



Photo: Elaine Butler – Lithgow Library and Learning Centre Mural

BUSINESS PAPER

Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 23 January 2023

at 7:00 PM

ORDER OF BUSINESS

1. Acknowledgement of Country	4
2. Present	4
3. Apologies	4
4. Declaration of Interest	4
5. Confirmation of Minutes	4
6. Commemorations and Announcements	5
7. Public Forum.....	5
8. Mayoral Minutes.....	5
9. Notices of Motion.....	5
9.1. NOTICE OF MOTION - Cr Lesslie & Cr Coleman - 23/01/2023 - Great Western Highway Upgrade Hartley Valley.....	5
10. Questions with Notice	7
10.1. QUESTION WITH NOTICE - Cr Mahony - 23/01/2023 - Access to Contaminated Lands Registers	7
11. Staff Reports	8
11.1. General Manager's Reports	8
11.1.1. GM - 23/01/2023 - Central NSW Joint Organisation Membership	8
11.1.2. GM - 23/01/2023 - Lithgow Community Private Update	11
11.2. People and Services Reports	13
11.2.1. Building and Development.....	13
11.2.1.1. DEV - 23/01/2023 - Modification to Stormwater Design MODDA049/22 to DA021/18 Subdivision 1 into 86 Lots at Hillcrest Avenue South Bowenfels	13
11.2.1.2. DEV - 23/01/2023 - Voluntary Planning Agreement- Nu-Rock Technology Pty Ltd - DA292/14.....	17
11.2.1.3. DEV - 23/01/2023 - Variations to Development Standards under Clause 4.6 of the Standard Instrument.....	19
11.2.2. People and Services General Reports	20
11.2.2.1. PS - 23/01/2023 - Lithgow Community Cultural Protocols	20
11.3. Infrastructure Services Reports.....	22
11.3.1. IS - 23/01/2023 - Road Naming Proposal - DA196/18, Woodlands Estate, Lidsdale	22
11.3.2. IS - 23/01/2023 - Wolgan Road Recovery and Alternate Route Construction	24
11.3.3. IS - 23/01/2023 - Replacement of Street Sweeper.....	28
11.4. Water and Wastewater Reports.....	30
11.4.1. WWW - 23/01/2023 - Waste Management & Resource Recovery Strategy 2022-2026.....	30
11.5. Finance and Assets Reports	33
11.5.1. FIN - 23/01/2023 - Application for a Special Rate Variation.....	33
11.5.2. FIN - 23/01/2023 - Investment Report November 2022	41

11.5.3. FIN - 23/01/2023 - Investment Report December 2022	44
11.6. Policies and Governance.....	47
11.6.1. GM - 23/01/2023 - September 2024 Council Election.....	47
11.6.2. WWW - 23/01/2023 - Policy 8.1 Excessive Water Usage Allowance for Breakages.....	49
12. Council Committee Reports.....	51
12.1. FIN - 23/01/2023 - Finance Committee Meeting Minutes - 23 November 2022.....	51
12.2. FIN - 23/01/2023 - Audit Risk & Improvement Committee (ARIC) Minutes - 13 December 2022.....	53
13. Business of Great Urgency	55

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 28 November 2022.

Confirmation of the Minutes of the Extra Ordinary Meeting of Council held 16 January 2023.

6. Commemorations and Announcements

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

7. Public Forum

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

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

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

8. Mayoral Minutes

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

9. Notices of Motion

9.1. NOTICE OF MOTION - Cr Lesslie & Cr Coleman - 23/01/2023 - Great Western Highway Upgrade Hartley Valley

Report by Councillor Stephen Lesslie
Councillor Cassandra Coleman

Commentary

That Lithgow City Council calls on the NSW State Government and our local State Member Deputy Premier Paul Toole to abandon the proposed upgrade of the Great Western Highway through the Hartley Valley and to allocate the money so saved, estimated at \$2,500 million, for flood relief in the Central West.

Attachments

1. IS - 02/03/2022 - Great Western Highway review of environmental factors [9.1.1 - 8 pages]

Recommendation

THAT the money to be allocated, on a needs basis, to Councils in the Central West, including Lithgow City Council, for flood damaged repair to roads, drains, levy banks and Council owned buildings and assets.

Management Comment

At the Ordinary Meeting of Council held on 2 March 2022, Lithgow City Council resolved to:

1. Receive the report on the 'Review of Environmental Factors' for the Transport for NSW Great Western Highway project, Little Hartley to Lithgow.
2. Endorse the General Manager to make a detailed submission, aligned with the commentary presented in this report and other emphases as determined by the Council, including pollution from the tunnel, heritage, an 80 km/h road not 100 km/h, consultation with aboriginal

communities and rest stops also being removed from Hartley Valley and legal access to those with properties on Riverlett Hill.

Additional to those raised above, the key issues, and suggested improvements, put forward by Council's submission of project support included:

1. The design for such a major project warrants aspirational design outcomes that are reflective of the special qualities of the Hartley Valley, including landscape character and heritage.
2. Request for a commitment from TfNSW to open the scope of the design process to include the highway median through the urban Lithgow area.
3. Transport for NSW must also acknowledge the need to:
 - a. Introduce contingency for higher-than-expected increases to traffic volumes,
 - b. Improve rail infrastructure and service to better balance demand and reduce emissions,
 - c. Commit to enhancement of the Bells Line of Road,
 - d. Make a commitment to offset financial impact to the Council of any asset transfers from state to local government ownership,
 - e. Amend project phasing, or make a firm financial commitment, to address the Blackheath pinch point as a priority,
4. Acknowledge and act on the imperative to deeply engage with local indigenous representatives.
5. Capture local construction benefit by introducing housing construction programs and local skill development initiatives.

A copy of the report from the Meeting of 2 March is attached to this business paper.

Transport for NSW and Council's administration continue to work together closely, making good progress on many of the issues above, supporting project progress and the delivery of local benefits. In recognition of the importance of this project, it is directly referenced as a key enabler of future growth within the NSW Government's Regional Economic Development Strategy.

As for the other aspect of this request, both the Australian and NSW Government's have shown ongoing commitment to Lithgow's (and the Central West's) natural disaster recovery. Over the past 6 months, Lithgow has received \$8 million under the Natural Disaster Relief and Recovery Arrangements, compensating for works completed in that period. Importantly, commitment has been made to the Wolgan Road realignment, subject to recognition of the project being disaster recovery funding eligible under existing criteria. This project alone is expected to cost between \$15 and \$20 million. Claims will continue to be made over the coming two years for current and future projects.

Additionally, \$315,257 has been allocated from a \$50 million package of works to repair potholes, and Council made application on 13 Jan for allocation under a \$280 million package of road improvements directed to regional NSW Councils. Lastly, an application was made by Council for \$8.2 million under the State Government's \$500 million Fixing Local Roads program for 2022/23.

Both Council's road recovery and the upgrade of state transport infrastructure are of significant importance to our region. Council's position to date has resulted in advocacy for balanced, sustainable and responsive investment for these disaster-caused projects.

10. Questions with Notice

10.1. QUESTION WITH NOTICE - Cr Mahony - 23/01/2023 - Access to Contaminated Lands Registers

Report by Councillor Eric Mahony

Commentary

A significant challenge for the provision of much needed housing for our community is the availability of land suitable for the construction of residential dwellings.

This challenge is significantly complicated on the sites either adjacent to or within areas of historic heavy industrial activity, coal mining or other. These sites can come with inherent risks of legacy issues relating to the contamination of the site.

This provides a significant challenge to the development of these lands for residential dwellings, both at an individual or subdivision scale.

Attachments

Nil

Question

Noting the development of the Lithgow City Council Contaminated Land Policy in 2021, can advice be provided to the Council, addressing the processes currently used by Council to bring this very important and consequential information to the attention of individuals or developers during the early stages of their development applications; in order to avoid unnecessary and at times significant costs for a development that may once consideration is given to the extent of the contamination may make the development cost prohibitive to proceed with.

Management Comment

Draft Council Policy 7.10 Contaminated land was placed on exhibition in August-September 2022. The Policy guides Council to provide a considered approach to identifying potentially contaminated land; providing relevant information (to landholders, developers and purchasers; assessing contamination and monitoring any remediation.

The Draft Policy outlines that where Council is aware that land has been used for a potentially contaminating activity or land use it will be identified in Council's Land System.

Council must consider land contamination for every development application (DA) and planning proposal (rezoning/LEP amendment).

Contaminated land or potentially contaminated land information and processes can be obtained by proponents/landowner as follows:

- Draft Council Policy 7.10 Contaminated Land – Potentially contaminating land uses that trigger further investigation are outlined in Appendix A of the Policy and the Contaminated Land Planning Guidelines. Where a property has been identified as having been associated with one or more of those landuses in Appendix A it will be included in the Land Use Information System (LUIS) under the Policy.
 - 10.7 Planning Certificate as per Section 59 of the Contaminated Land Management Act 1997.
 - Lithgow Development Control Plan Section 3.4.1 sets out the process of obligations along with the Contaminated Land Planning Guidelines
 - Contacting Council for access to records regarding past land use
-

- Engaging with Council in early planning phases of development. Council offers pre-lodgement meetings.

In summary from the above, Council presently goes to some lengths to have policy and information publicly available for landowners, prospective purchasers of land and proponents for development about the constraints or requirements applying to land. This includes information about potential contamination. If a development proponent undertakes the necessary research of this publicly available information, or uses a qualified and experienced planning consultant the risks of contamination being discovered at DA stage are greatly reduced.

Arrangements are being made for training to be provided for councillors in relation to Council's planning and land-use management responsibilities. This will be a forum at which discussion could take place on the policies and procedures relating to the management and public notification about contaminated sites.

11. Staff Reports

11.1. General Manager's Reports

11.1.1. GM - 23/01/2023 - Central NSW Joint Organisation Membership

Prepared by Trinity Newton – Executive Assistant

Department Executive

Authorised by General Manager

Reference

Min. No. 22- 175: Ordinary Meeting of Council held 26 September 2022

Summary

At the Ordinary Meeting held on 26 September 2022, the Council considered a report recommending that Lithgow Council make application to join the Central NSW Joint Organisation. A copy of that report is attached. Council resolved to approach the Central NSW Joint Organisation with an interest in joining and report back to Council detailing the terms of the membership of CNSWJO, should this approach be approved by the CNSWJO Board.

This report explains that the Board of the CNSWJO has now approved this Council's request to join. Fees have been confirmed, and there is the offer of Associate membership while the application to join is dealt with by the relevant Minister. Some detail is provided about the strategic priorities of the CNSWJO. A recommendation is made that Council resolve to join the CNSWJO.

Commentary

The CNSWJO considered Council's request at its Board meeting on 24 November. The report included the following comments from the General Manager of Lithgow City Council regarding the case for Lithgow being welcomed as a full member: –

1. The Council is at an advanced phase of developing their IWCM Plan. While they are in a different water catchment to other CNSWJO member councils the complex matters they are navigating through to provide water security for their LGA will be relevant to other members also. There is also the need to bridge the current divide in the separate regional water planning that is occurring across catchments.
-

2. The Council is undertaking major studies to ready their economy for a post coal mining and thermal power generation future. The lessons about transforming economies will be insightful for other member councils.
3. Lithgow LGA is the interface between the Central West and the Sydney basin. There is the case for blurring the boundaries between these two regions and this would be assisted by having Lithgow Council “at the table”.
4. The Council is softly advocating for more effective rail and road networks to link the towns of the Central West – an area of alignment with the CNSWJO.

The CNSWJO Board resolved -

1. *Lithgow City Council be welcomed as a full member of the CNSWJO;*
2. *in the interim Lithgow City Council be offered an associate membership at 75% of full membership fees;*
3. *upon CNSWJO and Lithgow City Council finalising negotiations on membership, the Minister for Local Government be advised of the above seeking a proclamation to effect Lithgow City Council's full membership*

The priorities of the CNSWJO are:

- Inter-council collaboration delivering cost savings and other efficiencies to members
- Regional prosperity - including tourism, land use planning, health, telecommunications, skills and housing
- Transport
- Water

Since the CNSWJO took the above decision, the General Manager has been discussing with the CNSWJO's CEO the finer detail about the working arrangements, shared interests and other detail. The Board meets four times each year. Two of these meetings are in Sydney and Canberra for the purpose of engaging with other levels of government. There is a General Managers group which meets regularly. There are subject matter groups for council officers relating to energy, water utilities, tourism, asset management, planning, procurement, roads and transport.. Council's management sees value in relevant staff actively participating in these subject matter groups.

Financial Implications

Lithgow City Council's fees as a full member will be in the order of \$90,003. This is based on the 2021 ABS census data for Lithgow's population and the DPE Water Performance Monitoring dashboard.^[1] By comparison, the fees for WSROC were \$46K (plus the Energy Program). In the case of the CNSWJO, however, there are fees for the separate functions of water utility and tourism which were not features of WSROC's work program. Council's Executive Manager responsible for water is satisfied that the fee relating to this service is acceptable given the work program and opportunities for knowledge sharing.

The model for the fee structure is:

- Membership and administration - \$34,823
- Operational membership - \$10,727
- Water Utilities' Alliance – membership -\$20,257
- Water Utilities' Alliance – associated memberships & benchmarking programming - \$12,114
- Regional Tourism Group - \$12,082

As was reported to the last meeting, this Council's application to join the JO must be approved by the relevant Minister by way of a proclamation. This may take some time. During the initial period until this Council is approved to join the CNSWJO by Proclamation, there is the offer of Associate membership. This will cost approximately \$67 500 per annum (75% of full membership).

- Cost centre - 800155 81430 63401

- Expended to date - Minor costs relating to the allocation of some management resource to interim engagement with the CNSWJO.
- Future potential impact - Collaboration with appropriate strategic alliances is good practice.

Legal and Risk Management Implications

No particular new legal issues or risks. Could reduce these through knowledge sharing etc.,

Attachments

Nil

Recommendation

THAT Council

1. Resolve to join the CNSWJO, and,
2. Note that regular reports and briefings will be provided to the Council in relation to the activities and outcomes of the CNSWJO.

11.1.2. GM - 23/01/2023 - Lithgow Community Private Update

Prepared by Michael McGrath - Director People & Services

Department Human Resources

Authorised by General Manager

Reference

Min 22-225: Ordinary Meeting of Council held 28 November 2022.

Summary

The Council considered a report about this matter at the 28 November Ordinary Meeting. The report is attached. The council resolved:

22 -225 RESOLVED

THAT;

1. Council continues 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.

This report provides an update on the matter of Lithgow Community Private's negotiations to secure a long term and viable working arrangement with the Nepean Blue Mts Local Health District (the LHD).

The report acknowledges that there has been goodwill brought to the negotiations by both parties and some progress has been made toward achieving the abovementioned outcome.

In the absence of an appropriate arrangement between the parties, some risk remains that the Lithgow community could suffer a loss or reduction of the specialist medical services provided by Lithgow Community Private. For this reason, it is recommended that Lithgow City Council continue to advocate for the outcome.

Commentary

As has been reported to Council on previous occasions, Lithgow has a significant aged cohort of the local population. The socio-economic circumstances of our community predispose it to certain adverse health consequences. Of course, it is also widely acknowledged that the level of health services available in rural locations is less than metropolitan settings. Again, this backdrop, Lithgow Community Private (LCP) stands out as a community run, innovative and successful model of specialist health service delivery, complementary to the public health service, in a rural/regional setting. Also, there is a cluster of other medical businesses and services which agglomerate around LCP. Removal or dilution of the LCP specialist medical component of this small but important health ecosystem could have implications for the performance of all of these other health services. There is the risk this could result in an unacceptable spiral down in terms of local availability and access to much needed health services.

Like all medical services, the operation of Lithgow Community Private (LCP) was profoundly affected by the Covid pandemic. The same is the case for the LHD's Lithgow Hospital which is no doubt stressed because of the immense pressures on the public health system. These circumstances have threatened the continuing operation of LCP. But notwithstanding, LCP are ambitious to return to pre-covid levels of service. Indeed, they are committed to expanding the level of service available to the local community.

For some time now LCP have been in negotiations with the LHD (who they rely upon to purchase operating theatre time, rent premises and, occasionally, beds for overnight stays) for the establishment of a long term and viable working arrangement. This is needed so that LCP can continue to plan for and deliver much needed specialist medical services in Lithgow.

Since this matter was last reported to Council, in November 2022, negotiations have been on-going between LCP and the LHD. Council's administration have been assured that goodwill has been brought to the negotiations by both parties. It has been said that there is hope that satisfactory arrangements will be arrived at. But it has also been suggested that this outcome may be some way off yet and a number of key issues are still to be resolved.

LCP has also made a formal request to the State Government for a relatively small amount of funding to partially restore losses from the covid pandemic and to replace a lung function machine which has reached end of service life. The request has not been granted at this stage.

In the absence of an appropriate arrangement between the parties, some risk remains that the Lithgow community could suffer a loss or reduction of the specialist medical services provided by Lithgow Community private. Lithgow is not a local government area that can endure any reduction in medical services. On this basis, it is recommended that the Council continue to advocate for a long term and viable working arrangement that will ensure the continuing operation of LCP.

Policy Implications

Financial Implications to Council

- 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. Email Response from Minister for Mental Health and Minister for Regional Health [11.1.2.1 - 1 page]
2. Report - 9.1.1. GM - 28/11/2022 - Lithgow Community Private [11.1.2.2 – 2 pages]

Recommendation

THAT Council continue to advocate to the NSW Government for a secure, long term and viable working arrangement for Lithgow Community Private with the Nepean Blue Mts Local Health District.

11.2. People and Services Reports

11.2.1. Building and Development

11.2.1.1. DEV - 23/01/2023 - Modification to Stormwater Design MODDA049/22 to DA021/18 Subdivision 1 into 86 Lots at Hillcrest Avenue South Bowenfels

Prepared by	Jessica Ramsden – Acting Team Leader Development
Department	Building & Development
Authorised by	Director of People & Services
Property Details	Lot 1 DP1230208 & Lot 521 DP1079638 – 43 Hillcrest Avenue Bowenfels NSW 2790
Property Owner	Hillcrest Developments NSW Pty Ltd & Lithgow City Council
Applicant	Anthony Daintith Town Planning

Reference

MIN 18-279 Ordinary Meeting 29 October 2018
 MIN 21-115 Ordinary Meeting 24 May 2021

Summary

To assess and recommend determination of a Section 4.55 1(a) Modification of Consent MODDA049/22 changes to stormwater design for DA021/18 subdivision 1 into 86 lots at 43 Hillcrest Avenue Bowenfels NSW 2790.

Commentary

History

DA021/18 was originally approved by the Council Min.18-279 on 29 October 2018, for an 86 Lot Subdivision in two (2) stages. The approval is 86 residential lots of greater than 800m2 with one (1) drainage lot comprising four (4) drainage reserves, with two (2) loop roads providing access from Hillcrest Avenue and Thornton Avenue, one (1) pathway and one (1) temporary right of way, all to be dedicated to Council.

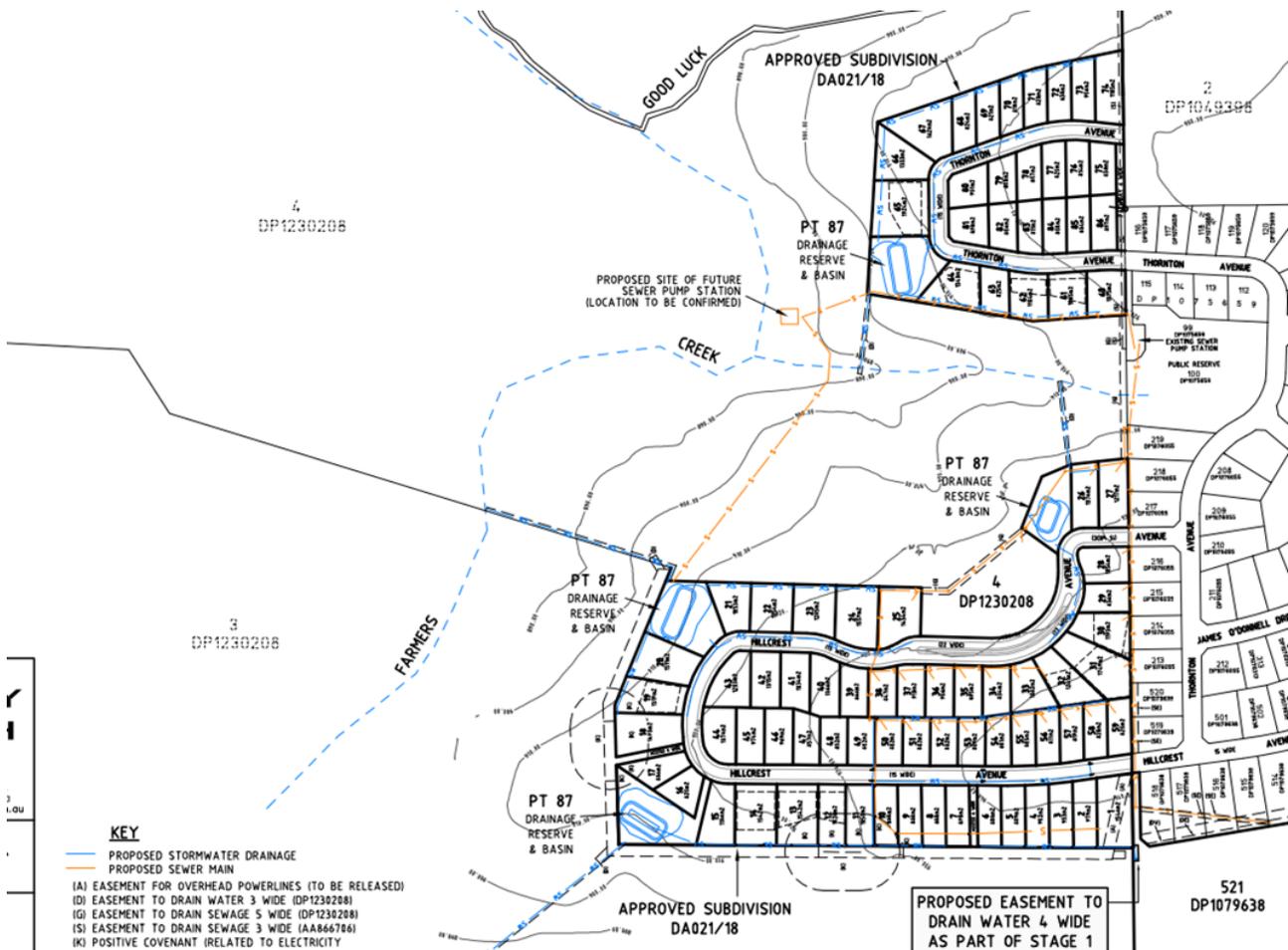
The development stages are:

Stage 1= 20 lots and one (1) drainage reserve
 Stage 2= 66 lots and three (3) drainage reserves

A modification MOD039/19 for removal of the provision of a link road and a Voluntary Planning Agreement in order to otherwise satisfy consent conditions has since approved at the Ordinary Meeting held on 24 May 2021.

Current Proposed Modification

Council is in receipt of Modification to Development Application MODDA049/22 from Anthony Daintith Town Planning for DA021/18 being subdivision of 1 into 86 lots at 43 Hillcrest Avenue Bowenfels NSW 2790. The proposed modification is to change the stormwater discharge point for Lots 1 to 6 to an outlet on Council's land known as Lot 521 DP1079638 to the west of the development. The geography does not allow these lots to easily be trenched back to the proposed bioretention basins (more than 4.7m deep for fall) north in the development and therefore a request for diversion to Council's land is required- see below plan:



No other changes are proposed for the subdivision under this modification. The proposal has been referred to Water NSW, Council’s Property Officer and Council’s Engineering Officer for assessment on the new stormwater layout, with no objection subject to amended conditions of consent. Details of the assessment and recommended amended conditions of consent are within the Development Assessment Report attached.

Policy Implications

Lithgow Community Participation Plan

The Lithgow Community Participation Plan applies to all land within the Lithgow Local Government Area (LGA) and prescribes the following for modification applications:

2.3.5 Notification for modification of development consent

Council will notify an application to modify development consent if the original assessment of the development application was notified or advertised. This includes an application to modify a development consent that was granted by the Land and Environment Court.

Council will notify the application for modification in the same manner as the original development application. Council will notify those persons who previously made submission(s) and any other person, who in the opinion of the Development Assessment Officer may now be affected by the application for modification.

Notwithstanding the above, Council will not notify applications that modify consent for the reasons of minor error, misdescription, miscalculation, or a modification involving minimal environmental impact where the Development Assessment Officer is of the opinion that the application is unlikely to cause:

- *prejudice to any person(s) who were originally notified; or*

- *prejudice to any person(s) who previously made a submission having regard to the matters raised in previous submission(s).*

As the proposal involves changes to Lots 1 to 6 for stormwater drainage only which impacts on Council owned land Lot 521 DP1079638, it is considered that the modification is of minor environmental impact. The proposed modification does not significantly change the subdivision and in the opinion of the development assessing officer that the minor modification will not cause prejudice to any of the previously notified or previous submitters. As such, no notification to adjoining or adjacent landowners was undertaken as part of this modification.

7.6 Development Applications by Councillors & Staff or On Council Owned Land

The original subdivision DA021/08 and subsequent modification MOD039/19 were both determined at an Ordinary Council Meeting given the implications of dedication of Council land and assets as a result of the development.

1. *That, subject to the exemptions in Part 2 of this Policy, the following development applications shall be referred to Council for consideration and determination:*
 - a. *Any development application lodged where the applicant is a Councillor or a member of Council's Executive staff or immediate family thereof*
 - b. *Where a Councillor or member of Executive staff, or their immediate family, is the owner of the land to which the application relates*
 - c. *Where the development application is on Council owned land*
 - d. *Where the application is on Crown land managed by Council*
 - e. *Any application that proposes to dedicate land or an asset to Council if the recommendation is for approval of that application*

Although this application is for a modification, in which the following clause is applicable, the modification further implicates Council's currently owned land Lot 521 DP1079638 which was not previously considered:

3. *This policy does not apply to applications for the modification of development consent unless the modification represents a significant departure from the original application. However, staff cannot assess or determine modification applications involving their development; their land; or development or land involving their immediate family.*

As such, given Council owned land known as Lot 521 DP1079638 now forms part of the proposal, consideration and determination is required by elected Council.

Financial Implications

- Budget approved - NA
- Cost centre - NA
- Expended to date - NA
- Future potential impact - A Voluntary Planning Agreement (VPA) has been negotiated with the developer in relation to this proposal. The developer has agreed to contribute \$275,200 in total, being \$3,200 per residential lot to go towards public infrastructure and is not subject to change as a result of this modification.

Legal and Risk Management Implications

In determining an application for modification of a consent, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. This has been undertaken accordingly as per the Development Assessment Report attached.

Attachments

1. ECM 2085001 v3 8 4.15 Residential Subdivision MODDA049 22 125501 (1) Assessment Report [11.2.1.1.1 - 45 pages]

Recommendation

THAT

1. The Modification Application MODDA049/22 for DA021/18 be approved in accordance with Development Assessment Report.
2. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

11.2.1.2. DEV - 23/01/2023 - Voluntary Planning Agreement- Nu-Rock Technology Pty Ltd - DA292/14

Prepared by	Jessica Ramsden - Acting Team Leader Development
Department	Building & Development
Authorised by	Director of People & Services
Property Details	Lot 2 DP 706219, Mount Piper Station 350 Boulder Road Portland NSW 2847
Property Owner	Energy Australia (NSW) Pty Ltd
Applicant	Nu-Rock Technology Pty Ltd

Reference

Min No: 22-204 Ordinary Meeting of Council 31 October 2022

Summary

To finalise the Voluntary Planning Agreement for an approved manufacturing plant being Nu-Rock Technology Pty Ltd under DA292/14 at Mount Piper Power Station, Boulder Road Portland.

Commentary

Council approved DA292/14 on 2 October 2015 at Lot 2 DP702619 Mount Piper Power Station Boulder Road Portland for a manufacturing plant for Nu-Rock Technology Pty Ltd. This manufacturing plant is to create recycled fly ash from the Power Station to create construction materials such as construction blocks and pavements.

As part of this approval, Council agreed to the applicant's offer for a Voluntary Planning Agreement (VPA) in-leu of payments of Section 94A Contributions as per the Section 94A (Section 7.12) Development Contributions Plan 2015 which would have incurred a levy of \$86,000.00.

The proposed VPA is for contributions towards community projects and/or activities comprising: \$60,000.00 paid prior to the issue of the Occupation Certificate in relation to the Development Consent; and □ \$30,000.00 annually and continuing for the life of the Plant to be paid within fourteen (14) days from the date of occupation thereafter. The planning agreement allows for an annual CPI adjustment. The proposal is acceptable given the payment is more than would have been received through the one-off payment for Section 94A (Section 7.12) Contributions. These payments will be subject to CPI at time of payments as per the Draft VPA.

The draft VPA was reported to Council on 31 October 2022 and it was resolved that it be endorsed. This then required exhibition of the VPA for public comment.

The Draft VPA was placed on public exhibition for a period of 28 days in accordance with statutory requirements. No submissions were received during this exhibition period, and it is recommended that the VPA be endorsed.

Policy Implications

Policy 7.8 Planning Agreements

A VPA has been negotiated in accordance with the Policy and Section 7.4 of the *Environmental Planning & Assessment Act 1979* in relation to DA292/14. The VPA has been advertised as required and can be endorsed by Council in accordance with the policy.

Financial Implications

- Budget approved - NA
- Cost centre - NA

- Expended to date - NA
- Future potential impact – The endorsement of the VPA will provide contributions towards community facilities and/or activities which are beyond that which would have been captured through a Section 94A (Section 7.12) levy.

Legal and Risk Management Implications

The legislative basis for the VPA is provided in the *Environmental Planning and Assessment Act 1979* (Sections 7.4 – 7.10) and the *Environmental Planning and Assessment Regulation 2021* (Clauses 202-206). The VPA has been exhibited for a period of at least 28 days pursuant to Section 7.5 of the Act.

Attachments

1. VPA Agreement Lithgow City Council - Nu- Rock Technology [11.2.1.2.1 - 32 pages]

Recommendation

THAT:

1. Council endorse the Voluntary Planning Agreement for DA292/14 involving the contribution by the developer of \$60,000 prior to Occupation Certificate and \$30,000 annually thereafter for community facilities and or activities.
2. Council authorise the General Manager to execute the Voluntary Planning Agreement on behalf of Council.
3. The Voluntary Planning Agreement, upon execution by both parties, be forwarded to the NSW Department of Planning and Environment.
4. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

11.2.1.3. DEV - 23/01/2023 - Variations to Development Standards under Clause 4.6 of the Standard Instrument

Prepared by Lauren Stevens – Development Planner

Department Development

Authorised by Director of People & Services

Summary

The purpose of this report is to advise Council of variations to development standards for the October to December 2022 quarter as per the NSW Department of Planning and Environment Guidelines.

Commentary

The provisions of clause 4.6 of the Lithgow Local Environmental Plan 2014 (LEP) enable consent to be granted in certain circumstances where a development proposal does not comply with prescribed development standards.

The objectives of clause 4.6 are:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular developments,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

In compliance with procedural and reporting requirements, variations approved under delegation by staff are to be reported to a meeting of the full Council on a quarterly basis. It is advised that two development applications were approved by staff for variations to development standards for the October to December 2022 quarter. This information, which is detailed in the attachment to this report, has been submitted to the Department of Planning and Environment in accordance with their reporting and procedural requirements.

Policy Implications

Nil.

Financial Implications

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

Legal and Risk Management Implications

Nil.

Attachments

1. Variations to Development Standards under Clause 4.6 of the Standard Instrument
[11.2.1.3.1 - 1 page]

Recommendation

THAT Council note the information provided in the report relating to variations to Development Standards under Clause 4.6 of the Standard Instrument for the October to December 2022 quarter.

11.2.2. People and Services General Reports

11.2.2.1. PS - 23/01/2023 - Lithgow Community Cultural Protocols

Prepared by Emma McGuinness - Corporate Strategy & Communications Support Officer

Department Strategic Planning

Authorised by Director of People & Services

Reference

Min: 22-161 Ordinary Meeting of Council 22 August 2022

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
<p><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.</p>	<p>This has been noted and the relevant changes have been made.</p>
<p><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</p>	<p>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>

<p>mentioning this is to highlight the need for transparency and authenticity.</p>	
<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>Council staff 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 Council only recognise the Wiradjuri nation and acknowledge Gundungurra and Darug as neighbouring nations. With respect to Capiti, BALC have no knowledge of this band.</p>

The administration were also alerted by local groups that the introduction of the protocol needed further amendment. The Bathurst Aboriginal Land Council were consulted and the introduction has been amended to read-

Lithgow City Council acknowledges Wiradjuri Elders past and present of the Wiradjuri nation - the original custodians of the land on which Lithgow's communities reside. The Council also extends our respects to neighbouring nations.

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

1. Lithgow Community Cultural Protocols [11.2.2.1.1 - 12 pages]

Recommendation

THAT Council adopt the Lithgow Community Cultural Protocol.

11.3. Infrastructure Services Reports

11.3.1. IS - 23/01/2023 - Road Naming Proposal - DA196/18, Woodlands Estate, Lidsdale

Prepared by Leanne Kearney – Assets & Infrastructure Planning Manager

Department Infrastructure Services

Authorised by Director Infrastructure Services

Summary

The purpose of this report is to advise Council of a road naming proposal of “Carriers Arms Close” and “Ostler Place” required as a condition of consent for the subdivision of DA196/18, Woodlands Estate at Lidsdale.

Commentary

Council has received a submission on the naming of two (2) roads created as part of the new subdivision for Woodlands Estate at Lidsdale for DA196/18.

The Developer has suggested the following names:

Road 1 – Carriers Arms Close, reflecting on the history of the area when the previous Carriers Arms Inn operated by numerous licensees between 1865 and 1907 (when the licence was transferred to the Stammers Hotel in Newnes)

Road 2 – Ostler Place, in recognition of the employees (known as Ostlers) who tended to the horses of people staying at the Inn, including the Cobb & Co who utilised the stables on site for their coaches to Mudgee. The stables are still located on site, close to the termination point of Road 2, and are currently utilised as garages, with many of the original features still visible.

Both proposed names comply with the Geographical Names Board criteria for road naming and are acceptable for gazettal by the Geographical Names Board if approved by Council.

Policy Implications

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

Financial Implications

Council will incur some minor advertising, administrative and signage costs in accordance with its Addressing Policy, however, the approval will be cost neutral to Council with the expenses incurred fully funded by the Developer in accordance with the fee set in Council’s adopted Fees and Charges for 2022 / 2023 (\$930.00).

- Budget approved - \$0
- Cost centre - 800188
- Expended to date - \$0
- Future potential impact - \$0

Legal and Risk Management Implications

Nil.

Attachments

1. DA196/18 Proposed Road Naming [11.3.1.1 - 1 page] - Plan showing the road locations and proposed naming for Woodlands Estate.

Recommendation

THAT Council:

In accordance with Council's Addressing Policy, advertise the road naming of the new roads created as part of DA196/18, off Ian Holt Drive, Lidsdale as "Carriers Arms Close" and "Ostler Place" in the local newspaper and notify emergency authorities and residents in the area, calling for submissions to be made for the statutory period of twenty-eight (28) days after which:

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

11.3.2. IS - 23/01/2023 - Wolgan Road Recovery and Alternate Route Construction

Prepared by Jonathon Edgecombe – Director Infrastructure Services

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Reference

Min. No. 22-207: Ordinary Meeting of Council held 31 October 2022

Summary

The Wolgan Road has been closed to traffic since early November 2022 because of immediate concerns regarding slope stability. This has stranded a community of about 150 residents. Businesses have also been gravely affected, including the Emirates One&Only Resort. This required that the Council act immediately, and that included using discretions available within the legislation to rapidly engage consultants to conduct works.

The Council's administration has developed a very sound working relationship with the NSW Government's disaster recovery agencies. It was quickly determined that the works to study the failure points, repair Wolgan Road and provide interim access to the valley qualified for funding.

Council has, for some time, been using the professional services of WSP Golder to study the geotechnical issues with the Wolgan Gap. They were engaged to assess the impacts of the major failure of the Wolgan Road (escarpments above and below), and the available remedial actions. In parallel, the Council also quickly scoped, designed approved and started construction of an alternate interim access. Public Works Advisory were engaged for project management services for the interim access. These appointments will exceed the tender threshold of \$500,000 but because of the urgency occurred outside a formal tender process.

Clause 55 (k) of the Local Government Act (1993) provides that an exemption to the requirement to tender can be made for contracts entered in the case of an emergency. These engagements satisfy Clause 55 (k) of the Act.

Because the Council was in recess for the Xmas and New Year period the Mayor, Councillor Maree Statham, was furnished with a report and approved (on behalf of the Council) the engagement of both WSP Golder and Public Works Advisory. The matter is now being reported to the Council to maintain openness and transparency.

This report also overviews the many actions that Council has taken to re-instate temporary access to the Wolgan Valley, and other initiatives to support the community.

Commentary

The Wolgan Road, adjacent to the Wolgan Gap, traverses incredibly difficult terrain. Upslope there are sheer rock cliffs and steep embankments. Downslope there is 200 – 300 vertical metres of vegetated embankments which support the road and its pavement.

Council identified the potential for geotechnical risk post-bushfire in December 2019 with the burn of all vegetation. Business cases and works programs were developed for state and federal funding of major repairs to the geotechnical aspects of Wolgan Road in the Gap. The value of these projects was approximately \$6 million and was outside the Council's financial capacity to deliver without external assistance. These applications were unsuccessful.

Since early 2021, the Lithgow LGA has been subject to significant and unprecedented rainfall. Over a rolling 12-month period, 150% more rain has fallen beyond that recorded since records began in the late 1800s.

Initially, failures were very isolated and slow moving. Expert, independent risk assessments demonstrated that the road could remain open, in a reduced capacity while design of the remedial solution occurred.

Over time, the failures continued to extend up and down the road. This made the design effort dynamic, with geotechnical assessments and designs requiring frequent revision. The difficult terrain also made this a highly technical and complex process. Hence, the investigation and design process has continued for 12 months.

Through this regular survey and monitoring process, Council identified upslope tension cracks (material pulling away from the greater slope) which are about 30 – 40 metres in length, 600mm wide and approx. 2 metres deep. These cracks show clear evidence of continued movement.

LiDAR surveys have shown that this movement is a real precursor to the large-scale failure of the Wolgan Road, with potential mobilisation of material in the order of 50,000 m², but perhaps up to 200,000m². The advice is that any vehicular traffic or other cause for vibration could encourage this failure to occur. With this knowledge, Council immediately closed the road to all traffic in November 2022. This hard closure remains in place.

Following the road closure, Council opened an emergency route through the use of a nearby National Parks trail known as the Old Coach Road. This carries its own risk (which is quantified and clearly understood by both Council and National Parks) and is limited to use by convoy only, with a maximum of 5 vehicles at any one time, facilitated by a skilled 4WD operator.

This is less than ideal as it greatly limits the independence of those who live and work in the Valley, with a significant negative social and emotional impacts. In recognition, Council commenced the urgent construction of an alternate route known as the Donkey Steps. This will be a Council owned and maintained trail, for use by residents only. Noting the terrain, this access will also be subject to some risk, however considerably less than either the Wolgan Road or Old Coach Road.

It is likely that the Donkey Steps track will be ready for use by residents in early February, with a decision taken recently to concrete surface the steepest section adding some weeks to the overall construction. Recognising that the Wolgan Road was closed in early November, and the Xmas/New Year period interrupted works, this is an exceptionally short time period for these works. Council, Public Works and Peter Gracey (the contractor) have excelled in their management and construction of this complex project in the most difficult of terrain. The support of the Mingaan Wiradjuri Aboriginal Corporation, who have assisted in assessment and safeguarding of any indigenous heritage, is also acknowledged.

Since construction of the Donkey Steps commenced, Council's geotechnical consultants have found that the nature of the Wolgan Road, which is built upon highly erodible material and subject to ongoing deterioration, makes it incredibly costly to repair with only short-medium term stability. Any attempt to maintain long term access would also come at a significant yearly cost. This is not a sustainable solution.

This risk-based information is currently being quantified as part of the development of a detailed report which will be peer reviewed by government and form the critical supporting document for the construction of a permanent alternative alignment. This report will be complete by Friday 13 January,

with a prompt review period immediately thereafter. Once this peer review period is complete, an information session will be held with the Council to discuss the content of the report.

In short, verbal advice is that the road cannot be repaired. In response, Council has immediately commenced work on the identification of an alternative, permanent route.

The following engagements have been made to facilitate this urgent work:

- Engagement of WSP Golder for ongoing geotechnical advice regarding:
 - The existing Wolgan Road and Council's management of the site,
 - Ongoing assessment of the construction of the Donkey Steps route,
 - Alternate route study to determine the most appropriate permanent alignment.

- Engagement of Public Works Advisory for ongoing project management of the Donkey Steps detour route and subsequent permanent repairs or construction.
 - Council lacks the resources to provide dedicated resources to this project, considering it requires the permanent site presence of engineering and safety personnel. Public Works are also an arm of the NSW Government through Department of Regional NSW.
 - Public Works are acutely aware of the complexities of the locality, with current contracts with National Parks and Wildlife Services associated with local National Parks assets.

WSP Golder have quoted \$600,000 for geotechnical design and support. Public Works Advisory (who have engaged Gracey and Son Earthmoving as a local subcontractor) have quoted \$1,580,531 for project management and physical works related to the Donkey Steps construction and subsequent upgrade.

Together, it is expected that costs for these services will approximate \$2,180,531 to the end of this financial year. Council staff have also met with principal staff of Transport for NSW, Public Works Advisory and Regional NSW to ensure their ongoing support, and de-risked of the project.

Council has received assurances that the full costs of construction for the temporary route will be met by the Natural Disaster Relief and Recovery Arrangements. Additionally, pending receipt and review of the Wolgan Gap Condition Report and the Alternate Route Analysis (including design and quantity survey), Transport for NSW have confirmed that the cost of the final restoration solution will be compensable under these same arrangements – subject to the works meeting relevant criteria. Early, unconfirmed estimates of the cost for this final solution fall between \$15 and \$20 million.

Other Services Provided:

While Council continues to lead the construction of the Donkey Steps, a variety of other services are being organised and provided to the community. This includes, but is not limited to:

- Ongoing weekly community meetings to keep the community informed of progress and involved in the development of access strategies and the alternative route analysis.
- Garbage and liquid waste removal.
- Fuel deliveries.
- Convoy services along the Old Coach Road.
- 2WD vehicle removal.
- 4WD driver training courses in anticipation of the Donkey Steps opening.

- Mental health and other well-being assistance (in collaboration with the Rural Adversity Mental Health Program)

As noted above, a 300-metre length of the Donkey Steps route exceeds a 30% grade. While concrete will be laid in late January to ease access and increase vehicle traction along this length, in the interim, access will be by 4WD only. For this reason, Council has arranged for 2WD vehicle removal and 4WD training courses, each provided by external contract.

While Council met the cost of the 4WD training, the 2WD vehicle removal will come at a cost of \$1,000 per vehicle, with this cost to be borne by residents.

It is understood that this period of significant disruption has caused a great deal of physical, mental, financial and social stress on all residents. It is suggested that the Council consider a \$300 subsidy of the \$1,000 vehicle removal fee. It is anticipated that approximately 30 vehicles may require removal. If this is the case, this subsidy will come at a cost of \$9,000 to the Council which can be accommodated within available funds.

Policy Implications

Nil

Financial Implications

- Budget approved - \$1,244,397
- Cost centre - 100737
- Expended to date - \$717,124
- Future potential impact - \$2,180,531

Legal and Risk Management Implications

Understanding the risk to continued access posed by the existing Wolgan Road alignment, immediate response to construct a detour route is required prior to implementing a permanent realignment.

This project has required substantial resourcing over the past two months. This has come at some cost in terms of delays or disruptions to other important asset and infrastructure works across the city. Once the Donkey Steps track is opened, council will need to moderate the resources it directs to the next phases of this issue (identifying, planning, designing, contracting construction of an alternate permanent access to the valley) until additional resources can be secured. The administration is preparing the documentation for an application for funding of these activities via disaster recovery funding. Positive discussions have been had with NSW Government representatives. The goal is to secure funding and move forward with minimal delay.

Attachments

Nil

Recommendation

THAT Council:

1. Note the appointment (and input to Council's 2022/23 works program and budget) of the Wolgan Valley access works via :
 - a. Public Works Advisory at an initial cost of \$1,580,531, and
 - b. WSP Golder at an initial cost of \$600,000.
2. Approve a single \$300 subsidy per vehicle to contribute to the costs of 2WD vehicle recovery from the Wolgan Valley.
3. Identify the re-instatement of a permanent resilient access into the Wolgan Valley as a key project within its IP&R documents and do all things possible to achieve this outcome as a matter of priority, subject to funding being identified and achieved.

11.3.3. IS - 23/01/2023 - Replacement of Street Sweeper

Prepared by Steve Cronin – Plant Manager
Department Infrastructure Services
Authorised by Director of Infrastructure & Services

Summary

This report summarises the tender process for the supply of a new street sweeper and seeks a resolution of the Council to purchase a replacement machine.

Commentary

Background

The street sweeper, housed at Lithgow Depot, is one of Council's highest cost items of plant. Replacement of Lithgow's street sweeper is due. The machine is currently eight years old and, because of the nature of the machine and the frequency of use, it suffers from regular breakdown. The purchase of this machine has been factored into Council's 8-year plant replacement forecast.

Repairs to the machine come at substantial cost as parts are becoming hard to source. The last breakdown required custom parts to be sourced from the United Kingdom, a process which took 4 months and necessitated the local hire of a replacement machine, also at considerable cost.

A tender request for public response was issued through Vendor Panel, making use of the Local Government procurement lists. Three companies responded to Council's request for tender. The results of this tender process are explained below.

Due to the similarity of cost, the Administration's suggestion is the result of qualitative assessment of each machine. Council's Plant Manager, Leading Hand Mechanic and the machine operator inspected and tested available options.

Tender Results

Make and Model: Superior Pac-Faun

Cost: \$427,874

Positives: Simple machine layout and good availability of Dual-Control IZUSU.

Negatives: Can't determine finished height (to fit into workshop), long lead-time on parts, only 12 similar units used in Australia, poor layout of internal controls, rigidity of hose system (potential for bending over time).

Recommendation: Decline.

Make and Model: Rosmech-Scarab Mistral

Cost: \$426,339

Positives: Up-to-date machine components, simple in-cab machine diagnostics, simple internal control layout, many units operating throughout Australia.

Negatives: Cables that lift suction pipe can take time to procure. Remedy - order several and keep as a stock item in store.

Recommendation: Accept

Make and Model: Bucher Municipal

Cost: \$427,789

Positives: Almost the same unit as is currently owned by Council, good knowledge of machine.

Negatives: Will continue to present many of the same issues that the current machine does, including long lead time on parts procurement.

Recommendation: Decline.

Once Council is in receipt of the new machine, sale of the existing will occur immediately. The proceeds will be returned to the plant reserve.

Policy Implications

Nil

Financial Implications

- Budget approved - \$600,000 (total annual plant reserve)
- Cost centre - 100025
- Expended to date - \$167,956 (from this year's annual plant reserve)
- Future potential impact - \$426,339

Legal and Risk Management Implications

Nil

Attachments

Nil

Recommendation

THAT Council approve the purchase of the Rosmech-Scarab Mistral street sweeper at a cost of \$426,339 incl. GST.

11.4. Water and Wastewater Reports

11.4.1. WWW - 23/01/2023 - Waste Management & Resource Recovery Strategy 2022-2026

Prepared by Nigel Campbell – Waste & Recycling Manager

Department Waste & Recycling

Authorised by Executive Manager Water & Wastewater

Reference

Minute No 22-185 (Draft Waste Management & Resource Recovery Strategy 2022-2026): Ordinary Meeting of Council held on 26 September 2022.

Summary

The purpose of this report is to advise the outcome of the public exhibition process and recommend for adoption the Lithgow City Council *Waste Management & Resource Recovery Strategy 2022-2026*.

Commentary

At the Ordinary Meeting of Council on 26 September 2022 Council resolved to place the Draft Waste Management & Resource Recovery Strategy 2022-2026 (Waste Strategy) on public exhibition for a period of 28 days (Min. No. 22-185).

The purposes of the strategy are to:

1. Identify the strategic objectives that Council will focus on over the next four years.
2. Identify the goals, actions, timeframes and measurements that will be used to achieve the strategic objectives.
3. Inform the planning and delivery of services, facilities and infrastructure for waste management and resource recovery within the Lithgow LGA over the next four years.
4. Establish a direction for investigating the possibilities for future investment in waste and resource recovery industry and business in the LGA.

The Waste Strategy was placed on public exhibition from 10 October 2022 until 11 November 2022.

The public exhibition consisted of a media release, posts on Council's Facebook and Instagram pages, advertisement in the Council Connections newsletter as well as copies being available for inspection at the Council Administration Building and at the Lithgow City Council Libraries at Lithgow, Portland and Wallerawang. The community was provided with the opportunity to provide written submissions to Council by 11 November 2022 and were notified that a final version of the strategy would be put to Council.

Responses

A total of 6 submissions were received on the Waste Strategy.

Areas of support for the Waste Strategy were:

- Council's Strategic Vision for waste management;
 - Alignment with NSW Waste and Sustainable Material Strategy and best practice;
 - Priority on reduce/avoid, reuse and recycle in accordance with waste hierarchy;
 - Following the principles of the circular economy; and
 - Introduction of a kerbside organics (FOGO) service.
-

The main issues raised related to Energy from Waste (EfW). Concerns raised included:

- Not part of circular economy;
- Emissions/pollution;
- Discourages recycling;
- Impact on communities and tourism;
- Outdated mode of waste disposal; and
- Out of area waste impacts;

This aspect of the strategy (EfW) is addressed separately later in this report.

Other concerns and suggested improvements are summarised in the table below.

Concern	Council Response
Confirmation that the priority is on reduce/avoid, reuse and recycle in waste hierarchy rather than Energy from Waste.	Yes, the waste hierarchy will be followed and this prioritises reduce/avoid, reuse and recycle over Energy from Waste.
Make recycling easier and encourage source separation of waste rather than build large sorting centres.	The Resource Recovery Centre currently under construction is designed to encourage users to separate materials as they unload to improve recycling.
Derive value from recycled products	Council already seeks opportunities to sell recovered products. This work will continue, however much of the recovered material can only be processed and re-used at a cost.
Provide soft plastics collection	The cost to provide soft plastics collection by Council is prohibitive at this stage. Council will continue to review.
Increase the number of different materials that can be sorted through kerbside service	Council is proposing a third (green) bin for food and garden organics (FOGO) collection. Additional collection services may be considered however there are significant costs associated with the provision of additional bins.
Concern over where recycling goes	Council appreciates the concern over where the recycling goes, particularly following the recent problems with the Redcycle soft plastics recycling at supermarkets. While there have been instances of stockpiling or landfilling of recycled products due to the lack of demand for certain materials, Council uses a reputable processor for yellow bin recycling and monitors the material processing. There has been no evidence of recyclable material from Lithgow yellow bin collections going to landfill other than the 'contaminated' material that has to be removed.
Need to reduce reliance on plastics	Education will focus on the priorities of the waste hierarchy with the highest priority being reduce/avoid.

Energy from Waste

The only basis for referencing EfW within Lithgow Council's Waste Strategy is to align the strategy with the NSW Waste and Sustainable Materials Strategy. Under the NSW strategy, energy recovery is part of the circular economy model. While energy recovery is considered to be part of the circular economy model, the priority remains to follow higher order material recovery (reduce/avoid, reuse, recycle) as per the waste hierarchy.

Lithgow Council's Waste Strategy is focused on achieving resource recovery and waste management outcomes that are consistent with higher levels of the waste hierarchy. The higher levels of the waste hierarchy require:

- Reducing or avoiding waste,
- Reusing waste, and
- Recycling and composting waste.

The key actions outlined in Council's Strategy are aimed at goals and objectives that are consistent with achieving these more highly preferred waste management and resource recovery outcomes. As an example, key actions include developing a kerbside organics (FOGO) implementation plan, finishing construction of the Resource Recovery Centre and undertaking material separation on site to match available recycling markets. These actions focus on higher order resource recovery.

It is also important to note that EfW includes various thermal treatment processes including combustion, thermal oxidation, thermal or plasma gasification, pyrolysis and torrefaction. Energy recovery can also be in the form of landfill gas extraction where the combustion process is used to generate electricity.

Policy Implications

Nil.

Financial Implications

- Budget approved - proposed actions included in recurrent Waste budget and capital budget for 2022/23.
- Cost centre - various under recurrent Waste budget and capital budget.
- Expended to date - n/a
- Future potential impact - implementation plan and strategy to be followed over the next four years if adopted by Council for Waste Management.

Legal and Risk Management Implications

Nil.

Attachments

1. Waste Management & Resource Recovery Strategy 2022-2026 [11.4.1.1 - 52 pages]
Waste Management & Resource Recovery Strategy 2022-2026

Recommendation

THAT Council adopt the *Waste Management & Resource Recovery Strategy 2022-2026* as exhibited and included as an attachment to this report.

11.5. Finance and Assets Reports

11.5.1. FIN - 23/01/2023 - Application for a Special Rate Variation

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.
Min No. 22-227 Ordinary Meeting of Council held on 28 November 2022
Min No. 22-235 Ordinary Meeting of Council held on 28 November 2022.

Summary

In November 2022, the Council resolved to lodge an application for a Special Rate Variation (single-year permanent increase) of 45.7% to commence from 1 July 2023. The purpose of this report is to seek Council's resolution to submit the application.

The report also recommends that Council adopt the updated Integrated Planning & Reporting documents which have been placed on public exhibition for 28 days.

Commentary

At the 28 November 2022 meeting, Council resolved:

22 -235 RESOLVED

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.

Proposed Transformation Fund

The following was reported to the 28 November 2022 Ordinary meeting:

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.

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.

Despite the best efforts of all parties, a binding transformation fund agreement could not be finalised in the brief timeframe before the 23 January 2023 meeting. Any agreement would have required the inclusion of safeguards for all parties and legal review prior to execution. With Christmas closures affecting the three parties involved (including Council), there was insufficient time to negotiate agreements and undertake sufficient due diligence.

Accordingly, it is recommended that the 45.7% increase (including 3.7% rate peg) option, which Council took to the community for consultation, be adopted for the purpose of the application. It is also recommended that Council continue to commit to close collaboration with the mining, power generation and quarrying industries to give full effect to the mutual beneficial outcomes that evolved during those consultations.

Updated Permissible General Income Summary

The table below (from the SRV application form) shows the proposed overall 42% SRV increase plus the rate peg for 2023/24. **The Council has committed to limiting any increase in the residential, farming and business (general) rating categories to 27.7% (including the 3.7% rate peg).**

PERMISSIBLE GENERAL INCOME SUMMARY FOR 2023-24

All dollars in nominal terms

Please check all income adjustments and expiring variation amounts with OLG before submitting the application.

Prior year Notional General Income		14,857,400
Less: Expiry of a prior special variation		-
Adjusted first year Notional General Income		\$ 14,857,400
Plus: Rate peg - first year	3.70%	549,724
Plus: na	0.00%	0
Plus: Additional increase - first year	42.00%	6,240,108
Plus: na	0.00%	0
Plus: Crown Land adjustment - first year	0.08%	11,755
Total special variation - first year	45.78%	\$ 6,801,587
Other First Year Adjustments:		
Plus/Minu Prior year Catch-up/(Excess)		10,314
Minus: Valuation Objections claimed in prior year		0
	Total Adjustments	10,314
First year Permissible General Income		\$ 21,669,300

Capacity to Pay

The consideration and shaping of the proposal to increase land rates has had significant regard for the community's capacity to pay. The analysis has been included in Council's adopted LTFFP. This is also a key SRV application criterion, with the need to demonstrate that the impact on affected ratepayers is reasonable and the increases are affordable.

Affordability and intergenerational equity were critical considerations in the external review of Council's rating policy. 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 findings.

Following inter-category analysis, the rating review recommended that a higher incidence of increased rating be placed on heavy industries (mining, quarrying, power generation). The particular methodology used by Council's expert consultants (FTG) in calculating an appropriate amount for each of these categories considered the consumption of Council resources by that category as well as intergenerational equity and affordability considerations. Council considered those recommendations and the methodology and evidence underpinning it in arriving at its position and the underlying material was published and referred to in the material provided during the consultation period.

A comparative larger yield from the heavy industries enabled a lower incidence of increased rating in the residential, farmland and business rating categories which are most impacted by cost of living and other affordability pressures. Also, as part of the refinement of the SRV scenario it was determined that the pensioner concession would be increased by 20% (\$50) to \$300 p.a. to further reduce the incidence of increased rating on pensioners.

Council considered a range of indicators (including SEIFA and outstanding rates and charges comparisons) to assess whether the proposed rate increases would be affordable for the community. A discussion of these considerations was fully set out in the LTFFP.

Council also undertook intra-category analysis of the impact of the proposed SV on residential and business ratepayers by quartile and decile. Council adjusted the base amount of the proposed rating to ensure that the residential component became more progressive (a lower incidence in the lower two quartiles with lower land values). For example, the incidence in the first quartile in the residential category is 18.3% (excluding the further impact of the pensioner rebate which lowers that figure further). The incidence in the fourth quartile is 34%. The incidence in the first decile is 13.1% (which equates to an additional \$1.33 each week). The analysis also revealed that the proposed rating would not significantly impact incidence within the business category. This is largely because intra-category rating incidence within the business category is already very progressive within the top quartile of businesses in the business urban category paying 65% of the overall rating in that category.

Also, successive studies of the correlation between property prices and capacity to pay confirms that property prices are a reasonable indication of capacity to pay (see, for example, South Australian Centre for Economic Studies (2004), 'The Correlation Between Income and Home Values: Literature Review and Investigation of Data – Final'). It is for that reason that Council's administration is confident that structuring the base rate so as to ensure a more progressive incidence of the proposed increases will ensure significant capacity to pay issues are avoided.

Finally, and for abundant caution, Council commissioned specialist advisers to local government, Morrison Low, to conduct an assessment of the community's capacity to pay. This provides an objective and independent assessment. Similar detailed studies have assisted other NSW Councils with successful SRV applications.

The study compares and assesses the following items, provided information is accessible:

- Population and age profile,
- Average wages and jobs by industry/sub types,
- Unemployment, pensioner breakdown,
- Median weekly household income, SEIFA ranking, comparative income distribution and household debt,
- Business and agriculture economic value and/or grp and/or income,
- Changes in living expenses such as electricity, water and gas,
- Household stress,
- COVID-19 impacts on the community and industry,
- Outstanding rates, and
- Other relevant 2016 and 2021 ABS census data and other sources.

The draft capacity to pay study was received just prior to compilation of this report. It is being reviewed by the administration, but notwithstanding its status as draft it is included as an attachment to this report.

Public Exhibition of Integrated Planning & Reporting documents

Council was also required to amend its set of Integrated Planning and Reporting documents to reflect the proposed SRV. These were exhibited for public consideration and comment. No submissions were received during the public exhibition period.

The following Integrated Planning & Reporting documents are recommended for adoption -

- [Supplementary Community Strategic Plan 2035.](#)
- [Supplementary Combined Delivery Program 2022– 2026 and Operational Plan 2022/23.](#)
- [Updated 2022-2032 Long Term Financial Plan.](#)
- [Updated 2022-2026 Workforce Plan.](#)
- [Updated 2022-2032 Strategic Asset Management Plan.](#)

Councillor Feedback

Council’s administration has gone to great lengths to extensively brief the Council about the many key aspects of this major initiative. Feedback has been appreciated, and all suggestions or requests for matters to be considered have been vigorously examined. See the below table -

Councillor Feedback	Officers Response
For the next two (2) years all income raised from the Special Rate Variation in excess of the 3.7% rate peg be allocated to the construction, renewal, repair and maintenance of roads including curbing and guttering, storm water drains and systems. The ratio of this expenditure to be 70% for roads and 30% for drains.	The proposed SRV expenditure program for 2023/24 includes additional maintenance / renewal funding for roads (\$3.026M) and stormwater drainage (\$459K). If additional financial capacity is achieved via the SRV, there is merit in an impactful works program to address current backlogs in asset maintenance and renewal. The councillor feedback provides a valid way forward. It is also important, however, that asset management systems be brought to a very high standard. A balance will need to be struck to optimise the expenditure over the period of the LTFP. The administration will develop a range of options from which the Council could consider bringing forward some or all of the 2024/25 SRV expenditure program to achieve the intent of the councillor feedback in terms of front-loading

	additional road and stormwater asset investment.
A review of current funding levels of community capacity-building initiatives through Council's Community Development programs to support other community sectors that are disproportionately impacted, such as low-income earners in the rental market.	The adoption of the annual Operational Plan and budget provides opportunity to adjust emphasis and resources across the Council's many service areas. Councillors can bring forward requests for new initiatives as part of the annual budget preparation (currently underway). All requests can be considered by the administration and advice provided to the Council. Councillor Information Sessions on the draft budget and operational plan are scheduled to be held for the above purposes during March 2023.
A timeline for completing the required Asset Management Plans and their associated Service Plans be provided to Council. <ul style="list-style-type: none"> • All Asset Groups identified as part of the Asset Management Plans. • Minimum resourcing levels to provide the appropriate level of condition and functions of assts be identified. • All material lifecycles provided for in the SRV funding inclusive of maintenance & renewal costs. 	Council's asset management plans are presently being optimised to ensure that interventions in asset renewal (and maintenance) are programmed to maximise the safety of the network foremost but, secondly, the value of each invested dollar. This work will be completed by the end of 2023. Council has also engaged NSW Public Works to conduct a comprehensive review of its Integrated Water Cycle Management Plan to ensure the operational optimisation of that community utility.
A 12-month review occurs relating to affordability issues, in particular the Pensioner Rebate.	A 12-month review relating to affordability will be undertaken and reported to the Finance Committee.
All cumulative small business rates / charges are reassessed.	Council sets its charges each year. Fees and charges which apply to small businesses will be considered as part of the preparation of the 2023/24 budget. As a feature of that process the Council can gauge cumulative impact.
Sewer and water dividends previously transferred to General Rates are utilised to address causal factors in urban sewerage systems failure, which is part of an ongoing and significant public health risk to our community.	Council's water and sewerage services are operated as commercial businesses, and as such, are expected to meet the requirements of National Competition Policy. Government businesses are required to calculate Commonwealth tax equivalents. The payment of tax equivalents ensures that Government businesses do not have a net competitive advantage over their private sector counterparts due to their public ownership. The Council has an adopted policy which ensures that services operate under the principles of competitive neutrality. Previous resolutions on sewer dividends have been enacted. There are sufficient funds in the sewer reserve to address causal factors in urban sewerage systems failure. The consideration is the extent of funding that is directed to this aspect as opposed to other required sewerage system works. Business cases are currently being

<p>A clear contract with the community is established that outlines, delivers and reports on annual programs of work, which are funded through the special rates variation funding and proposed future fund.</p>	<p>finalised for the 2023/24 capital works program, including sewerage system works.</p> <p>Operational Plan The Statement of revenue policy included in the operational plan must include the following statements:</p> <ul style="list-style-type: none"> • A statement with respect to each ordinary rate and each special rate proposed to be levied • In the case of a special rate - the purpose for which the rate is to be levied. <p>Council identifies the source of revenue and amount for projects and programs in the Operational Plan.</p> <p>Reporting</p> <ul style="list-style-type: none"> • Clause 203 of the Local Government (General) regulation requires that budget review statements and a revision of estimates must be reported to the council within 2 months after the end of each quarter (except the fourth quarter). <p>IPART Special Rate Variation Guidelines – 7.1 Reporting Mechanisms requires that the Annual Report include a:</p> <ul style="list-style-type: none"> • Report on activities funded via a special rate variation of general income including: <ul style="list-style-type: none"> ○ reporting requirements set out in the Instrument of Approval. ○ projects or activities funded from the variation. ○ outcomes achieved as a result of the project or activities. ○ A council’s Annual Report must provide a report on the achievements through the Delivery Program. ○ The State of the City (4-yearly) report should also outline detailed performance indicators to report against the Delivery Program achievements in relation to the special variation.
<p>A clear strategy for advocacy to the Federal Government concerning Federal Assistance Grants and cost-shifting elements from the NSW Government is developed, actively pursued and reported to the Council twice yearly.</p>	<p>Council’s administration is advocating for an address of the challenge of financial sustainability by other levels of government. Mostly this is done via industry representative groups such as ALGA and LGNSW. The Council resolved at its meeting held on 28 November 2022 (Min. 22-227) to endorse the following as one of its priorities for advocacy in the lead up to the NSW State Election.</p> <p>Sustainable Local Government</p> <ul style="list-style-type: none"> • Substantially review and reform the funding arrangements for local government to provide the sector with

	<p>the capacity to meet the many challenges of the 21st century. A section for Advocacy will be included within Council's Integrated Planning and progress will be reported accordingly through this process.</p>
<p>A governance structure is established and provided to the Council relating to the operation and use of the proposed Future Fund.</p>	<p>This is supported.</p>

Timeline

Upon resolution of Council, the administration will move to finalise the SRV application and lodge the application with IPART by the deadline of 3 February 2023.

Councillors have been provided with an (incomplete) draft of the application form prior to the 23 January 2023 meeting.

The final version of the application will be released by IPART as a public document.

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

The Council's administration will continue to deal with any enquiries and communicate effectively with the community about this key initiative throughout the next phases outlined above.

Policy Implications

Nil.

Financial Implications

As detailed in the Long Term Financial Plan.

Legal and Risk Management Implications

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

Attachments

1. Lithgow City Council - Capacity to Pay Report - Final [11.5.1.1 - 29 pages]

Recommendation

THAT Council:

1. Submit a Special Rate Variation application (by 3 February) under Section 508(2) of the NSW Local Government Act for a permanent Special Rate Variation (SRV) 45.7% increase (including 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. Reaffirm its commitment 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. Adopt the updated Integrated Planning & Reporting documents. This includes 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.

11.5.2. FIN - 23/01/2023 - Investment Report November 2022

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

Reference

Min No 22-216 Ordinary Meeting of Council held on 31 October 2022.

Summary

The purpose of this report is to advise Council of investments held as at 30 November 2022 and to note the certification of the Responsible Accounting Officer that funds have been invested in accordance with legislation, regulations and Council policy. The report also provides commentary on the cash and investments balance compared with the funding required for internally and externally restricted reserves.

Commentary

Movements in the Cash and Investments Balance

Council's total investment portfolio as at 30 November 2022, when compared to 31 October 2022, had increased by \$4,850,986 to \$31,975,904. Investments increased from \$27,124,919 to \$31,975,905. Cash in Council's bank account decreased from \$3,479,364 to \$2,227,530.

The \$3.6M increase in cash and investments is mainly due to the ordinary business of Council, with high cash inflows for the November rates instalment. High cash outflows are ongoing due to the payment of invoices for natural disaster recovery works and programmed capital works projects.

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

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

Opening Balance of cash and investments as 01 November 2022	\$30,604,283
Plus New Investments – November 2022	\$11,850,986
Less Investments redeemed – November 2022	-\$8,251,834
Closing Balance of cash and investments as at 30 November 2022	\$34,203,435

CFIO comment on the cash and investments balance – the \$3.6M increase in cash and investments in October 2022 was generally anticipated due to high cash inflows for the rates instalment due in November 2022. Cash outflows are being managed to ensure that the timing of natural disaster claims and grant funding milestones matches the pace of works undertaken.

High value Accounts Payable transactions included \$530K for asphalt (Methven Rd works), \$327K for domestic waste collection, \$128K for road remediation works, \$406K for the Glen Davis bridges project, \$448K for earthmoving, \$140K for Portland watermain renewal, \$109K for a workers compensation premium instalment, \$360K for water purchases and \$427K for Cullen Bullen sewer scheme.

The pace of works and expenditure on high value contracted natural disaster projects has been slowed to allow time for claims to be submitted and paid.

Funding Requirements for Restricted Reserves

A large proportion of Council's investments are held as restricted assets for specific purposes. Restricted assets may consist of externally restricted assets which must be spent for the purpose for

which they have been received (e.g. Water, Wastewater, Domestic Waste) or internally restricted assets which have been set aside by Council resolution. Some internal restrictions are held to fund specific liabilities such as employee leave entitlements and bonds and deposits.

CFIO comment on restricted reserves – Council had sufficient cash and investments at 30 September 2022 to fund \$26.2M of externally restricted reserves and \$4.3M of internally restricted reserves.

The Administration took action to initiate the working capital short-term loan facility to cover anticipated high cash outflows throughout the 2022/23 year for grant funded capital projects and claimable natural disaster recovery works. The use of the loan for these purposes accords with Council's resolved policy position.

Policy Implications

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

Financial Implications

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

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

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

Legal and Risk Management Implications

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

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

CERTIFICATION OF THE RESPONSIBLE ACCOUNTING OFFICER

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

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

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

Attachments

1. November 2022 Investment [**11.5.2.1** - 1 page]

Recommendation

THAT

1. Investments of \$31,975,905 and cash of \$2,227,530 for the period ending 30 November 2022 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.
3. The commentary on funding requirements for restricted reserves be noted.

11.5.3. FIN - 23/01/2023 - Investment Report December 2022

Prepared by Sharon Morley – Finance Officer

Department Finance & Assets

Authorised by Chief Financial & Information Officer

Reference

Min No 22-216 Ordinary Meeting of Council held on 31 October 2022.

Summary

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

Commentary

Movements in the Cash and Investments Balance

Council's total investment portfolio as at 31 December 2022, when compared to 30 November 2022, had increased by \$3,004,188 to \$34,980,093. Investments increased from \$31,975,905 to \$34,980,093. Cash in Council's bank account decreased from \$2,227,530 to \$320,080.

The \$1.1M increase in cash and investments is mainly due to the ordinary business of Council, with payments received in December and lower cash outflows during the holiday period.

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

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

Opening Balance of cash and investments as 01 December 2022	\$34,203,435
<u>Plus</u> New Investments – December 2022	\$7,004,188
<u>Less</u> Investments redeemed – December 2022	-\$5,907,450
Closing Balance of cash and investments as at 31 December 2022	\$35,300,173

CFIO comment on the cash and investments balance – the \$1.1M increase in cash and investments in December 2022 was generally anticipated due to higher cash inflows and a slower pace of cash outflows. Cash outflows are being managed to ensure that the timing of natural disaster claims and grant funding milestones matches the pace of works undertaken.

High value Accounts Payable transactions included \$104K for asphalt, \$327K for remediation of George Coates St, \$1.67M for natural disaster road remediation works, \$126K for the Glen Davis bridges project, and \$148K for domestic waste collection.

The pace of works and expenditure on high value contracted natural disaster projects has been slowed to allow time for claims to be submitted and paid.

Funding Requirements for Restricted Reserves

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

CFIO comment on restricted reserves – Council had sufficient cash and investments at 30 September 2022 to fund \$26.2M of externally restricted reserves and \$4.3M of internally restricted reserves.

The Administration took action to initiate the working capital short-term loan facility to cover anticipated high cash outflows throughout the 2022/23 year for grant funded capital projects and claimable natural disaster recovery works. The use of the loan for these purposes accords with Council's resolved policy position.

Policy Implications

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

Financial Implications

- YTD interest income budget approved – \$275,000
- Cost centre - 3259
- YTD Income to date - \$275,000
- Future potential impact – Nil.

The Council's interest income for 2021/22 is on budget for year-to-date. Investment returns have increased since January 2022 with Council being able to achieve up to 4.5% return on six month investments. Also, Council's average investment balance has been above the budgeted average investment balance of \$28M.

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

Legal and Risk Management Implications

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

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

CERTIFICATION OF THE RESPONSIBLE ACCOUNTING OFFICER

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

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

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

Attachments

1. December 2022 Investment [**11.5.3.1** - 1 page]

Recommendation

THAT

1. Investments of \$34,980,093 and cash of \$320,080 for the period ending 31 December 2022 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.
3. The commentary on funding requirements for restricted reserves be noted.

11.6. Policies and Governance

11.6.1. GM - 23/01/2023 - September 2024 Council Election

Report by General Manager

Summary

This report seeks the appointment of the NSW Electoral Commissioner for the conduct of the September 2024 election in the Lithgow Local Government Area.

Commentary

Options Available to Council

Under section 296AA of the Local Government Act 1993 (the Act), each council must resolve by 13 March 2023 either:

- to engage the NSW Electoral Commissioner (NSWEC) to administer the Council's elections, polls and referenda, or
- that the council's elections are to be administered by another electoral services provider.

For past elections, Council has engaged the NSWEC to administer elections and the performance of the NSWEC has been satisfactory.

Councils wishing to elect to have the NSW Electoral Commissioner conduct their 2024 local government elections must resolve to do so by 13 March 2023. Those councils must also enter into a contract for the provision of election management services by 13 June 2023.

If a council fails to make a decision on the administration of its elections, polls and referenda by 13 March 2023, it will not be able to engage the NSWEC to administer its ordinary election and it will be required to make its own arrangements with another electoral services provider for the administration of its elections.

Local Government Act 1993 Provisions

296AA Councils to plan for administration of elections

(1) At least 18 months before the next ordinary election of councillors for a council, the council must resolve—

- (a) to enter into an arrangement with the Electoral Commissioner, by contract or otherwise, for the Electoral Commissioner to administer elections of the council (as provided by section 296), or
- (b) that the elections of the council are to be administered by an electoral services provider engaged by the council.

296 How elections are to be administered

(1) Elections for the purposes of this Chapter are to be administered by the general manager of the council concerned, except as provided by this section.

(2) A council can enter into an arrangement (an "**election arrangement**") with the Electoral Commissioner, by contract or otherwise, for the Electoral Commissioner to administer elections of the council as provided by this section. If such an arrangement is entered into, the Electoral Commissioner is to administer elections of the council in accordance with the arrangement.

(3) An election arrangement for the Electoral Commissioner to administer all elections of a council can be entered into if:

- (a) the council resolves at least 18 months before the next ordinary election of councillors that such an arrangement is to be entered into, and
- (b) the arrangement is entered into no later than 15 months before the next ordinary election of councillors.

It is recommended that Council appoint the NSW Electoral Commissioner for the conduct of the September 2024 election in the Lithgow Local Government Area.

Policy Implications

Nil.

Financial Implications

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

Funds are transferred to the Elections Reserve in each Operational Plan to manage the cost of the 4 yearly Council election.

Legal and Risk Management Implications

The recommendation of this report is consistent with the NSW Local Government Act 1993 and the Office of Local Government model resolution.

Attachments

1. Council Circular 22-35 Councils' decisions on the administration of their September 2024 ordinary el [11.6.1.1 - 2 pages]

Recommendation

THAT Council resolves:

1. Pursuant to s. 296(2) and (3) of the Local Government Act 1993 (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
2. Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
3. Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

11.6.2. WWW - 23/01/2023 - Policy 8.1 Excessive Water Usage Allowance for Breakages

Prepared by Ross Gurney - CFIO

Department Water & Wastewater

Authorised by Executive Manager Water & Wastewater

Reference

Min. No. 19-31 Ordinary Meeting of Council held on 25 February 2019

Summary

The purpose of this report is to provide Council with a revised Policy 8.1 Excessive Water Usage Allowance for Breakages and seek endorsement to place the policy on exhibition for 28 days for public comment.

Commentary

At the Ordinary Meeting of Council held on 25 February 2019, Council resolved:

19-31 RESOLVED

THAT Council adopt the following policies as exhibited:

- Policy 8.9 External Grant Funding.
- Policy 8.1 Excessive Water Usage Allowance for Breakages.

After several years of application, Policy 8.1 was recently reviewed. To improve clarity and fairness related to the intent of the policy, Policy 8.1 – Excessive Water Usage and Allowances for Breakages has been revised to improve its operation. The changes are:

- Responsibility for oversight and application of the policy moved from Finance to Water Supply as Water & Wastewater control the revenue which may be impacted by the policy.
- Clarification that all requests must be in writing with sufficient details of the circumstances of the undetected leak.
- Clarification that a request for a rebate must be received within 30 days of receipt of the consumption account or from the date that the leak was discovered.
- Council officers with appropriate delegated authority may approve rebate applications in accordance with the criteria set out in Sections 2 and 3 of the policy.
- Where possible, Council will utilise its smart metering system to provide information to property owners for possible leak notification. As Council utilises an online platform for property owners to assess their usage information from the smart meters, Council does not accept liability in cases where there is no notification of a potential leak.
- Council will correspond with the property owner via written correspondence to notify of leaks wherever possible.
- Council will maintain records of correspondence to notify of leaks and provide this to the property owner upon request. A rebate will not be provided on the grounds of correspondence not being received or a leak notification not being received.
- Right of Review - property owners who are not satisfied with a rebate decision are entitled to one appeal of that decision.

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

Policy Implications

The revisions to Policy 8.1 – Excessive Water Usage and Allowances for Breakages will make the policy clearer to rebate applicants, as well as being a fairer process for both rebate applicants and all water customers who bear the cost of rebates.

Financial Implications

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

Legal and Risk Management Implications

Nil.

Attachments

1. Draft Policy-8 1- Excessive Water Usage Allowance For Breakages [**11.6.2.1** - 4 pages]

Recommendation

THAT

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

12. Council Committee Reports

12.1. FIN - 23/01/2023 - Finance Committee Meeting Minutes - 23 November 2022

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

Reference

Min No 22-216 Ordinary Meeting of Council held on 31 October 2022.

Summary

This report provides a summary of the Minutes of the Finance Committee Meeting held on 23 November 2022.

Commentary

At the meeting of the Finance Committee held on 23 November 2022 the following items were discussed:

- **Options for a Sustainable Future** - The General Manager and CFIO presented the report to the 28 November 2022 meeting on the Options for a Sustainable Future.
- **2022/23 Quarter One Budget Review** – The CFIO presented the Quarter One Budget Review report. It was highlighted that the reasons for the significant change in Council's projected operating result (before capital) from original budget \$3.6M surplus to \$6.4M surplus substantially relate to the extraordinary extent of road repairs following multiple natural disasters.

The following business paper recommendation was endorsed by the Committee:

Council Investments Report October 2022

THAT

1. Investments of \$27,124,919 and cash of \$3,479,364 for the period ending 31 October 2022 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.
3. The commentary on funding requirements for restricted reserves be noted.

Policy Implications

Nil.

Financial Implications

As detailed in the Finance Committee meeting minutes.

Legal and Risk Management Implications

Nil.

Attachments

1. Draft Minutes Finance Meeting 23 November 2022 [**12.1.1** - 5 pages]

Recommendation

THAT Council endorse the minutes of the Finance Committee meeting held on 23 November 2022.

**12.2. FIN - 23/01/2023 - Audit Risk & Improvement Committee (ARIC) Minutes - 13
December 2022**

Prepared by Ross Gurney – Chief Financial and Information Officer

Authorised by Chief Financial & Information Officer

Reference

Min No. 22-153 Ordinary Meeting of Council held on 25 July 2022.

Summary

This report summarises the minutes of the Audit Risk & Improvement Committee (ARIC) meeting held on 13 December 2022.

Commentary

At the ARIC meeting held on 6 July 2022, the following items were presented and discussed:

- **2022/23 Quarter One Budget Review** - the Audit Risk and Improvement Committee discussed and noted the Quarterly Budget Review Report for the period 1 July 2022 to 30 September 2022.
- **Interim Audit Management Letter** - the 2021/22 interim audit management letter was noted by the Committee.
- **Application for a Special Rate Variation (SRV)** – the General Manager and CFIO provided an update on the SRV application. The Committee provided in principle support of Council's action to proceed with a Special Rate Variation.
- **Financial Statements for the Year Ended 30 June 2022** - The Committee reviewed and discussed the 2021/22 financial statements.

In recent years, Council has shared an ARIC with Oberon Council, the Committee being named the Central Tablelands Alliance Audit Committee. After a period of this shared arrangement, it became apparent that the two councils are at different points in their approaches to audit, risk and improvement. It became the case that the workings between the councils and the committee were not able to be conducted in a shared fashion. Dealings took the form of one-on-one between each of the councils and the committee. This diminished the opportunities for shared learning, problem solving and the like. As such, the councils' elected reps and administrations agreed that there was not a material benefit from the shared committee.

From 2021/22, both Councils have proceeded with separate Committee arrangements to prepare to implement the Guidelines for Risk Management and Internal Audit for Local Government in NSW.

This report seeks Council's endorsement to dissolve the Central Tablelands Alliance Audit Committee arrangements with Oberon Council and formally establish the Lithgow Council ARIC as an external Committee of Council. The terms of reference are an attachment to this report.

Policy Implications

Nil.

Financial Implications

Nil.

Legal and Risk Management Implications

The functions of the CTA ARIC assist in the management and mitigation of risk at Council.

Attachments

1. Draft ARIC Minutes 13 December 2022 [**12.2.1** - 6 pages]
2. Lithgow Audit Risk and Improvement Committee TOR - FINAL [**12.2.2** - 12 pages]

Recommendation

THAT Council:

1. Endorse the Audit Risk & Improvement Committee meeting 13 December 2022 minutes.
2. Dissolve the Central Tablelands Alliance Audit Committee arrangements with Oberon Council and formally establish the Lithgow Council ARIC as an external Committee of Council.

13. Business of Great Urgency

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

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