



BUSINESS PAPER

Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Wednesday 2 March 2022

at 7:00 PM

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1. Acknowledgement of Country

Acknowledgement of Country

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

Declaration of Webcasting

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

2. Present

3. Apologies

4. Declaration of Interest

Councillors have the opportunity to declare any interests in items on the agenda and inform the Council and public if they will be leaving the Chambers during the debate and voting on the item.

5. Confirmation of Minutes

Confirmation of the Minutes of the Ordinary Meeting of Council held 24 January 2022.

6. Commemorations and Announcements

The Mayor to announce any commemorations, announcements and acknowledgements which Councillors have provided.

7. Public Forum

Any person registered to speak during Public Forum on a matters included in the business paper and registered via the Council website prior to 12 Noon on the day of the meeting will have the opportunity to speak. There will be only two speakers for and against, on each matter on the business paper.

Public forum will be allocated half an hour time in total with each speaker having 3 minutes to speak.

Speaker not registered for public forum will have an opportunity to speak on matters on the business paper if time permits.

8. Mayoral Minutes

The Mayor is able to table a Mayoral minute at the meeting if required.

9. Notices of Motion

9.1. NOTICE OF MOTION - 02/03/2022 - Cr S McGhie - School Bus Stop on Sunny Corner Road Portland and Children Crossing Sign

Report by Councillor Stuart M^cGhie

Commentary

It has been brought to my attention that there is no provision for the safe boarding of buses by school children in the John Mackey Drive, MacManus Road, Oscar Parade, Ellen close area of Sunny Corner Road Portland. The area is growing exponentially and currently approximately 10 schoolchildren per day are boarding and disembarking the school bus in this area. Long grass hinders safe passage from parent's and carer's vehicles currently with up to six vehicles attempting to deliver children to the bus at any given time. The weather events we have been experiencing has left many children dropped off with no shelter or protection from sudden rain, compromising their day at school and health. As well as protection from the sun which will be back. There is also no signage to warn motorists that children are on and around the road in this area. The bus company has agreed this is a dangerous and a growing situation that needs addressing. The safety of these children travelling to the schools in Portland and Meadow Flat is paramount.

Attachments

Nil

Recommendation

THAT Council construct a shelter on the existing slipway outside the Portland Cemetery, thus providing safe access for all concerned including the bus drivers. That signs be erected with the adult holding a child's hand to warn motorists to take extra care in this winding section of road as there will still be children walking to and from the bus stop as well as vehicles. That inspection of and a surety given to the footpath access to the bus stop from the aforementioned roads in the area.

Management Comment

There are two aspects to the proposed Motion which prudently require further investigation before a decision can be reasonably taken about the requested works. The first relates to seeking the opinion of the principal roads authority. The second goes to the cost of the works and related financial considerations.

Transport for NSW (TfNSW) is legislated as the organisation responsible for the control of traffic on all roads in New South Wales under the Road Transport (Safety & Traffic Management) Act 1999. However, in order to deal with the large number and range of traffic related matters effectively, TfNSW has delegated certain aspects of the control of traffic on local roads to Councils.

The delegations given to Council limits the types of prescribed traffic control devices and traffic control facilities that it can authorise and imposes certain conditions on Councils. One of these conditions legislatively requires Councils to obtain the advice of TfNSW and the Police prior to proceeding with any proposal. Lithgow achieves this through the Traffic Advisory Local Committee (TALC), a technical review committee that is required to advise the Council on traffic-related matters referred to it by the Council.

It is necessary that the matter above be referred to the TALC for consideration and subsequently, a recommendation to the Council regarding the appropriate way forward. The committee will discuss the technical aspects of the proposal including project need. If the investigations support the case for the works, information will be provided about the costs and related financial considerations. The results of this will be reported back to the Council for consideration.

10. Question with Notice

10.1. Question with Notice - 02/03/2022 - Cr C Coleman - Library Scanning Facilities

Report by Councillor Cassandra Coleman

Commentary

It has been brought to my attention how difficult it is for many residents to scan, photocopy or email documents to businesses which have made a commercial decision to force their customers to transact business online or remotely.

The banking sector is a classic example of putting profit before people with the closure of branches across the country.

We need to support our residents in times of change.

Attachments

Nil

Question

Why has the email scanning option been disabled at the city's public libraries?

Management Comment

Due to concerns regarding user privacy and network security, Council has ceased the ability to scan to email at the Lithgow Library. Customers may still scan documents by scanning to a USB device which they can then attach to emails from their personal email accounts. Scan to USB is safer for Council and customers.

Network security has been a focus of recent external audits by the NSW Audit Office. Council has been proactively making improvements to network security, including policy, procedure and permissions.

The scan to email feature requires the use of an email address on Council's network. Despite requests to forward these emails to their personal email accounts, many customers were sending directly from Council's email address. If the email address they entered was incorrect and was not delivered, they had no form of notification. Other customers had been sending inappropriate content to multiple recipients, all from a Council email address.

Another identified problem is that all emails sent and received by the Council email are stored for a period of 10 years. This means that personal financial and health information should not be sent via Council's network.

The scan to email service is still currently available at Wallerawang and Portland Libraries due to the inability to source the module required to enable saving to USB device. However, the copiers are due to be replaced later this year, and the "scan to USB device" module will be included for those branches at that time.

11. Staff Reports

11.1. General Manager's Reports

11.1.1. GM - 02/03/2022 - Prescribed Code of Meeting Practice

Prepared by Ross Gurney - CFIO

Department Governance

Authorised by General Manager

Reference

Min 19-12: Ordinary Meeting of Council held 25 February 2019.

Summary

The Local Government Act (1993) (the Act) requires Council to adopt a Code of Meeting Practice that incorporates the requirements of the Local Government (General) Regulation 2005 (the Regulation). The Office of Local Government's (OLG) model Code of Meeting Practice was updated late in 2021.

Commentary

Section 360 of the Act requires Council to adopt a Code of Meeting Practice that incorporates the requirements of the Local Government (General) Regulation 2005.

360 Conduct of meetings of councils and committees

- 1) *The regulations may prescribe a model code of meeting practice for the conduct of meetings of councils and committees of councils of which all the members are councillors.*
- 2) *The model code may contain both mandatory and non-mandatory provisions.*
- 3) *A council must, not later than 12 months after an ordinary election of councillors, adopt a code of meeting practice that incorporates the mandatory provisions of the model code prescribed by the regulations. The adopted code may also incorporate the non-mandatory provisions and other provisions.*
- 4) *A code adopted or amended by the council must not contain provisions that are inconsistent with the mandatory provisions.*
- 5) *A council and a committee of the council of which all the members are councillors must conduct its meeting in accordance with the code of meeting practice adopted by it.*

The new Model Meeting Code contains new provisions that allow Councils to permit individual Councillors to attend meetings by audio-visual link and to hold meetings by audio-visual link in the event of natural disasters or public health emergencies. The provisions governing attendance at meetings by audio-visual link are non-mandatory.

Amendments have been made to the provisions governing the webcasting of meetings and disorder at meetings to reflect amendments to the Regulation since the previous iteration of the model Meeting Code was prescribed.

An amendment has also been made to the model Meeting Code implementing recommendation 6 in ICAC's report in relation to its investigation of the former Canterbury City Council (Operation Dasha). ICAC recommended that the model Meeting Code be amended to require that council business papers include a reminder to councillors of their oath or affirmation of office, and their conflict of interest disclosure obligations.

At the 25 February 2019 meeting, Council resolved to adopt only the mandatory clauses of the prescribed Code of Meeting Practice.

Management has reviewed the non-mandatory requirements included in the document and recommends the following clauses for consideration of adoption by Council.

- Clauses 3.12 to 3.13 with regard to notices of motion inclusive are **recommended for adoption**. These clauses respectively state-

3.12 If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.

3.13 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the general manager must either:

- (a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or
- (b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.

- Clauses 3.33 to 3.36 which permit pre-meeting briefing sessions. Management **recommends adoption** of all clauses as set out hereunder-

3.33 Prior to each ordinary meeting of the council, the general manager may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.

3.34 Pre-meeting briefing sessions are to be held in the absence of the public.

3.35 Pre-meeting briefing sessions may be held by audio-visual link.

3.36 The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.

3.37 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.

3.38 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.

- Section 4 Public Forums. Currently, public forum is held as part of each Ordinary meeting. Council should note the OLG commentary in the Prescribed Code of Meeting Practice below. Section 4 sets out 24 paragraphs to guide the holding of a public forum **prior to** each Ordinary meeting of Council. **Note: Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council. Where a public forum is held as part of a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of council and committee meetings.**

The Public Forum section is **recommended for adoption**. The recommended approach would be for a public forum to be held just prior to the commencement of the Council meeting at 6:30 pm, with the meeting commencing at 7:00pm). This would ensure that meetings are focused on decision-making while also still allowing the chance for interested parties, for or against an item, to raise their issues. It would also allow the administration to more fully respond to issues raised by verbally briefing the Council on any matters that emerge from

the public forum. Often what can occur otherwise, is the matter is deferred causing delays and additional workload.

- Clauses 5.14 and 5.15 set out a process for cancelling a meeting where a quorum is not present or risks related to a natural disaster or a public health emergency and is **recommended for adoption** -

5.14 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the health, safety or welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster or a public health emergency, the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.

5.15 Where a meeting is cancelled under clause 5.14, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.3.

- Clauses 5.16 to 5.30 allow meetings to be held by audio-visual link in the event of a natural disaster or a public health emergency. It also allows for attendance by Councillors at meetings by audio-visual link. Clause 5.44 permits the General Manager and other Council staff to attend meetings of the Council and committees of the Council by audio-visual-link. **The clauses are recommended** in the current operating environment.
- Section 7 Modes of Address may provide clarification as to formally addressing the Mayor, Councillors and Council officers.
- Clause 9.10 with regard to Mayoral Minutes is **recommended for adoption**. Clause 9.10 states-

9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.

- Clause 10.9 - Motions requiring expenditure of funds, is **recommended for adoption**. Clause 10.9 states-

10.9 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the motion if adopted.

- Clause 11.11- Voting at Council meetings must be recorded, is **not recommended for adoption**. The chairperson is generally capable of determining if a motion is passed by majority or not. If unclear a Division can be called. Clause 11.11 states -

11.11 All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

- Clauses 13.1 to 13.7 allows Council to deal with items by exception and are **recommended for adoption**. These clauses state respectively-

13.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.

13.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.

13.3 The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.

13.4 Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.3.

13.5 A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.

13.6 Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.

13.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.

- Clause 14.20 sets out the obligations of Councillors attending meetings by audio-visual link and is **recommended for adoption**.
- Clauses 15.15 and 15.16 - Expulsion from meetings, are **recommended for adoption**. The clauses state-

15.15 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.

15.16 Clause 15.15, does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.

- Clauses 15.21 and 15.22 - how disorder by councillors attending meetings by audio-visual link may be dealt with, are **recommended for adoption**. These clauses state-

15.21 Where a councillor is attending a meeting by audio-visual link, the chairperson or a person authorised by the chairperson may mute the councillor's audio link to the meeting for the purposes of enforcing compliance with this code.

15.22 If a councillor attending a meeting by audio-visual link is expelled from a meeting for an act of disorder, the chairperson of the meeting or a person authorised by the chairperson, may terminate the councillor's audio-visual link to the meeting.

- Clause 16.2 sets out the requirements for Councillors attending a meeting by audio-visual link to declare and manage any conflicts of interest. The clause is **recommended for adoption**.
- Clause 17.10 with regard to rescinding Council resolutions relating to development applications, is **recommended for adoption**. Clause 17.10 states -

17.10 A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than **one business day** after the meeting at which the resolution was adopted.

- Clauses 17.12 to 17.20 inclusive, - Rescissions and correcting errors, are **recommended for adoption**. These Clauses state-

17.12 Subject to clause 17.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:

- (a) a notice of motion signed by three councillors is submitted to the chairperson, and
- (b) a motion to have the motion considered at the meeting is passed, and
- (c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

17.13 A motion moved under clause 17.12(b) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.12(b) can speak to the motion before it is put.

17.14 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.12(c).

Recommitting resolutions to correct an error

17.15 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:

- (a) to correct any error, ambiguity or imprecision in the council's resolution, or
- (b) to confirm the voting on the resolution.

17.16 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.15(a), the councillor is to propose alternative wording for the resolution.

17.17 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.

17.18 A motion moved under clause 17.15 can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.

17.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.

17.20 A motion moved under clause 17.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

- Section 18 Time Limits on Council meetings allows Council to specify a time for the conclusion of Council meeting. On the basis of other changes to practices supported elsewhere in this report, this is not **recommended for adoption**. Adoption of this provision will be less necessary if the other changes available to improve the efficiency of meetings are implemented ie., the public forum is moved to ahead of the meeting, not individually recording votes and bundling together matters for a decision where there is no opposition to the recommendations. Section 18 states -

18.1 Meetings of the council and committees of the council are to conclude no later than **[council to specify the time]**.

18.2 If the business of the meeting is unfinished at **[council to specify the time]**, the council or the committee may, by resolution, extend the time of the meeting.

18.3 If the business of the meeting is unfinished at **[council to specify the time]**, and the council does not resolve to extend the meeting, the chairperson must either:

- (a) defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the council, or
- (b) adjourn the meeting to a time, date and place fixed by the chairperson.

18.4 Clause 18.3 does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.

18.5 Where a meeting is adjourned under clause 18.3 or 18.4, the general manager must:

- (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
- (b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the general manager is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

- Clause 19.2 (a) requires recording in the minutes the names of councillors attending a council meeting and whether they attended the meeting in person or by audio-visual link. This is also included in clause 20.24 (for minutes of Council committee meetings). The clauses are **recommended for adoption**.
- Clause 20.24 - Recording of Votes – is **not recommended for adoption** (see the explanation earlier for Clause 11.11), and reflects current practice. Clause 20.24 states-

20.24 All voting at meetings of committees of the council (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

Sections of the model Code of Meeting Practice which apply to Joint Organisations only have been omitted from Council's draft version of the Code, as requested by the OLG.

The Code of Meeting Practice would be placed on public exhibition for a period of 28 days in accordance with Section 361 of the Local Government Act.

A further report will be prepared for Council following the submission period to allow consideration of any public submissions prior to adoption. This is in accordance with Section 362 of the Local Government Act.

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

The Code of Meeting Practice is a requirement of the Local government Act.

Attachments

1. LCC Draft Model- Code- Meeting- Practice-2021 [11.1.1.1 - 44 pages]

Recommendation

THAT Council:

1. Adopt the mandatory clauses of the prescribed Code of Meeting Practice.
2. Adopt the following non – mandatory clauses of the Prescribed Code of Meeting Practice-
 - a. Clauses 3.12 to 3.13 inclusive; 3.32 to 3.36 inclusive (before the meeting section),
 - b. Clauses 5.14 to 5.30; clause 5.44 (coming together section),
 - c. Section 7 (modes of address),
 - d. Clause 8.1 (Order of Business for Ordinary Meetings),
 - e. Clause 9.10 (Mayoral Minutes),
 - f. Clause 10.9 (motions requiring the expenditure of funds),
 - g. Clause 11.11 (recording of voting in minutes),
 - h. Clause 13.1 to 13.7 inclusive (dealing with items by exception),
 - i. Clause 14.20 (Councillors attending meetings by audio-visual link),
 - j. Clauses 15.15 and 15.16 and 15.21 to 15.22 inclusive; (expulsion from meetings),
 - k. Clause 16.2 (Councillors attending a meeting by audio-visual link),
 - l. Clause 17.10; Clause 17.12 to 17.20 inclusive (rescissions and correcting errors),
 - m. Clause 19.2 (a) (recording in the minutes the names of councillors attending a council meeting), and
 - n. Clause 20.24 (recording of votes).
3. Place the Prescribed Code of Meeting Practice as amended on public exhibition for comment for a period of 28 days after which time the matter together with submissions is to be reconsidered by Council.

11.1.2. GM - 02/03/2022 - Delegations to General Manager

Prepared by Ross Gurney - CFIO

Department Governance

Authorised by General Manager

Summary

To facilitate the operations of Council, the Local Government Act (1993) (the Act) provides for a General Power to delegate.

Commentary

Council is required, under Section 380 of the Act, to review all delegation of functions during the first 12 months of each term of office.

Section 377 of the Local Government Act provides that:

- 1) *A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following —*
 - a) *the appointment of a general manager,*
 - b) *the making of a rate,*
 - c) *a determination under section 549 as to the levying of a rate,*
 - d) *the making of a charge,*
 - e) *the fixing of a fee,*
 - f) *the borrowing of money,*
 - g) *the voting of money for expenditure on its works, services or operations,*
 - h) *the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),*
 - i) *the acceptance of tenders to provide services currently provided by members of staff of the council,*
 - j) *the adoption of an operational plan under section 405,*
 - k) *the adoption of a financial statement included in an annual financial report,*
 - l) *a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,*
 - m) *the fixing of an amount or rate for the carrying out by the council of work on private land,*
 - n) *the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,*
 - o) *the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979,*
 - p) *the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,*
 - q) *a decision under section 356 to contribute money or otherwise grant financial assistance to persons,*
 - r) *a decision under section 234 to grant leave of absence to the holder of a civic office,*
 - s) *the making of an application, or the giving of a notice, to the Governor or Minister,*
 - t) *this power of delegation,*
 - u) *any function under this or any other Act that is expressly required to be exercised by resolution of the council.*

Further, the Local Government Act (1993) at Section 378 provides the power for the General Manager to delegate functions. The section provides that:

- 1) *The General Manager may delegate any of the functions of the General Manager, other than this power of delegation.*
- 2) *The General Manager may sub-delegate a function delegated to the General Manager by the Council to any person or body (including another employee of the Council).*

3) *Subsection (2) extends to a function sub-delegated to the General manager by the Council under section 377(2).*

Although the General Manager may sub-delegate functions, the General Manager still retains responsibility to ensure that any sub-delegated function is carried out appropriately.

Where functions are delegated to the General Manager to perform on behalf of a council, it is important for the Council to ensure there are policies in place to guide the decision making. Such policies of Council should be kept, and are, under regular review.

Where authority to make a decision is delegated, this does not remove a Council's authority to make a decision, e.g. the calling in of development applications.

It is recommended that Council delegate to the General Manager the authority to exercise all discretionary functions that Council is capable of delegating and is not prohibited from so doing under section 377 of the Act.

Policy Implications

As outlined in the report.

Financial Implications

Council maintains a register of delegations which provides the authority to exercise functions and authorise expenditures on behalf of the Council.

Legal and Risk Management Implications

Council's approval of delegations will satisfy, in part, the requirement of Section 380 of the Local Government Act 1993 to review all delegations within the first 12 months of each term of office.

Attachments

Nil

Recommendation

THAT Council delegate to the General Manager the authority to exercise all discretionary functions that Council is capable of delegating and is not prohibited from so doing under Section 377 of the Local Government Act, 1993, and also excluding any specific functions which Council has, by resolution, reserved to Council.

11.1.3. GM - 02/03/2022 - Committee Delegations

Prepared by Craig Butler - General Manager
Department Executive
Authorised by General Manager

Reference

Min: 21-61 Ordinary Meeting of Council 22 March 2021

Summary

This report outlines the many committees that council has or participates in. There is the need to reconfirm commitment, or not, to these committees during what will be a busy period for this Council and, where they are to be maintained, to determine nominees.

Commentary

This matter was the subject of a report and discussion at the Council's Information Session on 21 February. The committees were outlined in the table below.

| Internal Committees | Number of Representatives |
|---|--|
| Environmental Advisory | 2 |
| Operations Committee | 4 |
| Traffic Advisory Local (TALC) | 2 |
| Sports Advisory Committee | 2 |
| Economic Development | All Councillors |
| Community Development | 2 |
| Youth Advisory Committee | No Councillor Delegates due to new ToR |
| Lithgow Crime Prevention | 2 |
| Heritage Committee | Discontinue |
| Finance Committee | 2 plus Mayor |
| Women's Advisory Committee | 1 |
| Lithgow Floodplain Risk Management Committee (20 -122 RESOLVED 25/05/2020) | 1 + alternate |
| External Committees | 2019/20 Representative |
| Arts Out West Committee | 1 (Mayor) plus alternate |
| NSW Rural Fire Service Senior Management Team | Mayor plus one alternate |
| Lithgow Information & Neighbourhood Centre Inc. (LINC) | 1 + alternate |
| Upper Macquarie County Council | 2 + alternate |
| WSROC | Mayor Deputy Mayor (alternate) General Manager |
| Energy Australia Lithgow Region Community Consultative Committee | 1 + alternate |
| Cullen Valley Coal Mine Community Committee | Mayor + 1 |
| Invincible Coal Mine Community Committee | Mayor + alternate |
| Clarence Coal Mine Community Committee | 2 |
| Centennial Coal Western Community Consultative Committee | 1 + alternate |

| | |
|---|---------------------------|
| Airly Mine Community Consultative Committee | 1 |
| Newnes Sand and Kaolin Project Community Consultative Committee | 1 |
| Inglenook Exploration & Charbon Colliery Community Consultative Committee | 1 + alternate |
| Eskbank Rail Heritage Centre/ Wolgan Valley Wilderness Railway Committee | 1 |
| Rural Fire Service Lithgow District Liaison Committee | Mayor + 1 |
| Wallerawang Quarry Consultative Committee | 1 |
| Skillset | 1 + alternate |
| Central Tablelands Alliance Audit Risk and Improvement Committee (ARIC) | Mayor + 1 |
| Glenn Museum at Portland | 1 plus 2 alternates |
| The Mayor's Mental Health Taskforce | Mayor plus 1 |
| Representation On Western Joint Regional Planning Panel | 1 plus Mayor as alternate |
| NSW Public Libraries Associate | 1 |

There was not consensus on all aspects of the various committees, but the general tenor of the discussions was that all committees be re-filled as is (sometimes with amendment to the meeting cycles to reduce frequency, lift agendas to a more significant level and reduce the workload for councillors and the administration) other than -

1. The various community consultative committees for coal mines and quarries. There are at least 9 of these. They mostly result from conditions of development consent. The conditions may require engagement with Council but that may not necessarily require membership on committees as the only approach. It was proposed that the administration review whether there is a more effective way, other than committee meetings, for the operators and the community to engage with the full Council – perhaps by way of an evening of briefings. In short, it was suggested that council just hold back on appointments to these while this quick review is undertaken. Meanwhile, the operators would be advised of a contact person within Council should any matters of gravity emerge.
2. Sports Advisory Committee – there was a view that the committee is relevant to sporting groups and should be continued, albeit, with less frequent meetings (4 meetings annually, plus consideration of an annual forum).
3. Arts Out West Committee – it was agreed that participation should be reviewed when the current membership lapses in June this year.
4. Skillset – there was agreement to discontinue participation.
5. Glenn Museum at Portland – there was agreement that the administration should review if there is a better means by which this group could engage with Council.
6. The Mayors Mental Health Taskforce – the Council has requested a report back on the level of mental health service locally. The preparation of this will see the administration engage with the Local Health District (who are the principals in many respects for mental health service provision) and the case for a taskforce or other actions can then be reported back to Council.
7. NSW Public Libraries Association – there was agreement that Council discontinue involvement. Council's librarians are already highly engaged with their industry peers.
8. Economic Development Committee – the committee could serve an important strategic purpose but requires modification. It should have a higher-level strategic focus. Foresee it having a role in LEEP, high level tourism and destination strategy guided by the Lithgow Regional Marketing Co-operative, property investment/development strategy, advocacy strategy, reviews of RED's, strategic planning program and priorities etc. Also, this group could consider other models for delivery of economic development as suggested by the Transition Working Group and operating now in other LGAs. It would be ideal for the Terms

of Reference of this Committee to be reviewed to reflect the above agendas. Also, in recognition of the magnitude of some of the issues proposed to be put before this committee and likely workloads, it is considered that there would be worth in having a membership which can be more deeply immersed in the subject material (rather than having to skim across the issues). Perhaps four councillors with a particular interest and/or experience in the committee's themes. Please recognise also that the committee is not a decision-making group so all such matters must later come to the Council.

9. Environmental Advisory Committee – the administration suggested that a review be undertaken of this committee and a report be returned to Council.
10. Upper Macquarie County Council (UMCC) It was resolved at the Ordinary Meeting of Council 24 January 2022 that the two delegates for this committee be Cr Stephen Lesslie and Cr Col O'Connor)
11. Eskbank Rail Heritage Centre/ Wolgan Valley Wilderness Railway Committee – same approach as 1 and 5 above.

Attachments

Nil

Recommendation

THAT Council -

1. Determine councillor representatives on the following committees -

Internal Committees (convened by Council)

- Operations Committee (4)
- Traffic Advisory Committee (TALC) (2)
- Sports Advisory Committee (2)
- Economic Development Committee (3 plus Mayor)
- Community Development (2)
- Youth Advisory Committee (No councillor delegates due to ToR)
- Lithgow Crime Prevention (2)
- Finance Committee (2 plus Mayor)
- Women's Advisory Committee (1)
- Lithgow Floodplain Risk Management Committee (1 plus alternate)

External Committees (convened by external parties)

- WSROC - (Mayor, Deputy Mayor as alternate and General Manager)
- Central Tablelands Alliance Audit Risk and Improvement Committee (ARIC) (Mayor plus 1)
- Arts Out West (Mayor plus alternate)
- NSW Rural Fire Service Senior Management Team (NSWRFSSM) (Mayor plus alternate)
- Rural Fire Service Lithgow District Liaison Committee (RFSLDL) (Mayor plus 1)
- Lithgow Information & Neighbourhood Centre Inc. (LINC) (1 plus alternate)
- Western Joint Regional Planning Panel (1 plus Mayor as alternate)
- Energy Australia Lithgow Region Community Consultative Committee

2. Deal with the remaining committees in accordance with the approach outlined in this report.

11.1.4. GM - 02/03/2022 - Federal Election Advocacy Canvassing Items

Prepared by Craig Butler - General Manager

Department Executive

Authorised by General Manager

Summary

A Federal Election must be held not later than May this year. This provides an opportunity to shape the agenda and the focus for a government and opposition for the term beyond the election.

Federal Government programs, projects and initiatives are substantially funded with revenues sourced from the public (public money). The national government, by necessity, must take a macro view. Local government is a more on-the-ground form of government immersed in the lives of people through the provision of services and public assets at a local level. There is the need to bridge the divide between these two levels. One way to do this is by seeking to inform and help shape the allocation of public funds, as well as the general national agenda.

This report outlines and seeks Council's confirmation of its advocacy priorities for the upcoming federal election, and beyond.

Commentary

The retention of critical infrastructure funding

The funding gap affecting the ability of Local Government to maintain local infrastructure needs is significant and oft reported. Unlike other levels of government, Councils have no direct mechanisms to raise funds for road construction and maintenance such as road user charges, registration charges or any other road- or transport-related fees or charges. With multiple and competing demands on our limited financial resources and the severe limitations posed by rate pegging, it is extremely difficult, and often impossible, to meet the full expectations of the community across the broad range of services delivered through general revenue.

An ALGA study released in 2010 into local road funding estimated that to simply maintain, rather than improve Australia's local roads up to 2025, an additional \$1.2 billion annually is required. Hence, federal and state funding is essential in providing local infrastructure and community services. Among others, there are three current and key programs which provide such assistance; the Roads to Recovery program, Fixing Local Roads Program and the Local Roads and Community Infrastructure Program. Together, these programs offer Lithgow the ability to often add up to \$3M of essential projects to its operational plan.

These projects are announced on a yearly basis without any real commitment of continuation. This places Local Government in a precarious position, without the confidence allowed by recurrent funding. Also, many programs offered by government, such as the Fixing Local Roads program, are offered on a competitive basis which further increases the administrative burden on Councils and reduces confidence in the availability of untied, recurrent asset renewal funding.

It is suggested that Council continue to seek commitment from both levels of government to address the funding gap associated with local asset maintenance, in a manner that is more permanent and consistent with the needs of local government.

Wolgan Gap – Macauley Street – Repair and Resilience Funding

After the December 2019 bushfire and subsequent flooding, isolated areas of the Lithgow LGA were significantly impacted, both by the immediate effects of the bushfire and the debris-filled stormwater flow. Council immediately acknowledged two of the most significant risks to our residents and commenced designing risk mitigation measures and solutions. Namely, the two locations identified were the Wolgan Gap and residential properties along the toe of the Macauley Street and Sandford Avenue mountainside.

The risks associated with the Wolgan Gap are significant and obvious. Identified geological stability concerns have resulted in further damage since the 2019 bushfire. These deficiencies continue to cost Council, state and federal governments with respect to repair and remediation. Solutions to these matters have been designed in close consultation with geotechnical specialists and involve the construction of new retaining walls, new drainage systems, retention of upslope material and pavement reconstruction. This work is critical as the Wolgan Valley currently has one primary access and egress for a many residential properties whilst also supporting high-value tourism assets and key organisations. The cost of this project is estimated at \$2M.

Similar risks are faced by the properties of Sandford Avenue and Macauley Street. Post-bushfire, Council engaged the services of consultants to conduct innovative LiDAR surveys of the surrounding mountainside and conduct a complete assessment of rainfall runoff and surrounding geotechnical risk. The risk to each property was identified and works prioritised. Works to mitigate the risk of rockslide and material runoff, including subsequent injury or loss of property, include benching of the mountainside, installation of catch netting, removal of large boulders, new drainage features, community information sessions and packages, and key signage. The cost of this program has been estimated at \$4M.

The administration has been lobbying both state and federal government for these projects since late 2020. As Council lacks the financial resources to address these key priorities, two complete and extensive applications identifying significant risk mitigation and economic benefit have been submitted under the Bushfire Local Economic Recovery Fund (State Government) and the Black Summer Bushfire Recovery Program (Federal Government). Both applications have been unsuccessful, and this is a grossly inadequate response to Lithgow and its residents and businesses.

It is suggested that Council take every opportunity to continue advocating for the required assistance to address the identified risk.

Real action (programs and funding) to transition the local economy

Council is working with the NSW Government to transition the local economy. This is a response to the reduced role that mining and power generation will play in the future. While the Australian Government's policies, actual or by default, will materially reduce the level of mining and thermal power generation in the future there has to date been no indication of a commitment from the major political parties to offset or diminish the impacts – social and economic. Some of this is related to a view that the private sector and markets will intervene if the circumstances suit. Also, previous attempts across Australia have been poorly planned or delivered and positive outcomes were therefore diminished. But there are many examples internationally where government and private sector interventions have been more successful. As this Council has done through meetings with politicians and bureaucrats, the election provides another opportunity to push the case for Australian Government commitment, in a material sense, to assist with transition.

Water security

Linked to the above item, there would appear to be merit in giving some prominence to the case for Federal funding assistance for the city's water scheme. This would take the form of softer advocacy because the scheme is not yet fully designed and developed ie., merely raising this as an item for discussion and consideration during the term of the next government.

Financial resilience for local government

Over decades the level of funding provided to local councils for operational purposes has been reducing. This has affected regional and rural councils in particular because of their smaller rate base, inability to readily raise other revenues, the shifting of government responsibilities onto councils and new agendas such as the management of and recovery from disasters. This is now at a crisis point whereby the councils are in very real financial distress and will be required to provide a sub-standard level of service to their communities if they are to survive. It is the councils in these rural and regional settings that are the key service delivery agents and their financial resilience must be assured. A reasonable share of public money directed to operations and able to be allocated to the most important priorities, as determined by the Council, is required. The Australian Local Government Association's Federal election priorities are included as an attachment. It is proposed that Council also endorse and advocate for these. [alga-election-priorities_web](#)

Attachments

Nil

Recommendation

THAT in the lead up to the 2022 Federal Election the Council advocate in relation to -

1. The retention of critical infrastructure funding (Roads to Recovery program, Fixing Local Roads Program and the Local Roads and Community Infrastructure Program),
2. Wolgan Gap – Macauley Street – Repair and Resilience Funding,
3. Real action (programs and funding) to transition the local economy,
4. Water security, and,
5. Financial resilience for local government

11.2. Economic Development and Environment Reports

11.2.1. Building and Development

11.2.1.1. ECDEV - 02/03/2022 - Bell Quarry Waste Management Facility

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

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
 Min No. 22-11: Ordinary Meeting of Council held on 24 January 2022

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', including the issues raised in submissions to the notification of the amended development application and the facts and contentions proposed to be argued in the Land and Environment Court against the approval of the proposed development.

Commentary

Further to previous advice to Councillors on this matter, public notification of the amended development proposal for a waste management facility at Bell Quarry has been completed and a total of 83 submissions have been received. The submissions included:

- 71 individual public submissions,
- 2 submissions from State government agencies (Environment Protection Authority and a joint submission from the Biodiversity Conservation and Science Directorate of the Department of Planning and Environment and the National Parks and Wildlife Service, and
- 10 form letters.

In addition, a hard copy petition with 96 signatures and an online petition with 5289 signatures was received.

Issues raised in submissions

The issues raised in submissions include the following:

Environmental Issues

- Impacts on Blue Mountains National Park and the threat to its world heritage listing, including from:
 - Erosion resulting from the de-watering of the quarry voids, and
 - Pollution resulting from leachate from the filled voids.
- Detrimental impacts on the Wollangambe River and the ecosystems it supports, in particular the endangered peat swamp downstream of the site.

- Concern at the destruction of the subject site that has already been rehabilitated, is a stable environment with high-quality water and has abundant native flora and fauna.

Traffic Issues

- Impacts from additional heavy vehicle traffic on:
 - the Great Western Highway,
 - Darling Causeway,
 - Bells Line of Road,
 - Chifley Road, and
 - Sandham Road.
- Concern that certain sections of the proposed haulage routes are not suitable for the additional heavy vehicle traffic.
- Concern that Sandham Road is not suitable for the significant heavy vehicle movements proposed.

Amenity and Safety Issues

- Concern at the following amenity and safety impacts on residents surrounding the subject land, including on Sandham Road:
 - Noise from significant movements of heavy vehicles,
 - Dust and heavy vehicle emissions pollution, including the impact of such pollution on resident's water supply,
 - Vibration from heavy vehicle movements causing building damage,
 - Safety risks to children and other pedestrians using Sandham Road, including bushwalkers,
 - Loss of on-street car parking, no allowance for pedestrians and increased danger to local traffic, including school buses and emergency vehicles and volunteers accessing the Bell Rural Fire Service station, from the proposed passing bays on Sandham Road.

General Issues

- Objection to waste from Sydney being dumped in the Blue Mountains/Lithgow region.
- Concern that the fill will not be clean and that there will be no oversight of the material brought to the site.
- Concern that the proposed measures outlined in the Supplementary EIS will fail in the long term.
- Objection to the categorisation of the proposal as rehabilitation when the site has already been rehabilitated. The proposal is a landfill project.
- Objection to loss of existing water supply for fire-fighting purposes.
- Potential impacts on tourism, as Sandham Road is part of a bushwalking trail from Bell Station into the National Park.
- Concern that the proposed passing bays on Sandham Road will encroach onto private property and other adjoining lands.

Voluntary Planning Agreement

The amended development proposal included an offer of a Voluntary Planning Agreement (VPA) with Lithgow City Council for upgrades to Sandham Road, including partial widening of the sealed section of Sandham Road and a commitment to regular inspections and maintenance of the unsealed section of the road.

No part of the sealed section of Sandham Road is within the Lithgow City Council area. This part of the road is within the Blue Mountains City Council area and no offer of a VPA has been made with Blue Mountains City Council. In their submission to the amended application, Blue Mountains City Council have strongly objected to this matter, in addition to raising broader concerns relating to impacts on residents of the Blue Mountains LGA and impacts on the Greater Blue Mountains World Heritage National Park.

In relation to the unsealed section of Sandham Road that is within the Lithgow City Council area, the VPA proposes no monetary contribution towards the maintenance of the road. Rather, the VPA proposes the following:

- A dilapidation survey of Sandham Road prior to commencement of any works,
- The developer to maintain Sandham Road for the life of the development to at least the standard reported in the dilapidation report,
- Annual inspections of Sandham Road by the developer to identify maintenance works required, and
- The carrying out of maintenance works agreed between the developer and Council within a reasonable time.

The above proposal for the unsealed section of Sandham Road is not considered acceptable and it is considered that a VPA is not the appropriate mechanism for maintenance works associated with the proposed development.

Council's Engineer has reviewed the proposal and the VPA and does not support this approach stating that such an inspection regime is unreasonable and unrealistic. It is recommended that, should the development application be approved by the Land and Environment Court, conditions be imposed on the development consent requiring Sandham Road to be widened to ensure two-way vehicle movements for its full length, with the unsealed section upgraded to a sealed industrial road standard and designed to withstand the proposed heavy vehicle use. In addition, it is recommended that a condition requiring a maintenance bond of 15% of final construction costs be paid to Council be imposed.

Facts and Contentions

In accordance with the timeframes directed by the Land and Environment Court, an amended Statement of Facts and Contentions was filed with the Court on 11 February 2022. The contentions, as summarised below, outline the reasons why Council is of the view that the application should be refused.

Summary of Contentions

- The cumulative impacts of the proposed development have not been addressed by the applicant.
- The Secretary's Environmental Assessment Requirements have not been satisfied and the proposal will have unacceptable environmental impacts on the adjoining Blue Mountains National Park and the Wollangambe and Colo River systems that will threaten the conservation values of the Greater Blue Mountains World Heritage Area (GBMWA).
 - Unacceptable impacts will result from the dewatering of the quarry voids and the importation of fill over the life of the project and beyond.
 - The proposal has not appropriately assessed the risk the project will have on the Temperate Highland Peat Swamp (THPS) located 200m downstream of the discharge point.
 - The dewatering process is likely to present a significant potential to cause erosion and destabilise sediments in the downstream swamp.
 - The importation of fill will produce contaminated leachates that will adversely affect the natural water quality characteristics.
 - The subject land is considered to be stable and not causing impacts to surface or groundwater. The amended proposal includes clearing of substantial areas of vegetation which will expose soil to wind and water erosion, likely increasing the export of sediment downstream into the GBMWA and the THPS swamp.

- The amended proposal includes many modifications to the current drainage pathway, flow and water quality exiting from the site, posing multiple threats to the integrity of the THPS and the GBMWA.
- The Supplementary EIS submitted with the amended proposal estimates that the groundwater level under the swamp will drop by 0.5m and the long-term impact on the health of the THPS is therefore uncertain.
- The applicant has failed to refer the proposal to the Commonwealth for assessment, introducing a level of uncertainty in the event of approval being granted by the Court.
- Given the likely adverse environmental impacts, the site is not considered suitable for the proposed use.
- Given the site is stable and causes no impacts to the GBMWA in its current form, the public interest justification for the proposal as a necessary rehabilitation project is not compelling.
- The proposal is not consistent with the objectives of the E3 Environmental Management zone under the Lithgow LEP 2014.
- The proposal fails to satisfy the requirements of clauses 7.1 Earthworks, 7.4 Terrestrial Biodiversity and 7.7 Sensitive Lands of the Lithgow LEP 2014.
- The proposal will have unacceptable environmental and amenity impacts on nearby residents, including in relation to:
 - Noise, dust and vibration impacts,
 - Public safety issues for school buses, cyclists and residents using Sandham Road,
 - Increase in bushfire risk due to loss of water source for local fire fighting,
 - Potential for noise disturbance from trucks queuing to enter the site prior to 7.00am opening, and
 - The proposal will have adverse traffic impacts on residents located on Bells Line of Road and Great Western Highway, east of Mount Victoria from increase in heavy truck movements.
- The significant number of objections to the development application and the issues raised in submissions indicate that the proposal is not in the public interest.
- The offer of a Voluntary Planning Agreement with Lithgow City Council relates in part to land that is not within the Lithgow LGA and does not address any of the reasons for which the proposal should be refused.
- The development application, as amended, fails to provide adequate information of the proposed works and technologies embedded in the amended proposal in order to properly address the potential adverse impacts on the GBMWA, including in relation to:
 - The scope of excavation, native vegetation removal and infrastructure works proposed on Crown Land and the unformed road west of the subject site,
 - The proposed water treatment plant and details of safeguards to avoid adverse environmental impacts,
 - The potential impacts of excising the existing sediment pond and wetland adjoining the eastern boundary of the site from the proposed water management process,
 - The dewatering stages for the project and the likely impacts of dewatering volumes of downstream environments,
 - The sourcing and testing protocols for the final capping fill,
 - The long-term efficacy and warranties for the technologies proposed to line and cap the filled voids, the management of groundwater diversion and leachates post the completion of the project and the monitoring of performance of the technologies over the next 50 years or more to avoid risk to the GBMWA, and
 - Evidence to support the claim that the project would have a neutral or beneficial effect on water quality to waters in the GBMWA.
- The assertions by the proponent that the proposed operation does not require and Environmental Protection Licence or a water access licence are not accepted.

- The project will accumulate concentrated saline water within the landfill that will add to the risks posed by contaminated saline groundwater migrating off-site to the GBMWA and Wollangambe River and the EPA have advised that emplacement of brine in the pits is not permitted by any Resource Recovery Order or Exemption.

Should the application be approved by the Land and Environment Court, conditions should be imposed on the development consent to address the issues raised in the contentions, including in relation to avoiding or minimising environmental impacts, noise mitigation and the sealing of Sandham Road as recommended by Council's Engineer. If such a situation arises the Court may ask Council to provide 'without prejudice' conditions of development consent.

Policy Implications

Policy 7.8 Voluntary Planning Agreements

Policy 7.8 outlines the form of development contributions ordinarily sought under a planning agreement, being monetary contributions, dedication of land or any other material public benefit. The proposed VPA does not provide a monetary contribution or dedication of land and the proposed maintenance of Sandham Road within the Lithgow LGA to the current standard is not considered to be a material public benefit.

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. Committed – to end of February 2022 - \$30,000.
- 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. As noted above, the approach proposed by the developer is not supported. Furthermore, should approval be contemplated by the Court ongoing contributions toward community/public facilities and infrastructure should be sought from the proponent.

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. Council staff instruct Council's solicitors on how to proceed.

Attachments

Nil

Recommendation

THAT

1. 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.
2. Council note the issues raised in submissions to the notification of the amended proposal and the summarised contentions outlined as reasons why the development application, as amended, and the appeal should not be upheld.

3. Council remain opposed to the amended development application.
4. The appellant be advised that the Council does not accept any of the terms contained in the proposed Voluntary Planning Agreement (VPA).
5. Blue Mountains City Council be formally notified of Lithgow City Council's position.
6. The General Manager be delegated authority to provide 'without prejudice' conditions of consent and seek a monetary contribution for community/public facilities and infrastructure should the Court contemplate issuing development consent.

11.2.1.2. ECDEV - 02/03/2022 - Western Coal Services Modification 4 SSD-5579

| | |
|-------------------------|---|
| Prepared by | Lauren Stevens – Development Assessment Planner |
| Department | Economic Development |
| Authorised by | Director of Economic Development & Environment |
| Property Details | Lot 8 DP 252472, Springvale Coal Services Site, Castlereagh Highway, Blackmans Flat |
| Property Owner | Centennial Springvale Pty Ltd & Boulder Mining Pty Ltd |
| Applicant | Springvale Coal Pty Limited |

Reference

- Min No 17-29: Ordinary Meeting of Council held on 6 February 2017- Western Coal Services State Significant Development (SSD 5579) Modification 1.
 Min No 17-307: Ordinary Meeting of Council held on 23 October 2017- Western Coal Services Project State Significant Development (SSD5579) Modification 2.
 Min No 19-217: Ordinary Meeting of Council held on 26 August 2019- Western Coal Services Project (SSD 5579), Modification 3.

Summary

To advise Council of a Major Project which has been submitted to the Department of Planning, Industry and Environment for the Western Coal Services Project State Significant Development (SSD 5579), Modification 4. The modification seeks approval to change the existing water management system at the Springvale Coal Services Site to facilitate the transfer of water between Western Coal Services and other operations, as well as proposing to improve the quality of water discharged to Wangcol Creek.

Commentary

The modification seeks to modify SSD-5579, pursuant to Section 4.55(2) of the NSW Environmental Planning and Assessment Act 1979 (EP&A Act), to allow:

- construction and operation of the Springvale Coal Services Site Water Transfer System, consisting of a transfer pit, pumps, valves, transformer and motor control centre upstream of LDP001;
- transfer of water from the Springvale Coal Services Site Water Transfer System:
 - for use at the McPhillamys Gold Mine;
 - to Mount Piper Power Station for treatment and reuse within the cooling water system;
- receipt of raw water from the Angus Place Water Transfer System for use in the coal preparation plant at Springvale Coal Services Site;
- changes to the on-site water management system to facilitate the transfer of land from Springvale Coal back to EnergyAustralia and to improve the quality of water discharged to Wangcol Creek;
- an increase in the capacity of the Washery Dam; and
- administrative changes to Condition 45 of Schedule 3 of SSD-5579 to align with amendments to the NSW Mining Act 1992 and NSW Mining Amendment (Standard Conditions of Mining Leases – Rehabilitation) Regulation 2021 (Mining Amendment Regulation).

The upgrade of the water management system, construction of the Springvale Coal Services Site Water Transfer System and construction and operation of a system to transfer water to Mount Piper Power Station, will require a minor increase (additional 10ha) to the project application area.

The modification does not propose to modify the approved handling, processing or transport operations, the limits on these activities, or the project life.

Status

The Environmental Impact Statement was supplied to Council and was placed on exhibition for public and authority comments which finished on the 21 February 2022. Given the timeframe between Council meetings a submission was made on behalf of Council raising no objections.

An aspect of Council's submission dealt with the proposal to transfer water from Springvale to the proposed Regis Gold Mine at Blayney. Regis briefed the previous Mayor and the General Manager about this proposal some while ago. This was prompted by Regis' preference to traverse some of Council's public land for the pipeline. These negotiations continue and will be later reported to Council for a decision.

Some Regis documentation also indicates that this water pipeline could assist with water supply to Central West communities.

Council is reminded that the administration is working to ensure future water security for this local government area. The work to date has not identified water from Springvale or the Coxs River catchment as a potential source of supply. Council has made representations to the NSW Government agencies with responsibility for regional water management and co-ordination. The position taken has been that this city's water security should be assured with all available water sources offered up for this purpose. Also, any proposals to transfer water out of this catchment to other catchments should be reconciled with this position. These representations have resulted in some collaboration between Council and the NSW Government agencies to co-ordinate these regional water issues. The submission to this modification has repeated this position.

Policy Implications

Nil.

Financial Implications

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

Legal and Risk Management Implications

As the proposal falls within Part 4, Division 4.2 of the Environmental Planning and Assessment Act 1979 the Department of Planning, Industry and Environment is the consent authority.

Attachments

Nil

Recommendation

THAT Council note the information provided in the report on the Western Coal Services Project (SSD 5579), Modification 4.

11.2.1.3. ECDEV - 02/03/2022 - Wallerawang Battery Energy Storage System- SSD-14540514

Prepared by Lauren Stevens – Development Assessment Planner

Department Economic Development

Authorised by Director of Economic Development & Environment

Property Details Lot 2 DP 1018958

Property Owner Greenspot Wallerawang Pty Ltd

Applicant The Trustee for Greenspot Wallerawang Unit Trust

Summary

To advise Council of a Major Project that has been submitted to the Department of Planning, Industry and Environment for the Wallerawang Battery Energy Storage System State Significant Development (SSD 1450514).

Commentary

The Project involves the construction and operation of a large-scale Battery Energy Storage System consisting of up to 500 Megawatts (MW) and provide up to 1,000 Megawatt hours (MWh) of battery storage capacity or up to two hours of storage duration.

The Project includes:

- Large-scale Battery Energy Storage System including battery enclosures, inverters and transformers,
- 33/330 kV switchyard,
- Overhead transmission line connection between the system and the nearby TransGrid Wallerawang 330 kV substation
- Ancillary elements including site access from the Castlereagh Highway, internal access roads and parking, site office and amenities, stormwater and fire management infrastructure, utilities, signage, fencing, security systems and landscaping.

The project requires the following site establishment and construction work:

- Clearing of vegetation and grubbing to remove tree stumps within the forestry area.
- Civil works for site levelling for the project area, 330 kV switchyard and ancillary areas.
- Trenching and installation of cable from the battery to the 33/330 kV switchyard.
- Installation of footings for battery enclosures, inverters, switch rooms and transformers, including pilings and concrete.
- Delivery, installation and fit out including battery modules, inverters and medium voltage transformers.
- Delivery, installation and fit out of transformers and switchgear for the 33/330 kV switchyard.
- Installation of overhead transmission line towers, including pilings and concrete, and stringing of the line.
- Construction of ancillary elements including, offices and amenities, installation of services, water and sewage management, fire systems and signage.
- Installation of permanent fencing and security systems.
- Testing and commissioning.

The project would be operational 24 hours, seven days a week, and would generally be managed and monitored remotely with the exception of site maintenance. It is expected that ongoing operations would require up to five employees.

Construction traffic movements are anticipated to comprise:

- Up to 100 two-way light vehicle movements per day (total of 100 light vehicle movements per day in both directions) associated with workers coming to site,
- Up to 20 two-way heavy vehicle movements per day (total of 20 heavy vehicle movements per day in both directions), associated with transport of equipment, and materials including batteries,
- Up to 36 Over Size Over Mass (OSOM) movement across the construction period is anticipated.

The majority of construction and delivery traffic would be from the south, predominantly from Lithgow and Sydney via the Great Western Highway.

During operations, it is expected that there would be minimal impact on traffic.

In relation to noise, the units are expected to operate at 20% fan duty most of the time with periods of 40% fan duty when under load or warmer ambient conditions during the day and evening periods. During the night-time period, the units would operate at 20% fan duty. As such, the operation of the Project would result in steady state continuous noise emissions without impulsive noise events.

All environmental impacts are considered to be relatively minor given that the development is of a small scale and the short-term nature during construction.

Status

The Environmental Impact Statement was supplied to Council and placed on exhibition for public and authority comment until the 8 March 2022. Council is able to undertake comment or make a submission on the project during this time period.

Policy Implications

Nil.

Financial Implications

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – It is proposed to discuss with the proponent the provision of an ongoing contribution from the development to go towards the provision of community/public infrastructure and facilities. The mechanism would be through a Voluntary Planning Agreement.

Legal and Risk Management Implications

As the proposal falls within Part 4, Division 4.2 of the Environmental Planning and Assessment Act 1979 the Department of Planning, Industry and Environment is the consent authority.

Attachments

1. Wallerawang Battery Energy Storage System Plans [11.2.1.3.1 - 2 pages]

Recommendation

THAT

1. The information in the report for the Wallerawang Battery Energy Storage System State Significant Development (SSD 1450514), be noted.
2. Council provide a submission to the Department of Planning Infrastructure and Environment indicating that should the application be recommended for approval, mitigation measures for the key environmental issues identified within the Environmental Impact Statement be implemented with the additional plans submitted to Council for approval prior to commencement of work. These plans include: Construction and Operational Traffic Management Plan, Construction Noise and Vibration Management Plan, Erosion and

Sediment Control Plan, Construction Flora and Fauna Management Plan, Landscape Plan, and Air Quality Management Plan.

3. The General Manager be delegated authority to negotiate a Voluntary Planning Agreement for funds to be secured for community/public facilities and/or infrastructure. The results of any negotiation to be reported back to Council.
4. The following recommended condition is to be also included in the submission to the Department:

Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 are to be complied with:

- a) *a Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act, and*
- b) *a Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and Form 7 of the Regulations, and*
- c) *Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.*

11.2.2. Economic Development & Environment General Reports

11.2.2.1. ECDEV - 02/03/2022 - Lidsdale Planning Proposal 2021-4862 - 32 Ian Holt Drive Lidsdale - Post Exhibition Update and Process

Prepared by Christian Matthews – Graduate Strategic Planner

Department Economic Development & Environment

Authorised by Director of Economic Development & Environment

Reference

Min No 18-313 Ordinary Meeting of Council held on 29 October 2018
Min No 18-376 Ordinary Meeting of Council held on 26 November 2018
Min No 21-8 Ordinary Meeting of Council held on 25 January 2021
Min No 21-141 Ordinary Meeting of Council held on 28 June 2021

Summary

The purpose of this report is to

- Provide an update on the progress of the planning proposal for Lithgow Local Environmental Plan (LEP) 2014 (Amendment 6) - Lidsdale;
- Advise of the outcomes of the consultation and public exhibition phases; and
- Obtain a resolution to proceed with the making of the Local Environmental Plan 2014 (Amendment 6)

Commentary

Background

At the Ordinary Meeting of Council held on the 25th of January 2021, Council resolved to support the preparation and submission of a Planning Proposal over several lots along the northern boundary of the Light Industrial (IN2) zone in Lidsdale which sought to rezone Light Industrial land into Large Lot Residential (R5) in addition to introducing a 2000m² minimum lot size.

Council was informed by Department of Planning, Industry and Environment's (DPIE) Western Region Office – the Gateway Authority – that the planning proposal in its current form was inconsistent with the Lithgow Local Strategic Planning Statement 2040 and would not receive a favourable determination. Upon further discussions with DPIE's Western Region Office, a compromise was proposed where a favourable Gateway Determination would be possible by reducing the scope of the proposal to a single lot and to pursue an Additional Permitted Use (APU) for the purposes of a single dwelling over 32 Ian Holt Drive, Lidsdale. The revised planning proposal was supported by Council at the Ordinary Meeting of Council 28 June 2021.

The planning proposal (as revised) seeks to:

- Amend the Additional Permitted Use Map to include the cadastral boundaries of Lot 1 DP 914028; and
- Insert a new clause into *Schedule 1 - Additional Permitted Uses* to apply to Lot 1 DP 914028 to permit development for the purposes of one (1) residential dwelling with development consent.



Figure: Area of Planning Proposal (LLEP 2014 Amendment 6)

Gateway Determination

Upon finalising the revised planning proposal, Council resubmitted the revised planning proposal for Gateway Determination. Council on the 8th of September 2021 received a favourable Gateway Determination subject to conditions. Three additional conditions were imposed to the standard requirements.

The first condition was that a Preliminary Contamination Report be undertaken to satisfy Council that the land is suitable or can be made suitable for residential use and upon the completion of the report, Council is to seek approval from the DPIE's Western Region Office prior to undertaking community consultation.

As the Gateway Determination required an additional technical report, the relevant landowner was contacted by Council officers informing them that they would need to provide a Preliminary Contamination Report to progress the planning proposal. As resolved by Council per Minute No. 21-14 of the Ordinary Meeting of Council 28 June 2021, the onus of funding and completing the report lied solely with the landowner:

6. Council advises the relevant owner, in writing, that should any further technical reports be required to support the Planning Proposal that Council will require the landowner to incur the full costs of any such reports. If agreement cannot be reached in this regard the matter be reported back to Council.

A Preliminary Contamination Report by Environment Consulting was submitted to Council on the 29th of December 2021 which was then uploaded to the ePlanning Portal for assessment by DPIE. The report concluded that *"The soil sampling program did not detect elevated levels of the potential contaminants at the former building footprint or representative locations across the site. The levels of all substances evaluated were below the adopted thresholds for residential land-use with access to soil."* The report concluded the site is suitable for residential land use. Council was informed by DPIE's Western Region Office on the 15th of November 2021 that condition one had been met and that Council could proceed to public exhibition.

The second condition required that the planning proposal be publicly exhibited within three months from the date of the Gateway Determination (8th December 2021). The planning proposal commenced public exhibition on the 26 November 2021, meeting the 3-month requirement.

The third condition required that Council consult with the following public authorities/organisations under section 3.34(2)(d) of the Environmental Planning and Assessment Act 1993:

- NSW Rural Fire Service (RFS)
- WaterNSW
- DPIE Crown Land

Council engaged the public authorities prior to the public exhibition and received written responses from all public authorities.

Public Exhibition

The Lidsdale planning proposal was placed on public exhibition for 28 days (from the 26 November 2021 - 16 January 2022) as per Section 3.5.1 of the Lithgow Community Participation Plan 2020. This included exhibition material being available for public display in the Lithgow, Wallerawang and Portland Libraries, Council's Administration Building and online through Council's website.

A targeted mail-out was also undertaken by officers to all adjacent and adjoining landowners.

As the public exhibition period overlapped with the exclusion days as prescribed by the Environmental Planning & Assessment Act 1979; the final date was extended by six days past the 10 January 2022 to ensure compliance with the Act.

Upon the conclusion of the exhibition period, no public submissions were submitted to Council. Council is in receipt of responses from all three requested public authorities as per the Gateway Determination; WaterNSW, DPIE Crown Lands and NSW RFS with all three submissions raising no objection to the proposal. Copies of the responses have been attached to this report.

Mapping

Council will arrange for the preparation of the necessary Local Environmental Plan Maps in accordance with Department of Planning, Industry and Environment requirements by Council's GIS contractor, Chartis Technologies.

Timeline

The timeframe for completing the LEP is 9 months following the date of the Gateway Determination which falls due on 8 June 2022. It is anticipated that the LEP amendment will be finalised well before this deadline.

Next steps in the process

As Council has been delegated authority to exercise the Ministers functions under S.3.36(2) of the EP & A Act, 1979, the next steps in the process are summarised below:

- Council resolves to proceed with the making of the Local Environmental Plan (Amendment 6);
- Council directly requests Parliamentary Counsel to draft the legal instrument and to issue and opinion that the Plan can legally be made;
- Council resolves to adopt and make the Local Environmental Plan. The General Manager holds the plan making powers delegated to Council from the Minister for Planning to make this Plan. Use of this delegation has been authorised by the Gateway Determination, Condition 5; and
- Council through the General Manager requests the Department to notify Local Environmental Plan (Amendment 6).

Disclosure of political donations and gifts

Under Section 10.4(4) of the Environmental Planning and Assessment Act a person who makes a relevant planning application including a planning proposal to Council must disclose the following reportable gifts (if any) made by any person with a financial interest in the application within the period commencing two (2) years before the application is made and ending when the application is determined:

- All reportable political donations made to any local councillor or Council.
- All gifts made to any local councillor or employee of the Council.

No disclosure has been made in relation to this planning proposal.

Recording of voting on planning matters

Under Section 375A of the Local Government Act, 1993 a division must be called whenever a motion for a planning decision is put at a meeting of the Council or a Council Committee. A Planning proposal is a planning decision for the purposes of this provision.

Policy Implications

Nil.

Financial Implications

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

Legal and Risk Management Implications

The planning proposal must be prepared, assessed, and administered in accordance with Part 3 of the Environmental Planning and Assessment Act.

Attachments

1. Public Authority Submissions - Lidsdale Planning Proposal [**11.2.2.1.1** - 5 pages]

Recommendation

THAT:

1. Council forward the Lidsdale Planning Proposal (PP 2021-4862) to the Parliamentary Counsel Office (PCO) to request drafting of the legal instrument and the issuing of an opinion that Local Environmental Plan (Amendment 6) can be legally made.
2. Council delegates authority to the General Manager to adopt and finalise the making of the Local Environmental Plan following the receipt of the legal opinion from PCO.
3. A **DIVISION** be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993

11.2.2.2. ECDEV - 02/03/2022 - Council Land

Prepared by Sandra Politi - Land Use & Property Officer

Department Economic Development & Environment

Authorised by Director of Economic Development & Environment

Reference

22-8 – Ordinary meeting of Council 24 January 2022

Summary

The purpose of this report is to provide Council with an overview of public land owned by Council, and outline compliance obligations regarding the sale of any public land. This is in response to Council's resolution when this matter was dealt with as a Notice of Motion (NoM) at the January Ordinary Meeting. The NoM had proposed that the sale of land occur by auction and that two separate valuations be obtained to inform a decision about fair value. The Council resolved that a report be brought to back on the property portfolio.

Commentary

Land generally under the control of Councils

Land generally owned or controlled by Councils includes:

- Public Roads (under the *Roads Act 1993*)
- Crown Land (under the *Crown Land Management Act 2016*)
- Commons (under the *Commons Management Act 1989*)
- Public Land (under the *Local Government Act 1993*)

Land register

Councils are required to maintain a register of all land owned or controlled by them (*Local Government Act 1993*, s. 53). A copy of Council's land register is publicly available on Council's website <https://council.lithgow.com/council/public-land-register/> at all times.

The land register includes a list of Crown land managed by Council, private land leased to Council such as Lake Wallace, and land owned by Council which is referred to as Public Land under the *Local Government Act 1993*. The land register contains useful information about land under the control of Council, such as functional use, title particulars, zoning and land area.

This report focuses on Public Land only, which was the topic raised at Council's meeting of 24 January 2022.

What is Public Land?

Public Land consists of land owned by Council for use by the general public (classified "**community land**") and land which is not necessarily held for the general public (classified "**operational land**").

Community land ordinarily comprises land such as a public park or community facility. Operational land ordinarily comprises land which:

- facilitates the carrying out of a Council function or land which may not be open to the public, such as a works depot or RFS shed
 - is held as a temporary asset
 - is held as an investment
-

A snapshot of the Public Land owned by Council is provided below, and more information can be obtained by viewing Council's land register.

PUBLIC LAND (ie, land owned by LCC) = 516 lots

Land classified Operational = 194 lots

- Used for council operations = 124 lots

(Includes carparks, water infrastructure, libraries, RFS, drainage reserves, road verges, undedicated road areas, council offices, animal pound, waste depots, recycling facilities, STPs, works depots)

- Under lease or licence to third parties (retail and commercial premises) = 26
- Vacant land = 44 lots

Land classified Community – 322 lots

Includes carparks, cemeteries, community halls, drainage reserves, foreshores, nature strips, parks, reserves, sportsgrounds, vacant land, water infrastructure, walkways

Some community facilities are under lease or licence to third parties, such as men's sheds, sporting groups, kids club. Others, such as community halls, are available for hire through Council's online booking system.

The distinction between the sale of public land classified Operational and that which is classified Community

Councils have no power to sell, exchange or otherwise dispose of **community** land, except in limited circumstances, for example if the land is to become Crown managed land or land that is reserved or dedicated under the National Parks & Wildlife Act 1974 (*Local Government Act 1993, s. 45*).

In contrast, Councils are not restricted from selling **operational** land. However, the sale of operational land can only be decided by Council. This is because the sale or transfer of land is a non-delegable function under section 377 of the *Local Government Act 1993*. Additionally, this rule is incorporated in Council's Land Acquisition and Disposal Policy adopted by Council on 29 October 2018 (**Council's Policy**).

Under Council's Policy, prior to submitting a report to Council recommending the sale of a particular parcel of land, Council staff must complete a procedure to evaluate the economic and social benefits of any sale and assess the following:

- Whether the sale will achieve best value for money
- How to ensure transparency
- How all interested parties will receive a fair chance
- Whether there are any conflicts of interest or perceived conflicts of interest, and if so, how they are addressed
- Minimising risk to Council

At the meeting of Council on 24 January 2022, two specific suggestions were made: firstly, that two valuations be obtained prior to every sale, and secondly that all sales are by way of auction. Each of these matters is addressed in turn below.

Valuations

Under Council's Policy, one independent valuation of the subject property is obtained as part of the assessment process. In addition to the valuation, Council's listing agent provides a market appraisal prior to listing any given property.

Whilst it is possible to obtain more than one independent valuation, valuations can be expensive, and costs affect the net sale proceeds Council will ultimately receive.

In the past, a common-sense approach has been used. For example, in relation to one property sold last year, there was a greater than 10% discrepancy between the independent valuation obtained and the market appraisal, and so a second independent valuation was obtained. The sale price ultimately achieved was somewhere in the middle of the two independent valuations.

Method of sale

Council's policy requires that land is sold by competitive process. Generally, this means land will be listed for sale by public auction and if it is passed in at auction, the land will be automatically listed for sale by private treaty.

Council's policy also makes provision for land to be sold by direct sale, but this is restricted to the unique occasion where the nature of the land or the circumstances are such that only one party would be interested in the land and could possibly benefit from the land.

Council resolution to sell or purchase land

Nothing negates the legislative requirement that only Council can decide to sell or purchase land, and on every occasion a report is submitted to a Council meeting for approval prior to any Public Land being listed for sale and prior to the purchase of any land.

Council is at liberty to propose conditions on any sale or purchase of land at the time a report is submitted to a Council meeting.

Policy Implications

Land Acquisition and Disposal Policy 1.6
Compliance Policy 9.16

Financial Implications

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

Legal and Risk Management Implications

Local Government Act 1993

Attachments

Nil

Recommendation

THAT the report on Council owned properties be noted.

11.2.2.3. ECDEV - 02/03/2022 - DA254/21 - Proposed Alterations and Additions to a Community Facility - Lot 19 Sec 53 DP 9485 and Lot 20 DP 9485, Padley Street, Lithgow

Prepared by Mark Hitchenson – Development Planner

Department Economic Development & Environment

Authorised by Director of Economic Development & Environment

Summary

The purpose of this report is to provide Council with details of the assessment, and recommend the determination of, Development 254/21 for alterations and additions to a community facility at Padley Street, Lithgow (the LINC building).

The subject land is owned by Lithgow City Council and the matter is therefore being reported to Council for determination in accordance with Council Policy 7.6 *Development Applications by Councillors and Staff or on Council Owned Land*.

The proposal is generally in accordance with the provisions of the Lithgow Local Environmental Plan 2014 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 demolition of an existing brick shed at the corner of Railway Parade and the side lane. The existing shed will be replaced with a larger Colorbond shed measuring 9m by 6m. The shed will have wall colour of "paperbark" and roof colour of "woodland grey". A Colorbond panel fence (in "paperbark") with brick piers is proposed along part of the boundary of the land to Railway Parade and the laneway.

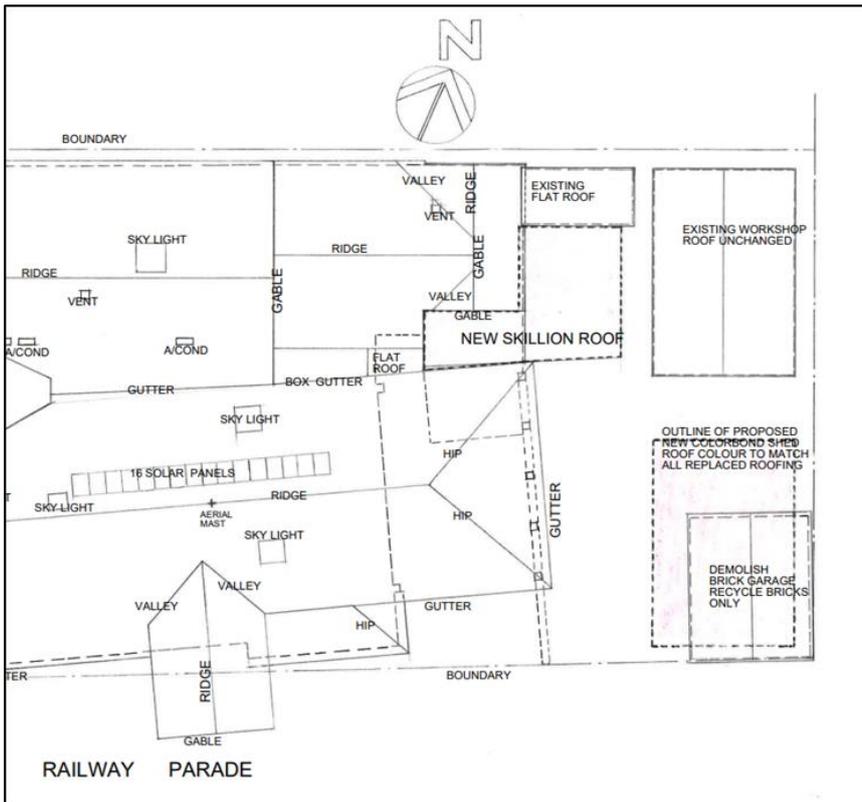
The proposal also involves the replacement of existing concrete pads, internal alterations, addition of a new skillion roof, the provision of new cool rooms and freezers and the replacement of the existing roofing and gutters with new materials in "woodland grey". Plans of the proposed new shed and fence and the other alterations are provided below and are included in the attached assessment report.

Legal Description : Lot 19 Sec 53 DP 9485 and Lot 20 DP 9485

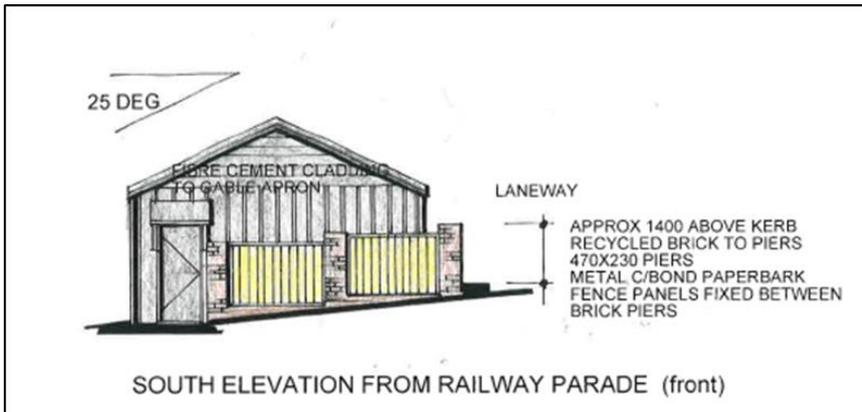
Property Address : Padley Street LITHGOW NSW 2790

Zoning and Permissibility

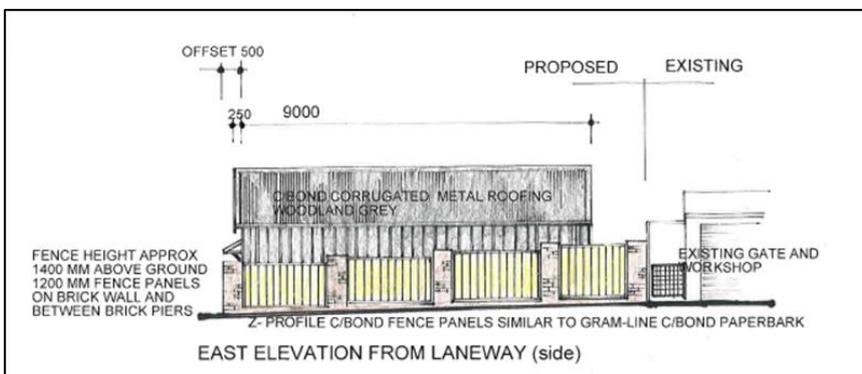
The land is zoned B4 Mixed Use in accordance with the *Lithgow Local Environmental Plan 2014* (LEP). The proposed use is defined as alterations and additions to a community facility which is permitted with consent on land zoned B4 Mixed Use under the LLEP provisions.



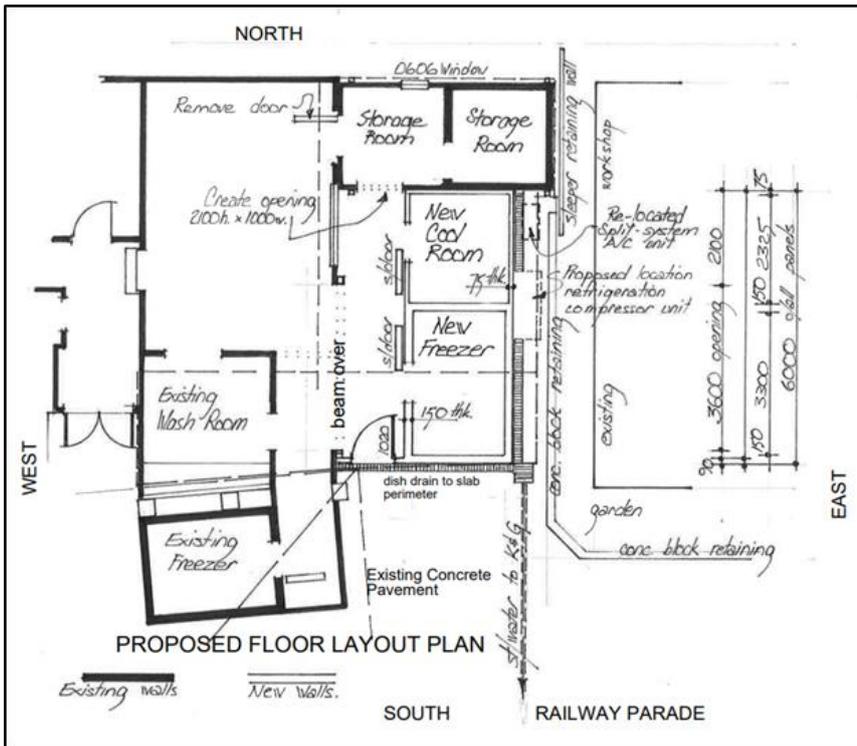
Site plan showing proposed new shed and new skillion roof



Elevation of new shed and fence facing Railway Parade



Elevation of new shed and fence facing Laneway



Floorplan of new coolroom and freezer area

Suitability of the site

Land uses surrounding the site comprise a mix of residential, commercial and community uses with the size and nature of the development consistent with those in the surrounding area. The development will have minimal impact to the surrounding amenity. The development complies with the objectives of the zone and the site is considered suitable for the site.

Any submissions made in accordance with the Act or Regulations

The development application was notified to surrounding landowners in accordance with the Lithgow Community Participation Plan. No submissions were received.

The public interest

The approval of the proposal is considered in the public interest as it facilitates the ongoing operations of an important community facility for the Lithgow community.

Policy Implications

Lithgow Community Participation Plan

The Lithgow Community Participation Plan applies to all land within the Lithgow Local Government Area (LGA) and prescribes certain types of development as exempt from requiring notification. The proposed development is not exempt and was therefore notified to surrounding landowners. No submissions were received.

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

This Policy requires development applications relating to Council owned land to be referred to Council for consideration and determination.

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. D A 254-21 - Assessment Report [**11.2.2.3.1** - 22 pages]

Recommendation

THAT

1. Development Application DA254/21 be APPROVED subject to conditions of the consent as shown in the attached planning assessment report.
2. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

11.2.2.4. ECDEV- 02/03/2022- Draft Regional Central West and Orana Regional Plan 2041 - Lithgow City Council Submission

Prepared by Sherilyn Hanrahan – Strategic Land Use Planner

Department Economic Development & Environment

Authorised by Director of Economic Development & Environment

Summary

The purpose of this report is to provide an overview of the *Draft Central West and Orana Regional Plan 2041* and to seek Council endorsement for the lodgement of the submission (Attachment 3) of this report with NSW Department of Planning, Industry and Environment (DPIE).

The proposed submission highlights the following key comments relevant to Lithgow City Council:

- Further detail be requested in relation to implementation accountabilities of the plan and how these will be measured, monitored, and reported upon. In this regard, consideration be given to respecting additional resource demands on local councils which could also impact on delivery.
- Further explanation of the difference between the Departments population projections and the aspirational targets of each Local Government Area. Further sub regional projections and targets expressed within the Regional Plan would assist to better align the two and prevent unnecessary planning, infrastructure spend and competition between centres.
- Acknowledgement and appreciation of the collaboration activity (CA12) to form a project control group (Department of Regional NSW, Department of Planning and Environment (DPE), Training Services NSW, Lithgow City Council, and industry representatives) to oversee the preparation of an economic transition and diversification plan (LEEP) for Lithgow.
- Given the unique economic transition issues of the Lithgow LGA; locational characteristics; and interface between Sydney and the Central West Orana Region, consideration be given to a special characterisation of the LGA to assist in planning, government incentives; investment; fast tracking development and flow on benefits as an economic corridor between Sydney and the west.
- A request to identify more clearly the sub regional roles of the Strategic Centres within the Regional Plan. To recognise within the Regional Plan the unique opportunities of Lithgow LGA (Local Government Area) as a strategic centre with a transitioning economy and its unique and enviable sub regional and cross regional locational advantages, being within 90 minutes to the major growing city of Western Sydney Parkland City and 60 minutes to the Regional City of Bathurst. Specifically, it is requested that the Regional Plan recognise the importance of the Marrangaroo Urban Release Area and the GreenSpot initiative to contribute to the provision of the region's future housing and employment needs. Such recognition will provide better line of sight between state, regional and local strategic planning statements and would assist in focusing and directing limited planning and infrastructure resources of all stakeholders. The plans for these areas dovetail with Council's emerging economies project and are consistent with many of the objectives of the Regional Plan.
- A request to recognise within the Regional Plan Lithgow's ability to attract and support significant renewable energy projects that are outside the Renewable Energy Zone (REZ) and to investigate whether consideration should be given to including Lithgow in the REZ.
- Identification of where the regional plan objectives are reflected in Council's 2040 Local Strategic Planning Statement
- Identification of where the plan could be improved in structure and/or where omissions have occurred to assist with public understanding.

Commentary

Context

Lithgow City Council is part of the Central West and Orana Planning Region which consists of 19 diverse local government areas: Lithgow, Bathurst, Mid-Western, Oberon, Blayney, Cowra, Cabonne, Orange, Parkes, Forbes, Dubbo, Gilgandra, Coonamble Lachlan, Narromine, Bogan, Warren, Warrumbungle and Weddin. The sheer size and diversity of the region presents challenges for the regional plan.

The Region has three Regional Cities, Bathurst, Orange, and Dubbo which are the largest commercial centres providing a full range of higher-order services. These Regional Cities are supported by five Strategic Centres Lithgow, Mudgee, Cowra, Forbes, and Parkes providing significant commercial components and a range of higher order services to support the many local centres dispersed throughout the region.

The first *Central West and Orana Regional Plan 2036* was the first regional plan for the region and one of nine prepared for NSW regions outside of Sydney in 2017. This plan sets a strategic framework for the region, to ensure the region's ongoing prosperity. It is a 20-year land use plan prepared in accordance with Section 3.3 of the *Environmental Planning and Assessment Act, 1979*.

This *Draft Central West and Orana Regional Plan 2041* represents the first five-year review to consider the changes over the last five years, the challenges ahead and updated strategies to respond. It has a 20-year horizon with a focus on the next 5 years. The draft plan builds on the existing regional plan and the region's 19 local strategic planning statements prepared by each local Council.

Lithgow City Council adopted its 2040 Local Strategic Planning Statement (LSPS) in 2020. Council's LSPS, other local plans and studies and local planning controls must be consistent with the Regional Plan.

The *Draft Central West and Orana Regional Plan 2041* provides a vision and direction for land use decisions to support:

- Employment and job creation,
- Housing supply and diversity,
- Access to green spaces, and
- Creating a vibrant and connected network of centres that build on the region's strengths and emerging opportunities and challenges.

Plan Structure

The draft plan is presented as a vision followed by four parts/ themes:

Vision: ***A healthy connected and resilient region, with a prosperous economy***

1. A Sustainable and resilient place
2. People, housing, and communities
3. Prosperity, productivity, and innovation
4. Location specific responses

Each part is supported by objectives (22 in total) and strategies (60 in total), actions (8 in total) and Collaboration Activities (15 in total).

Strategies provide guidance for Council's in preparing local strategies, local plans and planning proposals as well as setting directions for State agencies to support the objectives of the plan.

Actions are initiatives that are led by NSW Department of Planning and Environment that will be delivered in the next five years, with new actions to be identified in the next review period

Collaboration activities are led by Councils or other State agencies which support the objectives and which the Department has a role in supporting.

A summary of the Regional Plan objectives is provided in Attachment 1.

A full copy of the Draft Plan is provided in Attachment 2.

It is proposed that following public exhibition and prior to finalisation of the Regional Plan an implementation plan will be prepared to:

- Explain the links between the vision, themes, objectives, strategies, actions, and collaboration activities,
- Assign accountabilities for implementing actions and where appropriate, funding opportunities,
- Guide a future governance committee, and
- Inform the monitoring of the Regional Plan.

Council's submission will note that a Draft implementation plan would have been helpful during the review process of the Draft Plan to better understand the expected outcomes of the plan and the demands of implementing the plan upon Council resourcing. Further consultation in relation to the implementation plan will be requested.

The Draft Plan has been on exhibition since November 2021 ending on 18 February 2022. An extension has been granted for Council to lodge its ratified submission within the 1st week of March 2022.

Policy Implications

The Central West and Orana Regional Plan 2041 will guide Council's future land use policy, plans and decision making.

Financial Implications

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

Legal and Risk Management Implications

Nil

Attachments

1. Summary of CWORP Objectives [11.2.2.4.1 - 1 page]
2. Draft Central West and Orana Regional Plan 2041 [11.2.2.4.2 - 120 pages]
3. Draft LCC Submission to Draft Central West and Orana Regional Plan [11.2.2.4.3 - 9 pages]

Recommendation

THAT Council endorse the Draft Central West and Orana Regional Plan 2041 submission (Attachment 3) for lodgement with NSW Department of Planning and Environment.

11.2.2.5. ECDEV - 02/03/2022 - Energy from Waste

Prepared by Andrew Muir - Director Economic Development and Environment

Department Economic Development & Environment

Authorised by Director of Economic Development & Environment

Reference

Minute 21–206 - Ordinary Meeting of Council – 27 September 2021

Summary

To advise Council of the draft of the *Protection of the Environment Operations (General) Amendment (Thermal Energy from Waste) Regulation 2021* (Draft Regulation).

Commentary

The Energy from Waste Infrastructure Plan is a relatively new Plan by the NSW Government which defines where new thermal waste to energy facilities can and cannot proceed.

The Plan identifies four specific precincts in regional New South Wales as the locations to host these operations:

- West Lithgow Precinct
- Parkes Special Activation Precinct
- Richmond Valley Regional Jobs Precinct
- Southern Goulburn-Mulwaree Precinct

The West Lithgow precinct encompasses the Mount Piper Power Station and nearby lands extending to Blackman's Flat in the east and the outskirts of Portland to the West (see plan below).



While Wallerawang was not included in the mapping for inclusion as one of the precincts, the Plan includes the following text:

The existing facilities in the West Lithgow/Wallerawang precinct and associated infrastructure will be able to service Greater Sydney and surrounds and utilise existing energy and transport infrastructure and will provide regional jobs and economic growth to Lithgow.

Prior to the announcement of the Energy from Waste Infrastructure Plan, Energy Australia and Re Group had proposed an Energy Recovery Project as a standalone development proposal involving the construction of an energy recovery boiler and storage facility to generate steam for integration with the Mount Piper Power Station. It is understood that this specific proposal is not proceeding.

At its Ordinary meeting of 27 September 2021 Council resolved to **oppose** the NSW Government's Energy from Waste Infrastructure Plan. Submissions were made to this effect. But also, this Council's administration has been liaising with the administration of the other 3 councils within the Plan to gather more information about the key aspects of EfW.

The NSW government has now released, and is seeking feedback on, a consultation draft of the *Protection of the Environment Operations (General) Amendment (Thermal Energy from Waste) Regulation 2021* (Draft Regulation). Consultation will close on Sunday 20 March 2022 at 5pm.

The Draft Regulation essentially places a legal framework around the Infrastructure Plan and, if made, would give effect to the Government policy.

A link to all the material is provided [Energy recovery facilities \(nsw.gov.au\)](https://www.nsw.gov.au/energy-recovery-facilities). The Energy from Waste Infrastructure Plan-2041 and Draft Regulation are also attached.

As outlined in the Energy from Waste Infrastructure Plan, the Draft Regulation restricts new energy from waste operations and infrastructure to four designated precincts (subject to limited exceptions). One of these exceptions appears to be former mine sites or former thermal electricity generation sites, identified on a map or specified in a subsequent notice published by the EPA in the NSW Government Gazette. Outside these areas, energy from waste will only be permitted if the facilities use waste, or waste-derived feedstock, to replace less environmentally sound fuels to generate energy at the site, and where that energy is used to power industrial and manufacturing processes on-site.

The door appears to be open for facilities on former electricity generation and mines sites but it appears that this would be subject to an additional process and they are not included in the precincts "as of right." It has also been put to the four councils' officers that other precincts will only be considered in future reviews of the Plan – perhaps five years hence.

What has become known about EfW since this matter last came to Council

Since the announcement of the Infrastructure Plan numerous representations have been made by this Council to the Deputy Premier, Minister for the Environment, Environment Protection Authority and Department of Regional NSW. In response, Regional NSW and the EPA arranged a question-and-answer session with the NSW Chief Scientist. A roundtable forum was also organised by the to discuss how economic benefits may be derived from hosting such facilities, primarily through the establishment of synergistic industries and businesses.

From briefings received from the Chief Scientist, the scientific evidence appears to mount a case that the facilities are safe and can be operated safely. It was also put to the four councils' participants in the workshops that the facilities produce comparatively less emissions than, for example, a coal-fired power station and less greenhouse emissions than landfill. But the reality is, because of the absence of an effective information and engagement with the public, this is not universally accepted.

Public apprehension is also understandable because the Plan will prohibit the facilities across NSW in all but the four precincts, and so call on these four local government areas' communities to host this activity on behalf of NSW. The Plan does this on the premise that there are positive economic benefits from these facilities which would not be realised to the same extent, if they were located in the Sydney basin, hence the regional locations. The concept underpinning this is that the investment

and potential to generate power would stimulate and incentivise other development and create jobs in related industries.

Taking a position on the Draft Regulation

The exhibition of the Draft Regulation is a process that Council should involve itself in. There are two reasons for this. Firstly, the Regulation may be imposed without Council shaping the outcomes on behalf of the city. Secondly, the administration has learned more about EfW and the potential that may flow from such an activity.

Whilst it would be a significant step for Council to remove its current opposition to the infrastructure plan, based upon the information that has since come to light, the potential economic and employment benefits warrant serious regard.

Councillors will no doubt be aware of the continuing pattern of coal fuelled power stations bringing forward their closure dates. While Mt Piper is the newest such power station, and therefore most likely to operate furthest into the future, the Council is already focused on diversifying the economy. Economic transition is not easy in regional settings. One aspect which can assist is the existence of a niche sector of the future. There is evidence that EfW can catalyse such a sector if businesses can be agglomerated around such facilities (complementary energy initiatives such as hydrogen and high CO2 dependent industry, manufacturers and other high energy users requiring electricity at a stable price)

Interestingly, if the economic benefit of Energy from Waste facilities is through the establishment of nearby synergistic industries, then the precinct surrounding Mt Piper could benefit from being opened up to also include the former Wallerawang power station precinct which has been identified as an area of high potential value to Lithgow if appropriately re-developed. The site also has the benefit of a spur rail line facilitating material being shifted to the site by that mode rather than by trucks.

This interest of including the former power station site in the Plan has been formally expressed to the NSW Government by the owners, Greenspot. Council subsequently requested and received a presentation outlining the interest and potential construction and employment benefits to the Lithgow local government area and surrounds. Greenspot's submission is that the surrounds of the former Wallerawang power station should be included as this would allow the potential investment to proceed (it was suggested that the value of the investment could be as much as \$700M). Greenspot's request of Council is attached to the business paper. It is important to highlight though that **this is just a concept** which will require significant environmental and planning work, and the preparation of an environmental impact statement and a development application which would be State Significant Development. Prior to the release of the Energy from Waste Infrastructure Plan, such a process could have occurred.

The inclusion of the Wallerawang site would not only have the potential for construction and ongoing employment but more importantly could act as a catalyst for other synergistic enterprises taking advantage of potentially cheaper and more reliable electricity prices. The same potential would exist across the entire West Lithgow precinct.

Should Council support this view, then it would involve a change in position in relation to the blanket opposition previously expressed by Council. Furthermore, little is known about the community views of the local and wider Wallerawang community, which are a very important consideration. That being said, inclusion of the site in the infrastructure plan is only a first step, as a full-blown environmental assessment and publicly transparent development application process would need to subsequently occur for any specific development on the site.

It should be strongly noted that any position of qualified support could never be at the expense of environmental and public health considerations. However, all the research and evidence into the

strict requirements for such facilities and their long-standing proliferation globally indicates that these issues can be effectively managed. This will of course always be subject to debate, particularly to those who may be philosophically opposed to such facilities.

Improving the offer for Lithgow beyond what is in the Draft Regulation

Notwithstanding the above, it is the case that the four local government areas within the Plan will carry the load of this issue on behalf of NSW – they will be host cities. Presently, there is no commitment from the NSW Government to programs and funding to assist in delivering a larger economic uplift from EfW. This is a shortcoming and we have asked for affirmative action in this regard.

There is also the case, we argue, for a royalty or levy sourced from the generators of waste. The GMs of the four councils have been arguing this case. Each of the four areas are challenged to provide core services to their community and to equip them for the future. In our case, we also need to economically diversify. Such a levy would help to give some financial capacity for each city to work to deliver local community infrastructure, and economic initiatives targeted at attracting development which is complementary to EfW to the city. Of course, it is also reasonably expected that any proponent for a EfW facility would be called upon to make local contributions to offset their particular local impact. In short, if local government areas are to host such facilities, then it would be vital that ongoing and enduring contributions are made for the benefit of each community.

As commented elsewhere in this report, there is also the need for the NSW Government to undertake a sustained community consultation and engagement program in relation to EfW.

Finally, Lithgow is understandably proud of the role that it has and continues to play in supporting the state and national economy by the provision of stable, bulk power. But in the 21st century there is also an existing and growing negative stigma being applied to places and businesses that combust resources for energy. EfW involves combustion and will attract this negative perception. If EfW is to be undertaken in the city, it will be critical to manage the perception that is cast. This will require, we argue, that the carbon consequences be addressed to the most contemporary of standards. It is expected that it will be argued that EfW is more acceptable than the greenhouse gas emissions from landfill. This is true, but it is not, in itself, a sufficient justification. Proponents and governments (including council) should work on initiatives to compound the potential carbon reduction benefits i.e., reduce landfill/use rail for waste transport/create energy/produce green hydrogen/retrofit diesel trains to hydrogen/utilise or sequester CO₂ created from combustion etc., This aspect will require sustained work by Council over many decades and, again, this relates back to the case for a royalty or levy.

Influencing the outcome (being at the table to achieve the best outcomes)

At this stage of the process, there appears to be a certain air of inevitability in relation to the government's position on the energy from waste infrastructure plan. The question for Council is whether it should maintain its opposition or seek to contribute in the process so that it can be confident that it has made every effort to ensure genuine enduring benefit while not compromising health and environmental considerations. Inclusion in, or of, a precinct does not make approval of an individual facility a fait accompli. It provides a mechanism whereby facilities may be brought to the table for planning consideration and any mention of a potential future plant on a site is only in concept form at this stage.

Finally, an additional attachment will be provided following the publication of the business paper. This was not ready prior to the finalisation of the business paper. It is to consist of correspondence from Greenspot and a copy of the presentation provided to Councillors which required adjustment as some of the content contained private information.

Policy Implications

Whilst not policy in the context of Council's policy register, the Council does have an adopted position of opposing the NSW Government's Energy from Waste Infrastructure Plan.

Financial Implications

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

Legal and Risk Management Implications

Nil at this stage

Attachments

1. Draft EFW Regulation [11.2.2.5.1 - 5 pages]
2. Energy from waste infrastructure plan [11.2.2.5.2 - 11 pages]

Recommendation

THAT a submission be made on the draft of the *Protection of the Environment Operations (General) Amendment (Thermal Energy from Waste) Regulation 2021* that includes the following:

- Council retains its concerns in relation to the lack of consultation in selecting a site at Lithgow.
- The NSW Government be requested to deliver an extensive community consultation and engagement program around EfW.
- Council indicate that whilst it removes its blanket opposition to the energy from waste infrastructure plan this is conditional upon the government building in mechanisms to ensure economic benefit flows through to communities.
- Council requests that the NSW Government provide a dedicated mechanism whereby the government provides investment attraction support for enterprises seeking to locate in the vicinity of Energy from Waste Facilities.
- Council requests that the NSW Government provide funding for any required infrastructure to support the establishment of enterprises seeking to locate in the vicinity of Energy from Waste Facilities.
- Council not oppose the inclusion of the site and surrounds of the former Wallerawang power station as a precinct within the energy from waste infrastructure plan, subject to further targeted community consultation occurring.
- A requirement for Energy from Waste Facilities to make ongoing contributions to host Local Government Areas based on tonnages processed at the facility.
- The plan be accompanied by a framework to ensure that the carbon consequences of EfW are dealt with by materially compounding the carbon reduction benefits – going well beyond a landfill vs EfW offset argument
- A specific requirement of Greenspot that Council's non-opposition to inclusion of their site as a precinct is conditional upon further extensive community consultation and agreement of a long term enduring royalty being paid to Council, should any future development proposal proceed, which council may use at its discretion on infrastructure, community facilities, programs or ongoing operations.
- While Council no longer has a blanket opposition to inclusion in the infrastructure plan and draft regulation, it maintains its rights to comment and if necessarily oppose individual developments if it is of the view that environmental, planning, health or any other impact outweighs the benefits of a specific project.

11.2.2.6. ECDEV - 02/03/2022 - Lake Wallace

Prepared by Andrew Muir - Director Economic Development and Environment

Department Economic Development & Environment

Authorised by Director of Economic Development & Environment

Reference

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

Min 21-207 – Ordinary Meeting of Council 27 September 2021

Min 21 –245 - Ordinary Meeting of Council 25 October 2021

Summary

To advise Council of a request from Greenspot to alter the timetable for a master-planning process for Lake Wallace.

Commentary

On 24 October 2021 the Council resolved to enter into a Memorandum of Understanding with Greenspot

The MOU acknowledges both parties intention to:

- Consider potential opportunities for future development and use of the Lake Wallace Lands.
- Acknowledge the importance of Lake Wallace as a priority tourism destination.
- Explore other potential land uses that may enhance public and community benefits including tourism, recreational, commercial and residential uses and community facilities.
- Investigate options to maximise the beneficial uses of the Lake Wallace Lands, including as a priority tourism destination, and seek to agree on a proposed master plan for the Lake Wallace Lands.

As part of the MOU, Greenspot will initially prepare a masterplan and consult with the community. The MOU then contemplates potential rezoning (at Greenspot's cost) and finalisation of future land management and tenure.

Under the terms of the MOU Greenspot are to prepare a masterplan within 3 months from the date of the MOU, i.e., by 4 February 2022. The company have advised they are working with consultants in preparation of the masterplan, but some delays have occurred due to COVID impacted face to face meeting issues and an expansion of the consultant's role. This has necessitated a request for additional time to produce the high quality material to present to Council. The company have requested:

- the timeframe under clause 7 of the MOU be changed from 3 months to 5 months, i.e., taking the time to prepare the masterplan through to 4 April 2022; and
- as a consequence, the timeframe under clause 2 be changed from 6 months to 8 months (i.e., through to 4 July 2022, to enable sufficient time for our dialogue with Council to unfold).

Following the request, a further discussion was held with the company to ascertain if this timeframe was ideal, given the work involved; the need for consultation and further Council consideration on what will be a mutually important issue. Subject to Council's concurrence, it is recommended that an extension be granted to clause 2 of the MOU to extend the life of the MOU to 4 September 2022 and 4 June 2022 for the preparation of the initial masterplan under clause 7.

Policy Implications

Nil

Financial Implications

- Budget approved - Nil
- Cost centre - N/A
- Expended to date - Nil
- Future potential impact – Nil in relation to the completion of the MOU.

Legal and Risk Management Implications

Nil foreseeable

Attachments

1. MOU Lake Wallace FINAL executed 041121 [11.2.2.6.1 - 9 pages]

Recommendation

THAT

1. Council agree to the amendment of Memorandum of Understanding (as attached) for the Lake Wallace lands to provide an extension of time to clause 2 of the MOU extending the life of the MOU to 4 September 2022 and 4 June 2022 for the preparation of the initial masterplan under clause 7.
2. The General Manager be authorised to execute the MOU.

11.3. Infrastructure Services Reports

11.3.1. IS - 02/03/2022 - Lithgow Council/EPA Bushfire Generated Tree Waste Program Tender

Prepared by Paul Creelman – Manager Transport

Department Infrastructure Services

Authorised by Jonathon Edgecombe

Summary

This purpose of this report is to summarise the tender process and to seek Council's approval for the awarding of the tender for the Lithgow Council/EPA bushfire generated Tree Waste Program (VP284378) which has been fully funded by the NSW Environmental Protection Agency (EPA).

The tender is for the removal of trees and waste materials generated by the 2019 bushfires on public and private lands. The total funding provided is \$2.2 million which is required to be spent by 31 August 2022. This program will be undertaken as an extension of Council's core responsibilities, to assist the Lithgow community to recover from the physical and psychological impacts of the 2019 fires.

Commentary

Background

As a result of the 2019 fires, there was much uncollected tree and waste materials which were identified by Council staff, documented, and details submitted to the EPA for funding to remove the waste material. As part of the identification of the waste materials, there was significant community consultation, with Council reaching out to all affected residents individually, which formally identified the waste material on private lands. Since this time, the community has been kept informed (via newsletters) of the progress of the funding submission and responses to frequently asked questions.

In November 2021, Council was notified of the awarding of a \$2.2million grant to Lithgow City Council for the purposes of addressing this need. Council officers then gathered the relevant information to start the tender process. On January 11, 2022, a tender was released through VendorPanel (VP284378) which closed on Thursday, February 3.

The area where works were identified within the Lithgow LGA was spread from Dargan in the east to Running Stream in the west. As the works are spread over such a large area, it was determined that the works package would be split into 4 areas. Applicants were asked to price for the 4 separate areas as well as a bulk price to complete all of the identified works. A schedule of rates was also requested from the applicants to allow Council to request further arbor works, should they be required.

It should be noted that this project will largely be completed on private land. While this falls outside Council's typical focus as a manager of public land and assets, this project demonstrates Council's continued commitment to local recovery post-natural disaster. It is our hope that we can continue to work towards relieving the burden placed on many residents as a result of that traumatic event.

Tender Process

As a part of the tender process, the tender was released to organisations registered on Vendor Panel in Sydney and the Central West. The works are primarily removing trees identified as critically affected by the 2019 fires, removing tree waste created in making areas safe during the fires, and removing fencing material damaged in the firefighting efforts to defend properties. The aim is for the material to be removed from sites and taken from the Lithgow LGA and/or preferably used in the creation of mulch material for re-use (as per EPA Guidelines).

It was decided to engage an independent qualified consultant, Arbor Care Consulting, to oversee and document the works to ensure a smooth works process and to provide the relevant information required to report to the EPA concerning the progress of works and expenditure of funds. Both tasks are critical to meeting the timeline which is determined in the funding agreement as being 31 August 2022.

During the 3 week tender period, 61 companies viewed the tender with 13 companies attending the compulsory pre-tender meeting on January 25, 2022. At the closure of the tender, 9 organisations had submitted responses.

In viewing all of the 9 assessments the panel agreed on the following points:

- Safety documents were in line with industry safety standards and were accepted by the panel;
- 5 tenderers were reasonably close in price, which confirmed that submitted prices were a true reflection of the cost of the works;
- Based on price alone Tree Serve P/L, Summit Open Spaces and Enviro Frontier were above the grant funding and their tenders could not be considered;
- Parish and Son P/L and C J Murphy's tenders were also higher on pricing;.
- It was determined that RVA's tender was price competitive but the tender did not meet the capability requirements;
- Due to the time frame of the contract, it was decided to have a combination of 2 contractors (being Agile Arbor and Active Trees) to ensure that the timeframe could be met and works could be overseen (with the collection of waste data) which are key factors in the funding agreement; and
- It was identified that there are areas that have changed since the initial assessment and any savings made with the awarding of the tender could be used for cleaning up additional areas affected by the bushfires.

In summary, it is recommended to award the tender to Agile Arbour and Active Trees on the grounds of price (firmly set by the EPA funding), the provided safety information, the proposed methodology and the ability for these 2 organisations to complete works of this size within the required timeframe. It was agreed by the tender panel to use 2 contractors, including an external arborist as project manager, to add surety around having the works completed by the due date of 31 August 2022.

The acceptance of these 2 applicants comes to a total cost of \$1,833,349 for the identified works. As the works were identified 12 months ago, there are added bushfire affected areas which can have bushfire impacted vegetation removed by utilising by the contingency amount of \$366,651. It is expected that the full grant value will be expended by the end of August 2022.

As part of this tender, a schedule of rates was also requested and supplied by the 9 applicants. This will give Council options for calling on other organisations should further arbor works be required outside of the currently identified works and the tender as published.

This project and the work being undertaken by Council officers is outside of the scope of the work usually conducted by Council but has been taken on to relieve the impacts on residents resulting from the fires. Many of the affected residents have indicated that the impact on them is still a significant issue and that this project will help with their healing process.

Policy Implications

Council Procurement policies were followed by the tender panel and by the use of the Local Government Procurement system VendorPanel which complies with Section 55 of the Local Government Act.

Financial Implications

- Budget approved - \$1.5M 2021/22 Quarter Two budget variation. Remaining \$700,000 phased for expenditure in 2022/23.
- Cost centre - PJ 100719
- Expended to date - \$1,408
- Future potential impact – \$2,161,202 grant fully funded by the EPA, project overseen by an external consultant.

Legal and Risk Management Implications

The proposed contractors have supplied methodology, Safe Work Method Statements, Standard Operating Procedures and will provide daily start documentation as a part of the contract. A Council induction will be conducted prior to works commencing. The project overseer will ensure that safety systems are followed during the works.

All residents that have indicated that they require assistance through this program have returned signed documentation to Council allowing contractors on to their property and agreement with the scope of works.

Attachments

Nil

Recommendation

THAT Council:

1. Accepts the tenders submitted by Agile Arbor for areas 1 and 2 for the total price of \$1,234,974.10 and Active Trees for areas 3 and 4 for the price of \$589,374.23 to complete the Lithgow Council/EPA Bushfire generated Tree Waste program.
2. Appoint Arbor Care Consulting to oversee the program from 14 February 2022 until the program is completed as per agreed conditions of contract with Lithgow Council.
3. Accepts the schedule of rates supplied by the 9 applicants to the Lithgow Council/EPA Bushfire Generated Tree Waste Program to be used for arbor works in this program and general arbor works.

11.3.2. IS - 02/03/2022 - Road Naming - New Roads DA226/16 - Bowen Vista Estate

Prepared by Kaitlin Cibulka – Executive Assistant

Department Infrastructure & Services

Authorised by Director of Infrastructure & Services

Summary

The purpose of this report is to advise Council of the naming of two new roads under DA226/16 in Bowen Vista Estate, proposed to be named Gunners Close and Trench Place.

Commentary

Council has received a request from the developer of DA226/16 on the naming of the two new roads off Kirkley Street, South Bowenfels.

| Proposed Road Name | Reasoning |
|---------------------------|---|
| Gunners Close | Due to the location and next to the significant World War 2 history of the Gun Emplacements, it is fitting that the names reflect the Lithgow history and importance of the area that it abuts. |
| Trench Place | |

The proposed road names meet the principles set out in the Geographical Names Board Addressing User Manual and is similar themed naming to other roads in Bowen Vista Estate, therefore, it is advised that the road naming process for Gunners Close and Trench Place can commence.

Policy Implications

These roads will be named in accordance with Council's Addressing Policy.

Financial Implications

- Budget approved - NA
- Cost centre - NA
- Expended to date - NA
- Future potential impact – Council will incur some minor advertising costs in accordance with its Addressing Policy and the cost of the signs which will be funded from existing recurring budgets.

Legal and Risk Management Implications

To ensure that the addressing of properties and road naming within the Lithgow Local Government Area complies with the requirements of the NSW Address Policy and User Manual May 2021 and the Roads Act 1993.

Attachments

1. Gunners Close and Trench Place Map [11.3.2.1 - 1 page]

Recommendation

THAT Council in accordance with the addressing policy, advertise the road names Gunners close and Trench Place for the new roads off Kirkley Street, South Bowenfels, in a local newspaper and notify emergency authorities and residents in the area, calling for submissions to be made for the statutory period of twenty-eight (28) days after which:

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

11.3.3. IS - 02/03/2022 - Great Western Highway review of environmental factors

Prepared by Jonathon Edgecombe - Director of Infrastructure & Services

Department Infrastructure & Services

Authorised by Director of Infrastructure & Services

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's 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.

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 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.

There has been discussion among the community with respect to the cost-benefit of this project. Ultimately, such considerations are a matter for both the State and Federal Government to determine.

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 Hartley District Progress Association's (HDPAs) efforts are recognised and the Council thanks the organisation for their significant effort. 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 HDPAs position is considered a mature and significant response to the project. The importance of their issues cannot be denied, however the lens through which they view or raise issues is very localised. This project is considerate of broader state-wide transport needs and reflects just a small part of the overall work required to improve national network efficiency and safety.

Council and the public are being asked to comment on the proposal that is before them. That is for a higher speed limit road. This does introduce certain local impacts and in recognition of that it is suggested that Council continue its dedication to exceptional visual and aesthetic design, environmental and heritage offsets and an active transport focus to offset these impacts. With this approach, Lithgow will secure the best of both approaches, to the fullest extent possible. But, it will be important to achieve such balance (optimum offset of impacts) or else the local impact could be more significant.

Council's submission will encourage that further project development occur within a prism which uses either design remedies, project adjustment (lower speeds and less urban footprint) or a combination of the these to achieve acceptable outcomes for the Hartley Valley.

Please note however that there is another component of this report which encourages that, outside of this discrete project proposal, there is still merit in overlaying a more high-level strategic lens to the Central West's transport needs (see section 8).

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.

Certain activities can be carried out without development consent through the approval process by government departments or agencies as part of their core responsibilities. The environmental assessment of these activities is undertaken under Part 5 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The purpose of the Part 5 assessment system is to similarly ensure public authorities fully consider environmental issues before they undertake or approve activities that do not require development consent from a council or the Minister.

If an activity is deemed by the relevant public authority to 'significantly affect the environment', then an environmental impact statement (EIS) will need to be prepared and considered by the public authority. It is not unusual for objectors to such activities to argue that an Environmental Impact Statement is required. However, the view of Council officers is that the REF substantially/comprehensively covers the issues that would be the subject of an Environmental Impact Statement and the view that an EIS is not necessary is a reasonable one.

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 minimum 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.

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. 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 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, such as the existing BLOCK grant arrangement.
- 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 firmly 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.

- i. There is some demand for the project to commence at the Blackheath pinch point as this is the area which contributes most significantly to delay and disruption. This fact is not disputed, and the matter has been referred to Transport for NSW. Transport have advised that the project timeline has been determined as a result of expected design, consultation and approvals pathways. In short, if the Blackheath pinch point were to be addressed first, the timeframe would remain the same for this section and such a decision would only extend the overall duration of the Katoomba to Lithgow project. Instead, it is proposed that Council's submission seek a firm confirmation to bring together completion of the full scope of the Katoomba to Lithgow works as one project.
- j. A key linkage of Lithgow's local road network is the route from Baaners Lane, through Browns Gap Road, to the Lithgow city. At this stage, the proposed route is made less efficient by requiring motorists to negotiate 4-lanes of traffic, extending the route halfway to Coxs River Road and subsequently back along the existing Great Western Highway (service road) to Browns Gap Road. In this area, Council notes that the road infrastructure required to make this manoeuvre visually clashes with that of the Hartley Village. It is essential that if no changes can be made to the infrastructure, that effective offsets are delivered to lighten, soften and reflect that this precinct is the entrance to the Lithgow LGA.

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 and instead, choose an unpopulated area west of Lithgow.

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.

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 due consideration is given 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. It would be reasonable that any submission highlight this issue with a view to further consultation with Aboriginal groups to ensure any impact on significant sites (whether formally identified or not) are mitigated. This is considered a "tier 1" issue and the impact of the project on aboriginal heritage should be managed most responsibly. As it stands, there remains a tension between the works' footprint and identified sites.

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.

Of specific note, we identify the precinct of Coxs River Road, Harp of Erin and locale. Largely, this area is of significance as it represents the entrance to our LGA, the visual impact of which distinctly impacts that of the Little Hartley area. Whilst visual impact of the project area is of importance, Council feels that this precinct requires special attention during the design phase. It is encouraged that the project fund a master-planning exercise for this precinct to delicately guide how it is managed and brought together as an interesting opportunity for motorists to pause and avail themselves of the history and landscape. It is expected that this could create a desirable impression and project a vision of what is to come for those visiting the greater Lithgow area.

Third, Council seeks confirmation regarding a level of service for ongoing maintenance of any environmental offsets and landscape character designs delivered as a result of this project. As it stands, the environmental assets delivered through the median of the recently upgraded Forty Bends section of the Great Western Highway have been somewhat allowed to deteriorate and consequently poorly reflect upon the maintenance expectations of what is to be delivered in the future. The standard of environmental design is just one part of the discussion, and Council should advocate for an agreement of high standards of ongoing maintenance, reflective of the surrounds and the intent of the overarching project.

Lastly, Council acknowledges the remarkable pride of the Lithgow community. We feel that it is important to blur city boundaries to the extent we can and work towards consistency of themes in these areas. The highway median throughout Lithgow has not been refreshed in some time, and in particular the entrances to our town could be enhanced to reflect the same outcomes as that which we are trying to achieve with the GWH upgrade and show comparison with the standards offered by TfNSW for our neighbours. Hence, it is suggested that Council seek a commitment from TfNSW to open the scope of environmental and heritage design slightly to also include the median in the 70km/h section of Lithgow. This will improve consistency of exceptional design generally, with relatively low cost compared to the extent of the broader project.

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. The community, such as the HDP, offer great initiatives in this respect. It is suggested that TfNSW work closely with Council and the community to identify the suite of options available for tourism and active transport offers, giving social licence to the project.
- “Master planning” 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.

It is suggested that Council's submission clearly note that at this stage, only a limited understanding of these offsetting impacts has been offered, and that Council expects full consultation and involvement with respect to the decisions made to achieve the above objectives. Only if the Council is centrally involved can we hope to achieve comfort in the final outcomes of this project.

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.

8. Going beyond a road-based approach

As is often the case, council and the community are being asked to comment on the proposal that has been brought forward. It is something of an address to some current shortcomings in the road transport links between Western Sydney and the Central West. But it is not the overall solution, because it is not integrated entirely into a multi-modal transport solution.

Efficient rail (passenger and freight), alongside of road, would vastly enhance the flow of workers and visitors, supporting growth and facilitating economic development. There is the potential for a more ambitious future for the Central West (especially in a post-covid era) if the “string of pearls” comprising Lithgow, Bathurst, Orange and beyond were linked by more effective rail as well as road. Alongside of the particular submission to this exhibited project, it is proposed that separate advocacy be undertaken for a comprehensive strategic transport plan for the Orana region.

Policy Implications

Outlined in report

Financial Implications

- Budget approved - Nil
- Cost centre - N/A
- Expended to date - N/A
- Future potential impact – Future dedication of local roads will have a financial impact. An appropriate package is to be discussed so Council will not be financially disadvantaged and this should be reflected in any submission.

Legal and Risk Management Implications

Outlined in report

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.

11.3.4. IS - 02/03/2022 - Transport for NSW - Regional Forum

Prepared by Jonathon Edgecombe - Director of Infrastructure & Services

Department Infrastructure & Services

Authorised by Director of Infrastructure & Services

Summary

On Thursday 3 February 2022, Lithgow hosted the first Regional Forum, in collaboration with Transport for NSW (TfNSW). Alongside the community, Lithgow Council advanced several strategic initiatives aimed at promoting further development of the Lithgow LGA and improvement of existing asset standards locally.

Commentary

On Thursday 3 February 2022, Lithgow hosted the pilot of Transport for NSW's Regional Forum. The aim of the forum was to improve relationships between Council and the new TfNSW Community Partnering team, share the ideas of Lithgow City Council and listen to TfNSW views (and vice versa), followed by the views of the Lithgow Community. Overall, the day was structured on how TfNSW can work with Council to deliver safe, effective, flexible, accessible and sustainable transport solutions for the Lithgow region. To achieve this, Transport for NSW, Council, community groups, local business, industry professionals and other stakeholders came together to better understand the needs, upcoming opportunities, and any issues facing the Lithgow and surrounding communities.

Each of the two sessions consisted of 3 hours of hearty and valuable discussion. By way of summary, the Administration prosecuted the following matters:

- Further collaboration on local works – The importance of Council's involvement when considering upgrades of any infrastructure locally, to ensure the Council's objectives are met and interests considered.
- More direct and efficient lines of communication – It is not efficient, nor is it in the community's best interest to refer matters to TfNSW with respect to minor maintenance concerns. Instead, with more efficient communication, we can hope to blur the lines of responsibility and better meet the needs of our customers.
- Clear standards of work – There is a gap in Council and the community's understanding of TfNSW maintenance standards. Similarly, there is a gap between our expectations with respect to this work, both within the road and rail corridors and this falls far short of Council's placemaking objectives. We hope to work with TfNSW to develop clear standards in this regard, and hopefully improve the allocation of resources to address gaps in maintenance expectations.
- Council seeks an advocate within TfNSW to support Lithgow's innovation in the electric vehicle space. Lithgow is developing a detailed strategy to support EV charging points both within Lithgow and its villages to capitalise upon destination charging strategies. We need state and federal support to negotiate these outcomes.
- We strongly encourage Transport for NSW and the State Government to provide further information regarding their strategies to improve rail connections between the Central West and the city, and vice versa. What does the next 5 – 10 – 20 years look like? We are not fluidly connected. A focus on road transport rather than multi-modal transport networks is only part of the solution if we are to further support dispersed workforces in the state alongside significant tourism proposals such as Destination Pagoda and the like.
- The matter of the Great Western Highway was discussed, with Council furthering its interests in obtaining exceptional design outcomes that are representative of indigenous and non-indigenous heritage, environmental endowments and expectations for local benefit through tourism and active transport offsets.

- External funding shortfalls – state based grants are often focussed on physical asset delivery and neglect the required work to conduct investigations and develop strategic plans. How is Lithgow and the State to fully understand the community’s needs without this focus? Also, Council’s need a framework available to compensate for the damage caused by the detours of traffic from state roads to local roads. Such events consume a significant percentage of the remaining life of local assets with ratepayers burdened as a result.

That evening, at the community-focussed session, some of the topics discussed include:

- The requirement for improved rail services, connections and facilities,
- Lack of public transport options to and from the villages,
- The importance of disaster recovery and the impacts of detours, road conditions and redundant signage,
- The location and prevalence of Rest Areas and Driver Reviver sites as they apply to fatigue awareness,
- Options for walking and cycling opportunities to tourist destinations,
- Issues surrounding traffic management and safety around schools,
- Community transport services within the Lithgow area,
- Tourism opportunities and signage and wayfinding to and from tourist destinations,
- Trends surrounding decentralisation and increased job opportunities for regional centres like Lithgow,
- Low level crossings, better signage and alternative access,
- Challenges to the taxi industry, and
- Access and dangers at the Zig Zag Railway access, along the Bells Line of Road.

Both Transport for NSW and Council clearly indicated that we did not expect the outcomes of this day to form part of a report that sits on a shelf. The matters reported are of utmost importance to Lithgow if we are to be resilient, flexible and future-oriented whilst also reflecting our community pride through key local transport assets. We expect to meet again with Transport for NSW once they have digested the above points, found relevant linkages and synergies between state, community and Council expectations to workshop tangible strategies to achieve these outcomes.

Policy Implications

Nil

Financial Implications

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

Legal and Risk Management Implications

Nil

Attachments

Nil

Recommendation

THAT Council:

1. Note the report,
2. Commend Transport for NSW for piloting this new program in Lithgow,

11.4. Water and Wastewater Reports

11.4.1. WWW - 02/03/2022 - Water and Wastewater Report

Prepared by Matthew Trapp - Executive Manager Water & Wastewater

Department Manager Water & Wastewater

Authorised by Executive Manager Water & Wastewater

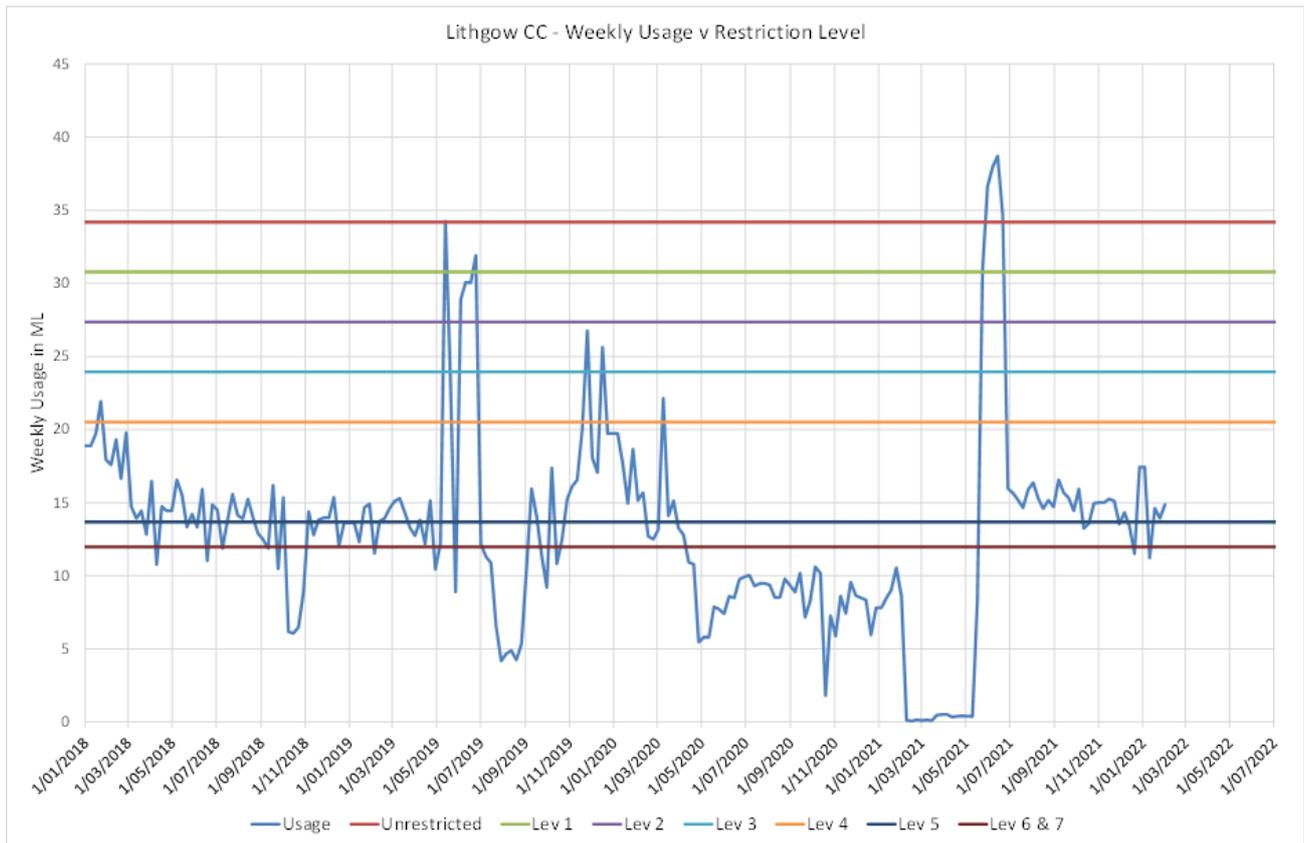
Summary

This report provides an update on various water and wastewater management matters between October 2021 and February 2022.

Commentary

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

Farmers Creek No.2 Dam has a capacity of 450ML. Storage volume on 14 February 2022 was 100%. Clarence Transfer System remains shut down. Oberon Dam has a capacity of 45000ML. Storage volume on 14 February 2022 was 100%. The scheme has returned to full allocations.



The above graphic shows the usage of the Fish River Water Scheme by Lithgow City Council. The peaks shown are times where Council has utilised the FRWS whilst completing works on Oakey Park Water Treatment Plant and troughs depict when OPWTP is servicing the network..

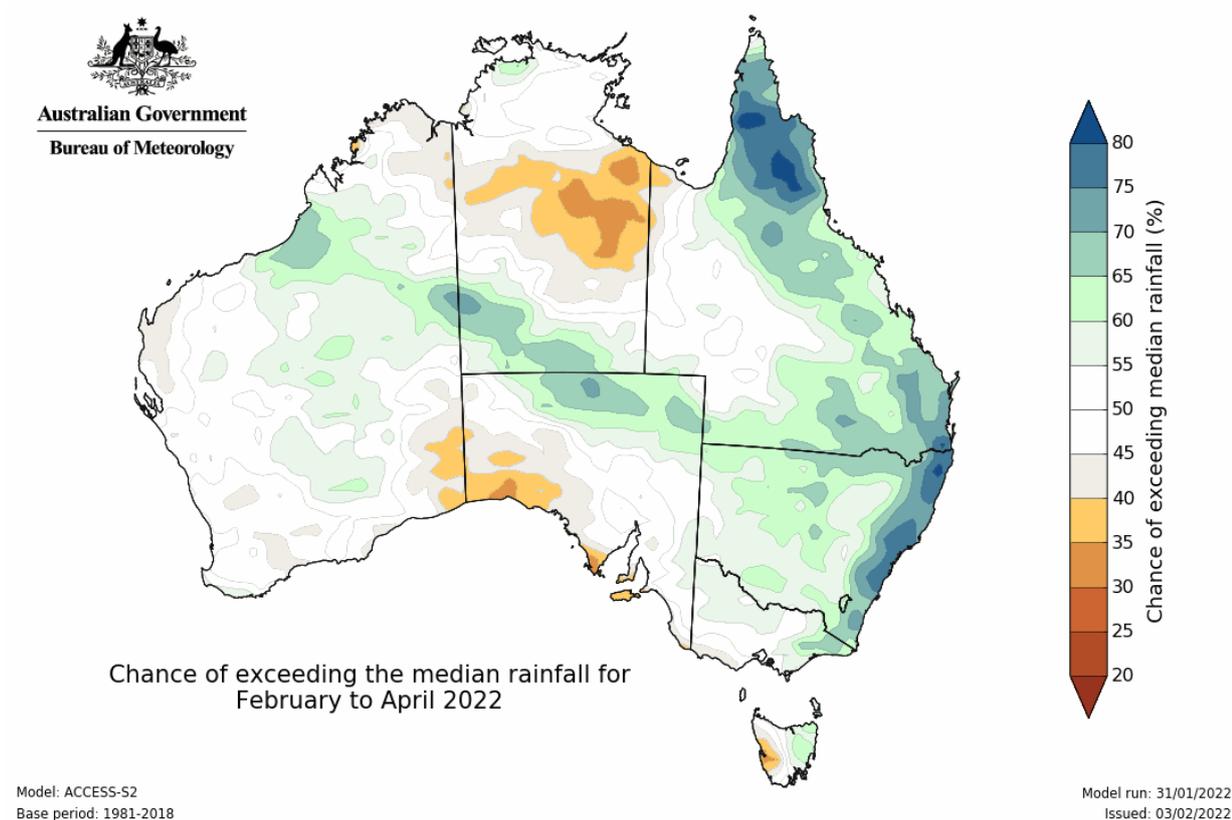
Climatic and Rainfall Outlook

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

- February to April rainfall is likely to be above median for much of northern, eastern and southern Queensland, northern and eastern NSW, eastern Victoria, eastern Tasmania and an area stretching along the SA-NT border across to the southern Kimberley coast in WA (chance of exceeding median is greater than 60%). Conversely, parts of the central NT, western Tasmania and some coastal parts of SA are likely to have below median rainfall

(chance of exceeding the median is below 40%). The rest of Australia has roughly equal chances of above or below median rainfall (chance of exceeding the median is close to 50%).

- There is an increased chance of unusually high rainfall (in the top 20% of historical records) for February to April in much of northern and eastern Queensland, and scattered areas across northern and central WA, northern and eastern SA, southern Queensland, NSW, northern Victoria and eastern Tasmania (1.5 to 3.0 times the usual chance). In any given outlook period, the chance of unusually high or low rainfall is around 20%. This means that a 40% chance of unusually wet conditions is twice the normal likelihood, while 60% is three times.
- Past accuracy for February to April rainfall is moderate to high for most of Australia



System Configuration

OPWTP is servicing the Lithgow city and WaterNSW Fish River has been supplying the villages since October 2021 until 22 January 2022. From this date to 15 February 2022 OPWTP has been supplying the area with water as WaterNSW have had issues within their raw water supply from Oberon Dam with an excessive amount of manganese present.

Clarence Water Transfer Scheme

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

Oakey Park Water Quality Summary

There were no exceedances of the health guideline values of the Australian Drinking Water Guidelines (ADWG) for May and June 2021.

During the period, 18 October 2021 to 15 February 2022, there were twenty-one reports of dirty water from water supplied from the OPWTP and Fish River, these occurred in the following areas:

- Stewart Street, LITHGOW
- Fullagar Avenue, LITHGOW
- Main Street, WALLERAWANG

Busby Street, LITHGOW
Coerwull Road LITHGOW
Bellevue Place, PORTLAND
Portland Road, PORTLAND
Wolgan Street, PORTLAND
Thornley Close, LITHGOW
Inch Street, LITHGOW
Henderson Place, LITHGOW
Albert Street, LITHGOW
Union Street, LITHGOW
Portland Road, PORTLAND
Bate Street, PORTLAND
Williwa Street PORTLAND
Bate Street, PORTLAND
Amiens Street, LITHGOW
Williwa Street, PORTLAND
Hepburn Street, LITHGOW
Williwa Street, PORTLAND

Dirty water in the supply infrastructure can be due to several reasons. Often the dirty water is due to main breaks or where works are being carried out on the network causing excess cavitation in the pipelines and disturbing debris or material that is within the pipe. Water and Wastewater staff address this by repairing the main and performing flushing to remove the dirty water.

Treatment Plant Monitoring Results

Samples are taken monthly at various locations within the Sewage Treatment Plants and Water Treatment Plant, in accordance with the Environment Protection Licence requirements.

Lithgow STP (Sewage Treatment Plant) experienced a 90th percentile exceedance for Faecal Coliforms in October 2021 which is being investigated and potentially may be disputed from the administration as localised results indicated no exceedances. LSTP also had a 90th percentile exceedance for Total Suspended Solids in November 2021 which was caused by the high storm flows into the system during the collection period.

Wallerawang STP, Portland STP and Oakey Park WTP experienced no exceedances during the reporting period.

Fish River Water Scheme Water Quality Summary

During the reporting period Fish River Scheme has had issues of stratification and mixing within Oberon Dam which has caused manganese problems which are difficult to treat at the existing Duckmaloi treatment plant. For this reason, OPWTP has been supplying the network since 22 January 2022. The manganese issues seem to have slowed and supply to the villages will return to normal from FRWS.

Water Mains and Service Issues

Council experienced thirteen main breaks during the period, 16 August 2021 to 18 October 2021.

Since 18 October 2021 to 14 February 2022 Council experienced fourteen in the below areas:

Hume Avenue, WALLERAWANG
Great Western Highway, LITHGOW
Lidsdale Street, WALLERAWANG
Montague Street LITHGOW
Inch Street, LITHGOW
James Parade WALLERAWANG
High Street PORTLAND
Purcell Street, PORTLAND
Lidsdale Street WALLERAWANG

Lidsdale Street, WALLERAWANG
Martini Parade, LITHGOW
Hayley Street, LITHGOW
Hill Range Crescent, LITHGOW
Rabaul Street LITHGOW

The Level of Service from Council's Strategic Business Plan 2015 shows that expected number of blockages per 100km per year should be 20. This equates to 48 mains breaks per year or 4 per month. Previously the trend showed Council's number of breaks to be in the order of 6 per month. Currently this figure sits around 3-4 per month.

Sewer Mains and Service Issues

Council experienced twenty-eight sewer chokes/blockage during the period, 16 August 2021 to 18 October 2021. In the period from 19 October 2021 to 14 February 2022 Council experienced twenty-three chokes or blockages.

The below provides the location of the chokes:

Calero Street, LITHGOW
Albert Street, LITHGOW
Main Street, LITHGOW
Great Western Highway, LITHGOW
Spooner Street, LITHGOW
Lithgow Street LITHGOW
Chivers Close, LITHGOW
Burton Street, LITHGOW
Cupro Street, LITHGOW
Academy Street, LITHGOW
Main Street, LITHGOW
Inch Street, LITHGOW
Bridge Street, LITHGOW
Main Street, LITHGOW
Bragg Street, LITHGOW
Hill Street, LITHGOW
Hartley Valley Road, LITHGOW
Cripps Avenue, WALLERAWANG
Oxley Street, WALLERAWANG
Purchas Street, PORTLAND
Lake Wallace Amenities, WALLERAWANG
Main Street, WALLERAWANG
Roy Street, LITHGOW

The Level of Service from Council's Strategic Business Plan 2015 shows that expected number of blockages per 100km per year should be 150. This equates to 264 chokes/blockages per year or 22 per month. The previous reporting period shows Council's number of blockages to be in the order of 14 per month. The current period trend is 4-5 per month

Policy Implications

N/A

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

N/A

Attachments

Nil

Recommendation

THAT the report providing an update on various water and wastewater management matters between October 2021 and February 2022 be received.

11.5. Finance and Assets Reports

11.5.1. FIN - 02/03/2022 - Superannuation for Councillors

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

Summary

The Local Government Amendment Act 2021 provides Councils with the option to make superannuation contribution payments for Councillors from 1 July 2022 equivalent in amount to superannuation guarantee payments.

Commentary

Section 377 of the Local Government Act provides that:

- (1) *A council may make a payment (a superannuation contribution payment) as a contribution to a superannuation account nominated by a councillor, starting from the financial year commencing 1 July 2022.*
- (2) *The amount of a superannuation contribution payment is the amount the council would have been required to contribute under the Commonwealth superannuation legislation as superannuation if the councillor were an employee of the council.*
- (3) *A superannuation contribution payment is payable with, and at the same intervals as, the annual fee is payable to the councillor.*
- (4) *A council is not permitted to make a superannuation contribution payment—*
 - (a) *unless the council has previously passed a resolution at an open meeting to make superannuation contribution payments to its councillors, or*
 - (b) *if the councillor does not nominate a superannuation account for the payment before the end of the month to which the payment relates, or*
 - (c) *to the extent the councillor has agreed in writing to forgo or reduce the payment.*
- (5) *The Remuneration Tribunal may not take superannuation contribution payments into account in determining annual fees or other remuneration payable to a mayor or other councillor.*
- (6) *A person is not, for the purposes of any Act, taken to be an employee of a council and is not disqualified from holding civic office merely because the person is paid a superannuation contribution payment.*
- (7) *A superannuation contribution payment does not constitute salary for the purposes of any Act.*

The superannuation guarantee set under Commonwealth legislation will be 10.5% of earnings from 1 July 2022. The superannuation guarantee is scheduled to progressively increase to 12% by 2025.

The estimated cost of superannuation contributions for Councillors for the 2022/23 year is \$13,500 based on expected Councillor remuneration.

Councillors receive a very small annual fee for undertaking their responsibilities. It should also be noted that Lithgow councillors have typically maintained that fee below the allowable maximum. The payment of superannuation is another means by which to encourage or facilitate a broad range of people (especially youth and women) to consider stepping forward for public office. For these reasons, the administration agree with the merit of superannuation being paid. But this is a discretion and so it is a decision for the Council.

Policy Implications

Nil.

Financial Implications

- Budget approved - nil.
- Cost centre - PJ 800154 Mayoral & Councillor costs.
- Expended to date - nil for Councillor superannuation.
- Future potential impact - estimated at \$13,500 for 10.5% Councillor superannuation contributions, increasing to 12% of earnings by 2025.

Legal and Risk Management Implications

Nil.

Attachments

Nil

Recommendation

THAT Council determine whether Council will make superannuation contribution payments for Councillors from 1 July 2022.

11.5.2. FIN - 02/03/2022 - 2021/22 Quarter Two Budget Review

| | |
|----------------------|---|
| Prepared by | Neil Derwent – Financial Services Manager |
| Department | Finance |
| Authorised by | Chief Financial & Information Officer |

Summary

This report provides the Quarterly Performance Report on the 2021-2022 Operational Plan for the period of 1 October 2021 to 31 December 2021 with a recommendation that variations to income, expenditure and capital budget estimates are voted and that the revised interim financial result of \$67K consolidated operating surplus (before capital grants) be noted. The result is described as interim because, as this report later acknowledges, remedial actions are continuing during Quarter Three to ensure that Council's projected position at 30 June 2022 is comparable with the original budget.

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

The report also provides an update on the capital expenditure budget, cashflow and reserve balances.

Commentary

Executive Summary

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

Although Council's projected position at 30 June 2022 has changed from the original budget **\$705K** surplus operating result (before capital) to a projected surplus of **\$67K** operating result (before capital), remedial actions are continuing to be implemented during Quarter Three to ensure that Council's projected position at 30 June 2022 is comparable with the original budget.

Quarter Two Budget Variations

The following changes were the key factors in an improvement to the projected position at 30 June 2022 from Quarter One:

1. (\$877K) net in operational expense savings were taken up at the Quarter Two review.
2. Expense savings helped to offset an (\$821K) decrease in the water usage charges income budget due to unusually high rainfall.
3. As a result of identifying cost savings to offset loss of income, Council's consolidated projected operating result (before capital) at 30 June 2022 has improved from a deficit at the Quarter One review to a surplus at the Quarter Two review.

Ongoing Remedial Actions

Council will continue an operating efficiencies and cost savings program for the remainder of the 2021/22 year to ensure that Council achieves an operating result comparable to the originally planned \$705K surplus (before capital).

Actions taken to better manage Council's cashflow have ensured that there is sufficient cash and investments to fund Council's external and internal restrictions. In addition, the working capital fund remains at **\$833K** on hand as of 31 December 2021.

Summary of the July to December Quarterly Budget Review Report

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

| Budget | Result (before capital) |
|------------------|----------------------------|
| | \$'000 |
| Original Budget | 705 |
| September Review | (16) |
| December Review | 67 |
| March Review | |

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

Projected total revenue to 30 June 2022 has **decreased by \$1.357M** during Quarter Two, mainly due to the following reasons:

- (\$821K) decrease in the water usage income budget due to unusually high rainfall.
- Addition of \$1.5M EPA Green Waste clean-up grant income.
- (\$1.59M) adjustment to Financial Assistance Grant revenue budget to match actual income.
- \$300K income for Cullenbenbong Road Causeway – Natural Disaster Funding.
- (\$700K) Cullen Bullen Sewer upgrade grant income and works rephased to 2022/23.

Projected total operating expenditure to 30 June 2022 has **decreased by \$877K** during Quarter Two, mainly due to the following reasons:

- (\$378K) employment cost savings realised in the Water Fund.
- (\$314K) employment cost savings realised in Sewer Fund, as well as non-backfill of maternity leave positions.
- \$1.5M EPA Green Waste Clean Up grant expenditure budget added.
- Savings in Transport, Water Fund and Sewer Fund materials budgets taken up.

The net effect of the decrease in projected total revenue and the decrease in projected total expenditure is a decline in the expected consolidated operating result from a surplus of **\$9.18M** (Quarter One review) to a surplus of **\$8.704M** at 30 June 2022 (**including capital grants**).

Projected End of Year Result (Before Capital)

The operating result **before capital grants** is a key Office of Local Government performance measure with a benchmark of a balanced operating result (i.e. nil surplus / deficit). Capital grants are excluded from the performance measure as they do not contribute towards funding Council’s operations. Council’s revised consolidated operating result (before capital grants) at 30 June 2022 is projected to be a **\$67K** surplus, which is **above the OLG benchmark**. Again, however, this is an interim position relevant only to this point in time.

At the end of Quarter Two 2021/22, it is projected that the General Fund will have a deficit (before capital grants) of (\$506K). The Water Fund has a forecast deficit (before capital grants) of (\$86K) and the Sewer Fund has a projected surplus operating result (before capital grants) of \$658K at 30 June 2022.

Remedial actions are ongoing in Quarter Three to ensure that Council’s projected position at 30 June 2022 is comparable with the original budget

Capital Expenditure Budget

The 2021/22 capital expenditure budget is projected to be **\$21.7M** (excluding loan repayments). The revised budget is a decrease of \$5.5M on the \$27.2M (excluding loan repayments) original budget with carryovers. The key changes to the Capital Works Program in Quarter Two are:

- (\$360K) reduction in Land & Buildings projects due to rephasing to 2022/23 of projects, including part of the Store building construction & bushfire grant funded Civic projects.
- (\$215K) reduction in Water infrastructure projects with projects rephased to the 2022/23 year.
- The Resource Recovery Centre budget has been decreased by (\$546K) due to a reduced contingency.
- (\$2M) deferred to 2022/23 for the Cullen Bullen STP project due to delays in purchase of the land.

Cash and Investment / Reserve Balances

The Cash and Investments Statement at 31 December 2021 is shown in the table below.

| Cash and Investments Statement | | | |
|---------------------------------------|--------------------------------------|---|--|
| | 30 June 2021 Position | 30 September 2021 Position | 31 December 2021 Position |
| Externally Restricted | | | |
| Developer Contributions | 2,143 | 1,925 | 1,824 |
| Special Purpose Grants | 2,945 | 2,699 | 4,799 |
| FAGS | 2,534 | - | - |
| Water Supplies | 2,401 | 1,443 | 1,480 |
| Sewerage Services | 7,889 | 8,814 | 9,114 |
| Domestic Waste | 6,408 | 7,373 | 6,810 |
| Unexpended Loans | 1,689 | 1,464 | 1,403 |
| | 26,010 | 23,718 | 25,430 |
| Internally Restricted | | | |
| Land & Buildings | 1,216 | 2,389 | 2,694 |
| Plant & Equipment | 3 | 214 | 214 |
| Bonds, Deposits & Retentions | 296 | 305 | 280 |
| Works in Progress | 597 | 597 | 597 |
| Carry Over Works | 221 | 205 | 168 |
| ELE | 754 | 754 | 754 |
| Election | 160 | 160 | 160 |
| Total Internally Restricted | 3,247 | 4,624 | 4,867 |
| Unrestricted (working capital) | - | 833 | 833 |
| Total Cash and Investments | 29,257 | 29,175 | 31,130 |

The actions taken to manage Council's cashflow have ensured that there is sufficient cash and investments to fund Council's external and internal restrictions. In addition, the working capital fund has been built to \$833K on hand at 31December 2021.

Policy Implications

Nil.

Financial Implications

As detailed in this report.

Legal and Risk Management Implications

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

Attachments

1. October December Quarterly Report [11.5.2.1 - 18 pages]

Recommendation

THAT Council:

1. Note the contents of the report and the projected consolidated operating result (before capital) of \$67K surplus for the 2021/22 Operational Plan as detailed in the Quarterly Budget Review Report for the period 1 October 2021 to 31 December 2021.
2. Note the remedial actions that are continuing to be implemented during Quarter Three to ensure that Council's projected position at 30 June 2022 is comparable with the original budget.
3. Adopt the income, expenditure and capital budget variations to the 2021/22 Council budget as outlined in the attached report.

11.5.3. FIN - 02/03/2022 - Investment Report January 2022

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

Reference

Min No 22-18 Ordinary Meeting of Council held on 24 January 2022.

Summary

The purpose of this report is to advise Council of investments held as at 31 January 2022 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 January 2022, when compared to 31 December 2021, had decreased by \$1,347,501 to \$30,031,542. Investments decreased from \$29,826,457 to \$29,626,457. Cash in Council's bank account decreased from \$1,552,585 to \$405,085.

The \$1.35M decrease in investments is mainly due to the ordinary business of Council, with no rates instalments or major grant payments due in January. 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 January 2022 were as follows:

| | |
|---|--------------|
| Opening Balance of cash and investments as 01 January 2022 | \$31,379,042 |
| Plus New Investments – January 2022 | \$3,000,000 |
| Less Investments redeemed – January 2022 | -\$4,347,500 |
| Closing Balance of cash and investments as at 31 January 2022 | \$30,031,542 |

CFIO comment on the cash and investments balance – the \$1.35M decrease in cash and investments in January 2022 was anticipated as January is typically a month of lower cash inflows. High value Accounts Payable transactions included \$105K for the Tweed Mills SPS refurbishment, \$176K to JR Richards and \$542K for the 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 December 2021 was **\$25.4M** and for internal restrictions **\$4.9M**. With the working capital fund at \$833K, total cash

and investments at 31/12/21 was \$31M. 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 – \$90,000
- Cost centre - 3259
- YTD Income to date - \$85,010
- Future potential impact – Nil.

The Council's interest income for YTD is \$5.0K under budget. Investment returns remain low due to the impact of record low interest rates. CBA has started paying 0.15% interest on On-Call deposits from January 2022. 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. Attachment 1 - 31 January 2022 [**11.5.3.1** - 1 page]

Recommendation

THAT

1. Investments of \$29,626,457 and cash of \$405,085 for the period ending 31 January 2022 be noted.
2. The enclosed certificate of the Responsible Accounting Officer be noted.
3. The commentary on funding requirements for restricted reserves be noted.

11.6. Policies and Governance

11.6.1. IS - 02/03/2022 - Review of Policies 10.8 and 10.9

Prepared by Kaitlin Cibulka – Executive Assistant Infrastructure Services

Department Infrastructure Services

Authorised by Director of Infrastructure & Services

Reference

Min. No. 21-146 - Ordinary Meeting of Council held on 28 June 2021.

Min. No. 21-174 - Ordinary Meeting of Council held on 26 July 2021.

Summary

This provides report details of the public exhibition of Policies 10.2 Chain of Responsibility – Roads and 10.8 Sport and Recreation Facilities LGA.

Commentary

Policies 10.2 Chain of Responsibility – Roads and 10.8 Sport and Recreation Facilities LGA were placed on public exhibition for a period of 28 days where the community were invited to make comment. The exhibition of the above-mentioned policies closed on Tuesday 21 September 2021 with no submissions received during this period for either policy.

Policy Implications

Consideration of adoption of Policies 10.2 Chain of Responsibility – Roads and 10.8 Sport and Recreation Facilities LGA.

Financial Implications

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

Legal and Risk Management Implications

Nil

Attachments

1. DRAFT Policy 10.8 Sport and Recreation Facilities - LGA [11.6.1.1 - 4 pages]
2. Policy 10 9 Chain of Responsibility CoR [11.6.1.2 - 7 pages]

Recommendation

THAT Council adopts and implements policies 10.2 Chain of Responsibility – Roads and 10.8 Sport and Recreation Facilities LGA immediately.

12. Business of Great Urgency

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

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

13. Closed Council

13.1. CONFIDENTIAL REPORT - 02/03/2022 - ECDEV - Gumnut Childcare Centre

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

Reason for Confidentiality

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

- (d) commercial information of a confidential nature that would, if disclosed
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

Reference

Minute 18-377 - Confidential meeting of Council 26 November 2018
Minute 19-90 - Confidential meeting of Council 25 March 2019
Minute 21-182 - Confidential meeting of Council 26 July 2021
Minute 21-231 – Confidential meeting of Council 27 September 2021
Minute 21-264 – Confidential meeting of Council 25 October 2021

Summary

The purpose of this report is to provide Council with an update regarding proceedings against ECEC Management Services Pty Ltd (**ECEC**) and the current position regarding Gumnut Childcare Centre.

13.2. CONFIDENTIAL REPORT - IS - 02/03/2022 - Pipers Flat Road / Range Road Intersection Upgrade

Prepared by Craig Brown - Project Officer
Department Infrastructure & Services
Authorised by Director of Infrastructure & Services

Reason for Confidentiality

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

- (d) commercial information of a confidential nature that would, if disclosed
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,

Summary

The purpose of this report is to summarise the tender process undertaken by Council for the Pipers Flat Road / Range Road, Portland, Intersection Upgrade.

Recommendation

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