



Dry Canon – Newnes Plat

BUSINESS PAPER
Ordinary Meeting of Council

to be held at
Council Administration Centre
180 Mort Street, Lithgow

on
Monday 22 August 2022
at 7:00 PM

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1. Acknowledgement of Country

Acknowledgement of Country

I would like to begin this meeting by acknowledging the Traditional Owners of this land on which we meet today. I would also like to pay respect to Elders both past, present and emerging.

Declaration of Webcasting

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

2. Present

3. Apologies

4. Declaration of Interest

Under Clause 3.23 Statement of ethical Obligations in the Code of Meeting Practice as adopted by Council at the Ordinary Meeting of Council held on 26 April 2022 (Min No 22-86),

3.23 Business papers for all ordinary and extraordinary meetings of the council and committees of the council must contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.

Councillors are reminder of the oath or affirmation which was taken at the Ordinary Meeting of Council held on 22 December 2021

Oath Of Councillor

I swear that I will undertake the duties of the office of Councillor in the best interests of the people of Lithgow local government area and the Lithgow City Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Affirmation Of Councillor

I solemnly and sincerely declare and affirm that I will undertake the duties of the office of Councillor in the best interests of the people of Lithgow local government area and the Lithgow City Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Councillors have the opportunity to declare any interests in items on the agenda and inform the Council and public if they will be leaving the Chambers during the debate and voting on the item.

5. Confirmation of Minutes

Confirmation of the Minutes of the Ordinary Meeting of Council held 25 July 2022 and Extra Ordinary Meeting of Council held 1 August 2022.

6. Commemorations and Announcements

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

7. Public Forum

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

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

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

8. Mayoral Minutes

The Mayor is able to table a Mayoral minute at the meeting if required.

9. Notices of Motion

9.1. Notice of Motion - 22/08/2022 - Cr S Lesslie - Code of Meeting Practice

Report by Councillor Stephen Lesslie

Commentary

No commentary was provided with the Notice of Motion.

Attachments

Nil

Recommendation

THAT Clause 3.10 of Lithgow City Council's Code of Meeting Practice be amended to read:

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3.10 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted by Friday 9 am, 6 business days before the meeting is to be held.

The agenda of the meeting of the council must include, along with the motion itself, the name of the councillor who submitted the notice of motion. Should the notice of motion be a rescission motion the names of the three councillors who submitted the rescission must be included in the agenda of the meeting.

Management Comment

The proposed amendment to the Code could have the helpful effect of templating the form of a report resulting from a Notice of Motion or a Rescission Motion.

10. Questions with Notice

10.1. Question with Notice - 22/08/2022 - Councillor D Goodwin - Land and environment Court - Bore Holes

Report by Councillor Darryl Goodwin

Commentary

It was stated in the Extraordinary Meeting on Monday 1st August that if the Energy Australia DA for bore holes was not approved by Council and subsequently ended up in the Land and Environment Court, Council would not have to defend their decision. I have queries regarding this:

1. Is the statement that Council would not have to defend their decision at Land and Environment Court correct?
2. If this statement is incorrect, would Council be liable for their own legal fees & does Council have an approximate idea on how much this would cost?
3. If Council chose not to defend the decision, would they be liable for the legal costs for Energy Australia?
4. If Council deduced to not approve the DA & chose to defend the decision at Land and Environment Court, given the council officers recommended the DA be approved, what are the chances of Lithgow Council being successful?
5. If Council lost at the Land and Environment Court would they be liable for Energy Australia legal costs.

Attachments

Nil

Recommendation

THAT these questions go to the next council meeting as questions with notice

Management Comment

Legal advice has not been sought on these questions because that would incur a cost of approximately \$600 - \$700.

Council officer's response to the above questions follow:-

1. Council must provide reasons for refusal of a DA, and should be prepared to defend reasons for refusal. The same is the case for approval of a DA.
2. Council would be liable for legal, professional services, and staff costs involved in coordinating affidavits, and consultants. Solicitors' fees range from ~\$350/hour - ~\$500 per hour depending on the type of work. If an experienced barrister is required, costs can be thousands dollars per day. If professional advice/opinions are required, the Council would be required to pay consultant engineers/planners for this advice. If the matter only went as far as conciliation, this would be less expensive, staff would need to negotiate the outcome.
3. Possibly an applicant could apply for 'costs thrown away' and 60% - 70% of such costs might have to be paid by Council.
4. When a development has been assessed, in a mature and professional manner, it can be difficult to source expert professional advice to contradict the development assessment. If the matter went to court the fact that the development was assessed and recommended for approval would be noted by the court. Ultimately, though, the court (like Council) is compelled to determine the DA based purely on the statutory requirements, relevant heads of consideration and a balanced assessment of the merits.
5. Provided there was a legal and well-founded basis for the Council's decision, and the decision was related specifically to the DA (the development proposed within that DA) and

not miscellaneous, obtuse or other subsequent considerations, it would most likely be the case that each party would bear their own costs.

The Council's Code of Conduct, (section 3.13 and 3.14) details the standards for land use planning, development assessment and other regulatory functions: -

3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.

3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

11. Staff Reports

11.1. General Manager's Reports

11.1.1. GM - 22/08/2022 - LGNSW Conference 2022 Council Delegates & Proposed Motions

Prepared by Trinity Newton – Executive Assistant

Department Governance

Authorised by General Manager

Summary

This purpose of this report is to canvas potential motions and Council's position on attendance for the upcoming LGNSW Annual Conference.

Commentary

The LGNSW Annual Conference provides an opportunity to share ideas, advocate for our priorities, seek inspiration, and help determine our sector's policy directions for the coming year.

From 23 to 25 October 2022, Councillors from across NSW will come together at the Crowne Plaza Hunter Valley to debate and discuss key issues.

As a member of Local Government NSW, Lithgow City Council can nominate three voting delegates to the conference and three voting delegates for the Board election.

LGNSW Member standard registration is \$1,430 per delegate. Further costs include an optional Conference dinner with tickets costing \$250 each, accommodation cost of \$430 each thus bringing the total for two councillors and a supporting executive staff member to \$2,110 per attendee or \$6,330 in total.

Motions submitted by Councils will be debated and resolved to set the advocacy priorities for the year ahead, while a tradeshow, workshops and training sessions will also occur to support delegates in their efforts to effectively represent their communities.

Proposed LGNSW Annual Conference Motions

The following motions are proposed for the LGNSW Annual Conference:

1. To ensure a resilient Lithgow of the future, our assets and community must be ready to respond to the reality of climate change. Four key advocacy items included in the 25 July 2022 Council meeting report on the Natural Disaster Recovery Process are as follows:
 - Funding models which speak to the heart of proactive asset management rather than reactive end-of-life repair.
 - Financial opportunities which are cyclic, guaranteed and thereby reliable, allowing local government the ability to develop the necessary capacity to deliver on proactive maintenance obligations.
 - Financial assistance should better reflect the expectation that Council's manage around 90% of the entire NSW road network while also balancing the broader needs of diverse communities. Restoration of the prior FAG allocation of 1% of Commonwealth tax revenue is an essential starting point. Horizontal equalisation is also important to ensure that a council is funded for the true cost of delivering a service in their circumstances (regions and rural areas are more costly yet this is not fully accounted for in the funding approaches used today).
-

- Consultation with local government to improve the current structures of emergency management and response at a local level, recognising that:
 - Natural disasters are occurring more frequently than ever before,
 - Local Government is in a constant state of emergency response,
 - Eligibility for funding under the Disaster Recovery Arrangements is very narrow, inhibiting Council's ability to build back assets of low resilience better,
 - LEMO roles are commonly undertaken as a side-role of permanent staff, and
 - Without additional support, current frameworks promote a resource struggle between core Council responsibilities and unplanned emergency management.
- 2. Call upon the NSW Government to take immediate action to permanently clear up inequities and inconsistencies around the accounting treatment of Rural Fire Service (RFS) assets by acknowledging that rural firefighting equipment is vested in, under the control of and the property of the RFS. Also, amending s119 of the Rural Fires Act 1997 so that the effect is to make it clear that RFS assets are not the property of councils.
- 3. Call upon the NSW Government to fully fund RFS maintenance and repair costs. Between \$300 and \$400K is received each year to maintain both fleet and buildings with insufficient consideration of what is actually required and small increases year-on-year. For example, with RFS buildings it is recognised that Council's asset management responsibilities cannot be sustainably met without some process of inspection, condition reporting and responsive funding allocation. In the past, the funding shortfall has led to Council subsidising the cost of operation to deliver necessary building works. However, going forward Council does not have the capacity to absorb these unplanned costs. A solution is required which honours the value of local volunteer firefighters, responds to the unique operational needs of this function, and assigns adequate and responsive funding without cost-shifting onto local government.
- 4. Advocate for NSW Government legislation to allow councils to fund the Emergency Services Levy outside of the rate peg as a separate line item on rates notices.

Policy Implications

Policy 9.5 Councillor Expenses and Facilities allows for a separate budget for State and National Local Government conferences.

Financial Implications

- Budget approved - separate budget provision for State and National Local Government conferences.
- Cost centre - 800154-8130-63205
- Expended to date - nil on conferences for the 2022/23 year.
- Future potential impact – nil.

Legal and Risk Management Implications

Nil.

Attachments

Nil

Recommendation

THAT Council discuss proposed motions and attendance at the LGNSW Annual State Conference.

11.2. People and Services Reports

11.2.1. People and Services General Reports

11.2.1.1. PS - 22/08/2022 - Second Councillor Delegate to Women's Advisory Committee

Prepared by Matthew Johnson - Community and Culture Manager

Department Community & Culture

Authorised by Director of People & Services

Reference

Min: 22-26 Ordinary Meeting of Council 2 March 2022

Min: 22 –113 Ordinary Meeting of Council 27 June 2022

Summary

This report recommends that a Councillor be appointed to fill a vacancy on the Women's Advisory Committee.

Commentary

The Women's Advisory Committee Terms of Reference details the following membership:

- Two (2) Councillors
- A minimum of six (6) community representatives with an interest and experience in advancing women's interests
- If possible, three (3) representatives of organisations involved in working with women and women's interests

At the Ordinary Meeting of Council held 2 March 2022 Council resolved (Minute 22-26) to appoint Councillor Coleman to the Womens Advisory Committee. This left a vacancy for an additional Councillor representative.

At the Ordinary Meeting of Council held 27 June 2022 Council appointed (Minute 22-113) 6 community representatives to the Committee.

It is recommended that Council determine an additional Councillor representative to this Committee.

Attachments

Nil

Recommendation

THAT Council consider nominating an additional councillor representative for the Womens Advisory Committee.

11.2.1.2. PS - 22/08/2022 - PS - Draft Aboriginal & Torres Strait Islander Protocols

Prepared by Michael McGrath - Director People & Services

Department People & Services

Authorised by Director of People & Services

Reference

9.3. Notice of Motion - 25/01/2021 - Cr Darryl Goodwin - Road Damage Maiyingu Marragu Reserve (Resolution 21–6)

10.5.1. PS - 26/04/2021 - Uluru Statement from the Heart (Resolution 21–96)

Summary

Lithgow City Council acknowledges Aboriginal and Torres Strait Islander peoples as the traditional custodians of the land that comprises Australia. Lithgow City Council further acknowledges the Wiradjuri as the traditional custodians of this place, Lithgow.

The purpose of this report, and the draft document that it relates to, is to provide councillors, Council officers, staff and volunteers at Lithgow City Council with an understanding and guidance in important protocols of the Aboriginal and Torres Strait Islander people within our community. The draft document is not designed as an exhaustive list of all protocols; staff will continue to consult with Aboriginal and Torres Strait Islander representatives about how and when to observe these and other protocols in the most appropriate manner. Observing Aboriginal and Torres Strait Islander protocols includes allowing time for traditional decision making and discussion.

This document is one of several important first steps on the path to improved consultation with the Aboriginal and Torres Strait Islander community.

Commentary

Recent census data indicates an increase in the number of residents living in our community who identify as Aboriginal and Torres Strait Islander. According to the 2021 Census, the Aboriginal and Torres Strait Islander population in the Lithgow LGA is 7.7% (up from 5.7% in 2016). It is recognised that the aboriginal community deserves and requires increased engagement in a wide range of social, cultural, and development matters.

Following commentary on aboriginal issues from within and outside the aboriginal community, and the Council's own call for enhanced consultation with the local aboriginal and Torres Strait Islander community, the community development section of Council's administration was tasked to undertake a review of the current level of consultation and engagement with the local aboriginal community.

After consultation with several Aboriginal and Torres Strait Islander groups and corporations including the Bathurst Local Aboriginal Land Council, it became evident that a set of agreed protocols is an early and necessary step to improve consultation with all aboriginal and Torres Strait Islander groups in our community.

Showing respect for and acknowledging and accepting that we all have different codes of behaviour and ways of interacting, Council recognises that to consult and work with aboriginal and Torres Strait Islander people effectively, it must show sensitivity to, and respect for, cultural protocols. This draft document seeks to encapsulate these principles and to help educate the community, including Council staff, on how best to engage with the Aboriginal and Torres Strait Islander community on matters important to them.

The attached draft Aboriginal and Torres Strait Islander Protocols has been developed with the assistance and guidance of the Bathurst Local Aboriginal Land Council (Bathurst LALC) which is the Land Council covering the Lithgow LGA.

Policy Implications

Future Development and policy decisions that may affect the Aboriginal & Torres Strait Islander Community

Financial Implications

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

Attachments

1. Lithgow Community Cultural Protocols [**11.2.1.2.1** - 13 pages]

Recommendation

THAT Council endorse the draft Lithgow Aboriginal and Torres Strait Islander Community Protocols document, and it be exhibited for community consultation and comment for 28 days.

11.2.1.3. P&S - 22/08/2022 - Model Code of Conduct and Procedures

Prepared by Ross Gurney - CFIO

Department People & Services

Authorised by Director of People & Services

Reference

Min 20-254 Ordinary Meeting of Council 26 October 2020.

Summary

S440 (7) of the Local government Act 1993 required Councils to review their adopted Code of Conduct within 12 months of a Council election and make such adjustments as they consider appropriate.

Commentary

The most recent version of the Model Code of Conduct for Local Councils in NSW and associated Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW were prescribed in 2020. Council adopted these versions of the Code and Procedures on 26 October 2020.

The Model Code of Conduct and Procedures are prescribed under the Local Government (General) Regulation 2005 and are effective immediately upon adoption by Council.

Councils may include supplementary provisions in their adopted codes of conduct and may also impose more onerous requirements than those prescribed under the Model Code of Conduct. However, councils must not dilute the standards prescribed in the Model Code of Conduct.

It is proposed that no changes be made to the Model Code and Procedures adopted by Council on 26 October 2020. It is further proposed that Council maintain the cap for the value of gifts at \$50.00.

Councillors received training on the Code of Conduct on 2 August 2022.

Staff have also received separate comprehensive training on the Code of Conduct.

Policy Implications

Adoption of the amended Model Code of Conduct for Local Councils in NSW and the associated Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW.

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

Under section 440 of the LGA, each Council is required to adopt a Code of Conduct based on the Model Code of Conduct prescribed under the Regulation. Under section 440AA, each council is required to adopt procedures for the administration of their adopted Code of Conduct

Attachments

1. LC C- Code-of- Conduct-updated- October-2020 [11.2.1.3.1 - 47 pages]
2. Procedures-for-the- Administration-of-the- Model- Code-of- Conduct-for- Local- Councils-in- NS W-upd [11.2.1.3.2 - 35 pages]

Recommendation

THAT Council:

1. Adopt the Prescribed Model Code of Conduct for Local Councils in NSW (2020),
2. Maintain the cap for the value of gifts at \$50.00 within the Code, and
3. Adopt the Prescribed Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (2020).

11.3. Infrastructure Services Reports

11.3.1. IS - 22/08/2022 -Proposed Road Naming - DA162/18 - Martindale Place, Portland

Prepared by Leanne Kearney – Assets and Infrastructure Planning Manager

Department Infrastructure Services

Authorised by Director Infrastructure Services

Summary

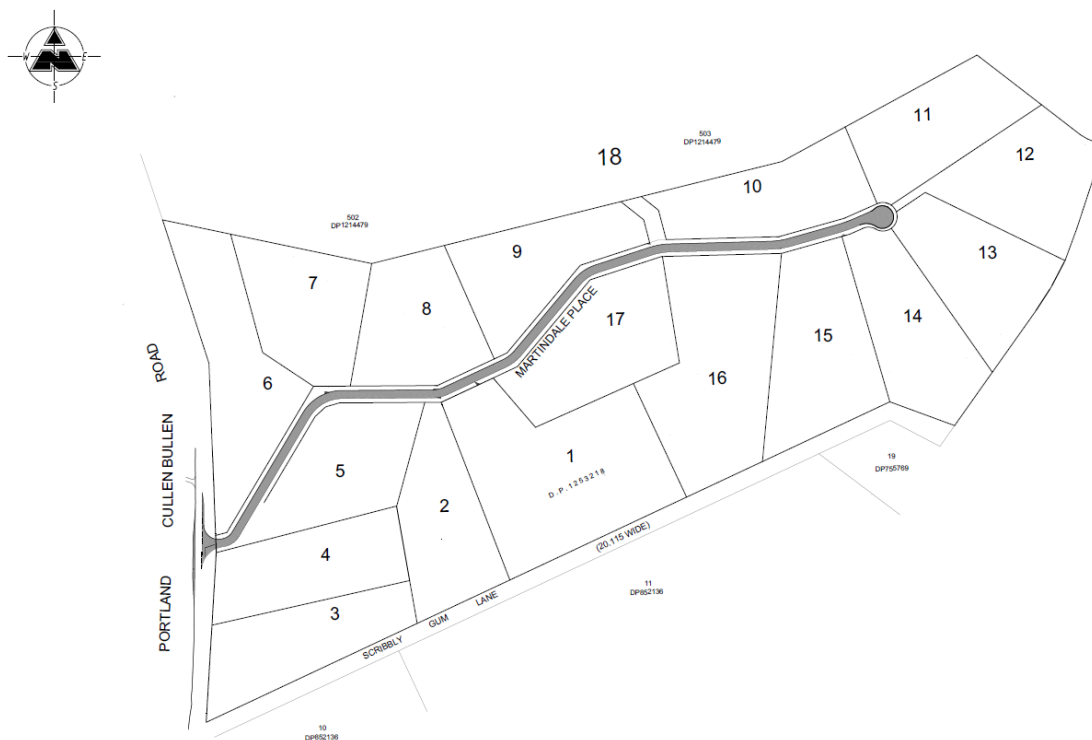
The purpose of this report is to advise Council of a road naming proposal of “Martindale Place” required as a condition of consent for DA162/18.

Commentary

Council has received a submission on the proposed naming of “Martindale Place” for the new road created as part of DA162/18, off Portland / Cullen Bullen Road, Portland.

This name has been proposed to reflect the original name of the property being subdivided, Martindale, which has resulted in the creation of the new road.

The proposed name complies with the Geographical Names Board criteria for road naming (due to the road type being a dead-end street), with two (2) potential issues identified during the initial investigation. The potential conflicts identified include “Martini Parade” in Lithgow and “Martins Road” in Rydal. It is deemed that due to the location of the potential conflicts, being in different suburbs within the Local Government Area, “Martindale Place” is acceptable for gazettal by the Geographical Names Board if approved by Council.



Policy Implications

The road would be re-named in accordance with Council’s Addressing Policy and the NSW Address Policy and User Manual.

Financial Implications

Council will incur some minor advertising, administrative and signage costs in accordance with its Addressing Policy, however, the approval will be cost neutral to Council with the expenses incurred fully funded by the Developer in accordance with the fee set in Council's adopted Fees and Charges for 2022 / 2023 (\$465.00)

- Budget approved – Nil.
- Cost centre – 800188
- Expended to date – Nil.
- Future potential impact – Nil.

Legal and Risk Management Implications

Nil.

Attachments

Nil

Recommendation

THAT Council:

In accordance with Council's Addressing Policy, advertise the road naming of the new road created as part of DA162/18, off Portland / Cullen Bullen Road, Portland as "Martindale Place" in the local newspaper and notify emergency authorities and residents in the area, calling for submissions to be made for the statutory period of twenty-eight (28) days after which:

- a. If no submissions against the proposal are submitted, Council proceed with the gazettal process of the re-naming and notify all resident and emergency authorities accordingly; and
- b. If submissions against the proposal are submitted, a report be furnished to the next available Council meeting.

11.3.2. IS - 22/08/2022 - Service NSW Agreement - Business Support Partnership

Prepared by Jonathon Edgecombe - Director

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Summary

The purpose of this report is to provide background information and seek the Council's endorsement to enter into an agreement with Service NSW and to consider future local business improvement initiatives.

Commentary

Lithgow City Council continues to actively search for any opportunities to assist businesses within the Lithgow Local Government Area. It is often the case that smaller businesses are less resilient as a result of their limited resources. However, this does not mean that they provide less value to our community. Lithgow has a thriving small business community, with various service providers, cafes and boutique retail operators making use of our Main Street precinct.

It is critical that these businesses are supported in their journey, both to grow those which already exist, but also reduce the barriers to entry of those wishing to break into the Lithgow market. We also seek to encourage and support innovative but sustainable industry and a diversity of businesses that provide a range of services and employment opportunities for current and future generations.

To this effect, Service NSW for Business provides free, personalised support to small business owners, to help them understand industry regulations, to guide them through transactions, and to access support.

The services provided to business owners include:

- Business Concierges offering over-the-phone, email and face-to-face support and case management.
- An online Business Profile to make it faster and easier for business owners to transact with NSW Government.
- Guidance and support for small business owners impacted by natural disasters or emerging issues to access a range of Government stimulus, support and information.
- Online business information hubs including how-to guides to help business owners understand key tasks and the support available when starting and running a business in NSW.

In consultation with Council, Service NSW has developed a Partnership Agreement with the intent of providing consistency across all councils, providing the opportunity for Lithgow City Council to engage with all services across Service NSW now and into the future, and reflecting the broader focus of Service NSW for Business. This Partnership Agreement ensures adequate detail and clarity surrounding the roles and responsibilities of all agencies in relation to the collection, storage and security of personal information.

The intention of the Partnership Agreement is to build awareness of specialist advice services available, ensure Council staff can direct enquiries to these services and provide small business owners with the skills to be better informed and researched prior to lodging any applications. In the early stages of Lithgow's transition, and recognition of the frequency of recent natural disasters, these support services are critical for our small business community.

This program is at no cost to Lithgow City Council to participate. Support material, training and advice is provided by Service NSW for Business at no cost. Implementation of the program should lead to reduced processing times and costs relating to applications to Council. Put simply, this agreement reflects a partnership of both organisations to improve the efficiency of communication and effectively link business owners to the services of each.

Policy Implications

Nil

Financial Implications

- Budget approved - Nil
- Cost centre - N/A
- Expended to date - Nil – no current or future cost.
- Future potential impact - Nil – no current or future cost.

Legal and Risk Management Implications

Nil

Attachments

1. Lithgow City Council LG Partnership Agreement Legal review 26 07 21 [11.3.2.1 - 22 pages]

Recommendation

THAT Council delegate authority to the General Manager to enter into a partnership agreement with Service NSW, providing bespoke support to new and existing businesses within the Lithgow LGA.

11.4. Water and Wastewater Reports

11.4.1. WWW - 22/08/2022 - Energy from Waste - West Lithgow Precinct

Prepared by Matthew Trapp – Executive Manager Water & Wastewater

Department Waste & Recycling

Authorised by Executive Manager Water & Wastewater

Summary

This purpose of this report is to provide information regarding the Business of Great Urgency presented by Councillor Lesslie at the 25 July 2022 Ordinary Meeting.

Commentary

The matter that was determined to be business of great urgency is as follows:

22 -155 RESOLVED

THAT

1. The request of NSW Government expansion of the West Lithgow Precinct be declared as business of great urgency.
2. A report be brought down to the next meeting of Lithgow Council on the NSW Government's expansion of the West Lithgow Precinct with the report to include:
 - The notice advising Lithgow Council
 - What public consultation was undertaken by the Government, if any.
 - Council's response to the Government.
 - Council's action in advising the citizens of Lithgow and particularly those citizens and businesses in the new expanded area.

The Protection of the Environment Operations (general) Amendment (Thermal Energy from Waste) Regulation 2022 (the Regulation) commenced on 8 July 2022. This amendment to the regulation has now brought the NSW Government's Energy from Waste Infrastructure Plan into law. .

Expansion of the West Lithgow Precinct

The West Lithgow Precinct was originally substantially confined to the locality comprising the current Mount Piper power station site south of the Castlereagh Highway.

Upon release of the Regulation it became apparent that the mapping of the gazetted area had changed to include some additional parcels of land on the northern side of the Castlereagh Highway. Such expansion of the Lithgow West Precinct was previously unknown to Council's staff. The basis for the change was pursued with the EPA to clarify the situation. It was explained that there was a technical drafting error that occurred during the development of the Lithgow map. The EPA undertook to withdraw the gazetted West Lithgow map and replace it with a new version consistent with the EfW Infrastructure Plan, as a matter of priority.

While the correctly defined area for the West Lithgow precinct now substantially relates to land owned by Energy Australia, the company (EA) released a statement on 29 July 2022 that they will not investigate any future Waste to Energy infrastructure at the Mt. Piper Power Station site. Energy Australia also stated that they have withdrawn their development application (State Significant Development (SSD) 8294) for a energy from waste facility at Mt Piper and exited their joint venture with ReGroup for that development. The information on this can be found on Energy Australia's website at <https://www.energyaustralia.com.au/about-us/media/news/statement-waste-energy-projects>

Notice and public consultation about Expansion of the West Lithgow Precinct – Council's response to and Council's actions to advise citizens and businesses

Upon the Regulation commencing on 8 July the EPA advertised on its website the Energy from Waste Policy Statement, Energy from Waste Framework and the Energy from Waste Consultation report.

The NSW Government's consultation on the Protection of the Environment Operations (general) Amendment (Thermal Energy from Waste) Regulation 2022 was undertaken between 31 March 2022 to 30 April 2022. The consultation report from the EPA is attached to this report.

As noted above, the change to the West Lithgow Precinct (which had the appearance of expanding the West Lithgow Precinct) has been described by the EPA as a technical drafting error which occurred at the time of gazettal hence no consultation, with the community or Council, was undertaken about this aspect of the final regulation.

Because the Expansion of the West Lithgow Precinct was, upon enquiry by Council's staff, explained as an error and an undertaking was given that it would be corrected there was no cause for Council to respond to it further or to advise citizens or businesses about this aspect.

At the time of writing this report the mapping had not been corrected and Council's staff have requested advice about the timing of this correction.

Policy Implications

None at this time

Financial Implications

- Budget approved - nil
- Cost centre - nil
- Expended to date - nil
- Future potential impact – Mount Piper Power Station site falls within the West Lithgow Precinct. As stated above the map change was unintentional

Legal and Risk Management Implications

None at this time

Attachments

1. 21 p 2938-energy-from-waste-policy-statement [11.4.1.1 - 13 pages]
2. 21 p 3046-energy-from-waste-consultation-report [11.4.1.2 - 21 pages]
3. 21 p 3147-energy-from-waste-framework [11.4.1.3 - 9 pages]
4. sl-2022-367 [11.4.1.4 - 5 pages]

Recommendation

THAT Council note the report in response to the Business of Great Urgency item regarding NSW Government Expansion of the West Lithgow Precinct.

11.5. Finance and Assets Reports

11.5.1. FIN - 22/08/2022 - Investment Report July 2022

Prepared by Sharon Morley – Finance Officer
Department Finance & Assets
Authorised by Chief Financial & Information Officer

Reference

Min No 22-126 Ordinary Meeting of Council held on 27 June 2022.

Summary

The purpose of this report is to advise Council of investments held as at 31 July 2022 and to note the certification of the Responsible Accounting Officer that funds have been invested in accordance with legislation, regulations and Council policy. The report also provides commentary on the cash and investments balance compared with the funding required for internally and externally restricted reserves.

Commentary

Movements in the Cash and Investments Balance

Council's total investment portfolio as at 31 July 2022, when compared to 30 June 2022, had decreased by \$2,626,539 to \$32,141,224. Investments decreased from \$34,490,102 to \$31,690,103. Cash in Council's bank account increased from \$277,661 to \$451,121.

The \$2.6M decrease in investments is mainly due to the ordinary business of Council, with no rates or Financial Assistance Grant instalments due in July. High cash outflows were expected during the month of July due to payment of end of financial year invoices.

If the movement in the bank account is negative, this is shown as a nett redemption. If the movement in the bank account is positive this is shown as a nett new investment.

The movement in Investments for the month of July 2022 were as follows:

Opening Balance of cash and investments as 01 July 2022	\$34,767,763
Plus New Investments – July 2022	\$1,373,461
Less Investments redeemed – July 2022	-\$4,000,000
Closing Balance of cash and investments as at 31 July 2022	\$32,141,224

CFIO comment on the cash and investments balance – the \$2.6M decrease in cash and investments in July 2022 was anticipated and mainly due to the payment of high value accounts payable invoices.

The decrease in the investments balance is adequately covered from Council's working capital short-term loan facility.

High value Accounts Payable transactions included \$376K for Portland Range Rd intersection, \$182K for Wallerawang SPS works, \$178K for Portland watermain renewal, \$137K for the Resource Recovery Centre, \$487K for Glen Davis bridges, \$140K for waste collection, \$520K for IT licensing, \$415K for flood damage emergency works, \$294K for tree works and \$184K for a truck.

Funding Requirements for Restricted Reserves

A large proportion of Council's investments are held as restricted assets for specific purposes. Restricted assets may consist of externally restricted assets which must be spent for the purpose for which they have been received (e.g. Water, Wastewater, Domestic Waste) or internally restricted assets which have been set aside by Council resolution. Some internal restrictions are held to fund specific liabilities such as employee leave entitlements and bonds and deposits.

CFIO comment on restricted reserves – the balance of external restrictions at 31 March 2022 was **\$23.7M** and for internal restrictions **\$6.8M**. With the working capital fund at \$833K, total cash and investments at 31/3/22 was \$31.4M. Council has sufficient cash and investments to fund the current externally restricted reserve balances.

The Land Bank internally restricted reserve has been rebuilt from \$1.1M at 30 June 2021 to \$3.8M at 31 March 2022. The Land Bank reserve has now been restored to a level close to its 30 June 2019 balance of \$3.6M (prior to Council's cashflow issues in the early stages of the Covid pandemic and falling interest rates).

The Administration took action to initiate the working capital short-term loan facility to cover anticipated high cash outflows during June and July for grant funded capital projects and claimable natural disaster recovery works. The use of the loan for these purposes accords with Council's resolved policy position.

Policy Implications

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing funds. On 22 March 2021, Council adopted a revised Investment Policy which includes the Minister's Investment Order of 12 January 2011.

Financial Implications

- YTD interest income budget approved – \$150,000
- Cost centre - 3259
- YTD Income to date - \$205,263
- Future potential impact – Nil.

The Council's interest income for 2021/22 is \$55K over budget. Investment returns have increased since January 2022 with Council being able to achieve up to 3.3% returns on six month investments. Also, Council's average investment balance has been above the budgeted average investment balance of \$28M.

Interest is paid on the maturity date of the investment. The budget for interest income is determined by the average level of funds held and the rate of return. Adjustments to the budget estimate are processed through Council's Quarterly Budget Review process. Interest returns are determined by average funds invested and the rate of interest return.

Legal and Risk Management Implications

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. The Investment Policy was reviewed and adopted by Council in March 2021 to address issues in relation to the practicality of the policy in the current investment environment.

Risk is managed by taking a conservative approach to managing Council's investments and only investing in term deposits.

CERTIFICATION OF THE RESPONSIBLE ACCOUNTING OFFICER

I hereby certify that the investments listed in the report have been made in accordance with Section 625 of the Local Government Act 1993, clause 212 of the Local Government (General) Regulation 2005 and Council's Investments Policy.

Both internally and externally restricted reserves are managed in accordance with legislation, regulation, Council resolutions and Council's endorsed budget allocations to / from reserves.

Ross Gurney
Chief Financial and Information Officer (Responsible Accounting Officer)

Attachments

1. Attachment 1_ July 2022 Investments Report [**11.5.1.1** - 1 page]

Recommendation

THAT

1. Investments of \$31,690,103 and cash of \$451,121 for the period ending 31 July 2022 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.
3. The commentary on funding requirements for restricted reserves be noted.

11.6. Policies and Governance

11.6.1. FIN - 22/08/2022 - Encroachment Management Policy

Prepared by Sandra Politi – Property and Legal Services Officer

Department Property & Legal Services

Authorised by Chief Financial & Information Officer

Summary

The purpose of this report is to provide Council with new Policy 10.22 'Encroachment Management Policy' and to seek endorsement to place the draft policy on public exhibition for 28 days in accordance with SWP Policy 6.1.

Commentary

Draft Policy 10.22 is a new policy which establishes a framework for addressing encroachments on Council Managed Land in a fair and consistent manner.

The policy applies to land that is owned or leased by Council or land that Council manages under the Crown Land Management Act 2016.

The policy includes a procedure in Appendix A to be followed when Council receives notice of an encroachment on Council Managed Land. The procedure applies regardless of whether the notice is given by a Council officer, member of the community, government department or other party. Encroachments will be assessed on a case-by-case basis having regard to the factors listed in Appendix A. In some circumstances, it might be appropriate for Council to issue a licence authorising the encroachment for a period of time, while in other situations the encroachment might warrant removal.

The policy has been drafted with the aims to raise awareness, appreciation and respect for Council Managed Land and prevent the occurrence of new encroachments.

Policy Implications

SWP Policy 6.1 requires that draft policies be placed on public exhibition for a minimum of 28 days and following exhibition, be returned to Council, with details of any submissions made during the exhibition period and any recommendations or amendments that may come from the submissions.

Financial Implications

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – There may be costs to Council of enforcing compliance with the policy.

Legal and Risk Management Implications

Draft Policy 10.22 aligns with Council's functions under the Local Government Act 1993.

Attachments

1. Draft Encroachment Management Policy 10.22 [11.6.1.1 - 6 pages]
-

Recommendation

THAT:

1. Draft Policy 10.22 'Encroachment Management Policy' be placed on public exhibition for a period of 28 days.
2. Following the exhibition period, draft Policy 10.22 be returned to Council for adoption, with details of any submissions made during the exhibition period and any recommendations or amendments that may arise from the submissions.

12. Council Committee Reports

12.1. PS - 22/08/2022 - Crime Prevention Committee Minutes

Prepared by Matthew Johnson – Community & Culture Manager

Department Community & Culture

Authorised by Director of People & Services

Summary

The Minutes of the Crime Prevention Committee meeting held on 18 July 2022 are reported for Council's consideration.

Commentary

At the Crime Prevention Committee meeting held on 18 July 2022 various matters were discussed including:

1. The latest Bureau of Crime Statistics Quarterly Report of Recorded Crime Statistics dated March 2022 which provides data on:
 - Trends in recorded Criminal Incidents in Lithgow LGA for major offences over the 24 months to March 2022
 - The ratio of recorded criminal incidents in Lithgow for the 12 months to March 2022 compared to the NSW rate (per 100,000 population).
 - The number of recorded criminal incidents in Lithgow LGA for major offences over the 12 months to March 2022 and to March 2021.
2. A report by the Police representatives on the number of offences detected by Police in Lithgow for the April - June Quarter 2022 compared to the same quarter in 2021.
3. A discussion on homelessness within Lithgow.
4. A discussion on current level of Police within the LGA.

Policy Implications

Nil

Financial Implications

Nil

Legal and Risk Management Implications

Nil

Attachments

1. Crime Prevention Committee Minutes 18 July 2022 [12.1.1 - 6 pages]

Recommendation

THAT Council note the minutes of the Crime Prevention Committee meeting held on 18 July 2022.

12.2. PS - 22/08/2022 - Community Development Committee Minutes 12 July 2022

Prepared by Matthew Johnson – Community & Culture Manager

Department Community & Culture

Authorised by Director of People & Services

Summary

The Minutes of the Community Development Committee meeting held 12 July 2022 are reported for Council's consideration.

Commentary

At the Community Development Committee meeting held 12 July 2022 various matters were discussed including:

- **Item 4.1 Update on Current Projects:** A staff report was provided to the Committee on current projects within the Community and Culture Department including Farmers Creek upgrade works, Union Theatre improvements, the Regional Waste 2 Art Exhibition and the Library Services service review.
- **Item 4.2 Financial Assistance Applications:** The committee considered a staff report on Round 1 of 2022/23 Financial Assistance applications received by Council. The Committee's recommendations were included in a separate report to the 25 July 2022 Council meeting.
- **Item 4.3 Community Recovery and Community Development Officer Reports:** A staff report was provided by Council's Community Recovery and Community Development Officers on recent works undertaken.

Policy Implications

Nil

Financial Implications

Nil

Legal and Risk Management Implications

Nil

Attachments

1. Community Development Committee minutes 12 July 2022 [**12.2.1** - 6 pages]

Recommendation

THAT Council note the Minutes of the Community Development Committee meeting held 12 July 2022.

12.3. FIN - 22/08/2022 - Finance Committee Meeting Minutes - 20 July 2022

Prepared by Ross Gurney - CFIO
Department Finance & Assets
Authorised by Chief Financial & Information Officer

Reference

Min No 22-126 Ordinary Meeting of Council held on 27 June 2022.

Summary

This report provides details of the Minutes of the Finance Committee Meeting held on 20 July 2022.

Commentary

At the meeting of the Finance Committee held on 20 July 2022 the following items were discussed:

- **Financial Assistance Grant Allocation** – the CFIO provide the Committee with information on Council's 2022/23 estimated Financial Assistance Grant (FAG) allocation. The CFIO also provided details of Council's recent advocacy for a better allocation model and a fair share of FAG funding for rural and regional communities.
- **Accounting Treatment of RFS (Red Fleet) Assets** – the CFIO provided information on the NSW Government and Auditor-General's push for Council to recognise Rural Fire Service (RFS) firefighting (Red Fleet) assets. Local Government NSW (LGNSW) is calling on Councils to support the local government campaign on the financial accounting treatment of RFS mobile assets known as the 'Red Fleet'.
- **Referral of Financial Reports for External Audit - Year Ended 30 June 2022** – the CFIO provided information on the legislative requirement for Council to refer its financial reports for audit prior to the commencement of the external audit.
- **Community Engagement - Options for a Sustainable Lithgow** – following the 18 July 2022 Councillor Information session item on the proposed community engagement on Options for a Sustainable Lithgow, the Committee briefly discussed the community engagement process.

The following business paper recommendation was endorsed by the Committee:

Council Investments Report June 2022

THAT

1. Investments of \$34,490,102 and cash of \$277,661 for the period ending 30 June 2022 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.
3. The commentary on funding requirements for restricted reserves be noted.

Policy Implications

Nil.

Financial Implications

As detailed in the Finance Committee meeting minutes.

Legal and Risk Management Implications

Nil.

Attachments

1. Minutes Finance Committee Meeting 20 July 2022 [**12.3.1** - 5 pages]

Recommendation

THAT Council:

1. Adopt the minutes of the Finance Committee meeting held on 20 July 2022 and note the items not requiring a resolution of Council.
2. Endorse the recommendations proposed in the Council Investment Report for June 2022.

12.4. IS - 22/08/2022 - TALC Committee Meeting Minutes 11 August 2022

Prepared by Kaitlin Cibulka – Executive Assistant

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Summary

This report provides details of the minutes of the TALC Committee meeting held on Thursday 11 August 2022.

Commentary

At the TALC Committee held on 11 August 2022, there were numerous items discussed by the committee:

- 2022 Lithgow Halloween – Traffic Management Plan,
- Loading Zone Request – Naomi Street, Lithgow,
- Respect Aged Care – Relocation of Bus Stop, and
- Street Sign Plan – DA 196/18 - Ian Holt Drive, Lidsdale

The items discussed were outside the Committee's delegations and require Council to formally approve the recommendations.

Policy Implications

Nil.

Financial Implications

- Budget approved – recurrent operating budgets for items included in the report recommendations.
- Cost centre - N/A
- Expended to date – Nil.
- Future potential impact – Nil.

Legal and Risk Management Implications

Nil.

Attachments

1. DRAFT Minutes - TALC Committee Meeting - 11 th August 2022 [**12.4.1** - 6 pages]

Recommendation

THAT Council:

1. Notes the minutes of the TALC Committee meeting held on Thursday 11 August 2022; and
2. Approves the Traffic Management Plan for the 2022 Lithgow Halloween event, including the following temporary road closures between 10.00am Saturday, 29 October 2022 until 1.00am Sunday, 30 October 2022:
 - Main Street, Lithgow between Gray Street and Bridge Street
 - Sandford Avenue, Lithgow between Main Street and Gray Street
 - Naomi Street, Lithgow between Main Street and Naomi Street Carpark
 - Station Street, between Main Street and Station Street Carpark
 - Burns Lane between Main Street and Main Street Lane
 - Eskbank Street, between Main Street Lane and Railway Parade; and
3. Decline the request for a new Loading Zone to be implemented in Naomi Street, Lithgow; and

4. Approve the relocation of the bus stop located in Church Street, Lithgow to Maple Crescent, Lithgow to cater for residents and visitors to Respect Aged Care, Lithgow; and
5. Approve a 20m bus zone to be installed to cater for the bus stop; and
6. Install a bus shelter catering for users of the relocated bus stop in conjunction with future footpath construction works; and
7. Install the Give Way direction for motorists exiting Road 2 and provide right of way to motorists utilising Road 1 for the new roads created as part of DA196/18; and
8. Approve No Parking zones for cul de sacs on Road 1, Road 2 and Maddox Lane, Lidsdale; and
9. Approve centre line marking to be put on both roads to assist with the giveaway.

12.5. ENV - 22/08/2022 - Environmental Advisory Committee Meeting Minutes 13 July 2022

Prepared by Fiona Dick – Administration Assistant
Department Environment
Authorised by Director of People & Services

Reference

Min No 13.5: Ordinary Meeting of Council held on 22 August 2022

Summary

This report details the Minutes of the Environmental Advisory Committee held on 13 July 2022.

Commentary

At the Environmental Advisory Committee held on 13 July 2022 the following items were discussed:-

1. Presentation on the Gardens of Stone Conservation Area
2. Sue Graves - Vale

Policy Implications

NIL

Financial Implications

NIL

Legal and Risk Management Implications

NIL

Attachments

1. Minutes from the Environmental Advisory Committee meeting of 13 July 2022

Recommendation

THAT Council note the minutes of the Environmental Advisory Committee held on 13 July 2022.

13. Business of Great Urgency

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

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