



SNOWY VALLEYS COUNCIL ORDINARY MEETING

AGENDA

Thursday, 14 December 2023

THE MEETING WILL BE HELD AT 2:00 PM
COUNCIL CHAMBERS 76 CAPPER STREET 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 – Section 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 General Manager.

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. All public forums will be audio/visual recorded and live streamed as part of the Council meeting.
- 4.2** Public Forums may be held by audio-visual link.
- 4.3** 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;

<http://www.snowyvalleys.nsw.gov.au/Council/Governance/Policies>



Thursday, 14 December 2023

Council Chambers 76 Capper Street Tumut and Via Video Link

2:00 PM

AGENDA

1. PUBLIC FORUM	6
2. ACKNOWLEDGEMENT OF COUNTRY	6
3. APOLOGIES, LEAVE OF ABSENCE AND REMOTE ATTENDANCE	6
4. DECLARATIONS OF PECUNIARY INTEREST	6
5. CONFIRMATION OF MINUTES	6
5.1. MINUTES - ORDINARY COUNCIL - 16 NOVEMBER 2023	6
6. CORRESPONDENCE/PETITIONS	19
7. MAYORAL MINUTE	19
8. NOTICE OF MOTION/NOTICE OF RESCISSION	20
8.1. NOTICE OF MOTION - NSW SEVERE WEATHER AND FLOOD GRANT - CLR JAMES HAYES	20
8.2. NOTICE OF MOTION - REMOVAL OF WEEDS ALONG SVC RAIL CORRIDORS - CLR JAMES HAYES.....	22
8.3. NOTICE OF MOTION - USE OF COUNCIL PARKS AND FACILITIES FOR COMMUNITY EVENTS - CLR TRINA THOMSON.....	24
8.4. NOTICE OF MOTION - CCTV - VANDALISM TO COUNCIL INFRASTRUCTURE - CLR TRINA THOMSON.....	26
8.5. NOTICE OF MOTION - ROAD POLICY - CLR HANSIE ARMOUR.....	28
9. URGENT BUSINESS WITHOUT NOTICE	30
10. GOVERNANCE AND FINANCIAL REPORTS	31
10.1. ATTENDANCE - 2023 LGNSW ANNUAL CONFERENCE - 12-14 NOVEMBER 2023	31
10.2. 2024 MEETING CALENDAR	34

10.3. DRAFT LEGISLATIVE COMPLIANCE POLICY & DRAFT ACCESS TO INFORMATION POLICY - PUBLIC EXHIBITION.....	37
10.4. DRAFT PUBLIC INTEREST DISCLOSURES POLICY - FOR PUBLIC EXHIBITION.....	40
10.5. DRAFT INFORMATION GUIDE 2023/2024 - FOR PUBLIC EXHIBITION.....	44
10.6. CODE OF CONDUCT COMPLAINTS STATISTICS FOR THE REPORTING PERIOD 01 SEPTEMBER 2022 - 31 AUGUST 2023.....	48
10.7. STATEMENT OF INVESTMENT - NOVEMBER 2023.....	50
11. MANAGEMENT REPORTS	54
11.1. DA2023/0025 - PROPOSED TOURIST AND VISITOR ACCOMMODATION - 404 GOOBARRAGANDRA ROAD GOOBARRAGANDRA.....	54
11.2. DA2023/0120 - PROPOSED BOUNDARY ADJUSTMENT AT 702-712 BOMBOWLEE CREEK ROAD, BOMBOWLEE.....	82
11.3. TUMBARUMBA START STRONG PRESCHOOL - REQUEST FOR REFUND AND WAIVER OF FEES AND CHARGES.....	103
11.4. THE BATLOW CIDER RAIL TRAIL - STEERING COMMITTEE	108
11.5. ELECTRIC VEHICLE (EV) CHARGING STATIONS.....	113
11.6. OPTIONS ANALYSIS TUMUT AERODROME.....	119
11.7. COMMUNITY AND RECREATION FACILITIES MANAGEMENT POLICY - FOR ADOPTION	132
12. MINUTES OF COMMITTEE MEETINGS.....	144
12.1. MINUTES - AUDIT RISK AND IMPROVEMENT COMMITTEE - 08 NOVEMBER 2023	144
12.2. MINUTES - FIRST NATIONS LIAISON COMMITTEE - 15 NOVEMBER 2023	146
12.3. MINUTES - LOCAL TRAFFIC COMMITTEE MEETING - 8 NOVEMBER, 2023	148
12.4. MINUTES - GLENROY HERITAGE RESERVE COMMITTEE - 4 NOVEMBER 2023.....	151
13. CONFIDENTIAL.....	154
11.2 CONFIDENTIAL - DA2023/0120 - PROPOSED BOUNDARY ADJUSTMENT AT 702-712 BOMBOWLEE CREEK ROAD BOMBOWLEE - ATTACHMENTS.....	154
11.6 CONFIDENTIAL - OPTIONS ANALYSIS TUMUT AERODROME - ATTACHMENTS.....	154
13.1 CONFIDENTIAL - RFT 2023/01 - TUMUT MULTI-PURPOSE CENTRE ASSESSMENT	154
13.2 CONFIDENTIAL - RFT 2023/08 - TOOMA HALL REDEVELOPMENT	154
13.3 CONFIDENTIAL - SOUTH WEST REGIONAL WASTE MANAGEMENT GROUP MEMORANDUM OF AGREEMENT RENEWAL.....	154
14. MEETING CLOSURE.....	154

1. PUBLIC FORUM

2. ACKNOWLEDGEMENT OF COUNTRY

Snowy Valleys Council proudly acknowledges the traditional owners and custodians of this land and water and pay respects to their Elders past and present.

3. APOLOGIES, LEAVE OF ABSENCE AND REMOTE ATTENDANCE

4. 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.

5. CONFIRMATION OF MINUTES

5.1. MINUTES - ORDINARY COUNCIL - 16 NOVEMBER 2023

RECOMMENDATION:

That the Minutes of the Ordinary Council Meeting held on 16 November 2023 be received and confirmed as an accurate record.

Attachment 1 - 20231116 - DRAFT Minutes - Ordinary Council



ORDINARY MEETING

MINUTES

Thursday, 16 November 2023

THE MEETING WAS HELD AT 2:00 PM
COUNCIL CHAMBERS 76 CAPPER STREET TUMUT / VIA VIDEO LINK

Minutes of the Meeting of the Snowy Valleys Council Ordinary Meeting held in Council Chambers 76 Capper Street Tumut / Via Video Link on Thursday, 16 November 2023 Page 1

Mayor

Interim General Manager



Thursday, 16 November 2023

Council Chambers 76 Capper Street Tumut / Via Video Link

2:00 PM

MINUTES

1. ACKNOWLEDGEMENT OF COUNTRY	4
2. PUBLIC FORUM	4
3. APOLOGIES, LEAVE OF ABSENCE AND REMOTE ATTENDANCE	4
4. DECLARATIONS OF PECUNIARY INTEREST	4
5. CONFIRMATION OF MINUTES	5
5.1. MINUTES - ORDINARY COUNCIL - 17 OCTOBER 2023	5
6. CORRESPONDENCE/PETITIONS	5
7. MAYORAL MINUTE.....	5
8. NOTICE OF MOTION/NOTICE OF RESCISSION	5
9. URGENT BUSINESS WITHOUT NOTICE	5
10. GOVERNANCE AND FINANCIAL REPORTS	5
10.5. PRESENTATION OF THE 2022/23 ANNUAL FINANCIAL STATEMENTS.....	5
10.1. COUNTRY UNIVERSITIES CENTRE.....	6
10.2. ATTENDANCE - 2023 DIGITAL AGRIFOOD SUMMIT 11-12 OCTOBER WAGGA WAGGA - CRS HAM AND ARMOUR	6
10.3. AICD ESSENTIAL GOVERNANCE FOR COUNCILLORS TRAINING PROGRAM - 19-20 OCTOBER 2023 - CANBERRA.....	7
10.4. DRAFT SNOWY VALLEYS COUNCIL ANNUAL REPORT 2022-2023.....	7
10.6. QUARTERLY BUDGET REVIEW AS AT 30 SEPTEMBER 2023	7

Minutes of the Meeting of the Snowy Valleys Council Ordinary Meeting held in Council Chambers 76 Capper Street Tumut / Via Video Link on Thursday, 16 November 2023

Page 2

Mayor

Interim General Manager

Snowy Valleys Council Ordinary Meeting Minutes

Thursday, 16 November 2023

10.7. STATEMENT OF INVESTMENTS - OCTOBER 2023	8
11. MANAGEMENT REPORTS	8
11.1. DRAFT SNOWY VALLEYS DEVELOPMENT CONTROL PLAN 2024 - POST-EXHIBITION AMENDMENTS.....	8
11.2. DRAFT SPORTS FIELD AND FACILITIES POLICY - PUBLIC EXHIBITION.....	9
11.3. DISASTER RECOVERY FUNDING ARRANGEMENTS GRANT.....	9
11.4. DRINKING WATER MANAGEMENT SYSTEM ANNUAL REPORT FOR 2022-23	10
11.5. DRAFT CYBER SECURITY & IT CHANGE MANAGEMENT POLICIES	10
12. MINUTES OF COMMITTEE MEETINGS.....	10
12.1. MINUTES - YOUTH COUNCIL COMMITTEE MEETING - 25 OCTOBER 2023	10
13. CONFIDENTIAL.....	11
13.1. CONFIDENTIAL - WRITE-OFF OF DEBTS.....	11
13.2. CONFIDENTIAL - OUTCOME OF LITTLE RIVER ROAD MEDIATION	11
13.3. CONFIDENTIAL - RFT 2023-02 - HUME & HOVELL MAINTENANCE SERVICES TENDER	12
13.4. CONFIDENTIAL - SNOWY 2.0 CONNECTOR ROAD MAINTENANCE AGREEMENT	12
14. MEETING CLOSURE.....	12

Minutes of the Meeting of the Snowy Valleys Council Ordinary Meeting held in Council Chambers 76 Capper Street Tumut / Via Video Link on Thursday, 16 November 2023

Page 3

Mayor

Interim General Manager

PRESENT: Deputy Mayor, Cr Trina Thomson (Chair), Cr Johanna (Hansie) Armour, Cr Julia Ham, Cr Sam Hughes, Cr James Hayes, Cr Mick Ivill, Cr John Larter, Cr Brent Livermore

IN ATTENDANCE: Interim General Manager, Steven Pinnuck, Director Community & Corporate Jessica Quilty, Director Infrastructure & Works Duncan Mitchell, Manager Finance Parthiv Parekh, Manager Growth & Activation Nick Wilton

1. ACKNOWLEDGEMENT OF COUNTRY

An acknowledgement of the traditional custodians of the land was delivered by Deputy Mayor, Cr Trina Thomson.

2. PUBLIC FORUM

Rural Fire Service (RFS) Deputy Commissioner Kyle Stewart and Director Logistics and Equipment Joshua Torrens addressed Council via video link regarding the preparedness of NSW RFS for the 2023/2024 fire season; the status of the Heads of Agreement between Council and NSW RFS for the construction of a new Fire Control Centre at Tumut Aerodrome; the status of the new Zone Service Level Agreement and the status of the occupation of a hanger at Tumut Aerodrome.

3. APOLOGIES, LEAVE OF ABSENCE AND REMOTE ATTENDANCE

A Request for a Leave of Absence has been received from Mayor, Cr Ian Chaffey.

M222/23 RESOLVED that the Leave of Absence from Cr Ian Chaffey be received and granted.

Cr Johanna (Hansie) Armour/Cr Julia Ham

CARRIED UNANIMOUSLY

4. DECLARATIONS OF PECUNIARY INTEREST

Cr Julia Ham declared a **non-pecuniary, significant interest** in relation to report # 10.1 Country Universities Centre due to being on the CUC Working Committee and **remain** the room during discussion.

Cr James Hayes declared a **non-pecuniary, significant interest** in relation to report # 10.1 Country Universities Centre due to being on the CUC Working Committee and will **remain** the room during discussion.

5. CONFIRMATION OF MINUTES

5.1. MINUTES - ORDINARY COUNCIL - 17 OCTOBER 2023

M223/23 RESOLVED:

That the Minutes of the Ordinary Council Meeting held on 17 October 2023 be received and confirmed as an accurate record.

Cr Mick Ivill/Cr Brent Livermore

For: Cr Armour, Cr Ham, Cr Hughes, Cr Ivill, Cr Larter, Cr Livermore, Cr Thomson

Against: Cr Hayes

CARRIED

7/1

6. CORRESPONDENCE/PETITIONS

Nil.

7. MAYORAL MINUTE

Nil.

8. NOTICE OF MOTION/NOTICE OF RESCISSION

Nil.

9. URGENT BUSINESS WITHOUT NOTICE

Nil.

10. GOVERNANCE AND FINANCIAL REPORTS

M224/23 RESOLVED that Item 10.5 be brought forward.

Cr Brent Livermore/Cr Julia Ham

CARRIED UNANIMOUSLY

10.5. PRESENTATION OF THE 2022/23 ANNUAL FINANCIAL STATEMENTS

A verbal report was provided by Council's Audit Service Provider Partner Dannielle MacKenzie.

M225/23 RESOLVED:

THAT COUNCIL:

1. Note the report on the Presentation of the 2022/2023 Annual Financial Statements; and
2. Formally present the 2022/2023 Audited Financial Statements and Audit Reports to the public in accordance with Sections 418 and 419 of the *Local Government Act 1993*.

Cr James Hayes/Cr Mick Ivill

CARRIED UNANIMOUSLY**M226/23 RESOLVED** to move back to the order of business.

Cr Julia Ham/Cr James Hayes

CARRIED UNANIMOUSLY**10.1. COUNTRY UNIVERSITIES CENTRE****M227/23 RESOLVED**

THAT COUNCIL:

1. Note the report on the progression and formation of a Working Party for Country Universities Centre;
2. Approve the use of part of the former Tumut Shire Council building as the preferred location for the Country University Centre.

Cr Julia Ham/Cr James Hayes

CARRIED UNANIMOUSLY**10.2. ATTENDANCE - 2023 DIGITAL AGRIFOOD SUMMIT 11-12 OCTOBER WAGGA
WAGGA - CRS HAM AND ARMOUR****M228/23 RESOLVED:**

THAT COUNCIL:

1. Note the report on the 2023 Digital Agrifood Summit outcomes from Councillor Julia Ham and Councillor Hansie Armour.

Cr Julia Ham/Cr John Larter

For: Cr Armour, Cr Ham, Cr Hayes, Cr Hughes, Cr Ivill, Cr Livermore, Cr Thomson

Against: Cr John Larter

CARRIED

7/1

10.3. AICD ESSENTIAL GOVERNANCE FOR COUNCILLORS TRAINING PROGRAM - 19-20 OCTOBER 2023 - CANBERRA**M229/23 RESOLVED:**

THAT COUNCIL:

1. Note the participation of Cr Armour, Cr Hayes and Cr Hughes in the AICD Essential Governance for Councillors Training Program on 19-20 October 2023 in Canberra.

Cr James Hayes/Cr Sam Hughes

CARRIED UNANIMOUSLY**10.4. DRAFT SNOWY VALLEYS COUNCIL ANNUAL REPORT 2022-2023****M230/23 RESOLVED:**

THAT COUNCIL:

1. Endorse a copy of the 2022-2023 Annual Report including the Audited Financial Statement to be placed on Council's website;
2. In accordance with section 428 of the *Local Government Act 1993*, provide a copy of the 2022-2023 Annual Report to the NSW Office of Local Government by 30 November 2023.
3. Amend the 1.2.28 Provision of Supervision for Safety of Patrons from 'Completed' to 'Behind Schedule'

Cr James Hayes/Cr Julia Ham

CARRIED UNANIMOUSLY**10.5. PRESENTATION OF THE 2022/23 ANNUAL FINANCIAL STATEMENTS**

Item 10.5 was brought forward to the beginning of the meeting.

10.6. QUARTERLY BUDGET REVIEW AS AT 30 SEPTEMBER 2023**MOTION:**

THAT COUNCIL:

1. Receive and adopt the Quarterly Budget Review as at 30 September 2023 including the Addendum; and
2. Adopt the Revenue, Expenditure and Capital Budget adjustments as noted in the September Quarterly Budget Review.
3. Receive a historical report post 2016 on the cost to Council of the Tumbarumba Roths Medical Centre.

Cr Julia Ham/Cr Mick Ivill

Snowy Valleys Council Ordinary Meeting Minutes

Thursday, 16 November 2023

M231/23 RESOLVED to move into Committee of the Whole

Cr Julia Ham/Cr Brent Livermore

CARRIED UNANIMOUSLY

Cr Ivill left the room at 3.23pm and returned at 3.27pm.

M232/23 RESOLVED to move out of Committee of the Whole

Cr Julia Ham/Cr Johanna (Hansie) Armour

CARRIED

M233/23 RESOLVED:

THAT COUNCIL:

1. Receive and adopt the Quarterly Budget Review as at 30 September 2023 including the Addendum; and
2. Adopt the Revenue, Expenditure and Capital Budget adjustments as noted in the September Quarterly Budget Review.
3. Receive a historical report post 2016 on the cost to Council of the Tumbarumba Roths Medical Centre.

Cr Julia Ham/Cr Mick Ivill

CARRIED UNANIMOUSLY

10.7. STATEMENT OF INVESTMENTS - OCTOBER 2023

M234/23 RESOLVED:

THAT COUNCIL:

1. Note the report on Statement of Investment - 31 October 2023.

Cr Brent Livermore/Cr Mick Ivill

CARRIED UNANIMOUSLY

11. MANAGEMENT REPORTS

11.1. DRAFT SNOWY VALLEYS DEVELOPMENT CONTROL PLAN 2024 - POST-EXHIBITION AMENDMENTS

MOTION:

THAT COUNCIL:

1. Amend Clause 4.8.4 to delete the statement: "No additional parking is required for the secondary dwelling";
2. Adopt the amended Snowy Valleys Development Control Plan 2024 with the changes taking effect from Tuesday 2nd January 2024;

Cr John Larter/Cr Brent Livermore

Minutes of the Meeting of the Snowy Valleys Council Ordinary Meeting held in Council Chambers 76 Capper Street Tumut / Via Video Link on Thursday, 16 November 2023 Page 8

Mayor

Interim General Manager

AMENDMENT:

1. Amend Clause 4.8.4 to delete the statement: "No additional parking is required for the secondary dwelling";
2. Adopt the amended Snowy Valleys Development Control Plan 2024 with the changes taking effect from Tuesday 2nd January 2024;
3. That the future structure of the Snowy Valleys Development Control Plan 2024 be referred to a Councillor Workshop in the first quarter of 2024.

The amendment was put and carried.

Cr Johanna (Hansie) Armour/Cr Julia Ham

CARRIED**M235/23 RESOLVED**

THAT COUNCIL

1. Amend Clause 4.8.4 to delete the statement: "No additional parking is required for the secondary dwelling";
2. Adopt the amended Snowy Valleys Development Control Plan 2024 with the changes taking effect from Tuesday 2nd January 2024;
3. That the future structure of the Snowy Valleys Development Control Plan 2024 be referred to a Councillor Workshop in the first quarter of 2024.

The amendment became the motion and was put and carried.

Cr Johanna (Hansie) Armour/Cr Julia Ham

CARRIED**11.2. DRAFT SPORTS FIELD AND FACILITIES POLICY - PUBLIC EXHIBITION****M236/23 RESOLVED**

THAT COUNCIL:

1. Endorse the Draft Sports Field and Facilities Policy (where amended) SVC-ENG-PO-073-02 for public exhibition for a period of no less than 28 days;
2. Note that if any feedback is received during the exhibition period, a further report will be provided to Council on the submissions; and
3. Adopt the amended Sports Field and Facilities Policy SVC-ENG-PO-073-02 if no submissions are received on the day after the completion of the public exhibition period.

Cr Julia Ham/Cr Mick Ivill

CARRIED UNANIMOUSLY**11.3. DISASTER RECOVERY FUNDING ARRANGEMENTS GRANT****M237/23 RESOLVED**

THAT COUNCIL:

Minutes of the Meeting of the Snowy Valleys Council Ordinary Meeting held in Council Chambers 76 Capper Street Tumut / Via Video Link on Thursday, 16 November 2023 Page 9

Mayor

Interim General Manager

Snowy Valleys Council Ordinary Meeting Minutes

Thursday, 16 November 2023

1. Note the Disaster Recovery Funding projects listed in the attachment to this report and the amount of \$7,119,522.65 available for essential public road asset reconstruction works which is required to be spent by 30 June 2025.

Cr Julia Ham/Cr Mick Ivill

CARRIED UNANIMOUSLY

11.4. DRINKING WATER MANAGEMENT SYSTEM ANNUAL REPORT FOR 2022-23

M238/23 RESOLVED

THAT COUNCIL:

1. Note this report on the Drinking Water Management System Annual Report for 2022-23; and
2. Endorse the Drinking Water Management System Annual Report 2022-23 for submission to the local Public Health Unit (PHU), NSW Health.

Cr James Hayes/Cr Sam Hughes

CARRIED UNANIMOUSLY

11.5. DRAFT CYBER SECURITY & IT CHANGE MANAGEMENT POLICIES

M239/23 RESOLVED

THAT COUNCIL:

1. Adopt the Draft Cyber Security Policy SVC-IT-PO-013-01 and Draft IT Change Management Policy SVC-IT-PO-131-01; and
2. Note these policies will not be released for community consultation or be placed on Council's website for security purposes.

Cr James Hayes/Cr John Larter

CARRIED UNANIMOUSLY

12. MINUTES OF COMMITTEE MEETINGS

12.1. MINUTES - YOUTH COUNCIL COMMITTEE MEETING - 25 OCTOBER 2023

M240/23 RESOLVED

THAT COUNCIL:

1. Note the minutes of the Youth Council Committee held on 25 October 2023; and
2. Appoint Amy Murphy and Aiyana Ironside as voting members of the Youth Council Committee.

Cr Sam Hughes/Cr Brent Livermore

CARRIED UNANIMOUSLY

Minutes of the Meeting of the Snowy Valleys Council Ordinary Meeting held in Council Chambers 76 Capper Street Tumut / Via Video Link on Thursday, 16 November 2023 Page 10

Mayor

Interim General Manager

13. CONFIDENTIAL

M241/23 RESOLVED to move into Confidential Session.

Cr John Larter/Cr James Hayes

CARRIED UNANIMOUSLY

M242/23 RESOLVED to move back into Open Session.

Cr John Larter/Cr Brent Livermore

CARRIED UNANIMOUSLY

At this stage, the time being 4.11pm the meeting was re-opened to the public.

The Interim General Manager advised that during the closed session, Council made the following resolutions:

13.1. CONFIDENTIAL - WRITE-OFF OF DEBTS

M243/23 RESOLVED:

THAT COUNCIL:

1. Note the write-off and adjustments totalling \$10,615.26 made under delegated authority for the period 1 March 2023 to 31 August 2023.

Cr Julia Ham/Cr Mick Ivill

For: Cr Hughes, Cr Ivill, Cr Larter, Cr Livermore, Cr Thomson

Against: Cr Hayes; Cr Ham; Cr Armour

CARRIED

5/3

13.2. CONFIDENTIAL - OUTCOME OF LITTLE RIVER ROAD MEDIATION

M244/23 RESOLVED:

THAT COUNCIL:

1. Endorse the actions of the Mayor and Interim General Manager to reach a mediation agreement with the landholder on Little River Road as outlined in Attachment 2 of the report - '13 October 2023 Signed Mediation Agreement'.

Cr Brent Livermore/Cr Mick Ivill

CARRIED UNANIMOUSLY

13.3. CONFIDENTIAL - RFT 2023-02 - HUME & HOVELL MAINTENANCE SERVICES TENDER**M245/23 RESOLVED:**

THAT COUNCIL:

1. In accordance with Section 178 (3)(e) Local Government (General) Regulation 2021:
 - a. Reject all offers for Request for Tender (RFT) 2023-02 for the Hume & Hovell Track Maintenance Services due to all tenders exceeding the available budget;
 - b. Not invite fresh tenders, because it is considered that re-tendering, rather than negotiating, will not attract additional suitable submissions;
2. Authorise the Interim General Manager or delegate to enter into direct negotiation with all the original tenderers and other suitable contractors for the Hume & Hovell Track Maintenance Services;
3. Authorise the Interim General Manager at the end of successful negotiations to enter into a contract with suitably qualified contractors for the Hume & Hovell Track Maintenance Services for a three (3) year period ending 30 June 2026; and
4. Upon execution of the Contract, advertise information relating to the successful award of the contract in accordance with the *Government Information (Public Access) Act 2009 - Part 3 Division 5 - Government Contracts with Private Sector*.

Cr James Hayes/Cr John Larter

CARRIED UNANIMOUSLY**13.4. CONFIDENTIAL - SNOWY 2.0 CONNECTOR ROAD MAINTENANCE AGREEMENT****M246/23 RESOLVED:**

THAT COUNCIL:

1. Authorise the Interim General Manager to execute the Road Maintenance Agreement between Snowy Valleys Council and Transgrid for the maintenance of Elliott Way and Tooma Road as part of the Snowy 2.0 Connector Project.

Cr James Hayes/Cr Julia Ham

CARRIED UNANIMOUSLY**14. MEETING CLOSURE**

There being no further business to discuss, the meeting closed at 4.14pm.

6. CORRESPONDENCE/PETITIONS

7. MAYORAL MINUTE

8. NOTICE OF MOTION/NOTICE OF RESCISSION**8.1. NOTICE OF MOTION - NSW SEVERE WEATHER AND FLOOD GRANT - CLR JAMES HAYES****COUNCILLORS: Cr James Hayes**

SUMMARY:

Pursuant to Notice, Councillor James Hayes has submitted the following Motion:

That funding of \$115,000 from the NSW Severe Weather and Flood Grant currently allocated for the Caravan Park and Itinerant Worker Facilities Strategy and Management Plan be reallocated to a revision of the 2017 Adelong Flood Study.

Note: The 2022 flood impacting the Adelong Township resulted in different impacts than previous flood events which may necessitate a revision of the current Study to ensure the proposed mitigation works are still appropriate hence the NOM to reallocate the funding.

NOTICE OF MOTION:**THAT COUNCIL:**

1. Reallocate \$115,000 funding from the NSW Severe Weather and Flood Grant currently allocated for the Caravan Park and Itinerant Worker Facilities Strategy and Management Plan to a revision of the 2017 Adelong Flood Study.

ATTACHMENTS

1. Notice of Motion NSW Severe Weather and Flood Grant.

Attachment 1 - Notice of Motion - NSW Severe Weather and Flood Grant



NOTICE OF MOTION

Under Clause 3.10 of Councils Code of Meeting Practice, I give notice that the following motion be placed on the Council Agenda for the Ordinary Meeting of Council, to be held on:

Day and Date of Ordinary Meeting	Thursday 14 December 2023
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SUBJECT:	NSW Severe Weather and Flood Grant
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Motion -

That funding of \$115,000 from the NSW Sever Weather and Flood Grant currently allocated for the Caravan Park and Itinerant Worker Facilities Strategy and Management Plan be reallocated to a revision of the 2017 Adelong Flood Study.

Note: The 2022 flood impacting the Adelong Township resulted in different impacts than previous flood events which may necessitate a revision of the current Study to ensure the proposed mitigation works are still appropriate hence the NOM to reallocate the funding.

Chief Executive Officer's Comment

Councillor Name: Cr James Hayes.....

Signature

Date: 24/11/23

Councillor Name:

Signature

Date:

8.2. NOTICE OF MOTION - REMOVAL OF WEEDS ALONG SVC RAIL CORRIDORS - CLR JAMES HAYES

COUNCILLOR: James Hayes

SUMMARY:

Pursuant to Notice, Councillor James Hayes has submitted the following Motion:

NOTICE OF MOTION:

THAT COUNCIL:

Request UGL to immediately remove weeds, particularly blackberries and pest harbour from the rail corridors within the Snowy Valleys Council Local Government Area.

ATTACHMENTS

1. Notice of Motion - Removal of weeds along Snowy Valleys Council rail corridors - Clr James Hayes

Attachment 1 - 20231204 Notice of Motion - Removal of Weeds Along SVC Rail Corridors - Cr Hayes



NOTICE OF MOTION

Under Clause 3.10 of Councils Code of Meeting Practice, I give notice that the following motion be placed on the Council Agenda for the Ordinary Meeting of Council, to be held on:

Day and Date of Ordinary Meeting	14 December 2023
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SUBJECT:	Removal of weeds along SVC rail corridors
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Motion -

THAT COUNCIL:

Request UGL to immediately remove weeds, particularly blackberries and pest harbour from the rail corridors within the Snowy Valleys Council area.

Chief Executive Officer's Comment

Councillor Name: James Hayes

Signature

Date: 3 December 2023

Councillor Name:

Signature

Date:

8.3. NOTICE OF MOTION - USE OF COUNCIL PARKS AND FACILITIES FOR COMMUNITY EVENTS - CLR TRINA THOMSON

COUNCILLOR: Trina Thomson

SUMMARY:

Pursuant to Notice, Councillor Trina Thomson has submitted the following Motion:

NOTICE OF MOTION:

THAT COUNCIL:

Receive a report for review of the policy/policies that relate to the use of Council parks and facilities for community events.

Note: It has become apparent that as a Council there needs to be a better understanding of the implications of the associated policies for the use of Council parks and facilities. Events such as Carols by Candlelight, Australia Day and RSL Sub-Branch services to mention a few, are vital for community spirit.

There also needs to be a process whereby should an application for a community event to be conducted by Council, e.g. a school holiday event/Australia Day pool party etc., a report be presented to Council for resolution.

ATTACHMENTS

1. Notice of Motion - Use of Council parks and facilities for community events.

Attachment 1 - 20231214 - Cr Thomson - Notice of Motion - Use of Council parks and facilities for community events



NOTICE OF MOTION

Under Clause 3.10 of Councils Code of Meeting Practice, I give notice that the following motion be placed on the Council Agenda for the Ordinary Meeting of Council, to be held on:

Day and Date of Ordinary Meeting	Thursday, 14 December 2023
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SUBJECT:	Use of Council parks and facilities for community events
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Motion -That Council receive a report for review of the policy/policies that relate to the use of council parks and facilities for community events.

It has become apparent that as a Council there needs to be a better understanding of the implications of the associated policies for the use of council parks and facilities. Events such as Carols by Candlelight, Australia Day and RSL Sub Branch services to mention a few are vital for community spirit. There also needs to be a process whereby should an application for a community event to be conducted by Council eg a school holiday/Australia Day pool party etc, a report be presented to Council for resolution.

Chief Executive Officer's Comment

Councillor Name: Trina L Thomson!

Signature

Date:

Councillor Name:

Signature

Date:

8.4. NOTICE OF MOTION - CCTV - VANDALISM TO COUNCIL INFRASTRUCTURE - CLR TRINA THOMSON

COUNCILLOR: Trina Thomson

SUMMARY:

Pursuant to Notice, Councillor Trina Thomson has submitted the following Motion:

NOTICE OF MOTION:

THAT COUNCIL:

Receive a report detailing Snowy Valleys Council's infrastructure that is continually being targeted by vandals across the Local Government Area (LGA).

The report is to include the investigations for options and costings for the installation of CCTV to be included for consideration in the budget process.

Note: Significant issues surrounding vandalism of public property is creating angst and frustration across many communities in our LGA. The inconvenience is only one aspect of the vandalism, the recurring cost and the feeling of intimidation and threatening behaviour experienced by many needs to be addressed.

ATTACHMENTS

1. Notice of Motion - CCTV - Vandalism to Council infrastructure.

Attachment 1 - 20231214 - Cr Thomson - Notice of Motion - CCTV



NOTICE OF MOTION

Under Clause 3.10 of Councils Code of Meeting Practice, I give notice that the following motion be placed on the Council Agenda for the Ordinary Meeting of Council, to be held on:

Day and Date of Ordinary Meeting	Thursday, December 14, 2023
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SUBJECT:	CCTV to address the ongoing issues of vandalism to Council infrastructure across Snowy Valleys Council LGA
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Motion -That Council staff prepare a report detailing Snowy Valleys Council’s infrastructure that is continually being targeted by vandals across the LGA. The report is to include the investigations for options and costings for the installation of CCTV to be included for consideration in the budget process.

Significant issues surrounding vandalism of public property is creating angst and frustration across many communities in our LGA. The inconvenience is only one aspect of the vandalism, the recurring cost and the feeling of intimidation and threatening behaviour experienced by many needs to be addressed.

Councillor Name: Trina L Thomson!

Signature

Date:

Councillor Name:

Signature

Date:

* * * * *

8.5. NOTICE OF MOTION - ROAD POLICY - CLR HANSIE ARMOUR

COUNCILLOR: Hansie Armour

SUMMARY:

Pursuant to Notice, Councillor Hansie Armour have submitted the following Motion:

NOTICE OF MOTION:

THAT COUNCIL:

Receive a report that considers allowing a stockgrid to be installed approximately 150 metres back from the junction of Gocup Road and Meadow Creek Road. Installation, cost of grid and maintenance to be paid for by landowner.

Note: This request is as a result of unique circumstances and for the safety of the traffic on Gocup Road.

ATTACHMENTS

1. Notice of Motion - Road Policy

Attachment 1 - 20231214 - Cr Armour - Notice of Motion - Road Policy



NOTICE OF MOTION

Under Clause 3.10 of Councils Code of Meeting Practice, I give notice that the following motion be placed on the Council Agenda for the Ordinary Meeting of Council, to be held on:

Day and Date of Ordinary Meeting: Thursday 14/12/2023

SUBJECT: Road Policy.

Motion - That report be prepared for Council that considers allowing a stockgrid to be installed approx. 150 metres back from the junction of Crocup Road and Meadow Creek Road. Installation, lost of grid and maintenance to be paid for by landowner. This request is as a result of unique circumstances and for the safety of the traffic on Crocup Road.

Chief Executive Officer's Comment [Delete if not required]

CouncillorName: JOHANNA (HANSIE) ARMOUR

Signature: [Handwritten Signature]

Date:

CouncillorName:

Signature:

Date:

9. URGENT BUSINESS WITHOUT NOTICE

10. GOVERNANCE AND FINANCIAL REPORTS

10.1. ATTENDANCE - 2023 LGNSW ANNUAL CONFERENCE - 12-14 NOVEMBER 2023

REPORT AUTHOR: EXECUTIVE SUPPORT OFFICER

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

The Local Government NSW (LGNSW) Annual Conference is the annual policy-making event for all NSW Councils and LGNSW associate members. It is the leading networking event of the local government year where Councillors come together to share ideas and debate issues that shape the local government sector.

The LGNSW Annual Conference was held between 12-14 November 2023 at Rosehill Gardens Racecourse, Sydney.

This report serves to update the Councillors on the motions submitted by Council to the conference and the outcomes of those motions.

RECOMMENDATION:

THAT COUNCIL:

1. **Note the report on the 2023 LGNSW Annual Conference outcomes.**

BACKGROUND:

The conference was attended by Mayor Ian Chaffey, Cr John Larter, and the Director Community & Corporate. Cr Trina Thomson was unable to attend and with the approval of the Interim General Manager Cr James Hayes in substitute. This year the conference was held at the Grand Pavilion at the Rosehill Gardens Racecourse in Rosehill, Sydney.

Council submitted three (3) motions to the conference:

- State government's handling of COVID-19
- Undergrounding Transgrid transmission infrastructure
- 'Face to face' rural and regional banks/building societies.

Council's policy *Payment of Expenses and the Provision of Facilities to the Mayor and Councillors*, section 6.33, states: Councillors attending conferences will provide a written report to an open council meeting on the outcomes of the conference within one month of the Councillors' attendance at the conference.

REPORT:

Listed below are the motions that were submitted to 2023 LGNSW Annual Conference and their outcomes from the conference.

State Government's handling of COVID-19:

That Local Government NSW requests a review of the State Government's handling of COVID-19 in particular the impact on ambulance services.

This motion was lost.

Undergrounding Transgrid transmission infrastructure:

That, in the interests of the conservation of biological diversity and visual amenity, Local Government NSW advocates for the undergrounding of Transgrid transmission lines currently proposed as above ground infrastructure that would stretch across many areas of state and national ecological significance.

This motion was passed.

'Face to face' rural and regional banks/building societies

That Local Government NSW advocates to the NSW State Government to set in place appropriate legislation to ensure access to 'face to face' financial transactions through Banks and/or Building Society branches in Rural and Regional areas across Australia.

This motion was considered a category 2 motion and was not proposed for debate as it was:

- existing LGNSW policy (including as set out in the LGNSW Policy Platform which is updated following each year's Conference);
- supported by Conference resolutions from recent years;
- the subject of recent or ongoing representations by LGNSW, including in LGNSW submissions (which are published on the LGNSW website); and/or
- operational (rather than policy) matters that can be actioned without a vote at Conference.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Community Strategic Plan Theme

Theme 5 - Our Civic Leadership

Community Strategic Plan Strategic Objectives

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community

Delivery Program Principal Activities

5.6 Proactively support and advocate for the needs of the community to other level of government and organisations

FINANCIAL AND RESOURCES IMPLICATIONS:

Costs of attendance for Mayor Chaffey and Cr Larter were reported in the August 2023 council meeting. Costs of attendance for Cr Hayes was assessed and approved by the Interim General Manager.

In accordance with Council's *Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy* and Councillor's obligation to undertake professional development; a budget allocation has been established for this purpose.

Attendance at the conference was within the budget allowances.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Council's *Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy* requires a report to a council meeting on the outcomes of the attended conference within one month of the Councillor's attendance at the conference.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Nil.

OPTIONS:

Nil.

COUNCIL SEAL REQUIRED:

No.

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Nil.

ATTACHMENTS

Nil.

10.2. 2024 MEETING CALENDAR

REPORT AUTHOR: GOVERNANCE OFFICER

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

The 2024 Meeting Calendar has been developed to provide an easy reference guide of the dates of Snowy Valleys Council hosted meetings. This will assist Councillors, committee members, staff and the community with planning and meeting attendance.

RECOMMENDATION:

THAT COUNCIL:

1. Note the 2024 Meeting Calendar complete with Committee dates.

BACKGROUND:

Each year Council considers and endorses a complete calendar of council hosted and organised meetings for the coming year. This includes:

- Ordinary Council meetings
- Advisory Committee meetings
- Major Events
- External meetings of significance.

At the 17 October 2023 Council meeting, Council resolved the 2024 schedule of Ordinary Council meeting dates and times as being:

9.3. 2024 SCHEDULE OF ORDINARY COUNCIL MEETING DATES AND TIMES

M207/23 RESOLVED:

THAT COUNCIL:

1. Approve the following Ordinary Council meeting dates for 2024 commencing at 2pm, Tumut Council Chambers: Thursday 15 February 2024, Thursday 21 March 2024, Thursday 18 April 2024, Thursday 16 May 2024, Thursday 20 June 2024, Thursday 18 July 2024, Thursday 15 August 2024, Thursday 19 September 2024, Thursday 17 October 2024, Thursday 21 November 2024, Thursday 12 December 2024; and
2. Approve the cancellation of the meeting in January 2024 unless there are extenuating circumstances and the Mayor deems it necessary to call an extraordinary meeting.

Cr James Hayes/Cr Mick Ivill

CARRIED UNANIMOUSLY

Note: The Ordinary Council meeting to be held on 19 September 2024 may need to be cancelled due to the Local Government Elections to be held on the 14 September 2024 and the Declaration of Councillors results not expected to be released until 1-3 October 2024.

Note: It is proposed that an Extraordinary Council meeting will be held on 1 February 2024.

Section 365 of the *Local Government Act 1993* prescribes that council is required to meet at least 10 times each year, each time in a different month. The above schedule complies with this requirement.

Consistent with previous years, there will be no scheduled Ordinary Council meeting for January 2024 due to reduced business over the holiday period and minimal staff and resources utilising the quieter period for leave.

REPORT:

Any changes to Ordinary Council meetings are to be resolved at a council meeting.

Changes to Advisory Committee meetings can be made through the relevant Committee's Terms of Reference or by the Chair of that Committee.

Councillors and Committee members will be notified in advance of any change to a meeting date.

Meeting dates will be updated on Council's website and communicated to members accordingly.

The following external meetings are included as they are relevant for Councillor's attention:

- Local Government NSW Annual Conference – 17-19 November 2024 - Tamworth
- The National General Assembly - ALGA – 2-5 July 2024 – Canberra (Tentative dates)

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**Integrated Planning and Reporting Framework:****Community Strategic Plan Theme**

Theme 5 - Our Civic Leadership

Community Strategic Plan Strategic Objectives

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community

Delivery Program Principal Activities

5.4 Maintain and deliver a governance framework that guides good decision making, accountability and legislative compliance

FINANCIAL AND RESOURCES IMPLICATIONS:

There are no additional financial or resourcing implications by endorsing the meeting calendar. The number of meetings is consistent with the previous year.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Nil

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

The meeting calendar ensures forward planning for Council business and decision making.

OPTIONS:

Nil

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Endorsing a 2024 Meeting Calendar provides certainty to Councillors, Committee members, staff and the community as to when meetings will take place and enables greater participation and access.

ATTACHMENTS

1. 2024 Meeting Calendar (Under separate cover)

10.3. DRAFT LEGISLATIVE COMPLIANCE POLICY & DRAFT ACCESS TO INFORMATION POLICY - PUBLIC EXHIBITION

REPORT AUTHOR: GOVERNANCE OFFICER

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

The *Legislative Compliance Policy* SVC-COR-PO-090 and the *Access to Information Policy* SVC-COR-PO-063 have been thoroughly reviewed for content and clarity.

The revised draft versions of these documents are now ready for Council's review and endorsement to provide the opportunity for community feedback through a public exhibition period of 28 days.

RECOMMENDATION:

THAT COUNCIL:

1. **Endorse the Draft *Legislative Compliance Policy* SVC-COR-PO-090-02 for public exhibition for a period of no less than 28 days;**
2. **Endorse the Draft *Access to Information Policy* SVC-COR-PO-063-02 for public exhibition for a period of no less than 28 days;**
3. **Note if submissions are received during the exhibition, a further report will be provided to Council;**
4. **Adopt the *Legislative Compliance Policy* SVC-COR-PO-090-02 if no submissions are received on the day after the completion of the public exhibition period; and**
5. **Adopt the *Access to Information Policy* SVC-COR-PO-063-02 if no submissions are received on the day after the completion of the public exhibition period.**

BACKGROUND:

Legislative Compliance

The current *Legislative Compliance Policy* SVC-GOV-PO-090-01 was adopted by Council in May 2020 to demonstrate Snowy Valleys Council's (SVC) commitment to managing its compliance with all statutory and common law requirements and promote a compliance culture within the organisation. The policy establishes a framework to help SVC achieve the highest standards of governance.

Access to Information

The *Government Information (Public Access) Act 2009* (GIPA Act) provides a legislative framework for members of the public to obtain access to government information, with the intention of enabling a transparency to government decision-making. As a result, members of the public have a legal right to make an application to SVC for access to information that SVC holds, as long as it does not infringe upon privacy or other laws, or if there is a public interest consideration against disclosure as dictated by the GIPA Act. Any applications under the GIPA Act will be processed in accordance with the Act's requirements and a determination made to release the documents or refuse access on the basis of the relevant considerations under the GIPA Act.

The current *Access to Information Policy* SVC-GOV-PO-063-01 was adopted by Council in December 2019, superceding the former Tumbarumba Shire Council and Tumut Shire Council policies. The policy establishes SVC's principles regarding government information and facilitates the processing of requests for SVC-held information.

REPORT:Legislative Compliance

The *Legislative Compliance Policy* was due for review in September 2021. Due to staff resourcing issues, there was a delay in the review.

The policy has now been reviewed by Governance and a draft *Legislative Compliance Policy* SVC-GOV-PO-090-02 finalised. The draft contains updates to provide clarification and ensure alignment with other SVC policies.

Access to Information

The *Access to Information Policy* was due for review in September 2020. Due to staff resourcing issues, there was a delay in the review.

A complete review and rewrite has been conducted by Governance, resulting in the draft *Access to Information Policy* SVC-GOV-PO-063-02 for Council's consideration. Definitions and legislative references have been updated to ensure the policy is relevant and clarification has been provided to ensure that both internal and external stakeholders can clearly understand the framework for requesting SVC-held information, including the addition of a section on personal and private information.

Track-changed versions of the documents are attached (under separate cover) for consideration.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**Integrated Planning and Reporting Framework:****Community Strategic Plan Theme**

Theme 5 - Our Civic Leadership

Community Strategic Plan Strategic Objectives

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community

Delivery Program Principal Activities

5.4 Maintain and deliver a governance framework that guides good decision making, accountability and legislative compliance

FINANCIAL AND RESOURCES IMPLICATIONS:

The implementation of these policies may incur associated expenses, including training.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Section 160 of the *Local Government Act 1993* states the Council must give public notice of a draft local policy after it is prepared and it must be on public exhibition for a period no less than 28 days to allow for the making of public submissions.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Nil.

OPTIONS:

1. Adopt as per recommendations set out in this report - preferred option.
2. Amend.
3. Decline the recommendations set out in this report.

COUNCIL SEAL REQUIRED:

No.

COMMUNITY ENGAGEMENT AND COMMUNICATION:**Internal Consultation:**

Both Draft Policies were presented to a formal Executive Leadership Team meeting and all staff have had the opportunity to provide feedback during a 7-day internal exhibition period.

External Consultation:

Both the Draft *Legislative Compliance Policy* SVC-GOV-PO-090-02 and the Draft *Access to Information Policy* SVC-COR-PO-063-02, as per recommendation, shall be advertised for a minimum of 28 days seeking community feedback. If any responses or submissions are received, they will be considered in a future report to Council.

ATTACHMENTS

1. DRAFT Legislative Compliance Policy SVC-GOV-PO-090-02 (Under separate cover)
2. DRAFT Access to Information Policy SVC-COR-PO-063-02 (Under separate cover)

10.4. DRAFT PUBLIC INTEREST DISCLOSURES POLICY - FOR PUBLIC EXHIBITION

REPORT AUTHOR: GOVERNANCE OFFICER

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

The new *Public Interest Disclosures Act 2022* (PID Act) commenced on 1 October 2023 and introduces reforms to the way that public interest disclosures (PIDs) are made, received and managed with the intention of providing increased protection to anyone who makes a PID as compared to the previous version of the Act (*Public Interest Disclosures Act 1994*).

The Draft *Public Interest Disclosures Policy* SVC-COR-PO-039-04 has been written to fulfill Council's obligations to have a policy for receiving, assessing and dealing with PIDs. The draft is largely based on NSW Ombudsman's model "Developing your PID policy - July 2023".

RECOMMENDATION:

THAT COUNCIL:

1. **Endorse the DRAFT *Public Interest Disclosures Policy* - SVC-COR-PO-039-04 to be placed on internal exhibition for no less than 28 days;**
2. **Note if submissions are received during the exhibition, a further report will be provided to Council; and**
3. **Adopt the *Public Interest Disclosures Policy* - SVC-COR-PO-039-04 if no submissions are received on the day after the completion of the public exhibition period.**

BACKGROUND:

With the commencement of the new *Public Interest Disclosures Act 2022* (PID Act) on 1 October 2023, Council is obligated to meet a new suite of reforms and requirements to comply. Major changes in the new PID Act include:

- an updated definition of serious wrongdoing
- increased protections under the PID Act
- introduction of categories of public interest disclosures (PIDs) - voluntary, mandatory, witness
- expanded application of disclosure officer nominations
- training and awareness expectations.

To be in compliance, Council must ensure policies and procedures are in place for:

- receiving, assessing and handling reports of wrongdoing as defined under the PID Act which must be clearly described in a policy
- reporting to NSW Ombudsman on a 6-monthly basis
- an intensive awareness and training program for all Council officials including employees, contractors, and volunteers
- ensuring nominated disclosure officers understand their obligations.

REPORT:

Council's existing *Internal Reporting Policy* SVC-COR-PO-039-03 was written and endorsed to meet the obligations under the former PID Act (1994) and therefore requires significant amendment to meet Council's obligations under the new Act (2022).

Part 4 of the new PID Act (2022) explicitly describes the required content that must be included in Council's PID Policy:

- Dealing with disclosures that are or may be voluntary public interest disclosures
- Acknowledging receipt of voluntary public interest disclosures and providing information to the makers of voluntary public interest disclosures
- Taking steps to assess and minimise the risk of detrimental action, other than reasonable management action, being taken against a person as a result of voluntary public interest disclosures being made
- Dealing with allegations that a detrimental action offence has been committed by or against a public official associated with Council
- Maintaining confidentiality in relation to voluntary public interest disclosures and protecting the identity of the makers of voluntary public interest disclosures
- Taking appropriate corrective action in response to findings of serious wrongdoing or other misconduct that arise from voluntary public interest disclosures relating to Council
- Record-keeping and reporting in relation to voluntary public interest disclosures, including the preparation of annual returns, which must contain the information prescribed by Regulation 5 of the Public Interest Disclosures Regulation 2022 (NSW) (the Regulation)
- Establishing internal oversight of Council's compliance with the Act
- Responsibilities imposed on the General Manager, managers, and disclosure officers by the Act
- Protections available to makers of disclosures
- A list identifying the disclosure officers for Council (by class, position, role, or name) and contact information for those officers.

The revised Draft *Public Interest Disclosures Policy* SVC-COR-PO-039-04 (Attachment 1) is largely based on the NSW Ombudsman's model policy document entitled "Developing your PID policy - July 2023". Where possible and relevant, elements of Council's existing *Internal Reporting Policy* have been incorporated into the draft. Approval and endorsement of this draft policy will supersede the current *Internal Reporting Policy* SVC-COR-PO-039-03.

It should be noted that the new PID Act requires agency's to have a policy in place by the Act's commencement date on 1 October 2023. Due to resourcing issues, this deadline has not been met, however, the current *Internal Reporting Policy* was recently amended and serves as a placeholder providing similar guidance until this revised policy can be fully endorsed and approved.

Disclosure Officers

The new PID Act has expanded the definition of a disclosure officer with the aim of making it easier and more accessible for Council officials to report wrongdoing. The role of disclosure officer now must include:

- the head of an agency (General Manager)
- the senior most employee of any permanently maintained worksite
- any other person specified in Council's PID policy as a person with responsibility for receiving voluntary PIDs on behalf of the agency.

A list of positions that meet this definition has been included as an appendix to the draft PID policy.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**Integrated Planning and Reporting Framework:****Community Strategic Plan Theme**

Theme 5 - Our Civic Leadership

Community Strategic Plan Strategic Objectives

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community

Delivery Program Principal Activities

5.2 Implement efficient and effective systems and processes to drive organisational sustainability and support staff

5.4 Maintain and deliver a governance framework that guides good decision making, accountability and legislative compliance

FINANCIAL AND RESOURCES IMPLICATIONS:

The implementation of this policy may incur associated expenses, in particular training as the new PID Act 2022 sets mandated training requirements for all agencies. Council staff have begun preparations to implement a training program.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

With the commencement of the new *Public Interest Disclosures Act 2022* (PID Act) on 1 October 2023, Council is obligated to meet a new suite of reforms and requirements to comply including the establishment of policy for administering the requirements under the PID Act.

Section 160 of the *Local Government Act 1993* states the Council must give public notice of a draft local policy after it is prepared and it must be on public exhibition for a period no less than 28 days to allow for the making of public submissions.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Nil.

OPTIONS:

1. Adopt as per recommendations set out in this report - preferred option.
2. Amend.
3. Decline the recommendations set out in this report.

COUNCIL SEAL REQUIRED:

No.

COMMUNITY ENGAGEMENT AND COMMUNICATION:**Internal consultation:**

The Draft *Public Interest Disclosures Policy* was presented to a formal Executive Leadership Team meeting and all staff have had the opportunity to provide feedback during a 7-day internal exhibition period.

External consultation:

The Draft *Public Interest Disclosures Policy* SVC-COR-PO-030-04, as per recommendation, shall be advertised for a minimum of 28 days seeking community feedback. If any responses or submissions are received, they will be considered in a future report to Council.

ATTACHMENTS

1. DRAFT *Public Interest Disclosures Policy* - SVC-EXE-PO-039-04 (Under separate cover)

10.5. DRAFT INFORMATION GUIDE 2023/2024 - FOR PUBLIC EXHIBITION

REPORT AUTHOR: GOVERNANCE OFFICER

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

The Draft *Snowy Valleys Council Information Guide 2023/2024* has been prepared in accordance with s.20, s.21 and s.22 of the *Government Information (Public Access) Act 2009* (GIPA Act). The document provides members of the community, Council staff and the general public with information concerning:

- the structure and functions of Council;
- the way in which the functions of Council affect members of the public;
- the means by which members of the public can participate in policy development and the exercise of Council's functions; and
- the type of information that is available from Council and how this information is made available.

While most amendments to the 2023/2024 update are minor in nature, consideration should be given to the updated organisational structure and directorate responsibilities, which are required to be included in the Guide, as well as the addition of information about proactively released information.

RECOMMENDATION:

THAT COUNCIL:

1. **Endorse the DRAFT *Snowy Valleys Council Information Guide 2023/2024* - SVC-EXE-Gdl-001-05 for public exhibition for a period of no less than 28 days;**
2. **Note that the Information Commissioner NSW must be notified prior to adopting or amending an Agency's Information Guide and therefore a copy of the Draft Information Guide will be submitted to the Information Commissioner NSW prior to finalisation;**
3. **Note if submissions are received during the exhibition, a further report will be provided to Council; and**
4. **Adopt the *Snowy Valleys Council Information Guide 2023/2024* - SVC-EXE-Gdl-001-05 if no submissions are received on the day after the completion of the public exhibition period**

BACKGROUND:

The object of the *Government Information (Public Access) Act 2009* (GIPA Act) is to make government information easily available to the public and to maintain and advance a system of responsible and representative democratic government.

The GIPA Act places various obligations on agencies within NSW in respect of their publication and release of the information that they create and hold. The GIPA Act also provides rights for persons to apply for access to government information.

Under section 20 of the GIPA Act, Snowy Valleys Council (SVC) must adopt an Information Guide and the document must include information that:

- describes the structure and functions of the agency;
- describes the ways in which the functions of the agency affect the public;
- specifies any arrangements that exist to enable members of the public to participate in the formulation of the agency's policy and the exercise of its functions;
- identifies the various kinds of government information held by each agency;

- identifies the kinds of government information held by the agency that the agency makes (or will make) publicly available;
- specifies the way the agency makes (or will make) government information public available; and
- identifies the kinds of information that are (or will be) made publicly available free of charge and those kinds for which a charge is (or will be) imposed.

Information Guides are an important way for the community to access government information at the lowest possible cost and encourage public participation in the agency's decision-making functions.

The GIPA Act also requires that an agency's Information Guide be reviewed and a new version adopted at intervals of not more than twelve (12) months. Unfortunately, due to resourcing shortfalls, the deadline for the annual review has not been met in 2023. It is being proposed that this next edition of SVC's Information Guide be titled '2023/2024' to demonstrate continuity and capture when the document will be finalised due to the need for public exhibition.

REPORT:

The review of SVC's Information Guide has now occurred and is attached for your consideration (Attachment 1).

The Information Guide includes information on the following:

- Structure and functions of Council (including staff and Councillors)
- How Council's functions affect members of the public
- Public participation in Local Government
- Accessing Government information
- Accessing Council information
- Restrictions on access to information
- Rights of review and appeal
- Contact details for further information.

Updates from this review of particular note in this revision include:

- An updated map of Snowy Valleys Council Local Government Area supplied by the Assets/GIS team.
- An updated executive-level organisational chart has been included as well as amendment to the table describing SVC's responsibilities by executive directorate.
- Added references to Council's Fees & Charges information as recommended by a review conducted by the Office of the Information Commissioner.
- Provision of additional information about proactively released information as recommended by a review conducted by the Office of the Information Commissioner.
- Updated contact information for the Information & Privacy Commission to reflect their relocation.

Please also note that a copy of the draft Snowy Valleys Council Information Guide 2023/2024 SVC-EXE-Gdl-001-05 will be forwarded to the Information and Privacy Commission in order to meet the GIPA Act's requirement for notifying the Information Commissioner of Council's review of its Information Guide.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Community Strategic Plan Theme

Theme 5 - Our Civic Leadership

Community Strategic Plan Strategic Objectives

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community

Delivery Program Principal Activities

5.1 Communicate with our community and provide opportunities for participation in decision making

5.4 Maintain and deliver a governance framework that guides good decision making, accountability and legislative compliance

FINANCIAL AND RESOURCES IMPLICATIONS:

Nil.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

The Information Guide has been prepared in accordance with the requirements of the *Government Information (Public Access) Act 2009* including:

1. Supporting Open Government information to the public by the proactive public release of government information by agencies, giving members of the public an enforceable right to access government information and only restricting government information where there is an overriding public interest against disclosure (as described by the Act).
2. Under Part 2, Division 2 of the GIPA Act, all agencies (other than a Minister) must have an Agency Information Guide.
3. Information Guides must be available free of charge on the Agency's website.
4. Agencies must review their Information Guides annually.
5. Agencies must notify the Information Commissioner before adopting or amending an Information Guide.
6. Agencies must make open access information publicly available as provided by their Information Guide.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

The development, implementation and regular review of Council's Information Guide is a key component of Council's risk management strategies.

OPTIONS:

1. Adopt as per recommendations set out in this report - preferred option.
2. Amend.
3. Decline the recommendations set out in this report.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:Internal Consultation

The draft Information Guide was reviewed and updated by the Governance Team and the Executive Leadership Team, with input from the Communication & Engagement and People & Culture Teams.

The draft has undergone an internal exhibition for a period of no less than seven (7) days.

External Consultation

Contingent on approval from Council, the draft Information Guide is to be made available to the public for review and comment for no less than 28 days.

The draft Information Guide must also be submitted to the Information Commissioner NSW for assessment against the requirements of sections 20 and 22 of the *Government Information (Public Access) Act 2009* and guidance published by the Information and Privacy Commission NSW.

Feedback received from the Information Commissioner NSW proposing amendments will be received and addressed as needed in the review of the Information Guide.

ATTACHMENTS

1. DRAFT *Snowy Valleys Council Information Guide 2023/2024* SVC-EXE-GId-001-05 (Under separate cover)

10.6. CODE OF CONDUCT COMPLAINTS STATISTICS FOR THE REPORTING PERIOD 01 SEPTEMBER 2022 - 31 AUGUST 2023

REPORT AUTHOR: COORDINATOR GOVERNANCE

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

Reporting Model Code of Conduct Complaints Statistics to Council and the Office of Local Government is required under Part 11 under the Procedures for the Administration of The Model Code of Conduct for Local Councils in NSW.

RECOMMENDATION:

THAT COUNCIL:

- 1. Note the Model Code of Conduct Complaint statistics for the reporting period 01 September 2022 - 31 August 2023.**

BACKGROUND:

Under Part 11.1 and 11.2 of the Procedures for the Administration of the Code of Conduct, the Complaints Coordinator must arrange for the code of conduct complaint statistics to be reported to the Council and the Office of Local Government within three (3) months of the end of September of each year.

REPORT:

A full copy of the complaint's statistics for the reporting period 01 September 2022 - 31 August 2023 that were reported to the Office of Local Government are attached under a separate cover.

The following statistics are a summary of the full report:

- One (1) code of conduct complaint was made about Councillors and the General Manager under the code of conduct in the reporting period. Outcome - Complaint reviewed and investigated. No further action required.
- Zero (0) code of conduct complaints were referred to a conduct reviewer,
- Zero (0) code of conduct complaints were finalised by a conduct reviewer at the preliminary assessment stage,
- Outcomes of investigation not relevant as there were no complaints at the preliminary assessment stage,
- Zero (0) code of conduct complaints were investigated by a conduct reviewer,
- Outcomes of investigation not relevant as there were no complaints investigated by a conduct reviewer,
- Zero (0) matters were reviewed by the Office of Local Government, and
- Total cost - Zero cost (\$0.00) of dealing with the code of conduct complaints made about Councillors and the General Manager in the year to September 2023, including staff costs.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Delivery Program and Operation Plan Strategic Directions

Theme 5 - Our Civic Leadership

Community Strategic Plan Strategic Objectives

CSP5 Our Civic leadership and organization government fosters open and transparent partnership with our community.

Delivery Program Principal Activities

5.4 Maintain and deliver a governance framework that guides good decision making, accountability and legislative compliance.

FINANCIAL AND RESOURCES IMPLICATIONS:

Each financial year a budget allocation is allowed for Code of Conduct matters. For the 2023 - 2024 financial year, \$10,000 has been allocated.

Zero (0) costs to engage a conduct reviewer - no complaints referred to conduct reviewer for review.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Council's Code of Conduct.

Part 11.1 and 11.2 of the Procedures for the Administration of the Code of Conduct.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Appropriate referral of Code of Conduct complaints for review by an external conduct reviewer ensures that risk of impartial review is mitigated and provides assurance to the community.

OPTIONS:

Nil

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

These statistics were reported to the Office of Local Government on the 05 December 2023.

ATTACHMENTS

1. Code of Conduct Complaints Statistics for the reporting period 01 September 2022 to 31 August 2023 (Under separate cover)

10.7. STATEMENT OF INVESTMENT - NOVEMBER 2023**REPORT AUTHOR: FINANCE SERVICE OFFICER****RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE****EXECUTIVE SUMMARY:**

This report provides an overview of Council's cash and investment portfolio performance as at 30 November 2023.

RECOMMENDATION:**THAT COUNCIL:**

1. Note the report on Statement of Investment - 30 November 2023.

BACKGROUND:

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

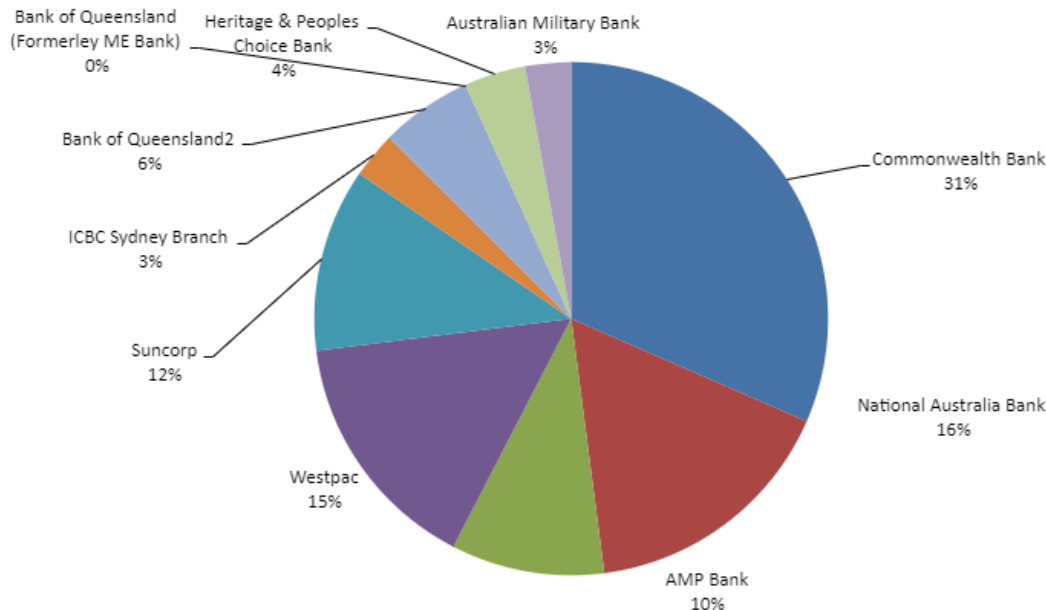
REPORT:

The following table contains a list of cash, at call investments and term deposits held by council as at 30 November 2023.

Column1	Column2	Column3	Column4	Column5	Column6	Column7	Column8	Column9	Column10	Column11
Combined Cash & Investments Table										
		30/11/2023								
Cash & 11am at call Accounts	Branch	Current Month	Last Month	Movement	Type	Interest Rate%	Maturity Date	% of Total Portfolio	% of Category	Rating
Commonwealth Bank	Tumut	\$ 9,574,160	\$ 2,783,279	\$ 6,790,881	W/Acct	4.35%		18.5%	58.5%	AA-
Commonwealth Bank	Tumut	\$ 6,779,467	\$ 6,753,031	\$ 26,436	At Call (BOS)	4.20%		13.1%	41.4%	AA-
Commonwealth Bank	Tumut	\$ 10,627	\$ 9,011	\$ 1,617	Gen-Roth	4.10%		0.0%	0.1%	AA-
Sub Total Cash & 11 am at Call Accounts		\$ 16,364,254	\$ 9,545,320	\$ 6,818,934		4.29%		31.6%	100.0%	
Total Cash & At Call Investments		\$ 16,364,254	\$ 9,545,320	\$ 6,818,934		4.29%		31.6%	100.0%	
	Branch	Current Month	Last Month	Movement	Lodgement Date	Interest Rate%	Maturity Date	% of Portfolio	% of Category	Rating
National Australia Bank	375	\$ 1,000,000	\$ 1,000,000	\$ -	27/10/2023	5.00%	29/1/2024	1.9%	2.8%	AA-
Suncorp	580	\$ 1,000,000	\$ -	\$ 1,000,000	28/11/2023	5.47%	28/11/2024	1.9%	2.8%	A+
Suncorp	581	\$ 1,000,000	\$ -	\$ 1,000,000	28/11/2023	5.45%	28/11/2024	1.9%	2.8%	A+
Bank of Queensland (Formerly ME Bank)	010			\$ -			At call	0.0%	0.0%	BBB+
National Australia Bank	375		\$ 1,000,000	-\$ 1,000,000	28/02/2023	4.80%	28/11/2023	0.0%	0.0%	AA-
Suncorp	484		\$ 1,000,000	-\$ 1,000,000	28/11/2022	4.48%	28/11/2023	0.0%	0.0%	A+
Suncorp	484	\$ 2,000,000	\$ 2,000,000	\$ -	30/06/2023	5.50%	29/12/2023	3.9%	5.6%	A+
Bank of Queensland	001	\$ 1,000,000	\$ 1,000,000	\$ -	18/07/2023	5.45%	18/01/2024	1.9%	2.8%	BBB+
National Australia Bank	375	\$ 1,500,000	\$ 1,500,000	\$ -	30/01/2023	4.60%	30/01/2024	2.9%	4.2%	AA-
Westpac	916	\$ 1,500,000	\$ 1,500,000	\$ -	31/01/2023	4.60%	31/01/2024	2.9%	4.2%	AA-
Westpac	916	\$ 2,000,000	\$ 2,000,000	\$ -	31/01/2023	4.60%	31/01/2024	3.9%	5.6%	AA-
Westpac	916	\$ 1,000,000	\$ 1,000,000	\$ -	15/02/2022	1.75%	15/02/2024	1.9%	2.8%	AA-
National Australia Bank	375	\$ 1,000,000	\$ 1,000,000	\$ -	28/02/2023	5.00%	28/02/2024	1.9%	2.8%	AA-
National Australia Bank	375	\$ 1,000,000	\$ 1,000,000	\$ -	15/09/2023	5.10%	15/03/2024	1.9%	2.8%	AA-
National Australia Bank	375	\$ 2,000,000	\$ 2,000,000	\$ -	30/06/2023	5.53%	28/03/2024	3.9%	5.6%	AA-
Bank of Queensland	001	\$ 2,000,000	\$ 2,000,000	\$ -	30/06/2023	5.51%	28/03/2024	3.9%	5.6%	BBB+
ICBC Sydney Branch	337	\$ 1,500,000	\$ 1,500,000	\$ -	08/04/2021	0.85%	08/04/2024	2.9%	4.2%	A
AMP Bank	511	\$ 2,000,000	\$ 2,000,000	\$ -	11/04/2023	4.80%	11/04/2024	3.9%	5.6%	BBB
Suncorp	484	\$ 2,000,000	\$ 2,000,000	\$ -	31/07/2023	5.35%	30/04/2024	3.9%	5.6%	A+
AMP Bank	544	\$ 2,000,000	\$ 2,000,000	\$ -	30/06/2023	5.70%	28/06/2024	3.9%	5.6%	BBB
AMP Bank	556	\$ 1,000,000	\$ 1,000,000	\$ -	18/07/2023	5.75%	18/07/2024	1.9%	2.8%	BBB
Heritage & Peoples Choice Bank	140	\$ 2,000,000	\$ 2,000,000	\$ -	01/08/2023	5.50%	31/07/2024	3.9%	5.6%	BBB+
Westpac	916	\$ 1,500,000	\$ 1,500,000	\$ -	07/09/2021	0.78%	09/09/2024	2.9%	4.2%	AA-
National Australia Bank	375	\$ 2,000,000	\$ 2,000,000	\$ -	07/09/2023	5.23%	09/09/2024	3.9%	5.6%	AA-
Australian Military Bank	564	\$ 1,500,000	\$ 1,500,000	\$ -	01/08/2023	5.35%	01/08/2025	2.9%	4.2%	BBB+
Westpac	916	\$ 2,000,000	\$ 2,000,000	\$ -	29/09/2023	5.21%	29/09/2025	3.9%	5.6%	AA-
Total TD's		\$ 35,500,000	\$ 35,500,000	\$ -		4.76%		68.45%	100%	
Total Cash & Investments		\$ 51,864,254	\$ 45,045,320	\$ 6,818,934		4.61%		100%		

% of Portfolio

Snowy Valleys Council Total Cash and Investments - November 2023



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's Investment Policy. Cash and Investments increased by \$6.8 million in November 2023.

Major cash receipts received during November 2023 included:

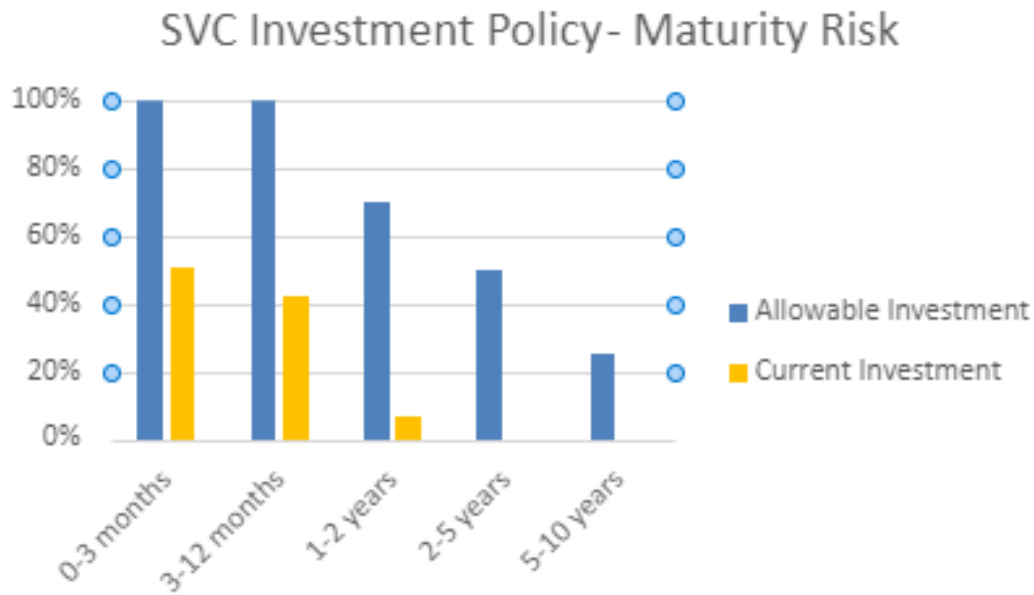
- The Regional Emergency Road Repair Funding : \$3.04 million
- SVC Yaven Creek Road Rehabilitation, Maintenance : \$1.5 million
- Department of Finance Jan. 2023 Flood Grants : \$1 million
- Snowy Monaro Regional Council : Works Contract : \$909k
- Snowy Valleys Council - Regional Road Repair and Maintenance Grants : \$498k
- Snowy Valleys AGRN 1034 IRW CR Flood : \$368k
- SVC FY2022/2023 Australia Government Black Spot Program : \$151k
- Repair MR 627 Alpine Way Grant : \$53k

Main cash disbursements (excluding employee costs) during the month included:

- Payment for Traffic Control: \$279k
- Road Stabilisation Work : \$169k
- Weighbridge Project : \$159k
- Payment for Tooma Road - Paddys River Road Base : \$141k

Cash and Investment rates are levelling out with the market factoring in forward expectations of increasing rates. 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 received updates from Council's financial advisors.

This month the report includes a focus on maturity risk. The portfolio remains highly liquid with 51% of investments maturing within 90 days and an additional 42% of investments maturing within 12 months.



LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Community Strategic Plan Theme

Theme 5 - Our Civic Leadership

Community Strategic Plan Strategic Objectives

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community

Delivery Program Principal Activities

5.5 Provide effective short and long term financial management to deliver financial sustainability

FINANCIAL AND RESOURCES IMPLICATIONS:

Investments are undertaken based upon the best rate on the day and after consideration on spreading Council's Investment risk across various institutions as per the Investment Policy and section 625 of the *Local Government Act 1993*.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

The information provided complies with Council's Investment Policy and section 625 of the *Local Government Act 1993*.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Monthly reporting of investments keeps Council informed of current cash holdings and return on investments.

OPTIONS:

Nil.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Matters arising from this report that require further communication will be addressed at the meeting or taken on notice and a response will be provided.

ATTACHMENTS

Nil.

11. MANAGEMENT REPORTS

11.1. DA2023/0025 - PROPOSED TOURIST AND VISITOR ACCOMMODATION - 404 GOOBARRAGANDRA ROAD GOOBARRAGANDRA

REPORT AUTHOR: EXECUTIVE MANAGER GROWTH AND DEVELOPMENT

RESPONSIBLE OFFICER: INTERIM GENERAL MANAGER

EXECUTIVE SUMMARY:

An application has been submitted under Development Application 2023/0025 seeking development consent for the purposes of six (6) tourist and visitor accommodation suites at Lot 2 in Deposited Plan 630937 known as 404 Goobarragandra Road, Goobarragandra. The application seeks to increase short term accommodation offerings in the Snowy Valleys Local Government Area (LGA).

The application has attracted ten (10) submissions and triggers a referral to Council as a 'public interest' matter. Councillors have requested that the application be presented to full Council for consideration. This report details the assessment of the application under section 4.15 of the *Environmental Planning and Assessment Act 1979* and recommends that the proposal can be supported subject to conditions of development consent.

Application Summary:

Applicant	Amanda Myers
Land owner(s)	Jason and Amanda Myers
Zoning Context	RU1 – Tumut Local Environmental Plan 2012
Capital Investment Vale (\$)	\$ 825,000
Notification Period	Council's Community Participation Plan (CPP) as adopted - Twenty Eight (28) Days (Nominated Integrated)
Number of submissions	Ten (10) Submissions
Political Donations declaration	Nil
Reasons for referral to Council	Councillors - Request for Elected Council Determination / Public Interest Matter

RECOMMENDATION:

THAT COUNCIL:

1. **Determine Development Application 2023/0025 which seeks development consent for tourist and visitor accommodation at Lot 2 in Deposited Plan 630937 by way of approval subject to draft conditions of consent as outlined in ATTACHMENT 2.**

BACKGROUND:

Deferral of the application

Councillors considered the application at the meeting of 17 August 2023 where Council resolved to defer the application pending a site inspection being undertaken. Councillors conducted a site inspection on 7 September 2023 and were provided with a detailed briefing by Council staff during the inspection. The application was tabled to 21 September 2023 Council meeting for consideration and determination and Councillors resolved to defer the application pending submission of additional information from the applicant.

Council resolved:

THAT Council defer Development Application 2023/0025 Proposed Tourist and Visitor Accommodation located at 404 Goobarragandra Road, Goobarragandra pending additional information being received from the proponent including;

- 1. The disposal of waste-water onsite including confirmation of the maximum number of persons onsite at any one time;*
- 2. Relating to the amount of water storage on the subject site and methods for potable treatment; and plans and documentation should include the size and location of any static storage for both potable and bushfire fighting reserve;*
- 3. The flood susceptibility of the proposed viewing platform and potential impacts of flooding on the infrastructure;*
- 4. Relating to an existing marquee erected on the land prior to the issue of any approval under the subject application;*
- 5. Relating to the source of water for fire fighting including whether this will be sourced from the river and if so, what licences will be obtained to permit such water extraction;*
- 6. Proposed intended use of the subject development application and if any uses are proposed beyond utilising the development for the purposes of a tourist and visitor accommodation.*
- 7. Additional information on the proposed uses of the site.*

Council requested the additional information (RFI) on 21 September 2023 via the New South Wales Planning Portal under clause 36 of the *Environmental Planning and Assessment Regulation 2021* and the Interim General Manager and Executive Manager Growth and Development met the proponent on 11 October 2023 to discuss the matters raised by the elected Council. During the meeting Council staff provided additional insights and context to the information being requested and also fielded questions relating to procedural matters surrounding the application. Additional information was provided by the proponent on 31 October 2023 in support of the application. The RFI response has been discussed in further detail in the report section below.

Site Description / Context

The development site is located at Lot 2 in Deposited Plan 630937 known as 404 Goobarragandra Road Goobarragandra. The site occupies an area of approximately 6.08 hectares and is bounded by the Goobarragandra River to the South West and Goobarragandra Road to the North East. The site has historically been used for rural residential pursuits and is also adjoined by other small scale farming operations and rural residential development given the land sizes. Immediately west of the development is a similar tourist and visitor accommodation facility being Elm Cottages, and a recently approved artisan food and drink premises development. Figure 1 below provides the general location and context of the development in relation to other land uses within the vicinity.

The land is irregular in shape and is substantively cleared with a small pocket of vegetation to the South East of the allotment. The site gains direct access from the Goobarragandra Road which fronts the allotment. The site has a gentle slope towards the Goobarragandra River to the South and South East and also has an existing approved dwelling and associated infrastructure on the land which is not proposed to be altered as part of this development application beyond some minor upgrades to comply with current bushfire standards.

Proposed Development

A development application has been submitted to Council seeking development consent under DA 2023/0025 for the purposes of:

- Erection of five (5) accommodation suites on a pier footing system; each unit will be 5.2 metres long x 4.5 metres wide with an overall height of 3.5 metres (total floor area of 23.4 square metres). Each suite will contain a bedroom, bathroom (Shower, toilet and basin) and a deck with access stairs.

- Erection of one (1) Accessible suite (7.4m x 5.7m with a floor area of 42.18 square metres), constructed to comply with AS 1428.1 disability standards.
- Construction of a kitchen facility (7.9m x 6.5m with a total floor area of 51.35 square metres) with accessibility for disabled person(s).
- Construction of a viewing platform and temporary marque cover (7m x 9m) - located 20m from the high bank of the river.
- Ancillary civil works including access upgrades, cut and fill for the viewing platform and car parking and access paths.
- Onsite Sewer Management System to cater for the proposed units on site.
- Seven (7) car spaces will be provided on the site.
- Accommodation will provide for a maximum of 12 persons at any time and will operate 7 days per week, with check in at 2pm and checkout at 10am.
- Development will be staffed by 2 people, 24 hours per day and 7 days per week (living onsite).

The site plan and architectural plans have been provided in ATTACHMENT 1 to this report.

General locality and layout

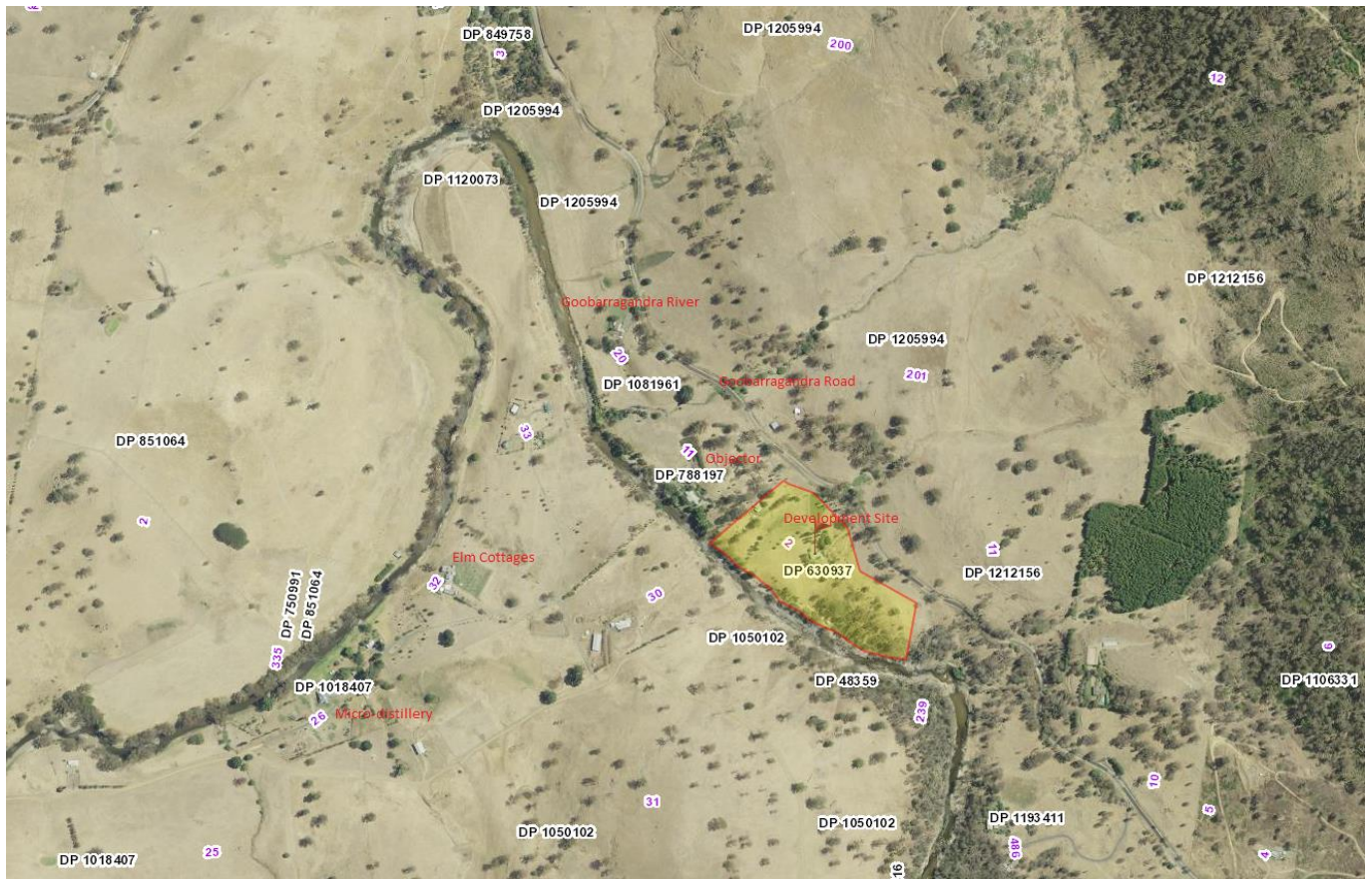


Figure 1: General Location / Context of Development Site.

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 (Biodiversity and Conservation) 2021 (B&C SEPP)**

Note: This chapter applies to RU1 Primary Production, RU2 Rural Landscape and RU3 Forestry in a local government area specified in Schedule 1.

Table 1 - Chapter Three: Koala Habitat Protection 2020 Assessment

Question	Development	Outcome
Clause 3.5 - Does the site have a site area greater than 1.0 Ha or does the site form part of a landholding greater than 1.0 Ha in area?	Yes	Assessment under B&C SEPP required (Clause 3.5).
Clause 3.5 – Step 1 – Is the land potential koala habitat? <i>Note: ‘potential koala habitat’ are areas of native vegetation where trees of the types listed in Schedule 2 of the SEPP (feed tree species) constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.</i>	Yes	The site is potential koala habitat, continue assessment (Clause 3.6).
Clause 3.6 – Step 2 – Is the land core koala habitat?	No	Development satisfactory under B&C SEPP

The development has been assessed against the requirements of Chapter Three of the B&C SEPP (see **Table 1**) and it has been determined that the development would meet the requirements and objectives of the B&C SEPP as the land is not considered to be core koala habitat and no land clearing has been proposed as part of this application.

- **State Environmental Planning Policy (Resilience and Hazards) 2021 (R&H SEPP)**

Chapter Four: Remediation of Land

Chapter Four of the R&H SEPP applies to the site pursuant to clause 4.4 and aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 4.6 requires that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use to be carried out.

A search of Council's records and aerial photos indicates the site has a history associated with agricultural use including livestock grazing. A site inspection has not identified any animal dips, chemical storages or other potentially hazardous activities. The land is not identified as contaminated on Council's contaminated land register or the Environmental Protection Authority (EPA) register of contaminated sites. It is therefore unlikely that the site has experienced any known contamination. As such, the site is considered suitable for residential use and further assessment is not necessary. The development has been assessed against the requirements of Chapter Four of the R&H SEPP and it has been determined that the development as proposed would meet the requirements and objectives of the R&H SEPP.

- **State Environmental Planning Policy (Transport and Infrastructure) 2021**

Subdivision 2 - Development Likely to affect an electricity transmission or distribution network.

Clause 2.48 Determination of development applications—other development

The consent authority must consider whether a development is likely to affect an electricity transmission or distribution network prior to consenting to an application.

- (1) *This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—*
- (a) *the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
 - (b) *development carried out—*
 - (c) *installation of a swimming pool any part of which is—*
 - (i) *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) *immediately adjacent to an electricity substation, or*
 - (iii) *within 5m of an exposed overhead electricity power line*
 - (d) *development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.*

The proposed development is located more than five (5) metres from the transmission lines on the property and therefore Council is not required to provide notice to the electrical supply authority in regards to the application.

- **State Environmental Planning Policy (Primary Production) 2021**

Chapter 2 Primary Production and Rural Development.

The aims of the State Environmental Planning Policy (Primary Production) 2021 is to primarily reduce land use conflict and ensure the orderly use of agricultural lands.

The aims of this Chapter are as follows—

- (a) *to facilitate the orderly economic use and development of lands for primary production,*
- (b) *to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,*
- (c) *to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,*
- (d) *to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,*
- (e) *to encourage sustainable agriculture, including sustainable aquaculture,*
- (f) *to require consideration of the effects of all proposed development in the State on oyster aquaculture,*
- (g) *to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.*

The land has not been identified as state significant agricultural land and given the size of the allotment, the small scale use of the site for tourist and visitor accommodation is not inconsistent with the overall aims and objectives of the SEPP (Primary Production) 2021.

Draft State Environmental Planning Policies

There are no current draft State Environmental Planning Policies that apply to the development.

Local Environmental Plans

Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* requires the consent authority to consider the provisions of Environmental Planning Instruments (EPIs), which includes Local Environmental Plans (LEPs). The Tumut Local Environmental Plan 2012 (*hereafter the 'LEP'*) applies to the northern part of the Snowy Valleys LGA. An assessment of the development against the relevant sections of the LEP is provided below:

Tumut Local Environmental Plan 2012

- **Clause 1.2 Aims of the Plan:**

The development complies broadly with respect to the overall aims and objectives of the *Tumut Local Environment Plan 2012*.

- **Clause 1.4 Definitions:**

The land is zoned as RU1 Primary Production under the *Tumut Local Environmental Plan 2012*. The development as proposed is characterised as a Tourist and Visitor Accommodation (Hotel or Motel Accommodation). As outlined within the RU1 Land use Table, Hotel or Motel accommodation is permissible with the development consent of the Council.

'hotel or motel accommodation' means a building or place (whether or not licensed premises under the [Liquor Act 2007](#)) that provides temporary or short-term accommodation on a commercial basis and that—

(a) comprises rooms or self-contained suites, and

(b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Note—Hotel or motel accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in the LEP dictionary.

- **Clause 2.2 Zoning to which the plan applies:**

The land is zoned RU1 - Primary Production under the *Tumut Local Environment Plan 2012*. Tourist and Visitor Accommodation (Hotel or Motel Accommodation) is permissible in the zone subject to development consent of the Council. Being an open zone, the land use is not defined within permitted without consent or prohibited and therefore is permissible with consent.

Planning Circular PS-13-001 dated 21 February 2013 issued by the New South Wales Department of Planning deals with characterisation of development and has been included as ATTACHMENT 5 to this report. Further discussion on the proposed uses *both dominant and subservient or ancillary development* is discussed in the section below named 'requested additional information - 21 September 2023'.

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

Zone RU1 Primary Production

1 Objectives of zone

- *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.*

2 Permitted without consent

Environmental protection works; Extensive agriculture; Forestry; Home occupations; Intensive plant agriculture; Roads

3 Permitted with consent

Aquaculture; Cellar door premises; Dwelling houses; Extractive industries; Farm buildings; Garden centres; Intensive livestock agriculture; Markets; Open cut mining; Plant nurseries; Roadside stalls; Rural workers' dwellings; Secondary dwellings; Any other development not specified in item 2 or 4

4 Prohibited

Advertising structures; Amusement centres; Centre-based child care facilities; Commercial premises; Eco-tourist facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Function centres; Local distribution premises; Recreation facilities (indoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Service stations; Sex services premises; Vehicle repair stations; Wholesale supplies

The proposal generally complies with the overall aims and objectives of the RU1 Primary Production Zone.

- **Clause 5.21 Flood Planning**

The land is located adjacent to the Goobarragandra River and potential flooding may occur on the lower portions of the subject allotment. Council's GIS system has not identified the land as either flood prone or an area that is within the flood planning area. Given the proximity and elevation of the proposed buildings and topography of the land, the controls have been considered and there is no requirement for additional investigations in relation to riverine flooding on the land.

- **Clause 6.1 Earthworks**

Minor Earthworks are proposed adjacent to the banks of the Goobarragandra River to accommodate a viewing platform. Any earthworks are expected to be within 500mm cut and fill. Any works will be required to obtain a controlled activity approval issued by the Department of Planning and Environment (Water).

- **Clause 6.3 Terrestrial Biodiversity**

No vegetation is expected to be removed as part of the development and it is not expected that the development will impact either flora or fauna associated with the land. Consideration has been made of Clause 6.3(3) and Clause 6.3(4) and it is expected that that the development will not pose any unmanageable impacts.

- **Clause 6.4 Groundwater Vulnerability**

The site has been identified as an area of groundwater vulnerability. A report has been prepared in support of the application being a Geotechnical Report including Land Capability Assessment prepared by McMahons Earth Sciences. The report concludes that the land is capable of disposal of onsite effluent and proposed an area for subsurface irrigation over 100m from the Goobarragandra River to the North East of the existing dwelling on relatively level land. Any future onsite sewer management system would be subject to a permit and licencing by Council under section 68 of the *Local Government Act 1993*. This includes regular inspections undertaken by Council to ensure the system's operability in accordance with adopted industry standards.

- **Clause 6.5 Riparian Lands and Watercourses**

The development as proposed is not expected to have any impact on the riparian land and watercourse and prior to any construction commencing within the riparian areas, a controlled activity permit will be required from the Department of Planning and Environment (Water). An assessment has been made in relation to Clause 6.5(3) and 6.5(4) and it is not expected that the development will have any likely impact on riparian lands and the watercourse associated with the Goobarragandra River with units being constructed approximately 68 metres from the natural watercourse. Any structure proposed to be located adjacent to the river will be subject to a controlled activity approval.

- **Clause 6.6 Wetlands**

The development as proposed is not expected to have any impact on the wetlands given the application proposes construction of the units setback from the Goobarragandra River. Accordingly, an assessment has been made in relation to Clause 6.6(3) and Clause 6.6(4) and it is not expected that the development will have any likely impact on the wetlands. Any works within the wetlands area will be subject to a controlled activity approval.

- **Clause 6.8 Landslide Risk**

The land has been identified as potential landslide risk and accordingly the controls under clause 6.8 of the Local Environment Plan must be considered. The application has been supported by a Geotechnical Analysis prepared by a qualified and professional geotechnical engineer, McMahons Earth Sciences, which has outlined that the land is capable of supporting the proposed development subject to the conclusions outlined in the report. Structural engineering details for any footings for proposed buildings has been provided as part of the application.

- **Clause 6.11 Essential Services**

The development is capable of being able to access electricity following enquiries with Essential Energy. Provision of electrical infrastructure is also located within close proximity to the development and telecommunications are available for connection within proximity of the land.

Static water supplies will be required for the purposes of providing water to the development as reticulated water is not available due to the location of the proposal. As outlined in the wastewater report / geotechnical report provided in support of the application, the land is capable of supporting an onsite sewer management system.

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 controls relating to Subdivisions in the RU1 Primary Production and requirements relating to all development are considered to be the most relevant and will be utilised for the assessment of the application.

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
Chapter 3 Requirements applying to all types of development			
3.2.1	Vehicle access standards.	The existing access arrangement to the site from the local road (Goobarragandra Road) is proposed to be retained and upgraded to a 4.5 metre wide all weather access. The entrance and egress to the development has a reduced line of sight distance due to the lineal curve in the road however is considered acceptable for the purposes of both the Australian Standard and	Complies subject to conditions.

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
		Austroads. Internal access roads and parking will be upgraded with an appropriate base material to provide all weather access.	
3.2.2	Bushfire	<p>As the land is mapped as bush fire prone land the development must comply with the relevant NSW Rural Fire Service Planning for Bushfire Protection Guidelines. A Bushfire Assessment in support of the application was undertaken and referred to the NSW Rural Fire Service as a 'Special Bushfire Purpose.'</p> <p>The application was referred to the RFS under section 100B of the <i>Rural Fires Act 1997</i> and a Bushfire Safety Authority has been issued dated the 2nd June 2023.</p>	Complies
3.2.3	Carparking	The Snowy Valleys Development Control Plan prescribed a rate of one (1) space per unit for hotel and motel accommodation. The development has made provision for seven (7) car spaces on the subject site and one (1) of the car spaces shall be designated to comply with the premises code (Disability Access Standards). There is space for additional parking on the site if required on an informal basis.	Complies
3.2.4	Building over Council Land and Services	Not Applicable	Not Applicable
3.2.5	Contaminated Land	<p>A search of Council's records and aerial photos indicates the site has a history associated with rural residential and agricultural use including livestock grazing. A site inspection has not identified any animal dips, chemical storages or other potentially hazardous activities on the land.</p> <p>The land is not identified as contaminated on Council's contaminated land register or EPA register of contaminated sites.</p> <p>It is therefore unlikely that the site has experienced any known contamination. As such, the site is considered suitable for tourist and visitor accommodation use in terms of contamination risk and further assessment is not necessary.</p>	Complies

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
3.2.6	Cut and Fill	A modest cut and fill arrangement has been proposed for the purposes of a viewing platform being approximately 500mm for cut and 500mm for fill over an area of approximately 7 metres x 9 metres. The proposed cut and fill comply with the maximum prescribed cut and fill controls under the development control plan.	Complies
3.2.7	Demolition	No demolition is proposed as part of the application.	Not Applicable
3.2.8	Development Near Electrical Easements	The development is not expected to impact on any electrical easements or power infrastructure on the land. The proposed works are located at a greater distance than 5 metres from the electricity lines that traverse the site and therefore the application is not required to be referred to Essential Energy.	Complies
3.2.9	Erosion and Sediment Control	Appropriate controls will be applied through conditions of consent to manage erosion and sediment control in accordance with industry standards - in particular the Blue Book being <i>Landcom's Managing urban stormwater; soils and construction volume 1</i> .	Complies subject to conditions
3.2.10	Flooding	The land is located adjacent to the Goobarragandra River and potential flooding may occur on the lower portions of the subject allotment. Council's GIS system and the New South Wales Planning Portal or Council's LEP flood mapping has not identified the development area as either flood prone or an area that is within the flood planning area. Given the proximity and elevation of the proposed buildings and topography of the land and that the buildings are located outside of the historical flood area, it is satisfied that there is no requirement for additional investigations in relation to riverine flooding on the land.	Complies
3.2.11	Heritage	The land is not identified as either a heritage item under Schedule 5 of the LEP nor in a heritage conservation area. A search of the Aboriginal Cultural Heritage Website has confirmed that there is no items recorded of significance within 1km of the subject development site.	Not Applicable

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
3.2.12	Landscaping	Minor landscaping is proposed to complement the proposed development however a condition of development consent will be applied requiring a landscaping plan to be submitted to Council for approval prior to the issue of a construction certificate should the application be supported. Any landscaping plan will be required to provide addition plantings of River Red Gums and also Tumut Grevilleas on the site.	Complies subject to conditions
3.2.13	Onsite Waste Water Management	The application has been supported by a report prepared by McMahon Earth Science which concludes that the land is capable of onsite sewer management (OSSM). The development will utilise an aerated waste water management system which will be located approximately 70 metres from the river and a pump station will deliver waste water to the land application area over 130 metres from the Goobarragandra River. The OSSM system proposes a land application area of approximately 1,634 square metres. An Aerated Waste Treatment System provides the highest level of treatment.	Complies
3.2.14	Provision of Services	The provision of services such as electricity and telephone are available within the area for connection. No water or sewer reticulation is available and therefore will require onsite static supplies and on-site disposal as outlined in clause 3.2.13.	Complies
3.2.15	Retaining Walls	A minor retaining wall is proposed up to a maximum height of 500mm adjacent to the viewing platform. The retaining wall is not expected to affect the drainage of the land.	Complies
3.2.16	Safer by design	It is not expected that the development will increase the prospects of crime in the area and each building provides to active surveillance in and around the development. The site owner will also provide supervision over the operations of the development.	Not Applicable
3.2.17	Stormwater / Road water management	The collection and management of stormwater onsite will be via collection tanks which will have overflow infrastructure provided that will drain to	Complies

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
		the natural watercourse. It is not expected that there will be additional hardstand areas that will create additional impervious surfaces and run off beyond the access road and proposed parking bays.	
8.3	Specific provisions for the Goobarragandra Valley	The development does not propose to remove any remnant vegetation on the property and applies appropriate setbacks to the riparian corridor. Should the application be supported, conditions of consent shall be applied to require the submission of a landscaping plan to Council for approval prior to the issue of an occupation certificate. The landscaping plan will ensure that a positive environmental impact is achieved on the land.	Complies subject to conditions.

The proposal generally complies with the prescriptive and performance based controls of the Snowy Valleys Development Control Plan 2019, subject to conditions of development consent.

Planning Agreements

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

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

Contribution Plans

Section 7.11 Contributions

Council's *Section 94 (Section 7.11) Assessment Policy* applies to the site and an assessment has been made against the plan, in particular clause 3.3.4 which applies to tourist development.

3.3.4 Tourist Development

Contributions may be required for certain forms of tourist development, such as accommodation (hotels, motels, guest houses and caravan parks); hospitality services (bars and restaurants); and attractions. Council recognizes that certain forms of tourism development, such as resorts, are relatively self-contained or provide the general community with significant recreational facilities and amenities. The provision of such facilities and services will be taken into account by Council, when determining Section 94 (Section 7.11) contributions.

Contributions may be sought to provide/fund open space; parking; road upgrading; traffic management; and trunk drainage, where this is considered appropriate.

Whilst the development is largely self-contained, tourism development is likely to increase demand on local services including parking, traffic management and open space. As Council has repealed its contributions plans for parking in Tumut, the only plan that would apply is the Tumut Section 94 (Section 7.11) - Parks and Recreation 2005-2015 Plan dated 24 May 2005. The current contribution for 2023/2024 in Rural Areas is \$1,738.51 per unit or in accordance with the adopted fees and charges of the year of payment, with the total amount payable prior to 30 June 2024 being \$10,431.06. In accordance with the plan the contributions would be required to be paid prior to the issue of any construction certificate.

Regulations

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

Section 4.15(1)(a)(iv) of the EP&A Act requires the consent authority to consider any prescribed matters under the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation). Council has assessed the development in accordance with all relevant matters prescribed by the EP&A Regulation.

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

Section 4.15(1)(b) of the EP&A Act requires Council to consider “the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”.

- *Natural Environment - 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 and desired scenic qualities and features, the character and amenity of the 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 setting in particular with other adjacent and adjoining tourist and visitor accommodation uses, artisan food and drink premises, primary production pursuits and rural residential land uses.

The development as proposed is not expected to have any unmanageable impacts on the natural environment. Appropriate controls have been demonstrated in the application to ameliorate any potential impacts on the natural environment including, on site sewer management, appropriate control of stormwater, protection and retention of existing vegetation, erosion and sediment control and the increase in landscaping treatments to complement local indigenous species. Any development adjacent to the water course will be required to be issued with a controlled activity approval which will provide the necessary protections for working within close proximity to the river environment.

No land clearing is proposed as part of this development and accordingly, it is not expected that the development will have any unmanageable impacts on natural vegetation.

- *Built Environment*

It is not expected that the development as proposed will have any impact on the built environment. Proposed draft conditions of consent as outlined in ATTACHMENT 2 will control any potential impacts on the built environment through use of recessive materials that are commensurate with the surrounding environment. The application proposes organic materials and also recessive non reflective colourbond roofing and cladding.

The cluster of buildings will be required to demonstrate no light spill impacts on adjoining properties and that any proposed lighting be directed downward.

The site is not identified as an item of heritage in accordance with Schedule 5 of the Tumut Local Environment Plan 2012 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.

- *Social*

It is not expected that the development as proposed will have any expected social impacts.

- *Economic*

It is not expected that the development as proposed will have any expected broader economic impacts. Any localised construction will likely have a minor micro economic impact within the Snowy Valleys Local Government Area though the purchase and use of materials and trades. Any operation of the facility is

likely to have a positive economic impact through employment and increased tourism to the region via increased tourist and visitor accommodation options.

Suitability of the site for the development

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

The proposed development is not considered to be incompatible with the localities existing or desired character and amenity. The size of the land being approximately 6 hectares does not provide for a suitable area for productive farming operations. The site, being located 15km from Tumut and adjacent to both the Goobarragandra River and other tourist and visitor accommodation and artisan premises is suitable for the purposes of tourist and visitor accommodation in a rural setting. The development shall complement Snowy Valleys existing accommodation offerings and provide a rural experience for tourists.

Any expected impacts associated with the development can be appropriately managed through imposing appropriate conditions of development consent on any notice of determination should the application be supported.

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 application was notified in accordance with the provisions of Council's adopted Community Participation Plan (CPP) and a request for extension was received from an adjoining resident. The extension request was granted for an additional week to provide a submission in relation to the development.

A total of one (1) submission was received in relation to the development from an adjoining property located at 382 Goobarragandra Road, Goobarragandra as part of the initial notification processes associated with the subject development application.

As the assessment of the proposal progressed, it was identified that a controlled activity approval would be required and therefore triggering the application to be notified as integrated development and be placed on public exhibition for a period of 28 days. The application was re-notified in accordance with Council's adopted Community Participation Plan (CPP) and Council received an additional nine (9) submissions (being a total of 10 submissions).

In receipt of the submissions, it must be noted that one submission was submitted twice in exactly the same form by the same submitter, one submission was updated and resubmitted by the same submitter and Council received one proforma submission which was an excerpt of a previous submission that was received. A summary of the submissions received, and the assessing officers' response to the submissions has been included below:

Issue	Response:
Registration of Electrical Easements	The <i>Electricity Supply Act 1995</i> and Essential Energy standards provides the necessary guidance relating to easements over private land where electrical infrastructure is located. Providing that utilities can be provided access to the property to service the development - any issues surrounding capacity or supply is not a consideration under section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> .
Boundary between the property and adjoining land	Comments are noted.
The setback is less than 100m from a natural water course	The application was referred to the Department of Planning and Environment (Water) which has issued their general terms of approval to the application dated 13 April 2023. The applicant will be required to make application under the <i>Water Management Act 2000</i> for a controlled activity approval should the development proceed.

Issue	Response:
	<p>Any proposal for an onsite sewer management system will require a separate approval under section 68 of the <i>Local Government Act 1993</i>. The application provides a geotechnical analysis that demonstrates that the soil is capable of disposal of onsite sewer waste.</p> <p>The development as proposed is located outside of the area designated as a flood planning area susceptible to flooding.</p> <p>Council's inspection of the property has not identified any outdoor toilet on the banks of the Goobarragandra River and any such alleged structure does not form a consideration of the current development application.</p>
Setbacks and privacy concerns	<p>The development application proposes six (6) tourist and visitor accommodation units on the subject land. Should the application be supported a condition of development consent can be applied which requires screening (both physical and also landscaping treatments to increase privacy from the proposed units to the adjacent dwelling on 382 Goobarragandra Road, Goobarragandra.</p> <p>A Draft Condition is proposed under ATTACHMENT 2 to address any privacy concerns.</p>
Proposed development is inconsistent with use and or quiet enjoyment of the land	<p>Should the application be supported a draft condition of development consent may be applied which places restrictions on the noise that can be emitted from the development.</p> <p>A draft condition is proposed under ATTACHMENT 2 to address noise and dust impacts.</p> <p>A draft condition is proposed under ATTACHMENT 2 to reduce glare impacts on surrounding residents through the use of low reflective materials.</p> <p>A draft condition is proposed under ATTACHMENT 2 which shall require the proponent to screen any proposed lighting or to direct lighting downwards to reduce the impact on surrounding residents.</p>
The proposed use is inconsistent with the RU1 Zoning	<p>See assessment of the Zoning, characterisation and objectives of the zone under the Local Environment Plan Section of this report.</p> <p>Any existing use of the property is a compliance matter and not a consideration of the current development application before the consent authority. The subject application is for the purposes of tourist and visitor accommodation.</p> <p>The proposed development is not defined as a 'function centre', or a recreational facility 'indoor'.</p> <p>Tourist and Visitor Accommodation including child definitions as a 'hotel' is permissible within the RU1 zone under the Tumut Local Environmental Plan 2012.</p> <p>Any notice of determination will specify the use of the development being a Tourist and Visitor Accommodation (Hotel). Any use of the property outside of the definition (that</p>

Issue	Response:
	is not ancillary development to the approved and dominant use) is a separate compliance issue.
Inconsistent with the development control plan	See assessment of controls under the Development Control Plan Section of this report. The proposal is consistent with these controls subject to development consent conditions.
Development inconsistent with Strategic Planning	Envisage 2040 and the Local Strategic Planning Statements as adopted are documents which provide the necessary strategic guidance for policy in the Snowy Valleys LGA. The identified strategic documents are not a consideration of section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> .
Development does not provide sufficient information on wastewater management	<p>An application will be required under section 68 of the <i>Local Government Act 1993</i> for the provision of any onsite sewer management systems on the subject land. The application is supported by a geotechnical analysis that identifies that the land is capable of disposal of onsite sewer waste.</p> <p>The identified strategic documents such as Envisage 2040 is not a consideration of section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i>.</p>
Development inconsistent with preservation of soil	The application has provided a geotechnical analysis prepared by a qualified and professional geotechnical engineer in support of the subject application. The geotechnical analysis prepared by McMahon Earth Sciences does not identify any proposed issues with respect to soil stability or drainage issues associated with the proposal.
Increased fire risk to adjoining land owners	There is no evidence that the subject proposal will increase the fire risk on the subject allotment or adjacent allotments. The application has been supported by a professional bushfire assessment report that has been referred to the Rural Fire Service who have issued their Bushfire Safety Authority (BFSA) dated 2 June 2023. ATTACHMENT 3
The development is controlled activity under the <i>Water Management Act 2000</i>	<p>Noted. The application has been referred to the Department of Planning and Environment (DPE) – Water who have issued their General Terms of Approval dated 13 April 2023. ATTACHMENT 4</p> <p>The approval has been referenced in the draft conditions of development consent in ATTACHMENT 2.</p>
Water quality impacts associated with the development	<p>Should the application be supported, a draft condition of consent in ATTACHMENT 2 has been provided to ensure that sediment and erosion control measures are in place.</p> <p>Any proposed onsite sewer management system associated with the development will be required to be approved by Council in accordance with Section 68 of the <i>Local Government Act 1993</i> with the appropriate risk rating applied and regular inspections undertaken by Council.</p> <p>General Terms of Approval has been issued by DPE (Water) dated 13 April 2023 and a controlled activity approval will be required prior to any works being undertaken within the proximity of the Goobarragandra River. (ATTACHMENT 4)</p>

Issue	Response:
Habitat loss and Diversity	<p>The development as proposed does not require the removal of vegetation on the subject land. The site has been utilised previously as grazed pastoral land and conditions of development consent in ATTACHMENT 2 will require additional landscaping opportunities as part of the development.</p> <p>General Terms of Approval has been issued by DPE (Water) and a controlled activity approval will be required prior to any works being undertaken within the proximity of the Goobarragandra River. (ATTACHMENT 4)</p>
Stormwater and Flood Management	<p>Conditions of consent have been imposed in (ATTACHMENT 2) to address water quality considerations and associated controls.</p> <p>General Terms of Approval has been issued by DPE (Water) and a controlled activity approval will be required prior to any works being undertaken within the proximity of the Goobarragandra River. (ATTACHMENT 4)</p> <p>The proposed viewing platform is proposed to be located outside of the historical flood planning level for the Goobarragandra River.</p>
Alterations in hydrology	<p>The development has been considered in light of the Goobarragandra River and its natural watercourses and it is not expected that the development as proposed will alter the natural flow of the river. The application has been supported by a geotechnical analysis and the number of units proposed is not considered to be an overdevelopment of the site.</p> <p>A controlled activity approval will be required through DPE (Water) prior to the commencement of any works on the land.</p> <p>Conditions of consent have been included in ATTACHMENT 2 to address migration of material into the river system.</p>
Climate change implications	<p>Climate change is not a consideration of section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Site hazards have however been appropriately considered in the body of this report including landslip, flooding and bushfires. Sustainability matters will also be considered as part of any construction certificate. Conditions of consent have been applied in ATTACHMENT 2 in support of natural hazard considerations and resilience.</p>
Cumulative impacts of the development and other developments in the area	<p>It is considered that the proposal when operated in accordance with the supporting material contained in the application and associated conditions of consent is expected to be a development which does not display unmanageable impacts on the environment. Conditions of consent have been applied in ATTACHMENT 2 to address these issues.</p> <p>It is not expected that the cumulative impact of approved developments in the region will have an unmanageable cumulative impact on the environment in the case where they have been subject to merit assessment and application of appropriate conditions of consent.</p>

Issue	Response:
Public awareness and engagement must be actively encouraged to ensure transparency and incorporate community perspectives into the decision about this proposed development	The application has been notified in accordance with Council's adopted Community Participation Plan (CPP) to invite community participation in the subject application. The proposal has been notified as integrated development for a period in excess of 28 days inviting submissions.
Viewing platform and toilet facilities already erected on the banks of the river and subject to damage during flooding	This is not a merit assessment consideration under section 4.15 and accordingly is a separate compliance issue. Council's inspection of the subject site has not revealed any toilet facilities on the banks of the Goobarragandra River. Flooding considerations have been outlined in the body of the report and the erection of any structure is outside of the historical flood planning area on the subject site. See commentary surrounding the Erection of a Marquee below.
The development is inappropriate on the side of a hill of a natural watercourse	The proposal complies with the provisions of the Tumut Local Environmental Plan and Snowy Valleys Development Control Plan 2019 and has been supported by a geotechnical analysis. The merits of the application have been considered in accordance with section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> and conditions of consent have been applied in ATTACHMENT 2 to ameliorate and control impacts associated with the development and the natural watercourse.
Submission points to another objector and Goobarragandra Valley as a site of environmental importance.	Issues raised in the submission(s) have been appropriately considered within the business paper report.
Visual amenity concerns on the Goobarragandra Valley. Proposal could incite other development opportunities in the area	The development as proposed will provide a high-quality architectural statement in the area that is not inconsistent within the surrounding natural and built environment. The proposed buildings will use new materials that blend into the surrounding environment. Other development opportunities in the area is not a merit consideration under section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i>
Loss of productive agricultural land	The development as proposed is permissible in the RU1 zone. The site occupies an area of approximately 6 hectares and the development will not sterilise the land for future agricultural use if desired.
No policy for development within the Valley	The Goobarragandra Valley is subject to controls at a state level including State Environmental Planning Policies which have been detailed within the business paper report, the Tumut Local Environmental Plan 2012 and the Snowy Valleys Development Control Plan 2019. There are specific controls in the DCP for this area of the Goobarragandra which have been addressed and assessed as part of this application.
Poor access to the development from Goobarragandra Road	The entrance and egress have been assessed as part of the development application with a number of upgrades

Issue	Response:
	<p>proposed to the access roads to the development to comply with relevant standards.</p> <p>Should the development be supported a condition of development consent in ATTACHMENT 2 shall require a section 138 application to be submitted to upgrade the access to the property.</p>
<p>Increased traffic on Goobarragandra Road may lead to farm machinery and livestock conflicts</p>	<p>The proposed traffic numbers associated with the development is not considered to be inconsistent with the locality, with minor increases in traffic numbers utilising the Goobarragandra Road associated with the development.</p> <p>Note: Council may consider as a separate matter through its traffic committee installing additional signage on the public road to warn of agricultural activity in the area. Livestock on any road is subject to the appropriate signage and safety controls being employed by the owner of the stock.</p>
<p>Speed limit reductions from 100km/hr to 70km/hr should be considered</p>	<p>The design speed of Goobarragandra Road has been considered by Transport for NSW that has the jurisdiction for setting and altering traffic speeds on local and state roads. Following detailed consideration, TfNSW has maintained that the current speed zone is appropriate for the location. Council has no jurisdiction to alter speed zones on local roads.</p>
<p>Road is narrow and winding and is dangerous with school buses</p>	<p>The proposed traffic numbers associated with the development is not considered to be inconsistent with the locality with minor increases in traffic numbers utilising the Goobarragandra Road associated with the development.</p> <p>Note: Council may consider as a separate matter through its traffic committee installing additional signage on the public road relating road users driving to the conditions.</p>
<p>Questions whether a bushfire assessment was completed</p>	<p>A bushfire assessment has been completed and submitted to Council in support of the development in accordance with section 100B of the <i>Rural Fires Act 1997</i> and submitted to the Rural Fire Service for a Bushfire Safety Authority. Bushfire Safety Authority has been issued and conditions have been included in the conditions of consent in ATTACHMENT 2 of the report.</p>
<p>Density of the proposed development should not be more than one cottage per 2 hectares in equivalent zones</p>	<p>There are no density requirements within any statutory controls (including SEPPs, LEP) or non-statutory controls including Development Control Plans that requires a restriction on hotel developments to have not more than one unit per 2 hectares of land.</p>
<p>No landscaping or screening plan provided in the application</p>	<p>Should the application be supported, additional landscaping and screening opportunities have been applied to the conditions of consent as outlined in ATTACHMENT 2.</p>
<p>Concerns relating to the Tumut Grevillea</p>	<p>The development does not propose any removal of vegetation on the subject land. Should the development be supported, Council has imposed conditions of consent in ATTACHMENT 2 to increase landscaping opportunities on the site. Additional plantings of Tumut Grevillea will be required as part of any consideration of any landscaping on the site.</p>

Issue	Response:
Erection of a Marquee on the land without approval. Reference to 'temporary' provided in Town and Country Planning (General Permitted Development) Order 1995	<p>The issue raised is not a consideration under section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Note: A marquee was erected on the site in accordance with the provisions of Clause 2.117 and Clause 2.118 of the <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> for the purposes of a private family function. Whilst the structure remains on the land, no further action is proposed to be taken until such time as the development application is determined.</p> <p>The submission makes reference to legislation in the United Kingdom (UK) that has no basis or relevance to the issue being considered and the governing legislation for this subject proposal.</p>
Exceeds planning recommendations and fails the DCP	An assessment of the merits of the application have been undertaken in accordance with section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> including statements of compliance which are detailed in the body of this report.
Boundary survey should be completed to determine the exact location of cottages in relation to the Western Boundary / site	The application provides a professionally prepared and to scale site plan which details the locations of any proposed improvements on the land and their relation to any property boundaries. As part of any construction certificate, the development will be required to provide survey plans in support of the development.
Too much guest accommodation in the valley	<p>This is not a consideration under section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>The proposal is permissible within the RU1 Zone subject to development consent of Council.</p>
Physical and mental impacts on surrounding neighbours	The impacts associated with the development have been appropriately considered as part of the section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> assessment in the body of the report.
Land use considerations – questions surrounding the development of the site	<p>The development as proposed being tourist and visitor accommodation is permissible within the RU1 zone. The objectives of the zone have been considered in the body of the report.</p> <p>The existing cottage is proposed to be utilised for residential purposes of the owners of the site.</p>
Amenity of the area – design choice of materials and provision of landscaping	The design of the buildings complies with the requirement of the Snowy Valleys Development Control Plan 2019. An additional condition of consent has been added in ATTACHMENT 2 to ensure that materials associated within the development are recessive in colour. Additional conditions of consent have been applied to increase landscaping opportunities on the development.
Proposal is not tourism – no local economic benefits	The attraction of tourists and visitors to the area will have a positive economic impact and will likely provide opportunities for retail spending and visitation. The proposed development will provide micro economic benefits in terms of construction of the development (both building, civil and consultancy) and

Issue	Response:
	will provide employment opportunities as part of the operational aspects of the development.
Native Animals and Wildlife – questions surrounding local wildlife on the land and habitat	It is not proposed that any vegetation will be removed as part of the development. The Biodiversity SEPP has been considered as part of the assessment of the application and there has been no unmanageable impacts identified as part of the assessment. The applicant will also be required to obtain a controlled activity approval for any works within the Goobarragandra River environment. Increased landscaping opportunities required in the conditions of consent ATTACHMENT 2 will provide increased opportunity for wildlife habitat.
Accessible unit should have a concreted car space	Accessibility requirements have been considered as part of the development application. National Construction Code considerations including compliance with Australian Standard 1428 and the Premises Code will be applied at the construction certificate stage should the application be supported. A requirement to obtain a construction certificate has been included in the conditions of consent in ATTACHMENT 2.

Public Interest

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

On balance, the development is likely to provide a positive environmental outcome for the natural environment through increased plantings, retention of existing vegetation and protection of riparian corridors. The proposal will increase tourism to the Snowy Valleys Local Government Area and also increase tourism accommodation offerings to the local market. The site is suited to the development given its land size and its proximity to other similar uses. Any likely impacts associated with the proposal are able to be appropriately mitigated through the application of conditions of consent. Accordingly, the application is considered to be in 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.

Both the Interim General Manager and Executive Manager Growth and Development met with the proponent(s) on 11 October 2023.

External Referrals:

Referrals	Advice / Response / Conditions
New South Wales Rural Fire Service. (s100B of the <i>Rural Fires Act 1997</i>) Department of Planning and Environment (Water)	New South Wales Rural Fire Service has provided its Bushfire Safety Authority supporting the proposal dated 16 March 2023 subject to general terms of approval. The Department of Planning and Environment has issued their General Terms of Approval 13 April 2023

A copy of the Bushfire Safety Authority and also the General Terms of Approval have been included in ATTACHMENT 3 and 4.

Internal Referrals:

Referrals	Advice / Response / Conditions
Development Engineer	<p>The application was referred to Council's Coordinator Survey and Design who has identified that:</p> <ul style="list-style-type: none"> The existing accesses relating to the development will be required to be upgraded as part of a section 138 application including sealing from the road edge to the property boundary. Accessible details are to be provided prior to the issue of any construction certificate for any disabled parking to be provided on the site in accordance with the Premises Standard and AS 2890.6 including accessible pathways between the accessible unit and the kitchen / carpark.

Additional Information Requests - 21 September 2023

Additional information has been provided by the applicant in response to the RFI issued by Council. Each item below specifically addresses the request for information made in the Council resolution of September 2023:

1. The disposal of wastewater onsite including confirmation of the maximum number of persons onsite at any one time

The proponent has confirmed that the maximum number of guests on the property at any one time shall be 12 and this shall be enforceable by way of a condition of consent. Council has proposed a condition of consent in the draft conditions attached to the business paper report confirming this limitation.

The application is accompanied by a Geotech Report and Land Capability Assessment prepared by McMahons Earth Science that demonstrates that there will be no adverse impacts to groundwater and that wastewater can be satisfactorily managed. The visual and tactile assessment at the investigated locations found subsurface conditions generally comprised of topsoil overlying a moist red-yellow low plasticity sandy clay which is underlain by moist yellow-brown clayey to silty sands derived from underlying extremely weathered granodiorite. Highly weathered granodiorite was encountered from a notional depth of 0.9m below ground level. The site was classified as 'M – Moderately reactive clay or silt sites'. The application will site an effluent disposal area for effluent sub surface irrigation over 100 metres from the river in accordance with accepted industry standard and practice.

The land capability assessment found that:

There are some major setbacks and limitations to note regarding the proposed siting of the land application system, by reference to AS 1547 (2017). Vertical and horizontal setback distances are required to be considered in line with Council guidelines and Australian Standards when considering the placement of the land application system. Limitations included:

- Potential access/egress and distance to overhead powerline easements*
- Minimum setback distance of 100m from surface water features including the Goobarragandra*
- River, on-site dam and associated drainage line*
- Existing and proposed future on-site developments*
- Presence of rocky outcrops on the shoulder of the saddle crest*
- Moderately inclined slopes.*

In consideration of the above, the placement of the land application area should be set to the northeast of existing developments in the relatively flat area of the saddle crest. A proposed land application area of 1,634m² is required.

Aerated Wastewater Treatment Systems (AWTS) are recommended for treatment units with land application via drip or low-pressure spray irrigation. The AWTS is preferred over conventional septic tanks and trench disposal as:

- The AWTS offers the highest level of treatment compared to conventional septic tanks.*
- The irrigated drip or spray also offers a low application risk owing to the comparatively large irrigation area compared to trenches or beds, meaning nutrients and bacteria are not concentrated.*

The Geotech and Land Capability Assessment provide for findings and recommendations that will ensure that there will be no adverse impacts to groundwater at the site

The Australian standards (AS/NZS 1546.1 and AS 1546.3) for wastewater treatment state that a septic tank must have a capacity of at least 2,400L. For a development incorporating 4-6 bedrooms, the tank must have a minimum of 4,500L capacity. The development provides for six (6) accommodation suites and the AWTS system will have a minimum capacity of 4500 Litres and complies with minimum capacity requirements. A Section 68 application under the *Local Government Act 1993* for onsite septic system works will be required to be applied for Council's assessment and review prior to any such works being undertaken.

The development will be carried out in accordance with the Geotech Report and Land Capability Assessment prepared by McMahons Earth Science. Existing septic systems on the land do not form part of the development and therefore will be managed through Council's existing programmed onsite sewer management inspection framework. The Goobarragandra area is proposed to be inspected in the first quarter of 2024 to ensure compliance.

2. Relating to the amount of water storage on the subject site and methods for potable treatment; and plans and documentation should include the size and location of any static storage for both potable and bushfire fighting reserve

The application proposes the installation of a 30,000 litre rainwater tank, with filter for a potable water supply to service the suites. The proposed filter system is the Puretec Hybrid-P6 which is an all-in-one filtration system including a Grundfos pump (0.9kW), 3 stage filtration 20 inch and finishing with UV sterilisation.

The application also proposes the installation of a 10,000 litre rainwater tank to be dedicated for bushfire fighting purposes with a 65 mm storz fitting. Both proposed tanks will be filled with rainwater in addition to a direct feed from the existing dam on the site which has a capacity of 2.4 mega litres. The subject dam is fed by two natural springs and are a constant source of water.

It is noted that the NSW RFS Bushfire Safety Authority issued on 2 June 2023, by the NSW Rural Fire Service, provides in relation to water supply:

Water and Utility Services

The intent of measure is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

The provision of water, electricity and gas must comply with the following in accordance with Table 6.8c of Planning for Bush Fire Protection 2019:

- a minimum 10,000 litre static water supply, tank, pool, dam or the like, must be provided for each occupiable structure, and outlet for firefighting purposes is located within the IPA or non-hazard side and away from the structure*

- 65mm Storz connection with a ball valve is fitted to the outlet,
- the ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material
- underground tanks have an access hole of 200mm to allow tankers to refill, direct from the tank,
- a hardened ground surface for truck access is supplied within 4m of the water outlet or access hole,
- above-ground tanks are manufactured from concrete or metal,
- raised tanks have their stands constructed from non-combustible material or bush fire resisting timber.

The existing dam provides for a 2.4 mega litre static water supply which is consistent with RFS requirements for a static supply. There are six (6) cabins – which require 10,000 litres per cabin which equates to 60,000 litres. The water supply proposed and existing on the site provides for water resources that are beyond the requirements of the bushfire safety authority.

In addition, the application proposes the provision of two (2) rainwater tanks, a 30,000 litre tank for potable supply and a 10,000 litre tank for supplementary dedicated firefighting supply. The supplementary information confirms that no water is proposed to be drawn from the Goobarragandra River for either potable drinking supply purposes or for bushfire static reserves. Updated plans have indicated the location of the proposed tanks and also the static water source of the dams as required by the Bushfire Safety Authority.

3. The flood susceptibility of the proposed viewing platform and potential impacts of flooding on the infrastructure

The e-spatial viewer has confirmed that the site is not mapped as flood prone land. Historical flood markers indicate that the proposed cabin structures and associated infrastructure are located outside of the expected and probable flood level. A copy of the flood planning map (reference November 2023) has been included below for reference in Figure 2

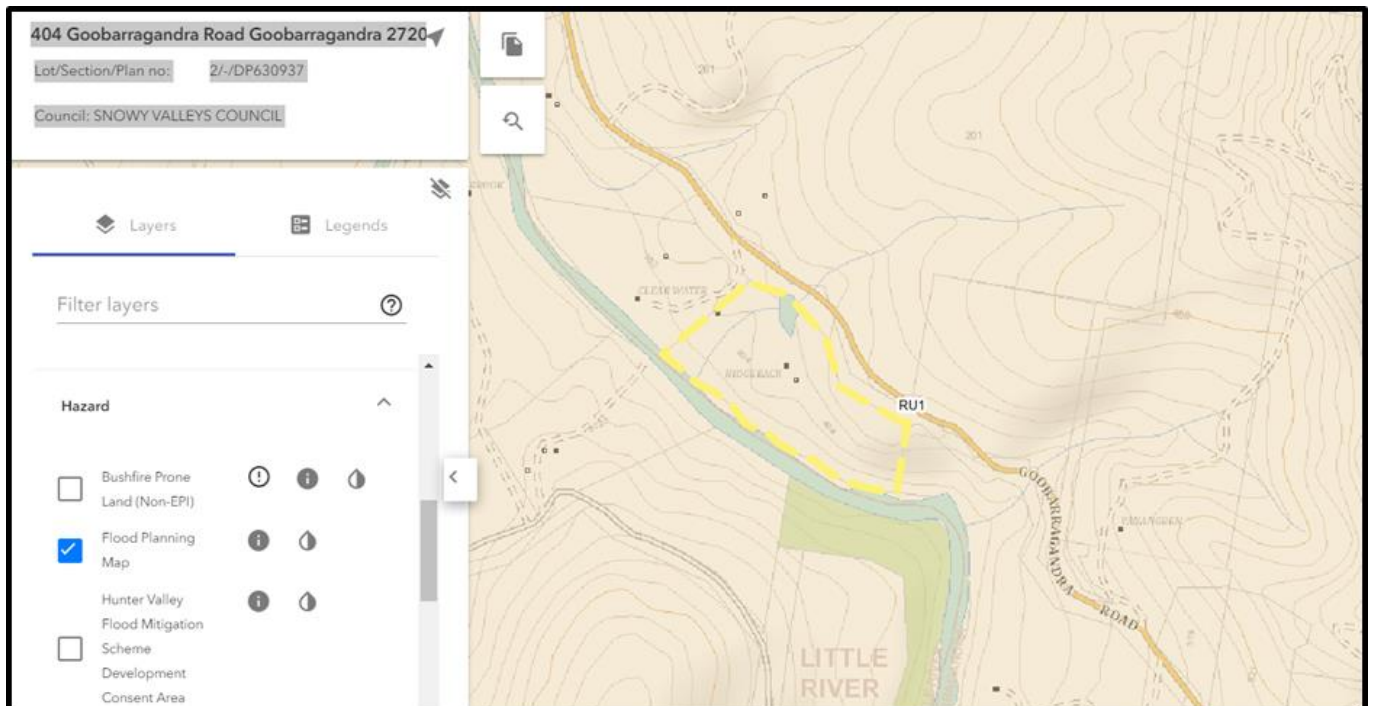


Figure 2: Flood Planning Map source SixMaps

4. Relating to an existing marquee erected on the land prior to the issue of any approval under the subject application

The application proposes the creation of a viewing platform to be located approximately 20 metres from the high bank of the river.

The proposed platform will be erected on a compacted gravel base (100mm thick DG20 material) measuring 7 metres x 9 metres requiring 50 / 50 cut and fill up to 500 mm cut and 500 mm fill. The pad will be drained to the existing gully utilising appropriate drainage measures (ag drain, silt fencing and Gambian rock). Draft conditions of consent have been imposed to ensure the protection of the natural environment including the use of sedimentation and erosion control measures.

A wooden floor will be located on the pad and a 6-metre-wide x 9-metre long x 3.4 metre to apex high, temporary portable steel framed marquee will be located on the viewing platform. The marquee will be enclosed in white canvas.

The current marquee as a temporary structure can be removed from its current location and the installation of this structure without consent is a compliance / enforcement matter. The structure was erected prior to consent being issued for the purpose of the owner's birthday celebration event. The marquee has remained in situ until such time as the development application has been determined after which it will either be moved to its proposed location or it will be demolished and removed from site. The marquee for the event was erected as exempt development and the owner was seeking to avoid both potential environmental damage and the financial cost of having to move the structure until such time as a determination was made on the development application.

5. Relating to the source of water for fire fighting including whether this will be sourced from the river and if so, what licences will be obtained to permit such water extraction

Any proposed water sources have been identified in item 2 above. The application does not propose any drawing of supply or otherwise from the Goobarragandra River.

6. Proposed intended use of the subject development application and if any uses are proposed beyond utilising the development for the purposes of a tourist and visitor accommodation

As described in the development application, the development will provide boutique accommodation suites and operate as a hotel that targets visitors and tourists who frequent the Snowy Valley Local Government Area.

The accommodation will provide for six (6) accommodation suites that can accommodate up to a maximum of 12 persons at any one time (maximum of 2 persons in each suite). The development will operate seven (7) days per week with check-ins commencing at 2.00 pm. and check-outs for guests being at 10.00 am.

The development will be staffed by the two (2) owners of the property who will undertake all cleaning and housekeeping duties. The development is for tourist and visitor accommodation in the form of a hotel and via the installation of six (6) ecologically sustainable accommodation suites that have been designed to have no adverse impact on the existing landform. The suites are located on stilts with proposed screw piers and will have been designed to suit the site and provide for minor building footprints.

Expected and ancillary uses of the development, similar to many hotel establishments, include:

- Birdwatching
- River activities (fishing, swimming and canoeing)
- Bushwalking
- Yoga classes for guests.

Such ancillary uses and activities are expected and associated as ancillary to the purpose of a hotel. Such ancillary land uses are lawful and permitted in association with a hotel.

Planning Circular PS-13-001, dated 21 February 2013 and issued by the New South Wales Department of Planning and Environment deals with 'characterisation' of development and has been included as ATTACHMENT 5 to this report.

Development is considered to be for a particular purpose if that purpose is the dominant purpose of the development. This purpose is the reason for which the development is to be undertaken or the end to which the development serves. In this specific case, Tourist and Visitor Accommodation (Hotel) is the dominant use. Any person will be able to book into the hotel for accommodation whether or not they wish to participate in ancillary activities that are on offer by the host of the development.

In this case as outlined in the definitions section of this report - *a hotel or motel accommodation means a building or place (whether or not licensed premises under the [Liquor Act 2007](#)) that provides temporary or short-term accommodation on a commercial basis and that—*

- (a) comprises rooms or self-contained suites, and*
- (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.*

In compliance with the development definition or characterisation of the development, the development application identifies that the host will provide *a building or place*; that building or place will *provide temporary or short term accommodation* offerings and comprises of *rooms or self-contained suites* and may *provide meals to the guests staying at the facility* and provides *parking facilities for guest vehicles*.

The other identified activities including birdwatching, river activities including fishing, swimming and canoeing, bush walking and Yoga are considered to be 'ancillary' or 'subordinate' activities to the dominant use as a tourist and visitor accommodation (hotel) facility.

An ancillary use is a use that is subordinate or subservient to the dominant purpose. The concept is important when a development involves multiple components on the same land.

In Summary :

- if a component serves the dominant purpose, it is ancillary to that dominant purpose;
- if a component serves its own purpose, it is not a component of the dominant purpose but an independent use on the same land. It is a dominant use in its own right. In such circumstances, the development could be described as a mixed use development.

The development activities being proposed are ancillary to the dominant use as the Hotel as an experience offering and therefore are permissible.

7. Additional information on the proposed uses of the site

As outlined in item 6 above, no additional uses are proposed at the site that are not ancillary and lawful in association with a hotel.

Additional supplementary comments

It is noted that Council have previously raised concerns of privacy to adjoining landowners. The development has been designed and sited to ensure that the proposed suites are forward of the existing / adjoining dwelling to the north-western property boundary. The closest suite is located over 65 metres from the north-western boundary.

The applicant will also use opaque glazing on all / any windows that face the north-western boundary and all verandahs face the river and not the adjoining dwelling/north-western boundary. Additional screening could be provided on the verandahs of the north-western side of any verandah as an additional protective measure to address neighbours concerns.

In addition, the applicant will plant semi-mature screening trees in the location of the proposed car parking area to screen any views to the north-western property boundary. After investigating alternate options for the location of required car parking, it has been ascertained that the car parking area cannot be relocated due to existing site constraints and noting that the proposed area at the top of the site is to be utilised for the land application area for sewerage disposal. The movement of the proposed units and associated infrastructure down hill of the existing dwelling was considered following commentary made by the elected Council however such relocation would have a higher environmental impact due to an increase in the bushfire attack level ratings, a requirement for land clearing and significant earthworks due to the slope and topography of the land. Accordingly, the existing proposed site has been retained. An amended site plan demonstrating the additional information has been included as ATTACHMENT 6 to this report.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Delivery Program and Operation Plan Strategic Directions

Theme 3 - Our Environment

Community Strategic Plan Objectives

CSP3 Our natural environment is cared for and protected to ensure future generations can experience and enjoy its beauty

Delivery Program Principal Activities

3.3 Provide a planning and development framework that enhances local amenity through sustainable growth

3.4 Partner with other agencies to protect our natural spaces and environment

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 an appropriate class of 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 an appropriate class of 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 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 2021.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

There are no expected costs associated with the application where appropriate conditions of consent of consent are applied. The support of the application will provide an increase in accommodation choice and supply within the LGA.

OPTIONS:

1. Determine Development Application 2023/0025 which seeks development consent for tourist and visitor accommodation at Lot 2 in Deposited Plan 630937 by way of **approval** subject to draft conditions of consent as outlined in ATTACHMENT 2.
2. Determine Development Application 2023/0025 which seeks development consent for tourist and visitor accommodation at Lot 2 in Deposited Plan 630937 by way of **refusal** with reasons for refusal to be provided in any resolution to refuse the application.

Option 1 is recommended.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

The application has been notified in accordance with Council's adopted Community Participation Plan (CPP) as outlined in the report.

ATTACHMENTS

1. Architectural - 404 Goobarragandra - Tourism and Visitor Accommodation (Under separate cover)
2. Draft notice of determination - Draft Consent Conditions DA2023/0025 Proposed Tourist and Visitor Accommodation (Under separate cover)
3. Bushfire Safety Authority - RFS (Under separate cover)
4. General Terms of Approval - DPE Water (Under separate cover)
5. Planning Circular - PC13-001 How to Characterise Development (Under Separate Cover)
6. Amended site plan to include requested information (including plan views) (Under Separate Cover)

11.2. DA2023/0120 - PROPOSED BOUNDARY ADJUSTMENT AT 702-712 BOMBOWLEE CREEK ROAD, BOMBOWLEE

REPORT AUTHOR: DEVELOPMENT ASSESSMENT PLANNER

RESPONSIBLE OFFICER: INTERIM GENERAL MANAGER

EXECUTIVE SUMMARY:

An application was lodged with Council under Development Application 2023/0120 on 7 November 2023 seeking development consent for a boundary adjustment (subdivision) between two (2) allotments and the transfer of a dwelling entitlement (subject to merit assessment) to an unrelated allotment at 702-712 Bombowlee Creek Road, Bombowlee. The application seeks development consent under the provisions of clause 4.2C of the Tumut Local Environment Plan 2012.

Council has assessed the application in accordance with the provisions of section 4.15 of the *Environmental Planning and Assessment Act 1979* and recommends that the proposal cannot be supported in its current form for the reasons outlined within the recommendation section of this report.

RECOMMENDATION:

- 1. Determine Development Application DA2023/0120 which seeks development consent for a boundary adjustment (subdivision) of two lots at Bombowlee Creek Road, Bombowlee, by way of refusal, for boundary adjustment of lots into two Torrens title lots for use as rural residential and transfer of a dwelling entitlement to an unrelated new lot to the north at Lot 299 DP 750991 and Lot 3 DP 1066038, for the following reasons:**
 - a. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*, the proposed development is inconsistent with the objectives of the RU1 Primary Production zone of the Tumut Local Environmental Plan 2012;**
 - b. Pursuant to Section 4.15(1)(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(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal is incapable of compliance with clause 4.2C of the Tumut Local Environment Plan 2012 as:
 - i. the changes to the boundaries of the lots are so significant that the proposed development cannot be considered to be “adjusting” the boundary;**
 - ii. the two resulting lots bear little resemblance to the lots currently in existence;**
 - iii. the sizes of the new allotments are changed through the proposal so significantly that it is more than simply a slight or marginal adjustment to boundaries.****
 - d. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act, 1979*, the proposal is unsatisfactory in respect to ‘Requirements Applying to All Development’. In particular, Parts 3.2.10 and 3.2.14 and Rural Subdivision Part 9.8 of Snowy Valleys Development Control Plan with particular reference to Parts 9.8.1, 9.8.4, 9.8.5, 9.8.6 and 9.8.9;**
 - e. Pursuant to Section 4.15(1)(b) *Environmental Planning and Assessment Act, 1979*, insufficient information has been provided to assess the level of impact on the locality in respect of natural hazards;**

- f. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided to determine the suitability of the proposed development;
- g. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided in the application to satisfy the requirements of Clause 5.21 of the Tumut Local Environment Plan in particular the flood susceptibility, associated flood risk or behaviour of Bombowlee Creek. Proposed Lot 20 has been identified for the purposes of residential development and may be flood liable land;
- h. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided in the application to satisfy Clause 6.8 of the Tumut Local Environment Plan 2012 and accordingly the requisite level of satisfaction has not been achieved to ensure that the land is not susceptible to the natural hazards associated with landslip;
- i. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided in the application to satisfy Clause 6.4 of the Tumut Local Environmental Plan 2012 relating to groundwater vulnerability. No geotechnical analysis has been undertaken to ensure that the land is capable of disposal of onsite sewerage waste relating to any proposed lot that will be utilised for the purposes of a residential dwelling and agriculture; and
- j. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the development is not considered to be in 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 299 DP 750991 and Lot 3 DP 1066038, Bombowlee Creek Road, Bombowlee and comprises approximately 168ha of total area.

The subject site is located approximately 10km to the northeast of Tumut, with the surrounding land currently being utilised for primary production, agricultural and rural residential land uses. The site has varying topography and good access.



Figure 1: Aerial of subject site (Lot 299 DP 750991 and Lot 3 DP 1066038)

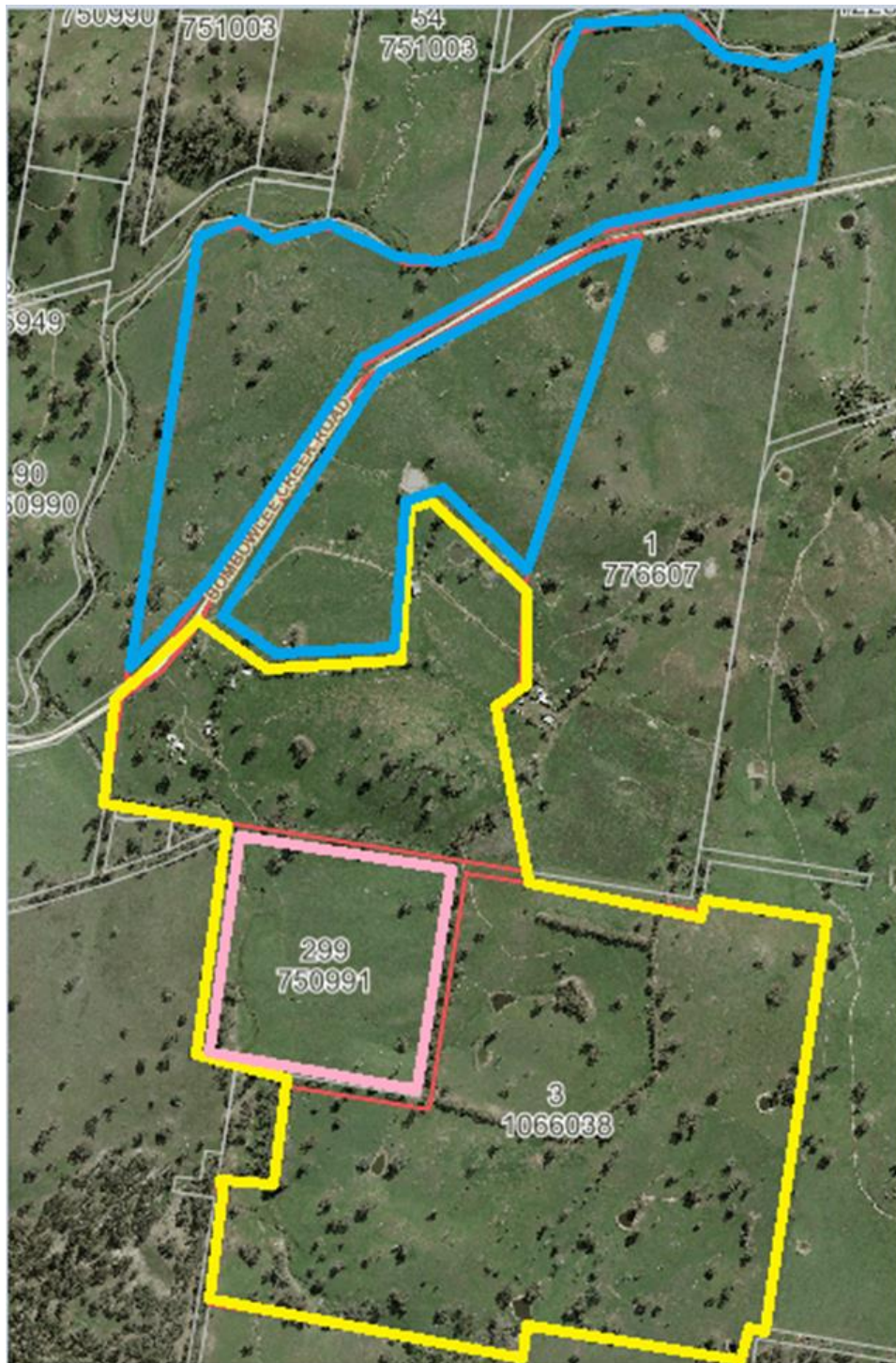


Figure 2. Outlines a graphical representation of the lot subject to the existing holding (shown in pink) with the final proposed lot arrangement (proposed lot 20 in blue and proposed lot 21 in yellow) following the boundary adjustment.

The proposal is effectively seeking to transfer the dwelling entitlement from the existing holding shown in pink to the unrelated allotment shown in blue contrary to the provisions of clause 4.2 of the Tumut Local Environment Plan 2012.

Proposed Development

The merits of the proposal include:

- Boundary adjustment of lots into two (2) Torrens Title lots for use as rural residential and agricultural purposes and transfer of a dwelling entitlement to an unrelated lot to the north.

- Advice provided by Council dated 8 June 2017 that confirms Lot 299 DP 750991 comprises an existing holding and benefits from a dwelling entitlement subject to development consent.

Attachment 1 provides the Statement of Environmental Effects and Attachment 2 provides the proposed plan.

Application Summary

Applicant	Gray Surveyors
Land owner	Ray, Kevin and Lynette Piper
Zoning Context	RU1 Primary Production – Tumut LEP 2012
Capital Investment Vale (\$)	\$10,000 (estimated by applicant)
Notification Period	12 October 2023 – 26 October 2023
Number of submissions	Nil
Political Donations declaration	Nil reported
Reasons for referral to Council	Significant departure - Non compliance with statutory controls.

REPORT:

Statutory Provisions Pursuant to Section 4.15 (1)(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* - 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 (Biodiversity and Conservation) 2021 (B&C SEPP)

Note: This chapter applies to RU1 Primary Production, RU2 Rural Landscape and RU3 Forestry in a local government area specified in Schedule 1.

Table 1 – Part 3.2 Development control of koala habitats

Question	Development	Outcome
Does the development application applies to the whole, or only part, of the land— (i) has an area of more than 1 hectare, or (ii) has, together with adjoining land in the same ownership, an area of more than 1 hectare?	Yes	Assessment under B&C SEPP required (Clause 3.5).
Is the land potential koala habitat?	No	The cleared site is not potential koala habitat, discontinue assessment (Clause 3.6).

The development has been assessed against the requirements of Chapter 3 of the B&C SEPP (see Table 1) and it has been determined that the development would meet the requirements and objectives of the B&C SEPP as the cleared land is not considered to be koala habitat and no further land clearing has been proposed as part of this application.

State Environmental Planning Policy (Resilience and Hazards) 2021 (R&H SEPP)

Chapter 4: Remediation of Land

Chapter 4 of the R&H SEPP applies to the site pursuant to clause 4.4 and aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 4.6 requires that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use to be carried out.

A search of Council's records and aerial photos indicates the site has a history associated with agricultural use including livestock grazing. A site inspection has not identified any animal dips, chemical storages or other potentially hazardous activities. The land is not identified as contaminated on Council's contaminated land register or the Environmental Protection Authority (EPA) register of contaminated sites. It is therefore unlikely that the site has experienced any known contamination. As such, the site is considered suitable for residential use and further assessment is not necessary. The development has been assessed against the requirements of Chapter 4 of the R&H SEPP and it has been determined that the development as proposed would meet the requirements and objectives of the R&H SEPP.

State Environmental Planning Policy (Primary Production) 2021

Chapter 2 Primary Production and Rural Development.

The aims of the State Environmental Planning Policy (Primary Production) 2021 is to primarily reduce land use conflict and ensure the orderly use of agricultural lands.

The aims of this Chapter are as follows—

- (a) to facilitate the orderly economic use and development of lands for primary production,
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,
- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (d) to simplify the regulatory process for smaller-scale, low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,
- (e) to encourage sustainable agriculture, including sustainable aquaculture,
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.

The land has not been identified as state significant agricultural land and given the size of the allotment, the boundary adjustment is not inconsistent with the overall aims and objectives of the SEPP (Primary Production) 2021.

Draft State Environmental Planning Policies

There are no current draft State Environmental Planning Policies that apply to the development.

Local Environmental Plans

Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* requires the consent authority to consider the provisions of Environmental Planning Instruments (EPIs), which includes Local Environmental Plans (LEPs). The Tumut Local Environmental Plan 2012 (hereafter the 'LEP') applies to the northern part of the Snowy Valleys LGA. An assessment of the development against the relevant sections of the LEP is provided below.

Tumut Local Environmental Plan 2012

- **Clause 1.2 Aims of the Plan**

The development complies broadly with respect to the overall aims and objectives of the *Tumut Local Environment Plan 2012*.

- **Clause 1.4 Definitions**

The land is zoned as RU1 Primary Production under the *Tumut Local Environmental Plan 2012*. As defined within the RU1 Land use Table, subdivisions are permissible with development consent of the Council.

The development is defined as a subdivision (two lots into two lots).

- **Clause 2.2 Zoning to which the plan applies**

The land is zoned RU1 - Primary Production and subdivisions are permissible with the development consent of the Council.

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

The proposal generally complies with the overall objectives of the zone with the exception that the proposal will likely add to the fragmentation of resource lands including potential provision of a dwelling entitlement to an undersized allotment.

- **Clause 4.1 Minimum Allotment Size**

The land has a minimum allotment size of 150 hectares. Both proposed Lot 20 and Lot 21 are below the minimum allotment size being 64 and 106.4 hectares, respectively. The proponent seeks to rely on Clause 4.2C to create the undersized allotment(s) via a 'boundary adjustment' (subdivision).

- **Clause 4.2 Rural Subdivision <https://www.legislation.nsw.gov.au/-/view/EPI/2012/637/partlanduseta>**

(1) *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.*

(2) *This clause applies to the following rural zones:*

(a) *Zone RU1 Primary Production,*

(b) *Zone RU2 Rural Landscape,*

(baa) *Zone RU3 Forestry,*

(c) *Zone RU4 Primary Production Small Lots,*

(d) *Zone RU6 Transition.*

(3) *Land in a zone to which this clause applies may, with development consent, 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.*

(4) *However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.*

(5) *A dwelling cannot be erected on such a lot.*

The development is not capable of compliance with clause 4.2 as the development is not seeking to subdivide the land solely for the purposes of agriculture.

- **4.2A Exceptions to minimum lot sizes for certain rural subdivision**

(1) *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.*

(2) *This clause applies to land in Zone RU1 Primary Production.*

(3) *Land to which this clause applies may, with development consent, be subdivided 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, if the consent authority is satisfied that the use of the land after the subdivision will be the same use (other than a dwelling house or a dual occupancy) permitted under the existing development consent for the land.*

(4) *Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that—*

- (a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and*
- (b) the subdivision is necessary for the ongoing operation of the permissible use, and*
- (c) the subdivision will not increase rural land use conflict in the locality, and*
- (d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land.*

The application seeks to create two (2) lots that are less than the minimum allotment size. However, one lot with a dwelling entitlement, proposed Lot 20, and an existing dwelling on proposed Lot 21, renders this clause inapplicable.

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

(1) *The objectives of this clause are as follows—*

- (a) to minimise unplanned rural residential development,*
- (b) to enable the replacement of lawfully erected dwelling houses or secondary dwellings in rural and residential zones.*

(2) *This clause applies to land in the following zones—*

- (a) Zone RU1 Primary Production,*
- (b) Zone R5 Large Lot Residential.*

(3) *Development consent must not be granted for the erection of a dwelling house or secondary dwelling on land to which this clause applies, and on which no dwelling house or secondary dwelling has been erected, unless the land—*

- (a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or*
- (b) is a lot created before this Plan commenced and on which the erection of a dwelling house or secondary dwelling was permissible immediately before that commencement, or*
- (c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or secondary dwelling would have been permissible if the plan of subdivision had been registered before that commencement, or*
- (ca) is a lot created by a boundary adjustment in accordance with clause 4.2C and on which a dwelling house would have been permissible before the adjustment of the boundary, or*
- (d) is an existing holding, or*
- (e) is a lot with an area of at least 15 hectares on land identified as “Horticultural Land” on the Horticultural Land Map, with at least 10 hectares of horticulture or viticulture established on that lot, or*
- (f) would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by—*

- (i) a minor realignment of its boundaries that did not create an additional lot, or*
- (ii) a subdivision creating or widening a public road or public reserve or for another public purpose.*

Note - A dwelling cannot be erected on a lot created under clause 9 of State Environmental Planning Policy (Rural Lands) 2008 or clause 4.2.

(4) *Development consent may be granted for the erection of a dwelling house or secondary dwelling on land to which this clause applies if there is a lawfully erected dwelling house or secondary dwelling on the land and the dwelling house or secondary dwelling to be erected is intended only to replace the existing dwelling house or secondary dwelling.*

(5) *In this clause—*

'existing holding' means land that—

(a) was a holding on the relevant date, whether or not there has been a change in the ownership of the holding since the relevant date, or

(b) is a lot that had an area of at least 40 hectares on land to which the Tumut Local Environmental Plan 1990 applied before the commencement of this Plan and did not have the same owner as any adjoining lot on 7 December 1990.

'holding' means all adjoining land, even if separated by a road or railway, held by the same person or persons.

'relevant date' means—

(a) in the case of land to which the Tumut Local Environmental Plan 1990 applied immediately before the commencement of this Plan—11 June 1976, or

(b) in the case of land to which the Yarrowlumla Local Environmental Plan 2002 applied immediately before the commencement of this Plan—13 October 1995.

The lot identified was Lot 299 in Deposited Plan 750991. It constitutes an 'existing holding' as defined within clause 4.2B(3) of the Tumut LEP which has been confirmed by Council in writing. On this holding a dwelling house would be permissible subject to the consent of Council.

An existing holding can be a number of parcels of land that remain in the same configuration since the appointed date on 11 June 1976, then the landowner is entitled to lodge a development application for the purposes of a dwelling house on that holding.

The application is not seeking development consent for the purposes of a dwelling. However, it is seeking to nominate a dwelling entitlement (which is legally created under clause 4.2(B)(3)) to the proposed Lot 20 within the 'holding'.

- **Clause 4.2C Boundary adjustments in certain Rural Zones.**

The proponent seeks to rely on the utilisation of Clause 4.2C to enable the subdivision of the subject allotments and to enable a dwelling entitlement to be created on proposed Lot 20.

4.2C Boundary adjustments of land in certain zones

(1) The objective of this clause is to facilitate boundary adjustments between lots if the adjustment will result in the lot size of one or more of the lots being less than the minimum lot size shown on the Lot Size Map in relation to that land and the objectives of the relevant zone can be achieved.

(2) This clause applies to land in the following zones—

- (a) Zone RU1 Primary Production,*
- (b) Zone RU3 Forestry,*
- (c) Zone RU4 Primary Production Small Lots,*
- (d) Zone R5 Large Lot Residential.*

(3) Despite clause 4.1, development consent may be granted to subdivide land by adjusting the boundary between adjoining lots if one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land, and the consent authority is satisfied that:

- (a) the subdivision will not create additional lots or the opportunity for additional dwellings, and*
- (b) the number of dwellings or opportunities for dwellings on each lot after the subdivision will be the same as before the subdivision, and*
- (c) the potential for land use conflict will not be increased as a result of the subdivision.*

There are a number of cases in the New South Wales Land and Environment Court that provides case law around what is considered to be a 'boundary adjustment' in particular the cases relating to *Ousley Pty Ltd vs Warringah Shore Council 1999* and *McCabe and others vs Blue Mountains City Council 2006*.

In *Ousley Pty Ltd v Warringah Shire Council [1999] NSWLEC (Ousley)*, the Court considered a subdivision under the now repealed provisions of State Environmental Planning Policy 4 Development Without Consent and Miscellaneous Exempt and Complying Development (SEPP 4). In this regard, the Court found:

16. Having regard to the aims of SEPP 4 stated in cl 3 and the other categories of subdivision in cl 6, the

reference to “an adjustment to a boundary” in cl 6(b) must be construed as being a re-arrangement of a boundary so that no significant changes are made to the configuration of any existing allotments.

21. ... The extent of any changes must pay respect to the existing subdivision design and fit the prescription of an adjustment to a boundary between allotments so that the resulting parcels of land bear some resemblance to the lots which existed before the subdivision.

In *McCabe & Others v Blue Mountains City Council* [2006] NSWLEC (McCabe), the Court considered the ordinary meaning of the phrase “boundary adjustment” and found as follows:

'I do not accept that the “ordinary and grammatical meaning” of the phrase “...for a boundary adjustment” embraces any and all alterations of a boundary that make land suitable for an applicant’s requirements. I consider that the primary meaning conveyed by the clause, construed in its immediate and more general context, accords with the notion of an alteration of a boundary by correction or regularisation, whether that correction or regularisation is to reflect actual conditions (such as physical features of the land or its zoning) or to achieve some other requirement or objective (for example, to render the use of land feasible or more practical). Hence, consistent with the observation of Cripps J in Boast v Eurobodalla Shire Council, unreported, NSWLEC, 20110/91, 22 November 1991 at pp 2 – 3, questions of fact and degree are involved'.

These principles have also been applied by Commissioners of the Court in factual circumstances analogous to those which arise in relation the current development application being considered by Council.

Following the proposed lot consolidation as outlined in the application, the Development Application also seeks consent for further subdivision described in the statement of environmental effects as a 'boundary adjustment' that would be permitted pursuant to clause 4.2C of the LEP. The proposed boundary adjustment, as set out in the statement, would adjust the boundaries of Lot 3 DP 1066038 such that the area of the lot would be more than halved, and the area of Lot 299 DP 750991 increased almost tenfold.

The Development Application relies on clause 4.2C of the LEP which provides that, in certain circumstances, 'development consent may be granted to subdivide land by adjusting the boundary between adjoining lots if one or more resultant lots do not meet the minimum lot size'. Taking into account the language of clause 4.2C, it is necessary to consider whether the proposed development may be described as 'adjusting the boundary between lots'.

Applying the principles set out by the Court in *Ousley* and *McCabe*, the following conclusions may be made with respect to the proposal:

- a. the changes to the boundaries of the lots is so significant that the proposed development cannot be considered to be “adjusting” the boundary.
- b. the two resulting lots bear little resemblance to the lots currently in existence.
- c. the sizes of the new allotments are changed through the proposal so significantly that it is more than simply a slight or marginal adjustment to boundaries. In such circumstances, the proposed development cannot be characterised as a 'boundary adjustment' and clause 4.2C cannot be relied upon in considering the permissibility of the proposed development.

The application fails on clause 4.2C in a mandatory requirement as the development is not a 'boundary adjustment' when applying the definitions in case law upheld in the New South Wales Land and Environment Court. Legal advice has also provided such confirmation (see Attachment 4).

The application does not create any additional lots, however the existing two lots will be re-subdivided into two allotments which contrast the configuration of the original allotments.

The application seeks to create dwelling entitlement under clause 4.2B(3) of the Tumut Local Environmental Plan 2012. However, there is no provision in the environmental planning instrument which permits the transfer of a dwelling entitlement of an existing holding to an unrelated allotment. The dwelling entitlement is extinguished when the holding is subdivided or the geometry of the 'holding' is altered.

As the application seeks to transfer the dwelling entitlement to an unrelated allotment, it is argued that it is likely that such transfer (whilst unlawful) would increase land use conflict by potentially increasing the number of dwellings adjacent to rural farming operations rather than having two dwellings (one existing and one potential) immediately adjacent to one another. The application fails to identify any building envelope on the proposed allotment 20 and therefore Council cannot be satisfied that any potential dwelling would not increase the effects of landuse conflict with adjacent holdings which is currently the case with Lot 299 and Lot 3.

- **Clause 5.21 Flood Planning**

Due to the proximity of the land to Bombowlee Creek, the land may be susceptible to flooding including inundation during flood events. The application seeks to nominate a potential dwelling entitlement on the proposed Lot 20 however no building envelope has been provided within the application identifying any proposed or expected location for a future dwelling.

The applicant has not provided any information in the application in relation to flood susceptibility, flood risk or flood behaviour and as a result, Council cannot be satisfied of the matters relating to the provisions contained within Clause 5.21(2)(a-d) and also 5.21(3)(a-d). As the consent authority must be satisfied of these matters prior to granting of consent, the application cannot be supported in its current form.

- **Clause 6.3 Terrestrial Biodiversity**

No vegetation is expected to be removed as part of the development and it is not expected that the development will impact either flora or fauna associated with the land. Consideration has been made of Clause 6.3(3) and Clause 6.3(4) and it is expected that that the development will not pose any unmanageable impacts.

- **Clause 6.4 Groundwater Vulnerability**

The site has been identified as an area of groundwater vulnerability. Any future development application for a dwelling house would require a section 68 application under the *Local Government Act 1993* for wastewater management. Any such application would be supported by a wastewater report prepared by a qualified and professional geotechnical engineer. No information has been provided in the current application with respect to the proposed location of any future dwelling house by identification of a building envelope. In the absence of the location of proposed building envelope and without a geotechnical analysis being submitted to identify that the land is capable of supporting an onsite sewer management system, groundwater vulnerability is unable to be assessed in accordance with the provisions of clause 6.4.

- **Clause 6.5 Riparian Lands and Watercourses**

The development as proposed is not expected to have any impact on the riparian land and watercourse given the application has proposed a subdivision of land. Accordingly, an assessment has been made in relation to Clause 6.5(3) and 6.5(4) and it is not expected that the development will have any likely impact on riparian lands and the watercourse associated with Bombowlee Creek and its tributaries.

- **Clause 6.6 Wetlands**

The development as proposed is not expected to have any impact on the wetlands given the application proposes a subdivision of land. Accordingly, an assessment has been made in relation to Clause 6.6(3) and Clause 6.6(4) and it is not expected that the development will have any likely impact on the wetlands of the Bombowlee Creek and its tributaries.

- **Clause 6.8 Landslide Risk**

A portion of the land has been identified as potential landslide risk and accordingly the controls under clause 6.8 of the Local Environment Plan must be considered. Appropriate investigations are required by way of a geotechnical analysis by a qualified, experienced and professional civil engineer of the land, to identify whether there is a potential for landslide and also to enable appropriate consideration of the controls under clause 6.8 of the Tumut LEP. Council is unable to grant consent to any application in the absence of any formal geotechnical analysis being undertaken to achieve the requisite level of satisfaction.

- **Clause 6.11 Essential Services**

The development is capable of being able to access electricity. Provision of electrical infrastructure is located within close proximity to the development and telecommunications are available for connection within proximity of the land.

Static water supplies will be required for the purposes of providing water to the development as reticulated water is not available due to the location of the proposal. No investigations have been made to ascertain whether onsite sewer management is capable of being undertaken on the subject land.

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 controls relating to Subdivisions in the RU1 Primary Production and requirements relating to all development are considered to be the most relevant and will be utilised for the assessment of the application.

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
Chapter 3 Requirements applying to all types of development			
3.2.1	Vehicle access standards	The proposal seeks to utilise existing access arrangements to the development. Any approval of the application will require a section 138 application to be lodged to upgrade the accesses.	Complies subject to conditions
3.2.2	Bushfire	As the land is mapped as bush fire prone land the development must comply with the relevant NSW Rural Fire Service Planning for Bushfire Protection Guidelines. The application was referred to the RFS under section 100B and a Bushfire Safety Authority has been issued dated the 30th November 2023.	Complies
3.2.3	Carparking	Sufficient carparking can be accommodated on both Lots 20 and 21.	Complies
3.2.4	Building over Council Land and Services	Not Applicable	Not Applicable
3.2.5	Contaminated Land	A search of Council's records and aerial photos indicates the site has a history associated with agricultural use including livestock grazing. A site inspection has not identified any animal dips, chemical storages or other potentially hazardous activities on the land. The land is not identified as contaminated on Council's	Complies

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
		contaminated land register or the EPA's register of contaminated sites. It is therefore unlikely that the site has experienced any known contamination. As such, the site is considered suitable for residential use in terms of contamination risk and further assessment is not necessary.	
3.2.6	Cut and Fill	No cut and fill is proposed as part of the application for subdivision.	Not Applicable
3.2.7	Demolition	No demolition is proposed as part of the application for subdivision.	Not Applicable
3.2.8	Development Near Electrical Easements	There is a powerline that traverses the site through proposed Lot 21. It is not expected that the subdivision will have any impact on the easement.	Complies
3.2.9	Erosion and Sediment Control	The development does not propose any excavation or other construction that would lead to erosion or sediment being produced. Any works proposed on upgrading accesses will be covered in any section 138 permit under the <i>Roads Act 1993</i> .	Complies
3.2.10	Flooding	The land may be flood liable given its proximity to Bombowlee Creek. No information has been submitted with the application to determine the land's flood susceptibility. In the absence of any detailed analysis being undertaken or provided, Council is unable to assess the application against compliance with the controls.	Non-Compliant
3.2.11	Heritage	The land is not identified as either a heritage item under Schedule 5 of the LEP nor in a heritage conservation area.	Not Applicable
3.2.12	Landscaping	No landscaping is proposed as part of this development.	Not Applicable
3.2.13	Onsite Waste Water Management	The application identifies that a potential dwelling entitlement will be attributed to proposed Lot 20. No geotechnical information has been submitted with the application to identify whether the land is capable of disposal of onsite sewer waste water. Both proposed lots are subject to ground water vulnerability.	Non-Compliant

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
3.2.14	Provision of Services	The provision of services such as electricity and telephone are available within the area for connection. No water or sewer reticulation is available and therefore will require onsite static supplies and on-site disposal (subject to Geotech investigations and approvals - no information on land capability has been provided).	Compliant – in part
3.2.15	Retaining Walls	The application does not seek to provide any retaining of earth as part of the subject application.	Not Applicable
3.2.16	Safer by design	These controls relate to buildings and site design. The subject application seeks consent for the purposes of subdivision only.	Not Applicable
3.2.17	Stormwater / roof water management	These controls relate primarily to buildings. The subject application seeks consent for the purposes of subdivision only.	Not Applicable
Chapter 9.0 Subdivisions			
	Subdivision Objectives	These controls relate more broadly to all types of subdivisions. The proposed lots incorrectly utilise the provisions of clause 4.2C of the LEP and therefore the development is not (in part) considered to be in accordance with the overall broader objectives of the controls.	Compliant – in part
Chapter 9.8 Rural Subdivisions			
9.8.1	General considerations	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. In addition, how the subdivision proposal responds to the existing site attributes and constraints. These controls relate to subdivision in the RU1 and C3 zones. No information has been provided in the statement to indicate the building envelope for any potential dwelling. Accordingly, the proposal is unable to be assessed as suitable.	Complies in part
9.8.2	Adjoining development	Any future development would need to consider adjoining or nearby development, in relation to possible	Complies

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
		<p>land use conflicts, the need for any buffer areas and the impacts of the subdivision on primary production activities on adjoining land.</p> <p>No information has been provided in the application on likely building envelopes on Lot 20. An assessment on the potential impact is unable to be made in the absence of such information. From inspection, adjoining land uses appears to be grazing and other agricultural pursuits. No intensive agricultural pursuits have been observed requiring additional buffer areas.</p>	
9.8.3	Fencing	Existing fencing is proposed to be utilised for the purposes of the new lot arrangements.	Complies
9.8.4	Lot size, shape and orientation	<p>The proposed lots within the application identify areas which are below the minimum allotment size on the minimum lot size map. The application seeks to incorrectly utilise the provisions under clause 4.2C of the Tumut Local Environmental Plan 2012.</p> <p>The proposed orientation and shape of the allotments complies with the controls identifies with the relevant controls of the clause.</p>	Complies in part
9.8.5	Natural Hazards and Risks	<p>The site is mapped as being bushfire prone. It may be susceptible to flooding being within close proximity of Bombowlee Creek. The application has been referred to the Rural Fire Service under section 100B of the <i>Rural Fires Act 1997</i> and has received a Bushfire Safety Authority issued by the Rural Fire Service.</p> <p>The applicant has not provided any information in the application in relation to flood susceptibility, flood risk or flood behaviour and as a result, Council cannot be satisfied of the matters relating to the provisions contained within the controls.</p>	Complies in part
9.8.6	On-site sewer wastewater management	The application identifies that a dwelling entitlement will be attributed to proposed Lot 20. No geotechnical information has been submitted with	Non-compliant.

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
		the application to identify whether the land is capable of disposal of on-site sewer wastewater. Both proposed lots are subject to ground water vulnerability.	
9.8.7	Roads and Access	The application identifies that the existing access arrangements will be retained. Should the application be supported, an application under section 138 of the <i>Roads Act 1993</i> will be required to upgrade the accesses.	Complies
9.8.8	Rural Addressing	An application for Rural Addressing will be made should the application be supported. Rural addressing is capable of being supplied in accordance with Council Policy and the Australian Standard.	Complies
9.8.9	Services	The provision of services such as electricity and telephone are available within the area for connection. No water or sewer reticulation is available and therefore will require on-site static supplies and on-site disposal (subject to Geotech investigations and approvals)	Complies in part
9.8.10	Water Supply	Reticulated water is not available to the site and accordingly any water requirements will be required to be met via onsite static water supply (ie tanks).	Complies

It is considered that the main departures from the Snowy Valleys Development Control Plan 2019 (DCP) relate primarily to natural hazards and risk, on-site sewer management and the overall objectives relating to the incorrect use of Clause 4.2C of the *Tumut Local Environment Plan 2012*. The departures have been as a result of limited information including provision of geotechnical analysis, information surrounding flood susceptibility and provision of proposed building envelopes on the plans to correctly assess associated impacts. It is considered that the proposal is not consistent with all relevant controls of the DCP 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)(iia) - any planning agreement that has been entered into under section 7.4 of the EP&A Act.

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

Contribution Plans

Section 7.11 Contributions

Council's Contributions Plan (Section 94 Contributions for Parks and Recreation 2005-2015) and Section 94 Assessment Policy applies to the site. An assessment has been made against the provisions of these plans and as no additional lots are proposed to be created above the existing number of allotments and accordingly no contribution is payable.

Regulations

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

Section 4.15(1)(a)(iv) of the EP&A Act requires the consent authority to consider any prescribed matters under the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation). Council has assessed the development in accordance with all relevant matters prescribed by the EP&A Regulation.

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

Section 4.15(1)(b) of the EP&A Act requires Council to consider "the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality".

- *Natural Environment - 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 and desired scenic qualities and features, the character and amenity of the 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 setting.

The development as proposed is not expected to have any unmanageable impacts on the natural environment with the exception of flooding and groundwater vulnerability in the case where a geotechnical analysis has not been provided to identify whether the land is capable of on-site waste management. Such report is required to enable Council to appropriately assess the suitability of the land for disposal of onsite sewer management waste. A geotechnical report is also required to assess the potential for landslip on the subject allotments.

No land clearing is proposed as part of this development and accordingly, it is not expected that the subdivision will have any unmanageable impacts on natural vegetation on either of the proposed lots.

- *Built Environment*

It is not expected that the development as proposed will have any impact on the built environment.

The site is not identified as an item of heritage in accordance with Schedule 5 of the Tumut Local Environment Plan 2012 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.

- *Social*

It is not expected that the development as proposed will have any expected social impacts.

- *Economic*

It is not expected that the development as proposed will have any expected broader economic impacts

Suitability of the site for the development

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

The proposed development is not considered to be incompatible with the localities existing or desired character and amenity.

The application has not nominated any proposed building envelope of any potential dwelling entitlement on proposed Lot 20 in the future. The omission of such information and the omission of information on the flood susceptibility of Bombowlee Creek has prevented the proper assessment of the site in relation to natural hazards and also any potential impact in relation to any location of a future dwelling. The application has also identified that Lot 20 will be utilised for residential and agricultural purposes

The suitability of the site for on-site sewerage disposal has been unable to be assessed as a result of insufficient information being provided in support of the application.

The site will retain its existing access arrangements however, if supported, an application will be required under section 138 of the *Roads Act 1993* to upgrade the accesses.

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.

No submissions were received in relation to the proposal (See Community Participation Plan section of this report).

Public Interest

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

The development in its submitted form is unlikely to provide additional housing opportunity as Council has acknowledged a potential dwelling entitlement created under Clause 4.2B(3) of the *Tumut Local Environment Plan 2012* for Lot 299 as a holding. The proposal seeks to further fragment the land by excising the proposed agricultural allotment and the lot proposed to be used both for residential and agriculture which is not in the public interest. The application seeks to incorrectly rely upon the Clause 4.2C of the *Tumut Local Environment Plan 2012* which is considered to not be in 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:

Referrals	Advice / Response / Conditions
New South Wales Rural Fire Service (s100B of the <i>Rural Fires Act 1997</i>)	New South Wales Rural Fire Service has provided its Bushfire Safety Authority supporting the proposal dated 30 November 2023 subject to general terms of approval.

Internal Referrals:

Referrals	Advice / Response / Conditions
Coordinator Survey and Design	The application was referred to Council's Coordinator Survey and Design who has identified that the existing accesses relating to the development will be required to be upgraded as part of a section 138 application.

Community Participation Plan – Notification

Notification was required to be undertaken in accordance with Council's Community Participation Plan (CPP). No submissions have been received in relation to the proposal.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**Integrated Planning and Reporting Framework:****Community Strategic Plan Theme**

Theme 3 - Our Environment

Community Strategic Plan Strategic Objectives

CSP3 Our natural environment is cared for and protected to ensure future generations can experience and enjoy its beauty

Delivery Program Principal Activities

3.3 Provide a planning and development framework that enhances local amenity through sustainable growth

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 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 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 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 2021.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/ REWARD
Legal	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	The refusal of the application will uphold Council's planning controls with respect to rejecting inappropriate

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/ REWARD
		Planning and Environment for the departure to a development standard.	residential development in the locality.

OPTIONS:

Option 1. THAT Council:

1. Determine Development Application DA2023/0120 which seeks development consent for a boundary adjustment (subdivision) of two lots at Bombowlee Creek Road, Bombowlee, by way of refusal, for boundary adjustment of lots into two Torrens title lots for use as rural residential and transfer of a dwelling entitlement to an unrelated new lot to the north at Lot 299 DP 750991 and Lot 3 DP 1066038, for the following reasons:
 - a. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*, the proposed development is inconsistent with the objectives of the RU1 Primary Production zone of the Tumut Local Environmental Plan 2012;
 - b. Pursuant to Section 4.15(1)(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(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal is incapable of compliance with clause 4.2C of the Tumut Local Environment Plan 2012 as:
 - i. the changes to the boundaries of the lots are so significant that the proposed development cannot be considered to be “adjusting” the boundary;
 - ii. the two resulting lots bear little resemblance to the lots currently in existence;
 - iii. the sizes of the new allotments are changed through the proposal so significantly that it is more than simply a slight or marginal adjustment to boundaries.
 - d. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposal is unsatisfactory in respect to ‘Requirements Applying to All Development’. In particular, Parts 3.2.10 and 3.2.14 and Rural Subdivision Part 9.8 of Snowy Valleys Development Control Plan with particular reference to Parts 9.8.1, 9.8.4, 9.8.5, 9.8.6 and 9.8.9;
 - e. Pursuant to Section 4.15(1)(b) *Environmental Planning and Assessment Act 1979*, insufficient information has been provided to assess the level of impact on the locality in respect of natural hazards;
 - f. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided to determine the suitability of the proposed development;
 - g. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided in the application to satisfy the requirements of Clause 5.21 of the Tumut Local Environment Plan in particular the flood susceptibility, associated flood risk or behaviour of Bombowlee Creek. Proposed Lot 20 has been identified for the purposes of residential development and may be flood liable land;
 - h. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided in the application to satisfy Clause 6.8 of the Tumut Local Environment Plan 2012 and accordingly the requisite level of satisfaction has not been achieved to ensure that the land is not susceptible to the natural hazards associated with landslip;
 - i. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided in the application to satisfy Clause 6.4 of the Tumut Local Environmental Plan 2012 relating to groundwater vulnerability. No geotechnical analysis has been

undertaken to ensure that the land is capable of disposal of onsite sewerage waste relating to any proposed lot that will be utilised for the purposes of a residential dwelling and agriculture; and

j. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the development is not considered to be in the public interest.

Option 2. THAT Council determine Development Application DA2023/0120 which seeks development consent for a boundary adjustment of lots at Bombowlee Creek Road, Bombowlee by way of approval subject to standard conditions of consent in Attachment 3.

Option 3 THAT Council defer any decision pending additional information to be provided by the applicant.

Option 1 is recommended.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Any community engagement / notification requirements have been identified within the body of this report.

ATTACHMENTS

1. 20231128 - Statement of Environmental Effects - 702-712 Bombowlee Creek Road Bombowlee (Under separate cover)
2. Proposed Boundary Adjustment and Site Plan - 702-712 Bombowlee Creek Road Bombowlee (Under separate cover)
3. Without Prejudice Draft Conditions - DA2023/0120 - 702-712 Bombowlee Creek Road Bombowlee (Under separate cover)
4. Confidential - 20220219 - Dwelling Entitlements - Shaw Reynolds Lawyers (Under separate cover)

11.3. TUMBARUMBA START STRONG PRESCHOOL - REQUEST FOR REFUND AND WAIVER OF FEES AND CHARGES

REPORT AUTHOR: EXECUTIVE MANAGER GROWTH AND DEVELOPMENT

RESPONSIBLE OFFICER: INTERIM GENERAL MANAGER

EXECUTIVE SUMMARY:

Council is in receipt of a request from the Tumbarumba Start Strong Preschool (TSSP) to refund development fees associated with an application to construct a preschool at 97 King Street, Tumbarumba. The proponent has recently lodged a development application for a proposed 'centre-based childcare facility' and has paid the fees associated with the lodgement of the development application. The request seeks to refund the development fees and to waive other Council fees and charges associated with the application.

In the absence of a formal policy position of the Council relating to refunding or waiving of development fees for not-for-profit organisations, Council staff are unable to consider such request under delegation and accordingly have forwarded the request to full Council for consideration.

RECOMMENDATION:

THAT COUNCIL:

- 1. Refund the Council related development application fee and notification costs of DA 2023/0155 (excluding state government levies being plan first levy and commissions and the planning portal lodgement fee). The total refundable amount being \$4,217.29 GST not applicable;**
- 2. Waive the Construction Certificate application fee where Council is nominated as the Principal Certifier including inspection fees and Occupation Certificate application associated with DA 2023/0155 (excluding State Government statutory fees such as Long Service Levy and Long Service Levy Commissions). The total amount waived being \$8,678 Inc GST;**
- 3. Waive the Section 68 *Local Government Act 1993* Approval fees associated with DA 2023/0155. The total amount waived being \$176 GST not applicable.**
- 4. Waive the Section 138 *Roads Act 1993* application fees associated with DA 2023/0155, being \$352 GST not applicable; and**
- 5. Record the donation of \$13,423.29 to the Tumbarumba Start Strong Preschool in the Snowy Valleys Council Annual Report for community donations.**

BACKGROUND:

The Tumbarumba Start Strong Pre-School (TSSP) Committee was formed in February 2022 seeking to address early education shortages in Tumbarumba. The organisation made application to the New South Wales Government's Start Strong Program and was awarded a grant in August 2022 to develop a centre-based childcare facility.

The organisation has worked with Council in the identification of a site and has since identified a parcel of land at 97 King Street Tumbarumba which is currently owned by Council and is considered to be surplus land. The land is zoned RE1 and following submission of a development application in 2022, it was identified that the RE1 zone did not permit Centre-Based Child Care Facilities and accordingly the development application was withdrawn in 2023 and a planning proposal process was commenced to provide an additional permitted use (APU) on the site under Schedule 1 in the Tumbarumba Local Environment Plan 2012. The APU is currently on public exhibition following a gateway determination being issued by the Department of Planning and Environment in November 2023.

The issue of a gateway determination notice permits under the *Environmental Planning and Assessment Act 1979* and Regulation (2021) for a development application to be lodged with Council for the intended use of the site however the application is unable to be determined until such time as the LEP amendment is gazetted and the additional permitted use is inserted in the Local Environment Plan.

The development application for a Centre based childcare facility was re-lodged with Council on 24 November 2023 and the proponent has paid the fee in accordance with Council's adopted fees and charges for 2023/2024 being \$5,810.39. The proponent had formally written to Council prior on 6 November 2023 requesting that Council consider the refund of the development application fees and the waiving of other associated Council development fees.

REPORT:

Council adopted its fees and charges for 2023/2024 in June 2023 which requires any applicant lodging a development application or an associated construction certificate with Council to pay the required fee based on the capital investment value of the development. Local Development Approval Fees and also Permits under the *Roads Act 1993*, are a set fee and are not based on the value of the development.

These fees are established by resolution of Council and are unable to be amended or waived under section 377 or section 378 of the *Local Government Act 1993* unless the Council has provided such delegation to the General Manager or the Council resolves to waive or amend the fees in particular circumstances. Accordingly, the applicant's request is beyond the delegation of the General Manager and by default any staff delegation.

The development application for the centre-based child care facility identifies that the capital investment cost will be \$2,756,399 and accordingly the expected application fees would be, if all applications are lodged within the 2023/2024 financial year period:

Fee Description	Fee amount
Development Application fee	\$4,041.29
State Government Plan First Levy and Commission	\$1,769.10
Community Participation Plan - Notification fees	\$176.00
Construction Certificate	\$7,321.00
State Government Long Service Levy and Commission - (Paid directly to the NSW Government by the applicant as of 1 November 2023)	Note only.
Inspection fees - (based on an expected 6 inspections)	\$1,089.00
Occupation Certificate Fee	\$268.00
Section 68 Certificate - Sewer / Water and Stormwater permits	\$176.00
Section 138 Permit - Works in the road reserve and Special Crossings	\$352.00

The applicant has paid the Development Application fee and notification fees being \$5,986.39 which includes the State Government Levies and Commissions (being items 1,2 and 3 above) and is requesting a refund of the Council fees being \$4,217.29 (Excluding State Government Levies and Commissions). The applicant is requesting however that the Construction Certificate, Inspection Fees, Occupation Certificate Fee and the Local Government Approvals and Section 138 Roads Act Permit Fees be waived by Council (Excluding State Government Long Service Levy and Commissions).

The request also seeks to have the costs associated with development contributions and Developer Services Plan (DSP) charges waived, however, the development will not trigger these contributions as there is no current contributions plan or developer services plan applicable to Tumbarumba. Accordingly, Council will not be required to consider waiving such contributions.

The TSSP Committee is an incorporated not-for-profit organisation that is seeking to provide a facility which will address community shortfalls in adequate early education to the benefit of the local community. The establishment of the preschool will assist in both early education of children and also provide

appropriate care to children whose parents are employed within the region or are otherwise actively engaged in the Tumbarumba area. Council's support of such a facility is expected to have broad positive impacts on the Tumbarumba local community.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Community Strategic Plan Theme

Theme 1 - Our Community

Theme 2 - Our Economy

Theme 5 - Our Civic Leadership

Community Strategic Plan Strategic Objectives

CSP1 Our communities are connected and inclusive. Supported by services that nurture health, wellbeing and identity

CSP2 Our diverse economy supports community longevity, vibrancy and a sustainable future

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community

Delivery Program Principal Activities

1.1 Provide services that support our community in all stages of life

2.4 Attract and support local business and industry

5.6 Proactively support and advocate for the needs of the community to other level of government and organisations

FINANCIAL AND RESOURCES IMPLICATIONS:

The costs associated with the refund or waiving of fees (excluding state government fees and levies) will be an opportunity cost of revenue for the Council of \$13,423.29

The state government fees including Planning Reform Fund (PRF) and Long Service Levy (LSL) and commissions will be required to be paid to the State Government. If Council would be required to be pay these costs, it would be a direct cost to the Council. From 1 November 2023, applicants are required to pay the NSW Government Long Service Levy Payments directly whilst Council continues to pay the Planning Reform Fund Fee and Commission from the development application fee being \$1769.10. The refund of any development application fee does not include this amount.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Council's fees and charges are levied under the New South Wales *Local Government Act 1993*. There is no current delegation to the General Manager under section 377 of the *Local Government Act 1993* to vary, modify or waive such fees and, accordingly, Council will be required to consider any request for refund or waiving of a fee.

Council currently does not have a policy position for the consideration of waiving of fees for not for profit organisations, and accordingly, Council staff apply the fees in accordance with the adopted fees and charges to all development lodged with Council. Council does, however, have the ability to refund or waive a fee should it resolve to so at its discretion. Any resolution to provide a contribution should be recorded in the annual report as a donation.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/ REWARD
Financial	Reduction in revenue opportunity to cover services provided.	It is expected that the costs associated with the refund in development fees and waiving of Council fees for ancillary certificates and approvals would be \$13,423.29. This is an opportunity cost rather than a direct cost to the Council.	Providing financial support to the Tumbarumba Start Strong Preschool will ensure that important community infrastructure is developed to assist in meeting the immediate child care and early education needs of the community in Tumbarumba and the broader region.

OPTIONS:

Option 1:

THAT COUNCIL:

1. Refund the Council related development application fee and notification costs of DA 2023/0155 excluding state government levies being plan first levy and commissions and the planning portal lodgement fee. The total refundable amount being \$4,217.29 GST not applicable;
2. Waive the Construction Certificate application fee where Council is nominated as the Principal Certifier including inspection fees and Occupation Certificate application associated with DA 2023/0155, (excluding State Government statutory fees such as Long Service Levy and Long Service Levy Commissions). The total amount waived being \$8,678 Inc GST;
3. Waive the Section 68 *Local Government Act 1993* Approval fees associated with DA 2023/0155. The total amount waived being \$176 GST not applicable;
4. Waive the Section 138 *Roads Act 1993* application fees associated with DA 2023/0155, being \$352 GST not applicable; and
5. Record the donation of \$13,423.29 to the Tumbarumba Start Strong Preschool in the Snowy Valleys Council Annual Report for community donations.

Option 2

THAT COUNCIL:

Consider providing a lesser amount than the full refund of development application fees (excluding PRF and Commissions) and waiving a lesser amount than the full cost of Certificates and Permits with an alternative amount or percentage of the costs (excluding Levies and Commissions).

Option 3

THAT Council not refund the development application fees and not provide any waiving of its adopted fees and charges for certificates and ancillary approvals.

Option 1 is recommended.**COUNCIL SEAL REQUIRED:**

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

No community engagement was required as part of this report.

ATTACHMENTS

1. Tumbarumba Start Strong Preschool Request for Refund / Waiving of Fees and Charges - 6 November 2023. (Under separate cover)

11.4. THE BATLOW CIDER RAIL TRAIL - STEERING COMMITTEE

REPORT AUTHOR: COORDINATOR PLACE ACTIVATION

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

This report seeks to establish a steering committee for the Batlow-Tumut Rail Trail - Stage 1: Batlow to Wybalena project; "The Batlow Cider Rail Trail", in alignment with the NSW Government's Rail Trails Framework, ensuring adherence to best practices and criteria for securing support and grants. The purpose of the committee will be to drive the successful implementation of the project through Council-community collaboration and responsible governance. Its membership will include elected Council representatives, specialised Council and community representatives, while guest experts may be invited when needed for specialist advice and insights on rail trail impacts.

RECOMMENDATION:

THAT COUNCIL:

- 1. Rename the 'Batlow-Tumut Rail Trail - Stage 1: Batlow to Wybalena' to the 'Batlow Cider Rail Trail';**
- 2. In accordance with the NSW Rail Trails Framework 2022, establish the Batlow Cider Rail Trail Steering Committee; and**
- 3. Authorise the General Manager to engage with Transport for NSW for the purposes of obtaining a lease of the Batlow Cider Trail rail corridor.**

BACKGROUND:

The proposed Batlow Cider Rail Trail is a 2880m trail beginning at the Batlow Caravan Park, following the rail corridor to Wybalena. The trail is proposed to then extend from the rail corridor at Wybalena and veer along Herrings Road to link the Apple Thief Cider House, an additional 1200m.

The lease for the rail corridor, is for the 2880m from the Batlow Caravan Park to Wybalena, plus the adjoining section from Banksia Avenue (proposed trail head in the Tracks and Trails Masterplan) to the Batlow Caravan Park an additional 1520m. The lease requested would be for a total of 4400m only.

REPORT:

To progress the development of the Batlow-Tumut Rail Trail - Stage 1: Batlow to Wybalena project, hereafter known as the 'Batlow Cider Rail Trail' project, Council must follow the NSW Government's Rail Trails Framework. The framework is segmented into four stages:

1. Proposing a Rail Trail
2. Regulation Process and Rail Trail Lease
3. Construction
4. Operation and Maintenance

The first stage requires the adoption of the idea by Council, which was completed in August 2023 with resolution M129/23.

M129/23 RESOLVED:**THAT COUNCIL:**

1. Prioritise delivery of the Batlow to Tumut Rail Trail - Stage 1: Batlow to Wybalena project, should suitable and substantial funding become available;
2. Prioritise delivery of the Tumut River Walk project, currently costed at \$257,897.00, should funding for a smaller project become available;
3. Work with the Toomaroombah Kunama Namadgi Indigenous Corporation (TKNIC) to continue to explore options with the Gudja Gudja Mura Trail and monitor funding opportunities to enable delivery of this project;
4. Note that detailed specifications for delivery of any project are to be reviewed and confirmed prior to any funding application;
5. Seek advice as to the process for accessing and/or leasing the Rail Corp. corridor from Batlow to Wybalena and a further report or workshop be provided to Council.

Cr Julia Ham/Cr Sam Hughes

For: Cr Armour, Cr Chaffey, Cr Ham, Cr Hughes, Cr Livermore, Cr Thomson

Against: Cr Hayes, Cr Larter

6 / 2

CARRIED

This is then followed by the establishment of a steering committee as per the guidelines set out in the [NSW Government's Rail Trails Framework](#).

These guidelines provide a structured and well-defined path for rail trail proponents which has support from the NSW Government. Aligning with the Framework ensures that the project follows established best practice models, meets the essential criteria outlined by the government, and maximises the chances of securing government support and grants. In doing so, it not only facilitates the successful implementation of the project but also underscores the Council's commitment to responsible and transparent governance while addressing the needs and expectations of the community. Adherence to the Framework will help create a robust and sustainable foundation for the Batlow Cider Trail project.

The formation of the steering committee for the Batlow Cider Rail Trail project is an essential step, fulfilling the following purpose:

The Committee's primary goal is to drive the Batlow Cider Rail Trail project forward, ensuring its successful implementation;

Develop community ownership and partnership with community stakeholders for the project;

Serve as a platform for council and community collaboration, fostering collective insights, expertise and collaborative decision-making; and

Adhere to the NSW Government's Rail Trails Framework, providing governance and oversight to meet project criteria and secure funding.

Once the Steering Committee is established, Council will engage with Transport for NSW as per the guidelines set out in the NSW Government's Rail Trails Framework, to progress the leasing arrangements. Transport for NSW will seek landowner consent, undertake an extensive land assessment, provide information on boundaries, how to access the land, and any existing lease arrangements.

The construction of the Batlow Cider Rail Trail is dependent on suitable and substantial funding becoming available. As per the guidelines, Council will also need to demonstrate a viable and sustainable business model to meet the essential criteria before funding can be obtained. However, should suitable funding become available, Council will be in a position to apply.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**Integrated Planning and Reporting Framework:****Community Strategic Plan Theme**

Theme 1 - Our Community

Theme 2 - Our Economy

Theme 4 - Our Infrastructure

Community Strategic Plan Strategic Objectives

CSP1 Our communities are connected and inclusive. Supported by services that nurture health, wellbeing and identity

CSP2 Our diverse economy supports community longevity, vibrancy and a sustainable future

CSP4 Our infrastructure includes Council services that plan, manage, maintain and renew our community infrastructure and transport networks

Delivery Program Principal Activities

1.2 Provide and maintain community spaces that encourage activity and wellbeing

2.1 Support the development of diverse local tourism offering and emerging markets

4.1 Plan and provide sustainable transport infrastructure, including footpaths, walking tracks and cycleways

FINANCIAL AND RESOURCES IMPLICATIONS:

Nil

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

NSW Rail Trails Framework.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Nil

OPTIONS:

1. Adopt as per recommendations set out in this report - preferred option.
2. Amend the recommendations set out in this report.
3. Decline the recommendations set out in this report.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:**External Communication:**

On 26 July 2022, the Batlow to Tumut Rail Trail Association Incorporated wrote to Council requesting Council establish a Steering Committee for the development of a business case for the entire Batlow to Tumut Rail Trail.

In August 2022, Council deferred M233/22 to establish a Steering Committee for the Batlow to Tumut Rail Trail until further consultation was undertaken with the Gilmore community.

10.2. BATLOW TUMUT RAIL TRAIL PROJECT**MOTION:****THAT COUNCIL:**

1. In accordance with the NSW Rail Trails Framework 2022 establish a Steering Committee in order to progress the first five steps in *Stage 1: Proposal for the Batlow Tumut Rail trail Project*;
2. Join with Batlow Tumut Rail Trail Association Inc. to submit a joint application for the *Regional NSW – Business Case and Strategy Development Fund, Stream One: Regional Significance*.

Trina Thomson/Julia Ham

M233/22 RESOLVED that Item 10.2 'Batlow Tumut Rail Trail Project' be deferred until consultation occurs with the Gilmore community.

The Snowy Valleys Regional Tracks and Trails Masterplan was developed and then adopted M34/23 by Council on 16 March 2023. Community engagement was undertaken during the development of the Snowy Valleys Regional Tracks and Trails Masterplan in relation to the project.

10.5. SNOWY VALLEYS REGIONAL TRACKS AND TRAILS MASTERPLAN - FOR ADOPTION**M34/23 RESOLVED:****THAT COUNCIL:**

1. Note the report on the Snowy Valleys Regional Tracks and Trails Masterplan; and
2. Adopt the Snowy Valleys Regional Tracks and Trails Masterplan.

Cr Sam Hughes/Cr Julia Ham

CARRIED UNANIMOUSLY

The Batlow Tumut Rail Trail Association Incorporated successfully secured a grant of \$13,500 from the NSW Government to fund the update of the 2006 Batlow-Tumut Rail Trail Feasibility Study. Michael Halliburton Associates were engaged by the Association to carry out this update. The release of the refreshed study was completed in April 2023.

On 7 June 2023, the Batlow to Tumut Rail Trail Association Incorporated met with Council and held a workshop to discuss the Feasibility Study update.

In August 2023, Council resolved M129/23 to prioritise the delivery of a trail from Batlow to Wybalena.

M129/23 RESOLVED:**THAT COUNCIL:**

1. Prioritise delivery of the Batlow to Tumut Rail Trail - Stage 1: Batlow to Wybalena project, should suitable and substantial funding become available;
2. Prioritise delivery of the Tumut River Walk project, currently costed at \$257,897.00, should funding for a smaller project become available;
3. Work with the Toomaroombah Kunama Namadgi Indigenous Corporation (TKNIC) to continue to explore options with the Gudja Gudja Mura Trail and monitor funding opportunities to enable delivery of this project;
4. Note that detailed specifications for delivery of any project are to be reviewed and confirmed prior to any funding application;
5. Seek advice as to the process for accessing and/or leasing the Rail Corp. corridor from Batlow to Wybalena and a further report or workshop be provided to Council.

Cr Julia Ham/Cr Sam Hughes

For: Cr Armour, Cr Chaffey, Cr Ham, Cr Hughes, Cr Livermore, Cr Thomson

Against: Cr Hayes, Cr Larter

6 / 2

CARRIED

On 21 August 2023, the Batlow to Tumut Rail Trail Association Incorporated notified Council that the Committee were developing a 'Trails Development Plan' which will be gifted to Council.

In October 2023, Council met with the Batlow to Tumut Rail Trail Association Incorporated to discuss current activities and the development plan progress.

In November 2023, the Batlow to Tumut Rail Trail Association Incorporated provided Council with a draft Batlow Wybalena Rail Trail Master Plan for the construction of the Batlow Cider Trail.

Council will undertake engagement with a number of stakeholders and government agencies as the project progresses. Community engagement and communication will be undertaken in alignment with Council's Community Engagement Policy.

ATTACHMENTS

1. NSW Rail Trails Framework 2022 (Under separate cover)

11.5. ELECTRIC VEHICLE (EV) CHARGING STATIONS

REPORT AUTHOR: COORDINATOR PLACE ACTIVATION

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

This report provides information regarding the Drive Electric NSW EV Destination Charging Grant currently open with the Office of Energy & Climate Change. The report outlines the grant funding guidelines, proposed site locations for Electric Vehicle (EV) charging infrastructure and proposed costs to Council. It is recommended that Council consider applying for the Drive Electric NSW EV Destination Charging Grant.

RECOMMENDATION:

THAT COUNCIL:

1. **Endorse in principle participation in the Drive Electric NSW EV Destination Charging Grant Fund to apply for Electric Vehicle (EV) Charging stations in Tumut and Tumbarumba;**
2. **Consider partnering with a third party to assist in funding the contribution costs of the EV Charging stations in Tumut and Tumbarumba, and submit additional applications for charging stations in partnership with the third party who will cover the contribution costs; and**
3. **Note the proposed EV Charging locations in the report, being the Capper Street car park in Tumut and in the Union Lane car park in Tumbarumba.**

BACKGROUND:

The NSW Government is delivering EV Destination Charging Grants to regional NSW across separate funding rounds. A total of \$10 million of funding is available in the current round (round 2).

Demand for electric vehicles (EVs) in Australia is growing, with the EV market share increasing by 65% in 2022 to 3.4% of new light vehicle car sales (EV Council, 2022). Projections suggest a substantial shift in the next 25 years, with the likelihood that the majority of new passenger vehicles sold in Australia will be electric, aligning with the global trend as major car manufacturers commit to exiting the Internal Combustion Engine (ICE) market. The Federal and State Governments are actively implementing policies and allocating resources to support and accelerate this transition.

The Snowy Valleys LGA currently does not have any public charging points; there are a small number of EV Charging stations located at private businesses for their patrons only.

REPORT:

Council currently has the opportunity to apply for the Drive Electric EV Destination Charging Grant currently open with the NSW Office of Energy & Climate Change.

The Drive Electric NSW EV Destination Charging Grant will fund:

- **EV charger hardware:** Up to 75% towards the cost of eligible 7kW and 22kW EV chargers from the grant's eligible EV charger and software list. The maximum 75% funding is capped at the supplier's recommended retail price of each EV charger from the grant's eligible EV charger and software list. Sites can apply for funding towards a maximum of 4 charge ports per site.
- **EV charger installation:** Up to 75% towards the cost of EV charger installation. The maximum 75% funding available is capped at \$3,000 per single port charger and \$6,000 per dual port charger (\$3,000 per charge port).
- **EV charger software subscription:** Up to 75% towards the cost of the first year of an eligible annual software subscription, per charge port, from the grant's eligible EV charger and software

list. The maximum 75% funding available is capped at the supplier’s base pricing for the respective software platform on the grant’s eligible EV charger and software list.

Council have assessed suitable locations for the EV Charging stations and have proposed:

Site 1: Snowy Valleys Council, Riverina Highlands Building Public Carpark, Tumut

Infrastructure

2 x dual port 22kW charger (2 charging ports, 2 car parks).

A total of 4 charging ports.

Site Details

Located at the rear of 76 Capper St on the northern side of the Council building in an off-street carpark.

This carpark is centrally located, within a short walking distance of various cafes, restaurants, retailers and accommodation providers. This area contains street lights, improving safety perception at night. This site has access to the three-phase power supply located within the Council building.

The proposed site is owned by Council, as indicated by the yellow box in the image below, the EV Charging stations will be located within this area:



Estimated Cost Breakdown:

Item	Description	Cost (before grant)	Covered by Grant	One-Off Initial Cost to Council	Ongoing Cost to Council Per Annum
Charger	2 x dual port 22kW charger	\$16,800	\$12,600	\$4,200	
Installation	Cable, conduit + labour	\$9,745	\$7,308	\$2,437	
Software		\$1,560/year	\$1,170 (first year only)	\$390/year (first year)	\$1,560/year (ongoing)

Item	Description	Cost (before grant)	Covered by Grant	One-Off Initial Cost to Council	Ongoing Cost to Council Per Annum
Maintenance	4 x port	\$0	\$0		\$1,860/year (ongoing)
Total cost to Council				\$7,027	\$3,420/year (ongoing)

Site 2: Snowy Valleys Council Carpark, Union Lane, Tumbarumba

Infrastructure

2 x dual port 22kW charger (2 charging ports, 2 cark parks)

A total of 4 charging ports.

Site Details

Located between Union Lane and Winton Street in an off-street carpark.

This carpark is centrally located, within short walking distance of various cafes, restaurants, retailers and accommodation providers and also has public toilets. This area contains street lights, improving safety perception at night. The site has access to 3 phase power via an electric pit on the nature strip.

The proposed site is owned by Council, as indicated by the yellow box in the image below, the EV Charging stations will be located within this area:



Estimated Cost Breakdown:

Item	Description	Cost (before grant)	Covered by Grant	One-Off Initial Cost to Council	Ongoing Cost to Council Per Annum
Charger	2 x dual port 22kW charger	\$16,800	\$12,600	\$4,200	
Installation	Cable, conduit + labour	\$7,350	\$5,512.50	\$1,837.50	
Software		\$1,560/year	\$1,170 (first year only)	\$390/year (first year)	\$1,560/year (ongoing)
Maintenance	4 x port	\$0	\$0		\$1,860/year (ongoing)
Total cost to Council:				\$6,427.50	\$3,420/year (ongoing)

Alternative Funding Options

Investigation is currently underway to assess the possibility for Council to partner with a third party to assist funding the contribution cost of the EV Charging stations in Tumut and Tumberumba. If agreed, Council will consider applying for additional charging stations locations as selected by the third party, under the pretence that the third party will cover the contribution cost of the additional units and there are no initial costs to Council.

Once installed, Council has the option to charge for usage. Pricing can be set based on rates of electricity. This will cover the cost of electricity usage for the vehicle charging, making it a cost-neutral expense to Council. Council can then increase the rate charged to contribute to the yearly software and maintenance expenses, reducing the burden on Council budgets.

Tourism and Economic Impact

The availability of charging infrastructure is critical for improving our tourism industry in the Snowy Valleys. The installation of EV chargers has the potential to attract new visitors to our region, enhance the visitor experience and increase the amount of time visitors spend within our LGA. Locations with EV charging facilities are also promoted across a variety of online and app-based programs, further extending our destination marketing.

Improving our EV infrastructure would increase usage of our tourism drives including The Snowy Valleys Way, The Snowy Valleys Nature Wellness Drive, Tracks and Trails and The Snowy Valleys Sculpture Trail.

The installation of EV Charging stations will further support the local economy by providing an option of central charging which allows residents to utilise this service when attending the local shops and service providers.

Grant applications close 3 May 2024.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**Integrated Planning and Reporting Framework:****Community Strategic Plan Theme**

Theme 2 - Our Economy

Theme 3 - Our Environment

Theme 4 - Our Infrastructure

Community Strategic Plan Strategic Objectives

CSP2 Our diverse economy supports community longevity, vibrancy and a sustainable future

CSP3 Our natural environment is cared for and protected to ensure future generations can experience and enjoy its beauty

CSP4 Our infrastructure includes Council services that plan, manage, maintain and renew our community infrastructure and transport networks

Delivery Program Principal Activities

2.1 Support the development of diverse local tourism offering and emerging markets

3.1 Create climate resilience through our actions and advocacy

4.2 Manage and plan for affordable infrastructure to meet current and future community needs

FINANCIAL AND RESOURCES IMPLICATIONS:

The Destination Charging Grant is based on a co-funded model. The grant covers up to 75% of 7kW and 22kW EV chargers (max 4 per site), their installation and software subscriptions are for one year.

Site	Charger	Install cost (Indicative, including first year of software)	Cost Covered by Grant	Initial Cost to Council	Ongoing Cost to Council – after Year 1
Tumut	2 x dual port 22kW charger	\$28,105	\$21,078	\$7,027	Software: \$1,560 Maintenance: \$1,860 Total: \$3,420
Tumbarumba	2 x dual port 22kW charger	\$25,710	\$19,282.50	\$6,427.50	Software: \$1,560 Maintenance: \$1,860 Total: \$3,420
Totals		\$53,815	\$40,360.50	\$13,454.50	Yearly Cost to Council: \$6,840

Once installed, Council has the option to charge for usage. Pricing can be set based on rates of electricity. It is important to note that it takes approximately 2 hours to charge a vehicle completely on a 22kW system. This would also encourage users who will be stopping in the region for re-charging to visit local business and services.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Nil.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Nil.

OPTIONS:

1. Adopt as per recommendations set out in this report - preferred option.

2. Amend the recommendations set out in this report.
3. Decline the recommendations set out in this report.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Nil.

ATTACHMENTS

Nil.

11.6. OPTIONS ANALYSIS TUMUT AERODROME

REPORT AUTHOR: DIRECTOR INFRASTRUCTURE AND WORKS

RESPONSIBLE OFFICIER: INTERIM GENERAL MANAGER

EXECUTIVE SUMMARY:

The purpose of this report is to outline the options analysis and recommendations that have been undertaken on the Tumut Aerodrome upgrade by Council's consultants – Aviation Projects.

The options analysis has taken into account the flood modelling that has been undertaken on the land that surrounds the Tumut Aerodrome, which was reported to the 17 August 2023 Council meeting and the requirements of the grant funding that Council has received from the Bushfire Local Economic Recovery Fund (BLERF).

Council will also need to seek concurrence and approval from the grant funding body (Bushfire Local Economic Recovery Fund) on any proposed changes to the project once Council has decided on what option is to be progressed.

RECOMMENDATION:

THAT COUNCIL:

- 1. Proceed with Option 3 (Upgraded Code 2 Non-instrument (No RESA) as recommended in the consultant's options analysis report.**

BACKGROUND:

On 2 November 2020, \$12.5M in grant funding was announced from the Bushfire Local Economic Recovery Fund (BLERF) for upgrades to Tumut Aerodrome. Council has since sought an approval from CASA for the upgrade, negotiated access to private land, begun the process of acquiring the required land, and completed flood modelling of land around the Aerodrome as part of the project's due diligence and design development process.

On 17 March 2022, Council resolved (M74/22) to affirm its support of the Tumut Aerodrome upgrade project.

On 16 February 2023, Council resolved (M22/23) to progress with acquiring land for the Tumut Aerodrome runway extension.

On 20 April 2023, Council resolved (M53/23) to adopt the Tumut Aerodrome Master Plan which included the runway extension.

As part of the project's due diligence and design development process, from May to June 2023 consultants were engaged to undertake flood modelling on the detail design of the runway extension. This was completed and presented to Council staff on 13 July 2023.

A Council workshop was undertaken on 3 August 2023 to brief Councillors on the findings of the flood modelling. The workshop identified what options could be explored to deliver the project within the confines of the existing grant funding agreement, project budget (\$12.5M), timeline obligations and project objectives.

Council resolved at its meeting held on 17 August 2023 (M157/23) the following:

THAT COUNCIL:

Defer this item until a presentation on the capability of fixed wing firefighting from the Rural Fire Service aviation unit is provided to Council.

Briefing to Council by RFS Deputy Commissioner – Kyle Stewart – Thursday 16 November 2023

To meet the requirements of this resolution of Council, at the Public Forum held at Council Chambers 16 November 2023, the Deputy Commissioner of the Rural Fire Service (RFS) – Kyle Stewart provided answers to Council on questions that were asked in relation to the RFS fixed wing capability to operate out of the Tumut Aerodrome.

The Deputy Commissioner stated that the 802s (Air Tractor) - fixed wing aircraft can still operate out of Tumut Aerodrome in its existing status but the RFS understands that they cannot operate at optimum capacity – and there are many aerodromes across the state where this occurs.

The Deputy Commissioner also stated that the RFS aviation wing do not just rely on fixed wing assets to operate out of Tumut – they also rely on the following aviation assets:

- Heavy lift helicopter - Bell 412 helicopter operated by the RFS
- Black Hawks
- Chinook Helicopter.

The Deputy Commissioner stated that these aviation assets along with fixed wing aircraft can meet the firefighting requirements of the area.

The Deputy Commissioner confirmed that the RFS have been consulted on the Aerodrome upgrade and that they understand why the runway cannot be extended due to the flooding impacts this would cause on surrounding properties.

The Deputy Commissioner confirmed that he understood the Aerodrome had to operate within existing constraints and the fixed wing aerial fire-fighting capabilities would be complimented by the use of heavy lift helicopters as well as heavy air tanker support from Canberra.

Briefing to Council by Aviation Projects – Options Analysis – Thursday 16 November 2023

The specialist consultants engaged by Council (Aviation Projects) have undertaken a detailed Options Analysis investigation which was presented to Councillors as a power point presentation at the Councillor Workshop held on Thursday 16 November 2023. The consultants have also now completed a detailed report on the Options Analysis. Both the presentation given to Councillors and accompanying detailed options report are attached to this Council report as confidential attachments.

The presentation and briefing provided by Aviation Projects to Councillors at the workshop were based on the following objectives which formed part of the consultant's brief and engagement to undertake the work.

Project Objectives

- Undertake a detailed analysis of the current capability status of Tumut Aerodrome in relation to its utilisation by emergency services including the Aerodrome Reference Code (ARC). The analysis on the current status of the Aerodrome must clearly identify the current provision and operations of each emergency service which operates from the Aerodrome, with specific reference to both *fixed wing* and *non-fixed wing* firefighting and medivac services. The analysis must outline the current adequacy or inadequacy of these services in terms of all relevant aviation codes for the provision of emergency aviation services, overall Aerodrome functionality and operations during emergencies, particularly firefighting.
- Identify what improvements are required to bring the Aerodrome up to a standard to allow emergency aviation services (target aircraft) to operate from the facility during an emergency (Bush Fire – Flood – Medevac emergency). The identified improvements can be physical improvements to the Aerodrome infrastructure and/or operational improvements or both.
- Undertake a comprehensive analysis of options to maximise the runway length within the existing airport footprint as well as an extended runway length beyond the current footprint that takes into consideration the flooding implications that have now been identified in a recently completed flood study. The report and accompanying options analysis must consider the upgrade within the context of the financial impacts that the proposed flood mitigation measures will have on the current project budget and program.

- The analysis of options must also include key considerations around property acquisition, construction (total project costs) and time frame for delivery that are identified under the current grant funding agreement Council has with the Bushfire Local Economic Recovery Fund (BLERF).
- In each option scenario, the consultant must identify the implications for emergency operations now and into the future. Scenarios are to include:
 - Code 2 Instrument (improved accessibility in reduced visibility)
 - Code 2 Non-instrument (60m runway strip length from threshold, no RESA)
 - Code 1 Non-instrument (30m runway strip length from threshold, no RESA)
 - Other options
 - Implications are to include surrounding geography to the Aerodrome
 - Air and ground temperature scenarios during different seasons and weather events
 - Fixed wing Vs non-fixed wing firefighting and medevac capabilities at the Aerodrome.
- The analysis must consider the advantages and disadvantages of each option including the different requirements for emergency operations (firefighting and aero-medical operations). Noting these operators utilise different aircraft and have different guidelines and procedures in emergency situations.
- The options analysis must include consultation and input from key stakeholders such as the Rural Fire Services (RFS) aviation unit, aero medical (Flying Doctor) Services, Specialist contract pilots, independent aviation experts as required and Council.

REPORT:

Based on the objectives outlined in the consultancy engagement, the Consultants have completed their Options Analysis and have presented these options to Council at the pre-Council meeting workshop held on 16 November 2023. The consultants have also now completed a detailed Options Analysis Report which provides more detail on the five (5) options that were presented to Council.

The options analysis is based around the capabilities of the emergency “fixed wing” firefighting aircraft and medevac aircraft – ARC Code 1 and Code 2 type aircraft, which can operate out of Tumut Aerodrome. The analysis also takes into consideration the grant funding deed requirements of the Bushfire Local Economic Recovery Fund (BLERF) grant that Council has received, project cost analysis and the flood modelling prepared by specialist consultants GRC Hydro and reported to Council on 17 August 2023.

Table 1 outlines the emergency uses only - design aircraft for which the Options Analysis were undertaken.

Table 1- Design aircraft – Options analysis

Upgrade Options – Design aircraft

Table 4 Design aircraft types and reference code numbers

Design aircraft	ARFL (m)	ARC (Code) number	Wingspan (m)	ARC (Code) letter	OMGWS (m)	MTOW (kg)
Air Tractor 802	609 ¹	1	18.04	B	3.36	7,257
Pilatus PC-24	856 ²	2	17.00	B	3.54	8,150
Beech King Air 350i	1000 ³	2	17.70	B	5.67	6,804

Aviation Projects has been engaged by Snowy Valleys Council (Council) to provide specialist aviation advice and a comprehensive options analysis for the proposed upgrade of Tumut Aerodrome to improve its overall operational capabilities and functionality with specific regard to:

- emergency fire fighting; and
- aeromedical services.



Code 1 Design Aircraft – Air Tractor AT-802 (Firefighting)



Code 2 Design Aircraft – Pilatus PC-24 (Aeromedical)



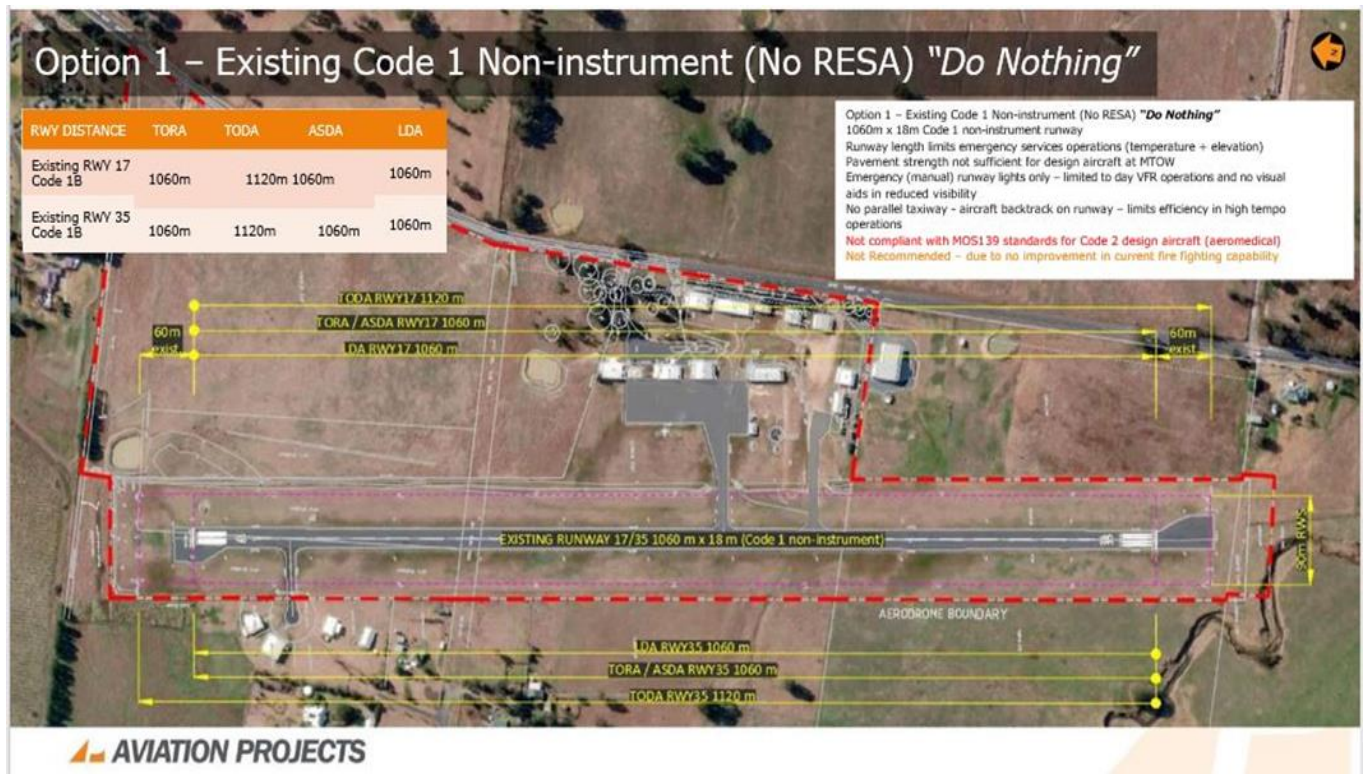
Code 2 Design Aircraft – Beech King Air 350i (Aeromedical)



The five (5) options presented to Council on 16 November 2023 included:

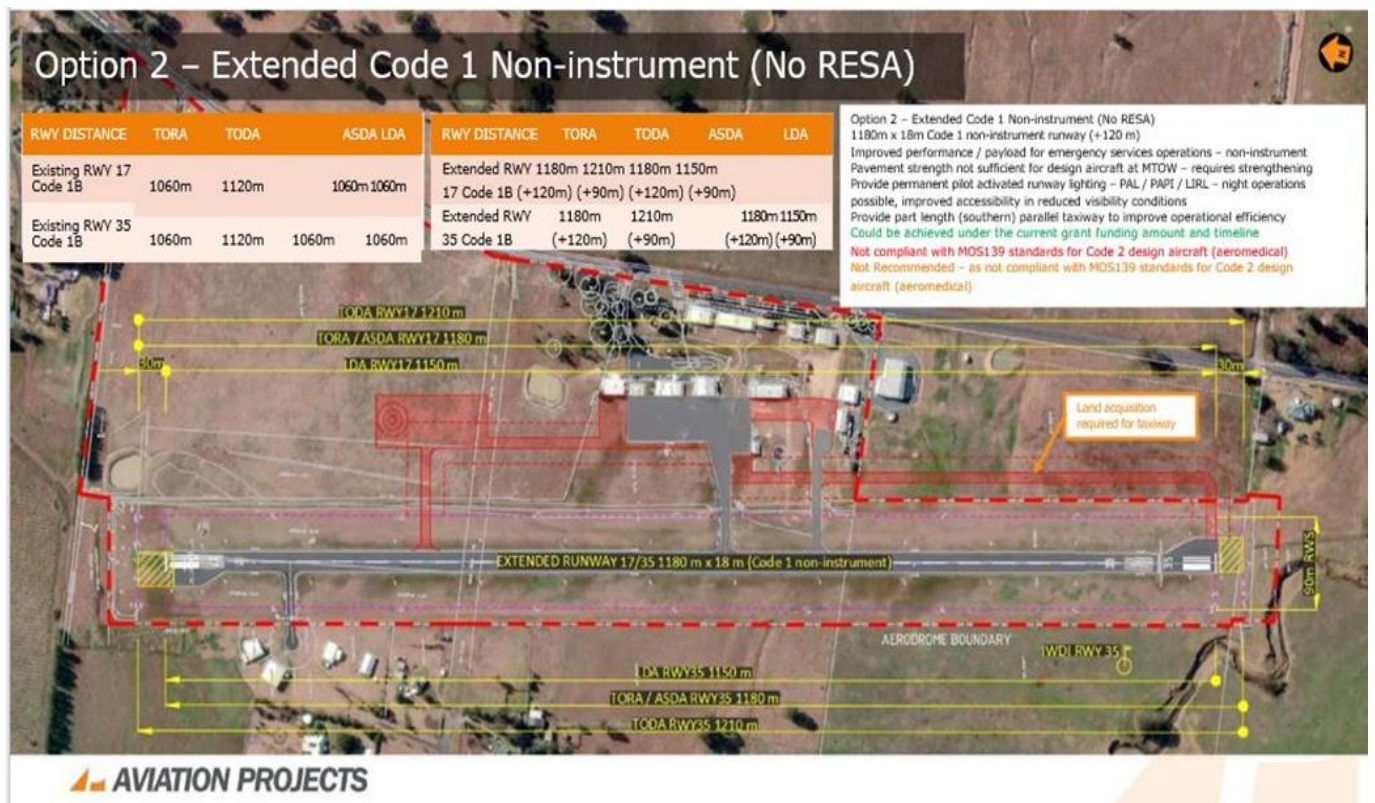
Option 1 – Existing Code 1 Non-instrument (No RESA) “Do Nothing”

- 1060m x 18m Code 1 non-instrument runway
- Runway length limits emergency services operations (temperature + elevation)
- Pavement strength not sufficient for design aircraft at MTOW
- Emergency (manual) runway lights only – limited to day VFR operations and no visual aids in reduced visibility
- No parallel taxiway - aircraft backtrack on runway – limits efficiency in high tempo operations
- Not compliant with MOS139 standards for Code 2 design aircraft (aeromedical)
- **Not Recommended** – due to no improvement in current firefighting capability



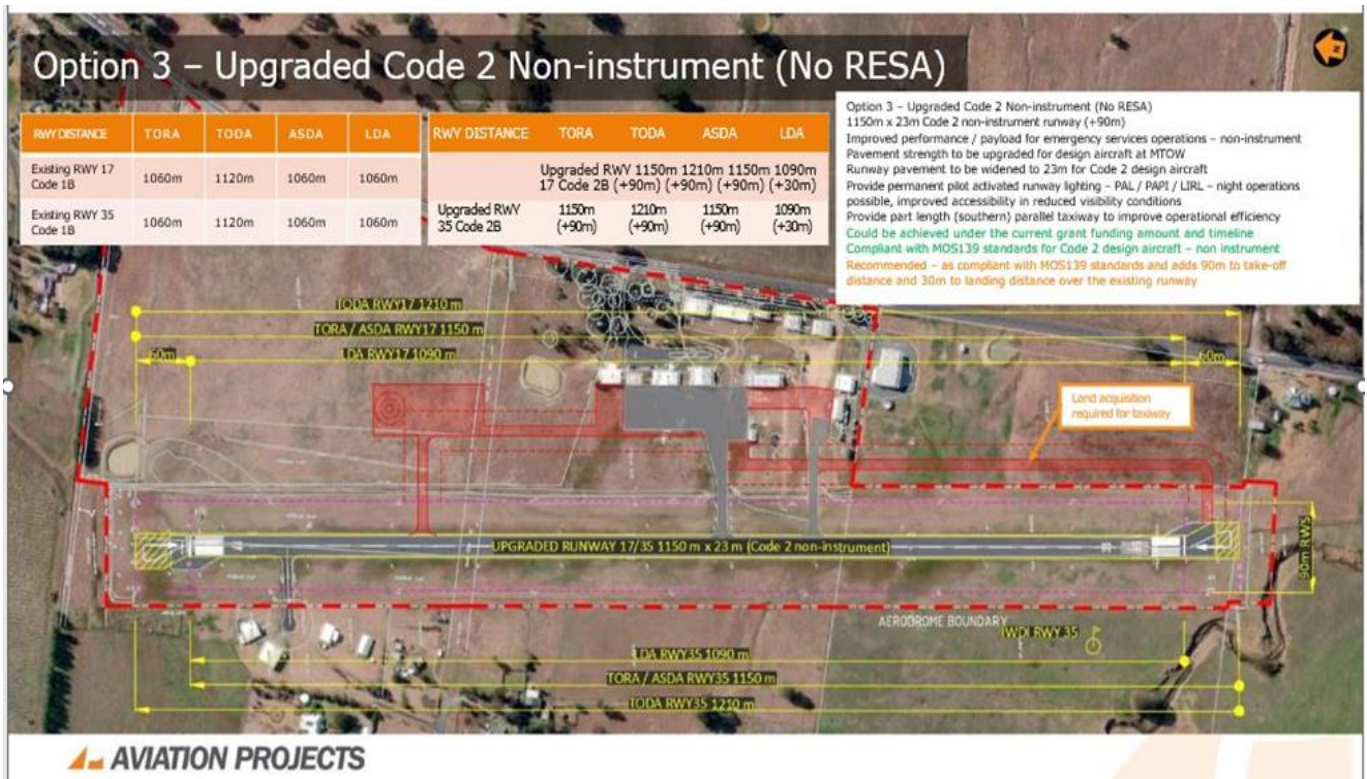
Option 2 – Extended Code 1 Non-instrument (No RESA)

- 1180m x 18m Code 1 non-instrument runway (+120 m)
- Improved performance / payload for emergency services operations – non-instrument
- Pavement strength not sufficient for design aircraft at MTOW – requires strengthening
- Provide permanent pilot activated runway lighting – PAL / PAPI / LIRL – night operations possible, improved accessibility in reduced visibility conditions
- Provide part length (southern) parallel taxiway to improve operational efficiency
- Could be achieved under the current grant funding amount and timeline
- Not compliant with MOS139 standards for Code 2 design aircraft (aeromedical)
- **Not Recommended** – as not compliant with MOS139 standards for Code 2 design aircraft (aeromedical)



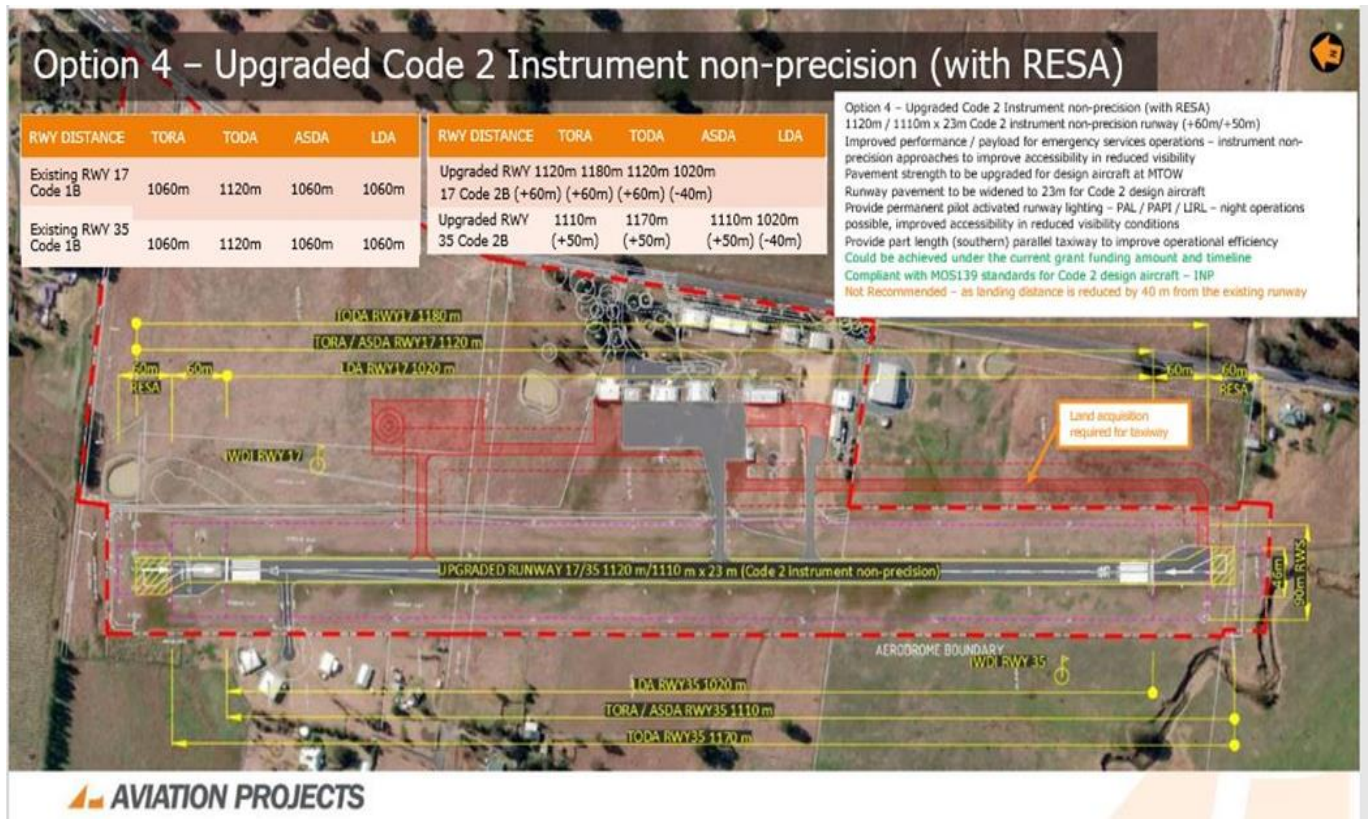
Option 3 – Upgraded Code 2 Non-instrument (No RESA)

- 1150m x 23m Code 2 non-instrument runway (+90m)
- Improved performance / payload for emergency services operations – non-instrument
- Pavement strength to be upgraded for design aircraft at MTOW
- Runway pavement to be widened to 23m for Code 2 design aircraft
- Provide permanent pilot activated runway lighting – PAL / PAPI / LIRL – night operations possible, improved accessibility in reduced visibility conditions
- Provide part length (southern) parallel taxiway to improve operational efficiency
- Could be achieved under the current grant funding amount and timeline
- Compliant with MOS139 standards for Code 2 design aircraft – non instrument
- **Recommended** – as compliant with MOS139 standards and adds 90m to take-off distance and 30m to landing distance over the existing runway.



Option 4 – Upgraded Code 2 Instrument non-precision (with RESA)

- 1120m / 1110m x 23m Code 2 instrument non-precision runway (+60m/+50m)
- Improved performance / payload for emergency services operations – instrument non-precision approaches to improve accessibility in reduced visibility
- Pavement strength to be upgraded for design aircraft at MTOW
- Runway pavement to be widened to 23m for Code 2 design aircraft
- Provide permanent pilot activated runway lighting – PAL / PAPI / LIRL – night operations possible, improved accessibility in reduced visibility conditions
- Provide part length (southern) parallel taxiway to improve operational efficiency
- Could be achieved under the current grant funding amount and timeline
- Compliant with MOS139 standards for Code 2 design aircraft – INP
- **Not Recommended** – as landing distance is reduced by 40 m from the existing runway.



Option 5 – Upgraded Code 2 INP (with RESA +240m runway extension)

- 1360m x 23m Code 2 instrument non-precision runway (+300m)
- Improved performance / payload for emergency services operations – instrument non-precision approaches to improve accessibility in reduced visibility
- Pavement strength to be upgraded for design aircraft at MTOW
- Runway pavement to be widened to 23m for Code 2 design aircraft
- Provide permanent pilot activated runway lighting – PAL / PAPI / LIRL – night operations possible, improved accessibility in reduced visibility conditions
- Provide part length (southern) parallel taxiway to improve operational efficiency
- Could not be achieved under the current grant funding amount and timeline
- Compliant with MOS139 standards for Code 2 design aircraft – INP
- **Not Recommended** – due to cost, flood mitigation measures, property acquisition.

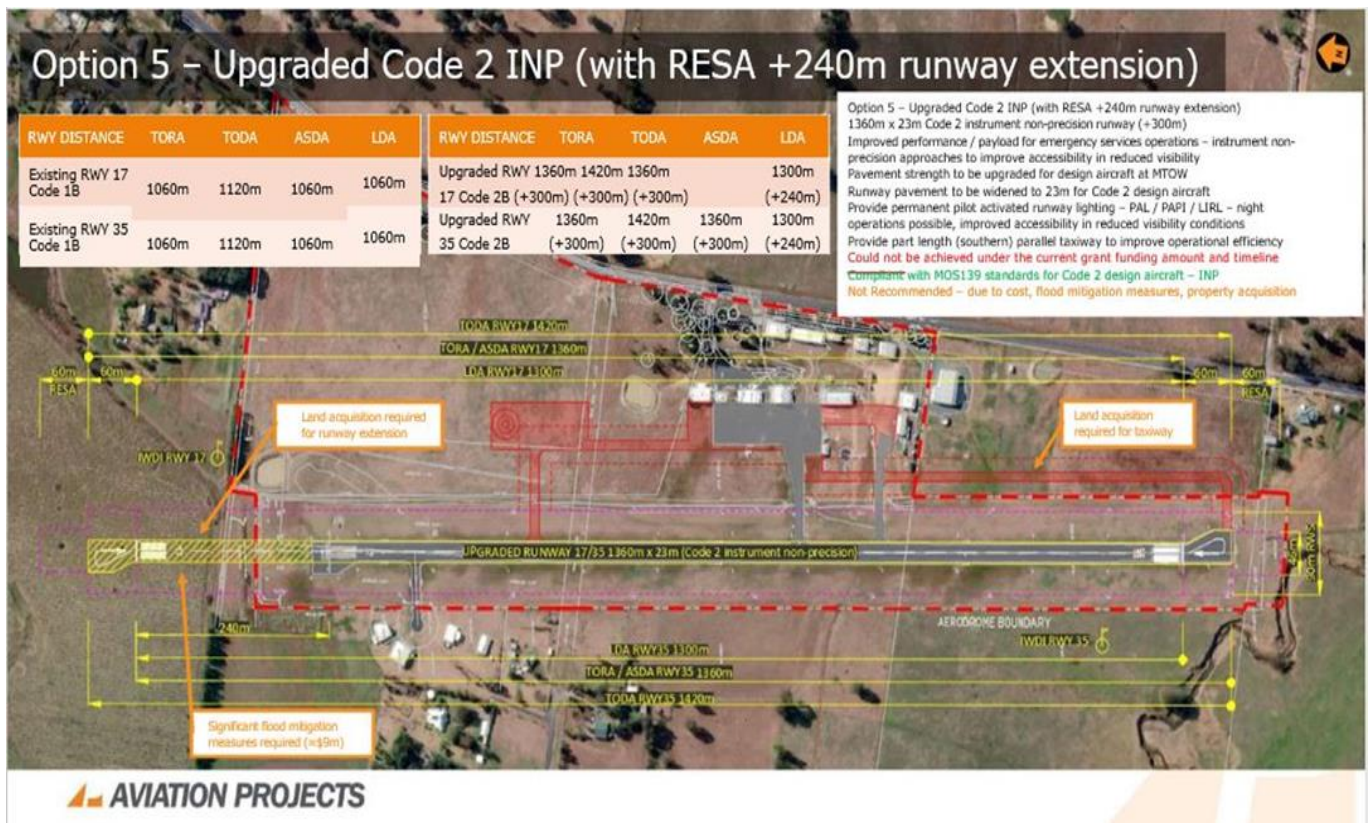


Table 2 outlines a summary of the options and the runway distances that can be achieved under each option and then compliance with MOS139.

Table 2- Design aircraft – Options analysis

Summary – Runway distance / MOS139 compliance

RWY DISTANCE	TORA	TODA	ASDA	LDA	Comments	Grant Funding Compliance	Cost Estimate* (* by SVC)
Option 1 "Do Nothing" Existing Code 1B (60m clearway) Non-instrument (no RESA)	1060m	1120m	1060m	1060m	Not compliant with MOS139 standards for Code 2 design aircraft Not Recommended – due to no improvement in current fire fighting capability	N/A	\$120,000-\$130,000 per annum (annual maintenance)
Option 2 Extended Code 1B (30m clearway) Non-instrument (no RESA)	1180m (+120m)	1210m (+90m)	1180m (+120m)	1150m (+90m)	Not compliant with MOS139 standards for Code 2 design aircraft Not Recommended – as not compliant with MOS139 standards for Code 2 design aircraft (aeromedical)	Could be achieved under the current grant funding amount and timeline	\$10.55 million
Option 3 Upgraded Code 2B Non-instrument (no RESA)	1150m (+90m)	1210m (+90m)	1150m (+90m)	1090m (+30m)	Compliant with MOS139 standards for Code 2 design aircraft – non instrument Recommended – as compliant with MOS139 standards and adds 90m to take-off distance and 30m to landing distance over the existing runway	Could be achieved under the current grant funding amount and timeline	\$11.95 million
Option 4 Upgraded Code 2B Instrument non-precision (INP) (with RESA)	RWY 17 1120m (+60m)	1180m (+60m)	1120m (+60m)	1020m (-40m)	Compliant with MOS139 standards for Code 2 design aircraft – instrument non-precision Not Recommended – as landing distance is reduced by 40 m from the existing runway	Could be achieved under the current grant funding amount and timeline	\$11.95 million
	RWY 35 1110m (+50m)	1170m (+50m)	1110m (+50m)	1020m (-40m)			
Option 5 Upgraded Code 2B Instrument non-precision (INP) (with RESA +240m runway extension)	1360m (+300m)	1420m (+300m)	1360m (+300m)	1300m (+240m)	Compliant with MOS139 standards for Code 2 design aircraft – instrument non-precision Not Recommended – due to cost, flood mitigation measures, property acquisition	Could not be achieved under the current grant funding amount and timeline	\$23.7 million (incl. \$9 million in flood mitigation measures)

Note: the current grant that Council has been awarded under the Bushfire Local Economic Recovery Fund (BLERF) is for \$12.5 million, and has been extended to 30 June 2025 for completion

AVIATION PROJECTS

Conclusion

In conclusion and based on the analysis undertaken and feedback received from key stakeholders it is recommended that Council proceed with Option 3, the Upgraded Code 2 Non-Instrument Runway (no RESA). The recommendations are based on the following key criteria:

- Option 3 is able to be achieved within the current grant funding amount and timeline.
- Option 3 is compliant with MOS139 standards for Code 2 design aircraft – non instrument.
- Option 3 adds 90m to the take-off distance and 30m to the landing distance over the existing runway arrangement.
- Option 3 represents a compromise / middle-ground between Option 2 Code 1 non-instrument and Option 4 Code 2 instrument non-precision and offers operational benefits for all aircraft operators at Tumut Aerodrome to improve the Aerodrome's overall operational capabilities and functionality with specific regard to emergency firefighting and aeromedical services.

Note: It should be noted that the adoption of Option 3 does not preclude Council from moving to a Code 2 instrument non-precision (with RESA), i.e. Option 4 in the future should operations require instrument approaches.

Timeline

- 16 November 2023 – Presentation to Council at pre-meeting workshop by specialist aviation consultants – Aviation Projects - on options developed to date – with a recommendation to Council on a preferred Option
- 16 November 2023 - Council meeting Public Forum - Q&A on RFS aerial Firefighting capability out of Tumut Aerodrome with RFS Deputy Commissioner – Kyle Stewart answering questions from Councillors
- 14 December 2023 – Report to Council on the Options Analysis and recommended option

- January – March 2024 - If Council adopts the recommended option, design development and tender documentation
- March – May 2024 – Tenders called, received and assessed
- 20 June 2024 – Tender reported to Council for award of tender
- July 2024 - Construction commences
- June 2025 – completion - 12 month estimated construction timeframe

The presentation to Council on 16 November 2023 and the detailed Options Analysis Report are included as confidential attachments to this report.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Community Strategic Plan Theme

Theme 4 - Our Infrastructure

Community Strategic Plan Strategic Objectives

CSP4 Our infrastructure includes Council services that plan, manage, maintain and renew our community infrastructure and transport networks.

Delivery Program Principal Activities

4.4 Plan and deliver a capital works program to responsibly manage and maintain community infrastructure.

FINANCIAL AND RESOURCES IMPLICATIONS:

The project is 100% grant funded from the Bushfire Local Economic Recovery Fund (BLERF) with a current approved budget of \$12.5 million. There is no funding required from Council.

The Council has spent to date \$1.73 million in actuals and commitments on the project. These costs to date can all be attributed to the development of Options 2-5 as outlined in this report.

The total funds remaining from the grant that has been awarded is \$10.77 million.

Option 3 Costing

The total project cost for Option 3 is currently estimated at \$11.95 million which directly includes \$1.25 million of the \$1.73 million in actuals and commitments attributed to the project to date.

The funds remaining from the total project budget of \$12.5 million to deliver Option 3 are **\$10.77 million.**

Option 3 Cost estimate \$11.95 million - \$1.25 million (Actual and Commitments) = **\$10.7million**

The current high-level estimate indicates there is sufficient funds to deliver Option 3 and includes a construction contingency of around 10% and staff overheads for project management costs.

A detailed pre-tender estimate will be undertaken once the detail design drawings and specifications for construction are completed.

Option 3 Costing includes:

- Preliminaries and approvals
- Design
- Land acquisitions
- AGL and PAPI – (Above Ground Level and Pilot Activated Runway lighting)
- Construction – Site Works

- Construction Contingencies
- Staff costs / overheads including Project Management costs.

Note: Council's ongoing maintenance costs for the Aerodrome will increase by around \$150,000 per annum as a result of any of the upgrades – Options 2-5. This is an increase of 10-15% on previous years and is dependent on the amount of tree pruning required around the aerodrome. This cost will remain stable for the next 10 -15years years due to the upgraded infrastructure being in a new condition. The largest proportion of maintenance costs over the next 10 years will be for the ongoing grass trimming and tree maintenance costs around the Aerodrome for Options 2, 3 and 4.

Note: As part of the funding agreement with BLERF, there is a condition in the Grant agreement that stipulates that if Council fails to deliver the project on time and/or according to the scope of the deed, Council is potentially exposed to repay funds back to the department (BLERF - Regional NSW). The amount to be repaid is at the Department's discretion.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Any land acquisition must be in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

All aerodrome works must be in accordance with the Civil Aviation Safety Authority's (*CASA Part 139 Manual of Standards for Aerodromes*).

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Below outlines the preliminary assessment for the preferred option - Option 3.

Note Option 1 – “the do nothing” Option is not included in this analysis as are the other options that are similar to Option 3 (Options 2 and 4) as a detailed Risk and Cost benefit Analysis has already been undertaken on these Options in the attached Options Analysis report prepared by Aviation Projects.

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/ REWARD (Option 3)
Legal	Liability associated with flood impacts on private property is mitigated due to appropriate management.	The cost of undertaking full flood mitigation measures is in the order of \$9M for Option 5. Ongoing flood liability risks for Council.	Limit risks to a known value. Less legal risk to Council through potential future compensation claims. - Option 3.
Environmental & Public Health	Mitigate any impact on habitat, species or local communities through appropriate environmental management.	Cost of environmental assessment with construction mitigation measures for Option 5 are significant compared to Options 3	Less impact on the existing environment and flood plain ecosystem. Less risk of local flooding and increasing the potential for local flooding. - Option 3
Financial	Reduced scope of runway extension allows funds to be re-distributed elsewhere. Potential to not improve the operations and functions of the	Cost savings as a result of not proceeding with the 240m runway extension and associated flood mitigation works. Current budget will not cover the increased costs	Cost savings through a reduced scope in the short term. Council can also meet the requirements of the funding agreement it has

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/ REWARD (Option 3)
	aerodrome as per the original objectives of the grant funding and grant agreement.	of flood mitigation works associated with the 240m runway extension which are estimated at \$9 million.	with BLERF in terms of time and cost obligations. Better asset management and depreciation outcomes for the Council in the long term. Meets the existing project budget and timeline consistent with the original objectives of the grant. - Option 3.
People	Compulsory Acquisition of land and adjoining properties is a difficult, costly and time-consuming process for all parties involved.	Significant amounts of land and property are to be acquired for Option 5.	None identified. Less impact on adjoining property owners - no reduction in the current functionality of the existing aerodrome. - Option 3.
Technology	By not proceeding with the project, the lighting and control systems and the installation of precision approach path indicators will not be undertaken. These works improve the overall operations and functionality of the aerodrome.	Council would need to find the funds in its own budget to do these works if the project is stopped and grant funding removed.	Upgraded lighting and control systems - the installation of precision approach path indicators will improve the operations and functionality of the aerodrome and are included in Option 3 as part of the existing \$12.5million grant. - Option 3.
Stakeholder	Local landowners - reduced risk of flood increase on property. Land acquisitions - local landowners subject to acquisition - no longer required. Emergency services - loss of runway extension could result in some loss of payload/functionality to be confirmed by Aviation Specialist. Cost savings transferred to Option 3 for additional scope such as parallel taxiway and helipad expansion.	Reputational damage to Council in not proceeding with the current project.	Cost savings through reduced scope and less impact on surrounding properties and property owners due to flooding resulting from the 240m runway extension to the north. Reduced liability for Council through reduced flood impacts on adjoining properties. Better asset management outcomes for Council in the long term. Potential operational, maintenance and functionality improvements to the

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/ REWARD (Option 3)
			aerodrome and Council in the long term. Aviation Projects have undertaken key stakeholder engagement in the Options analysis and Option 3 is seen as a good compromise considering the time and cost implications of Option 5.
Service Delivery	Reduced payload due to shorter runway Southern parallel taxiway can be funded through increased air traffic circulation at the airport.	Estimated saving of approximately \$2.5M to the current overall project budget by not proceeding	No benefit of a shorter runway identified.

OPTIONS:

1. Adopt as per recommendations set out in this report - preferred option.
2. Amend.
3. Decline the recommendations set out in this report.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Over the last 12 months the community has been engaged on different aspects of this project.

The BLERF Funding body, Tumut Aerodrome Committee and all relevant stakeholders will be advised of the current status of the project after the December Council meeting and decision of Council.

ATTACHMENTS

1. Confidential - Aviation Projects – Options Analysis Presentation – Tumut Aerodrome – Council Workshop 16 November 2023 (Under separate cover)
2. Confidential - Aviation Projects – Detailed Options Analysis Report – Tumut Aerodrome – December 2023 (Under separate cover)

11.7. COMMUNITY AND RECREATION FACILITIES MANAGEMENT POLICY - FOR ADOPTION

REPORT AUTHOR: DIRECTOR INFRASTRUCTURE AND WORKS

RESPONSIBLE OFFICIER: INTERIM GENERAL MANAGER

EXECUTIVE SUMMARY:

The purpose of this report is to seek Council's endorsement to adopt the new Community and Recreational Facilities Management Policy that was publicly exhibited for 28 days from 2 October to 2 November 2023.

During the public exhibition period, Council received five (5) submissions.

RECOMMENDATION:

THAT COUNCIL:

- 1. Adopt the Community and Recreational Facilities Management Policy (SVC-ENG-PO-130-01); and**
- 2. Note the submissions that were received and the responses to those submissions provided in this report.**

BACKGROUND:

Council has received interest from a number of community groups across the Local Government area in relation to entering into a shared use arrangement to deliver community-based programs from a number of Council's Community and Recreational Facilities. These facilities include:

- Community Halls, function and event spaces
- Club houses and amenity rooms
- Sport and Recreation facilities
- Childcare centres
- Youth facilities
- Senior citizen centres
- Community and neighbourhood centres
- Arts and cultural centres.

The intent of this policy is to provide a framework to enable the community and user groups to occupy Council's Community and Recreational facilities in a shared use arrangement that optimises the utilisation of these facilities while at the same time delivers outcomes to the community that Council cannot deliver using its own resources.

It is *not* the intention of this policy that Council enters into long-term agreements, which provides for exclusive use and/or access to a facility by a private individual or user groups to the exclusion of the general public.

The purpose of this policy is to encourage higher utilisation of Council's Community and Recreational Facilities through enabling a broader range of user groups to have access to the facilities all year round. The policy is also designed to encourage the delivery of a range of support services throughout the Local Government Area (LGA) that address community needs at a point in time and that aligns with Council's current Community Strategic Plan.

It is recognised that these needs change over time and therefore use of Council's Community and Recreational Facilities must be flexible enough to accommodate the changing needs of the community.

The purpose of this Policy is to:

- Encourage the optimal use of Council's Community and Recreational Facilities to cater for a range of community and sporting groups.
- To ensure that the process for which Council's Community and Recreational Facilities are managed is structured and transparent.
- To ensure fair and equitable access to Council's Community and Recreational Facilities for user groups and individuals is achieved.
- Establish a more collaborative and partnering approach with the community on how the Council can deliver specific services and programs that the community has identified its needs at Council owned facilities.
- Build community capacity to run a variety of services and programs that Council cannot provide or fully fund from within its own resources.
- Build resilience and reduce the community's reliance on Council to meet every community request for service delivery.
- Build trust and relationships between Council and key stakeholders in the Community to strengthen Council's reputation as being truly representative of meeting the needs of the local community it serves.
- Ensure that contributions and work undertaken by existing users groups is formally recognised in any future agreement that Council may enter into with the user group.
- Encourage community leadership that is built upon a strengths-based approach, focusing on existing community strengths and resources rather than a community deficit or needs approach.
- Obtain a contribution from user groups for the costs of providing facilities.
- Recognise the social value and social benefits of services and activities organised and provided by community-based groups and to subsidise these groups where it sees fit.
- Determine the most appropriate occupancy arrangement for each facility.
- Fulfill the requirements of Council and State Government policies in relation to provision of facilities on Community Land, Crown Land, Public Recreation Reserves and Open Space.
- Ensure that Council's administration and operational costs are minimised.
- Ensure that all user groups support Council's non-discriminatory practices and policies.
- Clearly communicate Council's intentions in relation to management of community facilities.

REPORT:

Council resolved at its meeting held on Thursday, 21 September 2023 the following in relation to item 10.8 "*Draft Community and Recreational Facilities Management Policy*".

M189/23 RESOLVED:

THAT COUNCIL:

1. Endorse the draft Community and Recreational Facilities Management Policy (SVC-ENG-PO-130-01) for public exhibition for a period of 28 days;
2. Note if submissions are received during the exhibition period, a further report will be provided to Council; and
3. Adopt the Community and Recreational Facilities Management Policy if no submissions are received.

In accordance with the resolution of Council, the Policy was publicly exhibited for 28 days from 2 October to 2 November 2023. During the public exhibition period, Council received five (5) submissions through Council's "Your Voice" engagement portal. Council also received one written submission from the Batlow Community and Cultural Association Inc. (BCCA).

Table 1 below is a summary of the submissions received and responses to how the submissions have been addressed in relation to the Policy.

Table 1. Summary of submissions and responses

Theme	No of Submissions	Response
General comments in support of the Policy but concerns in relation to exclusive use by individual user groups on certain facilities.	5	The policy document does not need to be changed the themes and concerns raised in the submissions will be addressed in accordance with the policy in terms of the individuals' agreements that Council will enter into with user groups for the use of Councils Community and Recreational Facilities.
Submission	Date	Response
Submission No 1 <i>The basketball stadium in Tumbarumba seems to be getting used for other activities that have impacted the ability to play basketball safety, I think there needs to be some transparency to the basketball committee as to how these other activities can coincide as this stadium exists for basketball</i>	14 October 2023 - 10.20am	As per the policy Part 2 – Scope and Application and also under "Management Agreements, Licensing and Leasing <i>"All management agreements, licensing and leasing of facilities will be undertaken in full consultation with all stakeholders including community representatives and existing user groups. All agreements between Council and user groups will be in accordance with Council policies and relevant legislation. Council will not enter into any management agreements, licenses or leases, which provide for exclusive use and or access to a facility by a private individual or user group to the exclusion of the general public"</i> <i>The policy also states</i> <i>"It is the intent of this policy and all future agreements that Council enters into that Councils Community and Recreational facilities will still be accessible to the broader community for use. In the instances where a group or organisation has negotiated with council an agreement for regular use of a facility, that agreement must allow for shared use of the facility with existing or new user groups."</i>
Submission	Date	Response

<p>Submission No 2.</p> <p><i>The SVC has demonstrated a desire to enter into 'shared user agreements' with at least one certain group. To date, this group has not been asked to be transparent with the broader community of Tumbarumba. If this has not happened to date, why should the residents of Tumbarumba, and the broader Snowy Valleys believe that once this group enters into an agreement with council, that transparency will occur? 1. At the very least, could council put in a range of steps that a group would need to follow before entering into an agreement with council? Specifically, could council consider asking groups to A. Demonstrate how that particular group would enhance the community through entering an agreement, not through stating a range of activities that have not begun, but by showing that there is an unmet need. E.g. a survey used to elicit interest in a new sport, utilising the kiosk on the main street and including the community in their plans B. Hold ONE public meeting – so that the community knows the intentions of a group to potentially take over the running of council property C. Have a public online presence for a certain period of time (e.g. 3 months) – again for transparency and for the community to know who this group is 2. Could the council please put limits in place. Specifically, A. Not hand over the control of bookings of premises to particular groups – but have council retain the control of bookings Could the council please ensure transparency and that all conflicts of interest are managed and declared. Specifically, could the council please not enter into confidential agreements with user groups – but allow freedom of information. Could the council please not enter into groups, which are for profit.</i></p>	<p>24 October 2023 4.25pm</p>	<p>Refer to response to submission No 1. In accordance with the policy</p> <p><i>“All management agreements, licensing and leasing of facilities will be undertaken in full consultation with all stakeholders including community representatives and existing user groups.</i></p> <p><i>The policy also states</i></p> <p><i>“It is the intent of this policy and all future agreements that Council enters into that Councils Community and Recreational facilities will still be accessible to the broader community for use. In the instances where a group or organisation has negotiated with council an agreement for regular use of a facility, that agreement must allow for shared use of the facility with existing or new user groups. “</i></p>
Submission	Date	Response

<p>Submission No 3.</p> <p><i>Community facilities are for everyone to use in the community. For SVC council having shared user agreements it is crucial that this will be done with full transparency by both parties, before and after the agreement settles. Community members plus groups need to feel included and have a say when it comes to who controls and runs community facilities. It is important that the community will be informed about any potential agreements with a group via public meeting so that other groups can have a say and be informed about what where and when. Before the agreement is finalised. As a community member I would like to see an online presence where this group/groups will share their intentions and plans for transparency. Council should still have the control of bookings and not handing over full control to particular groups to again keep transparency and avoid any conflicts of interest. Any agreements with any group would need to be public to the community and not confidential to have a clear and fair approach to all community members and groups. Please only allow agreements with groups that are not for profit in the best interest for everyone in the community. Thank you!</i></p>	<p>28 October 2023 7.34pm</p>	<p>Refer to response to submission No 1&2. In accordance with the policy</p> <p><i>“All management agreements, licensing and leasing of facilities will be undertaken in full consultation with all stakeholders including community representatives and existing user groups.</i></p> <p><i>The policy also states</i></p> <p><i>“It is the intent of this policy and all future agreements that Council enters into that Councils Community and Recreational facilities will still be accessible to the broader community for use. In the instances where a group or organisation has negotiated with council an agreement for regular use of a facility, that agreement must allow for shared use of the facility with existing or new user groups. “</i></p>
Submission	Date	Response

<p>Submission No 4</p> <p><i>Overall Tumbarumba Sports Academy (TSA) has found the Community and Recreational Facilities Management Policy to be fair and an important step forward for the community and the council. Management and operational agreements need to be specific and case by case as each community facility is different and has different purposes, new agreements need to provide the best value to the community and council. Currently, Snow Valleys Council (SVC) has multiple under utilised facilities that are suffering from a notable degree of neglect such as Tumbarumba Sports Stadium and Pioneer Hall due to disproportionately high access fees, which are resulting in major maintenance issues and community welfare issues. Snowy Valleys Council has identified the Tumbarumba Sports Stadium as “under utilised or non-core assets to be sold, disposed of, or repurposed”. (Snowy Valleys Council - Integrated Planning and Reporting Community Update April 2022) TSA strongly disagrees as the Tumbarumba Sports Stadium is our largest indoor sport & recreational facility, function and event space and disaster response facility. TSA has been in the process of signing management and operational agreements for the Tumbarumba Sports Stadium and Pioneer Hall for over twelve months, hopefully, this policy will help get our agreement and others over the line, these buildings are two of SVC’s main community halls, function and event spaces facilities in which TSA plans to repurpose these into a community centre, which has multiple components consisting of a sport and recreation facility that has the ability to cater from multiple sports not just basketball, a disaster centre that has the ability to transform in a matter of hours in times of need that provides refuge</i></p>	<p>1 November, 2023 - 11.56pm</p>	<p>Refer to response to submission No 1,2 and 3. In accordance with the policy</p> <p><i>“All management agreements, licensing and leasing of facilities will be undertaken in full consultation with all stakeholders including community representatives and existing user groups.</i></p> <p><i>The policy also states</i></p> <p><i>“It is the intent of this policy and all future agreements that Council enters into that Councils Community and Recreational facilities will still be accessible to the broader community for use. In the instances where a group or organisation has negotiated with council an agreement for regular use of a facility, that agreement must allow for shared use of the facility with existing or new user groups. “</i></p>
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<p><i>to our emergency responders, youth centre and much more.</i></p> <p><i>TSA has the committee, volunteers, resources and support from the existing user groups, community, schools and local businesses to manage and operate these facilities. With the support of SVC, TSA can bring opportunities for growth in areas of arts and cultural activities, sport and recreation, community welfare, tourism, and positive economic impact. SVC's support in this initiative will allow us to reach the community in ways we haven't been able to before. Our goal is to provide a win-win for both the Tumbarumba and Greater Snowy Valleys community and the SVC. By providing reasonable access to community facilities, SVC will be able to increase the use of otherwise deemed underutilized facilities. Communities thrive by coming together, and what better way to connect than with sport. TSA is asking the SVC to act now, and together we can ensure that all members of the Tumbarumba and Greater Snowy Valleys community have access to spaces that promotes collaboration, mental well-being and physical health.</i></p>		
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LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Delivery Program and Operation Plan Strategic Directions

Theme 5 - Our Civic Leadership

Community Strategic Plan Objectives

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community.

Delivery Program Principal Activities

- 5.1 Communicate with our community and provide opportunities for participation in decision making.
- 5.4 Maintain and deliver a governance framework that guides good decision making, accountability and legislative compliance.

FINANCIAL AND RESOURCES IMPLICATIONS:

This policy, when adopted by Council will be accompanied by individual agreements with community and user groups, which stipulate how outgoings are managed under shared use arrangements at Council's Community and Recreational facilities.

These agreements will also outline maintenance responsibilities as well as payments that are to be made to Council for the use of the facilities and/or what rental subsidy arrangement Council puts in place with the user as part of the agreement.

The intent of the policy and accompanying management model is that Council is not going to make a profit or commercial gain from agreements entered into, it will only recover operating costs and utilise any additional revenue received for the future upgrade of the facility.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

The following Council Policies and Statutory Legislation are relevant to this Policy:

- Council's Community Assistance Policy – SVC-FIN-PO-127
- Council's Lease / Licence of Vacant Council / Crown Land Policy – SVC-COR-PO-008
- Council's Sports Field and Facilities Policy – SVC-ENG-PO-073
- Council's Plans of Management
- Snowy Valleys Council Local Environment Plan (LEP)
- Snowy Valleys Development Control Plan (DCP) – SVC-CorpPlan-Pln-013
- Community Strategic Plan – SVC-RP-STY-011
- *Local Government Act 1993*
- *Disability Discrimination Act 1992*

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/REWARD
Legal	Future agreements that are entered into with Community/user groups will be prepared in accordance with this policy and reviewed by a qualified solicitor.	Legal costs associated with the review and advice provided to Council on future agreements.	Having a qualified solicitor review each agreement that Council enters into will ensure that requisite issues, terms, and conditions are correctly negotiated, and incorporated into the agreements prepared and executed. The process by which a facility is occupied and managed will be open, accountable, and transparent.
Environmental & Public Health	This Policy aligns with the Council's adopted Community and Strategic Plan in that it supports that our communities are	Low Risk This Policy aligns with the Council's adopted	All management agreements, licensing and leasing of facilities will be undertaken in full consultation with all

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/REWARD
	<p>connected and inclusive. It also supports that our communities are supported by services that nature health, well-being and identity.</p> <p>All future agreements that Council enters into under the framework of this policy will be required to comply with all of Council's current Health and Building Regulations as well as activities that are permissible under Council's Local Environment Plan (LEP) and Development Control Plan (DCP).</p>	<p>Community and Strategic Plan.</p> <p>The requirement of this policy is that all user groups who occupy Council's facilities under any future agreement must comply with all relevant Council policies and permissible activities under Council's Local Environment Plan (LEP) and Development Control Plan (DCP).</p> <p>The intent of the policy and accompanying management model is that Council is not going to make a profit or commercial gain from agreements entered into; it will only recover operating costs or utilise any revenue received for the future upgrade of the facility.</p>	<p>stakeholders including community representatives and in accordance with the relevant legislation and Council policies.</p>
Financial	<p>The intent of the policy and accompanying management model is that Council is not going to make a profit or commercial gain from agreements entered into; it will only recover operating costs or utilise any revenue received for the future upgrade of the facility.</p>	<p>Low Risk</p> <p>The intent of the policy and accompanying management model is that Council is not going to make a profit or commercial gain from agreements entered into; it will only recover operating costs or utilise any revenue received for the future upgrade of the facility.</p>	<p>There are possible cost savings to Council on operating and maintenance costs of its Community and Recreational facilities.</p> <p>Contributions from users of Council facilities will be used to cover the management, maintenance, utility services costs along with minor improvement costs of the facility.</p> <p>Contributions should also be used for the development of activities or services associated with the facility.</p> <p>All financial arrangements and agreements between Council and user groups who use Council's Community and Recreational facilities are</p>

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/REWARD
			documented, transparent and in accordance with legislative requirements and Council policies.
People	<p>The intent of this policy is to provide a framework to enable the community and user groups to occupy Council's Community and Recreational facilities in a shared use arrangement that optimises the utilisation of these facilities while at the same time delivers outcomes to the community that Council cannot deliver using its own resources.</p> <p>This policy enables not-for-profit entities to provide programs and services, which address the social, cultural, sporting, and recreational needs of the Community that Council cannot deliver using its own resources.</p>	<p>Low Risk</p> <p>The intent of the policy and accompanying management model is that Council is not going to make a profit or commercial gain from agreements entered into; it will only recover operating costs or utilise any revenue received for the future upgrade of the facility.</p>	<p>All users of Council's Community and Recreational Facilities will support Council's non-discriminatory practices and policies.</p> <p>Community and Recreational Facilities will still be accessible to the broader community.</p> <p>Council will not enter into any management agreements, licenses or leases, which provide for exclusive use and access to a facility by a private individual or group to the exclusion of the general public.</p>
Technology	Nil	Nil	Nil
Stakeholder	<p>Under this policy, Council's Community and Recreational Facilities will generally be managed in a manner, which maximises their availability for current residents and maintains the facility for future residents. Wherever possible, Council will implement a strategy of shared use of any facility, and this will be further supported by the development of multi-use community centres.</p> <p>The intent of this policy is to provide a framework to enable the community</p>	<p>Low Risk</p> <p>A range of management models and agreements including direct Council management, community management, non-exclusive licenses and leases will be used to facilitate this policy.</p> <p>In any management model or agreement that Council enters into for the use of its Community and Recreational facilities, the specific terms of use by user groups will be defined in the detail of the agreement.</p>	<p>These management models and user agreements that Council enters into will help Council plan and manage the future use of its portfolio of Community facilities.</p>

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/REWARD
	<p>and user groups to occupy Councils Community and Recreational facilities in a shared use arrangement that optimises the utilisation of these facilities while at the same time delivers outcomes to the community that Council cannot deliver using its own resources.</p> <p>The purpose of this policy is to encourage a broader range of user groups to have access to the facilities all year round. The policy is also designed to encourage the delivery of a range of support services throughout the Local Government Area (LGA) that address community needs at a point in time and that aligns with Council's current Community Strategic Plan.</p>	<p>It is not the intention of this policy that Council enters into long term agreements with user groups or any form of agreement, which provides for exclusive use and or access to a facility by a private individual or user group to the exclusion of the general public.</p> <p>It is recognised that these needs change over time and therefore use of Council's Community and Recreational facilities must be flexible enough to accommodate the changing needs of the community.</p>	
Service Delivery	<p>This policy enables the community to build capacity to run a variety of services and programs that Council cannot provide or fully fund from within its own resources. This policy also aims to build resilience and reduce the community's reliance on Council to meet every community request for service delivery.</p>	<p>There are potential resource and staffing efficiencies for Council through the implementation of this policy.</p> <p>The policy enables Council to establish a more collaborative and partnering approach with the community on how the Council can deliver specific services and programs that the community has identified it needs at Council-owned facilities without Council having to directly pay for or resource those services and programs desired by the community.</p>	<p>The policy encourages community leadership that is built upon a strengths-based approach, focusing on existing community strengths and resources rather than a community deficit or needs approach that relies upon Council to deliver or resource.</p>

OPTIONS:

1. Adopt as per recommendations set out in this report.
2. Amend the policy.
3. Decline the recommendations set out in this report.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

In accordance with the resolution of Council, the Draft Community and Recreational Facilities Management Policy was publicly exhibited for 28 days from 2 October to 2 November 2023.

During the public exhibition period, Council received five (5) submissions through Council's "Your Voice" engagement portal. Council also received one written submission from the Batlow Community and Cultural Association Inc. (BCCA).

Table 1 in this report provides a summary of the submissions received and responses to how the submissions have been addressed in relation to the Policy.

ATTACHMENTS

1. Community and Recreational Facilities Management Policy (SVC-ENG-PO-130-01) (under separate cover)

12. MINUTES OF COMMITTEE MEETINGS

12.1. MINUTES - AUDIT RISK AND IMPROVEMENT COMMITTEE - 08 NOVEMBER 2023

REPORT AUTHOR: COORDINATOR GOVERNANCE

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

The Audit, Risk & Improvement Committee (ARIC) was established by Council in August 2016 and is pursuant to Section 428A of the *Local Government Act 1993*. The ARIC reports to Council after each meeting.

RECOMMENDATION:

THAT COUNCIL:

1. **Note the Minutes of the Audit Risk and Improvement Committee held on 08 November 2023 and in particular:**
 - a. **Bring to Councillors' attention that Management and Council need to acknowledge and accept the risks associated with the High-risk rating items being beyond Council's risk tolerance and are not being addressed or progressed to resolution.**

BACKGROUND:

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

ARIC'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, ARIC 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 Council's financial and physical resources.

REPORT:

All information including notes and actions have been captured in the ARIC minutes which are attached to this report.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Delivery Program and Operation Plan Strategic Directions

Theme 5 - Our Civic Leadership

Community Strategic Plan Objectives

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community.

Delivery Program Principal Activities

5.4 Maintain and deliver a governance framework that guides good decision making, accountability and legislative compliance.

FINANCIAL AND RESOURCES IMPLICATIONS:

The approved budget for the operation of the ARIC for 2023/2024 is \$40,000 and includes member remuneration, training and the engagement of the internal auditor.

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 Section 23A the *Local Government Act 1993*.

Council is transitioning to the Draft Guidelines for Risk Management and Internal Audit Framework for Local Councils in NSW; full compliance is expected by 01 July 2024.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

ARIC is charged with the responsibility of:

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

OPTIONS:

Nil

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

No

ATTACHMENTS

1. Minutes - Audit Risk and Improvement Committee - 08 November 2023 (under separate cover)

12.2. MINUTES - FIRST NATIONS LIAISON COMMITTEE - 15 NOVEMBER 2023

REPORT AUTHOR: COMMUNITY DEVELOPMENT OFFICER

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

The First Nations Liaison Committee is an Advisory Committee with the purpose of providing a forum for discussion between Council and the First Nations Community on key issues and reports to Council following each meeting.

RECOMMENDATION:

THAT COUNCIL:

- 1. Note the minutes of the First Nations Liaison Committee held on 15 November 2023; and**
- 2. Advertise to fill the First Nations Liaison Committee vacant positions.**

BACKGROUND:

The Aboriginal Liaison Committee and Council, through collaborative work in 2019, identified the need for a formal reconciliation journey. This led to the development of the Reflect Reconciliation Action Plan Council (RAP). During the RAP development, Council and the Aboriginal Liaison Committee in 2022 agreed that the existing Aboriginal Framework including the Memorandum of Understanding Between Aboriginal Community of Snowy Valleys and the Snowy Valleys Council (MoU), the Aboriginal Cultural Protocols and Practices Policy and the Aboriginal Liaison Committee Terms of Reference were not consistent and replicated each other. In 2022, Council adopted the RAP, First Nations Liaison Committee Terms of Reference and the First Nations Cultural Protocols.

The First Nations Liaison Committee currently has nine (9) voting members and two (2) non-voting members. In line with Council's Committee Operation Manual, Committee's can elect a minimum of three (3) and maximum of twelve (12) voting members.

REPORT:

At the First Nations Liaison Committee meeting held on the 15 November 2023, key agenda items were discussed and details are included in the attached minutes. The Committee has vacant Committee membership positions and is recommending that Council advertise to fill those vacancies.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Community Strategic Plan Theme

Theme 1 - Our Community

Theme 5 - Our Civic Leadership

Community Strategic Plan Strategic Objectives

CSP1 Our communities are connected and inclusive. Supported by services that nurture health, wellbeing and identity

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community

Delivery Program Principal Activities

1.3 Provide services and support to enhance local arts and culture

1.5 Value our heritage and promote civic pride

5.1 Communicate with our community and provide opportunities for participation in decision making

FINANCIAL AND RESOURCES IMPLICATIONS:

Preparation for the First Nations Liaison Committee meetings is included in the Community Development budget. Events such as NAIDOC Week, Reconciliation Week and events identified in the RAP and providing remuneration to Elders performing 'Welcome to Country' stated in the First Nations Cultural Protocols is also included in the Community Development budget.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

The *Local Government Act 1993*, Section 375, requires Councils to keep full and accurate minutes of meetings.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

N/A

OPTIONS:

1. Adopt as per recommendations set out in this report - preferred option.
2. Amend.
3. Decline the recommendations set out in this report.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

N/A

ATTACHMENTS

1. Minutes - First Nations Liaison Committee - 15 November 2023 (under separate cover)

12.3. MINUTES - LOCAL TRAFFIC COMMITTEE MEETING - 8 NOVEMBER, 2023**REPORT AUTHOR: ROAD SAFETY OFFICER****RESPONSIBLE DIRECTOR: DIRECTOR INFRASTRUCTURE & WORKS**

EXECUTIVE SUMMARY:

The Local Traffic Committee is a statutory committee with representatives from NSW Police, Transport for NSW, Local Members of Parliament, Councillors and Council staff.

The purpose of the Committee is to update Council on matters related to prescribed traffic control devices and traffic control facilities for which Council has delegated authority.

This report seeks adoption of the Committee's minutes and recommendations.

RECOMMENDATION:**THAT COUNCIL:**

1. Note the Minutes of the Local Traffic Committee held on Wednesday 8 November, 2023; and
2. Adopt the following recommendations from the minutes:
 - a. ROAD SAFETY AUDIT - WILLIGOBUNG FIRE BRIGADE STATION ACCESS ASSESSMENT
 1. Provide a copy of the report along with its recommendations to Transport for NSW (TfNSW) for their review and comment; and
 2. Endorse TfNSW engagement with the Rural Fire Service for appropriate road safety improvements at suitable locations near the entry of the Willigobung Fire Shed.
 - b. REQUEST - CHANGE SCHOOL SPEED ZONE - HOWICK STREET, TUMUT
 1. Reject the request for a school speed zone adjacent to the Tumut Community Pre-School in Howick Street, Tumut, and that Council undertake a traffic survey to review the speed and traffic volumes, from February 2024.
 - c. REQUEST - INSTALLATION OF STOP SIGN - CNR BROUGHTON AND SIMPSON STREET, TUMUT
 1. Reject the request for a stop sign at the intersection of Broughton and Simpson Street, Tumut; and
 2. Renewal of the linemarking at the intersection.
 - d. REQUEST - TUMUT TOWN BAND - CHRISTMAS MORNING PLAY OUT
 1. Reject the request of the Tumut Town Band to undertake the Christmas Morning Play Out activities due to its breaching current road rules.
 - e. SPECIAL EVENT APPLICATION - ADELONG ANZAC DAY 2024
 1. Support the Special Event Application for the Adelong 2024 ANZAC Day event, subject to Council's standard conditions.
 - f. SPECIAL EVENT APPLICATION - TUMBARUMBA ANZAC DAY 2024
 1. Support the Special Event Application for the Tumbarumba 2024 ANZAC Day event, subject to Council's standard conditions.
 - g. SPECIAL EVENT APPLICATION - TUMUT ANZAC DAY 2024
 1. Support the Special Event Application for the Tumut 2024 ANZAC Day event, subject to Council's standard conditions.

h. SPECIAL EVENT APPLICATION - BATLOW CIDERFEST

1. **Support the Special Event Application for the Batlow Ciderfest event to be held on the 18 May 2024, subject to Council's standard conditions.**

i. SPECIAL EVENT APPLICATION - FALLING LEAF FESTIVAL

1. **Support the Special Event Application for the Falling Leaf Festival to be held on the 27 April 2024, 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 Federal, State, nor private roads.

REPORT:

A copy of the Local Traffic Committee Minutes are attached under separate cover.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**Integrated Planning and Reporting Framework:****Delivery Program and Operation Plan Strategic Directions**

Theme 4 - Our Infrastructure

Community Strategic Plan Objectives

CSP4 Our infrastructure includes Council services that plan, manage, maintain and renew our community infrastructure and transport networks

Delivery Program Principal Activities

4.1 Plan and provide sustainable transport infrastructure, including footpaths, walking tracks and cycleways

4.3 Plan and provide a program to maintain the local road network

FINANCIAL AND RESOURCES IMPLICATIONS:

Internal resources are utilised to prepare the reports for the Local Traffic Committee and the provision of executive staff 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 agreed road safety initiatives. The items outlined in this report will be actioned as time and resources are available.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

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

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Risk Management Assessments are provided with Special Event Applications.

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

OPTIONS:

Council may choose to:

1. Endorse the recommendations made by the Local Traffic Committee as described in this report and the Minutes, as attached.
2. Endorse some of the recommendations made by the Local Traffic Committee as described in this report and the Minutes, as attached.
3. Not endorse the recommendations made by the Local Traffic Committee as described in this report and the Minutes, as attached.
4. Reject or defer the report.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

The traffic management of events that occupy road reserves requires consultation with NSW Police, Transport for NSW, Snowy Valleys Council, road managers, event organisers and other stakeholders. Changes to the road environment require communication with the community.

ATTACHMENTS

1. Minutes - Local Traffic Committee Meeting - 8 November 2023 (Under Separate cover)

12.4. MINUTES - GLENROY HERITAGE RESERVE COMMITTEE - 4 NOVEMBER 2023**REPORT AUTHOR: COORDINATOR PLACE ACTIVATION****RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE**

EXECUTIVE SUMMARY:

The Glenroy Heritage Reserve Committee is a Section 355 Committee of Council and meets on a quarterly basis.

This report seeks adoption of the Glenroy Heritage Reserve Annual General Meeting Minutes and the Ordinary Committee Meeting Minutes from the 4 November 2023.

RECOMMENDATION:**THAT COUNCIL:**

1. **Note the Minutes of the Glenroy Heritage Reserve Annual General Committee Meeting and the Glenroy Heritage Reserve Ordinary Meeting held on 4 November 2023; and**
2. **Endorse the nominations of the following committee members:**
 - a. **President: Neil Christie**
 - b. **President Elect: Bruce Wright**
 - c. **Treasurer: Stephen Weeks**
 - d. **Secretary: Jamie Metcalf**
 - e. **Committee Members: Anne Thoroughgood, Doug Keiselback, Brenda Wiggett, Colleen McAuliffe.**

BACKGROUND:

The Glenroy Heritage Reserve 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 shop and purchasing of furniture and fittings for the museum.

REPORT:**Annual General Meeting held at Glenroy Heritage Reserve on 4 November 2023, commencing at 1.30pm.**

A copy of the Glenroy Heritage Reserve Committee Annual General Meeting Minutes are attached to this report.

NOMINATION/ELECTION of Committee

- President nomination Neil Christie nominated by Bruce Wright, second Stephen Weeks
- President Elect nomination Bruce Wright nominated by Anne Thoroughgood, second Colleen McAuliffe
- Treasurer nomination: Stephen Weeks nominated by Bruce Wright, second Anne Thoroughgood
- Secretary nomination: Jamie Metcalf nominated by Colleen McAuliffe, second Bruce Wright
- Committee members are Neil Christie, Anne Thoroughgood, Stephen Weeks, Bruce Wright, Doug Kieselback, Brenda Wiggett, Jamie Metcalf and Colleen McAuliffe.

Glenroy Heritage Reserve Ordinary Meeting held on 4 November 2023, commencing at 2.00pm

A copy of the Glenroy Heritage Reserve Committee Ordinary Meeting Minutes are attached to this report.

The next meeting is scheduled for Wednesday, 14 February 2024. This meeting will be held at Glenroy Heritage Reserve.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Delivery Program and Operation Plan Strategic Directions

Theme 5 - Our Civic Leadership

Community Strategic Plan Objectives

CSP5 Our Civic leadership and organisation government fosters open and transparent partnership with our community

Delivery Program Principal Activities

5.1 Communicate with our community and provide opportunities for participation in decision making

5.4 Maintain and deliver a governance framework that guides good decision making, accountability and legislative compliance

FINANCIAL AND RESOURCES IMPLICATIONS:

The Committee raises funds through the craft shop sales, museum visit donations, and tour bus catering that allow the Committee to continue operations and contribute to maintenance jobs at the Museum and the Reserve.

- Income generated from museum visits goes to the Pioneer Women's Hut Incorporated;
- Income generated from booked bus tours and catering goes to Glenroy Heritage Reserve Committee; and
- Income generated from craft shop sales goes to Glenroy Cottage Craft Shop.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Nil.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

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.

Risk Management - All volunteers are registered in Council's volunteer management framework and have completed current volunteer inductions.

OPTIONS:

1. Adopt as per recommendations set out in this report.
2. Amend the recommendations set out in this report.
3. Decline the recommendations set out in this report.

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Nil.

ATTACHMENTS

1. Minutes - Glenroy Heritage Reserve - Annual General Meeting - 4 November 2023 (Under separate cover)
2. Glenroy Heritage Reserve AGM Reports (Under separate cover)
3. Glenroy Heritage Reserve - AGM Treasurers Report (Under separate cover)
4. Minutes - Glenroy Heritage Reserve - Ordinary Meeting - 4 November 2023 (Under separate cover)
5. Glenroy Heritage Reserve - Ordinary Meeting Treasurers Report (Under separate cover)
6. Glenroy Heritage Reserve - Job List (Under separate cover)

13. CONFIDENTIAL

Section 10D of the *Local Government Act 1993* provides that Council may close to the public that part of the meeting that deals with matters of a confidential nature. Section 10A(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 10A(2) of the *Local Government Act 1993* for the reasons specified:

11.2 CONFIDENTIAL - DA2023/0120 - PROPOSED BOUNDARY ADJUSTMENT AT 702-712 BOMBOWLEE CREEK ROAD BOMBOWLEE - ATTACHMENTS

Attachment 4 (under separate cover) to Item 11.2 is confidential under the *Local Government Act 1993* Section 10A 2(g) as it relates to advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege, and Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

11.6 CONFIDENTIAL - OPTIONS ANALYSIS TUMUT AERODROME - ATTACHMENTS

Attachment 1 & 2 (under separate cover) to Item 11.6 are 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.

13.1 CONFIDENTIAL - RFT 2023/01 - TUMUT MULTI-PURPOSE CENTRE ASSESSMENT

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 CONFIDENTIAL - RFT 2023/08 - TOOMA HALL REDEVELOPMENT

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 CONFIDENTIAL - SOUTH WEST REGIONAL WASTE MANAGEMENT GROUP MEMORANDUM OF AGREEMENT RENEWAL

Item 13.3 is confidential under the *Local Government Act 1993* Section 10A (2) (d)(i) 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 Council considers that discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

14. MEETING CLOSURE