



## BUSINESS PAPER

Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 27 September 2021

at 7:00 PM

# ORDER OF BUSINESS

<b>1. Acknowledgement of Country</b> .....	<b>4</b>
<b>2. Present</b> .....	<b>4</b>
<b>3. Apologies</b> .....	<b>4</b>
<b>4. Declaration of Interest</b> .....	<b>4</b>
<b>5. Confirmation of Minutes</b> .....	<b>4</b>
<b>6. Commemorations and Announcements</b> .....	<b>4</b>
<b>7. Public Forum</b> .....	<b>4</b>
<b>8. Mayoral Minutes</b> .....	<b>5</b>
<b>8.1. Mayoral Minute - 27/08/2021 - Congratulations Lachlan Sharp Olympic Games Achievement</b> .....	<b>5</b>
<b>9. Notices of Motion</b> .....	<b>6</b>
<b>9.1. Notice of Motion - 27/09/2021 - Councillor Lesslie - Waste to Energy</b> .....	<b>6</b>
<b>10. Staff Reports</b> .....	<b>7</b>
<b>10.1. General Manager's Reports</b> .....	<b>7</b>
10.1.1. GM - 27/09/21 - Nominations for and Election for the Position of Deputy Mayor for period September through 4 December 2021 .....	7
10.1.2. GM - 27/09/2021 - Delegations to Deputy Mayor .....	11
<b>10.2. Economic Development and Environment Reports</b> .....	<b>13</b>
10.2.1. Economic Development & Environment General Reports .....	13
<b>10.2.1.2. ECDEV - 27/09/2021 - Proposed Licence Agreement with Wallerawang Indoor Sports Association Incorporated</b> .....	13
<b>10.2.1.3. ECDEV - 27/09/2021 - Bell Quarry Appeal</b> .....	16
<b>10.2.1.4. ECDEV - 27/09/2021 - Lake Wallace</b> .....	18
<b>10.3. Infrastructure Services Reports</b> .....	<b>20</b>
10.3.1. IS - 27/09/2021 - Variation to 2021/2022 Budget - Cemeteries .....	20
10.3.2. IS - 27/09/2021 - Renaming of Upper Turon Road .....	22
10.3.3. IS - 27/09/2021 - Success of COVID-19 Vaccination Clinic .....	25
10.3.4. IS - 27/09/2021 - Fixing Country Bridges Program - Project Update .....	27
<b>10.4. Water and Wastewater Reports</b> .....	<b>30</b>
10.4.1. WWW - 27/09/2021 - Undertaking of the Public Private Partnership assessment .....	30
<b>10.5. People and Services Reports</b> .....	<b>32</b>
10.5.1. PS - 27/09/2021 - Farmers Creek Bridge Flood Impact Assessment.....	32
10.5.2. PS - 27/09/2021 - 2021-2023 Community Engagement Strategy .....	36
10.5.3. PS - 27/09/2021 - Lithgow Pump Track.....	39
10.5.4. PS - 27/09/2021 - Consultation with Local Indigenous Representatives .....	41
10.5.5. PS - 27/09/2021 - COVID Updates on Council Website.....	43

<b>10.6. Finance and Assets Reports .....</b>	<b>44</b>
10.6.1. FIN - 27/09/2021 - Payment of Tax Equivalentents - Sewer Fund .....	44
10.6.2. FIN - 27/09/21 - New Risk Management & Internal Audit Framework.....	46
<b>10.7. Policies and Governance .....</b>	<b>49</b>
10.7.1. FIN - 27/09/21 - Update of Policy 9.9 Internal Reporting Policy .....	49
10.7.2. IS - 27/09/2021 - Review of Policy 1.5 Acquisition & Disposal of Assets .....	51
<b>11. Council Committee Reports .....</b>	<b>52</b>
<b>11.1. IS - 27/09/2021 - Minutes of the Operations Committee Meeting 1st September 2021</b> .....	<b>52</b>
<b>11.2. IS - 27/09/2021 - Minutes of the TALC Committee Meeting - 9th September 2021.....</b>	<b>53</b>
<b>11.3. FIN - 27/09/2021 - Minutes of the Finance Committee Meeting - 13 September 2021.....</b>	<b>55</b>
<b>11.4. PS - 27/09/2021 - Minutes of the Youth Council - 17 August 2021 .....</b>	<b>57</b>
<b>11.5. EDE - Minutes of the Economic Development Committee - 7 September 2021.....</b>	<b>58</b>
<b>12. Business of Great Urgency.....</b>	<b>59</b>
<b>13. Closed Council.....</b>	<b>60</b>

## 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

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## 3. Apologies

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## 4. Declaration of Interest

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## 5. Confirmation of Minutes

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## 6. Commemorations and Announcements

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Allowing the Mayor and/or Councillors the opportunity to formally publicly recognise the valuable contribution made by local ratepayers and residents involved in our many community organisations including those who sadly or suddenly pass away.

## 7. Public Forum

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Due to the current Covid-19 pandemic, Council is abundantly cautious about protecting the community's health. As such, public attendance at this Council meeting is NOT permitted.

Any written submissions will be supplied to the Councillors and read to the public. Mayor.

## **8. Mayoral Minutes**

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### **8.1. Mayoral Minute - 27/08/2021 - Congratulations Lachlan Sharp Olympic Games Achievement**

**Report by** Mayor – Councillor Ray Thompson

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#### **Commentary**

Lithgow coal miner turned Australian hockey player Lachlan Sharp helped secure the Australian men's team a silver medal at the Tokyo Olympics. I know that I speak for all in the community when I express great pride in Lachlan's achievements.

I propose that Lachlan be formally recognised and thanked on behalf of all residents for his great efforts in hockey and especially the Australian Men's Hockey Team – The Kookaburras, and for being in the team that won the silver medal for Australia at the Tokyo Olympics.

I have also asked that arrangements be made for a civic ceremony at a time that suits Lachlan. Of course, we are uncertain yet whether health orders will restrict public participation. But meanwhile, I encourage the community to send their acknowledgements and congratulations to Lachie on this great achievement via our Council email address and they will be forwarded onto him.

#### **Attachments**

Nil

#### **Recommendation**

THAT Council acknowledge the achievements of Lachlan Sharp in his hockey career, congratulate him on the silver medal he received at the Tokyo Olympic Games 2021 and note the intention for a civic ceremony to be held.

## 9. Notices of Motion

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### 9.1. Notice of Motion - 27/09/2021 - Councillor Lesslie - Waste to Energy

<b>Report by</b>	Councillor Stephen Lesslie
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#### **Attachments**

Nil

#### **Recommendation**

THAT Lithgow Council reaffirms its long standing opposition to the importation of Sydney's waste material into the Lithgow Council Local Government Area and calls on the State Member Paul Toole to oppose this flawed waste to energy scheme.

#### **Management Comment**

A separate report in relation to the recently announced Energy from Waste Infrastructure Plan is included in this Business Paper. This report will provide the opportunity for Council to consider its position on the Energy from Waste Infrastructure Plan.

## 10. Staff Reports

### 10.1. General Manager's Reports

#### 10.1.1. GM - 27/09/21 - Nominations for and Election for the Position of Deputy Mayor for period September through 4 December 2021

<b>Prepared by</b>	Trinity Newton – Executive Assistant
<b>Department</b>	Office of the General Manager & Mayor
<b>Authorised by</b>	General Manager

#### Summary

S231 of the NSW Local Government Act 1993 states that “Councillors **may** elect a person from among their number to be the Deputy Mayor”. This report sets out the procedure for the election of the Deputy Mayor, if so decided.

Due to the COVID -19 pandemic-caused postponement of the local government elections to 4 December 2021, there is the need to consider the appointment of a deputy mayor as the current term is due to expire. The period for this Deputy Mayor will be 28 September 2021 to 4 December 2021. Office of Local Government Circular 21-24 stated:

*Deputy Mayors hold their office for the term specified by the Council's resolution. If a Deputy Mayor's term expires before election day on 4 December 2021, an election may need to be held for deputy mayor. It should be noted however, that councils are not required to have a deputy mayor.*

This report has been prepared on the basis that the Council favours the appointment of a Deputy Mayor. If Council is not of that opinion given the unusual circumstances with the deferred election and the short remaining period, the Council can determine not to proceed in this way.

This report also describes the methods of election available. Council will need to determine which of these it wishes to use. The Local Government Remuneration Tribunal's fees for General Purpose and County Councils does not include an additional fee for a Deputy Mayor.

#### Commentary

#### Role of Deputy Mayor

Council may elect a Councillor to be the Deputy Mayor.

The Deputy Mayor's role is to exercise any function and delegation of the Mayor:-

- i) At the request of the Mayor; or
- ii) If the Mayor is prevented by illness, absence or otherwise from exercising the function; or
- iii) If there is a casual vacancy in the Office of Mayor.

#### Election Procedure

The procedure for the election of Deputy Mayor is:

*The election is to be conducted by the General Manager or in his or her absence, a Council employee designated by the General Manager, or if all of these people are absent, by the person who called the meeting.*

#### Nominations

Nominations are now invited for the Office of Deputy Mayor for the period 28 September to 4 December 2021. The election of Deputy Mayor of Lithgow City Council must be held in accordance

with Schedule 7 of the Local Government (General) Regulation, 2005 and Council's Code of Meeting Practice.

Schedule 7 of the Local Government (General) Regulation, 2005, outlines the following procedures for the election of Deputy Mayor.

### **Returning Officer**

The General Manager (or a person nominated by the General Manager) is the Returning Officer.

### **Nomination**

A councillor may be nominated without notice for election as Deputy Mayor. The nomination is to be made in writing by two (2) or more councillors (one of whom may be the nominee).

The nomination is not valid unless the nominee has indicated consent to the nomination in writing.

The nomination is to be delivered or sent to the Returning Officer, who shall announce the names of the nominees at the Council meeting at which the election is to be held.

### **Election**

If only one councillor is nominated for the position of Deputy Mayor, that councillor is elected. If more than one councillor is nominated Council must determine if voting is to be by preferential ballot, by ordinary ballot (both secret ballots) or by Open Voting (voting by a show of hands or similar means). The elections of Mayor and Deputy Mayor are the only times Council can choose to vote by way of secret ballot. In **all** other matters open voting must be used. The election is to be held at the Council meeting at which the Council resolves on the method of voting.

### **Ordinary Ballot**

1. If the election proceeds by ordinary ballot, the Returning Officer is to decide the manner in which votes are to be marked on the ballot papers.
- 2a. If there are only 2 candidates, the candidate with the higher number of votes is elected.
- 2b. If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.
- 3a. If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
- 3b. If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- 3c. If, after that, 3 or more candidates still remain, the procedure set out in subclause 3(b) is to be repeated until only 2 candidates remain.
- 3d. A further vote is to be taken of the 2 remaining candidates.
- 3e. Clause 2 of the above then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- 3f. If at any stage during a count under subclause 3(a) or 3(b), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

### **Open Voting**

Follows the same procedures as for ordinary ballot excepting it is by a show of hands or similar means.

### **Preferential Ballot**

1. This part applies if the election proceeds by preferential ballot.
2. The ballot papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers "1", "2" and so on against the various names so as to indicate the order of their preference for all the candidates.

### **Count for Preferential Ballot**

1. If a candidate has an absolute majority of first preference votes, that candidate is elected.
2. If not, the candidate with the lowest number of first preference votes is excluded and the votes on the un-exhausted ballot papers counted to him or her are transferred to the candidates with second preferences on those ballot papers.

3. A candidate who then has an absolute majority of votes is elected, but, if no candidates then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her un-exhausted ballot papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.
4. In the clause "absolute majority" in relation to votes means a number which is more than one-half of the number of formal un-exhausted ballot papers.

### **Preferential Voting - Tied Candidates**

1. If, on any count of votes, there are 2 candidates in, or remaining in, the election and the numbers of votes cast for the 2 candidates are equal the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
2. If, on any count of votes, there are 3 or more candidates in, or remaining in, the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

### **Lithgow City Council has traditionally held the vote by the 'Open Voting' method.**

#### **General**

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the Returning Officer, the slips are folded by the Returning Officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the Returning Officer and the candidate whose name is on the drawn slip is **chosen**.

#### Notes:

- (i) Nomination forms for the position of Deputy Mayor are enclosed with this meeting agenda. These may be completed and returned to the Returning Officer at any time before the Council Meeting scheduled for Monday 24<sup>th</sup> September 2018 **OR** at this Meeting up to the time that the Returning Officer announces that nominations are closed;
- (ii) Elections at Lithgow City have been conducted under the Open Voting system in recent years;
- (iii) "Open Voting" means voting by a show of hands or similar means;
- (iv) "Ballot" has its normal meaning of secret ballot; and
- (v) "Ordinary Ballot" means indicating the name, or if applicable the placing of the number 1 only against the name, of your preferred candidate.

Nominations forms for the position of Deputy Mayor are coloured **GREEN** and are enclosed with the business paper and will also be available at the Ordinary Meeting of Council.

As stated, the set fees for Councillors and Mayors does not include an additional fee for a Deputy Mayor. Additional fees, if any, for holding the position of Deputy Mayor are to be **deducted** from payments to the Mayor. **No fees** are presently paid by Lithgow City Council for the holder of the position of Deputy Mayor.

The returning officer will call for the final lodgement of nominations at the meeting. After the final call for nominations the Returning Officer will announce the names of the nominee(s). If necessary, an election will then be conducted as per the decision made on the previous report.

Section 231 of the Local Government Act 1993 provides that the councillors may elect a person from among their number to be the Deputy Mayor. The term may be for the Mayoral term or a shorter term.

#### **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**

As outlined in the report.

### **Attachments**

1. Deputy Mayor Election Form 2021 [10.1.1.1 - 1 page]

### **Recommendation**

THAT Council:

1. Note the report on the appointment of and procedure for the election of Deputy Mayor.
2. Determine whether to hold an election for the position of Deputy Mayor.
3. Determine the method of voting for any election of a Deputy Mayor.
4. Determine the fee that is to be paid to the Deputy Mayor, if any.

**10.1.2. GM - 27/09/2021 - Delegations to Deputy Mayor**

<b>Prepared by</b>	Trinity Newton – Executive Assistant
<b>Department</b>	Office of the General Manager & Mayor
<b>Authorised by</b>	General Manager

**Summary**

Subject to Council’s decision to elect a Deputy Mayor which is the subject of a related report, this report is provided for Council to consider granting delegations of authority to the Deputy Mayor to assist the functioning of Council.

**Commentary**

Section 226 of the Local Government Act 1993 (the Act) outlines the role of the Mayor.

Section 231(3) of the Act provides:

*The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.*

It is proposed to allocate additional delegations to the **Deputy Mayor** as follows:

**1. Function of the Deputy Mayor**

The Deputy Mayor may exercise any function of the Mayor at the request of the Mayor or if the Mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of Mayor.

The Deputy Mayor may exercise the delegation of authority of the Mayor in those cases where the General Manager certifies that the matter is of such an urgent nature that it will not wait until the return of the Mayor.

**2. General Manager’s Performance Review**

In the absence of and with authorisation from the Mayor, chair a meeting of all Councillors convened to conduct the performance reviews of the General Manager. The outcome of such reviews are to be reported to Council.

These additional functions are practical delegations which assist the smooth functioning of the Council. Such delegations shall remain in force unless otherwise revoked or amended in whole or in part, as Council may from time to time determine.

**Policy Implications**

As outlined in the report.

**Financial Implications**

Nil.

**Legal and Risk Management Implications**

Council is limited in the functions that can be delegated. This is provided for in Section 377 of the New South Wales Local Government Act 1993.

**Attachments**

Nil

**Recommendation**

THAT:

1. To supplement the functions outlined in Section 231(3) of the New South Wales Local Government Act 1993, Council delegate the following to the Deputy Mayor of Lithgow City Council:

**a. Function of the Mayor**

The Deputy Mayor may exercise any function of the Mayor at the request of the Mayor or if the Mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of Mayor.

That the Deputy Mayor shall exercise the delegation of authority of the Mayor in those cases where the General Manager certifies that the matter is of such an urgent nature that it will not wait until the return of the Mayor.

**b. General Manager's Performance Review**

In the absence of and with authorisation from the Mayor, chair a meeting of all Councillors convened to conduct the performance reviews of the General Manager. The outcome of such reviews are to be reported to Council.

2. It be noted that these delegations remain in force unless otherwise revoked or amended in whole or in part, as Council may from time to time determine.

## 10.2. Economic Development and Environment Reports

### 10.2.1. Economic Development & Environment General Reports

#### 10.2.1.1. ECDEV - 27/09/2021 - Proposed Licence Agreement with Wallerawang Indoor Sports Association Incorporated

<b>Prepared by</b>	Sandra Politi - Land Use & Property Officer
<b>Department</b>	Economic Development & Environment
<b>Authorised by</b>	Director of Economic Development & Environment

#### Reference

Min 37-2018 – Meeting of council 3 December 2001  
 Min 12-577 – Meeting of Council 5 May 2003  
 Min 16-293 – Meeting of Council 31 October 2016  
 Min 21-87 – Meeting of Council 26 April 2021

#### Summary

The purpose of this report is to request Council's preliminary approval to enter a Licence Agreement with Wallerawang Indoor Sports Association Incorporated (**WISA**) for management and operation of the Wallerawang Indoor Sports Centre (**the Centre**).

#### Commentary

##### *Background*

This matter was reported to Council on 26 April 2021. On that day Council received a letter from Lithgow District Netball Association (**Lithgow Netball**) expressing concerns about maintenance and management of the Centre. To give Council an opportunity to consider the matters raised by Lithgow Netball, Council resolved as follows at the 26 April meeting:

1. The matter be deferred for an investigation of the representations of the Lithgow District Netball Association to occur.
2. A meeting be convened with the management of Wallerawang Indoor Sports Association, Lithgow District Netball Association including the General Manager, Mayor and Deputy Mayor.

After discussion with the Mayor the resolutions of 26 April 2021 were addressed as follows:

1. While maintaining an objective and factual approach, the concerns raised by Lithgow Netball were considered and, where necessary investigated.
2. On 28 July 2021, Council staff met with two representatives of Lithgow Netball, and on 8 September 2021, the Mayor, Deputy Mayor, Councillor Smith, General Manager and council staff met with four committee members of WISA.

The respective meetings gave all attendees an opportunity to have a respectful and candid conversation about concerns and challenges regarding use of the Centre and how these might be addressed. In summary, however, it would seem that any issues or different perspectives between the users and WISA are able to be adequately managed through an effective and well governed management committee.

*Proposed licence agreement*

To avoid repetition, the report to Council of 26 April 2021 is not repeated in full here.

This report seeks Council's preliminary approval to enter a Licence Agreement with WISA.

The proposed Licence Agreement complements the Joint Use and Management Agreement entered between Council and the Minister for Education in 2016. That agreement provides for WISA Management Committee to manage the Centre when it is not being used by Wallerawang Public School.

The intention is for the proposed Licence Agreement to operate concurrently with the Joint Use and Management Agreement. As that agreement has the potential to operate until 2043, so too does the proposed Licence Agreement. Importantly however, clause 23.2 of the proposed Licence Agreement provides a mechanism for Council to terminate the Licence Agreement if WISA is in breach and the breach is not remedied in a timely manner after receiving notice from Council.

Attached to this report is an image identifying the various arrangements in place between Council and the Minister for Education regarding the Centre.

The key terms of the proposed licence agreement are as follows:

1. Term – The initial term will commence on the date the agreement is signed by both parties, and expire on 31 October 2023. The agreement allows one option term of 20 years, commencing on 1 November 2023 and ending on 31 October 2043. (The initial term and the option term align with the term provided in the Contract.)
2. Licence fee – the licence fee is \$1 per annum, consistent with Council's resolution of 5 May 2003 and in recognition of WISA managing and operating the Centre for the benefit of the community.
3. Purpose – WISA must make the Centre available in accordance with the Licence Agreement for the social, educational, cultural, recreational and sporting activities to the School, members of the public and to bodies or associations wishing to conduct such activities.
4. Financials – clause 6 requires WISA to provide Council with its financial statements and other information by 30 September each year. (The reason for this is to verify that WISA is operating as a non-profit entity, consistent with the requirements for leasing or licensing community land.)
5. Use of the Centre by the School – clause 7 of the agreement allows the School to have exclusive use of the Centre from 8am to 4pm on school days, and priority outside of these times if there is no other prior booking.
6. Netball – clause 8 of the agreement recognises the contribution made by the Netball Association and requires WISA to ensure that the Association has exclusive use of the outdoor courts and priority use of the Centre for the netball competition between March and September each year.
7. Fund – the fees and bonds paid to WISA for use of the Centre will form a Fund managed by WISA. WISA may use the Fund to pay for the running expenses of the Centre, including for the purchase of equipment, furniture and fittings for the purpose of the Centre. Any surplus funds may be used to carry out improvements and repairs to the Centre, and for other purposes if approved by the Minister and Council.
8. Ownership of equipment/fittings etc – all items of equipment purchased for the Centre, whether before or after the date of the agreement, are the property of Council.

9. Cleaning, maintenance and repair - WISA is responsible for cleaning, caretaking and general security of the Centre when the Centre is available for hire, as well as the floor maintenance program. Council is responsible for essential services, structural repairs and fair wear and tear.
10. Insurance - Council must maintain public liability insurance, workers compensation insurance, building insurance and property insurance for equipment and contents. WISA must maintain public liability insurance, workers compensation insurance and any other insurance it is required to hold.

At the time Council and WISA enter the Licence Agreement, a Deed of Mutual Termination and Release will also be signed as a precautionary measure to tidy up any loose ends that may be carried over from the past lease and agreement for lease.

### **Policy Implications**

Leasing and Licensing Policy 10.20

Compliance Policy 9.16

### **Financial Implications**

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

*The financial implications listed above relate to the entering of the Licence Agreement only, and do not account for any cost or expense relating to maintenance of the facility.*

### **Legal and Risk Management Implications**

Local Government Act 1993

Common Law of Contracts

### **Attachments**

1. Image identifying various arrangements WISC [**10.2.1.2.1** - 1 page]
2. 21.04.26 - draft licence agreement between LCC and WISA [**10.2.1.2.2** - 86 pages]
3. 21.03.23 - draft deed of mutual term and rel LCC and WISA [**10.2.1.2.3** - 4 pages]

### **Recommendation**

THAT

1. Council grant preliminary approval to the proposed Licence Agreement to Wallerawang Indoor Sports Association Incorporated.
2. Council give public notice of the proposed Licence Agreement and place the licence on public exhibition for at least 28 days.
3. Following the public exhibition period, Council apply to the Minister for Local Government for approval of the proposed Licence Agreement and provide to the Minister a copy of any submissions received during the public exhibition period.
4. Council authorise the General Manager to execute the proposed Licence Agreement, as soon as possible following approval by the Minister for Local Government, and at the same time execute the Deed of Mutual Termination and Release.
5. WISA be requested to make an annual presentation to the Council outlining detail such as patronage/utilisation statistics, key achievements and challenges.
6. The matter be returned to Council before entering into a subsequent renewed Licence Agreement, if WISA elect to exercise the option for a further 20 year term.

**10.2.1.2. ECDEV - 27/09/2021 - Bell Quarry Appeal**

<b>Prepared by</b>	Andrew Muir – Director of Economic Development & Environment
<b>Department</b>	Economic Development & Environment
<b>Authorised by</b>	Director of Economic Development & Environment

**Reference**

Min No. 17-28 - Ordinary Meeting of Council held on 6 February 2017.  
 Min No. 17-345 – Ordinary Meeting of Council held on 27 November 2017.  
 Min No. 19-09 - Ordinary Meeting of Council held on 25 February 2019.  
 Min No. 21 -161 - Ordinary Meeting of Council held on 26 July 2021.

**Summary**

To provide Council with an update on the appeal to the Land and Environment Court on the refusal of the Bell Quarry project.

This is a matter of some gravity because it involves the importation of a range of fill materials to a site in this city under the premise that the works constitute rehabilitation, when it in fact appears to Council’s officers to be the case that the land has already been adequately rehabilitated. As such, Council has taken all steps possible at this stage to source legal and technical experts to vigorously defend this matter.

**Commentary**

The online conciliation conference in the Land and Environment Court appeal for the Bell Quarry Waste Management Facility was held on Wednesday, 15 September 2021. Commissioner Bish of the Court heard verbal submissions from a handful of objectors and discussion amongst experts. However, with no prospect of any resolution through the conciliation process, the conference was terminated. The matter will now proceed to a directions hearing to determine the timetable leading to a hearing.

**Policy Implications**

Whilst not enshrined as a formal Council Policy, it has been a long-standing position of Lithgow City Council to oppose the importation of Sydney waste to the Lithgow Local Government Area.

**Financial Implications**

- Budget approved - allocations exist within the operational budget for legal matters.
- Cost centre - development legal (PJ 800104 - \$75,000 total budget).
- Expended to date - \$13,337.
- Future potential impact – indeterminate at this stage. Given the critical nature of this matter and the need to engage appropriate experts, it is likely that legal budget allocations may be exhausted through the process. Expenditure will need to be closely monitored.

**Legal and Risk Management Implications**

Assessment of the Development Application will be by Council under the Environmental Planning & Assessment Act 1979. The determining authority will be the Western Regional Planning Panel as per the State Environmental Planning Policy (State and Regional Development) 2011. The appeals process occurs through the provisions of the Environmental Planning & Assessment Act and Land and Environment Court Act.

**Attachments**

Nil

**Recommendation**

THAT Council note the update on the current position of the appeal to the Land and Environment Court of the refusal of the development application for the Bell Quarry Waste Management Facility.

**10.2.1.3. ECDEV - 27/09/2021 - Lake Wallace**

<b>Prepared by</b>	Andrew Muir – Director of Economic Development & Environment
<b>Department</b>	Economic Development & Environment
<b>Authorised by</b>	Director of Economic Development & Environment

**Reference**

Min 20-268 – Ordinary Meeting of Council 23 November 2020.

**Summary**

To provide Council with an update on the progress of discussions with Greenspot on securing the future of Lake Wallace as a site for tourism opportunities.

**Commentary**

Council officers and Greenspot representatives have held several discussions in relation to the future of Lake Wallace following Council’s resolution of 23 November 2020 in relation to the prioritisation of Lake Wallace as a tourism site and the finalisation of the lease and Plan of Management for the site.

Greenspot have been provided with the Draft Plan of Management for the site and have also met with the consultant who prepared the document. Having considered a variety of different outcomes for the area, including those set out in the Draft Plan of Management, the company has formed a view that even greater potential (and uses) could be unlocked for the ultimate long-term benefit of the community and the region. This could be achieved in a manner which is entirely consistent with the vision for Lake Wallace to be a priority tourism destination.

The company has proposed that the most effective way forward would be for a memorandum of understanding (MOU) to be entered into between Greenspot and Council pursuant to which:

- There would be a framework under which Greenspot and Council would move forward together.
- Greenspot would prepare a proposed masterplan of the area at its cost indicating proposed uses of the area which would enhance public and community benefits and which could include tourism, short-term and long-term accommodation, camping, recreational, commercial and residential uses and community facilities.
- Council and Greenspot would consult in good faith to see if agreement can be reached on the masterplan, including by determining:
  - o those areas which would ultimately be public areas and the responsibility of Council; and
  - o those areas which would be private areas and the responsibility of Greenspot.
- The title structure for the proposed public areas could be considered, e.g.:
  - o Council ownership.
  - o Lease to Council; or
  - o Public access easement
- Once agreed, Greenspot would pursue a rezoning based on the masterplan; and
- Upon the rezoning being achieved, Council would surrender the lease and Greenspot would develop in accordance with the masterplan

It is anticipated that the MOU could be negotiated and entered into within a relatively short timeframe to enable Greenspot to commence the preparation of the proposed masterplan. The draft MOU should be able to be presented to the October 2021 Council meeting for Council consideration.

### **Policy Implications**

No specific policy implications are identified at this point. This may change if, for example, it is proposed that Council acquire land. However, Council resolution 20-268 in relation to the prioritisation of Lake Wallace as a tourism site and the finalisation of the lease and Plan of management for the site sets out the Council's endorsed position.

### **Financial Implications**

- Budget approved - Nil
- Cost centre - N/A
- Expended to date - Nil
- Future potential impact - to be determined.

### **Legal and Risk Management Implications**

This will need to be determined through the actions that arise out of the MOU process.

### **Attachments**

1. 5 Focus Areas Lake Wallace [**10.2.1.4.1** - 1 page]

### **Recommendation**

THAT Council note the progress on discussions with Greenspot on the future of Lake Wallace and the proposal to enter into a Memorandum of Understanding with the company.

## 10.3. Infrastructure Services Reports

### 10.3.1. IS - 27/09/2021 - Variation to 2021/2022 Budget - Cemeteries

<b>Prepared by</b>	Kaitlin Cibulka – Executive Assistant Infrastructure Services
<b>Department</b>	Infrastructure Services
<b>Authorised by</b>	Director of Infrastructure & Services

#### Reference

Min: 21-143 Ordinary Meeting of Council held on 28<sup>th</sup> June 2021

Delivery Program 2017–2022 and Operational Plan 2021/2022:

- Cemeteries Program Income & Expenditure 2021-2022 (Hartley Cemetery – Construction of new fencing and entryway)

#### Summary

This report provides details of a request to defer the Hartley Cemetery Fencing project scheduled for this financial year. The project funding would then be utilised for other infrastructure projects in Cemeteries across the LGA.

#### Commentary

Council recently approved the 2021/2022 Operational Plan and financial year budget to include the upgrade of the fence and entryway at the Hartley Cemetery (Great Western Highway, Hartley) at a cost of \$24,000.

With the recent announcement of the Great Western Highway upgrade within the Hartley area, management recommends that this project should be placed on hold. With the highway upgrade, the new parts of the road reserve may be used, and should a new fence be constructed, it may need to be relocated during this process. If a relocation occurs, there may be opportunities to work with Transport for NSW at that time to see the costs of the new fencing met.

The administration understands that the current condition of the fence is not ideal and requires some work to secure the site. Council will conduct repairs to the existing fence to secure the site and will work with relevant stakeholders to inform them of the basis for this decision.

With this current budget of \$24,000, the funds could be utilised to for shovel ready projects within multiple cemeteries to better enhance facilities. The projects to be considered are:

- New Columbarium at Portland Cemetery,
- New Lawn Beam at Cullen Bullen Cemetery,
- Extension of Lawn Beam / New Garden at Lithgow Cemetery, and
- Further refurbishment of footpaths within Lithgow Cemetery.

The above projects would better facilitate the cemeteries for future placement of loved ones and pre-purchase of preferred allotments. The upgrade / refurbishment of the footpaths would also enhance the safety of visitors to Lithgow Cemetery and the amenity of the facility.

#### Policy Implications

Nil

#### Financial Implications

- Budget approved - \$24,000
- Cost centre - 100657

- Expended to date - Nil
- Future potential impact – proposed deferral of the Hartley Cemetery fencing project.

**Legal and Risk Management Implications**

Nil

**Attachments**

Nil

**Recommendation**

THAT:

1. Council endorse the transfer of the budget allocation for the Hartley Cemetery Fencing /Entryway and defer the project until such time that it will not be affected by the Great Western Highway upgrade and;
2. Council carry out and engage contractors to complete the shovel ready projects listed by 30 June 2022.

**10.3.2. IS - 27/09/2021 - Renaming of Upper Turon Road**

<b>Prepared by</b>	Samantha Brown – Executive Assistant
<b>Department</b>	Infrastructure & Services
<b>Authorised by</b>	Director of Infrastructure & Services

**Reference**

Min No. 20-192 Ordinary Meeting of Council 24 August 2020.  
 Min No. 21-167 Ordinary Meeting of Council 26 July 2021.

**Summary**

To provide Council with an update on a road naming proposal for Upper Turon Road.

**Commentary**

At its Ordinary Meeting of 24 August 2020, Council resolved:

**20 -192 RESOLVED**

THAT:

1. Lithgow City Council rename the road shown in pink (on the map provided) and currently named Upper Turon Road (in the Lithgow LGA) to Capertee Road (to be determined following residents and public consultation and submissions); and
2. Lithgow City Council liaise with adjacent Council's (mid-Western Regional and Bathurst Regional) to determine the name of the dark green road (on the map provided) if required, arrange for it to be renamed Palmers Oakey Road, which will continue the Palmers Oakey Road from Mt Horrible Road to Upper Turon Road (shown in cyan on the map provided).

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 of Upper Turon Road to be named 'Capertee Road'.

The notification of the proposed road name of 'Capertee Road' was completed and as a result, Council received a number of submissions which were reported to the Ordinary Meeting of Council held on 26 July 2021 for consideration and the following was resolved:

**21 -167 RESOLVED**

THAT:

1. In accordance with Council's Addressing Policy, Council advertise the road name Turon Gates Road 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 are 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 notification of 'Turon Gates Road' resulted in two submissions detailed below:

<b>Public Submission</b>			<b>Officers Comments</b>
<b>Objection/Comment</b>	<b>Alternative Road Name Proposed</b>	<b>Reasoning</b>	
Renaming of Upper Turon Road is an	Sheep Street Kangaroo Road	Sheep property is on the section of road.	Both Sheep Street and Kangaroo Road do not provide a

<p>overdue and essential action. A short and clear name would be superior to and not subject to confusion that two word street names would create.</p>			<p>geographical locality link in the naming, the proposal of Turon Gates Road is more likely to provide a quicker reference to out of area emergency service responders.</p>
<p>The road from Sofala to the junction of Upper Turon Road and Palmers Oakey Road be named Upper Turon Road for its entire length not just to the Red Hill Road intersection. A signpost at the three way intersection should be erected and show:</p> <ol style="list-style-type: none"> <li>1. Capertee &amp; Turon Gates via Upper Turon Road</li> <li>2. Sunny Corner via Palmers Oakey Road</li> <li>3. Sofala via Upper Turon Road</li> </ol> <p>To name the section of road from this intersection to the Castlereagh Highway 'Turon Gates Road' would only seem to serve the interest of a commercial enterprise in that vicinity.</p> <p>The cost for three LGAs to amend their mapping and signage would be significant and does not seem justifiable.</p>	<p>Upper Turon Road</p>	<p>This would remove the name Palmers Oakey Road from a small section of road and allow the common usage name of 'Upper Turon Road' to be officially gazetted for the part that is an unnamed crown road (shown in dark green on the map provided) and retain the commonly used name of Upper Turon Road up to the Castlereagh Highway.</p> <p>'Turon Gates Road' has no local or historic relevance.</p> <p>A sign post replacement and gazettal of currently used names would eliminate any confusion.</p>	<p>This proposal is expected to add more confusion, as it would still not easily identify the area of Upper Turon Road. This proposal would also see additional property owners required to change their addresses, and is not deemed the most efficient method of road and property identification.</p> <p>The proposed name of Turon Gates Road was supported by a large number of community submissions, as well as local Emergency Service agencies.</p>

**Policy Implications**

This road will 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 - Council will incur some minor advertising costs in accordance with its Addressing Policy, and the cost of the signs which will be funded from existing recurrent budgets.

### **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 New South Wales Addressing Policy No. 2, 2015 and the Roads Act 1993.

### **Attachments**

Nil

### **Recommendation**

THAT Council proceed with the online road naming process and gazette the road name of 'Turon Gates Road' accordingly and notify appropriate landowners and authorities of the new address changes.

**10.3.3. IS - 27/09/2021 - Success of COVID-19 Vaccination Clinic**

<b>Prepared by</b>	Jonathon Edgecombe - Director of Infrastructure & Services
<b>Department</b>	Infrastructure & Services
<b>Authorised by</b>	Director of Infrastructure & Services

**Summary**

Lithgow Council has been very active in promoting health initiatives and other actions to safeguard the community from Covid. One of the key advocacy items was for the establishment of a local vaccination outreach clinic. This was in response to the fact that despite the great efforts of local GPs and a pharmacy, Lithgow’s vaccination rates were low.

This report advises the Council of details of the success of the recent Vaccination Clinic held at the Tony Luchetti Showground, Lithgow.

**Commentary**

On Friday 3 September 2021, Lithgow City Council was advised by the NSW Police through the Region Emergency Operations Centre, that it would be host to a local Vaccination Hub. This news was the result of a combined effort by Councillors and the Executive Team in targeting significant advocacy on all fronts, through NSW Health, the Nepean Blue Mountains Local Health District, NSW Police, the Region Emergency Operations Centre, our State and Federal Members of Parliament and other agencies as required.

The Vaccination Hub was scheduled to operate over the period 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> September 2021, at the Tony Luchetti Showground. Whilst the administration and delivery of the vaccines was managed by NSW Health in collaboration with the Australian Defence Force, all outdoor logistics and management was coordinated by Lithgow City Council, with the assistance of our local State Emergency Services. This included site security, crowd marshalling, traffic control, facility cleaning, garbage disposal, media, lighting and signage.

Overall, the Vaccination Clinic was very successful. Statistics of attendance and vaccine delivery are as follows:

- Day 1: 513
- Day 2: 552
- Day 3: 566
- **Total: 1,631**

The figures above are commendable. They represent about 10% of the eligible population who have been able to be accelerated through to full vaccination. This will bring the achievement of vaccination targets locally forward by a good measure.

Council was also active in its support of the recent testing clinic. This pop-up testing clinic was operational over a period of 16 days with a total of 1,349 tests administered, relieving significant pressure from the Lithgow Hospital.

The vaccination figures above are non-aggregated totals and represent visitors from both within and outside the Lithgow LGA. The administration continues to press for data which will allow an assessment of the impact of this facility on vaccination rates within the Lithgow LGA. This information will be presented to Councillors when it becomes available. But it is noteworthy that Lithgow has been able to play a broader role to support regional vaccination. The same can be said for the Bathurst vaccination clinic which no doubt catered for Lithgow residents.

Overall, Lithgow is very fortunate to have received the opportunity to host both the testing clinic and the vaccination clinic. It is expected that both facilities have provided a much-needed boost to our local COVID-19 vaccination rates and eased the pressure on our local doctors, nurses and pharmacists in their roles as local providers of testing and vaccination services. By supporting this service in full through the utilisation of local resources, such as Council staff and community groups, we have demonstrated the strength of our community and shown resilience in the face of a local emergency and subsequent response.

The Mayor, Deputy Mayor and management have expressed their sincere gratitude to all those involved in making these services a reality, including NSW Health, the Australian Defence Force, NSW Police, Hon. Andrew Gee MP and Hon. Paul Toole MP, Douglass Hanly Moir, Council staff and our local SES units. We also thank all our local doctors, nurses and pharmacists for their continued dedication to serving our residents and working tirelessly in pursuit of a safe, vaccinated community.

Council looks forward to further supporting the Vaccination Hub when it is reopened in the coming weeks to facilitate the delivery of second doses to those who attended the site in the first round.

### **Policy Implications**

Nil.

### **Financial Implications**

- Budget approved - Nil
- Cost centre - Nil
- Expended to date - \$14,305
- Future potential impact - Nil – Council costs to be met by Douglass Hanly Moir (testing clinic) and NSW Health (vaccination clinic).

### **Legal and Risk Management Implications**

Nil.

### **Attachments**

Nil

### **Recommendation**

THAT Council:

1. Note the information provided in the report on the success of the recent Vaccination Clinic.
2. Send letters of appreciation to NSW Health, Australian Defence Force, NSW Police, Hon. Andrew Gee MP and Hon. Paul Toole MP, Douglass Hanly Moir, Council staff and our local SES units for their roles in providing support for both the local testing and vaccination clinics.

**10.3.4. IS - 27/09/2021 - Fixing Country Bridges Program - Project Update**

<b>Prepared by</b>	Sean Quick - Project Officer
<b>Department</b>	Infrastructure Services
<b>Authorised by</b>	Director of Infrastructure & Services

**Summary**

The purpose of this report is to provide an update on the Fixing Country Bridges program for the replacement of the three (3) timber bridges along Glen Davis Road, Capertee at the Airly, Coco and Crown Creek crossings.

**Commentary**

In late 2020, Council applied for grant funding through Transport for NSW’s ‘Fixing Country Bridges Program’ to replace the three (3) single-lane timber bridges along Glen Davis Road, Capertee located at the Airly, Coco and Crown Creek crossings. Council was successful in obtaining funding of \$5,043,774 to replace the bridges with dual-lane reinforced concrete structures.

The new bridge design will have multiple benefits and lead to improved vehicle safety. The two-lane design will reduce the possibility of vehicle collisions, which is a considerable risk since the road has a designated 100km/h speed limit and is regularly used by heavy vehicles. The concrete construction will have increased fire resistance, which is significant for any firefighting and evacuation purposes (with Glen Davis Road being only one of two access routes into and out of the Capertee Valley). Additionally, the renewal of these assets will reduce Council’s maintenance costs by approximately \$50,000 per annum.

The Fixing Country Bridges grant was awarded to a number of regional councils, including Mid-Western Regional Council, Warrumbungle Shire Council and Walgett Shire Council. In order to seek competitive pricing and contractor interest through economies of scale, the four (4) Councils are approaching the market together to seek a contractor to undertake the design and construction of the bridges collectively. A procurement consultant has been appointed and is administering this process.

Tenders are being sought via an ‘open tender’ process, meaning that any organisation can lodge a proposal. Tenders were released on Tuesday, 14 September and will close at 2:00pm on Friday, 8 October 2021. The evaluation of proposals will commence immediately upon closure, and it is anticipated that a report recommending a tenderer will be tabled at each participating Council’s October Council meeting.

However, should there be any unforeseen delay in the evaluation of tenders, such as the need to seek further clarification on tender submissions or extension of the tender closing date, the recommendation may miss the deadline for the October meeting. Due to the upcoming caretaker period prior to December’s Local Government Elections, the recommendation of the tender evaluation panel will then be likely added to Lithgow City Council’s agenda for the first meeting of the year on Monday, 24 January 2022.

Council has produced its own estimates of cost and project phasing (including provisions for contingency). However, until a tender is awarded, Council will not have a firm indication of cost or the dates for works to be undertaken. It is expected that site establishment will commence in approximately July 2022, and works will be concluded sometime during mid to late 2023.

In preparation for the project to commence, preliminary works have been undertaken including surveying of the sites, geotechnical investigations and engagement of an Environmental Consultant to undertake the required Review of Environmental Factors (REF). This work is being undertaken to identify, in advance, any issues which may result in unanticipated risk to the project or the surrounding environment. With awareness of such matters, risk can be mitigated early and the project scope modified to ensure delivery of expected scope within budget and with minimal environmental impact. A robust planning, investigation and approval process is essential for a project of this scale to ensure that required deliverables are achieved.

Due to the geographical locations of the bridges, it will not be possible to deviate regular traffic around the sites, which will require the road to be closed in three (3) separate stages while the works are being carried out. There may be a possibility for a vehicle detour for resident's light vehicles only at two (2) locations. This option cannot be confirmed at this stage, as it will need to be discussed with the successful tenderer. A possible deviation for Airly Creek Bridge would utilise the Airly Mine's access road (Torban Road) and Centennial Coal has been contacted to seek permission to utilise their road / land for this purpose. It may also be possible to deviate around Crown Creek Bridge, however, this option will be dependent on the results of the REF.

As Glen Davis Road is the main access route for the Capertee Valley, it is important to keep residents, visitors and local authorities informed of planned road closures, once dates are known. A communication plan has been developed by Council officers for this purpose. Signage with interchangeable dates has been ordered and will be installed at all approaches into the Valley, including at the Dabee Rd and Glen Davis Rd intersection at Kandos, and an information sign erected at Clarence Pirie Park at Capertee. In addition, Council will have brochures mailed to all affected residents and posters / brochures will be given to Progress Associations and local businesses. Posters will also be displayed in the Glen Davis camping area. Local utilities and emergency services will be notified and kept updated of the planned closures. Once dates are confirmed, Council will create a page on the Council website dedicated to providing information and updates concerning the works. All correspondence will encourage interested stakeholders to contact Council should they have enquiries or concerns.

### **Policy Implications**

In calling for tenders, Council is complying with Policy 1.4 - Tendering and has included provision of a 'Local Preference' criterion in accordance with the recently adopted Local Preference Policy.

### **Financial Implications**

- Budget approved – \$5,043,774 in the adopted in 2021/2022 Capital Works Program.
- Cost centre - PJ100665 (\$1,720,122), PJ100666 (\$1,950,472), PJ100667 (\$1,373,180).
- Expended to date - On preliminary works and internal project management costs, PJ100665 (\$9,972), PJ100666 (\$10,478), PJ100667 (\$9,680).
- Future potential impact - Based on current predictions, a total of \$254,000 to be spent in the 2021/22 fiscal year with \$3,961,480 in 2022/23.

### **Legal and Risk Management Implications**

With multiple Councils are involved in the tender evaluation process for the engagement of the design and construction contractor, the tender is being overseen by a procurement consultant, Arcblue Consulting, to ensure adequate process, probity and transparency. The tender process will be conducted in accordance with Section 55 of the *Local Government Act 1993* and Part 7 of the *Local Government (General) Regulation 2005*. The successful contractor will be engaged using the NSW Government GC21 construction contract.

Risks relating to this project have been considered and measures have been put in place to treat risk. These include risks associated with the bridge construction as well as Council's reputational risk in relation to communication.

**Attachments**

Nil

**Recommendation**

THAT Council note the report for the Fixing Country Bridges program for the replacement of the three (3) timber bridges along Glen Davis Road, Capertee at the Airly, Coco and Crown Creek crossings.

## 10.4. Water and Wastewater Reports

### 10.4.1. WWW - 27/09/2021 - Undertaking of the Public Private Partnership assessment

<b>Prepared by</b>	Matthew Trapp - Executive Manager Water & Wastewater
<b>Department</b>	Water & Wastewater
<b>Authorised by</b>	Executive Manager Water & Wastewater

#### Summary

This purpose of this report is to seek Council approval to investigate (with the Office of Local Government), a potential Public Private Partnership for the Clarence to Wallerawang Pipeline project.

#### Commentary

##### Clarence to Wallerawang Pipeline Project

The Clarence to Wallerawang Pipeline project is a project to aid in the water security aspects of the Lithgow LGA water supply area. The project arose from a potential to merge the Centennial Coal Clarence Colliery's requirement to remove discharge of treated groundwater from the Wollangambe River and Lithgow City Council's need to ensure appropriate water security, for the present and into the future.

The project aligns with the preferred options that have been identified in the Integrated Water Cycle Management Strategy currently being prepared for Council. Currently W&WW is preparing a presentation on the project to update the Council on progress so far.

##### The Office of Local Government (OLG) Assessment

The OLG administers and reviews the pathway for a Council to engage with a private entity for the delivery of infrastructure for public use. This is done through an assessment process whereby Council approaches the OLG for review of the project for both high risk and significant projects.

Council must prepare and provide to the OLG information as set out in the self-assessment criteria attachment. Council should note the attachment is the same as submitted to the OLG previously, to engage on the process for assessment.

##### Public Private Partnerships (PPP)

The OLG states in their guidelines for a PPP that, "A public-private partnership is an arrangement between a council and a private person for the purposes of:

- a) Providing public infrastructure or facilities in which the Council has an interest, liability or responsibility under the arrangement, and/or;
- b) Delivering services in accordance with the arrangement."

The Clarence to Wallerawang Pipeline Project satisfies the PPP criteria as the pipeline will be used for the supply of raw water to Council's existing and potential water treatment facilities. The OLG requires, through its assessment process, Council to provide several pieces of documentation for the full assessment. Some of those items are currently not available as the project has only entered feasibility stage as per the previous Memorandum of Understanding. The feasibility study will be required to inform the Project Review Committee of the intentions and design of the pipeline whilst other pieces of information are being prepared.

One of the criteria for the Project Review Committee is the documentation for an “expression of interest” (EOI) process to seek private parties’ input into the project. Council intends to seek relief from a competitive EOI process for this project for the following reasons:

- Council has no other water sources than those being reviewed in the project with active Works approvals or Water Access Licences;
- Clarence Colliery are required to move the water regardless of Council’s plans;
- Council presently utilises the groundwater from the Clarence Colliery to fill Farmer’s Creek Dam as needed; and
- No other parties in the district would have the similar ability to remove or provide water to LCC for sustained periods and at volumes such as required now and into the future.

The above reasoning is in line with the requirements of the Independent Commission against Corruption’s Direct Negotiations – Guidelines for Managing Risks.

To continue the process of the PPP and to allow for a smooth and complete process for review, OLG requires a Council resolution to proceed with the project as a PPP and submit to OLG for assessment. Whilst the project does fall into many of the categories of a full assessment there is still some uncertainty due to the size, nature, and complexity of the project. As such the recommendation reflects these uncertainties.

### **Policy Implications**

Nil.

### **Financial Implications**

- Budget approved - \$500,000 - initial 2021/22 budget.
- Cost centre – PJ 200165
- Expended to date - \$0 – Council will be invoiced at completion of the Feasibility Study.
- Future potential impact – Council's Water Resourcing, IWCM strategy are all linked to this project and potentially full assessment by the Project Review Committee in the OLG.

### **Legal and Risk Management Implications**

Nil.

### **Attachments**

1. CHECKLIST Public Private Partnership Self Assessment Form an [10.4.1.1 - 3 pages]
2. 05-51— Public- Private- Partnerships— Legislation-and- Guidelines [10.4.1.2 - 40 pages]

### **Recommendation**

THAT Council engage with the Office of Local Government for assessment of the Clarence to Wallerawang Pipeline Project as a Public Private Partnership under the assessment guidelines.

## 10.5. People and Services Reports

### 10.5.1. PS - 27/09/2021 - Farmers Creek Bridge Flood Impact Assessment

<b>Prepared by</b>	Matthew Johnson – Community & Culture Manager
<b>Department</b>	Community & Culture
<b>Authorised by</b>	Director of People & Services

#### Summary

This report provides details of specialist advice obtained by Council on the possible flood impacts of the two pedestrian/cycle bridges installed over State Mine Creek near Guy Street and Farmers Creek near Burton Street Lithgow, as well as the remediation measures being undertaken.

#### Commentary

#### Background

Three bridges of similar design have been installed by Council since 2018 as part of the Farmers Creek Masterplan shared path works:

- Farmers Creek on Coalbrook Street in 2018/19;
- State Mine Creek near Guy Street in January 2021; and
- Farmers Creek near Burton Street Lithgow in January 2021.

Construction of the Farmers Creek and State Mine Creek bridges and associated shared pathway works are partly grant funded, matched dollar for dollar by Council.

#### Bridge Design

The bridges were designed in 2018 using flood modelling that was available at the time. A Review of Environmental Factors Assessment (REF) was undertaken prior to commencement of works to assess the environmental impacts of the bridges during and post construction. Flood impacts were not part of this REF assessment.

#### Post Bridge Installation Flood Impact Assessment

Following construction of the State Mine and Farmers Creek bridges, Council became aware of the concerns of some residents that the bridges could cause localised flooding.

In March 2021, Council approached Lyall and Associates who had developed the Lithgow Flood Study Review and subsequent Lithgow Floodplain Risk Management Study for Council, to undertake a flood impact assessment of the State Mine and Farmers Creek bridges. The previously installed Coalbrook Street bridge was not included in the scope as it crosses a deeper, concrete channel section of Farmers Creek, which is therefore not significantly impacted by floodwaters.

The Lithgow Flood Study Review and Lithgow Floodplain Risk Management Study, the most up to date flood modelling, formed the basis of Lyall's bridge impact assessment.

Council received Lyall's Draft Report on 25 August for review. This report took longer than anticipated due to delays in obtaining detailed bridge specification data from the bridge designer on the balustrade failure heights. The report is technical in nature so a plain language summary of the hydraulic engineer's report has since been compiled by Council's engineering staff. Both of these documents are attached.

#### Flood Impact Assessment Findings

##### *State Mine Creek Bridge*

Lyall's found that there is no negative impact to dwellings or peak flood levels in the event of a high intensity storm. There is a minor impact to flood behaviour, but this does not impact private property.

#### ***Farmers Creek Bridge***

Lyall's found that the Farmers Creek (Burton Street) bridge would have an impact of varying depths on above floor inundation for several properties on Guy, Burton and Laidley Streets in 2% (1 in 50 years) and 1% (1 in 100 years) rainfall events.

While some of these impacted properties already experience above floor inundation under pre-bridge conditions in 1% and 2% rainfall events, the bridge contributes an additional increase of 1-2 cm in most cases but higher increases of 14cm and 24cm in two (2) dwellings.

More significantly, seven properties only experience above floor inundation under post bridge conditions, up to 18cm and 39cm in two cases.

There would be no impact on above floor inundation levels in 20% (1 in 5 years), 10% (1 in 10 years) and only very minor changes (less than 1cm) in two properties in 5% (1 in 20 year) events.

In addition to the potential flood impact of the bridge girder cross sections, the bridge balustrades also contribute to flood impacts. Although frangible and designed to fail and lay flat under load from a build-up of debris and back water, the failure does not occur until the water and debris height is 1.065m above deck level. The modelling conducted by Lyall's therefore assumes that the balustrades form an obstruction to water flow up to the failure height.

With the modelling now complete, Council now has more understanding about flooding for a range of more extensive storm events.

#### **Immediate Action Undertaken**

Council has temporarily removed the bridge (while re-design work is undertaken), written to the neighbouring community and issued a media release advising of the temporary bridge removal, and arranged for advisory signage to be placed on both sides of the creek.

#### **Modifications to Bridge Design**

Council is currently exploring design changes with flood and engineering experts that will facilitate flood water flow under and around the bridge to eliminate its flooding impact.

Proposed design changes involve raising the bridge footing height, while keeping the current bridge superstructure, so that the bridge structure sits at or above the surrounding flood plain. More permeable elevated approach ramps could be installed to replace the existing mass concrete ramps. Consideration will also be given to possible re-design of the bridge balustrades, if zero additional flood impact cannot be achieved by raising the bridge footings and changing the approach ramps alone.

Once this re-design is complete and re-tested against the flood modelling, Council has committed to meet with residents before the bridge is re-installed.

#### **Timing**

Redesign and flood modelling have commenced, and it is hoped that the bridge can be re-installed by late November 2021 in line with Council's grant completion deadline.

#### **Review of Possible Longer-Term Creek Channel and Bank Modifications**

While the bridge re-design objective is to achieve zero additional flood impact, options are also under consideration to further improve water flow velocity of water with subsequent reduced flooding impacts by widening and/or deepening the creek channel up and down stream of the bridge or by reshaping the open space on either side of the bridge. These measures will likely be costly and

subject to future budget allocations by Council or availability of grant funds. A Part 5 Environmental Impact Assessment will also be required.

### **Project Management Improvement**

It has been the practice in the past that different portfolios across the organisation be responsible for delivery of their portfolio's projects. Good outcomes have been achieved because the portfolio experts understand the needs of their community cohort and they are motivated to advocate for these, pursue funding and ensure their delivery.

However, project design, management and delivery are specialised areas. The General Manager has put in train reforms so that a specialised project management team now exists within Infrastructure Services. This operates as a "purchaser-provider" type model. Under this approach, the portfolio or community cohort specialists ie., community development, waste, infrastructure, public buildings specify what are the priority projects, but all of the technical aspects of the projects are procured from the Infrastructure Services project management team. This is already operating.

### **Conclusion**

The Farmers Creek bridge forms an important part of the creek corridor walking and cycling network and enables users to cross from Guy Street to Burton Street and on to Lake Pillans. The three bridges and associated pathway works extend from Burton Street to Coalbrook Street and with further works being undertaken in the current financial year, linkages are being built to other destinations.

This pathway network has been very well received and used for exercise by the community, especially during the Covid restriction period.

The need to modify the Farmers Creek bridge is regretted. This is substantially a consequence of an approval that preceded the current level of understanding of flood behaviours in the locality.

Council has been responsible in moving to address the situation as a matter of urgency once the issue was confirmed.

Changes to project management and delivery have been implemented and this will have the effect of mitigating against such incidents in the future.

### **Expenditure**

Approximately \$25,000 has been spent to date on flood modelling of the two bridges (PJ 600274 and PJ 400152).

It is proposed that the additional expenditure for bridge re-design, further flood modelling and bridge re-reinstatement costs be funded from the existing 2021/22 bridge budget allocation. Initially this was to be used for the three Glen Davis Road timber bridges in the Capertee Valley but Council was successful in obtaining government funding for those projects.

### **Policy Implications**

Nil

### **Financial Implications**

- Budget approved – nil.
- Cost centre - PJ 600274 and PJ 400152 for expenditure to date.
- Expended to date - \$25,000 on flood impact modelling.
- Future potential impact – Up to \$50,000 for bridge re-design, flood modelling and construction costs - PJ100642.

### **Legal and Risk Management Implications**

A number of properties in Guy and Burton streets are at risk of greater above floor inundation during 1% (1:100) flood events. Council's insurers were notified of the potential flood risk on Thursday 26 August 2021. Council's insurers are satisfied that immediate action was undertaken to mitigate the risk to nearby property.

### **Attachments**

1. Farmers Creek Bridge - Exec. Summary [**10.5.1.1** - 4 pages]
2. Finalised Burton Street Footbridge flood impact assessment [**10.5.1.2** - 40 pages]

### **Recommendation**

THAT Council note:

1. The report on possible flood impacts due to the design of the Burton Street Bridge and the immediate remedial steps taken to mitigate the impacts.
2. Further re-design and flood modelling work is currently underway, and that Council has committed to consult with residents before the bridge is re-installed.
3. Project Management process improvement is currently being implemented across Council to ensure that the technical expertise required to deliver such projects is adequately resourced within Council's structure.

**10.5.2. PS - 27/09/2021 - 2021-2023 Community Engagement Strategy**

<b>Prepared by</b>	Deborah McGrath – Corporate Planning & Communications Officer
<b>Department</b>	Corporate Planning & Communications
<b>Authorised by</b>	Director of People & Services

**Summary**

In the months after the December election, the new Council will need to revisit and confirm the content of the key suite of strategic documents (generally referred to as the Integrated Planning Framework) that will direct the organisation’s services, programs and projects to be delivered to the community during their term. A key tenet of local government is participative democracy whereby the Council focuses its resources and attention on those things that the community values most. For this reason, these documents need to be substantially informed by community opinion. S402(4) of the Local Government Act gives guidance as to how a council should identify community opinion. This Section requires Councils to prepare and implement a Community Engagement Strategy for interacting with the local community in developing and reviewing the Community Strategic Plan.

This report presents a proposed Community Engagement Strategy.

**Commentary**

The 2021-2023 Community Engagement Strategy provides a guideline for Council’s engagement with the community to:

- Develop the Community Strategic Plan 2035 and associated documents which form the Integrated Planning Framework; and
- Engage with the community on how best to achieve affordable and acceptable levels of service.

In normal circumstances the new Council would have been elected in September. It would have fallen to the new Council to approve the Community Engagement Strategy. But to meet the deadline for a refreshed Integrated Planning Framework to be approved by April next year, the community needs to begin to be engaged over the remaining period of this calendar year. For this reason, it falls to this Council to endorse the Community Engagement Strategy.

Lithgow Council is not anymore immune than other levels of government or our local government peers to the nation’s current financial challenges. Entrenched underfunding of local government by the states and national governments has compounded the challenges. Yet there remains the need and the community aspiration that we maintain and in many cases enhance the level of service delivery for a number of our key functions – namely assets, like roads.

In balancing the abovementioned tensions of community expectation versus capacity to deliver, the new Council will need to be mindful of setting service levels at a sustainable level. The Community Engagement Strategy has been developed to guide a conversation with the community on how best we can achieve levels of service that are both affordable and acceptable, given the significant financial challenges that will be faced as we go forward.

This Community Engagement Strategy guides how Council will engage with the community to develop the Community Strategic Plan 2035 and associated documents. It will allow for the new Council to explore, and engage the community in consideration of options for a balanced Resourcing Strategy. It:

- Provides an overview of the Integrated Planning and Reporting Framework and how we intend to ensure a sustainable future for the LGA;

- Presents the overall approach to community engagement, including the level of engagement planned, key messages, guiding principles and key target groups being consulted and engaged; and
- Presents a detailed Community Engagement Action Plan.

Using an adopted Community Engagement Strategy, over the coming months Council will be continuing to seek community input into the development of its Integrated Planning Framework and its proposal to ensure a balanced Resourcing Strategy to secure the future for the Lithgow LGA. Throughout this process we will:

- Be seeking the community's validation that the Vision and Key themes in the Community Strategic Plan are relevant, or insights to amendments that are required;
- Be working with the community to identify a prioritised hierarchy of future projects for the Lithgow LGA;
- Seek to create awareness around Council's role and the roles that the community and State and Federal partners have in the implementation of the Community Strategic Plan 2035;
- Seek to gain an understanding of the community's satisfaction with the condition, function and capacity of Council's assets and what the community believes are the asset funding priorities for the future;
- Seek the community's views on Councils current and future service priorities and affordable levels of service;

And as a consequence of all of the above, Council will need to

- Obtain the community's input to a pathway to financial sustainability to secure the future of the LGA. The options proposed to be put forward are:
  - Improved service levels – above 5% SRV + rate peg
  - Service levels maintained - 5% SRV + rate peg
  - Some reduced service levels with a shift to the community's highest priorities - no increase to rates above rate peg.

**A COMMENT ON THE ABOVE BY THE GENERAL MANAGER** - By way of explanation on the last bullet point above – there are two key matters to be discussed with the community. One follows on from the other. The first is – what are your priorities and what levels of service do you want? The second is – how much would you be prepared to pay for these? Irrespective of where this leads, all of Council's attention must be given to the achievement of a balanced financial operating result. Deficit budgets cannot be sustained and, in light of the experience of a number of such deficits over recent years, there is an imperative for corrections to ensure that expenditure is matched to revenue. The only options are either to amend service levels so as to bring expenditure down or to increase revenue.

In the Long Term Financial Plan, this Council endorsed consideration of an SRV of 5% from the 22/23 year. This option and a no SRV option have been brought forward into the Community Engagement Strategy. It may however be the case that the community has aspirations for service levels beyond that which might be funded by these options. For this reason, it is appropriate to include an above 5% option within the Community Engagement Strategy so that this conversation can also be had with the community. It is important to note however that this is a start point for the conversation only and does not represent a decision to apply for approval for such an option.

It is good governance, financially responsible and effective local government to engage with the community about the above matters to ensure that the city and the council are sustainable in the future.

### **Policy Implications**

Nil

### **Financial Implications**

- Budget approved - community engagement is funded from Council's recurrent operating budget.
- Cost centre - PJ 800149.
- Expended to date - Nil.
- Future potential impact - N/A

### **Legal and Risk Management Implications**

Nil.

### **Attachments**

1. 2021 2023 Community Engagement Strategy [**10.5.2.1** - 54 pages]

### **Recommendation**

THAT Council endorse the 2021-2023 Community Engagement Strategy for the Integrated Planning and Reporting Framework.

**10.5.3. PS - 27/09/2021 - Lithgow Pump Track**

<b>Prepared by</b>	Matthew Johnson – Community & Culture Manager
<b>Department</b>	Community & Culture
<b>Authorised by</b>	Director of People & Services

**Reference**

Min 20-262 Ordinary Meeting of Council held 26 October 2020.

**Summary**

This report provides an update for Councillors on the recent completion of construction of the Lithgow Pump Track.

**Commentary**

**Pump Track Concept**

A pump track is a circuit of rollers, banked turns and features designed to be ridden completely by riders "pumping"— generating momentum by up and down body movements, instead of pedalling or pushing. Pump tracks can be ridden by cyclists of all ages and skill levels and very importantly, riders don't need a special kind of bicycle or to spend a lot of money to ride on a pump track. Pump tracks are primarily youth focused facilities that offer alternatives to skateboards and scooters.

Pump tracks are seen as a gateway to developing an ingrained lifelong interest in cycling, BMX or other sport, with the flow on health and social benefits this provides. Similar to skate parks, they allow users to interact with each other and be creative in their use of the facility.

**Lithgow Pump Track**

Construction of the Lithgow Pump track adjacent to the Adventure Playground, was recently completed, with the track now open to the public for use.

The Pump Track project was funded by a \$522,353 grant under Round 3 of the NSW Stronger Country Communities Program and with a \$50,000 contribution from Council.

The Pump Track Design and Construct tender was awarded by Council in late 2020 to Common Ground Trails, one of the foremost pump track design and construction companies in Australia. Their proposal promised to provide a unique and exciting track design.

The idea for the Lithgow Pump Track developed from the Lithgow Youth Strategy and later consultation in 2019 with local school students who demonstrated strong support. Once the initial concept plan was developed by Common Ground Trails, further community consultation was undertaken before the final design was adopted.

The track has been designed to offer something for all ages and skill levels, however, it contains some challenging sections that aim to provide an exciting challenge for the experienced local rider, as well as visitors.

With completion of the Adventure Playground in 2019 and now the Pump Track, Lithgow has first class recreational facilities at Endeavour Park. These facilities have been designed by specialists, leaders in their field, for young people and children to have the best and most inspiring opportunities to play and challenge themselves. In a broader sense, high quality and innovative social infrastructure, of which there are several recent examples in Lithgow, contributes to community well-being and pride and to the social and economic transformation of the City.

Community response to the pump track has been overwhelmingly positive, with several Facebook comments that not only has the track been designed and constructed to a very high standard but that it is the type of social infrastructure that Lithgow needs to attract visitors and population growth.

An official opening will be held later in 2021, once COVID restrictions allow, and it is hoped that major competition events can be held in 2022.

**Policy Implications**

Nil .

**Financial Implications**

- Budget approved - \$572,353
- Cost centre – PJ 600215
- Expended to date - \$563,432 in 2020/21 and 2021/22
- Future potential impact – \$8,921 budget remaining for minor ancillary works.

**Legal and Risk Management Implications**

Nil.

**Attachments**

Nil

**Recommendation**

THAT Council note the report on the recent completion of the Lithgow Pump Track.

**10.5.4. PS - 27/09/2021 - Consultation with Local Indigenous Representatives**

<b>Prepared by</b>	Michael McGrath - Director of People & Services
<b>Department</b>	People & Services
<b>Authorised by</b>	Director of People & Services

**Summary**

This report updates the Council about the progress made with the development of new projects and protocols for engagement with the local indigenous community.

Council Officers have been actively reaching out to representatives of the local indigenous community with the aim of establishing strong connections with a broad range of stakeholders. Out of these connections we are hopeful of a co-designed set of new protocols and projects. Once this task has been achieved a report will be presented to Council recommending a way forward for future consultation and advice.

**Commentary**

A small internal working group has commenced work to plan and progress improved consultation with the Indigenous Community. The working group has met several times to date.

The first and most urgent action has been to formally reach out to as many Indigenous groups and agencies as possible. To date the organisations contacted include:

Letters of introduction were sent to: -

- The Local Aboriginal Land Council in Bathurst (LALC)
- The Aboriginal Education Officer & AECG Chairperson at Coerwull Public School
- The Aboriginal Officer – Central Tablelands Local Land Services
- Cultural Heritage Project Manager – Local Land Services
- Aboriginal Community Partnership Co-ordinator – Aboriginal Health Unit – NSW Health

The working party has conducted Webex video meetings with the above representatives apart from the Community Partnership Coordinator (however a WebEx meeting has been scheduled for the week beginning 27 September). Earlier in the year the working group also met with a representative from Energy Australia to discuss their approach to consultation with the local community.

Advice and suggestions have been sought from the above contacts all of whom were pleased to be called upon to assist Council in its efforts to improve consultation with the Indigenous Community.

To date the working group has developed a list of potential projects that will help shape the working parties' efforts going forward: -

1. Dual Naming initiatives
2. Develop a calendar of important annual events.
3. Regular indigenous news items to be included in Council newsletters
4. Conduct simple surveys out in the community to gauge opinion and interest using simple on-line survey tools.
5. Formal handing back of items currently housed at the Lithgow Library
6. Australia Day Protocols
7. Cultural Awareness Training

8. Development of a Reconciliation Action Plan (RAP) to include current and future projects such as a Council Aboriginal Protocols document, Dual Naming, Interpretative Signage, Historical Information.

Several other representatives will be contacted shortly, and meetings arranged pending the easing of COVID restrictions.

Other recent initiatives of the internal working group to date include:

A series of four (4) media releases that were published during NAIDOC week that offered the community different perspectives on NAIDOC.

We are also mindful of the goodwill and collaboration opportunities coming out of the dual naming proposal for the Fish River that was the subject of a July Council Report.

### **Policy Implications**

### **Financial Implications**

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

### **Legal and Risk Management Implications**

### **Attachments**

Nil

### **Recommendation**

THAT:

1. Council note the progress made in reaching out to the Local Indigenous Community
2. The Working Party bring a report to Council with recommendations on improving consultation with the local indigenous community

**10.5.5. PS - 27/09/2021 - COVID Updates on Council Website**

<b>Prepared by</b>	Rhiannan Whiteley – Executive Assistant
<b>Department</b>	People & Services
<b>Authorised by</b>	Director of People & Services

**Commentary**

Council understands that the COVID-19 pandemic continues to be a challenging time for our residents and businesses. Council is here to serve our community and do everything we can to support residents and businesses get through this difficult period.

Council appreciates that it can be confusing for community members to navigate through the many updates and statistics regarding COVID-19 and how this information relates to the Lithgow area. Council is updating its website throughout the week with information gathered directly from the NSW Health and NSW Government websites. Council is aiming to provide the community with easily accessible statistics and links with regards to the Lithgow Local Government area. Council's General Manager is providing a weekly update on the trends and observations in relation to COVID-19 developments around the Lithgow LGA.

On the website, residents can find out:

- Latest case numbers for the LGA
- Vaccination rates and locations
- Testing statistics and locations
- Venues of concern
- Useful links and resources for the community
- NSW Health updates

**Policy Implications**

Nil.

**Financial Implications**

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

**Legal and Risk Management Implications**

All data provided is directly sourced from NSW Health and NSW Government websites and is for information only.

**Attachments**

1. SAMPLE ONLY Lithgow LGA COVID Update [**10.5.5.1** - 4 pages]

**Recommendation**

THAT Council note the COVID-19 information provided on Council’s website.

## 10.6. Finance and Assets Reports

### 10.6.1. FIN - 27/09/2021 - Payment of Tax Equivalents - Sewer Fund

<b>Prepared by</b>	Ross Gurney - Chief Financial and Information Officer
<b>Department</b>	Finance & Assets
<b>Authorised by</b>	Chief Financial & Information Officer

#### Reference

Min. No. 21-68 Ordinary Meeting of Council held on 22 March 2021.

Min. No. 21-111 Ordinary Meeting of Council held on 26 April 2021.

#### Summary

The purpose of this report is to recommend that Council authorise the payment of tax equivalents from the Sewer Fund to the General Fund for the 2018/19 and 2020/21 years.

#### Background

At the Ordinary Meeting of Council held on 22 March 2021, Council resolved to authorise the payment of tax equivalents from the Sewer Fund to the General Fund for the 2019/20 year.

At the Ordinary Meeting of Council held on 26 April 2021, Council resolved to establish a working capital reserve as a feature of its ongoing budgets. The strategy to accumulate funds for the working capital reserve is to utilise payments of tax equivalents from the Sewer Fund to the General Fund.

#### Commentary

##### Background

Government commercial businesses are not subject to Federal income tax. However, in order to comply with National Competition Policy, which was adopted by Commonwealth, State and Territory governments in 1995, Government businesses must calculate Commonwealth tax equivalents. The payment of tax equivalents ensures that Government businesses do not have a net competitive advantage over their private sector counterparts due to their public ownership.

For many Councils, water and sewerage services are operated as commercial businesses, and as such, are expected to meet the requirements of National Competition Policy (NCP) if their annual turnover is greater than \$2 million (i.e. category 1 businesses). Commonwealth tax equivalents are calculated, submitted for external audit then included in the Special Purpose Financial Statements.

Requirements imposed by NCP include the option to pay tax equivalents and the ability to pay dividends from commercial water and sewerage businesses to Councils' general funds. Tax equivalents are classified as a business expense and not a dividend.

Council's sewer fund continues to be in a financial position to enable the payment of tax equivalents to Council's general fund. Council's water fund reserve is being built to fund future asset renewal needs and the fund is currently not in a position to pay tax equivalents to the general fund.

Payment of tax equivalents by the sewer fund are assessed year by year. Authorisation will be sought from Council in any year in which the administration assesses that the fund is in a position to pay tax equivalents.

#### Tax Equivalents for 2018/19

At the 22 March 2021 Ordinary Meeting, Council resolved to authorise the payment of \$231,647 for tax equivalents from the Sewer Fund to the General Fund for the 2019/20 year.

Subsequent to the March 2021 meeting, it was determined that the sewer fund had capacity to pay tax equivalents of **\$362K** for the 2018/19 year. Payment of the tax equivalents to the General Fund would assist to build the working capital fund to its target balance of \$1M.

### **Tax Equivalents for 2020/21**

The tax equivalent for the 2020/21 year will be based on the calculation reported in the audited financial statements (due for completion by 31 October 2021).

### **Utilisation of Sewer Fund Tax Equivalents by the General Fund**

Rules and procedures have been developed to ensure that sufficient working capital is held in short-term deposits to meet Council's immediate needs. The absence of this ready access to capital has caused difficulties in managing cash flows in recent times, which has been a key reason for the depletion of internally restricted reserves.

It is proposed to retain the tax equivalents paid from the sewer fund in a general fund unrestricted reserve to complete the building of a \$1M working capital fund.

### **Policy Implications**

Nil.

### **Financial Implications**

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact - no long-term impact on the sewer fund's financial position.

### **Legal and Risk Management Implications**

Nil.

### **Attachments**

Nil

### **Recommendation**

THAT Council:

1. Authorise the payment of tax equivalents from the Sewer Fund to the General Fund for the 2018/19 year (\$362K) and 2020/21 year (amount determined up completion of the financial statements).
2. Note that the tax equivalents payment will be held in a general fund unrestricted reserve to complete the building of a \$1M working capital fund.

**10.6.2. FIN - 27/09/21 - New Risk Management & Internal Audit Framework**

<b>Prepared by</b>	Ross Gurney - Chief Financial Officer
<b>Department</b>	Finance & Assets
<b>Authorised by</b>	Chief Financial & Information Officer

**Summary**

The Office of Local Government (OLG) has issued draft guidelines for Risk Management and Internal Audit for Councils in NSW to guide the operations of Audit Risk & Improvement Committees (ARIC) and to require Councils to have a risk management framework and internal audit function to support and inform their operations.

The draft guidelines have been developed based on the feedback received in response to the OLG’s New Risk Management and Internal Audit Framework for Local Councils in NSW discussion paper issued in September 2019.

Councils may make submissions on the draft guidelines by **26 November 2021**.

**Commentary**

**OLG Circular 21-26**

The OLG issued Circular 21-26 new risk management and internal audit framework on 24 August 2021. The key points included in the circular are:

- Under the transitional provisions of the Act, all Councils must have either appointed an ARIC or entered into an arrangement with another Council to share an ARIC before **4 June 2022**.
- Councils, ARIC members and internal audit practitioners are encouraged to provide comment on the draft Guidelines.
- Under the proposed Guidelines, Councils are not required to establish a risk management framework and internal audit function that complies with the Guidelines until **30 June 2024**. However, Councils should start taking steps to establish a risk management framework and internal audit function or to transition their existing risk management and internal audit arrangements to comply with the Guidelines.
- The proposed Guidelines set out membership requirements for ARICs. Councils are not required to comply with these requirements until **June 2027**. This will allow Councils five years to transition the membership of their existing ARICs to comply with the new requirements.

**Lithgow Council ARIC**

Working in partnership with Oberon Council, Lithgow’s Council’s ARIC was re-established in 2018. Lithgow Council’s current ARIC is proven to be effective and engaged, with three highly experienced independent members.

The current version of the ARIC Charter was adopted by Council at the 25 May 2020 Ordinary Meeting (Min. No. 20-130). The Committee’s responsibilities and functions are framed around the requirements of the new S428A of the Local Government Act.

**Lithgow’s Council’s ARIC is already fully compliant with the transitional provisions of the Act**, which require the appointment of an ARIC prior to 4 June 2022.

**Differences Between the Draft Guidelines and the Discussion Paper**

The OLG has provided a "summary of changes" document to note the differences between the draft guidelines and the 2019 discussion paper. The document is included as an attachment to this report.

The proposed guidelines have responded to concerns raised in Council's 2019 submission on the framework, particularly the increased staff resourcing requirements:

- The proposed framework was very prescriptive on how Councils should run their audit and risk management functions. A principles based approach is now proposed.
- ARIC members can have more local government experience.
- Tiered model enables a mix of prequalified, non-prequalified, independent and Councillor members.
- Reduced resource implications - risk management refocused as a 'function' rather than a dedicated position, specific role title for the head of the internal audit function removed.
- Clarification of ARIC's assurance role - committees are to have an advisory and assurance role only.
- ARIC given unrestricted access to general manager and senior staff.
- ARIC must provide an annual assessment to the governing body each year.
- ARIC must develop a strategic plan every four years (including internal audit).
- Model Terms of Reference provided.
- Model Internal Audit Charter provided.
- Detailed ARIC role and responsibilities provided.

### **Councillor ARIC Members**

It is noted that Councils are not required to comply with the ARIC membership requirements until **June 2027**.

The draft Guidelines state that Councillor members are **non-voting** and must satisfy eligibility criteria to be appointed as an ARIC member. The Mayor **cannot be appointed as a councillor member** on an ARIC.

An independent member of Council's current ARIC has stated that the proposal for the removal of Councillors as voting members of ARIC shows a lack of understanding of governance processes in the Local Government sector. The governance arrangements in the Councils are more aligned to the private sector where the elected Council is equivalent to a Board of Directors. This recognises the separation of those charged with management and those charged with governance. The independent member has conducted research on ARIC practices in other States. NSW will be 'out of step' with every other state in Australia by excluding Councillors as voting members.

At the 13 September 2021 Finance Committee meeting, the Committee agreed with the lodgement of a submission in support of Councillor members being included as voting members and Mayors being permitted to be a voting Committee member. A Council resolution to lodge a submission will support Council's position on this matter and add weight to Council's submission to the OLG.

### **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**

1. Summary of changes risk management and internal audit framework [**10.6.2.1** - 5 pages]
2. Council Circular 21-26 New risk management and internal audit framework for councils and joint organ [**10.6.2.2** - 3 pages]

## **Recommendation**

THAT Council:

1. Note the information provided on the OLG's draft guidelines for Risk Management and Internal Audit for Councils in NSW.
2. Lodge a submission on the draft guidelines, supporting Councillor members being included as voting members and Mayors being permitted to be a voting Committee member.

## 10.7. Policies and Governance

### 10.7.1. FIN - 27/09/21 - Update of Policy 9.9 Internal Reporting Policy

<b>Prepared by</b>	Ross Gurney - Chief Financial Officer
<b>Department</b>	Finance & Assets
<b>Authorised by</b>	Chief Financial & Information Officer

#### Reference

Min No 19-105: Ordinary Meeting of Council held on 29 April 2019.

Min No 19-234: Ordinary Meeting of Council held on 26 August 2019.

#### Summary

The purpose of this report is to seek Council adoption of an update to the Internal Reporting Policy.

#### Commentary

Policy 9.9 Internal Reporting Policy has a review period of each two years.

Under section 6D of the Public Interest Disclosures Act 1994 (PID Act), public authorities are required to have a policy and procedures for receiving, assessing and dealing with public interest disclosures. Council's policy is based on the Local Government model policy and the NSW Ombudsman's guidelines. The model policy was updated in July 2020 and Council's policy has been updated to remain consistent with the model.

Below is a summary of the changes to Policy 9.9 Internal Reporting Policy:

- A commitment to provide training for staff about how to make reports and the benefits of internal reports to the Council and the public interest generally (on-site staff training was last delivered in 2019).
- The policy needs to be signed by both the Mayor and the General Manager.
- The Disclosures Coordinator also deals with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures.
- Inclusion of the names of Council staff who are authorised to receive a public interest disclosure.
- Update of the relevant investigating authorities for the Council.
- Inclusion of contact details for external investigating authorities.
- Minor grammatical improvements.

As there were no substantial changes to the intent of the policy, it is recommended that updated Policy 9.9 Internal Reporting Policy be adopted without public exhibition.

#### Policy Implications

Adoption of a revised Policy 9.9 Internal Reporting Policy.

#### 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, minimise risk and provide further guidance with regard to statutory obligations.

**Attachments**

1. Policy 9.9 Internal Reporting V 7 Draft - Sept 2021 - Changes Accepted [10.7.1.1 - 20 pages]

**Recommendation**

THAT updated Policy 9.9 Internal Reporting Policy - Version 7 be adopted and implemented immediately.

**10.7.2. IS - 27/09/2021 - Review of Policy 1.5 Acquisition & Disposal of Assets**

<b>Prepared by</b>	Kaitlin Cibulka – Executive Assistant Infrastructure Services
<b>Department</b>	Infrastructure Services
<b>Authorised by</b>	Director of Infrastructure & Services

**Summary**

This report provides an update to Policy 1.5 - Acquisition & Disposal of Assets. The revised policy better ensures policy accuracy, completeness and pertinence to an evolving community.

**Commentary**

Minor changes have been made to Policy 1.5 - Acquisition and Disposal of Assets which included the removal of outdated references to Council committees and positions. The policy is still consistent with the current processes and procedures with no major changes required.

The overarching intent of the Policy remains to set the overarching principles of asset management as they relate to both acquisition and disposal.

The Policy also discusses the requirements for asset management plans and service levels. Council continues to actively work towards achieving this goal. The asset management system will be complete and operational by the end of September 2021, at which point work will commence on the development of individual asset management strategies and plans, working directly from the data contained within the asset management system. These strategies and plans will inform expected service standards for all classes of public assets, proactive inspection schedules, and available resources based on the priority assigned to the management of each asset class.

A presentation and briefing will be provided to the new Council in early 2022 to inform them of the intent of this project, progress made to date and the next steps moving forward.

**Policy Implications**

Consideration of adoption of an update to Policy 1.5 - Acquisition and Disposal of Assets.

**Financial Implications**

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

**Legal and Risk Management Implications**

Nil

**Attachments**

1. DRAFT Policy 1 5 - Asset Management - Version 3 [**10.7.2.1** - 5 pages]

**Recommendation**

THAT the revised Policy 1.5 Acquisition and Disposal of Assets be adopted and implemented immediately.

## 11. Council Committee Reports

### 11.1. IS - 27/09/2021 - Minutes of the Operations Committee Meeting 1st September 2021

<b>Prepared by</b>	Kaitlin Cibulka - Infrastructure Services
<b>Department</b>	Infrastructure Services
<b>Authorised by</b>	Director of Infrastructure & Services

#### Summary

This report provides details of the Minutes of the Operations Committee Meeting held on 1 September 2021.

#### Commentary

At the Operations Committee Meeting held on 1 September 2021, there were numerous items discussed by the committee including:

- Amended Cleaning Service Levels;
- Standing Item – Water and Sewer Infrastructure Update;
- Standing Item – Cullen Bullen STP Update;
- Standing Item – Integrated Water Cycle Management Plan – Update;
- Tree Removals in LGA;
- Councillor Requests;
- Monthly Project Updates; and
- Safer Communities Grant Funding Application

#### Policy Implications

Nil.

#### Financial Implications

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

#### Legal and Risk Management Implications

Nil.

#### Attachments

1. DRAFT Minutes - Operations Committee Meeting - 1st September 2021 [11.1.1 - 10 pages]

#### Recommendation

THAT Council note the minutes of the Operations Committee Meeting held on 1 September 2021.

**11.2. IS - 27/09/2021 - Minutes of the TALC Committee Meeting - 9th September 2021**

<b>Prepared by</b>	Kaitlin Cibulka - Infrastructure Services
<b>Department</b>	Infrastructure Services
<b>Authorised by</b>	Director of Infrastructure & Services

**Summary**

This report provides details of the minutes of the Traffic Advisory Local Committee (TALC) held on Thursday 9 September 2021.

**Commentary**

At the TALC meeting held on 9 September 2021, there were numerous items discussed by the Committee. The following items were outside the Committee's delegation and require Council to formally approve the recommendation:

Item 6.1 - Old Bindo Road – Temporary Changes to Road Weight and Speed Limit

**RECOMMENDATION**

THAT

1. Council make contact with Forestry Corporation in relation to the matter of Load Limits on the Old Bindo Road;
2. That a report be brought back to the TALC Committee after contact with Forestry Corporation; and
3. Council make a formal application to TfNSW to reduce the speed limit on Old Bindo Road from 80km/h to 50km/h

Item 6.2 - Locality Signage – Dark Corner

**RECOMMENDATION**

THAT Council install two (2) locality signs on the suburb boundary on Dark Corner Road, Dark Corner to identify the suburb of Dark Corner.

**Policy Implications**

Nil

**Financial Implications**

- Budget approved - Nil
- Cost centre - N/A
- Expended to date - Nil
- Future potential impact - minor signage costs which would be funded from the recurrent operating budget.

**Legal and Risk Management Implications**

Nil

**Attachments**

1. DRAFT Minutes - TALC Committee Meeting - 9 th September 2021 [**11.2.1** - 8 pages]

## Recommendation

THAT Council:

1. Note the minutes of TALC meeting held on 9 September 2021.
2. Make contact with Forestry Corporation in relation to the matter of Load Limits on the Old Bindo Road; and
  - That a report be brought back to the TALC Committee after contact with Forestry Corporation; and
  - Make a formal application to TfNSW to reduce the speed limit on Old Bindo Road from 80km/h to 50km/h.
3. Install two (2) locality signs on the suburb boundary on Dark Corner Road, Dark Corner to identify the locality of Dark Corner.

### 11.3. FIN - 27/09/2021 - Minutes of the Finance Committee Meeting - 13 September 2021

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

#### Reference

Min No 21-195 Ordinary Meeting of Council held on 23 August 2021.

Min No 21-199 Ordinary Meeting of Council held on 23 August 2021.

#### Summary

This report provides details of the Minutes of the Finance Committee Meeting held on 13 September 2021.

#### Commentary

At the meeting of the Finance Committee held on 13 September 2021. The following items were discussed:

- **2020/21 Interim Audit Management Letter** – the interim audit management letter for the year ended 30 June 2021 was presented for the Committee’s information. Some actions have already been completed and the remainder are on track for completion.
- **New Risk Management & Internal Audit Framework** – the Office of Local Government (OLG) has issued draft guidelines for Risk Management and Internal Audit for Councils. The framework guides the operations of Audit Risk & Improvement Committees (ARIC) and requires Councils to have a risk management framework and internal audit function to support and inform their operations. The Committee noted the information provided on the OLG’s draft guidelines and endorsed the recommendation for a Lithgow City Council submission on the draft guidelines, supporting Councillor members being included as voting members and Mayors being permitted to be a voting Committee member.
- **2021/22 Financial Assistance Grant** - the NSW Local Government Grants Commission’s has provided a summary of Council’s 2021/22 estimated Financial Assistance Grant (FAG) entitlement. Council has received a 2.5% increase on the 202/21 FAG. The Grants Commission’s letter is included as an attachment to this report.
- **Audit Action Lists** - updated audit action lists were provided for the Committee to note progress towards completing the actions arising from internal and external audit projects.
- **Reserve Balances & Preliminary 2020/21 Operating Result** - the CFIO reported on the reconciliation of Council’s reserve balances at 30 June 2021 and the preliminary 2020/21 income statement. The external audit of the 2020/21 financial statements will commence on 20 September 2021.
- **Cashflow Report - August 2021** - The Committee were provided with an update on Council’s cashflow position as at 31 August 2021. August was a cashflow positive month, as was anticipated. No unexpected issues arose with cashflow during the month of August 2021.
- **Investment Report August 2021** – Council’s total investment portfolio as at 31 August 2021, when compared to 31 July 2021, has increased. The \$4.7M increase in investments is mainly due to the ordinary business of Council, with the first Rates and Annual Charges notice being due and a Financial Assistance Grant instalment received. Cash outflows were higher than an average month due to payment of a 2020/21 WaterNSW invoice, annual contributions and capital works project invoices.

The following business paper recommendation was endorsed by the Committee:

## **Council Investments Report August 2021**

### **Recommendation**

#### **THAT**

1. Investments of \$30,844,593 and cash of \$1,148,626 for the period ending 31 August 2021 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.
3. The commentary on funding requirements for restricted reserves be noted.

### **Policy Implications**

Nil.

### **Financial Implications**

As detailed in the Finance Committee meeting minutes.

### **Legal and Risk Management Implications**

Nil.

### **Attachments**

1. Correspondence from the Local Government Grants Commission - FAG [11.3.1 - 3 pages]
2. Minutes - Finance Committee - 13 September 2021 [11.3.2 - 8 pages]

### **Recommendation**

THAT Council:

1. Adopt the minutes of the Finance Committee meeting held on 13 September 2021 and note the items not requiring a resolution of Council.
2. Endorse the recommendations proposed in the Council Investment Report for August 2021.

## 11.4. PS - 27/09/2021 - Minutes of the Youth Council - 17 August 2021

<b>Prepared by</b>	Ali Kim - Community Development Officer
<b>Department</b>	Community and Culture
<b>Authorised by</b>	Director of People & Services

### Summary

The minutes of the Youth Advisory committee (Youth Council) meeting held 17 August 2021 (via Zoom) are presented for Council's consideration.

### Commentary

Youth Council met on 17 August 2021 via Zoom and discussed various items including:

Planning for Youth week 2022  
Planet Youth Pilot  
Create Lithgow grant workshops

### Policy Implications

Nil

### Financial Implications

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

### Legal and Risk Management Implications

Nil

### Attachments

1. Draft Youth Council Minutes 17 August 2021 [11.4.1 - 5 pages]

### Recommendation

THAT council note the minutes of the Youth Advisory Committee meeting held on 17 August 2021.

## 11.5. EDE - Minutes of the Economic Development Committee - 7 September 2021

**Prepared by** Andrew Muir – Director of Economic Development & Environment

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**Department** Economic Development & Environment

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**Authorised by** Director of Economic Development & Environment

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### Reference

Nil.

### Summary

This report presents the minutes of the Economic Development Committee held on 7 September 2021 to Council.

### Commentary

A meeting of the Economic Development Committee was held on 7 September 2021. Matters on the agenda were:

- The Seven Valleys discussion paper
- Post COVID – Tourism Opportunities
- LEEP update

### Policy Implications

Nil

### Financial Implications

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

### Legal and Risk Management Implications

No specific implications arise.

### Attachments

1. Draft Economic Development Committee Minutes 7 September 2021 [11.5.1 - 5 pages]

### Recommendation

THAT Council note the minutes of the Economic Development Committee held on 7 September 2021.

## 12. Business of Great Urgency

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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. CLOSED REPORT – ECDEV – 27/09/2021 - Lease of 21 Proto Avenue, Lithgow

<b>Prepared by</b>	Sandra Politi – Land Use & Property Officer
<b>Department</b>	Economic Development & Environment
<b>Authorised by</b>	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: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

#### Reference

Minute 18-377 - Confidential meeting of Council 26 November 2018  
 Minute 19-90 - Confidential meeting of Council 25 March 2019  
 Minute 21-182 - Confidential meeting to Council 26 July 2021

#### Summary

The purpose of this report is to provide Council with an update regarding the situation with ECEC Management Services Pty Ltd (ECEC).

### 13.2. CLOSED REPORT – ECDEV – 27/09/2021 - Tender Evaluation – Sealing Contracts Various Roads

<b>Prepared by</b>	Paul Creelman – Transport Manager
<b>Department</b>	Infrastructure Services
<b>Authorised by</b>	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 sealing of various roads as approved in the Capital Works Program (CWP) for 2021/22. This contract is only for the sealing component as all other

aspects of the CWP will be completed using Council's resources. The project sites are funded by a mixture of Council and Transport for NSW funding.

### **13.3. CLOSED Report – WWW – 27/09/2021 - Cullen Bullen Sewerage Treatment Plant – Tender Evaluation**

<b>Prepared by</b>	Matthew Trapp – Executive Manager Water and Wastewater
<b>Department</b>	Water and Wastewater
<b>Authorised by</b>	Director of Water & Wastewater

#### **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 undertaken by Council to seek suitably qualified companies to undertake the Design and Construction of the Cullen Bullen Sewerage Treatment Plant.

#### **Recommendation**

THAT Council Resolve to move into Closed Council to consider the confidential reports as listed in the Agenda