



## BUSINESS PAPER

### ORDINARY MEETING OF COUNCIL

To be held on

Wednesday, 24 April 2024  
4pm

at

Armidale Council Chambers

#### **Members**

Councillor Sam Coupland (Mayor)  
Councillor Todd Redwood (Deputy Mayor)  
Councillor Paul Gaddes  
Councillor Jon Galletly  
Councillor Susan McMichael  
Councillor Steven Mephram  
Councillor Debra O'Brien  
Councillor Margaret O'Connor  
Councillor Paul Packham  
Councillor Dorothy Robinson  
Councillor Bradley Widders

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## **Ethical Decision Making and Conflicts of Interest**

### ***A guiding checklist for Councillors, officers and community committees***

#### **Oath or Affirmation of Office**

Councillors are reminded of the Oath or Affirmation taken of office, made under section 233A of the *Local Government Act 1993* when elected.

#### **Ethical decision making**

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

#### **Conflict of interest**

A conflict of interest is a clash between private interest and public duty. There are two types of conflict:

- ***Pecuniary*** – regulated by the *Local Government Act 1993* and Office of Local Government
- ***Non-pecuniary*** – regulated by Codes of Conduct and policy. ICAC, Ombudsman, Office of Local Government (advice only). If declaring a Non-Pecuniary Conflict of Interest, Councillors can choose to either disclose and vote, disclose and not vote or leave the Chamber.

#### **The test for conflict of interest**

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of 'corruption' – using public office for private gain.
- Important to consider public perceptions of whether you have a conflict of interest.

#### **Identifying problems**

**1st** Do I have private interests affected by a matter I am officially involved in?

**2nd** Is my official role one of influence or perceived influence over the matter?

**3rd** Do my private interests conflict with my official role?

#### **Local Government Act 1993 and Model Code of Conduct**

For more detailed definitions refer to the *Local Government Act 1993*, Chapter 14 Honesty and Disclosure of Interest and Model Code of Conduct.

#### **Disclosure of pecuniary interests / non-pecuniary interests**

Under the provisions of Section 440AAA(3) of the *Local Government Act 1993* (pecuniary interests) and the Model Code of Conduct it is necessary for you to disclose the nature of the

interest when making a disclosure of a pecuniary interest or a non-pecuniary conflict of interest at a meeting.

**A Declaration form should be completed and handed to the General Manager** as soon as practicable once the interest is identified. Declarations are made at Item 3 of the Agenda: Declarations - Pecuniary, Non-Pecuniary and Political Donation Disclosures, and prior to each Item being discussed: The Declaration Form can be downloaded at [Disclosures and Declarations of Interest at Meetings](#).

|                            |   |                             |
|----------------------------|---|-----------------------------|
| <b>Item:</b>               | <b>5.1</b>  | <b>Ref: AINT/2024/11902</b> |
| <b>Title:</b>              | <b>Minutes of Previous Meeting held 27 March 2024</b> | <b>Container:</b>           |
|                            | <b>ARC16/0001-8</b>                                   |                             |
| <b>Responsible Officer</b> | <b>General Manager</b>                                |                             |
| <b>Author:</b>             | <b>Melissa Hault, Executive Officer</b>               |                             |
| <b>Attachments:</b>        | <b>1. Draft OCM Minutes - 27 March 2024</b>           |                             |

**RECOMMENDATION:**

That the Minutes of the Ordinary Council meeting held on 27 March 2024 be taken as read and accepted as a true record of the meeting.

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|                            |   |                             |
|----------------------------|---|-----------------------------|
| <b>Item:</b>               | <b>7.1</b>  | <b>Ref: AINT/2024/13083</b> |
| <b>Title:</b>              | <b>Council Actions Report January 2022 - April 2024</b> | <b>Container:</b>           |
|                            | <b>ARC16/0001-8</b>                                     |                             |
| <b>Responsible Officer</b> | <b>General Manager</b>                                  |                             |
| <b>Author:</b>             | <b>Melissa Hoult, Executive Officer</b>                 |                             |
| <b>Attachments:</b>        | 1. Action Items Report - 17 April 2024                  |                             |

## **1. Purpose**

The purpose of this report is to inform Councillors on the work carried out by Council Officers to implement Council resolutions.

## **2. OFFICERS' RECOMMENDATION:**

That Council notes the report summarising the actions taken on the resolutions of Council.

## **3. Background**

This is a standard monthly report.

## **4. Discussion**

The resolutions outlined in the attachment have been previously adopted by Council. This report is designed to track progress on implementation from January 2022. Actions marked complete will be reported to Council once and then removed from subsequent reports.

## **5. Implications**

### **5.1. Strategic and Policy Implications**

The strategic and policy impacts of each of the resolutions are varied and were outlined in the original reports to Council.

### **5.2. Risk**

The risks of each of the resolutions are varied and were outlined in the original reports to Council.

### **5.3. Sustainability**

The sustainability impacts of each of the resolutions are varied and were outlined in the original reports to Council.

### **5.4. Financial**

The financial impacts of each of the resolutions are varied and were outlined in the original reports to Council.

## **6. Consultation and Communication**

This report informs Councillors and the community and increases transparency.

## **7. Conclusion**

The information is for noting only.

**Item:** 8.1 **Ref:** AINT/2024/14932  
**Title:** Cash and Investment Report 31 March 2024 **Container:** ARC17/1711  
**Author:** Ann Newsome, Chief Financial Officer  
**Attachments:** Nil

### 1. Purpose

Regulation 212 of the NSW *Local Government (General) Regulations 2021* requires the responsible accounting officer of a council to provide the Council with a written report, setting out details of all money that the council has invested under section 625 of the Act, to be presented each month and must include in the report, a certificate as to whether or not the investment has been made in accordance with the Act, the Regulations and the Council's investment policies.

This Cash and Investment report provides details of cash and investments held by Council for the month to 31 March 2024, and certifies compliance with Council's Investment Policy and the *Local Government Act 1993* and Regulations.

### 2. OFFICERS' RECOMMENDATION:

That Council note the Cash and Investment Report for March 2024.

### 3. Background

As at the date of the report, Council held \$119,281,007 in investments and \$12,657,275 in cash, giving a combined total of \$131,938,282.

#### Discussion

| Cash & Investment Balances                                 | Mar-24             | Feb-24             | Movement           |
|--|--------------------|--------------------|--------------------|
| <b><u>Cash at Bank</u></b>                                 |                    |                    |                    |
| NAB General Account  | -                  | -                  | -                  |
| NAB Cash At Call   | 11,258,688         | 13,541,875         | (2,283,187)        |
| AMP Saver Account  | -                  | -                  | -                  |
| NAB Trust Fund   | 1,398,587          | 1,393,829          | 4,758              |
| <b>Total Cash</b>  | <b>12,657,275</b>  | <b>14,935,704</b>  | <b>(2,278,429)</b> |
| <b><u>Investments</u></b>                                  |                    |                    |                    |
| NSW Treasury Corp (T-Corp) Investment Management (IM) Fund | 10,751,007         | 10,705,421         | 45,586             |
| Term Deposits  | 108,530,000        | 108,530,000        | -                  |
| <b>Total Investments</b>                                   | <b>119,281,007</b> | <b>119,235,421</b> | <b>45,586</b>      |
| <b>Total Cash &amp; Investments</b>                        | <b>131,938,282</b> | <b>134,171,125</b> | <b>(2,232,843)</b> |

**Summary of term deposit movements:**

| <u>Investments Redeemed</u> |           | <u>Investments Rolled</u> |            | <u>Investment New</u> |           |
|-----------------------------|-----------|---------------------------|------------|-----------------------|-----------|
| Institution                 | Amount \$ | Institution               | Amount \$  | Institution           | Amount \$ |
|                             |           | ING                       | 10,000,000 |                       |           |
|                             |           |                           |            |                       |           |
|                             |           |                           |            |                       |           |
|                             |           |                           |            |                       |           |
|                             |           | <b>Total</b>              | 10,000,000 |                       |           |

Funds from term deposit maturities are held in the NAB Cash at Call account and pending cashflow requirements, are invested in further term deposit investments. New investments and maturities during the month are detailed above.

Market expectations of future RBA rate rises appeared to have steadied, with a market expectation of a reduction in rates towards the end of the calendar year.

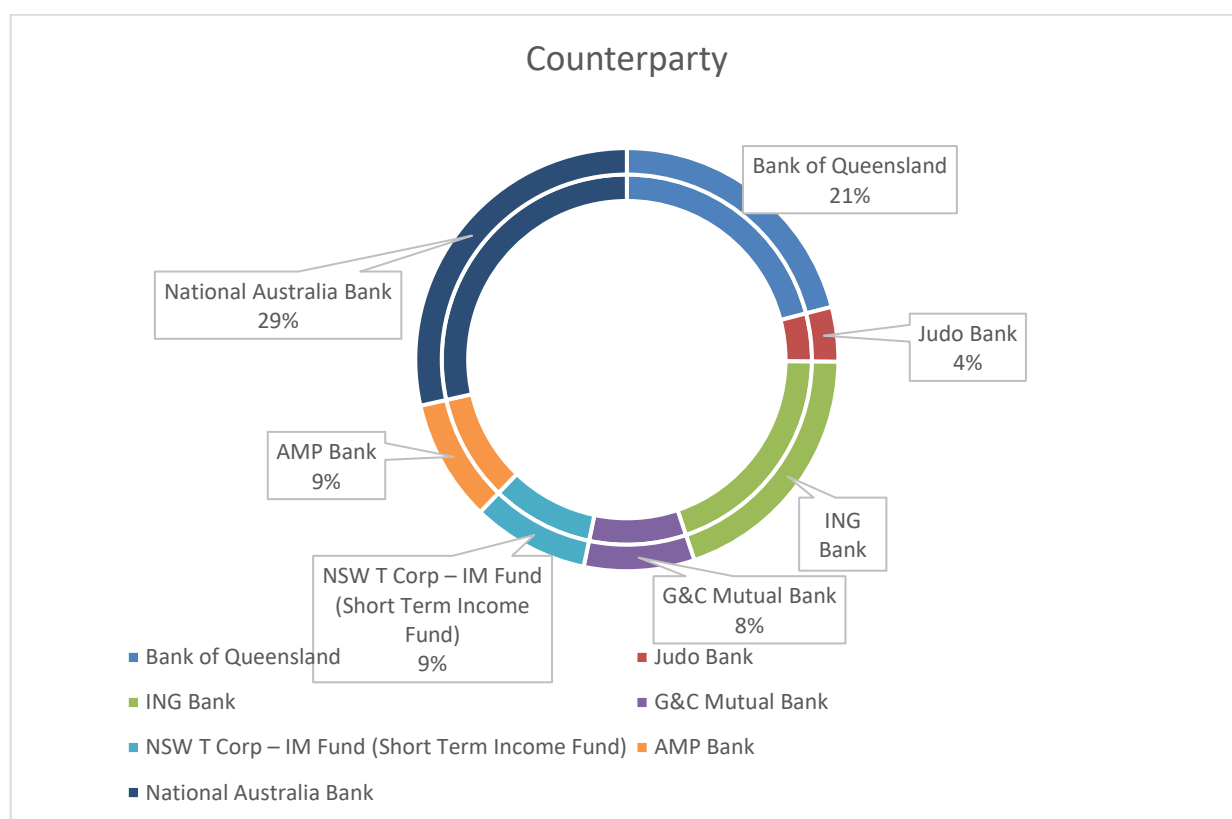
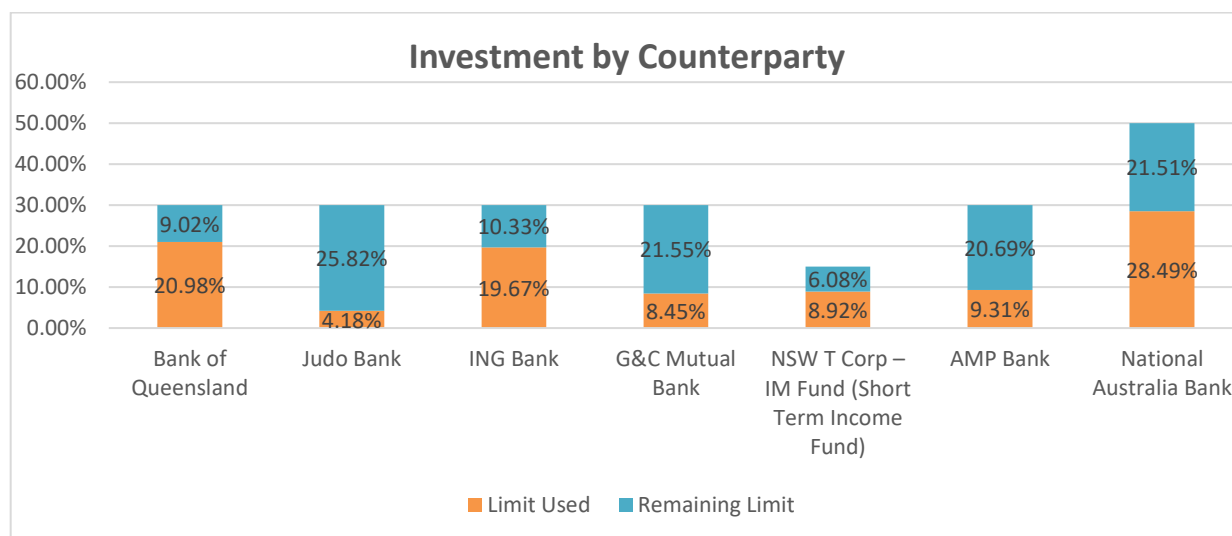
Council continues to monitor investment markets and continues to take a conservative position holding cash reserves, along with reviewing longer term investment options to take advantage of higher returns.

**Investment Revenue Earned**

|  | <b>Mar-24</b>  | <b>Feb-24</b>  | <b>Movement</b> |
|--|----------------|----------------|-----------------|
| <b>Interest Received – Bank Accounts</b>                   |                |                |                 |
| NAB General Account  | 1              | 1,253          | (1,251)         |
| NAB Cash At Call   | 46,083         | 54,178         | (8,095)         |
| AMP Saver Account  | -              | -              | -               |
| NAB Trust Fund   | 4,758          | 4,911          | (153)           |
| <b>Interest Received on Bank Accounts</b>                  | <b>50,842</b>  | <b>60,341</b>  | <b>(9,499)</b>  |
| <b>Interest Received - Investments</b>                     |                |                |                 |
| NSW Treasury Corp (T-Corp) Investment Management (IM) Fund | 42,292         | 51,183         | (8,891)         |
| Term Deposits  | 472,575        | 524,856        | (52,281)        |
| <b>Interest Received - Investments</b>                     | <b>514,867</b> | <b>576,039</b> | <b>(61,172)</b> |
| <b>Total Interest Received</b>                             | <b>565,709</b> | <b>636,380</b> | <b>(70,671)</b> |
| <b>Interest Accrued this month</b>                         | <b>438,700</b> | <b>322,155</b> | <b>116,545</b>  |

Note 1: Council holds an investment in the NSW T-Corp IM Fund – Short Term Income Fund.

Investments are diversified across a range of institutions, with funds invested to ensure the portfolio is aligned with the Investment Policy.

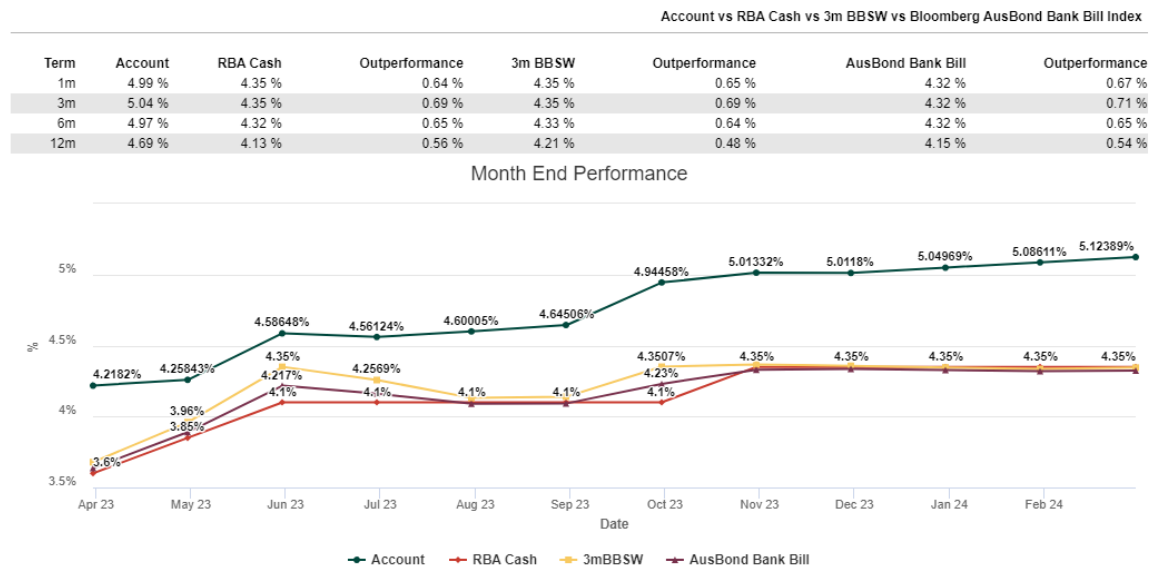


#### Certification:

I, Ann Newsome, Chief Financial Officer, hereby certify that the above investments have been made in accordance with the Regulation (Section 212), the *Local Government Act 1993* (the Act) (Section 625), and Council's Investment Policy (the Policy).



## Investment Yield



## 4. Implications

### 4.1. Strategic and Policy Implications

All of Council's investments for the period are in accordance with:

- Council Investment Policy
- *Local Government Act 1993* – Section 625
- *Local Government Act 1993* – Order of the Minister dated 12 January 2011
- The *Local Government (General) Regulation 2021* – Reg 212

The investment of surplus funds must remain in line with Council's Investment Policy. This will ensure sufficient working capital is retained and restrictions are supported by cash and investments that are easily converted into cash. Cash management complies with the *NSW Local Government (General) Regulation 2021*.

The Investment Policy relates to:

- Council's Community Plan 2022-2032 theme category of "Strong Region – Engagement and Responsibility" and related strategy of "Manage public resources responsibly and efficiently for the benefit of the community."
- Council's Delivery Program 2022-2026 includes initiatives S2.3.2 "Maintain financial sustainability by meeting Performance Ratios and Fit for the Future Benchmarks, while ensuring sustainable cash reserves to support service levels and assets" and S2.3.5 "Manage our assets responsibly to ensure greater lifespan and usability and to reduce financial burden".

- Council's Operational Plan 2022-23: Asset Management, Finance and Procurement, Governance, Strategy and Risk.

#### 4.2. Risk

Council invests in Term Deposits, Cash and the NSW Treasury Corporation Short Term Investment Fund which is a managed fund product. Rates of return on these investments are generally higher than the Bank Bill Swap (BBSW) Index. However, there will be lag between these rates if the BBSW moves quickly either up or down. Movement up may show as the BBSW being high as older council investments are held at lower historic rates. Conversely as the BBSW drops councils longer term investments maybe locked into higher rates of returns giving council a return advantage.

The recent history of increases in the official cash rate is detailed below:

| Date           | Rate Increase | Cash rate target % |
|----------------|---------------|--------------------|
| March 2023     | 0.25%         | 3.60%              |
| April 2023     | –             | 3.60%              |
| May 2023       | 0.25%         | 3.85%              |
| June 2023      | 0.25%         | 4.10%              |
| July 2023      | –             | 4.10%              |
| August 2023    | –             | 4.10%              |
| September 2023 | –             | 4.10%              |
| October 2023   | –             | 4.10%              |
| November 2023  | 0.25%         | 4.35%              |
| December 2023  | –             | 4.35%              |
| February 2024  | -             | 4.35%              |
| March 2024     | –             | 4.35%              |

Council's responsibility is to ensure working capital is retained and restrictions are supported by cash.

Council considers effective risk management practices exist over its cash and investment holdings.

#### 4.3. Sustainability

Council utilises an online Portfolio Platform to manage its investments and investment register. The number of investments has been rationalised allowing for more efficient internal investment management to be performed. Communication is performed by electronic means, resulting in efficiencies of processes and a reduction in the use of paper.

#### 4.4. Financial

|  |   |                                  |               |                  |                 |   |                         |
|--|---|----------------------------------|---------------|------------------|-----------------|---|-------------------------|
| <b>Budget Area:</b>  | Financial Services  |                                  |               |                  |                 |   |                         |
| <b>Funding Source:</b>   | General Fund (untied revenue)<br>Water Fund (externally restricted)<br>Sewer Fund (externally restricted) |                                  |               |                  |                 |   |                         |
| <b>Budget Ref: (PN)</b>  | <b>Description</b>  | <b>Approved Budget (Revised)</b> | <b>Actual</b> | <b>Committed</b> | <b>Proposed</b> | <b>Total Forecast (Income)/ Expense</b> | <b>Remaining Budget</b> |
| 210815.1.1760.<br>165.1670<br>260005.3.2590.<br>165.1660<br>280010.2.3310.<br>165.1650 | Interest Income on Investments  | \$2,720,000                      | \$4,053,553   |                  |                 |   |                         |
| 210815.1.1760.<br>333.2430   | Subscriptions   | \$48,300                         | \$28,154      | Nil              | Nil             | \$48,300                                | \$20,145                |

#### Restricted & Unrestricted Funds

As at 30 June 2023, total restricted and unrestricted funds were fully funded by cash and investments.

#### **Actual Position at 30 June 2023 (audited)**

| <b>\$'000</b>             | <b>General</b> | <b>Water</b>  | <b>Sewer</b>  | <b>Total</b>   |
|---------------------------|----------------|---------------|---------------|----------------|
| External Restrictions     | 30,368         | 30,347        | 29,303        | 90,018         |
| Internal Restrictions     | 34,154         |               |               | 34,154         |
| <b>Total Restrictions</b> | <b>64,522</b>  | <b>30,347</b> | <b>29,303</b> | <b>124,172</b> |
| Unrestricted              | 5,973          |               |               | 5,973          |
| <b>Total Funds</b>        | <b>70,495</b>  | <b>30,347</b> | <b>29,303</b> | <b>130,145</b> |

As at 31 March 2024, total restricted and unrestricted funds were fully funded by cash and investments.

**Calculated Position at 31 March 2024 (unaudited)**

| <b>\$'000</b>                | <b>General</b> | <b>Water</b>  | <b>Sewer</b>  | <b>Total</b>   |
|------------------------------|----------------|---------------|---------------|----------------|
| <b>External Restrictions</b> | 38,810         | 24,494        | 29,224        | 92,528         |
| <b>Internal Restrictions</b> | 33,597         |               |               | 33,597         |
| <b>Total Restrictions</b>    | <b>72,407</b>  | <b>24,494</b> | <b>29,224</b> | <b>126,125</b> |
| <b>Unrestricted</b>          | 5,813          |               |               | 5,813          |
| <b>Total Funds</b>           | <b>78,220</b>  | <b>24,494</b> | <b>29,224</b> | <b>131,938</b> |

**5. Consultation and Communication**

An Investment Report is required to be tabled at the monthly Ordinary Meeting of Council.

**6. Conclusion**

The Cash and Investment Report provides an overview of cash and investments for the month and demonstrates compliance with Council policy.

|                            |   |                              |
|----------------------------|---|------------------------------|
| <b>Item:</b>               | <b>9.1</b>  | <b>Ref: AINT/2024/04085</b>  |
| <b>Title:</b>              | <b>New England Rail Trail</b>   | <b>Container: ARC23/5955</b> |
| <b>Responsible Officer</b> | <b>Chief Officer Planning and Activation</b>  |                              |
| <b>Author:</b>             | <b>Annabelle Walsh, Senior Property Specialist</b>  |                              |
| <b>Attachments:</b>        | <ol style="list-style-type: none"><li>1. Regional Development Australia NERT Business Case</li><li>2. Business Case Attachments</li><li>3. NSW Public Works NERT Desktop Review</li><li>4. NSW Public Works NERT Project Program</li><li>5. NSW Public Works NERT Project Costs</li><li>6. Sample Rail Trail Lease - 092023- (<b><i>General Manager's Note: The report considers confidential terms of a draft Lease which is subject to confidentiality requested by Transport for NSW. and is deemed confidential under Section 10A(2)(d) of the Local Government Act 1993, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret.</i></b>)</li><li>7. Sample Licence for Minor Activities- (<b><i>General Manager's Note: The report considers a draft Licence for Minor Works Activities which is confidential to Transport for NSW. and is deemed confidential under Section 10A(2)(d) of the Local Government Act 1993, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret.</i></b>)</li></ol> |                              |

## 1. Purpose

The purpose of this report is to provide Council with an update on the New England Rail Trail (NERT) and seek Council endorsement to commence the Armidale Railway Station to Dumaresq Trailhead section of NERT and to commit to delivering the full NERT subject to obtaining grant funding for construction and planning agreements for ongoing maintenance

## 2. OFFICERS' RECOMMENDATION:

That Council:

- a. Commence the construction of the Armidale Railway Station to Dumaresq Trailhead section of the New England Rail Trail with the BSBR funding offer of \$5,410,000.
- b. Commit to delivering the remainder of the New England Rail Trail subject to obtaining grant funding for construction and planning agreements for ongoing maintenance.
- c. Note the New England Rail Trail Business Case prepared by Regional Development Australia Northern Inland and its key findings.
- d. Note the New England Rail Trail Desktop Review by NSW Public Works and its key findings.
- e. Note the Project Program and Costs prepared by NSW Public Works.

- f. Endorse NSW Public Works to appoint a Project Manager to manage the project from early-stage investigation through to handover.
- g. Support the site-specific Regulation under the *Transport Administration (General) Regulation 2018* to authorise works to the train line.
- h. Delegate authority to the General Manager to sign all documents and deeds relative to the Licence for minor works activities to commence preliminary works for the New England Rail Trail.
- i. Delegate authority to the General Manager to sign all documents, deeds and plans relative to the 30 -year long term Lease for the New England Rail Trail.
- j. Delegate authority to the General Manager to sign all documents and deeds relevant to BSBR Grant funding received.

### 3. Background

The Great Northern Rail line between Armidale and Glen Innes covers a distance of 103kms. This section of line and beyond to Wallangarra at the Qld Border has been closed to trains for 35 years. Recent estimates for returning a train service to the Qld Border vary widely from capital cost of \$300M to \$2.0B. Even with quite optimistic assumptions about passenger numbers and freight tonnages, it has been estimated that returning a train service produced a benefit-cost ratio of just 0.5, indicating that discounted costs outweighed the discounted benefits by two to one (Regional Development Australia NERT Business Case, Attachment 1 and 2).

The overarching New England Rail Trail (**NERT**) proposal would see the 103km rail corridor between Armidale and Glen Innes remain in public hands but converted to a rail trail to boost local tourism. Armidale Regional (**ARC**) and Glen Innes Severn (**GISC**) Councils would assume responsibility for the rail trail including annual maintenance.

The NERT from Armidale to Ben Lomond will attract 9,000 new day visits (a 2.6% increase) and 11,400 new overnight stays (a 1.6% increase) to the region annually, as well as being used by around 22,400 local residents. This will generate more than \$5.9M of new visitor expenditure each year. The additional expenditure leads to the creation of 41 new full-time equivalent jobs once flow-on effects are included (REMPPLAN 2023) (Regional Development Australia NERT Business Case, Attachment 1 and 2).

Based on recent analysis by NSW Public Works (**PWA**) (Attachment 3), Armidale to Ben Lomond stations, a distance of 68.8 kms, has an anticipated capital cost of \$21.03M, with annual maintenance costs of around \$102,000.

In October 2021, ARC sought a total of \$9,986,529 of funding to construct the entire NERT from the Ben Lomond Station to the Armidale Railway Station through the Black Summer Bushfire Recovery Program (**BSBR**). In response to the application, ARC received a funding offer of \$5.41M for the 33.94km Ben Lomond Station to Black Mountain Station section. The funding was to be distributed over three financial years (21/22FY, 22/23FY and 23/24FY).

The original BSBR funding is insufficient to complete the 33.94km Ben Lomond Station to Black Mountain Station section. ARC made an application to BSBR in November 2023 to apply the funding offer of \$5.41M from Armidale working northbound based on recommendations in a report prepared for ARC by PWA (Attachment 3). The direct cost per kilometre, according to the Project costs (Armidale to Dumaresq Trailhead) prepared by PWA is approximately \$260,385.53. The granted funds will cover preliminary minor works activities required as part of the due diligence process totalling approximately \$1.6M and the balance will build approximately 9.828kms of the trail.

Council is anticipating a determination in April 2024 on its November 2023 request to apply the funding offer of \$5.41M from Armidale working northbound. All indications are that Council's request will be approved and as such it is important that Council commence the program as soon as possible to meet the BSBR deadline of end March 2025.

Completion of the Armidale Railway Station to D Dumaresq Trailhead section of NERT is estimated at 28 March 2025 following the Project Program. This will leave approximately 57 km of NERT to be completed to Ben Lomond Station. ARC has made the following Grant Funding Applications so that the work on the trail can progress further north:

- Growing Regions Fund Application made for \$1.8M was made on 15 January 2024 which will require Council to resolve to make a co contribution of \$1.8M. Council is awaiting news of the outcome. If the grant application progresses this will be the subject of a separate report to Council.
- Regional Precincts and Partnerships Grant – Stream 2 – This application was made for \$21.1M and was lodged on 29 February 2024. Council is waiting the news of the outcome. If the grant application progresses this will be the subject of a separate report to Council.

### **Legislation**

Part of the delay in progressing NERT to date has been the enabling legislation. The General Regulation Authorising Rail Trails was passed 27 October 2023 and is now noted in the *Transport Administration (General) Regulation 2018*.

The site-specific Regulation (required for the Armidale to Dumaresq Trailhead section) will be passed when Grant Funding for the project is approved and a Grant Funding Deed is entered. The site-specific Regulation will have a 20-week time frame to be made when grant funding is received.

With the legislation in place and subject to a positive BSBR application it is now time for ARC to determine whether it intends to commit to delivering the first 10 km of NERT.

### **4. Discussion**

After receipt of Council's endorsement, Council will sign the grant funding Deed for the \$5.41M. When the grant funding Deed is signed, the site-specific legislation authorising the work on the rail trail will proceed. Whilst that legislation is in the process of being passed, Council will enter the Minor Works Licence Agreement. A standard draft copy of this agreement is annexure (7) to this report. When the legislation is passed (approximately 20 weeks) the Minor Works License can be signed and procurement for the following works can take place:

- A Survey Plan.
- Review of Environmental Factors
- Weed Management
- Aboriginal Cultural Heritage Assessment.
- A Statement of Heritage Impacts
- A Biodiversity Assessment
- A Preliminary Site Assessment for potential soil contamination

- A Bio Security Report prepared by Local Land Services for Council.

These works are authorised to be carried out under the Minor Works License.

Upon receipt of all the above and their requisite determinations, design and construct procurement will take place, followed by the development of a master plan, concept design and detailed design.

Community engagement, if required will take place after the design process, and adjoining landowners to the trail will be consulted. The NSW Government may choose to undertake an additional independently facilitated community consultation session.

Negotiations will also take place to enter into the 30-year Lease (Annexure (6)) which will grant Council security of tenure over the entire trail.

Subsequently, the Armidale station to Dumaresq Trailhead NERT construction will take place. Included under this stage is:

- Site Establishment and Pre-work Record.
- Bridge procurement.
- Bridge treatment works.
- Removal of railway infrastructure.
- Trail civil works including Road crossings.
- Trailheads.
- Fencing and stock crossings.
- Signage and general rectifications.
- Demobilisation from site
- Project finalisation
- Project completion.

When the project is complete, it will then be brought into Council's asset management plan when established and complete.

## **5. Implications**

### **5.1. Strategic and Policy Implications**

NERT is identified in Councils adopted Delivery Program 2022-2026

#### *Connected Region*

- *Seek funding for the New England Rail Trail from Ben Lomond to Armidale (C2.1.6)*
- *Construct Rail Trail infrastructure from Ben Lomond to Armidale (C2.1.7)*

NERT is identified in Councils Draft Local Strategic Planning Statement (LSPS) *Advancing our region: Toward 50,000*.

Transport for NSW (**TfNSW**) have stated that they have no plans to re-introduce trains north of Armidale. Consequently, the rail corridor between Armidale and Glen Innes represents a wasted public asset.



## 5.2. Risk

### a. Economic Risk

NERT from Armidale to Ben Lomond will bring about approximately 41 full time equivalent jobs, 9000-day visits annually, 11,400 new overnight stays and \$5.9M in visitor revenue, annually. With no realistic prospects of the rail line being returned to use for trains Council is forgoing a valuable injection of jobs and money to the local economy if it does not proceed.

### b. Social risk

Socially, the communities in the Armidale Regional Council Local Government Area would benefit from the use of the trail. Therefore, the social risk of the overall project is low.

### c. Operational risk

The project not running to the scheduled timeframe as set out in the Project Program attached to this report.

### d. Reputational risk

NERT has been included in Council's Delivery Program for some time. Council now has the opportunity to progress a small but important section of NERT with grant funding by government and maintenance costs contributed by a renewable energy proponent.

### e. Corporate risk

Entering the License for minor works and the minor works raising a negative outcome not to proceed with the Rail Trail.

### f. Legislative and Regulatory risk

The requirement to have site specific regulations passed for each part of the Rail Trail which grant funding is received.

## 5.3. Sustainability

NERT from Armidale to Ben Lomond will bring about approximately 41 full time equivalent jobs, 9000-day visits annually, 11,400 new overnight stays and \$5.9M in visitor revenue, annually. Maintenance costs of around \$102,000 are estimated by PWA.

For the Armidale to Dumaresq Trailhead section of NERT maintenance is estimated at approximately \$15,000 annually. Council currently has an offer from a renewable energy proponent to contribute \$20,000 (in 2023 dollars and adjusted annually for CPI) for 20 years from the commencement of construction for the upkeep and enhancement of NERT.

## 5.4. Financial

|                  |  |                 |           |           |           |                            |                  |
|------------------|--|-----------------|-----------|-----------|-----------|----------------------------|------------------|
| Budget Area:     | Planning and Activation  |                 |           |           |           |                            |                  |
| Funding Source:  | Grant Funded: The Black Summer Bushfire Recovery Program (BSBR)<br>Planning agreement: Armidale BESS |                 |           |           |           |                            |                  |
| Budget Ref: (PN) | Description  | Approved Budget | Actual    | Committed | Proposed  | Total Forecast Expenditure | Remaining Budget |
|                  | Armidale to Dumaresq Trailhead   | 5,410,000       | 29,631.98 | -         | 5,410,000 | 5,410,000                  | -                |
|                  | Maintenance  | 20,000          | -         | -         | 15,000    | 15,000                     | 5,000            |

## **6. Consultation and Communication**

In the last 9 months, extensive external consultation has been made with Transport for NSW in relation to the preliminary works license application.

NERT is identified in Councils adopted Delivery Program 2022-2026 and is identified in Councils Draft Local Strategic Planning Statement (LSPS) *Advancing our region: Toward 50,000*.

The NSW Government may choose to undertake an additional independently facilitated community consultation session.

## **7. Conclusion**

If Council is committed to delivering NERT this report recommends Council endorsement to commence the Armidale Railway Station to Dumaresq Trailhead section of NERT with the BSBR funding offer of \$5.41M.

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|                            |   |                              |
|----------------------------|---|------------------------------|
| <b>Item:</b>               | <b>9.2</b>  | <b>Ref: AINT/2024/04371</b>  |
| <b>Title:</b>              | <b>Plan of Management for Cemeteries</b>  | <b>Container: ARC24/6707</b> |
| <b>Responsible Officer</b> | <b>Chief Officer Planning and Activation</b>                                    |                              |
| <b>Author:</b>             | <b>Erin Grob, Project Officer – Property Management</b>                         |                              |
| <b>Attachments:</b>        | 1. CEMETERY - PLAN OF MANAGEMENT - FINAL<br>2. NATIVE TITLE ADVICE - CEMETERIES |                              |

### 1. Purpose

The Purpose of this report is to receive Council's endorsement to submit the draft Plan of Management for Cemeteries and surrounding lands to the Department of Crown Lands for approval and endorsement.

### 2. OFFICERS' RECOMMENDATION:

That Council:

- a. Receive a copy of the draft *Plan of Management – Cemeteries, Crematoria and Surrounding Lands* (draft PoM)
- b. Refer the said draft PoM to the Minister administering the *Crown Land Management Act 2016* (CLM Act) for endorsement.
- c. Confirm that Native Title advice pursuant to the *Native Title Act 1993* (NT Act) has been obtained for the Land subject of the draft PoM;
- d. Delegate authority to the General Manager to attend to any required amendments of draft PoM and place it on public exhibition pursuant to Section 38 of the *Local Government Act 1993* (LG Act) subsequent to feedback from the Minister administering the *Crown Land Management Act 2016*.
- e. Give public notice (public exhibition) of the draft PoM in accordance with Section 38 of the LG Act and.
- f. Receive a further Council Report at the conclusion of the public exhibition period and public notice period to consider any submissions received and if no submissions are received, endorse the adoption the final PoM for the Land subject of the draft PoM.

### 3. Background

Pursuant to Section 36 of the *Local Government Act 1993* (**LG Act**) Council-owned land and managed by Council, classified as Community Land must be subject to a Plan of Management (**PoM**).

The Armidale Regional Council (**ARC**) Draft Plan of Management – Cemeteries, Crematoria and Surrounding Lands (**draft PoM**) has been developed to provide the necessary guidelines and framework for which Cemeteries, Crematoria and Surrounding Lands within the Armidale Regional Local Government Area will be managed and activities conducted on the Lands.

The draft PoM is appended as Attachment 1.

#### 4. Discussion

In July 2018 the *Crown Land Management Act 2016 (CLM Act)* was enacted requiring the Categorisation of Crown Land controlled by Councils into “Community Land”.

As such, all Crown Reserves classified as Community Land are required to be Categorised and managed by a PoM in accordance with the CLM Act and LG Act.

Community Land must be utilised, managed and maintained in accordance with the PoM applying to the Land and any law permitting the use of the Land for a specific purpose or otherwise regulating the use of the Land.

It is recommended that every PoM be reviewed every 5 years.

The ARC Plan of Management – Cemeteries, Crematoria and Surrounding Lands includes lands that are Crown reserves managed by and devolved to Council and lands that are owned by Council.

All PoM’s for Crown Reserves must be compliant with the statutory requirements of the Native Title Act 1993 (**NTA**) prescribed by both the CLM Act and the LG Act. The Department of Planning Industry and Environment – Crown Land will not process a draft PoM unless Council attests that it has considered Native Title Manager advice.

Written Native Title advice has been obtained indicating that the PoM complies with applicable provisions of the NTA. Council’s Native Title Manager’s advice is appended as attachment B to this Report.

Since the inception of the CLM Act, Council has not adopted a PoM for any Council managed Crown lands or Council owned lands.

The following approximate timeline is applicable for the adoption of a PoM.

|   |                               |
|---|-------------------------------|
| 1. Preparation of draft Plan of Management and provision to Council and endorsement by Council to send to the Minister. | 1-4 Weeks                     |
| 2. Endorsement by the Minister – PoM less than 30 Reserves  | Within 80 days                |
| 3. Public Exhibition of draft Plan of Management  | Minimum 42 days               |
| 4. Finalisation of Plan of Management   | 1 Month from Council adoption |

#### 5. Implications

##### 5.1 Strategic and Policy Implications

This recommendation is outlined in Council’s Delivery Program as follows:

*F1.1 Promote and support biodiversity protection and management - Maintain and Implement Council’s Crown Land Plans of Management (F1.1.3)*

##### 5.2 Risk

Council is required under legislation to have PoM’s adopted for all Council owned land and land managed by Council on behalf of the Crown. Adoption of the PoM ensures compliance with Council’s legislative obligations and provides guidance to council’s staff, stakeholders and the community generally when using the land.

### **5.3 Sustainability**

With a PoM endorsed for Community Lands which Council owns and manages, Council will be able to effectively manage the lands, and the Plan of Management will provide guidance to Council and the community as to what can be conducted on the land and whether that land can be leased. It will also dictate what activities can be carried out on that land.

Crown Lands managed by Council with a current PoM adopted will not require the Crown's consent to lease or license in some cases (depending on the lease purpose and tenure type), saving time and increasing efficiency when working with the community who use the land.

This PoM will provide strategic direction for Council managed Crown land and is consistent with Council's responsibilities under the LGA and the CLM Act. The plan identifies the permissible uses and development for the lands (in this case, cemeteries, and crematoria). Council may not undertake any activities, uses or developments which are not provided for in this PoM.

### **5.4 Financial**

Council received funding from the NSW Government through the Plans of Management Funding Support Program of \$35,098.66 to develop compliant PoM's under the LG Act for all Council managed Crown reserves. Evidence of adopted PoM's needs to be provided by 30 June 2024. If Council does not provide evidence PoM's have been adopted, then it could risk return of the granted monies.

## **6. Consultation and Communication**

Council is required to resolve to refer the draft PoM to the Minister administering the CLM Act for review. On approval of the Minister, the plan will be placed on public exhibition for a period of 28 days, allowing not less than 42 days after the date on which the draft plan is placed on exhibition, to receive submissions.

A public hearing is to be conducted and all submissions received during the exhibition period and the public hearing are to be considered by Council thereafter. Council may then amend the draft PoM, if applicable, or adopt it without amendment.

If significant amendments are made to the draft plan, it must be further publicly exhibited. If proposed changes are not substantial the draft PoM may be adopted without further public exhibition.

## **7. Conclusion**

This report is seeking Councils endorsement to forward the Draft PoM to the Minister administering the CLM Act for approval. Upon receipt of the approved PoM from the Minister administering the CLM Act, the PoM will then be placed on public exhibition.

Once exhibition of the draft PoM is finished, a further report will be presented to Council for consideration if any submissions are received.

If no submissions are received it is recommended that Council proceed to endorse and adopt the Plan of Management.

|                            |  |                             |
|----------------------------|--|-----------------------------|
| <b>Item:</b>               | <b>9.3</b>   | <b>Ref: AINT/2024/06701</b> |
| <b>Title:</b>              | <b>Minister for Emergency Services (Fire and Rescue NSW) Lease from Armidale Traffic Education Centre Reserve Trust (Reserve Number 1002960, the affairs of which are managed by Armidale Regional Council - Property: 2-16 Mann Street, Armidale</b><br><b>Container: ARC16/1010</b>  |                             |
| <b>Responsible Officer</b> | <b>Chief Officer Planning and Activation</b>   |                             |
| <b>Author:</b>             | <b>Annabelle Walsh, Senior Property Specialist</b>   |                             |
| <b>Attachments:</b>        | <ol style="list-style-type: none"><li>1. Lease - 2023-2028- (<b><u>General Manager's Note:</u></b> <i>The report considers leasing of Crown Land and information of a Confidential Nature. and is deemed confidential under Section 10A(2)(d) of the Local Government Act 1993, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret).</i></li><li>2. Lease 2028-2033- (<b><u>General Manager's Note:</u></b> <i>The report considers leasing of Crown Land and information of a Commercial Nature. and is deemed confidential under Section 10A(2)(d) of the Local Government Act 1993, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret).</i></li><li>3. Letter from Dept of Crown Lands - Consent not required.- (<b><u>General Manager's Note:</u></b> <i>The report considers a letter from the Department of Crown Lands regarding Ministers consent not required for the Lease. and is deemed confidential under Section 10A(2)(c) of the Local Government Act 1993, as it deals with commercial information of a confidential nature which, if disclosed, confers a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).</i></li></ol> |                             |

## 1. Purpose

The purpose of this report is to receive Council's endorsement to enter into a Lease for the subject property to Fire Rescue NSW on behalf of the Armidale Traffic Education Centre Reserve Trust, affairs of which are managed by Armidale Regional Council.

## 2. OFFICERS' RECOMMENDATION:

That Council:

- a. Approve the Lease(s) annexed to this report.
- b. Delegate authority to the General Manager to negotiate any minor amendments to the terms of Lease(s) and to sign all documents and take any other action necessary to give effect to Lease(s).

### **3. Background**

On 1 June 1998, Armidale Dumaresq Council entered into a Lease with Fire Rescue NSW for the Lease of the Fire Training Centre. It expired on 31 May 2023. The lessee has been holding over under the provisions of the prior lease since that time. Negotiations have been ongoing for Fire Rescue NSW to enter into a lease given the previous Lease has expired. The Lease term will be for another 10 years, and the details of the Lease will be elaborated at the Discussion.

### **4. Discussion**

The proposed Lease is for two four year and 364-day terms to enable the Lease to be registered on title is a requirement from the NSW Land Registry Service. The Lease is to commence on 1 June 2023 and expires 30 May 2028 (Attachment 1) and a successive Lease from 31 May 2028 to 29 May 2033 (Attachment 2).

Both Leases dictate that part of lots 1 in DP 1068131 and Lot 2 in DP 1068131 is leased to FRNSW. The Plan annexed to the Lease dictates the area of which is leased to FRNSW which is essentially inside the Driver Training Track as it is separately licensed on a casual basis to FR NSW and other community groups as required.

The rental sum from commencement of the lease until the first anniversary is \$10,000.00 plus GST, payable monthly in advance and that figure is to increase annually by Consumer Price Index.

This Lease, if approved by Council, will see FR NSW commit to a 10-year term encouraging use of the land situated at 2-16 Mann Street which is currently affected by Pfas contamination.

Given that the use of the Land has not changed from the previous Lease, consent from the Minister administering the *Crown Land Management Act 2016* is not required. Team Leader from Armidale Crown Lands Office has confirmed this advice in writing, and it is annexed to this report (Attachment 3).

### **5. Implications**

#### **5.1. Strategic and Policy Implications**

This report is consistent with Council's Delivery Program as follows:

L1.1 Provide appropriate, planned, and maintained community facilities that allow people to meet, congregate and learn and for Activation and Precincts to:

- Regularly review Council's property portfolio for functionality and seek opportunities for development or divestment (L1.1.2)

This report recommends that Land that Council manages on behalf of the minister is leased appropriately for a long-term benefit to the community.

#### **5.2. Risk**

Securing and finalising the Lease to Fire Rescue NSW ensures that Council's reputational risk and corporate risk is protected with FR NSW remaining on site to complete and comply with its Pfas remediation plan. It also reduces further Pfas contamination to other areas, whilst encouraging Fire Rescue Training within the Armidale Local Government Area which mitigates social risk of having no members of the community trained to adequately fight fire.

### 5.3. Sustainability

From an environmental sustainability perspective, it was important for Council to secure FR NSW as a tenant as they are carrying out Pfas remediation at the subject land.

From a community perspective, so that the fire training centre remained in existence in Armidale for another decade as it encourages jobs and growth and attraction to the Armidale Local Government Area.

Finally, to have these services so close for our smaller fire services to consult to is important to maintaining the risk in bushfire season.

### 5.4. Financial

Armidale Regional Council will receive \$10,000.00 plus GST per annum, in rental monies, increased by CPI annually. FR NSW will also maintain the leased area and be financially responsible for 100% of the outgoings for the Leased area, as noted in the Lease. The forecast income from the lease term is as follows, noting the assumption that CPI doesn't fall below 3%.

| Year | Rental Figure plus GST |
|------|------------------------|
| 1    | \$10,000.00            |
| 2    | \$10,104.56            |
| 3    | \$10,407.69            |
| 4    | \$10,714.92            |
| 5    | \$11,041.52            |
| 6    | \$11,372.77            |
| 7    | \$11,713.95            |
| 8    | \$12,065.37            |
| 9    | \$12,427.33            |
| 10   | \$12,800.15            |

Total rental monies of \$112,648.26 Plus GST (approximately) for the entire term of the Lease.

No Valuation was carried out for negotiations of the rental sum and the rental sum was arrived at based on the current market and the previous Lease.

## 6. Consultation and Communication

Advice was sought from New England Surveying as to the Lease area and sketch plan required for annexure to the Lease. An easement is required to be registered if the Lease term exceeded 5 years. The cost in doing so would outweigh the result, hence the abovementioned two part Lease term.

Council's Solicitor as to the terms of the Lease and he was instructed to draft the Lease.



## **7. Conclusion**

This report recommends for Council to endorse the Lease annexed to this report for execution by the General Manager.

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|                     |  |                             |
|---------------------|--|-----------------------------|
| <b>Item:</b>        | <b>9.4</b>   | <b>Ref: AINT/2024/12107</b> |
| <b>Title:</b>       | <b>Planning Agreement for Armidale Battery Energy Storage System</b><br><b>Container: ARC21/4758</b> |                             |
| <b>Author:</b>      | <b>Daniel Boyce, Chief Officer Planning and Activation</b>   |                             |
| <b>Attachments:</b> | 1. General Terms Letter of Offer Armidale BESS   |                             |

### 1. Purpose

The purpose of this report is to provide Council with the general terms of a proposed Planning Agreement received from the proponent of a 150 MW battery energy storage facility with associated infrastructure located at 89 Eathorpe Rd, Armidale (State Significant Development Application Number SSD-23515853).

Council can either accept or reject the general terms of a proposed Planning Agreement. If Council chooses to reject the offer, then it should determine an offer that it would accept if it were made.

### 2. OFFICERS' RECOMMENDATION:

That Council accept the following general terms of the Planning Agreement proposed by the proponent in relation to the Armidale Battery Energy Storage System (SSD-23515853)

- a. A lump sum payment of \$1,275,000 (in 2023 dollars and adjusted annually for CPI) on commencement of construction.
- b. Annual payment of \$425 (in 2023 dollars and adjusted annually for CPI) per MW capacity for 20 years from commencement of construction.
- c. Annual payment of \$850 (in 2023 dollars and adjusted annually for CPI) per MW of capacity from the 21st and subsequent years after the commencement of construction for the development's operational life.
- d. Annual contribution to the upkeep and enhancement of the New England Rail Trail of \$20,000 (in 2023 dollars and adjusted annually for CPI) for 20 years from the commencement of construction.

### 3. Background

The proposed Armidale Battery Energy Storage System (**BESS**) will have a capacity of up to 150 megawatts (**MW**) or 300 megawatt hours (Figure 1).

State significant development (**SSD**) have to go through a comprehensive assessment process. The main steps in this process are outlined below:

- Request (SEARs)
- Prepare EIS
- Exhibit DA
- Respond to submissions
- Assess DA
- Determine DA

The Independent Planning Commission is the consent authority for a development application (**DA**) for SSD if any of the following apply and the applicant is not a public authority:

- the local council has made a submission objecting to the application,
- the department has received 50 or more public objections in response to the exhibition of the application (petitions and submissions that contain substantially the same text count as one objection), or
- the applicant has made a reportable political donation.

The Minister for Planning is the consent authority for all other DAs for SSD. The Minister has delegated power for certain decisions to senior officers of the department.

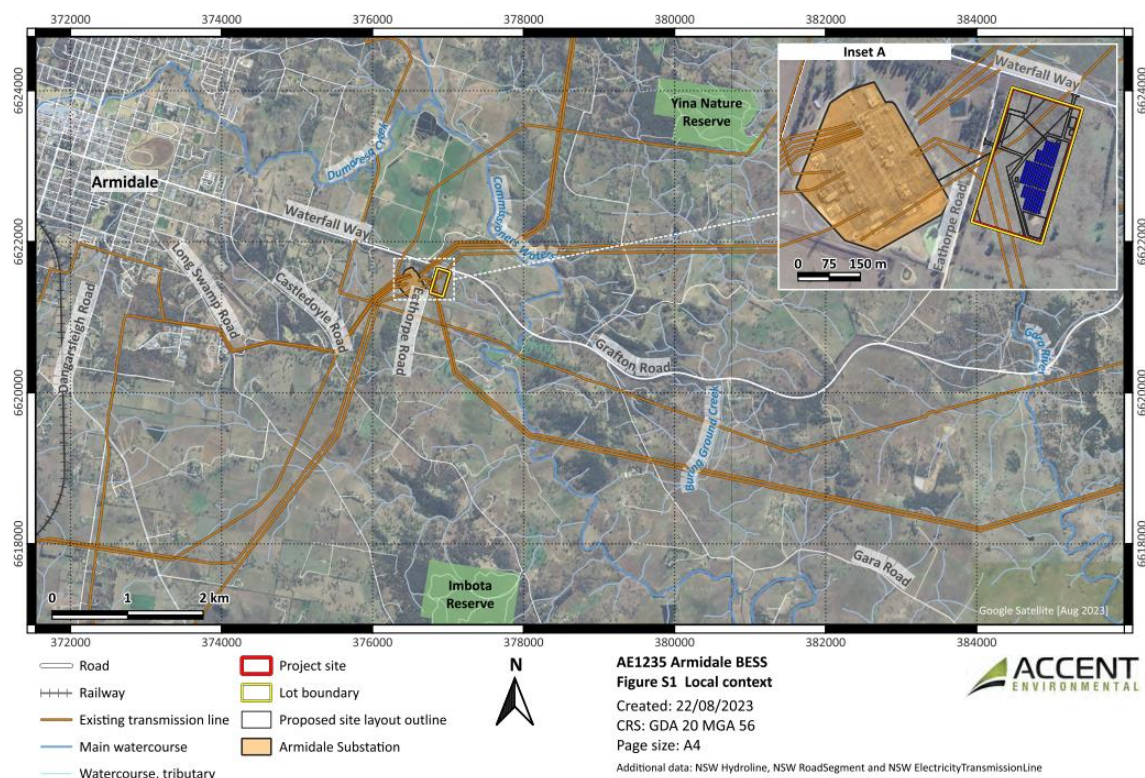


Figure 1 Armidale BESS

As Council is not the consent authority this removes a perceived conflict that exists in many planning agreement negotiations where Council is also required to determine whether to support a DA or planning proposal as well as whether to accept an offer to enter into a planning agreement.

The acceptability test for planning agreements requires that they:

- Are directed towards legitimate planning purposes, which can be identified in the statutory planning controls and other adopted planning strategies and policies applying to development.
- Provide for the delivery of infrastructure or public benefits not wholly unrelated to the development.
- Produce outcomes that meet the general values and expectations of the public and protect the overall public interest.
- Provide for a reasonable means of achieving the desired outcomes and securing the benefits.
- Protect the community against adverse planning decisions.

#### 4. Discussion

Council's Updated Renewable Energy Community Benefit Framework specifies the following minimum community benefit threshold:

- \$850 per megawatt per annum for solar energy development for the life of the development (including future modified or recommissioned projects).
- \$1050 per megawatt per annum for wind energy development for the life of the development (including future modified or recommissioned projects).
- \$850 per megawatt of capacity per annum for energy storage developments (including pumped hydro).

*Note: Amounts above are in 2023 dollars and will be adjusted annually for CPI.*

The previous adopted Renewable Energy Community Benefit Framework specified 1.5% of capital value of the development as the minimum community benefit threshold.

The total capital investment value of the Armidale BESS is approximately \$209.2 million.

The general terms of the Planning Agreement proposed for the Armidale BESS are:

| <b>Armidale BESS 150 MW</b>  | <b>Amount (\$)</b>               |
|--|----------------------------------|
| A lump sum payment of \$1,275,000 (in 2023 dollars and adjusted annually for CPI) on commencement of construction.   | 1,275,000                        |
| Annual payment of \$425 (in 2023 dollars and adjusted annually for CPI) per MW capacity (\$63,750) for 20 years from commencement of construction.   | 1,275,000                        |
| Annual payment of \$850 (in 2023 dollars and adjusted annually for CPI) per MW of capacity from the 21st and subsequent years after the commencement of construction for the development's operational life. | 637,500<br>(Assume 5 years min.) |
| Annual contribution to the upkeep and enhancement of the New England Rail Trail of \$20,000 (in 2023 dollars and adjusted annually for CPI) for 20 years from the commencement of construction.              | 400,000                          |
| <b>VPA Offer</b>   | <b>3,587,500</b>                 |
| <b>Capital Investment Value (CIV) \$209.2m</b>   | <b>1.72% CIV</b>                 |

As a guide for Council, the Clean Energy Council (CEC) suggests that for large-scale solar projects, the contribution range has been \$130-\$800 per MW (AC) per year over 10 to 25 years, with the higher amounts being deployed across shorter timelines.

*Table 1 Clean Energy Council Guidelines for benefit sharing*

| <b>Armidale BESS 150 MW</b> |                               |                               |                               |
|-----------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b>Contribution/MW (\$)</b> | <b>Contribution/Year (\$)</b> | <b>Contribution/10yrs(\$)</b> | <b>Contribution/25yrs(\$)</b> |
| <b>130 (CEC Low)</b>        | 19,500                        | 195,000                       | 487,500                       |
| 200                         | 30,000                        | 300,000                       | 750,000                       |
| 400                         | 60,000                        | 600,000                       | 1,500,000                     |

|                       |         |           |           |
|-----------------------|---------|-----------|-----------|
| 500                   | 75,000  | 750,000   | 1,875,000 |
| 600                   | 90,000  | 900,000   | 2,250,000 |
| 700                   | 105,000 | 1,050,000 | 2,625,000 |
| <b>800 (CEC High)</b> | 120,000 | 1,200,000 | 3,000,000 |

## 5. Implications

### 5.1. Strategic and Policy Implications

#### *T1.1 Attract new job creating investment to the region*

*Leverage our status as a Renewable Energy Zone to attract new engine room industries and negotiate community benefit sharing arrangements that deliver a long-term dividend for the region (T1.1.4)*

If adopted the Updated Framework will provide Council with a basis for negotiating and managing community benefit funds associated with renewable energy projects.

### 5.2. Risk

**Financial Risk:** Should Council and the proponent not be able to agree on the terms of the Planning Agreement, based on a review of the other SSD projects it is unlikely that DPE will include a condition requiring the payment of a 1% contribution under Councils Section 7.12 Contribution Plan.

This would result in the community not receiving any payment from the Proponent for the development.

**Reputational Risk:** There is some potential reputational risk, should Council not agree to the Planning Agreement and DPE not levying the 1% contribution. As this would result in the development not making any monetary contribution to the local community.

**Operational and Governance Risk:** The process of Planning Agreement is governed by the Environmental Planning and Assessment Act and Regulations and requires community consultation prior to Council entering into the agreement. The purpose of this report is for Council to agree the general terms of the planning agreement prior to the determination of the development by the NSW Government.

### 5.3. Sustainability

Entering into a Planning Agreement may provide funding for community projects.

### 5.4. Financial

|                  |                         |                 |        |           |          |                            |                  |
|------------------|-------------------------|-----------------|--------|-----------|----------|----------------------------|------------------|
| Budget Area:     | Planning and Activation |                 |        |           |          |                            |                  |
| Funding Source:  | N/A                     |                 |        |           |          |                            |                  |
| Budget Ref: (PN) | Description             | Approved Budget | Actual | Committed | Proposed | Total Forecast Expenditure | Remaining Budget |
| N/A              | N/A                     | N/A             | N/A    | N/A       | N/A      | N/A                        | N/A              |

## **6. Consultation and Communication**

Should Council resolve to agree to the general terms of the Planning Agreement DPE will place a condition on the final determination requiring the proponent to enter into the Planning Agreement with Council.

Once the DA is determined the Planning Agreement will be drafted and will be the subject of a future Council report for endorsement to proceed to public exhibition in accordance with statutory period of not less than 28 days.

## **7. Conclusion**

Council has received general terms of a proposed Planning Agreement from the proponent of the Armidale BESS, which is State Significant Development.

The general terms offered for the Armidale BESS compare favourably to the CEC guidance and other projects. It is recommended that Council agree to the general terms offered.

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|                     |  |                             |
|---------------------|--|-----------------------------|
| <b>Item:</b>        | <b>9.5</b>   | <b>Ref: AINT/2024/12134</b> |
| <b>Title:</b>       | <b>New England Future Fund - Armidale Region Container: ARC17/1709-7</b> |                             |
| <b>Author:</b>      | <b>Daniel Boyce, Chief Officer Planning and Activation</b>               |                             |
| <b>Attachments:</b> | <b>Nil</b>   |                             |

### 1. Purpose

The purpose of this report is for Council to receive a further update and endorse further detail on the structure of the New England Future Fund – Armidale Region (**NEFF Armidale**).

### 2. OFFICERS' RECOMMENDATION:

That Council:

- a. Endorse the establishment of the New England Future Fund with contributions from voluntary planning agreements.
- b. Endorse the capital from voluntary planning agreements being invested in accordance with the *Local Government Act 1993* and being retained, with the proceeds of investment allocated to public purposes in accordance with the planning agreements.
- c. Endorse the establishment of a Board of Guardians as a delegate of Council to make investment decisions in accordance with the current approved investments order and makes decisions regarding allocation of the the proceeds of investment.
- d. Endorse the establishment of a Community Benefit Panel as a delegate of Council to makes decisions on which community benefit initiatives to support with proceeds allocated to the Panel by Board.
- e. Hold a workshop with Councillors to determine composition, the process for appointment, the terms of reference, functions, procedures, and meeting procedures for the Board of Guardians and the Community Benefit Panel.

### 3. Background

At the September 2023 Ordinary Council Meeting (**OCM**), Council resolved (123/23) to endorse in principle, the concept of a Future Fund governed by a Board of Guardians (**Board**) and a Community Benefit Panel (**Community Panel**) to be established to manage, invest and distribute contributions from renewable energy planning agreements.

The establishment of the NEFF Armidale seeks to deliver a key objective of Council's Renewable Energy Community Benefit Framework to ensure that the benefits of renewable energy development will be equitably distributed within the community and inter-generationally.

### 4. Discussion

NEFF Armidale can be established for contributions from voluntary planning agreements (**VPA**), and the proceeds of investment, which must be in accordance with the *Local Government Act 1993* (**LG Act**), can be allocated to public purposes, with the capital being retained.

Council can delegate investment decisions and decisions as to the allocation of VPA Contributions within the constraints of the 'public purpose' for which the contributions were made.

Council cannot divest the decision regarding allocation of VPA Contributions to a separate entity which is not a delegate of Council.

Ministerial approval will be required either for investment of the VPA Contributions if that is not in accordance with the current Ministerial order regarding approved investments, or if Council is to form or participate in the formation of a new entity. Formation of a new entity is **only likely** to be approved by the Minister if existing mechanisms in the LG Act cannot meet Council's objectives.

The most straightforward structure under the LG Act is to establish the Board and a Community Panel as committees which act as Council's delegate.

### **Board of Guardians**

The Board will be delegated authority to make investment decisions in accordance with the current approved investments order and makes decisions as delegate of Council regarding allocation of the income of NEFF Armidale.

If Council resolves to create the Board it will need to resolve who is to sit on the Board, the process for appointment, the role of the Board, functions, procedures, and meeting procedures.

The role of the Board will be covered in a Terms of Reference, however, broadly speaking it is envisaged that the Board will fulfil two main functions:

#### **1) Treasury:**

- Determine:
  - Investment of the principal – income from VPA's (in accordance with the current Ministerial order regarding approved investments)
  - Retained earnings (if appropriate)
- Investment strategy – choice and timing

#### **2) Annual distribution:**

- Determine:
  - Proportion to ARC dedicated reserve to spend on amenities (not into general fund)
  - Proportion to Community Panel to determine distribution.
  - Option not to make a distribution.

A prospective composition of the Board to consider is:

- External Chair
- Independent members x 2
- Mayor
- General Manager



### **Community Benefit Panel**

The Community Panel will be delegated authority to make decisions as delegate of Council regarding allocation of a proportion of the annual distribution NEFF Armidale allocated to Community Panel by the Board.

A prospective composition of the Community Panel to consider is:

- One representative from the impacted area of each renewable energy project that contributes via VPA to the Fund
- Representatives from the wider ARC community.
- ARC Staff (non-voting)

It is proposed that Councillors will be involved in a workshop to finalise the preferred model for the Board and Community Panel. A further report will then be presented to Council for endorsement to place on public exhibition.

## **5. Implications**

### **5.1. Strategic and Policy Implications**

T1.1 Attract new job creating investment to the region.

Leverage our status as a Renewable Energy Zone to attract new engine room industries and negotiate community benefit sharing arrangements that deliver a long-term dividend for the region (T1.1.4)

The NEFF concept aligns with the above strategic direction set by Council as part of the new Delivery Program.

### **5.2. Risk**

**Reputational Risk:** There is some potential reputational risk, should Council not ensure appropriate transparency around the management and allocation of funds from PAs. This report proposes to take a further step towards establishing a Future Fund. Ultimately the governance arrangements around the Future Fund will need to be robust and is likely to follow similar formats and procedures established around Council's Audit Risk and Advisory Committee.

**Operational and Governance Risk:** The process of Planning Agreement is governed by the Environmental Planning and Assessment Act and Regulations and requires community consultation prior to Council entering into the agreement. Therefore, there will be individual scrutiny applied to the specific PAs that are proposed to be entered into.

### **5.3. Sustainability**

No sustainability implications have been identified.

#### 5.4. Financial

|                  |                         |                 |        |           |          |                            |                  |
|------------------|-------------------------|-----------------|--------|-----------|----------|----------------------------|------------------|
| Budget Area:     | Planning and Activation |                 |        |           |          |                            |                  |
| Funding Source:  | Nil                     |                 |        |           |          |                            |                  |
| Budget Ref: (PN) | Description             | Approved Budget | Actual | Committed | Proposed | Total Forecast Expenditure | Remaining Budget |
| Nil              | Nil                     | Nil             | Nil    | Nil       | Nil      | Nil                        | Nil              |

#### 6. Consultation and Communication

Once Council has determined a preferred model and drafted the appropriate governance arrangements including who is to sit on the Board and Community Panel, the process for appointment, the role of the Board, functions, procedures, and meeting procedures the package will be publicly exhibited for 28 days.

#### 7. Conclusion

Council has a once in a generation opportunity to ensure that the community benefit from the transition to renewable energy. It is likely that Council will finalise the terms of multiple planning agreements of the coming 1 to 2 years and it is therefore important that Council finalises the Future Fund concept if that is the preferred model.

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|                            |   |                              |
|----------------------------|---|------------------------------|
| <b>Item:</b>               | <b>9.6</b>  | <b>Ref: AINT/2024/12603</b>  |
| <b>Title:</b>              | <b>Outcome of Public Exhibition and Adoption of Draft Local Strategic Planning Statement (LSPS) 2024</b>  | <b>Container: ARC24/6623</b> |
| <b>Responsible Officer</b> | <b>Chief Officer Planning and Activation</b>  |                              |
| <b>Author:</b>             | <b>John Goodall, Manager Land Use Planning</b>  |                              |
| <b>Attachments:</b>        | <ol style="list-style-type: none"><li>1. Summary of LSPS Public and Internal Submissions - for Council Report with personal information redacted</li><li>2. Summary of LSPS - Agency Submissions</li><li>3. State Agencies Submissions - Draft LSPS</li><li>4. Summary of changes to the Draft LSPS post Exhibition</li><li>5. Draft LSPS for Adoption - Final Version 12</li></ol> |                              |

### **1. Purpose**

The purpose of this report is to provide Council with a summary of public, internal and NSW agency submissions received during the public exhibition period of the Draft Local Strategic Planning Statement (**LSPS**) and provide recommendations where relevant for any amendments to be made to the Draft LSPS prior to seeking Council's resolution for its adoption.

### **2. OFFICERS' RECOMMENDATION:**

That Council:

- a. Receive and note the submissions contained in the report on the Draft Local Strategic Planning Statement;
- b. Adopt the Draft Local Strategic Planning Statement in Attachment 5;
- c. Delegate authority to the General Manager to make any minor amendments to Draft Local Strategic Planning Statement;
- d. Forward a copy to the Department of Planning, Housing and Infrastructure.

### **3. Background**

At the December 2023 Ordinary Council Meeting (**OCM**), Council resolved to endorse the Draft LSPS for public exhibition and referral to relevant state agencies (171/23).

The Draft LSPS has effectively been in the public domain since the December 2023 OCM, although the formal public exhibition for 42 days commenced from 6 February 2024 until 19 March 2024.

The Draft LSPS was forwarded to Department of Planning, Housing and Infrastructure (**DPHI**) and relevant state agencies on 8 February 2024 and was also emailed directly to key local industry and community stakeholders, on 9 February and 13 February 2024, respectively.

During the exhibition period Council undertook community engagement which included, village and town meetings, Armidale and Guyra markets, public drop-in sessions at both the Armidale and Guyra Offices to discuss the Draft LSPS directly with a strategic planner, social media, online surveys and Council's 'Your Say' page.

Following public requests received during the community consultation period, Council extended the public exhibition period of the Draft LSPS until 31 March 2024.

At the close of the exhibition period on 31 March 2024, the Draft LSPS had been publicly exhibited for a period of 55 days, satisfying the minimum legislative required period of 28 days and has effectively been in the public domain since the December 2023 OCM.

During the submission period, Council received:

- 101 written public submissions;
- 2 internal submissions;
- 5 State agency submissions

The Draft LSPS, FAQs and supporting information and survey were provided on Councils 'Your Say' page. Across the exhibition period, the project page received a total of 2,800 visits, with a maximum of 133 visits per day. The draft LSPS document was downloaded 1,430 times.

A 25-question survey was provided, which was completed by 129 respondents.

- 73% of respondents agreed that Council needs to take a leading role in ensuring there is an adequate supply of residential and employment zoned land;
- 78% of respondents see the regions high 'quality of life' as being a sought-after product that will attract people and businesses to the region;
- 48% of respondents supported the aspirational targets for jobs and housing set in the LSPS, while 31.7% were neutral and 44.4% disagreed. 52% of respondents agreed with the vision objectives of the LSPS;
- 37.7% of respondents agreed, 30.3% unsure, that the established industries of extensive agriculture and education are not capable of driving growth in the future;
- 69.8% of respondents are aware that the renewable energy zone and controlled environmental horticulture are engine room industries highly suited to the region. However, only 33.6% of respondents agreed that these would be the engine room industries to drive growth in the region;
- Our unique cool climate environment, our natural environment and abundant wilderness areas came out as the top 2 characteristics of the region cherished, with our green neighbourhood and tree lined streets and our education and agricultural sectors closely behind;
- Our transport connections (road, rail, airport), our natural environment and abundant wilderness areas and our unique cool climate environment were identified as the top 3 characteristics of the region that will attract investment and population growth in the next 20 years;
- The top 3 challenges to the region's growth were identified as being our declining shopping and retail opportunities, our lack of essential services and the lack of investment by other levels of government.

#### **4. Discussion**

Council has noted and considered all written public submissions received and have assessed if any amendments are required to be made to the Draft LSPS or can reasonably be made with available resources.

A number of grammatical adjustments have been made in the LSPS to correct minor errors and in some instances improve alignment throughout the document with other Council strategies. These minor amendments have not changed the overall focus and intent of the Draft LSPS and

its Planning Priorities from those previously presented to Council and as such have not been individually identified.

Apart from the State agency submissions received, that require some adjustments to better align the LSPS with regional strategies and plans, any additional amendments recommended to the LSPS following the public submission period having been considered to align with Council's aspirations for growth for the region and community sentiment identified within the '*Advancing Our Region Community Plan 2022-2032*'.

**The following amendments to the Draft LSPS are recommended following consideration of public submissions:**

- Foster agri-tech innovation recommended as a new action under A3.2;
- Promote agri-tourism opportunities recommended as a new action under A3.2
- Collaborate with research institutes to promote biomedical development within the region recommended as a new action under B2.2.
- Encourage the development of recycling and green industries recommended as a new action under A2.1.
- Develop health and wellbeing industries recommended as a new action under B2.2
- Investment in eco-tourism and outdoor recreation and adventure activities promoting sustainable tourism covered under Action A6.1.
- Historic train experiences south of Armidale recommended as a new action under A6.1.
- Opportunities for additional tourist trails recommended as a new action under A6.4.
- Additional tourism opportunities for towns and villages along the rail trail recommended as amended wording under action A6.7.
- Explore opportunities for locally produced materials for the REZ and CEH recommended as a new action under A2.2.
- Recommend updating Figure 4 to include distances to Sydney and Brisbane.
- Recommend that section 1.5 be amended to clarify that woodsmoke and air quality concerns are largely related around the Armidale City area.
- Housing diversity and aging in place recommended to be included in the rationale under B1.
- Recommend updating Figure 24 to include arrow along rail trail saying to 'Glen Innes'.
- Recommend additional action be included under C3.1 to look at opportunities to improve and coordinate responses between Council, emergency services and the community around natural disaster declarations.
- Recommend inclusion of new Action under B2.2 to look at opportunities to improve local medical services and retention of trainee doctors within the region.
- Recommend amendments to DCP to ensure that new businesses and industries implement water efficiency best use practices – included as new action under C3.1

- Council has developed a renewable energy community benefit framework which is aimed at providing community benefits for the region hosting renewables. Given this, it is recommended that a new action been included under C4.1 to look at opportunities to partner with REZ projects to provide for additional community benefit projects.
- It is recommended that the LSPS be updated to include the actions under the Creeklands Masterplan and the intent to seek further ongoing funding for its completion be included under action A4.3
- Recommend that the Structure plan for Guyra, Map 26, be updated to remove reference to 'potential housing for temporary/ seasonal workers' and that Council investigates alternative locations for this type of housing.
- Recommend that climate change actions be linked to DPHI 'Guide to Climate Change Risk Assessment for NSW Local Government' and that action C3.1 be updated accordingly.
- Recommend the inclusion of an additional action under B1.5 to look at zoning high environmental value land as C2 Environmental Conservation, to protect areas of biodiversity from further development.
- Recommend that the promotion of local food resilience and production and community gardens be included as an additional action under C3.

Submissions are summarised and addressed in Attachment 1 and 2 and changes to the Draft LSPS are outlined in Attachment 4.

Following the public consultation period, it is recommended that Action C1.1 regarding the mitigation from the impacts of wood heaters in Armidale during the winter months be updated and amended accordingly, as highlighted below:

- Seek funding for and undertake a community awareness program on the impacts of wood heaters on air quality;
- Undertake a community awareness program on the biodiversity and environmental impacts of wood collection within the LGA;
- Amend Council's Planning Policies to prohibit any new dwellings from installing wood heaters where they are located on lots of 4,000m<sup>2</sup> or less;
- Undertake a trial program to install filtration devices to existing approved wood heaters to understand their effectiveness in reducing woodsmoke pollution generated by existing fireplaces;
- Advocate for the inclusion of a reduced PM2.5 limit in the Australian Standard for fuel combustion heaters (AS/NZS 4013:2014);
- Provide a co-contribution with the State Government to establish a financial assistance program to support owners replacing existing wood heaters with alternative cleaner heating options within Armidale;
- Undertake investigation into potential options to phase-out wood heaters within Armidale where substantial renovations occur to the existing dwelling.

The LSPS contains a number of planning actions that have been formulated to facilitate achievement of the LSPS planning priorities. The delivery of the planning actions requires the

allocation of resources and budget, and for this reason the actions have been grouped across three implementation timeframes being:

- Short term 1-4 years (to 2028)
- Medium term 4-8 years (to 2032)
- Long term 8 + (beyond 2032)

A full list of the Planning Actions and assigned timing is contained within the final LSPS.

## **5. Implications**

### **5.1. Strategic and Policy Implications**

The LSPS draws on and gives effect to Council's land use vision and planning priorities based on local characteristics and opportunities and informed by the strategic and community planning work undertaken across the region during the development of the Community Plan. It provides a 20-year vision for the LGA, which builds on the 10-year vision in Council's Community Plan.

Importantly, the LSPS provides a planning vision, emphasising strategic land use, transport and environmental planning, clearly demonstrating how the area will change to meet the community's needs in 20 years' time.

The 20-year vision has been derived from a community strategic visioning process conducted as part of the Community Plan prepared under the *Local Government Act 1993*.

The LSPS will also guide and facilitate the preparation of subordinate Council Strategies such as the Local Housing Strategy, Infrastructure Strategy, Open Space and Biodiversity Strategies, which will sit alongside the LSPS to provide direction and shape how development will evolve over time to meet the community's aspirations. The LSPS will achieve this via amendments to the Local Environmental Plan and Development Control Plans.

### **5.2. Risk**

The preparation of an LSPS is a requirement for all Council's in NSW under section 3.9 of the EP&A Act.

The LSPS proposes to replace the existing LSPS, adopted by Council in October 2020, and builds upon the communities' vision expressed in the more recent Community Plan 2022-2023 and the updated Regional Plan.

The risks associated with not having a robust and holistic updated document that better aligns with the key desires of this Council and the community today, would be that it would not give effect to the vision objectives expressed above and in particular the Council's aspirations for jobs and population growth within the region.

### **5.3. Sustainability**

There are no known sustainability implications arising from the matters addressed in this report.

#### 5.4. Financial

|                  |                                    |                 |         |           |          |                            |                  |
|------------------|------------------------------------|-----------------|---------|-----------|----------|----------------------------|------------------|
| Budget Area:     | Planning and Activation            |                 |         |           |          |                            |                  |
| Funding Source:  | Operational                        |                 |         |           |          |                            |                  |
| Budget Ref: (PN) | Description                        | Approved Budget | Actual  | Committed | Proposed | Total Forecast Expenditure | Remaining Budget |
| 250203           | Local Strategic Planning Statement | 200,000         | 200,000 | 0         | 0        | 200,000                    | 0                |

The Actions identified in the LSPS will require the development of a number of supporting planning strategies which will require internal and possibly external resourcing. The LSPS will provide focus, direction and clarity for Council and the Community to inform land use decisions and actions over the next 20 years.

Given this, the development of these planning strategies and the associated studies required to be undertaken to support these, will have budget implications over the life of the LSPS.

#### 6. Consultation and Communication

There have been a number of workshops undertaken with Councillor's since November 2022 to inform and seek their direction in the preparation of the updated LSPS, to ensure that it was fit for purpose in line with the current Regional and Community Plans.

Following Council's endorsement of the Draft LSPS on 13 December 2023, the Draft Plan was publicly exhibited in accordance with Council's resolution for a period of 42 days from 6 February 2024 until 19 March 2024. Following requests for an extension to the exhibition period, Council extended the submission period until 31 March 2024.

#### 7. Conclusion

This report recommends that Council notes the submissions received during the public exhibition period, amends and updates the Draft LSPS as recommended following Council's consideration of the submissions received and adopts the LSPS, which following adoption will be forwarded to the Department of Planning, Housing and Infrastructure.



|                            |   |                              |
|----------------------------|---|------------------------------|
| <b>Item:</b>               | <b>9.7</b>  | <b>Ref: AINT/2024/12905</b>  |
| <b>Title:</b>              | <b>Tesla Supercharger Licence Agreement</b>   | <b>Container: ARC23/5763</b> |
| <b>Responsible Officer</b> | <b>Chief Officer Planning and Activation</b>  |                              |
| <b>Author:</b>             | <b>Annabelle Walsh, Senior Property Specialist</b>  |                              |
| <b>Attachments:</b>        | <ol style="list-style-type: none"><li>1. Tesla Supercharger License Agreement- <b><u>(General Manager's Note:</u></b> <i>The report considers the arrangement with Tesla Motors Australia which includes items of a commercial nature and is deemed confidential under Section 10A(2)(c) of the Local Government Act 1993, as it deals with commercial information of a confidential nature which, if disclosed, confers a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).</i></li><li>2. Parking License Agreement- <b><u>(General Manager's Note:</u></b> <i>The report considers a confidential parking license agreement entered into between council and a private entity. and is deemed confidential under Section 10A(2)(c) of the Local Government Act 1993, as it deals with commercial information of a confidential nature which, if disclosed, confers a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).</i></li><li>3. Tesla Sketch for annexure to amended license- <b><u>(General Manager's Note:</u></b> <i>The report considers locations of Tesla charging stations and is deemed confidential under Section 10A(2)(c) of the Local Government Act 1993, as it deals with commercial information of a confidential nature which, if disclosed, confers a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).</i></li></ol> |                              |

### 1. Purpose

The purpose of this report is to receive Council's endorsement to amend the Tesla License Agreement entered into on 30 July 2021, between Armidale Regional Council and Tesla Motors Australia Pty Limited.

### 2. OFFICERS' RECOMMENDATION:

That Council:

- a. Approve the proposed amendments to the Tesla License Agreement noted in this report.
- b. Delegate authority to the General Manager to negotiate any minor amendments the terms of the Tesla License Agreement and to sign all documents and take any other action necessary to give effect to this resolution and the installation of Tesla chargers at 117 Jesse Street, Armidale.

### 3. Background

In July 2021, a License Agreement was negotiated by former Council employees for Tesla EV Charging stations to be erected on the Jessie Street carpark (behind Dan Murphys) being Lot 3 in DP 532766 (**Telsa License Agreement**) (Attachment 1). The Lot is owned by Council and provides parking to the community.

A Parking License Agreement to the registered proprietor of Lot 1 in DP 1211798 was entered into on 24 May 2010 for a period of 25 years for exclusive use of the parking spaces and trolley bays as it required to satisfy the conditions of DA- 72-2010 for the Dan Murphy's store to proceed (**Parking License Agreement**) (Attachment 2).

Pursuant to the Parking License Agreement, the Licensee has been provided 21 days' notice of the License to Tesla as is required under Clause 4.6.

Since entering into the Tesla License Agreement, no charging stations have been erected as agreed, however, Tesla have made contact indicating that they wish to make changes to the layout of the plan, noting where the charging spaces will be located, with the intention to erect them in June 2024. This approach was used as an opportunity to negotiate the removal of some unfavourable Clauses from the 2021 Tesla License Agreement.

It is important to note that Council receives a nominal license payment of \$1 per annum for the Parking License Agreement and no license fee for the Tesla License Agreement.

#### **4. Discussion**

Upon review of the document the recommended changes as agreed in principle by Tesla Motors Australia Pty Limited are as follows:

- The Tesla License Agreement to be amended at Clause (7) to delete the paragraph from the words "within" to "invoice";
- A sentence to be added to the Tesla License Agreement at Clause (13) to state after the read "expense": "The Licensee will, following termination or abandonment of this License, restore the parking spaces to a similar state as it was when the Licensee took possession of the property"; and
- The updated amended Sketch Plan annexed hereto and marked Annexure "3" is to be annexed to the Tesla License Agreement.

The above recommended changes ensure the following:

- That Council does not pay for 50% of the electricity costs as previously agreed; and
- That the land be returned to its original state at the expiration or abandonment of the License by the Licensee.

#### **5. Implications**

##### **5.1. Strategic and Policy Implications**

The objectives of this report are consistent with Council's Delivery Program as follows:

C2.2 Promote and encourage the establishment and uptake of sustainable transport options and services:

- Provide increased electric car charging points across the region to promote usage and visitor spending (C2.2.1).

This report recommends that the Tesla License Agreement be amended so that (4) charging stations can be erected on Council land.

##### **5.2. Risk**

The amendments to the Tesla Agreement are required as the Tesla License Agreement as it stands could put Council in a worse financial position paying for electricity that it does not need to pay for. It also reduces the risk of the land being left worse off at the end of the License.

### **5.3. Sustainability**

The erection of EV charging stations in proposed vicinity will encourage locals and travellers alike passing through town to the mall to explore and spend money therefore increasing tourism and economic development.

It will also encourage locals to purchase and use electric vehicles which have a positive impact on the environment.

### **5.4. Financial**

The amendments to the Telsa Agreement will reduced Council's financial exposure.

## **6. Consultation and Communication**

Legal advice was sought from Council's Solicitor regarding the changes and advice regarding the suitability of the layout has also been sought from Council's development engineer.

No community consultation has been carried out for this item and no community consultation is proposed.

## **7. Conclusion**

This report recommends for Council to endorse the amendments to the Tesla License Agreement to be made by the General Manager if required to do so and all documents relative to the installation of the Tesla Charging Stations.

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|----------------------------|--|------------------------------|
| <b>Item:</b>               | <b>9.8</b>   | <b>Ref: AINT/2024/13097</b>  |
| <b>Title:</b>              | <b>Amalgamation of Armidale Dumaresq Development Control Plan 2012 and Guyra Development Control Plan 2015</b> | <b>Container: ARC24/7031</b> |
| <b>Responsible Officer</b> | <b>Chief Officer Planning and Activation</b>   |                              |
| <b>Author:</b>             | <b>Paul McFarland, Senior Town Planner</b>   |                              |
| <b>Attachments:</b>        | 1. Draft Armidale Regional Council DCP 2024  |                              |

### **1. Purpose**

This report seeks Council's approval to exhibit Armidale Regional Council Development Control Plan 2024 (DCP2024). The amalgamation of Armidale Dumaresq DCP 2012 and Guyra DCP 2015. Exhibition of the appended draft Armidale Regional Council DCP 2024 provides the opportunity for community feedback on this document.

### **2. OFFICERS' RECOMMENDATION:**

That Council:

- a. Place the draft Armidale Regional Council Development Control Plan 2024 on public exhibition for a period of 28 days.
- b. Receive a further report should any submissions be received as a result of the exhibition period, however, should no submissions be received, endorse the adoption of the draft Armidale Regional Council Development Control Plan 2024 without the need of a further report to Council.

### **3. Background**

Armidale Regional Council (**ARC**) requires a single Development Control Plan (**DCP**) to replace the current Armidale Dumaresq DCP 2012 and the current Guyra DCP 2015 to produce a single DCP.

Following amalgamation of Armidale Dumaresq and Guyra Councils their respective Local Environmental Plans (**LEP**) were combined to create the Armidale Regional Local Environmental Plan 2012 (**LEP 2012**). The respective Development Control Plans (**DCPs**) for Armidale Dumaresq and Guyra continue to operate separately.

An LEP represents the primary land use planning instrument that specifies what development is permitted on each lot in the Local Government Area (**LGA**). DCPs support an LEP by providing detailed planning and design guidelines. Whilst LEPs are statutory, the provisions of a DCPs are more flexible. The purpose of a DCP is to provide detailed planning and design guidelines to support the planning controls in the LEP.

As with the merging of LEPs from the respective LGA the first step in the DCP process has been to merge the two documents rather than making substantial changes that are not supported by an overarching strategy. It is likely that with the adoption of the new Local Strategic Planning Statement (**LSPS**) and Local Housing Strategy (**LHS**) future substantial change to the DCP will occur.

### **4. Discussion**

In merging the two DCPs a 'not worse off' test was used. This ensures that the residents throughout the Council area can continue to develop as currently provided for in the respective

DCPs. The exception to this is where the DCPs contained provisions that were inconsistent with higher-order legislation. For instance, Armidale Dumaresq DCP 2012 *Chapter 4.3, Section 3.1.2 Building heights in the RU5 zone*, S.6 states:

‘The height of an outbuilding or the alterations and additions to an existing outbuilding on a lot must not exceed 7 metres from existing ground level to the highest point on the building roof’.

*State Environmental Planning Policy (Exempt and Complying Development)* (Codes SEPP) prescribes a height limit of 4.5m. The DCP was amended to comply with the State Environmental Planning Policy.

Armidale Dumaresq DCP 2012 objectives have been used throughout the combined DCP. Guyra’s objectives are similar to and consistent with those of A Armidale Dumaresq DCP 2012, so it would be largely repetitive to include them as well. There are exceptions where Guyra’s information has been retained/incorporated into the DCP. These are highlighted in the relevant locations in the amalgamated DCP and the information below.

### Key changes

- Zone references have been updated throughout. This was required due to zoning references being out-of-date with changes to zoning labels introduced by the NSW *Department of Planning, Infrastructure and Environment* in June, 2021.
- A consistent contributions statement has been provided in relevant chapters.
- References to Armidale Dumaresq LGA, Guyra LGA, Armidale Dumaresq DCP 2012 and Guyra DCP 2015 in the amalgamated DCP have been replaced with Armidale Regional Council LGA or Armidale DCP 2024, as appropriate.
- Hyperlinks have been checked and updated where necessary.
- Unnecessary definitions have been removed at the end of chapters where they duplicated definitions in *ARC LEP 2012*. A standard statement has been included in relevant chapters to refer readers to the *ARC LEP 2012* for definitions. Definitions not contained in *ARC LEP 2012* have been retained in the DCP.
- The *RU5 Village* zone is a multifunction zone, i.e. an extensive range of uses are permissible with consent in that zone. As a result, references to development standards occur in a number of chapters in the DCP. It is envisaged that the comprehensive review of the DCP (LSPS Action 11) will take a place-based approach to each village as described in Theme 1b) of the LSPS:
  - i) Prepare a place-based strategy to guide future growth and development of each of the following villages and immediate surrounds consistent with the desired future character of the relevant village: a) Ben Lomond; b) Black Mountain; c) Ebor; d) Hillgrove; and e) Wollomombi. Note: each strategy to highlight land use planning implications.
- References to *State Environmental Planning Policy (Infrastructure) 2007* have been updated to *State Environmental Planning Policy (Transport and Infrastructure) 2021*.
- *Chapter 2.1 Site Analysis: SEPP44 – Koala Habitat* was repealed in November, 2020. *State Environmental Policy (Biodiversity and Conservation) 2021* Chapters 3 and 4 address koala habitat protection. References in Chapter 2.1 to SEPP44 have been replaced with references to the latest SEPP.
- *Chapter 2.1 Site Analysis: SEPP (Rural Lands) 2008* was repealed in February, 2019 and replaced by *State Environmental Policy (Primary Production and Rural Development) 2019*. References in Chapter 2.1 to SEPP (Rural Lands) 2008 have been replaced with references to the latest SEPP.

- *Chapter 2.5 Contaminated Land*: References to SEPP55 and have been replaced with 'Contaminated Land Planning Guidelines' and *SEPP (Resilience and Hazards), 2021*.
- *Chapter 2.10 Signage*: References to SEPP64 have been replaced with *SEPP (Industry and Employment) 2021* (Ch 3 of the Industry and Employment SEPP relates to 'Advertising and Signage').
- *Chapter 2.11 Engineering* has been removed. The chapter is out of date/superseded by ARC's 'Engineering Code'. The DCP has multiple references in relevant locations to Council's 'Engineering Code', which is available on Council's website and can be relied upon to provide clear and comprehensive detail for applicants in regard to Council's infrastructure standards and requirements.
- *Chapter 5.2 Industrial Development*: retained provisions from Guyra DCP 2015 relating to development on land adjoining land zoned *R1 – General Residential*. Land zoned *R1 – General Residential* and *E4 - General Industrial* adjoin in the Guyra town center and the protections / standards described in the Guyra DCP need to be retained to protect the health and well-being of residents in this situation.
- *Guyra Chapter 15 Other Matters*; e.g. intensive agricultural activities: the activities described in this chapter are covered within/superseded by other legislation; therefore, it is no longer appropriate to retain this chapter.
- *Guyra Chapter 16 Waste Minimisation and Waste Management*: the provisions covered in this chapter are covered within/superseded by other legislation; therefore, it is no longer appropriate to retain this chapter.

#### Other changes

- *Chapter 4.2 Multi-unit Dwellings*: definition of 'shop top housing' deleted – conflicted with *LEP 2012* definition.
- Reference to a 'deferred matter' under *Armidale Dumaresq LEP 2008* appears twice in the ADC DCP. This matter is redundant, and the reference has been removed.
- Information on 'Planning Pathways' from *Guyra DCP 2015* has been retained and included in the introduction to the amalgamated DCP. This information is considered helpful to users of the document, especially non-planners, or those who infrequently engage with the planning system.
- *Chapter 2.2 Tree Preservation*: The *NSW Native Vegetation Act, 2003* was repealed on 25<sup>th</sup> August, 2017. The current legislation governing the clearing of native vegetation is the *Local Land Services Act, 2013* and the *Biodiversity Conservation Act, 2016*. The chapter now includes a notation advising of this.
- *Chapter 2.2 Tree Preservation, Section 2.3a*: A reference to the *Native Vegetation Act, 2003* has been retained in this section as information about property vegetation plans approved under that Act are still available in the public register on the NSW Government's [Environment and Heritage](#) website.
- Chapter 2.9 Parking, Appendix 1, Section 1.4 states: 'Except where calculations result in a figure of less than one (which is to be rounded up) all calculations are to be rounded to nearest whole number (ie 0.1 - 0.4 rounded down, 0.5 - 0.9 rounded up)'. This provision has been amended to read: 'All calculations are to be rounded up to nearest whole number.'
- *Chapter 4.1 Urban Residential Development*:
  - Clause 4.3.5 has conflicts with the *State Environmental Planning Policy (Exempt and Complying Development) 2008* (Codes SEPP). Section 15 of the ADC DCP limits the height of buildings to 10m.; in the Codes SEPP this limit is 8.5m. Section 16 of the ADC DCP allows a height of 4.8m. for outbuildings; the Codes SEPP limits outbuildings to a height of 4.5m. (same issue exists in Ch4.2 Clause

4.3.3). The amalgamated DCP has been amended to comply with the Codes SEPP.

- *Clause 5.2.1 Front façade setback in R1 General Residential and R2 Low Density Residential zones:* ARC DCP requires 4.5m.; Guyra requires only 4m. in R1 and RU5 - Village zones. *State Environmental Planning Policy (Exempt and Complying Development) 2008* requires a minimum front setback of 4.5m. The DCP adopts 4.5m. to comply with the State Government's requirements. It should be noted that there is a provision in the DCP that allows the front setback to be varied if it is consistent with adjoining buildings.
- *Clause 9.1, s.1(c) states:* 'any brick or other solid portion of the fence above 600mm should not be more than 300mm wide and the remaining fence must be of open design'. This conflicts with the dimension shown in the diagram immediately below the clause. (Same occurs in Ch 4.2, Clause 4.3, section 3 (c), except the dimension in the text is 250mm). Also, Ch4.3, Cl.6.2 refers to 250mm. For consistency, 300mm has been adopted as the standard, as per the figure provided in ADC DCP 2012, and the DCP amended accordingly.



- *Chapter 4.3, Clause 3.1.1 Heights of dwellings and outbuildings* in the RU1 General Rural, RU3 Forestry and RU4 Primary Production Small Lots zones have been reduced to comply with the Codes SEPP.
- *Chapter 4.3, Clause 3.1.2 Height of outbuildings* in the RU5 - Village zone has been reduced to comply with the Codes SEPP (down from 7 metres to 4.5 metres).

## 5. Implications

### 5.1. Strategic and Policy Implications

Amalgamation of ADC DCP 2012 and Guyra DCP 2015 provides consistent, one-stop location for all information about Council's planning and design guidelines. A single DCP will greatly assist landholders, occupiers, developers and staff.

### 5.2. Risk

Having a single DCP whose provisions are updated to reflect current information and legislation minimises economic, social, operational, reputational and legislative and regulatory risk for the following reasons:

- **Economic risk:** Having two DCPs for the Council's area with different form could create perceptions that people are being treated differently in different parts of the LGA. These perceptions may lead to dispute between landholders, residents, developers and Council. Disputes could result, for instance, from differences in wording or expression of standards applying to different locations within the Council area. Disputes can delay development approvals and even lead to legal action. Therefore, two separate DCPs operating in parallel

could have unintended impacts on economic investment due to perceived inconsistencies in development standards across the LGA. A single DCP ensures consistency of information for everyone, thereby minimising the opportunity for economic impacts on the community, developers and Council.

- Social risk: With two different DCPs within the one LGA the community may consider that there are different development standards applying across the Council area. An amalgamated DCP provides a consistent approach to all development in the LGA, thereby minimising social risk in relation to perceptions of disadvantage.
- Operational risk: Having a system using two similar, but different DCPs within the LGA exposes Council to operational risk in terms of the opportunity for employee errors. Having a single DCP will ensure that council uses a single document that encapsulates the guidelines for development standards applicable throughout the LGA. This minimises the opportunity for human error and policy failure.
- Reputational risk: Continued use of two DCPs with a similar focus, but slightly different expression and, in some instances, slightly different development and design standards provides greater opportunity for disputes or human error. Errors could, for instance, occur when providing advice or assessing development. from interpretation or recollection of standards applicable to properties. Any error of this nature creates an opportunity for reputational risk. A single, consistent DCP document minimises the opportunity for error and dispute, reducing the risk to Council's reputation.
- Corporate risk: Consolidation of the existing Armidale Dumaresq and Guyra DCPs into a single document ensures Council meets its corporate governance responsibilities to the organisation and the wider community.
- Legislative and Regulatory risk: As advised in the Discussion section of this report, the existing Armidale Dumaresq and Guyra DCPs contain a number of outdated legislative references. The consolidated DCP corrects these errors and ensures that those who rely on the DCP are referencing the current legislative standards and requirements.

### **5.3. Sustainability**

Nil.

### **5.4. Financial**

Nil.

## **6. Consultation and Communication**

If endorsed by Council the DCP and explanatory note will be publicly notified in accordance with the *Environmental Planning and Assessment Regulation, 2021* for a period of 28 days.

Following close of the exhibition period a further report will be submitted to Council if submissions are received.

## **7. Conclusion**

Draft Armidale Regional Council DCP 2024 minimises economic, social, operational, reputational, corporate and legislative and regulatory risks inherent in a system using two similar, but distinct DCPs across different parts of the local government area.

Exhibition of draft DCP 2024 provides the opportunity for public feedback.



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|----------------------------|--|-----------------------------|
| <b>Item:</b>               | <b>9.9</b>   | <b>Ref: AINT/2024/14925</b> |
| <b>Title:</b>              | <b>Planning Proposal 90 Kurrawatha Avenue, Armidale</b>          | <b>Container:</b>           |
|                            | <b>ARC23/6428</b>  |                             |
| <b>Responsible Officer</b> | <b>Chief Officer Planning and Activation</b>                     |                             |
| <b>Author:</b>             | <b>John Goodall, Manager Land Use Planning</b>                   |                             |
| <b>Attachments:</b>        | 1. Planning Proposal No 24 - 90 Kurrawatha Avenue - Amending MLS |                             |

### 1. Purpose

The purpose of this report is to seek Council approval to forward the revised Planning Proposal for 90 Kurrawatha Avenue, Armidale to the Department of Planning, Housing and Infrastructure, with a request for a Gateway Determination and to commence the necessary actions resulting from that determination.

### 2. OFFICERS' RECOMMENDATION:

That Council:

- a. Endorse the Planning Proposal (Attachment 1) to amend the minimum lot size from 1 hectare to 4,000m<sup>2</sup> and an area of 6,000m<sup>2</sup>, for the land at 90 Kurrawatha Avenue, Armidale (Part Lot 200 DP 1277689).
- b. Forward the endorsed Planning Proposal to the Department of Planning, Housing and Infrastructure with a request for Gateway Determination and exhibit the proposal in accordance with that determination.
- c. Delegate authority to the General Manager to make any changes to the Planning Proposal as a result of feedback from the Department of Planning, Housing and Infrastructure.
- d. Seek authorisation from the Department of Planning, Housing and Infrastructure to be the local plan-making authority.

### 3. Background

At the May 2022 Ordinary Council Meeting (OCM) Council resolved to endorse Planning Proposal (PP) No 18 to rezone the land at 90 Kurrawatha Avenue, Armidale (**the Land**) from C4 Environmental Living and C3 Environmental Management to R2 Low Density Residential, and alter the Minimum Lot Size (MLS) from 1 hectare and 4 hectare to 4000m<sup>2</sup> (108/22).

The PP was forwarded to the Department of Planning and Environment with a request for a Gateway Determination, however, it was rejected due to a lack of strategic and site-specific merit. Part of the strategic merit issues result from the land being located outside the areas identified for future growth under Council's existing strategic planning documents.

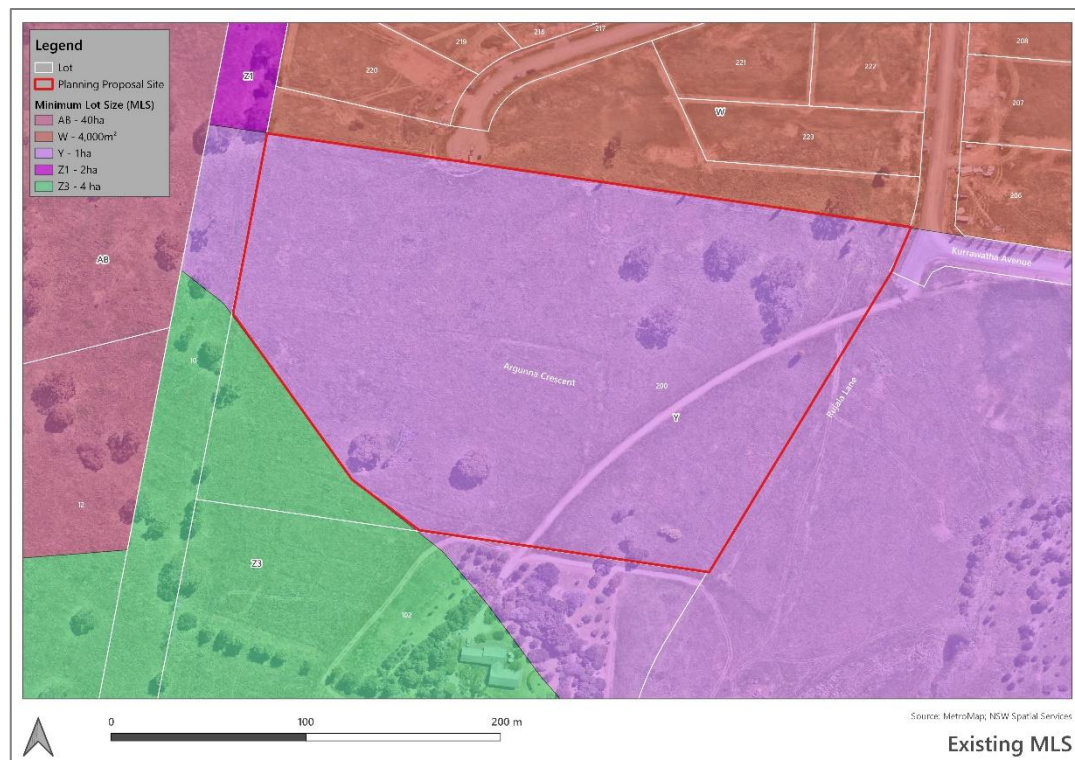
At the December 2022 OCM, Council resolved to endorse a revised PP (252/22) for the Land with the following changes:

- **Reduction in area covered** – the original PP was for the yellow shaded area. The revised PP was resubmitted for the area bounded by the red polygon (Figure 1).
- **No change to current Zoning** – the original PP proposed to rezone the land from C3 Environmental Management /C4 Environmental Living to R2 Low Density Residential. The revised PP did not propose to change the zoning (retain the C3/C4 zone).

- **Reduced area of change to Minimum Lot Size (MLS)** – the original PP proposed to change the MLS for all the Land from 1ha & 4ha to 4,000m<sup>2</sup>. The revised PP sought to amend the MLS for the PP site to 4,000m<sup>2</sup> (Figure 2 and 3).

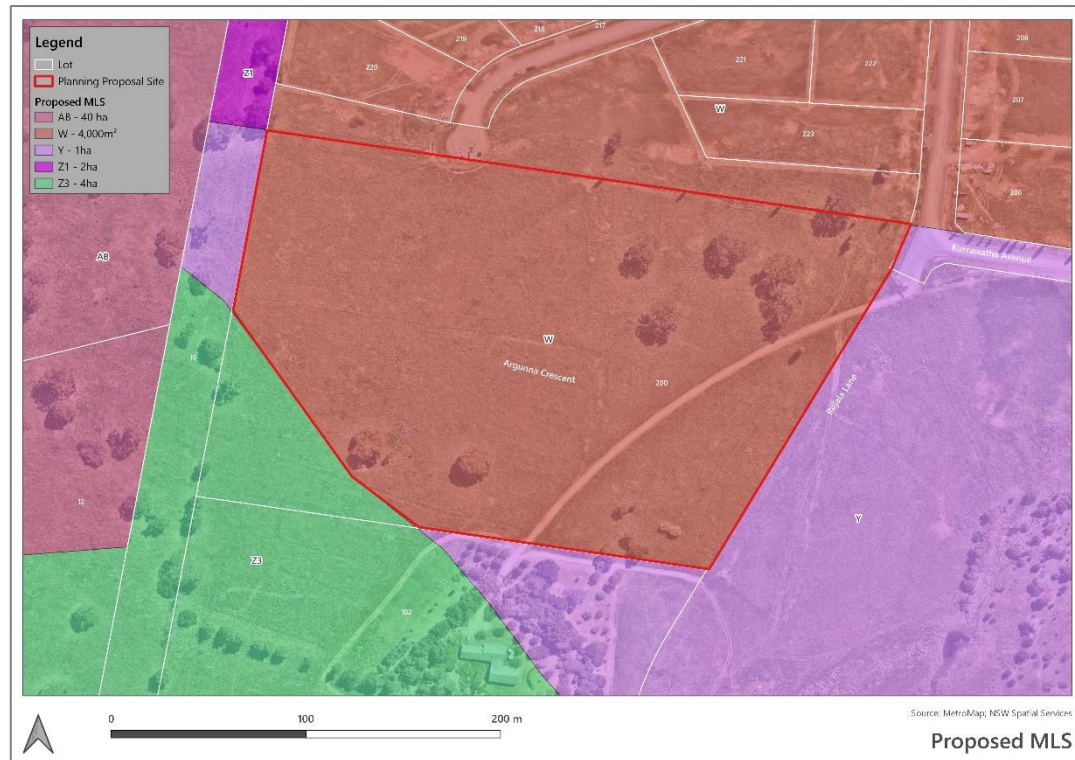


**Figure 1: Revised Planning Proposal Area.**



**Figure 2: Existing MLS**





**Figure 3: Proposed MLS**

The changes supported by Council allowed for increased residential density on the Land equivalent to the original PP (see Figure 4 compared to Figure 5).



**Figure 4: Existing Approved Lot Layout for the Site and Adjoining Land**



**Figure 5: Concept Low-Density Lot Layout for the Site**

The revised PP was forwarded to the Department of Planning and Environment with a request for a Gateway Determination. The Department issued a Gateway Determination on 19 May 2023.

The PP and supporting documentation were publicly exhibited from Wednesday 31 May 2023 to Wednesday 28 June 2023 and referred to the following State agencies in accordance with the Gateway Determination:

- NSW Biodiversity and Conservation Division
- NSW Department of Primary Industries – Agriculture
- Armidale Local Aboriginal Land Council
- Civil Aviation Safety Authority
- Cemeteries & Crematoria NSW
- Transport for NSW

The NSW Biodiversity and Conservation Division (**BCD**) objected to the PP on the basis that:

- The planning proposal and flora and fauna assessment report be revised to ensure they provide a consistent description of the planning proposal intent.
- The planning proposal be revised to apply minimum lot sizes that ensure each remnant of White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland Critically Endangered Ecological Community (CEEC) in the planning area can be retained entirely within individual lots with enough space to enable the CEEC to be avoided by all components of future residential development (i.e. dwellings, access roads, on-site effluent disposal areas, bushfire asset protection zones and boundary fence clearing entitlements).

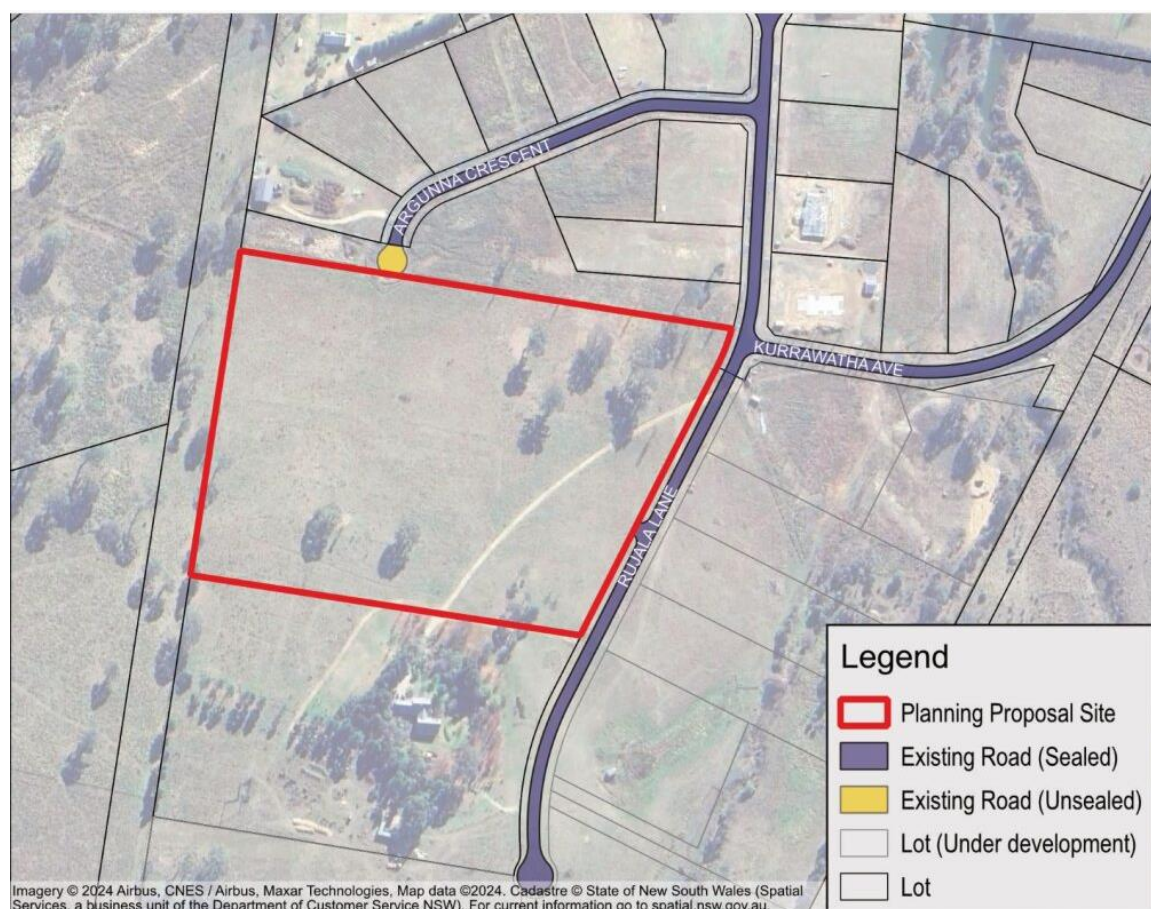


Council staff and the proponent met BCD officers on site on 20 October 2023 to discuss the objection, and a new amended draft plan addressing BCD's concerns was subsequently prepared.

Whilst it appears that the objection by BCD was successfully addressed by the proponent, DPE advised that due to the proposed changes to the PP itself the PP should be withdrawn and a new PP lodged with the Department.

#### 4. Discussion

Following consultation with BCD, the proponent has now submitted an amended PP, refer Figure 6 below, together with supporting documentation, that addresses the objections initially raised by BCD.



**Figure 6: Revised Planning Proposal Area.**

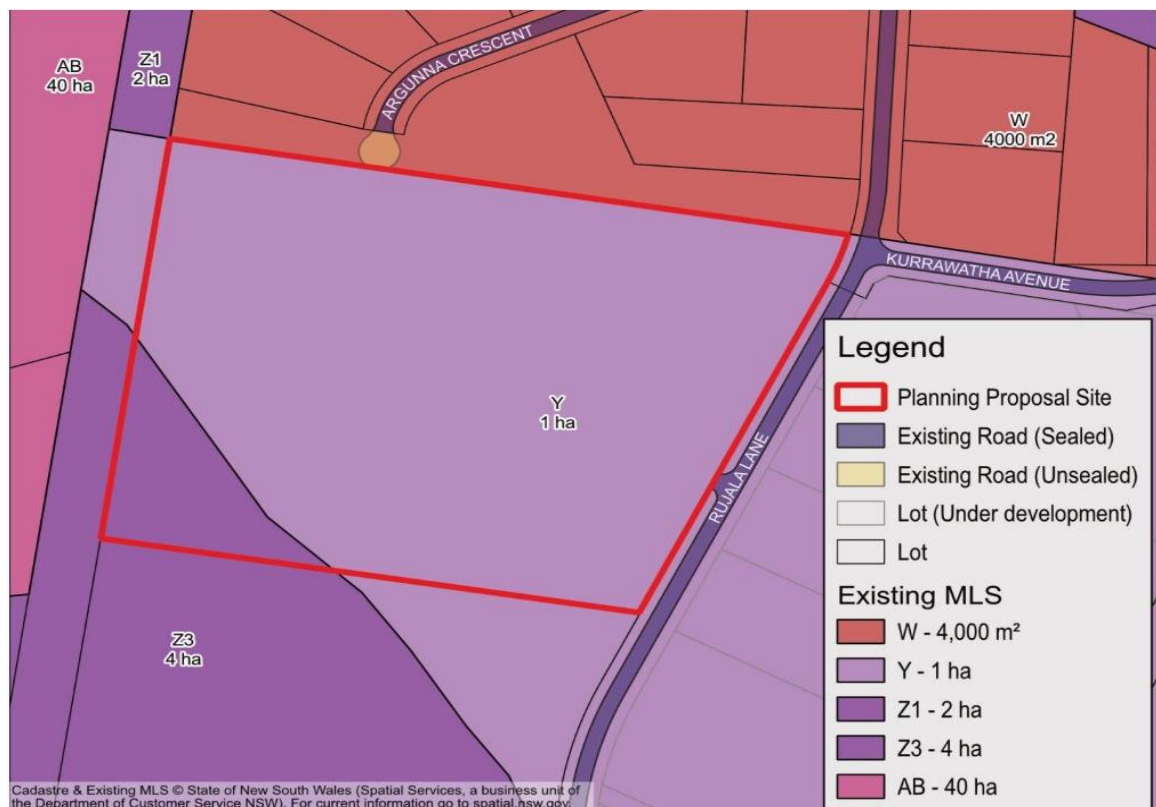
The PP has also been amended to ensure that all three areas of High Environmental Value (HEV) land recorded in the PP area can be contained wholly within individual lots, with sufficient space to enable future development without impacting on the HEV areas, and amending the MLS accordingly to ensure that further subdivision of the land cannot be undertaken.

Figure 7 below, shows the three areas of HEV within the PP area that are required to be protected from any development.



**Figure 7: Site area of Planning Proposal indicating HEV areas -PCT 571**

The PP area has also been amended to include a portion of C3 'Environmental Management' land, located in the south western corner of the site, which currently has a MLS of 4ha, refer Figure 8. This area of the site has been included in the PP to facilitate for the future subdivision of the land to create regular shaped lots with a MLS of 4,000m<sup>2</sup> and a MLS of 6,000m<sup>2</sup> over the northern HEV area, refer Figures 9 & 10.

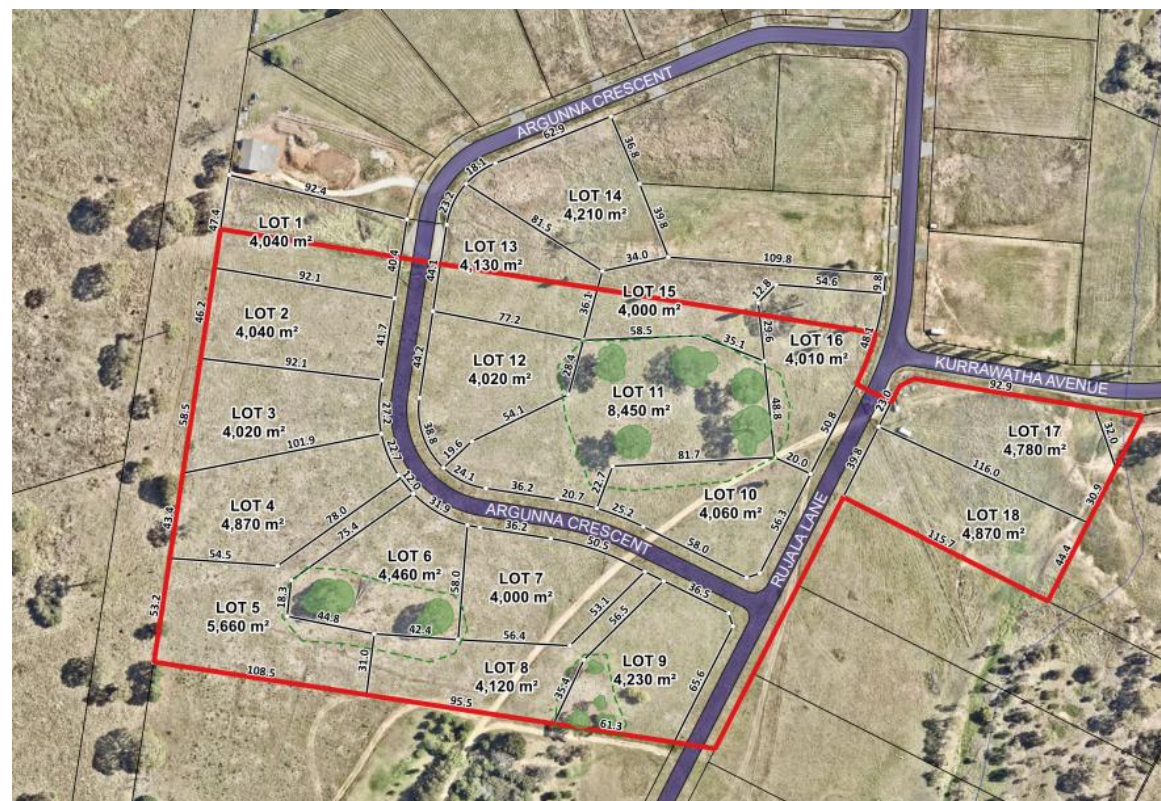




**Figure 8: Existing MLS**



**Figure 9: Proposed MLS**



**Figure 10: Proposed amended subdivision layout**

The Land is considered to be a logical inclusion area to the urban footprint for Armidale City, it is already approved for residential subdivision, and is adequately serviced by infrastructure. On this basis it is supported for increased residential density. It is proposed to alter the original PP as follows:

- **Increase in area covered** – the original PP was for the yellow shaded area shown in Figure 1. The revised PP is proposed for the same area bounded by the red polygon (Figures 6 and 9).
- **No change to current Zoning** – the original PP proposed to rezone the land from C3 Environmental Management /C4 Environmental Living to R2 Low Density Residential. The revised PP will not change the zoning (retaining the C3/C4 zone).
- **Area of change to Minimum Lot Size (MLS)** – the original PP proposed to change the MLS for all the Land from 1ha & 4ha to 4,000m<sup>2</sup>. The revised PP is proposing to amend the MLS to 4,000m<sup>2</sup> with an area of 6,000m<sup>2</sup> over proposed Lot 11 to protect the HEV on this lot (Figures 9 and 10).

## **5. Implications**

### **5.1. Strategic and Policy Implications**

This item may result in the amendment of the LEP. The planning proposal is an environmental planning instrument, a statutory legal document affecting land use within the Armidale Regional Local Government Area.

### **5.2. Risk**

There are no legal or risk implications arising from the matters addressed in this report.

### **5.3. Sustainability**

There are no known sustainability implications arising from the matters addressed in this report.

### **5.4 Financial**

Clause 11 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation 2000) allows Council to enter into an agreement or arrangement with a person who requests the preparation of a Planning Proposal, for the payment of the costs and expenses incurred by Council in undertaking studies and other matters required in relation to the Planning Proposal. Council will entered into an agreement with the proponent for the Planning Proposal to pay for costs associated with preparing the Proposal in accordance with the Fee Schedule in Council's Operational Plan.

## **6. Consultation and Communication**

No formal public consultation has been carried out in relation to this latest revision of the PP.

The terms of any formal consultation required to complete this LEP amendment will be stipulated in a Gateway Determination in relation to the PP.

## **7. Conclusion**

This report recommends that the amended PP be forwarded to DPHI with a request for a Gateway Determination. The Gateway Determination will specify any government agencies to be consulted, the terms of community consultation/public exhibition, any further specialist studies to be undertaken, and whether or not Council may exercise its local plan-making delegations. Once all of these matters have been addressed, a further report will be presented to Council.



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|                     |   |                              |
|---------------------|---|------------------------------|
| <b>Item:</b>        | <b>10.1</b>   | <b>Ref: AINT/2024/01667</b>  |
| <b>Title:</b>       | <b>Guyra Preschool - Expression of Interest</b>               | <b>Container: ARC20/4291</b> |
| <b>Author:</b>      | <b>Darren Schaefer, Chief Officer Corporate and Community</b> |                              |
| <b>Attachments:</b> | <b>Nil</b>  |                              |

### **1. Purpose**

To seek endorsement from Council to test the private market via an Expression of Interest, to ascertain if opportunities exist with private operators to take over operation of the existing facility or if there is interest among developers to construct a new childcare centre for the Guyra community.

This Expression of Interest will also help determine the options available to ARC to provide the best solution for maintaining secure childcare operations for the Guyra community into the future.

### **2. OFFICERS' RECOMMENDATION:**

That Council endorse the following:

- a. Commencement of a survey of the formally proposed preschool construction site (DA-152-220 for 156-160 and 162 Bradley Street) to understand the requirements of any boundary adjustments and the provision of services to the site.
- b. Commission an Expression of Interest (EOI) to determine if any private childcare providers or developers are interested in operating the current facility, and/or constructing a new facility on the proposed site (DA-152-220 for 156-160 and 162 Bradley Street).
- c. Delegate authority to the General Manager to enter negotiations with any interested parties.
- d. Resultant from a successful EOI, present shortlist of the proponents back to Council, for consideration at a following Ordinary Council Meeting.

### **3. Background**

On Monday, 5<sup>th</sup> February, Councillors attended a workshop to discuss the Guyra Preschool and Long Day Care facility and the ongoing provision of a quality service. This included reviewing the Preschool's history, a briefing on risks, the status of the current Development Application, appetite for possible approaches for a new facility, and likely corresponding timeframes for each.

Councillors were also briefed on some private market interest in expediting the construction of an alternative new facility. In doing so, Councillors were presented with a number of options for which construction and operations may be facilitated, ensuring continued operation and an increase in the standard of the service provided.

Following Councils approval of the Development Application on 26 May, 2021 (DA-152-220, Ref AINT/2021/07661), Councillors understood that private interest in a site that already had a DA may be attractive, pending a sound business case on their part for service demand and profitability, and that some kind of public/private partnership may be required in the first instance.

A large part of the workshop discussion centred on a philosophical debate about public and private ownership, and the ability for each to provide a quality service. In this debate, it was recognised that whilst Childcare was not a core function of Council, the Guyra Preschool and Long Day Care Centre was identified as a facility that is required to support the strategic ambition for future economic growth of the region.

#### 4. Discussion

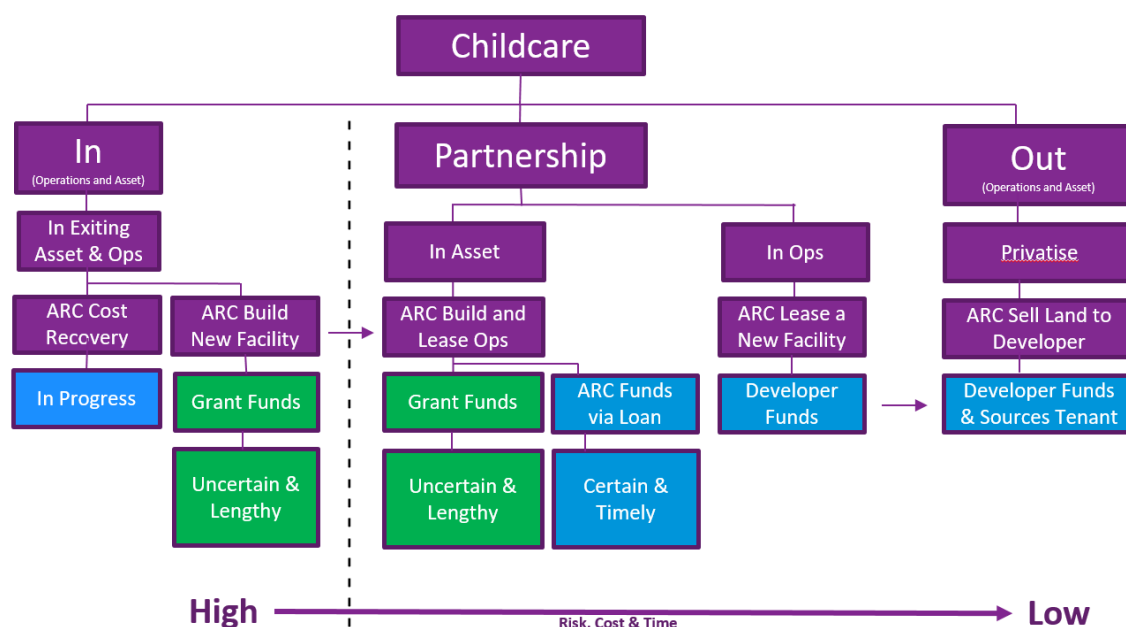
The Guyra Preschool and Long Day Care Centre was provided pre-amalgamation by the then, Guyra Shire Council (GSC). At the time, GSC filled the gap in a market that failed to attract private investment in the service. The Guyra Preschool was established in an old railway station masters house on Bradley Street. The building is aged and has been modified for purpose, which leads to ongoing maintenance issues as well as a challenge in continuously meeting modern standards for childcare.

Council has received interest from the not-for-profit sector, private operators, as well as building contractors in operating and/or constructing a new childcare centre in Guyra. However, they have all so far indicated that they could not operate a new service effectively unless Council retired their existing service, understanding that it would not be viable for Guyra to support two Childcare centres at this point in time.

Therefore, it is reasonable to expect that any expression of interest received may result in Council deciding whether they are prepared to exit the market, either now or at a future point in time, to allow for alternative ownership and operation of childcare services in Guyra.

To answer this, it's important to understand the current risk (outlined in section 5 of this report) and the risks associated with the various options that are before ARC. Figures 1.1 and 1.2 explain the impact of the options on ARC over time.

**Figure 1.1: Options for ARC with Associated Risk, Cost and Time.**

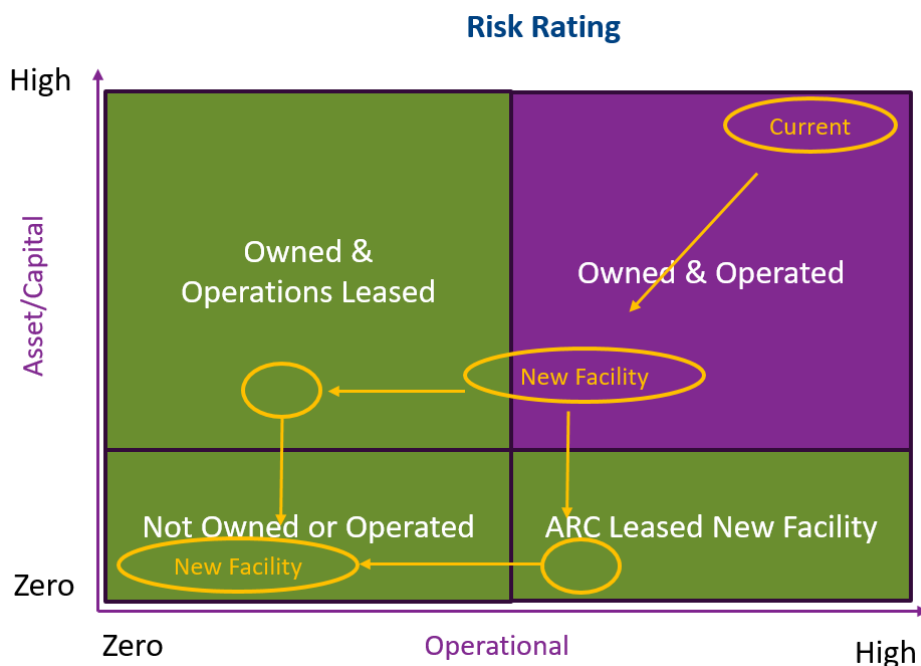


Owning and operating the Guyra Preschool while waiting for a government grant comes at the highest possible risk (current model). Alternatively, outsourcing by privatising (including the operations and asset) amounts to the least risk for ARC. In practice, a Partnership Model may be necessary to attract proponents and transition the service out of ARC at an agreed point in time.

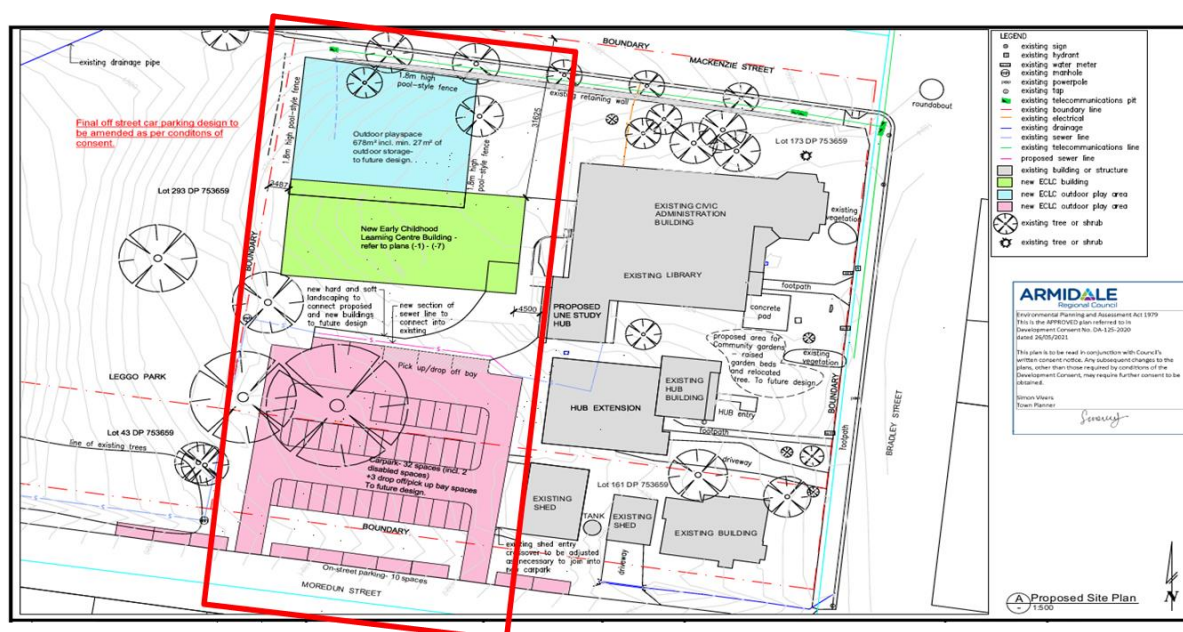
This would come at a medium level risk either via owning the facility and leasing operations, or having private interest build the new facility, for which ARC would lease operations.

It is important to recognise that most of the risks persist for Council even if a new facility was constructed. These represent the inherent risk of owning and operating a Childcare centre, even with the mitigation of a brand new facility. Figure 1.2 below illustrates Councils options, where a transition out of capital and operations may be possible over time.

**Figure 1.2: Reducing Capital and/or Operational Investment Risk**



**Review of Approved Development Application DA-152-220 156-160 and 162 Bradley Street, Guyra. Approval 26 May, 2021 (ref AINT/2021/07661)**



**Satellite Image of Site 156-160 and 162 Bradley Street, Guyra.**



**Development Application and next steps for consolidation in readiness for future sale of lots:**

1. Since the workshop 5<sup>th</sup> February, 2024, the proposed site land has been confirmed as Operational Land (not Community Land). This means that the land can be subdivided without further community consultation.
2. A subdivision or boundary adjustment will need to be made. The current consent was issued on the understanding that the two lots would be consolidated under council ownership prior to occupation. This would need to be amended if the proposal is to excise this area for future sale.
3. Developers consent from ARC is subject to Condition A1 - Arboricultural Impact Assessment (i.e. Arborist report for elm trees in the proposed car park) and this must be satisfied by May 2026. When the developer's consent is satisfied, ARC can then grant Operational Consent for a period of up to 5 years. Operational Consent requires construction to commence in that period (i.e. before 26 May, 2031). However, construction is not defined, and the developer could simply pour a slab as evidence of commencement during this time. To overcome this potential delay in construction, ARC have a number of options which may include a combination of:
  - a. delay settlement to be contingent with erecting the Childcare Centre (compliant with relevant guidelines) before the Title is transferred.
  - b. reduce the operative period under s4.53(2) of the *Environmental Planning and Assessment Act 1979*, with the minimum period being 2 years.

- c. other methods, (perhaps not as effective) options are rezoning the lot for childcare, and/or placing a Section 88b covenant over the land.
4. A contract with the successful applicant would be entered into by both parties for the sale and build. This would require a draft subdivision plan (inclusive of a Pre-allocated Plan Number). If the developer wishes to vary the DA, the plans can then be slightly modified to achieve this as part of the partnership. At this point, ARC may modify the DA to accommodate required setbacks.
5. Each lot will need to be independently serviced by Council's reticulated water and sewer, as well as electricity and NBN. This will require site surveys to prepare the site for sale.

## 5. Implications

### 5.1. Strategic and Policy Implications

Community Plan and Delivery Program Enriched Region Goal 1 – Access to the services and support that facilitate quality of life.

Operational Plan: E1.1.3 - Finalise the business case and seek funding for a new Early Childcare and Learning Centre (ECLC)

### 5.2. Risk

The overall risks of owning and operating a Child Care facility of this age in Guyra is generally considered high. Statewide shortages of child care staff makes staff succession challenging and can increase the risk to extreme. Operational and Corporate risks are identified in Table 1 below.

**Table 1. Operational and Corporate Risks**

| Operational Risk  | Description  | Rating  |
|---|--|---------|
| <ul style="list-style-type: none"> <li>Human Resource</li> </ul>        | <p>Nationwide shortage of childcare staff, particularly at the qualified Director level in rural Australia</p> <p>The Nominated Supervisor position at the Guyra Preschool remains vacant following repeated recruitment.</p>                | Extreme |
| <ul style="list-style-type: none"> <li>WHS / Facility</li> </ul>        | <p>Aging facility requires ongoing maintenance to remain compliant.</p> <p>The last 2 years have seen significant reportable breaches of child safety.</p> <p>Snakes and other vermin are regularly found inside and outside the centre.</p> | High    |
| <ul style="list-style-type: none"> <li>Financial</li> </ul>             | <p>Facility is running at a loss of circa \$150,000 p/a. Maintenance burden continues with each passing year. ARC will need to increase fees and charges to cover increasing costs.</p>  | Med     |
| <ul style="list-style-type: none"> <li>Systems &amp; Process</li> </ul> | <p>Complexity of systems and third-party authorisations make the operation sometimes difficult to administer.</p>  | High    |

| <ul style="list-style-type: none"> <li>Regulatory &amp; Compliance</li> </ul> | While regulatory and compliance is being met, the level of governance and processes required for compliance are increasingly difficult to maintain given resourcing constraints and the aging facility. This is further complicated by a lack of subject matter experts within the wider organisation.  | High   |
|---|---|--------|
| <ul style="list-style-type: none"> <li>Culture</li> </ul>                     | Continued negative community sentiment toward facility and staff conditions impacts on efforts to maintain a positive workplace culture.  | Med    |
| Corporate Risk  | Description   | Rating |
| <ul style="list-style-type: none"> <li>Economic</li> </ul>                    | Subject to government rebates that can fluctuate  | Med    |
| <ul style="list-style-type: none"> <li>Reputational</li> </ul>                | <p>Whilst the facility is compliant and meeting the standards, the aging facility is sending the wrong message that Council do not invest in their assets.</p> <p>A number of false starts for construction of a new facility and election promises for funding have raised community expectations that a new facility is imminent.</p> <p>The closure of the facility would significantly impact ARCs reputation in Guyra community.</p> | High   |
| <ul style="list-style-type: none"> <li>Strategic</li> </ul>                   | Childcare is important to the region and its operation aims to provide economic growth by allowing families to participate in the workforce. ARCs need to determine its role for the provision of quality services in an environment of increasing demand for these services.   | High   |

### 5.3. Sustainability

- An efficient and improved service delivery may be provided private interest or a Public/Private Partnership in the first instance. Such a partnership agreement may enable:
  - sustained operations in the short term by utilising deeper resource pool of a private entity, leveraging their capability of supplying the requisite Nominated Supervisor and being the Approved Provider.
  - opportunity for the new entity to understand the local market.
  - attraction of government funding to assist both parties in the construction of a new facility under a private/public partnership arrangement.

#### 5.4. Financial

|                  |  |                 |        |           |          |                            |                  |
|------------------|--|-----------------|--------|-----------|----------|----------------------------|------------------|
| Budget Area:     | Guyra Preschool & Long Day Care Centre |                 |        |           |          |                            |                  |
| Funding Source:  |  |                 |        |           |          |                            |                  |
| Budget Ref: (PN) | Description                            | Approved Budget | Actual | Committed | Proposed | Total Forecast Expenditure | Remaining Budget |
| 300565           | Consultants                            | \$18,961        | 0      | \$1,878   | \$2,500  | \$4,378                    | \$14,583         |

Allowance made for the engagement of surveyors to consult on any proposed boundary adjustments.

#### 6. Consultation and Communication

- 2023 - Unsolicited offers received by members of community
- 27 September, 2023 - Consult members of Key Pillar Working Group, Councillors Mephram, O'Brien & Galletly
- 5<sup>th</sup> February, 2024 - Broader Councillor Workshop
- March, 2024 - Department of Education
- 24<sup>th</sup> April, 2024 - Ordinary Council Meeting

#### 7. Conclusion

To determine the options available to Council to provide the best solution for securing and maintaining effective childcare operations for the Guyra community into the future, it is recommended that Councillors endorse the commencement of the EOI process to test private market interest.

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|---------------------|--|-----------------------------|
| <b>Item:</b>        | <b>11.1</b>  | <b>Ref: AINT/2024/02193</b> |
| <b>Title:</b>       | <b>Kempsey Road Status Report - January 2023 Container: ARC20/3770</b>                 |                             |
| <b>Author:</b>      | <b>Alex Manners, Acting Project Director Kempsey Armidale Road Restoration Project</b> |                             |
| <b>Attachments:</b> | Nil  |                             |

### 1. Purpose

The purpose of this report is to provide a monthly update on the Kempsey –Armidale Road Restoration Project (KARRP).

### 2. OFFICERS' RECOMMENDATION:

That Council note information within this report regarding the Kempsey –Armidale Road Restoration Project.

### 3. Background

Armidale Regional Council (ARC) received grant funding (\$222,494,431) through the Commonwealth Disaster Recovery Funding Arrangements for Essential Public Asset Restoration Works (EPARW) 2020/21 for damage inflicted in the February 2020 Severe Storm Event. This funding is administered through Transport for NSW (TfNSW) as the administering agency for the provision of funding for the restoration of essential public assets back to pre-disaster condition following a series of natural disaster events which severely damaged a large section of Kempsey-Armidale Road.

An application for additional funding has been submitted for the February/March 2022 Severe Weather Event to increase the approved funding amount. This would enable the Kempsey-Armidale Road Natural Disaster Recovery Works Project to be fully funded.

Council has received advice that the project has met the Disaster Recovery Funding Arrangements (DRFA) Independent Technical Review (ITR) framework for a value of \$408M for the full recovery works. This resulted in Council and TfNSW working on a funding deed for the \$408M which, if executed, will commit Council and TfNSW for the full \$408M funding for the project. The final version of this deed has been received by Council and is currently being reviewed.

This project is being delivered as a multi-stage process to undertake the design and construction of natural disaster recovery repair works on a 43km section of the Kempsey-Armidale Road, 5.1 km on Lower Creek Road and three Improvement Works Projects which are located at Blackbird Flat, Flying Fox Gully and on Big Hill.

The project scope of works has been classified into four Milestones:

1. **Natural Disaster Recovery Works (Milestone 1)** (ch72.95km - ch116.00km) comprising restoration of a 43km section of the Kempsey-Armidale Road and a 5.1km long section of Lower Creek Road, Lower Creek, to their pre-disaster conditions.
2. **"Improvement Works" Projects** comprising of the following three projects:
  - a. **Blackbird Flat (Milestone 2)** - Fixing Local Roads, round 3 Location 1 Blackbird Flat Cutting (ch73.50km-ch74.05km) and includes sealing this section of pavement.
  - b. **Flying Fox (Milestone 3)** - Fixing Local Roads, round 2 Location 3 Flying Fox Cutting (ch86.30km-ch88.15km) and includes sealing this section of pavement; and



- c. **Big Hill (Milestone 4)** - Restart NSW, three curves on Big Hill, sites 3 and 4 ch112.888km - 113.193km, and site 12 ch108.563km – ch108.723km) – with these three curves being constructed as unsealed pavements.

To enable completion of the milestones, there is a 4-stage contract process that comprises of:

**Stage 1 – Tender for Civil Contractor Engagement and Award of Early Contractor Involvement (ECI) Contract - COMPLETED**

Prequalification of Contractors to be eligible to tender for the works and award of Early Contractor Involvement (ECI) Contract. Awarded at November 2022 Ordinary Council Meeting.

**Stage 2 – ECI – SUBMISSION RECEIVED and INDEPENDENT TECHNICAL REVIEW COMPLETE**

The ECI Contract was awarded to Seymour Whyte Constructions (SWC) for design and early construction works to a combined value of approximately \$18,279,767 (Excl. GST).

The ECI submission has now been provided by SWC to enable the Kempsey-Armidale Road Natural Disaster Recovery Collaborative Design & Construct (D&C) Contract to commence based on having provided:

- A finalised project scope of works and project specifications for inclusion within the Collaborative Design & Construct Contract for Council consideration and approval.
- A 30% Detailed Design.
- A finalised and confirmed project delivery timeline; and
- Confirmation that the overall maximum Target Budget Price for each of these projects remained within the approved project funding budget limits.

The submission has been independently verified and found to be compliant, technically sound, but when fully delivered, would be in excess of the current available funding.

**Stage 3 – Early Works Contract - NOT STARTED**

As part of the ECI contract awarded by Council, delegation was provided to the General Manager to enter into an early works contract with SWC. The option to proceed with these early works has not been taken up.

The combination of the final price submitted by the contractor and Council's cost have exceeded the current funding approval amount and the KARRP Team have submitted a revised funding application to allow for the additional costs.

These additional costs were a known risk to the project and the work undertaken the ECI phase helped better inform AC of the cost of the challenging support logistics required for the project.

**Stage 4 – Main Recovery works – D&C Contract - NOT STARTED**

Following the completion of Stage 2, the Council has elected not to enter into a contract with SWC for the Main Recovery works.

**Note:** *Part of the ECI phase includes the development of a suitable contract for these works.*

Delivery of D&C phase, completing:

Milestone 1 - The Natural Disaster Recovery Works Project which will allow the Kempsey-Armidale Road and Lower Creek Road to be reconstructed back to their pre-disaster condition using current engineering standards and in accordance with the Federal Governments Natural Disaster Recovery Funding Arrangements (DRFA) Guidelines and NSW Government requirements (funding deed – not yet finalised).

It is currently proposed that Milestone 2, 3 & 4 - The “Improvement Works” Projects will follow the completion of Milestone 1 project, enhancing the existing road infrastructure at each of these three sites.

It should be noted that the delivery of Milestones 2, 3 & 4 are subject to separate funding deeds and constraints including expenditure deadlines. Council is exploring options to determine the most appropriate way forward to expend these funds within the set timeframes to ensure the funds do not have to be returned to the funding bodies.

#### **Kempsey-Armidale Road Steering Committee**

The Kempsey Road Steering committee comprises of the following members:

| <b>Name</b>   | <b>Title and Function</b>   |
|---|---|
| James Roncon  | General Manager Armidale Regional Council <b>(Chair) (V)</b>                |
| Darren Schaeffer  | Acting Chief Officer Assets & Services Armidale Regional Council <b>(V)</b> |
| Ann Newsome   | Chief Financial Officer Armidale Regional Council <b>(V)</b>                |
| Cr Sam Coupland   | Mayor <b>(V)</b>  |
| Tony Gant   | TfNSW Support <b>(V)</b>  |
| Shane Booby   | TfNSW Assessor <b>(V)</b>   |
|   |   |
| <b>Officers in attendance (non-voting) to include, but not be limited to:</b> |   |
| (Vacant)  | Manager KARRP Armidale Regional Council                                     |
| Alex Manners  | Acting Project Director KARRP   |
| Helen Tyrell  | Acting Senior Commercial Manager Armidale Regional Council                  |
| Tracy Cooper  | Project Officer <b>(Secretary)</b>  |
| Monica Kelly  | Prevention Partners <b>(Probity Advisor)</b>                                |
| Mitchell Parker   | NSW Reconstruction Authority  |
| Karen Symons  | National Emergency Management Agency (NEMA)                                 |
| Contractor Representatives - as requested                                     |   |

#### **(V) = Voting Member**

The information contained within the report is general in nature and provided as a stakeholder update only for Council.

The information in the report is measured to ensure contract and commercial in confidence information is protected.

#### **4. Discussion**

The December Steering Committee Meeting was postponed until the second full week of February. Following discussions around the need for better financial reporting, the Steering committee meetings have been suspended until appropriate financial reporting has been developed. It is expected that the next steering committee meeting will be held in May 2024 at

the earliest. As a result, the following update has been prepared in the absence of the steering committee.

At the December 2023 OCM, Council considered a procurement strategy which entailed an open public tender process to award the D&C contract and a new Project Director John Tomlinson and Manager KARRP Peter Steele (formerly a TfNSW Assessor) were introduced. Since that time, a significant number of changes have happened in the project.

Importantly, the project had gained momentum in terms of staff productivity and delivery after the change of the previous project director Sen Sample and a target of March was set for the commencement of an open tender process in line with the procurement strategy presented to Council.

With the introduction of John and Peter, the momentum increased again and a new target date for commencement of the tender process was set for 15 January 2024 – an incredibly ambitious timeframe. This timeframe lapsed and a final procurement proposal to members of the Executive Leadership Team was conducted 22 January 2024.

At that presentation, it became apparent that the preparation to date had failed to include and address Council's risk appetite and how it relates to the *Local Government Act (1993)*, the *Local Government (General) Regulation (2018)*, and the Tendering Guidelines for NSW Local Government.

The presentation flagged some key risks with the progress of the project, some potential gaps in the capability and expertise in the team specifically in terms of governance, and a project pause instigated to conduct an Independent Health Check on the project progress to date and conduct a lessons-learned prior to the project progressing further.

Over the following weeks there was a breakdown in trust and working relationship with the Project Director where transparency and inclusion significantly impaired and discussions and on 22 February, unacceptable and hostile behaviours led to the exit of the Project Director.

The Manager KARRP had resigned due to personal reasons, however following discussions with several staff on 21 and 22 February, the resignation was brought forward to the 22 February.

To support the project and ensure that it continues to progress, Alex Manners – Chief Officer Assets and Services has taken a secondment as Acting Project Director for a nominal period of six months whilst the recruitment for a replacement Project Director is conducted.

### **Key Project Priorities**

One of the key drivers for Alex stepping in was the need to conduct team development consistent with Council's culture journey since 2021. It is expected that that Journey will be supported by the Dattner group similarly to the support provided to the rest of the organisation to ensure the team develop common skills and common language. This process will largely be conducted over April and May.

TSA Advisory were engaged to conduct the Independent Health Check on 15 March 2024. The review incorporated scope developed with input from the KARRP team including the recently departed Project Director and Manager KARRP. The review incorporates interviews with key staff, a technical workshop and a review of the project documentation to date including the previously prepared tender documentation. The review is expected to run until the end of April and findings presented to ELT and a report developed for the team to use as a tool to plug identified gaps and issues.

During the ECI phase, the understanding of the site, works and challenges were explored and the contractor was able to develop a much more accurate costing of the works. This value plus the Council costs to support the project exceeded the funding available for the project. This was verified through an Independent Technical Review (ITR). As a result, a revised application for EPAR funding is being made through TfNSW for additional funds.

A significant concern for the project is Council's cash position. Council has \$19M committed from TfNSW, but reconciliation is currently being conducted to ensure that Council has a positive cashflow supporting the project.

A natural disaster declaration has been declared for NSW storms and Floods- 1 April 2024 onwards (AGRN 1119). Some upslope slips blocked the road east of Lower Creek on Friday 5 and Saturday 6 April which were cleared by Contractor. The extent of the damage is not known and Council has made a submission to opt into the natural disaster and had email confirmation that we have now been included in the affected area. The KARRP team will now work to assess the extent of damage in preparation for a detailed damage claim.

## **5. Implications**

### **5.1. Strategic and Policy Implications**

The activities discussed in the report align with Advancing Our Region - Your Community Plan 2022-2032 and with Council Delivery Program 2022-2026 as part of:

#### **5.1.1 Connected Region – Goal 1 - Quality infrastructure makes it safe and easy to travel around our region.**

C1.1.4 Partner with the NSW Government to restore and reclassify Armidale-Kempsey Road.

### **5.2. Risk**

Risks relating to KARRP can broadly be categorised into six areas being Safety, Quality, Environment, Financial, Reputational, and Resourcing (People, skills, systems and tools).

The project is complex by many standards and adding to this the project is a pioneer project in NSW being the first of a range of large-scale restoration projects across the state. At over \$400M, it is the largest transport project ever undertaken by a Local Government let alone Armidale Regional Council. As such the risks are often unique and to address them is requiring Council to grow and evolve at an incredible pace.

The work progressed through the ECI phase of the project has allowed the team to better identify and place a value on the risks through a structured risk assessment process. The output of this process has been the robust estimation of the contingency allowance for the project, which has been included in the revised funding submission.

#### **Safety**

The project is subject to the *Work Health and Safety Act (2011)* and *Work Health and Safety Regulations (2017)*. The risk to Council is complex and requires appropriately qualified and experienced experts advising and managing the project. Council has dedicated resources working in WH&S on the project.

The contract will be managed under a "Principal Contractor" arrangement, where the contractor is deemed to have the necessary specialty skills and knowledge to manage the safety for the activities being undertaken. This does not absolve Council from risk but delineates where appropriate knowledge for activity risk mitigation lies.

In addition, the Contractor will be required to submit industry standard WHS plans. These plans are required to comply with all relevant legislation and compliance will be monitored through Council's dedicated WHS resource assigned to the project.

### **Quality**

Quality management for the project is managed through a range of engineering industry standards and guidelines. Due to the unique constraints of the site, a bespoke suite of standards for which activities will be completed to is required. The environment, geography, and

The risk of quality for the project is high due to the complex and unique nature of the project. Council and the contractor will work together to ensure the appropriate quality assurance is undertaken to ensure the works completed are to the set standards. It is incredibly important to collect enough evidence is collected to support assessment against the eligibility criteria under the DRFA. Failing to satisfy the evidence requirements may leave Council at risk to cover the costs of ineligible work.

Quality will be controlled through industry standard quality specifications within the contract, along with accredited quality management systems to be provided by the contractor. Compliance with these standards will be verified through a detailed Inspection and Test plan prepared by the contractor and reviewed by the project surveillance team. It is intended that a site surveillance team of approximately four staff will be permanently on site for the duration of the works.

### **Environmental**

The project is subject to the Protection of the Environment Operations (POEO Act) (1997) Act and Protection of the Environment Operations (General) Regulation (2022). The Act and regulations require Council and the contractor to consider the harm that may come to the environment as part of the works.

Whilst environmental risk is a relatively familiar risk to the civil construction industry, a tailored approach to the project is required.

A Review of Environmental Factors (REF) has been undertaken as part of the project, has been audited by third party. As the REF has changed significantly, an entire new REF is required in accordance with relevant legislation. The REF nominates the known environmental risks with the project and outlines the obligations Council and the contractor have to administer and mitigate those risks.

The contract will be managed under a “Principal Contractor” arrangement, where the contractor is deemed to have the necessary specialty skills and knowledge to manage environmental risks for the activities being undertaken. This does not absolve Council from risk but delineates where appropriate knowledge for activity risk mitigation lies.

The contractor will be required to address the requirements of the REF and this shall be controlled by the Construction Environmental Management Plan, which will be reviewed for compliance with the REF prior to the contractor establishing on site. The project surveillance team will monitor compliance during the works.

### **Financial Risk**

During the April Audit Risk and Improvement Committee (ARIC), the Audit office of NSW flagged that the financial treatment of the Kempsey Armidale Road will be a key audit target for audit moving forward.

All the funding for the project is being provided from NEMA through NSWRA and TfNSW which adds to the complexity of funding agreements, risk allocation and administration challenges. Until the funding deed with TfNSW is finalised, the mechanisms for financial risk management are unknown.

One of the greatest risks to the project is for works completed to be deemed not eligible under the DRFA guidelines. Council has prepared no budget to cover these items but is exploring ways to mitigate this risk.

The value for the works is significant in proportion to Council's Annual Capital Works Budget which is typically around \$30M annually. Even relatively small errors with the project could have significant impact on Council for example a 1% error in relation to the project could result in a \$4M cost to Council. Proportionately, a 10% mistake, however unlikely, could result in a cost of \$40M.

It should be noted that there is considerable focus by Council staff to improve confidence in the delivery and the project more broadly. This proportionately reduces the financial risk in that achieving 98% confidence in the project, for example, reduces the reasonable proportion of risk to 2% of \$400M or \$8M.

With over \$400M being delivered over four years, the volume of cash flow has the ability to distort and or hide important financial ratios that indicate Council's operational financial performance. Appropriate segregation of funding management and reporting is required to ensure the cash flow does not mask underlying issues.

During the ECI phase of the process recently completed a detailed risk assessment has been undertaken and cost allowance made within the revised funding application to manage those risks should they be realised during the project. The contingency amount represents 25% of the revised funding application and reflects industry standard levels for a project of this scale and current level of development.

### **Reputational**

The project has a range of disparate stakeholders including the Lower Creek Community, SWC, TfNSW, NEMA, NSWRA, Oven Mountain Pumped Hydro Scheme and the various support agencies connected to the community including emergency services. The scale and duration of the project impacts the depth to which each stakeholder is affected.

The greatest challenge with reputational risk is that whilst the touch points are centred on the project, Council's reputation extends with most of those involved beyond the project. For instance, Council is dealing with TfNSW on the project, but also deals with TfNSW as part of the Road Maintenance Council Contract (RMCC) which is work Council completes on other roads within the LA.

### **Resourcing (People, skills, systems and tools)**

Council does not have the internal resources to manage the project effectively and typical to projects of this size, attracting typical skill sets and resources to the project has been by way of tender. Retaining those engaged on the project for the life of the project will become challenging due to fatigue with the project and as the project nears its close and other projects become available and stable alternatives.

Where skills, tools and systems do not yet exist within Council, they are being developed and or acquired. As the project matures, the development should slow but that is not expected until sometime after the main recovery works are underway.

### **5.3. Sustainability**

The majority of works are restoration works and under the Disaster Recovery Funding Arrangements (DRFA) this means that no betterment can be undertaken. The caveat to that however is that works are to be conducted to current engineering standards which allows Council to build more resilient infrastructure in place.

This means that to rebuild the road, engineering technologies including soil nails and shotcrete will be used for works and where they are being replaced, pipes of the appropriate size will be installed. What the DRFA guidelines will not allow is upgrades such as the widening and sealing of the road, installation of extra signage and barriers.

Council will work closely with the contractor's suppliers to ensure more efficient service delivery through new and improved technologies to provide best cost benefit to Council and the community in the long term.

#### 5.4. Financial

The funding for the project comes from the National Emergency Management Agency (NEMA) through the NSW Reconstruction Authority (NRA) who deliver the funding to Council via an administering agent – Transport for NSW (TfNSW). Each party add in eligibility criteria and administration controls. The following table shows the key contracts to date.

**Note – Due to the report not making its way to Figures as presented in Project Monthly Report – 23 October 2023**

|                  |  |                 |              |             |           |                            |                  |
|------------------|--|-----------------|--------------|-------------|-----------|----------------------------|------------------|
| Budget Area:     | Kempsey to Armidale Road Recovery Project  |                 |              |             |           |                            |                  |
| Funding Source:  | NSW State Government (Natural Disasters, Fixing Local Roads & Fixing Country Roads) & Australian Government (Natural Disasters). |                 |              |             |           |                            |                  |
| Budget Ref: (PN) | Description  | Approved Budget | Actual       | Committed   | Proposed  | Total Forecast Expenditure | Remaining Budget |
| 270444           | KAR AGRN1012 Main Recovery Works   | \$445,830,255   | \$35,966,366 | \$2,663,817 | \$247,628 | \$35,403,507               | \$410,426,748    |

A revised project finances breakdown as discussed is proposed to be provided once additional financial resources are available to the project. The recruitment process is concluded, and review of candidates is underway.

#### 6. Consultation and Communication

KARRP Communications Manager continues to provide regular updates and respond to correspondence directly to the community.

On April 13, the KARRP team presented an update to the community. Attendance at the meeting was reasonable, but the reception showed clear frustration with the lack of progress and a focus on improvement of maintenance processes.

TfNSW have provided a funding deed for Council to consider which will be presented to Council once it has been reviewed.

Prior to entering into the funding deed with TfNSW, a briefing workshop will be arranged to familiarise Council with the contents and allow discussion between the relevant parties for clarification.

A report was provided to the Audit Risk and Improvement Committee (ARIC) held Tuesday 14 November as general update. Copies of the monthly Council update reports are provided as part of that report. This practice will be ongoing for each ARIC meeting.

It should be noted that ARIC considered the inclusion of a probity officer as part of the monthly steering committee meetings, the clear breakdown of broad risk categories as well as the continually updated risk register for the project as a strong indicator, but not guarantee, that Council are conducting their due diligence.

## **7. Conclusion**

It is recommended that Council note information within the project status report regarding the Kempsey –Armidale Road Restoration Project noting that the next steering committee is expected to be held in May 2023.



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|---------------------|---|------------------------------|
| <b>Item:</b>        | <b>11.2</b>   | <b>Ref: AINT/2024/04867</b>  |
| <b>Title:</b>       | <b>Gates and Stock Grids on Public Roads - For Adoption (Post Public Exhibition)</b>  | <b>Container: ARC16/0652</b> |
| <b>Author:</b>      | <b>Alex Manners, Chief Officer Assets and Services</b>  |                              |
| <b>Attachments:</b> | <ol style="list-style-type: none"><li>1. Grids and Gates - Letter of Advice BAL Lawyers 240410</li><li>2. Stock Grids - JNC Quotation- <i>(General Manager's Note: The report considers a Private Quotation and is deemed confidential under Section 10A(2)(d) of the Local Government Act 1993, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret).</i></li><li>3. POL087- Gates and Stock Grids on Public Roads Final</li></ol> |                              |

### 1. Purpose

The purpose of this report is to have Council adopt the revised policy POL087 - Gates and Stock Grids on Public Roads following public exhibition and to confirm policy implementation.

### 2. OFFICERS' RECOMMENDATION:

That Council:

- a) Adopt the Policy POL087 – Gates and Stock Grids on Public Roads;
- b) Note implementation of the policy through the commencement of removal of obsolete grids and gates and the issue of new permits, in accordance with the *Roads Act (1993)* following appropriate notification to landholders; and
- c) Request that Council establish a subsidy program in compliance with Section 356 of the *Local Government Act (1993)*, with a funding contribution to grid permit holders up to 30% per grid.
- d) Cap the annual budget contribution at \$150,000pa for the total value of maintenance works completed for stock grids on public roads.

### 3. Background

#### Ordinary Council Meeting 26 May 2021

Council adopted the Grids and Gates Policy at the 26 May 2021 Council meeting, to come into effect from 1 July 2021. The adopted Policy had a 12-month implementation timeframe from 1 July 2021 to 1 July 2022 for:

- Council staff to determine ownership of existing grids and gates on Council roads where ownership is uncertain. At the end of that period, Council may remove a grid or gate where ownership has not been clarified; and
- Existing grid and gate owners to upgrade, repair, remove or replace non-compliant grids and bring them into compliance with the policy as approved on 26 May 2021. All associated costs were to be the responsibility of the grid or gate owner.

Upon adoption of the Policy at the 26 May 2021 meeting (attached for your reference with covering report), Council undertook engagement activities with landowners who may be affected by the implementation of the Policy as approved. During this engagement a number of questions arose from landowners relating to responsibilities for maintenance and public liability insurance.

As a result of these queries, Council undertook additional review of the Policy and determined that changes to the Policy are required.

Considering feedback from landowners and Council's insurer, Council staff delayed the determination of grid ownership which in turn impacted the implementation of the existing policy.

### **Ordinary Council Meeting 29 June 2022**

At the 29 June 2022 Council meeting, Council resolved to:

- a. Refer POL087 – Gates and Stock Grids on Public Roads and public feedback to the Connected Region Key Pillar Working Group to discuss and make comment on proposed grid ownership, maintenance liabilities and transition options;
- b. Extend the ownership nomination period for an additional 12 months for Council staff, in consultation with the relevant working group, to determine ownership of existing grids and gates on Council roads where ownership is uncertain.
- c. Extend the current transition period for an additional 12 months from 1 July 2022 for existing grid and gate owners to upgrade, repair, remove or replace non-compliant grids and bring them into compliance with the updated policy POL087, noting all associated costs are currently the responsibility of the grid or gate owner as per the policy.

As reported at the 26 May 2021 Council meeting, there is a need to harmonise the policy on grids and gates on public roads of the former Armidale-Dumaresq and Guyra Shire Councils.

In the former Guyra Shire Council area, there were 80 stock grids on public roads. The property owner was responsible for installation and maintenance of the grid and associated signs plus maintenance of the road for a distance of 20 metres on both sides of the grid.

In the former Armidale-Dumaresq Council area, there were 205 stock grids on public roads. The owner was required to pay for the installation of a grid, but Armidale Dumaresq Council was responsible for maintenance of the road and the grid.

Where grids were found to be no longer required, they were removed from the road by Council, and in some cases given to the landowner if they wanted to reuse them on their own land.

In the preparation of the Policy as adopted by Council on 26 May 2021, consultation was undertaken with by GHD on behalf of Council on the draft policy with the Armidale and Guyra branches of the NSW Farmers' Association.

Following adoption at the 26 May 2021 Council meeting, a large amount of public feedback on the policy and its implementation has been received. Grid and gate condition and ownership has not yet been determined for all grids and gates.

Following the feedback, legal advice was sought to:

- a) Conduct a legal review of Gates and Stock Grids on Public Roads (adopted on 26 May 2021) (the Policy) to consider whether it is consistent with relevant legislation including

the *Roads Act (1993)*, *Roads Regulation (2018)*, *Dividing Fences Act (1991)* and *Local Government Act (1993)*.

b) Answer the following questions:

- i. Who has ownership of grids when they are installed on roads for which Council is the roads authority;
- ii. Who is liable in relation to maintenance and repairs to the grids; and
- iii. Who is liable in the instance that damage is caused by the grids.

The advice is included as a confidential annexure to the report.

In summary, the advice provided is as follows:

- a) Council's Policy is generally consistent with the *Roads Act (1993)*, *Roads Regulation (2018)* and other legislation. However, there are amendments to the Policy which should be made to ensure the Policy is fully consistent with legal requirements.
- b) In relation to the specific questions asked by Council, we provide the following advice:
  - i. Council retains ownership of grids when they are installed on roads for which Council is the roads authority;
  - ii. In relation to liability for maintenance and repairs:
    - a. The occupier of the land is liable in relation to maintenance and repairs to public gates and grids installed pursuant to Part 9 Division 2 of the *Roads Act (1993)* (a permit granted for a public gate or by-pass);
    - b. The person who has a right to control, use or benefit from the public gate or grid is liable to carry out maintenance and repairs in relation to public gates and grids installed pursuant to Part 9 Division 2 of the *Roads Act (1993)* (a permit granted for a public gate or by-pass), or Part 9 Division 3 (a consent granted for other works and structures).
  - iii. If damage is caused by the grids it is the responsibility of the persons noted above to attend to the maintenance and repair of the grid.

From the advice it is clear that the structures in the roadway should be treated similar to other structures for which Council grants approvals under Section 138 of the *Roads Act (1993)* such as retaining walls, signage and other structures.

The legal advice regarding ownership does not cite reference to any legislation and is not consistent with other structures on the road such as driveway crossovers, signage, café amenities, building awnings, telecommunications, power and gas infrastructure.

The legislated process for application for permit, installation and maintenance obligations being the responsibility of the benefiting landholder all point to the ownership of the structure being that of the benefiting landholder.

#### **Ordinary Council Meeting 26 April 2023**

At the Ordinary Council Meeting held 26 April 2023, Council resolved to

- a) Note the revised Policy POL087 – Gates and Stock Grids on Public Roads.
- b) Endorse the placement of revised Policy POL087 on public exhibition for 28 days.

- c) Run concurrent community engagement sessions in line with the public exhibition period, auspice by the Connected Region key pillar working group.
- d) Refer the outcomes of the public exhibition period and the community engagement sessions to the Connected Region key pillar working group and finalise the draft policy for determination by Council.
- e) Note, following that above, the implementation of the policy through the commencement of removal of obsolete grids and gates and the issue of new permits in accordance with the Roads Act (1993) following appropriate consultation with landholders.

During the exhibition period, the policy was placed on public exhibition on Council's Have Your Say Website.

Further, in accordance with the Council resolution at the OCM held 26 April 2023, the policy was referred to Cr O'Connor on 2 May 2023, the Chair of the Connected Regional Key Pillar Working Group to arrange the community engagement sessions.

During the Councils 28-day public exhibition period, three submissions were received. All three have had preliminary letters sent acknowledging their submissions and these submissions have been referred to the Chair of the Connected Regional Key Pillar Working Group.

Lack of consultation was mentioned multiple times as well as implementation concerns.

One submission nominated that the only mechanism for harmonisation was for Council to adopt the ownership and maintenance of all grids in the Local Government Area. It is not recommended for Council to commit to take on the maintenance of these assets as it would be in contravention to Section 142 of the *Roads Act (1993)*.

Two of the three submissions questioned the liability for accidents associated with the structures being maintained by landholders and the current state of the assets.

The cost impost to landholders was flagged as a high concern as well as ongoing costs and standard of maintenance. One submission made suggestion that Council make provision for the maintenance and charge a fee to the landholder for that work.

It should be noted that this mechanism is proposed under the policy as part of section 5.1.2 - "Council can undertake maintenance of the grid and adjacent road pavement if nominated by the grid owner. See current Council fees and charges. Costs will be charged to the grid owner".

Further, for new grid installations, it is proposed under part 4.2 of the policy that "Council can provide and install a grid (including associated pavement works) if nominated by the applicant. See current Council fees and charges. Costs will be billed to the grid owner and are to be paid prior to construction".

One submission raised concerns over the imposition of a Special Rate Variation and the implementation of the policy as a reduction in service.

The submissions nominated fencing as an alternative to stock grids being cost prohibitive. It is clear that the most cost-effective solution is dependent on the length of fencing required and the type of fencing used. The cost of fencing per kilometre ranged from \$12,500 to \$20,000 between the submissions.

The responses flagged changing the fencing arrangements would raise some logistical challenges including separation of stock from water. These are valid concerns and should weigh into the cost benefit analysis for individual landholders to inform their decision to fence road reserve or install and retain grids.

A common theme was the location of constructed roads not aligning with the cadastral road alignment. This is prevalent throughout NSW and this policy and report does not seek to address this.

Constructively one submission recommended to stage the implementation over a number of financial years. This is a practical way to spread the costs of any required upgrades and or replacements. It is proposed that as the policy is implemented, that reasonable timeframes for reconstruction and upgrades are negotiated with individual landowners that does not exceed 24 months.

During the public exhibition period, minor formatting was undertaken by Council staff.

No further public consultation was made during this time.

#### **Ordinary Council Meeting 28 June 2023**

Following public consultation, the policy was then presented to Council for consideration and adoption with the results of the public consultation and responses provided by Council staff.

At the Ordinary Council Meeting held 28 June 2023, Council resolved to:

- a) Defer consideration of the Gates and Stock Grids on Public Roads Policy POL087 to the Ordinary Council Meeting for September 2023.
- b) run community engagement sessions auspice by the Connected Region Key Pillar Working Group.
- c) refer the outcomes of the public exhibition period and the community engagement sessions to the Connected Region Key Pillar Region Working Group and finalise the draft policy for determination by Council.
- d) Note, following the above, the implementation of the policy through the commencement of removal of obsolete grids and gates, and the issue of new permits in accordance with the *Roads Act (1993)* following appropriate consultation with landholders.

At that Council meeting, the history of consultation was flagged and the request for deferral until the September 2023 Ordinary Council Meeting.

#### **Ordinary Council Meeting 27 September 2023**

At that Council meeting, an update on the consultation progress was made and at the request of the Connected Region Key Pillar Group (CRKPWG), Council deferred consideration of the policy until the October 2023 Ordinary Council Meeting.

#### **Ordinary Council Meeting 25 October 2023**

At that Council meeting, an update on the consultation progress was made and at the request of the CRKPWG, Council deferred consideration of the policy until the November 2023 Ordinary Council Meeting.

#### **Ordinary Council Meeting 13 December 2023**

At that Council meeting, an update on the consultation progress was made and at the request of the CRKPWG, Council deferred consideration of the policy until 2024 pending consideration by a working group.

#### **4. Discussion**

The working group consisting of Clrs Coupland, Redwood, Packham and Galletly met in early 2024 and requested that the Policy be revised to reflect the following broad points and if not possible, look at ways to achieve as close to those as possible:

##### *Ownership of grids*

- *ARC owns the grid*
  - *Depreciate over 40 years*
  - *It is noted that ARC has estimated a cost per grid of \$25,000. Based on experience this figure appears grossly inflated*
- *ARC determine which grids need to be replaced and when – this will inform the depreciation schedule*

##### *Who pays*

- *Landholder pays for*
  - *a replacement grid if internal*
  - *any new grids*
- *ARC pays for a boundary grid (or puts some \$\$ aside each year to fund as necessary)*
- *ARC installs all grids*

##### *Maintenance of approaches (20m)*

- *ARC maintains the grid and approaches at cost*

Following the request, Council officers sought Legal advice regarding the questions.

#### **Summary of Advice**

The Legal advice provided for two important points of clarification

##### **Ownership**

In Summary, the advice flags a grid is interpreted as a structure which form part of the road and as such, the definition of “road” under the Roads Act for Local Roads, where Council is the authority, Council would be the owner as a freehold estate in land, rather than other property.

The Council’s ownership of public roads under s.145 of the Roads Act is subject to any exclusions which apply under s.146. For example, the dedication of land as a public road does not affect the rights and liabilities of a person who has the benefit of an easement over a road.

##### **Approvals and Maintenance Liabilities**

###### **Section 138**

Section 138 of the Roads Act provides that a person must not do certain things in relation to a road otherwise than with the consent of the roads authority. Relevantly, this includes the removal of or interference with a structure or work on a public road – a permit under section 138 of the act would be required for installation or other for a stock grid.

###### **Section 128**

Under section 128 of the Roads Act, a roads authority may issue a permit to the occupier of any land through which an unfenced public road passes allowing that person to erect a gate across the road at any place at which the road intersects a boundary fence. The obligation to maintain

any such public gate then lies with the 'permit holder', rather than being explicitly linked to the owner of those works.

The permit holder is also subject to additional obligations in connection with the gate under Part 6 of the Road Regulations. Each successive occupier of the land would become the holder of the permit, and thereby responsible for its maintenance. If the permit is revoked, the occupier of the land the subject of the public gate permit must remove the gate.

#### Section 142

Maintenance liability essentially lies with the permit holder- likely being one or more landholders.

Section 142(1) of the Roads Act provides that a person "who has a right to the control, use or benefit of a structure or work in, on or over a public road" must, in summary, maintain the structure in a satisfactory state and keep any structures and the surrounding road surface in a state which will allow smooth passage of traffic.

This applies to all structures and works within a public road, including structures and works for which there is no consent in force under Division 3 of the Roads Act which includes section 138.

The obligation under s.142(1) to maintain a structure does not apply to a member of the public is entitled to pass along a public road (whether on foot, in a vehicle or otherwise) and to drive stock or other animals along the public road.

In our view, the reference in s.142 to a person "who has a right to the control, use or benefit of a structure or work" encompasses a broader range of persons than just the owner of the structure or work. For example, if a grid or gate is benefitting a person by assisting them to manage the movement of their sheep or cattle, then, in our view, they are deriving a benefit from that structure which goes beyond the ordinary rights of passage of a member of the public or access by an adjoining landowner. In our view, this is particularly the case if they hold an approval under section 138 or a permit under section 128.

There is some ambiguity regarding how s.142 operates if there are multiple persons who control, use or benefit from a structure. Section 142 refers to a person with "a right" not "the right," which implies that it is intended to capture multiple people with an interest in the structure. However, the Act does not explicitly set out how any maintenance burden should be apportioned between those people. Please let us know if you would like further advice on this matter.

#### Cost for Grids

An outcome of the working group was that the cost for a grid at \$25,000 was excessive. To clarify the value, Council officers requested quotations from external providers for the total cost to install a grid and associated infrastructure, conducted an internal quote and looked at currently adopted fees and charges.

The Currently adopted fees and charges include the following fees:

| Charge Name  | Adopted Fee for 2022/2023<br>Financial Year | Unit Rate |
|--|---|-----------|
| Ramp Supply and Installation<br>on Public Roads – 2.44m wide | \$27,633.00                                 | Per Ramp  |

|   |             |  |
|---|-------------|--|
| Supply and install gravel to stock grid approaches  | \$334.00    | Per ramp<br>(nominal 20m on both approaches) |
| Seal approaches to stock grid   | \$14,918.00 | Per ramp<br>(nominal 20m on both approaches) |
| Stock Grid Drainage Maintenance<br>Includes labour, plant hire and materials<br>Stock Grid Maintenance - Drainage Maintenance | \$900.00    | Per Ramp                                     |

During the request for quote process, only one quote received from External Contractor based on Grid Specifications including:

- 6m Wide Grid;
- Side Gate;
- Fencing to Road Boundaries;
- Signage; and
- Side Track and Approaches.
- Fully compliant installation for a 20m wide road reserve within 30KM of Armidale and without any additional site constraints

Importantly, the quote excludes any culvert drainage but does include a seal at the approached. If a seal is not incorporated, the cost for drainage would increase close to reciprocal in value.

The quote received was in the order of \$68,000 Excl. GST. Separately, Council officers revised their pricing and estimate their costs to be in the order of \$46,000 Excl. GST.

Based on these figures, and taking into account the quotation limitations, it would be reasonable for Council to adopt a value in the middle of these values to take into account items being \$57,000 Excl. GST.

#### **Potential to Subsidise the Maintenance Obligations**

The Councillor request was to get as close to the proposal for Council to own and maintain at it's cost, all Grids within the Armidale Local Government Area whilst remaining compliant with the relevant legislation.

The legal advice essentially identifies Council as the owner of the grids structures in the road but flags that liability for maintenance sits with the permit holders being landholders.

An option available to Council is the potential to subsidise the maintenance of grids under Section 356 of the *Local Government Act* which states:



## **Section 356**

- (1) A council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

Council may wish to implement a subsidy program and allocate a nominated a subsidy rate and funding cap for maintenance activities associated with Grids on Public Roads.

The recommendation to Council has been nominated to reflect this outcome with a subsidy program with a rate of a 30% contribution from Council to each grid. It is proposed that the 2024/25 draft budget allocate an amount of \$150,000pa for maintenance activities related to stock grids on public roads.

### **Implementation**

Inspections have been conducted on most identified gates and stock grids to confirm condition and determine likely landholders that gain benefit from the structures in accordance with the actions nominated as part of the report to council at its 26 May 2021 Council meeting.

The cost to remove a grid and or gate including some minor remediation has been estimated at approximately \$3,000 - \$5,000 Excl. GST. It is proposed that for grids and gates with no clear or nominated beneficiary or are no longer required, the removal of gates and grids will be incorporated into the unsealed road maintenance program.

For grids and gates where, beneficiary landholders have been identified and are still required, new and current permits will be issued in accordance with the policy.

In the former Guyra Shire Council Area, following the issue of a permit, no further action will be required.

In the former Armidale-Dumaresq Council area – a program of repairs and maintenance will agree to leave all grids and associated pavement in a serviceable state prior to handover to the benefiting landowner in accordance with the report to council at the May 2021 Council meeting.

It is not proposed to commit to upgrades and or replacements (capital works) of any grids or gates. Following the completion of any required works to make the structure serviceable, the ongoing maintenance of the structure and the roadway 20m either side of the grid will be the liability of the permit holder in compliance with the relevant legislation.

Development of a subsidy program and establishment of budget to support permit holders with grid maintenance in compliance with the Council resolution.

## **5. Implications**

### **5.1. Strategic and Policy Implications**

Reviewing and implementing the policy aligns with Advancing Our Region - Your Community Plan 2022-2032 and with Council Delivery Program 2022-2026 as part of:

#### **Connected Region – Transport and Technology**

- C1 – Quality infrastructure that makes it safe and easy to travel around our region – Strategies:
  - o C1.1 Build and maintain quality, safe and accessible road transport infrastructure including roads, footpaths, kerbs, bus stops and parking facilities.

#### **Strong Region – Engagement and Responsibility**

- S2. Strong governance and leadership that supports our region to grow and prosper.
  - o S2.3 Manage public resources responsibly and efficiently for the benefit of the community
    - S2.3.5 Manage our assets responsibly to ensure greater lifespan and usability and to reduce financial burden.

## **5.2. Risk**

### **Economic Risk**

The annual cost for maintenance activities associated with grids and pavement either side is unknown at this time, but the change in practice will reduce costs to Council's maintenance operations.

In accordance with the *Roads Act (1993)*, the cost for maintenance and repair for grids and gates lies with the permit holder – the landowner who has benefit for the grid. The economic risk to Council is low with regards to this.

There exists a risk that future drainage maintenance and mowing costs along some roads could increase due to adoption of fencing rather than grids by landowners.

There will be ongoing costs to Council in the form of inspections for which costs are not recoverable but are important for Council to complete in its role as the Local Roads Authority.

Financial impacts will be explored in section 5.4 for the event that the officer's recommendation is not the adopted resolution.

### **Reputation Risk**

The delay in implementing the policy has created frustration amongst landowners and over the proposed and potential outcomes. Components of the policy and its implementation are likely to be unpopular with affected landholders.

More broadly, the revised policy and implementation will ensure Council is consistent with legislation and other LGAs.

### **Operational Risk**

Operationally, the implementation addresses the current operating conditions and maintenance liabilities. Failing to act on the proposed recommendations will extend these liabilities.

### **Legislative and Regulatory Risk**

Legal advice has confirmed the revised policy as proposed at the June 2023 Ordinary Council Meeting aligns with the *Roads Act (1993)* and the *Roads Transport (General) Regulation (2018)*.

It is noted that the subject of several of the submissions received during the exhibition period have made appeal for Council to take ownership and maintenance responsibility for stock grids and gates on public roads. Council have been provided legal guidance regarding this.

Part 9 Division 2 of the *Roads Act (1993)* regulates the erection of Public Gates across public roads and Part 9 Division 3 regulates Other Works and Structures. Both require permits issued under Section 128 (Gates) and section 138 (Grids) of the act and sections 129 and 142 respectively describe the permit holder or benefiting party as having the liability for maintenance of structures.

In the event that the officer's recommendation is not the adopted resolution, further legal guidance and insurance advice may be sought as to the implications for claims made against Council in relation to the structures.

### 5.3. Sustainability

Efficient and well maintained roadways are essential to sustainable farming. Well maintained fences, cattle grids and gates are essential in ensuring animals remain confined to their designated areas, and do not wander, creating additional impacts to the soil and waterways or become a public safety or biosecurity hazard.

Appropriate and clear policy ensure these assets and structures can be maintained and that the efficient operation of the transport network can be preserved.

### 5.4. Financial

The implementation of the policy and ownership, maintenance and transition to landholders will likely have a financial impact unable to be determined at this time but it is estimated at approximately \$60,000 as part of the 2023/2024 financial year.

If Council adopt the recommendation as proposed, an additional \$150,000 will be allocated in the 2024/2025 operational budget to support the contribution program.

|                  |   |                 |           |           |          |                            |                  |
|------------------|---|-----------------|-----------|-----------|----------|----------------------------|------------------|
| Budget Area:     | Construction and Maintenance – Internal Customers |                 |           |           |          |                            |                  |
| Funding Source:  | General Fund                                      |                 |           |           |          |                            |                  |
| Budget Ref: (PN) | Description                                       | Approved Budget | Actual    | Committed | Proposed | Total Forecast Expenditure | Remaining Budget |
| 270400           | Rural Un-sealed Roads Planned Maintenance         | \$877,531       | \$709,960 | \$9,680   | \$60,000 | \$779,640                  | \$97,891         |

Council also will see a cost estimated to be \$3,000 Excl. GST per grid to remove unclaimed grids from the road network. Council's current expenditure on grid maintenance will remain unchanged until the end of the transition period at approximately \$8,300/per month adjusted for CPI.

There are approximately 285 Stock Grids and an unknown number of gates in the Armidale Regional council Local Government Area.

The current replacement cost for a gate has been estimated at approximately \$5000 Excl. GST and the cost to replace a grid has been estimated at \$57,000 Excl. GST. The total current replacement cost for all the stock grids in the Armidale Regional Council LGA is estimated to be approximately \$16.25M.

## 6. Consultation and Communication

The policy has been placed on public exhibition for 28 days and the three submissions received have been referred to the Connected Region key pillar working group.

The community engagement sessions auspice by Cr O'Connor, the Chair of the CRKPWG has been undertaken.

Following adoption of the policy POL087 – Gates and Stock Grids on Public Roads, the policy will be placed on Council's website.

Consultation will continue to determine the benefiting landholder for each grid and gate and the commencement of removal of obsolete grids and gates and the issue of new permits in accordance with the *Roads Act (1993)* following appropriate consultation with landholders.

If the recommendation as proposed is adopted by Council, separate consultation to support the contributions plan under Section 356 of the *Local Government act (1993)*.

## **7. Conclusion**

The current policy POL087 – Gates and Stock Grids on Public Roads transition period concluded on 30 June 2023. The policy has been revised and was placed on public exhibition for 28 days receiving only three submissions. Following further consultation by the Connected Region Key Pillar Working Group, a further two submissions were received as well as summary from the group itself. The policy has not yet been adopted by Council.

Council staff have completed most inspections required to determine grid and gate condition and ownership. Staff have proposed an implementation pathway incorporating issue of new permits in accordance with the *Roads Act (1993)* appropriate consultation with landholders.

It is proposed that Council adopt Policy POL087 – Gates and Stock Grids on Public Roads and that Council note the implementation of the policy including the issue of new permits will commence immediately.

It is also proposed that a subsidy program be established in accordance with Section 356 of the *Local Government act (1993)* to subsidise the cost of maintenance of stock grids on public roads.

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| <b>Item:</b>               | <b>11.3</b>  | <b>Ref: AINT/2024/12140</b> |
| <b>Title:</b>              | <b>Former Tip Shop Site - Lease Request from Armidale Men's Shed</b><br><b>Container: ARC24/6601</b>   |                             |
| <b>Responsible Officer</b> | <b>Acting Chief Officer Assets and Services</b>  |                             |
| <b>Author:</b>             | <b>Guada Lado, Manager Regional Waste</b>  |                             |
| <b>Attachments:</b>        | 1. Former Tip Shop Lease Request - AMS Value Proposition to Council<br>2. Armidale Real Estate Lease Valuation - Old tip shop, Long Swamp Road |                             |

### **1. Purpose**

To provide Council with a lease option for the use of the former Tip Shop site, as requested by the Armidale Men's Shed.

### **2. OFFICERS' RECOMMENDATION:**

That Council:

- a. Agrees to enter into a 24-month lease agreement with the Men's Shed for the former tip shop premises, 108 Long Swamp Road, Armidale.
- b. It is proposed that the lease agreement:
  - is set at \$200 per week, which is inclusive of a 50% discount from the commercial lease value of the site, in support of the Men's Shed as a valuable community organisation.
  - includes a rent-free honeymoon period for onsite storage of materials whilst required works are conducted, and until the site is ready for occupancy.

### **3. Background**

With the relocation of interim Second-Hand Goods Shop service to a vacant shed within the Armidale Waste Management Facility, the former Tip Shop location is currently vacant whilst a permanent solution is being developed. The two sites are being considered as options for the long-term suitability of this service, which will leave Council with one vacant site. A commercial lease valuation for both sites has been undertaken to assess the commercial lease value for each asset.

The former Tip Shop site has a key advantage is its position outside the Waste Management Facility, making it more suitable for contractors (if externally operated) and general public access. Due to the age and former use of the facility, a scope and timeline building works has been determined with costs being ascertained, to reinstate the facility for future use. With renovations, the commercial lease appraisal for this site is between \$21,000 to \$23,000 per annum, plus GST.

Meanwhile, the Armidale Men's Shed has expressed interest in leasing Council's old Tip Shop site for their operations due to the unsustainable rent increases at their current location.

The Armidale Men's Shed has been operating since 2006, has 71 male and female members to provide a gathering place for companionship and skills exchange for wellbeing and emotional support. They have been commissioned by various organisations to use their woodworking skills

for the construction of outdoor seating for national parks, stage sets, toys and a variety of repair jobs.

Unfortunately, their operation may cease by the end of April, unless they can secure an affordable site. They have identified the former Tip Shop site as a suitable location for their operations, having exhausted other possible options.

Subsequently, the Armidale Men's Shed is seeking Council's support for:

- Securing a lease agreement at a reasonable rate in line with their non-profit status.
- Storage for equipment and timber materials until the site is available to be occupied (timeline to be determined).

#### **4. Discussion**

Should the Council wish to support the Men's Shed with the requested lease agreement, it must be understood that the timeframe for occupation is dependent on existing resourcing, budget allowance, and availability of external contractors.

The scope of works to restore the site to a suitable condition for the Men's Shed has been developed and costs and timeline are being determined.

So as not to impact on Council's budget, regular operations, or planned activities, it is suggested that:

- The Men's Shed may need to close for a few months until the required site works can be completed. Whilst these works are conducted, a rent-free honeymoon period for onsite storage of materials can be provided to facilitate the Men's Shed's requirement to vacate their current premises.
- The lease amount is set at \$200 per week, which is inclusive of a 50% market discount, in support of the Men's Shed as a community organisation.
- Council support the Men's Shed in obtaining grants to make further improvements or enhancements to the premises, with partnerships like these viewed favourably by the State Government.
- The former tip shop site remains an option to be considered for the long-term solution of the Second Hand Goods Services. Should Council determine that the site is still the most suitable for its long-term Second Hand Goods Service, it could return to that location and offer the current site within Armidale Waste Management Facility as a future lease option for the Men's Shed.

A lease agreement with the Men's Shed could be mutually beneficial, providing the identified benefits to Council:

- Lease income and activation of an otherwise vacant site.
- Partnership and support for a community group focused on improving mental wellbeing in the community.
- Synergies with waste reduction objectives through the promotion of repair and upcycling.

## 5. Implications

### 5.1. Strategic and Policy Implications

The outcomes relate to the CSP goals:

E2.6 – Encourage, support, and promote community groups and volunteers in their invaluable contributions to community life.

F1.3- Foster collaborations that improve understanding and action to protect our natural environment.

F1.3.2 Support local environmental groups through in-kind and financial support, where agreed, to facilitate improved environmental outcomes.

### 5.2. Risk

**Social risk:** The Armidale Men's Shed is a highly regarded community organisation that provides beneficial services to its members and partner organisations. There is a risk our community would lose this service should a viable lease opportunity not be found.

**Operational risk:** The risk of impact to current operations can be mitigated with adequate consideration of lease terms, and ensuring site inductions and procedures for contractors and visitors on the potential lease site.

**Economic and reputational risk:** A commercial lease valuation has been obtained to ensure fairness to both parties.

### 5.3. Sustainability

Sustainability implications:

- The lease area is currently owned by the Council and would benefit from site maintenance, enhancements, and grant projects through the lessee.
- Social procurement by enabling a non-profit organisation access to an affordable lease.
- Potential synergies between waste diversion through repair and upcycling of goods otherwise destined for landfill.

### 5.4. Financial

|                  |                                |                 |        |           |            |                            |                  |
|------------------|--------------------------------|-----------------|--------|-----------|------------|----------------------------|------------------|
| Budget Area:     | Waste                          |                 |        |           |            |                            |                  |
| Funding Source:  | Waste Recovery Services        |                 |        |           |            |                            |                  |
| Budget Ref: (PN) | Description                    | Approved Budget | Actual | Committed | Proposed   | Total Forecast Expenditure | Remaining Budget |
|                  | Former Tip Shop Building Works | \$0             | TBD    | TBD       | (\$10,400) | TBD                        |                  |

The commercial lease appraisal determined the value of the lease to be \$21,000 to \$23,000 per annum and the proposed 50% discount will reduce the lease revenue to \$10,400 per annum for the two-year lease period.

The full costs of clean-up and restoration of the site are yet to be determined, but the lease income can be used to recover part of the associated costs to the Council.

## **6. Consultation and Communication**

The Men's Shed has contacted Council officers, who have reviewed the situation and prepared this report to Council for its decision.

## **7. Conclusion**

Council has the opportunity to support the Armidale Men's Shed community group with its request for a discounted lease and interim storage at the former Tip Shop site as they prepare to vacate their current site. A discounted lease that does not impact on Council's operations would be mutually beneficial in the provision of income to offset part of the costs of clean-up and restoration of the site, keeping the Armidale Men's Shed viable for mental-health and wellbeing support to the community, and keeping reusable goods out of landfill.



|                            |   |                                |
|----------------------------|---|--------------------------------|
| <b>Item:</b>               | <b>13.1</b>   | <b>Ref: AINT/2024/02536</b>    |
| <b>Title:</b>              | <b>Traffic Advisory Committee - Minutes of the meeting held 6 February 2024</b>                                   | <b>Container: ARC16/0168-8</b> |
| <b>Responsible Officer</b> | <b>Acting Project Director Kempsey Armidale Road Restoration Project</b>  |                                |
| <b>Author:</b>             | <b>Claire Butcher, Transport Administration Officer</b>   |                                |
| <b>Attachments:</b>        | 1. Minutes - Traffic Advisory Committee 6 February 2024<br>2. Agenda - Traffic Advisory Committee 6 February 2024 |                                |

**RECOMMENDATION:**

That in relation to the Traffic Advisory Committee Meeting held 6 February 2024, that Council:

- a) Note the “Minutes of the Traffic Advisory Committee meeting held on 6 February 2024
- b) Endorse the Special Event Transport Management Plan for the Armidale Cycling Club’s 2024 Weekly Race.
- c) Endorse the Special Event Transport Management Plan for the Armidale Cycling Club’s Criterium 2024 Weekly Race, once documentation of approvals from the business and construction companies currently occupying Waller Avenue & Cameron Drive.
- d) Endorse the use of Armidale Regional Council local roads only for the Austin Page College coast run, in accordance with the submitted Traffic Management Plan;
  - i. subject to any special conditions required by NSW Police in the Section 40 approval.
  - ii. be provided copies of required approvals from Transport for NSW, Bellingen, Coffs Harbour and Clarence Valley Councils for the use of respective roads under their management.
- e) That Council note Traffic Advisory Committee endorsed:
  - i. The Guyra Lamb and Potato Festival to be held adjacent to the New England Highway from 17 January to Sunday 28 January 2024.
  - ii. The road closure of Bradley St, Guyra between Ollera St and McKenzie St on Saturday 27 January 2024.
- f) Endorse the temporary road closure of Canambe Street, Armidale between Dumaresq and Kirkwood Street, Armidale for the Armidale & New England Show from 6:30pm Thursday 29 February 2024 until 10pm on Sunday 3 March 2024.
- g) Endorse the requested road closures and traffic management for the 2024 Autumn Festival
- h) Endorse the Special Event Transport Management Plan for Culture Fest 2024 and associated road closures of Faulkner Street, Armidale between Dumaresq Street and Kirkwood Street, Armidale between 6am Friday 8 March 2024 and 10.30pm on Saturday 9 March 2024.
- i) Endorse the installation of a Bus Zones at the following locations;
  - i. Niagara Street, Armidale adjacent to 246 Donnelly Street, Armidale
  - ii. Rusden Street, Armidale on the eastern end of the existing Bus Zone outside Drummond Memorial School.

- iii. Queen Elizabeth Drive, Armidale adjacent to Girraween Shopping Centre to a full time Bus Zone from the existing time restricted zone.

**1. Purpose:**

This report is to provide Council with the agenda, minutes, and action list of the Traffic Advisory Committee (TAC) meeting held on Tuesday 6 February 2024 which details and recommendations to Council for consideration and adoption.

**2. Discussion**

To consider the recommendation advice provided by the TAC, a Transport for NSW (TfNSW) committee comprising of experts from TfNSW, Police, State Member representative, ARC Councillor and Armidale Regional Council (ARC) technical officers.

Council is not bound by the advice given by the TAC. However, if Council does wish to act contrary to the unanimous advice of the TAC or when the advice is not unanimous, it must notify TfNSW & the NSW Police and wait 14 days before proceeding.

The TAC has no decision-making powers and is primarily a technical review committee. It only advises the Council on matters for which the Council has delegated authority, being certain prescribed traffic control devices and traffic control facilities.

The Council must refer all traffic related matters to the TAC prior to exercising its delegated functions. Matters related to State Roads or functions that have not been delegated to the elected Council and must be referred directly to TfNSW or relevant organisation. Such matters must not be referred to the TAC.

**3. Report:**

At its meeting held 6 February 2024 that the TAC considered ten items, with only seven items requiring endorsement from Council:

**Visitor Information Centre**

The Team Leader of the Visitor Information Centre (VIC) has requested a review into the safety of the entry to the carpark from Marsh Street, Armidale and to make changes to the Caravan Parking area to improve the facilities for visitors.

At the December meeting Council endorsed

- a) Closure of the Marsh Street, Armidale entry into the Visitors Information Centre car park, with all vehicles requiring to enter via Dumaresq Street, Armidale.
- b) Provision of an additional 2 Caravan Parking spaces by repurposing 4 car parking spaces and extending the length of the existing parking bays by 2m to the south to comply with Caravan Parking requirements.

Further discussions with The Team Leader of the Visitor Information Centre (VIC) led to changes in the above recommendations.

Council staff will conduct swept path analysis and take the matter back to the Traffic Advisory Committee (TAC).

**Proposed improvements to flat top humps Bradley Street, Guyra**

At community meetings held in Guyra in 2023 concerns were raised about speeding vehicles in Bradley Street. Guyra with a resultant effect on pedestrian safety.

Members of the Guyra Progress Association addressed the TAC December 2023 meeting and provided a written document outlining their concerns.

After the flat top humps were installed, concerns are being raised that pedestrians and motorists were not sure how to use the new humps causing confusion and a near misses

Council staff and TAC as a matter of urgency discussed how to address these issues and make them safer for pedestrians and motorists.

#### **Special Event Transport Management Plan - Armidale Cycling Club Weekly Road Races 2024**

The Armidale Cycling Club conducts weekly road races using Boorolong Road, Dangarsleigh Road/Enmore Road, Boorolong Road and Long Swamp Road within the Armidale Regional LGA. This series of events has been conducted over many years.

#### **Special Event Transport Management Plan Armidale Cycling Criterium**

Tabled at the meeting alongside the road race SETMP was the Armidale Cycling Criterium which is a weekly race on Saturday afternoon over the summer months.

The Armidale Cycling Club was previously making use of the Traffic Education Centre (TEC) for criterium races on Saturday afternoon over the summer months; however, with recent weather this is currently in bad state and unsafe for riding.

As an alternative Council endorsed the proposal to use the loop road (Waller Ave/Cameron Drive) Armidale at the airport business park for club criterium races for 2023.

The request to continue in 2024 was considered and endorsed by TAC.

#### **Special Event Traffic Management Plan - Austin Page College Coast Run 2024**

The 44th Annual Austin Page College Coast Run is being held over two consecutive days commencing at Austin Page College, Armidale, Friday 23 August 2024, and concluding at the Coffs Harbour Jetty, Saturday 24 August 2024.

#### **Special Event Transport Management Plan - Armidale & New England Show 2024**

The annual Armidale & New England Show for 2024 will occur from the 29 February to 3 March 2024. The road closure has occurred for many years without incident to ensure the safety of those attending and competing at the show.

The organisers are looking to close Canambe Street as has been done previously, at the Kirkwood Street end of Canambe Street, and a vehicle access checkpoint set in off the Canambe/Dumaresq corner to allow for the safe access onto the Showground for large vehicles, particularly cattle trucks and horse floats.

#### **Special Event Transport Management Plan - Guyra Lamb and Potato Festival 2024 - Concluded**

The Guyra Lamb and Potato Festival is an annual event. The main activity adjacent to the New England Highway in Guyra. Please note this event occurred Wednesday 17 January to Sunday 28 January 2024.

#### **Special Event Transport Management Plan - The Armidale Autumn Festival 2024**

The Armidale Autumn Festival is an Armidale institution that commenced in the 1990s.

The street parade plays a pivotal role in the success of the festival and provides a high level of community participation. The return of the Campus to City Canter also provides additional community participation from our more active members of the community.

### **Special Event Transport Management Plan Culture Fest - Saturday 9 March 2024**

Culture Fest is a multicultural community event, held annually in Armidale NSW, hosted by the University of New England in partnership with Armidale Regional Council. The festival highlights some of the many cultures and communities based in Armidale and the New England region. International students from UNE, members of the CALD community and locals are invited to participate and run food stalls on behalf of their home countries and can perform traditional song and dance to the community showcasing traditional customs and culture.

The event requests the closure of Faulkner Street, Armidale providing a safe zone for the community attending the event.

### **Provision of Bus Zones for new Armidale City bus routes**

As part of the improvements to bus services in Armidale as part of the 16 Cities Armidale Services Plan, suitable locations and changes to existing bus stops was identified. These changes are designed to improve the service for the citizens of Armidale.

Transport for NSW in conjunction with Edwards Coaches, Council staff and the public have conducted an extensive review over the past 12 months of the existing bus routes with the intention of making the bus service more fit for purpose.

As part of the review new bus stops were identified and stops that are no longer required for removal.

## **4. Strategic Directions:**

The function of the TAC aims to maintain safe and effective traffic facilities on the road network to industry and legislative standards.

The activities and recommendations align with Advancing Our Region - Your Community Plan 2022-2032 and with Council Delivery Program 2022-2026 as part of:

### **Connected Region – Transport and Technology**

- C1. Quality infrastructure makes it safe and easy to travel around our region.
  - C1.1 Build and maintain quality, safe, and accessible road transport infrastructure including roads, footpaths, kerbs, bus stops and parking facilities.
- C2. Transport and technology that enable connectivity both locally and outside the region.
  - C2.1 Provide access to public and private transport services that link our community to our local towns and villages, other regions, our local attractions, and lifestyle infrastructure.

## **5. Relevant Legislation**

- *The Roads Act (1993)* (**Roads Act**)
- The Road Transport (General) Regulations (2021) (**Road Transport Regulations**)
- *The Road Rules (2014)*, (**Road Rules Legislation**)
- A guide to the delegation to Council for the Regulation of Traffic (**Delegation to Council - Regulation of Traffic Guidelines**)

## 6. Financial Implications

### Traffic for NSW (TfNSW) Block Grant.

TfNSW provides block grants to Council as a contribution towards the cost of works on Regional Roads, under the terms of the Block Grant Agreement. Block Grants may be spent on preservation, restoration and enhancement works to the extent provided for in the Block Grant Agreement.

Every council has entitlement to an annual block grant. The grant comprises a roads component and a supplementary component (both available for works on Regional Roads) and a traffic facilities component (which may be spent on works on Regional Roads as well as traffic facilities on Local Roads).

|                         |  |                        |               |                  |                 |                                   |                         |
|-------------------------|--|------------------------|---------------|------------------|-----------------|-----------------------------------|-------------------------|
| <b>Budget Area:</b>     |  |                        |               |                  |                 |                                   |                         |
| <b>Funding Source:</b>  | Private Works – Organiser to be charged. |                        |               |                  |                 |                                   |                         |
| <b>Budget Ref: (PN)</b> | <b>Description</b>                       | <b>Approved Budget</b> | <b>Actual</b> | <b>Committed</b> | <b>Proposed</b> | <b>Total Forecast Expenditure</b> | <b>Remaining Budget</b> |
| Item (f)                | Road Closure                             | N/A                    | N/A           | Nil              | \$526.71        | Nil                               | Nil                     |

|                         |                                 |                        |               |                  |                 |                                   |                         |
|-------------------------|---------------------------------|------------------------|---------------|------------------|-----------------|-----------------------------------|-------------------------|
| <b>Budget Area:</b>     | Events and Activation           |                        |               |                  |                 |                                   |                         |
| <b>Funding Source:</b>  | Events and Communications Teams |                        |               |                  |                 |                                   |                         |
| <b>Budget Ref: (PN)</b> | <b>Description</b>              | <b>Approved Budget</b> | <b>Actual</b> | <b>Committed</b> | <b>Proposed</b> | <b>Total Forecast Expenditure</b> | <b>Remaining Budget</b> |
| 210713<br>Item (g)      | Road Closure<br>Autumn Festival | \$50,000               | Nil           | Nil              | \$8092.08       | \$8092.08                         | \$41,907.02             |
| 900058<br>Item (h)      | Road Closure<br>Culture Fest    | \$15,000               | \$3,058.09    | \$3,127.27       | \$387           | \$6,572.36                        | \$8,427.64              |

|                                |                                |                        |               |                  |                 |                                   |                         |
|--------------------------------|--------------------------------|------------------------|---------------|------------------|-----------------|-----------------------------------|-------------------------|
| <b>Budget Area:</b>            | Roads and Parks                |                        |               |                  |                 |                                   |                         |
| <b>Funding Source:</b>         | Traffic Facilities Block Grant |                        |               |                  |                 |                                   |                         |
| <b>Budget Ref: (PN)</b>        | <b>Description</b>             | <b>Approved Budget</b> | <b>Actual</b> | <b>Committed</b> | <b>Proposed</b> | <b>Total Forecast Expenditure</b> | <b>Remaining Budget</b> |
| 270219<br>Items<br>(i),(j)&(k) | Install signs                  | \$122,000              | \$56,890.54   | \$4,090.91       | \$500           | \$61,481.45                       | \$60,518.55             |

Special Event Traffic Management will be implemented by Council staff and costed to the responsible department.

## 7. Conclusion

That Council note the minutes of the TAC meeting held on Tuesday, 6 February 2024 and the recommendations to Council for endorsement.

|                            |  |                             |
|----------------------------|--|-----------------------------|
| <b>Item:</b>               | <b>13.2</b>  | <b>Ref: AINT/2024/14979</b> |
| <b>Title:</b>              | <b>Traffic Advisory Committee - Minutes of meeting held 5 March 2024</b><br><b>Container: ARC16/0168-9</b> |                             |
| <b>Responsible Officer</b> | <b>Acting Chief Officer Assets and Services</b>  |                             |
| <b>Author:</b>             | <b>Claire Butcher, Transport Administration Officer</b>  |                             |
| <b>Attachments:</b>        | 1. Agenda Traffic Advisory Committee 5 March 2024<br>2. Minutes Traffic Advisory Committee 5 March 2024    |                             |

#### **RECOMMENDATION:**

That in relation to the Traffic Advisory Committee Meeting held 5 March 2024, that Council:

- a) Note the “Minutes of the Traffic Advisory Committee Meeting held 5 March 2024;
- b) Endorse the requested road closure of Bradley Street, Guyra for the annual Anzac Day Dawn Service will occur on Thursday, 25 April 2024 between 5.30 am and 7.00 am, in accordance with the provided traffic control plan;
- c) Endorse the requested road closure of Bradley Street, Guyra and rolling road closures of intersecting streets for the annual Anzac Day March held on Thursday, 25 April 2024 between 10.00am and 12.30pm, in accordance with the provided traffic control plan;
- d) Endorse the temporary road closures of Faulkner Street from Dumaresq Street to Beardy Street and the connecting intersections with Moore Street, Beardy Street (East Mall) and Rusden Street roundabout, Tingcombe Lane and Faulkner Street at Barney Street for the 2024 Armidale Anzac Day March and Commemoration Service to be held on Thursday 25 April 2024

#### **1. Purpose:**

This report is to provide Council with the agenda, minutes, and action list of the Traffic Advisory Committee (TAC) meeting held on Tuesday 5 March 2024 which details and recommendations to Council for consideration and adoption.

#### **2. Discussion**

To consider the recommendation advice provided by the TAC, a Transport for NSW (TfNSW) committee comprising of experts from TfNSW, Police, State Member representative, ARC Councillor and ARC technical officers.

Council is not bound by the advice given by the TAC. However, if Council does wish to act contrary to the unanimous advice of the TAC or when the advice is not unanimous, it must notify TfNSW & the NSW Police and wait 14 days before proceeding.

The TAC has no decision-making powers and is primarily a technical review committee. It only advises the Council on matters for which the Council has delegated authority, being certain prescribed traffic control devices and traffic control facilities.

The Council must refer all traffic related matters to the TAC prior to exercising its delegated functions. Matters related to State Roads or functions that have not been delegated to the elected Council and must be referred directly to TfNSW or relevant organisation. Such matters must not be referred to the TAC.

### **3. Report:**

At its meeting held Tuesday 5 March 2024, the TAC considered three items.

#### **Special Event Traffic Management Plan - 2024 Guyra Anzac Day Parade and Service**

The Anzac Day March to be held on 25 April 2024 is an annual event supported by Council.

The Guyra Anzac Day Dawn Service is to be held between 5.30 am and 7.00 am. The closure of Bradley Street, Guyra from MacKenzie Street to the Southern side of the Memorial Hall will allow the crowd to gather outside the Soldier's Memorial Hall at 163 Bradley Street for the service.

The main march and service is between 10.00am and 12.30pm. The intersections of Moore Street, Nincoola Street and MacKenzie Street are closed for the march. This is a rolling road closure and can be reopened once the march has passed.

#### **Special Event Transport Management Plan - 2024 Armidale Anzac Day March**

Anzac Day is a recognised National event held on 25 April each year, the event is supported by Council and is conducted under Police escort.

The Armidale Dawn Service will not include a march. Participants will be bussed to Central Park, Armidale from the Ex-Serviceman's Club for the ceremony start at 5.30am and conclude at 7am.

The Main Anzac March and Service will start to gather at 10.30am in Faulkner Street and the East Mall then proceed along Faulkner Street to Central Park where the service will start at 11am and conclude at 12.30pm.

#### **Timber Bridge Load Limits and Speed Restrictions**

In late 2022 the Armidale Regional Council engaged contractors to undertake Level 3 Bridge Inspections on timber bridges within the LGA.

Five bridges have been identified as requiring urgent action to implement load limits to prevent further deterioration and the risk of collapse under load.

The Level 3 Bridge Inspections were not formally followed up on by a previous manager and this has now been picked up on the advised gross load limits need to be implemented.

Transport for NSW (TfNSW) has requested further information. This item will be held over and discussed at the April Traffic Committee Meeting.

### **4. Strategic Directions:**

The function of the TAC aims to maintain safe and effective traffic facilities on the road network to industry and legislative standards.

The activities and recommendations align with Advancing Our Region - Your Community Plan 2022-2032 and with Council Delivery Program 2022-2026 as part of:

#### **Connected Region – Transport and Technology**

- C1. Quality infrastructure makes it safe and easy to travel around our region.
  - C1.1 Build and maintain quality, safe, and accessible road transport infrastructure including roads, footpaths, kerbs, bus stops and parking facilities.

- C2. Transport and technology that enable connectivity both locally and outside the region.
- C2.1 Provide access to public and private transport services that link our community to our local towns and villages, other regions, our local attractions, and lifestyle infrastructure.

## 5. Relevant Legislation

- *The Roads Act (1993) (Roads Act)*
- The Road Transport (General) Regulations (2021) (**Road Transport Regulations**)
- *The Road Rules (2014), (Road Rules Legislation)*
- A guide to the delegation to Council for the Regulation of Traffic (**Delegation to Council - Regulation of Traffic Guidelines**)

## 6. Financial Implications

### Traffic for NSW (TfNSW) Block Grant.

TfNSW provides block grants to Council as a contribution towards the cost of works on Regional Roads, under the terms of the Block Grant Agreement. Block Grants may be spent on preservation, restoration and enhancement works to the extent provided for in the Block Grant Agreement.

Every council has entitlement to an annual block grant. The grant comprises a roads component and a supplementary component (both available for works on Regional Roads) and a traffic facilities component (which may be spent on works on Regional Roads as well as traffic facilities on Local Roads).

|                  |  |                 |          |           |          |                            |                  |
|------------------|--|-----------------|----------|-----------|----------|----------------------------|------------------|
| Budget Area:     | Roads and Parks                          |                 |          |           |          |                            |                  |
| Funding Source:  | City Services - Events                   |                 |          |           |          |                            |                  |
| Budget Ref: (PN) | Description                              | Approved Budget | Actual   | Committed | Proposed | Total Forecast Expenditure | Remaining Budget |
| 210713           | Implement traffic management Guyra Anzac | \$247,633       | \$26,772 | Nil       | \$1,640  | \$28,412                   | \$219,221        |

|                  |   |                 |          |           |            |                            |                  |
|------------------|---|-----------------|----------|-----------|------------|----------------------------|------------------|
| Budget Area:     | Roads and Parks                             |                 |          |           |            |                            |                  |
| Funding Source:  | City Services – Events                      |                 |          |           |            |                            |                  |
| Budget Ref: (PN) | Description                                 | Approved Budget | Actual   | Committed | Proposed   | Total Forecast Expenditure | Remaining Budget |
| 210713           | Implement traffic management Armidale Anzac | \$247,633       | \$26,772 | Nil       | \$1,562.00 | \$28,334                   | \$219,299        |



Special Event Traffic Management implemented by Council staff will be costed to the responsible department.

**7. Conclusion**

That Council note the minutes of the Traffic Advisory Committee (TAC) meeting held on Tuesday, 5 March 2024 and the recommendations to Council for endorsement.

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|                            |   |                                |
|----------------------------|---|--------------------------------|
| <b>Item:</b>               | <b>13.3</b>   | <b>Ref: AINT/2024/11905</b>    |
| <b>Title:</b>              | <b>Traffic Advisory Committee - Minutes of the meeting held 2 April 2024</b>                            | <b>Container: ARC16/0168-9</b> |
| <b>Responsible Officer</b> | <b>Acting Chief Officer Assets and Services</b>   |                                |
| <b>Author:</b>             | <b>Claire Butcher, Transport Administration Officer</b>   |                                |
| <b>Attachments:</b>        | 1. Agenda Traffic Advisory Committee 2 April 2024<br>2. Minutes Traffic Advisory Committee 2 April 2024 |                                |

**RECOMMENDATION:**

That the Minutes of the Traffic Advisory Committee meeting held on 2 April 2024 be noted.

- a) Endorse the following bridge load limits as below:
  - I. Willis Creek on Tenterden Road - 25t Gross Load Limit
  - II. Oaky River on Wakefield Rd from - 25t to 15t
  - III. Gara River on Herbert Park Rd from - 15t to 5t
  - IV. Branch Creek on Lower Creek Rd from - 10t to 18t (increase due to improvements)
  - V. Postmans Gully on Melrose Rd -10t Gross Load Limit
- b) Endorse to installation of a 44m No Stopping zone in Eliza Lane, adjacent to 63 Douglas Street, Armidale.
- c) Note TfNSW suggested minor improvements to increase the visibility at the intersection of Taylor Street and Dumaresq Street, those being updating signage size and location and clearing of vegetation; monitoring of the intersection will continue.

**1. Purpose:**

This report is to provide Council with the agenda, minutes, and action list of the Traffic Advisory Committee (TAC) meeting held on Tuesday 2 April 2024 which details and recommendations to Council for consideration and adoption.

**2. Report:**

At its meeting held Tuesday 2 April 2024, the TAC considered three items.

**Proposed No Stopping Zone Eliza Lane, Armidale**

Council received a request from the resident of 63 Douglas Street, Armidale requesting the implementation of a No Stopping zone in Eliza Lane as visitors to the at 6 Eliza Lane block access to the rear access of 63 Douglas Street.

Vehicles parking in the lane make it difficult for wood deliveries and ambulances (if required) to access the property. This access is the best access for ambulances as it gives direct access to the rear of the house.

### **Change to intersection traffic control at Taylor Street and Dumaresq Street, Armidale**

Over a number of years Council has received complaints from the residents who live adjacent to this intersection of numerous crashes. Some of these crashes have resulted in property damage and hospitalisation of drivers and pedestrians. There is concern that this may eventually result in death. Staff recommended that a Stop sign be installed however TfNSW considered the Taylor Street and Dumaresq Street intersection and advised;

As per the standards, stop signs should not be used if the intersection meets the sight distance requirements. TfNSW suggests that council implement the following in the first instance prior to the installation of a Stop Sign;

- Review the size of the existing give way signs and consider if the size can be increased.
- Consider clearing up the vegetation on both sides of the road for better view of signage.
- Consider if the 50/40 sign currently placed in front of the Give Way sign be moved a little further back from the intersection/give way sign.
- The R3-1 pedestrian crossing sign, that is currently visible on Dumaresq Street on the Western approach to intersection, is partially obscured by the power pole. The sign is to be relocated to sit in front of the pole improving visibility.

### **Timber Bridge Load Limits and Speed Restrictions**

In late 2022 the Armidale Regional Council engaged contractors to undertake Level 3 Bridge Inspections on timber bridges within the LGA.

Four bridges have been identified as requiring urgent action to implement load limits to prevent further deterioration and the risk of collapse under load, one bridge has already undergone improvements and will have the current load limit increased.

The Level 3 Bridge Inspections were not formally followed up on by a previous manager and this has now been picked up on and the advised gross load limits need to be implemented.

### **3. Strategic Directions:**

The function of the TAC aims to maintain safe and effective traffic facilities on the road network to industry and legislative standards.

The activities and recommendations align with Advancing Our Region - Your Community Plan 2022-2032 and with Council Delivery Program 2022-2026 as part of:

#### **Connected Region – Transport and Technology**

- C1. Quality infrastructure makes it safe and easy to travel around our region.
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- C2. Transport and technology that enable connectivity both locally and outside the region.

C2.1 Provide access to public and private transport services that link our community to our local towns and villages, other regions, our local attractions, and lifestyle infrastructure.

#### 4. Relevant Legislation

- *The Roads Act (1993) (Roads Act)*
- The Road Transport (General) Regulations (2021) (**Road Transport Regulations**)
- *The Road Rules (2014), (Road Rules Legislation)*
- A guide to the delegation to Council for the Regulation of Traffic (**Delegation to Council - Regulation of Traffic Guidelines**)

#### 5. Financial Implications

##### Traffic for NSW (TfNSW) Block Grant.

TfNSW provides block grants to Council as a contribution towards the cost of works on Regional Roads, under the terms of the Block Grant Agreement. Block Grants may be spent on preservation, restoration and enhancement works to the extent provided for in the Block Grant Agreement.

Every council has entitlement to an annual block grant. The grant comprises a roads component and a supplementary component (both available for works on Regional Roads) and a traffic facilities component (which may be spent on works on Regional Roads as well as traffic facilities on Local Roads).

|                  |  |                 |             |             |          |                            |                  |
|------------------|--|-----------------|-------------|-------------|----------|----------------------------|------------------|
| Budget Area:     | Traffic Facilities                         |                 |             |             |          |                            |                  |
| Funding Source:  | Traffic Facilities Block Grant             |                 |             |             |          |                            |                  |
| Budget Ref: (PN) | Description                                | Approved Budget | Actual      | Committed   | Proposed | Total Forecast Expenditure | Remaining Budget |
| 270219           | Supply and Install signs and line marking. | \$122,000       | \$63,402.53 | \$40,007.13 | \$750.00 | \$104,159.66               | \$17,840.34      |

The expenditure includes the cost of the purchase and installation of the signs.

#### 6. Conclusion

That Council note the minutes of the Traffic Advisory Committee (TAC) meeting held on Tuesday, 2 April 2024 and the recommendations to Council for endorsement.

|                            |   |                              |
|----------------------------|---|------------------------------|
| <b>Item:</b>               | <b>13.4</b>   | <b>Ref: AINT/2024/10458</b>  |
| <b>Title:</b>              | <b>District Liaison Committee - New England RFS - Minutes of the meeting held on 29 February 2024</b> | <b>Container: ARC17/1987</b> |
| <b>Responsible Officer</b> | <b>General Manager</b>  |                              |
| <b>Author:</b>             | <b>Steve Mepham, Councillor</b>   |                              |
| <b>Attachments:</b>        | 1. DLC Draft Meeting Minutes from 29 February 2024  |                              |

#### **RECOMMENDATION:**

That the Minutes of the New England Bushfire Management Committee meeting held on 29 February 2024 be noted.

#### **1. Purpose**

This report is to provide Council with the minutes and action list of the New England Bushfire Management Committee (BFMC) meeting held on Tuesday, 29 February 2024 which details recommendations to Council for consideration.

#### **2. Background**

The New England Bushfire Management Committee includes Walcha, Uralla and Armidale Regional council area (28,000sq kilometres) and reports to the state Bushfire Co-ordination Committee. The committee is required to have a five year Risk Management Plan, a two year Operational plan and a one year Mitigations works Plan across all land Tenue. All land managers are required to participate in the process to mitigate risk to the community. Cr Mepham is the current Chair of the committee and the ARC delegate to the committee.

#### **3. Report**

At its meeting on 29 February 2024 the BFMC considered the following items;

##### **Finance/Business Plan Reporting**

All Local Government Councils receive allocation for the maintenance and report (M&R) of vested equipment and assets.

- Funding is a grant (not necessarily a budget)
- 2023/24 M&R allocation was \$340,981.60
- Note 2022/23 M&R allocation was \$340,981.60
- Variation = \$6,819.63.

##### **Summary**

- Note nil invoices or accounts for fleet repairs received from ARC for this financial year.
- Action: ARC to provide invoices and records for Fleet Repairs ASAP from 1/7/23 – 30/1/24
- Agreed carry forward from the 2022/23 M&R = \$23,484
- Agreed carry forward from the 2021/23 M&R = \$28,103

## **Business Plan Report**

### Key Focus Areas for 2024

- Capability
- Community Risk
- Our People and Culture

### District Manager's Intent

- DCFO directive – hazard reduction burns
- Customer Service
- Relationships and Communication – Member Engagement

UNE a possible source of membership.

Uralla Shire Council are happy to assist with promoting membership.

## **Infrastructure – Fleet, Capital Works – Assets**

### Capital Work

- Bergen Station – DA status
- Other projects \$120,000+

### Next Steps for 2024/25 Budget Bids

- Training enhancement funding
- Capital funding to commence Bergen Station
- Small shovel ready projects eg station upgrades

Grant funding from RFS to connect bore on airport grounds was costed out some time ago and didn't proceed. Costs will need to be reworked for another funding application, so the project can be shovel ready if funding becomes available. If there are any other joint projects, please pull them out to review and joint discussion, to evaluate whether they are eligible to also be classed as shovel ready.

Bilga Road Station power bill is covering the cost of the BBQ in the community park. The understanding is that when the BBQ was installed, the power was connected to Bilga Station; and Council had advised they would cover the electricity bill for Bilga Station. The electricity bill for this station is significantly more than other stations.

**ACTION:** Further discussions regarding the electricity bill for Bilga Station to be undertaken with Uralla Shire Council.

## **General Business**

- Legislative requirements for Councils under the *Rural Fires Act 1997*
- Understanding the roles and responsibilities of Councils and RFS – Joint responsibilities
- RFS openness to present at a Council or Committee meeting

**Uralla Shire Council** - Raised the Parliamentary enquiry into RFS assets on Council asset register. Confirmed that are willing to support RFS but the bottom-line regarding assets on books makes it difficult for small rural councils, especially regarding depreciation.

Submissions on the Bill close 10 May and Uralla Shire Council encouraged other councils to make a submission.

Uralla Shire Council advised that it is the red fleet, which is the big issue, no problems with the other infrastructure.

**Response:** Adam Marshall's Bill has had a second reading and is progressing. Understand that a letter has been sent to the Local Government Association regarding consultation. Currently, it's BAU until such time as a final decision is made.

**Armidale Regional Council** – Question regarding information previously provided on fleet disposal – there were 5 or 6 vehicles listed that were 25-27 years old. Have these progressed and what is the average age of the trucks in the fleet.

**Response:** These trucks have been replaced on a one for one basis. The only truck disposal that is outstanding is Recon Bravo, which is 29 years old, and its replacement has been received and badged as Kentucky 9. Disposal is now in progress for Recon Bravo. The average age of the current trucks will be sent out. A positive note is that major improvements have occurred in the Engineering Section, where they have gone from readying and releasing one truck every 4 to 6 weeks to one truck a week, so Engineering is catching up and rolling out steadily.

**Armidale Regional Council** – Are fleet assigned a plant number?

**Response:** Fleet are assigned a unique BF number which is quoted on the order provided to Council.

**RFS** – Advised that budget letters dated 12/12/23 have been sent to councils.

---

|                            |   |                                |
|----------------------------|---|--------------------------------|
| <b>Item:</b>               | <b>14.1</b>                                     | <b>Ref: AINT/2024/16581</b>    |
| <b>Title:</b>              | <b>Community Report-It Statistics</b>           | <b>Container: ARC16/0025-7</b> |
| <b>Responsible Officer</b> | <b>General Manager</b>                          |                                |
| <b>Author:</b>             | <b>Dorothy Robinson, Councillor</b>             |                                |
| <b>Attachments:</b>        | 1. Pathway Requests Breakdown from January 2023 |                                |

### 1. Purpose

The purpose of this report is to provide a response to submitted “Questions for Which Notice Has Been Given” provided by Cr Robinson.

### 2. OFFICERS’ RECOMMENDATION:

That Council note the response to the Questions for which Notice has been Given provided by Cr Robinson.

### 3. Question

In order to understand this perception, could ARC please provide relevant information on the number of Report-it requests by category over a specified period of time (e.g. monthly), how council acknowledged and responded to those requests, the number of requests that the person who reported the problem would consider resolved, and the average time to achieve a resolution.

#### Background Support Information

There are many comments on social media by members of our community about dissatisfaction with the current Report-it system.

Councillors have discussed the need for a better reporting system, which has been promised as soon as ARC’s new website is available to the public. For non-confidential requests, an ideal Report-it system would include a brief description of the problem (including photos, if relevant), date reported, an option for other residents to support the request, council’s response, the date the problem was fixed and a description of the fix. Please provide details of progress in developing the new website and an improved Report-it system.

#### General Manager’s Comment

- Although Cr Robinsons specific request relates to online requests (ePathway), I believed it was pertinent to display these requests as part of the overall service request volume. As you can see, most service requests are still received via phone. As our website is improved, and our Customer Service request platform useability improves, we would like to see this percentage increase to take load off the Customer Service team. This will form part of our Customer Experience Strategy which is currently being drafted.
- I haven’t been able to break them down to categories – this will take more time. But broadly, the most common ePathway request types are;
  - Regulatory (Animals, overgrown blocks, complaints about food businesses, etc.)



- Parks & Gardens (Mowing, Footpaths, etc.)
  - Roads
  - Waste
  - Water/Wastewater
  - Admin (Update postal addresses, account enquiries, etc.)
- Additionally, it has been a challenge to extract the average length of time it takes to close a request – this also will take more time to extract and will vary from team to team.
- Of the requests that remain open, it should also be noted that there may be a number of reasons for this: -
  - The Council officer has marked them 'On hold'. Sometimes they may be awaiting resources or budget to action, or another reason is that they don't want to close the request and want to keep it on their list.
  - The Council officer has marked them 'Under Investigation'
  - There are also instances where the work has been completed, but the Council officer is behind on admin and hasn't closed the event off in Pathway.
  - And of course there may be a small percentage that haven't been actioned.

It should also be noted by Councillors that we are aware that we don't always excel in this space. This was one of the primary motivators for the creation of our Customer Service Promise. Our adopted 'Promise' includes a goal for all requests to be resolved within 10 days. We are about to undertake a roadshow with all Council teams to help them understand our expectations in this space and to also identify those teams which aren't using Pathway, or who require training to ensure their requests are closed off correctly and the customer receives the information they require. In the next 12 months, I would like to think that we will see improvement in this area.