



A CENTRE OF REGIONAL EXCELLENCE

AGENDA

ORDINARY MEETING OF COUNCIL

TO BE HELD AT

THE ADMINISTRATION CENTRE, LITHGOW

ON

08 AUGUST 2016

AT 7.00pm

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# AGENDA

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## **ACKNOWLEDGEMENT OF COUNTRY**

## **APOLOGIES**

## **PRESENT**

## **CONFIRMATION OF THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 18 JULY 2016**

## **CONFIRMATION OF THE MINUTES OF THE EXTRA ORDINARY MEETING OF COUNCIL HELD ON 27 JULY 2016**

## **DECLARATION OF INTEREST**

## **PUBLIC FORUM**

## **PRESENTATIONS**

## **MAYORAL MINUTES**

Portland and District Olympic Pool Additional Funding

## **STAFF REPORTS**

General Managers Reports  
Environment and Development Reports  
Operation Reports

## **COUNCIL COMMITTEE MINUTES**

Nil

## **DELEGATES REPORTS – NIL**

## **NOTICES OF MOTION**

Council Decision - Making Prior to the September 2016 Local Government Elections –  
Councillor M Ticehurst

## **QUESTIONS WITH NOTICE - NIL**

## **NOTICE OF RECISSIONS - NIL**

## **BUSINESS OF GREAT URGENCY**

as identified by Clause 241 of the Local Government (General) Regulations 2005

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## **MAYORAL MINUTE**

### **ITEM-1 MAYORAL MINUTE - 08/08/16 - PORTLAND AND DISTRICT OLYMPIC POOL ADDITIONAL FUNDING**

**REPORT BY: COUNCILLOR MAREE STATHAM - MAYOR**

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## **SUMMARY**

On Monday 11 July representatives from Portland & District Olympic Pool met with myself, and the General Manager requesting additional funding for the Portland and District swimming pool.

## **COMMENTARY**

During the meeting it was indicated that in order for the Portland and District Swimming Pool to be able to continue to provide local residents with a recreational facility of high standard it was request that council consider an additional donation equal to the current water charges that the facility incurs - \$8,800 per annum. Should this request be approved by Council it will allow the committee to engage local contractors to commence an upgrade of the existing water supply, electrical installation and toilet and change room facilities. These facilities are in some cases those originally constructed in 1958 with the original pool construction and require upgrading to fall in line with modern expectations.

Portland and District Olympic Pool gratefully acknowledged that Council currently proved a \$30,000 annual donation to the pool to assist with general operational expenses and if the additional request for funding was approved it would allow a significant improvement to the asset which has become a popular recreational facility for the residents of Portland, Wallerawang, Cullen Bullen and other remote areas.

The Portland Pool Committee has been a wonderful committee for many years and provides a treasured facility to the Portland community. This one off additional sum will go a long way to making the facility more self-sufficient and sustainable.

## **RECOMMENDATION**

### **THAT:**

1. Council approve an additional one-off \$8,800 donation to the Portland and District Olympic Pool Committee
2. These additional funds be used for improvements at the Portland pool
3. Council fund this additional expenditure from the Council Financial Assistance account.

## GENERAL MANAGERS REPORTS

### ITEM-2 GM - 08/08/16 - LOCAL GOVERNMENT NSW ANNUAL CONFERENCE

**REPORT FROM: R BAILEY - GENERAL MANAGER**

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## SUMMARY

The Local Government NSW's conference will be held at Wollongong from Sunday 16 to Tuesday 18 October 2016. Local Government NSW has called for councils to identify issues that they believe are causing them concerns in their local government areas.

## COMMENTARY

LGNSW is the peak industry association that represents the interests of NSW general purpose councils, 12 special purpose councils and the NSW Aboriginal Land Council.

Formerly known as the Local Government and Shires Associations of NSW (LGSA), the two organisations officially became Local Government NSW on 1 March 2013, thus uniting and strengthening the voice of the local government sector in NSW.

LGNSW's objective is to strengthen and protect an effective, democratic system of Local Government across NSW by supporting and advocating on behalf of member councils and delivering a range of relevant, quality services.

LGNSW achieves this by:

- Actively and persuasively representing the views of Local Government to the NSW and Australian Governments
- Providing effective, responsive and accountable leadership to member councils
- Providing a comprehensive range of high-quality services and policy advice to our members
- Increasing the capacity of Local Government to deliver quality services and meet the needs of local communities across NSW
- Enhancing the profile and building community trust in and awareness of Local Government.

Each year the Association holds an annual conference to formulate policy and to advance local government in NSW.

The Local Government NSW will be holding its annual conference at Wollongong from 16 – 18 October 2016.

This year the Conference will cover a range of issues pertinent to all councils including concurrent sessions on natural resources and the environment, infrastructure and planning, and capacity building and diversity.

Councils will be able to submit motions for consideration of Conference online. This online facility will be available closer to the conference date.

Each member council is entitled to send delegate(s) to the conference. The number of delegates varies according to the council's size and membership category of the Association. Lithgow City Council is entitled to send three delegates. In the past these delegates have typically included the Mayor, Deputy Mayor and one other. Councils may also send observers which may include other councillors or council staff.

**POLICY IMPLICATIONS**

NIL

**FINANCIAL IMPLICATIONS**

Conference registrations

**LEGAL IMPLICATIONS**

NIL

**RECOMMENDATION**

**THAT** Council:

1. Appoint the Mayor, Deputy Mayor and another councillor as voting delegates to the Conference
2. Authorise the General Manager to attend the Conference as an observer
3. Authorise the Mayor to appoint alternate delegates or additional observers if required

## ENVIRONMENT AND DEVELOPMENT REPORTS

**ITEM-3            ENVIRO - 08/08/16 - DA154/16 - FIVE DAY PSYFARI MUSIC FESTIVAL FOR 2016 TO 2018 - EURELLA 602 UPPER NILE ROAD GLEN ALICE**

**REPORT BY:    A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT**

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### SUMMARY

To assess and recommend determination of DA154/16 for a five day music festival known as 'Psyfari'. Consent is sought to conduct the festival 2016, 2017 and 2018. The recommendation will be for approval subject to conditions.

### COMMENTARY

Council is in receipt of a Development Application DA154/16 for a 5 day music festival, including camping, on land known as Lots 3, 11 and 12, DP 755796, 'Eurella', 602 Upper Nile Road, Glen Alice. The existing site is used for grazing, with private property to the west, Upper Nile Road to the east and Wollemi National Park/ World Heritage Area to the south as shown in the attached Section 79C report. The site has been the subject of 3 previous applications of similar nature for events in 2013, 2014 and 2015. This application is for the events to be held within 2016 to 2018. Unlike previous applications, this DA has been the subject of objections.

The festival is proposed to extend over five days with the following dates proposed (2017 and 2018 dates are to be confirmed):

- **2016:**            25 August to 29 August
- **2017:**            24 August to 28 August
- **2018:**            23 August to 27 August

Previous events under the same festival name for 2013 to 2015 have been over a three day period with a maximum of 4,000 tickets for 2015. This proposal seeks to allow for a maximum of 5,000 tickets and 1,000 crew, volunteers and artists.

The crew and volunteers will be at the premises for extended an period before and after for set up and clean up. Camping will be made available to all patrons onsite in designated areas. No shower facilities are proposed for 2016 event and provisions will be made for 2017 and 2018 events onsite using portable systems. Additional camping spaces have been provided to allow for the growth to 6,000 participants and will include an area of 'glamping' which is the hire of luxury tents.

The festival is open to all ages and includes: cooking facilities, restaurants, food and merchandise stalls, workshops, kids' zone, cinema, art gallery/exhibition spaces, games areas. There will also be water stations, markets and a first aid area incorporated in the site. There are three main stages proposed, two large and one small.

A number of other structures are proposed onsite including scaffolding, marquees, caravans and similar temporary structures. The gates will open from 9am on the

Thursday and performances starting at 12 noon (with only two stages) and the event will be in full operation from Friday night until 6pm Sunday. Attendees and performers are permitted to stay onsite until 12:00pm on Monday to allow a rest period.

The event is BYO alcohol, as no licenced premises are proposed with no glass to be taken to the site. Toilets, water, food, and camp fires will be provided for patrons' onsite. With the exception of shuttle buses, all patrons will travel to the site by private vehicle, with deliveries in other vehicles such as trucks, trailers etc. Lighting, sound systems and food vendors will utilise generators for the five days of the festival.

The current application differs from previous years in that the following safety initiatives are proposed:

- Voluntary driver drug and alcohol testing
- Increased use of shuttle bus from Lithgow to the site and from Sydney to the site.
- Driver reviver at Capertee on Sunday and Monday
- Stronger safe partying messages and promotional campaigns
- Employment of specialised medical services onsite (Colbrow Medics) for the festival which includes higher level of medical attention. Whilst a first aid tent will still be supplied, Colbrow Medics will have doctors, paramedics, medics and nurses available onsite.
- Employment of a specialist consultant in festival events to control all Emergency Management onsite and implement the protocols within the Emergency Management Plan.

#### ***Lithgow Local Environmental Plan 2014***

In planning definition terms, the proposal falls across three definitions within the LEP below:

***Camping ground*** means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

***Entertainment facility*** means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.

***retail premises*** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- |                                     |                                     |
|-------------------------------------|-------------------------------------|
| (a) bulky goods premises,           | (h) markets,                        |
| (b) cellar door premises,           | (i) plant nurseries,                |
| (c) food and drink premises,        | (j) roadside stalls,                |
| (d) garden centres,                 | (k) rural supplies,                 |
| (e) hardware and building supplies, | (l) shops,                          |
| (f) kiosks,                         | (m) timber yards,                   |
| (g) landscaping material supplies,  | (n) vehicle sales or hire premises, |



*But does not include highway service centres, service stations, industrial retail outlets or restricted premises.*

**Note.** *Retail premises are a type of **commercial premises** - see the definition of that term in this Dictionary.*

Whilst at face value these uses are not all of these uses permitted in the RU1 Primary Production zone, clause 2.8(2) of the LEP provides a mechanism for temporary landuses to be approved. Clause 2.8 states:

### **2.8 Temporary use of land**

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.*
- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.*
- (3) Development consent must not be granted unless the consent authority is satisfied that:
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.**

The proposal is a temporary use of the land on an annual basis for a five day period over three years. Consequently it is permissible.

### **Public Submissions**

The proposal was sent to surrounding landowners and local community groups for a period of 21 days. As part of the public notification process 3 submissions were received. It is understood that councillors may have received emails directly from the same person/s as well as a response from the event organisers. Whilst some of the information within submissions relating to a road tragedy that took place on the Bells Line of Road following the event in 2015 is very confronting and all sympathy is expressed to the writers, this relates to matters outside Council's legislative authority. It is difficult to comment further without compromising the privacy of the individuals. In accordance with standard procedure further details of the submissions are outlined below:

1. Previous events failed to provide adequate facilities and were negligent which is defined as 'conduct that falls below the standards of behaviour established by law for the protection of others against reasonable risk of harm'.
2. Issues with illicit drug dealing onsite and taking of illicit drugs. Previous medical reports from Pink First Aid clearly does not report any drug related incidences which is not to be believed.

3. Over 25,000 people have been invited to the event which should not be permissible under the LEP.
4. The venue is isolated and away from medical facilities
5. The security is questionable and not sufficient
6. The festival is for 6000 people over a continuous period of five days. How is the number of attendees policed.
7. Issue with fatalities among festival goers in relation to drugs, alcohol, lack of sleep and travelling to and from the event.
8. Less than adequate duty of care.
9. That there is no police presence or sniffer dogs at the festival in relation to drugs
10. Underage people are not being checked ie. who is the responsible adult
11. Who checks the liability requirements for the festival?
12. Emergency response is a problem due to lack of signal for mobile systems.

Additionally, one late submission of support has also been received from a business proprietor in Capertee.

**Comment:**

1. Previous festivals are not the subject of this application and no evidence to the negligence claim was provided to allow any further investigation or compliance check in relation to the current Development Application.
2. Drug dealing onsite is not condoned by the approval of this application. This issue is a matter for law enforcement.
3. The development application is for a maximum of 6,000 participants and a condition of consent will be imposed as such and is permissible under the current LEP as previously discussed.
4. The festival is proposed to provide an increase in medical services to that previously provided. This includes Colbrow Medics being doctors, nurses, medics and paramedics onsite during the entire festival with a minimum of 3 involved in this setup at any one time and a maximum of 9 staff at any one time during the festival. Additionally, a referral to the NSW Ambulance has been undertaken to ensure that any requirements proposed by NSW Ambulance is being implemented. This will ensure that all medical facilities have been notified of the proposal and appropriate onsite paramedics are available during the festival.
5. Security during the festival is varied between the 5 days with more security personal between 5pm and 3am from Thursday to Sunday. Security is employed to manage relationships between event stakeholders, anticipate likely event incidences, effective response to event incidences, monitor intoxication amongst the crowd, check patrons for glass at the entrance of the site and check photo identification for over 18 years of age unless accompanied by an adult.
6. A condition of consent if approved for the festival will restrict the development to a maximum of 6,000 participants.
7. The application has been forwarded to NSW Police for comment.
8. The festival is improving safety initiatives for each new festival and is showing that the festival is providing for a duty of care of participants.
9. A condition requiring liaison with NSW Police will be required with police presence onsite as per their requirements.

10. The security plan submitted as part of the application details that all patrons to the festival are checked in relation to being over the age of 18 years. No sale of alcohol is permitted at the festival which allows the festival to be “family friendly”. Therefore, minors are allowed at the festival if they are accompanied by an adult.
11. Public Liability is required as part of the festival and is to be supplied to Council prior to the event.
12. A satellite phone and landline phone service is available onsite for the use of emergency services calls to the festival.
13. A Driver Reviver initiative is proposed.

### **External Authority Referrals**

The proposal was sent to Rural Fire Service (RFS), Roads and Maritime Services (RMS), Local Emergency Management Committee (LEMC), Traffic Advisory Local Committee (TALC), NSW Police (Police), NSW Ambulance (Ambulance), Council's Building Officer, Council's Environmental Officer and Council's Operations Department for comment with recommendations detailed in the 79C Report.

No objection to the proposal was received by the RFS, RMS, LEMC, TALC or Council officers subject to conditions of consent being imposed on the development if approved. Concerns were raised by Police and Ambulance regarding the festival given its isolation and required resources, with extensive discussion being undertaken between Council, Police and Ambulance on the matter. Ambulance have provided recommendations if the event was to go ahead which will be incorporated as conditions of consent if the proposal is approved.

The NSW Police Force provided two submissions (attached) with comments in relation to the proposal with concerns raised in regard to safety as a result of site location; safety due to conduct of event; and deficiencies in the application. The following conclusions were provided by NSW Police in their first submission:

*“Notwithstanding the huge profits involved, security and private medical contractors are inadequate in number and experience and no steps have been taken to engage the services of the NSW Police Force or the NSW Ambulance Service to attend on ‘user pays’ terms. In fact there appears to be an expectation that the State of NSW will provide those services as and when required, and perhaps have some presence at the event itself, at the taxpayers’ expense.*

*While it is accepted that the refusal of the development application by Council may cause some financial detriment to the applicant, the NSW Police Force submits that such detriment is solely as a result of the actions of Pysfari Pty Ltd both as a result its attempts to cut corners on safety and as a result of its decision to sell tickets prior to obtaining the requisite approval of Council.*

*In conclusion, for the foregoing reasons the approval of a 24 hour, 5 day event for 5,000+ people on such a remote, isolated property where high drug and alcohol use is expected clearly poses a serious risk to the safety of participants and in the absence of concise and comprehensive risk*

*mitigation strategies, the approval of this development is contrary to the public interest.*

*The NSW Police Force strongly objects to the approval of the event.”*

The NSW Police Force Mudgee LAC - Crime Management Unit also provided comment on the proposal with recommendations to minimise risks by; lighting, closed circuit television system CCTV, security, fencing, additional access, helicopter access and liquor licencing.

### **Response by the Applicant**

The applicant has provided two submissions in response (attached). The responses are comprehensive and are summarised below:

- Further commitments made by the festival since the submission of the development application including:
  - Colbrow Medics; Doctors, Paramedics, Medics and Nurses working around the clock.
  - NSW Ambulance; onsite for the duration of the event along with a coms trailer.
  - Extra security; 4 extra guards that will be dedicated to rapid response.
  - Dedicated Emergency Coordination Centre; managed by Matthew Wood
  - Dancewise; Harm minimisation and education
  - Fire management plan; engaged FireTac a fire expert to address the concerns of the RFS
  - Improved site maps
  - Emergency management plan to include the ECC requirements.
  - Security management plan, to include more details on crowd control.
  - Helper hut in the camp ground to be manned by first aiders.
  - Driver reviver; operating at Capertee rest stop on Sunday and Monday
  - RMS erected road signs to inform drivers.
  - Alcohol and Drug testing will be available to drivers.
  - Risk assessment; further assessments
- The local community benefit from the event, eg of this include the Glen Alice School bake sale and a donation made to Illford Public School for operating the Driver Reviver; local contractors used for water and waste; and the increased income for the local service station.
- Police response time has not been brought up as an issue in the past and we have had police on site every year, however if a police response should be required we have licensed security and all of the above services to manage any situation in the interim.
- In 2013, Psyfari employed user paid police during the festival. The reports or feedback from 2013 event made no mention of any issues with police radio communications. The lack of phone connection with external emergency services was raised, and this has since been addressed with the addition of two land line telephones at the site operations compound which were connected in 2014.

- Onsite digital radio with a 15w repeater. External services will be provided with festival radios to communicate with the ECC.
- Ambulance NSW will be bringing their own communications trailer
- The ECC and HQ will have 4G WiFi internet access
- The landowners have a backup phone line
- The festival does not condone the use of drugs and in no way promotes the use of illicit drugs. This is stated on the website and is reinforced through entry conditions and announcements throughout the festival.
- It is a condition of entry that no illicit substances, weapons, fireworks, illegal items, glass, or dogs are brought onto site, and that vehicles will be searched. If anything illegal is found admission will be denied.
- In no way do we cater for drug use. The driver testing is another way of providing safety measures for a small minority and this is a responsible initiative designed to reduce risk.
- The requirement for an event to be licensed implies that an element of control is required to prevent incidents or antisocial behaviour, however it is evident from our history that attendees are capable of behaving in a respectful and well-mannered way without enforcing alcohol sales.
- While the event management do not presume to be experts in criminology, it is our belief that Crime Prevention through Environmental Design strategies, most implementations of which occur solely within the urbanized, built environment are not the most effective way to manage risk at an event of this type. Nevertheless, we have undertaken to address each of the core principles of CPTED by creating social and environmental conditions that:
  - Maximise risk to offenders
  - Maximise the effort required to commit crime
  - Minimise the actual and perceived benefits of crime
  - Minimise excuse-making opportunities
- As for the car accident in Bilpin in 2015, referenced in the Police letter, Psyfari has organized increased safety initiatives this year in the hope that this will help people to stay safe. These initiatives are:
  1. A driver reviver with free tea, coffee and water, which will operate all day Sunday and Monday, located at Capertee rest stop
  2. Extra signage on public roads leading to the festival site, erected by the RMS
  3. Local signage in place outside community buildings alerting locals of when to expect traffic
  4. Drug and alcohol testing available for drivers before driving
  5. Buses from/to Sydney available to bring people to and from the festival, arriving on Thursday and Friday and returning Sunday and Monday.
  6. Camp set ups to hire (to encourage carpooling or coming by bus, as attendees will have less luggage to bring)

7. Car passes, to both encourage carpooling but also encouraging road safety by alerting drivers that this money is going towards safety initiatives.

### **Planning Comments**

Matters raised by Police can be mitigated through conditions of consent and improved emergency management procedures. Council can only consider land use planning matters and impose conditions or procedures to ensure that the use of the land is undertaken in a satisfactory and lawful manner. Council cannot control personal choices of individuals in relation to use or abuse of alcohol or use of illicit drugs. Council can have a role to play in ensuring the application as submitted commits to safe practices, procedures and emergency response. If not otherwise committed to in the DA then this can be reinforced through conditions of development consent. Specific conditions of consent will be recommended should Council resolve to approve the application. These are as follows:

- A Police Schedule 1 form is required for notice of intention to hold a public assembly for each event. Please liaise with the local Police prior to each event to organise this documentation, arranging for a reasonable police presence and discuss details to be included within each events Emergency Management Plan. Please contact Police Force - Mudgee Local Area Ph: 0263728599.
- That prior to each event the applicant shall liaise with the Mudgee Police Force Crime Management Unit and comply with all reasonable requests in relation to lighting; closed circuit television system CCTV; security; emergency procedures and response; fencing; access; helicopter landing access and paid Policing presence. Final details are to be provided to Council prior to each event.
- Within two months after each music festival, the applicant is to arrange a meeting with government organisations including Lithgow City Council, NSW Police, Ambulance and Roads and Maritime Services. The purpose of the meeting is to discuss the previous music festival, measures employed to address traffic and safety impacts and improvements for future events.

### **POLICY IMPLICATIONS**

#### ***Policy 7.5 Notification of Development Applications***

The development is subject to the following Policy and applicable section as below:

#### ***5. Who will be notified under this Policy and how long is the notification period?***

*5.1 Except for specified types of development outlined in 6.3 below, written notice of a development application will be given to landowners adjoining the Lithgow City Council Policy 7.5 – Notification of Development Applications land on which the development is proposed for a period of 14 calendar days.*

*For the purposes of this policy adjoining land is land that directly abuts the subject site; shares a common boundary; or is situated directly opposite to the site where separated by a road, pathway or driveway.*

The development was required to be notified to adjoining and adjacent landowners for a period of 21 days. However, given the significance of the development, Council has undertaken a wider notification area. Additionally, Council notified key community groups within the area to allow for submissions of the proposal.

## FINANCIAL IMPLICATIONS

### *Section 94A Development Contributions Plan 2015*

The Section 94A plan applies to this development given it is for a music festival at an estimated cost of \$250,000.00, using the below levies:

Estimated Cost of Development	Levy Applicable
\$0 to \$100,000	0%
\$100,001 to \$200,000	0.5%
\$200,001 and over	1%

Therefore, a condition of consent should be applied to the development if it is approved.

## LEGAL IMPLICATIONS

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the *Environmental Planning and Assessment Act 1979*. Attached is the full 79C report for consideration as part of this application.

## ATTACHMENTS

1. 79C Assessment Report
2. Police Submissions from Mudgee Local Area Commander and Crime Management Unit
3. Response 1 from Applicant dated 1 August 2016
4. Response 2 from Applicant dated 1 August 2016

## RECOMMENDATION

### THAT

1. That Development Application DA154/16 for the five day Psyfari Music Festival be approved for 2016, 2017 and 2018 subject to conditions of consent outlined in the attached 79C Assessment Report.
2. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993

**ITEM-4            ENVIRO - 08/08/16 - MARRANGAROO MASTERPLAN- DCP-  
APPOINTMENT OF CONSULTANT**

**REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT AND DEVELOPMENT**

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**REFERENCE**

Min No 16-102    Item 3 Ordinary Meeting 16 May 2016

**SUMMARY**

To advise Council of the results of the process to call for fee proposals for the Marrangaroo Masterplan/DCP Project using the Local Government Procurement's *Professional Consultancy Services Contract* and to recommend the appointment of a preferred consultant to undertake the project.

This process is in response to Min No 16-102 whereby Council resolved not to accept any of the Tenders submitted in the previous round of tenders in May 2016.

**COMMENTARY**

**PROJECT APPROVAL**

Council considered a business case for the project as part of the 2015/1016 Operational Plan and subsequently approved an allocation of \$150,000 for the 2015/2016 year.

**PROJECT BACKGROUND**

The primary driver for this project is to plan for the future development of the area in an orderly and cost effective manner.

In 2005, following a spike in demand for residential land supply and an identified need for further suitable employment lands, Council identified a need for additional urban land in close proximity to services and facilities in Lithgow for provide for future orderly and sustained growth.

The Marrangaroo area was identified as a suitable site for investigation based on its location, ability to provide for a full range of urban land use and its proximity to road infrastructure and relatively flat to undulating topography.

A full Local Environmental Study and Structure Plan was prepared by Geolyse Pty Ltd in 2006. The aim of these studies was to consider the "highest and best" use of the study area.

The Structure Plan provides the following:

- Preferred land uses and their location;
- Areas to be conserved and protected from future development;
- Key infrastructure needs and preliminary costings; and
- A staging plan.



The Structure Plan was adopted by Council in principle in February 07 (min 07/15) .The Structure Plan identified an estimated potential residential lot yield of:

- 194 large lot residential allotments ; and
- 1530 urban allotments.

Council in 2014 gave effect to this Structure Plan in the Lithgow Local Environmental Plan by zoning the area of IN1 employment lands located north of Reserve Road and immediately east of Great Western Highway and creating an Urban Release Area under Part 6 of the LEP to the south of Reserve Road and east of the Great Western Highway.

### **PROJECT AREA**

The Marrangaroo Project Area is shown below. The project area comprises 339.22ha of land within the Marrangaroo Urban Release Area (URA) and 54.85ha of IN1 zoned land (employment lands as mapped in Lithgow Local Environmental Plan 2014). Within the URA there is 41.22 ha of land zoned for B6 Business Corridor and 298 ha of land zoned R1 General Residential as shown in the attachment.

The Project Area has approximately 38 individual landowners with one land holding of 143.9ha in single ownership in the centre of the URA representing 36.4 % of the project land area or 42.4% of the URA land area.

### **PROJECT OBJECTIVES**

The objectives of the project are to:

- Develop a vision and planning framework for the future development of the Marrangaroo Urban Release Area and adjoining employment lands to ensure development occurs in a logical and cost effective manner over time and is based on best practice urban design principles.
- To consider an interim planning framework for the development of the employment lands and enterprise corridor or part thereof to be accelerated ahead of the remainder of the project area.
- To establish a new suburban micro- community of Lithgow that provides a place that has its own identity, facilities and amenities, is highly liveable, functional and attractive and will meet the needs of the expected future population and demographic.
- To ensure that the vision and planning framework is developed, designed and communicated to all relevant stakeholders such as the landowners, community, elected representatives and government agencies in a collaborative and transparent manner that is easily demonstrated and understood.
- Provide a planning framework that may be used to inform, stimulate, channel and/or facilitate future investment decisions.
- Enhance the capacity of Council staff in relation to the principles of planning, designing, managing and implementing projects of this nature and to facilitate shared knowledge and skills.

## EVALUATION PROCESS

### Evaluation Specifics

Council used Local Government Procurement's *Professional Consultancy Services* contract to identify and invite suitable consultants to respond to Council's project brief.

As per Section 55 (3) (a) of the *Local Government Act 1993 (the Act)*, Council is exempt from the requirement to call for formal tenders when utilising a contract developed by an organisation prescribed by the Regulations. Clause 163 (1A) of the *Local Government (General) Regulation 2005* prescribe Local Government Procurement for the purpose of *the Act*.

Council sought proposals from five panel consultants:

- Conybeare Morrison International Pty Ltd
- Elton Consulting Group Pty Ltd
- Macroplan Holdings Pty Ltd
- Oculus Landscape Architecture Urban Design Environmental Planning Pty Ltd
- The Planning Group (NSW) Pty Ltd

Consultants were invited to respond to the Council's project brief on Tuesday, 28<sup>th</sup> June 2016 and were given until 4:00pm, Friday 22<sup>nd</sup> July 2016 to submit their proposal.

In order to score the submissions, an evaluation plan was developed and weightings applied to each criterion:

#### Technical Criteria (Total Weighting 50%)

- Understanding of the project requirements and proposed methodology to undertake the project (15%)
- Qualifications, technical skills and experience of key personnel and the project team (15%)
- Demonstrated experience in delivering similar projects (10%)
- Demonstrated capability and capacity to fulfil project requirements (10%)

#### Commercial Criteria (Total Weighting 50%)

- The price to undertake the work (50%)
- Occupational health and safety compliance (Pass / Fail)
- Quality Assurance and Insurances (Pass / Fail)

An evaluation panel, made up from the following members of Council's staff, evaluated the submissions:

- Group Manager – Environment & Development (Project Sponsor)
- Strategic Land Use Planner (Project Leader)
- Works Coordinator Water / Waste Water

Council's Purchasing Coordinator acted as probity auditor and advisor throughout the process.

## Summary of Offers

All five consultants submitted proposals prior to the closing time. The below table includes the lump sum pricing, including disbursements, offered by the tenderers in order of lowest to highest offer. The pricing noted excludes GST:

Consultant	Offer Made (excl. GST)
Elton Consulting	\$158,180.00
Conybeare Morrison	\$168,950.00
Macroplan Holdings	\$174,970.00
Oculus	\$178,780.00
The Planning Group	\$190,988.00

The Evaluation Panel members evaluated the offers using the evaluation criteria and scoring scales pre-determined for the project. Consensus scoring was added to a final scoresheet, which is summarised in the below table:

Evaluation Criteria	Weighting	Elton Consulting	MacroPlan Holdings	Oculus	Conybeare Morrison	The Planning Group
<b>Technical</b>						
SubTotal	50%	20.1	26.45	31.95	26.45	28.4
<b>Commercial using Price Formula</b>						
<b><u>Lowest Fee</u></b>						
<b><u>Pricex100/Fee</u></b>						
Sub Total	50%	50	45	44	47	41.5
WHS Compliance/ Insurance		Fail/Pass	Pass/Pass	Pass/Pass	Pass/Pass	Pass/Pass
<b>TOTAL SCORE</b>		<b>70.1</b>	<b>71.45</b>	<b>75.95</b>	<b>73.45</b>	<b>69.9</b>

## EVALUATION OVERVIEW

Whilst the proposal was assessed, Elton Consulting failed in regard to WHS and Quality Assurance information. The Oculus proposal scored highest and presents the best value for money. It identified itself as the superior proposal using the technical evaluation criteria. This company worked extensively on a directly comparable project, Shiralee Masterplan/DCP completed in Orange in 2014 and a favourable reference check has verified their capability.

## POLICY IMPLICATIONS

No member of the Evaluation Panel had any conflict of interest or declarations to record. There are no other policy implications as a result of this report.

## FINANCIAL IMPLICATIONS

Council has allocated \$150,000 (ex GST) towards the project in the 2015/2016 Operational Plan. A further \$40,000 (ex GST) will be required to be allocated to allow the tender to be awarded to the preferred tenderer outlined in this report and also allow a project contingency amount of approximately 10% of project costs.

These funds are currently available in the Strategic Planning Reserve and can be transferred as part of the 2016/2017 operational plan allocations.

### **LEGAL IMPLICATIONS**

The successful tenderer will be required to enter into a formal contract with Council in accordance with AS4122-2000 – General Conditions of Engagement for Consultants, as well as Local Government Procurement’s Standing Offer Deed for contract LGP1208-3 (Professional Consulting Services).

### **ATTACHMENTS**

1. Marrangaroo Project Area

### **RECOMMENDATION**

#### **THAT**

1. Council in accept the fee proposal offer from Oculus for the upper limiting fee of \$178,780.00 excluding GST.
2. The General Manager be authorised to sign the resulting contract and any related documentation under delegated authority.
3. Council allocate a further \$40,000 (ex GST) to the project in the 2016/2017 Operational Plan process as a Transfer from the Strategic Planning Reserve.

**ITEM-5            ENVIRO - 08/08/16 - 035/08DA VOLUNTARY PLANNING  
AGREEMENT - HOSKINS AVENUE UNITS**

**REPORT BY: A MUIR - GROUP MANAGER ENVIRONMENT AND DEVELOPMENT**

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**REFERENCE**

Min No F08-90:            Finance & Services Committee Meeting held on 5 August 2008  
Min No 008-162:        Ordinary Meeting of Council held on 21 October 2008  
Min No 14-308:        Ordinary Meeting of Council held on 28 July 2014  
Min No 16-123         Ordinary Meeting of Council held on 6 June 2016

**SUMMARY**

To advise and seek endorsement of a Voluntary Planning Agreement for Vision Property Holdings Pty Ltd.

**COMMENTARY**

At Council's ordinary meeting of 6 June 2016 it was resolved to endorse a Draft Voluntary Planning Agreement for 035/08DA relating to the removal of sporting fields (tennis courts), the demolition of associated structures and the construction of 24 medium density housing units. The Voluntary Planning Agreement relates to stage C of the development that consists of 16 units. The Contribution is for an amount of \$24,000 (\$1,500 per unit) to go toward community facilities.

The draft Voluntary Planning Agreement was placed on public exhibition for a period of 28 days with no submissions being received. Consequently the Voluntary Planning Agreement is ready for final endorsement by Council. Once endorsed the Voluntary Planning Agreement may be finalised and notified to the Minister for Planning and Environment.

**POLICY IMPLICATIONS**

Policy 7.10 – Planning Agreements applies. The Policy provides that final endorsement of the Planning Agreement is to be reported to Council.

**FINANCIAL IMPLICATIONS**

The financial implications for Council are the potential receipt by Council of a development contribution being a monetary contribution or the provision of a material public benefit in the form of infrastructure, facilities, amenities and services.

A Voluntary Planning Agreement (VPA) has been negotiated with the developer in relation to the development. The developer has agreed to make a contribution of \$24,000 (\$1,500 per unit, 16 units-stage C) to go toward community facilities.

### **LEGAL IMPLICATIONS**

The legislative basis for the Planning Agreement is incorporated in the Environmental Planning and Assessment Act 1979 (Sections 93F – 93L) and the Environmental Planning and Assessment Regulations (clauses 25B – 25H). The Voluntary Planning Agreement has been exhibited for a period of at least 28 days pursuant to Section 935 of the Environmental Planning and Assessment Act 1979.

### **ATTACHMENTS**

1. Planning Agreement

### **RECOMMENDATION**

#### **THAT:**

1. Council endorse the Voluntary Planning Agreement proposed by Vision Property Holdings Pty Ltd for a contribution of \$24,000 (\$1,500 per unit, 16 units-stage C) to go toward community facilities.
2. The Voluntary Planning Agreement as endorsed be forwarded to the Minister for Planning and Environment.

**ITEM-6            ENVIRO - 08/08/16 - DA125/16 SUBDIVISION 1 INTO 2 MARTINS ROAD, RYDAL**

**REPORT BY:    A MUIR – GROUP MANAGER ENVIRONMENT AND DEVELOPMENT**

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**SUMMARY**

To assess DA125/16 with a recommendation that approval is supported subject to conditions. The application is able to be supported due to specific circumstances and is being reported due to a request to vary the minimum lot size requirements.

**COMMENTARY**

Council is in receipt of Development Application DA125/16 for a subdivision of 1 lot into 2 at Lot 122 DP 757036, 209 Martins Road Rydal NSW 2790.

Lot 122 DP757036 is 16.19ha with Martins Road dividing the lot into two. On the western side of the property, proposed Lot 1, is a managers residence with olive grove, other scattered vegetation and the property sloping to the west. On the eastern side, being proposed Lot 2, is the tourist development known as “Seclusions” being accommodation and function centre. The existing dwelling, Highland House, and some ancillary building are also located on the eastern side of Martins Road and are heritage listed. It is proposed to subdivide the land into two allotments approximately 8ha each.

In summary, normally the subdivision of a 16.19 ha lot into 2 lots would not be possible at this site as there is a 40 hectare minimum lot size. However, in this case there are a number of specific circumstances that make the proposal worthy of support. These are:

- The land is already physically separated by road.
- There are existing dwellings situated either side of the road.
- No additional entitlements for dwellings will be granted or made possible should the subdivision be approved.
- The funds generated by the subdivision will be used to carry out conservation works to the heritage listed buildings on the site.

These are further explained as part of the discussion below.

**Lithgow Local Environmental Plan 2014 (LEP2014) compliance**

The land is occupied by an olive grove, residential uses and tourist development. These uses allow for diversity and utilisation of smaller allotments without over development or over intensification. The area does not allow for further agricultural uses given its limit in size currently being 16.19ha. The land as currently used is not conflicting with the surrounding agricultural landuses given its location and size of development. The views and landscapes will not be impacted as a result of the proposed subdivision. The development will not further fragment land as the land has been fragmented by the creation of Martins Road through the middle. The land does allow for tourist development that provides an economic resource and conserves the values of the heritage listed buildings. The proposed subdivision will not impact on water quality of the surrounding

catchments. Therefore, the proposal meets the requirements set by the objectives of the RU1 Primary Production zoning.

The minimum lot size (MLS) as per the Lot Size Map of the LEP2014 is 40ha and Lot 122 is currently 16.19ha. The proposal is to subdivide the land into two lots of approximately 8ha each which does not meet the MLS of 40ha. Therefore, the applicant has requested that Council consider the proposal under the following Clause 4.6 of LEP2014:

**4.6 Exceptions to development standards**

- (1) *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
  - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
  - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*



*(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

**Note.** *When this Plan was made it did not include all of these zones.*

The proposal requests a degree of flexibility to achieve a better outcome of development for this land. The MLS requirements in the LEP are standards that can be considered under this Clause. The applicant has provided the following rationale for the proposal:

- Allowing the proposed subdivision will assist in funding for works under the conservation management plan submitted for the heritage listed buildings under the LEP known as Highland House. It is argued that under Clause 5.10(10) that if this proposal is approved it will assist in funding works to be undertaken in accordance with the conservation management plan submitted for Highland House and its associated buildings. This means that the heritage significance would be enhanced by the granting of consent for the subdivision. The land on the western side of Martins Road is not significant to the heritage listing and is already separated from the heritage listed buildings.
- Lot 122 is already fragmented by the road with two distinct landuses on either side of this division being; tourist facility and heritage building on the eastern side and dwelling with agricultural use on the western side.
- The division of the land would not impact on the agricultural uses of the land, as it is being used to its full potential currently with olive groves and tourist development.
- The views and landscape will not change as a result of the subdivision and may allow for better management and funding to each parcel of land with separate ownerships.

**Planning Comment:**

The compliance with the development standard could be assessed as unnecessary in the circumstances of this case, as it does not benefit the allotment to be retained as a whole. Lot 122 is already fragmented by the road with two distinct landuses on either side of this division being; tourist facility and heritage building on the eastern side and dwelling with agricultural use on the western side. The division of the land would not impact on the agricultural uses of the land, as it is being used to its full potential currently with olive groves and tourist development. The allotment is already undersized and does not lend itself to increased agricultural uses, regardless of this proposed subdivision.

The proposed development would not require further infrastructure or impact by way of increased loadings on Council infrastructure as all essential services are in place for the land currently.

This is a positive outcome in relation to heritage conservation initiatives as funds generated by the development will allow the implementation of the conservation management plan. The applicant supports these works but requires funds so they can occur. These works, when complete, will also compliment and improve the appeal of the existing tourist development. The objectives of the heritage provision in the LEP are to conserve heritage significance including the fabric, settings and views. The heritage listing for the property would change as a result of the subdivision as it would focus on the eastern side of the existing lot where the heritage significant buildings are located. As a result of the subdivision, if approved, all heritage conservation work could be more easily achieved as per the conservation management plan. The proposed subdivision is

not expected to have an adverse effect on the surrounding area given the development of each proposed lot already exists and further residential development will be restricted.

The proposed subdivision will not set a precedent for further subdivision under the MLS as the land is currently fragmented by Martins Road and exists currently as a lot under the MLS. The views and landscape will not change as a result of the subdivision and if approved, may allow for better management and funding to each parcel of land in separate ownerships.

The compliance with the development standard is unnecessary in the circumstances of this case, as it does not benefit the land to retain it as one allotment. The allotment is already undersized and does not lend itself to increased agricultural uses, regardless of it was subdivided. The proposed development would not require further infrastructure or loadings on current infrastructure as all requirements are in place for the developed land currently.

The development will not impact on terrestrial biodiversity or sensitive lands given no construction works or clearing is proposed as part of the subdivision. Each allotment will also have connections to electricity and telecommunications and access from Martins Road as existing. The allotments also retain their own effluent management systems and onsite rainwater tanks. Therefore, each lot will have all essential services.

The proposal is in the public interest because it will allow for further conservation of a local heritage item and is consistent with the objectives of the RU1 Primary Production zoning.

However, the proposal does not meet the requirements of 4.6(6)(b) above as the development will be a variation over 90% of the development standard being the 40ha MLS for subdivision. This requirement is a prohibition under the LEP and therefore the applicant is relying on Clause 5.10(10) to allow the prohibited development, due to the heritage listing of the land.

Clause 5.10(10) provides that:

**(10) Conservation incentives**

*The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:*

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and

- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

The proposed subdivision as discussed would allow for an increase in heritage conservation for this particular land and could be supported through Clause 5.10(10) of the LEP.

The proposal being for one additional allotment under the MLS requires compliance with the Planning and Infrastructure Varying Development Standards Guidelines August 2011, which states:

***Concurrence of the Director-General to vary development standards***

*Councils may assume the Director-General's concurrence under SEPP 1 in relation to these applications but only if:*

- (i) That allotment has an area equal to or greater than 90 percent of the minimum area specified in the development standard.*

Therefore, the proposed development is to be referral to the Department of Planning for concurrence as it does not comply with Clause 4.1 or 4.6(6) of the LEP and requests a variation of approximately 77%, if supported by Council.

## **OTHER MATTERS**

The proposal was sent to Rural Fire Service, Council's Building Officer, Environmental Officer and Engineers for commenting with no objection to the proposal subject to conditions. The proposal was also sent to surrounding landowners and placed on public display in Council's Administration Building for a period of 14 days with no submissions received.

## **POLICY IMPLICATIONS**

### **Policy 7.2 Subdivision – Release of Subdivision Plans**

The development if approved will be required to comply with this policy as part of the Subdivision Certificate release process.

### **Policy 7.5 Notification Of Development Applications**

This policy applies to all applications as below:

#### ***5. Who will be notified under this Policy and how long is the notification period?***

*5.1 Except for specified types of development outlined in 6.3 below, written notice of a development application will be given to landowners adjoining the Lithgow City Council Policy 7.5 – Notification of Development Applications land on which the development is proposed for a period of 14 calendar days. For the purposes of this policy adjoining land is land that directly abuts the subject site; shares a common boundary; or is situated directly opposite to the site where separated by a road, pathway or driveway.*

Therefore the proposal was notified to surrounding landowners and placed on display for a period of 14 days.

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

The application must be assessed in accordance with the heads of consideration of Section 79C of the *Environmental Planning & Assessment Act 1979*. A full assessment under Section 79C is attached.

### **ATTACHMENTS**

1. Complete 79C Planning Report under separate cover.

### **RECOMMENDATION**

#### **THAT**

1. DA125/16 for a subdivision 1 into 2 be supported by Council, subject to the conditions outlined in the attached 79C report.
2. The concurrence of the Director-General of Planning be sought for DA125/16 to vary the development standards in relation to the minimum lot size for subdivision by 77%.
3. A **DIVISION** be called in accordance with the requirements of Section 375A(3) of the Local Government Act, 1993.

**ITEM-7            ENVIRO - 08/08/16 - PROPOSED TRANSFER RAILWAY LAND  
                         JAMES ST LITHGOW**

**REPORT BY: A MUIR – GROUP MANAGER ENVIRONMENT & DEVELOPMENT**

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**SUMMARY**

The purpose of this report is to obtain Council's support for the transfer of currently held by Transport for NSW(RailCorp) to Lithgow City Council. The subject land is currently utilised as public road, and this land transfer would rectify this ownership anomaly.

**COMMENTARY**

Whilst in the process of capturing and updating asset data, ownership anomalies have been discovered within Council's asset network. One such anomaly has been identified in James St Lithgow, where two parcels of freehold land owned by Transport for NSW (RailCorp) are actually situated over land that currently forms part of Council's public road network (See attached map). The lands are described as Lot 1 DP 172589 and Lot 9 Section 3 DP 5070. In order to rectify this anomaly, Council has been liaising with Transport for NSW, in regards to a land transfer of the subject site.

Transport for NSW has advised that the matter can be resolved utilising the provisions of the Transport Administration Act 1988 (NSW) under which the land can be vested in Council by order of the Minister of Transport. However, a Council Resolution accepting transfer of the land for \$1.00 if demanded and requiring dedication as a roadway, in accordance with the provisions of sections 10 (1) and (2) of the Roads Act 1993 is required in order to progress the matter. Consequently, in order to progress the matter, Council will be required to accept transfer of the subject lands. As the land will become public road it will not be required to be classified as community or operational lands.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Council will be required to meet our own legal costs in relation to the transfer and registration if required. Nil financial implications arising from this report.

**LEGAL IMPLICATIONS**

Transfer documentation will be vetted by Council solicitors.

**ATTACHMENTS**

1. Transport for NSW proposed to be transferred to Council

## RECOMMENDATION

**THAT** Council:

1. Accept transfer of Lot 1 DP 172589 and Lot 9 Section 3 DP 5070 from RailCorp for \$1.00 if demanded, and the subject land be further dedicated as a roadway, in accordance with the provisions of sections 10 (1) and (2) of the Roads Act 1993.
2. The General Manager be delegated authority to finalise and endorse the transfer documentation as required.
3. The affixing of the Council seal to any necessary documentation be authorised.

## OPERATION REPORTS

### ITEM-8 OPER - 08/08/16 - WATER REPORT

**REPORT BY: I STEWART – GROUP MANAGER OPERATIONS**

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## REFERENCE

Min No 16-180: Ordinary Meeting of Council held on 18 July 2016

## SUMMARY

This report provides an update on various water management issues.

## COMMENTARY

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

Farmers Creek No. 2 Dam capacity on Thursday, 28<sup>th</sup> July 2016 was 100%. Oberon Dam capacity on Thursday, 28<sup>th</sup> July 2016 was 67%.

### Current Water Usage from Each Supply

Table 1 below indicates total output from the Oakey Park Water Treatment Plant (consumption), the volume transferred from the Clarence Water Transfer System (CWTS) and the volume of water purchased from Fish River for 2015/2016. Table 2 below indicates total output from the Oakey Park Water Treatment Plant (consumption), the volume transferred from the Clarence Water Transfer System (CWTS) and the volume of water purchased from Fish River for 2013/2014 and 2014/2015.

**Table 1 - Oakey Park Monthly Output and Clarence Transfer 2015/2016**

Month	Oakey Park WTP (ML)	Clarence Transfer (ML)	Fish River Supply (ML)
July	113	0	50
August	112	0	66
September	117	0	57
October	123	0	63
November	117	0	75
December	162	63	55
January	120	0	74
February	111	0	77

March	132	0	88
April	119	12	61
May	131	0	43
June	95	0	53
<b>TOTAL</b>	<b>1,452</b>	<b>75</b>	<b>719</b>

**Table 2 - Oakey Park Monthly Output and Clarence Transfer 2013/2014 & 2014/2015**

	2013/2014			2014/2015		
Month	Oakey Park WTP (ML)	Clarence Transfer (ML)	Fish River Supply (ML)	Oakey Park WTP (ML)	Clarence Transfer (ML)	Fish River Supply (ML)
July	93	0	44	80	0	63
August	96	0	67	145	0	45
September	102	0	73	105	0	66
October	130	0	58	112	0	61
November	106	0	61	120	0	65
December	100	0	47	84	0	36
January	111	0	109	89	0	100
February	93	0	73	95	0	66
March	62	0	68	143	0	67
April	105	0	61	99	0	71
May	118	0	59	105	0	55
June	101	0	67	131	0	74
<b>TOTAL</b>	<b>1,217</b>	<b>0</b>	<b>787</b>	<b>1,308</b>	<b>0</b>	<b>769</b>

#### **Oakey Park Water Quality Summary**

Oakey Park Water Treatment Plant is currently supplying water to Lithgow. No health-based ADWG values were exceeded for the period 9/7/2016 to 29/7/2016.



### **Treatment Plants Monitoring Results**

Samples are taken on a monthly basis at various locations within the STPs and WTP. Nine samples were taken on 28/6/2016 and forwarded to Sydney Water for testing. All results complied with Council's EPA Licence requirements to operate each plant. All test results are published on the Lithgow City Council website as required by the *Protection of the Environment Operations Act 1997*.

### **Fish River Water Scheme Water Quality Summary**

Fish River Water Supply is currently supplying water to Marrangaroo, Wallerawang, Lidsdale, Portland, Cullen Bullen, Glen Davis and Rydal. No health-based ADWG values were exceeded for the period 9/7/2016 to 29/7/2016.

### **Current Water Restrictions Update**

Level 1 restrictions are effective from Monday, 17 March 2014.

### **Water Saving Schemes or Processes Update**

Council's Rainwater Tank and Domestic Appliance Rebate Program continued with Council approving five (5) applications for household appliance rebates and no applications for water tank rebates for the period 9/7/2016 to 29/7/2016.

### **Water Reticulation Complaints**

One (1) complaint was received during the period 9/7/2016 to 29/7/2016 concerning water quality issues in the following area. Testing of the water was undertaken at this location.

<b>Locality</b>	<b>Concern</b>	<b>Notes</b>
Cary Avenue, Wallerawang	Customer advised that they have been experiencing dirty water for a while. Customer was concerned that something may be going on and causing this dirty water. Can Council investigate?	Investigated, flushed and sample taken. Sample tested and tests came back within all ADWG health limits. Caused by burst main in Hume Avenue, Wallerawang.

Details of water complaints made since September 2015 are displayed in the attachment.

### **POLICY IMPLICATIONS**

NIL

### **FINANCIAL IMPLICATIONS**

NIL

### **LEGAL IMPLICATIONS**

NIL

### **ATTACHMENTS**

1. Water Quality Complaint Trend

## **RECOMMENDATION**

**THAT** Council notes the water report.

## NOTICE OF MOTION

### ITEM-9 NOTICE OF MOTION - 08/08/2016 - COUNCIL DECISION - MAKING PRIOR TO THE SEPTEMBER 2016 LOCAL GOVERNMENT ELECTIONS

**REPORT BY: COUNCILLOR MARTIN TICEHURST**

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## REFERENCE

Office of Local Government Circular 18 of 2016: 'Council decision-making prior to the September 2016 Local Government Elections'.

## COMMENTARY

The Office of Local Government Circular 18 of 2016: 'Council decision-making prior to the September 2016 Local Government Elections, confirms the following information.

What's new or changing

- Clause 393B of the Local Government (General) Regulation 2005 limits councils' ability to exercise some of their functions in the four weeks preceding the date of an ordinary local government election (the caretaker period).

What this will mean for your council

- Councils are expected to assume a "caretaker" role during election periods to ensure that major decisions are not made which would limit the actions of an incoming council.
- Councils, the general manager or any other delegate of the council (other than a Joint Regional Planning Panel or the Central Sydney Planning Committee) must not exercise the following functions during the caretaker period:
- Entering into any contract or undertaking involving an expenditure or receipt by the council of an amount equal to or greater than \$150,000 or 1% of the council's revenue from rates in the preceding financial year (whichever is the larger);
- Determining a "controversial development application", except where a failure to make such a determination would give rise to a deemed refusal, or such a deemed refusal arose before the commencement of the caretaker period;
- Appointing or reappointing the council's general manager (except for temporary appointments).

In certain circumstances, these functions may be exercised with the approval of the Minister.

#### Key points

- "Controversial development application" means a development application under the Environmental Planning and Assessment Act 1979 for which at least 25 persons have made submissions under section 79(5) of that Act by way of objection.
  - The caretaker period for the September 2016 ordinary local government elections commences on Friday 12 August 2016 and ends on Saturday 10 September 2016.
- Q. Could the Council, Councillors and General Manager and Senior Council Officers note the Office of Local Government Circular 18 of 2016: 'Council decision-making prior to the September 2016 Local Government Elections'?

### ATTACHMENTS

1. Office of Local Government Circular 18 of 2016: 'Council decision-making prior to the September 2016 Local Government Elections'.

### RECOMMENDATION

**THAT** the Council, Councillors and General Manager and Senior Council Officers note the Office of Local Government Circular 18 of 2016: 'Council decision-making prior to the September 2016 Lithgow City Council Local Government Elections.

## **BUSINESS OF GREAT URGENCY**

*In accordance with Clause 241 of the Local Government (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 of:*

- 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.*