



BUSINESS PAPER

Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 25 January 2021

at 7:00 PM

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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 - 25/01/2021 - Cr Cassandra Coleman - Local Economic Recovery Fund BLER Zig Zag Railway

Report by Councillor Cassandra Coleman

Commentary

The Bushfire Local Economic Recovery Fund (BLER) is a funding package jointly funded by the Australian and NSW Governments designed to support social and economic recovery in regional communities most affected by the 2019 -2020 bushfires.

The Lithgow Local Government Area is one of those areas.

Zig Zag Railway has suffered through two disastrous bushfires and is working towards reopening in late 2021.

This application will support job retention and creation in the Lithgow Local Government Area, strengthen community resilience and reduce the impact of future natural disasters. Most importantly, it will prepare the Clarence/ Dargan community who, though only 10kms east of Lithgow, are potentially cut off from vital emergency services.

The Bushfire Local Economic Recovery Fund will support Zig Zag Railway's infrastructure and increase the organisation's preparedness for future bushfire seasons, which in turn will provide economic and social recovery with the Clarence and Dargan community in mind.

Zig Zag Railway's proposal includes:

- A building with an operational kitchen that can house over 100 people.
- A new station building that will serve as a tourism gateway.

This multi-purpose fire rated building would have the potential to be used by the community when trains are not running. It could also be used as an evacuation centre if required, particularly as the plateau often gets cut off from Lithgow and Mt Victoria during natural disasters.

This proposal will be one part of the community rebuild phase, with individual residents still working through this difficult process and the community's desire to see the Petra Ave community space in Clarence realised.

Attachments

Nil

Recommendation

THAT Lithgow City Council provide a letter of support to Zig Zag Railway's Bushfire Local Economic Recovery Fund (BLER) 2020 application: 'Establishing the Clarence Station Community Resilience Centre'.

9.2. Notice of Motion - 25/01/2021 - Cr Cassandra Coleman - Responsible Cat Ownership

Report by Councillor Cassandra Coleman

Commentary

Cats give their owners love and companionship and positively affect their happiness and wellbeing, providing significant health benefits.

Responsible cat owners recognise the impact of their pets' predation on natural fauna which is already under considerable stress since the bushfires of 2019/1020. They impact most heavily upon native birds and small animals such as the smaller marsupials, sugar gliders, lizards and frogs.

Domestic cats that are allowed to roam are at more risk of disease, injury from fighting and being killed by motor vehicles.

Attachments

Nil

Recommendation

THAT Lithgow City Council Management bring back a report to Council on the following:

1. Monthly statistics on the number of cats surrendered to or impounded at the Lithgow Animal Shelter.
2. The potential benefits in developing partnerships with community organisations such as Cat Defence and local vets to provide a program of de-sexing cats and the provision of information packages relating to responsible pet ownership. The aim would be to reduce the increasing numbers of unwanted kittens and feral cats.
3. The potential provision of education to the Community on the benefits of cat enclosures and keeping cats indoors.

Management Comment

The statistics for impoundings could be included as a component of the Operating Plan and therefore could be reported to the Council on a 6-monthly cycle. It is preferable to assemble statistics and performance measures in this Plan rather than stand-alone reports which are resource hungry.

Council undertakes limited community education and works with other organisations in relation to the management of issues which stem from responsible animal ownership. Examples of current activities include information on Council's Facebook page, attempts to rehome animals whenever possible and updates regarding latest registration information including the advantages of same. Current resources do not allow for more activity.

9.3. Notice of Motion - 25/01/2021 - Cr Darryl Goodwin - Road Damage Maiyingu Marragu Reserve

Report by Councillor Darryl Goodwin

Commentary

I am deeply concerned of the state of the roads, the land and hand paintings (Glyphs) of Maiyingu Marragu (blackfellas hands reserve). Last month I had the opportunity to assist in the removal of graffiti around this wonderful landmark and tourist attraction of ours.

I was very disappointed to see part of the road leading to the Bungleboori campground had been damaged so much that the hole in the road was as deep as a car making it impossible to pass unless you were experienced in four wheel driving. Campers continually camp at the location leaving rubbish in the bush and people who have visited the area have graffitied the glyphs on the rocks.

This area is a very sacred area of our local indigenous people and as caretakers of the area Lithgow Council need to patrol this area more frequently to identify problems and rectify them.

Attachments

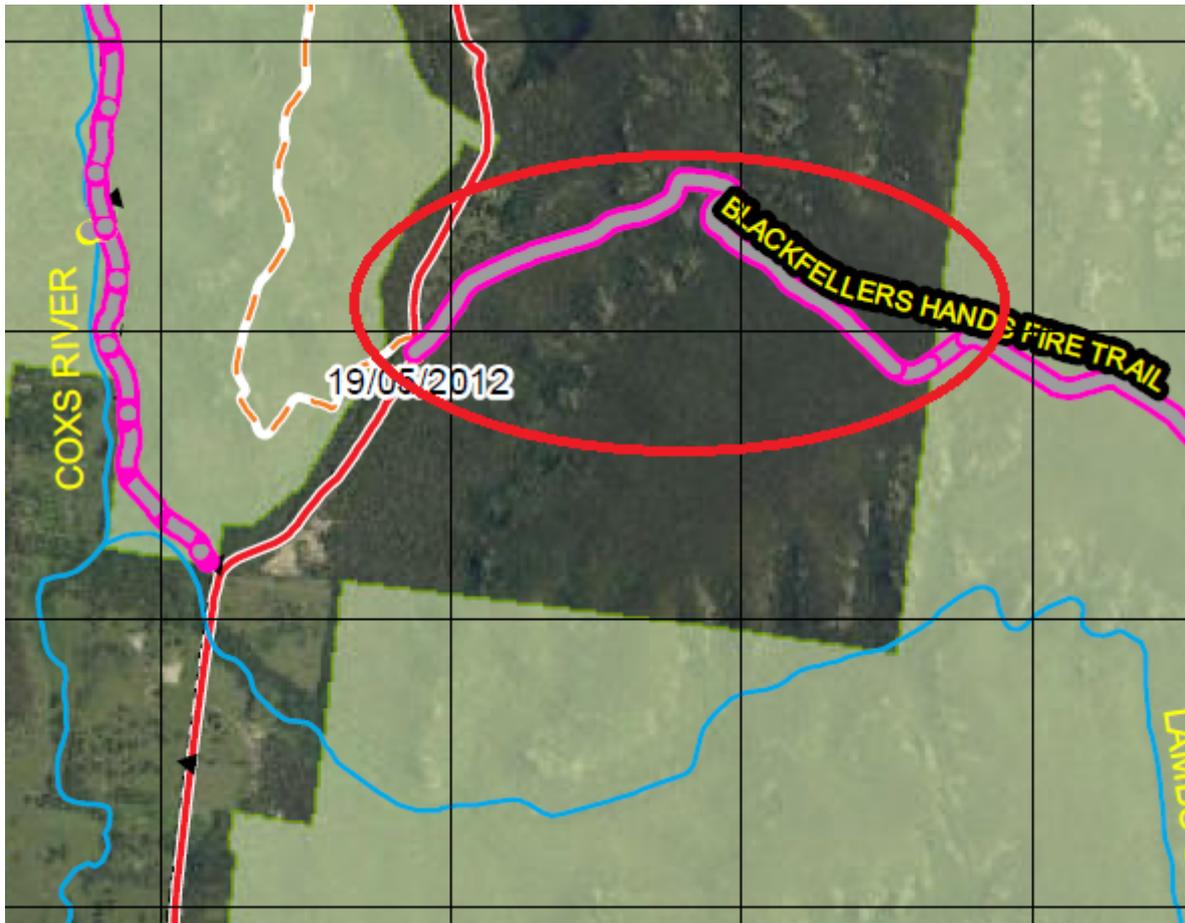
Nil

Recommendation

ThAT Lithgow Council consult with local indigenous groups as soon as possible to identify and rectify the road damage around Maiyingu Marragu (blackfellas hands reserve) and identify and resolve ongoing issues around the indigenous sacred areas of our LGA that from time to time as they arise.

Management Comment

The Blackfellows Hands Fire Trail is not a designated public road. This asset is a registered fire trail which was passed to Council responsibility alongside the Rural Fires Amendment (Fire Trails) Act 2016. This amendment notes that where a registered fire trail lies within the bounds of land owned or managed by a Council (or a private party), that trail is their responsibility to manage. As Council is the Crown land manager Lot 7001 DP 1055079, it is therefore responsible for the initial 2.6 kilometres of the Blackfellows Hands Fire Trail only. See below for a map for reference.



To construct the initial length of this trail to a reasonable standard, this work was quoted in late-2017 at \$88,000 incl. GST. As this is not a public road, it was considered that Council could not justify this expense, especially considering the backlog of public roads requiring urgent renewal. Similarly, the upgrade of this trail would likely promote vehicular access, increasing the risk of vandalism to this priceless local heritage asset.

However, for the management of strategic fire trails, the RFS does offer competitive funding for the maintenance of registered fire trails. Council has made application for this funding, but this request was denied. This unsuccessful result was justified by the fact that Council promotes the area as a tourist / recreation destination and consequently, the Blackfellers Hands Trail represents a primary purpose other than firefighting. Hence, it is not eligible for RFS funding while public access remains.

While the Council may choose to maintain this fire trail to an acceptable standard this will come at significant initial cost and further stretch existing maintenance resources. Alternatively, we may restrict vehicular access to fire fighting vehicles only, which may improve Council's eligibility for external funding for renewal and ongoing maintenance of this registered fire trail.

10. Staff Reports

10.1. Economic Development and Environment Reports

10.1.1. ECDEV - 25/01/2021 - Natural Disasters Local Environmental Plan Clause

Prepared by Christian Matthews - Graduate Strategic Planner

Department Strategic Planning

Authorised by Director of Economic Development & Environment

Summary

The purpose of this report is to seek Council's endorsement to 'opt into' the proposed Local Environmental Plan (LEP) standard clause for natural disasters. Council was approached by the Department of Planning, Infrastructure and Environment (DPIE) in September 2020 to be involved in the implementation stage of a proposed Natural Disasters Clause which aims to reduce "the red tape inhibiting the reconstruction of homes lost in the 2019-2020 bushfires". DPIE is now requesting confirmation that the Council agrees to have the final Clause inserted into its Lithgow LEP - including the zones where the Clause will apply.

Commentary

In response to the NSW bushfires experienced over the 2019-20 summer, DPIE has been consulting with affected Councils to help residents recover quickly from natural disasters. The scope of 'natural disasters' includes a wider range of naturally occurring, rapid onset events, such as: floods, bushfires, earthquakes, storms, cyclones, storm surges, landslides and tsunamis which can cause serious disruption to life or property; some of which the Lithgow LGA is certainly susceptible to.

Council staff have been in consultation with DPIE regarding the introduction of a Natural Disasters Clause. DPIE is proposing to amend the Standard Instrument (Local Environmental Plans) Order 2006 to insert an optional provision that may be inserted into Local Environmental Plans (LEPs). The purpose of the provision is to allow Council the power to grant development consent for the repair or rebuild of an erected dwelling house or secondary dwelling that has been damaged or destroyed by a natural disaster, despite any applicable development standards in the LEP, for example the Minimum Lot Size, if the said dwelling was lawfully constructed in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) or historical planning and building legislation. The Clause refers to the repair or replacement of a lawfully erected dwelling house or secondary dwelling that was damaged in a natural disaster. Development consent can be granted for dwelling houses and secondary dwellings that are of a different size, location, or design to the original dwelling under the Clause. Changes to the design and location of a proposed dwelling may be required to meet the relevant provisions of a Development Control Plan (DCP), other environmental planning instruments, associated legislation, or the requirements of the National Construction Code. Development consent can only be granted by Council under this Clause no later than 5 years since the day the natural disaster caused the damage or destruction.

The proposed Clause states that consent can be granted to the specified development in a zone where the Clause applies despite any other provision of the relevant LEP. For this reason, it is not necessary for applicants to submit a request to vary a development standard where a development standard is not able to be achieved on an existing lot. Development Applications (DAs) will still undergo a merit assessment to ensure that dwelling houses and secondary dwellings are of an appropriate size, location, and design in the context of the site. In situations where key planning controls or development standards have changed over time, removing the need to formally request a variation under Clause 4.6 of the relevant LEP will save time and resources for both applicants and Council.

It is important to note that for DAs where the Clause applies, Council cannot refuse a DA simply on the basis that it does not comply with a development standard or other provision in the Lithgow LEP 2014. The proposed development will be assessed on its merits against the relevant considerations under Section 4.15 of the EP&A Act 1979 and any other applicable legislation. Council can however, on the consideration that the risk, or if the environmental impact is inconsistent with relevant considerations of Section 4.15 of the EP&A Act 1979, refuse the application if necessary.

DPIE has provided Councils who have engaged in the consultation process a draft format of the Natural Disasters Local Environmental Plan, requiring each Council to nominate zones to which the Clause will apply. It is considered that the proposed Final Natural Disasters LEP Clause should include all zones in the Lithgow LEP 2014 where dwelling houses and secondary dwellings are permitted, which include:

- General Residential (R1)
- Low Density Residential (R2)
- Large Lot Residential (R5)
- Primary Production (RU1)
- Rural Landscape (RU2)
- Village (RU5)
- Environmental Management (E3)
- Environmental Living (E4)

To fast track the inclusion of the Clause in to LEPs, DPIE will be creating an amending State Environmental Planning Policy (Amending SEPP) which will integrate the Clause into all 'opted-in' LEPs across the State of NSW. This process of adoption will be managed by DPIE.

As this process is being carried out through an opt-in process, Council must show confirmation that it has agreed to the final clause. The confirmation of Council, in addition to the zones to which the clause will be applied to, must be provided to DPIE no later than the 15th February 2021.

Draft Final Natural Disaster Clause

Dwelling house or secondary dwelling affected by natural disaster

- (1) *The objective of this clause is to enable the repair or replacement of lawfully erected dwelling houses and secondary dwelling that have been damaged or destroyed by a natural disaster.*
- (2) *This clause applies to land in the following zones—*
 - (a) *[set out the zones to which the clause is to apply],*
- (3) *Despite any other provision of this Plan, development consent may be granted to development on land to which this clause applies to enable a dwelling house or secondary dwelling that has been damaged or destroyed by a natural disaster to be repaired or replaced if—*
 - (a) *the dwelling house or secondary dwelling was lawfully erected, and*
 - (b) *the development application seeking the development consent is made to the consent authority no later than 5 years after the day on which the natural disaster caused the damage or destruction.*

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. The amendment of the Local Environmental Plan is a planning decision for the purposes of this Division.

Policy Implications

Nil

Financial Implications

- Budget approved - NIL.
- Cost centre - NIL.

- Expended to date - NIL.
- Future potential impact - NIL.

Legal and Risk Management Implications

The amendment to Lithgow Local Environmental Plan 2014 will be undertaken by DPIE in accordance with relevant State and Local legislation.

Attachments

1. Guidance Document for Natural Disasters Clause [10.1.1.1 - 3 pages]
2. Draft Final Natural Disasters Clause [10.1.1.2 - 1 page]

Recommendation

THAT

1. Council confirms with DPIE that it wishes to opt-in to the Final Natural Disasters Local Environmental Plan Clause to amend the Lithgow Local Environmental Plan 2014 as outlined in the attachment to this report by way of the Amending SEPP to be progressed by DPIE.
2. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.
3. All relevant information be forwarded to DPIE no later than 15 February 2021.

10.1.2. ECDEV - 25/01/2021 - Lidsdale Employment Lands Investigation - Options Report

Prepared by Sherilyn Hanrahan - Strategic Land Use Planner
Department Economic Development & Environment
Authorised by Director of Economic Development & Environment

Reference

18-313 Ordinary Meeting of Council held on 29 October 2018
18-376 Ordinary Meeting of Council held on 26 November 2018

Summary

In 2018, Council received a request from the owner of 32 Ian Holt Drive to rezone a property being Lot 1 DP 914028 and Lot 1 DP 914029 from IN2 Light Industrial to R5 Large Lot Residential to be consistent with adjoining lands to the north; citing that he was unaware that the zone of the land had been changed to IN2 Light Industrial within Lithgow Local Environmental Plan 2014 (LLEP 2014).

In October 2018, Council considered a Councillor Notice of Motion that contended an error in mapping had occurred in the LLEP2014 process and that Council should correct the zoning as requested by the landowner. Council resolved to seek legal advice regarding the circumstances applying in this issue, in a context where Councillors believed that they were not fully informed at the time, and management were of the view that no error had occurred in the rezoning process.

In November 2018, Council was informed of the legal advice issued by Council's Environmental and Planning Lawyers, Pikes and Vekekens. In summary, Council was advised that it was clear no error had been made within the LLEP 2014 process and that the only way to now change the zoning of the land was by way of a Planning Proposal and Gateway Determination. Council noted the advice and resolved that the landowner be advised of the option to either lodge an owner-initiated Planning Proposal request accompanied by Council's relevant fees, or alternatively await the first review of LLEP 2014 and for the subject lands to be considered in the context of that review. The landowner has opted to await Council's review.

Council's Strategic Planning Team have undertaken a desktop review of the zoning of the Lidsdale employment lands as identified in Figure 1 (IN2 Investigation Area).

This report presents the results of the zoning review and recommends that Council support the preparation of a Draft Planning Proposal under Section 3.33 of the Environmental Planning Act 1979 (Act), as indicated in Option 4 Table 2 of this report. It also recommends that Council refer such proposal to the Department of Planning Industry and Environment under Section 3.34 seeking a Gateway Determination.

Commentary

Lidsdale Employment Lands Zoning Review

Lithgow 2040 Local Strategic Planning Statement (LSPS)

The investigation area is identified in the Lithgow 2040 LSPS as an existing industrial land use area in the Wallerawang Structure Plan. It was also referred to in Planning Priority 9 as a new industrial precinct to establish a new industrial cluster to build on the opportunities of:

- Minimal exposure to land use conflict;
- Road access and egress to major road infrastructure;
- Agglomeration of supportive industries; and

- Proximity to workforce.

The LSPS also identified that the largest challenge to unlocking the land potential and bringing it to market was engaging with private landowners and providing the necessary supporting infrastructure.

In 2019, Council's Strategic Planning Team undertook a "health check" review of Lithgow Local Environmental Plan 2014 to inform the development of the Lithgow Local Strategic Planning Statement 2040 (LSPS). This highlighted that although there was ample supply of industrial zoned land, that there were challenges to unlocking that supply and bringing that supply to the public market.

One such challenge was the willingness and appetite for private landowners to bring their land to the market.

This was reflected in Action 9.3 and Action 9.4 of Lithgow LSPS 2040 as follows.

"Actively engage and partner with owners of zoned employment lands to facilitate the availability of shovel ready land to the market."

"Audit and review employment lands to unlock redevelopment or infill opportunities."

This zoning review addresses, in part, these actions of the LSPS in relation to the Lidsdale/Wallerawang employment lands.

The investigation area for the zoning review is identified by red outline in Figure 1 below. The investigation area is 19.17 ha and is held by seven landowners as indicated in Figure 1 A below.

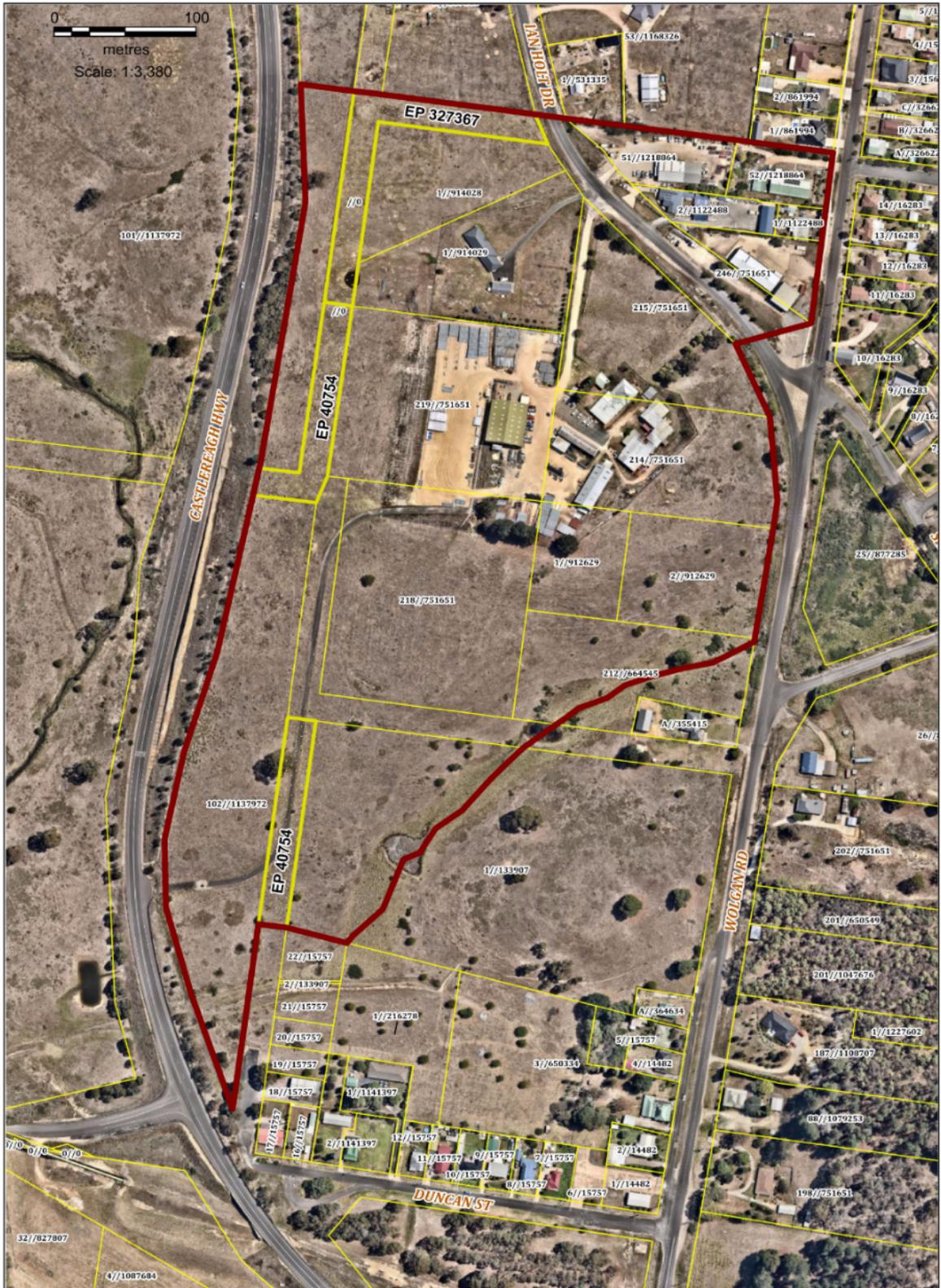


Figure 1 IN2 Investigation Area



Figure 1A Land Ownership Map

Zoning History of Investigation Area

1994 Lithgow Local Environmental Plan

Land within the investigation area was zoned part 2(v) Village and part General Rural 1(a) under Lithgow Local Environmental Plan 1994. Under this plan, industrial uses were permissible within both the applicable zones that supported the established businesses in this area.

2013 Draft Principal Lithgow Local Environmental Plan

Land within the investigation area was identified in the endorsed Lithgow Land Use Strategy 2010-2030 to provide a large lot residential area to service the Wallerawang/Lidsdale planning precinct. It was proposed in Draft Principal LEP 2013 to be zoned R5 Large Lot Residential to provide more certainty around future land use character. Existing use rights would operate to protect the existing industrial land use until such time as the use was deemed to be abandoned.

As part of a comprehensive report on the Draft Planning Proposal for the Principal Lithgow Local Environmental Plan on 15 April 2013, the lands within the investigation area were included in a General Manager's recommendation to support a landowner request (holding the major land area) to zone the land IN2 Light Industrial. These lands were considered relatively shovel-ready to provide land for the marketplace for light industrial and business purposes in the short-term which would not be met by the larger planned areas at Marrangaroo and Wallerawang having longer lead times to come to market.

This variation to the endorsed Land Use Strategy was supported by the Gateway Determination issued by DPIE in 2013. The IN2 zone was publicly exhibited as part of the Lithgow Draft Principal LEP 2013. No objection or submission to the IN2 zoning was received during the exhibition period. The zone was given effect by the making of LLEP2014 following all due process.

Matters that may influence land use change of Wallerawang/Lidsdale Employment Lands

Willingness of Landowners - Landowner Consultation

As the willingness of landowners to bring their land to market is critical to take-up of zoned lands, Council has undertaken direct consultation with the landowners within the investigation area identified in Figure 1A to inform this zoning review. The results of this initial consultation are outlined in Table 1 below.

Table 1

Owner	Current Land Use	Owner Comment
Caserio Pty Ltd	Rural and Mining Supplies. The property also contains a dwelling that has been repurposed as an administration building.	Requires the footprint of the current land use to be protected by the IN2 zoning as a primary concern. Is not adverse to the remainder of the property to be zoned R5 Large Lot Residential to enable future residential development.
Aisling Investments	Hydraulic and Industrial Hose Supplies Retail Outlet and Service and workshop.	Currently not operating the business at the site, however, intends ongoing use in the foreseeable future. Part of the site is currently leased for manufacture and trailer repairs. Would like the IN2 zone to be retained.
B Hurt Pty Ltd	Machinery Workshop/Produce Supplies	Approved machinery shed is currently on a 5-year lease and used for machinery repairs. Would like the IN2 zone to be retained.
Private Owner 1	House	Was not aware of the IN2 Light Industrial zone and feels that as a landowner he was disenfranchised during the Principal LLEP process by not being individually notified of the zoning change. The zone prevents further residential development on the property that is inconsistent with adjoining land to the north and surrounds. Believes the land zoning affects the ability to sell the house despite being surrounded by residential land use. From the LUS it was understood that the future land use was to be large lot residential. Requests an R5 Large Lot Residential zone consistent with adjoining lands to the north.
Private Owner 2	House and Truck and Vehicle Depot	50% Residential and 50% Industrial Land use. Would like to retain IN2 zone to ensure that the

		current land use for a truck and vehicle depot is protected. No change to land use in foreseeable future.
Private Owner 3	House	Was aware of the IN2 zoning but would prefer to be zoned R5. No change to residential land use anticipated. Does not report any land use conflict with adjoining industrial land uses.
Private Owner 4	House	Was aware of the IN2 zoning but would prefer to be zoned R5. No change to residential land use anticipated. Does not report any land use conflict with adjoining industrial land uses.

Industrial Development Demand

To date, there has been no additional development or take-up of the industrial zone lands within the investigation area since the commencement of the LLEP2014. Landowners in the investigation area, that have vacant land potential, did not report that they wish to develop their land further for industrial land use. Further, neither Council nor the landowners have received investor enquiry for this area of employment zoned lands.

This would suggest there is little market demand for greenfield land supply in this location. However, this desktop review is not a comprehensive analysis of all factors affecting demand drivers and has not considered this area in the wider LGA context.

Large Lot Residential Demand

There is no evidence to suggest that demand is not being met by the current zoned supply of large lot residential land within the Wallerawang/Lidsdale precinct. In the past five years, there have only been four new lots created within the zone. Council is currently assessing a development application for 34 lots in Ian Holt Drive. Once developed, this supply would, in itself, satisfy future dwelling demand, based on current take-up levels, ensuring Council's policy of maintaining a five year forward supply is achieved.

Potential impact of GreenSpot Wallerawang- repurposing of former Wallerawang Power Station

Since the adoption of the Lithgow LSPS, the sale of the former Wallerawang Power Station site and buffer lands (some 450ha in total) to GreenSpot Wallerawang Pty Ltd (GreenSpot) may significantly alter the future supply and demand drivers for industrial land supply in the Wallerawang/Lidsdale planning precinct and indeed the wider LGA context.

The GreenSpot joint venture between Borg and Bettergrow proposes to create an industrial park that will incorporate a range of manufacturing and food production businesses. This park will begin development following the initial demolition and rehabilitation phases of the site which is expected to take around 36 months.

Given the proximity of the GreenSpot major development site to the Lidsdale investigation area and the opportunities to be gained from the clustering of industrial land use, the Lidsdale site may be placed at a severe disadvantage in attracting investment dollars to develop from a greenfield site. This coupled with the lack of landowner willingness to speculatively release the land for industrial land use may effectively stall this land supply.

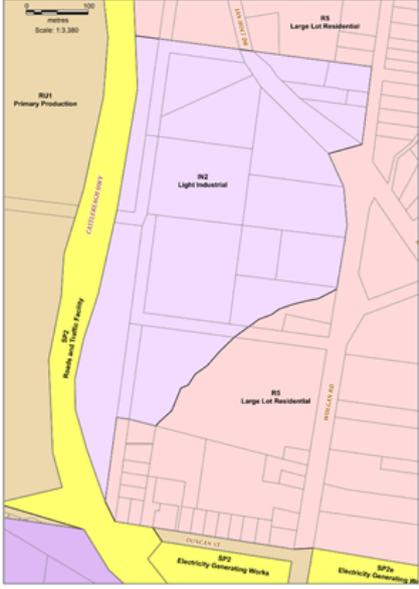
Options for investigation area land use zoning change

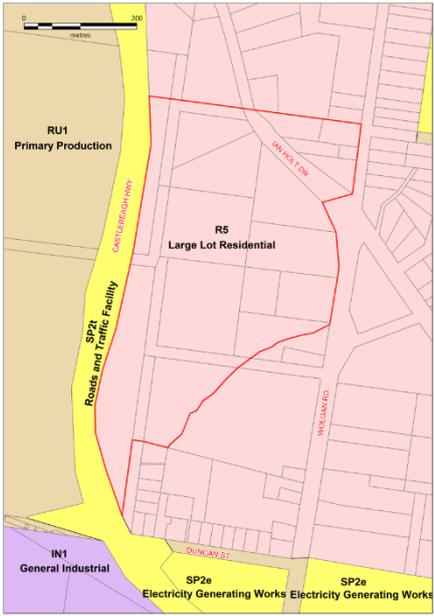
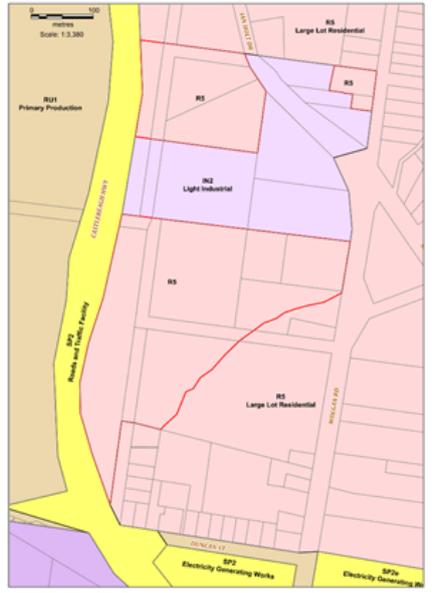
The outcome of the desktop review has confirmed that the IN2 zone was implemented in the LLEP2014 following all due process. The review has not highlighted any strategic justification for undertaking an LEP amendment by Council at this time.

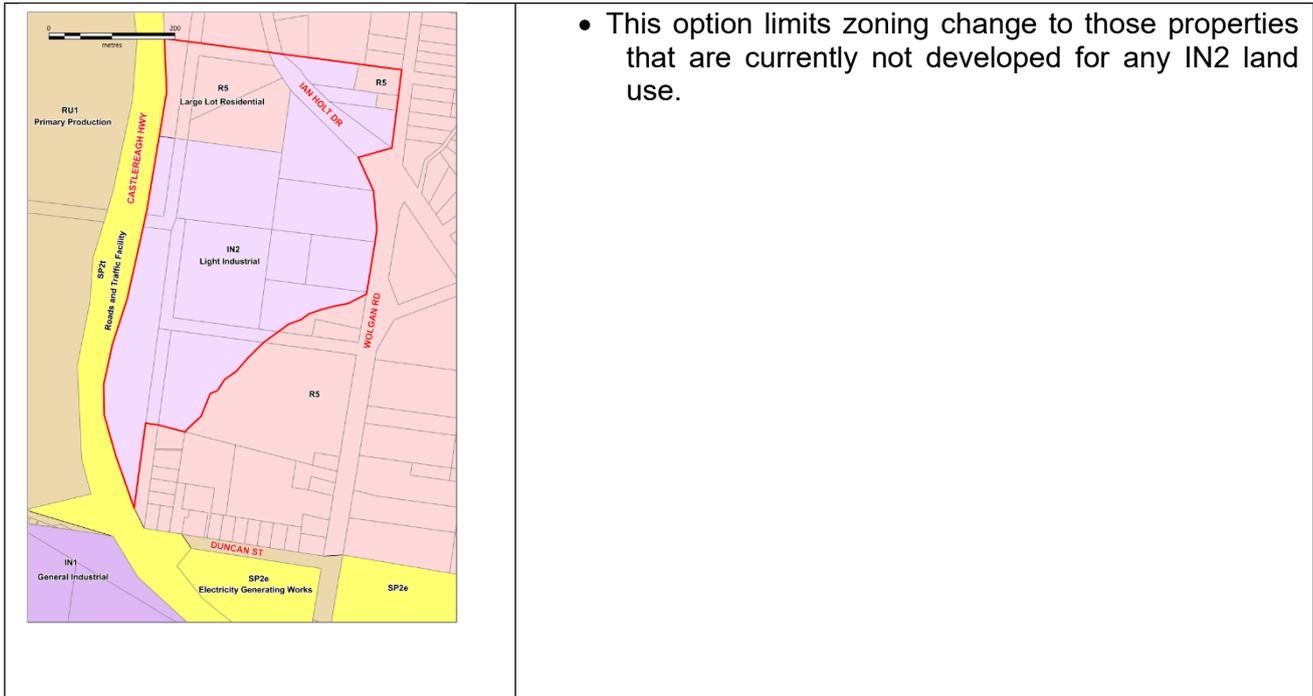
However, should Council believe that the current zoning framework disadvantages those landowners within the investigation area that only use their land for residential land use purposes, Council may consider a spot rezoning of those lands on the northern edge of the investigation area.

In the interests of transparency through the review process, four options have emerged as potential outcomes to this review as outlined in Table 2 below.

Table 2

Option	Strategic Comment
<p>Option 1 Do Nothing – No change to IN2 zone.</p> 	<ul style="list-style-type: none"> • This option would not address or align with recent landowner engagement results. • The land use of the investigation area has recently (June 2020) been reconfirmed in the Wallerawang LSPS structure plan as industrial. • There is no new strategic study or report to support any zoning change at this time. Any changes to the current zoning would only be supported by the landowners expressed views and anecdotal evidence of supply and demand. • Maintains an industrial land supply that could come on-line in the shorter term should demand drivers change quickly.
<p>Option 2 Prepare Planning Proposal to rezone the investigation area to R5 Large Lot Residential and amend the minimum lot size to 2000 square metres.</p>	<ul style="list-style-type: none"> • Would not align with recent landowner engagement results. • This option would be consistent with the recommendations of the endorsed Lithgow Land Use Strategy 2010-2030 and revert to the intended zoning of the land had the General Manager’s recommendation in 2013 not been supported. That being said, Council must have regard to the fact that the IN2 zoning has been in place now for 6 years. • The land use of the investigation area has been recently (June 2020) reconfirmed in the Wallerawang LSPS structure plan as industrial. • Continued operation of established industrial land uses would be limited by existing use rights. This would particularly impact upon the major industrial use within the area. It would be restricted to less than 10 % expansion of footprint and would not be able to intensify development which may limit the future growth opportunities of that business. • May increase potential for land use conflict between industrial and residential land uses from incoming

	<p>new residents expecting a higher residential amenity.</p> <ul style="list-style-type: none"> • This option would result in a loss of 19.17ha of IN2 land which is inconsistent with Local Planning Direction 1.1 issued under S.9.1(2) of the Act. • There is sufficient theoretical supply (40 years plus) of large lot residential zoned land in the Wallerawang/Lidsdale precinct to service projected demand without adding this additional 19.17ha. • This option would be more likely to require supporting technical reports involving a larger area of land use change to residential.
<p>Option 3 Prepare Planning Proposal to amend the zoning to provide for R5 Large Lot Residential and IN2 Light Industrial.</p> 	<ul style="list-style-type: none"> • Aligns with the landowner engagement results. • Is inconsistent with Lithgow LSPS 2040 Wallerawang structure plan. • This option would result in a loss of 14.15ha of IN2 land which is inconsistent with Local Planning Direction 1.1 issued under S.9.1(2) of the Act. • The zoning review is not supported by any strategic reports or studies. Any changes to the current zoning would only be supported by the landowners expressed views and anecdotal evidence of supply and demand. This level of analysis may be insufficient to receive an unconditional positive Gateway Determination. Any planning proposal must demonstrate both site and wider strategic merit.
<p>Option 4 (Preferred) Planning Proposal to amend the zoning to provide for R5 Large Lot Residential and IN2 Light Industrial.</p>	<ul style="list-style-type: none"> • It would not align with all landowner engagement results. • This option would result in a loss of 3.34ha of IN2 land. • There would be no net loss of IN2 land in the Wallerawang/Lidsdale precinct as the loss of IN2 land in this area would be replaced with the additional 3.5ha should the planning proposal for Black Gold Motel proceeds to an LEP amendment. This provides greater justification for inconsistencies with the adopted Lithgow 2040 LSPS and relevant Planning Directions under S.9.1(2) of the Act as being of minor local significance.



- This option limits zoning change to those properties that are currently not developed for any IN2 land use.

Option 4 presents as the preferred option being of minor local significance and the option that would most likely be carried through to a Gateway Determination.

Although Council officers will contend that no further technical reports are required to support the Planning Proposal, Council should be aware of the possibility that a bushfire report and a preliminary land contamination investigation may be required for the larger land parcel proposed for land use change as a condition of Gateway Determination. Should this occur, Council should ensure that the full costs of those reports be incurred by the landowner through Council resolution.

All other costs of preparing and administering the Planning Proposal will be at full cost to Council.

The Draft Planning Proposal will be prepared in accordance with “*Planning Proposals- A guide to preparing planning proposals*” issued under Section 3.33(3) of the Act.

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 a Council Committee. A decision to proceed or otherwise with a draft planning proposal is a planning decision for the purposes of this provision.

Policy Implications

Nil.

Financial Implications

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- Future potential impact - should Council continue to a Planning Proposal; Council is committing to the full potential costs of any technical reports which could be up to \$15,000 (if required by Gateway) and the loss of fees that would normally accompany an owner-initiated planning proposal of this scale of \$15,000. Council should ensure that the full costs of any required technical reports be charged to the landowner through Council resolution.

Legal and Risk Management Implications

Nil.

Attachments

Nil

Recommendation

THAT

1. Council supports the preparation of a Planning Proposal for Lot 1 DP 914028, Lot 1 DP 914029, Pt EP 327367, Lot 1 DP 1122488, Lot 52 DP 1218864, Pt Lot 102 DP 1137972 to amend Lithgow Local Environmental Plan 2014, indicated in Option 4 as follows:
 - a. Amend the land use zone from IN2 Light Industrial to R5 Large Lot Residential.
 - b. Amend the minimum lot size (MLS) from 0 to 2000m².
2. The Planning Proposal documentation, once prepared, be forwarded to NSW Department of Planning, Industry and Environment for a Gateway Determination.
3. Council consult with relevant government agencies as required. Council would consult with Water NSW prior to the issuing of a Gateway Determination and Rural Fire Service prior to undertaking community consultation.
4. Council advise NSW Department of Planning, Industry and Environment that it proposes to seek approval to use the delegated functions under S3.36 (2)-(4) to make the plan following compliance with a Gateway Determination.
5. Council advises the relevant owner in writing that should any further technical reports be required to support the Planning Proposal that Council will require the landowner to incur the full costs of any such reports. If agreement cannot be reached in this regard Council will terminate the process.
6. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993

10.2. Infrastructure Services Reports

10.2.1. IS - 25/01/2021 - Proposed Road Renaming - Capertee

Prepared by Leanne Kearney – Assets and Infrastructure Planning Manager

Department Infrastructure Services

Authorised by Director Infrastructure Services

Reference

Min No 19-336 Ordinary Meeting of Council held on 25 November 2019.

Summary

To advise Council of an update on a road naming proposal for three (3) private roads at Capertee, previously proposed to be named Eagle Hawk Close, Canyon Close and Running Stream Close.

Commentary

Council received a submission/request on the naming of three (3) private roads at Capertee. The Applicant originally requested the names of 'Eagle Hawk Close', 'Canyon Close' and 'Running Stream Close'.

The *NSW Addressing User Manual 2016* created by the NSW Geographical Names Board to complement the *NSW Addressing Policy No. 2, 2015* states the following in relation to the naming of roads:

- a. *That all road naming be undertaken in accordance with the AUM and the Online Road Naming System.*
- b. *Proposals for road naming of private roads or crown roads can be submitted to Council for consideration. The private road to be named is to meet one of the requirements below for Council to consider the naming*
 - a. *Be over 1km from a public road to the place of address; or*
 - b. *Have three or more places of address accessing from this road; or*
 - c. *If not named, would cause issues with emergency services navigation to a place of address. In this instance a case is required to be put forward and Council reserves the right to consult emergency services on this road.*

In relation to the above the following justification was provided:

- i. 'Eagle Hawk Close' is approximately 3.5km long, 'Running Stream Close' is approximately 1.8km long and 'Canyon Close' is approximately 1km long. All three roads would meet this requirement.
- ii. 'Eagle Hawk Close' has 8 individual properties (all with opportunity to erect dwellings), 'Running Stream Close' has 4 individual properties (all with opportunity to erect dwellings) and 'Canyon Close' has only 2 individual properties (all with opportunity to erect dwellings). Therefore, two of the three roads meet this requirement.
- iii. If these roads were not named, the addressing of the properties would all be 'Upper Turon Road' which could cause confusion when utilising the measurement along 'Upper Turon Road' for rural addressing. It would be beneficial for emergency services if these roads were individually named to allow for navigation to individual properties in case of emergency.

The original road naming proposal was presented to the Ordinary Meeting of Council held on 25 November 2019 and the following was resolved:

19-336 RESOLVED

THAT in accordance with Council's Addressing Policy Council start the online road naming process, including advertising the road names, Eagle Hawk Close, Canyon Close and Running

Stream Close in the local newspaper and notify emergency authorities and residents in the area, calling for submissions to be made for the statutory period of twenty-eight (28) days after which:

- a. If no submissions against the proposal or alternatives submitted, Council proceed with the gazettal process of the name and notify all residents and emergency authorities accordingly.
- b. If submissions against the proposal or alternatives are submitted, a report is furnished to the next available Council meeting for resolution.

The call for expressions of interest (through advertising in the local newspaper and written notification to residents and authorities) requested submissions on the proposed naming proposal for the private roads at Capertee to be named 'Eagle Hawk Close', 'Canyon Close' and 'Running Stream Close'.

The notification process has now been completed and as a result two submissions were received from the public & Geographical Names Board in relation to the proposed road names, with comments outlined as below:

Eagle Hawk Road

Objection/Comment	Council Comments
Objection to all road names as it does not reflect private road name owners as per the Turon Country Retreats minutes 19 November 2020. Further objection to 'Eagle Hawk Close' as it is similar to 'Eaglehawk Creek Road' which would cause confusion and does not meet the Geographical Names Board guidelines.	Council sought clarification from GNB on the matter as GNB originally objected to the naming however have since advised that its 'already a name in use' and as such it is up to Council to officially gazette the name if it wishes. It is considered that it would be appropriate to proceed with the gazettal of 'Eagle Hawk Road' as there are already two properties in Council's rating system serviced off 'Eagle Hawk Road' and therefore it is recommended it be adopted.
Geographical Names Board objects to 'Eagle Hawk Close' as it is considered a duplication with 'Eaglehawk Creek Road'.	

Canyon Close

Objection/Comment	Council Comments
Objection to all road names as it does not reflect private road name owners as per the Turon Country Retreats minutes 19 November 2020.	'Canyon Close' was accepted by Council and Geographical Names Board and could be put forward for gazette. However, given the submissions received, Council requested the applicant reconsider the proposed road names and resubmit the proposal in full for Council's assessment and further action. The applicant subsequently proposed the name 'Canyon View' for the following reasoning: <ul style="list-style-type: none"> • Beautiful views of the Capertee Valley Canyon from this area • The road name 'View' is selected because its "a roadway with a view or outlook" and is a cul de sac (dead end) road. (ref NSW Addressing User Manual) The road name complies with the requirements of the AUM and therefore, it is recommended it be adopted.

Running Stream Close

Objection/Comment	Council Comments
<p>Objection to all road names as it does not reflect private road name owners as per the Turon Country Retreats minutes 19 November 2020. Further objection to 'Running Stream Close' as it would cause confusion and does not meet Geographical Names Board guidelines given it is not in the locality of 'Running Stream' and it does not bring you to 'Running Stream', but to 'Round Swamp Creek'.</p>	<p>Given the submissions received, Council requested the applicant reconsider the proposed road names and resubmit the proposal in full for Council's assessment and further action.</p> <p>The applicant subsequently proposed the name 'Brian's Chase' for the following reasoning:</p> <ul style="list-style-type: none"> • Named after a much-loved member of our community and South Sydney Rabbitoh's legend, Brian James, who recently suffered an accident on his tractor at the property and tragically died as a result. • Letter from Elizabeth James received giving her consent to naming the road after her late husband, Brian James. • Death Certificate also received • This road leads down to Round Swamp Creek. • The Road name 'Chase' is selected because it's a "Roadway leading down to a valley." and is a cul de sac (dead end) road. (ref NSW Addressing User Manual) <p>Accordingly, the proposed name complies with the requirements of Clause 6.7.5 and Clause 6.7.6 of the AUM, as below:</p> <p>6.7.5 Acceptable Road Names</p> <p>Names of early settlers, war servicemen and women and other persons who have contributed to the heritage of an area, local history themes, flora, fauna, ships etc. are usually most suitable for applying to roads. Gender diversity in the selection of names is encouraged, as are names reflecting NSW multicultural heritage. Aboriginal names are also supported and shall be in a local language chosen in consultation with the Local Aboriginal Land Council. Local interest groups, developers or individuals are encouraged to work with the Local Government to locate/define new names according to these suggestions. When selecting road names, all of the following shall be considered and must be adhered to:</p> <ul style="list-style-type: none"> • Road names shall not be offensive, racist, derogatory or demeaning (refer to NSW Anti-Discrimination legislation). • Road names shall not be misspelt. In particular, the spelling of personal names shall be able to be validated by reference to primary sources. • Commercial and business names shall not be used, particularly where the name can be construed to be promoting the business. However, business

names no longer in use and which promote the heritage of an area are acceptable.

- Road types shall not be used in the formation of a road name, for example Promenade Road, Court Street etc. even if the road type is also a surname.
- When commemorating a person only one of the person's names shall be used e.g. a given name or surname.

6.7.6 Commemorative Road Names

Naming often commemorates an event, person or place. The names of people who are still alive shall not be used because community attitudes and opinions can change over time.

Acts of bravery, community service and exceptional accomplishments are typical grounds for this recognition. The name of persons who gave their lives in service for their country are often used as commemorative names. The person commemorated should have contributed significantly to the area.

Ownership of land that has been developed is not considered as a significant reason for naming purposes.

Local Government shall make every effort to gain consent from family members of the person who is being commemorated. Supporting evidence that shows attempts by a Local Government to consult with family members should be provided during the lodgement of the proposal, but it is acknowledged that some names may be from an era for which this is not possible.

It does not however comply with the requirements of Clase 6.7.2 of the AUM, as below:

6.7.2 Language

a. Road names shall be written in standard Australian English or a recognised format of an Australian Aboriginal language local to the area of the road.

b. Road names shall be easy to pronounce, spell and write, and preferably not exceed three words (including the road type) or 25 characters. An exception to this is in the use of Aboriginal names when it is accepted that a traditional name may at first appear to be complex but will, over time, become more familiar and accepted by the community.

c. Diacritical marks (symbols such as ´ in é, ¸ in ç or : in ö) are not used in Australian English names, and shall be omitted from names drawn from languages that use such marks.

d. The following types of punctuation as used in Australian English shall not be included as part of a road name: period (.), comma (,), colon (:), semi-

	<p>colon (;), quotation marks (“”), exclamation mark (!), question mark (?), ellipsis (...), hyphen (-), dash (/), ampersand (&) and parenthesis (()). For surnames or other names that include a hyphen, the hyphen shall be omitted when used for a road name. NSW Address Policy and User Manual 95 Chapter 6 Addressing Principles</p> <p>e. An apostrophe mark shall not be included in road names written with a final ‘s’, and the possessive ‘s shall not be included e.g. St Georges Terrace not St George’s Terrace. Apostrophes forming part of an eponymous name shall be included (e.g. O’Connor Road).</p> <p>f. A road name shall not include a preposition e.g. Avenue of the Allies.</p> <p>g. Road names shall not include the definite article (The) as the first or sole name element of a road name e.g. The Esplanade or The Northern Road is not acceptable.</p> <p>h. A road name shall not be abbreviated or contain an abbreviation, initial or acronym e.g. Mount, not Mt) except that St shall be used for Saint.</p> <p>i. For the purposes of consistency, names starting with Mc or Mac shall not have a space included between the Mc or Mac and the rest of the name.</p> <p>j. A road name shall not include Arabic numerals e.g. 3 or 4th or Roman numerals e.g. IV or X. Where numbers are included in a road name they shall be written in full e.g. Fifth Avenue, Ten Mile Road.</p> <p>k. A road name shall have the same spelling as any name from which it is derived. A road name shall not include initials e.g. J Jones Road is not acceptable.</p> <p>Therefore, the apostrophe mark shall not be included, i.e. ‘Brians Chase’ not ‘Brian’s Chase’ and it is recommended it be adopted.</p>
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Consequently, it would be proposed to advertise the road names ‘Eagle Hawk Road’, ‘Canyon View’ and ‘Brians Chase’ calling for submissions on the proposed names.

Policy Implications

To ensure that the addressing of properties and road naming within the Lithgow Local Government Area complies with the requirements of Council Policy 10.10 *“Addressing, Road Naming and Locality Naming”* and the *New South Wales Addressing Policy No.2, 2015*.

Policy Implications

The roads are to be named in accordance with Council’s Addressing Policy.

Financial Implications

- Budget approved - N/A
- Cost centre - N/A
- Expended to date - N/A
- Future potential impact - minor road naming signage costs only.

Legal and Risk Management Implications

To ensure that the addressing of properties and road naming within the Lithgow Local Government Area complies with the requirements of the *Roads Act 1993*.

Attachments

Nil

Recommendation

THAT Council, in accordance with the Addressing Policy, commence the online road naming process at the Capertee locality which includes:

1. Advertising the road names, 'Eagle Hawk Road', 'Canyon View' and 'Brians Chase' in the local newspaper;
2. Notifying emergency authorities and residents in the area; and
3. Calling for submissions to be made for the statutory period of twenty-eight (28) days after which -
 - a. If no submissions against the proposal or alternatives submitted, Council proceed with the gazettal process of the name and notify all residents and emergency authorities accordingly.
 - b. If submissions against the proposal or alternatives are submitted, a report is furnished to the next available Council meeting for resolution.

10.3. Water and Wastewater Reports

10.3.1. WWW - 25/01/2021 - Wallerawang Sewerage Treatment Plant

Prepared by Daniel Buckens
Department Water Waste Water
Authorised by Director of Water & Wastewater

Reference

Min No 20-245: Notice of Motion – Wallerawang Sewerage Treatment Plant

Summary

At Council's meeting on 26 October 2020 Council resolved -

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.

This resolution was dealt with ahead of the Council considering a report on this matter later in the business of the same meeting of 26 October 2020. That report, which substantially canvassed most aspects of the above resolution, was adopted with the unanimous support of all councillors. Notwithstanding, the information is re-presented tonight, with amendments, to give effect to the resolution.

Commentary

On 28 August 2019 workers at the Wallerawang STP were caused to replace a pump which serviced a tank containing Sodium Hydroxide (NaOH) or more commonly known as Caustic Soda. The Caustic Soda used by Council, as at all of the STP's, is 25% Liquid Caustic Soda (25% Sodium Hydroxide – 75% water). 25% Liquid Caustic Soda is considered a Hazardous Chemical.

Whilst undertaking the repair a mould fitting on the tank broke and the material leaked from the tank and into the bund. The bund is provided to contain materials in such an event. As an employee came in direct contact with the Caustic Soda, the incident was reported to Safework NSW in accordance with Work Health and Safety legislation.

Safework NSW attended the site on 29 August 2019. Safework NSW and Council agreed, at that time, that the best response would be to leave the material contained in the bund until it was drawn down for use in the plant.

On the 2nd and 3rd September 2019, 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. The workers assumed that the material was draining back into the STP works via a pump station and so did not relate these events to each other.

On 14 October 2019, the NSW Environment Protection Agency (EPA) Environment Line was called, and a complaint lodged by the owner of the adjoining property.

On 16 October 2019, the NSW EPA attended the site in response to the complaint. In attendance with the NSW EPA was the Council's Director of Water and Wastewater.

After investigation of the matter on the evening of the 16th and the morning of the 17th October 2019 it was confirmed that an amount of Caustic Soda had been released from the bund to discharge on a portion of the neighbouring property.

At approximately 7.40 a.m. on 17 October 2019 the Pollution Incident Response Management Plan was implemented.

Procedures Put in Place

As part of the investigation into the release, it was determined that a pipe penetration in the wall of the bund was the cause of the leak leaving the bund. A second factor was that the direction in which the valves were required to open/close were not consistent and that there were no documented procedures for the operation of these valves and to where they discharged.

In response, all of the equipment was removed from the bund; abrasive blasted; pipe penetration re-grouted; and the bund epoxy lined. A new tank was installed made from Polyethylene, rather than the fibreglass as per the previous tank. All pipework, pumps and fittings were replaced. Valves have been replaced so that all valves operate in the same direction, an indication of the direction of open and close is also provided on the valve (where the valve is visible) or on the ground (where the valve is buried). Standard Working Procedures have been developed which provide that these valves are to remain "closed" at all times and when required to be operated, outlines the direction of open and close and to where the valves drain.

Additional training and refresher training has been provided to staff such as handling and working with hazardous chemical, pollution incident response, environmental compliance etc.

The Pollution Incident Response Management Plans have been updated and staff trained on the provisions within the plans. Mock incidents have been undertaken to test the response procedures and amendments made as required. This has occurred at all Water and Wastewater Plants.

It is of note that a similar failure occurred on a Sodium Hypochlorite or Chlorine tank at Lithgow STP in April 2020. The procedures and learnings from the Wallerawang Incident ensured that there was no discharge to the environment, the material was appropriately contained, and the relevant authorities notified.

Compliance

Items of non-compliance with the Environment Protection Licences are provided in the Water Report and as required by the legislation are also provided on Councils website. These non-compliances are also available on the NSW EPA Public Register. The details have been extracted from the Public Register and are included as an attachment to this report.

In considering matters of compliance, it should be noted that Council's ability to full comply was challenged due to the licence limits being set lower than what the plants as designed and constructed could achieve. This was acknowledged by the NSW EPA and the conditions relating to the quality of discharges varied for Lithgow in 2017 and Wallerawang in 2019.

The outcomes from the August 2019 Wallerawang STP incident were documented in an Enforceable Undertaking (EU) that was negotiated by agreement between the EPA and Lithgow Council. The EU is available for viewing on the EPA's public register.

Policy Implications

Nil.

Financial Implications

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.

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 works related to the Incident and expenditure required by the EU has been and will continue to be funded from this reserve. No projects were deferred or cancelled to fund works undertaken. No proposed future works have been deferred or cancelled due to future expenditure to comply with the EU.

The Council approved 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 remaining funds were carried over from 2019/20.

- \$400K budget approved – Q3 budget variation 2019/20.
- Total budget available for Clean Up and actions required by the EU \$400K, total spent to date \$380K, funded from sewer reserve.
- Total budget available for Caustic Tank Replacement \$40K. Total for completed works \$43,127

Breakdown of expenditure to date;

Expenditure associated with Clean Up	
Salaries and Wages	\$ 23,352.00
Internal Plant	\$ 2,397.00
Materials	\$ 11,648.00
Hazmat Costs	\$ 13,900.00
Environmental Consultant	\$ 76,186.00
Survey	\$ 3,249.00
Earthworks	\$ 23,905.00
Contractors	\$ 4,176.00
Legal	\$ 17,823.00
Waste Dumping Charges	\$ 121,771.00
Fill	\$ 28,187.00
Expenditure associated with the EU	
EPA Cost	\$ 26,759.00
PIRMP	\$ 22,880.00
WHS Training	\$ 3,636.00
Caustic Tank Replacement	
	\$ 43,127.00
Total	\$ 422,996.00

All the above expenditure was approved by the Director Water and Wastewater from the approved Council budget.

- 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 was approved by Council as 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 actions, including enhanced operating procedures, more training and appropriate levels of resourcing.

Conclusion

The 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 in 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.

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 improve as a result of this experience.

Attachments

1. Non Compliance Details STPs [**10.3.1.1** - 9 pages]

Recommendation

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

10.4. Finance and Assets Reports

10.4.1. FIN - 25/01/2021 - Investment Report November 2020

Prepared by Sharon Morley – Finance Officer
Department Finance & Assets
Authorised by Chief Financial & Information Officer

Reference

Min No 20-293: Ordinary meeting of Council held on 23 November 2020.

Summary

To advise Council of investments held as at 30 November 2020 and to note the certification of the Responsible Accounting Officer that funds have been invested in accordance with legislation, regulations and Council policy.

Commentary

Council's total investment portfolio as at 30 November 2020, when compared to 31 October 2020, has increased by \$3,590,000 from \$26,120,000 to \$29,710,000. Cash in Council's bank account increased by \$741,015 from \$303,490 to \$1,044,505.

There is an overall increase in cash and investments of \$4,331,015 since 31 October 2020. The increase in investments is due to the ordinary operations of Council, including receipts for the second rates instalment, water account receipts and number of grant payments.

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

The movement in Investments for the month of November 2020 were as follows:

Opening Balance of cash and investments as 01 November 2020	\$26,423,490
Plus New Investments – November 2020	\$8,331,015
Less Investments redeemed – November 2020	-\$4,000,000
Closing Balance of cash and investments as at 30 November 2020	\$30,754,505

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, Stormwater, Domestic Waste, Parking) 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.

Policy Implications

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing funds. On 24 February 2020, Council adopted a revised Investment Policy which includes the Minister's Investment Order of 12 January 2011.

Financial Implications

- YTD interest income budget approved – \$125,000
- Cost centre - 3259
- YTD Income to date - \$114,885
- Future potential impact – Nil.

The Council's interest income for YTD is \$10K under budget due to a combination of reserve balances being lower than projected and the impact of record low interest rates on investment returns. The revised 2020/21 interest income budget of \$300k will be a further 47% reduction on actual interest income received in the 2019/20 year of \$565K.

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.

Legal and Risk Management Implications

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. On 24 February 2020, Council adopted a revised Investment Policy and not all investments comply with this Policy. There will be an orderly transition to the new policy limits. As monies invested in instruments and category limits compliant with the previous policy but inconsistent with the current policy mature, the funds will be re-invested in accordance with the new policy limits.

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

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.

Ross Gurney
Chief Financial and Information Officer (Responsible Accounting Officer)

Attachments

1. Attachment 1 (2) [10.4.1.1 - 1 page]

Recommendation

THAT

1. Investments of \$29,710,000 and cash of \$1,044,505 for the period ending 30 November 2020 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.

10.4.2. FIN - 25/01/2021 - Policy 9.15 - Privacy Management Plan

Prepared by Rhiannan Whiteley – Executive Assistant
Department Finance & Assets
Authorised by Chief Financial & Information Officer

Reference

Min No 20-256: Ordinary Meeting of Council held on 26 October 2020

Summary

The purpose of this report is to recommend that Council adopt updated Policy 9.15 - Privacy Management Plan following a 28 day public exhibition period. The updated policy better ensures the accuracy, completeness and pertinence of the policy to Council and the community.

Commentary

At the Ordinary Meeting of Council held on 26 October 2020, a report proposed amendments to Policy 9.15 - Privacy Management Plan.

The Privacy and Personal Information Protection Act 1998 (the Act) requires all Councils to prepare a Privacy Management Plan outlining their policies and practices to ensure compliance with the requirements of the 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 has been comprehensively revised to reduce its complexity. The revised plan was guided by the type of information that other Councils have included in recently updated plans.

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 policy was placed on public exhibition for a period of 28 days. The period for comment closed on 18 December 2020 with **no submissions** received.

Policy Implications

Recommendation to Council for adoption of Policy 9.15 - Privacy Management Plan.

Financial Implications

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

Legal and Risk Management Implications

NIL

Attachments

1. Policy 915 - Privacy Management Plan - V 3 - DRAFT - Sept 2020 [10.4.2.1 - 32 pages]

Recommendation

THAT Council adopt and immediately implement revised Policy 9.15 - Privacy Management Plan.

10.4.3. FIN - 25/01/2021 - Investment Report December 2020

Prepared by Sharon Morley – Finance Officer
Department Finance & Assets
Authorised by Chief Financial & Information Officer

Reference

Min No 20-293: Ordinary meeting of Council held on 23 November 2020.

Summary

To advise Council of investments held as at 31 December 2020 and to note the certification of the Responsible Accounting Officer that funds have been invested in accordance with legislation, regulations and Council policy.

Commentary

Council's total investment portfolio as at 31 December 2020, when compared to 30 November 2020, has decreased by \$930,000 from \$29,710,000 to \$28,780,000. Cash in Council's bank account decreased by \$382,299 from \$1,044,505 to \$662,206.

There is an overall decrease in cash and investments of \$1,312,299 since 30 November 2020. The decrease in investments is due to the ordinary operations of Council.

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

The movement in Investments for the month of December 2020 were as follows:

Opening Balance of cash and investments as 01 December 2020	\$30,754,505
Plus New Investments – December 2020	\$4,570,000
Less Investments redeemed – December 2020	-\$5,882,299
Closing Balance of cash and investments as at 31 December 2020	\$29,442,206

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, Stormwater, Domestic Waste, Parking) 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.

Policy Implications

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing funds. On 24 February 2020, Council adopted a revised Investment Policy which includes the Minister's Investment Order of 12 January 2011.

Financial Implications

- YTD interest income budget approved – \$150,000
- Cost centre - 3259
- YTD Income to date - \$131,882
- Future potential impact – Nil.

The Council's interest income for YTD is \$18K under budget due to a combination of reserve balances being lower than projected and the impact of record low interest rates on investment returns. The revised 2020/21 interest income budget of \$300K will be a further 47% reduction on

actual interest income received in the 2019/20 year of \$565K. A further reduction in the 2020/21 interest income budget will be considered at the Quarter Two budget review.

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.

Legal and Risk Management Implications

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. On 24 February 2020, Council adopted a revised Investment Policy and not all investments comply with this Policy. There will be an orderly transition to the new policy limits. As monies invested in instruments and category limits compliant with the previous policy but inconsistent with the current policy mature, the funds will be re-invested in accordance with the new policy limits.

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

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.

Ross Gurney
Chief Financial and Information Officer (Responsible Accounting Officer)

Attachments

1. Attachment 1 [**10.4.3.1** - 1 page]

Recommendation

THAT

1. Investments of \$28,780,000 and cash of \$662,206 for the period ending 31 December 2020 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.

10.5. People and Services Reports

10.5.1. PS - 25/01/2021 - World War Two Artillery Gun

Prepared by Matthew Johnson – Community and Culture Manager

Department Community and Culture

Authorised by Director of People & Services

Summary

A request has been received from the Lithgow RSL Sub-Branch for Council to acquire a surplus artillery gun from the Australian Defence Force (ADF). This report canvasses options for Council's consideration.

Commentary

Council has been asked by the Lithgow RSL Sub-Branch to acquire a surplus 5.5 inch artillery gun, currently located at the Holsworthy Army base and for it to be located at Queen Elisabeth Park, Lithgow.

The Executive of the RSL Sub-Branch consider that the gun's acquisition would be of great benefit to Lithgow, both from a military history and a tourism standpoint.

The gun is approximately 7.5 metres long, has a barrel length of 4 metres and weighs approximately 6,190 kilograms. The gun is of British manufacture and is of a different type to those at the South Bowenfels gun emplacement site and the existing gun adjacent to the Queen Elisabeth Park Cenotaph.

The Australian Army used this weapon from 1943 until 1984. The Lithgow RSL Sub – Branch states that this type of weapon (and possibly this weapon itself) was first used during World War 2 at the battle of El Alamein, in which Australian forces were a linchpin for the success of the operation. They suggest that servicemen from Lithgow were operating this type of weapon during the battle and afterward, up to the end of the war. However, there is no confirmed connection with Lithgow servicemen having used the gun.

The Lithgow RSL Sub – Branch further states that were Lithgow to acquire the weapon, Lithgow would be one of the very few sites outside of Military Museums and the Australian War Memorial to possess one, which could make it a popular site for those interested in both military history and other visitors to the Lithgow region.



Potential Sites

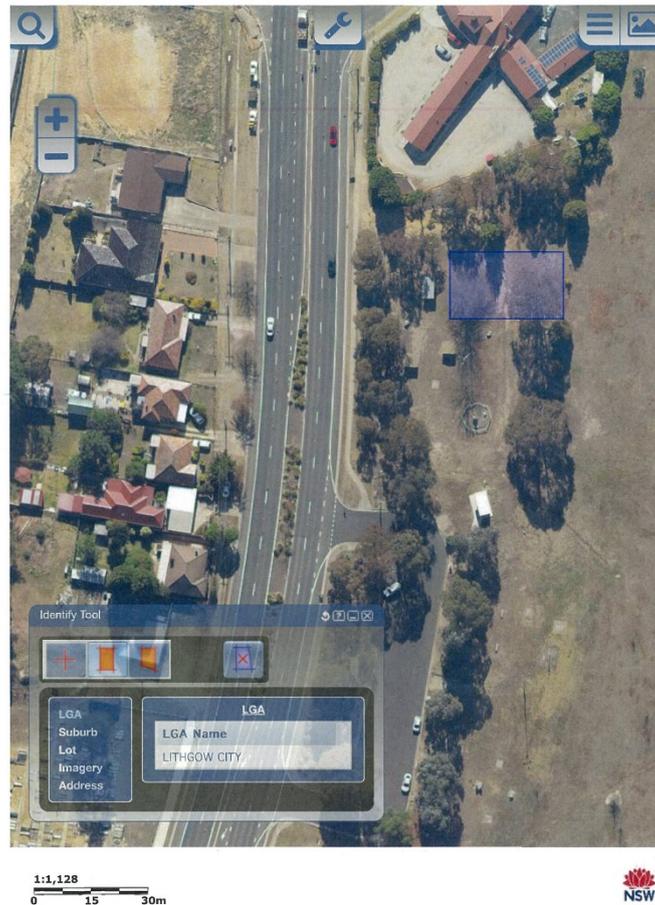
The RSL Sub-Branch preference is for the weapon be placed adjacent to the current artillery piece located in Queen Elizabeth Park as shown in the following image. Council's officers do not consider this to be an appropriate location. The existing items recognise Lithgow community's participation in wars. This gun is not apparently related to Lithgow. Also the existing items are all to scale of each other and so compatible. The subject gun would dominate over these because of its size.



Other sites have been investigated by Council staff, as detailed below.

Small Arms Factory Museum

The Small Arms Factory Museum has advised that they are not interested in locating the gun outside their museum.



Costs

ADF Disposals has been asked to advise Council on costs and any other matters associated with the acquisition. Verbal advice received by Council is that the cost of acquisition is nominal and in the order of \$300. Transport costs would apply and there would be costs associated with displaying the gun on a concrete slab, either soft fall overlay or fencing and the cost of interpretative signage.

ADF Disposals advises that the gun has been refurbished and deactivated in accordance with NSW Firearms requirements.

It is anticipated that that the total cost could be in the order of at least \$15,000. There is no provision within this year's budget for this. Council could consider this proposal compared to other priorities when it sets its budget for 21/22. If Council is of a mind to advance the proposal ahead of this then the funds would need to be taken from existing projects or commitments.

Conclusion

While the Lithgow RSL Sub-Branch supports acquisition of the artillery gun, it has no known historical connection with Lithgow and no community consultation has been undertaken on its possible acquisition and location. Additionally, funds have not been allocated to the proposal. It is recommended therefore that, should Council wish to acquire the gun, community consultation be undertaken first. Later, funding sources will need to be considered.

Policy Implications

Nil.

Financial Implications

- Budget approved – nil, Cost centre - N/A

- Expended to date - nil
- Future potential impact – transport, mounting, fencing and associated costs. It is anticipated that that the total cost could be in the order of at least \$15,000 There is no provision within this year's budget for this. Council could consider this proposal compared to other priorities when it sets its budget for 21/22. If Council is of a mind to advance the proposal ahead of this then the funds would need to be taken from existing projects or commitments.

Legal and Risk Management Implications

Nil

Attachments

1. ECM 1856249 v 1 advice on possible acquisition of W W 2 artillery gun [**10.5.1.1** - 1 page]

Recommendation

THAT

1. Council determine if it wishes to pursue acquisition of the World War Two artillery gun from ADF Disposals,
2. Should Council propose to acquire the gun, community consultation be undertaken on its acquisition and location with a report to be brought to a future meeting of Council on the consultation results, the detailed costings and potential sources of funding.

11. Council Committee Reports

11.1. PS - 25/01/2021 - Crime Prevention Committee Minutes 23 November 2020

Prepared by Matthew Johnson – Community & Culture Manager

Department Community & Culture

Authorised by Director of People & Services

Reference

Min 20-32 of the Ordinary Meeting of Council held 29 January 2020

Min 20-230 of the Ordinary Meeting of Council held 28 September 2020

Min 20-288 of the Ordinary Meeting of Council held 23 November 2020

Summary

The minutes of the Crime Prevention Committee meeting held on 23 November 2020 are presented for Council's consideration.

Commentary

At the Crime Prevention Committee meeting held 23 November 2020, various matters were discussed including a Police report on criminal incidents for the period September to October 2020, and Reactive and Proactive Initiatives by Police:

The Police were targeting AVO compliance during October/November and are implementing a Summer Safe program targeting licensed premises, waterways and public places.

The Police reported that the October long weekend was much quieter than usual due to the Covid-19 restrictions on camping at Mt Panorama.

Hospitality venues are now required to have Covid sign in apps for guests.

There will be an additional Police officer on duty Friday and Saturday nights during Summer Time. Police will be targeting graffiti tagging.

There have been recurring incidents of graffiti and rubbish dumping and unauthorised camping at Maiyingu Marragu.

Policy Implications

Nil.

Financial Implications

Nil.

Legal and Risk Management Implications

Nil.

Attachments

1. Crime Prevention Minutes 23 November 2020 [11.1.1 - 4 pages]

Recommendation

THAT Council note the minutes of the Crime Prevention Committee meeting held on 23 November 2020.

11.2. PS - 25/01/2021 - Womens Advisory Committee Meeting 1 December 2020

Prepared by Ali Kim – Community Development Officer

Department Community & Culture

Authorised by Director of People & Services

Summary

The minutes of the Women’s Advisory Committee meeting held on 1 December 2020 are presented for Council’s consideration.

Commentary

At the Women’s Advisory Committee meeting held on 1 December 2020 various items were discussed including planning for International Women’s Day 2021 and the Safe Haven project. A schedule of Women’s Advisory Committee 2021 meeting dates was also confirmed.

Policy Implications

Nil.

Financial Implications

- Budget approved - Nil
- Cost centre - Nil
- Expended to date - Nil
- Future potential impact -Nil

Legal and Risk Management Implications

Nil.

Attachments

1. Womens Advisory Committee Minutes 1 December 2020 [11.2.1 - 4 pages]

Recommendation

THAT Council notes the minutes of the Women’s Advisory Committee meeting held on 1 December 2020.

11.3. FIN - 25/01/2021 - CTA ARIC - Minutes 9 December 2020

Prepared by Ross Gurney – Chief Financial and Information Officer

Department Finance

Authorised by Chief Financial & Information Officer

Reference

Min No. 20-257 Ordinary Meeting of Council 26 October 2020

Summary

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

Commentary

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

- ICAC Report – Dealing with Corruption & Fraud: The role of the public sector Audit & Risk Committees.
- Audit Office Performance Audit – credit card management in Local Government.
- Audit Office Performance Audit – governance and internal controls over local infrastructure contributions.
- Audit Office Performance Audit – support for regional town water infrastructure.

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

- Compliance – CFIO summarised the improvements completed in the year to date, the current status of compliance actions and management of legal and WHS risks.
- Risk Management – CFIO summarised risk management plans for this year and the current status of activities.
- Fraud Control – the Committee noted the report on fraud strategies and controls including the improvements completed in 2020/21.
- Financial Management report – the Committee discussed the status of the 2019/20 financial statements, the 2020/21 Quarter One budget review and the recently adopted Long Term Financial Plan.
- Governance – the Committee noted the governance report.
- Implementation of strategies –the Committee discussed the 2021/22 budget development process and the 2019/20 Annual Report.
- Service reviews – the Committee noted the General Managers' report on service reviews.
- Internal audit – The Committee noted the report on progress towards implementing the 2020/21 internal audit plan.
- Internal & external audit – The Committee noted the report on progress towards completing the 2019/20 external audit.

Policy Implications

Nil.

Financial Implications

Nil.

Legal and Risk Management Implications

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

Attachments

1. Minutes - Joint CTA ARIC Committee - 9 December 2020 [11.3.1 - 8 pages]
2. Lithgow - CTA ARIC - MINUTES - 9 December 2020 [11.3.2 - 10 pages]

Recommendation

THAT Council:

1. Endorse the CTA Audit Risk & Improvement Joint Committee 9 December 2020 minutes.
2. Endorse the Lithgow Council Audit Risk & Improvement Committee 9 December 2020 minutes.

11.4. PS - 25/01/2021 - Youth Council Committee Meeting - 16 November 2020

Prepared by Ali Kim - Community Development Officer

Department Community and Culture

Authorised by Director of People & Services

Summary

The minutes of the Youth Council meeting held on 16 November 2020 are presented for Council's consideration.

Commentary

At the November Youth Council meeting, members discussed various issues including:

- The Uluru Statement from the Heart;
- Collaboration with Headspace Lithgow; and
- Planning for Youth Week 2021.

Policy Implications

Nil.

Financial Implications

- Budget approved - Nil
- Cost centre - NA
- Expended to date - Nil
- Future potential impact -Nil

Legal and Risk Management Implications

Nil.

Attachments

1. Minutes 16 11 2020 [**11.4.1** - 6 pages]

Recommendation

THAT Council note the minutes of the Youth Council meeting held on 16 November 2020.

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. Confidential Report - ECDEV - 25/01/2021 - Proposed acquisition of land for Cullen Bullen Sewerage Scheme

Prepared by Sandra Politi – Land Use & Property Officer
Department Economic Development & Environment
Authorised by Director of Economic Development & Environment

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: -

- (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,
- (e) information that would, if disclosed, prejudice the maintenance of law

Reference

Min. No. 12.6 - Confidential Meeting of Council held on 26 February 2019

Summary

This purpose of this report is to seek Council's approval to acquire land for the purpose of the Cullen Bullen Sewerage Treatment Plant project.

Council's approval to acquire land is required under section 377(1)(h) of the *Local Government Act 1993*.

13.2. Confidential Report - ECDEV - 25/01/2021 - Tender for the Construction of the Lithgow Resource Recovery Centre

Prepared by Nigel Campbell - Waste & Recycling Manager
Department Economic Development & Environment
Authorised by Director Economic Development & Environment

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: -

- (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

The purpose of this report is to summarise the tender process for the construction of the Lithgow Resource Recovery Centre and recommend that Council enter a contract with the recommended tenderer.

13.3. Confidential Report - IS - Tender Evaluation - 25/01/2021 - Back Cullen Road Portland

Prepared by	Lewis Bezzina- Transport Manager
Department	Infrastructure Services
Authorised by	Director of Infrastructure & 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: -

- (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 summarises the tender process for the upgrade and sealing of the unsealed section of Back Cullen Road and recommends that Council enter a contract in accordance with the Tender for "Back Cullen Road Upgrade".

13.4. Confidential Report - IS - 25/01/2021 - Tender Evaluation - Glen Alice Road, Glen Alice

Prepared by	Lewis Bezzina - Transport Manager
Department	Infrastructure Services
Authorised by	Director of Infrastructure & 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: -

- (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 summarises the tender process for the upgrade of sections of Glen Alice Road and recommends that Council enter a contract in accordance with the Tender for “Glen Alice Road Upgrade”.

13.5. Confidential Report - GM - 25/01/2021 - Final Investigation Report - Code of Conduct Matter

Prepared by Michael McGrath – Director of People and Services
Department People and Services
Authorised by General Manager

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: -

- (i) alleged contraventions of any code of conduct requirements applicable under section 440

Summary

This report provides details about the Final Investigation Report arising from a Code of Conduct matter.

Recommendation

THAT Council Resolve to move into Closed Council to consider the confidential reports as listed in the Business Paper.