



**SNOWY VALLEYS COUNCIL MEETING
BUSINESS PAPER
17 MARCH 2022**

THE MEETING WILL BE HELD AT 2.00PM
IN THE SVC COUNCIL CHAMBERS TUMUT AND VIA VIDEO LINK

Statement of Ethical Obligations

Councillors are reminded of the oath or affirmation of office they made under section 233A of the Local Government Act 1993 and the obligation under Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

Disclosure of Pecuniary Interests at meetings (extract from the Code of Conduct – Part 4)

4.28 Councillor or a council committee member who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.

4.29 The councillor or council committee member must not be present at, or in sight of, the meeting of the council or committee:

(a) at any time during which the matter is being considered or discussed by the council or committee, or

(b) at any time during which the council or committee is voting on any question in relation to the matter.

4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.

4.31 Disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.

Disclosure of Political Donations and Gifts

The *Environmental Planning and Assessment Act 1979* places obligations on Councillors, staff, applicants and any person who makes a public submission, to disclose information relating to political donations and gifts during the environmental plan making or development assessment process.

The fact that political donations or gifts have been made by applicants / proponents of a planning application should not affect whether an application is approved or refused. Political donations or gifts should not be relevant in making a determination. The matter should be determined on its merits. Nor do they provide grounds for challenging the determination of any applications.

For further information, visit www.planning.nsw.gov.au/donations

Furthermore, for each planning decision made at a Council or Committee Meeting, the names of Councillors who supported the decision and those that oppose the decision must be recorded. (*Sec. 375A of the Local Government Act 1993*)

Use of mobile phones and the unauthorised recording of meetings (extract from the Code of Meeting Practice – Section 15)

15.21 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.

15.22 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.

15.23 Any person who contravenes or attempts to contravene clause 15.22, may be expelled from the meeting as provided for under section 10(2) of the Act.

15.24 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

Livestreaming of Meetings

(extract from the Code of Meeting Practice – Section 5)

This meeting is live streamed on Council's website to allow the community to follow Council debates and decisions without the need to attend meetings in person. Members of the public attending or speaking at a meeting agree to have their image, voice and personal information (including name and address) recorded and publicly broadcast. Snowy Valleys Council does not accept liability for any defamatory remarks or inappropriate comments that are made during the course of a meeting. Any part of the meeting that is held in closed session will not be streamed.

5.19 All meetings of the council and committees of the council are to be webcast on the council's website.

Photography

Flash photography is not permitted at a meeting of the Council or a Committee of the council without the consent of the Chief Executive Officer.

Public Forum

(extract from the Code of Meeting Practice – Section 4)

4.1 The Council may hold a public forum prior to each Ordinary Council meeting for the purpose of hearing oral submissions on items of business to be considered at the meeting.

4.2 Public forums are to be chaired by the mayor or their nominee.

Those attending must comply with the terms and conditions of the Code of Meeting Practice which can be viewed on Council's website;

[Council Meetings - Snowy Valleys \(nsw.gov.au\)](http://www.snowyvalleys.nsw.gov.au)



Thursday 17 March 2022
Snowy Valleys Council Chambers
76 Capper Street, Tumut an via Video Link
2.00pm

AGENDA

1. ACKNOWLEDGEMENT OF COUNTRY

We would like to acknowledge the traditional custodians of this land and pay respects to Elders past and present.

2. APOLOGIES, LEAVE OF ABSENCE AND REMOTE ATTENDANCE

Request for Leave of Absence from Clr Micheal Ivill for this meeting.

3. DECLARATIONS OF PECUNIARY INTEREST

Pursuant to Section 4 of the Code of Conduct, Councillors are required to declare any direct or indirect pecuniary interest in any matters being considered by Council.

4. PUBLIC FORUM

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14. MEETING CLOSURE



REQUEST FOR LEAVE OF ABSENCE

Chief Executive Officer
Snowy Valleys Council
76 Capper Street
TUMUT NSW 2720

Dear Sir


I wish to apply for leave of absence from the Council Meeting/s to be held on:

Date: 17.3.2022

I will be absent for the following reason/s:

To attend a yearly planning workshop
with my primary employer

Yours faithfully

Michael Ivill 

(Councillor Name & Signature)

SVC-EXE-F-221-01
ID1987219

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Approved: 01/12/2021

5. CONFIRMATION OF MINUTES

5.1 Ordinary Meeting - 17 February 2022

Recommendation:

That the Minutes of the Ordinary Council Meeting held on 17 February 2022 be received and confirmed as an accurate record

**THE MINUTES OF THE COUNCIL MEETING HELD IN THE SNOWY VALLEYS
COUNCIL CHAMBERS AT TUMBARUMBA AND VIA VIDEO LINK, ON THURSDAY 17
FEBRUARY 2022 COMMENCING AT 2.00PM**

PRESENT: Mayor Ian Chaffey, Councillor Johanna (Hansie) Armour, Councillor Julia Ham, Councillor James Hayes, Councillor Sam Hughes, Councillor Michael Ivill, Councillor John Larter, Councillor Brent Livermore, Councillor Trina Thomson (Chair).

IN ATTENDANCE: Chief Executive Officer Matthew Hyde, Executive Director Infrastructure Heinz Kausche, Executive Director Community and Corporate Paul Holton, Executive Chief of Staff Shelley Jones, Chief Financial Officer Susanne Andres and Executive Assistant Jeannie Moran-Fahey.

1. ACKNOWLEDGEMENT OF COUNTRY

An acknowledgement of the traditional custodians of the land was delivered by the Mayor.

M38/22 RESOLVED:

A motion was moved and seconded that in accordance with Section 369 of the Local Government Act 1993 that the chair of the meeting be delegated to the Deputy Mayor.

Cr Julia Ham

CARRIED UNANIMOUSLY

2. APOLOGIES, LEAVE OF ABSENCE AND REMOTE ATTENDANCE

There were no apologies or Leave of Absence received.

Requests for remote attendance have been received by Councillors Hayes, Larter and Chaffey.

M39/22 RESOLVED that councillors Hayes, Larter and Chaffey attend remotely.

Cr Johanna (Hansie) /Cr Julia Ham

CARRIED UNANIMOUSLY

3. DECLARATIONS OF PECUNIARY INTEREST

Cr Julia Ham declared a significant non-pecuniary interest in relation to report # 11.6 'In Principle Support for the Establishment of a New Pre-school in Tumbarumba' due to being a member of a Tumbarumba Pre-school Working Group and will remain in the room during discussion and will participate in voting.

Minutes of the Meeting of the Snowy Valleys Council held in the Tumbarumba Council Chambers and Via Video Link on Thursday 17 February 2022

Cr Ian Chaffey declared a significant non-pecuniary interest in relation to report # 11.5 'Plan of Management for Council Managed Community Crown Reserves due to adjoining a managed Crown Reserve and will remain in the room during discussion however abstain from discussing.

4. PUBLIC FORUM

Mr Michael Blenkins, Principal Tumbarumba High School and Ms Jennifer Lumsden, Principal Tumbarumba Primary School attended the Public Forum held immediately prior to the 17 February 2022 Ordinary Meeting of Council to speak in support of Item # 11.6 'In Principle Support for the Establishment of a New Preschool in Tumbarumba'.

M40/22 RESOLVED that Item # 11.6 In Principle Support for the Establishment of a new Pre-school in Tumbarumba' be brought forward to beginning of the meeting.

Cr Johanna (Hansie) Armour/Cr Brent Livermore

CARRIED UNANIMOUSLY

5. CONFIRMATION OF MINUTES

5.1 ORDINARY MEETING - 20 JANUARY 2022

M41/22 RESOLVED:

That the Minutes of the Ordinary Council Meeting held on 20 January 2022 be received.

Cr Julia Ham/Cr Sam Hughes

CARRIED UNANIMOUSLY

5.2 BUSINESS ARISING

Councillor Hayes raised a matter from the previous minutes and no resolutions were made.

11.6 IN PRINCIPLE SUPPORT FOR THE ESTABLISHMENT OF A NEW PRE SCHOOL IN TUMBARUMBA

M42/22 RESOLVED:
THAT COUNCIL:

1. Receive the report on In Principle support for the establishment of a new preschool in Tumbarumba.
2. Provide In Principle support for the establishment of a New Pre School in Tumbarumba.

3. Determine In Principle, to make Council controlled land available for the establishment of a new Pre School in Tumbarumba.
4. Authorise the CEO to write a letter outlining Councils In Principle support for the establishment of a new Pre School in Tumbarumba, to accompany the application for funding to the Start Strong Capital Works Grants Program.

Cr Julia Ham/Cr Johanna (Hansie) Armour

CARRIED UNANIMOUSLY

6. CORRESPONDENCE/PETITIONS

Nil.

7. NOTICE OF MOTION/NOTICE OF RESCISSION

Nil.

8. MAYORAL MINUTE

Nil.

9. URGENT BUSINESS WITHOUT NOTICE

Nil.

10. GOVERNANCE AND FINANCIAL REPORTS

10.1 COUNCILLORS TRAINING OPPORTUNITIES - LGNSW COURSES FOR COUNCILLORS

**M43/22 RESOLVED:
THAT COUNCIL:**

1. Receive the report on Councillors Training Opportunities – LGNSW Courses for Councillors.
2. Approve the attendance of Cr Hughes at the following courses, provided there is sufficient funds within his budget allocation at the time of registering his attendance:
 - a. “Understanding LG Finances for Councillors”, offered online.
 - b. “Communicating Council Information – Priorities & Initiatives”, offered online.
 - c. “Chairing & Effective Meeting Procedures for Councillors”, offered online.
 - d. “Personal Branding for Career Success”, offered in-person.

3. Approve the attendance of Cr Ham at the online LGNSW course “Speed Reading”, provided there is sufficient funds within her budget allocation at the time of registering her attendance.
4. Discuss and confirm the attendance of additional councillors for any of the abovementioned LGNSW courses, provided it is within the councillor’s budget allocation at the time of registering attendance.

Cr James Hayes/Cr Michael Ivill

CARRIED UNANIMOUSLY

10.2 2021/22 DELIVERY PROGRAM HALF YEARLY PROGRESS REPORT (JULY - DECEMBER 2021)

M44/22 RESOLVED:
THAT COUNCIL:

1. Receive the report on 2021/22 Delivery Program Half Yearly Progress Report (July–December 2021);
2. Endorse the 2021/22 Delivery Program Half Yearly Progress Report (July–December 2021).

Cr Ian Chaffey/Cr Julia Ham

CARRIED UNANIMOUSLY

10.3 REVIEW OF PROCUREMENT POLICY - FOR PUBLIC EXHIBITION

M45/22 RESOLVED:
THAT COUNCIL:

1. Receive the report on the Review of Procurement Policy – for Public Exhibition.

Cr Brent Livermore/Cr Julia Ham

CARRIED UNANIMOUSLY

M46/22 RESOLVED to move into Committee of the Whole.

Cr Brent Livermore/Cr Johanna (Hansie) Armour

Division

For

Cr Armour
Cr Chaffey
Cr Ham
Cr Hayes
Cr Hughes
Cr Ivill

Against

Cr Larter

Cr Livermore
Cr Thomson

8/1
CARRIED

M47/22 RESOLVED to move out of Committee of the Whole.

Cr Julia Ham/Cr Brent Livermore

CARRIED UNANIMOUSLY

10.3 REVIEW OF PROCUREMENT POLICY - FOR PUBLIC EXHIBITION

RECOMMENDATION:
THAT COUNCIL:

2. Approve the updated Procurement Policy SVC-FIN-PO-049-02 for Public Exhibition for a period of no less than 28 days;
3. Note that if submissions are received during the exhibition period, a further report will be provided to Council on the submissions and any proposed amendments to the policy;
4. Adopt the policy if no submissions are received on the day after the completion of the public exhibition period.

10.4 COMMUNITY ASSISTANCE POLICY - FOR PUBLIC EXHIBITION

M48/22 RESOLVED:
THAT COUNCIL:

1. Receive the report on the Community Assistance Policy – for Public Exhibition;
2. Approve the Community Assistance Policy SVC-FIN-PO-127-01 for Public Exhibition for a period of no less than 28 days;
3. Note that if submissions are received during the exhibition period, a further report will be provided to Council on the submissions and any proposed amendments to the policy;
4. Adopt the policy if no submissions are received on the day after the completion of the public exhibition period.

Cr James Hayes/Cr Brent Livermore

CARRIED UNANIMOUSLY

10.5 STATEMENT OF INVESTMENTS - JANUARY 2022

M49/22 RESOLVED:
THAT COUNCIL:

1. Receive the report on Statement of Investments – January 2022.

Cr Ian Chaffey/Cr Julia Ham

CARRIED UNANIMOUSLY

10.6 QUARTERLY BUDGET REVIEW AS AT 31 DECEMBER 2021

M50/22 RESOLVED:
THAT COUNCIL:

1. Receive and adopt the Quarterly Budget Review as at 31 December 2021;
2. Adopt the Revenue, Expenditure and Capital Budget adjustments as noted in the December Quarterly Budget Review.

Cr Julia Ham/Cr Michael Ivill

CARRIED UNANIMOUSLY

M51/22 RESOLVED to move into Committee of the Whole.

Cr Julia Ham/Cr Ian Chaffey

CARRIED UNANIMOUSLY

M52/22 RESOLVED to move out of Committee of the Whole.

Cr Julia Ham/Cr Michael Ivill

CARRIED UNANIMOUSLY

11. MANAGEMENT REPORTS

11.1 KHANCOBAN VACANT LAND - LOTS 11, 12, 13, 14, 15 AND 16 OF DP220570 - REQUEST FOR PURCHASE

M53/22 RESOLVED:
THAT COUNCIL:

1. Proceed to sell the Land – Lots 11, 12, 13, 14, 15 and 16 of DP220570 at a public auction at a time and place to be determined;
2. Delegates authority to the Chief Executive Officer & Mayor to take the following actions pertaining to the properties specified in the report; to set reserve prices for sale of the properties at auction;

3. Negotiate by private treaty and accept offers for sale of any property that fails to sell at auction;
4. Authorise the application of the Council seal on the sale of land.

Cr Julia Ham/Cr Michael Ivill

CARRIED UNANIMOUSLY

M54/22 RESOLVED to move into Committee of the Whole

Cr Julia Ham/Cr Brent Livermore

Division

For

Cr Armour
Cr Chaffey
Cr Ham
Cr Hughes
Cr Ivill
Cr Livermore
Cr Thomson

Against

Cr Hayes
Cr Larter

7/2

CARRIED

M55/22 RESOLVED to move out of Committee of the Whole.

Cr Julia Ham/Cr Brent Livermore

CARRIED UNANIMOUSLY

11.2 SALE OF WATER RACE - WITHIN LOT 1 DP 791035 - TUMBARUMBA

M56/22 RESOLVED:
THAT COUNCIL:

1. Receive the report on the Sale of Water Race – within Lot 1 DP791035 – Tumbarumba;
2. Approve the sale of the reserved water race contained within Lot 1 DP 791035 Tumbarumba;
3. Approve the landowner to pay all costs associated with the sale and transfer of reserved water race, and that the nominal sale price will be \$1;
4. Approve the delegation to the Mayor and Chief Executive Officer to affix Council seal and execute documentation required to complete the sale of the reserved water race.

Cr Julia Ham/Cr Johanna (Hansie) Armour

Division**For**

Cr Armour
Cr Chaffey
Cr Ham
Cr Hughes
Cr Ivill
Cr Larter
Cr Livermore
Cr Thomson

Against

Cr Hayes

8/1

CARRIED

M57/22 RESOLVED to move into Committee of the Whole.

Cr Julia Ham/Cr Sam Hughes

CARRIED UNANIMOUSLY

M58/22 RESOLVED to move out of Committee of the Whole.

Cr Julia Ham/Cr Michael Ivill

CARRIED UNANIMOUSLY

11.3 REQUEST FOR PURCHASE OF COUNCIL ROAD RESERVE - ADELONG ROAD, TUMUT

M59/22 RESOLVED:
THAT COUNCIL:

1. Receive this report for the request for partial road closure, subdivision and sale of the part road reserve fronting number 67-69 Adelong Road, Tumut
2. Approve the partial road closure, subdivision and sale of the formed lot subject to the terms of sale being met including:
 - I. Compliance with the legislation framework for the closing of public roads contained within the Roads Act 1993, and sale of land contained within the Real Property Act 1900.
 - II. Sale price to be determined by an independent land valuation and all survey, administration and application fees applicable to be covered by the purchaser upon settlement.
 - III. Parties to meet own legal costs.

3. Delegate to the Mayor and Chief Executive Officer to affix Council seal and execute document relevant to the closure of the road reserve and sale of the land.

Cr James Hayes/Cr John Larter

CARRIED UNANIMOUSLY

11.4 REQUEST FOR PARTIAL ROAD CLOSURE AND SALE - 17 YORK STREET, TUMBARUMBA

**M60/22 RESOLVED:
THAT COUNCIL:**

1. Receive this report on partial road closure and sale at York Street, Tumbarumba.
2. Approve the partial road closure and sale of formed lot adjacent to Lot 5 DP759003, subject to the terms of sale being met including:
 - I. Compliance with the legislative framework for the closing of public roads contained within the Roads Act 1993, and sale of land contained within the Real Property Act 1900
 - II. Sale price to be determined by an independent land valuation and all survey, administration application fees applicable to be covered by the purchaser upon settlement
 - III. Parties to meet own legal costs
3. Authorise the Mayor and Chief Executive Officer to affix Council seal and execute documents relevant to the closure of the road reserve and sale of the land.

Cr Julia Ham/Cr Michael Ivill

CARRIED UNANIMOUSLY

Mayor Cr Ian Chaffey left the meeting, the time being 03:10 pm.

Mayor Cr Ian Chaffey returned to the meeting, at 03:11 pm.

11.5 PLAN OF MANAGEMENT FOR COUNCIL MANAGED COMMUNITY CROWN RESERVES

**M61/22 RESOLVED:
THAT COUNCIL:**

1. Receive this report for the Plan of Management for Council Managed Community Crown Reserves.
2. Approve the draft Council Managed Crown Land Plan of Management to be forwarded to the landowner, Crown Lands (NSW Department of Planning, Industry and Environment), seeking endorsement to proceed to

public exhibition of the draft Plan of Management and authorise administrative and corrective amendments to the documents by the CEO.

3. Delegate authority to the Chief Executive Officer to revise the draft Council Managed Crown Land Plan of Management in accordance with any direction received from Crown Lands, prior to placing on public exhibition for a minimum period of 28 days and inviting the public to make submission over a period of 42 days.
4. Bring the final version of the Council Managed Crown Land Plan of Management to a future Council meeting for consideration and adoption.

Cr Brent Livermore/Cr Julia Ham

Division

For

Cr Armour
Cr Chaffey
Cr Ham
Cr Hughes
Cr Ivill
Cr Livermore
Cr Thomson

Against

Cr Hayes
Cr Larter

7/2

CARRIED

11.7 SNOWY VALLEYS COUNCIL MOVE TO THE SOUTH-EAST AND TABLELANDS PLANNING AREA

M62/22 RESOLVED: THAT COUNCIL:

1. Receive the report on Snowy Valleys Council move to the South-East and Tablelands Planning Area;
2. Advise the Department of Planning and Environment that it supports the move of Snowy Valleys to the South-East and Tablelands Planning area;
3. Request that as Snowy Valleys is a border community between two planning areas that Snowy Valleys remain involved in planning for the Riverina Planning Area.

Cr James Hayes/Cr Sam Hughes

Division

For

Cr Armour
Cr Chaffey
Cr Ham
Cr Hayes
Cr Hughes

Against

Cr Livermore

Cr Ivill
 Cr Larter
 Cr Thomson

8/1
CARRIED

11.8 DESTINATION NETWORK BOUNDARY CHANGES

M63/22 RESOLVED:
 THAT COUNCIL:

1. Receive and note the report on Destination Network Boundary Changes.
2. Write a letter of disappointment to Minister Ayres, local NSW State members Justin Clancy MP, Dr Joe McGirr MP and Destination NSW Chair, Christine McLaughlin AM regarding making a decision with no consultation with Council or local stakeholders and ask for an immediate review of the decision.

Cr Julia Ham/Cr James Hayes

Division

For

Cr Armour
 Cr Chaffey
 Cr Ham
 Cr Hughes
 Cr Ivill
 Cr Livermore
 Cr Thomson

Against

Cr Hayes
 Cr Larter

7/2
CARRIED

12. MINUTES OF COMMITTEE MEETINGS

12.1 MINUTES - LOCAL TRAFFIC COMMITTEE - 24TH NOVEMBER 2021

M64/22 RESOLVED:
 THAT COUNCIL:

1. Receive this report on the Minutes – Local Traffic Committee – 24 November 2021
2. Note the Minutes of the Local Traffic Committee meeting held on 24 November 2021
3. Note the following recommendations from the minutes, noting that the special event applications referred to in items 4.4 and 4.5 are being advised in retrospect of the events being held and item 4.10 has been completed:

- a. Item 4.1 - Special Event Application - Tumut Cycle Classic
 - i. Receive the report on the Special Event Application for the 2022 Tumut Cycle Classic.
 - ii. Support the Special Event Application for the 2022 Tumut Cycle Classic to enable this event to go ahead, subject to Council's standard conditions.
- b. Item 4.2 - Special Event Application - Snowy Valleys Challenge
 - i. Receive the report on the Special Event Application for the 2022 Snowy Valleys Challenge.
 - ii. Support the Special Event Application for the 2022 Snowy Valleys to enable this event to go ahead, subject to Council's standard conditions.
 - iii. Endorse the Special Event application subject to receipt of Road Occupancy License, concurrence from TfNSW and approval from NSW Police.
- c. Item 4.3 - Special Event Application - Lifestyles Snowy Valley
 - i. Receive the report on the Special Event Application for the Lifestyles Snowy Valley.
 - ii. Support the Special Event Application for the Lifestyles Snowy Valley to enable this event to go ahead, subject to Council's standard conditions.
 - iii. Endorse the Special Event application subject to receipt of completed risk assessments, Traffic Guidance Scheme and approval from NSW Police.
- d. Item 4.4 – Special Event Application - Tumbarumba Rodeo Reunion Parade
 - i. Receive the report on the Special Event Application for the 2021 Tumbarumba Rodeo Reunion Parade.
 - ii. Support the Special Event Application for the 2021 Tumbarumba Rodeo Reunion Parade to enable this event to go ahead, subject to Council's standard conditions.
 - iii. Endorse the Special Event application subject to receipt of Road Occupancy License, concurrence from TfNSW and approval from NSW Police.
- e. Item 4.5 – Special Event Application - Tumbarumba Community Main Street Christmas Carnival

- i. Receive the report on the report on the Special Event Application for the 2021 Tumbarumba Community Main Street Christmas Carnival.
 - ii. Support the Special Event Application for the 2021 Tumbarumba Community Main Street Christmas Carnival to enable this event to go ahead, subject to Council's standard conditions.
 - iii. Endorse the Special Event application subject to receipt of Road Occupancy License, concurrence from TfNSW and approval from NSW Police.
- f. Item 4.6 – Special Event Application – Zone 20 Pony Club Street Parade
 - i. Receive the report on Zone 20 Pony Club Street Parade.
 - ii. Support the Special Event Application for the 2022 Zone 20 Pony Club Street Parade to enable this event to go ahead, subject to Council's standard conditions.
 - iii. Endorse the Special Event application subject to receipt of Road Occupancy License, concurrence from TfNSW and approval from NSW Police.
- g. Item 4.7 – Special Event Application Tumberfest
 - i. Receive the report on the Special Event Application for the 2022 Tumbafest.
 - ii. Support the Special Event Application for the 2022 Tumbafest to enable this event to go ahead, subject to Council's standard conditions.
 - iii. Endorse the Special Event application subject to receipt of Road Occupancy License, Traffic Guidance Scheme for the event, Temporary Bus Zone approvals, concurrence from TfNSW and approval from NSW Police.
- h. Item 4.8 – Special Event Application – Batlow Ciderfest 2022
 - i. Receive the report on Special Event Application for the 2022 Batlow Ciderfest.
 - ii. Support the Special Event Application for the 2022 Batlow Ciderfest to enable this event to go ahead, subject to Council's standard conditions.
- i. Item 4.9 - Goobragandra Road Advisory Speed Signs
 - i. Receive the report on Goobragandra Road Advisory Speed Signs.
 - ii. Request Transport for NSW to conduct a Vericom analysis of the Goobragandra Road to determine recommend advisory

- speeds for the curves and review the speed zone for Walls Creek Road.
- iii. 3. Investigate the installation of road advisory signs for curves with appropriate speeds along the Goobragandra Road.
- j. Item 4.10 - McAulay Catholic Central School, Upgraded Pedestrian Crossing
 - i. Receive the report on McAulay Catholic Central School, upgraded pedestrian crossing.
 - ii. Endorse the pedestrian crossing at McAuley Catholic Central School across Capper Street be upgraded.
 - k. Item 4.11 - McAuley School, Capper Street Bus Routes
 - i. Receive the report on McAuley School, Capper Street Bus Routes.
 - ii. Recommend that the bus zone at McAuley Catholic Central School be moved from the East side of Capper Street to the North Side of Carey Street before the construction of the roundabout at the intersection of Gocup Road, Snowy Mountains Highway and Capper Street.
4. Note the general business items raised at the meeting:
- a. Tumbarumba Hospital, No Parking Zone along Mitchell Street - consultation is required between Council and Murrumbidgee Health and NSW Ambulance regarding the request for a No Parking Zone along the East Side of Mitchell Street, Tumbarumba.
 - b. Bridge Street, Tumbarumba - requests be made to Transport for NSW to evaluate the installation of flashing lights for school zones. Traffic data needs to be collected by council for traffic along Bridge Street and Selwyn Street and submitted to Transport for NSW to support the evaluation. The proposed traffic calming project (Safer Roads Project 5124) is acknowledged and will be considered in the application for the flashing lights for school zones.
 - c. Safer Roads Submissions for Tooma Road and Grahamstown Road - Council has requested and received Road Safety audits for Tooma Road between the Elliott Way and Tumbarumba as well as Grahamstown Road between Quartz Street, Adelong and the Boundary of the LGA. Treatments for the outcomes of the audits have been suggested. Application towards the Federal funded Safer Roads program are in process.

Cr James Hayes/Cr John Larter

CARRIED UNANIMOUSLY

13. CONFIDENTIAL**M65/22 RESOLVED:**

That Council move into Confidential to consider the matters listed in the confidential section of the agenda in accordance with Section 10(2) of the Local Government Act 1993 for the reasons specified.

13.1 RFT2021/09 - CONSTRUCTION OF HUME & HOVELL COPPABELLA CREEK TUMBARUMBA SUSPENSION BRIDGE

Item 13.1 is confidential under the Local Government Act 1993 Section 10A 2 (d)i and (d)ii as it relates to commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and information that would, if disclosed, confer a commercial advantage on a competitor of the council and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

13.2 RFT2021/10 - DESIGN AND CONSTRUCTION OF THE BATLOW & TUMUT UPGRADED LEARN TO SWIM AND WATER PLAY POOLS

Item 13.2 is confidential under the Local Government Act 1993 Section 10A 2 (d)i and (d)ii as it relates to commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and information that would, if disclosed, confer a commercial advantage on a competitor of the council and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

13.3 RFT2021/11 - DESIGN AND CONSTRUCTION OF THE BATLOW & KHANCOBAN AMENITY BUILDINGS

Item 13.3 is confidential under the Local Government Act 1993 Section 10A 2 (d)i and (d)ii as it relates to commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and information that would, if disclosed, confer a commercial advantage on a competitor of the council and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Cr Julia Ham/Cr Brent Livermore

CARRIED UNANIMOUSLY

At this stage, the time being 3.31 pm Council went into Confidential.

13.1 RFT2021/09 - CONSTRUCTION OF HUME & HOVELL COPPABELLA CREEK TUMBARUMBA SUSPENSION BRIDGE**M66/22 RESOLVED:
THAT COUNCIL:**

1. Receive this report on the Request for Tender - RFT 2021/09 - Construction of Hume & Hovell Coppabella Creek Suspension Bridge;
2. Note this project is funded through Council's current Hume & Hovell construction contract (No:20:1990) with Department of Planning, Industry and Environment – Crown Lands;
3. Resolve in accordance with Section 55 of the NSW Local Government Act 1993 to accept the alternative tender of Cable Span Australia, being for the lump sum amount of \$610,320 excluding GST;
4. Authorise the Chief Executive Officer to enter into a contract for the construction of the Hume & Hovell Coppabella Creek Suspension Bridge;
5. Write to the unsuccessful tenderers advising of the outcomes of the tender process.

Cr Julia Ham/Cr Michael Ivill

CARRIED UNANIMOUSLY**13.2 RFT2021/10 - DESIGN AND CONSTRUCTION OF THE BATLOW & TUMUT UPGRADED LEARN TO SWIM AND WATER PLAY POOLS****M67/22 RESOLVED:
THAT COUNCIL:**

1. Receive this report on RFT2021/10 – Design and Construction of the Batlow & Tumut Upgraded Learn to Swim and Water Play Pools;
2. Resolve in accordance with Clause 178(1)(b) of the NSW Local Government (General) Regulation 2021 to not accept any of the tenders for the Design and Construction of the Batlow & Tumut Upgraded Learn to Swim and Water Play Pools;
3. Resolve in accordance with Clause 178(3)(e) of the NSW Local Government (General) Regulation 2021 to enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender;
4. Resolve in accordance with 178(4)(b) of the Local NSW Local Government (General) Regulation 2021 not to invite fresh tenders, noting that it is considered that inviting fresh tenders would not enable the Council to achieve its objectives for the Project;
5. Advise the tenderers in writing that their tenders were not accepted;
6. Authorise the Chief Executive Officer to enter into a contract with a contractor for the Design and Construction of the Batlow & Tumut Upgraded Learn to Swim and Water Play Pools subject to the successful

outcome of negotiations, noting that this may require the rationalisation of the scope of works for the project;

Cr James Hayes/Cr Julia Ham

CARRIED UNANIMOUSLY

13.3 RFT2021/11 - DESIGN AND CONSTRUCTION OF THE BATLOW & KHANCOBAN AMENITY BUILDINGS

M68/22 RESOLVED:
THAT COUNCIL:

1. Receive this report on RFT2021/11 – Design and Construction of the Batlow & Khancoban Amenity Buildings;
2. Resolve in accordance with Section 178(1)(b) of the NSW Local Government (General) Regulation 2021 to decline to accept any of the tenders for the Design and Construction of the Batlow & Khancoban Amenity Buildings projects;
3. Resolve in accordance with Section 178(3)(e) of the NSW Local Government (General) Regulation 2021 to enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender;
4. Resolve in accordance with Section 178(4)(b) of the Local NSW Local Government (General) Regulation 2021 not to invite fresh tenders, noting that it is considered that inviting fresh tenders would not enable the Council to achieve its objectives for the Project;
5. Advise the tenderer in writing that their tender was not accepted;
6. Authorise the Chief Executive Officer to enter into a contract for the Design and Construction of the Batlow & Khancoban Amenity Buildings subject to the successful outcome of negotiations.

Cr Julia Ham/Cr Michael Ivill

CARRIED UNANIMOUSLY

M69/22 RESOLVED that at this stage, the time being 4.04pm Council returned to Open Council.

Cr Sam Hughes/Cr Johanna (Hansie) Armour

CARRIED UNANIMOUSLY

There being no further business to discuss, the meeting closed at 4.09pm.

7. NOTICE OF MOTION/NOTICE OF RESCISSION**Item 7.1 NOTICE OF MOTION - TUMUT MULTI-PURPOSE CENTRE AND TUMUT AERODROME UPGRADE PROJECTS - CR HANSIE ARMOUR**

Author: Cr Johanna (Hansie) Armour

Notice of Motion

Cr Armour moved and Cr Thomson seconded a notice of motion that the Tumut Evacuation/Sports Centre and Tumut Aerodrome Upgrade projects be put on hold.

“The Snowy Valleys Council put on hold the following 2 projects

- 1. The evacuation/sports centre*
- 2. The airport upgrades*

Until such time the IP&R documentation is lodged and there is adequate time to fully research and understand both the short-term and long-term financial implications for these projects”

RECOMMENDATION:**THAT COUNCIL:**

- 1. Receive the Notice of Motion regarding putting on hold the Tumut Multi-purpose Centre and Tumut Aerodrome upgrade project;**
- 2. Continue undertaking the Tumut Multi-purpose Centre project until the outcome of the Special Rate Variation (SRV) application is known, and Council considers the project as part of the Integrated Planning and Reporting suite of documents in 2022;**
- 3. Continue undertaking the Tumut Aerodrome project until the outcome of the Special Rate Variation (SRV) application is known, and Council considers the project as part of the Integrated Planning and Reporting suite of documents in 2022;**
- 4. Receive a further information report prior to the adoption of the Integrated Planning and Reporting suite that provides updates and option not to proceed on either or both Tumut Multi-purpose Centre and Tumut Aerodrome project including legal advice and financial implications on ceasing either project.**

Notes:

Cr Armour has requested the Tumut Multi-purpose Centre and the Tumut Aerodrome Upgrade projects be put on hold until there is adequate time to fully research and understand both the short-term and long-term financial implications for these projects.

Officers Comment:**Overview**

Councillors received a further detailed briefing on each of these projects on 10 March 2022 that gave detailed information on the projects' stage in the Snowy Valleys Council Project Management Framework and where the future decision gates were for the Council. Due to time limitations imposed by the delayed election, the criticality of the Councillor induction and onboarding process, the priority given to the iPART special rate variation application process and the 2022 Integrated Planning and

Reporting process, Council only had small briefings on the projects that were endorsed by the previous Council and proceeding along their scheduled process under Council’s Project Management Framework.

To date significant work and resources have been expended in the development of both the Tumut Multi-purpose Centre and Tumut Aerodrome projects. Placing either or both projects on immediate hold presents significant risk to Council from a financial, legal and reputational perspective however it is a responsible move by Council to evaluate the future implications of the projects given Council’s overall financial position and for the Councillors to make an informed decision based around the facts while considering community sentiment.

Both projects have been approved by Council and the process has adhered to Council’s adopted Project Management Framework.

The Tumut Aerodrome Project has sufficient funding and is at construction phase with Council having resolved to accept the successful tender in September 2021 and subsequent execution of contracts having occurred. To date approximately \$1.2 million has been committed. Delaying or cancelling this project will have significant financial and legal implications for Council and may impact on future funding.

The Tumut Multi-purpose Centre project is in the planning and design phase which involves investigative works to determine appropriate designs and subsequently inform the budget of realistic costs. Placing this project on hold or cancelling this project at this stage would not provide Council with a detailed understanding of construction costs or whole of life costs. This information is critical to Council making an informed decision on whether to proceed with this project.

Given the Tumut Aerodrome project construction is not anticipated to commence until the new financial year and the Tumut Multi-purpose Centre is in the planning and design phase the outcome of the SRV should be known before construction of either project begins. Council therefore has a number of months to consider its options for both projects, allowing for subsequent detailed reports to be presented to Council and ensuring sufficient information is available to enable informed decision making.

Tumut Multi-Purpose Centre

Council Officers are working through the Planning and Design phase for this project.

In accordance with Council’s Project Management Framework (figure 1) and Governance Framework (figure 2) approval will be required before proceeding to the Build/Execute/Deliver Phase.

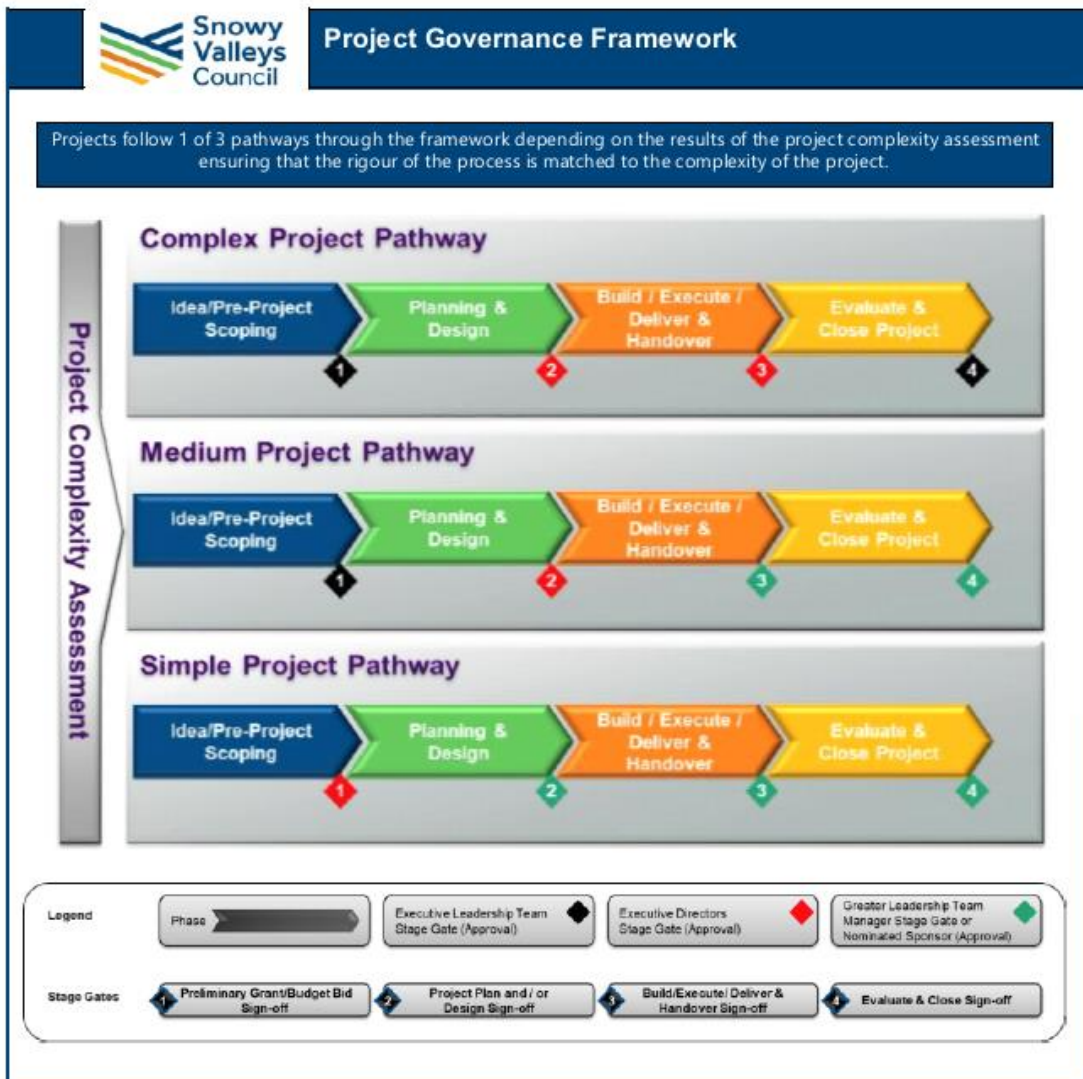
Figure 1 – Project Management Framework



Being classified as a complex project and as shown in figure 2 below, the Gate 2 approval requires for the Executive Leadership Team to sign-off on the project to progress to the Build/Execute/Deliver phase.

Noting that a number of current Councillors were not involved in the Project Scoping and preliminary planning stage for this project which commenced in 2018, it is intended to engage closely with Councillors as part of the Gate 2 approval process. Should Councillors sentiment on the project vary, the Chief Executive Office will escalate the approval for this gate to an Ordinary Council meeting for a decision.

Figure 2 – Project Governance Framework



To complete the Planning and Design phase the following tasks are complete or underway:

- development of preliminary concepts and high-level cost estimates
- consultation with key stakeholders including Welfare NSW and Basketball NSW along with local user groups and residents potentially impacted by the new facility
- geotechnical investigations required to inform the design
- designs to appropriate level to inform detailed cost plan and depreciation model
- refined cost plan including detailed depreciation model
- business revenue analysis – prepared by specialist consultant, includes strategies on income generating options for maintenance and a renewal reserve

Once this work is complete, it will inform the decision to **proceed or not proceed** to the next phase, being Build/Execute/Deliver as per the framework.

A copy of the project status report along with the latest version of the draft general arrangement drawings are attached to this report.

Tumut Aerodrome Improvement Project

This project has progressed to the construction phase with Council adopting the tender in September 2021 for the design and installation of the new aeronautical airfield lighting.

Putting this project on hold or not proceeding with this project at this stage could result in significant financial and legal implications for Council.

Whilst negotiations with CASA have caused some delays to the commencement of onsite works the total expenditure and commitments to date are just over \$1.2 million.

A copy of the project status report along with general layout drawings are attached to this report.

Works undertaken to date include:

- Ongoing consultation with CASA and relevant stakeholders
- Environmental assessment underway
- Acoustic baseline monitoring completed
- Land acquisition process is underway including negotiation of deed for access with landowners
- Hydraulic and Flood analysis underway
- General layout design drawings complete
- Stakeholder consultation commenced
- Aeronautical Ground Lighting (AGL) contractor appointed
 - PAL
 - PAPI
- Geotechnical analysis underway

Risk Analysis

Based on Council's Enterprise Risk Management Framework:

RISK	Likelihood	Consequence	Rating
Legal Non-compliance with existing contractual arrangements or statutory requirements under funding arrangements. May result in litigation or regulatory action.	Possible	Minor	Medium
Environmental & Public Health These projects provide pride a positive impact on safety and recreational amenity for users within the community which may fail to be delivered if there are delays which compromise the delivery of the projects.	Possible	Minor	Medium
Financial As a consequence of breaches to existing contracts or funding arrangements the unfunded financial implications are likely to exceed 10% of the project budgets.	Likely	Catastrophic	Extreme
People Delays and uncertainty may result in loss of key staff with skills knowledge and expertise from projects. Negative impact on staff engagement due to uncertainty.	Possible	Minor	Moderate
Technological Nil.	N/A	N/A	N/A
Stakeholder Delays would likely result in adverse media coverage and a sustained loss of reputation at local and state level. Concentrated public and political interest may put grant funding at risk for the projects now or into the future.	Likely	Catastrophic	Extreme
Service Delivery Significant management and staff time/cost required to recover and restore critical processes if interrupted. Delays between 3 – 6 months to the approved project date may create impacts on the scope of the project and a tangible impact on the business case and benefit delivered.	Likely	Major	High

ATTACHMENTS

- 1 Tumut Multi-purpose Center Project Status Report (under separate cover)
- 2 Tumut Multi-purpose Stadium Drawings (under separate cover)
- 3 Tumut Aerodrome Project Status Report (under separate cover)
- 4 Notice of Motion - Cr Armour (under separate cover)

8. MAYORAL MINUTE**8.1 TRANSGRID HUMELINK PROJECT**

REPORT AUTHOR: MAYOR IAN CHAFFEY
RESPONSIBLE DIRECTOR: CHIEF EXECUTIVE OFFICER

Purpose

To request specific information and advocate Council's position relating to the Transgrid proposal.

RECOMMENDATION:**That Council:**

1. Write to Matt Kean MP, State Minister for Energy and Environment requesting for the Minister or a member of his team to explain the compensation implications of the *Land Acquisition (Just Terms Compensation) Act 1991* for landholders likely to be impacted by the Transgrid proposal.
2. Write to Matt Kean MP, State Minister for Energy and Environment reiterating that Snowy Valleys Council's position is for the powerlines to go on public land as opposed to private land, and underground on private land.
3. Engage with Transgrid to:
 1. Further understand the implications of the *Land Acquisition (Just Terms Compensation) Act 1991* on the community
 2. Advocate for external funds to improve the road infrastructure on Elliott Way needed for safety reasons prior to the Maragle substation build (estimated to be at least \$16 million).
4. Advocate for a vision to provide high quality, long lasting, and stable high capacity methods of transmission for the long term, considering current and future developments in the energy industry; Write to CEO Transgrid:
 1. requesting their assessment of the proposed economic benefits created by Transgrid for Snowy Valleys Council and our community now and into the future
 2. to provide substantive options for ongoing annual compensation to affected properties and the community in general
 3. Advocate for the transmission network to be built to withstand increased frequency of severe weather events and a method of construction that minimises obstructing emergency services
5. Write to the Valuer General to give an estimate of the economic loss or gain expected on the valuation of properties in the Snowy Valleys area
6. Prioritise advocacy to Transgrid and government on this matter in the draft Delivery Program.

7. Write to Matt Kean MP, State Minister for Energy and Environment asking for a change to the *Land Acquisition (Just Terms Compensation) Act 1991* to include equivalent financial compensation for landholders as is currently provided for biodiversity offsets in public lands such as National Parks.

ATTACHMENTS

Nil

10. GOVERNANCE AND FINANCIAL REPORTS**10.1 TRAINING OPPORTUNITIES FOR COUNCILLORS - LGNSW**

REPORT AUTHOR: COUNCILLOR SUPPORT OFFICER
RESPONSIBLE DIRECTOR: EXECUTIVE CHIEF OF STAFF

EXECUTIVE SUMMARY:

Cr Armour has notified the CEO of training courses offered by Local Government NSW (LGNSW) that she wishes to undertake this financial year.

The purpose of this report is to advise Council of these upcoming training opportunities tailored for councillors through LGNSW, to seek approval for the attendance of Cr Armour to her nominated training courses, and to discuss and/or approve the attendance of additional councillors to these courses offered through LGNSW where indicated.

RECOMMENDATION:**THAT COUNCIL:**

- 1. Receive the report on Training Opportunities for Councillors – LGNSW;**
- 2. Ratify the approval received from the Mayor and CEO on 22 February for the attendance of Cr Armour to the “Integrated Planning & Reporting” online course;**
- 3. Approve the attendance of Cr Armour to the “Audit Risk & Improvement Committee Training” offered online, providing there are sufficient funds within her budget allocation at the time of registering attendance;**
- 4. Discuss and confirm the attendance of additional councillors for any of the abovementioned LGNSW training opportunities for councillors.**

BACKGROUND:

The LGNSW Learning & Development Team provide a wide range of short training courses aimed at enhancing the skills of elected members. The courses are available through online or face-to-face delivery. A list of available courses is available on the LGNSW website.

On Tuesday 25 January the CEO provided to all councillors a list of online training opportunities offered by LGNSW, with a request to submit interest in courses by Wednesday 2 February 2022.

Cr Armour advised her interest in the courses “Integrated Planning & Reporting” and “Audit Risk & Improvement Committee Training”.

REPORT:

The courses offered by LGNSW facilitate professional and leadership development in a variety of areas, thereby enabling elected members to effectively represent their community. The courses of interest to Cr Armour are:

Integrated Planning & Reporting (IP&R)

Online 9:30am – 12:30pm; Two half-day sessions - Next available dates: 18 March + 25 March 2022; Cost \$660 incl GST.

This workshop provides a hands-on experience for councillors that confirm the legislative requirements and intent of the IP&R framework and support the development of their next suite of IP&R documents.

Due to the timing of this course (the day following this council meeting), the Mayor and CEO provided approval for Cr Armour to attend this training on 22 February, and the registration process has already been completed.

Audit Risk & Improvement Committee Training

Online 9:00am -12:30pm; Next Available Dates: Thursday 31 March 2022 and Friday 3 June 2022; Cost \$440 incl GST.

This workshop will assist NSW councils to implement the new risk management and internal audit framework.

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework: CSP Outcome 2028

Theme 4: Communication & Engagement

Delivery Outcomes

4.5 Council demonstrates strong leadership through a governance framework which drives progress towards achieving the community vision

Operational Actions

4.5.1 Implement a Councillor Professional Development Program

SUSTAINABILITY ASSESSMENT:

Financial and Resources Implications

Provisions within Council's 2021/22 Operational Budget have been made for the attendance at conferences and training courses by councillors.

At the commencement of this current term, a pro-rata amount of \$36,557 was allocated for training and conference attendance by the Mayor and councillors, as per below:

Mayor	\$6,016
Deputy Mayor	\$4,627
Councillors	\$3,702 each

The current balance for each councillor and the impact of costs incurred through attending the training proposed in this report is below:

Councillor	Opening Balance	Costs Proposed In This Report (excl GST)	Closing Balance
Mayor Chaffey	\$4016.00		\$4016.00
Dep Mayor Thomson	\$2627.00		\$2627.00
Cr Hughes	Est. -\$198.00		Est. -\$198.00
Cr Ham	\$3302.00		\$3302.00
Cr Hayes	\$3702.00		\$3702.00
Cr Armour	\$3702.00	\$1000.00	\$2702.00
Cr Livermore	\$3702.00		\$3702.00
Cr Ivill	\$3702.00		\$3702.00
Cr Larter	\$3702.00		\$3702.00

Council approval for conference / course attendance is conditional on adequate funds being available.

Costs and Benefits:

The duration of each course and their respective costs are outlined in the Report section above.

This is Cr Armour's inaugural term as a Snowy Valleys councillor. Council has a legislated obligation to promote and provide tailored individual professional development opportunities to all councillors, particularly those councillors new to local government. The nominated courses will enhance Cr Armour's ability to effectively undertake her role as councillor and serve the community.

Policy, Legal and Statutory Implications:

Council's *Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy* requires Council to make resolution on training / conference attendance for those seeking Council's financial support to attend.

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

Nil

OPTIONS:

Council can choose to approve the attendance of Cr Armour at one or both of her nominated courses, provided the funds are available in her budget at the time of registering attendance with LGNSW.

Council can choose to not approve the attendance of Cr Armour at either of her nominated courses.

Council can choose to approve the attendance of additional councillors at the nominated courses, provided funds are available within the respective councillor's budgets at the time of registering attendance with LGNSW.

Councillors can opt to forfeit all or part of their training allocation to another councillor.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Nil

ATTACHMENTS

- 1 Overview - LGNSW Courses - Cr Armour (under separate cover)

10. GOVERNANCE AND FINANCIAL REPORTS**10.2 ENDORSEMENT OF THE DRAFT INTEGRATED PLANNING AND REPORTING SUITE 2022 FOR PUBLIC EXHIBITION**

REPORT AUTHOR: COORDINATOR COMMUNICATIONS & ENGAGEMENT
RESPONSIBLE DIRECTOR: CHIEF FINANCIAL OFFICER

EXECUTIVE SUMMARY:

Integrated Planning and Reporting (IP&R) legislation was introduced by the NSW State Government in 2009 and sets requirements for all Councils to lead the development of long-term plans for their local government area detailing community aspirations and strategic directions.

The IP&R framework requires a number of strategic planning and resourcing documents, with alignment to the term of the elected council.

The requirements include a long-term Community Strategic Plan (at minimum of 10 years), a Delivery Program for the term of the council (generally four years), and a detailed Operational Plan that will set out council's projects and activities for the coming 12 months.

The combined draft Delivery Program (2022-2026) and Operational Plan (2022-2023) is a first for Snowy Valley Council. It outlines activities that Council is committed to undertaking to accomplish the Community priorities identified in the Towards 2042 Community Strategic Plan listing them by Council Service Areas. Of particular note is the introduction of the proposed Special Rate Variation (SRV) from 1 July 2022. During 2021 Council extensively engaged with the community around the ongoing financial sustainability challenges it faces and submitted an application for an SRV to the Independent Pricing and Regulatory Tribunal in early March 2022.

It is important that the plans are well publicised during the exhibition period to gain community input and feedback in order for Council to give consideration to broad community sentiment and all comments and submissions prior to the adoption of the plans at the 16 June 2022 Council Meeting.

RECOMMENDATION:**THAT COUNCIL:**

1. **Receive the report on Endorsement of the Draft Integrated Planning & Reporting Suite 2022 for Public Exhibition.**
2. **Endorse the following draft Integrated Planning & Reporting strategies and plans and place on public exhibition for a period for a minimum 28 days commencing 18 March 2022:**
 - i. **Draft Towards 2042 Community Strategic Plan;**
 - ii. **Draft combined Delivery Program (2022-2026) and Operational Plan (2022-2023) incorporating the Operational Budget (2022-2023) and Revenue Policy 2022-2023;**
 - iii. **Draft 2022-2023 Fees and Charges;**
 - iv. **Draft Resourcing Strategy documents including Draft Long-Term Financial Plan (2022-2032), Draft Strategic Asset Management Plan (2022-2026) and Draft Workforce Management Plan (2022-2026).**
3. **Endorse the draft community consultation overview and calendar for the public exhibition period.**

4. Receive submissions from the community in relation to the above documents throughout the exhibition period.

BACKGROUND:

In September 2021, Office of Local Government released updated Integrated Planning & Reporting (IP&R) Guidelines and Handbook, the first update to these documents since 2013.

Legislative changes have also been made to the Act to reinforce the requirement for the IP&R framework to guide all council planning and decision making.

IP&R documents comprise a series of inter-related documents that together provide a rigorous, consistent approach to community planning across all NSW Local Governments, while also ensuring alignment with regional and state priorities.

The key components of the IP&R framework are the Community Strategic Plan (CSP), Delivery Program (DP), Operational Plan (OP) and Resourcing Strategy (RS) and should be read and understood by everyone with responsibility for developing, delivering, endorsing, and reporting on the IP&R Suite.

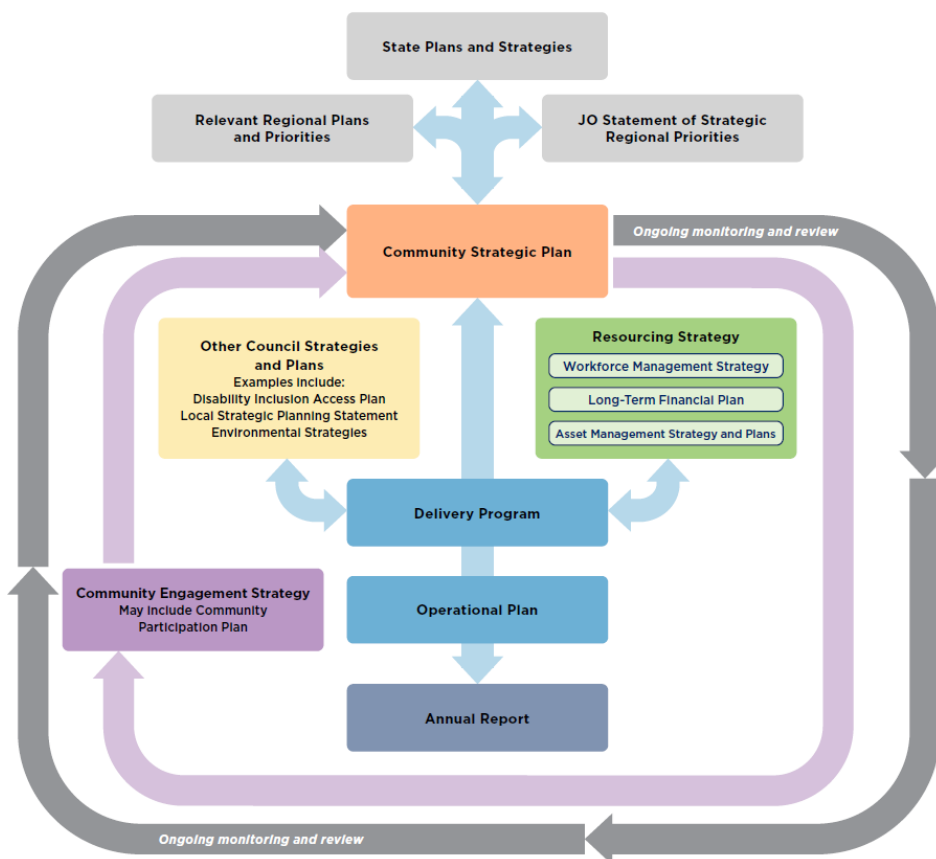


Image 1: Integrated Planning & Reporting Guidelines 2021, NSW Office of Local Government

REPORT:

The IP&R framework allows Council to tie together various plans to understand how they interact and inform each other and to get the maximum benefit from council’s efforts by planning broadly for the future.

Draft Community Strategic Plan (CSP)

The CSP is the highest-level plan that Council will prepare. The purpose of this plan is to identify the community’s main priorities and aspirations for the future and to plan strategies for achieving goals.

The Canberra Region Joint Organisation (CRJO) recognised the potential efficiencies of developing a Regional Community Strategic Plan.

Council resolved at its April 2020 Ordinary meeting to participate in this approach. Participating Councils include Hilltops, Upper Lachlan Shire, Yass Valley, Goulburn, Mulwaree, Queanbeyan-Palerang, Snowy Valleys, Snowy Monaro and Bega Valley.

Between 21 June and 31 August 2021 Council undertook a comprehensive community engagement campaign to listen to and understand the priorities and aspirations that the community has for the future. The engagement campaign consisted of:

- A series of interactive pop ups in towns and villages across SVC
- Children drawing sheets
- Online and hardcopy surveys
- Dedicated discussion guides
- Targeted and random telephone interviews
- A dedicated email address for submissions and feedback
- A dedicated Towards 2042 webpage on SVC Website
- Dedicated branding for the project
- Social Media promotion inviting community to participant in feedback

Four key questions were asked during the community engagement phase to help identify the community's vision, aspiration, and priorities:

1. Where are we now?
2. Where do we want to be in 10 years' time?
3. How will we get there?
4. How will we know we have arrived?

By the end of the Phase 1 of the campaign, Council had engaged with over 535 residents, community groups, businesses and other stakeholders representing 3.7% of the Snowy Valleys population. From the engagement data, five themes were developed to capture the overarching priorities of the community. These themes were created on the feedback received during the community engagement activities.

The five themes which will help Council achieve the community vision are:

A. Our community

Our communities are connected and inclusive, supported by services that nurture health, wellbeing, and identity.

B. Our economy

Our diverse economy supports community longevity, vibrancy, and a sustainable future.

C. Our environment

Our natural environment is cared for and protected to ensure future generations can experience and enjoy its beauty

D. Our Infrastructure

Our local infrastructure is sustainable and facilitates our way of life.

E. Our civic leadership

Our civic leadership and organisation governance fosters open and transparent partnership with our community.

These themes have been used to detail how Council will work towards achieving what the community desires in its draft Delivery Program 2022-26 and Resourcing Strategy 2022.

Draft Combined Delivery Program (DP) 2022-26 and Operational Plan (OP) 2022-23

Council's draft combined Delivery Program 2022-26 and Operational Plan 2022-23, incorporating the Operational Budget 2022-23 and the Revenue Policy 2022-2023 have been formulated with consideration to the draft Towards 2042 Community Strategy Plan.

The *Delivery Program* is Council's four-year statement of commitments to the community from the elected Council.

It details the principal activities and objectives that will guide Council to prioritise actions to help achieve the community's priorities and goals as set out in the Community Strategic Plan.

The *Operational Plan* has been designed to enable a better understanding of the costs of Council services and how well Council delivers the projects and services it is responsible for.

To do this the Operational Plan has been divided into service areas of Council.

Services, projects, and programs from each service area all directly align to objectives from the Delivery Program. Each service area has identified key outputs for the year, as well as the level of service to be delivered within allocated budgets and people.

The overall consolidated operational budget for 2022-2023 recognises income of \$76.8 million, including capital grants, subsidies and contributions of \$28.8 million and operational expenditure of \$49.2 million. The forecast operating result is a surplus of \$27.6 million including capital grants and a deficit of \$1.2 million excluding capital grants.

The alternative operational budget should a Special Rate Variation not be approved by the Independent Pricing and Regulatory Tribunal (IPART) requires Council to embark on a major savings drive, including the removal and reduction of a number of services, large increases to fees and charges and considerable asset rationalisations. This scenario results in a surplus of \$29.3 million with capital grants and a break-even result with a surplus of \$0.4 million without capital grants.

Resourcing Strategy

The resourcing Strategy includes 3 inter-related components:

1. Long-Term Financial Plan
2. Workforce Management Strategy
3. Asset Management Strategy

This document is the point where Council explains to the community how it intends to perform all of its functions, including implementing the strategies set out in the Community Strategic Plan into the future.

Draft Long-Term Financial Plan (LTFP) 2022-2032

Council's draft LTFP 2022-2032 is used to inform decision making and demonstrates how the objective if the Community Strategic Plan and commitments of the Delivery Program and Operational Plan will be resourced and funded.

The LTFP is reviewed at least annually in line with Council strategies and goals and is based on the Operational Plan for 2022-2023.

The operational budget contained in the operational plan is based on the introduction of a Special Rate Variation (SRV) of 15% in 2022-2023, with an additional second step 15% SRV planned for 2023-2024. Including the IPART prescribed rate peg of 0.7% in 2022-2023 and anticipated rate peg of 2.5% in 2023-2024, the proposed SRV compounds to 35.95% over two years. The introduction of the SRV will enable Council to:

- maintain current service levels,
- fund ongoing maintenance,
- fund renewal of infrastructure assets,
- increase capacity to renew deteriorating assets,
- ensure and improve financial sustainability,
- deliver key priorities in the Community Strategic Plan and Delivery Program, and
- reduce reliance on external grant funding for asset renewals.

Council has committed to efficiency savings and minor service level changes to keep the SRV at the anticipated level of 35.95%.

In addition to the presented scenarios in the operational plan that include the introduction of the SRV and the alternative showing the extensive service level changes and asset rationalisations required if an SRV is not introduced, the LTFP contains a third scenario that outlines the financial consequences if only the first year of the proposed SRV is implemented and no further savings, service level changes and asset rationalization are undertaken by Council.

The LTFP also contains the capital works project forecast outlining \$161 million in capital investments planned over the 10 years, with \$40 million investments planned for 2022-2023.

Draft Fees and Charges 2022-2023

The Fees and Charges 2022-2023 Schedule sets out the fees that Council will charge for services and programs. The draft Fees and Charges 2022-2023 Schedule has been prepared by assessing each fee for cost recovery and cost base increases, and, where applicable, the fees have been increased accordingly.

The fees and charges are made up of fees provided under relevant Acts, fees determined by Council and recommendations from the Local Government and Shires Associations of NSW.

The Fees & Charges Schedule presents the planned fee increases and changes for both operational scenarios, namely that with an SRV and that without. Should an SRV not be approved, the fees and charges will need to be increased considerably higher than under the SRV scenario.

Draft Workforce Management Strategy 2022-2025

The draft Workforce Management Strategy considers the human resources required to implement Council's Delivery Program. Development of the strategy includes consideration of internal and external challenges and opportunities likely to impact the workforce, the current capabilities of our workforce and those that will be needed in the future.

This planning process provides Council with an opportunity, every four years, to plan adjustments to the workforce to meet changing community expectations and changes to the operating environment in which the community pursues the goals of the 10-year Community Strategic Plan.

The draft strategy has been developed to link to and build on the work of the last three years with minimal change in the prevailing environmental conditions or the strategic imperatives from the last integrated planning period.

Additionally, this strategy needs to align with the other Resourcing Strategy documents being Council's Long Term Financial Plan and the Asset Management Plan. The major issues outlined in these plans with workforce implications are:

1. The LTFP outlines savings targets required for Council to achieve long term financial sustainability which will have impacts in terms of future size and composition of the workforce. The LTFP identifies three scenarios one of which includes an SRV of 35.95% and one where no SRV is approved. The no SRV option indicates considerable impact on the types and levels of service as well as on the overall size of the workforce in terms of FTE.
2. Both the LTFP and the Asset Management Plan indicate a large portfolio of assets held by Council which generates a large program of works required to maintain and replace assets. Additionally, there is a major program of capital works projects to be delivered (\$161M in capital investments planned over the 10 years, with \$40 million investments planned for 2022-2023) which will require significant additional resources to deliver.

So, while the financial analysis is stating that workforce costs need to reduce over the longer term to contribute towards achieving financial sustainability this has to be balanced against maintaining service levels to the community, employee safety and resourcing the large program of works to be delivered. This requires effective strategic decision making around services, service levels and timing of any changes to workforce size or composition.

Council's draft workforce management strategy outlines key workforce actions to address the identified gaps and challenges which will be underpinned by a program of embedding and consolidation of our existing systems and processes to prepare a solid foundation for the organisation from which to face future challenges. This will involve a program of reviews, improvement initiatives and simplification of systems, policies and procedures to ensure efficiency, fitness for purpose and necessity.

Draft Strategic Asset Management Plan 2022-2026

Council owns and maintains a large portfolio of assets, enabling community access and enjoyment to services and facilities. At 30 June 2021 Council owned \$877 million in Infrastructure, Property, Plant and Equipment assets. The net carrying amount of these assets (net of depreciation and amortization) was \$658 million.

The key objective of asset management planning is to provide the required level of service for the community in accordance with the draft Towards 2042 Community Strategic Plan and in the most cost-effective manner.

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

CSP Outcome 2028

Theme 4: Communication & Engagement

Delivery Outcomes

4.5 Council demonstrates strong leadership through a governance framework which drives progress towards achieving the community vision

Operational Actions

4.5.7 Fulfill all Integrated Planning & Reporting requirements, including preparation of the End of Term Report, Community Strategic Plan, Delivery Program and Resourcing Strategy

SUSTAINABILITY ASSESSMENT:

	Positive	Negative
Social	Ensuring adequate services are provided to the community, and transparent planning provides	The proposed special rate variation, increases in fees and charges and proposed reductions in some services

	Positive	Negative
	confidence in Council's ability to deliver on the community's priorities.	may be seen as having social impacts.
Environmental	Planning for the provision of services that improve environmental outcomes within Council's area of influence	Environmental impacts will need to be identified and managed closely given the scale of developments outlined in the Operational Plan.
Economic	The plans assist in improving community and investor confidence in the region through demonstration of gradual improvement in delivery of key economic initiatives.	There may be a perception that Council needs to be more than an enabler/supporter in Economic Development and SVC's role will need to be clearly outlined.
Governance	This report is required to demonstrate to the community and government the appropriateness and transparency of Council's decision-making processes. The suite of Integrated Planning and Reporting complies with the requirements of the legislation.	Nil

Financial and Resources Implications

The adoption of the Long-Term Financial Plan, Operational Budget and Fees & Charges Schedule will incur associated expenses and resources for successful implementation over the years.

Costs and Benefits:

The cost of delivering on these draft plans is outlined in the draft 2022-2023 budget.

These plans continue to deliver on Council's commitments to fulfil the aspirations of the Community Strategic Plan and Delivery Strategy on those areas within Council's span of control and influence.

Policy, Legal and Statutory Implications:

Under the Local Government Act 1993, Council is required to develop and publicly exhibit documents in the Integrated Planning and Reporting Framework for 28 days and consider submissions made. Section 402-406 of the Act outline the requirements of:

- Community Strategic Plan (s402)
- Resourcing Strategy (s403)
- Delivery Program (s404)
- Operational Plan (s405)
- Integrated Planning & Reporting Guidelines (s406)

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

There is a risk that the draft plans provided with this report are not understood well by the community and therefore, a detailed communications and engagement approach will be applied as outlined below.

OPTIONS:

1. Council endorses the plans as presented and places them on public exhibition.
2. Council may opt to amend the plans and place them on public exhibition.
3. Council may opt not to endorse any of the plans presented at this time, being aware that Councils are mandated to have the plans adopted by 30 June 2022.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:**Internal Consultation**

A review of the council's current Integrated Planning & Reporting (IP&R) Suite, Snowy Valleys 2028 Community Strategic Plan, 2018-2021 Delivery Program the current 2021-22 Operational Plan, SVC Resourcing Strategy, priority organisational projects and the audit matrix was undertaken with the executive team and managers to develop and confirm the priorities in the revised IP&R Suite (Towards 2042 Community Strategic Plan, 2023-2025 Delivery Program, 2022 Resourcing Strategy and 2022-23 Fees & Charges).

The Operational Budget has been developed in consultation with the management team and executive.

The draft plans were discussed by Councillors in January and February 2022 in the lead-up to the endorsement of the documents for public exhibition.

External Consultation

Council completed Phase 1 of the community consultation program to review the Community Strategic Plan in June, July and August 2021. During this period, Council engaged with over 535 residents, community groups, businesses and other stakeholders representing 3.7% of the Snowy Valleys population.

Significant community consultation surrounding the need for a Special Rate Variation was completed between June and November 2021, with the feedback used to determine the draft Long Term Financial Plan scenarios, service reviews, draft delivery program, operational plan and budget and subsequent application to IPART in February 2022.

A comprehensive consultation schedule will take place during the Public Exhibition period, including Pop Ups, Workshops and Community Meetings across the LGA. The exhibition period will be supported by a communications campaign.

ATTACHMENTS

- 1 Snowy Valleys Community Strategic Plan 2022-2042 (under separate cover)
- 2 Draft Delivery Program and Operational Plan 2022-23 (under separate cover)
- 3 Draft Fees and Charges 2022-2023 (under separate cover)
- 4 Draft LTFP 2022-2032 for public exhibition (under separate cover)
- 5 Draft Capital Works Forecast 2022-2032 for public exhibition (under separate cover)

- 6 SRV Scenario tables (under separate cover)
- 7 Service-Reduction Scenario tables (under separate cover)
- 8 Reduced-SRV Scenario tables (under separate cover)
- 9 Draft Workforce Management Strategy 2022-2026 (under separate cover)
- 10 Draft Strategic Asset Management Plan (under separate cover)
- 11 Draft Community Consultation Overview (under separate cover)
- 12 Draft Community Consultation Calendar March-April 2022 (under separate cover)

10. GOVERNANCE AND FINANCIAL REPORTS**10.3 CODE OF MEETING PRACTICE - ADOPTION**

REPORT AUTHOR: GOVERNANCE OFFICER
RESPONSIBLE DIRECTOR: EXECUTIVE CHIEF OF STAFF

EXECUTIVE SUMMARY:

The purpose of this report is to present to the Council the revised Snowy Valleys Council Code of Meeting Practice for adoption.

The new Model Code of Meeting Practice for Local Councils in NSW (Model Meeting Code) was prescribed under the *Local Government (General) Regulation 2021* (The Regulation) on 12 November 2021.

RECOMMENDATION:**THAT COUNCIL:**

- 1. Receive the report on Code of Meeting Practice - Adoption**
- 2. Adopt the Code of Meeting Practice SVC-EXE-M-023-04 following this meeting**
- 3. Rescind the Code of Meeting Practice SVC-EXE-M-023-03 as superseded version**

BACKGROUND:

The Model Meeting Code comprises of mandatory and non-mandatory provisions. As per section 360 of the *Local Government Act 1993*, councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code no later than 12 months after the ordinary council elections. Councils' adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions as long as they are not inconsistent with the mandatory provision.

The repeal date for section 237 of the Regulation which exempts councils from the requirement under clause 5.2 of the previous iteration of the Model Meeting Code for councillors to be personally present at meetings in order to participate in them has been extended to 30 June 2022.

If councils have not adopted a new meeting code that allows councillors to attend meetings by audio-visual link, they will not be permitted to do so after that date.

REPORT:

Councils are required to consult with their communities prior to adopting a code of meeting practice. Under section 361 of the *Local Government Act 1993* the Snowy Valleys Council Code of Meeting Practice must be placed on public exhibition for not less than 28 days with submissions to be received for not less than 42 days.

The Code of Meeting Practice was advertised on the Council website, newspapers and Facebook for the recommended period from 24 January 2022 to 5 March 2022. No submissions were received.

The new Model Code contains:

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

- Amendment made to the provision governing the webcasting of meetings and disorder at meetings to reflect amendments to the Regulation since the previous iteration of the Model Meeting Code was prescribed.
- Amendment made to require that council business papers include a reminder to councillors of their oath or affirmation of office, and their conflict of interest disclosure obligations.

The Model Meeting Code applies to all meetings of councils and committees of councils of which all the members are councillors.

Council committees whose members include persons other than councillors may follow the *Council Committees Operations Manual* for guidance.

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

CSP Outcome 2028

Theme 4: Communication & Engagement

Delivery Outcomes

4.3 Council has sound organisational health and has a culture which promotes action, innovation, accountability and transparency

Operational Actions

4.3.2 Continue to streamline council processes to improve integration and build user confidence

SUSTAINABILITY ASSESSMENT:

Financial and Resources Implications

There will be no significant increase to budgets or resources by adopting this document. There have been no significant changes to the current documents which have any budget implications.

Costs and Benefits:

Nil

Policy, Legal and Statutory Implications:

Complies with *section 360 – 364 of the Local Government Act 1993*

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

By not adopting a Code of Meeting Practice that is based on the Model Code of Meeting Practice is a direct breach of *section 360, 361, 362, 363, 364 of the Local Government Act 1993*.

The Code of Meeting Practice ensures that meetings are conducted in a consistent and transparent way.

OPTIONS:

If councils have not adopted a new meeting code that allows councillors to attend meetings by audio-visual link, they will not be permitted to do so after 30 June 2022.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Internal Consultation

Initial discussions took place at the Executive Leadership Team meeting held on 7 December 2021.

Internal Exhibition was conducted on 17 December 2021 for 7 days and all staff were given the opportunity to review and provide feedback.

The document was then presented to Councillors at the Councillor workshop on 11 January 2022. Councillors given the opportunity to discuss and questions answered as required. A few minor changes were included before the document was placed on External Exhibition.

External Consultation

The Code of Meeting Practice was presented to Council on 20 January 2022 for approval to be placed on External Exhibition.

The document was advertised on the Council website, newspapers and Facebook for the recommended period from 24 January 2022 to 5 March 2022.

Notification was given via local newspapers, website and Facebook.

No submissions were received.

ATTACHMENTS

- 1 Model Code of Meeting Practice - SVC-EXE-M-023-04 (ID3136638) (under separate cover)

10. GOVERNANCE AND FINANCIAL REPORTS**10.4 COMMITTEE MEMBERSHIP RECRUITMENT - APPLICATION APPROVAL
TUMUT AERODROME COMMITTEE**

REPORT AUTHOR: GOVERNANCE OFFICER
RESPONSIBLE DIRECTOR: EXECUTIVE CHIEF OF STAFF

EXECUTIVE SUMMARY:

To present nomination and re-nomination for membership of the Tumut Aerodrome Committee (TAC) within the Council committees framework (policy and operations manual).

RECOMMENDATION:**THAT COUNCIL:**

1. **Receive the report on Committee Membership Recruitment – Application Approval – Tumut Aerodrome Committee**
2. **Approve the nomination and re-nomination from Tony Clee, Craig Cullinger, Fred Kell, Bridget Ryan and Graham Smith to the Tumut Aerodrome Committee**

BACKGROUND:

Immediately following the election of each new council, all committee Terms of Reference, including existing membership of council advisory committees are reviewed and approved by council.

Given the number of committees, there are regular changes to membership reflecting the changes within the broader community. Member(s) retire or leave town, new members express interest, and existing members recruit suitable candidates to committees that hold specific interest for individuals.

Committee membership is vital for community engagement, collaboration and partnerships. Committee members provide information for Council on usage of facilities, achievements within the community, and opportunities and challenges for future development.

REPORT:

The following applications have been received from interested community members for nomination and re-nomination:

Tumut Aerodrome Committee:

- Name: Tony Clee (ECM ID3159628) - nomination
Applicant Qualifications: President Tumut Aero Club
Reasons for Membership: Interest in SVC plans for the airport.
- Name: Craig Cullinger (ECM ID3159629) – re-nomination
Applicant Qualifications: None listed
Reasons for Membership: TAC member and Local Pilot
- Name: Fred Kell (ECM ID3162207) – re-nomination
Applicant Qualifications: Holder: Airline Transport Pilots Licence, Multi-Engine Instructor Rating, 15,100 hours flying experience
Reasons for Membership: 68 years involvement with aviation. Life long interest in aviation. Wish to support advancement of aviation activities in our area

- Name: Bridget Ryan (ECM ID3162208) – re-nomination
Applicant Qualifications: Manager Aviation Business
Reasons for Membership: Airport User
- Name: Graham Smith (ECM ID3162215) – re-nomination
Applicant Qualifications: Hangar owner, pilot, aeroclub member, past flying instructor, aircraft owner
Reasons for Membership: Personal interest in the airport & facilities & promote flying

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**Integrated Planning and Reporting Framework:****CSP Outcome 2028**

Theme 4: Communication & Engagement

Delivery Outcomes

4.1 Partner with local communities to create an ongoing culture of engagement to aid Council decision making

SUSTAINABILITY ASSESSMENT:

Nil

Financial and Resources Implications

Nil

Costs and Benefits:

Nil

Policy, Legal and Statutory Implications:

The Tumut Aerodrome Committee is an Advisory Committee of Council and operates under an adopted terms of reference (TOR).

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

Low as Council are endorsing renomination and nomination of members to this committee.

OPTIONS:

Council can opt to:

1. endorse the nomination and re-nominations as applied
2. not endorse the nomination and re-nominations of the committee members as applied
3. endorse only some of the nominations

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Council committees have been delivered training in the operation of committees and the framework. Councillor and staff delegates are the conduit for information to and from the committees.

ATTACHMENTS

Nil

10. GOVERNANCE AND FINANCIAL REPORTS**10.5 REVIEW OF PROCUREMENT POLICY - FOR PUBLIC EXHIBITION**

REPORT AUTHOR: CHIEF FINANCIAL OFFICER
RESPONSIBLE DIRECTOR: CHIEF FINANCIAL OFFICER

EXECUTIVE SUMMARY:

Council's Procurement Framework has been reviewed to address issues raised by the Audit, Risk and Improvement Committee (ARIC). Updated legislation and information from a number of statutory bodies has been incorporated in the updated Procurement Policy which will be put on public exhibition following Council approval.

RECOMMENDATION:**THAT COUNCIL:**

1. **Receive the report on the Review of Procurement Policy – for Public Exhibition;**
2. **Approve the updated Procurement Policy SVC-FIN-PO-049-02 for Public Exhibition for a period of no less than 28 days;**
3. **Note that if submissions are received during the exhibition period, a further report will be provided to Council on the submissions and any proposed amendments to the policy;**
4. **Adopt the policy if no submissions are received on the day after the completion of the public exhibition period.**

BACKGROUND:

Council procurement is regulated within the *Local Government Act 1993*, the *Local Government General Regulation 2021* and a number of other regulations and guidelines. Procurement is generally considered a high-risk activity and Council mitigates risk in this area through the application of a robust procurement framework.

REPORT:

The Procurement Policy was established in 2018 through an internal working group. Upon review of a number of external documents, ARIC in late 2019 requested that the NSW Capital Expenditure Guidelines 2010, Tendering Guidelines 2009 and the Guidelines on the Procedures and Processes in Public-Private Partnerships 2005 be better referenced within Council's procurement framework as well as tendering thresholds and purchase order processing be reviewed.

In recent years, a number of other publications and guidelines relating to procurement matters have been published by Office of Local Government (OLG), the NSW Audit Office, Independent Pricing and Regulatory Tribunal (IPART) and Independent Commission Against Corruption (ICAC). These publications have been considered in the procurement framework review.

The updates to the Procurement Policy revolve around defining policy scope, updates to definitions, clarifying tax thresholds, the inclusion of important matters such as risk management and competitive local business, as well as adopting a first nations procurement statement as required under Council's Reconciliation Action Plan (RAP). The capital expenditure guidelines and public private partnerships are referenced as requested by ARIC.

The updated Procurement Policy is attached to this report. Council's Procurement Management Framework is also attached to provide further information.

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework: CSP Outcome 2028

Theme 4: Communication & Engagement

Delivery Outcomes

4.5 Council demonstrates strong leadership through a governance framework which drives progress towards achieving the community vision

SUSTAINABILITY ASSESSMENT:

	Positive	Negative
Social	Supporting local employment, local business and first nations enterprises. Ensure fair and transparent procurement processes.	Nil
Environmental	Council officers consider environmental impact when making procurement decisions.	Nil
Economic	Consideration of operational, maintenance and other whole-of-life costs when procuring goods and services.	Nil
Governance	Legislative compliance.	Nil

Financial and Resources Implications

Effective procurement activities and contract management provide assurance that Council's restricted resources are utilised in the most appropriate manner. Procurement activities are undertaken within existing, approved budgets.

Costs and Benefits:

Council's adoption of the updated Procurement Policy provides a clear statement of Council's commitment to ensuring procurement practices result in best value for money whilst meeting the expectations of the community and legislative requirements.

Policy, Legal and Statutory Implications:

The Policy was drafted and updated with regards to the following legislation:

- Local Government Act 1993 (NSW)
- Local Government (General) Regulation 2021
- Government Information (Public Access) Act 2009
- State Records Act 1998
- Tendering Guidelines for NSW Local Government – October 2009
- Work Health & Safety Act 2011

- NSW Capital Expenditure Guidelines 2010
- Guidelines on the Procedures and Processes to be followed by Local Government in Public Private Partnership 2005

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

The Procurement Policy is an important part of managing risk in this area and ensuring that Council gets best value for money.

OPTIONS:

Council may endorse, amend or decline the recommendations made in this report.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Internal consultation was undertaken during 2021.

The Policy, as per the recommendation, will be advertised for a minimum of 28 days for public feedback.

Any relevant and applicable feedback will be collated by Council Officers and returned to Council.

ATTACHMENTS

- 1 DRAFT SVC Procurement Policy SVC-FIN-PO-049 (ID3149499) for public exhibition (under separate cover)
- 2 SVC Procurement Management Framework (ID3149498) (under separate cover)

10. GOVERNANCE AND FINANCIAL REPORTS

10.6 STATEMENT OF INVESTMENTS - FEBRUARY 2022

REPORT AUTHOR: FINANCE OFFICER
RESPONSIBLE DIRECTOR: CHIEF FINANCIAL OFFICER

EXECUTIVE SUMMARY:

This report provides an overview of Council's cash and investment portfolio performance as at 28 February 2022.

RECOMMENDATION:

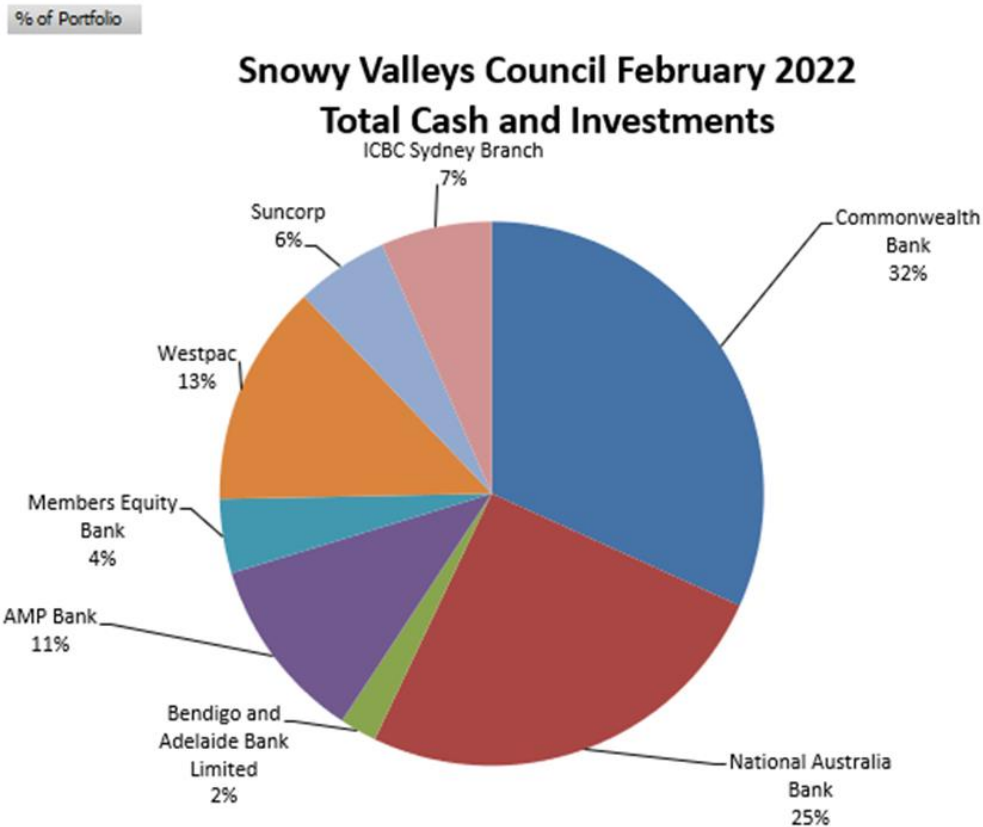
THAT COUNCIL:

1. Receive the report on Statement of Investments – February 2022.

REPORT:

In accordance with Clause 212 of the Local Government (General) Regulations 2021, a monthly report is required to be submitted to Council detailing all investments of Council.

Combined Cash & Investments Table		28/02/2022					
Cash & 11am at call Accounts	Current Month	Last Month	Movement	Type	Interest Rate%		
Commonwealth Bank	\$ 4,378,073	\$ 8,965,643	-\$ 4,587,570	W/Acct	0.10%		
Commonwealth Bank	\$ 10,048,474	\$ 6,247,412	\$ 3,801,061	At Call (BOS)	0.20%		
Commonwealth Bank	\$ 971	\$ 13,734	-\$ 12,763	Gen-Roth	0.10%		
Total Cash & At Call Investments	\$ 14,427,518	\$ 15,226,789	-\$ 799,271		0.17%		
Term Deposits	Current Month	Last Month	Movement	Lodgement Date	Interest Rate%	Maturity Date	
Members Equity Bank	\$ -	\$ 2,000,000	-\$ 2,000,000	19/02/2021	0.50%	21/02/2022	
AMP Bank	\$ 2,000,000	\$ 2,000,000	\$ -	18/03/2021	0.75%	18/03/2022	
National Australia Bank	\$ 2,000,000	\$ 2,000,000	\$ -	27/04/2021	0.35%	27/04/2022	
National Australia Bank	\$ 1,000,000	\$ 1,000,000	\$ -	30/07/2021	0.31%	29/04/2022	
National Australia Bank	\$ 1,500,000	\$ 1,500,000	\$ -	1/12/2021	0.40%	1/06/2022	
Westpac	\$ 2,000,000	\$ 2,000,000	\$ -	30/07/2021	0.32%	29/07/2022	
National Australia Bank	\$ 2,000,000	\$ 2,000,000	\$ -	7/09/2021	0.35%	7/09/2022	
Suncorp	\$ 1,000,000	\$ 1,000,000	\$ -	22/09/2021	0.35%	22/09/2022	
Bendigo and Adelaide Bank Limited	\$ 500,000	\$ 500,000	\$ -	25/11/2021	0.50%	25/11/2022	
Bendigo and Adelaide Bank Limited	\$ 500,000	\$ 500,000	\$ -	25/11/2021	0.50%	25/11/2022	
Suncorp	\$ 1,500,000	\$ 1,500,000	\$ -	1/12/2021	0.52%	1/12/2022	
AMP Bank	\$ 2,000,000	\$ 2,000,000	\$ -	7/12/2021	1.00%	7/12/2022	
AMP Bank	\$ 1,000,000	\$ 1,000,000	\$ -	17/01/2022	1.10%	17/01/2023	
Members Equity Bank	\$ 2,000,000	\$ -	\$ 2,000,000	21/02/2022	0.90%	21/02/2023	
ICBC Sydney Branch	\$ 1,500,000	\$ 1,500,000	\$ -	8/04/2021	0.65%	11/04/2023	
Westpac	\$ 1,500,000	\$ 1,500,000	\$ -	1/12/2021	0.88%	1/06/2023	
National Australia Bank	\$ 2,000,000	\$ 2,000,000	\$ -	28/06/2021	0.60%	28/06/2023	
National Australia Bank	\$ 1,000,000	\$ 1,000,000	\$ -	15/07/2021	0.65%	17/07/2023	
National Australia Bank	\$ 2,000,000	\$ 2,000,000	\$ -	30/07/2021	0.65%	31/07/2023	
Westpac	\$ 1,000,000	\$ -	\$ 1,000,000	15/02/2022	1.75%	15/02/2024	
ICBC Sydney Branch	\$ 1,500,000	\$ 1,500,000	\$ -	8/04/2021	0.85%	8/04/2024	
Westpac	\$ 1,500,000	\$ 1,500,000	\$ -	7/09/2021	0.78%	9/09/2024	
Total Term Deposits	\$ 31,000,000	\$ 30,000,000	\$ 1,000,000		0.67%		
Total Cash & Investments	\$ 45,427,518	\$ 45,226,789	\$ 200,729		0.51%		

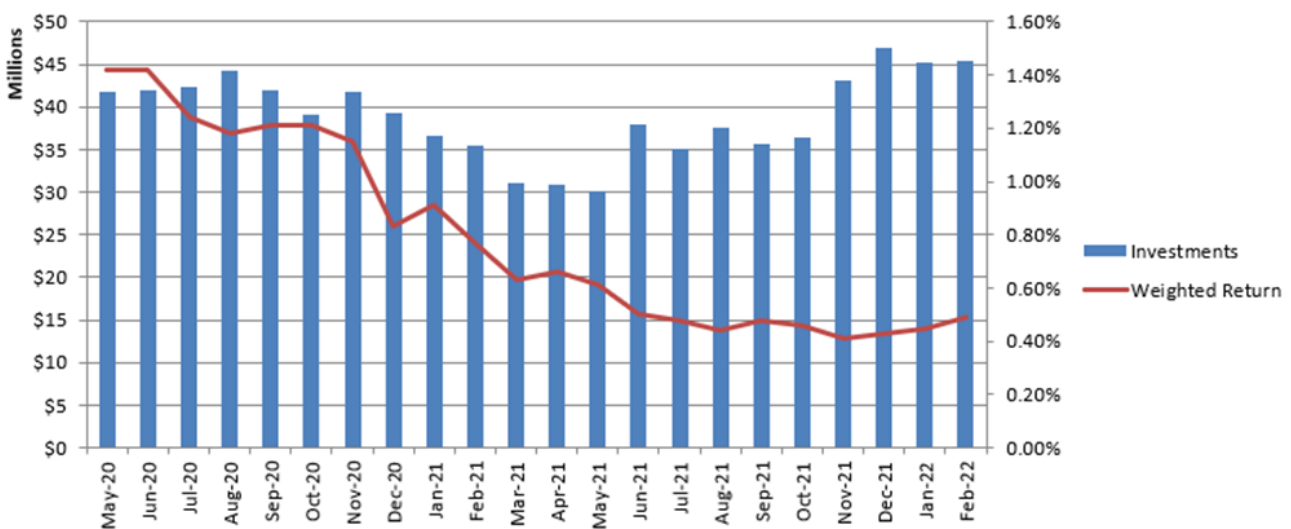


It is hereby certified that the above investments have been made in accordance with Section 625 of the *Local Government Act 1993* and the regulations thereunder, and in accordance with the Snowy Valleys Council Investment Policy.

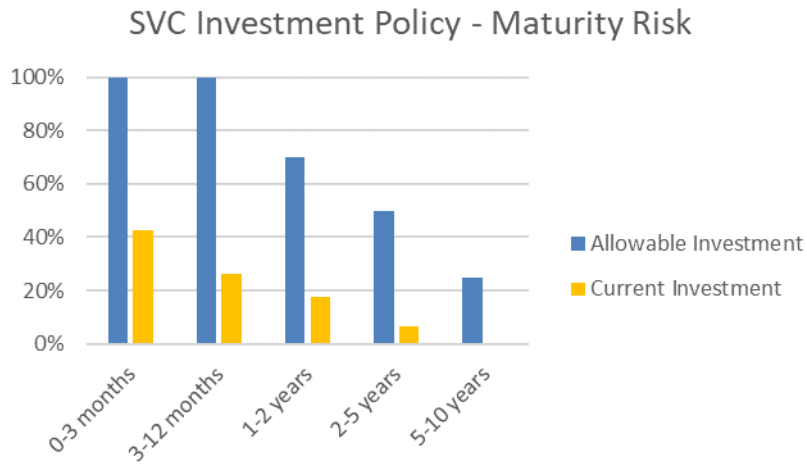
Cash and investments increased \$200K during February 2022.

Cash investment rates are starting to level out with the market factoring in forward expectations of rate hikes and longer-term rates increasing. Council’s investment policy requires Council officers to minimise investment risk by spreading investments across several institutions (institutional credit framework) as well as within its investment portfolio (overall portfolio credit framework). These risk minimisation measures impact the achievable rate of return. Council officers continue to monitor the investment market and regularly receive updates from Council’s financial advisors.

SVC Cash Investments and Weighted Return



This month we focus on Maturity risk. In line with its Investment Policy, Council is now able to address its biggest current investment risk, being re-investment risk, through extended investment horizons. Currently, the portfolio remains highly liquid with 42% of assets maturing within 90 days and an additional 26% maturing within 12 months. However, Council has commenced investing on a longer-term horizon and has been able to secure higher returns.



ATTACHMENTS

Nil

11. MANAGEMENT REPORTS**11.1 TOOMA HALL BUSHFIRE LOCAL ECONOMIC RECOVERY FUND GRANT**

REPORT AUTHOR: MANAGER TECHNICAL SERVICES
RESPONSIBLE DIRECTOR: EXECUTIVE DIRECTOR INFRASTRUCTURE

EXECUTIVE SUMMARY:

This report is for Council to consider the accepting and signing off of the funding deed by the CEO for the funding received by the Tooma Recreation Reserve 355 Committee (TRRC).

This project is for the modernisation and replacement of assets to make the hall and facilities more compliant to current standards and more suitable as an evacuation area. The Bushfire Local Economic Recovery Fund (BLERF) has provided a funding deed to the value of \$997,446.00 for these works.

RECOMMENDATION:**THAT COUNCIL:**

- 1. Receive the report on Tooma Hall Bushfire Local Economic Recovery Fund (BLERF) Grant.**
- 2. Authorise the Chief Executive Officer to sign acceptance of the funding deed on behalf of the Tooma Recreation Reserve 355 Committee and Council**
- 3. Authorise the Chief Executive Officer, upon receipt of the funding to transfer the value received to the Tooma Recreation Reserve 355 Committee for the direct management of the project**
- 4. Authorise the Mayor and Chief Executive Officer to affix Council seal and execute documents relevant to the project**
- 5. Write to the Tooma Recreation Reserve Committee, indicating that Council accepts their proposal for project management by their subcommittee, and outline that it will need to be in line with Council Policy and Procedure**

BACKGROUND:

The Tooma Recreation Reserve is run by a 355 Committee of Council. The group is very active and has been successful in receiving funds and delivering projects at the facility for long period of time.

The BLERF is targeted at communities impacted by the bushfires in the 2019/2020 bushfire season. The funding received by the TRRC is for a project that was submitted by the Committee with support from Council. The project funding deed is required to be signed off by the CEO and returned by the 23rd March 2022.

The Tooma area was isolated during the 2019/2020 bushfires due to impacts from multiple fires. The community identified the need to have a more up to date facility that can meet current requirements to assist those in need when the community is isolated for a period of time. Areas of the community were isolated for over two weeks with power not restored for another two weeks after access was provided.

REPORT:

Tooma Recreation Reserve 355 Committee has received funding from the BLERF for renewals and upgrades at the Tooma Hall. The funding deed requires the signature of the CEO and endorsement from Council.

The TRRC are seeking to project manage and acquit the fund themselves and have allowed for assistance with project management and a small contingency as part of their application. The TRRC held a meeting regarding the grant on 7th March 2022 and have established a subcommittee for the management of the project. The subcommittee have a wide range of applicable skill sets and are keen to action the project with Council's endorsement.

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

CSP Outcome 2028

Theme 1: Towns and Villages

Delivery Outcomes

5.2 Provide well maintained safe, vibrant and accessible community spaces and facilities

Operational Actions

Choose Operational Plan Activity

SUSTAINABILITY ASSESSMENT:

	Positive	Negative
Social	The new facilities will provide a more suitable venue with up to date facilities for the community and other users to gather in a social setting	Whilst development is underway, site access will need to be limited. This may mean the facility is unusable for the community as a gathering place for short periods of time.
Environmental	The project will replace the under sized septic tank and improve the capacity and output of the septic system. This will be more compliant with the needs of the space.	Nil
Economic		
Governance	The designated Council contact will need to ensure the appropriate procedures and policies are followed. This will include under procurement, site and project management and the reporting and acquittal of the project. The proposed sub committee will minimise the workload on Council for the delivery of this project.	

Financial and Resources Implications

The TRRC proposes to deliver this project internally and have already established a sub committee specific to the project. Within the funding they have also allocated budgeted for a project manager and contingency for the project. By providing a single point of contact through the nominated staff representative to the committee, it provides consistency of engagement and understanding and will also ensure that the procurement processes of Council are followed for the project.

The project includes the replacement of the Public Amenities building at the Tooma Recreation Reserve. This facility is approaching the end of useful life for some components in the next 10-15 years, which would normally mean the maintenance burden on Council for these items would be increased as they approach disposal. By approving the knock down and rebuild of this asset, Council and the Community will be using external funding for a capital renewal that would need to be addressed in the near future. The proposed footprint and fittings are similar to the current amenities block but be compliant with current ambulant and disabled facility standards and would be of similar value to the current asset value recorded in Council's asset register.

The project has a number of different components including a new deck and storage area, replacement of air conditioning and electrical systems, knock down and rebuild of the current amenities block, refurbishment of the kitchen, painting and renovation of the hall room and supper rooms, provision of concrete tanks and replacement of the septic tank. These works are a mixture of capital renewal and new assets with a focus on making the hall and facilities more suitable for use as an evacuation point during a disaster.

Costs and Benefits:

Financial Costs	Financial Benefits	Benefits	Opportunities
The total project has been costed to \$997,446.00.	By approving and undertaking this project, Council will be enabling asset renewals using external funding opportunities.	The project will deliver a refurbished and more user friendly and functional community asset.	Future projects to be funded from savings
If Council approves the management of the project by the Committee, Council will not need to undertake applications of overheads for the project		The project will renew significant number of components of the infrastructure at the Tooma Recreation Reserve that Council will not need to fund directly. This includes the amenities block, roof, septic tank, kitchen furnishings, flooring, fencing and handrails.	
	New assets will have less maintenance and operational costs compared with assets approaching their end of useful life.		

By accepting the proposal from the TRRC, Council will be empowering a community group. This will enable the community to deliver more on the project as overheads and other costs will not be applied to the project by Council.

Policy, Legal and Statutory Implications:

The project will need to be delivered in compliance with Council's policies and procedures.

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

Council will need to have engagement with the established subcommittee to ensure the project is governed and reported appropriately. By maintaining communication between the subcommittee and the Council contact, the risk of the project not following the appropriate procedures and policies can be minimised.

There is a risk with the current increase in pricing in the construction industry that the full project will not be able to be delivered. The subcommittee will need to priorities the relevant project components for delivery and monitor the budget allocations and contingencies closely.

There is a small risk that with the current boom in the construction industry that the project may be limited on interested parties, or the prices submitted will be inflated. The subcommittee is aware of these issues and in line with the program, is forecasting to go to the market via Council's tender system in late 2022/ early 2023.

The engaged contractors for this project will be, by way of the delegated Council Officer, in accordance with Council's procurement and Integrated Management System including registration and approval within Council's safety and insurance system.

OPTIONS:

Council can:

1. Adopt the resolutions as recommended
2. Alter the resolutions
3. Reject the resolutions

COUNCIL SEAL REQUIRED:

Yes – the funding agreement is between Council and the NSW Government

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Council will need to engage with the TRRC to ensure that the funding deed is followed, and the appropriate governance and procedural requirements are met. No external communications apart from project updates and the formal tender processes are forecast.

ATTACHMENTS

- 1 20210929 - Support in Principle Letter - Bushfire Recovery Grant Application - Snowy Valleys Council (under separate cover)
- 2 20220307 - Letter - Tooma Recreation Reserve Committee (under separate cover)

11. MANAGEMENT REPORTS**11.2 FEEDBACK RECEIVED FROM PUBLIC EXHIBITION OF FORMER BATLOW CANNERY SITE - COMMUNITY CONSULTATION FINDINGS REPORT AND SPATIAL ASSESSMENT PLANS.**

REPORT AUTHOR: EXECUTIVE ASSISTANT - COMMUNITY & CORPORATE
RESPONSIBLE DIRECTOR: EXECUTIVE DIRECTOR COMMUNITY AND CORPORATE

EXECUTIVE SUMMARY:

This report presents feedback received as a result of the public exhibition of the Community Consultation Findings Report and Spatial Assessment Plans in respect of the former Batlow Cannery site.

RECOMMENDATION:**THAT COUNCIL:**

1. **Note the feedback received regarding the Former Batlow Cannery Site - Community Consultation Findings and Spatial Assessment Plan Report which was placed on public exhibition from 10 September to 5 November 2021.**
2. **Adopt the Former Batlow Cannery Site - Community Consultation Findings and Spatial Assessment Plan Report as a useful reference in the development of other Council Planning documents such as:**
 - **Local Community 'Place Plans'.**
 - **The Local Environmental Plan.**
 - **The Tracks and Trails Masterplan.**

BACKGROUND:

Snowy Valleys Council (SVC) determined to purchase the former Batlow Cannery site in 2016 in response to community concern about its derelict state. In that time a contract was let for the demolition of the most impaired structures with the retention of some elements to acknowledge the history and town heritage associated with the Cannery over many generations.

An expression of interest was conducted in 2019 with a view to identifying a suitable enterprise that could invest and establish itself on the site. This process identified three potential enterprises however, the Dunns Road Bushire severely impacted the site and required that the demolition work be re-scoped to be far more extensive than originally planned. This resulted in one of the proposed enterprises withdrawing their interest.

A further proposed enterprise identified another site in another municipality to base their operations. The third enterprise remained in play. Following the completion of demolition works the remaining enterprise interested in the site sought to lease part of the site to expand their adjacent pine seedling nursery operations.

Following Council's approval of the lease proposal, the Batlow Development League and some other members of the Batlow community expressed their view that they felt they had not been consulted on the matter.

In response it was proposed that a spatial assessment be undertaken in respect of the site to determine a role it may play in the future development of Batlow.

In brief the consultation assessment foreshadows two scenarios:

1. Short term or “meanwhile” use opportunities and
2. Long term development opportunities

Meanwhile use options include:

- Extension of existing caravan park area
- Long vehicle, RV, Caravan and Boat Storage
- Pop up markets, food stalls
- Community Hub
- Existing Pine seedling Nursery

Long term development options include:

- Visitor Accommodation
- Residential – Independent Living
- Community Hub
- Enterprises ancillary to recreational infrastructure such as walking tracks/heritage trails and cycle ways, both within the town and beyond.

REPORT:

At its 15 July 2021 meeting Council resolved to place the Community Consultation Findings and Spatial Assessment Plan Report for the former Batlow Cannery on public exhibition. The document is not a ‘plan’ as such, however, the assessment as well as the feedback received from the community, will prove to be useful information for input into other Council strategic documents, such as:

- Local Community ‘Place Plans’
- The Local Environmental Plan
- The Tracks and Trails Masterplan

Due to the interest generated the public exhibition period was extended for a period of 57 days with the document downloaded on 55 occasions with 14 actual responses from the public. These responses were largely further suggestions as to the future use of the former Cannery site and are listed in full at Attachment 1.

Responses are summarised in the table below along with a brief officer comment:

Reference	Response Summary	Officer Comment
1	Request for extension to closing date of Public Exhibition period	Public Exhibition period extended for 1 month.
2	Expansion of the caravan park. Connect a cycle/walking town trail. Maintain horticultural activity and include retail and display. Rail Trail Head and Visitors Centre.	Caravan Park extension proceeding. To be considered in Tracks and Trail M/Plan. Silviculture only currently on site.
3	Develop the site for housing	Housing identified in Assessment Report as long-term use.
4	Develop the site for housing	Housing identified in Assessment Report as long-term use.
5	Develop the site for housing	Housing identified in Assessment Report as long-term use.
6	Disappointment re other uses having to work around the existing leasehold area	Pine seedling nursery is contributing to the recovery of the softwood timber industry following the Black Summer Bushfires.
7	Electric vehicle charging station	Micro footprint, could be established on main road.

Reference	Response Summary	Officer Comment
8	Tourism, Rail Trail, Information Centre, Cafes, Restaurants, Accommodation, Botanic Gardens with Picnic Areas. Putt Putt Golf, Bowling centre, Drive In Theatre	Rail Trail to be considered through the Tracks and Trails Masterplan. Commercial enterprises requiring private investment.
9	Development of a Skate Park and Pump Track. A master plan for the site is required. Trail Head for future Batlow to Tumut rail trail.	Masterplan for site would be useful however, not a current priority
10	Thanks for initiating a consultation. Request for actual number of people who participated. No context re Council's position on current lease holdings. Focus on visitor/community facilities. Rail Trail Head Community enterprises associated with rail trail such as hubs, cafes, small businesses, Botanical garden or zoological park Sculpture Trail Independent Living and/or Residential Aged Care facility	Pine seedling nursery is contributing to the recovery of the softwood timber industry following the Black Summer Bushfires. Rail Trail to be considered through the Tracks and Trails Masterplan. Commercial enterprises requiring private investment. Sculpture Trail proceeding at other locations in Batlow. Housing identified in Assessment Report as long-term use.
11	Site should belong to Community. Provide for economic recovery and additional recreational space. Limited information provided in report for decisions to be made by Council. No economic assessment of concepts provided in report. Site critical for the development of Tumut to Batlow Rail Trail. Expansion of Caravan Park supported. Other areas better suited for housing development. Larger area should be allocated to Rail Trail head. Support for office building for Community use. Time to look at the bigger picture: <ul style="list-style-type: none"> • Botanical Garden. • Centre of Horticultural Excellence. • Free Flight Avery for endangered bird species. 	Recreational space in Batlow is extensive. The spatial assessment was undertaken to provide input into other Council plans and strategies. Rail Trail to be considered through the Tracks and Trails Masterplan. Caravan Park extension proceeding. Noted. Rail Trail to be considered through the Tracks and Trails Masterplan. Men's Shed established on site. Noted.
12	Look at future tourism options and an economic study before proceeding. Potential for tourism growth around a Rail Trail from Batlow to Tumut. Rail Trail Head Extension of the Batlow Caravan Park with more cabins, itinerant worker accommodation current Office Block for general community use and a Men's' Shed. Vision the site as one large tourist attraction housing accommodation, food and beverage, gardens, bike repair and parts, play areas, parking.	Economic Study would be useful however not a current priority. Rail Trail to be considered through the Tracks and Trails Masterplan. Caravan Park extension proceeding. Men's Shed established on site.
13	Biomass Carbonization Furnace	Commercial enterprise requiring private investment.
14	Concern regarding certainty of use for the central 3 ha former cannery site and the need for a strategic concept development plan.	Strategic concept development plan would be useful however, not a current priority.

Reference	Response Summary	Officer Comment
	<p>Disagreement with 2 stage “meanwhile” and “Long-Term” approach.</p> <p>Rail Trail Head should be established on the site not elsewhere.</p> <p>Botanical Gardens or Walk-Through Maze.</p> <p>Five-year lease to one business on site is disproportionate.</p>	<p>Noted.</p> <p>Rail Trail to be considered through the Tracks and Trails Masterplan.</p> <p>Commercial enterprise requiring private investment.</p> <p>Pine seedling nursery is contributing to the recovery of the softwood timber industry following the Black Summer Bushfires.</p>

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

CSP Outcome 2028

Theme 4: Communication & Engagement

Delivery Outcomes

4.1 Partner with local communities to create an ongoing culture of engagement to aid Council decision making

Operational Actions

4.2.2 Clearly communicate information about Council's services, projects and events using traditional communication channels

SUSTAINABILITY ASSESSMENT:

N/A

Financial and Resources Implications

N/A

Costs and Benefits:

The Spatial Assessment and Community Engagement was fully grant funded. It provides useful information for input into other Council plans and strategies.

Policy, Legal and Statutory Implications:

N/A

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

N/A

OPTIONS:

Council may choose to adopt the recommendations contained in this report. Alternatively, Council may defer consideration of this report and seek further information to be presented to a future meeting of Council.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Community Engagement was undertaken in the process of developing the Spatial Assessment. Targeted meetings with key stakeholders and drop-in sessions were held on site in Batlow during February 2021.

The Draft Batlow Cannery Site findings and Spatial Assessment Plans were placed on public exhibition on Council's Website with published notices in the local newspapers.

ATTACHMENTS

- 1 ECM Doc ID 3162292 - 20220309 - Feedback on Public Exhibition Documents - Former Batlow Cannery Site (under separate cover)
- 2 ECM Doc ID 3113992 - 20210629 - Batlow Community Consultation Report Final - Batlow Cannery (under separate cover)

11. MANAGEMENT REPORTS**11.3 TUMBARUMBA CHAMBER OF COMMERCE - REQUEST FOR FUNDING**

REPORT AUTHOR: EXECUTIVE DIRECTOR COMMUNITY AND CORPORATE
RESPONSIBLE DIRECTOR: EXECUTIVE DIRECTOR COMMUNITY AND CORPORATE

EXECUTIVE SUMMARY:

The Tumbarumba Chamber of Commerce has written to the Chief Executive Officer seek funding assistance to complete works to the roof of the Khancoban Hall. The works are required following other works to remove asbestos that had been identified as hazardous and had resulted in the closure of the hall.

The asbestos removal works revealed the poor state of the roof and with the removal of ceiling tiles water ingress and condensation was resulting in damage to the floor of the hall. Additionally, the hall has remained unusable in that state.

This report recommends that Council allocates funding from the "Project Development Reserve" and reimburse that reserve with income derived from the pending sale of investment properties currently owned by Council.

RECOMMENDATION:**THAT COUNCIL:**

- 1. Receive and note the report on Tumbarumba Chamber of Commerce – Request for Funding.**
- 2. Agree to the Tumbarumba Chamber of Commerce's request for funding and allocate \$60,304.79 from the Project Development Reserve for the purpose of completing repairs to the roof of the Khancoban Hall.**
- 3. Reimburse the Project Development Reserve with income derived from the pending sale of investment properties currently owned by Council.**

BACKGROUND:

The Khancoban Hall is an asset of Snowy Valleys Council. In 2020 The Tumbarumba Chamber of Commerce successfully applied for funding to rehabilitate the hall and remove asbestos to enable its future and ongoing use by the community. The Tumbarumba Chamber of Commerce and Snowy Valleys Council reached an agreement that the chamber of commerce would manage the project to rehabilitate the hall.

REPORT:

The asbestos removal stage of the rehabilitation project is now largely complete. However, the removal of the asbestos has revealed the poor state of the roof. Water ingress now occurs along with condensation, and the floor of the hall is currently covered to prevent water damage. As a result, only the foyer of the hall is currently available for use by the community.

The Tumbarumba Chamber of Commerce has identified a solution and proposes to install a membrane over the existing roof and then lay a new Colourbond roof over that. The Chamber has received a quote of \$86,800 to undertake the works. Once the remaining, original scope of works are complete the Chamber advise they will have a surplus of \$26,491.21 which they will apply to the roof repairs.

The Chamber are requesting that Council fund the balance of the cost to make the necessary roof repairs to enable the Khancoban community's full use of the hall. This report proposes to allocate \$60,304.71 from the Project Development Reserve to enable the works to proceed as soon as possible. Council can then reimburse the reserve from funds generated by the pending sale of investment properties.

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

CSP Outcome 2028

Theme 1: Towns and Villages

Delivery Outcomes

1.1 Create welcoming towns and villages that are vibrant, accessible and foster a sense of community

Operational Actions

1.5.2 Maintain community halls and facilities in accordance with agreed service levels

SUSTAINABILITY ASSESSMENT:

	Positive	Negative
Social	<p>Provision of a facility that meets the community needs for recreation and meeting space now and into the future</p> <p>Opportunity for collaboration with a community organisation to deliver a community benefit.</p>	nil
Environmental	Retention of a building that completes a suite of structures, forming a streetscape of some historical importance.	Buildings of this age and era can be costly to operate and maintain
Economic	The funding requested represents a relatively small contribution to the overall cost of the project to rehabilitate the building	Whole of life costs are greater in buildings of this age and era.
Governance	The project is being delivered through an MOU between Tumbarumba Chamber of Commerce and Snowy Valleys Council and in accordance with the Funding Agreement between Tumbarumba Chamber of Commerce and the NSW State Government.	nil

Financial and Resources Implications

The expenditure recommended in this report is not currently allocated. It is recommended that the funds be allocated from the Project Development Reserve. It is also recommended that this reserve be reimbursed from the proceeds of the pending sale of investment properties currently owned by Council.

Costs and Benefits:

Financial Costs	Financial Benefits	Benefits
Total Project Cost is circa \$500K	Council funding being requested is circa \$60K	The Khancoban community will again be able to have access to their hall.

Policy, Legal and Statutory Implications:

The project is being delivered under the terms of a Memorandum of Understanding between Tumbarumba Chamber of Commerce and Snowy Valleys Council in addition to a funding agreement between the Tumbarumba Chamber of Commerce and the NSW State Government.

The MOU requires that the project be delivered in accordance with all relevant legislation and statutory requirements.

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

Risk Theme	Commentary
Service Delivery	Reduction in service is currently being experienced and is expected to continue until such time that the existing facility is re-opened.
Workplace Health and Safety	Presence of asbestos is of serious consequence. Isolation of the asbestos has occurred through closure of the hall. Removal of the asbestos has been undertaken by accredited contractors.
Financial	A firm quote for the repair works has been supplied by the Tumbarumba Chamber of Commerce.
Reputation	Continued reduced access to community facilities may cause reduced reputation within the community.
Political	Given that funding has been granted to the project there is an apparent political risk if the project is not completed.

OPTIONS:

Council may determine not to adopt the recommendations in this report. However, to do so may result in the project remaining incomplete and access to the hall being limited to the foyer.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Council has not undertaken any formal engagement or consultation in respect of the recommendations contained in this report.

ATTACHMENTS

Nil

11. MANAGEMENT REPORTS

11.4 DA2021/0106 - PROPOSED CONSOLIDATION OF LOTS AND BOUNDARY ADJUSTMENT AT WONDALGA ROAD, COOLEYS CREEK

REPORT AUTHOR: MANAGER GROWTH & ACTIVATION
RESPONSIBLE DIRECTOR: EXECUTIVE DIRECTOR COMMUNITY AND CORPORATE

EXECUTIVE SUMMARY:

Development Application DA2021/0106 was lodged on the 25 July 2021 seeking development consent for a boundary adjustment and consolidation of lots into two Torrens title lots for use as agricultural use and transfer of a dwelling entitlement to an unrelated new lot to the north of the site at Wondalga Road, Cooleys Creek.

Assessment of the application against the relevant framework and consideration of matters by Council's technical departments have identified issues of concern that cannot be dealt with by conditions of development consent on this occasion.

Having regard to the relevant matters of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development cannot be supportable in its current form under any planning instrument controls.

This report recommends that the Council determine the development application by way of refusal with reasons for the refusal outlined in the recommendation section of this report.

Applicant	Gray Surveyors
Land owner	GJ Murray
Zoning Context	RU1 Primary Production – Tumut LEP 2012
Capital Investment Vale (\$)	\$10,000 (estimated by applicant)
Notification Period	N/A
Number of submissions	Nil
Political Donations declaration	Nil reported
Reasons for referral to Council	Delegations - Proposal not supported following assessment under section 4.15 <i>Environmental Planning and Assessment Act 1979</i>

RECOMMENDATION:

THAT COUNCIL:

1. Receive the report relating to DA 2021/0106 which seeks development consent for a boundary adjustment and consolidation of lots at Wondalga Road Cooleys Creek.
2. Determine Development Application DA2021/0106 by way of refusal, for boundary adjustment and consolidation of lots into two Torrens title lots for use as agricultural use and transfer of a dwelling entitlement to an unrelated new lot to the north at Lots 955, 958, 1056, 1057, 1096 & 1097 DP 757211 & Lot 5 DP 115071, excluding Lot 739 DP757291, for the following reasons:
 - a. The proposed development is inconsistent with the objectives of the RU1 Primary Production zone of the Tumut Local Environmental Plan 2012. [Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*];

- b. Pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act, 1979*, the proposal is unsatisfactory in respect to the matters for consideration under Clause 4.1, 4.2, 4.2A, 4.2B, 4.2C of Tumut Local Environmental Plan 2012.
- c. Pursuant to Section 4.15(a)(iii) of the *Environmental Planning and Assessment Act, 1979*, the proposal is unsatisfactory in respect to Rural Subdivision Part 9.8 of Snowy Valleys Development Control Plan with particular reference to Part 9.8.1, 9.8.2, 9.8.4, and 9.8.5 as the boundary adjustment and consolidation results in a less efficient use of land resources and creates an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of the proposed Lot.
- d. Pursuant to Section 4.15(a)(iii) of the *Environmental Planning and Assessment Act, 1979*, the proposal is unsatisfactory in respect to Rural Subdivision Part 9.8 of Snowy Valleys Development Control Plan with particular reference to Part 9.8.7 and 9.8.9 as the subdivision will isolate Lot 739 DP757291 by failing to provide easements for access and services as part of this subdivision and denies the efficient use of this land for agricultural purposes.
- e. The proposed development represents an unacceptable level of impact of the locality. [Pursuant to Section 4.15(1)(b) *Environmental Planning and Assessment Act, 1979*];
- f. The site is considered unsuitable for the proposed development [Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*];
- g. The development is not considered to be in the public interest [Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*].

BACKGROUND:

Subject Site and Locality

Figure 1 provides an illustration of the land's general location and layout. The land is identified as Lots 955, 958, 1056, 1057, 1096 & 1097 DP 757211 & Lot 5 DP 115071, excludes Lot 739 DP757291 Wondalga Road – Cooleys Creek, and comprises approximately 75Ha of total area.

The subject site is located approximately 33km to the southwest of Tumut, with the surrounding land currently being utilised for primary production, agricultural and rural residential land uses. It is considered that the proposal is generally consistent with the existing land uses of the area and is not expected to cause unmanageable land use conflict. The site is currently utilised for agricultural activities. The site has varying topography and good access.



Figure 1: Aerial of Subject Site

(Lots 955, 958, 1056, 1057, 1096 & 1097 DP 757211 & Lot 5 DP 115071) (Excludes Lot 739 DP757291)

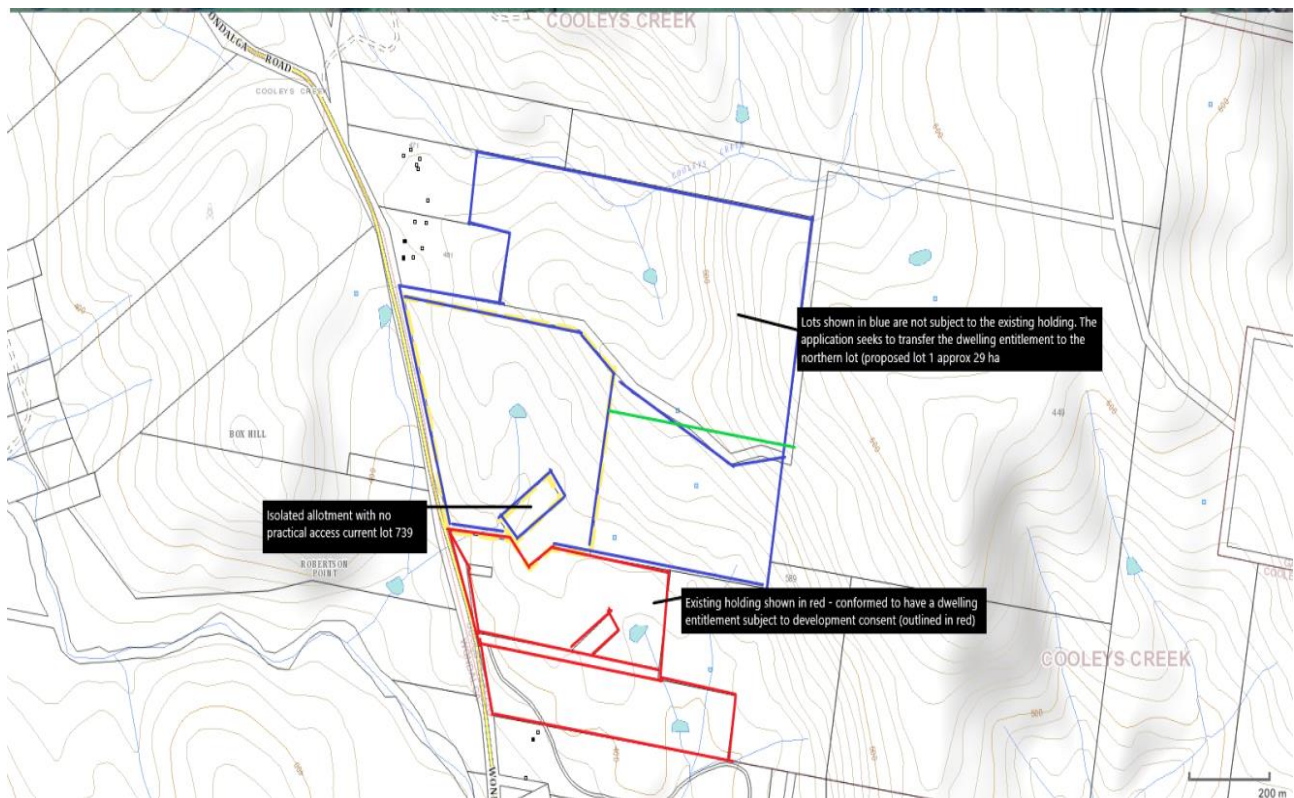


Figure 2.1 Outlines a graphical representation of the current existing holding arrangement (shown in red) and lots not subject to the existing holding (shown in blue) with the final lot arrangement (proposed lot 1 and 2 shown with the green line) following consolidation.

REPORT:

Statutory Provisions Pursuant to Section 4.15 (1)(a)(i) and (ii) Any Environmental Planning Instrument/Draft Environmental Planning Instruments applying to the land:

State Environmental Planning Policies

The application has been considered with regards to the relevant provisions of applicable state environmental planning policies (SEPPs) as outlined and discussed below:

State Environmental Planning Policy 55 Remediation of Land

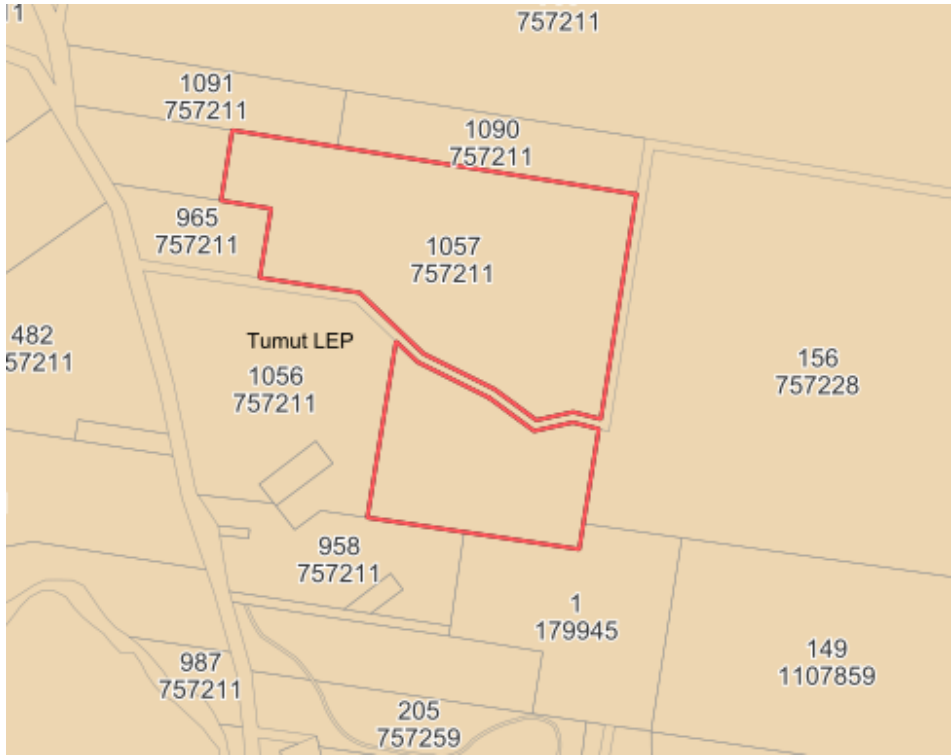
The requirement of Clause 7 of SEPP 55 is for Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. In this regard, the proposed subdivision at Wondalga Road, Cooleys Creek has been considered in the following table:

Matters for Consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	Yes
Is the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	Yes
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture,	Yes

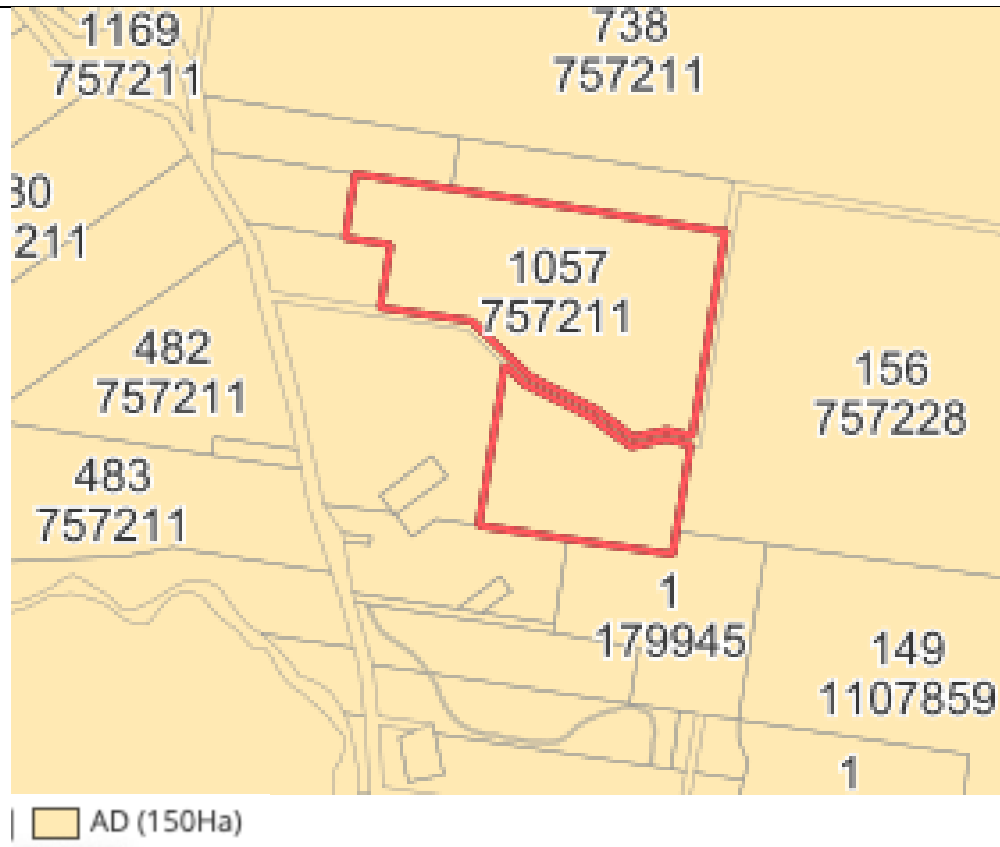
Matters for Consideration	Yes/No
pesticide manufacture and formulation, power stations, railway yards, scrapyards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation.	
Is the site listed on Council's Contaminated Land database ?	No
Is the site subject to EPA clean-up order or other EPA restrictions?	No
Has the site been the subject of known pollution incidents or illegal dumping?	No
Does the site adjoin any contaminated land/previously contaminated land?	No
Details of contamination investigations carried out at the site:	
The site is currently used for rural agricultural uses. There is no evidence to suggest that the land has been used for any of the uses listed in Table 1 of the Managing Land Contamination: Planning Guidelines or that it has otherwise been contaminated in any way. A preliminary investigation is therefore not considered warranted. Accordingly, it is considered that the site is suitable to accommodate the proposed development as per the requirements of Clause 7 of SEPP 55. No further investigation or remediation works are considered warranted in the circumstances.	
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	Yes

Local Environmental Plans

The Tumut Local Environmental Plan 2012 as amended applies to the subject site.

<p>2.1 Land Use Zones</p>	<p>The principal environmental planning instrument relevant to the site is Tumut Local Environmental Plan 2012 (TLEP2012), under which the site is zoned RU1 Primary Production.</p> 
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	<p>The proposed consolidation and boundary adjustment is a form of subdivision that is permissible with development consent.</p>
<p>2.3 Zone objectives and the Land Use Table</p>	<p>The objectives of the zone is as follows:</p> <ul style="list-style-type: none"> • To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. • To encourage diversity in primary industry enterprises and systems appropriate for the area. • To minimise the fragmentation and alienation of resource lands. • To minimise conflict between land uses within this zone and land uses within adjoining zones. • To protect, enhance and conserve the natural environment, including native vegetation, wetlands and wildlife habitat. • To ensure development prevents or mitigates land degradation. • To protect significant scenic landscapes. <p>The proposed two lot subdivision seeks to consolidate and boundary adjust 7 existing lots into 2 lots. The proposed (Lot 1) totalling 29 Ha is proposed to transfer a dwelling entitlement (Lots 955, 958, 1096 and 1097 DP75721) from an unrelated lot and proposed (Lot 2) totalling 46 Ha nominated for agricultural purposes.</p> <p>The isolated lot (located to the south west inside Lot 1056 DP 757211) located inside proposed (Lot 2) and identified as Lot 739 DP757291 remains unchanged. This application does not provide a right of way for access or an easement for services as part of this subdivision.</p> <p>Whilst the proposal seeks to consolidate small land holdings for primary production operations the proposal fails to address the following issues:</p> <ul style="list-style-type: none"> • The isolation of Lot 739 DP757291 by failing to provide a right of way for access or an easement for services as part of this subdivision rendering the lot with no practical or legal access. • The proposal to transfer a dwelling entitlement from the south of the site to the north is not permissible. There is no mechanism or clause in the Tumut LEP 2012 that permits this. <p>The proposed subdivision whilst reflects a consolidation of smaller lots fails to address an isolated lot and proposes to transfer a holding that is not permissible under the Tumut LEP 2012. Therefore, the proposed subdivision is considered inconsistent with the zone objectives as the proposal isolates resource lands.</p>
<p>2.6 Subdivision-consent requirements</p>	<p>Clause 2.6(1) requires development consent for subdivision works and the proposal complies with this requirement.</p> <p>Clause 2.6(2) requires that development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land. The proposal does not involve the subdivision of a secondary dwelling from the primary dwelling.</p>
<p>4.1 Minimum subdivision lot size</p>	<p>The proposed subdivision is in an area designated AD where the minimum lot size requirement of 150 Ha.</p>



The objectives of Clause 4.1 are as follows:

- (a) to ensure the protection of natural and environmental values in the locality,
- (b) to ensure the efficient use of land resources through appropriate subdivision patterns,
- (c) to prevent the fragmentation of agricultural land and ensure viable farm sizes are protected through appropriate subdivision patterns.

The proposal seeks a boundary adjustment and consolidation of seven lots to create two lots as follows:

Proposed Lot	Area	Complies	Comment
1	29 Ha	No	The proposal seeks to use Clause 4.2C to propose lot sizes less than the minimum lot size required. The proposal is not considered to comply with Clause 4.2C (see below).
2	46 Ha	No	

An isolated lot (located to the south west inside Lot 1056 DP 757211) located inside proposed (Lot 2) and identified as Lot 739 DP757291 remains unchanged.

The proposed lots are contrary to the objectives of Clause 4.1(b) and (c) in that they create an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 1.

	<p>The isolation of Lot 739 DP757291 by failing to provide a right of way for access or an easement for services as part of this subdivision is contrary to Clause 4.1(b) in that it denies the efficient use of this land for agricultural purposes.</p> <p>The proposed lot 1 and 2 do not comply with the minimum lot size as prescribed in Clause 4.1. Clause 4.2C enables for boundary adjustments, a departure to the minimum lot size. An assessment of Clause 4.2C (see below) concludes that the proposal, in its current form, creates a significant departure that is not acceptable.</p> <p>The proposed subdivision is therefore inconsistent with the objectives in that the boundary adjustment and consolidation results in a less efficient use of land resources and creates an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 1.</p>
<p>4.1AA Community Strata Title</p>	<p>The proposed subdivision is for Torrens title lots and this clause does not apply.</p>
<p>4.2 Rural subdivision</p>	<p>The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.</p> <p>The proposed two lot subdivision seeks to consolidate and boundary adjust 7 existing lots into 2 lots. The proposed (Lot 1) totalling 29 Ha is proposed to transfer a dwelling entitlement (Lots 955, 958, 1096 and 1097 DP75721) from an unrelated lot and proposed (Lot 2) totalling 46 Ha nominated for agricultural purposes.</p> <p>An isolated lot (located to the south west inside Lot 1056 DP 757211) located inside proposed (Lot 2) and identified as Lot 739 DP757291 is proposed to remain unchanged.</p> <p>Clause 4.2(3) relating to land RU1 land with development consent enables land to be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land. Clauses 4.2 (4) and (5) do not permit or construction of a dwelling on such a lot.</p> <p>The applicant advised on the 14 November 2021 that <i>“The subject land, including the existing holding, is utilised for agriculture as is the surrounding land. This boundary adjustment will not increase land use conflict due to this fact. We are not introducing a new land use potential, we are utilizing the existing potential, that is the building entitlement attached to the existing holding.”</i></p> <p>The proposed Lot 1 (29Ha) is less than the minimum lot size of 150Ha and is proposed for residential purposes. The applicant proposes to use <i>“the building entitlement attached to proposed lot A of the consolidation will be relocated to proposed lot 1”</i>.</p> <p>It is not permissible to transfer a dwelling entitlement off the existing holding in Lot 2 to another unrelated site and therefore is contrary to Clause 4.2 as the lot created is not for a primary production and proposes to use this lot for residential purposes.</p>

	<p>The proposed Lot 2 (46Ha) is less than the minimum lot size of 150Ha and is proposed for primary purposes. Whilst this technical compliance is achieved the proposal subdivision restricts access and services of Lot 739 DP757291 and denies the efficient use of this land for agricultural purposes that is contrary to the objectives in providing land owners a greater chance to achieve the objectives for development in the relevant zone.</p> <p>On the 8 December 2021 the applicant advised in relation to the isolated lot the following:</p> <p><i>Clause 4.17 of the Environmental Planning and Assessment Act, Imposition of Conditions, states:</i></p> <p><i>1. Conditions – generally a condition of development consent may be imposed if-</i></p> <p><i>It relates to any matter referred to in section 4.15(1) of relevance to the development the subject of consent’. Access to this lot is not relevant to the development the subject of consent, that is, Lot 739 is not included in the proposed development Council proposing this easement does not pass the principles to be considered to validate the proposed condition, in particular ‘it must relate to the permitted development to which it is annexed’. (Newbury District Council v Secretary of State for the Environment).</i></p> <p>Section 4.17 of the EPA Act relates to the imposition of conditions. An assessment under Section 4.15 has been undertaken and has determined that the proposed subdivision will isolate the lot from access and services and have an adverse impact that is contrary to the Tumut LEP 20212 and Snowy Valleys Council DCP. If Council was to impose a condition for access and services this would still pass the Newbury Test as a condition is:</p> <ul style="list-style-type: none"> • imposed for a planning purpose ie not an ulterior one - in this case access and services to an isolated lot albeit historical is an opportunity to regularise access and rectify an isolation issue. • fairly and reasonably relate to the development that is the subject of the development application; - the lot isolated is land locked within the site and it is considered fair and reasonable that access be formalised. • not be so unreasonable that no planning authority would have imposed it - a condition to regularise access and services is not considered unreasonable. <p>The proposal is contrary to Clause 4.2 as it proposes a resultant subdivision that creates a Lot for residential purposes and not for primary production and a Lot that denies the efficient use of Lot 739 DP757291 for agricultural purposes.</p>
<p>4.2A Exceptions to minimum lot sizes for certain rural subdivisions</p>	<p>The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of permissible uses other than for the purpose of dwelling houses or dual occupancies.</p> <p>Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that:</p> <p>(a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and</p>

	<p>(b) the subdivision is necessary for the ongoing operation of the permissible use, and</p> <p>(c) the subdivision will not increase rural land use conflict in the locality, and</p> <p>(d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land.</p> <p>The proposed Lot 1 (29Ha) is less than the minimum lot size of 150Ha and is proposed for residential purposes. The applicant proposes to use “<i>the building entitlement attached to proposed lot A of the consolidation will be relocated to proposed lot 1</i>”. It is not permissible to transfer a dwelling entitlement off the existing holding in Lot 2 to another unrelated site and therefore is contrary to Clause 4.2A as the lot is created for residential purposes.</p> <p>The proposed Lot 2 (46Ha) is less than the minimum lot size of 150Ha and is proposed for primary purposes. Whilst this technical compliance is achieved the proposal subdivision restricts access and services of Lot 739 DP757291 and denies the efficient use of this land for agricultural purposes that is contrary to the objectives in providing land owners to meet their needs of permissible uses other than dwelling houses.</p>
4.2B Erection of dwelling houses or secondary dwellings on land in certain rural and residential zones	<p>This clause seeks to minimise unplanned rural residential development and enable replacement of lawfully erected dwelling houses in rural and residential zones.</p> <p>The proposed Lot 1 (29Ha) is less than the minimum lot size of 150Ha and is proposed for residential purposes. The applicant proposes to use “<i>the building entitlement attached to proposed lot A of the consolidation will be relocated to proposed lot 1</i>”. It is not permissible to transfer a dwelling entitlement off the existing holding in proposed Lot 2 to another unrelated site and therefore is contrary to Clause 4.2B as Lot 1 is being created for residential purposes.</p>
4.6 Exceptions to development standards	There are no development standard departures proposed by the applicant that a Clause 4.6 exemption has been prepared and submitted.
5.1 Relevant acquisition authority	N/A
5.2 Classification and reclassification of public land	N/A
5.3 Development near zone boundaries	N/A
5.10 Heritage conservation	The proposal does not contain any items of heritage or located in a conservation area.
5.11 Bush fire hazard reduction	The site is located near identified bushfire hazard areas. Pursuant to S100B of the Rural NSW Rural Fires Act 1997 the application was referred NSW RFS and General Terms of Approval was received. GTAs will not be required where the proposal is not supported.
5.16 Subdivision of, or dwellings on,	The proposed land subdivision is inconsistent with the zone objectives with the relocation of a holding to an unrelated lot. This subdivision is considered to have minimal impact on environmental protection zones however this would be

land in certain rural, residential or epz	considered if a development application was lodged for a dwelling and any proposed clearing or earthworks could be assessed as part of that application.
6.1 Flood Planning	The site has a number of creeks and may be subject to overland flows. This would not impact an application for subdivision.
6.2 Biodiversity	The subdivision as an application type has no impact on biodiversity, the proposed boundary adjustment does not constitute or require works that would require impacts on localised biodiversity.
6.3 Land	The development being a subdivision will not significantly impact on soil or land related matters outlined in this clause.
6.4 Water	Impacts to water as a result of this development are not considered to be likely or significant as it is a subdivision application.
6.5 Earthworks	No earthworks as part of this application.
6.6 Public utility infrastructure	Utilities are located in proximity of the subdivision and could be appropriately conditioned for connections should the application be recommended for approval.
Comments: The proposed development for a boundary adjustment and consolidation into a two lot subdivision is considered to be generally inconsistent with the provisions of the Tumut LEP 2012. The development is considered not to be suitable on the subject site and will impact on matters outlined in the LEP.	

Land and Environment Court Planning Principle

Site Isolation

The Land and Environment Court have established 'planning principles' describing the desired outcome, and list of appropriate matters to consider, for the potential isolation of sites by the redevelopment of adjacent sites. These principles set out in the following cases:

- Melissa Grech v Auburn Council [2004] NSWLEC 40 at 51; and
- Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189 at 31-34.
- Karavellas v Sutherland Shire Council [2004] NSWLEC 251

The law under these planning principle decisions set out what is required when dealing with any site isolation issue for an assessment of whether the purchase and amalgamation of the site (in this case the DA Site and Lot 739 DP757291) is feasible.

Each of these matters in respect of the steps established in the Planning Principles are addressed below:

1. Is Amalgamation of the DA Site and Lot 739 DP757291 Feasible?

- Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.
- Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent

independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.

Comment:

The proposed subdivision does not meet the minimum lot size however for agricultural purposes Council may consider a departure. The applicant's consultant advised that they were considering purchasing the isolated site that is considered a good planning outcome however, did not provide any documentation or correspondence relating to this matter.

2. Can Orderly and Economic Use and Development of the Separate Sites be achieved if Amalgamations is Not Feasible?

- In answering this question the key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non-compliance with minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.
- To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the development will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.
- Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiations, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C now known as section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- The subject application may need to be amended, such as by a further setback than a minimum in the planning controls, or the development potential of both sites reduced to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments.

Comment:

The proposed subdivision does not address the isolated site however this could simply be amended to provide right of way for access and easement for services for the isolated lot (Lot 739, DP757291). The owner of the subdivision where the land is burdened by any potential easement for access to the allotment would arguably be entitled to some form of compensation by the owner of the isolated allotment for the restriction on the title.

Development Control Plans

Pursuant to section 4.15 (1)(a)(iii) – any development control plans applying to the land.

The application has been assessed in accordance with provisions of the Snowy Valleys Council Development Control Plan 2019 that applies to the land:

General Principles for Development	The controls relating to subdivisions in the RU1 Primary Production. Clause 9.8 is considered to be the most relevant in terms of DCP provisions and will be used in the assessment.
Variations to the DCP	There are no proposed numerical variations to the DCP to consider.
Subdivision Objectives	<p>The objectives of this Chapter 9 Subdivisions are to:</p> <ul style="list-style-type: none"> • <i>ensure that subdivision proposals consider the environmental, social and economic opportunities of a site</i> • <i>encourage subdivisions that promote sustainable design, and</i> • <i>provide all essential services to all new Lots</i> <p>The proposed lots are contrary to the objectives in that they create an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 1.</p> <p>The isolation of Lot 739 DP757291 by failing to provide a right of way for access or an easement for services as part of this subdivision denies the efficient use of this land for agricultural purposes.</p> <p>The proposed subdivision is therefore inconsistent with the objectives in that the boundary adjustment and consolidation results in a less efficient use of land resources and creates an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 1.</p>
Clause 9.8 Rural Subdivisions	
Clause 9.8.1	<p>Clause 9.8.1 requires Council to consider how the subdivision will accommodate future and existing structures and be suitable for appropriate likely future land uses and site activities, and the subdivision proposal responds to the existing site attributes and constraints. These controls relate to subdivision in the RU1 and E3 zones.</p> <p>The proposed boundary adjustment and consolidation subdivision seeks to:</p> <ul style="list-style-type: none"> • create an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 1. • Isolation of Lot 739 DP757291 by failing to provide a right of way for access or an easement for services as part of this subdivision denies the efficient use of this land for agricultural purposes. <p>Therefore, it is considered that the proposed subdivision is contrary to Clause 9.8.1 of Councils DCP.</p>
Clause 9.8.2 Adjoining development	The proposed subdivision fails to provide a means of access and services for the isolated lot (Lot 739 DP757291) and is considered contrary to Clause 9.8.2 of Councils DCP.
Clause 9.8.3 Fencing	If the proposal was recommended for approval the proposed lots would be condition for adequate fencing.
Clause 9.8.4 Lot size,	The proposed boundary adjustment and consolidation subdivision is inconsistent in terms of the following:

shape and Orientation	<ul style="list-style-type: none"> • create an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 1. • Isolation of Lot 739 DP757291 by failing to provide a right of way for access or an easement for services as part of this subdivision denies the efficient use of this land for agricultural purposes. <p>Therefore it is considered that the proposed subdivision is contrary to Clause 9.8.4 of Councils DCP.</p>
Clause 9.8.5 Natural Hazards and Risks	<p>The plans initially submitted were lines marked on a SIX maps screen shot. Of particular concern is not being able to recognise the scale, north point not shown, no details of easements or rights of way, site not surveyed and no title block was submitted with the original application.</p> <p>The applicant made further modifications to the plans including an arbitrary north point and hand written dimensions on the SIX maps screen shot.</p> <p>The proposed drawings are insufficient. Plans are to be professional, to a standard scale such as 1:100 or 1:200 that represent a surveyed site and show the following details: north point (true north) and scale (show ratio and bar scale); date of preparation and plan number; existing and proposed boundaries; existing lot and deposited plan numbers including adjacent lots; relationship to existing roads and subdivision boundaries (show width of roads); proposed lot numbers, boundary dimensions and proposed lot areas (square metres); proposed roads, pathways (indicate width); and proposed easements and rights of way.</p> <p>There is insufficient information provided with the plans and information submitted to determine if there is any adverse impact with natural site features. These investigation and associated detail are generally provided at the time of the submission of the application.</p>
Clause 9.8.6 On site wastewater management	<p>The proposed subdivision seeks to transfer the holding to an unrelated Lot and as such a Water Management Act S306 is not required as this is not permissible.</p>
Clause 9.8.7 Roads and Access	<p>The proposed lots have the potential to be serviced by existing roads however the subdivision will isolate Lot 739 DP757291 by failing to provide a right of way for access or an easement for services as part of this subdivision denies the efficient use of this land for agricultural purposes.</p>
Clause 9.8.8 Rural Addressing	<p>The Lots would be provided a number by Council upon application if the application was recommended for approval.</p>
Clause 9.8.9 Services	<p>The proposed lots have the potential to be serviced however the subdivision will alienate Lot 739 DP757291 by failing to provide easement for services as part of this subdivision and denies the efficient use of this land for agricultural purposes.</p>
Clause 9.8.10 Water Supply	<p>Tank water supply would be available if the application was recommended for approval.</p>

It is considered that the proposal is not consistent with all relevant controls of the Snowy Valleys Council DCP 2019 with departures identified above. It is considered that the development is generally compliant with all other relevant controls of the DCP.

Planning Agreements

Pursuant to section 4.15(1)(a)(iiia) - any planning agreement that has been entered into under section 7.4 of the Environmental Planning and Assessment Act 1979.

Council records indicate that no planning agreements have been entered into in relation to this development.

Regulations

Pursuant to section 4.15(1)(a)(iv) any regulation that applies to the development for the purposes of this paragraph.

There are no Regulations that are considered to be applicable to the subject land or the proposed development.

Coastal Management Plans

Pursuant to section 4.15(1)(a)(v) any coastal management plan (within the meaning of the Coastal Protection Act 1979) that applies to the land to which the development relates.

There are no coastal management plans that apply to the subject land.

Impacts of the Development

Pursuant to section 4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

Context and Setting

The proposed subdivision proposes a number of issues including the transfer of a dwelling entitlement that is considered inappropriate for the area and inconsistent with other uses in the local area.

Economic Impact In The Locality

The proposed subdivision does not comply with a number of LEP objectives and clauses and proposes inappropriate potential residential development.

Site Design and Internal Design

The proposed subdivision is not logical and fails to comply with the minimum site size.

Suitability of the Site for the Development

The subject site and locality is not known to be affected by any natural hazards however for the reasons listed in this report significant departures that may have a significant adverse impact on the proposed development. Accordingly, the site can be said to be unsuitable to accommodate the proposed development.

The proposal has been assessed in regard to its environmental consequences and having regard to this assessment, it is considered that the development is unsuitable in the context of the site and surrounding locality.

Submissions made in accordance with the Act or Regulations

Pursuant to section 4.15(1)(d) any submissions made in accordance with the Act or Regs.

The proposal for subdivision was not required to be notified in accordance with Clause 1.7 of Snowy Valleys DCP as the proposal complies with the LEP / DCP provisions and does not create any potential privacy and overshadowing, traffic or environmental issues. Therefore, the proposed was not required to be notified.

Public Interest

Pursuant to section 4.15 (1)(e) whether the proposal is within the public interest.

The public interest is served by permitting the orderly and economic development of land, in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users. In view of the foregoing

Financial and Resources Implications

The financial implications of Council's decision in this matter are directly related to the legal implications. The possibilities are detailed below:

- Should the applicant choose to appeal a refusal, or deemed refusal by Council through the NSW Land and Environment court and win the question of costs be dependent on the extent of the reasons for refusal;
- Should any person choose to pursue Class 4 proceedings against Council to the Land and Environment Court and lose, the question of costs with regards to Council's legal representation would be calculated at the appropriate time by either costs incurred or by costs assessment in favour of Council.
- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and win the costs would be calculated at the appropriate time by either costs incurred or by costs assessment against Council.
- Should the applicant make no appeal, or proceedings not to be taken out by another party to the NSW Land and Environment Court regardless of determination, the application would result in no further financial implication on the Council.

Policy, Legal and Statutory Implications:

The application has been assessed in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

N/A

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

CSP Outcome 2028

Theme 1: Towns and Villages

Delivery Outcomes

1.9 Provide a planning and development framework which protects the local amenity while supporting sustainable growth and an appropriate balance of land use

Operational Actions

1.9.2 Development Applications are approved within 30 days

SUSTAINABILITY ASSESSMENT:

N/A

OPTIONS:

1. THAT Council determine development application 2021/0106 seeking development consent for a boundary adjustment, consolidation of lots and transfer of a building entitlement to an unrelated allotment by way of approval and delegate to the Chief Executive Officer delegation to apply standard conditions of development consent to the notice of determination.
2. THAT Council determine development application 2021/0106 seeking development consent for a boundary adjustment, consolidation of lots and transfer of a building entitlement to an unrelated allotment by way of refusal for the reasons as outlined in the recommendations section of this report.

Option 2 is recommended to Council.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Community Engagement and consultation has been considered within the report. Specifically, the application has not triggered any notification requirements in accordance with the provisions of the Snowy Valleys DCP 2019 or the Community Participation Plan as adopted.

ATTACHMENTS

- 1 20220219 - Dwelling Entitlements - Wondalga Road - Shaw Reynolds Lawyers (under separate cover) - Confidential
- 2 Doc ID ECM 3136406 - Amended SEE - Wondalga Road Cooleys Creek (under separate cover)
- 3 Proposed Boundary Adjustment and Site Plan - Wondalga Road, Cooleys Creek (under separate cover)

11. MANAGEMENT REPORTS**11.5 DA2022/0023 - PROPOSED LOT CONSOLIDATION AND BOUNDARY ADJUSTMENT - 738 GOOBARRAGANDRA ROAD (WALLS CREEK ROAD EAST), GOOBARRAGANDRA**

REPORT AUTHOR: MANAGER GROWTH & ACTIVATION
RESPONSIBLE DIRECTOR: EXECUTIVE DIRECTOR COMMUNITY AND CORPORATE

EXECUTIVE SUMMARY:

Development Application No DA2022/0023 was lodged 17 February 2022 for boundary adjustment and consolidation of eight lots into two Torrens Title lots for use as residential dwelling and agricultural use (one lot relies on the transfer of a dwelling entitlement to an unrelated new lot to the north of the site at 738 Goobarragandra Road, Goobarragandra.

Assessment of the application against the relevant framework and consideration of matters by Council's technical departments have identified issues of concern that cannot be dealt with by conditions of development consent.

Having regard to the relevant matters of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is not supportable in its current form.

This report recommends that the Council determine the application by way of refusal based on the grounds listed in the Recommendation below.

Applicant	Gray Surveyors
Landowner	LM Buckley
Zoning Context	RU1 Primary Production – Tumut Local Environmental Plan
Capital Investment Vale (\$)	\$10,000
Notification Period	N/A – CPP does not require notification
Number of submissions	Nil
Political Donations declaration	Nil
Reasons for referral to Council	Development not supported on grounds of merit.

RECOMMENDATION:**THAT COUNCIL:**

1. Receive the report relating to DA2022/0023 which seeks consent for a boundary adjustment and lot consolidation at 738 Goobarragandra Road, Goobarragandra.
2. Council determine Development Application 2022/0023 for a boundary a boundary adjustment and consolidation of lots into two Torrens Title lots for use as a dwelling entitlement in each lot involving a transfer of an established dwelling entitlement to an unrelated new lot to the north at Lots 16,17,34 of DP 750971 and Lot 156 DP 750972, for the for the following reasons:

- a) **The proposed development is inconsistent with the objectives of the RU1 Primary Production zone of the Tumut Local Environmental Plan 2012. [Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*].**
- b) **Pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act, 1979*, the proposal is unsatisfactory in respect to the matters for consideration under Clause 4.1, 4.2, 4.2A, 4.2B, 4.2C of Tumut Local Environmental Plan 2012.**
- c) **Pursuant to Section 4.15(a)(iii) of the *Environmental Planning and Assessment Act, 1979*, the proposal is unsatisfactory in respect to Rural Subdivision Part 9.8 of Snowy Valleys Development Control Plan with particular reference to Part 9.8.1, 9.8.4, 9.8.5 and 9.8.6 as the boundary adjustment and consolidation results in a less efficient use of land resources and creates an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 41.**
- d) **The proposed development represents an unacceptable level of impact of the locality. [Pursuant to Section 4.15(1)(b) *Environmental Planning and Assessment Act, 1979*].**
- e) **The site is considered unsuitable for the proposed development [Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*].**
- f) **The development is not considered to be in the public interest [Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*].**

BACKGROUND:

Subject Site and Locality

Figure 1 provides an illustration of the land's general location and layout. The land is identified as Lots 109, 110, 111, 155 and 156 DP750972 and Lots 16, 17 and 34 DP750971 738 Goobarragandra Road, Goobarragandra and comprises approximately 430 Ha of total area.

The subject site is located approximately 25km to the east of Tumut, with the surrounding land currently being utilised for primary production, agricultural and rural residential land uses. It is considered that the proposal is generally consistent with the existing land uses of the area and is not expected to cause unmanageable land use conflict. The site is currently utilised for agricultural activities. The site has varying topography and practical access.

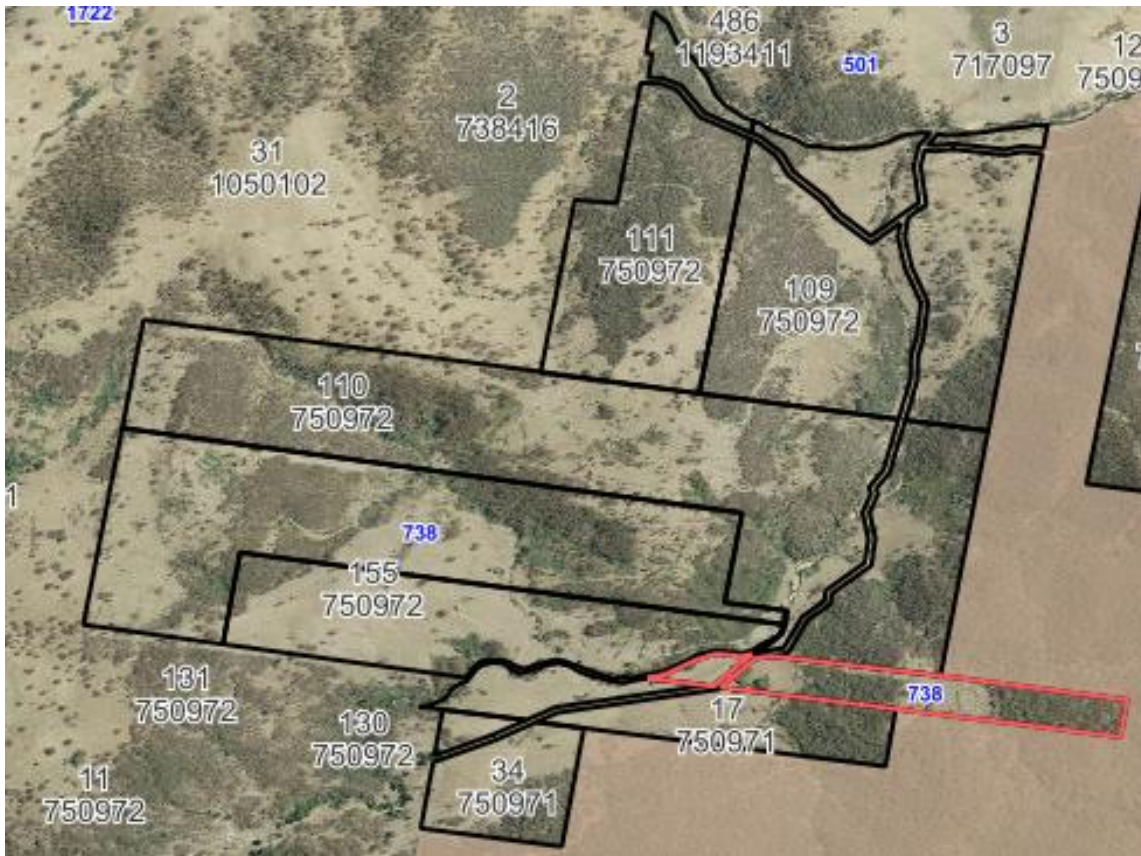


Figure 1: Aerial of subject site (Lots 109, 110, 111, 155 and 156 DP750972 and Lots 16, 17 and 34 DP750971) and adjoining Kosciusko National Park to the east.

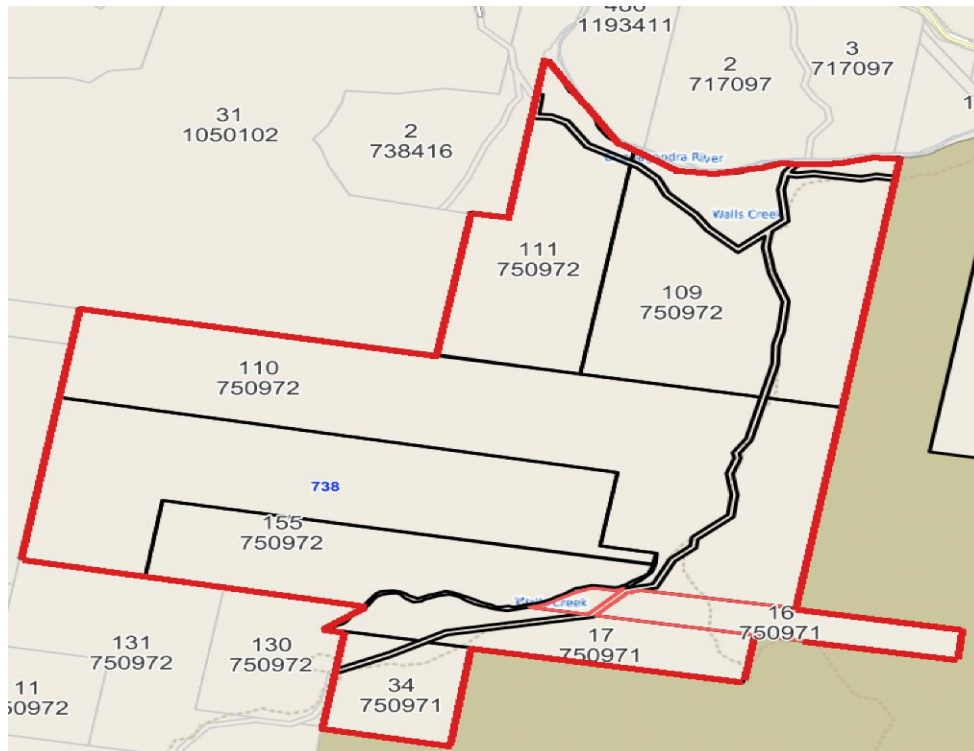


Figure 2: Cadastral map of subject site and surrounding properties.

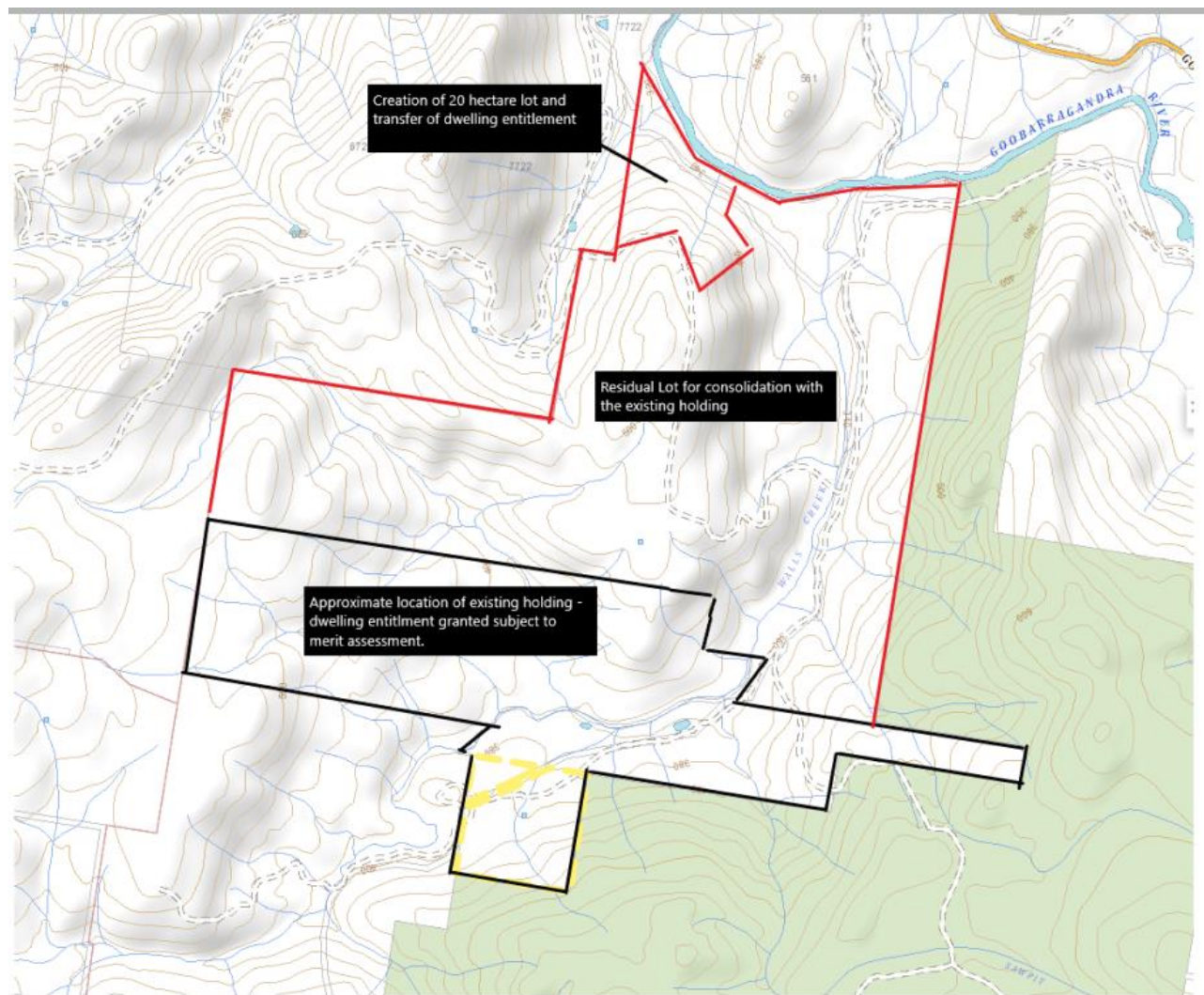


Figure 2.1 Graphical representation of proposal including existing holding (shown in black), consolidation (shown in red and black) and proposed creation of a 20ha lot to the North and transfer of the dwelling entitlement.

Proposed Development

The merits of the proposal include:

- Boundary adjustment and consolidation of eight lots into two Torrens Title lots (proposed lot 42 410 Ha and Proposed Lot 41 20 Ha) for use by both lots as a dwelling. Lot 41 relies on the transfer of a dwelling entitlement to an unrelated lot.
- Advice provided by Council dated 20 August 2021 confirmed lots 16,17,34 of DP 750971 and Lot 156 DP 750972 comprise a holding and Council is able to consider an application for one dwelling house on any one of these lots.

Note; the plans submitted with this application are inadequate comprising of screen shots with markings from Six Maps. The application requires the submission of plans prepared in accordance with schedule 1 of the Environmental Planning and Assessment Regulation 2000.

Attachment 2 provides the proposed plans and Attachment 3 provides the Statement of Environmental Effects.

REPORT:

Statutory Provisions Pursuant to Section 4.15 (1)(a)(i) and (ii) Any Environmental Planning Instrument/Draft Environmental Planning Instruments applying to the land:

State Environmental Planning Policies

The application has been considered with regards to the relevant provisions of applicable state environmental planning policies (SEPPs) as outlined and discussed below:

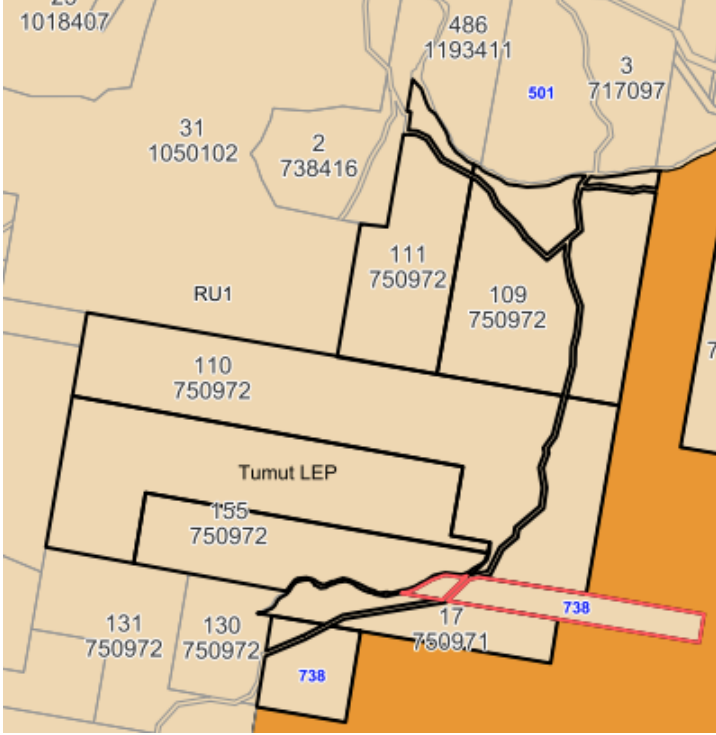
State Environmental Planning Policy 55 Remediation of Land

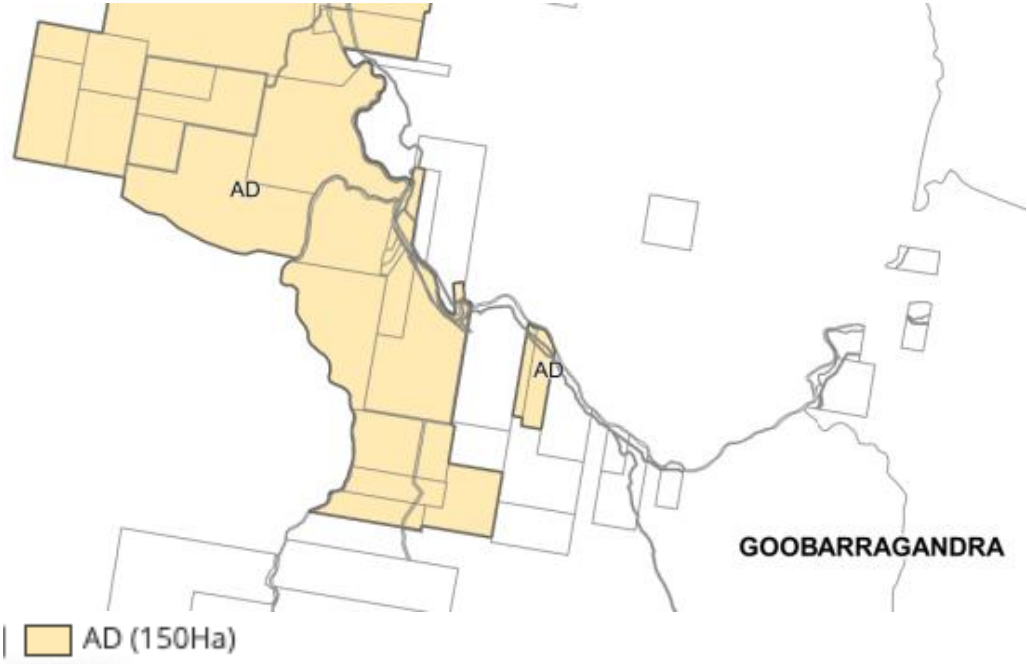
The requirement of Clause 7 of SEPP 55 is for Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. In this regard, the proposed subdivision at 738 Goobarragandra Road, Goobarragandra has been considered in the following table:

Matters for Consideration	Yes / No
Does the application involve re-development of the site or a change of land use?	Yes
Is the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	Yes
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? Acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrapyards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation.	Yes
Is the site listed on Council's Contaminated Land database?	No
Is the site subject to EPA clean-up order or other EPA restrictions?	No
Has the site been the subject of known pollution incidents or illegal dumping?	No
Does the site adjoin any contaminated land/previously contaminated land?	No
Details of contamination investigations carried out at the site: The site is currently used for rural agricultural uses. There is no evidence to suggest that the land has been used for any of the uses listed in Table 1 of the Managing Land Contamination: Planning Guidelines or that it has otherwise been contaminated in any way. A preliminary investigation is therefore not considered warranted. Accordingly, it is considered that the site is suitable to accommodate the proposed development as per the requirements of Clause 7 of SEPP 55. No further investigation or remediation works are considered warranted in the circumstances.	
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	Yes

Local Environmental Plans

The Tumut Local Environmental Plan 2012 as amended applies to the subject site.

<p>2.1 Land Use Zones</p>	<p>The principal environmental planning instrument relevant to the site is Tumut Local Environmental Plan 2012 (TLEP2012), under which the site is zoned RU1 Primary Production.</p>  <p>The proposed consolidation and boundary adjustment are a form of subdivision that is permissible with development consent.</p>
<p>2.3 Zone objectives and the Land Use Table</p>	<p>The objectives of the zone are as follows:</p> <ul style="list-style-type: none"> • To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. • To encourage diversity in primary industry enterprises and systems appropriate for the area. • To minimise the fragmentation and alienation of resource lands. • To minimise conflict between land uses within this zone and land uses within adjoining zones. • To protect, enhance and conserve the natural environment, including native vegetation, wetlands and wildlife habitat. • To ensure development prevents or mitigates land degradation. • To protect significant scenic landscapes. <p>The proposed two lot subdivision seeks to consolidate, and boundary adjust 8 existing lots into 2 lots. The proposed (Lot 41) totalling 20 Ha is proposed to transfer a dwelling entitlement (lots 16,17,34 of DP 750971 and Lot 156 DP 750972) to an unrelated lot and proposed (Lot 42) totalling 410 Ha nominated for dwelling.</p> <p>Whilst the proposal seeks to consolidate small land holdings that could be primary production operations the proposal fails to address the following issues:</p>

	<ul style="list-style-type: none"> The proposal to transfer a dwelling entitlement from the south of the site to the north is not permissible. There is no mechanism or clause in the Tumut LEP 2012 that permits this. <p>The proposed subdivision whilst reflects a consolidation of smaller lots fails to address an isolated lot and proposes to transfer a holding that is not permissible under the Tumut LEP 2012. Therefore, the proposed subdivision is considered inconsistent with the zone objectives as the proposal alienates resource lands.</p>
<p>2.6 Subdivision-consent requirements</p>	<p>Clause 2.6(1) requires development consent for subdivision works and the proposal complies with this requirement.</p> <p>Clause 2.6(2) requires that development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land. The proposal does not involve the subdivision of a secondary dwelling from the primary dwelling.</p>
<p>4.1 Minimum subdivision lot size</p>	<p>The proposed subdivision is in an area designated AD where the minimum lot size requirement of 150 Ha.</p>  <p>The objectives of Clause 4.1 are as follows:</p> <ul style="list-style-type: none"> to ensure the protection of natural and environmental values in the locality, to ensure the efficient use of land resources through appropriate subdivision patterns, to prevent the fragmentation of agricultural land and ensure viable farm sizes are protected through appropriate subdivision patterns.

	<p>The proposal seeks a boundary adjustment and consolidation of seven lots to create two lots as follows:</p> <table border="1" data-bbox="395 259 1430 501"> <thead> <tr> <th>Proposed Lot</th> <th>Area</th> <th>Complies</th> <th>Comment</th> </tr> </thead> <tbody> <tr> <td>41</td> <td>20 Ha</td> <td>No</td> <td rowspan="2">The proposal seeks to use Clause 4.2C to propose lot 41 size less than the minimum lot size required. The proposal is not considered to comply with Clause 4.2C (see below).</td> </tr> <tr> <td>42</td> <td>410 Ha</td> <td>Yes</td> </tr> </tbody> </table> <p>The proposed lots are contrary to the objectives of Clause 4.1(b) and (c) in that they create an inappropriate subdivision by creating an undersized lot and propose to transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 41.</p> <p>The proposed lot 42 complies with the minimum lot size as prescribed in Clause 4.1 however in doing so has enabled an undersized lot to be created.</p> <p>The proposed lot 41 does not comply with the minimum lot size as prescribed in Clause 4.1. Clause 4.2C enables for boundary adjustments a departure to the minimum lot size. An assessment of Clause 4.2C (see below) concludes that the proposal, in its current form, creates a significant departure that is not acceptable.</p> <p>The proposed subdivision is therefore inconsistent with the objectives in that the boundary adjustment and consolidation results in a less efficient use of land resources and creates an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 41.</p>	Proposed Lot	Area	Complies	Comment	41	20 Ha	No	The proposal seeks to use Clause 4.2C to propose lot 41 size less than the minimum lot size required. The proposal is not considered to comply with Clause 4.2C (see below).	42	410 Ha	Yes
Proposed Lot	Area	Complies	Comment									
41	20 Ha	No	The proposal seeks to use Clause 4.2C to propose lot 41 size less than the minimum lot size required. The proposal is not considered to comply with Clause 4.2C (see below).									
42	410 Ha	Yes										
<p>4.1AA Community Strata Title</p>	<p>The proposed subdivision is for Torrens title lots and this clause does not apply.</p>											
<p>4.2 Rural subdivision</p>	<p>The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow landowners a greater chance to achieve the objectives for development in the relevant zone.</p> <p>The proposed two lot subdivision seeks to consolidate, and boundary adjust 8 existing lots into 2 lots. The proposed (Lot 41) totalling 20 Ha is proposed to transfer a dwelling entitlement from an unrelated lot and proposed (Lot 42) totalling 410 Ha complies with the minimum size requirement.</p> <p>Clause 4.2(3) relating to land RU1 land with development consent enables land to be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land. Clauses 4.2 (4) and (5) do not permit or construction of a dwelling on such a lot.</p> <p>The applicant advised on the 14 November 2021 that <i>“The subject land, including the existing holding, is utilised for agriculture as is the surrounding land. This boundary adjustment will not increase land use conflict due to this fact. We are not introducing a new land use potential, we are utilizing the existing potential, that is the building entitlement attached to the existing holding.”</i></p>											

	<p>The proposed Lot 41 (20Ha) is less than the minimum lot size of 150Ha and is proposed for residential purposes. The applicant proposes to use “<i>the building entitlement attached to proposed lot 42 of the consolidation will be relocated to proposed lot 41</i>”. It is not permissible to transfer a dwelling entitlement off the existing holding in Lot 42 to another unrelated site and therefore is contrary to Clause 4.2 as the lot created is not for a primary production and proposes to use this lot for residential purposes.</p> <p>The proposed Lot 42 (410Ha) is greater than the minimum lot size of 150Ha there is no objection to the creation of this lot.</p> <p>The proposal is contrary to Clause 4.2 as it proposes a resultant subdivision that creates a Lot for residential purposes and not for primary production.</p>
<p>4.2A Exceptions to minimum lot sizes for certain rural subdivisions</p>	<p>The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of permissible uses other than for the purpose of dwelling houses or dual occupancies.</p> <p>Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that:</p> <ol style="list-style-type: none"> the subdivision will not adversely affect the use of the surrounding land for agriculture, and the subdivision is necessary for the ongoing operation of the permissible use, and the subdivision will not increase rural land use conflict in the locality, and the subdivision is appropriate having regard to the natural and physical constraints affecting the land. <p>The proposed Lot 41 (20Ha) is less than the minimum lot size of 150Ha and is proposed for residential purposes. The applicant proposes to use “<i>the building entitlement attached to proposed lot 42 of the consolidation will be relocated to proposed lot 41</i>”. It is not permissible to transfer a dwelling entitlement off the existing holding in Lot 2 to another unrelated site and therefore is contrary to Clause 4.2A as the lot is created for residential purposes.</p> <p>The proposed Lot 42 (410Ha) is greater than the minimum lot size of 150Ha and is compliance with the LEP.</p>
<p>4.2B Erection of dwelling houses or secondary dwellings on land in certain rural and residential zones</p>	<p>This clause seeks to minimise unplanned rural residential development and enable replacement of lawfully erected dwelling houses in rural and residential zones.</p> <p>The proposed Lot 41 (20Ha) is less than the minimum lot size of 150Ha and is proposed for residential purposes. The applicant proposes to use “<i>the building entitlement attached to proposed lot 42 of the consolidation will be relocated to proposed lot 41</i>”. It is not permissible to transfer a dwelling entitlement off the existing holding in proposed Lot 2 to another unrelated site and therefore is contrary to Clause 4.2B as Lot 1 is being created for residential purposes.</p>
<p>4.6 Exceptions to development standards</p>	<p>There are no development standard departures proposed by the applicant that a Clause 4.6 exemption has been prepared and submitted.</p>

5.1 Relevant acquisition authority	N/A
5.2 Classification and reclassification of public land	N/A
5.3 Development near zone boundaries	N/A
5.10 Heritage conservation	The proposal does not contain any items of heritage or located in a conservation area.
5.11 Bush fire hazard reduction	The site is located in identified bushfire hazard areas. Pursuant to S100B of the Rural NSW Rural Fires Act 1997 the application was referred NSW RFS. The proposal is still being assessed at the time of this report however given building entitlements cannot be transferred this may not be necessary.
5.16 Subdivision of, or dwellings on, land in certain rural, residential or epz	The proposed land subdivision is inconsistent with the zone objectives with the relocation of a holding to an unrelated lot. This subdivision is considered to have a minimal impact on environmental protection zones however this would be considered if a development application was lodged for a dwelling and any clearing or earthworks could be assessed.
6.1 Flood Planning	The site has a number of creeks and may be subject to overland flows. This would not impact an application for subdivision.
6.2 Biodiversity	The subdivision as an application type has no impact on biodiversity.
6.3 Land	The development being a subdivision will not significantly impact on soil or land related matters outlined in this clause.
6.4 Water	Impacts to water as a result of this development are not considered to be likely or significant as it is a subdivision application.
6.5 Earthworks	No earthworks as part of this application.
6.6 Public utility infrastructure	Utilities for the subdivision may be off the grid and this could be appropriately conditioned should the application be recommended for approval.
Comments: The proposed development for a boundary adjustment and consolidation into a two lot subdivision is considered to be generally inconsistent with the provisions of the Tumut LEP 2012. The development is considered not to be suitable on the subject site and will impact on matters outlined in the LEP.	

Development Control Plans

Pursuant to section 4.15 (1)(a)(iii) – any development control plans applying to the land.

The application has been assessed in accordance with provisions of the Snowy Valleys Council Development Control Plan 2019 that applies to the land:

General Principles for Development	The controls relating to subdivisions in the RU1 Primary Production. Clause 9.8 is considered to be the most relevant in terms of DCP provisions and will be used in the assessment.
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Variations to the DCP	There are no variations to the DCP to consider.
Subdivision Objectives	<p>The objectives of this Chapter 9 Subdivisions are to:</p> <ul style="list-style-type: none"> ensure that subdivision proposals consider the environmental, social and economic opportunities of a site encourage subdivisions that promote sustainable design, and provide all essential services to all new Lots <p>The proposed lots are contrary to the objectives in that Lot 41 will create an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 42.</p> <p>The proposed subdivision is therefore inconsistent with the objectives in that the boundary adjustment and consolidation results in a less efficient use of land resources and creates an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 41.</p>
Clause 9.8 Rural Subdivisions	
Clause 9.8.1	<p>Clause 9.8.1 requires Council to consider how the subdivision will accommodate future and existing structures and be suitable for appropriate likely future land uses and site activities, and the subdivision proposal responds to the existing site attributes and constraints. These controls relate to subdivision in the RU1 and E3 zones.</p> <p>The proposed boundary adjustment and consolidation subdivision seeks to:</p> <ul style="list-style-type: none"> create an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 1. <p>Therefore, it is considered that the proposed subdivision is contrary to Clause 9.8.1 of Councils DCP.</p>
Clause 9.8.2 Adjoining development	The proposed subdivision is capable to providing access and is considered acceptable in this instance with Clause 9.8.2 of Councils DCP.
Clause 9.8.3 Fencing	If the proposal was recommended for approval the proposed lots would be condition for adequate fencing.
Clause 9.8.4 Lot size, shape and Orientation	<p>The proposed boundary adjustment and consolidation subdivision is inconsistent in terms of the following:</p> <ul style="list-style-type: none"> create an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 1. <p>Therefore, it is considered that the proposed subdivision is contrary to Clause 9.8.4 of Councils DCP.</p>
Clause 9.8.5 Natural Hazards and Risks	The plans initially submitted were lines marked on a SIX maps screen shot. Of particular concern is not being able to recognise the scale, north point not shown, no details of easements or rights of way, site not surveyed and no title block.

	<p>The proposed drawings are insufficient. Plans to a standard scale such as 1:100 or 1:200 that represent a surveyed site and show the following details: north point (true north) and scale (show ratio and bar scale); date of preparation and plan number; existing and proposed boundaries; existing lot and deposited plan numbers including adjacent lots; relationship to existing roads and subdivision boundaries (show width of roads); proposed lot numbers, boundary dimensions and proposed lot areas (square metres); proposed roads, pathways (indicate width); and proposed easements and rights of way.</p> <p>There is insufficient information provided with the plans and information submitted to determine if there is any adverse impact with natural site features.</p>
Clause 9.8.6 On site wastewater management	The proposed subdivision seeks to transfer the holding to an unrelated Lot and as such a Water Management Act S306 is not required as this is not permissible.
Clause 9.8.7 Roads and Access	The proposed lots have the potential to be serviced by existing roads or private roads created within the lots.
Clause 9.8.8 Rural Addressing	The Lots would be provided a number by Council upon application if the application was recommended for approval.
Clause 9.8.9 Services	The proposed lots have the potential to be serviced in an off the grid fashion and as such could be conditioned if the proposal was recommended for approval.
Clause 9.8.10 Water Supply	Tank water supply would be available if the application was recommended for approval.

It is considered that the proposal is not consistent with all relevant controls of the Snowy Valleys Council DCP 2019 with departures identified above. It is considered that the development is generally compliant with all other relevant controls of the DCP.

Planning Agreements

Pursuant to section 4.15(1)(a)(iiia) - any planning agreement that has been entered into under section 7.4 of the Environmental Planning and Assessment Act 1979.

Council records indicate that no planning agreements have been entered into in relation to this development.

Regulations

Pursuant to section 4.15(1)(a)(iv) any regulation that applies to the development for the purposes of this paragraph.

There are no Regulations that are considered to be applicable to the subject land or the proposed development.

Coastal Management Plans

Pursuant to section 4.15(1)(a)(v) any coastal management plan (within the meaning of the Coastal Protection Act 1979) that applies to the land to which the development relates.

There are no coastal management plans that apply to the subject land.

Impacts of the Development

Pursuant to section 4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

Context and setting

The proposed subdivision proposes a number of issues including the transfer of a dwelling entitlement that is considered inappropriate for the area and inconsistent with other uses in the local area.

Economic Impact In The Locality

The proposed subdivision does not comply with a number of LEP objectives and clauses and proposes inappropriate potential residential development.

Site Design & Internal Design

The proposed subdivision particularly proposed Lot 41 is not logical and fails to comply with the minimum site size.

Suitability of the Site for the Development

The subject site and locality is not known to be affected by any natural hazards however for the reasons listed in this report significant departures that may have a significant adverse impact on the proposed development. Accordingly, the site can be said to be unsuitable to accommodate the proposed development.

The proposal has been assessed in regard to its environmental consequences and having regard to this assessment, it is considered that the development is unsuitable in the context of the site and surrounding locality.

Submissions Made in Accordance with the Act or Regulations

Pursuant to section 4.15(1)(d) any submissions made in accordance with the Act or Regs.

The proposal for subdivision was not required to be notified in accordance with Clause 1.7 of Snowy Valleys DCP as the proposal complies with the LEP / DCP provisions and does not create any potential privacy and overshadowing, traffic or environmental issues. Therefore, the proposed was not required to be notified.

Public Interest

Pursuant to section 4.15 (1)(e) whether the proposal is within the public interest.

The public interest is served by permitting the orderly and economic development of land, in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users. In view of the foregoing analysis it is considered that the proposed development will have a significant adverse impact on the public interest.

Consultation

Pre-lodgement Meetings

There is no record of any pre-lodgement meetings having been undertaken with Council staff in relation to this proposal.

External Referrals:

Pursuant to S100B of the Rural NSW Rural Fires Act 1997 the application was referred NSW RFS. At the time of this report General Terms of Approval have not been received. Should the Council seek to support the application any determination notice will require a deferred commencement condition requiring a bushfire safety authority to be issued prior to an operational consent being issued.

Internal Referrals:

No further internal referrals.

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**Integrated Planning and Reporting Framework:****CSP Outcome 2028**

Theme 1: Towns and Villages

Delivery Outcomes

1.9 Provide a planning and development framework which protects the local amenity while supporting sustainable growth and an appropriate balance of land use

Operational Actions

1.9.3 Develop new draft Development Control Plan by June 2019

Financial and Resources Implications

The financial implications of Council's decision in this matter are directly related to the legal implications. The possibilities are detailed below:

- Should the applicant choose to appeal a determination by way of refusal or pursue a deemed refusal by Council through the NSW Land and Environment Court and lose, the question of cost with regard to Council's Legal representation would be determined by the extent of the reasons for refusal.

- Should the applicant choose to appeal a refusal, or deemed refusal by Council through the NSW Land and Environment court and win the question of costs be dependent on the extent of the reasons for refusal.

- Should the applicant make no appeal, or proceedings not to be taken out by another party to the NSW Land and Environment Court regardless of determination, the application would result in no further financial implication on the Council.

Costs and Benefits:

There are no expected costs associated with the application where upholding the refusal determination is made. The refusal of the application will uphold Council's planning controls with respect to rejecting inappropriate residential development in the locality.

Policy, Legal and Statutory Implications:

The assessment of the proposal has been carried out in accordance with the relevant provisions of section 4.15 of the *Environmental Planning and Assessment Act 1979* and the Environmental Planning Regulation 2000.

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

The refusal of proposed development seeks to prevent and uphold Council's position on unplanned rural residential development.

Any departure from the LEP provisions with regard to unplanned rural residential development may require notification of the Department of Planning and Environment for the departure to a development standard.

OPTIONS:

1. THAT Council determine development application 2022/0023 seeking development consent for a boundary adjustment, consolidation of lots and transfer of a building entitlement to an unrelated allotment by way of approval and delegate to the Chief Executive Officer delegation to apply standard conditions of development consent to the notice of determination.
2. THAT Council determine development application 2022/0023 seeking development consent for a boundary adjustment, consolidation of lots and transfer of a building entitlement to an unrelated allotment by way of refusal for the reasons as outlined in the recommendations section of this report.

Option 2 is recommended to Council.

Councillors must record their votes on the matter.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Community engagement in accordance with Councils DCP has been outlined in the consultation section of the report.

ATTACHMENTS

- 1 ECM DOC ID 3157598 - DA 2022 0023 - Proposed Subdivision - 738 Goobarragandra Road - Buckley (under separate cover)
- 2 ECM DOC ID 3157598 - DA 2022 0023 - SEE - 738 Goobarragandra Road - Buckley (under separate cover)

11. MANAGEMENT REPORTS**11.6 REVIEW OF DETERMINATION (REV2021/001) PROPOSED DWELLING AND ANCILLARY STRUCTURES AT LOT 11 BOMBOWLEE AVENUE, TUMUT**

REPORT AUTHOR: MANAGER GROWTH & ACTIVATION
RESPONSIBLE DIRECTOR: EXECUTIVE DIRECTOR COMMUNITY AND CORPORATE

EXECUTIVE SUMMARY:

A development application (DA2020/0247) was lodged with Council on 18 August 2020 seeking development consent for the purposes of a 'Dwelling and Ancillary Shed' at Lot 11, DP 1123419, known as Lot 11 Bombowlee Avenue, Bombowlee. The merits of the proposal include the construction of a dwelling house, ancillary shed and necessary earthworks and retaining walls. This application was subsequently determined by Council by way of refusal (15 April 2021). The applicants have requested a Review of the Determination as permitted under Clause 8.2 of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979).

Further to this initial determination, a report detailing the Review of the Determination was presented to full Council on 21 October 2021 where under minute number M235/21, the matter was deferred pending further discussions with the applicant and consultants. These discussions centred around the provision of a suitable management plan outlining evacuation options for compliance with Council's Development Control Plan as adopted and the NSW Floodplain Development Manual. A management plan was provided to Council by the applicant; however, it is noted that no suitable flood free evacuation routes from the site are identified in the document. It is considered that the additional information that has been provided to Council does not significantly reduce the potential hazards of a new dwelling house within the flood planning layer of the Tumut Local Environmental Plan 2012.

The proposal has been reported to full Council on the basis that a determination made by Council can only be reviewed by Council and not a delegate of the Council.

The merits of the application have been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* and accordingly it has been recommended that the application be determined by way of refusal for the provided reasons.

Applicant	Habitat Planning
Land owner	Alexandra Arentz
Zoning Context	RU1 – Tumut Local Environmental Plan 2012
Capital Investment Vale (\$)	\$180,000
Notification Period	Review of Determination was not renotified. No submissions were received under the assessment of the original DA.
Number of submissions	Nil
Political Donations declaration	Nil
Reasons for referral to Council	Review of Council Determination (as required under Clause 8.3 of the EP&A Act 1979) – Previous application determined by full Council.

RECOMMENDATION:**THAT COUNCIL:**

1. **Receive the report on REV2021/0001 – Proposed dwelling and ancillary structures at Lot 11 DP1123419 Bombowlee Avenue.**
2. **Determine application REV2021/0001 – Lot 11 DP1123419 Bombowlee Avenue for a dwelling and an attached shed by way of refusal (upholding Council’s previous decision) for the following reasons:**
 - (a) **The proposal does not satisfy the considerations for approval as outlined in Clause 5.21 – Flood Planning of the Tumut LEP 2012. It is considered that there an unacceptable level of risk to occupants of the dwelling due to insufficient safe evacuation routes from the site and locality. The development application is not consistent with the requirements of s4.15(1) of the *Environmental Planning & Assessment Act 1979*, including a) i) any Environmental Planning Instrument. The proposal does not comply with the requirements of the New South Wales Floodplain Development Manual in particular flood evacuation measures.**
 - (b) **The proposal is inconsistent with the controls outlined in the Snowy Valleys DCP 2019, specifically Clause 3.2.10 Flooding. The provided information is not considered to adequately address flooding issues, especially safe evacuation routes from the site and locality. The development application is not consistent with the requirements of s4.15(1) of the *Environmental Planning & Assessment Act 1979*, including a) iii) any Development Control Plan.**
 - (c) **The site is not considered to be suitable for the development given the flood risk posed to occupants of the dwelling. The development application is not consistent with the requirements of s4.15(1) of the *Environmental Planning & Assessment Act 1979*, including c) the suitability of the site for the development.**
 - (d) **The development is not considered to be in the public interest, given the additional risks associated with the potential rescue or evacuation of residents from the dwelling by emergency services personnel during flood events. The development application is not consistent with the requirements of s4.15(1) of the *Environmental Planning & Assessment Act 1979*, including e) the public interest.**

BACKGROUND:**Subject site and locality**

Figure 1 provides an illustration of the land’s general location and layout. The land is identified as Lot 11, DP1123419, known as Lot 11 Bombowlee Avenue, Bombowlee, and comprises approximately 9.5Ha of total area.

The subject site is located approximately 1km to the northeast of Tumut, with the surrounding land currently being utilised for primary production, agricultural and rural residential land uses. It is considered that the proposal is generally consistent with the existing land uses of the area and is not expected to cause unmanageable land use conflict.

The site is currently utilised for agricultural activities. The overall slope of the site undulates as part of the Tumut River flood plain. The development site has been located to the east of the site to minimise flooding to the proposed dwelling house.

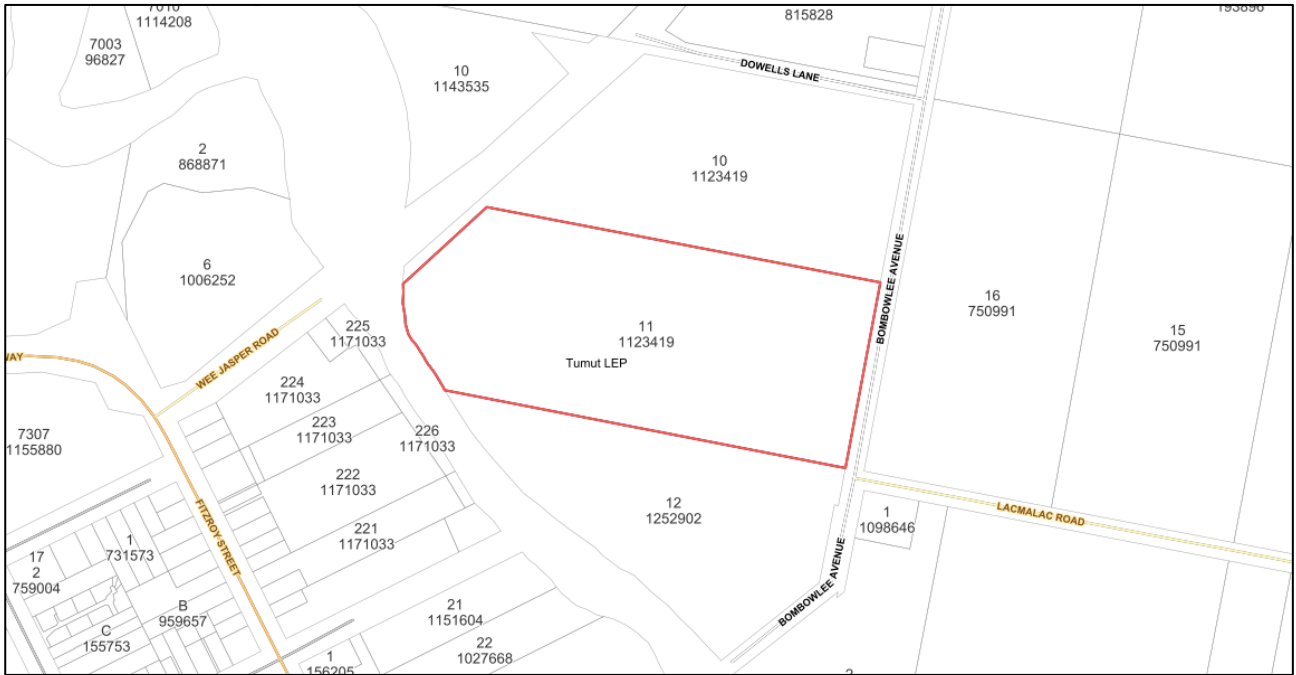


Figure 2: Cadastral map of subject site and surrounding properties

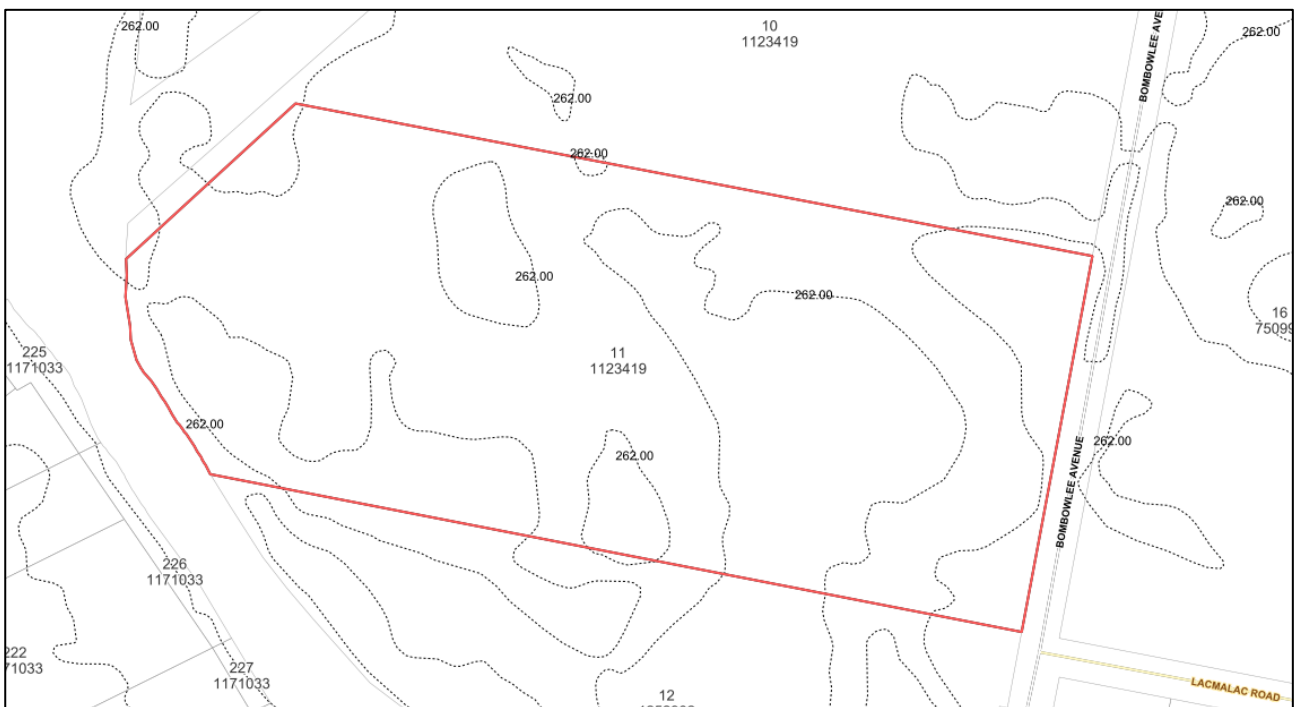


Figure 3: Topographic Map of Subject Site

Proposed Development

The merits of the proposal include:

- Proposed Dwelling house
- Attached farm shed
- Associated earthworks and retaining walls

Attachment 2 provides the proposed site plan and **Attachment 3** provides elevation drawings that outline the development as proposed.

The application contained an updated Statement of Environmental Effects (Attachment 1) where additional justification was provided to address flooding, but no additional information was included in the provided flood study (Attachment 4) that was provided as part of DA2020/0247. This information was referred internally to Councils Design Engineer for review and comment.

Further to the updated Statement of Environmental Effects and provided Flood Study, the applicant provided Council with a Flood Management Plan (Attachment 5), prepared by SLR Consulting, outlining the management measures that residents of the dwelling should take in the event of a flood event to reduce the overall risk to life from these events. It is noted in this document that no flood free egress is available from the site during flood events.

REPORT:

Statutory Provisions

Pursuant to Section 4.15 (1)(a)(i) and (ii) Any Environmental Planning Instrument / Draft Environmental Planning Instruments applying to the land.

State Environmental Planning Policies

The application has been considered with regards to the relevant provisions of applicable state environmental planning policies (SEPPs) as outlined and discussed below:

State Environmental Planning Policy 55 Remediation of Land

- Clause 2 Object of the Policy

The proposed development is considered satisfactory with respect to the particular aims of SEPP 55 to promote the remediation of contaminated land for the purposes of reducing the risk of harm to human health or any other aspect of the environment.

- Clause 7 – Contamination and remediation to be considered in determining a development application.

Council has undertaken a desktop review of the previous uses of the land and also has conducted a site inspection of the premises to ensure that there are no contamination issues present. The former use of the site includes agricultural pursuits. From a site inspection, no evidence of animal dips or chemicals or hazardous waste could be identified. The land is not considered to be contaminated, nor does it require remediation for the purposes of the development.

State Environmental Planning Policy – (Koala Habitat Protection) 2020

- Clause 8 – Is the land potential koala habitat?

The land is not considered to be potential koala habitat given the amount of native vegetation on the site, as defined in the SEPP.

Local Environmental Plans

The *Tumut Local Environmental Plan 2012* as amended applies to the subject site.

- **Clause 1.2 Aims of the Plan**

The aims of the Tumut LEP are:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural landscape character of the land

The proposal is considered to be generally consistent with the aims of the Tumut LEP 2012.

- **Clause 1.4 Definitions**

The proposed development comprises of the construction of a dwelling house and ancillary attached shed, as defined in the Tumut LEP 2010.

- **Clause 2.3 Zone objectives and Land Use Table**

The land is zoned as RU1 Primary under the *Tumut Local Environmental Plan 2012*. The proposed development site is located wholly within the RU1 Primary Production zone. As defined within the RU1 Land Use Table, a **dwelling house** and ancillary shed is permissible with development consent of the Council.

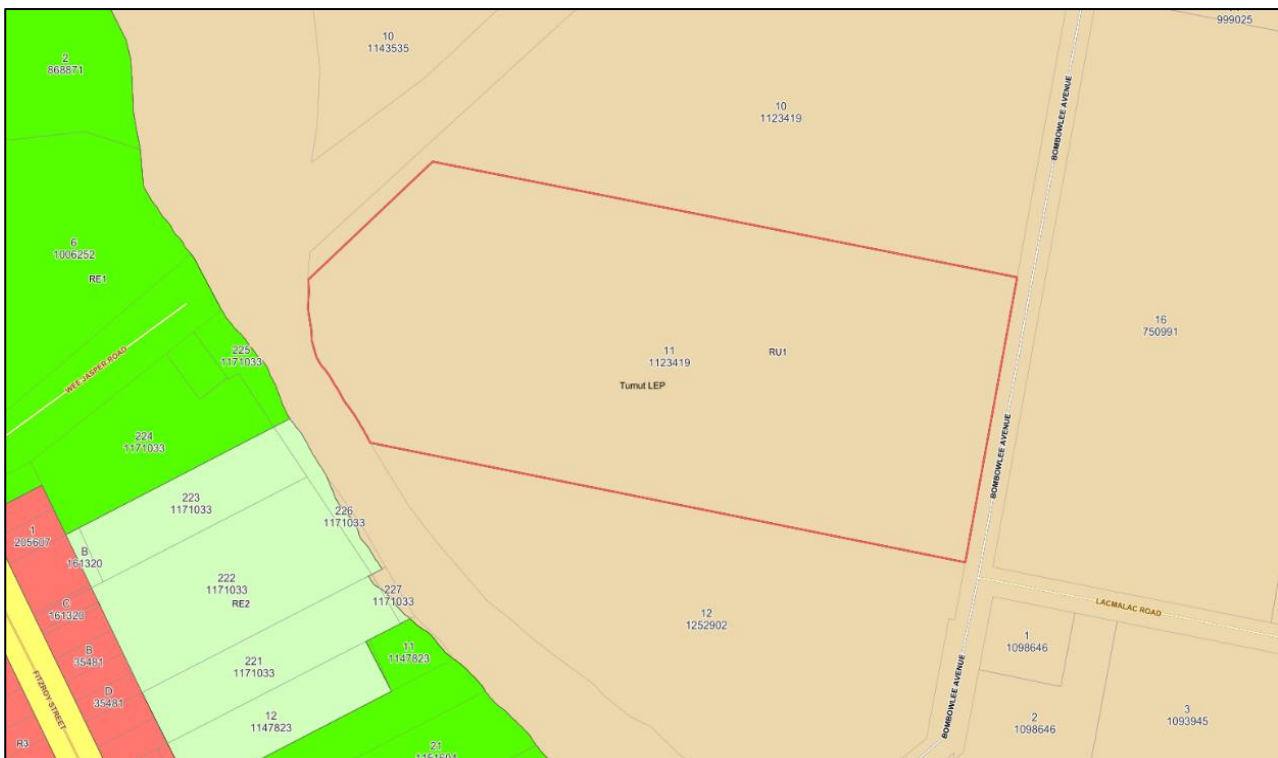


Figure 4: Zoning Map of Subject Site and Locality

- **Clause 4.2B - Erection of dwelling houses or secondary dwellings on land in certain rural and residential zones**

The subject land is considered to be an existing holding for the purpose of 4.2B of the Tumut LEP.

- **Clause 4.6 – Exemptions to development standards**

This clause permits exemptions to development standards outlined in the LEP that may be necessary to permit development on the site. No exemptions to development standards outlined in the LEP are required to facilitate the development.

- **Clause 5.21 Flood Planning**

The issue of flooding on the site was the main reason for refusal in the previous assessment. The following review of the determination will outline the main considerations for assessing flood risk as outlined in the Tumut LEP 2012 (as amended). Section 5.21 – Flood Planning is the key part of the LEP that governs how flood impacts are to be assessed. The objectives of the clause are set out in (1), and are as follows:

- to minimise the flood risk to life and property associated with the use of land,*
- to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- to enable the safe occupation and efficient evacuation of people in the event of a flood.*

To meet these objectives, the consent authority cannot issue consent unless it has considered and is satisfied that each of the points in (2) or (3) have been adequately addressed by the application. These points are assessed against the proposed development in the table below.

Section 5.21(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—	
<i>(a) is compatible with the flood function and behaviour on the land</i>	The development site is impacted by flooding events, with the flood function and behaviour on the land varying in response to the topography of the site. The submitted flood study indicates the development is located on the highest point of the subject land, where the flood levels is the lowest and the flood velocity is the slowest. It could be considered that the proposed development and built form is compatible with the flood function and behaviour on the land.
<i>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties</i>	Given the amount of site area proposed to be impacted by the development, it is considered that the development would not result in any significant additional flood affectation of other development or properties.
<i>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood,</i>	It is considered that the proposed development would impact the efficient evacuation of people from the site. It is considered that during flood events, there would not be sufficient safe egress to flood free areas utilising the public road network. Figure 1 below shows the extent of flooding in the area during the 2012 flood event that is not considered to be above a 1% AEP Flood Event. The proposed dwelling is considered to be surrounded by deep or fast flowing flood water that would inhibit the safe evacuation of the dwelling’s occupants during

	1% AEP flood events. Accordingly, Council cannot be satisfied that the development as proposed will not adversely affect the safe occupation and efficient evacuation of people from the site.
<i>(d) incorporates appropriate measures to manage risk to life in the event of a flood</i>	Given that the proposed dwelling is considered to be surrounded by deep or fast flowing water, it is not considered that the development incorporates appropriate measures to manage risk to life in the event of a 1% AEP flood event.
<i>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses</i>	The development is not considered to adversely affect the environment or cause avoidable impacts to riparian lands. The dwelling is sited to avoid impacts to the Tumut River.
Section 5.21 (3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—	
<i>(a) the impact of the development on projected changes to flood behaviour as a result of climate change</i>	Flooding events are generally anticipated to increase in occurrence and severity as a result of climate change. The proposed development will not significantly increase these projected changes. It is considered that the development may be increasingly impacted as a result of these anticipated increases in flood events and severity.
<i>(b) the intended design and scale of buildings resulting from the development</i>	The development is considered to be consistent with the existing design and scale of development in the locality.
<i>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</i>	The proposed dwelling incorporates measures to minimise the risk to life and to ensure the safe evacuation of people, however it is considered that these measures do not adequately mitigate the anticipated risk to life and the ability for persons to be evacuated during flood events.
<i>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</i>	The proposed dwelling is not able to be modified, relocated or removed during flood events to minimise impacts or risks associated with flooding. Coastal erosion impacts are not relevant to the subject site.

The proposed dwelling and associated development have been located on the subject site where the flood risk is considered to be the least and incorporates measures to further reduce risk where possible. It is considered however that the evacuation routes from the site, including Bombowlee Avenue, are subject to deep and or fast flowing floodwater, limiting safe evacuation routes from the site. The proposed development is considered to be not appropriate on the site given this lack of safe evacuation routes during flood events.

No additional safe evacuation routes have been identified in the provision of the additional information provided by the applicant. Anticipated climate change impacts are also considered to increase the risk of flooding events into the future.

It is considered that the proposed development is not consistent with the requirements and recommendations of the NSW Floodplain Development Manual 2005 (as amended).

Figure 5: Flooding in the Bombowlee Avenue Locality



Figure 6: Flooding in the Bombowlee Avenue Locality 2012 – Old Tumut Bridge



Figure 7: Flooding in the Bombowlee Locality 2012 - Intersection of Wee Jasper Road and Dowells Lane (Source: https://www.youtube.com/watch?v=BMbSUr8ZOuE&ab_channel=powertezz)

Development Control Plans

Pursuant to section 4.15 (1)(a)(iii) – any development control plans applying to the land.

The application has been assessed in accordance with provisions of the Snowy Valleys Council Development Control Plan 2019 that applies to the land. The following sections of the DCP require variation to permit the proposed development

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
Cut and fill	Cut and fill not to exceed 1m.	Some cut and fill will be required to facilitate the development. A maximum of 1.356m of fill is required to achieve the required floor level above the natural ground level. This requires a variation to the DCP control of a maximum of 1m of fill to be placed onsite. It is considered that a variation could be supported, given the flood prone nature of the site.	Non complaint – variation possible.
Flooding	Development must not occur on land that is affected by the 1 in 100-year ARI event unless the development is consistent with, and meets the requirements, of the NSW Floodplain Development Manual.	The proposed development is not considered to be compatible with the flood risk of the locality. It is considered that there are inadequate safe evacuation paths from the site. It is considered that the provided flood study does not accurately identify the flood risk on the site. The development does not meet the requirements of this section of DCP	Non-compliant – variation not supported

It is considered that the proposal is not consistent with all relevant controls of the Snowy Valleys Council DCP 2019 with one major departure and one minor departure from the controls as identified above. It is considered that the development is compliant with all other relevant controls of the DCP.

Planning Agreements

Pursuant to section 4.15(1)(a)(iiia) - any planning agreement that has been entered into under section 7.4 of the Environmental Planning and Assessment Act 1979.

Council records indicate that no planning agreements have been entered into in relation to this development.

Regulations

Pursuant to section 4.15(1)(a)(iv) any regulation that applies to the development for the purposes of this paragraph.

There are no Regulations that are considered to be applicable to the subject land or the proposed development.

Coastal Management Plans

Pursuant to section 4.15(1)(a)(v) any coastal management plan (within the meaning of the Coastal Protection Act 1979) that applies to the land to which the development relates.

There are no coastal management plans that apply to the subject land.

Impacts of the Development

Pursuant to section 4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

Context and Setting

The proposed development is not expected to have significant negative impacts on the locality context and setting with particular regard to the existing context and setting with particular regard to existing and desired scenic qualities and features, the character and amenity of locality and the character and density of the development in the locality. The development as proposed is not considered to be out of context of the rural residential setting with regards to construction of a dwelling house and shed on the land.

Site design and internal design

The overall site design and layout is considered to be adequate, responding to the challenges of the site including the topography. The proposed dwelling has been located to the east to minimise flood impacts to the development.

Heritage

The site is not identified as an item of heritage in accordance with schedule 5 of the Tumbarumba Local Environment Plan nor is the site listed on the State Heritage Register. No heritage significance has been identified on the subject site as part of the assessment of this application.

Flooding

The site is subject to flooding and is identified as flood prone land, being shown in the flood planning layer for the Tumut LEP 2012. The proposed development is not considered to have a significant impact on flood behaviour in the locality however is considered to have an impact on floodplain storage with filling of the land proposed to increase the Australian Height Datum (AHD) level of the development site. The development has been located on the site to minimise flood risk. Evacuation routes from the site during flood events are not considered to be adequate for any occupants of the dwelling and do not comply with the relevant provisions as outlined. The provision of additional information has not identified any flood free evacuation routes from the site.

Suitability of the site for the development

Pursuant to section 4.15(1)(c) the suitability of the site for the development

The site is not considered to be suitable for the proposed development given the risk to occupants as a result of flooding. Measures have been proposed to minimise this risk; however, the risk is still considered to be significant. Evacuation routes from the site are considered to be compromised by deep and or fast flowing floodwater, making rescue or evacuation hazardous. Council cannot be satisfied that the development of the site will not be prejudicial to the safety of the occupants or prejudicial to property.

Submissions made in accordance with the Act or Regulations

Pursuant to section 4.15(1)(d) any submissions made in accordance with the Act or Regs.

Discussion surrounding any submissions made is outlined in the Community Engagement / Consultation section of this report.

Public Interest

Pursuant to section 4.15 (1)(e) whether the proposal is within the public interest.

The proposed development is not in the public interest, given the flood risk to occupants of the site. This increases the likelihood of the need for emergency services to assist occupants of the site with evacuation, increasing cost and potential danger to emergency personnel. Prejudicing the safety of occupants and also emergency services staff is not within the public interest.

Consultation

Pre-lodgement Meetings

There is no record of any pre-lodgement meetings having been undertaken with Council staff in relation to this proposal.

Additional Applicant Meetings

Further to the determination made by Council on 21 October 2021 to defer the matter, pending the provision of additional information, Council staff met with the applicant and their consultants, on 2 November 2021, to discuss the proposal and the provision of information that may satisfy the NSW Floodplain Development Manual (FDM) in assessing flood risk and impacts. The following key points were made at this meeting:

- The dwelling itself and the overall design is considered to be adequate for the site and the flood risk experienced on the actual dwelling location.
- Access from the site to the public road was adequate.
- The evacuation routes from this point are the key consideration for the safety of residents from the dwelling, as per the NSW FDM. It is considered there is not enough information in the flood report to indicate a safe and efficient egress from the site. Council's engineer indicated Bombowlee Avenue was impeded by high-risk category flood waters in a number of locations, preventing safe egress from the site. Information was also provided that indicated the Old Tumut Bridge at the end of Wynyard Street is closed to pedestrian access during flood events and would not be suitable for use or consideration as an evacuation route.
- A plan of management including potential flood evacuation routes is to be provided to the Council for consideration.

A further meeting was held with the applicant on 8 February 2022, after the receipt of the additional information and plan of management as outlined in the meeting above. The applicant was advised at this meeting of the concerns still held by Council staff that no safe evacuation route was able to

be identified and that the plan of management solely relied on the timely evacuation of residents from the site.

The applicant was also advised of the proposed update to the existing flood study and the additional information that may be available to support a development application on the site. The applicant was again advised that this matter would be reported to Council for determination, as required under Section 8.3 of the EP&A Act.

Advice from Department of Planning and Environment – Biodiversity Conservation

In addition to the previous report, Council sought the advice from the Department of Planning and Environment (DPE) in relation to development on this flood prone area. The advice provided to Council from the Senior Natural Resource Officer (Floodplain Management) at the Department was of a cautionary nature, given the limited available information for flood behaviour in this area.

The comments received indicated that the existing flood planning layer is extremely basic and needs to be updated to better inform decision making process, especially in the Tumut River flood plain areas. Advice was also provided against the use of a private property flood evacuation plan, as discouraged by the NSW SES and precluded by the NSW Floodplain Development Manual 2005 (as amended), to alleviate flood risk in this location. The overall conclusion from the DPE was to refuse the Development Application until such time as Council has more information, in the form of a more complete flood study for the Tumut River, with which to make a decision.

External Referrals: Referrals	Advice / Response / Conditions
Nil	N/A

Internal Referrals:

Referrals	Advice / Response / Conditions
Development Engineer	No further information has been provided from the original application. The proposed dwelling would be surrounded by fast flowing and or deep flood waters during a large flood event that would make evacuation extremely hazardous. No additional information has been provided by the applicant in the Flood Management Plan that changes the opinion of Councils Development Engineer as to the flood risk of the development.

Community Participation Plan – Notification

The original DA was notified for the standard period (14 December 2020 to 4 January 2021) and during this period no submissions were received by Council.

The re-exhibition of any amended application or matter is considered to be discretionary, as outlined in the Snowy Valleys Community Participation Plan. Given no submissions were received during the initial notification period, it was considered that renotification of the current application before Council was not necessary.

Discussion of Key Issues

The key issue for this review is the flood hazard that is present on the site. This issue was the main reason for refusal of DA2020/0247. As outlined in the sections above, this issue is required to be

considered at both the LEP and DCP Statutory consideration levels. At both levels, the information provided with the application does not provide an adequate assurance of the mitigation of risks associated with developing this site for the purpose of a dwelling house.

As outlined above, the flooding information and report was provided to Council's Design Engineer for review and comment. It is considered that evacuation routes from the site, predominantly Bombowlee Avenue, would be subject to deep and/or fast flowing floodwaters. This increases the risk to occupants and emergency services personnel when being evacuated from the site. The provision of additional information has not identified any other flood free evacuation routes from the site. The information submitted relies on the timing of evacuation to occur prior to the flood arriving in Tumut. This is not considered to be a reliable or acceptable hazard management strategy as outlined in the NSW Floodplain Development Manual 2005 (as amended).

Irrespective of the ability of the habitable parts of the structure to remain flood free, considerations under Clause 5.21 Flood Planning clearly identify development:

'will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood'

The development is not considered to be suitable on the subject site for these reasons. As the application has not provided any additional information regarding addressing the evacuation from the site, or flood risk in general, it is recommended that the determination to refuse the application be upheld.

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

CSP Outcome 2028

Theme 1: Towns and Villages

Delivery Outcomes

1.9 Provide a planning and development framework which protects the local amenity while supporting sustainable growth and an appropriate balance of land use

Operational Actions

1.9.2 Development Applications are approved within 30 days

SUSTAINABILITY ASSESSMENT:

N/A

Financial and Resources Implications

The financial implications of Council's decision in this matter are directly related to the legal implications. The possibilities are detailed below:

- Should the applicant choose to appeal a determination by way of refusal or pursue a deemed refusal by Council through the NSW Land and Environment Court and lose, the question of cost with regard to Council's Legal representation would be determined by the extent of the reasons for refusal.
- Should the applicant choose to appeal a refusal or deemed refusal by Council through the NSW Land and Environment court and win the question of costs would be dependent on the extent of the reasons for refusal.
- Should any person choose to pursue Class 4 proceedings against Council to the Land and Environment Court and lose, the question of costs with regards to Council's legal

representation would be calculated at the appropriate time by either cost incurred or by costs assessment in favour of Council.

- Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and win the costs would be calculated at the appropriate time by either cost incurred or by costs assessment against Council.
- Should the applicant make no appeal, or proceedings not to be taken out by another party to the NSW Land and Environment Court regardless of determination, the application would result in no further financial implication on the Council.

Costs and Benefits:

There are no expected costs associated with the application where upholding the refusal determination is made. The refusal of the application will reduce the risk of flood impacts to residents of the locality and to emergency services. Additionally, any approval may form a precedent for development in areas nominated as being within the Flood Planning area identified in the Tumut LEP 2012 and weaken previously established planning principles.

Policy, Legal and Statutory Implications:

The assessment of the proposal has been carried out in accordance with the relevant provisions of section 4.15 of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning Regulation 2000*.

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

The subject site is known to be a floodway. Flooding to that site will occur. Approval of residential development in a known floodway presents risks to safety for the occupants of such dwellings as well as risks to the consent authority (Council) including reputational and financial risk.

It should also be noted that Councillors may also be individually liable for any damages resulting from adverse outcomes that occur as result of the development being approved within a known floodway. With this knowledge, protections provided under the Local Government Act 1993 would not apply in this regard.

In refusing consent for the proposed development Council will mitigate the risk of any future liability for any adverse outcomes that may result from flooding to the property, as well the risks to the safety and well-being for occupants of the proposed development.

OPTIONS:

Council has the following options with respect to Determination Review 2021/0001:

1. Uphold the current determination by way of refusal and provide the applicant with reasons for the refusal of the application as outlined in the recommendation section of this report.
2. Reverse the decision of the determination, granting an approval to the proposed development subject to conditions of consent. Council would be required to delegate to the Chief Executive Officer authority to impose standard conditions of development consent.
3. Defer any decision relating to Determination Review 2021/0001 pending the submission of additional information. Any decision on the application would need to be made prior to the expiry of twelve (12) months from the date of the original decision (or by 15 April 2022), permitting an appeal as permitted under Section 8.10 of the EP&A Act 1979.

Councillors must record their votes on the matter.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Community engagement surrounding the proposal has been outlined in the consultation section of the report.

ATTACHMENTS

- 1 Attachment 1 - 20097 - Lot 11 Bombowlee Avenue, Tumut - dwelling - SEE - July 2021_PAN-118286 (under separate cover)
- 2 Attachment 2 - Site Plan - Lot 11 Bombowlee Avenue (under separate cover)
- 3 Attachment 3 - Elevations - Lot 11 Bombowlee Avenue (under separate cover)
- 4 Attachment 4 - Appendix E - Flood Investigation Report_PAN-118286 (under separate cover)
- 5 Attachment 5 - Flood Management Plan (under separate cover)

11. MANAGEMENT REPORTS**11.7 REVIEW OF DETERMINATION (REV2021/002) PROPOSED DWELLING AND ANCILLARY STRUCTURES AT LOT 12 BOMBOWLEE AVENUE, TUMUT**

REPORT AUTHOR: MANAGER GROWTH & ACTIVATION
RESPONSIBLE DIRECTOR: EXECUTIVE DIRECTOR COMMUNITY AND CORPORATE

EXECUTIVE SUMMARY:

A development application (DA2020/0228) was lodged with Council on 24 July 2020 seeking development consent for the purposes of a 'Dwelling and Ancillary Shed' at Lot 12, DP 1123419, known as Lot 12 Bombowlee Avenue, Bombowlee. The merits of the proposal include the construction of a dwelling house, ancillary shed and necessary earthworks. This application was subsequently determined by Council by way of a refusal (15 April 2021). The applicants have requested a Review of the Determination as permitted under Clause 8.2 of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979).

Further to this initial determination, a report detailing the Review of the Determination was presented to full Council on 21 October 2021 where Council resolved under vide minute number M235/21 to defer any decision pending a meeting between Council staff and the applicant to discuss concerns relating to the proposal, in particular evacuation concerns. A delegation of Council staff met with the applicant and his consultant via zoom on the 2 November 2021 and the proposal was discussed at length including, the provision of a suitable management plan outlining evacuation options for compliance with the NSW Floodplain Development Manual. It was agreed that the consultant was to prepare a number of concept evacuation routes for Council to consider as part of the outcome of the discussions. No additional information has been provided to Council to date to address these evacuation concerns however Council was in receipt of correspondence from Kell Moore Lawyers acting on behalf of the applicant seeking amongst other things to have the matter placed before the Council for determination.

The proposal has been reported to full Council on the basis that a determination made by Council can only be reviewed by Council and not a delegate of the Council. Key issues presented through those submissions have been considered and responses have been discussed within the report.

The merits of the application have been assessed in accordance with section 4.15 of the *Environmental Planning and Assessment Act 1979* and accordingly it has been recommended that the application be determined by way of refusal for the provided reasons.

Applicant	Habitat Planning
Landowner	Mr Chad Lensing & Mrs Elaine Lensing
Zoning Context	RU1 – Tumut Local Environmental Plan 2012
Capital Investment Vale (\$)	\$498,720.00
Notification Period	Review of Determination was not required to be renotified. No submissions were received under the assessment of the original DA.
Number of submissions	Nil
Political Donations declaration	Nil
Reasons for referral to Council	Review of Council Determination (as required under Clause 8.3 of the EP&A Act 1979) – Previous application determined by full Council.

RECOMMENDATION:**THAT COUNCIL:**

1. **Receive the report on REV2021/0002 Proposed Dwelling and ancillary structures– Lot 12 DP1123419 Bombowlee Avenue**
2. **Determine the Section 8.2 Review of determination application REV2021/002 being Lot 12 DP1123419 Bombowlee Avenue, Tumut for a dwelling and an ancillary shed by way of refusal for the following reasons:**
 - a. **The proposal does not satisfy the considerations for approval as outlined in Clause 5.21 – Flood Planning of the Tumut LEP 2012. It is considered that there an unacceptable level of risk to occupants of the dwelling due to insufficient safe evacuation routes from the site and locality. The development application is not consistent with the requirements of s4.15(1) of *the Environmental Planning & Assessment Act 1979*, including a) i) any Environmental Planning Instrument. The proposal does not comply with the requirements of the New South Wales Floodplain Development Manual in particular flood evacuation measures.**
 - b. **The proposal is inconsistent with the controls outlined in the Snowy Valleys DCP 2019, specifically Clause 3.2.10 Flooding. The provided information is not considered to adequately address flooding issues, especially safe evacuation routes from the site and locality. The development application is not consistent with the requirements of s4.15(1) of the *Environmental Planning & Assessment Act 1979*, including a) iii) any Development Control Plan.**
 - c. **The site is not considered to be suitable for the development given the flood risk posed to occupants of the dwelling. The development application is not consistent with the requirements of s4.15(1) of the *Environmental Planning & Assessment Act 1979*, including c) the suitability of the site for the development**
 - d. **The development is not considered to be in the public interest, given the additional risks associated with the potential rescue or evacuation of residents from the dwelling by emergency services personnel during flood events. The development application is not consistent with the requirements of s4.15(1) of the *Environmental Planning & Assessment Act 1979*, including e) the public interest.**

BACKGROUND:**Subject site and locality**

Figure 1 provides an illustration of the land's general location and layout. The land is identified as Lot 12, DP1123419, known as Lot 12 Bombowlee Avenue, Bombowlee, and comprises approximately 5.8Ha of total area.

The subject site is located approximately 1km to the north east of Tumut, with the surrounding land currently being utilised for prime production, agricultural and rural residential land uses. It is considered that the proposal is generally consistent with the existing land uses of the area and is not expected to cause unmanageable land use conflict.

The site is currently utilised for agricultural activities. The overall slope of the site undulates as part of the Tumut River flood plain. The development site has been located to the south of the site minimise flooding to the proposed dwelling house and ancillary shed.



Figure 1: Aerial of Subject Site (Lot 12, DP1123419)



Figure 1.1 Aerial of subject site and approximate location of a dwelling

Attachment 2 provides the proposed site plan and elevation drawings that outline the development as proposed.

The application contained an updated Statement of Environmental Effects (Attachment 1) where additional justification was provided to address flooding risk, and an additional flood study (Attachment 3) that was not provided as part of DA2020/0228. This information was referred internally to Councils Design Engineer for review and comment.

No additional information has been provided to Council for consideration.

REPORT:

Statutory Provisions

Pursuant to Section 4.15 (1)(a)(i) and (ii) Any Environmental Planning Instrument / Draft Environmental Planning Instruments applying to the land:

State Environmental Planning Policies

The application has been considered with regards to the relevant provisions of applicable state environmental planning policies (SEPPs) as outlined and discussed below:

State Environmental Planning Policy 55 Remediation of Land

-

- Clause 2 Object of the Policy

The proposed development is considered satisfactory with respect to the particular aims of SEPP 55 to promote the remediation of contaminated land for the purposes of reducing the risk of harm to human health or any other aspect of the environment.

- Clause 7 – Contamination and remediation to be considered in determining a development application.

Council has undertaken a desktop review of the previous uses of the land and also has conducted a site inspection of the premises to ensure that there are no contamination issues present. The former use of the site includes agricultural pursuits. From a site inspection, no evidence of animal dips or chemicals or hazardous waste could be identified. The land is not considered to be contaminated, nor does it require remediation for the purposes of the development.

State Environmental Planning Policy – (Koala Habitat Protection) 2020

- Clause 8 – Is the land potential koala habitat?

The land is not considered to be potential koala habitat given the amount of native vegetation on the site, as defined in the SEPP.

Local Environmental Plans

The *Tumut Local Environmental Plan 2012* as amended applies to the subject site.

- **Clause 1.2 Aims of the Plan**

The aims of the Tumut LEP are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*

- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural landscape character of the land

The proposal is considered to be generally consistent with the aims of the Tumut LEP 2012.

- **Clause 1.4 Definitions**

The proposed development comprises of the construction of a dwelling house and ancillary shed, as defined in the Tumut LEP 2010.

- **Clause 2.3 Zone objectives and Land Use Table**

The land is zoned as RU1 Primary under the *Tumut Local Environmental Plan 2012*. The proposed development site is located wholly within the RU1 Primary Production zone. As defined within the RU1 Land Use Table, a **dwelling house** and ancillary shed is permissible with development consent of the Council.

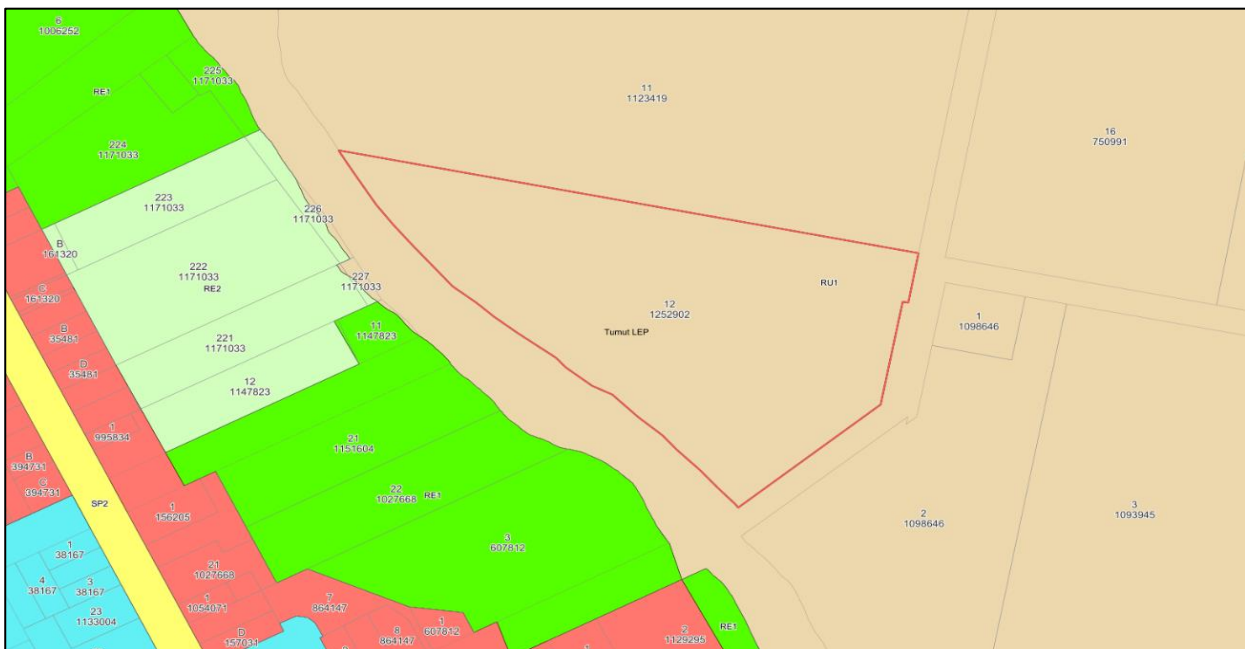


Figure 5: Zoning Map of Subject Site and Locality

- **Clause 4.2B - Erection of dwelling houses or secondary dwellings on land in certain rural and residential zones**

The subject land is considered to be an existing holding for the purpose of 4.2B of the Tumut LEP. Council has provided previous written advice confirming that a dwelling opportunity may be available under this Clause.

- **Clause 4.6 – Exemptions to development standards**

This clause permits exemptions to development standards outlined in the LEP that may be necessary to permit development on the site. No exemptions to development standards outlined in the LEP are required to facilitate the development.

- **Clause 5.21 Flood Planning**

The issue of flooding on the site was the main reason for refusal in the previous assessment. The following assessment will outline the main considerations for assessing flood risk as outlined in the Tumut LEP 2012 (as amended). Section 5.21 – Flood Planning is the key part of the LEP that governs how flood impacts are to be assessed. The objectives of the clause are set out in (1), and are as follows:

- to minimise the flood risk to life and property associated with the use of land,*
- to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- to enable the safe occupation and efficient evacuation of people in the event of a flood.*

To meet these objectives, the consent authority cannot issue a consent unless it has considered and is satisfied that each of the points in (2) or (3) have been adequately addressed by the application. These points are assessed against the proposed development in the table below.

Section 5.21(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—	
<i>(a) is compatible with the flood function and behaviour on the land</i>	The development site is impacted by flooding events, with the flood function and behaviour on the land varying in response to the topography of the site. The submitted flood study indicates the development is located on the highest point of the subject land, where the flood levels is the lowest and the flood velocity is the slowest. It could be considered that the proposed development and built form is compatible with the flood function and behaviour on the land.
<i>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties</i>	Given the amount of site area proposed to be impacted by the development, it is considered that the development would not result in any significant additional flood affectation of other development or properties.
<i>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood,</i>	It is considered that the proposed development would impact the efficient evacuation of people from the site. It is considered that during flood events, there would not be sufficient safe egress to flood free areas utilising the public road network. Figure 1 below shows the extent of flooding in the area during the 2012 flood event that is not considered to be above a 1% AEP Flood Event. The proposed dwelling is considered to be surrounded by deep or fast flowing flood water that would inhibit the safe evacuation of the dwelling's occupants during 1% AEP flood events.
<i>(d) incorporates appropriate measures to manage risk to life in the event of a flood</i>	Given that the proposed dwelling is considered to be surrounded by deep or fast flowing water, it is not considered that the development incorporates appropriate measures to manage risk to life in the event of a 1% AEP flood event.

Section 5.21(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—	
<i>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses</i>	The development is not considered to adversely affect the environment or cause avoidable impacts to riparian lands. The dwelling is sited to avoid impacts to the Tumut River.
Section 5.21 (3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—	
<i>(a) the impact of the development on projected changes to flood behaviour as a result of climate change</i>	Flooding events are generally anticipated to increase in occurrence and severity as a result of climate change. The proposed development will not significantly increase these projected changes. It is considered that the development may be increasingly impacted as a result of these anticipated increases in flood events and severity.
<i>(b) the intended design and scale of buildings resulting from the development</i>	The development is considered to be consistent with the existing design and scale of development in the locality.
<i>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</i>	The proposed dwelling incorporates measures to minimise the risk to life and to ensure the safe evacuation of people, however it is considered that these measures do not adequately mitigate the anticipated risk to life and the ability for persons to be evacuated during flood events.
<i>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</i>	The proposed dwelling is not able to be modified, relocated or removed during flood events to minimise impacts or risks associated with flooding. Coastal erosion impacts are not relevant to the subject site.

The proposed dwelling and associated development have been located on the subject site where the flood risk is considered to be the least, and incorporates measures to further reduce risk where possible. It is considered however that the evacuation routes from the site, including Bombowlee Avenue, are subject to deep and or fast flowing floodwater, limiting safe evacuation routes from the site. The proposed development is considered to be not appropriate on the site given this lack of safe evacuation routes during flood events. No additional safe evacuation routes have been identified in the provision of the additional information provided by the applicant. Anticipated climate change impacts are also considered to increase the risk of flooding events into the future. It is considered that the proposed development is not consistent with the requirements and recommendations of the NSW Floodplain Development Manual 2005 (as amended).



Figure 1: Flooding in the Bombowlee Avenue Locality



Figure 2: Flooding in the Bombowlee Avenue Locality 2012 – Old Tumut Bridge



Figure 3: Flooding in the Bombowlee Locality 2012 - Intersection of Wee Jasper Road and Dowells Lane (Source: https://www.youtube.com/watch?v=BMbSUR8ZOuE&ab_channel=powertezz)

Development Control Plans

Pursuant to section 4.15 (1)(a)(iii) – any development control plans applying to the land.

The application has been assessed in accordance with provisions of the Snowy Valleys Council Development Control Plan 2019 that applies to the land. The following sections of the DCP require variation to permit the proposed development:

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
Flooding	Development must not occur on land that is affected by the 1 in 100-year ARI event unless the development is consistent with, and meets the requirements, of the NSW Floodplain Development Manual.	The proposed development is not considered to be compatible with the flood risk of the locality. It is considered that there are inadequate safe evacuation paths from the site. It is considered that the provided flood study does not accurately identify the flood risk on the site. The development does not meet the requirements of this section of DCP	Noncompliant – variation not supported

It is considered that the proposal is not consistent with all relevant controls of the Snowy Valleys Council DCP 2019 with one major departure from the controls as identified above. It is considered that the development is compliant with all other relevant controls of the DCP. No variation to any numerical standards of the DCP are requested or required.

Planning Agreements

Pursuant to section 4.15(1)(a)(iiia) - any planning agreement that has been entered into under section 7.4 of the Environmental Planning and Assessment Act 1979.

Council records indicate that no planning agreements have been entered into in relation to this development.

Regulations

Pursuant to section 4.15(1)(a)(iv) any regulation that applies to the development for the purposes of this paragraph.

There are no Regulations that are considered to be applicable to the subject land or the proposed development.

Coastal Management Plans

Pursuant to section 4.15(1)(a)(v) any coastal management plan (within the meaning of the Coastal Protection Act 1979) that applies to the land to which the development relates.

There are no coastal management plans that apply to the subject land.

Impacts of the Development

Pursuant to section 4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

Context and Setting

The proposed development is not expected to have significant negative impacts on the locality context and setting with particular regard to the existing context and setting with particular regard to existing and desired scenic qualities and features, the character and amenity of locality and the character and density of the development in the locality. The development as proposed is not considered to be out of context of the rural residential setting .

Site Design and Internal Design

The overall site design and layout is considered to be adequate, responding to the challenges of the site including the topography. The proposed dwelling has been located to the south to minimise flood impacts to the development. A raised driveway has been proposed to improve the evacuation route from the proposed dwelling. This may impact on flood behaviour in this area. The site design and layout are considered to be typical of rural residential dwellings.

Heritage

The site is not identified as an item of heritage in accordance with schedule 5 of the Tumbarumba Local Environment Plan nor is the site listed on the State Heritage Register. No heritage significance has been identified on the subject site as part of the assessment of this application.

Flooding

The site is subject to flooding and is identified as flood prone land, being shown in the flood planning layer for the Tumut LEP 2012. The proposed development is not considered to have a significant impact on flood behaviour in the locality. There may be some flood behaviour change as a result of the proposed structures and earthworks. Evacuation routes from the site during flood events are not considered to be adequate for any occupants of the dwelling and do not comply with the relevant provisions as outlined. The provision of additional information has not identified any flood free evacuation routes from the site.

Suitability of the site for the development

Pursuant to section 4.15(1)(c) the suitability of the site for the development

The site is not considered to be suitable for the proposed development given the risk to occupants as a result of flooding. Measures have been proposed to minimise this risk; however, the risk is still

considered to be significant. Evacuation routes from the site are considered to be compromised by deep and or fast flowing floodwater, making rescue or evacuation hazardous.

Submissions made in accordance with the Act or Regulations

Pursuant to section 4.15(1)(d) any submissions made in accordance with the Act or Regs.

Discussion surrounding any submissions made is outlined in the Community Engagement / Consultation section of this report.

Public Interest

Pursuant to section 4.15 (1)(e) whether the proposal is within the public interest.

The proposed development is not in the public interest, given the flood risk to occupants of the site. This increases the likelihood of the need for emergency services to assist occupants of the site with evacuation, increasing cost and potential danger to emergency personnel. Prejudicing the safety of occupants and also emergency services staff is not within the public interest.

Consultation

Pre-lodgement Meetings

There is no record of any pre-lodgement meetings having been undertaken with Council staff in relation to this review.

Additional Applicant Meetings

Further to the determination made by Council on 21 October 2021 to defer the matter, pending the provision of additional information, Council staff met with the applicant and their consultants, on 2nd November 2021, to discuss the proposal and the provision of information that may satisfy the NSW Floodplain Development Manual (FDM) in assessing flood risk and impacts. The following key points were made at this meeting:

- The dwelling itself and the overall design is considered to be adequate for the site and the flood risk experienced on the actual dwelling location.
- Access from the site to the public road was adequate.
- The evacuation routes from this point are the key consideration for the safety of residents from the dwelling, as per the NSW FDM. It is considered there is not enough information in the flood report to indicate a safe and efficient egress from the site. Council's engineer indicated Bombowlee Avenue was impeded by high-risk category flood waters in a number of locations, preventing safe egress from the site. Information was also provided that indicated the Old Tumut Bridge at the end of Wynyard Street is closed to pedestrian access during flood events and would not be suitable for use or consideration as an evacuation route.
- A plan of management including potential flood evacuation routes is to be provided to the Council for consideration.

No additional information addressing these concerns have been provided to Council to date.

Advice from Department of Planning and Environment – Biodiversity Conservation

In addition to the previous report, Council sought the advice from the Department of Planning and Environment (DPE) in relation to development on this flood prone area. The advice provided to Council from the Senior Natural Resource Officer (Floodplain Management) at the Department was of a cautionary nature, given the limited available information for flood behaviour in this area. The comments received indicated that the existing flood planning layer is extremely basic and needs to be updated to better inform decision making process, especially in the Tumut River flood plain areas. Advice was also provided against the use of a private property flood evacuation plan, as discouraged

by the NSW SES and precluded by the NSW Floodplain Development Manual 2005 (as amended), to alleviate flood risk in this location. The overall conclusion from the DPE was to refuse the Development Application until such time as Council has more information, in the form of a more complete flood study for the Tumut River, with which to make a decision.

Note: Council has made application to the Department for grant funding to undertake a comprehensive flood study of the Tumut catchment. This grant funding was awarded to Council in February 2022 and Council will commence the process of the flood study in the second quarter of 2022. This will provide contemporary and detailed information on the floodplain storage and behaviour of the Tumut River catchment and in particular will provide specific information on the Bombowlee Avenue sites and surrounds.

External Referrals:

Referrals	Advice / Response / Conditions
Nil	N/A

Internal Referrals:

Referrals	Advice / Response / Conditions
Development Engineer	<p>The flood study report for Lot 12 predicts the 1% AEP flood level to be 263.64m AHD at the proposed dwelling site compared with the estimate of 264.0 based on the 1987 Flood Study Report. At this level, parts of the lot would be above the 100yr flood level but during the 2012 flood, all of the lot was submerged as evidenced by the aerial photo (Figure 5). The 2012 flood was identified as being less than the 1% AEP flood so it calls in to question the results of the new study. Nevertheless, the applicant proposes to construct a dwelling that would be surrounded by fast flowing and or deep flood waters during a large flood event. This would make evacuation extremely hazardous.</p> <p>The flood study report suggests building up the proposed driveway to provide safer egress however once one reaches Bombowlee Avenue there is no safe evacuation route.</p> <p>It is also suggested in the report that the Old Town Bridge would provide pedestrian access during a major flood however this bridge is of unknown structural integrity and is closed to all traffic including pedestrians during even moderate flood events for safety. There is also no safe route from the proposed dwelling to the old bridge.</p> <p>No additional information has been provided by the applicant that changes the opinion of Councils Development Engineer as to the flood risk of the development.</p>

Community Participation Plan – Notification

The original DA was notified for the standard period (4 January 2021 to 19 January 2021) and during this period no public submissions were received by Council.

A response was received from the SES outlining a number of concerns the organisation had in locating a dwelling within a flood prone area, including the difficulties in evacuating occupants via flooded areas. This letter has been provided as Attachment 4.

The re-exhibition of any amended application or matter is considered to be discretionary, as outlined in the Snowy Valleys Community Participation Plan. Given no public submissions were received during the initial notification period, it was considered that renotification of the review was not necessary.

Discussion of Key Issues

The key issue for this review is the flood hazard that is present on the site. This issue was the main reason for refusal of DA2020/0228. As outlined in the sections above, this issue is required to be considered at both the LEP and DCP Statutory consideration levels. At both levels, the information provided with the application does not provide an adequate assurance of the mitigation of risks associated with developing this site for the purpose of a dwelling house.

As outlined above, the flooding information and report (Attachment 3) was provided to Council's Design Engineer for review and comment. It is considered that evacuation routes from the site, predominantly Bombowlee Avenue, would be subject to deep and/or fast flowing floodwaters. This increases the risk to occupants and emergency services personnel when being evacuated from the site. It is also considered that the Old Town Bridge is not a suitable evacuation route given the unknown structural integrity of this bridge. No additional information has been received to date identifying any suitable alternative safe evacuation routes.

The provided flood study provides modelling of flooding on this site, which is based in part on the 1987 Flood Study completed for the Tumut River, identifying parts of the site that would not be flood affected at the modelled flood event. Aerial photography of the floods in 2012 (below), which is not considered to be a 1% AEP Flood Event, showed that the entirety of the site was inundated with flood water. This brings in to doubt the figures and modelling of the provided flood report.

The development is not considered to be suitable on the subject site for these reasons. The information provided and the mitigation measures proposed do not adequately minimise the risk to the occupants of the site from flood hazards. It is recommended that the determination to refuse the application be upheld.



LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

CSP Outcome 2028

Theme 1: Towns and Villages

Delivery Outcomes

1.9 Provide a planning and development framework which protects the local amenity while supporting sustainable growth and an appropriate balance of land use

Operational Actions

1.9.2 Development Applications are approved within 30 days

Financial and Resources Implications

The financial implications of Council's decision in this matter are directly related to the legal implications. The possibilities are detailed below:

- Should the applicant choose to appeal a determination by way of refusal or pursue a deemed refusal by Council through the NSW Land and Environment Court and lose, the question of cost with regard to Council's legal representation would be determined by the extent of the reasons for refusal;
- Should the applicant choose to appeal a refusal, or deemed refusal by Council through the NSW Land and Environment Court and win the question of costs be dependent on the extent of the reasons for refusal;
- Should any person choose to pursue Class 4 proceedings against Council to the Land and Environment Court and lose, the question of costs with regards to Council's legal representation would be calculated at the appropriate time by either costs incurred or by costs assessment in favour of Council.
- Should any person choose to take out class 4 proceedings against Council to the Land and Environment Court and win the costs would be calculated at the appropriate time by either costs incurred or by costs assessment against Council.
- Should the applicant make no appeal, or proceedings not to be taken out by another party to the NSW Land and Environment Court regardless of determination, the application would result in no further financial implication on the Council.

Costs and Benefits:

There are no expected costs associated with the application where upholding the refusal determination is made. The refusal of the application will reduce the risk of flood impacts to residents of the locality and to emergency services.

Additionally, any approval may form a precedent for development in areas nominated as being within the Flood Planning area identified in the Tumut LEP 2012 and weaken previously established planning principles.

Policy, Legal and Statutory Implications:

The assessment of the proposal has been carried out in accordance with the relevant provisions of section 4.15 of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning Regulation 2000*.

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

The subject site is known to be a floodway. Flooding to that site will occur. Approval of residential development in a known floodway presents risks to safety for the occupants of such dwellings as well as risks to the consent authority (Council) including reputational and financial risk.

It should also be noted that Councillors may also be individually liable for any damages resulting from adverse outcomes that occur as result of the development being approved within a known floodway. With this knowledge, protections provided under the Local Government Act 1993 would not apply in this regard.

In refusing consent for the proposed development Council will mitigate the risk of any future liability for any adverse outcomes that may result from flooding to the property, as well the risks to the safety and well-being for occupants of the proposed development.

OPTIONS:

Council has the following options with respect to Determination Review 2021/0002:

1. Uphold the current determination by way of refusal and provide the applicant with reasons for the refusal of the application as outlined in the recommendation section of this report.
2. Reverse the decision of the determination, granting an approval to the proposed development subject to conditions of consent. Council would be required to delegate to the Chief Executive Officer authority to impose standard conditions of development consent.
3. Defer any decision relating to Determination Review 2021/0002 pending the submission of additional information. Any decision on the application would need to be made prior to the expiry of twelve (12) months from the date of the original decision (15 April 2022), permitting an appeal as permitted under Section 8.10 of the EP&A Act 1979.

Councillors must record their votes on the matter.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Community engagement surrounding the proposal has been outlined in the consultation section of the report.

ATTACHMENTS

- 1 Attachment 1 - 20096 - Lot 12 Bombowlee Avenue Tumut - dwelling - Revised SEE_PAN-126883 (under separate cover)
- 2 Attachment 2 - 20096 - Lot 12 Bombowlee Avenue Tumut - dwelling - amended plans - 2020-09-28_V1_PAN-126883 (under separate cover)
- 3 Attachment 3 - 20096 - Lot 12 Bombowlee Avenue Tumut - dwelling - Flood Risk Assessment_V1_PAN-126883 (under separate cover)
- 4 Attachment 4 - 20210208 DA Letter to Snowy Valleys Council re DA2020-0228 (under separate cover)

12. MINUTES OF COMMITTEE MEETINGS**12.1 MINUTES - AUDIT RISK AND IMPROVEMENT COMMITTEE - 09 FEBRUARY 2022**

REPORT AUTHOR: COORDINATOR GOVERNANCE & RISK
RESPONSIBLE DIRECTOR: EXECUTIVE CHIEF OF STAFF

RECOMMENDATION:**THAT COUNCIL:**

- 1. Receive the report on the Minutes – Audit Risk and Improvement Committee – 09 February 2022**
- 2. Note the Minutes of the Audit Risk and Improvement Committee meeting held on 09 February 2022**

BACKGROUND:

The objective of the Audit, Risk and Improvement Committee is to provide independent assurance and advice to Council on risk management, control, governance, and external accountability responsibilities.

The Committee's role is to report to Council and provide appropriate advice and recommendations on matters relevant to its Terms of Reference. This advice aims to facilitate the decision making of Council in relation to the discharge of its responsibilities.

In discharging its responsibilities, the Committee reviews and considers:

- The integrity of external financial reporting, including accounting policies
- The scope of work, objectivity, performance and independence of the external and internal auditors
- The establishment, effectiveness and maintenance of controls and systems to safeguard the Councils financial and physical resources

REPORT:

At the 09 February 2022 meeting of the Audit, Risk and Improvement Committee the following items were discussed and considered:

- Chief Executive Officer's Confidential Report
 - A verbal report was given by the Chief Executive Officer
- Adequacy of Internal Audit Resources
 - Examined and discussed the adequacy of the current internal audit provider
 - Endorsed the initiation of the procurement process for internal audit provider for the 2022-2024
 - Agreed to conduct two internal audits for 2022-2023 as per the Strategic Internal Audit Plan 2020-2024
 - Proposed to allocate the budget for 2022-2023 at \$40,000
- Audit Matrix

- Four audit recommendations were closed out as complete during the period
- Six audit recommendations were added during the period
- Action Report to the Audit, Risk & Improvement Committee
 - Two action was closed out as complete
 - Three actions were brought to the attention of the committee throughout the meeting and will be added to the ARIC action report. These are shown as ACTIONS in the minutes.
- Safety, Risk & Quality Quarterly Update
 - Examined and discussed the quarterly update including:
 - WHS update
 - Updates to the Enterprise Risk Management Framework
 - JLT Public Sector Risk Report
 - Audit Office NSW Performance Audit
 - Insurance and incidents
- Integrated Planning and Reporting Update (Half Yearly and New IP&R Suite)
 - Examined and discussed the half yearly report and noted the achievements of the Council in the delivery of the actions
- SVC Portfolio/Project Status Report
 - Discussed the progress of the Program Management Framework and Capability Uplift project.
- Endorsement of Internal Audit Plan for 2022-2023
 - Although due for review the committee endorsed the delay of the development of the Strategic Internal Audit Plan 2023-2026 until the first half of the 2022-2023 period. This will allow the internal audit service provider to be in place as well as the new guidelines for Risk Management and Internal Audit Framework from the Office of Local Government to be released.
 - The first internal audit for 2022-2023 to focus on Management Accounting/Financial Reporting Controls
 - The second internal audit for 2022-2023 to focus on Asset Management
- Final Internal Audit Report - Recruitment and Termination
 - Examined and discussed the recommendations and the management responses provided
 - Four of the seven recommendations were added to the Audit Matrix. The three that were not added to the matrix were of a low risk rating and are noted as opportunities for improvement as per Councils Audit Matrix Business Rules.

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**Integrated Planning and Reporting Framework:****CSP Outcome 2028**

Theme 4: Communication & Engagement

Delivery Outcomes

4.5 Council demonstrates strong leadership through a governance framework which drives progress towards achieving the community vision

Operational Actions

4.5.2 Convene meetings for the Audit Risk and Improvement Committee

SUSTAINABILITY ASSESSMENT:

Nil

Financial and Resources Implications

The approved budget for the operation of the ARIC for 2021/2022 is \$40,000 and includes member remuneration, training and the engagement of the internal auditor.

Costs and Benefits:

Nil

Policy, Legal and Statutory Implications:

Council has established an Audit, Risk and Improvement Committee which functions under the Internal Audit Guidelines, September 2010 issued under s23A the Local Government Act, 1993.

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

The Committee is charged with the responsibility of:

- Reviewing Councils enterprise risk management framework and associated procedures for effective identification and management of Councils business and financial risks
- Making a determination as to whether a sound and effective approach has been followed in managing Councils major risks including those associated with individual projects, program implementation and activities.
- Assessing the impact of the Councils enterprise risk management framework on its control environment and insurance arrangements.

OPTIONS:

Nil

COUNCIL SEAL REQUIRED:

Nil

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Nil

ATTACHMENTS

- 1 20220209 - Minutes - Audit Risk and Improvement Committee (under separate cover)

12. MINUTES OF COMMITTEE MEETINGS**12.2 MINUTES - DISABILITY INCLUSION ACCESS REFERENCE GROUP - 24 FEBRUARY 2022**

REPORT AUTHOR: MANAGER COMMUNITY SERVICES
RESPONSIBLE DIRECTOR: EXECUTIVE DIRECTOR COMMUNITY AND CORPORATE

RECOMMENDATION:**THAT COUNCIL:**

1. **Receive the report on the Minutes Disability Inclusion Access Reference Group Meeting held 24 February 2022.**
2. **Note the Minutes of the Disability Inclusion Access Reference Group meeting held on 24 February 2022.**

BACKGROUND:

The Disability Inclusion Access Reference Group (DIARG) was formed as an action of the Snowy Valleys Council, Disability Inclusion Action Plan (DIAP) to advise and support the achievement of the actions in the plan.

The DIAP is a legislated plan under the Disabilities Act 2014.

The DIARG meetings assist in monitoring the progress of the SVC DIAP and development of the new SVC DIAP.

REPORT:

The following items were discussed at the DIARG meeting;

Minutes of meeting 2 November were tabled and accepted unanimously.

Business arising from the 2 November meeting.

- Action for the Manager Community Services to follow up re status for establishing a footpath at Gilbert Street (East) Tumberumba, and Currawong Street (near the Bull Paddock), Tumut.

The Manager Community Services followed up with Manager Technical Assets on 24 February 2022. These issues have been included in 2022/2023 budget.

- Advocate for the DIARG Committee to remain with Council.

New Councillors have been elected and Council committees decided. The DIARG remains an Advisory Committee of Council with Councillor Trina Thomson as delegate.

- Consultation on Transfer of Community Services

The reasons for not sharing the SVC Aged, Disability and Housing Review was explained. It is noted that the document is now available to share.

The Chair stated that the report to Council for possible transfer of Community Services came as a shock to the Committee. The value of the Committee was reiterated and to be noted as 'not token and a viable committee'.

Agenda Items

- The agenda items for 24 February 2022 meeting were tabled and accepted unanimously.
- Terms of Reference

The Committee agreed to review proposed draft Terms of Reference for discussion at next meeting. Feedback to be forwarded to the Manager Community Services to allow time to compile before April meeting.

- Development of DIAP Plan 2022-2025 Update

Survey questions developed were reviewed and will not give Council information needed to develop a robust survey.

A consultant has been engaged to develop the new DIAP, with May Council meeting in mind to present to Council newly developed DIAP for public exhibition.

- Current DIAP update

Disability Inclusion Action Plan Progress Matrix V5 tabled. It was surmised that some actions will roll over to the newly developed DIAP.

- Seniors Week 25 March – 3 April 2022

Three events planned by Snowy Valleys Council.

- Tuesday 29 March 2022 – Social trip to Jugiong for lunch at the The George. Bus will leave Tumbarumba and pick up from Batlow and Tumut on the way.
- Thursday 31 March 2022 – Snowy Hydro Bus Trip. Bus will leave Tumbarumba and pick up from Batlow and Tumut on the way.
- Friday – 01 April 2022 – Seniors Lunch in RSL Hall Tumbarumba. May be possible to organise transport from Tumut.

General Business

- Feedback on Evacuation Centre Plans. The Manager Community Services and DIARG Chair were invited to give feedback via video link consultation on the draft plans for the proposed Evacuation Centre.

All feedback given was noted and acknowledged.

Councillor Thomson encouraged Committee to review plans and provide feedback to Council.

- Parking Strategy

Snowy Valleys Council is developing a parking strategy. It was highlighted that disability parking in the Local Government Area is an issue. Parking spaces need to allow for a car door to be opened with ample space to allow transfer from the car into a wheelchair.

The Committee would like to be able to engage with the Consultant to give feedback.

Officers note: The consultant preparing the Parking Study will engage with the DIARG Committee as part of the consultation plan.

- DIARG Chair has taken up a short-term full-time position and will not be able to attend meetings if held at 11am. The Manager Community Services is to generate an email for discussion of meeting time.

Thursday 28 April 2022, time to be advised.

There being no further business to discuss, the meeting closed at 11.41 am.

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework: CSP Outcome 2028

Theme 4: Communication & Engagement

Delivery Outcomes

1.2 Provide accessible services and initiatives which support and contribute to wellbeing across all stages of life

Operational Actions

1.2.1 Continue delivery of current Disability Inclusion Access Plan ongoing activities and develop and adopt a new Disability Inclusion Action Plan

SUSTAINABILITY ASSESSMENT:

Nil

Financial and Resources Implications

Nil

Costs and Benefits:

The costs and benefits of the DIARG are intangible and contribute to enhancing the welfare and social inclusion of people with disability in the Snowy Valleys Council local government area.

Tangible actions realised, are those actions of the Snowy Valleys Council Disability Inclusion Action Plan achieved

Policy, Legal and Statutory Implications:

In accordance with the Disability Inclusion Act 2014, Division 3 Disability Inclusion Action Plans, 12 Requirement for Disability Inclusion Action Plans. Council a *public authority* must have a plan that sets out specific measures to include people with a disability.

In accordance with the Local Government Act, 1993, 375 Minutes, requires Councils' *'to keep full and accurate minutes'*

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

Nil

OPTIONS:

Nil

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Nil

ATTACHMENTS

- 1 20220224 - Minutes - Disability Inclusion Access reference Group - Meeting (under separate cover)

12. MINUTES OF COMMITTEE MEETINGS**12.3 MINUTES - LOCAL TRAFFIC COMMITTEE - 23 FEBRUARY, 2022**

REPORT AUTHOR: ROAD SAFETY OFFICER
RESPONSIBLE DIRECTOR: EXECUTIVE DIRECTOR INFRASTRUCTURE

RECOMMENDATION:**THAT COUNCIL:**

- 1. Receive this report on the Minutes – Local Traffic Committee – 23 February 2022.**
- 2. Note the Minutes of the Local Traffic Committee meeting held on 23 February 2022.**
- 3. Adopt the following recommendation/s from the minutes:**
 - a. Item 4.1 Event Application – Tumbafest
 - i. Support the Special Event Application for the 2022 Tumbafest event held on 26 & 27 February 2022 to go ahead in principle, subject to Council’s standard conditions.
 - b. Item 4.2 Event Application – Snowy Valleys Night Markets – Tumbarumba
 - i. Support the Special Event Application for the 2022 Snowy Valleys Night Markets – Tumbarumba held on 23 April 2022 to enable this event to go ahead, subject to Council’s standard conditions.
 - ii. Endorse the Special Event application subject to receipt of a Road Occupancy Licence, concurrence from Transport for NSW and approval from NSW Police.
 - c. Item 4.3 Event Application – Snowy Valleys Night Markets – Tumut
 - i. Support the Special Event Application for the Snowy Valleys Night Markets – Tumut held on 25 March 2022 to enable this event to go ahead, subject to Council’s standard conditions.
 - d. Item 4.4 Anzac Day Parade – Adelong
 - i. Support the Special Event Application for the ANZAC Day March to be held in Adelong to enable this event to go ahead, subject to Council’s standard conditions.
 - ii. Endorse the Special Event application subject to receipt of a Road Occupancy Licence, concurrence from Transport for NSW and approval from NSW Police.
 - e. Item 4.5 Anzac Day Parade – Tumbarumba
 - i. Support the Special Event Application for the ANZAC Day March to be held in Tumbarumba to enable this event to go ahead, subject to Council’s standard conditions.
 - ii. Endorse the Special Event application subject to receipt of a Road Occupancy Licence, concurrence from Transport for NSW and approval from NSW Police.
 - f. Item 4.6 Anzac Day March – Tumut

- i. Support the Special Event Application for the ANZAC Day March to be held in Tumut to enable this event to go ahead, subject to Council's standard conditions.
- g. Item 4.7 Event Application – Ciderfest
 - i. Support the Special Event Application for the Batlow Ciderfest for the 21st May 2022 to enable this event to go ahead, subject to Council's standard conditions.
- h. Item 4.8 Tumbarumba Road Maintenance
 - i. Communicates with the Local Government Areas of City of Wagga Wagga, Greater Hume with the intention of creating a working committee to oversee the maintenance and upgrade of the Wagga Road.
- i. Item 4.9 McAuley Catholic Central School – Bus Zones
 - i. Support the relocation of the school bus zones in Capper Street to Carey Street (West side of Capper Street).
- j. General Business – Rail Trail Marathon
 - i. Support the Special Event Application for the Rail Trail Marathon for the 23rd April 2022 to enable this event to go ahead, subject to Council's standard conditions

BACKGROUND:

The Local Traffic Committee is primarily a technical review committee with representatives from Transport for NSW, NSW Police, representatives of elected Members of Parliament and council representatives related to traffic control devices, facilities and events related to roads and transport within the Local Government Area that are not State nor Federal Roads.

REPORT:

A copy of the Local Traffic Committee Minutes are attached to this report.

The next meeting of the Local Traffic Committee is scheduled for the 11 May 2022. This meeting will be held in Tumbarumba with TEAMS Access.

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**Integrated Planning and Reporting Framework:****CSP Outcome 2028**

Theme 5: Our Infrastructure

Delivery Outcomes

5.3 Provide and partner with other agencies to deliver an effective, safe local transport network

Operational Actions

5.3.1 Deliver a Road Safety Program in partnership with neighbouring Councils and Transport for NSW

SUSTAINABILITY ASSESSMENT:

Sustainability assessments for each of the items considered by the Local Traffic Committee are referenced in the specific reports presented to the committee.

Financial and Resources Implications

Internal resources are utilised to prepare the reports for the Local Traffic Committee and the provision of executive support of the committee.

The delivery of traffic safety initiatives proposed by the Local Traffic Committee are subject to the availability of funding. Council has an allocated budget for the commencement of some road safety initiatives. The items outlined in this report will be actioned as time and resources are available.

Costs and Benefits:

Nil

Policy, Legal and Statutory Implications:

The requirements for Council to maintain a Local Traffic Committee are pertained within the Roads Act 1993, with Terms of Reference being provided by Transport for NSW (A Guide to the Delegation to Councils for the Regulation of Traffic (including the operation of Traffic Committees) RTA 2009).

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

Risk Management Assessments are provided with Special Event Applications.

Risk Management is considered as part of the initiatives by the Local Traffic Committee.

OPTIONS:

Council may choose to:

- Endorse the recommendations made by the Local Traffic Committee as described in this report and its attachments.
- Endorse the recommendations made by the Local Traffic Committee as described in this report and its attachments with amendments.
- Reject or defer the report

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Nil

ATTACHMENTS

- 1 Minutes - Local Traffic Committee Meeting - 23 February, 2022 (under separate cover)

12. MINUTES OF COMMITTEE MEETINGS**12.4 MINUTES - GLENROY HERITAGE RESERVE COMMITTEE - 6 FEBRUARY 2022**

REPORT AUTHOR: TOURISM OFFICER
RESPONSIBLE DIRECTOR: EXECUTIVE DIRECTOR COMMUNITY AND CORPORATE

RECOMMENDATION:**THAT COUNCIL:**

1. **Receive the report on Minutes – Glenroy Heritage Reserve Committee General Meeting 6 February 2022**
2. **Note the Minutes of the Glenroy Heritage Reserve Committee General meeting held on 6 February 2022**

BACKGROUND:

The Glenroy Heritage Reserve Management Committee is a Section 355 Committee formed for the purpose of caring for, controlling and managing the Glenroy Heritage Reserve.

This committee also controls the letting of the facility, the cleaning of the facility, the daily operations of the museum and craft centre and purchasing of furniture and fittings for the museum.

REPORT:

Ordinary Meeting held at Glenroy Heritage Reserve dining room on Sunday 6/02/2022, commencing at 1.30pm

Attendance:

Present at meeting: Neil Christie, Anne Thoroughgood, Councillor Julia Ham, Bruce Wright, Brenda Wiggett, Stephen Weeks, Joanne Lorrimer, Colleen McAuliffe, Sophie Gairn.

Reading of minutes of previous meeting held 07/11/2021 by Colleen McAuliffe

Moved: Stephen Weeks

Correspondence:

- 1 Official Letter from Snowy Valleys Council advising Councillor Ham as Councillor Delegate.
- 2 Terms of Reference from Snowy Valleys Council – draft document to be reviewed by the committee

Treasurer's Report for Glenroy Heritage Reserve presented by Stephen Weeks

Balance on the 30/01/2022 \$8052.03 currently in the account. As attached

Moved: Stephen Weeks, Second: Brenda Wiggett

Pioneer Women's Hut report read by Anne Thoroughgood.

- Opening of the Button Hut planned for the 16th March 2022, there will be a morning tea. Electrical work not yet complete, Sophie Gairn to follow up with Burgun Electrical
- Academic/Researcher Liz Williamson will be attending on the 9th & 10th February. Liz is writing a paper for the Bloomsbury Encyclopedia of World Textiles. Sophie to contact Tumbarumba Times to do a feature article.

- Two journalists are interested in doing articles for magazines – one is interested in tea cozies
- Vanessa Keenan is the new Snowy Valleys Museum Advisor visiting on the 16th February
- Meeting to be organized with Snowy Valleys Council to finalise incorporation of the PWH to hand over finances and assets
- The Geelong Wool Museum has been working on the National Quilt Register and have taken over the hard-copies of the register for the Pioneer Womens Hut. A copy will be provided to the Pioneer Womens Hut to be placed in the workroom for easy access. We are happy with this arrangement.

Bus Report Read by Anne Thoroughgood, 1 booking for March, 1 booking for April

GENERAL BUSINESS

- There needs to be some concreting around the Button Hut, Neil to obtain quotes and Sophie to confirm process with Council
- Lock on the handicap toilet is broken again, a replacement lock is needed. Sophie to ask Council
- Kitchen tap and filter – New tap to be purchased by committee. Filter will not be installed due to high cost, bottled water to be used for food preparation
- Area behind toilets landscaping will not be paid by council, committee to organise a working bee. New lid will be installed on the Septic tank by SVC.
- Connectivity, Glenroy is included in the areas to be investigated by council. Investigation into Starlink costs which may be a suitable alternative
- Cleaning, Julie Button is only employed cleaner. If PWH requires cleaning they will have to pay those costs directly
- Mowing, Sophie will ask for grounds to be mowed soon as the overgrowth is becoming an issue.
- Discussion on the \$5 entry fee for busses visiting the reserve. Every 6 months the funds will be reviewed and a donation given to the PWH based on funds available or mutual purchases.
Moved Stephen Weeks, Second: Brenda Wiggett
- Neil Christie thanked Bruce Wright for joining the committee

The next ordinary meeting of the Glenroy Heritage Reserve will be held on Sunday the 1st May 2022, commencing at 1.30pm

Meeting closed 2.45pm

LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

CSP Outcome 2028

Theme 4: Communication & Engagement

Delivery Outcomes

4.5 Council demonstrates strong leadership through a governance framework which drives progress towards achieving the community vision

Operational Actions

4.6.1 Provide governance and risk support to volunteers and section 355 committees

SUSTAINABILITY ASSESSMENT:

Nil

Financial and Resources Implications

The committees have raised funds for the erection of the Button Hut at no cost to Council. The committee through the craft shop and tour bus visits raise funds that allow the committee to cater for bus visits and contribute to small maintenance jobs at the Museum and the Reserve.

Costs and Benefits:

Benefits of the Glenroy Heritage Reserve committee includes but are not limited to the opportunity for socialisation of the volunteer group while providing an educational Historical facility to bring visitors to the area.

Policy, Legal and Statutory Implications:

Nil

RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:

Risk Management is the responsibility of Council and the committee.

OPTIONS:

Nil

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Nil

ATTACHMENTS

- 1 ECM Doc ID 3162037 - 20220206 - Minutes - Glenroy Heritage Reserve Report (under separate cover)

13. CONFIDENTIAL

The Local Government Act provides that Council may close to the public that part of the meeting that deals with matters of a confidential nature. Section 10(2) lists such matters.

The grounds on which a meeting is closed to the public must be specified in the decision to close the meeting and recorded in the minutes of the meeting.

Recommendation:

That Council move into Confidential to consider the matters listed in the confidential section of the agenda in accordance with Section 10(2) of the Local Government Act 1993 for the reasons specified.

13.1 WRITE-OFF OF DEBTS

Item 13.1 is confidential under the Local Government Act 1993 Section 10A 2 (b) and (e) as it relates to discussion in relation to the personal hardship of a resident or ratepayer and information that would, if disclosed, prejudice the maintenance of law and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

13.2 RFT 2022/01 – MR677 ALPINE WAY SLOPE REHABILITATION WORKS (SLOPES 11976 & 11979)

Item 13.2 is confidential under the Local Government Act 1993 Section 10A 2 (d)i and (d)ii as it relates to commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and information that would, if disclosed, confer a commercial advantage on a competitor of the council and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.