



Lithgow City Council's, Seven Valleys - Visitors Information Centre at sunset

BUSINESS PAPER

Ordinary Meeting of Council
to be held at

Council Administration Centre
180 Mort Street, Lithgow

on

Monday 27 March 2023
at 7:00 PM

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1. Acknowledgement of Country

Acknowledgement of Country

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

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 27 February 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

8.1. **CONFIDENTIAL - Mayoral Minute - 27/03/2023 - Staff Matters**

Report by Mayor – Councillor Maree Statham

Reason for Confidentiality

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

- (a) personnel matters concerning particular individuals (other than councillors)
- (f) matters affecting the security of the council, councillors, council staff or council property

Reference

Min 23-45 Ordinary Meeting of Council 27 February 2023

Summary

This item deals with individual staffing matters concerning employment and remuneration.

Attachments

Nil

Recommendation

THAT this item is moved to the end of the meeting and considered in closed Confidential Council.

9. Notices of Motion

9.1. Notice of Motion - 27/03/2023 - Cr S. McGhie - Fifteen Minute Parking Zone for Lithgow Mobility Aids

Report by Councillor Stuart M^cGhie

Commentary

With our aging population people are finding it increasingly difficult to access the Lithgow Mobility Aids Shop from the front or rear if 25 Main Street Lithgow.

Attachments

Nil

Recommendation

THAT a fifteen minute parking zone specific to Lithgow Mobility Aids be made by signs flat against the wall on either side of the rear driveway access of 25 Main Street Lithgow.

Management Comment

Parking matters adjacent to Lithgow Mobility Aids have been referred to the Council on several occasions, as follows:

1. Notice of Motion raised by Cr. Coleman at the Ordinary Meeting of Council held 23 March 2020
2. Report to the Ordinary Meeting of Council held 22 June 2020.
3. June 2020 – Correspondence from Mr. K. Collins relating to a request for an accessibility ramp.
4. January 2020 – Correspondence from Minister Toole relating to requests for ramps and disability parking.
5. October 2019 – Correspondence from Minister Gee relating to requests for ramps and disability parking.
6. Letters, site meetings and other correspondence between Council and the owners of Lithgow Mobility Aids from 2017 through to 2022.

Over the years, several options have been considered to improve disability access, both in front and behind the store. The most suitable and feasible option, considering the variety of standards that must be met for disability parking, was the placement of two disability parking spaces to the rear of the store. This has occurred, with specific parking 16 metres from the store's rear access.

In addition, there is shared disability parking in front of the store, 34 metres from the store entrance.

However, in this instance it is understood that the request is for a timed 15-minute parking zone in the rear lane. Unfortunately, this cannot occur. The lane in this area is just 5 metres wide but carries two lanes of traffic. Any parking along the rear lane will block traffic along one lane, which is why the entire length of the lane carries "No Stopping" signage.

This "No Stopping" signage was installed in response to vehicles parking in the lane, and complaints from residents, motorists and the Courthouse, which requires this area to maneuver buses into their block (to the south).

A map is included below for ease of understanding of the current parking layout.



10. Staff Reports

10.1. General Manager's Reports

10.1.1. EXEC - 27/03/2023 - National General Assembly (NGA) 2023

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

Reference

Min 22-71 Ordinary Meeting of Council held on 26 April 2022.

Summary

The purpose of this report is to inform Council of the 29th National General Assembly of Local Government (NGA) 2023 Conference being held from Tuesday 13 June to Friday 16 June 2023 in Canberra and for Council to determine the delegates to attend the event.

Commentary

The Australian Local Government Association (ALGA) is convening the 29th National General Assembly of Local Government (NGA), to be held in Canberra in mid-June 2023.

The theme of the 2023 NGA is "Our Communities, Our Future". This year's call for motions focusses on eight priority areas:

- Productivity;
- Local Government Infrastructure;
- Community Wellbeing;
- Local Government Workforce;
- Data, Digital Technology and Cyber Security;
- Climate Change and Renewable Energy;
- Natural Disasters; and
- Housing.

At the time of writing this report the Council's administration is still considering if there are any motions that should be proposed for this Assembly. The Joint Organisation is also being canvassed in this regard. If it becomes apparent that there are motions then they will be provided to councillors ahead of the meeting.

The cost per delegate to attend this event is \$895 if registered and paid prior to 19 May 2023. Accommodation is estimated at \$1,050 each for a three-night stay. The approximate total cost is \$1,975 per delegate.

Based on past delegations to the National General Assembly Conferences Council has sent two voting delegates and the General Manager. The total cost of this would be a minimum of \$5,835.

Policy Implications

Policy 9.5 Councillor Expenses and Facilities.

Financial Implications

- Budget approved - Yes
- Cost centre – PJ 800154
- Expended to date - nil for the National General Assembly Conference 2023
- Future potential impact - \$5,835 minimum based on two Councillors and General Manager attending.

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

Legal and Risk Management Implications

N/A

Attachments

Nil

Recommendation

THAT Council:

1. Appoint the Mayor and Deputy Mayor as attendees to the NGA23 Conference;
2. Authorise the General Manager or a delegate of the General Manager, to also attend the NGA23 Conference.

10.1.2. GM - 27/03/2023 - Update Lithgow Community Private

Prepared by Craig Butler - General Manager

Department Executive

Authorised by General Manager

Reference

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

Min 23-8 Ordinary Meeting of Council held 23 January 2023

Summary

The Council has received a number of reports over recent months about the matter of negotiations between the Nepean Blue Mts Local Health District (NBMLHD) and Lithgow Community Private (LCP) for the purpose of securing a long term and viable working arrangement for LCP.

This latest report is presented because the Council resolved that an update be provided each two months.

The report relies upon advice received from the LCP Board about the status of the negotiations.

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 LCP. For this reason, it is recommended that Lithgow City Council continue to advocate for the necessary support to prevent this.

Commentary

As has been reported to Council on previous occasions, Lithgow has a significant aged cohort of the local population. Also, the socio-economic circumstances of the local community predispose it to certain adverse health consequences. Also, 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 an innovative and successful example of a community run successful model of specialist health service delivery, complementary to the public health service, in a rural/regional setting.

Also, there are other medical businesses and services which have clustered in the precinct. Council has previously heard how it is important that LCP be given every level of support so that this small but important health ecosystem is able to provide much-needed health services locally.

LCP have two current key items that they are pursuing with the NBMLHD and the NSW Government. LCP are presently working with the NBMLHD to secure appropriate working arrangements for those aspects of their operation which relies on or intersects with the public hospital. Also, like all medical services, the operation of Lithgow Community Private (LCP) was profoundly affected by the Covid pandemic. In LCP's case they were required to use some reserved capital to underpin their operations. LCP have requested a small amount of financial assistance from the NSW Government to restore their working capital back to pre-covid amounts.

Since this matter was last reported to Council the LCP Board has provided the following comment -

Discussions between LCP and the local health district on a long-term sustainable arrangement are progressing. In the meantime, LCP continues to operate as usual. Day surgery activities are returning closer to pre-Covid levels, but further activity is needed for full restoration. The Specialist Medical Centre is operating as usual, and LCP is expanding the range of services offered. In March

LCP commenced dermatological consultations and several new specialties are planned for the coming months.

LCP was partially successful with a grant submission to the state government funding of \$66,000 for the replacement of our lung function machine. LCP is grateful for Council support of this proposal and, LCP is continuing to push for the remainder of the proposal to be funded for the replenishment of capital consumed during the Covid period.

There are many precedents of financial support being provided to a range of business and other sectors to facilitate their recovery from the financial impacts of Covid shutdowns. Surely, LCP is a most worthy candidate for such support given the critical role it plays in delivering specialist medical services to the local community.

Lithgow is not a local government area that can endure any reduction in medical services. On this basis, it is recommended that the Council maintain its current position of advocating:

1. for a long term and viable working arrangement between the NBMLHD and LCP that will ensure the continuing operation of LCP, and,
2. consideration by the NSW Government of LCP's request for financial assistance to support LCP returning to pre-covid levels of available working funds.

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. Report - GM - 28-11-2022 - Lithgow Community Private [**10.1.2.1** - 2 pages]
2. Report - GM - 23-01-2023 - Lithgow Community Private Update [**10.1.2.2** - 2 pages]

Recommendation

THAT the report on Lithgow Community Projects be received.

10.2. Infrastructure Services Reports

10.2.1. IS - 27/03/2023 - Wolgan Road - Review of Slope Risk Assessment

Prepared by Jonathon Edgecombe – Director Infrastructure Services

Department Infrastructure Services

Authorised by Director Infrastructure Services

Reference

Min. No. 22-144: Ordinary Meeting of Council held on 25 July 2022.

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

Min. No. 23-6: Ordinary Meeting of Council held on 23 January 2023.

Summary

This report provides the results of a comprehensive slope risk assessment (SRA) of a part of the Wolgan Road which has been affected by upslope and downslope subsidence, in the Wolgan Gap. Due to the magnitude of the loss of life risk present today and going forward, the Wolgan Road adjacent to the Wolgan Gap must remain closed to all traffic.

This report includes a timeline of events to lend appropriate context to the consideration of this matter.

The SRA identifies that a repair effort would attract a significant cost of over \$60 million, which is many times the value of the section of road. Also, such a project would be incredibly risky for workers. Additionally, there would be substantial recurrent resourcing requirements needed to maintain stability, but these works would not guarantee ongoing stability and so the risk of further failures of the road would remain.

The findings of this report establish that every effort should be directed to identifying, designing and constructing an alternate alignment and replacement road.

Commentary

Timeline of Events

Pre-2019 Bushfire

1. The Wolgan Road, adjacent to the Wolgan Gap, traverses difficult terrain. Upslope there are sheer rock cliffs and steep embankments. Downslope there are 200 – 300 vertical metres of vegetated embankments which support the road and its pavement.
2. In recognition of this risk, Council put in place a comprehensive risk management plan which applies to the Wolgan Road, developed by Golder & Associates, and applied by both Council and Golder in collaboration. The plan involved bi-yearly LiDAR surveys and prism inspections to determine large scale movement. Risks remained tolerable and only minor works like tree removals, drain clearing and minor rock bolting and dropping had been required. **During this period of time, none of the mechanisms of significant disruption to the geotechnical conditions in the locality, of the scale that recently presented, were identified.**

Dec. 2019 Bushfire – Initial Nov. 2021 Wolgan Road Failure

3. Council identified the potential for geotechnical risk post-bushfire in December 2019. The risk arose through the loss of all vegetation. In response, business cases and works programs were developed for state and federal funding. These plans were professionally and expertly developed by Golder & Associates. **The value of these projects was**

approximately \$6 million and was outside the Council's financial capacity to deliver without external assistance.

4. Applications were made under both the NSW Government's Bushfire Local Economic Recovery Fund, and the Australian Government's Black Summer Bushfire Recovery Grants. **Each of these applications were unsuccessful. Representations were also made directly to the Local Members.**
5. Council continued to advocate for these projects.
6. Since early 2021, the Lithgow LGA has been subject to significant and unprecedented rainfall (since records have been kept). Over a rolling 12-month period, there has been 150% more rain than has ever been recorded since records began in the late 1800s.
7. Throughout the LGA, high rainfall has resulted in widespread damage, all of which requires Council to balance significant and competing works priorities. Such projects include, but aren't limited to:
 - a. Flooding and isolation of the Glen Davis Village,
 - b. Widespread failure of the road network requiring procurement of many contractors and supervision of numerous repair projects,
 - c. Overflow of sewer services in urban areas resulting from stormwater inflows, and
 - d. A 3 week long gas outage affecting every resident and business in the LGA and where council played a large support role.
8. The SRA has established that the sustained heavy rainfall resulted in the build-up of significant pore water pressures in the rock face above and below the Wolgan Road, causing the incremental, widespread failure of the Wolgan Road adjacent to the Wolgan Gap.

Nov. 2021 Wolgan Road Failure through to the Complete Closure of Wolgan Road

9. Initially, the failure was very isolated and slow moving. Expert, independent risk assessments demonstrated, at that point in time, that the road could remain open, in a reduced capacity while design of the remedial solution occurred.
10. In the live environment, the failures continued to extend up and down the road. This made the design effort a moving target, with geotechnical assessments and designs requiring frequent revision. The difficult terrain also made this a highly technical and complex process.
11. The investigation and design process continued for 12 months with partial closures becoming a pattern as works were undertaken to repair the road. Council and WSP Golder continued to assess the site, clear drains, cover and waterproof exposed failures, crack seal pavements, among a variety of other risk mitigating tasks.
12. Council's only available option during the above time period was to manage and repair the existing road until the best solution was determined, designed, costed and funding achieved.
13. **Then the nature of this project shifted completely (from that described in 12 above) on 9 November 2022** when through the 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.
14. LiDAR surveys have shown that this movement is a real precursor to larger scale failure of the Wolgan Road. There is the potential for mobilisation of material in the order of 50,000 m². With the knowledge of this extreme risk Council immediately closed the road to all traffic on 9 November 2022. This hard closure remains in place.

Complete Closure of Wolgan Road – Today

15. With this closure, Council opened an emergency route using a nearby National Parks trail known as the Old Coach Road.
16. Because of the high-risk, workers cannot enter onto the Wolgan Road to undertake repairs. Council commenced construction of an alternate route known as the Donkey Steps.
17. Since construction of the Donkey Steps commenced, the geotechnical consultants have verbally informed Council that the nature of the Wolgan Road (which is built upon highly

erodible material) and the current rate of deterioration means that any remediation is likely to come at incredible cost and only offer short-medium term stability. This advice has been received in a technical paper. This paper has been reviewed by Government and is included as an attachment to this report.

18. All written and verbal advice received to date confirms that the current failures are entirely the result of environmental impact, and it is not reasonable or possible to expect that anyone could have predicted the magnitude or the failure mechanisms now presenting (in terms of timing, scale, and quantity).
19. Council has immediately commenced work on the identification of an alternative, permanent route. This work is proceeding rapidly, and simultaneously with the construction of the medium-term Donkey Steps detour route.
20. The Donkey Steps detour route is nearing completion. Poured concrete has been laid to cover the steepest sections, and concrete matting continues to be laid from the end of the concrete, for a length of approximately 250 metres. Bitumen seal contractors have inspected the site to consider the feasibility of applying a bitumen seal, with verbal advice indicating this is possible. Other road furniture including guardrail is being installed to maximise safety.
21. Residential and business traffic is currently utilising the Donkey Steps detour route. Council continues to work closely with all stakeholders, facilitating heavy vehicle traffic where possible. Meetings with the community continue to be held weekly to discuss all matters relevant to the project. There is significant community interest in the outcomes of this report to Council.

Slope Risk Assessment Results

Costs associated with the Wolgan Gap recovery process are claimable under the Australian Government's Natural Disaster Repair Arrangements (NDRA). It is imperative that Council satisfies all criteria for NDRA to ensure any application for funding of the work is capable of being approved.

With costs for this work predicted to exceed \$25 million, Council must undertake a detailed options analysis to satisfy due diligence requirements associated with this project. In brief, this due diligence process must include two key projects:

1. A detailed Slope Risk Assessment (SRA) which identifies the benefits, challenges, risks and costs associated with the repair of the road adjacent to the Wolgan Gap. Noting the significance of this project, NSW Government experts have peer reviewed the report to ensure the relevancy of methodology, assumptions and thereby the accuracy of the report findings. This work is complete and is the subject of this report.
2. A comprehensive Alternate Route Analysis to determine the best possible corridor and alignment for a potential new, permanent alignment. This will include detailed feasibility analyses, design, costing, and community engagement. This project is underway, with the corridor identification complete, and detailed surveys flown by drone to inform the alignment selection process.

Report Findings

The detailed SRA is attached to this report. Both Council and Transport for NSW (agency responsible for administering the NDRA) have reviewed the report. A summary of the report findings are as follows.

1. The dominant slope hazards necessitating complete closure of the road are caused by the ongoing period of protracted above average rainfall which impacted the Lithgow LGA over the full 2022 calendar year.
2. Council's current and ongoing closure of the Wolgan Road is justified due to the unacceptable risk to life and property.

3. The methodology applied to calculate loss of life, social and property risk, based on annual probabilities of landslide, spatial impact and temporal spatial probability, are based on best practice (AGS 2007).
4. The assumptions included in these calculations, notably the 'person most at risk', but also average vehicle speed, rockfall diameter and adopted vulnerability values, are reasonable.
5. The limit values for tolerable risks (life, property and social), based on AGS 2007b, are also best practice.
6. Taken together, **current slope hazards pose an annual individual loss of life risk of more than 200 times greater than the generally accepted limits.**
7. Taken together, **current slope hazards pose an annual societal risk of one or more fatalities of 1,000 times greater than generally accepted limits.**
8. Rectification of Category 1 hazards (13), if feasible, would attract a cost of greater than \$20 million, but still result in loss of life, property and societal risks many times greater than generally accepted limits.
9. **To reduce risk to a tolerable level, all Category 1 and Category 2 hazards, and some Category 3 hazards, will require rectification and attract a cost of greater than \$60 million.**
10. Such a project may not be feasible, would be incredibly risky, and costs are likely disproportionate to the risk improvements obtained over the long term. Similarly, the expected cost of this work would very likely greatly exceed the value of the asset.
11. Significant yearly costs will include regular inspection, monitoring, maintenance, repair and asset replacement.

The findings of Council's engineer are that the closure of the asset is justified and must continue. With the Donkey Steps detour now open, and Old Coach Road available during any period of closure, the Wolgan Road in its current state must remain closed to any use. The findings of this report also justify Council's already commenced investigation into a permanent, alternate alignment, and the full costs associated with construction, pending the results of a proper quantity survey of such an alignment.

As noted above, Transport for NSW experts have also peer reviewed both the SRA itself, and Council's findings. Advice from Transport for NSW is as follows (emphasis added):

*The 2.7km section of Wolgan Road discussed in the report has a calculated Annual individual loss of life risk and Annual societal risk of one or more fatality well in exceedance of industry tolerable limits, it is suggested that there are many hazards, in particular 13 Category 1 hazards that pose a risk to investigation and remediation workers let alone any members of the public accessing the site. **This supports the notion of keeping the 2.7km section of Wolgan Road closed temporary to all public access until further investigations (if required) are carried out and alternate alignments are investigated.** Noting that temporary alternate access is provided via Donkey Steps detour, and Old Coach Road available during any period of closure.*

*Case 3 is the only case that rates as "Marginally Tolerable" (Case 3 Loss of Life Risk Assessment), however, makes the assumption that **all Category 1 & Category 2 hazards as well as selected Category 3 hazards are effectively remediated with no residual risk, noting that in reality this will not be the case as there will be some residual risk.** The high-level estimates from the data obtained to date shows that an option of this magnitude would cost upwards of \$60 Million. This information is adequate to form the 'base case' scenario and leads us into the next logical step which is the investigation of the alternate alignments to be used in a comparison process.*

I support progressing into detailed investigation for a permanent, alternate alignment and look forward to seeing some of the options and findings.

As the estimated reconstruction cost for the project will more than likely be >\$25 million, an Independent Technical Review will need to be conducted. I am seeking clarification from

the NSW Reconstruction Authority on this and will provide further information shortly. Essentially, this will be conducted once the final proposal is selected, we will continue to work on this so that it doesn't cause much disruption to the program.

Summary of Findings

As suggested at the outset, the SRA identifies that a repair effort would attract a significant cost of over \$60 million, many times the value of the asset itself. Such a project would be incredibly risky. Additionally, yearly resourcing requirements to maintain stability would be considerable, but would likely not guarantee ongoing stability due to the highly erodible nature of the road foundations.

It is likely that the construction of an alternate route will be more cost effective and offer greater resilience of access in the long term.

To achieve this outcome, this report suggests that every effort should be made to identify, design and cost an alternate alignment. Due to the magnitude of the loss of life risk presented, the Wolgan Road adjacent to the Wolgan Gap must remain closed to all traffic.

Next Steps

The community is very interested in the results of this report to Council. This report has the effect of providing the public with the SRA. Council staff will now schedule a meeting with residents and business in the valley to explain and discuss the findings of the SRA. Representatives of Council and WSP Golder will be in attendance, but attendance will also be requested of Transport for NSW, Public Works NSW, NSW Reconstruction Authority (previously Resilience NSW). The SRA will also be placed on Council's website.

Upon completion of the Donkey Steps detour route (late March), the Administration will proceed with haste to finalise the Alternate Route Analysis, including relevant feasibility assessments, design, costing and project approvals. Thorough community engagement and reporting to the Council will occur throughout this process.

Understandably, the affected residents and businesses are seeking firm times for re-instatement of an acceptable and fully functional permanent road. It is not possible, however, to give such detail because there are many variables with each of the steps from here (and these depend on the decisions and positions taken by other levels of government as much as Council, as well as planning approval considerations).

To date, this has been an incredibly complex project and Council has delivered fantastic results in a very short timeframe. Council's dedication to assisting this community and delivering the best possible result will continue through to completion of this project.

Project Challenges

Noting the expected value of future works, this project will test the Council's financial capacity. This is largely due to the current Natural Disaster Recovery Arrangements (NDRA) framework which applies an arrears-based payment system for all recovery projects. For Councils without significant working capital to support large cash outflows, this results in project delays as claims are processed.

Already, the significance of the Donkey Steps construction process has resulted in some delay to the delivery of other disaster recovery projects, with invoices as large as \$1.1 million expected. Understanding that the future permanent solution will approach \$30 million, this represents a financial risk to the organisation. This is alongside the need to continue service provision across a wide array of other projects across the local government area simultaneously.

Although definite timeframes for the construction of a new road are not able to be provided, at this point, it is likely to be no less than several years. The Wolgan Valley community and businesses will be vulnerable to a range of risks during this protracted period of time. Rightly so, each resident and business owner of the Wolgan Valley expects all levels of government to walk in lockstep, implementing the flattest and most efficient pathways to see a permanent alternate alignment constructed. Council shares this expectation.

It is undeniable that without commitment to innovative thinking and disruption of this status quo, the existing frameworks of disaster recovery funding will hinder Council's ability to efficiently deliver this project. Accordingly, the following outcomes are requested of both the NSW and Australian Governments.

1. It is suggested there be clear acknowledgement of the strategic importance of this project, both to the Lithgow economy and its residents, but also from a regional perspective. The outcomes that have been delivered so far with the construction of the Donkey Steps are in large part due to the background roles that the Australian and NSW Govts have played. But the community will now need, over several years, to deal with the uncertainty of a protracted period before a new fully functional road is built. It would be of comfort for the community to receive an enduring commitment from Council and Governments about maintaining exceptional levels of support to the Wolgan Valley community until a safe, permanent alignment is restored. **The construction of a new Wolgan Road should, we consider, be overtly characterised by all levels of government as a special category of recovery projects, with new practice applied (see below point) .**
2. Over the course of this project, engagement with several stakeholders will be required for consultation and relevant approvals. Department of Planning and Environment, National Parks and Wildlife Services, the Local Aboriginal Lands Council, just to name a few. It is requested that all three levels of government work to **find or create a more direct and efficient pathway for project planning, approvals, procurement and subsequent construction.**
3. A commitment is requested of government to work closely with Councils and Joint Organisations to complete a review of funding levels and funding arrangements to release the disaster recovery burden on local government. Namely, **provision be created for projects of approved scope and cost to receive advance payments so that project delivery, including timeliness, is not compromised by the financial constraints of the local authority.**

Policy Implications

Nil

Financial Implications

- Budget approved - \$3,424,929
- Cost centre - 100737
- Expended to date - \$1,315,569
- Future potential impact – Approaching, or exceeding, \$25 million, based on the results of the Alternative Route Analysis. Costs associated with the Wolgan Gap recovery process are claimable under the Australian Government's Natural Disaster Repair Arrangements.

Legal and Risk Management Implications

Ongoing closure of the Wolgan Road to all traffic is required to ensure that risks to life and property remain tolerable.

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. There have been positive discussions with NSW Government representatives. The goal is to secure funding and move forward with minimal delay.

Attachments

1. Review of Slope Hazards - Background and Summary [10.2.1.1 - 49 pages]
2. Review of Slope Hazards - Full Analysis [10.2.1.2 - 77 pages]

Recommendation

THAT Council:

1. Endorse the contents and findings of the Slope Risk Assessment, as attached to this report.
2. Engage with the community on the findings of the Slope Risk Assessment, providing the report to the community (with a summary) for this purpose.
3. Proceed without delay to complete the Alternate Route Analysis, continuing to engage deeply with Government and community throughout this process.
4. Advocate for the three actions identified within the *Project Challenges* section of the report.
5. This matter be reported to Council at three monthly intervals to publicly convey progress and challenges.

10.3. Water and Wastewater Reports

10.3.1. WWW - 27/03/2023 - Tender Evaluation - Detailed Design and Construction of the West Bowenfels Sewerage Pumping Station

Prepared by Samuel Lenkaak - Projects Engineer
Department Water & Wastewater
Authorised by Mathew Trapp - Executive Manager Water & Wastewater

Summary

This report deals with the proposal to design and construct the West Bowenfels Sewerage Pumping Station (SPS) in the West Bowenfels area of Lithgow, as well as trunk mains to connect the existing sewerage flows from neighbouring developments and a trunk for future developments.

The report summarises the tender evaluation process and seeks Council approval to award the tender to Keane Civil and Construction Pty Ltd.

Commentary

Council placed a tender advertisement to find a suitably qualified, experienced and capable contractor to deliver the detailed design and construction of the West Bowenfels Sewerage Pumping Station (SPS) in the West Bowenfels area of Lithgow, as well as trunk mains to connect the existing sewerage flows from neighbouring developments and a trunk for future developments.

The need for the pumping station has been determined through a concept design, which sites it within future residential development sites. The concept also proposes a full detailed design and construction to cater for current and future flows as found in the South Bowenfels Infrastructure Study. The new sewerage pumping station will need to cope with flows from the existing developed areas, such as the Hillcrest and Landa Street developments, and the new developments to be completed in the West Bowenfels area in future with trunk mains connecting the areas to the new SPS.

The South Bowenfels area of Lithgow has been determined by Council as an area for future residential development based on the locality and the topography of the land. Council currently has several sewerage pumping stations throughout this area that service the existing residential land, however, the likely increase in population will require substantial change to the current systems which Council owns and operates. Council has undertaken a concept study and design for three sewerage pumping stations in the area based on anticipated loadings from future developments.

Tender Process

The request for tender was advertised via Vendor Panel to the open marketplace under the categories, 'Water & Sewage', Pipeline Construction and Water & Sewage Pump Station Construction.

Council received impressive responses from a total of 5 respondents (in alphabetical order);

- Focus Industrial Pty Ltd,
- Keane Civil & Construction Pty Ltd,
- Q-Max Pumping Systems Pty Ltd,
- SNG Engineering Pty Ltd, and
- Utilstra Pty Ltd.

The evaluation team was made up of four Council Officers

- Purchasing Coordinator,

- Executive Manager – Water & Wastewater,
- Water & Wastewater Works & Project Officer, and
- Water & Wastewater Senior Engineer.

As a condition of responding to the RFT, respondents were required to provide answers to all response schedules which covered the following criteria:

- Pricing (50% weighting)
- Schedule & Design (5% weighting)
- Experience (15% weighting)
- Capability (20% weighting)
- Sub-Contractors & Key Personnel (7.5% weighting)
- Local Procurement Policy (2.5% weighting)

A summary of the evaluation results is found in the table below -

<u>Tenderer</u>	<u>Pricing based</u>	<u>Comments</u>
Focus Industrial Pty Ltd Evaluation Score 0%	Tender is non-conforming and not related to the actual project so was removed from the calculations in evaluation.	Not Located in the Lithgow LGA.
Keane Civil & Construction Pty Ltd Evaluation Score 88%	The tender was compliant with all the requirements of the scope and specification. Tender was ranked 1 st based on value for money	Not Located within the local LGA and therefore the Local Procurement policy was not utilised. Schedule of rates included.
Q-Max Pumping Systems Pty Ltd Evaluation Score 67%	The tender was compliant with all the requirements of the scope and specification.	Not located in the Lithgow LGA therefore the Local Procurement policy was not utilised. Schedule of rates included.
SNG Engineering Pty Ltd Evaluation Score 79%	Price provided was for three SPS to be constructed and a meter rate for the pipework. While the price for the SPS being tendered was within the scope and budget of the tender, the overall tender does not comply and therefore the Panel determined that this company cannot be engaged based on their response.	Not Located in the Lithgow LGA. Schedule of Rates included.
Utilstra Pty Ltd Evaluation Score 83%	The tender was compliant with all the requirements of the scope and specification.	Schedule of rates included. Not located in the Lithgow LGA Procurement policy was not utilised.

Upon evaluating the submissions, the evaluation team concluded that the submission received from Keane Civil & Construction in the amount of \$3,856,714 ex. GST provided the best value for Council.

Attached to the report is the confidential tender evaluation that was undertaken noting the differences between the various tender responses provided. An evaluation summary report is also included as a confidential attachment.

The full project budget would allow for a 10% contingency as is standard practice for major projects bringing the total funding required to \$4,242,385 (\$3,856,714 plus \$385,671)

Policy Implications

The RFT process and evaluation complies with Council's Tendering Policy and Council's procedures for Purchasing and Tendering. No local suppliers made a submission and therefore the Local Procurement Policy was not utilised.

Financial Implications

- Budget approved – nil - \$1,000,000 has been provided by the NSW Government as a part of the Regional Housing Fund grant.
- Cost centre - PJ 300066
- Expended to date - \$0
- Future potential impact – the full cost of the project will be funded from \$1M of NSW government funding and costs recovered by the Development Servicing Plans (DSP) for water and sewer South Bowenfels charges for sewer per lot as per the DSP and fees and charges. The Sewer Fund (balance \$8.7M at 31/12/22) has capacity to cover the \$3.24M remaining cost of the project pending payment of DSP and other charges over time. The installation of the new SPS and mains will allow for the removal of two existing pumping stations from the sewerage system.

Legal and Risk Management Implications

The RFT and Tender process was conducted in accordance with the Local Government tendering legislation, including Section 55 of the *Local Government Act 1993* and Part 7 of the *Local Government (General) Regulation 2005*.

Attachments

1. CONFIDENTIAL - Tender Evaluation Score - South Bowenfels SPS Tender [10.3.1.1 - 1 page]
2. CONFIDENTIAL - Summary Report - Detailed Design and Construction of the West Bowenfels Sewerage Pump [10.3.1.2 - 2 pages]

Recommendation

THAT Council:

1. Accept the tender from Keane Civil & Construction Pty Ltd for the Detailed Design and Construction of the West Bowenfels Sewerage Pumping Station.
2. Delegate to the General Manager authority to enter a contract with Keane Civil & Construction Pty Ltd in accordance with Tender for the Detailed Design and Construction of the West Bowenfels Sewerage Pumping Station for the contract sum of \$3,856,714 ex. GST.
3. Approve a budget variation for the 2022/23 financial year to utilise \$300,000 (funded from a grant).
4. Approve a \$3,942,385 budget allocation being added to the 2023/24 draft capital works program for the remainder of the cost of the project.

10.4. Finance and Assets Reports

10.4.1. FIN - 27/03/2023 - Investment Report February 2023

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

Reference

Min No 23-36 Ordinary Meeting of Council held on 27 February 2023.

Summary

The purpose of this report is to advise Council of investments held as at 28 February 2023 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 28 February 2023, when compared to 31 January 2023, has increased by \$5,651,065 to \$36,382,335. Investments increased from \$30,731,270 to \$36,382,335. Cash in Council's bank account increased from \$653,081 to \$2,238,024.

The \$7.2M increase in cash and investments is mainly due to the ordinary business of Council, predominantly from third quarter rates receipts and a Financial Assistance Grant instalment. Cash outflows for Accounts Payable also slowed in February 2023.

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 February 2023 were as follows:

Opening Balance of cash and investments as 01 February 2023	\$31,384,351
Plus New Investments – February 2023	\$11,236,008
Less Investments redeemed – February 2023	-\$4,000,000
Closing Balance of cash and investments as at 28 February 2023	\$38,620,359

CFIO comment on the cash and investments balance – the \$7.2M increase in cash and investments in February 2023 was generally anticipated due to high cash inflows. Cash outflows are being managed to ensure that the timing of natural disaster claims and grant funding milestones matches the pace of works undertaken.

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. As a result, there was a lower volume of Accounts Payable transactions in February 2023 compared with the previous month. The average weekly payment run was \$786K in value – which is still above the long-term average of around \$500K per week. The administration continues to pay close attention to managing this aspect – which might be referred to as cashflow.

High value transactions included \$464K for natural disaster road remediation works, \$268K for the Glen Davis bridges project, \$307K for Cullen Bullen Sewer Scheme, \$222K for the Green Waste Removal Program, \$124K for a workers compensation premium instalment and \$162K for domestic waste collection.

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 the 31 December 2022 Quarterly Budget Review to fund \$31M of externally restricted reserves and \$4.1M of internally restricted reserves.

The Administration took action to initiate a \$3.5M 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 loan amount is reviewed quarterly. 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 – \$768,680
- Cost centre - 3259
- YTD Income to date - \$686,595
- Future potential impact – Nil.

The Council's interest income for 2022/23 is on budget for year-to-date. Investment returns have increased with Council being able to achieve up to 4.55% 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. February 2023 Investment [**10.4.1.1** - 1 page]

Recommendation

THAT:

1. Investments of \$36,382,335 and cash of \$2,238,024 for the period ending 28 February 2023 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.
3. The commentary on cashflow and funding requirements for restricted reserves be noted.

10.4.2. FIN - 27/03/2023 - Acquisition of Road Encroachment

Prepared by Sandra Politi – Property and Legal Services Officer
Department Property and Legal Services
Authorised by Chief Financial & Information Officer

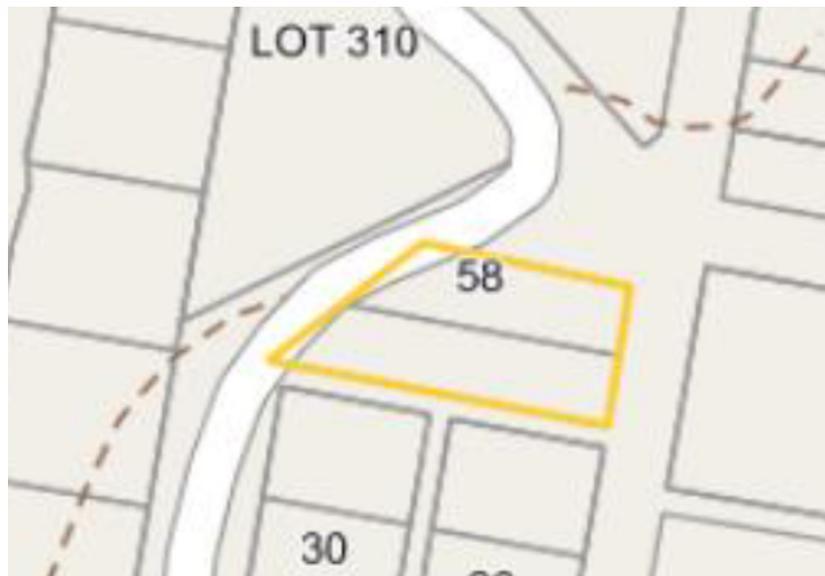
Summary

The purpose of this report is to request Council's approval to acquire a 127m² area of private land at South Bowenfels to rectify a Council road encroachment on the land.

A decision to acquire land is a non-delegable function under section 377(h) of the *Local Government Act 1993*, and accordingly a resolution of Council is required for this purpose.

Commentary

As can be seen on the image below a small portion of Old Bathurst Road encroaches upon the boundary of 58 Old Bathurst Road (**the Property**).



This situation can be rectified by acquiring the portion of private land affected by the encroachment and arranging for a boundary adjustment and dedication of the affected area as road.

The administration has had several communications with the owner of the Property since 2018, obtained a survey to ascertain the precise area of encroachment and obtained a valuation to determine the compensation payable by Council to acquire the 127m² encroached area.

Council's power to acquire land for a public purpose

Council's power to acquire land for road purposes is provided in section 177 of the *Roads Act 1993*. When acquiring privately owned land Council must comply with the *Land Acquisition (Just Terms Compensation) Act 1991 (the Act)*. The Act sets out the steps that must be taken to acquire land, and the matters to be considered in determining the amount of compensation to be paid to landowners. Under the Act, land can be acquired in two ways:

1. by agreement with the landowner; or
2. compulsorily.

Council's preference is to acquire land by agreement with the owner.

Compensation

The compensation that Council is required to pay for acquiring land for a public purpose is governed by the Act. Section 54(1) states "*The amount of compensation to which a person is entitled under this Part is such amount as, having regard to all relevant matters under this Part, will justly compensate the person for the acquisition of the land*".

Council has obtained a valuation to determine the compensation that Council would have to pay to acquire the 127m² portion of land. The valuation method used was "before and after", in line with the NSW Valuer Generals Policy on assessing compensation. The value has been assessed at \$26,000.

Offer

On 16 December 2022, the administration sent an offer of compensation to the owners of the Property. The offer was made subject to a resolution of Council approving the acquisition, and provided the following:

1. Council will acquire the encroached area by way of agreement;
2. Council will pay the sum of \$26,000 on finalisation of the matter;
3. Council will pay the cost of all legal, valuation, bank and/or other costs reasonably incurred by the owner or Council in relation to the acquisition.

On 27 February 2023 the owners confirmed their acceptance of the offer which was made subject to a resolution of Council.

It is proposed that the costs of this acquisition be funded from 800183 – Rural Unsealed Roads – Unsealed – Operations and Maintenance. To the end of February, with Council almost entirely focussed on natural disaster recovery and capital renewal projects, 14% of the total \$884,322 budget has been spent. There is adequate funding available for the land acquisition.

What next

The following steps will be taken if Council resolves to acquire the 127m² area of land:

1. Agreement – an acquisition agreement will be drafted and entered by the owners and Council;
2. Plan of subdivision – Council will instruct surveyor to formalise and register a plan of subdivision and dedicate the encroached area as public road;
3. Payment – upon registration of the plan of subdivision the compensation amount will be paid to the owners and any expenses incurred in relation to the acquisition will be paid.

Policy Implications

Policy 1.6 - Land Acquisition and Disposal policy

Policy 9.16 - Compliance policy

Financial Implications

- Budget approved – no specific budget for land acquisitions.
- Cost centre – PJ 800183
- Expended to date - \$3,080 for valuations
- Future potential impact – approx. \$35,000 for surveys, legal fees and compensation

Legal and Risk Management Implications

Land Acquisition (Just Terms Compensation) Act 1991
Roads Act 1993
Local Government Act 1993
Real Property Act 1900

Attachments

1. Valuation - IP Valuations (Dec 2022) [**10.4.2.1** - 35 pages]

Recommendation

THAT Council:

1. Approve the acquisition of 127 m² area of private land as outlined in this report in accordance with the valuation of \$26,000 (funded from operational savings).
2. Authorise the General Manager to do all things and sign all documents necessary to give effect to the acquisition and dedication of the encroached area as public road.

10.4.3. FIN - 27/03/ 2023 - Proposed Acquisition of Crown Road and Private Land for Road Purposes

Prepared by Sandra Politi - Land Use & Property Officer
Department Finance
Authorised by Chief Financial & Information Officer

Summary

The purpose of this report is to inform Council of an access issue that has evolved over time and to seek Council's approval to take the steps proposed in this report to rectify the matter.

The proposed steps involve a decision to acquire land. A decision to acquire land is a non-delegable function under section 377(h) of the *Local Government Act 1993* and accordingly a resolution of Council is required for this purpose.

Commentary

Current Access Issue

This issue affects 7 Wirraway Street, South Littleton being Lot 220 in DP751650 (**the Property**) and multiple properties along Munjowee Circle, South Littleton.

The only manner of access to the Property is by traversing a small section of privately owned land to get to an unmaintained unsealed Crown road before travelling about 260m to reach the Property (see image below). Multiple properties along Munjowee Circle also traverse the private land and Crown road to gain rear access to their properties.

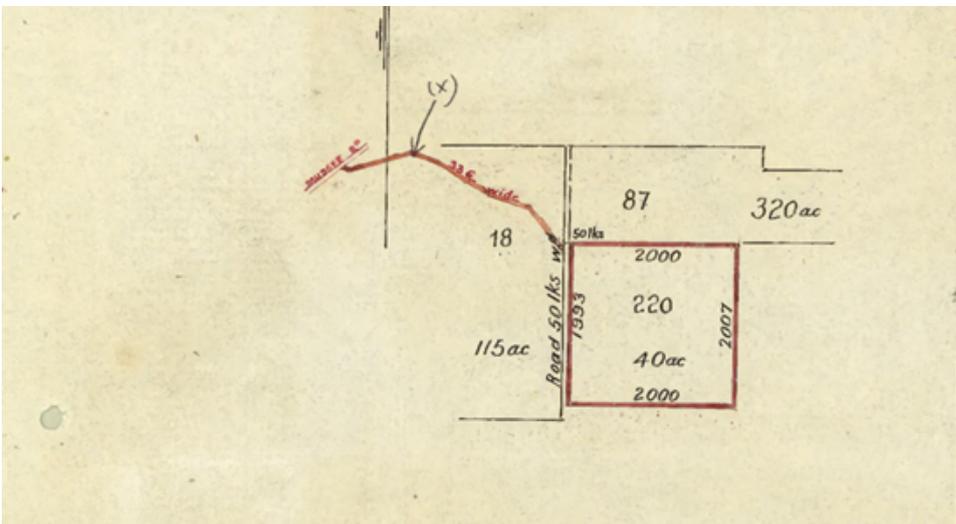
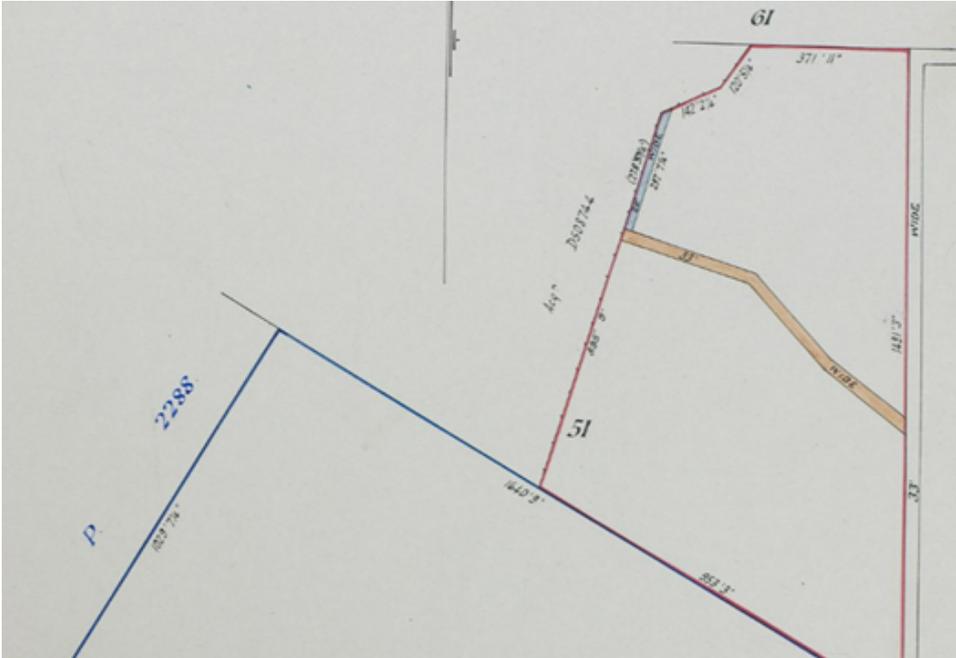


Access to the Property hasn't always been via this route.

Previous Access via a Right of Way

In 1920 a Right of Way was created across part of the neighbouring land, then known as Portion 51, for the benefit of the Property (the right of way can be seen on the two images below).

Portion 51 now comprises the residential development on East Street, Munbinga Drive, Munjowie Circle and Wirraway Street, South Littleton which can be seen in part on the image above.



Extinguishment of the Right of Way

The Right of Way has been extinguished, leaving the owners with no choice but to access the Property by traversing the private land and the unmaintained Crown road.

Below is a timeline of actions that led to the extinguishment of the Right of Way. The timeline is provided for record purposes, but it may help with understanding how the issue evolved.

Year	Activity	Document reference
1920	A Right of Way was created over part of Portion 51 at Hassans Walls, for the benefit of the Property.	A511146
1971	Approximately 19 acres of land, which included the Right of Way, was resumed for the purpose of a high school and was vested in the Minister for Education. <i>Note: Upon resumption, an easement (including a right of way) will be extinguished unless the easement is specifically preserved by the terms of the gazette notice. The Right of Way was not preserved by the terms of the gazette notice.</i>	Gov gazette 2510 of 09.07.1971
1980	Council issued a building approval for a dwelling on Lot 220. <i>Note: Although the Right of Way was technically extinguished in 1971 by the resumption, the title documents and deposited plans did not reflect this. For all intents and purposes, it appeared that a legal and practical Right of Way continued to exist over Portion 51 for the benefit of the Property..</i>	BA268-80
1985	Resumption Application registered in relation to the 1971 government gazette notice for high school purposes. <i>Note: The Resumption Application resulted in the cancellation of the existing title 11465-178, the issue of new titles 15388-192 (Lot 1 in DP566333), and 15388-193 (Lot 2 in DP566333) in the name of the Minister for Education, and the registration of new a deposited plan, DP566333. DP566333 continued to show the Right of Way established in 1920.</i>	V668454
1989	The Property was purchased by the current owners. The Right of Way was showing on the title documents and existed physically. <i>Note: The owners gained access to the Property via the apparent Right of Way over Portion 51 for many years. They were aware that a high school was planned for the neighbouring land, but were not aware that the Right of Way did not exist or would cease to exist.</i>	Y355025 Certificate of title v. 895 v. 151
1996	A plan of subdivision for Lot 2 in DP566333 (originally Portion 51) was registered. The subdivision created lots 101 and 102 in DP864874. <i>Note: DP864874 continued to show the Right of Way established in 1920.</i>	DP864874
Unknown	Lot 101 in DP864874 (originally Portion 51) was transferred from the Minister for Education to a private owner. <i>Note: DP864874 continued to show the Right of Way established in 1920.</i>	Unknown
2000	Council granted development consent for a subdivision of Lot 101 in DP864874 (originally Portion 51) into 35 lots. <i>Note: DP864874 continued to show the Right of Way established in 1920.</i>	DA349/99
2006	Lot 101 in DP864874 (originally Portion 51) was transferred from the owner to a private developer.	AC731037

	<i>Note: DP864874 continued to show the Right of Way established in 1920.</i>	
2007	Council approved a modification of DA349/99 allowing Lot 101 in DP864874 (originally Portion 51) to be subdivided into 45 lots. <i>Note: DP864874 continued to show the Right of Way established in 1920.</i>	DA349/99
2007	A plan of subdivision of Lot 101 in DP864874 (originally Portion 51) was registered. This subdivision created the current deposited plan being DP1109094. <i>Note: The Right of Way was removed from the deposited plan.</i>	DP1109094

The timeline suggests that the legal Right of Way was extinguished in 1971 by the resumption for high school purposes (which did not eventuate). However, no-one could have known that the Right of Way was extinguished (unless they received notice of the resumption) because for all intents and purposes the deposited plans continued to show the Right of Way until 2007, and in fact the Right of Way was still showing on the title of the Property until late 2022.

The fact that a building approval for the Property was issued in 1980 indicates that Council was not aware of the extinguishment of the Right of Way in 1971, as access would have been a key consideration in the assessment of the application.

In any case, the Right of Way created in 1920 for the benefit of the Property has been extinguished and there is no possibility of reinstating it due to the residential development on what was once Portion 51.

Reasons for Present Access Being an Issue

The present manner of access to the Property is problematic because:

- use of the Crown road has intensified since the residential development, causing deterioration of the Crown road,
- the unmaintained Crown road is hazardous, particularly after heavy rainfall, and
- traversing private property without a legal right can be prevented by the owner of the private property.

Furthermore, the Property is technically landlocked, and the current owners of the Property are pensioners. Whilst they have maintained the Crown road for a period, the intensified use stemming from the residential development has made it too difficult for them to maintain.

Proposal to remedy the access issue

It is proposed that the following action be taken by Council to resolve the access issue:

1. Apply to have a portion of the Crown road (approx. 3,350 m²) which runs perpendicular to Wirraway Street, South Littleton transferred to Council and dedicate it as public road;
2. Acquire a small portion of the privately owned land (approx. 280 m²) located at the end of Wirraway Street by agreement with the owner, in accordance with the *Roads Act 1993* and the *Land Acquisition (Just Terms Compensation) Act 1991*, and dedicate it as public road; and

3. Once 1. and 2. above are satisfied, surface the public road to provide safe and practical access to the Property and to the multiple residences along Munjowee Circle who presently use the Crown road for rear access to their properties.

Policy Implications

Policy 1.6 - Land Acquisition and Disposal Policy.

Policy 9.16 - Compliance Policy.

Financial Implications

- Budget approved - nil.
- Cost centre - N/A
- Expended to date - Nil
- Future potential impact – to be determined. A budget will required for surveys, legal fees and compensation, existing recurrent budgets will be used where possible.

Legal and Risk Management Implications

Local Government Act 1993.

Roads Act 1993.

Land Acquisition (Just Terms Compensation) Act 1991.

Real Property Act 1900.

Attachments

Nil

Recommendation

THAT Council:

1. Apply to have a portion of the Crown road running perpendicular to Wirraway Street, South Littleton transferred to Council and dedicated as public road.
2. Acquire a small portion of the privately owned land located at the end of Wirraway Street by agreement with the owner, in accordance with the *Roads Act 1993* and the *Land Acquisition (Just Terms Compensation) Act 1991* to be dedicated as public road.
3. Upon completion of 1 and 2 above, surface the public road to provide safe and practical access to the Property and to the multiple residences along Munjowee Circle who presently use the Crown road for rear access to their properties.
4. Authorise the General Manager to do all things necessary, and sign all documents required to give effect to resolutions 1 to 3 above.
5. Note that a report will be provided to a future Council meeting to inform Council of the cost and funding source for the acquisition of the portion of private land and surfacing of the public road, as well as the timeframe for surfacing to occur.

10.5. Policies and Governance

10.5.1. FIN - 27/03/2023 - Policy 9.4 Business Continuity Policy

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

Reference

Min. No. 19-284 Ordinary Meeting of Council held on 23 September 2019.

Summary

The purpose of this report is to provide Council with a revised Business Continuity Policy for consideration.

Commentary

Policy 9.4 sets an objective to prepare Council to minimise the effect of any business interruption events from occurring in the first instance and outline an appropriate response should such an event occur.

Version 1 of the policy has been substantively revised with a focus on the actions Council will take in the event of a significant business interruption and the ways in which the actions will be achieved. The updated policy includes definitions of key terms.

As the policy relates to internal functions and organisational resilience, public exhibition of the policy is not required.

Policy Implications

The amended Business Continuity Policy supports Council's organisational resilience to ensure the uninterrupted availability of all key business resources and critical business functions.

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

Council's Business Continuity Management Framework and Business Continuity Plans anticipate risks, identify mitigating strategies and ensure that pre-tested strategies are in place to minimise the disruption caused to council's operations should a significant business interruption occur.

Attachments

1. Policy - 9.4 - Business - Continuity - Policy V 2 - Draft [**10.5.1.1** - 4 pages]

Recommendation

THAT Council adopt updated Policy 9.4 Business Continuity for immediate implementation.

10.5.2. PS - 27/03/2023 - Seven Valleys Tourism Committee Terms of Reference

Prepared by Simon Francis - Tourism Manager

Department Tourism

Authorised by Director People & People Services

Summary

The purpose of this report is to seek endorsement for the Terms of Reference of the new Seven Valleys Tourism Committee, inclusive of the change to the position of Chairperson and Deputy Chairperson. The reporting structure of the committee is also proposed as being directly to Council as a section 355 committee rather than a sub-committee of the Economic Development Committee. The report also recommends some new members be appointed to the committee.

Commentary

The Tourism Committee (currently a sub-committee of the Economic Development Committee) has been operating as a Steering Committee since September 2022. It is overly bureaucratic for this committee to report to another committee which then reports to Council.

The recommendations arising from the Steering Committee include a new structure for the Chairperson and Deputy Chairperson roles and several changes to the Terms of Reference. The name of the committee has changed to reflect the importance of the committee to the holistic development of the visitor economy in the Seven Valleys/Lithgow LGA and to promote the work of the committee.

The reporting structure of the Seven Valleys Tourism Committee is also recommended to change from a sub-committee of the Economic Development Committee to a fully functional 355 committee with elected representatives occupying the Chairperson and Deputy Chairperson role.

This report proposes endorsement for the following people as new members of the Seven Valleys Tourism Committee:

- John Hurt – Zig Zag Railway
- Ann Thompson – Travel Agent and Accommodation Sector
- Larry Pitts – Accommodation and Creative Design

The Committee will then be made up of the following members of Seven Valleys Tourism representing their sub-sectors of the local tourism industry:

- Sharon Howard – Arts
- Kat Alexander – Food and Beverage
- Emily Selicar – Food and Beverage
- Wendy Stephens – Accommodation
- Louise Clifton – National Parks and Wildlife Service
- John Hurt – Zig Zag Railway
- Ann Thompson – Travel Agent and Accommodation Sector
- Larry Pitts – Accommodation and Creative Design

The ninth and final position will be reserved for a representative for local business/es with an interest in tourism (such as the Lithgow District Chamber of Commerce or similar local organisation). Endorsement will be sought at a subsequent council meeting.

Council Officers providing support to the committee include:

- Simon Francis – Tourism Manager/Executive support.
-

- Kylie Blakemore – Cultural Development Officer
- Deborah McGrath – Corporate Communications/secretarial support.

Policy Implications

Nil.

Financial Implications

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

Legal and Risk Management Implications

Nil.

Attachments

1. Draft Seven Valleys Tourism Committee Terms of Reference [**10.5.2.1** - 3 pages]

Recommendation

THAT Council

1. Adopted the revised Terms of Reference for the Seven Valleys Tourism Committee inclusive of:
 - a. Name change from Seven Valleys Regional Marketing Cooperative,
 - b. New Committee structure as a 355 Committee of Council.
2. Endorse the new members of the committee (John Hurt, Ann Thompson and Larry Pitts).
3. Determine the councillors for the positions of Chairperson and Deputy Chairperson.

11. Council Committee Reports

11.1. ENV - 27/03/2023 - Environmental Advisory Committee Minutes - 8 February 2023

Prepared by Fiona Dick – Administration Assistant

Department Environment

Authorised by Director of People & Services

Summary

This report provides details of the Minutes of the Environmental Advisory Committee held on 8 February 2023.

Commentary

At the Environmental Advisory Committee held on 8 February 2023 the following items were discussed:-

1. Funding Council has received for Lake Pillans.
2. The briefs prepared for the Flora and Fauna Assessment and Aboriginal Culture Heritage.
3. Council using native plants throughout the LGA.
4. The access road into Hyde Park Reserve Hartley.
5. The Ridgy Didge Running Event at Hassans Walls Reserve.

There were 7 items in the Business Paper which were discussed in the attached minutes.

The draft minutes were sent to the Committee members for comment and feedback but no response had been received at the time of writing this report. The administration attests that the Minutes accurately reflect the meeting. It is appropriate that they be put to Council for adoption.

Policy Implications

NIL

Financial Implications

NIL

Legal and Risk Management Implications

NIL

Attachments

1. Draft Minutes - Environmental Advisory Committee Meeting - 8 February 2023 [11.1.1 - 8 pages]

Recommendation

THAT Council accept the minutes of the Environmental Advisory Committee held on 8 February 2023.

11.2. IS - 27/03/2023 - TALC Committee Meeting Minutes - 2 March 2023

Prepared by Kaitlin Cibulka – Executive Assistant
Department Infrastructure Services
Authorised by Director of Infrastructure & Services

Summary

This report provides details of the Minutes of the TALC Committee Meeting held on 2 March 2023.

Commentary

At the TALC Committee Meeting held on 2 March 2023, there were several items discussed by the committee:

- Disabled Parking Request – Wallerawang and Portland,
- Resident Parking Permit Request – Main Street, Lithgow,
- Special Event Parking Restriction Request – Bathurst Street, Rydal, and
- Pre-Polling Location and Parking Concerns.

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

Policy Implications

Nil

Financial Implications

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

Legal and Risk Management Implications

Nil

Attachments

1. DRAFT Minutes - TALC Committee Meeting - 2 March 2023 [**11.2.1** - 7 pages]

Recommendation

THAT Council

1. Note the minutes of the TALC Committee Meeting held on 2 March 2023.
2. Disabled Parking Request - Wallerawang and Portland -
 - Install one (1) disabled parking zone adjacent to 50 Main Street, Wallerawang; and
 - Relocate the existing disabled parking zone in Wolgan Street, Portland from the western side adjacent to the Coronation Hotel to the eastern side, adjacent to 1 Wolgan Street, Portland.
3. Resident Parking Permit Request - Main Street, Lithgow -
 - Not implement a Resident Parking Scheme for residents within the Central Business District of Main Street, Lithgow due to the restricted nature of parking throughout the CBD precinct and the resulting impact to several businesses; and

- Remind residents in the Central Business District that free parking is offered via a number of car parks within the Central Business District that provide unlimited parking for residents.
- 4. Special Event Parking Restriction Request - Bathurst Street, Rydal -
 - Approve a temporary road closure for the shoulder areas with reduced speed limit / No Stopping areas for Bathurst Street, Rydal, between Stacks Road and Market Street, on 9, 10, 16 and 17 September 2023, from 9.00am to 5.00pm;
 - Request the temporary road closure for the shoulder areas be made annually if the 2023 implementation is successful;
 - Work with the Rydal Village Association for responsibility for implementing the TGS for the temporary road closure;
 - Undertake a letterbox drop to residents/ business advising them of the approval; and
 - Correspond with the Electoral Commission and advise of the parking concerns, suggesting that an alternative venue with off street parking be sought for future events.

11.3. FIN - 27/03/2023 - Audit Risk & Improvement Committee (ARIC) Minutes - 14 March 2023

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

Reference

Min No. 23-22 Ordinary Meeting of Council held on 21 January 2023.

Summary

This report summarises the minutes of the Audit Risk & Improvement Committee (ARIC) meeting held on 14 March 2023.

Commentary

At the ARIC meeting held on 14 March 2023, the following items were presented and discussed:

- **External Audit:** the Committee received a verbal update from the external auditors on audit matters and discussed the final 2021/22 Audit Management Letter.
- **Risk Management:** the Committee discussed the Procurement Integrity Questionnaire and annual work plan items.
- **Compliance:** the Committee noted that no significant compliance matters had arisen since the last ARIC meeting.
- **Internal Audit:** the Committee reviewed the Internal Audit Plan and the Internal Audit Action List.
- **Internal Controls:** the update on Council's internal controls was noted.
- **Fraud and Corruption:** the Committee noted the report on fraud and corruption controls.
- **Financial Management:** the Committee noted that the 2022/23 Quarter Two Budget Review report went to Council on 27 February 2023 and was reported as satisfactory.
- **Governance:** the Committee note the report on key governance processes and the update on the Risk Management and Internal Audit Framework Guidelines.
- **Strategic Planning:** the Committee reviewed the report in the business paper as presented by the CFIO.
- **Service Reviews and Business Improvement:** the Committee discussed cyber security risk and received an update on business unit reviews.
- **Performance Data & Measurement:** The CFIO outlined how performance monitoring is utilised to measure achievement of strategic objectives, as set in Council's IP&R documents.

The Committee also discussed compliance risk management and the processes that Lithgow City Council has in place.

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. ARIC Minutes 14 March 2023 (1) [11.3.1 - 9 pages]

Recommendation

THAT Council endorse the minutes of the 14 March 2023 Audit Risk & Improvement Committee meeting.

12. 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.

13. Closed Council

13.1. CONFIDENTIAL - Mayoral Minute - 27/03/2023 - Staff Matters

Prepared by Mayor Maree Statham and Michael McGrath – Director People and Services
Authorised by Mayor Maree Statham

Reason for Confidentiality

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

- (a) personnel matters concerning particular individuals (other than councillors)
- (f) matters affecting the security of the council, councillors, council staff or council property

Reference

Min 23-45: Ordinary Meeting of Council held 27 February 2023.

Summary

Council has engaged McArthur Recruitment (Mr Matthew McArthur) to assist Councillors in assessing the General Manager's performance inclusive for the period up to 28 February 2023.

All Councillors were contacted by email by Matthew McArthur and invited to rate the performance of the General Manager. A formal Performance Review Meeting was also held with all Councillors facilitated/coordinated by Matthew McArthur, on 23 March 2023.

The outcome of the performance review on 23 March will be communicated to all Councilors and will be considered by way of another Mayoral Minute to be tabled as soon as possible following the review on 23 March.

Recommendation

THAT Council Resolve to move into Closed Council to consider the confidential report as listed in the Business Paper.