



BUSINESS PAPER

Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 22 November 2021

at 7:00 PM

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1. Acknowledgement of Country

Acknowledgement of Country

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

Declaration of Webcasting

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

2. Present

3. Apologies

4. Declaration of Interest

5. Confirmation of Minutes

Confirmation of Minutes of Ordinary Meeting of Council held 25 October 2021.

6. Commemorations and Announcements

7. Public Forum

8. Mayoral Minutes

9. Staff Reports

9.1. General Manager's Reports

9.1.1. FIN - 22/11/21 - 2021/22 Quarter One Budget Review

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

Summary

This report provides the Quarterly Performance Report on the 2021-2022 Operational Plan for the period of 1 July 2021 to 30 September 2021 with a recommendation that variations to income, expenditure and capital budget estimates are voted and that the revised interim financial result of (\$16K) consolidated operating deficit (before capital grants) be noted. The result is described as interim because, as this report later acknowledges, remedial actions will be taken during Quarter Two to ensure that Council's projected position at 30 June 2022 is comparable with the original budget.

The Chief Financial and Information Officer (CFIO), as Responsible Accounting Officer, has reviewed the report and advises that Council's projected financial position at 30 June 2022 will be **satisfactory** compared with the original budget.

The report also provides an update on cashflow and reserve balances, as well as ongoing actions to manage Council's cash inflows and outflows.

Executive Summary

The CFIO has stated in the Quarterly Performance Report that Council's projected financial position at 30 June 2022 will be **satisfactory**, having regard to the original budget position.

Although Council's projected position at 30 June 2022 has changed from the original budget **\$705K** surplus operating result (before capital) to a projected deficit of **(\$16K)** operating result (before capital), remedial actions will be taken during Quarter Two to ensure that Council's projected position at 30 June 2022 is comparable with the original budget

Quarter One Budget Variations

The main reasons for the change in the projected position are as follows:

- Necessary operational expenditure carryovers of \$114K have added to Council's original expenditure budget (General Fund).
- \$400K addition to the water purchases budget following the IPART determination on the Fish River Scheme pricing (expected cost increase of <15%).
- Additional employment and materials / contracts costs funded from operational grants. \$124K of grants were received in the prior year (held in reserves) and were not offset by income received in the current year (General Fund).
- \$75K increase in the mandatory training budget for Water & Wastewater.

Quarter Two Remedial Actions

The following remedial actions will be taken in Quarter Two to ensure that Council's projected position at 30 June 2022 is comparable with the original budget:

- Taking up approx. **\$500K** in organisation-wide employment cost savings, achieved through strategies including delayed recruitment action.

- Revised water usage charges to partly recoup the additional Fish River Scheme water purchase costs which are beyond Council's control. This matter would need to be considered by the new Council early in 2022 once modelling is completed.

Actions taken to better manage Council's cashflow have ensured that there is sufficient cash and investments to fund Council's external and internal restrictions. In addition, the working capital fund has been built to **\$833K** on hand at 30 September 2021.

Summary of the July to September Quarterly Budget Review Report

Details of the July to September Quarterly Budget Review Report are provided in the attachment to the Business Paper. Below is a summary table:

Budget	Result (before capital)
	\$'000
Original Budget	705
September Review	(16)
December Review	
March Review	

Reasons for Changes in Revenue and Expenditure Projections (Including Capital)

Projected total revenue to 30 June 2022 has **decreased by \$3.2M** during Quarter One, mainly due to the following reasons:

- Decrease in capital grants of \$3.7M mainly due to deferral of construction for the grant funded Fixing Country Bridges Program.
- \$493K addition to operating grants mainly due to the addition of 2021/22 LRCI Phase 2 Grant income (\$384K).

Projected total operating expenditure to 30 June 2022 has **increased by \$1.1M** during Quarter One, mainly due to the following reasons:

- Operating employee costs increased by \$248K in total, mainly due to Infrastructure Services staff working on grant funded operational projects. In addition, the mandatory training budget for Water & Wastewater required a \$75K increase.
- Materials and Contracts increased by \$909K with the \$400K increase for Fish River water purchases and increases related to operational grants.

The net effect of the decrease in projected total revenue and the increase in projected total expenditure is a decline in the expected consolidated operating result from a surplus of **\$13.6M** to a surplus of **\$9.18M** at 30 June 2022 (**including capital grants**).

Projected End of Year Result (Before Capital)

The operating result **before capital grants** is a key Office of Local Government performance measure with a benchmark of a balanced operating result (i.e. nil surplus / deficit). Capital grants are excluded from the performance measure as they do not contribute towards funding Council's operations. Council's revised consolidated operating result (before capital grants) at 30 June 2022

is projected to be a **(\$16K)** deficit, which is marginally below the OLG benchmark. Again, however, this is an interim position relevant only to this point in time.

At the end of Quarter One 2021/22, it is projected that the General Fund will have a deficit (before capital grants) of (\$301K). Both the Water Fund and the Sewer Fund are projected to have surplus operating results (before capital grants) at 30 June 2022.

Remedial actions will be taken in Quarter Two to ensure that Council's projected position at 30 June 2022 is comparable with the original budget

Capital Expenditure Budget

The 2021/22 capital expenditure budget is projected to be **\$23,5M** (excluding loan repayments). The revised budget is a decrease of \$3.65M on the \$27.2M (excluding loan repayments) original budget with carryovers. The key change to the Capital Works Program are:

- \$4.3M reduction in Transport project budgets mainly due to the deferral of construction for the grant funded Fixing Country Bridges Program.
- \$998K reduction in Water and Wastewater project budgets due to multi-year projects being partly rephased to the 2022/23 year.
- The Resource Recovery Centre budget has been increased by \$1.7M for the final costs of construction (funded from the Waste reserve and a grant).

Cash and Investment / Reserve Balances

The Cash and Investments Statement at 30 September 2021 is shown in the table below.

Cash and Investments Statement		
	30 June 2021 Position	30 September 2021 Position
Externally Restricted		
Developer Contributions	2,143	1,925
Special Purpose Grants	2,945	2,699
FAGS	2,534	-
Water Supplies	2,401	1,443
Sewerage Services	7,889	8,814
Domestic Waste	6,408	7,373
Unexpended Loans	1,689	1,464
	26,010	23,718
Internally Restricted		
Land & Buildings	1,216	2,389
Plant & Equipment	3	214
Bonds, Deposits & Retentions	296	305
Works in Progress	597	597
Carry Over Works	221	205
ELE	754	754
Election	160	160
Total Internally Restricted	3,247	4,624
Unrestricted (working capital)	-	833
Total Cash and Investments	29,257	29,175

The actions taken to manage Council's cashflow have ensured that there is sufficient cash and investments to fund Council's external and internal restrictions. In addition, the working capital fund has been built to \$833K on hand at 30 September 2021.

Policy Implications

Nil.

Financial Implications

As detailed in this report.

Legal and Risk Management Implications

The Local Government Act 1993 and Local Government (General) Amendment (Planning and Reporting) Regulation 2009 sets out the requirements for the quarterly reporting of the achievement of performance targets and the submission of a budget review statement after the end of each quarter.

Attachments

1. July September Quarterly Report final version [9.1.1.1 - 19 pages]

Recommendation

THAT Council:

1. Note the contents of the report and the projected consolidated operating result before capital grants of (\$16K) deficit for the 2021/22 Operational Plan as detailed in the Quarterly Budget Review Report for the period 1 July 2021 to 30 September 2021.
2. Adopt the income, expenditure and capital budget variations to the 2021/22 Council budget as outlined in the attached report.
3. A further report be presented to Council in the second quarter proposing remedial actions that can be taken to ensure that Council's projected position at 30 June 2022 is comparable with the original budget.

9.2. Economic Development and Environment Reports

9.2.1. Building and Development

9.2.1.1. ECDEV - 22/11/2021 - DA190/21 Proposed Telecommunication Works, Lot 1 DP1094395, Lot 249 DP, Lot 1 DP 1192477, Hassans Walls Reserve, Great Western Highway, Lithgow NSW 2790

Prepared by	Lauren Stevens – Development Assessment Planner
Department	Economic Development & Environment
Authorised by	Director of Economic Development & Environment
Property Details	Lot 1 DP1094395, Lot 249 DP751650, Lot 1 DP 1192477, Hassans Walls Reserve, Great Western Highway Lithgow
Property Owner	NSW Planning, Industry & Environment – Crown Lands
Applicant	Optus Fixed Infrastructure Pty Ltd

Summary

The purpose of this report is to assess and recommend determination of Development 190/21 for the installation of fibre optic cable on land known as Lot 1 DP1094395, Lot 249 DP751650, Lot 1 DP 1192477, which is Crown land located at Hassans Walls Reserve, Great Western Highway Lithgow.

Commentary

The development 190/21 involves the installation of telecommunication transmission facilities including conduit, fibre optic cable, cable markers and pits. This will involve the excavation of a trench 20cm wide and 800mm deep. Seven pits are to be installed, with asset marker posts. The development will follow clear paths under powerlines.

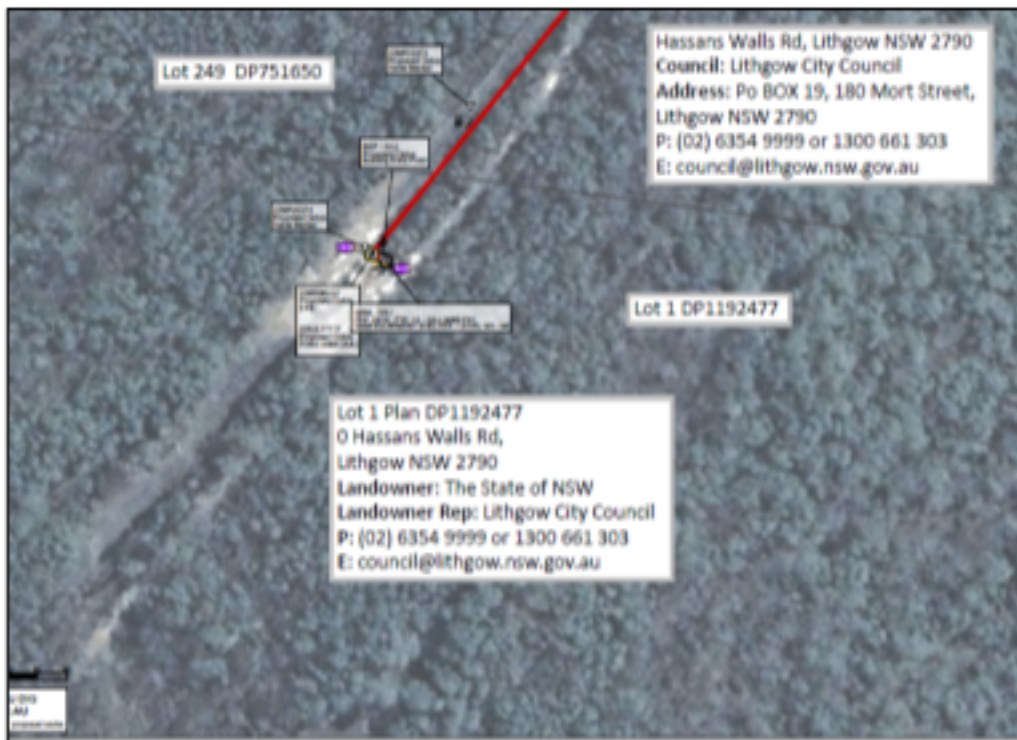
The site is predominantly surrounded by bushland, vehicle, walking tracks and powerlines, Council's Water Reservoir and an Optus Mobile Phone Tower.

The works proposed involve cables within conduits as the development currently has microwave transmission above ground. The proposal is to substitute the microwave transmission with underground optical cable. Connecting the optical cable to the tower at Hassans Walls Reserve provides for increased (unlimited) capacity of the service and meets the requirement for 5G upgrades. Installing cable in the ground also provides transmission security as the cable is buried from bushfire effects.

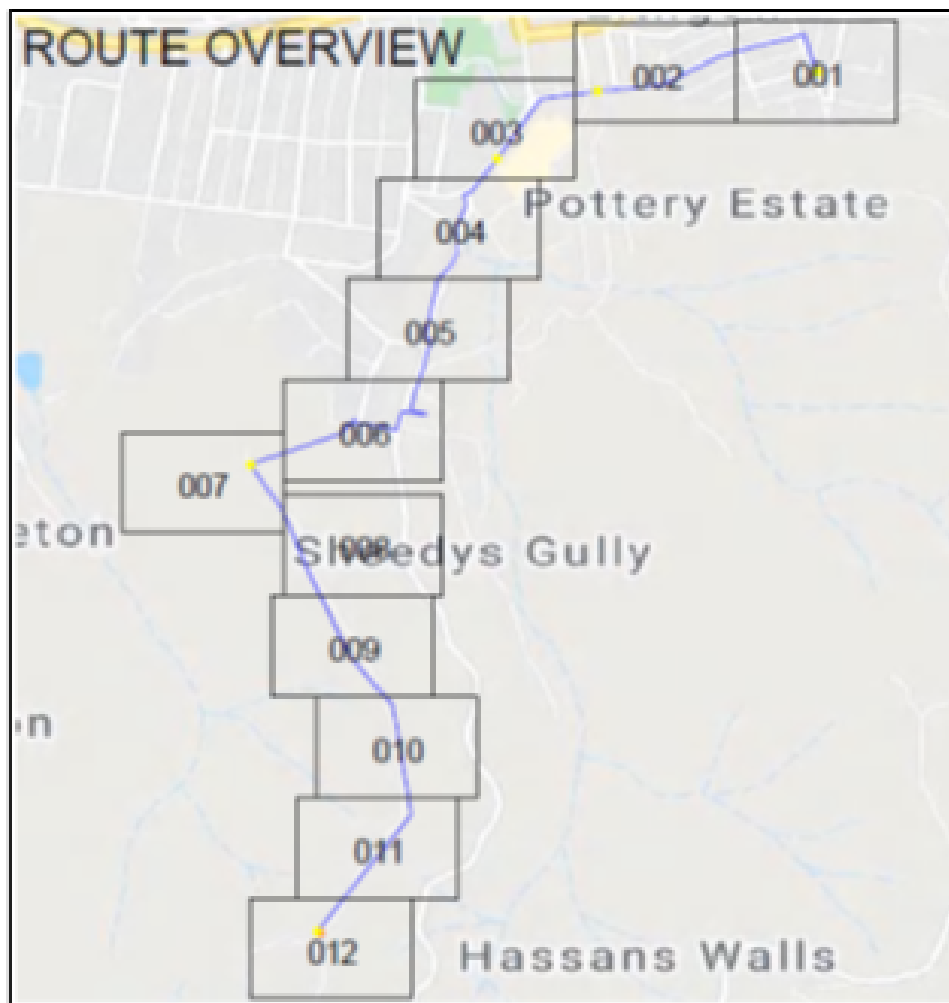
The development is located within an environmentally sensitive area and therefore the works are not exempt as per Clause 116 *'Exempt Development'* under the State Environmental Planning Policy (Infrastructure) 2007.

Other ancillary works involve underground conduits and pits running along Hassans Walls Road, Lithgow Street, Bent Street, Eskbank Street and Hill Street. These works are being completed by Optus under the provisions of the Telecommunications Act 1997 and do not require Council approval.

The location of the development at Hassans Walls Reserve is shown on the plan below. *Furthermore, attached are plans that more succinctly describe the location of the proposal in relation to its surrounds.*



The route overview is shown in the diagram below:



The proposal has been assessed in accordance with the requirements of section 4.15 of the Environmental Planning and Assessment Act 1979 as detailed in the assessment report in the

attachment. The assessment report recommends granting approval to the development subject to conditional consent.

Crown Land Management

Lot 1 DP1094395, Lot 249 DP751650 and Lot 1 DP 1192477, is Crown land and forms part of Hassans Walls Reserve. Council is the Crown Land Manager of Hassans Walls Reserve and is committed to ensuring compliance with the Native Title Act 1993, which affects all Crown land in NSW. Section 24KA of the Native Title Act 1993 sets out the requirements regarding use or development of Crown land for the purpose of facilities for services to the public. It provides that any Native Title holders, and any registered Native Title claimants have the same procedural rights as they would have if they instead held ordinary title (s. 24KA(7)). The Telecommunications Act 1997 requires telecommunication carriers and providers to give notice to owners or occupiers of land before performing certain activities or development (Cl 17, Div 5 of Schedule 3).

As Native Title holders and Native Title claimants have the same procedural rights in relation to Crown land that owners or occupiers have in relation to ordinary title, Council asked Optus to give notice to the Native Title claimants in relation to its proposed development on Lot 1 DP1094395, Lot 249 DP751650 and Lot 1 DP 1192477. Subsequently, Council received confirmation from Optus that it has provided the requisite notice and received non-objection letters from the Native Title claimants. Council is therefore satisfied of compliance with the Native Title Act 1993 and has no objection to the development from a Crown Land Management perspective.

Policy Implications

Policy 7.6 Development Applications by Councillors and Staff or on Council Owned Land

This policy requires that a development application relating to Crown land managed by Council be referred to an Ordinary Meeting of Council for consideration and determination by Council. As Hassans Walls Reserve Crown Land under the care, control and management of Lithgow City Council, the application is reported to Council for determination in accordance with this Policy.

Lithgow Community Participation Plan

The Lithgow Community Participation Plan applies to all land within the Lithgow Local Government Area (LGA) and prescribes the following types of development as exempt from requiring notification:

2. APPLICATIONS FOR WHICH NOTIFICATION WILL NOT BE GIVEN

- *Any other development of a minor nature that, in the opinion of the assessing officer, does not have the potential to create a negative impact on the amenity of the neighbourhood by way of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.*

Therefore, no adjoining or adjacent landowners have been notified of the proposal as part of this process.

Financial Implications

- Budget approved - N/A for the assessment of the development application.
- Cost centre - N/A for the assessment of the development application.
- Expended to date - N/A for the assessment of the development application.
- Future potential impact - N/A for the assessment of the development application.

Legal and Risk Management Implications

Nil.

Environmental Planning and Assessment Act 1979

In determining a development application, Council as the consent authority is required to take into consideration the matters of relevance under Section 4.15 of the Environmental Planning and Assessment Act 1979. These are addressed in the planning assessment report.

Attachments

1. DA190 21 Optus Fixed Infrastructure Hassans Walls Development Assessment Rep [9.2.1.1.1 - 22 pages]
2. Plans [9.2.1.1.2 - 2 pages]
3. DA190/21 - Proposed Plans - Optus - Hassans Walls Reserve [9.2.1.1.3 - 7 pages]
4. Overall Site Plan [9.2.1.1.4 - 1 page]

Recommendation

THAT:

1. Development Application DA155/21 be APPROVED subject to conditions of the consent outlined in the attached planning assessment report.
2. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**9.2.1.2. ECDEV - 22/11/2021 - Development Assessment Report DA181/21 – SUBDIVISION 21
LOTS INTO 7 - 909 Jenolan Caves Road Good Forest NSW 2790**

Prepared by Paul Cashel - Planner

Department Planning

Authorised by Director of Economic Development & Environment

Summary

The purpose of this report is to assess and recommend determination of Development 181/21 for the subdivision of rural land at 909 Jenolan Caves Road, Good Forest to create 7 new lots.

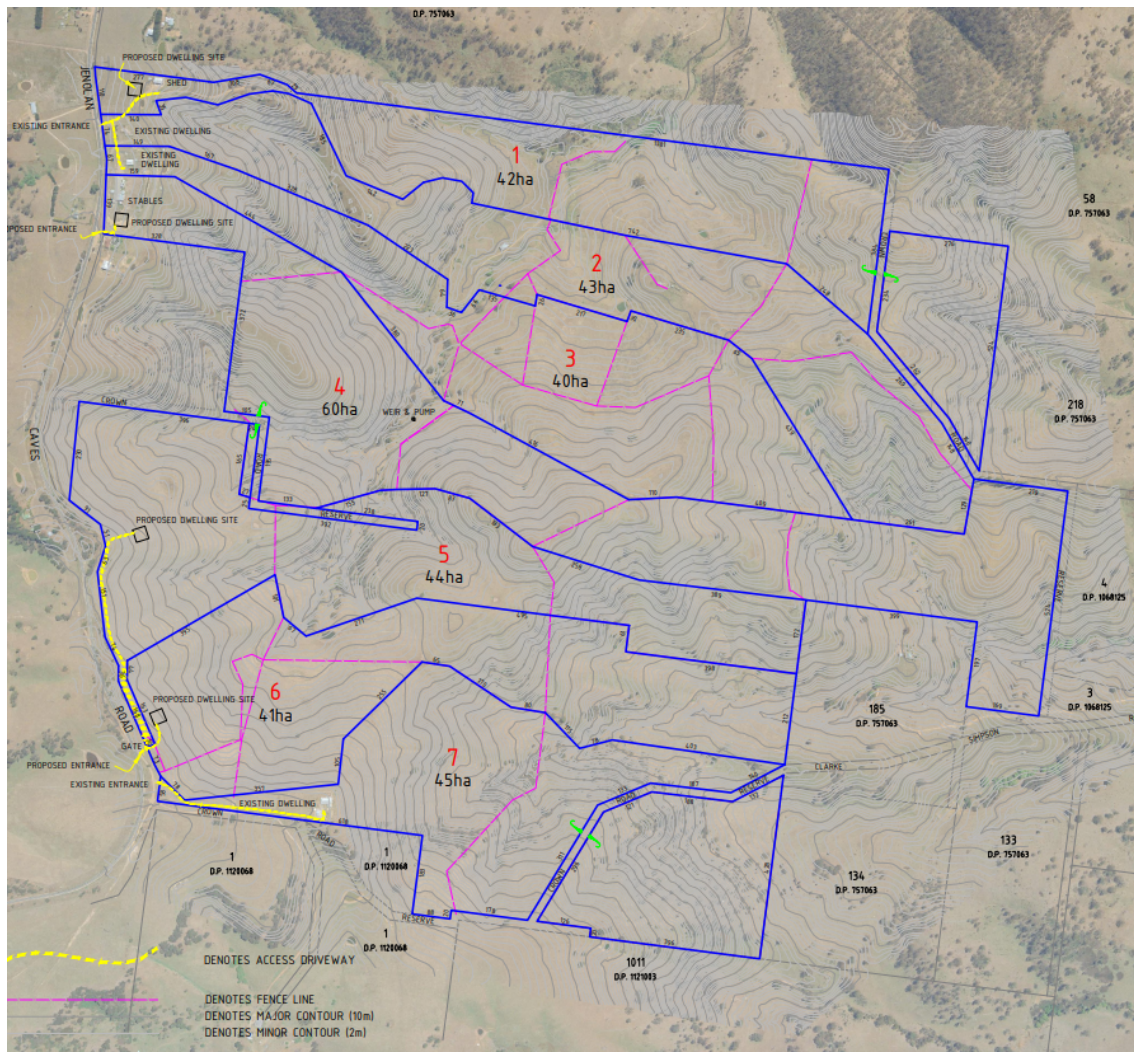
Commentary

The proposal involves the consolidation, reconfiguration and realignment of the boundaries of 22 existing lots into 7 new lots. Each of the proposed lots will have a minimum area of 40 hectares. Three of the existing lots contain dwellings which will be retained separately on each of the new lots with four of the new lots having the opportunity to contain future new dwellings (subject to separate development consent). The application has been made by the current landowner Mice Eat Cheese Pty Ltd.

The proposal reconfigures the existing fragmented lot boundaries and reconfigures them into 7 standalone, functional rural lots with rationalised boundaries based on topography and existing fencelines.

The configuration of the 7 new lots is illustrated in the plan extract below. The new lots will be configured as follows:

- Lot 1 – 42 hectares
- Lot 2 – 43 hectares (contains an existing dwelling)
- Lot 3 – 40 hectares (contains an existing dwelling)
- Lot 4 – 60 hectares (contains existing stables)
- Lot 5 – 44 hectares
- Lot 6 – 41 hectares
- Lot 7 – 45 hectares (contains an existing dwelling)



Legal Description: Lots 1 & 2 DP 240481, Lot 112 DP 657516, Lots 6, 31, 51-53, 59, 90, 121, 135, 145, 173, 187-189, 212, 220, 224, 225, 240 DP 757063

Property Address: 909 Jenolan Caves Road, Good Forest

Zoning

The land is zoned RU1 Primary Production under the *Lithgow Local Environmental Plan 2014* (LLEP).

Minimum Lot Size

The subject land is fully within the area on the Lot Size Map having a minimum subdivision lot size of 40 hectares. Each of the proposed lots has an area greater than 40 hectares and complies with the requirements of LLEP clause 4.1

Rural Fires Act 1997

The proposal involves the subdivision of bushfire prone land and requires approval in the form of a Bushfire Safety Authority issued by the Rural Fire Service under section 100B of this Act. The application was referred to the Rural Fire Service for a bushfire safety authority which was issued on 27 October 2021 subject to conditions.

5.3.7 The Suitability of the site for the development

The subject land comprises elevated and undulating rural land suitable for small scale agricultural pursuits and rural residential uses. The subdivision consolidates 22 fragmented lots into 7 larger,

more functional lots that can be held in separate ownership while retaining a level of agricultural functionality consistent with the LLEP provisions.

The shape of the lots may not appear uniform until overlaid with the topographic plans. It then becomes apparent that the new lot boundaries better reflect existing topography. The new lots have been configured to ensure functionality and access within each lot without unreasonably burdening other lots or adjoining land.

5.3.8 Any submissions made in accordance with this Act or the Regulations

The subdivision application was placed on public exhibition with adjoining landowners notified in accordance with the Lithgow Community Participation Plan. Three (3) separate written submissions were received in response to the public exhibition of the proposal. These submissions are summarised in the table below.

Issue Raised	Comments
Narrowness and length of blocks, steep nature of landscape, difficulty in management (weeds and feral animals)	The subdivision proposal reconfigures 22 disjointed lots into 7 lots with boundaries better aligned with the topography of the land. Each lot has been configured to provide the easiest and most practical physical access to areas within each lot while also achieving compliance with the LLEP minimum lot size requirements. The proposed lot configuration is considered an improvement to the current fragmented and disjointed lot configuration based on original parish portions that do not reflect the topography of the land.
Changed land uses (reduced agricultural production) will increase pest infestations (weeds and feral animals) and generate nuisance to adjoining landowners	Potential changes to land uses, ownership and management practices are acknowledged and recognised as possible. This issue remains regardless of the lot configuration proposed. In addition, regardless of subdivision configuration or land uses undertaken, landowners remain subject to separate legal obligations to manage feral animals and weed species.
Multiple lots with access to Jenolan Caves Road	Accesses to Jenolan Caves Road have been minimised with shared accesses provided. Each lot has direct access to Jenolan Caves Road with sufficient capacity for safe sight distances.
Number of lots and shape making management livestock difficult, land will be prevented from useful agricultural production	The subdivision configuration does not change the existing landform which is currently contained within 22 disjointed and fragmented existing lots that do not demonstrate order or practical function. The proposed 7 lots consolidate the land

	into separate ownership units but do not necessarily limit the agricultural uses or productivity potential across the land such as through agistment or sharing of resources.
Internal access within the lots will require roads/access tracks which will cause erosion, require culverts and increase erosion/instability risk	The need for access tracks for maintenance is unknown with none proposed as part of the subdivision. It is acknowledged the subdivision will change the way the land is currently accessed and managed. All future land uses and ancillary works such as access tracks and infrastructure will be subject to separate approval or undertaken as exempt development in accordance with the LLEP provisions.
Unworkable nature of the lots will result in demands for further subdivision with access from Clarke Simpson Road	The subject land has no direct frontage or access to Clarke Simpson Road. This will remain unchanged.
The proposal does not satisfy the objectives of the RU1 zone	It is considered that the consolidation and re-subdivision of the existing 22 disjointed and fragmented lots into 7 larger lots with frontage to Jenolan Caves Road and with boundaries that are better aligned with the topography will better facilitate land uses consistent with the zone objectives than the current lot configuration.
Bushfire risk due to steep landform and irregular boundary fences	The proposed reconfigured lot boundaries are improved from the current lot configuration and will not directly reduce or increase bushfire risk or access to the land for bushfire protection. Existing dwellings and infrastructure on the land will not be negatively affected or result in an increased bushfire risk from the subdivision configuration proposed. Any future dwellings on the land will be subject to separate development consent and will separately address bushfire risk. Each lot has sufficient area and dimensions to enable dwellings with a suitable level of bushfire protection measures.
Proposed lots do not enhance the character or landscape setting of the locality	The reconfigured lot boundaries are considered an improvement to the existing 22 disjointed and poorly configured lots. The proposal will result in 7 consolidated rural lots that comply with the minimum lot size requirements of the LLEP and that can, in principle, be used for agricultural activities consistent with

	the RU1 zone objectives and land uses permitted in the zone.
The present sizeable grazing property will be lost with the proposed lots not considered practical or viable for productive agricultural use	The existing holding comprises 22 separate lots that are configured in a form that is not respectful of the landform or current agricultural practices. The reconfigured lots are based more closely to topographic constraints and are of a size that is consistent with the LLEP planning provisions and minimum lot size requirements. Agricultural land uses and activities are not necessarily constrained to cadastral boundaries with options for agistment and shared resources remaining open to future landowners.
New lots will be occupied as rural lifestyle properties with limited capacity for meaningful agricultural production	The proposal is generally consistent with the provisions of the LLEP and land uses facilitated by those provisions.
Traffic impacts from additional residences accessing Jenolan Caves Road	There is no net increase in potential lot yield for the land with the reconfigured lots each providing suitable frontage to Jenolan Caves Road for access. No new land uses are proposed, with Jenolan Caves Road having sufficient capacity and each new lot having potential for safe, legal access to Jenolan Caves Road for the envisaged rural residential and agricultural uses of the land. Any other land uses facilitated by the proposal will be subject to separate traffic impact assessment as part of separate development proposals.

5.3.9 The public interest

The public interest is best served by the orderly and economic use of land for permissible uses and that does not impact unreasonably on the use and development of surrounding land.

In general, the proposal is considered overall to be in the public interest. It is acknowledged that when viewed in isolation the lot configuration and layout may not appear uniform. However, this is not a measure of lot functionality which should respect the land and its topography and is certainly not a valid reason to reject the proposal.

The reconfiguration of 22 disjointed and fragmented lots that are poorly configured over the site into 7 new lots with boundaries better aligned with the topography, each with frontage to Jenolan Caves Road is considered a favourable outcome. The subdivision will facilitate and enable the ongoing and future use of the land for agricultural activities and associated rural residential uses. The proposal is generally in accordance with the provisions of the LLEP and other relevant planning instruments, regulations and policies as outlined in this report.

Policy Implications

Policy 7.7 Calling In Of Development Applications by Councillors

This application has been called in pursuant to Policy 7.7 "Calling in of Applications by Councillors" which states:

3. Should written notice signed by a Councillor be provided to the General Manager prior to determination of a development application, the application shall not be determined under delegated authority but shall be:
 - Reported to the next available Ordinary Meeting for the information of Council that the development application or development application/construction certificate has been 'called in'; and
 - Reported to a Meeting of Council for determination where the application is in a state that it can be determined.

The application has been called in by Councillor Stephen Lesslie. The advice to this Council meeting is pursuant to Council policy.

Lithgow Community Participation Plan

The Lithgow Community Participation Plan applies to all land within the Lithgow Local Government Area (LGA). Surrounding landowners have been notified of the proposal and given the opportunity to provide submissions. Three submissions have been received in response to the notification.

Environmental Planning and Assessment Act 1979

In determining a development application, Council as the consent authority is required to take into consideration the matters of relevance under Section 4.15 of the Environmental Planning and Assessment Act 1979. These are addressed in the attached planning assessment report.

Financial Implications

- Budget approved - N/A for the assessment of the development application.
- Cost centre - N/A for the assessment of the development application.
- Expended to date - N/A
- Future potential impact - N/A

Legal and Risk Management Implications

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act. It should also be noted that despite there being three objections to the proposal that Council is not affected by the caretaker provisions of the Local Government legislation as this is not a controversial development application within the meaning of the caretaker provisions.

Attachments

1. DA181 21 [9.2.1.2.1 - 18 pages]

Recommendation

THAT

1. Development Application DA181/21 be APPROVED subject to conditions of the consent as shown in the attached planning assessment report.
2. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

9.2.2. Economic Development & Environment General Reports

9.2.2.1. ECDEV - 22/11/2021 - Proposed lease to COC Ltd - State Mine Gully Road, Lithgow - Old Lithgow Power Station site

Prepared by Sandra Politi - Land Use & Property Officer

Department Economic Development & Environment

Authorised by Director of Economic Development & Environment

Reference

16-260 – ordinary meeting of Council 10 October 2016

21-242 – ordinary meeting of Council 25 October 2021

Summary

The purpose of this report is to request Council's approval to grant a lease to COC Ltd (**COC**) to enable works under DA099/16 to be carried out.

Commentary

The Site

This report relates to Lot 931 in DP868140 on State Mine Gully Road, Lithgow, commonly known as the old Lithgow Power Station site (**the Site**).

The Site is owned by Council and classified "operational" land (schedule 4, Lithgow LEP2014). "Operational" land does not attract the restrictions that apply to land that is classified "community" and therefore Council is at liberty to make decisions about the Site, without the need for public exhibition. For convenience, an image identifying the Site is attached to this report.

Development under DA099/16

This report requests Council's approval to grant a lease to COC to enable works under DA099/16 to be carried out.

On 16 October 2016 Council issued DA099/16 approving the delivery, spreading and compacting of 10,000 tonnes of clean fill on the Site. While DA099/16 had a lapsing date of 10 October 2021, that date has been extended to 10 October 2023 due to the *COVID-19 Legislation Amendment (Emergency Measures – Miscellaneous) Bill 2020*, which made temporary amendments to the lapsing provisions of the *Environmental Planning and Assessment Act 1979*, s.4.53(6)(c).

COC would like to commence works under DA099/16 but requires legal access to the Site for this purpose. As Council owns the Site, it is proposed that Council grant a 5 year lease to COC for a rental that is equivalent to Council rates for the Site and otherwise on terms to be negotiated and agreed with Council's General Manager.

Policy Implications

Policy 9.16 Compliance Policy

Policy 10.20 Leasing and Licensing Policy

Financial Implications

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

- Expended to date – N/A
- Future potential impact – N/A

Note: the financial implications listed pertain only to the purpose of this report and do not account for the cost of any plan of management or future action.

Legal and Risk Management Implications

Local Government Act 1993

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

Attachments

1. Image identifying Lot 931 in DP 868140 [9.2.2.1.1 - 1 page]

Recommendation

THAT Council enter into a lease with COC Ltd as outlined in this report, to enable works under DA099/16 to be carried out and authorise the General Manager to do all things and sign all documents necessary to give effect to the lease.

9.2.2.2. ECDEV – 22/11/2021 – Transfer of land to NSW Telco Authority

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

Summary

The purpose of this report is to request Council's approval to transfer Lot 1 in DP1007126, located off Glen Davis Road at Capertee (**the Site**), to NSW Telco Authority.

Commentary

Nature of the Site

The *Rural Fires Act 1991* (NSW) requires Councils to provide facilities and equipment for RFS purposes. Such facilities and equipment vest in Councils (*Rural Fires Act 1991*, s. 119).

Council acquired the Site in 2000 for the purposes of an RFS bushfire repeater station. An image showing the location of the Site and equipment on the Site is attached to this report.

Presently, RFS is the primary user of the Site and manages the radio communications tower. NSW Police Force, NPWS and WaterNSW also use the Site for communication purposes.

Introduction of the *Government Telecommunications Act 2018* and establishment of the NSW Telco Authority

The NSW Telco Authority (**Authority**) was established under the *Government Telecommunications Act 2018*, which commenced on 31 October 2018. The objects of the legislation (outlined in the explanatory notes attached to the draft Bill) include:

1. to establish the NSW Government Telecommunications Authority to provide a network for operational communications services for government sector agencies;
2. to require government sector agencies to use that network for operational communications;
3. to provide for the networks of government sector agencies to be consolidated into the network provided by the Authority.

In practical terms, the legislation has the effect of moving the obligation to own telecommunication towers for RFS purposes, from Councils to the Authority.

The Authority (via RFS) has indicated that it will need to install a new tower on the Site to meet the needs of the shared government radio network. A process is required before this can occur, involving the transfer of existing assets from Council to RFS and de-commissioning of those assets. It is expected this process will take some months.

The Authority (via RFS) has also enquired whether Council would like to transfer the Site to it or grant a lease to allow the Site to be used by the Authority for communication purposes.

Transfer of the Site

For the following reasons it is recommended that Council agree to transfer the Site to the Authority:

1. Council acquired the Site in 2000 for bushfire repeater station purposes and to meet the requirements of the *Rural Fires Act 1991*. This is no longer relevant, given that any obligation

on Councils to own telecommunication towers for RFS purposes is made redundant by the introduction of the *Government Telecommunications Act 2018* which requires government agencies to use the shared government radio network.

2. The site was originally acquired without any real expense to Council.
3. The Authority has the expertise to manage the Site as part of the shared government radio network.

The Site is presently classified “community”, which restricts Council from selling the Site. The Site will need to be re-classified to “operational” by LEP amendment before any transfer can occur. Alternatively, the Authority may acquire the Site under the *Land Acquisition (Just Terms Compensation) Act 1991*. Council will look to avoid the cost and timeframes of re-classification by requesting that the site be acquired by this latter process.

Policy Implications

Policy 9.16 Compliance Policy

Financial Implications

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

Note: the financial implications listed pertain only to the purpose of this report and do not account for the cost of any future action.

Legal and Risk Management Implications

Rural Fires Act 1991
Government Telecommunications Act 2018
Local Government Act 1993
Land Acquisition (Just Terms Compensation) Act 1991

Attachments

1. Image identifying Lot 1 in D P 1007126 [9.2.2.2.1 - 1 page]

Recommendation

THAT

1. Council agree to transfer Lot 1 in DP1007126 to the NSW Telco Authority on the basis of the Land Acquisition (Just Terms Compensation) Act 1991.
2. Authorise the General Manager to sign all documents and do all things necessary to give effect to the transfer of Lot 1 in DP1007126 to the NSW Telco Authority, including the RFS assets, on terms to be agreed by the General Manager

9.3. Infrastructure Services Reports

9.3.1. IS - 22/11/2021 - Cullenbenbong Causeway Replacement

Prepared by Paul Creelman- Transport Manager

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Summary

During the 2021 flooding in the Lithgow LGA, damage was caused to a causeway on Cullenbenbong Road, crossing Cullenbenbong Creek in the Kanimbla Valley. The situation has been monitored during the year and it has come to a point that repair of the damage has become critical and urgent replacement is required. There is a very real risk that if heavy rains are received, residents could be isolated or be caused to risk crossing this potentially dangerous causeway.

Funding has been received from TfNSW through the National Disaster Recovery Arrangements (NDRA) for the full cost of \$300,000. An application has been submitted to the Department of Primary Industry Fisheries (DPI Fisheries) for the works and a permit will be issued to proceed.

Due to the urgency, one quote was requested from a local contractor which came within the budget for the project. This contractor has completed similar works and worked with DPI Fisheries to achieve desired project outcomes. An exemption from the tendering process has been approved due to the urgency of the causeway replacement.

Because Council is in the caretaker mode it is fettered from entering into this contract. There is however the opportunity for the Minister to approve these works by way of an exemption based upon the urgent and emergency nature of the works. It is proposed that Council pursue this option.

Commentary

The causeway across the Cullenbenbong Creek on Cullenbenbong Road has serious displacement in the concrete slab on the northern approach which will stop access/egress to the southern end of the Kanimbla Valley should the displacement increase. As a result, an urgent call for funding was requested from the NDRA which resulted in approval of the amount required to replace the causeway. A quote was called from Gracey's Earthmoving and Excavations, a local contractor with previous experience in completing similar types of projects and working with the DPI Fisheries in live creek situations.

A site meeting was held with the contractors on Friday 5 November 2021, to consider the details of the project, site conditions and the route of the detour that will be in place for the duration of the project. Discussions are currently taking place with adjacent landowners for the detour which uses a combination of private land and a crown road. While it is estimated that the project will take approximately 8 weeks, the timeframe may be extended if prolonged rain events occur. These contingencies have been reviewed during the project planning.

This work is essential in retaining access for locals and visitors to the southern end of the Kanimbla Valley. The new causeway will have a life of at least 80 years and ensure ongoing access to the southern end of the Kanimbla Valley. With the success of the application for the grant from the NDRA there will be no cost to Council for the works. Without the grant, other projects would have been deferred to allow funding for this critical work to proceed.

Residents will be contacted by letter shortly and information will be placed on Council's website to keep residents and visitors informed once a start date has been confirmed. Materials for the project

are currently being sourced and based on dates for the supply of these materials, the start date will be determined.

Policy Implications

The quoting and acceptance for this project has been conducted under Section 5 of Councils Purchasing procedure and under Section 55, Part 3(k) of the Local Government Act for emergency works due to the serious implications of the failure of the causeway to public safety and access.

The Exemption from procurement process form has been authorised and is included as an attachment with the quote details. A site meeting was held on the 5 November 2021 with representatives of Graceys Earthmoving and Excavations and residents to consider the impact on residents and potential impacts should the causeway fail, as well the construction details.

Caretaker Restrictions

Under the Local Government Regulation, Councils are required to assume a “caretaker” role in the four weeks preceding the election day.

During the caretaker period, Councils, General Managers and other delegates of Councils must not enter into any contract or undertaking involving an expenditure or receipt by the council of an amount equal to or greater than \$150,000.

In the event of urgent and/or emergency works being required, there is a pathway for approval of projects / contracts via the Office of Local Government. It is proposed to seek the endorsement of the OLG for the Cullenbenbong Causeway Replacement project to proceed without delay.

Financial Implications

- Budget to be approved – \$300,000 external grant funded.
- Cost centre - 100717
- Expended to date - \$0
- Future potential impact – nil.

Legal and Risk Management Implications

Council has a legal obligation to provide a safe road passage for road users and to maintain the infrastructure forming the road.

Council's risk management will be met in replacing the current causeway which has a critical fault and is likely to fail in the short term.

Attachments

1. Quote Cullenbenbong Road Concrete Causeway [9.3.1.1 - 3 pages]
2. Causeway location [9.3.1.2 - 1 page]
3. Exemption form Culvert Cullenbenbong Road [9.3.1.3 - 1 page]

Recommendation

THAT:

1. Council accept the quotation for the reconstruction of the causeway over Cullenbenbong Creek on Cullenbenbong Road with a \$300,000 grant funded budget for construction to commence as soon as practicably possible, and subject to prior approval from OLG or the Minister.
2. Due to Council's caretaker role, endorsement be sought from the OLG for the Cullenbenbong Causeway Replacement project to proceed immediately due to the urgent nature of the works.

9.4. Finance and Assets Reports

9.4.1. FIN - 22/11/21 - Financial Statements for the Year Ended 30 June 2021

Prepared by Chief Financial & Information Officer

Department Finance & Assets

Authorised by Chief Financial & Information Officer

Reference

Min No 21-247: Ordinary Meeting of Council held on 25 October 2021.

Summary

At the 25 October 2021 meeting, Council resolved to:

1. Note that the audit of the 2020/21 financial statements has been completed.
2. Authorise the signing of the statement on the 2020/21 General Purpose Financial Reports.
3. Authorise the signing of the statement on the 2020/21 Special Purpose Financial Reports.
4. Invite a representative of the Audit Office of NSW, Council's Auditors, to present a report to Council on the 2020/21 Financial Statements at the Ordinary Council meeting scheduled for 22 November 2021 via virtual attendance.

The purpose of this report is to present to the Council the audited Financial Statements for the year ended 30 June 2021, as required by Section 419 of the Local Government Act 1993.

The 2020-2021 Financial Statements are included as an attachment to this report.

Commentary

2020/21 Financial Statements – Executive Summary

Council continued to experience a challenging operating environment throughout the 2020/21 year. Similar to other Councils, costs have been rising faster than revenue in recent years and the management of numerous natural disasters, as well as the effects of covid, has impacted performance, making it increasingly difficult to deliver a balanced operating result. Income and investment income was also \$342K lower than 2019/20 due to record low interest rates.

In the 2020/21 year, Council achieved eight of ten OLG financial and asset performance ratio benchmarks. Council met the asset maintenance ratio benchmark for the first time and the infrastructure backlog ratio benchmark for the second consecutive year. This is a demonstration that while our operating environment is challenging, and it will likely continue to be, Lithgow City Council is meeting industry benchmarks for financial performance.

It is acknowledged that Council has not however recently achieved the key Office of Local Government (OLG) financial performance measure of a balanced operating result (before capital grants). In 2020/21, Council's operating deficit (before capital grants) was (\$1.85M) deficit which is an improvement on the (\$2.6M) deficit in the prior year. Management is implementing a range of budget saving strategies and is focused on a return to a balanced operating result as soon as possible. The new Council will need to be focused on the approval of a pathway to financial sustainability.

External Audit

The Council's Financial Statements for the year ended 30 June 2021 were completed by the Council Finance team and have now been reviewed and returned by the Audit Office of NSW, in accordance with legislative requirements. A representative of the contract auditor (Crowe Australasia), will provide a pre-recorded presentation to the meeting. The auditor will:

- deliver a brief presentation to the Council on the end of year result and the conduct of the audit; and
- review the Council's key financial indicators contained within the Financial Statements.

Annual Financial Statements Reporting Process

The Council's Annual Financial Statements are required to be audited by the Audit Office of NSW, and copies of the financial reports and the Auditor's report submitted to the Office of Local Government (OLG). Council was granted an extension to lodge the financial statements by 16 November 2021. **Both the auditing and lodgement requirements have been met within the prescribed timeframes.**

Report on Financial Statement Audit Results

The 2020-2021 audit resulted in the issuing of an unmodified audit report on both the General Purpose and Specific Purpose Financial Statements. An unmodified audit report is an expression used by auditors to confirm that the Financial Statements are presented, in all material respects, in accordance with applicable financial reporting requirements.

The Financial Statements confirm the operating result and financial position of the Council for the year ended 30 June 2021 and the statements are in accordance with Australian Accounting Standards, the Local Government Act 1993 and the NSW Local Government Code of Accounting Practice and Financial Reporting.

The auditors have formed an opinion that Council's financial statements fairly present the result of its financial operations and its financial position as of 30 June 2021 and that the Council has complied with requirements of the Local Government Act 1993.

Movements in Major Revenue and Expense Items During the Reporting Period

The Income Statement summarises the Council's financial performance for the 2020-2021 year, listing all income and expenses. The table below gives a snapshot of the key movements compared to the prior year.

OPERATING REVENUE (\$'000)	2020/21	2019/20	Increase (decrease)
Rates and Annual Charges	27,215	27,903	(688)
User Charges and Fees	7,247	6,854	393
Interest & Investment Revenue	290	632	(342)
Grants & Contributions - Operating	11,286	10,051	1,235
Grants & Contributions - Capital	3,896	1,739	2,157
All Other Revenue	2,660	2,020	640
TOTAL	52,594	49,199	3,395
OPERATING EXPENSE ITEMS (\$'000)			
Employee Benefits and On-costs	18,626	18,383	243
Materials and Services	16,529	16,795	(266)
Borrowing Costs	504	1,493	(989)
Depreciation and Amortisation	12,599	12,420	179
All Other Expenses	2,291	960	1,331
TOTAL	50,549	50,051	498

Changes in Income:

- Ordinary rates income decreased by (\$269K) (-2%) .
- Annual charges income was (\$148K) (-1%) lower than in 2019/20. Sewer charges increased whilst water supply charges decreased.
- Water supply user charges decreased by (\$474K) (-9%) post drought and following the smart meters installation with earlier leak detection.
- \$826K income was received for waste management services following Council taking control of the Lithgow Solid Waste Facility from January 2021.
- Revenue from private works decreased from \$229K to \$32K. 2019/20 included NBN related works.
- \$421K was received for insurance claims recoveries, mainly related to bushfire damage claims.
- There was a (\$467K) negative adjustment to other revenue, mainly for Council's share of pensioner rebates. The debtor account for pensioner rebates had been overstated by Council's 45% contribution to the rebate. For 2 prior years, only the OLG contributions have been recorded and income has not been reduced for Council's portion. Controls have been put in place to ensure that Council's share of pensioner rebates is correctly identified.
- Income and investment revenue decreased by (\$342K) due to record low interest rates.
- 2020/21 operating grants increased by \$1.2M, with the addition of the Local Roads & Community Infrastructure grant of \$1.1M.
- 2020/21 capital grants increased by \$2.16M with \$1.1M extra for transport grants and \$363K for water and sewer infrastructure grants.
- Other income included a \$538K fair value increment on investment properties.
- **Total income increased by \$3.4M from 2019/20 (6.9% higher).**

Changes in Expenditure:

- Employee benefits and on-costs increased by \$243K (1.5%). This is consistent with award and performance related salary and wage increases. Management is currently implementing a number of budget strategies to contain employment cost increases. Workers compensation insurance premiums fell by \$283K.
- Materials and services costs decreased by \$266K (-1.6%) from the 2019/20 year. The prior year included bushfire / disaster relief works which were substantially funded from grant income.
- Borrowing costs decreased by \$989K mainly due to a change in the recognition of tip remediation liabilities. Interest on loans decreased from \$626K to \$590K.
- Depreciation increased by \$179K (1.4%) which is consistent with the renewals program and commissioning \$1.7M of new assets for the road network.
- There was a \$1.3M loss on disposal of assets. This mainly relates to disposal of road assets when they are resealed. Improved asset management practices will ensure that similar non-cash losses are not recurring.
- **Total expenses increased by \$498K from 2019/20 (1% higher).**

Operating Result

There are two Operating Results reported in the Income Statement:

- The Net Operating Result (including Capital Grants and Contributions) has improved by \$2.9M from 2019/20 to a surplus of \$2.045M.
- The Net Operating Result (excluding Capital Grants and Contributions) is a deficit of (\$1.851M) for the year ended 30 June 2021 which is \$740K better than the 2019/20 result of (\$2.591M) deficit.

The change in the Net Operating Result (including Capital Grants and Contributions) is mainly due to the increase in operating grants.

Operating Result on Income Statement (\$'000)	2020/21	2019/20	+/-
Net Operating Result (including Capital Grants & Contributions)	2,045	(852)	2,897
Net Operating Result (excluding Capital Grants and Contributions)	(1,851)	(2,591)	740

The Net Operating Result (excluding Capital Grants and Contributions) is used to calculate the OLG's Fit for the Future Operating Ratio measure. To achieve the Fit for the Future benchmark in later years, Council and the community will need to determine its pathway to financial sustainability.

Financial Performance Ratios

The following table provides a summary overview of the key financial performance indicators that the Council is required to report in its Financial Statements. Notation is made of the Fit for the Future measures.

Council met all of the benchmarks for the financial performance indicators with the exception of the Operating Performance Ratio. Council is working towards meeting the benchmark for the Operating Performance Ratio as Council moves towards achieving long-term financial sustainability.

PERFORMANCE INDICATORS	2020/21	2019/20	Within Benchmark Yes/No
OPERATING PERFORMANCE RATIO (Benchmark: Minimum $\geq 0.00\%$) <i>Fit for the Future Measure</i>	-2.19%	-5.01%	No
<p>Comments: The operating performance ratio measures how well Council contained operating expenditure within operating revenue (excluding capital grants and contributions, fair value adjustments, and reversal of revaluation decrements). The benchmark set by the Office of Local Government (OLG) is greater than zero per cent.</p> <p>While Council has not met the benchmark, it has improved on the previous year due to the increase in operating grants.</p>			
OWN SOURCE OPERATING RATIO (Benchmark: Minimum $\geq 60.00\%$) <i>Fit for the Future Measure</i>	70.84%	76.01%	Yes
<p>Comments: The own source operating revenue ratio measures council's fiscal flexibility and the degree to which it relies on external funding sources such as operating grants and contributions. The benchmark set by the OLG is greater than 60 per cent.</p> <p>Council's own source operating revenue ratio has exceeded the industry benchmark in recent years. The result is lower than the previous year due to the increase in operating grants.</p>			

PERFORMANCE INDICATORS	2020/21	2019/20	Within Benchmark Yes/No
UNRESTRICTED CURRENT RATIO (Benchmark : Minimum ≥ 1.50)	2.23x	3.6x	Yes
Comments: The unrestricted current ratio is specific to local government and represents council's ability to meet its short-term obligations as they fall due. The benchmark set by OLG is greater than 1.5 times. Council's unrestricted current ratio has exceeded the industry benchmark over recent years. This indicates that Council has sufficient liquidity to meet its current liabilities as and when they fall due.			
RATES, ANNUAL & EXTRA CHARGES OUTSTANDING (Benchmark: Minimum $< 10.00\%$)	6.70%	6.12%	Yes
Comments: The rates and annual charges outstanding ratio assesses the impact of uncollected rates and annual charges on council's liquidity and the adequacy of debt recovery efforts. The benchmark set by OLG is less than 10 per cent for regional and rural Councils. While Council's performance is strong and below the benchmark of 10%, the increase in the ratio is due to generally difficult economic conditions in the Lithgow LGA. Council is conducting an unpaid rates sale in February 2022 which will improve its performance on this benchmark.			
DEBT SERVICE COVER RATIO (Benchmark : Minimum ≥ 2.00)	5.66x	3.21x	Yes
Comments: The debt service cover ratio measures the operating cash required to service debt including interest, principal and lease payments. The benchmark set by OLG is greater than two times. Council continues to perform above the benchmark for the debt service cover ratio.			
CASH EXPENSE COVER RATIO (Benchmark: Minimum ≥ 3 months)	8.57 months	7.81 months	Yes
Comments: This liquidity ratio indicates the number of months that the Council can continue paying for its immediate expenses without additional cash inflow. The benchmark set by the OLG is greater than three months. Council has adjusted its investment strategy to the current economic environment and investment opportunities, holding more funds in on call deposits and the remainder in six month term deposits to maximise investment returns.			

Infrastructure Asset Performance Indicators

PERFORMANCE INDICATORS	2020/21	2019/20	Within Benchmark Yes/No
BUILDING AND INFRASTRUCTURE RENEWALS RATIO (Benchmark: Minimum $\geq 100\%$)	51.75%	110.16%	No
Comments: The building and infrastructure renewals ratio assesses the rate at which these assets are being renewed relative to the rate at which they are depreciating. Council's performance has decreased due to the deferral of capital works projects in the 2020/21 year to manage cashflow.			
ASSET MAINTENANCE RATIO (Benchmark: Minimum $\geq 100\%$) <i>Fit for the Future Measure</i>	121.66%	88.64%	Yes
Comments: The asset maintenance ratio compares actual vs required annual asset maintenance. A ratio above 1.0 indicates Council is investing enough funds to stop the infrastructure backlog growing. Council has met this KPI for the first time due to the implementation of the Asset Management system and increased operating grants utilised for asset maintenance.			
INFRASTRUCTURE BACKLOG RATIO (Benchmark : Minimum $< 2.0\%$) <i>Fit for the Future Measure</i>	1.78%	1.76%	Yes
Comments: The infrastructure backlog ratio shows what proportion the backlog is against the total value of a Council's infrastructure. Council has met this KPI for the first time due to the implementation of the Asset Management system.			

Council achieved the OLG benchmark for the Asset Maintenance Ratio and the Infrastructure Backlog Ratio. Council did not achieve the Building and Infrastructure Renewals benchmark in 2020/21.

Public Notification

In accordance with Section 420 of the Local Government Act 1993, the Council is required to make the Financial Statements available to the public, seeking lodgement of any submissions in response to the document, for a period of seven days after presentation of the Financial Statements to Council.

To meet this requirement a copy of the Financial Statements will be made available to the public on the Council website and at the Customer Service counter.

Policy Implications

Nil.

Financial Implications

As detailed in this report.

Legal and Risk Management Implications

The presentation of the financial statements to the Council, and the ability for the public to inspect the statements, supports the Council's financial reporting governance requirements.

Attachments

1. Annual Financial Statements-2021 [9.4.1.1 - 108 pages]

Recommendation

THAT Council:

1. Receive the audited Annual Financial Statements for the year ended 30 June 2021 pursuant to Section 419 of the Local Government Act 1993.
2. Pursuant to Section 420 of the Local Government Act 1993, endorse the Financial Statements to be made available to the public to make submissions for a period of seven days.
3. Note the presentation by a representative of Crowe Australasia on behalf of the Audit Office of New South Wales, the Council's external auditor, to the Council meeting in respect of the Audited Financial Statements.

9.4.2. FIN - 22/11/2021 - Investment Report October 2021

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

Reference

Min No 21-248 Ordinary Meeting of Council held on 25 October 2021.

Summary

The purpose of this report is to advise Council of investments held as at 31 October 2021 and to note the certification of the Responsible Accounting Officer that funds have been invested in accordance with legislation, regulations and Council policy. The report also provides commentary on the cash and investments balance compared with the funding required for internal and externally restricted reserves.

Commentary

Movements in the Cash and Investments Balance

Council's total investment portfolio as at 31 October 2021, when compared to 30 September 2021, has decreased by \$1,704,847 to \$27,830,118. Investments decreased from \$29,114,593 to \$27,126,457. Cash in Council's bank account increased from \$420,372 to \$703,661.

The \$1.7M decrease in investments is mainly due to the ordinary business of Council, with no Rates and Annual Charges or major grant payments due in October. Cash outflows included payment of annual contributions, recurrent monthly operational invoices and capital works project invoices.

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

The movement in Investments for the month of October 2021 were as follows:

Opening Balance of cash and investments as 01 October 2021	\$29,534,965
Plus New Investments – October 2021	\$2,283,289
Less Investments redeemed – October 2021	-\$3,988,136
Closing Balance of cash and investments as at 31 October 2021	\$27,830,118

CFIO comment on the cash and investments balance – the \$1.7M decrease in cash and investments in October was anticipated as October is typically a month of lower cash inflows. High value Accounts Payable transactions included \$255K for water purchases, \$257K for the Resource Recovery Centre construction and \$304K for the water mains replacement project.

Funding Requirements for Restricted Reserves

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

CFIO comment on restricted reserves – The balance of external restrictions at 30 June 2021 was **\$26M** (including the Financial Assistance Grant prepayment) and for internal restrictions **\$3.2M** (total

cash and investments \$29.2M). Council has sufficient cash and investments to fund the current externally restricted reserve balances.

A plan is in place to return \$2.5M to the depleted Land Bank internally restricted reserve over three years from 2021/22 (approx. \$825K p.a.). This requires the reallocation of funds from discretionary capital works projects to internal reserves in annual budgets over three years. The plan will commence with the return of \$825K to internal reserves in the 2021/22 year.

Policy Implications

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing funds. On 22 March 2021, Council adopted a revised Investment Policy which includes the Minister's Investment Order of 12 January 2011.

Financial Implications

- YTD interest income budget approved – \$50,000
- Cost centre - 3259
- YTD Income to date - \$43,227
- Future potential impact – Nil.

The Council's interest income for YTD is \$6.8K under budget. Investment returns remain low due to the impact of record low interest rates. CBA has started paying zero interest on On-Call deposits from the 1 June 2021. Investment income against budget will be closely monitored and a budget variation will be considered if it is determined that the annual budget cannot be achieved.

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

Legal and Risk Management Implications

Investments are held in accordance with the Lithgow City Council's Investment Policy at the date of investing the funds. The Investment Policy was reviewed and adopted by Council in March 2021 to address issues in relation to the practicality of the policy in the current investment environment.

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

CERTIFICATION OF THE RESPONSIBLE ACCOUNTING OFFICER

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

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

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

Attachments

1. Investment Report 1 October 2021 to 31 October 2021 [9.4.2.1 - 1 page]

Recommendation

THAT

1. Investments of \$27,126,457 and cash of \$703,661 for the period ending 31 October 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.

9.5. People and Services Reports

9.5.1. PS - 22/11/2021 - 2020/21 Annual Report

Prepared by Deborah McGrath

Department Corporate Planning and Communications

Authorised by Director of People & Services

Summary

This report provides Council with copies of the following documents:

- 2020/21 Annual Report – A Year in Review
- 2016-2021 End of Term Report
- 2017-2021 Disability Inclusion Action Plan Report

Commentary

It is a requirement of the Local Government Act 1993 (s428) that:

“Within 5 months after the end of each year, a council must prepare a report (its “Annual Report”) for that year reporting as to its achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objectives at which those principal activities are directed. The annual report in the year of the ordinary election must include a report (its “State of Environment Report”) as to the state of the environment in the local government area in relation to the objectives for the environment established by the Community Strategic Plan.”

Council is also required to prepare an End of Term Report on progress towards the implementation of the Community Strategic Plan which is tabled at the last meeting of the outgoing Council and included in the Annual Report due on 30 November in the year in which an ordinary election is held. The concept of tabling the End of Term Report at the last meeting and publication beyond the election is to avoid perceptions of this being an electoral matter. The NSW Office of Local Government’s Circular 21-12 deals with this:

- In the 40 days preceding the election, councils need to consider whether their publications could amount to an “electoral matter”.
 - “Electoral matter” is defined under clause 356A of the Local Government (General) Regulation 2005, and broadly includes any matter that is intended or likely to affect voting in an election. The name, photograph and likeness of a candidate fall within the definition of “electoral matter”.
 - Council publications that promote the achievements of the Council may also potentially fall within the definition of “electoral matter”.

In accordance with s428(2) of the Act, Council must also report on those matters relevant to the objectives for the environment within the Community Strategic Plan. This is known as the State of the Environment. Reporting against environmental actions has been included in the 2020/21 Annual Report and more extensively in the 2016-2021 End of Term Report.

Under the NSW Disability Inclusion Act 2014, Council is also required to report progress against the 2017-2021 Disability Inclusion Action Plan as part of its Annual Report and to submit a copy to the Minister for Families, Communities and Disability Services.

The documents will be placed on Council's website and made available for viewing at the Council's Administration Centre, the Lithgow Library Learning Centre and branch libraries following the 2021 Local Government Elections on 4 December.

Policy Implications

The End of Term Report, Annual Report and Disability Inclusion Action Plan Report have been prepared in accordance with the requirements of the Local Government Act 1993 and Local Government (General) Amendment (Planning and Reporting) Regulation 2009.

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. 2020-21 Disability Inclusion Action Plan Report [9.5.1.1 - 28 pages]
2. End of Term Report 2016 - 2021 [9.5.1.2 - 194 pages]
3. 2020-21 Annual Report [9.5.1.3 - 186 pages]

Recommendation

THAT Council:

1. Endorse the 2020/21 Annual Report – A Year in Review.
2. Endorse the 2017-2021 Disability Action Inclusion Plan Report.
3. Note the 2016-2021 End of Term Report.

9.5.2. PS - 22/11/2021 - Code of Conduct Statistics 2020-2021

Prepared by Rhiannan Whiteley – Executive Assistant
Department People & Services
Authorised by Director of People & Services

Reference

Min No 19-352: Ordinary Meeting of Council 25 November 2019
 Min No 20-178: Ordinary Meeting of Council 27 July 2020

Summary

The purpose of this report is to advise Council of Code of Conduct Complaint statistics as required by the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW.

The Council's complaints co-ordinator is required to report to Council annually on Code of Conduct Complaints Statistics for the period **1 September – 31 August**. The report is due by 31 December of each year. Councils were also required to submit a report to the Office of Local Government (OLG) by 30 November 2021. Lithgow City Council's submission to the OLG was made on 8 November 2021.

Commentary

In accordance with *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*, Council's complaints coordinator is required to report to Council and the Office of Local Government (OLG) code of conduct details.

The required statistics for the reporting period are outlined below:

Model Code of Conduct Complaints Statistics		
Number of Complaints		
1a	The total number of complaints received in the period about councillors and the General Manager (GM) under the code of conduct	4
b	The total number of complaints finalised in the period about councillors and the GM under the code of conduct	5
Overview of Complaints and Cost		
2a	The number of complaints finalised at the outset by alternative means by the GM or Mayor	2
b	The number of complaints referred to the Office of Local Government (OLG) under a special complaints management arrangement	0
c	The number of code of conduct complaints referred to a conduct reviewer	2
d	The number of code of conduct complaints finalised at preliminary assessment	1
e	The number of code of conduct complaints referred back to the GM or Mayor for resolution after preliminary assessment by conduct reviewer	0
f	The number of finalised code of conduct complaints investigated by a conduct reviewer	2
g	The number of finalised complaints investigated where there was found to be no breach	1
h	The number of finalised complaints investigated where there was found to be a breach	1

i	The number of complaints referred by the GM or Mayor to another agency or body such as the ICAC, the NSW Ombudsman, OLG or Police	0
j	The number of complaints being investigated that are not yet finalised	0
k	The total cost of dealing with code of conduct complaints within the period made about councillors and the GM including staff costs	\$17,255

Preliminary Assessment Statistics

3 The number of complaints determined by the conduct reviewer at the preliminary assessment stage by each of the following actions:

a	To take no action (Clause 6.13(a) of the 2018 and 2020 Procedures	1
b	To resolve the complaint by alternative and appropriate strategies (clause 6.13(b) of the 2018 and 2020 Procedures)	0
c	To refer the matter back to the GM or the Mayor, for resolution by alternative and appropriate strategies (clause 6.13(c) of the 2018 and 2020 Procedures)	0
d	To refer the matter to another agency or body such as the ICAC, the NSW Ombudsman, OLG or the Police (clause 6.13(d) of the 2018 and 2020 Procedures)	0
e	To investigate the matter (clause 6.13(e) of the 2018 and 2020 Procedures)	1

Investigation Statistics

4 The number of investigated complaints resulting in a determination that there was **no breach**, in which the following recommendations were made:

a	That the Council revise its policies or procedures	0
b	That a person or persons undertake training or other education (clause 7.37 of the 2018 or clause 7.40 of the 2020 procedures)	0

5 The number of investigated complaints resulting in a determination that there **was a breach** in which the following recommendations were made:

a	That the council revise any of its policies or procedures (clause 7.36(a) of the 2018 procedures or clause 7.39 of the 2020 Procedures)	0
b	In the case of a breach by the GM, that action be taken under the GM's contract for the breach (clause 7.36(h) of the 2018 Procedures or clause 7.37(a) of the 2020 Procedures)	0
c	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 (clause 7.36(l) of the 2018 Procedures or clause 7.37(b) of the 2020 Procedures)	1
d	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 and that the matter be referred to the OLG for further action (clause 7.36(j) of the 2018 Procedures or clause 7.37(c) of the 2020 Procedures)	0
6	Matter referred or resolved after commencement of an investigation (clause 7.20 of the 2018 or 2020 Procedures)	0

Categories of Misconduct

7 The number of investigated complaints resulting in a determination that there was a breach with respect to each of the following categories of conduct:

a	General Conduct (Part3)	1
b	Non-pecuniary conflict of interest (Part 5)	0
c	Personal benefit (Part 6)	0
d	Relationship between council officials (Part 7)	0
e	Access to information and resources (Part 8)	0

Outcome of determinations

8	The number of investigated complaints resulting in a determination that there was a breach in which the council failed to adopt the conduct reviewers recommendation	0
9	The number of investigated complaints resulting in a determination that there was a breach in which the council's decision was overturned following a review by OLG	0

Policy Implications

Nil.

Financial Implications

- Budget approved - costs associated with code of conduct complaints are managed within the Council's recurrent operational budgets.
- Cost centre – PJ 800169
- Expended to date - \$17,255.51
- Future potential impact – Nil.

Legal and Risk Management Implications

In accordance with, *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*, these statistics must be reported to Council within 3 months of the end of September each year and also be provided to the OLG.

Attachments

Nil

Recommendation

THAT Council note the report on the Code of Conduct complaints statistics for the period 1 September 2020 – 31 August 2021.

10. Council Committee Reports

10.1. IS - 22/11/2021 - Operations Committee Meeting Minutes - 6 October 2021

Prepared by Kaitlin Cibulka - Executive Assistant Infrastructure Services

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Summary

This report provides details of the minutes of the Operations Committee meeting held on 6 October 2021.

Commentary

At the Operations Committee held on 6 October 2021, there were numerous items discussed by the committee including:

- Standing Item – Water and Sewer Infrastructure Update;
- Standing Item – Cullen Bullen STP Update;
- Standing Item – Monthly Project Update Report;
- Councillor Requests; and
- Improved Project Management Processes.

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

- Sodwalls Tarana Road Bridge Repair Progress

RECOMMENDATION

THAT Council makes representations that option 2A be accepted.

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 - 6th October 2021 [**10.1.1** - 9 pages]

Recommendation

THAT Council:

1. Notes the minutes of the Operations Committee meeting held on 6 October 2021.
2. Makes representations to the NSW Government that option 2A be accepted for the Sodwalls Tarana Road Bridge Repair.

10.2. FIN - 22/11/21 - Central Tablelands Alliance (CTA) Audit & Risk Improvement Committee (ARIC) Minutes - 26 October 2021

Prepared by Chief Financial & Information Officer

Department Finance & Assets

Authorised by Chief Financial & Information Officer

Reference

Min No. 21-150 Ordinary Meeting of Council held on 28 June 2021.

Summary

This report summarises the minutes of the Lithgow Central Tablelands Alliance Audit Risk & Improvement Committee (CTA ARIC) meeting held on 26 October 2021 at Lithgow City Council.

Commentary

At the Lithgow CTA ARIC meeting held on 26 October 2021, the following items were presented and discussed:

- **Store Stocktake – control issues** – There were issues identified during the stocktake at the Council Store at the end of financial year. There was a stock variance and the need for improved controls was identified. The Committee discussed the measures being implemented by Council staff to strengthen Store controls.
- **ARIC Annual Report 2021** - The Annual report was presented to the Committee for endorsement. A copy of the report is included as an attachment to this report.
- **2020/21 Financial Statements** – The committee reviewed the draft Financial Statements and discussed the progress towards completion of the audit. An extension to lodge has been granted by the OLG to 16 November 2021.
- **2020/21 Interim Audit Management Letter** – the Interim Management Letter was received in August 2021. There were five issues identified in total, 4 moderate risk and 1 low risk. Council were able to respond to a number of matters immediately and others have been added to the Audit Action List with due dates for completion.
- **New Risk Management & Internal Audit Framework** - The OLG recently released the new draft guidelines. Council have made a submission supporting Councillor members being included as voting members and the Mayor being permitted to be a voting Committee member.
- **Central Coast Council Inquiry** – The Committee briefly discussed recent events at Central Coast Council and areas that could have been improved from an Audit & Risk Committee perspective.

Policy Implications

Nil.

Financial Implications

Nil.

Legal and Risk Management Implications

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

Attachments

1. ARIC Minutes - 26 October 2021 [**10.2.1** - 9 pages]
2. ARIC Annual Report 2021 - DRAFT - Final [**10.2.2** - 7 pages]

Recommendation

THAT Council:

1. Endorse the Lithgow CTA Audit Risk & Improvement Committee meeting 26 October 2021 minutes.
2. Note the 2020/21 Lithgow CTA ARIC Annual Report.

10.3. IS - 22/11/2021 - Operation Committee Meeting Minutes - 3rd November 2021

Prepared by Kaitlin Cibulka – Executive Assistant Infrastructure Services

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Summary

This report provides details of the Minutes of the Operations Committee Meeting held on 3 November 2021.

Commentary

At the Operations Committee held on 3 November 2021, there were numerous items discussed by the Committee including:

- Standing Item – Water and Sewer Infrastructure Update;
- Standing Item – Cullen Bullen STP Update; and
- Standing Item – Monthly Project Update.

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 - 3 November 2021 [**10.3.1** - 6 pages]

Recommendation

THAT Council note the minutes of the Operations Committee held on 3 November 2021.

10.4. IS - 22/11/2021 - TALC Committee Meeting Minutes - 4th November 2021

Prepared by Kaitlin Cibulka - Executive Assistant Infrastructure Services

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Summary

This report provides details of the Minutes of the TALC Committee meeting held on 4 November 2021.

Commentary

At the TALC Committee held on 4 November 2021, there were numerous items discussed by the Committee including:

- Pedestrian Safety at Schools Federal Road Safety Sub-program – Successful Grant.

Policy Implications

Nil..

Financial Implications

- Budget approved - \$224,500.00 (grant funding)
- Cost centre - TBA
- Expended to date - Nil
- Future potential impact - \$224,500 (grant funding)

Legal and Risk Management Implications

Nil.

Attachments

1. DRAFT Minutes - TALC Committee Meeting - 4th November 2021 [**10.4.1** - 6 pages]

Recommendation

THAT Council note the minutes of the TALC Committee meeting held on the 4 November 2021.

11. Business of Great Urgency

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

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