



LithGlow 2023 – Photo Kylie Blakemore

BUSINESS PAPER

Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 22 May 2023

at 7:00 PM

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1. Acknowledgement of Country

Acknowledgement of Country

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

Declaration of Webcasting

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

2. Present

3. Apologies

4. Declaration of Interest

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

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

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

Oath Of Councillor

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

Affirmation Of Councillor

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

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

5. Confirmation of Minutes

Confirmation of the Minutes of the Ordinary Meeting of Council held 24 April 2023.

6. Commemorations and Announcements

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

7. Public Forum

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

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

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

8. Mayoral Minutes

8.1. Mayoral Minute - 22/05/2023 - Emergency Services Levy

Report by Mayor – Councillor Maree Statham

Commentary

I am calling on Councillors to support representations to the NSW Government in response to the highly damaging increase in the Emergency Services Levy (ESL) imposed on all Councils without warning for the 2023/24 financial year.

The ESL is a cost imposed on Councils and insurance policy holders to fund the emergency services budget in NSW. The majority is paid as part of insurance premiums, with a further 11.7% funded by Councils and 14.6% by the NSW Government. The ESL represents cost shifting at its worst, as it is imposed on Councils without any mechanism for Councils to recover costs.

The levy increase for the State's 128 Councils in 2023/24 amounts to almost \$77 million, with the total cost imposed on the local government sector increasing from \$143 million in the current financial year to \$219 million next year. This represents a 53.1% increase, completely dwarfing the IPART baseline rate peg of 3.7% for 2023/24.

Reporting suggests that the increase in costs this year reflects a 73% increase in the State Emergency Service budget and an 18.5% funding increase to Fire and Rescue NSW. The impact of these large increases on Councils' finances will be particularly severe in 2023/24 as a result of the NSW Government deciding to scrap the subsidy for Council ESL payments.

For many Councils, the unexpected cost hit will absorb almost all of their IPART-approved rate rise for this year and in some cases absorb more than 100%. This is placing local government budgets

under enormous pressure as they struggle from the combined impact of the pandemic, extreme weather events, high inflation and wage increases.

IPART-approved rate rises are intended to compensate for the impacts of inflation and increases in Council costs. Instead, the rate increase will have to be largely diverted to the significantly higher ESL payments this year. Lithgow Council would have no alternative except to cut budgets and services from July 2023.

For Lithgow Council, the minimum increase in the ESL for 2023/24 is around **\$200K**, based on the current year subsidy and not allowing for an increase in the 2022/23 ESL invoice of \$851K. This amounts to **35%** of the expected rate peg increase for 2023/24. Below is a summary table showing the year-on-year increases in the ESL since 2018/19. There has been a 65% increase in the ESL over 4 years.

Year	ESL Amount	\$ Year on Year Change from 18/19	% Increase	Subsidy Amount
2018/19	\$ 517,040			
2019/20	\$ 625,636	\$ 108,596	21%	\$ 87,347
2020/21	\$ 841,438	\$ 215,802	34%	\$ 215,801
2021/22	\$ 647,675	-\$ 193,763	-23%	\$ 22,039
2022/23	\$ 850,776	\$ 203,101	31%	\$ 204,673
4 Year Increase		\$ 333,736	65%	\$ 529,860

The timing of this development is particularly challenging for Councils as it comes so late in Council's budgeting cycle, well after IPART's rate determination for the coming financial year.

All Councils strongly support a well-funded emergency services sector and the critical contribution of emergency services workers and volunteers (many of whom are Councillors and Council staff). However, it is essential that these services be supported through an equitable, transparent and sustainable funding model.

Local Government NSW has raised the serious concerns of the local government sector with the NSW Government and is seeking the support of Councils across NSW in amplifying this advocacy.

This Mayoral Minute recommends that Council call on the NSW Government to take immediate action to:

- restore the ESL subsidy,
- decouple the ESL from the rate peg to enable Councils to recover the full cost, and
- develop a fairer, more transparent and financially sustainable method of funding critically important emergency services.

The Mayoral Minute also recommends that Council write to IPART advising of the financial sustainability impacts on of the ESL.

Attachments

Nil

Recommendation

THAT Council:

1. Writes to the Treasurer, the Minister for Emergency Services, the Minister for Local Government and local State Member:
 - a. Expressing Council's strong opposition to the NSW Government's last minute decision to impose an enormous Emergency Services Levy (ESL) cost increase on Councils for 2023/24 by scrapping the ESL subsidy and at a time after Council has commenced publicly advertising its Operational Plan and annual budget to the community;
 - b. Noting that as a consequence of the unannounced 73% increase in the State Emergency Service budget and an 18% increase in the Fire and Rescue NSW budget, Council's 3.7% rate peg increase to provide essential community services and infrastructure has been significantly eroded.
 - c. Advising that the Government's decision will lead to a reduction in important local services and/or the cancellation of necessary infrastructure projects;
 - d. Calling on the NSW Government to take immediate action to:
 - i. restore the ESL subsidy in 2023/24,
 - ii. urgently introduce legislation to decouple the ESL from the rate peg to enable councils to recover the full cost, and
 - iii. develop a fairer, more transparent and financially sustainable method of funding critically important emergency services in consultation with local government.
2. Council writes to the Chair of the Independent Pricing and Regulatory Tribunal (IPART) advising that Council's forced emergency services contribution is manifestly disproportionate to the 2023/24 rate cap, which has resulted in additional financial stress.
3. Council writes to the President of LGNSW seeking the Association's ongoing advocacy to bring about a relief in the burden of Councils' emergency services contribution.

9. Notices of Motion

9.1. NOM - Cr Almudena Bryce - 22/05/2023 - Seven Valleys Tourism Committee

Report by Councillor Almudena Bryce

Attachments

1. ToR Seven Valleys Tourism Committee [9.1.1 - 3 pages]

Recommendation

THAT

1. The Seven Valleys Tourism Committee meeting minutes be reported to Council meetings, rather than go through the Economic Development Committee.
2. Terms of Reference be altered to reflect the requirement for minutes be reported to Council meetings.

Management Comment

The Seven Valleys Tourism Committee Terms of Reference (ToR) are included as an attachment.

Should Council endorse the recommendation, the ToR will be updated as follows:

Minutes and Reports to Council

- Minutes of meetings will be kept and will be reported to Council.
- The Minutes of the meeting will be submitted to the next ordinary meeting of Council.

9.2. NOM - Cr Almudena Bryce - 22/05/2023 - First Nations Representative on S355 Committees

Report by Councillor Almudena Bryce

Attachments

Nil

Recommendation

THAT:

1. A First Nations representative, from a Registered Aboriginal Party (RAP), be nominated for appointment to S355 Committees, as relevant, to follow on from the support of the Voice to Parliament.
2. Council determine the S355 committees which will include a First Nations representative.
3. Committee Terms of Reference be altered to reflect the inclusion of a First Nations representative on selected Committees.

Management Comment

Section 355 (b) of the NSW Local Government Act 1993 makes provision for Councils to delegate certain functions to Committees to provide these on behalf of the Council.

Council may use this authority and appoint a Section 355 Committee to manage facilities or functions.

Section 355 Committees are those Committees which have active resident participation in Council decision making.

The aim of each Section 355 Committee is to accurately reflect both the Council visions and aims, as they are informed by the community, and to present current and future needs of the LGA.

Section 355 Committees are required to be representative of the local community or interest groups of the facility or function, which the Committee manages.

Should Council endorse the recommendation, the following S355 Committees are considered to be relevant for a First Nations representative, from a Registered Aboriginal Party (RAP), to be nominated for appointment to the Committee:

- Community Development Committee,
- Environmental Advisory Committee,
- Seven Valleys Tourism Committee,
- Crime Prevention Committee, and
- Women's Advisory Committee.

10. Staff Reports

10.1. People and Services Reports

10.1.1. Building and Development

10.1.1.1. ECDEV - 22/05/2023 - DA042/23 Proposed Community BBQ Area-Saville Park Portland

Prepared by	Lauren Stevens- Development Planner
Department	Development
Authorised by	Director of People & Services
Property Details	Lot 40 DP 842893, Saville Park, Williwa Street, Portland
Property Owner	Lithgow City Council
Applicant	Portland Touch Football Association

Summary

The purpose of this report is to assess and recommend determination of Development Application DA042/23 for a community BBQ area on land known as Lot 40 DP 842893, Saville Park, Williwa Street Portland.

Commentary

The proposal is for a BBQ area consisting of BBQ's, seating area and a shelter. The concrete slab is proposed to have an area of 60m² (10m x 6m) and is proposed to be located in the north-eastern corner of Saville Park, adjoining the Portland Touch Football Clubhouse.

The shelter structure is proposed to be of timber material with a flat colorbond^(TM) roof. The height of the shelter is proposed to be 2.807m at the front and slope to a height of 2.125m at the rear (facing the pool).

The location of the facility is proposed to be approximately 13.5m from the adjoining swimming pool boundary fence and 30m from Williwa Street. The land is relatively flat and contains a drainage easement between the proposed building and the swimming pool fence.

The proposal has been assessed in accordance with the requirements of section 4.15 of the Environmental Planning and Assessment Act 1979 as detailed in the assessment report in the attachment. The assessment report recommends granting approval to the development subject to conditional consent.

Policy Implications

Policy 1.2 Acquisition and Disposal of Assets

This Policy needs to be considered when the Council is considering the acquisition and/or development of assets. The Portland Touch Football Association has received a grant for the construction of the building, once this building has been constructed, it will be dedicated to Council for maintenance and management.

Policy 7.6 Development Applications by Councillors and Staff or on Council Owned Land

This policy requires Development Applications on Council land to be referred to the elected Council for consideration and determination and that no aspect of the development is dealt with under

delegated authority. Given Council's management of this land the proposal is reported to Council for determination.

Lithgow Community Participation Plan

The Lithgow Community Participation Plan applies to all land within the Lithgow Local Government Area (LGA) and prescribes the following types of development as exempt from requiring notification:

2. APPLICATIONS FOR WHICH NOTIFICATION WILL NOT BE GIVEN

- *Any other development of a minor nature that, in the opinion of the assessing officer, does not have the potential to create a negative impact on the amenity of the neighbourhood by way of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.*

Therefore, no adjoining or adjacent landowners have been notified of the proposal as part of this process.

Financial Implications

- Budget approved - N/A for the assessment of the development application.
- Cost centre - N/A for the assessment of the development application.
- Expended to date - N/A for the assessment of the development application.
- Future potential impact - N/A for the assessment of the development application.

Legal and Risk Management Implications

Nil.

Environmental Planning and Assessment Act 1979

In determining a development application, Council as the consent authority is required to take into consideration the matters of relevance under Section 4.15 of the Environmental Planning and Assessment Act 1979. These are addressed in the planning assessment report.

Attachments

1. DA042 23 - Development Assessment Report [**10.1.1.1.1** - 19 pages]
2. DA042 23 - Site Plan Saville Park Williwa Street Portland [**10.1.1.1.2** - 1 page]
3. DA042 23 - Engineering Plans - Saville Park Williwa Street Portland [**10.1.1.1.3** - 1 page]
4. DA042 23 - Proposed Shelter with BBQ fit out plan [**10.1.1.1.4** - 1 page]

Recommendation

THAT

1. Development Application DA042/23 be APPROVED subject to conditions of the consent outlined in the attached planning assessment report.
2. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

10.1.1.2. ECDEV - 22/05/2023 - Call In - DA 064/23 - Energy Australia - Industrial Development - Borehole Drilling & Pitt Excavation

Prepared by	Lauren Stevens – Development Planner
Department	Development
Authorised by	Director of People & Services
Property Details	Lot 101 & 103 DP1164619, Lot 1 DP829065, Lot 191 DP629212 & Lot 2 DP702619, 85 Boulder Road, Blackmans Flat.
Property Owner	TruEnergy Pty Ltd ABN (ENERGYAUSTRALIA Pty Ltd)
Applicant	Aurecon Group on behalf of EnergyAustralia P/L

Summary

To inform the Council of the 'call in' of Development Application DA064/23 by Councillor Lesslie, pursuant to Council's Policy 7.7.

Commentary

Council is in receipt of Development Application DA064/23 for an industrial development involving borehole drilling & pit excavation on land known as Lot 101 & 103 DP1164619, Lot 1 DP829065, Lot 191 DP629212 & Lot 2 DP702619, 85 Boulder Road, Blackmans Flat.

The applicant, Aurecon, advises that:

The landowner (EnergyAustralia) is currently investigating the development of a grid scale battery energy storage system (BESS) with a capacity of up to 500 Megawatts and duration of up to 4 hours, along with associated infrastructure. It is proposed that the project will be located immediately adjacent to the Mt Piper Power Station.

The site investigation activities will help to inform the design and constructability of the battery system; including, environmental and hazard assessments, understanding the local geotechnical conditions, identifying potential engineering constraints such as mine voids, natural soils, contaminants, and ground levels for the overall project.

The investigation activities will further inform part of the Environmental Impact Statement for the battery energy storage system (BESS) project - State Significant Development (SSD-50903958), as required by the Secretary Environmental Assessment Requirements (SEARs) issued on 23 December 2022.

The investigation involves drilling and subsurface sampling at approximately 71 locations over an area of approximately 30ha, across the proposed BESS area.

The activities that form part of the current development application include:

- *Clearing and establishment of approximately 1.7km of vehicle track to enable access to all proposed drilling/sampling locations,*
- *Drilling of approximately 62 boreholes to varying depths, of which approximately 5 would be converted to groundwater monitoring wells,*
- *Excavation of approximately 9 test pits,*
- *Excavation of approximately 6 shallow test pits, adjacent to the above 9 test pits,*
- *Geophysical investigation and data collection along approximately 5 intersecting lines, and*
- *Remediation of the site, limited to the drill site.*

Council staff are currently assessing the development application (lodged on 5 May 2023), with a full report to be presented to a future Council meeting, once the assessment is finalised.

Policy Implications

Policy 7.7 Calling In Of Development Applications By Councillors

This application has been called in pursuant to Policy 7.7 "Calling in of Applications by Councillors" Item 3 that states:

3. Should written notice signed by a Councillor be provided to the General Manager prior to determination of a development application, the application shall not be determined under delegated authority but shall be:

- Reported to the next available Ordinary Meeting for the information of Council that the development application or development application/construction certificate has been 'called in'; and*
- Reported to a Meeting of Council for determination where the application is in a state that it can be determined.*

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

No specific implications at this point of the process.

Attachments

Nil

Recommendation

THAT the calling in of Development Application DA064/23 for the site investigation activities for a proposed grid scale battery energy storage system be noted.

10.1.1.3. ECDEV - 22/05/2022 - Call In - DA070/22 (Mod DA013/23) - Lake Lyell - Magpie Hollow Road South Bowenfels

Prepared by	Lauren Stevens – Development Planner
Department	Development
Authorised by	Director of People & Services
Property Details	Lot 103 DP 751651 – Lake Lyell, Magpie Hollow Road, Bowenfels
Property Owner	EnergyAustralia NSW Pty Ltd
Applicant	EnergyAustralia NSW Pty Ltd

Reference

Minute No. 22-94 Ordinary Meeting of Council held on 23 May 2022: Geotechnical Investigation Works, Lake Lyell,

Min No 22-135: Ordinary Meeting of Council held on 25 July 2022: Geotechnical Investigation Works, Lake Lyell,

Notice of Rescission: Extra Ordinary Meeting of Council held on 1 August 2022: Geotechnical Investigation Works, Lake Lyell.

Summary

To inform Council of the 'call in' of a Modification of Development Consent Application MODDA013/23 to DA070/22 by Councillor Coleman, pursuant to Council's Policy 7.7.

Commentary

Council is in receipt of a modification of development consent application DA070/22, modification MODDA013/23 on land owned by EnergyAustralia, adjacent to Lake Lyell and Mount Walker.

EnergyAustralia is seeking to modify the consent for the geotechnical investigation works to allow additional bores to be drilled for the purpose of establishing a groundwater monitoring network and continuation of geotechnical investigation works. The groundwater monitoring network would provide data to support and inform the feasibility and design of a pumped hydro energy storage project.

The proposed modification involves:

- Drilling four groundwater monitoring boreholes on existing drill pads and within the approved disturbance footprint;
- Drilling six groundwater monitoring boreholes at three new drill pads outside the approved disturbance footprint, however utilising existing disturbed areas where possible to minimise the need for additional clearing or extensive earthworks; and
- Drilling up to four additional geotechnical boreholes within the investigation envelope.

Council staff are currently assessing the modification application (lodged on 9 May 2023), with the application to be placed on public exhibition and notified to surrounding landowners before a full report is presented to a future Council meeting, once the assessment is finalised.

Policy Implications

Policy 7.7 Calling In Of Development Applications By Councillors

This application has been called in pursuant to Policy 7.7 "Calling in of Applications by Councillors" Item 3 that states:

3. Should written notice signed by a Councillor be provided to the General Manager prior to determination of a development application, the application shall not be determined under delegated authority but shall be:

- Reported to the next available Ordinary Meeting for the information of Council that the development application or development application/construction certificate has been 'called in'; and*
- Reported to a Meeting of Council for determination where the application is in a state that it can be determined.*

The application has been called in by Councillor Coleman. As such, the advice to this Council meeting is pursuant to Council policy.

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

No specific implications at this point of the process.

Attachments

Nil

Recommendation

THAT the calling in of the Modification of Development Consent Application MODDA013/23 for DA070/22 relating to geotechnical investigation works adjacent to Lake Lyell and Mount Walker be noted.

10.2. Finance and Assets Reports

10.2.1. FIN - 22/05/2023 - Review of Insurance Provider

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

Reference

Min. No. 22-116 Ordinary Meeting of Council held on 27 June 2022

Summary

Over the past ten months, Council staff have undertaken a comprehensive review to determine how Council can achieve best value protection and service for its required insurances. The scope of the review included consideration of value for money and the services / cover provided by the two available mutual schemes (Statewide and Civic Risk Mutual).

Civic Risk Mutual is a joint venture of Councils, approved by the Minister under Section 358 of the Local Govt Act. As a result, Council is exempt from the need to call for tenders under Section 55 (3)(c) which states that Council is not required to tender when entering into a contract with another Council/s.

Commentary

Comparison of Insurer Models

The Statewide Mutual Scheme and Civic Risk Mutual operate under different models for providing insurance services to local government.

Civic Risk Mutual (CRM) is a joint venture owned and operated by member Councils. The calculation of insurance contributions and the claims management process is completely transparent. Annual contributions for all member Councils are reviewed by a committee of Council Finance Managers and approved by the CRM board. CRM's key principles are value mutuality, open book and better every day. In recent years, CRM has expanded to a mutual of 26 Councils.

Statewide has member Councils across Australia and is also a self-insurance pool (in this way, similar to CRM). Members build equity from surplus contributions, however, have no entitlement to recover their equity upon retirement from the scheme (unlike CRM). Insurances and claims are managed by JLT on behalf of the Scheme. Councils receive an annual renewal report but are not privy to the process of calculating premiums. Statewide has 113 member Councils.

Review of Insurance Providers

At the 27 June 2022 Ordinary Meeting, Council resolved:

22 -116 RESOLVED

THAT Council:

1. Authorise the General Manager to give 12 months' notice to Council's current General Insurance providers (Statewide Mutual) of retirement from the mutual arrangement for General Insurance, pursuant to clause 10.3 of the Deed.
2. Note the intention to report the findings of the review to Council for determination of a preferred insurer.

The timeline of actions taken in undertaking the review of insurance providers included:

- 28 June 2022: Council gives notice of its intention to retire from the Statewide Mutual Scheme (from 1 July 2023).
- 25 July 2022: CRM provides a detailed presentation to the Executive Leadership Team. Presentation topics include mutual governance, protection program, member support & training, claims management and financial information.
- November 2022: Council engages Inscon to assist with the insurance responses evaluation. Inscon is an independent insurance consultancy practice with extensive insurance broking experience and up to date knowledge of current broker, insurer and overall industry capabilities and trends.
- January / February 2023: Statewide and CRM provide indicative pricing for 2023/24 premiums. Statewide provides indicative pricing to 2025/26.
- February 2023: Inscon commences the insurance responses evaluation.
- April 2023: Inscon provides their insurance responses evaluation report.

Results of the Insurance Responses Evaluation

Inscon's insurance responses evaluation report is included as a confidential attachment to this report.

The responses and indicative pricing of Statewide and CRM were evaluated using the following weighted criteria:

- 65% - indicative pricing;
- 15% - adequacy of cover;
- 10% - collegiality of the mutual; and
- 10% - service offerings.

Statewide's indicative pricing is considerably lower than CRM's. CRM do not have the same level of in-house resourcing regarding risk management and ancillary services that are provided in the Statewide model. It was determined that one additional FTE staff member would be required to internally resource these services. CRM requires new members to make a contribution to surplus when joining the mutual.

Both mutuals ranked highly on adequacy of cover. CRM has a high level of collegiality and transparency in their operating model.

Both mutuals fund and provide key services to members such as property valuations, risk management grants or incentives, and annual training programs. The overall scope of risk management and ancillary services provided by Statewide /JLT is broad and they also provide a full in-house service model for day-to-day claims and insurance management issues.

Management has determined that a recommendation can be made to Council to remain with Statewide on the basis of responses received to date. CRM proposed a further due diligence exercise if Council proposed to switch to CRM.

Insurance Premium Review

The indicative pricing provided a range of deductible options (i.e. excess) that could reduce the cost of premiums via Council taking on more risk.

Based on the value of prior year claims, the following changes will be made to Statewide deductibles from the 2023/24 year, with minimal and acceptable additional risk to Council:

- Public Liability / Professional Indemnity: change deductible from \$25K to \$50K, premium saving estimated at **\$43K**.

- Property: change deductible from \$10K to \$20K, premium saving estimated at **\$38K**.

The changes ensure that Council has obtained the maximum value from the review of insurance provider.

Timeframe for Next Review of Insurance Provider

It is proposed that Council undertake the next review of review of insurance value and performance in 5 years time (i.e. in 2028).

Policy Implications

Nil.

Financial Implications

- Budget approved – revised budget of \$1.086M for 2022/23.
- Cost centre - PJ 800166
- Expended to date - total of \$1.086M for 2022/23.
- Future potential impact – the review of insurance provider ensures that Council is obtaining best value for one of its recurrent high cost areas of expenditure.

Legal and Risk Management Implications

Council's Risk Management Framework has linkages with insurance coverage and claims management.

Attachments

1. CONFIDENTIAL - LCC- Inscon Report - Review of Insurance Provider Options [10.2.1.1 - 12 pages]

Recommendation

THAT Council:

1. Remain with StateWide Mutual as its insurance provider on the basis of obtaining best value for Council's insurance needs.
2. Rescind its notice of intention to retire from the StateWide Mutual Scheme effective from 1 July 2023.
3. Note that the next review of review of insurance value and performance is proposed for 5 years time (i.e. in 2028).
4. Note that the General Manager will inform the Executive of Civic Risk Mutual of Council's decision to remain with StateWide and thank Civic Risk Mutual for their assistance with Council's review.

10.2.2. FIN - 22/05/2023 - Loan - Cullen Bullen Sewer Scheme

Report by Chief Financial & Information Officer

Summary

The purpose of this report is for Council to consider endorsement of a proposed loan of \$1,000,000 for the completion of the Cullen Bullen Sewer Scheme project.

Commentary

In the adopted Operational Plan 2022/23, borrowings of \$2 million were proposed for the Cullen Bullen Sewer Scheme, excerpt follows:

Proposed Loan Borrowings			
Purpose	2022/23	2023/24	2024/25
Cullen Bullen Sewer Scheme	2,000,000	-	-

The actual loan required for the Cullen Bullen Sewer Scheme is \$1M. The remainder of the funding (\$1M) can be sourced from the Sewer Fund reserve which will result in interest savings of \$38,611 p.a.

It is proposed to source a loan with a 10 year repayment term.

Loan Borrowings Statement

Loan borrowings are appropriate to fund the cost of new infrastructure to ensure that construction costs are not borne entirely by present day ratepayers but is contributed to by future ratepayers who will also benefit. The Cullen Bullen Sewer Scheme loan repayments will be funded from future sewer fund revenue.

At 30 June 2022, Council's total outstanding loan borrowings were \$16.26M. The debt service cover ratio measures the availability of operating cash to service debt. At 30 June 2022, Council's debt service cover ratio was 7.33x, well above the benchmark of >2.00x. The debt service cover ratio has been increasing over the past 3 years as debt service costs as a proportion of operating cash has decreased.

Policy Implications

Nil.

Financial Implications

- Budget approved - \$6,800,000 total budget for Cullen Bullen Sewer Scheme.
- Cost centre – PJ 300034
- Expended / committed to date - \$6.387M.
- Future potential impact - planned loan repayments will be included in recurrent budgets.

Legal and Risk Management Implications

Nil.

Attachments

Nil

Recommendation

THAT Council approve the sourcing of a \$1,000,000 loan for the Cullen Bullen Sewer Scheme project from a lending institution approved by the Office of Local Government.

10.2.3. FIN - 22/05/23 - 2022/2023 Quarter Three Budget Review

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

Summary

This report provides the Quarterly Performance Report on the 2022/23 Operational Plan for the period of 1 January 2023 to 31 March 2023 with a recommendation that variations to income, expenditure and capital budget estimates are adopted and that the revised financial result of a \$10.3M consolidated operating surplus (before capital grants) be noted.

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

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

Executive Summary

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

Council's projected position at 30 June 2023 has changed from an operating result (before capital) of \$6.9M surplus (Quarter Two review) to an expected \$10.3M surplus (Quarter Three review). The following factors were considered in determining Council's projected financial position at 30 June 2023 to be satisfactory:

1. The reasons for the significant change in Council's projected operating result (before capital) from original budget \$3.6M surplus to \$10.3M surplus, substantively relate to the extraordinary extent of road repairs following multiple natural disasters. There have been significant natural disaster related budget variations at each quarterly review with most of the expenditure being capital in nature.
2. Council is on target to achieve its 2022/23 total employment cost savings target of \$960.5K with \$852K of net savings taken in the quarterly budget reviews.
3. Council's projected operating result (before capital) has been impacted by the addition of \$717K depreciation expense for RFS Red Fleet assets which were recognised in the 2021/22 financial statements.

Council will continue to implement its budget improvement plan through the remainder of the 2022/23 year with identified budget savings / additional revenue of \$3.7M planned for the full year.

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

Financial Impacts of Natural Disaster Works on the Operating Result

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

Although the budget operating result (before capital) has improved from a deficit to a surplus, the underlying structural deficit remains as an issue. The annual structural shortfall in Council's general revenues has been identified in the rating review report as \$6M p.a. at existing levels of service and growing year upon year. The improvement in the 2022/23 budget operating result mainly relates to one-off grants and timing differences for grant receipts. The focus for the 2022/23 budget is to present a balanced cash budget, that is, operating and capital expenditure can be covered within cash receipts for the year.

The most significant one-off grants for 2022/23 are for natural disaster claims and the financial impact has increased from \$6.8M original budget to \$21M at the Quarter Three budget review as shown below.

- Original natural disaster budget - \$6,804,163.
- Additional budget approved October 2022 (Min. No. 22-207) - \$6,796,190.
- Wolgan Valley access works budget approved January 2023 (Min. No. 23-6) - \$2,180,531.
- Rural Roads Rehabilitation tender (Min. No. 23-30) - 2022/23 budget of \$4,250,000 added.
- Emergency Works – Wolgan Road (approved by Mayor on 27/4/23 under S226 of the Local Government Act due to the urgent nature of works) - \$1,014,620.
- **Total budget approved - \$21,045,504.**

The scale of the natural disaster recovery works has strained Council's already challenged finances and staff capacity, as well as resulting in resources needing to be redirected.

Also, the funding is received retrospectively after stages or the full works are completed and Council has paid staff, contractors and suppliers. With limited available working funds held by Council, cashflows need to be carefully managed. The progress of works needs to be balanced with the timeframe it takes to complete claims and receive payments.

The preparation of natural disaster claims is also administratively intense with the need to gather invoices, timesheet records and photographic evidence. This re-directs resources from planned projects and the delivery of services to the community which will have ongoing impacts.

With natural disaster income and expenses budgets excluded, the 2022/23 original budget consolidated operating result (before capital) would have been a deficit of approx. (\$3.2M), rather than a surplus of \$3.6M.

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

Change in Operating Result Mainly Due to Natural Disaster Works

The financial impacts of the natural disasters on the projected operating result (over Quarters One, Two and Three) are summarised as:

- \$14.2M increase in Natural Disaster operating grant income budgets.
- \$5.4M increase in Natural Disaster operating expenditure budgets.

The \$8.8M nett increase in operating income over Quarters One to Three is the key reason for the \$6.6M growth in the projected operating surplus (before capital) compared with the original budget. The difference of (\$2.2M) (\$8.8M net income related to natural disaster works less \$6.6M increase in projected operating surplus) relates to cost increases, including insurances and interest on the \$3.5M working capital loan.

All of the natural disaster claims income is classified as "operating grants" whilst the majority of the expense is in the capital works program due to the nature of the works being asset renewal. Asset

renewal works are expensed over the useful life of an asset via depreciation. To a lay observer, this accounting treatment appears to suggest a positive result because of an increased surplus. This is not the case. Again, the Council has an on-going and material structural shortfall in general revenue.

Summary of the January to March Quarterly Budget Review Report

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

Budget	Result (before capital)
	\$'000
Original Budget	3,647
September Review	6,422
December Review	6,887
March Review	10,276

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

Projected total revenue to 30 June 2022 has **increased by \$7.1M** during Quarter Three, mainly due to the following reasons:

- \$4.9M increase in Natural Disaster Recovery Grant funding.
- \$471K capital grant funding for Hampton Road resealing.
- \$919K Regional Housing Fund grant for Hillcrest No 2 Sewer Pumping Station.
- \$526K capital grant for Lake Pillans upgrades.
- \$332k Blast Furnace Lighting and Performance Stage.

Projected total operating expenditure to 30 June 2022 has **increased by \$1.47M** during Quarter Three, mainly due to the following reasons:

- Nett (\$44K) employment cost savings.
- \$150K interest on Natural Disasters working capital loan facility.
- \$1.1M additional operating Natural Disaster works expenditure budget (contractor costs).
- \$129K School Signage and line marking re-categorised from capital to operating expense.
- (\$101K) savings on Urban Road maintenance.

The nett effect of the increase in projected total revenue less the increase in projected total expenditure is a significant change in the expected consolidated operating result from a surplus of **\$15.7M** (original budget) to a surplus of **\$28.4M** at 30 June 2023 (**including capital grants and carryovers**). The change is largely attributable to the extraordinary natural disaster events.

Projected End of Year Result (Before Capital)

The operating result **before capital grants** is a key Office of Local Government performance measure with a benchmark of a balanced operating result (i.e. nil surplus / deficit). Capital grants are excluded from the performance measure as they do not contribute towards funding Council's operations. Council's revised consolidated operating result (before capital grants) at 30 June 2023 is projected to be a **\$10.3M** surplus, which is **above the OLG benchmark** - largely attributable to the extraordinary natural disaster events.

At the end of Quarter Three 2022/23, it is projected that the General Fund will have a surplus (before capital grants) of \$9.8M at 30 June 2023. The Water Fund has a forecast surplus (before capital grants) of \$244K and the Sewer Fund has a projected surplus operating result (before capital grants) of \$224K.

Capital Expenditure Budget

The 2022/23 capital expenditure budget is projected to be **\$43.3M** (excluding loan repayments). The revised budget is an increase of \$9.9M on the \$33.48M (excluding loan repayments) original budget with carryovers. The nett effect of Quarter Three budget variations is an increase in the projected capital expenditure budget of \$6.2M (excluding loan repayments).

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

- \$5.076M additional Natural Disasters expenditure budgets.
- \$131K to seal Ridge St, Portland (reinstatement of deferred project).
- (\$129K) School Signage and line marking re-categorised from capital to operating expense.
- (158K) Baaners Lane funding redirected to Natural Disasters expenditure.
- \$300K Hillcrest No 2 Sewerage Pumping Station funded from the Regional Housing Fund grant.
- Saving of \$100K redirected from Wallerawang No 1 Sewerage Pump Station to Old Bathurst Road Sewerage Pumping Station project.
- \$255K for plant acquired for the Lithgow Solid Waste Facility (funded from the Domestic Waste Reserve).
- \$500K additional budget for Clarence to Wallerawang Pipeline Feasibility Study.
- (\$194K) deferral of IT projects to the draft 2023/24 program.

Cash and Investments / Reserve Balances / Cashflow

The Cash and Investments Statement at 31 March 2023 is shown in the table below.

Cash and Investments Statement (\$'000)				
	30 June 2022	30 September 2022	31 December 2022	31 March 2023
	Position	Position	Position	Position
Externally Restricted				
Developer Contributions	1,945	1,764	1,755	1,783
Special Purpose Grants	3,968	3,757	5,710	10,627
FAGS	4,099	0	0	0
Water Supplies	930	2,179	3,207	2,839
Sewerage Services	8,310	9,991	8,714	8,071
Domestic Waste	6,183	7,133	7,782	7,787
Unexpended Loans	4,921	1,421	3,853	1,388
	30,356	26,244	31,021	32,495
Internally Restricted				
Land & Buildings	2,220	2,189	2,047	1,970
Plant & Equipment	105	105	224	244
Bonds, Deposits & Retentions	319	349	336	342
Works in Progress	653	653	653	653
Carry Over Works	327	212	56	53
ELE	754	754	754	754
Election	50	62	75	87
Total Internally Restricted	4,428	4,324	4,145	4,103
Unrestricted (working capital)	-	80	134	684
Total Cash and Investments	34,784	30,648	35,300	37,282

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

The Administration took action to initiate the \$3.5M working capital short-term loan facility to cover anticipated high cash outflows from July 2022 for grant funded capital projects and claimable natural disaster recovery works. The use of the loan for these purposes accords with Council's

resolved policy position. The working capital loan balance is reviewed quarterly with the next review in June 2023.

Accounts Payable transactions have peaked between \$1M-\$2M per week, around \$500K per week above the trend. To stem the high cash outflows, action has been taken to slow larger scale contracted natural disaster recovery works until cash inflows from claims income catch up with cash outflows.

Council is aiming to achieve and maintain an unrestricted cash working capital fund of \$1M. The fund is currently at \$684K which includes the \$134K 2020/21 dividend from the Sewer Fund (National Competition Policy compliance).

In Quarter Three, the special purpose grants reserve increased by \$4.9M mainly due to the receipt of upfront grant payments upon sign-off of funding deeds. This included \$481K for the South Bowenfels Link Road, \$1.7M for the Regional and Local Roads Repair Program, \$855K for Lake Pillans Wetlands & Blast Furnace - Stronger Country Communities and \$1.86M for Transport for NSW grants.

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

Policy Implications

Nil.

Financial Implications

As detailed in this report.

Legal and Risk Management Implications

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

Attachments

1. Quarterly Report March 2023 [**10.2.3.1** - 18 pages]

Recommendation

THAT Council:

1. Note the contents of the report and the projected consolidated operating result (before capital) of \$10.3M surplus for the 2022/23 Operational Plan as detailed in the Quarterly Budget Review Report for the period 1 January 2023 to 31 March 2023.
2. Note that the reasons for the significant change in Council's projected operating result over Quarters One, Two and Three substantively relate to the extraordinary event of road repairs following multiple natural disasters.
3. Adopt the income, expenditure and capital budget variations to the 2022/23 Council budget as outlined in the attached report.

10.2.4. FIN – 22/05/2023 – Proposal to enter a Licence Agreement with COC Limited

Prepared by Sandra Politi – Property and Legal Services Officer

Department Property and Legal Services

Authorised by Chief Financial & Information Officer

Reference

21-242 – Ordinary Meeting of Council held on 25 October 2021

22-238 – Ordinary Meeting of Council held on 28 November 2022

Summary

This report summarises submissions received during the public exhibition period of the proposed Licence Agreement with COC Limited and requests Council's approval to proceed with the Licence Agreement.

Commentary

Council owns Lot 1 in DP43326, located off Inch Street, Lithgow. At the Ordinary Meeting of Council held on 28 November 2022, Council considered a proposal to enter a Licence Agreement with COC Limited to allow use of part of the land ([see image below](#)) for access and movement of locomotives along the rail line within Lot 1.



At the meeting Council resolved as follows:

1. Grant preliminary approval to enter a 12 month Licence Agreement with COC Limited for the Rail Line Section of Lot 1 in DP433264.
2. Authorise the General Manager to negotiate the terms and conditions of a Licence Agreement, having regard to Council's Leasing and Licensing Policy 10.20.
3. Give public notice of the proposed Licence Agreement and place it on public exhibition for at least 28 days, in accordance with Section 47 of the Local Government Act 1993.
4. Authorise the general manager to sign all documents and do all things necessary to give effect to the Licence Agreement, if no submissions are received during the public exhibition period.

5. Note that the matter will be returned to Council for further consideration, if any submissions are received during the public exhibition period.
6. Commence action to re-classify the Rail Line Section of Lot 1 in DP433264 from “community” to “operational” land via LEP amendment under section 30 of the Local Government Act 1993.
7. take steps to re-classify the Rail Line Section of the Council Land from “community” to “operational” via LEP amendment.

Submissions received during the public exhibition period

In accordance with resolution number 3 above, the proposed Licence Agreement was placed on public exhibition for the period 28 February 2023 to 28 March 2023.

During public exhibition two submissions were received, details of which are summarised below:

Date of submission	Comments and concerns raised in submissions	Response to concerns
9 March 2023	The respondent provided comments about relevant historical matters including the construction of the railway line in 2001-2002.	These comments are helpful for context and record purposes.
	The respondent recommended that consideration be given to licensing the affected land to an Accredited Rail Safety Operator with the capacity to maintain the track. Alternately any licence holder should be required to nominate a suitably qualified Rail Infrastructure Manager to ensure maintenance of the operational status of the line.	The respondent's request is agreed, and a provision has been added to the Licence Agreement requiring that the rail infrastructure within the Licensed Area be maintained by an accredited Rail Infrastructure Manager approved by the Office of the National Rail Safety Regulator.
	The submitter requested that a condition be included to provide that the railway line be kept open and operational.	The respondent's request is agreed, and a provision has been added to the Licence Agreement requiring that the rail infrastructure within the Licensed Area remain open and operational for organisations which have traditionally used the rail infrastructure for movement of locomotives and trains.
23 March 2023	The respondent commented that no purpose or permitted use of part Lot 1 DP433264 is identified in the draft Licence Agreement, so it is not possible to identify any potential impacts on the Blast Furnace Site.	The permitted use is “Access and movement of locomotives”, which is identified in Item 5 on page 2 of the Licence Agreement.
	The respondent commented that the rail spur line from Blast Furnace	The Licence Agreement is for the Licensed Area only and no

	<p>across the Inch Street underbridge to the disused milk depot (both in Council ownership) appear to fall outside the proposed license area. This spur line has a direct historical attachment to the Blast Furnace site having been constructed in the early 20th Century to transport molten iron from Blast Furnace to the steelworks across town near the current sporting field complex. Council commissioned an Archaeological Assessment of the spur line in 2017, which found that the spur line and Inch Street underbridge are considered to have state historical significance.</p> <p>The spur line also provides future opportunities for development of a pedestrian/cycle pathway linking Blast Furnace with Eskbank House Museum.</p> <p>The respondent requested that the spur line and rail underbridge should be preserved, excluded from the licensed area and no activities should be permitted on them.</p>	<p>more.</p> <p>The spur line and rail underbridge do not form part of the Licensed Area and therefore will not be affected by the Licence Agreement.</p>
	<p>The respondent commented that this rail line links State Mine and Eskbank Goods Yard. The railway line has, for a number of years, carried rail locomotives and rolling stock to the State Mine Railway Maintenance Workshop. This facility is unique in Lithgow and I believe employs around 40 staff. The draft license agreement doesn't state how this section of rail track and the adjacent service road will be used and if continued use of this rail track by State Mine Railway Maintenance Workshop will be permitted.</p> <p>The respondent recommended that prior to issuing a license to CoC, the current status of this rail line, and the implications of the proposed CoC license on continuing access to the State Mine Railway Maintenance Workshop should be determined.</p>	<p>The focus and purpose of the Licence Agreement is to provide a legal right to use Council land.</p> <p>To ensure continued access to the State Mine Railway Maintenance Workshop, a provision has been added to the Licence Agreement requiring that the rail infrastructure within the Licensed Area remains open and operational for organisations which have traditionally used the rail infrastructure for movement of locomotives and trains.</p>

A reply has been sent to each respondent to reply to their submissions. One submitter has since commented that they believe this licence process has assisted all stakeholders to reach a mutual understanding.

Whilst two submissions were received, neither submission objected to the proposed Licence Agreement, but instead requested clarification on some aspects and made helpful recommendations which have been implemented in the Licence Agreement.

Additionally, the Licence Agreement has been amended so that it is non-exclusive, thereby allowing Council to enter Licence Agreements with other stakeholders, if necessary.

As all obligations in relation to the proposed Licence Agreement have been satisfied, it is recommended that Council proceed with the Licence Agreement.

Policy Implications

Policy 9.16 - Compliance Policy

Policy 10.20 – Leasing and Licensing Policy

Financial Implications

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - internal staff resources.
- Future potential impact – N/A

Legal and Risk Management Implications

Local Government Act 1993

Environmental Planning and Assessment Act 1979

Attachments

1. Rail Line Section [**11.5.1** - 1 page]

Recommendation

THAT Council:

1. Note the contents of this report on a proposed Licence Agreement with COC Limited.
2. Authorise the General Manager to sign all documents and do all things necessary to give effect to the Licence Agreement.

10.3. Policies and Governance

10.3.1. DEV - 22/05/2023 - Policy 7.1 Contaminated Land

Prepared by Paul Cashel – Development Manager

Department Development

Authorised by Director of People & Services

Reference

Min. No. 22-124 Ordinary Meeting of Council held on 27 June 2022.

Summary

The purpose of this report is to present feedback following public exhibition of the draft Contaminated Land Policy and to recommend the Policy for adoption.

Commentary

At the Ordinary Meeting of Council 27 June 2022, a report was provided regarding the legislation that deals with potentially contaminated land and the need for Council to have a policy direction in relation to associated development assessment, land rezoning and Planning Certificates.

Three key points from the June 2022 report are included below:

- Providing information about the contamination of land on planning certificates effectively allows Council to provide a prospective purchaser of land with fair and accurate warning that, in the event of a development application, Council may require specific contamination assessments to be carried out and/or remediation, if warranted for that development.
- The draft policy seeks to provide information about what has occurred on the land and does not seek to prejudice any future proposals by placing blanket development prohibitions on land. Land remediation is only required by Council at the time of redevelopment when it is considered necessary to make the land suitable for the intended use.
- The draft policy includes specific procedures relating to the assessment of development applications and rezoning proposals with details of when investigation might be triggered. This will provide more certainty for developers to know how to prepare a development application or planning proposal.

In accordance with the Council's 27 June 2022 resolution, the draft policy was placed on public exhibition on Council's website and at the Council Administration Building for 28 days in August / September 2022. The submission period was extended for an additional 21 days to allow more time for consultation.

During the exhibition period, one (1) submission was received.

The submission is reproduced below with an officer comment provided for each item raised.

Item 1

Thank you for the opportunity to make a submission to Lithgow City Councils Draft Policy 7.10- Contaminated Land Policy. [Draft Policy 7.10 Contaminated Land Policy - Lithgow City Council](#)

Whilst I would like to contribute with an objective and productive response submission I found it difficult to seek out some of the terminology written with this draft. Equally found hard to read the broad documentation of the policy.

Officer Comment:

During the drafting of the Policy, the 'Abbreviations page' was deliberately removed for brevity. It is recommended that this be reinstated. See attachment 1. This would make no change to the intent of the exhibited Policy.

The Policy must align with various Acts, Regulations and Guidelines. The document has been redrafted multiple times with the consistent aim of simplifying it. It is technical and legislative by its nature. An explanatory brochure to assist understanding was exhibited in parallel with the web exhibition. See attachment 2.

Item 2

To be fair that the policy outlines within the local and state regulations, as with the acts but gives very broad outline which gives very little to the average person who may have land that may be; contaminated and unaware; is contaminated; or a future property purchase of land in the Lithgow LGA.

Officer Comment:

These issues are specifically addressed within the Policy. However, the identified properties had not been finalised. The previous Report to the Council identified this and stated: "Contractors have been engaged via the project to identify potentially contaminated properties to be included within the Land Use Information System (Contamination Register) for the Lithgow Local Government Area. This work is integral for the draft policy to be fully implemented, however, a policy without a Register still affords Council far more protection concerning its liability. This work/data has very recently been supplied and requires further review and examination prior to adoption. It is anticipated that this work can be completed by staff in coming months."

The Land Use Information System (LUIS) is discussed further below.

Item 3

It can be perceived as not an open and transparent document, allowing for the confusion and with both questions above which will be time consuming for Council staff as with the inquirers. It also suggests for the buyer to beware and likely an opportunity for unreliable information withheld with current land holders not providing a possible non listed contaminated site.

Officer Comment:

Potentially contaminated sites have now been identified by consultants and mapped. Staff have reviewed this data for quality control and assurance. The draft Policy explains how this data will be released to the public, i.e., it will only be provided via a Planning Certificate or a GIPA request by an owner. Please note that legal advice was obtained on the preferred wording of the draft Policy.

Item 4

Extensive effort on research was sort to find out more about the LUIS system but unsuccessful. Equally why is this not available when a property is for sale. The potential purchaser will not have that information before purchasing? Buyer beware! Whilst there is a process for searches to be done by the purchaser prior to a contract, most people would not be aware of a specific search for contaminated land. "2.4 Including land on Council's Land Use Information System (LUIS) The general release of information on the LUIS is considered not to be in the public interest other than via a Planning Certificate. Only the owner of the land can otherwise request additional information

held in the LUIS, through an Information Access Application under the General Information (Public Access) Act 2009 (GIPA Act) request”.

Officer Comment:

No enquiries were received by the Development Manager during the public exhibition period. Notwithstanding, the adoption of the draft Policy will address this issue (that to date does not appear to be occurring). A contract for the sale of land must attach/include a recent Planning Certificate. There will be no onus on a purchaser or vendor to conduct research or disclose information other than via the (existing legislated) Planning Certificate system.

Item 5

“4.2 Triggers for preliminary site investigation”

This process provides relief for known contaminated sites but falls upon the onus on the existing property owner.

Recommendation: Lithgow City Council to provide a register of all contaminated sites, an EPA registered number if applicable, level of management including all historic sites no longer active via Lithgow City Councils web page. Provide a link to the EPA NSW [Public registers \(nsw.gov.au\)](https://www.epa.nsw.gov.au/public-registers)

Officer Comment:

The ‘triggers’ contained within the draft Policy are essentially those contained within State Environmental Planning Policy (Resilience and Hazards) 2021. It allows for the Council not to include expansive areas of agricultural land within its LUIS i.e. ‘Areas of agricultural land such as fuel storages and stock dips will be considered for contamination assessment when a Development Application is received, however, the whole land parcel will not be included in the LUIS unless specific reports are provided to Council.’ This matter is discussed further in this report.

As detailed within the draft Policy, it is not considered appropriate to provide a **public** register of ‘potentially’ contaminated sites. Council deals with low risk sites AND Council is only concerned if the previous land use had the potential to cause contamination and the current land use is proposed to be changed, further developed or rezoned.

The management framework for contaminated land in NSW broadly consists of two tiers:

- the EPA, which uses its powers under the *Contaminated Land Management Act 1997* (CLM Act) to deal with contamination that is significant enough to warrant regulation given the site’s current or approved use; and
- planning authorities, who deal with other contamination under the planning and development process, including the State Environmental Planning Policy (Resilience and Hazards) 2021 and the Managing Land Contamination - Planning Guidelines, **on sites which do not pose an unacceptable risk under their current or approved use. This process determines what remediation is needed to make the land suitable for a different use.**

(source: EPA website, emphasis added)

The draft Policy states:

‘Specifically the information will be used to:

- Provide information on S10.7 planning certificates;
- Inform development applications, complying development certificate applications and assessments, including pre-DA meetings and assessment;
- Inform strategic planning and the preparation of Planning Proposals;
- Monitor and regulate remediation of contaminated land; and
- Administer the UPSS Regulation.’

Item 6

I would like to add additional comments and a complaint with the recent EPA NSW “Declaration of Significantly Contaminated Land” Declaration Number 20211113; Area Number 3494.

The complaint is regarding Lithgow City Council not providing information to the public via their usual public notices’ web page, social media, newspaper? with not informing the general public on a recent EPA Information Session with the decommissioning of Kerosene Vale Ash Repository and Sawyers Swamp Creek dam on the 7th September 2022 CWA Tweedie Street Wallerawang. It would have been considerate to inform the community so they could be made aware of the serious contamination that is documented in the Government Gazette [Government Gazette No 395 of Friday 26 August 2022 \(nsw.gov.au\)](https://www.gazette.nsw.gov.au/Gazette/2022/08/26/395) . Fortunately, I was alerted to this information session to be able to attend. The point is that most people rely on information from their local government.

Officer Comment:

This item falls outside the scope of this Report however the information session was run by the EPA at the Wallerawang CWA Hall and the Director of People and Services attended. The EPA notified Council that they would write to residents of Lidsdale and organise their own public notifications.

The consultants preparing the LUIS conducted an extensive search of past land uses within the LGA that match the potentially contaminating land uses identified in Appendix A of the Policy. Many past ‘extensive agricultural’ land uses trigger a finding / match. It is considered that these can be removed from the LUIS. The draft Policy pre-empted this and explained that Council will consider the following: ‘Areas of agricultural land such as fuel storages and stock dips will be considered for contamination assessment when a DA is received however, the whole land parcel will not be included in the LUIS unless specific reports are provided to Council.’

Past land use research by the consultants has also identified many former mining leases. For example, some of these leases extend well into the now built-up areas of Lithgow. It is considered that these identified properties remain listed as potentially contaminated and that during the assessment of any development applications, the potential for significant contamination can be considered on a case-by-case basis. The Development Manager’s experience over the past decade has been that a visual inspection generally reveals whether there is vegetation struggling to survive, or obvious coal chitter at the surface. When the development assessment staff have occasionally requested that contamination assessment investigation reports be prepared, the main recommendation received by the developer is to remove as much chitter (if it is obvious) to landfill as possible.

Chitter (coal washery reject) has been widely used as fill material in the coalfield areas of NSW, particularly in the Hunter and Illawarra regions. It contains both coal fines and organic shale, and is relatively reactive due to its fine particle size. Occasionally, where conditions permit sufficient oxygen access, spontaneous combustion can occur in the ground, producing carbon monoxide and carbon dioxide. © State of New South Wales and the Environment Protection Authority 2020.

Assessment staff will continue to deal with potentially contaminated sites from past mining activities in a similar way as current practice and use discretion regarding the need for detailed investigation reports to accompany development applications, dependant on scale etc.

Policy Implications

The attached draft Contaminated Land Policy is put to Council for consideration and formal adoption.

Financial Implications

- Budget approved - The Environment Protection Authority (EPA) and NSW Environmental Trust have subsidised the adoption of a Lithgow City Council Policy, by way of indirect grant funding (i.e. the provision of resources and consultants). The current grant finishes 30 June 2023. Council has all but exhausted its need to access these resources, once a policy is adopted.
- Cost centre - 800076
- Expended to date - \$1,650 inclusive of GST - being Council's contribution to the project/grant.
- Future potential impact – N/A

Legal and Risk Management Implications

Council has a legal obligation under the provisions of the Environmental Planning & Assessment Act (EP&A Act), EP&A Regulation and relevant environmental planning instruments to consider the potential contamination of land in the assessment of development applications and planning proposals for LEP amendments and rezonings. The adoption of a Contaminated Land Policy will clarify Council's legal obligations and provide a clear policy position on how contamination risk will be managed into the future.

Attachments

1. Abbreviations for Contaminated Land Policy [**10.3.2.1** - 1 page]
2. Contamination- A 4- Brochure [**10.3.2.2** - 2 pages]
3. Draft- Policy-7-10- Contaminated- Land- V 1 [**10.3.2.3** - 11 pages]

Recommendation

THAT Council:

1. Note the one public submission received on the policy and the Council Officer comments.
2. Amend the draft Contaminated Land Policy to include a Table of Abbreviations (being Attachment 1).
3. Adopt the Contaminated Land Policy (being Attachment 3).

11. Council Committee Reports

11.1. IS - 22/05/2023 - TALC Committee Minutes 4 May 2023

Prepared by Kaitlin Cibulka – Executive Assistant

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Summary

This report provides details of the minutes of the TALC Committee meeting held on 4 May 2023.

Commentary

At the TALC Committee meeting held on 4 May 2023, there were numerous items discussed by the committee including;

- Traffic Management Plan – LithGlow 2023
- TALC Committee – Temporary Delegations
- TfNSW Winter Weather VMS Program

The following items were outside the Committee's delegations and require Council to formally approve the recommendation:

- Item 8.4 - Request for Fifteen Minute Parking Zone for Lithgow Mobility Aids

Policy Implications

Nil.

Financial Implications

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

Legal and Risk Management Implications

Nil.

Attachments

1. DRAFT Minutes TALC Committee Meeting 4 May 2023 [11.1.1 - 7 pages]

Recommendation

THAT Council:

1. Notes the minutes of the TALC Committee meeting held on 4 May 2023; and
2. Note that the TALC Committee does not support the resolution adopted at the ordinary meeting of Council held on 27th March 2023 (NOM - Fifteen Minute Parking Zone for Lithgow Mobility Aids – (MIN 23-49 RESOLVED) due to non-compliance with Australian Standards for roads with two lane with parking, pedestrian safety and traffic logistic reasons; and
3. To resolve the matter of the Fifteen Minute Parking Zone for Lithgow Mobility Aids the following actions be undertaken:
 - a. Carry out a public consultation for a period of 28 days to consider changing the laneway to one direction between Bridge Street through to Eskbank Street section; and
 - b. Apply to Transport for NSW for a share way zone and speed reduction on the laneway; and
 - c. Reconfigure the existing carpark to relocate mobility parking spaces closer to Lithgow Mobility Aids rear access.
4. Note that a future report will be provided to Council on the matter of the Fifteen Minute Parking Zone for Lithgow Mobility Aids once actions 3 (a) and 3 (b) are completed.

11.2. PS - 22/05/2023 - Crime Prevention Committee Meeting 8 May 2023

Prepared by Matthew Johnson – Community & Culture Manager

Department Community & Culture

Authorised by Director of People & Services

Reference

Min 23-80 Ordinary Meeting of Council held on 24 April 2023.

Summary

The minutes of the Crime Prevention Committee meeting held on 8 May 2023 are reported for Council's endorsement.

Commentary

At the Crime Prevention Committee meeting held on 8 May 2023 various matters were discussed, including:

1. Vale Jeff Smith

The Committee was very saddened to hear of the recent death of Jeff Smith who has been a well-known member of the Lithgow community and a member of the Crime Prevention Committee for many years.

The Committee moved a motion of respect and thanks to Jeff Smith.

2. Lithgow Crime Data

The committee considered the latest Bureau of Crime Statistics Report, dated December 2022, which includes the following data on Lithgow.

Ratio to the NSW rate (per 100,000 population) of recorded criminal incidents in Lithgow for the 12 months to December 2022.

- Lithgow rates of sexual touching and other sexual offences were 1.6 times the NSW rate.
- Lithgow rates of domestic violence related assault were 1.7 times the NSW rate.
- Lithgow rates of non- domestic violence related assault were 1.6 times the NSW rate.
- Lithgow rates of robbery offences were 1.7 times the NSW rate.
- Lithgow rates of other stealing offences were 2.1 times the NSW rate.
- Lithgow rates of malicious damage to property offences were 1.6 times the NSW rate.

Number of recorded criminal incidents in Lithgow LGA for major offences over the 12 months to December 2022 and to December 2021.

	12 months to December 2022	12 months to December 2021
Murder	0	0
Assault (Domestic Violence Related)	152	149
Assault (Non- Domestic Violence Related)	127	113

Sexual assault	29	38
Sexual touching and other sexual offences	31	36
Robbery	8	2
Break And Enter Dwelling	68	46
Break And Enter Non-Dwelling	25	10
Motor vehicle theft	35	21
Steal From Motor Vehicle	84	83
Steal From retail store	40	54
Other stealing	195	182
Malicious Damage	207	188

The Committee noted that domestic violence (DV) related assaults remain persistently high, partly due to greater willingness of victims to report, more types of people reporting than in the past (e.g. men, children) and better and more consistent Police action in responding to DV reports.

The Police representatives reported that the Police action rate in relation to domestic violence has increased and that there are no outstanding warrants for DV offences.

Brazen anti-social and other illegal behaviours by young people were discussed. There appears to be an Australia wide upward trend for these types of incidents.

3. Police Report

The following data was presented by the Police representatives:

		Number of Incidents April 2022		Number of Incidents April 2023
Break and enter		6		9
Fraud		6		7
Malicious Damage		17		12
Stealing		18		32

The Police advised that break and enter offences are often opportunistic with offenders gaining access to houses and garages through unlocked doors. The Police are targeting this type of offence and will forward information to Council for distribution to the community, on actions that residents and businesses can take to reduce the incidence of break and enter offences.

The Police representatives also spoke of "Operation Persistence" which targets warrant offenders, and proactive policing activities which involved 14 "move-on" and 25 person searches during April 2023.

Traffic and domestic violence activities have been a priority for Police, as has the clear-up of old offences, often using DNA evidence from recent offenders.

A successful operation has been undertaken in conjunction with Bathurst Police and the RAPTOR (gang related crime) squad, targeting the offenders of recent home invasions including one that occurred pre-Christmas 2022.

Police are also targeting people with unregistered firearms.

Cyber-crime continues to be a concern, not just in Lithgow, with significant numbers of small and large financial losses being reported.

4. General Business

The committee discussed the need for improved public lighting in Lithgow both as a community safety initiative, and to improve the amenity and night-time experience for residents and visitors. In particular, improved lighting in Queen Elizabeth Park and along Main Street, Lithgow, was suggested. The need for a lighting plan that could be progressively implemented was also discussed.

Policy Implications

Nil.

Financial Implications

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- Future potential impact – a business case would need to be prepared, with costings, should Council wish to investigate improved public lighting in Lithgow.

Legal and Risk Management Implications

Nil.

Attachments

1. Draft - Crime Prevention Committee Minutes 8 May 2023 [11.2.1 - 6 pages]

Recommendation

THAT Council endorse the Minutes of the Crime Prevention Committee meeting held on 8 May 2023.

11.3. FIN - 22/05/2023 - Finance Committee Meeting 9 May 2023

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

Reference

Min. No. 23-43 Ordinary Meeting of Council held on 27 February 2023

Summary

This report provides a summary of the Minutes of the Finance Committee Meeting held on 9 May 2023.

Commentary

At the 9 May 2023 Finance Committee Meeting, the following report items were discussed by the Committee.

- **2022/23 Quarter Three Budget Review** - the CFIO presented the Quarter Three Budget Review report and highlighted key points. The report will be presented to the 22 May 2023 Council meeting.
- **Review of Insurance Provider** - The CFIO reported that the comprehensive review of insurance providers has been completed. A report will be presented to the 22 May 2023 Council meeting.
- **Audit Action List** - the audit action lists were provided for the Committee to note progress towards completing the actions arising from each completed audit project.
- **Annual Audit Engagement Plan** - the CFIO presented the 2022/23 Annual Audit Engagement Plan.
- **Loan – Cullen Bullen Sewer Scheme** - the Finance Committee considered a report on a proposed planned loan of \$1,000,000 for the completion of the Cullen Bullen Sewer Scheme project. A report will be presented to the 22 May 2023 Council meeting.

The following business paper recommendation was endorsed by the Committee:

Investments Report April 2023

THAT:

1. Investments of \$39,884,753 and cash of \$278,508 for the period ending 30 April 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.

Policy Implications

Nil.

Financial Implications

As detailed in the Finance Committee meeting minutes.

Legal and Risk Management Implications

Nil.

Attachments

1. Minutes Finance Meeting 9 May 2023 [11.3.1 - 6 pages]

Recommendation

THAT Council endorse the minutes of the Finance Committee meeting held on 9 May 2023.

11.4. PS - 22/05/23 - Seven Valleys Tourism Committee - 9 May 2023

Prepared by Simon Francis – Tourism Manager

Department Tourism

Authorised by Director of People & Services

Summary

The minutes of the Seven Valleys Tourism Committee meeting held on 9 May 2023 are reported for Council's endorsement.

Commentary

The May meeting of the Seven Valleys Tourism Committee was the first in its new format as a S355 committee. Several important items were on the agenda with the dominant focus of the committee being the briefing by 'Destination Marketing Store'. The Store has been engaged to provide a Destination Action Plan, a document designed to provide direction to the entire tourism industry in the Seven Valleys until 2030.

Reports were given by:

- Destination Marketing Store – Destination Action Plan,
- Zig Zag Railway – update on opening plans,
- National Parks and Wildlife – Gardens of Stone State Conservation Area,
- Larry Pitts – Seven Valleys Tourism Guide progress,
- Simon Francis – Marketing and Events reports, and
- Kylie Blakemore – Community and Cultural Tourism report.

The committee meeting was conducted in a spirit of cooperation and positivity with genuine excitement at the opportunities for tourism afforded by the agenda items.

Policy Implications

Nil.

Financial Implications

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

Legal and Risk Management Implications

Nil.

Attachments

1. DRAFT Minutes Seven Valleys Tourism Committee 9 May 2023 [**11.6.1** - 6 pages]

Recommendation

THAT Council endorse the minutes of the Seven Valleys Tourism Committee meeting held on 9 May 2023.

12. Business of Great Urgency

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

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