



Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 23 March 2026

at 6:30 PM

ORDER OF BUSINESS

2. Administration Reports.....	4
2.6. F&G - 23/03/2026 - Proposed Acquisition of Valley Drive - Public Road Encroachment	4

2. Administration Reports

2.6. F&G - 23/03/2026 - Proposed Acquisition of Valley Drive - Public Road Encroachment

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.

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Responsible Officer: Vanessa Browning - Director Finance and Governance

Executive Summary

The purpose of this report is to seek Council approval to acquire 671m² of private land to rectify a Council road encroachment on the land, in relation to Valley Drive, Lithgow.

A decision to acquire land is a non-delegable function under Section 377(h) of the Local Government Act, 1993, and accordingly a resolution of Council is required for this purpose.

Administration's Recommendation

THAT Council:

1. Approve the acquisition of private land for \$84,000, as outlined in this report.
2. Authorise the General Manager to do all things and sign all documents necessary to give effect to the acquisition and dedication of the encroached area as public road.

Attachments

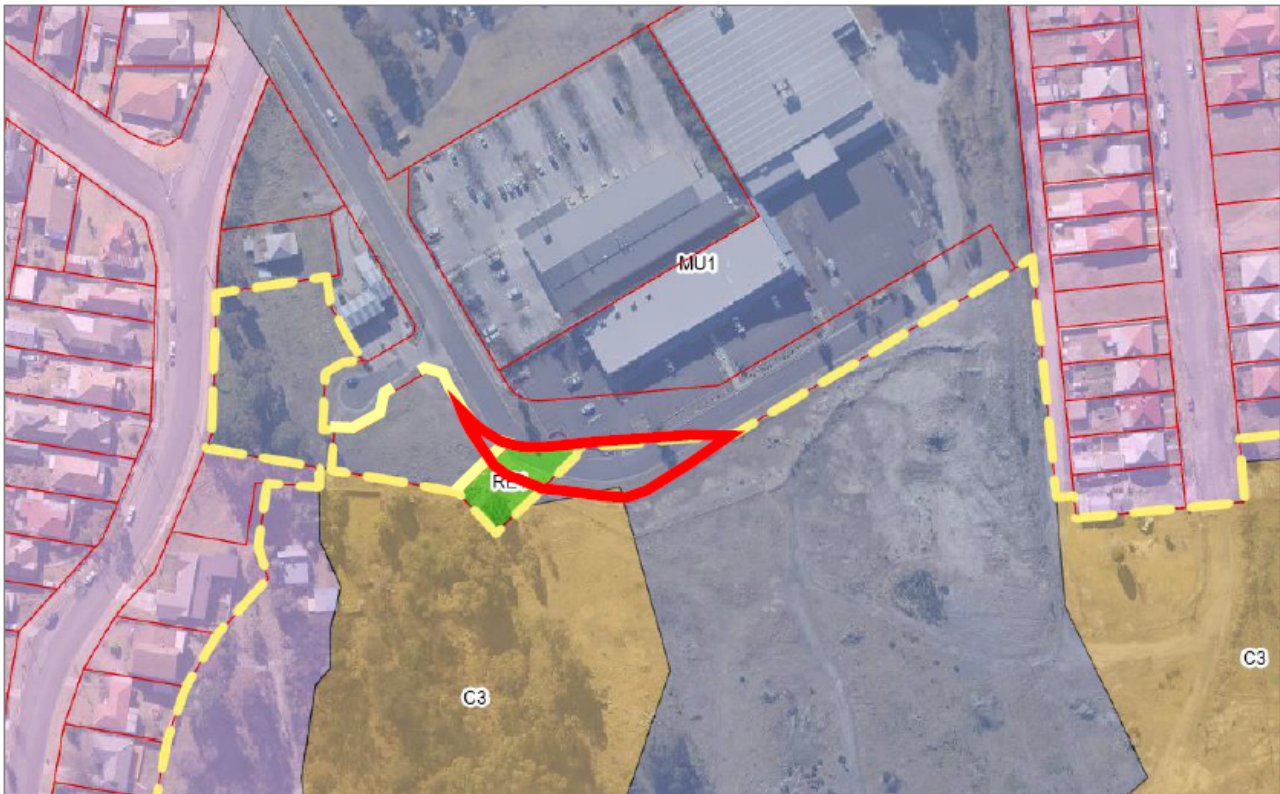
1. Survey Plan [2.6.1 - 1 page]
2. CONFIDENTIAL - Valuation - Independent Property Valuations PL [2.6.2 - 51 pages]
3. CONFIDENTIAL - Probity Plan - Valley Drive [2.6.3 - 1 page]
4. CONFIDENTIAL - Accepted Letter of Offer [2.6.4 - 3 pages]

Reference to any relevant previous minute

Nil

Background and discussion

As indicated on the image below, a section of Valley Drive encroaches on the boundaries of 21 Willowbank Avenue (26/1244557), Lithgow and 3 Cooper Close, Lithgow (701/1150747) **(the Property)**.



The situation can be rectified by acquiring the portion of private land affected and registering a plan of subdivision dedicating the affected area as road.

The Administration has had several communications with the owner of the Property, obtained a survey to ascertain the precise area of encroachment and obtained a valuation to determine the compensation payable by Council to acquire the 671m² encroached area. A survey plan of the area is attached.

Council's power to acquire land for a public purpose

Council's power to acquire land is set out in sections 186 and 187 of the Local Government Act and section 177 of the *Roads Act 1993*. When acquiring privately owned land Council must comply with the Land Acquisition (Just Terms Compensation) Act 1991 (**the Act**). The Act sets out the steps that must be taken to acquire land, and the matters to be considered in determining the amount of compensation to be paid to landowners.

Under the Act, land can be acquired in two ways:

1. agreement between the acquiring authority (in this case, Council) and the landowner; or
2. compulsory acquisition.

Council's preference is to acquire land by agreement with the owner.

Compensation

The matters to be considered when determining compensation are set out in section 55 of the Act and include the following:

- a) the market value of the land on the date of its acquisition,
- b) Any special value of the land to the person on the date of its acquisition,
- c) Any loss attributable to severance,
- d) Any loss attributable to disturbance,

- e) Any increase or decrease in the value of other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.

Council has obtained an independent valuation to determine the compensation that Council would have to pay for the 655m² encroachment, which was assessed at \$82,000, being \$125 per m² and the report is attached as a confidential attachment. This rate was then applied to the residue land of 16m² to bring the total valuation of all land to be acquired to \$84,000.

Offer

On 16 August 2023, the administration sent an offer of compensation to the owners for acquisition of the 671m² encroachment, subject to a resolution of Council. The offer provided the following:

1. Council will acquire the encroached area (654.87m²);
2. Council will acquire the residue area (15.7m²);
3. Council will pay the sum of \$84,000 on finalising the matter; and
4. Council will pay the cost of all legal, valuation, bank and/or other foreseeable costs reasonably incurred by the owner or Council in relation to the acquisition.

On 6 August 2025 the owners confirmed that they would like to proceed with the matter based on the above offer, a copy of which is attached as a confidential attachment.

Next Steps

Following a resolution of Council to acquire the 671m² encroachment, the following steps will be taken:

- a) Acquisition of Agreement – Council will engage a solicitor to prepare a contract of sale for the land and complete the conveyancing process.
- b) Plan of subdivision – Council will engage a surveyor to prepare and register a plan of subdivision to dedicate the encroached area as public road.
- c) Completion and payment – upon registration of the plan of subdivision, the transaction can be finalised and compensation will be paid.

Consultation and Communication

Communication with the landowner has been undertaken between 17 May 2023 and 19 February 2026.

Policy

Land Acquisition and Disposal Policy
Compliance Policy

Legal

The subject matter of this report is a function of Council conferred by the Local Government Act 1993 and is also in accordance with the following legislation:

- Land Acquisition (Just Terms Compensation) Act 1991
- Roads Act 1993
- Real Property Act 1900

Risk Management

The acquisition of the encroached property reduces the legal risks for Council. The adherence to applicable legislation and Council policies mitigates the risks associated with this acquisition. A

Probity Plan (attached as a confidential attachment) and independent valuation process address other risks associated with the recommended acquisition.

Financial

It is likely that the time taken to undertake the outlined processes to complete the acquisition will result the main cost components being incurred next financial year. Should the recommendations be adopted by Council, the necessary budget will be incorporated into the draft 2026/2027 Budget.

Any costs incurred this financial year, which will predominantly relate to solicitor and survey costs will either be covered within current budget allocations, or be adjusted as part of the March Quarterly Review.