



**SNOWY VALLEYS COUNCIL MEETING  
BUSINESS PAPER  
19 MAY 2022**

THE MEETING WILL BE HELD AT 2.00PM  
IN THE SVC COUNCIL CHAMBER TUMUT & VIA VIDEO LINK

## **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](http://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.

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

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

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



**Thursday 19 May 2022**  
**Snowy Valleys Council Chambers**  
**76 Capper Street, Tumut and via Video Link**  
**2.00pm**

## **AGENDA**

**1. ACKNOWLEDGEMENT OF COUNTRY**

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

**2. APOLOGIES, LEAVE OF ABSENCE AND REMOTE ATTENDANCE**

**3. DECLARATIONS OF PECUNIARY INTEREST**

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

**4. PUBLIC FORUM**

**5. CONFIRMATION OF MINUTES**

- 5.1 ORDINARY MEETING – 21 APRIL 2022..... 01
- 5.2 BUSINESS ARISING

**6. CORRESPONDENCE/PETITIONS**

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**12. MINUTES OF COMMITTEE MEETINGS**

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**THE MINUTES OF THE COUNCIL MEETING HELD IN THE TUMUT ROOM, 67  
CAPPER STREET, TUMUT ON THURSDAY 21 APRIL 2022 COMMENCING AT 2.00PM**

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

**IN ATTENDANCE:** Chief Executive Officer Matthew Hyde, Acting Executive Director Infrastructure John Osland, Executive Chief of Staff Shelley Jones, Chief Financial Officer Susanne Andres and Executive Assistant Jeannie Moran-Fahey.

**1. ACKNOWLEDGEMENT OF COUNTRY**

An acknowledgement of country was delivered by the Mayor.

**2. APOLOGIES, LEAVE OF ABSENCE AND REMOTE ATTENDANCE**

**M106/22 RESOLVED:**

That the request for remote attendance from Cr Hayes be received and granted.

Cr Trina Thomson /Cr Mick Ivill

**CARRIED UNANIMOUSLY**

**3. DECLARATIONS OF PECUNIARY INTEREST**

Cr Julia Ham declared a pecuniary interest in relation to report # 11.5 Tumbarumba Pre-School Local Options due to being a member of the Start Strong Pre-School Committee and will leave the room during discussion and voting.

**4. PUBLIC FORUM**

Kevin Loughrey LtCol (Ret'd) addressed the Public Forum held immediately prior to the 21 April 2022 Ordinary Meeting for Item 7.2 'Notice of Motion – Vaccination COVID-19'.

**5. CONFIRMATION OF MINUTES**

**5.1 ORDINARY MEETING - 17 MARCH 2022**

**M107/22 RESOLVED:**

That the Minutes of the Ordinary Council Meeting held on 17 March 2022 be received.

Cr Julia Ham/ Cr Sam Hughes

**CARRIED UNANIMOUSLY**

## **5.2 BUSINESS ARISING**

Cr Trina Thomson requested information on whether or not a response had been received from Minister Kean regarding Transgrid. The CEO advised only an acknowledgement has been received.

## **6. CORRESPONDENCE/PETITIONS**

Nil.

## **7. NOTICE OF MOTION/NOTICE OF RESCISSION**

### **7.1 NOTICE OF MOTION – REVIEW OF FEES – COMMUNITY USE OF COUNCIL’S OPEN SPACE – CR JOHN LARTER**

#### **RECOMMENDATION:**

THAT COUNCIL:

1. Waive all fees paid by community sporting groups and schools from the date of this meeting until 30 June 2022;
2. Refund all fees paid by community sporting groups and schools for use of Council’s Open Space in the 21/22 financial year that total above \$100;
3. Consider in the deliberations for setting the 22/23 fees and charges a flat annual rate for community sporting groups and schools to use Council’s open space.

Cr John Larter /Cr James Hayes

<b>Division</b>	
<b>For</b>	<b>Against</b>
Cr Hayes	Cr Armour
Cr Larter	Cr Ham
	Cr Thomson
	Cr Chaffey
	Cr Hughes
	Cr Livermore
	Cr Ivill

**2/7**

**LOST**

**7.2 NOTICE OF MOTION – VACCINATION COVID-19****RECOMMENDATION:**

THAT COUNCIL:

1. Receive the Notice of Motion on Vaccination COVID-19;
2. Requests the establishment of a Royal Commission into the handling of COVID-19;
3. Suspends all media support and does not provide any platform for NSW or Federal Government to continue advocating COVID-19 vaccination until the Royal Commission findings and recommendations are published.

Cr John Larter/Cr James Hayes

**AMENDMENT**

1. Receive the Notice of Motion on Vaccination COVID-19;
2. Continue as per previous resolutions to support sharing communications from the lead agency.

Cr Trina Thomson

*Lapsed***M108/22 RESOLVED:  
THAT COUNCIL:**

1. Receive the Notice of Motion on Vaccination COVID-19.

Cr John Larter/Cr James Hayes

**Division****For**

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

**Against**

Cr Armour

**7/1****CARRIED**

**M109/22 RESOLVED:**  
**THAT COUNCIL:**

2. Requests the establishment of a Royal Commission into the handling of all aspects of COVID-19.

Cr John Larter/Cr James Hayes

<b>Division</b>																				
<table> <tr> <td style="text-align: center;"><b>For</b></td> <td style="text-align: center;"><b>Against</b></td> </tr> <tr> <td>Cr Chaffey</td> <td>Cr Armour</td> </tr> <tr> <td>Cr Ham</td> <td></td> </tr> <tr> <td>Cr Hayes</td> <td></td> </tr> <tr> <td>Cr Hughes</td> <td></td> </tr> <tr> <td>Cr Larter</td> <td></td> </tr> <tr> <td>Cr Livermore</td> <td></td> </tr> <tr> <td>Cr Thomson</td> <td></td> </tr> <tr> <td>Cr Ivill</td> <td></td> </tr> <tr> <td><b>8/1</b></td> <td></td> </tr> </table>	<b>For</b>	<b>Against</b>	Cr Chaffey	Cr Armour	Cr Ham		Cr Hayes		Cr Hughes		Cr Larter		Cr Livermore		Cr Thomson		Cr Ivill		<b>8/1</b>	
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Cr Thomson																				
Cr Ivill																				
<b>8/1</b>																				

**CARRIED**

**RECOMMENDATION:**  
**THAT COUNCIL:**

3. Suspends all media support and does not provide any platform for NSW or Federal Government to continue advocating COVID-19 vaccination until the Royal Commission findings and recommendations are published.

Cr John Larter/Cr James Hayes

<b>Division</b>																						
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**LOST**

**8. MAYORAL MINUTE**

Nil.

## **9. URGENT BUSINESS WITHOUT NOTICE**

Nil.

## **10. GOVERNANCE AND FINANCIAL REPORTS**

### **10.1 ANNUAL INFORMATION GUIDE REVIEW – FOR PUBLIC EXHIBITION**

#### **M110/22 RESOLVED: THAT COUNCIL:**

1. Receive the report on the Draft Snowy Valleys Council Information Guide 2022.
2. Endorse the Snowy Valleys Council Information Guide SVC-EXE-Gdl-001-004 for public exhibition for a period of no less than twenty-eight (28) days.
3. 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.
4. Note that if submissions are received during the public exhibition period, a further report will be provided to Council on the submissions and any proposed amendments to the Information Guide.
5. Adopt the Information Guide if no submissions are received on the day after the completion of the public exhibition and publish on the Snowy Valleys Council website.
6. After adoption, the Information Guide 2022 SVC-EXE-Gdl-001-004 to be published on the Council website and the Information Guide 2021 SVC-EXE-Gdl-001-003 to be removed from Council's website.

Cr Julia Ham/Cr Brent Livermore

#### **CARRIED UNANIMOUSLY**

### **10.2 PECUNIARY INTEREST RETURNS FOR NEW COUNCILLORS AND DESIGNATED STAFF**

#### **M111/22 RESOLVED: THAT COUNCIL:**

1. Receive the report on Pecuniary Interest Returns for New Councillors and Designated Staff.
2. Note the following Declarations of Pecuniary Interest Returns from new Councillors and Designated Staff as at 31 March 2022 as listed in accordance with the Code of Conduct:

Councillors: Cr Johanna (Hansie) Armour, Cr Ian Chaffey, Cr Julia Ham, Cr James Hayes, Cr Samuel Hughes, Cr Michael Ivill, Cr John Larter, Cr Brent Livermore, Cr Trina Thomson.

Designated Staff: John Osland – Acting Executive Director Infrastructure.

3. Approve for the redacted Pecuniary Interest Returns for the Councillors and Designated Staff member to be placed on council website in accordance with the current Information and Privacy Commission Guideline 1.

Cr Julia Ham/Cr Mick Ivill

**CARRIED UNANIMOUSLY**

**10.3 MINUTES – CANBERRA REGION JOINT ORGANISATION BOARD MEETING – 25 FEBRUARY 2022**

**M112/22 RESOLVED:**  
THAT COUNCIL:

1. Receive the report on Minutes – Canberra Region Joint Organisation Board Meeting – 25 February 2022;
2. Note the Minutes of the Canberra Region Joint Organisation held on 25 February 2022.

Cr James Hayes/Cr Julia Ham

**CARRIED UNANIMOUSLY**

**10.4 STATEMENT OF INVESTMENTS – MARCH 2022**

**M113/22 RESOLVED:**  
THAT COUNCIL:

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

Cr John Larter/Cr Mick Ivill

**CARRIED UNANIMOUSLY**

**11. MANAGEMENT REPORTS**

**11.1 DRAFT MURRAY AND MURRUMBIDGEE REGIONAL WATER STRATEGIES**

**M114/22 RESOLVED:**  
THAT COUNCIL:

1. Receive the report on Draft Murray and Murrumbidgee Regional Water Strategies.
2. Receive a further report to be presented to Council for consideration following the public forums.
3. Invite NSW Water to speak on the Regional Water Strategies.

Cr Trina Thomson/Cr Mick Ivill

**CARRIED UNANIMOUSLY**

**11.2 ADDITIONAL SPECIAL RATE VARIATION FOR 2022/23****M115/22 RESOLVED:  
THAT COUNCIL:**

1. Receive the report on Additional Special Rate Variation (SRV) for 2022/23;
2. Note the ineligibility of Council to apply for the Additional Special Rate Variation;
3. Authorise the CEO to write to IPART and the Minister for Local Government prior to 29 April 2022 requesting an automatic inclusion in the Additional Special Rate Variation round, based on Council's existing SRV application, should Council's original SRV application not be approved by IPART;
4. Resolve that should an application be required due to IPART rejecting Council's current SRV application, it be for a permanent special variation of 2.5% under section 508(2) of the Local Government Act 1993 expected to yield \$231,098 in the first year for the purpose of maintaining existing services, enhancing financial sustainability, and funding infrastructure maintenance and renewal.

Cr Julia Ham/Cr Sam Hughes

**CARRIED UNANIMOUSLY****11.3 ROAD NAME CHANGE - PROPOSED NAME CHANGE FROM MITCHELL AVENUE TO WALLABY AVENUE - KHANCOBAN****RECOMMENDATION:  
THAT COUNCIL:**

1. Receive the report on Road Name Change - Proposed name change from Mitchell Avenue to Wallaby Avenue - Khancoban.
2. Endorse placing the proposal for the road name change from Mitchell Avenue to Wallaby Avenue on public exhibition for a minimum of 28 days including publishing the proposal in the local newspapers allowing public comment.
3. Approve the proposal for the road name change from Mitchell Avenue to Wallaby Avenue in Khancoban:
  - a) Serve notices of the road name proposal to Australia Post, Registrar General, Surveyor General
  - b) Formally have the name gazetted in the Government Gazette and place a notice in the local newspaper giving a description to the road and its location
4. Update the Road Naming Policy to withdraw names from the policy that have been selected and are in use.
5. Receive a further report on the proposed road name change from Mitchell Avenue to Wallaby Avenue if public submissions are received during the exhibition period.

Cr James Hayes/Cr Julia Ham

**M116/22 RESOLVED:**  
THAT COUNCIL:

1. Defer Item 11.3 'Road Name Change - Proposed Name Change From Mitchell Avenue to Wallaby Avenue – Khancoban' to a future meeting following further consultation with the community.

Cr James Hayes/Cr Julia Ham

**CARRIED UNANIMOUSLY**

**11.4 KHANCOBAN VACANT LAND - LOTS 11, 12, 13, 14, 15 AND 16 OF DP220750 - REQUEST FOR PURCHASE - RE SUBMISSION**

**RECOMENDATION:**  
THAT COUNCIL:

1. Receive this report on Khancoban Vacant Land – Lots 11, 12, 13, 14, 15 and 16 of DP220750 - Request for Purchase - Re Submission;
2. Approve the sale of Lots 11, 12, 13, 14, 15 and 16 of DP220750 through an Expression of Interest process Snowy Valleys Council Agenda Thursday 21 April 2022 11.4 Khancoban Vacant Land - Lots 11, 12, 13, 14, 15 and 16 of DP220750 - Request for Purchase - Re Submission Page 53;
3. Approve the delegation of authority to the Chief Executive Officer and Mayor to assess and determine the successful expression of interest bids for the sale of the land as described in item 2 above;
4. Authorise the Chief Executive Officer to negotiate the sale price of the parcels of land as described in item 2 above, noting that all parties will meet their own legal costs, to a value within 20% of the market appraisal;
5. Approve the delegation of authority to the Chief Executive Officer and Mayor to execute all sale documents and affix the Council seal to documentation required to complete the sale of the parcels.

**M117/22 RESOLVED:**  
THAT COUNCIL:

1. Defer Item 11.4 'Khancoban Vacant Land - Lots 11, 12, 13, 14, 15 and 16 of Dp220750 - Request for Purchase - Re Submission' to a future meeting to address the inconsistency in the previous report.

Cr Trina Thomson/Cr Johanna (Hansie) Armour

**CARRIED UNANIMOUSLY**

Cr Ham left the meeting at 2.56pm.

**M118/22 RESOLVED:**

to move into Committee of the Whole.

Cr Brent Livermore/ Cr Johanna (Hansie) Armour

**CARRIED UNANIMOUSLY**

**M119/22 RESOLVED:**

to move out of Committee of the Whole.

Cr Johanna (Hansie) Armour/Cr John Larter

**CARRIED UNANIMOUSLY**

**11.5 TUMBARUMBA PRE-SCHOOL, LOCATION OPTIONS****M120/22 RESOLVED:  
THAT COUNCIL:**

1. Receive the report on Tumbarumba Pre-School, Location Options;
2. Advise that the sale of King George Fifth Park would be the preferred option; pending the outcome of soil testing;
3. Advise that Council's preferred second option is to lease Bicentennial Park, near the library;
4. Authorise the CEO to negotiate terms of the lease or sale on the preferred site and bring a report back to Council to allow lease or sale to progress;
5. That Council provide written advice of this resolution to the funding body.

Cr Brent Livermore/Cr Mick Ivill

**CARRIED UNANIMOUSLY**

Cr Ham returned to the meeting at 3.14pm.

**11.6 ENVIRONMENTAL PLANNING AND ASSESSMENT (STATEMENT OF EXPECTATIONS) ORDER 2021 INCLUDING DEVELOPMENT METRICS AND INITIATIVES****M121/22 RESOLVED:**

1. Receive and note the report on the Environmental Planning and Assessment (Statement of Expectations) Order 2021 including Development metrics and Initiatives.

Cr Mick Ivill/Cr Sam Hughes

**CARRIED UNANIMOUSLY**

**M122/22 RESOLVED:**

to move into Committee of the Whole.

Cr Julia Ham/Cr Brent Livermore

**CARRIED UNANIMOUSLY**

**M123/22 RESOLVED:**

to move out of Committee of the Whole.

Cr John Larter/Cr Sam Hughes

**CARRIED UNANIMOUSLY**

**11.7 REQUEST TO EXPLORE FUTURE OPTIONS FOR COMMUNITY SERVICES PROGRAMS**

**RECOMMENDATION:  
THAT COUNCIL:**

1. Receive and note the report on Request to Explore Options for Community Services Programs;
2. Confirm its commitment to ensuring residents of the Snowy Valleys have access to a range of quality aged services and providers;
3. Endorse proceeding with the exploration of options for the future delivery of the Community Services Programs;
4. Endorse the development of an alternative transition plan and the undertaking of due diligence for a possible transfer of Council's Commonwealth Home Support Program funding contracts, programs, and associated assets to an accredited provider of such programs and services;
5. Request the Chief Executive Officer to submit a report to a future meeting of Council for a recommendation in respect of a possible transfer of SVC Commonwealth Home Support Program funding contracts, programs and associated assets to an accredited provider of such programs and services;
6. Commit to advocating to other levels of government to address any emerging issues in the provision of appropriate aged care programs and services for the residents of Snowy Valleys.

Cr Julia Ham/Cr Mick Ivill

**11.7 REQUEST TO EXPLORE FUTURE OPTIONS FOR COMMUNITY SERVICES PROGRAMS**

**M124/22 RESOLVED:**  
THAT COUNCIL:

1. Receive and note the report on Request to Explore Options for Community Services Programs;

Cr Julia Ham/Cr Mick Ivill

**CARRIED UNANIMOUSLY**

**11.7 REQUEST TO EXPLORE FUTURE OPTIONS FOR COMMUNITY SERVICES PROGRAMS**

**M125/22 RESOLVED:**  
THAT COUNCIL:

2. Confirm its commitment to ensuring residents of the Snowy Valleys have access to a range of quality aged services and providers;

Cr Julia Ham/Cr Mick Ivill

**CARRIED UNANIMOUSLY**

**11.7 REQUEST TO EXPLORE FUTURE OPTIONS FOR COMMUNITY SERVICES PROGRAMS**

**RECOMMENDATION:**  
THAT COUNCIL:

3. Endorse proceeding with the exploration of options for the future delivery of the Community Services Programs;

Cr Julia Ham/Cr Mick Ivill

**Division**

**For**

Cr Ham  
Cr Hayes  
Cr Larter

**Against**

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

**3/6**

**LOST**

## 11.7 REQUEST TO EXPLORE FUTURE OPTIONS FOR COMMUNITY SERVICES PROGRAMS

### RECOMMENDATION: THAT COUNCIL:

4. Endorse the development of an alternative transition plan and the undertaking of due diligence for a possible transfer of Council's Commonwealth Home Support Program funding contracts, programs, and associated assets to an accredited provider of such programs and services;

Cr Julia Ham/Cr Mick Ivill

#### Division

##### For

Cr Hayes  
Cr Larter

##### Against

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

*2/7*

**LOST**

## 11.7 REQUEST TO EXPLORE FUTURE OPTIONS FOR COMMUNITY SERVICES PROGRAMS

### RECOMMENDATION: THAT COUNCIL:

5. Request the Chief Executive Officer to submit a report to a future meeting of Council for a recommendation in respect of a possible transfer of SVC Commonwealth Home Support Program funding contracts, programs and associated assets to an accredited provider of such programs and services;

Cr Julia Ham/Cr Mick Ivill

#### Division

##### For

Cr Ham  
Cr Ivill  
Cr Larter

##### Against

Cr Armour  
Cr Chaffey  
Cr Hayes  
Cr Hughes  
Cr Thomson  
Cr Livermore

**3/6**

**LOST**

**11.7 REQUEST TO EXPLORE FUTURE OPTIONS FOR COMMUNITY SERVICE PROGRAMS**

**M126/22 RESOLVED:**  
THAT COUNCIL:

6. Commit to advocating to other levels of government to address any emerging issues in the provision of appropriate aged care programs and services for the residents of Snowy Valleys.

Cr Julia Ham/Cr Mick Ivill

**CARRIED UNANIMOUSLY**

**12. MINUTES OF COMMITTEE MEETINGS**

**12.1 MINUTES - ABORIGINAL LIAISON COMMITTEE - 23 FEBRUARY 2022**

**M127/22 RESOLVED:**  
THAT COUNCIL:

1. Receive the report on the Minutes – Aboriginal Liaison Committee – 23 February 2022;
2. Note the Minutes of the Aboriginal Committee meeting held on 23 February 2022.

Cr Trina Thomson/Cr Sam Hughes

**CARRIED UNANIMOUSLY**

**12.2 MINUTES - AERODROME COMMITTEE MEETING - 8 MARCH 2022**

**M128/22 RESOLVED:**  
THAT COUNCIL:

1. Receive the report on the Minutes – Aerodrome Committee Meeting – 8 March 2022
2. Note the Minutes of the Aerodrome Committee meeting held on 8 March 2022
3. Adopt the following recommendations from the minutes:
  - a) That Council change the Terms of Reference in point 4 (a) to state ‘three meetings per year’ as per the Committee Operations Manual

(Part 5 - Meetings).

- b) That Council adopt the changes to the Aerodrome Committee Terms of Reference.

Cr John Larter/Cr Mick Ivill

**CARRIED UNANIMOUSLY**

There being no further business to discuss, the meeting closed at 3.40pm.

**7. NOTICE OF MOTION/NOTICE OF RESCISSION****7.1 NOTICE OF MOTION - REDUCTION AND REFUND OF SPORTING FIELD FEES FOR SCHOOLS – CR JAMES HAYES****AUTHOR:** CHIEF EXECUTIVE OFFICER**NOTICE OF MOTION:**

Cr James Hayes moved and Cr Julia Ham seconded and Cr John Larter provides the third councillor required to support a Notice of Motion of a matter dealt with at the 21 April 2022 Council meeting regarding the currently charged fees for community, sporting groups and schools.

*That Council:*

1. *Afford schools the same status as sporting clubs, viz \$500 pa to use sports grounds, and that monies received from individual schools exceeding \$500 be returned.*

**RECOMMENDATION:****THAT COUNCIL:**

1. **Receive the Notice of Motion 'Reduction and Refund of Sporting Field Fees for Schools' – Cr James Hayes;**
2. **In consideration of Council's Financial Sustainability Plan that Council continues the current fees and charges for the 2021/22 financial year;**
3. **Consider any changes to sporting fields fees to be implemented in the 2022/23 financial year Fees and Charges that are proposed to be adopted at the June 2022 Council Meeting.**
4. **Note that the Mayor is running an online forum for schools to provide input to the 2022/23 Integrated Planning and Reporting (IP&R) process and more specially the Fees and Charges imposed on schools and this feedback will be considered as part of the adoption process.**

**OFFICERS COMMENT:**

Council receives income of approximately \$30,000 each year for sporting fields fees and charges. Council has already received \$24,000 (inc. GST) in income from school and sporting group bookings of the fields. Council acknowledges that COVID-19 restrictions has changed the school usage patterns of Council's open spaces and facilities over the past few years.

Council has to date spent \$495,000 on the sporting grounds in the 2021/2022 financial year. This includes for maintenance and operational activities on these areas. The annual depreciation of the assets at these locations is currently identified as \$125,000 per year which includes the ground and surface improvements but excludes the facilities used as part of the ground.

Council, through grant funding and general revenue has invested over \$2.5million in the upgrade and renewal of these assets over the last 5 years with another \$800,000 of works still

to be commenced. This has focussed on the improvement of playing surfaces, drainage, irrigation and facilities for the users of these areas.

If Council provides free access to sporting grounds on top of the current free pool access, there is a risk the community expectation for free services may not be restricted to these assets.

The Snowy Valleys Council Agenda Thursday 21 April 2022 7.1 Notice of Motion - Review of Fees - Community Use of Council's Open Space - Cr John Larter Page 25 notes that the community may expect free use of other assets including Council halls, thereby increasing costs to Council.

Following is the resolution and consideration of the Notice of Motion on open space and facilities that was considered at the 21 April 2022 meeting:

**7. NOTICE OF MOTION/NOTICE OF RESCISSION**

**7.1 NOTICE OF MOTION – REVIEW OF FEES – COMMUNITY USE OF COUNCIL'S OPEN SPACE – CR JOHN LARTER**

**RECOMMENDATION:**

THAT COUNCIL:

1. Waive all fees paid by community sporting groups and schools from the date of this meeting until 30 June 2022;
2. Refund all fees paid by community sporting groups and schools for use of Council's Open Space in the 21/22 financial year that total above \$100;
3. Consider in the deliberations for setting the 22/23 fees and charges a flat annual rate for community sporting groups and schools to use Council's open space.

Cr John Larter /Cr James Hayes

<b>For</b>	<b>Division</b>	<b>Against</b>
Cr Hayes		Cr Armour
Cr Larter		Cr Ham
		Cr Thomson
		Cr Chaffey
		Cr Hughes
		Cr Livermore
		Cr Ivill

**2/7**

**LOST**

The mover of the current motion before Council has not proposed an adjustment to the budget and the writer assumes the income lost will increase the anticipated deficit for the financial year.

Council's adopted Financial sustainability plan states:

5	Funding and revenue	Review fees and charges	Review of all fees and charges and benchmark against other Councils Establish the full cost of all services and raise fees and charges where applicable until they cover costs while considering community service obligations Council makes fully informed decisions about subsidising services	CEO	progressively over 3 years (2021-2023)
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Council's Fees and Charges for the 2022/23 financial year have been out on exhibition which closed on 1 May 2022. Councillors will workshop the suggestions and a report is anticipated to be provided in the June 2022 Council meeting. This meeting is more likely to provide balanced discussion to the changes in income and expenditure as part of the consideration of the Delivery Program, Fees and Charges and other documents in the IP&R suite. A retrospective change to the adopted fees and charges is unlikely to find an offset to the loss in income.

The writer notes that the Code of Meeting Practice references how matters Lost at a Council meeting in the prior three months must be dealt with. The writer believes the provisions have been met.

**Note: Clause 17.4 reflects section 372(2) of the Act.**

*17.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.10.*

**Note: Clause 17.5 reflects section 372(3) of the Act.**

*17.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.*

**Note: Clause 17.6 reflects section 372(4) of the Act.**

*17.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.*

## ATTACHMENTS

Nil

**7. NOTICE OF MOTION/NOTICE OF RESCISSION****7.2 NOTICE OF MOTION - BLACKSPOT ONLY SPEED CAMERAS – CR JOHN LARTER****AUTHOR:** ACTING EXECUTIVE DIRECTOR INFRASTRUCTURE**NOTICE OF MOTION:**

Cr Larter moved and Cr Hayes seconded a Notice of Motion, regarding mobile speed cameras within Snowy Valleys Council local government area.

*That Council:*

1. *Formally request via writing to Transport for NSW that mobile speed cameras not be used within Snowy Valleys Council local government area unless being utilised within a blackspot area as ratified by the Local Traffic Committee.”*

**RECOMMENDATION:****THAT COUNCIL:**

1. **Receive the Notice of Motion ‘Blackspot Only Speed Cameras’;**
2. **Request the Local Traffic Committee review current Black Spot locations and to identify any additional Black Spot locations in the SVC area.**

**OFFICER’S COMMENT**

In NSW various responsibilities for road safety, and particularly speeding, are divided into specific areas. Transport for NSW (TfNSW) is responsible setting speed limits on all roads and the NSW Police are tasked with the enforcement role. Enforcement includes observation of the use of mobile phones by drivers, mobile radar, and Mobile Speed Cameras (MSC). The Local Traffic Committee (LTC), is then tasked with identifying and requesting a review of speed limits and locally identified or perceived Black Spot locations. The Snowy Valleys LTC is not able to impose any permanent restriction, however, can on behalf of Council request a review by TfNSW.

The MSC program is managed by TfNSW in close partnership with the NSW Police Force, so that the cameras support on-road police activities. However, the MSC program is contracted to private operators.

A potential location for any MSC is identified by TfNSW in partnership with Police. Any potential site for a MSC, prior to it being confirmed, is then reviewed using the following criteria:

1. Crash rate in the area;
2. Prevalence of speeding in the area;
3. Time of day of most concern;
4. Site characteristics for the protection of the operator.

This means that MSC’s are subject to rigorous review to ensure the site is both safe to use and that it fits the criteria. It should be noted that the sites are not always in Black Spots but also in areas which potentially may become Black Spots. This second criteria is for road safety reasons.

Snowy Valleys Council has a crash rate that is 161% of the State rate and a road trauma fatality rate of 416% of the state average. In the Snowy Valleys Council area, the following statistics have been identified:

- Population (2016 census) 14395
- Crashes (2016-2020) 341
- Crash per capita 0.02369
- Fatalities (2016-2020) 13
- Fatalities per capita 0.000903

Therefore, statically fatal crashes are more likely to occur in Snowy Valleys than the expected State average. Further, when they do, they are significantly more likely to result in fatalities. The largest proportion of crashes in the Snowy Valleys area are single vehicle incidents with 73.9% (252 single vehicle crashes out of the total 341 crashes). This compares to the rest of NSW which is 27.0%.

Inappropriate Speed has been identified as the major contributing factor in 45.7% (156 of the 341) of crashes that occurred in the Snowy Valleys area from 2016 to 2020. This compares to the remainder of NSW (2016 to 2020) which averages 16.7% (18,358 out of 110031) crashes. This means that speeding is a factor in crashes at three times the State average which indicates that the whole Snowy Valleys local government area road network has a speeding problem.

Speed cameras have been identified by the Centre for Road Safety as a significant tool in improving road users' compliance with speed limit. It is important to note that the rollout of additional speed cameras over the last two years directly corresponds to a decrease of 24 fatalities where speed is identified as the major contributing factor (from in 2020, with 130 fatalities compared to 2021 with 106 fatalities).

The research into the effectiveness of speed cameras, including MSC's is extensive and proven throughout the world.

If drivers are concerned about the approved locations of MSC's, information is published on the Centre for Road Safety website [Home - NSW Centre for Road Safety](#).

Due to public concern about "revenue raising", and the NSW State Government's recognition that education plays a key role in the road safety message, the use of warning signs, to warn motorists of the use of an MSC in a particular location and time was reinstated. This signage is fixed to the top of the vehicle, during the time of use. Further, there is also permanent signage prior any radar enforcement zones to warn that speed radar is used in the area at any time.

Speed enforcement is an automated process conducted by the camera. A vehicle's speed is detected using an approved speed measurement device such as a radar. If a vehicle is detected speeding, a digital image of the vehicle is recorded from which all details about the speeding vehicle can be extracted. This image is then used to generate an infringement.

Revenue NSW is responsible for processing and issuing infringements to ensure that a third party will not be able to obtain or use the personal details of motorists.

In short, Council, through the Local Traffic Committee, may request the review of speed limits or additional surveillance to enforce speed limits. However, the location techniques to be used are under the ambit of Police and TfNSW.

## **ATTACHMENTS**

Nil

**10. GOVERNANCE AND FINANCIAL REPORTS****10.1 AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION – 2022 NATIONAL GENERAL ASSEMBLY – 19-22 JUNE 2022****REPORT AUTHOR:** EXECUTIVE SUPPORT OFFICER**RESPONSIBLE DIRECTOR:** EXECUTIVE CHIEF OF STAFF**EXECUTIVE SUMMARY:**

Details of the Australian Local Government Association's (ALGA) 2022 National General Assembly have been announced. The 2022 conference is a hybrid event, scheduled for Sunday 19 June to Wednesday 22 June 2022. Councillors are requested to review the attached brochure and nominate to attend the conference to fulfil their civic duties and as part of their professional development plan. This report will also confirm voting delegations for SVC for motions raised at the Conference.

**RECOMMENDATION:****THAT COUNCIL:**

- 1. Receive the report on Australian Local Government Association – 2022 National General Assembly – 19-22 June 2022.**
- 2. Approve the in-person attendance of the Mayor and Deputy Mayor to the 2022 National General Assembly, provided there is sufficient funds within budget allocations at the time of registering attendance.**
- 3. Approve the in-person or remote attendance of additional councillors to the 2022 National General Assembly, provided there is sufficient funds available in their Training Budget at the time of registering attendance.**
- 4. Confirm the Mayor as the voting delegate for SVC, and in the event of the Mayor's absence, the Deputy Mayor as the alternate voting delegate.**

**BACKGROUND:**

The National General Assembly is the peak annual event for elected representatives and officials of Local Government. It provides the opportunity for Local Government to engage directly with the Federal Government, to develop national policy, and to influence the future direction of our councils and our communities.

**REPORT:**

The National General Assembly (incorporating the Regional Cooperation & Development Forum, aka Regional Forum) will be held 19-22 June 2022, via virtual or in-person attendance at the National Convention Centre, Canberra.

The theme for this year's Assembly, 'Partners In Progress', reflects the important role local government plays in building a stronger, more inclusive, and more sustainable Australia – and its willingness to work with other governments to get the job done. The theme is particularly relevant given that we are approaching a federal election, and this year's NGA will be an ideal opportunity to engage with either a new or re-elected Federal Government about building stronger relationships and partnerships.

The event will focus on how councils are responding to new challenges and opportunities to create jobs and drive economic growth, and how they are shaping a better future for all Australians. This will include a series of panels where attendees can share their learnings and lived experience leading their communities through the turbulence of the past few years. The Regional Forum will provide an opportunity to closely examine emerging trends and issues across the nation and hear from a range of expert speakers.

It is expected that, as a minimum, the Mayor and Deputy Mayor will attend in-person the Regional Forum and full conference, with attendance by other councillors (either in-person or remotely) to be confirmed by resolution during the May meeting.

Council is allocated one voting delegate for voting on motions raised, with one electronic voting device provided to Council at the commencement of the conference. There is no requirement to advise ALGA the details of the voting delegate, either before or during the conference. Traditionally the Mayor holds the voting delegate's rights, with the Deputy Mayor allocated as an alternate voting delegate in the absence of the Mayor.

The Conference Brochure is attached for the information of councillors.

Conference Registration Rates:

Registration Details	Early Bird Rate*	Standard Rate
Full - In-Person – NGA (Mon-Wed)	\$989.00	\$1099.00
Full - Remote – NGA (Mon-Wed)	N/A	\$689.00
Regional Forum (Sun) – Non NGA Delegate	N/A	\$425.00
Regional Forum (Sun) – NGA Delegate	N/A	\$225.00
Day – In-Person & Remote – Mon or Tues	N/A	\$489.00
Day – In-Person only – Wed	N/A	\$380.00
Networking Dinner – Monday evening	N/A	\$150.00
Conference Dinner – Tuesday evening	N/A	\$175.00

\*Early bird registrations close Friday 20 May.

Accommodation Rates (when booked as part of the conference registration process):

Hotel Details	Rate per Night
Crowne Plaza – Superior Room	\$345.00
Crowne Plaza – Deluxe Room	\$390.00
A by Adina – Studio Room	\$209.00
A by Adina – 1 bedroom apartment	\$239.00
A by Adina – 2 bedroom apartment	\$399.00
Avenue Hotel – Superior King	\$285.00
Avenue Hotel – 1 bedroom apartment	\$335.00
Nesuto Apartments – Studio apartment	\$219.00
Nesuto Apartments – 1 bedroom apartment	\$239.00
The Sebel Canberra Civic – Superior Room	\$190.00
The Sebel Canberra Civic – Executive Room	\$240.00
QT Hotel – King Room	\$229.00

Four nights' accommodation is required to allow full attendance at both the Regional Forum and the National General Assembly. Using the accommodation rates above, it is estimated that the total accommodation costs per delegate could range between \$760 and \$1560, subject to room availability at the time of registration.

## **LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**

### **Integrated Planning and Reporting Framework: CSP Outcome 2028**

Theme 2: Growth through Innovation

#### **Delivery Outcomes**

2.1 Develop strong relationships with local industry, organisations and government to ensure a sustainable local economy

#### **Operational Actions**

2.1.1 Maintain regular contact with major industry and agencies to identify, advocate and promote economic and local employment opportunities

## **SUSTAINABILITY ASSESSMENT:**

### **Financial and Resources Implications:**

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

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

Mayor           \$6016  
Deputy Mayor \$4627  
Councillors    \$3702 each

The current balance for each councillor and the impact of the costs incurred through attending the conference are detailed below, noting that actual costs will be subject to attaining the early bird conference registration rate and available accommodation:

<b>Councillor</b>	<b>Opening Balance</b>	<b>Costs Proposed In This Report</b>	<b>Closing Balance</b>
Mayor Chaffey	\$3969	Max \$3099 Min \$689	\$870 \$3280
Dep Mayor Thomson	\$2494	Max \$3099 Min \$689	-\$605 \$1805
Cr Armour	\$2952	Max \$3099 Min \$689	-\$147 \$2263
Cr Ham	\$3702	Max \$3099 Min \$689	\$603 \$3013
Cr Hayes	\$3552	Max \$3099 Min \$689	\$453 \$2863
Cr Hughes	\$852	Max \$3099 Min \$689	-\$2247 \$163
Cr Ivill	\$3552	Max \$3099 Min \$689	\$453 \$2863

<b>Councillor</b>	<b>Opening Balance</b>	<b>Costs Proposed In This Report</b>	<b>Closing Balance</b>
Cr Larter	\$3702	Max \$3099 Min \$689	\$603 \$3013
Cr Livermore	\$3552	Max \$3099 Min \$689	\$453 \$2863

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

### **Costs and Benefits:**

#### Expected Benefits:

- provides an excellent opportunity for networking with other councillors, which is particularly important for SVC's new councillors,
- provides all councillors an opportunity to increase their knowledge on issues and matters affecting local government,
- provides Council the opportunity to advocate on issues and matters of local importance to other councils and organisations,
- satisfies requirements for inclusion within councillors Professional Development Plans.

#### Expected Costs:

- The direct costs are included in the Report and Financial sections and vary depending on remote or in-person attendance, and accommodation requirements.

### **Policy, Legal and Statutory Implications:**

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

### **RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC**

Councillors need to consider the risk of in-person attendance given travel is required and this event will attract people from all over Australia.

### **OPTIONS:**

Council can confirm additional councillors as voting delegates (in the absence of the Mayor and Deputy Mayor).

Council can opt not to attend the conference in any capacity i.e. no representation.

Council can limit the attendance to the Mayor and Deputy Mayor.

Council can approve other councillors to attend, either in-person or remotely.

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

### **COUNCIL SEAL REQUIRED**

No.

**COMMUNITY ENGAGEMENT AND COMMUNICATION**

Councillors' attendance at the conference requires a further report to council which will document the learnings from the attendance in accordance with the *Payment of Expenses and the Provision of Facilities to the Mayor and Councillors* policy.

**ATTACHMENTS**

1. 2022 NGA Conference Registration Brochure (under separate cover)

**10. GOVERNANCE AND FINANCIAL REPORTS****10.2 FEES FOR COUNCILLORS AND MAYOR 2022/23 FINANCIAL YEAR****REPORT AUTHOR:** GOVERNANCE OFFICER**RESPONSIBLE DIRECTOR:** EXECUTIVE CHIEF OF STAFF**EXECUTIVE SUMMARY:**

This report outlines the determination made by the Local Government Remuneration Tribunal (the Tribunal) relating to the fees payable to Mayors and Councillors from 1 July 2022.

The report also makes recommendations in relation to annual remuneration for Snowy Valleys Council elected officials for 2022/23 financial year

**RECOMMENDATION:****THAT COUNCIL:**

1. **Receive the report on Fees for Councillors and Mayor 2022/23 Financial Year**
2. **Note the Local Government Remuneration Tribunal's determination for a 2% increase in mayoral and councillor fees for the 2022/23 financial year**
3. **Set the annual Councillor Fee for the period 1 July 2022 to 30 June 2023 at \$12,650 in accordance with the provisions of section 248 of the Local Government Act 1993**
4. **Set the annual Mayoral Fee for the period 1 July 2022 to 30 June 2023 at \$27,600 in accordance with the provisions of section 249 of the Local Government Act 1993.**
5. **Approve to pay the deputy mayor the proportion of the mayoral fee for such time as the deputy mayor acts in the office of the mayor, which is to be deducted from the mayor's annual fee.**

**BACKGROUND:**

The 2022 Determination of the Tribunal has been released, setting the scale for fees payable to elected representatives for all Councils in NSW under sections 239 and 241 of the *Local Government Act 1993* (the Act).

**REPORT:**

Section 239 of the LG Act provides for the Tribunal to determine the categories of councils and mayoral offices and allocates each council and mayoral office into one of those categories. The categories are to be determined at least once every 3 years.

Section 241 of the LG Act provides for the Tribunal to determine, not later than 01 May in each year, for each of the categories determined under section 239, the maximum and minimum amount of fees to be paid to mayors and councillors of councils.

The Tribunal has determined that there will be a 2% increase in Mayoral or Councillor Fees for the 2022/23 financial year.

In 2017, the Tribunal made revisions to the categorisation of councils following the amalgamation. Snowy Valleys Council is classified under the “Rural Council” category. Currently, both Mayoral and Councillor fees are paid at the maximum rate against the current determination.

Pursuant to section 241 of the Local Government Act 1993, the Tribunal’s 2022 annual determination has set the annual fees to be paid in each of the categories to Mayors and Councillors effective from 1 July 2022.

The Act states that if Council does not fix the fees for the Mayor and Councillors by resolution, the minimum rate is automatically applied.

The Tribunal has determined that the range of annual fees payable to Councillors and Mayors for the 2022/23 financial year in the “Rural Council” category is as follows:

<b>Councillor Annual Fee</b>		<b>Mayor Additional Fee*</b>	
Minimum	Maximum	Minimum	Maximum
\$9,560	\$12,650	\$10,180	\$27,600

\*The Mayoral fee must be paid in addition to the fee paid to the Mayor as a Councillor in accordance with section 249(2) of the Local Government Act 1993.

This report recommends that Council adopt the maximum annual fees set by the Tribunal on the following basis:

- The substantial geographic size of the Local Government Area
- The responsibilities associated with the Delivery Plan, the Long Term Financial Plan, annual Operational Plan and budget.
- The large variety and level of services delivered by Council.
- The increased commitment of time required for the Mayor and Councillors to fulfil their civic duties effectively.

Adopting the report recommendations will ensure the remuneration of the Snowy Valleys Council elected officials appropriately reflects the responsibilities and time commitment required to undertake their civic duties.

Additionally, Section 249(5) of the Act states that:

(5) A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor’s annual fee.

This report recommends that council approves payment from the mayoral annual fee for any time that the deputy mayor acts in the office of the mayor.

## **LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**

### **Integrated Planning and Reporting Framework: CSP Outcome 2028**

#### Theme 4: Communication & Engagement

#### 10.2 Fees for Councillors and Mayor 2022/23 Financial Year

**Delivery Outcomes**

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

**SUSTAINABILITY ASSESSMENT:**

	<b>Positive</b>	<b>Negative</b>
Social	It is important to acknowledge the role of Councillors and to ensure that remuneration rates are appropriate	Councillors may receive negative feedback from various sectors of the community in relation to the setting of councillor fees.
Environmental	Nil	Nil
Economic	Annual remuneration increases are expected to be in line with CPI increases. This is factored into annual budgets	Nil
Governance	Compliance with the Determination, as issued by the Tribunal annually, is a governance requirement.	Nil

**Financial and Resources Implications:**

Annual fees payable to the Mayor and Councillors have been included in the 2022/23 operational budget.

**Costs and Benefits:**

The costs associated with the payments to Councillors and the Mayor are included in the annual budget of council.

In the event that the deputy mayor acts in the office of the mayor, a pro-rata amount of the mayoral fee will be paid from the mayor's annual fee allocation in the annual budget.

**Policy, Legal and Statutory Implications:**

Sections 248 of the *Local Government Act 1993* require councils to fix and pay an annual fee based on the Tribunal's determination for a 2% increase for the 2022/23 financial year to councillors.

**248 Fixing and payment of annual fees for councillors**

- (1) A council must pay each councillor an annual fee.
- (2) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (3) The annual fee so fixed must be the same for each councillor.
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.

Section 249 of the *Local Government Act 1993* require councils to fix and pay an annual fee based on the Tribunal's determination for a 2% increase for the 2022/23 financial year to mayors and section 249(5) provides for payment to the deputy mayor from the mayoral annual fee for such time spent acting in the office of the mayor.

**Fixing and payment of annual fees for the mayor****249 Fixing and payment of annual fees for the mayor**

- (1) A council must pay the mayor an annual fee.
- (2) The annual fee must be paid in addition to the fee paid to the mayor as a councillor.
- (3) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.
- (5) A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.

**RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC**

Nil

**OPTIONS:**

Option 1 - Council set the annual fees payable to the Mayor and Councillors for the 2022/23 financial year at the maximum level for the Rural Council category as recommended.

Option 2 – Council elect to set the fees payable to the Mayor and Councillors for the 2022/23 financial year somewhere between the minimum and maximum rates permissible (outlined above).

**COUNCIL SEAL REQUIRED**

No

**COMMUNITY ENGAGEMENT AND COMMUNICATION**

Nil

**ATTACHMENTS**

2022 Annual Determination - Councillor Fees - LG Remuneration Tribunal (under separate cover)

**10. GOVERNANCE AND FINANCIAL REPORTS****10.3 COUNCILLORS AND MAYORAL REMUNERATION –  
COMMENCEMENT OF LOCAL GOVERNMENT AMENDMENT ACT 2021****REPORT AUTHOR:** CHIEF FINANCIAL OFFICER**RESPONSIBLE DIRECTOR:** CHIEF FINANCIAL OFFICER**EXECUTIVE SUMMARY:**

This report references the *Local Government Amendment Act 2021* and in particular addresses the provision of superannuation contributions for councillors.

**RECOMMENDATION:****THAT COUNCIL:**

1. Receive the report on Councillors and Mayoral Remuneration – Commencement of Local Government Amendment Act 2021.
2. Note the contents in Section 254B in the Local Government Amendment Act 2021 regarding the ability for a Council to make payment of superannuation contributions to councillors
3. Determine to pay superannuation to Snowy Valleys Council Councillors at the superannuation guarantee rate from 1 July 2022.

**BACKGROUND:**

The *Local Government Amendment Bill 2021* was passed by both Houses of Parliament in May 2021. This Act amends the *Local Government Act 1993* to give effect to certain recommendations made by the Independent Pricing and Regulatory Tribunal concerning the local government rating system; to make further provisions about local government elections and certain terms of office; to provide for superannuation contributions for councillors; and for related purposes.

**REPORT:**

This report addresses the provision of superannuation contributions for councillors.

Section 254B Payment for superannuation contributions for councillors in the *Local Government Act 1993* states:

**254B Payment for superannuation contributions for councillors**

- (1) A council may make a payment (a *superannuation contribution payment*) as a contribution to a superannuation account nominated by a councillor, starting from the financial year commencing 1 July 2022.
- (2) The amount of a superannuation contribution payment is the amount the council would have been required to contribute under the Commonwealth superannuation legislation as superannuation if the councillor were an employee of the council.

- (3) A superannuation contribution payment is payable with, and at the same intervals as, the annual fee is payable to the councillor.
- (4) A council is not permitted to make a superannuation contribution payment—
  - (a) unless the council has previously passed a resolution at an open meeting to make superannuation contribution payments to its councillors, or
  - (b) if the councillor does not nominate a superannuation account for the payment before the end of the month to which the payment relates, or
  - (c) to the extent the councillor has agreed in writing to forgo or reduce the payment.
- (5) The Remuneration Tribunal may not take superannuation contribution payments into account in determining annual fees or other remuneration payable to a mayor or other councillor.
- (6) A person is not, for the purposes of any Act, taken to be an employee of a council and is not disqualified from holding civic office merely because the person is paid a superannuation contribution payment.
- (7) A superannuation contribution payment does not constitute salary for the purposes of any Act.
- (8) Sections 248A and 254A apply in relation to a superannuation contribution payment in the same way as they apply in relation to an annual fee.
- (9) In this section—

**Commonwealth superannuation legislation** means the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

**superannuation account** means an account for superannuation or retirement benefits from a scheme or fund to which the Commonwealth superannuation legislation applies.

Previously, Council was not obliged to pay superannuation contributions for councillors as councillors are deemed to not be an employee for taxation and superannuation purposes.

The Minister for Local Government at the time the Bill was passed, Shelley Hancock stated in her 17 May 2021 Message:

*As a former councillor of 17 years, I know only too well the challenges of serving in the level of government closest to the community.*

*We also know that councillor remuneration is a significant factor in encouraging more people, particularly women and young people, to stand for their community and become councillors.*

*Research shows that on average women retire with 47 per cent less superannuation than men, so introducing superannuation for councillors will help address a key financial concern for women considering running for council.*

*The decision on whether to make superannuation contributions will be left to each council, taking into account financial considerations, the views of councillors and the expectations of their local community.*

*Councils will be required to make the decision to pay councillors superannuation by resolution at an open meeting of the council, thereby ensuring public accountability and transparency.*

As noted in Section 254B (4)(a) of the *Local Government Act 1993*, Council is required to resolve at an open meeting on whether superannuation will be paid on top of the councillor allowance.

This report recommends commencing payment of superannuation to councillors from 1 July 2022 at the superannuation guarantee rate in order to appropriately remunerate the elected members for their time and contribution.

It is hoped that payment of superannuation will lead to greater interest to serve on Council from all demographics, including women and younger people, leading to greater representation on Councils by people from traditionally underrepresented demographics.

The payment of superannuation to Snowy Valleys Council elected body using the relevant superannuation guarantee rate equates to \$13,524 in total for the 2022/23 financial year, calculated using the recently announced 2022/23 Councillor and Mayoral allowance rates and the applicable superannuation guarantee percentage rate of 10.5%. The superannuation guarantee percentage will increase by 0.5% annually until 1 July 2025.

If resolved, Council staff will add this amount into the 2022/23 budget and long-term financial plan which are being presented to Council at the 16 June 2022 Council meeting for adoption.

It is noted that superannuation contributions will only be made to Councillors that nominate an eligible superannuation account. Individual Councillors may opt out of receiving superannuation contributions or opt to receive reduced payments by advising so in writing.

## **LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:**

### **Integrated Planning and Reporting Framework: CSP Outcome 2028**

Theme 4: Communication & Engagement

#### **Delivery Outcomes**

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

## **SUSTAINABILITY ASSESSMENT:**

	<b>Positive</b>	<b>Negative</b>
Social	Acknowledgment of Councillors' contribution to the community  Encouragement of demographics traditionally underrepresented to take run for Council	Additional superannuation may be seen as a "pay rise" for Councillors
Environmental	N/A	N/A
Economic	Additional retirement funds available for future consumption by Councillors	Additional annual expenditure of \$13,524

	<b>Positive</b>	<b>Negative</b>
Governance	No additional internal resources are required to administer superannuation payments	N/A

**Financial and Resources Implications:**

Additional annual operating expenditure of \$13,524 from 2022/23 if all Councillors receive the superannuation payments.

**Policy, Legal and Statutory Implications:**

Local Government Act 1993  
Local Government Amendment Act 2021

**RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC**

N/A

**OPTIONS:**

Council may adopt or reject the recommendations.

**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. OLG Circular 22-04 (under separate cover)
2. LG Amendment Act 2021 (under separate cover)

**10. GOVERNANCE AND FINANCIAL REPORTS****10.4 QUARTERLY BUDGET REVIEW AS AT 31 MARCH 2022**

**REPORT AUTHOR:** COORDINATOR MANAGEMENT ACCOUNTING  
**RESPONSIBLE DIRECTOR:** CHIEF FINANCIAL OFFICER

**EXECUTIVE SUMMARY:**

This report provides a summary of Council's financial performance against budget as at 31 March 2022. Council's projected result shows an increase of income of \$13.4M and an increase of expenditure of \$10.6M compared to the original budget.

The original budget forecast a surplus of \$17M including capital grants, and a deficit of \$1.8M after capital items. 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 \$20M and a loss of \$2M after capital items. Unrestricted cash reserves are estimated to be satisfactory at year end.

**RECOMMENDATION:****THAT COUNCIL:**

1. **Receive and adopt the Quarter Budget Review as at 31 March 2022.**
2. **Adopt the Revenue, Expenditure and Capital Budget adjustments as noted in the September 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 2021/22 annual budget was adopted on 17 June 2021.

**REPORT:**

This report is prepared on an accrual basis, which is the standard accounting method used to rectify financial events by matching revenues and expenses. Projected income may not be received within this accounting period and likewise some expense incurred will not be paid during this accounting period.

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 2021/22 budget forecast a surplus of \$17M, 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 expenditure, the original budget forecast a deficit of \$1.8M.

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

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

This report provides a summary of Council's financial performance against budget as at 31 March 2022. Listed below are known events where Council has received or is expected to receive funds by year end, or the deferring of the receipt of funds if milestones are not met. At the end of quarter three, the proposed adjustments (detailed in the attached quarterly report) total:

**\$1.7M net decrease in income**

- (\$2.64M) Bushfire Local Economic Recovery Funding (BLERF) Swimming Pool funding deferred to next year
- (\$1.7M) FOGO funding deferred to next year
- (\$2.7M) Snowy Valleys Itinerant Worker Accommodation deferred to next year
- \$3.6M Emergency Works from storm events
- \$182K increase in various fees received
- \$1.1M Increase in other income

**\$3.5M in additional expenditure**

- \$3.5M Emergency Works from storm events

**\$9.3M net decrease in capital expenditure**

- \$616K EPA Bushfire Recovery Projects
- \$500K Emergency Evacuation and Multi-Purpose Centre
- (\$231K) Tumut Depot Office Extension not proceeding
- (\$2.64M) BLERF Swimming Pool funding deferred to next year
- (\$1.7M) FOGO funding deferred to next year
- (\$2.7M) Snowy Valleys Itinerant Worker Accommodation deferred to next year
- (\$490K) RHB building refurbishment works deferred to next year
- (\$1.59M) Upgrades - Water Supplies Facilities works deferred to next year
- (\$300K) Tumbarumba Dam Wall works deferred to next year
- (\$950K) Snow View Estate Stage 3 civil works deferred to next year
- \$165K Stage 1 TechOne CIA uplift
- (\$900K) Sewer Upgrades deferred to next year

The effect of the above adjustments is a 2021-22 projected forecast result of a surplus of \$20M and a loss of \$2M after capital items.

Unrestricted cash reserves are estimated to be \$3M, which is within Council policy requirements.

Summary of Council's operating position at end of March 2022

Council's income at the end of March 2022 was 17% below adjusted budget, while expenditure was 2% below adjusted budget.

A summarised financial report for Council is provided below for March 2022, comparing the operating year-to-date (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.



## Year to Date Result for March 2022

## Overall Council Summary

Account Description	Actual YTD	Budget YTD	% Variance YTD	\$ Variance YTD	Original Budget 22PJ BUD
<b>Income</b>					
Rates&Ann Charges	18,387,846	18,487,294	-1%	(99,448)	18,529,229
User Charges & Fees	11,679,734	12,409,419	-6%	(729,685)	16,545,892
Interest	171,586	307,500	-44%	(135,914)	410,000
Other Revenue	1,578,068	730,967	116%	847,101	817,289
Op Grants & Contrib	9,869,225	10,432,953	-5%	(563,728)	10,740,156
Cap Grants & Contrib	9,850,446	20,590,750	-52%	(10,740,304)	19,053,000
Internal Income	5,167,209	5,481,635	-6%	(314,426)	8,013,727
Profit on sale/Disposal	99,720	7,500	1230%	92,220	10,000
<b>Total Income</b>	<b>56,803,834</b>	<b>68,448,017</b>	<b>-17%</b>	<b>(11,644,183)</b>	<b>74,119,293</b>
<b>Expenses</b>					
Employee costs	13,649,109	12,967,845	5%	681,264	16,301,088
Mat & Contracts	16,565,510	18,330,365	-10%	(1,764,855)	18,569,822
Interest	301,731	287,363	5%	14,368	367,055
Dep & Impair	8,518,712	8,118,750	5%	399,961	10,825,000
Other Costs	4,183,995	4,332,406	-3%	(148,410)	6,388,776
Internal Expenses	3,533,727	3,557,233	-1%	(23,506)	4,428,402
<b>Total Expense</b>	<b>46,752,784</b>	<b>47,593,962</b>	<b>-2%</b>	<b>(841,178)</b>	<b>56,880,143</b>
<b>Operating Result</b>	<b>10,051,050</b>	<b>20,854,055</b>	<b>-52%</b>	<b>(10,803,005)</b>	<b>17,239,150</b>
<b>Result After Capital Items</b>	<b>200,604</b>	<b>263,305</b>	<b>-24%</b>	<b>(62,701)</b>	<b>(1,813,850)</b>

**Income:**

Income is 17% (\$11.6M) below YTD adjusted budget. Where the category variance is more than 10% an explanation is provided.

*Rates & Annual Charges* 1% below YTD budget.

*User Charges & Fees* 6% below YTD Budget.

*Interest Income* 44% below YTD Budget.

Interest received is below YTD budget by \$135K due to lower interest rates received than the budgeted amount

*Other Revenue* 116% above YTD Budget.

Additional income received for the following items; Disaster Recovery Works \$427K, Gravel Sales \$200K above budget, reimbursement for Community Recovery Officer \$126K, Sundry Sales \$90K and Murrumbidgee Health Network Contribution \$98K.

*Operating Grants and Contributions* 5% below YTD Budget.

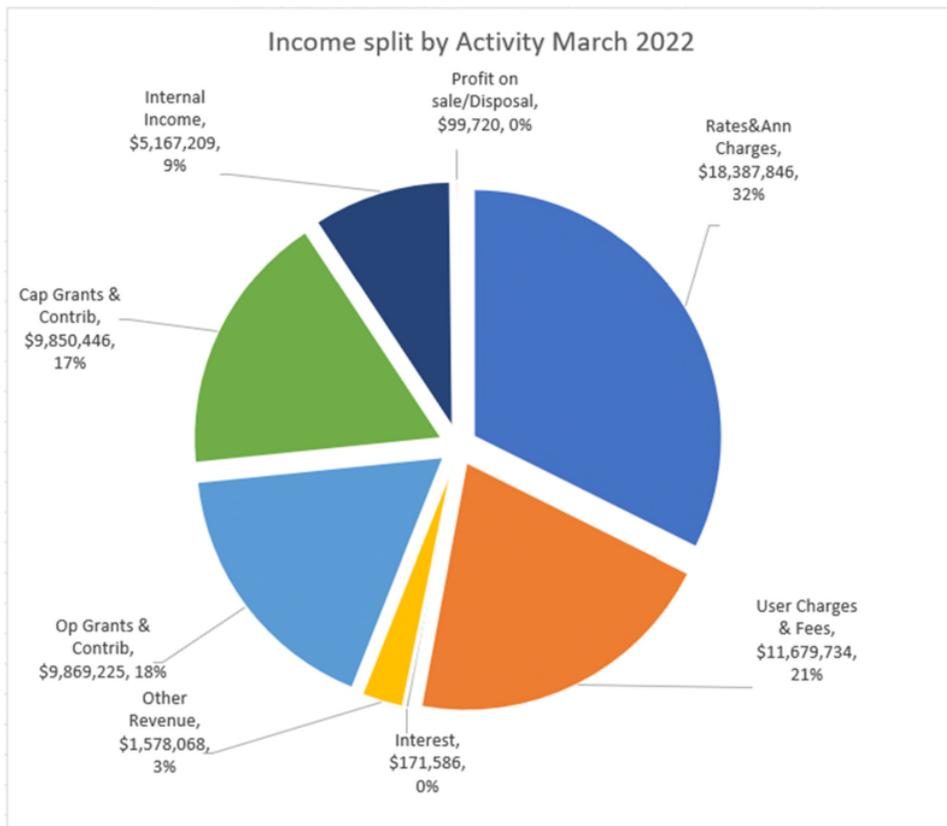
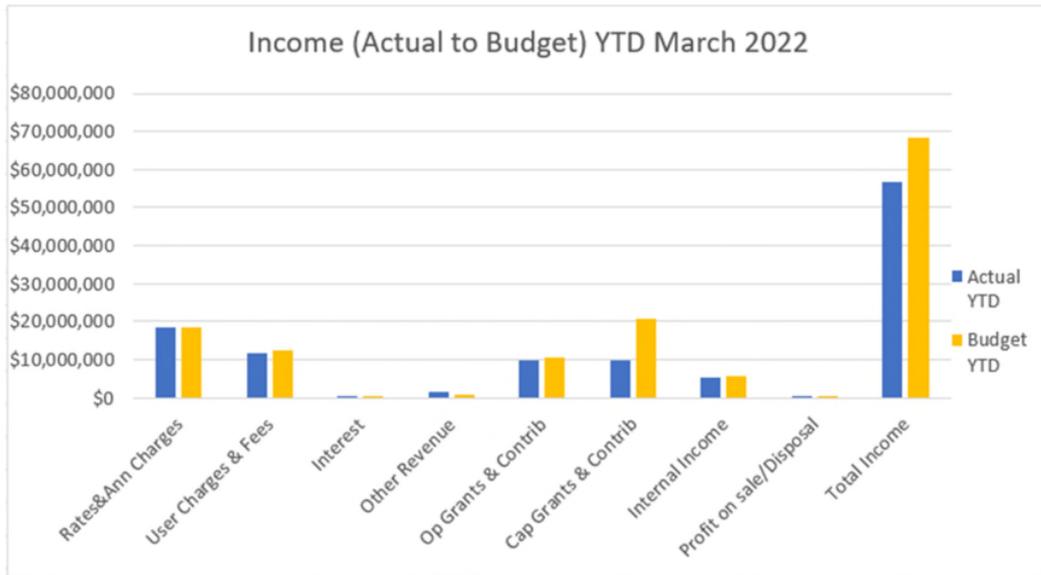
*Capital Grants and Contributions* 52% below YTD budget.

The completion of a number of large projects have been deferred to next year, delaying the acquitting of projects and therefore the recognised income. Khancoban Pool Upgrade \$528K, Batlow Pool Upgrade \$1.4M, Tumut Pool Upgrade \$720K, FOGO Infrastructure \$1.7M and Snowy Valleys Itinerant Worker Accommodation \$2.7M.

*Internal Income* 6% below YTD Budget.

*Profit on Sale of Assets* 1,230% above YTD Budget.

Income from sale of land \$25K and higher plant trade-in value received \$67K.



**Expenditure**

Expenditure is 2% (\$841K) below YTD adjusted budget. Where the category variance is more than 10% an explanation is provided.

*Employee Costs* 5% above YTD budget.

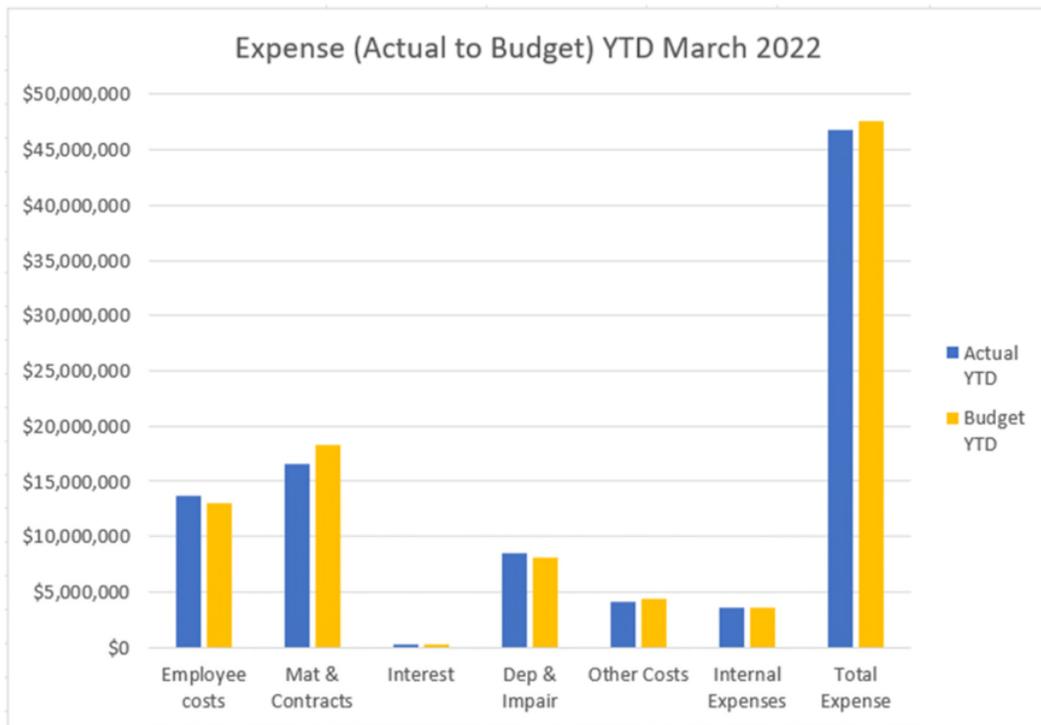
*Materials and Contracts* 10% below YTD Budget.

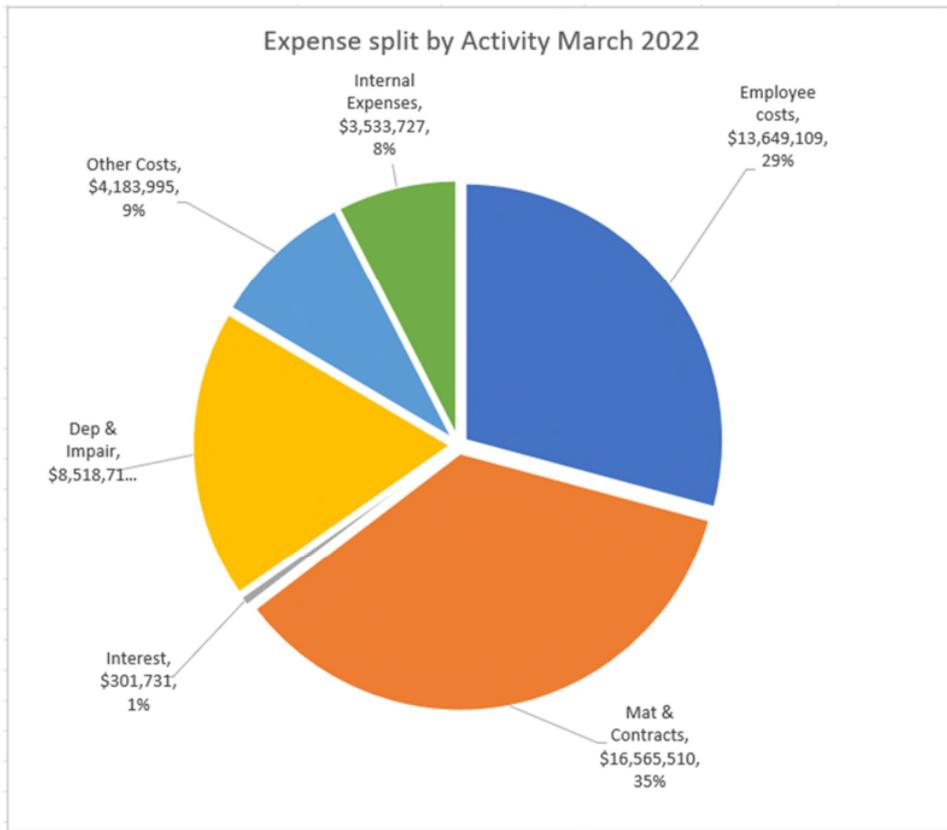
*Interest Expense* 5% above YTD Budget.

*Depreciation and Impairment* 5% above YTD Budget.

*Other Costs* 3% below YTD Budget.

*Internal Expenses* 1% below YTD Budget.





**Capital**

53% of General Fund Capital Projects are expensed at the end of March 2022. This percentage is believed to improve over the last quarter due to a concentrated effort to complete exciting projects.

Water Fund, 8.5% complete to 31 March 2022. Two projects, Upgrades to Water Facilities \$1.5M and Tumbarumba Dam Wall \$300K, have been impacted by the ability to secure suitably experienced specialists to facilitate to completion of the projects and are deferred to next year. It is anticipated the remaining Capital works will be completed by 30 June. After removing the deferred projects, the remaining capital projects are 28% complete.

Sewer Fund, 5.6% complete to 31 March 2022. Sewer Upgrades \$900K is also impacted by the ability to secure suitably experienced specialists to facilitate to completion of the projects and are deferred to next year. It is anticipated the remaining Capital works will be completed by 30 June 2022. After removing the deferred project, the remaining capital projects are 12% complete.

**Water Fund**

The Water fund Income is 1% above YTD budget while expenditure is 21% below budget. The 21% expenditure below budget is due to reduced maintenance works required.

**Sewer Fund**

The Sewer fund Income is 8% above YTD budget, increase in number of user fees services provided. Expenditure is 37% below YTD budget. The 37% below budget is due to reduced maintenance works required.

**Unrestricted Cash**

The unrestricted cash position at 31 March 2022 and projected at financial year-end is satisfactory. Unrestricted cash is to be available to cover unexpected and emergency expenses that are not provided for in the annual budget or an available reserve. The level of unrestricted cash fluctuates during the year depending on cash receipts and cash payments, adherence to capital budget plans and Council decisions where reserve funding is allocated.

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

Theme 4: Communication & Engagement

**Delivery Outcomes**

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

**Operational Actions**

4.3.9 Report on financial outcomes compared to industry benchmarks

**SUSTAINABILITY ASSESSMENT:**

N/A

**Financial and Resources Implications**

Monitoring of the Quarterly Budget Review enables timely financial management.

**Costs and Benefits:**

N/A

**Policy, Legal and Statutory Implications:**

Clause 203 (1) of the Local Government (General) Regulation 2005 requires Council's responsible account officer to prepare and submit a quarterly budget review statement to the governing body of Council.

**RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:**

Quarterly reporting allows Council to keep informed of the progress of the budget to actual income and costs.

**OPTIONS:**

N/A

**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 - Quarter 3 – 31 March 2022 (under separate cover)

**10. GOVERNANCE AND FINANCIAL REPORTS****10.5 STATEMENT OF INVESTMENTS - APRIL 2022**

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

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**EXECUTIVE SUMMARY:**

This report provides an overview of Council's cash and investment portfolio performance as at 30 April 2022.

**RECOMMENDATION:****THAT COUNCIL:**

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

**BACKGROUND:**

Nil

**REPORT:**

In accordance with Clause 212 of the Local Government (General) Regulations 2005, a monthly report is required to be submitted to Council detailing all investments of Council.

Combined Cash & Investments Table		30/04/2022				
Cash & 11am at call Accounts	Current Month	Last Month	Movement	Type	Interest Rate%	
Commonwealth Bank	\$ 3,139,058	\$ 3,240,707	-\$ 101,649	W/Acct	0.10%	
Commonwealth Bank	\$ 9,572,648	\$ 11,570,676	-\$ 1,998,027	At Call (BOS)	0.20%	
Commonwealth Bank	\$ 3,913	\$ 1,930	\$ 1,983	Gen-Roth	0.10%	
<b>Total Cash &amp; At Call Investments</b>	<b>\$ 12,715,619</b>	<b>\$ 14,813,313</b>	<b>-\$ 2,097,693</b>		<b>0.18%</b>	

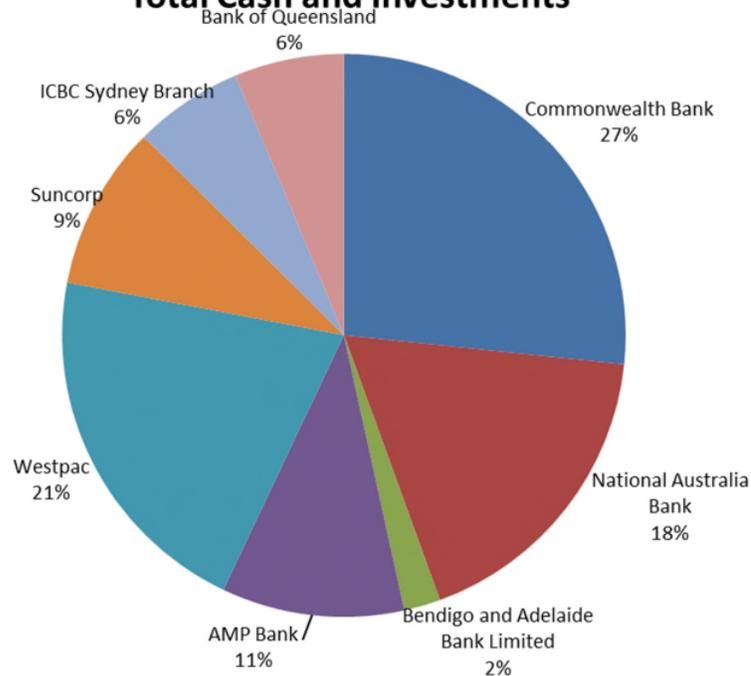
Term Deposits	Current Month	Last Month	Movement	Lodgement Date	Interest Rate%	Maturity Date
National Australia Bank	\$ -	\$ 2,000,000	-\$ 2,000,000	27/04/2021	0.35%	27/04/2022
National Australia Bank	\$ -	\$ 1,000,000	-\$ 1,000,000	30/07/2021	0.31%	29/04/2022
National Australia Bank	\$ 1,500,000	\$ 1,500,000	\$ -	1/12/2021	0.40%	1/06/2022
Westpac	\$ 2,000,000	\$ -	\$ 2,000,000	27/04/2022	0.93%	27/07/2022
Westpac	\$ 2,000,000	\$ 2,000,000	\$ -	30/07/2021	0.32%	29/07/2022
National Australia Bank	\$ 2,000,000	\$ 2,000,000	\$ -	7/09/2021	0.35%	7/09/2022
Suncorp	\$ 1,000,000	\$ 1,000,000	\$ -	22/09/2021	0.35%	22/09/2022
Suncorp	\$ 2,000,000	\$ -	\$ 2,000,000	4/04/2022	1.15%	4/10/2022
Bendigo and Adelaide Bank Limited	\$ 500,000	\$ 500,000	\$ -	25/11/2021	0.50%	25/11/2022
Bendigo and Adelaide Bank Limited	\$ 500,000	\$ 500,000	\$ -	25/11/2021	0.50%	25/11/2022
Suncorp	\$ 1,500,000	\$ 1,500,000	\$ -	1/12/2021	0.52%	1/12/2022
AMP Bank	\$ 2,000,000	\$ 2,000,000	\$ -	7/12/2021	1.00%	7/12/2022
AMP Bank	\$ 1,000,000	\$ 1,000,000	\$ -	17/01/2022	1.10%	17/01/2023
Bank of Queensland (Formerly (ME Bank)	\$ 2,000,000	\$ 2,000,000	\$ -	21/02/2022	0.90%	21/02/2023
AMP Bank	\$ 2,000,000	\$ -	\$ 2,000,000	18/03/2022	1.00%	20/03/2023
ICBC Sydney Branch	\$ 1,500,000	\$ 1,500,000	\$ -	8/04/2021	0.65%	11/04/2023
Westpac	\$ 2,000,000	\$ -	\$ 2,000,000	27/04/2022	2.27%	27/04/2023
Westpac	\$ 1,500,000	\$ 1,500,000	\$ -	1/12/2021	0.88%	1/06/2023
National Australia Bank	\$ 2,000,000	\$ 2,000,000	\$ -	28/06/2021	0.60%	28/06/2023
National Australia Bank	\$ 1,000,000	\$ 1,000,000	\$ -	15/07/2021	0.65%	17/07/2023
National Australia Bank	\$ 2,000,000	\$ 2,000,000	\$ -	30/07/2021	0.65%	31/07/2023
Bank of Queensland (Formerly (ME Bank)	\$ 1,000,000	\$ -	\$ 1,000,000	27/04/2022	2.70%	27/10/2023
Westpac	\$ 1,000,000	\$ 1,000,000	\$ -	15/02/2022	1.75%	15/02/2024
ICBC Sydney Branch	\$ 1,500,000	\$ 1,500,000	\$ -	8/04/2021	0.85%	8/04/2024
Westpac	\$ 1,500,000	\$ 1,500,000	\$ -	7/09/2021	0.78%	9/09/2024
<b>Total Term Deposits</b>	<b>\$ 35,000,000</b>	<b>\$ 29,000,000</b>	<b>\$ 6,000,000</b>		<b>0.90%</b>	

<b>Total Cash &amp; Investments</b>	<b>\$ 47,715,619</b>	<b>\$ 43,813,313</b>	<b>\$ 3,902,307</b>		<b>0.71%</b>	
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### Snowy Valleys Council April 2022

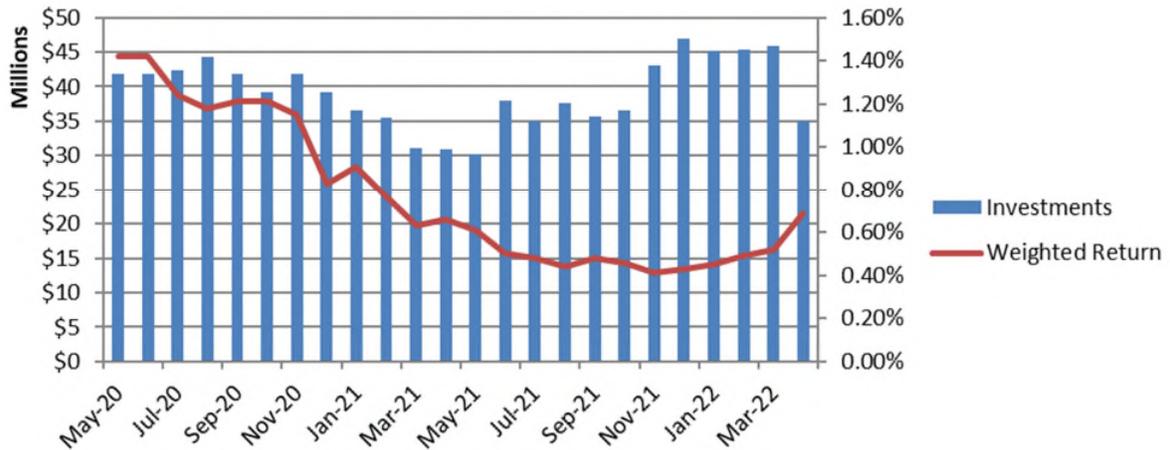
### Total Cash and Investments



It is hereby certified that the above investments have been made in accordance with Section 625 of the Local Government Act 1993 and the regulations thereunder, and in accordance with the Snowy Valleys Council Investment Policy. Cash and Investments increased \$3.9M during April 2022.

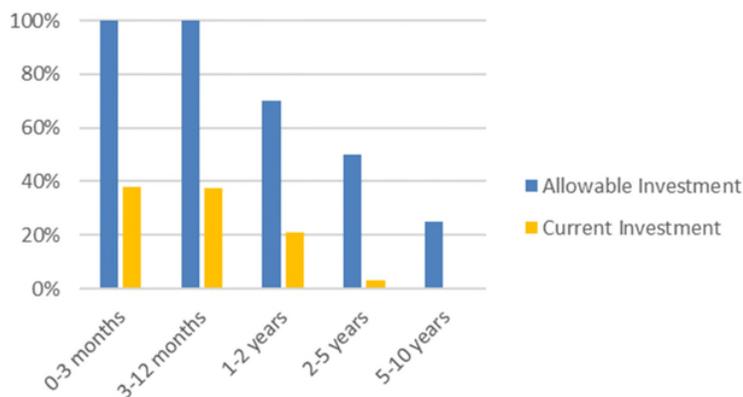
Cash investment rates are levelling out with the market factoring in forward expectations of rate hikes and increasing rates. Council’s investment policy requires Council officers to minimise investment risk by spreading investments across several institutions (institutional credit framework) as well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

### SVC Cash Investments and Weighted Return



This month the report includes a focus on maturity risk, one of the 3 risks addressed in Council’s Investment Policy. In line with its Investment Policy, Council is now able to address its biggest current investment risk, being re-investment risk, through extended investment horizons. Currently the portfolio remains highly liquid with 33% of assets maturing within 90 days and an additional 41% maturing within 12 months. However, Council has commenced investing on a longer-term horizon and has been able to secure higher returns.

### SVC Investment Policy - Maturity Risk



### ATTACHMENTS

Nil

**10. GOVERNANCE AND FINANCIAL REPORTS****10.6 IMMEDIATE BUSINESS CONTINUITY RISKS - STAFFING**

**REPORT AUTHOR:** CHIEF EXECUTIVE OFFICER  
**RESPONSIBLE DIRECTOR:** CHIEF EXECUTIVE OFFICER

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**EXECUTIVE SUMMARY:**

This report is brought before council at the request of the Audit Risk and Improvement Committee who considered the report at its meeting on 11 May 2022. The report outlines the immediate human resource risks to Business Continuity for Snowy Valleys Council. It is recommended that this report be read in conjunction with the Review of the Organisation Structure report included in this business paper.

**RECOMMENDATION:****THAT COUNCIL:**

1. **Receive the report on Immediate Business Continuity Risks – Staffing as presented to the Audit Risk and Improvement Committee on 11 May 2022.**
2. **Note that the Audit Risk and Improvement Committee have reviewed and endorsed the report to come before council.**
3. **Note that the current risk rating for human resourcing for Business Continuity is Extreme and outside of Council’s risk tolerance.**
4. **Endorse the mitigation strategies currently being deployed by the Chief Executive Officer.**

**BACKGROUND:**

This report is presented to council at the request, and with the endorsement of, the Audit Risk and Improvement Committee.

**REPORT:**

Snowy Valleys Council is experiencing an unprecedented period of staff departures from the business resulting in significant resourcing risks across numerous service areas of council for business continuity and operational criticality.

Whilst those positions that are identified as Criticality 1 for business continuity are automatically recruited, all other positions in non-essential roles are subject to a recruitment ‘freeze’ until such time as:

- 1) the outcome of the Special Rate Variation application is known, and subsequently, the appropriate financial scenario as detailed in the Long Term Financial Plan for the organisation is confirmed
- 2) with regard to the above, council confirms the appropriate organisational structure and human resourcing model for the organisation giving consideration to both effectiveness, efficiency and affordability

The following assessment on continuity risk for staffing is provided below. To inform mitigation strategies, a high level scan was undertaken of:

- a) current vacancies - known

- b) potential vacancies occurring within 12 months (by way of retirement, end of contracts, known flight risks) - anticipated

Compounding the risk profile is the lack of potential successors to a number of critical positions, primarily leadership and a number of operational critical roles. An aging workforce profile, particularly in the outdoor workforce, exacerbates the situation.

Note these figures have been updated to reflect the current state as of time of report preparation.

Assessment of Continuity Risk based on Staffing							
Group	Total FTE	FTE Vacant (known)	%	FTE Potential Vacancy 12 months (At Risk/ anticipated)	%	Total % Risk	
<b>Executive</b>	6	2	33.3%	3	50.0%	83.3%	
Office of the CEO	12	1	8.3%	4	33.3%	41.7%	
<b>Finance</b>	13	1	7.7%	3	23.1%	30.8%	
Corporate & Community - People, Culture & Safety	6	1	16.7%	2	33.3%	50.0%	
Corporate & Community - Customer & Technology	17.24	2	11.6%	3.2	18.6%	30.2%	
Corporate & Community - Growth & Activation	18.5	5	27.0%	3	16.2%	43.2%	
Corporate & Community - Community Services	28.37	9.61	33.9%	2	7.0%	40.9%	
Infrastructure - Fleet & Depots	9	0	0.0%	2	22.2%	22.2%	
Infrastructure - Works	48.6	5	10.3%	7	14.4%	24.7%	
Infrastructure - Utilities, Open Space & Facilities	47.25	3	6.3%	9.9	21.0%	27.3%	
Infrastructure - Technical Services	12.5	1	8.0%	2	16.0%	24.0%	
Infrastructure - Utilities & Waste	5.2	1	19.2%	1	19.2%	38.5%	
	<b>223.66</b>	31.61	14.1%				

Of particular concern is the current and potential vacancies in senior management roles (Executive and Manager tiers of leadership) and a number of technical subject matter experts throughout the organisation. Interim arrangements to fill a number of these vacancies include the utilisation of contractors; however in other areas, workloads have been redistributed among existing leaders and portfolios.

It is the writers opinion that the current situation is unsustainable in the long term.

The current risk profile is compounded by the following factors that impact on the organisation's ability to both attract and retain suitable staff:

- Lack of stability in leadership profile across the organisation (turnover in Executive, Manager and Coordinator leadership Tiers over the past 5 years)
- Uncertainty surrounding the Special Rate Variation and potential impacts on workforce and service delivery
- Public scrutiny and negative narrative and perception about service delivery, employee costs and workforce numbers (council has too many staff not doing enough)
- Political environment
- Legacy reputational issues from Save Tumbarumba Shire, local government election campaign platforms, financial sustainability issues
- Accommodation shortages in the SVC Local Government Area (LGA) and neighbouring LGA's – Snowy 2.0, Bushfire Housing Loss, recent market buoyancy post COVID etc.
- Ability to pay market comparable salaries and premiums
- Industry skill shortages in certain areas, such as Development
- Unprecedented project workloads
- Competition in the market for the same skills
- Repeated business continuity events – refocus resources away from business as usual
- Change fatigue for the organisation at large
- Opportunity cost for staff wellbeing and highly desirable/transferable skills

- The changing nature of work post COVID – mobile, flexible and opportunities for remote work
- Longevity in employment is decreasing – changing jobs more frequently is more acceptable/desirable
- The requirement under legislation to maintain employee numbers in Rural Centres (population of less than 5000) meaning that employee headcount savings are restricted to the Tumut staffing resources, generating continued uncertainty, fear of job loss and increasing number of staff actively seeking alternative employment

### **Mitigation Strategies**

The following strategies are being deployed where possible:

- Providing support to staff by:
  - Reinforcing the values
  - prioritising work and effort
  - managing fatigue and wellbeing
  - positive affirmation to staff that their work is valued
  - confirming timelines for decisions around future state by 30 June 2022
- Supporting the essential delivery of work with external resources and temporary contracts where available and within budget
- Undertaking a critical review of achievability of the deliverables in the **current** Operational Plan and workshopping council on what is likely to not be achievable given resource constraints
- Undertaken a critical review of the achievability of the deliverables in the **draft** Operational Plan and informing council by way of workshop ahead of adoption of the Integrated Planning and Reporting documents by 30 June 2022
- Exploring alternative recruitment channels and offerings to attract and secure applicants
- Increasing efforts in communication with the workforce on the current state of play
- Continuing to invest in pathway position program to develop and grow skills within the organisation in a more targeted way
- Facilitating a careers expo promoting opportunities for careers inside of council
- Working with partners to secure accommodation options for new staff
- The Executive has provided information to Council to make informed and timely decisions on:
  - The application of an SRV
  - The strategic direction, available resources and operational deliverables in the draft Delivery Program and Resourcing Strategy
  - The determination of an appropriate and affordable Organisation Structure by way of a report presented concurrently with this report

### **Risk Assessment**

Council's adopted risk appetite statement in the Risk Management Policy is as follows:

#### **2.1 RISK APPETITE STATEMENT**

Snowy Valleys Council operates with an overall conservative appetite for risk. Specific tolerance for different categories of risk are clearly outlined in the Risk Management Framework.

A risk assessment has been undertaken for the current human resourcing situation pursuant to Council's adopted Enterprise Risk Management Framework, and the high level outcomes are described below:

**Risk Area** = Human Resources

**Consequence** = Catastrophic (Unexpected loss of a significant number of critical management level staff.)

**Likelihood** = Likely

**Risk Rating** = Extreme (outside of tolerance)

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

**CSP Outcome 2028**

Theme 4: Communication & Engagement

**Delivery Outcomes**

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

**Policy, Legal and Statutory Implications:**

The risk assessment was undertaken in accordance with the adopted Risk Management Policy.

**OPTIONS:**

Nil.

**COUNCIL SEAL REQUIRED**

No

**COMMUNITY ENGAGEMENT AND COMMUNICATION**

This report was presented in draft to the councillor workshop held on 28 April ahead of the Audit Risk and Improvement Committee meeting.

The report was presented to the Audit Risk and Improvement Committee at its meeting held on 11 May 2022 and at the committee's request, has been presented to council at an open meeting with the committee's endorsement.

**ATTACHMENTS**

Nil

**10. GOVERNANCE AND FINANCIAL REPORTS****10.7 2022 REVIEW OF THE EXECUTIVE ORGANISATION STRUCTURE****REPORT AUTHOR:** CHIEF EXECUTIVE OFFICER**RESPONSIBLE DIRECTOR:** CHIEF EXECUTIVE OFFICER**EXECUTIVE SUMMARY:**

Sections 332 and 333 of the NSW Local Government Act 1993 (the Act) provide for the determination and redetermination of Council's senior staff positions, roles and reporting lines of holders of senior staff positions and the allocation of appropriate resources for the employment of staff in the organisation structure.

Specifically, Section 333 requires council to review, and where required re-determine, the organisation structure within 12 months after any ordinary election of the council.

This report provides council with three alternative senior leadership structural options, a decision upon which is required to inform the design of service delivery functions to ensure alignment with council's sustainability drivers and the proposed Delivery Program and Resourcing Strategy due for adoption before 30 June 2022.

This report has relevance to the report presented on the Business Continuity Risk associated with current staffing levels and the writer believes an early determination on the Executive structure is a critical step towards stabilising the organisation and needs to be taken as soon as possible noting the recruitment process alone can take up to 6 months.

**RECOMMENDATION:****THAT COUNCIL:**

- 1. Receive the report on the 2022 Review of the Executive Organisation Structure.**
- 2. Determine the senior leadership and functional structure of Snowy Valleys Council from the options presented as Model X consisting of Tier 2 reports to the Chief Executive Officer of Y as per the attachment to the minutes.**
- 3. Allocate the resources to affect the appropriate recruitment and transition arrangements to deliver the best outcome for existing staff and community by way of allocation of budget in the 2022-2023 Operational budget.**
- 4. Note the timeline for implementation of a new structure, risks and constraints as identified.**
- 5. Confirm the current delegation to the Chief Executive Officer to vary the total Full Time Equivalent (FTE) resourcing allocation by up to 5% (of total FTE).**
- 6. Note the imperative to action required recruitment and transition arrangements in line with industrial relations provisions in order to reassure and stabilise the current workforce and to deliver services and projects for the community with minimal disruption.**
- 7. Acknowledge the efforts and commitment of staff to continue to deliver services through a challenging period of uncertainty.**

**BACKGROUND:**

Snowy Valleys Council has operated under several organisation structures since proclamation on 16 May 2016, with the current structure being adopted in 2019.

In respect to Council's identified financial sustainability challenges, Council has committed to the identification of future savings and efficiencies in additional other measures such as applying for the Special Rate Variation. Coupled with several senior staff vacancies, Council has requested the Chief Executive Officer to review the current organisation structure and present options that best align with the commitments detailed in the draft Delivery Program and Resourcing Strategy.

Council is currently carrying a number of vacancies in critical roles which is impacting detrimentally on staff welfare and delivery of services.

It is recognised that a determination of the senior leadership and functional structure of Council is a necessary first step in stabilising the workforce.

Following this determination, the Chief Executive Officer will expedite, after consulting with the council by way of this report, the determination of the non-senior staff positions for the organisation structure pursuant with Section 332 (1A) of the Act.

This is considered critical work in providing reassurance of job security and role clarity to the workforce and to enable effective and efficient delivery of services to the community.

**REPORT:**

The following Guiding Principles have underpinned the development of the options presented:

- Evidence based (achieves Councils objectives for savings and efficiencies)
- Meaningful in purpose (not change for change's sake)
- Meets community needs (alignment with strategic direction and desire for sustainability)
- Compliant and defensible (legislation and awards)
- Capitalises on established knowledge (research, reports, plans and strategies)
- Fit for purpose (affordable, reasonable, achievable, sustainable long term)

The options developed also reflect Councils feedback on a preference for a more traditional structure including Directors.

Desired outcomes included:

- Improved financial sustainability
- Service area alignment
- Customer service
- Well-defined levels of work and role clarity

**Notes and Assumptions**

The titles used are indicative only and subject to further consultation and consideration.

All models assume that there will be **no reduction** to current service delivery or service levels.

The cost and benefit modelling are limited to leadership and functional levels as per the remit for council under the Act.

The way that the work is organised below the leadership tiers remain relatively unchanged between all three models, to ensure that allowance is given to:

- Future input into portfolio structures by new leadership incumbents
- Assessment of skills of new incumbents and reassessing skills gaps across the individual portfolios to inform future recruitment efforts and the organisation of work inside of portfolios
- Provision of future pathway and succession planning to assist in improving organisational resilience and structural longevity

These models have been developed with consideration for the following strategic imperatives:

- Consideration of service areas against CSP themes and DP principal activities
- Refined within the context of the identified constraints and desired outcomes
- Focus on:
  - Progressing capital works program over next 2-3 years
  - Progressing system consolidation and digital transformation over next 2-3 years
  - Aligning infrastructure planning, maintenance and service delivery
  - Aligning community and customer service delivery
  - Aligning corporate service delivery
  - Allocating administrative support across organisation where the need exists

**Structure Model 1: No directors**

This option has been designed with the primary driver of achieving cost savings in salaries and wages whilst retaining all existing services and service levels. The design process considered workforce impact and with the current vacancies at the executive level, taking advantage of the opportunity to make financial savings. It is noted however this will sacrifice a level of strategic outlook.

This option offers a flattened hierarchy which does not have an ‘executive’ level, i.e., there will be no senior staff or director roles other than the CEO/GM position.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>● Provides the largest financial savings</li> <li>● Less layers of hierarchy to potentially impede decision making and communication</li> <li>● Aligns the management of the organisation around service areas and improves flow and alignment within service areas</li> <li>● More autonomy and responsibility for employees</li> </ul>	<ul style="list-style-type: none"> <li>● Removal of the executive level will have a potential impact on workloads and retention at the manager level as well as the coordinator level</li> <li>● Strategic work will be minimised in favour of operations</li> <li>● Lack of progression opportunities / career pathways</li> <li>● Managers have more subordinates</li> <li>● Significant reconfiguration of systems and other internal frameworks to accommodate this model resulting in higher implementation costs</li> </ul>

**Structure Model 2: Two directors**

This option has been designed with the primary driver of retaining an Executive level as requested by Council whilst still achieving some financial savings at this level. This model is also based on the assumption that Council will be retaining all existing services and service levels.

This option offers a functional hierarchy with two senior staff directors. The two-director model is common in rural councils of comparable size to Snowy Valleys and is a hybrid of the more traditional three director model.

This structure consolidates the number of executive portfolios in the structure from four to two, with these portfolios focusing on leadership of infrastructure and operations, planning, community services, and corporate services respectively.

It should be noted that the current structure was developed with a two-director model in mind once implementation and stabilisation occurred, that is, the Chief Financial Officer portfolio and the Executive Chief of Staff portfolio were intended to be incorporated into the two Executive Director portfolios after a period of three years. Therefore, this option would be a transition of the current structure as originally planned.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Achieves a small cost saving.</li> <li>• Provides an executive level function as preferred by Council.</li> <li>• Is a transition from the existing structure so may result in less disruption.</li> <li>• Provides an appropriately sized greater leadership (management) team structure</li> <li>• Provides defined management areas and service area alignment with depth in the structure to allow for the reduction in Executive level roles.</li> </ul>	<ul style="list-style-type: none"> <li>• Could create challenges in recruiting the Director Corporate &amp; Development position.</li> <li>• Positions at the Manager level have been structured to allow effective specialist support in key areas to offset the broad portfolio, any barriers to effectively recruiting these roles has the potential to cause ongoing issues.</li> <li>• Given existing and ongoing workloads this model could result in 'overload' at the Executive level in the short to medium term. Effective transition and recruitment will be required for success of this structure.</li> </ul>

**Structure Model 3: Three directors**

This option has been designed with the primary driver of providing a traditional Director level structure whilst retaining all existing services and service levels.

This option also offers a functional hierarchy with three directors which may not necessarily be senior staff positions. The three-director model is considered by the writer to be the most traditional executive structure.

Depending on the outcome of the classification of the director positions, this model achieves little to no financial savings.

This structure consolidates the number of executive portfolios in the structure from four to three, with these portfolios focusing on leadership of infrastructure and operations, planning and community services, and enabling corporate services respectively. It is designed to

integrate the functions with shared capabilities and ensure an appropriate level of strategic focus across the organisation.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Well defined areas of accountability and smaller spans of control for directors and managers</li> <li>• Clearly defined levels of accountability</li> <li>• Defines career progression pathways</li> <li>• Provides depth in terms of technical knowledge and skills within the organisation if all positions can be recruited</li> <li>• Common and well understood by councillors and community</li> </ul>	<ul style="list-style-type: none"> <li>• Minimal/insignificant savings</li> <li>• Hierarchical with the potential to slow down decision making and communication both vertically and horizontally in the organisation</li> <li>• Bureaucratic and potential to hinder innovation</li> </ul>

#### Indicative timeline – next steps

- May – procurement for external recruitment provider/s
- 19 May – Council determines leadership and functional structure
- From 20 May – commence recruitment and/or industrial process for leadership roles
- From 20 May to end June – Chief Executive Officer commences review of remaining structure in accordance with section 332 (1A) of the Act.
- From June – commence consultation process as required by the organisation values and the provisions of the industrial relations legislation.
- Target date for implementation – 1 January 2023 (dependent upon success of recruitment and extent of operational impact including system and governance reconfigurations).

#### LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

##### Integrated Planning and Reporting Framework: CSP Outcome 2028

Theme 4: Communication & Engagement

##### Delivery Outcomes

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

#### SUSTAINABILITY ASSESSMENT:

##### Financial and Resources Implications:

Several vacancies including the Executive Director Infrastructure are currently being filled with contractors. A determination of leadership and functional structures will enable recruitment to commence and may reduce the longer-term financial impact of the ongoing engagement of contractors in senior and specialist positions.

It must be noted that recruitment and the implementation of a revised structure takes time and costs will continue to be incurred in the interim phase to ensure critical roles are filled with contractors.

**Costs and Benefits:**

<b>Strategic driver</b>	<b>Option 1 No Directors</b>	<b>Option 2 Two Directors</b>	<b>Option 3 Three Directors</b>
Achieves financial savings (salaries and wages)			
Improves service area alignment / service delivery			
Prioritises Customer Service			
Defined levels of work & role clarity			
Potential to achieve efficiency			
Roles which increase attraction and retention capabilities			
Minimises potential industrial impact on the workforce			
Minimises operational impact on the workforce			
Achieves balance of strategic/operational focus			

**Key** Does not Achieve Somewhat Achieves Achieves

**Comparison of Options – FTE and Costs**

Note: in this comparison the dollar figures provided are nominal salary figures for comparative purposes **for leadership level positions only**. The subsequent structure below this level cannot be fully determined or costed until the detail is finalised.

<b>Parameters</b>	<b>Current</b>	<b>Option 1 No Directors</b>	<b>Option 2 Two Directors</b>	<b>Option 3 Three Directors</b>
FTE – Indicative Total	223.66	217.66	219.66	221.66
FTE – CEO + Executive	5	1	3	4
FTE – Managers	8	7	8	8
FTE – Coordinators	24	22	20	20
Estimated Cost of Tier 1/Tier 2/ Tier 3 leadership structure	3,800,000	3,000,000	3,400,000	3,600,000
Estimated savings in Tier 1/Tier 2/ Tier 3 leadership structure		760,000	400,000	200,000

**Policy, Legal and Statutory Implications:**

The *Local Government Act 1993* (the Act) provides the legal framework for the system of local government for New South Wales and sets out the responsibilities and powers of councils, councillors and other persons and bodies that constitute the system of local government.

Section 333 of the Act relates to the re-determination and review of structure and requires that the Council must review, and may re-determine, the organisation structure.

It is identified in sub-section 332 (1) of the Act that it is specifically the senior staff positions within the structure that are determined by Council.

*A council must, after consulting the general manager, determine the following:*

- a) the senior staff positions within the organisation structure of the council,*
- b) the roles and reporting lines (for other senior staff) of holders of senior staff positions.*

The Act also details the factors that determine whether a position constitutes a senior staff position. Section 332 (2) requires that a council may not determine a position to be a senior staff position unless:

- a) *the responsibilities, skills and accountabilities of the position are generally equivalent to those applicable to the Executive Band of the Local Government (State) Award, and*
- b) *the total remuneration package payable with respect to the position is equal to or greater than the minimum remuneration package (within the meaning of Part 3B of the Statutory and Other Offices Remuneration Act 1975) payable with respect to senior executives whose positions are graded Band 1 under the Government Sector Employment Act 2013.*

Following the 2021 determination, as of 1 July 2021, the minimum total remuneration package payable under s.332(2)(b) of the *Local Government Act 1993* (NSW) is \$197,400 per annum.

All senior staff positions are appointed under a prescribed Standard Contract of Employment.

Council intends to utilise the assistance of an experienced recruitment agent to assist with the recruitment of the senior leadership, manager and specialist positions in the structure in accordance with Council's procurement policy.

Once the senior leadership and functional structure is determined, the Chief Executive Officer will confirm the non-senior staff positions for the organisation structure pursuant with Section 332 (1a) of the Act.

A detailed transition plan for the move to the new organisation structure along with a change management plan will be finalised, communicated and implemented and is likely to follow a similar process to that endorsed by the unions for the 2019 structure implementation.

### **RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC**

Council is experiencing an unprecedented period of unplanned staff departures resulting in significant resourcing risks across several service areas which is impacting on staff morale, wellbeing and service delivery.

A report has been presented to the Audit Risk and Improvement Committee (ARIC) outlining the current risks and interim mitigation measures being deployed to ensure business continuity and service delivery and is also included in this Council agenda. The current risk rating for human resourcing for business and operational continuity is extreme, and outside of Council's risk tolerance. Continuing without addressing the current situation is untenable.

That report is also presented to this ordinary meeting with the ARIC endorsement and should be read in conjunction with this report.

### **OPTIONS:**

Council can determine the senior leadership and functional structures by resolving to adopt either:

- (a) Structure 1 – No Director (Management team only) model
- (b) Structure 2 – Two Director model
- (c) Structure 3 – Three Director model
- (d) Confirm current structure without change

### **COUNCIL SEAL REQUIRED**

No

**COMMUNITY ENGAGEMENT AND COMMUNICATION**

Extensive community engagement on services and financial sustainability has been undertaken through both the Special Rate Variation and the Integrated Planning and Reporting processes over the last 12 months.

Council has been engaged in numerous workshops on sustainability.

Council's sustainability challenges have been reported through to ARIC regularly.

Internal engagement on structural options has not commenced and is dependent on the determination of leadership and functional structure and as a minimum will follow the required standard industrial process.

The importance of maintaining the integrity and respect for the process and associated confidentiality cannot be overstated. The details of the structure option as determined by council has the potential to detrimentally impact on the personal welfare of staff and this must continue to be a primary consideration as the remaining structure decisions are confirmed and an appropriate implementation and change management plan is developed.

Decision on leadership and functional structure will be communicated to the workforce and the remaining structure will be reviewed in line with service delivery decisions as adopted by council in the Delivery Program and Resourcing Strategy in June 2022.

A comprehensive internal engagement plan will be implemented including Union consultation if required.

**ATTACHMENTS**

1 DRAFT Organisational Structure Review - Diagrams confidential (under separate cover)

<b>11. MANAGEMENT REPORTS</b>
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**11.1 KHANCOBAN VACANT LAND - LOTS 11, 12, 13, 14, 15 AND 16  
DP220750 - REQUEST FOR PURCHASE**

**REPORT AUTHOR:** PROPERTY AND TRANSPORT PARTNER

**RESPONSIBLE DIRECTOR:** EXECUTIVE DIRECTOR INFRASTRUCTURE

**EXECUTIVE SUMMARY:**

Council has received interest into the purchase of vacant land within the township of Khancoban. These properties are freehold and is currently unoccupied.

Approval is sought from Council to the sale of the lots through the process of Public Auction.

The previous report had been submitted on 17 February 2022 with an incorrect DP220570 number documented. This report is seeking a new resolution number relevant to the correct DP220750.

**11. MANAGEMENT REPORTS**

<b>11.1</b>	<b>KHANCOBAN VACANT LAND - LOTS 11, 12, 13, 14, 15 AND 16 OF DP220570 - REQUEST FOR PURCHASE</b>
<b>M53/22</b>	<p><b>RESOLVED:</b> THAT COUNCIL:</p> <ol style="list-style-type: none"> <li>1. Proceed to sell the Land – Lots 11, 12, 13, 14, 15 and 16 of DP220570 at a public auction at a time and place to be determined;</li> <li>2. Delegates authority to the Chief Executive Officer &amp; Mayor to take the following actions pertaining to the properties specified in the report; to set reserve prices for sale of the properties at auction;</li> <li>3. Negotiate by private treaty and accept offers for sale of any property that fails to sell at auction;</li> <li>4. Authorise the application of the Council seal on the sale of land.</li> </ol> <p>Cr Julia Ham/Cr Michael <del>lyill</del></p> <p><b>CARRIED UNANIMOUSLY</b></p>

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

A further report was considered at the meeting of 21 April 2022:

**11.4 KHANCOBAN VACANT LAND - LOTS 11, 12, 13, 14, 15 AND 16 OF DP220750 - REQUEST FOR PURCHASE - RE SUBMISSION****RECOMENDATION:****THAT COUNCIL:**

1. Receive this report on Khancoban Vacant Land – Lots 11, 12, 13, 14, 15 and 16 of DP220750 - Request for Purchase - Re Submission;
2. Approve the sale of Lots 11, 12, 13, 14, 15 and 16 of DP220750 through an Expression of Interest process Snowy Valleys Council Agenda Thursday 21 April 2022 11.4 Khancoban Vacant Land - Lots 11, 12, 13, 14, 15 and 16 of DP220750 - Request for Purchase - Re Submission Page 53;
3. Approve the delegation of authority to the Chief Executive Officer and Mayor to assess and determine the successful expression of interest bids for the sale of the land as described in item 2 above;
4. Authorise the Chief Executive Officer to negotiate the sale price of the parcels of land as described in item 2 above, noting that all parties will meet their own legal costs, to a value within 20% of the market appraisal;
5. Approve the delegation of authority to the Chief Executive Officer and Mayor to execute all sale documents and affix the Council seal to documentation required to complete the sale of the parcels.

**M117/22 RESOLVED:****THAT COUNCIL:**

1. Defer Item 11.4 'Khancoban Vacant Land - Lots 11, 12, 13, 14, 15 and 16 of Dp220750 - Request for Purchase - Re Submission' to a future meeting to address the inconsistency in the previous report.

Cr Trina Thomson/Cr Johanna (Hansie) Armour

**CARRIED UNANIMOUSLY**

This report is now submitted to resolve the issues identified.

**RECOMMENDATION:****THAT COUNCIL:**

1. Receive the report on the Khancoban Vacant Land – Lots 11, 12, 13,14, 15 and 16 DP220750 – Request for Purchase.
2. Rescind the resolution of 11.1 - 17 February 2022 on the sale of operational freehold land located on Mcillree Street, Khancoban.
3. Proceed to sell the Land — Lots 11, 12, 13, 14, 15 and 16 DP220750 at a public auction at a time and place to be determined;
4. Delegates authority to the Chief Executive Officer & Mayor to take the following actions pertaining to the properties specified in the report; to set reserve prices for sale of the properties at public auction;
5. Negotiate by private treaty and accept offers for sale of any property that fails to sell at public auction;
6. Authorise the application of the Council seal on the sale of land.

**BACKGROUND:**

The subject land is identified as operational and was previously identified as being surplus to Council needs. Council has owned the properties since 1994 and has not developed or leased the properties.

**REPORT:**

Council has received a request from interested parties regarding the purchase of land within Khancoban. The parcels identified have access to services (water, sewer and power).

Upon review these properties were identified as being surplus to Councils needs and could be sold.

A review has identified that auction would still net Council the best price.

This matter is returned to Council for a resolution to rescind the previous resolution and vote on a different resolution.

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

Theme 1: Towns and Villages

**Delivery Outcomes**

1.7 Manage Council's resources in a manner which is equitable and ensures organisational sustainability

**Operational Actions**

1.7.1 Manage Councils investment portfolio to optimise investment returns within Council Policy requirements

**SUSTAINABILITY ASSESSMENT:**

	<b>Positive</b>	<b>Negative</b>
Social	No foreseen impact	No foreseen impact
Environmental	Nil increased benefits	No significant issues
Economic	Disposal of surplus assets provides a means of reducing risk and provide income	No foreseen impact
Governance	Asset Management Principle encourage the regular consideration of assets with regards to their disposal if they are surplus to the organisation needs or do not have strategic value	No foreseen impact

From a sustainability perspective, the table above provided a summary of the positives and negatives associated with the overall project.

**Financial and Resources Implications:**

Processing of the sale of the land will be undertaken by Council Solicitors and fees are to be covered by the sale of the lots.

**Costs and Benefits:**

Council will be responsible for its own conveyancing costs for the land sale, which are estimated at approximately \$2,000. The cost of conveyancing would be absorbed from the proceeds of the land sale and would not require budget allocation.

**Policy, Legal and Statutory Implications:**

The sale of freehold property is governed by the Conveyancing Act 1919, specifically Part 4 Division 8. A suitably qualified solicitor will be engaged to oversee the process of the lot sale to ensure all statutory compliance is met.

The Code of Meeting Practice references how matters Lost at a Council meeting in the prior three months must be dealt with. The writer believes the provisions have been met.

17.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

**Note: Clause 17.6 reflects section 372(4) of the Act.**

In this instance Council has resolved to alter the resolution and therefore it is considered that more than three Councillors have signed. Therefore this is a valid method of rescinding the previous resolution. This also means that a further resolution is needed to allow the sale of these lots.

**RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC**

There are no foreseen significant risks to Council with the recommendation in relation to the process of sale.

A risk is present that the market appraisal has overpriced the value of the properties, and the parcels do not gain interest during the advertising process. Negotiation to a set percentage of the market appraisal will provide some flexibility to mitigate this risk.

**OPTIONS:**

1. Council endorses the recommendations
2. Council does not provide approval for the sale of the properties

**COUNCIL SEAL REQUIRED**

Yes

**COMMUNITY ENGAGEMENT AND COMMUNICATION**

The sale of the properties will be subject to an Auction process, which will be publicly advertised.

**ATTACHMENTS**

1. 20220317 - Map - Khancoban Property – confidential (under separate cover)

2. PRD Real Estate - McIlree Street, Khancoban - Market Appraisal -confidential (under separate cover)
3. Costello Rural - Khancoban Blocks - Sale Appraisal – confidential (under separate cover)

## 11. MANAGEMENT REPORTS

### 11.2 DA2022/0023 - PROPOSED LOT CONSOLIDATION AND BOUNDARY ADJUSTMENT - 738 GOOBARRAGANDRA ROAD (WALLS CREEK ROAD EAST), GOOBARRAGANDRA

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

#### EXECUTIVE SUMMARY:

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

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

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

The application was considered at the ordinary general meeting of the 17 March 2022 and was resolved to be deferred pending additional information. This report includes that additional information and recommends that the Council determine the application by way of refusal based on the grounds listed in the Recommendation below.

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

#### RECOMMENDATION:

##### THAT COUNCIL:

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

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

## **BACKGROUND:**

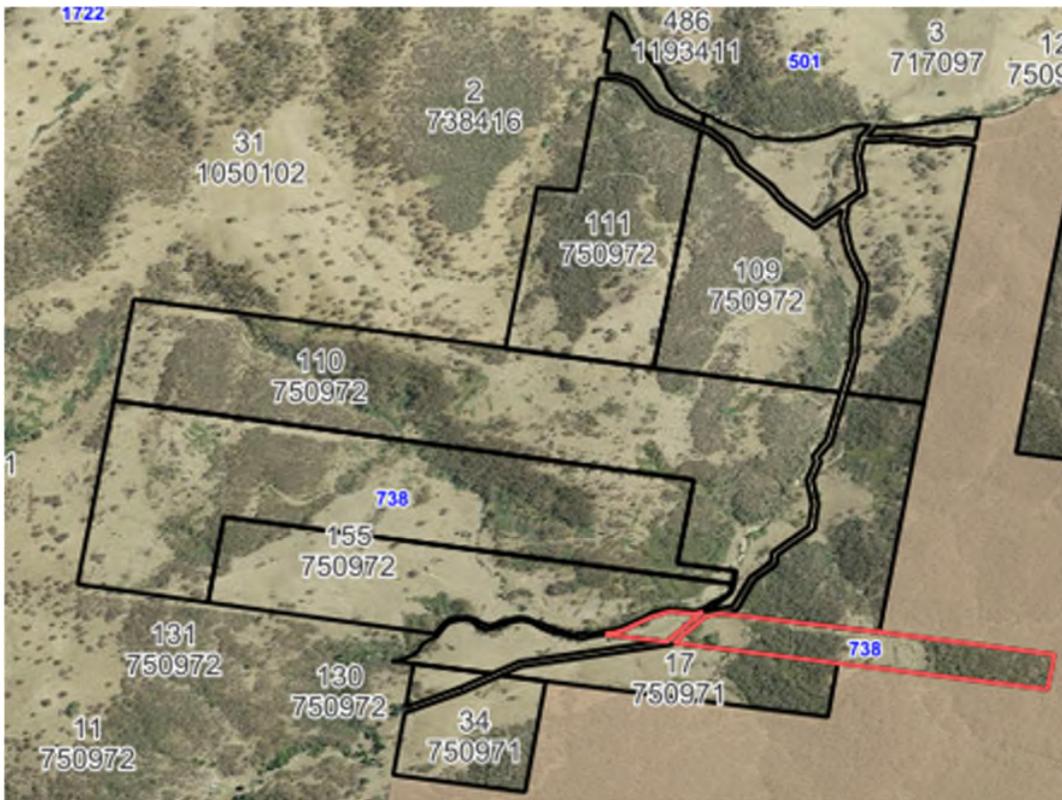
### **Subject Site and Locality**

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

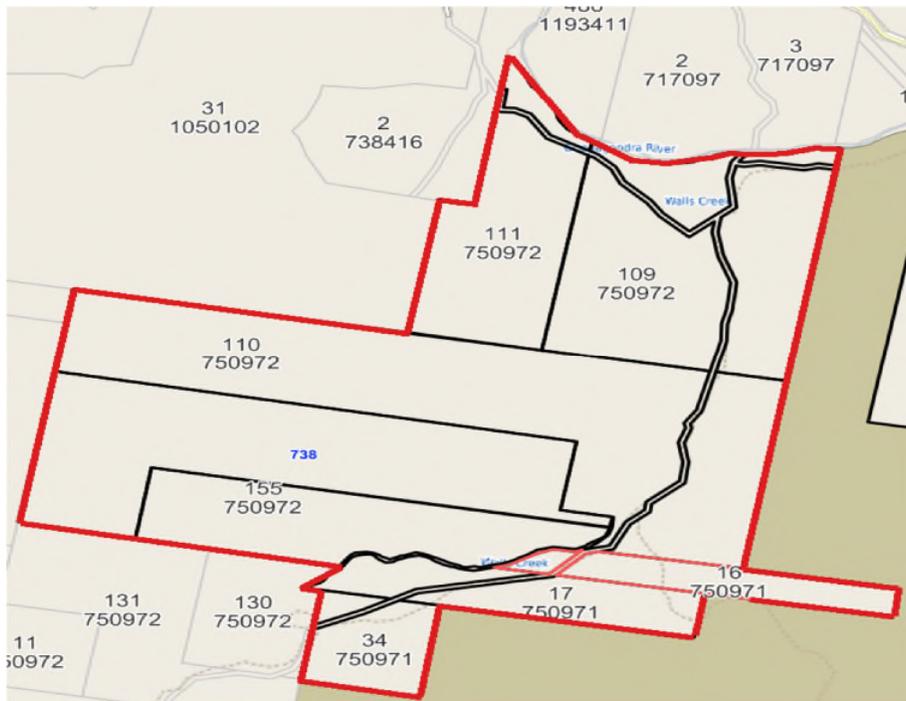
The subject site is located approximately 25km to the east of Tumut, with the surrounding land currently being utilised for primary production, agricultural and rural residential land uses. It is considered that the proposal is generally consistent with the existing land uses of the area and is not expected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

Council resolved at its ordinary general meeting of Council on 17 March 2022 under vide resolution number MN95/22, to defer any decision pending additional information being submitted regarding access and fire and consultation with the adjacent neighbours regarding access to the property.

In accordance with the standing resolution of Council, Council staff have further consulted with the Rural Fire Service on the issue of the bushfire safety authority and their general terms of approval. Council has also undertaken further investigations into the access arrangements to the proposed lot 41 and also despite the application not triggering any notification requirements under its adopted Community Participation Plan (CPP) or Snowy Valleys Development Control Plan 2019, the application has been notified to adjoining and adjacent properties.



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



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

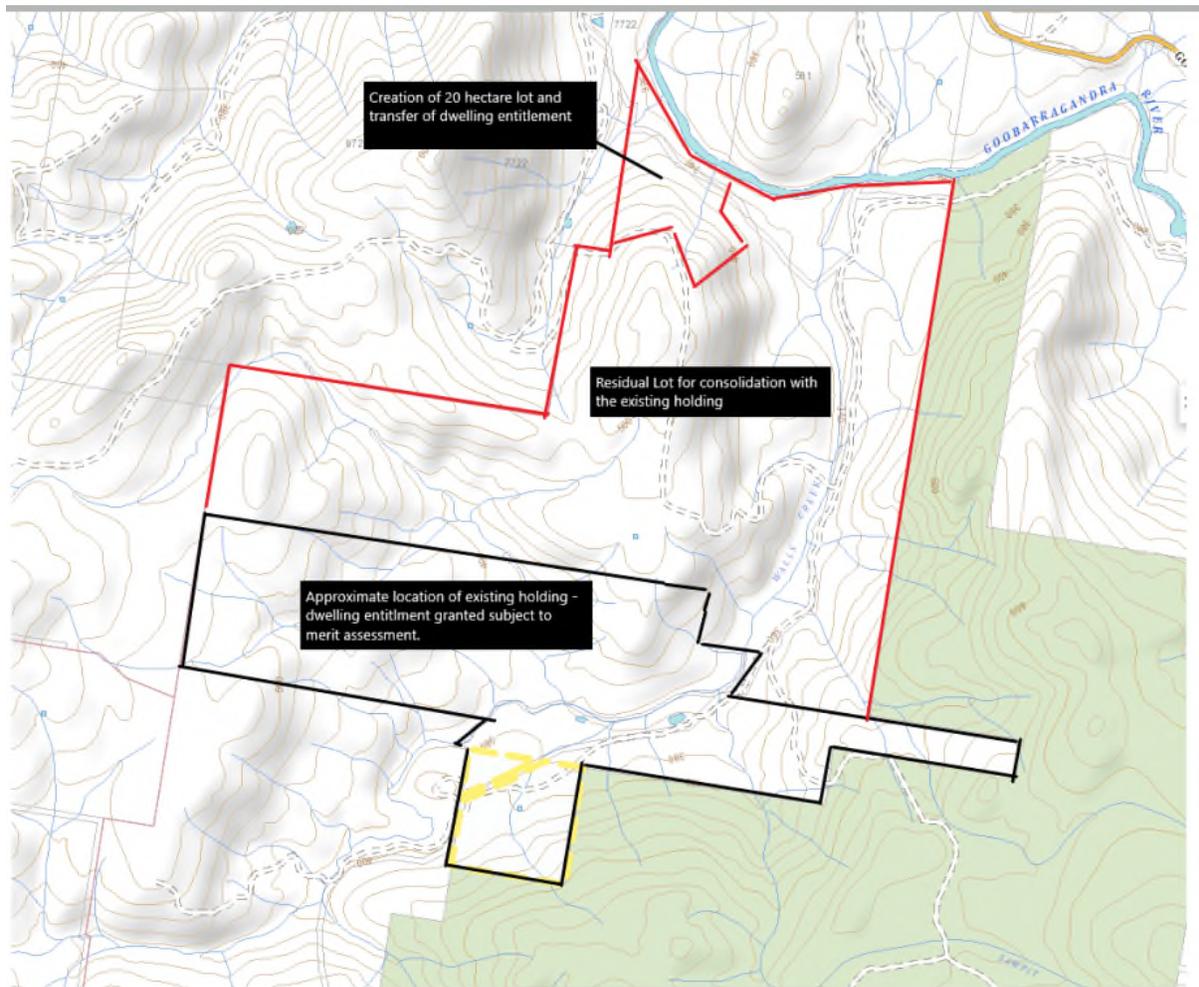


Figure 2.1 Graphical representation of proposal including existing holding (shown in black), consolidation (shown in red and black) and proposed creation of a 20ha lot to the North and transfer of the dwelling entitlement.

## Proposed Development

The merits of the proposal include:

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

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

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

**REPORT:**

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

## State Environmental Planning Policies

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

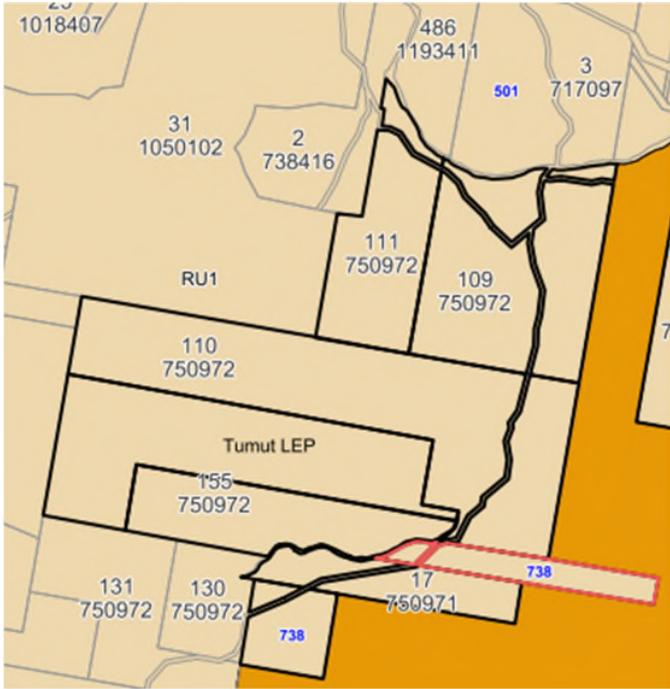
## State Environmental Planning Policy 55 Remediation of Land

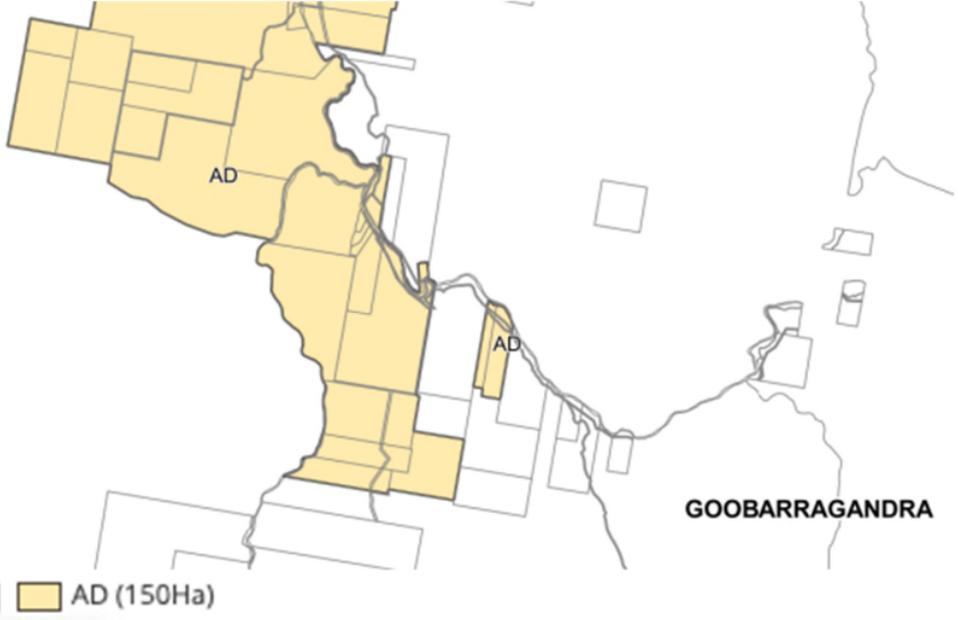
The requirement of Clause 7 of SEPP 55 is for Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. In this regard, the proposed subdivision at 738 Goobarragandra Road, Goobarragandra has been considered in the following table:

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

**Local Environmental Plans**

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

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

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

	<p>The proposal seeks a boundary adjustment and consolidation of seven lots to create two lots as follows:</p> <table border="1" data-bbox="443 237 1408 464"> <thead> <tr> <th>Proposed Lot</th> <th>Area</th> <th>Complies</th> <th>Comment</th> </tr> </thead> <tbody> <tr> <td>41</td> <td>20 Ha</td> <td>No</td> <td rowspan="2">The proposal seeks to use Clause 4.2C to propose lot 41 size less than the minimum lot size required. The proposal is not considered to comply with Clause 4.2C (see below).</td> </tr> <tr> <td>42</td> <td>410 Ha</td> <td>Yes</td> </tr> </tbody> </table> <p>The proposed lots are contrary to the objectives of Clause 4.1(b) and (c) in that they create an inappropriate subdivision by creating an undersized lot and propose to transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 41.</p> <p>The proposed lot 42 complies with the minimum lot size as prescribed in Clause 4.1 however in doing so has enabled an undersized lot to be created.</p> <p>The proposed lot 41 does not comply with the minimum lot size as prescribed in Clause 4.1. Clause 4.2C enables for boundary adjustments a departure to the minimum lot size. An assessment of Clause 4.2C (see below) concludes that the proposal, in its current form, creates a significant departure that is not acceptable.</p> <p>The proposed subdivision is therefore inconsistent with the objectives in that the boundary adjustment and consolidation results in a less efficient use of land resources and creates an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 41.</p>	Proposed Lot	Area	Complies	Comment	41	20 Ha	No	The proposal seeks to use Clause 4.2C to propose lot 41 size less than the minimum lot size required. The proposal is not considered to comply with Clause 4.2C (see below).	42	410 Ha	Yes
Proposed Lot	Area	Complies	Comment									
41	20 Ha	No	The proposal seeks to use Clause 4.2C to propose lot 41 size less than the minimum lot size required. The proposal is not considered to comply with Clause 4.2C (see below).									
42	410 Ha	Yes										
<p><a href="#">4.1AA</a> <a href="#">Community</a> <a href="#">Strata Title</a></p>	<p>The proposed subdivision is for Torrens title lots and this clause does not apply.</p>											
<p><a href="#">4.2 Rural</a> <a href="#">subdivision</a></p>	<p>The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow landowners a greater chance to achieve the objectives for development in the relevant zone.</p> <p>The proposed two lot subdivision seeks to consolidate, and boundary adjust 8 existing lots into 2 lots. The proposed (Lot 41) totalling 20 Ha is proposed to transfer a dwelling entitlement from an unrelated lot and proposed (Lot 42) totalling 410 Ha complies with the minimum size requirement.</p> <p>Clause 4.2(3) relating to land RU1 land with development consent enables land to be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land. Clauses 4.2 (4) and (5) do not permit or construction of a dwelling on such a lot.</p> <p>The applicant advised on the 14 November 2021 that <i>“The subject land, including the existing holding, is utilised for agriculture as is the surrounding land. This boundary adjustment will not increase land use conflict due to this fact. We are not introducing a new land use potential, we are utilizing the existing potential, that is the building entitlement attached to the existing</i></p>											

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

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

## Development Control Plans

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

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

General Principles for Development	The controls relating to subdivisions in the RU1 Primary Production. Clause 9.8 is considered to be the most relevant in terms of DCP provisions and will be used in the assessment.
Variations to	There are no variations to the DCP to consider.

the DCP	
Subdivision Objectives	<p>The objectives of this Chapter 9 Subdivisions are to:</p> <ul style="list-style-type: none"> <li>• ensure that subdivision proposals consider the environmental, social and economic opportunities of a site</li> <li>• encourage subdivisions that promote sustainable design, and</li> <li>• provide all essential services to all new Lots</li> </ul> <p>The proposed lots are contrary to the objectives in that Lot 41 will create an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 42.</p> <p>The proposed subdivision is therefore inconsistent with the objectives in that the boundary adjustment and consolidation results in a less efficient use of land resources and creates an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 41.</p>
<b>Clause 9.8 Rural Subdivisions</b>	
Clause 9.8.1	<p>Clause 9.8.1 requires Council to consider how the subdivision will accommodate future and existing structures and be suitable for appropriate likely future land uses and site activities, and the subdivision proposal responds to the existing site attributes and constraints. These controls relate to subdivision in the RU1 and E3 zones.</p> <p>The proposed boundary adjustment and consolidation subdivision seeks to:</p> <ul style="list-style-type: none"> <li>• create an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 1.</li> </ul> <p>Therefore, it is considered that the proposed subdivision is contrary to Clause 9.8.1 of Councils DCP.</p>
Clause 9.8.2 Adjoining development	The proposed subdivision is capable to providing access and is considered acceptable in this instance with Clause 9.8.2 of Councils DCP.
Clause 9.8.3 Fencing	If the proposal was recommended for approval the proposed lots would be condition for adequate fencing.
Clause 9.8.4 Lot size, shape and Orientation	<p>The proposed boundary adjustment and consolidation subdivision is inconsistent in terms of the following:</p> <ul style="list-style-type: none"> <li>• create an inappropriate subdivision by the proposed transfer of a holding to an unrelated lot thereby adversely affecting the viability and promoting fragmentation of agricultural land of proposed Lot 1.</li> </ul> <p>Therefore, it is considered that the proposed subdivision is contrary to Clause 9.8.4 of Councils DCP.</p>
Clause 9.8.5 Natural Hazards and Risks	<p>The plans initially submitted were lines marked on a SIX maps screen shot. Of particular concern is not being able to recognise the scale, north point not shown, no details of easements or rights of way, site not surveyed and no title block.</p> <p>The proposed drawings are insufficient. Plans to a standard scale such as 1:100 or 1:200 that represent a surveyed site and show the following details:</p>

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

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

### **Planning Agreements**

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

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

### **Regulations**

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

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

### **Coastal Management Plans**

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

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

## **Impacts of the Development**

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

### **Context and setting**

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

### **Economic Impact In The Locality**

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

### **Site Design & Internal Design**

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

### **Suitability of the Site for the Development**

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

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

### **Submissions Made in Accordance with the Act or Regulations**

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

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

Council has however notified the application in accordance with the Council resolution of the 17 March 2022. Submissions received as part of the notification process are outlined in the community consultation / neighbour notification section of this report.

### **Public Interest**

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

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

## Consultation

### Pre-lodgement Meetings

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

### External Referrals:

Pursuant to S100B of the *Rural NSW Rural Fires Act 1997* the application was referred to the NSW RFS seeking a bushfire safety authority. The Rural Fire Service Provided its' General Terms of Approval on under division 4.8 of the *Environmental Planning and Assessment Act 1997* without any specific condition requirements. The Bushfire Safety Authority and General Terms of Approval was issued on the 4<sup>th</sup> April 2022.

### Internal Referrals:

The application has been referred to Council's Engineer for comment on the proposed access arrangements to the subject property.

Council's Engineer confirms that there is an existing access to the property from the East from the end of Walls Creek Road. The access generally follows a crown road reserve through the applicant's property on the eastern side of Kosciusko National Park. Through the park the access follows the Hume and Hovell walking track.

The area proposed to be subdivided is located to the West of the KNP portion and the applicant proposes to utilise the eastern access for proposed lot 42. This route is also proposed to provide access to property ID 61741.

There is a paper road (unformed road access) from the West off the end of Little River Road that passes through Lot 31 DP 1050102 and Lot 2 DP 738416 and it appears that there is legal access via this unmade road reserve that is able to be used for both lots.

### Community Consultation / Neighbour Notification:

Whilst it is acknowledged that there are no requirements under Councils' adopted Community Participation Plan (CPP) or chapter 1.7 Snowy Valleys Development Control Plan 2019 to notify the application, the proposal was notified to adjoining and adjacent properties in accordance with Council's standing resolution of the 17 March 2022. As a part of the notification process, Council notified 5 properties for a period of fourteen (14) days from the 24 March 2022 to 7 April 2022.

One (1) submission was received by Council on 1 May 2022. The substance of the submission and Council's responses to those matters are outlined below: Submission:	Response:
Clearance works have been undertaken on the property outside of any approval issued.	Council has undertaken preliminary investigations of underscrubbing / clearing works and have directed that the proponent cease any further work and obtain advice / necessary approvals from the Local Land Services (LLS) being the appropriate jurisdiction.

In the event that the DA / Subdivision is approved Crown will cede responsibility for the current section and anything added by way of access to the proposed new Lot, to Council.	The Crown roads provide legal and practical access to the proposed subdivision. A portion of the Crown Road has an enclosure permit issued by the authority to a local land owner however does not restrict access by the public across the land. There is no proposal by the Crown to transfer this road to Council.
In the Pre Lodgement Application the Applicant asserts that no tree removal or pruning will be required. Given what has happened this is a totally false assertion.	Alleged tree removal undertaken is a separate compliance issue to the development application being considered. As outlined previously, the proponent has been directed to the Local Lands Services for advice and approval.
Similarly it is also asserted in the same document that no threatened species nor ecological communities or their habitats will be affected. This was also totally false. It is true now, in relation to the communities as their habitat as it has been totally laid to waste. One colony of the threatened Tumut Grevillea has been identified but has no idea what may have already been destroyed.	It is not expected that any vegetation removal will be pursued as part of the application.  Vegetation removal undertaken to date is a separate compliance matter.
In relation to Lot 42 there is a recommendation to Council that the approval of NPWS sort as access will be way of in part, the Hume and Hovell walking track.	Council's Engineer has recommended approval from the NPWS for part access across their land and this consultation has occurred as part of the assessment process.

## LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

### Integrated Planning and Reporting Framework: CSP Outcome 2028

Theme 1: Towns and Villages

#### Delivery Outcomes

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

#### Operational Actions

1.9.3 Develop new draft Development Control Plan by June 2019

#### Financial and Resources Implications

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

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

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

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

**Costs and Benefits:**

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

**Policy, Legal and Statutory Implications:**

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

**RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC:**

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

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

**OPTIONS:**

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

**Option 2 is recommended to Council.**

Councillors must record their votes on the matter.

**COUNCIL SEAL REQUIRED:**

No

**COMMUNITY ENGAGEMENT AND COMMUNICATION:**

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

**ATTACHMENTS**

- 1 - DA 2022/0023 - Proposed Subdivision - 738 Goobarragandra Road - Buckley (ID3171079) (under separate cover)
- 2 – Statement of Environmental Effects - 738 Goobarragandra Road - Buckley (ID3171081) (under separate cover)

<b>11. MANAGEMENT REPORTS</b>
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**11.3 DA2021/0268 FOR A FOOD AND DRINK INDUSTRY – MICRODISTILLERY AT LOT 26 DP1018407**

**REPORT AUTHOR:** MANAGER GROWTH & ACTIVATION

**RESPONSIBLE DIRECTOR:** EXECUTIVE CHIEF OF STAFF

**EXECUTIVE SUMMARY:**

A development application (DA2021/0268) was lodged with Council on 24 November 2021 seeking development consent for the purposes of a 'Food and Drink Industry - Microdistillery' at Lot 26, DP 1018407, known as 2-722 Little River Road, Little River. The merits of the proposal include the construction of a building to be utilised for a distillery, tasting room and ancillary café and the proposal also includes provision for eight car spaces.

The proposal has been reported to full Council on the basis that it is a public interest matter given the number of submissions that have been received during the notification period.

The merits of the application have been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* and accordingly it has been recommended that the application be determined by way of approval subject to conditions.

<b>Applicant</b>	Ellen Webb c/o MJM Solutions
<b>Land owner</b>	Ellen Webb and David McDougall
<b>Zoning Context</b>	RU1 – Tumut Local Environmental Plan 2012
<b>Capital Investment Vale (\$)</b>	\$200,000
<b>Notification Period</b>	The application was notified in accordance with Council's Community Participation Plan between 24 <sup>th</sup> November and 10 <sup>th</sup> December 2021.
<b>Number of submissions</b>	Fourteen (14)
<b>Political Donations declaration</b>	Nil
<b>Reasons for referral to Council</b>	Public interest matter – (number of submissions that have been received during the notification period > 10)

**RECOMMENDATION:**

**THAT COUNCIL:**

1. Receive the report on DA 2021/0268 for a Food and Drink Industry – Micro-Distillery at Lot 26, DP 1018407.
2. Determine the determination application DA2021/0268 for a Food and Drink Industry – Micro Distillery at Lot 26, DP 1018407 by way of approval and Council delegate authority to the Chief Executive Officer or their delegate to apply appropriate conditions of development consent.

**BACKGROUND:**

On 30 March 2020 Council received a development application for a distillery under DA2020/0138. The proposal sought to locate the proposed activity within an existing shed approximately 63m from the Goobarragandra River and to the immediate east of the existing

dwelling. Council considered the proposal in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and noted that the application did not provide the required level of information to support the proposal at that time. Subsequently, the development application was formally withdrawn by the applicant on the 5<sup>th</sup> November 2020.

In order to proceed with the proposal a revised development application was prepared and lodged with Council on the 24<sup>th</sup> November 2021 under DA 2021/0268. The application sought to address the limitations of the previous application and also sought to obtain consent for a food and drink industry – micro distillery.

### Subject site and locality

The development site is located about 12km to the east of Tumut (refer Figure 1).

The development site is known as 2722 Little River Road, Little River, 2720, and is legally described as Lot 26, DP 1018407. The land is 3.9 hectares in area and forms an irregular rectangle in shape. The northern boundary has direct frontage to the Goobarragandra River. The top bank of the river is approximately 296m AHD, with the finished level of the dwelling at RL 304.68m AHD, some 8m higher. The level across the front boundary is approximately RL 310m AHD, and the land falls toward the river in a north-westerly direction. A contour survey is included with the DA documents.

The land is encumbered by an easement for water supply 3, 5 & 10 metres wide (DP1018407) that runs close to the eastern property boundary, and by a right of carriageway 15 metres wide and variable, which crosses the south-western corner of the property. An electricity line runs across the front of the property and then generally runs north, parallel to the easement for water supply.

Improvements on the property include a brick dwelling house, brick garage, water tanks, metal shed, gravel driveway, a former tennis court on the property frontage, and a fenced area where the micro distillery will be located, at approximately RL 306m AHD – location indicated on Figure 2.

The land incorporates what was the original homestead block of the property known as Little River. The tennis court and a few farm buildings are all that remain, as the homestead burnt down in 2005.

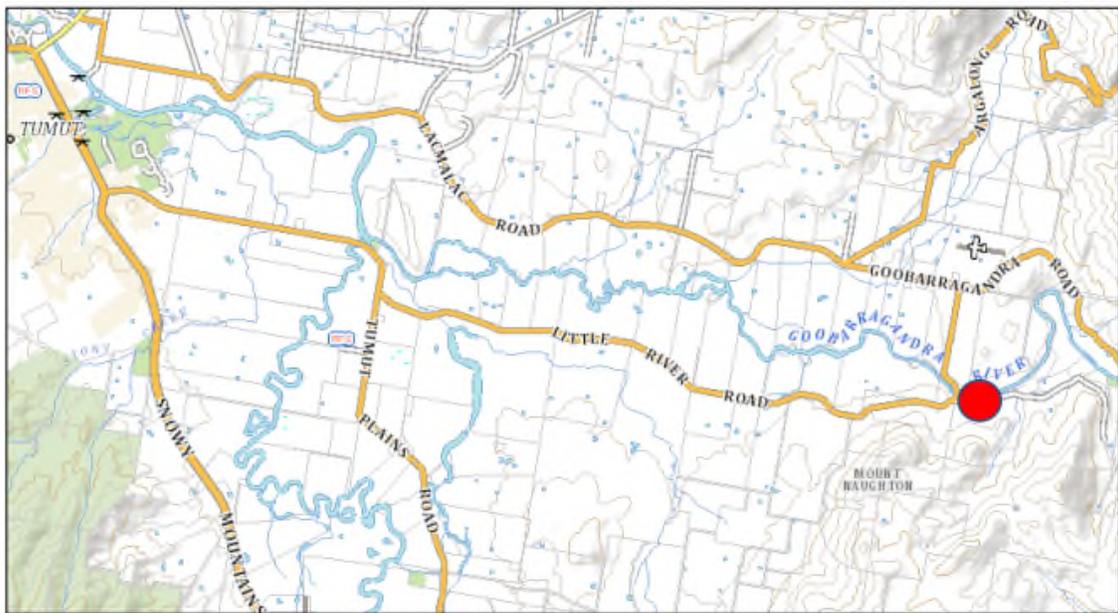


Figure 1: Location of development site in relation to Tumut. Source: SIX MAPS



Figure 2: Aerial photograph showing location of dwelling and development site. The red square denotes the area of the proposed distillery building. Source: NSW Planning Portal

The locality features undulating rural grazing land, with remnant vegetation of varying density along drainage lines, leading to more contiguous vegetation on steeper slopes to the south and east. Previous subdivisions and excisions have resulted in some fragmentation of land, with dwellings situated off Little River Road to take advantage of the Goobarragandra River aspect. The planning intent of the locality is to partly to preserve rural productivity, with the minimum lot size for a new dwelling house set at 150 hectares. There are a number of tourist accommodation businesses in the locality, including holiday cabins to the east and west (Little River Log Cabins).

The immediate locality has tourist accommodation, shown in Figure 3 below (development site in red, north at top of image). There is a tourist accommodation cottage 80m to the north (blue), with the business operators dwelling 250m to the north-east (green) and a tourist accommodation dwelling 500m to the east (blue). Mature vegetation north of the development site effectively screens the development from the closest tourist cottage.



Figure 3: Aerial of immediate locality with development site and surrounding dwellings. Source: NSW Planning Portal.

### Proposed Development

The application seeks to construct a micro distillery building for the purpose of making alcohol-based drink products (collectively referred to as liquor in this report). The building will contain a facility (area) for tasting and retail sales of drinks made on premises, an ancillary café component, a distillery room and a packaging/preparation room.

The ethanol base alcohol is not made on the premises. Ethanol is purchased, under excise bond, in 800 litre drums and delivered. The ethanol is then put through a still to rectify it, to produce a clean base spirit.

The building features a two-storey cooling tower element and materials proposed for construction are Colorbond walls and roofing. The café/tasting room component is separated from the distillery and packaging area by fire rated wall and window construction. Figures 4 through 7 show the main building elevations, floor plan and site plan.



Figure 4: West elevation and entry to micro distillery building. Source: SEE and Plans.

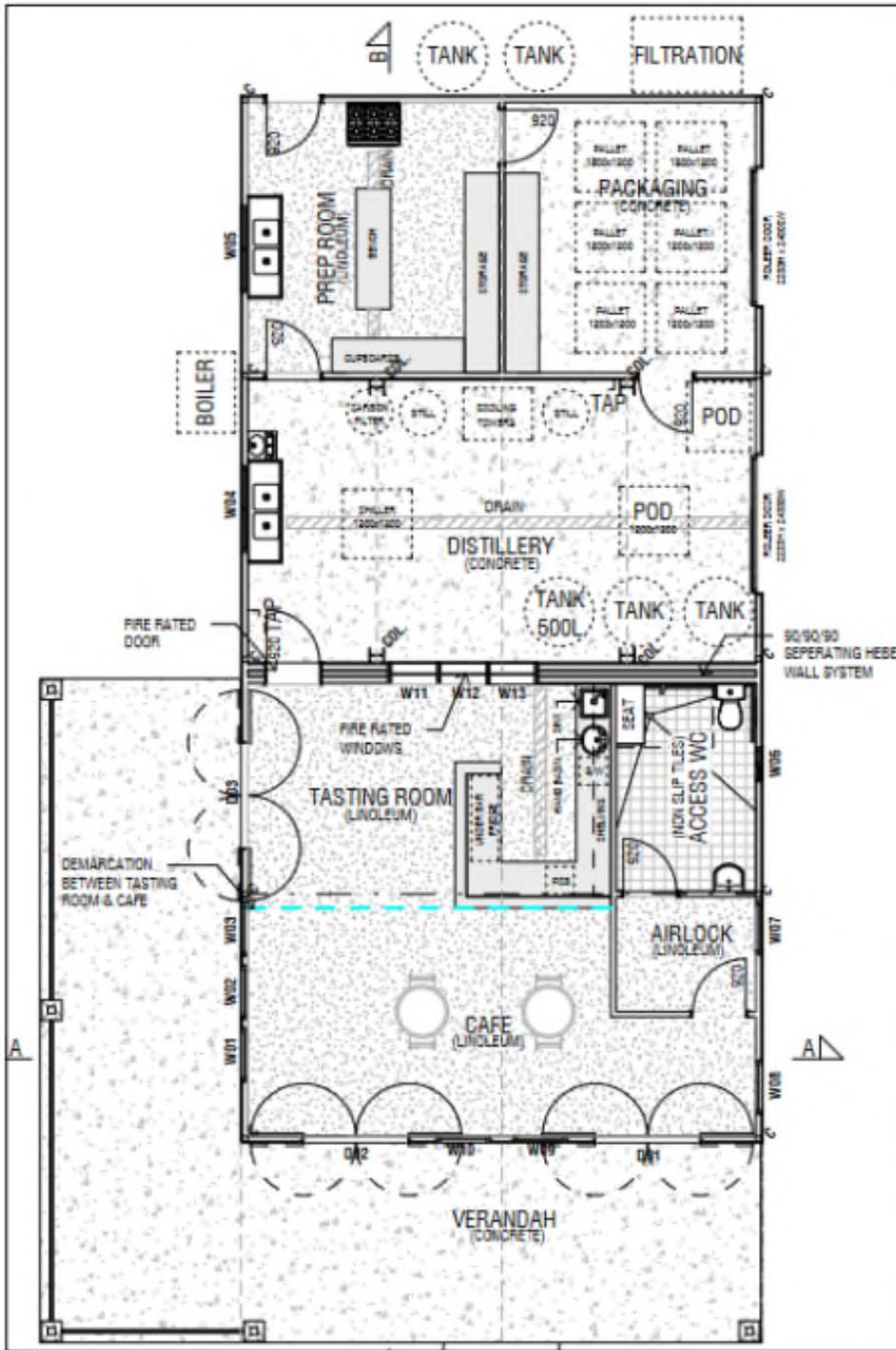


Figure 5: Building floor plan. Source: SEE and Plans



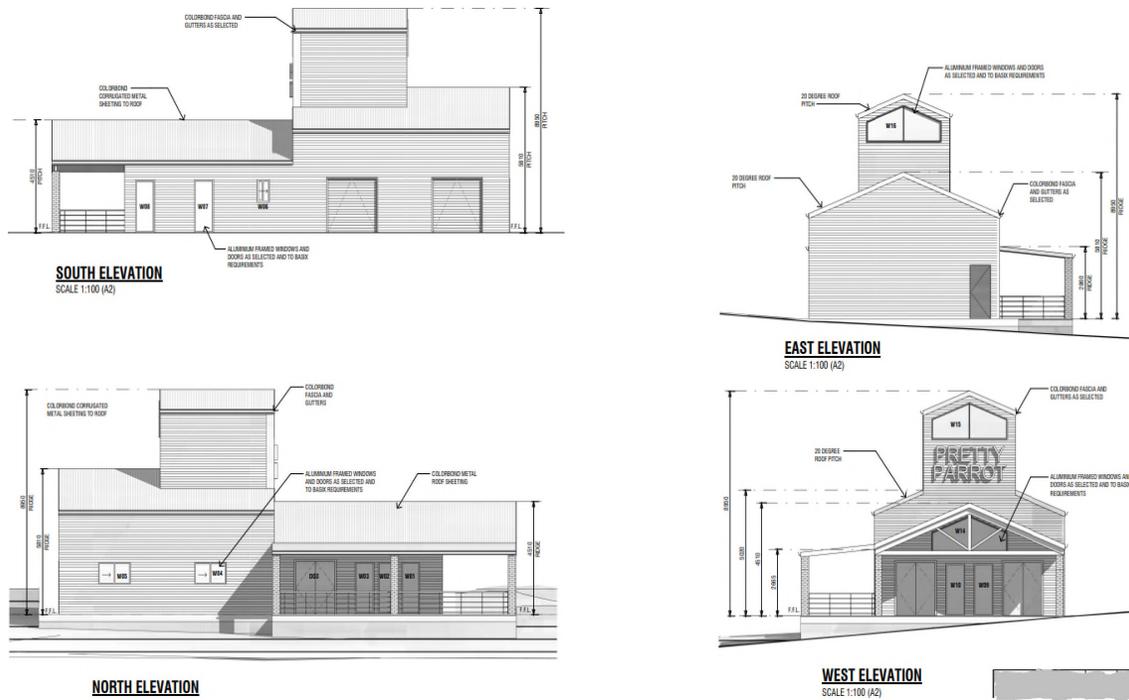


Figure 7: Elevations. Source: SEE and Plans

In summary, the operation of the facility is proposed to include:

- A maximum of 12 guests/patrons at any one time.
- A café area component will provide 3-4 tables and up to 12 chairs
- An appointment system will be used to manage the attendance of patrons and guests at the site. The available hours for bookings will be 10 am to 8 pm, seven days a week.
- Situated in front of the building is a parking area for seven cars. The development provides one accessible parking space with accessible path along the side of the building.
- The business will employ two full time staff.

**REPORT:**

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

**State Environmental Planning Policies**

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

A number of State Environmental Planning Policies were amended to reflect new legislation that was introduced on the 1st March 2022. Council has assessed the proposal in accordance with the new SEPP provisions however given the application was lodged on 21 November 2021 it can operate under and be assessed by the former provisions that applied at that time.

**State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP (RH) 2021)**

Clause 3.11 Preparation of preliminary hazard analysis: A person who proposes to make a development application to carry out development for the purposes of a potentially hazardous industry must prepare (or cause to be prepared) a preliminary hazard analysis in accordance with the current circulars or guidelines published by the Department of Planning and submit the analysis with the development application.

The relevant publication is the January 2011 Hazardous and Offensive Development Application Guidelines - Applying SEPP 33 - State of New South Wales through the Department of Planning. The SEPP 33 Guidelines adopt a threshold screening approach by volume and traffic movements to determine if a development is potentially hazardous, and therefore if a Preliminary Hazard Analysis (PHA) is required. With respect to risk screening, the ethanol (Ethyl Alcohol) bought to the site is a Class 3 Packing Group II (3PGII) Dangerous Good. Packing Group II refers to medium risk. Table 1 (below) of the Guidelines applies.

**Storage and Processing**

With respect to risk screening, the ethanol (Ethyl Alcohol) bought to the site is a Class 3 Packing Group II (3PGII) Dangerous Good. Packing Group II refers to medium risk. Figure 8 (below) of the Guidelines applies.

**Table 1: Screening Method to be Used**

<b>Class</b>	<b>Method to Use/Minimum Quantity</b>
1.1	Use graph at Figure 5 if greater than 100 kg
1.2-1.3	Table 3
2.1 — pressurised (excluding LPG)	Figure 6 graph if greater than 100 kg
2.1 — liquefied (pressure) (excluding LPG)	Figure 7 graph if greater than 500 kg
LPG (above ground)	table 3
LPG (underground)	table 3
2.3	table 3
3PGI	Figure 8 graph if greater than 2 tonne
3PGII	Figure 9 graph if greater than 5 tonne
3PGIII	Figure 9 graph if greater than 5 tonne
4	table 3
5	table 3
6	table 3
7	table 3
8	table 3

**Note:** *Classes 1.4, 1.5, 1.6, 2.2, 7 and 9 are excluded from the risk screening. Classes used are those referred to in the Dangerous Goods Code and are explained in appendix 6.*

If Table 1 indicates that a graph is to be used: If the quantity is below the minimum quantity in Table 1, then it is not potentially hazardous and there is no need to use the graph.

Using the appropriate graph, plot the group total quantity against the distance from the nearest boundary. If the point lies below the screening threshold line, the proposed development is potentially hazardous.

For class 3 materials only, if storage is underground, the capacity of the tank should be divided by five prior to assessing it against the screening threshold.

If Table 1 indicates that Table 3 is to be used: If the quantity is in excess of the quantity listed in Table 3, the development is potentially hazardous.

Repeat this procedure until all hazardous materials have been assessed.

#### Consider Transportation Issues

The proposed development may be potentially hazardous if the number of generated traffic movements (for significant quantities of hazardous materials entering or leaving the site) is above the annual or weekly cumulative vehicle movements shown in Table 2.

If the proposal is found to be potentially hazardous with respect to transportation, a route evaluation study should be completed in accordance with the Department of Planning's *HIPAP 11: Route Selection*.

Figure 8: Applying SEPP 33 - Table 1.

Source: [Microsoft Word - Applying SEPP 33 Final 2011.doc \(nsw.gov.au\)](#) (pg. 17)

If the quantity is below the minimum quantity in Figure 1, then the amount is unlikely to represent a significant risk and therefore is not potentially hazardous. The total volume of ethanol and finished product expected to be on site at any one time is 4,000 litres (see Table 9). Therefore, the amount is unlikely to represent a significant risk and therefore is not potentially hazardous.

Room	Product	Source	Volume in litres
<b>Distillery room</b>	Ethanol	2 stills @ 300 litres each	600
	Ethanol	Pod (full)	800
	Ethanol	Pod (approx. 10% remaining)	100
	Blended product	Blended product during production, 3 tanks @ 500 litres each	1,500
<b>Preparation &amp; packing room</b>	Gin & liquor	6 pallets, each holding 150 litres of finished product	900
<b>Tasting room</b>	Gin & liquor	Display shelving and under bench storage	100
<b>retail area</b>	Gin & liquor	(estimated maximum amount)	
			<b>4,000</b>

Figure 9: Storage and processing volumes. Source: SEE and Plans

For the purposes of SEPP (RH) 2021, a hazardous storage establishment is included in the definition of potentially hazardous industry. SEPP (RH) 2021 will apply if a proposal for an industrial development requires consent, and it is either potentially hazardous industry or potentially offensive industry (or both). Because the stored materials are not potentially hazardous the proposal is not potentially hazardous and does not require the preparation of a Preliminary Hazardous Analysis.

### Transportation

The proposed development may be potentially hazardous if the number of traffic movements generated (for significant quantities of dangerous goods entering or leaving the site) is above the annual or weekly cumulative vehicle movements shown in Figure 10 (below) of the Guidelines. The threshold for 3PGII/3GIII goods is more than 45 weekly trips of bulk goods of three tonnes. The SEE states that for the subject development, less than two deliveries per fortnight, each of less than 1 tonne, are expected.

The SEE also states that transport of finished product from the site will be less than two deliveries per fortnight, each of less than one tonne. Transportation of the ethanol and finished product is below the screening threshold. Regarding transportation, the proposal is not potentially hazardous and does not require the preparation of a Preliminary Hazardous Analysis.

**Table 2: Transportation Screening Thresholds**

Class	Vehicle Movements		Minimum quantity*	
	Cumulative Annual	Peak or Weekly	per load (tonne)	
			Bulk	Packages
1	see note	see note	see note	
2.1	>500	>30	2	5
2.3	>100	>6	1	2
3PGI	>500	>30	1	1
3PGII	>750	>45	3	10
3PGIII	>1000	>60	10	no limit
4.1	>200	>12	1	2
4.2	>100	>3	2	5
4.3	>200	>12	5	10
5	>500	>30	2	5
6.1	all	all	1	3
6.2	see note	see note	see note	
7	see note	see note	see note	
8	>500	>30	2	5
9	>1000	>60	no limit	

**Note:** Where proposals include materials of class 1, 6.2 or 7, the Department of Planning should be contacted for advice. Classes used are those referred to in the Dangerous Goods Code and are explained in Appendix 7.

\* If quantities are below this level, the potential risk is unlikely to be significant unless the number of traffic movements is high.

#### Determine Whether SEPP 33 Applies

If any of the above tests result in a screening threshold being exceeded, the proposed development should be considered potentially hazardous and SEPP 33 will apply. In such cases, a preliminary hazard analysis (PHA) must be submitted with the development application. The PHA should be prepared in accordance with *Hazardous Industry Planning Advisory Paper No. 6 — Hazard Analysis*. An outline of the requirements for the preparation and assessment of a PHA is given in Appendix 5.

Figure 10: Applying SEPP 33 - Table 2.

Source: [Microsoft Word - Applying SEPP 33 Final 2011.doc \(nsw.gov.au\)](#) (pg. 18)

#### State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP (RH) 2021)

- **Clause 4.6** – Contamination and remediation to be considered in determining a development application.

Council has undertaken a desktop review of the previous uses of the land and also has conducted a site inspection of the premises to ensure that there are no contamination issues present. The former use of the site includes agricultural pursuits.

From a site inspection, no evidence of animal dips or chemicals or hazardous waste could be identified. The land is not considered to be contaminated, nor does it require remediation for the purposes of the development.

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

- **Clause 3.6** – Is the land potential koala habitat?

Given the vegetation types observed on the land and also the location of any vegetation, the land is not considered to be potential Koala Habitat as defined within the SEPP.

### **Local Environmental Plans**

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

- **Clause 1.2 Aims of the Plan**

The aims of the Tumut Local Environment Plan 2012 are:

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

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

- **Clause 1.4 - Definitions**

The proposed development comprises of the construction of an ancillary attached shed to facilitate an activity as a micro-distillery, as defined in the Tumut LEP 2012.

*Artisan food and drink industry* means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following—

- (a) a retail area for the sale of the products,
- (b) a restaurant or cafe,
- (c) facilities for holding tastings, tours or workshops.

Artisan food and drink industries are a type of *light industry*.

*Light industry* means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following—

- (c) artisan food and drink industry.

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

The subject site is zoned RU1 Primary Production under the provisions of the Tumut LEP 2012 (LEP) (see Fig. 11 below).

Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To protect, enhance and conserve the natural environment, including native vegetation, wetlands and wildlife habitat.
- To ensure development prevents or mitigates land degradation.
- To protect significant scenic landscapes.

The proposal is generally consistent with the overall objectives of the zone.

Within this zone the following land uses are permissible with Council's consent. Both are innominate land uses:

- *'Artisan food and drink industry' and*
- *Light industry'*

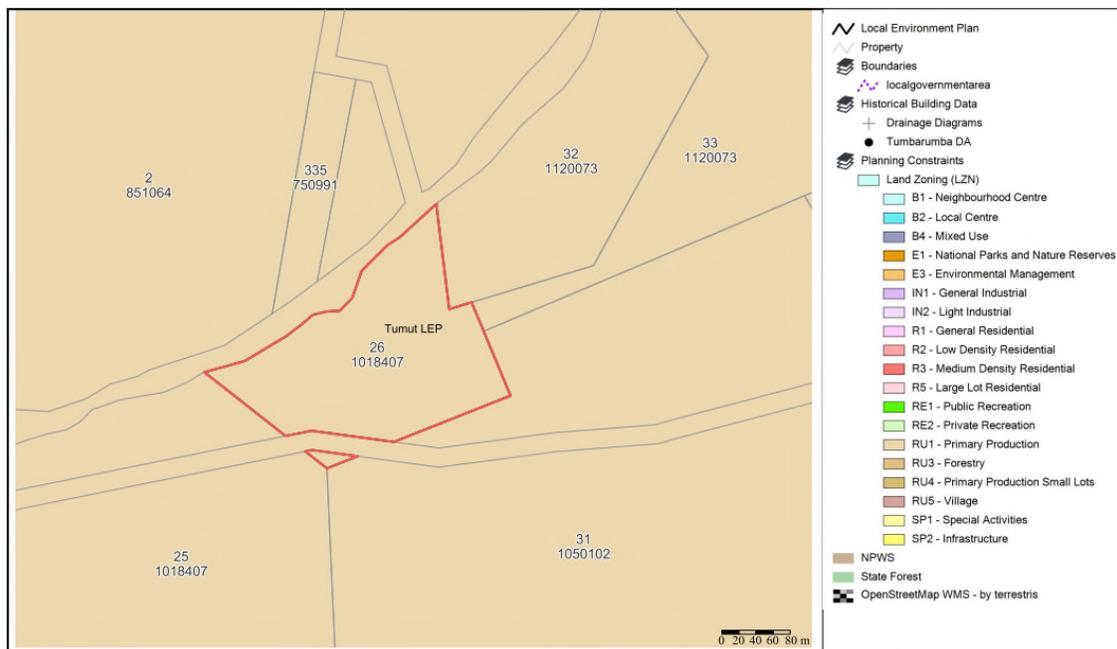


Figure 11: Zoning Map of Subject Site and Locality. Source: SVC IntraMaps

- **Clause 5.4** - Controls relating to miscellaneous permissible uses

Artisan food and drink industry exclusion If development for the purposes of an artisan food and drink industry is permitted under this Plan in ... a rural zone, the floor area used for retail sales (not including any cafe or restaurant area) must not exceed—

- (a) 25% of the gross floor area of the industry, or
  - (b) 400 square metres,
- whichever is the lesser.

Within this development proposal, the gross floor area of the industry is 164m<sup>2</sup>. The tasting/retail product sales area is 23m<sup>2</sup>, or 14% of the industry. The proposal therefore meets the prescriptive standards under this clause.

- **Clause 6.4** - Groundwater vulnerability and wastewater

(2) This clause applies to land identified as “Groundwater Vulnerability” on the LEP Groundwater Vulnerability Map (refer Figure 12 below). Part of the land adjoining the river is mapped for groundwater vulnerability. This has implications for the treatment of wastewater on site from the development. Clause 6.4 applies to land identified as “Groundwater Vulnerability” on the Groundwater Vulnerability Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following—

- (a) the likelihood of groundwater contamination from the development (including from any on-site storage or disposal of solid or liquid waste and chemicals),
- (b) any adverse impacts the development may have on groundwater dependent ecosystems,
- (c) the cumulative impact the development may have on groundwater (including impacts on nearby groundwater extraction for a potable water supply or stock water supply),
- (d) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Sewerage and Liquid waste are proposed to be disposed of via onsite gravity sewer lines to the existing bio-septic tanks for processing to grey water. The bio-septic then discharges via a pumped treated sewer line to an effluent disposal area to the south as identified in concept sewer plan within the application. The existing septic tank and effluent will also be pumped to this disposal. The disposal area is required to be a min of 265m<sup>2</sup> to dispose of the discharge effectively and safely. A geotechnical land capability report and proposed sewer plans for the development have been provided in support of the application. The bio-septic manufacturer identifies that the existing system retains the capacity for the additional loading from the development.

Spill containment within the process area is proposed to be managed on site by an emergency spill tank which is located downhill of the proposed building and has a min capacity of 110% of the proposed max tank. The tank is to be monitored for level and PH and will be balanced to a neutral pH before discharge to the surrounding gardens or by pump-out by waste disposal company.

Stormwater on the site is to be connected to rainwater tanks for use after filtering in the distillation process and any excess to this process is proposed to be used to water the surrounding gardens.

The cumulative impact on the ground water is considered to be minimal, considering the surrounding catchments and there is no proposed extraction of ground water as part of this application.

Development consent may be considered to development on land to which this clause applies because the consent authority is satisfied that the development is designed, sited and will be managed to avoid any significant adverse environmental impact.



Figure 12: Groundwater vulnerability mapping. Source: NSW Planning Portal

- **Clause 6.5 - Riparian lands and watercourses**

This clause applies to all of the following—

- (a) land identified as “Watercourse” on the Riparian Lands and Watercourses Map (refer Figure 13 below),
- (b) all land that is within 40 metres of the top of the bank of each watercourse on land identified as “Watercourse” on that map.

The proposed development site is greater than 40 metres from the watercourse on land identified as “Watercourse” on that map. Therefore, the clause does not apply.



Figure 13: Riparian lands and watercourses mapping. Source: NSW Planning Portal

- **Clause 6.8 - Landslide risk land and earthworks**

This clause applies to land identified as “Landslide risk land” on the Landslide Risk Map.(refer Figure 14 below).

The land is shown upon the landslide risk land layer; however, this is a landscape wide indicator, and the slope of the subject land is not excessive, there is a gradual fall to the northwest. Clause 6.8 of the LEP has certain provisions relating to landslide risk.

This application is accompanied by geotechnical information which establishes that the site is classified M-D: - Moderately reactive clay or silt sites (deep drying), which may experience moderate ground movement from moisture changes by reference to AS2870:2011. The development proposal requires earthworks to establish the platform for the proposed building. The earthworks (existing site cut and fill) are not excessive, and the existing gradient of the building location is not steep.

The slab for the new building will be engineered to suit these conditions and the site classification.

Site drainage will be diverted around the building and roof-water diverted to water tanks to ensure stable ground conditions. The application is accompanied by a drainage plan which indicates the treatment of stormwater to meet these requirements.

For the abundance of caution, should the application be supported Council should impose a deferred commencement condition requiring a geotechnical analysis of the land to be completed to ensure structural stability of the land.

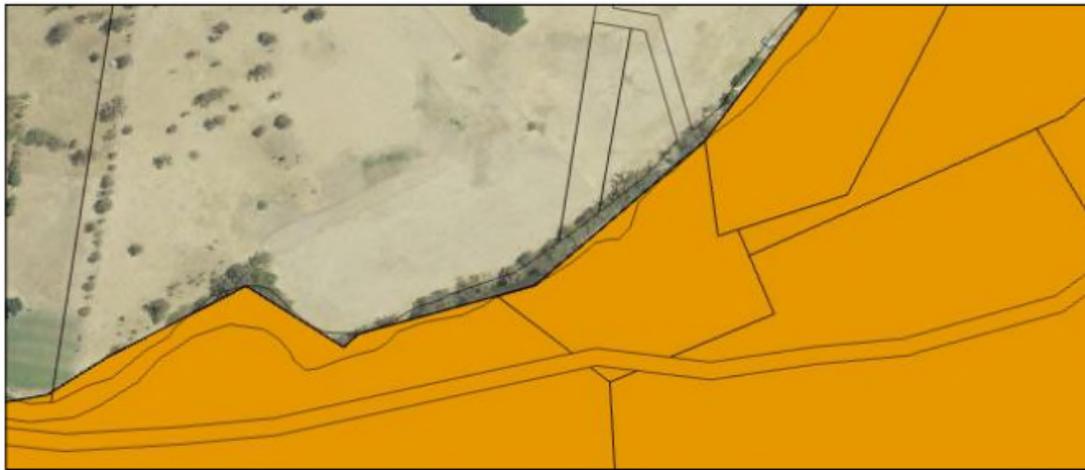


Figure 14: Landslide risk land mapping. Source: NSW Planning Portal

**Development Control Plans**

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

The application has been assessed in accordance with provisions of the Snowy Valleys Council Development Control Plan 2019 (SVC DCP 2019) that applies to the land.

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
3.2.1 Vehicle access standards	Vehicle access to all development is to be designed to be safe.	The existing vehicle access to the site will continue to be utilised. This arrangement is considered to be suitable for the proposed development.	Yes

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
3.2.2 Bushfire	n/a	The subject site is not mapped as being bushfire prone.	n/a
3.2.3 Carparking	The cellar door land use parking requirement is 1 space per 6.5 m <sup>2</sup> of GFA accessible to public and staff parking.	<p>There is no specific land use car parking rate that can be applied to the development. Where this is the case, Council can apply a like category which is considered to be appropriate. It is considered that applying the same rate as a cellar door premises in this instance is appropriate.</p> <p>The total area that is accessible to the public is indicated as 72.29sqm and includes the tasting room, the café, the airlock, and the accessible WC. The required amount of parking spaces for the proposed development is calculated at 12 (11.12) spaces.</p> <p>The development proposes a maximum of 8 spaces, including 1 accessible space. 2 staff members are proposed to be employed at the site, staff carparking can be accommodated in other areas of the site. Space is also provided for 2 minibuses to be accommodated on the site, potentially reducing the need for additional car spaces. There is sufficient room for any overflow parking on the site .</p>	Yes

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
		It is considered that the amount of formed, marked carparking provided onsite is suitable for the proposed development and a variation to the DCP requirements can be supported.	
3.2.4 Construction over Council land and services	n/a	No construction over Council land or services are proposed.	n/a
3.2.5 Contaminated land	n/a	The site is considered to be suitable in its current state for the proposed development.	Yes
3.2.6 Cut and fill	For any development the maximum level of cut must not exceed 1.0 metre below the ground level (existing) and the maximum level of fill must not exceed 1.0 metre above ground level (existing).	A maximum of 1m of cut and fill is required to facilitate the development. Some site preparation is required. The development is not considered to have proposed excessive earthworks. Conditioning of appropriate erosion and sedimentation controls measures considered to be appropriate.	Yes
3.2.7 Demolition	n/a	No demolition is required to facilitate the development.	n/a
3.2.8 Development near electrical easements	All proposed activities within and immediately adjacent to electricity easements and infrastructure require approval from the relevant utility providers.	An electrical easement is located on the subject land in proximity to the development site. Deferred commencement condition will be applied to the consent to maintain the easement requirements	Yes
3.2.9 Erosion & sediment control	Runoff is to be managed to prevent any land degradation including offsite	Erosion and sediment control measures will be required as part of any issued consent.	Yes

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
	sedimentation. Arrangements are to be implemented to instigate revegetation of earthworks to minimise erosion. Site activities must be planned and managed to minimise soil disturbance.		
3.2.10 Flooding	n/a	The development is outside of the flood planning area and the AHD level is above the known historical flood levels for the proposed development.	n/a
3.2.11 Heritage	n/a	There are no known heritage items on or near the site. Historically the site is highly disturbed, with the likelihood of artefacts being located on the site being low.	n/a
3.2.12 Landscaping	Landscape design is to enhance the visual character of the development and complement the design/use of spaces within and adjacent to the site.	There is existing landscaping on the site, and additional landscaping is proposed to enhance the aesthetic of the development.	Yes
3.1.13 On-site Wastewater Management (OSSM)	Where a site is not serviced by a reticulated sewerage system an approved wastewater management system is to be installed.	The site provides for a on site sewer management system. Supporting documentation has been provided in support of the application. Some concerns exist around the capacity of the current system however a section 68 application will be required prior to any commencement of the proposed development.	Yes
3.1.14 Provision of services	Where access to reticulated sewer is	There is no reticulated gas, water or sewer in	Yes

Clause	Prescriptive Control / Performance Standard	Commentary	Compliance
	<p>not available, arrangements must meet Council requirements in relation to OSSM.</p> <p>Where connection to the reticulated water supply system is not available, new development is to be provided with sufficient water storage.</p> <p>Development must be provided with an adequate connection to grid supplied electricity services or its equivalent.</p>	<p>this location. The development provides for onsite sewer management on the land and capacity will be assessed as part of any section 68 application.</p> <p>Collected rainwater is proposed to be utilised for the provision of water to the site.</p>	
3.1.15 Retaining walls	n/a	No significant retaining walls are proposed as part of this development.	n/a
3.1.16 Safer by design	Crime Prevention Legislative Guidelines requires that Council ensure developments provide safety and security to users and the community.	The proposed development generally is in accordance with Crime Prevention Through Environmental Design (CPTED) principles.	Yes
3.2.17 Stormwater / roof water Management	Stormwater, roof water and rainwater tank overflow must be collected and disposed of (under gravity) or, in rural areas, managed and retained within the site.	The development proposes the capture of rainwater for reuse during the proposed process. The development includes the installation of two rainwater tanks for re-use on the subject site.	Yes
8.3 Locality Based Controls - Goobarrandra Valley	n/a	Development site is not located in the valley (refer Figure 15 below).	n/a

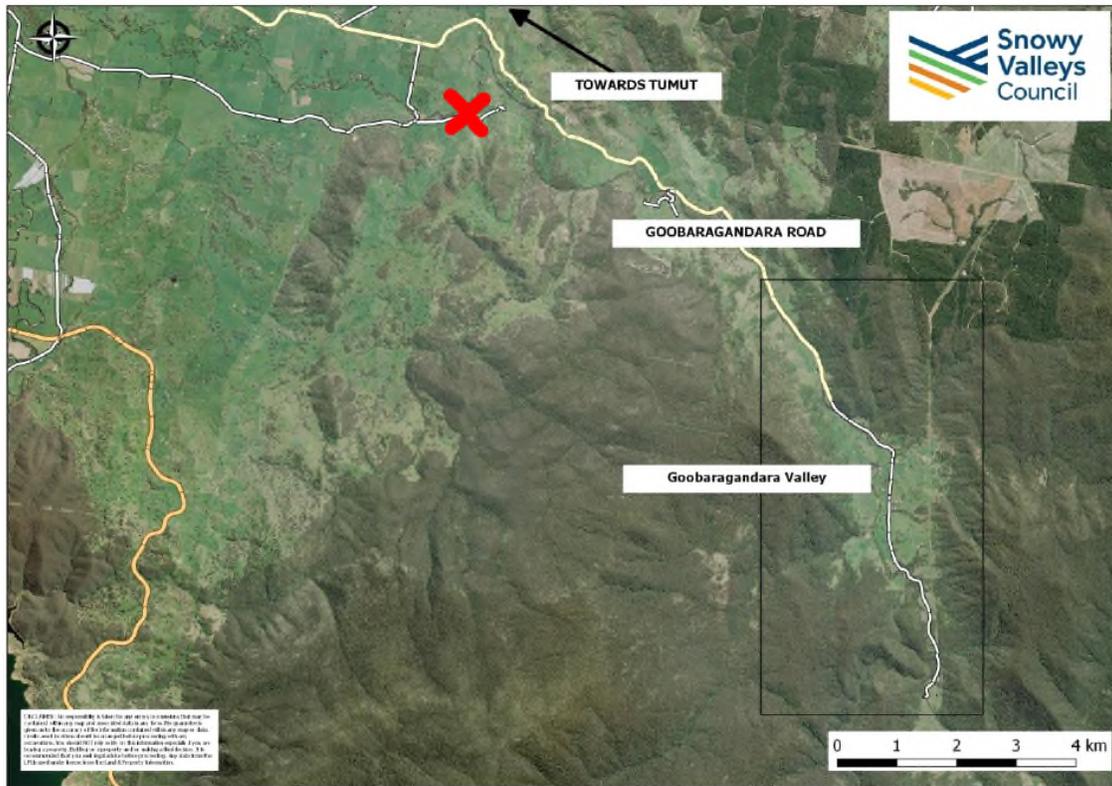


Figure 1 – Goobaragandara Valley

Figure 15: Location of Goobaragandara Valley, with development site marked in red. Source: SVC DCP 2019 (pg. 98).

Industrial Development	
Objectives	Response
<b>Air Quality</b>	The development is considered to have minimal impact on air quality in the location. No proposed process is anticipated to generate dust or particulate. Some odour may be generated, but is considered to be minimal given the materials used in the process and the sealed nature of the distilling equipment.
<b>Building Design</b>	The overall building design is consistent with the requirements of the DCP.
<b>Building Heights</b>	The overall building height is not considered to be excessive, given the requirements of the development, the adjoining development and the character of the existing area.
<b>Building Setbacks</b>	Adequate setbacks are considered to be proposed from the rural road (>20m) as required by the DCP.
<b>Car Parking &amp; Access</b>	Adequate carparking is provided on the site, in close proximity to the main entrance of the building. Existing fencing will be utilised, consistent with the rural character of the site, and additional landscaping will be provided to the front of the building. The proposed development is considered to be generally consistent with the requirements of this section of the DCP.
<b>Erosion &amp; Sediment Control</b>	See section above.
<b>Fencing</b>	Existing fencing will be retained.
<b>Flooding</b>	The development site is not mapped as flood prone land.

<b>Industrial Development</b>	
<b>Objectives</b>	<b>Response</b>
<b>Hazardous Goods and Site Contamination</b>	The proposed development has the ability to store any hazardous goods safely on site to the required standards.
<b>Industrial Retail Outlets</b>	The proposed retail aspect of the development is consistent with the requirements of the DCP, being not more than 25% of the floor area of the development.
<b>Industrial Development in Rural Areas</b>	The proposed development generally meets the requirements for industrial development in rural areas. It is noted that the DCP requires sealed access to be provided to the site, however it is considered that the scale and nature of the development does not require sealed access. No heavy vehicles are proposed to access the site on a regular basis. Adequate buffers have been proposed, noting the potential impacts of the development due to the scale and intensity of the operation.
<b>Landscaping</b>	Adequate landscaping is proposed on the site for the development as proposed. .
<b>Noise</b>	No significant noise impacts are anticipated as a result of this development. The development is considered to have minimal impact on the overall amenity of the site, taking into consideration the proposed processes and activities taking place on the site. Council could impose a condition that the operation of the facility does not emit noise greater than 5dBA above the background noise level at any boundary of the property.
<b>Open Space</b>	There is sufficient open space that is provided as part of the development on the site.
<b>Open Storage Areas</b>	No open storage areas are proposed as part of this development.
<b>Outdoor Lighting</b>	Condition external lighting not to directed to nearby residential dwellings or accommodation.
<b>Services</b>	Council sewer and stormwater not available in this location. Overall output of waste water considered to be minimal from the development. Disposal of waste water through onsite sewage management system considered to be appropriate. Adequate filtration and sediment trap systems to be installed at the direction of Council's EHO and other applicable guidelines.
<b>Signage</b>	No additional signage than the business identification signage and internal directional signage, as proposed, will be permitted. The proposed signage is considered to be suitable for this location and this development. Signage should not be illuminated.
<b>Site Coverage</b>	The proposed development will not exceed 60% of site coverage.
<b>Small Scale Industrial Developments</b>	The development is considered to be small scale industrial development for the purposes of this assessment and the applicable controls of the DCP. The requirement for sealed access to be provided to industrial development in rural areas is not required due to the small scale of the proposed development.
<b>Stormwater Management</b>	Council stormwater infrastructure not available in this area. Development is to maintain an adequate stormwater disposal system, including tanks. Stormwater must not be directed onto adjoining properties to cause ponding around existing buildings.
<b>Waste Management</b>	Waste is to be removed from the site to an approved waste management facility by a waste contractor. Excess waste is not anticipated to be generated by activities on the site.

It is considered that the proposal is consistent with all relevant controls of the Snowy Valleys Council DCP 2019. It is considered that the development is compliant with all other relevant controls of the DCP.

### **Planning Agreements**

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

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

### **Regulations**

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

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

### **Coastal Management Plans**

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

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

### **Impacts of the Development**

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

### **Context and Setting**

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

### **Site Design and Internal Design**

The overall site design and layout is considered to be adequate, responding to the challenges of the site including the topography. The proposed distillery has been located to the South West of the existing dwelling to create additional area between the building and the Goobagandra River.

### **Heritage**

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

### **Flooding**

The land is adjacent to the Goobarragandra River and accordingly is susceptible to flooding impacts. It is noted that the area nominated for the purposes of the construction of a Gin Distillery is outside of the flood planning area on the subject land and is located above the Australian Height Datum (AHD) of known historical flood heights in the area. No additional controls are required in terms of flood planning for behaviour or storage on the land.

## Suitability of the Site for the Development

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

Council's statutory controls permit artisan food and drink industry including light industry in the RU1 zone. The boutique low scale development is well suited to the proposed location being in a rural setting and being adjacent to other accommodation offerings. Whilst there are constraints associated with the site including geotechnical constraints and also environmental sensitivities, these constraints can be overcome through effective building placement and also operational controls being imposed through conditions of development consent.

The nature of the business being a low scale, light industry with low visitation rates is considered to be suitable for the rural context in which the activity is proposed to be located. It is not expected that there is likely to be any unmanageable impacts associated with the development that make the development unsuitable for the area.

## Submissions made in accordance with the Act or Regulations

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

Discussion surrounding any submissions made is outlined in the Community Participation Plan / Notification section of this report.

## Public Interest

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

The provision of additional agritourism and light industry options within the rural setting with appropriate controls to manage any associated impacts of the development is considered to be in the public interest. The development is likely to contribute to Council's place activation overall aims and objectives to facilitate new business opportunity and add to the local government area's economic mix.

Environmental sensitivities of the area can be appropriately managed through appropriate site design and conditions of development consent.

## CONSULTATION

### Pre-lodgement Meetings

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

Internal Referrals	Advice / Response / Conditions
Development Engineer	An internal referral was undertaken to Council's engineer concerning the merits of the project in particular access and egress issues and also pavement suitability and traffic. Given the expected number of vehicle movements onsite restricted through the application (ie maximum 12 passenger vehicles at any one time and up to 2 delivery vehicles in any fortnight period there is no requirement to upgrade the existing pavement. Conditions will be applied to any approval to restrict such movements.

### Community Participation Plan – Notification

The application was notified in accordance with the Council's Community Participation Plan between 24 November and 10 December 2021. Council notes that submissions were received outside of the nominated submission period. However, these have been considered as part of the overall assessment of the development application.

Council received a total of 14 submissions in relation to the proposal which were received outside of the formal submission period of November 2021.

### Submission Summary

Summary of Submission	Council's Response
Owner of property downstream, wanting Council to take the correct steps, due diligence and thoroughly investigate this development and its affect on the environment. Not opposed to the development, but concerned about the effect the pollutants and/or other discharges will have on the flora and fauna and grazing land.	A comprehensive assessment of the application has been undertaken under section 4.15 of the Environmental Planning and Assessment Act 1979 which has taken into account any potential impacts on the environment.
Unable to locate the application on Council's website.	Basic information was provided within the notification correspondence and additional information has been available at Council's administration building.
Concerns about how this development will affect the pristine river and the environment generally.	A comprehensive assessment of the application has been undertaken under section 4.15 of the Environmental Planning and Assessment Act 1979 which has taken into account any potential impacts on the environment.
Confidence in Council in relation to environmental protection will be severely impacted and confidence in purchasing or developing tourism will be reduced.	Noted.
Considers this to be a <i>Hazardous and Offensive Development</i> , as defined in the SEP Policy No.33.	The proposal triggers the requirement for assessment under State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP (RH) 2021). That assessment has not identified that the proposal is not potentially hazardous and does not require the preparation of a Preliminary Hazardous Analysis
Consider the SEE of 12.11.21 has outdated aerial photographs that are misleading and provide a false impression of the current state of the potential site and surrounding area when considering the impact of the development.	The application has utilised aerial mapping that was available by six maps that can be outdated. Council's assessment has involved a detailed site inspection.
Potential for fire occurring in the micro brewery and the potential impact on the local environment in terms of treated waste products through irrigation of surrounding vegetation will have an effect on the water table and potential run-off into the Goobarragandra River.	The storage of flammable liquids are in a seal system and have been appropriately banded in accordance with the relevant standards. Irrigation of treated sewerage is only proposed on the subject land. This will be undertaken in accordance with the standards for onsite sewer management and regulated by Council.
what measures have been put in place to prevent and contain a fire should this occur. There are high volumes of flammable liquids onsite.	Any consent issued will require an operational management plan including plans for management and mitigation of any fire risk. Small volumes of alcohol will be stored onsite to manage such risk.
Volume of guests visiting the distillery? What is limit? Concerns are also raised if functions and outdoor events are held here the disturbance could run late into the evening.	The development proposes a booking system to limit guest / patrons of the facility to a maximum of 12 people.
Do not wish to 'stifle' the establishment, however ask Council to consider if the proposed development will comply with the current RU1 Primary Production zoning of the land. Does this development contravene this zoning when allowing use that will interfere with the amenity of the neighbourhood by reason of smell, vapour, steam, waste water and waste products?	The development is permissible within the zone and any environmental impacts have been considered as part of the assessment of the development application.

Summary of Submission	Council's Response
Concerns expressed over the adverse impact the distillery will have to the Goobarragandra River in relation to environment, wildlife and tourism.	A comprehensive assessment of the application has been undertaken under section 4.15 of the Environmental Planning and Assessment Act 1979 which has taken into account any potential impacts on the environment.
Have the requirements of the EPA in this matter been met?	The EPA has not been required to be notified of this application as it is not a scheduled activity.
What public consultation has taken place? Not able to find any readily available documentation or advisories around this project.	The application was neighbour notified in accordance with Council's adopted CPP.
Concerns expressed over the adverse implications this application may have on the most pristine and ecological sensitive at-risk region in the LGA.	An assessment has been undertaken under section 4.15 and appropriate conditions will be applied if the development is supported to ensure that the environment is protected.
Also a concern is noise and odour complaints and pollution, decline of vegetation, water quality, heavy metal in soils where waste is applied to the ground, affecting groundwater flowing to other properties.	A condition of development consent will be applied to ensure that noise impacts do not affect the adjoining residents and in compliance with the industrial noise policy. Due to the nature of the production process it is not expected that there will be any odour generation however conditions will be applied to manage this. No waste is proposed to be land applied beyond standard on site sewer management by products.
Objection to the development as concerned about the adverse impacts on the environmentally sensitive Goobarragandra Valley.	A comprehensive assessment of the application has been undertaken under section 4.15 of the Environmental Planning and Assessment Act 1979 which has taken into account any potential impacts on the environment.
This correspondence does not object to the proposal, however is wanting Council to process the DA in the correct manner. Particularly as the Goobarragandra Valley is considered a highly sensitive area	The application has been assessed in accordance with the provisions of section 4.15.
Concern the development application has not been through the appropriate process, accountability and meeting all EPA requirements. The environmentally sensitive area could potentially be damaged by this distillery.	The application has been comprehensively assessed in accordance with the statutory controls.
Has consideration and due diligence been given by the current full Council and requirements such as environment, water, air pollution, fire, roads, and transport identified	The application has been comprehensively assessed in accordance with the statutory controls.
Visitation to the area. Has there been any public consultation? Has the EPA been consulted and where can their advice be viewed? Will the project meet the EPA and Water requirements	Notification of the application was undertaken in accordance with Council's adopted CPP. The application has not triggered any referral requirements to the EPA and therefore no response was received from the authority. The application has met the requirements under s 4.15.
Will the public be fully informed of the final decision of the development?	Any person who has made a submission will be advised of the determination outcome of the application.
This correspondence does not object to the proposal, however is wanting Council to process the DA with due diligence.	The application has been assessed in accordance with the provisions of section 4.15 and associated heads of consideration.
This correspondence does not object to the proposal, however is wanting Council to process the DA with due diligence.	The application has been assessed in accordance with the provisions of section 4.15 and associated heads of consideration.

Summary of Submission	Council's Response
Potential issue of adequate foundations which flows from material lodged in support of the DA. We were informed that Council Engineers had not reported on that issue as yet.	Foundations for any proposed structure will be considered as part of a construction certificate. A condition of development consent will be applied (via deferred commencement) to enable a geotechnical analysis to be provided for the purposes of land stability.
In relation to the servicing road we were informed that DCP permits a discretion in Council in that regard and that the road will not need to be sealed. I have subsequently reviewed the DCP and will be making a submission as to its proper interpretation. The fact is that the road is barely capable of coping with the current level of traffic.	Council's engineers have assessed the current road infrastructure and have advised that the road is appropriate for the expected traffic numbers servicing / attending the development. It is not expected that this development would trigger any road upgrades.
Council Officer was informed that in the original DA Essential Energy advised Council that the transformer servicing the property and Elm Cottage was incapable of providing the extra power required. Council staff were unaware of that and had made no enquiry of EE in relation to the current DA.	Electrical connections including servicing upgrades are not a consideration as part of the assessment of the application. Any additional requirements or upgrades are a private matter between the applicant and the relevant electrical authority.
The original DA provided for a generator which will no doubt cause noise when in use. That does not appear in the current DA.	The application does not propose a generator on the site. A condition of development consent will be applied which requires any noise generating activities to not exceed 5dBA above the background noise level.
The original DA also made provision for a Bond Store which does not appear in the current DA. The plans indicate that the scope of the plant in the current DA is significantly less, but there is considerable room for expansion within the proposed building. Council staff indicated a further DA would need to be lodged to permit expansion should the current DA be approved. Will the Applicants' be asked if they have any plans to expand the operation. The original DA indicated an intention to export their product which was consistent with the provision of a Bond Store.	Council can only assess the application that has been submitted which does not make provision for any 'bond store'. If approved, any future development beyond any approval will require development consent of Council under a separate application.
The original DA provided for a juniper plantation which requires irrigation. I understand that the junipers have been planted but no provision for irrigation appears in the current DA. It was provided for in the original DA but seemed inadequate. As you would be aware drawing water from the river is permitted for stock and domestic purposes only.	The assessment of the application only focussed on the merits of the current proposal. The landscaping as prescribed is outside of the current proposal and installation of junipers does not require development consent of Council.
Email to Council in her capacity as a spokesperson in relation to a concern by a local resident about proposed distillery, claiming it would be environmentally unsound. Also unable to locate the DA on Council's website, why is not on public exhibition?	The application has been assessed in accordance with the provisions of section 4.15.  The application was neighbour notified in accordance with the adopted CPP with basic information provided.
Concerns that this development will impact the high environmental value and natural beauty of the Goobarragandra upstream of the Little River bridge with the proposed development itself being too close to the river. Odours, traffic congestion, pollution and noise are also a concern.	A comprehensive assessment of the application has been undertaken under section 4.15 of the Environmental Planning and Assessment Act 1979 which has taken into account any potential impacts on the environment.
this is the same person that years ago breached NSW Office of State Water regulations by excavating and partially damming off the Goobarragandra just in an attempt to form a swimming hole in the river for his children. I would suggest that the council investigate any historic breaches of property through The NSW Office of State Water.	Any compliance issues are a separate issue to the assessment of the merits of the current proposal. Noting this Council has made some initial enquiries to NRAR on 1 March 2022.

Summary of Submission	Council's Response
This development is within 40 metres of the high bank of a main watercourse that flows directly into the river and therefore comes under the title of a 'controlled activity area' with the 'Natural Resources Access Regulator' and as such would require them to be involved in any proposed development plan.	An assessment of the proposal indicates that the land is outside of the foreshore and therefore is not required to be referred to NRAR as a controlled activity.
Surely this sort of development would be better to either a property in town where waste issues can be dealt with by the properly designed and operated waste treatment plant, or on a large rural property that is well away from any major water courses.	Any proposed waste generated on the site will be managed by a waste contractor.
There is only one way in and out of the property and the road is hardly adequate for what traffic there is along it at present.	Council's engineers have assessed the proposal and advised that the current access arrangements are appropriate for the scale and nature of the development. It is not expected that there are any additional upgrade requirements.
Concerns about the adverse impacts on the environment if the development proceeds ie; chemical, waste and grey water waste and odours and noise pollution	The application has been assessed in accordance with the provisions of section 4.15 and associated heads of consideration. Development impacts have been appropriately addressed including management of waste impacts.
Sewerage concerns relating to capacity.	Supporting consultancy reports indicate that the existing onsite wastewater system will be satisfactory for increased wastewater flows from the distillery. The system for the existing house is likely an AWTS and an irrigation field has been engineered to meet the requirements of the existing household wastewater flows. It is unlikely to be suitable for the increased wastewater flows from a distillery and cafe however a condition will be applied to address capacity concerns prior to the issue of a CC or section 68 approval.
Access, carparking and vehicular movement in and out of the premises on a daily and extra volume if functions are approved to be held.	No functions are proposed as part of this development application. Additional consent will be required if functions are pursued and patron numbers are pursued beyond 12.
Bushfire prone	The site is not mapped as bushfire prone in accordance with the RFS mapping.
Proposed planting of Junipers trees	There is no current proposal for the planning of Junipers shrubs on the development site associated with this application.
A distillery with its use of ethanol is highly flammable.	The proposal triggers the requirement for assessment under State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP (RH) 2021). That assessment has not identified that the proposal is not potentially hazardous and does not require the preparation of a Preliminary Hazardous Analysis. The manufacturing system is a closed system however any mitigation of fire impacts will be required as part of an operational management plan.
Functions, Café or licenced restaurant and opening hours	Conditions of development consent will be applied for an Artisan Food and Drink Industry and the hours of operation will be limited to 10am to 8pm, 7 days per week.

Summary of Submission	Council's Response
Effectiveness of notification to nearby residents of the DA and the accessibility to all the contents held within the DA	The application has been notified in accordance with the provisions of the Community Participation Plan (CPP).
Concerns that the 'new' build will not be compliant with the heritage classification applied to the Goobarragandra Valley.	The land is not identified within schedule 5 of the Local Environmental Plan or on the state register.
The distillery is not a 'cottage industry', more suited to be situated amongst a declared industrial zone.	The development is permissible within the zone and will provide a boutique opportunity for agri-tourism with appropriate environmental controls.
Concerns on the disposal of waste water from proposed cafe and distillery and potential environmental concerns that this could contaminate the river that is also utilised for fishing and kayaking.	Any disposal of sewerage onsite will be subject to a section 68 application that will be licenced and regulated by Council. A condition of consent will be applied to any consent to ensure that an approval to install an OSSM is applied for along with an approval to operate.
Odour and air pollution is a concern	Due to the nature of the production process it is not expected that there will be any odour generation however conditions will be applied to manage this.
Access to the proposed building could interfere with rural livestock in surrounding properties	Existing access arrangements are proposed to be maintained. No additional accesses are proposed as part of this development.
Riparian rights will not cover the water requirements for this industry and a water allocation will be required.	The applicant will be required to demonstrate via a condition of development consent that a potable water supply is able to be secured and maintained.
Concerns that the constructed road is not on the surveyed corridor and is used with the goodwill of the title holder.	The current access arrangements are proposed to be maintained however a condition of consent will be applied to ensure that the access is surveyed and if required any access should be via the appropriate and legal access roads. (this may require some amendments and road construction).
The wastewater of both the café and the distillery should be disposed of at least at a distance from the river equivalent to the council's requirements for domestic grey water. Any other waste disposal on site should be approved by the EPA. It is not apparent that there is sufficient area and distance on this site to achieve this requirement.	Supporting consultancy reports indicate that the existing onsite wastewater system will be satisfactory for increased wastewater flows from the distillery. The system for the existing house is likely an AWTS and an irrigation field has been engineered to meet the requirements of the existing household wastewater flows. It is unlikely to be suitable for the increased wastewater flows from a distillery and cafe however a condition will be applied to address capacity concerns prior to the issue of a CC or section 68 approval.
There has already been problems on the river at the junction of Kells Lane and Little River Road requiring Council Declaration of an Alcohol Free Zone and frequent police presence. The approval of a Licenced Café here will only increase this problem.	The development will require the application for a liquor licence that will address the requirement of public safety.

## LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

### Integrated Planning and Reporting Framework: CSP Outcome 2028

Theme 1: Towns and Villages

**Delivery Outcomes**

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

**Operational Actions**

1.9.2 Develop new draft Local Environment Plan that harmonises current Tumut LEP and Tumbarumba LEP

**SUSTAINABILITY ASSESSMENT:**

N/A

**Financial and Resources Implications:**

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

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

**Costs and Benefits:**

N/A

**Policy, Legal and Statutory Implications:**

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

**RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC**

N/A

**OPTIONS:**

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

1. THAT the Council determine development application DA2021/0268 for a Food and Drink Industry – microdistillery at Lot 26, DP 1018407 **by way of approval** and the Council delegate to the Chief Executive Officer to apply appropriate conditions of development consent. This is the recommended option.
2. THAT the Council determine application DA2021/0268 for a Food and Drink Industry – microdistillery at Lot 26, DP 1018407 **by way of refusal** with Council providing reasons for refusal. This option is not recommended.
3. THAT the Council defer any decision relating to DA2021/0268 pending additional information. This option is not recommended.

Councillors must record their votes on the matter.

### **COUNCIL SEAL REQUIRED**

No

### **COMMUNITY ENGAGEMENT AND COMMUNICATION**

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

### **ATTACHMENTS**

Attachment 1 - Plans – 2-722 Little River Road, Little River (ID3171489) (under separate cover)

**11. MANAGEMENT REPORTS****11.4 PROVISION OF RECREATIONAL SPACE IN THE GLEN ESTATE TUMUT****REPORT AUTHOR:** MANAGER GROWTH AND ACTIVATION**RESPONSIBLE DIRECTOR:** EXECUTIVE CHIEF OF STAFF**EXECUTIVE SUMMARY:**

The Glen Estate Tumut has progressively been developed over 4 stages since 2008 resulting in the supply of 85 residential allotments with the final stage of the masterplan being delivered in 2019. In February 2022, an additional 35 lots were approved by Council on residual land to the South West of the existing estate taking the total to 120 residential lots.

The latest land release has prompted residents to make representations to Council to provide additional recreational opportunities within the subdivision including the purchase of an allotment for open space and associated recreational infrastructure.

The report seeks a Council position on the provision of recreational space within the Glen Estate or embellishment of other existing parks for the purpose of use by Glen Estate residents.

**RECOMMENDATION:****THAT COUNCIL:**

- 1. Receive the report on Provision of Recreational Space – The Glen Estate Tumut.**
- 2. Not proceed with the purchase of land in the Glen Estate for the purposes of recreational space.**
- 3. Commence investigations into the embellishment of Bottlebrush Close Tumut recreational reserve, including the provision of hardstand and also sporting equipment and Council investigate the provision of footpaths from the Glen Estate to the Bottlebrush Close recreation reserve.**
- 4. Fund any embellishment works through Councils open space contribution restricted funds.**

**BACKGROUND:**

The Glen Estate has been developed over a succession of four stages with the first stage having been released in 2006. A summary of the approvals issued are outlined below:

- Masterplan and stage 1 was approved in 2006 creating 42 lots.
- Stage 2 was approved in 2008 with 16 lots being created.
- Stage 3 was approved in 2019 with 11 lots being created
- Stage 4 was approved in 2019 with 11 lots being created.

A subsequent application was lodged in 2021 on residual land to the South West of the Glen Estate with a total of 35 lots being approved in February 2022. This portion of the subdivision has been marketed off the plan however a subdivision works certificate (SWC) has not been issued to date and accordingly the final stage of the subdivision has not been constructed. The construction of the latest approved subdivision is expected to be imminent once a Subdivision Works Certificate is issued.

The broader subdivision approvals throughout their various stages have not provided for public recreational space. From a review of Council's records, it would appear that Council has historically dating back to 2006, discouraged land being dedicated for open space and recreation due to increased maintenance costs associated with additional park and open space assets. Instead, Council has accepted open space contributions on a per lot basis.

On the 21 April 2022, a number of residents of the Glen Estate provided a presentation to Council seeking amongst other things to provide a dedicated recreational space within the subdivision. The developer has agreed to reserve one lot from sale for the purposes of enabling Council to consider recreational space provisioning. Any proposed lot would need to be purchased from the developer and would not be a land dedication given that they have paid the nominated per lot contribution.

#### **REPORT:**

that additional land will be dedicated for the purposes of a recreational space within the Glen Estate. These expectations have increased as a result of the number of lots released and also the younger demographic within the subdivision seeking additional recreational opportunities including open space for social interaction and minor infrastructure for active recreation opportunities.

Council through the deployment of its statutory assessment functions associated with land subdivision development, has historically discouraged the dedication of land by developers as it creates unwarranted additional maintenance burdens on the Council given its current recreational land portfolio and identified financial sustainability issues. Instead, Council has opted to levy open space contributions on a per lot basis which is currently \$1860 for the 2021/2022 financial year. This has provided Council with the flexibility to embellish existing parks and upgrade existing infrastructure rather than deploying new open space opportunities. In the case of the Glen Estate any provision of additional land for recreational purposes would be increasing Council's recreational land portfolio and associated liabilities.

The proponent of the Glen Estate has advised that there is opportunity for Council to purchase an allotment within the subdivision for the purposes of a park. The land would occupy a size of between 800 and 1,000 square metres and could be purchased utilising development contributions levied throughout other stages of the estate. Whilst the latest stage of the subdivision has been recently auctioned, there are a number of lots that could be considered for this purpose.

Section 9.3.4 of the Snowy Valleys Development Control Plan provides for criteria for recreational space within subdivisions, in particular that land will be large enough and level for passive recreation and is able to carry substantial recreation infrastructure, is within 400m of all dwellings and has good active surveillance. The plan identifies that Council will not accept 'pocket parks'. Any land developed for recreational space within the Glen Estate will be considered to be a 'pocket park' by definition.

An existing Council reserve operates to the North East of the estate, Bottlebrush Parkland Reserve, and is located within 400m of the Glen Estate. As an alternative to increasing Council's property portfolio and associated land maintenance costs, additional embellishment of the park could be considered to increase its usability and attractiveness to local residents including those of the Glen Estate.

Alternatively, investigations and consultation could commence with a view to decommissioning and disposal of the Bottlebrush Close asset and relocating such asset to the Glen Estate. Whilst such scenario would offset the maintenance liability, the transfer and set up costs would be significant. This is on the back of Council undertaking a special rate variation and also seeking to reduce its recurrent operational costs as part of its financial sustainability plan. Accordingly, minor embellishment works at Bottlebrush Close would be the preferred option to address both community needs and reduce Council's financial obligations.

## LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

### Integrated Planning and Reporting Framework: CSP Outcome 2028

Theme 5: Our Infrastructure

#### Delivery Outcomes

5.6 Provide high quality, safe and accessible open spaces and places for active and passive recreation

#### Operational Actions

5.6.1 Maintain Council's parks, gardens and reserves in accordance with agreed levels of service

### SUSTAINABILITY ASSESSMENT:

#### Financial and Resources Implications:

The purchase of land for the purpose of a recreational space in Glen Estate is likely to cost in the vicinity of \$140,000 that could be funded through Council's section 7.11 (formerly section 94) restricted funds. Ongoing recurrent maintenance costs including mowing, minor works and also equipment maintenance would need to be quantified and costed dependent upon the size and location of the allotment and added to the existing budget and asset plans for delivery in future years.

Any decommissioning of Bottlebrush Close Parkland Reserve would likely offset the cost of maintenance of any proposed recreation reserve in the Glen Estate however any decommissioning and public sale of the land will be likely to incur costs. Such costs would be required to be quantified as part of any business case.

Any embellishment of the Bottlebrush Close Parkland Reserve would be the most cost effective measure as Council would be utilising an existing land asset to provide localised recreational infrastructure from its open space contributions. Any embellishment would need to be quantified through a business case.

#### Costs and Benefits:

Financial Costs	Financial Benefits	Benefits	Opportunities
Estimated capital costs of land to be in the vicinity of \$140,000.  Recurrent maintenance costs associated with the proposal are unknown at this stage.	Nil. The potential sale and relocation of Bottlebrush Close Park will offset some of the costs of relocation of a park if pursued.	Provision of additional recreational facilities for the community.	It is likely that Council may sustain some reputational improvements as a result of providing additional community recreational facilities.

Given that Council has committed to a special rate variation including rationalisation of existing resources and recurrent costs, the benefits of provision of recreation space within Glen Estate is offset by the recurrent maintenance liabilities of such space.

**Policy, Legal and Statutory Implications:**

- Any property dealings including the sale and purchase land of the Council are required to be pursued through a Council resolution in accordance with the *Local Government Act 1993*.
- Any potential sale of Bottlebrush Close Parkland Reserve would require the transfer of the classification of land from 'Community Land' to 'Operational Land' in accordance with the *Local Government Act 1993*.
- Any expenditure associated with Council's Open Space Contributions Policy would be required to be undertaken in accordance with both the policy and the schedule of works associated with the policy. A review of the policy suggests that there is currently no schedule of works adopted and this will be required to be corrected going forward to ensure that any expenditure has a nexus to development and funds are released in a measured, targeted and strategic manner.

**RISK MANAGEMENT – BUSINESS RISK/WHS/PUBLIC**

Nil expected

**OPTIONS:**

1. THAT Council authorise the Chief Executive Officer to commence negotiations with the developer for the purchase of an allotment from within stage 5 of the Glen Estate for the purposes of providing a recreation space for local residents with funding being allocated from Council's open space contributions and that a further report be bought back to Council to finalise the sale.
2. THAT Council not proceed with the purchase of land in the Glen Estate for the purposes of recreational space and commence investigations into the embellishment of Bottlebrush Close Tumut recreational reserve, including the provision of hardstand and also sporting equipment and investigate the provision of footpaths from the Glen Estate to the Bottlebrush Close recreation reserve. Any embellishment works be undertaken and funded through Councils open space contribution restricted funds.
3. THAT Council undertake community consultation seeking to decommission and close Bottlebrush Close recreation reserve and relocate both the provision of open space and associated infrastructure to the Glen Estate.
4. THAT Council not proceed to purchase land within the Glen Estate for the purpose of providing recreational space and further take no action with respect to embellishment of Bottlebrush Close recreation space Tumut.

**Option 2 is recommended to Council.**

**COUNCIL SEAL REQUIRED**

Any property dealing of Council will require the Council seal to be affixed to any contract of sale

**COMMUNITY ENGAGEMENT AND COMMUNICATION**

Council has received a presentation from residents in the Glen Estate on the matter and has undertaken engagement with both the developer and concerned resident representative.

Any potential closure and sale of public land will require comprehensive community engagement.

It is expected that should Council purchase land for the purposes of a recreational space in the Glen Estate, the community would be consulted on the type of equipment and infrastructure proposed for the space.

It is not expected that Council would consult on any proposed location of the space within Glen Estate as this is a commercial matter for the Council.

**ATTACHMENTS**

Nil