



Photo: Capertee

Ordinary Meeting of Council
to be held at
Council Administration Centre
180 Mort Street, Lithgow
on
Monday 22 July 2024
at 6:00 PM

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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.

Present

Apologies

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.

Confirmation of Minutes

Confirmation of the Minutes of the Ordinary Meeting of Council held 24 June 2024.

Confirmation of the Minutes of the Extra Ordinary Meeting of Council held 8 July 2024.

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.

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.

1. Mayoral Minutes

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

2. Notices of Motion

2.1. NOM - 22/07/2024 - Councillor A Bryce - Police and Working with Children Checks

Report by Councillor Almudena Bryce

Commentary

I am proposing the following Notion of Motion.

That all councillors provide an up-to date Police Check and Working with Children Check, to council on commencement of new council terms.

This will be in line with council staff and board members across Australia.

With the rise of Domestic Violence and violence against children, our community needs to be assured that councillors are safe to attend community and school events.

Next year's National Conference in Canberra, all attendees require a Police Check prior to attending. Let's be progressive about these issues, rather than reactive.

Attachments

Nil

Recommendation

THAT all councillors provide an up-to date Police Check and Working with Children Check, to council on commencement of new council terms.

Management Comment

The June 2024 OLG Councillor Candidate Guide states that anyone who is entitled to vote at council elections in NSW is also eligible to stand for election as a councillor. People disqualified from standing for office include people who are:

- currently serving a prison sentence,
- convicted of certain election-related or criminal offences (involving imprisonment),
- prohibited from managing companies,
- suspended on three or more occasions for misconduct as a councillor (results in automatic disqualification for 5 years), and/or
- current state members, if elected, may only hold office as a councillor if they resign from Parliament before the first council meeting.

It would not be possible for Council to enforce a requirement for Councillors provide an up-to date Police Check and Working with Children Check. There is no legal pathway for Council to take action against a Councillor who either has a negative result for a check or refuses to undertake a check. For example, Section 440G of the Local Government Act 1993 (the Act) states that Council may pass a formal censure resolution only if it is satisfied that the councillor has engaged in misconduct on one or more occasions.

In the Act, misconduct of a Councillor means any of the following—

- (a) a contravention by the Councillor of this Act or the regulations,

- (b) a failure by the Councillor to comply with an applicable requirement of a code of conduct,
- (c) a failure by a Councillor to comply with an order issued by the Departmental Chief Executive under this Division,
- (d) an act of disorder committed by the Councillor at a meeting of the Council or a committee of the Council,
- (e) an act or omission of the Councillor intended by the Councillor to prevent the proper or effective functioning of the Council or a committee of the Council.

Employees may be required to complete a Police Check and/or Working with Children Check as part of their employment conditions, where relevant. There is no relevant section of the Model Code of Conduct where a requirement for a Police Check and Working with Children Check can be added for Councillors.

2.2. NOM - 22/07/2024 - Councillor S Ring - Rural Waste Management

Report by Councillor Steve Ring

Background:

On the 16 May all Councillors received an email from Mr Peter Evans concerning a letter that he had received from concerning a complaint that he made in relation to modifications to the Meadow Flat Waste transfer station. In summary:

Cement blocks were located preventing Utes reversing to the skip to unload rubbish from their trees.

The response from Council was:

The blocks will stop illegal dumping because of the location of the security camera.

The facility is for domestic waste only.

The Council does not support standing on vehicles to unload rubbish.

Residents who may infrequently use the facility and have more waste are recommended o travel to Lithgow Waste Facility.

Commentary

The provision of satisfactory waste services is a critical Council function, inclusive of the effective management or rural waste transfer stations.

Council currently operates five transfer stations the design of which does not make it easy for many residents particularly the elderly to place rubbish safely in skip bins. This has been an ongoing issue in Glen Davis where community members are still awaiting the construction of a proper transfer station.

Waste management is complex and involves Council meeting both State and Federal Legislation and policies.

The design of the rural transfer stations should meet the needs of residents who are not provided with a kerbside waste collection service to safely dispose of their waste in an affordable and appropriate manner.

The design of the transfer stations should ensure that residents are not placed at risk of injury emptying bins into Councils skips.

In Council area that covers 4,551 kilometres it is not fair to advise resident to drive to the Lithgow Solid Waste Facility. A resident living in Bogee could easily drive over 200 kilometres towing a trailer to empty 5 otto bins.

What can be done tom improve the operation of the waste transfer stations to better serve the needs of our rural residents who do not receive the befit of kerbside collection inclusive of bulky waste collection.

Attachments

1. Formal Response to Mr Evans from Lithgow City Council [2.2.1 - 1 page]
2. Email from Mr Peter Evans [2.2.2 - 2 pages]

Recommendation

THAT the Administration prepares a report on the ongoing management of the waste transfer stations inclusive of:

- design modifications to minimise risk of injury to residents and enhanced site security
- potential design modifications to increase resource recovery
- the capacity to offer rural residents a bulky goods waste collection service
- the completion of the Glen Davis transfer station

Management Comment

Upon resolution of Council, the Administration can prepare a report to the 26 August 2024 Ordinary Meeting to provide details of the management of the Waste Transfer stations, inclusive of the items in the recommendation.

3. Administration Reports

3.1. WWW - 22/07/2024 - Tender - Lithgow Sewerage Treatment Plant Inlet Works Stage 2

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: Matthew Trapp - Executive Manager Water, Wastewater and Waste

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

Executive Summary

This report provides a summary of the tender process undertaken to recommend the appointment of a suitably qualified and experienced contractor to deliver the Lithgow Sewerage Treatment Inlet Works – Stage 2 design and construction. The report provides the results of the tender evaluation with a confidential attachment to inform Council of the Tender Evaluation Panel's findings and recommendations.

Administration's Recommendation

THAT Council:

1. Receive the report on the tender process undertaken for the Lithgow Sewerage Treatment Plant Inlet Works Stage 2 project.
2. In accordance with Clause 178(1) (a) of the Local Government (General) Regulation 2021, accept the tender submission from Precision Civil Infrastructure Pty Ltd for the Lithgow Sewerage Treatment Inlet Works – Stage 2 design and construction Project for Total Price \$2,363,826.67 (Ex GST).
3. Delegate authority to the General Manager to enter a contract between Council and Precision Civil Infrastructure Pty Ltd in accordance with the Tender for Lithgow Sewerage Treatment Inlet Works – Stage 2.

Attachments

1. CONFIDENTIAL - Evaluation Scoresheet Inlet Works Stage 2 [3.1.1 - 1 page]

Reference to any relevant previous minute

Nil.

Background and discussion

The Council provides essential sewerage services to Lithgow and the surrounding areas. The Lithgow Sewerage Treatment Plant was upgraded with a focus on secondary and tertiary treatment. The upgraded plant provided a substantial improvement in effluent quality, environmental performance and increased capacity. Some parts of the original plant remained to reduce costs and

as those items were still operational. These parts have since deteriorated and now require renewal to improve operability and outcomes in treatment processes.

The administration has undertaken a tender process for a qualified, suitably experienced, and capable contractor to deliver the Lithgow Sewage Treatment Inlet Works – Stage 2 as a part of the Council's Operational Plan for 2024/25. The works involve the Design & Construction of a new Inlet Works and associated infrastructure at existing Lithgow Sewage Treatment Plant.

Tender Process

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

Panel Member	Role
Matthew Trapp	Executive Manager – Water, Wastewater and Waste
Duncan Shumack	Project Engineer
James Gilbert	Purchasing Coordinator (advisory role)
Samuel Lenkaak	Project Engineer

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

- Value for money (40%);
- Schedule and Design (15%);
- Demonstrated Experience and Past Performance (20%);
- Capability (technical and Financial) (10%);
- Methodology (12.5%); and
- Local Preference Policy (2.5%).

Council called for open tenders on 17 June 2024, and four (4) responses were received by the tender closing time, 5:00pm 7 July 2024. These were received from the following companies:

- National Civil Projects Pty Ltd;
- Precision Civil Infrastructure;
- SNG Engineering Pty Ltd; and
- TWS Evolution.

Tender Evaluation

The TEP reviewed the submissions and met on 10 July 2024 to discuss the proposals.

The below table provides a summary of the TEP's scoring against the various evaluation criteria. A copy of the detailed evaluation has been provided to all Councillors with this report as a confidential attachment.

Tenderer	Value for Money (score)	Technical (non-price score)	Overall Score
National Civil Projects	1.84	27	38
Precision Civil Infrastructure	9.33	30	81
SNG Engineering	7.38	29	71
TWS Evolution	10	19	67

Please note that the attachment contains information that is commercial-in-confidence.

Consultation and Communication

The designs will be reviewed with the regulator, Department of Climate Change, Energy, Environment and Water. This will be done as a part of the Section 60 approval process for treatment plant design and construction.

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 the 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 and treatment strategies have been applied. The risk register will be updated over the course of the project.

Financial

- Budget approved - \$1,000,000 for FY 2024/25. The project would be phased over 2 years and be completed in 2025/26.
- Cost centre - 300073
- Expended to date - \$0
- Future potential impact – improved operability and treatment processes at Lithgow STP.

3.2. WWW - 22/07/2024 - Tender - Watermains Renewal 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: Matthew Trapp - Executive Manager Water, Wastewater and Waste
Responsible Officer: Matthew Trapp - Executive Manager Water, Wastewater and Waste

Executive Summary

This report provides a summary of the tender process undertaken to recommend the appointment of a suitably qualified and experienced contractor to deliver the Water Main Replacement for the Wallerawang Township. The report provides the results of the tender evaluation with a confidential attachment to inform Council of the Tender Evaluation Panel's findings and recommendations.

Administration's Recommendation

THAT Council:

1. Council receive the report on the tender process undertaken for the Water Main Replacement – Wallerawang Township project.
2. In accordance with Clause 178(1) (a) of the Local Government (General) Regulation 2021, accept the tender submission from KHP Civil Pty Ltd for the Water Main Replacement – Wallerawang Township Project for Total Price \$286,771 (Ex GST).
3. Delegate authority to the General Manager to enter a contract between Council and KHP Civil Pty Ltd in accordance with the Tender for Water Main Replacement – Wallerawang Township Project.

Attachments

1. CONFIDENTIAL - Evaluation Scoresheet Wallerawang Watermains MST [3.2.1 - 1 page]

Reference to any relevant previous minute

N/A

Background and discussion

The Council provides essential water services to Lithgow and the surrounding areas. The transportation of potable water is undertaken via a network of pipelines and infrastructure to carry the treated water from Council's plant and reservoirs to private property. From time to time, these watermains need to be renewed to ensure continuous operation of the mains and to ensure that residents and customers are provided with the appropriate level of service.

The administration has undertaken a tender process for a qualified, suitably experienced, and capable contractor to deliver the Water Main Replacement – Wallerawang Township as a part of the Lithgow City Council Operational Plan for 24/25. The works involve the replacement of the existing watermains in Oxley Street, McKenzie Street and Hume Avenue.

Tender Process

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

Panel Member	Role
Matthew Trapp	Executive Manager – Water, Wastewater and Waste
Duncan Shumack	Project Engineer
James Gilbert	Purchasing Coordinator (advisory role)
Samuel Lenkaak	Project Engineer

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

- Value for money (40%);
- Schedule and Design (20%);
- Demonstrated Experience and Past Performance (20%);
- Capability (technical and Financial) (17.5%); and
- Local Preference Policy (2.5%).

Council called for open tenders on 17 June 2024, and four (4) responses were received by the tender closing time, 5:00pm 7 July 2024. These were received from the following companies:

- CPD Services Pty Ltd;
- DLMH Services Pty Ltd;
- Fluid Plumbing Services Pty Ltd;
- Hynash Constructions Pty Ltd;
- Infrastructure Renewal Services Pty Ltd;
- Keane Civil and Constructions Pty Ltd;
- KHP Civil Pty Ltd;
- SNG Engineering Pty Ltd; and
- TCM Civil Pty Ltd.

Tender Evaluation

The TEP reviewed the submissions and met on 10 July 2024 to discuss the proposals.

The below table provides a summary of the TEP's scoring against the various evaluation criteria. A copy of the detailed evaluation has been provided to all Councillors with this report as a confidential attachment.

Tenderer	Value for Money (score out of 10)	Technical (non-price score)	Overall Score
CPD Services	6.64	26	77
DLMH Services	7.23	27	64
Fluid Plumbing Services	8.51	23	79
Hynash Constructions	4.07	21	54
Infrastructure Renewal Services	1.73	19	41
Keane Civil and Constructions	7.88	24	77
KHP Civil	10	24	83
SNG Engineering	4.68	20	53
TCM Civil	8.3	25	78

Please note that the attachment contains information that is commercial-in-confidence.

Consultation and Communication

The designs will be reviewed internally with Council staff prior to construction. The contractors are required, under the engagement, to liaise with property owners to inform and provide information on shutdowns and when water will be available.

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 the 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 and treatment strategies have been applied. The risk register will be updated over the course of the project. The contractors will be required to undertake and provide a full risk management plan for review prior to undertaken the job.

Financial

- Budget approved - \$650,000 with carryover from 23/24 (water main renewal program).
- Cost centre – PJ 200194
- Expended to date - \$0
- Future potential impact – nil.

3.3. I&E – 22/07/2024 – Tender Evaluation for Main Street / Cupro Street, Lithgow Stormwater Improvements (Stage 1)

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 summarises the tender evaluation process that has been undertaken for the construction of new stormwater pits and pipes as part of the Main Street / Cupro Street, Lithgow Stormwater Improvements.

This project is for Stage 1 of the works, located on the northern side of the Great Western Rail Line, between James Street and Farmers Creek. The project is joint funded from the NSW Government's Resources for Regions Round 9 grant program and funding provided to Council under the joint Federal and State government funded Disaster Recovery Funding Arrangements (DRFA) program after the declared natural disaster in June 2022 (AGRN 1025).

Administration's Recommendation

THAT Council:

1. Note the tender evaluation for the construction of new stormwater pits and pipes as part of the Main Street / Cupro Street, Lithgow Stormwater Improvements (Stage 1).
2. In accordance with Clause 178 (1)(a) of the Local Government (General) Regulation 2021, accept the tender submission from Keane Civil and Construction for the tendered amount of \$920,455 (excluding GST).
3. Authorise the General Manager to execute the contract on behalf of Council under delegated authority.

Attachments

1. Tender Evaluation for Main Street Cupro Street Lithgow Stormwater Improvements - Stage 1 [3.3.1 - 1 page]

Background and discussion

The intersection of Main Street and Cupro Street Lithgow is heavily impacted by flood waters during intense rainfall events, resulting in traffic disruptions (Main Road 516) and rising water level impacts on residents and businesses in the area. This impact also extends along George Coates Avenue, Lithgow.

Numerous investigations to resolve the flooding impacts resulted in Council undertaking a design for the triplication of the subsurface drainage from the Main Street / Cupro Street intersection to Farmers

Creek. This work involves the construction of new pits and pipes, and further requires the underboring of the Great Western Rail Line.

The construction of this drainage amplification project will directly benefit all residents who live in the immediate vicinity. Those residents have been calling for the Council to implement such improvements for many years. The significance of the flooding directly impacts the success and yearly operating costs of several businesses in the area, namely Bunnings, PicMii Real Estate, Fast Fox, Blue Fox, Lithgow Fire Control and the local 2LT radio station which operates in the vicinity. Secondary to the primary benefits above, Lithgow’s Main Street is a state government managed route connecting the Great Western Highway to the Bells Line of Road. Flooding impact necessitates closure which causes widespread disruption. All motorists who utilise the route will benefit from the improved flood resilience. This impact can be quantified to approximately 50 residents and businesses, however, there is a secondary benefit affecting thousands of motorists yearly. Success of the overall project will be measured by the number and duration of road closures that are required due to localised flooding in the area from unexpected high intensity rainfall events.

Liaison with Transport for NSW (TfNSW) to seek approval for works within the road and rail corridor are continuing, however, are expected to take some time. To prevent delays to the project, Council has split the project into two (2) stages, with Stage 1 being the works on the norther side of the rail corridor (not requiring TfNSw approval), and Stage 2 works under the rail corridor and in the road reserve of Main Street (Main Road 516).

The stages of the proposed works are shown in the imager below.



Stage 1 works include trenching to install the required 900mm reinforced concrete pipes and pits in the following locations:

1. the western side of Watsford Oval, from Farmers Creek to James Street;
2. James Street, from Watsford Oval to the southern side; and
3. George Coates Avenue, from James Street to Wylde Street.

Completion of Stage 1 works will provide some relief during flooding events, with the maximum result being achieved once Stage 2 works are completed.

The design has been previously completed by Barnson engineers, with the geotechnical assessment being undertaken presently.

In addition to the Stage 1 infrastructure work, the area of Watsford Oval required to be trenched will have the surface reinstated to Council's satisfaction. Works have been designed to avoid any trees in George Coates Avenue being impacted.

Tender Process

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

Name	Position	Role on TEP
Leanne Kearney	Assets and Infrastructure Planning Manager	Chair
Sean Quick	Project Officer	Member
Jim McGee	Engineering Officer	Member

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

- Value for money (35%);
- Project Program (15%);
- Demonstrated Experience and Past Performance (15%);
- WHS Management (15%);
- Quality Management (15%)
- Environmental Management (7.5%) and
- Local Preference Policy (2.5%).

Council called for open tenders on 17 May 2024, and seven (7) responses were received by the tender closing time, 5:00pm on 11 June 2024. These were received from the following companies:

- Civil & Civic Group Pty Ltd;
- Civil Constructions Pty Limited;
- Dukes Earthmoving Pty Ltd;
- Hynash Constructions Pty Ltd;
- Keane Civil & Constructions Pty Ltd;
- SNG Engineering Pty Ltd; and
- TOBCO.

Tender Evaluation

The TEP reviewed the submissions and met on 5 July 2024 to discuss the proposals.

The below table provides a summary of the TEP's scoring against the evaluation criteria. A copy of the detailed evaluation has been provided to all Councillors with this report as a confidential attachment. Please note that the attachment contains information that is commercial-in-confidence.

Tenderer	Overall Score (out of 100)
Keane Civil & Constructions Pty Ltd	95
Dukes Earthmoving Pty Ltd	84
Hynash Constructions Pty Ltd	82
Civil Constructions Pty Limited	72
SNG Engineering Pty Ltd	72
TOBCO	68
Civil & Civic Group Pty Ltd	61

Keane Civil & Constructions Pty Ltd demonstrated a sound understanding of the project. Keane Civil & Constructions Pty Ltd have constructed a number of stormwater projects similar in scope and value, as well as previously working as a contractor for Lithgow City Council (Bridge Street watermain replacement, Old Bathurst Road SPS Upgrade, D&C West Bowenfels SPS and Portland High Street Pump Station Disuse projects). Project referees from Coolamon Shire Council vouched for Keane Civil & Constructions Pty Ltd delivering great quality of work.

A preliminary works program of 130 days is acceptable to Council for this project.

Keane Civil & Constructions Pty Ltd are based in Thornleigh and do not meet the requirements of Council's Local Procurement Policy. However, it should be noted that they will be utilising some local sub-contractors (survey and material suppliers) during the completion of the project.

Consultation and Communication

Stage 1 works will not directly impact any residents or businesses. Watsford Oval will be unavailable for use by local sporting organisations, who have been advised of the temporary closure. Public notices will be made once a commencement date is determined, including advice on the expected timeframe for completion. In addition, project information will be updated regularly on Council's webpage.

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*.

The project is subject to a thorough assessment of key environmental issues by way of Part V assessment to ensure compliance with the *Environmental Planning and Assessment Act 1979*.

Risk Management

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

Financial

- Budget approved – total project budget of \$2,034,147 externally funded via AGRN 1025 (\$608,000) and Resources for Regions Round 9 (\$1,426,147). The project will be phased over multiple years.
- Cost centre - PJ100840
- Expended to date - \$10,966 on preliminary works including design, project management and geotechnical assessments.
- Future potential impact - \$1,030,000 to be expended this financial year with the remainder (\$993,181) to be phased in the 2025/26 financial year for Stage 2 works.

3.4. I&E - 22/07/2024 - Tender Assessment - Bitumen Seal Package - 2024/25 Program

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 Infrastructure and Economy

Executive Summary

This report summarises the tender evaluation process that has been undertaken for the bitumen spray sealing aligned with the requirements of the 2024/25 capital works program. Also included is a schedule of rates for any future works that may present over the course of the financial year.

The process followed was an open tender run via Local Government Procurement. A variety of specifications were included that responded to the unique requirements of each location. The tender attracted 11 responses with 9 being compliant to the tender request and were therefore able to be assessed.

Administration's Recommendation

THAT Council

1. Note the tender evaluation for the provision of bitumen spray seal services as required by the 2024/25 capital works program,
2. In accordance with Clause 178 (1)(a) of the Local Government (General) Regulation 2021, accept the tender submission from State Asphalt Services for the tendered amount of \$320,980.40 (excl. GST).
3. In accordance with Clause 178 (1)(a) of the Local Government (General) Regulation 2021, accept the tender schedule of rates submissions, for the provision of other bitumen resealing services for the 2024/25 year, as part of a closed quotation/tender process.
 - a. State Asphalt Services,
 - b. Roadworx P/L,
 - c. Stabilised Pavements Australia P/L, and
 - d. Country Wide Asphalt P/L

Attachments

1. Confidential - Tender Assessment - Spray Seal Package [3.4.1 - 1 page]

Reference to any relevant previous minute

N/A

Background and discussion

The 2024/25 bitumen resealing program consists of the following project locations:

1. Martins Road, Rydal,

2. Limestone Creek Road, Portland,
3. Portland Street, Portland,
4. Coxs Street Lane, Portland, and
5. Blackmans Creek Road, Hartley.

Each of these assets will have their pavement reconstructed prior to the application of a bitumen seal.

Tender Process

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

Name	Position	Role on TEP
Paul Creelman	Transport Manager	Chair
Jim McGee	Engineering Officer	Member

Generally, tenders are assessed according to several criteria such as value for money, design concepts, proposed methodology, and their project program. Understanding that the scope of these projects is very simple and well defined, the responses for these tenders were made on:

1. Relative value for money,
2. Requisite insurances held, and
3. Schedule of rates assessment.

Council called for open tenders on 26 June 2024, and eleven (11) responses were received by the tender closing date of 10 July 2024. These were received from the following companies:

- All Pavement Solutions P/L,
- Asphalt Laying Services,
- Ben Hagney Electrical,
- Colas NSW,
- Country Wide Asphalt,
- Fulton Hogan,
- NSW Building and Civil,
- Roadworx,
- Stabilised Pavements of Australia,
- State Asphalt Services, and
- T.D. Civil and Construction.

Tender Evaluation

The TEP reviewed the submissions and met on 11 July 2024 to discuss the proposals. Each proposal was to include a cost per project location as a lump sum, a schedule of rates, and a confirmation of requisite insurances.

The below table offers a summary of the TEP's scoring against the various evaluation criteria. A copy of the detailed evaluation has been provided to all Councillors with this report as a confidential attachment. Please note that the attachment contains information that is commercial-in-confidence.

Tenderer	Insurance provided	Rank by Price	Rates provided
All Pavement Solutions	Yes	66	Yes
Asphalt Laying Services	Yes	45	Yes
Ben Hagney Electrical	Yes	Non-compliant*	Yes

Colas NSW	Yes	69	No
Country Wide Asphalt	Yes	82	No
Fulton Hogan	Yes	65	No
NSW Building and Civil	Yes	54	Yes
Roadworx	Yes	83	Yes
Stabilised Pavements of Australia	Yes	82	No
State Asphalt Services	Yes	100	No
T.D. Civil and Construction	Yes	Non-compliant*	No

* *Non-compliant as requisite breakdown by project location was not provided to substantiate the total sum.*

As well as tendering the lowest price, State Asphalt Services demonstrated a sound understanding of the project and have a very good history of similar project delivery for Lithgow City Council. All the ranked applicants had good work, health and safety systems, quality control measures and environmental management systems with most having ISO 14001 and 45001 accreditations.

As a result of this assessment process, it is suggested that Council enter into a contract with State Asphalt Services for the provision of bitumen resealing services for the five locations listed in this report above.

It is also suggested that Council accept the top four responses, as a panel of suppliers to issue closed competitive tenders/quotes for future bitumen resealing requirements in the 2024/25 financial year (subject to budget capacity), being:

1. State Asphalt Services,
2. Roadworx,
3. Stabilised Pavements of Australia, and
4. Country Wide Asphalt

Consultation and Communication

The capital works program was placed on public display for 28 days prior to Council endorsing the final the program and the roads referred to in this tender. Residents in the local area will be advised of the project in writing and further direct communication will be issued once the works are scheduled to commence.

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*.

Prior to their commencement, each project will be subject to a thorough assessment of key environmental issues by way of formal Review of Environmental Factors, to ensure compliance with the *Environmental Planning and Assessment Act 1979*.

Risk Management

All the ranked applicants had good work, health and safety systems, quality control measures and environmental management systems with most having ISO 14001 and 45001 accreditations. Similarly, each of the preferred tenderers have the required Public Liability Insurance to work for Lithgow Council.

Financial

- Budget approved – 2024/25 Capital Works Program.
- Cost centre – Various, as approved by Council.
- Expended to date - Nil
- Future potential impact – Full expenditure of budget. All quotes are under the budgets for each site of this program.

3.5. I&E - 22/07/2024 - Supply and Delivery of Bitumen Emulsion Tender (CNSWJO)

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.

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

Author: Kaitlin Cibulka - Cemeteries and Administration Supervisor

Responsible Officer: Jonathon Edgecombe - Director of Infrastructure and Economy

Executive Summary

The purpose of this report is to recommend that Council accept and sign a contract with Bitupave Ltd for the supply and delivery of bitumen emulsion, and to advise Central NSW Joint Organisation (CNSWJO) of its decision.

The term of the contract is 1 June 2024 to 31 May 2026, with an optional 12-month extension.

It is anticipated that the greatest value for money will be obtained by procuring these services at a regional level.

Please find all tender advice attached as commercial in confidence.

Administration's Recommendation

THAT Council:

1. Accepts and signs a contract with Bitupave Ltd for the supply and delivery of bitumen emulsion; and
2. Advise the Central NSW Joint Organisation of its decision.

Attachments

1. CONFIDENTIAL - 240418 S 1 2024 evaluation report [3.5.1 - 8 pages]
2. CONFIDENTIAL 240510 S 1 2024 Volume 4 draft mark up [3.5.2 - 32 pages]
3. CONFIDENTIAL - Agreement to Participate in CNSWJO Regional Procurement Project [3.5.3 - 2 pages]

Reference to any relevant previous minute

N/A

Background and discussion

Under the Local Government Act Tendering Regulation, where a contract is for an amount over \$250,000, a Request for Tender must be conducted and be considered by Council. The Central NSW Joint Organisation (CNSWJO), on behalf of participating member councils, has undertaken a formal Request for Tender (RFT) process in early 2024 to identify a suitable provider for the supply and delivery of bitumen emulsion.

It is anticipated that Council will spend up to \$100,000 per annum on bitumen emulsion. The supply of bitumen emulsion is required to operate Council's jet patcher. It is not a service that is used to deliver capital projects and large-scale resealing, this is always done by separate contract with individual civil contractors that also supply the necessary machinery and labour to complete these tasks.

CNSWJO member councils have participated in regional contracts for the supply and delivery of bitumen emulsion since 2004 and interest was expressed for the Joint Organisation to conduct a procurement process for a new regional contract to commence on 1 June 2024.

Consultation and Communication

Tender Evaluation

An open Request for Tender process was undertaken through the CNSWJO eProcure Portal. The Request for Tender for the supply and delivery of bitumen emulsion opened on 22 January 2024 and closed on 12 February 2024.

The Tender Evaluation Panel (TEP) undertook an assessment of the responses remotely and participated in a consensus evaluation meeting via videoconference on 22 February 2024. The TEP consisted of the following members, and was assisted by Kate Barker from CNSWJO:

- Cabonne Council – Peter Heffernan,
- Forbes Shire Council – Anthony Davies, and
- Oberon Council – David Basil.

Tender Evaluation Criteria

The selection criteria advertised and used in selecting the successful respondents were:

- Product,
- Customer Service and Delivery,
- Quality Assurance,
- Safety,
- Environmental Sustainability, and
- Pricing.

Summary of Responses Received

The following companies submitted tender responses for S2_2021: Supply and Delivery of Bitumen Emulsion for Central NSW Councils (in alphabetical order):

1. Bitupave Ltd,
2. Downer EDI Works Pty Ltd, and
3. Fulton Hogan Industries Pty Ltd.

Evaluation of Submissions

Evaluation rankings were as follows:

1. Bitupave Ltd – 84.84%,
2. Fulton Hogan – 79.8%, and
3. Downer EDI Works Pty Ltd – 76.48%

Evaluation of the Preferred Respondents

The TEP agreed to recommend Bitupave Ltd for the supply and delivery of bitumen emulsion.

The recommended provider was selected based on their:

- Compliance with the evaluation criteria,
- Demonstrated ability to meet Council's requirements, and
- Competitive price for the services offered.

Policy

The provision of bitumen emulsion is required to work toward compliance with Policy 1.5 - Asset Management.

Legal

The procurement process outlined in this report complies with the requirements outlined within the Local Government Act 1993.

Risk Management

Nil

Financial

- Budget approved - \$100,000
- Cost centre – 800181 and 800185
- Expended to date - Nil
- Future potential impact – Full expenditure of budget.

3.6. I&E - 22/07/2024 - Tender Assessment - Civil Works Package - 2024/25 Program

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

This report summarises the tender evaluation process that has been undertaken for the provision of civil road reconstruction works aligned with the requirements of the 2024/25 capital works program. Also included is a schedule of rates for any future works that may present over the course of the financial year.

The process was an open tender run via Local Government Procurement. The two projects specified by this tender process were the reconstruction of High Street, Portland and Sunny Corner Road, Portland. The tender was viewed by 113 suppliers and attracted 14 responses with each being compliant to the tender request and were therefore able to be assessed.

Administration's Recommendation

THAT Council:

1. Note the tender evaluation for the provision of civil road reconstruction services as required for the 2024/25 capital works program,
2. In accordance with Clause 178 (1)(a) of the Local Government (General) Regulation 2021, accept the tender submission from Dukes Earthmoving P/L for the tendered amount of \$153,756.00 (excl. GST) for the reconstruction of High Street, Portland.
3. In accordance with Clause 178 (1)(a) of the Local Government (General) Regulation 2021, accept the tender submission from Gracey's Earthmoving and Excavation P/L for the tendered amount of \$215,000.00 (excl. GST) for the reconstruction of Sunny Corner Road, Portland.
4. In accordance with Clause 178 (1)(a) of the Local Government (General) Regulation 2021, accept the tender schedule of rates submissions from the following companies, for the services illustrated in the table below.

Company Name	Service Provided
Dukes Earthmoving P/L	Civil works and pavement rehabilitation
Gracey's Earthmoving and Excavation P/L	Civil works and pavement rehabilitation
Ausroad Plant Services	Specialist vehicle hire
D & D Traffic Management Services P/L	Traffic management
First Nations Traffic Management P/L	Traffic management
Mid-Western Traffic Management (Orange) P/L	Traffic management
Miskles Earth Moving P/L	Civil works and pavement rehabilitation
Gracey and Son Earthmoving P/L	Civil works and pavement rehabilitation
Peters Earthmoving P/L	Civil works and pavement rehabilitation

Stabilcorp P/L	Road and pavement stabilisation
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Attachments

1. Confidential - Tender Assessment - Civil Works Package [3.6.1 - 1 page]

Reference to any relevant previous minute

N/A

Background and discussion

This tender has sought to engage with many different services from the civil construction industry for civil construction, road stabilisation and traffic control to give Council the option to gain quotes as required to conduct activities in a more timely manner, whether they be urgent or planned. This has brought in local contractors and specialised non-local contractors to give flexibility when responding to urgent works.

More specifically though, the tender has also sought tender responses for the pavement reconstruction and resealing of the following roads:

1. High Street, Portland.
2. Sunny Corner Road, Portland.

The scope for both locations includes full pavement rehabilitation, drainage reconstruction, vegetation control and bitumen reseal.

Tender Process

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

Name	Position	Role on TEP
Paul Creelman	Transport Manager	Chair
Jim McGee	Engineering Officer	Member

Generally, tenders are assessed according to several criteria such as value for money, design concepts, proposed methodology, and their project program. Understanding that the scope of these projects is well defined, the responses for these tenders were made on:

1. Relative value for money (50%),
2. Prior experience (30%)
3. Requisite insurances held and provision of safety detail (10%), and
4. Schedule of rates assessment (10%).

Council called for open tenders on 30 May 2024, and fourteen (14) responses were received by the tender closing date of 13 June 2024. These were received from the following companies:

- Downer EDI Works P/L
- Dukes Earthmoving P/L (Local)
- Gracey and Son Earthmoving P/L (Local)
- Gracey's Earthmoving and Excavations P/L (Local)
- Green Civil Services P/L
- Peters Earthmoving P/L (Local)
- Roadworx Surfacing P/L
- Stabilcorp P/L
- Ausroad Plant Services P/L

- D & D Traffic Management P/L
- First Nations Traffic Management P/L
- K & N Traffic Services P/L
- Mid West Traffic Management P/L
- Miskles Earthmoving

Tender Evaluation

The TEP reviewed the submissions and met on 14 June 2024 to discuss the proposals. Each proposal was to include a cost per project location as a lump sum, a schedule of rates, and a confirmation of requisite insurances.

The below table offers a summary of the TEP's scoring against the various evaluation criteria. A copy of the detailed evaluation has been provided to all Councillors with this report as a confidential attachment. Please note that the attachment contains information that is commercial-in-confidence.

	Sunny Corner Road Price Weighted (50%)	High Street Price Weighted	Prior experience ranking (30%)	Safety docs	Insurances	Ranking (10%)	Schedule of rates	Ranking (10%)	Local procurement	Sunny Corner Total (out of 100)	High Street Total (out of 100)
Downer EDI Works P/L	0	32	22	Yes	Yes	10	No	0	0	32	64
Dukes Earthmoving P/L	31	50	23	Yes	Yes	10	Yes	10	2.5	76	96
Gracey and Son Earthmoving P/L	10	0	26	Yes	Yes	10	Yes	10	2.5	58	49
Gracey's Earthmoving and Excavations P/L	50	33	26	Yes	Yes	10	Yes	10	2.5	99	82
Green Civil Services P/L	13	34	20	Yes	Yes	10	Yes	10	0	53	74
Peters Earthmoving P/L	43	7	25	Yes	Yes	10	Yes	10	2.5	91	55
Roadworx Surfacing P/L	0	0	17	Yes	Yes	10	No	0	0	27	27
Stabilcorp P/L	0	0	20	Yes	Yes	10	Yes	10	0	40	40
Ausroad Plant Services P/L				Yes	Yes	10	Yes	10			
D & D Traffic management P/L				Yes	Yes	10	Yes	10			
First Nations Traffic Management P/L				Yes	Yes	10	Yes	10			
K & N Traffic Services P/L				Yes	Yes	10	Yes	10			
Mid West Traffic Management (Orange) P/L				Yes	Yes	10	Yes	10			
Miskles Earthmoving				Yes	Yes	10	Yes	10			

Dukes Earthmoving ranked as the highest scored tender (amount of \$153,756.00 ex. GST for the reconstruction of High Street, Portland).

Gracey & Son Earthmoving P/L ranked as the highest scored tender (amount of \$215,000.00 ex. GST) for the reconstruction of Sunny Corner Road, Portland.

It is also suggested that Council accept the responses from the following companies, as a panel of suppliers to issue closed competitive tenders/quotes for future asphalt resealing requirements in the 2024/25 financial year (subject to budget capacity), for the following services:

Company Name	Service Provided
Dukes Earthmoving P/L	Civil works and pavement rehabilitation
Gracey's Earthmoving and Excavation P/L	Civil works and pavement rehabilitation
Ausroad Plant Services	Specialist vehicle hire
D & D Traffic Management Services P/L	Traffic management
First Nations Traffic Management P/L	Traffic management
Mid-Western Traffic Management (Orange) P/L	Traffic management
Miskles Earth Moving P/L	Civil works and pavement rehabilitation
Gracey and Son Earthmoving P/L	Civil works and pavement rehabilitation
Peters Earthmoving P/L	Civil works and pavement rehabilitation
Stabilcorp P/L	Road and pavement stabilisation

K & N Traffic Services and Green Civil Services were not considered acceptable for inclusion in this panel of contractors due to their comparatively high rates. Roadworx and Downer EDI did not submit

a schedule of rates and could not be considered. All other contractors submitted comparable rates but will be required to submit quotes to ensure competitive rates for future projects.

Consultation and Communication

The capital works program was placed on public display for 28 days prior to Council endorsing the final the program and the roads referred to in this tender. Residents in the local area will be advised of the project in writing and further direct communication will be issued once the works are scheduled to commence.

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*.

Prior to their commencement, each project will be subject to a thorough assessment of key environmental issues by way of formal Review of Environmental Factors, to ensure compliance with the *Environmental Planning and Assessment Act 1979*.

Risk Management

All the ranked applicants had good work, health and safety systems, quality control measures and environmental management systems with most having ISO 14001 and 45001 accreditations. Similarly, each of the preferred tenderers have the required Public Liability Insurance to work for Lithgow Council.

Financial

- Budget approved – 2024/25 Capital Works Program.
- Cost centre - 100934, 100947
- Expended to date - Nil
- Future potential impact - Full expenditure of budget. All quotes are under the budgets for each site of this program.

3.7. I&E - 22/07/2024 - Tender Assessment - Asphalt Resealing Package - 2024/25 Program

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

This report summarises the tender evaluation process that has been undertaken for the supply and laying of asphalt aligned with the requirements of the 2024/25 capital works program. Also included is a schedule of rates for any future works that might present over the course of the financial year.

The process was an open tender, run via Local Government Procurement. A variety of specifications were included that responded to the unique requirements of each location. The tender was viewed by 66 suppliers and attracted 16 responses with 15 being compliant to the tender request and were therefore able to be assessed.

Administration's Recommendation

THAT Council:

1. Note the tender evaluation for the provision of asphalt supply and laying as required by the 2024/25 capital works program,
2. In accordance with Clause 178 (1)(a) of the Local Government (General) Regulation 2021, accept the tender submission from Asphalt Laying Services for the tendered amount of \$787,151.18 (ex. GST).
3. In accordance with Clause 178 (1)(a) of the Local Government (General) Regulation 2021, accept the tender schedule of rates submissions from the following suppliers, for the provision of other asphalt supply and laying services for the 2024/25 year, as part of a closed quotation/tender process -
 - a. Asphalt Laying Services P/L,
 - b. NSW Building and Civil P/L,
 - c. J & G Excavation and Asphalt P/L, and
 - d. Planet Civil P/L

Attachments

1. Confidential - Tender Assessment - Asphalt Package [3.7.1 - 1 page]

Reference to any relevant previous minute

N/A

Background and discussion

The 2024/25 asphalt resealing program consists of the following project locations:

1. Lithgow Street, Lithgow.
2. Musket Parade, Lithgow.
3. Hill Street, Lithgow.
4. Kremer Crescent, Wallerawang.

As required, each of these assets will have their pavement reconstructed prior to the application of a seal.

Tender Process

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

Name	Position	Role on TEP
Paul Creelman	Transport Manager	Chair
Jim McGee	Engineering Officer	Member

Generally, tenders are assessed according to several criteria such as value for money, design concepts, proposed methodology, and their project program. Understanding that the scope of these projects is very simple and well defined, the responses for these tenders were made on:

1. Relative value for money,
2. Requisite insurances held, and
3. Schedule of rates assessment.

Council called for open tenders on 27 June 2024, and sixteen (16) responses were received by the tender closing date of 11 July 2024. These were received from the following companies:

- Asphalt Laying Services P/L,
- Avijohn Contracting P/L,
- Bernipave Road Solutions P/L,
- Downer EDI Works P/L,
- J & E Asphalt and Civil P/L,
- J & G Excavation and Asphalt P/L,
- Mack Civil P/L,
- Norman McMahon Patches P/L,
- North Shore Paving Co. P/L,
- NSW Building and Civil P/L,
- Optimal Civil P/L,
- Planet Civil P/L,
- Roadworx Surfacing P/L,
- State Asphalt Services P/L,
- T & L Excavations P/L, and
- T.D. Civil and Construction P/L.

Tender Evaluation

The TEP reviewed the submissions and met on 12 July 2024 to discuss the proposals. Each proposal was to include a cost per project location as a lump sum, a schedule of rates, and a confirmation of requisite insurances.

The below table offers a summary of the TEP's scoring against the various evaluation criteria. A copy of the detailed evaluation has been provided to all Councillors with this report as a confidential attachment. Please note that the attachment contains information that is commercial-in-confidence.

Tenderer	Insurance provided	Rank by Price	Rates provided
Asphalt Laying Services P/L	Yes	100.0	Yes
Avijohn Contracting P/L	Yes	76.1	Yes
Bernipave Road Solutions P/L	Yes	80.2	Yes
Downer EDI Works P/L	Yes	75.3	Yes
J & E Asphalt and Civil P/L	Yes	86.0	Yes
J & G Excavation and Asphalt P/L	Yes	90.1	Yes
Mack Civil P/L	Yes	57.9	Yes
Norman McMahon Patches P/L	Yes	69.9	No
North Shore Paving Co. P/L	Yes	34.5	No
NSW Building and Civil P/L	Yes	95.2	Yes
Optimal Civil P/L	Yes	52.1	No
Planet Civil P/L	Yes	88.4	Yes
Roadworx Surfacing P/L	Yes	75.5	Yes
State Asphalt Services P/L	Yes	48.8	Yes
T & L Excavations P/L	Yes	No lump sum*	Yes
T.D. Civil and Construction P/L	Yes	60.7	No

* *Non-compliant as requisite breakdown by project location was not provided to substantiate the total sum.*

As well as tendering the lowest price, Asphalt Laying Services P/L demonstrated a sound understanding of the project. There is no history of performance with Lithgow City Council so regular performance inspections of completed works will need to occur to ensure longevity and suitability of the delivered product. All of the ranked applicants had good work, health and safety systems, quality control measures and environmental management systems with most having ISO 14001 and 45001 accreditations.

As a result of this assessment process, it is suggested that Council enter a contract with Asphalt Laying Services for the provision of asphalt supply and laying services for the four locations listed in this report above.

It is also suggested that Council accept the top four responses, being:

1. Asphalt Laying Services P/L,
2. NSW Building and Civil P/L,
3. J & G Excavation and Asphalt P/L, and
4. Planet Civil P/L.

as a panel of companies to issue closed competitive tenders/quotes for future asphalt resealing requirements in the 2024/25 financial year, subject to budget capacity.

Consultation and Communication

The capital works program was placed on public display for 28 days prior to Council endorsing the final the program and the roads referred to in this tender. Residents in the local area will be advised

of the project in writing and further direct communication will be issued once the works are scheduled to commence.

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*.

Prior to their commencement, each project will be subject to a thorough assessment of key environmental issues by way of formal Review of Environmental Factors, to ensure compliance with the *Environmental Planning and Assessment Act 1979*.

Risk Management

All the ranked applicants had good work, health and safety systems, quality control measures and environmental management systems with most having ISO 14001 and 45001 accreditations. Similarly, each of the preferred tenderers have the required Public Liability Insurance to work for Lithgow Council.

Financial

- Budget approved – 2024/25 Capital Works Program.
- Cost centre - Various, including 100934, 100936, 100939, 100940, 100947.
- Expended to date - Nil
- Future potential impact - Full expenditure of budget. All quotes are under the budgets for each site of this program.

3.8. I&E - 22/07/2024 - Contracts for the Supply, Delivery and/or Installation of Guardrail and Wire Rope Safety Fencing

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.

Responsible Governance & Civic Leadership

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

Author: Kaitlin Cibulka - Cemeteries and Administration Supervisor
Responsible Officer: Jonathon Edgecombe - Director of Infrastructure and Economy

Executive Summary

Central NSW Joint Organisation (CNSWJO) member Councils expressed interest in participating in a regional procurement process for guardrail and wire rope safety fencing. This contract is a new regional contract to commence on 1 May 2024 for a period of 2 years with an optional 1 year extension.

It is recommended to Council that a contract is signed between Council and either or both of the following:

- RBK Pty Ltd t/as Top Notch Fencing; and
- Western Safety Barriers Group Pty Ltd.

The term of the contract is 1 May 2024 to 30 April 2026, with an optional 12-month extension.

It is anticipated that the greatest value for money will be obtained by procuring these services at a regional level.

Administration's Recommendation

THAT Council accept and sign contracts with RBK Pty LTD t/as Top Notch Fencing, and Western Safety Barriers Group Pty Ltd for the supply, delivery and/or installation of guardrail and wire rope safety fencing.

Attachments

Please find all tender advice attached as commercial in confidence.

1. CONFIDENTIAL - 240319 S 2 2024 tender evaluation report [3.8.1 - 13 pages]

Reference to any relevant previous minute

Nil.

Background and discussion

Under the Local Government Act Tendering Regulation, where a contract is for an amount over \$250,000, it needs to go to both open tender and be considered by Council. Central NSW Joint Organisation, on behalf of participating member councils, has undertaken a formal Request for Quotation/Tender (RFX) process in February 2024 to identify suitable providers for the supply, and/or installation of guardrail and wire rope safety fencing.

It is anticipated that Council will spend approximately \$60,000 per annum on guardrail and wire rope safety fencing. However, in some years this amount may need to increase in response to vehicle accidents or other factors which influence the condition of guardrail and wire rope fencing.

Tender Evaluation

An open request for quotation/tender process was undertaken through the CNSWJO eProcure Portal. The RFX for the supply and delivery of guardrail and wire rope safety fencing opened on 22 January 2024 and closed on 12 February 2024.

The Evaluation Panel (EP) undertook an assessment of the responses remotely and participated in an online consensus evaluation meeting on 22 February 2024. The EP consisted of the following members, and was assisted by Kate Barker from CNSWJO:

- Oscar Zideluns – Blayney Shire Council;
- Michael Todd – Forbes Shire Council; and
- Mark Frecklington – Orange City Council.

Tender Evaluation Criteria

The selection criteria advertised and used in selecting the successful respondents were:

- Capacity and Capability;
- Quality Assurance;
- Safety;
- Environmental Sustainability; and
- Pricing.

Summary of Responses Received

The following companies submitted tender responses for S2_2024: Supply, Delivery and/or Installation of Guardrail and Wire Rope Safety Fencing for Central NSW Councils (in alphabetical order):

- Envirochoice Industries Pty Ltd;
- Protection Barriers Pty Ltd;
- RBK Pty Ltd t/as Top Notch Fencing; and
- Western Safety Barriers Group Pty Ltd.

Evaluation of Submissions

Evaluation rankings were as follows:

1. RBK Pty Ltd t/as Top Notch Fencing.
2. Western Safety Barriers Group Pty Ltd.
3. Protection Barriers Pty Ltd.
4. Envirochoice Industries Pty Ltd.

Evaluation of the Preferred Respondents

The EP resolved to recommend a panel of 2 preferred providers for the supply, delivery and/or installation of guardrail and wire rope safety fencing, consisting of:

- RBK Pty Ltd t/as Top Notch Fencing; and
- Western Safety Barriers Group Pty Ltd.

The recommended providers were selected based on their:

- Compliance with the evaluation criteria,
- Demonstrated ability to meet Council's requirements, and

- Competitive price for the services offered.

Pricing

Respondents were requested to provide a schedule of rates on a variety of products. A basket of goods was selected by the EP as part of the evaluation process. The pricing provided by respondents was used to assess pricing against the pre-selected basket of goods. The pricing for the basket of goods can be found in the Tender Evaluation Report which forms an attachment to this report.

Consultation and Communication

N/A

Policy

The provision of guardrail and wire rope barrier is required to work toward compliance with Policy 1.5 - Asset Management.

Legal

The procurement process outlined in this report complies with the requirements outlined within the Local Government Act 1993.

Risk Management

The provision of guardrail and wire rope barrier is critical in maintaining road user safety.

Financial

- Budget approved - \$60,000
- Cost centre – 800181 and 800185
- Expended to date - Nil
- Future potential impact – Full expenditure of budget

CNSWJO has managed the process including all costs of advertising and tender assessment and will receive a 2.5% management fee from the service providers to cover these costs.

3.9. F&G - 22/07/2024 - Updated Policy 10.20 Leasing and Licensing

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 and Legal Services Officer

Responsible Officer: Ross Gurney - General Manager

Executive Summary

The purpose of this report is to request that Council adopt Policy 10.20 Leasing and Licensing, as amended.

At the Ordinary Meeting of Council held on 23 October 2023, it was resolved to refer Policy 10.20 Leasing and Licensing to the Finance Committee to review and make recommendations to Council with respect to the leasing categories.

The matter was discussed at the Finance Committee meetings of 21 November 2023, 13 February 2024 and 18 June 2024.

An amended Leasing and Licensing Policy, proposing changes to categories B and C listed in Schedule A of the Policy, was agreed at the Finance Committee of 18 June 2024.

A copy of the Leasing and Licensing Policy (showing tracked changes in red) is attached to this report. The attached Policy includes the changes reported to the Finance Committee meeting on 18 June 2024 and some minor housekeeping amendments. The minor housekeeping amendments have no impact on the Policy's substance and have been made for accuracy and clarification purposes. .

Administration's Recommendation

THAT:

1. Updated Policy 10.20 Leasing and Licensing be placed on public exhibition for a period of 28 days.
2. If no submissions are received during the public submission period or in the General Manager's view the submissions do not warrant referral to Council, the Policy be adopted.

Attachments

1. Policy 10.20 - Leasing and Licensing (amended July 2024) [3.9.1 - 15 pages]

Reference to any relevant previous minute

Min 23-180 – Ordinary Meeting of Council 23 October 2023

Min 19-341 – Ordinary Meeting of Council 25 November 2019

Min 19-266 – Ordinary Meeting of Council 23 September 2019

Background and discussion

Policy 10.20 was first adopted on 25 November 2019. It established a framework for granting leases and licences for use of Public Land and Crown Land in a fair and consistent manner, in accordance with legislation and Council's Compliance Policy 9.16.

At the Ordinary Meeting of Council held on 23 October 2023, it was resolved to refer Policy 10.20 Leasing and Licensing to the Finance Committee to review and make recommendations to Council with respect to the leasing categories in Schedule A of the Policy.

The matter was discussed at the Finance Committee meetings of 21 November 2023, 13 February 2024 and 18 June 2024. An amended Leasing and Licensing Policy, proposing changes to categories B and C listed in Schedule A of the Policy, was agreed at the Finance Committee meeting of 18 June 2024 and it was recommended that the updated Policy be reported to the July Council meeting to be considered for adoption.

Changes to the Policy

The following changes are made to the Policy:

1. Clarification regarding Category B uses

A licence or lease granted under Category B will attract a peppercorn rent. This is because the licensee/lessee's use aligns with a function of Council and the licensee/lessee has no ability to generate income from the use of the premises.

To provide clarity as to when Category B will apply, a definition for "core community purpose" has been introduced, as follows:

"core community purpose" means a service or activity that provides a direct benefit to the community and would otherwise be a function of Council.

To more accurately reflect the objective of a Category B use, the examples used in the Policy will be amended to "maintenance and conservation of public reserves, beautification of public spaces etc".

2. Clarification regarding Category C uses

A licence or lease granted under Category C will attract the minimum statutory rent under the Crown Land Management Act 2016 (currently \$594 pa).

While it is a function of Council to provide facilities for community use, it is not a function of Council to establish and oversee the running of sporting clubs, community groups and the like. As the licensee/lessee's use of the premises is not a function of Council and the licensee/lessee can generate income in connection with its use of the premises, Category C can be distinguished from a Category B use.

To provide clarity as to when Category C will apply, a definition for "non-core community purpose" has been introduced, as follows:

"non-core community purpose" means a service or activity that provides a direct benefit to the community but is not a function of Council.

To more accurately reflect the objective of a Category C use, the examples used in the Policy will be amended to "sporting clubs, community groups such as men's sheds, girl guides, kids clubs, charitable groups etc".

3. Minor housekeeping amendments

A few minor housekeeping amendments have been made to the Policy for accuracy and clarification. They are:

1. Page 1 – change the word “Terminology” to “Terms”. This change is made for simplicity.
2. Page 2 – change the words “by 30 June 2021” to “as soon as possible”. This change is made to correspond with the change made to the *Crown Land Management Act 2016*.
3. Page 2 – change the word “certain” to “a prescribed”. This change is made to align with the wording used in the *Crown Land Management Act 2016*.
4. Page 3 – insertion of the words “(other than a short-term licence issued under the *Crown Land Management Act 2016*)”. This change is made to make it clear that the Policy does not apply to short-term licensing on Crown Land, which is prescribed and governed by the *Crown Land Management Act 2016*.

Consultation and Communication

If the proposed resolution is carried, updated Policy 10.20 Leasing and Licensing will be placed on public exhibition for a period of 28 days in which time any member of the public may make a submission.

Policy

Policy 10.20 Leasing and Licensing Policy.

Legal

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

Risk Management

The adoption of the updated Policy strengthens Council’s processes and procedures by providing greater clarity for Councillors, the Administration and the Local Community.

Financial

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

3.10. P&P - 22/07/2024 - Adoption of Draft Lithgow Local Infrastructure Contributions Plan (Section 7.12) 2024

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 (Local Government Area).

Author: Sherilyn Hanrahan – Strategic Land Use Planner

Responsible Officer: Shaun Elwood - Director People and Place

Executive Summary

The purpose of this report is to provide Council with the outcomes of the public exhibition process for the Draft Lithgow Local Infrastructure Contributions Plan (Section 7.12) 2024 (hereinafter referred to as the Plan) and to seek a resolution to adopt the Plan as exhibited.

A Council resolution to place the Plan on public exhibition was made on 22 April 2024. The Plan was placed on public exhibition for a period of 28 days between 24 April and 22 May 2024 as an integrated exhibition with Council's 2024/2025 Operational Plan as the works schedule within the Plan focuses directly on works proposed in the 2024/2025 financial year.

No submissions were received during the exhibition period. The Plan as attached to this report is therefore submitted for adoption without change.

Council must publish a notice of its decision to approve the Plan within 28 days after the decision is made.

The Plan will become effective on the day on which a notice of Council's decision to approve the plan is published on Council's website.

Council is required as soon as practicable after approving a contributions plan is to provide the Minister for Planning and Public Spaces with a copy of the approved plan.

Administration's Recommendation

THAT:

1. Council approves the Lithgow Local Infrastructure Contributions Plan (Section 7.12) 2024 attached to this report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act.
3. Council gives public notice of its decision to approve the Lithgow Local Infrastructure Contributions Plan (Section 7.12) 2024 on Council's website within 28 days of the decision
4. Council provides a copy of the approved plan to the Minister of Planning and Public Spaces as soon as is practicable.

Attachments

1. Draft Lithgow Local Infrastructure Contributions Plan (Section 7.12) 2024 [3.10.1 - 23 pages]

Reference to any relevant previous minute

Min 24-81 Ordinary Meeting of Council held 22 April 2024
Min 23-124 Ordinary Meeting of Council held 24 July 2023

Background and discussion

The current Lithgow City Council Section 94A (now S.7.12) Development Contributions Plan (fixed levy plan) 2015 requires amendment to update and replace the works schedule in Attachment 1 that has now either been delivered or are projects no longer being funded from development contributions, and to contemporise and align the Plan with required legislation and current best practice.

A contributions plan can only be amended by a new contributions plan developed in accordance with the EP&A Act, 1979 and its Regulations 2021.

The Plan submitted for adoption includes a 2024/2025 works schedule that provides for \$600,000 of expenditure, being \$390,000 of direct infrastructure and \$210,000 of necessary strategy, design and costing works to deliver infrastructure when and where it is needed in future years.

Council administration will be working towards a longer-term infrastructure planning and delivery plan over this financial year to better align with its Integrated Planning and Reporting (IP&R) framework.

This Plan will be required to be replaced by another contributions plan once the works schedule is planned beyond 2024/2025.

Consultation and Communication

The Draft Plan was placed on public exhibition for a period of 28 days between 24 April and 22 May 2024 in accordance with Council's Public Participation Plan and the EP & A Act, 1979 and its Regulations 2021.

The public exhibition was integrated with the exhibition of the 2024/2025 Operational Plan which assisted the public to identify and understand the relationship between the two plans.

The public were provided with the opportunity to make a submission on each plan separately. No submissions were received in relation to the Draft Lithgow Local Infrastructure Contributions Plan (Section 7.12) 2024.

The Plan attached is therefore submitted for approval without alteration.

Recording of Voting on Planning Matters

Under Section 375A of the Local Government Act 1993, a division is required to be called whenever a motion for a planning decision is put at a meeting of Council or a Council Committee.

A development contributions plan is a planning decision for the purposes of this provision.

Policy

Nil

Legal

The subject matter of this report is a function of Council conferred by the Environmental Planning and Assessment Act 1979 (EP& A Act) and Environmental Planning and Assessment Regulation 2021.

Development Contributions Plans are required to developed, delivered, and reported against in accordance with the EP& A Act, 1979 and its Regulations 2021.

Risk Management

Nil

Financial

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – The funding of infrastructure under this Plan will reduce the balance of funds held in restricted reserves. This is considered good practice ensuring that the community receive local infrastructure funded through development contributions when and where it is needed.

3.11. P&P - 22/07/2024 - MOD DA046/23- Lithgow Aged Cared Modification 38 Maple Crescent Lithgow

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.

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:	Jessica Ramsden – Development Planner
Responsible Officer:	Shaun Elwood - Director People and Places
Property Details:	Lot 1 DP1249852- 38 Maple Crescent Lithgow 2790
Property Owner:	Respect Group Limited
Applicant:	Respect Group Limited

Executive Summary

On 23 January 2024, the subject Modification Application MODDA046/23 to DA228/15 under 4.55(2) of the Environmental Planning & Assessment Act 1979 (EP&A Act), was lodged with Council seeking consent to modify the residential aged care facility approved 18 April 2016, at 38 Maple Crescent Lithgow. The modification proposes to:

- Reduce total beds from 144 to 132 new beds (including already constructed Building A) and reduce total beds from 213 to 178 beds
- Reconfiguration of the 3 new buildings (B, C & D) still to be constructed (Building A completed)
- Demolition of previously retained Madden & Gillard houses prior to construction of Building D
- Ancillary civil works including earthworks, stormwater and utilities, car parking alterations.
- Stage development:
 - Stage One (1)
 - Demolition of part of Building A and Coinda RAF
 - Construction of Building B and ancillary works
 - Stage Two (2)
 - Demolition of Coates House
 - Construction of Building C and ancillary works
 - Stage Three (3)
 - Demolition Madden/Gillard Houses
 - Construction of Building D and ancillary works.

The original application was determined in 2016 by the Joint Regional Planning Panel due to the capital investment value over \$20 million as per the EP&A Act. This Section 4.55(2) modification under the amended EP&A Act relates to an application previously determined by a Joint Regional Planning Panel with the following Clause 275(2) of *Environmental Planning & Assessment Regulation 2000* (EP&A Reg) applicable:

275 Functions exercisable by council on behalf of Sydney district or regional planning panel—the Act, s 4.7(2)(h)

- (2) A council must not determine an application to modify a development consent under the Act, section 4.55(2) on behalf of a Sydney district or regional planning panel if the application is of a kind specified in the Instruction on Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels—Applications to Modify Development Consents published on the NSW planning portal on 30 June 2020.

The 'Instruction on Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels – Applications to Modify Development Consents' (Instructions) states:

A council is **not** to determine an application under section 4.55(2) of the Act to modify a development consent granted by a regional panel if the application:

- proposes amendments to a condition of development consent recommended in the council assessment report but which was amended by the panel, or
- proposes amendments to a condition of development consent that was not included in the council assessment report but which was added by the panel, or
- meets the criteria relating to conflict of interest, contentious development or departure from development standards set out in Schedule 1 to this instruction.

Note: Clause 123BA of the Regulation requires councils to determine all other applications for the modification of development consents under section 4.55(2) of the Act, as well as applications for the modification of development consents under section 4.55(1) and section 4.55(1A) of the Act. This instruction takes effect on 1 August 2020 and applies to applications to modify development consents made but not determined before 1 August 2020.

The Regional Planning Panel did not impose or change any conditions of consent on the original consent for the Residential Care Facility and the proposal does not pose any risks under the conflict of interest or contentious development criteria under Schedule 1 of the 'Instructions'. As such, Council can determine the Section 4.55(2) modification under the EP&A Act without further consultation with the Regional Planning Panel. As such, MODDA046/23 is reported to an Ordinary Meeting of Council for consideration and determination.

Pursuant to Council's Community Participation Plan, Part 2.3.5, Council notified the application for modification in the same manner as the original development application and received one (1) submission which is detailed in the 4.55(2) Assessment Report attached.

The proposal was also sent to Water NSW and NSW Subsidence Advisory with no objections to the proposed modification subject to amended conditions of consent being implemented if approved.

Administration's Recommendation

THAT

1. Modification Application DA046/23 be approved, subject to condition of consent detailed in the attached 4.15 Assessment Report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act.

Attachments

1. Architectural Plans - 38 Maple Crescent Lithgow [3.11.1 - 28 pages]
2. Statement of Environmental Effects - 38 Maple Crescent Lithgow [3.11.2 - 37 pages]
3. 4 55 2 Modification Assessment Report MO D 046 23 [3.11.3 - 34 pages]

Reference to any relevant previous minute

MIN 16- 08	16 February 2016 – DA228/15 Exemption to Section 94A Contributions for Proposed Lithgow Aged Care Development
MIN 16- 31	29 February 2016 DA228/15 Exemption to Section 64 (Sewer & Water) Contributions for Proposed Lithgow Aged Care Development
MIN 16-50	23 March 2016 Proposed Lithgow Aged Care Development Short Street Lithgow Information Report.

History

The original application DA228/15 was approved in 2016 and has subsequently been modified four (4) times as detailed below:

Original Approval DA228/15

The original application was determined by Western Joint Regional Planning Panel on 18 April 2016. This approval included:

1. Part demolition of the existing Coinda Aged Care Facility, specifically: Coates House; the function room and maintenance workshop; and a storage/garage building.
2. Provision of 144 beds increasing the total to a 214 bed facility (an additional 73 beds). This would be achieved by constructing 4 new buildings (A,B,C & D), each with two levels containing 18 single rooms per level.
3. Ancillary cut and fill (earthworks) and retaining walls.
4. Connections to essential services.
5. Landscaping, driveways and vehicle parking/manoeuvring areas.

S96006/18

Council approved this modification on 29 March 2018 to amend NSW Subsidence Advisory's conditions of consent to reflect the General Terms of Approval issued after determination of the application. This approval also amended the list of allotments in a condition to be consolidated in association with the development.

MOD013/19

Council approved this modification on 17 May 2019 to amend Water NSW's conditions of consent to reflect the staged stormwater management of the site.

MOD021/19

Council approved this modification on 23 August 2019 for the following amendments:

- Utilise the approved boardroom of Building B as administration offices with internal configuration changed, as part of Stage 1 construction, until total completion of Building C occurs. Once Building C is completed the room will return to the approved boardroom and the development will utilise the administration area approved in Building C.
- Change configuration of lower ground level Building B at south west corner
- Internal layout change to lower ground level Building B
- Revised entrance and additional door to ground lower level building B
- Minor external cladding building material change to Building B
- Minor wall changes to second floor Building A
- Re-locating hydrants from the 'hydrant/plant room' on the west of the lower ground floor of Building C, to the existing approved void in the north west section of the lower ground floor of Building B. This includes two hydrant tanks, sprinkler tank, sprinkler pump, main communications room and main switch board room.

MOD050/19

Council approved this modification on 16 January 2020 for the following amendments:

- Changes to the Fire Resistance Level of load bearing external walls located at the top storey of the aged care facility; and
- The provision of smoke separation between levels.

Current Modification

The current proposed Modification Application is substantially the same development with the intent and use of the proposal remaining unchanged. There are significant changes to building configuration and additional demolitions, however the proposal will allow for Respect Group Limited to provide an improved facility and additional beds through a reduced proposal. The development is considered to meet the requirements of the EP&A Act and LEP2014 and is recommended for approval subject to conditions of consent.

PolicyCommunity Participation Plan:

Pursuant to Council's Community Participation Plan, Part 2.3.5, Council notified the application for modification in the same manner as the original development application and received one (1) submission which is detailed in the 4.15 Assessment Report attached.

Legal

The subject matter of this report is a function of Council conferred by the EP&A Act and Lithgow Local Environmental Plan 2014 (LEP2014). The proposed works require development consent in accordance with EP&A Act and LEP 2014. In determining a Modification Application, Council as the consent authority, is required to take into consideration the matters outlined under Section 4.15 of the Act.

Section 4.15 of the Act has been carefully considered and addressed in the attached 4.15 Assessment Report. The proposed modification is in keeping with the matters outlined under Section 4.15 of the EP&A Act & LEP 2014. As such, Modification Application MODDA0046/23 is recommended for approval, subject to conditions of consent.

Financial

- Budget approved - Not applicable for the assessment of the Modification Application.
- Cost centre - Not applicable for the assessment of the Development Application.
- Expended to date - Not applicable for the assessment of the Development Application.
- Future potential impact – Previous Council minutes have provided an exemption to the Section 94A Contributions and Section 64 Sewer & Water Contributions for this application under DA228/15. The result of those minutes is not subject to change as a result of this Modification Application. As such, no Section 94A or Section 64 Contributions will be applied to this proposed modification and these contributions will not be sought.

Section 94A total contributions waived: \$307,427.71

Section 64 total contributions waived: \$533,180.67

3.12. WWW - 22/07/2024 - NSW EPA Waste Levy Review Submissions

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: Nigel Campbell – Waste & Recycling Manager

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

Executive Summary

The purpose of this report is to advise Council of submissions to the NSW EPA with respect to consultation on the review of the NSW Waste Levy. Submissions were made from both the NetWaste voluntary waste group and directly from Lithgow City Council.

Administration's Recommendation

THAT Council note the two submissions to the NSW EPA with respect to the Review of the NSW Waste Levy from NetWaste voluntary waste group and directly from Lithgow Council.

Attachments

1. Net Waste Regional Submission Waste Levy (final) [3.12.1 - 16 pages]
2. Council Waste Levy Guidance Document (final) [3.12.2 - 5 pages]
3. Review of the NSW waste levy Issues paper [3.12.3 - 24 pages]

Reference to any relevant previous minute

N/A

Background and discussion***Consultation and submission summary***

The NSW Environment Protection Authority (EPA) has recently undertaken consultation on the *Review of the NSW Waste Levy Issues Paper*. The closing date for submissions was 5pm 22 July 2024.

Lithgow Council provided two submissions:

1. A combined submission via the NetWaste voluntary regional waste group; and
2. An individual submission directly from Lithgow City Council.

NetWaste is a voluntary regional waste group formed in 1995 to provide collaborative approaches to waste and resource management. There are 25 member Councils (including Lithgow Council) covering almost 40% of the state. None of the 25 NetWaste member Councils are in the current waste levy area.

A key concern in the Issues Paper was the question asking how to support new levy paying areas rather than if the levy boundaries should be expanded.

The combined submission included signatures from the Mayor and General Manager or Chief Executive Officer of the 25 member Councils. The purpose of the combined regional submission was to present a united front to the EPA addressing the issues and concerns with any expansion of the waste levy into the NetWaste region.

A copy of both submissions (unsigned) is attached to this Business Paper. The individual Lithgow Council submission reinforced the NetWaste position and included the same response. Due to submissions closing on 22 July, both submissions were signed and submitted prior to this Council meeting. The submissions were raised as an agenda item at the Lithgow Council Waste Working Group meeting on 11 July and endorsed for signature at that time.

Details of the waste levy and potential ramifications are explained in the attached Guidance Document. A copy of the *Review of the NSW Waste Levy Issues Paper* is also attached for reference.

Potential impacts on Lithgow Council and the community

The attached Guidance Document provides full details of the issues and concern with the waste levy.

The main concerns with the levy are:

- Current failure of the waste levy to achieve landfill diversion targets;
- Lack of accessible recycling infrastructure to provide a viable alternative to landfilling;
- Lack of re-investment of collected revenue from the current landfill levy to solve the recycling infrastructure shortage;
- That it is an 'end of pipe' solution that does not address the issue with product design and manufacture; and
- The myriad of problems from the introduction of a levy in regional areas with unsupervised sites and easy access to illegal dumping.

The EPA collect ~\$800 million in revenue each year from the Waste Levy and applies less than 17% to waste and resource recovery programs (through various waste grant programs etc.). More than half a billion dollars each year is kept in the Consolidated Fund and not used for waste and resource recovery. For clarity, Lithgow and other NetWaste Councils do benefit from some of the 17% available funding through the waste levy as does the NetWaste Voluntary Waste Group.

Under the EPA model, the waste levy increases the cost of landfilling but does not provide adequate alternatives through either higher order waste management (e.g. product design/manufacture) or recycling (e.g. infrastructure). The introduction of an EPA waste levy into regional areas like Lithgow will add to the cost of living and lead to perverse outcomes like illegal dumping. The administration costs alone of recording and reporting on the levy are significant.

Lithgow Council already has a waste levy

The concept of some form of landfill levy is supported by the waste industry. Applied correctly, a levy can send a price signal for landfill that encourages the generators of waste to seek alternatives (i.e. recycling becomes a more attractive option financially) as well as fund alternatives to landfill.

Lithgow Council has implemented an example of how a waste landfill levy can work. In 2023/24 Lithgow introduced a \$50 per tonne levy on commercial waste disposed at Lithgow Solid Waste Facility. The revenue from this levy is applied 100% to help fund the introduction of the kerbside organics (FOGO) service. Without this revenue, the FOGO service would require a significant increase in the domestic waste charge to cover these costs. Any introduction of an EPA waste levy would threaten the viability of providing the FOGO service.

Consultation and Communication

The Lithgow Council administration has consulted with both NetWaste member Councils and Local Government NSW (LGNSW).

Policy

N/A

Legal

Not applicable for the submission. Any introduction of the NSW Waste Levy will be administered by the EPA under the NSW *Protection of the Environment Operations Act 1997* and will require relevant compliance under this Act.

Risk Management

Not applicable for the submission. There are significant risks to Council and the community from any implementation of the NSW Waste Levy as discussed in the Business Paper and attachments.

Financial

- Budget approved – n/a
- Cost centre – n/a
- Expended to date – n/a
- Future potential impact – n/a

Consultation and Communication

Nil

3.13. P&P - 22/07/2024 - Lithgow Local Environmental Plan 2014 Housekeeping Planning Proposal

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.

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: Christian Matthews - Strategic Land Use Planner

Responsible Officer: Shaun Elwood - Director People and Places

Executive Summary

The purpose of this report is to seek Council's endorsement to prepare a housekeeping planning proposal (PP) to amend the Lithgow Local Environmental Plan 2014 (LEP 2014) in accordance with Section 3.33 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) and the Local Environmental Plan Making Guidelines.

This housekeeping PP is in response to section 3.21 of the EP&A Act 1979 which requires Councils to, if necessary, update their local environmental plans to ensure that the instrument is relevant to the maximum extent that is possible. Since the commencement of the Lithgow LEP 2014, Council has kept the Lithgow Local Environmental Plan 2014 under continual review and has identified multiple minor anomalies in the implementation of the plan which require corrective action.

The 'housekeeping' amendments are, as the name suggests, a general tidy up of Lithgow LEP 2014 to contemporise and increase the efficacy of the plan. The proposed amendments do not require a change of land use policy or further strategy work to inform implementation. The amendments are generally consistent with local and state planning strategy, directions and instruments.

Amendments that do require a change of land use policy or further strategy work to inform implementation will occur separately through the full LEP review, a process which can take between 18 - 24 months to complete.

The proposed housekeeping PP amendments are generally administrative and include:

- Updating Schedule 5 – Environmental Heritage, to correct errors and omissions and update significance of newly registered heritage listings.
- Adding additional LEP provisions in relation to:
 - Calculation standards for battle axe lots,
 - Standard Instrument Clause 5.22 Special Flood considerations,
 - Requiring strata subdivision in RU5 Village and R5 Large lot residential zones to meet minimum lot size provisions, and
 - Reinstating dwelling entitlements for existing lots or holdings below 4000m² within RU5 Village at Cullen Bullen that can be serviced with reticulated sewer.
- Updating land use table of zones RU1 Primary Production, RU2 Rural Landscape, RU5 Village to include artisan food and drink industry as permitted with consent and include

recreation facility (outdoor) as permitted with consent in the C3 Environmental Management zone.

- Rezoning of small parcels of site-specific lands to correct zoning and land use anomalies, and updating rural lands gazetted as national park estate.
- Mapping update to remove the Flood Map FLD_001.
- Amendments to the title of the Biodiversity Overlay, Sensitive Lands Overlay and Water Overlay maps to remove reference to Environmentally Sensitive Areas.
- Reclassification of specific Council owned land from Community to Operational.

It is recommended that Council resolve to prepare a housekeeping PP and that the resultant draft Planning Proposal be forwarded to the Department of Planning, Housing and Infrastructure (DPHI) for a gateway determination.

It is anticipated that the Planning Proposal will take approximately 10 to 12 months to complete in line with the benchmark timelines provided in the Local Environmental Plan Making Guidelines issued by the former NSW Department of Planning and Environment.

Administration's Recommendation

THAT:

1. Council endorse the preparation of a Planning Proposal to amend the Lithgow Local Environmental Plan 2014 in accordance with items outlined within this report.
2. The Planning Proposal document, once prepared, be forwarded to the Department of Planning, Housing and Infrastructure for a Gateway Determination.
3. Council undertake consultation with relevant government agencies as required. Council is to consult with WaterNSW prior to the issuing of a Gateway Determination and Rural Fire Service prior to undertaking consultation.
4. Council advise NSW Department of Planning, Housing and Infrastructure that it proposes to seek approval to use the delegated functions under S.3.36 (2)-(4) to make the plan following compliance with a Gateway Determination.
5. A **DIVISION** be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

Attachments

1. Housekeeping LEP - Heritage Amendments [3.13.1 - 4 pages]
2. Housekeeping LEP - Reclassification of Lands [3.13.2 - 17 pages]

Reference to any relevant previous minute

Nil.

Background and discussion

The Lithgow Local Environmental Plan 2014 was gazetted on 19 December 2014 which replaced the planning framework set in place by the former Lithgow City Local Environmental Plan 1994. The primary motivation for preparing the LEP 2014 was to update the applicable planning instrument into the then Department of Planning and Environment's (now DPHI) standardised environment plan, otherwise referred to as the "Standard Instrument" which substantially changed what was to be included in an environmental plan and how land-use based outcomes were to be achieved. As part of the reforms, Council was required to undertake necessary strategic planning studies to inform the creation of the LEP 2014 which were undertaken and consolidated into the Lithgow Land Use Strategy 2010-2030.

The Lithgow Land Use Strategy explored the planning issues faced by the Lithgow LGA and provided recommendations to address these issues, including directions on how the LGA's settlements and rural lands will be managed up to 2030.

Pursuant to Clause 3.21(1) of the EP&A Act 1979, Council is required to regularly review their environmental planning instruments, including their Local Environmental Plans, to ensure that the plans are relevant and achieve the objectives of the EP&A Act 1979. This housekeeping planning proposal serves as a part of this ongoing review, focusing on minor administrative changes to ensure that the LEP 2014 functions as an effective environmental planning instrument.

Council has begun work on preparing a Growth Management Strategy (which will include a Housing Strategy, Rural and Rural Residential Strategy and Employment Lands Strategy), which will provide the necessary policy justification to undertake a more comprehensive review of the LEP 2014. The Housekeeping LEP addresses immediate issues which are generally considered to not required to be informed by the proposed Growth Management Strategy, and as such would be more likely to be endorsed by the DPHI through the housekeeping LEP process.

Proposed amendments to LEP 2014

The proposed housekeeping Planning Proposal amendments to the Lithgow LEP 2014 are as described in detail below.

1. Written Instrument Amendments

1.1 Erection of Dwellings Within the Cullen Bullen Township

Pursuant to Clause 4.2B(3)(a) of the Lithgow LEP 2014, a minimum of 4000m² is required to grant consent for the erection of a dwelling house within the Cullen Bullen village area. The prescribed 4000m² was adopted in the Lithgow LEP 2014 pursuant to best practice for on-site effluent disposal systems (Environment and Health Guidelines On-Site Sewerage Management for Single Households, DLG 1998 "Silver Book") and as supported by the Sydney Catchment Authority for sites that were unsewered to avoid failure of on-site effluent disposal systems. Council through their regular inspection of on-site effluent disposal system within the township identified signs of failure of these systems within the village.

To address these ongoing issues, Council in April 2024 commissioned the Cullen Bullen Sewer Treatment Plant and provided connections for all existing dwellings within the village which provides reticulated sewerage, no longer needing to rely on on-site systems. Advice from Council's Water and Wastewater department is that there is still significant capacity within the system for further development post connections to connect all existing vacant lots in the Cullen Bullen RU5 Village Zone.

An analysis of the existing allotment arrangements has been undertaken for the Cullen Bullen RU5 Village Zone and has shown that there are 37 vacant lots, ranging from 424m² to 1962m². These lot sizes are consistent with the overall holding pattern within the township at an average of 1523m², including some outliers in large holdings including the Cullen Bullen Public School and large unsubdivided private holdings on the southern side of the township.

Council proposes that the identified vacant allotments should have their dwelling entitlements reinstated as the development outcomes for these lands would be consistent with the existing built environment. Council would only consider the erection of a dwelling on these lands subject to connection to the reticulated sewerage service.

An amendment to Clause 4.2B is proposed where the township of Cullen Bullen is to be excluded from the requirement of 4000m² minimum lot size for the erection of a dwelling house accompanied by an overlay on the minimum lot size map to identify the extent of the applicable area. The 4000m² minimum lot size will remain in the Lithgow LEP 2014 for the purpose of subdivision within the Cullen Bullen Village.

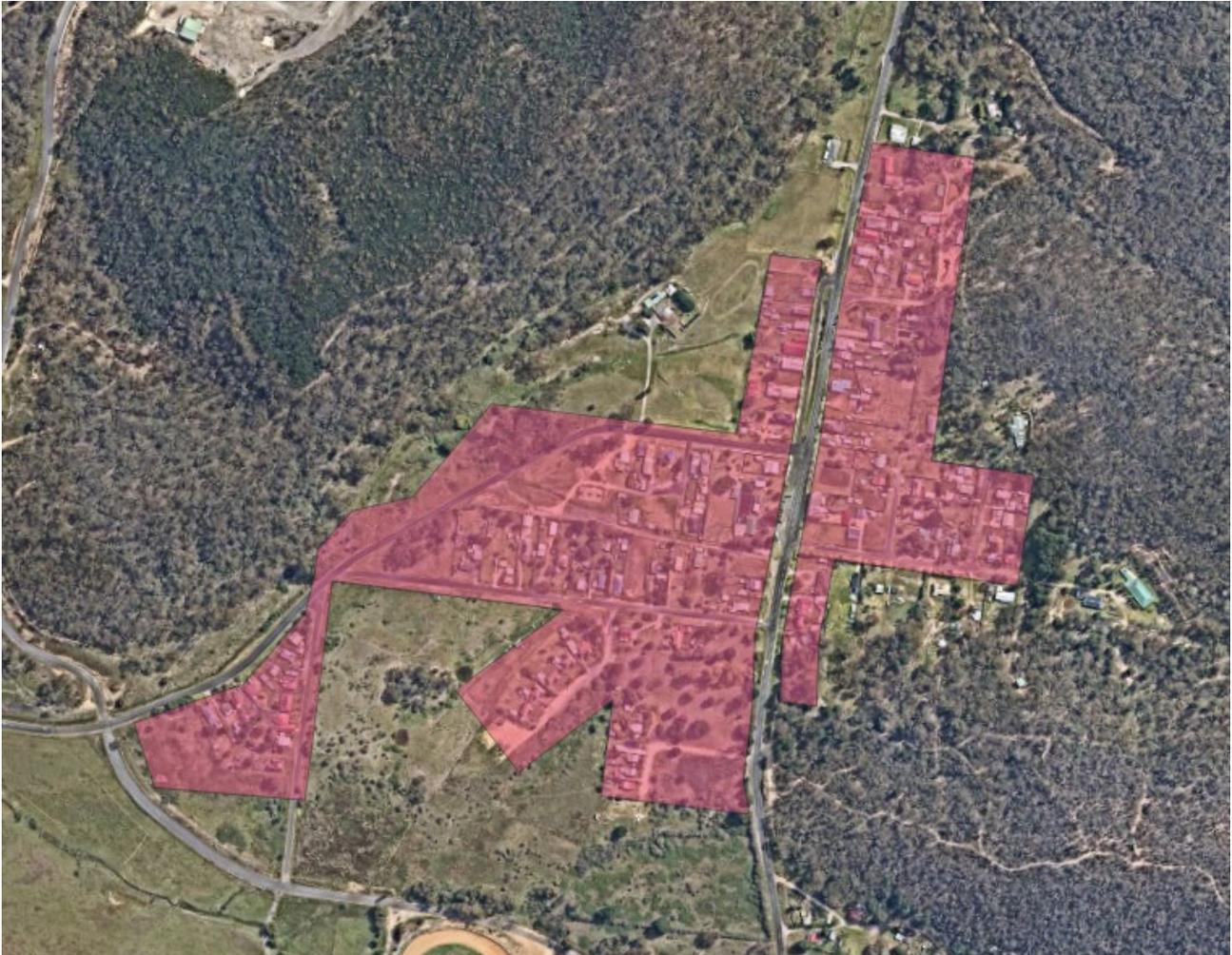


Figure 1 – Extent of the RU5 Village Zone in Cullen Bullen

Council will continue to resist any future planning proposals that would allow for further subdivision of the Cullen Bullen township in-line with Council's adopted Local Strategic Planning Statement until the Growth Management Strategy, which includes the Housing Strategy component, is completed and a recommendation is made on where new housing should be located and in what form.

1.2 Include 'Recreational Facility (Outdoor)' in the C3 – Environmental Management Zone

It is proposed that Council amend the Land Use Table within the LEP 2014 to permit with consent the land use 'Recreational Facility (Outdoor)' in the C3 Environmental Management zone. The definition of 'Recreational Facility (Outdoor)' is:

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

The proposed addition of this land use will support the economic development and tourist attraction offerings within these area within the Lithgow LGA. Addition of this definition into the land use table within the C3 Environmental Management Zone is not considered to be a policy change as the C3 zone already permits with consent similar land use activities such as Community Facilities and Recreational Areas.

The inclusion of the definition within the land use table is not inconsistent with the objectives of the zone and will provide a greater degree of flexibility to enable Council to consider such land uses without requiring a full Planning Proposal process.

This action is supported by the preliminary June 2024 draft of the Lithgow Employment Lands Strategy.

1.3 Schedule 5 Environmental Heritage

This planning proposal seeks to address errors and anomalies in Schedule 5 – Environmental Heritage of the LEP 2014 and the associated heritage maps. The proposed changes are a result of the following:

1. Update of items from local significance to state significance where certain items have achieved State Heritage listing.
2. Change of an item's heritage curtilage as part of a prior subdivision.
3. Updating property addresses, names, and descriptions.
4. Introduction of new state heritage items.

A schedule of amendments can be found in Attachment 1 which describes the changes proposed as part of this report.

1.4 Strata Subdivision in Large Lot and Village Zones

It is proposed that Clause 4.2C(2) of the LEP 2014 be amended to include R5 Large lot Residential Zone and the RU5 Village zone to remove any future potential for strata subdivision within these zones below the prescribed minimum lot size. This change will not impact any future subdivisions undertaken as a Torrens Title subdivision within these zones.

The objective of this clause is to ensure that land is not further fragmented by subdivision that creates additional dwelling entitlements, thereby closing the loophole of circumventing the minimum lot size requirements.

1.5 Add 'Artisan Food and Drink Industry' Definition and Land Use

An additional land use term 'Artisan Food and Drink Industry' was introduced by the former Department of Planning and Environment through an amendment to the standard instrument on the 31 August 2018 to provide clarity for the growing artisan and craft food/drink industry. As per the definition of Artisan Food and Drink Industry, the land use is permitted with consent where light industry is permitted, and as such is automatically permitted in the following zones in the Lithgow LEP 2014:

- MU1 Mixed Use
- E3 Productivity Support
- E4 General Industrial

Council is yet to apply the land use to other land use tables within the LEP 2014. The definition of 'Artisan Food and Drink Industry' is as follows:

artisan food and drink industry means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following—

- (a) a retail area for the sale of the products,
- (b) the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided,
- (c) facilities for holding tastings, tours or workshops.

It is proposed to add this new land use term as permissible with consent in zones RU1 – Primary Production, RU2 – Rural Landscape and RU5 – Village. The proposed addition of this land use term aims to support the economic development and value adding opportunities for businesses in these areas of the Lithgow LGA in keeping with the recent incentives of the Agritourism reforms.

1.6 Removal of Access Handles in Calculation for Minimum Lot Size

It is proposed to amend Clause 4.1 to improve the development outcomes of battle-axe lots created by subdivision. It is proposed that area used for accessing an allotment (otherwise known as a 'handle') of a battleaxe subdivision be removed from the calculation of the minimum lot size required by subdivision.

This is to avoid creating allotments which lead to poor built-form outcomes for future residential dwellings where building orientation, private open space requirements and consistent streetscape design cannot be sufficiently achieved, especially where the proposed allotment is near the minimum lot size.

1.7 Introduction of Standard Instrument Clause 5.22 Special Flood Considerations

On the 14 July 2021, the NSW State Government implemented the Flood Planning Package which changed how Councils are to assess flood impact on future development. A part of this implementation was the optional Clause 5.22 Special Flood Considerations being added to the Standard Instrument which gave direction on how assessment was to be undertaken for 'sensitive and hazardous' development undertaken on lands affected by flooding between the Flood Planning area (1-in-100-year flood level in addition to freeboard) and the Probable Maximum Flood Extent (PMF). The 'sensitive and hazardous' developments applicable to this clause include the following land uses:

- (a) boarding houses,
- (b) caravan parks,
- (c) correctional centres,
- (d) early education and care facilities,
- (e) eco-tourist facilities,
- (f) educational establishments,
- (g) emergency services facilities,
- (h) group homes,
- (i) hazardous industries,
- (j) hazardous storage establishments,
- (k) hospitals,
- (l) hostels,
- (m) information and education facilities,
- (n) respite day care centres,
- (o) seniors housing,
- (p) sewerage systems,
- (q) tourist and visitor accommodation,
- (r) water supply systems.

Council did not opt-in to Special Flood Consideration Clause during the rollout of the Flood Planning Package in 2021. This opt out was due to Council being in the process of developing a Floodplain Risk Management Study and Plan and awaiting the recommendations of the plan to guide strategic implementation of planning controls within the flood prone areas. In 2023, Council supported the NSW DPE proposed amendments to the Standard Instrument to make Clause 5.22 Special Flood

Considerations mandatory in all LEP's, however no further action was taken by DPE in implementing the proposed changes.

The Lithgow Floodplain Risk Management Study and Plan 2023 recommended Council adopt Clause 5.22 Special Flood Considerations into Lithgow LEP 2014. The FPRMS&P also recommended Council adopt development controls within the Lithgow Development Control Plan 2021 to provide further development standards for development in the Probable Maximum Flood in addition to the Flood Planning Area. This will require an amending Development Control Plan to be prepared concurrently with this Housekeeping Planning Proposal.

1.8 Re-classification of certain lands from Community to Operational

Council proposes to reclassify 49 Council owned/controlled public land sites from 'Community' to 'Operational' classification under the Local Government Act 1993 as requested by Council's Property and Legal Services Officer. Attachment 2 of this report contains a list of all properties that are requested to be reclassified to operational lands in addition to maps identifying their location.

Clause 27 of the Local Government Act 1993 requires reclassification of public land from community to operational to be made by a local environmental plan.

The proposed reclassifications will be undertaken consistent with the Department of Planning, Housing and Infrastructure's LEP Practice Note PN 16-001 – Classification and reclassification of public land through a local environmental plan. This is being undertaken to ensure cotemporary and community held objectives and outcomes for public land are achieved and/or achievable within the framework established by the Local Government Act 1993.

The purpose of the classification changes include:

1. Identify lands that have no public use and have no ongoing need to consult the community in the continued management of the land.
2. Allowing Council to be responsive to the current and future needs of assets or services and facilities.
3. Maximise the economic use of Council's land holdings while maintaining its environmental and social obligations.
4. Fixing incorrect classifications from the introduction of the public land classification process.
5. Correctly classify Council land that has a pure operation focus and function.

2. Mapping Amendments

2.1 Removal of Flood Mapping

The Flood Planning Map (Sheet FLD_002) is proposed to be removed from the LEP 2014 mapping as it is no longer relates to any specific clause and is obsolete. On the 14 July 2021, NSW DPHI implemented the flood-prone planning package which included statutory amendments to the Standard Instrument, EP&A Act 1979 and Regulations 2021, and revised 9.1 Ministerial directions along with a collection of guidelines on how these changes are to be implemented.

The flood map contained within the current Lithgow LEP 2014 was created as part of the Lithgow Floodplain Management Study 1992 (commonly referred to as the Kinhill Study) and is no longer a true representation of flood risk in the Lithgow Township in accordance with the Floodplain Risk Management Manual. This map was used to guide flood-related assessments of planning function of Council until the Lithgow Flood Study 2017 was adopted by Council which was then superseded by the current mapping contained within the Lithgow Floodplain Risk Management Study and Plan 2023 which was adopted in March 2024.

Prior to the roll-out of the flood-prone planning package, the extent of flood consideration was set at the “Flood Planning Area” (1-in-100-year extent) as identified within a map adopted in an LEP. As part of the 2021 Standard Instrument update, the extent of the flood controls was once again set at the “Flood Planning Area” but now is identified within a map prepared in accordance with the Floodplain Risk Management Manual. This therefore removed any requirement for flood mapping to be located within the LEP if a relevant source of flood mapping is held by Council which was made in accordance with the Floodplain Risk Management Manual. This therefore would make the Flood Planning Area as defined in the Lithgow Floodplain Risk Management Study and Plan 2023 the enforceable Flood Planning Area pursuant to Clause 5.21 of the LEP 2014.

2.2 Zoning of Various National Park Estate

Since the adoption of the LEP 2014, a number of rural lands within Lithgow LGA have been reserved and dedicated to the National Parks and Wildlife Service (NSW NPWS) under the provisions of Section 30A(1)(a) of the National Parks and Wildlife Act 1974 (NPW Act). NPWS is responsible for managing all land-use and development activities within these lands, overriding any environmental planning instrument (i.e. LEP 2014).

Pursuant to the Department of Planning Practice Note PN 11-002, land reserved for national parks and nature reserves in accordance with the NPW Act 1974 should be zoned C1 zones (previously referred to as E1) as per the recommendation below:

E1 National Parks and Nature Reserves

Application

This zone is generally intended to cover existing national parks and nature reserves, and new conservation areas proposed for reservation that have been identified and agreed by the NSW Government. All uses currently authorised under the National Parks and Wildlife Act 1974 will continue to be permitted without consent in this zone.

It is proposed that all lands below that have been reserved through the NSW Government Gazette since 2014 are to be rezoned to C1 National Parks and Nature Reserves.

Name	Gazettal Date	Current Zoning	Proposed Zoning
Wollemi National Park	06/05/2022	RU3 Forestry	C1 National Parks and Nature Reserves
Wollemi National Park	03/12/2021	RU2 Rural Landscape	C1 National Parks and Nature Reserves
Wollemi National Park	13/03/2015	RU2 Rural Landscape	C1 National Parks and Nature Reserves
Wollemi National Park	06/09/2019	RU2 Rural Landscape	C1 National Parks and Nature Reserves
Wollemi National Park	11/12/2020	RU1 Primary Production	C1 National Parks and Nature Reserves
Mugii Murum-ban State Conservation Area	07/10/2016	RU2 Rural Landscape	C1 National Parks and Nature Reserves
Gardens of Stone State Conservation Area	30/06/2022	RU2 Rural Landscape	C1 National Parks and Nature Reserves
Gardens of Stone State Conservation Area	06/05/2022	RU3 Forestry RU2 Rural Landscape	C1 National Parks and Nature Reserves
Gardens of Stone National Park	18/05/2018	RU2 Rural Landscape	C1 National Parks and Nature Reserves

Gardens of Stone National Park	06/05/2022	RU2 Rural Landscape	C1 National Parks and Nature Reserves
Capertee National Park	30/10/2020	RU2 Rural Landscape	C1 National Parks and Nature Reserves
Capertee National Park	05/03/2015	RU2 Rural Landscape	C1 National Parks and Nature Reserves
Capertee National Park	08/04/2016	RU2 Rural Landscape	C1 National Parks and Nature Reserves
Capertee National Park	03/12/2021	RU2 Rural Landscape	C1 National Parks and Nature Reserves
Hartley Historic Site	21/11/2014	RU1 Primary Production	C1 National Parks and Nature Reserves

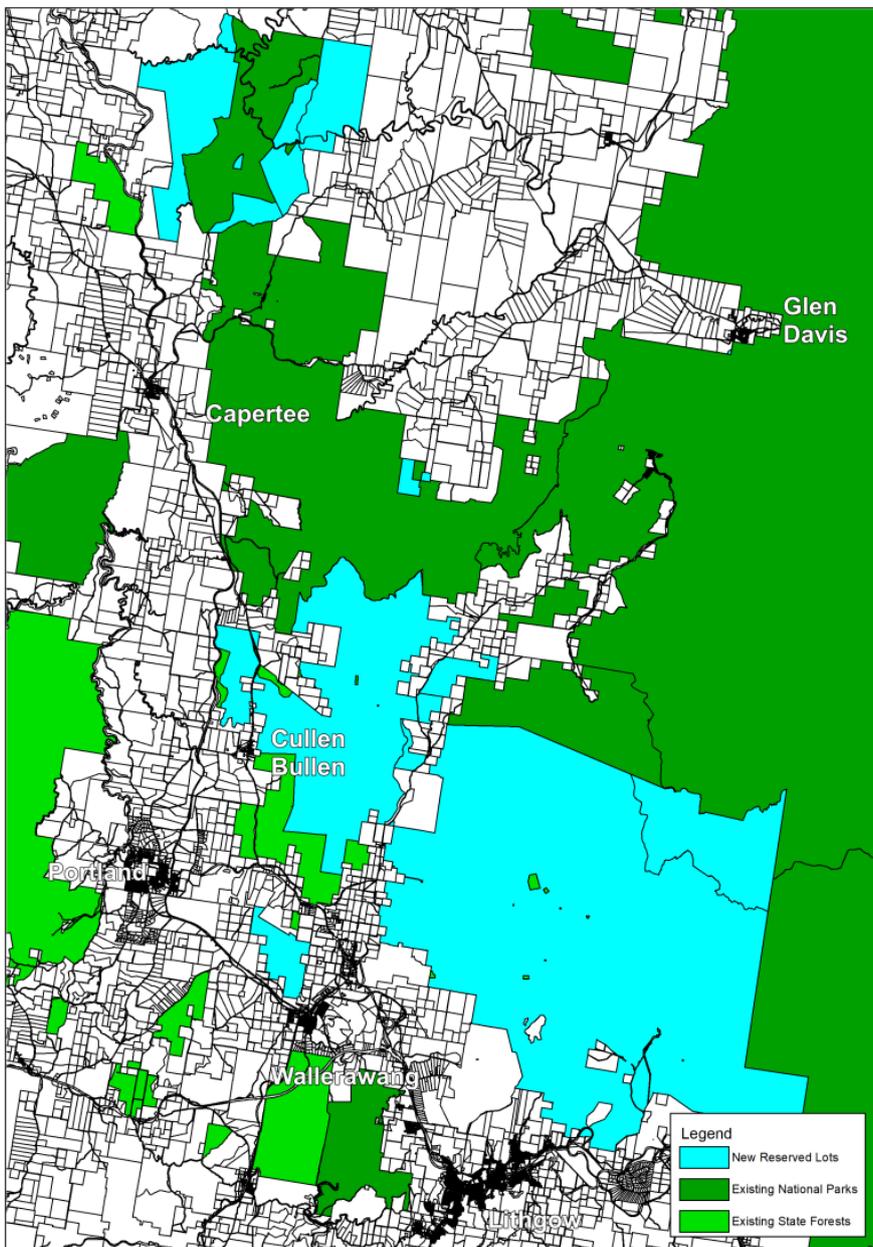


Figure 2 – Location of added Reserves since 2014

2.3 Rezoning of Lithgow City Council Works Depot at Wallerawang

The subject land is known as Lot 1 DP 390626, Brays Lane, Wallerawang, with an area of 11,848m² and is currently zoned RE1 Public Recreation.

At the time of making Lithgow LEP2014 Council was pursuing a strategy of developing a new centralised works depot integrating both the Lithgow Works Depot and Wallerawang Works Depot. The site of the Wallerawang Depot was therefore zoned having regard to the potential future use of the site as an expanded sports precinct. This strategy has since been abandoned by Council.

The current RE1 Public Recreation zoning of this parcel of Council land is inconsistent with its current and proposed foreseeable land use. The current zoning restricts the operational requirements of the current works depot due to the reliance on existing use rights provisions under the EP& A Act, 1979. This is untenable moving forward.

It is proposed that the subject site be rezoned to E3 Productivity Support as the land use 'Depot' is permitted with consent under the Land Use Table. The E3 Productivity Support zone provides for land uses compatible with, but do not complete with, the adjoining local and commercial centre.

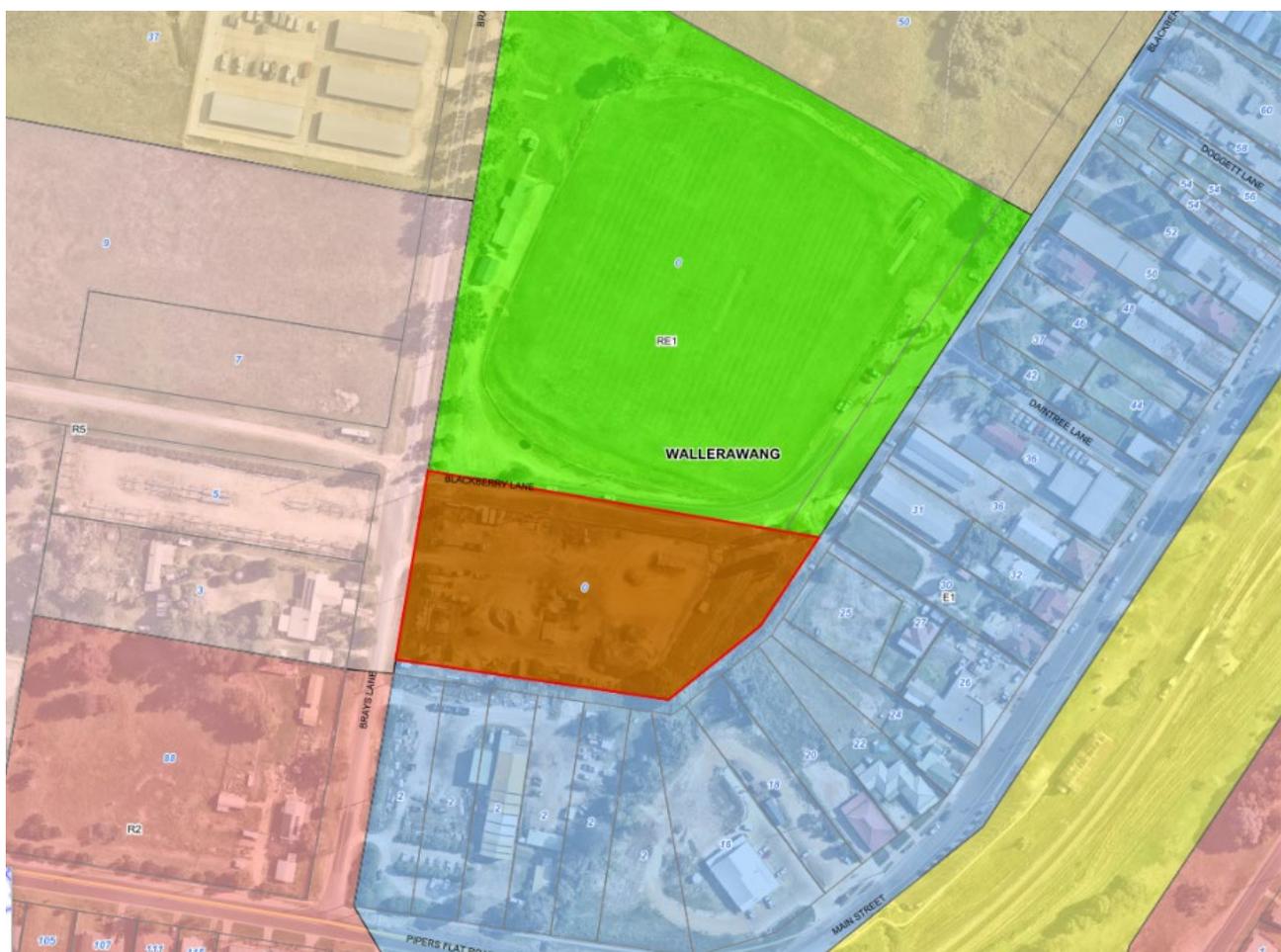


Figure 3 – Location of Council's Work Depot in Brays Lane, Wallerawang

2.4 Rezoning of Lithgow General Cemetery

The subject land is known as Lot 2 DP 1040909, Great Western Highway, Lithgow, with an area of 9,294m² and is currently zoned R1 General Residential and has a restriction on title, limiting the use of the land as a public cemetery.

Since the preparation of the Lithgow LEP 2014 the Lithgow General Cemetery has expanded operations into this parcel of land. Cemeteries are currently not permitted within this zone under Lithgow LEP 2014. Further investigation will be undertaken to determine if any relief is provided by other legislation.

The zoning of this parcel of land will be further investigated as part of this Housekeeping Planning Proposal to ensure the land is appropriately zoned to reflect current and future land use as expansion of the Lithgow General Cemetery.

Should the zoning of this parcel of land change there will be a remaining slither of privately held land sandwiched between SP2 Infrastructure and the adjoining C4 Environmental Living Zone zoned R1 General Residential. The appropriate zoning of this land will also be addressed within this Housekeeping Planning Proposal.

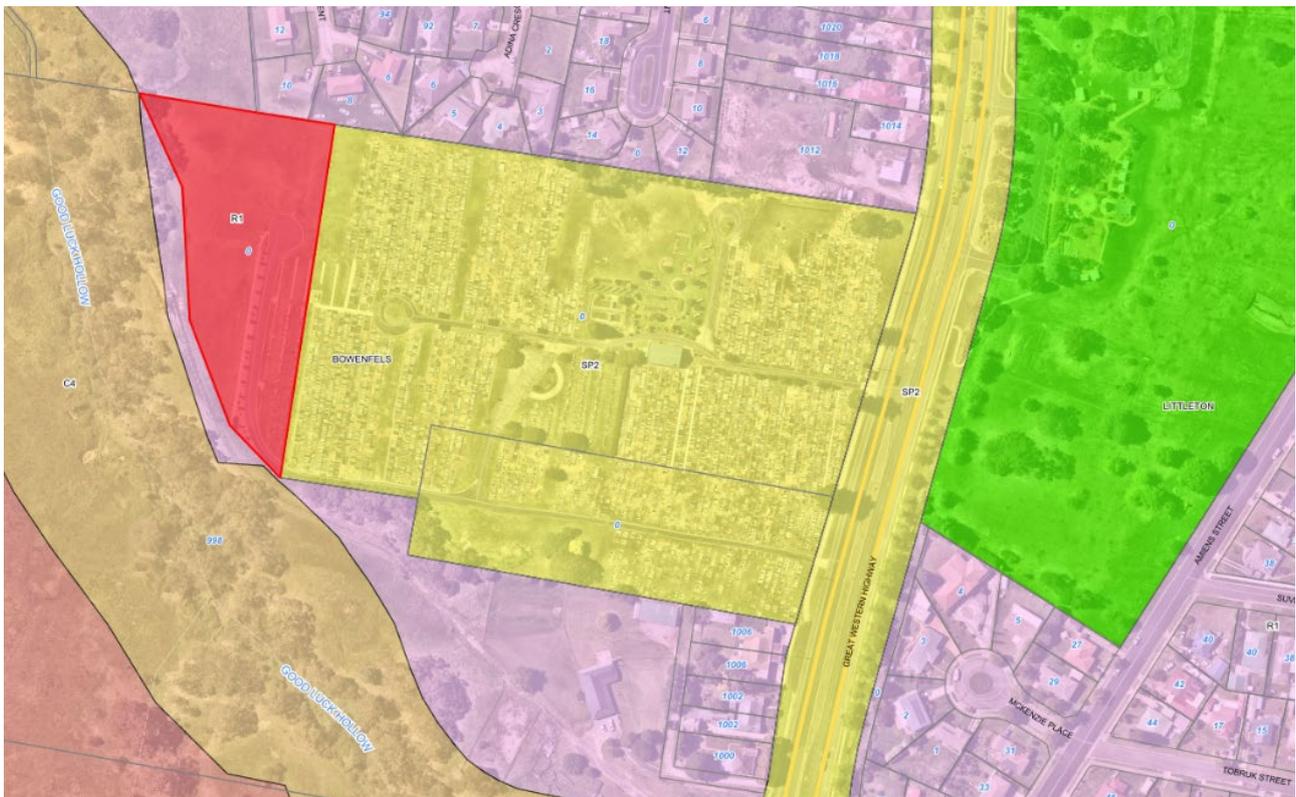


Figure 4 – Location of land to be rezoned as part of the Lithgow General Cemetery

2.5 Rezoning of lands within Foundations Portland.

The Foundations site was rezoned on the 14 April 2022 through a Planning Proposal to amend the LEP 2014. The proponents of the site, The Foundations, have undertaken survey work and have been preparing detailed subdivision layouts based on the results of the survey. Through this process, three sets of zoning anomalies have been identified on land that would be better served with different zonings based on land steepness, uncertain ownership and other various issues.

The first land zoning changes are as follows:

- Lot 104 DP 755769 from RE2 Private Recreation to R2 Low Density Residential.
- Part Lot 8 DP 1304112 from R1 General Residential to RE2 Private Recreation.

The justification for this rezoning is that the land located on Lot 104 DP 755769 was originally identified for “renaturalisation and community gardens” as part of place-making opportunities. In discussions with Council regarding matters involving open space, more preferred areas have been identified for these activities and as such this land is no longer necessary for this use. It is proposed

that this land be rezoned back to R2 Low Density Residential which is consistent with the zoning framework surrounding the site.

To offset the loss in private recreational land, the proponent wishes to rezone part of Lot 8 DP 1304112 from R1 General Residential to RE2 Private Recreation as a 'land swap'. The land identified is not suitable for residential development due to the steepness of the land while still retaining value for passive recreation with vistas to the Mill Pond.

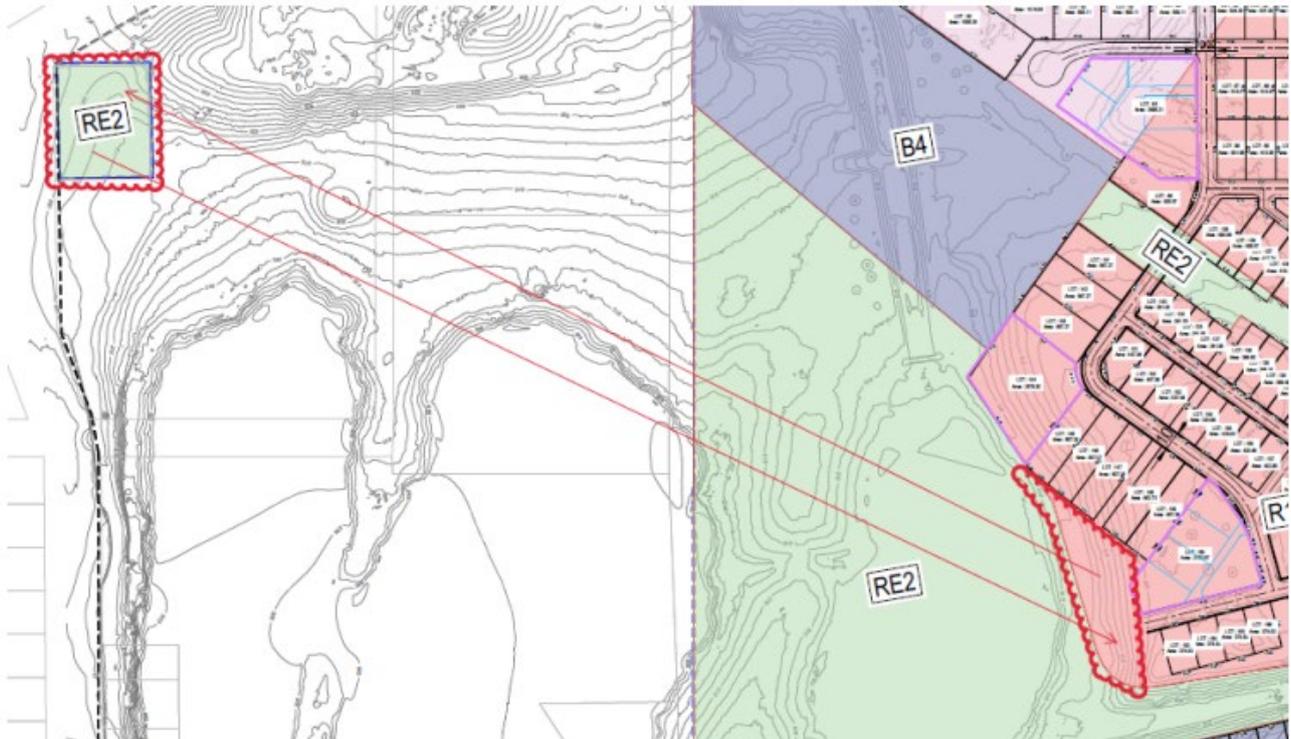


Figure 5 – Location of first land zoning swap for Foundations, Portland

The second zoning changes are as follows:

- Part Lot 8 DP 1304112 from RE2 Private Recreation to R1 General Residential.
- Part Lot 8 DP 1304112 and Part Lot 53 DP 755769 from R1 General Residential to RE2 Private Recreation.

The justification for this rezoning is upon obtaining the updated survey information, the steepness of the land zoned R2 Low Density Residential near the foreshore of the Quarry Lake was identified as too steep for residential development. It is proposed that the land identified near the lake be rezoned to RE2 Private Recreation to provide more recreational space between the lake and future residential dwellings to take advantage of the amenity provided by the waterbody.

In offset for the potential loss in R1 General Residential land, it is proposed that some of land that is located north of the current R1 General Residential boundary be rezoned from RE2 Private Recreation to R1 General Residential. This area would be better served for future residential development due to its flatter land topography while keeping a consistent development pattern.

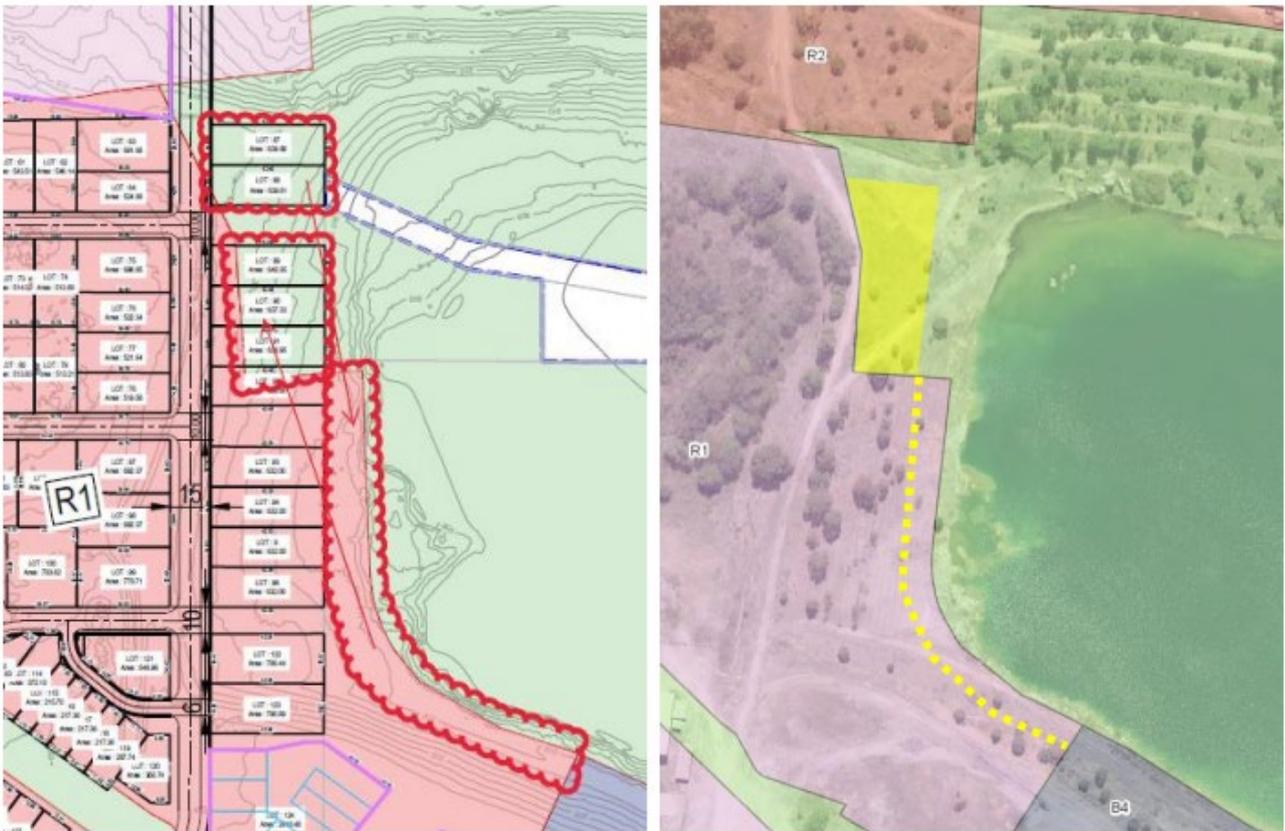


Figure 6 – Location of second land zoning swap for Foundations, Portland

The third zoning changes are as follows:

- Part Lot 1 DP 842890 from RE2 Private Recreation to R2 Low Density Residential.
- Part Lot 1 DP 842890 from R2 Low Density Residential to RE2 Private Recreation.

The justification for this rezoning is similar to the second zoning changes where residential zoned lands located on steep inclines are to be swapped with land that are more appropriate for residential development. This would provide for an additional dwelling potential while removing steep lands from the ownership of future residential purchasers to manage and maintain.

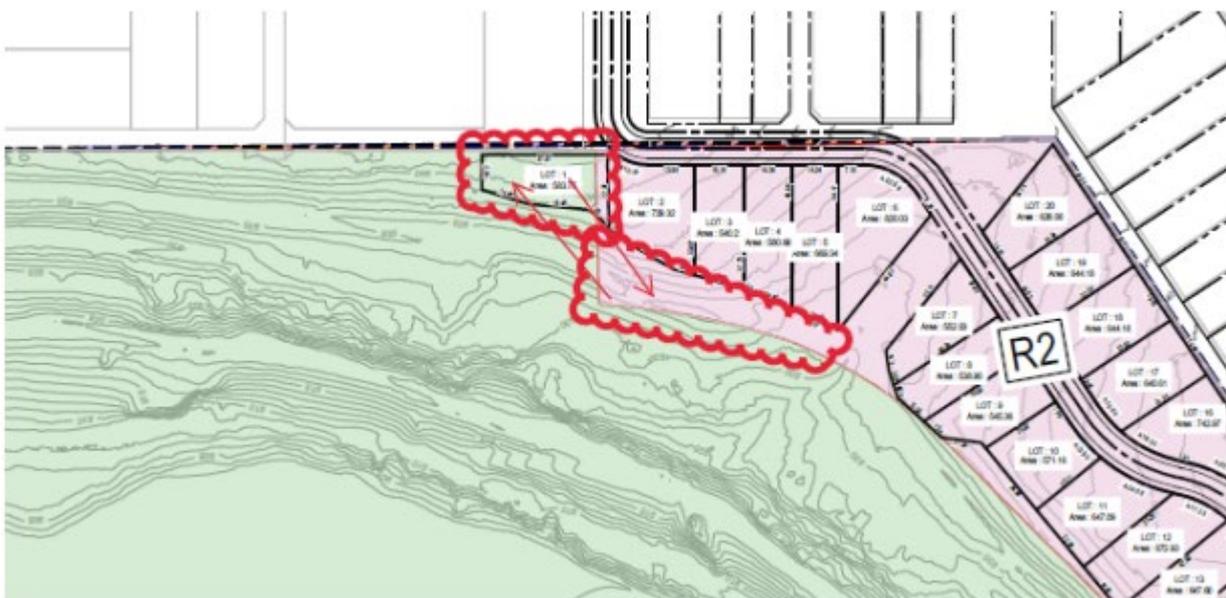


Figure 7 – Location of third land zoning swap for Foundations, Portland

2.6 Renaming of Environmental Sensitive Areas Map

This amendment is to remove the reference to Environmentally Sensitive Areas notation in the title of the Water, Biodiversity and Land Overlay Maps, definitions and clauses within Lithgow LEP 2014.

This amendment will remove any ambiguity in the operation of the Complying Development State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP).

Pursuant to Clause 1.17A(1)(e) of the Codes SEPP, complying development cannot be undertaken on lands within an environmentally sensitive area.

Council's LEP 2014 currently contains three series of maps which refer to environmentally sensitive areas. They are:

- Environmentally Sensitive Area - Biodiversity Overlay Map
- Environmentally Sensitive Area - Water Overlay Map
- Environmentally Sensitive Area - Land Overlay Map

While the maps contained within the LEP 2014 do refer to environmentally sensitive areas in their title, the prescribed overlays do not reflect the definition of environmentally sensitive areas under the Codes SEPP. There is no definition of Environmentally Sensitive Areas within the LEP 2014 or Standard Instrument. Under Clause 1.5 Interpretation - general of the Codes SEPP, environmentally sensitive areas are defined as:

environmentally sensitive area means any of the following—

- (a) the coastal waters of the State,
- (b) a coastal lake identified in *State Environmental Planning Policy (Resilience and Hazards) 2021*, Schedule 1,
- (c) land identified as "coastal wetlands" or "littoral rainforest" on the *Coastal Wetlands and Littoral Rainforests Area Map*, within the meaning of *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 2,
- (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
- (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
- (f) land within 100m of land to which paragraph (c), (d) or (e) applies,
- (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
- (h) land reserved under the *National Parks and Wildlife Act 1974* or land to which Part 11 of that Act applies,
- (i) land reserved or dedicated under the *Crown Land Management Act 2016* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

None of the above series of maps relate to matters as defined within the Codes SEPP definition outside of the Biodiversity Overlay Map which identifies areas of High Biodiversity in accordance with (g). It is therefore proposed that the map titles be amended to remove the definition discrepancy.

To achieve this outcome, it is proposed that all maps as listed above be renamed to remove their association with Environmentally Sensitive Area and their associated reference in LEP 2014 Clause 7.4(2), 7.5(2), 7.6(2) and 7.7(2) and Dictionary be updated.

Timeline

Benchmark timelines for the processing of Planning Proposals have been set within the LEP Plan Making Guidelines issued by former Department Planning and Environment in August 2023.

This Housekeeping Proposal is likely to be categorised as a basic planning proposal which has a benchmark timeline of 220 working days (44 weeks/10 months). In the unlikely event, the Planning

Proposal is categorised as a Standard Planning Proposal, this benchmark timeframe moves to 320 working days (64 weeks/16 months).

Internally this project has been prioritised in the Strategic Planning program to meet or better those benchmark timeframes.

Consultation and Communication

Council will prepare a community engagement strategy as part Draft Planning Proposal. This will be refined following a successful Gateway Determination (including all requirements set by Gateway).

The planning proposal will be exhibited for no less than 28 days pursuant to Council's adopted Community Participation Plan. The Planning Proposal will be publicly notified by:

- A notification in the Village Voice and Lithgow Mercury.
- Written notification to affected landowners, particularly those in Cullen Bullen.
- Notification on Council's website.
- Display at Council's customer service centre and libraries.

During this period, Council will also notify relevant government agencies concurrently with the public exhibition period unless directed otherwise through the Gateway Determination.

Recording of voting on planning matters

Under Section 375A of the Local Government Act, 1993 a division is required to be called whenever a motion for a planning decision is put at a meeting of the Council or Council Committee.

A Planning Proposal and Draft Local Environmental Plan is a planning decision for the purposes of this Division.

Policy

Nil.

Legal

The subject matter of this report is a function of Council conferred by Part 3 of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021 as well as the Local Government Act, 1993.

Risk Management

Nil.

Financial

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

3.14. F&G - 22/07/2024 - Investment Report June 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: Sharon Morley – Finance Officer
Responsible Officer: Jonathon Reid – Responsible Accounting Officer

Executive Summary

The purpose of this report is to advise Council of investments held at 30 June 2024 and to note the certification of the Responsible Accounting Officer that funds have been invested in accordance with legislation, regulations and Council policy.

The report also provides commentary on the cash and investments balance compared with the funding required for internally and externally restricted reserves. A key aspect of the report is that while Council has total investments and cash of \$81.4M, which is all restricted (internally and externally, as at 30/6/24). Therefore, those funds are not available for any purpose beyond that for which they have been restricted.

Administration's Recommendation

THAT:

1. Investments of \$75,800,000 and cash of \$5,627,912 (which is restricted for specific purposes) for the period ending 30 June 2024 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.
3. The commentary on cashflow and funding requirements for restricted reserves be noted.

Attachments

1. June Invest Rep Attach [3.14.1 - 1 page]

Reference to any relevant previous minute

Min No 24-144 Ordinary Meeting of Council held on 24 June 2024.

Background and discussion**Movements in the Cash and Investments Balance**

Council's total investment portfolio as at 30 June 2024, when compared to 31 May 2024, has decreased by \$4,650,000 to \$75,800,000. Investments decreased from \$80,450,000 to \$75,800,000. Cash in Council's bank account increased from \$1,036,301 to \$5,627,912.

On 28 June 2024, Council received a \$5.41M advance Financial Assistance Grant payment. This payment is recognised as a prepayment of 85% of the 2024/25 Financial Assistance Grant.

June is usually a cashflow negative month with no rates instalment due in the month. In June 2024, there were high cash outflows for Accounts Payable transactions.

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

The movement in Investments for the month of June 2024 were as follows:

Opening Balance of cash and investments as 1 June 2024	\$81,486,301
Plus New Investments – June 2024	\$7,941,611
Less Investments redeemed – June 2024	-\$8,000,000
Closing Balance of cash and investments as at 30 June 2024	\$81,427,912

Responsible Accounting Officer comment on the cash and investments balance – excluding the \$5.41M advance payment for Financial Assistance Grant, there was a \$58K decrease in cash and investments in June 2024. Higher cash inflows were offset by \$7.61M in Accounts Payable transactions, mainly due to the timing of capital works projects. Cash outflows continue to be managed to ensure that the timing of grant funding milestones matches the pace of works undertaken.

High value Accounts Payable transactions included \$1.033M for 2 new Graders, \$739k for the annual TechOne Software Licences, \$495k Flood Damage Rehabilitation - Glen Davis Road, \$336k for domestic waste collection, \$330k Road Re-sheeting – Peach Tree Road Megalong, \$328k for the West Bowenfels Sewer Pump Station design and construction, \$215k for reconstruction works on Cullenbong Creek Causeway \$298k for the rehabilitation of Coalbrook Street Lithgow, \$229k for the rehabilitation of Maddox Lane Lidsdale, \$212k for construction of the new Stores Building at council depot, \$150k for installation of a Toilet Block, Saville Park Portland, \$122k for new lighting and stage at Blast Furnace Park, \$113k for Strategic Marketing Plan and \$105K for the Wolgan Road alignment design.

Funding Requirements for Restricted Reserves

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

Responsible Accounting Officer comment on restricted reserves – Council had sufficient cash and investments at 30 June 2024 to fund \$66M of externally restricted reserves and \$15.3M of internally restricted reserves (balances at 30 June 2024). The \$33.75M advance payment for natural disaster restoration works has been included in the Special Purpose Grants reserve.

The interim 30 June 2024 cash and investments balance indicates an (\$834k) shortfall in working capital. This shortfall relates to the timing of cash outflows and further work will be undertaken as part of completing the 2023/24 financial statements to resolve the shortfall.

The Administration took action to initiate a \$3.5M working capital short-term loan facility to cover anticipated and ongoing high cash outflows for grant funded capital projects and claimable natural disaster recovery works. The loan amount was reduced by \$1M at the September 2023 quarterly review and by a further \$1M at the March 2024 review. The remaining balance of \$1.5M was paid out in June 2024.

The Cash and Investments Statement has been updated at 30 June 2024 and is provided below.

Cash and Investments Statement (\$'000)					
	30 June 2023 Position	30 September 2023 Position	31 December 2023 Position	31 March 2024 Position	30 June 2024 Position
Externally Restricted					
Developer Contributions	1,874	1,854	1,917	2,132	1,995
Special Purpose Grants	12,659	14,958	16,120	14,997	44,847
Water Supplies	2,829	2,960	3,326	4,043	4,716
Sewerage Services	7,427	8,095	8,416	7,118	5,781
Domestic Waste	7,402	9,223	8,499	7,897	8,261
Unexpended Loans	1,352	3,851	2,850	2,843	1,342
	33,543	40,941	41,128	39,030	66,942
Internally Restricted					
Land & Buildings	2,734	2,916	3,102	3,845	3,590
FAGs	6,013	4,510	3,235	1,503	5,410
Plant & Equipment	511	514	811	961	1,244
Bonds, Deposits & Retentions	302	309	302	306	520
Works in Progress	671	670	648	648	648
Carry Over Works	476	291	245	221	166
Commercial Waste	250	140	931	1,195	1,631
ELE	1,130	1,130	1,130	1,130	1,130
Election	100	119	138	156	175
Other	350	350	350	692	806
Total Internally Restricted	12,537	10,949	10,892	10,657	15,320
Unrestricted (working capital)	(3,142)	2,779	1,854	1,724	(834)
Total Cash and Investments	42,937	54,669	53,874	51,411	81,428

CERTIFICATION OF THE RESPONSIBLE ACCOUNTING OFFICER

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

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

Jonathon Reid

Financial Services Manager - Responsible Accounting Officer

Consultation and Communication

N/A

Policy

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing funds. On 26 February 2024, Council adopted a revised Investment Policy which includes the Minister's Investment Order of 12 January 2011.

Legal

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

Risk Management

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

Financial

- Interest income budget approved – \$2,617,000
- Cost centre - 3259
- YTD Income to date - \$2,917,590
- Future potential impact – Nil.

Council's investment interest income for 2023/24 is \$2.9M, over \$1M more than the original budget. Investment returns have increased with Council being able to achieve up to 5.35% return on term investments. Also, Council's average investment balance has been above the budgeted average investment balance of \$39M, which is mainly due to the \$6M upfront payment of the 2023/24 Financial Assistance Grant, the \$13.8M natural disaster works payment and the recent \$33.75M advance payment for natural disaster restoration works.

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

3.15. I&E - 22/07/2024 - Financial Assistance Sporting representation**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: Kaitlin Cibulka – Cemeteries & Administration Supervisor
Responsible Officer: Jonathon Edgecombe - Director of Infrastructure and Economy

Executive Summary

This report provides details of a request for financial assistance that Council has received for sporting representation. Similar financial assistance requests are usually reported through the Sports Advisory Committee, with recommendations made by the Committee subsequently reported to Council for resolution. However, this request has been presented directly to Council for endorsement of the recommendation.

Administration's Recommendation

THAT Council provide Curtis Brown with financial assistance of \$300.00 from the 2024/25 allocation toward the cost of Curtis' sporting representation in Rugby League.

Attachments

Nil

Reference to any relevant previous minute

Nil

Background and discussion

Council is in receipt of an application for financial assistance for Curtis Brown who has been selected to represent NSW at the National Championships for under 15's Rugby League. The competition involved a 2-day camp in Cronulla on 22 & 23 June along with championships being held in Port Macquarie between 27 June to 5 July 2024. Curtis has had to work very hard through four levels of representation before he was selected to compete with the NSW team.

Consultation and Communication

N/A

Policy

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

Legal

N/A

Risk Management

N/A

Financial

- Budget approved - \$2,500.00
- Cost centre - PJ 800158 – Governance – Section 356 Donations & Contributions
- Expended to date – Nil
- Future potential impact – if the request is approved for \$300.00, there would be \$2,200 remaining in the 2024/25 budget.

3.16. F&G - 22/07/2024 - Lithgow Bowling Club Proposed Land Swap

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 and Legal Services Officer

Responsible Officer: Ross Gurney - General Manager

Executive Summary

This report informs Council of a historical land anomaly involving an encroachment by Lithgow City Bowling Club Limited (**the Club**) on land owned by Lithgow City Council (**Council**) and an encroachment by Council on land owned by the Club.

A land swap is proposed to rectify the encroachments, but before a land swap can proceed, the Council owned land must be re-classified from community land to operational land. The re-classification process involves an amendment to Lithgow Local Environmental Plan 2014, which includes a public exhibition process.

It is recommended that no consideration be paid by Council or the Club for the land swap, the parties share equally in all survey and registration costs, and each party engage and pay for their own legal costs arising from this matter.

Administration's Recommendation

THAT

1. Agree to a land swap with Lithgow City Bowling Club Limited as outlined in this report.
2. Authorise the Administration to take the necessary steps to re-classify the affected section of Council owned land to operational land.
3. Authorise the General Manager to sign all documents and do all things necessary to give effect to the matters outlined in this report.

Attachments

Nil

Reference to any relevant previous minute

Nil.

Background and discussion**Lithgow City Council land**

Council owns Lot 45 in DP1096536 being Queen Elizabeth Park, Main Street, Lithgow (**Council Land**).

The image below shows the Council Land shaded in yellow, and two bowling greens encroaching on the Council Land.

Site plans held in Council's archives indicate that the bowling greens have existed on Lot 45 since at least 1977.

The area of encroachment totals 2,595 m² and the Club pays rates for this area.



Lithgow City Bowling Club Limited land

The Club owns Lot 1 in DP332058 being Lithgow Bowling Club, 2 Lithgow Street, Lithgow (**Club Land**).

The image below shows the Club Land shaded in yellow. The triangular area to the north of the image shows Council's infrastructure on the Club Land.

The area of encroachment totals 544 m² and Council is responsible for rates over this area.



Basis for encroachments

It is not known how the encroachments came about, but it is apparent that at some point in history there was an arrangement (probably verbal as no documentation has been located) between the Club and Council to use each other's land. This is thought to be the case because:

- the Valuer General's land assessment of the Council Land includes the 544 m² area of Club Land used by Council; and
- the Valuer General's assessment of the Club Land includes the 2,595 m² area of Council Land used by the Club.

The Valuer General's department would only have assessed the land in this way upon receiving a request from Council.

Proposal to rectify the land discrepancy

The administration proposes to rectify these historical encroachments by way of a land swap with the Club.

As the Club is a not-for-profit organisation providing an important and valuable service to the Lithgow community, the following is proposed:

1. A land swap between the Club and Council for no consideration. This will involve a transfer of 2,595 m² of the Council Land to the Club, and a transfer of 544 m² of the Club Land to Council.

2. Council and the Club share equally in all survey and registration costs.
3. Each party to pay their own legal costs arising from the land swap.

Community land – Part 2 of Chapter 6 of the Local Government Act 1993

The Council Land is classified community land and is noted as a public reserve on title. Therefore, the affected part of the Council Land will need to be re-classified to operational land before it can be transferred to the Club.

Re-classification can be achieved through a housekeeping amendment to Lithgow's Local Environmental Plan 2014, which involves a public exhibition process.

If Council resolves to proceed with the land swap, no land can be transferred until the affected section of the Council Land has been re-classified to operational land.

Consultation and Communication

The Administration has had preliminary discussions with the Club regarding this matter and the Club has indicated in principle agreement to the proposal to rectify as outlined in this report. The section of Council Land affected by the encroachment must be re-classified to operational land before any transfer of land can occur. An LEP amendment is the process for re-classifying community land and this involves a public exhibition period and public hearing.

Policy

N/A

Legal

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

Risk Management

There are no adverse risks to Council arising from this report. The effect of the recommendations in this report will be to reduce risk to Council.

Financial

- Budget approved - nil
- Cost centre – recurrent legal and related expenses.
- Expended to date - nil
- Future potential impact - ~ \$10,000 for survey, registration and legal expenses

3.17. F&G - 22/07/2024 - Update - Proposal to enter a licence agreement with COC Limited

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 and Legal Services Officer

Responsible Officer: Ross Gurney – General Manager

Executive Summary

This report provides an update to Council in relation to Council resolutions 23-95 and 22-238 and informs Council that, despite those resolutions, a licence agreement has not been entered with C.O.C. and the Administration will now proceed to close its file and cease work on the matter.

Administration's Recommendation

THAT Council note that work will cease on the proposal to enter a licence agreement with C.O.C. Ltd.

Attachments

1. Council report 22 May 2023 [3.17.1 - 4 pages]

Reference to any relevant previous minute

Minute 22-238 Ordinary Meeting of Council held on 28 November 2022
Minute 23-95 Ordinary Meeting of Council held on 22 May 2023

Background and discussion

On 28 November 2022, Council agreed to enter a 12 month licence agreement with C.O.C Limited (**C.O.C.**) for the rail line section of Council owned land being Lot 1 in DP 433264, identified in yellow on the image below.



Additionally, Council authorised the Administration to take steps to re-classify the rail line section to operational land via an LEP amendment.

For reference, a copy of the full report to Council dated 22 May 2023 is attached to this report.

Update to Council

This report informs Council that no licence agreement has been entered with C.O.C. to date and C.O.C. has been unresponsive to the Administration's requests in relation to same.

The last communication sent by the Administration to C.O.C. on 21 June 2024 commented that, if a response is not received by 30 June, the matter will be reported to the July meeting of Council. No response has been received and we can only assume that C.O.C. no longer desires a licence to use the section of rail land.

It goes without saying that Council does not intend for decisions of this nature to persist indefinitely, and a decision to re-classify community land is not taken lightly. With this in mind, the Administration will proceed to:

1. close its file in relation to the matter;
2. refrain from taking any steps to re-classify the land to operational land; and
3. cease all work in relation to resolutions 22-238 of 28 November 2022 and 23-95 of 22 May 2023.

If C.O.C. would like to enter a licence agreement for the rail section of land in the future, the process will need to be started afresh.

Consultation and Communication

The Administration has made several attempts to progress this matter including contact via phone, letter and email since the Council resolutions.

Policy

N/A

Legal

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

Risk Management

N/A

Financial

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

3.18. GM - 22/07/2024 - Canvassing of Submissions - LGNSW Conference**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 – General Manager

Responsible Officer: Ross Gurney – General Manager

Executive Summary

This purpose of this report is to put forward motions for the upcoming LGNSW Annual Conference and to confirm Council's position on attendance for the LGNSW Annual Conference.

Administration's Recommendation

THAT Council:

1. Endorse the proposed motions for the LGNSW Annual State Conference.
2. Authorise the registration of the Mayor and Deputy Mayor (to be elected at the 8 October 2024 meeting), as well as a supporting executive senior staff member, for the LGNSW Annual Conference. The registrations would be funded from approved 2024/25 budgets.

Attachments

Nil

Reference to any relevant previous minute

N/A

Background and discussion

The LGNSW Annual Conference provides an opportunity to share ideas, advocate for our priorities, seek inspiration, and help determine our sector's policy directions for the coming year.

Tamworth Regional Council is the destination host for the 2024 Annual Conference from Sunday 17 to Tuesday 19 November 2024 at Tamworth Regional Entertainment and Conference Centre.

As a member of Local Government NSW, Lithgow City Council is able to nominate three voting delegates to the conference and three voting delegates for the Board election.

It is anticipated that the cost (registration, conference dinner, accommodation) will be approx. \$2,300 per attendee or \$6,900 in total for the Mayor, Deputy Mayor and a supporting executive staff member.

The key dates are as follows:

- **Wednesday 17 July** – Registration and Motions open.
- **Thursday 15 August** – Motions due (recommended submitting pre-election).
- **Sunday 20 October** – Final Motions due.
- **Wednesday 23 October** – Registrations close.

- **Wednesday 6 November** – Nominated voting delegate names due.

Council-submitted motions will be debated and resolved to set the advocacy priorities for the year ahead, while a tradeshow, workshops and training sessions will also occur to support delegates in their efforts to effectively represent their communities.

Due to the number of motions received from Councils, LGNSW has requested that Councils focus on their top 2-3 priorities. The following motions are proposed for the 2024 LGNSW Annual Conference:

1. Natural disasters

That Local Government NSW requests the Australian and NSW governments for improvements required to better support local government in the context of an operating environment characterised by climate change and an increase in natural disasters:

- a. Recurrent funding models and programs that reflect the extent of local government's asset management responsibilities (and limited capacity to pay), reducing the prevalence of competitive funding rounds, and recognising the benefits of proactive maintenance over end-of life repair.
- b. Fundamental review of the DRFA to reduce administrative burden, recognise capacity constraints on local government, and integrate the principles of asset betterment as an investment for the future.
- c. Inclusion of water and sewer reticulation and treatment infrastructure in the definition of an 'essential public asset'.
- d. Financial opportunities which are cyclic, guaranteed and thereby reliable, allowing local government the ability to develop the necessary capacity to deliver on proactive maintenance.
- e. The logic behind the current assessments of Essential Public Asset claims is highly flawed. TfNSW are identifying any asset defects pre-disaster and are using this to deny approval requests for work stating that the damage is a result of poor maintenance, not disaster. It is basic engineering that assets deteriorate on a bell curve, the rate of which increases as they age. It is also a well known fact that regional and rural Councils have reduced capacity to fund asset maintenance and renewal as a result of a much higher ratio of asset length to population. The logic being used is essentially penalising regional and rural Councils who do not have the luxury of above adequate pavement thickness and extensive kerb and gutter networks.

2. Regional water security and access to funding

That strategy development is progressed to ensure that regional areas are catered for with water and sewer services, as well as appropriate funding to rectify state owned systems. Water schemes and resources in the West of the State are becoming insecure and do not provide the level of resilience to accommodate for new development, transitioning economies and new manufacturing or industry. Local Water utilities are operating ageing infrastructure with a rate base unable to cater for new infrastructure in its entirety and, in Lithgow's case, are complex and expensive with the use of the Fish River Scheme and many sewerage systems.

3. Mayoral and Councillor Remuneration

That Mayoral and Councillor remuneration to be set at a level to:

- Reflect the role, commitment required, complexity of the role, workload, and responsibilities required to perform the role successfully,
- Ensure no one is out of pocket for the work they do for council, and
- Attract a diverse range of potential candidates.

For example, there may be a fixed mandatory fee, not requiring an annual vote by Council which would:

- Remove potential conflict of interest,
- Facilitate good governance,

- Create equity amongst councils in the same category,
- Assist in fostering good relationships with the community, and
- Alleviate public perception that increases are unjust.

A change in the approach to Mayoral and Councillor remuneration would require amendments to the Local Government Act 1993.

Consultation and Communication

The proposed LGNSW conference submissions were discussed at the 8 July 2024 Councillor Information Session.

Policy

Policy 9.5 Councillor Expenses and Facilities allows for a separate budget for State and National Local Government conferences.

Legal

N/A

Risk Management

N/A

Financial

- Budget approved - separate budget provided for State and National Local Government Conferences.
- Cost centre - 800154-8130-63205
- Expended to date - nil
- Future potential impact - nil

4. Council Committee Reports

4.1. FIN - 22/07/2024 - Audit Risk Improvement Committee (ARIC) Minutes 11 June 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: Raj Singh – Governance & Risk Manager
Responsible Officer: Ross Gurney - General Manager

Executive Summary

This report summarises the business considered at the Audit Risk & Improvement Committee (ARIC) meeting held on 11 June 2024 and recommends that Council note the minutes.

The Committee endorsed updated Draft Terms of Reference for the ARIC, which are presented to Council for adoption.

Administration's Recommendation

THAT Council:

1. Note the Minutes of the 11 June 2024 Audit Risk & Improvement Committee Meeting.
2. Adopt the updated Terms of Reference for the ARIC.

Attachments

1. Draft Minutes ARIC 11 June 2024 - FINAL [4.1.1 - 13 pages]
2. Lithgow ARIC TOR - Draft V 2 FINAL - 10 July 2024 [4.1.2 - 16 pages]

Reference to any relevant previous minute

Min No. 24-93 Ordinary Meeting of Council held on 22 April 2024.

Background and discussion

At the ARIC meeting held on 11 June 2024, the following items were presented and discussed:

- **Terms of Reference:** the Draft Terms of Reference for the ARIC, as amended in the minutes, were endorsed to be presented to the next available Ordinary Meeting of Council.
- **Compliance:** The Committee discussed how Council is maintaining compliance with other legislative requirements not included in the Compliance Register. The Committee identified a number of improvement actions
- **Internal Audit:** The Committee reviewed outstanding internal audit actions and development of the 4 year internal audit plan.
- **External Audit:** The outcome of the initial interim audit was presented to the Committee, outlining any issues that needed to be highlighted or actioned. The Committee also discussed the NSW Auditor-General's report on Local Government.

- **Internal Controls:** the Committee discussed improvements to processes for updating the Policy and Standard Working Procedure Registers.
- **Fraud and Corruption:** the Committee noted the report on fraud and corruption controls.
- **Financial Management:** the Committee discussed and noted the financial management report.
- **Governance:** The Committee discussed the Governance report. An update on the recruitment of the general manager was provided, outlining the process set in place. The Committee also considered the recent Asset Management Audit report.
- **Risk Management:** the Committee reviewed the risk registers and requested information on the progress of the Business Continuity Plan reviews.
- **Service Reviews and Business Improvement:** the Committee discussed the Audit Office's Cyber Security in Local Government report.
- **Strategic Planning:** the Committee noted the report on strategic planning.
- **Performance Data & Measurement:** The Committee were informed that there is a new phone system being introduced in the new financial year. A considerable amount of quality data will be able to be extracted from the new system.

Financial

As detailed in the ARIC meeting minutes.

4.2. COMM - 22/07/2024 - Community Development Minutes 9 July 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 & Place

Executive Summary

The minutes of the Community Development Committee held on 9 July 2024, including Financial Assistance recommendations, are reported for Council's consideration.

Administration's Recommendation

THAT Council

1. Note the minutes of the Community Development Committee held on 9 July 2024.
2. Approve \$18,964 Non-Recurrent Financial Assistance to the following eight (8) projects:

Applicant and Project Name	Project Description	Amount Requested	Amount Recommended (Applicants were contacted prior to recommendation of any change to initial requested amount)
Lithgow Cares Coalition Domestic and Family Violence Prevention event	Training for community service providers and general community on ways to improve safety for women and families.	\$3,000	\$2,000
Mingaan NAIDOC 2024	Celebrate NAIDOC week in early November 2024 to promote community understanding of indigenous culture and history.	\$3,000	\$2,000
Wallerawang Lidsdale Progress Association New Years Eve Fireworks at Lake Wallace	Free family event and fireworks	\$10,000	\$10,000
Walanbang Malungang - Strong Girls Portland Community BBQ's	Hold weekly BBQ events over 20 weeks that aim to build resilient, strong young girls who are connected to their community	\$1,500	\$1,000
Nanna's Touch Community Connection Soup Kitchen	Provides sit down and home delivered meals once a week for people who are homeless or living in poverty.	\$1,064	\$1,064
Rydal A H & P Society 2025 Rydal Show	Prize money for the Yard Dog and Heavy Horse competitions	\$1,000	\$1,000
Tarana Tanker Trailers Registration costs of 13 firefighting tanker trailers	Registration will enable the trailers to be moved on public roads in response to fire outbreaks.	\$1,400	\$1,400
Gari Yala Aboriginal Cultural Fundraising Indigenous Corporation Mountains and Lakes Aboriginal Cultural Festival	Hold a two-day cultural festival at Lake Lyall in October 2024 to promote indigenous culture and community understanding of culture	\$5,000	\$0 This project is not recommended for funding as the applicant is not located in Lithgow LGA

Lithgow Connect Lithgow Homelessness Project	Provide small financial assistance payments and whitegoods to assist homeless people move into more secure accommodation	\$8,000	\$0 This project is not recommended for funding due to the high amount requested and that this the project purpose is best supported by state government.
Lithgow Branch of the Red Cross Celebrating 110 years of the Australian Red Cross	Hold a 110th year anniversary event at Lithgow Library in August 2024	\$1,000	\$500
TOTAL		\$34,964	\$18,964

- Note that, in response to Min. No. 24-55, the Grandstand will remain known colloquially as "Kremer Park Grandstand." The family of Mr Taylor and the Portland Colts will be formally advised of the decision to retain the current name of the grandstand. Respondents will be thanked for participating in this process and advised of the outcome of their submissions.
- Note that a Policy be developed for the Naming or Renaming of Council Buildings and Facilities, and the means of approving in memorial recognitions at Council facilities.

Attachments

- Minutes CDC 9 July 2024 [4.2.1 - 9 pages]

Reference to any relevant previous minute

Minute 24-43 Ordinary Meeting of Council held on 26 February 2024

Minute 24-118 Ordinary Meeting of Council held on 27 May 2024

Minute 24-55 Ordinary Meeting of Council held On 25 March 2024

Background and discussion

At the Community Development Committee held on 9 July 2024, various matters were discussed including:

- Item 7.2 Implementation of the Disability Inclusion Action Plan,
- Item 7.3 Committee role and work program, and
- Item 7.4 A report on current projects underway in the Community and Culture Department.

Item 7.1 Financial Assistance

Council has allocated a total of \$110,142 Financial Assistance in 2024/25 Operational Plan. As in previous years, some of this allocation is reserved for the following:

- Portland pool operating subsidy \$42,680
- Arts Outwest \$14,000
- Lithgow Show \$15,000
- Fee waivers by the General Manager \$2,000
- Sporting Assistance as recommended by the sports Advisory Committee \$2,500
- Tony Luchetti Showground and Civic Ballroom Fee waiver packages \$5,000
- School End of Year Prizes \$800.

Total \$81,980

This leaves a balance of \$28,252 for Non-Recurrent Financial Assistance. Council called for Non-Recurrent Financial Assistance applications in April 2024 with 10 applications to the value of \$34,964 received.

Applications were considered by the Community Development Committee at its 7 May 2024 meeting where the committee resolved:

1. In view of the limited available funds for Rounds 1 and 2, Council staff contact all applicants to determine if their projects can proceed with a reduced budget.
2. Council staff seek advice on Conflict of Interest and probity issues in relation to Financial Assistance and report this back to the next meeting.

Applicants were contacted by Council staff, with most indicating that they would accept less Financial Assistance than requested. The Administration also provided advice to the Committee on management of Conflict-of-Interest in assessing Financial Assistance matters. This advice is that an interest in an application applies to both:

- a) the application submitted by the organisation directly affiliated to the committee member, or from which the interests of the member may gain, and then
- b) when that member is required to vote on any other application submitted that may be in "competition" with the submission of the organisation that the committee member is directly affiliated. That any committee member with an interest in one financial assistance grant submission should not be voting in relation to any other financial assistance grant submission.

Accordingly, the Committee was advised that its role in determining financial assistance grant applications should be to provide comment on, and endorse or not endorse, the staff recommendations.

The Committee was further advised that the Administration will draft a set of criteria against which future financial assistance grant applications will be assessed, and this draft criterion be provided for initial review at the next Committee meeting.

Accordingly, the Committee endorsed the staff recommendation that eight (8) projects to the value of \$18,964 be approved for Round 1 of 2024/5 Non-Recurrent Financial Assistance as detailed in the recommendations that form part of this report.

Item 7.5 Kremer Park Grandstand Renaming

At the Ordinary Meeting of Council held 25 March 2024, Council resolved (Min 24-55) to publicly exhibit a renaming proposal for the Kremer Park Grandstand. The public exhibition process was conducted.

The Committee was advised by the Administration that this matter had been withdrawn from the Agenda.

Council is asked to note that a Policy will be developed for the Naming or Renaming of Council Buildings and Facilities, and the means of approving in memorial recognitions at, or of, Council facilities.

5. Delegates Reports

5.1. EXEC - 22/07/2024 - National General Assembly (NGA 2024)

Report by Ross Gurney - General Manager

Commentary

Between 2 and 5 July 2024, representatives of Lithgow City Council attended the following local government events in Canberra:

- Regional Forum (2 July),
- National General Assembly of Local Government (3-4 July), and
- Australian Council of Local Government (5 July).

In attendance were Mayor Maree Statham, General Manager Ross Gurney and one of the members of the Council's communications team Bradley Sullivan. At short notice, the Deputy Mayor was unable to attend due to work commitments.

Attachments

Nil

Recommendation

THAT the delegates report regarding attendance at the 2024 National General Assembly and related events be received.

Management Comment

Regional Forum

The 2024 Regional Forum covered a range of interesting topics including the need for regional connectivity and services, intergenerational fairness, civic engagement and community trust in the built environment. Following an address from the Hon. Darren Chester MP, Mayor Statham had the opportunity to speak about her experience at Latrobe Valley and drew similarities with the current situation in our LGA, to raise awareness for communities who will be directly impacted by the energy transition. The Mayor also highlighted the importance to improvements to road infrastructure, and specifically advocated for the construction of a tunnel through the Blue Mountains, to improve the connection between Lithgow and Western Sydney.

National General Assembly of Local Government

The National General Assembly brings together Councillors and administrators from across the nation to meet and exchange ideas and share the challenges faced by local Governments. The assembly also hosts experts and representatives from the federal government who discuss the latest trends and developments from across the sector and listen to the concerns of the representatives from Councils.

During the General Assembly, members of the delegation also had the opportunity to participate in listening sessions hosted by policymakers. The delegates attended a session of two very pertinent topics for our community, energy transition and disaster recovery. The sessions were useful in

understanding the challenges faced by other councils and the systemic limitations of the process of seeking funding from the state and federal government. This information will also be valuable when preparing advocacy initiatives for the Lithgow LGA in future.

The delegation also heard a report on the state of the assets, highlighting the sector-wide maintenance of local government assets and the disparity between urban and rural councils when it came to capacity to maintain assets long term. The delegation returned with copies of this report which will assist the council staff to provide context in their reporting and advocacy work.

While in Canberra, the delegation also made arrangements to speak with parliamentarians from both the Coalition opposition and Labor Government about the Lithgow LGA's plans for the energy transition and sought details about the policy for a nuclear plant at Mt Piper, if the Coalition were to form Government. In attendance at the meeting with the coalition were Shadow Minister for Climate Change & Energy Ted O'Brien MP, Nationals Leader David Littleproud MP and Senator Ross Cadell, who provided more detail about the Opposition's nuclear energy proposal. This conversation was fruitful with discussions around the number of jobs that could be created in our LGA and the other economic benefits that access to nuclear energy may have for industry looking to do business in the Lithgow LGA.

The Delegation met with Minister Chris Bowen MP later that day, about his Government's Future Made in Australia Act, which would see significant investment made toward bolstering Australia's capacity for green manufacturing and energy production. This meeting was incredibly timely as the Future Made in Australia Act is currently going through Parliament. Many of the principles outlined in the Future Made in Australia Act align neatly with the Lithgow LGA's transition document the Lithgow Emerging Economy Plan (LEEP). The delegation had the opportunity to share the LEEP document with the Minister to highlight the need for a comprehensive approach from all levels of Government, to ensure our region's economic future.

At this meeting, Minister Bowen flagged his intention to visit our area in the following week to further discuss the Government's plans which would benefit the Lithgow LGA. The Minister and other members of the NSW State and Federal Government including Susan Templeman MP and Senator Deborah O'Neill, subsequently visited the Mt Piper Power Station to host a meeting with community groups and other industry stakeholders from the Lithgow LGA.

The visit and subsequent meetings with the Minister in Lithgow were incredibly valuable for Council Administration and members of the LEEP team who are looking to create momentum for the LEEP actions via active partnership with the state and federal government.

Australian Council of Local Government

The Australian Council of Local Government (ACLG) showcases the important partnership the Australian Government has with local governments across Australia.

Local governments are a trusted partner and fundamental to the development and delivery of policies and programs for all Australians. The ACLG provides them an important opportunity to engage with Ministers on opportunities and challenges in their areas.

The ACLG was first established as a formal meeting between senior leaders of local government and the Australian Government in 2008.

The re-establishment of the ACLG builds on the Australian Government's commitment to work with local governments to build liveable and socially equitable communities in Australia's cities and regions.

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts works with ALGA to deliver this important event.

Delegates heard addresses from the Prime Minister, the Hon. Anthony Albanese MP, as well as sessions on the skills shortage, Housing Accord and disaster recovery / resilience.

6. 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.