



Pearson's Lookout

BUSINESS PAPER

Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 28 November 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 24 October 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.

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

8. Mayoral Minutes

8.1. Mayoral Minute - 28/11/2022 - Declaration of Statewide Road Emergency

Report by Mayor – Councillor Maree Statham

Commentary

We are all well aware the Lithgow City Council has been hit by a seemingly relentless wave of flood events in the past 12 months.

And we are not alone. A total of 126 of New South Wales' 128 local government areas have had natural disaster declarations within the last 12 months, according to the President of Local Government NSW, Darriea Turley.

On the third of November 2022, Local Government NSW declared a Statewide Roads Emergency.

The declaration – and urgent call for the NSW and Federal governments to increase their existing road funding commitments in the wake of the floods – comes on the back of an estimated \$2.5 billion in road damages and a collapse of the local and regional road network.

I call on Lithgow City Council to show our support for this move and whole-heartedly endorse the Local Government NSW declaration of Statewide Road Emergency.

The declaration has already been publicly supported by our peak regional body, the Country Mayors Association of New South Wales.

As part of the Statewide Roads Emergency, LGA NSW and Country Mayors Association of NSW are calling for:

- An acceleration and significant increase in funding for the \$1.1 billion Fixing Local Roads and Fixing Country Bridges program from the New South Wales Government
 - A boost to Road Block Grant funding to compensate for the damage to the regional road network from the Federal Government
 - New funding to provide councils with plant machinery and skilled workers to expedite road repairs from the Federal Government.
-

We have faced, and may continue to face, an unprecedented and unrelenting series of natural disasters that has seen residents and business owners cleaning up again and again, people isolated, workers unable to get to work, and students unable to get to training or school.

Add to this our very real and immediate concern for our primary producers.

This latest rain event has hit at a critical time. Livestock are ready to go to sale, and many farmers have crops that need to be moved.

The local and regional road network is critically-enabling infrastructure. It is absolutely vital to our primary producers, and the key to keeping affordable food on the table across New South Wales and beyond.

Our road network, and the road network of shires across the state, have experienced vast damage. We are facing a task that is beyond the reasonable scope of any local government authority. The response needs to be proportionate to the massive challenge.

We need help. Our community needs help. Other regional and rural communities across the state and beyond need help.

We need to support our peak bodies in their declaration of a Statewide Road Emergency. This is an emergency, and it is time to seek help, and by supporting this Mayoral Minute you are endorsing that I write to the Prime Minister of Australia Anthony Albanese and the Premier of New South Wales Dominic Perrottet calling for immediate action.

Attachments

1. November 2022 CMA - ALGA [8.1.1 - 3 pages]

Recommendation

THAT Lithgow City Council joins with Local Government NSW and Country Mayors Association of NSW in supporting their declaration of a Statewide Road Emergency.

9. Staff Reports

9.1. General Manager's Reports

9.1.1. GM - 28/11/2022 - Lithgow Community Private

Prepared by Craig Butler – General Manager

Department Executive

Authorised by General Manager

Summary

This report provides an update on the matter of Lithgow Community Private's challenges in continuing to operate.

It acknowledges that positive negotiations are occurring between the key parties with the goal of overcoming these challenges. Notwithstanding, the report recommends continuing advocacy so that specialist medical services are not lost from Lithgow.

Commentary

At its September Meeting, Council considered a report about the Lithgow Community Private's announcement around that time that they would cease to operate after 2022. **A copy of that report is attached.**

As reported to Council when this matter was last considered - *Lithgow has a significant aged cohort of the local population. The socio-economic circumstances of our community predispose it to certain adverse health consequences. Also, there is a cluster of medical businesses and services which agglomerate around LCP because they are complementary. Removal of the specialist medical component (LCP) of this small but important health ecosystem could have implications for the performance of all of these other health services. Lithgow is not a local government area that can endure any reduction in medical services. In fact, there is the risk this could result in an unacceptable spiral down in terms of local availability and access to much-needed health services.*

Council undertook a number of actions to advocate to prevent the loss to Lithgow of the critical and much-needed specialist medical services provided by LCP. This included media releases to highlight the gravity of this matter and meetings and representations with LCP, local politicians and health bureaucrats.

As it stands, LCP are currently negotiating with the Local Health District to achieve sustainable future terms which ensure they are viable and able to continue to operate. Meanwhile, LCP is continuing day surgery and specialist medical appointments and they report that activity levels have improved since the first half of the year. Their next goal is to restore services to pre-Covid levels.

The Chair of the LCP Board has written to formally acknowledge and thank Lithgow Council for the support shown to LCP over the recent months. A media release by LCP, which was published last week, follows -

LITHGOW COMMUNITY PRIVATE ACKNOWLEDGES COMMUNITY SUPPORT

The Board of Directors of Lithgow Community Private Hospital (LCP) are aware that there is community concern regarding the ongoing services provided to our community by LCP. This uncertainty is presenting challenges when choosing to schedule important procedures.

Last week the board announced that LCP will continue normal operations beyond November 2022, in anticipation of finalising a new service agreement with NBMLHD.

LCP Chair Robert Swinton said “LCP and the Nepean Blue Mountains Health District are in discussions regarding a new sustainable model and services agreement that aims to provide certainty for both parties. There is acknowledgement of the valuable role played by LCP in addressing the health needs of the Lithgow community. While discussions are still ongoing, we want to assure the community that there is genuine commitment on both sides to resolve the current issues.”

The Board would like to thank our LCP staff, doctors, patients, and the community for their support during the past couple of uncertain months. In particular, we would like to thank the Lithgow Mayor – Maree Stratham, and the Lithgow City Council for their support. We also acknowledge support from Paul Toole MP, Member for Bathurst, and Bronnie Taylor MLC Minister for Women, Minister for Regional Health, and Minister for Mental Health for their support of LCP in continuing to provide valuable health services to the community.

It is encouraging that negotiations are occurring between LCP and the Local Health District. But the community deserves assurances that this issue will be resolved and a long-term solution will be found. For this reason, it is recommended that Council continue with its advocacy.

Policy Implications

Nil.

Financial Implications

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- Future potential impact – loss of LCP from this city would have profound social consequences because there is the need for local specialist medical services

Legal and Risk Management Implications

N/A

Attachments

1. 26 September 2022 - Update Lithgow Community Private [9.1.1.1 - 3 pages]

Recommendation

THAT;

1. Council continue to engage with the NSW Government and Lithgow Community Private to advocate for a long-term agreement between these parties which ensures that much needed specialist medical services are available in Lithgow for the long term, and,
2. A further report be presented to the Ordinary Meeting in January to either recognise that a solution has been arrived at, or to canvas other available actions to achieve this outcome.

9.1.2. GM - 28/11/2022 - Organisation Structure Review

Prepared by Michael McGrath – Director People and Services

Department Human Resources

Authorised by General Manager

Summary

This report recommends that Council confirm the organisational structure, to achieve compliance with Section 333 of the NSW Local Government Act 1993.

Commentary

The present organisation structure is outlined in Attachment 'A' which provides for the following staff personnel (collectively known as the Executive Leadership Team or ELT) to be reporting directly to the General Manager:

- Chief Financial and Information Officer (CFIO)
- Director Infrastructure Services
- Director People & Services
- Executive Manager Water and Wastewater

The CFIO, Director Infrastructure Services, and Director People & Services are currently designated senior staff under the NSW Local Government Act 1993 – Section 332. The remainder is a Local Government (State) Award position.

Council previously had a structure with an additional senior staff position, Director Economic Development & Environment reporting to the General Manager. The service areas previously contained within that division (property, waste, economic development, environment, strategic land-use planning, development and tourism) have been dispersed across the Council's executive - see Attachment 'B'.

The NSW Local Government Act provides:

Section 332 Determination of structure

- (1) A council must, after consulting the general manager, determine the following--
 - (a) the senior staff positions within the organisation structure of the council,
 - (b) the roles and reporting lines (for other senior staff) of holders of senior staff positions,
 - (c) the resources to be allocated towards the employment of staff.
- (1A) The general manager must, after consulting the council, determine the positions (other than the senior staff positions) within the organisation structure of the council.
- (1B) The positions within the organisation structure of the council are to be determined so as to give effect to the priorities set out in the strategic plans (including the community strategic plan) and delivery program of the council.
- (2) A council may not determine a position to be a senior staff position unless--
 - (a) the responsibilities, skills and accountabilities of the position are generally equivalent to those applicable to the Executive Band of the Local Government (State) Award, and
 - (b) the total remuneration package payable with respect to the position is equal to or greater than the minimum remuneration package (within the meaning of Part 3B of the [Statutory and Other Offices Remuneration Act 1975](#)) payable with respect to senior executives whose positions are graded Band 1 under the [Government Sector Employment Act 2013](#)
- (3) For the purposes of subsection (2)(b), the total remuneration package payable with respect to a position within a council's organisation structure includes--
 - (a) the total value of the salary component of the package, and

- (b) the total amount payable by the council by way of the employer's contribution to any superannuation scheme to which the holder of the position may be a contributor, and*
- (c) the total value of any non-cash benefits for which the holder of the position may elect under the package, and*
- (d) the total amount payable by the council by way of fringe benefits tax for any such non-cash benefits.*

333 Re-determination and review of structure

The organisation structure may be re-determined under this Part from time to time. The council must review, and may re-determine, the organisation structure within 12 months after any ordinary election of the council.

The current structure, with one less senior staff position, acknowledges the need for Council to contain the costs of senior management. Each of the existing senior staff and leadership team are carrying more workload but performing admirably. It is also noteworthy that Council is presently advancing significant projects, such as the financial sustainability (SRV) and LEEP matters, which may influence the future organisation structure because of increased emphasis on governance, risk, economic development and assets.

Policy Implications

Nil

Financial Implications

The approved annual Operational Plan and Budget details the resources allocated towards the employment of staff.

Savings from one less senior staff position have been included in the budget savings plan for 2022/2023.

Legal and Risk Management Implications

The provisions of the standard Contract of Employment for Senior Staff and the NSW Local Government Act 1993 are to be considered.

Attachments

1. Attachment A - Organisational Structure November 2022 [9.1.2.1 - 1 page]
2. Attachment B - Division Structure November 2022 [9.1.2.2 - 1 page]

Recommendation

THAT Council Endorse the:

1. Senior Staff positions and Award positions in Attachment 'A'
2. Division structure in Attachment 'B'

9.1.3. GM - 28/11/2022 - Advocacy priorities for the NSW State Election

Prepared by Craig Butler – General Manager

Department Executive

Authorised by General Manager

Summary

A NSW State election must be held no later than March 2023. Council should use this opportunity to bring the city's high priority issues to the attention of candidates and political parties. This report proposes a set of items for advocacy in the lead up to the election, and beyond. These have been drawn from Council's IP&R framework of documents which reflect community priorities.

Commentary

It is proposed that the advocacy items be clustered under three themes –

1. Sustainable local government

The immense value of the many roles that local government plays has been confirmed during the last three years as Australia deals with the impacts of pandemic, natural disasters and other major disruptions. The operating environment for local government has changed profoundly. This change will be enduring because recovery will take many years and climate change will continue to exert itself and stress current systems of government or governance. Communities know that councils are a central and critical player when it comes to safeguarding them, supporting businesses and managing environments. It is apparent that there is a case for more effective and capable local government. Yet the single largest challenge for all rural and regional councils is financial sustainability. Councils are incapable of being as effective as they could be because the system of funding for local government is fundamentally broken.

- Substantially review and reform the funding arrangements for local government to provide the sector with the capacity to meet the many challenges of the 21st century.

2. A diverse, strong and resilient local economy

Today, more 40% of the value created in the city is derived from mining and power generation. Council has been well briefed about the likelihood of these sectors diminishing in value in the future. There is an imperative for the local economy to be diversified. This will require sustained, significant actions by all levels of government, knowledge providers and the private sector over as much as decade. These actions need to commence now. The Regional Economic Development Strategy offers some guidance. Programs like Resources for Regions and Royalties for Rejuvenation can also enable action. The Lithgow Emerging Economy Project, which is scheduled to be completed shortly, will speak very specifically to Lithgow's circumstances and define the most important actions. It will be necessary to move seamlessly into implementation.

- Finalise and rapidly implement the Lithgow Emerging Economy Plan – cross-government commitment, affirmative action, significant increase to the levels of funding provided for economic transformation (recognising that the task of transforming the Lithgow economy will require significant supporting funding over 7 – 10 years).
- Bring forward new employment precincts - utilise the capacity of the NSW Government to examine and then facilitate the re-purposing of the city's brownfield sites for employment purposes.
- Secure Lithgow's housing growth – resolve the issue of traffic access to the Marrangaroo Urban Release Area.

- Achieve water security to support growth – work with Lithgow Council to ensure the city's future water security, including a provision for water demand created by new employment precincts and housing

3. Sustainable transport options linking the Central West and Western Sydney

Effective and multi-modal transport connects communities and economies in ways that are not attainable in a roads biased transport system. Lithgow is a city which sits at the interface between the Central West and Western Sydney. This brings with it acute insight to the opportunities to better connect the two regions by other transport modes than roads, and the compromised GWH – which needs upgrading. Also, the uptake of EVs will increase rapidly and cities need to be readied for this trend. Lithgow has an EV Strategy which gives guidance on the necessary steps and actions. The suggested advocacy items below reflect these circumstances.

- Work with Council to implement the Lithgow EV Strategy
- Improve road connections - GWH upgrade – Advance the Great Western Highway upgrade (including addressing the matters raised in Council's submission)
- Recognise and act on the potential for Lithgow to act as a hub for improved rail services to the east and west –
- More frequent rail services between Lithgow and Western Sydney
- Consider the potential for faster and more frequent passenger rail services between Western Sydney and regional centres in the Central West.

Policy Implications

N/A

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

N/A

Attachments

Nil

Recommendation

THAT Council endorse the items outlined in this report as the priorities for advocacy in the lead up to the NSW State Election.

9.2. People and Services Reports

9.2.1. Building and Development

9.2.1.1. DEV - 28/11/2022 - DA256/21- Three Tree Lodge Alterations & Addition 2A Col Drewe Drive South Bowenfels - Request for Waiving of Contributions

Prepared by	Paul Cashel – Development Manager Matthew Trapp - Executive Manager - Water & Wastewater
Department	Development
Authorised by	Director of People & Services
Property Details	Lot 2 DP1068159, 2A Col Drewe Drive South Bowenfels
Property Owner	Three Tree Lodge Lithgow Limited
Applicant	Three Tree Lodge Lithgow Limited

Reference

Min. No. 22-205 Ordinary Meeting of 31 October 2022. Resolution: Deferred.

Summary

To consider a request from an applicant for development consent which seeks to waive the associated developer contributions, headworks fees and application fees for Development Application DA256/21 being for additions to Three Tree Lodge Aged Care Facility at Lot 2 DP1068159, 2A Col Drewe Drive South Bowenfels.

The determination report for DA256/21 is a separate recommendation report to the Council.

This report identifies that there is no current adopted Council policy basis for waiver, and nor has a legal or merits-based case been made by the applicant. The subject fees and contributions are publicly known (to applicants) and are consistently applied with all development applications to ensure an equitable approach for all. The fees have the effect of the beneficiaries of the various services paying a reasonable fee toward the cost of delivering those services (user pays). Waiving the fees will shift these costs from the applicant onto the general public.

Commentary

Council is in receipt of Development Application DA256/21 for additions to the residential aged care facility on land known as Lot 2 DP 1068159, 2A Col Drewe Drive, Bowenfels. The development includes alterations and additions that increases the overall use of the aged care facility by five (5) new rooms and an additional seven (7) new beds (eight (8) new / one (1) removed/demolished), being a total of 73 beds for the facility.

As part of the development assessment (and any consent) the following contributions and fees are applicable:

- **Development Application Fees (Council's Fees & Charges 2021/2022)**
 - Archival Fee: \$57
 - Concurrence Fee: \$140
 - DA Fee: \$4062.2
 - Integrated Development Fee: \$140
 - Fees paid for DA256/21 = \$4399.20

- Section 7.12 (former 94A) ((Section 7.12) Development Contributions Plan 2015) is applicable to the development having an estimated cost of development of \$2,004,471.70 with a 1% levy applicable. A contribution of \$20,044.71 is applicable.
- Water & Wastewater Development Servicing Plan Contributions (Council's DSP & Fees & Charges 2021/2022)
 Charge applicable for intensification of use – category Aged Care Facility:
 Sewer- 5(beds) x discount 0.75(ET) x \$15,308.81 (charge) = \$57,408.05
 Water- 5(beds) x discount 0.5(ET) x \$3,146.34 = \$7,865.85
 Total charges = \$65,273.90

Three Tree Lodge Lithgow Limited have requested that the above contributions and fees be waived in full, with their arguments for in their submission attached to this report. A summary of the justification is provided as below with management comments provided:

Applicant's Justification	Assessment comments
The previous version of the Section 94A Development Contributions Plan applied an exemption to privately funded community infrastructure.	Council's 94A Plan was updated in 2015. This included an amendment to Clause 7 to accord with the Ministerial Directions issued under (then) S94E. The Council adopted the changes which saw the removal of privately funded community infrastructure. Assessment of this application can only be undertaken under the current Section 94A Development Contributions Plan which does not provide an exemption for community development.
The development will provide significant community benefit with high demand for community residential aged care in the community.	Noted. The fact that an aged care facility has some demand for its services is not a matter for consideration when applying S94A, or a request for waiving of the contribution.
Council has required the applicant to provide new potable water and fire hydrant facilities to be separated from the hospital which is a significant cost.	This requirement was applied to the property under a previous development consent. The applicant did not challenge that condition at the time. It is reasonable for council to require compliance with approvals that have been issued. It is not a requirement as part of this proposal.
An increase of 7 additional beds would not place significant burden on ratepayers.	Addition of beds and floor space under Council's adopted policies is calculated as an increase in loading on Council's services. The calculations relating to this development application are in accordance with the contribution plans.
Three Tree Lodge is a community based (not-for-profit) organisation that is also a registered charity governed by a voluntary community-based Board and provides employment to more than 80 local staff.	Noted. There are no exemptions that are applicable for non-for-profit developments in relation to contributions. The S94A Plan considers the increase in employment numbers to generate a demand on Council's infrastructure and facilities.
Council has previously waived the entire contributions for similar development proposals.	Waiving of the fees or precedents of such (under a former policy or through a decision of the elected Council at that time) is not a consideration for development assessment in relation to the processing of an application and

	its contributions. This is a consideration that only the elected Council can apply.
Three Tree Lodge has received grant funding for a significant portion of the development and will need to commit further significant funds for completion of the proposed infrastructure. Recent updates on construction costs since advice of the successful grant application have risen 60%, causing further pressure on costs.	Increase in construction costs is not a consideration for development assessment and changes to calculations of contributions.

Development Application lodgement & assessment Fees - Council's Fees & Charges 2021/2022

The Development Application Fees and Charges were adopted by Council for 2021/2022 and apply as per the *Environmental Planning & Assessment Act 1979* & *Environmental Planning & Assessment Regulation 2021*. Therefore, the Development Application fees paid for this proposal have been correctly applied.

All Development Application (DA) assessment fees are, on average for a year, subsidised by general revenue, i.e. the fees collected do not cover the full cost for service. The processing of this application has not been a simple or quick assessment and has, for example, included protracted negotiations with the NSW RFS and liaison with Council's Property & Legal Services Officer (for the use of Council's land). This DA also required reporting to the Council which adds to processing times/labour costs.

The Council is currently only waiving DA fees for 2019/2020 bushfire effected properties.

Section 94A (Section 7.12) Development Contributions Plan 2015

The Section 94A Plan specifies developments that are exempt from payment of the contributions under Clause 7 as below:

- a) *Development by or on behalf of Lithgow City Council;*
- b) *Development by or on behalf of NSW Government for public infrastructure such as hospitals, police stations, fire stations, education facilities and public transport infrastructure;*
- c) *Development that involves rebuilding or repair after natural disasters such as flooding or bushfires;*
- d) *Development involving alterations and additions to an existing single dwelling;*
- e) *Development involving the demolition of an existing dwelling;*
- f) *Development involving the rebuilding of an existing dwelling;*
- g) *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 does not meet the above exemption/s therefore Section 94A Contributions are applicable. The S.7.12 Development Contributions Plan does not provide the flexibility for Council on a case-by-case basis to reduce or exempt development from the plan. The Three Tree Lodge development is not exempt unless it is on behalf of the NSW Government.

Further, 94A Plans do not rely on the application of a direct nexus between the demands of the development (generally an increase in population and/or staff) and the community infrastructure required to support it. That is reserved for Section 7.11 (former S94 Plans) or VPAs. The applicant has indicated that the drafting of a VPA is expensive, and it is desirable to be avoided. Therefore, a Planning Agreement has not been volunteered. Council staff agree that the administration

involved in the drafting, advertising, signing and lodging of a VPA of such relatively small magnitude outweighs the expense of the effort of the exercise.

Water & Wastewater Development Servicing Plan Contributions

The Development Servicing Plan (DSP) requires contributions for water & sewer for the intensification of development of 'Aged Care Facilities' and has been applied as per the Plan.

Council can consider levying lower charges depending on social and environmental factors which has been assessed by Council's Executive Manager - Water & Wastewater with comments provided below:

- The development will increase the load onto the water and sewerage system in the South Bowenfels catchment area;
- The charges have been calculated as per the Council adopted Development Servicing Plan for Water and Wastewater;
- These charges are applied for both future capital works that are required to service current and future development in the area; and
- Not levying charges on development creates a cross-subsidisation of fees to service the development onto water and wastewater customers.

The contributions as set by the DSP should be applied to this proposal.

The administration can however liaise with the developer to create a 'payment plan' to enable the timely payment of these fees. The payment of fees can be subject to the Occupation Certificate being issued or with conditions of payment to be received prior to a specified date.

Policy Implications

As stated above.

Financial Implications

- Budget approved - \$75,000
- Cost centre – 800104 - 63301 Consultants – Development Applications. A budget exists for planning consultants to assist with staff shortages and peer reviews, as required.
- Expended to date – for DA256/21 - \$1,320.00 for a draft Assessment Report only.
- Future potential impact – Nil for this DA. Currently 2 other DAs are with a consultant to draft the assessment reports for a similar cost, approximately - \$2,640.

The total contributions and headworks fees sought through this application are \$85,318.61 being \$20,044.71 under the Section 94A Development Contributions Plan 2015 and \$65,273.90 under the Water & Wastewater Development Servicing Plan. Council will surrender the contributions towards services and facilities if the contributions are waived as part of this Development Application and will instead need to draw those funds from general revenue and be subsidised by other customers.

The Development Application fees applicable to DA256/21 Alterations & Additions have been paid at a total of \$4399.20 as per Council's Fees & Charges 2021/2022. Council will surrender these monies if the fees and charges are waived as part of this Development Application and will instead need to draw those funds (mainly being for staff salaries and administration) from general revenue. These fees are typically included in the overall development/construction costs associated for any project and application for grant funding.

Legal and Risk Management Implications

Nil.

Attachments

1. Contributions Waiver Request - Three Tree Lodge Lithgow Limited [9.2.1.2.1 - 6 pages]

Recommendation

THAT the Council decline the request by Three Tree Lodge Lithgow Limited to waive contributions and fees applicable under DA256/22, as outlined in this Report, for Three Tree Lodge - alterations and additions.

9.2.1.2. DEV - 28/11/2022 - DA256/21 Three Tree Lodge- Alterations & Additions 2A Col Drewe Drive South Bowenfels

Prepared by	Jessica Ramsden – Acting Team Leader Development
Department	Development
Authorised by	Director of People & Services
Property Details	Lot 2 DP1068159, 2A Col Drewe Drive South Bowenfels
Property Owner	Three Tree Lodge Lithgow Ltd
Applicant	Three Tree Lodge Lithgow Ltd

Reference

Min. No. 22-205 Ordinary Meeting of 31 October 2022

Summary

To determine Development Application DA256/21 for additions to Three Tree Lodge Aged Care Facility at Lot 2 DP1068159, 2A Col Drewe Drive South Bowenfels. A request for waiving of Council's contributions and fees will be determined under a separate report.

Commentary

Council is in receipt of Development Application DA256/21 for alterations & additions to the residential care facility on land known as Lot 2 DP 1068159, 2A Col Drewe Drive, Bowenfels. The application has previously been reported to Council on 31 October 2022 with the following resolution:

22 -205 RESOLVED

That the Item be deferred until the next Ordinary Meeting of Council.

As such the development is being reported back to Council for determination. The site currently retains existing Three Tree Lodge being an Aged Care Facility in 5 buildings on the site approximately 1.3ha in size.

Stage 1:

- a. Minor demolition of existing 'Wattle' building (southern end) removing one (1) bed/room to allow for new building connection and minor removal of vegetation;
 - b. Construction of a new residential care facility building extension including:
 - Five (5) new rooms & additional seven (7) new beds (eight (8) new / one (1) demolished) – total approved 73 beds for entire facility;
 - Communal spaces including a domestic style kitchenette & dining area (main meals to be provided from existing commercial kitchen) and living areas facing north;
 - Decked outdoor landscaped spaces & pedestrian connection
 - c. Additional two (2) parking spaces (one (1) is accessible) adjacent to the main entrance;
 - d. Ancillary cut and fill (earthworks), water tanks, drainage, connections to utilities, landscaping, driveways and vehicle manoeuvring areas.
 - e. removal of five trees and the provision of a 15,000L rainwater tank. A plan of the proposed development is provided below.
-

The proposal requires an Asset Protection Zone implicating Council's Land known as Lot 1 DP1268778, which is discussed below under Policy Implications of this report.

Policy Implications

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

The proposed development is not located on Council owned land, however it relies on adjoining land (Lot 1 DP1268778) owned by Council for part of a bushfire asset protection zone (APZ), as shown in the below diagram.



It is proposed that a 'deed of agreement' be imposed on Council land (at the cost of the developer) for the management of the Council owned land as an APZ until such time as the Council land is developed for roads and/or residential housing (thereby removing the existing bushfire hazard, being unmanaged grassland).

The development application is therefore reported to Council for consideration and determination.

Lithgow Community Participation Plan

The Lithgow Community Participation Plan applies to all land within the Lithgow Local Government Area (LGA) and prescribes certain types of development as exempt from requiring notification. The proposed development is not exempt and was therefore notified in accordance with the Community Participation Plan. No submissions were received as a result of this notification period.

Financial Implications

- Budget approved - \$75,000
- Cost centre - 800104 - 63301 Consultants – Development Applications. A budget exists for planning consultants to assist with staff shortages and peer reviews, as required.
- Expended to date - \$1,320.00 for a draft Assessment Report only.
- Future potential impact -
 1. Section 94A (Section 7.12) Development Contributions Plan 2015 is applicable to the development with a 1% levy of \$20,044.71 to be imposed as a condition of consent.
 2. Council's Fees & Charges
Water & Wastewater Development Servicing Plan Contributions.
Charge applicable:
Sewer - 5(beds) x 0.75(ET) x \$15,308.81 (charge) = \$57,408.05
Water - 5(beds) x 0.5(ET) x \$3,146.34 = \$7,865.85
Total charges = \$65,273.90 to be imposed as conditions of consent.
 3. DA Fees of \$4399.20
The applicant has requested that consideration be given to an exemption to all of the above contributions, fees and charges. A separate report to the Council has been prepared in response to this request.

Legal and Risk Management Implications

Local Government Act 1993 (ss.25 – 26). The Council owned land to be used as an Asset Protection Zone for bushfire protection is Operational Land.

Environmental Planning and Assessment Act 1979

In determining a development application, Council as the consent authority is required to take into consideration the matters of relevance under Section 4.15 of the Environmental Planning and Assessment Act 1979. These are addressed in the planning assessment report- Attachment 1 which indicates all assessment matters have been adequately addressed and the application should be approved.

Attachments

1. DA256/21 Assessment Report [9.2.1.1.1 - 41 pages]

Recommendation

THAT

1. Development Application DA256/22 be APPROVED subject to the conditions of consent outlined in the attached planning assessment report and having regard to the separate resolution of the report that addresses the applicant's request to waive DA fees, contributions and charges.
2. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993

9.2.1.3. DEV - 28/11/2022 - Lidsdale Siding Coal Loader Modification 4 & Clarence Colliery Modification 9

Prepared by	Lauren Stevens – Development Planner
Department	Development
Authorised by	Director of People & Services
Property Details	Clarence Coal Mine & Lidsdale Siding Coal Loader
Property Owner	Centennial Coal Pty Limited
Applicant	Notification from the Department of Planning and Environment (the Department)

Reference

Min No 19-216: Ordinary Meeting of Council held on 26 August 2019 - ECDEV - Lidsdale Siding Coal Loader Modification 1-infrastructure Upgrades, Development Consent 08-0223.

Min No 20-118: Ordinary Meeting of Council held on 25 May 2020 – ECDEV - Lidsdale Siding Coal Rail Loader Modification 3 - Removal of the Trigger Action Response Plan (TARP), Development Consent 08_0223.

Min No 13-428: Ordinary Meeting of Council held on 16 December 2013 - Clarence Colliery Modification Application (MOD 2 & 3 to Project Approval DA504/00).

Min No 19-130: Ordinary Meeting of Council held on 27 May 2019 - Clarence Colliery Modification 4 to DA504-00, proposal to increase tonnage amount.

Min No 19-215: Ordinary Meeting of Council held on 26 August 2019 - Clarence Colliery MOD 5 - Workforce Increase (DA504-00 MOD 5).

Summary

To inform Council of two (2) Major Project modifications that have been submitted to the Department of Planning and Environment (the Department) for the Lidsdale Siding Coal Loader Modification 4 and Clarence Colliery Modification 9.

Commentary

Centennial Coal has sought a modification for their Lidsdale Siding Coal Loader:

- *Temporary acceptance of up to 200,000 tpa of coal from Clarence by truck into Lidsdale Siding via the Castlereagh Highway and Main Street until the end of 2023.*

Centennial Coal has sought a modification for their Clarence Colliery:

- *The increase of coal volumes (up from 100,000 tpa to 200,000 tpa) directly to Mount Piper Power Station from the Clarence Colliery until 31 December 2023.*
- *A temporary increase in the total volume of product coal that can be transported by road to the west of Clarence from the currently approved 100,000 tpa to 200,000 tpa until the end of 2023. The currently approved transport of up to 200,000 tpa coal from Clarence by road to the east will remain unchanged; and*

- *Temporary truck transport of the coal from Clarence to either the Mount Piper Power Station or to the Lidsdale Siding until the end of 2023. Truck transport will occur via the previously assessed routes and then the Castlereagh Highway (rather than the previously assessed private haul roads for which access is not currently available to Centennial), with trucks returning to Clarence via the reverse route.*

The private haul roads are not currently accessible to Centennial due to changes in ownership and/or expired lease arrangements. The two private haul roads are known as the Wallerawang Haul Road (located approximately 500m from the Main Street turn off at Lidsdale/Lidsdale Siding) and the Mt Piper Haul Road (located between Lidsdale Siding and Mount Piper). Instead, Centennial is proposing to travel 8km to the Boulder Road turn off (Mount Piper) along the Castlereagh Highway. This is more feasible and practical for the developments.

The Department previously granted approval for Clarence Colliery in August 2019, for the temporary increase of coal volumes (up to 200,000 tpa) and truck haulage to Mount Piper Power Station until 31 December 2020.

Status

Given that the modifications involve temporary variations of coal volumes and truck haulage, the development will utilise Transport NSW roads and previous approvals were granted by the Department for a similar variation, it is considered that the modifications are minor and will have no impact to the surrounding environment.

The modification applications are submitted under Section 4.55(1A) of the EP&A Act. The modifications are considered minor (by the Department) and can be found on the NSW Planning Portal. The development was referred to Government Authorities inviting feedback until 26 October 2022. Council officers have already indicated to the Department that no concerns are raised.

The Department will consider any advice received from authorities (including the Council) and proceed to assess and determine the Modification.

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 (in the case of State significant development) the Department of Planning and Environment is the consent authority.

Attachments

Nil

Recommendation

THAT Council note the information provided in the report on the Lidsdale Siding Coal Loader Modification 4 and Clarence Colliery Modification 9.

9.2.2. People and Services General Reports

9.2.2.1. PS - 28/11/2022 - 2021/ 2022 Annual Report and Disability Inclusion Action Plan Report

Prepared by Deborah McGrath - Corporate Strategy & Communications Officer

Department People & Services

Authorised by Director of People & Services

Summary

This report provides Council with the following documents:

- 2021/22 Annual Report – A Year in Review; and
- Disability Inclusion Action Plan - 2021/22 Progress Report.

Commentary

It is a requirement of the Local Government Act 1993 (s428) that:

“Within 5 months after the end of each year, a council must prepare a report (its “Annual Report”) for that year reporting as to its achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objectives at which those principal activities are directed. The annual report in the year of the ordinary election must include a report (its “State of Environment Report”) as to the state of the environment in the local government area in relation to the objectives for the environment established by the Community Strategic Plan.”

Under the NSW Disability Inclusion Act 2014, Council is also required to report progress against the 2017-2021 Disability Inclusion Action Plan as part of its Annual Report and to submit a copy to the Minister for Families, Communities and Disability Services.

Council has received an extension to finalise and submit its financial statements for the 2021/22 year to the OLG by 16 December 2022. Once the financial statements have been audited and lodged, Council will update the Annual Report and include a full set of its audited financial statements as required under the Local Government Act.

The documents will be placed on Council’s website and made available for viewing at the Council’s Administration Centre, the Lithgow Library Learning Centre and branch libraries.

Policy Implications

Financial Implications

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

Legal and Risk Management Implications

The Annual Report and Disability Inclusion Action Plan Report have been prepared in accordance with the requirements of the Local Government Act 1993 and Local Government (General) Amendment (Planning and Reporting) Regulation 2009.

Attachments

1. Annual report 2021 2022 [**9.2.2.1.1** - 180 pages]
2. Lithgow Disability Inclusion Action Plan Report 2021-22 [**9.2.2.1.2** - 21 pages]

Recommendation

THAT Council:

1. Endorse the 2021/22 Annual Report – A Year in Review.
2. Endorse the Disability Action Inclusion Plan – 2021/22 Report.

9.2.2.2. PS - 28/11/22 - Lithgow Community Cultural Protocols**Prepared by** Emma McGuinness - Corporate Strategy & Communication Support Officer**Department** Strategic Planning**Authorised by** Director of People & Services**Summary**

The purpose of this report is to return the draft document Lithgow Community Cultural Protocol to Council for adoption.

Commentary

The Lithgow Community Cultural Protocols has been developed to provide Council officers, staff and volunteers at Lithgow City Council with an understanding and guidance regarding the protocols of the Aboriginal and Torres Strait Islander people within our community.

At the meeting of Council on 22 August 2022 the following resolutions were made:

1. Draft document 'Lithgow Community Cultural Protocols' be placed on public exhibition for a period of 60 days.
2. Following the exhibition period, draft document is 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.

The draft Lithgow Community Cultural Protocols document was placed on exhibition between the 26 August 2022 and 27 October 2022. Four submissions were received in relation to the draft document, which are summarised in the table below. All grammatical and minor changes suggested have been updated in the document.

Submissions	Officer Comments
<u>Submission 1:</u> Please correct the introduction in that document referring to 'original custodians'. I believe it would be better to not name one particular group as this can cause distress to those excluded in that acknowledgement. Either that or name all groups. Lithgow Local Government area is generally accepted to have been home to mainly Wiradjuri AND Gundungurra tribal groups.	This has been noted and the relevant changes have been made.
<u>Submission 2:</u> With regards to the group contact details, a suggestion would be to leave out the groups and their contact details from this document as this information is fluid, with the groups and members changing and coming and going. If you do wish to include the contact details for the groups, each group should have their full name shown, not just the acronym, and contact details given for each group, we would suggest that a current email would be sufficient. If groups are to be included, we think that the definition of a group should be clear - for example, should the groups be registered and/or known in the community? The reason for mentioning this is to highlight the need for transparency and authenticity.	The document has been updated with the following disclaimer: Contact details in this document are current as of November 2022. However, we acknowledge they may be subject to change. Should contact details no longer be valid for local organisations it is suggested that Bathurst Aboriginal Land Council be contacted or the Office of the Registrar of Indigenous

	Corporations (ORIC) www.oric.gov.au/
<p><u>Submission 3:</u> I particularly believe that the historical perspective should incorporate a preamble emphasising the antiquity of Aboriginal presence and culture. For instance comparing the antiquity of Aboriginal rock art with other early peoples rock art from around the world. We have to start seeing the depth of our first nation culture as something that makes our country truly unique.</p>	<p>This document has been developed in association with Bathurst Aboriginal Land Council and is for the purpose of understanding protocols when working with and acknowledging aboriginal people and establishing a way to move forward.</p>
<p><u>Submission 4:</u> I would like council to reconsider Introduction of Lithgow Community Cultural Protocols as Wiradjuri being original custodians. All I am concerned about is that Wywandy, Therabulat and Capiti bands be recognised as occupiers of relevant districts as stated and acknowledged as such.</p>	<p>We have contacted Bathurst Aboriginal Land Council regarding these Bands and they have advised that they are from the Kandos/Rylstone area. It is recommended by BALC that we only recognise the Wiradjuri, Gundungurra and Durag nations. With respect to Capiti, BALC have no knowledge of this band.</p>

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. Lithgow Community Cultural Protocols [9.2.2.2.1 - 12 pages]

Recommendation

THAT council endorse the Lithgow Community Cultural Protocol.

9.2.2.3. PS - 28/11/2022 - Ironfest - Request for Financial Support

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

Summary

The purpose of this report is to provide information on a request for financial support from Ironfest Inc for the Ironfest 2023 event and to canvas with Council two options for consideration.

Commentary

Background

The party responsible for the Ironfest event has made a request of Council for \$92 000 funding for the purpose of planning an event in April 2023.

For Ironfest 2019, Council entered a Corporate Sponsorship agreement with Ironfest in the amount of \$15,000. The sponsorship covered venue hire, inspection of food stalls, flood lighting and waste collection.

Ironfest advises that their operating model relies upon the retained funds from each Ironfest event enabling the payment of services and performers for the following year's Ironfest that fall due before ticket sales income is received.

Ironfest say that their only retained funds currently held are in the order of \$15,000 of deferred ticket sales from the cancelled 2020 event. In other words, they have a cash-flow challenge. On this basis, without external financial support, Ironfest will not be able to schedule a future event.

Ironfest say that they have made enquiries but have not been able to identify any available grants that would provide funding for core festival expenses. Council staff have provided advice on grant programs.

Ironfest Inc estimates that the 2019 event provided a \$5M injection into the local economy, based on their estimate of a \$150 per person spend each night of the 2.5 days of the event. The detail behind this assumed benefit to the local community has not been provided.

Financial Support Request

Ironfest Inc has recently provided a formal request to Council for a one-off investment for a 2023 Ironfest event, with consideration being given to this being held in April. The request was followed up with a meeting on 8 November 2022 attended by the Festival Director and Council management.

As presented to Council management, the total amount of upfront funding being requested of Council by Ironfest Inc to cover core costs related to staging an April 2023 event is estimated at **\$92,000**. This includes venue hire and venue related services co-ordinated by Council, traffic management, insurance, marketing and promotion, as well as administration staff costs. This request is far greater than previous support provided by Council.

Council's funding for events has typically been directed to free public events such as Halloween and Lithglow. It is noted that Ironfest is not a free event for the public. In the case of the recent Caravan Muster, which was not public, the organisers paid for services provided by Council.

Options for Consideration

Recommended Option 1

Financial support for Ironfest has not been planned for in this financial year. The group has approached Council after the budget has been set. There must also be some doubt whether the event will be able to be arranged between now and April.

Any 2022/23 Ironfest sponsorship by Council would impact available funds and require other resources to be redirected at a time when we are dealing with sustained natural disasters which impact the entire community.

An option would be that the organisers be encouraged to collaborate with Council and other potential funding bodies (public and private) for a return of the event in the 2023/24 year.

Council would provide a letter of support to assist Ironfest Inc to gain funding from grant programs.

Option 2

That Council more than double its 2019 sponsorship of the event to the amount of **\$36K** (with relevant conditions attached). Funds would need to be sourced by either reducing a current commitment in this year's Operational Plan / budget or from savings (if any are present) at future quarterly budget reviews.

Conditions would need to be attached to any 2023 Ironfest sponsorship agreement, including a trigger for payments to only be made once it is formally confirmed by Ironfest Inc that the event will be proceeding and provision for acknowledgement of Council as a sponsor.

Policy Implications

Any sponsorship agreement would need to be consistent with the principles included in Policy 6.1 - Corporate Sponsorship.

Financial Implications

- Budget approved - nil.
- Cost centre - N/A
- Expended to date - nil.
- Future potential impact - funds for any 2023 Ironfest sponsorship agreement would need to be sourced by either reducing a current commitment in this year's Operational Plan and budget or from savings (if any present) at future quarterly budget reviews. If the latter is favoured it would be appropriate to review this at the time when the 6-month budget review is undertaken.

Legal and Risk Management Implications

Should Council decide to sponsor a 2023 Ironfest event, a formal agreement between the parties would be executed.

Attachments

1. CONFIDENTIAL REDACTED - Confidential - Ironfest - Request for Support [9.2.2.3.1 - 4 pages]
2. CONFIDENTIAL REDACTED - Confidential - Ironfest Financial Report 2019 2020 [9.2.2.3.2 - 4 pages]
3. CONFIDENTIAL REDACTED - Confidential - Ironfest Financial Report 2018 2019 [9.2.2.3.3 - 4 pages]

Recommendation

THAT Council:

1. Note the information provided on a request for financial support from Ironfest Inc.
2. Determine an option in response to Ironfest's request for financial support with the Council administration's recommended option being that the organisers be encouraged to collaborate with Council and other potential funding bodies (public and private) for a return of the event in the 2023/24 year.

9.3. Infrastructure Services Reports

9.3.1. IS - 28/11/2022 - Local Gas Outage - De-brief

Prepared by Jonathon Edgecombe – Director Infrastructure Services

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Summary

This report provides the Council with a summary of Council's approach to the local gas emergency, and the resulting reconnection of residents and businesses.

Commentary

At 8:15pm on the 2 November 2022, a gas supply outage impacted Jemena gas customers in Bathurst, Lithgow, Oberon and Wallerawang. This outage was the result of a gas leak which occurred on the Young – Lithgow pipeline. Fortunately, Jemena were able to progressively reinstate customers in Bathurst almost immediately, as the pipeline fault was located downstream of the Bathurst supply junction off the main line. However, while the gas leak had been isolated and made safe, it was known that supply to Wallerawang and Lithgow would take some time to restore.

Over 3-4 November 2022, news from both APA and Jemena continued to make its way to the community indirectly, from several sources. This information included a variety of unverified timeframes for repair, with anything from 2 weeks to 8 weeks being quoted. This created significant angst amongst throughout the community.

On 3 November 2022, an Emergency Operations Centre (EOC) was promptly stood up in Bathurst. Bathurst, Oberon and Lithgow Councils were represented, including agencies such as Nepean Blue Mountains Local Health District (NBMLHD), local Police, APA, Jemena, Department of Regional NSW (DRNSW), Department of Planning, RFS, SES and many others. This group called strongly for improved communications to the community, with the understanding that residents will plan accordingly if they are provided with accurate and timely information from a reliable source. Lithgow City Council made strong advances with respect to this important matter.

Alongside the EOC, Lithgow Council and the NBMLHD started proactively identifying vulnerable members of the community. Outside local businesses, the following were identified as highly vulnerable:

- Lithgow Hospital – no sterilising steam or hot water.
- Tabulam Cottages – bottled gas, no impact.
- Three Tree Lodge – no hot water, unable to wash linens and lost some heating.
- Cooina – 3 wings lost heating, no hot water.

Late on 3 November 2022, Council met with representatives of Jemena and APA. At this time, Council was informed that while both companies inspect and maintain their assets to the highest standards, it was expected that flooding contributed to the breakage. With the gas main located underneath the Macquarie River, high velocity flooding had eroded the creek bed and exposed the pipe, which thereby made the asset vulnerable to impact by debris.

Regardless of the lack of impact timeframes provided to the community, Lithgow Council moved with haste to mitigate impact to the community to the extent possible. By Friday evening, 36 portable showers had been sourced and mobilised to Tony Luchetti Showground. This was communicated with the community that night, with Deputy Premier and Minister for Regional NSW, the Hon. Paul Toole inspecting the site, and also making statements to the community.

Importantly, Lithgow led the community assistance approach, with both Bathurst and Oberon following suit days later.

Before gas could be restored to all customers, a four-stage process must take place:

1. All gas is consumed or otherwise purged from the network;
2. Supply assets to each premises are made safe by turning off each individual supply;
3. Gas is reintroduced to the network, and gas lines purged by burning off; and
4. Supply assets to each individual premises are turned back on, with pilots relit.

APA have detailed the three solutions (2 x temporary and 1 x permanent) they are working on concurrently to provide gas to the community. The Energy and Utility Services Functional Area Coordinator (EUSFAC) at state level is working to declare an energy emergency under the *Energy and Utility Administrative Act*. Thankfully, direct gas supply was able to be restored to the Lithgow Hospital using a bespoke supply installed on-site.

Temporary Solution 1:

- Trucking LNG to Wallerawang and piping into the system for supply to Lithgow/Oberon. This solution is in place and operating.

Temporary Solution 2:

- Construction of a temporary 4m below river pipeline under the Macquarie River drilling should commence today. Flooding and rain have delayed this solution somewhat, and this will be followed by Jemena pressurising and testing the system before restoring gas flow. It is expected that this solution will be complete and operating by Monday 21 November.

Permanent Solution:

- Assessment and construction of subterranean replacement line under the river. Drilling of the proposed route commenced with the timeline for completion of permanent solution being 3-4 weeks, weather permitting.

From Wednesday 16 November, gas had been restored to 100% of customers across both Lithgow and Wallerawang. However, due to supply issues and a cold snap occurring on 16 November, supply suffered yet another disruption due to higher-than-expected consumption. This required that high consumption businesses like Ferrero and the J M Robson Aquatic Centre switch off their supply temporarily while additional trucks are sourced to maintain supply. It is expected that once the Temporary Solution 2 is operational, supply concerns will abate.

From the period of 2 November to 17 November, Lithgow City Council engaged in the following tasks:

- Provision of 36 portable showers to the community, including cleaning and security;
- Hosting of 2 community barbeques at the Tony Luchetti Showground;
- Overnight site security of the temporary supply to the Lithgow Hospital while connection occurred;
- Traffic control to close Forest Ridge Drive while the interim gas supply solution was constructed;
- Ongoing communication services to the community, ensuring the information produced by APA and Jemena are widely circulated, maintaining the concept of 'a single source of truth';
- Daily representation at the Emergency Operations Centre running out of Bathurst; and
- Strong advocacy for improved communication to our community.

Learnings

In summary, our key learning from this event is similar to that which was experienced during the 2019 bushfires. It continues to be the case that when a region suffers the effects of a disaster, communication from the responsible agency needs to be prompt, frequent and effective. This can be compromised where others look to be the “message bearer”. In the event of similar emergencies, it is vital that all agencies defer to the lead agency or responsible party for advice, ensuring that all information clearly illustrates the author. To do otherwise leads to a state of disarray and confusion, particularly in the early phases of emergency management.

Our secondary learning, which is another that echoes our experience from 2019, is the importance of Council and its resources in the response to *any* emergency. Council is not simply responsible for roads, rates and rubbish. During floods, fires, pandemics and essential service outages, the services which Council provides are profoundly important to ensure community resilience. Over the past two weeks, Council has been adaptive and responsive, acknowledging the needs of the community and acting both strategically and with haste to best serve those who are vulnerable and in need.

Lithgow Council will continue to act in the best interests of this community, today and into the future, in the face of adversity. These are very challenging times, but we look forward to continuing to provide responsive action today, while also seeking to implement positive change to reduce impact and increase the resilience of the communities of tomorrow.

Policy Implications

Nil

Financial Implications

- Budget approved - \$60,000 (by approval of the Mayor between Council meetings). Once all costs are accrued, Council will continue to work with APA, Jemena and Government to ensure full compensation for costs associated with the event.
- Cost centre - 800503
- Expended to date - \$13,677 (full payment for showers not yet made).
- Future potential impact – Nil.

Legal and Risk Management Implications

Nil

Attachments

Nil

Recommendation

THAT Council note the update provided with respect to the gas supply outage which affected the Lithgow LGA between 2 November and 21 November 2022.

9.4. Finance and Assets Reports

9.4.1. FIN - 28/11/2022 - Excessive Water Rebate - Property 104305

Prepared by Rhiannan Whiteley – Senior Revenue Officer

Department Finance

Authorised by Chief Financial & Information Officer

Summary

The purpose of this report is to seek Council's consideration for a rebate on an excessive water account. The owners are a charitable organisation and took immediate action to rectify the leak. A rebate has been sought from Council under Policy 8.1 Excessive Water Usage Allowance for Breakages.

Commentary

The owner of Property Number 104305 contacted Council on 5 July 2022 requesting a rebate under Policy 8.1 Excessive Water Usage Allowance for Breakages. The policy only applies to a maximum of \$2,500. Applications for rebates which exceed the policy criteria require approval by resolution of Council which was requested on 23 August 2022.

The Policy applies where the leakage is undetectable and significant (greater than 100 kilolitres). In this instance the property used a total of 1,242KL of water for the period 10/3/22 - 10/6/22. Normal average consumption on this property is 14KL.

The owner has requested a rebate for the period 10/3/22 - 10/6/22 in the amount of \$8,466.92.

The owner is a registered charity operating in the city. The leak occurred in a line on their property which was concealed under concrete and so not detectable. When the owner became aware of the leak they took immediate action to rectify it. Substantial work was carried out by a plumber, at a cost of \$14,020.60.

Under different circumstances, the administration would have taken a position that the property owner pay half of the \$8,466.92. This is consistent with the adopted policy and practice. Given all of the above, however, it is proposed that the excessive consumption be rebated and the property charged the average consumption for the period. This results in a rebate of \$8,392.73 being applied to the account and a balance of \$74.19 being charged.

Policy Implications

The criteria included in Policy 8.1 Excessive Water Usage for Breakages has been considered.

Financial Implications

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- Future potential impact – the impact on water revenue will be a total reduction of \$8,392.73. This will reduce the Water Fund's cash reserves at the end of the financial year by this amount as write-offs have not been included in the budget.

Legal and Risk Management Implications

NIL

Attachments

Nil

Recommendation

THAT Council approve a water account rebate of \$8,392.73 for the owner of Property 104305.

9.4.2. FIN - 28/11/2022 - Options for a Sustainable Future - Notification to IPART

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

Reference

Min. No. 22-147 Ordinary Meeting of Council held on 25 July 2022.
Min No. 22-180 Ordinary Meeting of Council held on 26 September 2022.

Summary

This report canvases the outcomes from community engagement on two Options for a Sustainable Future.

The report also provides details of post-consultation changes to Option 1 – Service Levels Maintained which include a proposed future fund to support the community through economic transition. This has resulted in a lower overall SRV amount and refinements to the proposed SRV funding allocations.

The changes to the Option 1 – Service Levels Maintained have been included in a post-consultation LTFP update which is recommended for endorsement to be placed on public exhibition for 28 days.

The report recommends that Council notify IPART, by their deadline of 29 November 2022, of the intention to apply for a Special Rate Variation (SRV).

Commentary

Background

At the Ordinary Meeting of Council held on 25 July 2022, it was resolved:

22 -147 RESOLVED

THAT Council:

1. Receive the report on Our Place Our Future.
2. Endorse the findings related to considering a special rate variation included in the Rating Review Technical Paper.
3. Resolve to commence community engagement on the two options outlined in this report, in accordance with the Communications Strategy.

Council has completed community engagement on two options for a sustainable future:

Option 1 – Service Levels Maintained

Council would apply for a permanent increase in general rate income (a Special Rate Variation) above the peg rate set by IPART.

The external rating review identified a shortfall of \$4.7M in Council's annual general revenues after taking into account proposed productivities, savings and other revenues of \$1.3M. Additionally, \$1.25M of funding was recommended to ensure Council's ongoing financial sustainability for building capacity within the organisation and facilitating economic resilience in the local government area.

The addition of \$6 million to Council's annual general revenues equates to a 42% overall increase in land rating. Great care has been taken, however, to distribute the rating as fairly as possible amongst the various rating categories, and, as a result, the impact on residential, business and farming land rating under this proposal would typically be 27.7% (including rate peg).

Option 2 – Service Levels Reduced

If Council chooses not to proceed with a special rate variation or IPART determines not to approve Council's application, Council will need to undertake a comprehensive review of its services and present a plan to the community for a reduction in levels of service of around \$4.7M annually.

Council will prioritise the maintenance of essential services over more discretionary services in any level of service cuts. Council anticipates that this process would take approximately twelve months and will again involve extensive community engagement. It will also require significant funding and resources.

Community Engagement Feedback

Over the period 1 August – 10 October, Council conducted a comprehensive community engagement campaign on the two options to ensure the long-term financial sustainability of the city. The engagement process undertaken was developed to ensure the community was well informed about the facts and had an opportunity to shape the pathway forward through their submissions.

The communications and engagement program was built on the core principles and descriptors included in the IAP2 Spectrum of Public Participation. Council also engaged in face-to-face discussions with representatives of quarries, mining operations and utility energy generators who were being asked to pay higher overall percentage increases.

At the end of the community awareness campaign, Council engaged Micromex Research to undertake an independent and statistically relevant and random survey of residents across the local government area.

The results of the survey found that:

- 85% of residents were aware of the proposed Special Rate Variation. This matters as, should Council apply for an SRV, it is important to demonstrate that the community were aware of the proposal and had a fair opportunity to provide their feedback,
- 80% of residents believe that improving/maintaining roads and kerb & guttering is a key priority for Council in the local area,
- 42% of respondents supported Option 1 while 58% supported Option 2, and
- Reasons for the preference of Option 2 centred on affordability/cost considerations (24%) and a lack of confidence in Council financial management (24%).

The Community Engagement Strategy Feedback Report is included as an attachment to this report.

Post-consultation Changes to Option 1 – Service Levels Maintained

During the consultation period, Council engaged extensively with quarrying, mining and power generation ratepayers. There was a general appreciation by major industry of Council's collaborative and extensive engagement. As an outcome of that engagement, there was an almost universal acceptance of the need for the proposed special rate variation. There was a recognition that major industry should contribute its fair share to the overall increase. Major industry was also very keen for close collaboration to continue and felt the best way to manage future economic and social challenges was with major industry, Council and others working together. Major industry desired to make their contributions more directly and with more involvement and collaboration in outcomes.

As a result of the consultation and collaboration, power generation and mining ratepayers have proposed to make part of their increased contributions (\$1.092M) directly into a future fund to support the community through economic transition. This would reduce the special variation

amount from \$6.2M (based on 2022/23 notional yield) to \$5.1 million. Importantly, it does not significantly impact Council's financial sustainability under Option 1. Asset maintenance and renewal is fully funded for all asset classes.

Management recommends adopting the changes proposed by these sectors in their submissions. Some of the benefits of proceeding in this way include:

1. leading practice transitions management requires strong and accountable collaborations between the private sector, governments, knowledge providers and others,
2. Collaboration caters for a transfer of knowledge/expertise and increased intellectual investment in economic transition, well over and above that which council could achieve on its own,
3. the ability to value add to existing funds for economic transition by matching or leveraging industry contributions with grants,
4. building cross-sectoral and government trust and alignment across Lithgow in the economic transition vision.

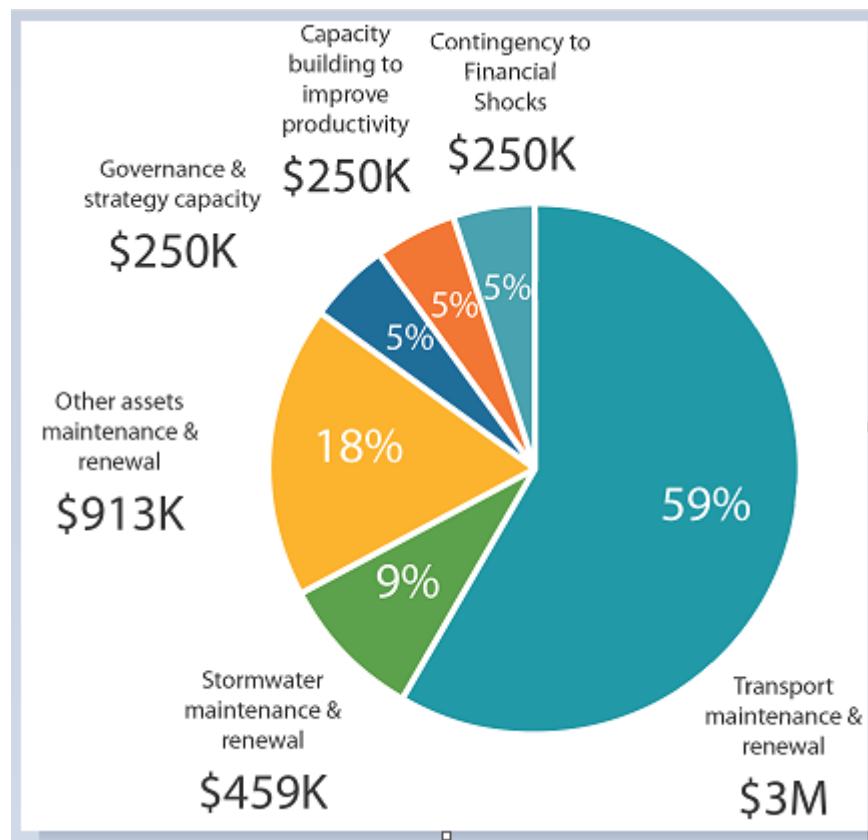
In the event the future fund proposal is not finalised prior to any SRV application to IPART being completed in January 2023, Option 1 would return to Council's original proposal of a 42% SRV (plus 3.7%) with \$1.092M added back to the power generation and mining rating categories. The progress towards establishing a future fund will be reported to the January 2023 Ordinary meeting.

The overall SRV percentage for Option 1 – Service Levels Maintained decreases to 34.3% plus 3.7% rate peg with the post-consultation changes. **There is no change to the SRV percentage of 27.7% for the residential, farmland and business rating categories.** The changes are shown in the table below:

Category or Sub-Category	Rev Policy Yield	Proposed Yield with 3.7% rate peg	Percentage Change
Residential – Urban	\$6,394,461	\$8,165,727	27.7%
Residential – Other	\$2,286,985	\$2,920,480	27.7%
Farming	\$2,208,193	\$2,819,862	27.7%
Business – Urban	\$2,006,083	\$2,561,768	27.7%
Business	\$ 121,137	\$ 154,692	27.7%
Business – Power Generation	\$45,699	\$ 187,025	309%
Business – Quarrying	\$ 43,049	\$ 474,580	1002%
Mining	\$1,854,128	\$3,361,927	81%
Total	\$14,959,735	\$20,646,061	38%

The proposed SRV allocation has also been updated to be consistent with the change to the SRV amount. Depreciation and asset renewals in all asset categories is fully funded. This means that the condition of all assets (including roads) will improve significantly over time. Most significantly, however, legacy financial challenges will not be left for future generations because of a lack of recurrent and adequate funding for asset renewal and maintenance. This accords with Council's obligations for inter-generational equity.

Asset funding includes \$500K p.a. for reducing the roads infrastructure backlog. The post-consultation proposed SRV allocation is shown in the chart below:



Post-consultation LTFP Update

Due to the changes to Option 1 – Service Levels Maintained, the Long Term Financial Plan (LTFP) required an update. In the post-consultation LTFP update, Scenario 3 has been amended with the lower overall SRV amount and the inclusion of income and expenditure from the planned economic transition fund. At the same time, the capital works program (funding sources and expenditure) has been refined for all three scenarios.

A summary of the LTFP update scenarios is provided below:

- **Scenario 1 – Base case** – a “do nothing approach” which would see Council in an unsustainable financial position,
- **Scenario 2 - Service Levels Reduced** – to implement this scenario, Council will need to undertake a comprehensive review of its services and present a plan to the community for a reduction in levels of service, and
- **Scenario 3 – Service Levels Maintained** – Council would apply for a permanent increase in general rate income (an SRV) above the peg rate set by IPART. The addition of \$5.1 million to Council’s annual general revenues equates to a 38% overall increase in rates (including rate peg of 3.7%). Great care has been taken to distribute the rating as fairly as possible amongst the various rating categories, and as a result the impact on residential rating under this proposal would typically be 27.7% (including expected rate peg). Economic transition fund income and expenditure of \$1.1M has also been included in Scenario 3.

The LTFP has been included in an updated Resourcing Strategy 2022-2032 which is recommended for endorsement to be placed on public exhibition for 28 days together with the Supplementary Community Strategic Plan 2035 and Supplementary Combined Delivery Program 2022– 2026 / Operational Plan 2022/23.

Consideration of the Community's Capacity and Willingness to Pay an SRV

Affordability and intergenerational equity were critical considerations in the external review of the rating burden. The review considered issues relating to the capacity to pay for various existing and potential rating categories and sub-categories. Comparative analysis was undertaken as a means of validating the outcomes rather than for the purpose of sourcing an answer.

The rating review recommended that a higher incidence of increased rating be placed on heavy industries (mining, quarrying, power generation) which have historically had lower rates than comparable Councils. This action would enable a lower incidence of increased rating to be placed on the residential, farmland and business rating categories which are most impacted by current cost of living pressures. As part of the refinement of the SRV scenario, it was determined that the pensioner concession would be increased by \$50 to \$300 p.a. to further reduce the incidence of increased rating on pensioners.

A range of indicators have been considered to assess whether the proposed rate increases would be affordable for the community. The indicators considered in reaching conclusions on the community's capacity to pay an SRV include:

- Socio-Economic Indexes for Areas (SEIFA);
- Office of Local Government Time Series Data – comparative average rates and average taxable income;
- Valuer-General's report on land values 1 July 2021;
- Outstanding rates ratio;
- Individual income levels; and
- Council's Hardship Policy.

Reasons for Recommending That Council Endorse Option 1 – Service Levels Maintained

Management recommends that Council endorse Option 1 – Service Levels Maintained for the following reasons:

- The external Rating Review recommended that Council apply for a single year permanent SRV from 1 July 2023 to address a structural annual shortfall in Council's General Revenues of \$6.018M at existing agreed levels of service before adopting available productivity, savings and other measures.
- Option 1 will increase Council's capacity to make productivity and efficiency improvements. The Rating Review found that the lack of specialist resourcing in some areas of Council means that Council is absorbing unnecessary risk and expense.
- Strategic additional levels of service in governance, strategy and capacity building will enable Council to achieve statutory compliance and best practice across the organisation, as well as a strategic and disciplined program dedicated to capacity building.
- The incidence of the proposed rates increase has been carefully considered with a lower increase (27.7% including rate peg) proposed for residential, business and farmland rates and a higher increase proposed for heavy industries which have a greater capacity to pay.
- A \$50 increase in the pensioner concession rebate will alleviate the rating increase for pensioners.
- The community has shown a reasonable level of support for Option 1 with 42% of telephone survey respondents agreeing with Option 1.
- Quarrying, power generation and mining ratepayers have indicated an acceptance of the overall increase and their proposed contribution to it, on the basis of continuing close collaboration in the City's future.

- Option 2 requires achieving approx. \$4.7M in General Fund operational expense reductions in order to meet OLG's the definition of financial sustainability. All the liberated revenue is required for asset renewal and roads maintenance.
- The process of identifying potential levels of service savings will itself require significant additional resourcing.
- While some levels of service are discretionary, the vast majority are determined by statute. Financial reporting, corporate planning and community consultation, land-use planning and development assessment are all examples of levels of service essentially set by statute.

Special Rate Variation Assessment Criteria

IPART assesses SRV applications based on the following criteria:

1. The need for, and purpose of, a different revenue path for the council's General Fund (as requested through the special variation) is clearly articulated and identified in the council's IP&R documents.
2. Evidence that the community is aware of the need for and extent of a rate rise.
3. The impact on affected ratepayers must be reasonable, having regard to both the current rate levels, existing ratepayer base and the proposed purpose of the variation.
4. The relevant IP&R documents must be exhibited (where required), approved and adopted by the council before the council applies to IPART for a special variation to its general income.
5. The IP&R documents or the council's application must explain and quantify the productivity improvements and cost containment strategies the council has realised in past years and plans to realise over the proposed special variation period.

Action taken in recent months ensures that each SRV assessment criterion can be addressed in an SRV application.

Timeline

The following is a summary of key dates (including IPART deadlines) for the SRV process moving forward.

Action	Date
Council decision to notify IPART of Council's intention to apply for a special rate variation or minimum rates increase – this being required to meet IPART's 29 November deadline.	28 November 2022
Council decision on final endorsement of special rate variation application to IPART.	January 2023
Special Rate Variation applications due with IPART	February 2023
Determinations announced for Special Rate Variation and Minimum Rate Variation by IPART	May 2023

Policy Implications

Nil.

Financial Implications

As detailed in this report.

Legal and Risk Management Implications

Prudent action is required to manage extreme risks to Council's long-term financial sustainability.

Attachments

1. Community Engagement Feedback Report [9.4.2.1 - 76 pages]
2. CSP Draft November 2022 [9.4.2.2 - 82 pages]

3. Delivery Program 2022 2026_ November 2022 [9.4.2.3 - 134 pages]
4. Workforce Management Strategy November 2022 [9.4.2.4 - 29 pages]
5. Lithgow Draft LTFP Post- Consultation Update - November 2022 [9.4.2.5 - 54 pages]
6. Draft Strategic Asset Management Plan 2022 [9.4.2.6 - 66 pages]

Recommendation

THAT Council:

1. Authorise the General Manager to notify the NSW Independent Regulatory and Pricing Tribunal of its intention to lodge an application under Section 508(2) of the NSW Local Government Act for a permanent Special Rate Variation (SRV) 34.3% increase (plus 3.7% rate peg) in 2023/24 for the primary purposes (based on IPART categories) of:
 - a. Improving financial sustainability;
 - b. Maintaining existing services; and
 - c. Reducing infrastructure backlogs for asset maintenance and renewals.
2. Commit to limiting any increase in the residential, farming and business (general) rating categories to 27.7% (including the 3.7% rate peg) with the balance of the SRV funds required to be levied against the business power generation sub-category, mining category and a new quarrying business sub-category or sub-categories.
3. Note that, in the event that the future fund proposal is not finalised prior to any SRV application to IPART being completed in January 2023, Option 1 would return to Council's original proposal of a 42% SRV (plus 3.7%) with \$1.092M added back to the power generation and mining rating categories.
4. Endorse the updated Integrated Planning & Reporting documents to be placed on public exhibition for 28 days. This will include the following plans:
 - a. Supplementary Community Strategic Plan 2035.
 - b. Supplementary Combined Delivery Program 2022– 2026 and Operational Plan 2022/23.
 - c. Updated 2022-2032 Long Term Financial Plan.
 - d. Updated 2022-2026 Workforce Plan.
 - e. Updated 2022-2032 Strategic Asset Management Plan.
5. Note the Community Engagement Strategy Feedback Report which is included as an attachment.

9.4.3. FIN - 28/11/2022 - Classification of Land

Prepared by Sandra Politi – Property & Legal Services Officer

Department Property & Legal Services

Authorised by Chief Financial & Information Officer

Summary

The purpose of this report is to request Council's approval of a proposal to classify two lots of public land as "operational" land.

Commentary

Lot 2 in DP133907 (approx. 79m²)

In 1929, a drainage reserve was created from a subdivision of part lots 5 and 6 in DP14482 at Lidsdale. The drainage reserve was intended to vest in the former Council of the Shire of Blaxland (since amalgamated with Lithgow City Council). However, the formal process to have the lot registered in Council's name was not undertaken and the reserve remained in the name of the previous owner. Recently this discrepancy was rectified and the drainage reserve (being Lot 2 in DP133907) is now recorded in the name of Lithgow City Council.

Attachment 1 to this report is an image of the lot.

Lot 1 in DP169964 (approx. 3.6 ha)

In 1962, the Minister for Public Works vested Lot 1 in DP169964 at Geordie Street, Bowenfels in Lithgow City Council as part of the Lithgow Sewerage Scheme. However, the formal process to have the lot registered in Council's name was not undertaken and the lot remained in the name of the Minister for Public Works. This discrepancy is presently being rectified through a formal process and the recording in Council's name is imminent.

Attachment 2 of this report is an image of the lot.

Requirement to classify "public land"

All "public land" must be classified as either "community" or "operational" land by a resolution of Council within 3 months of acquisition (s. 31(2) of the *Local Government Act 1993*).

The main effect of classification is to restrict the alienation and use of the land. "Operational" land has no special restrictions other than those that may apply to any piece of land. "Community" land is different and reflects the importance of the land to the community because of its use or special features.

"Public land"

Under the *Local Government Act 1993*, "public land" is:

"any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) *a public road, or*
- (b) *land to which the Crown Land Management Act 2016 applies, or*
- (c) *a common, or*
- (d) *a regional park under the National Parks and Wildlife Act 1974."*

“Community” land

Section 36(4) of the Act requires “community” land to fall within one of the following categories and meet the core objectives outlined in the regulations for those categories:

- (a) a natural area,
- (b) a sportsground,
- (c) a park,
- (d) an area of cultural significance,
- (e) general community use.

“Operational” land

While there is no definition for “operational” land in the Act, “public land” that does not meet the criteria of “community” land is “operational” land by default.

Proposed classification of Lot 2 in DP133907 and Lot 1 in DP169964

As the two lots are not for community purpose or use and are used for operational purposes, it stands to reason that they be classified as “operational” land.

Requirement to give public notice of classification

Council is required to give public notice for at least 28 days of a proposed resolution to classify public land (s.34(1), *Local Government Act 1993*).

Policy Implications

Policy 9.16 Compliance Policy

Financial Implications

- Budget approved - recurrent legal expenses budget.
- Cost centre - PJ 800413
- Expended to date - minor legal expenses and staff time.
- Future potential impact – nil.

Legal and Risk Management Implications

Local Government Act 1993

Attachments

1. Attachment 1 - Lot 2 in D P 133907 (Lidsdale drainage reserve) [9.4.3.1 - 1 page]
2. Attachment 2 - Lot 1 in D P 169964 (Geordie Street Sewerage Works) [9.4.3.2 - 1 page]

Recommendation

THAT Council:

1. Give public notice for at least 28 days of the proposal to classify Lot 2 in DP133907 and Lot 1 in DP169964 as “operational” land.
2. In the event that no submissions are received during the public notice period, Lot 2 in DP133907 and Lot 1 in DP169964 be classified “operational” land and those lots be added to Council’s land register.
3. In the event that submissions are received during the public exhibition period, and those submissions require resolution of Council rather than being addressed by the General Manager, the matter be returned to Council for further consideration with details of submissions received.

9.4.4. FIN - 28/11/2022 - 2022/23 Quarter One Budget Review

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

Summary

This report provides the Quarterly Performance Report on the 2022/23 Operational Plan for the period of 1 July 2022 to 30 September 2022 with a recommendation that variations to income, expenditure and capital budget estimates are adopted and that the revised financial result of a \$6.4m consolidated operating surplus (before capital grants) be noted.

The Chief Financial and Information Officer (CFIO), as Responsible Accounting Officer, has reviewed the report and advises that Council's projected financial position at 30 June 2023 will be **satisfactory** compared with the original budget as the reasons for the significant change in Council's projected operating result substantively relate to the extraordinary event of road repairs following multiple natural disasters.

The report also provides an update on the capital expenditure budget, cashflow and reserve balances.

Commentary

Executive Summary

The CFIO has stated in the Quarterly Performance Report that Council's projected financial position at 30 June 2023 will be **satisfactory**, having regard to the original budget position.

Council's projected position at 30 June 2023 has changed from an operating result (before capital) of \$3.6M surplus to an expected \$6.4M surplus. The following factors were considered in determining Council's projected financial position at 30 June 2023 to be satisfactory:

1. The reasons for the significant change in Council's projected operating result (before capital) from original budget \$3.6M surplus to \$6.4M surplus, substantively relates to the extraordinary extent of road repairs following multiple natural disasters.
2. Progress is being made towards achieving Council's 2022/23 employment cost savings target of \$700K with \$131K net of savings taken in the Quarter One review.
3. The operating grants budget has been increased mainly due to a higher than expected Financial Assistance Grant allocation (\$400K budget adjustment).

Council will continue to implement its budget improvement plan through the remainder of the 2022/23 year with identified budget savings / additional revenue of \$3.2M planned for the full year.

It is important to note that while this report points to a surplus result at the end of this year, the way in which disaster income and expenses budgets must be presented in the financial statements is masking the reality that Council continues to have an underlying actual shortfall in general revenues.

Original Budget Operating Result

In the 2022/23 Operational Plan report to the 27 June 2022 Ordinary meeting (Min. No. 22-114), the CFIO made the following statement with regard to the original budget consolidated operating result (before capital) of surplus of \$3.6M:

Although the budget operating result (before capital) has improved from a deficit to a surplus, the underlying structural deficit remains as an issue. The annual structural shortfall in Council's general revenues has been identified in the rating review report as

\$6M p.a. at existing levels of service and growing year upon year. The improvement in the 2022/23 budget operating result mainly relates to one-off grants and timing differences for grant receipts. The focus for the 2022/23 budget is to present a balanced cash budget, that is, operating and capital expenditure can be covered within cash receipts for the year.

The most significant one-off grants for 2022/23 are for natural disaster claims and the financial impact has increased at the Quarter One review with a budget for additional works approved by Council at the 31 October 2022 meeting. The scale of the natural disaster recovery works has strained Council's already challenged finances and staff capacity and resulted in resources needing to be redirected. The progress of works needs to be balanced with the timeframe it takes to complete claims and receive payments.

With natural disaster income and expenses budgets excluded, the 2022/23 original budget consolidated operating result (before capital) would have been a deficit of approx. (\$3.4M), rather than a surplus of \$3.6M.

In other words, the manner in which these disaster income and expenses budgets must be presented in the financial statements is masking the reality that Council continues to have an underlying actual shortfall in general revenues.

Financial Impacts of Natural Disasters

The financial impacts of the natural disasters on the Quarter One 2022/23 projected operating result are summarised as:

- \$5.9M increase in Natural Disaster operational grant income budgets.
- \$1.075M reclassification of Natural Disaster expenses from capital to operational.
- \$6.8M increase in Natural Disaster expenses approved by Council at the 31/10/22 meeting (Min. No. 22-207) - \$5M allocated to capital road renewal works and \$1.8M allocated to operational employment cost budgets for road repair works.
- The net financial impact is \$3.025M increase in the projected General Fund operating surplus in Quarter One.

The \$3.025M increase in the projected General Fund operating surplus in Quarter One is a result of all of the natural disaster claim income being classified as "operating grants" whilst the majority of the expense is in the capital works program due to the nature of the works being asset renewal. Asset renewal works are expensed over the useful life of an asset via depreciation. To a lay observer, this accounting treatment appears to suggest a positive result because of an increased surplus. This is not the case, and as commented elsewhere in this report, council has an on-going and material structural shortfall in general revenue.

Further work will need to be undertaken in Quarter Two to ensure that natural disaster budgets are correctly allocated between operational repairs (works undertaken to sustain an asset in a functional state) and capital renewal (complete replacement of existing assets).

Council also needs to be mindful that the preparation of natural disaster claims is an administrative burden which takes time to gather invoices, timesheet records and photographic evidence. This is a significant redirection of limited resources from planned projects and the delivery of services to the community which will have ongoing impacts. Also, the pace of works needs to be balanced with the timeframe it takes to complete claims and receive payments to manage cashflow.

Summary of the July to September Quarterly Budget Review Report

Details of the July to September Quarterly Budget Review Report are provided in the attachment to the Business Paper. Below is a summary table:

Budget	Result (before capital)
	\$'000
Original Budget	3,647
September Review	6,422

Reasons for Changes in Revenue and Expenditure Projections (Including Capital)

Projected total revenue to 30 June 2022 has **increased by \$7.78M** during Quarter One, mainly due to the following reasons:

- \$5.9M increase in Natural Disaster income budgets related to works approved by Council at the 31/10/22 meeting (Min. No. 22-207).
- \$400K increased revenue budget for additional Financial Assistance Grant.
- \$1.4M increase for 2022/23 Fixing Country Bridges capital grant (Charles St & Red Hill Rd).
- \$325K capital grant received for the Clarence to Wallerawang Pipeline design.
- \$766K budget decrease due to unsuccessful capital grant applications for infrastructure projects (Peach Tree Rd, Jerrys Meadow Rd, Anarel Rd).

Projected total operating expenditure to 30 June 2022 has **increased by \$4M** during Quarter One, mainly due to the following reasons:

- \$1.075M reclassification of Natural Disaster expenses from capital to operational.
- \$1.8M for an increase in Natural Disaster expenses (of \$6.8M approved by Council at the 31/10/22 meeting - Min. No. 22-207) which has been allocated to employment costs for road repairs.
- Net (\$131K) of General Fund employment cost savings, including a \$200K saving in the workers compensation premium and \$95K in identified salary savings.
- \$378K additional expense budget for higher general insurance premiums.
- \$150K increased expense for Seven Valleys Tourism Program (grant funded).
- \$150K increased expense for the Dam Safety Study.
- \$148K additional expense budget for the Emergency Services Levy (fully funded by an OLG grant).

The nett effect of the increase in projected total revenue less the increase in projected total expenditure is a significant change in the expected consolidated operating result from a surplus of **\$15.7M** (original budget) to a surplus of **\$21.4M** at 30 June 2023 (**including capital grants and carryovers**). The change is largely attributable to the extraordinary natural disaster events.

Projected End of Year Result (Before Capital)

The operating result **before capital grants** is a key Office of Local Government performance measure with a benchmark of a balanced operating result (i.e. nil surplus / deficit). Capital grants are excluded from the performance measure as they do not contribute towards funding Council's operations. Council's revised consolidated operating result (before capital grants) at 30 June 2023 is projected to be a **\$6.4M** surplus, which is **above the OLG benchmark**. The change in the projected result is largely attributable to the extraordinary natural disaster events.

At the end of Quarter One 2022/23, it is projected that the General Fund will have a surplus (before capital grants) of \$6.1M at 30 June 2023. The Water Fund has a forecast surplus (before capital grants) of \$92K and the Sewer Fund has a projected surplus operating result (before capital grants) of \$206K.

Capital Expenditure Budget

The 2022/23 capital expenditure budget is projected to be **\$39.1M** (excluding loan repayments). The revised budget is an increase of \$5.6M on the \$33.48M (excluding loan repayments) original budget with carryovers.

The key changes to the Capital Works Program in Quarter Three are:

- (\$1.075M) reclassification of Natural Disaster expenses from capital to operational.
- \$5M for an increase in Natural Disaster expenses (of \$6.8M approved by Council at the 31/10/22 meeting - Min. No. 22-207) which has been allocated to road renewal.
- Addition of \$784K for Red Hill Road Bridge and \$616K for Charles St Bridge (grant funded).
- (\$766K) budget decrease due to unsuccessful capital grant applications for infrastructure projects (Peach Tree Rd, Jerrys Meadow Rd, Anarel Rd).
- \$332K additional expense budget for Clarence to Wallerawang Pipeline design (mainly grant funded).
- \$214K additional budget for Wallerawang No.1 Sewerage Pumping Station Renewal. Variations have been for unforeseen changes to the scope such as bedrock excavation and rising main rerouting. This project will be completed prior to the end of the calendar year.

Cash and Investments / Reserve Balances / Cashflow

The Cash and Investments Statement at 30 September 2022 is shown in the table below.

Cash and Investments Statement				
	30 June 2022	30 September 2022	31 December 2022	31 March 2023
	Position	Position	Position	Position
Externally Restricted				
Developer Contributions	1,945	1,764		
Special Purpose Grants	3,968	3,757		
FAGS	4,099	0		
Water Supplies	930	2,179		
Sewerage Services	8,310	9,991		
Domestic Waste	6,183	7,133		
Unexpended Loans	4,921	1,421		
	30,356	26,244		
Internally Restricted				
Land & Buildings	2,220	2,189		
Plant & Equipment	105	105		
Bonds, Deposits & Retentions	319	349		
Works in Progress	653	653		
Carry Over Works	327	212		
ELE	754	754		
Election	50	62		
Total Internally Restricted	4,428	4,324		
Unrestricted (working capital)	-	80		
Total Cash and Investments	34,784	30,648		

There is sufficient cash and investments to fund Council's external and internal restrictions.

The Administration took action to initiate the working capital short-term loan facility to cover anticipated high cash outflows during June to September 2022 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.

For most weeks in Quarter One, cash outflows for Accounts Payable transactions were between \$1M-\$2M per week, around \$500K per week above the trend for this time of year. To stem the high cash outflows, action has been taken to pause larger scale contracted natural disaster recovery works until cash inflows from claims income catch up with cash outflows. Through the efforts of staff, \$3.195M has been claimed since mid-October 2022. Once an additional \$1.5M is claimed, the working capital loan can be reduced to \$2M then the larger scale contracted works can be recommenced.

Cashflow continues to be carefully managed to ensure that Council has sufficient liquid funds available to make payments on time. The action taken by management in Quarter One has ensured that cash inflows can match cash outflows with the utilisation of the short-term working capital loan facility.

Policy Implications

Nil.

Financial Implications

As detailed in this report.

Legal and Risk Management Implications

The Local Government Act 1993 and Local Government (General) Amendment (Planning and Reporting) Regulation 2009 sets out the requirements for the quarterly reporting of the achievement of performance targets and the submission of a budget review statement after the end of each quarter.

Attachments

Nil

Recommendation

THAT Council:

1. Note the contents of the report and the projected consolidated operating result (before capital) of \$6.4M surplus for the 2022/23 Operational Plan as detailed in the Quarterly Budget Review Report for the period 1 July 2022 to 30 September 2022.
2. Note that the reasons for the significant change in Council's projected operating result substantively relate to the extraordinary event of road repairs following multiple natural disasters.
3. Adopt the income, expenditure and capital budget variations to the 2022/23 Council budget as outlined in the attached report.

9.4.5. FIN – 28/11/2022 – proposal to enter a licence agreement with COC Limited

Prepared by Sandra Politi – Property & Legal Services Officer

Department Property & Legal Services

Authorised by Chief Financial & Information Officer

Reference

Min. No. 21-242 – Ordinary meeting of Council held 25 October 2021.

Summary

This report requests preliminary approval to enter a licence agreement with COC Limited and to initiate steps to re-classify part of Council land from "community" to "operational".

Commentary

Council Land

Lot 1 in DP433264 is situated off Inch Street, Lithgow (**Council Land**) and forms part of the Blast Furnace Park and Lake Pillans area. The Council Land is shown framed in red on the image below.



The Council Land came to be in Council's ownership when it, together with the adjoining Lake Pillans lot (1/435393), were transferred from the State Rail Authority to Council in June 2000.

Attributes of the Council Land

The Council Land is zoned RE1 public recreation and comprises an area of 1.93 ha. It is classified "community" and categorised "cultural significance" under the Local Government Act 1993 (**the Act**).

The Council Land includes an area of about 3,330 m² containing a tourist rail line (**Rail Line Section**), which is the subject of this report. The Rail Line Section is shown framed in red on the image below.

COC's use of the Rail Line Section

The Rail Line Section abuts land to the east which is owned by Rail Corporation NSW and licensed to COC Limited (**COC**), a local non-profit organisation committed to protecting and promoting Lithgow's rail and industrial heritage.

While staff have not been able to locate documentation in Council's system regarding use of the Rail Line Section, COC informs us that in 2001 a rail extension went in to connect the tourist rail line from Eskbank branch to the railway workshop located at State Mine Gully. COC reports that the rail connection was part of a joint project between Lithgow State Mine Railway (COC's sister company) and Council and that the project was supported by a grant awarded under the Centenary of Federation scheme.

COC - legal right to use Council Land

There is no written agreement between COC and Council for use of the Rail Line Section. However, COC has indicated that it has used the site since 2001 with verbal concurrence of Council. A couple of years ago, a director of COC realised that COC did not have a written agreement with Council and consequently they are now requesting a licence agreement from Council.

Restrictions on dealing with community land

The Council Land (including the Rail Line Section) is classified “community” land. Councillors may be aware that the Act restricts how Councils can deal with community land. In particular, the Act provides that Councils may only grant a lease, licence or other estate if a plan of management for the land expressly authorises it.

There is no plan of management for the Council Land. The land is categorised cultural significance (together with the other parcels of land that make-up Blast Furnace and Lake Pillans). Land that is categorised “cultural significance” requires a plan of management that applies exclusively to that land. A recent cost estimate obtained for a plan of management for the whole of Blast Furnace Park and Lake Pillans was in the range of \$60K to \$80K.

Strict compliance with the Act would mean that Council is not able to grant a licence to COC until a plan of management is adopted and COC will need to cease using the Rail Line Section until a plan of management is adopted.

However, it is suggested that the Rail Line Section of the Council Land is inadvertently classified “community” and should be re-classified “operational” land for the following reasons:

- it contains operational rail infrastructure that connects to rail infrastructure on private land. COC has indicated that locomotives move across it to head to the railway workshop located in the State Mine Gully;
- the Rail Line Section of the Council Land should not be accessible to the general public, for safety reasons;
- the Rail Line Section directly benefits one party and not the broader community; and
- Council should not bear any risk in relation to the Rail Line Section.

Suggested approach to correct the situation

With the above in mind, the following steps are recommended to correct the situation:

1. Grant a 12 month licence agreement to COC for access, use and maintenance of the Rail Line Section, subject to public notice and exhibition in accordance with section 47 of the Act.
2. Take steps to re-classify the Rail Line Section of the Council Land from “community” to “operational” via LEP amendment (s.30 of the Act).
3. Following re-classification, Council may consider subdividing the Rail Line Section from the Council Land and either disposing of it or retaining it then granting a long term lease over the land.

Policy Implications

Policy 9.16 - Compliance Policy.

Policy 10.20 – Leasing and Licensing Policy.

Financial Implications

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

Legal and Risk Management Implications

Local Government Act 1993.

Environmental Planning and Assessment Act 1979.

Attachments

Nil

Recommendation

THAT Council:

1. Grant preliminary approval to enter a 12 month licence agreement with COC Limited for the Rail Line Section of Lot 1 in DP433264.
2. Authorise the General Manager to negotiate the terms and conditions of a licence agreement having regard to Council’s Leasing and Licensing Policy 10.20.
3. Give public notice of the proposed licence agreement and place it on public exhibition for at least 28 days, in accordance with section 47 of the Local Government Act 1993.
4. Authorise the General Manager to sign all documents and do all things necessary to give effect to the licence agreement, if no submissions are received during the public exhibition period.
5. Note that the matter will be returned to Council for further consideration, if any submissions are received during the public exhibition period.
6. Commence action to re-classify the Rail Line Section of Lot 1 in DP433264 from “community” to “operational” land via LEP amendment under section 30 of the Local Government Act 1993.

9.5. Policies and Governance

9.5.1. EXEC - 28/11/2022 - Meeting Dates 2023

Prepared by Trinity Newton – Executive Assistant
Department Office of the General Manager & Mayor
Authorised by General Manager

Reference

Min 19-303: Ordinary Meeting of Council held 28 October 2019
 Min 20-252: Ordinary Meeting of Council held 26 October 2020
 Min 20-285: Ordinary Meeting of Council held 23 November 2020
 Min 21-192: Ordinary Meeting of Council held 23 August 2021

Summary

This report is to inform the Council of the Ordinary Meeting of Council dates for 2023.

Commentary

Ordinary Meeting of Council dates are proposed for the fourth Monday of each month except December, in accordance with the Code of Meeting Practice and Council resolution Min. No. 20-285 (Ordinary Meeting of Council held 23 November 2020).

There are no conflicts with public holidays on Mondays in 2023.

The Councillor Information Sessions will be set two weeks prior to the Ordinary Meeting of Council. Council may wish to review the dates that coincide with public holidays.

Council should also note that some meetings may be required to change for events such as National General Assembly Conference or the LGNSW Conference when the dates for 2023 become available.

The proposed dates for 2023 being the fourth Monday of each month are as follows:

23 January 2023
27 February 2023
27 March 2023
24 April 2023
22 May 2023
26 June 2023
24 July 2023
28 August 2023
25 September 2023
23 October 2023
27 November 2023

There was discussion about this matter at the November Information Session. The suggestion was made that key committees of Council should be scheduled to allow for timely reporting of the Minutes to the full Council. The schedule for committees will be reviewed after the dates for the Ordinary Meetings are confirmed.

Policy Implications

The timing of Ordinary Council meetings is included in the 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.

Attachments

Nil

Recommendation

THAT Council adopt the schedule of Ordinary Meetings of Council for 2023 being the fourth Monday of each month (except for December) ie.,

23 January 2023
27 February 2023
27 March 2023
24 April 2023
22 May 2023
26 June 2023
24 July 2023
28 August 2023
25 September 2023
23 October 2023
27 November 2023

9.5.2. PS - 28/11/2022 - Council Committee Terms of Reference update - Model Social Media Policy 2022

Prepared by Deborah McGrath - Corporate Planning and Communications Officer

Department Corporate Planning and Communications

Authorised by Director of People & Services

Reference

Min 22-192 – Ordinary Meeting of Council held on 26 September 2022

Summary

The purpose of this report is to seek endorsement for a procedural requirement to update the Terms of Reference of all s355 Committees to include the Model Social Media Policy 2022 under the Committee Members' Responsibilities.

Commentary

Council recently adopted a Social Media Policy. This has triggered the need to update the Terms of Reference for all s355 Committees of Council. It is therefore recommended that a third dot point be added to the Committee Member's Responsibilities' as follows:

Committee member responsibilities:

- Observation and compliance with [Council's Code of Conduct](#).
- Observation and compliance with Council's Work Health & Safety (WHS) system objectives and instructions.
- **Observation and compliance with Council's [Model Social Media Policy 2022](#).**

A memo has been forwarded to all community members of the following s355 Committees informing them of their responsibilities under the Council's Model Social Media Policy 2022 and Code of Conduct and advising them that the Terms of Reference will be updated as a matter of due process:

- Community Development Committee;
- Economic Development Committee;
- Environmental Advisory Committee;
- Lithgow Crime Prevention Committee;
- Lithgow Floodplain Risk Management Committee;
- Operations Committee;
- Sports Advisory Committee;
- Traffic Advisory Local Committee (TALC);
- Womens Advisory Committee; and
- Youth Advisory Committee.

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. Social Media Policy Committee members update [9.5.2.1 - 1 page]

Recommendation

THAT Council update the Terms of Reference to the following s355 Committees to include under Committee member responsibilities "Observation and compliance with Council's Model Social Media Policy 2022".

- Community Development Committee;
- Economic Development Committee;
- Environmental Advisory Committee;
- Lithgow Crime Prevention Committee;
- Lithgow Floodplain Risk Management Committee;
- Operations Committee;
- Sports Advisory Committee;
- Traffic Advisory Local Committee (TALC);
- Women's Advisory Committee; and
- Youth Advisory Committee.

9.5.3. PS - 28/11/2022 - Code of Conduct Statistics 2021-2022

Prepared by Michael McGrath – Director People and Services

Department People and Services

Authorised by General Manager

Reference

Min No 16-263: Ordinary Meeting of Council 12 December 2016

Min No 17-337: Ordinary Meeting of Council 27 November 2017

Min No 19-352: Ordinary Meeting of Council 25 November 2019

Min No 20-178: Ordinary Meeting of Council 27 July 2020

Min No 21-276: Ordinary Meeting of Council 22 November 2021

Summary

The purpose of this report is to inform Council of Code of Conduct Complaint statistics as required by the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*.

The Council's complaints co-ordinator is required to report to Council annually on Code of Conduct Complaints Statistics for the period **1 September – 31 August** each year. The report is required no later than 31 December of each year. Councils are also required to submit a report to the Office of Local Government (OLG).

Commentary

In accordance with *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*, Council's complaints coordinator is required to report to Council and the Office of Local Government (OLG) Code of Conduct details.

The required statistics for the reporting period are outlined below:

Model Code of Conduct Complaints Statistics		
Number of Complaints		
1a	The total number of complaints received in the period about councillors and the General Manager (GM) under the code of conduct	6
b	The total number of complaints finalised in the period about councillors and the GM under the code of conduct	6
Overview of Complaints and Cost		
2a	The number of complaints finalised at the outset by alternative means by the GM or Mayor	6
b	The number of complaints referred to the Office of Local Government (OLG) under a special complaints management arrangement	0
c	The number of code of conduct complaints referred to a conduct reviewer	0
d	The number of code of conduct complaints finalised at preliminary assessment	0
e	The number of code of conduct complaints referred back to the GM or Mayor for resolution after preliminary assessment by conduct reviewer	0
f	The number of finalised code of conduct complaints investigated by a conduct reviewer	0
g	The number of finalised complaints investigated where there was found to be no breach	0

h	The number of finalised complaints investigated where there was found to be a breach	0
i	The number of complaints referred by the GM or Mayor to another agency or body such as the ICAC, the NSW Ombudsman, OLG or Police	0
j	The number of complaints being investigated that are not yet finalised	0
k	The total cost of dealing with code of conduct complaints within the period made about councillors and the GM including staff costs	\$2,500
Preliminary Assessment Statistics		
3 The number of complaints determined by the conduct reviewer at the preliminary assessment stage by each of the following actions:		
a	To take no action (Clause 6.13(a) of the 2018 and 2020 Procedures	0
b	To resolve the complaint by alternative and appropriate strategies (clause 6.13(b) of the 2018 and 2020 Procedures)	0
c	To refer the matter back to the GM or the Mayor, for resolution by alternative and appropriate strategies (clause 6.13(c) of the 2018 and 2020 Procedures)	0
d	To refer the matter to another agency or body such as the ICAC, the NSW Ombudsman, OLG or the Police (clause 6.13(d) of the 2018 and 2020 Procedures)	0
e	To investigate the matter (clause 6.13(e) of the 2018 and 2020 Procedures)	0
Investigation Statistics		
4 The number of investigated complaints resulting in a determination that there was no breach , in which the following recommendations were made:		
a	That the Council revise its policies or procedures	0
b	That a person or persons undertake training or other education (clause 7.37 of the 2018 or clause 7.40 of the 2020 procedures)	0
5 The number of investigated complaints resulting in a determination that there was a breach in which the following recommendations were made:		
a	That the council revise any of its policies or procedures (clause 7.36(a) of the 2018 procedures or clause 7.39 of the 2020 Procedures)	0
b	In the case of a breach by the GM, that action be taken under the GM's contract for the breach (clause 7.36(h) of the 2018 Procedures or clause 7.37(a) of the 2020 Procedures)	0
c	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 (clause 7.36(i) of the 2018 Procedures or clause 7.37(b) of the 2020 Procedures)	0
d	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 and that the matter be referred to the OLG for further action (clause 7.36(j) of the 2018 Procedures or clause 7.37(c) of the 2020 Procedures)	0
6	Matter referred or resolved after commencement of an investigation (clause 7.20 of the 2018 or 2020 Procedures)	0
Categories of Misconduct		
7 The number of investigated complaints resulting in a determination that there was a breach with respect to each of the following categories of conduct:		
a	General Conduct (Part3)	0
b	Non-pecuniary conflict of interest (Part 5)	0
c	Personal benefit (Part 6)	0
d	Relationship between council officials (Part 7)	0
e	Access to information and resources (Part 8)	0
Outcome of determinations		

8	The number of investigated complaints resulting in a determination that there was a breach in which the council failed to adopt the conduct reviewers recommendation	0
9	The number of investigated complaints resulting in a determination that there was a breach in which the council's decision was overturned following a review by OLG	0

Policy Implications

Nil.

Financial Implications

- Budget approved - costs associated with code of conduct complaints are managed within the Council's recurrent operational budgets.
- Cost centre – PJ 800169
- Expended to date - \$2,500
- Future potential impact – Nil.

Legal and Risk Management Implications

In accordance with, *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*, these statistics must be reported to Council within 3 months of the end of September each year and be provided to the Office of Local Government (OLG).

Attachments

Nil

Recommendation

THAT Council note the report on the Code of Conduct complaints statistics for the period 1 September 2021 – 31 August 2022.

9.5.4. FIN - 28/11/2022 - Managing Unreasonable Conduct by Complainants Policy

Prepared by Ross Gurney - CFIO

Department Finance & Assets

Authorised by Chief Financial & Information Officer

Reference

Min. No. 22-190 Ordinary Meeting of Council held on 26 September 2022.

Summary

The purpose of this report is to return draft Policy 4.6 Customer Service and Unreasonable Complainants to Council for adoption.

Commentary

At the 26 September 2022 meeting, Council resolved:

22 -190 RESOLVED

THAT Council:

1. Endorse the omission of the Customer Service policy statements from the revised Policy 4.6.
2. Place draft Policy 4.6 Managing Unreasonable Conduct by Complainants on public exhibition for a period of 28 days.
3. Following the exhibition period, draft Policy 4.6 be returned to Council to consider adoption, with details of any submissions made during the exhibition period and any recommendations or amendments that may arise from the submissions.

The draft policy is based on the NSW Ombudsman's model policy to act as a guide for managing unreasonable conduct by complainants. The model policy aims to provide a robust, standardised and consistent approach to the management of Unreasonable Conduct by Complainants (UCC) incidents.

The draft Customer Service and Unreasonable Complainants Policy was placed on public exhibition between 4 October 2022 and 8 November 2022. No submissions were received in relation to the draft policy and therefore it is recommended that Policy 4.6 Customer Service and Unreasonable Complainants be adopted by Council.

Policy Implications

Draft Policy 4.6 Managing Unreasonable Conduct by Complainants will strengthen Council's UCC policy position to best practice as set by the NSW Ombudsman.

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 4 6 Managing Unreasonable Conduct by Complainants - FINAL November 2022
[9.5.4.1 - 22 pages]

Recommendation

THAT Council adopt Policy 4.6 Managing Unreasonable Conduct by Complainants for immediate implementation.

9.5.5. DEV - 28/11/2022 - Review of Policy 5.4 - Enforcement Policy

Prepared by Paul Cashel – Development Manager

Department Development and Environment

Authorised by Michael McGrath

Reference

Minute No. 17-238 – Ordinary Meeting of Council held on 14 August 2017.

Summary

The purpose of this report is to provide a reviewed policy to Council for approval.

Policy 5.4 - Enforcement Policy is a policy that establishes a framework for addressing compliance matters in a fair and consistent manner.

Commentary

As part of the regular policy review process, Policy 5.4 - Enforcement Policy has been reviewed by the Development Manager and Council's lawyers with non-substantive wording changes and updates being suggested. It is a well written and functional policy.

The objective of this Policy is to establish clear guidelines for Council staff and the community as to the Council's approach to responding to alleged or suspected unlawful activity or failure to comply with terms of conditions of approvals, consents, or orders.

Policy Implications

This Policy was previously reviewed by the Council in August 2017.

Standard Working Procedure (SWP) 6.1 requires that all policy reviews are conducted within the term of a Council.

Financial Implications

- Budget approved – allocations exist within the operational budget for legal matters.
- Cost centre – Development Legal Expenses.
- Expended to date - \$1,320.00
- Future potential impact – N/A

Legal and Risk Management Implications

This Policy provides a consistent approach and guidance to assist staff in decision making prior to taking compliance or regulatory action. This should reduce the Council's legal risk and cost when matters proceed to the Local Court or Land & Environment Court under Class 4 - Judicial review and civil enforcement.

Attachments

1. Policy 5 4 Enforcement Policy amended [9.5.5.1 - 7 pages]

Recommendation

THAT Council adopt reviewed Policy 5.4 - Enforcement Policy - Version 5 for immediate implementation with minor updates only.

10. Council Committee Reports

10.1. ENV - 28/11/2022 - Minutes of the Environmental Advisory Committee 26 October 2022

Prepared by Fiona Dick – Administration Assistant

Department Environment and Waste

Authorised by Director of People & Services

Summary

This report provides details of the Minutes of the Environmental Advisory Committee held on 26 October 2022.

Commentary

At the Environmental Advisory Committee held on 26 October 2022 the following items were discussed:-

1. The Committee adopted the Terms of Reference with amendments.
2. The Committee elected a Chair and Deputy Chair.
3. There were 5 items in the Business Paper as discussed in the attached minutes.

Policy Implications

NIL

Financial Implications

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

Legal and Risk Management Implications

NIL

Attachments

1. Minutes 26 10 2022 [**10.1.1** - 6 pages]

Recommendation

THAT Council note the minutes of the Environmental Advisory Committee held on 26 October 2022.

10.2. IS - 28/11/2022 - Economic Development Committee Meeting Minutes 2 November 2022

Prepared by Trinity Newton – Executive Assistant

Department Executive

Authorised by Director of Infrastructure & Services

Reference

Min 22 –125: Ordinary Meeting of Council held 27 June 2022

Min 21 –17: Ordinary Meeting of Council held 26 July 2021

Summary

This report presents the minutes of the Economic Development Committee to Council.

Commentary

A meeting of the Economic Development Committee was held on 2 November 2022. Matters on the business paper were:

- Activation of the Seven Valleys Tourism Brand
- Lithgow Emerging Economy Project (LEEP)
- Review of the Lithgow Regional Economic Development Strategy
- Development of an investment prospectus for Lithgow

In general business the Committee were updated on the following matters:

- o Royalties for Rejuvenation – engagement and process.
- o Main Street retailing – increased focus and participation.
- o Events – active in this space: Halloween, Caravan Muster, Ironfest.
- o Main Street Revitalisation – detailed design, phasing, consultation and quality outcomes.
- o The Lithgow Ridgy-Didge Trail Run Festival in March 2023

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. DRAFT Economic Development Committee Minutes 2 November 2022 [**10.2.1** - 5 pages]

Recommendation

THAT Council note the minutes of the Economic Development Committee held on 2 November 2022 and accept the Committees' recommendation.

10.3. IS - 28/11/2022 - TALC Committee Meeting Minutes - 3 November 2022

Prepared by Kaitlin Cibulka – Executive Assistant

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Summary

This report provides details the Minutes of the TALC Committee meeting held on 3 November 2022.

Commentary

At the TALC Committee held on 3 November 2022, there were several items discussed by the committee, including:

- Mid Hartley Road, Hartley – Load Limit Request;
- Glen Alice Road, Glen Alice – Concealed Driveway Signage Request; and
- Lithgow Store – Proposed Access, Mort Street Lithgow.

These items were outside the Committee's delegations and requires Council to formally approve the below recommendations.

Policy Implications

Nil

Financial Implications

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- Future potential impact – minor expenditure from recurrent operational budgets for signage.

Legal and Risk Management Implications

Nil

Attachments

1. Minutes TALC Committee 3rd November 2022 [**10.3.1** - 6 pages]

Recommendation

THAT Council:

1. Note the minutes of the TALC Committee meeting held on 3 November 2022;
2. Note the existing 5 tonne load limit already in place on Mid Hartley Road, Hartley; and liaise with local business in the area to limit their usage on Mid Hartley Road where possible;
3. Install concealed driveway signage on either side of the entrances to 1783 Glen Alice Road, Mount Marsden; and
4. Approve the proposed access to the new Lithgow Store from Mort Street, Lithgow, and
5. Investigate one way traffic on Mort Street service lane and report back to TALC.

10.4. PS - 28/11/2022 - Community Development Committee Minutes 8 November 2022

Prepared by Matthew Johnson – Manager Community

Department Community and Culture

Authorised by Director of People & Services

Reference

Min 22-195 Ordinary Meeting of Council held 26 September 2022

Summary

The Minutes of the Community Development Committee meeting held 8 November 2022 are presented for Council's consideration.

Commentary

At the Community Development Committee meeting held 8 November 2022 various matters were discussed including:

- Development of a new Council Disability Inclusion Access Plan
- Planning for Australia Day 2023 including a review of the Citizenship Award categories.
- Planning for a music event at Blast Furnace in late 2023.

Policy Implications

Nil

Financial Implications

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

Legal and Risk Management Implications

Nil

Attachments

1. Community Development Committee Minutes 8 November 2022 [**10.4.1** - 5 pages]

Recommendation

THAT Council note the minutes of the Community Development Committee meeting held 8 November 2022.

11. 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.