

Business Paper



Ordinary Meeting of Council
to be held at
Council Administration Centre
180 Mort Street, Lithgow
on
Monday 23 October 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

Ethical Decision Making and Conflicts of Interest

A guiding checklist for Councillors, officers and community committees

Oath or Affirmation of Office

Councillors are reminded of the Oath or Affirmation taken of office, made under section 233A of the *Local Government Act 1993* when elected.

Ethical decision making

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

Conflict of interest

A conflict of interest is a clash between private interest and public duty. The test for conflict of interest:

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of 'corruption' – using public office for private gain.
- Important to consider public perceptions of whether you have a conflict of interest.

There are two types of conflict:

- **Pecuniary** – regulated by the *Local Government Act 1993* and Office of Local Government. A person with a pecuniary interest should at least disclose and not vote, but it would also in these cases be appropriate to leave the chamber.
- **Non-pecuniary** – regulated by Codes of Conduct and policy. ICAC, Ombudsman, Office of Local Government (advice only). If declaring a Non-Pecuniary Conflict of Interest, a person with a non-pecuniary interest can choose to either disclose and vote, disclose and not vote or leave the Chamber.

- Local Government Act 1993 and Model Code of Conduct
For more detailed definitions refer to the *Local Government Act 1993*, Chapter 14 Honesty and Disclosure of Interest and adopted Code of Conduct.

Identifying problems

1st Do I have private interests affected by a matter I am officially involved in? **2nd** Is my official role one of influence or perceived influence over the matter? **3rd** Do my private interests conflict with my official role?

Disclosure of pecuniary interests / non-pecuniary interests

Under the provisions of Section 440AAA(3) of the *Local Government Act 1993* (pecuniary interests) and the Model Code of Conduct it is necessary for you to disclose the nature of the interest when making a disclosure of a pecuniary interest or a non-pecuniary conflict of interest at a meeting.

A Declaration form should be completed and handed to the General Manager as soon as practicable once the interest is identified. Declarations are made at Item 3 of the Agenda: Declarations - Pecuniary, Non-Pecuniary and Political Donation Disclosures, and prior to each Item being discussed.

5. Confirmation of Minutes

Confirmation of the Minutes of the Ordinary Meeting of Council held 25 September 2023.

6. Commemorations and Announcements

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

7. Public Forum

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

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

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

8. Mayoral Minutes

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

9. Notices of Motion

9.1. NOM - 23/10/2023 - Councillor S Lesslie - Closing Date for Notices of Motions and Questions on Notice

Report by Councillor Stephen Lesslie

Attachments

Nil

Recommendation

THAT the closing date for Councillor Notices of Motion and Questions on Notice submitted for Council meetings be the Tuesday immediately before the Council meeting.

Management Comment

Currently, the Code of Meeting Practice requires a notice of motion or a question with notice to be submitted by Friday 9am, 6 business days before the meeting. This motion would move that deadline to 4 business days before the meeting.

The purpose of the timeframe is to assist in the orderly development of a quality business paper. Amongst other things, it provides the opportunity for the administration to consider the motion or the question and prepare advice for inclusion in a “management comment” section of the report. This advice can assist the councillors to understand what is being proposed by the notice or the question, facilitating informed consideration of the proposal.

The practice is that the business paper be forwarded to the councillors, and then made available to the public, on the Monday or Tuesday prior to the meeting. This timing is in advance of the minimum required for distribution of the business paper (3 days before the meeting). Earlier distribution of the business paper provides reasonable time for councillors and the public to read the business paper, seek advice from the administration (if they need to do so) and prepare for the meeting. This assists more informed decision-making, while also accounting for the fact that councillors have other personal and professional workloads to manage on top of their role as a councillor.

If the timing for the submission of notices of motion and questions with notice is moved to the Tuesday, then those items lodged near that time would not be able to receive detailed consideration and they would be distributed as late reports (because the business paper will have been published and distributed to the councillors and public).

9.2. NOM – 23/10/2023 - Councillor E Mahony – 23/10/2023 – Review of current council delegations.

Report by Councillor Eric Mahony

Background

This report, addresses the critical governance role of effective delegation in enhancing the operational efficiency of our council.

It also addresses the importance of regularly reviewing delegations provided through the delegation processes and the responsibilities of the elected Council in terms of their governance role, as outlined below.

Commentary

While it is acknowledged that the effective delegation of council functions is essential to the efficient operation of our council, the regular review of and checking delegations is critical to ensure Councillors governance role are delivered as mandated under Sections 377(1) of the Local Government Act.

A key part of the governance role of the elected Council, involves the establishment of a Register of Delegation and strict adherence to the procedures for delegating Council functions as mandated by the NSW Local Government Act, as outlined below:

1. The delegation of a function to a council officer (other than the General Manager) under the Local Government Act 1993 ("LGA"), is a two-stage process. First, a council may delegate a function to a general manager pursuant to s 377(1), and second, a general manager may sub-delegate the function to a council officer pursuant to s 378(2) of that Act.
2. Sections 377(1) and 378(2) of the LGA provide as follows:

377 General power of the council to delegate

- (1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following;

378 Delegations by the general manager

- (2) The general manager may sub-delegate a function delegated to the general manager by the council to any person or body (including another employee of the council).

As part of this process, the Council should maintain a Register of Delegations which is split into two parts.

The first part setting out the delegations of Council, including the delegations to the General Manager, and the second part setting out the delegations to Council officers by the General Manager.

Part 1 of the Register of Delegations should record the delegation of a specific list of functions under legislation, and general administrative functions of Council, to the General Manager.

Attachments

Nil

Recommendation

THAT a report be brought to the November 2023 Ordinary Meeting of Council, inclusive of the current Lithgow City Council register for delegations for review and endorsement by the Council.

Management Comment

Councillor Mahony was contacted in relation to the Notice of Motion. Councillor Mahony was interested, particularly, in understanding the level of financial delegation which has been granted by the Council, how that delegation works in practice and whether the monetary amount should be amended (increased or decreased). Such a matter would best fit under the terms of reference for the Finance Committee. It was offered that this matter could be scheduled for the November meeting of the Finance Committee.

10. Administration Reports

10.1. Caring for Our Community

10.1.1. P&P - 23/10/2023 - Disability Inclusion Action Plan

Strategic Direction: **Caring for Our Community** To retain, respect and strengthen both our overall sense of community, and the unique linked communities of groups, rural areas, villages and towns that make up the Lithgow LGA.

Developing Our Built Environment To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.

Author: Matthew Johnson – Community & Culture Manager

Department: Community & Culture

Responsible Officer: Executive Manager Water, Wastewater and Waste

1. Executive Summary

Council is mandated under the NSW Disability Inclusion Act to develop a new Disability Inclusion Action Plan (DIAP) and submit it to the NSW Government by 30 November 2023. The Act, and by extension, the DIAP aim to improve the lives of people with disability and build an inclusive community, through planning and coordination across all levels of government.

Under its first DIAP (2017-2022) Lithgow Council has made good progress in accounting for the needs of people with a disability and facilitating a more inclusive city. Some of the outcomes are listed later in this report.

The next version of the DIAP, a draft at this stage, has been informed by consultations with the public and service providers, the community and council staff. Policies have also been reviewed.

The draft DIAP, which is an attachment to this report, is presented for adoption by Council with a recommendation that it be placed on public exhibition. It will then be returned to the November meeting for consideration of final adoption.

2. Administration's Recommendation

THAT Council approve the draft Disability Inclusion Action Plan 2023 to support it being placed on public exhibition until Friday 17 November, after which it will be returned to Council for final adoption at the 27 November 2023 Council meeting.

3. Attachments

1. draft diap 2023 2027 [10.1.1.1 - 54 pages]

4. Reference to any relevant previous minute

Min 17 – 191 Ordinary Meeting of Council held on 26 June 2017.

5. Background and discussion

The Disability Inclusion Act 2014 aims to improve the lives of people with disability and build a truly inclusive community, through planning and coordination across all levels of government.

Council is mandated under the NSW Disability Inclusion Act to develop a Disability Inclusion Action Plan and to submit it to the NSW Government by 30 November 2023.

Council's first DIAP, adopted in 2017, expired in July 2022. It aimed to facilitate people with disability having better access to Council services, facilities and information.

Many initiatives undertaken in recent years have improved access for people with a disability, such as:

- Lithgow Blast Furnace elevated walkways, platforms and pathways are largely accessible;
- Lithgow Adventure Playground is designed to universal access principles with the bulk of play equipment accessible;
- Lake Wallace accessible fishing pontoon is the first accessible fishing pontoon in inland NSW;
- Accessibility upgrades to the Union Theatre; and
- Accessible toilets have been installed in several locations including Lithgow CBD, Blast Furnace, Adventure Playground and along Farmers Creek.

Analysis indicates that there are significant economic drivers for increasing the inclusiveness of our society. There are financial benefits for individuals and for the larger economy by enabling people to have productive and fulfilling employment and by reducing modification costs through inclusive planning and the application of universal design principles.

The new DIAP has been developed by way of:

- Consultation with disability service providers;
- Community surveys and focus groups;
- Consultation with relevant Council staff; and
- A review of relevant Council policy and procedures.

The focus areas/domains of the new DIAP are:

- Building Liveable Communities;
- Creating Meaningful Employment opportunities;
- Promoting Positive attitudes and behaviours; and
- Enhancing systems and processes to improve access.

The DIAP includes an action plan across a number of council departments and functions in relation to each of these focus areas/ domains.

6. Implications

6.1. Policy

Nil

6.2. Legal

The NSW Disability Inclusion Act requires Council to develop a Disability Inclusion Action Plan and to submit it to the NSW Government by 30 November 2023.

6.3. Risk Management

N/A

6.4. Financial

- Budget approved – Nil
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – recommended actions from the DIAP that require future expenditure by Council will be considered in future budget deliberations.

7. Consultation and Communication

The draft DIAP has been developed in consultation with people with a disability and disability service providers through community surveys and focus groups, and in consultation with relevant Council staff.

10.1.2. P&L - 23/10/2023 - Proposed Lease to Country Women's Association of NSW (Portland branch)

Strategic Direction: **Caring for Our Community** To retain, respect and strengthen both our overall sense of community, and the unique linked communities of groups, rural areas, villages and towns that make up the Lithgow LGA.
Responsible Governance & Civic Leadership To develop community confidence in the organisation by the way it is directed, controlled and manage

Author: Sandra Politi – Property & Legal Services Officer

Department: Property & Legal Services

Responsible Officer: Chief Financial & Information Officer

1. Executive Summary

The Portland branch of the Country Women's Association occupy a council premises in Wolgan Street Portland. They have a long and proud history as a community group.

Because the group has exclusive use of the premises there is the need to formalise the occupancy, and to define the terms of such exclusive use. This will take the form of a lease.

Council's policies categorise tenants and set fees based upon this. In this case, and again based on Council's policy, the lease would include a nominal rent and other costs for the first up establishment of the lease (currently rent would be \$564 per annum. and additional charges of a one-off legal/admin charge for lease preparation (\$300) and a one-off charge by NSW Land Registry Services for lease registration (approx. \$200). The group have claimed that these fees will cause them hardship, and they have requested a waiver.

This report seeks Council's approval to grant a lease to Country Women's Association of NSW (ABN 82 318 909 926) (the Association). It also outlines that the requested waiver of the fees and charges is inconsistent with Council's policy but proposes that the Council take a position on this.

2. Administration's Recommendation

THAT Council:

1. Grant approval to enter a lease with Country Women's Association of NSW as outlined in this report (subject to a decision on recommendation 2 below).
2. Determine its position in relation to the request for waiver of the annual rent, legal/admin charge and registration fee in relation to the lease to Country Women's Association of NSW.
3. Authorise the General Manager to sign the lease and do all things necessary to enter and give effect to the lease to Country Women's Association of NSW.

3. Attachments

1. Lithgow Mercury article - CWA Portland first meeting held 1932 [**10.1.2.1** - 1 page]

4. Reference to any relevant previous minute

N/A

5. Background and discussion

About the Portland branch of the Country Women's Association

The Portland branch of the Association held its first meeting in 1932, as indicated in the Lithgow Mercury article attached to this report.

The original purpose of the Association was to assist unemployed maternity cases, of which there would have been many given that unemployment in 1932 was at 32 percent, the worst Australia has seen (National Museum of Australia, <https://www.nma.gov.au/defining-moments/resources/great-depression>).

Newspaper articles in Trove regarding the Portland branch demonstrate that, despite the hardship of the times making it difficult for the Portland branch to get off the ground, members were dedicated to supporting those in need and the Portland branch of the Association became an integral part of the Portland community.

In the early days, the Portland branch hosted fundraising events such as balls and carnivals to raise funds to provide food for the unemployed and to support improvements at the Portland Hospital. The Association continues to do important work through fundraising, advocacy, bringing people together and teaching skills.

The Premises

The proposed lease relates to use of the premises at Wolgan Street, Portland being Lot 102 in DP1102046 (**the Premises**).

The below images of the Premises are provided for information.





Council's records indicate that the Portland branch has occupied the Premises since about 1950 when it was owned by Blaxland Shire Council. Councillors may be aware that Blaxland Shire Council and Lithgow City Council amalgamated in 1977, which resulted in Lithgow City Council absorbing all property, rights, and responsibilities of the former Blaxland Shire Council.

The proposed Lease

Although the Premises is used for a community purpose, it was classified "operational" by Council (Min. No. 568 of 14 June 1994).

Consistent with the practice of entering a lease or licence agreement for exclusive use of Council property, Council has offered a lease of the Premises to the Association. Below is a summary of the key terms of the lease.

Term - 5 years

Rent - \$564 + GST per annum, with a CPI review on each one-year anniversary (**unless waived**).

Utility charges - The tenant is responsible for paying all utility and service charges, including electricity, gas, water usage, sewer usage, telephone, internet etc.

Permitted use of premises – Community purposes including meetings, handcrafts, art group, markets, fund raising activities, tai chi.

Maintenance and repair - The tenant must maintain the premises in its condition at the commencing date and undertake repairs needed to keep it in that state, except for fair wear and tear. Council must undertake all structural repairs and repairs required due to fair wear and tear.

Insurance - The tenant must maintain public liability insurance and any other insurances it is required to hold by law in relation to its business and activities.

Ownership of fixtures - The tenant acknowledges and agrees that all structures, improvements, and fixtures on the property vest in Council, notwithstanding any monetary or in-kind contribution made by the tenant for the benefit of the property.

Role of Council - The tenant acknowledges that Council is entering the lease in its capacity as owner of the property and not as a consent authority or regulator, and the tenant must separately obtain and maintain any approvals required for the permitted use or activities on the premises.

Indemnities - The tenant indemnifies Council in relation to any claim against Council arising out of the tenant's occupation of the premises or the negligent acts or omissions of the tenant.

Requirement for Council resolution - request by the Association to waive rent and lease costs

A council resolution is required in relation to the proposed lease as the Portland branch is seeking a waiver of rent and charges, which deviates from Council's Leasing and Licensing Policy 10.20.

Page 3 of Council's Leasing and Licensing Policy 10.20 states that:

"The General Manager has delegated power to negotiate and enter leases/licences in relation to land classified Operational, having regard to the categories in Schedule A of this policy. Any deviation from this policy in relation a lease/licence of Operational land requires a resolution of Council."

The proposed use of the Premises aligns with a Category C use listed in schedule A of the policy. This use includes charitable groups which use Council property to generate income.

The rent for a Category C use of Council property is equivalent to the prescribed minimum base rent paid for use of Crown land, currently \$564 per annum. Additional charges consist of a one-off legal/admin charge for lease preparation (\$300) and a one-off charge by NSW Land Registry Services for lease registration (approx. \$200).

The Portland branch has informed Council that, despite the lease being entered with the Association's head office, the Portland branch would be responsible for payment of the rent and other charges.

The members of the Portland branch submit that they would find it very difficult to meet these costs as they are all volunteers and seniors on fixed incomes, contending with current cost of living issues.

Due to hardship, the Portland branch requests that Council use its discretion to waive the annual rent, legal/admin charge and lease registration fee.

6. Implications

6.1. Policy

The proposed lease to the Country Women's Association of NSW is consistent with Council's Leasing and Licensing Policy 10.20. However, a waiver of rent, legal/admin fee and lease registration fee is inconsistent with such policy and a Council resolution is required for this purpose.

6.2. Legal

The subject matter of this report is a function of Council conferred by the Local Government Act 1993.

6.3. Risk Management

Entering a lease for Council owned property mitigates the risk and uncertainty that exists when property is used without a formal contract in place.

6.4. Financial

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - Nil
- Future potential impact – minor loss of income should Council resolve to waive the lease fee and related charges.

7. Consultation and Communication

Several communications have transpired with the Portland branch of Country Women's Association of NSW, including by email, telephone and in person. The Portland branch have indicated in principle agreement with the proposed lease. However, the lease will need to be sent to head office for formal approval and execution.

Community consultation is not required since the property is classified "operational".

10.2. Developing Our Built Environment

10.2.1. P&P - 23/10/2023 - Variations to Development Standards

Strategic Direction: **Developing Our Built Environment** To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.

Author: Lauren Stevens – Development Planner

Department: Planning

Responsible Officer: Director of People and Place

1. Executive Summary

The local planning provisions include standards which must be satisfied by a development (development standards). But there are circumstances where a departure from the development standards can be supported by the consent authority (Council). 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.

When variations are approved, the Council is required to report these, and to maintain a register.

The purpose of this report is to advise Council of variations to development standards for the July to September 2023 quarter as per the NSW Department of Planning and Environment Guidelines. For the reporting period, there were no occasions where an approved development varied from applicable development standards.

2. Administration's 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 July to September 2023 quarter.

3. Attachments

Nil

4. Reference to any relevant previous minute

Nil.

5. Background and discussion

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 involving variations to development standards were approved for the July to September 2023 quarter. This information has been submitted to the Department of Planning and Environment in accordance with their reporting and procedural requirements.

6. Implications

6.1. Policy

Clause 4.6 of the Lithgow Local Environmental Plan 2014 (LEP) guides how proposed variations from development standards imposed by an environmental planning instrument are to be dealt with.

The applicants for developments that propose to contravene a development standard contained within the relevant environmental planning instrument must be able to demonstrate that the standard is unnecessary and unreasonable, and that the objectives of the standard and the zone are still able to be reasonably achieved.

6.2. Legal

The subject matter of this report is a function of Council conferred by the NSW Department of Planning and Environment Guidelines.

All relevant information has been submitted to the Department of Planning and Environment in accordance with their reporting and procedural requirements.

6.3. Risk Management

The public reporting of circumstances where development standards have been varied offers transparency about decision-making. It can also highlight where development standards are being frequently varied and give insight to whether the development standard is in fact appropriate. This contributes to the effective management of public perception about the Council's decisions.

6.4. Financial

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

7. Consultation and Communication

The Council maintains a public register for circumstances where State Environmental Planning Policy No 1 – Development Standards or Clause 4.6 of the Lithgow LEP 2014 have been used to support variations from development standards. The register is available for public viewing on Council's website. No additional consultation is required.

10.2.2. P&P - 23/10/2023 - DA227/22 Draft Planning Agreement, Proposed Subdivision, 10 Col Drewe Drive Bowenfels

Strategic Direction: **Developing Our Built Environment** To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.

Author: Lauren Stevens – Development Planner

Department: Planning

Responsible Officer: Director of People and Places

Property Details Lot 1 DP1266778, 10 Col Drew Drive Bowenfels NSW 2790

Property Owner Lithgow City Council

Applicant Lithgow City Council

1. Executive Summary

Council is in receipt of development application DA277/22 seeking consent for a subdivision of one (1) lot into forty-six (46) residential allotments, 1 residue allotment and public roads on land known as Lot 1 DP1266778, 10 Col Drewe Drive Bowenfels.

The development is being undertaken by Lithgow City Council. The project will provide additional residential allotments responding to the housing needs of the community.

As part of the application, the applicant has proposed an offer for a Voluntary Planning Agreement for the following:

- \$6,800 per residential lot to go towards public open space and recreational needs.

The above offer complies with the Council's relevant policy and is consistent with that which is typically attracted to a proposed residential subdivision.

A Draft Planning Agreement has now been prepared for endorsement by Council and is ready for the required public notification process to proceed.

2. Administration's Recommendation

THAT

1. Council endorse the Draft Voluntary Planning Agreement proposed for DA227/22 being for \$6,800 per residential lot to go towards public open space and recreational needs.
2. The Draft Voluntary Planning Agreement for DA227/22 be placed on public exhibition for a period of 28 days.
3. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

3. Attachments

1. D A 227-22 - Voluntary Planning Agreement - 10 Col Drewe Drive [10.2.2.1 - 26 pages]

4. Reference to any relevant previous minute

Nil.

5. Background and discussion

Council is in receipt of Development Application DA277/22 seeking consent for a Torrens Title Subdivision of one (1) lot into forty-six (46) residential allotments, 1 residue allotment and public roads on land known as Lot 1 DP1266778, 10 Col Drewe Drive Bowenfels.

The property contains an area of 6.36ha with all proposed lots to be greater than 400m². The proposal shall include bulk earthworks, associated civil works including the construction of new roads, stormwater drainage, detention basins and the installation of services.

The subject Development Application is being undertaken by Lithgow City Council. The project shall provide additional residential allotments responding to the housing needs of the community.

As part of the application, the applicant has proposed an offer for a Voluntary Planning Agreement for the following:

- \$6,800 per residential lot to fund the following projects:
 - Development of an Open Space and Recreational Needs Strategy for the South Bowenfels Release Area; and
 - Implementation of high priority actions stemming from the Open Space and Recreational Needs Strategy.

A Draft Planning Agreement has now been prepared for endorsement by Council and is ready for the required public notification process to proceed.

Delegated Authority – DA277/22

The proposed subdivision has an estimated cost of works of \$6,754,345.00. Pursuant to clause 4.7 of the Environmental Planning and Assessment Act 1979 and Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021, the application is defined as 'regionally significant development' and is required to be determined by the Western Regional Planning Panel.

State Environmental Planning Policy (Planning Systems) 2021, Schedule 6 Regionally significant development reads as follows:

3 Council related development over \$5 million

Development that has a capital investment value of more than \$5 million if—

- (a) a council for the area in which the development is to be carried out is the applicant for development consent, or*
- (b) the council is the owner of any land on which the development is to be carried out, or*
- (c) the development is to be carried out by the council,*

It is anticipated that the Development Application will be determined by the Western Regional Planning Panel on 7 November 2023.

6. Implications

6.1. Policy

Policy 7.10 Voluntary Planning Agreements

A Voluntary Planning Agreement (VPA) has been negotiated in accordance with Section 7.4 of the Environmental Planning & Assessment Act 1979 in relation to this proposal. The plan has been created as per Council's Policy 7.10 Voluntary Planning Agreements and will be advertised appropriately for compliance.

The developer has agreed to contribute the sum of \$6,800.00 per lot (total of \$312,800.00) towards public open space and recreational needs.

6.2. Legal

The legislative basis for the Planning Agreement is incorporated in the Environmental Planning and Assessment Act 1979 (EP&A Act) (Section 7.4 – 7.10) and the Environmental Planning and Assessment Regulations 2021 (Clauses 202 – 206). Section 7.5 of the EP&A Act provides that public notice must be given of a proposed Planning Agreement for at least 28 days before it can be entered into.

6.3. Risk Management

The monetary contribution will help to manage a risk of under-supply of essential community infrastructure. It will be directed toward local and city-wide infrastructure and facilities, helping to ensure that community infrastructure is provided for an increased population.

6.4. Financial

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – The total value of the monetary contribution will be \$312,800 (\$6,800 per lot for 46 lots). The contribution will be funded by Council, as included in the business case for the housing development. The expense will only occur if Council proceeds with the development. As such, the allocation of funds will be a later decision for Council.

7. Consultation and Communication

As per Section 7.5 of the EP&A Act, public exhibition of the proposed Planning Agreement will be undertaken for a period of 28 days.

Once, the planning agreement has been on public exhibition for the 28-day period, a report will be presented to Council seeking full endorsement.

Pending Council's endorsement, the VPA Letter of Offer and Deed have been uploaded to the Planning Portal. The Regional Planning Panel determination has been scheduled for 12 December 2023.

10.2.3. P&P - 23/10/2023 DA154/23 Alterations and Additions to the Lithgow Basketball Stadium

Strategic Direction:

Developing Our Built Environment To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.

Author: Lauren Stevens – Development Planner

Department: Planning

Responsible Officer: Director of People and Places

Property Details Lot 3 DP29016, 'Lithgow Basketball Stadium', Barton Street Lithgow NSW 2790

Property Owner Lithgow City Council

Applicant Mr Richard Marjoram on behalf of Lithgow and District Basketball Association Inc.

1. Executive Summary

On 8 September 2023, the subject Development Application DA154/23 was lodged with Council seeking consent for alterations and additions to an existing recreation facility on land known as Lot 3 DP29016, 'Lithgow Basketball Stadium', Barton Street Lithgow.

The development is reported to Council as per Council's Policy 7.6 'Development Applications By Councillors And Staff Or On Council Owned Land'.

Pursuant to the Lithgow Community Participation Plan, the application was notified commencing 12 September 2023 and concluding 5 October 2023. No known written submissions were received during the notification period.

The development application has been assessed by the Council's planners having regard for the relevant provisions in the applicable planning instrument and development control plans. The only matter of relevance is that as part of the proposed development, one existing car space will be removed. It is considered that substantial parking already exists on site and in the locality.

Given that the car parking and building exists on site and the additions are considered to be minimal (a small addition to the front of the entry) it is recommended that the application be approved, subject to conditions.

Recommendation

THAT

1. Development application DA154/23 be APPROVED subject to conditions of consent as detailed 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

2. Attachments

1. DA154 23 Development Assessment Report [**10.2.3.1** - 17 pages]
2. D A 154 23 - Plans - Lithgow Basketball Stadium Barton Street Lithgow [**10.2.3.2** - 8 pages]

3. Reference to any relevant previous minute

Nil.

4. Background and discussion

Council is in receipt of Development Application No. DA154/23 seeking consent for alterations and additions to an existing recreation facility on land known as Lot 3 DP29016, 'Lithgow Basketball Stadium', Barton Street Lithgow.

Specifically, the development proposes to extend the main pedestrian entry of the building that will help to improve accessibility. This includes:

- Extension of the Main Foyer by 15.54m² to facilitate circulation space, provision of new automatic doors within the southern elevation (facing Barton Street), and modification of the existing pedestrian footpath / ramp to the new entry.
- Reduction to the total car parking spaces from twenty-three (23) standard spaces and two (2) accessible spaces to twenty-two (22) standard spaces and two (2) accessible spaces. It is noted that one (1) standard car parking space will be reduced to provide for 'shared zones' as required for accessible spaces.

The application does not seek to alter the existing basketball courts, office, storage and bathroom amenities within the stadium.

5. Implications

5.1. Policy

Lithgow Community Participation Plan

The proposed development has been placed on public exhibition in accordance with the Lithgow Community Participation Plan and nearby landowners and occupiers were notified of the proposal. The submitted documents were placed on public exhibition for twenty-one (21) days in accordance with the Participation Plan commencing 12 September 2023 and concluded 5 October 2023.

No written submissions were received during the notification period.

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

Council's policy states:

1. *That, subject to the exemptions in Part 2 of this Policy, the following development applications shall be referred to Council for consideration and determination:*

c. Where the development application is on Council owned land.

As such, this application has been referred to an Ordinary Meeting of Council for consideration and determination.

5.2. Legal

The subject matter of this report is a function of Council conferred by the Environmental Planning and Assessment Act 1979 and under the Lithgow Local Environmental Plan 2014.

The proposed development requires consent in accordance with the Environmental Planning and Assessment Act 1979 and under the Lithgow Local Environmental Plan 2014. 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 Act. These are addressed in the attached Planning Assessment Report. The application is recommended for approval and has been assessed as achieving compliance with relevant regulatory requirements.

5.3. Risk Management

Nil.

5.4. Financial

- 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
- Future potential impact - N/A for the assessment of the development application.

6. Consultation and Communication

The proposed development has been placed on public exhibition in accordance with the Lithgow Community Participation Plan and nearby landowners and occupiers were notified of the proposal. The submitted documents were placed on public exhibition for twenty-one (21) days in accordance with the Participation Plan commencing 12 September 2023 and concluded 5 October 2023.

No written submissions were received during the notification period.

10.2.4. P&P - 23/10/2023 - MODDA035/23, Community Centre, Wolgan Road, Wolgan Valley,
Section 94A Fee-Exemption Request

Strategic Direction:

Developing Our Built Environment

To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.

Author: Lauren Stevens – Development Planner

Department: Planning

Responsible Officer: Director of People and Place

Property Details Lot 1 DP 1106591, Wolgan Road, Wolgan Valley NSW 2790

Property Owner Mrs SA Howard & Mr RW Howard

Applicant Brad Carmady on behalf of The Wolgan Valley Association Inc

1. Executive Summary

On 7 March 2023, Council approved a Community Centre (Neighbourhood Safer Place) under Development Application DA157/22 on land known as Lot 1 DP 1106591, Wolgan Road, Wolgan Valley.

Council is in receipt of a Section 4.55 (1A) Modification Application MODDA035/23 seeking to amend DA157/22 by the deletion of Condition 13 which relates to the payment of Section 7.12 (Section 94A) Development Contributions.

This report deals with the Section 7.12 (Section 94A) Levy exemption request together with a request for the waiver of the application fee associated with this Modification Application. The finding is that there is a policy and legal basis for waiving the fees.

The recommendation is that both requests be supported.

2. Administration's Recommendation

THAT

1. Council approve the Section 94A (Section 7.12) Development Contributions Plan exemption request for the proposed Community Centre (Neighbourhood Safer Place) by The Wolgan Valley Association Inc, noting that the contribution payable is \$13,974.30.
2. Council waive the Modification Application fee incurred through the above exemption request.
3. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993

3. Attachments

1. MODD A 035 23 - Letter Accompanying S 4 55 Amendment - Wolgan Road Wolgan Valley [10.2.4.1 - 1 page]

4. Reference to any relevant previous minute

Nil.

5. Background and discussion

On 7 March 2023, Council approved a Community Centre (Neighbourhood Safer Place) under Development Application DA157/22 on land known as Lot 1 DP 1106591, Wolgan Road, Wolgan Valley.

The purpose of the development is to provide a community establishment after the 2019/2020 bushfires as well as a Multi-Purpose Centre (Neighbourhood Safer Place) to serve the social needs of the community, such as community events, training, fire co-ordination.

Council is in receipt of a Section 4.55 (1A) Modification Application MODDA035/23 seeking to amend DA157/22. Specifically, this Modification Application is seeking to delete Condition 13 which relates to the payment of Section 7.12 (Section 94A) Development Contributions.

Condition 13 reads as follows:

Section 94A (Section 7.12) Development Contributions Plan 2015

Prior to the issue of a Construction Certificate the applicant shall pay to Council a Section 7.12 contribution of \$13,974.30, in accordance with the Lithgow City Council Section 94A (Section 7.12) Development Contribution Plan 2015. It is advised that the level of contribution in this plan may be adjusted at the time of actual payment, in accordance with the provisions of the Lithgow City Council Section 94A Development Contribution Plan 2015.

The abovementioned Condition was imposed pursuant to the endorsed Section 94A Contribution Plan dated 2015. The Development Contributions Plan 2015 applies to this development given it is for a community facility at an estimated cost of \$1,397,430.00, using the below levies:

Estimated cost of development	Levy applicable
\$0 to \$100,000	0%
\$100,001 to \$200,000	0.5%
\$200,001 and over	1%

The Section 7.12 contribution would be \$13,974.30.

Clause 6 of the Development Contributions Plan states the purpose of the plan; this being:

C6 What is the purpose of the development contributions plan?

The primary purposes of this contributions plan are:

- *To authorise the imposition of a condition on development consents and complying development certificates requiring the payment of a contribution pursuant to Section 94A of the Environmental Planning and Assessment Act, 1979.*

- *To require an accredited private certifier to impose, as a condition of issuing a complying certificate, a requirement that the applicant pay to Council a levy determined in accordance with this Plan.*
- *To assist the Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery within the area.*
- *To publicly identify the purposes for which the levies are required.*

The works scheduled within the plan further identify public facilities/services that the levies are to be applied towards; this includes recreation facilities, rural roads, village improvements and civic improvements.

The proposed Community Centre will operate as a public facility that will provide essential services to the Wolgan Valley community, specifically during natural disasters.

The Community Centre is considered to assist Council in providing appropriate public facilities which are required to maintain and enhance amenity and service delivery within the area. The applicant is seeking an exemption from the Contribution Plan as the construction of this facility can be seen to be in lieu of a monetary contribution.

In addition, the Community Centre is not considered to impact population growth nor increase demand to facilities/services within the Wolgan Valley locality.

As such, the development is considered to satisfy the purpose of the of the Section 94A Contribution Plan.

6. Implications

6.1. Policy

Nil.

6.2. Legal

The subject matter of this report is a function of Council conferred by Section 610E of the Local Government Act (the Act) sets the legislative framework for fee waivers or reductions and is relevant for Council's consideration:

Council may waive or reduce fees

610E Council may waive or reduce fees

- (1) A council may waive payment of, or reduce, a fee (whether expressed as an actual or a maximum amount) in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the council has determined payment should be so waived or reduced.*
- (2) However, a council must not determine a category of cases under this section until it has given public notice of the proposed category in the same way as it is required to give public notice of the amount of a proposed fee under section 610F(2) or (3).*

Council has set a "category of cases" for levy exemptions in the Development Contributions Plan 2015 which is consistent with the Act.

Section 610E of the Local Government Act 1993 further provides that:

Fee Waivers, Refunds and Reductions Section 610E of the Local Government Act 1993 provides that "...a council may waive payment of, or reduce, an approved fee (whether

expressed as an actual or a maximum amount) in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the Council has determined payment should be so waived or reduced."

This circumstance does not exist in this case.

6.3. Risk Management

Nil.

6.4. Financial

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

7. Consultation and Communication

The Section 94A exemption request is not required to be notified nor does the modification of development consent application.

10.2.5. IS&E - 23/10/2023 - Tender - Peach Tree Road Capital Works Project

Strategic Direction:	Developing Our Built Environment To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.
Author:	Paul Creelman – Transport Manager
Department:	Infrastructure and Economy
Responsible Officer:	Director of Infrastructure and Economy

1. Executive Summary

As a part of the approved Capital Works Program, 4.4 kilometres of Peach Tree Road, Megalong Valley, will be renewed and sealed. The initial earthworks will be completed by a civil contractor and the final sealing will be completed by one of the Council's road sealing contractors on the approved schedule of rates.

The reason for the use of a contractor for the preparation works is that it would take Council teams over an hour and a half to drive to access the site from the nearest depot. With the added issues of the rockslides through the Megalong Valley, carting loads of road base to the site may be an issue, whereas a local contractor will be able to make contingency plans with the local landowners.

A tender was sent to 4 local contractors with 2 responses being received. The tenders received have been assessed against the selection criteria by a panel of experienced staff.

The funding will be drawn from the approved Capital Works budget. The price quoted is within that budget and retains sufficient funds for the sealing works to also be completed within the approved budget. The report recommends that Council enter into a contract for the works.

2. Administration's Recommendation

THAT Council:

1. Accept the submission from Gracey's Earthmoving and Excavation Pty Ltd for the preparation for sealing of Peach Tree Road and any associated drainage work at the supplied price of \$485,000 (excluding GST) and use of the approved schedule of rates for road sealing.
2. Delegate authority to the General Manager to enter into a contract with Gracey's Earthmoving and Excavation Pty Ltd, in accordance with the tender for preparation of Peach Tree Road for sealing and any associated drainage works.

3. Attachments

1. CONFIDENTIAL REDACTED - Confidential - Peach Tree Road Evaluation Sheet [10.2.5.1 - 1 page]

4. Reference to any relevant previous minute

Nil

5. Background and discussion

The tender was requested through LGP (Local Government Procurement) and was sent to the following contractors to quote on preparation works (to be followed by sealing) for the last 4.4 kilometres of Peach Tree Road, Megalong Valley:

- Gracey and Son Earthmoving
- Dukes Earthmoving P/L
- Gracey's Earthmoving and Excavations P/L
- Peters Earthmoving P/L

The following table outlines the preferred tenderer scoring criteria:

Technical criteria	Weighting
Understanding of requirements	15.00%
Demonstrated experience and past performance	15.00%
Project programme	7.50%
Local Preference policy	2.50%
Value for money	60.00%

Responses were received from Gracey and Son and Gracey Earthmoving and Excavation, with no responses being received from Peters Earthmoving and Dukes Earthmoving.

The evaluation was completed by the Transport Manager, A/Director Infrastructure & Economy and the Engineering Officer. A summary of the tender evaluation is provided below:

- Both Gracey and Son and Gracey Earthmoving and Excavations showed a good understanding of the tender requirements, both have shown valuable experience and past performance in previous projects for Council.
- Gracey's Earthmoving and excavation provided a superior project programme with a 2-week start and 6-week project timeline, Gracey and Son Earthmoving could not provide an early start and up to 12 weeks completion programme.
- Both contractors are locally based.
- The price for Gracey and Son exceeded the budget for the project.
- It was decided to recommend the application from Gracey's Earthmoving and Excavations.

A confidential tender evaluation summary is included as an attachment.

6. Implications

6.1. Policy

The Procurement Policy has been followed in the issuing of the tender and its evaluation.

6.2. Legal

As the works are occurring on Council's road reserve, the relevant legislation to be considered is the Roads Act 1993, the Environmental Planning and Assessment Act and the Local Government Act. All relevant approvals under these Acts will be obtained prior to the works commencing. The contractor will also be required to comply with the Work Health and Safety Act in planning and execution of the works.

6.3. Risk Management

Maintenance of the road assists to manage risk to road users. Also, by appointing a contractor to this project, Council is minimising the risks of project delays and inefficiency resulting from long travel times for staff, plant and equipment.

6.4. Financial

- Budget approved – \$671,958 (funded from General Fund revenue).
- Cost centre – 100756
- Expended to date – Nil.
- Future potential impact – These works will minimise maintenance works and save Council maintenance teams time in providing maintenance in this location into the future.

7. Consultation and Communication

Residents and landholders will be notified by letter, the scheduling of works will be placed on Council's website and notices. As works will be conducted on a Council road reserve no further notifications are required.

10.2.6. IS&E - 23/10/2023 - South Bowenfels Link Road - Tender

Strategic Direction: **Developing Our Built Environment**
To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.

Author: Jim McGee – Engineering Officer

Department: Infrastructure and Economy

Responsible Officer: Director of Infrastructure and Economy

1. Executive Summary

Council has received grant funding for public infrastructure in South Bowenfels which will unlock residential lots, including Council's own residential development project in that locality (which is currently being assessed as a development application).

The public infrastructure being delivered includes a road to link parts of the locality and provide access to the Great Western Highway through a future signalised intersection.

Council's administration were working to deliver the road as a staged project in the timeframe of the grant. To this end, some of the necessary drainage and detention basin works were deferred to a second stage when Council undertakes its development. However, revisions to Council's residential development project (during DA assessment) have required that the scope of works for the first stage works be increased. While the project cost has increased, funding sources are available for the increased cost (from the Council's property reserve and from VPAs which will contribute funds for roadworks in the locality).

The changes outlined above caused the first stage roadworks project to be re-tendered.

This report canvasses all relevant matters for the re-tendered project. It recommends that a contract be entered into with Gracey's Earthmoving and Excavation for the revised project, as tendered for, and evaluated against the tender selection criteria.

2. Administration's Recommendation

THAT Council:

1. Note that a contract with Gracey's Earthmoving and Excavation (as determined by Council resolution on 28 August 2023) for the construction of the earlier version of South Bowenfels Link Road is no longer appropriate to be actioned due to a change in the design of the road.
2. Approve an increase to the budget for the South Bowenfels Link Road (due to an increased scope of works) to \$1.254M.
3. Accept the submission from Gracey's Earthmoving and Excavation Pty Ltd for the construction of the South Bowenfels link road (construction of Three Tree Drive) at a cost of \$1.254 million.
4. Delegate authority to the General Manager to enter a contract between Council and Gracey's Earthmoving and Excavation Pty Ltd in accordance with the tender for "Construction of Three Tree Drive"

3. Attachments

1. Confidential - South Bowenfels Link Road Tender Evaluation [**10.2.6.1** - 2 pages]

4. Reference to any relevant previous minute

Min. No. 23-146 Ordinary Meeting of Council held on 28 August 2023.

5. Background and discussion

The South Bowenfels Link Road is local infrastructure that can assist with residential lot supply. The reason is that the locality is capped in terms of lot numbers able to be approved due to restrictions on an un-signalised access to the Great Western Highway. The link road will allow access back to an intersection that will be signalised in the future, overcoming the need to cap lot numbers.

The road will also assist with the Council's residential development project for the locality i.e., it will function as a link road for the broader area, and a road to the allotments in Council's residential development project.

For the above reason, Lithgow Council applied for and received funding of \$1.4 million (NSW Regional Housing Fund) to assist the delivery of this road and sewer infrastructure (Hillcrest No. 2 Sewer Pumping Station). Under the terms of the grant, Council is aiming for the construction of the road to be completed by 31 January 2024.

Initially, the 2023/2024 budget for the Regional Housing Fund grant was allocated as follows:

- South Bowenfels Link Road - \$481,075,
- Hillcrest No. 2 Sewer Pumping Station - \$918,925 (including proposed 2022/2023 carryover budget with the remainder to be funded from the Sewer Reserve / future developer contributions).

At the 28 August 2023 meeting, Council acknowledged that the funding would be adjusted as follows:

- South Bowenfels Link Road - \$685,600, and
- Hillcrest No. 2 Sewer Pumping Station - \$714,400 (including proposed 2022/2023 carryover budget with the remainder to be funded from the Sewer Reserve / future developer contributions).

The above revised allocation of funds was based upon an earlier project with a reduced scope of works. The earlier project was a first stage of the full roadworks. It included the road surface, kerbing and basic drainage. It was planned to be constructed ahead of the Council's residential development project – satisfying the grant conditions and assisting other development to the north of the locality to be brought forward independent of Council's project. A second stage would later be constructed to service the residential lots created along the new road (if council proceeds with that project).

The first stage works had been tendered for and a decision was taken at the 28 August meeting to award that tender. Soon thereafter, it became apparent that the works tendered for required amendment due to material changes to Council's residential development project – explained below.

The scope of works now includes a detention basin to reduce sedimentation post construction. The detention basin was designed with the capacity to cater for future development in the locality.

When the earlier tender for the South Bowenfels Link Road was prepared, the scope was based on a subdivision layout prepared by CEH Survey. This design had a road length of 331.69 m and was positioned above the adjacent lots. After the tender was completed, it became apparent that the subdivision layout had changed, as a design prepared by J. Wyndham Prince was the preferred layout. The main change to the layout is that the adjacent lots are situated above the road and the road length has increased by approximately 50 m.

Initially, it was thought that the budget might be maintained as the additional length would be offset by a reduction in the bulk earthworks required, due to a reduction in slope at the realigned road position. However, it is now evident that the repositioning of the road has had a two-fold impact on the construction plans:

1. The properties above the road now drain onto the road (not to future easements at the rear of lots had they been downslope of the road). This requires a substantial increase in the capacity of the stormwater system associated with the road and results in increased costs for the road project.
2. The proximity of the realigned road to the eastern boundary with Three Tree Lodge requires the construction of a 1 m retaining wall for approximately 200 m of the shared boundary.

These changes to the design result in costs (namely, property stormwater disposal) needing to be brought forward by being incorporated into the road design.

Due to the design changes and the increase in estimated cost (to \$1.254M), it was apparent that a call for new tenders was required.

New Tender

A Tender Evaluation Panel (TEP) was formed, comprising of the following staff:

Role	Position on the panel
Engineering Officer	Chair
Project Officer	Member
Transport Manager	Member

In accordance with the tender evaluation plan, it was determined that tender responses would be evaluated based on the following criteria:

- Value for Money (60%)
- Understanding of Requirement (15%)
- Demonstrated Experience and Past Performance (15%)
- Project Program (7.5%)
- Local Preference Policy (2.5%)

Council called for open tenders on 19 September 2023 and five tender responses were received by the tender closing time, 4:00pm 10 October 2023. These were received from the following companies:

- Dukes Earth Moving Pty Limited
- Gracey's Earthmoving and Excavations
- Green's Civil Services Pty Ltd
- Macmahon Services Australia Pty Ltd
- Peter's Earthmoving Pty Ltd

The TEP reviewed the submissions and met on 12 October 2023 to discuss the proposals submitted. The below table provides a summary of the TEP's scoring against the various criteria. The detailed evaluation has also been included with this report as a confidential attachment.

Tenderer	Overall Score (out of 100)
Dukes Earth Moving Pty Limited	83
Gracey's Earthmoving and Excavation	86
Green's Civil Services Pty Ltd	74
Macmahon Services Australia Pty Ltd	52
Peter's Earthmoving Pty Ltd	58

The TEP determined that Gracey's Earthmoving and Excavations' submission offered best value.

Duke's Earth Moving Pty Ltd quoted the lowest lump sum pricing however their submission was found to be non-compliant with the specification. Gracey's Earthmoving and Excavations' submission was the next lowest lump sum pricing, they are a local contractor with a history of delivering on tendered projects for Council.

6. Implications

6.1. Policy

The new tender process and evaluation was conducted in accordance with Council's Tendering Policy and Council's procedures for Purchasing and Tendering.

6.2. Legal

The subject matter of this report is a function of Council conferred by the Local Government Act 1993, Section 55 and Part 7 of the Local Government (General) Regulation 2005.

6.3. Risk Management

The lapsing of the tender and call for new tenders will remove the risk of proceeding with a construction project which required design changes.

6.4. Financial

- Budget approved –\$685,600
- Cost centre – 100877
- Expended to date - Nil
- Future potential impact – Expected additional funding of \$568,400 be allocated to the link road, bringing the budget to \$1.254M. The budget will be funded as follows:
 - NSW Regional Housing Fund \$685,600
 - Land Bank reserve - \$388,450 (funding source for Council's South Bowenfels Housing Development)
 - VPA reserve - \$179,950 (VPA contributions from current approved developments in the locality - the VPAs attribute funds to roadworks).

10.3. Strengthening Our Economy

10.3.1. F&G - 23/10/2023 - Halloween Budget 2023

Strategic Direction: **Caring for Our Community** To retain, respect and strengthen both our overall sense of community, and the unique linked communities of groups, rural areas, villages and towns that make up the Lithgow LGA.
Strengthening Our Economy To provide for sustainable and planned growth through the diversification of the economic base, the development of diverse job opportunities and the provision of a broad range of formal and non-formal educational services.

Author: Ross Gurney - CFIO
Department: Finance
Responsible Officer: Director of Finance & Governance

1. Executive Summary

The purpose of this report is to provide information on the Halloween 2023 budget and to recommend that Council approve a \$40,000 budget increase, funded from related event management salary savings and additional sponsorship.

2. Administration's Recommendation

THAT Council approve a \$40,000 budget increase to \$140,000 expenditure budget for Halloween 2023 which will be funded from redirected salaries and additional sponsorship.

3. Attachments

Nil

4. Reference to any relevant previous minute

N/A

5. Background and discussion

Last year, the Halloween community event had a budget of \$188K. This was larger than usual due to a grant received from a post-covid recovery fund for community events.

In 2022 and previous years, the Events Coordinator was the principal organiser for the event.

As part of the 2023/24 Operational Plan and budget, Council approved a \$100,000 budget for Halloween 2023. The budget was funded from \$20,000 sponsorship income and \$80,000 General Fund revenue.

Halloween is typically planned and conducted by the council's events co-ordinator and so that officer's costs are also a feature of the cost of this and other events. Following the retirement of the Events Coordinator, a contractor has been engaged to organise the event this year. The contractor

expense is approximately \$30,000, which closely approximates to the component of the salary of the events co-ordinator for the same purpose.

Excluding the contractor fees, the \$110K remainder of the proposed Halloween 2023 budget is similar to the budgets for 2018 and 2019, before Covid disrupted the event.

The contractor spoke at the recent Tourism Committee meeting about the new approach that she was taking to ensure a quality event, notwithstanding financial limitations. The Committee was enthusiastic about how the event was coming together.

The Community & Culture Manager has advised that the approved budget is inadequate to maintain the event's "brand" that has been established over several years - despite making all cuts readily available, in his judgement. It would not be possible to stage a viable event on less than \$110,000 (plus contractor costs) with the fixed costs of marketing, safety services, traffic and parking controls, sanitation and cleaning. Rides and entertainment would need to be curtailed which would reduce the attraction of the event.

The event is highly valued by the local community, and it does appeal to an audience beyond the city as a good community event. It is considered important to retain the value of an event with such appeal.

The recommendation is that the budget be revised to \$140,000. As stated, a portion of the Events Co-ordinator's expenses (salaries) would typically be expended on the Halloween event. These funds are available to fund the increased budget. It is proposed that these funds be directed for this purpose. There is also an additional \$6K of sponsorship income to assist to support the event.

6. Implications

6.1. Policy

If approved, the recommendation will increase the Halloween 2023 Operational Plan allocation to \$140,000.

6.2. Legal

The subject matter of this report is a function of Council conferred by the NSW Local Government Act 1993.

Obligations of the Local Government Act 1993 and Local Government (General) Regulation 2005 require Council to conduct a budget planning and review process which reports on a quarterly basis to Council.

6.3. Risk Management

The risk of impacts to the Lithgow Halloween brand can be mitigated by increasing the budget by \$40,000 with the additional funds allocated from savings and extra revenue.

6.4. Financial

- Budget approved - \$100,000
- Cost centre - 600320
- Expended to date - \$50,174 spent plus expected commitments up to \$140,000.
- Future potential impact – nil.

7. Consultation and Communication

The need for a budget variation for Halloween 2023 was discussed at the 10 October 2023 Finance Committee meeting.

10.4. Enhancing Our Natural Environment

10.4.1. P&L - 23/10/2023 - Draft Plan of Management for Crown Land Managed by Council

Strategic Direction:

Caring for Our Community To retain, respect and strengthen both our overall sense of community, and the unique linked communities of groups, rural areas, villages and towns that make up the Lithgow LGA.

Developing Our Built Environment To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.

Strengthening Our Economy To provide for sustainable and planned growth through the diversification of the economic base, the development of diverse job opportunities and the provision of a broad range of formal and non-formal educational services.

Enhancing Our Natural Environment To balance, protect and enhance our diverse environmental elements, both natural and built, for the enjoyment and support of both current and future generations.

Responsible Governance & Civic Leadership To develop community confidence in the organisation by the way it is directed, controlled and managed.

Author: Sandra Politi – Property & Legal Services Officer

Department: Property & Legal Services

Responsible Officer: Director of Finance & Governance

1. Executive Summary

Lithgow City Council Council is responsible for 73 Crown reserves in total, including 32 reserves that have “devolved” to Council, 9 reserves classified “operational”, and 32 Crown reserves classified “community”.

Where a reserve is classified “community” it must be subject to a plan of management. Within the Plan, each Crown reserve must be assigned a category that aligns with its gazetted purpose; some reserves have more than one assigned category. For example, the whole of Wallerawang Sports Ground is categorised sportsground, whereas Kremer Park at Portland is split into 3 categories, namely sportsground, park and general community use.

The assigned category is important because it informs the way in which the categorised area may be used and developed.

Council’s Property and Legal Services Officer has completed a substantial body of work to prepare a draft generic plan of management which will apply to 27 of the 32 Crown reserves (three Crown reserves are not included in the POM as they are required to have a separate site-specific POM due to their significance).

The purpose of this report is to notify Council that a draft Plan of Management for Crown Land managed by Lithgow City Council has been prepared, and to request certain resolutions to progress the draft plan of management.

2. Administration's Recommendation

THAT Council:

1. Notify the Minister administering the Crown Land Management Act 2016 of the draft plan of management and request Ministerial consent to adopt the plan of management.
2. Upon receipt of approval from the Minister to proceed to public exhibition, place the plan of management on public exhibition for at least 28 days and allow at least 42 days for submissions to be received.
3. Provide notice of the draft plan of management to representative Aboriginal bodies, registered native title bodies corporate and registered native title claimants, and an opportunity to comment.
4. Upon receipt of consent from the Minister and the closure of the public exhibition period, the matter be returned to Council for consideration of any submissions received during the public exhibition period and / or for adoption of the plan of management.

3. Attachments

1. Crown Lands POM (Oct 2023) [**10.4.1.1** - 135 pages]
2. Native Title Advice - Crown lands POM (Oct 2023) [**10.4.1.2** - 42 pages]

4. Reference to any relevant previous minute

N/A

5. Background and discussion

Legislative requirement for Crown land plans of management

The *Local Government Act 1993* (**LG Act**) requires a plan of management to be prepared and adopted by Council for all public land classified “community”.

The *Crown Land Management Act 2016* (**CLM Act**) authorises local councils appointed to manage dedicated or reserved Crown land to manage that land as if it were public land under the LG Act. Therefore, a plan of management is required for Crown land managed by Council.

Section 44 of the LG Act provides that “*pending the adoption of a plan of management for community land, the nature and use of the land must not be changed*”. This means that any proposed or planned works (for example, updated lighting, new signage, park upgrades, improvements in amenities or accessibility etc.) or new leases or licences (unless exempt under the Crown Land Management Regulations 2018), cannot occur before a plan of management is adopted.

Plan of Management for Crown reserves managed by Lithgow City Council (**POM**)

Council is responsible for 73 Crown reserves in total, including 32 reserves that have “devolved” to Council, 9 reserves classified “operational”, and 32 Crown reserves classified “community”. Only reserves that are classified “community” require a plan of management.

Attached is Council’s draft generic POM which covers 27 of the 32 Crown reserves classified “community”.

Each Crown reserve has been assigned a category that aligns with its gazetted purpose; some reserves have more than one assigned category. For example, the whole of Wallerawang Sports Ground is categorised sportsground, whereas Kremer Park at Portland is split into 3 categories, namely sportsground, park and general community use.

The assigned category is important because it informs the way in which the categorised area may be used and developed.

For convenience, below is a list of Crown reserves included in the draft POM and their assigned category/ies.

Crown reserves managed by Lithgow City Council covered in the POM		
	Reserve name	Assigned category
1.	Wallerawang Sports Ground	Sportsground
2.	Thompson Street Reserve Portland	Sportsground
3.	Kremer Park Portland	Sportsground (part) Park (part) General Community Use (part)
4.	Tony Luchetti Sports Precinct <i>(excluding part that has a site specific POM adopted 27.02.2023)</i>	Sportsground (part) Park (part) General Community Use (part)
5.	Lidsdale Recreation Park (Tennis Courts)	Sportsground (part) Natural Area – bushland (part)
6.	Glen Alice Recreation Reserve	Sportsground (part) Park (part)
7.	Zig Zag Oval	Park
8.	Portland Common	Park
9.	Roxburgh Street Reserve Portland	Park
10.	Rydal Recreation Reserve	Park
11.	Glen Alice Public Reserve	Park
12.	Lidsdale St Reserve	Park
13.	Ben Bullen Reserve	Park
14.	Londonderry Reserve	Park (part) Natural Area – bushland (part) Natural Area – watercourse (part)
15.	Limestone Creek Reserve	Park (part) Natural Area – watercourse (part)
16.	Blackman's Flat Crown Reserve	Natural Area - bushland
17.	Lidsdale Public Reserve	Natural Area - bushland
18.	Blackman's Flat Playground	Natural Area - bushland
19.	Capertee Public Reserve	Natural Area - bushland
20.	Hartley Resting Place	Natural Area - bushland
21.	Jews Creek Reserve	Natural Area - bushland
22.	Pitts Corner Public Reserve	Natural Area – bushland
23.	Hyde Park Reserve	Natural Area – bushland
24.	Bunder Street Reserve	Natural Area – bushland

25.	Pearson's Lookout	Natural Area – bushland
26.	The Crown Reserve	Natural Area – bushland (part) Natural Area – escarpment (part)
27.	Bindo Public Reserve	Natural Area – bushland (part) Natural Area – watercourse (part)

Crown reserves not included in the draft POM

As mentioned above, the draft POM covers 27 of the 32 Crown reserves classified “community” and managed by Lithgow City Council.

The following three Crown reserves are not included in the POM as they are required to have a separate site-specific POM due to their significance:

	Reserve name	Assigned category
1.	Maiyingu Marragu <i>Status: A site specific POM for Maiyingu Marragu is expected to commence in late 2024.</i>	Cultural Significance
2.	Hyde Park Reserve <i>Status: A site specific POM for Hyde Park is expected to commence in late 2024.</i>	Cultural Significance
3.	Hassans Walls <i>Status: A plan of management for Hassans Walls reserve was prepared in 2017 and needs to be updated to comply with Crown Land legislation. The update is expected to commence in early 2024, following completion of the flora and fauna study, Aboriginal heritage study and recreation trail audit study.</i>	Natural Area – bushland (part) Natural Area – watercourse (part) General Community Use (part)

Two Crown reserves, namely Blackmans Flat Public Reserve and Capertee Community Hall, are not included in the POM as we await further advice from the Crown Lands department regarding their reserve status.

Structure of the draft POM

The draft POM is based on the template made available by the Crown Lands department; it is structured according to categories, being Park (section 6.1) Sportsground (section 6.2), General Community Use (section 6.3) and Natural Area (section 6.4). The Natural Area category has sub-categories of bushland, watercourse, or escarpment.

Each section of the POM includes:

- an overview of the category;
- a table of values and objectives for the category;
- a table of management issues;
- a table showing permissible uses and development that apply to the category;
- a table listing the purposes for which a lease or licence may be granted;
- a table setting out objectives/performance targets, means of achievement and performance indicators for the category; and

- particulars about each reserve within the category and a map identifying the area covered by the category.

Council staff aimed to keep the possible development and uses of the reserves broad, although within the limitations set by the guidelines for categorisation of community land under the *Local Government (General) Regulation 2021* and the future acts regime under the *Native Title Act 1993*.

Native Title Advice

Council is required to obtain written advice from a qualified native title manager confirming that the POM and the activities under the POM comply with the *Native Title Act 1993*.

This advice has been obtained by Council's native title manager and is attached to this report.

Next steps

The following process is required to be fulfilled before Councils can adopt a plan of management for Crown land:

1. Give notice to the Minister administering the CLM Act and request Ministerial consent to adopt the plan of management (section 39 LG Act and clause 70B of the Crown Land Management Regulation 2018);
2. Once the Minister authorises Council to proceed to public exhibition, place the plan of management on public exhibition for at least 28 days and allow at least 42 days for submissions to be received (section 38 of the LG Act);
3. Provide notice to representative Aboriginal bodies, registered native title bodies corporate and registered native title claimants, and an opportunity to comment (subdivision 24JA and 24JB Native Title Act 1993); and
4. After receipt of consent from the Minister and the public exhibition period, return the matter to Council to consider any submissions received during the public exhibition period and/or adoption of the plan of management and/or (section 40 of the LG Act).

For Council's consideration of this matter, attached to this report is a copy of:

1. draft POM; and
2. native title advice.

6. Implications

6.1. Policy

N/A

6.2. Legal

The subject matter of this report is a function of Council conferred by the Crown Land Management Act 2016 and the Local Government Act 1993.

6.3. Risk Management

Although the POM and the activities under the POM are valid acts under the *Native Title Act 1993*, this does not negate the possibility that Council could be liable for compensation at some stage in the future if it is determined that native title rights and interests existed and Council has extinguished those rights and interests through development or use of Crown land.

This risk can be mitigated by strict compliance with the POM, obtaining native title advice prior to any proposed development or use of Crown land managed by Council and strict compliance with the *Native Title Act 1993*.

6.4. Financial

- Budget approved - \$23,826 (grant funded).
- Cost centre – 400148.
- Expended to date - \$23,826.
- Future potential impact - Nil.

7. Consultation and Communication

The draft POM is required to be placed on public exhibition for at least 28 days, allowing 42 days for submissions to be received. However, as there are 27 reserves covered by the draft POM it is intended to place the draft POM on public exhibition for a period of **42 days and allow 56 days for submissions to be received**.

The draft POM will be placed on public exhibition following assessment by the Crown Lands department and their instruction to place it on public exhibition. According to the department's current service standards, the department will aim to finalise assessment of draft PoMs with less than 30 reserves within an 80 business day timeframe from date of receipt.

10.5. Responsible Governance & Civic Leadership

10.5.1. F&G - 23/10/2023 - Service Management Framework Policy

Strategic Direction: [Responsible Governance & Civic Leadership](#) To develop community confidence in the organisation by the way it is directed, controlled, and manage

Author: Deborah McGrath - Corporate Planning and Communications Officer

Department: Corporate Planning and Communications

Responsible Officer: Director Finance & Governance

1. Executive Summary

Councils provide a diverse range of services to their communities. Good service planning will -

- Define the purpose and desired outcomes of each service.
- Inform long-term sustainable financial planning currently and into the future.
- Ensure services meet relevant requirements.
- Determine the standards for the service and if the current service levels are sustainable in the longer term.
- Enable a continuous improvement environment.
- Identify service resource requirements.
- Manage risks and community impacts associated with services delivery.
- Support continuity of service delivery during disruptions.
- Ensure value for money for the community or customer group.
- Develop true service cost awareness.

Council has commenced a service planning project as part of the 2023/24 Special Rate Variation funded Capacity Building program. Service planning is a component of a Service Management Framework. A Service Management Framework Policy has been developed to support the framework.

The purpose of this report is to seek Council's adoption of the draft Service Management Framework Policy.

2. Administration's Recommendation

THAT Council adopt the Service Management Framework Policy for immediate implementation.

3. Attachments

1. 9 12 Service Management Framework [10.5.1.1 - 5 pages]

4. Reference to any relevant previous minute

Nil.

5. Background and discussion

The purpose of the Service Management Framework Policy is to establish a framework that satisfies key NSW Local Government Guiding Principles.

In adopting a Service Management Framework Council will commit to:

- Undertake Service Planning (strategic activity) to determine the purpose and desired outcomes of each service, in line with Council's strategic objectives.
- Inform long-term sustainable financial planning of Council's budget via understanding Service Demand and Service level requirements across Council's services, currently and as forecast into the future.
- Ensure services meet the requirements of relevant legislation, regulations, and frameworks, and are delivered consistent with Council policies.
- Determine the standards for the service (levels of service) being delivered, including service demand, service priority and consider if the current service levels are sustainable in the longer term.
- Enable a continuous improvement environment by establishing an evidence-based prioritisation of Service Review importance to enable targeted Service Reviews (tactical activity), assessing levels of service and investment requirements, suitability, and capacity to deliver services currently and into the future.
- Identify service resource requirements for the longer term and consider what impact, if any, this will have on Council's long term financial sustainability.
- Consider, and if necessary, take steps to manage risks and community impacts associated with delivering (or not delivering) the services.
- Ensure services have appropriate measures in place to maintain key business activities, resources and service throughout a business interruption and minimise any adverse effects to the community or organisation.
- Ensure Service Delivery (operational activity) that occurs is delivered in a responsible, prudent, and cost-effective manner, providing value for money for the community or customer group.
- Assist in developing true service cost awareness and ultimately reporting to ensure resources are effectively allocated across Council Services.

There is no recommendation to place the policy on public exhibition as the policy supports Council's internal business processes.

6. Implications

6.1. Policy

The Service Management Framework Policy will be an addition to Council's Policy Register.

6.2. Legal

The subject matter of this report is a function of Council conferred by:

- Local Government Act 1993 – S406 – Integrated Planning & Reporting Guidelines;
- Local Government Act 1993 Chapter 3 (Section 8B) Sound Financial Management;
- Local Government Act General Regulation 2021 – Clause 203 – Operational Plan;
- Local Government General Regulation 2021 – Clause 217 – Annual Report; and
- Local Government Act 1993 S428A – Audit, Risk, and Improvement Committee.

6.3. Risk Management

The service planning project will improve Council's understanding of its service catalogue and improve long term financial planning, mitigating financial risks.

6.4. Financial

Service planning and service reviews will become part of Council's "business as usual", funded from recurrent operating budgets.

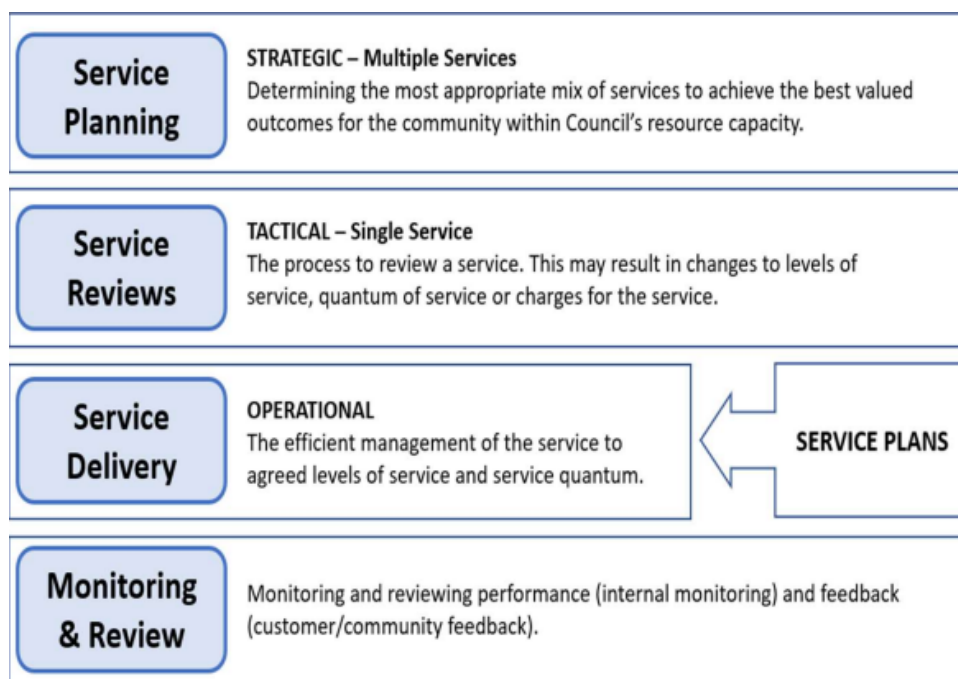
7. Consultation and Communication

Community Consultation and Feedback

During 2022 Council undertook extensive community engagement as part of the Special Rate Variation process. Three key priority areas for the community were:

- Improving/maintaining roads/kerb & guttering (80%);
- Improve service delivery of waste, sewerage, and water (25%); and
- Improve council operations (23%).

The Service Management Framework Policy and Service Management Framework Program will contribute to addressing these three key areas through the four elements detailed below.



Management has adopted the Service Management Framework to support strategic decision making. Service planning is the first step in implementing the framework.

Councillor Consultation

Councillors were presented with an overview of the Service Management Framework at the Councillor Information Session held on 11 September 2023.

Public Exhibition

The Service Management Framework Policy supports Council's internal business processes for the Service Management Framework and therefore public exhibition inviting community feedback is not required. The document will be included in Council's Policy Register on the website <https://council.lithgow.com/council/policies/> for the information of the community.

10.5.2. EXEC - 23/10/2023 - Returns of Disclosures of Designated Persons 2022-2023

Strategic Direction:	Responsible Governance & Civic Leadership To develop community confidence in the organisation by the way it is directed, controlled and manage
Author:	Trinity Newton – Executive Assistant
Department:	Office of General Manager & Mayor
Responsible Officer:	Director of Infrastructure and Economy

1. Executive Summary

There is the potential for a public official to have personal interests which create an actual conflict with their official responsibility, or the perception of such a conflict. It is important that these personal interests are disclosed and held in a public register. The act of doing this establishes the foundation from which appropriate procedures can then be followed to avoid that private interest influencing or encroaching on the official's formal duties. This is a key transparency mechanism for promoting community confidence in Council decision making, whether by Councillors or by staff or others under delegation.

All designated persons are required to lodge a return of interests with the General Manager by 30 September each year. Council has identified 36 designated persons including councillors, as at 30 September 2023. All 36 people have lodged a return.

The purpose of this report is to table the Disclosures of Pecuniary Interests and Other Matters returns for the period 1 July 2022 to 30 June 2023.

2. Administration's Recommendation

THAT Council note the tabling of Disclosures of Pecuniary Interest and Other Matters by designated persons lodged for the 12 months ending 30 June 2023.

3. Attachments

1. Current 2023 Disclosures by Councillors and Designated Persons - Returns [10.5.2.1 - 1 page]

4. Reference to any relevant previous minute

Nil.

5. Background and discussion

Clause 4.21 of the Model Code of Conduct states that officials are required to disclose their personal interests in publicly available returns of interest. These operate as a key transparency mechanism for promoting community confidence in Council decision making, whether by Councillors or by staff or others under delegation.

All designated persons are required to lodge their return with the General Manager by 30 September each year. Council has identified 36 designated persons including councillors, as at the 30 September 2023. Returns must be tabled at the first Council meeting after the last day that the

return was required to be lodged and are thereby being table at the 23 October Ordinary Council Meeting.

6. Implications

6.1. Policy

N/A

6.2. Legal

Council must make all returns of interests publicly available in accordance with the requirements of the Government Information (Public Access) Act 2009, the Government Information (Public Access) Regulation 2009 and any guidelines issued by the NSW Information Commissioner.

The Information and Privacy Commission's (IPC) Information Access Guideline 1 on the disclosure of information states that, generally, the returns should be made publicly available on the Council's website free of charge. Lithgow Council publishes Disclosures for Designated Persons on its website with personal information (e.g. signatures and residential addresses) removed to ensure privacy.

6.3. Risk Management

In accordance with the Model Code of Conduct, if a council official becomes aware of any new interests that need to be disclosed, the Council official must submit a new return within three months of becoming aware of the interests.

6.4. Financial

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

7. Consultation and Communication

Completed returns of Councillors and designated persons have been included in Council's register of returns. All returns will be available for public viewing via the Lithgow City Council website and, upon request, at the Council administration building customer service desk.

10.5.3. P&P - 23/10/2023 - Changes to Fee Structure for Planning Proposals and Amendments to Development Control Plans

Strategic Direction:	Responsible Governance & Civic Leadership To develop community confidence in the organisation by the way it is directed, controlled and manage
Author:	Sherilyn Hanrahan – Strategic Land Use Planner
Department:	Strategic Land Use Planning
Responsible Officer:	Director of People & Places

1. Executive Summary

This report proposes to amend the fees for proponent-initiated planning proposals and amendments for development control plans to ensure that the additional costs which Council incurs in assessing and processing these particular matters are adequately recovered. The proposed fee structure will not apply to Council-initiated city-wide planning proposals.

The proposed fee structure represents an increase in fees that has been based on a benchmarking review of a range of regional and growth centre local government areas. The proposed fee structure represents only partial cost recovery from the applicant. The shortfall in cost recovery will be addressed as feature of Council's normal operating expenditure for strategic planning services.

Administration's Recommendation

THAT Council:

1. Determine the proposed new fee structure for Planning Proposals and Amendments to Development Control Plans outlined in Table 5 of this report.
2. Note that the proposed fee structure will be placed on public exhibition for 28 days. The new fee structure will apply from the date of closure of public submissions, pending Council's consideration of any submissions (S610F(1) Local Government Act 1993).
3. If in the opinion of the General Manager any submissions received during the public exhibition period for the Planning Proposals and Amendments to Development Control Plans fees warrant consideration by Council, the matter be returned to Council with details of relevant submissions and any proposed recommendations in respect of the matter.

2. Attachments

Nil

3. Reference to any relevant previous minute

Min No 23-107 – Ordinary Meeting of Council held on 26 June 2023.

4. Background and discussion

Planning Proposal Fees

The NSW Department of Planning and Environment introduced Local Environmental Plan (LEP) Making Guidelines in 2021 (updated in 2022 and 2023). These guidelines introduced changes to the LEP plan-making process to introduce planning proposal categories; a pre-lodgement stage including a scoping proposal; maximum benchmark timeframes for each stage of the process for all stakeholders; as well as processes for independent reviews of plan-making decisions.

These changes have placed additional pressure on Council's resources, the cost of which cannot continue to be absorbed by Council.

Council has to date processed one complex, four standard and one basic planning proposal and one amendment to the Development Control Plan. Experience with these proposals has highlighted that the current fees are not commensurate with the costs of providing the service.

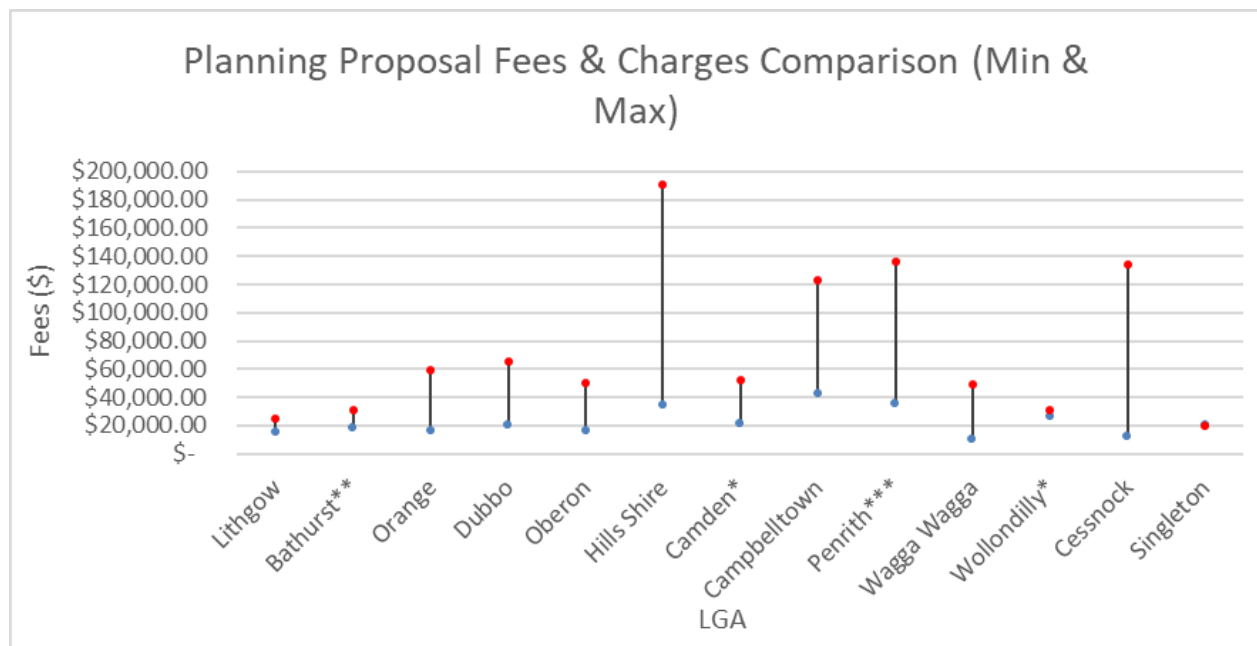
By way of example, the Greenspot Planning Proposal process, being a complex proposal which commenced in late 2022, has consumed a considerable amount of Council's resources in Stage 1 Pre-Lodgement. The impending submission of the full Planning Proposal will continue to draw on Council resources for at least the next twelve months. The assistance Council obtained from a Planning Consultant to assess the Scoping Proposal was valued at \$30,800, on top of Council's in-house staff resources.

The extent of this type of resourcing for such proposals was not envisaged at the time that the current fee structure was determined.

Benchmarking Outcomes

Council's strategic planning team has recently undertaken a review of fees for proponent-initiated planning proposals and amendments to development control plans. The intent of the review is to ensure that the costs to Council of assessing and processing of these matters are adequately covered in accordance with the conscious pricing principles utilised for determining fees and charges.

The benchmarking review undertaken has revealed that Council's current fees are well below the fees charged by the majority of regional and growth centre local government areas as highlighted in the chart below.



Notes:

* Maximum costs subject to further negotiations.

** Costs based on 22/23 Fees & Charges.

*** Penrith has an additional level of costs for new release areas at \$274,420.

Table 1 below provides a full breakdown of the minimum and maximum fees charged by selected regional and growth centre local government areas for planning proposals.

Table (1) - Local Government Planning Proposal Cost Comparison Table		
Local Government Area	Minimum Fee (\$)	Maximum Fee (\$)
Lithgow	\$ 15,000.00	\$ 25,000.00
Bathurst**	\$ 18,780.50	\$ 31,301.50
Orange	\$ 16,000.00	\$ 59,000.00
Dubbo	\$ 20,000.00	\$ 65,000.00
Oberon	\$ 16,000.00	\$ 50,000.00
Hills Shire	\$ 34,825.00	\$ 190,420.00
Camden*	\$ 21,915.00	\$ 51,915.00
Campbelltown	\$ 43,025.82	\$ 122,585.82
Penrith***	\$ 35,359.00	\$ 136,279.00
Wagga Wagga	\$ 10,500.00	\$ 49,510.00
Wollondilly*	\$ 26,500.00	\$ 31,500.00
Cessnock	\$ 12,625.00	\$ 134,095.00
Singleton	\$ 20,000.00	\$ 20,000.00
Average (Excluding Lithgow Council)	\$ 22,960.86	\$ 78,467.19

The average minimum and maximum fees of the selected comparison LGA's range between \$22,961 and \$78,467 respectively.

Of those LGA's that reflected in their fees the DPE Planning Proposal categories, the average for each category is indicated in Table 2 below.

Table (2) – Planning Proposal Category Cost Average of Comparison LGA's	
Planning Proposal Categories	Average Cost (\$)
Basic	\$ 23,674.98
Standard	\$ 48,325.78
Complex	\$ 93,154.42

Estimated Operational Costs for Planning Proposals

Utilising conscious pricing principles, partial cost recovery is considered appropriate for planning proposal fees. In addition to benchmarking costs with other LGA's, Council has also considered an estimate of operational costs for providing these services, based on the salary and on-costs of a senior strategic planner and the minimum industry rate for a consultant planner for three days per week for twelve months. The results of these estimations are shown below:

Senior Planner In- House

Hourly Rate + 52% on costs - \$95.00/hr x 7.5 Hrs /day x 3days/wk x 52 wks = **\$111,150**

Planning Consultant

Assistant Planner Hourly Rate \$165/hr x 7.5 hr/day x 3dys/wk x 52wks= **\$193,050.**

Senior Project Planner \$260 x 7.5hr/day x 3days/wk x 52wks = **\$304,200**

Additional costs will also be borne by Council for non-planning resources throughout the planning proposal process, such as input and advice from other departments, administrative support services, legal services and notification and engagement costs, that are all absorbed as part of Council's usual business.

Amendment to Development Control Plan Fees

The benchmarking review undertaken has revealed that Council's current fees are below the fees charged by the majority of regional and growth centre local government areas as highlighted in Table 3 and 4 below.

Table (3) - Minor DCP (Development Control Plan) Comparison Cost Table	
Local Government Area	Estimated Cost (\$)
Lithgow	\$ 5,000.00
Bathurst	\$ 6,260.00
Orange	\$ 4,951.10
Dubbo	\$ 11,000.00
Hills Shire	\$ 10,000.00
Camden Minor	\$ 11,645.00
Campbelltown	\$ 16,500.00
Penrith	\$ 9,152.00
Wagga Wagga	\$ 8,620.00
Wollondilly	\$ 16,500.00
Cessnock	\$ 5,000.00
Singleton	\$ 11,000.00
Average (Excluding Lithgow)	\$ 10,057.10

Table (4) - Major DCP Comparison Cost Table	
Local Government Area	Estimated Cost (\$)
Lithgow	\$ 5,000.00
Bathurst Major	\$ 15,024.50
Orange	\$ 4,951.10
Dubbo (>10 lots)	\$ 22,500.00
Hills Shire Site Specific	\$ 20,000.00
Camden Major	\$ 24,185.00
Campbelltown	\$ 16,500.00
Penrith Major	\$ 23,537.00
Wagga Wagga Complex	\$ 24,760.00
Wollondilly Neighbourhood Plan	\$ 21,500.00
Cessnock	\$ 5,000.00
Singleton	\$ 11,000.00
Average (Excluding Lithgow)	\$ 17,177.96

Proposed New Fee Structure

Council has an obligation to provide a strategic planning service and therefore only partial cost recovery for the identified services has been considered for fee determination. It is therefore considered that the most appropriate calculation of fees should be based on the average cost as determined by benchmark comparison until such time as Council has undertaken a full service review. This is represented in Table 5 below.

Table (5) – Proposed 23/24 fee structure		
Name	Year 23/24 Fee (proposed amendment)	Year 23/24 Fee (current)
Scoping and Pre-lodgement		
Basic Planning Proposals	\$1,000	\$ Nil.
Standard Planning Proposal	\$3,000	
Complex Planning Proposal	\$10,000	
Planning Proposals		
Basic Planning Proposals	\$22,675	\$15,000
Standard Planning Proposal	\$45,325	
Complex Planning Proposal	\$83,150	\$25,000
Amendment to Development Control Plans (not included in a Planning Proposal)		
Minor amendment to the Lithgow Development Control Plan	\$9,000	\$5,000
Major amendment to the Lithgow Development Control Plan	\$15,000	
Miscellaneous		
Additional Studies and/or Reports	Full Cost Recovery	Full Cost Recovery
Note: 1.Basic, Standard and Complex Planning Proposal Categories are determined based on the NSW Department of Planning and Environment’s Local Environmental Plan Making		Note: Current fees are paid in two instalments: 1. \$8,000

<p><i>Guidelines.</i></p> <p>2.Minor amendments to the Lithgow Development Control Plan refers to changes to controls in a singular chapter.</p> <p>3.Major amendments to the Lithgow Development Control Plan refers to changes for multiple chapters, insertion of new chapters, and/or stand-alone development control plans.</p> <p>4. No partial refund available.</p>	<p>2.Remaining amount</p> <p>Current fee allows for partial refund of 50 % of instalment 1 if Council does not support the Planning Proposal proceeding to Gateway.</p>
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The above fee structure would apply to all Planning Proposals and Amendments to Development Control Plans received following a resolution of Council to determine the fee. The new fee structure will apply from the date of closure of public submissions, pending Council's consideration of any submissions (S610F(1) Local Government Act 1993).

4.1. Policy

Council's 2023/24 Fees and Charges will be updated with the new Planning Proposals and Amendments to Development Control Plans upon resolution of Council.

4.2. Legal

Council's fees for services must be in accordance with Part 10 of the Local Government Act 1993.

4.3. Risk Management

Nil arising from this report.

4.4. Financial

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – an appropriate fee for service will have a positive impact on Council's budget when the strategic planning service is used by proponent-initiated proposals.

5. Consultation and Communication

Section 610F(3)(a) of the Local Government Act, 1993, requires Council to give at least 28 days' notice of the fee proposed because of a change to the service delivered and consider any submissions duly made to it during the period of public notice.

11. Council Committee Reports

11.1. FIN - 23/10/2023 - Audit Risk Improvement Committee (ARIC) Minutes - 12 September 2023

Strategic Direction: **Caring for Our Community** To retain, respect and strengthen both our overall sense of community, and the unique linked communities of groups, rural areas, villages and towns that make up the Lithgow LGA.

Developing Our Built Environment To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.

Author: Ross Gurney - CFIO
Department: Finance & Governance
Responsible Officer: Director Finance & Governance

1. Executive Summary

This report summarises the business dealt with at the Audit Risk & Improvement Committee (ARIC) meeting held on 12 September 2023 and proposes that the Council note the minutes.

2. Administration's Recommendation

THAT Council note the minutes of the 12 September 2023 Audit Risk & Improvement Committee meeting.

3. Attachments

1. DRAFT - Minutes - ARIC - 12 September 2023 [11.1.1 - 10 pages]

4. Reference to any relevant previous minute

Min No. 23-131 Ordinary Meeting of Council held on 24 July 2023.

5. Background and discussion

At the ARIC meeting held on 12 September 2023, the following items were presented and discussed:

- **Risk Management:** the Committee discussed the progress of the Enterprise Risk Management Framework (ERM) review and the ERM Maturity Review actions.
- **Compliance:** The CFIO presented the compliance report. There were no significant compliance matters to report.
- **Internal Audit:** the Committee discussed the 4 year Internal Audit Plan, the Information Security Gap Analysis report and the Internal Audit Action List.

- **External Audit:** the contract auditor provided information on the one finding from the interim audit.
- **Internal Controls:** the CFIO reported that there are no overdue internal and external audit recommendations to correct internal control weaknesses. The Committee discussed the review of high risk policies and procedures.
- **Fraud and Corruption:** the Committee discussed Council's reviewed and updated Fraud and Corruption Control Policy and Framework.
- **Financial Management:** the Committee discussed the need for a lodgement extension for the 2022/23 Financial Statements. The Financial Services Manager presented a verbal update on progress towards completing the Financial Statements.
- **Governance:** The CFIO presented the governance report. No major conflicts of interest have been reported since the last ARIC meeting.
- **Strategic Planning:** The Committee discussed the Strategic Planning report.
- **Service Reviews and Business Improvement:** The Corporate Planning and Communications Officer reported on Service Reviews and business improvement initiatives.
- **Performance Data & Measurement:** The Corporate Planning and Communications Officer reported on performance data and measurement.

6. Implications

6.1. Policy

Nil.

6.2. Legal

The subject matter of this report is a function of Council conferred by the Local Government Act 1993.

The ARIC's Terms of Reference include review of the adequacy and effectiveness of Council's legal and compliance risks framework.

6.3. Risk Management

The functions of the ARIC assist in the management and mitigation of risks to Council.

6.4. Financial

Nil.

7. Consultation and Communication

N/A

11.2. IS&E - 23/10/2023 - Seven Valleys Tourism Committee 25 September 2023

Strategic Direction: **Caring for Our Community** To retain, respect and strengthen both our overall sense of community, and the unique linked communities of groups, rural areas, villages and towns that make up the Lithgow LGA.

Author: Trinity Newton – Executive Assistant

Department: Executive

Responsible Officer: Director of People and Places

1. Executive Summary

The purpose of this report is for Council to endorse the minutes of the Seven Valley's Tourism Committee meeting held 25 September 2023.

2. Officer's Recommendation

THAT Council endorse the minutes of the Seven Valleys Tourism Committee meeting held on 25 September 2023.

3. Attachments

1. DRAFT Minutes Seven Valleys Tourism Committee 25 September 2023 [11.2.1 - 4 pages]

4. Reference

Min 23-152 Ordinary Meeting of Council held 28 August 2023

5. Background

The following reports were given:

- Beatlesfest Update - Wade Jackson & Jonathan Sequeira
- Destination Network Central West Presentation - Sean Haylan
- Tourism Managers Report
- Cultural Development Update - Matthew Johnson
- Lithgow Halloween Update - Natalie Hagopian

6. Implications

6.1. Strategic and Policy

N/A

6.2. Legal and Risk Management Implications

N/A

6.3. Financial

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

- Future potential impact – N/A

7. Consultation and Communication

N/A

11.3. IS&E - 23-10-2023 - Operations Committee Meeting Minutes 3 October 2023

Strategic Direction: **Caring for Our Community** To retain, respect and strengthen both our overall sense of community, and the unique linked communities of groups, rural areas, villages and towns that make up the Lithgow LGA.

Developing Our Built Environment To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.

Author: Kaitlin Cibulka – Executive Assistant

Department: Infrastructure & Economy

Responsible Officer: Director of Infrastructure and Economy

1. Executive Summary

The Operations Committee last met on 3 October 2023. This report overviews the matters discussed.

The report also includes a copy of the Minutes from the meeting (as an attachment to the report).

2. Administration's Recommendation

THAT Council note the minutes of the Operations Committee meeting held on 3rd October 2023.

3. Attachments

1. DRAFT Minutes Operations Committee Meeting 3 October 2023 [11.3.1 - 7 pages]

4. Reference to any relevant previous minute

N/A

5. Background and discussion

At the most recent meeting of the Operations Committee, held on 3 October 2023, the following matters were discussed -

- Assets & Projects – Project Progress Report – September 2023
- Tarana Water Supply
- Project Update Report

6. Implications

6.1. Policy

N/A

6.2. Legal

N/A

6.3. Risk Management

N/A

6.4. Financial

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

7. Consultation and Communication

N/A

11.4. COMM - 23/10/2023 - Community Development Minutes 10 October 2023

Strategic Direction: **Caring for Our Community** To retain, respect and strengthen both our overall sense of community, and the unique linked communities of groups, rural areas, villages and towns that make up the Lithgow LGA.

Developing Our Built Environment To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.

Author: {author-name} - {position}

Department: {department}

Responsible Officer: General Manager

1. Executive Summary

The Community Development Committee last met on 10 October 2023. This report overviews the matters discussed.

The report also includes a copy of the Minutes from the meeting (as an attachment to the report).

2. Administration's Recommendation

THAT Council note the minutes of the Community Development Committee meeting held on 10 October 2023.

3. Attachments

1. Minutes - Community Development Committee - 10 October 2023 (2) [**11.4.1** - 7 pages]

4. Reference to any relevant previous minute

Min 23-132 Ordinary Meeting of Council held 24 July 2023

Min 23 –155 Ordinary Meeting of Council held 28 August 2023

5. Background and discussion

At the Community Development Committee meeting held on 10 October 2023 various matters were discussed including:

1. Planning for the Opera Event at the Union Theatre on 3 and 4 November.
2. Planning for the 2024 Australia Day event including, venue, entertainment and Citizenship Award categories. It is proposed that the Lithgow ceremony be held at Queen Elizabeth Park from 3.00pm with stalls and entertainment.

Council will shortly call for nominations for the Australia Day award categories of:

Citizen of the Year Award, Open and Young (16 – 26yrs)
Volunteer of the Year, Open and Young (16 – 26yrs)
Service to the Community - Organisation Award
Heritage Conservation/ Environmental contribution Award
Outstanding Event of the Year

The Committee agreed that a new award category be established recognising the initiative of a new resident to the area.

3. An update on current projects underway in the Community and Culture Department including:
 - Lake Pillans Upgrades, with a call for tenders to be issued before the end of 2023 and works to be completed by 30 June 2024.
 - Blast Furnace lighting and performance stage. A Section 60 Heritage application has been submitted to the NSW heritage Office with works to be completed by 30 June 2024.
 - Union Theatre Upgrades including installation of new theatre seats in October 2023 and kitchen upgrade works to be completed by 30 June 2024.
4. Completion of the draft Disability Inclusion Action Plan which aims to facilitate people with disability having better access to Council services, facilities and information.

5. Current programs and activities at Lithgow Library including a grant funded internal refurbishment.
6. Current programs and activities at Eskbank House Museum.

6. Implications

6.1. Policy

N/A

6.2. Legal

N/A

6.3. Risk Management

N/A

6.4. Financial

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

7. Consultation and Communication

N/A

11.5. FIN - 23/10/2023 - Finance Committee Meeting Minutes 10 October 2023

Strategic Direction: **Caring for Our Community** To retain, respect and strengthen both our overall sense of community, and the unique linked communities of groups, rural areas, villages and towns that make up the Lithgow LGA.

Developing Our Built Environment To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.

Author: Trinity Newton – Executive Assistant

Department: Executive

Responsible Officer: Director of Infrastructure and Economy

1. Executive Summary

This report provides a summary of business dealt with at the Finance Committee Meeting held on 10 October 2023 and recommends that the Council note the minutes.

2. Administration's Recommendation

THAT Council note the minutes of the Finance Committee meeting held on 10 October 2023.

3. Attachments

1. Draft Minutes Finance Meeting 10 October 2023 [**11.5.1** - 6 pages]

4. Reference to any relevant previous minute

Min. No. 23-154 Ordinary Meeting of Council held on 28 August 2023.

5. Background and discussion

At the 10 October 2023 Finance Committee Meeting, the following reports were discussed by the Committee:

- **2023/24 Financial Assistance Grant Allocation** - the CFIO presented information on Council's advocacy to increase the Financial Assistance Grants (FAG) to more than 1% of national taxes. The CFIO also provided details of the 2023/24 FAG grant of \$6M and recent year-on-year increases in the FAG.
- **2023 Inventory Stocktake Report** – the CFIO reported on key findings from the 2023 inventory stocktake and improvements to operations at the Store.
- **2023 Halloween Budget** - The CFIO provided information on the 2023 Halloween budget and advised of a recommendation for a \$40,000 budget increase. The matter is the subject of a separate report to the 23 October meeting.
- **Carryovers to the 2023/24 Budget** - the CFIO reported on 2022/23 projects which were commenced but not fully completed prior to 30 June 2023.

The following business paper recommendation was endorsed by the Committee:

Investment Report September 2023

THAT:

1. Investments of \$54,200,000 and cash of \$468,784 for the period ending 30 September 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.

6. Implications

6.1. Policy

N/A

6.2. Legal

The subject matter of this report is a function of Council conferred by the NSW Local Government Act 1993.

6.3. Risk Management

Discussion and collaboration on topical financial management matters at Finance Committee meetings assists to mitigate risks to Council's financial sustainability.

6.4. Financial

As detailed in the Finance Committee meeting minutes.

7. Consultation and Communication

N/A

11.6. IS&E - 23/10/2023 - Sports Advisory Committee Meeting Minutes 11 October 2023

Strategic Direction: **Caring for Our Community** To retain, respect and strengthen both our overall sense of community, and the unique linked communities of groups, rural areas, villages and towns that make up the Lithgow LGA.

Responsible Governance & Civic Leadership To develop community confidence in the organisation by the way it is directed, controlled and manage

Kaitlin Cibulka – Executive Assistant

Department: Infrastructure & Economy

Responsible Officer: Director of Infrastructure and Economy

1. Executive Summary

The Sports Advisory Committee last met on 11 October 2023. This report overviews the matters discussed. The report also includes a copy of the Minutes from the meeting.

2. Officer's Recommendation

THAT

1. Council note the minutes of the Sports Advisory Committee held on 11 October 2023; and
2. Accept the nomination of Diane Plaza as the Sports Advisory Committee representative from Lithgow District Netball Association.

3. Attachments

1. Sports Advisory Committee Minutes 11 October 2023 [**11.6.1** 3 pages]

4. Reference

Nil

5. Background

At the Sports Advisory Committee Meeting held on 11th October 2023, there were numerous items discussed by the Committee including:

- 2023 LJ Hooker Reg Cowden Memorial Sports Star of the Year Awards
- Booking Request

The following item was outside the Committee's delegation and requires Council to formally approve the recommendation:

- New Members

THAT Council accepts Diane Plaza as the Sports Advisory Committee representative from Lithgow District Netball Association.

6. Implications

6.1. Strategic and Policy

Nil

6.2. Legal and Risk Management Implications

Nil

6.3. Sustainability

Nil

6.4. Financial

Nil

7. Consultation and Communication

Nil

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.