



Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Tuesday 30 January 2024

at 7:00 PM

Business Paper

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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: The Declaration Form can be downloaded at

5. Confirmation of Minutes

Confirmation of the Minutes of the Ordinary Meeting of Council held 27 November 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. Notice of Motion - Councillor S Ring - 30/01/2024 - Governance Review of Fees and Charges

Report by Councillor Steve Ring

Commentary

s 501 of the Local Government Act 1993 No 30 empowers Councils to charge for a range of services which is documented in the Annual Schedule of Charges and Fees.

Councillors vote on the fees and charges as a component of the Annual Delivery Program and Operational Plan.

On reviewing the minutes of the Finance Committee for the term of this Council – no reports were tabled outlining the introduction of new Fees and Charges. No business cases tabled not any debate about the implication of these new and or increased charges on our community.

The review of fees and charges is consistent in my opinion with the Terms of Reference of the Finance Committee specially with reference to:

- Monitor Council's financial performance and quarterly budget variations.
- Monitor Council's annual audit process and timely preparation of the annual financial statements.
- Review monthly Investment reports.
- Monitor internal and external audit actions and timely completion of actions.
- Monitor financial risk and controls.
- Examine funding policies to be adopted by Council (eg Level of Debt funding).
- Review of quarterly Budget Review documents.
- Review of annual financial statements.
- Review Finance and Assets Council reports

If the Administration do not agree with this interpretation, then the TOR of the Finance Committee will need to be amended to reflect the role of the Governing body under the Local Government Act 1993 No 30 **s223 Role of the governing body.**

(f) to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) of the council and for the benefit of the local area,

In the 2022/23 Financial year a number of new charges have been introduced without reference to a specific policy or legislative basis and in certain instances where legislation is identified as the basis – it is an optional charge.

Of immediate concern are the following fees and Charges:

Food Premises -Annual Administrative Charges

Applied under s15 of the Food Act 2015

That the Finance Committee review the basis for fees and charges relating to Food Premises, Aerated Wastewater Treatment Systems (and septics) and Lithgow Solid Waste Facility Gate Fees. That the Finance Committee review sections of the Schedule of Fees and Charges at each meeting and are presented with the business cases for the introduction of new fees or charges for consideration and recommendation before being brought to Council for adoption.

15 Annual administration charge

- (1) An enforcement agency may impose an administration charge for a 12-month period on a person who carries on a food business that is not required to be licensed under the Act.
- (2) The charge is to be calculated in relation to each of the premises of the food business by reference to the number of full-time equivalent food handlers working at the premises indicated in the first column of the Table to this clause, as at the date the charge is imposed.
- (3) The amount of the charge must not exceed the maximum charge indicated in the second column of the Table to this clause.
- (4) A charge may only be imposed by an enforcement agency on a food business under this clause if the enforcement agency intends to carry out at least one inspection of the premises of the food business during the 12-month period to which the charge relates.
- (5) The enforcement agency is to issue each person who is liable to pay a charge under this clause with a notice in writing that specifies the following:
 - (a) the amount of the charge,
 - (b) the period for which the charge relates,
 - (c) the period within which the charge must be paid.
- (6) The person liable to pay a charge under this clause must pay the charge within the period specified in the notice.
- (7) If the enforcement agency does not carry out at least one inspection of the premises of the food business during the 12-month period to which the charge relates, the enforcement agency must refund the charge paid (if any) by the person who carries on the food business.

Aerated Wastewater Treatment System -AWTS Administration Fee

Not based on policy nor legislation.

Waste – Lithgow Solid Waste Facility Gate Fees - Mixed waste (commercial/building waste)

Base on Council Policy 11.2 – (attached)

Commentary

Councillors have a fiduciary role to their community to ensure that all fees and charges proposed to be levied by the Administration are fair equitable and based on sound costings.

Councillors fail in their fiduciary role if they do not review the basis on which rates, fees and charges are applied.

There is a need for the Finance Committee to regularly review the basis on which fees and charges are determined and if they are fair and equitable. This is indeed the case with the Administrative Charges applied to both Food Premises and Aerated Wastewater Systems discussed in the commentary.

The fee applied to food premises is optional for Councils and appears to serve no other purpose than to raise revenue. This seems at odds with an Administration and Governing body that is committed to transitioning the Lithgow LGA Economy away from coal and thermal power production. It also inconsistent with this council being a signatory to the Small Business Friendly Council initiative of the Small Business Commissioner.

The Aerated Wastewater Systems Administrative charges that were introduced are neither based on policy nor legislation. So, what is the basis for these new fees?

Any resident doing DIY works are required to pay the Mixed waste (commercial/Building waste) charge at the Lithgow Solid Waste Facility which is the only facility accepting this type of waste now in the LGA.

I contacted Council anonymously as a resident about whether I would be required to pay this levy as I was undertaking minor renovations and need to get rid of a small amount of waste. I was advised that the rate was \$230 per tonne or if under 100 hundred kilos \$23. I would like to acknowledge the professionalism of the staff member I contacted. On the last Council when it was determined that

Council would take control of and manage this facility it would remain free for residents to deposit rubbish. This fee and the policy it is referenced to need to be reviewed, by the Finance Committee.

The ongoing review of Fees and Charges should be place little if any burden on the Administration in tabling the necessary information for review because it should all be on file.

Attachments

1. Policy 11.2 - Waste Disposal Waste Depots Exemption From Charges - V 3 [9.1.1 - 2 pages]

Recommendation

THAT

1. the Finance Committee review the basis for fees and charges relating to Food Premises, Aerated Wastewater Treatment Systems (and septics) and Lithgow Solid Waste Facility Gate Fees.
2. the Finance Committee review sections of the Schedule of Fess and Charges at each meeting an are presented with the business cases for the introduction of new fees or charges for consideration and recommendation before being brought to Council for adoption.

Management Comment

Commentary on User Fees and Charges

The 2022 Rating Review Report included the following findings:

User-fees at Council are comparatively very low at just 6% of Own Source Revenue. Council should consider generating a greater proportion of revenues from user fees. An initial target of \$100,000 should be established for the 2023/2024 financial year.

Council should adopt user-fees for all waste other than waste associated with the Domestic Waste Management Service.

Implementation of the Rating Review Report recommendations has been a regular Finance Committee agenda item since 2022.

In addition, management has benchmarked Council's user fees and charges with comparable Councils. At \$7.5M for the 2021/22 year, Lithgow Council's user fees are less than half the fees of Mid-Western and Singleton Councils and more than \$3M less than Muswellbrook Council.

Lithgow City Council



Comparison YE 21/22 with LCC Local Comparison Group

	Lithgow City Council 21/22 \$ '000	Mid-Western Regional Council 21/22 \$ '000	Muswellbrook Shire Council 21/22 \$ '000	Singleton Council 21/22 \$ '000
Income Statement - Net operating result for the year - Income from continuing operations - User charges and fees				
Specific user charges	6,114	5,753	3,389	6,620
(i) Fees and charges - statutory and regulatory functions (per s.608)	788	1,358	2,713	4,020
(ii) Fees and charges - other (incl. general user charges (per s.608))	599	9,488	4,773	7,604
Total: User charges and fees	7,501	16,599	10,875	18,244

The September 2021 Office of Local Government Integrated Planning and Reporting Handbook requires Councils to undertake the following actions:

In preparing the LTFP, councils should consider possible future income from fees and charges, including opportunities to reduce reliance on other forms of income.

In determining fees and charges, councils should ensure all the costs of providing services are considered.

Each year, management undertakes a comprehensive review of fees and charges, utilising a pricing methodology which includes:

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

For 2023/24, a critical review of fees and charges was undertaken for key areas including Eskbank House, Development, Engineering Administration, all Council Hall hire, Union Theatre, waste, cemeteries, JM Robson Aquatic Centre, Council parks and sporting fields, and Water & Wastewater.

Details of Engagement with Councillors & the Community on 2023/24 Fees & Charges

- 29 March 2023: Information session and workshop with Councillors on draft 2023/24 budget, including fees and charges.
- 24 April 2023: Council endorsed the draft Fees and Charges 2023/24 to be placed on public exhibition (Min. No. 23-74).
- Reports on discontinued fees and charges and new fees and charges were included with the Council report.
- Fees and charges were placed on public exhibition until 24 May 2023. No submissions were received on the draft 2023/24 fees and charges.
- Further report to the 26 June 2023 Council meeting on draft 2023/24 fees and charges and changes made during the public exhibition period.
- 2023/24 fees and charges adopted by Council at the 26 June 2023 meeting (Min. No. 23-107).

Draft 2023/24 fees and charges were included on the agenda for the 13 April 2023 Finance Committee meeting. The meeting was cancelled due to lack of a quorum.

Basis for Food Premises -Annual Administrative Charges

There are significant indirect administrative costs involved with undertaking food regulatory work. For example, complaints must be recorded and investigated, other enforcement agencies must be consulted and reports must be prepared. Another example is that once a food safety inspection has been completed, food regulatory staff must assess each inspection report, compile a report and provide recommendations on non-compliances, and issue scores-on-doors certificates.

The administrative elements related to food regulatory work are extensive and time consuming. Prior to the 2022/2023 financial year, Lithgow City Council absorbed these costs and did not charge administrative fees.

To recover the administrative costs, Council adopted and imposed annual administration charges on each food business that was subject to an inspection during a 12-month period. These charges

are regulated under clause 15 of the *Food Regulation 2015*. If an inspection does not take place on the food business, the administration fee is not charged. The maximum amount of the annual administration charge is outlined under clause 15 of the *Food Regulation 2015* and cannot be exceeded (see table below). The administration charge is levied against food businesses that operate in the Lithgow LGA. The fee is not charged to businesses solely raising funds for community or charitable causes.

It should be noted that based on research conducted at the time of the proposed implementation of this charge, Lithgow City Council was the only Council in the Central West, North West and Far West food group that did not charge this fee.

Number of full-time equivalent food handlers working at the premises	Maximum annual administration charge per premises	Lithgow City Council 2023/2024 Charge
Up to and including 5	\$390	\$214
More than 5 but not more than 50	\$800	\$430
More than 50	\$3,500	\$2,680

Example:

A small mixed business selling pre-packaged food and general merchandise employs 3 staff who each spend approximately 13 hours a week on food handling activities, the remainder of their time is spent on non-food related matters. (Note: The award for retail food premises employees generally involves 38 hours/week.)

The number of full-time equivalent food handlers = No. food handlers x No. hours/week handling food 38 hours

In this case: 3 x 13 hours = 39 hours or approximately 1 FTE food handler.

Maximum administration charge (set in the Food regulation 2015) = \$390 (**Note: Lithgow City Council Charge is \$214**).

Basis for Aerated Wastewater Systems Administrative Charges

As the regulatory authority, Council is required to conduct inspections and assess on-site sewage management systems under Section 68 of the *Local Government Act 1993*. As part of the inspection program, a significant amount of administration work and significant travel time to inspection locations is required. Fees on traditional septic systems have been charged to ratepayers since the inception of the Septic Safe program. Until now, ratepayers that have an aerated wastewater treatment system (AWTS) installed on their property were exempt from this charge based on the fact they are required to engage a contractor to undertake quarterly servicing, as per the manufacturer's requirements. AWTS systems are far more technical than traditional septic systems, and as such require greater attention to detail and longer inspection times for Council staff.

As of the 2022/2023 financial year, Council adopted a position that ratepayers with an AWTS installed come into line with other ratepayers on septic systems, and be charged a 'low risk' Approval to Operate fee. This fee allows Council to continue to provide the service as required under that Act and recover some of the increasing costs involved with the management of this program. Prior to this fee being implemented, Council absorbed the significant costs associated with the management of AWTS system compliance as required under the Act.

Commentary on Mixed Waste (Commercial / Building Waste) Charge

Council has always maintained a charge for the depositing of Construction and Demolition waste at Lithgow Solid Waste Facility. The charge is relating to the costs associated with Council staff dealing with the waste from either disposal or removal from site. The domestic waste charge allows residents to deposit domestic waste at the facility with no additional charge. Construction and Demolition waste is not typical of domestic usage and so is not part of the domestic charging. Staff at the site will assess the volume of waste that is being dropped off and then determine which category this falls into and if the waste deposition is chargeable or not.

Commentary on Recommendation

The Council, councillors and staff, have responsibly considered the setting of the fees and charges, applying good governance, fiduciary and public transparency principles. This is elaborated on in the section above titled - Details of Engagement with Councillors & the Community on 2023/24 Fees & Charges

As an operational matter, Finance staff compile and review the Fees and Charges Register. Departmental managers have responsibility for determining their fees and charges, as well as completing the annual review.

As a normal feature of compiling the draft budget, including the fees and charges, the Council's senior leadership team also review and consider the appropriateness of proposed charges having regard for -

- Capacity to pay
- Fee for service
- Reasonable cost recovery
- Fair pricing principles

Due to the broad range of services provided by Councils and the complexity of Council business, Fees and Charges Registers are detailed documents for all Councils. Lithgow Council's Fees and Charges Register contains 99 pages and 858 individual charges.

Should Council resolve that the Finance Committee review sections of the Schedule of Fees and Charges at each meeting, Committee members should note that meeting times will need to be extended and/or additional meetings scheduled. Staff time will also be drawn down from, as all Departmental Managers will need to attend Finance Committee meetings to present their fees and charges.

9.2. Notice of Motion - Councillor S Ring - 30/01/2024 - Modification of Financial Delegation

Report by Councillor Steve Ring

Background

Council successfully applied for a significant rate increase to be applied during the current financial year. Part of that rate increase wads for \$1.09 Million dollars for transition management and is accountable to both the community and IPART for its expenditure.

Council delegated authority to the General Manager under s 377 of the Local Government Act 1993 No 30 and has to power to withdraw or modify aspects of those delegations.

Commentary

At the 27 November 2023 meeting Council adopted an Interim Action Plan for the current financial year for which there was considerable debate.

To meet its fiduciary responsibility to our community, the Governing body needs to ensure transparency in the awarding of contracts during this program. Specifically contracts for consultants (or contractors) preparing reports in relation to transition management allocation or providing advice (written or verbal) or being used to fill the roles of vacant positions.

Given the limited size of this project I would recommend **that** the General Managers delegation to enter the above contracts is restricted to \$25,000 and that all contracts above that amount are referred to Council. This would also apply to individual contractors where there are contractual obligations for the year exceed \$25,000.

Attachments

Nil

Recommendation

THAT

1. with respect to the \$1.09 million dollars of transition management allocation of the recent rate rise that the Financial Delegations manual is amended to reflect the following:
2. the General Manager can enter into contracts for consultants (or contractors) preparing reports in relation to transition management allocation or providing advice (written or verbal) or being used to fill the roles of vacant positions up to and inclusive of \$25,000.
3. Where a contractor or consultant is engaged on one or more occasions and the total exceeds \$25,000, all contracts are to be referred to the Governing body of Council.

Management Comment

The Council has made important strategic decisions about the Lithgow Emerging Economy Plan (LEEP). The Council has adopted (approved) the LEEP final report and the first 12 month LEEP interim action plan. The Council also approved a budget for the interim action plan.

With the above strategic approvals obtained, the administration has directed attention to delivery of outcomes. Delivery requires human capital (subject experts) to resource the many projects that make up the interim action plan. But the reality is that economic growth and diversification is a niche expertise. It is not easily delivered and most governments (at all levels) struggle. As such, it is difficult

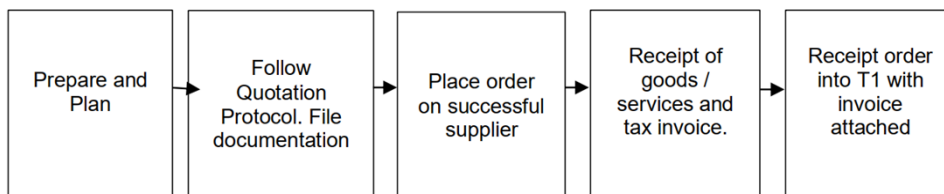
to locate and attract the skills and the expertise required, especially to non-metropolitan settings. To work around this, Lithgow City Council has been very fortunate to have procured the services of two experts to start to advance the actions, while recruitment and development of in-house employees is undertaken.

This approach of using contractors is being more often taken across Council's services where there are industry-wide skills shortages.

The governing body, the Council, are responsibly meeting their responsibilities through their strategic decision-making processes. They are supported by an administration that is focused on delivery, and doing so in an environment of good governance. For example, where decisions are being taken to procure any services (by a contractor or consultant), Council staff follow the Purchasing and Contracting Standard Working Procedure in undertaking procurement activities for Council. The procedure provides the framework for a uniform approach to the procurement of goods and services in order to achieve best value for money, good management practices, legislative compliance, transparency and probity.

The Council administration are committed to ensuring that goods are acquired and services are delivered cost effectively. They are also committed to ensuring a fair, transparent, ethical and accountable procurement process.

The purchasing process, for acquisitions below \$250,000, consists of the following steps.



The purchasing procedure sets out purchasing thresholds (up to \$250,000) with specific quotation requirements for each purchasing value range. The purchasing thresholds balance the management of risk with process efficiency, that is, ensuring that procurement activities can be completed without undue delay impacting the completion of projects.

In 2023, management conducted an external review of purchasing procedures and controls and modified the purchasing thresholds based on the findings of the review. The improvements to purchasing procedures and controls were reported to the June 2023 Audit Risk and Improvement Committee and were accepted by the Committee.

A requirement for contractor or consultant engagements over \$25,000 to be approved at Council meetings will undoubtedly cause delays to contractor / consultant engagement and thus project completion timelines will need to be extended. The impacts of such delays will, in the example of LEEP, be compounded by the fact that the LEEP Interim Action Plan has been endorsed for implementation between November 2023 and June 2024. This is already a very tight timeline for what is an urgent project.

It is possible that contractors / consultants will accept other engagements during the time between the provision of quotations and approval by Council. Staff time will also be consumed in preparing reports to Council to recommend contractor engagements.

The procurement risks for projects valued between \$25,000 and \$250,000 is not considered to be so significant that the Council should absorb the impacts of project delays and increased administrative cost associated with this heightened reporting mechanism.

9.3. Notice of Motion - Councillor C Coleman - 30/01/2024 - Public meeting to discuss EnergyAustralia Pumped Hydro

Report by Councillor Cassandra Coleman

Commentary

Public meeting to discuss Energy Australia Pumped Hydro.

Energy Australia is investigating the feasibility of a pumped hydro energy storage project.

On its website Energy Australia states that it is genuine about engaging the local community in the project by listening to feedback, sharing information, and providing opportunities to help shape the project and the benefits it brings to the region.

On Sunday 14 January 2024 the Lake Lyell Community Group hosted a meeting of the Lithgow community and Councillors at Lake Lyell.

Around 100 people attended, with some lively discussions.

One suggestion by a resident was that the Lithgow City Council host a public meeting in relation to Energy Australia's Pumped Hydro project, with an independent chair, inviting Energy Australia, Lake Lyell Community Group, Penny Sharpe NSW Minister for Climate Change, Minister for Energy, Minister for the Environment and Minister for Heritage to give the community an opportunity to ask questions and collect information.

Attachments

Nil

Recommendation

THAT Lithgow City Council host a public meeting with the wider Lithgow Local Government Area, with an independent chair, in June or July 2024 regarding the Lake Lyell Pumped Hydro Project.

Management Comment

EnergyAustralia's Lake Lyell Pumped Hydro Project is a concept. If the concept comes forward as a development proposal then a feature of that will involve public consultation.

Even if Council is not the consent authority, it no doubt will be the case that this Council will want to hear and have regard for the broad community opinions about the proposal.

If it is to be effective, it will be important for Council's public consultation to be well-crafted and based around best practice. The consultation should also be conducted at a time when all relevant information and facts are available for all participants.

The administration recommends that consideration should be given to engaging a public consultation expert to scope and recommend to Council the approach for effective public consultation in this particular case.

9.4. Notice of Motion - Councillor C Coleman - 30/01/2024 - Community Submissions regarding Council's Draft Operational Plan 2024/2025

Report by Councillor Cassandra Coleman

Commentary

Community Submissions regarding Council's Draft Operational Plan 2024/2025.

On Friday 22 December, Lithgow City Council opened submissions to the wider Lithgow Local Government area, inviting residents and community groups to put forward proposals to be considered for inclusion in the Draft Operational Plan 2024/25, closing on 31 January 2024.

The plan may include new infrastructure projects, community activities/ events or ideas for improvement which will enhance the quality of life for all residents.

I note that the General Manager sent an email on Monday 15 January 2024 to all Councillors stating that the time for submissions has been extended to 15 February 2024, a two-week extension.

Considering that Lithgow City Council was closed from 22 December 2023 until January 8, 2024, I think that it is prudent that the time frame be extended for another two weeks to 29 February 2024.

I think that it would also be in the community's best interest that we have a policy position that major announcements seeking public input are not advertised over the Christmas period, particularly when Council is closed, as it makes things very difficult for the wider community.

Attachments

Nil

Recommendation

THAT

1. the period for community submissions regarding Council's Draft Operational Plan 2024/2025 be extended to 29 February 2024.
2. Lithgow City Council's official policy be that public input on matters not be sought over the Christmas period when Lithgow City Council is closed.

Management Comment

In accordance with the Integrated Planning and Reporting Framework (IP&R) "The draft Operational Plan must be publicly exhibited for at least 28 days, and submissions received by the council in that period must be considered, before the final Operational Plan is adopted by the council".

When exhibiting over the Christmas and New Years holiday period an appropriate consideration is to exclude the period of Council shut day from any calculation of the number of days under exhibition. This approach is also standard practice for Government and many other Councils.

As part of the development of draft 2024/25 Operational Plan, the Administration considered it appropriate to provide the community with an additional opportunity to participate in identifying projects and programs for consideration as part of the development of the 2024/25 Operational Plan. This process involved calling for the community to provide their proposals via the www.ourplaceourfuture.com website between 22 December and 31 January 2024, which was extended to 15 February 2024.

As noted above, in the General Manager's email to Councillors on 15 January, the Council had already received 31 submissions. As of 22 January, Council has received 34 Submissions. This engagement has proven to be successful despite it being conducted over the Christmas period and

when the Council is closed, given that during the exhibition period for the 2023/24 Operational Plan (April/May 2023) only 1 submission was received.

All submissions will be responded to as part of the engagement process and proposers will be provided with information regarding their submission as the Draft Operational Plan is developed. Once the submissions are closed, they will be collated and considered by the Administration in accordance with the draft budget. An engagement report will form part of the Draft Operational Plan report to the April Council meeting.

The Draft Operational Plan will be exhibited between 23 April and 21 May 2024.

9.5. Notice of Motion - Councillor C O'Connor - 30/01/2024 - Lithgow Environmental Plan Review

Report by Councillor Col O'Connor

Commentary

The Lithgow Local Environmental Plan (LEP) 2014, which is the planning instrument for land use in the area, is now a 10 year old document.

Our LGA has a vast array of land uses and the LEP does provide valuable guidelines, including state planning requirements, on how the land can be used.

What is concerning about the Lithgow LEP, other than it having not been reviewed for 10 years, is the restrictions it places on certain land zones.

For example, in some cases a landholder with 97 acres is not able to subdivide the land into smaller blocks for family members who may want to reside at the family property. Keeping larger blocks is of course a necessity, however given the current cost of living it may be wise to review this structure - along with the entire LEP - as people look to selling land for survival, or to have their children purchase a block to raise their own families on.

We could also do with a review for land to be utilised for potential housing, industrial estates & business parks.

Attachments

Nil

Recommendation

THAT the Lithgow Environmental Plan 2014 be thoroughly reviewed with residents given the opportunity to have their say by way of submissions to Council regarding the land uses in our area.

Management Comment

The Council's strategic planning resource comprises just two strategic planners. The work program is extensive, including dealing with the major rezoning proposal for the former Wallerawang power station site and the Lithgow Flood study. The Administration is also currently engaging planning consultants to review selected zoning changes that are required to provide for new specific proposed uses, including tourism activity and community facilities. As an early component of the LEEP program a specific review of the LEP Employment Lands zoning is being done over coming months. It is intended that the other specific zone reviews (C3) will be completed following the employment lands review and submitted to Government for an LEP amendment.

When regard is had for the numerous other tasks involved in managing strategic planning for the whole of Lithgow (beyond those mentioned above) it is apparent that there are resource constraints. To this end, Council's administration is currently developing a business case for an additional strategic planner for the overall work program and another contract strategic planner to assist with the abovementioned major rezoning at Wallerawang.

Undertaking a full review of the LEP, and associated Development Control Plan (DCP), including completing the formal approvals and adoption requirements, is an extensive process. Recent experiences from other Councils in NSW has shown that a full LEP review process through to adoption has often required between 2 to 4 years, dependent upon planning complexities, the extent of change, and the approach to public consultation.

It is suggested that the overall strategic planning work program be again presented to the Council at an upcoming Information Session. From this, decisions can be taken about the timing and the resourcing of a major review of the city-wide LEP relative to the many other current projects within the Operating Plan and the forward work program.

9.6. Notice of Motion - Councillor C O'Connor - 30/01/2024 - Lithgow Recycling Centre

Report by Councillor Col O'Connor

Commentary

The new recycling centre at Lithgow Waste Depot is an absolute credit to Council and those who have worked hard ensuring we have this precinct here in town.

Having visited the area multiple times there is a concern about where cars move from the concrete onto a large area finished with road base (near the scrap metal & cardboard areas). Given the rain we have had of late it is becoming quite a hazard & during dry times will likely cause dust.

A two-coat bitumen seal would finish the area off nicely and ensure traffic flow is smooth and not affected by any further weather, and workers are protected from the silicone dust that is produced by the road base.

Attachments

Nil

Recommendation

THAT

1. Council investigates and report back if there is funding available to have this area finished with a two-coat bitumen seal.
2. If there is sufficient funding available for this area, Council tenders the project & place on the works schedule to be completed.

Management Comment

The motion proposes investigation of the works, advice as to whether the works can be funded and a return of the matter to council for a decision. This will only involve a small amount of work. It can be undertaken alongside of the existing program of commitments. Staff will monitor the situation and assess the works required for upgrades required.

9.7. Notice of Motion - Councillor E Mahony - 30/01/2024 - Sewer Management - Installation of Sewer reflux valves

Report by Councillor Eric Mahony

Commentary

The impact of stormwater interacting with sewer systems in urban areas of Lithgow during rain events has resulted in numerous homes that were not directly inundated with stormwater experiencing significant impacts of sewerage from sewer mains backing up into their homes and businesses.

This also occurred on properties that were flooded.

Although not limited to, Extension Estate this is one of the key areas impacted.

Discussion:

As part of Council's ongoing improvements in the management of Lithgow's sewerage systems, it is requested that sewer reflux valves be installed to safeguard individual residents who are subjected to the persistent impacts of neighbourhood sewerage backing up into their homes and bathrooms during rain events.

These valves are designed to prevent the adverse effects of rain events, ensuring the protection of private homes and enhancing the safe function of our sewer infrastructure for the well-being of our community.

Attachments

Nil

Recommendation

THAT sewer reflux valves be installed to safeguard individual residents from the persistent impacts of neighbourhood sewerage backing up into their homes and bathroom during rain events.

Management Comment

Council is alert to this issue of sewer surcharges and is undertaking a range of works to help resolve it.

Some projects are undertaken to complete repairs whereas others are used to identify problems and inform planning for projects. Some of the contributing projects Council is completing are:

- Sewermains relining (project starts 29th of January) - \$460 000
- Sewer manhole inspections and repairs - \$115 000
- Smoke Testing for illegal connections between stormwater and sewerage - \$250 000
- CCTV of sewer mains to identify problem areas - \$115 000

The Council is also moving to undertake a hydraulic assessment of the sewerage system to identify areas for infrastructure upgrade and resizing of the mains to cater for improved delivery. All of these works, coupled with Pumping station upgrades and treatment plant upgrades will lessen these issues.

In total with the addition of a new sewerage pumping station and reticulation, refurbishment of 4 other pumping stations and works on the Lithgow treatment plant, Council is spending approximately \$7.7 million in FY23/24.

The above program of works, and examination of other opportunities to address the issue, are to be assembled into an integrated strategy for the Council's consideration and the community's understanding of the challenge. Reflux valves will be considered as a feature of developing this strategy but there are a range of issues to work through with them, and they need to be weighed up against other works to determine the priorities and best spend for a return.

It is recommended that the notion of installing sewer reflux valves be considered in the abovementioned future report back to Council.

9.8. Notice of Motion - Councillor E Mahony - 30/01/2024 - Council representation at the Lithgow Bushfire Management Committee

Report by Councillor Eric Mahony

Commentary

The NSW Rural Fire Service (NSW RFS) is the world's largest volunteer fire service.

A volunteer service that provides critical fire and emergency services to our local community.

This is of particular importance given Lithgow Local Government Area's exposure given its geographic placement to disastrous wildfires. This risk is particularly increased on its eastern edge.

The RFS as an organisation is not limited to responding to, suppressing bushfires and providing property protection.

They are also directly involved in responding to other incidents and activities such as;

- House and structure fires
- Storm damage
- Search and rescue
- Motor vehicle accidents
- Community education
- Bush fire mitigation

Discussion:

The NSW RFS as a volunteer-based community fire and emergency service, assigned with the protection of the community are based on a value system of:

- Mutual respect
- Adaptability and resourcefulness
- One team, many players, one purpose
- Integrity and trust
- Support, friendship, camaraderie
- Community and environment
- Knowledge and learning.

It is critical, that Council as a key stakeholder with the RFS in planning and responses to emergency events that Councillors senior council representatives as part of the NSW RFS Senior Management Team attendance at the Lithgow Bushfire Management Committee to provide the Council's and the community position on key issues.

It is reported that Councillor and senior staff (ELT and above) representative attendance at these meeting for over 12 months has been inconsistent.

This I understand has resulted in issues remaining unresolved due to non-attendance.

Attachments

Nil

Recommendation

THAT

1. Council reaffirms its support and recognition of the RFS's primary concept and role as a volunteer organisation.
2. Councillor alternates are nominated and endorsed by the Council to ensure that consistent representation occurs at the Lithgow Bushfire Management Committee.

Management Comment

The administration has reviewed the Minutes from these meetings going back over the 2021, 2022 and 2023 years to check the attendance records. There have been 9 meetings. Council has been represented at 6 of the 7 meetings for which an invitation was received. There were two meetings during 2023 for which invitations were not received (but even so an officer of council was present at one of those). So, in total, Council has been present for 7 of the 9 meetings. There will be occasions where because of clashes in commitments Council's delegates may not be able to attend meetings. The numbers confirm this has been a rare occurrence.

Attendance by an alternate may be problematic because when that is a rare occurrence it becomes difficult for that alternate to properly participate because of a lack of exposure to both the workings of the committee and their subject matters.

10. Questions with Notice

10.1. Question with Notice - Councillor S Ring - 30/01/2024 - Schedule of Roadworks

Report by Councillor Steve Ring

Commentary

Could the Administration provide a response to the following in relation to roadwork:

What roads have been identified as requiring disaster funding, the priority ranking of each road and the timing of implementing the works.

The implementation schedule for all road works identified in the 2023/24 Operational plan which are still to be completed.

If Lowther Siding Road is not in the above list please what inspections have been undertaken and what works are proposed to upgrade this road given its current condition.

Attachments

Nil

Management Comment

The requested report can be provided to the next available Operations Committee meeting. Lowther Siding Road is in the schedule for disaster recovery works, and a response detailing this was sent to the resident who originally requested it that same day.

10.2. Question with Notice - Councillor D Goodwin - 30/01/2024 - Councillor Resignation

Report by Councillor Darryl Goodwin

Commentary

In May 2023 Ms Goodsell resigned from her position as a Councillor for reason/s that are, quite frankly, her business. The timing of Ms Goodsell's resignation ensured Lithgow Council was not forced to undertake a costly by-election.

Unfortunately, Councillor Lesslie was clearly dissatisfied with not being privy to Ms Goodsell's reason for resigning and from what it appears, suspected some kind of conspiracy. Consequently, Cr Lesslie requested access to all emails exchanged between Ms Goodsell and the General Manager regarding her resignation. However, his request was denied.

Unsatisfied with this response Cr Lesslie escalated the matter to the administrative tribunal - his request was once again denied. Cr Lesslie continued further by lodging an appeal of this decision & was granted an appeal hearing to obtain the contents of the resignation letter.

Ultimately the ruling granted Cr Lesslie access only to the dates, times, and heading of the emails. The entire proceedings can be viewed on the following link:

<https://www.caselaw.nsw.gov.au/decision/18c238c7f06ce53895169f2a>

The main question here is - how much did this entire process cost Council in terms of staffing to attend the tribunal - this includes working on the case at Council, and any travel & hearing expenses?

Some might think this question isn't important, however we have not long ago increased the rates in our area and I am appalled that we are wasting them on tending to the needs of a Councillor who could've picked up the phone & contacted Ms Goodsell directly to ask why she resigned. Wasting ratepayers money on what appears to be a wild goose chase that has yielded no outcome is absurd.

I acknowledge this may be a sensitive matter, however ratepayers money has been spent on this & an indication of how much this process has cost Council would be appreciated.

Attachments

Nil

Management Comment

The following is a timeline of responses involved with Cr Lesslie's GIPA applications and subsequent NSW Civil and Administrative Tribunal (NCAT) hearings for this matter.

- 21 June 2023 - first GIPA application.
- 21 July 2023 - second GIPA application.
- 14 August 2023 - NCAT virtual hearing.
- September to October 2023 – preparation of submissions and evidence in accordance with NCAT's seven-part order from the 14 August hearing.
- 13 November 2023 – NCAT hearing in Sydney.

Staff involved with dealing with the applications were the GIPA Officer, Right to Information Officer and Director Finance & Governance. It is estimated that a total of **70 hours** of staff time was used

to deal with the applications between June and November at a total **staff cost of \$6,110** (excluding superannuation and other on-costs).

The cost of advice and preparation of submissions by Council's solicitors was **\$1,700**.

The estimated total cost Cr Lesslie's two GIPA applications was **\$7,810 in total**. Cr Lesslie paid a \$30 application fee for the first GIPA application.

It is standard practice that Council has legal representation at legal proceedings and hearings. The Director Finance & Governance made the decision to personally represent Council at the 13 November 2023 hearing, saving Council thousands of dollars in legal fees. The Director and Right to Information Officer also travelled to the Sydney hearing by train to minimise travel costs.

11. Notices of Rescission

11.1. Notice of Rescission - Councillor Coleman, Councillor Lesslie, Councillor Mahony - 30/01/2024 - Commemorations and Announcements at Council Meetings

Report by Councillor Cassandra Coleman
Councillor Stephen Lesslie
Councillor Eric Mahony

Commentary

We the undersigned hereby move to rescind motion 23-202 which was carried at the 27 November 2023 Meeting of Lithgow City Council.

Commentary:

The agenda item Celebrations and Announcements was moved by Deputy Mayor Ticehurst and seconded by Cr Cox and carried without dissent on the 12 December 2016.

Cr Ticehurst's commentary is below.

NOTICE OF MOTION

ITEM-20 NOTICE OF MOTION - 12/12/16 - LITHGOW CITY COUNCIL

CODE OF MEETING PRACTICE - 'IN MEMORIAM'

REPORT BY: COUNCILLOR M TICEHURST

REFERENCE

Lithgow City Council Code of Meeting Practice – Version 10 adopted by Council on 30 September 2013.

COMMENTARY

As Councillors would be aware, Section 19 of the current Lithgow City Council Code of Meeting Practice states that: -

19 GIVING NOTICE OF BUSINESS [LGGR 241]

(i) The Council must not transact business at a meeting of the Council:

(a) unless a Councillor has given notice of the business in writing by the close of business seven (7) working days prior to the Council meeting.

(b) unless notice of business has been sent to the Councillors at least 3 days before the meeting, or, in the event of an extraordinary meeting called in an emergency, at least one day. [S 367]

(ii) Subclause (i) does not apply to the consideration of business at a meeting if the business:

(a) Is already before, or directly relates to a matter that is already before, the Council; or

(b) is the election of a chairperson to preside at the meeting as provided by clause 11(iv); or

(c) is a matter or topic put to the meeting by the chairperson in accordance with clause 21; or

(d) is a motion for the adoption of recommendations of a Committee of the Council.

(iii) Despite subclause (i), business may be transacted at a meeting of the Council even though due notice of the business has not been given to 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.

Such a motion can be moved without notice.

Currently there is no formal position in the Lithgow City Council's Code of Meeting Practice when suddenly across the Lithgow City Council area many prominent and active local ratepayers and residents involved in our many community organisations pass away and subsequently receive little or no such deserved community recognition by the Lithgow City Council.

It is proposed that the Lithgow City Council's Code of Meeting Practice be slightly amended to include an 'IN MEMORIAM' section, after the Declarations of Interest and before Public Forum, so as to allow the Mayor and/or Councillors the opportunity to formally publicly recognise the valuable contribution made by local ratepayers and residents involved in our many community organisations who sadly or suddenly pass away.

RECOMMENDATION

THAT the Lithgow City Council's Code of Meeting Practice be slightly amended to include an 'IN MEMORIAM' section, after the Declarations of Interest and before Public Forum, so as to allow the Mayor and/or Councillors the opportunity to formally publicly recognise the valuable contribution made by local ratepayers and residents involved in our many community organisations who sadly or suddenly pass away.

At the council meeting however Cr Ticehurst broadened the motion to read -

THAT

1. The Lithgow City Council's Code of Meeting Practice be slightly amended to include an 'In Commemorations and Announcements' section, after the Declarations of Interest and before Public Forum, so as to allow the Mayor and/or Councillors the opportunity to formally publicly recognise the valuable contribution made by local ratepayers and residents involved in our many community organisations including those who sadly or suddenly pass away.

2. Council consider changes not substantial and thus not require exhibition.

MOVED: Councillor M F Ticehurst **SECONDED:** Councillor R Thompson.

Cr Cox moved an amendment to replace the word Announcements with Commendations for the motion to read -

THAT

1. *The Lithgow City Council's Code of Meeting Practice be slightly amended to include an 'In Commemorations and Commendations' section, after the Declarations of Interest and before Public Forum, so as to allow the Mayor and/or Councillors the opportunity to formally publicly recognise the valuable contribution made by local ratepayers and residents involved in our many community organisations including those who sadly or suddenly pass away.*

2. *Council consider changes not substantial and thus not require exhibition.*

MOVED: Councillor G Cox SECONDED: Councillor S Ring.

That Amendment was PUT and LOST and Cr Ticehurst's motion was CARRIED. No councillor asked for their name to be recorded as having voted against the motion.

That agenda item remained in place for the rest of Cr Lesslie's term as Mayor, for all of Cr Thompson's term and, until November 2023, for Cr Statham's current term as Mayor.

The time taken for Mayoral and Councillor contributions is normally under five minutes. For example the council video will demonstrate that the Celebrations and Announcements at the November Council's meeting took less than three minutes.

An extract from the Council Minutes – November 2023

[7:25] 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.

The Mayor acknowledged the achievements of Brad DeLosa and David Palmer who have both been recognised for their outstanding sporting achievements in their respective sports.

It was also recognised that the young Hockey Players have won their first rounds overseas.

Councillor C Coleman acknowledged the work of Lithgow City Council staff member Kaitlin Cibulka who went above and beyond her duties for the St Patricks School to achieve a great outcome with their use of the Crystal Theatre in Portland.

Councillor C O'Connor acknowledged the BlackGold Motel who recently won an award for Outstanding Business Excellence. Congratulations were made to the staff and Cluff family.

Councillor E Mahony acknowledged and congratulated the organisers of Steamwork at the Portland Foundations and specifically Mr Tim Elderton who spoke about the Solar Train. Councillor Mahony acknowledged the success of the day.

The Mayor announced that she had met recently with the Premier, the Treasurer Penny Sharpe and David Littleproud to encourage action by governments with transitioning of the local economy. [10:15]

As can be seen in this extract Councillors Coleman, O'Connor and Mahony made contributions and Mayor Statham thanked all three.

The resolution carried at the November 2023 meeting was -

That the current code of meeting practice be altered to incorporate the change proposed in the Notice of Motin. (sic)

As this motion fails to explain the action to be undertaken the mover's commentary is included.

9.1. NOTICE OF MOTION - 27/11/2023 - Councillor S McGhie – Commemorations and Announcements at Council Meetings

Report by Councillor Stuart McGhie

Commentary

In the interests of running a more streamlined and professional meeting I believe that Councillors should forward their commemorations and announcements directly to the Mayor before 6:30pm on the day of the meeting.

They will then be read them out in a respectful and orderly manner at the meeting.

Attachments

Nil

Recommendation

THAT the current code of meeting practice be altered to incorporate this change.

Attachments

Nil

Recommendation

THAT motion 23-202 be rescinded.

Cr Cass Coleman

Cr Stephen Lesslie

Cr Eric Mahony

Management Comment

12. Administration Reports

12.1. Caring for Our Community

Nil

12.2. Developing Our Built Environment

12.2.1. WWW - Cullen Bullen Sewerage Scheme

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: Matthew Trapp - Executive Manager Water, Wastewater and Waste

Department: Water and Wastewater

Responsible Officer: Matthew Trapp - Executive Manager Water, Wastewater and Waste

Executive Summary

This report is requesting Council approval for a budget variation for Project 300034 Cullen Bullen Sewerage Scheme. The budget variation of \$450,000 would be funded from the sewerage reserve. The variation is required due to increased costs of the plumbing and reticulation works undertaken by H2H Plumbing Pty Ltd in the Cullen Bullen Village.

Administration's Recommendation

THAT Council:

1. Approve a variation to the budget of PJ 300034 Cullen Bullen Sewerage Scheme of \$450,000 ex GST to increase the total budget from \$7,200,000 to \$7,650,000.
2. Approve a variation to Purchase Order 122417 for H2H Plumbing Pty Ltd from \$1,517,053 ex GST to \$1,746,392.91 ex GST (\$229,340 increase).
3. Council specifically note that some of the expenditure dealt with in 1 and 2 above relates to works on private properties. Sections 67 (private works) and 356 (financial assistance) require resolutions of Council to approve the works.

Attachments

1. Confidential - Cullen Bullen Progress Claim 9 [12.2.1.1 - 1 page]
2. Confidential - CB Pressure Sewer Electrical Upgrades [12.2.1.2 - 2 pages]
3. Confidential - CB Pressure Sewer Plumbing Connections [12.2.1.3 - 3 pages]

Reference to any relevant previous minute

Min 23-127 Ordinary Meeting of Council held on 24 July 2023

Min 21-183 Ordinary Meeting of Council held on 26 July 2021

Background and discussion

Council has been working with the contractor H2H Plumbing Pty Ltd on the design and construction of the Cullen Bullen Sewerage Reticulation since the tender was awarded in July 2021. Since then, the contractors have been working with Council through a variety of issues including the impacts of the COVID-19 pandemic and natural disasters.

Throughout the project, H2H Plumbing have continued to develop designs and identify cost savings in discussion with Council and have worked collaboratively with residents. H2H Plumbing have delivered a reticulation scheme that delivers sewerage from individual properties through to the new STP. The Council took a decision early in the planning of this project to bear the cost of on-site electrical and domestic sewer upgrade works for properties that are serviced by the scheme. This has assisted in achieving a high rate of connection to the scheme, resulting in immediate environmental and social benefits. No fee has been charged to property owners under S67 of the Local Government Act (private works). A resolution of Council is required to grant financial assistance to persons for the purpose of exercising its functions (S356 of the Local Government Act).

H2H Plumbing Pty Ltd have forwarded to Council a request for a list of variations for aspects of their work that were unable to be quoted appropriately until the works were fully assessed and required works identified. In the Cullen Bullen Sewerage Scheme, the properties are connected to the sewerage system via a low-pressure unit which requires power from the on-property switchboard. The bulk of the works being cited as variations are for the replacement of the connections and drainage from individual properties to the new sewer system and the works relating to the electrical connections.

The summation of the project variations is below. All prices are ex. GST

H2H Plumbing Pty Ltd		
	Item	Variation from Tender price
1	Design	\$0
2	Preliminaries	\$0
3	Mains/Collection System Installation	- \$70,324 (saving)
4	On Property Works	- \$85,920 (saving)
5	Plumbing Connection of Individual Properties	\$231,909.00
6	As Constructed Information	- \$1,942.50 (saving)
	Variations	
7	Additional of electrical switchboard upgrades	\$52,135.00
8.1	Additional survey of Castlereagh H'way between Numbers 20 & 70	\$12,462.00
8.2	Freight Pick Up travel from CB to Mainfreight Prestons to collect control panels for continued work for electricians	\$960.00
8.3	Stand Down Rates	\$6,152.00
	9th & 10th November 2022 waiting on tanks	\$12,305.00
	21st November 2022 waiting on tanks	\$6,152.50
	Unloading of Tanks Saturday 26/11 (4hrs minimum x 2 workers)	\$720.00
8.4	Rock Excavation	
	Reticulation works as per monthly meetings	\$8,136.00

	On Property Works	\$561.60
8.5	Relocate PCP at 16 Watson Ave as per customer request	\$514.00
8.6	CPI increase on the plumbing connection cost 5.10	\$20,577.81
8.7	Re - Mobilisation and Site Establishment costs	\$34,941.00
Total		\$229,339.41
	Original Price ex GST	Revised Price ex GST
	\$1,517,053.00	\$1,746,392.41

Some of the above costs were outside of Council's control, such as standdown rates due to a failed delivery from the pressure system suppliers. The remobilisation costs were a result of the Sewerage Treatment Plant not being ready for connection to the sewerage reticulation.

A breakdown of the expenditure for the project and the proposed variations are shown below

	Year	\$	Committed
Actual	2018/19	194,574	
Actual	2019/20	115,231	
Actual	2020/21	168,931	
Actual	2021/22	571,320	
Actuals	2022/23	4,538,957	
Actuals	2023/24	852,487	913,197
Total expenditure to 11/01/2023		6,441,500	
Actual + commit		7,354,697	
Above + proposed variation for H2H plumbing		7,584,036	
Current Budget		7,200,000	
Required budget		7,650,000	
Budget Variation (plus contingency)		450,000	

The above commitments and budget resolved in Min. No. 23-127 did not account for the total costs from the plumbing and connections package of work.

The total cost of the project, should the variation be approved, is \$7,650,000 ex GST. This equates to around 12.5% over the original budget created in 2017/18. This is considered acceptable given the multi-year program for this project, the high rates of inflation for goods and services in recent years and the unknowns of pricing the undertaking of electrical and domestic sewer works on private property.

The requested budget variation of \$450,000 allows for a contingency of \$220,660 above the total H2H variations (\$229,340). This equates to 2.9% of the final project cost of \$7,650,000 to allow for any unforeseen items. The amount will only be utilised, in the case of unforeseen works, if savings cannot be identified.

At the 24 July 2023 Ordinary Meeting, Council resolved to approve variations to the engagement with SNG Engineering Pty Ltd to bring the total cost of the SNG contract to \$4,386,702 ex GST.

Consultation and Communication

The community have been consulted throughout the project and H2H Plumbing completed a considerable amount of work in the consultation with community members. This work has been carried out to ensure the resulting works are compliant and attentive to the needs of the customer, wherever possible.

Policy

Policy 3.7 Pressure Sewer applicable to the installed system.

Policy 1.4 Tendering followed in procurement process.

Legal

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

The properties in Cullen Bullen connected to the sewerage system are now compliant with the requirements of AS3500, Plumbing and Drainage Act 2011 where council or its contractors have completed works as a part of this project.

Risk Management

The result of the works completed are such that the risk of infiltration, overloading and stormwater cross connections to the sewerage system are now very low and impacts of the scheme will be minimal.

The scheme mitigates environmental and public health risks inherent in on-site effluent systems on small lots.

Financial

A number of other projects in the FY 23/24 are required to be rephased to other years for various reasons. These variations are to be reported to Council via the regular cycle of budget reviews. This variation will not change the overall expenditure from the sewer fund for the FY23/24. The Sewer Fund has sufficient capacity to fund the variation.

- Revised budget approved - \$7,200,000
- Cost centre – PJ 300034
- Expended to date - \$6,441,500
- Future potential impact – the new scheme will be operated by Council, requiring ongoing maintenance and works. The area in Cullen Bullen where sewer is now available may be developable subject to Council approval.

12.2.2. IS&E - Replacement of Second Grader

Strategic Context for this matter:

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: Jonathon Edgecombe - Director Infrastructure Services
Responsible Officer: Jonathon Edgecombe - Director of Infrastructure and Economy

Executive Summary

This report summarises the process for the replacement of a second of Council's four graders in the 2023/24 financial year and seeks Council's approval to purchase a replacement machine.

This purchase is made possible by the allocation of forward funding from the approved Special Rate Variation.

It is proposed to utilise the results of the September 2023 competitive, open tender process to make this purchase.

Administration's Recommendation

THAT Council approve the purchase of a Komatsu GD 655-7 grader from Komatsu Australia Pty Ltd for a cost of \$469,600, excluding GST (\$516,560 including GST).

Attachments

Nil

Reference to any relevant previous minute

Min. No. 23-164 – Ordinary Meeting of Council held 25 September 2023.

Background and discussion

Council's graders are used for the repair and maintenance of the city's extensive road network. Two of these machines are overdue for renewal. Both are located at the Wallerawang Depot, along with other rural construction team plant and equipment. These machines currently experience frequent breakdowns, and parts have become harder to obtain, as the manufacturer no longer makes graders.

This frequent maintenance comes at great cost to the Council, both financially and with respect to the organisation's operational efficiency. Without the Special Rate Variation, only one grader was to be replaced in the 2023/24 financial year. However, by bringing forward 2024/25 Special Rate Variation funding, the replacement of this grader can occur two years earlier than proposed (previously scheduled for replacement in the 2025/26 financial year).

Should Council approve the purchase of the second grader, a Purchase Order can be raised immediately. Delivery should then occur in August 2024. As payment is made on delivery, 2024/25 Special Rate Variation funds will be utilised for the purchase cost.

Rather than run a second, competitive tender process to purchase this second grader, it is proposed to utilise the results of the initial tender. This decision has been made as little time has passed since

the original tender was considered (four months), and it is highly unlikely that market conditions would have significantly changed over this period.

A request for tenders was issued through Vendorpanel supplier lists. Responses were received from four (4) suppliers:

- Earthmoving Equipment Australia Pty Ltd. (Luigong Grader 423D);
- Komatsu Australia Pty Ltd. (Komatsu GD 655-7);
- RDO Equipment Pty Ltd. (John Deere 620 GP); and
- Westrac Pty Ltd. (Caterpillar 140).

The evaluation panel for this tender comprised:

- Transport Manager;
- Acting Plant Manager;
- Acting Workshop Leading Hand; and
- Two (2) current operators.

Machine and Price	Assessment Results	Operator Comments	Recommendation
Liugong 423D - \$424,985 incl. GST	<ul style="list-style-type: none"> - Lowest in price. - New to the market in Australia. - Warranty 4 years, 6000 hours. - Concerns from mechanical perspective. - Vulnerability of computer for transmission. - Mounting of rear rippers seemed a bit light. - Unsure where hydraulic filters are located, it could not be shown. - Unproven reliability. - Unsure about supply of spare parts. - Would likely have a low resale value. 	<ul style="list-style-type: none"> - Rough ride when Grading. - Controls confusing, not labelled clearly. - Only had big roll over ripper shank. No rippers at the rear of the machine. Company did say they could have rippers modified. This is also a concern on reliability. - Company was unable to demonstrate float on the day of test. 	Decline
Komatsu GD 655-7 - \$516,560 incl. GST	<ul style="list-style-type: none"> - Second lowest in price. - Need to check if a belly can be fitted for engine component protection. - Service points are all quite easily accessible. - Good Warranty - 5 years 6000 hours. - Komatsu include 1st year servicing within the original purchase price (only charge for travel). - Available March / April 2024 	<ul style="list-style-type: none"> - Happy with power and layout of the controls. - Slight concern with position of forward / reverse lever position. - Only supplied with up / down bull blade (not a concern by the Operators). - Everyone involved in the selection process agreed that this grader offers the best value for money. 	Accept
Caterpillar 140 - \$541,200 incl. GST	<ul style="list-style-type: none"> - Third lowest in price. - Warranty 3 years, unlimited hours 	<ul style="list-style-type: none"> - Mechanically staff have had no real problem with our 	Decline

	<ul style="list-style-type: none"> - Good power. - Availability - around 8 Months from date of order. 	<p>current Cat 12M which we have had since 2010.</p> <ul style="list-style-type: none"> - Operators like the option of still having a steering wheel. This is the only grader offered that has no steering wheel. 	
<p>John Deere (JD) 620 GP - \$573,650 incl. GST</p>	<ul style="list-style-type: none"> - Highest in price - Good power. - JD have an innovative idea with a bearing circle turn. However, this was not included in the quote. This is an extra cost of approximately \$12,500. - Thoughts were that while this was a good grader, the extra price could not be justified. - Warranty - 5 years, 5000 hours. 	<ul style="list-style-type: none"> - Controls are somewhat confusing. 	<p>Decline</p>

As is the case with the previous grader, once this new grader arrives at Council and it has been embedded into to Council's works team, the existing grader will be sold, with funds returned to the plant replacement reserve.

Consultation and Communication

Staff were fully consulted during the procurement process, being provided the opportunity to physically inspect the machines prior to their purchase.

Policy

The replacement of this second grader is consistent with Council's 8-year plant replacement schedule. Representing one of the highest cost and most complex pieces of equipment owned by the Council, bringing forward its replacement will result in significant positive impacts to Council's operating cost and efficiency. It will also improve the working conditions for those employees tasked with the machine's operation.

Legal

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

Road maintenance is a responsibility set forth by the Roads Act 1993. The purchase and regular replacement of Council's own machinery and internal delivery of such services is the most cost-effective means of delivering road maintenance services.

Risk Management

Regular plant replacement is required to ensure machines remain in sound working order. Adhering to this schedule, or amending it where required, is necessary to ensure operational efficiency and constrain operating costs.

Financial

- Budget approved - \$517,487
- Cost centre - 100920
- Expended to date - \$0
- Future potential impact – Nil

12.3. Strengthening Our Economy

Nil

12.4. Enhancing Our Natural Environment

Nil

12.5. Responsible Governance & Civic Leadership

12.5.1. F&G - Investment Report November 2023

Strategic Context for this matter:

Responsible Governance & Civic Leadership

To develop community confidence in the organisation by the way it is directed, controlled and manage

Author: Sharon Morley – Finance Officer

Responsible Officer: Ross Gurney - Director Finance and Governance

Executive Summary

The purpose of this report is to advise Council of investments held as at 30 November 2023 and to note the certification of the Responsible Accounting Officer that funds have been invested in accordance with legislation, regulations and Council policy.

The report also provides commentary on the cash and investments balance compared with the funding required for internally and externally restricted reserves. A key aspect of the report is that while Council has total investments and cash of \$57.4M, approximately \$54.6M of that amount is restricted (internally and externally). Therefore, those funds are not available for any purpose beyond that for which they have been restricted.

Administration's Recommendation

THAT:

1. Investments of \$56,100,000 and cash of \$1,305,228 (of which approximately \$54.6M is restricted) for the period ending 30 November 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.

Attachments

1. November 2023 Investment Attachment [**12.5.1.1** - 1 page]

Reference to any relevant previous minute

Min No 23-197 Ordinary Meeting of Council held on 23 October 2023.

Background and discussion

Movements in the Cash and Investments Balance

Council's total investment portfolio as at 30 November 2023, when compared to 31 October 2023, has increased by \$2,900,000 to \$56,100,000. Investments increased from \$53,200,000 to \$56,100,000. Cash in Council's bank account increased from \$475,236 to \$1,305,228.

The \$3.7M increase in cash and investments is mainly due to the ordinary business of Council, with high cash inflows for the November rates instalment.

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

The movement in Investments for the month of November 2023 were as follows:

Opening Balance of cash and investments as 01 November 2023	\$53,675,236
<u>Plus</u> New Investments – November 2023	\$8,729,992
<u>Less</u> Investments redeemed – November 2023	-\$5,000,000
Closing Balance of cash and investments as at 30 November 2023	\$57,405,228

Director Finance & Governance comment on the cash and investments balance – the \$3.7M increase in cash and investments was generally anticipated due to high cash inflows for the rates instalment due in November 2023. Cash outflows continue to be managed to ensure that the timing of grant funding milestones matches the pace of works undertaken.

High value Accounts Payable transactions included \$215K for electricity (large and small sites), \$162K for Cullen Bullen Sewer Scheme, \$357K for domestic waste collection, \$111K for Kremer Park Grandstand restoration, \$109K for Union Theatre seating, \$248K for natural disaster restoration works, \$262K for the West Bowenfels Sewer Pump Station and \$116K for the Coalbrook Street Access Ramp,

Funding Requirements for Restricted Reserves

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

CFIO comment on restricted reserves – Council had sufficient cash and investments at 30 November 2023 to fund \$43.5M of externally restricted reserves and \$11.1M of internally restricted reserves. There has been further growth in unexpended special purpose grants, with \$1.9M of advance natural disaster recovery works funding.

The Administration took action to initiate a \$3.5M working capital short-term loan facility to cover anticipated and ongoing high cash outflows for grant funded capital projects and claimable natural disaster recovery works. The loan amount was reduced to \$2.5M at the September quarterly review. The use of the loan for these purposes accords with Council's resolved policy position.

The table below provides a Cash and Investments Statement with restricted reserve balances at 30 November 2023.

Cash and Investments Statement (\$'000)				
	30 June 2023	30 September 2023	30 November 2023	31 March 2024
	Position	Position	Position	Position
Externally Restricted				
Developer Contributions	1,874	1,854	1,802	
Special Purpose Grants	12,659	14,958	16,695	
Water Supplies	2,829	2,960	3,615	
Sewerage Services	7,427	8,095	8,849	
Domestic Waste	7,402	9,223	8,694	
Unexpended Loans	1,352	3,851	3,851	
	33,543	40,941	43,506	
Internally Restricted				
Land & Buildings	2,734	2,916	3,762	
FAGs	6,013	4,510	3,507	
Plant & Equipment	511	514	150	
Bonds, Deposits & Retentions	302	309	293	
Works in Progress	671	670	647	
Carry Over Works	476	291	250	
Commercial Waste	250	140	900	
ELE	1,130	1,130	1,130	
Election	100	119	131	
Employee Development	350	350	350	
Total Internally Restricted	12,537	10,949	11,120	
Unrestricted (working capital)	(3,142)	2,779	2,779	
Total Cash and Investments	42,937	54,669	57,405	

CERTIFICATION OF THE RESPONSIBLE ACCOUNTING OFFICER

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

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

Ross Gurney
Director Finance & Governance (Responsible Accounting Officer)

Policy

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

Legal

Council's Investment Policy complies with the Minister's Investment Order of 12 January 2011.

Risk Management

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

Financial

- YTD interest income budget approved - \$2,010,000
- Cost centre - 3259
- TRD Income to date - \$1,029,876
- Future potential impact - Nil.

Council's interest income for 2023/24 is over budget for year-to-date. Investment returns have increased with Council being able to achieve up to 5.7% return on six month term investments. More recently with the pause on increasing interest rates, Council is obtaining returns around 5.2%. Also, Council's average investment balance has been above the budgeted average investment balance of \$39M, which is mainly due to the \$6M upfront payment of the 2023/24 Financial Assistance Grant and the \$13.8M natural disaster works payment.

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

Consultation and Communication

N/A

12.5.2. F&G - Investment Report December 2023

Strategic Context for this matter:

Responsible Governance & Civic Leadership

To develop community confidence in the organisation by the way it is directed, controlled and manage

Author: Sharon Morley – Finance Officer

Responsible Officer: Ross Gurney - Director Finance and Governance

Executive Summary

The purpose of this report is to advise Council of investments held as at 31 December 2023 and to note the certification of the Responsible Accounting Officer that funds have been invested in accordance with legislation, regulations and Council policy.

The report also provides commentary on the cash and investments balance compared with the funding required for internally and externally restricted reserves. A key aspect of the report is that while Council has total investments and cash of \$53.65M, nearly all of that amount is restricted (internally and externally). Therefore, those funds are not available for any purpose beyond that for which they have been restricted.

Administration's Recommendation

THAT:

1. Investments of \$53,650,000 (of which approximately \$51,850,000 is restricted) and cash of \$224,262 for the period ending 31 December 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.

Attachments

1. December 2023 Investment Attachment [12.3.1.1 - 1 page]

Reference to any relevant previous minute

Min No 23-197 Ordinary Meeting of Council held on 23 October 2023.

Background and discussion

Movements in the Cash and Investments Balance

Council's total investment portfolio as at 31 December 2023, when compared to 30 November 2023, has decreased by \$2,450,000 to \$53,650,000. Investments decreased from \$56,100,000 to \$53,650,000. Cash in Council's bank account decreased from \$1,305,228 to \$224,262.

The \$3.5M decrease in cash and investments is mainly due to the ordinary business of Council, with higher cash outflows for Accounts Payable prior to the Christmas closure and lower cash inflows for the month.

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

The movement in Investments for the month of December 2023 were as follows:

Opening Balance of cash and investments as 01 December 2023	\$57,405,228
Plus New Investments – December 2023	\$8,550,000
Less Investments redeemed – December 2023	-\$12,080,966
Closing Balance of cash and investments as at 31 December 2023	\$53,874,262

Director Finance & Governance comment on the cash and investments balance – the \$3.5M decrease in cash and investments was generally anticipated due to higher cash outflows and lower cash inflows as December is not a rates instalment receipts month. Cash outflows continue to be managed to ensure that the timing of grant funding milestones matches the pace of works undertaken.

High value Accounts Payable transactions included \$750K for road sealing works, \$478K for road repair works, \$599K for asphalt, \$111K for Cullen Bullen Sewer Scheme, \$534K for the West Bowenfels Sewer Pump Station, \$169K for domestic waste collection, \$365K for water purchases and \$312K for the Glen Davis bridges project.

Funding Requirements for Restricted Reserves

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

CFIO comment on restricted reserves – Council had sufficient cash and investments at 30 November 2023 to fund \$43.5M of externally restricted reserves and \$11.1M of internally restricted reserves.

The Administration took action to initiate a \$3.5M working capital short-term loan facility to cover anticipated and ongoing high cash outflows for grant funded capital projects and claimable natural disaster recovery works. The loan amount was reduced to \$2.5M at the September quarterly review. The use of the loan for these purposes accords with Council's resolved policy position.

The Cash and Investments Statement will be updated at 31 December 2023 as part of the Quarter Two budget review report.

CERTIFICATION OF THE RESPONSIBLE ACCOUNTING OFFICER

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

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

Ross Gurney
Director Finance & Governance (Responsible Accounting Officer)

Policy

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

Legal

Council's Investment Policy complies with the Minister's Investment Order of 12 January 2011.

Risk Management

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

Financial

- YTD interest income budget approved - \$2,010,000
- Cost centre - 3259
- TRD Income to date - \$1,303,633
- Future potential impact - Nil.

Council's interest income for 2023/24 is over budget for year-to-date. Investment returns have increased with Council being able to achieve up to 5.7% return on six month term investments. More recently with the pause on increasing interest rates, Council is obtaining returns around 5.2%. Also, Council's average investment balance has been above the budgeted average investment balance of \$39M, which is mainly due to the \$6M upfront payment of the 2023/24 Financial Assistance Grant and the \$13.8M natural disaster works payment.

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

Consultation and Communication

N/A

12.5.3. F&G - Policy 9.20 Conflict of Interest

Strategic Context for this matter:

Responsible Governance & Civic Leadership:

To develop community confidence in the organisation by the way it is directed, controlled and managed.

Author: Ross Gurney - Director Finance and Governance

Responsible Officer: Ross Gurney - Director Finance and Governance

Executive Summary

The purpose of this report is to seek Council's adoption of a new Conflict of Interest Policy.

Administration's Recommendation

THAT Council adopt the Conflict of Interest Policy for immediate implementation.

Attachments

1. Policy 9.20 Conflict of Interest - Draft v 1 December 2023 [12.5.2.1 - 21 pages]
2. Conflict-of- Interest- Declaration- Form- LC C- Councillors [12.5.2.2 - 2 pages]
3. Conflict-of- Interest- Declaration- Form- LC C- Staff - December 2023 [12.5.2.3 - 3 pages]

Reference to any relevant previous minute

Nil.

Background and discussion

Council is committed to preventing adverse consequences that can arise from conflicts of interest, as well as the appearance of favouritism, undue influence, or impropriety.

The purpose of the new Conflict of Interest Policy is to set standards and provide guidance on how to manage conflicts of interest in an ethical manner.

The policy has been developed from an Independent Commission Against Corruption (ICAC) sample policy which has been provided for State agencies.

There are four elements to consider when determining whether a conflict of interest exists.

1. Does the official have a personal interest?
2. Does the official have a public duty?
3. Is there a connection between the personal interest and the public duty?
4. Could a reasonable person perceive that the personal interest might be favoured?

The policy provides for the following requirements:

- Disclosure of all conflicts of interests in accordance with the policy and as soon as an officer becomes aware of a conflict.
 - Co-operation with the General Manager, Director, Manager, or other colleagues to ensure conflicts of interest are properly managed.
 - Not allowing personal interests to affect the way duties are carried out.
-

- Protecting the reputation of Council by considering how a conflict-of-interest situation might be perceived.
- Declaring in the Conflict of Interest Declaration Form any personal interests that have the potential to affect the way duties are carried out.

All council officials will be made aware of the policy and supported to understand the implications and requirements of it through training programs or other initiatives.

Development of the draft policy is a Governance improvement funded from the 2023/24 Special Rate Variation program.

Consultation and Communication

The Conflict of Interest Policy supports Council's internal governance systems 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.

The draft policy has been reviewed and accepted by the Audit Risk and Improvement Committee.

Policy

The Conflict of Interest Policy will be an addition to Council's Policy Register.

Legal

The subject matter of this report is a function of Council conferred by the Local Government Act. The Act (S440) prescribes a requirement for Councils to adopt a Code of Conduct. The Code of Conduct includes requires staff and Councillors to disclose and manage conflicts of interest.

Risk Management

The Conflict of Interest Policy will assist to mitigate fraud and corruption risks.

Financial

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

12.5.4. EXEC - Updated Ordinary Meetings of Council Dates 2024

Strategic Context for this matter:

Responsible Governance & Civic Leadership

To develop community confidence in the organisation by the way it is directed, controlled and managed.

Author: Sarah Lewis – Executive Assistant

Responsible Officer: Craig Butler - General Manager

Executive Summary

The NSW Electoral Commission has advised that the results of the 2024 election will be progressively announced from Monday, 30 September to Wednesday, 2 October 2024 with recount deadlines up to Thursday, 3 October 2024. As such, the scheduled Ordinary Meeting of Council on the 30 September 2024 will need to be rescheduled to Tuesday, 8 October 2024 for the swearing in of the new Council.

Administration's Recommendation

THAT Council adopt the updated schedule of Ordinary meetings of Council for 2024

30 January 2024 – Tuesday (5 th week)	22 July 2024
26 February 2024	26 August 2024 – (Caretaker Period)
25 March 2024	8 October 2024 – Tuesday (New Council)
22 April 2024	28 October 2024
27 May 2024	25 November 2024
24 June 2024	

Attachments

1. UPDATED - 2024 - Meeting Schedule Due Dates [12.5.3.1 - 13 pages]

Reference to any relevant previous minute

Min 22-239: Ordinary Meeting of Council held 28 November 2022

Min 23-218: Ordinary Meeting of Council held 27 November 2023

Background and discussion

Ordinary Meeting of Council dates are proposed, generally, for the fourth Monday of each month, in accordance with the Code of Meeting Practice and Council resolution Min. No. 20-285 (Ordinary Meeting of Council held 23 November 2020). However, with the 2024 Post-Election Period the September meeting needs to be rescheduled to a date after the period set for determination of the people elected as councillors in the September election. As Monday 7 October is a public holiday, the meeting is proposed to be held on Tuesday 8 October 2024.

Council should also note that Administration have been notified the dates for the:

- National General Assembly 2024 are Tuesday 2 July to Thursday 4 July 2024 and
- LGNSW 2024 Annual Conference are Sunday 17 November to Tuesday 19 November 2024.

Both conferences will have no impact on the schedule for the Ordinary Meetings of Council or Councillor Information Sessions.

Policy

The timing of Ordinary Meetings of Council is included in the Code of Meeting Practice.

Legal

Nil

Risk Management

Nil

Financial

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

Consultation and Communication

Information on Council meetings is available on the Lithgow City Council website.

12.5.5. IS&E - Use of Mayoral Delegation - Donkey Steps and Browns Gap Road Maintenance

Strategic Context for this matter:

Responsible Governance & Civic Leadership

To develop community confidence in the organisation by the way it is directed, controlled and managed.

Author: Jonathon Edgecombe - Director of Infrastructure and Economy

Responsible Officer: Jonathon Edgecombe - Director of Infrastructure and Economy

Executive Summary

Both the Donkey Steps route (alternate access to the Wolgan Road) and Browns Gap Road required urgent works to be approved to ensure safe access and traffic thoroughfare.

In the case of Donkey Steps there was the risk of the valley being entirely isolated if the interim road was compromised as a result of wet weather. In the case of Browns Gap the access is required for, amongst other reasons, the movement of emergency vehicles.

Commencement of works has been delayed while approvals and funding were being pursued from the NSW Government. These impediments were overcome subsequent to the last meeting of the Council in November 2023. With funding secured Council could move quickly to allocate the work to contractors.

Clause 226(d) of the Local Government Act outlines that the role of the Mayor includes “to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council.” As the Council was in recess for the Christmas and New Year period, and relying on clause 226(d), the Mayor received, considered and approved a report prepared by the administration and recommending the engagement of Gracey Son Earthmoving and Public Works Advisory for the Donkey Steps maintenance, and Henry’s Plant and Equipment Hire and WSP Golder for the partial remediation of Browns Gap Road. Value for money and all other pertinent aspects of Council’s procurement requirements were appropriately satisfied.

Clause 55 (k) of the Local Government Act (1993) provides that an exemption to the requirement to tender can be made for contracts entered in the case of an emergency. The approved engagements satisfy Clause 55 (k) of the Act. Tenders were not called because of the urgency for the works to commence.

Administration's Recommendation

THAT Council

1. Note the appointment of Gracey and Son Earthmoving at a cost of \$681,036 excl. GST. (and input to Council’s 2023/24 works program and budget) for the Donkey Steps maintenance and improvement works, and,
2. Note the appointment of Henry’s Plant and Equipment Hire at a cost of \$672,216 excl. GST, and WSP Golder at a cost of \$360,000 excl. GST (and input to Council’s 2023/24 works program and budget) of the Browns Gap Road Phase 1 risk mitigation works.

Attachments

1. CONFIDENTIAL - Graceyand Son - Donkey Steps - Cost Estimate and Methodology [12.2.3.1 - 2 pages]
2. CONFIDENTIAL - Henrys - Browns Gap Cost Estimate [12.2.3.2 - 2 pages]
3. CONFIDENTIAL - Henrys - Browns Gap Methodology [12.2.3.3 - 2 pages]
4. CONFIDENTIAL - WSP - Browns Gap Cost Estimate [12.2.3.4 - 3 pages]

Reference to any relevant previous minute

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

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

Background and discussion

The Wolgan Road has been closed to traffic since early November 2022 because of immediate concerns regarding slope stability. This has left a community of about 150 residents with a constrained access. Businesses have also been gravely affected, including the Emirates One&Only Resort. The new interim access road (known as the Donkey Steps) has been built to carry local traffic into and out of the Wolgan Valley.

Similarly, Browns Gap Road has been closed to all traffic since July 2022, due to concerns of geotechnical instability (rockslide and embankment failure). This instability arose from the extended period of rainfall experienced over the course of 2021-2022. These intense storms also resulted in mine subsidence both underneath and adjacent to Browns Gap Road. This closure has resulted in disruption to traffic access to and from the Lithgow city centre.

Both the Donkey Steps and Browns Gap Road required urgent maintenance to reduce risk.

In the case of the Donkey Steps, this work was to ensure ongoing slope stability during periods of rainfall, because this access represents the only reasonable access for the Wolgan community.

For Browns Gap Road, understanding the length of time since the initial closure, it has become a priority to reopen the route to a single stream of traffic under contraflow arrangements. A scope has been developed to achieve this objective while a permanent, complete solution is designed.

Donkey Steps Road

The Donkey Steps access road has required maintenance and further stability enhancements after recent rain. Understanding the extremely tight construction timeframe of the original project, further works can now be delivered to better ensure asset longevity.

A summary of the scope of this work is as follows:

- Maintenance grade and roll of road from top car park to bottom where the temporary access road meets the old bitumen road
- Prepare stockpiled road base with concrete at a rate of 10% concrete to 90% road base
- Cart road base / concrete mix from existing site stockpiles and spread from the bottom of the concrete bridge to the creek crossing (over concrete matting)
- Cart an additional 1000 tonne of road base to site, blend it with concrete and spread on concrete matting.
- Water, grade and compact road base from bottom of concrete bridge to the creek crossing
- Reestablish table drains and line with Gabion rock (500m section)
- Remove Armco railing / barriers alongside damaged sections
- Widen the top switch back and use the material to fill lower embankment

- Compact lower embankment using a staged and layered approach, checking compaction after each layer.
- Add scour protection in drainage outlet areas where required
- Place Jute mesh and native seed stock to lower embankments
- Replace Armco railing.

Gracey and Son Earthmoving have been engaged to complete this work. In large part, this engagement was made due to their working knowledge of the access road and their immediate availability to commence work. There was a real risk of the only access into the valley being lost if work was commenced rapidly.

In response to Council's administration's representations, the NSW Reconstruction Authority has approved \$480,000 for this work from disaster funding. It is acknowledged that this funding is outside of normal and established funding programs. This attests to the support that is being received from the NSW Government for this important project. The NSW Government funding covers the stabilisation works, however, not the maintenance works. The funding source for the maintenance aspect of the project (up to \$201,036) is the road maintenance component of the 2023/24 Special Rate Variation.

Total cost of works - \$681,036 excl. GST.

Browns Gap Road

It is essential that Council act promptly to reopen Browns Gap Road in a partial capacity, while work continues to design a permanent remediation of nearby geotechnical instability. This prioritised remediation will enable the reopening of a single lane of traffic, operating under a contra-flow arrangement (traffic lights), by ensuring that road users have an acceptable exposure to slope hazards as defined by conventional industry tolerability criteria.

A summary of the scope for this work is as follows:

- Site mobilisation.
- Erection of catch fencing.
- Rock scaling and removal (both by hand and through use of specialist machinery)
- Embankment benching as required
- Removal of dead and destabilised trees from embankments
- Reformation of a stormwater berm to reduce risk of future destabilisation.
- Realign road corridor to represent a single lane of traffic, governed by contra-flow.
- Construction monitoring by geotechnical specialists, WSP Golder.
- Demobilise from site.

Henry's Plant and Equipment Hire and WSP Golder have been engaged to complete this work. This engagement was made due to WSP's expertise and their close understanding of the geological issues (including their continued involvement with the design of permanent solutions for both Browns Gap Road and Wolgan Road), and the immediate availability to commence work of Henry's Plant and Equipment Hire.

Approval for all costs associated with this work was received from the NSW Government under the Disaster Recovery Funding Arrangements. The value of the approval for this first phase of work is \$2,144,233. Once more detailed designs are in hand, the costs for these next phases of work will be submitted to Transport for NSW for approval.

Total cost of Phase 1 works - \$1,032,216 excl. GST.

Consultation and Communication

Lithgow City Council continues to communicate the status of both these projects through community portals on the Council's website, media releases and community meetings. In the case of the Wolgan Road/Donkey Steps, these meetings occur once every three weeks.

Policy

Nil

Legal

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

Tenders are generally called for works with a value of more than \$250,000. However, Clause 55(3)(k) of the Local Government Act (1993) provides that an exemption to the requirement to tender can be made for contracts entered in the case of an emergency. These engagements were deemed by the administration to meet this criteria.

Clause 226(d) of the Local Government Act outlines that the role of the Mayor includes "to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council,"

As outlined elsewhere in this report, there was real urgency to undertake both of these separate projects. In the case of Donkey Steps there was the risk of the valley being entirely isolated if the interim road was compromised as a result of wet weather. In the case of Browns Gap the access is required for, amongst other reasons, the movement of emergency vehicles. With funding secured Council could move quickly to allocate the work to contractors. But the Council was in recess from its Ordinary Meetings program. So, relying upon clause 226(d) the Mayor was furnished with a report canvassing all relevant requirements relating to the procurement of contractors for the works. The report was endorsed by the CFO and GM. The Mayor approved (on behalf of the Council) the engagement of Gracey Son Earthmoving and Public Works Advisory for the Donkey Steps maintenance, and Henry's Plant and Equipment Hire and WSP Golder for the partial remediation of Browns Gap Road.

Risk Management

Both projects referenced within the report directly contribute to the mitigation of geotechnical instability and slope risk associated with travel along the Donkey Steps road and Browns Gap Road. Both projects are supervised by Council engineers, Public Works (Donkey Steps) and WSP Golder (Browns Gap Road).

Financial (Donkey Steps)

- Budget approved - \$1,664,816
- Cost centre - 100883
- Expended to date - \$313,417
- Future potential impact – Expenditure of total \$681,036 project budget.

Financial (Browns Gap Road – Stage 1)

- Budget approved - \$2,144,233
- Cost centre - 100899
- Expended to date - Nil
- Future potential impact - Full expenditure of \$1,032,216 project budget.

13. Council Committee Reports

13.1. COMM - Community Development Committee Minutes - 12 December 2023

Strategic Context for this matter:

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: Matthew Johnson – Manager Community and Culture

Responsible Officer: Shaun Elwood - Director People and Place

Executive Summary

The Community Development Committee last met on 16 January 2024. This report overviews the matters discussed. The report also includes a copy of the Minutes from the meeting and a confidential attachment on the Australia Day Awards (as attachments to the report).

Administration's Recommendation

THAT Council

1. Note the minutes of the Community Development Committee meeting held on 16 January 2024.
2. Note nominations received, and category winners for the 2024 Australia Day Awards.
3. Re-allocate \$5,000 currently allocated to Showground and Civic Ballroom fee waiver packages but not used to date, to the Round 2 allocation, thereby increasing the amount available for Round 2 to \$10,259.
4. Provide \$10,200 Round 2 Financial Assistance to the following twelve (12) projects:

Financial Assistance: Round 2 Recommendations		
Organisation	Project and description	Recommended Amount
The Glen Museum Assoc. Inc.	To engage a recognised expert to assess the museum collection.	\$1,200.00
Rainbow Lithgow auspice by LINC.	IDAHOBIT Celebration	\$400.00
Lithgow Cares	Community Fun days	\$1,200.00
Wallerawang /Lidsdale Progress Association.	New Year's Eve celebration at Lake Wallace	\$2,000.00
Oakey Park Residents Association OPRA.	Plantings and bollards in and around the perimeter of Zig Zag Park.	\$500.00

Portland Tidy Towns.	Portland Beautification	\$800.00
Portland District Motor Sports Club Inc/Cullen Bullen Raceway.	Aluminium bench Seats	\$700.00
Capertee Valley Landcare Inc.	Glen Davis Reserve regeneration work	\$700.00
Western Region Academy of Sport Inc.	Annual operation of the Western Region Academy of Sport (part contribution)	\$700.00
Capertee & District Progress Assoc inc	Purchase new refrigerator for the Capertee hall and waiver of lease AMT up to \$500 for 2024-25 FY	\$700.00
Lithgow/ Portland gifts for girls	Lithgow Portland gifts for girls Hygiene kits for Timor Leste..	\$600.00
First Australian muzzle loading gun, Rifle & Pistol Club inc and Lithgow Valley Archers	Reimbursement of rates	\$700.00
TOTAL		\$10,200.00

Attachments

1. CONFIDENTIAL Australia Day Award Nominations and Winners [13.1.1 - 10 pages]
2. Minutes - Community Development Committee - 16 January 2024 [13.1.2 - 11 pages]

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
 Min 23 –196 Ordinary Meeting of Council held 23 October 2023

Background and discussion

At the Community Development Committee meeting held on 16 January 2024 various matters were discussed including:

1. Update on current and planned projects within the Community and Culture Division:

- Lake Pillans Upgrades.
- Blast Furnace Lighting and performance stage.
- The successful International Day for People with a Disability held at the Library on 5 December 2023.
- A review of systems and procedures, and development of a business plan for the Union Theatre.
- Planned major maintenance works and development of a Bracey Collection exhibition at Eskbank House Museum.
- Lithgow Library was a recipient of a Highly Commended Award for Outstanding Community Organisation at the 2023 awards.
- Progress with the current Library refurbishment, funded through a State Library Grant.
- There has been excellent attendance at children’s programs in the library.

2. Round 2 Financial Assistance Applications

Council called for applications during October 2023 from not-for-profit community organisations for Round 2 Financial Assistance, with 15 applications to the value of \$48,995 received.

The Committee noted that \$25,557 has been allocated by Council for Round 1, and that only \$5,259 of this remains for allocation under Round 2. The Committee therefore recommends that a further \$5,000, allocated to Showground and Civic Ballroom fee waiver packages but not used to date, be made available for Round 2. This increases the amount available for Round 2 to \$10,259.

Assessment criteria considered by the committee included the extent to which the project meets community needs, the demonstrated experience of the applicant, the extent of collaboration with other services and whether the project promotes inclusion and diversity.

Financial Assistance: Round 2 Applications and Recommended Amounts			
Organisation	Project and description	Requested Amount	Recommended Amount
The Glen Museum Assoc. Inc.	To engage a recognised expert to assess the museum collection, to inform future decisions regarding resources and identifying items of national/regional/local importance to Portland.	\$3,000.00	\$1,200.00
Wallerawang Lidsdale Progress Association.	Refurbishment of Mines Transport-Lake Wallace Playground	\$3,000.00	\$0.00
Rainbow Lithgow auspice by LINC.	IDAHOBIT Celebration To celebrate the International Day against homophobia, biphobia and transphobia. Event held in Portland. Brings together musicians, artists, performer and community organisations in a day of celebration, education, and solidarity.	\$3,000.00	\$400.00

Lithgow Cares	Community Fun day Community fun days enable Lithgow Cares to continue its program of building a sense of community by providing a free community fun day in September 2024. In previous years these have had fantastic attendance from both community services and locals.	\$4,050.00	\$1,200.00
Wallerawang /Lidsdale Progress Association.	To bring community together for a free family day and New Year's Eve celebration at Lake Wallace with rides, music facepainting, balloon artist and fireworks. Stalls that sell local and handmade produce.	\$6,000.00	\$2,000.00
Oakey Park Residents Association OPRA.	Plantings in and around the perimeter of Zig Zag Park and the installation of fencing and/or bollards to restrict vehicular access.	\$3,000.00	\$500.00
Portland Tidy Towns.	Portland Beautification Ongoing beautification of Portland Township, gardens, streetscape, planters.	\$3,000.00	\$800.00
Portland District Motor Sports Club Inc/Cullen Bullen Raceway.	Aluminium bench Seats The club has purchased 2nd hand aluminium single tier bench seating. We would use the grant to make concrete bases so we can bolt the seats down.	\$3,000.00	\$700.00
Capertee Valley Landcare Inc.	Glen davis Reserve regeneration work To support safer access to the site, through regular plant management, to showcase regeneration efforts in a public area and provide educational and practical evidence of habitat improvement, land and weed management and specific riverbank stabilisation.	\$4,000.00	\$700.00
Western Region Academy of Sport Inc.	Annual operation of the western region academy of sport - Funding to provide opportunities and support for regional athletes, umpires, coaches and sports managers selected in WRAS programs	\$1,340.00	\$700.00
Capertee & District Progress Assoc inc	Purchase new refrigerator for the Capertee Hall and waiver of lease AMT up to \$500 for 2024-25 FY	\$1,500.00	\$700.00

		\$3,000.00	\$0.00
Lithgow/ Portland gifts for girls	Lithgow Portland gifts for girls Hygiene kits for Timor Leste. Funding will be used to pay next shipment.	\$1,500.00	\$600.00
First Australian muzzle loading gun, Rifle & Pistol Club inc and Lithgow Valley Archers	Reimbursement of rates	\$1,605.25	\$700.00
Lithgow Homeless Connect	To help reduce homelessness by connect people with services they might need. Organisation might run charitable projects.	\$8,000.00	\$0.00
TOTAL		\$48,995.25	\$10,200.00

3. Union Theatre Opera Event

The Committee discussed a written report on the Opera event held at the Union Theatre on 3 and 4 November 2023 with resulting costs and proposed strategies for future marketing and activation of the theatre.

4. Australia Day 2024

The Committee was briefed on planning for this event that will be held at Queen Elizabeth Park Lithgow from 9.00am on Friday 26 January 2024.

The Australia Day Ambassador is Mr Bruno Efoti, Director of Tradies in Sight, a not-for-profit program aimed at raising awareness of the mental health issues that are unique to tradies and providing them with information and support.

A number of new citizens will take the Citizenship Pledge.

Entertainment will be provided by Lithgow City Band and Dave James One Man Band. Lithgow Lions Club will provide food and drinks.

The Committee considered the nominations received for the Australia Day Awards and has determined the category winners. These are detailed in an attached confidential report.

5. Community Resilience Officer Report

The Committee received a written report from Council's Community Resilience Officer (CRO) on recent resilience activities.

6. Committee Meeting Schedule

The Committee determined its meeting schedule for 2024 which will be bi-monthly from 4.00-5.00pm.

Financial

- Budget approved - \$110,142
- Cost centre – Financial Assistance PJ 800158
- Expended and allocated to date - \$99,942
- Future potential impact - \$10,200

13.2. F&G - Finance Committee Meeting Minutes - 21 November 2023

Strategic Context for this matter:

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

Author: Ross Gurney - Director Finance and Governance

Responsible Officer: Ross Gurney - Director Finance and Governance

Executive Summary

This report provides a summary of matters considered at the Finance Committee Meeting held on 21 November 2023 and recommends that the Council note the minutes.

Administration's Recommendation

THAT Council note the minutes of the Finance Committee meeting held on 21 November 2023.

Attachments

1. Draft Minutes Finance Committee 21 November 2023 [13.2.1 - 6 pages]

Reference to any relevant previous minute

Min. No. 23-197 Ordinary Meeting of Council held on 23 October 2023.

Background and discussion

At the 21 November 2023 Finance Committee Meeting, the following reports were discussed by the Committee:

- **Policy 10.20 Leasing and Licencing – Categories** - The Committee discussed Category B and Category C community use licences as defined in Policy 10.20. The Committee agreed to defer the item pending the provision of additional information and the attendance of the Property and Legal Services Officer at the next Committee meeting.
- **Delegations Register** - The Committee briefly discussed the Delegations Register report. The Committee agreed to defer the item pending the provision of additional information and a more detailed discussion at the next Committee meeting.
- **2023/24 Quarter One Budget Review** - The Director Finance and Governance presented the key points included in the 2023/24 Quarter One Budget Review report.
- **2022/23 Financial Statements** - The Director Finance and Governance presented the 2022/23 Financial Statements report to the 27 November 2023 Council meeting.
- **2023/24 SRV Program Update** - The Director Finance and Governance presented the SRV Program update which was reported to the 27 November 2023 Council meeting.

The following business paper recommendation was endorsed by the Committee:

Investment Report October 2023

THAT:

1. Investments of \$53,200,000 (of which approximately \$51,850,000 is restricted) and cash of \$475,236 for the period ending 31 October 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.

Financial Implications

As detailed in the Finance Committee meeting minutes.

13.3. F&G - 30/01/2024 - Audit Risk Improvement Committee (ARIC) Minutes - 28 November 2023

Strategic Context for this matter:

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

Author: Ross Gurney - Director Finance and Governance

Responsible Officer: Ross Gurney - Director Finance and Governance

Executive Summary

This report summarises the business dealt with at the Audit Risk & Improvement Committee (ARIC) meeting held on 28 November 2023 and recommends that Council note the minutes.

Administration's Recommendation

THAT Council note the Minutes of the 28 November 2023 Audit Risk & Improvement Committee meeting.

Attachments

1. Minutes - ARIC 28 November 2023 [13.3.1 - 12 pages]

Reference to any relevant previous minute

Min No. 23-225 Ordinary Meeting of Council held on 24 October 2023.

Background and discussion

At the ARIC meeting held on 28 November 2023, the following items were presented and discussed:

- **Compliance:** The Director Finance & Governance presented the compliance report. There were no significant compliance matters to report.
- **Internal Audit:** the Committee discussed the Information Security Gap Analysis report, the need for internal customer service standards and the Procurement audit scope.
- **External Audit:** the contract auditor (Crowe Horwath) provided a verbal update on the progress of the external audit.
- **Internal Controls:** only one policy has been updated since the last meeting.
- **Fraud and Corruption:** the Committee discussed the Fraud Corruption and Control Plan.
- **Financial Management:** the Committee discussed the Quarter One Budget Review report, including the projected end of year surplus.
- **Governance:** The Director Finance & Governance presented the governance report. The Committee provided suggestions for the draft Conflict of Interest Policy and the Conflict of Interest Form.
- **Risk Management:** the Committee discussed the update of the Enterprise Risk Management Framework (ERM).
- **Service Reviews and Business Improvement:** The Organisation Performance & Communication Manager provided an update on service planning and business improvement.

- **Performance Data & Measurement:** The Organisation Performance & Communication Manager reported on plans to improve performance data and measurement.
- **Strategic Planning:** The cost of the 2024 election was discussed and noted that the cost is comparable to previous elections with CPI adjustment.

Financial Implications

As detailed in the ARIC meeting minutes.

14. 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.