



BUSINESS PAPER

Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 28 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 2 March 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. Staff Reports

9.1. Economic Development and Environment Reports

9.1.1. Building and Development

9.1.1.1. ECDEV - 28/03/2022 - DA088/21 - 6 Lot Subdivision - 50 Kirkley Street, South Bowenfels

Prepared by	Mark Hitchenson - Development Planner
Department	Economic Development and Environment
Authorised by	Director of Economic Development & Environment
Property Details	Lot 3 DP 1268778, 50 Kirkley Street, South Bowenfels
Property Owner	Trinity Heights Pty Ltd
Applicant	Peter Basha

Summary

The purpose of this report is to provide Council with details of the assessment, and recommend the determination of, Development Application DA088/21 for a six-lot residential subdivision at 50 Kirkley Street, South Bowenfels.

The proponent is proposing to enter into a planning agreement to outline the contributions to community facilities and continuation of a cycleway in the local area. The matter is therefore being reported to Council for determination in accordance with Council Policy 7.8 Voluntary Planning Agreements.

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 and a Draft Voluntary Planning Agreement are attached.

Commentary

The proposal involves the subdivision of 1 lot into 6 lots with a new road, being the extension of Heritage Close. The proposal also involves sewer and stormwater works and the removal of two trees to facilitate the extension of Heritage Close. The proposed lots will range in size from 1.327ha to 4.085ha in size.

Lot 1 to 5 will obtain access from an extension of Heritage Close, to be constructed as part of this development. Lot 6 is being created as an 'en globo' or development lot with access obtained from a future extension of Kirkley Street. The future development of Lot 6 is not part of the current proposal and will be subject to separate development application for any future additional subdivision or use. The subdivision is proposed to be staged as follows:

Stage 1: Creation of 2 lots, being proposed Lot 6 ('en globo' lot) and a residue lot (Lot 7) encompassing proposed Lots 1-5 in Stage 2.

Stage 2: Creation of proposed Lots 1 to 5 as individual lots, including the construction of the extension of Heritage Close.

The applicant has proposed to enter into a voluntary planning agreement with Council to make contributions towards community facilities and a cycleway.

The applicant also proposes the following restrictions on the titles of the proposed lots:

- Lots 1 to 5 – building envelope
- Lot 6 – no development unless access and services are provided
- No further subdivision of Lots 1 to 5 once registered

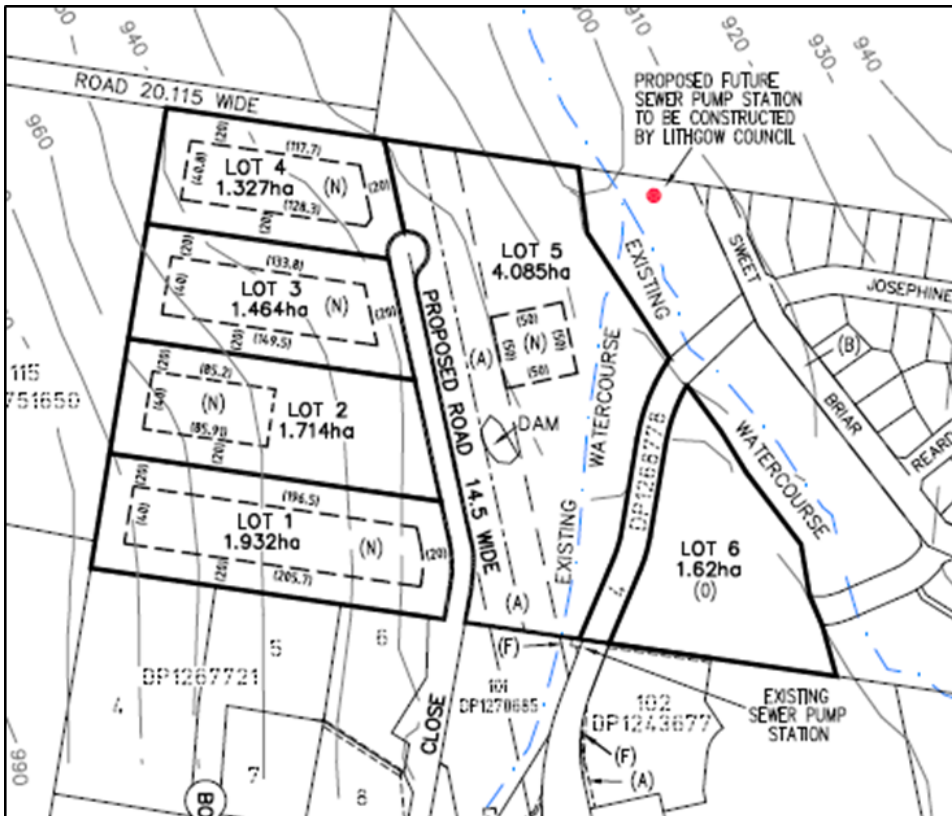
The proposed development is Integrated Development for the following reasons:

- Subdivision of bushfire prone land for residential purposes requires a Bushfire Safety Authority under the Rural Fires Act 1997, and
- Works within 40m of a watercourse (sewer works) requires a Controlled Activity Approval under the Water Management Act 2000.

The subject land already has development consent (approved by Council under DA335/05) for urban scale subdivision into 48 residential lots and as part of a larger development including land to the east. Given the steep nature of the western part of the subject land, the applicant has decided to forego implementing that approval in favour of a more rural residential scale subdivision with larger lots.

The area to be occupied by Lots 1 to 5 has a minimum subdivision lot size of 4,000 square metres as specified on the *Lithgow Local Environmental Plan 2014* (LEP) Minimum Lot Size Map. To address the risk of unplanned further subdivision and fragmentation of Lots 1 to 5 by future landowners, the applicant is supportive of a restriction on title to prevent the further subdivision of these lots until an amendment to the LEP minimum lot size map can be made. This will require a Planning Proposal to be prepared. Given the wider public benefit of this planning change, Council can consider this within Council’s “Housekeeping Planning Proposal” subject to the agreement of the landowner.

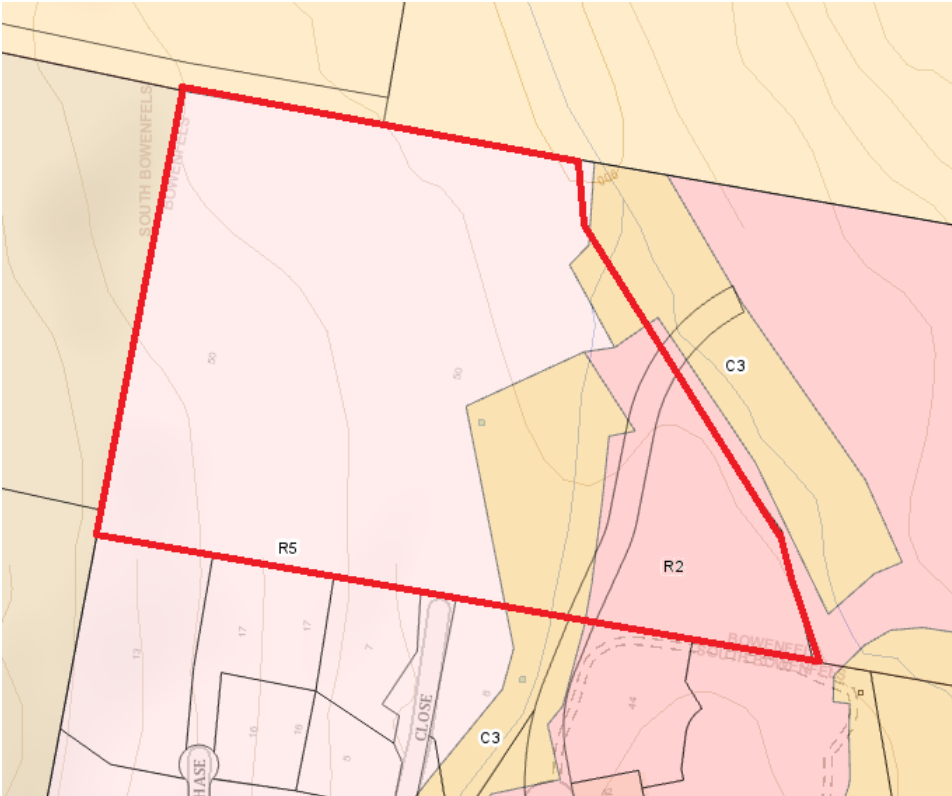
A plan of the proposed subdivision layout is provided below:



Legal Description: Lot 3 DP 1268778
Property Address: 50 Kirkley Street SOUTH BOWENFELS

Zoning and Permissibility

The land is zoned R5 Large Lot Residential, R2 Low Density Residential and C3 Environmental Management in accordance with the *Lithgow Local Environmental Plan 2014* (LEP) (see map extract below with the subject land outlined in red). The subdivision of land requires development consent under clause 2.6 of the *Lithgow Local Environmental Plan 2014* (LEP). A proposal for a subdivision must address the relevant LEP requirements for consent to be granted.



The subject land has a mix of minimum lot sizes, as follows:

- 800m² for the R2 zoned part of the site.
- 4000m² for the R5 zoned part of the site.
- 40ha for the C3 zoned part of the site.

The proposal complies with the minimum lot sizes across the site and with the relevant provisions of the Lithgow LEP 2014 that apply to subdivision of land.

Suitability of the site

The surrounding land uses are for residential pursuits 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 proposed development complies with the objectives of the zone and the site is considered to be suitable for the proposal.

Any submissions made in accordance with the Act or Regulations

Submissions were received from the NSW Rural Fire Service, Water NSW, Natural Resources Access Regulator, Endeavour Energy and one public submission was received.

All the Agency submissions provided recommended conditions of approval that have been included in the attached report and conditions. The public submission noted the extension of Heritage Close and sought Council approval to landscape an existing irregular shaped road frontage. This was not

an issue directly related to the proposed development and a separate response in relation to the landscaping of the road frontage was provided to the submitter.

The public interest

The public interest is best served by the orderly and economic use of land for permissible uses and that does not impact unreasonably on the use and development of surrounding land. The provision of additional residential land in a manner that minimises environmental impacts is considered to be in the public interest.

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 proposal is not exempt from requiring notification and therefore the development application was notified to adjoining landowners.

Policy 1.2 Acquisition and Disposal of Assets

The proposal involves the construction of roads and the provision of public infrastructure that will become assets dedicated to Council. The dedication of these assets as part of the subdivision construction process is consistent with the requirements of this Policy and will be provided in accordance with service and construction standards for infrastructure adopted by Council.

Policy 7.8 Voluntary Planning Agreements

A voluntary planning agreement has been proposed by the applicant. The Council Policy requires that draft planning agreements be reported to Council for consideration and a resolution to place the draft agreement on public exhibition. The draft voluntary planning agreement has been prepared in accordance with the requirements of the Policy.

The developer has offered to make a contribution of \$6,400 per lot (total \$38,400) to go toward community facilities and a contribution of \$27,500 for continuation of a cycleway. The cycleway is intended to link the existing one on Heritage Close to an extension of Kirkley Street (once constructed) over Lot 100/DP1270685 and Lot 12/DP1267721 being both Council owned lots. These contributions are consistent with those offered and accepted for similar developments in the local area.

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 – the endorsement of a Voluntary Planning Agreement will assist Council to provide facilities which will be of benefit towards a public purpose (see above). The development will also be subject to water and sewer headworks charges under Council's Development Servicing Plan for Water & Sewerage. The payment of these charges will be required as part of the standard Subdivision Certificate process.

Legal and Risk Management Implications

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.

The legislative basis for the Voluntary Planning Agreement is sections 7.4 - 7.10 of the *Environmental Planning and Assessment Act 1979*, clauses 25B – 25H of the *Environmental Planning and Assessment Regulation 2000* and sections 203-206 of the *Environmental Planning and Assessment Regulation 2021*. The legislative provisions require that public notice of a proposed Voluntary Planning Agreement must be given before it can be entered into.

The development is “integrated development” under the provisions of Section 4.46 of the *Environmental Planning and Assessment Act 1979* and requires approval by the NSW Rural Fire Service and the Natural Resources Access Regulator. Both agencies have provided General Terms of Approval and these have been included in the conditions in the attached planning assessment report.

Attachments

1. DA088/21 - Assessment Report [9.1.1.1.1 - 40 pages]
2. DA088/21 Draft Planning Agreement [9.1.1.1.2 - 9 pages]

Recommendation

THAT

1. Development Application DA088/21 be APPROVED subject to conditions of consent as shown in the attached planning assessment report.
2. Council endorse the attached Draft Voluntary Planning Agreement proposed for DA088/21.
3. The Draft Voluntary Planning Agreement for DA088/21 be placed on public exhibition for a period of 28 days.
4. A DIVISION be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

9.1.1.2. ECDEV - 28/03/2022 - Great Western Battery Energy Storage System State Significant Development (SSD 12346552)

Prepared by	Lauren Stevens – Development Planner
Department	Economic Development and Environment
Authorised by	Director of Economic Development & Environment
Property Details	Lot 4 DP751651, 173 Brays Lane Wallerawang NW 2845
Property Owner	Mr GN Kamalaharan
Applicant	Neoen Australia Pty Ltd

Summary

To advise Council of a Major Project that has been submitted to the Department of Planning, Industry and Environment for the Great Western Battery Energy Storage System State Significant Development (SSD 12346552).

Commentary

The Project involves the construction and operation of a large-scale Battery Energy Storage System at 173 Brays Lane Wallerawang of up to 500 Megawatts (MW) and up to 1,000 Megawatt hours (MWh) of battery storage capacity.

The project also involves the installation of a new transmission line connection between the site and the Transgrid Wallerawang 330 kV substation (located off James Parade, Wallerawang). The new transmission line would traverse:

- Lot 8 and Lot 9 DP 252472,
- Lot 2 DP 108089,
- Lot 1 DP 108089,
- Lot 10 DP 1168824,
- Lot 1115 DP 1204803, and
- Lot 91 DP 1043967

The above properties are currently owned and/or managed privately, by Transport for NSW, Transgrid, Lithgow City Council, and John Holland Rail.

The Project includes:

- Site establishment, including installation of fencing, environmental controls, grading and other civil works;
- Establishment of a new driveway located at the southern boundary of the site from Brays Lane;
- Establishment of internal access roads and car parking;
- Installation, commissioning, and operation of a large-scale system including battery enclosures, inverters, and transformers;
- Construction of permanent operations buildings, including staff amenities;
- Construction of lighting and installation of security devices around the perimeter of the storage compound;
- Establishment of noise walls, landscaping and screening vegetation;
- An underground transmission line connection from the system to the existing Wallerawang 330 kV substation switchyard;
- Upgrades to the Wallerawang 330 kV substation switchyard; and

- Subdivision of Lot 4 DP 751651 to separate the existing residence in the south eastern portion of the lot from the proposal.

Some of the potential environmental impacts of the development include:

Biodiversity: Construction of the project would involve the removal of approximately 0.93 ha of native vegetation from two NSW Plant Community Types known as; the Black Gum Grassy Woodland and the Broad-Leaved Peppermint-Ribbon Gum. As such a Biodiversity Development Assessment Report was undertaken as per the Biodiversity Conservation Act 2016. The report concluded that offsetting through the transfer and retirement of biodiversity credits, or paying into the Biodiversity Conversation Offset Fund, is required for the development at the subject site.

Aboriginal Heritage: Construction of the proposed transmission line within or immediately surrounding known artefact scatters would occur using Horizontal Directional Drilling to a depth of 1.5m below ground level. The maximum observed depth of subsurface Aboriginal objects is known to be 40cm below ground level. As such the works for the transmission line are not expected to impact the cultural value within the area.

The construction and operation of the Battery Energy Storage System on the site would result in a near-complete, permanent loss of value for a stone quarry aboriginal heritage site. A comprehensive salvage program has been proposed to mitigate this impact with the measures outlined within the Aboriginal Cultural Heritage Assessment Report.

European Heritage: A total of 14 historic items were identified during an archaeological survey undertaken within and around (about 800m) the project area with the closest heritage item being the St John Evangelical Church. A Statement of Heritage Impact was prepared for the development and states mitigation and protection measures to limit vibration controls during construction.

Surface water, flooding and water use: The development requires the rearrangement of the existing dams on the site, earthworks, hardstand areas, and the installation of stormwater management controls (including swales and a bioretention system) to retain and manage the release of runoff as required.

While the transmission line for the Project would traverse Piper Flat Creek, an underboring construction method would be employed to avoid work occurring within the waterway. This is satisfactory for the development.

Noise and vibration: The construction of the project is predicted to comply with the noise management levels at non-residential receivers, with some minor exceedances predicted to occur. These exceedances would generally be within the 1-10 dB exceedance band. Exceedances within the 1-10 dB exceedance band would largely occur during the civil, structural, mechanical, electrical and transmission connection works.

During operation the project proposes to install noise walls with sound absorptive lining around the battery enclosures and the high-voltage (HV) transformers. Recommendations for at-property noise mitigation measures will be implemented in the Construction Noise and Vibration Management Plan.

Transport and access: During construction, additional traffic would occur to Brays Lane, generated for the delivery of plant, equipment and materials and the movement of workers.

Access measures would be required to allow for the egress of oversized/over mass vehicles and would include temporary bridging beams to be installed over the culverts at Brays Lane, and up to 240 square metres of compacted gravel or road base to be used to help stabilise the outer verge of Brays Lane where it forms a right angle, directly west of the site. During peak construction periods, up to 50 light vehicles and 20 heavy vehicles are anticipated to access the Project Area per day. The implementation of management and mitigation measures will be included in the Construction Traffic Management Plan.

Visual: During operation, the development would provide a new industrial element to the existing landscape. The visual impact for most receivers is expected to be moderate to moderate-low given the presence of existing screening vegetation and built structures (such as sheds) that would limit direct views.

To minimise the visual impacts associated with the construction and operation of the development, a number of mitigation measures have been proposed, including noise walls to be designed to be visually recessive (for example they may be painted or coloured to blend more discreetly into the existing landscape) and screening vegetation plantings would also be provided where possible.

Status

The Environmental Impact Statement was supplied to Council and was placed on exhibition for public and authority comments which finishes on the 29 March 2022. Given the timeframe between Council meetings, a submission was made on behalf of Council raising no objections subject to conditions being placed on the consent should the application be recommended for approval.

The recommended conditions include:

- Implementation of mitigation measures detailed within the application, including additional reports relating to traffic and environmental impacts,
- The implementation of a planning agreement for a contribution towards community/public infrastructure,
- Building Construction work requirements such as the staff amenities building,
- Hours of Operations during construction works,
- Engineering requirements, including roads works and works within Council's Road Reserve, and
- Subdivision Certificate requirements.

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. Great Western Battery Energy Storage System Site Plans [9.1.1.2.1 - 3 pages]

Recommendation

THAT Council:

1. Note the information provided in the report for the Great Western Battery Energy Storage System State Significant Development (SSD 12346552).
2. Delegate authority to the General Manager to negotiate a Voluntary Planning Agreement for funds to be secured for community/public facilities and/or infrastructure. The results of any negotiations will be reported to Council.

9.1.1.3. ECDEV - 28/03/2022 - HyTec Quarry Voluntary Planning Contribution 2020

Prepared by	Lauren Stevens – Development Planner
Department	Economic Development and Environment
Authorised by	Director of Economic Development & Environment
Property Details	Lot 1 DP456814, 391 Jenolan Caves Road, Hartley
Property Owner	Hartley Pastoral Co Pty Ltd
Applicant	Hy-Tec Quarry

Reference

- Min No 14-480 - Ordinary Meeting of Council held on 15 December 2014, Austen Quarry Stage 2 Extension Project (SSD 6084).
- Min No 15-325 - Ordinary Meeting of Council held on 14 December 2015, SSD-6084 - Hy-Tec Industries Pty Limited, Austen Quarry, Voluntary Planning Agreement.
- Min No 16-52 - Ordinary Meeting of Council held on 21 March 2016, State Significant Development - 6084 – Hy-Tec Industries Pty Limited, Austen Quarry Voluntary Planning Agreement.
- Min No 18-24 - Ordinary Meeting of Council held on 26 February 2018, Hy-Tec Quarry Planning Contribution 2016-2017.
- Min No 19-68 - Ordinary Meeting of Council held on 25 March 2019, Hy-Tec Planning Contribution 2017.
- Min No 19-332 – Ordinary Meeting of Council held on 25 November 2019, Hy-Tec Planning Contribution 2018.
- Min No 10.1.1 - Ordinary Meeting of Council held on 23 November 2020, Hy-Tec Quarry Voluntary Planning Contribution 2019.

Summary

To advise Council of the expressions of interest and to endorse payment for the Hy-Tec Quarry Voluntary Planning Agreement funds to go towards community projects. The aim of the Planning Agreement is to allow for the provision of community facilities for public use within the Local Government Area.

Commentary

On 15 July 2015, the Department of Planning and Environment granted Development Consent for an extension to the Austen/Hy-Tec Quarry (State Significant Development-6084) situated at 391 Jenolan Caves Road, Hartley. A Voluntary Planning Agreement associated with the development consent provides for a contribution of \$0.025 per tonne of quarry product to be paid to Council. The distribution of funds was determined by Council at its Ordinary Meeting of 21 March 2016. As part of the distribution of funds, 25% of the contribution is allocated to the Hartley Progress Association to go towards facilities and infrastructure in the Hartley area which may at its discretion be spent on maintenance, upkeep or improvements to the Hartley School, Hartley Annex Hall or surrounds. In September 2021, an amount of \$5,981.12 was paid to the Hartley Progress Association.

To date, The Hartley Progress Association have advised Council that the funds have not been expended on any projects. The Hartley Progress Association is proposing to notify Council over the next few weeks of the allocation of the grant funding.

The remaining contribution balance of the Hytec Contribution is to be determined via an Expression of Interest process and distributed on an annual basis. Of this balance, 25% is allocated to general community projects in the Hartley area and the remainder to projects throughout the Lithgow Local

Government Area. For the 2020 period the expression of interest was carried out by Austen/Hy-Tec Quarry with the following submissions received and comments provided following an evaluation by Council staff and representatives of Hy-Tec:

Hartley Vale Mount Blaxland Reserve Land Manager seeks a contribution of \$7,557.00 for the construction of picnic shelters at the Hartley Vale Historic Cemetery, Fields Road, Hartley Vale. This application was submitted as part of the previous 2019 application process along with a separate application for picnic facilities and benches. The picnic facilities and benches received the Hytec grant in 2019. The shelters are proposed to protect visitors to the cemetery from all weather conditions. The project is part of a continuing enhancement project that the Land Managers have been carrying out to preserve the headstones and enhance visitor expectations/experience.

Council Officer's Comment: This project satisfies a community purpose and is supported.

St John's Anglican Church Hartley seeks a contribution of \$2000.00 for roof works within the Church at the Hartley Historical Village. It is worth noting that the church is not part of the National Park's property and receives no financial assistance from them for maintenance and activities. Funding is primarily through donations and fundraisers. The funding is proposed to remediate a partial section of the roof to be rust proof, painting and gutter repairs. The applicant plans to use voluntary labour and purchase materials from a hardware franchise.

Council Officer's Comment: The facility is operated by members of the community and volunteers. Therefore, this project satisfies a community purpose and is supported.

Hartley Recreation Reserve Land Manager seeks a contribution of \$5,950.00 for the extension of a shelter and construction of built-in BBQ facilities at the Old Hartley School and Community Hall. This application was submitted as part of the previous 2019 application process along with separate applications for several other projects at the Hartley School and Hall. A shelter and picnic tables are already located at the facility.

Council Officer's Comment: The facility is operated by members of the community. Therefore, this project satisfies a community purpose and is supported.

The following applications were also received, with a recommendation that the applications be carried over and reconsidered in the next round of applications where necessary. These applications involve:

Hartley Historic Site Advisory Committee seeks a contribution of \$8,500 for "Hartley historic displays: Improved public display and interpretation of Hartley collection" at the Farmer's Inn Visitor Centre and Gallery. The project is proposed to highlight the history of Hartley by expanding on existing displays for self-guided tours.

Council Officer's Comment: It is considered that the project is beneficial to the community; however, given the wide variety of applications being received in this round, the proposed project can be reconsidered in the 2021 round. It should be noted that this applicant received Hytec grant funding in 2019 for an AV System (including a smart TV and remote) at the Farmers Inn Visitor Centre and Gallery to help to promote tourism and to help to promote/enhance visitation to the site.

Hartley Recreation Reserve Land Manager seeks a contribution of \$7,850.00 for the reconstruction of a driveway and carpark area at the Old Hartley School and Community Hall. The project involves; reshaping the road profile and addressing stormwater drainage, stripping and removal of topsoil, grading and supply/apply 150 tonnes of road base. The project aims to improve the entrance and provide enhanced, safer facilities for the venue.

Council Officer's Comment: It is agreed that the project above is beneficial to the community; however, given the wide variety of applications being received in this round, the proposed project can be reconsidered in the 2021 round. Council staff have also consulted with the Hartley Recreation

Reserve Land Manager who advised that they would prefer funding for the extension of a shelter and the construction of BBQ facilities as their first preference in the 2020 funding period.

Policy Implications

Nil.

Financial Implications

- Budget approved - Funds are held in reserve from contributions by Hy-Tec.
- Cost centre - N/A
- Expended to date – N/A
- Future potential impact – Applications which are carried over will be considered in the next round of available funding.
- Other - The key financial implication for Council is the receipt of a monetary contribution to go towards public facilities and infrastructure within the Lithgow Local Government area. The Hy-Tec Quarry operates at a capacity of 1.1 million tonnes per annum of quarried product transported from the site. For the 2020 period, this equates to \$23,924.50 being received by Council for distribution.

The Hartley Progress Association allocation of \$5,981.12 with the above additional recommended applications equates to \$21,488.12. The remaining \$2,436.38 is recommended by both staff and Hy-Tec to be carried over to the 2021 contributions (to be advertised in April or May 2022).

Legal and Risk Management Implications

Nil.

Attachments

1. St John's Church Grant request - roof maintenance [9.1.1.3.1 - 2 pages]
2. Hartley Vale Mount Blaxland Reserve Land Manager - Shelter for picnic [9.1.1.3.2 - 9 pages]
3. Hartley Recreation Reserve Land Manager - Extend Shelter + BBQ [9.1.1.3.3 - 13 pages]
4. Hartley Historic site Advisory Committee - Improved public display [9.1.1.3.4 - 8 pages]
5. Hartley Recreation Reserve Land Manager - Reconstruct Driveway & carpark [9.1.1.3.5 - 5 pages]

Recommendation

THAT Council:

1. Endorse the remaining \$15,507.00 of the Hy-Tec Quarry 2020 contribution to be allocated and distributed to the following projects/initiatives:
 - a) Hartley Vale Mount Blaxland Reserve Land Manager (Picnic Shelter),
 - b) St John's Anglican Church Hartley (Replacement of Damaged Roof),
 - c) The Hartley Recreation Reserve Land Manager (BBQ Facilities),
2. Advise the Hartley Historic Site Advisory Committee (Display Project) and the Hartley Vale Mount Blaxland Reserve Land Manager (Reconstruction of Driveway and Carparking area) that their applications were unsuccessful in this round, however, will automatically be reconsidered in the next round of the funding.
3. The Hartley Progress Association continue to receive 25% annually of the Hy-Tec Contribution to go towards facilities and infrastructure in the Hartley area which may, at its discretion, be spent on maintenance, upkeep, or improvements to the Hartley School, Hartley Annex Hall and surrounds.

9.1.1.4. ECDEV - 28/03/2022 - Section 3.22 Environmental Planning and Assessment Act 1979 - Expedited Amendment of Minimum Lot Size Map LSZ002 Lithgow LEP 2014

Prepared by Christian Matthews – Graduate Strategic Planner

Department Economic Development & Environment

Authorised by Director of Economic Development & Environment

Reference

Min No 20-222 Ordinary Meeting of Council held on 28 September 2020

Min No 21-88 Ordinary Meeting of Council held on 26 April 2021

Summary

The purpose of this report is to seek Council approval to apply for an expedited amendment of the Lithgow Local Environmental Plan 2014 under section 3.22 of the Environmental Planning & Assessment Act, 1979. This planning proposal is to rectify an error in the minimum lot size legend of map 4870_COM_LSZ_002_160_2021082 of Lithgow Local Environmental Plan 2014 Amendment No 4.

Commentary

Background

On the 26 November 2021, the Lithgow Local Environmental Plan 2014 (LLEP 2014) Amendment No 4 was gazetted finalising the planning proposal over Lot 20 DP 1207089 and Lots 1&2 DP 213770, Main Street, Wallerawang. The purpose of the planning proposal was to amend the LLEP 2014 to achieve the following outcomes:

- Enable light industrial land use on the site; and
- Enable the continuation of the existing motel development land use on part of the site without limitation from existing use rights.

The Planning Proposal sought to achieve these outcomes by:

- Amending the Lot Size Map (LSZ_002) for Lot 20 DP 1207089 from 40ha to Nil.
- Amending the Land Use Zone of the site from part Primary Production RU1 and part SP2 Infrastructure (Electricity Generation) to Light Industrial IN2.
- Inserting a new clause into Schedule 1 – *Additional Permitted Uses* to apply to Lot 20 DP 1207089 and Lot 1 DP 213770 to permit development for the purposes of a Hotel or Motel Accommodation.

To finalise a planning proposal, Council is required to produce and provide the Department of Planning and Environment (DPE) the supporting amended electronic LEP (Local Environmental Plan) maps in pdf format to be uploaded to the legislation website. These maps are given effect through Clause 1.7 of the LLEP 2014 and relate to various provisions found throughout LLEP 2014.

During this amendment, a typographical error occurred in the legend of the minimum lot size map which incorrectly stated that the minimum lot size for areas identified in red (labelled “v”) were 2,200 square metres (sqm) instead of the previous 2,000 sqm. No change to the range of minimum lot sizes as presented in the legend was part of the planning proposal. This error occurred purely in the technical reproduction of the Pdf Maps through Council’s GIS contractor. The error was not identified by either Council or DPE as part of their quality control processes prior to gazettal. This error must now be amended through an expedited planning proposal under Section 3.22 of the Environmental Planning and Assessment Act, 1979 (EP & A Act).

Section 3.22

Section 3.22 OF EP& A Act, allows Councils to apply to amend an environmental planning instrument, in this case LLEP 2014, through a fast-track planning proposal process if the purpose of the amendment is to:

- (a) correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error,*
- (b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature,*
- (c) deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.*

The error in the minimum lot size map legend clearly falls under S.3.22(a) above, being a typographical error. The expedited process will not involve community consultation or exhibition and requires Council to submit a completed S.3.22 EP & A Act submission template and amended map to DPE via the NSW Planning Portal. The Department will then assess and administer the amendment on Council's behalf.

Recording of voting on planning matters

Under Section 375A of the Local Government Act, 1993 a division must be called whenever motion for a planning decision is put at a meeting of the Council or a Council Committee. A decision to amend an environmental planning instrument is a planning decision for the purposes of this division.

Policy Implications

Nil.

Financial Implications

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

Legal and Risk Management Implications

If LLEP map 4870_COM_LSZ_002_160_20210824 is not rectified, it will have the effect of changing the minimum lot size over lands included in the map tile area. This is an unintended consequence of the typographical error which must be corrected.

Attachments

Nil

Recommendation

THAT

1. Council apply for an expedited amendment of the Lithgow Local Environmental Plan 2014 under Section 3.22 of the EP&A Act, 1979, to rectify the Minimum Lot Size as described in the legend of 4870_COM_LSZ_002_160_20210824 from 2,200 sqm to 2,000 sqm.
2. A **DIVISION** be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

9.1.1.5. ECDEV - 28/03/2022 - Environmental Planning and Assessment (Statement of Expectations) Order 2021

Prepared by Lachlan Sims - Team Leader Development
Department Economic Development and Environment
Authorised by Andrew Muir – Director Economic Development and Environment

Summary

To inform Council of the notification by the Secretary of Planning and Environment of the making of an order by the Minister for Planning and Public Spaces in relation to planning and development matters.

Commentary

On 15 December 2021, Council was notified of the making of an order by the then Minister for Planning and Public Spaces, the Hon. Rob Stokes MP, specifying expectations for Councils in relation to planning and development matters. A copy of the notification and related order is attached.

The Minister's order, titled the Environmental Planning and Assessment (Statement of Expectations) Order 2021, details expectations relating to development assessment, planning proposals and strategic planning obligations and establishes performance timeframes in relation to these matters.

In relation to development assessment (the assessment and determination of development applications), the Order specifies that:

- Regionally significant development applications are to be reported to the Regional Panel for determination no longer than 250 days from lodgement, and
- Development applications for which Council is the consent authority are to be determined no longer than 180 days from lodgement.

Over the 2021 calendar year, Council assessed and determined 272 development applications with an average turnaround time of 43 days (lodgement to determination). This figure is consistent with Council's own performance standards for the assessment and determination of development applications which aim for an average assessment and determination timeframe not exceeding 40 days from lodgement.

During 2021, 15% of all DAs received were assessed and determined in less than 20 days while 38% were assessed and determined in a timeframe between 21 and 40 days. DA determinations exceeding 40 days were 45% of those received. Of the development applications received and determined during 2021, none had assessment timeframes exceeding 180 days.

While the above analysis reveals a level of performance consistent with the Minister's order, Council staff remain committed to our own commitment of maintaining an average turnaround time of 40 days or less. The Planning and Development team are continually reviewing and improving DA assessment processes to ensure the quality of applications lodged and the timely determination of applications.

The Minister's expectations order also relates to planning proposals and Council's strategic planning obligations.

Planning Proposals

Since the commencement of the Lithgow Local Environmental Plan (LEP) in 2014, Council has prepared six planning proposals, four of which have been finalised with the remaining two in the last stages of finalisation. Only three of these proposals have been proponent led.

Council’s performance against the Minister’s expectations is outlined in the table below. Council is committed to improving its process to ensure that Planning Proposals are processed efficiently.

Expectation	Council Performance	Comment
Make a decision as to whether to support or not a proponent led planning proposal (rezoning) as soon as practical and no longer than 90 days	All within 90 days Average 15 days from completed application lodgement to Council Decision	Nil
Submit a proponent led planning proposal for a Gateway Determination as soon as practical and no longer than 90 days after having indicated its support for the planning proposal	All within 90 days Average 40 days	Relevant council led planning proposals have also complied.
Publicly exhibit a planning proposal or hold a public hearing in line with the conditions of a Gateway Determination	All proposals were exhibited in line with Gateway Determination conditions	Where required by Gateway conditions, proposals were amended, and approval sought to proceed to exhibition from DPE (Department of Planning and Environment)
Consider or respond to public submissions on a draft Local Environmental Plan (LEP) in accordance with the Council’s Community Participation Plan (CPP)	Planning proposals exhibited post November 2019 (CPP adoption) have accorded to the CPP.	All submissions received were considered and responses were reported to Council
Make a LEP, which has been delegated to the Council, in the timeframes specified in a Gateway determination	Two LEP amendments delegated to Council have been finalised. PP_2018_LITHG_001-00 (Amendment 3 Brays Lane) completed well within timeframe of 12 months being <7 months PP_2020_LITHG_001_00 (Amendment 4 Black/Gold) completed outside timeframe of 9 months by 20 days completed <10 months	PP-2020-4094 (Amendment 5 Foundations) will track up to 60 days over gateway issued timeframe of 12 months due to delays in final mapping boundaries being re-issued by the proponent. DPE have been informed. PP-2021-4862 (Amendment 6-Lidsdale) is tracking to be completed well within timeframe of 9 months.

Strategic planning obligations

In 2018, changes were made to the Environmental Planning and Assessment Act, 1979 to shift the focus of the planning system to sound strategic planning decisions. For the first, time the strategic land use planning role of councils were enshrined in Part 3 of the Act.

Council's performance against the Ministers expectations for strategic planning is outlined in the table below.

Expectation	Council Performance	Comment
Prepare a Local Strategic Planning Statement (LSPS) for its local government area that meets the requirements for these statements under the Act	Council prepared, consulted upon, and adopted its LSPS by 22 June 2020.	Nil
Undertake the required review of its LSPS	Councils are required to undertake a review of its LSPS at least every 7 years. This major review is due by 22 June 2027.	Council's Strategic Planning keep LSPS under regular internal review.
Give effect to a regional and/or district plan applying to the LGA (Local Government Area), including carry out a review of the LEP under section 3.8(3)	The Central West and Orana Regional Plan 2036 came in to effect in June 2017. Council undertook a LEP health check to assess its consistency with the goals and actions of that Plan.	Draft Central West and Orana Regional Plan 2041 has been prepared. Council prepared and lodged its submission to that Plan earlier this month.
Give effect to an adopted local planning strategy (such as a Local Housing Strategy) and any approval requirements issued by the Department	The Lithgow LEP 2014 gives effect to the adopted and endorsed Lithgow Land Use Strategy 2010-2030.	Council will be undertaking its Local Housing Strategy in the 2022/2023 financial year.
Consider State Environmental Planning Policies or other strategies and policies of the Government, the Minister of the Department concerning planning and development matters.	State strategies and policies and ministerial directions are considered in all strategic land use planning decisions.	The relevance and implications of these are addressed in relevant planning reports to Council.

Policy Implications

Nil.

Financial Implications

Nil.

Legal and Risk Management Implications

The Minister's Order seeks to ensure Councils are making planning decisions within appropriate timeframes to ensure orderly and appropriate economic, environmental, and social outcomes and that supports a strong economy and delivers better places. While the Minister's Order does not present any significant risks to Council, the Order implies that where a Council continuously underperforms with regard to the timeframes specified, Council's power to make planning decisions may be removed.

Attachments

1. DPIE Secretary - Notification of Environmental Planning and Assessment (Statement of Expectations) [9.1.1.5.1 - 7 pages]

Recommendation

THAT Council note the information provided on the Minister's Environmental Planning and Assessment (Statement of Expectations) Order 2021.

9.1.2. Economic Development & Environment General Reports

9.1.2.1. ECDEV - 28/03/2022 - Support for households in temporary accommodation on bushfire-affected land

Prepared by Paul Cashel – Development Manager

Department Economic Development & Environment

Authorised by Director of Economic Development & Environment

Summary

This report seeks Council support for households in temporary accommodation on land affected by the 2019/20 summer bushfires.

Commentary

In response to the 2019/20 Summer bushfires, the NSW Government made a number of amendments to the NSW planning framework to support bushfire recovery. One of these measures was to allow temporary occupation of land in the form of a moveable dwelling for a period of up to two years. That period is soon to expire for those who have been occupying land under this provision since the fires. This report seeks to provide clarity to bushfire-affected residents who are currently occupying their land under these provisions, and their neighbours, about Council's intentions to allow them more time to re-establish a permanent dwelling on their property, under certain conditions.

Background

The NSW Department of Planning, Industry and Environment amended the Local Government (Manufactured Home Estates, Caravan parks, Camping Grounds and Moveable Dwellings) Regulation 2021 to allow people affected by the 2019/20 bushfires to temporarily occupy land. These provisions meant that people could live on land in moveable dwellings for up to two years without development consent.

In the Lithgow LGA more than 75 dwellings and 204 other structures were either damaged or destroyed. A small number of residents living in dwellings that were destroyed have chosen to remain on their land, in temporary accommodation, under the provisions of Section 77(1)(d) of the Local Government (Manufactured Home Estates, Caravan parks, Camping Grounds and Moveable Dwellings) Regulation 2021. Reasons to do this range from being supported to rebuild their homes through the NSW Temporary Recovery Pod Accommodation Program; wanting to be on the land to facilitate recovery; to having no viable financial alternative. Feedback from Council's Community Recovery Officer indicates that delays in rebuilding and uncertainty about the status of their occupation beyond the initial two-year grace period is affecting the wellbeing of some clients.

We know from experience in Lithgow and other jurisdictions, that recovery takes time, and it is often more than two years before people are in a position to rebuild. This may be due to not being in the right frame of mind to decide on what that permanent arrangement should be; not having sufficient finances to progress redevelopment; or not having access to the physical resources to support redevelopment. This timeframe has been affected by the Covid pandemic and associated economic stimulus, which has intensified development pressure resulting in increased assessment processing timeframes, reduced availability of consultants and contractors, increased cost and reduced availability of materials and subsequent disaster events.

Once the NSW Government's two-year timeframe expires, those wishing to occupy land are required to seek development consent from Council. Should unauthorised occupation continue, Council has powers to enforce compliance with the NSW planning framework. Council's usual approach to these issues is, in the first instance, to work with the occupants to develop an agreed process to regularise their occupation of the land, providing a dwelling entitlement already exists. Should agreement not be reached, Council generally initiates compliance action to remedy the breach.

This report seeks clarity for bushfire-affected people in this situation that Council is willing to work with them over a further two-year period to move through the development assessment process. It also seeks to provide clarity to others about the particular, exceptional circumstances that apply in this situation.

Options

Council has the option to:

1. Provide clarity to bushfire-affected households that are temporarily occupying bushfire-affected land that they have a further two years, with certain conditions, to work towards development consent. This is the recommended action.
2. Continue to apply the usual compliance framework to those who are occupying land without the necessary approvals.
3. Amend the conditions under which Council commits to work towards regularisation of occupation.

Community and Stakeholder Engagement

Engagement undertaken

Council's Community Recovery Officer has liaised with the residents occupying their land under the temporary accommodation provisions. These residents have expressed concern about their ability to find suitable accommodation once that period expires.

The Recovery Officer has engaged with the Minderoo Pod program through Resilience NSW in relation to options to allow bushfire-affected residents to continue to occupy land beyond the two-year period provided for under the Local Government (Manufactured Home Estates, Caravan parks, Camping Grounds and Moveable Dwellings) Regulation 2021. Through these discussions, a resolution of Council has been identified as the most appropriate mechanism to achieve the outcome sought.

Engagement planned

Council's Community Recovery Officer will continue to work with bushfire-affected households to support their recovery, and Council's development assessment team will continue to prioritise the assessment of bushfire rebuilds.

Environment

Continued occupation of land in a temporary capacity has the potential for adverse impacts on the environment, particularly in relation to ineffective management of sanitary waste. The proposal provides that compliance action may be taken where there are material impacts on the environment from this proposed extension of temporary occupation.

Economic

There are no material impacts on the economy associated with the proposal. There are likely to be minor economic benefits associated with supporting households to remain within the Lithgow City Council Local Government Area through these temporary measures.

Social / Cultural

The proposal seeks to address the challenges being faced by bushfire-affected households in temporary accommodation on their land by supporting them to remain on their land and within their community as they continue their recovery journey.

Policy Implications

The proposal is consistent with Council's adopted position to prioritise support for bushfire-affected households. The proposal is also consistent with Council's adopted policies and guidelines relating to regulatory compliance, including Policy 5.4 Enforcement Policy.

Financial Implications

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

Legal and Risk Management Implications

Council is required to discharge its planning duties effectively and ensure that development takes place in an orderly and regulated manner. Where a breach of planning legislation occurs, Council has regulatory power under which certain action can be taken. However, in carrying out its regulated duties which may make a resident homeless, Council must consider whether a resident is able to arrange satisfactory alternative accommodation within the locality. Where a resident is unable to arrange satisfactory alternative accommodation, Council must provide a resident with information as to the availability of satisfactory alternative accommodation within the locality, and provide any other assistance Council considers appropriate.

Given the critical shortage of trades, materials and limited affordable alternative accommodation in the Lithgow LGA, the proposal seeks to achieve an acceptable short-term planning outcome, by working constructively with bushfire-affected landowners, acknowledging the real challenges they face in working towards their outcome.

Risk

The proposal presents some risk to Council that there will be a perceived inequity in the treatment of bushfire-affected households and others occupying land without approval or those who have gone through the development assessment process. The proposal seeks to mitigate these risks by clearly communicating the exceptional circumstances in which many bushfire-affected households find themselves and including a range of limitations on the manner in which an extension of temporary occupation is to be undertaken.

Attachments

1. Resilience NSW advice [9.1.2.1.1 - 4 pages]

Recommendation

THAT Council:

1. Note that of the 54 houses lost in the Lithgow LGA in the 2019/20 Summer bushfires, Council has received a total of 14 development applications for dwelling rebuilds and has issued 14 Development Consents; one dwelling has been rebuilt and occupied with Council approval and ten dwellings remain under construction.
2. Note that the Department of Planning, Industry and Environment relaxed occupation of land for bushfire-affected households to allow them to live in temporary accommodation on their bushfire-affected land for up to two years.
3. Acknowledge that a small number of households affected by the 2019/20 Summer bushfires continue to live on their land in temporary accommodation with limited financial, physical, psychological and emotional means to progress redevelopment.
4. Acknowledge the critical shortage of trades and materials and limited affordable alternative accommodation in the Lithgow LGA.

5. Support residents of bushfire-affected households occupying their bushfire-affected property and not progress compliance action in relation to occupation of temporary accommodation on that land for a two-year period from 1 April 2022, providing that:
 - a) their dwelling was destroyed or severely damaged in the 2019/20 Summer bushfires;
 - b) their land has a dwelling entitlement;
 - c) they are temporarily occupying their land under the provisions of the NSW Government's exemption for bushfire-affected people;
 - d) they are not adversely affecting neighbouring properties;
 - e) the occupation of the property does not present a material risk to the environment;
 - f) the occupation of the property does not present a material health and safety risk;
 - g) they have no reasonable prospect of alternative affordable accommodation in the local area; and
 - h) they are actively working with Council to progress permanent occupation under a valid development consent.

9.1.2.2. ECDEV - 28/03/2022- Employment Lands Reform - Lithgow translation of the employment zones land use tables

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 inform Council of the proposed amendments to employment zones within Lithgow Local Environmental Plan 2014 as part of the NSW government employment zones reform. The reports also seeks endorsement for the translation of the employment zones land use tables and relevant local provisions as outlined in the attachment to this report, to enable the proposed amendments to proceed to the public exhibition phase.

The implementation of the reform is being led and administered by the Department of Planning and Environment (DPE) which reduces the burden on Council's resources.

Commentary

Background

The reform of employment zones is in response to the recommendations of the NSW Productivity Commission and aims to support long-term economic recovery through job creation and encourage increased productivity in NSW.

A key outcome of the reform will be ensuring employment zones provide clear strategic intent, include clarity around their application and increase flexibility around land uses.

Further detail of the employment zone reform can be viewed on the Departments website at: <https://www.planning.nsw.gov.au/employment-zones-reform> .

The existing Business (B) and Industrial (IN) zones are being replaced with five new employment zones and three supporting zones under the Standard Instrument (Local Environmental Plans) Order 2006 (SI LEP Order). The new zones are:

- E1 Local Centre
- E2 Commerical Centre
- E3 Productivity Support
- E4 General Industrial
- E5 Heavy Industrial
- MU1 Mixed Use
- W4 Working Waterfront
- SP4 Enterprise

The employment zones reform was exhibited by the then Department of Planning, Industry and Environment (DPIE) between 20 May to 30 June 2021. Council's Strategic Planning team participated in a workshop conducted by the Department for Council's in March 2021 to provide local feedback.

Each Local Environmental Plan prepared under the Standard Instrument LEP Order will need to be updated to rezone existing B and IN zones to an Employment (E) or supporting zone by December 2022 when the B and IN zones are repealed from the SI LEP Order. This means that a translation amendment to Lithgow LEP 2014 is proposed.

Proposed Lithgow LEP2014 employment zones translation

The proposed translation of the B and IN zones to the new employment zones within the Lithgow Local Environmental Plan 2014 is outlined in the following table.

Existing Zone	Translated Zone
B1 Neighbourhood Centre	E1 Local Centre
B2 Local Centre	E1 Local Centre
B4 Mixed Use	MU1 Mixed Use
B6 Enterprise Corridor	E3 Productivity Support
B7 Business Park	E3 Productivity Support
IN1 General Industrial	E4 General Industrial
IN2 Light Industrial	E4 General Industrial
IN3 Heavy Industrial	E5 Heavy Industrial

Council’s Strategic Planning staff have, earlier this year, reviewed the preliminary translation provided by the Department and confirmed the proposed zone and land use tables for each zone as representing a “best fit” with Council’s strategic planning framework and existing local considerations.

The proposed land use tables and local provisions translations are outlined in the attachment to this report. Please note the mandated content of the land use tables is outlined in black and cannot be altered by Council. The local content is outlined in blue and can be amended by Council, however it should be noted that this is primarily the content translated from the existing land use tables within Lithgow LEP 2014.

The translations (to new zones) do not materially alter the land use intent from the existing zones. However, they do increase the flexibility of each land use zone to provide for a greater range of mandated permitted land uses that will need to be carefully assessed and managed at the local precinct scale. It should be noted that permissibility within a land use table is only one of the planning considerations when assessing new development and land use changes.

A savings and transitional provision will be made which means Council can make changes to other documents incrementally including Development Control Plans (DCPs), Local Strategic Planning Statements (LSPS), council strategies, policies, plans and forms.

Amending Order changes to the Standard Instrument (LEP) Dictionary

The Amending Order introduces new land uses into the Standard Instrument Order Direction 5 and Dictionary. The Dictionary now includes definitions for Creative industries, Data centres and Goods repair and re-use premises. Additionally, amendments (mostly consequential) have been made to several land use terms to improve clarity or remove redundant land use functions.

Next Steps

The Department of Planning and Environment is co-ordinating the translation of LEP amendments through a self-repealing State Environmental Planning Policy (SEPP) and is proposing a centralised public exhibition of all LEP amendments in April 2022.

The SEPP Explanation of Intended Effect (EIE) will outline each Council’s proposed LEP amendment. The Department is building a web platform for public exhibition so that communities can readily identify their local changes and make a specific submission on the proposed translation and associated detail relevant to their local area.

Council is encouraged to supplement this with its own communications with stakeholders, local businesses, landowners, and the broader community. To assist with exhibition, DPE will have available the following communications materials:

- DPE 'how to' video for councils to explain the submissions process and assist with any enquiries
- FAQs on the submissions process that can be shared
- Social media content and posts that can be shared
- Text that can be placed on council websites/included in landowner letters/information Brochures or other information sharing mechanisms.

It is recommended that Council link its website to the exhibition webpage on the planning portal.

The Department will share all submissions with Council following the exhibition to enable finalisation of the amendments in the second half of 2022.

Should Council find that further change is required to the employment zones following implementation of these reforms or as a response to more detailed employment lands reviews, strategies, or projects, including the Lithgow Emerging Economy Project (LEEP) for example, Council can prepare a separate future planning proposal.

Recording of voting on planning matters

Under Section 375A of the Local Government Act, 1993 a division must be called whenever motion for a planning decision is put at a meeting of the Council or a Council Committee. A decision to amend an environmental planning instrument is a planning decision for the purposes of this division.

Policy Implications

Nil arising from this report

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 arising from this report

Attachments

1. Lithgow LEP 2014 Translation of the employment zones land use tables Translation - V2.0 [9.1.2.2.1 - 11 pages]

Recommendation

THAT:

1. Council endorse the NSW Government *Translation of the employment zones land use tables – Lithgow LEP 2014 land use tables (Version 2.0)* for public exhibition.
2. A further report be provided to Council following the public exhibition process detailing the submissions received in relation to Lithgow LEP 2014 proposed amendments.
3. A **DIVISION** be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

9.1.2.3. ECDEV - 28/03/2022 - Draft Standard Instrument LEP Agritourism Amendment Order 2021

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 to inform Council of proposed amendments to the NSW planning system to streamline approval of 'agritourism' to support farm businesses and regional economies. The report also seeks Council endorsement to:

- Nominate to adopt two new optional clauses into the Lithgow Local Environmental Plan 2014 (LLEP 2014), being CI 5.23 - Farm stay accommodation and 5.24 - Farm gate premises;
- Nominate local numerical development standards within the clauses to be adopted;
- Nominate any additional local objectives within the clauses to be adopted; and
- Nominate zones where the new agritourism subset land uses of farm experience premises, farm gate premises and cellar door premises will be permitted with consent in LLEP2014.

Commentary

Background

In March/April 2021 the then Department of Planning, Industry and Environment exhibited an Explanation of Intended Effect (EIE) 'Agritourism and small-scale agriculture development'. The strategic planning team participated in the Department's briefing workshop held in April and provided local feedback. At this time Council officers expressed an interest in adopting optional LEP (Local Environmental Plan) clauses to facilitate farm stay accommodation and farm gate activities.

The Standard Instrument (Local Environmental Plans) Amendment Order 2021 (SI Order) is the first stage of rolling out the proposed amendments in the EIE. A draft of this SI Order has been released.

Proposed changes

Responding to the submissions received to the EIE, the SI Order includes the following changes:

- New land use terms for 'agritourism,' 'farm gate premises' (previously farm gate activities in the EIE) and farm experience premises (previously farm events in the EIE);
- Changes to the definition of 'farm stay accommodation';
- Optional clauses to be inserted into the Standard Instrument LEP for 'farm stay accommodation' and 'farm gate premises'; and
- Transferring 'cellar door premises' from a subset of 'retail premises' to become a subset term of 'farm gate premises.'

Benefits of the changes

The Department has identified the following benefits from the proposed changes. They will:

- provide farmers with additional incomes sources to allow them to be more resilient;
- enable them to better recover from natural disasters and the economic impacts of COVID 19 pandemic; and
- provide opportunities for sustainable tourism outlined in the regional plans.

These benefits are consistent with Council's economic planning priorities to increase the visitor economy, protect the economic values of rural land, and to attract investment and grow local jobs within Lithgow 2040 Local Strategic Planning Statement.

The attached Technical Detail paper outlines the planning definitional changes and an issue with Council's Farmland Rating Category which will be reviewed separately.

Planning Comments

The planning changes to support 'Agritourism' land uses are consistent with Council's strategic planning priorities.

Council will further explore the gaps that may still exist in relation to tourist accommodation and function centres not related to primary production businesses within the Rural and Rural Residential Strategy currently being prepared.

Next Steps

Council officers will complete the required Agritourism Nomination Form on the NSW Planning Portal to nominate to adopt the optional clauses and identify zones to permit the new land uses within the Lithgow Local Environmental Plan 2014. This is required to be submitted by 31 March 2022.

Council's nominations will be included in a self-repealing State Environmental Planning Policy (SEPP) that will amend the Lithgow LEP 2014 without the need for individual planning proposals. This is administered and implemented by DPE reducing the resource burden on Council.

The Department of Planning and Environment (DPE) have indicated that the SEPP will be made in Mid 2022.

Recording of voting on planning matters

Under Section 375A of the Local Government Act, 1993 a division must be called whenever motion for a planning decision is put at a meeting of the Council or a Council Committee. A decision to amend an environmental planning instrument is a planning decision for the purposes of this division.

Policy Implications

Nil arising from this report

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

Council will review its farmland rating category application to conform with S.515 of the Local Government Act 1993 to avoid future potential challenges within the Land and Environment Court in relation to land use definitions proposed within the SI Order.

Attachments

1. Draft Standard Instrument(LEP) Amendment(Agritourism) Order 2021 [9.1.2.3.1 - 6 pages]
2. Technical Detail of Proposed Agritourism Amendments [9.1.2.3.2 - 5 pages]

Recommendation

THAT:

1. Council note the report on the Draft Standard Instrument (Local Environmental Plans Amendment (Agritourism) Order 2021.
2. Council endorse the nomination to include the optional clauses CI5.23 and CI 5.24 into Lithgow Local Environmental Plan 2014 including the nominated numerical standards outlined (in red) in the Technical Detail paper attached to this report.
3. Council endorse the nomination of the RU1 Primary Production and RU2 Rural landscape zone to permit 'agritourism' land uses.
4. A DIVISION be called in accordance with the requirements of Section 375A (3) of the Local Government Act, 1993.

9.2. Finance and Assets Reports

9.2.1. FIN - 28/03/22 - 2022/23 Additional Special Variation

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

Summary

The purpose of this report is to provide Council with information issued by the Office of Local Government (OLG) on a 2022/23 Additional Special Variation (ASV) process. The report also includes background information on the reasons for the OLG's provision of the one-off ASV process. The report recommends that Council resolve to apply for a 2.5% permanent ASV for the 2022/23 year to ensure that Council has sufficient funds to meet its obligations for 2022/23 and future years.

Commentary

2022/23 Rate Peg

The amount by which a council can increase its rates revenue in any year is determined by the NSW Government, with input from IPART. This is known as rate pegging.

The 2022/23 rate peg was set by IPART at only **0.7%**, which is the lowest rate cap increase in 20 years.

The rate peg for 2022/23 was based on the change in the Local Government Cost Index (LGCI) and an adjustment to remove the costs of the 2021 local government elections that were included in the 2021/22 rate peg. The LGCI is backward looking and reflects the change in the LGCI over the year to June 2021 of 0.9%.

By comparison to the LGCI quoted above, the December quarter 2021 headline Consumer Price Index (CPI) was 3.5% and there have been recent significant increases in the cost of supplies required by Council to deliver services and maintain / renew assets, including materials and fuel.

Advocacy to Change the 2022/23 Rate Peg

Lithgow Council joined with other Councils and Local Government NSW (LGNSW) to advocate for a more realistic 2022/23 rate peg. LGNSW argued that the financial sustainability of regional and rural Councils across NSW would be put at risk by the low rate peg increase. A lot of planned work would be out of financial reach. Also, the shortfall between the rate peg increase and what we argue is a more accurate necessary increase will compound going forward.

In response to the advocacy efforts, the OLG recently announced a 2022/23 Additional Special Variation (ASV) process. The ASV application process will be a simpler more targeted application procedure, compared with the Special Rate Variation process. Councils may apply for a total special variation of up to **2.5%**. Further details of the ASV process are provided below.

IPART has also been requested by the NSW Government's Office of Local Government to undertake a broader review of its rate peg methodology, including the Local Government Cost Index, with outcomes from the review expected to shape rate peg determinations in future years. The action taken by the OLG alludes to the "error" of the rate peg this year.

Additional Special Variation (ASV) Process for 2022/23

The key points of OLG Circular 22-03 Guidelines for ASV Process for 2022/23 are as follows:

- Councils may apply for a **temporary or permanent single year special variation** for 2022/23 under section 508(2) of the Local Government Act 1993 (the Act), and
- the percentage sought in the application is the lower of:
 - **2.5%** (including population factor) or,
 - the Council's assumed 2022-23 rate peg as exhibited in its Long Term Financial Plan (LTFP) (including population factor).

Councils will need to demonstrate that:

- Council has demonstrable financial need such that, in the absence of a special variation, Council would not have sufficient funds to meet its obligations as identified in its LTFP as and when they fall due in 2022/23; and
- Where Councils are applying for a permanent special variation, in addition to the above criterion, the Council has demonstrable financial need for the special variation to be retained in its rate base on an ongoing basis; and
- Council's IP&R documentation budgeted for an income increase above the percentage specified for the Council for 2022-23 under section 506 of the Act; and
- Council has resolved to apply for the special variation under section 508(2) of the Act and that the resolution clearly states:
 - whether the resolution is for a temporary or permanent special variation under section 508(2) of the Act; and
 - the additional income that Council will receive if the special variation is approved; and
- why the special variation is required; and that the Council has considered the impact on ratepayers and the community in 2022/23 and, if permanent, in future years if the special variation is approved and considers that it is reasonable.

IPART will not require Councils to demonstrate community consultation outside of the processes outlined above. To demonstrate community consultation, IPART will consider the consultation undertaken through the IP&R process and consider that the resolution to apply for a ASV meets the requirements outlined above.

Under the ASV round of applications:

- IPART will accept applications until **29 April 2022**;
- IPART will publish applications to enable community consultation for a period of at least three weeks; and
- IPART will notify Councils of its decision no later than 21 June 2022.

Recommendation on an Additional Special Variation (ASV) Application

It is recommended that Council apply for a permanent ASV of 2.5% in total. The adopted LTFP assumed a rate peg of 2.5% in the 2022/23 year and Council's 2022/23 service commitments and asset maintenance / renewal program are based on the LTFP assumption.

Council can clearly demonstrate that it would not have sufficient funds to meet its obligations as identified in its LTFP as and when they fall due in 2022/23. Council also has demonstrable financial need for the special variation to be retained in its rate base on an ongoing basis.

As for the final bullet point above (that the Council has considered the impact on ratepayers and the community), the Council's adopted LTFP assumes a factor of a 2.5% increase annually. This was premised on an assumed CPI of 2.5%, meaning that the rates do not increase beyond, or contribute to, increased costs of living.

Details of ordinary rates income is provided below:

- 2021/22 Notional Yield of Ordinary Rate Income - \$14,331,228.

- 2021/22 Notional Yield + 0.07% rate peg increase less excess from prior year - \$14,372,497 = **increase of \$41,269.**
- 2021/22 Notional Yield + 2.5% ASV increase less excess from prior year - \$14,677,432 = **increase of \$346,204.**

The additional income that Council will receive if the special variation is approved would be **\$346,204** increase on the 2021/22 Notional Yield. The additional income has been included in the draft 2022/23 budget pending Council's decision as to whether to proceed with an ASV application.

Policy Implications

Nil.

Financial Implications

As detailed in this report.

Legal and Risk Management Implications

The proposed Additional Special Variation will assist Council with managing financial sustainability risks for the 2022/23 year.

Attachments

1. Council Circular 22-03 Guidelines for Additional Special Variation (AS V) Process for 2022-23 [9.2.1.1 - 3 pages]

Recommendation

THAT Council:

1. Apply to the NSW Independent Regulatory and Independent Pricing Tribunal for a 2.5% one-off (permanent) special variation under section 508 (2) of the NSW Local Government Act – being for the specific purpose of ensuring that Council has sufficient funds to meet its obligations as identified in its LTFP for 2022/23 and future years.
2. Note that the additional income that Council will receive if the special variation is approved is calculated at **\$346,204** increase on the 2021/22 Notional Yield.
3. In adopting the above positions, has considered the impact on ratepayers and the community in 2022-23 and in future years if the special variation is approved and considers that it is reasonable, on the basis that the special variation does not increase rates beyond the CPI.

9.3. People and Services Reports

9.3.1. PS - 28/03/2022 - Community Recovery Officer Quarterly Report

Prepared by Rachel Nicoll – Community Recovery Officer

Department People & Services

Authorised by Director of People & Services

Summary

The NSW Bushfire Community Recovery Officer (CRO) Program commenced in late 2020 across 22 Local Government Areas significantly impacted by the 2019-20 Summer bushfires. Community Recovery Officers are based in local councils to support their community to identify needs, develop local recovery programs, assist in accessing information and resources and provide leadership and community capacity building.

The CRO program was extended for an additional 12 months, providing dedicated support for the community who are experiencing complex recovery issues with the additional challenges of floods and COVID-19.

The Community Recovery Officer (CRO) quarterly report provides a summary of program deliverables, recovery priorities, and any significant projects supporting bushfire affected communities as well as assisting to those impacted by floods. This report encompasses the period November 2021 – February 2022 and includes three phases of flood recovery.

The CRO program is funded through the joint Commonwealth-State Disaster Recovery Funding Arrangements (DRFA).

Commentary

Progress on deliverables

Deliverable 1: Establish a Community Resilience Network

Percent completed:	70%	Status:	Not yet started / In progress / Overdue / Completed
Rationale for deliverable status and percent completed:	<p>Status of Activities, Timeliness and Cost</p> <p>The Community Resilience Network (CRN) met online via Zoom on Monday 25th October 2021. Chief Inspector Chris Sammut presented on Emergency Management (EM), the functions of the Local Emergency Management Committee (LEMC) and what occurs in an Emergency Operations Centre (EOC).</p> <p>The Community Resilience Network was activated during the January 11, 2022, severe storm and flood response. A placeholder has been scheduled for the next CRN meeting to occur on Monday, 4 April 2022.</p> <p>The agenda for this meeting will include storm and flood information, confirmation of CRN membership and a review of the Terms of Reference.</p> <p>Constraints/Risks:</p> <p>Several factors have had an accumulative effect of slowing meeting frequency and planned activities undertaken:</p> <ul style="list-style-type: none"> - COVID restrictions and lockdown (meeting attendance via zoom) - Anniversaries and tiredness felt by community at end of 2021 - Severe weather and flooding resulting in three disaster declarations: <ul style="list-style-type: none"> o AGRN 987 - 9 November 2021 onwards 		

	<ul style="list-style-type: none"> o AGRN 996 - Lithgow severe storm and flash flooding as of 11 January 2022 o AGRN 1012 - NSW Severe Weather and Flooding from 22 February 2022 onwards.
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Deliverable 2: Facilitate community recovery events

Percent completed:	91%	Status:	Not yet started / In progress / Overdue / Completed
Rationale for deliverable status and percent completed:	<p>Status of Activities, Timeliness and Cost Significant recovery events were delivered in collaboration with and in support of local groups, agencies and organisations:</p> <p><u>2021</u></p> <ul style="list-style-type: none"> - Art of Recovery - Lead lighting and Hub at Dargan, 28 October - Mingaan Wiradjuri Aboriginal Corporation Celebration - Bushfire Community Recovery & Resilience Project, 5 November - Community Events at Bay Tree and Kilibinbin Nursery, 20 November - Writing Resilience Zoom Workshop, 20 November - Women's Health Week Event – Self Care in times of Uncertainty, 24 November - ReNew Exhibition of works by the local community that respond to the 2019/20 bushfires. Opening night, 26 November – 12 December. - Strengthening Business Customer Experience Working Breakfast, 1 December - Cullen Bullen RFS Family Fun Day, 18 December - Association of Bell, Clarence and Dargan Healing Ceremony, 21 December <p><u>2022</u></p> <ul style="list-style-type: none"> - Capertee / Kandos Small Community events, 19 February - Seeds of Recovery, 26 February - EPA Healing Ceremony Maiyingu Marragu, 28 February - Glen Davis Community Morning Tea, 15 March <p>The percentage completed has been kept at its previously reported level due to ongoing activities.</p> <p>Constraints/Risks: COVID restrictions limited the ability to deliver some workshop and training events. The changing nature of services (exit and new arrivals) in combination with the roll out of grant funded projects will increase need to identify stakeholder partnerships.</p>		

Deliverable 3: Develop a Local Recovery Action Plan incorporating community needs and activities

Percent completed:	70%	Status:	Not yet started / In progress / Overdue / Completed
Rationale for deliverable status and percent completed:	<p>Status of Activities, Timeliness and Cost Project mostly on target, data collected from 1:1 community interactions and activities continues to be collected as part of this plan. The successful outcome of Council’s EPA Bushfire-generated Green Waste Program is a significant recovery action and priority for both plans.</p> <p>Constraints/Risks: Flood and grant funding has taken the focus of late, which has restricted the ability to undertake planned consultation. Adaptive management will be applied going forward and reviewing ways to deliver this with the required communications and engagement outcomes prior to the end of the financial year.</p>		

Deliverable 4: Provide access to relevant and timely recovery information

Percent completed:	85%	Status:	Not yet started / In progress / Overdue / Completed
Rationale for deliverable status and percent completed:	<p>Status of Activities, Timeliness and Cost This deliverable continues to experience an increase in demand for recovery assistance and support following consecutive disaster events. Since November 2021, 148 residents and businesses have registered for flood related enquiries or to receive updates.</p> <p>In February, Lithgow City Council worked in partnership with Resilience NSW, Central NSW Business HQ and Service NSW to produce a webinar of the Storm and Flood Disaster Recovery Small Business Grant (November – December 2021 storm & floods) to help pay for costs of clean-up and reinstatement of a small business or not-for-profit organisations operations who suffered direct damage. The recorded webinar is available to watch here: https://www.youtube.com/watch?v=YbOcm4F4ZkM</p> <p>Information continues to be communicated through the existing channels, delivering advice and support for recovery and community groups, through the provision of resources and partnerships including:</p> <ul style="list-style-type: none"> - Recovery support services and closures/availability over Christmas - Mental health information and messages - Promotion of free training opportunities and workshops - Get Ready and emergency preparedness updates - Grant and funding rounds <p>The Lithgow Readiness Rally: Be Aware and Prepare webinar was hosted on 20 November 2021 in partnership with local emergency services, to learn about disaster preparedness and to strengthen community resilience through resources and advice. View the recordings and program at: https://www.readinessrally.com.au/</p> <p>Constraints/Risks: The Storm and Flood event of 11 January 2022 has not been recognised for the same assistance as other disaster declarations. This is causing confusion and frustration for those impacted with reduced financial support. Grant funding continues to be a significant issue with affected areas not reflected and more relevant targets, such as support for community groups</p>		

	<p>an increasing gap that has multiplied out since the fires. Continuing to report and escalate with Resilience NSW.</p> <p>Due to COVID restrictions the Lithgow Readiness Rally was restricted to an online event resulting in an underspend for this project. An in-person event will be delivered in 2022.</p>
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Deliverable 5: Develop a Local Recovery Plan

Percent completed:	68%	Status:	Not yet started / In progress / Overdue / Completed
Rationale for deliverable status and percent completed:	<p>Status of Activities, Timeliness and Cost The Draft Local Recovery Plan continues to align with the activities of the Recovery Action Plan with updates made based on feedback from one-on-one and consultation with community groups. Linkages to Council’s Adverse Events Plan under the Drought Communities Funding have been incorporated.</p> <p>Constraints/Risks: Flood recovery has restricted this deliverable and activities to enhance the overall plan, however with community outreach underway this will be brought back into focus.</p>		

Deliverable 6: Develop a Transition Plan

Percent completed:	69%	Status:	Not yet started / In progress / Overdue / Completed
Rationale for deliverable status and percent completed:	<p>Status of Activities, Timeliness and Cost A restructure of Resilience NSW now captures Lithgow in the Central West Orana and Far West region, rather than Greater Sydney, which is now responsible for overseeing and review of the Annual Work Plan.</p> <p>The Community Recovery Officer (CRO) transition will see a formal and structured plan to existing on-ground services and projects that support ongoing recovery.</p> <p>Constraints/Risks: A risk of the transition plan is that reports and issues affecting the Lithgow LGA will need to be examined to continue to be fed to Resilience NSW. Transition actions are tracking ok. A variation for project underspends is predicted to extend some projects into the next financial year.</p>		

Deliverable 7. Other deliverables, activities, or initiatives as identified by council

Percent completed:	85%	Status:	Not yet started / In progress / Overdue / Completed
Rationale for deliverable status and percent completed:	<p>Status of Activities, Timeliness and Cost Deliverables and initiatives supported include:</p> <ul style="list-style-type: none"> - The EPA Bushfire Generated Green Waste Program – Lithgow City Council was among the 15 successful applicants out of a 50 eligible Councils for this important program delivering \$2.16 million to over 80 individual landowners and businesses, as well as fire affected public lands and roadside reserves. - A Healing Ceremony with Mingaan Wiradjuri Aboriginal Corporation gathering at Maiyingu Marragu prior to works commencing under the EPA Green Waste Program 		

	<ul style="list-style-type: none"> - A successful tender for a Disaster Recovery Community Development Worker through Wentworth Healthcare provider of the Nepean Blue Mountains PHN. This role will work complementary to the CRO until December 2022. - Negotiations with the Minderoo Pod Foundation for extension of temporary accommodation agreements for residents. - Council updates on Bushfire Prone Land Mapping - Input into Council's Adverse Events Plan (Drought Communities Program Round 2) <p>Constraints/Risks: Due to Covid 19 restrictions and severe weather events there is a need to revisit priorities and possible timeframe extensions for the following:</p> <ul style="list-style-type: none"> - BCRRF Stream 1 projects to extend the timeframe of delivery to 30 June 2023. - EPA Bushfire Generated Green Waste Program (impact of severe weather).
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Priorities for next quarter

Theme	Description
<p>Immediate</p>	<p>Continue to provide flood recovery information and updates, liaising with affected residents and communities.</p> <p>Delivery of a Health Hub and Recovery Services Displays at the 2022 Lithgow Show.</p> <p>Deliver the Rebuild, Recharge, Renew business workshop as part of NSW Small Business Month - March 2022</p> <p>Deliver the first two workshops as part of the grants program offering to better support community groups and organisations –</p> <p style="padding-left: 40px;"><u>Tue 29 March</u> Where is Your Group Heading? Getting Strategic This workshop will help you to identify how to think, plan and strategise to be grant ready for future success! Maldhan Ngurr Ngurra Lithgow Transformation Hub – 4PM - 5:30PM</p> <p style="padding-left: 40px;"><u>Wed 30 March</u> Small Business and Not for Profit grants Learn how grants operate, how to prepare project plans for grant funding, how to identify and select the right grant and more! Zig Zag Hotel Motel - 7AM – 8:30AM https://www.eventbrite.com.au/o/lithgow-city-council-31677941159</p> <p>Continue to support community grant projects and co-ordination and referrals to services.</p> <p>Support the recruitment of the NSW Health Disaster Recovery Clinician for Lithgow LGA</p>
<p>Preparedness</p>	<p>Identify existing strategies and duties to be undertaken by Council and other relevant stakeholders, in order to prepare for, and recover from, disaster events.</p>

		Streamline the approach of Council to meet the needs of the community during recovery from disaster events.
Community Resilience Network		Meeting placeholder for Monday 4 April 2022.
EPA's Generated Green Waste Program	Bushfire	Monitor and provide program updates (reporting arrangements). Provide information to residents. Support EPA case study of Lithgow LGA.
Financial Reporting		Application for project variations for underspends and timeframe extensions. Reporting of expenditure and forecasts for CRO and BCRRF.

Policy Implications

N/A

Financial Implications

- Budget approved - \$190,414 (fully grant funded)
- Cost centre - 600244 Community Recovery (P&S).
- Expended to date - \$119,457
- Future potential impact – N/A

Legal and Risk Management Implications

N/A

Attachments

1. Recovery & Resilience November 2021 [9.3.1.1 - 4 pages]
2. Recovery & Resilience December 2021 [9.3.1.2 - 5 pages]
3. Recovery & Resilience January 2022 [9.3.1.3 - 4 pages]
4. Recovery & Resilience February 2022 [9.3.1.4 - 6 pages]

Recommendation

THAT Council note the Community Recovery Officer report for the period November 2021 – February 2022.

9.4. Policies and Governance

9.4.1. GM - 28/03/2022 - New Council Designated Person Returns for the period 1 July to 22 December 2021

Prepared by Trinity Newton – Executive Assistant

Department Executive

Authorised by General Manager

Reference

Min 21 –253: Ordinary Meeting of Council held 25 October 2021

Summary

To advise Council of returns lodged with the General Manager for Councillors elected to office at the Local Government Elections held 3 December 2021.

Commentary

Under the Model Code of Conduct for Local Councils in NSW (Model Code of Conduct) all councillors must lodge a written return of interests with the General Manager within three months of their election or appointment unless they have submitted a return within the previous three months.

These operate as a key transparency mechanism for promoting community confidence in council decision making, whether by councillors or by staff or others under delegation.

Complaints about breaches of these requirements are to be referred to the Office of Local Government (OLG) and may result in disciplinary action by the council, the Departmental Chief Executive, or the NSW Civil and Administrative Tribunal.

Returns of interests are an important accountability mechanism for promoting community confidence in decision making by councillors and others and for ensuring that they disclose and appropriately manage conflicts of interest they may have in matters dealt with by the council or joint organisation.

Among other things, councillors and others who are required to complete returns of interests must disclose the following types of interests in their returns:

- interests in real property
- gifts
- contributions to travel
- interests and positions in corporations
- whether they are a property developer or a close associate of a property developer
- positions in trade unions and professional or business associations
- dispositions of real property
- sources of income, and
- debts.

Under the Model Code of Conduct, general managers and executive officers must maintain a register of returns of interests and returns must be tabled at the first meeting of the council after they are required to be lodged.

Returns of interests must also be made publicly available free of charge on councils' websites, unless there is an overriding public interest against disclosure of the information contained in them or to do so would impose unreasonable additional costs on the council.

All of the current Lithgow City Council councillors have completed a written return of interests and lodged these within the three month period.

Policy Implications

Policy 9.9 Public Interest Disclosure Policy.
Code of Conduct.

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. Current 2021 Disclosures by Councillors - Returns [9.4.1.1 - 1 page]

Recommendation

THAT Council acknowledge the disclosures received under the Model Code of Conduct for Local Councils in NSW (Clause 4.21) for the period 1 July 2021 to 22 December 2021 from all Councillors – as tabled by the General Manager at this Meeting..

10. 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.