



Opening of the Cullen Bullen Sewerage Treatment Plant

Business Paper

Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 27 May 2024

at 6:00 PM

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1. Acknowledgement of Country

Acknowledgement of Country

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

Declaration of Webcasting

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

2. Present

3. Apologies

4. Declaration of Interest

Ethical Decision Making and Conflicts of Interest

A guiding checklist for Councillors, officers and community committees

Oath or Affirmation of Office

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

Ethical decision making

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

Conflict of interest

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

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

There are two types of conflict:

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

with a non-pecuniary interest can choose to either disclose and vote, disclose and not vote or leave the Chamber.

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

Identifying problems

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

Disclosure of pecuniary interests / non-pecuniary interests

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

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

5. Confirmation of Minutes

Confirmation of the Minutes of the Ordinary Meeting of Council held 22 April 2024.

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

8.1. Mayoral Minute - 27/05/2024 - Passing of Rae Burton

Report by Mayor – Councillor Maree Statham

Commentary

I was very saddened to hear about the passing of Mrs Rae Burton recently. Her passing has been deeply felt by the wider community of Lithgow.

Rae was an asset to the community, dedicating over 50 years to teaching music to students, with more than 30 years at Lithgow High School. She was a mentor to multitudes of students and worked tirelessly to enrich everyone's lives with song and music.

Rae also founded the Lithgow Musical Society in 1987 and poured her heart into the society showing an unwavering commitment to bringing a little bit of Broadway to Lithgow audiences. She supported generations of musical talent within the community through directing over 110 productions with the Lithgow Musical Society and at Lithgow High School.

She inspired all until her very last days, where she was even attending rehearsals up to the Sunday before her passing for the Lithgow Musical Society's current production of 9 to 5.

Rae's dedication to the arts even extended to leading the Greater Lithgow Arts Council to support and champion all aspects of creative and performing arts within the community.

For all her enthusiasm to the arts, it is my wish that Rae Burton is honoured in our community with an appropriate memorial dedication at the Union Theatre, to forever remember the legacy she leaves behind.

I know I speak for many at Lithgow Council and within our community when I say Rae will be deeply missed. My heart goes out to Rae's family and friends during this very difficult time.

Her legacy spans many generations and will live on for many more to come. As Rae always said, 'the show must go on'.

Attachments

Nil

Recommendation

THAT an appropriate memorial dedication be made at the Union Theatre in honour of the dedication and legacy left behind by Rae Burton to the creative and performing arts of the Lithgow community.

8.2. Mayoral Minute - 27/04/2025 - Ironfest Acknowledgement

Report by Mayor – Councillor Maree Statham

Commentary

I would like to recognise the success of the recent return of Ironfest which was held at the Foundations in Portland on the weekend of 27 April 2024.

I attended the event over two days and I was overjoyed to see crowds of people from around the country descending on Portland for the event. These large-scale events really do benefit our local economy.

The theme for this year's event was "Staying Alive" which is telling as, after several years of hiatus, Ironfest is back and just as vibrant as ever. A huge congratulations to all involved, I look forward to seeing the festival grow in 2025.

Council continued its ongoing support of key local events by providing \$20,000 sponsorship to the organisers to assist in the successful staging of Ironfest 2024.

Attachments

Nil

Recommendation

THAT Council note the Mayoral Minute on Ironfest 2024.

9. Notices of Motion

9.1. Notice of Motion - 27/05/2024 - Tarana Roads – Community Meeting

Report by Councillor Steve Ring

Background

On May 10 the Lithgow Mercury reported on community concerns regarding the maintenance of roads within the Tarana Area.

Tarana is on the edge of the Lithgow LGA and borders both Bathurst and Oberon Councils and in locations like this – communities often feel forgotten by their local Council. This is clearly the position with the residents of Tarana as reported by the Lithgow Mercury.

Councils comment reported in the Mercury refers to an additional \$2 million dollars in disaster funding to be used over a four-year period to 2026/27. What is not referenced is the application under NSW Government Disaster Funding for approximately \$750,000 for Sodwalls Road.

I met with residents on the 9 May at Tarana and was presented with the attached petition requesting council to undertake serious repairs and ongoing maintenance of district roads.

Commentary

The Administration have clearly invested a lot of resources into the preparation and recording of disaster funding claims to fund repairs to our roads. However, it appears that in doing so that less attention has been paid to remediating what can only be described as large potholes.

On the 26 August 2023 a community meeting was held at Glen Alice to discuss the Councils Roads Repair Programme for the Tarana and to hear the communities' concerns and feedback. A similar meeting needs to be held for the residents of Tarana.

Attachments

1. Redacted petition to improve the Tarana Road network. [9.1.1 - 13 pages]

Recommendation

THAT the Administration organise a public meeting at Tarana to discuss council's road repair program and listen to the communities' concerns prior to the June Council meeting. That the meeting is attended by the General Manager, Mayor and Director Infrastructure & Economy and any other Councillors who may be available.

Management Comment

The following update is provided regarding the restoration and maintenance of roads within the Tarana Area. A further verbal update will be provided at the 27 May meeting.

- Road maintenance was undertaken over the weeks of 6 May and 13 May.
- These works were inspected to ensure an acceptable work standard.
- The roads will be proactively driven every 4 weeks by the Jetpatcher, ensuring the Council keeps on top of maintenance, within the Council's available resources.

- An application has been submitted for \$3.5M natural disaster funding for the restoration of Sodwalls Road, including the repair of over 200 defects.
- The council has been advised that consideration of funding approval will be fast tracked by Transport for NSW, with preliminary approval expected by 24 May. Council staff continue to advocate for urgent attention to this application.
- A tender has been run for this project, with works awarded to a local contractor. No further procurement needs to occur, allowing for a prompt commencement of restoration works once funds are approved by Transport for NSW.

The Administration will provide regular updates to the community through its online portal. It is not considered that a public meeting is required as works and funding approval should progress in a concise timeframe.

Should any member of the public wish to know more about Council's disaster recovery, further information can be found using the following website: <https://council.lithgow.com/projects/disaster-recovery-projects/>. Alternatively, Council's engineers can be contacted by phone or email on 02 6354 9999 or council@lithgow.nsw.gov.au

10. Questions with Notice

10.1. Question on Notice - 27/05/2024 - Cr S Ring - La Trobe Valley Inspection

Report by Councillor Steve Ring

Commentary

Nil.

Attachments

Nil

Recommendation

THAT the Administration provide a breakdown of the La Trobe Valley visit inclusive of:

Councillors in attendance.

Staff in attendance.

Vehicle cost inclusive of hire and council vehicles.

Airline cost.

Motel cost.

Catering – food and drink.

Miscellaneous cost.

And if all participants will be preparing reports to be tabled at the June Council meeting?

Management Response

The Latrobe Valley visit is the subject of a separate (late) Council report for the 27 May meeting, pre-planned for immediate reporting to Council.

The report will include a response to each item listed in the question on notice.

11. Administration Reports

11.1. Caring for Our Community

11.1.1. P&P - 27/05/2024 - Tender 05/24 - Blast Furnace Projection Lighting and Electrical Upgrades

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.

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

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

Author: Matthew Johnson – Manager Community and Culture

Responsible Officer: Shaun Elwood - Director People and Place

Executive Summary

This report provides details of the evaluation process that has been undertaken for Tender 05/24 for Blast Furnace projection Lighting and Electrical Upgrades and recommends that Council award the tender to Frontier Assembly Pty Ltd for the sum of \$429,006 GST inclusive, \$390,005 ex GST. The works are grant funded through Round 5 of the NSW Government's Stronger Country Communities Fund and Council's S7.12 contributions plan.

Administration's Recommendation

THAT Council:

1. Note the tender evaluation for Tender 05/24, Blast Furnace Projection Lighting and Electrical Upgrades.
2. Award the tender to Frontier Assembly Pty Ltd for the sum of \$429,006 GST inclusive, \$390,005 ex GST.
3. Authorise the General Manager to execute the contract on behalf of Council under delegated authority.

Attachments

1. CONFIDENTIAL Blast Furnace Lighting Tender Evaluation- Scoresheet [11.1.1.1 - 3 pages]

Reference to any relevant previous minute

Nil.

Background and discussion

In recent years, Council has undertaken major upgrades of the Lithgow Blast Furnace site – the location of the first modern iron smelting works in Australia. These works have included viewing platforms, elevated walkways, landscaping and carpark upgrades. Blast Furnace has since become a very popular attraction for local residents and visitors and the location for the annual LithGlow event.

Council commissioned Point of View (now FireFly Point of View) lighting designers to develop a lighting concept design for the site. Stage 1 of the design, installed in 2017/18, included wayfinding and safety lighting (with bollard lights), handrail lights and carpark lighting.

With receipt of additional grant funding in 2022/23, Council engaged FireFly Point of View to update the Stage 2 lighting concept plan, which formed the subject tender 05/24, and involved the installation of a programmed light projection system that will illuminate and create light shows of the blast furnace ruins for local people and visitors. Additional bollard wayfinding lights will also be installed. Council also engaged Star Electrical to develop the electrical plan and specifications for the work.

Lithgow Blast Furnace is a state listed heritage site and works and Section 60 Heritage consent has been obtained for the works. The works will be supervised by a heritage specialist.

Tender Process

A Tender Evaluation Panel (TEP) was formed prior to Tender opening, consisting of the following staff:

Name	Position	Role on TEP
Shaun Elwood	Director People and Places	Chair
Matthew Johnson	Community and Culture Manager	Member
Verity Brookes	Community and Cultural Development Coordinator	Member
James Gilbert	Purchasing Coordinator	Member

Council called for open tenders on 27 March 2024, with two (2) responses received by the tender closing time, 10:00am Thursday 2 May 2024, from the following companies:

- Star Electrical, and
- Frontier Assembly.

Star Electrical and Frontier Assembly both attended the 10 April 2024 mandatory site inspection / briefing meeting. The mandatory requirement to attend this meeting was stipulated by Council due to the specialised lighting specifications and Blast Furnace being a State Listed Heritage Site.

At the tender opening, it was found that the tender submission from Frontier Assembly was incomplete. Their submission included a total price but not itemised price breakdowns, nor were the required response schedules including an itemised budget, company experience and history and work program submitted.

Council staff immediately contacted Frontier Assembly who advised that they understood that they had submitted all documents and provided a date and time stamped Tender Submission receipt in support of this. However, the receipt did not specify whether a full or incomplete submission was lodged. Frontier Assembly then lodged the full submission via email to Council 55 minutes after tender close and then, on request from Council after seeking advice from Vendor Panel, through the Vendor Panel Tender site approximately 2 ½ hours after the 10.00 a.m. tender close time. The

total itemised price shown on the full submission was identical to the total price lodged prior to tender close.

This matter has been considered by Council staff in relation to Clause 176 of the Local Government (General) Regulation 2021 that provides for tender submissions to be varied by correcting a mistake or anomaly as follows (in part):

176 Tender Submissions may be varied in certain circumstances

(1) At any time before a Council accepts any of the tender submissions it has received for a proposed contract, a person who has submitted a tender submission may, subject to subsection (2), vary the tender submission -

(b) by correcting a mistake or anomaly

Subsection (2)

Such a variation may be made either:

(a) At the request of the Council

(b) With the consent of the Council at the request of the tenderer, but only if in the circumstances, it appears to the Council reasonable to allow the tender to provide the information or correct the mistake or anomaly.

The Tender Evaluation Panel has accepted that the failure to lodge a full submission by the closing time was an inadvertent mistake by the tenderer and has therefore accepted and scored the Frontier Assembly tender submission.

Tender Evaluation

The TEP reviewed the submissions and met on 7 May 2024 to discuss the proposals.

In accordance with the tender evaluation plan, the tender responses were evaluated based on the following criteria:

- Price 50%,
- Demonstrated experience and past performance 30%,
- Understanding of the requirement 10%, and
- Work program, licenses and insurances 10%.

The table below provides a summary of the TEP's scoring against the evaluation criteria:

Tender Company	Price Score (out of 50)	Non-Price Score (out of 50)	Overall Score (out of 100)
Star Electrical	43.4	45	88.4
Frontier Assembly	50	41	91

A copy of the detailed evaluation has been provided to Councillors with this report as a confidential attachment. Please note that the attachment contains information that is commercial-in-confidence.

The Frontier Assembly submission achieved the highest price score, Star Electrical achieved the highest non-price score and Frontier Assembly achieved the highest overall score.

Star Electrical was awarded the highest non-price score as it was engaged by Council to develop the electrical plan and specifications for the work based on the FireFly Point of View concept design and would therefore have a good understanding of Council's requirement for the works.

The Tender Evaluation Panel recommends however that the tender be awarded to Frontier Assembly for the following reasons:

- Their submission achieved the highest price score, consistent with the available funds and the highest overall score, and
- Their submission demonstrated a good understanding of the project requirements, experience working on a heritage site, and identified an experienced electrical sub-contractor to undertake the work.

Two of the principal Frontier Assembly team previously worked for Steelworks Engineering, who installed all the steel walkways and platforms at Blast Furnace in 2017/18, the Adventure Playground mining tower in 2018/19 and the Hassans Walls boardwalk in 2014. Frontier Assembly also identified a number of other recent public infrastructure projects including the Casino to Bentley Rail Trail bridges and the Snowies Iconic Walk Stage 4 in Kosciusko National Park.

Frontier Assembly primarily undertakes public infrastructure projects, as listed above. They have engaged Lined Electrical as the major sub-contractor for this project. Lined Electrical has provided examples of several large-scale electrical projects they have undertaken, although none that are similar to Blast Furnace. Star Electrical also did not provide examples of similar work.

Frontier Assembly has worked with Lined Electrical on a number of projects. Frontier Assembly will have a full-time Project Manager responsible for contractual matters and site supervision. Lined Electrical will provide an electrical team on-site and will work with the Frontier Assembly Project Manager and earthworks team, who will undertake all trenching and concrete works.

The lighting concept design and the electrical reticulation design and specifications are complete, and FireFly Point of View have been engaged by Council to consult during the installation process. For these reasons, the Tender Evaluation Panel considers that a competent electrical sub-contractor and a principal contractor with extensive heritage and public infrastructure experience can undertake this work.

Council has received grant funding of \$415,000 for this project through Round 5 of the NSW Government's Stronger Country Communities Fund. In addition to the lighting, which is the subject of this tender, the funding deliverables include installation of a permanent performance stage which has been designed and received heritage approval. Quotations have been obtained for the performance stage, however, in view of the higher-than-expected lighting costs, the performance stage will be deferred to a later date when additional funds become available.

Referees have been contacted as follows:

Frontier Assembly

Frontier Assembly undertook civil construction works in 2022/23 for the NSW National Parks and Wildlife Service in the Kosciuszko National Park including construction of elevated steel boardwalks. Their nominated referee in the National Parks and Wildlife Service has reported that they were happy with quality of work, environmental management, management of relationships with the client and others, as well as workplace health and safety. The referee reported that there were some price variations, both client and contractor initiated, that lacked sufficient justification and evidence.

Frontier Assembly undertook civil construction works in 2022/23 for the NSW National Parks and Wildlife Service in the Dorrigo National Park including construction of structural steelwork steel, roofing and timber construction work. boardwalks. Their nominated referee in the National Parks and Wildlife Service has reported that they were very happy with the quality of Frontier Assembly's work and commitment to the job in sometimes difficult environments. Frontier Assembly have since been awarded a further tender by the client.

Lined Electrical

Aeris Resources, a Queensland based Mining Company gave a very favourable report on Lined Electrical, saying that they undertook a number of projects for Aeris Resources including solar installations and electrical work at the Cracow Community and Heritage Centre.

Aeris Resources advised that Lined Electrical are a very professional company that worked to a very high standard. Their safety procedures were also very high, as they need to be on a mining site.

Policy

The tender process was undertaken in accordance with Policy 1.4 - Tendering and Policy 1.7 - Local Procurement.

Legal

The subject matter of this report is a function of Council conferred by Section 55 of the Local Government Act 1993 and Part 7 the Local Government (General) Regulation 2021.

Risk Management

Council's Project Manager has undertaken a risk assessment of the project and identified real and perceived risks. Treatment strategies have been applied. The risk register will be updated over the course of the project.

Financial

- Budget approved - \$415,000 Grant funding plus \$32,274 Section 7.12 funds, total \$447,274 (2023/24 approved budget, \$367,274 rephased to 2024/25).
- Cost centre – PJ 600313
- Expended to date - \$43,106 for planning and design.
- Future potential impact - \$390,005 for works to be undertaken through this tender, in addition to heritage supervision fees and contingencies.

Consultation and Communication

The proposed works were included in the exhibited 2023/4 Operational Plan.

11.1.2. P&P - 27/05/2024 - Beatlesfest Event Assistance Application

Strategic Context for this matter:

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

Author: Simon Francis - Tourism Manager

Responsible Officer: Shaun Elwood – Director People and Places

Executive Summary

Beatlesfest organisers have approached Council to seek \$30,000 in sponsorship and in-kind contributions from Council for the Beatlesfest 2024 event. Council committed sponsorship funds of \$16,510 to the inaugural Beatlesfest 2023 event.

The administration's recommendation is for Council to provide direct cash sponsorship in 2024 of \$20,000, with consideration of additional in-kind contributions from Council as the event planning progresses.

Anecdotal evidence for the Beatlesfest 2023 indicated that the event generated increased visitor spend and regional dispersal, including accommodation bed nights. Festivals and events usually take between three to four years to become established, so Council support is important to establishing the vision of Beatlesfest rising to emulate the economic and visitor figures of the Parkes Elvis Festival.

Administration's Recommendation

THAT Council:

1. Approve a \$20,000 cash sponsorship of Beatlesfest from the 2024/25 large events budget.
2. Note that a sponsorship agreement will be entered, should Council approve funding.

Attachments

Nil

Reference to any relevant previous minute

Min. No. 23-126 Ordinary Meeting of Council held on 24 July 2023.

Background and discussion

At the 24 July 2023 Ordinary Meeting of Council, an allocation of \$16,510 was approved for Beatlesfest, funded from the Large Scale Events Attractions Program (600337). The 2024 approach from the Beatlesfest organisers took place outside of the normal budget timeline, with the Events Attractions budget being the recommended source of funds. A detailed submission has been received from Beatlesfest describing the event's proposed growth strategy and the multi-stakeholder structure. The event would be held the last weekend in September, Friday 27 September to Sunday 29 September 2024, to attract visitors to stay for multiple days. Economic benefits from events are strongly derived from the multi-night generation of accommodation bed nights.

Statistical data from CommbankIQ showed a spike in spending across the event town locations over the 2023 Beatlesfest period, which bodes well for growth of the Beatlesfest concept and initial

forward trajectory of the brand. Strong uptake for 2024 from stakeholder businesses is a vote of confidence in the concept of Beatlesfest. This signals crucial industry support in Beatlesfest's ability to grow over the coming years, to become a major regional festival to rival Parkes Elvis Festival for community and business engagement, economic return encompassing increased visitor nights, regional dispersal and brand recognition.

In 2024/25 Beatlesfest have requested sponsorship and in-kind contributions from Council to a total of \$30,000.

The administration's recommendation is that Council provide direct sponsorship, and that third party services are engaged, coordinated, and paid for directly by Beatlesfest with Council sponsorship. Council in-kind contributions will be costed into the \$30,000 allocation. Direct cash contribution is recommended to be \$20,000.

A sponsorship agreement will be entered with Beatlesfest. Recognition of Council sponsorship will be required on all marketing and promotional collateral and promotional exercises by Beatlesfest. Specific data collection to provide economic and destination impacts will be developed and required.

Return on investment for Beatlesfest 2024 will revolve around additional bed nights, as identified in the draft Destination Management Plan 2024-2030 and the requirement to increase the average visitor overnight stays from 2.3 to 2.8 by 2030.

It is recommended that Council support events such as Beatlesfest, that present a compelling and data backed case for increasing direct and indirect investment into the visitor economy and wider economy of the local government area.

Consultation and Communication

Beatlesfest organisers have approached the Council executive with a proposal of sponsorship and in-kind services. Council have received the communication and assessed the proposal, resulting in an assessment of the costs of services identified in the communication from Beatlesfest, and the in-kind contributions.

Policy

N/A

Legal

N/A

Risk Management

N/A

Financial

- Budget approved - \$250,000 total included in the draft 2024/25 budget for Major Events.
- Cost centre – PJ 800026.
- Expended to date – nil.
- Future potential impact – N/A

11.2. Developing Our Built Environment

11.2.1. I&E - 27/05/24 - Road Naming Proposals - Yesteryears Lane and Casino Way, Portland

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: Leanne Kearney - Assets and infrastructure Planning Manager
Responsible Officer: Jonathon Edgecombe – Director Infrastructure and Economy

Executive Summary

This report proposes that the two (2) new roads created as part of Subdivision DA15/22 (The Foundations) be named Yesteryears Lane and Casino Way, if supported after a twenty-eight (28) day public exhibition period.

Administration's Recommendation

THAT, in accordance with Council's Policy 10.10 Addressing, Road Naming & Locality Naming, Council advertise the road names "Yesteryears Lane" and "Casino Way", Portland in local newspapers and notify emergency authorities and residents in the area, calling for submissions to be made for the statutory period of twenty-eight (28) days after which:

- a) If no submissions against the proposal are submitted, Council proceed with the gazette process of the name and notify all resident and emergency authorities accordingly; or
- b) If submissions against the proposal are submitted, a report be furnished to the next available Council meeting for resolution.

Attachments

Nil

Reference to any relevant previous minute

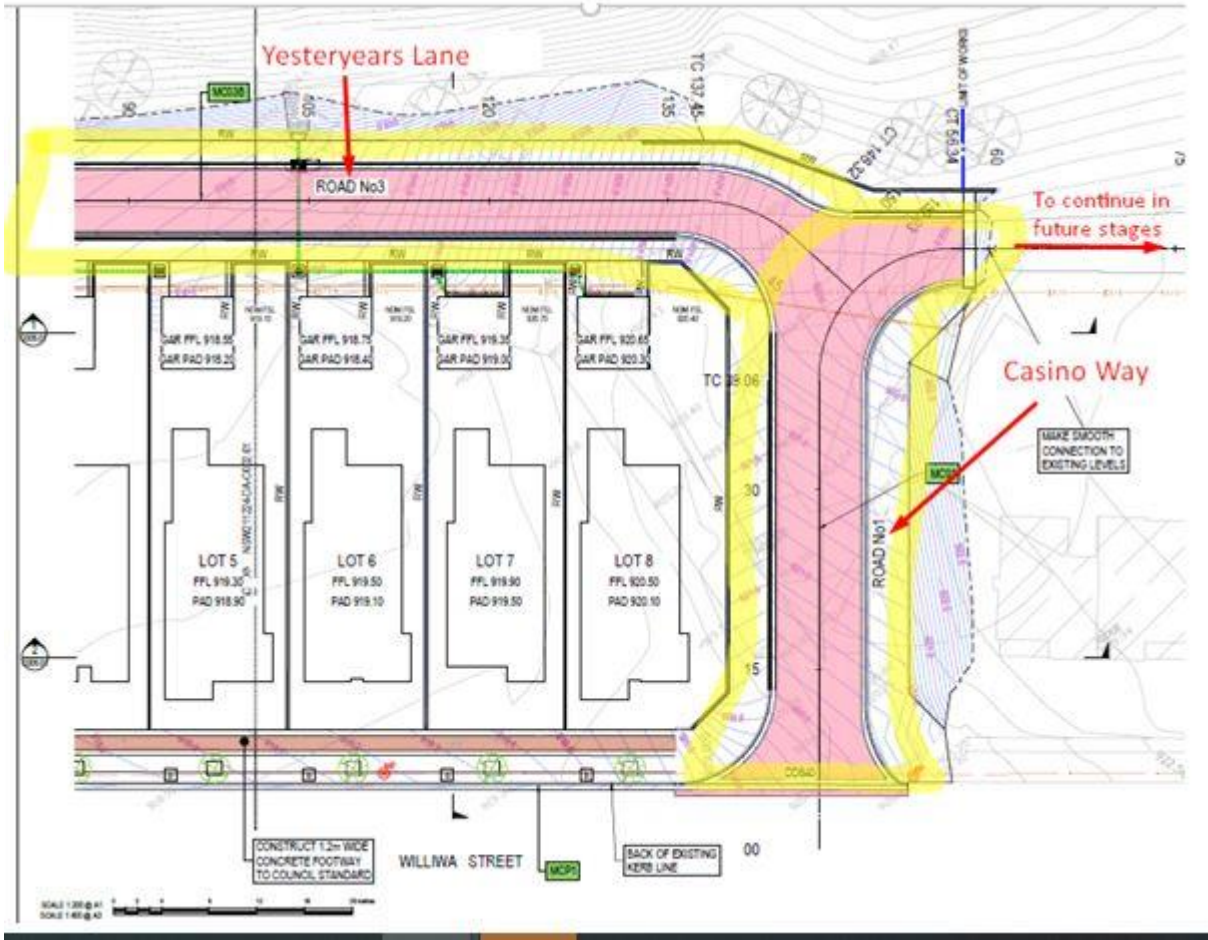
Nil

Background and discussion

There have been two (2) new roads created as part of Subdivision DA15/22 (The Foundations). In compliance with development consent conditions, the Developer has proposed for these roads to be named Yesteryears Lane and Casino Way.

Yesteryears Lane will run parallel with Williwa Street from the (proposed name) Casino Way to the end (Quarry Lake). Casino Way will run from Williwa Street also parallel to Williwa Street, in an easterly direction from the intersection.

Both names have been evaluated by the Geographical Names Board and meet all criteria for acceptance to be gazetted if adopted by Council after a standard twenty-eight (28) day public exhibition period.



Yesteryears Lane name was selected in recognition of the Signs of Yesteryear and the Wallnuts, who started in 2001, when a group of Traditional Signwriters started the Wallnuts Weekend (<https://www.portland-wallnuts.com.au/>).

Casino Way starts at the intersection with Williwa Street (at the intersection with Lett Street) and will run parallel to Williwa Street and join up with an unnamed road to be created as part of a future stage of the new subdivision.

The reason for the name Casino Way stems from an accident ward opened on-site in 1908 to care for victims of accidents on site and which was also open to the general public. It initially sat in the casino building, also called the “Officer’s Mess”. The 1910 annual report noted that this facility had already saved two lives and alleviated much suffering to those who have been injured on site. The choice of “Casino Way” serves as a tribute to the cement workers who have lost their lives and those who were injured and treated on site between 1901-1993.

Consultation and Communication

Policy 10.10 Addressing, Road Naming & Locality Naming requires a twenty-eight (28) day public notification procedure be undertaken once the proposed name meets the criteria for acceptance by the Geographical Names Board. All affected landowners need to be advised in writing of the notification period. It will be Council’s discretion to advise surrounding landowners in writing of the proposed road name where they are not directly affected.

If no objections are received as a result of the public exhibition period, the name can be adopted through the Online Road Naming System and placed in the New South Wales Government Gazette.

If objections are received or alternative names are suggested as a result of the public exhibition period, the matter will be further reported to Council and re-advertised if an alternative name is supported.

Policy

Council's Policy 10.10 Addressing, Road Naming & Locality Naming applies to this proposal.

Legal

The naming of public roads is a function of Council conferred by AS/NZS 4819: Rural and Urban Addressing Standard and the NSW Geographical Names Board Addressing User Manual (AUM).

Risk Management

No risks have been identified in relation to the proposed naming of new roads created from new development.

Financial

- Budget approved - nil
- Cost centre - nil
- Expended to date - nil
- Future potential impact – nil, if approved, supply and installation of required directional signage will be carried out at full cost to the Developer.

11.2.2. I&E - 27/05/2024 - Extension of Coxs River Road Reconstruction Project**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: Paul Creelman – Transport Manager

Responsible Officer: Jonathon Edgecombe - Director of Infrastructure and Economy

Executive Summary

The Resources for Regions Round 9 grant included \$900,000 for the reconstruction and reseal of sections of Coxs River Road and Ganbenang Road. Following a local procurement process, this report seeks Council's endorsement of the preferred contractor.

Administration's Recommendation

THAT Council awards the Coxs River Road and Ganbenang Road project to Gracey and Son Earthmoving P/L based on the submitted lump sum price for the defined scope, and the schedule of rates supplied for any additional works.

Attachments

Nil

Reference to any relevant previous minute

Min. No. 23-165: Ordinary Meeting of Council held 25 September 2023 (selection of bitumen reseal contractors for the 2023/24 financial year)

Background and discussion

The Resources for Regions Round 9 grant included \$900,000 for the reconstruction and resealing of sections of Coxs River Road. The project area runs from the Duddawarra Bridge, for 2,600 metres to the east. The works will include repairs to the road surface, re-establishment of drainage lines at the side of the road, installation of road furniture and rock armouring of the drainage lines, where required.

Prior to commencing works, a local tender was conducted through Local Government Procurement (LGP) to identify a contractor to complete the works. A local tender process was preferred due to the demonstrated value for money delivered during past projects, but also the local economic value gained by keeping significant projects local (assuming sufficient local capability and capacity).

The aim is for this work to be completed in the 2023/24 financial year, pending supply of materials and weather events.

The pavement reconstruction tender was sent to the following local civil contractors, requesting lump sum pricing:

1. Dukes Earthmoving P/L.
2. Peters Earthmoving P/L.
3. Gracey and Son Earthmoving P/L.
4. Gracey's Earthmoving and Excavations P/L.

Separate to the pavement construction tender above, the subsequent bitumen sealing of the road will be put to request for quote based on the previously approved panel of bitumen sealing companies (Min. No. 23-165), ultimately to be delivered using the same funding source.

As a result of the tender process, it was found that all companies opened and read the tender with only two responding. Responses are as follows:

1. Dukes Earthmoving P/L - read the tender but did not respond
2. Peters Earthmoving P/L - Read the tender but did not respond
3. Gracey and Son Earthmoving - read the tender, submitted pricing, and confirmed the scope of works - **\$272,129.00 plus GST**
4. Gracey's Earthmoving and Excavations P/L- read the tender, submitted pricing, and confirmed the scope of works, much higher tender price.

It is acknowledged that there is a significant variation in pricing. Council staff discussed the submitted scope with Gracey and Son Earthmoving at length, confirming that the full scope of the required works was included in their submission. After assessing the pricing and confirming that both tenders were providing the required outcomes, it is recommended that Council award the tender to Gracey and Son Earthmoving P/L.

As the closing price for the works comes well under the budget, the scope may be expanded to Ganbenang Road using the supplied schedule of rates, also supplied with this tender.

There will be minor delays on the road whilst the works are progressing, however, the road will remain open.

Consultation and Communication

The contractor has been tasked with notifying residents along this stretch of road, with Council staff verifying that this has occurred.

As a part of the tender, the successful applicant is required to notify residents a minimum 2 weeks prior to the start of works to an area 1 kilometre either side and including the area of the works. Council will issue a media release prior to commencement of the works, with the project works also to be included in Councils media pages and website as soon as a start date has been identified.

Policy

The process followed to procure services to deliver this project comply with the provisions of:

1. Policy 1.4 - Tendering
2. Policy 1.7 - Local Procurement

Legal

The subject matter of this report is a function of Council conferred by the Roads Act 1993 with Council as the road's authority for Coxs River Road.

Risk Management

Detailed Traffic Guidance Schemes will be developed for review by Lithgow City Council prior to work commencing. Similarly, all contractors will be inducted through use of its standard process.

Financial

- Budget approved – \$900,000, funded through the Resources for Regions, Round 9 grant.
- Cost centre - 100842
- Expended to date - nil
- Future potential impact – This project will reduce maintenance requirements on this section of road, extend the life of the road and will improve the safety for road users.

11.2.3. F&G - 27/05/2024 - South Bowenfels Housing Initiative Project

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: Ross Gurney - Director Finance and Governance

Responsible Officer: Ross Gurney - Director Finance and Governance

Executive Summary

The purpose of this report is as follows:

1. To provide Council with an update on the South Bowenfels Three Tree Hill Development Application (DA) for subdivision, on-site works and the project business case.
2. To present Council's commercial options for the development or sale of the site now the site is development ready.
3. To put forward a proposal for Council to proceed with a public Expression of Interest to determine the level of interest from suitable proponents to partner with Council or purchase the site.

Administration's Recommendation

THAT Council:

1. Note the updated information on the South Bowenfels housing development.
2. Proceed with a public Expression of Interest to determine the level of interest from suitable proponents to partner with Council or purchase the site.

Attachments

1. Subdivision Context Map [11.2.3.1 - 1 page]

Reference to any relevant previous minute

Min. No. 20-297 Ordinary Meeting of Council held on 23 November 2020 (Closed Council)

Background and discussion

Project Overview

Council purchased Lot 1 and 2 DP1268778 in March 2021, following consideration of a due diligence report prepared by The Treadstone Company Pty Ltd in October 2020.

The development site sits between existing and approved neighbourhoods of low-density residential character to the north and southwest with lot sizes typically above 750m² and housing forms of large single detached dwellings.

The development site and its parent lot have remained undeveloped since initial development consent granted in 2007. This led to a submission to Council's Draft LEP 2013 to provide for a different housing product at South Bowenfels, encouraged by the success of the Tree View Estate development to the south, by decreasing the lot size from the then standard of 750m² to 400m² with a General Residential zone R1. The change was subsequently endorsed by Council.

In June 2022 Council entered into a Participation Agreement with NSW Department of Planning and Environment under Stage 1 of the Regional Housing Fund and was invited to apply for Stage 2 Infrastructure Projects under the same program.

The Participation Agreement commits Council to meeting identified milestones in relation to three important strategic planning initiatives that support the NSW Housing Taskforce objectives.

The South Bowenfels Housing Initiative is one such initiative and requires Council to proceed to the submission of a development application to subdivide the land by 31 December 2022 with registration by July 2024.

Council lodged an application under Stage 2 in July 2022 to construct two pieces of infrastructure critical to the development site and other developments within the area being:

- Construction of the 300m section of the collector road linking Col Drewe Drive to the Hillcrest Extension subdivision and the development site, and
- Construction of a new sewer pump station to service the area.

Council lodged a DA for the subdivision of Lot 1 DP 1268778, having an area of 6.36ha into a new residential community/estate in December 2022.

The DA is for the subdivision of the site into 46 lots to facilitate the development of a new community of 80 dwellings. The masterplan includes a range of housing types to increase housing diversity and provide more affordable housing. These housing types includes more compact detached homes, duplexes, accessory dwellings, and multi-unit terrace style homes as permitted under Council's Development Control Plan (DCP).

The DA is for a two staged subdivision to enable the development of the site in two smaller stages providing the flexibility to reduce the capital required and the development risk (see subdivision context map included as an attachment).

Project Objectives

The broad objectives of the project are to:

- Create a new master planned residential community in a strategic location next to the Lithgow Health Precinct that demonstrates a range of housing types permitted in Council's DCP and is more aligned to the local market demand for more affordable housing options.
- Plan and design a new and innovative residential estate that meets the needs of the community and reflects current industry best practice and principles in urban design, sustainability, and social outcomes.
- Fulfil Council's obligations under a Regional Housing Fund Participation Agreement with NSW Department of Planning and Environment.

Project Update

Considerable progress has been made to facilitate the future development of the site and add value to the property by making it development ready including:

- The DA for subdivision (DA 227-22) into 46 lots was approved on 6 March 2024, and
- The construction of the collector road (link road) is nearly complete, and the sewer pump station is well underway.

Project Business Case Summary

A Business Case has been prepared for the project including a feasibility for the future development of the subdivision into 46 lots by Council.

The feasibility is based on an estimate of future costs of the subdivision works and other development contributions, including the interest cost of the finance to develop the site. The revenues are based on an agent's opinion of the lot sale prices informed by the current market conditions in Lithgow.

The business case is currently being updated. The initial feasibility demonstrates the project produces a margin on cost of 22% which is above the industry benchmark return of 20% for a project of this scale and type.

The feasibility assumes that Council is the developer and makes no allowance for stamp duty on the purchase of the site or any finance costs on the land.

Council's Commercial Options

The DA is now approved, and the enabling infrastructure (collector road and sewer pumping station) is well advanced, making the site development ready.

Council has other commercial options available to it, in addition to the option of developing the site itself. Council could sell the site as is to a developer, or it could seek to partner with a developer. These different commercial options can expose Council to different potential risks which may affect the future commercial return.

Council as a developer

While acting as a developer has the potential to produce the maximum return for Council, it also includes the risks of acting as a developer. Risks such as lack of in-house expertise, local market conditions, the rate of sale, increasing construction costs, supply chain issues and time delays due to unforeseen circumstances, such as wet weather, can have a negative effect on the Council's project return.

Council's ability to act as a developer and secure the required project funding may be limited by NSW Government policy.

Selling the site

Selling the site as a development ready project is the lowest risk option for Council with a sale providing a certain return without taking on any development risk. This may also produce the lowest return as the purchaser will need to pay for the site, stamp duty and factor in their development risks to their feasibility.

A conditional sale to a developer may increase the sale price and return to Council while still providing certainty by removing some of the risk for the purchaser. Some conditions precedent such as obtaining finance and/ or an agreed number of presales may derisk the project for a developer enough for them to consider a reduced margin and increasing the sale price.

A developer may be interested in buying Stage 1 as it is a smaller scale project. They may be interested in buying Stage 1 with an option to buy Stage 2 as it will reduce their risk and financial exposure.

These sale options could be investigated by discussing the project with some potential purchasers.

Partnering with a developer

Partnering can mean many different things. It doesn't necessarily mean a partnership in legal terms. It could be a development agreement where Council remains the owner of the land and a developer provides the development expertise and the capital to fund the project in return for a management fee, which can be performance based. The commercial options for partnering can be wide and varied with different roles, risks and commercial returns agreed between the landowner and the development partner.

The other significant issue when partnering is the selection of a partner. Like all partnerships, the quality of the partner is one of the key determinants of the success of the project. The type of entity, their experience, their capacity, and capability are all matters for consideration when selecting a partner.

Some Councils partnering with private sector developers in the past has resulted in some challenges and failures. The NSW Government has a policy about Council's partnering with developers (i.e. OLG Public Private Partnership Guidelines).

While partnering with a private sector entity could expose Council to the risk of the commercial failure of the partner and be unsuitable for Council, a government development entity such as Landcom or Land and Housing Corporation or a Community Housing Provider may be suitable.

These partnering options could be investigated by discussing the project with some potentially suitable partners.

Expression of Interest (EOI)

An EOI would allow Council to explore the sale and partnering options for the site in a formal process. An EOI would establish the probity and process to enable discussions with potential purchasers and development partners to take place.

An EOI would include the following:

Stage 1 – Industry soundings and building awareness

This will include inviting some potential purchasers and partners suitable to Council's risk position to have a meeting to discuss the project. The potential parties will be provided with a summary of the project and offered a discussion about the opportunity in confidence.

The industry feedback will then be used to inform and finalise the formal EOI process.

Stage 2 – Formal EOI

The EOI will include the following: -

- Public call for EOIs with a brochure flyer and advertisement.
- Proponents register and receive a Project Summary including a Project Background, Project Details, Key Council Objectives, Terms and Conditions of the EOI.
- Q & A via email and phone prior to registration deadline date.
- Proponents then Register to get the full project information pack (online Dropbox or data room).
- Briefing sessions with Proponents.
- Returnable scheduled with documents.
 - Offer to purchase.
 - Offer to partner.
- Social and environmental outcomes are part of the stated project objectives. The minimum being provided by recent increases in regulations and the DA approved master plan are comprehensive. Therefore, any additional social or environmental benefits being proposed by proponents above the minimum regulations (e.g. BASIX now 7 star) and the master plan DA requirements that are being subsidised by the project or a reduction in the site value must be justified and explained, including costings.

Should Council resolve to proceed with an EOI, it is anticipated that the results of the EOI will be reported to the new Council in November 2024.

Consultation and Communication

N/A

Policy

Nil.

Legal

Considered as part of the project business case.

Risk Management

Considered as part of the project business case.

Financial

- Budget approved - Management Services to Prepare DA – \$238,310, Biodiversity Assessment & Site Survey - \$21,599.
- Cost centre – PJ 400199
- Expended to date - \$253,231
- Future potential impact - to be determined based on the options included in the project business case (including financial modelling).

11.3. Strengthening Our Economy

11.3.1. P&P - 27/05/2024 - Adoption of Seven Valleys Destination Action Plan

Strategic Context for this matter:

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

Author: Simon Francis - Tourism Manager

Responsible Officer: Shaun Elwood – Director People and Places

Executive Summary

The draft Seven Valleys Destination Action Plan was brought to the 25 March 2024 Ordinary Meeting of Council to be placed on public exhibition.

Following approval to proceed, the draft Seven Valleys Destination Action Plan (DAP) was placed on public exhibition for 28 days. 19 submissions were received, with constructive feedback and suggestions for plans, strategies, and projects post the adoption of the DAP. Minor amendments will be made to the March 2024 Draft DAP to reflect feedback received as part of the submission process. Adoption of the DAP, with the inclusion of the post exhibition amendments (Table 1 below) is now recommended.

Administration's Recommendation

THAT Council:

1. Note the outcome of the public exhibition process and the recommended changes to the document as a result.
2. Adopt the Seven Valleys Destination Action Plan 2024–2030.

Attachments

1. SV DAP - Penultimate Draft - V 2 [11.3.1.1 - 56 pages]

Reference to any relevant previous minute

Min. No 24-64 Ordinary Meeting of Council held on 25 March 2024.

Background and discussion

Following consultation and engagement meetings with industry and Council during 2023, the development of the Seven Valleys Destination Action Plan reached its final draft stage in March 2024. The 25 March 2024 Ordinary Meeting business paper presented the Draft DAP and summarised the document. The resolution from the 25 March Ordinary Meeting was to place the DAP on public exhibition (for 28 days).

Consultation and Communication

The DAP was placed on public exhibition for 28 days through the 'Our Place, Our Future' website and 19 submissions were received, 16 through the website and 3 through direct email.

Five specific questions were asked of respondents to best enable constructive feedback on the document and to inform the next stages of tourism destination planning for the LGA. Those questions were:

1. Please outline why you have an interest in the Destination Action Plan, for example do you have a role within the Tourism Industry or are you involved with a community organisation.
2. Please provide your feedback on any aspect of the Draft Seven Valleys Destination Action Plan.
3. Do you have a perspective on Civic Pride?
4. As a resident of the Lithgow Local Government Area, what makes you feel most proud?
5. As a resident of the Lithgow Local Government Area, what makes you feel least proud?

Following the closing date, all submissions were reviewed and relevant points requiring addition or amendment of the DAP identified. Most points requiring amendments or minor changes to the DAP were received from answers to question 2.

The following table lists the amendments recommended to the exhibited DAP.

Table 1: Amendments recommended to the Destination Action Plan following public exhibition

Point	Action	Page	Comment
Visitor Management Strategy	On page 25 an action will be added to 1.3 that says, "LCC to conduct monitoring of tourism impacts, particularly at a site-specific level, to inform future mitigation strategies that address potential impacts from unbalanced tourism."	Page 25	At this stage, a Visitor Management Strategy is not a current priority for LCC. However, we recognise through this action the importance of sustainable destination management.
Birdwatching	A new dot point will be added to 2.1 which says; "Elevating nature-based and special interest activities, including bird watching, rock climbing, as well as recreational boating and fishing."	Page 28	
Recreational Fishing	A new dot point will be added to 2.1 which says; "Elevating nature-based and special interest activities, including bird watching, rock climbing, as well as	Page 28	

	recreational boating and fishing.”		
Waterways Plans	Three plans will be added to page 7: <ul style="list-style-type: none"> • Lake Pillans Restoration project • Lithgow Water Supply Management Plan • Lake Wallace Plan of Management 	Page 7	Lake Pillans Restoration project. Lithgow Water Supply Management Plan. Lake Wallace Plan of Management.
Project development detail and cost.	Secret Creek Wildlife facilities and native animal hospital, Visitor centre and walking track Value: \$2,500,000 Source: Bushfire Recovery Grants and private funding	Page 8	
Reference to Wiradjuri Country	The word “Wiradjuri” will replace the word “Aboriginal” on page 28.	Page 28	
Inclusion of World Heritage Area listing	A sentence will be added to the last dot point on page 12 which says, “The importance of this is further reinforced by the diverse and outstanding natural values of the Lithgow LGA, including the incorporation of parts of the Greater Blue Mountains World Heritage Listing within the LGA.”	Page 12	

All submissions contained detailed and informative suggestions for future actions, post the adoption of the DAP, including perspectives on civic pride, the ‘Seven Valleys’ brand, and ideas for future projects.

The changes recommended in Table 1 will be included in the finalised Seven Valleys Destination Action Plan 2024 – 2030.

Respondents to the public exhibition will be notified of changes and additions arising out of their feedback.

Policy

N/A

Legal

N/A

Risk Management

N/A

Financial

- Budget approved - \$50,000
- Cost centre - 600310
- Expended to date - \$50,000
- Future potential impact – Nil

11.3.2. F&G - 27/05/2024 – 2023/24 Quarter Three Budget Review

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: Craig Butler - General Manager

Executive Summary

This report provides the Quarterly Performance Report on the 2023/24 Operational Plan for the period of 1 January 2024 to 31 March 2024 with a recommendation that variations to income, expenditure and capital budget estimates are adopted and that the revised financial result of a \$2M consolidated operating surplus (before capital grants) be noted.

The Director Finance & Governance, as Responsible Accounting Officer, has reviewed the report and advises that Council's projected financial position at 30 June 2024 will be **satisfactory** compared with the original budget.

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

Administration's Recommendation

THAT Council:

1. Note the contents of the report and the projected consolidated operating result (before capital) of \$2M surplus for the 2023/24 Operational Plan as detailed in the Quarterly Budget Review Report for the period 1 January 2024 to 31 March 2024.
2. Note the commentary on the capital expenditure budget, cashflow and reserve balances.
3. Adopt the income, expenditure and capital budget variations to the 2023/24 Council budget as outlined in the attached Quarterly Budget Review Report.

Attachments

1. March 2024 Quarterly Report [11.3.2.1 - 19 pages]

Reference to any relevant previous minute

N/A

Background and discussion**Commentary**

The Director Finance & Governance, as Responsible Accounting Officer, has stated in the Quarterly Performance Report that Council's projected financial position at 30 June 2024 will be satisfactory, having regard to the original budget position.

Council's projected position at 30 June 2024 has changed from an operating result (before capital) of \$13.6M surplus (original budget) to an expected \$2M surplus (Quarter Two review). The

following factors were considered in determining Council's projected financial position at 30 June 2024 to be satisfactory:

1. The main reason for the change in Council's projected operating result (before capital) from original budget \$13.583M surplus to \$2M surplus relates to natural disaster claim income. Nett \$10.2M of natural disaster claim income has been removed from operating income pending approval of restoration works projects which have been rephased to 2024/25 or reclassification of 2023/24 expenditure to capital.
2. \$670K of salary savings have been taken in Quarters One and Two. Due to recruitment of vacant positions and use of overtime to ensure service delivery, employment costs are on budget at 31/3/24.
3. \$955K of additional investment income is expected and nett (\$1.48M) of material and contract budget adjustments have been made. The additional income and cost budget adjustments offset further salary savings which were not available at 31/3/24.

The Council continues to implement the 2023/24 Financial Sustainability Plan actions through the remainder of the year with identified budget savings / additional revenue of \$3.9M on target for the full year.

Financial Impacts of Natural Disaster Works on the Operating Result

The 26 June 2023 report to Council on the Operational Plan noted:

Included in the budget consolidated income is \$11.337M of natural disaster income. Excluding this income, the 2023/24 budget consolidated operating result (before capital) is \$2.246M.

Following a comprehensive review of 2023/24 natural disaster projects, \$10.2M of capital natural disaster restoration project budgets were removed from the original budget, pending NSW Government approval or following reclassification of 2023/24 expenditure to capital. \$1.1M budget has been retained or included for actual 2023/24 expenditure.

If Quarter Three total operating natural disaster expected claim income of \$1.13M is excluded, the 2023/24 projected budget consolidated operating result (before capital) is \$896K, a similar result to Quarter Two. This includes net (\$199K) of operational carryovers.

Much of the natural disaster claims income is classified as "operating grants" whilst the majority of the expense is in the capital works program due to the nature of the works being asset renewal. Asset renewal works are expensed over the useful life of an asset via depreciation. To a lay observer, this accounting treatment appears to suggest a positive result because of an increased surplus.

In September 2023, Council received a \$13.8M payment for outstanding natural disaster claims. The payment was for works completed and claims lodged, including claims yet to be processed by Transport for NSW.

Council is currently awaiting approval of Essential Public Asset Restoration (EPAR) projects to recommence natural disaster works. Council must await approval to ensure that the cost of works is claimable. Council will be seeking advance payment for the cost of works, once approvals are granted. Approvals have been granted for Browns Gap Road (\$5M phased over 23/24 and 24/25) and Glen Davis Road (\$947K due to be completed by 30/6/24).

Budgets have been added for 2022/23 claimable natural disaster emergency work invoices paid in 2023/24 (Donkey Steps Road Construction, Coxs River Road, Turon Gates / Red Hill recovery works and Baaners Lane).

Summary of the January to March Quarterly Budget Review Report

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

Budget	Result (before capital)
	\$'000
Original Budget	13,583
September Review	15,101
December Review	7,189
March Review	2,026

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

Projected total revenue to 30 June 2024 has increased by \$1.736M during Quarter Three, mainly due to the following reasons:

- \$307K investment revenue increase due to higher interest rates and \$13.8M natural disaster claim payment.
- (\$5.3M) change in recognition of natural disaster funding from operational to capital for Glen Davis Road, Browns Gap Road and Wolgan Road.
- (\$1.3M) rephasing of LRCI Phase 4 - projects and income programmed for 2024/25.
- Net \$2.686M increase in capital grant income (further details in the Capital Expenditure Budget section below).

Projected total operating expenditure to 30 June 2024 has decreased by (\$1.06M) during Quarter Three, mainly due to the following reasons:

- \$135K increase in employment costs, mainly due to an \$87K budget increase for recruitment costs due to greater use of agencies to recruit professional staff.
- (\$1.199M) decrease in materials and contract budgets, mainly due to a (\$483K) transfer to reserve to build the Transitions Management fund (SRV funding) and (\$681K) reallocation of funds to a capital project for Donkey Steps Fire Trail works.

The nett effect of the increase in projected total revenue, together with the decrease in projected total expenditure is a change in the expected consolidated operating result from a surplus of \$16.4M (Quarter Two review) to a surplus of \$19.2M at 30 June 2024 (including capital grants and carryovers).

Projected End of Year Result (Before Capital)

The operating result before capital grants is a key Office of Local Government performance measure with a benchmark of a balanced operating result (i.e. nil surplus / deficit). Capital grants are excluded from the performance measure as they do not contribute towards funding Council's operations. Council's revised consolidated operating result (before capital grants) at 30 June 2024 is projected to be a 2M surplus, which is above the OLG benchmark. While the surplus amount is

largely attributable to the extraordinary natural disaster events, even if those events are excluded, the benchmark is still met.

At the end of Quarter Three 2023/24, it is projected that the General Fund will have a deficit (before capital grants) of (\$79K) at 30 June 2024. The Water Fund is forecast to have a surplus (before capital grants) of \$899K and the Sewer Fund is forecast to have a surplus operating result (before capital grants) of \$872K.

Capital Expenditure Budget

The final original budget for the 2023/24 Capital Works Program was \$52.477M. \$3.162M of carryovers were added to bring the total program to \$55.639M.

The 26 June 2023 report to Council on the Operational Plan noted:

The 2023/24 Capital Works Program will be thoroughly reviewed at each quarterly budget review. Projects may need to be rephased to a future year if the 2023/24 budget is not likely to be spent in the financial year. Cashflow will need to be carefully managed to fund the program.

The Quarter Three comprehensive review of the Capital Works Program has resulted in a further net reduction in the program of (\$2.45M). The program has thus been reduced to a total of \$37.6M.

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

- (247K) rephasing of ABCD Inc Community Hall, due for completion in 2024/25.
- (\$271K) partial rephasing of Lake Pillans Upgrade, to be completed 2024/25.
- \$946K budget added for Glen Davis Road – approved natural disaster rehabilitation.
- \$681K budget added for Donkey Steps Fire Trail reconstruction.
- \$367K budget added for Hampton Road Reseal – Fixing Local Roads grant funded.
- \$330K budget added for Megalong Place reseal & remediation.
- (\$330K) rephasing of Farmers Creek Riparian Improvements, to be completed 2024/25.
- (\$500K) budget savings Clarence to Wallerawang Pipeline project.
- (\$386K) rephasing of watermain renewal due for completion in 2024/25.

Review of the 2023/24 Capital Works Program is ongoing, and further projects may be rephased and recommended to Council at the 24 June 2024 meeting for inclusion in the 2024/25 program. A total of \$8.974M of 2023/24 capital works projects have been fully or partly rephased to 2024/25.

Capital Expenditure Budget Savings

Nett \$953K of budget savings have been taken up at quarterly reviews for completed 2023/24 capital works projects.

Savings of >\$50K have been achieved on 6 projects:

- Bridge Street renewal - \$308K.
- Amiens Street reseal - \$288K.
- Coco Creek Bridge - Glen Davis Road, Glen Davis - \$163K (savings to be used for Red Hill Rd Bridge, subject to approval).
- Airlie Creek Bridge - Glen Davis Road, Capertee - \$65K (savings to be used for Red Hill Rd Bridge, subject to approval).
- Main Street, Wallerawang – SRV funded - \$97K.
- Corderoy Place, Wallerawang – SRV funded - \$51K.

In some cases, minor overspends have been funded from budget savings (included in quarterly budget variations).

Cash and Investments / Reserve Balances / Cashflow

The Cash and Investments Statement at 31 March 2024 is shown in the table below.

Cash and Investments Statement (\$'000)				
	30 June 2023 Position	30 September 2023 Position	31 December 2023 Position	31 March 2024 Position
Externally Restricted				
Developer Contributions	1,874	1,854	1,917	2,132
Special Purpose Grants	12,659	14,958	16,120	14,997
FAGS	6,013	4,510	3,235	2,195
Water Supplies	2,829	2,960	3,326	4,043
Sewerage Services	7,427	8,095	8,416	7,118
Domestic Waste	7,402	9,223	8,499	7,897
Unexpended Loans	1,352	3,851	2,850	2,843
	39,556	45,451	44,363	41,225
Internally Restricted				
Land & Buildings	2,734	2,916	3,102	3,845
Plant & Equipment	511	514	811	961
Bonds, Deposits & Retentions	302	309	302	306
Works in Progress	671	670	648	648
Carry Over Works	476	291	245	221
Commercial Waste	250	140	931	1,195
ELE	1,130	1,130	1,130	1,130
Election	100	119	138	156
Employee Development	350	350	350	350
Total Internally Restricted	6,523	6,439	7,657	8,857
Unrestricted (working capital)	(3,142)	2,779	1,854	1,724
Total Cash and Investments	42,937	54,669	53,874	51,411

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

In September 2023, the working capital short-term loan facility was paid down by \$1M and by a further \$1M at the March 2024 review, leaving a current balance of \$1.5M. Council is aiming to relinquish the loan at 30 June 2024.

Council has \$1.724M of unrestricted working capital. The working capital balance is available for Council to utilise to recommence natural disaster recovery works upon EPAR approval, without having to wait for an advance payment from Transport for NSW.

The \$15M balance of the special purpose grants reserve includes \$1.85M for advance natural disaster grants, \$4M for Resources for Regions Round 9 and \$3.4M in advance payments for the pothole repair program.

Cashflow continues to be carefully managed to ensure that Council has sufficient liquid funds available to make payments on time. The action taken by management has ensured that cash inflows can match cash outflows.

Implications**Policy**

Nil.

Legal

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

Risk Management

The Quarterly Performance Report provides assurance that Council has effective financial management practices in place.

Financial

As detailed in this report.

Consultation and Communication

N/A

11.4. Responsible Governance & Civic Leadership

11.4.1. F&G - 27/05/2024 - Final Report - Winding Up of Former Tenant, ECEC Management Services Pty Ltd

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: Sandra Politi – Property & Legal Services Officer

Responsible Officer: Ross Gurney - Director Finance and Governance

Executive Summary

This report provides a final update in relation to the winding up of Council's former tenant, ECEC Management Services Pty Ltd (**ECEC**) which operated the childcare centre known as Gumnut.

On 6 March 2024, the liquidator issued its final creditor's report. The report confirms that ECEC had accrued significant debts and the recovered amounts are insufficient to pay a dividend to creditors. Given that the Director is now bankrupt and the two other key parties involved appear not to own any real property and are on a pension, the legal cost of pursuing any further recoveries would outweigh any gain that would be likely. Therefore, the liquidator will now finalise the matter.

The rent and outgoings owed to Council as at 22 September 2022 (the date the business was sold) totalled \$277,864.15. A large portion of this amount accrued during the COVID-19 period when landlords were prohibited from taking legal action against tenants.

As no dividend will be paid to creditors and there is no legal avenue to pursue the debt, it is recommended that the debt be written off in accordance with accounting standards.

Administration's Recommendation

THAT Council:

1. Note the contents of the report on the winding up of former tenant, ECEC Management Services Pty Ltd.
2. Write-off the rent and outgoings owed to Council as at 22 September 2022 totalling \$277,864.15 which had previously been recorded as a doubtful debt and has no impact on Council's current financial position.

Attachments

Nil

Reference to any relevant previous minute

Minute 18-377 - Confidential Meeting of Council 26 November 2018
Minute 19-90 - Confidential Meeting of Council 25 March 2019
Minute 21-182 - Confidential Meeting of Council 26 July 2021
Minute 21-231 – Confidential Meeting of Council 27 September 2021

Minute 21-264 – Confidential Meeting of Council 25 October 2021

Minute 22-47 – Confidential Meeting of Council 2 March 2022

Background

On 2 February 2022, Council was successful with a winding up application against ECEC in the Federal Court of Australia, stemming from the non-payment of rent and outgoings to Council.

The Court appointed a liquidator to conduct the affairs of ECEC. The liquidator operated the childcare business from 2 February 2022 until 22 September 2022.

Consistent with Council's commitment of keeping the childcare centre open to ensure that staff would retain jobs and childcare would remain available for families, Council contributed funds towards operating costs when the liquidator informed Council that the centre would have to close due to insufficient income. This action enabled the childcare centre to remain open.

On 23 September 2022, the liquidator sold the childcare business to a new operator and Council entered a new lease.

The liquidator's investigations into ECEC revealed that in addition to the rent and outgoing arrears owing to Council, ECEC had accrued debts for wages, superannuation and long service leave, tax debts and other debts.

Ultimately, the liquidator caused eight parties to be investigated in an effort to recover losses in connection with ECEC. However, on 6 March 2024 the liquidator issued its final creditors report confirming that it does not expect to pay a dividend to creditors. The legal cost of pursuing any further recoveries outweighs any gain that would be likely, given that the Director is now bankrupt and the two other key parties appear not to own any real property and are on a pension.

The liquidation of ECEC is now being finalised and no further reports to creditors will be provided.

ECEC debt to Council – write off

The rent and outgoing arrears to Council totaled \$277,864.15. A large portion of this amount accrued during the COVID-19 period when landlords were prohibited from taking legal action against tenants.

As there were insufficient recoveries to pay a dividend and there is no avenue available to Council to pursue this debt, it is recommended that the debt be written off in accordance with accounting standards.

Consultation and Communication

N/A

Policy

N/A

Legal

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

Risk Management

No risks arise from this report.

Financial

- Budget approved - Nil
- Cost centre - Not applicable
- Expended to date – in prior financial years - legal fees, including court filing fees and disbursements \$49,659.74 + Council contribution to operating costs \$24,048.69.
- Future potential impact - Nil

Consultation and Communication

N/A

11.4.2. F&G - 27/05/2024 - Proposed Transfer of Land at Blackmans Flat to EnergyAustralia (NSW) Pty Ltd for Pipeline

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: Sandra Politi – Property & Legal Services Officer

Responsible Officer: Ross Gurney - Director Finance and Governance

Executive Summary

Council has received a request from EnergyAustralia (NSW) Pty Ltd (**EA**) seeking to purchase Council owned land being Lot 1 in DP1127043, Castlereagh Highway, Blackmans Flat (**Lot 1**). Lot 1 was a Crown road before Council purchased it from the State of NSW in 2008.

Council presently does not use Lot 1, however, it could provide a possible means of access to the adjoining Council lot if that is developed as a waste facility in the future. On the other hand, the use of Lot 1 for access would be far from ideal due to the topography of the land and a dam encroachment. A more suitable means of access to the adjoining Council lot is available, if a waste facility is developed in that location in the future.

Administration's Recommendation

THAT Council:

1. Transfer Lot 1 in DP1127043 to EnergyAustralia NSW Pty Ltd subject to the conditions outlined in this report and any other conditions that the General Manager deems appropriate.
2. Authorise the General Manager to sign all documents and do all things necessary to give effect to the transfer of Lot 1 in DP1127043 to EnergyAustralia NSW Pty Ltd.

Attachments

Nil

Reference to any relevant previous minute

Nil

Background and discussion

Council owns Lot 1 in DP1127043, Castlereagh Highway, Blackmans Flat (**Lot 1**) shown in red on the image below.



Council has received a request from EA to purchase Lot 1 from Council. The reason for this request is that EA would like to install a pipeline to convey water from EA's land, being Lot 9 in DP804929 to Cooks Dam located on Lot 1 in DP88503. As Lot 1 lies between EA's assets and Cooks Dam, the pipeline will need to traverse Lot 1, as shown with a red dash on the image below.



About Lot 1 in DP1127043 – Castlereagh Highway, Blackmans Flat

- Lot 1 is zoned RU1 primary production. It has a total area of 5,284 m², being approximately 20 mtrs wide and 255 mtrs long.
- Lot 1 is burdened by overhead power lines pursuant to an easement registered on DP1127043. Aerial images show that the lot has varying topography, is heavily vegetated and impacted by a dam.
- Lot 1 is affected by mining lease CCL733.
- A valuation obtained by EA in 2021 assessed the value of Lot 1 at \$4,000.
- Lot 1 was previously a Crown road. In 2008, Council purchased the Crown road from the State of NSW for the sum of \$2,310. After purchase, the land ceased to be a road.
- It is thought that Council purchased Lot 1 to add to the adjoining land which Council acquired in 2003 from the State of NSW for a potential waste landfill site (Lot 1 in DP 1256036, previously Lot 42 in DP751636).

Risk – access to adjoining Council land

Lot 1 could provide a possible means of access to the adjoining Council land, in the event that the land is developed as a waste facility in the future. If Council determines to transfer Lot 1 to EA, this possible means of access will be lost.

This risk is mitigated by an alternative means of access being available to Council under the compensation agreement in relation to mining lease CCL733. Under the agreement, Council may require access over private land if the adjoining Council land is developed as a waste facility in the future.

Conditional transfer

If Council determines to transfer Lot 1 to EA, any agreement to transfer will need to be subject to the following conditions:

- Obtaining the consent of Centennial to the transfer of Lot 1 (as required under the compensation agreement).
- Council, Centennial and EA entering a deed of assignment and covenant (or similar agreement) in relation to the rights and obligations of Centennial and Council under the compensation agreement (in relation to Lot 1).
- EA agreeing to grant to Council a right of way over Lot 2 in DP1256036 and Lot 1 in DP88503 on terms satisfactory to Council (in the event that EA becomes the owner of those lots).
- EA paying market value for Lot 1 and all administration, valuation and legal fees and charges reasonably incurred by Council in relation to the matter.

Consultation and Communication

N/A

Policy

Council's Land Acquisition, Purchase and Disposal Policy 1.6 applies to public land proposed to be sold by Council. The nature of the proposed transfer outlined in this report is not covered by Policy 1.6 and therefore Policy 1.6 does not apply to the proposed transfer.

Legal

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

A decision to transfer Council owned land is a non-delegable function under section 377 (1)(h) of the *Local Government Act 1993*. Therefore, only Council can decide to transfer Lot 1.

All public land under Council's ownership or control is classified as either community land or operational land under the *Local Government Act 1993*. The transfer of land classified community is restricted, whereas the transfer of land classified operational is not restricted.

Lot 1 is classified operational land and therefore Council has discretion to decide whether to transfer Lot 1 to EA.

Risk Management

As outlined in the report, the transfer of Lot 1 to EA will result in the loss of a possible access route to the adjoining land which could be developed as a waste facility in the future. Another means of access is available to Council in the compensation agreement regarding mining lease CCL733.

Financial

- Budget approved - Nil
- Cost centre - Not applicable
- Expended to date - Nil
- Future potential impact – N/A

Consultation and Communication

No consultation is required.

11.4.3. F&G - 27/05/2024 - Various Matters - Lake Lyell Lease from EnergyAustralia (NSW) Pty Ltd**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: Sandra Politi – Property & Legal Services Officer

Responsible Officer: Ross Gurney - Director Finance and Governance

Executive Summary

This report makes recommendations and seeks Council resolutions in relation to the following proposals, involving Council owned land at Lake Lyell and land owned by EnergyAustralia NSW Pty Ltd (**EA**) at Lake Lyell which is leased to Council:

1. The excise of Lot 2 in DP792415 from the Lake Lyell lease, to be used by EA for temporary workforce accommodation should the proposed Lake Lyell Pumped Hydro project be approved.
2. For negotiation of option terms to the Lake Lyell lease, with the aim of giving Council potential tenure until 31 December 2072.
3. Amendment of the covenant which restricts the Council owned land at Lake Lyell from being used for any industrial, residential or commercial purpose, to allow the operation of a primitive camping ground on a commercial basis.
4. Addition of Lots 1 to 4 in DP1304125 (the former submerged road sections) to the Lake Lyell lease following the transfer of lots 1 to 4 to EA.
5. Transfer of Lot 1 in DP246233 to EA (subject to re-classification from community land to operational land via LEP amendment).
6. Transfer of Lot 5 in DP1304125 to EA (subject to re-classification from community land to operational land via LEP amendment) and then add to the Lake Lyell lease.

Items 1 to 3 above provide future benefits for public recreation and infrastructure at Lake Lyell. The objective of Items 4 to 6 above is merely to tidy up some historical anomalies involving submerged land at Lake Lyell.

These proposals do not adversely affect Council or provide any greater risk to Council, and accordingly the administration recommends that they be supported.

Administration's Recommendation

THAT Council:

1. Excise Lot 2 in DP792415 from the Lake Lyell lease between Council and EnergyAustralia NSW Pty Ltd.
2. Endorse negotiation of option terms to the Lake Lyell lease between Council and EnergyAustralia NSW Pty Ltd.
3. Arrange for the restrictive covenant affecting the Council owned land to be modified to allow for the operation of a primitive camping ground on a commercial basis.
4. Add Lots 1 to 4 in DP1304125 to the Lake Lyell lease between Council and EnergyAustralia NSW Pty Ltd.
5. In relation to Lot 1 in DP246233:
 - a. re-classify Lot 1 in DP246233 from community land to operational land;
 - b. following re-classification, transfer Lot 1 in DP246233 to EnergyAustralia NSW Pty Ltd.
6. In relation to Lot 5 in DP1304125:
 - a. re-classify Lot 5 in DP1304125 from community land to operational land;
 - b. following re-classification, transfer Lot 5 in DP1304125 to EnergyAustralia NSW Pty Ltd;
 - c. following the transfer to EnergyAustralia NSW Pty Ltd, add Lot 5 in DP1304125 to the Lake Lyell lease between Council and EnergyAustralia NSW Pty Ltd.
7. Authorise the General Manager to do all things necessary and sign all documents required to give effect to resolutions 1 to 6 above.
8. If submissions are received during the public exhibition process for re-classification of land regarding resolutions 5 and 6 above, and the General Manager is of the view that the submissions warrant further consideration by Council, those matters must be returned to Council for determination.

Attachments

1. Plan 1 - Council Land at Lake Lyell [**11.4.3.1** - 1 page]
2. Plan 2 - EA land leased to LCC [**11.4.3.2** - 1 page]
3. Plan 3 - Lot 2 in D P 792415 (to be excised from lease) [**11.4.3.3** - 1 page]
4. Plan 4 - Lots 1 to 4 in D P 1304125 (former road lots to be added to lease) [**11.4.3.4** - 1 page]
5. Plan 5 - Lot 1 in D P 246233 (submerged lot to be transferred to EA and added to lease) [**11.4.3.5** - 1 page]
6. Plan 6 - Lot 5 in D P 1304125 (submerged lot to be transferred to EA and added to lease) [**11.4.3.6** - 1 page]

Reference to any relevant previous minute

N/A

Background and discussion

This report involves Council owned land at Lake Lyell and land owned by EnergyAustralia NSW Pty Ltd (**EA**) at Lake Lyell which is leased to Council. Each matter is discussed individually, but firstly historical and land tenure information is provided for context.

Historical information - establishment and ownership of Lake Lyell

Prior to Lake Lyell coming into existence in the 1980s, the area comprised hundreds of hectares of steeply sloped land, much of which was owned by the Lyell family.

It is evident from government gazette notices that Lake Lyell (which is referred to as the Lilyvale Dam Site or Lyell Reservoir in the early gazette notices) was established to provide water supply to the power stations for electricity generation.

A brief timeline regarding the establishment of Lake Lyell and the historical ownership is provided below.

- In 1950, the Electricity Commission of NSW was established under the Electricity Commission Act 1950. The Commission was tasked with controlling and generating electricity throughout New South Wales.
- Between 1976 and 1985, the Electricity Commission acquired land to establish a water supply dam for power generation purposes. The government gazette notices acquiring land prior to 1985 refer to the site as the 'Lilyvale Dam Site', and later notices refer to the site as 'Lyell Reservoir'.
- In 1982, the construction of the dam wall across the Coxs River was completed, thus creating the reservoir for Mt Piper and Wallerawang power stations.
- In 1992, the Electricity Commission began trading as Pacific Power and the Electricity Commission Act 1950 was retrospectively re-named the Electricity (Pacific Power) Act 1950. Pacific Power was a State Government entity and assumed all powers previously held by the Electricity Commission.
- In 1996, the State Government wanted to introduce competition into the electricity market and the various elements of Pacific Power were broken apart. The elements were divided between electricity distributors and electricity generator entities. During this process new State-owned electricity generating entities were created, including Delta Electricity. All assets in relation to Wallerawang and Mount Piper Power Stations (including Lake Lyell) were transferred to Delta Electricity.
- In mid 2012, the Electricity Generator Assets (Authorised Transactions) Act commenced. The objective of this Act was to transfer the State's electricity generator assets to the private sector. Subsequently, the State-owned Delta Electricity was dissolved, and the assets of Delta Electricity were transferred to EnergyAustralia NSW Pty Ltd in September 2013.

Council owned land at Lake Lyell

In 1990, the Electricity Commission of NSW transferred the following parcels of land to Council:

- 1/792415, 56/791926, 60/791928, 58/791928, 64/791927, 62/791927, 66/791930 (**the Council Land**).
- The lots comprising the Council Land are marked in red on plan 1 attached to this report.

All of the Council Land is burdened by a covenant which restricts the land from being used for any industrial, commercial or residential purpose.

Lake Lyell lease from EA to Council

In June 2013 Delta Electricity granted a lease to Council for the period 1 July 2013 to 31 December 2042. The lease is registered AH844403 and encompasses the following lots:

- 1/261232, 2/792415, 12/616071, 1/260856, 2/260856, 4/634322, 57/791928, 61/791927, 3/263511, 4/263511, 3/260856, 382/618960, 11/751651, 34/751651, 2/1181411, 3/1181411, 9/1181411 and 6/1181411 (**the Lake Lyell lease**).
- The lots comprising the Lake Lyell lease are marked in red on plan 2 attached to this report.

As mentioned in the history section above, Delta Electricity transferred its assets to EA in September 2013, and consequently the lease between Council and Delta Electricity was assigned to EA by operation of law.

The Lake Lyell lease permits Council to use the land for public recreation including power boating, water skiing, picnicking, fishing and short term holiday camping. While the lease has an expiry date of 31 December 2042, it provides that either party may terminate upon giving one month's notice to the other if both Mount Piper Power Station and Wallerawang Power Station are permanently closed or cease to operate for a continuous period of 12 months.

Under the lease EA retains certain rights in relation to storage and treatment of water, pumping of water from or to the premises, and the ability to take water from the premises and to carry out works.

Proposals for consideration

Following are the matters that are the subject of this report and require Council resolutions.

1. Excise Lot 2 in DP792415 from the Lake Lyell lease.

Lot 2 in DP792415 is shown on plan 3 attached to this report. Lot 2 presently forms part of the Lake Lyell lease, and EA has requested that it be excised from the lease.

EA has identified Lot 2 as the preferred site for the temporary workforce accommodation in relation to the proposed Lake Lyell Pumped Hydro project. Subject to necessary planning approvals, EA would like to use Lot 2 to accommodate up to 500 workers for the construction camp over a five year period between circa 2026 to 2030. Lot 2 is EA's preferred location due to:

- Proximity to the main project site;
- Avoids additional traffic contribution to Great Western Highway or busier thoroughfares of Lithgow;
- Minimises total number of nearby neighbours;
- Development of the site with utilities providing future options for the site, and;
- Positive worker amenity improving worker wellbeing and positive demeanour.

At the conclusion of the construction project, EA will demobilise and make good the site. As part of this, EA will retain any elements of the site that Council may consider beneficial such as benching, drainage, roads, power, waste and wastewater utilities.

Furthermore, EA would discuss with Council how the site could be improved so that after 2030 it can be returned to Council under a registered lease and perhaps be integrated into any longer term plans that Council may have for the Lake Lyell recreation area.

Although Lot 2 is included in the Lake Lyell lease, it is not utilised as part of the Lake Lyell recreation area or used by Council for any other purpose.

Council owns adjoining land being Lot 1 in DP792415, and EA has confirmed that the use of Lot 2 for the temporary workforce accommodation will not impact the Council land.

This matter involves only the excise of Lot 2 from the lease. EA will need to separately obtain any necessary planning approvals (whether that be a State planning matter or local planning matter).

Recommendation

As Council does not use Lot 2 in DP792415 and has no current plans for its use, Council will not be adversely affected by excising Lot 2 from the Lake Lyell lease. Therefore, it is recommended that Council supports the excise of Lot 2 in DP792415 from the Lake Lyell lease.

2. Addition of option terms to the Lake Lyell lease (exercisable by Council).

Currently the Lake Lyell lease expires on 31 December 2042, subject to early termination provisions including a right for either party to terminate the lease upon one month's notice if both Wallerawang Power Station and Mount Piper Power Station permanently close or cease to operate for a continuous period in excess of 12 months.

Council has commenced discussions with EA regarding further option terms to be added to the Lake Lyell lease so that Council has an opportunity to plan for the future of Lake Lyell. The aim will be to agree on further option terms to give Council potential tenure for an additional 30 years, until 31 December 2072.

At present, Mount Piper Power Station is scheduled to close in 2040. The Administration will discuss removal of the early termination provisions with EA. Should the Mount Piper Power Station site be sold after closure, Council may need to negotiate lease terms with a new owner.

An extended term is economically necessary if Council intends to invest in capital works to support the future of Lake Lyell for public recreation and camping.

Recommendation

The addition of further option terms to the Lake Lyell lease will not adversely affect Council, as there will be no obligation on Council to exercise the option terms - they merely provide Council with a choice to extend the lease term. The option terms will provide a benefit to Council and it is recommended that Council supports the addition of option terms to the Lake Lyell lease.

3. Amend the covenant affecting the Council Land that restricts it from being used for any industrial, residential or commercial purpose, to allow for the operation of a primitive camping ground on a commercial basis.

Presently the Council owned lots are burdened by a covenant restricting the land from being used for any industrial, residential or commercial purpose. This restriction was imposed by the Electricity Commission when it transferred the land to Council in 1990. As EA now owns the land that benefits from this covenant, EA is the party with authority to release, vary or modify the covenant.

Council staff have requested a variation of the covenant to allow for the operation of a primitive camping ground on a commercial basis and EA has indicated in principle support.

Recommendation

An amendment to the restrictive covenant as set out above will not adversely affect Council and will be a benefit to Council. Consequently, it is recommended that Council support an amendment to the restrictive covenant.

4. Add lots 1 to 4 in DP1304125 to the Lake Lyell lease following the transfer of those lots to EA.

In accordance with Council resolutions of 15 April 2013 (13-121) and 26 September 2022 (22-189), sections of road submerged under Lake Lyell are in the process of being legally closed. Upon completion of the closure process, Lots 1 to 4 will adopt the status of 'land'. Lots 1 to 4 will then be transferred to EA in accordance with council resolutions and a deed entered with Delta Electricity in 2013.

Lots 1 to 4 are shown on plan 4 attached to this report.

Once Lots 1 to 4 are in EA ownership, it is proposed to add them to the Lake Lyell lease, consistent with clause 28.4 of the Lake Lyell lease.

Recommendation

The addition of Lots 1 to 4 to the Lake Lyell lease does not adversely affect Council or impose any greater risk to Council. Therefore, it is recommended that Council supports the addition of Lots 1 to 4 in DP1304125 to the Lake Lyell lease.

5. Transfer Lot 1 in DP246233 to EA (subject to re-classification from community land to operational land via LEP amendment) and then add Lot 1 to the Lake Lyell lease.

Lot 1 in DP246233 is shown on plan 5 attached to this report.

Lot 1 is owned by Council and has the legal status of a public reserve. However, it is wholly submerged under Lake Lyell and therefore cannot be used as a public reserve.

It appears that this lot was inadvertently omitted from the Electricity Commission's land acquisitions between 1976 and 1985. In order that ownership of this lot is consistent with ownership of all other submerged land at Lake Lyell, it is proposed to transfer Lot 1 to EA. However, as Lot 1 is classified as community land, it will first need to be re-classified as operational land.

It is not proposed to add Lot 1 to the Lake Lyell lease as it falls outside the public recreation area managed by Council.

Recommendation

As Council will not be adversely affected by or assume any greater risk by transferring Lot 1 to EA, it is recommended that Council supports the following:

- re-classify Lot 1 in DP246233 from community land to operational land;
- following re-classification, transfer Lot 1 to EA.

6. Transfer Lot 5 in DP1304125 to EA (subject to re-classification from community land to operational land via LEP amendment) and then add Lot 5 to the Lake Lyell lease.

During the recent legal closure of the submerged roads, an old system parcel of land in Council ownership was discovered. This land was previously thought to be part of the submerged section of Lockyer's Line of Road.

The old system land is now identified as Lot 5 in DP1304125, which is shown on plan 6 attached to this report.

It appears that this lot was inadvertently omitted from the Electricity Commission's land acquisitions between 1976 and 1985.

In order that ownership of this lot is consistent with ownership of all other submerged land at Lake Lyell, it is proposed to transfer Lot 5 to EA. However, as Lot 5 is classified community land, it will first need to be re-classified as operational land.

Once Lot 5 is re-classified as operational land and transferred to EA, it is proposed to add Lot 5 to the Lake Lyell lease.

Recommendation

As Council will not be adversely affected or assume any greater risk by transferring Lot 5 to EA and subsequently adding it to the Lake Lyell lease, it is recommended that Council support the following:

- re-classify Lot 5 from community land to operational land;
- following re-classification, transfer Lot 5 to EA, and;
- following transfer to EA, add Lot 5 to the Lake Lyell lease.

Policy

N/A

Legal

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

A decision to surrender, exchange or re-classify land is a non-delegable function under section 377 of the Local Government Act 1993. Therefore, only Council can decide in relation to the matters in this report.

Risk Management

There are no foreseeable risks in relation to the matters outlined in this report.

Financial

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

Consultation and Communication

Public exhibition will be required in relation to re-classification of land under resolutions 5 and 6 of this report. The process for reclassifying public land is through an LEP amendment, which involves public exhibition for at least 28 days, followed by a public hearing upon giving 21 days' notice. LEP housekeeping amendments are undertaken from time to time and it is anticipated that the re-classification of land referred to in resolutions 5 and 6 will be undertaken with the next LEP housekeeping amendments.

11.4.4. F&G - 27/05/2024 - Local Government Remuneration Tribunal Determination 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: Ross Gurney - Director Finance and Governance

Responsible Officer: Craig Butler – General Manager

Executive Summary

The Local Government Remuneration Tribunal (the Tribunal) is established under Chapter 9, Part 2, Division 4 of the Local Government Act. The Tribunal's role is to determine categories of Councils then to determine the maximum and minimum amounts of fees to be paid to Mayors and Councillors in each of the categories.

The Tribunal has recently determined the Mayoral and Councillor fees for the 2024/25 financial year. This report recommends that the Mayoral and Councillor fees be set for the 2024/25 year as per the determination.

The Tribunal's Annual Determination Report is included as an attachment.

Administration's Recommendation

THAT Council:

1. Set the remuneration in 2024/25 for Councillors (2023/24 is \$11,914).
2. Set the remuneration in 2024/25 for the Mayor (2023/24 is \$25,230).
3. Set the 2024/25 car lease payable by the Mayor (2023/24 is nil).

Attachments

1. LGR T-2024- Annual- Determination-29- April-2024 [11.4.4.1 - 39 pages]

Reference to any relevant previous minute

Ordinary Meeting of Council held 26 June 2023

23 -108 RESOLVED

THAT Council:

1. Set the remuneration in 2023/24 for Councillors \$11,914.
2. Set the remuneration in 2023/24 for the Mayor \$25,230.
3. Set the 2023/24 car lease payable by the Mayor Nil.

Background and discussion**Allocation of Councils into Categories**

Section 239 of the Local Government Act (LG Act) requires the Tribunal to determine the categories of councils and mayoral offices at least once every 3 years. A review of categories was last carried out by the Tribunal in 2023.

The categories of general purposes councils are as follows:

Metropolitan	Non-Metropolitan
Principal CBD	Major Regional City
Major CBD	Major Strategic Area
Metropolitan Major	Regional Strategic Area
Metropolitan Large	Regional Centre
Metropolitan Medium	Regional Rural
Metropolitan Small	Rural Large
	Rural

Under the classifications, Lithgow Council is classified as Regional Rural.

The current population criteria thresholds for non-metropolitan councils are outlined in the table below. The 2023 review resulted in the Tribunal determining the creation of two new categories, being Metropolitan Major and Rural Large.

The Tribunal reviewed population and data relating to Council operations to determine if the categorisations of Councils was consistent with the current criteria.

Category	Population Criteria
Rural	<20,000
Regional Rural	>20,000
Regional Centre	>40,000
Regional Strategic Area	>200,000
Major Strategic Area	>300,000

Tribunal’s Annual Review

The Tribunal’s annual review commenced in October 2023 when it wrote to all Councils inviting submissions regarding fees. The Tribunal outlined that it is only required to review the categories every three years and will next consider the model, the criteria applicable to each category and the allocation of councils in the 2026 review.

The Tribunal’s Determination Report includes details of written submissions, some from Councils requesting re-categorisation. A significant number of submissions commented on the remuneration structure, advocating for major changes to be made, including the need for a full comprehensive review.

Several submissions argued that the current remuneration structure does not adequately compensate elected Councillors and Mayors for the complex requirements of the role, significant workload, time requirements, responsibilities, and changes in the role over recent years.

The criteria under which the Tribunal makes these determinations has been in existence since 1994 and at that time NSW had 177 Councils. Much has changed over the past 30 years, however, the criteria have not altered.

Determination of Fees

The Tribunal has determined a **3.75%** increase in the minimum and maximum fees applicable to each category from 1 July 2024.

The Industrial Relations Amendment Act 2023, repealed section 146C of the *Industrial Relations Act 1996*, resulting in changes to wages policy and removal of the cap on remuneration increases.

The LGNSW submission requested the Tribunal increase fees by at least 10% in order to:

- Reverse the fee erosion which occurred under the NSW Public Sector Wages Policy;
- Mitigate economic pressures and the rising cost of living;
- Ensure that Councillors and Mayors receive fair and reasonable remuneration for the work they perform; and
- Address the historic undervaluation of the work performed by elected representatives in local government in New South Wales.

Currently the Tribunal, consistent with its obligations set out in the LG Act, determines a minimum and maximum remuneration range for Councillors and Mayors. It is then up to individual Councils, to fix the annual fee for Councillors and Mayors. Furthermore, the tribunal does not have the authority to determine a fixed mandatory fee.

The Tribunal considered a range of factors in determining the amount to increase minimum and maximum fees payable to Councillors and Mayors. This included economic data, including the Consumer Price Index, Wage Price Index, full-time adult average weekly ordinary time earnings, NSW Public Sector increases, and Local Government State Award increases. It also considered the Base Cost Change model used by IPART in setting the rate peg for 2024-25.

Minimum and maximum fees are set out in the table below:

General Purpose Councils - Non-Metropolitan

Councillor/Member Annual Fee (\$) effective 1 July 2024

Category	Minimum	Maximum
Major Regional City	20,500	35,620
Major Strategic Area	20,500	35,620
Regional Strategic Area	20,500	33,810
Regional Centre	15,370	27,050
Regional Rural	10,220	22,540
Rural Large	10,220	18,340
Rural	10,220	13,520

Mayor/Chairperson Additional Fee* (\$) effective 1 July 2024

Category	Minimum	Maximum
Major Regional City	43,530	110,970
Major Strategic Area	43,530	110,970
Regional Strategic Area	43,530	98,510
Regional Centre	31,980	66,800
Regional Rural	21,770	49,200
Rural Large	16,330	39,350
Rural	10,880	29,500

Setting of Fees

The LG Act requires:

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- (1) A council must pay each councillor an annual fee.*
- (2) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (3) The annual fee so fixed must be the same for each councillor.*
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*

In addition to the above fees, Council also provides the Mayor with a motor vehicle which is available for private use. No lease fee is currently payable for this.

Councils set Councillor and Mayoral fees for each financial year based on the Tribunal's determination. The level of fees accords with each Council's category as set by the Tribunal.

Lithgow City Council's Mayoral and Councillor fees have historically been set at the lower end of the annual fee range. In past years, Council has set fees based on the current year's fees with the addition of the Tribunal's determination.

Since 1 July 2022, Councillors have received superannuation contributions as determined by Council (Min. No. 22-42 Ordinary Meeting of Council held on 2 March 2022). From 1 July 2024, the superannuation guarantee percentage increases to 11.5%.

Below are the current Councillor and Mayoral fees and the amounts with the addition of a 3% increase:

- Councillors fees - 2023/24 being \$11,914 and 3.75% increase being \$12,361.
- Mayoral fee - 2023/24 being \$25,230 and 3.75% increase being \$26,176.
- Car lease payable by the Mayor - 2023/24 being nil.

Consultation and Communication

N/A

Policy

Nil.

Legal

Council is required under the Local Government Act 1993 to pay the remuneration in accordance with the limits set by the Tribunal.

Risk Management

N/A>

Financial

- Draft 2023/24 budget - \$137,425 (plus 11.5% superannuation) would be required to fund a 3.75% increase on 2023/24 fees.
- Cost centre - PJ 800154 Governance.
- Expended to date - nil for 2024/25
- Future potential impact - N/A

12. Council Committee Reports

12.1. P&P - 27/05/2024 - Environmental Advisory Committee 10 April 2024

Strategic Context for this matter:

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

Author: Fiona Dick – Administration Assistant

Responsible Officer: Shaun Elwood – Director People & Places

Executive Summary

This report provides details of the minutes of the Environmental Advisory Committee held on 10 April 2024.

Administration's Recommendation

THAT Council note the minutes of the Environmental Advisory Committee held on 10 April 2024.

Attachments

1. Minutes from the Environmental Advisory Committee Meeting dated 10 April 2024

Reference to any relevant previous minute

Background and discussion

At the Environmental Advisory Committee held on 10 April 2024 the following items were discussed:

1. Hassans Walls Reserve Track & Trail.
2. The Trail Running Event at Hassans Walls Reserve.
3. The Part 5 Assessment Process.
4. The Natural Areas Management Officer position.
5. Sediment Control at Lidsdale.
6. Cleaning up Weeds in our Local Area.

Financial

N/A

12.2. P&P - 27/05/2024 - Crime Prevention Committee Minutes 6 May 2024**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 minutes of the Crime Prevention Committee meeting held 6 May 2024 are reported for Council's consideration.

Administration's Recommendation

THAT Council note the minutes of the Crime Prevention Committee meeting held on 6 May 2024.

Attachments

1. Minutes - Crime Prevention - 6 May 2024 [12.2.1 - 6 pages]

Reference to any relevant previous minute

Min 23 -153 Ordinary Meeting of Council held 28 August 2023

Min 24 - 43 Ordinary Meeting of Council held 26 February 2024

Background and discussion

At the Crime Prevention Committee meeting held 6 May 2024, various matters were discussed including:

- Bureau of Crime Statistics and Research (Bocsar) Quarterly Crime Statistics report for Lithgow dated 31 December 2023.
- Police Representatives gave a report on local crime incidents in Lithgow during April 2024, compared to April 2023.
- The committee discussed recent announcements by the Commonwealth and NSW Governments of various measures of assistance and other potential legislative changes to support and improve the safety of women experiencing domestic violence. Council staff undertook to follow this matter up to determine how and when these initiatives might be available in Lithgow and how Council and the community sector can become involved.

Financial

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

12.3. P&P - 27/05/2024 - Community Development Minutes - 7 May 2024**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 & Places

Executive Summary

The minutes of the Community Development Committee meeting held 7 May 2024 are reported for Council's consideration.

Administration's Recommendation

THAT Council note the minutes of the Community Development Committee meeting held 7 May 2024.

Attachments

1. Minutes Community Development Meeting 7 May 2024 [**12.3.1** - 7 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

Min 24 –14 Ordinary Meeting of Council held 30 January 2024

Background and discussion

At the Community Development Committee meeting held 7 May 2024, various matters were discussed including:

Round 1 2024/5 Financial Assistance

The Committee reviewed the Round 1 2024/25 Non-Recurrent Financial Assistance applications that have been received. In view of the limited available funds for Rounds 1 and 2, the matter was deferred to a future Extraordinary Meeting of the Committee, with Council staff to contact all applicants to determine if their projects can proceed with a reduced budget.

The Committee also discussed management of potential conflict of interest matters in relation to consideration of Financial Assistance applications, with Council staff to seek advice on these matters and report this back to the next meeting of the Committee.

Staff Note

Council has received 10 Round 1 2024/5 Non-Recurrent Financial Assistance applications to the value of \$34,964.

The total allocation for 2024/5 Financial Assistance in the draft Operational Plan is \$110,142, the same amount allocated in 2023/4.

As in past years, the following amounts form part of the total allocation:

- *Portland Pool - \$42,680*
- *Arts Outwest - \$14,000*
- *Lithgow Show Society - \$15,000*
- *Fee waivers, delegated to the General Manager, for the use of Council facilities - \$2,000*
- *Ballroom and Showground Fee waivers for major events - \$5,000*
- *Sporting Assistance - \$2,500*
- *School end of year awards (\$50 per school) - \$800*

This leaves a balance of \$28,162 for Rounds 1 and 2 Non-Recurrent Financial Assistance.

Implementation of the Disability Inclusion Action Plan (DIAP)

The committee was provided with a report by the Community Development Officer who is working with Council Department Managers to implement the DIAP.

Elements of the Action Plan are included in Council's 2024/25 Operational Plan. Progress will be tracked and reported to future Committee meetings. Outcomes will also be included in Council's Annual Report.

Discussion on the Committee's role and work program.

The Committee was asked to discuss its role and the priority areas it would like to focus on for the current year. This matter has been deferred to the next meeting of the Committee.

Current and planned projects within the Community and Culture Division

An update was provided to the Committee on current and recently completed projects within Council's Community and Culture Division.

Financial

- Budget approved - \$110,142 allocation for Financial Assistance in the draft 2024/25 Operational Plan.
- Cost centre – PJ 800158 (Financial Assistance)
- Committed to date - \$81,980 as detailed above.
- Future potential impact - \$28,162 for Rounds 1 and 2 Non-Recurrent Financial Assistance.

13. 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.