



## BUSINESS PAPER

Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 24 January 2022

at 7:00 PM

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## **1. Acknowledgement of Country**

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### **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 - 22 November 2021 and 22 December 2021**

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## **6. Commemorations and Announcements**

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## **7. Public Forum**

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## **8. Mayoral Minutes**

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## 9. Notices of Motion

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### 9.1. NOM - 24/01/2022 - Councillor E Mahony - Support for Mental Health Services

**Report by** Councillor Eric Mahony

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#### **Commentary**

Lithgow City Council has rightly been prominent in its support of and advocacy to improve mental health and other health services in the Lithgow region in recent years.

The consequences of this advocacy through initiatives such as the Lithgow Mental Health Forum, the work of community-led mental health initiatives such as walk and talk, and the support of government and non-government organisations have led to many significant health initiatives across the Lithgow region such as the establishment of headspace.

For individual residents and families, the uncertain employment and economic times, stresses of many years from natural disasters, bushfires, intense rain/wind storms, Covid, and now the most recent floods, have delivered a challenging time for the wellbeing of our community.

It is appropriate that this incoming Council continue to advocate on behalf of the community and support grassroots community health initiatives to maintain and improve existing health and wellbeing outcomes and social connectivity across our community.

An area that requires current attention is our community's access to psychiatric services; I have been made aware of situations where waiting times to see visiting psychiatrists for unwell individuals in our community can range from 5-6 weeks to over three months. A situation that makes the recovery phase for unwell members of our community very challenging.

#### **The purpose of this notice of motion.**

- To provide an opportunity for the incoming Council to reaffirm its strong support for continuing advocacy on behalf of the community to maintain and improve on existing mental health services, wellbeing outcomes, and social connectivity across the greater Lithgow region.
- To continue to support non-government and grassroots community health initiatives across our community.
- To highlight critical vulnerabilities in existing health services and wellbeing and social connectivity programs across the greater Lithgow region and provide effective advocacy on behalf of our community.

#### **Attachments**

Nil

#### **Recommendation**

THAT the:

1. incoming Council reaffirm its strong support for continuing advocacy on behalf of the community to maintain and improve on existing mental health services, wellbeing outcomes, and social connectivity across our community.
2. Mayor provide a public statement to thank our health workers (doctors and nurses and aged care workers) as well as the support staff, cleaners, ward and kitchen staff, our community

mental health teams, local GP clinics, pharmacists, and pathology staff for the work they do in providing health services during these very difficult and challenging times.

3. Council endorses the Mayor and the General Manager to make representations to the NSW Government Deputy Premier, Local Member for Bathurst, Paul Toole for support to improve key elements of mental health services for the greater Lithgow community, in particular, waiting times for visiting psychiatrists for unwell individuals in our community that currently can range from 5-6 weeks to over three months.

### **Management Comment**

The mental health and well-being of our community is an important issue that affects all of us. Lithgow City Council doesn't directly deliver mental health services, however Council initiated the Lithgow Mental Health Forum in 2019 and the subsequent establishment of the Mayor's Mental Health Taskforce.

Since August 2020 Council has employed a Community Recovery Officer (CRO). The CRO has actively sought and has been successful in two streams of Bushfire Community Recovery Resilience Funding (BCRRF) for community needs identified in consultation for local resource development, community events, skills training and recovery and preparedness activities.

The role of the CRO has included advising and supporting the National Recovery & Resilience Agency on recovery needs and issues, briefings on the Royal Commission into National Natural Disaster Arrangements, facilitating local government awareness and implementation of the NSW Government's response to the NSW Bushfire Inquiry. The role has supported the development of Mental Health Fact Sheets for the Lithgow LGA with NRRA, Resilience NSW, NSW Health and Council and has provided input to the New South Wales Mental Health Commission consultation on changes in mental health and well-being in response to the Australian bushfires and COVID-19.

The Mental Health Resources developed can be accessed here: <https://council.lithgow.com/new-mental-health-products-for-lithgow-residents/> and equally apply for residents affected by different situations such as flood and Covid with tailored supports also available through these services.

### **What we're doing**

Some of the activities and projects established by the CRO include:

- establishment of the Lithgow Community Resilience Network, which includes emergency and community service organisations, rural reference groups, business networks, community representatives and leaders.
- supporting ongoing mental health programs, community led activities including anniversary and memorial events
- providing mental wellbeing resources to support healthy minds
- working with our community to support and advocate for positive mental health for our residents
- linking with local community groups to identify community needs/strengths and project ideas to inform development and implementation of the Local Recovery Plan and recovery activities.
- supporting and linking residents to a range of free or low-cost activities such as trauma-related training for frontline workers through Phoenix Australia, "Lets get talking" online zoom workshops facilitated by Wellbeing Counsellors, writing resilience workshops at the Lithgow Transformation Hub and free Lifeline Central West Accidental Counsellor Training.
- connecting and working with existing local mental health providers to support local needs.

Council has also recently been successful in obtaining a Disaster Recovery Community Development Worker for 12 months commencing early 2022, complementary to the work of the Community Recovery Officer. The Community Development Worker will engage with community connectors and informal community leaders to build capacity, increase community participation, and wellbeing and resilience among local community members and small community-based groups.

## 9.2. NOM - 24/01/2022 - Councillor E Mahony - Stormwater and sewerage management

**Report by** Councillor Eric Mahony

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### **The purpose of this notice of motion.**

To provide staff an opportunity to advise the Council about current and proposed risk mitigation actions that identify and address the risk to life, human health, residential and other properties, and businesses during intense or prolonged rainfall events.

To highlight points of critical vulnerability throughout Council's stormwater and sewerage infrastructure within the Lithgow Valley to flooding and stormwater infiltration into sewerage systems.

### **Commentary**

The Lithgow Valley, historically and continues to be impacted by flooding and stormwater inundation, resulting from high-intensity rainfall events. This leads to the rapid rise of water levels in creeks and stormwater to travel overland through stormwater channels and infiltrating sewerage infrastructure throughout the Farmers Creek sub-catchment.

The consequences of these flooding events have serious and ongoing impacts on individual residential properties and small businesses throughout the Lithgow Valley.

For individual residents, these high-intensity stormwater flows, potentially contaminated with uncontrolled sewage discharge, present significant health risks and, at times, leading to considerable property damage. In some cases, these issues continue to be an ongoing problem over an extended period of time.

For a business community that continues to operate under the stresses of many years from natural disasters, bushfires, intense rain/wind storms, Covid, and now the most recent floods, it is essential that the required actions are completed to support economic and social recovery and reduce the impact that future natural disasters will have on our community.

Positive actions such as previous flood mitigation works on Farmers Creek and tailored responses working with the local community of the Vale of Clwydd have seen a safer and more resilient community, who now experience a reduction in the extent of property damage and potential loss of life from severe to extreme flooding. However, long-term and persistent flooding impacts continue for others in our community.

### **Attachments**

Nil

### **Recommendation**

THAT

1. A report be brought back to the Council regarding the extent of infiltration of domestic stormwater and overland flows into sewer mains as part of an integrated approach to managing uncontrolled discharges of sewerage in critical locations across the Lithgow Valley during high-intensity rain events. The report canvas, at least, -
  - The timing for the findings and recommendations from the Lithgow Floodplain Risk Management Study & Plan (LFRMS&P) being brought to Council and the community for review and adoption .
  - Risk mitigation actions for high-risk locations across the Lithgow Valley, identifying and registering stormwater and sewerage assets (stormwater pits, culverts, sewer mains and pipes) and developing a prioritised renewal program for these high-risk
  - The potential for funding partnerships with NSW State Government agencies, such as Water NSW, to put in place works to improve water quality within the Farmers Creek sub-catchment.

## Management Comment

### Water and Wastewater

Lithgow City Council manages an approximate 190 kilometers of sewerage reticulation across the LGA which involves many pumping stations and treatment plants for transport and treatment prior to discharging treated water to the environment. The latest large rainfall event was approximately 70 millimeters in a period of just over one hour placing this event as a 1 in 1000-year event.

Council's sewerage reticulation is aged in some areas and suffers from groundwater infiltration due to the cracking in pipework, destabilization and most usually being in the lowest areas to permit proper drainage from properties. Water and Wastewater deliver a program of sewerage reticulation relining yearly across the reticulated systems and in previous years delivered a program of sewerage smoke testing to locate potential illegal connections from private property stormwater system to Council's sewerage system. Currently staff are assessing the capability to complete smoke testing again, however this is not the leading cause in overloading of sewage systems. Groundwater infiltration is shown to be one of the main contributors to overloading of sewerage systems.

A 2009 report from Aurecon was commissioned by the Water and wastewater team to better understand the potential infiltration of groundwater in the Lithgow and Wallerawang areas. This showed some areas of Lithgow with a higher level of potential infiltration than others which are collated and input into the Capital works program each year. This study along with Council's Customer Request System help to form the capital works program for the coming years on both water and sewer mains renewal.

Water and Wastewater have engaged Public Works Advisory to complete the Integrated Water Cycle Management Strategy for Lithgow City Council which uses all information that the directorate has available including metering data and telemetry outputs from the infrastructure to create a strategy for the next 30 years of Council's water and sewerage service delivery. The strategy provides a best practice management component to the Council's water and sewerage service delivery. The IWCM will be brought to Council for adoption at its completion following endorsement from DPIE on the strategy.

To address the points within the recommendations, a report can be brought to the Council at a later date and may be suitable to be following the IWCM completion which is currently set as end of March/Early April 2022. This will allow for criteria to be created to identify and address the high-risk areas and appropriate mitigation strategies to protect these areas and the assets within them. Staff are currently and continually gaining more information on assets in the system and providing that to the asset team and managers to create renewal programs and capital works programs. The IWCM is a key component in gaining funding from bodies such as DPIE for future works, however the administration continues to look for funding opportunities to aid in service delivery wherever possible.

### Infrastructure Services

The administration is also at an advanced stage of planning and strategy development in relation to floodplain management within Lithgow. These processes help to quantify the extent of flood risk and define the appropriate actions and mitigation works.

It is timely, with a new Council, for detail about the above to be brought to the Council.

**9.3. NOM - 24/01/2022 - Councillor S McGhie - Control measure for excessive growth on roadsides.**

**Report by** Councillor Stuart M<sup>c</sup>Ghie

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**Commentary**

A serious issue of grass and weeds exceeding the height of road safety markers in some areas of the LGA.

This would be area specific and give local contractors the opportunity to assist council in peak growth times such as we are experiencing currently.

**Attachments**

Nil

**Recommendation**

THAT an opportunity be opened for tender to slash or cut the roadside vegetation.

**Management Comment**

This Council maintains more than 900 kms of roads. Amongst other things, this includes the periodic mowing of roadside vegetation. This summer growing season has been exceptional in terms of rainfall. Also, various natural disasters have taken the resources and attention of staff to more pressing issues. Covid has also reduced the available workforce with some staff required to isolate from the workplace. These circumstances have meant that it has not been possible to manage roadside vegetation to normal standards.

With the workforce now somewhat re-established a schedule is currently being prepared outlining the roadside mowing schedule through to April. Further information will be provided to the Council once this is prepared.

There are no available funds for the employment of a contractor to undertake roadside mowing. If Council is of a mind to nonetheless consider this then it would be appropriate to bring a report back outlining the indicative cost and the other works that could not be undertaken.

**9.4. NOM - 24/01/2022 - Councillor C O'Connor - Council Land**

**Report by** Councillor Col O'Connor

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**Commentary**

All land owned by Lithgow Council should be land banked for future development of the area.

**Attachments**

Nil

**Recommendation**

THAT

1. No land owned by Lithgow Council is to be negotiated or sold to a third party prior to a Council meeting for debate/discussion.
  
2. If it is decided at a Council meeting that the land should be sold, two valuations must be completed to determine a reserve price and agreed to by Councillors, and the land sold at public auction.

**Management Comment**

Generally, the recommendations accord with standard practice. Only the Council takes decisions on the sale of any of its land, and good methodologies are used to determine value with this information reported to council. As the new Council becomes more established briefings will be scheduled to overview the property portfolio, its purpose, operating procedures and other matters.

## 10. Staff Reports

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### 10.1. General Manager's Reports

#### 10.1.1. GM - 22/01/2022 - Local Government NSW Special Conference Delegate

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

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#### Reference

Min 21-186 Ordinary Meeting of Council 23 August 2021.

#### Summary

Council has been requested to nominate a third and final delegate to attend the upcoming LGNSW Special Conference 28 February to 2 March 2022.

#### Commentary

LGNSW have moved their in-person annual conference (now called 'Special Conference') to 28 Feb to 2 Mar 2022. Conference Motions etc will be dealt with at that Conference. Council's administration will turn their attention to potential Motions and, if any opportunities or needs are identified, return a report to Council for endorsement.

At the Ordinary Meeting of Council 23 August 2021 Council resolved that the Mayor and Deputy Mayor be Council's delegates for LGNSW's special conference, but the third delegate should be determined by the current Council .

Councillors are requested to nominate and vote on the third delegate to attend the LGNSW Special Conference 28 February to 2 March 2022.

#### Policy Implications

Nil.

#### Financial Implications

- Budget approved - \$9,000 for Councillor conferences.
- Cost centre - 800154 8130 63205
- Expended to date – \$4917.
- Future potential impact – expenses for travel as they arise.

#### Legal and Risk Management Implications

Nil.

#### Attachments

Nil

#### Recommendation

THAT Council determine the third delegate to attend the LGNSW Special Conference 28 February – 2 March 2022 in Sydney.

## 10.2. Economic Development and Environment Reports

### 10.2.1. Building and Development

#### 10.2.1.1. ECDEV - 24/01/2022 - Bell Quarry Waste Management Facility

<b>Prepared by</b>	Mark Hitchenson – Development Planner
<b>Department</b>	Economic Development and Environment
<b>Authorised by</b>	Director of Economic Development & Environment
<b>Property Details</b>	Lot 23 DP 751631, Lots 7031 & 7032 DP 1066257 and part of an unmade paper road, Newnes Forest Road, Clarence
<b>Property Owner</b>	Chalouhi Rural Pty Ltd, Crown Land, Lithgow City Council
<b>Applicant</b>	P Chalouhi on behalf of Bell Quarry Rehabilitation Project Pty Ltd

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#### 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 the Council with an update on the appeal to the Land and Environment Court of the refusal of the development application DA 294/18 for a Waste or Resource Management Facility at 'Bell Quarry'.

#### Commentary

Further to previous advice to Councillors on this matter, the Land and Environment Court has allowed the applicant to submit an amended proposal and plans for the appeal. The amended plans have been placed on public exhibition and referred to relevant State Government agencies. Submissions have been invited from interested parties until 8 February 2022.

The development as originally proposed, and refused by the Western Regional Planning Panel on 6 April 2020, was to dewater four existing quarry pits, fill and re-shape them with Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM) and 'other clean fill material' and rehabilitate the finished surface. The proponent describes the proposal as 'the rehabilitation of Bell Quarry'. However, it is the Council's view that the site has been sufficiently remediated to a stable state already (apart from the ongoing need for weed management) and for that reason, the proposal is properly characterised as a waste disposal facility. Under the town planning definitions (and Standard Instrument LEP) it is correctly defined as a *waste or resource management facility* and any reference to rehabilitation is misleading.

An appeal was lodged to the refusal of the development application on 1 April 2021. Whilst the determination of this development was by the Western Regional Planning Panel, the Council is the consent authority and thus the respondent in the appeal process. However, under section 8.15(4) of the *Environmental Planning and Assessment Act 1979*, the Council is subject to the control and

direction of the Panel. The Council's solicitors have informed the Western Region Planning Panel of the appeal.

The matter has progressed with Statements of Facts and Contentions having been prepared in line with requirements set out by the Land and Environment Court. All those who made submissions to the original development application (470-490 people) were advised in writing of the appeal and invited to nominate as respondents to the appeal if they wish.

A Conciliation Conference was required to be held on Wednesday, 15 September 2021. At the Conciliation Conference, those residents who nominated and were accepted as respondents were able to present their concerns to the Court. The applicant's solicitor advised the Court that amended plans for the development were still in preparation.

At the conciliation conference, the Commissioner determined that the parties would be unable to reach a conciliated agreement on the appeal and made an order that hearing dates be set in late January 2021.

On 19 November 2021, the applicant filed a motion in the Land and Environment Court seeking leave to amend the development application. This motion was heard by the Court on 25 November 2021 and the Registrar determined that amended plans could be submitted but that the hearing dates in January be vacated and rescheduled.

Amended plans were submitted through the Planning Portal on 9 December 2021. On 15 December 2021, Council notified the amended plans to all persons previously notified, all persons who previously made submissions and relevant State Government agencies. The notification period was determined to be from 17 December 2021 to 8 February 2022, taking into account the holiday period as required by the Lithgow Community Participation Plan. Four submissions objecting to the amended development application have been received to date.

The amendments to the proposed development include:

- Reduction of the amount of fill from 1.2m cubic metres to 1m cubic metres;
- Inclusion of an engineered barrier (liner) in the base, sidewalls and cap, to create a barrier to groundwater flow and infiltration of rainfall/surface water into the emplaced material;
- Groundwater diversion system;
- Treatment of surface water in sediment basins;
- Capture of any water that comes into contact with emplacement material in a contact water pond for re-use on site;
- Contingency for installation of a water treatment plant;
- Updated staging plans;
- A more detailed revegetation and vegetation management plan for the site;
- Offer of a Planning Agreement relating to proposed upgrading and maintenance works on Sandham Road (it is noted that the upgrading works relate to the sealed section of Sandham Road which is entirely within the Blue Mountains City Council area).

The deferred hearing dates for the appeal have now been set as 1 and 5-8 April 2022. At present, the hearing will commence with a site view at 10:30am on 1 April 2022 and continue at the Court in Sydney at 10:00am on 5-8 April 2022.

Council staff and expert witnesses for Council will assess the amended plans and will prepare a further report to Council prior to the hearing to seek endorsement of recommended actions, timeframes permitting.

### **Policy Implications**

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. However, given the critical nature of this matter and the need to engage appropriate experts it is likely that these allocations may be exhausted through the process. The budget position will need to be monitored.
- Cost centre – Development Legal Expenses
- Expended to date – \$10,154.10 incl. GST
- Future potential impact - if the proposal was approved, impacts may occur along Sandham Road due to heavy traffic movements. The road would be required to be upgraded and regularly maintained and managed. The applicant has now proposed a Voluntary Planning Agreement that includes a commitment that the developer will carry out at their cost any maintenance works to Sandham Road as agreed between Council and the developer following annual inspections of the road, however this is yet to be reviewed by Infrastructure Services.

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

Assessment of the original Development Application was by Council staff 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 appeal to the Land and Environment Court of the refusal of the development application for the Bell Quarry Waste Management Facility.

**10.2.1.2. ECDEV - 24/01/2022 - Development Assessment Report DA181/21 –  
Subdivision 21 Lots into 7 - 909 Jenolan Caves Road Good Forest NSW 2790**

**Prepared by** Lachlan Sims - Team Leader Development  
**Department** Economic Development & Environment  
**Authorised by** Director of Economic Development & Environment

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**Reference**

21-270 – ordinary meeting of Council 22 November 2021

**Summary**

The purpose of this report is to provide Council with details of the assessment and recommend the determination of Development 181/21 for the boundary reconfiguration subdivision of rural land at 909 Jenolan Caves Road, Good Forest to consolidate 22 existing lots into 7 new lots. This application was previously reported to Council's Ordinary Meeting held on 22 November 2021 where the following was resolved (21-270):

THAT

1. Development Application DA181/21 be deferred.
2. A site inspection be undertaken by the new Council
3. The matter be reported to Council for determination

A site inspection for councillors was undertaken on 17 January 2022. The inspection provided the opportunity to view the site and to hear from the applicant and objectors. This matter is now reported to Council for determination following that site inspection and in accordance with the above resolution.

The conclusion from assessment of the proposal, having regard for the statutory planning environment applicable to the land, is that the reconfiguration of the current 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. On these bases, the application is recommended for approval.

A Planning Assessment Report including recommended draft conditions of consent is attached.

**Commentary**

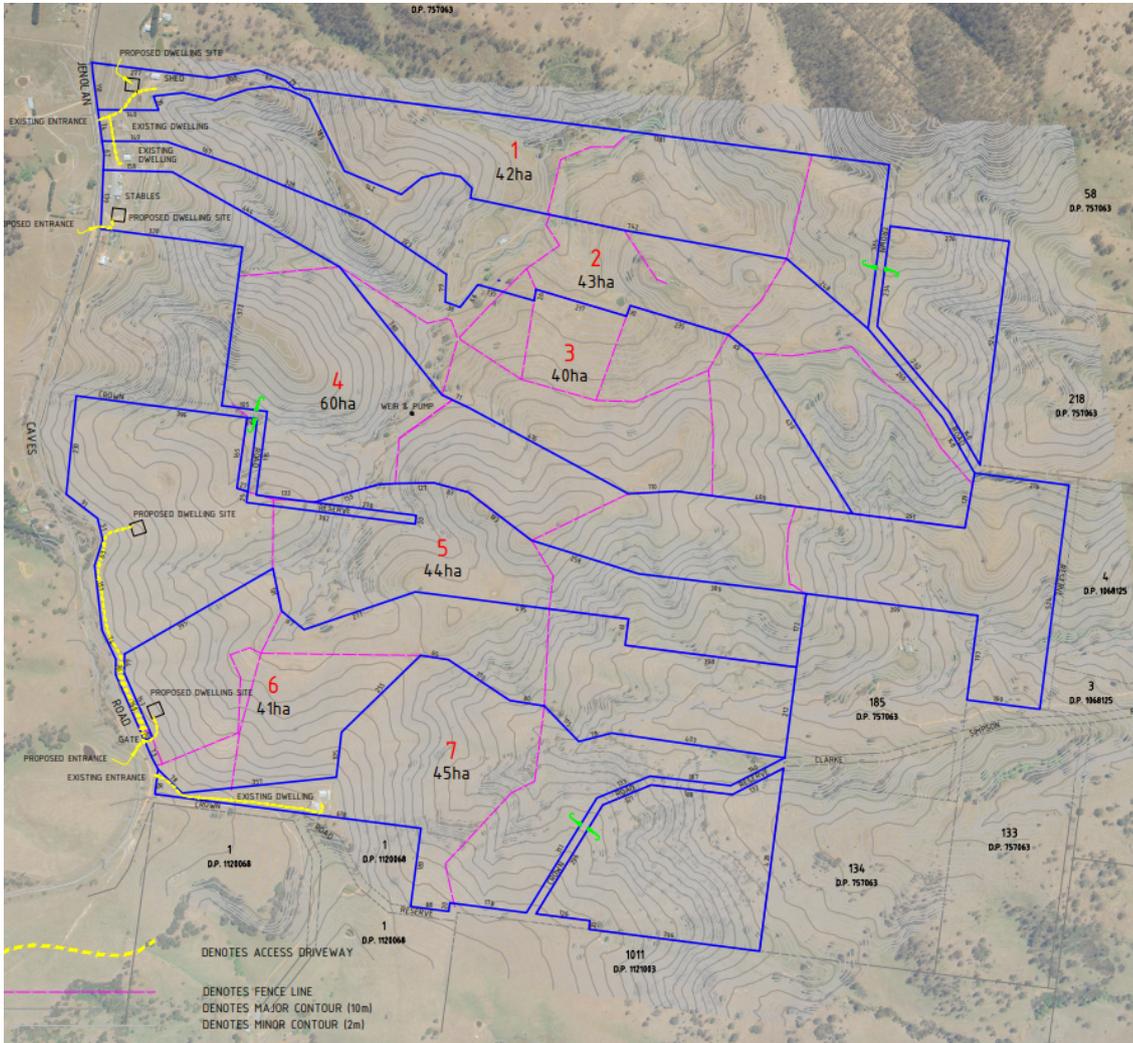
The proposal involves the consolidation, reconfiguration and realignment of the boundaries of 22 existing lots into 7 new lots. Each of the proposed lots will have a minimum area of 40 hectares. Three of the existing lots contain dwellings which will be retained separately on each of the new lots with the remaining four new lots having the opportunity to contain future new dwellings (subject to separate development consent) under the current *Lithgow Local Environmental Plan 2014* provisions. 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 fence lines.

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

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- 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 has a minimum subdivision lot size of 40 hectares on the LLEP Lot Size Map. 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 existing 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 and configuration of the proposed lot boundaries is based on existing fence lines and 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. This issue, however, remains a possibility 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.

<p>New lots will be occupied as rural lifestyle properties with limited capacity for meaningful agricultural production</p>	<p>The proposal is generally consistent with the provisions of the LLEP and land uses facilitated by those provisions. Each of the new reconfigured lots will have an area of at least 40 hectares which is a long-established standard for rural land use planning and sustainable small scale agricultural activity.</p>
<p>Traffic impacts from additional residences accessing Jenolan Caves Road</p>	<p>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.</p>

**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 and is being reported to this Council meeting for determination 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.

### **Attachments**

1. Planning Assessment Report & Draft Conditions - DA 181/21 [**10.2.1.2.1** - 20 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 3 75A(3) of the Local Government Act, 1993.

## 10.2.2. Economic Development & Environment General Reports

### 10.2.2.1. ECDEV - 24/01/2022 - Lithgow Emerging Economy Project (LEEP) - Award of Contract

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

**Department** Economic Development & Environment

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

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#### Summary

The purpose of this report is to inform Council of the engagement of the successful consortia to carry out the Lithgow Emerging Economy Project. The tender was approved by the General Manager under delegated authority.

#### Commentary

The Lithgow Emerging Economy Project (LEEP) aims to utilise the expertise of specialist consultants to provide an action plan to both the NSW Government and Lithgow Council with tangible, measurable actions to guide the Lithgow Local Government Area toward a future proof economy beyond traditional industry sectors of coal and electricity generation.

The project is made possible through funding of \$250,000 (ex GST) from the NSW Government. The funding deed with the NSW Government requires Council to contribute \$100,000 through staffing and other costs. The project is overseen by a Project Control Group (PCG) consisting of representatives of key NSW government departments in addition to Lithgow Council's General Manager and Director of Economic Development and Environment. Council is the body which drives the project and, as such, the tender process for the selection of a suitable consultant or consortia was carried out by Council.

Tenders were called for and sixteen submissions were received in response to the request. The Project Control Group (PCG) assessed submissions in accordance with pre-determined criteria. Proposals were shortlisted and the top two remaining candidates were interviewed by the PCG. The PCG was unanimous in selecting NCEconomics as the preferred candidate. NCEconomics is a consortia with wide expertise across a number of disciplines including transitioning economies and renewable energy located in Sydney, Melbourne and Brisbane. The contract value to be entered into with NCEconomics in this instance is \$230,000 (ex GST). The General Manager subsequently exercised his delegation (Min. No. 18-195) which enables the acceptance of tenders with a contract value of up to \$500,000 to engage NCEconomics.

The project will commence in February 2022 with an inception meeting between the project consortia and the Project Control Group where issues such as the stakeholder engagement program will be finalised. There will be numerous opportunities provided for the Council to input into the project. The project will run throughout most of 2022.

#### Policy Implications

The tender process and evaluation complies with Council's Tendering Policy 1.4 and Council procedures for Purchasing and Tendering.

#### Financial Implications

- Budget approved - \$285,000 (\$250,000 grant funded, \$35,000 cash Council contribution funded from Halloween event savings).
  - Cost centre - 600261
  - Expended to date - \$1,850
  - Future potential impact – It is expected the total project budget will be spent.
-

## **Legal and Risk Management Implications**

The tender process was conducted in accordance with Local Government tendering legislation, including Section 55 of the Local Government Act 1993 (The Act) and Part 7 of the Local Government (General) Regulation 2005.

The General Manager accepted the recommendations of the Project Control Group under his delegation in accordance with Section 377 (i) of The Act. The PCG's decision was taken within the caretaker period which prevented the former Council or the General Manager from awarding the contract to the successful consultant at that time. The General Manager has delegation from Council to enter into contracts up to \$250K. The General Manager chose to exercise this delegation immediately after the caretaker period finished because this allowed for the final contract details to be worked through with the NCE economics consortium in late December to ready for early commencement as soon as possible this year. Otherwise, there was the danger that the project would run into the 22/23 Christmas shutdown period with implementation delayed. Also, the selection process had been rigorously governed by the Council and NSW Government reps.

## **Attachments**

Nil

## **Recommendation**

THAT Council note the:

1. report on the engagement of NCEconomics to carry out the Lithgow Emerging Economy Project.
2. exercise of the General Manager's delegation to approve the Lithgow Emerging Economy Project tender.

## 10.3. Infrastructure Services Reports

### 10.3.1. IS - 24/01/2022 - Great Western Highway Upgrade - Review of Environmental Factors

**Prepared by** Jonathon Edgecombe - Director of Infrastructure & Services

**Department** Infrastructure & Services

**Authorised by** Director of Infrastructure & Services

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#### Summary

In November 2021, Transport for NSW (hereafter TfNSW) commenced community consultation regarding the environmental impacts of the Great Western Highway project. The document produced is known as a 'Review of Environmental Factors' (hereafter REF), and addresses aspects of the project such as biodiversity, heritage, landscape character and contamination. Development consent from the Council is however not required.

Council is yet to take a formal position on this project, however the administration has been working with TfNSW to advocate for project deliverables that meet the needs of our future communities while also minimising impact to our current community.

The timing of the exhibition clashed with the caretaker period for the former Council, the period where the Council was not in place because of the elections and the late Dec/early Jan shutdown. Council's officers requested an extended timeframe for submissions by the public and council. This was agreed to, but even so, and with the additional impact on the workforce from Covid isolation requirements, completion of a definitive submission has been hampered. For these reasons, this report provides details of the general proposed tenor of Council's response, for the consideration of the Council, prior to its finalisation and submission later this month.

#### Commentary

##### *Project Background*

The Great Western Highway is the main road corridor between Central West NSW and Sydney. The NSW Government has committed to upgrading the entire length of the highway between Lithgow and Katoomba. The project has been broken into stages, in terms of planning assessment, construction and delivery. The project scope, addressed by this REF is between Little Hartley and Lithgow. Presently, the existing highway for this stretch comprises sections of two-way undivided carriageway with one lane in each direction. . There are limited overtaking lanes or auxiliary lanes to help drivers overtake and negotiate steep grades.

The Great Western Highway services local, tourist, freight and general through traffic, with varying traffic volumes from about 12,000 vehicles near Little Hartley and about 11,000 vehicles per day near Lithgow. A growth rate of about 0.4 per cent for light vehicles and 1.3 percent for heavy vehicles per annum is expected on the Great Western Highway at the proposal location. There is a relatively high proportion of heavy vehicles (between 12 and 24 per cent), reflective of the 18,000 tonnes of freight transported daily between the Central West and Sydney.

With the considerable heavy traffic, and other aspects such as the climate, this results in hazardous driving conditions. The works will greatly enhance the safety of the road.

Both the Australian and the NSW Governments have recognised the project as a significant piece of infrastructure and have committed to its upgrade, with shared funding. Also, the corridor for the highway upgrade has long been identified to the public and the local community. Sections

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of the required corridor have also been acquired, and the NSW Government is entering a phase of acquisition of the remainder.

It is worth noting that the Central West is perhaps the only rural, inland region adjacent to an Australian capital city which is deprived of an efficient arterial road connection. While the Lithgow to Katoomba highway upgrade will greatly improve this circumstance (especially when faster traffic flow through Blackheath is achieved in latter stages of this project) there will remain substantial inefficiencies in the section from Katoomba to Emu Plains. This is because the highway serves also as a local road system for the many villages with resulting speed restrictions (mostly 80km/h) and multiple traffic lights.

#### *Stated Project Need*

The proposed upgrade aims to improve network performance, safety, and resilience on the Highway between Little Hartley and Lithgow, and as a result, drive economic development and productivity particularly for the Central West. The proposal is also intended to either maintain or improve the urban and rural amenity for townships along the route, which is constrained by the current performance of the Great Western Highway. The REF asserts that without the proposal, travel times and the level of service for intersections are expected to deteriorate to unacceptable levels.

The proposal aims to increase the capacity of the Great Western Highway between Little Hartley and Lithgow, reduce congestion and improve intersection performance. Increasing the number of lanes on the highway would allow traffic to flow smoothly and reduce travel time for motorists. A subordinate outcome would be the reduced travel time for motorists travelling along Great Western Highway. When considered with other upgrades to the Great Western Highway planned between Katoomba and Lithgow, it is expected that motorists would experience a reduction in travel time of up to 10 minutes.

#### *Council's officer's involvement so far*

As the project design and documentation has been developed, Council's officers have been invited by Transport for NSW to participate in workshops and meetings. The positions taken into those discussions have been premised around support for a more effective road connection between the city and western Sydney, emphasis on the very special character and values of the Hartley Valley requiring a quite nuanced design response, and encouragement of local benefit out of the project - such as local employment and skilling, housing development for workers and later adaptive re-use, local procurement of materials.

#### *The attitude of the community*

The Hartley community - Councillors will be aware, by way of a number of submissions they have received, that the Hartley District Progress Association has been very active and hard working to advocate against many aspects of the proposal. The HDPA's efforts are recognised. Their position could be characterised as being strongly opposed to the construction of a 100km/h dual lane road because this results in a more imposing "footprint" (merge lanes, ramps, bridges, major intersections and parking bays) within the Hartley valley, compromising or putting at risk many of its inherent values and features – now and available into the future. In their submissions, they have offered design solutions to reduce these impacts.

The broader community – Council has not recently engaged with the broader community on the proposal. Intuitively, it would seem most likely that the broader community would appreciate the investment to improve the safety of the highway and to moderately improve efficiency. But it is also anticipated that the community would be supportive of sensitive design and a high quality aesthetic outcome because of the many qualities of the Hartley valley.

## *Key issues*

### *1. The assessment methodology and ensuring place worthy outcomes*

The Lithgow to Little Hartley section of the upgrade has been severed from the broader project, which extends through to Katoomba. The full project may well require assessment under the framework of an EIS. The NSW Government has formed the view that this reduced scope of works for this section can be properly assessed under a REF process.

Council's officers have considered the many hundreds of pages of documents within the REF. They have generally found the various themes to have been adequately assessed (see later in this report though for some identified issues). Notwithstanding, that a view may be formed that each theme appears to have been adequately assessed, and having due regard for the special qualities of the valley, it is considered that the design (and in some cases the offsets to impacts) for this major project warrants aspirational outcomes.

Following on from the above, acknowledgement is made for the design outcomes that were achieved for the former upgrade of the upper mountains section of the GWH, below Katoomba. It is considered that this sets an appropriate benchmark for the level of quality design outcomes that should be achieved for this project also - specific to and reflective of the unique place that the Hartley valley is. With the current design being a concept, it would seem that opportunity remains to work with Transport for NSW to achieve this.

But also, it is noted that the HDPAs appear to make the case that the key concerns or threats with the project would fall away to a great extent if the road was designed for 80km/h and not 100km/h. At face value, this appears true.

Council, and we expect the public at large, accept the absolutely unique nature of the Hartley valley. It is the place where the very best of landscape and histories (indigenous and colonial) exist. Of course, governments would have an expectation of optimising the economic return from such a major investment as is required for this project. But an economic return does need to also be weighed against the social and environmental return that can and must be achieved in this locality from a high level of protection of "place". It is anticipated that the broader public would expect the best outcome on balance, even if that means a very slight (almost insignificant) loss of a saving in commute time. For these reasons, there would be merit in comparing (through established cost benefit methodology) and publicly exhibiting the outcomes possible from these two scenarios (80km/h vs 100km/h).

### *2. Traffic and Transport*

The traffic and transport section comprises a variety of figures collected on highway usage and the impact of the traffic on intersections. The questions posed by Council concern the projections of future traffic and traffic behaviour.

- a. The projected traffic increases of 0.4% and 1.3% per year into 2026 and 2036 - this seems conservative as not only would there be increased traffic due to the improved travel times (more attractive for businesses to move into the central west) but also more traffic using the Great Western Highway instead of the Bells Line of Road. Also, tourist traffic would potentially increase the weekend/holiday traffic through improved travel times and driving comfort. It seems that this latest upgrade is a part solution but a comprehensive, integrated and holistic transport and freight solution for the central west (inclusive of improvements to rail services at a minimum) is needed.

- b. Council could request further information regarding contingency planning for higher-than-expected increases to traffic flow and the capacity of this new asset to meet demand in these scenarios.
- c. Additionally, we could request details regarding the plans that are in place to improve the adjacent rail network to better balance demand and reduce road traffic emissions.
- d. It is now outdated and inappropriate for the Bells Line of Road to direct heavy vehicles through the heart of the Lithgow city centre and urban area. Consideration of, and commitment to, enhancements to both the Bells Line of Road and the Darling Causeway are considered warranted to increase the viability of this route. .
- e. There is the need to consider the impact on local roads (Browns Gap Road) while the works are undertaken as drivers will try to avoid highway construction. As Browns Gap Road will take drivers into Lithgow township it will add to the vehicles travelling along Chifley Road/Main Street. There are expected to be broad detours whilst construction occurs, however there is no assessment or comment on how TfNSW aims to reduce the impact to Council's local road network or restore any impact that occurs. Council requests consideration of this matter.
- f. Has the impact of vehicles (particularly heavy vehicles) using Bells Line of Road to avoid the construction works been considered and how it impacts traffic travelling through Lithgow? There will be heavy vehicles that will come across the Darling Causeway or straight down the Bells Line of Road to avoid delays. There may also be an increase in traffic down Hartley Vale Road (light vehicles) for the reasons listed above, Hartley Vale Road struggles when there is an accident on Victoria Pass with light vehicles (and trucks at times) using it as a by-pass.
- g. As a result of this project, it is expected that approximately 10 kilometres of the existing Great Western Highway alignment will be designated as a local road and transferred to the management of Lithgow City Council. There is no current commitment by the State Government to provide the additional revenue required to maintain and manage this asset. As it stands, the transfer simply serves to increase Council's asset base without a commensurate increase in revenue to meet requirements. This is a cost shift and will result in reduced service levels for other public assets under Council's control. Council should reject these roads moving across to Council responsibility in the absence of assured recurrent funding.
- h. The inclusion of truck stops in the Hartley Valley is completely incongruous with the amenity of the surrounding landscape. The Hartley Valley is one of Lithgow's most scenic and historic areas, offering unparalleled vistas and unmatched historic value. Council should strongly reject this aspect of the proposal and request that these be moved to lands west of Wallerawang. If this is not achieved, the facilities will need to have a very high aesthetic outcome. Commercial activities within such truck stops should also be absolutely prohibited.

### 3. *Noise and Vibration*

- a. There is reliance on estimated figures in the section that deals with construction noise levels and vibrations which are likely based on historical data. One concern is the sound travelling from the Forty Bends area bouncing off the existing retaining structures into the valley on the other side (McKanes Falls Road area). Have such effects been considered? Will this have a compounding effect in this area? If so, what measures can be put in place to minimise impact?
- b. Secondly, there is no comment on any noise impact as vehicles, particularly heavy vehicles, enter and exit the new tunnel. Will the tunnel act as a vessel to project noise? This may be more pronounced when traffic is heavy during holiday times.
- c. The proposal for truck stops in the Hartley valley will also likely result in unacceptable noise impacts – another reason to not locate these within the valley.

#### *4. Indigenous Heritage*

The REF includes a summary of the assessment of potential impacts to aboriginal heritage during both construction and operation and then identifies mitigation measures to address these impacts.

The assessment methodology included:

- A desktop assessment of the local and regional aboriginal land-use context and development of a predictive model for aboriginal site distribution.
- A desktop assessment of register aboriginal sites, databases and previous investigations.
- Consultation with registered Aboriginal parties
- An archaeological survey of the construction site undertaken between November 2019 and March 2020.

#### *Consultation*

The aboriginal groups consulted with during development of the REF are not listed in the REF report. Through subsequent contact by Council staff, Lithgow based Mingaan Aboriginal Corporation has advised that they were not consulted.

Bathurst Aboriginal Lands Council has statutory responsibility for, but little direct engagement in the Lithgow Community. The Lands Council office has been closed since Christmas until early February 2022 so it hasn't been possible to determine if they were consulted during development of the REF nor if they plan to make a submission.

It will be imperative that local groups and individuals are given the opportunity to participate in the process. There is likely to be a significant amount of un-recorded local knowledge that needs to be captured in order to appropriately assess and mitigate construction impacts.

#### *Impacts*

The REF identifies numerous aboriginal sites within the construction footprint and additional sites within the study area but outside the construction footprint. A most ancient fire hearth has been identified. Some of these sites are assessed to have high significance and there is the real potential for the construction works to have major impacts.

The REF identifies potential impacts on aboriginal cultural values including a possum skin processing ground for the Wiradjuri people on River Lett; the junction of the Cox's River and River Lett near Glenroy and the Cox's River generally.

It would seem that the River Lett area in particular has many attributes that would likely contribute to it being a locale of tremendous significance to indigenous communities – perhaps over millennia.

#### *Conclusion for this issue*

It is imperative that the REF give consideration to the views and knowledge of local aboriginal groups to ensure that the significance of aboriginal sites and culture are fully captured in the assessment and to ensure that appropriate mitigation measures are developed.

#### *5. Landscape character and responsive design*

Five (5) landscape character zones (LCZs) have been identified. All 5 have been assessed with a 'sensitivity' of 'moderate' and 4 with a 'magnitude' of 'high'. It is considered that LCZ 1 - Butlers Creek Valley and LCZ 3 - River Lett Valley both have a 'sensitivity' of 'high'. This would increase their assessed 'landscape character impact' to 'high' and is considered to be more accurate. In turn, this warrants a design for these sections that is cognisant of and responsive to this higher characterisation.

#### *6. Offsetting Impacts*

The project has the potential for broad regional benefits. But there will also be localised impacts. These impacts should be avoided and/or mitigated through things such as detailed design refinement or project amendment for example. Despite best effort to embody remedies in the immediate project, impacts will remain. Local heritage and tourism, as well as some existing local economic activities will be impacted. There is the case therefore, for the project to deliver other outcomes to offset through long term recovery or stimulus type actions. Without limiting the forms that this might take, Council's officers have suggested in meetings so far initiatives such as -

- Heritage - interpretation infrastructure, wayfinding and marketing
- Local tourism offers – a strategy and infrastructure to facilitate active tourism on a network of pedestrian and cycle paths/routes
- “Masterplanning” or sensitive place-making for the historic Little Hartley precinct to draw out its offer to passing motorists
- Other measures to cause motorists to pause in the valley and experience its offer?
- As mentioned elsewhere in the report – a very high standard of design outcome for all works, reflective and worthy of place, and the landscape, visual and heritage characters.

#### *7. Capturing Benefits*

The Australian and NSW Governments have committed to embedding benefits into the region and this city. Studies are occurring into local population skilling and training, local employee procurement and local sourcing of services and goods. There may also be the need for local accommodation – especially given the risk that the multi-year project will otherwise result in the long term displacement of available tourism accommodation. Housing demand and supply is being studied. Council should request requirements for local employment, skilling, procurement of services and goods, and worker housing being embedded within any approval and the resulting works contracts.

#### **Policy Implications**

Nil.

#### **Financial Implications**

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

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

Nil.

#### **Attachments**

Nil

#### **Recommendation**

THAT Council:

1. Receive the report on the 'Review of Environmental Factors' for the Transport for NSW Great Western Highway project, Little Hartley to Lithgow.
2. Endorse the General Manager to make a detailed submission, aligned with the commentary presented in this report and other emphases as determined by the Council.

**10.3.2. IS - 24/01/2022 - Results of Negotiation Process - Replacement of Glen Davis Road Bridges**

**Prepared by** Sean Quick – Project Officer  
**Department** Infrastructure & Services  
**Authorised by** Director of Infrastructure & Services

**Reference**

Min No. 21-213 Ordinary Meeting of Council held on 27 September 2021.  
 Min No. 21-262 Ordinary Meeting of Council held on 25 October 2021.

**Summary**

The purpose of this report is to summarise the negotiation process undertaken by Council with contractors, to determine a suitable contractor to replace the three timber bridges along Glen Davis Road, between the townships of Capertee and Glen Davis.

**Commentary**

In 2020, Council applied for grant funding through Transport for NSW's (TfNSW) 'Fixing Country Bridges Program' and was successful in obtaining funding of \$5,043,774 to replace three (3) timber bridges along Glen Davis Road with dual-lane reinforced concrete structures.

A report was tabled to the Ordinary Council Meeting held on 25 October 2021, which described the open tender process conducted to seek a contractor to undertake the design, demolition and construction of these bridges. After completing an evaluation of the tenders received, the Tender Evaluation Panel determined that the highest-ranked tender submissions had deficiencies that required further explanation.

To seek further information Council, in accordance with Clause 178 (3)(e) of the *Local Government (General) Regulation 2021*, resolved to 'decline all tenders received and enter into negotiations with the two highest-ranked tenderers, Central Industries and Saunders Civilbuild' and report on the outcome of the negotiations at the January 2022 Ordinary Meeting of Council.

**Negotiation Process**

Negotiations were carried out in accordance with the Office of Local Government's (OLG's) Tendering Guidelines and the Independent Commission Against Corruption's (ICAC's) Guidelines for Managing Risks in Negotiations. A Negotiation Evaluation Panel (NEP) was formed from the following staff:

<b>Name</b>	<b>Role</b>	<b>Position on Panel</b>
Sean Quick	Project Officer	Chair
Leanne Kearney	Assets and Infrastructure Planning Manager	Member / Minute Taker
Kirsty Sheppard	Purchasing Coordinator	Member
Craig Brown	Project Officer	Member

A negotiation plan was created which included the objectives and anticipated outcomes of the negotiation, along with the discussion points.

Council conducted online meetings with Central Industries and Saunders Civilbuild on 16 November 2021 and discussed various aspects of their submissions. Both parties were asked to provide amended proposals with updated pricing which included all points discussed, as well as including provision of a footpath in the design when calculating pricing. Council has asked for footpaths to be

included in the design to provide a safe area for bird-watchers, as at present, bird-watchers congregate on the bridge roadway. Both parties were given until close-of-business, Tuesday 21 December 2021 to respond.

Council met with Saunders Civilbuild at the bridge sites on 8 December 2021 and reviewed the unique geography at each location. Saunders Civilbuild determined that a footpath could not be included at the Airly Creek bridge site due to the limited width on the eastern approach and the positioning of a tree that cannot be removed.

Central Industries conducted their own site investigations and determined that a footpath could still be incorporated in their design at Airly Creek bridge.

Both parties lodged amended proposals prior to the closing time.

**Revised Tender Evaluation**

The NEP reviewed the submissions and met on 12 January 2022 to discuss the proposals submitted. The evaluation criteria and weightings that were used in the initial tender assessment were used again in this evaluation. The below table offers a summary of the NEP's scoring against the various criteria. A copy of the detailed evaluation has also been included with this report as an attachment.

<b>Evaluation Criteria</b>	<b>Weighting</b>	<b>Central Industries Score</b>	<b>Saunders Civilbuild Score</b>
Pricing	40%	40%	34.8%
Proposed Methodology & Program	30%	24%	21%
Demonstrated Experience & Past Performance	10%	8%	10%
Capability & Capacity of Key Personnel	10%	9%	9%
Local Preference	5%	5%	0%
Innovation & Circular Economy	5%	5%	2.5%
<b>Total Weighted Score (out of 100)</b>		<b>91%</b>	<b>77%</b>

The NEP determined that Central Industries' submission offered best value.

Central Industries propose a quicker turnaround time on construction, leading to shorter road closures. This is due to their use of a Rocla precast system. They will be subcontracting consultants and contractors that have prior bridge-construction experience, as well as other locally-based subcontractors.

In addition, they meet the requirements of Council's Local Preference Policy and have proposed an initiative where the revenue generated from the sale of the recycled timber from the existing bridges can be put back into local community projects.

A breakdown of Central Industries' pricing for each bridge, excluding GST, is as follows:

<b>Bridge Description</b>	<b>Central Industries' Tendered Price</b>
Airly Creek Bridge	\$1,146,750.00 *
Coco Creek Bridge	\$1,220,010.00
Crown Creek Bridge	\$1,097,780.00 **
<b>Total</b>	<b>\$3,464,540.00</b>

\*Includes traffic control allowance

\*\*Includes traffic control allowance and construction of temporary road deviation at Crown Creek bridge site

The tendered pricing falls well within Council's allocated budget. The grant offered by TfNSW is \$5,043,774.00 and other costs associated with this project are expected to total \$284,500. This will leave a project contingency of \$1,294,734.00.

### **Further Project Information**

Central Industries has proposed a turnaround time of two months to demolish and construct the new bridges at each site. Glen Davis Road will be closed while the works are carried out.

It may be possible to divert light vehicles around the bridge sites at Airly Creek and Crown Creek but due to the geography and environmental constraints at Coco Creek, a diversion is not possible, leading to Glen Davis Road being closed at this location for approximately two months. Traffic will be required to access Glen Davis via Kandos during this time.

Council has developed a Communications Program that will be initiated once firm dates are known. As part of this plan, Council will erect Road Closure signs at the following locations. These include interchangeable dates that can be altered if there are delays:

- The beginning of Glen Davis Road at Capertee
- The beginning of Glen Davis Road at Glen Davis (near three-way intersection)
- Clarence Pirie Park rest area at Capertee
- Intersection of Dabee Road & Glen Alice Road, Kandos
- In the vicinity of the Airly Mine entrance, Glen Davis Road

Once the contract has been signed, preliminary and design works will get underway. Based on Central Industries program of works, it is likely that works on site will commence in early-May 2022.

### **Policy Implications**

The tender and negotiation processes were undertaken in accordance with Policy 1.4 - Tendering and Policy 1.7 - Local Procurement.

### **Financial Implications**

- Budget approved - \$5,043,774, phased over the 2021/22 and 2022/23 Capital Works Programs.
- 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 (\$54,381), PJ100666 (\$56,088), PJ100667 (\$52,238).
- Future potential impact – It is anticipated that progress claims for the construction component of the works will be sought during the 2022/23 financial year, totalling \$3,349,040.

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

The initial tender process was carried out in accordance with Section 55 of the *Local Government Act 1993* and Part 7 of the *Local Government (General) Regulation 2021*.

The subsequent negotiations were carried out in accordance with the OLG's tendering guidelines and ICAC's Guidelines for Managing Risks in Negotiations.

As per discussions with TfNSW, the NSW Government's GC21 General Conditions of Contract will be used to engage Central Industries for this project.

### **Attachments**

1. Evaluation of Revised Submissions [**10.3.2.1** - 2 pages]

## Recommendation

THAT Council:

1. Note the results of the negotiations with Central Industries and Saunders Civilbuild regarding the design, demolition and construction of the three timber bridges along Glen Davis Road and the subsequent evaluation of the amended proposals.
2. Resolve to accept the offer from Central Industries for the Design, Demolition and Construction of three timber bridges along Glen Davis Road, for the lump sum tendered price of \$3,464,540.00 (excluding GST).
3. Note that the lump sum tendered price is specifically made up from pricing tendered for the replacement of Airly Creek Bridge, \$1,146,750.00, Coco Creek Bridge, \$1,220,010.00 and Crown Creek Bridge, \$1,097,780.00.
4. Authorise the General Manager to sign the contract and related documentation under delegated authority.

**10.4. Water and Wastewater Reports**

**10.4.1. WWW - 24/01/2022 - Water Charge Amendment for Remainder of Financial Year 21/22**

**Prepared by** Matthew Trapp - Executive Manager - Water & Wastewater

**Department** Water & Wastewater

**Authorised by** Executive Manager Water & Wastewater

**Summary**

This report provides information on the recent IPART review of rural bulk water prices. The report highlights that IPART’s determination has the effect of increasing the cost of purchasing water from WaterNSW’s Fish River scheme by between 17% – 27% for raw water and 26% - 36% for filtered water. This increased pricing came into effect in October 2021. Council had no indication of this increase when it set the fees for this current year. Because the water function operates as a business unit it is considered essential that this externally imposed overhead be recouped as much as reasonably possible. The report presents options for Council to consider an increase to water access charges for the remainder of the 2021/22 financial year. It is important to note that, having regard for the local community’s capacity to pay, the proposal is for Council to only partially recover the additional costs (approx. two thirds only of the increase).

**Commentary**

IPART Determination

On 9 September 2021, IPART released the next 4-year determination for rural water supply. The pricing determination included the WaterNSW owned and operated Fish River Water Scheme which supplies treated water from the Duckmaloi Treatment plant to the Lithgow area. The pricing determination has been in place since 1 October 2021 with a significant increase in the charges for both raw water and treated water.

With the recent Council election and the need to prepare modelling of cost recovery options, this January 2022 meeting is the earliest opportunity to present information on the IPART determination to Council.

Lithgow City Council is the only major treated water customer supplied by WaterNSW and hence the cost of their operation has been pushed onto Council. The determination from IPART has several parts that effect Lithgow City Council outlined below:

- Allocation of 1788ML/year of filtered water changed to 1688ML/year of filtered water and 100ML/year of raw water;
- WaterNSW charge LCC in a similar way to how Council structures its fees and charges. This means that WaterNSW charge Council a rate for access (fixed component) to a water allocation and a usage (variable component). There is also an excess usage charge that is applied for each kL used over the allocation amount;
- The estimated annual increase in costs is **\$378K**; and
- The estimated increase in costs for the 2021/22 year is **\$285K** (because the new cost applies for less than the full year).

The information in the table below is taken from the IPART website and Fish River Water Scheme (FRWS) pricing determination. The information is presented in real costs.

Raw Water	20/21	21/22	Increase
MAQ (Allocation)			
Access charge (\$/kL)	0.42	0.49	17%
Usage charge	0.26	0.33	27%

Excess Usage	0.68	0.82	21%
<b>Filtered Water</b>			
MAQ (Allocation)	<b>20/21</b>	<b>21/22</b>	
Access charge	0.68	0.86	26%
Usage charge	0.39	0.53	36%
Excess Usage	1.07	1.39	30%
	<b>20/21</b>	<b>From 1 October 2021</b>	
<b>Estimated cost using full allocation</b>	<b>Filtered (1788ML/year)</b>	<b>Filtered (1688ML/Year)</b>	<b>Raw (100ML/Year)</b>
Access (Fixed Charge)	\$ 100,753.33	\$ 120,256.67	\$ 4,083.33
Usage (Variable)	\$ 57,785.00	\$ 74,111.67	\$ 2,750.00
Monthly bill	\$ 158,538.33	\$ 194,368.33	\$ 6,833.33
<b>Using typical flows</b>	<b>Filtered</b>	<b>Filtered</b>	<b>Raw</b>
Access (Fixed Charge)	\$ 100,753.33	\$ 120,256.67	\$ 4,083.33
Usage (Variable)	\$ 14,430.00	\$ 19,610.00	\$ 2,750.00
Monthly bill	\$ 115,183.33	\$ 139,866.67	\$ 6,833.33
Total	\$ 115,183.33	\$ 146,700.00	
<b>Yearly Water Purchases</b>	<b>\$1,382,200</b>	<b>\$1,760,400</b>	
<b>Estimated Annual Increase</b>	<b>\$378,200</b>		

IPART reached the following conclusions in its determination:

- FRWS charges increase by up to 36% for major customers - stakeholders considered that many of the assets are in poor condition and providing a degrading level of service. IPART are unsure if earlier governance approaches, prior to the Water NSW take-over, may have led to inadequate investment in maintenance and renewals.
- The FRWS is managed differently to other rural valleys - unlike other rural valleys where customers draw water directly from the river, the FRWS diverts water through a series of pipelines long distances.
- FRWS customers are broadly dissatisfied with the scheme - Lithgow Council commented the proposed price increases would discourage it from accessing water from the scheme and encourage it to access water from its own supplies.
- IPART would like to better understand what drives Water NSW's FRWS costs - customers consider service standards in the FRWS are deteriorating despite investment in maintenance and capital upgrades since Water NSW (then State Water) took over the scheme in 2004-05.

#### Options for Cost Recovery – 1 January to 30 June 2022

The water fund is a business unit of Council which operates on a full cost recovery basis. As annual access charges for the 2021/22 year were levied at the beginning of the financial year, the most practical approach to recovery of the additional costs is to increase water usage charges only for the period 1 January to 30 June 2022.

Water access and usage charges will be comprehensively reviewed for the 2022/23 draft budget which will be presented to Council at a March 2022 Information Session. The review of water charges will take into consideration the NSW Best Practice Management of Water Supply Guidelines, including strong pricing signals, with at least 75% of residential revenue from usage charges.

Finance has modelled the following options for cost recovery for the remaining two quarterly water usage accounts for the 2021/22 year.

- Option 1 - 5% increase – estimated cost recovery **\$127K** (partial cost recovery);
- Option 2 - 7.5% increase – estimated cost recovery **\$191K** (partial cost recovery);
- Option 3 - 10% increase – estimated cost recovery **\$255K** (partial cost recovery); and
- Option 4- 12.5% increase – estimated cost recovery **\$318K** (full cost recovery).

In order that the immediate financial impact on customers be minimised, **option 2** (7.5% increase in water usage charges) is recommended for Council's approval. Option 2 will recover an estimated \$191K of the expected \$285K additional cost for 9 months of 2021/22. The water fund reserve has capacity to fund the remaining \$94K of additional costs for 2021/22.

A 7.5% increase changes the water usage tiers to:

- 0-250 kl residential from \$3.35 to \$3.60,
- 250+ kl residential from \$4.98 to \$5.35,
- 0-500 kl business from \$3.35 to \$3.60, and
- 500+ kl business from \$4.98 to \$5.35.

For a residential customer using 50 kl of water per quarter, water usage charges would increase from \$167.50 per bill to \$180.00 per bill for the two remaining quarters of the 2021/22 year.

Customers suffering financial hardship can apply for relief from payment under Council's Hardship Policy.

Comparative Information on LCC Water Pricing

The NSW Government publishes Local Water Utility performance monitoring data and reports. The most recent data is from the 2019/20 year.

Lithgow Council's typical residential water usage bill and annual water supply bill are close to the typical bill for Mid-Western Council, however, are higher than five other Council's in geographic proximity to Lithgow LGA.

**Typical Residential Bill - Usage - WS**

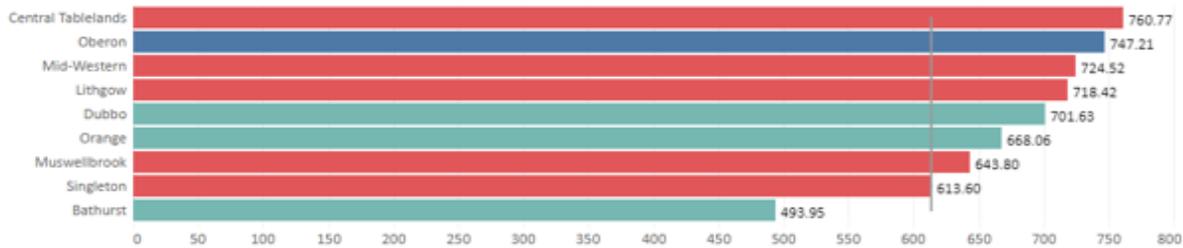
Units: \$ per connected property

Amount of bill for average volume of water supplied per residential property for the reporting year

The data shows the nominal value of the selected report year

The weighted median is the median of the available validated data for the indicator with the number of connected properties applied as weights.

The national median is the median of available data from the latest national performance report. The included data is only for the LWUs with more than 10,000 connected properties.



**Annual bill based on 200kL/a - WS**

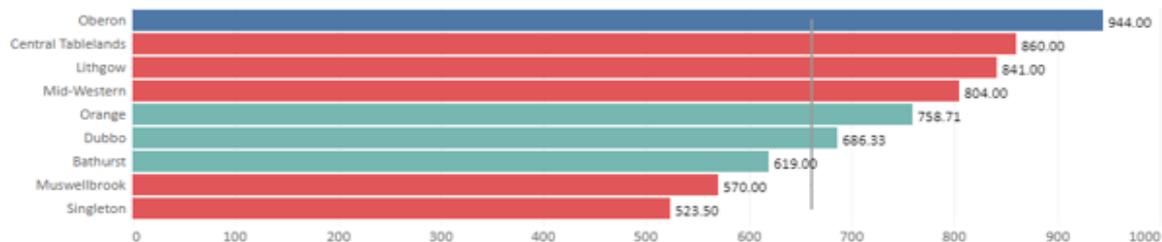
Units: \$/assmt

Annual water bill based on 200 kilolitre of water consumption

The data shows the nominal value of the selected report year

The weighted median is the median of the available validated data for the indicator with the number of connected properties applied as weights.

The national median is the median of available data from the latest national performance report. The included data is only for the LWUs with more than 10,000 connected properties.



## **Policy Implications**

Nil.

## **Financial Implications**

- Budget approved - \$2.05M revised water purchases budget (including Quarter One budget variation for FRWS pricing increases).
- Cost centre - PJ 800225 Water Purchases.
- Expended / committed to date - \$1.587M.
- Future potential impact - water access and usage charges will be comprehensively reviewed for the 2022/23 budget.

## **Legal and Risk Management Implications**

S610B(2) of the Local Government Act 1993 permits a Council to, at any time, determine a business activity fee otherwise than in accordance with a pricing methodology adopted by the council in its Operational Plan, but only if the determination is made by a resolution at an open meeting of the council. As such, public exhibition of the amended charges is not required.

## **Attachments**

Nil

## **Recommendation**

THAT Council:

1. Note the information provided on the recent IPART review of rural bulk water prices.
2. Approve an increase in water usage charges of 7.5% for the period 1 January to 30 June 2022 as set out below to partially recover the additional costs resulting from the IPART determination for rural water supply from 1 October 2021.

Water usage tier increases for the billing period from 1 January to 30 June 2022:

- 0-250 kl residential from \$3.35 to \$3.60,
- 250+ kl residential from \$4.98 to \$5.35,
- 0-500 kl business from \$3.35 to \$3.60, and
- 500+ kl business from \$4.98 to \$5.35.

## 10.5. Finance and Assets Reports

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### 10.5.1. FIN - 24/01/2022 - Contracts for Provision of Electricity

<b>Prepared by</b>	Kirsty Sheppard – Purchasing Coordinator
<b>Department</b>	Finance & Assets
<b>Authorised by</b>	Chief Financial & Information Officer

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#### Reference

Min No 19-348: Ordinary Meeting of Council held on 25 November 2019.

#### Summary

The purpose of this report is to inform Council of new contracts for the supply of electricity. The report also provides information on the upgrade of remaining LED street lights with LED luminaries.

#### Commentary

##### New Contracts for the Supply of Electricity - Renewable Energy

Council currently has the following agreements in place with electricity retailers:

- **Origin Energy Ltd** – The supply of electricity to Council's 'large sites' ;
- **Energy Australia Pty Ltd** – The supply of Public Street lighting; and
- **AGL Sales Pty Ltd** – The supply of electricity to Council's 'small sites'.

A 'large site' is defined as any Council site with expected electricity usage exceeding 100MWh per annum. Council has nine of these sites and electricity expenditure totalled \$597,017 last financial year.

'Small sites' refers to Council facilities that use less than 100mWh per annum. Council has 114 of these sites and electricity expenditure totalled \$341,039 last financial year.

Current agreements commenced on 1 January 2019 and will expire on 31 December 2022.

In order to achieve the best possible pricing for new contracts, Council participated in a joint tendering process administered by Local Government Procurement (LGP) for Supply of Electricity (Renewable and Firming Power) and in conjunction with a large number of NSW Councils. The early procurement action avoids the risk of prices increasing in 2022. The tender achieved a good result, which will lead to significant savings across Council's sites.

LGP is a business unit of the Office of Local Government and as per Section 55 (3) (a) of the *Local Government Act 1993* and Clause 163 of the *Local Government (General) Regulation 2005*, Council is not required to call for tenders when utilising an LGP contract. Since Council is not required to follow a formal tender process, the General Manager is authorised to sign the contracts under his delegation.

This legislation is beneficial in these circumstances, as due to market fluctuations, energy retailers offer their proposals with a finite one-week period to accept them.

LGP decided to run separate tender processes for small sites and large sites / public street lighting as the two categories utilise their peak demand at different times of the day. A seven-year term was chosen for all agreements as electricity contracts covering this period have been shown to deliver good value for money. Renewable energy is available at lower cost during the contract term. LGP

utilised an industry-specific consultant to prepare the documentation and participate in the tender evaluation panel. The supply period will be 01/01/2023 to 31/12/2029.

LGP conducted a tender for the supply of electricity based upon renewable power augmented by more traditional power sources when the output of the renewable power sources is insufficient to meet demand.

**Tender Result**

After conducting an evaluation of proposals received, LGP recommended the following electricity retailers:

- **Iberdrola Australia Energy Markets** – Both Large sites and Public Street Lighting.
- **Origin Energy Ltd** – (SME) Small sites.

Following a peak in electricity prices in early 2017, electricity prices have slowly fallen which has fortunately resulted in lower long-term pricing for both categories. Competition amongst energy retailers has also increased. The tables below shows expected savings on average over the seven year period compared with Council's current rates:

<b>Summary</b>				
			<b>Energy Expenditure per year</b>	<b>Savings per year</b>
SME	2020	\$	207,135.15	<b>\$ 106,961.59</b>
	Renewable Energy Tender	\$	100,173.56	
Large	2020	\$	332,143.62	<b>\$ 33,785.67</b>
	Renewable Energy Tender	\$	298,357.95	
Street lighting	2020	\$	104,209.10	<b>\$ 12,389.67</b>
	Renewable Energy Tender	\$	91,819.43	
Total	2020	\$	643,487.87	<b>\$ 153,136.92</b>
	Renewable Energy Tender	\$	490,350.95	

Based on 2020 expenditure it is anticipated substantial reductions will be seen in all agreements across the upcoming years:

Large Sites	10.17%
Public Street lighting	11.89%
Small sites	51.64%
<b>Average Savings per year</b>	<b>23.80%</b>

The new agreement will also provide carbon emission savings to Council.

The alternative to accepting this offer was to decline it, which would expose Council to full market rates. After consideration of the options, management decided that it was in Council's best interest to accept the offers. The General Manager signed the agreements under his delegation within the brief timeframe window required in energy market agreements.

LED Street Lighting Upgrade Project

In 2018/19, Council replaced 1,490 legacy lanterns with LED luminaires. The project has provided ongoing costs savings of an average **\$92K p.a.**, as well as carbon emission savings.

Via the WSROC Western Sydney Energy Program (WSEP), Council was advised of Endeavour Energy's current LED street lighting upgrade project. The program would replace the remaining 643 lanterns in the Lithgow LGA with LED luminaires.

There is no upfront cost to Council and Council will receive ongoing net cost benefits and carbon emission savings. Through the WSEP, consultants Ironbark have reviewed the offer provided by Endeavour and provided recommendations as to how best to proceed with the maximum benefit to Council. The average annual savings (over 21 years) will be an additional **\$34K**.

The General Manager has signed the Endeavour Energy Street Lighting Services Agreement under delegated authority.

**Policy Implications**

Nil.

**Financial Implications**

- Budget approved - The financial savings will be reflected in Council's budget over the term of the contracts.
- Cost centre - The cost centres affected by this new agreement include various *Building Maintenance* allocations which fall under the General Fund, Water Fund and Sewerage Fund entities. Also affected is the *Street Lighting* cost centre within Council's Transport category (General Fund) to which street lighting electricity charges are allocated.
- Expended to date - Council spent \$1,157,296 on electricity for all sites during the 2020/21 financial year.

**Legal and Risk Management Implications**

Nil.

**Attachments**

Nil

**Recommendation**

THAT Council note the information provided in the report in relation to the:

1. New electricity agreements for large sites, small sites and public streetlighting.
2. LED street lighting upgrade project.

**10.5.2. FIN - 24/01/2022 - Investment Report November 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 30 November 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 30 November 2021, when compared to 31 October 2021, increased by \$4,293,438 to \$32,123,557. Investments increased from \$27,126,457 to \$31,376,457. Cash in Council's bank account increased from \$703,661 to \$747,099.

The \$4.3 increase in investments was mainly due to the ordinary business of Council, with the second rates instalment and Financial Assistance Grant payment received in November. Council also received \$1.5M in grants in November. Cash outflows were as expected, including payments for 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 November 2021 were as follows:

Opening Balance of cash and investments as 01 November 2021	\$27,830,118
Plus New Investments – November 2021	\$6,293,438
Less Investments redeemed – November 2021	-\$2,000,000
Closing Balance of cash and investments as at 30 November 2021	\$32,123,556

**CFIO comment on the cash and investments balance** – the \$4.29M increase in cash and investments in November was anticipated as November is typically a month of higher cash inflows. \$3.6M was received for the rates instalment and \$1.5M in grants. High value Accounts Payable transactions included \$99K to Exeloo, \$173K to JR Richards, \$110K to Stabilised Pavements and \$115K to Structen (Resource Recovery Centre construction).

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 September 2021 was **\$23.7M** and for internal restrictions **\$4.6M**. With the working capital fund of \$833K, total cash and investments at 30/9/21 was \$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 \$833K to internal reserves in the 2021/22 year.

The working capital loan facility is not yet required as a number of grants have been partly paid in advance and the cash received has not been spent.

### **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 – \$62,500
- Cost centre - 3259
- YTD Income to date - \$53,698
- Future potential impact – Nil.

The Council's interest income for YTD is \$8.8K 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 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 1 November 2021 to 30 November 2021 [**10.5.2.1** - 1 page]

**Recommendation**

**THAT**

1. Investments of \$31,376,457 and cash of \$747,099 for the period ending 30 November 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.

**10.5.3. FIN - 24/01/2022 - Investment Report December 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 December 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 December 2021, when compared to 30 November 2021, had decreased by \$744,514 to \$31,379,043. Investments decreased from \$31,376,457 to \$29,826,457. Cash in Council's bank account increased from \$747,099 to \$1,552,585.

The \$0.74M decrease in investments is mainly due to the ordinary business of Council, with no Rates instalments or major grant payments due in December. 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 December 2021 were as follows:

Opening Balance of cash and investments as 01 December 2021	\$32,123,556
Plus New Investments – December 2021	\$9,805,486
Less Investments redeemed – December 2021	-\$10,550,000
Closing Balance of cash and investments as at 31 December 2021	\$31,379,042

**CFIO comment on the cash and investments balance** – the \$744K decrease in cash and investments in December was anticipated as December is typically a month of lower cash inflows. High value Accounts Payable transactions included \$325K for water purchases, \$163K for the Emergency Services Levy, \$138K to JR Richards, \$379K for the Resource Recovery Centre construction and \$157K for the Portland / Sunny Corner Rd safety improvements.

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 September 2021 was **\$23.7M** and for internal restrictions **\$4.6M**. With the working capital fund of \$833K, total cash and investments at 30/9/21 was \$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 \$833K to internal reserves in the 2021/22 year.

The working capital loan facility is not yet required as a number of grants have been partly paid in advance and the cash received has not been spent.

### **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 – \$75,000
- Cost centre - 3259
- YTD Income to date - \$68,779
- Future potential impact – Nil.

The Council's interest income for YTD is \$6.2K 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 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. Investments 1 December 2021 to 31 December 2021 [**10.5.3.1** - 1 page]

**Recommendation**

THAT

1. Investments of \$29,826,457 and cash of \$1,552,585 for the period ending 31 December 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.

#### 10.5.4. FIN - 24/01/22 - Rebate Requests - Excessive Water Accounts

**Prepared by** Ross Gurney - CFIO  
**Department** Finance & Assets  
**Authorised by** Chief Financial & Information Officer

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##### Summary

The purpose of this report is to seek Council's consideration of two requests for rebates on excessive water accounts. In both cases, the COVID lockdown was at least part of the reason for delayed action to rectify leaks.

##### Commentary

###### Property No. 106581

Council notified the owner of Property 106581 of a possible severe leak on 9 July 2021 and further on 26 July 2021. The property owner only became aware of the issue on returning to his Sydney residence on 8 August 2021. The leak was finally rectified in early September 2021 after the COVID lockdown delayed the owner in being able to meet with a plumber at the property.

The owner has requested a full rebate of **\$28,697.61** for the 2021/22 first quarter account. There had been no one residing at the property and the previous account was for nil usage. To support his rebate request, the owner stated in his application that "there was no negligence on my part and the situation transpired due to circumstances beyond my control. I took every step to mitigate the problem as soon as I became aware of it."

Policy 8.1 Excessive Water Usage Allowance for Breakages only applies to a maximum rebate of \$2,500. Applications for rebates which exceed the policy criteria require approval by resolution of Council.

The property above at the time was being serviced by WaterNSW Fish River Water Scheme and so Council did not produce this water but purchased this for delivery to the area via the WaterNSW system and Council mains. The total cost for water purchased at this time was \$6,301.23 meaning the remaining \$22,396.38 are costs attributed to Council and the tariff structure.

###### Property No. 80600

Council notified the owner of Property 80600 of a possible leak at the property through the MiWater portal. Due to the COVID lockdown the property owner could not visit the house to determine the source of the leak. The leak in the washing area of the house has now been rectified.

The owner has requested a full rebate of **\$269.28** for the 2021/22 first quarter account. There had been no one residing at the property and water usage for the previous account was minimal.

Policy 8.1 Excessive Water Usage Allowance for Breakages only applies where the leakage is significant (greater than 100 kilolitres). 81 Kls of water was used for the period from 13/6/2021 to 20/9/2021. Generally, claims for an amount less than the 100Kls specified in the policy are not accepted. However, in this circumstance, it is apparent that the restrictions and impacts of covid did contribute to the leak not being able to be attended to in a timely fashion. For this reason, the matter is reported with a recommendation to support the waiver.

##### Policy Implications

The criteria included in Policy 8.1 Excessive Water Usage Allowance for Breakages has been considered.

### **Financial Implications**

The impact on water revenue will be a total reduction of \$28,966.89. This will reduce the Water Fund's cash reserves at the end of financial year by this amount because write-offs have not been included in the current budget.

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

### **Attachments**

Nil

### **Recommendation**

THAT Council approve a water account rebate:

1. Of \$28,697.61 for the owner of Property 106581 during the period of the undetected leak due to the extenuating circumstances of the COVID lockdown.
2. Of \$269.28 for the owner of Property 80600 during the period of the undetected leak due to the extenuating circumstances of the COVID lockdown.

## **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.