



SNOWY VALLEYS COUNCIL ORDINARY MEETING

AGENDA

Thursday, 15 February 2024

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, 15 February 2024

Council Chambers 76 Capper Street Tumut and Via Video Link

2:00 PM

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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.

<h2>5. CONFIRMATION OF MINUTES</h2>

5.1. MINUTES - ORDINARY COUNCIL - 14 DECEMBER 2023

RECOMMENDATION:

That the Minutes of the Ordinary Council Meeting held on 14 December 2023 be received and confirmed as an accurate record.

Attachment 1 - 20231214 -DRAFT Minutes - Ordinary Council



ORDINARY MEETING

MINUTES

Thursday, 14 December 2023

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



Thursday, 14 December 2023

Council Chambers 76 Capper Street Tumut and Via Video Link

2:00 PM

MINUTES

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Interim General Manager

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Interim General Manager

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

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

1. ACKNOWLEDGEMENT OF COUNTRY

An acknowledgement of the traditional custodians of the land was delivered by Cr Brent Livermore.

2. PUBLIC FORUM

Two speakers addressed Council as follows:

- Brian Clout speaking for Item 8.5 Notice of Motion - Road Policy - Cr Armour

Cr Hayes left the room at 2.09pm.

- Ray Piper speaking against Item DA2023/0120 - Proposed Boundary Adjustment at 702-712 Bombowlee Creek Road, Bombowlee

3. APOLOGIES, LEAVE OF ABSENCE AND REMOTE ATTENDANCE

Nil.

4. DECLARATIONS OF PECUNIARY INTEREST

Cr Hayes returned to the room 2.18pm.

Cr James Hayes declared a pecuniary interest in relation to report # 11.2 DA2023/0120 - Proposed Boundary Adjustment at 702-712 Bombowlee Creek Road, Bombowlee due to a conflict and will leave the room during discussion.

Cr Julia Ham declared a pecuniary interest in relation to report # Item 11.3 Tumbarumba Start Strong Preschool - Request for Refund and Waiver of Fees and Charges due to being on the committee and will leave the room during discussion.

Cr Sam Hughes declared a non significant non pecuniary interest in relation to report # Item 11.7 Community and Recreation Facilities Management Policy - For Adoption and will remain in the room during discussion.

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Interim General Manager

5. CONFIRMATION OF MINUTES

5.1. MINUTES - ORDINARY COUNCIL - 16 NOVEMBER 2023

M247/23 RESOLVED:

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

Cr Trina Thomson/Cr John Larter

CARRIED UNANIMOUSLY

6. CORRESPONDENCE/PETITIONS

A petition has been received regarding the relocated sculpture in Batlow and will be considered at the February 2024 meeting of Council.

Cr Hayes advised that there has also been an on-line submission through change.org as well as hard copy (tabled) made regarding retaining the Adelong Caravan Park lease with the Adelong Services and Citizens Club. This petition will also be brought to the February 2024 meeting of Council.

7. MAYORAL MINUTE

No formal Mayoral Minute however the Mayor wished all a happy and prosperous Christmas and New Year.

8. NOTICE OF MOTION/NOTICE OF RESCISSION

8.1. NOTICE OF MOTION - NSW SEVERE WEATHER AND FLOOD GRANT - CLR JAMES HAYES

M248/23 RESOLVED:

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.

Cr James Hayes/Cr John Larter

CARRIED UNANIMOUSLY

8.2. NOTICE OF MOTION - REMOVAL OF WEEDS ALONG SVC RAIL CORRIDORS - CLR JAMES HAYES**M249/23 RESOLVED:**

THAT COUNCIL request UGL to immediately control weeds, particularly blackberries and pest harbour from the rail corridors within the Snowy Valleys Council Local Government Area.

Cr James Hayes/Cr Julia Ham

CARRIED UNANIMOUSLY

8.3. NOTICE OF MOTION - USE OF COUNCIL PARKS AND FACILITIES FOR COMMUNITY EVENTS - CLR TRINA THOMSON**M250/23 RESOLVED:**

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

Cr Trina Thomson/Cr Mick Ivill

CARRIED UNANIMOUSLY

8.4. NOTICE OF MOTION - CCTV - VANDALISM TO COUNCIL INFRASTRUCTURE - CLR TRINA THOMSON**M251/23 RESOLVED:**

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.

Cr Trina Thomson/Cr Mick Ivill

CARRIED UNANIMOUSLY

8.5. NOTICE OF MOTION - ROAD POLICY - CLR HANSIE ARMOUR**M252/23 RESOLVED:**

THAT COUNCIL receive a report that considers allowing a stock grid 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.

Cr Johanna (Hansie) Armour/Cr Trina Thomson

CARRIED UNANIMOUSLY

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9. URGENT BUSINESS WITHOUT NOTICE

Nil.

10. GOVERNANCE AND FINANCIAL REPORTS

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

M253/23 RESOLVED:

THAT COUNCIL:

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

Cr James Hayes/Cr John Larter

CARRIED UNANIMOUSLY

10.2. 2024 MEETING CALENDAR

M254/23 RESOLVED:

THAT COUNCIL:

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

Cr James Hayes/Cr Julia Ham

CARRIED UNANIMOUSLY

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

M255/23 RESOLVED:

That Items 10.3 and 10.5 be deferred for discussion at a Council Workshop prior to the February 2024 Ordinary Meeting of Council.

Cr Trina Thomson/Cr Mick Ivill

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

Against: Cr Larter, Cr Ham

7/2

CARRIED

10.4. DRAFT PUBLIC INTEREST DISCLOSURES POLICY - FOR PUBLIC EXHIBITION**M256/23 RESOLVED:**

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.

Cr Brent Livermore/Cr Julia Ham

For: Cr Chaffey, Cr Ham, Cr Hayes, Cr Hughes, Cr Ivill, Cr Larter, Cr Livermore, Cr Thomson**Against:** Cr Armour**8 / 1****CARRIED****10.5. DRAFT INFORMATION GUIDE 2023/2024 - FOR PUBLIC EXHIBITION**

Resolved M255/23 that 10.5 be deferred for discussion at a Council Workshop prior to the February 2024 Ordinary Meeting of Council.

10.6. CODE OF CONDUCT COMPLAINTS STATISTICS FOR THE REPORTING PERIOD 01 SEPTEMBER 2022 - 31 AUGUST 2023**M257/23 RESOLVED:**

THAT COUNCIL:

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

Cr Julia Ham/Cr James Hayes

CARRIED UNANIMOUSLY**10.7. STATEMENT OF INVESTMENT - NOVEMBER 2023****M258/23 RESOLVED:**

THAT COUNCIL:

1. Note the report on Statement of Investment - 30 November 2023;
2. Receive a report on the potential to renegotiate low interest-bearing investments.

Cr James Hayes/Cr John Larter

CARRIED UNANIMOUSLY

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Mayor_____
Interim General Manager

11. MANAGEMENT REPORTS

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

MOTION:

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.

Cr John Larter/Cr Julia Ham

M259/23 RESOLVED to move into Committee of the Whole.

Cr Trina Thomson/Cr Mick Ivill

CARRIED UNANIMOUSLY

Cr Hayes left the room at 3.00pm and returned at 3.02pm.

M260/23 RESOLVED to move out of Committee of the Whole.

Cr John Larter/Cr Trina Thomson

CARRIED UNANIMOUSLY

AMENDMENT:

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 subject to amendment to Condition 40 'Capacity Limits of Development':

The capacity limit of visitors and guests utilising the facilities on the subject land, being the commercial development, is restricted to a maximum of twelve (12) at any one time.

Cr Brent Livermore/Cr Julia Ham

The amendment was put and carried.

For: Cr Chaffey, Cr Ham, Cr Hayes, Cr Hughes, Cr Ivill, Cr Larter, Cr Livermore, Cr Thomson

Against: Cr Armour

8/1

CARRIED

M261/23 RESOLVED:

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 subject to amendment to Condition 40 'Capacity Limits of Development':

The capacity limit of visitors and guests utilising the facilities on the subject land, being the commercial development, is restricted to a maximum of twelve (12) at any one time.

Cr Brent Livermore/Cr Julia Ham

The amendment became the motion and was put and carried.

For: Cr Chaffey, Cr Ham, Cr Hughes, Cr Ivill, Cr Larter, Cr Livermore

Against: Cr Armour, Cr Hayes, Cr Thomson

6/3

CARRIED

Cr Hayes left the meeting at 3.24pm.

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

M262/23 RESOLVED that the matter be deferred for further discussion and site visit.

Cr Julia Ham/Cr Trina Thomson

CARRIED UNANIMOUSLY

Cr Ham left the meeting at 3.26pm.

Cr Hayes returned to the meeting at 3.26pm.

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

Mayor

Interim General Manager

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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.

Cr Mick Ivill/Cr John Larter

For: Cr Ivill, Cr Larter, Cr Hayes**Against:** Cr Chaffey, Cr Armour, Cr Thomson, Cr Hughes, Cr Livermore**3/5****LOST****M263/23 RESOLVED:**

That correspondence be forwarded to the Tumbarumba Start Strong committee requesting further information on funding and the cost of the pre-school construction to enable their request for further consideration of refund and waiver of application fees.

Cr Mick Ivill/Cr Brent Livermore

CARRIED UNANIMOUSLY

Cr Ham returned to the meeting at 3.45pm.

11.4. THE BATLOW CIDER RAIL TRAIL - STEERING COMMITTEE**M264/23 RESOLVED:**

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.

Cr Trina Thomson/Cr Brent Livermore

For: Cr Armour, Cr Chaffey, Cr Ham, Cr Hughes, Cr Ivill, Cr Larter, Cr Livermore, Cr Thomson**Against:** Cr Hayes**8/1****CARRIED**

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11.5. ELECTRIC VEHICLE (EV) CHARGING STATIONS**M265/23 RESOLVED:****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 the Snowy Valleys local government area;
2. Consider partnering with a third party to assist in funding the contribution costs of the EV Charging stations in the Snowy Valleys local government area and submit additional applications for charging stations in partnership with the third party who will cover the contribution costs.

Cr Julia Ham/Cr Trina Thomson

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

Against: Cr Larter

8/1

CARRIED

11.6. OPTIONS ANALYSIS TUMUT AERODROME**RECOMMENDATION:****THAT COUNCIL:**

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

Cr Trina Thomson/Cr Mick Ivill

M266/23 RESOLVED to move into Committee of the Whole

Cr John Larter/Cr Julia Ham

CARRIED UNANIMOUSLY

M267/23 RESOLVED to move out of Committee of the Whole

Cr Julia Ham/Cr James Hayes

CARRIED UNANIMOUSLY

M268/23 RESOLVED:**THAT COUNCIL:**

1. Proceed with Option 3 (Upgraded Code 2 Non-instrument (No RESA)) as recommended in the consultant's options analysis report;
2. Subject to further funding, undertake work towards acquiring additional land for the extension of the runway at the Tumut Aerodrome as identified in Option 5 of the consultant's report by Aviation Projects.

Cr Trina Thomson/Cr Mick Ivill

CARRIED UNANIMOUSLY

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11.7. COMMUNITY AND RECREATION FACILITIES MANAGEMENT POLICY - FOR ADOPTION**M269/23 RESOLVED:**

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.

Cr Julia Ham/Cr Sam Hughes

Cr Ivill left the room at 4.25pm and returned at 4.27pm.

CARRIED UNANIMOUSLY

12. MINUTES OF COMMITTEE MEETINGS**12.1. MINUTES - AUDIT RISK AND IMPROVEMENT COMMITTEE - 08 NOVEMBER 2023****M270/23 RESOLVED:**

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.

Cr Julia Ham/Cr Brent Livermore

CARRIED UNANIMOUSLY

12.2. MINUTES - FIRST NATIONS LIAISON COMMITTEE - 15 NOVEMBER 2023**M271/23 RESOLVED:**

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.

Cr Sam Hughes/Cr Mick Ivill

CARRIED UNANIMOUSLY

12.3. MINUTES - LOCAL TRAFFIC COMMITTEE MEETING - 8 NOVEMBER, 2023**M272/23 RESOLVED:**

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.

Cr James Hayes/Cr Mick Ivill

CARRIED UNANIMOUSLY

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Mayor_____
Interim General Manager

M273/23 RESOLVED:

That Council write to the responsible Minister, local state members and LGNSW with regard to early education and care services seeking the same consideration as school speed zones.

Cr John Larter/Cr Johanna (Hansie) Armour

CARRIED UNANIMOUSLY**12.4. MINUTES - GLENROY HERITAGE RESERVE COMMITTEE - 4 NOVEMBER 2023****M274/23 RESOLVED:****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.

Cr Julia Ham/Cr Trina Thomson

CARRIED UNANIMOUSLY**13. CONFIDENTIAL****M275/23 RESOLVED:**

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:

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.

CONFIDENTIAL - OPTIONS ANALYSIS TUMUT AERODROME - ATTACHMENTS

Attachments 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.

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.

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.

CONFIDENTIAL - SOUTH WEST REGIONAL WASTE MANAGEMENT GROUP MEMORANDUM OF AGREEMENT RENEWAL

Item 13.2 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.

Cr Mick Ivill/Cr John Larter

CARRIED UNANIMOUSLY

The meeting was closed to the public at 4.42pm.

M276/23 RESOLVED to move out of Confidential session.

Cr Julia Ham/Cr Trina Thomson

CARRIED UNANIMOUSLY

Returned to open session at 5.00pm.

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

13.1. CONFIDENTIAL - RFT 2023/01 - TUMUT MULTI-PURPOSE CENTRE ASSESSMENT**M277/23 RESOLVED:**

THAT COUNCIL:

1. In accordance with Section 178 (3)(e) Local Government (General) Regulation 2021:

- Reject all offers for Request for Tender (RFT) 2023/01 for the Tumut Multi-Purpose Centre due to all tenders exceeding the available budget;
- Not invite fresh tenders, because it is considered that re-tendering, rather than negotiating, will not attract additional suitable submissions;

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Mayor

Interim General Manager

2. Authorise the Interim General Manager or delegate to enter into direct negotiation with all the original tenderers and other suitable contractors for the delivery of Tumut Multi-Purpose Centre using a new price and non-price tender evaluation process to ensure value for money can be achieved.
3. Authorise the Interim General Manager at the end of successful negotiations to enter into a contract with suitably qualified contractors for the Tumut Multi-Purpose Centre and that the outcome of the Reject and Negotiate process is reported back to Council.
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.
5. Notes the current budget for the project and grant funding that has been approved by the Federal Government Bushfire Local Economic Recovery Fund (BLERF) to date.
6. Council undertakes consultation with all user groups that are interested in using the new facility and formulates a draft Occupation Agreement with user groups that will be brought back to Council for adoption prior to construction of the project commencing.

Cr Trina Thomson/Cr Mick Ivill

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

Against: Cr Larter, Cr Hayes

CARRIED

7/2

13.2. CONFIDENTIAL - RFT 2023/08 - TOOMA HALL RENOVATIONS

M278/23 RESOLVED:

THAT COUNCIL:

1. Note the report on RFT 2023/08 – Tooma Hall Renovations;
2. Resolve in accordance with Section 178(1)(b) of the NSW Local Government (General) Regulation 2021 to decline to accept any of the tenders for the Tooma Hall Renovations;
3. Resolve in accordance with Section 178(3)(e) of the NSW Local Government (General) Regulation 2021 to enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender;
4. Resolve in accordance with Section 178(4)(b) of the Local NSW Local Government (General) Regulation 2021 not to invite fresh tenders, noting that it is considered that inviting fresh tenders would not enable the Council to achieve its objectives for the Project;
5. Advise the tenderers in writing that their tender was not accepted; and
6. Authorise the General Manager to enter into a contract for the Tooma Hall Renovations subject to the successful outcome of negotiations.

Cr Julia Ham/Cr Mick Ivill

CARRIED UNANIMOUSLY

**13.3. CONFIDENTIAL - SOUTH WEST REGIONAL WASTE MANAGEMENT GROUP
MEMORANDUM OF AGREEMENT RENEWAL****M279/23 RESOLVED:****THAT COUNCIL:**

1. Endorse the updated Memorandum of Agreement between the Council's of the South West Regional Waste Management Group under Section 355 of the *Local Government Act 1993* (exercise functions jointly by Council and another council or councils).
2. Delegate to the General Manager to execute all necessary documentation associated with the Memorandum of Agreement, commencing on 24/12/2023 for a term of 5 years;
3. Delegate to the South West Regional Waste Management Group, under section 377 of the *Local Government Act 1993*, the powers and functions of Council as required to manage the agreement with Bald Hill Quarry Pty Ltd trading as Ecofill, and manage the collection of waste from group councils' facilities.

Cr Julia Ham/Cr Trina Thomson

CARRIED UNANIMOUSLY

14. MEETING CLOSURE

There being no further business to discuss, the meeting closed at 5.05pm.

Mayor

Interim General Manager

5.2. MINUTES - EXTRAORDINARY COUNCIL - 1 FEBRUARY 2024

RECOMMENDATION:

That the Minutes of the Extraordinary Council Meeting held on 1 February 2024 be received and confirmed as an accurate record.

Attachment 1 - 20240201 - DRAFT Minutes - Extraordinary Council



EXTRAORDINARY MEETING

MINUTES

Thursday, 1 February 2024

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

Mayor

Interim General Manager

Thursday, 1 February 2024
Council Chambers 76 Capper Street Tumut and Via Video Link
2:00 PM

MINUTES

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Mayor

Interim General Manager

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

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

1. ACKNOWLEDGEMENT OF COUNTRY

An acknowledgement of the traditional custodians of the land was delivered by the Mayor, Cr Ian Chaffey.

PUBLIC FORUM

Three speakers addressed Council as follows:

- Rob Cox against report 4.1. Application for Special Rate Variation (2024/2025, 2025/2026, 2026/2027)
- Andrew Street against report 4.1. Application for Special Rate Variation (2024/2025, 2025/2026, 2026/2027)
- Espie Watt against report 4.1. Application for Special Rate Variation (2024/2025, 2025/2026, 2026/2027)

Cr Larter left the meeting at 2.21pm and returned at 2.23pm.

2. APOLOGIES, LEAVE OF ABSENCE AND REMOTE ATTENDANCE

There were no apologies or Leave of Absence received.

3. DECLARATIONS OF PECUNIARY INTEREST

Cr Julia Ham declared a pecuniary interest in relation to report 5.1 Planning Proposal Post Exhibition- 97 King Street, Tumbarumba due to being on the Committee and having a business that involves early childhood education and will leave the room during discussion.

4. GOVERNANCE AND FINANCIAL REPORTS

4.1. APPLICATION FOR SPECIAL RATE VARIATION (2024/2025, 2025/2026, 2026/2027)

MOTION:

THAT COUNCIL:

1. Note the report on Application for Special Rate Variation (2024/2025, 2025/2026, 2026/2027);
2. Make an application to the Independent Pricing and Regulatory Tribunal (IPART) under section 508A of the *Local Government Act 1993* for increases to the ordinary rate income of 12.5% in 2024/2025 (including the rate peg), 12.5% in 2025/2026 (including the rate peg) and 12.5% in 2026/2027 (including the rate peg), representing a total cumulative increase of 42.38% over a three-year period, to be a permanent increase retained within the rate base;
3. Adopt the submission to IPART, consisting of IPART application form Part A Special Variation 2024/2025 and IPART Application form Part B Special Variation 2024/2025; and
4. Authorise the General Manager to undertake any necessary minor administrative or editorial changes to the submission to IPART.
5. For SVC to invite and encourage the NSW Valuer General to address an open general meeting to explain how property values are determined and the impact this has on the rates.
6. For Council to re visit the base rate for all rate payers and determine if it needs adjusting to ensure that fair and equitable rates are being charged across the whole council area.

Cr Julia Ham/ Cr Johanna (Hansie) Armour

M01/24 RESOLVED to move into Committee of the Whole

Cr Trina Thomson/Cr Julia Ham

CARRIED UNANIMOUSLY

M02/24 RESOLVED to move out of Committee of the Whole

Cr Trina Thomson/Cr Julia Ham

CARRIED UNANIMOUSLY

M03/24 RESOLVED:

THAT COUNCIL:

1. Note the report on Application for Special Rate Variation (2024/2025, 2025/2026, 2026/2027);
2. Make an application to the Independent Pricing and Regulatory Tribunal (IPART) under section 508A of the *Local Government Act 1993* for increases to the ordinary rate income of 12.5% in 2024/2025 (including the rate peg), 12.5% in 2025/2026 (including the rate peg) and 12.5% in 2026/2027 (including the rate peg), representing a total cumulative increase of 42.38% over a three-year period, to be a permanent increase retained within the rate base;
3. Adopt the submission to IPART, consisting of IPART application form Part A Special Variation 2024/2025 and IPART Application form Part B Special Variation 2024/2025; and

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Mayor

Interim General Manager

4. Authorise the General Manager to undertake any necessary minor administrative or editorial changes to the submission to IPART.
5. Invite and encourage the NSW Valuer General to address an open general meeting to explain how property values are determined and the impact this has on the rates;
6. Revisit the base rate for all rate payers and determine if it needs adjusting to ensure that fair and equitable rates are being charged across the whole council area.

Cr Julia Ham/Cr Johanna (Hansie) Armour

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

Against: Cr Larter, Cr Armour, Cr Hayes

6 / 3

CARRIED

5. MANAGEMENT REPORTS

Cr Ham left the meeting at 3.33pm.

5.1. PLANNING PROPOSAL POST EXHIBITION - 97 KING STREET, TUMBARUMBA

M04/24 RESOLVED:

THAT COUNCIL:

1. Finalise the Planning Proposal to include Lot 17 in Section 9 Deposited Plan 759003 and Lot 18 in Section 9 Deposited Plan 759003 being 97 King Street, Tumbarumba in Schedule 1 (Additional Permitted Uses) of the Tumbarumba Local Environment Plan 2010, to permit with consent a 'Centre Based Child Care Facility' in accordance with section 3.36 of the *Environmental Planning and Assessment Act 1979*.

Cr James Hayes/Cr Mick Ivill

CARRIED UNANIMOUSLY

Cr Ham returned to the meeting at 3.34pm.

6. CONFIDENTIAL

Nil.

7. MEETING CLOSURE

There being no further business the meeting closed at 3.39pm.

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Mayor

Interim General Manager

6. CORRESPONDENCE/PETITIONS

6.1. PETITION - ADELONG CARAVAN PARK MANAGEMENT

REPORT AUTHOR: INTERIM GENERAL MANAGER

EXECUTIVE SUMMARY:

Snowy Valleys Council called for Expressions of Interest (EOI) on 27 November 2023 for the management of Snowy Valleys Council's Caravan Parks at Adelong, Batlow, Tumut and Tumbarumba. EOI's close on Monday 12 February 2024.

A petition (handwritten and through Change.org) containing 965 signatures was tabled at the 14 December 2023 meeting of Council calling for the management of the Adelong Caravan Park to remain under the Management of the Adelong Services, Citizens and Bowling Club Pty Ltd. The main petitioner was Krystin Smith, Club Manager of the Adelong Services, Citizens and Bowling Club. A copy of the petition is located in the Mayor's Office for viewing by Councillors.

RECOMMENDATION:

THAT COUNCIL:

- 1. Advise Krystin Smith, Club Manager of the Adelong Services, Citizens and Bowling Club Pty Ltd following the closure of the Expression of Interest on Monday, 12 February 2024 that a report will be submitted to either the 21 March 2024 or 18 April 2024 meeting of Council for consideration; and**
- 2. Advise Krystin Smith, Club Manager of the Adelong Services, Citizens and Bowling Club Pty Ltd that the acceptance of any Expression of Interest will be determined by the Elected Council via a Council resolution.**

BACKGROUND:

Snowy Valleys Council called for Expressions of Interest (EOI) on 27 November 2023 for the management of Council's Caravan Parks at Adelong, Batlow, Tumut and Tumbarumba. EOI's closed on Monday 12 February 2024.

A petition containing 965 signatures was tabled at the 14 December 2023 meeting of Council calling for the management of the Adelong Caravan Park to remain under the Management of the Adelong Services, Citizens and Bowling Club Pty Ltd.

Of the 965 signatures, 549 were signed locally with signatories predominantly residing in Adelong or the Snowy Valleys Council area. A further 416 signatories were collected through a Change.Org petition of which 111 were from either Adelong, the Snowy Valleys Council area or the wider region (Cooma to Wagga Wagga). The remainder were from other parts of Australia.

REPORT:

The expiration of the lease of the Riverglade Caravan Park at Tumut and the Adelong Caravan Park along with the departure of the Manager of the Tumbarumba Caravan Park provided an opportunity for Council to review current management practices and explore whether there may be potential to increase the return of investment from significant assets.

Unfortunately, there is significant misinformation circulating in the community that Council Management and not Councillors will determine the outcome of the EOI process; clearly this is not the case.

Following the closure of EOI's on Monday, 12 February 2024 the Director of Infrastructure and Works will prepare a report on EOI's received and that report will be presented to either the 21 March 2024 or 18 April 2024 meeting for determination by the Elected Council.

The review of management structures of Council's Caravan Parks is just one of a suite of initiatives being undertaken to improve the long-term financial sustainability of Council.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Community Strategic Plan Theme

Theme 2 - Our Economy

Community Strategic Plan Strategic Objectives

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

Delivery Program Principal Activities

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

FINANCIAL AND RESOURCES IMPLICATIONS:

The review of management structures of Council's Caravan Parks is just one of a suite of initiatives being undertaken to improve the long-term financial sustainability of Council.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Clause 4.3 of the *Petitions Policy* (SVC-COR-PO-042-03) states the following:

All Petitions received must be forwarded to the Information Management Officer, who will ensure the Petition is registered in Council's record management system and task assigned to the relevant Director.

The relevant Director will arrange for the Petition to be included in the Council agenda of the next meeting of Council, however, a Petition will not be included on the agenda if, in the opinion of the General Manager:

It does not contain the content details outlined above, or

It is defamatory, or

It contains threatening statements or offensive material, or

Any action it proposes is unlawful.

For privacy reasons, only the substance of the petition and the number of signatories will appear in the Council business paper; the full petition will be available for viewing by Councillors only at the meeting.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

The risk has been assessed as low as the EOI was correctly advertised and the period allocated for submissions to the EOI was 10 weeks.

Adequate time has been allowed to fully consider the financial and community benefits of proposals prior to submitting a report to the 21 March or 18 April 2024 Council meeting for determination.

There are no direct Work Health and Safety and Public Risk implications associated with this EOI process.

OPTIONS:

1. Adopt as per recommendation set out in this report.
2. Amend the recommendations as referred to in this report.

COUNCIL SEAL REQUIRED:

No.

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Nil.

ATTACHMENTS

Nil.

6.2. PETITION - 'GREEN LIFE' SCULPTURE BATLOW

REPORT AUTHOR: MANAGER TECHNICAL SERVICES

RESPONSIBLE DIRECTOR: DIRECTOR INFRASTRUCTURE & WORKS

EXECUTIVE SUMMARY:

Snowy Valleys Council (SVC) has received a petition from 50 residents of the Batlow area regarding the recently moved sculpture by Milan Kuzica, 'Green Life'.

'Green Life' was originally installed at Reedy Park however with more artworks coming into Batlow, it was requested that the location be moved in accordance with the Licence Agreement (LA) between SVC and Sculptures by the Sea. The sculpture is part of the Snowy Valleys Sculpture Trail (SVST) which has the purpose of creating the Trail as a permanent, free-to-the-public cultural tourism project in the Snowy Valleys in the towns of Adelong, Batlow, Tumbarumba and the hamlet of Tooma.

RECOMMENDATION:

THAT COUNCIL:

- 1. Receive the 50 signatory petition from community members of Batlow;**
- 2. Endorse the location of the sculpture at western end of Selwyn Street, Batlow; and**
- 3. Notify the Chief Petitioner of the resolution of Council**

BACKGROUND:

Sculptures By The Sea (SBTS) were successful in receiving funding under the Bushfire Local Economic Recovery Fund (BLERF). The initial funding has been used towards works in Adelong, Batlow, Tumbarumba and Tooma, with sculptures

A MoU has been established between SBTS and SVC for the installation, management and maintenance over a 10 year period of permitted non-exclusive use.

REPORT:

Snowy Valleys Council has received a petition from 50 concerned community members of Batlow. A copy of the petition is located in the Mayor's Office for viewing by Councillors.

SBTS would be responsible for relocation of the artwork and if required to be removed it would not be reinstated in Batlow. There has been some feedback from other groups within the community indicating that they interpret the sculpture to mean renewal and growth after the Black Summer fires.

Council received and approved the technical designs provided prior to installation. Council Staff undertook a site visit of the proposed new location and identified no restrictive issues regarding its installation location around site distance on approach to the intersection, impacts to road structure and use or impacts on Council infrastructure. The sculpture is solely within the road corridor under the management of Snowy Valleys Council.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Community Strategic Plan Theme

Theme 1 - Our Community

Community Strategic Plan Strategic Objectives

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

Delivery Program Principal Activities

1.3 Provide services and support to enhance local arts and culture

FINANCIAL AND RESOURCES IMPLICATIONS:

There are no resource and financial implication for moving or maintaining the sculpture for Council based on the MoU section 9.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Council's *Petitions Policy* (SVC-COR-PO-042-03) sets our process and accepted formats for petitions to be lodged. The petition has been lodged in line with the policy with a covering sheet, but some of the requirements under 4.1 of the *Petitions Policy* have not been met. These are around requirements for *b*. A statement specifying the number of signatories and the number of pages to the Petition and *c* The full printed name, email, address, phone number and signature of the Chief Petitioner and *e* The name, address and signature of those people who support the Petition.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

There are limited risk management issues around removal or retention of the sculpture in its current location, based on the LA that is in place as per sections 20, 21 and 22.

OPTIONS:

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

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Under the LA, there have been included members active in the community as part of the selection and location approval process for each of the sculptures. SVC is part of this and has a right to approve or reject artworks for justifiable reasons per section 8 of the agreement. The intent of the Local Community Advisory Group is to review and approve artworks based on suitability and community connection.

ATTACHMENTS

1. Executed Licence Agreement - SVC and Sculptures by the Sea Inc (Under separate cover)

7. MAYORAL MINUTE

7.1. MAYORAL MINUTE - IMPACTS OF THE HUMELINK TRANSMISSION LINE PROJECT

REPORT AUTHOR: MAYOR, CR IAN CHAFFEY

PURPOSE:

For Snowy Valleys Council to ensure that the Australian Energy Regulator (AER) is aware of the short and long-term effects of the Humelink Transmission lines proposed to be built within the Local Government Area.

MAYORAL RECOMMENDATION:

THAT COUNCIL:

1. **Invite Australian Energy Regulator Chairperson Ms Clare Savage and CEO Anthea Harris to address Council.**

REPORT:

Snowy Valleys Council has been meeting regularly with Transgrid regarding the proposed Humelink Transmission Line Project. During these discussions and in Council's submissions to the Environmental Impact Statement consultations the case for a community enhancement fund has been consistently made to ensure that a long-term legacy is provided from the project that offsets the detrimental impact on the natural environment and nature/tourism experience that the region has developed over an extended period of time.

Transgrid has informed Council that they are constrained from establishing a community enhancement fund by the requirements of the Australian Energy Regulator. Accordingly, it is recommended that Snowy Valleys Council invite AER Chairperson Ms Clare Savage and CEO Anthea Harris to address Council.

ATTACHMENTS

Nil.

8. NOTICE OF MOTION/NOTICE OF RESCISSION

8.1. NOTICE OF MOTION - REVIEW OF WATER & WASTEWATER CHARGING POLICY - CLR JAMES HAYES

COUNCILLOR: CLR JAMES HAYES

SUMMARY:

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

NOTICE OF MOTION:

THAT COUNCIL:

1. **Review the Water and Wastewater Charging Policy in relation to Item 4.10 Undetected Leak or Exceptional Water Loss.**

Supporting Information:

At the 16 November 2023 Ordinary Meeting of Council, excess water charges to the value of \$8,100.95 were written off due to rebate applications under the above policy which is significant and therefore a review of the policy is appropriate.

GENERAL MANAGER ADVICE:

4.10 UNDETECTED LEAK OR EXCEPTIONAL WATER LOSS

Property owners are responsible for all water usage within their property. Council may provide a rebate where there is a significant increase in water use, subject to the following:

- a) An application is to be made to Council using the *Water Leak Rebate Application Form, SVC-FIN-F-175*, indicating that a leak was either (i) undetected or (ii) there was an exceptional water loss;
 - i. An undetected leak is a leak which is unable to be detected by visible inspection, and which may require the assistance of a licensed plumber to locate. The leak has no visible sign of water loss and could not have reasonably been detected by the customer.
 - ii. Where excess consumption is not attributed to a water leak, and which is a result of unauthorised water use or activity, a rebate will only be considered under special circumstances. The customer must include evidence of unauthorised water use or activity, including a police report, documentation demonstrating absence from the property, along with the inability to make an insurance claim to cover the water consumption.
- b) The application form must be received within two months of the water account being issued or within two months of a Council employee notifying the customer of a suspected leak, whichever occurs earlier;

- c) The applicant must be the owner of the premise for which the application applies;
- d) For an undetected leak:
 - a. The water leak must be hidden from view, for example, under a concrete driveway or a building. Water leaks in paddocks, yards, and gardens are typically detected through visual inspection and will not generally be considered for a rebate. Evidence of a yard or paddock leak include green patches of grass and/or boggy ground;
 - b. The leak must be determined and confirmed as being undetected by a licensed plumber;
 - c. The leak must have been repaired within 40 days of the water usage account being issued or within 30 days of a "Water Meter – Works Notice" being left at the property.
 - d. A licensed plumber has completed the repairs and a copy of the receipt/invoice and a statutory declaration from the plumber, outlining the repairs, has been obtained by the property owner. The statutory declaration must describe the nature of the leak and confirm the repair. The receipt/invoice and statutory declaration must be included with the application to Council.
- e) The water consumption for an undetected leak or exceptional loss request must be significant. Consumption is considered to be significant where the water usage for the period is 1.5 times greater than the average water usage for the corresponding meter reading period for the previous three years, subject to a minimum of 50 kilolitres.
- f) Adjustments will be limited to a maximum of 100% of the excess relative to the last three years, with an upper limit of 1000 kilolitres. In the event of a rebate being applied, all applicable interest accrued since the issue of the water account will be waived;
- g) A rebate will be granted for the previous billing period of an undetected leak and includes the current billing period up to the date of repair.
- h) Where undetected water leaks concessions are applied, wastewater charges for non-residential properties shall be reduced to the daily rate equal to the average daily consumption during the corresponding meter reading periods for the previous three years.
- i) Where an undetected leak rebate has been provided in the previous five years, a concession will not be approved;
- j) Authority is delegated to the CEO, or alternate authorised Council delegate, to appraise and authorise adjustments in accordance with this policy;

Note: Under S637 of the Local Government Act 1993, a person who willfully or negligently wastes or misuses water from a public water supply is guilty of an offence and may be fined unless they are able to prove that the waste was not within their knowledge. Willful, negligent waste, misuse of water or inaction to repair a leak may also result in the installation of a water restriction device at the point of water supply.

ATTACHMENTS

1. Notice of Motion - Review of Water & Wastewater Charging Policy

Attachment 1 - NOTICE OF MOTION - Water & Sewerage Policy Review - Cr James Hayes

NOTICE OF MOTION - Water & Sewerage Policy Review - Cr James 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

15 February 2024

SUBJECT:

**Review of Water & Wastewater Charging Policy – SVC-
ENG-PO-105-02**

Motion -

THAT COUNCIL review the Water and Wastewater Charging Policy in relation to Item 4.10 Undetected Leak or Exceptional Water Loss.

Supporting Information:

At the 16 November 2023 Ordinary Meeting of Council, excess water charges to the value of \$8,100.95 were written off due to rebate applications under the above policy which is significant and therefore a review of the policy is appropriate.

Councillor Name: James Hayes

Signature

Date: 11 January 2024

Councillor Name:

Signature

Date:

* * * * *

8.2. NOTICE OF MOTION - SVC DE-MERGER STATUS REPORT - CLRS HAYES AND LARTER

COUNCILLORS: JAMES HAYES AND JOHN LARTER.

SUMMARY:

Pursuant to Notice, Councillor Hayes and Councillor Larter have submitted the following Motion:

NOTICE OF MOTION:

THAT COUNCIL:

Prepare a status report to inform councillors and the community of the progress of de-merging the Snowy Valleys Council.

GENERAL MANAGER ADVICE:

Refer to Governance and Financial Reports Item 10.1 Draft Snowy Valleys De-amalgamation Roadmap.

ATTACHMENTS

1. Notice of Motion - SVC de-merger status report

Attachment 1 - Notice of Motion - Status of demerger application - Cr James Hayes - Cr John Larter**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	15/2/2024
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SUBJECT:	SVC demerger status report.
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Motion - That a status report be prepared to inform Councillors and the community of the progress of demerging the Snowy Valleys Council.

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

Councillor Name: James Hayes

Signature

Date:

Councillor Name:

Signature

Date:

SVC-EXE-F-222-01
ID73852

Page 1 of 1

Approved: 01/12/2021

9. URGENT BUSINESS WITHOUT NOTICE

10. GOVERNANCE AND FINANCIAL REPORTS

10.1. DRAFT SNOWY VALLEYS COUNCIL DE-AMALGAMATION ROAD MAP

REPORT AUTHOR: INTERIM GENERAL MANAGER

EXECUTIVE SUMMARY:

Snowy Valleys Council's resolved position is to seek a de-amalgamation of Snowy Valleys Council into two new councils based on the boundaries of the former councils. Council has submitted a De-amalgamation Business Case to the NSW Local Government Boundaries Commission for examination and should a de-amalgamation be recommended, it is likely that Council will be invited to make a further submission under the NSW State Government's new De-Amalgamation Pathway.

A draft Snowy Valleys Council De-amalgamation Road Map has been prepared for Council's consideration.

RECOMMENDATION:

THAT COUNCIL:

1. **Note the progress made in the development of the draft Snowy Valleys Council De-amalgamation Road Map; and**
2. **Approve the Consultant's Brief – De-amalgamation Financial Sustainability Review subject to a suitable funding source being identified.**
3. **Continue to monitor the progress of the Local Government Amendment (De-amalgamation Plebiscites) Bill 2023 and the Local Government Amendment (De-amalgamations) Bill 2024 and provide update reports to Council when further information is available.**

BACKGROUND:

At the 18 August 2022 meeting, Snowy Valleys Council (Council) resolved the following in accordance with 218C of the *NSW Local Government Act 1993*:

M229/22 RESOLVED:

THAT COUNCIL:

1. *Seeks proposals for the preparation of a business case for the demerger of Snowy Valleys Council and the reinstatement of the former councils of Tumut and Tumbarumba subject to the Minister deciding to allow the demerger of Cootamundra Gundagai Regional Council;*
2. *Notifies the NSW Government of the intention to develop a business case for demerger;*
3. *Should the demerger of Cootamundra/Gundagai Regional Council be successful, follow the process for demerger that is set out in section 218C of the Local Government Act.*

Cr James Hayes/Cr John Larter

CARRIED UNANIMOUSLY

The University of Newcastle Institute of Regional Futures led by Prof. Joseph Drew was engaged to prepare the Business Case on Council's behalf. The completed Business Case was presented to Council at the 22 June 2023 meeting where the following was resolved:

M92/23 RESOLVED THAT:

1. *Council receive the report 'Snowy Valleys Council – Evidence Regarding Advantages and Disadvantages of De-amalgamation';*
2. *Council commit to pursuing de-amalgamation subject to State funding;*

3. *Council provide the final report to the Minister and invite the Minister to meet with the full Council to discuss same;*
4. *The local members, Dr Joe McGirr MP and Justin Clancy MP, be asked to assist and participate with the meeting proposed in Part 3 above;*
5. *The matter be further considered after the meeting with the Minister.*

Cr James Hayes/Cr Brent Livermore

CARRIED UNANIMOUSLY

Council then forwarded on 5 September 2023, a De-amalgamation Business Case to the Minister who subsequently referred it to the NSW Local Government Boundaries Commission for examination.

In a previous NSW Local Government Boundaries Commission examination in 2021, the Commission recommended that the proposal be implemented to create a 'demerged' Tumbarumba Council. The Commission also noted at that time that the demerger would be financially challenging.

Ultimately, the NSW Minister for Local Government at the time determined that Snowy Valleys Council would not be demerged.

REPORT:

Snowy Valleys Council forwarded on 5 September 2023 a De-amalgamation Business Case to the Minister for Local Government who subsequently referred it to the NSW Local Government Boundaries Commission for examination.

The Author has had discussions with Peter Duncan, Chair of NSW Local Government Boundaries Commission (LGBC) who has indicated that public submissions could be sought as early as February/early March 2024.

It was expected that once the LGBC have completed their examination of Council's de-amalgamation proposal it would make a recommendation to the Minister. If, as was the case in 2021, the LGBC recommend a de-amalgamation of Snowy Valleys Council, then it was anticipated that the Minister for Local Government will invite Council to make a further, more detailed submission in accordance with the new Pathway announced in October 2023.

More recently two Bills have been introduced into State Parliament that seek to clarify the pathways for Councils or parts of Council areas that wish to de-amalgamate.

The first Bill introduced by Dr Amanda Cohn MLC titled 'Local Government Amendment (De-amalgamation Plebiscites) Bill 2023' would enable a plebiscite to be held in a former area of an amalgamated Council. If 50% of the electors in that former area of the amalgamated council voted in favour of de-amalgamation then the proposal should proceed with the State Government being responsible for direct and immediate costs of a plebiscite and de-amalgamation. These costs would not be met by councils for a former area, new area or newly constituted areas resulting from the de-amalgamation.

The second Bill introduced by the Hon. Ron Hoenig MP titled 'Local Government Amendment (De-amalgamations) Bill 2024' requires that a constitutional referendum be held and that a majority of the total number of enrolled electors of an amalgamated area is in favour of a de-amalgamation. It is important to note that it is a majority of the total number of enrolled electors not a majority of electors that vote at the constitutional referendum. Further, the Bill removes the requirement of the State Government to fund the costs of a de-amalgamation. The Minister in his first reading on the Bill made it quite clear that councils themselves must fund any expenses they choose to incur through the de-amalgamation process.

For the first Bill to be passed by both Houses of Parliament it will require either Government or the Opposition supporting the Cross-bench MP's and with the second Bill the Government will need the support of the Opposition or the Cross-bench MP's.

It is highly probable that for either Bill to be passed into Parliament there are likely to be further amendments.

Either way Snowy Valleys Council will be required to prepare an Implementation Plan that demonstrates that two new sustainable and financially viable councils can be established.

An Implementation Plan will need to be developed that outlines:

1. Where the boundaries will be;
2. Electoral matters such as Wards, number of Councillors and the method of electing the Mayor;
3. Division and sharing of Assets and Liabilities;
4. Allocation of staff, as well as Management and Organisation Structures;
5. Rate levels and charges;
6. Service standards and shared service arrangements.

A draft De-amalgamation Road Map has been developed to guide Council staff in the preparation of the De-amalgamation Implementation Plan (DIP) incorporating items 3 to 6 above. Items 1 and 2 are considered governance matters and will be considered separately by Councillors. The Draft De-amalgamation Road Map is attached for Councillors' information.

The DIP will include the following:

Key deliverable areas for two new councils such as:

- Developing transfer methodology options
- Financial matters, including the transfer of assets and liabilities
- Staffing and interim organisational structures
- Interim service delivery arrangements
- Establishment and continuity of business systems
- Information communications technology strategy
- Details of contracts to be transferred to the new Council and any new contracts required
- Transfer of legal proceedings
- Planning
- Community engagement and communications plan

Obviously, the development of the DIP will be very resource intensive, both from a financial and staffing perspective, and a funding source will need to be identified to assist in development of financial sustainability plans for Snowy Valleys Council and two separate Councils. Notwithstanding the Minister's comments in the first reading of the Bill, Council will be seeking financial assistance from the NSW State Government to enable this body of work to be undertaken.

A Consultant Brief - De-amalgamation Financial Sustainability Review has been developed and is included as an attachment to this report.

Subject to a funding source being identified, it is intended to progress the DIP concurrently with the LGBC examination of Council's De-amalgamation Business Case. It is considered essential that the DIP is substantially completed when the LGBC examination is completed to ensure that the de-amalgamation issue (one way or the other) can be finalised by the end of the 2024 calendar year, at the latest.

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:

At this early stage in the De-amalgamation process the feasibility and cost of de-amalgamating Snowy Valleys Council are unknown, however, it is anticipated that funding of up to \$100,000 will be required to assist in the preparation of the De-amalgamation Implementation Plan. In the first instance, external funding will be sought for this initial body of work.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Under 218C of the *NSW Local Government Act 1993* (the Act) Snowy Valleys Council has submitted a business case for the dissolution of Snowy Valleys Council and the recreation of its former areas of Tumut and Tumbarumba.

As required by section 218C (2) of the Act the Minister for Local Government has referred the Business Case to the Local Government Boundaries Commission to conduct an inquiry and report on the matter.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

The risk has been assessed as low, as at this stage the De-amalgamation Business Case is before the Local Government Boundaries Commission for examination. The risk level will increase if Council is not successful in securing external funding to assist in the preparation of the De-amalgamation Implementation Plan.

OPTIONS:

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

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Nil.

ATTACHMENTS

1. Draft De-amalgamation Road Map (Under separate cover)
2. Draft Consultant Brief - De-amalgamation Financial Sustainability Review (Under separate cover)

10.2. APPLICATION FOR INTERNAL LOAN FROM SNOWY VALLEYS COUNCIL SEWERAGE FUND

REPORT AUTHOR: INTERIM GENERAL MANAGER

EXECUTIVE SUMMARY:

Over the past 12 months Snowy Valleys Council's (SVC) long term financial position has been well documented and the purpose of this report is to seek approval to apply to the NSW Office of Local Government (OLG) for an internal loan from Council's Sewerage Fund to ensure that adequate liquidity is maintained.

If approved, the internal loan will enable the implementation of longer-term strategies to improve Council's operating performance.

RECOMMENDATION:

THAT COUNCIL:

- 1. Apply to the NSW Office of Local Government (OLG) for an internal loan from the Snowy Valleys Council's Sewerage Fund of \$5,000,000.00, interest only for a period of 10 years;**
- 2. The interest rate be set at the Reserve Bank of Australia Cash Rate Target at the date of drawdown and reviewed annually; and**
- 3. The loan include provision for the annual repayments of principle over the term of the loan.**

BACKGROUND:

At the Councillor Workshop held on 17 October 2023, a presentation was made to Council on the current financial position of Snowy Valleys Council (Council).

At this workshop a number of initiatives were identified that if implemented, would improve Council's liquidity and sustainability in the short and long term. One of these initiatives was potentially to apply to the OLG for a loan from Snowy Valleys Council's Sewerage Fund.

Subsequently, correspondence was forwarded to the OLG. A copy of this correspondence and the response is included as attachments to this report.

REPORT:

Correspondence was forwarded to the OLG advising of Council's financial position and outlining strategies under consideration to improve Council's long term operating position. These included (but were not limited to):

1. Consulting with the community on a further Special Rating Variation;
2. Opportunities to increase income streams (e.g. Calling for Expressions of Interest for the management/lease of four caravan parks owned by SVC);
3. Reducing Council's expenditure including employee costs;
4. Deferral of capital works and plant purchases where feasible;
5. A review of how services are provided (e.g. A recent change of Council's IT Managed Service Provider will see a reduction of approximately \$200k pa);
6. Realisation of surplus assets (including real estate held for sale);
7. Review and potential disposal of underutilised assets.

Another initiative outlined in the correspondence to OLG was the potential to undertake an internal loan from SVC's Sewerage Fund to ensure sufficient cash reserves are held to at least meet Council's External Restriction obligations at 30 June 2024.

As at 30 June 2024, SVC's Sewerage Fund Reserves totalled \$13.8M. Councillors should be mindful that it is not the intention that these funds will be utilised for any other purpose other than increasing Council's liquidity as at 30 June 2024 to at least ensure that external restrictions are fully cash backed. This is on the basis that Council may not receive any pre payment of the 2024/2025 Financial Assistance Grant (FAG). If a pre-payment of the FAG is received prior to 30 June 2024, then most likely Council will not draw down the internal loan. Therefore, the proposal is not expected to impact on the capital works program of the SVC Sewerage Fund.

The need for an internal loan will be dependent on a number of factors including whether any of the 2024/2025 Financial Assistance Grant will be pre-paid in full or part as has been the case for several years, and the success of other strategies outlined above.

On 3 December 2023, Mr Brett Whitworth, Deputy Secretary, the OLG responded advising that OLG would be open to considering an internal loan if this becomes necessary, however subject to Council engaging with OLG on strategies for improvement.

To consider an internal loan, the OLG will need to be provided with the following:

- A letter from the General Manager requesting the loan;
- A resolution from a Council meeting supporting the internal loan;
- Details of the loan including values, source of loan, repayment terms and any other relevant information.

The Mayor and Author of this Report met with Mr Whitworth on Monday, 29 January 2024 to further discuss the need for an internal loan where, again, in-principle support was provided subject to the above information being provided.

It is proposed to apply to the OLG for approval to undertake an internal loan from SVC's Sewerage Fund as detailed below:

Loan amount: \$5,000,000.00

Term of loan: Up to a maximum of 10 years, interest only

Interest rate: Set at the Reserve Bank of Australia Cash Rate Target (currently 4.35%) at the date of drawdown and reviewed annually

Drawdown date: 30 June 2024

It is proposed to make annual repayments of principle throughout the term of the loan as funds allow, taking into consideration the level of external and internal restrictions and relevant Council Policies, e.g. *Financial Reserve Management 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

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

FINANCIAL AND RESOURCES IMPLICATIONS:

As stated in the report Council is implementing a number of measures to increase revenue opportunities and decrease expenditure (in real terms) however to ensure that Council has sufficient liquidity to at least fund its External Reserves as at 30 June 2024 it is prudent that Council makes application for an interest-only loan over a period of 10 years from the SVC Sewerage Fund.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Section 622 of the *NSW Local Government Act, 1993* provides Council will the ability to borrow funds:

622 WHAT FORM MAY A COUNCIL BORROWING TAKE?

A council may borrow by way of overdraft or loan or by any other means approved by the Minister.

The *Financial Reserves Management Policy* states at clause 4.3 the following:

4.3 BORROWINGS FROM RESTRICTED CASH Council may borrow from internally restricted cash, (but not from externally restricted cash without consent from the Minister of Local Government). Any such borrowing must be authorised by resolution of Council and the full impact of the borrowing disclosed. Interest must be paid on any such borrowings.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

If Council does not proceed with the internal loan from SVC's sewerage fund, then potentially Council's liquidity as at the 30 June 2024 could be compromised.

OPTIONS:

1. Adopt as per recommendations set out in this report.
2. Amend the recommendations as referred to in this report.
3. Decline the recommendations set out in this report, noting that it could have significant implications on the financial position of Council.

COUNCIL SEAL REQUIRED:

No.

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Nil.

ATTACHMENTS

1. Snowy Valleys Council – Correspondence to NSW Office of Local Government dated 16 November 2023 (Under separate cover)
2. NSW Office of Local Government – Response to Council correspondence dated 16 November 2023 (Under separate cover)

10.3. SIX MONTHLY DELIVERY PROGRAM AND OPERATIONAL PLAN PROGRESS REPORT (JULY TO DECEMBER 2023)

REPORT AUTHOR: CORPORATE PLANNING OFFICER

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

Snowy Valleys Council's combined Delivery Program (2022-2026) and Operational Plan (2023-2024) outlines activities that Council is committed to accomplish community priorities there are identified in the *Towards 2042 Community Strategic Plan*, listing them by Council Service Areas.

Council is required, under the *Local Government Act 1993* (the Act), Section 404 (5), to provide a report that details progress every six (6) months.

This progress report demonstrates achievements for the period ending 31 December 2023.

RECOMMENDATION:

THAT COUNCIL:

- 1. Endorse the 2023-2024 Six (6) Monthly combined Delivery Program and Operational Plan Progress Report (July to December 2023).**

BACKGROUND:

The Operational Plan update provides Council with the opportunity to report to the community and government stakeholders on its progress and accomplishments over the past six (6) months against objectives contained in the 2022-2026 Delivery Program.

REPORT:

Snowy Valleys Council's Six (6) Monthly combined Delivery Program and Operational Progress Report has been prepared in accordance with the *Local Government Act 1993*, the Local Government (General) Regulation 2021 and the Office of Local Government *Integrated Planning and Reporting Guidelines*.

In summary, the Operational Plan for 2023-2024 contains:

- 206 action items detailing the delivery of Council's service to the community.
- 30 Capital Work Projects (listed by cost centre) worth \$33.2M with an expenditure of \$10.2M (to 31 December 2023).

The Six Monthly Progress Report includes (but not limited to) the following items:

- A progress report on Operational Plan Actions - using a traffic light system to illustrate how the projects are progressing
- A summary of the progress of each service area in relation to the budget, as reported in the quarterly budget review statement
- Any additional projects
- A copy of the audited Half Yearly Operational Budget.

Notable highlights achieved during the six-month period against the Delivery Program include:

- Council partnered with Disability Sports Australia to host 40 adults and children with special needs to enjoy a range of sporting activities
- 300 Native Trees were planted across the Local Government Area for National Tree Day
- 14 Community Strengthening Grants were awarded to the value of \$45,490.50

- 8 Sporting Grants were awarded to the value of \$29,693.37
- 2,362 trips were completed through community transport
- A Snowy Valleys Business Outreach Newsletter was launched
- The Khancoban Visitor Economy Development Group was established, partnering with Destination Riverina Murray, Upper Murray Inc, and Khancoban United Volunteers Association (KUVA)
- 584 young people participated in a range of activities through Snowy Valleys Winter and Spring School Holiday Programs
- 26 media releases were distributed and 27 media questions were responded to covering a range of council decisions and services
- Council's 2022-2023 Annual Report was endorsed and sent to the Office of Local Government.

A summary of the Operational Plan Action status is below:

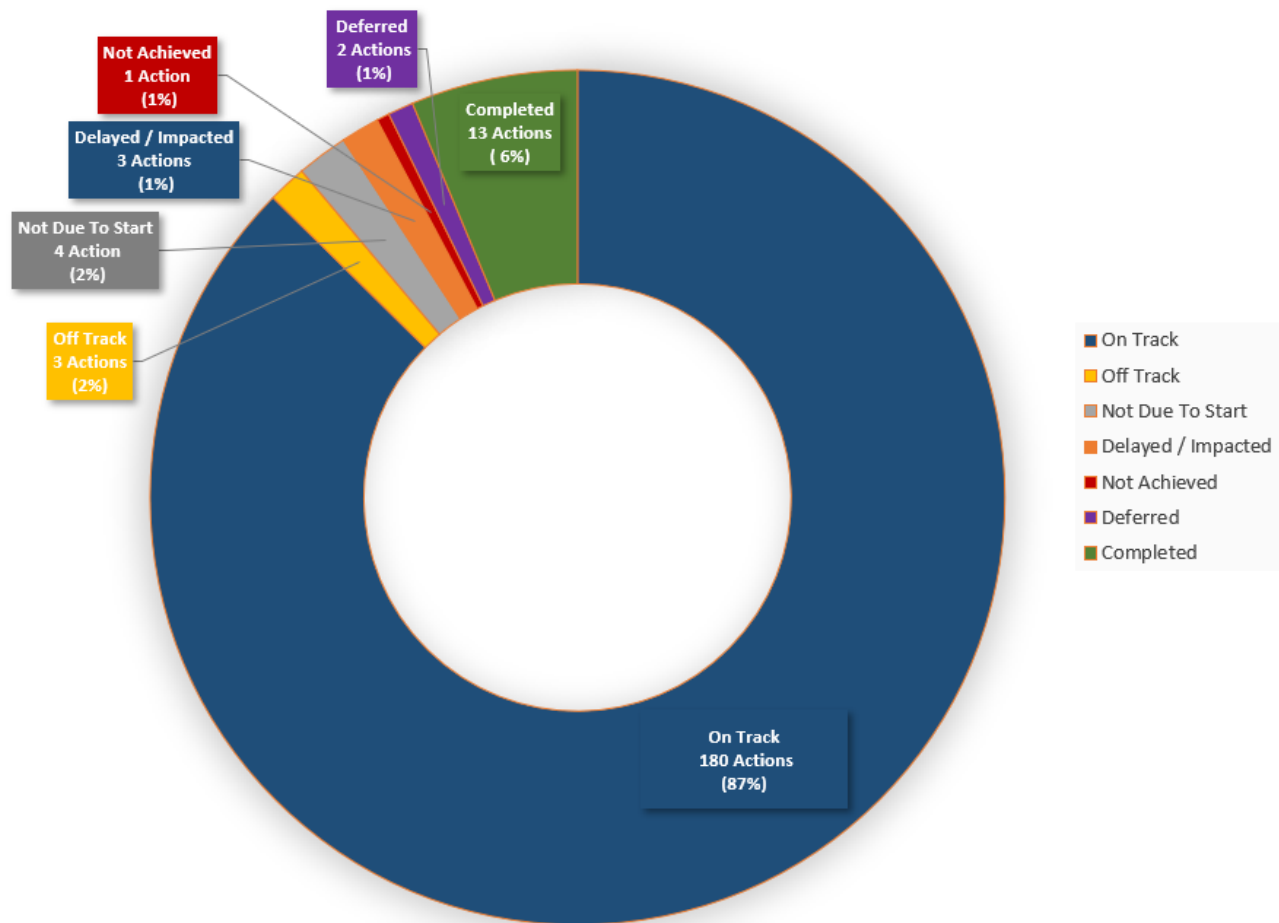
- 3 Actions have been reported as being Off Track
- 2 Actions have been reported as deferred
- 3 Actions have been Delayed / Impacted
- 1 action was not achieved







9 actions were marked as 'Off Track', 'Deferred', 'Delayed / Impacted' or 'Not Achieved' for the following reasons:

OP Action Code	Action Description	Service Area	Status	Reason
1.1.8	Ensure recruitment, induction, training, development and mentoring for children's service staff.	Children's Services	Off Track	Recruitment for casual/maternity relief positions requiring a Diploma and Degree qualified staff has not been successful which is required for ratio compliance. Recruitment for Khancoban Preschool is difficult due to the location and is currently being advertised for the second time.
1.5.2	Administer the Heritage Grants Program	Growth & Development	Not Achieved	Council was unsuccessful in being awarded funding under the Heritage Grants Program for 2023/2024 by the New South Wales Office of Heritage due to changes by the Office in the funding models and distribution of funding. Accordingly, no

OP Action Code	Action Description	Service Area	Status	Reason
				applications were considered within the reporting period. Council will again re-apply for funding in the next funding round offered by the Office of Heritage.
3.2.4	Manage trade waste across the Local Government Area (LGA)	Wastewater Operations	Off Track	Service is limited while the recruitment process is underway. There have been no complaints to Council to date about the service working on a limited capacity. Considering recruitment options and possible consultant support.
4.2.2	Facilitate meetings of Aerodrome Committee	Aerodrome	Off Track	Lack of resources for aerodrome management have impacted the delivery of the aerodrome committee meetings.
4.3.5	Management of TfNSW Regional Roads REPAIR grant for renewal/upgrade regional roads	Roads & Bridges	Delayed / Impacted	REPAIR program discontinued by NSW Government and has been replaced temporarily with RERRF. Due to the changes the Capital Works program will be delayed.
5.2.11	Deliver governance and risk training to the workforce	Governance & Risk	Delayed / Impacted	Coordinator Governance position has been vacant. Delivery of 1 governance awareness training held by Community and Corporate Executive held in September 2023. New Coordinator Governance started 23 October 2023 - in next 6 months will deliver governance and risk training to

OP Action Code	Action Description	Service Area	Status	Reason
				workforce as part of onboarding new staff members.
5.2.16	Reconciliation Action Plan Item - Continue to investigate opportunities for Aboriginal identified roles within SVC Outdoor and indoor teams, including school-based traineeships	People & Culture	Delayed / Impacted	A position has been identified in Councils Entry Level Program for 2022-2023 however this was impacted by the lack of available supervision of the role to participate in the program.
5.2.27	Manage review and schedule changeover of corporate hardware requirements	Technology	Deferred to 2024-2025	This project is on hold as recommended by the Manager IT. Instead of replacing the hardware based on age, Council is considering the replacement based on the device's performance and awaiting approval from Executive Leadership Team on this recommendation.
5.5.5	Manage implementation and maintain oversight of adopted organisation service reviews	Leadership	Deferred to 2024-2025	Action will not be undertaken in 2023-2024 due to lack of resourcing issues. Organisation Service Reviews will be revisited in 2024-2025.



Key Status	Operational Plan Actions Status	No. of Actions	%
	On Track	183	89%
	Completed	13	6%
	Not Due To Start	4	2%
	Off Track	3	1%
	Not Achieved	1	1%
	Deferred	2	1%

Snowy Valleys Council 2023-2024 Six Monthly Delivery Program and Operational Plan Progress Report attachment will be provided prior to Council meeting.

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 activities and initiatives contained in the 2023-2024 Operational Plan are funded in the corresponding 2023-2024 Operational Annual Budget.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

- *Local Government Act 1993, Section 406 (1)*
- Under the Integrated Planning & Reporting guidelines for Local Government in NSW (Section 4.9), the General Manager must ensure that progress reports are provided to the Council, with respect to the principle activities detailed in the Delivery Program, at least every 6 months.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Nil

OPTIONS:

1. Endorse as per recommendations set out in this report - preferred option.
2. Amend the recommendation set out in this report

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:**Internal Consultation**

Relevant information regarding the progress of Council's Operational Plan actions has been collated from management and key responsible Council officers.

External Consultation

The Six (6) Monthly combined Delivery Program and Operational Plan progress report, once endorsed by Council, will be made available to the community through the Snowy Valleys Council website under Strategies Plans and Reporting (Integrated Planning and Reporting) and promoted to the community.

ATTACHMENTS

1. 2023-2024 Snowy Valleys Council Six (6) Monthly Combined Delivery Program and Operational Plan Progress Report - Draft (Under separate cover)
(attachment will be provided prior to Council meeting)

10.4. QUARTERLY BUDGET REVIEW AS AT 31 DECEMBER 2023

REPORT AUTHOR: MANAGER FINANCE

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

This report provides a summary of Council's financial performance against budget as of 31 December 2023. Council's projected result shows a decrease of income by \$19M and a decrease of expenditure by \$200K compared to the quarter one adopted budget.

The first quarter budget review forecasted a surplus of \$35.46M including capital grants, and a deficit of \$71K excluding capital items on a consolidated basis. Capital items consist of income received for the purpose of building new or replacement assets and the offsetting capital expenditure is not reported in the operating result. After the proposed adjustments in the attached quarterly report, the projected result is forecast to be a surplus of \$16.60M including capital revenues and a surplus of \$414K excluding capital revenues. Unrestricted cash reserves will need to be maintained carefully over the remainder of the financial year to ensure liquidity is maintained.

It is recommended that the Budget be varied in accordance with this report.

RECOMMENDATION:

THAT COUNCIL:

1. **Receive and adopt the Quarterly Budget Review as at 31 December 2023; and**
2. **Adopt the Revenue, Expenditure and Capital Budget adjustments as noted in the December Quarterly Budget Review.**

BACKGROUND:

Clause 203 (1) of the Local Government (General) Regulation 2021 requires Council's Responsible Accounting Officer to prepare and submit a quarterly budget review statement to the governing body of Council.

The Quarterly Budget Review Statement is designed to reflect the information normally prepared annually as part of the financial statements on a quarterly basis. All Directors and Managers are required to monitor their budgets on a continual and frequent basis throughout the financial year and adjustments are recommended as required. The 2023/2024 annual budget was adopted on 29 June 2023.

REPORT:

Council adopts its original budget in June each year, forecasting the known income, operational expenses, and capital works for the coming financial year. The original 2023-2024 budget forecast a surplus of \$35.55M, including income received as grants for the purpose of building new or replacement assets. Funding received for capital items is reported in Council's overall operational result. When excluding funding received for capital grants, the original budget forecast a deficit of \$1.14M on a consolidated basis.

Through the Quarterly Budget Review process reported to Council, Council reviews and adjusts the original budget to manage variations that occur because of:

- Receiving grant funding
- Recognising increased/decreased expenditure and income
- Council resolving to adjust expenditure.

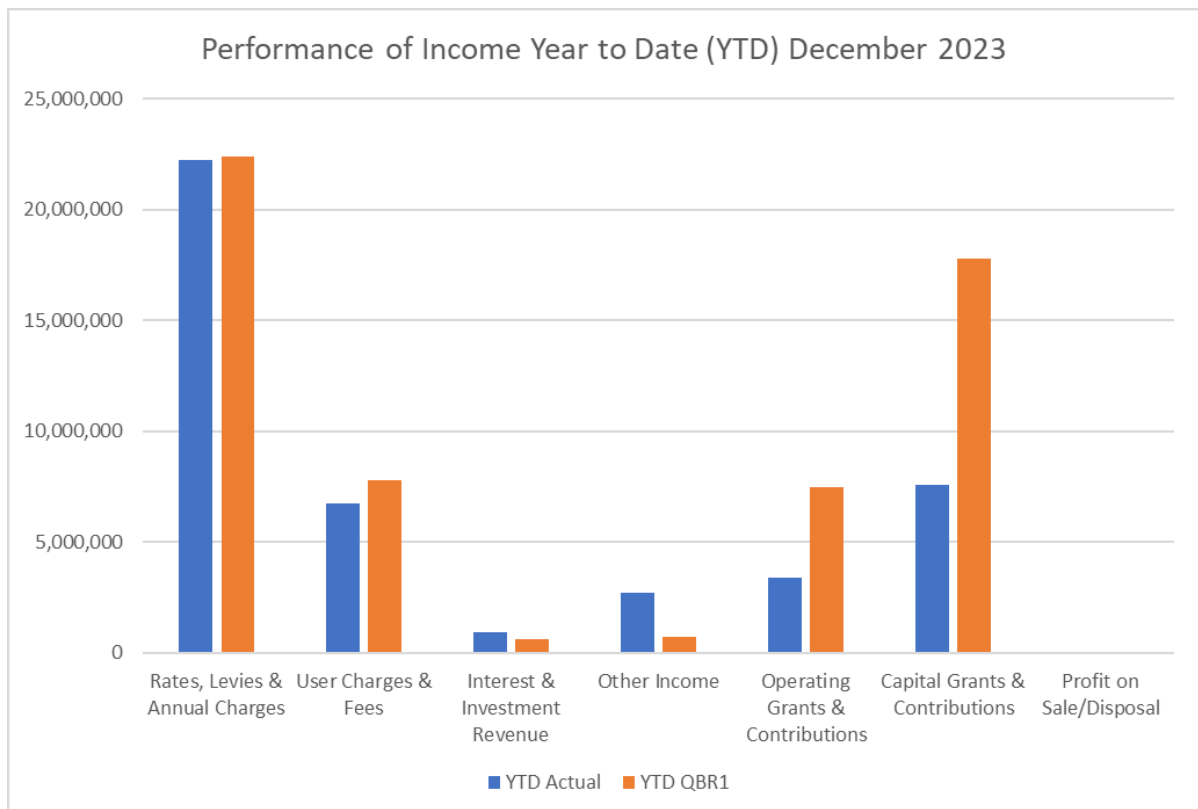
Summary of Council's operating position at end of December 2023

Council's income at end of December 2023 was 23% below year-to-date (YTD) budget, while expenditure was 4% above YTD budget (excluding depreciation). A summarised financial report for Council is provided below for December 2023, comparing the operating YTD actuals against the YTD

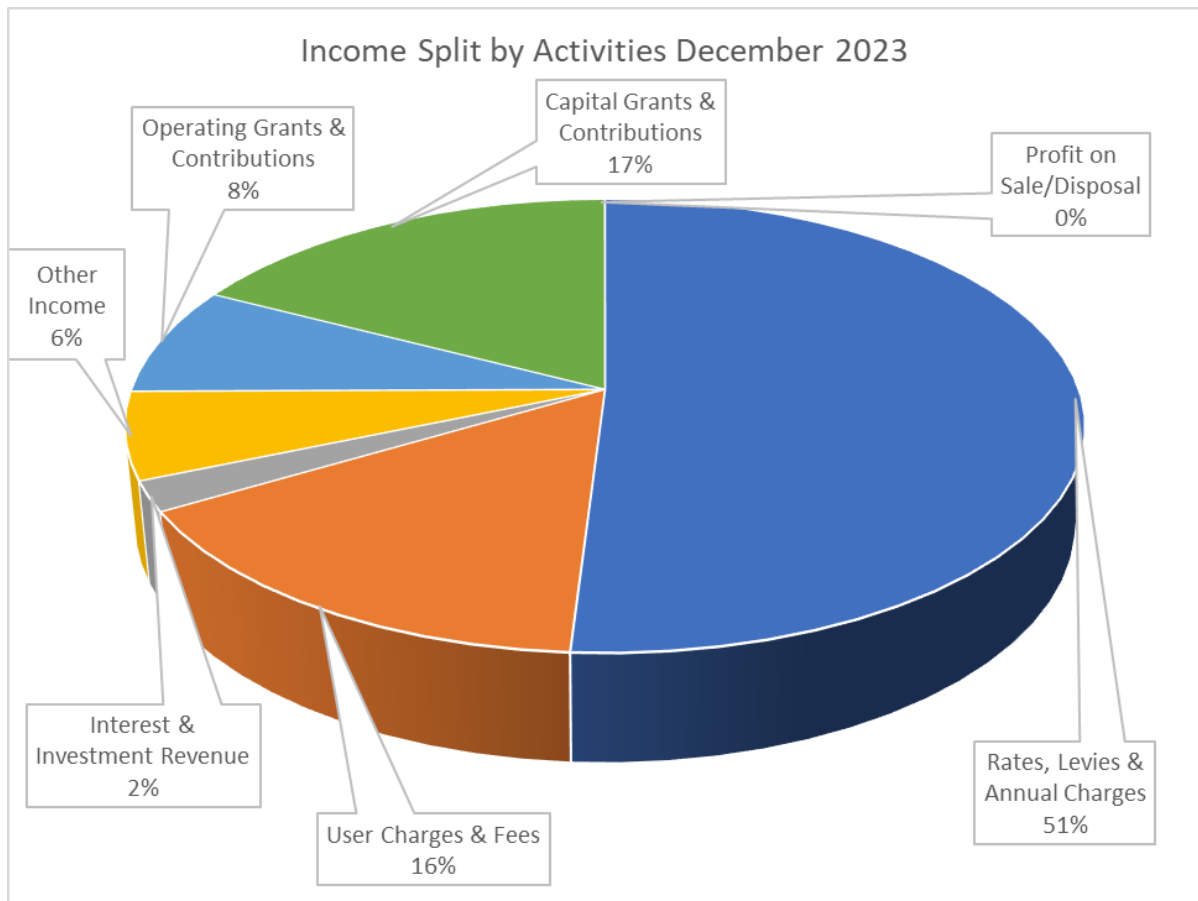
budget. This report provides the interim results for the financial year and represents the appropriate adjustments at the time of the report, noting that more adjustments will be made. The purpose of this report is to provide an indication of Council's financial performance at a particular point in time.

Consolidated Income Statement Summary as on 31st December 2023						
Description	Year to Date (YTD) December 2023/2024				Annual Budget	
	YTD Actual 24PIACT	2023/2024 24PJBD1	Var \$	% of Budget	Order Commit (PJ)	Annual Budget
Income						
Rates, Levies & Annual Charges	22,209,654	22,401,897	-192,243	-0.86%	0	22,401,897
User Charges & Fees	6,758,554	7,799,766	-1,041,212	-13.35%	0	15,599,428
Interest & Investment Revenue	931,566	645,918	285,648	44.22%	0	1,291,848
Other Income	2,710,518	740,877	1,969,641	265.85%	-386	1,481,749
Operating Grants & Contributions	3,384,870	7,458,122	-4,073,252	-54.61%	-335	14,916,229
Capital Grants & Contributions	7,560,247	17,764,008	-10,203,761	-57.44%	0	35,527,993
Profit on Sale/Disposal	4,454	0	4,454	0.00%	0	0
Total Income	43,559,863	56,810,587	-13,250,724	-23.32%	-720	91,219,144
Expense						
Employee Costs	8,523,257	10,120,572	1,597,315	15.78%	22,102	20,241,206
Materials & Services	13,331,162	11,098,853	-2,232,309	-20.11%	1,975,914	22,196,856
Borrowing Costs	144,442	118,788	-25,654	-21.60%	0	237,566
Depreciation & Impairment	0	0	0	0.00%	0	11,638,451
Other Expenses	928,296	724,194	-204,102	-28.18%	61,400	1,448,401
Total Expense	22,927,158	22,062,407	-864,750	-3.92%	2,074,546	55,762,480
Surplus/(Deficit)	20,632,705	34,748,180	14,115,475	59.38%	-2,075,267	35,456,664
Surplus/(Deficit) before capital grants & contributions	13,072,458	16,984,172	3,911,714	76.97%	-2,075,267	-71,329

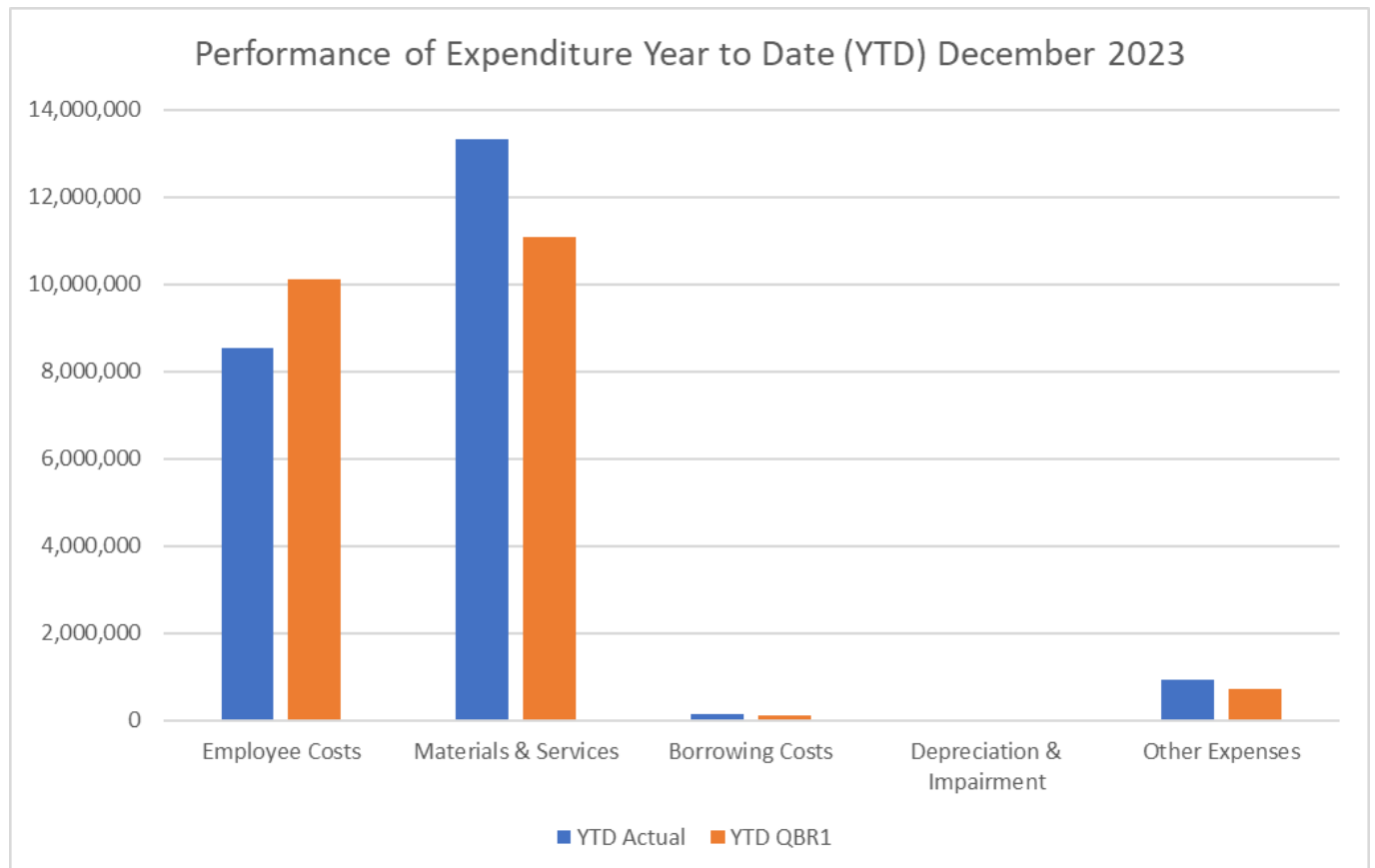
OPERATING INCOME



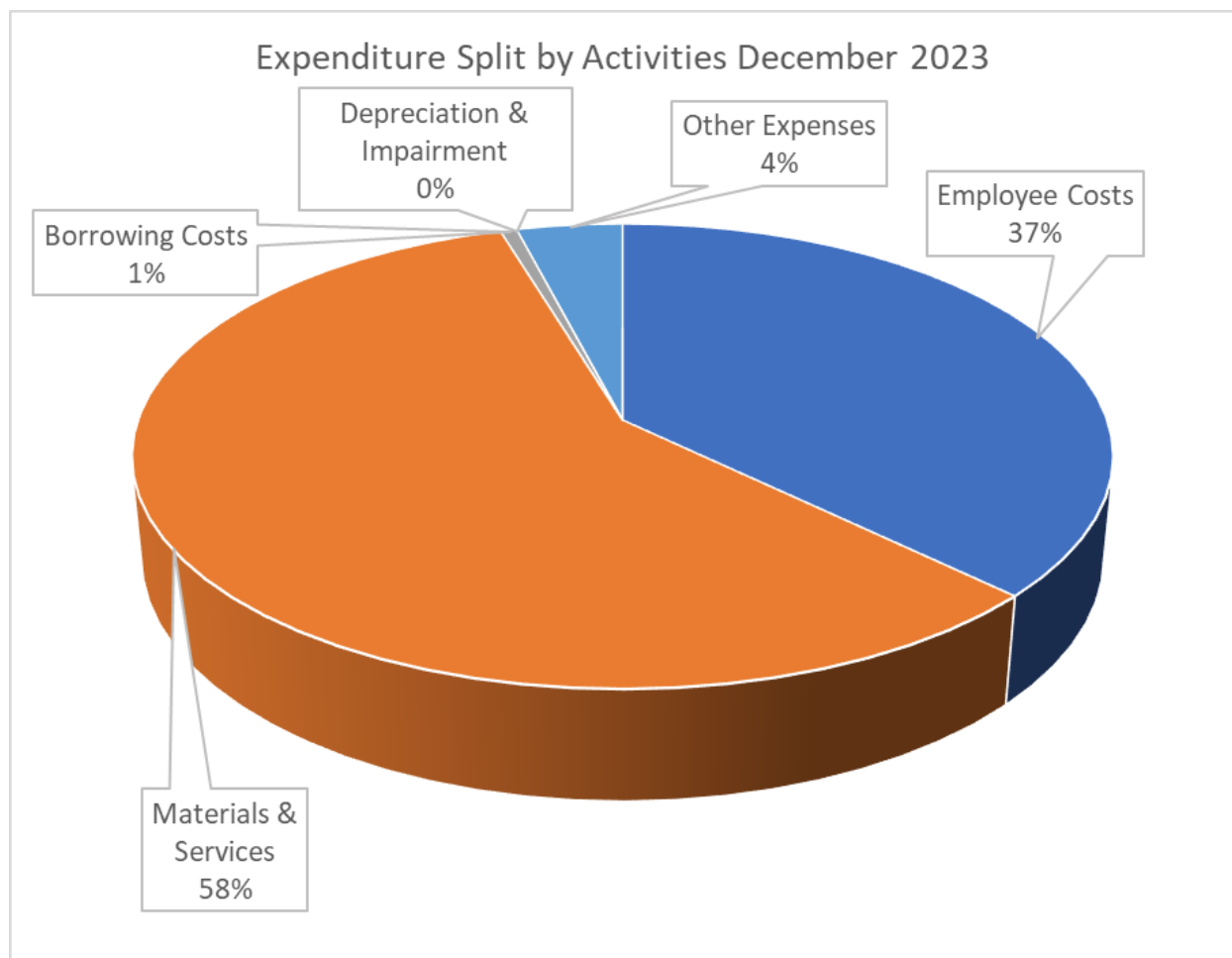
Operating Income	Variance Analysis
Rates, Levies & Annual Charges	The income is on track to achieve the annual budget for the financial year.
User Charges & Fees	<p>User charges and fees collection revenue is lower than budgeted due timing variance.</p> <p>Key service areas are,</p> <ul style="list-style-type: none"> • Childcare fees \$172k timing variance • Swimming pool entry fees – 38k permanent variance as of December and there are high chances that the variance will go up to \$140k as of June 2024. • Water usage variance of \$277k due to timing of issuing quarterly water charge notices. • Caravan Park fees collection is below half year budget by \$24k. <p>Road Maintenance Council Contracts works related projects revenue is lower than budgeted due to the timing.</p>
Interest & Investment Revenue	<p>Major bank deposit rates continued floating between 5-5.20 percent per annum for 12 months investments due to strong financial market with slowing down inflation rate.</p> <p>The council portfolio is directed to fixed term deposits 78% and remainder of the portfolio is held in cash 22% due to higher interest rate for short term investments and cash held in savings.</p> <p>The council will continue with the higher than expected interest rate through out the current financial year. The March quarter will reflect the budget adjustments.</p>
Other Income	Other income is on track to achieve the annual budget for the financial year. The quarterly income receipt is higher than budgeted due additional RHB Flooding claim received from Statewide Mutual Property Scheme.
Operating Grants & Contributions	Operating Grants and Contribution income is on track with the annual budget. No major variance identified during budget review. The current variance is due to timing and budget allocations.
Capital Grants & Contributions	<p>Capital Grants and Contribution income is behind the annual budget.</p> <p>Stronger Country Communities Grant funding for the projects related to sporting grounds and venues totalling \$740k are not yet received. Timing Variance.</p> <p>RTR and LRCI round 4 grants totalling 580k are not yet received. Timing variance.</p> <p>Aerodrome Upgrade grant YTD budget of \$3.9m is not received/claimed as the project has been delayed. Further updates are made in QBR2 review.</p> <p>Emergency Evacuation & Multipurpose Centre grant YTD budget of \$5.1m is not received due to the project was delayed applying the additional funding of \$3.15m from DRNSW required to complete the project within new economic circumstances. Further updates are made in QBR2 review.</p>



OPERATING EXPENDITURE

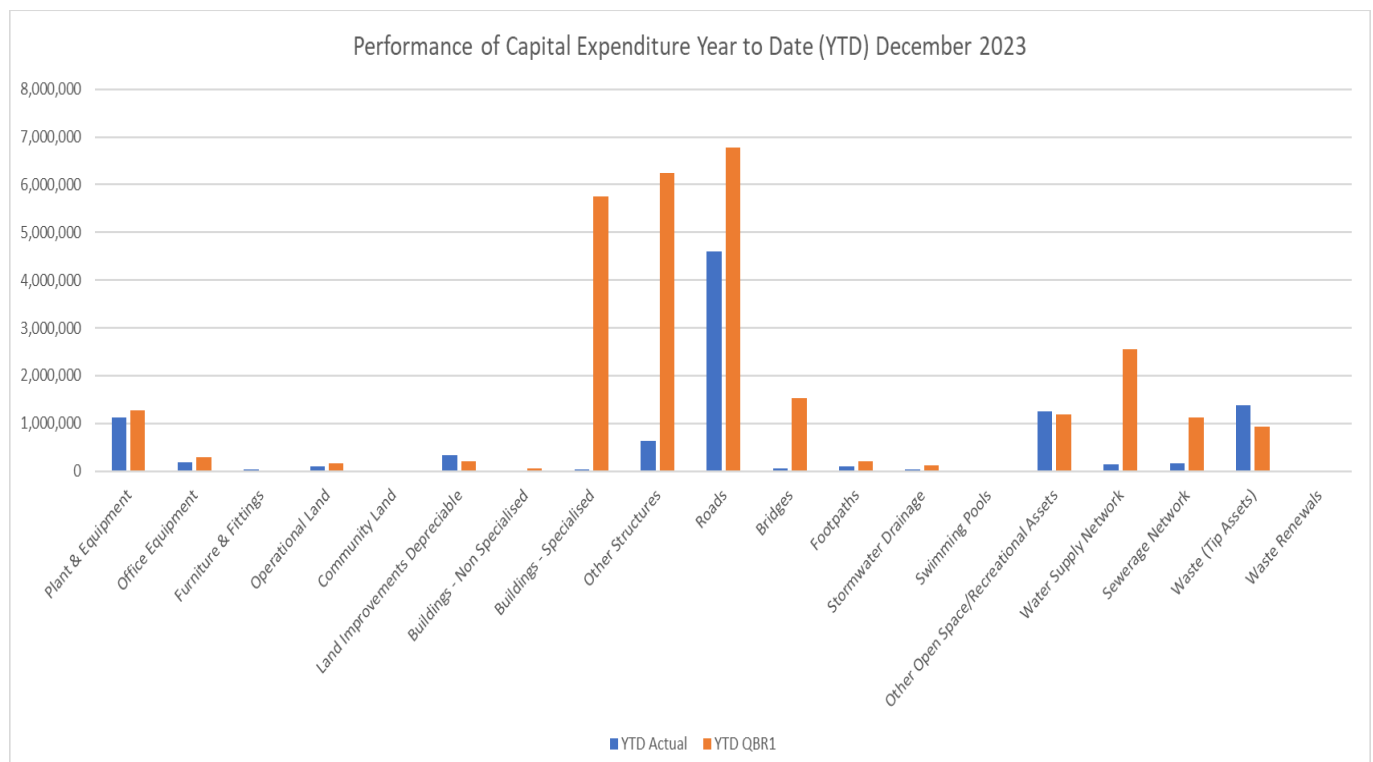


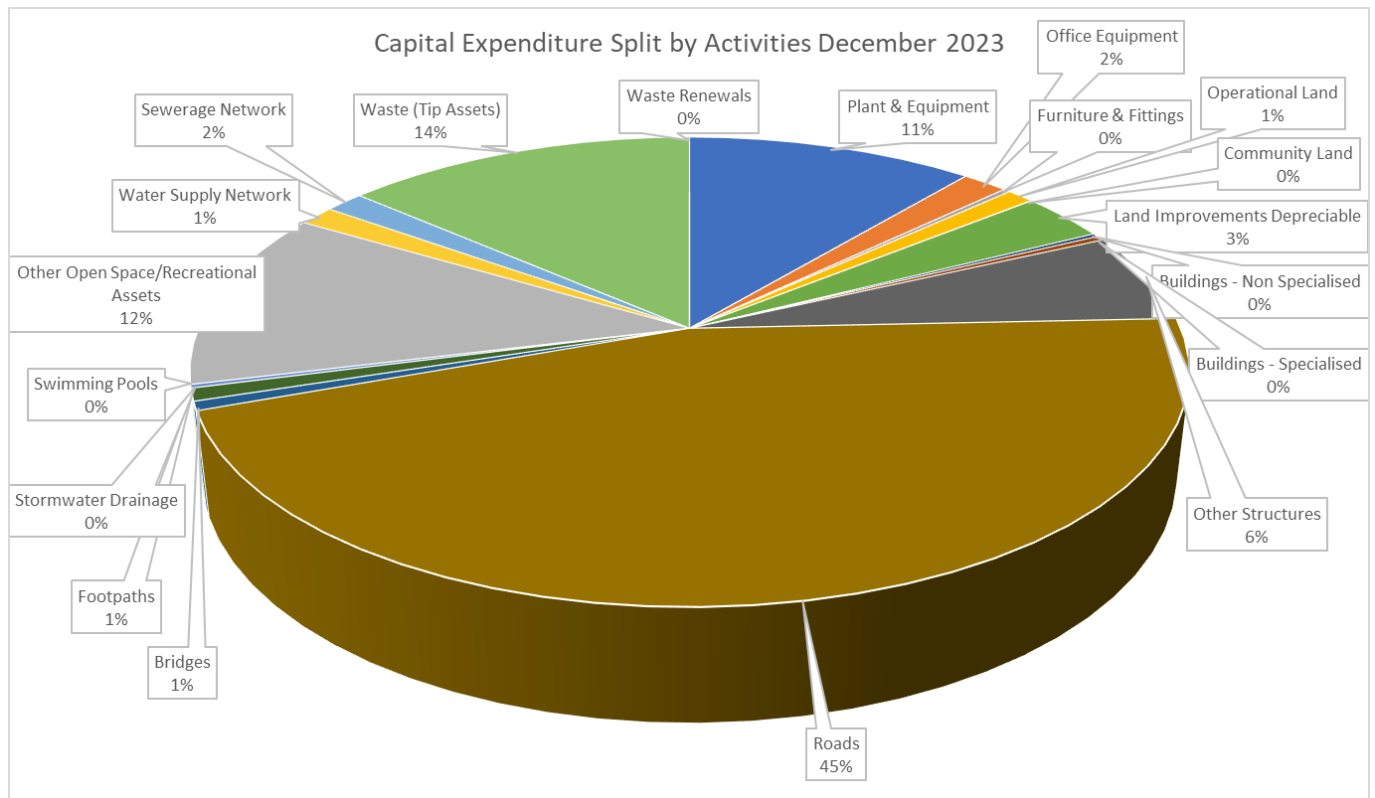
Operating Expenditure	Variance Analysis
Employee Costs	<p>Total Employee cost expenditure is below the QBR1 budget and expected to maintain below budget expenditures throughout the year. The council is not able to fill the vacant positions and using contractors to fill the gap for the temporary basis. As a result, materials and services cost is increased the budgeted amount.</p> <p>However, Casual and Relief salaries are higher than quarterly budget followed by payroll tax and compulsory super guarantee payments.</p> <p>Total unbudgeted expenditure \$163k was spent on casual and relief workers among few service areas which offsets against permanent staff vacancies within respective service areas.</p>
Materials & Services	<p>Material & Services expenditure is above the original budget. Some of the cost increases are related to the private works and disaster recovery works which offsets against additional 'other income' and 'Operating grants' received/to be received by the council.</p> <p>Council's focus moving forward is to reduce its heavy reliance on external consultants (including project management). Council has identified the costs that have increased the material and services budget by \$523k which offsets against the saving identified in the Employee costs areas due to vacancies in the respective service areas. These costs are predominantly funded by grants.</p> <p>Total \$269k unbudgeted Consultancy costs recorded across several service areas which offsets against staff vacancies of respective service areas.</p> <p>Total \$199k unbudgeted Contractors costs recorded across several cost centres which are covered by the grant funding and disaster recovery funding agreements.</p>
Borrowing Costs	Quarterly Borrowing cost expenditure is higher than budget due to timing variance.
Depreciation & Impairment	Asset module is rolled over and council is finalising asset reconciliation among various components of assets accounting areas before processing current year's asset transactions.
Other Expenses	Other expenditure quarterly result is slightly higher than budget due to RFS contribution reimbursement not being received.



CAPITAL PROJECTS

Total capital expenditure as of December 2023 was \$10.19m which is only 18% of the total \$56.84m of capital budget approved during first quarterly budget review.





PROPOSED QBR2 ADJUSTMENTS:

	Buildings - Non Specialised
50,000	RHB Building Refurbishment Carry forward project from FY 21/22
	Buildings - Specialised
(9,500,000)	BLER Emergency Evacuation Centre. Deferred to 2024/25
5,915	Tumbarumba Basketball Stadium - Ceiling
100,000	Tumbarumba Office Accessibility
	Land Improvements Depreciable
5,320	Batlow SG fence & gates
(707)	Adelong - Waste Bin Surrounds
	Waste
(15,000)	Renewals - Waste. Project expenditure reduced to balance reserve fund
	Office Equipment
22,178	IT Server Refresh Tumba Office. Additional costs of server replacements
	Operational Land
55,883	Cemeteries Masterplan - Plinths. Carry forward project from 2022/23
	Other Open Space/Recreational Assets
261,500	DPIE Public Spaces Legacy Program - Pioneer Park
102,296	DPIE Public Spaces Legacy Program - Goldfields Park
(775,000)	Riverglade Oval Amenities. Deferred to 2024/25

	Other Structures
(11,000,000)	BLER - Aerodrome Upgrade. Deferred to FY 2024/25
23,595	Emulsion Bitumen Tanks. Carry forward project from 2022/23
	Roads
(180,000)	Renewals - Sealed Surface Regional - Transferred funding to Elliot Way Reseals project.
180,000	Elliot Way Reseals (3 Segments) - Transferred funding from the Sealed Surface Regional budget, not previously allocated to specific project(s). Grant funded - Block Grant.
131,824	Elliott Way HP RLRRP - Additional costs identified. Grant funded - Regional Emergency Roads Recovery Grant.
100,000	Alpine Way Rehab RERRF - Additional works identified. Grant funded.
1,665	Rosewood Bus Shelter - Additional costs identified. Revenue funded.
(1,524,000)	Brindabella Road - Fixing Local Roads Program - Reversal of prior year budget included in current year budget in error. Grant funding reversed.
(300,000)	Old Tumba Road HP RLRRP - Project transferred to future year 2024/25. Grant funding - Regional and Local Roads Repair Program unexpended Grant Reserve.
(100,000)	Greenhills Road HP RLRRP - Project transferred between project codes. Project replaced by the Greenhills Road Heavy Patch Chainage 0.66 - 0.86 project.
150,000	Greenhills Road Heavy Patch Chainage 0.66 – 0.86 - Project transferred between project codes. Budget increased to cover additional costs identified. Combination of Grant and Revenue funding. Revenue funding of \$50,000 represents 22/23 project carryover budget with Grant funding met from the Regional Emergency Roads Recovery Grant.
(178,800)	Isolated Local Roads HP RLRRP - Project transferred to future year 2024/25. Grant funding - Regional and Local Roads Repair Program unexpended Grant Reserve.
3,031	EPARW Allawah Road DM04355 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
43,504	EPARW Back Nacki Creek RD DM03737 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
39,817	EPARW Back Sandy Gully RD DM03064 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
(1,063,729)	EPARW Bago Forest Road DM04356 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
7,262	EPARW Bangadang Road DM03942 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
24,421	EPARW Bradleys Drive DM03548 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
11,438	EPARW Brungle Creek Road DM04219 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
31,584	EPARW Califat Road DM03960/69 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
6,151	EPARW Craven Road DM03897 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.

101,236	EPARW Deans Road DM03030 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
40,544	EPARW Gadara Road DM04014 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
18,643	EPARW Lower Bago Road DM04057 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
9,419	EPARW Mannus Creek Branch Road DM04367 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
4,929	EPARW Mannus Creek Road DM04368 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
18,965	EPARW Mannus Flats Road DM04369 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
13,958	EPARW Mannus Forest Road DM04370/4292 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
21,380	EPARW Mannus Lake Road DM04371 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
27,811	EPARW Maragle Creek Road DM03644 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
58,513	EPARW Moodys Hill Road DM03570 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
12,614	EPARW Old Taradale Road DM04072 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
33,239	EPARW Possum Point Road DM03500 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
2,177	EPARW Quidong Road DM04088 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
6,167	EPARW Saleyards Road DM04380 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
18,616	EPARW Sharps Creek Road DM03706 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
135,000	Brungle Creek Road HP RLRRP - Additional costs identified. Grant funded - Regional Emergency Roads Recovery Grant.
105,000	RLRRP Wee Jasper Rd Seg 60 Heavy Patch - Additional project identified. Grant funded - Regional Emergency Roads Recovery Grant.
3,003	EPARW Crown land Gocup Rd DM04509 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
10,951	EPARW Crown Land Batlow Lane DM04506 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
3,691	EPARW Fettleers Lane DM04464 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
40,510	EPARW River Rd DM04391 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
88,715	EPARW River Rd DM04377 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
3,943	EPARW Ramsay Rd DM04508 - Allocation of EPARW budget to specific projects. Grant funded - Disaster Funding Recovery Arrangements.
26,654	Tooma Road Paddys Falls Heavy Patching - Additional costs identified. Grant funded - Regional Emergency Roads Recovery Grant.

(58,744)	Wee Jasper Rd Resheet 2022/23 - Carryover project from 22/23. Budget required to complete the project. Revenue funded.
68,930	West Gilmore Road resheet - Carryover project from 22/23. Budget required to complete the project. Revenue funded.
357,428	EPARW Unallocated Project Budget - EPARW budget not yet allocated to specific projects. Grant funded - Disaster Funding Recovery Arrangements. Note: In QBR1, unallocated budget was held against the EPARW Bago Forest Road project.
	Stormwater Drainage
35,000	Lambie Street Stormwater Renewal 2023-24 - Transferred funding from the Renewals Urban Stormwater Drainage budget, not previously allocated to specific project(s). Revenue funded.
15,000	RHB Stormwater Renewal 2023-24 - Transferred funding from the Renewals Urban Stormwater Drainage budget, not previously allocated to specific project(s). Revenue funded.
7,000	SMH Lintel upgrade - Transferred funding from the Renewals Urban Stormwater Drainage budget, not previously allocated to specific project(s). Revenue funded.
(57,000)	Renewals Urban Stormwater Drainage - Transferred funding to identified Stormwater Drainage projects identified above.
	Waste (Tip Assets)
100,189	FOGO - Facility - Additional funding required reflecting current costs and to provide for installation of a Gross Pollutant Trap - Revenue funded

INCOME STATEMENT BY FUND

Budget review for the quarter ended 31 December 2023							
Income & expenses - Council General Fund							
				Original	Adopted	Projected	Actual
(\$000's)				budget	QBR 1	QBR 2	YTD
				2023/24	2023/24	2023/24	figures
Income							
Rates and annual charges				15,751	15,751	15,931	15,591
User charges and fees				11,716	11,716	11,716	5,088
Interest and investment revenue				642	642	642	915
Other income				1,472	1,472	1,472	2,683
Grants and contributions - operating				11,353	14,913	14,913	3,236
Grants and contributions - capital				35,506	34,344	15,002	6,912
Other revenues							-
Net gain from disposal of assets					-	-	4
Total income from continuing operations				76,440	78,838	59,676	34,429
Expenses							
Employee benefits and on-costs				18,296	18,296	18,296	7,652
Materials and services				15,818	18,310	18,111	11,043
Borrowing costs				82	82	82	42
Depreciation and amortisation				9,468	9,468	9,468	-
Other expenses				1,448	1,448	1,448	928
Total expenses from continuing operations				45,112	47,604	47,405	19,665
Net operating result from continuing operations				31,328	31,234	12,271	14,764
Discontinued operations - surplus/(deficit)					-	-	
Net operating result from all operations				31,328	31,234	12,271	14,764
Net Operating Result before Capital Items				(4,178)	(3,110)	(2,731)	7,852

Budget review for the quarter ended 31 December 2023							
Income & expenses - Council Water Fund							
(\$000's)				Original budget 2023/24	Adopted QBR 1 2023/24	Projected QBR 2 2023/24	Actual YTD figures
Income							
Rates and annual charges				1,791	1,791	1,805	1,739
User charges and fees				3,377	3,377	3,377	1,431
Interest and investment revenue				200	200	200	9
Other income				-	-	-	-
Grants and contributions - operating				-	-	-	73
Grants and contributions - capital				1,184	1,184	1,184	464
Other revenues				-	-	-	-
Net gain from disposal of assets				-	-	-	-
Total income from continuing operations				6,552	6,552	6,566	3,716
Expenses							
Employee benefits and on-costs				964	964	964	409
Materials and services				1,860	1,860	1,860	1,061
Borrowing costs				66	66	66	63
Depreciation and amortisation				1,046	1,046	1,046	-
Other expenses				-	-	-	-
Total expenses from continuing operations				3,936	3,936	3,936	1,533
Net operating result from continuing operations				2,616	2,616	2,630	2,183
Discontinued operations - surplus/(deficit)					-	-	
Net operating result from all operations				2,616	2,616	2,630	2,183
Net Operating Result before Capital Items				1,432	1,432	1,446	1,719

Budget review for the quarter ended 31 December 2023							
Income & expenses - Council Waste Water Fund							
(\$000's)				Original budget 2023/24	Adopted QBR 1 2023/24	Projected QBR 2 2023/24	Actual YTD figures
Income							
Rates and annual charges				4,859	4,859	4,951	4,880
User charges and fees				507	507	507	239
Interest and investment revenue				450	450	450	8
Other income				10	10	10	27
Grants and contributions - operating				-	-	-	76
Grants and contributions - capital				-	-	-	184
Other revenues				-	-	-	-
Net gain from disposal of assets				-	-	-	-
Total income from continuing operations				5,826	5,826	5,918	5,414
Expenses							
Employee benefits and on-costs				981	981	981	462
Materials and services				2,026	2,026	2,026	1,226
Borrowing costs				89	89	89	40
Depreciation and amortisation				1,123	1,123	1,123	-
Other expenses				-	-	-	-
Total expenses from continuing operations				4,219	4,219	4,219	1,728
Net operating result from continuing operations				1,607	1,607	1,699	3,686
Discontinued operations - surplus/(deficit)					-	-	
Net operating result from all operations				1,607	1,607	1,699	3,686
Net Operating Result before Capital Items				1,607	1,607	1,699	3,502

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:

Monitoring of the Quarterly Budget Review enables timely financial management.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Clause 203 (1) of the Local Government (General) Regulation 2021 requires Council's responsible account officer to prepare and submit a quarterly budget review statement to the governing body of Council.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Quarterly reporting allows Council to stay informed of the progress of the budget to actual income and expenditure.

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:

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

1. Quarterly Budget Review 31 December 2023 (Under separate cover)

10.5. REVIEW - 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.

This report was deferred from the December 2023 Ordinary meeting. Further information was presented to Councillors at a workshop on 1 February 2024, as requested.

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.

This report was deferred from the December 2023 Ordinary meeting. Further information was presented to Councillors at a workshop on 1 February 2024 as requested.

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)

10.6. REVIEW - 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.

This report was deferred from the December 2023 Ordinary meeting. Further information was presented to Councillors at a workshop on 1 February 2024, as requested.

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 was forwarded to the Information and Privacy Commission (IPC) in order to meet the GIPA Act's requirement for notifying the Information Commissioner of Council's review of its Information Guide. The IPC has provided feedback that the Guide meets all obligations under the GIPA Act aside from missing the deadline for the 12-month review period.

This report was deferred from the December 2023 Ordinary meeting. Further information was presented to Councillors at a workshop on 1 February 2024, as requested.

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 has been 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.

A response was received in January 2024 stating that the Guide as submitted meets all obligations under the Act although they have noted that the 12 month review deadline was missed.

ATTACHMENTS

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

10.7. COUNCILLOR EXPENSES FOR THE SIX MONTHS PERIOD ENDING 31 DECEMBER 2023

REPORT AUTHOR: MANAGER FINANCE

RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE

EXECUTIVE SUMMARY:

A six-monthly report on councillor expenses is provided in accordance with Section 15 of Council's *Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy*.

RECOMMENDATION:

THAT COUNCIL:

1. Note the report on Councillor Expenses for the six (6) months period ending 30 June 2023.

BACKGROUND:

Snowy Valleys Council adopted the current *Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy* on 17 October 2023 which included the following reporting requirements:

Section 15 Reporting

15.1 Council will report on the provision of expenses and facilities to councillors as required in the Act and Regulations.

15.2 Detailed reports on the provision of expenses and facilities to councillors will be publicly tabled at a council meeting every six months and published in full on council's website. These reports will include expenditure summarised by individual councillor and as a total for all councillors.

REPORT:

Detailed below are councillor related expenses totalling \$109,243 for the period 1 July 2023 to 31 December 2023.

Recipient	Details of Expenses 1 July 2023 to 31 December 2023	Amount \$
General Expenses		
Election Expenses		
Sustenance	Meetings and Workshops	\$1,590.15
	Total	\$1,590.15
I Chaffey - Mayor		
Mayoral Allowance		\$18,962.50
Councillor Allowance		\$4,925.00
Superannuation		\$0.00
Membership Expenses	Country Mayors Association	\$0.00
Conference Expense	LGNSW Conference	\$1,139.55
	Total	\$25,027.05
T Thomson - Deputy Mayor		
Councillor Allowance		\$8,840.00
Superannuation		\$972.40

Recipient	Details of Expenses 1 July 2023 to 31 December 2023	Amount \$
Conference Expense	LGNSW Conference	\$1,130.00
	Total	\$10,942.40
H Armour		
Councillor Allowance		\$8,840.00
Superannuation		\$0.00
Vehicle Allowance		\$230.25
Training and Development	Digital Agrifood Summit, Government Essential for LG	\$3,472.73
	Total	\$9,070.25
J Ham		
Councillor Allowance		\$8,840.00
Superannuation		\$972.40
Training and Development	Digital Agrifood Summit	\$972.73
	Total	\$10,785.13
J Hayes		
Councillor Allowance		\$8,840.00
Superannuation		\$972.40
Vehicle Allowance		\$1,650.60
Training and Development	Government Essential for LG	\$2,500.00
	Total	\$11,463.00
S Hughes		
Councillor Allowance		\$8,840.00
Superannuation		\$972.40
Vehicle Allowance		\$782.60
Training and Development	Government Essential for LG	\$2,500.00
	Total	\$13,095.00
M Ivill		
Councillor Allowance		\$8,840.00
Superannuation		\$972.40
	Total	\$9,812.40
J Larter		
Councillor Allowance		\$8,840.00
Superannuation		\$972.40
Conference Expenses	LGNSW Conference	\$1,130.00
	Total	\$10,942.40
B Livermore		
Councillor Allowance		\$6,515.00
Superannuation		\$0.00

Recipient	Details of Expenses 1 July 2023 to 31 December 2023	Amount \$
	Total	\$6,515.00

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:

Nil.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Payment of Expenses and Provision of Facilities for Mayor & Councillors Policy.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Nil.

OPTIONS:

N/A

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

N/A

ATTACHMENTS

Nil.

10.8. STATEMENT OF INVESTMENT - 31 DECEMBER 2023**REPORT AUTHOR: FINANCE OFFICER****RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE****EXECUTIVE SUMMARY:**

This report provides an overview of Council's cash and investment portfolio performance as at 31 December 2023.

RECOMMENDATION:**THAT COUNCIL:**

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

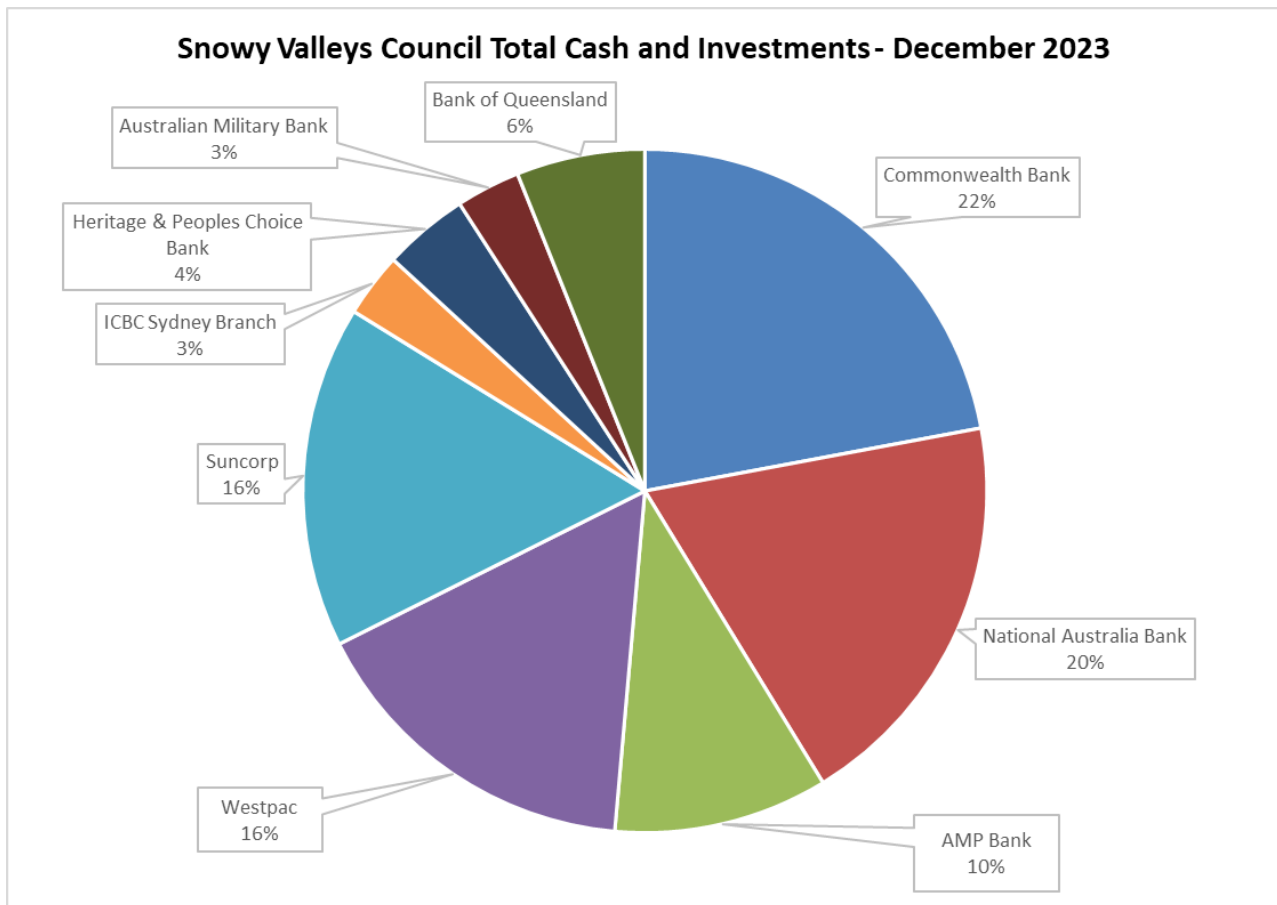
BACKGROUND:

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 31 December 2023.

Combined Cash & Investments Table		31/12/2023								
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	\$ 4,075,491	\$ 9,574,160	-\$ 5,498,669	W/Acct	4.10%		8.3%	37.4%	AA-
Commonwealth Bank	Tumut	\$ 6,803,380	\$ 6,779,467	\$ 23,914	At Call (BOS)	4.10%		13.8%	62.5%	AA-
Commonwealth Bank	Tumut	\$ 12,647	\$ 10,627	\$ 2,020	Gen-Roth	4.35%		0.0%	0.1%	AA-
Total Cash & 11 am at Call Accounts		\$ 10,891,518	\$ 16,364,254	-\$ 5,472,736		4.10%		22.1%	100.0%	
Investments		\$ 10,891,518	\$ 16,364,254	-\$ 5,472,736		4.10%		22.1%	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%	29/01/2024	2.0%	2.6%	AA-
Suncorp	580	\$ 1,000,000	\$ 1,000,000	\$ -	28/11/2023	5.47%	28/11/2023	2.0%	2.6%	A+
Suncorp	581	\$ 1,000,000	\$ 1,000,000	\$ -	28/11/2023	5.45%	28/11/2023	2.0%	2.6%	A+
National Australia Bank	591	\$ 1,000,000	\$ -	\$ 1,000,000	22/12/2023	5.13%	23/12/2024	2.0%	2.6%	AA-
Suncorp	588	\$ 1,000,000	\$ -	\$ 1,000,000	22/12/2023	5.15%	23/12/2024	2.0%	2.6%	A+
Suncorp	589	\$ 1,000,000	\$ -	\$ 1,000,000	22/12/2023	5.15%	23/12/2024	2.0%	2.6%	A+
Suncorp	590	\$ 2,000,000	\$ -	\$ 2,000,000	22/12/2023	4.93%	23/12/2024	4.0%	5.2%	A+
Suncorp	484	\$ -	\$ 2,000,000	-\$ 2,000,000	30/06/2023	5.50%	29/12/2023	0.0%	0.0%	A+
Bank of Queensland	001	\$ 1,000,000	\$ 1,000,000	\$ -	18/07/2023	5.45%	18/01/2024	2.0%	2.6%	BBB+
National Australia Bank	375	\$ 1,500,000	\$ 1,500,000	\$ -	30/01/2023	4.60%	30/01/2024	3.0%	3.9%	AA-
Westpac	916	\$ 1,500,000	\$ 1,500,000	\$ -	31/01/2023	4.60%	31/01/2024	3.0%	3.9%	AA-
Westpac	916	\$ 2,000,000	\$ 2,000,000	\$ -	31/01/2023	4.60%	31/01/2024	4.0%	5.2%	AA-
Westpac	916	\$ 1,000,000	\$ 1,000,000	\$ -	15/02/2022	1.75%	15/02/2024	2.0%	2.6%	AA-
National Australia Bank	375	\$ 1,000,000	\$ 1,000,000	\$ -	28/02/2023	5.00%	28/02/2024	2.0%	2.6%	AA-
National Australia Bank	375	\$ 1,000,000	\$ 1,000,000	\$ -	15/09/2023	5.10%	15/03/2024	2.0%	2.6%	AA-
National Australia Bank	375	\$ 2,000,000	\$ 2,000,000	\$ -	30/06/2023	5.53%	28/03/2024	4.0%	5.2%	AA-
Bank of Queensland	001	\$ 2,000,000	\$ 2,000,000	\$ -	30/06/2023	5.51%	28/03/2024	4.0%	5.2%	BBB+
ICBC Sydney Branch	337	\$ 1,500,000	\$ 1,500,000	\$ -	08/04/2021	0.85%	08/04/2024	3.0%	3.9%	A
AMP Bank	511	\$ 2,000,000	\$ 2,000,000	\$ -	11/04/2023	4.80%	11/04/2024	4.0%	5.2%	BBB
Suncorp	484	\$ 2,000,000	\$ 2,000,000	\$ -	31/07/2023	5.35%	30/04/2024	4.0%	5.2%	A+
AMP Bank	544	\$ 2,000,000	\$ 2,000,000	\$ -	30/06/2023	5.70%	28/06/2024	4.0%	5.2%	BBB
AMP Bank	556	\$ 1,000,000	\$ 1,000,000	\$ -	18/07/2023	5.75%	18/07/2024	2.0%	2.6%	BBB
Heritage & Peoples Choice Bank	140	\$ 2,000,000	\$ 2,000,000	\$ -	01/08/2023	5.50%	31/07/2024	4.0%	5.2%	BBB+
Westpac	916	\$ 1,500,000	\$ 1,500,000	\$ -	07/09/2021	0.78%	09/09/2024	3.0%	3.9%	AA-
National Australia Bank	375	\$ 2,000,000	\$ 2,000,000	\$ -	07/09/2023	5.23%	09/09/2024	4.0%	5.2%	AA-
Australian Military Bank	564	\$ 1,500,000	\$ 1,500,000	\$ -	01/08/2023	5.35%	01/08/2025	3.0%	3.9%	BBB+
Westpac	916	\$ 2,000,000	\$ 2,000,000	\$ -	29/09/2023	5.21%	29/09/2025	4.0%	5.2%	AA-
Total TD's		\$ 38,500,000	\$ 35,500,000	\$ 3,000,000		4.76%		77.95%	100%	
Total Cash & Investments		\$ 49,391,518	\$ 51,864,254	-\$ 2,472,736		4.62%		100%		



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 reduced by \$2.5 million in December 2023.

Major cash receipts received during December 2023 included:

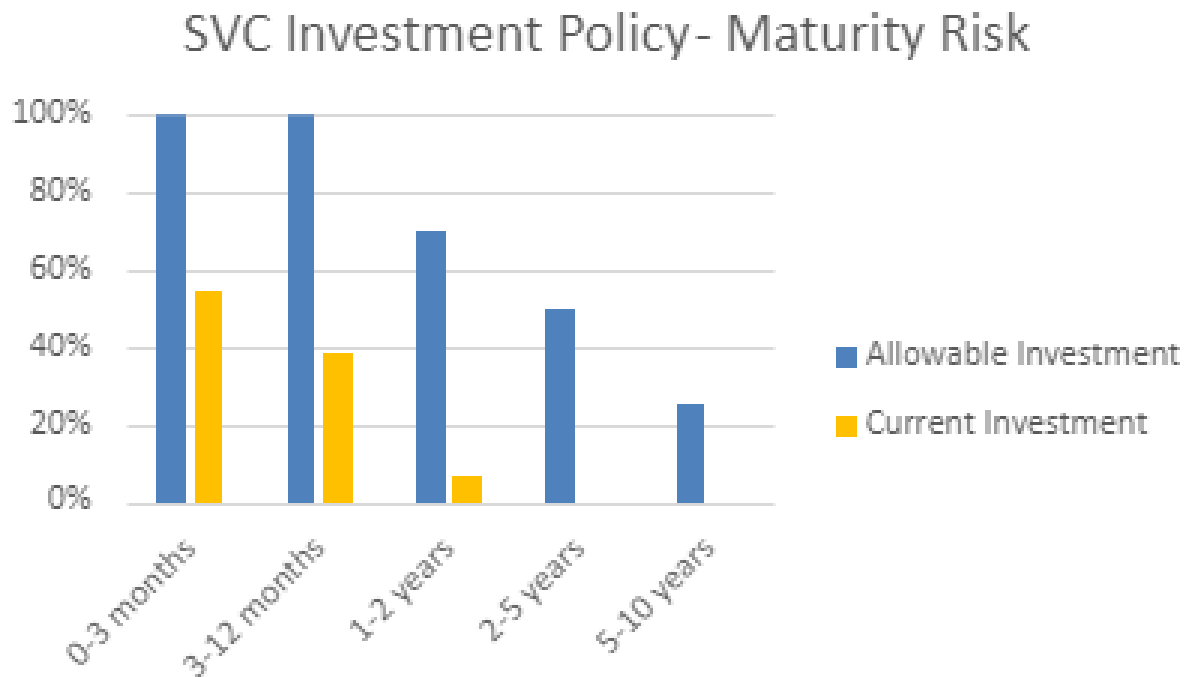
- Tumut, Batlow and Khancoban Pool upgrade : \$584k
- Environment Protection Authority for Bushfire Recovery Program for Council Landfills Updated Project final milestone : \$200k
- Grants from Transport for NSW for Tumbarumba and Tumut Local Government Community Transport under The Commonwealth Home Support Program (CHSP) Funding : \$185k
- Transport for NSW for Snowy Valleys AGRN 1034 EW LR Floods FY 2023 Grants : \$148k
- NSW Department of Planning and Environment for Strategic Planning Project for Water and Wastewater : \$147k

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

- Road stabilisation works for Alpine Way, Tooma Road and Brungle Creek Road: \$985k
- Yearly Microsoft Office 365 Subscription : \$210k

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 54% of investments maturing within 90 days and an additional 38% 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.

10.9. STATEMENT OF INVESTMENT - 31 JANUARY 2024**REPORT AUTHOR: FINANCE OFFICER****RESPONSIBLE DIRECTOR: DIRECTOR COMMUNITY & CORPORATE****EXECUTIVE SUMMARY:**

This report provides an overview of Council's cash and investment portfolio performance as at 31 January 2024.

RECOMMENDATION:**THAT COUNCIL:**

1. Note the report on Statement of Investment - 31 January 2024.

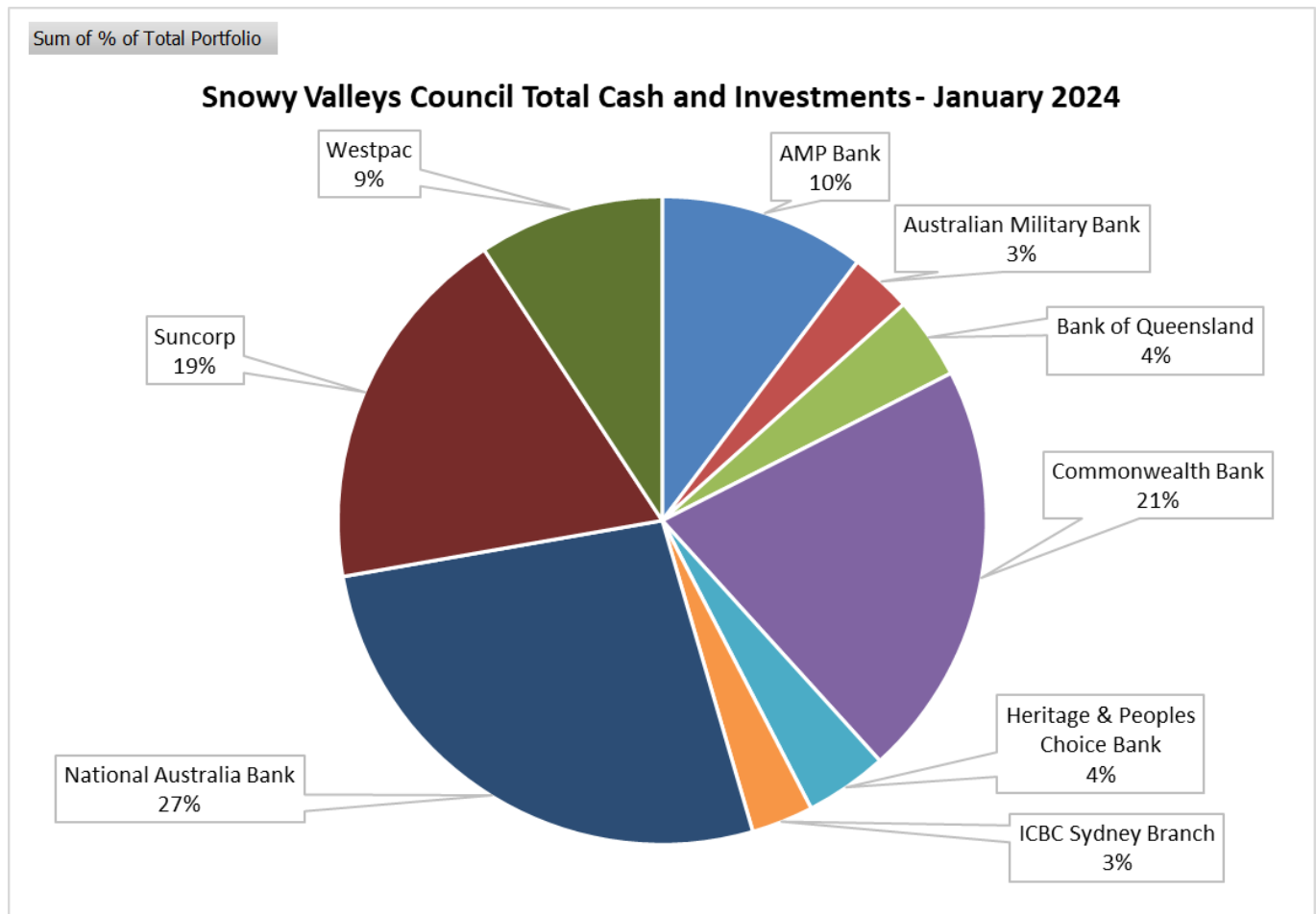
BACKGROUND:

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 bank table contains a list of cash, at call investments and term deposits held by council as at 31 January 2024.

Combined Cash & Investments Table		31/01/2024								
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	\$ 3,271,881	\$ 4,075,491	-\$ 803,609	W/Acct	4.35%		6.7%	32.3%	AA-
Commonwealth Bank	Tumut	\$ 6,828,516	\$ 6,803,380	\$ 25,135	At Call (BOS)	4.35%		14.0%	67.5%	AA-
Commonwealth Bank	Tumut	\$ 14,279	\$ 12,647	\$ 1,632	Gen-Roth	4.35%		0.0%	0.1%	AA-
Sub Total Cash & 11 am at Call Accounts		\$ 10,114,676	\$ 10,891,518	-\$ 776,842		4.35%		20.8%	100.0%	
Investments		\$ 10,114,676	\$ 10,891,518	-\$ 776,842		4.35%		20.8%	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	-\$ 1,000,000	27/10/2023	5.00%	29/01/2024	0.0%	0.0%	AA-
Suncorp	580	\$ 1,000,000	\$ 1,000,000	\$ -	28/11/2023	5.47%	28/11/2024	2.1%	2.6%	A+
Suncorp	581	\$ 1,000,000	\$ 1,000,000	\$ -	28/11/2023	5.45%	28/11/2024	2.1%	2.6%	A+
National Australia Bank	591	\$ 1,000,000	\$ 1,000,000	\$ -	22/12/2023	5.13%	23/12/2024	2.1%	2.6%	AA-
Suncorp	588	\$ 1,000,000	\$ 1,000,000	\$ -	22/12/2023	5.15%	23/12/2024	2.1%	2.6%	A+
Suncorp	589	\$ 1,000,000	\$ 1,000,000	\$ -	22/12/2023	5.15%	23/12/2024	2.1%	2.6%	A+
Suncorp	590	\$ 2,000,000	\$ 2,000,000	\$ -	22/12/2023	4.93%	23/12/2024	4.1%	5.2%	A+
Suncorp	597	\$ 1,000,000	\$ -	\$ 1,000,000	18/01/2024	5.20%	20/01/2025	2.1%	2.6%	A+
Bank of Queensland	001	\$ 1,000,000	\$ 1,000,000	-\$ 1,000,000	18/07/2023	5.45%	18/01/2024	0.0%	0.0%	BBB+
National Australia Bank	375	\$ 1,500,000	\$ 1,500,000	-\$ 1,500,000	30/01/2023	4.60%	30/01/2024	0.0%	0.0%	AA-
Westpac	916	\$ 1,500,000	\$ 1,500,000	-\$ 1,500,000	31/01/2023	4.60%	31/01/2024	0.0%	0.0%	AA-
Westpac	916	\$ 2,000,000	\$ 2,000,000	-\$ 2,000,000	31/01/2023	4.60%	31/01/2024	0.0%	0.0%	AA-
National Australia Bank	598	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	29/01/2024	5.20%	29/01/2025	2.1%	2.6%	AA-
National Australia Bank	599	\$ 1,500,000	\$ 1,500,000	\$ 1,500,000	30/01/2024	5.19%	30/01/2025	3.1%	3.9%	AA-
National Australia Bank	601	\$ 1,500,000	\$ 1,500,000	\$ 1,500,000	31/01/2024	5.14%	31/10/2024	3.1%	3.9%	AA-
National Australia Bank	602	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	31/01/2024	5.15%	31/01/2025	2.1%	2.6%	AA-
National Australia Bank	603	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	31/01/2024	5.15%	31/01/2025	2.1%	2.6%	AA-
Westpac	916	\$ 1,000,000	\$ 1,000,000	\$ -	15/02/2022	1.75%	15/02/2024	2.1%	2.6%	AA-
National Australia Bank	375	\$ 1,000,000	\$ 1,000,000	\$ -	28/02/2023	5.00%	28/02/2024	2.1%	2.6%	AA-
National Australia Bank	375	\$ 1,000,000	\$ 1,000,000	\$ -	15/09/2023	5.10%	15/03/2024	2.1%	2.6%	AA-
National Australia Bank	375	\$ 2,000,000	\$ 2,000,000	\$ -	30/06/2023	5.53%	28/03/2024	4.1%	5.2%	AA-
Bank of Queensland	001	\$ 2,000,000	\$ 2,000,000	\$ -	30/06/2023	5.51%	28/03/2024	4.1%	5.2%	BBB+
ICBC Sydney Branch	337	\$ 1,500,000	\$ 1,500,000	\$ -	08/04/2021	0.85%	08/04/2024	3.1%	3.9%	A
AMP Bank	511	\$ 2,000,000	\$ 2,000,000	\$ -	11/04/2023	4.80%	11/04/2024	4.1%	5.2%	BBB
Suncorp	484	\$ 2,000,000	\$ 2,000,000	\$ -	31/07/2023	5.35%	30/04/2024	4.1%	5.2%	A+
AMP Bank	544	\$ 2,000,000	\$ 2,000,000	\$ -	30/06/2023	5.70%	28/06/2024	4.1%	5.2%	BBB
AMP Bank	556	\$ 1,000,000	\$ 1,000,000	\$ -	18/07/2023	5.75%	18/07/2024	2.1%	2.6%	BBB
Heritage & Peoples Choice Bank	140	\$ 2,000,000	\$ 2,000,000	\$ -	01/08/2023	5.50%	31/07/2024	4.1%	5.2%	BBB+
Westpac	916	\$ 1,500,000	\$ 1,500,000	\$ -	07/09/2021	0.78%	09/09/2024	3.1%	3.9%	AA-
National Australia Bank	375	\$ 2,000,000	\$ 2,000,000	\$ -	07/09/2023	5.23%	09/09/2024	4.1%	5.2%	AA-
Australian Military Bank	564	\$ 1,500,000	\$ 1,500,000	\$ -	01/08/2023	5.35%	01/08/2025	3.1%	3.9%	BBB+
Westpac	916	\$ 2,000,000	\$ 2,000,000	\$ -	29/09/2023	5.21%	29/09/2025	4.1%	5.2%	AA-
Total TD's		\$ 38,500,000	\$ 38,500,000	\$ -		4.83%		79.19%	100%	
Total Cash & Investments		\$ 48,614,676	\$ 49,391,518	-\$ 776,842		4.73%		100%		



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 reduced by \$777k in January 2024.

Major cash receipts received during January 2024. included:

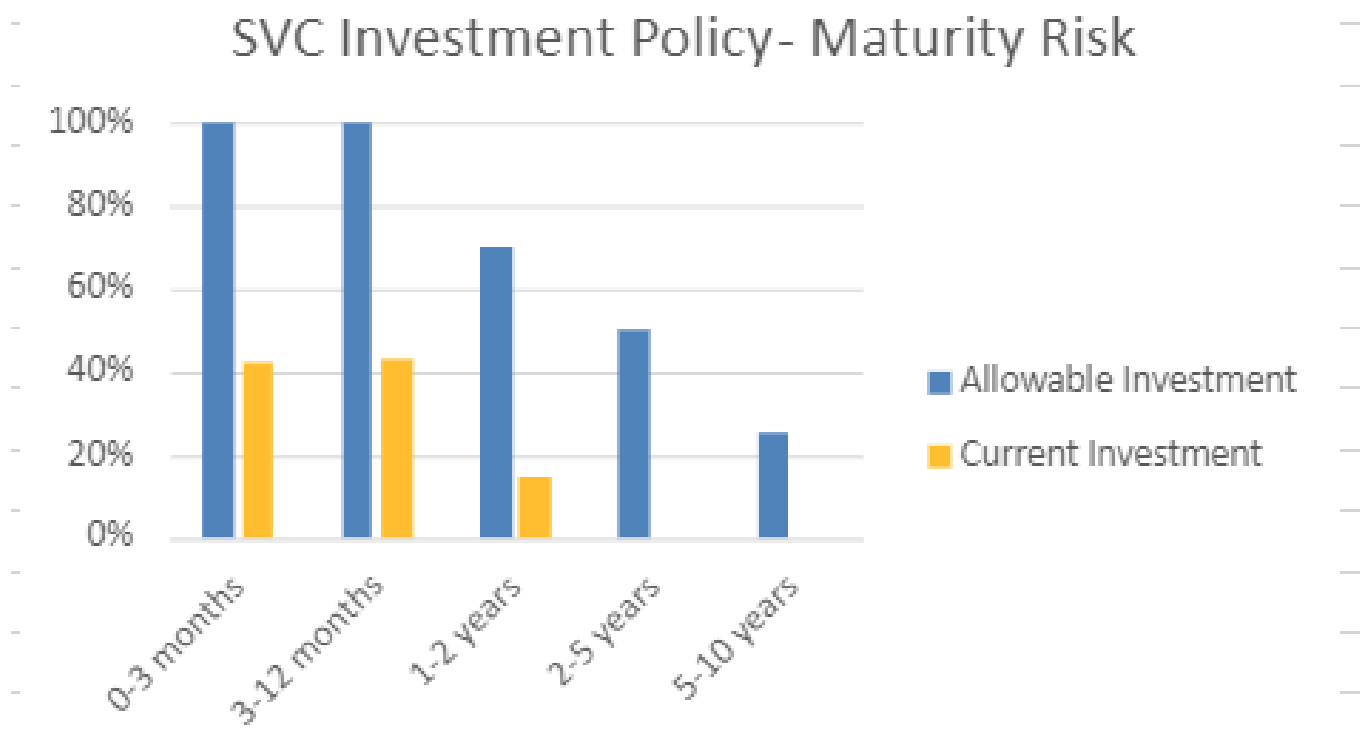
- Transport for NSW Culcairn Pac Reconstruction claim 2.0 : \$759k
- Transport for NSW Works Contract: \$405k
- Snowy Monaro Regional Council: Works Contract: \$260k
- Department of Planning and Environment - Crown Lands 2023-24 Maintenance Contract: \$192k
- Department of Planning and Environment - Water Tumbarumba Water Supply Scheme: \$120k

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

- Disaster recovery project works \$277k
- Payment for Traffic control for various road project works \$229k
- Riverina Regional Library contribution and fees \$215k
- Drains cleaning and Road repair works \$114

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 42% of investments maturing within 90 days and an additional 43% 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. DA2023/0120 - PROPOSED BOUNDARY ADJUSTMENT AT 702-712 BOMBOWLEE CREEK ROAD, BOMBOWLEE

REPORT AUTHOR: DEVELOPMENT ASSESSMENT PLANNER

RESPONSIBLE OFFICER: EXECUTIVE MANAGER GROWTH & DEVELOPMENT

EXECUTIVE SUMMARY:

An application was lodged with Snowy Valleys 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 Environmental Plan (LEP) 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. The proposal was previously considered at the meeting of the 14 December 2023 where Council resolved under resolution M262/23, that the matter be deferred for further discussion and a site visit.

Following completion of the site visit on 6 February 2024, the application has been resubmitted for determination.

RECOMMENDATION:

THAT COUNCIL:

1. **Determine Development Application DA2023/0120 which seeks development consent for a boundary adjustment (subdivision) of two (2) lots at Bombowlee Creek Road, Bombowlee, by way of refusal, for boundary adjustment of lots into two (2) 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 the 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 Environmental 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; and
 - 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 Environmental 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 Environmental 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)

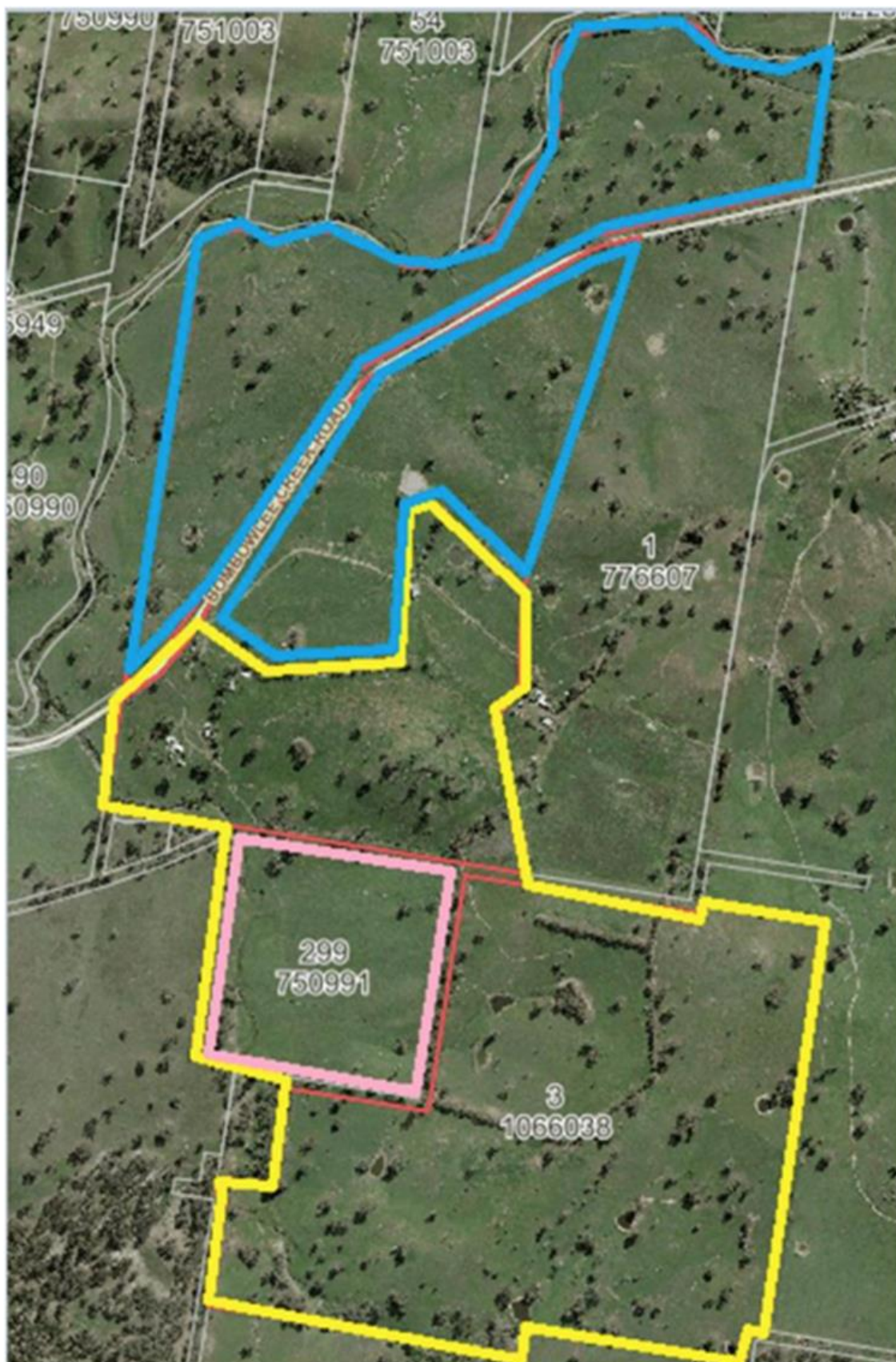


Figure 2: Outlines a graphical representation of the lot subject to the existing holding (shown in pink) with the final proposed lot arrangement (proposed lot 20 in blue and proposed lot 21 in yellow) following the boundary adjustment.

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 Environmental 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 Value	\$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

The proposal was previously considered at the meeting on the 14 December 2023 where Council resolved under resolution M262/23, that the matter be deferred for further discussion and site visit.

Following completion of the site visit on 6 February 2024, the application has been resubmitted for determination.

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 apply to the whole, or only part, of the land— (i) has an area of more than 1 hectare, or	Yes	Assessment under B&C SEPP required (Clause 3.5).

Question	Development	Outcome
(ii) has, together with adjoining land in the same ownership, an area of more than 1 hectare?		
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 LEP 2012.

- **Clause 1.4 Definitions**

The land is zoned as RU1 Primary Production under the Tumut LEP 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 subdivision lot 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**

(1) *The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow landowners a greater chance to achieve the objectives for development in the relevant zone.*

(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.

- **Clause 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 (1) 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 Shire 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, 201 10/91, 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 a 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 Tumut Local Environmental Plan 2012 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 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

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
3.2.3	Carparking	Sufficient carparking can be accommodated on both proposed 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 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.	Complies
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

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
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 wastewater. Both proposed lots are subject to ground water vulnerability.	Non-compliant
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 on-site static supplies and on-site disposal (subject to Geotech investigations and approvals - no information on land capability has been provided).	Complies – 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.	Complies – in part
Chapter 9.8 Rural Subdivisions			
9.8.1	General considerations	Clause 9.8.1 requires Council to consider how the subdivision will	Complies - in part

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
		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.	
9.8.2	Adjoining development	Any future development would need to consider adjoining or nearby development, in relation to possible land use conflicts, the need for any buffer areas and the impacts of the subdivision on primary production activities on adjoining land. 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.	Complies
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	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. The proposed orientation and shape of the allotments complies with the controls identifies with the relevant controls of the clause.	Complies - in part
9.8.5	Natural Hazards and Risks	The site is mapped as being bushfire prone. It may be susceptible to flooding being within close proximity of Bombowlee	Complies - in part

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
		<p>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>	
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 the application to identify whether the land is capable of disposal of on-site sewer wastewater. Both proposed lots are subject to groundwater vulnerability.	Non-compliant
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 Environmental 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 apply 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 on-site 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 Environmental 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 the proposed 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 Environmental 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 Environmental 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:

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

FINANCIAL AND RESOURCES IMPLICATIONS:

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

- Should the applicant choose to appeal a determination by way of refusal or pursue a deemed refusal by Council through the NSW Land and Environment Court and lose, the question of cost with regard to Council's Legal representation would be determined by the extent of the reasons for refusal.
- Should the applicant choose to appeal a refusal, or deemed refusal, by Council through the NSW Land and Environment Court and win, the question of costs would be dependent on the extent of the reasons for refusal.
- Should any person choose to pursue 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 and Assessment 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 to the Department of Planning and Environment for the departure to a development standard.	The refusal of the application will uphold Council's planning controls with respect to rejecting inappropriate 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 (2) lots at Bombowlee Creek Road, Bombowlee, by way of refusal, for boundary adjustment of lots into two (2) 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 the 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 Environmental 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; and
 - 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 Environmental 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 Environmental 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 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.

The proponent addressed Council's Public Forum at the meeting of 14 December 2023 outlining the reasons why the proposal should be supported. In addition, an on-site meeting was held with available Councils, Council Planning staff and the proponent on 6 February 2024.

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)

11.2. ESTABLISHMENT OF A BRUNGLE FLOODPLAIN RISK MANAGEMENT COMMITTEE

REPORT AUTHOR: COORDINATOR GROWTH & DEVELOPMENT

RESPONSIBLE DIRECTOR: EXECUTIVE MANAGER GROWTH & DEVELOPMENT

EXECUTIVE SUMMARY:

The Floodplain Management Program seeks to provide financial support to local councils and also eligible public land managers to assist in the management of flood risk in their communities. The Program supports the implementation of the NSW Government's Flood Prone Land Policy and, in 2023, awarded more than \$10 Million to councils to undertake projects to assess the risks and reduce the impacts of flooding in New South Wales.

Snowy Valleys Council was successful in 2023/2024 in obtaining a grant to undertake a flood study of the Brungle Creek catchment, given the development pressures being experienced within the catchment and also the susceptibility of the village to localised flooding events. As part of the terms of the funding agreement, Council is required to form an Advisory Committee to assist in providing advice to the Council on the proposed Brungle Flood Study.

RECOMMENDATION:

THAT COUNCIL:

- 1. Formally establish a Brungle Floodplain Risk Management Committee - being an advisory committee of Council;**
- 2. Accept the funding offer from the Department of Planning and Environment in the amount of \$112,000, dated 3rd November 2023;**
- 3. Allocate funding in the amount of \$28,000, in the 2024/2025 financial year budget to comply with its obligations to provide a 4:1 funding ratio contribution to the Brungle Flood Study ; and**
- 4. Appoint two (2) Council representatives to the Brungle Floodplain Risk Management Committee.**

BACKGROUND:

In 2023, the then New South Wales Department of Planning and Environment (the Department), provided an opportunity for NSW councils and public land managers to apply for grant funding to undertake flood studies and other mitigation works as part of a \$10 Million budget to address flood impacts on NSW communities.

Council does not have an existing flood study of the Brungle Creek catchment. Council staff investigations with the studies will provide Council with a complete revised set of studies for the greater urbanised areas of the local government area.

Development pressures have continued to be experienced within the floodplain catchments of Brungle and in the absence of recent flood studies, Council's ability to respond to development applications for housing, tourist and visitor accommodation, agricultural pursuits and other land uses is impaired. This study will assist in making more informed choices with respect to development of these lands. Council has been previously awarded grants in 2021/2022 and 2022/2023 to undertake a flood studies of the Tumut River and Tumbarumba Creek Catchment areas; these studies are currently being undertaken by Council's consultant WMA water.

In compliance with the grant funding conditions issued by the Department, Council will seek tenders from suitably qualified and professional hydraulic / floodplain engineering consultants via the New South Wales LGP Tender Panel, where a consulting firm will be awarded by the project based on scale, capacity, experience and price point . Based on these criteria and in consultation with the Department, Council will appoint preferred tender to undertake the Brungle Flood Study.

REPORT:

As part of the funding agreement issued by the New South Wales Department of Planning and Environment, Council is required to develop a Floodplain Risk Management Committee to provide a level of support to the Council in the development of the Brungle Floodplain Management Study. A draft terms of reference (TOR) is being developed to provide a governance framework for the Committee to review.

The Committee is expected to be established as an advisory Committee for the study, and therefore will not have any decision making powers nor shall it be able to direct the Council on matters associated with the study. Council will be required to appoint two (2) Councillor representatives to the Committee with the remainder of the appointments being designated positions within various organisations or members of the community. Any appointed member is not expected to be remunerated for any attendance at any committee meetings, briefing or other work outside of required meeting dates.

Given current development being experienced and issues relating to flood impacts in this area, this study will help reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, as well as reduce private and public losses resulting from floods.

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

Theme 3 - Our Environment

Theme 5 - Our Civic Leadership

Community Strategic Plan Strategic Objectives

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

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

Delivery Program Principal Activities

3.1 Create climate resilience through our actions and advocacy

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

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

FINANCIAL AND RESOURCES IMPLICATIONS:

As part of the funding agreement, the Department has awarded Council \$112,000, Ex GST on a 4:1 funding ratio. Council currently has no funding allocation for the co-contribution within the Operational Plan in the 2023/24 financial year. Council's contribution to \$28,000 Ex GST which will require a budget allocation for this project in the 2024/2025 financial year period to comply with the terms of the funding agreement.

Council will seek tenders from suitably qualified and professional hydraulic / floodplain engineering consultants via the New South Wales LGP Tender Panel, where the consulting firm will be awarded by the project based on scale, capacity, experience and price point. It is not expected that any member appointed to the Committee will receive any remuneration and therefore no budget allocation has been made towards the establishment of the Committee.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

The establishment of a Brungle Floodplain Risk Management Committee will comply with the requirements of both the terms of the funding deed and also the New South Wales Floodplain Development Manual Guidelines.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/ REWARD
Legal	Potential litigation	The absence of a Brungle Flood Study will likely increase the risk to Council of litigation relating to development matters on floodprone land.	The development of a floodplain study for Brungle will decrease Council's risk to litigation primarily due to increased certainty around development matters and also better infrastructure planning to protect the community from the effects of flooding.
Financial	Increased co-contribution	Increased grant funding by the NSW Department of Planning and Environment is likely to lead to an increase in Council's contribution which is above Council's existing budget allocation for 2023/24. Increased budgeted allocation will need to be identified within the 2024/25 financial year budget.	Project will be able to be completed and will likely reduce challenges for development matters in the NSW Local Environment Court and reduce Council's risk exposure in flood events.
Stakeholder	Stakeholder Engagement	Nil	The establishment of a committee will enable greater stakeholder participation in the project outcomes.
Service Delivery	More informed decision making and strategic planning	Nil	The project will likely lead to more informed decision making processes surrounding development assessment / infrastructure planning and strategic landuse planning throughout the Local Government Area.

OPTIONS:

Option 1:

THAT COUNCIL:

1. Formally establish a Brungle Floodplain Risk Management Committee - being an advisory committee of Council;
2. Accept the funding offer from the Department of Planning and Environment in the amount of \$112,000, Ex GST dated 3 November 2023; with a funding ratio of 4:1;
3. Allocate funding in the amount of \$28,000, in the 2024/2025 financial year budget to comply with its obligations to provide a 4:1 funding ratio contribution to the program;
4. Appoint two (2) Council representatives to the proposed Brungle Floodplain Risk Management Committee;

Option 2:

THAT Council not accept the grant funding offer by the New South Wales Department of Planning and Environment and not formally establish a Brungle Floodplain Risk Management Committee.

Option 1 is recommended

COUNCIL SEAL REQUIRED:

No

COMMUNITY ENGAGEMENT AND COMMUNICATION:

There is no expected community engagement requirements as part of the establishment of the Committee and acceptance of the funding agreement. Council will undertake engagement with a number of stakeholders and government agencies as the project progresses. Council will provide a media release to the community identifying that Council has been successful in the recent grant applications for 2023/2024 funding round.

ATTACHMENTS

- 1.Floodplain Management Program - 2023-2024 (DOC ID 3275946) - Funding Agreement (under separate cover)
- 2.Terms of Reference (SVC-TofR-0000) - Brungle Floodplain Risk Management Committee (Under separate cover)

11.3. CLASSIFY LAND PURCHASED - LOT 1 DP 90610 - BATLOW ROAD LAUREL HILL**REPORT AUTHOR: PROPERTY AND ROADS PARTNER****RESPONSIBLE DIRECTOR: DIRECTOR INFRASTRUCTURE & WORKS**

EXECUTIVE SUMMARY:

The purpose of this report is to seek the approval of Council to proceed with the classification of Lot 1 DP 90610, Batlow Road at Laurel Hill as operational land.

RECOMMENDATION:**THAT COUNCIL:**

1. **Classify land acquired at Batlow Road, Laurel Hill being Lot 1 DP 90610 as 'Operational Land';**
2. **Notify adjoining landowners of the change in status and ownership of the land; and**
3. **Notify Transport for New South Wales (TfNSW) and all other relevant stakeholders of the change in status and ownership of the land.**

BACKGROUND:

Snowy Valleys Council (Council) has requested a transfer of Lot 1 DP 90610 from the Commonwealth as Batlow Road vests with Council as a public road.

The land parcel was originally intended for postal services as Gazetted on 21 May 1954 by TfNSW. This development never eventuated.

Batlow Road is gazetted public road No 85 and is classified as a "State" road. State Roads are managed and financed by TfNSW (Formerly known as RMS); however, the council of the local government area is the "Road authority" of State Roads unless declared otherwise by NSW Roads Regulation 2008.

Chapter 6 Part 2 Division 1 of the "*Local Government Act 1993*" states that all public land must be classified as either 'Community' or 'Operational'.

Community land is generally intended for public access and use due to its use or special features being of significance to the community. Community land is subject to special restrictions, including that the land cannot be leased, licenced or any other estate granted over the land for a period greater than 21 years and the sale of land is prohibited.

Conversely, Operational land has no special restrictions other than those that may apply to any piece of land.

For land acquired after 1 July 1993, Chapter 6 Part 2 Division 1 Subsection 31 of the "*Local Government Act 1993*", states that Council may resolve that land be classified as community or operational before acquiring, or within 3 months after it is acquired, after which point, if the land remains unclassified, it is taken to have been classified as community land.

Transfer to Council of Lot 1 DP 90610 occurred on 21 December 2023 at a cost to Council of \$1.00.

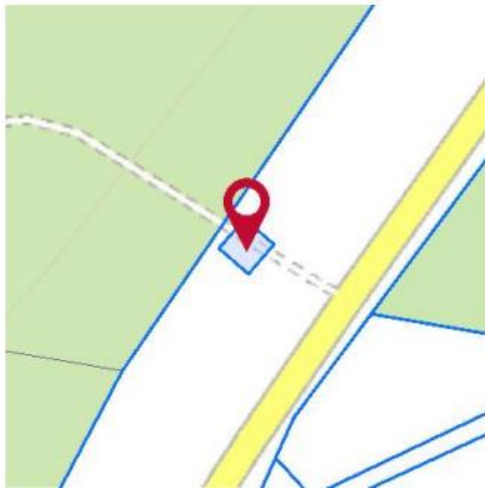
REPORT:

The land parcel is vacant and forms part of the Batlow Road Reserve which is maintained by Snowy Valleys Council. The maintenance of this property is currently absorbed into the Batlow Road corridor. There are no further financial implications associated with the property; Council does not have any legal costs or contract for purchase costs associated with the purchase of the property. All costs associated with the purchase of the property is borne by the Commonwealth of Australia, acting through the Department of Finance.

The property is currently zoned RU1 Primary Production as per Tumut Local Environmental Plan (LEP) 2012 and is 148.68m².

Development that is able to be carried out on the property includes environmental protection, agriculture, forestry, home occupation, plant agriculture and roads. The property is currently part of Councils' road network and road corridor. Refer to Figure 1.

Figure 1. Lot 1 DP 90610- Batlow Road Laurel Hill - 148.68m². Land previously owned by the Commonwealth.



Property Details

Address: BATLOW ROAD LAUREL HILL 2649
 Lot/Section 1/-/DP90610
 /Plan No:
 Council: SNOWY VALLEYS COUNCIL

Note: The land parcel was originally intended for postal services as Gazetted on 21 May 1954 by TfNSW. This development never eventuated.

Applicable codes that may or may not be carried out;

Complying development under the Demolition Code **may** be carried out on the land.

Complying development under the Fire Safety Code **may** be carried out on the land.

Complying development under the Container Recycling Facilities Code **may not** be carried out on the land.

Council **is not** aware of any notice or order under the "*Building Products (Safety) Act 2017*".

The land **is not** identified in an environmental planning instrument or proposed environmental planning instrument for acquisition by an authority of the State.

The land **is not** affected by any proposed road widening or road realignment.

The land **is not** within the flood planning area and subject to flood related development controls.

There is **no** adopted policy applicable to the land.

None of the land is mapped as bush fire prone land.

Council **has no record** of the premises being listed on the Loose Fill Asbestos Register. (Register has been checked.)

The land **is not** within a mine subsidence district.

Council **has no record** of a development plan.

Council **has no record** of a Property Vegetation Plan on the land.

Council **has no record** of a biodiversity stewardship site on the land.

Council **has no record** of the land been biodiversity certified land under the "*Biodiversity Conservation Act 2016*".

Council **has no record** of a current or former site compatibility certificate.

Following the purchase of Lot 1 DP 90610, Council intends to gazette the property as part of the road network and road corridor. Subsequently, it is in Council's interest to resolve to classify the land as operational to ensure land use restrictions imposed on land categorised as community land do not limit the available land use options.

In summation, the classification of Lot 1 DP 90610 as operational land will enable Council to maintain the land as part of the Batlow Road network.

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

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

FINANCIAL AND RESOURCES IMPLICATIONS:

Nil - all costs for the transfer of the land are born by the Commonwealth of Australia, acting through the Department of Finance. The land has already been sold to Council for \$1.00 with the purchase contract settling on 21 December 2023.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

The current lot size is below minimum requirements of 30ha as per the Tumut Local Environmental Plan 2012.

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.

11.4. REQUEST FOR SALE OF COUNCIL CLOSED ROAD - WITHIN LOT 1 DP 717727 - LAUREL HILL

REPORT AUTHOR: PROPERTY AND ROADS PARTNER

RESPONSIBLE DIRECTOR: DIRECTOR INFRASTRUCTURE & WORKS

EXECUTIVE SUMMARY:

The report seeks Council's approval to commence the process for sale of a closed Council owned road within Lot 1 DP 717727 which is currently identified as a "paper road".

RECOMMENDATION:

THAT COUNCIL:

1. Approve the removal of the positive covenant for potential sale of the unformed Lot (Paper Road) within Lot 1 DP 717727 at Batlow Road - Laurel Hill, subject to the terms of sale being met including:
 - a. compliance with the legislative framework for the sale of land and roads contained within the '*Real Property Act 1900*', the '*Roads Act 1993*', and the current NSW Registrar Generals - Land Registry Services Guidelines for the closure and sale of public roads;
 - b. sale price of the land is to be determined by an independent valuation of the land based on the surrounding land use zoning and not the current zoning of the land as well as the future permissible use of the land under Councils' current Local Environmental Plan;
 - c. The area of land (m2) to be sold is to be confirmed in a land survey prepared by a registered land surveyor;
 - d. the brief for the land valuation is to be prepared by Council and the Land Valuer is to be engaged directly by Council;
 - e. All costs including land valuation costs, land survey costs, preparation of contract for sale costs, land re-zoning costs, consultation costs, notification costs, planning, legal and all other costs associated with the sale and transfer of the land are to be borne by the applicant;
 - f. A bond of \$5,000 be sought from the applicant upfront before Council staff undertake any work on the road closure, subdivision and sale of the land and that an administration fee of \$2000 also be charged for Council staff time and associated administration costs. The costs identified above (e) will be paid for out of the bond with any unused funds returned to the applicant.
2. Seek concurrence and approval from Transport for New South Wales (TfNSW) in writing on the sale of this road before any valuation or sales process is undertaken by any party;
3. Notify all adjoining property owners of any decision of Council to sell the land before any valuation or sales process is undertaken by any party including Council;
4. Authorise the General Manager to obtain an independent valuation of the land and negotiate the sale of the land;
5. Delegate the Mayor and General Manager to affix the Council Seal and execute documents relevant to the sale of the land;
6. Classify land as Operational Land for the purpose of sale and the land to remain vested in Council; and
7. Request a subsequent report to Council on the outcome of the sale of the land.

BACKGROUND:

Snowy Valleys Council (Council) received correspondence from a local landowner, requesting information as to ownership of a road corridor within Lot 1 DP 717727, with an intention to acquire the land. Upon investigation it has been determined the Batlow Road, Laurel Hill had been closed and gazetted on 5 November 1965.

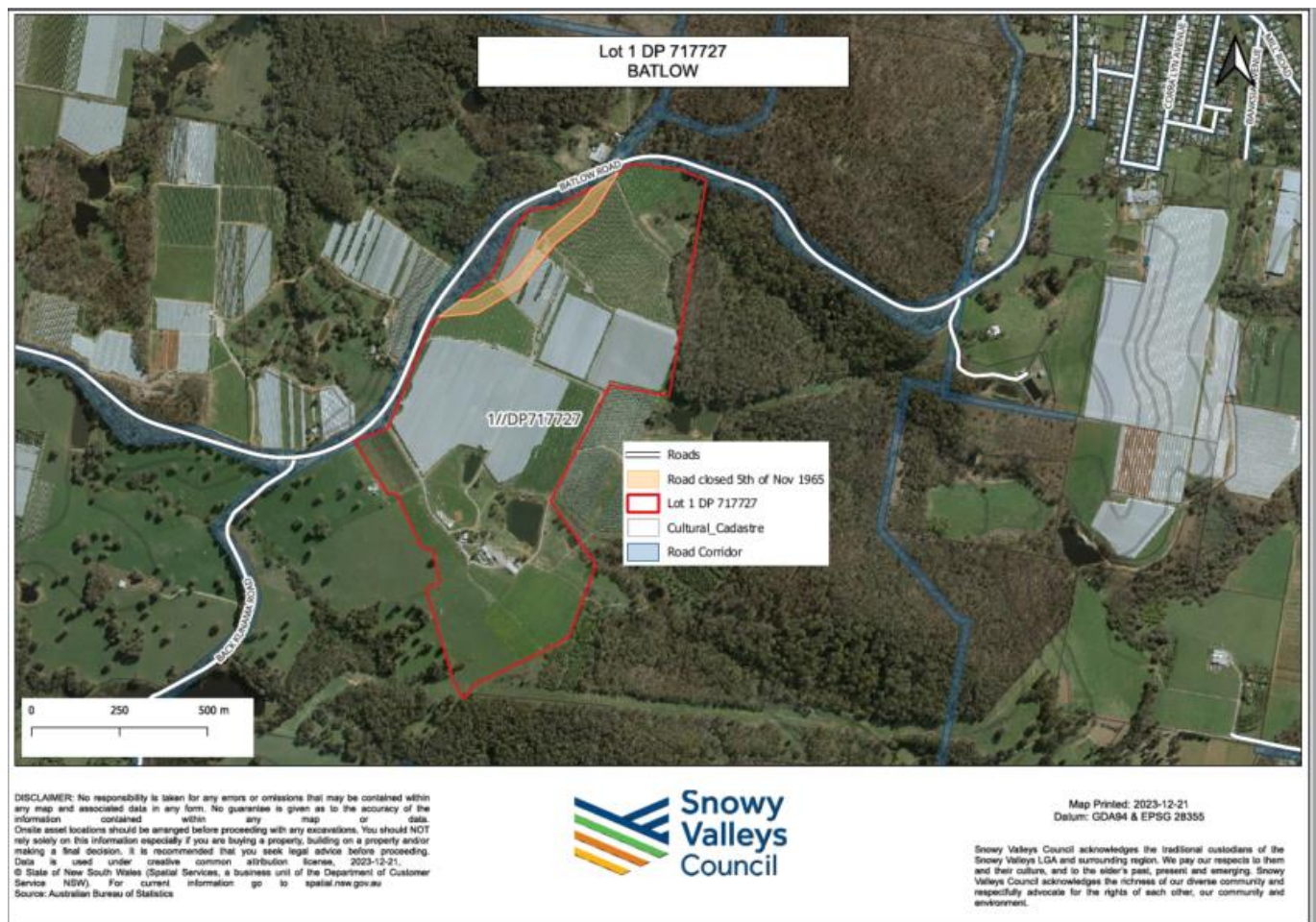
It is intended that all applicable survey, administration and transfer fees be covered by the applicant upon receipt of invoice.

REPORT:

In an email to Council, the landowners have enquired about the legal ownership of the paper road to facilitate the consolidation of the property. The section of road corridor that is closed exists as a "paper road" only, and was closed and gazetted on 5 November 1965 as part of the realignment of Batlow Road at Laurel Hill. Council has no plans to develop the corridor.

Land (Road) proposed to be sold within Lot 1 DP 717727 is highlighted in orange in Figure 1: The area of the land identified in Figure 1 to be transferred and sold is approximately 24,145.73m²

Figure 1. Land (Road) proposed to be sold within Lot 1 DP 717727 - approx. 24,145.73m².



As part of Council's due diligence process for the potential sale of the road within Lot 1 DP 717727, Council has undertaken the following steps:

a) Investigation of the status of the site and proposed Road Transfer

The subject site is Council's Road and a Surveyor would be required to prepare any future plan if Council was to resolve to proceed with the sale.

The key components of any property investigation would include determining when the road was gazetted as a public road, whether any underground services exist and who owns the services, other infrastructure in or above the paper road, potential easements, and / or Section 88B instruments which may be registered. Detailed property investigations and full survey is critical in determining potential obstacles that may constrain the road closure and its potential sale to the adjoining landowner.

Transport for NSW (TfNSW)

Council will seek concurrence and approval in writing from TfNSW on the sale of this road before any valuation or sales process is undertaken by any party.

Outcome of the status of the site

Preliminary investigations indicate that there is no infrastructure affected by this proposed road closure and no known legal assets affected by this sale.

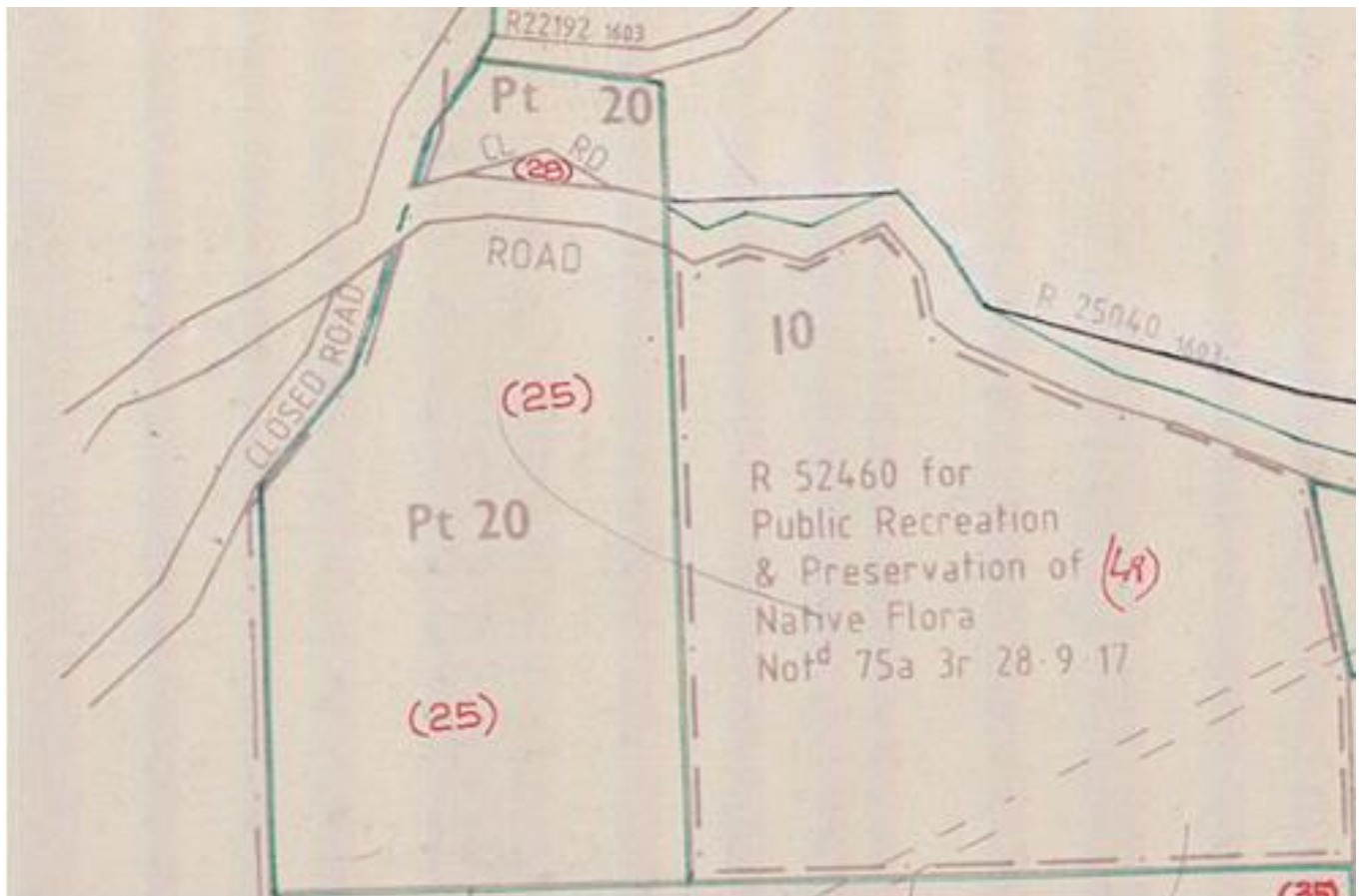
The proposed partial road corridor will not impact on access to any lots and there is no foreseeable need for placement of easements or right of carriageway identified.

The area is approximately 24145.73m² with a zoning of RU1: Primary Production in accordance with Tumut Local Environmental Plan 2012 (LEP).

A historical search undertaken provided that the road was Gazetted as a closed public road on 5 November 1965.

Extract from Status Parish Map Baloo, County of Buccleuch below in Figure 2.

Figure 2. Subject Land Gazetted as a closed public road on 5 November 1965.



b) Property Valuation and Land Survey

As part of the due diligence process for the potential sale of any public land, Council is required to engage the services of a Property Valuer to undertake an independent valuation of the land to determine the value of the land and compensation payable to Council.

The valuation of the land is to be based on the surrounding land use zoning and not the current zoning of the land as well as the future permissible use of the land under Councils current LEP. The brief for the land valuation is to be prepared by Council and the Land Valuer is to be engaged directly by Council.

The area of the land (m2) to be sold is to be confirmed in a land survey and prepared by a registered land surveyor.

All costs associated with the preparation of the survey and land valuation are to be agreed to and paid for by the applicant regardless of whether the sale of the land proceeds or not.

c) Public Consultation

In accordance with Part 4, Division 3 of the *Roads Act 1993* - Section 38B, the process to be undertaken when Council proposes to close a public road is as follows:

38B Notification of proposal to close council public road

- (1) A council that is proposing to close a council public road must cause notice of the proposal—
 - (a) to be published in a local newspaper, and
 - (b) to be given to—
 - (i) all owners of land adjoining the road, and
 - (ii) all notifiable authorities, and
 - (iii) any other person (or class of person) prescribed by the regulations.
- (2) The notice—
 - (a) must identify the road that is proposed to be closed, and
 - (b) must state that any person is entitled to make submissions to the council with respect to the closing of the road, and
 - (c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

d) Sale Process

If Council approves the potential sale of the land, Council will then undertake all required notification and consultation with stakeholders as required under the relevant legislation and guidelines identified in this report.

As there is only one potential buyer who could buy the land (the adjoining property owner), it is recommended that Council not undertake a formal public Expression of Interest process for the sale of the land. Council will publicly advertise that it is selling the land through to the adjoining property owner via a public notice and the gazettal process. Council will follow all legislative and legal requirements on the notification and consultation process for the sale of the land to ensure there is transparency with the sale process. All adjoining property owners will be notified of the potential sale of the land prior to any finalisation of the transfer and sale process.

On completion of all relevant consultation and notifications and the completion of the Land Valuation, Council, in agreement with the potential buyer, will proceed with the formulation of a formal Contract for Sale agreement, prepared by Councils' solicitors.

The Contract for Sale is to be entered into by both parties and is conditional on the gazettal of the land as well as any issues associated with the issuing of a land title. In addition, the Contract for Sale would outline the acceptance by both parties of the creation of any necessary easements which may be required by Council or other stakeholders such as TfNSW, utility companies, and / or service authorities.

The Contract for Sale of the land must include a deposit to be paid in advance to Council as well as confirmation of payment of all costs associated with the sale and transfer of the land.

The Contract for Sale must also clearly identify any required Deeds, details of the land transfer arrangements from Council and other stakeholders such as TfNSW, Easements or Covenants required.

A clear and reasonable time frame for settlement will also be established and agreed to by both parties in the Contract for Sale.

e) Costs

All costs including land valuation, preparation of contract for sale, survey costs, consultation costs, notification costs, land re-zoning costs, planning, legal and all other costs associated with the sale and transfer of the land are to be borne by the applicant.

A bond of \$5,000.00 be sought upfront from the applicant before Council staff undertake any work on the road closure, subdivision and sale of the land and that an Administration fee of \$2,000.00 also be charged for Council staff time and associated administration costs. The costs identified above will be paid for out of the bond with any unused funds returned to the applicant.

f) Legal Implications - Permissibility of selling a Public Road

The right to sell a public road is in the '*Roads Act, 1993*'. Sections 33-38 apply to non-Council public roads and section 38A-38F applies to Councils public roads.

The formal process for Council to follow in selling a public road is set out in the Land Registry Services, Registrar General's Guidelines;

https://rg-guidelines.nswlrs.com.au/deposited_plans/roads/closing_roads/council_public_roads

Council is also required to adhere to the legislative framework for the closing and sale of public roads contained within the '*Roads Act 1993*' and sale of land contained within the '*Real Property Act 1900*' should the sale of the land be progressed.

The '*Roads Act 1993*' stipulates that a Council proposing to close and sell a council public road must advertise notice of proposal in the local newspaper and provide written notification to all adjoining landowners and notifiable authorities with a 28-day submission period. All valid submissions received will be reviewed and determined by Council.

The approved purchaser of the land must provide written agreement to Councils' terms as described in this report before proceeding with the sale and transfer of the land.

An independent valuation will be used to determine the land sale value with all applicable survey, administration, planning, legal and application fees to be finalised at settlement.

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

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

FINANCIAL AND RESOURCES IMPLICATIONS:

The resources allocated to process this will be mostly internal and mainly sourced from the Infrastructure and Works Directorate. The only Council costs associated with the sale and transfer of this land are Councils' staff time. All other costs associated with the sale and transfer of this land will be paid for by the applicant. Council has a nominated budget for property sale costs to initiate the process on the basis that costs are fully recoverable by Council.

The valuation of the land is to be based on the surrounding land use zoning and not the current zoning of the land as well as the future permissible use of the land under Councils' current LEP. The brief for the land valuation is to be prepared by Council and the Land Valuer is to be engaged directly by Council.

All costs associated with the preparation of the land valuation are to be agreed to and paid for by the applicant regardless of whether the sale of the land proceeds or not.

A bond of \$5,000.00 be sought upfront from the applicant before Council staff undertake any work on the road closure, subdivision and sale of the land and that an Administration fee of \$2,000.00 also be charged for Council staff time and associated administration costs. The costs identified in the Recommendation (i) (e) will be paid for out of the bond with any unused funds returned to the applicant.

Once converted to freehold land, the parcel will be rateable as farmland.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Council currently has no policy position on the retention or sale of undeveloped road corridors.

Legislative framework for the closing of public roads is contained within the *Roads Act 1993*, and sale of land contained in the *Real Property Act 1900* Council will facilitate the process of sale through Council's solicitors.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Investigation of the request and recommended actions has not identified any significant risks.

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/ REWARD
Legal	Legislative framework for the closing of public roads is contained within the <i>Roads Act 1993</i> and sale of land contained within the <i>Real Property Act 1900</i> .	No foreseen impact	Once converted to freehold land, the parcel will be rateable as farmland and sold for the nominated value provided by the independent valuation
Financial	Purchase price, survey, application and administration fees to be finalised by purchaser at time of settlement	Council will have a small outlay for legal costs for the transfer of the land	The resources allocated to process this will be mostly internal and mainly sourced from the Infrastructure and Works Directorate

OPTIONS:

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

COUNCIL SEAL REQUIRED:

Yes

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Council will advertise the sale of the property as per statutory requirements, for at least 28 days within which any submission should be made.

ATTACHMENTS

Nil

11.5. REQUEST FOR ROAD CLOSURE AND SALE - PART ALPINE WAY, KHANCOBAN**REPORT AUTHOR: PROPERTY AND ROADS PARTNER****RESPONSIBLE DIRECTOR: DIRECTOR INFRASTRUCTURE & WORKS**

EXECUTIVE SUMMARY:

This report seeks Council's approval to commence the process of closing a portion of Alpine Way, Khancoban which is Council's public road, and to consider its potential sale to the adjoining landowner following the Khancoban Development Agreement dated 19 August 2015.

RECOMMENDATION:**THAT COUNCIL:**

1. Approve the partial road closure, subdivision and sale of the formed lot bordering Lot 2 DP 850930 subject to the terms of sale being met including:
 - a. compliance with the legislative framework for the closing of public roads contained within the *Roads Act 1993*, and sale of land contained in the *Real Property Act 1900* and the current NSW Registrar General's Land Registry Services Guidelines for the Closure and Sale of Public Roads;
 - b. sale price to be determined by an independent land valuation based on the surrounding land use zoning and not the current zoning of the land as well as the future permissible use of the land under Councils' current Tumbarumba Local Environment Plan 2010 (LEP);
 - c. the area of land (m2) to be sold is to be confirmed in a land survey prepared by a registered land surveyor;
 - d. the brief for the land valuation is to be prepared by Council and the Land Valuer is to be engaged directly by Council;
 - e. 50% of all costs including land valuation costs, land survey costs, preparation of contract for sale costs, land re-zoning costs, consultation costs, notification costs, planning, legal and all other costs associated with the sale and transfer of the land are to be borne by the applicant;
 - f. A bond of \$5,000.00 be sought from the applicant upfront before Council staff undertake any work on the road closure, subdivision and sale of the land. The costs identified above (item e) will be paid for out of the bond with any unused funds returned to the applicant.
2. Honour the 50% contribution towards the property realignment that was made by Tumbarumba Shire Council;
3. Seek concurrence and approval from Transport for New South Wales (TfNSW) in writing on the sale of this road before any valuation or sales process is undertaken by any party;
4. Notify all adjoining property owners and other relevant stakeholders of any decision of Council to sell the land before any valuation or sales process is undertaken by any party including Council;
5. Classify the land as Operational Land for the purpose of sale and the land to remain vested in Council;
6. Authorise the General Manager to obtain an independent valuation of the road corridor and negotiate the sale of the land;
7. Delegate to the Mayor and General Manager to affix the Council seal and execute documents relevant to the closure of the road reserve and sale of the land; and

8. Request a subsequent report to Council on the outcome of the sale of the land.**BACKGROUND:**

Tumbarumba Shire Council sold the Khancoban Caravan Park on 20 August 2015, via an Expressions of Interest process after undertaking remedial works in the caravan park itself. These works resulted in Tumbarumba Shire Council including a number of land and property related stipulations in the Expressions of Interest and land sale process including the boundary adjustment of the Caravan Park to incorporate the existing cabins into the property, and the consolidation of the two lots being Lot 2 DP 850930 and Lot 1 DP 850930.

REPORT:

As part of the sale process Tumbarumba Shire Council (Council), agreed to undertake a boundary adjustment that would include a portion of land in a road closure. The Expression of Interest also required a consolidation of 2 lots that currently exist within the site. Council considered it a more efficient property disposal process to have a portion of the road closure completed first and then the boundary adjustment and lot consolidation completed at the same time. The sale of the Caravan Park required a survey and property boundary adjustment to correct historical overlaps of the Caravan Park and adjoining Council land.

At the time Tumbarumba Shire Council agreed to contribute to the cost of property realignment with the lot consolidation costs and all other costs to be borne by applicant. The Notice of Determination for operation of the Khancoban Caravan Park included the condition that Lots 1 and 2 DP 850930 are to be consolidated into one (1) lot and evidence is to be provided to Council when completed by the land purchaser.

Figure 1. Land (Road) proposed to be sold - approximately 3081 m2.



As part of Councils' due diligence process for the potential closure and sale of part of Alpine Way, Khancoban, Council has undertaken the following steps:

a) Investigation of the status of the site and proposed road closure and transfer

The subject site is Council's Road and a Surveyor would be required to prepare any future plan if Council was to resolve to proceed with the sale.

The key components of any property investigation would include determining when the road was gazetted as a public road, whether any underground services exist and who owns the services, other infrastructure in or above the paper road, potential easements, and / or Section 88B instruments which may be required to be registered. Detailed property investigations and full land survey is critical in determining potential obstacles that may constrain the road closure and its potential sale to the adjoining landowner.

Transport for NSW (TfNSW)

Council will seek concurrence and approval in writing from TfNSW on the sale of this road before any valuation or sales process is undertaken by any party.

Outcome of the status of the site

Preliminary investigations indicate that there is no infrastructure affected by this proposed road closure and no known legal assets affected by this sale.

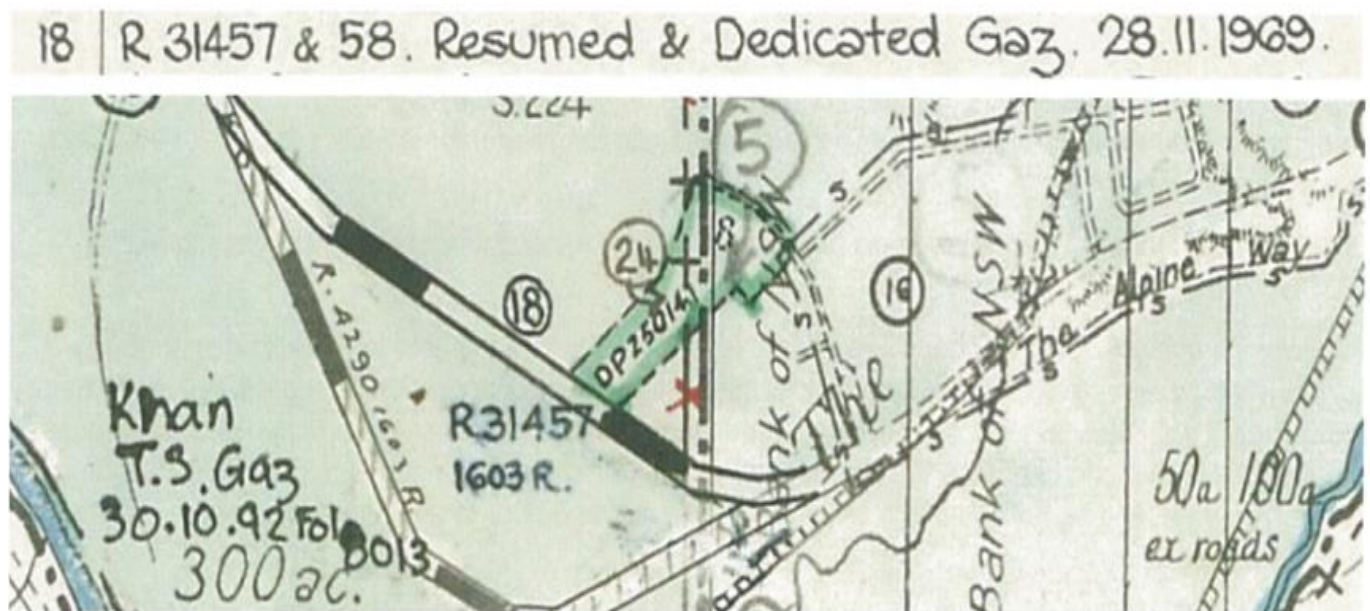
The proposed partial closure and sale of the road corridor will not impact on access to any lots and there is no foreseeable need for placement of easements or right of carriageway identified.

The area of the road corridor (land) that is to be closed and sold to the adjoining landowner and is approximately 3081 m² with a land use zoning of RU1: Primary Production in accordance with Tumbarumba Local Environmental Plan 2010 (LEP). The area of the land to be sold will be confirmed when the full land survey is completed.

A historical search undertaken provided that the road was Gazetted as a public road on 28 November 1969.

Extract from Status Parish Map Khancoban, County of Selwyn in Figure 2.

Figure 2. Subject Land Gazetted as a public road on 28 November 1969.



b) Property Valuation and Land Survey

As part of the due diligence process for the potential sale of any public land, Council is required to engage the services of a Property Valuer to undertake an independent valuation of the land to determine the value of the land and compensation payable to Council.

The valuation of the land is to be based on the surrounding land use zoning and not the current zoning of the land as well as the future permissible use of the land under Councils' current LEP. The brief for the land valuation is to be prepared by Council and the Land Valuer is to be engaged directly by Council.

The area of the land (m2) to be sold is to be confirmed in a land survey and prepared by a registered land surveyor.

All costs associated with the preparation of the survey and land valuation are to be agreed to and paid for by the applicant regardless of whether the sale of the land proceeds or not.

c) Public Consultation

In accordance with Part 4, Division 3 of the *Roads Act 1993* - Section 38B, the process to be undertaken when Council proposes to close a public road is as follows:

38B Notification of proposal to close council public road

- (1) A council that is proposing to close a council public road must cause notice of the proposal—
 - (a) to be published in a local newspaper, and
 - (b) to be given to—
 - (i) all owners of land adjoining the road, and
 - (ii) all notifiable authorities, and
 - (iii) any other person (or class of person) prescribed by the regulations.
- (2) The notice—
 - (a) must identify the road that is proposed to be closed, and
 - (b) must state that any person is entitled to make submissions to the council with respect to the closing of the road, and
 - (c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

d) Sale Process

If Council approves the potential sale of the land, Council will then undertake all required notification and consultation with stakeholders as required under the relevant legislation and guidelines identified in this report.

As there is only one potential buyer who could buy the land (the adjoining property owner) it is recommended that Council not undertake a formal public Expression of Interest (EOI) process for the Sale of the Land.

Council did undertake a formal process for the sale of the Khancoban Caravan Park in August 2015.

Council will publicly advertise that it is closing this road and selling the land to the adjoining property owner via a public notice and the gazettal process as the original EOI is over 5 years old. Council will follow all legislative and legal requirements on the notification and consultation process for the sale of the land to ensure there is transparency with the sale process. All adjoining property owners will be notified of the potential sale of the land prior to any finalisation of the transfer and sale process.

On completion of all relevant consultation and notifications and the completion of the Land Valuation, Council, in agreement with the potential buyer will proceed with the formulation of a formal Contract for Sale agreement, prepared by Council's solicitors.

The Contract for Sale is to be entered into by both parties and is conditional on the gazettal of the land as well as any issues associated with the issuing of a land title. In addition, the Contract for Sale would outline the acceptance by both parties of the creation of any necessary easements which may be required by Council or other stakeholders such as TfNSW, utility companies, and / or service authorities.

The Contract for Sale of the land must include a deposit to be paid in advance to Council as well as confirmation of payment of all costs associated with the sale and transfer of the land.

The Contract for Sale must also clearly identify any required Deeds, details of the land transfer arrangements from Council and other stakeholders such as TfNSW, Easements or Covenants required.

A clear and reasonable time frame for settlement will also be established and agreed to by both parties in the Contract for Sale.

At the time of the original EOI in 2015, Tumbarumba Shire Council agreed to contribute to the cost of property realignment.

e) Costs

All costs including land valuation, preparation of contract for sale, survey costs, consultation costs, notification costs, land re-zoning costs, planning, legal and all other costs associated with the sale and transfer of the land are to be borne by the applicant. A bond of \$5,000.00 be sought upfront from the applicant before Council staff undertake any work on the road closure, subdivision and sale of the land. The costs identified above will be paid for out of the bond with any unused funds returned to the applicant.

f) Legal Implications - Permissibility of selling a Public Road.

The right to sell a public road is in the *Roads Act 1993* Sections 33-38 apply to non-Council public roads and section 38A-38F applies to Councils public roads.

The formal process for Council to follow in selling a public road is set out in the Land Registry Services Registrar General's Guidelines;

https://rg-guidelines.nswlrs.com.au/deposited_plans/roads/closing_roads/council_public_roads

Council is also required to adhere to the legislative framework for the closing and sale of public roads contained within the *Roads Act 1993*, and sale of land contained within the *Real Property Act 1900* should the sale of the land be progressed.

The *Roads Act 1993* stipulates that a Council proposing to close and sell a council public road must advertise notice of proposal in the local newspaper, and provide written notification to all adjoining landowners and notifiable authorities with a 28-day submission period. All valid submissions received will be reviewed and determined by Council.

The approved purchaser of the land must provide written agreement to Councils' terms as described in this report before proceeding with the sale and transfer of the land.

An independent valuation will be used to determine the land sale value with all applicable survey, administration, planning, legal and application fees to be finalised at settlement.

LINK TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

Integrated Planning and Reporting Framework:

Community Strategic Plan Theme

Theme 2 - Our Economy

Community Strategic Plan Strategic Objectives

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

Delivery Program Principal Activities

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

FINANCIAL AND RESOURCES IMPLICATIONS:

The resources allocated to process this sale and transfer of land will be mostly internal and mainly sourced from the Infrastructure and Works Directorate. The only Council costs associated with the sale and transfer of this land are council Staff time costs which will be paid for by the administration fee charged by Council to the applicant.

All other costs associated with the sale and transfer of this land will be paid for by the applicant. Council has a nominated budget for property sale costs to initiate the process on the basis the costs are fully recoverable by Council.

The valuation of the land is to be based on the surrounding land use zoning and not the current zoning of the land as well as the future permissible use of the land under Councils' current LEP. The brief for the land valuation is to be prepared by Council and the Land Valuer is to be engaged directly by Council.

All costs associated with the preparation of the land valuation are to be agreed to and paid for by the applicant regardless of whether the sale of the land proceeds or not.

A bond of \$5,000.00 be sought upfront from the applicant before Council staff undertake any work on the road closure, subdivision and sale of the land. The costs identified in the Recommendation 1(e) will be paid for out of the bond with any unused funds returned to the applicant.

All other costs including land survey costs, preparation of contract for sale costs, land re-zoning costs, consultation costs, notification costs, planning, legal and all other costs associated with the sale and transfer of the land are to be borne by the applicant.

Once converted to freehold land, the parcel will be rateable as business land.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Council currently has no policy position on the retention or sale of undeveloped road corridors.

Legislative framework for the closing of public roads is contained within the *Roads Act 1993*, and sale of land contained in the *Real Property Act 1900*. Council will facilitate the process of sale through Council's solicitors.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Investigation of the request and recommended actions has not identified any significant risks.

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/ REWARD
Legal	Legislative framework for the closing of public roads is contained within the <i>Roads Act 1993</i> and sale of land contained within the <i>Real Property Act 1900</i>	No foreseen impact	Once converted to freehold land, the parcel will be rateable as business land and sold for the nominated value provided by the independent valuation.
Financial	Purchase price, survey, application and administration fees to be finalised by purchaser at time of settlement	Council will have a small outlay for legal costs for the transfer of the land	The resources allocated to process this will be mostly internal and mainly sourced from the Infrastructure & Works Directorate.

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:

Yes

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Council will advertise the sale of the property as per statutory requirements, for at least 28 days within which any submission should be made.

ATTACHMENTS

1. Confidential - ECM_2008114 - v1 - 20180716 - Response - Khancoban Caravan park - Joe and Irene Mammone (Under separate cover)
2. Confidential - ECM_2015835_v1_20181214 - Request for reimbursement & Development Agreement - Property realignment - Joe Mammone (Under separate cover)
3. 20240129 - Khancoban Caravan Park Resolutions from 26 Feb 2015 to 30 July 2015 (Under separate cover)

11.6. REQUEST FOR ROAD CLOSURE AND SALE - WITHIN LOT 4 DP865358 - WALLS CREEK ROAD GOOBARRAGANDRA

REPORT AUTHOR: PROPERTY AND ROADS PARTNER

RESPONSIBLE DIRECTOR: DIRECTOR INFRASTRUCTURE & WORKS

EXECUTIVE SUMMARY:

This report seeks Councils' approval to commence the process of closing a portion of Walls Creek Road, Goobarragandra which is Councils' public road, and to consider its potential sale.

RECOMMENDATION:

THAT COUNCIL:

1. Approve the commencement of the partial road closure, removal of the positive covenant and potential sale of the unformed road within Lot 4 DP 865358 at Walls Creek Road, Goobarragandra, subject to the terms of sale being met including:
 - a) compliance with the legislative framework for the sale of public land and roads contained within the *Real Property Act 1900*, the *Roads Act 1993*, and the current NSW Registrar Generals' Land Registry Services Guidelines for the closure and Sale of Public Roads;
 - b) sale price of the land is to be determined by an independent valuation of the land based on the surrounding land use zoning and not the current zoning of the land as well as the future permissible use of the land under Councils current Tumut Local Environmental Plan;
 - c) the area of land (m2) to be sold is to be confirmed in a land survey prepared by a registered land surveyor;
 - d) the brief for the land valuation is to be prepared by Council and the Land Valuer is to be engaged directly by Council;
 - e) all costs including land valuation costs, land survey costs, preparation of contract for sale costs, land re-zoning costs, consultation costs, notification costs, planning, legal and all other costs associated with the sale and transfer of the land are to be borne by the applicant;
 - f) A bond of \$5,000.00 be sought from the applicant upfront before council staff undertake any work on the road closure, subdivision and sale of the land and that an administration fee of \$2,000.00 also be charged for Council staff time and associated administration costs. The costs identified above (e) will be paid for out of the bond with any unused funds returned to the applicant.
2. Seek concurrence and approval from Transport for New South Wales in writing on the sale of this road before any valuation or sales process is undertaken by any party;
3. Notify all adjoining property owners and other relevant stakeholders of any decision of Council to sell the land before any valuation or sales process is undertaken by any party including Council;
4. Authorise the General Manager to obtain an independent valuation of the land and negotiate the sale of the land;
5. Delegate the Mayor and General Manager to affix the Council Seal and execute documents relevant to the sale of the land;
6. Classify the land as operational land for the purpose of sale and the land to remain vested in Council; and
7. Request a subsequent report to Council on the outcome of the sale of the land.

BACKGROUND:

Snowy Valleys Council (Council) has received correspondence from a local landowner, requesting that the Council Road corridor within Lot 4 DP 865358, Walls Creek Road, Goobarragandra be closed enabling its freehold purchase by the landowner.

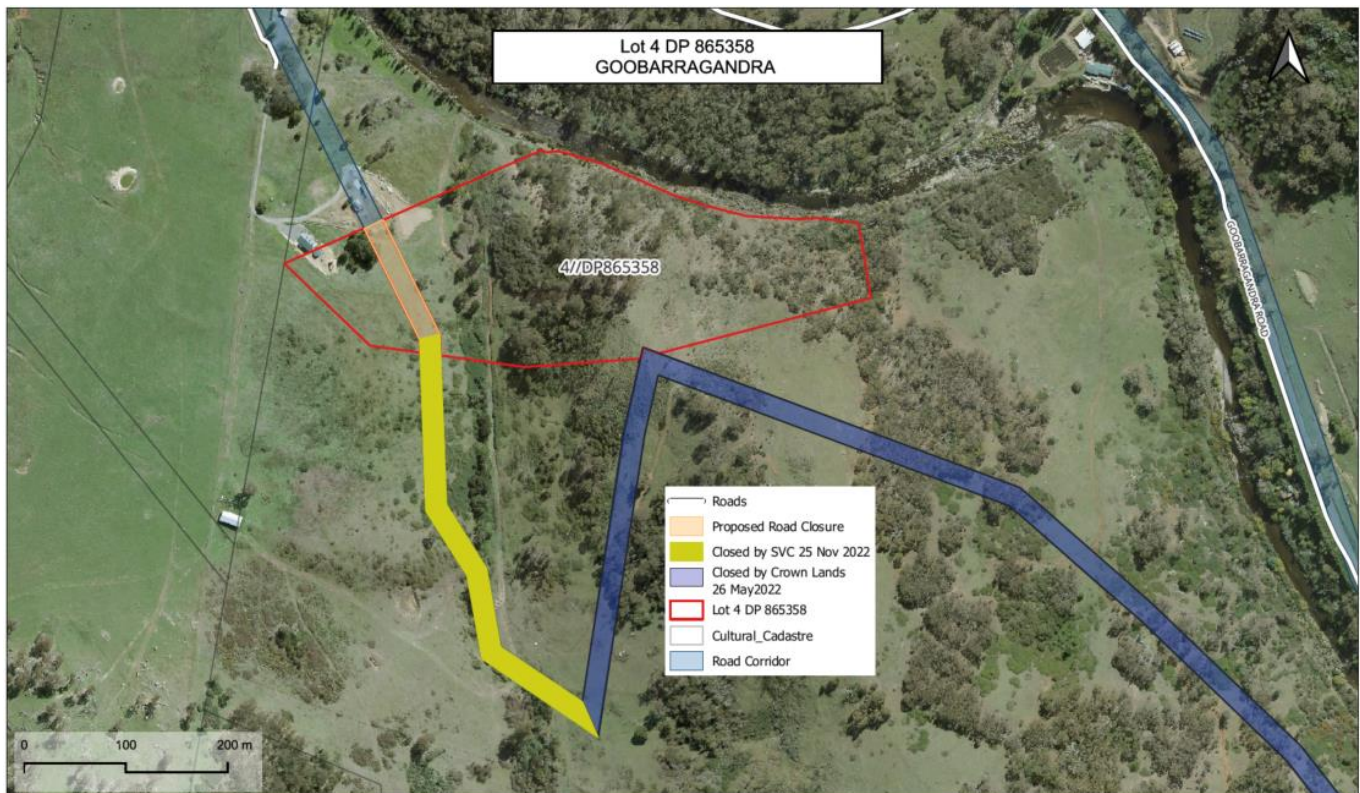
It is intended that the sale price will be determined by an independent land valuation and all applicable survey, legal, planning, administration, transfer and application fees will be covered by the purchaser before settlement.

REPORT:

In the attached letter to Council, the landowners indicated their willingness to acquire the paper road to facilitate the consolidation of their property. The section of road corridor at Walls Creek, Goobarragandra that is closed exists as a "paper road" only. Council has no plans to develop the corridor.

Land (Road) proposed to be sold within Lot 4 DP 865358 is highlighted in orange in Figure 1: The area of the Land to be sold as part of Walls Creek Road, Goobarragandra is highlighted in orange and is approximately 2828 m².

Figure 1 Land (Road) proposed to be sold within Lot 4 DP 865358 is 2828 m²



DISCLAIMER: No responsibility is taken for any errors or omissions that may be contained within any map and associated data in any form. No guarantee is given as to the accuracy of the information contained within any map or data. Onsite asset locations should be arranged before proceeding with any excavations. You should NOT rely solely on this information especially if you are buying a property, building on a property and/or making a final decision. It is recommended that you seek legal advice before proceeding. Data is used under creative common attribution license, 2023-12-21. © State of New South Wales (Spatial Services, a business unit of the Department of Customer Service NSW). For current information go to spatial.nsw.gov.au Source: Australian Bureau of Statistics



Map Printed: 2023-12-21
Datum: GDA94 & EPSG 28355

Snowy Valleys Council acknowledges the traditional custodians of the Snowy Valleys LGA and surrounding region. We pay our respects to them and their culture, and to the elder's past, present and emerging. Snowy Valleys Council acknowledges the richness of our diverse community and respectfully advocate for the rights of each other, our community and environment.

As part of Council's due diligence process for the potential sale of part of Walls Creek Road, Goobarragandra, Council has undertaken the following steps:

a) Investigation of the status of the site and proposed Road Closure

The subject site is Council's Road and a Surveyor would be required to prepare any future plan if Council was to resolve to proceed with the sale.

The key components of any property investigation would include determining when the road was gazetted as a public road, whether any underground services exist and who owns the services, other infrastructure in or above the paper road, potential easements, and / or Section 88B instruments which may be registered. Detailed property investigations and full survey is critical in determining potential obstacles that may constrain the road closure and its potential sale to the adjoining landowner.

Transport for NSW (TfNSW)

Council will seek concurrence and approval in writing from TfNSW on the closure and potential sale of this road before any valuation or sales process is undertaken by any party.

Outcome of the status of the site

Preliminary investigations indicate that there is no infrastructure affected by this proposed road closure and no known legal assets affected by this sale. The proposed partial closure of the road corridor will not impact on access to any lots and there is no foreseeable need for placement of easements or right of carriageway identified. By partially closing, subdividing, and selling the road corridor, Council would be disposing of an unmanaged/unmaintained asset.

The area is approximately 2828.23m² with a zoning of RU1: Primary Production in accordance with Tumut Local Environmental Plan 2012 (LEP).

A historical search undertaken provided that Walls Creek Road was Gazetted as a public road on 2 October 1912, Folio 6084.

Extract from Status Parish Map Baloo, County of Buccleuch is shown in Figure 2:

Figure 2 - Subject Land Gazetted as Public Road on 2 October 1912 - Folio number 6084



The area of the land (m2) to be sold is to be confirmed in a land survey - prepared by a registered land surveyor. All other land features including structures, services, trees, easements, right of ways and other relevant property information is to be captured in the Land Survey.

All costs associated with the preparation of the survey and land valuation are to be agreed to and paid for by the applicant regardless of whether the sale of the land proceeds or not.

c) Public Consultation

In accordance with Part 4, Division 3 of the *Roads Act 1993*, the process to be undertaken when Council proposes to close a public road is as follows:

Figure 3 - Consultation and Notification process for the closure and potential sale of a public road.

Section 38B - Roads Act - Notification of proposal to close council public road

(1) A council that is proposing to close a council public road must cause notice of the proposal—

(a) to be published in a local newspaper, and

(b) to be given to—

(i) all owners of land adjoining the road, and

(ii) all notifiable authorities, and

(iii) any other person (or class of person) prescribed by the regulations.

(2) The notice--

(a) must identify the road that is proposed to be closed, and

(b) must state that any person is entitled to make submissions to the council with respect to the closing of the road, and

(c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

d) Sale Process

If Council approves the potential sale of the land, Council will then undertake all required notification and consultation with stakeholders as required under the relevant legislation and guidelines identified in this report.

As there is only one potential buyer who could buy the land (the adjoining property owner), it is recommended that Council not undertake a formal public Expression of Interest (EOI) process for the Sale of the Land. Council will publicly advertise that it is selling the land through to the adjoining property owner via a public notice and the gazettal process. Council will follow all legislative and legal requirements on the notification and consultation process for the sale of the land to ensure there is transparency within the sale process. All adjoining property owners will be notified of the potential sale of the land prior to any finalisation of the transfer and sale process.

On completion of all relevant consultation and notifications, and the completion of the Land Valuation, Council, in agreement with the potential buyer, will proceed with the formulation of a formal Contract for Sale agreement, prepared by Councils' solicitors.

The Contract for Sale is to be entered into by both parties and is conditional on the gazettal of the land as well as any issues associated with the issuing of a land title. In addition, the Contract for Sale would outline the acceptance by both parties of the creation of any necessary easements which may be required by Council or other stakeholders such as TfNSW, utility companies and / or service authorities.

The Contract for Sale of the land must include a deposit to be paid in advance to Council as well as confirmation of payment of all costs associated with the sale and transfer of the land before settlement.

The Contract for Sale must also clearly identify any required Deeds, details of the land transfer arrangements from Council and other stakeholders such as TfNSW, Easements or Covenants required.

A clear and reasonable time frame for settlement will also be established and agreed to by both parties in the Contract for Sale.

e) Costs

All costs including land valuation, preparation of contract for sale, survey costs, consultation costs, notification costs, land re-zoning costs, planning, legal and all other costs associated with the sale and transfer of the land are to be borne by the applicant.

f) Legal Implications - Permissibility of selling a Public Road.

As the Roads Authority, Council can close a Public Road and then sell that land if it chooses to do so. The right to sell a public road is in the *Roads Act 1993*. Sections 33-38 apply to non-Council public road and section 38A-38F applies to Council public road.

The formal process for Council to follow in selling a public road is set out in the Land Registry Services Registrar General's Guidelines;

https://rg-guidelines.nswlrs.com.au/deposited_plans/roads/closing_roads/council_public_roads.

Council is also required to adhere to the legislative framework for the closing and sale of public roads contained within the *Roads Act 1993* and sale of land contained within the *Real Property Act 1900* should the sale of the land be progressed.

The *Roads Act 1993* stipulates that a Council proposing to close and sell a council public road must advertise notice of the proposal in the local newspaper and provide written notification to all adjoining landowners and notifiable authorities with a 28-day submission period. All valid submissions received will be reviewed and determined by Council.

The approved purchaser of the land must provide written agreement to Councils' terms as described in this report before proceeding with the sale and transfer of the land.

An independent valuation will be used to determine the land sale value with all applicable survey, administration, planning, legal and application fees to be finalised prior to settlement.

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

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

FINANCIAL AND RESOURCES IMPLICATIONS:

The resources allocated to process this will be mostly internal and mainly sourced from the Infrastructure and Works Directorate. The only Council costs associated with the sale and transfer of this land are council Staff time costs. All other costs associated with the sale and transfer of this land will be paid for by the applicant. Council has a nominated budget for property sale costs to initiate the process on the basis the costs are fully recoverable by Council.

The valuation of the land is to be based on the surrounding land use zoning and not the current zoning of the land as well as the future permissible use of the land under Councils' current LEP. The brief for the land valuation is to be prepared by Council and the Land Valuer is to be engaged directly by Council.

All costs associated with the preparation of the land valuation are to be agreed to and paid for by the applicant regardless of whether the sale of the land proceeds or not.

A bond of \$5,000.00 be sought upfront from the applicant before Council staff undertake any work on the road closure, subdivision and sale of the land and that an Administration fee of \$2,000.00 also be charged for Council staff time and associated administration costs. The costs identified in the Recommendation (1) (e) will be paid for out of the bond with any unused funds returned to the applicant.

All other costs including land survey, preparation of contract for sale, consultation costs, notification costs, land re-zoning costs, planning, legal and all other costs associated with the sale and transfer of the land are to be borne by the applicant.

Once converted to freehold land, the parcel will be rateable as farmland.

POLICY, LEGAL AND STATUTORY IMPLICATIONS:

Council currently has no policy position on the retention or sale of undeveloped road corridors.

All authorities will be notified including TfNSW whose concurrence and approval is required for the closure and sale of any public road.

Consultation and notification will be undertaken in accordance with Part 4, Division 3 of the *Roads Act 1993* - Section 38B, and as outlined in this report.

Legislative framework for the closing of public roads is contained within the *Roads Act 1993* and sale of land contained in the *Real Property Act 1900*. Council will facilitate the process of sale through Council's solicitors.

RISK MANAGEMENT / COST BENEFIT ANALYSIS:

Investigation of the request and recommended actions has not identified any significant risks.

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/ REWARD
Legal	Legislative framework for the closing of public roads is contained within the <i>Roads Act 1993</i> , and sale of land contained within the <i>Real Property Act 1900</i> .	No foreseen impact	Once converted to freehold land, the parcel will be rateable as farmland and sold for the nominated value provided by the independent valuation.
Financial	All costs associated with the preparation of the land valuation are to be agreed to and paid for by the applicant irrespective to whether the sale of the land proceeds or not. Once converted to freehold land, the parcel will be rateable as farmland.	Council will have a small outlay for legal costs for the transfer of the land. All costs except for Councils staff costs are fully recoverable.	The resources allocated to process this will be mostly internal and mainly sourced from the Infrastructure & Works Directorate.

RISK CATEGORY	RISK/REWARD DESCRIPTION	COST/RISK	BENEFIT/ REWARD
	All costs including land valuation, preparation of contract for sale, survey costs, consultation costs, notification costs, land re-zoning costs, planning, legal and all other costs associated with the sale and transfer of the land are to be borne by the applicant and are to be finalised and paid for by the land purchaser before settlement.		

OPTIONS:

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

COUNCIL SEAL REQUIRED:

Yes

COMMUNITY ENGAGEMENT AND COMMUNICATION:

Council will advertise the sale of the property as per statutory requirements, for at least 28 days within which any submission should be made

ATTACHMENTS

1. ECM 3131149 - Goobarragandra Road - Goobarragandra – request for road closure (Under separate cover)

12. MINUTES OF COMMITTEE MEETINGS

Nil

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:

11.1 CONFIDENTIAL - DA2023/0120 - PROPOSED BOUNDARY ADJUSTMENT AT 702-712 BOMBOWLEE CREEK ROAD BOMBOWLEE - ATTACHMENT

Attachment 4 (under separate cover) to Item 11.1 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.

11.5 CONFIDENTIAL - REQUEST FOR ROAD CLOSURE AND SALE - PART ALPINE WAY KHANCOBAN - ATTACHMENTS

Attachments 1 & 2 (under separate cover) to Item 11.5 is confidential under the *Local Government Act 1993* Section 10A 2(d)(ii) as it relates to commercial information of a confidential nature 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.

14. MEETING CLOSURE