



Hassans Walls Reserve Lookout

# BUSINESS PAPER

Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 24 April 2023

at 7:00 PM

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## 1. Acknowledgement of Country

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### **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

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## 3. Apologies

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## 4. Declaration of Interest

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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

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Confirmation of the Minutes of the Ordinary Meeting of Council held 27 March 2023.

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## 6. Commemorations and Announcements

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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

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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

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### 8.1. Mayoral Minute - 24/04/2023 - Staff Matters

**Report by** Mayor – Councillor Maree Statham

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#### **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  
Min 23-64 Ordinary Meeting of Council 27 March 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

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### 9.1. NOM - Cr Darryl Goodwin - 24/04/2023 - Support the Voice to Parliament

Report by Councillor Darryl Goodwin

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#### Attachments

1. FAQs - Uluru Statement from the Heart [9.1.1 - 6 pages]

#### Recommendation

THAT Lithgow City Council

1. Acknowledges the importance of a voice for Aboriginal and Torres Strait Islander peoples in the Australian Parliament;
2. Supports the Uluru Statement from the Heart and its call for a constitutionally enshrined Voice to Parliament;
3. Recognizes the long history of dispossession, discrimination and marginalization experienced by Aboriginal and Torres Strait Islander peoples, and the ongoing effects of this history on their lives and communities;
4. Believes that the establishment of a Voice to Parliament is a necessary step towards achieving meaningful reconciliation and addressing the ongoing issues faced by Aboriginal and Torres Strait Islander peoples;
5. Calls on all Members of Parliament to support the establishment of a Voice to Parliament, and to work towards ensuring that Aboriginal and Torres Strait Islander peoples have a meaningful say in the decisions that affect their lives and communities.

#### Management Comment

##### **Background**

Council resolved to support the Uluru Statement from the Heart at its Ordinary Meeting of Council in April 2021 (Resolution 21-96) *Council to endorse the Uluru Statement and commit to the ongoing consultation with and inclusion of the First Nations Communities of the LGA.*

##### **Uluru Statement from the Heart**

The Statement from the Heart was issued at the 2017 First Nations National Constitutional Convention at Uluru and supports the principle of the Constitutional recognition of Aboriginal and Torres Strait Islander Australians.

Australia is one of the few developed nations with a colonial history that does not recognise its Aboriginal population in the Constitution.

At the March 2022 LGNSW Special Conference, councils further resolved to support the Uluru Statement from the Heart, calling for a referendum to be held in the current term of federal parliament to achieve it. (Resolution 39)

##### **Engagement Process**

The Federal Government assembled the Referendum Working Group and Referendum Engagement Group in late September 2022 to work on the next steps for a referendum seeking to enshrine an Aboriginal and Torres Strait Islander Voice in the Constitution.

Local Government is represented through the four (4) First Nations Mayoral and Deputy Mayoral representatives on the Referendum Engagement Group, nominated by the Australian Local Government Association (ALGA).

The two Referendum Groups will provide advice to stakeholders on engaging with First Nations Australians to ensure the referendum is successful.

### **Advice from LGNSW**

Councils, as the closest level of government to their communities, can be instrumental in this campaign and are well placed to build support for the referendum.

Councils can share details of the Statement from the Heart and the Voice to Parliament with their communities, using the resources links on this page: -

<https://ulurustatement.org/education/faqs/#10-FAQ>

In harnessing the goodwill of the community and promoting the Voice to Parliament, councils should also consult with their Local Aboriginal Land Councils and local Aboriginal Committees/Corporations.

As further information, resources and details of the referendum become available, LGNSW will alert councils to these so that local governments across NSW can help to inform communities about the referendum and contribute to its success.

Council is also cognisant of the sensitivities of this issue and management has sought to consider expert opinion in this field (see below).

### **Expert Opinion**

A recent article by Fred Chaney (AO) discussed the argument (posited by some opponents of the Voice) that the Voice had the potential to undermine the human universalism which is at the heart of Australian democracy. Mr Chaney respectfully considered this argument in his recent article entitled *The Reality that Supports the Recognition of the Voice\**.

The 1991 decision of the High Court (Mabo) determined that Australian Common Law recognises a particular form of Native Title that reflects the entitlements of indigenous people in accordance with the laws or customs of their traditional lands. This has become a distinguishing feature of Aboriginal people, who share equal citizenship but by virtue of the High Court decision, have distinctive rights and interests.

Aboriginal Australians have survived and maintained their collective identities and such identities have become integral to the national identity and fabric of Australian society. He observed that most Australians see this as a matter to be celebrated as Australia is home to the world's oldest living cultures.

Mr Chaney also asserted that in practical terms, all Australian governments have signed up to the proposition that on matters relating to closing the gaps with Aboriginal people they must work in partnership with them. He observed that you can't be in partnership with somebody that you cannot hear.

\*Fred Chaney (AO) is a former Australian politician who was deputy leader of the Liberal Party from 1989 to 1990 and served as a minister in the Fraser Government. His views outlined above are from a recently published article: *The Reality that Supports the Recognition of the Voice*

<https://johnmenadue.com/the-reality-that-supports-the-recognition-of-the-voice/>

## 10. Staff Reports

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### 10.1. General Manager's Reports

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#### 10.1.1. GM - 24/04/2023 - Organisation Structure

**Prepared by** Craig Butler – General Manager

**Department** Office of General Manager

**Authorised by** General Manager

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#### Reference

Min 22-226 Ordinary Meeting of Council 28 November 2022

#### Summary

This report seeks Council's endorsement for the organisation structure, as proposed to be amended following the resignation of the Director People and Services. It also seeks endorsement for re-appointment of the Director Infrastructure Services upon the lapsing of the senior staff contract for that position later this year.

#### Commentary

At the 28 November 2022 Ordinary Meeting, the organisation structure was endorsed by the Council (Min. No. 22-226).

That report provided the following commentary –

*"The present organisation structure .....provides for the following staff personnel (collectively known as the Executive Leadership Team or ELT) to be reporting directly to the General Manager:*

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

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

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

*The NSW Local Government Act provides:*

#### **Section 332 Determination of structure**

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

### **333 Re-determination and review of structure**

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

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

Since this structure was endorsed by Council in November 2022, the Director People and Services, Michael McGrath, has decided to retire from the organisation.

To some extent the structure has been built around the concept of a division of labour amongst the senior staff, as well as the skills and experience of those staff. This has, in recent times, included Mr McGrath leading the planning, environment and development functions and services.

Recruitment of a replacement for Mr McGrath provides the opportunity to move closer to the most appropriate structure. This includes consolidating planning (and major policy also, such as IP&R), community development and recruiting a Director of People and Planning to lead that portfolio of responsibilities. The opportunity also emerges for a consolidation of key administrative and workforce functions in the one portfolio, proposed to be led by Ross Gurney.

The structure also involves the Director of Infrastructure Services being responsible for economic development. The Director, Jonathon Edgecombe has admirably led the LEEP project and its early stage. readying for implementation. Recruitment is commencing for an economic development specialist and the SRV proposes more than \$1 million funding for economic development and transition management. These will add capacity to this function. Nonetheless, the workload will need to be managed carefully to ensure that none of the role's functional areas suffer from a lack of strategic capacity to oversight and lead. This Director role is also due for contract renewal later this year. As a Senior Staff position, the incumbent Jonathon Edgecombe, has requested that Council consider renewing his tenure. I recommend that the Council do so.

Already the number of senior staff has been reduced by one position. This provides the opportunity to re-allocate that funding to other areas of need at the management level. It is proposed that two manager equivalent positions be established for human resources and risk/governance.

The proposed structure, which is included as an attachment to this report, has been discussed with the Joint Consultative Committee and staff in relevant areas. No material issues have been raised.

**Policy Implications**

Nil.

**Financial Implications**

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

**Legal and Risk Management Implications**

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

**Attachments**

1. Organisational Structure 2023 [10.1.1.1 - 1 page]

**Recommendation**

THAT Council:

1. Endorse the structure as outlined in the attachment to this report (as required by Section 322 of the Local Government Act), and,
2. Determine to re-appoint the Director of Infrastructure Services upon conclusion of the current Senior Staff contract.

## 10.2. People and Services Reports

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### 10.2.1. Building and Development

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10.2.1.1. DEV - 24/04/2023 - Variations to Development Standards

**Prepared by** Lauren Stevens – Development Planner

**Department** Development

**Authorised by** Director of People & Services

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#### **Summary**

The purpose of this report is to advise Council of variations to development standards for the January to March 2023 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 **no** development applications were approved by staff for variations to development standards for the January to March 2023 quarter. This information 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**

Nil

#### **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 January to March 2023 quarter.

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## 10.3. Infrastructure Services Reports

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### 10.3.1. IS - 24/04/2023 - Lithgow Emerging Economy Project (LEEP) - Public Exhibition

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**Prepared by** Jonathon Edgecombe – Director Infrastructure Services

**Department** Infrastructure Services

**Authorised by** Director of Infrastructure & Services

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#### Summary

In 2021 Council, in collaboration with the State Government, engaged a consortia of consultants through NCEconomics, under tender, to deliver an emerging economy plan for the Lithgow LGA (Lithgow Emerging Economy Plan - **LEEP**).

Under cover of this report, the councillors are provided with a copy of the expert findings and commentary of NCEconomics with respect to the LEEP, which takes the following structure:

- the economic and demographic baseline of the Lithgow LGA,
- the identification of the relative advantages and opportunities,
- the identification of areas of focus which will put the Lithgow LGA in the best position for the future, and
- a list of specific actions and recommendations.

Considerable technical engagement with the third parties was undertaken as part of the LEEP Project. A summary of those engagements is set out in Appendix A of the NCEconomics LEEP report.

The purpose of this report is to seek Council's consideration and endorsement of the report that has been produced by the expert advisors. This report suggests a period of community consultation including the receiving and consideration of submissions. Then, the matter will be reported to Council for its further consideration and approval. Importantly, Council's administration is already establishing the foundations for implementation of the actions, and indeed in some cases already implementing those which accord with other Council endorsed strategic positions and projects.

#### Commentary

##### 1. The LEEP scope, project management and methodology

The scope and purpose of the LEEP Project is summarised as follows:

"delivering more than academically robust studies of the area's economic base or its skills profile. [Identifying] ... the key trends that matter ... the prime assets we possess; the prime opportunities we have but also the gaps there might be in both our economy and infrastructure and the steps we need to take to exploit those trends and opportunities and address those gaps."

The Evolving Economy Plan project was a joint initiative, funded by both Lithgow City Council and the Department of Regional NSW (NSDW Government). The funding arrangements between the State Government and Council, required the establishment of a joint Project Control Group (**PCG**) to provide leadership and support while overseeing the LEEP project management and quality control. The PCG was required to approve gateway considerations, allowing NCEconomics to progress to subsequent stages of the LEEP.

The Project Control Group comprised representatives of Lithgow Council, Department of Regional NSW, Department of Planning and Environment, Office of Climate Change and Energy, Training Services NSW and NCEconomics.

It was anticipated that the LEEP would be received by November 2022. Several issues, however, including personnel changes within the PCG, have resulted in a relatively minor delay in furnishing the LEEP to council.

The analytical framework and methodology for the LEEP is set out in 4.1 of the LEEP and is considered to be robust. Critically, it will inform the following processes:

- grant opportunities from other levels of government,
- advice on how the prioritisation of Lithgow City Council resources can best facilitate the economic transition of the Lithgow LGA over the period of transition,
- strategic land-use planning priority initiatives,
- private sector investment attraction,
- the work of the Royalties for Rejuvenation Expert Panel established under the provisions of the NSW mining legislation to assist with regional diversification and economic transition, and
- leading-practice collaborative governance of the Lithgow LGA transition.

Critically, the LEEP document is an objective and independent analysis conducted by a wide variety of subject matter experts. The document outlines the current state of Lithgow's economy, possible futures, analyses of potential sources of opportunity and challenge, and the most appropriate pathways forward to catalyse growth. While the Plan is informed by local stakeholder engagement, this document is clear of any personal, commercial or political interest.

The LEEP document intends to be a call to action for all stakeholders within both the public and private sectors. It is representative of the required academic rigour and objectivity which is necessary to support long-term financial investment and focus on Lithgow's economic diversification and transformation.

## 2. Key findings of main body of the LEEP report

It is critical that all levels of government, and the local community, understand the potential magnitude of the impact to the local economy and employment in the event of mine and power station closures. To achieve this, the LEEP document explicitly details that the future of coal and coal powered electricity generation will be subject to a several variables which could impact its future viability and longevity. Building from this uncertainty, the LEEP identifies the need to plan for a diversity of outcomes and a range of potential realities relating to coal-based industry in Lithgow. This will help Lithgow's preparedness over the course of an uncertain future.

Part 5.3.1 of the LEEP illustrates three different timeframe scenarios which can be applied to the potential future of Lithgow's existing coal and power generation industry. The LEEP does not suggest the likelihood of any one scenario, nor does it give preference to one option over another. It makes no judgement as to the future of Lithgow's coal industry. In acknowledgement of this uncertainty though, three potential local coal industry futures are outlined. These scenarios are:

1. Near term closures and related impacts (2028 to 2032)
2. Medium term closures and related impacts (2032 to 2036) and
3. Long term closures and related impacts (2036 to 2040)

Importantly, the minimum legal notice of the closure of any power station is currently 3.5 years. This is the available period of protection afforded local communities against significant economic disruption when they are reliant upon the thermal power generation sector (and in Lithgow's case

the related coal mining sector) in terms of their local economy. This is particularly relevant for **scenario 1 which is not signalling a closure in 2028** but, prudently, canvassing the impact if an announcement were made with the minimum of five years forewarning. In light of other power stations across Australia previously having their closures brought forward it is sensible to account for this scenario.

Additionally, while it cannot be factored into the LEEP directly, close engagement with both Energy Australia and Centennial/Banpu throughout the project has reinforced their commitment to their respective workforces and the Lithgow community more broadly. This is inclusive of their own workforce transition initiatives and offsetting impacts from possible green energy projects into the future.

Based on these three potential closure scenarios, some of the key outputs of the LEEP include:

- baseline modelling on the loss and impact of coal mining and coal-fired power generation economic output in the Lithgow LGA (by value-add),
- a leading-practice governance framework to best engage the complex issue of economic transition in the Lithgow LGA,
- the identification of Lithgow's key competitive and comparative advantages that will act to catalyse Lithgow's economic diversification initiatives,
- closely linked to these advantages, the identification of focus industries to position the Lithgow LGA for the best possible economic future. This includes health, social and public services; utility services and industrial manufacturing; and tourism,
- the identification of key enablers which will facilitate the future growth of Lithgow. Such enablers include, but aren't limited to, efficient planning pathways, programs to improve workforce adaptive capacity, construction of supporting infrastructure, and land availability/suitability.
- advice regarding the discrete prioritised steps to be taken collaboratively to achieve the best possible result. These are set out in detail in section 5.6 of the LEEP (commencing from p. 83).

### 3. Action Plan Themes

Part 7 of the LEEP then moves to the tangible actions proposed to help shape Lithgow's economy over the next 15 years. Broadly, these actions can be separated into discrete themes, characterised with the following vision statements.

Each of these themes are supported by several actions, some of which fall to Council as the main actor and others are closely linked to the state or federal government. Close engagement and accountability mechanisms will be required to best manage the delivery of these initiatives.

Electricity, Water and Waste industries:

- Lithgow becomes a global example of a successful transition to a renewables-led, new energy economy, aligned with government policy to achieve net-zero emissions by 2050. Capitalise on electricity infrastructure.

Manufacturing industries:

- Lithgow develops an advanced, circular manufacturing sector that is the anchor of the future economy. Road, rail, land availability.

Retail, Accommodation, Arts and Recreational Service Industries:

- The relevance of tourism to Lithgow's economy and the employment of young people is enhanced by strategic investment and strong marketing initiatives that capitalise on the diversity and uniqueness of local, natural, historical and cultural tourism opportunities,

#### Healthcare and Social Assistance Industries

- Lithgow's health care and social assistance sector remains the LGA's largest employer and provides specialist and generalist services, centred around a Health, Ageing and Innovation Precinct, to promote the health and wellbeing of the community and consumers from neighbouring areas, including ageing and vulnerable people.

#### Public Administration and Safety Industries

- Lithgow is respected as a base for decentralised government services, which provide a steady economic foundation for the community.

#### Whole of Economy

- Matters such as workforce adaptive capacity and regional skills development, land zoning reviews, road and rail constraints
- Transition actions include early engagement with government, good plans for community and industry dialogue.

#### Governance:

- Development of a steering vehicle that:
  - be a single model that results in a partnership between all stakeholders,
  - represent an area of operation that neatly matches the area of the economic catchment at risk,
  - be genuinely collaborative (and capable of generating accountabilities) of cross sectoral interests, knowledge providers and government at all levels,
  - have economic development and transitions management expertise,
  - have innovation, commercialisation and acceleration and scaling-up capabilities,
  - have STEAM capabilities,
  - have planning capabilities at arm's length from planning regulatory responsibilities,
  - have worker adjustment capabilities, and
  - have policy and communications capabilities.
- Land use planning
  - Progress master planning around local precincts, with a vision of place developed with community, consideration of infrastructure reuse proposals, and alignment of Lithgow's planning and strategy docs with the regional frameworks.

**The firm advice of the consultant is that most of the actions set out in years 1 – 5 need to get underway immediately**, inclusive of appropriate monitoring, evaluation, reporting and learning frameworks that are developed in collaboration with key stakeholders.

#### 4. Key takeaways from the LEEP action plan themes

To provide a broad summary of the LEEP action plan and the themes outlined above, the following key messages underpin the 68 individual actions proposed:

- A collaborative, multi-disciplinary and enduring governance model must be implemented to ensure high levels of focus, drive and accountability relating to the wide variety of actions proposed by the LEEP.
- The time to start work is now – business as usual will not set Lithgow up for success.
- The opportunities are exciting to build on Lithgow's industrial heritage and it will be important to maintain commitment to proactive diversification.

- Lithgow needs a level of disruption to interrupt the status quo and raise its profile with government and business to ensure it is part of the state and national dialogue on transitions.
- This report is based on significant evidence, but there is no guarantee of outcomes. However, there should be a high level of confidence in the directions and actions proposed.
- Investors will ultimately determine what sectors grow. Lithgow City Council’s role will be to create a positive investment environment, including planning, working across all levels of government on policy and programs and engaging with the community to achieve social license.
- This includes working with the NSW Government to attract State Significant Projects, including leveraging programs and initiatives that stimulate private sector investment.
- It will be critical to work with Centennial Coal and Energy Australia during operations and future planning works.

5. LEEP communications strategy

To date, the following stakeholders have been engaged in the development of the LEEP:

|   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Lithgow District Chamber of Commerce</li> <li>• Centennial Coal</li> <li>• Energy Australia</li> <li>• CFMEU</li> <li>• Lithgow Community Power Project</li> <li>• University of Western Sydney</li> <li>• Lithgow Community Private Hospital</li> <li>• NSW Health Nepean Blue Mountains Health District</li> <li>• Nepean Blue Mountains Public Health Network / Wentworth Healthcare</li> <li>• Treeview Estates retirement village</li> <li>• Three Tree Lodge residential aged care</li> <li>• Respect Cooinda residential aged care</li> <li>• University of Notre Dame (Healthcare)</li> <li>• Thales</li> <li>• Greenspot</li> </ul> | <ul style="list-style-type: none"> <li>• Ferrero Australia</li> <li>• Nu-Rock</li> <li>• Uni-lock</li> <li>• MRA Consulting</li> <li>• University of Technology Sydney (UTS)</li> <li>• Lithgow Railway Workshop</li> <li>• Transport for NSW</li> <li>• Lithgow Visitor Information Centre</li> <li>• Foundations Portland</li> <li>• Gang Gang Gallery</li> <li>• Regional NSW</li> <li>• Lithgow City Council</li> <li>• Just transitions</li> <li>• Hunter Jobs Alliance</li> <li>• Queensland Dept of Tourism, Innovation and Sport</li> </ul> |
|---|---|

Source: Lithgow City Council

A communications strategy has been developed which outlines the process over the next 12 months to continue and expand upon this engagement with key stakeholders and the wider community, to ensure they are a part of what is known as the Lithgow Emerging Economy Project (LEEP) and excited about the future of the Lithgow LGA.

The four objectives of the plan will be:

1. To update stakeholders regarding the findings of the LEEP report.
2. To ensure decisive, consistent messages are going out to stakeholders and the wider community via the media and other communication streams.
3. To offer multiple opportunities for consultative input into the implementation of the LEEP.
4. To build confidence in the future of the Lithgow City LGA.

This communications strategy is included as an attachment to the report.

To achieve these goals, work has commenced with an approved graphic design company/advertising agency to develop a series of marketing collateral that will engage the “hearts and minds” of residents and stakeholders. The following collateral will be created to aid in the consultation process:

- A 4-page discussion paper;
- A 20-page summary document;
- Interactive website content which will include both the invitation to consultation, as well as the overview of the report.

The communication strategy and discussion paper will be included as attachments to the Council report.

## 6. Next steps

It is important that the community be consulted and offered the opportunity to provide feedback, prior to seeking the Council’s endorsement of the LEEP strategy. The public exhibition process will comprise the following steps, in sequential order.

- a. Council’s endorsement of public exhibition of the LEEP document.
- b. Development of a comprehensive communications strategy to guide Council’s engagement with the wide variety of project stakeholders.
- c. Development of collateral material to improve the community’s ability to engage with the LEEP document at varying levels of detail. This work has commenced, and will include:
  - i. A short document (of up to 4 pages, like a flyer) which will summarise high level findings, focus on context and exclude technical detail.
  - ii. A document of medium length (up to 20 pages) which will provide greater detail and explanation of how and why focus industries are chosen, for example.
  - iii. A website for an interactive means by which the community can engage with the LEEP report and its findings. This page will also include details on how the community can provide feedback.
- d. As part funders of the report, Council will continue to engage directly with the Department of Regional NSW during the process of public exhibition.
- e. The document will be made public for a period of 28 days, alongside a media release and details of where to source copies of the collateral information and/or the detailed full report.
- f. Direct engagement will occur with key stakeholders such as Energy Australia and Centennial Coal.
- g. A report on the outcomes of the consultation process will be provided to a future Ordinary Meeting of Council for consideration prior to recommended endorsement.
- h. Engagement of a full-time internal economic development resource to drive at the LEEP implementation.
- i. Development of a detailed project plan and timeframes, with particular emphasis on the next two years of affirmative action.

## **Policy Implications**

The LEEP provides a technical evidence-base to inform a wide-range of policy settings of Council. Some of those policy settings have been identified by the broader community as being priorities in successive community surveys – including developing a sustainable economic future for the Lithgow LGA and increasing economic participation and inclusion.

## Financial Implications

The LEEP has been delivered within budget. Any unexpended amounts are to be remitted to DRNSW. It is not anticipated that there will be any unexpended amounts.

The LEEP proposes several immediate priority actions which will have substantial financial and resourcing implications. Primary responsibility for the LEEP actions rests with the State Government and Council is under no obligation to fund or resource any of the actions.

It is likely, however, that Council will be asked to bring resources to the table. The evidence is that where local government is a collaborative and active participant in regional transitions, the outcomes for its community are considerably better.

Council will shortly commence a recruitment process for a dedicated, internal economic development position. Recruitment is expected to be completed prior to the end of the financial year – subject to a suitable applicant being sourced.

Also, the SRV proposes a major investment in economic development. Financial capacity is also being created by the use of voluntary agreements as a feature of major development approvals - with the funds to be directed to local economic development initiatives.

It is proposed to report to Council on next steps following community consultation and consideration of the LEEP by Council on the potential financial and resourcing options.

- Budget approved - \$350,000 (\$250,000 funded by NSW Government)
- Cost centre - 600261
- Expended to date - \$327,099.32
- Future potential impact – Significant future investment in addressing identified actions.

## Legal and Risk Management Implications

Nil

## Attachments

1. Transition Plan Final [**10.3.1.1** - 231 pages]
2. LEEP Comms Plan [**10.3.1.2** - 31 pages]

## Recommendation

THAT

1. Councillors receive the Lithgow Emerging Economy Plan 2023 (LEEP)
2. The administration move to exhibit the LEEP report for a period of 28 days for the purpose of receiving and considering community submissions. (Note this will include key stakeholder consultations during the exhibition period with business and relevant community associations),
3. Following the consideration of consultations and submissions, a report be prepared for a future Ordinary Council Meeting detailing the results of the community exhibition process and setting out recommendations for the resourcing and governance arrangements reasonably necessary to implement the LEEP.

### 10.3.2. IS - 24/04/2023 - Financial Assistance Request - Sporting Representation

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**Prepared by** Kaitlin Cibulka – Executive Assistant

**Department** Infrastructure Services

**Authorised by** Director of Infrastructure & Services

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#### **Summary**

This report provides details of a request that Council has received for financial assistance for sporting representation.

#### **Commentary**

Council is in receipt of an application from Alexander Evans seeking financial assistance for his representation at the 2023 National Age Swimming Championships that will be held on the Gold Coast this month. Alexander is a local 15-year-old has qualified for various metres of Freestyle, the 200 metre Medley and the 100 & 200 metre Butterfly events.

Alexander's participation at this event could assist him to reach his goal to participate at a national level.

The financial assistance would help Alexander with the costs of travel, competition entry and swimming gear.

Similar financial assistance requests are usually reported through the Sports Advisory Committee, with recommendations made by the Committee subsequently reported to Council for resolution. However, due to the postponement of Sports Advisory Committee that was scheduled for 12 April 2023, this request has been presented to Council for endorsement of the recommendation.

#### **Policy Implications**

Policy 4.2 - Financial Assistance – Section 356 of the Local Government Act

#### **Financial Implications**

- Budget approved - \$2,500.00
- Cost centre - PJ 800158 – Governance – Section 356 Donations & Contributions
- Expended to date - \$500.00
- Future potential impact - if request is approved for \$300, this would bring remaining funds to \$1,700.00.

#### **Legal and Risk Management Implications**

Nil

#### **Attachments**

Nil

#### **Recommendation**

THAT Council provide Alexander Evans with financial assistance of \$300.00 from the 2022/23 allocation toward the cost of Alexander's sporting representation in Swimming.

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### 10.3.3. IS - 24/04/2023 - Wolgan Valley Alternate Alignment Study

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**Prepared by** Jonathon Edgecombe – Director Infrastructure Services

**Department** Infrastructure Services

**Authorised by** Director of Infrastructure & Services

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#### Reference

Min. No. 23-52 Ordinary Meeting of Council held on 27 March 2023

#### Summary

The purpose of this report is to recommend that Council engage WSP to provide assistance with finding an alternative long-term resilient access route into the Wolgan Valley. This work must occur in response to the significant hazards identified along the old Wolgan Road, identified within the comprehensive Slope Risk Assessment presented to Council on 27 March 2023.

Council has previously identified the preferred corridor through which an alignment must pass. The next stage of the route selection process aims to look at a long-term strategy to provide new access that would cater for expected traffic types and numbers, would be safe and resilient to use and would be cost effective to construct and maintain.

#### Commentary

The majority of works on the Donkey Steps detour route are now complete, pending the development and approval of further resilience improvement works. The next stage of the development of a new permanent access into the Wolgan Valley is to determine the best route through this preferred corridor. The scope of this project covers undertaking sufficient investigations to determine key constraints that will inform alignment design followed by engineering design and costing to determine a preferred alignment.

The scope is split into three design delivery phases:

1. Investigations and Data Acquisition Phase (Phase 1) – assembly of the required design data, agreement of design criteria and identification of key inputs required for the Alignment Assessment Phase (i.e. Phase 2). Work has commenced and Council is part way through this phase.
2. Alignment Assessment Phase (Phase 2) – development of design concepts for three potential road alignments within the preferred corridor to a level of detail sufficient to enable comparison of each alignment against high-level engineering, environmental and cost factors. That comparison will be available for Council's consideration in determining a preferred alignment at a dedicated information session.
3. Preliminary Concept Design Phase (Phase 3) – development of the preferred alignment design concept into a Preliminary Concept Design.

This process will consider several matters that require resolution or management to achieve the design outcomes for this study. As a starting point, matters for investigation are:

- Construction delivery method (Alliance, ECI, D&C or GC21);
- Council's whole of life cost objectives for the life of the road;
- Allowable impact on operation of Donkey Steps during the investigation and construction of a new road;
- Design Standards (cross section, design speed, maximum grade, design vehicle);
- Drainage and water quality (risk-based approach to water quality);
- Methods to protect against scour risk in table drains and culvert outlets resulting from steep grades and drainage system requirements to flush any debris without blocking to minimise maintenance intervention;

- Relative merits of earthworks vs structures (balancing cost of high earthworks batters against using retaining walls and bridges or half bridges);
- Safety in design and construction stage, management of safety risks;
- Temporary (i.e. construction phase) and permanent (i.e. operational phase) slope remediation and support requirements (considering target construction phase and operational phase loss of life and property risk criteria);
- Cross section should include a debris berm on higher cut batters to aid capture and removal of rockfalls;
- Need for breakdown bays and safety ramps;
- Maintenance and operational requirements and objectives (e.g., accessibility of remedial measures for maintenance, repair and/or replacement);
- Opportunities to capture valley views by combining stopping bays with short term parking bays;
- Pavement surfacing that can resist traction and braking forces on steep grades and tight curve radii;
- Bushfire risk and access requirements during bushfires; and
- Urban design requirements (e.g., reduction of visual impact; using coloured concrete, cobbles set in concrete in lieu of concrete channel, minimising slope scarring from cut batters).

The project's three phases, outlined above, will likely take at least 26 weeks and will commence immediately upon Council endorsement.

| ID | Activity/Milestone  | Week 1 | Week 2 | Week 3 | Week 4 | Week 5 to Week 10 | Week 11 | Week 12 | Week 13 | Week 14 to Week 23 | Week 24 | Week 25 | Week 26 |
|----|---|--------|--------|--------|--------|-------------------|---------|---------|---------|--------------------|---------|---------|---------|
| 1  | Estimated Project Award (14.04.2023, TBC)   | ■      |        |        |        |                   |         |         |         |                    |         |         |         |
| 2  | Project Start Up Meeting; <b>Meeting 1</b> (Week 1, Date TBC)   | ■      |        |        |        |                   |         |         |         |                    |         |         |         |
| 3  | <b>Phase 1 – Investigations and Data Acquisition</b>  | ■      | ■      | ■      | ■      |                   |         |         |         |                    |         |         |         |
| 4  | Project Risk & Opportunity and HSiD Workshop; <b>Meeting 2</b> (Date TBC)   |        |        | ■      |        |                   |         |         |         |                    |         |         |         |
| 5  | <b>Phase 2 – Identification of Preferred Alignment</b>  |        |        |        | ■      | ■                 | ■       | ■       | ■       |                    |         |         |         |
| 6  | Site Investigation (Targeted field mapping and Seismic profiling)   |        |        |        |        | ■                 |         |         |         |                    |         |         |         |
| 7  | Preferred Alignment Assessment Draft Report Briefing; <b>Meeting 3</b> (Date TBC)   |        |        |        |        |                   | ■       |         |         |                    |         |         |         |
| 8  | Submission of Final Preferred Alignment Assessment Report (Date TBC)  |        |        |        |        |                   |         | ■       |         |                    |         |         |         |
| 9  | Council Review of Preferred Alignment Assessment Report and Confirmation of Preferred Alignment for Preliminary Concept Design (Date TBC) |        |        |        |        |                   |         |         | ■       |                    |         |         |         |
| 10 | <b>Phase 3 – Preferred Alignment Preliminary Concept Design</b>   |        |        |        |        |                   |         |         |         | ■                  | ■       | ■       | ■       |
| 11 | Site Investigation (Targeted Boreholes, Test Pits and Laboratory Testing)   |        |        |        |        |                   |         |         |         | ■                  |         |         |         |
| 12 | Preferred Alignment Preliminary Concept Design Draft Report Briefing; <b>Meeting 4</b> (Date TBC)   |        |        |        |        |                   |         |         |         |                    | ■       |         |         |
| 13 | Submission of Final Preferred Alignment Preliminary Concept Design Report (Date TBC)  |        |        |        |        |                   |         |         |         |                    |         |         | ■       |
| 14 | Preferred Alignment Preliminary Concept Design Close-Out Meeting; <b>Meeting 5</b>  |        |        |        |        |                   |         |         |         |                    |         |         | ■       |

The final deliverable for the project will comprise a Preliminary Concept Design Report which includes the following detail:

- Design development process;
- Adopted Design Criteria with reference to the Basis of Design;
- Methods of calculation and analysis;
- Discussion surrounding constructability;

- Relevant land ownership details;
- Environmental and heritage status of the corridor through which the alignment passes;
- The appropriate planning approval process; and
- Possible procurement strategies and risks.

In addition, the design itself will include consideration of:

- Geotechnical investigation, testing, analysis and design;
- Preferred alignment design and structure locations (bridges, safety barriers and drainage channels);
- Bridges and structures will be sized and reinforcement weights calculated;
- Drainage designs for pit and pipe layouts in accordance with DRAINS analysis;
- Pavement types and extents, including profiles and subsoil drainage;
- Road furniture including line marking, signage and safety barriers; and
- An overarching cost estimate.

At this early time in this major project, it is estimated that the total cost will approach or exceed \$30 million. As such the Natural Disaster Recovery Arrangements require that the ultimate scope of the project be scrutinised by an Independent Technical Review Panel. The project described above will need to be completed with academic and technical rigour to ensure timely approval prior to construction.

A project of this scale will require thorough consideration of both risk and opportunities. An initial summary of these is provided below, but will be refined, expanded and further detailed added as part of the stakeholder Risk and Opportunity and HSiD (Health and Safety in Design) workshop, with regular updates throughout the alignment selection and preliminary concept design phases of the project.

#### Risks

- Accuracy of aerial survey and impact on alignment design and outcomes (quantities).
- Extent of geotechnical data along alignment corridors and impact on assessment of geotechnical stability, stabilisation requirements. slope and foundation uncertainty.
- Unforeseen utility assets.
- Assessment of residual geotechnical slope risk in relation to new alignment including property and loss of life risk and cost of on-going maintenance, repair, and replacement.
- The potential need to acquire land (public and private).
- Stakeholder concerns with alignment(s) through the preferred corridor (e.g., Indigenous Land Council and/or Community Groups).
- Presence of additional or larger extent of protected or endangered flora and fauna with potential to impact alignment selection than presently mapped.
- Planning approval process.

#### Opportunities

- Dual use of breakdown bays as viewing points.
- Alignment design can consider wider road footprint to offer improved resilience, or include design of water quality ponds to be accessible as a source of water for firefighting.
- Improved access during bushfire events.

#### Cost and Procurement

Cost estimates for the recommended WSP project are as follows:

- Investigations and Data Acquisition Phase and Alignment Assessment Phase (Phase 1 and 2) - **\$493,886.00 (excl. GST)**; and
- Preferred Alignment Preliminary Concept Design - **\$552,000**.

Total project cost: **\$1,045,886 (excl. GST)**.

While a full project proposal has been submitted for this work, understanding the urgency of resolving access into the Wolgan Valley, it is recommended that the Council does not tender for this work and instead, exercises the provisions of Clause 55 of the Local Government Act.

Clause 55 (3) (k) of the Local Government Act (1993) provides that an exemption to the requirement to tender can be made for contracts made in a case of an emergency. These engagements satisfy Clause 55 (3) (k) of the Local Government Act (the Act). S211 of the Local Government (General) Regulation 2021 states that Council must approve all expenditure, usually as part of the Operational Plan / annual budget, and at Quarterly Budget Reviews.

Additionally, WSP are a leading professional services consulting firm with experience in road construction across a wide variety of high-profile projects, including the Woolgoolga to Ballina Pacific Highway Upgrade and the Mount Victoria to Lithgow Highway Upgrade. Most importantly though, WSP have worked alongside Council these past 15 years on the ongoing slope risk monitoring and mitigation of the Wolgan Gap. They are intimately familiar with the surrounds and are best placed to commence work with minimum delay.

The WSP proposal for the preferred route selection is included as a confidential attachment.

### **Policy Implications**

Nil

### **Financial Implications**

- Budget approved - Nil
- Cost centre - Nil
- Expended to date - Nil
- Future potential impact - \$1,045,886 capital budget to be added. The budget is fully funded from the Natural Disaster Relief Assistance Program.

### **Legal and Risk Management Implications**

This engagement is proposed to occur outside the normal tender process generally undertaken by the Council. Under the provisions of the Local Government Act, an exemption to the requirement to tender for works exceeding \$250,000 may be considered in cases of emergency.

### **Attachments**

1. WSP Proposal for Preferred Route Selection [**10.3.3.1** - 84 pages]

### **Recommendation**

THAT Council:

1. Approve an exemption from tender in accordance with section 55(3)(k) of the Local Government Act 1993 to engage WSP for the investigation and concept design of an alternate alignment of the Wolgan Road.
2. Engage WSP for the provision of services related to the investigation and concept design of an alternate alignment of the Wolgan Road, at a total cost of \$1,045,886 excl. GST.
3. Approve a budget of \$1,045,886 for the investigation and concept design of an alternate alignment of the Wolgan Road.

## 10.4. Water and Wastewater Reports

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### 10.4.1. WWW - 24/04/2023 - Introduction of a kerbside organics (FOGO) collection service

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**Prepared by** Nigel Campbell – Waste & Recycling Manager

**Department** Waste & Recycling

**Authorised by** Executive Manager Water & Wastewater

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#### Reference

Minute No 22-186 (Extension of Waste Services Contract): Ordinary Meeting of Council held on 26 September 2022.

Minute No 22-218 (Introduction of a kerbside organics (FOGO) collection service): Ordinary Meeting of Council held on 31 October 2022.

Minute No 23-15 (Waste Management & Resource Recovery Strategy 2022-2026): Ordinary Meeting of Council held on 23 January 2023.

#### Summary

The purpose of this report is to recommend that Council introduce a kerbside organics (FOGO) service in the first half of 2024 – targeted for March. The introduction of the FOGO service will require a variation of the existing Waste Services Contract with JR Richards and a new agreement with Australian Native Landscapes (ANL) in Blayney.

#### Commentary

A key goal and action of Lithgow Council's *Waste Management & Resource Recovery Strategy 2022-2026* is the development of a FOGO implementation plan.

The NSW Environment Protection Authority (EPA) has mandated a Food Organics and Garden Organics (FOGO) collection service for all NSW households by 2030.

Whilst the FOGO mandate does not require commencement of FOGO until 2030, there are numerous advantages to introducing the service early including:

- A level of community support;
- Preservation of landfill space;
- Reduced CO<sub>2</sub> emissions; and
- Financial risks as a consequence of competing with other councils for FOGO collection and processing services closer to 2030.

A start date of October 2023 was originally proposed. Having regard for the appropriate lead-time required to manage the complexities of the roll-out and potential for delays to run into the Christmas holiday period, it is now proposed to roll out the service in February 2024 with collections to commence early March 2024.

The introduction of a FOGO service is dependent on numerous factors that will enable the service to commence. These are:

1. Results of community consultation and recommendations for FOGO service introduction;
2. Funding and Special Rate Variation implications;
3. New fees and charges for domestic waste services;
4. EPA grant for FOGO rollout under the 'Go FOGO' program;
5. Exercising the '2nd Extension Period' for the Waste Services Contract with JR Richards;

6. Variation to Waste Services Contract with JR Richards for initial rollout, collection and transport of FOGO;
7. New agreement with Australian Native Landscapes (ANL) in Blayney for processing of FOGO material; and
8. Consideration of an alternative date for roll-out.

Each of these factors is discussed in detail below.

### **1. Community consultation**

At the Ordinary Meeting of Council on 31 October 2022 Council resolved to:

1. *Endorse the commencement of community consultation on the rollout of a kerbside organics (FOGO) service proposed to commence in October 2023.*
2. *Note the proposal to apply for grant funding for the commencement of a FOGO service.*
3. *Receive a further report following community consultation on the implementation of a FOGO service.*

Consultation was undertaken between 20 February 2023 and 20 March 2023.

A FOGO Proposal guide was prepared for the community. The FOGO Proposal explained:

- why the FOGO service is being proposed,
- how the proposed service would operate and
- what the proposed service is expected to cost households.

The FOGO Proposal invited submissions through the FOGO Survey.

A FOGO Survey was prepared for community submissions on the FOGO Proposal. The survey could be completed online, by submitting a printed copy or by telephone.

The FOGO Proposal and FOGO Survey were available online through Council's website.

Printed copies were available at:

- Council's administration building,
- Council's library branches at Lithgow, Portland and Wallerawang and
- the Lithgow Solid Waste Facility.

The community was informed about the FOGO Proposal and FOGO Survey through:

- Council's website,
- Council's Facebook page,
- Council's e-newsletter,
- radio announcements and
- Council's Waste Info App.

### *Survey results*

There were 131 survey submissions. It is acknowledged that there are approximately 8,876 households who currently receive a waste service

There was also one enquiry by email requesting information about where the FOGO collections would be processed and whether Council pays a commercial processing facility.

There were 130 responses to the question:

*'Do you support the introduction of Lithgow Council's proposed FOGO service?'*

- 87% of respondents (113 submissions) 'strongly support' the introduction of the proposed FOGO service.
- 8% of respondents (10 submissions) 'strongly oppose' the proposal.
- 2% (3 submissions) 'somewhat support' the proposal and
- 3% (4 submissions) 'neither support nor oppose' the proposal.

There were 128 responses to the question:

*'Cost modelling indicates FOGO could be introduced at a cost of \$10 per household per year in the initial year (e.g. 2023/24). FOGO would then cost \$20 per household per year from the second year (e.g. 2024/25) onwards. The cost of FOGO would, therefore, be 40 cents per week from the second year (e.g. 2024/2025).'*

*Do you agree to the proposed cost of 40 cents per week for a FOGO Service?'*

- 87% of respondents (111 submissions) agreed to a proposed cost of 40 cents per week (\$20 per household per year) from the second year onwards for a FOGO service.
- 13% of respondents (17 submissions) did not agree to the cost of 40 cents per household per week for a FOGO service.

There were 124 responses to the question:

*'As a feature of this FOGO concept, it is proposed to introduce a \$50 per tonne levy that would be applied to all commercial waste delivered to Lithgow Solid Waste Facility. The collected revenue would be used specifically to fund the FOGO service thereby subsidising the cost. Council has reviewed different option on how this revenue is used. Should only a portion of the collected revenue be applied as a FOGO subsidy, with the impact being that the cost would be \$50 per household per year (\$1 per week), would you still want the FOGO service?'*

- 79% of respondents (98 submissions) answered that 'Yes - \$1 per week is still worthwhile'.
- 21% of respondents (26 submissions) answered that they would prefer to delay implementation of the FOGO service if the cost to each household would be \$1 per week (\$50 per year).

There were 130 responses to the question:

*'If a fortnightly red-lid bin (general waste) collection would reduce the annual cost, would you prefer a fortnightly collection of the red bin?'*

- 53% of respondents (69 submissions) indicated a preference to retain a weekly red bin (general waste) service.
- 47% of respondents (61 submissions) indicated a preference for a fortnightly red bin collection at a lower cost.

### *Consultation summary*

Community consultation on the proposed FOGO service indicated overwhelming support from the people that participated for introduction of the service.

89% of respondents support the introduction of the proposed FOGO service.

66% of respondents answered that they were concerned “a lot” or “a great deal” about waste issues. 98% of respondents answered that they were concerned about waste issues to some extent.

The survey results indicate that for 57% of respondents one of the most important waste issues is “Reducing the amount of waste we produce” and 55% regard “Reducing the amount of waste going to landfill and increasing the amount we recycle” as one of the most important waste issues.

Recycling food and garden waste was regarded as one of the most important waste issues by 44% of respondents.

The survey results indicate that there is support for the introduction of the proposed FOGO service. The survey results also indicate that the introduction of a FOGO service is consistent with addressing the highest priority community concerns about waste issues.

*Recommendation: Council note the outcome of the community consultation for the rollout of a kerbside organics service and endorse commencement of a kerbside organics (FOGO) service with an expected commencement time of February/March 2024.*

## **2. Funding and Special Rate Variation implications**

Below are the costs and funding for initial roll-out, financial year 2023/24

### a. Initial (roll-out)

|                                     |                  |
|-------------------------------------|------------------|
| Total initial cost                  | \$547,000        |
| Less EPA grant funding              | (\$439,450)      |
| <b>Lithgow Council contribution</b> | <b>\$107,550</b> |

The initial (roll-out) costs will be funded mostly through an EPA grant with \$108K being funded by Council through the Waste Reserve. Savings made on other waste projects (e.g., reduced rehabilitation costs) have returned funds to the Waste Reserve and therefore \$108K will have no long-term impacts on the Waste Reserve.

### b. 2023/24 (1 March – 30 June 2024 only)

|                             |                  |
|-----------------------------|------------------|
| Collection and transport    | \$460,000*       |
| Processor gate fees         | \$112,000        |
| Education                   | \$20,000         |
| <b>Total cost per annum</b> | <b>\$592,000</b> |

\* Based on \$2.8090 per lift then 6% CPI over 10 months (i.e. 5% increase at service start date to \$2.949).

### 2023/24 funding:

- \$157,000 from the savings of diverting organic waste from landfill;
- \$84,000 from \$10 increase in Domestic Waste Charge (DWC); and
- Remaining \$351,000 from the introduction of a \$50/tonne commercial ‘waste levy’.

c. 2024/25 (full year)

|                             |                    |
|-----------------------------|--------------------|
| Collection and transport    | \$1,380,000**      |
| Processor gate fees         | \$335,000          |
| Education                   | \$10,000           |
| <b>Total cost per annum</b> | <b>\$1,725,000</b> |

\*\* Based on 2023/24 lift rate as CPI to be applied to funding.

2024/25 funding:

- \$470,000 from the savings of diverting organic waste from landfill;
- \$168,000 from a further \$10 increase in the Domestic Waste Charge (\$20 total increase);
- \$1,000,000 from the introduction of a \$50/tonne commercial 'waste levy'; and
- Remaining \$87,000 funding from recurrent savings in waste management.

#### *Domestic Waste Charge impacts*

The true cost of the introduction of a FOGO service is ~\$130 -\$140 per service. The introduction of a \$50/tonne 'waste levy' to commercial waste provides the opportunity to introduce FOGO and keep the Domestic Waste Charge increase to just \$10 in 2023/24, which equates to ~20 cents per week. The funding model therefore subsidises FOGO costs through commercial waste revenue that could be applied outside domestic waste (e.g. could be applied as revenue to the General Fund).

The recommendation to limit the DWC increase is based on consideration of cost-of-living pressures and Council's application for a Special Rate Variation (SRV).

Should the full SRV amount not be approved, the introduction of a FOGO service will require an increase in the DWC in 2023/24 of \$50. This equates to ~\$1 per week. The \$50 DWC increase would reduce the revenue required from the commercial waste levy by ~\$420,000 and allow this income to be applied to the General Fund to assist with identifying \$4.2M of required extra revenue and/or savings.

Following the introduction of a FOGO service, the DWC will be reviewed and, if necessary, increased for 2024/25. Costs will depend on numerous factors including the total number of services and volumes collected. Any proposed increase in the DWC will occur through the usual community consultation process for fees and charges in Council's Operational Plan. Based on current estimates any additional DWC increase would be in the range of \$20-50 (~40 cents to \$1 per week).

Council is also alerted to the risk of costs increasing in the future if the NSW Government were to extend the Waste Levy which currently applies in metropolitan Sydney. The proposal to use the revenue from commercial waste to facilitate the FOGO is a use akin to the levy and so this could be used as an argument that the levy not applied, or not applied in full.

*Recommendation: Council endorse the funding arrangements for roll-out and ongoing operating costs of a FOGO service including the introduction of a \$50 per tonne commercial 'waste levy', \$10 increase (in addition to CPI) in domestic waste charge and \$130 per service for households requesting additional services. Should the full SRV not be approved, the domestic waste charge will be increased by \$50 (in addition to CPI).*

### **3. Fees and charges**

To implement FOGO, the proposed DWC increase must be added to the fees and charges. The fees and charges will therefore be modified to reflect these changes as detailed in the table below.

As already noted above, the full cost of a FOGO service is ~\$130 -\$140 per service. As the service is subsidised by the 'Lithgow local waste levy', it is proposed to offer a single bin only. Additional green bins may be provided for \$130 each.

| <b>Service</b>                                     | <b>2023/24 without FOGO</b> | <b>2023/24 with FOGO</b> |
|--|-----------------------------|--------------------------|
| Garbage service - Residential                      | \$509.00                    | \$519.00                 |
| Garbage service - Business                         | \$509.00                    | \$519.00                 |
| Additional full service (garbage, recycling, FOGO) | New                         | \$639.00                 |
| Additional FOGO service only                       | New                         | \$130.00                 |

*Recommendation: Council endorse the proposed new fees and charges for 2023/24, being \$519 for the full domestic waste charge, \$639 for any additional full service, \$130 for any additional FOGO service only.*

### **4. EPA 'Go FOGO' grant**

On 15 November 2022 Lithgow Council applied for grant funding for the rollout of a FOGO service under the NSW Environment Protection Authority (EPA) 'Go FOGO' program. On 30 January 2023 Lithgow Council received a letter of offer for \$439,450 of grant funding. The grant funding covers rollout of the service only (supply of 240L bins, kitchen caddies and education). It is noted that funding has not been accepted to date and is subject to Council endorsement for introduction of the FOGO service.

The EPA grant funding is provided for a total of 8,876 services which includes all households with an existing kerbside service.

There is expected to be approximately \$108K funding shortfall for the rollout of the service. This shortfall was anticipated and included in the proposed funding arrangements. The \$108K shortfall would be funded through the Waste Reserve.

It is recommended that, subject to Council endorsing commencement of the FOGO service, Council delegate to the General Manager authority to sign and execute the Deed of Agreement for the Go FOGO grant.

*Recommendation: Council delegate authority to the General Manager to sign the Deed of Agreement with the NSW EPA for the 'Go FOGO' grant.*

### **5. Exercising the '2nd Extension Period' for the Waste Services Contract with JR Richards**

Lithgow Council provides kerbside waste services under a Waste Services Contract (the Contract) with JR & EG Richards (NSW) Pty Ltd (JR Richards). The Contract commenced on 4 November 2013 for an initial period of 10 years ending 3 November 2023.

Services provided under the Contract include:

- Weekly kerbside waste (red bin) collection and transport to Lithgow SWF for disposal;
- Fortnightly recycling (yellow bin) collection, transport to materials recovery facility (Visy Recycling) for recycling;
- Supply and delivery of kerbside and public place bins;
- Green kerbside waste collection 4 times per year;
- Bulky kerbside waste collection 2 times per year;
- Servicing of public place litter bins;
- Special events waste management; and
- Servicing of skip bins at rural transfer stations.

The current Contract value is approximately \$1.7M per annum (depending on uptake of services) and is fully funded from the Domestic Waste Charge.

It is noted that JR Richards provides additional waste management services (e.g., separate cardboard collection and recycling at waste facilities, provision of additional skip bins for holiday periods) that are separate to the Waste Services Contract.

Under the terms of the Waste Services Contract there are 2 separate 12-month extension periods available:

*The Commencement Date of the Contract shall be Monday 4 November 2013. The initial term shall be ten (10) years expiring at midnight on 03 November 2023.*

*At the conclusion of the initial term, and solely at the Council's discretion, the Council reserves the right to exercise one (1), one (1) year extension ("the First Extension Period"), at the rates tendered and adjusted in accordance with the Rise and Fall provisions of the Contract, or at rates re-negotiated at the time.*

*The Council will inform the Contractor in writing at least twelve (12) months prior to the expiry of the initial term as to whether Council requires this Contract to be extended for the First Extension Period.*

*At the conclusion of the First Extension Period, and solely at the Council's discretion, the Council reserves the right to exercise one (1), one (1) year extension ("the 2nd Extension Period"), at the rates tendered and adjusted in accordance with the Rise and Fall provisions of the Contract, or at rates re-negotiated at the time.*

*The Council will inform the Contractor in writing at least six (6) months prior to the expiry of the First Extension Period as to whether Council requires this Contract to be extended for the 2nd Extension Period.*

At the Ordinary Meeting on 26 September 2022 Council resolved to exercise the 'First Extension Period' for the Waste Services Contract with JR Richards covering the 12-month period from 4 November 2023 until 3 November 2024.

In order to implement a FOGO service, a variation to the scope of works for the Waste Services Contract is required, as detailed in item 4 below. The prices provided by JR Richards are based on a service commencing February 2024 and continuing until 3 November 2025 (the end of the '2nd Extension Period'). This allows setup costs to be amortised over 2-year period.

Under the terms of the Contract, Council must inform the Contractor in writing at least 6 months prior to the expiry of the First Extension Period in relation to the 2<sup>nd</sup> Extension Period. Notifying JR Richards now that Council is exercising the 2<sup>nd</sup> Extension Period meets the requirements under the Contract.

*Recommendation: Council exercise the 2nd Extension Period for the Waste Services Contract with JR Richards covering the 12-month period from 4 November 2024 until 3 November 2025 and the General Manager be authorised to execute all necessary contract documentation.*

## **6. Variation to Waste Services Contract with JR Richards**

JR Richards has provided a price to provide a FOGO service for Lithgow Council as a variation to the existing Waste Services Contract. The price includes:

- Rollout: supply and delivery of a 240L green lidded FOGO bin and kitchen caddy to all households with a kerbside service, along with delivery of an education package supplied by Council;
- Ongoing operation: collection (servicing) of 240L FOGO bins and transport of collected material to ANL Blayney; and
- Additional services: supply and delivery of bins, caddies and education package for new and additional services.

Following an indicative price provided in August 2022, JR Richards has now provided a formal quote to vary the waste services contract to include roll-out and ongoing servicing costs. The total value is:

- \$547K for service roll-out; and
- \$1.315M per annum for collection and transport to the FOGO processing facility.

It is noted that the above prices do not include processing the collected material – that is detailed in the section below for Australian Native Landscapes (ANL).

Under Section 55 of the *Local Government Act 1993*, tenders are required for any contracts that exceed a value of \$250,000. The above amounts exceed this threshold. Section 55 does, however, provide certain exemptions including under Section 55(3)(i):

*a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.*

Council engaged Impact Environmental Consulting (IEC) to prepare a report on options for FOGO implementation with respect to tendering and consideration of Section 55(3)(i) of the Local Government Act. A copy of the report is a confidential attachment to this business paper. The report includes the rates provided by JR Richards. The conclusion in the IEC report is:

*IEC concludes that the proposal from J R Richards to vary the current collection contract to include FOGO collection services, together with the ANL proposal to accept and process the collected FOGO material for the proposed 2 year interim period, is a better value-for-money arrangement than what will be gained through a tender process.*

It is noted that the IEC report uses a proposed start date of October 2023. The new proposed start date of February/March 2024 does not change the rationale in the report – if anything it strengthens the proposal not to tender.

The IEC report demonstrates that by not going to tender Council is able to deliver better value for the introduction and provision of a FOGO service for the period February/March 2024 until 3 November 2025. A tender process will then be undertaken for all waste services with a commencement date of 4 November 2025.

*Recommendation: Council approve an exemption from tender in accordance with section 55(3)(i) of the Local Government Act 1993 for the variation of the Waste Services Contract with JR Richards to incorporate rollout and servicing of kerbside organics and delegate authority to the General Manager authorisation to sign all necessary contract documentation to vary the waste services contract.*

**7. New agreement with Australian Native Landscapes (ANL) in Blayney for processing of FOGO material**

Australian Native Landscapes (ANL) in Blayney has provided a gate fee for processing of collected FOGO material. The material will be composted and then used as an agricultural and horticultural product.

The total cost to Council, based on estimated tonnes of material collected, is ~\$335k per annum. Again, this amount exceeds the tender threshold under Section 55 of the *Local Government Act*.

As already detailed above, Council engaged Impact Environmental Consulting (IEC) to prepare a report on options for FOGO implementation with respect to tendering and consideration of Section 55(3)(i) of the Local Government Act. A copy of the report is a confidential attachment to this business paper. The report includes the gate fee for FOGO processing provided by ANL. The conclusion in the IEC report is:

*IEC concludes that the proposal from J R Richards to vary the current collection contract to include FOGO collection services, together with the ANL proposal to accept and process the collected FOGO material for the proposed 2 year interim period, is a better value-for-money arrangement than what will be gained through a tender process.*

The IEC report again demonstrates that by not going to tender Council is able to deliver better value for the processing of collected FOGO for the period February/March 2024 until 3 November 2025. A tender process will then be undertaken for processing of FOGO with a commencement date of 4 November 2025.

*Recommendation: Council approve an exemption from tender in accordance with section 55(3)(i) of the Local Government Act 1993 for the processing of kerbside organics at the ANL Blayney facility and delegate authority to the General Manager authorisation to sign all necessary contract documentation.*

**8. Consideration of an alternative date for roll-out**

Council has the option to delay roll-out of the FOGO service. The alternatives are November 2024 or November 2025 and the impact of these alternatives are summarised below.

*November 2024*

- Earlier termination of waste services contract with JR Richards than allowed under the contract and associated costs with new tender/contract process;
- No tender exemption required, however insufficient time for an effective tender process due to the scope of services and complexity of waste services procurement;
- Delays the introduction of FOGO by a further 9 months; and
- Exposes Council to a stepped increase in prices for all waste services and a likely increase in the domestic waste charge.

November 2025

- No tender exemption required and sufficient time for an effective tender process;
- Delays the introduction of FOGO by approximately 2 years; and
- Prolongs the costs of landfill space consumption and CO<sub>2</sub> emissions.

It is recommended to introduce FOGO in February/March 2024 as proposed in this report.

### Policy Implications

FOGO implementation supports a key goal and action in the adopted Lithgow City Council *Waste Management and Resource Recovery Strategy 2022-2026*.

### Financial Implications

- Budget approved - funding for Council's contribution to the initial rollout has been included in the draft 2023/24 capital works program (Waste Strategy capital works project \$2.45M in total).
- Cost centre - TBA
- Expended to date - nil
- Future potential impact - a key consideration for Council in providing the service early (before the 2030 mandated deadline) is the impact on the Council's overall financial position. There is the option to direct some funds from the commercial waste service to the costs of FOGO. But the direction of funds to FOGO needs to be weighed against the case for use of those funds elsewhere to balance the General Fund budget and maintain services across the city. This is discussed further below.

The Council has acknowledged that there is a current shortfall in funds available for the overall delivery of services to the community. This is the basis for the SRV application. Also, other additional funding is required beyond the revenue from an approved SRV.

Of course, Council's circumstances are very different if the SRV is not approved. **In this case the Council will need to identify more than \$4 million of savings from within its current operations. The imperative for increasing own source revenue and other funding will also be greater.**

### Legal and Risk Management Implications

For Council to implement FOGO early, options available within the current waste contract and non-competitive procurement will be required. This brings with it legal, probity, and financial risks which have been evaluated and managed, and will continue to be.

### Attachments

1. CONFIDENTIAL Attachment - Lithgow City Council - FOGO Implementation Report [10.4.1.1 - 17 pages]

## Recommendation

THAT Council:

1. Note the outcome of the community consultation for the rollout of a kerbside organics service and endorse commencement of a kerbside organics (FOGO) service with an expected commencement time of February/March 2024; and
2. Endorse the funding arrangements for roll-out and ongoing operating costs of a FOGO service including the introduction of a \$50 per tonne commercial 'waste levy', \$10 increase (in addition to CPI) in domestic waste charge and \$120 per service for households requesting additional services. Should the full SRV not be approved, the domestic waste charge will be increased by \$50 (in addition to CPI).
3. Endorse the proposed new fees and charges for 2023/24 (to be placed on public exhibition), being \$519 for the full domestic waste charge, \$639 for any additional full service, \$130 for any additional FOGO service only.
4. Delegate authority to the General Manager to sign the Deed of Agreement with the NSW EPA for the 'Go FOGO' grant;
5. Exercise the '2<sup>nd</sup> Extension Period' for the Waste Services Contract with JR Richards covering the 12-month period from 4 November 2024 until 3 November 2025 and the General Manager be authorised to execute all necessary contract documentation.
6. Approve an exemption from tender in accordance with section 55(3)(i) of the *Local Government Act 1993* for the variation of the Waste Services Contract with JR Richards to incorporate rollout and servicing of kerbside organics.
7. Approve an exemption from tender in accordance with section 55(3)(i) of the *Local Government Act 1993* for the processing of kerbside organics at the ANL Blayney facility.
8. Delegate to the General Manager authorisation to sign all necessary contract documentation to affect a FOGO service.

## 10.5. Finance and Assets Reports

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### 10.5.1. FIN - 24/04/2023 - Delivery Program 2022-2026 and Operational Plan 2023-2024

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|                      |  |
|----------------------|--|
| <b>Prepared by</b>   | Deborah McGrath - Corporate Planning and Communications Officer        |
| <b>Department</b>    | Corporate Planning and Communications                                  |
| <b>Authorised by</b> | Chief Financial & Information Officer<br>Director of People & Services |

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#### Summary

This report recommends that the Council endorses the Draft Combined Delivery Program 2022-2026 and Operational Plan 2023-2024 in accordance with the Local Government Act 1993 – Local Government Amendment (Governance and Planning) Act 2016, for placement on public exhibition.

The Local Government Act 1993 requires Council to place the documents on public exhibition for a minimum period of 28 days, and to consider any public submissions before final adoption of the plans in June 2023. This report responds to the legislative requirements.

#### Commentary

In 2021, the Office of Local Government released new Integrated Planning and Reporting Guidelines and Handbook. All NSW Councils are required to implement this in line with the 2024 local government elections and Integrated Planning and Reporting cycle. The Handbook definitions for the Delivery Program and Operational Plan are included for the information of Councillors as follows:

*The **Delivery Program (DP)** is a statement of commitment to the community from each newly elected council and translates the community's strategic goals into clear actions.*

*It is the primary reference point for all activities undertaken by council during its term of office. It allows council to determine what is achievable over the next 4 years, what the priorities are, and how programs will be scheduled.*

*Importantly, the DP allows council to demonstrate how its 'business-as-usual' activities help achieve Community Strategic Plan (CSP) objectives (e.g., garbage collection achieves a safe and healthy environment objective).*

*The **Operational Plan (OP)** is council's action plan for achieving the community priorities outlined in the Community Strategic Plan (CSP) and Delivery Program (DP).*

*An OP is prepared each year and adopted. Each OP identifies the projects, programs, and activities that council will conduct to achieve the commitments of the DP*

To be compliant with "best practice" identified in the Handbook, we are transitioning our Delivery Program and associated documents over 2 years from 1 July 2022. This includes:

- Identification of all council's activities, demonstrating how each will deliver CSP objectives
- reflecting activities identified in other documents
- identifying key performance indicators
- detailing delivery of planned projects and services for each year, aligning each action to a budget and outlining all resourcing issues
- outlining timeframes for each action
- considering any proposed land acquisition related expenditures.

### **Community Engagement Plan**

The Delivery Program 2022-2026 and Draft Operational Plan 2023/24 is provided for Council's consideration to place on public exhibition for 28 days. The closing date for public submissions will be 24 May 2023. This will allow the document to be put to the Council for final adoption at the June 2023 meeting.

Should Council endorse the Delivery Program 2022-2026 and Draft Operational Plan 2023/24, information on the contents of the Draft Operational Plan will be uploaded to Council's website [www.council.lithgow.com](http://www.council.lithgow.com) and promoted through media and social media channels.

During the exhibition period, residents will have the opportunity to make a submission on the draft plans, either online, via email, post or in person.

All submissions will be considered by the Council prior to finalising the plans for adoption in June 2023.

### **Fees and Charges**

Pricing considerations include the need to fund the cost of services impacted by high inflation, equity, capacity to pay and benchmarking with neighbouring Councils.

For 2023/24, management has undertaken a comprehensive review of fees and charges, utilising a methodology which includes:

- 7.3% CPI was applied to all non-regulatory / non legislated fees and charges with a critical review of fees and charges for key areas.
- Simplifying fee structures where possible.
- Fees and Charges being reviewed to identify:
  - conscious pricing principles,
  - new market opportunities and marketing of facilities,
  - cost to provide the service vs income generated; and
- Regulatory / legislated fees and charges are applied on advice from relevant authorities.

The CPI increase on fees & charges was set at the September 2022 quarter headline CPI of 7.3%, when consideration of 2023/24 fees and charges commenced. CPI increased to 7.8% in the December 2022 quarter and has since declined to 6.8% in February 2023.

A critical review of fees and charges was undertaken for key areas including Eskbank House, Development, Engineering Administration, all Council Hall hire, Union Theatre, waste, cemeteries, JM Robson Aquatic Centre, Council parks and sporting fields, and Water & Wastewater.

The Rural Waste Disposal Charge has been increased by 14.45% to \$198 (additional budgeted revenue of \$30K). Additional costs include the following:

- Transfer station servicing costs (JR Richards emptying skips bins, yellow-lidded bins, paper/cardboard collections): 2022/23 costs are tracking to increase 10% (greater than CPI).
- Additional security costs: camera system - purchase of 2 additional units in 2023 (@ \$10k each). 0.2 FTE expected to be required for additional cameras, approx. 1 FTE to manage all cameras and the associated regulation. Without security, sites are open to abuse that increases the costs of servicing and consumes landfill space.
- Although Wallerawang landfill is now closed, all the resources applied to this site (pushing up, compacting, site maintenance etc) have been redirected to other landfill sites, particularly Portland. With increased EPA regulation, cost increases include CPI plus additional resourcing to meet required standards.
- Road base is used to keep sites accessible, with more required during wet weather – rates for supply have increased 12% in last 12 months with another 16% increase due next month, overall 57% increase in last 3 years.

Mid-Western Council offers the same service as Lithgow Council – self haul to waste facilities for free disposal, security systems to manage facility usage. Mid-Western's 2022/23 charge for rural residents is \$238.

The following documents are included as an attachment to this report:

1. Draft fees and charges report 2023/24.
2. Discontinued 2023/24 fees and charges - these fees and charges are redundant.
3. New fees and charges report 2023/24.

### **Draft 2023/24 Budget Standards**

Council's budgeting aims to achieve the following standards:

- Meet the OLG's performance benchmarks (e.g., Fit for the Future) over 10 years of the Long-Term Financial Plan.
- Cashflow positive – no use of internal restrictions to fund operational activities.
- Meet audit requirements - compliance with all accounting standards.
- Match service delivery to the community's identified priorities and standards – within available capacity.

### **Basis for Preparing the Draft 2023/24 Budget**

Council is awaiting the NSW Independent Pricing and Regulatory Tribunal's (IPART) May 2023 determination on Council's overall 45.7% Special Rate Variation (SRV).

The budget will be updated following the IPART determination in May 2023.

**Should the SRV be approved in full, a balanced General Fund operating result (before capital) budget will be presented to the 26 June 2023 meeting for Council's consideration.**

**If the SRV is not approved, a review will commence to identify \$4.2M of service reductions which will be implemented incrementally.**

In the meantime, the draft 2023/24 budget has been prepared on the basis of the rate peg only 3.7% increase to rates.

### **Operating Result (Before Capital)**

The Office of Local Government (OLG) considers the operating result (before capital) to be an important indicator of financial performance. The result is calculated by deducting capital grants and contributions from the net operating result for the year (i.e. income less expenses).

In a time of significant financial challenges, the draft 2023/24 budget is presented to Council with a General Fund operating deficit (before capital) of (\$765K). The consolidated operating result (before capital) is a surplus of \$973K.

A key Office of Local Government (OLG) performance measure is the Operating Performance Ratio. The ratio measures Council's achievement of containing operating expenditure within operating revenue. The ratio is one of the Fit for the Future ratios. The OLG benchmark for the Operating Performance Ratio is 0% which equates to a balanced operating result (before capital). The draft 2023/24 budget consolidated operating performance ratio is **1.8%**.

The table below shows the draft 2023/24 budget operating result budget (before capital) by fund.

|                       | General Fund | Water Fund | Sewer Fund | Consolidated |
|-----------------------|--------------|------------|------------|--------------|
| Income                | 54,932       | 9,064      | 9,064      | 73,060       |
| Expenditure           | 39,487       | 7,545      | 7,290      | 54,322       |
| Operating Result      | 15,446       | 1,519      | 1,774      | 18,738       |
| Result before Capital | (765)        | 964        | 774        | 973          |

### Structural Deficit

Recent quarterly budget review reports have highlighted the way in which disaster income and expenses budgets are presented in the financial statements is masking the reality that Council continues to have an underlying actual shortfall in general revenues. At the 2022/23 Quarter Two budget review, the structural deficit was estimated at (\$3.4M).

The draft 2022/23 budget includes \$2.93M of capital disaster recovery works. The natural disaster claims income is classified as "operating grants" whilst the expense is in the capital works program due to the nature of the works being asset renewal. Asset renewal works are expensed over the useful life of an asset via depreciation. To a lay observer, this accounting treatment appears to suggest a positive result because of an increased surplus. This is not the case, and as is often stated, Council has an on-going and material structural shortfall in general revenue. If \$2.93M of natural disaster claims income is excluded from operating revenue, the General Fund operating result (before capital) would increase to (\$3.7M) which is consistent with the estimated structural deficit for the 2022/23 year.

### Strategies / Factors to Help Deliver a Balanced Budget

A number of actions have been necessary to achieve a proposed budget for the year ahead which is acceptable, as a short-term strategy. These are elaborated on below. Once again, these circumstances are not sustainable beyond this year.

Council currently has an unusually high number of vacant positions which reflects broader employment market conditions. Ideally, the vacant positions would be filled to maintain service delivery standards. The reality of the current employment market is that a high number of positions are likely to remain unfilled into the 2023/24 year. The draft budget allows for \$1.46M of expected savings resulting from delays in filling vacant roles.

- **Employment costs** - employment market constraints - \$1M for the General Fund, \$460.5K for Water & Wastewater.
- **Materials and contracts** – reflect 2022/23 revised budget -> no budget increase despite high inflation.
- **User fees & charges** - 7.3% CPI increase for General Fund, Waste, Water, Sewer.
- **Depreciation** - increased due to revaluations and RFS red fleet booked on Council balance sheet.
- **Revenue funded capital works program** - focused on priority projects to conserve cash.

### Increase in Employment Costs

The draft 2023/24 budget includes a \$1.7M (9%) increase in employment costs. The key drivers of an above CPI increase in employment costs are:

- Additional positions - \$887K – 8 new positions are included in the draft budget (listed below in Operational Projects), most of the new positions have a funding source other than General Fund revenue.
- Award increase and step increases - \$570K - the draft budget allows for a 3% award increase in salaries and wages (further information in Risks to a Balanced Budget below).

- Superannuation - \$220K – the superannuation guarantee rises to 11%, also impacted by higher salaries and wages.
- Workers compensation - \$200K - Council's premium has reduced by \$400K over the past 2 years. An increase is expected for 2023/24, mainly due to higher salaries and wages.
- Payroll tax - \$160K – due to higher salaries and wages in Council's business activities which incur payroll tax (e.g. Water & Wastewater).

The increase in employment costs is partly offset by the savings expected due to the employment market constraints.

### **Risks to a Balanced Budget**

A new Local Government (State) Award will apply from 1 July 2023. The new award is still in the negotiation stage.

The 2023/24 draft budget allows for a 3% award increase in salaries and wages. The newly elected Labor State Government has committed to removing the public sector wages cap of 3% p.a. It is estimated that a higher award increase would have the following financial implications:

- Impact of 4% Award increase - \$179K.
- Impact of 5% Award increase - \$356K.

There would be a need to reduce costs and/or generate additional revenue should a higher award increase eventuate.

There is also a risk that continued higher inflation will increase the cost of materials and contracts. Without budget adjustments, service standards may be impacted by ongoing high inflation.

These risks will be closely observed and responded to if they present. This would likely involve a reduction in service levels.

### **Grant Funding**

A strategic approach is taken to seeking grant funding. Capital grant funding applications have generally been focussed on asset renewal projects, rather than adding to new assets (which require ongoing maintenance and future renewal). Business cases are prepared prior to applying for funding. Business cases take into account the whole-of-life cycle costs relating to funding applications for new assets. Business cases are only approved if recurrent and renewal costs can be covered.

The 2023/24 budget has a strong focus on grant funded projects to conserve cash for Council's general operations. Grant funded operational and capital projects are noted below.

### **Operational Projects**

Operational business case inclusions total \$2.26M.

#### New Positions

Most of the additional positions were included in the draft budget as the roles were substantively funded from sources other than the General Fund.

- Corporate Strategy & Communications Support Officer (currently temp role).
- Senior Ranger (mainly funded from additional income / productivities).
- Water & Wastewater - Trainee Treatment Plant Operator, Apprentice Plumber, Electrical Technician.
- Infrastructure Recovery Coordinator (Contract) – funded from natural disaster claims.
- Engineering Officer – mainly funded from grants & claims.

- Governance & Risk Manager (funded from SRV if approved, and if not then substantially from savings due to less senior staff).

Operational Business Cases

- Tourism Marketing - \$125K – partly grant funded.
- Lithgow Halloween - \$100K.
- Lithglow - \$70K.
- Dam Safety Compliance - \$155K.
- Local Strategic Planning Statement Implementation - \$215K.
- Pothole Repair Round \$315K (grant funded).
- Ironfest Sponsorship \$20K.

**Capital Works Program**

Capital business base inclusions - \$40.5M.

Grant Funded

- Atkinson Street/State Mine Gully Road renewal - \$4.485M
- Main Street CBD Footpath Revitalisation - Stage 2- \$2.7M
- Fixing Country Bridges Round 2 Grant - \$1.4M
- Active Transport Plan - Walking and Cycling Projects - \$854K
- Main Street / Cupro Street Stormwater Drainage improvement - \$870K
- Portland Central Park Project - \$672K
- Public Library Infrastructure Grant - \$474K

General Fund Revenue / Reserves

- Lithgow Store Construction - \$1.1M
- Plant Replacement Program - \$1.68M

Waste

- Implementation of capital works related to Lithgow City Council Waste Strategy - \$2.45M (grant / waste revenue / reserve)

Water & Wastewater

- Clarence to Wallerawang Pipeline - \$995K (grant & water reserve)
- Watermains Renewal - \$414K
- Lithgow Sewerage Treatment Plant Inlet Works - \$1.1M
- New Sewerage Pumping Station for South Bowenfels Development area - \$3.942M (grant & sewer reserve)
- Sewer Mains Relining - \$460K

The draft Capital Works Program summary is provided below:

| Capital Works Program 2023/24 |           |
|-------------------------------|-----------|
| Bridges                       | 1,600,378 |
| Buildings                     | 2,857,408 |
| Footpaths                     | 1,773,350 |
| Information Technology        | 423,150   |
| Plant Replacement             | 1,680,000 |
| Recreation                    | 2,709,949 |

|                              |                   |
|------------------------------|-------------------|
| Roads                        | 16,159,538        |
| Library                      | 528,115           |
| Cemetery                     | 100,000           |
| Waste                        | 2,450,000         |
| Wastewater                   | 7,620,952         |
| Water                        | 2,608,783         |
| <b>Total Capital Program</b> | <b>40,511,623</b> |

**Proposed SRV Program**

The SRV program outlined below was included in Council’s SRV application. If the SRV is approved by IPART, the program will be added to the draft 2023/24 budget to be put to the 26 June 2023 meeting. The total SRV amount is **\$6.252M**.

A detailed plan for utilisation of the SRV funds will be put to Council if the SRV is approved.

Operational

- Transport Maintenance - \$1.665M
- Stormwater Maintenance - \$279K
- Other Asset Classes Maintenance - \$396K
- Governance and Strategy Capacity - \$250K
- Capacity Building - \$250K
- Transitions Management - \$1.092M

Capital / Other

- Roads Renewal - \$1.373M
- Stormwater Drainage Renewal - \$180K
- Other Asset Classes Renewal - \$517K
- Contingency - \$250K

**Financial Performance Indicators**

Below is a summary of the draft 2023/24 budget results for the OLG's key financial performance indicators.

| Ratio                                    | Benchmark | 23/24 Budget | Result |
|--|-----------|--------------|--------|
| Operating Performance Ratio              | > 0       | 1.8%         | ✓      |
| Own Source Operating Revenue Ratio       | > 60%     | 59%          | ✗      |
| Debt Service Cover Ratio                 | > 2 x     | 17           | ✓      |
| Building & Infrastructure Renewals Ratio | > 100%    | 174%         | ✓      |

The budget forecasts that Council will be marginally below the benchmark for the Own Source Operating Revenue Ratio. This is due to higher grant funding contributions to Council. To improve the ratio to meet the benchmark, additional own source revenue (e.g. user fees and charges) would need to be identified.

This ratio is a guide to the extent to which a Council is self-sustaining without excessive ongoing reliance on external funding such as from grants. It is to be noted that a large proportion of the grant funding for next year is directed to disaster recovery works. These are additional works to a business-as-usual operating environment. If these types of works were not included in next year’s

program Council would meet the ratio. On this basis, it is not of great concern for Council to narrowly miss compliance with the ratio.

### **Loan Borrowings**

A loan is planned for the South Bowenfels Land Development Project. The amount of the loan is subject to further consideration upon completion of the project business case in early May 2023.

### **Revenue Policy**

Council's Revenue Policy has been comprehensively reviewed and is included in the Draft Operational Plan.

### **Policy Implications**

Nil arising from this report.

### **Financial Implications**

The Delivery Program 2022-2026 and Draft Operational Plan 2023/24 presents a financially prudent and cashflow positive budget. Council needs to continue to implement the Financial Sustainability Plan to achieve the target of a balanced operating result (before capital) for the General Fund.

### **Legal and Risk Management Implications**

The Local Government Act 1993, Local Government Amendment (Planning and Reporting) Bill 2009 and Local Government (General) Regulation 2005 outlines requirements for the preparation, exhibition and adoption of the Integrated Planning and Reporting Framework. The Draft Delivery Program and Operational Plan must be exhibited for a minimum period of 28 days.

The draft plans presented for public exhibition address and respond to a range of medium to longer term financial, asset and service provision risks, while the Draft Capital Works Program addresses some of Council's assets at greatest risk of failure.

### **Attachments**

1. Delivery Program 2022 2026 Operational Plan 202324 v 1 [**10.5.1.1** - 148 pages]
2. Fees & Charges - New 23-24 [**10.5.1.2** - 2 pages]
3. Fees & Charges - Deleted 23-24 [**10.5.1.3** - 1 page]
4. Fees And Charges Report 23 24 [**10.5.1.4** - 59 pages]
5. Revenue Policy-2023 2024 - FINAL - April 2023 [**10.5.1.5** - 45 pages]

### **Recommendation**

THAT Council:

1. Endorse the Delivery Program 2022-2026 and Draft Operational Plan 2023/24 to be placed on public exhibition for 28 days. This will include the following documents:
  - a. The Delivery Program 2022-2026 and Draft Operational Plan 2023/24; and
  - b. Draft Fees and Charges 2023/24.
2. Note that the closing date for submissions be Wednesday 24 May 2023.

**10.5.2. FIN - 24/04/2023 - Investment Report March 2023**

**Prepared by** Sharon Morley – Finance Officer

**Department** Finance & Assets

**Authorised by** Chief Financial & Information Officer

**Reference**

Min No 23-54 Ordinary Meeting of Council held on 27 March 2023.

**Summary**

The purpose of this report is to advise Council of investments held as at 31 March 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 31 March 2023, when compared to 28 February 2023, has increased by \$451,248 to \$36,833,583. Investments increased from \$36,382,335 to \$36,833,583. Cash in Council's bank account decreased from \$2,238,024 to \$448,747.

The \$1.3M decrease in cash and investments is mainly due to the ordinary business of Council, with lower cash inflows as there are no rates or Financial Assistance Grant instalments due in March. 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 March 2023 were as follows:

|   |              |
|---|--------------|
| Opening Balance of cash and investments as 01 March 2023    | \$38,620,359 |
| <u>Plus</u> New Investments – March 2023                    | \$5,451,248  |
| <u>Less</u> Investments redeemed – March 2023               | -\$7,789,277 |
| Closing Balance of cash and investments as at 31 March 2023 | \$37,282,330 |

**CFIO comment on the cash and investments balance** – the \$1.3M decrease in cash and investments in February 2023 was anticipated as March is typically a month of lower 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.

There was a high volume of Accounts Payable transactions in March 2023. There were high value transactions for natural disaster road remediation works and large scale capital works projects. The administration continues to pay close attention to managing this aspect – which might be referred to as cashflow.

High value transactions included \$2.271M for natural disaster road remediation works, \$140K for the Glen Davis bridges project, \$550K for Cullen Bullen Sewer Scheme, \$739K for the Clarence to Wallerawang Pipeline feasibility study, \$140K for the smart water meters annual subscription, \$507K for water purchases and \$175K for the Lithgow SWF tarpaulin system.

### 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 - \$739,551
- Future potential impact – Nil.

The Council's interest income for 2022/23 is close to 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. March 2023 Investment Attachment [**10.5.2.1** - 1 page]

### **Recommendation**

THAT

1. Investments of \$36,833,583 and cash of \$448,747 for the period ending 31 March 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.

## 10.6. Policies and Governance

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### 10.6.1. PS - 24/04/2023 - Policy 7.6 - Council Conflict of Interest

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**Prepared by** Paul Cashel – Development Manager

**Department** Development

**Authorised by** Director of People & Services

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#### Reference

19-340 Date: 25/11/2019

#### Summary

To recommend that the Council adopt an amended Policy to satisfy a new legislative requirement.

#### Commentary

In response to recommendations made by the NSW Ombudsman, changes have been made to the Environmental Planning and Assessment (EP&A) Regulation to strengthen transparency and accountability in the planning system. (See Attachment 1).

Amendments to the Regulation come into effect on 3 April 2023 and will require all councils to:

- have a conflict-of-interest policy in place that advises how they would manage any potential conflict of interest that may arise when a council assesses development applications, where they have a commercial interest in the outcome.
- prepare a management statement which must be exhibited with the development application, which details the potential conflict and the way council proposes to manage it.
- exhibit council-related development applications for a minimum of 28 days and record in their DA register the steps taken to manage any conflicts.

Lithgow City Council already has in place **Policy 7.6 Development Applications By Councillors And Staff, Or On Council Owned Land**. The Amendment Regulation adds more detail to require how any potential conflict of interest is to be managed where Council has a commercial interest in that outcome. An example would be if Council were developing a building comprising a childcare centre, commercial office spaces and partial use of the building for council's public administration.

For the purposes of simplicity, it is recommended that the Council adopt an amendment to Policy 7.6 by way of the insertion of the following: (Also see Attachment 2).

- Name of policy
- Aim of policy
- Scope
- Definitions
- Management Controls and Strategies to Manage Potential Conflicts of Interest

#### Policy Implications

This is an amendment to an existing Policy. Public consultation is not required.

#### 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**

The purpose of the legislation changes and resultant Policy is to better manage risk and potential conflict of interest.

### **Attachments**

1. EP&A Amendment (Conflict of Interest) Regulation 2022 [**10.6.1.1** - 3 pages]
2. Council-related Development Application Conflict Of Interest Guidelines - September 2022 [**10.6.1.2** - 6 pages]
3. Policy 7 6 DevelopmentApplicationsByCouncillorsAndStaffAndRelativesOrOnCoun (2) [**10.6.1.3** - 5 pages]

### **Recommendation**

THAT The Council adopt amended Policy 7.6 (as provided as Attachment 3).

## 11. Council Committee Reports

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### 11.1. IS - 24/04/2023 - Operations Committee Meeting - 4th April 2023

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**Prepared by** Kaitlin Cibulka – Executive Assistant

**Department** Infrastructure Services

**Authorised by** Director of Infrastructure & Services

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#### Summary

This report provides details of the minutes of the Operations Committee meeting held on Tuesday 4 April 2023.

#### Commentary

At the Operations Committee meeting held on 4 April 2023, there were several items discussed by the Committee which included:

- Council's Weed Management Obligations – UMCC
- Water and Waste Water Report

The following items were outside the Committees delegations and require Council to formally approve the recommendations:

- Expressions of Interest for Recycling of Demolished Bridge Timber
- Wolgan Road – Proposed Route Selection
- Disaster Risk Reduction Fund – Regional Resilience Program
- Portland / Sunny Corner Road, Portland – Proposed Bus Stop

#### 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 Operations Committee Meeting 4 April 2023 [11.1.1 - 8 pages]

## Recommendation

THAT Council:

1. Note the minutes of the Operations Committee Meeting held on 4 April 2023; and
2. Endorse the Expressions of Interest process for the recycling of timber, generated from the replacement of the three bridges along Glen Davis Road.
3. Note the update provided to the Committee on next steps relating to the Wolgan Valley Proposed Alternative Route Selection process.
4. Note the update provided to the Committee regarding Lithgow Council's involvement in the Regional Risk Reduction Program.
5. Actively seek grant funding of \$224,334 (excluding GST) to undertake necessary improvements to the Portland Cemetery service lane to accommodate a formal bus stop area.

## 11.2. FIN - 24/04/2023 - Appointment of ARIC Member

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

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### Summary

The purpose of this report is to recommend the appointment of Kylie McRae as an independent voting member of the Lithgow Council Audit Risk and Improvement Committee (ARIC).

### Commentary

The adopted ARIC Terms of Reference state that the Committee consists of one independent voting Chair, two independent voting members, the Mayor as a voting member and one Councillor voting member (currently the Deputy Mayor). The governing body is to appoint the Chair and members of the Committee. Independent members are appointed for a four-year period.

An independent member vacancy arose following Phil Ross' resignation from the Committee due to a change in his personal circumstances.

The General Manager and Chief Financial & Information Officer conducted an Independent Member EOI process, including interviews with a shortlist of preferred candidates. Kylie McRae has been selected as the most suitable candidate for the vacant independent member role on the ARIC. Kylie has over 30 years' experience providing assurance services, governance, risk management and compliance advice and support. Kylie is currently serving on three NSW Council ARICs.

It is recommended that Kylie McRae be appointed as an independent voting member of the Lithgow Council ARIC for a four-year term.

### Policy Implications

The composition and tenure of the Lithgow Council Audit Risk and Improvement Committee is set in the adopted Committee Terms of Reference.

### Financial Implications

- Budget approved - the ARIC independent member fee has been set at \$1,000 per meeting plus reasonable travel expenses.
- Cost centre - PJ 800167
- Expended to date - N/A
- Future potential impact – N/A

### Legal and Risk Management Implications

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

### Attachments

Nil

### Recommendation

THAT Council appoint Kylie McRae as an independent voting member of the Lithgow Council Audit Risk and Improvement Committee (ARIC) for a four-year term, in accordance with the ARIC Terms of Reference.

## **12. Business of Great Urgency**

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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**

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### **Recommendation**

THAT Council Resolve to move into Closed Council to consider the confidential reports as listed in the Agenda.