



AGENDA

Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 26 October 2020

at 7:00 pm

ORDER OF BUSINESS

1. Acknowledgement of Country	3
2. Present	3
3. Apologies	3
4. Declaration of Interest	3
5. Confirmation of Minutes	3
6. Commemorations and Announcements	3
7. Public Forum.....	3
8. Mayoral Minutes.....	3
9. Notices of Motion.....	4
9.1. Notice of Motion - Wallerawang Sewerage Treatment Plant	4
10. Staff Reports	5
10.1. General Manager's Reports	5
10.1.1. August 2019 Wallerawang Sewage Treatment Plant Incident	5
10.2. Economic Development and Environment Reports.....	8
10.2.1. Building and Development.....	8
10.2.1. DA114/19 Farm Stay Accommodation, 165 Caloola Halt Road, Megalong Valley	8
10.3. Water and Wastewater Reports.....	13
10.3.1. Water and Waste Water Report	13
10.4. Finance and Assets Reports	18
10.4.1. 2019/20 Financial Statements	18
10.4.2. Reserve Balances / Cashflow Issue	20
10.4.3. Technology One Software Licence Agreement.....	23
10.5. Policies and Governance.....	26
10.5.1. Proposed Date for Ordinary Meetings of Council 2021	26
10.5.2. Declarations of Designated Persons and Councillors	28
10.5.3. Amendments to the Model Code of Conduct for Local Councils in NSW and Procedures	30
10.5.4. Review of Policies 10.11 & 10.16	33
10.5.5. Policy Review - Policy 9.16 Compliance - Policy 9.15 Privacy Management Plan	34
11. Council Committee Reports	36
11.1. CTA Audit Risk & Improvement Committee Minutes 9 September 2020	36
11.2. Finance Committee Meeting Minutes - 12 October 2020	38
11.3. Sports Advisory Committee Meeting Minutes - 14 October 2020	40
12. Business of Great Urgency	41
13. Closed Council.....	42

1. Acknowledgement of Country

Acknowledgement of Country

I would like to acknowledge the traditional custodians of this land we are on here today, and pay respect to their elders both past, present and emerging.

Declaration of Webcasting

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

2. Present

3. Apologies

4. Declaration of Interest

5. Confirmation of Minutes

6. Commemorations and Announcements

7. Public Forum

8. Mayoral Minutes

9. Notices of Motion

9.1. Notice of Motion - Wallerawang Sewerage Treatment Plant

Report by Councillor Stephen Lesslie

Attachments

Nil

Recommendation

THAT Lithgow Council bring down a comprehensive, written public report on the environmental spill of over 12,000 litres of caustic soda (NaOH) that occurred at the Wallerawang Sewerage Treatment Plant in August/September 2019.

This report is to include, but not be limited to, a timeframe of the spill, procedures put in place to ensure that spills of this nature do not occur again, and a history of previous compliance failures at Wallerawang and other sewerage treatment plants.

The report is also to report on the expenditure involved in the clean-up operation - the amount, who authorised the expenditure and from which budget item the money was drawn, when the expenditure was reported to the Council and what projects have been cancelled or deferred to pay for the clean up and other associated costs incurred.

10. Staff Reports

10.1. General Manager's Reports

10.1.1. August 2019 Wallerawang Sewage Treatment Plant Incident

Prepared by	Craig Butler – General Manager
Department	General Manager
Authorised by	General Manager

Reference

Min No - 20-68: Extra Ordinary Meeting of Council held on 9 March 2020:

THAT Council submit an application to enter into an Enforceable Undertaking and seek to commence negotiations with the NSW Environment Protection Authority without delay.

Summary

Toward the end of 2019 Lithgow Council dealt with an incident at the Wallerawang Sewerage Treatment Plant (STP). Because the incident involved contraventions of the Act governing Council's operation of this facility, Council entered an Enforceable Undertaking (the EU) with the Environment Protection Authority (the EPA). The EU was signed by the General Manager on 7 July 2020.

The Council has been briefed about this incident and received information about it on a number of occasions. The public has also been advised about the EU. But with the EU now finalised it was considered appropriate to bring this report forward.

Commentary

In late August 2019 workers at the Wallerawang STP were caused to replace a pump which serviced a tank containing caustic soda. A fitting broke and the material leaked to a bund. The bund is provided to contain materials in such an event. Safework NSW and Council agreed that a response would be to leave the material contained in the bund until it was drawn down for use in the plant. Days later it was observed that the bund was nearly empty (this draw down was more rapid than usual). Around this time it became apparent that there was some discolouration on the surface of a nearby paddock. But the workers assumed that the material was draining back into the STP works via a pump station and so did not relate these to each other.

Around six weeks later the EPA was called to the site by the owner of the nearby property. It was found that the material had left the bund and was on that property and a small watercourse. It was found that the material had not spread to other land or to other watercourses. Upon closer examination, it was found that historically a valve had been installed so that it turned opposite to normal and that this allowed the material to leave the site of the STP.

Council worked closely with the EPA to deal with this incident. This included –

- Implementing its Site Pollution Incident Response Management Plan,
 - Removing the material from drains,
 - Engaging experts to prepare a remedial action plan,
 - Restoring the waters and land affected by the material,
-

- Progress reporting, and
- Providing information and records.

Notwithstanding the above, in the EU Council acknowledged that the incident was a contravention of the Act. Council undertook to bear all costs, fully remediate all affected lands and waters, to improve operating procedures and undertake a number of offset- type environmental projects. Written notice about the EU was also undertaken in the Sydney and local media.

The EU attributes a financial amount to all of the above. Some of these are costs, while others can correctly be described as benefits because they can bring lasting assistance to the Council's operations or enhanced outcomes for the local community and environment.

The cost of the spill response, clean up, remediation, replacement and repairs is expected to be about \$400,000 (the \$500,000 cited in the EU was an estimate). Council will bear the EPA's costs (approx. \$32,000). Training for the broader industry will be provided so that others operating similar facilities can learn from our experience (a cost of \$20,000).

The benefits include new staff in critical areas like WHS&E, asset maintenance, engineering. New procedures will be developed and documented with training provided. Farmers Creek projects will be part funded. These things will amount to approx. \$517,000.

Council's wastewater operations maintains a reserve of funds. These reserves are held, amongst other reasons, for the purpose of dealing with unplanned events that can emerge with a complex business operation such as water and wastewater. The cost of the EU will be funded from this reserve. The Council approves the budget for the EU by way of its normal budget setting and monitoring procedures. For expenditure in 2019/2020, the funds were approved at the Quarter 3 budget review. For 2020/2021 expenditure is either in the approved budget (with carryovers) or will be brought into it (if Council approves) during the quarterly reviews.

Council's water and wastewater operations are licenced and regulated. Performance and incidents are publically exhibited on the EPA's website and their public registers. The EU is available for viewing on the EPA's public register

Policy Implications

No particular implications.

Financial Implications

- \$400K budget approved – Q3 budget variation 2019/20.
- \$281K spent to 30 June 2020.
- \$119K remaining budget approved by Council in August 2020 as a carryover from the 2019/20 year.
- \$94K spent in 2020/21 to date.
- Total budget available \$400K, total spent to date \$375K, funded from sewer revenue & reserve.
- Positions approved from the 2020/21 year (in the Operational Plan):
- Asset Maintenance Planner - \$120K
- Water and Sewer Engineer - \$110K
- Wastewater Treatment Plant Operator - \$91.6K
- Total positions approved - \$321.6K funded from sewer revenue
- Also, Farmers Creek Weed Eradication \$100K will be a Q1 2020/21 budget variation funded from the sewer reserve.

Legal and Risk Management Implications

The EU is a legal undertaking. Many of the outcomes from the EU will reduce risk through such things as enhanced operating procedures, more training and appropriate levels of resourcing.

Conclusion

This incident at the Wallerawang STP resulted from a faulty fitting which failed after 7 years when it should have had a much longer effective life (please note that Council has now been advised of other examples of similar failures). Secondly, a valve had historically been fitted reverse to normal operation. These two factors combined to allow the material to leave the site. Once that happened Council, of course, accepted the responsibility to remediate the situation and that imposed costs.

But this matter also reinforced the findings of previous management reviews of this operation. In these, additional staff, skills and procedures were identified as areas needing attention. As a result of this incident, the Council has moved to address these areas of need with even more urgency. The incident and the EU has thus created benefits in terms of the long term function and performance of the wastewater operation.

Lessons have been learned from the incident. On balance, Council will be better for this experience.

Attachments

1. Enforceable Undertaking [**10.1.1.1** - 19 pages]

Recommendation

THAT the report relating to the August 2019 Wallerawang Sewage Treatment Plant Incident be received.

10.2. Economic Development and Environment Reports

10.2.1. Building and Development

10.2.1. DA114/19 Farm Stay Accommodation, 165 Caloola Halt Road, Megalong Valley

Prepared by Lachlan Sims, Acting Team Leader Development

Authorised by Director of Economic Development & Environment

Reference

Min No 20-143 Ordinary Meeting of Council held on 22 June 2020

Min No 20-216 Ordinary Meeting of Council held on 28 September 2020

Summary

To assess and recommend determination of Development Application DA114/19 for farm stay accommodation at 165 Caloola Halt Road, Megalong Valley (Lot 104 DP 1205799).

Commentary

This development application is resubmitted for determination following Council's Ordinary Meeting held on 28 September 2020 where it was resolved (Min No 20-216):

*THAT 1. The Development Application DA114/19 be REJECTED.
2. A report be brought back for Council to determine the reasons for refusal of the development application under Section 4.15 of the Environmental and Assessment Act.*

Councillors will recall that the application seeks development consent for farm stay accommodation at 165 Caloola Halt Road, Megalong Valley. The proposal comprises five small one-bedroom cabins (49 square metres each) on the land which is a relatively remote rural property in the Megalong Valley at the south-eastern edge of the Lithgow local government area (see location maps below). Details of the location of the cabins on the land and the proposed floor plans are provided in Attachment 1. The proposal and its location are described in detail in the planning assessment report provided in Attachment 2. An overall summary of the application was reported to Council at its September meeting.

Councillors who attended a site meeting on 20 August 2020 were given the opportunity to inspect the site of the development and the access road and to hear and discuss issues raised with submitters and nearby residents, most of whom were in attendance at the site meeting. At this meeting, the applicant/landowner provided Council staff with a document prepared by a civil engineering consultant that details the extent of works required to upgrade the access to acceptable standards. This document is provided in Attachment 3.

Council staff have assessed the application and recommend conditional approval as detailed in the attached assessment report. The proposal generally satisfies the requirements of the *Lithgow Local Environmental Plan 2014* and it is considered that the various environmental and operational impacts of the proposal can be appropriately regulated and mitigated through conditions of consents. The impacts of the proposal are addressed and outlined in the planning assessment report in Attachment 2.

However, as resolved by Council at its Ordinary Meeting on 28 September 2020, it has been requested that the matter be reported back to Council to enable it to determine the reasons for refusal of the development application under Section 4.15 of the *Environmental and Assessment Act 1979*

(EP&A Act). Section 4.15 establishes the statutory provisions for the assessment of development applications as follows:

(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—

(a) the provisions of—

(i) any environmental planning instrument, and

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

(iii) any development control plan, and

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

that apply to the land to which the development application relates,

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.

Whilst the recommendation of Council’s professional staff remains unchanged, should Council wish to refuse the application, its reasons should have regard to the various statutory heads of consideration in section 4.15 of the EP&A Act. To assist Council in its deliberation of this matter, the relevant heads of consideration and their relationship to the proposal are summarised in the table below.

Section 4.15 Head of Consideration	Commentary re DA 114/19
(1) (a)(i) any environmental planning instrument	As detailed in the planning assessment report, the proposed development is generally considered to be compliant with the relevant provisions of the <i>Lithgow Local Environmental Plan 2014</i> (LEP) and other applicable environmental planning instruments (e.g. State Environmental Planning Policies). Council could consider the proposal’s consistency of the proposal with the objectives of the RU1 Primary Production zone as potential grounds for refusal.
(1) (a)(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and (1) (a)(iii) any development control plan, and (1) (a)(iiia) any planning agreement that has been entered into under section 7.4, or any draft	None of these items are applicable to the proposal and cannot be used as grounds for refusal.

<p>planning agreement that a developer has offered to enter into under section 7.4, and (1) (a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)</p>	
<p>(1) (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</p>	<p>The development will have some environmental, social and economic impacts as detailed in the planning assessment report. Some potential impacts could be:</p> <ul style="list-style-type: none"> • visual - on the rural landscape from the proposed built form, • noise - from the use of the proposal, • traffic – from increased use of the site • amenity – due to the intensified use of the site
<p>(1) (c) the suitability of the site for the development,</p>	<p>The Council may consider that some of the site’s characteristics may justify its unsuitability for the development proposed. These may include the identified access constraints (requiring access over a right of carriageway and directly impacting other landowners). Also included in this category could be the extent of infrastructure required to service the development such as water supply and wastewater treatment systems.</p>
<p>(1) (d) any submissions made in accordance with this Act or the regulations,</p>	<p>Five submissions were received from adjoining landowners raising objections to the proposal as summarised in the attached planning assessment report. Some of the issues raised in the submissions align with the impacts and suitability considerations referenced above.</p>
<p>(1) (e) the public interest.</p>	<p>Generally, the public interest is best served by the orderly and economic use of land for permissible uses in a form which is cognisant of and does not impact unreasonably on the use and development of surrounding land.</p> <p>If Council were to establish a view that the proposal is not an appropriate use of the land and that it is likely to unreasonably impact on the use of the surrounding land, it may also conclude that approval of the DA 114/19 is not in the public interest.</p>

Having regard to the above, should Council determine the application by way of refusal, it could consider the following as its reasons:

Section 4.15 of the Environmental Planning and Assessment Act 1979

4.15 (1) (a)(i) any environmental planning instrument – *The proposal is inconsistent with the following objectives of Zone RU1 - Primary Production within Lithgow Local Environmental Plan 2014 being:*

- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To minimise the environmental and visual impact of development on the rural landscape.*

4.15 (1) (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality - *The development will have negative environmental, social and economic impacts being:*

- *visual impacts on the rural landscape from the proposed built form,*
- *noise impacts from the use of the proposal,*
- *traffic impacts from increased use of the site*
- *amenity impacts due to the intensified use of the site*

4.15 (1) (d) any submissions made in accordance with this Act or the regulations – *Submissions raised issues of planning merit in relation to impacts from noise, traffic and land use conflict and impacts on the amenity of residents in the area.*

4.15 (1) (e) the public interest - *the proposal is likely to unreasonably impact on the use of the surrounding land in the area and consequently the proposed development is not in the public interest.*

Policy Implications

There are no specific Council policies applicable to this development application.

The development application was subject to public exhibition and notification of adjoining landowners in accordance with the Lithgow City Council Community Participation Plan. Five submissions objecting the proposal were received from adjoining landowners. These are addressed above and in the planning assessment report in Attachment 2.

Financial Implications

Development application fees only.

Legal and Risk Management Implications

In determining a development application, Council as the consent authority is required to take into consideration the matters of relevance under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. These are addressed above in the planning assessment report in Attachment 2. Alternatively, should Council determine the application by way of refusal, it could consider the possible reasons for refusal outlined above.

Attachments

1. DA 114/19 - Plans [**10.2.1.1** - 12 pages]
2. DA 114/19 - Planning Assessment Report [**10.2.1.2** - 55 pages]
3. DA 114/19 - Road Upgrade Engineering Assessment [**10.2.1.3** - 10 pages]

Recommendation

THAT

1. Council note the recommendations and proposed conditions in the attached Planning assessment report in relation to Development Application DA 114/19.
2. Council determine development application DA 114/19.
3. A Division be called in accordance with the requirements of Section 375A(3) of the Local Government Act 1993.

10.3. Water and Wastewater Reports

10.3.1. Water and Waste Water Report

Prepared by Daniel Buckens - Director of Water & Wastewater

Department Water and Wastewater

Authorised by Director of Water & Wastewater

Reference

Min No 20-201 Ordinary Meeting of Council 24 August 2020.

Summary

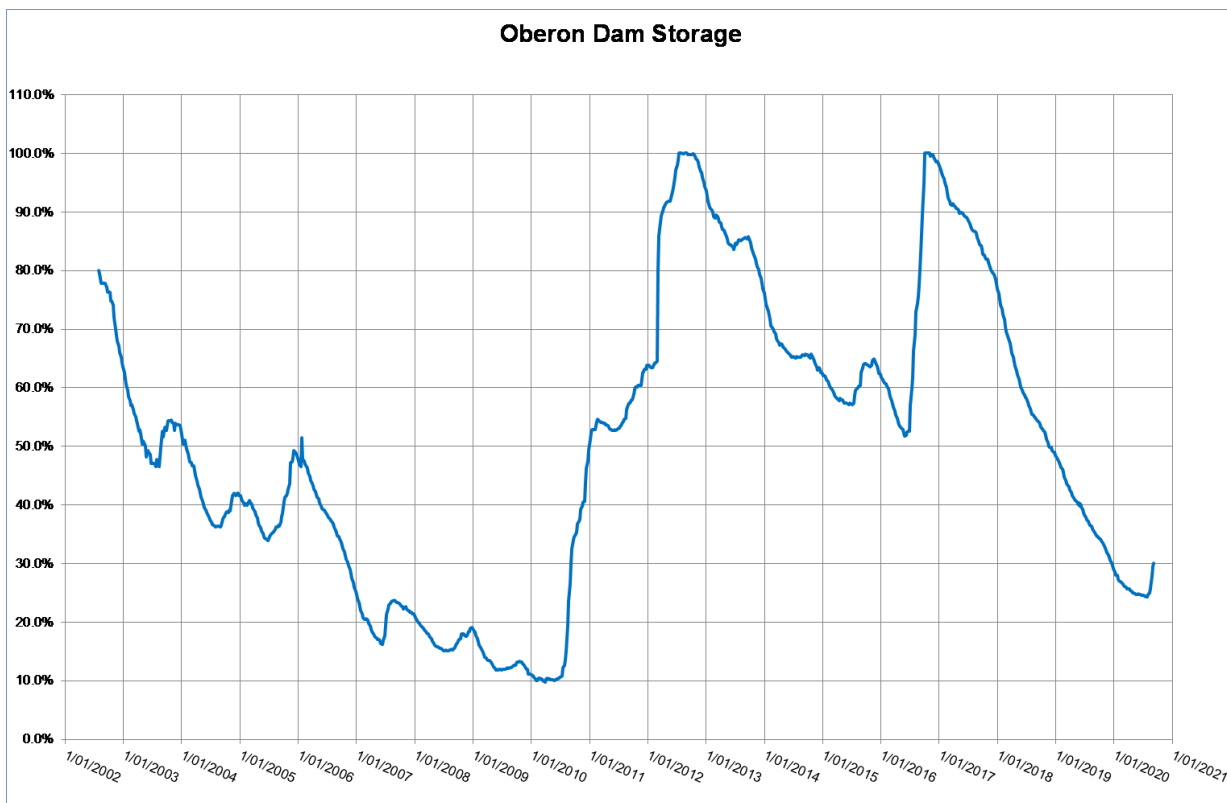
This report provides an update on various water and wastewater management matters.

Commentary

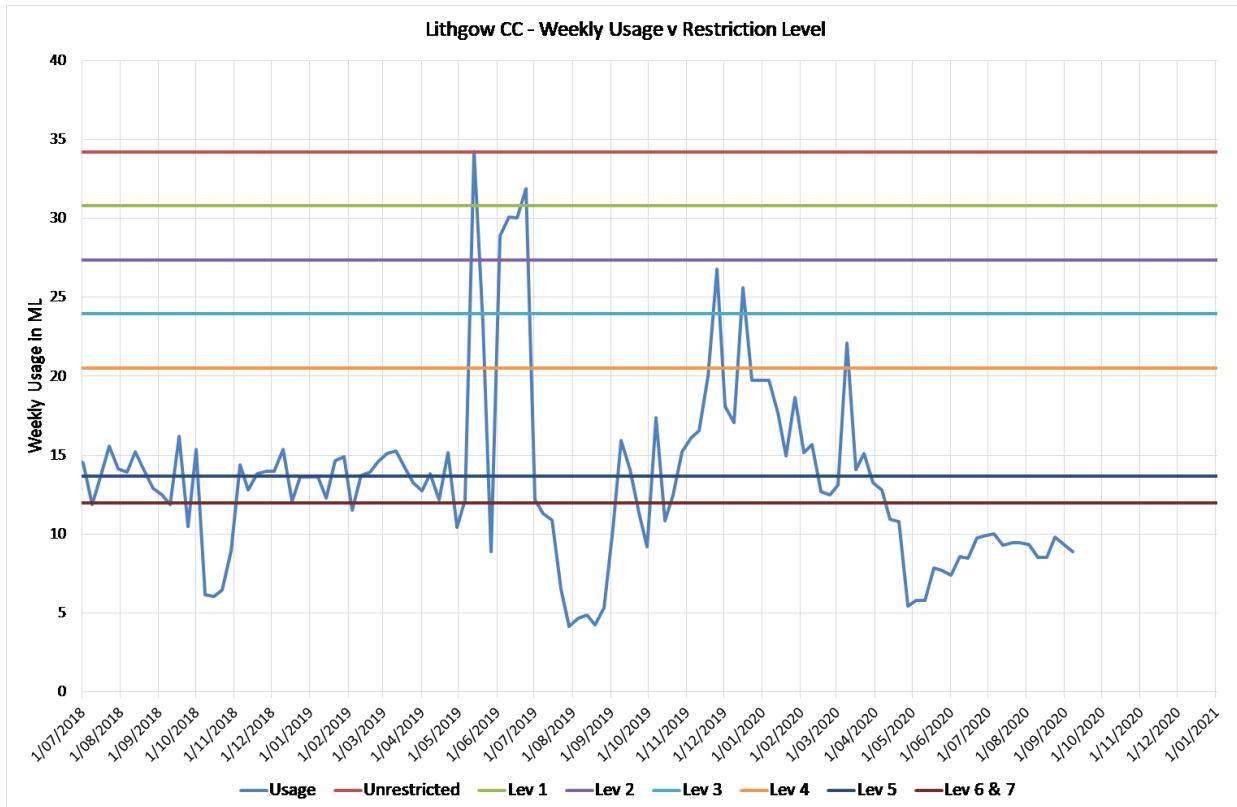
Current Dam Levels for Farmers Creek No.2 Dam and Oberon Dam

Farmers Creek No.2 Dam has a capacity of 450ML. Storage volume on Monday 12th October 2020 was 100.00%. Clarence Transfer System remains shut down.

Oberon Dam has a capacity of 45000ML. Storage volume on Monday 12th October 2020 was 32.1%. Total volume banked is currently approx. 6.6%, so storage adjusted for bank is 25.5%.



Level 2 restrictions on the FRWS are now in effect. Level 2 restrictions trigger is 25% of adjusted storage. Council's restriction reduced from 30% to 20% of Councils allocation, i.e. allocation increases to 3.9 ML per day from 3.4 ML per day. As can be seen in the below Usage v Restriction Level graph, the current demands of the Council are on average lower than the current restriction level where Council exceeds the weekly usage allocation, Council's banked water is reduced. Banked water is not subject to restrictions. This means that Council is managing water demand in accordance with the FRWS Drought Management Strategy.

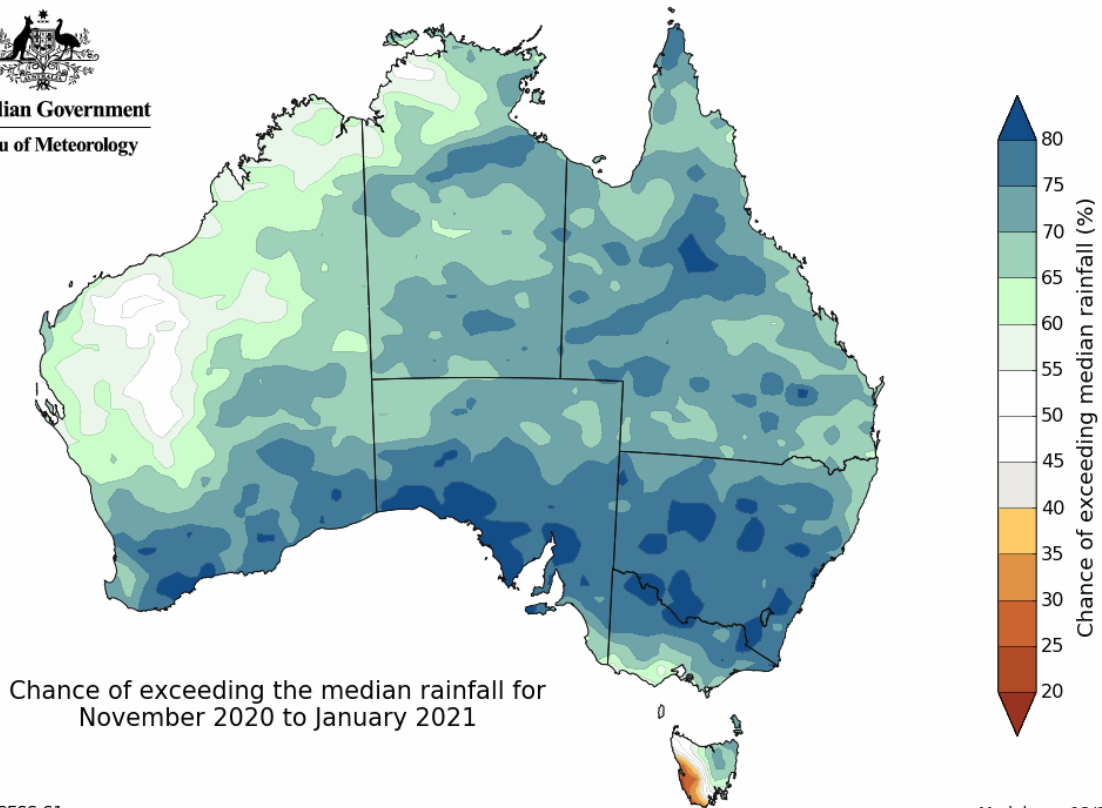


Climatic and Rainfall Outlook

The following climatic and rainfall outlook is taken from the Bureau of Meteorology website.

- November to January is likely to be wetter than average for nearly all of Australia (greater than 65% chance in most areas), but drier than average in west coast Tasmania (greater than 65% chance.)
- November rainfall is likely (greater than 70%) to be above average across the eastern two-thirds of the mainland, southern WA, and north-east Tasmania.
- In the shorter term, the fortnight 19 October to 1 November is likely to be wetter than average for much of the eastern two thirds of the mainland, and very likely (greater than 80% chance) for much of the NT and Queensland. The coastal Kimberley and much of north-west WA is likely to be drier than average.
- While the outlooks indicate wetter than average conditions, southern parts of Australia are entering into their drier season, so rainfall is not likely to be sufficient to relieve long-term rainfall deficits. This rainfall will also not necessarily lower the risk of days with elevated fire danger.
- For the fortnight 19 October to 1 November, daytime temperatures are likely to be above average for north-eastern WA, the north-eastern NT, and norther and east coast Queensland. However, days are likely to be cooler than average for much of the southern half of the mainland and for the north-west coast of WA. Nights during this period are likely warmer than average across much of Australia, though cooler to average conditions are more likely in the south-east of WA, southern SA, and much of the south-east mainland.
- For November to January, parts of southern WA and eastern NSW have an increased chance of cooler than average days. Nights are likely (greater than 75% chance) to be warmer than average across Australia.
- A La Niña is underway in the tropical Pacific. La Niña typically increases the likelihood of above average rainfall across much of Australia during spring and early summer.

- The Indian Ocean Dipole (IOD) index value is currently neutral. Models have reduced the likelihood of a negative IOD event in 2020, noting that the IOD typically breaks down in late spring or early summer.



Current Water Usage from Each Supply

Table 1 below indicates total output from the Oakey Park Water Treatment Plant (consumption), the volume transferred from the Clarence Water Transfer System (CWTS) and the volume of water purchased from Water NSW (Fish River Scheme) for 2017/18, 2018/19, 2019/20, and a cumulative total by month for 2020/21.

Total for 2017/18	1,388.1	760.2	810.4
Total for 2018/19	1,318.6	318.7	762.4
Total for 2019/20	1,369.4	572.3	734.6
Licence Limit (ML/a)	1,500	1,293	1,778
Month	Oakey Park WTP (ML)	Clarence Transfer (ML)	Fish River Supply (ML)
July	157.514	0.00	38.239
August	149.575	0.00	45.525
September	132.343	0.00	34.506
October			
November			
December			
January			
February			
March			
April			
May			
June			
TOTAL	439.432	0.00	118.27

System Configuration

Due to a break that occurred on the FRWS pipeline feeding into Lithgow at Wallerawang, OPWTP supply is feeding Lithgow and Marrangaroo. FRWS continue to feed water to Wallerawang, Lidsdale, Portland, Rydal, Cullen Bullen and Glen Davis. This will continue until such time as the water main can be replaced via a new pipeline route to remove the failed section from under the rail corridor. Council has continuously pursued and requested that this break be addressed as a matter of urgency.

Clarence Water Transfer Scheme

Clarence Transfer System was shut down on 9th February 2020 due to the level of the dam and remains off.

Oakey Park Water Quality Summary

There was one exceedance of the health guideline values of the Australian Drinking Water Guidelines (ADWG). An exceedance of 0.82 mg/L was recorded for Aluminium at site 113 in Lithgow. As a result, Council implemented the Drinking Water Management System and responded in accordance with the protocols provided by NSW Health.

During the period, 24 Aug to 15 Oct, there were four reports of dirty water in the following areas:

- Enfield Avenue, Lithgow
- Donald Street, Lithgow
- Lithgow Street, Lithgow
- Beynon Street, Lithgow

These were isolated incidents in which only individual properties were affected. Staff flushed and sampled in these areas after the reports were made and no further complaints were received.

Treatment Plant Monitoring Results

Samples are taken on a monthly basis at various locations within the Sewage Treatment Plants and Water Treatment Plant, in accordance with the Environment Protection Licence requirements. There were no exceedances recorded for the month of August 2020 and September 2020

Fish River Water Scheme Water Quality Summary

There were two exceedances of the aesthetic guideline values of the Australian Drinking Water Guidelines (ADWG). An exceedance of 0.51 mg/L was recorded for Iron and an exceedance of 21 HU was recorded for True Colour at site 222 in Glen Davis.

There was one exceedance of the health guideline values of the Australian Drinking Water Guidelines (ADWG). An exceedance of 11 MPN/100mL was recorded for Total Coliforms at site 225 in Glen Davis.

As a result of these exceedances, Council implemented the Drinking Water Management System and responded in accordance with the protocols provided by NSW Health.

Water Mains and Service Issues

Council experienced 1 break during the period, 14 August to 15 October. The break occurred along the Great Western Highway, Bowenfels on 25 August 2020.

Sewer Mains and Service Issues

Council experienced 48 sewer chokes/blockage during the period, 14 August to 15 October September 2020. For a two month, period this number of blockages is within normal. There are seasonal aspects to these with tree root penetrations more pronounced during growing season. By and large these blockages were attended to and cleared within 2 hours of notification which is Council's objective.

Policy Implications

Nil

Financial Implications

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

Legal and Risk Management Implications

Nil

Attachments

Nil

Recommendation

THAT Council note the October 2020 Water Report as an update on water and wastewater management.

10.4. Finance and Assets Reports

10.4.1. 2019/20 Financial Statements

Prepared by Chief Financial & Information Officer

Department Finance & Assets

Authorised by Chief Financial & Information Officer

Reference

Min No 20-203 Ordinary Meeting of Council 24 August 2020.

Summary

The purpose of this report is to notify Council that the audit of the 2019/20 financial statements has been completed. The report also recommends that Council authorise the signing of the Statements by Councillors and Management, as required by Section 413(2)(c) of the Local Government Act 1993.

Commentary

At the 24 August 2020 Ordinary meeting, Council resolved to refer the draft 2019/20 General Purpose and Special Purpose Financial Reports for audit (Min. No. 20-203).

The Council's Financial Statements for the year ended 30 June 2020 have now been reviewed and returned by the Audit Office of NSW, in accordance with legislative requirements as detailed below.

Details of the 2019/20 financial results will be presented by a representative of the Audit Office at the 23 November 2020 Ordinary Meeting. Due to the COVID-19 pandemic, the auditor may provide the presentation by either:

- Virtual attendance via technology such as Microsoft Teams, Zoom, Webex etc; or
- Presentation via pre-recorded video/presentation that can be played in the meeting.

Annual Financial Statements Reporting Process

The Council's Annual Financial Statements are required to be audited by the Audit Office of NSW, and copies of the financial reports and the Auditor's report submitted to the Office of Local Government by the 30 November 2020 (extended deadline due to COVID-19). Both requirements will be met within the prescribed timeframes.

The Local Government Act 1993 has detailed provisions for the completion of the financial statements. The basic process under the Act is as follows:

1. Council staff prepare the financial statements;
 2. The Council issues a statement that the accounts are in order;
 3. The Council refers the statements to its external auditor (Min No. 20-203, Ordinary Meeting on 24 August 2020);
 4. The Audit Office complete their work and return the statements with an audit opinion attached;
 5. The financial reports and Auditor's reports are presented to a meeting of the Council of which public notice has been given. The public notice must be given at least one week before the meeting and the meeting must be held not more than one month after the receipt of the Auditor's reports. The auditor may attend the meeting and must do so if requested in writing by the Council (scheduled for the Ordinary Meeting on 23 November 2020);
 6. The public notice must specify that the financial reports and Auditor's reports will be considered at the meeting and must indicate the right of any person to
-

lodge submissions within 7 days after the meeting. The notice must include a summary of the financial reports;

7. Have available for public inspection copies of the financial reports and the Auditor's reports; and
8. Consider submissions at a subsequent meeting of the Council and advise the Office of Local Government of any matter which requires amendment to the financial reports. Submissions are required to be lodged with the Council in writing by 4:00pm on Monday 30 November 2020. If any submissions are received, a further report on the submissions, together with Council officer comment, will be presented to the Council.

Policy Implications

NIL

Financial Implications

The completion of the 2019/20 financial statements is a legislative requirement and provides assurance that Council's finances are managed prudently and in accordance with accounting standards. The adoption of the recommendations of this report has no direct financial impact upon the Council's adopted budgets or forward estimates.

Legal and Risk Management Implications

There are no obvious legal or risk management issues associated with the adoption of the recommendations. The completion of the financial statements supports the Council in ensuring care and diligence is exercised in financial reporting.

Attachments

Nil

Recommendation

THAT Council:

1. Note that that the audit of the 2019/20 financial statements has been completed.
2. Authorise the signing of the statement on the 2019/20 General Purpose Financial Reports.
3. Authorise the signing of the statement on the 2019/20 Special Purpose Financial Reports.
4. Invite a representative of the Audit Office of NSW, Council's Auditors, to present a report to Council on the 2019/20 Financial Statements at the Ordinary Council meeting scheduled for 23 November 2020 via virtual attendance.

10.4.2. Reserve Balances / Cashflow Issue

Prepared by Ross Gurney – Chief Financial & Information Officer
Department Finance & Assets
Authorised by Chief Financial & Information Officer

Reference

Min. No. 20-177 Ordinary Meeting of Council held on 27 July 2020.

Summary

This report provides details of a shortfall in cash reserves at 30 June 2020 which is attributed to lower than usual cash inflows, (due to delayed water usage billing and COVID-19 impacts on cash receipts, particularly for residential rates) unbudgeted 2019/20 expenditure on natural disasters / tree removal on private property and growth in employment costs. The report includes a proposal to address the reserves shortfall in an environment of lower cash inflows than usual.

Commentary

Reserve Balances at 30 June 2020

A reconciliation of expected reserve balances at 30 June 2020 has been completed as part of the 2019/20 annual financial statements work.

Council held **\$26.158M** in cash and investments at 30 June 2020.

Council’s external and internal reserve balances were expected to be **\$29.506M** at 30 June 2020. Due to the current cashflow issue, the amount of the difference between the cash balance and the expected reserves balance is **\$3.347M**. This is summarised in the table below:

Cash Balance	(26,158,383.96)
External	19,436,195.49
Internal	10,069,690.43
(Under)/Over	3,347,501.96

Externally restricted reserves are funds that are subject to external legislative or contractual obligations and cannot be used for any other purpose. Internally restricted reserves are funds held for uses restricted by a resolution of Council.

In addition, the externally restricted Water Fund reserve has a deficit of **\$1.937M** at 30 June 2020 due to the delayed water usage billing and extended payment terms. It is anticipated that the Water Fund reserve deficit will be addressed as water accounts are paid.

The amount of the shortfall in reserves only became apparent recently, as part of the end of financial year work, to finalise actual transfers to and from reserves in the 2019/20 year.

Effectively, Council has utilised unspecified internal reserve funds (i.e. funds were not drawn from any specific reserves) to maintain operations through the recent period of lower cash inflows (due to COVID-19 and delayed water billing) and higher cash outflows (mainly due to natural disasters and growth in employment costs).

Proposed Remedial Actions

The following actions are proposed to address the shortfall in internally restricted reserves:

- Remove the gas works remediation reserve provision of \$860,052. Council has approved the construction of a new inventory Store on a section of the gas works site at the Lithgow Depot.

The site was externally assessed as safe to build upon. Any minor remediation costs will be funded as part of the Store construction project and there is no need to retain a remediation provision.

- Reduce the Employee Leave Entitlements reserve by \$139,948 to \$753,606. The reserve is held to assist with covering the cost of leave entitlements when long-term employee's leave Council's employment. With a number of long-term employees retiring early in the 2020/21 year, a reserve of \$754K will suffice for employee leave entitlements, in accordance with industry best practice guidance.
- Defer a number of 2020/21 capital works projects with the budget savings to be transferred to rebuild internal reserves. This will reduce cash needs by \$837,172 for the 2020/21 year.
- The balance of the internal reserves deficit of \$2,510,330 to be treated as an internal borrowing to be repaid over time (expected three years) as cash inflows improve.

The removal of the gas works remediation reserve and the reduction in the Employee Leave Entitlements reserve have been included the reserves summary provided above. It is proposed to address the remaining \$3.347M reserves shortfall by deferring 2020/21 capital works projects and through internal borrowing.

Internal borrowing is the preferred option to rebuild the reserves as there is capacity within internally restricted reserves to borrow funds without incurring any external interest expense. There are sufficient remaining internally restricted reserves available for reserve funded programs approved by Council in the 2020/21 Operational Plan. Borrowing funds externally would be inconsistent with Council's recently adopted Loan Borrowings Policy, which states "*under no circumstances should Council borrow funds for recurrent expenditure or asset renewal*".

The Director, Infrastructure Services has prepared a list of 2020/21 capital projects which may be deferred with minimal implications. The projects would have been funded from Council revenue and external contractors would have been engaged to complete the works. The project listing is:

- Urban Sealed Roads Renewal – Stephenson St, Enfield Ave, Clwydd Street Lane - \$629,800
- Cemetery Kerb & Gutter / Road / Stormwater Upgrades - \$129,772
- Athletics - Field Upgrades - \$17,600
- JM Robson Aquatic Centre – capital purchases - \$60,000

The total value of projects to be deferred is **\$837,172**. The deferred projects will be considered for inclusion in the 2021/22 capital works program.

Water mains renewal follows the road renewal program. Water mains renewal projects would also be deferred which would assist with reducing cash outflows from the water fund.

Ongoing Cashflow Issue

At the Ordinary Meeting of Council held on 27 July 2020 it was resolved:

20 -177 RESOLVED

THAT Council endorse the following actions to address and mitigate the impacts of the emerging cashflow issue:

1. Deferral of 2019/20 capital projects listed in the report which were planned to be added to the 2020/21 capital works program (to be considered for the 2021/22 program).
2. Deferral of 2020/21 capital projects listed in the report from the 2020/21 capital works program (to be considered for the 2021/22 program).
3. Setting the multi-year project phasing for the Cullen Bullen Sewerage Scheme and a budget of \$1.8M for the 2020/21 year.
4. Other actions proposed in this report to improve cash inflows and/or reduce or slow cash outflows and save costs for the 2020/21 year.
5. That Council investigate Loan funding for those capital projects being deferred.

Council continues to experience lower than usual cash inflows as a result of COVID-19 and the delayed issuing of water accounts which had payment terms extended to September / October 2020.

Analysis of rates and water balances owing indicates that **\$1.8M** less cash has been received for the year to 30 September 2020 compared with same period last year.

The cashflow situation is being actively monitored and further interventions may be required in the current financial year. A cashflow update will be included as a standing agenda item on the Finance Committee meeting agenda.

Policy Implications

A Loan Borrowings Policy statement has been included in the draft Long Term Financial Plan which was endorsed by Council at the 28 September 2020 meeting.

Financial Implications

As detailed in this report.

Legal and Risk Management Implications

The purpose of this report is to propose actions which will address risks arising from lower than usual cash inflows.

Attachments

Nil

Recommendation

THAT Council:

1. Endorse the following changes to reserves:
 - removal of the gas works remediation reserve of \$860,052;
 - reduction in the Employee Leave Entitlements reserve to \$753,606 and;
 - addition of an internal borrowings reserve of \$2,510,330 to fund the remaining deficit in internal reserves at 30 June 2020, expected to be repaid over 3 years.
2. Endorse the deferral of \$837,172 of 2020/21 capital works projects (to be considered for the 2021/22 year) and to transfer the budget savings to rebuild internally restricted reserves.
3. Note the information provided in the report on the ongoing cashflow issue.

10.4.3. Technology One Software Licence Agreement

Prepared by Ross Gurney – Chief Financial and Information Officer

Department Finance and Assets

Authorised by Chief Financial & Information Officer

Summary

The purpose of this report is to seek Council's endorsement of a plan to consolidate the existing Technology One enterprise solution Annual Support & Maintenance agreement into a 5 year Software as a Service licence agreement with Technology One.

Due to Council taking on additional Technology One modules in recent years and a planned transition to the Technology One cloud solution, the combined Annual Support & Maintenance / SaaS agreement now exceeds the tender threshold of \$250,000 (for each year of the agreement). Additional costs will be offset by ongoing IT cost savings.

Commentary

Growth in Use of Technology One Modules

Council currently has licences for the following Technology One modules:

- Enterprise Content Management (ECM);
- Financials;
- HR and Payroll;
- Property & Rating;
- Supply Chain Management;
- Asset Management; and
- Spatial.

Technology One modules have been added to the enterprise solution over time, as needs have arisen and in accordance with best value purchasing principles. The 2020/21 Operational Plan includes the addition of the Technology One Employee Development and Training modules to the HR / Payroll module.

All of the annual licencing fees for the Technology One modules are included in a single Annual Support & Maintenance agreement.

As part of a review of the IT Strategy, management has been considering the way in which IT services are delivered. The provision of Information Technology has historically been provided by Council staff using infrastructure located within Council's Head Office.

IT staff are responsible for all aspects of providing this service. In recent years, Technology One has introduced a new method of providing this service via the Cloud, where they assume much of the responsibility for the maintenance and management of corporate software.

By way of explanation, the Cloud refers to accessing IT resources and software applications provided by another party over the internet. Typically, this provider will supply computer power, storage and database services.

By shifting responsibility for routine tasks, staff can focus on other, more valued areas including supporting other applications within the Council portfolio including training of end users.

The Technology One Software-as-a-Service platform delivers improved performance, reduced resource requirements and cost savings to Council. It does this by sharing IT infrastructure across many clients.

Recently Technology One provided a discounted offer for Council to move to their cloud enterprise solution, known as Software as a Service (SaaS). Following a due diligence process and the development of a business case which was considered by the Executive Leadership Team, the General Manager approved the extension of the existing agreement with Technology One to migrate existing modules to the cloud. No new software is being purchased.

The business case proposed that the additional costs of the Technology One SaaS agreement could be funded from long-term savings in IT costs, including consultancies, server licences and the deferred need for IT hardware (capital purchases).

There are already in excess of 500 Technology One customers on the Software-as-a-Service platform. In future, it will be the preferred platform that Technology One supports. This is due to all future R&D being first on SaaS. The Technology One SaaS model will eliminate the need for in-house expertise to administer, patch, support and upgrade the applications internally, as this is part of the service provided in a SaaS environment.

Technology One has provided a high level of service to Council over many years and provides enterprise solutions to Councils throughout Australia. The IT Manager will conduct an annual review of Technology One licences to ensure that Council is obtaining best value.

Cost savings can be achieved by combining the Annual Support & Maintenance and SaaS licences into a single agreement. The combined Annual Support & Maintenance / SaaS licence agreement now exceeds the tender threshold of \$250,000 (for each year of a five year agreement).

Local Government Act - Tendering

Section 55 (3) (i) of the Local Government Act states that the tendering process may not apply to the following contracts:

- i. a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.

As Council is currently using the Technology One enterprise solution, calling for tenders from other parties would not attract reliable / compatible tenderers.

It is recommended that Council endorse the plan to consolidate the existing Technology One enterprise solution Annual Support & Maintenance agreement into a 5 year Software as a Service licence agreement with Technology One without calling for tenders.

Policy Implications

Council's Policy 1.4 Tendering and Council's procedures for purchasing and tendering were considered in developing this report and recommendation.

Financial Implications

- Budget approved - IT recurrent operating budget.
- Cost centre - PJ 800161
- Expended to date - commitments within the total IT operating budget of \$1.7M.
- Future potential impact - 5 year Technology One agreement funded from the IT recurrent operating budget with additional costs off set by long-term cost savings.

Legal and Risk Management Implications

Risks were identified as low to moderate in the Technology One Software as a Service business case. Risk mitigation strategies will be implemented to manage risks.

Attachments

Nil

Recommendation

THAT Council, in accordance with Section 55(3)(i) of the Local Government Act 1993, endorse the plan to consolidate the existing Technology One enterprise solution Annual Support & Maintenance agreement into a 5 year Software as a Service licence agreement with Technology One without calling for tenders, due to the following extenuating circumstances:

- calling for tenders from other parties would not attract reliable / compatible tenderers.

10.5. Policies and Governance

10.5.1. Proposed Date for Ordinary Meetings of Council 2021

Prepared by Trinity Newton – Executive Assistant to the Office of the General Manager and Mayor
Department Executive
Authorised by General Manager

Reference

Min 19-303: Ordinary Meeting of Council held 28 October 2019

Summary

This report is provided for Council to consider the dates for Ordinary Meetings of Council in 2021.

Commentary

Council last reviewed its schedule for Ordinary Meetings in 2018 and resolved to schedule Ordinary meetings to occur on the fourth Monday of each month. However, in accordance with the Code of Meeting Practice Part 3.1 adopted at the Ordinary Meeting of Council on 26 August 2019 (Min. No. 19-214) the Ordinary meeting of Councils:

*“ 3.1 Ordinary meetings of the council will be held on the following occasions:
Council meetings are held on the 3rd Monday of the month. The meetings are conducted at the Lithgow City Council Chambers, 180 Mort Street Lithgow, Commencing at 7pm.”*

The proposed dates for 2021 being the third Monday of each month are as follows:

- 18 January
- 15 February
- 15 March
- 19 April
- 17 May
- 21 June
- 19 July
- 16 August
- 20 September
- 18 October
- 15 November

NOTE: With the Local Government elections being held in 2021, the Council will be in Caretaker mode at a point prior to the election. With the election date now set at 4 September 2021, the Council meeting which falls into this timeframe will be cancelled. This meeting would be 16 August 2021.

Policy Implications

Nil

Financial Implications

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

Legal and Risk Management Implications

Nil

Attachments

Nil

Recommendation

THAT Council:

1. Note the likely cancellation of the 16 August 2020 Council meeting due to caretaker mode possibly taking effect for the Local Government Elections to be held on 4 September 2021.
2. Hold the Ordinary Meetings of Council for 2021 on the following dates:
 - o 18 January
 - o 15 February
 - o 15 March
 - o 19 April
 - o 17 May
 - o 21 June
 - o 19 July
 - o 16 August
 - o 20 September
 - o 18 October
 - o 15 November

10.5.2. Declarations of Designated Persons and Councillors

Prepared by Trinity Newton – Executive Assistant to the Office of the General Manager and Mayor
Department Executive
Authorised by General Manager

Summary

To advise Council of returns lodged with the General Manager for Councillors & Designated Person for the period 1 July 2019 to 30 June 2020.

This information is being collected for the purpose of complying with clause 4.21 of the Model Code of Conduct.

Commentary

Part 4 of the Model Code of Conduct for Local Councils in NSW (2018) (Model Code) requires a councillor or a designated person to complete and lodge with the general manager a return disclosing his or her pecuniary interests for each year. That return may contain personal information about each councillor and designated person, including his or her name, address and signature, as well as information about property and share holdings, gifts received, debts owed, other sources of income, and positions held in a trade union or business or professional organisation.

Council officials are required to disclose their personal interest in publicly available returns of interest for the period 1 July 2019 to 30 June 2020.

As per the Model Code of Conduct for Local Councils in NSW – A guide to Completing Returns of Interest, a return must be completed and lodged if you are a councillor or designated person, where a designated person is defined as: the general manager, senior staff, and staff, delegates of councils or members of committees who the council identify as exercising functions that could give rise to a conflict of interest

This being the case, the following positions have been classified as designated persons:

- General Manager
- Director Economic Development and Environment
- Director Infrastructure Services
- Director Water and Wastewater
- Director People and Services
- Chief Financial and Information Officer
- Development Manager
- Information Technology Manager
- Team Leader Building
- Team Leader Planning
- Team Leader Environment & Health
- Strategic Land Use Planner
- Property Officer
- Building & Development Officers
- Community Liaison Officer
- Community and Culture Manager
- Finance Manager
- Procurement Officer
- Senior Water and Wastewater Engineer
- Water and Wastewater Development Officer

- Senior Engineer Operations
- WHS/ Risk Coordinator

At the due date for the returns being 30 September 2020, all designated persons and all elected Councillors had responded by supplying their completed return except for the Development Manager who is on extended leave at present.

The information collected on the form will be kept by the General Manager in a register of returns. The General Manager is required to table all returns at a Council Meeting. Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

Policy Implications

Policy 9.9 Public Interest Disclosure Policy.
Code of Conduct.

Financial Implications

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

Legal and Risk Management Implications

Nil

Attachments

1. Current 2020 Disclosures by Councillors and Designated Persons Returns [**10.5.2.1** - 1 page]

Recommendation

THAT Council acknowledge the disclosures received under the Model Code of Conduct for Local Councils in NSW (Clause 4.21) for the period 1 July 2019 to 30 June 2020 from designated persons and all Councillors.

10.5.3. Amendments to the Model Code of Conduct for Local Councils in NSW and Procedures

Prepared by Rhiannan Whiteley – Executive Assistant to the Director of People and Services and Chief Financial and Information Officer
Department People & Services
Authorised by Director of People & Services

Reference

Min 19-11: Ordinary Meeting of Council 25 February 2019.
Min 19-125: Ordinary Meeting of Council 27 May 2019.
Councillor Information Session held on 30 September 2020.

Summary

The 2018 Model Code of Conduct for Local Councils in NSW and the associated Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW were prescribed on 14 December 2018. Council adopted the Code and Procedures on 27 May 2019.

The Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (the procedures) have been amended in response to a decision by the Supreme Court (*Cornish* decision).

Amendments have also been made to the model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).

The new Model Code of Conduct and Procedures have been prescribed under the Local Government (General) Regulation 2005 and are effective immediately upon adoption by Council. The Office of Local Government (OLG) have requested that Council adopt the new Code and the new Procedures at the earliest opportunity.

Councillors received a briefing on the changes contained in this report at the recent Councillor Information Session held 30 September 2020.

Commentary

Councils may include supplementary provisions in their adopted codes of conduct and may also impose more onerous requirements than those prescribed under the Model Code of Conduct. However, councils must not dilute the standards prescribed in the Model Code of Conduct.

Below is a summary of the changes to the Code and Procedures:

Amendments to the Procedures

- Consistent with a Supreme Court decision, councils have the following options when taking disciplinary action against councillors for breaches of their codes of conduct under the new Procedures:
 - that a councillor be formally censured for the breach under section 440G of the *Local Government Act 1993* (the Act), or
 - that a councillor be formally censured for a breach under section 440G and the matter referred to OLG for further disciplinary action under the misconduct provisions of the Act.
- The process for censuring councillors for breaches of the code of conduct has been significantly strengthened to ensure councillors are made publicly accountable to their electors for their conduct. When censuring councillors, councils are required to specify in their resolution the grounds on which the councillor is being censured by disclosing the investigator's findings and determination and any other grounds that the council considers may be relevant or appropriate.

- Councillors may seek to avoid public censure for breaches of the code of conduct by voluntarily agreeing to undergo training or counselling, to apologise for their conduct or to give undertakings not to repeat their conduct before the investigator finalises their report to the council. Investigators can finalise their investigations without a report to the council where they consider these to be an appropriate outcome to the matter they are investigating. However, it will remain open to investigators to finalise their report and to recommend censure where they consider this is appropriate and warranted.
- The process for referral by councils of code of conduct breaches by councillors to OLG for further disciplinary action under the misconduct provisions of the Act has been streamlined. Investigators are required to consult with OLG before recommending the referral of matters to ensure the conduct in question is sufficiently serious to warrant disciplinary action for misconduct and that there is sufficient evidence of the breach to allow OLG to take further disciplinary action.
- Other amendments have been made to the Procedures to:
 - allow panels of conduct reviewers to be appointed without a resolution of the council, and
 - allow the referral of investigators' reports to OLG for action under the misconduct provisions of the Act where the council will not have a quorum to deal with the matter.

Amendments to the Model Code of Conduct

- The Model Code of Conduct has been amended to:
 - Remove as a breach, failure to comply with a council resolution requiring action in relation to a code of conduct breach (because it is now redundant).
 - Update the language used to describe the various heads of discrimination in clause 3.6 to reflect more contemporary standards.
 - Include in the definition of council committee and council committee members, members of audit, risk and improvement committees (ARICs) in anticipation of the commencement of the requirement for all councils to appoint an ARIC following the next local government elections.
- Amendments have also been made to the gifts and benefits provisions of the Model Code of Conduct in response to feedback from some councils. The amendments:
 - Lift the \$50 cap on the value of gifts that may be accepted to \$100;
 - Clarify that items with a value of \$10 or less are not "gifts or benefits" for the purposes of the Model Code of Conduct and do not need to be disclosed;
 - Clarify that benefits and facilities provided by councils (as opposed to third parties) to staff and councillors are not "gifts or benefits" for the purposes of the Model Code of Conduct, and;
 - Remove the cap on the value of meals and refreshments that may be accepted by council officials in conjunction with the performance of their official duties.
- Councils are not obliged to amend their codes of conduct to lift the cap on the value of gifts that may be accepted if they do not wish to. It is open to councils to retain the existing \$50 cap or to impose another cap that is lower than \$100. **It is proposed to retain the current cap on the value of gifts that may be accepted at \$50 in sub-clauses 6.8, 6.9, 6.10, 6.11 of the Model Code of Conduct.**

The new Model Code of Conduct and Procedures take effect immediately. This is because the amendments to the procedures largely reflect existing practice following the Supreme Court's *Cornish* decision and the amendments to the Model Code of Conduct are minor in nature.

Policy Implications

Adoption of the amended Model Code of Conduct for Local Councils in NSW and the associated Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW.

Financial Implications

- Budget approved - N/A

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

Legal and Risk Management Implications

Under section 440 of the LGA, each council is required to adopt a Code of Conduct based on the Model Code of Conduct prescribed under the Regulation. Under section 440AA, each council is required to adopt procedures for the administration of their adopted Code of Conduct

Attachments

1. LCC Procedures for the Administration of the Model Code of Conduct updated [10.5.3.1 - 35 pages]
2. LCC Code of Conduct updated August 2020 [10.5.3.2 - 47 pages]

Recommendation

THAT Council:

1. Adopt the Prescribed Model Code of Conduct for Local Councils in NSW (2020),
2. Maintain the cap for the value of gifts at \$50:00 within the Code, and
3. Adopt the Prescribed Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (2020).

10.5.4. Review of Policies 10.11 & 10.16

Prepared by Kaitlin Cibulka – Executive Assistant Infrastructure Services

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Reference

Min. No. 20-200: Ordinary Council Meeting held on 24 August 2020.

Summary

To provide an update to the following Council policies:

- Policy 10.11 - Crown Roads and Private Roads – Maintenance
- Policy 10.16 - Roadworks – Provision of Unusable Materials to Property Owners

The updated policies will better ensure their accuracy, completeness and pertinence to an evolving Council and community.

Commentary

At the Ordinary Meeting of Council held on 24 August 2020, a report proposed amendments to Policies 10.11 Crown Roads and Private Roads – Maintenance and 10.16 Roadworks – Provision of Unusable Materials to Property Owners. This earlier report is attached. Subsequently, the policies as proposed to be amended were placed on public exhibition for a period of 28 days during September 2020. The period for comment closed on 29 September 2020 with no submissions received.

Policy Implications

Recommendation to Council for adoption of updates to policies 10.11 Crown Roads and Private Roads – Maintenance and 10.16 Roadworks – Provision of Unusable Materials to Property Owners

Financial Implications

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

Legal and Risk Management Implications

Nil

Attachments

1. Policy 10.11 - Crown Roads and Private Roads - Maintenance [**10.5.4.1** - 3 pages]
2. Policy 10.16 - Roadworks - Provision of Unusable Materials to Property Owners [**10.5.4.2** - 4 pages]
3. Ordinary Meeting of Council 24 August 2020 Report Review of Policies 10.11 and 10.16 [**10.5.4.3** - 2 pages]

Recommendation

THAT Council adopt and immediately implement revised Policies 10.11 Crown Roads and Private Roads – Maintenance and 10.16 Roadworks – Provision of Unusable Materials to Property Owners.

10.5.5. Policy Review - Policy 9.16 Compliance - Policy 9.15 Privacy Management Plan

Prepared by Rhiannan Whiteley – Executive Assistant

Department Finance & Assets

Authorised by Chief Financial & Information Officer

Summary

To provide an update to the following Council policies:

- Policy 9.15 - Privacy Management Plan
- Policy 9.16 - Compliance Policy

The updates better ensure the policy's accuracy, completeness and pertinence to Council and community.

Commentary

As part of the regular policy review process, these policies have been reviewed by management.

Changes to the policies are summarised as follows;

Policy 9.15 - Privacy Management Plan

The Privacy and Personal Information Protection Act 1998 requires all Councils to prepare a Privacy Management Plan outlining their policies and practices to ensure compliance with the requirements of that Act and the Health Records and Information Privacy Act 2002.

In particular, the object of the plan is to inform:

- The community about how their personal information will be used, stored and accessed after it is collected by the Council; and
- Council staff of their obligations in relation to handling personal information and when they can and cannot disclose, use or collect it.

Council's Privacy Management Plan was due for review has been comprehensively revised to reduce its complexity. The revised plan was guided by the type of information other Councils have included in recently updated plans.

On conducting the review of the plan, it was found that much information was duplicated so this has been rectified. Many of the references to the sections of the acts have been removed. These references added bulk and confusion to the policy.

The amount of health information held by council is limited and the revised policy reflects only the information which is held by Council.

3 appendices have been included to incorporate forms related to the policy.

The changes to the plan are major and affects the way members of the public access and amend information. As such, this policy requires a public exhibition period of 28 days. This policy will be returned to Council following the public exhibition period.

Policy 9.16 - Compliance

Council's Compliance Policy provides a framework which assists Council in managing its compliance risks and meeting its legal obligations. It states Council's commitment to a compliance framework and the development of a compliance culture throughout the Council. The policy defines the roles of Council and Council officers. It also includes compliance monitoring and reporting mechanisms.

The Compliance Policy was due for review and only made minor changes have been made to the policy. In particular, with Council's compliance framework now well established, the policy review period has been amended from 2 years to 4 years.

As other alterations proposed are relatively minor (e.g. corrections to grammar), it is recommended that there is no need to publicly exhibit the revised policy prior to final adoption.

Policy Implications

Review and adoption of Policy 9.15 - Privacy Management and Policy 9.16 - Compliance.

Financial Implications

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

Legal and Risk Management Implications

Policies are prepared to assist in decision making and provide further guidance with regard to statutory obligations.

Attachments

1. Policy 9.15 - Privacy Management Plan - V 3 - DRAFT - Sept 2020 [**10.5.5.1** - 32 pages]
2. Policy 9.16 Compliance Policy V 2 Draft Sept 2020 [**10.5.5.2** - 4 pages]

Recommendation

THAT:

1. Revised Policy 9.15 - Privacy Management Plan be placed on public exhibition for a period of 28 days with the policy then being reported back to Council for consideration for final adoption subject to consideration of any submissions received.
2. Revised Policy 9.16 - Compliance be adopted and implemented immediately due to the minor nature of changes.

11. Council Committee Reports

11.1. CTA Audit Risk & Improvement Committee Minutes 9 September 2020

Prepared by Rhiannan Whiteley – Executive Assistant

Department Finance & Assets

Authorised by Chief Financial & Information Officer

Reference

Min No 20-180 Ordinary Meeting of Council held on 27 July 2020.

Summary

This report summarises the minutes of the Central Tablelands Alliance Audit Risk & Improvement Committee (CTA ARIC) joint meeting held on 9 September 2020 and the Lithgow Council meeting also held on the 9 September 2020.

Commentary

At the joint Councils CTA ARIC meeting held on 9 September 2020, the following items were presented and discussed:

- **CTA ARIC Annual Report** - the Committee accepted the CTA ARIC Annual Report subject to some minor amendments. In accordance with the Committee's charter, the Committee reports each year on its operations and activities. The CTA ARIC Annual Report is included as an attachment to this report.
- **Audit Office Annual Work Program** - Chariee Bultitude, Director Audit Office, addressed the meeting and reported on the Audit Office's annual audit work program and plans for local government performance audits in the 2020/21 year.

At the Lithgow Council CTA ARIC meeting also held on 9 September 2020, the following items were presented and discussed:

- **Audit Recommendations Tracking** - all actions from the June meeting minutes have been recorded. Ongoing actions were reviewed by the Committee.
- **Agenda Reports**
The CFIO indicated that the reports had been compiled based on the functions and responsibilities of the Committee as per the charter / Local Government Act . The following items were presented:
 - Compliance - Council currently has an effective framework including an up to date compliance register and policy.
 - Risk Management - report accepted.
 - Fraud Control - some items in the Fraud Risk Assessment have been identified as having a high residual risk of fraud. CFIO will provide an updated Fraud Risk Assessment to the next meeting of the Committee.
 - Financial management report - report accepted.
 - Governance - report accepted.
 - Implementation of strategies - report accepted.
 - Service reviews – update report - report accepted.
 - Internal & external audit – the Committee discussed the Internal Audit program and plans for the first 2020/21 internal audit project. The Committee briefly discussed the Interim Audit Management letter.

Policy Implications

Nil.

Financial Implications

As detailed in the CTA ARIC meeting minutes.

Legal and Risk Management Implications

The functions of the CTA ARIC assist in the management and mitigation of risk at Council.

Attachments

1. Joint Meeting Minutes - CTA ARIC Committee - 9 September 2020 - FINAL [11.1.1 - 3 pages]
2. LCC ARIC Meeting - Minutes - 9 September 2020 [11.1.2 - 5 pages]
3. Amended Final CTA ARIC Annual Report 2020 V 3 [11.1.3 - 18 pages]

Recommendation

THAT Council:

1. Endorse the CTA Audit Risk & Improvement Committee Joint Councils September 2020 minutes.
2. Endorse the CTA Audit Risk & Improvement Committee Lithgow Council September 2020 minutes.
3. Note the 2019/20 CTA ARIC Annual Report.

11.2. Finance Committee Meeting Minutes - 12 October 2020

Prepared by Ross Gurney – Chief Financial & Information Officer

Department Finance

Authorised by Chief Financial & Information Officer

Reference

Min No. 20-234 Ordinary Meeting of Council 28 September 2020

Summary

This report provides details of the Minutes of the Finance Committee Meeting held on 12 October 2020.

Commentary

At the meeting of the Finance Committee held on 12 October 2020, the following items were discussed:

- Audit Office Report - Credit Card Management in Local Government - the committee discussed the use of corporate credit cards and the controls in place to ensure suitable usage.
- September 2020 Performance Reporting to the OLG – the committee noted the performance report to the OLG. Reporting requirements have been extended to every six months. The General Manager will continue to pursue the OLG in relation to the reporting requirement.
- Audit Action Lists – the committee noted progress towards completing the internal audit and external audit actions.
- 2019/20 Financial Statements – a standard report which is being provided to the October council meeting to note completion of the audit and to authorise the signing of the statements. A representative of the Audit office will present to the November council meeting.
- Transition to Technology One Cloud - the committee discussed Council's intent to transition to the Technology One cloud solution. Significant savings will be made over the term of a 5-year agreement. CFIO will provide a report to the October Council meeting seeking exemption to tender requirements.
- Investment Report September 2020 - the Committee discussed the current financial position and noted that we still have a deficit in expected reserve balances. Cashflow is likely to improve with the rates and water rate instalments due in November.
- Reserve Balances and Cashflow Update - the committee discussed the reserve balances and cashflow in the current economic environment and Council's plans moving forward to address the deficit in reserve balances, including the deferral of some capital works projects.

The following business paper recommendation was endorsed by the Committee:

Council Investment Report

Recommendation

THAT:

1. Investments of \$22,750,000 and cash of \$4,599,864 for the period ending 30 September 2020 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.

The September 2020 Investment Report is included as an attachment to the meeting minutes.

Policy Implications

NIL.

Financial Implications

As detailed in this report.

Legal and Risk Management Implications

NIL.

Attachments

1. Minutes - Finance Committee - 12 October 2020 FINAL [11.2.1 - 9 pages]
2. Investment Report September 2020 [11.2.2 - 3 pages]

Recommendation

THAT Council:

1. Adopt the minutes of the Finance Committee meeting held on 12 October 2020 and note the items not requiring a resolution of Council
2. Endorse the recommendations proposed in the Council Investment Report for September 2020.

11.3. Sports Advisory Committee Meeting Minutes - 14 October 2020

Prepared by Kaitlin Cibulka- Executive Assistant Infrastructure Services

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Summary

This report provides details of the Minutes of Sports Advisory Committee Meeting held on 14 October 2020.

Commentary

At the Sports Advisory Committee held on 14 October 2020, there were numerous items discussed by the Committee including:

1. 2020 LJ Hooker Reg Cowden Memorial Sports Star of the Year Awards
2. Booking Requests

The following items were outside the Committee's delegation and require Council to formally approve the recommendation:

- Item 8 – New Members
Recommendation that Council accept Robyn Millar and Virginia Smith as the Sports Advisory Committee representatives from Lithgow Hockey Association.

Policy Implications

Nil

Financial Implications

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

Legal and Risk Management Implications

Nil

Attachments

1. DRAFT Minutes - Sports Advisory Committee Meeting - 14 th October 2020 [11.3.1 - 8 pages]

Recommendation

THAT

1. Council note the minutes of the Sports Advisory Committee held on 14 October 2020;
and
2. Council accept Robyn Millar and Virginia Smith as the Sports Advisory Committee representatives from Lithgow Hockey Association.

12. Business of Great Urgency

In accordance with Clause 241 of the Local Government Act (General) Regulations 2005 business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:

- a) A motion is passed to have the business transacted at the meeting; and
- b) The business proposed to be brought forward is ruled by the Chairperson to be of great urgency.

13. Closed Council

13.1. Recommendation to Award Lithgow Pump Track Design and Construct Tender TEN 05/20

Prepared by	Matthew Johnson – Community and Culture Manager
Department	People and Services
Authorised by	Director of People & Services

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,

Summary

This report provides details of Council's tender process for the design and construction of a new pump track at Endeavour Park Lithgow and consider the recommendations for awarding of the tender.

Recommendation

THAT Council resolve to move into Closed Council to consider the confidential report as listed in the Agenda.