of 1180m<sup>2</sup> with frontages of 23.1m to 30m. Compared to the current proposal with an average of 850m<sup>2</sup> with widths as low as 18.5m. This is a significant reduction. These need to increase to maintain the current Hillcrest standard.*

Whilst the lot sizes in the established subdivision of Hillcrest Estate are generally a minimum lot size of 900m<sup>2</sup> with many lots of 1000m<sup>2</sup>, as mentioned the application complies with the LEP. Steeper lots are generally larger in size with most of the smaller 800m<sup>2</sup> lots being located on the flatter land and predominantly on slopes of less than 15%.

In conclusion, the subdivision has now been through notification and receipt of submissions from authorities and the public. A full assessment has been carried out and development consent can be issued subject to the conditions outlined in the Section 4.15 assessment report attached to the business paper.

#### **OTHER ISSUES**

No.

#### **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. This Development Application proposes to construct bio-retention basins, stormwater infrastructure and roads. Two drainage reserves and new road networks will be dedicated to Council as an asset as part of the Subdivision Certificate release process.

Council's Acting Director Infrastructure Services 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 if the development is approved.

##### **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 does not apply to development applications that are required to be notified under specific legislation.*

The application is for 'Integrated Development' therefore the proposal was notified to surrounding landowners and placed on display for a period of 30 days to coincide with the required newspaper advertising period and therefore complies with Council's Policy. Wide notification occurred given the potential increase in traffic to Bowenfels. Written notification was undertaken to surrounding or adjacent landowners.

##### **Policy 7.10 Voluntary Planning Agreements**

A Voluntary Planning Agreement (VPA) has been negotiated with the developer in accordance with Section 7.4 of the *Environmental Planning & Assessment Act 1979* in

relation to this proposal. The plan has been created as per the Policy and will be advertised appropriately for compliance.

The Developer will contribute a total value of \$6,200.00 per allotment for open space and community facilities. This will be comprised of:

1. The dedication of 2.08 hectares of land for Public Reserve. This will comprise of 0.88 hectares as a condition of consent and 1.2 hectares offered under the VPA.
2. Payment to Council an amount of \$5,582.99 per allotment. Of this amount, \$1924.50 is to be allocated to embellish the Public Reserve Lot 235 and \$3658.49 is to be allocated to nearby community facilities.

Council's Open Space and Recreation Needs Study has been used to inform how open space in Bowenfels should be embellished or supplied. This proposal provided the opportunity for the dedication of land or a public reserve as provided in study.

### **FINANCIAL IMPLICATIONS**

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- 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 AND RISK MANAGEMENT IMPLICATIONS**

In determining a development application, a consent authority is also required to take into consideration the matters of relevance under Section 4.15 of the Environmental Planning and Assessment Act 1979.

The legislative basis for the Planning Agreement is incorporated in the *Environmental Planning and Assessment Act 1979* (EP&A Act) (Section 7.4 – 7.10) and the *Environmental Planning and Assessment Regulations 2000* (Clauses 25B – 25H). Section 7.5 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. A complete Section 4.15 Development Assessment Report.
2. Draft Voluntary Planning Agreement.

### **RECOMMENDATION**

#### **THAT**

1. The Development Application DA142/18 be **APPROVED** subject to conditions on the consent as shown in the attached Section 4.15 report.
2. Council endorse the Draft Voluntary Planning Agreement for DA142/18 being for \$6,200 per residential allotment (Cash and dedication of land) to go toward community facilities and open space.
3. The Draft Voluntary Planning Agreement for DA142/18 be placed on public exhibition for a period of 28 days.
4. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993



**ITEM-12                    ECDEV - 29/10/18 - DA170/18 - PROPOSED 2 LOT SUBDIVISION AND  
DEMOLITION, 27 PIMPALA STREET MARRANGAROO**

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

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## **SUMMARY**

To assess and recommend determination of Development Application DA170/18 for a subdivision of one lot into two and for the demolition of a shed on land known as Lot 34 DP 793965 27 Pimpala Street, Marangaroo.

The recommendation is for refusal of the application for reasons of inconsistency with objectives of the zone and lot size provisions in Lithgow Local Environmental Plan 2014 and inconsistency with the existing subdivision pattern and the character of the locality.

## **COMMENTARY**

The property currently contains an area of 4000m<sup>2</sup> and is proposed to be subdivided into 2 residential allotments. Both proposed lots will be 2000m<sup>2</sup> in size. Proposed Lot 1 is to contain the existing dwelling. Proposed Lot 2 will be vacant following the demolition of the existing garage. The proposed subdivision will result in a rear “battle-axe” shaped lot. It is important to note that the area of the access handle for the rear lot is included in the 2000m<sup>2</sup> size of the lot.

Access to proposed Lot 1 exists, with a new access driveway to be constructed for proposed Lot 2 along the battle-axe handle.

The land slopes gently from east to west, with a variety of planted vegetation around the existing dwelling and along the property boundaries. A row of larger trees are located on the property to the rear (golf course) near the rear boundary.

## **NOTIFICATION**

During the notification period two submissions were received. A summary of the submissions are outlined below:

- The proposal is inconsistent with the country style living that is expected by residents in the Marangaroo Fields Estate.
- The proposal would convert the estate into suburbia.
- The proposal will set a precedent that will result in an unacceptable strain on the present infrastructure and facilities.
- Further subdivision in the estate would require the one lane bridge access to the estate to be addressed.
- The proposal is inconsistent with the development standards that previously applied in the Marangaroo Fields Estate DCP.
- A battle-axe lot is not in keeping with a rural style subdivision.
- The proposal will result in additional residences close to the golf course, raising issues of personal injury and property damage from errant golf balls.

**Applicants Response:**

- The proposed development is compatible with the low density residential amenity of the area. Marrangaroo Field is not a rural estate. The proposed allotment will adopt the same open style fencing that is dominant throughout the estate, with dwelling setbacks that are consistent with those on existing lots. The allotment is of a size and scale that is consistent with that of other allotments in the locality, and in reality will be no more obtrusive than the dual occupancy development located on the adjoining lot.
- The proposal is consistent with the intent of the R2 – Low Density Residential zone and does not undermine the zone objectives. The concept of “suburbia” is subjective and in literal terms means “the outer parts of a town, where there are houses, but no large shops, places of work, or places of entertainment”. Perhaps for some Marrangaroo Fields is already suburbia.
- The proposed development meets the development standards set in the Lithgow LEP 2014. The idea of precedent is managed through strategic planning processes. The establishment of the minimum lot size at 2000m<sup>2</sup> has already set the standard and precedent for lot sizes in this locality. Council has already approved a subdivision of another allotment at 14 Pimpala Street into 2 allotments of approx. 2000m<sup>2</sup> each. This decision supports the planning objectives set for this area. The existing services in the locality including water, sewer, electricity, gas and telephone are all available to the allotment with no major upgrades required to cater for the development.
- The proposed subdivision will only generate an additional 6 vehicle movements per day. This amount of traffic would not warrant upgrading of the access bridge.
- The DCP has been repealed and even if it were still current, cannot be any more restrictive than the development standards in the Lithgow LEP. The development does however predominantly still meet the main objectives of the old DCP which was to primarily retain that rural/residential amenity. The siting of the dwelling back from the road, does more to maintain this amenity in my view than additional allotments with street frontage. With appropriate landscaping, design and siting, the rear dwelling will be obscured from the Pimpala Street frontage and will address the public open space to the rear. The dwelling located on 29 Pimpala Street does not have living or outdoor areas that have direct views over the new lot and the house on 31 Pimpala Street, while having its outdoor areas orientated with views to the east, would have its views of the new dwelling obscure by the existing double colourbond garage located on the rear of 29 Pimpala Street. The bulk and scale of the new dwelling can be adequately obscured from view lines with appropriately placed tree planting and landscaping.
- While it is acknowledged that this subdivision is the first in the estate to create a battle axe allotment, a number of allotments off Windarra Drive are irregular in shape and are not considered out of keeping with the character of the area. This development will still retain the important building elements of rural type fencing and generous building setbacks that reinforce the open and rural nature of the area. Also, the retention of existing landscape features and mature trees on the allotments and the incorporation of new and strategically placed landscaping features will assist in integrating the new allotment into the existing subdivision pattern. It is noted that the adjoining Marrangaroo Estate subdivision that was approved by Council recently does include numerous battle axe allotments also. While the use and application of battleaxe allotments is not ideal, it does have its place particularly in infill development situations to make best use of serviced and appropriately zoned land.

Most LEP's across NSW allow battleaxe developments in appropriate infill and greenfield locations.

- The design of the 8th hole and tee placement directs golf ball away from the allotment.

### Assessment

The principal issues raised in the submissions and from Council Officer's assessment against the relevant legislative provisions, relate to the zone and minimum lot size objectives under the Lithgow Local Environmental Plan 2014 and the character of the Marangaroo Fields Estate. Pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979, the proposal has been assessed and it is considered that the development is likely to have detrimental impacts on the character of the locality and therefore the site is not suitable for the development.

The assessment of the development application against the relevant (and former) legislative provisions, submissions received and the applicant's response is provided below.

#### Lithgow Local Environmental Plan 2014

The subject land is zoned R2 Low Density Residential. The minimum lot size for the subject land is 2000m<sup>2</sup>.

Although the proposal complies with the minimum lot size standard in LEP 2014, the development is not considered to be consistent with the objectives of the R2 zone as they relate to the locality. The zone objectives are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maintain or improve the water quality of receiving water catchments.*

The proposal is not considered to be consistent with the low density residential environment of the Marangaroo Fields Estate.

The surrounding area is generally for low density residential purposes, with the Lithgow Golf Club adjoining the property to the rear. A dual occupancy development exists on the adjoining lot to the west, however this is not typical of development in the Marangaroo Fields Estate, though dual occupancy development is permitted with consent. The majority of lots in the estate have a relatively regular shape taking into account the street layout. There are no other "battle-axe" lots currently in the estate. The typical form of development in the estate is large dwellings, with generous setbacks and established landscaping on large yards.

The visual impact of a future dwelling or dual occupancy on the rear lot cannot be assessed as part of this application. While a relatively small single storey dwelling on the rear lot may have minimal visual impact (as evidenced by the dual occupancy on the adjoining lot), a large two storey dwelling potentially has a negative visual impact. Further, the potential for dual occupancy development on both lots would be likely to have a negative impact on the character and landscape setting of the estate.

Given the above, the proposal is not considered to be consistent with the character of existing development in the estate.

The concern about the potential for dual occupancy development on the rear lot was raised with the applicant to provide an opportunity for a response to this issue to be provided. The applicant has advised that they are willing to restrict the development of a dual occupancy on the rear lot by applying an 88B restriction on the new lot to not allow this type of development.

Comment – The application of a S88B restriction to prevent a dual occupancy on the rear lot would be similar to the existing restriction relating to one main dwelling, in that it could only be enforced if Council was a party to the covenant. The provisions of the LEP also override covenants.

The proposed subdivision is also not considered to be consistent with the objectives of clause 4.1 Minimum subdivision lot size of LEP 2014. The objectives are:

- (a) *to minimise the cost to the community of:*
  - (i) *fragmented and isolated development of rural land, and*
  - (ii) *providing, extending and maintaining public amenities and services,*
- (b) *to ensure that the character and landscape setting of an area is protected and enhanced by any development,*
- (c) *to promote development on appropriately sized lots and to ensure access to available essential services.*

The proposed subdivision is not considered to be consistent with the existing character of the Marrangaroo Fields Estate. The estate was developed in accordance with the aims of the original Marrangaroo Fields Estate DCP (“a residential environment which has a distinctly rural atmosphere”) and no recent developments have resulted in any significant change to this character. The proposed subdivision has the potential to significantly change the character of the estate, through a more residential scale and density of development on the proposed lots, and whilst each proposal must be assessed on its own merits, through the precedent it sets for future similar developments.

The creation of a rear “battle-axe” lot that relies on the area of the access handle to achieve the minimum lot size is out of character with the prevailing subdivision pattern. There are no other similar lots in the estate. It is also relevant that Council's current civil engineering design guidelines do not encourage the development of battle-axe lots.

The concern about the proposed battle-axe lot being out of character with the area was raised with the applicant to provide an opportunity for a response to this issue to be provided. The applicant provided the following response:

- *In support of my request to have the access handle included in the calculation of the allotment MLS, we are willing to amend the original proposal by removing the existing concrete driveway, from a point adjacent to the existing rear verandah. This would provide additional area for landscaping around the new access driveway for the rear lot and remove the amount of hardstand area as viewed from Pimpala St thereby helping to retain the current amenity of the area. It would also create additional impervious area to assist with onsite stormwater detention. Also of interest is the approach that Blacktown Council adopts in accessing the area of battleaxe allotments with the part of the access handle greater than 8m being included in the MLS calculation.*

Comment – The removal of the existing concrete driveway would assist in reducing the extent of hard surfaces and provide additional landscaping opportunity to soften the appearance of a future development and driveway on the rear lot. Notwithstanding the reduction in hard surface area that would result from the removal of the existing driveway,

the creation of a battle-axe lot in the Marrangaroo Fields Estate remains inconsistent with the character of the estate.

To further understand the character of the estate, it is relevant to consider the objectives and provisions of the former Marrangaroo DCP that applied to the land. Whilst the former Marrangaroo Fields Estate DCP has been repealed, the provisions of the former plan are relevant in so far as they provided guidance as to the planned scale and character of development in the estate. It is acknowledged that changes were made to the Environmental Planning & Assessment Act in 2012 making clear the subordinate and guidance role of DCPs. Therefore, even if a current DCP for Marrangaroo was in existence, it is doubtful it could assist in the current situation.

#### Former Marrangaroo Fields Estate DCP

The Marrangaroo Fields Estate DCP contained the following aims:

- “to provide a residential environment which has a distinctly rural atmosphere”
- “to restrict the density of development within the area so as to maintain its rural character”.

The following provisions were contained in the DCP:

- Minimum lot size of 2000m<sup>2</sup>
- Average lot size no less than 3000m<sup>2</sup>
- No further subdivision of an approved lot in the estate.

In addition to the above, the DP 793965 contained a number of S88B restrictions to the lots in the estate. One of these restrictions states that “*not more than one (1) main building shall be erected on the land hereby burdened*”. Other restrictions apply to connections to services, size of the living areas and fencing. The restriction relating to the number of main buildings does not prevent dual occupancy development on a lot, which is permitted with consent under LEP 2014 (and was permitted with consent under the former Marrangaroo Fields Estate DCP). Rather, the restriction seeks to limit the scale of any other buildings on each lot so that they are smaller than the main dwelling (such as a secondary dwelling or “granny flat”).

The issue of the existing S88B restriction was raised with the applicant to provide an opportunity for a response to this issue to be provided. The applicant provided the following response:

- *The Marrangaroo Fields Estate was created in the late 1980’s before the definition of dual occupancy development was created. With the gazettal of the new Lithgow LEP 2014, if dual occupancy development was not to be allowed in this area it should have been restricted under the provisions of the LEP.*
- *However, in strictly applying the legislative powers of the LEP, the covenant applied to the Marrangaroo Fields allotments was removed by virtue of clause 1.9A(1) of LEP. Clause 1.9A(2)(a) does not apply to retention of the covenant as Council in creating the subdivision was acting as developer not regulatory authority. Even if the 88B were to apply, it does not restrict subdivision rights only the erection of dual occupancy. However, Council has already created the precedent of overriding the 88B restriction by allowing 3 dual occupancy developments in the Marrangaroo Fields estate.*

Comment – While the covenant was imposed by Council as a developer, not as a regulatory authority, the covenant is in favour of Lithgow City Council and therefore Council still has the power to impose or vary the covenant as a separate matter to the assessment of a development application. Council did vary the covenant in respect of the development application for a dual occupancy on the adjoining property at 25 Pimpala Street, Marangaroo. A check of Council's records has revealed only one approval for a dual occupancy (25 Pimpala Street) in the Marangaroo Estate and one approval for a secondary dwelling (4 Bundarra Place). In both cases, the scale of the second dwelling is smaller than the main dwelling on the lots.

The proposed subdivision complies with the minimum lot size and does not result in an average lot size in the estate less than 3000m<sup>2</sup>, however it is inconsistent with the former DCP aims and the provision preventing further subdivision of approved lots. This reinforces the assessment that the proposal is inconsistent with the current zone and lot size objectives and is not in keeping with the character of the estate.

It is also not in keeping with the intent of the S88B restriction referred to above, as it would facilitate an additional "main" dwelling on the proposed rear lot and dual occupancy development on both of the proposed lots.

The precedent created by the approval of this application may lead to additional subdivision proposals that would result in reducing the lot average and dwelling density in the Marangaroo Fields Estate, and result in more "main" buildings. The ultimate effect would be a significant change in the character of the estate such that it would no longer have a "distinctly rural atmosphere".

Notwithstanding the applicant's responses to the issues raised, it is considered that the proposal remains inconsistent with the character of the location and will likely lead to further subdivision proposals increasing the density of the estate. There are a number of important reasons to not facilitate an increase in density in the Marangaroo Fields Estate, including:

- The current access to the estate is problematic, via a one way bridge with no queuing distance at the intersection of the Great Western Highway.
- The limited capacity of water and sewer services.
- The lack of inter-allotment drainage and the potential for problems resulting from increased hard surface and roof areas.
- The lack of kerb and guttering and the potential for damage to the road pavements from increased traffic movements.

The potential for the development to result in a change to the character of the Marangaroo Fields Estate is likely to have negative social impacts on existing residents of the estate. Whilst it is acknowledged that each individual development application must be considered on its merits, were the application to be approved, it is likely that similar subdivision proposals would be submitted to Council adding to the change in character of the estate and placing a greater burden on local services and infrastructure, with negative economic impacts for the broader community.

In summary, following the assessment of the development application pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979, it is considered that the proposal is inconsistent with the objectives of the zone and lot size provisions in Lithgow Local Environmental Plan 2014 and is not in keeping with the subdivision pattern and character of the locality and is therefore not suitable for the subject site.

## **POLICY IMPLICATIONS**

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

Council's Policy states:

*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.*

The proposed development is for the subdivision of land with the applicant being a former Council employee. Although the applicant is not a current employee it is important that this application is determined in a manner with no perceived bias. Also the matter should be determined by Council as it has the potential to set a benchmark for future applications at Marrangaroo Fields.

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

*1. Council will endorse subdivision certificates prior to completion of subdivision works only on the following basis:*

- a) Subdivision works must be substantially complete. "Substantially complete" means that all civil works have been completed including roads, water supply, sewerage and drainage. Minor outstanding works refers to installation of street signage, final rectification/seeding of excavations & batters and landscaping.*
- b) Works as executed plans must have been submitted to Council and accepted.*
- c) Security for incomplete works must be provided to Council prior to the endorsement of the subdivision certificate, either by cash deposit or unconditional bank guarantee.*
- d) The amount of the security must be 100% of the estimated cost of completion of the outstanding works.*

*2. The General Manager is authorised to determine the amounts of security deposits for outstanding subdivision work and to release security upon satisfactory completion and to vary the time periods for completion of works as deemed necessary.*

*3. The General Manager is authorised to decline to allow bonding of outstanding subdivisions works where the deferred completion of works would not be in the best interest of Council and the community.*

*4. The owner of the land to which the subdivision relates must provide written authority allowing Council to enter the site and make all necessary arrangements to have outstanding works completed within six (6) months of the date of the subdivision certificate.*

*5. The General Manager may sub delegate any function under this policy including the issue of a Subdivision Certificate.*

If the application were to be approved, the following condition would be placed on the consent:

*That a Subdivision Certificate Application be lodged to Council for approval.*

### **Policy 7.5 Notification Of Development Applications**

Subdivisions within the R2 Zone are not defined as being exempt of notification under Council's Policy. Therefore the following clause applies:

**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.*

The proposal was notified to surrounding landowners and placed on display for a period of 14 days. A summary of the submissions are outlined earlier in this report. As such the development complies with Council's Policy.

## **FINANCIAL IMPLICATIONS**

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

## **LEGAL IMPLICATIONS**

In determining a development application, a consent authority is also required to take into consideration the matters of relevance under Section 4.15 of the Environmental Planning and Assessment Act 1979.

## **ATTACHMENTS**

1. A complete Section 4.15 Development Consent Report.
2. Plan of proposed subdivision.

## **RECOMMENDATION**

### **THAT**

1. The Development Application DA170/18 be refused for the following reasons:
  - a) The application has been assessed pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 and it is considered that the development is likely to have detrimental impacts on the character of the locality and the site is not considered suitable for the development,
  - b) The proposed subdivision is inconsistent with the R2 Low Density Residential Zone objectives in *Lithgow Local Environmental Plan 2014*,
  - c) The proposed subdivision is inconsistent with the objectives of clause 4.1 Minimum Subdivision Lot Size in *Lithgow Local Environmental Plan 2014*,
  - d) The proposed subdivision is inconsistent with the existing subdivision pattern in the locality,
  - e) The proposed subdivision results in the potential for significant additional development on the lot that would not be in keeping with the character of the locality.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.



**ITEM-13                    ECDEV - 29/10/18 - ENERGY AUSTRALIA PIPERS FLAT RAIL COAL UNLOADER MOD 1, PIPERS FLAT ROAD WALLERAWANG**

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

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## **SUMMARY**

To advise Council on an application that has been submitted to the Department of Planning and Environment (the Department) for the Energy Australia-Pipers Flat Rail Coal Unloader (formerly known as the Western Rail Coal Unloader), Modification 1 to Project Approval 06\_0271. The project site is located on Lots 1 and 2 DP 800003, 708 Pipers Flat Road Wallerawang.

## **COMMENTARY**

A modification of development consent application has been lodged with the Department of Planning and Environment for the proposed coal unloader at Pipers Flat Road, Wallerawang.

The proposed modification is to amend design elements of the approved rail loop and coal unloader as required for constructability, provide operational efficiencies and improve environmental outcomes. The proposed modification also seeks a three year extension to the lapsing date of the Project Approval.

The original approval was granted on 27 June 2009 with a lapsed date being within 10 years unless works physically commenced. The proposal is to extend the approval date to 27 June 2022.

The approved project included:

- A rail loop off the Gwabegar branch line,
- A coal unloader building which would allow coal to be delivered into a hopper located below the rail line and includes an office and amenity area,
- A conveyor system to carry coal from the coal unloader building to the existing coal handling facility at the Mount Piper Power Station,
- A locomotive provisioning area for refuelling and sanding facilities for the trains,
- A rail wagon maintenance area, and
- A diesel fuel storage area.

The proposed modification includes:

- Amending the rail loop to optimise the natural land contours, reduce the maximum height of the rail embankment by 4m and provide two branch line connections (rail loop and optional rail spur),
- Repositioning the coal unloader approximately 250m to the west, to line up with the overland conveyor,
- Removal of the approved transfer conveyor and intermediate transfer station (given the realignment and direct connection of the overland conveyor and coal unloader), and
- Removal of certain approved ancillary infrastructure such as the wagon maintenance area, locomotive provisioning area and diesel storage area.

The revised rail loop and coal unloader design is suitable for 4-5Mtpa of coal and is equivalent to approximately 15-20 trains per week over 50 weeks per year, (2-3 trains per day). This is a reduction from the current approval that granted consent for 8Mtpa, 40 trains per week (5-6 trains per day).

The applicant has requested that condition 2.30 relating to traffic and transport, be amended to 'clarify the timing of the intersection upgrades to confirm that the upgrade must be in place prior to any oversize vehicles accessing the site for construction'.

The original condition states:

*Prior to the commencement of site construction works, the Proponent shall upgrade the intersection of the site access road and Pipers Flat Road to the satisfaction of the RTA and Council. As part of the upgrade works the Proponent shall, in consultation with the RTA and Council, undertake an Intersection Treatment Study to determine the most appropriate intersection treatment for the intersection of the site access road and Pipers Flat Road. The Study shall give specific consideration to queuing treatments, the need for auxiliary lanes, and other relevant matters as required by the RTA and Council. The study shall be submitted to the RTA and Council for review prior to the commencement of any upgrade of the intersection.*

The applicant seeks to reword the above condition to read as"

***Prior to any oversized vehicles accessing the site for construction works, the Proponent shall upgrade the intersection of the site access road and Pipers Flat Road to the satisfaction of the RTA and Council. As part of the upgrade works the Proponent shall, in consultation with the RTA and Council, undertake an Intersection Treatment Study to determine the most appropriate intersection treatment for the intersection of the site access road and Pipers Flat Road. The Study shall give specific consideration to queuing treatments, the need for auxiliary lanes, and other relevant matters as required by the RTA and Council. The study shall be submitted to the RTA and Council for review prior to the commencement of any upgrade of the intersection.***

Council Officers have advised the Department that the original condition should remain on the consent, with the intersection to be upgraded prior to any oversize vehicles accessing the site for the construction of the development.

## **OTHER ISSUES**

The Environmental Impact Statement was supplied to Council and was placed on exhibition for public and authority comments which finished on the 21 September 2018. A submission was made on behalf of Council regarding the intersection upgrade from Pipers Flat Road. The assessment of the proposal will now be undertaken and completed by the Department of Planning and Environment.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

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

### **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

As the proposal falls within Part 4, Division 4.2 of the *Environmental Planning and Assessment Act 1979* the Department of Planning and Environment will be the consent authority.

### **RECOMMENDATION**

**THAT** the information in the report on the Energy Australia-Pipers Flat Rail Coal Unloader, Modification Project Approval 06\_0271, be NOTED.

**ITEM-14            ECDEV - 29/10/18 - LAND ACQUISITION AND DISPOSAL POLICY**

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

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**REFERENCE**

Minute No. 18-220:    Ordinary meeting of Council on 27 August 2018

**SUMMARY**

Draft Policy 1.6 'Land Acquisition and Disposal Policy' is returned to Council for adoption.

**COMMENTARY**

On 27 August 2018 Council resolved to place Draft Policy 1.6 'Land Acquisition and Disposal Policy' on public exhibition for a period of 28 days.

Draft Policy 1.6 was placed on public exhibition from 7 September 2018 to 5 October 2018, in accordance with SWP 6.1, and no submissions were received.

It is therefore recommended that Council adopt Draft Policy 1.6.

**POLICY IMPLICATIONS**

Draft Policy 1.6  
SWP6.1

**FINANCIAL IMPLICATIONS**

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

**LEGAL AND RISK MANAGEMENT IMPLICATIONS**

Interpretation Act 1987  
Local Government Act 1993  
Local Government (General) Regulation 2005  
Land Acquisition (Just Terms Compensation) Act 1991  
Roads Act 1993

**ATTACHMENTS**

1. Land Acquisition and Disposal Policy

**RECOMMENDATION**

**THAT** Council resolve to adopt Policy 1.6 'Land Acquisition and Disposal Policy'.

**ITEM-15            ECDEV - 29/10/18 - ECONOMIC DEVELOPMENT & ENVIRONMENT  
POLICY REVIEW**

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

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**SUMMARY**

To advise Council of the latest policies to be reviewed in the Economic Development & Environment portfolio and recommend that two policies be repealed for sex services premises and restricted premises and that a rewritten policy on notification of development application be placed on public exhibition.

**COMMENTARY**

The review of policies under the oversight of the Economic Development & Environment Department has been continuing with three more policies now reviewed. These policies are:

Policy 7.5 – Notification of Development Applications

Policy 7.8 – Sex Services Premises and Home Occupation (Sex Services) Premises Requirements

Policy 7.9 – Requirements for Restricted Premises

Policy 7.5 – Notification of Development Applications has been substantially rewritten in an endeavour to address a number of minor issues encountered with the previous version of the Policy and the repeal of the South Bowenfels Development Control Plan, which is mentioned in the current version. Attached to the Business paper for comparison purposes are the existing policy and also the proposed new policy. It will be proposed to place the proposed new policy on public exhibition for a period of 21 days and seek comment prior to reporting the revised policy back to Council for adoption with or without any amendments as a result of the exhibition period.

In respect to Policy 7.86 Sex Services Premises and Home Occupation (Sex Services) Premises Requirements, the Policy was last reviewed in August 2014. Since this time Lithgow Local Environmental Plan commenced on 19 December 2014. The LEP limits the location of Sex Service Premises (subject to obtaining development consent) to IN1 and IN2 Industrial Zones. Home Occupation (Sex Services) are permissible with consent in B2 Local Centre and B4 Mixed Use Zones which are business zones. Home Occupation (Sex Services) Premises Requirements are not permitted in residential zones, furthermore Clause 7.13 of the LEP states:

**7.13 Location of sex services premises**

- (1) The objective of this clause is to minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children.
- (2) In deciding whether to grant development consent to development for the purposes of sex services premises, the consent authority must consider the following:
  - (a) whether the premises will be located on land that adjoins, is directly opposite or is separated only by a local road from land:

- (i) in Zone R1 General Residential, Zone R2 Low Density Residential or Zone RE1 Public Recreation, or
  - (ii) used for the purposes of a centre-based child care facility, a community facility, a school or a place of public worship,
- (b) the impact of the proposed development and its hours of operation on any place likely to be regularly frequented by children:
  - (i) that adjoins the development, or
  - (ii) that can be viewed from the development, or
  - (iii) from which a person can view the development.

Consequently, due to the restrictions imposed by zoning and the requirements built into the LEP, Policy 7.8 has now become redundant and accordingly this should be repealed.

Policy 7.9 – Requirements for Restricted Premises was originally written in 2006 primarily in response to a development application for a restricted premises in Main Street at the time. This development application was refused and then approved on Appeal in the Land and Environmental Court. In relation to this policy the reality is that:

- since its introduction in response to a development application for a restricted premises, the policy has not subsequently been used
- Restricted premises can only be considered in B2 Local Centre and B4 Mixed Use Zones; and
- With the advent of digital technology, allowing online access to products associated with such a premises, the chances of receiving a DA for a restricted premises is somewhat reduced.

With these considerations it is recommended that Council repeal Policy 7.9.

#### **POLICY IMPLICATIONS**

Primarily the subject of this report.

#### **FINANCIAL IMPLICATIONS**

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

#### **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

Nil

#### **ATTACHMENTS**

1. Policy 7.5 – Notification of Development Applications current policy
2. Policy 7.5 – Notification of Development Applications proposed revised policy for exhibition.
3. Policy 7.8 – Sex Services Premises and Home Occupation (Sex Services) Premises Requirements current Policy proposed for repeal.
4. Policy 7.9 – Restricted Premises proposed policy proposed for repeal.

## RECOMMENDATION

### THAT

1. Revised Policy 7.5 – Notification of Development Application be placed on public exhibition for a period of 21 days with the policy being reported back to Council for final adoption following exhibition and consideration of any submissions received.
2. Policy 7.8 – Sex Services Premises and Home Occupation (Sex Services) Premises requirements be repealed.
3. Policy 7.9 – Requirements for Restricted Premises be repealed.
4. Council's policy register be adjusted due to the repeal of two policies with Policy 7.10 – Planning Agreements to be renumbered Policy 7.8 and Policy 7.11 Asbestos Management to be renumbered Policy 7.9.

## **WATER AND WASTEWATER REPORTS**

**ITEM-16            WWW - 29/10/18 – WATER & WASTEWATER POLICY REVIEW**

**REPORT BY:    ACTING DIRECTOR WATER & WASTEWATER**

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## **REFERENCE**

Min 18 – 223:            Ordinary Meeting of Council 27 August 2018

## **SUMMARY**

A review of all the Water and Wastewater Policies were undertaken. This report seeks the approval to implement Policy 3.5 Sewer Connections Policy and 3.6 Fire Service Installation Policy immediately.

## **COMMENTARY**

Policy 3.5 Sewer Connections and Policy 3.6 Fire Service Installation were presented to Council at the Ordinary Meeting of Council on 27 August 2018.

These policies have been created to ensure Council meets its statutory obligations and clearly defines Council's acceptable standards and responsibilities concerning fire service installation (including metering and meter selection) and the connection to Council's sewer system.

The Water and Wastewater Department seek a resolution of Council to implement the policy immediately after the 28 day public exhibition period. There were no submissions received in relation to these policies.

## **POLICY IMPLICATIONS**

Primarily the subject of this report.

## **FINANCIAL IMPLICATIONS**

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

## **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

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

## **ATTACHMENTS**

1. Policy No. 3.5 - Sewer Connection
2. Policy No. 3.6 - Fire Service Installation

## **RECOMMENDATION**

**THAT** Council adopt Policy No. 3.5 Sewer Connections and Policy No. 3.6 Fire Service Connection and implement the policies immediately.



ITEM-17 WWW - 29/10/18 - WATER REPORT

REPORT BY: ACTING DIRECTOR WATER AND WASTE WATER

## REFERENCE

Min No 18-:258: Ordinary Meeting of Council 24/09/18

## SUMMARY

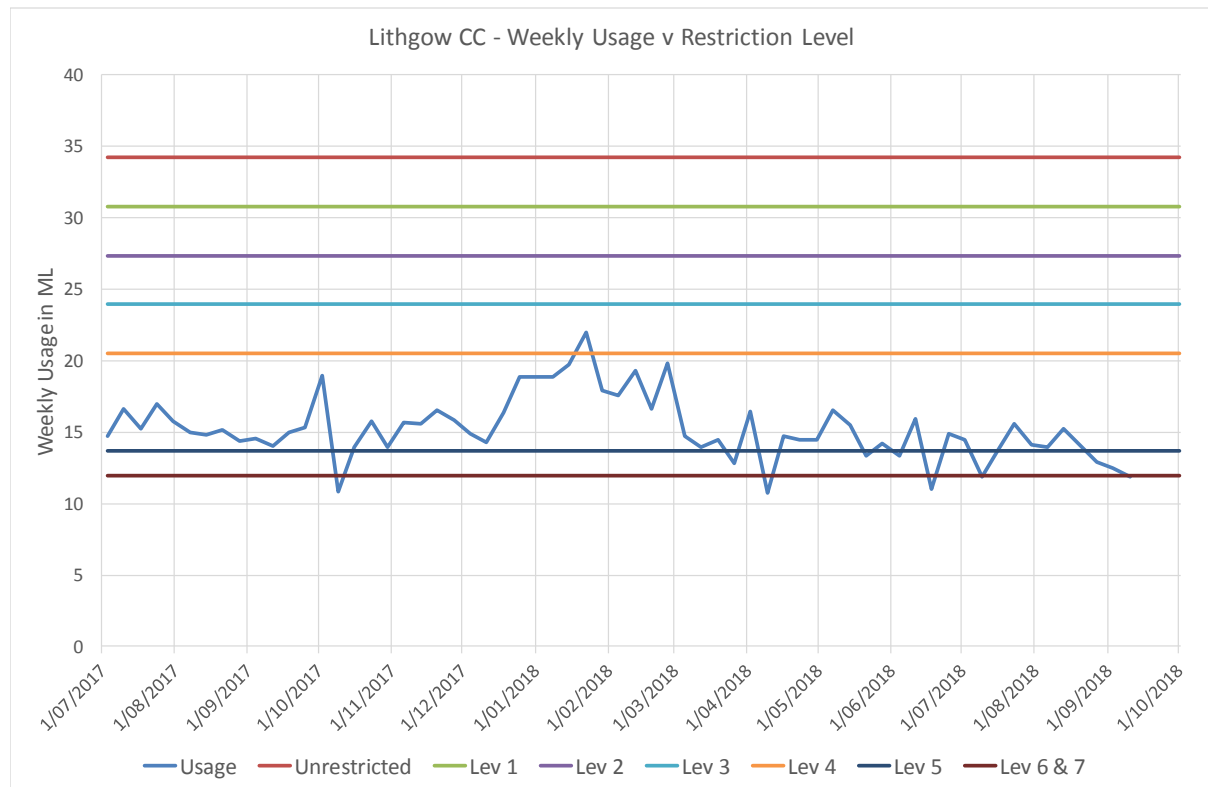
This report provides an update on various water management issues.

## COMMENTARY

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

Farmers Creek No. 2 Dam capacity on Monday 15th October 2018 was 100%.

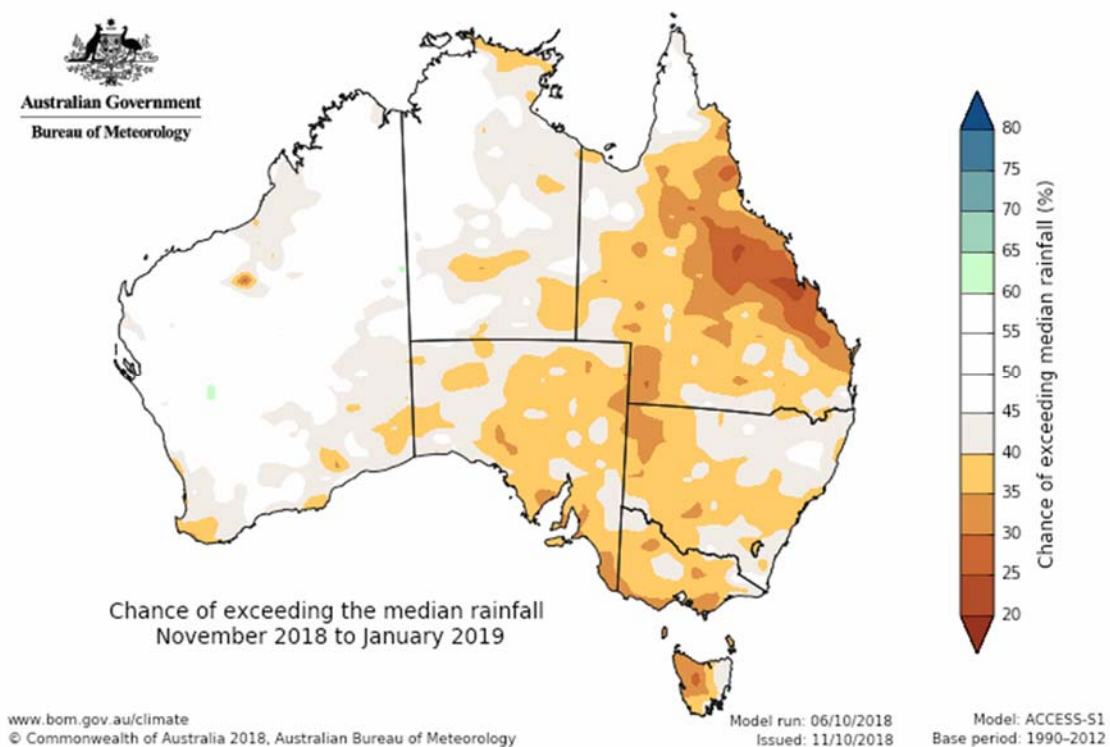
Oberon Dam capacity on Monday 15th October 2018 was 52.7%. Total volume banked is currently approx. 6.1%, so storage adjusted for bank is 46.5%. Level 1 restrictions on the FRWS are now in effect, at this point Council is currently unaffected as current demands are currently lower than level 4 restriction levels as per the below.



### Climatic and Rainfall Outlook

The following climatic and rainfall outlook is taken from the Bureau of Meteorology website.

- November to January is likely to be drier than average for large parts of eastern Australia. Specifically, most of Queensland, eastern SA, Tasmania, Victoria, and southern and western NSW are likely to have a drier than average three months.
- November is likely to be drier than average for the eastern two-thirds of Australia. However, areas to the east of the Great Dividing Range in NSW have roughly equal chances of a wetter or drier than average month.
- Much of eastern and southern mainland Australia have been very dry and warm since the start of the year. The November to January outlook indicates areas currently affected by drought are less likely to see significant respite in the coming three months.



### 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 and a cumulative total by month for 2018/19.

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

<b>Total for 2017/18</b>	<b>1,388.1</b>	<b>760.2</b>	<b>810.4</b>
<b>Month</b>	<b>Oakey Park WTP (ML)</b>	<b>Clarence Transfer (ML)</b>	<b>Fish River Supply (ML)</b>
July	114.9	176.7	69.8
August	107.1	142.0	56.0
September	104.7	0	51.0
<b>TOTAL</b>	<b>326.7</b>	<b>318.7</b>	<b>176.8</b>

### **System Operation**

For much of the period the water supply zones operated as normal. There was a planned shutdown of the FRWS network for a period of a week to repair a leak. During this period Lithgow supplied the whole scheme.

### **Clarence Water Transfer Scheme**

The Clarence Water Transfer Scheme is not currently not operating due to the level within Farmers Creek Dam.

### **Oakey Park Water Quality Summary**

Oakey Park Water Treatment Plant is currently only supplying water to Lithgow with WaterNSW supplying water to the villages for the period. No health-based ADWG values were exceeded for the period 15/09/18 to 19/10/18 from the 28 samples collected.

### **Treatment Plants Monitoring Results**

Samples are taken on a monthly basis at various locations within the STPs and WTP in accordance with Environment Protection Licence requirements. Samples were collected on 25/09/18 and taken to Sydney Water for testing. There were no non-compliances recorded at Council's treatment plants for the month of September 2018. Samples were not taken from Wallerawang STP, as at the time of sampling, Council was diverting flows to the holding lagoon. All test results are published on the Lithgow City Council website as required by the Protection of the Environment Operations Act 1997.

### **Fish River Water Scheme Water Quality Summary**

Fish River Water Supply supplied water to Marrangaroo, Wallerawang, Lidsdale, Portland, Cullen Bullen, Glen Davis and Rydal during the period, except for a period during a planned shut down for repairs on the FRWS network. No health-based ADWG values were exceeded for the period 15/09/18 to 19/10/18.

### **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 four (4) applications for a household appliance rebates and no applications were received for a water tank rebate for the period 15/09/18 to 19/10/18.

### **Water Reticulation Complaints**

Council received 19 complaints during the period 15/09/18 to 19/10/18 concerning water quality issues, these were all isolated issues. 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 accept the information provided in the Water Report.

**ITEM-18                      WWW - 29/10/18 - REMOVAL OF WATER RESTRICTIONS**

**REPORT BY:     ACTING DIRECTOR WATER AND WASTEWATER**

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**REFERENCE**

Min No 17-275:            Ordinary Meeting of Council 25/09/17

**SUMMARY**

At the September 2017 Meeting of Council it was resolved to increase water restriction to Level 3 until further notice. The primary reason for the implementation of Level 3 restriction was due to the storage level of Farmers Creek Dam falling to 52.7%.

**COMMENTARY**

Whilst all the State of New South Wales has been declared Drought Affected Council's water supply storages have remained healthy with recent rainfall having a positive impact on the catchments. Farmers Creek Dam is currently 100% and topping. As provided in the Water Report the Clarence Colliery Water Transfer System has not been in operation since 24/08/2018. Between the periods 24/08/18 till now the Farmers Creek Dam dropped to 85% before the October rains which returned the storage to 100%. Current demands on the Farmers Creek Supply are on average.

As provided in the Water Report Level 1 restrictions are now in effect on the Fish River Water Supply Scheme. Council's current demands on the system are trending around demand levels equivalent to Level 5 restrictions and even during the previous summer period demands did not exceed Level 4 restriction levels.

Since the introduction of Level 3 restrictions staff have reviewed demand figures and the implementation of restrictions have not reduced demands therefore the implementation has not achieved the intent.

Given that current system demands are low and storage levels are healthy it is recommended that Council remove water restrictions. Staff will continue to monitor storage levels and demands and report back to Council through the Water Report.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

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

**LEGAL AND RISK MANAGEMENT IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. Water Restrictions Table

## **RECOMMENDATION**

**THAT** Council remove water restrictions.

## **FINANCE AND ASSETS REPORTS**

### **ITEM-19            FIN - 29/10/18 - CESSATION OF WATER SAVING INCENTIVE SCHEMES**

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

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## **REFERENCE**

Min No 07-156: Ordinary meeting of Council held on 7 May 2007.

## **SUMMARY**

At the 7 May 2007 Council meeting, Council resolved to “formally adopt the water saving schemes in accordance with the key features as outlined in the report.” The water saving schemes included rebates for rainwater tanks and rebates for water efficient appliances.

Since 2007, the continuation of the program has not been formally reviewed and Council is no longer in a financial position where it is able to offer water saving schemes when available funds need to be utilised for high priority Council services.

## **COMMENTARY**

To fund the water saving schemes in 2007, Council restricted \$53,000 revenue from the trade of water allocations from the Fish River Water scheme with Delta Electricity. The restricted funds have long been expended, however, the water saving schemes were not formally reviewed upon extinguishment of the reserve allocation. The 2007 report stated that “the life of the scheme will be monitored against its effectiveness and available funds.”

The schemes have continued to be funded from Council's recurrent budget, without specific funding being allocated each year. In 2017/18, 48 rebates were paid to residents at a total cost of \$7,791.00. Administering the water saving schemes also takes a significant amount of staff time, adding to the cost of the schemes.

It is proposed to cease offering the water saving schemes with immediate effect, although any rebate applications on hand to today's date will be processed.

## **POLICY IMPLICATIONS**

Nil.

## **FINANCIAL IMPLICATIONS**

- Budget approved – no specific budget.
- Cost centre – 20-2609-2000-63172
- Expended to date - \$7,791.00 (2017/18 financial year)
- Future potential impact – budget saving to be reallocated to high priority services in future year budgets.

## **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

Nil.

## RECOMMENDATION

**THAT** Council cease offering the water saving schemes with immediate effect, with any rebate applications on hand at 29 October 2018 to be processed in accordance with the scheme guidelines.



**ITEM-20                      FIN - 29/10/18 - REQUEST FOR CONSIDERATION - EXCESSIVE  
WATER ACCOUNT - PROPERTY 3360**

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

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**SUMMARY**

To provide a report on a request from the owners of the property 3360 seeking financial consideration for an excessive water account.

**COMMENTARY**

Council is in receipt of a request from the property owner seeking relief for a water account totalling \$4,527.45. This is due to a concealed leak which was not detectable at the rear of the property. The owner, an elderly pensioner, has a partial disability and cannot walk the distance to her back yard and the leak was undetected for a full reading period.

The water account was read by Council water meter readers on 24 July 2018 and a high read was noted with a read of 1,434 on the meter and consumption of 1,017KLS with a charge of \$4,527.45. Council Officers immediately spoke with the owner who was extremely concerned and who then contacted a plumber to rectify the leak.

Consumption at this property has always been minimal with the past 4 water accounts listed below.

DATE	METER READING	QUARTERLY CONSUMPTION	AMOUNT	DAILY AVERAGE
10/04/2018	417	8 KLS	\$25.28	0.099
19/01/2018	409	14 KLS	\$44.24	0.139
10/10/2017	395	9 KLS	\$28.44	0.095
07/07/2017	386	15 KLS	\$46.64	0.133

Council staff attended the property again on 4 October 2018 to obtain an updated read. The read on this date was 1444 on the meter, which means only 10 KLS of water has been used since 24 July 2018. This indicated that the leak has been fixed.

The property owner originally wrote to Council on 15 August 2018 requesting a rebate. As per adopted Policy 8.1 'Excessive Water Usage Allowance for Breakages (version 4)', a 50% rebate amounting to \$2,263.73 was applied. An outstanding balance of \$2,263.73 remained with daily interest accruing. The property owner is seeking a further rebate for the outstanding balance and for subsequent charges being at the second tier rate of \$4.85 per kilolitre for the remainder of the financial year. Being a pensioner, the property owner will face difficulty in paying the outstanding and future charges.

When averaged using the previous four readings prior to when the leak occurred, an estimate of the account for the property would be 11 KLS charged at the tier 1 rate \$3.23 resulting in a total charge of \$35.53.

The breakage occurred on a private property and in this instance Council is not at fault and has been asked to consider removing or reducing the account.

### **POLICY IMPLICATIONS**

Policy 8.1 'Excessive Water Usage Allowance for Breakages' and Policy 8.3 'Hardship Policy'.

### **FINANCIAL IMPLICATIONS**

The impact on the water revenue will be a total reduction of \$4,491.92. This will reduce the Water Fund's cash reserves at the end of financial year. Write-offs have not been included in the current budget.

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

### **RECOMMENDATION**

**THAT** Council:

1. Charge the owner of Property 3360 \$35.53 for the water account during the period of the undetected leak and write-off the remaining balance of \$4,491.92.
2. Based on the property owner's estimated water usage of 11KLS for the billing period, allow up to 239 KLS of water usage for the remainder of the 2018/19 year at the tier 1 rate of \$3.23.
3. Advise the property owner in writing of Council's resolution.

**ITEM-21            FIN - 29/10/18 - ACCESS TO INFORMATION HELD POLICY REVIEW**

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

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## **REFERENCE**

Min No. 14-140:        Ordinary Council Meeting of 24 March 2014.

## **SUMMARY**

To provide an update to Policy 9.11 Access to Information Held following the commencement of the Government Information (Public Access) Regulation 2018 (GIPA Reg 2018) on 1 September 2018.

## **COMMENTARY**

The main difference between GIPA Reg 2018 and its predecessor with respect to Councils relates to the scope of the open access information of a Council.

Open access information now excludes the following with regard to development applications:

1. Records of decisions made before 1 July 2010 on development applications (including decisions made on appeal) (Sch. 1, clause 3(1)(a)(i) and clause 3(1)(b)); and
2. Development applications made before 1 July 2010 and any associated documents received (whether before, on or after that date) in relation to the application (Sch. 1, clause 3(2)(c)).

The policy has also been revised to include discounted processing charges on the grounds of financial hardship which is also specified in the GIPA Regulation.

## **POLICY IMPLICATIONS**

Adoption of updates to Policy 9.11 Access to Information Held

## **FINANCIAL IMPLICATIONS**

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

## **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

Nil.

## **ATTACHMENTS**

1. Policy 9.11 Access to Information Held

## **RECOMMENDATION**

**THAT** the revised Policy 9.11 Access to Information Held be adopted and implemented immediately.

**ITEM-22            FIN - 29/10/18 - EXTERNAL GRANT FUNDING POLICY**

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

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**SUMMARY**

This report proposes a new External Grant Funding Policy and seeks endorsement to place the policy on exhibition for 28 days for public comment.

**COMMENTARY**

To strengthen Council's financial policy framework, an External Grant Funding Policy has been developed. The policy will be supported by an internal Standard Working Procedure.

The external grant funding policy has an objective to ensure effective management of grants funded from external organisations, including procurement decisions.

The policy includes a formal authorisation / approval process for grant applications over \$50,000 that are not included in the annual Delivery Program / Operational Plan. It also includes policy applicable to an initial expressions of interest process, which has become a common requirement of grant applications. The policy requires an assessment of the likely impact of grants on Council prior to a grant application being prepared.

**POLICY IMPLICATIONS**

Following the exhibition period for Policy 8.9 External Grant Funding, the policy will be returned to Council for adoption.

**FINANCIAL IMPLICATIONS**

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – improved processes for grant applications.

**LEGAL AND RISK MANAGEMENT IMPLICATIONS**

The policy will manage the risk of grant applications proceeding without a complete assessment of the impact of a grant on Council.

**ATTACHMENTS**

1. Draft Policy 8.9 External Grant Funding

**RECOMMENDATION**

**THAT** Council:

1. Endorse draft Policy 8.9 External Grant Funding for public exhibition and comment for 28 days.
2. Following the exhibition period that Policy 8.9 External Grant Funding be returned to Council for adoption.

**ITEM-23            FIN - 29/10/18 - POLICY 8.1 EXCESS WATER USAGE ALLOWANCE  
FOR BREAKAGES**

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

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## **REFERENCE**

Min No 17-220: Ordinary Meeting of Council held on 17 July 2017.

## **SUMMARY**

To provide Council with a revised Policy 8.1 'Excessive Water Usage Allowance for Breakages' and seek endorsement to place on exhibition for 28 days for public comment.

## **COMMENTARY**

At the Ordinary Meeting of Council held on 17 July 2017 Council resolved:

17 – 220 RESOLVED

THAT Council adopt Policy 8.1 Excess Water Usage Allowance for Breakages as exhibited.

To address issues of clarity and fairness related to the intent of the policy, Policy 8.1 – Excessive Water Usage and Allowances for Breakages has been revised to include the following changes:

1. Changes to wording throughout the policy to improve clarity.
2. The setting out of steps to follow in assessing applications for rebates related to undetected leaks.
3. A change to the policy to allow a rebate calculation to be “based on the difference between the average consumption and the water account for the period of the breakage” with a 50% rebate to be applied to the account up to a maximum of \$2,500.
4. A change to the policy to allow “In cases where an applicant has a pensioner / concession discount, a full rebate of the difference between the average consumption and the water account for the period of the breakage.”
5. Removal of the condition that “the policy applies only once for a particular property.”

## **POLICY IMPLICATIONS**

Following exhibition, Policy 8.1 'Excessive Water Usage Allowance for Breakages' will be returned to Council for adoption.

## **FINANCIAL IMPLICATIONS**

- Budget approved – Nil.
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact - reduction in income when excessive water usage accounts are written off or reduced.

**LEGAL AND RISK MANAGEMENT IMPLICATIONS**

Nil.

**ATTACHMENTS**

1. Draft Policy 8.1 'Excessive Water Usage Allowance for Breakages'

**RECOMMENDATION**

**THAT**

1. Council endorse Policy 8.1 Excessive Water Usage Allowance for Breakages for public exhibition and comment for 28 days.
2. Following the exhibition period, the policy be returned to Council for adoption.

## PEOPLE AND SERVICES REPORTS

### ITEM-24      PS - 29/10/18 - RON BIDWELL OAM ROTARY PARK RENAMING PROPOSAL

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

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## REFERENCE

Min No 18-142:      Ordinary Meeting of Council held on 28 May 2018  
Min No 18-226:      Ordinary Meeting of Council held on 27 August 2018

## SUMMARY

This report advises Council that the Geographical Names Board (GNB) has rejected Council's resolution to rename Rotary Park Portland to the Ron Bidwell OAM Rotary Park and has instead resolved to rename the park the Ron Bidwell Rotary Park.

## COMMENTARY

Council resolved (Min 18-226 of 27 August 2018) to submit a proposal to the Geographical Names Board to rename Rotary Park Portland to the Ron Bidwell OAM Rotary Park.

The Geographical Names Board has advised Council as follows:

*The Geographical Names Board has considered the proposal to name a reserve 'Ron Bidwell OAM Rotary Park' at its meeting held on the 18 September 2018.*

*When considering the name, the Board considered the following guidelines outlined in the NSW Place Naming Policy:*

- Section 6.1.3 Language: Geographical names shall be easy to pronounce, spell and write, and preferably not exceed three words (including any designated term) or 25 characters.
- Section 6.1.13 Language: Post nominals and titles shall not be included in geographical names. E.g. John Smith not John Smith AO. An exception is the use of 'VC'.
- Section 7 Commemorative Names: The person commemorated should have contributed significantly to the area around the geographic feature or locality. When such a name is applied, it shall be given posthumously, at least one year after the decease of the person. Naming living persons are by their nature subject to artisan perception and changes in community judgement and acceptance.

The Board resolved to endorse an alternative name 'Ron Bidwell Rotary Park'.

This name is approved to be advertised for public comment once the mandatory twelve month period after the date of death has occurred.

It is noted that this name exceeds three words however the Board believed that 'Bidwell Rotary Park' was not a suitable alternative as people may assume that the reserve is located in the suburb of 'Bidwill'.

If Council concurs to the name, the Board's secretariat will advertise the proposal on Councils behalf in March 2019 (sic). Can Council please confirm if it would like to proceed with the name 'Ron Bidwell Rotary Park'?

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

- 2018/19 Signage Budget approved - \$10,000
- Cost centre - 600104
- Expended to date - \$2,624
- Future potential impact -

**LEGAL IMPLICATIONS**

NIL

**ATTACHMENTS**

1. Email correspondence from Geographical Names Board ECM doc 1627350

**RECOMMENDATION**

**THAT** Council Advise the Geographical Names Board that it endorses the proposal to rename Rotary Park Portland to the Ron Bidwell Rotary Park.



**ITEM-25            PS - 29/10/18 - MENTAL HEALTH AND WELLBEING POLICY**

**REPORT BY:    ACTING DIRECTOR PEOPLE AND SERVICES**

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**SUMMARY**

Provide Council with new Policy 9.20 Mental Health and Wellbeing and seek endorsement to place on exhibition for 28 days for public comment.

**COMMENTARY**

Lithgow City Council believes that the mental health and wellbeing of staff is key to organisational success and sustainability. Lithgow City Council is committed to promoting a sensitive and informed approach to mental health, ensuring that staff are aware of and responsive to the needs of those who are at risk of developing, who have, or are recovering from a mental health problem.

**POLICY IMPLICATIONS**

Primarily the subject of this report.

**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 and assist in decision making and may provide further guidance with regard to statutory obligations.

**ATTACHMENTS**

1. Draft Policy 9.20 Mental Health and Wellbeing

**RECOMMENDATION**

**THAT**

1. Council place Draft 9.20 Mental Health and Wellbeing Policy on public exhibition for a period of 28 days.
2. Following the exhibition period, draft Policy 9.20 is returned to Council for adoption, with details of any submissions made during the exhibition period and any recommendations or amendments that may come from the submissions.

**ITEM-26            PS - 29/10/18 - JM ROBSON AQUATIC CENTRE MANAGMENT PLAN**

**REPORT BY:    ACTING DIRECTOR PEOPLE AND SERVICES**

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**SUMMARY**

To provide JM Robson Aquatic Centre Management Plan to Council to seek endorsement to place on exhibition for 28 days for public comment.

**COMMENTARY**

This Management plan provides the necessary instruction for Council staff to administer the routine functions of its aquatic centre facilities, and provides a transparent means for the general public to understand the process.

The Management plan aims to ensure provision of a facility that promotes healthy lifestyle and social interaction, for residents and visitors to the Region.

**POLICY IMPLICATIONS**

Primarily the subject of this report.

**FINANCIAL IMPLICATIONS**

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

**LEGAL IMPLICATIONS**

Management Plans are prepared to assist in operation and guidance with regard to statutory obligations and services JM Robson Aquatic Centre provide.

**ATTACHMENTS**

1. Lithgow City Council JM Robson Aquatic Centre Management Plan 2018/2019

**RECOMMENDATION**

**THAT**

1. Council endorse JM Robson Aquatic Centre Management Plan for Public exhibition 28 days.
2. Following exhibition period JM Robson Aquatic Centre Management Plan be returned to Council for adoption.

## **COUNCIL COMMITTEE MINUTES**

**ITEM-27 PS - 29/10/18 - YOUTH COUNCIL MINUTES 18 SEPTEMBER 2018**

**REPORT BY: ACTING DIRECTOR PEOPLE AND SERVICES**

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## **REFERENCE**

Min No 17- 363	Ordinary Meeting of Council held on 27 November 2017.
Min No 18 – 95	Ordinary Meeting of Council held on 23 April 2018.
Min No 18 - 267	Ordinary Meeting of Council held on 24 September 2018.

## **SUMMARY**

This report details the minutes of the Youth Council meeting held on 18 September 2018.

## **COMMENTARY**

At the 18 September 2018 Youth Council meeting, various items were discussed, including:

- Young Change Agents
- Youth Working Group

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

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

## **LEGAL IMPLICATIONS**

Local Government Act 1993

## **ATTACHMENTS**

1. Minutes of the Youth Council Meeting held on 18 September 2018.

## **RECOMMENDATION**

**THAT** Council Notes the minutes of the Youth Council meeting held on 18 September 2018.

**ITEM-28            IS - 29/10/18 - OPERATIONS COMMITTEE MEETING MINUTES - 2  
OCTOBER 2018**

**REPORT BY:    DIRECTOR INFRASTRUCTURE SERVICES**

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## **SUMMARY**

This report details the Minutes of the Operations Committee Meeting held 2 October 2018.

## **COMMENTARY**

At the Operations Committee Meeting held 2<sup>nd</sup> October 2018, the following items were discussed:

- Cullen Bullen Sewerage Scheme – Update
- Portland Sewerage Treatment Plant – Update
- CBD Revitalisation Project – Update
- CBD Revitalisation Project Stage 2 – Update
- Drought Management & Integrated Water Cycle Strategy
- Clarence Environmental Protection Licence – Pollution Reduction Program
- Portland CBD Works
- Lithgow Urban Footpath Disability Compliance
- Piper Street Lane, Portland
- Hartley Valley Road Widening
- Recreation Capital Budget Reallocation

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

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

## **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. Minutes of the Operations Committee Meeting held 2 October 2018.

## **RECOMMENDATION**

**THAT** Council:

1. Accept the update regarding the Cullen Bullen Sewerage Scheme; and
2. Accept the update regarding the Portland Sewerage Treatment Plant; and
3. Accept the report on variations effected to date and the current state of the budget for the Lithgow CBD Revitalisation Project; and

4. Subject to not compromising criteria for grant funding for Stage 2 of the Lithgow CBD Revitalisation Project;
  - a. Utilise budgeted funds to begin the detailed design and costing process for the full Stage 2 Scope of works; and
  - b. Continue applying for State and Federal grant funding to assist in the implementation of the Action Plan; and
5. Accept the update regarding the Drought Management & Integrated Water Cycle Management Strategy; and
6. In regard to the Clarence Environmental Protection Licence Variation:
  - a. Engage WaterNSW / EPA and clarify licence limits on water drawn from Clarence noting the limit has not increased since early 1980, and that the current limit may impact on the current proposal being considered by Centennial in their response to the PRP issued by the EPA; and
  - b. Look to finalise the Memorandum of Understanding with Centennial Coal; and
  - c. Seek further information from Centennial Coal on proposed options to meet the Pollution Reduction Program (PRP); and
  - d. Confirm Council's view that safety is paramount and administration seek immediate guidance from WaterNSW / EPA as to why the 'Dam Spilling' clause is no longer contained in the licence conditions; and
7. Make the Portland CBD Works Project a consideration for the 2019/20 Draft Operational Plan; and
8. Accept the report concerning compliance with regard to Lithgow's Main Street Footpaths and Disability Standards; and
  - a. Include works to improve disability access in its Stage 2 of the Revitalisation Project; and
  - b. Administration develop a Risk Management Strategy for disabled access; and
  - c. Confirm its Risk Management Strategy with Council's Legal Advisor; and
9. Reallocate \$8,000.00 from savings obtained during the capital improvements to Burnett Street, Wallerawang to the reconstruction of the 30m section of Piper Street Lane adjacent to 19 Piper Street, Portland; and
10. Accept the report on the Hartley Valley Road Widening; and
  - a. Consider the allocation of \$40,000.00 to the widening of Hartley Valley Road, Lithgow in the 2019/20 Draft Operational Plan; and
11. Accept the report on the Recreation Capital Budget Reallocation; and
  - a. Approve the reallocation of \$20,000.00 from PJ100256 (Lithgow Cemetery Footpaths 2018/19) to fund the continuation of incomplete stormwater infrastructure associated with access roads at the Lithgow Cemetery; and
12. Reallocate funds from the Burnett Street, Wallerawang Project to purchase two bins for installation at Cook Street Plaza.

**ITEM-29                      ECDEV - 29/10/18 - ECONOMIC DEVELOPMENT COMMITTEE  
MEETING MINUTES 3 OCTOBER 2018**

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

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## **SUMMARY**

This report details the Minutes of the Economic Development Committee Meetings held on 3 October 2018.

## **COMMENTARY**

At the Economic Development Committee Meeting held on 3 October 2018 the following key items discussed with recommendations to Council in the attached minutes.

- Retail Working Party
- Meeting with New Executive – Lithgow and District Chamber of Commerce
- Council Report Requirements
- Council Values
- Lithgow Economic Development Place Branding Plan 2018/2019
- Lithgow Halloween 2018
- Events Attraction Package Requests
- Retail Shopping Habits Survey 2016 – Additional Research
- Christmas Decorations 2018 Progress Update
- Tourism and Events Working Parties Recommendations Actions to date
- Voting at Council Meetings

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – Outlined in the reports within the attached minutes if relevant.
- Future potential impact - Outlined in the reports within the attached minutes if relevant.

## **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

Nil

## **ATTACHMENTS**

1. Minutes of the Economic Development Committee Meeting 3 October 2018.

## **RECOMMENDATION**

**THAT** the recommendations of the Economic Development Committee meetings of 3 October 2018 be adopted.

**ITEM-30            FIN - 29/10/18 - FINANCE COMMITTEE MEETING MINUTES 8  
OCTOBER 2018**

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

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## **SUMMARY**

This report provides details of the Minutes of the Finance Committee Meeting held on 8 October 2018.

## **COMMENTARY**

At the meeting of the Finance Committee held on 8 October 2018, the following items were noted:

- Confirmation of the minutes of the meeting held on 13 August 2018 (endorsed by Council on 27 August 2018 - Minute No. 18-231).
- Finance update – 2017/18 preliminary financial results.
- Audit Plan – key dates and progress of audit.
- Responses to Cr Ring's finance related queries.
- Restricted / Unrestricted Cash balances at 30 June 2018.
- September monthly performance report to the Office of Local Government.
- The 2017/18 and 2018/19 Audit Action Lists.

The following business paper recommendations were endorsed by the Committee:

### **Council Investments Report July 2018**

**THAT**

1. Investments of \$34,270,000 and cash of \$41,967.64 for the period ending 30 September 2018 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.

### **2017/18 Financial Statements**

**THAT** Council:

1. Note that that the audit of the 2017/18 financial statements has been completed.
2. Authorise the signing of the statement on the 2017/18 General Purpose Financial Reports.
3. Authorise the signing of the statement on the 2017/18 Special Purpose Financial Reports.
4. Invite Dominika Ryan of the Audit Office of NSW, Council's Auditors, to present a report to Council on the 2017/18 Financial Statements at the Ordinary Council meeting scheduled for 26 November 2018.

### **Cessation of Water Saving Incentive Schemes**

**THAT** Council cease offering the water saving schemes with immediate effect, with any rebate applications on hand at 29 October 2018 to be processed in accordance with the scheme guidelines.

## **External Grant Funding Policy**

**THAT** Council:

1. Endorse draft Policy 8.9 External Grant Funding for public exhibition and comment for 28 days.
2. Following the exhibition period that Policy 8.9 External Grant Funding be returned to Council for adoption.

The following business papers were referred by the Committee to the Council meeting:

- Cessation of Water Saving Incentive Schemes.
- External Grant Funding Policy

## **POLICY IMPLICATIONS**

Nil.

## **FINANCIAL IMPLICATIONS**

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

## **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

Nil.

## **ATTACHMENTS**

1. Minutes from the Finance Committee Meeting held 8 October 2018.

## **RECOMMENDATION**

**THAT** Council:

1. Adopt the minutes of the Finance Committee held on 8 October 2018 and the items not requiring a resolution of Council;
2. Adopt the Committee's endorsement of recommendations proposed in the Finance and Assets business papers to be put to the October Council meeting.
3. Endorse the recommendations proposed in the Council Investments Report September 2018 and the 2017/18 Financial Statements report.



**ITEM-31            IS - 29/10/18 - SPORTS ADVISORY COMMITTEE MEETING MINUTES -  
10 OCTOBER 2018**

**REPORT BY:    DIRECTOR INFRASTRUCTURE SERVICES**

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## **SUMMARY**

This report details the Minutes of the Sports Advisory Committee Meeting held 10 October 2018.

## **COMMENTARY**

At the Sports Advisory Committee Meeting held 10<sup>th</sup> October 2018, the following items were discussed:

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

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

- Financial Assistance Request – Brenna Croker

### **RECOMMENDATION**

**THAT** Council provide Brenna Croker with \$500.00 toward the cost of participating in the Tri Nations Tournament.

### **POLICY IMPLICATIONS**

NIL

### **FINANCIAL IMPLICATIONS**

- Budget approved - Yes
- Cost centre - 600059
- Expended to date – N/A
- Future potential impact – N/A

### **LEGAL AND RISK MANAGEMENT IMPLICATIONS**

NIL

## **ATTACHMENTS**

1. Minutes of the Sports Advisory Committee Meeting held 10 October 2018.

## **RECOMMENDATION**

**THAT** Council:

1. Note the Minutes of the Sports Advisory Committee held 10 October 2018; and
2. Provide Brenna Croker with \$500.00 toward the cost of participating in the Tri Nations Tournament.

## NOTICE OF MOTION

ITEM-32 NOTICE OF MOTION - 29/10/18 - WOMEN'S ADVISORY COMMITTEE

REPORT BY: COUNCILLOR CASSANDRA COLEMAN

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## COMMENTARY

At the recent Australian Local Government Women's Association Executive meeting, hosted by Blacktown Council, it was brought to my attention that Blacktown City Council has a Women's Advisory Committee.

The Committee provides advice to Council on issues relevant to women, such as:

- policy development
- planning of services, facilities, programs and projects
- the best ways to consult and engage with local communities
- ways to improve access to services and facilities for women.

Blacktown's committee comprises all female Councillors and a wide representation of female community members.

## RECOMMENDATION

**THAT** the General Manager provide a report to Council, taking costs into consideration, on the benefits of establishing a Lithgow City Council Women's Advisory Committee.

**ITEM-33            NOTICE OF MOTION - 29/10/18 - ALGWA LITHGOW VISIT**

**REPORT BY:    COUNCILLOR CASSANDRA COLEMAN**

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**COMMENTARY**

On 16th and 17th November 2018 Lithgow City Council will be hosting a meeting of the Executive of the Australian Local Government Women's Association.

It's Lithgow time to shine. The majority of the women, including their partners, will be making a weekend of it.

This is a great opportunity for Council to host a conversation and canape night in the newly refurbished Visitor Information Centre on the Friday evening (16 November) to kick start the weekend.

On the Saturday (17 November) Lithgow City Council will be required to host the executive meeting in the Council Chambers. It is requested that morning tea and lunch be provided.

**RECOMMENDATION**

**THAT** Lithgow City Council welcome and sponsor the ALGWA Executive meeting on 16 and 17 November 2018 in the manner suggested.

**ITEM-34            NOTICE OF MOTION - 29/10/18 - 32 IAN HOLT DRIVE LIDSDALE**

**REPORT BY:    COUNCILLOR WAYNE MCANDREW**

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**COMMENTARY**

Mr and Mrs P Williams have owned the above lots since 2003 (the address at that time was 1231 Castlereagh Highway, Lidsdale). They built their home on Lot 1, DP 914028 in 2010. Both lots were deemed village residential from 2003 to 2014 when they were changed to light industrial. Both lots have never been used for anything but a home residence. As can be seen in the attached map, their holdings sit right next to the Whalan's business operations but have always been separate and never owned by the Whalan operations. As can also be seen from the map across the road and to the west are residential allotments. Directly across the road from their front boundary is also an old inn which is now been heritage listed. There is no doubt that an error in mapping has occurred and that their holdings have incorrectly been included in Whalan's land.

Note: I understand that the correct zone description now would be R5 Large Lot Residential

**ATTACHMENTS**

1. Map
2. Explanation notes from Mr and Mrs Williams

**RECOMMENDATION**

**THAT** the zone mapping be corrected and Lot 1, DP 914028 and Lot 1, DP 914029 be returned to their original residential zoning.

**Management Comments**

The notice of motion makes the following statements (*see italics*):

*Both lots were deemed village residential from 2003 to 2014*

**Comment:** The land was not zoned village residential from 2003 to 2014. The land was in fact zoned 1 (a)—Rural (General) under Lithgow City Local Environmental Plan 1994.

*There is no doubt that an error in mapping has occurred and that their holdings have incorrectly been included in Whalan's land.*

**Comment:** An investigation into this claim has ascertained the following facts:

1. The recommendation for the Lidsdale rezoning to IN2 was a General Manager's recommendation to Council's Ordinary meeting of 15 April 2013 as part of a comprehensive report on the Planning Proposal for Principal Lithgow City LEP (the LEP).
2. The mapping was provided with the report and the General Manager's recommendation. The recommendation referred to the mapping and stated:

- “9. The site at Lidsdale consisting of lands bounded by the purple border in Attachment 6 be reflected in the draft Local Environmental Plan and Planning Proposal as zone IN2 Light Industrial.”
3. The extent of the site recommended by the General Manager to be rezoned IN2 was also referred to in the report which stated “A site at Lidsdale consisting of lands as indicated in Attachment 6. This land has merit to be zoned IN2 Light Industrial.”
  4. The subject land owned by Mr and Mrs Williams was included in the lands bounded by the purple border in Attachment 6 to that report.
  5. The Council resolved (Min 13-116)
  6. “9. The site at Lidsdale consisting of lands bounded by the purple border in Attachment 6 be reflected in the draft Local Environmental Plan and Planning Proposal as zone IN2 Light Industrial”
  7. Whilst in the absence of the General Managers recommendation the land would have been included in a wider rezoning of the area as R5 Large Lot Residential at Lidsdale, this does not mean an error in mapping occurred. In fact the Council resolved to rezone the area IN2 precisely as indicated in the mapping provided which carried through to gazettal of the LEP.

*THAT the zone mapping be corrected and Lot 1, DP 914028 and Lot 1, DP 914029 be returned to their original residential zoning.*

**Comment:** As the land has been rezoned precisely as resolved by Council there is no error to be corrected. The original zoning was not residential but 1 (a)—Rural (General). Therefore, any proposal to return the zoning to its original zoning would require a planning proposal to zone the land back to 1 (a)—Rural (General). This would be difficult to support.

Mr Williams has met with Council officers on two occasions now and has been advised that Council would be willing to consider the zoning issues surrounding the land when Council conducts a review of its LEP. This review is not due to commence until the second half of 2019. Mr Williams has also been advised that should this timeframe not be acceptable he could request Council to consider a Planning Proposal for a spot re-zoning which would attract a fee of \$8,000 under Council's fees and charges.

**ITEM-35 NOTICE OF MOTION - 29/10/18 - BANKING SERVICES TO COUNCIL**

**REPORT BY: COUNCILLOR WAYNE MCANDREW**

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**COMMENTARY**

Council has over the past two years called for EOI and/or Tenders for Media, Legal, Real Estate and Insurance Services. It has been a number of years since Lithgow Council has tested the market through either EOI or Tender for Banking Services to Council.

I believe for transparency and good governance reasons at least, it is now time to do so.

**RECOMMENDATION**

**THAT** the Council General Manager prepares a report for Council concerning the provisions of banking services for Council and the tender criteria that would be applied.

The criteria in my view should include but not be limited to:

- Cost effectiveness and investment returns
- Banking Royal Commission outcomes relevant to each tenderer
- Community commitments and engagement
- Each tenderer's policies in relation to investment in coal mining
- Effective service provision to Lithgow Council

**ITEM-36 NOTICE OF MOTION - 29/10/18 - KANIMBLA VALLEY MOBILE PHONE  
BLACK SPOT ACTION GROUP**

**REPORT BY: COUNCILLOR STEVE RING**

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## **COMMENTARY**

All Councillors were sent an email request from the Kanimbla Valley Mobile Phone Black Spot Action Group on the 16 October seeking Council support to address a telecommunications blackspot in the Lowther, Ganbenang, Kanimbla Valley & surroundings. The majority of text was:

*“The rural residents of Lowther, Ganbenang, Kanimbla Valley & surroundings areas have had enough of Telco's ignoring our area regarding poor mobile phone coverage. It's a major safety concern for our community, we need reliable voice & data services.*

*This problem is magnified by Telstra reluctance not to upgrade their infrastructure of the copper lines in the area and the continued phone outages that residents are experiencing on a regular basis. Any storm or electrical activity often puts the resident's phone out of order.*

*Where there is mobile phone black spots, there will be no mobile network coverage which means you cannot make a “000” call. In some circumstances you may not have standard call coverage depending on which network you are with. Ultimately if you're faced with a life-threatening emergency and are in a mobile phone black spot area ( e.g Kanimbla Valley and surrounding area) you will not be able to obtain emergency assistance. Delays in seeking emergency assistance could be the difference between life and death.*

*The Australian Government announced it will invest \$25 million of Mobile Black Spot Program funding towards a fourth round, to deliver improved mobile coverage to more regional and remote communities across Australia. The competitive selection process for round 4 is expected to be announced in the second half of 2018.*

*Our Federal Member of Calare – Mr Andrew Gee is fully aware of the issues facing our Valley with mobile phone reception. Mr Gee is actively pushing for a mobile phone tower for our area and has raised the issue with Senator - Bridget McKenzie – Minister for Regional Communications.*

*It's important for the development, sustainability and the safety of our Valley to have reliable mobile phone and data services.”*

## **RECOMMENDATION**

**THAT** Lithgow City Council write to the Minister for Regional Communications about the lack of adequate mobile coverage in this area and seek the Minister's support to address the issue.

**ITEM-37                    NOTICE OF MOTION - 29/10/18 - EXCESS WATER – INCH STREET  
LITHGOW**

**REPORT BY:    COUNCILLOR STEVE RING**

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**COMMENTARY**

I was recently invited by a number of residents to inspect excess water flows potentially emanating from Blast Furnace Park that are adversely impacting a number of properties in Inch Street both older dwellings and allegedly some of the more recent properties constructed near Lake Pillans.

During periods of heavy rain this can cause internal and external flooding. Some residents have installed sumps with pumps under their verandas to try and alleviate the problem but with minimal effect. Other residents have put in concrete floors at a cost exceeding \$30,000 – a solution that may stop the interior flooding but in masonry buildings would exacerbate rising damp issues.

The Administration is aware of the issue but does not have the relevant internal expertise to determine the exact cause of the issue. It could be that the that large numbers of tunnels and pits at the Blast Furnace Park are filling during heavy rain and soaking through to the water table (Please see attachment). As the residences in Inch Street are lower than the Blast Furnace site this could result in the height of the water table being raised to ground level.

In order to understand the problem Council needs to engage appropriate specialist to undertake a formal hydrological or geotechnical analysis. This would clearly articulate the problem and the number of properties that are affected. Once known then Council can develop options and strategies to manage the problem.  
Council need to undertake the study not only to understand the issue but to be able to assess its risk both financial and legal in relation to its management of Blast Furnace Park.

**ATTACHMENT**

1. Email advice from the Administration and Diagram of ground water recharging

**RECOMMENDATION**

**THAT** Council:

1. Investigate the cost of undertaking appropriate hydrological or geotechnical analysis of the excess water problem in Inch Street.
2. Assess its financial capacity to undertake the studies in the current financial year and if not possible, include the cost of the studies in the 2018/19 budget papers for consideration.



## **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-38            CONFIDENTIAL - CLOSED COUNCIL - FIN - 29/10/18 - SELECTIVE  
TENDER EVALUATION CULLEN BULLEN SEWER SCHEME**

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

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**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A (2) (d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

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

**SUMMARY**

This report summarises Council's call for Selective Tenders, following the evaluation of Expressions of Interest (EOIs), for suitably qualified consultants to undertake the conceptual design of the Cullen Bullen Sewerage Scheme.

**RECOMMENDATION**

**THAT** Council consider the report in relation to the evaluation of tenders for the design of the Cullen Bullen Sewer Scheme in Closed Council in accordance with Section 10A (2) (d) of the Local Government Act 1993.

**ITEM-39            CONFIDENTIAL - CLOSED COUNCIL - FIN - 29/10/18 -  
UNREASONABLE COMPLAINANTS**

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

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**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A (2) (f) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- (f) matters affecting the security of the council, councillors, council staff or council property.

**SUMMARY**

To inform Council of recent instances where the General Manager has limited customers' access to Council in accordance with Policy 4.6 Customer Service and Unreasonable Complainants Policy.

**RECOMMENDATION**

**THAT** Council consider the report in relation to unreasonable complainants in Closed Council in accordance with Section 10A (2) (f) of the Local Government Act 1993.

**ITEM-40                      CONFIDENTIAL - CLOSED COUNCIL - IS - 29/10/18 - ASPHALT  
CONTRACTS FOR 2018/19 CAPITAL WORKS**

**REPORT BY:     ACTING DIRECTOR INFRASTRUCTURE SERVICES**

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**REFERENCE**

Min 18-165:    Ordinary Meeting of Council held 25 June 2018

**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 re-sealing services to Lithgow City Council as part of Council's 2018/19 Operational Plan. Additionally, this report seeks approval for the redistribution of funds to ensure more effective expenditure of Council funds.

**RECOMMENDATION**

**THAT** Council consider the report Asphalt Contracts for 2018/19 Capital Works in closed Council in accordance with Section 10A (2) (c) and (d) of the Local Government Act 1993.

**ITEM-41            ECDEV - 29/10/18 - CONFIDENTIAL COUNCIL - EXPRESSION OF  
INTEREST REAL ESTATE AGENT**

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

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**Reason for Confidentiality**

This report is CONFIDENTIAL in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

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

**SUMMARY**

The purpose of this report is to inform Council of the response received to a call for Expressions of Interest from real estate agents.

**RECOMMENDATION**

**THAT** Council consider the report in relation to the expressions of interest, in accordance with section 10A(2)(d)(i) of the Local Government Act, 1993.

**ITEM-42            CONFIDENTIAL - CLOSED COUNCIL - GM - 29/10/18 - APPOINTMENT  
OF PERSONNEL 1**

**REPORT BY: GENERAL MANAGER**

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**Reason for Confidentiality**

This Report is **CONFIDENTIAL** in accordance with Section 10A(2)(a) of the Local Government Act 1993 which permits the meeting to be closed to the public for business relating to the following:

- (a) personnel matters concerning particular individuals (other than councillors)

**SUMMARY**

This paper follows from a confidential discussion with Councillors in closed session at the Ordinary meeting of 24<sup>th</sup> September 2018 concerning the recruitment process and outcome for a position.

**RECOMMENDATION**

**THAT** the report Confidential Appointment of Personnel 1 be considered in closed council in accordance with Section 10A(2)(a) of the Local Government Act 1993.

**ITEM-43                      CONFIDENTIAL - CLOSED COUNCIL - GM - 29/10/18 - APPOINTMENT  
                                         OF PERSONNEL 2**

**REPORT BY:   GENERAL MANAGER**

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### **Reason for Confidentiality**

This Report is **CONFIDENTIAL** in accordance with Section 10A(2)(a) of the Local Government Act 1993 which permits the meeting to be closed to the public for business relating to the following:

- (a) personnel matters concerning particular individuals (other than councillors)

### **SUMMARY**

This paper follows from a confidential discussion with Councillors in closed session at the Ordinary meeting of 24<sup>th</sup> September 2018 concerning the recruitment process and outcome for a position.

### **RECOMMENDATION**

**THAT** the report Confidential Appointment of Personnel 1 be considered in closed council in accordance with Section 10A(2)(a) of the Local Government Act 1993.