

Ordinary Meeting of Council

Wednesday 26 February 2020

4.00pm

Council Chambers

209 Comur Street, Yass

Police Presentation – Update Yass Local Area

Sgt Dave Cowell

PRAYER:

All Stand:

Mayor: *Let us be still and remember the presence of God. As we commence our meeting let us together pray for guidance and help.*

All say together:

Almighty God, we ask your blessing upon this Council.

Direct and prosper our deliberations to the true welfare of Australia and the people of Yass Valley Amen.

FUTURE MEETINGS

March 2020

Wednesday 25th

4.00pm

Ordinary Meeting of Council

Ordinary Meeting of Council

A G E N D A

Open Forum

Page No.

Acknowledgement of Country

I acknowledge that we are meeting on the ancestral land of the Ngunnawal people. I recognise the Ngunnawal as the traditional custodians and pay respect to the Elders of the community and their descendants.

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Close of Meeting Time

Chris Berry
GENERAL MANAGER

5.1 MAYORAL MINUTE: GENERAL MANAGER PERFORMANCE PANEL

SUMMARY

To present a report on the *Guidelines for the Appointment & Oversight of General Managers* and recommend that future performance reviews of the General Manager be undertaken in accordance with the guidelines.

RECOMMENDATION

That:

1. *The performance review of the General Manager be undertaken in accordance with the Guidelines for the Appointment & Oversight of General Managers (July 2011)*
2. *A Councillor be nominated for the General Manager Performance Review Panel*

REPORT

Guidelines for the appointment and oversight of General Managers were developed in July 2011 (refer **Attachment A**).

The purpose of the Guidelines is to assist Councils with the recruitment, appointment, reappointment and oversight of General Managers.

The oversight of the General Manager's performance is key to managing the accountability of the General Manager through the employment contract. A Performance Agreement and regular performance reviews against the Agreement are essential elements in this process. Discussions have commenced with the General Manager on developing a Performance Agreement for October 2019 until October 2020 based on the presentation made in the interview process (refer separate report).

Under the Guidelines Council is to establish a Performance Review Panel with delegations to review the performance of the General Manager. The Panel should comprise of the Mayor, Deputy Mayor, another Councillor nominated by Council and a Councillor nominated by the General Manager.

The role of the Panel includes:

- Conducting performance reviews
- Reporting the findings and recommendations of those reviews to Council
- Development of the performance agreement.

Council (or the Panel) and the General Manager may agree on the involvement of an external facilitator to assist with the process of performance appraisal and the development of new performance plans.

All Councillors not on the Panel can contribute to the process by providing feedback to the Mayor on the General Manager's performance.

All Councillors are to be notified of relevant dates in the performance review cycle and be kept advised of the Panel's findings and recommendations.

The Panel reports back to Council in a closed session the findings and recommendations of its performance review as soon as practicable following any performance review. This is not be an opportunity to debate the results or re-enact the performance review of the General Manager. The General Manager should not be present when the matter is considered.

The performance management report of any staff member, including the General Manager, is not to be released to the public and should be retained on the appropriate confidential employment file.

It is recommended that the performance review of the General Manager be undertaken in accordance with the *Guidelines for the Appointment & Oversight of General Managers*

ATTACHMENTS: A. Guidelines for the Appointment and Oversight of General Managers (July 2011) [↓](#)

Division of Local Government
Department of Premier and Cabinet

GUIDELINES FOR THE
APPOINTMENT & OVERSIGHT OF
GENERAL MANAGERS



July 2011

These are Director General's Guidelines issued pursuant to section 23A of the *Local Government Act 1993*.

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DEFINITIONS

Code of Meeting Practice means a code of meeting procedure complying with requirements set out in the *Local Government Act 1993* and the Local Government (General) Regulation 2005

GIPA means the *Government Information (Public Access) Act 2009*

Integrated Planning and Reporting:

Integrated Planning and Reporting Guidelines means the Guidelines issued by the Division of Local Government in 2009

Community Strategic Plan as prescribed under the *Local Government Act 1993*

Delivery Program as prescribed under the *Local Government Act 1993*

Operational Plan as prescribed under the *Local Government Act 1993*

Resourcing Strategy as prescribed under the *Local Government Act 1993*

LGSA means the Local Government and Shires Associations of NSW

LGMA means Local Government Managers Australia (NSW)

Model Code of Conduct means the Model Code of Conduct for Local Councils in NSW prescribed by the *Local Government Act 1993*

Ministerial Investment Order means any investment order approved by the Minister for Local Government under the *Local Government Act 1993*

Quarterly Budget Review Statements means the draft Guidelines issued by the Division of Local Government in October 2010

Senior Staff means senior staff as defined by the *Local Government Act 1993*

Standard Contract means the standard form of contract for the employment of the general manager approved by the Director General (or delegate) pursuant to section 338(4) of the *Local Government Act 1993*

Statutory and Other Offices Remuneration Tribunal means the Statutory and Other Offices Remuneration Tribunal (SOORT) as constituted under the *Statutory and Other Offices Remuneration Act 1975*

The Act means the *Local Government Act 1993*

The Regulation means the Local Government (General) Regulation 2005

PURPOSE

The purpose of these Guidelines is to assist councillors to be aware of their obligations under the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation) when recruiting, appointing, reappointing and overseeing general managers. It provides a summary of the essential matters that must be addressed by councils when engaging in these processes.

These Guidelines are issued under section 23A of the *Local Government Act 1993* and must be taken into consideration by council's governing body when exercising council functions related to the recruitment, oversight and performance management of general managers.

These Guidelines should be read in conjunction with the following:

- Provisions of the Act and the Regulation 2005
- Local Government General Managers Performance Management Guidelines – LGSA & LGMA
- Practice Note 5: Recruitment of General Managers and Senior Staff – DLG
- The standard form of contract for the employment of the general manager

Any references to sections are references to sections of the Act. Where there are any inconsistencies between these Guidelines and the documents above (with the exception of the Act and Regulation 2005), the Guidelines prevail.

INTRODUCTION

The position of general manager is pivotal in a council. It is the interface between the governing body comprised of elected councillors, which sets the strategy and monitors the performance of the council, and the administrative body of the council, headed by the general manager, which implements the decisions of the governing body. The relationship between the general manager and the councillors is of utmost importance for good governance and a well functioning council.

The Act requires all councils' governing bodies to appoint a person to be general manager (section 334). The Guidelines provide a guide and checklist for councillors to refer to when considering:

- the recruitment and appointment of general managers
- re-appointment of general managers or ending contracts
- conducting performance reviews of general managers, and
- engaging in the day to day oversight of general managers.

They are designed to promote a consistent approach across NSW councils to the recruitment, appointment, and oversight of general managers.

There are appendices to the Guidelines which do not form part of the Guidelines.

These Guidelines were prepared with the assistance of the Local Government and Shires Associations of NSW (LGSA) and the Local Government Managers Association (NSW) (LGMA).

A. STAFFING OF COUNCIL

1. Organisation structure

A council should have sufficient and appropriately qualified staff for the efficient and effective delivery of its functions.

The Act requires the governing body of council to determine an organisation structure, the senior staff positions within that structure and the resources to be allocated towards the employment of staff (s332).

When considering the most appropriate organisation structure for council to adopt, the governing body of council needs to consider what human resources are necessary to successfully achieve the goals articulated in the council's Community Strategic Plan, Delivery Program and Resourcing Strategy. For this reason, a Workforce Strategy is an essential component of a council's Resourcing Strategy. A council's organisation structure should align with its Workforce Strategy and be designed to support its Delivery Program and the achievement of its Community Strategic Plan.

The governing body of council must approve and adopt their organisation structure by council resolution. Councils must review and re-determine the council's organisation structure within 12 months of an ordinary election.

Councils may review and re-determine the council's organisation structure at any other time. Generally a council should consider reviewing its organisation structure in the event of a significant change to its Community Strategic Plan, Delivery Program or Resourcing Strategy.

Councillors are entitled to access the council's organisation structure when required and upon request to the general manager.

2. Appointment of Staff

The only staff position that is appointed by the governing body of council is that of the general manager. The position of general manager is a senior staff position (s334).

The general manager is responsible for the appointment of all other staff (including senior staff) in accordance with the organisation structure and resources approved by the council's governing body (s335(2)).

However, the general manager may only appoint or dismiss senior staff after consultation with the governing body of council (s337).

B. RECRUITMENT AND SELECTION

1. *Requirements of the Local Government Act 1993*

As with the appointment of all council staff, the council must ensure that the appointment of the general manager is made using merit selection principles (section 349).

Recruitment using merit selection is a competitive process where the applicant who demonstrates that they have the best qualifications and experience relevant to the position is appointed.

Equal Employment Opportunity principles also apply to the recruitment of general managers (sections 349 and 344).

The recruitment process must be open and transparent, but the confidentiality of individual applicants must be maintained. A failure to maintain appropriate confidentiality may constitute a breach of the Act and/or Privacy legislation.

2. *The pre-interview phase*

The council's governing body is responsible for recruiting the general manager.

The governing body of council should delegate the task of recruitment to a selection panel and approve the recruitment process. The panel will report back to the governing body of council on the process and recommend the most meritorious applicant for appointment by the council.

The selection panel should consist of at least the mayor, the deputy mayor, another councillor and, ideally, a suitably qualified person independent of the council. The LGSA and the LGMA can be contacted for assistance to identify suitable independent recruitment committee members and recruitment consultants. The selection panel membership should remain the same throughout the entire recruitment process.

Selection panels must have at least one male and one female member (other than in exceptional circumstances).

The council's governing body should delegate to one person (generally the mayor) the task of ensuring:

- the selection panel is established
- the general manager position description is current and evaluated in terms of salary to reflect the responsibilities of the position
- the proposed salary range reflects the responsibilities and duties of the position
- the position is advertised according to the requirements of the Act
- information packages are prepared
- applicants selected for interview are notified.

The mayor, or another person independent of council staff, should be the contact person for the position and should maintain confidentiality with respect to contact by potential applicants.

3. Interview Phase

Interviews should be held as soon as possible after candidates are short listed.

Questions should be designed to reflect the selection criteria of the position and elicit the suitability of the candidate for the position.

Interviews should be kept confidential.

All written references must be checked.

A selection panel must delegate the task of contacting referees to one panel member. Other panel members should not contact referees.

If contact with someone other than a nominated referee is required, the applicant's permission is to be sought.

At least 2 referees must be contacted and asked questions about the candidate relevant to the selection criteria.

Where tertiary qualifications are relied on they should be produced for inspection and if necessary for verification.

Appropriate background checks must be undertaken, for example bankruptcy checks. For more guidance on better practice recruitment background checks, councils are referred to the Australian Standard AS 4811-2006 *Employment Screening* and ICAC publications, which can be found on the ICAC website at <http://www.icac.nsw.gov.au>.

4. Selection Panel Report

The selection panel is responsible for preparing a report to the council's governing body that:

- outlines the selection process
- recommends the most meritorious applicant with reasons
- recommends an eligibility list if appropriate
- recommends that no appointment is made if the outcome of interviews is that there are no suitable applicants.

This report should be confidential and reported to a closed meeting of council.

The council's governing body must by resolution approve the position of the general manager being offered to the successful candidate before that position is actually offered to that candidate.

5. Finalising the appointment

The mayor makes the offer of employment after the governing body of council has resolved to appoint the successful candidate. The initial offer can be made by telephone.

Conditions such as term of the contract (1-5 years) and remuneration package (within the range approved by the governing body of council) can be discussed by phone, but must be confirmed in writing.

The Standard Contract for the Employment of General Managers as approved by the Chief Executive of the Division of Local Government must be used. The Standard Contract (Annexure 3 of these Guidelines) is available in the 'Information for Councils', 'Directory of Policy Advice for Councils' section of the Division's website at <http://www.dlg.nsw.gov.au>.

The terms of the Standard Contract must not be varied. Only the term and the schedules to the Standard Contract can be individualised.

General managers must be employed for 1 – 5 years.

The contract governs:

- the duties and functions of general managers
- performance agreements
- the process for renewal of employment contracts
- termination of employment and termination payments
- salary increases
- leave entitlements.

It should be noted that the Chief Executive of the Division of Local Government cannot approve individual variations to the standard terms of the contract.

Those candidates who are placed on the eligibility list and unsuccessful applicants should be advised of the outcome of the recruitment process before the successful applicant's details are made public.

6. Record keeping

Councils should keep and store all records created as part of the recruitment process including the advertisement, position description, selection criteria, questions asked at interview, interview panel notes, selection panel reports and notes of any discussions with the selected candidate. These records are required to be stored and disposed of in accordance with the *State Records Act 1998*.

C. ROLE OF THE GENERAL MANAGER

Councillors comprise the governing body of a council and make decisions by passing resolutions. It is the general manager's role to implement council decisions and carry out functions imposed by legislation. A council's governing body monitors the implementation of its decisions via reports by the general manager to council meetings.

1. *Key duties of all general managers*

The general manager is generally responsible for the effective and efficient operation of the council's organisation and for ensuring the implementation of the council's decisions without undue delay. The general manager carries out all their functions within the guidelines and policy framework approved by the council.

The general manager also has a role to play in assisting the governing body of council develop its strategic direction. The general manager is responsible for guiding the preparation of the Community Strategic Plan and the council's response to it via the Delivery Program. The general manager is responsible for implementing the Delivery Program and will report to the governing body of council on its progress and conduct regular updates and reviews.

The general manager is responsible for recruiting and appointing staff within the organisation structure determined by the governing body of council. This must be in accordance with the budget approved by the council's governing body and be for the purpose of carrying out the council's statutory functions and implementing council's Community Strategic Plan, Delivery Program and Operational Plan.

The general manager must consult with the governing body of council before appointing or dismissing senior staff. The general manager must report to the council at least annually on the contractual conditions of senior staff (cl.217 of the Regulation).

The general manager is responsible for performance management of staff, including staff discipline and dismissal.

The general manager is also responsible for ensuring councillors are provided with information and the advice they require in order to make informed decisions and to carry out their civic duties.

The governing body of council may direct the general manager to provide councillors with advice or a recommendation, but cannot direct as to the content of that advice or recommendation.

Generally, requests by councillors for assistance or information should go through the general manager, except where he or she has authorised another council officer to undertake this role. The Guidelines for the Model Code of Conduct contemplate that a council should develop a policy to provide guidance on interactions between council officials. This policy should be agreed to by both the council's governing body and the general manager.

Councillors could reasonably expect general managers will report routinely on significant industrial issues and/or litigation affecting the council, particularly those that impact on the council's budget or organisation structure.

The general manager should ensure that the council meeting business papers are sufficient to enable the council to make informed decisions, as well as to allow councillors to properly monitor and review the operations of the council. This will assist councils in ensuring that they are complying with any relevant statutory obligations, keeping within the budget approved by the council and achieving the strategic goals set by the council in its Delivery Program and Operational Plan.

Councillors should receive a number of financial reports during the year, including the Quarterly Budget Review Statements included in the Code of Accounting Practice and Financial Reporting and which are referred to in the draft Quarterly Budget Review Statements Guidelines, reports required by the Regulation and any legislation. In addition, the council should receive at least quarterly a report about any significant litigation affecting the council.

Councillors should also receive reports, at least half yearly, on progress towards implementation of the Community Strategic Plan and Delivery Program (see clause 203 of the Regulation or page 20 of the Integrated Planning and Reporting Guidelines).

Clause 10 of the Model Code of Conduct sets out the obligations on general managers and council staff to provide councillors with information in order for councillors to carry out their civic functions.

Councillors have a right to sufficient information to make informed decisions. Applications for information under the *Government Information (Public Access) Act* 2009 (GIPAA) are available to everyone including councillors.

2. Duties delegated to general managers

A governing body of council may delegate certain functions to the general manager. A delegation of a council function must be made by a council resolution (Chapter 12 Part 3 ss 377-381 of the Act).

A governing body of council cannot delegate the functions set out in section 377(1) of the Act.

A council's governing body may not delegate the adoption of a Code of Meeting Practice, a Code of Conduct, or the endorsement of Community Strategic Plans, Resourcing Strategies, Delivery Programs and Operational Plans.

Each governing body of council must review its delegation of functions during the first 12 months of each term of office (s.380). To assist with this review, it is recommended that, within the first 6 months of the new term, the governing body of council reviews what functions have been delegated and to whom they have been delegated to determine if the delegation and the policies guiding those delegated decisions have been working effectively.

It should be noted that the general manager may sub-delegate a function delegated to him/her by the governing body of council (s378). However, the general manager still retains responsibility to ensure that any sub-delegated function is carried out appropriately.

Where functions are delegated to the general manager to perform on behalf of a governing body of council, it is important for the governing body of council to ensure there are policies in place to guide the decision making. The governing body of council should keep policies guiding the delegated decisions under regular review.

For example, where media liaison is delegated to the general manager, the governing body of council should adopt a media policy to guide statements to the media.

It is important that council's governing body ensure that proper records are kept of applications that are determined under delegation and that there is regular reporting on the implementation of delegated functions. This is essential so that council's governing body can be provided with assurance that the delegated function is being undertaken in accordance with any relevant council policies and regulatory framework, eg, development application decisions.

The council's internal audit function is another important internal control to ensure that delegated functions are complying with relevant policy and legislation. A well designed internal audit program should give council independent assurance that council's internal controls are working effectively.

Where authority to make a decision is delegated this does not remove a council's authority to make a decision.

Matters that fall outside the terms of a council policy, delegation, or day to day management (section 335), should be referred to the governing body of council for a decision.

D. DAY-TO-DAY OVERSIGHT AND LIAISON WITH THE GENERAL MANAGER

Council's governing body is required to monitor and review the performance of the general manager as discussed in Section C, above. However, a council's governing body should delegate to the mayor the role of day-to-day oversight of and liaison with the general manager.

The mayor's role in the day-to-day management of the general manager should include:

- approving leave
- approving expenses incurred
- managing complaints about the general manager.

The council's governing body should ensure there are adequate and appropriate policies in place to guide the mayor in the day-to-day oversight of and liaison with the general manager and keep those policies under regular review.

Some of the key policies the governing body of council should have in place relate to:

- leave
- travel
- credit cards
- purchasing and procurement
- expenses and facilities
- petty cash
- financial and non-financial delegations of authority.

The governing body of council should also ensure there are adequate policies in place with respect to expenditure of council funds, as well as adequate reporting requirements in relation to that expenditure.

The council's governing body should satisfy itself that any policy governing the conferral of a benefit on the general manager, such as use of a motor vehicle, allows the actual dollar value of that benefit to be quantified so it can be accurately reflected in the general manager's salary package in Schedule C to the Standard Contract.

Within 6 months of the date of these Guidelines, council's governing body should check to ensure these key policies are in place. They should then be kept under regular review.

E. PERFORMANCE MANAGEMENT

1. *General manager performance management framework*

The general manager is made accountable to their council principally through their contract of employment.

The role of the governing body is to oversee the general manager's performance in accordance with the Standard Contract.

The performance of the general manager must be reviewed at least annually against the agreed performance criteria for the position. Council may also choose to undertake more frequent interim reviews of the general manager's performance.

The agreed performance criteria are set out in an agreement that is signed within three months of the commencement of the contract. Development of the performance agreement is discussed below.

2. *Establishing the framework for performance management*

The council's governing body is to establish a performance review panel and delegate the task of performance reviews of the general manager to this panel. The extent of the delegation should be clear.

It is recommended that the whole process of performance management be delegated to the performance review panel, including discussions about performance, any actions that should be taken and the determination of the new performance agreement.

Performance review panels should comprise the mayor, the deputy mayor, another councillor nominated by council and a councillor nominated by the general manager. The council's governing body may also consider including an independent observer on the panel. Panel members should be trained in the performance management of general managers.

The role of the review panel includes:

- conducting performance reviews
- reporting the findings and recommendations of those reviews to council
- development of the performance agreement.

The governing body of council and the general manager may agree on the involvement of an external facilitator to assist with the process of performance appraisal and the development of new performance plans. This person should be selected by the governing body of council or the performance review panel. The LGSA and the LGMA can be contacted for assistance to identify suitable independent facilitators to assist in the performance management process.

All councillors not on the panel can contribute to the process by providing feedback to the mayor on the general manager's performance.

All councillors should be notified of relevant dates in the performance review cycle and be kept advised of the panel's findings and recommendations.

The panel should report back to the governing body of council in a closed session the findings and recommendations of its performance review as soon as practicable following any performance review. This should not be an opportunity to debate the results or re-enact the performance review of the general manager. The general manager should not be present when the matter is considered.

The performance management report of any council staff member, including the general manager, should not be released to the public and should be retained on the appropriate confidential council employment file. Release of such personal information to other than the Performance Review Panel, the general manager and the councillors in confidence may be a breach of privacy legislation.

3. *Establishing the performance agreement*

The performance agreement is the most important component of successful performance management. The performance agreement should include clearly defined and measurable performance indicators against which the general manager's performance can be measured.

As one of the general manager's key responsibilities is to oversee the implementation of council's strategic direction, it is important to align the general manager's performance criteria to the goals contained in the council's Community Strategic Plan, Resourcing Strategy, Delivery Program and Operational Plan.

The performance agreement should also include the general manager's personal contribution to the council's key achievements and the general manager's core capabilities, including leadership qualities.

The performance agreement should contain but not be limited to key indicators that measure how well the general manager has met the council's expectations with respect to:

- service delivery targets from the council's Delivery Program and Operational Plan;
- budget compliance;
- organisational capability;
- timeliness and accuracy of information and advice to councillors;
- timely implementation of council resolutions;
- management of organisational risks;
- leadership etc.

4. *Performance Review Process*

The Standard Contract requires that the performance of the general manager must be formally reviewed at least annually. The governing body of council may also undertake interim performance reviews as appropriate.

The assessment should include:

- self assessment by the general manager
- assessment by the review panel of the general manager's performance against the performance agreement.

The performance review meeting should be scheduled with sufficient notice to all parties and in accordance with clauses 7.6 and 7.7 of the Standard Contract.

The meeting should concentrate on constructive dialogue about the general manager's performance against all sections of the agreed performance plan.

The meeting should identify any areas of concern and agree actions to address those concerns.

In undertaking any performance review, care must be taken to ensure that the review is conducted fairly and in accordance with the principles of natural justice and that the laws and principles of anti-discrimination are complied with. The

appointment by a council, in agreement with the general manager, of an external facilitator (see above) to advise on the process should assist council in complying with these laws and principles.

The council's governing body must advise the general manager, in writing, in clear terms, the outcome of any performance review.

The new performance agreement for the next period should be prepared as soon as possible after the completion of the previous period. The agreement should be presented to the governing body of council for discussion in a closed meeting together with the outcomes of the previous review period.

5. Contract Renewal or Separation

It is important that any decision by the governing body of council to renew a contract for the general manager and the term of that contract be reported back to an open meeting of council, together with the total amount of any salary package agreed to.

Termination of a contract on the basis of poor performance can only occur where there has been a formal review undertaken against the signed performance agreement where performance difficulties were identified and have not subsequently been remedied. For further discussion on separation or renewal of general managers' contracts, see section F, below.

6. Reward and Remuneration

An annual increase in the salary package, equivalent to the latest percentage increase in remuneration for senior executive office holders as determined by the Statutory and Other Offices Remuneration Tribunal, is available to the general manager under the Standard Contract on each anniversary of the contract.

Discretionary increases to the general manager's total remuneration package under the provisions of the Standard Contract may only occur after a formal review of the general manager's performance has been undertaken by the governing body of council and the governing body of council resolves to grant such a discretionary increase because of better than satisfactory performance.

Discretionary increases are intended to be an incentive for general managers to perform at their maximum throughout the life of the contract. Discretionary increases are also intended to encourage contracts of the maximum duration.

Any discretionary increases should be modest and in line with community expectations.

All discretionary increases in remuneration, together with the reasons for the increase, must be reported to an open meeting of council.

F. SEPARATION OR RENEWAL

1. *Termination of a general manager's employment*

The Standard Contract for general managers sets out how a general manager's contract can be terminated before its expiry date by either the governing body of council or the general manager (clause 10 of the Standard Contract).

Termination can be by agreement of both parties. The general manager may terminate the contract by giving 4 weeks written notice to the governing body of council.

A governing body of council may terminate the contract by giving 4 weeks written notice where the general manager has become incapacitated for 12 weeks or more, has exhausted their sick leave and the duration of the incapacity is either indefinite or for a period that would make it unreasonable for the contract to be continued.

Termination of a contract on the basis of poor performance may only occur where there has been a formal review undertaken against the signed performance agreement, where performance difficulties have been identified and have not been remedied as agreed. In these instances, the council must give the general manager either 13 weeks written notice of termination or termination payment in lieu of notice calculated in accordance with Schedule C of the Standard Contract.

A governing body of council may terminate the general manager's contract at any time by giving the general manager 38 weeks written notice or pay the general manager a lump sum of 38 weeks remuneration in accordance with Schedule C of the Standard Contract. If there are less than 38 weeks left to run in the term of the general manager's contract, a council can pay out the balance of the contract in lieu of notice.

In the circumstances set out at 10.4 of the Standard Contract, a council may summarily dismiss a general manager. The remuneration arrangements under these circumstances are set out in clause 11.4 of the Standard Contract.

Section 336 (2) of the Act sets out other circumstances where a general manager's appointment is automatically terminated.

2. *Suspension of General Manager*

The governing body of council may suspend the general manager. However, great caution should be exercised when considering such a course of action and it would be appropriate for a governing body of council to seek and be guided by expert advice from a person or organisation that is suitably qualified and experienced in such matters. The governing body may authorise the Mayor to obtain such expert advice.

Suspension should be on full pay for a clearly defined period.

Any decision to suspend a general manager should be taken by a governing body of council at a closed council meeting, having first carefully considered any independent expert advice obtained on the specific matter.

It would not be appropriate to seek advice from council human resources staff on the issue of suspending the general manager.

The principals of natural justice and procedural fairness apply to any decision to suspend a general manager, ie, the general manager must be advised of the circumstances leading to the suspension, the reasons for the suspension, the period of the suspension and be given a right to respond to the decision to suspend.

3. *Dispute resolution*

The Standard Contract contains a dispute resolution clause at clause 17.

These provisions are designed to encourage councils and general managers to attempt to negotiate agreement on disputes where they arise.

The governing body of council should ideally resolve to delegate this function to the mayor or a panel of 3 councillors including the mayor.

If the dispute involves the mayor then the deputy mayor should take the mayor's place. If there is no deputy mayor then the governing body should resolve to appoint another councillor to take the mayor's place.

The governing body of council and general manager should agree on an independent mediator to mediate the dispute. The LGSA and LGMA can provide assistance to their members to identify a suitable mediator.

The Standard Contract allows the Chief Executive of the Division of Local Government to appoint a mediator where the parties cannot agree on one.

4. *Renewing a general manager's contract*

Clause 5 of the Standard Contract describes how a general manager's appointment may be renewed.

The terms of the new contract, and in particular the schedules to the new contract, should be set out in the letter of offer. Before offering a new contract, the council should carefully review the terms of the schedules to the new contract.

The governing body of council should ensure that the performance management terms of the new contract adequately reflect its expectations as to the general manager's performance.

The governing body of council should also have regard to the previous performance reviews conducted under previous contracts.

The process of deciding whether or not to offer a general manager a new contract should be that:

- a performance review is conducted
- findings and recommendations are reported to a closed council meeting in the absence of the general manager
- the closed meeting considers and decides whether or not to offer a new contract and on what terms as set out in the schedules to the contract
- the general manager is then advised of the governing body of council's decision in confidence by the mayor.

Details of the decision to offer a new contract and a salary package should be reported to an open council meeting.

Appendix 1 - Performance Management Timelines

Timeline	Activity	Responsibility
At commencement of each new council	Provide induction training on performance management of the general manager	Council
Within 3 months of the commencement date of the contract	A performance agreement setting out agreed performance criteria must be signed between the general manager and the council	Council or council panel General Manager
Within 2 months of the signing of the performance agreement	The general manager must prepare and submit to council an action plan which sets out how the performance criteria are to be met	General Manager
21 days notice (before annual review)	The general manager gives the council written notice that an annual performance review is due	General Manager
At least 10 days notice	The council must give the general manager written notice that any performance review is to be conducted	Council or council panel
After 6 months	The council may also decide, with the agreement of the general manager, to provide interim feedback to the general manager midway through the annual review period	Council or council panel General Manager
Prior to the annual review	Ensure all councillors on the Review Panel have been trained in performance management of general managers	Council
Prior to the annual performance review	The general manager may submit to council a self assessment of his/her performance	General Manager
Annually	The general manager's performance must be reviewed having regard to the performance criteria in the agreement	Council or council panel General Manager
Annually	The performance agreement must be reviewed and varied by agreement	Council or council panel General Manager
Within 6 weeks of the conclusion of the performance review	Council will prepare and send to the general manager a written statement with council's conclusions on the general manager's performance during the performance review period	Council or council panel
As soon as possible after receipt of the statement	The general manager and the council will agree on any variation to the performance agreement for the next period of review	Council or council panel General Manager

Appendix 2 - Stages of performance management

STAGE	ACTION	PROCESS
1. Developing performance agreement	<ul style="list-style-type: none"> Examine the position description and contract List all position responsibilities from the position description Identify stakeholder expectations List the key strategic objectives from the Service Delivery and Operational Plans Develop performance measures (identify indicators - set standards) 	<ul style="list-style-type: none"> Good planning Direct and effective communication Open negotiation Joint goal setting
2. Action planning	<ul style="list-style-type: none"> Develop specific strategies to meet strategic objectives Identify resources Delegate tasks (eg, put these delegated tasks into the performance agreements for other senior staff) 	<ul style="list-style-type: none"> Detailed analysis Two way communication Detailed documentation
3. Monitoring progress (feedback half way through the review period)	<ul style="list-style-type: none"> Assess performance Give constructive feedback Adjust priorities and reset performance measures if appropriate 	<ul style="list-style-type: none"> Communication Avoid bias Counselling Coaching Joint problem solving
4. Annual	<ul style="list-style-type: none"> Assess performance against measures Give constructive feedback Identify poor performance and necessary corrective action Identify outstanding performance and show appreciation 	<ul style="list-style-type: none"> Evaluation of the reasons behind performance being as assessed Open, straightforward communication (as bias free as possible) negotiation Counselling, support, training Documenting Decision making
5. Developing revised agreement	See stage 1	See Stage 1

Appendix 3 – Standard Contract of Employment

STANDARD CONTRACT OF EMPLOYMENT

for

**GENERAL MANAGERS OF LOCAL
COUNCILS IN NEW SOUTH WALES**

Acknowledgements

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Contract of Employment

This Contract of Employment is made on

Date _____

between

Name of Council _____

[Referred to in this contract as "Council"]

Address _____

and

Name of Employee _____

[Referred to in this contract as "the employee"]

Address _____

1 Position

The position to which this contract applies is that of General Manager.

Note: A person who has held civic office in relation to Council must not be appointed to any paid position on the staff of Council within 6 months after ceasing to hold the office: section 354 of the Act.

2 Term

Subject to the terms and conditions in this contract, Council will employ the employee for a term of:

[Length of term] _____

Note: The term of this contract must not be less than 12 months or more than 5 years (including any option for renewal): section 338 of the Act.

commencing on [date] _____

and terminating on [date] _____

3 Definitions

3.1 In this contract, unless otherwise stated or indicated:

the Act means the *Local Government Act 1993*.

Code of conduct means the document within the meaning of section 440 of the Act adopted by Council and which incorporates the provisions of the model code.

Commencement date means the date that this contract commences as specified in clause 2.

Confidential information means any and all confidential information, data, reports, operations, dealings, records, materials, plans, statistics, finances or other agreements and things (other than that which is already in the public domain), whether written or oral and of whatever type or nature relating to property, assets, liabilities, finances, dealings or functions of Council or any undertaking from time to time carried out by Council.

Director-General means the Director-General of the New South Wales Department of Local Government.

Equal employment opportunity management plan means the document a council must prepare under Part 4 of Chapter 11 of the Act.

Minister means the New South Wales Minister for Local Government.

Model code means the Model Code of Conduct for Local Councils in NSW prescribed by the Regulation.

Month means a calendar month.

Performance agreement means the agreement referred to in clause 7.

Performance criteria means the criteria to which a performance review is to have regard.

Performance review means a review of the employee's performance conducted in accordance with the procedures under clause 7.

the position means the position referred to in clause 1.

the Regulation means the *Local Government (General) Regulation 2005*.

Senior executive office holder (New South Wales Public Service) means the holder of a senior executive position within the meaning of the *Public Sector Employment and Management Act 2002*.

Statutory and Other Officers Remuneration Tribunal means the Statutory and Other Officers Tribunal constituted under the *Statutory and Other Officers Remuneration Act 1975*.

Termination date means the date that this contract terminates as specified in clause 2.

3.2 Expressions in this contract corresponding with expressions that are defined in the Act have those meanings.

4 Contract operation and application

- 4.1 This contract constitutes a contract of employment for the purposes of section 338 of the Act, and governs the employment of the employee while in the position.
- 4.2 A reference in this contract to any Act or regulation, or any provision of any Act or regulation, includes a reference to subsequent amendments of that Act, regulation or provision.
- 4.3 A reference to a Schedule to this contract refers to a Schedule as may be varied in accordance with this contract, and applies whether or not the Schedule has been physically attached to this contract.
- 4.4 Where the mayor or any other person is lawfully authorised to act as Council or Council's delegate for the purpose of this contract, this contract will be construed as if:
- (a) any reference to Council includes a reference to that authorised person, and
 - (b) any reference to a requirement for Council's approval includes a reference to a requirement for that authorised person's written approval,
- 4.5 Any staff entitlement under a lawful policy of Council as adopted by Council from time to time and that is set out in Schedule A will apply to the employee unless this contract makes express provision to the contrary. Schedule A may be varied from time to time by agreement between the employee and Council, such agreement not to be unreasonably withheld.

Note: Only those policies that create entitlements are to be set out in Schedule A. Schedule A policies are distinct from those which create a *duty or function* as referred to in subclause 6.1.4 and which are *not* required to be set out in Schedule A.

- 4.6 Subject to clauses 7 and 13, the terms of this contract, as varied from time to time in accordance with this contract, represent the entire terms of all agreements between the employee and Council and replace all other representations, understandings or arrangements made between the employee and Council that relate to the employment of the employee in the position.

Note: The contract authorises the making of agreements that are linked to the contract. Clause 7 requires the parties to sign a performance agreement. Clause 13 allows either party to require the other to sign a confidentiality agreement for the purpose of protecting intellectual property.

5. Renewal of appointment

- 5.1 At least 9 months before the termination date (or 6 months if the term of employment is for less than 3 years) the employee will apply to Council in writing if seeking re-appointment to the position.
- 5.2 At least 6 months before the termination date (or 3 months if the term of employment is for less than 3 years) Council will respond to the employee's application referred to in subclause 5.1 by notifying the employee in writing of its decision to either offer the employee a new contract of employment (and on what terms) or decline the employee's application for re-appointment.
- 5.3 At least 3 months before the termination date (or 1 month if the term of employment is for less than 3 years) the employee will notify Council in writing of the employee's decision to either accept or decline any offer made by Council under subclause 5.2.
- 5.4 In the event the employee accepts an offer by Council to enter into a new contract of employment, a new contract of employment will be signed.

6. Duties and functions

- 6.1 The employee will:
 - 6.1.1 to the best of their ability, meet the performance criteria set out in the performance agreement as varied from time to time,
 - 6.1.2 carry out the duties and functions imposed by the Act and Regulation, or any other Act and associated regulations, which include but are not limited to:
 - (a) the efficient and effective operation of Council's organisation,
 - (b) implementing, without undue delay, the decisions of Council,
 - (c) exercising such of the functions of Council as are delegated by Council to the employee,
 - (d) appointing staff in accordance with an organisation structure and resources approved by Council,
 - (e) directing and dismissing staff,
 - (f) implementing Council's equal employment opportunity management plan,

-
- (g) consulting with Council prior to the appointment or dismissal of senior staff,
 - (h) reporting to Council, at least once annually, on the contractual conditions of senior staff,
 - (i) giving immediate notice to Council on becoming bankrupt or making a composition, arrangement or assignment for the benefit of the employee's creditors and providing Council, within the time specified by Council with any further information concerning the cause of the bankruptcy or of the making of the composition, arrangement or assignment,
 - (j) subject to subclause 6.2.3, providing advice and recommendations to Council or the mayor if directed to do so,
 - (k) not engaging, for remuneration, in private employment or contract work outside the service of Council without the approval of Council,
 - (l) not approving, where appropriate, any member of Council staff from engaging, for remuneration, in private employment or contract work outside the service of Council that relates to the business of Council or that might conflict with the staff member's Council duties,
 - (m) acting honestly and exercising a reasonable degree of care and diligence in carrying out the employee's duties and functions,
 - (n) complying with the provisions of the code of conduct,
 - (o) preparing and submitting written returns of interest and disclosing pecuniary interests in accordance with the Act and the Regulation,

Note: Sections 335, 337, 339, 341, 352, 353, 439, 440 and 445 of the Act.

- 6.1.3 carry out the duties and functions set out in Schedule B as varied from time to time by agreement between the employee and Council, such agreement not to be unreasonably withheld,

Note: Schedule B may include additional duties and functions, for example, those related to special projects.

- 6.1.4 carry out the duties and functions set out in the policies of Council as adopted by Council from time to time during the term of this contract,

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- 6.1.5 observe and carry out all lawful directions given by Council, in relation to the performance of the employee's duties and functions under this contract,
 - 6.1.6 work such reasonable hours as are necessary to carry out the duties and functions of the position and the employee's obligations under this contract,
 - 6.1.7 obtain the approval of the Council for any absences from the business of Council,
 - 6.1.8 promote ethical work practices and maintain a culture of integrity and professionalism where Council staff members treat each other, members of the public, customers and service providers with respect and fairness,
 - 6.1.9 facilitate Council staff awareness of the procedures for making protected disclosures and of the protection provided by the *Protected Disclosures Act 1994*,
 - 6.1.10 take all reasonable steps to ensure that actions and policies of Council accord with the strategic intent of Council,
 - 6.1.11 take all reasonable steps to maximise compliance with relevant legislative requirements,
 - 6.1.12 maintain effective corporate and human resource planning,
 - 6.1.13 maintain the Council staff performance management system,
 - 6.1.14 maintain satisfactory operation of Council's internal controls, reporting systems (including protected disclosures), grievance procedures, the documentation of decision-making and sound financial management,
 - 6.1.15 develop procedures to ensure the code of conduct is periodically reviewed so that it is in accordance with the Act and Regulation and adequately reflects specific organisational values and requirements,
 - 6.1.16 promote and facilitate compliance with the code of conduct ensuring that each councillor and Council staff member is familiar with its provisions, and
 - 6.1.17 report to Council on any overseas travel taken by the employee or any Council staff member where that travel is funded in whole or in part by Council.

6.2 Council:

-
- 6.2.1 will provide adequate resources to enable the employee to carry out the duties and functions specified in subclause 6.1 and Schedule B,
 - 6.2.2 will provide the employee with reasonable opportunities to participate in professional development initiatives relevant to the duties and functions under this contract subject to the operational needs of Council, and
 - 6.2.3 will not direct the employee as to the content of any advice or recommendation made by the employee.

Note: section 352 of the Act.

7. Performance agreement and review

- 7.1 Within 3 months after the commencement date, the employee and Council will sign a performance agreement setting out agreed performance criteria.
- 7.2 In the event that the employee and Council are unable to agree on the performance criteria, Council will determine such performance criteria that are reasonable and consistent with the employee's duties and functions under clause 6 and in Schedule B.
- 7.3 The performance agreement may be varied from time to time during the term of this contract by agreement between the employee and Council, such agreement not to be unreasonably withheld.
- 7.4 Within 2 months after signing or varying the performance agreement, the employee will prepare and submit to Council an action plan which sets out how the performance criteria are to be met.
- 7.5 Council will ensure that the employee's performance is reviewed (and, where appropriate, the performance agreement varied) at least annually. Any such review is to have regard to the performance criteria.

Note: Council may review the employee's performance every 6 months or more frequently if necessary.

- 7.6 The employee will give Council 21 days' written notice that an annual performance review in accordance with subclause 7.5 is due.
- 7.7 Council will give the employee at least 10 days notice in writing that any performance review is to be conducted.

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- 7.8 The structure and process of the performance review is at the discretion of Council following consultation with the employee.
- 7.9 The employee may prepare and submit to Council an assessment of the employee's own performance prior to a performance review.
- 7.10 Within 6 weeks from the conclusion of a performance review, Council will prepare and send to the employee a written statement that sets out:
- (a) Council's conclusions about the employee's performance during the performance review period,
 - (b) any proposal by Council to vary the performance criteria as a consequence of a performance review, and
 - (c) any directions or recommendations made by Council to the employee in relation to the employee's future performance of the duties of the position.
- 7.11 The employee and Council will, as soon as possible after the employee receives the written statement referred to in subclause 7.10, attempt to come to agreement on any proposal by Council to vary the performance criteria and on any recommendations by Council as to the future performance of the duties of the position by the employee.
- 7.11 Subject to the employee being available and willing to attend a performance review, Council undertakes that if a performance review is not held in accordance with this clause, this will not operate to the prejudice of the employee unless the employee is responsible for the failure to hold the performance review.

8. Remuneration

- 8.1 Council will provide the employee with the total remuneration package set out in Schedule C.
- 8.2 The total remuneration package includes salary, compulsory employer superannuation contributions and other benefits including any fringe benefits tax payable on such benefits.

Note: Compulsory employer superannuation contributions are those contributions required under the *Superannuation Guarantee Charge Act 1992* of the Commonwealth and any contributions required to be paid for an employee under a superannuation arrangement entered into by Council for that employee. See Schedule C.

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- 8.3 Council may, on only one occasion during each year of this contract, approve an increase in the total remuneration package where the employee's performance has been assessed in accordance with a performance review as being of a better than satisfactory standard.
- 8.4 Any increase in remuneration approved under subclause 8.3 will not be paid as a lump sum.
- 8.5 On each anniversary of the commencement date, the total remuneration package will be increased by a percentage amount that is equivalent to the latest percentage amount increase in remuneration for senior executive office holders as determined by the Statutory and Other Officers Remuneration Tribunal.

Note: When making determinations referred to in subclause 8.5, the Tribunal takes into account key national economic indicators and movements in public sector remuneration across Australia, market conditions, the Consumer Price Index and wages growth as measured by the Wage Cost Index. Tribunal determinations are published in the Government Gazette and are available at www.remtribunals.nsw.gov.au. The Premier's Department issues periodic Memoranda summarising the Tribunals determinations. These Memoranda are available at www.premiers.nsw.gov.au.

- 8.6 The structure of the total remuneration package may be varied from time to time during the term of this contract by agreement between the employee and Council, such agreement not to be unreasonably withheld.
- 8.7 The total remuneration package, as varied from time to time, remunerates the employee for all work undertaken by the employee while in the position. No other remuneration, benefit, overtime or allowances other than those to which the employee may be entitled under this contract will be paid to the employee during the term of this contract.

9. Leave

9.1 General

- 9.1.1 Council will pay remuneration calculated in accordance with Schedule C to the employee proceeding on paid leave under this clause.
- 9.1.2 On the termination of this contract, and if the employee is not re-appointed to the position under clause 5 or appointed to any other position in Council's organisation structure, the Council will pay:
- (a) to the employee in the case of annual leave, or

- (b) to the employee or new employer council in the case of long service leave,

accrued but unused leave entitlements calculated at the monetary value of the total remuneration package as specified in Schedule C.

- 9.1.3 If the employee is re-appointed to the position under clause 5 or appointed to any other position in Council's organisation structure within 3 months after the termination of this contract, the employee will be taken to have continuing service with Council for the purpose of determining the employee's entitlement to annual leave, long service leave and sick leave.

- 9.1.4 Any leave accrued with Council standing to the credit of the employee immediately prior to entering into this contract will be taken to be leave for the purposes of this contract.

9.2 Annual leave

The employee is entitled to four weeks paid annual leave during each year of employment under this contract to be taken as agreed between the employee and Council.

9.3 Long service leave

- 9.3.1 The employee's entitlement to long service leave is to be calculated by the same method that applies to a non-senior member of Council staff.
- 9.3.2 Long service leave is transferable between councils in New South Wales in the same manner that applies to a non-senior member of Council staff.

9.4 Sick leave

- 9.4.1 The employee is entitled to 15 days paid sick leave during each year of employment under this contract provided that:
 - (a) Council is satisfied that the sickness is such that it justifies time off, and
 - (b) satisfactory proof of illness to justify payment is provided to Council for absences in excess of two days.
- 9.4.2 Sick leave will accumulate from year to year of employment under this contract so that any balance of leave not taken in any one year may be taken in a subsequent year.

9.4.3 Council may require the employee to attend a doctor nominated by Council at Council's cost.

9.4.4 Accrued but unused sick leave will not be paid out on the termination of this contract.

9.5 Parental leave

9.5.1 Parental leave includes supporting parent's leave, maternity leave, paternity leave and adoption leave.

9.5.2 The employee is entitled to the same parental leave that a non-senior member of Council staff would be entitled.

9.6 Carer's leave

The employee is entitled to the same carer's leave that a non-senior member of Council staff would be entitled.

9.7 Concessional leave

The employee is entitled to the same concessional leave that a non-senior member of Council staff would be entitled.

9.8 Special leave

Council may grant special leave, with or without pay, to the employee for a period as determined by Council to cover any specific matter approved by Council.

10 Termination

10.1 General

On termination of this contract for any reason the employee will immediately return to Council all property of Council in the employee's possession including intellectual property and confidential information and will not keep or make any copies of such property and information.

10.2 Termination date

The employment of the employee under this contract terminates on the termination date.

10.3 Termination by either the employee or Council

This contract may be terminated before the termination date by way of any of the following:

10.3.1 written agreement between the employee and Council,

10.3.2 the employee giving 4 weeks' written notice to Council,

10.3.3 Council giving 4 weeks' written notice to the employee, or alternatively by termination payment under subclause 11.1, where:

- (a) the employee has been incapacitated for a period of not less than 12 weeks and the employee's entitlement to sick leave has been exhausted, and
- (b) the duration of the employee's incapacity remains indefinite or is likely to be for a period that would make it unreasonable for the contract to be continued,

10.3.4 Council giving 13 weeks' written notice to the employee, or alternatively, by termination payment under subclause 11.2 where Council:

- (a) has conducted a performance review, and
- (b) concluded that the employee has not substantially met the performance criteria or the terms of the performance agreement,

10.3.5 Council giving 38 weeks' written notice to the employee, or alternatively, by termination payment under subclause 11.3.

10.4 Summary dismissal

10.4.1 Council may terminate this contract at any time and without notice if the employee commits any act that would entitle an employer to summarily dismiss the employee. Such acts include but are not limited to:

- (a) serious or persistent breach of any of the terms of this contract,

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- (b) serious and willful disobedience of any reasonable and lawful instruction or direction given by Council,
 - (c) serious and willful misconduct, dishonesty, insubordination or neglect in the discharge of the employee's duties and functions under this contract,
 - (d) failure to comply with any law or Council policy concerning sexual harassment or racial or religious vilification,
 - (e) commission of a crime, resulting in conviction and sentencing (whether or not by way of periodic detention), which affects the employee's ability to perform the employee's duties and functions satisfactorily, or in the opinion of Council brings Council into disrepute,
 - (f) absence from the business of Council without Council approval for a period of 3 or more consecutive business days.

10.4.2 This contract is terminated immediately without notice if the employee becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit.

11 Termination payments

- 11.1 On termination of this contract under subclause 10.3.3, where written notice has not been given, Council will pay the employee a monetary amount equivalent to 4 weeks' remuneration calculated in accordance with Schedule C.
- 11.2 On termination of this contract under subclause 10.3.4, where written notice has not been given, Council will pay the employee a monetary amount equivalent to 13 weeks' remuneration calculated in accordance with Schedule C.
- 11.3 On termination of this contract under subclause 10.3.5, where written notice has not been given, Council will pay the employee a monetary amount equivalent to 38 weeks' remuneration calculated in accordance with Schedule C, or the remuneration which the employee would have received if the employee had been employed by Council to the termination date, whichever is the lesser.
- 11.4 On termination of this contract under subclause 10.3.1, 10.3.2, 10.4.1 or 10.4.2, Council will pay the employee remuneration up to and including the

date of termination calculated in accordance with Schedule C and any other payment to which the employee is entitled under this contract.

12 Expenses and credit cards

In addition to any duties or entitlements that may be set out in any relevant policies of Council as adopted by Council from time to time, the employee will:

- 12.1 keep such records of expenses, travel and motor vehicle use as required by Council from time to time,
- 12.2 be reimbursed by Council for expenses properly incurred on Council business, subject to Council's prior approval to this expense being incurred,
- 12.3 only use any credit card provided by Council for expenses incurred on Council business, and
- 12.4 return any credit card provided by Council on request from Council.

13 Intellectual property

- 13.1 Any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract is the sole property of Council and Council will unless otherwise agreed have the exclusive right to use, adapt, patent and otherwise register it.
- 13.2 The employee will immediately disclose to Council any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee after the commencement date to enable Council to ascertain whether it was discovered, developed or produced wholly outside and wholly unconnected with the course of employment under this contract.
- 13.3 To protect disclosures made in accordance with subclause 13.2, Council or the employee may require a confidentiality agreement to be signed prior to, during or immediately after discussion of the intellectual property being considered.

Note: IP Australia, the Commonwealth Government intellectual property agency, has developed a Confidentiality Agreement Generator for the purpose of preparing intellectual property confidentiality agreements. It is available at <http://www.ipaustralia.gov.au/smartstart/cag.htm>.

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- 13.4 The employee assigns to Council by way of future assignment all copyright, design, design right and other property rights (if any) in respect to any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract.
- 13.5 At the request and expense of Council the employee will complete all necessary deeds and documents and take all action necessary to vest in Council any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract and obtain for Council the full benefit of all patent, trademark, copyright and other forms of protection throughout the world.

14 Confidential Information

The employee will not divulge any confidential information about Council either during or after the term of their employment under this contract.

15 Waiver

The failure of either the employee or Council to enforce at any time any provision of this contract or any right under this contract or to exercise any election in this contract will in no way be considered to be a waiver of such provision, right or election and will not affect the validity of this contract.

16 Inconsistency and severance

- 16.1 Each provision of this contract will be read and construed independently of the other provisions so that if one or more are held to be invalid for any reason, then the remaining provisions will be held to be valid.
- 16.2 If a provision of this document is found to be void or unenforceable but would be valid if some part were deleted, the provision will apply with such modification as may be necessary to make it valid and effective.

17 Dispute resolution

- 17.1 In relation to any matter under this contract that may be in dispute, either the employee or Council may:

-
- (a) give written notice to each other of the particulars of any matter in dispute, and
 - (b) within 14 days of receiving a notice specified in subclause 17.1(a), a meeting will be convened between Council (along with any nominated representative of Council) and the employee (along with any nominated representative of the employee) in an attempt to resolve the dispute.
- 17.2 The employee and Council will attempt to resolve the dispute at the workplace level.
- 17.3 Upon failure to resolve the dispute at the workplace level, the employee and Council will:
- (a) refer the dispute to an independent mediator as agreed by the employee and Council, or otherwise as appointed by the Director-General,
 - (b) agree to participate in any mediation process in good faith, with such mediation to operate in a manner as agreed by the employee and Council, and
 - (c) acknowledge the right of either the employee or Council to appoint, in writing, another person to act on their behalf in relation to any mediation process.
- 17.4 The cost of the mediation service will be met by Council.
- 17.5 The employee and Council will each be responsible for meeting the cost of any advisor or nominated representative used by them.

18 Service of notices and communications

- 18.1 Any communication, including notices, relating to this contract will be in writing and served on the employee or Council at their last known residential or business address in accordance with subclause 18.2.
- 18.2 Any written communication including notices relating to this contract is taken to be served:
- (a) when delivered or served in person, immediately,
 - (b) where served by express post at an address within New South Wales in the Express Post Network, on the next business day after it is posted,

-
- (c) where served by post otherwise in the ordinary course of postage, as set down in Australia Post's delivery standards, and
 - (d) where sent by facsimile, within standard business hours otherwise on the next business day after it is sent.

19 Variations

- 19.1 Where this contract provides that its terms may be varied, that variation will be by agreement in writing signed by the employee and Council.

Note: See clauses 4.5, 6.1.3, 7.3, 8.6 and 19.2.

- 19.2 Where the Director-General approves an amended or substitution standard form of contract for the employment of the general manager of a council, the provisions of this contract may be varied by agreement between the employee and Council to the extent that they are consistent with the provisions of that amended or substitution standard form of contract.

Note: See section 338 of the Act.

20 Other terms and conditions

- 20.1 The employee and Council acknowledge that they have sought or had the opportunity to seek their own legal and financial advice prior to entering this contract.
- 20.2 In accordance with section 731 of the Act, nothing in this contract gives rise to any action, liability, claim or demand against the Minister, the Director-General or any person acting under their direction.

21 Signed by the employee and Council

COUNCIL:

The Seal of

[Council name]

[Seal]

affixed by authority of a resolution of Council.

Signed
by Council

Date

Name of signatory
in full [printed]

Office held [printed]

Signed by Witness

Name of Witness
in full [printed]

THE EMPLOYEE:

Signed
by the employee

Date

Name of employee
in full [printed]

Signed by Witness

Name of Witness
in full [printed]

Schedule A – Council policies

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 4.5 and 19.1 of this contract.

This Schedule operates on and from

Date _____

For the purposes of subclause 4.5 of this contract, the following policies apply to the employee:

Signed by Council _____

Signed by the employee _____

Schedule B - Duties and functions

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 6.1.3 and 19.1 of this contract.

This Schedule operates on and from

Date _____

In addition to the duties and functions specified in clause 6 of this contract, the employee will carry out the following duties and functions:

Signed by Council _____

Signed by the employee _____

Schedule C - Remuneration

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 8.7 and 19.1 of this contract.

This Schedule operates on and from

Date _____

The Annual Total Remuneration Package is as follows:

\$ _____

The Total Remuneration Package is comprised of:

ANNUAL REMUNERATION	\$

The employee agrees and acknowledges that deductions under subclause 8.2 of this contract are made principally for the benefit of the employee and that the Council relies on that statement in providing the non-cash benefits requested by the employee.

In the case of an employee who is a member of a defined benefit division of the Local Government Superannuation Scheme (or equivalent) compulsory employer superannuation contributions are the long term or "notional" employer contribution, as advised by the Actuary for the Local Government Superannuation Scheme from time to time.

The employee's superable salary will be the amount of the total remuneration package less the amount of compulsory superannuation contributions.

Signed by Council _____

Signed by the employee _____

5.2 MAYORAL MINUTE: GENERAL MANAGER PERFORMANCE AGREEMENT

SUMMARY

To present for consideration a draft General Manager Performance Agreement for the period Oct 2019 to October 2020.

RECOMMENDATION

That this item of the Mayoral Minute: General Manager Performance Agreement be classified as confidential in accordance with s10A(2)(a) Local Government Act 1993 as the information is a personnel matter related to a particular individual.

REPORT

The oversight of the General Manager's performance is key to managing the accountability of the General Manager through the employment contract. A Performance Agreement and regular performance reviews against the Agreement are essential elements in this process.

Discussions have commenced with the General Manager on developing a Performance Agreement for October 2019 until October 2020 based on the presentation made in the interview process. A draft Performance Agreement has now been prepared for consideration in the Closed Session of Council.

ATTACHMENTS: Nil

6.1 DEPARTMENT OF EDUCATION PLANNING UPDATE

SUMMARY

To provide an update on the planning for a school at Murrumbateman and the Yass High Multi-Purpose Indoor Sports Centre.

RECOMMENDATION

That:

1. *The Mayor write to the NSW Minister for Education to request a timeline for the completion of planning for a school at Murrumbateman and the design of the Yass High School Multi -Purpose Indoor Sports Centre, with a commitment to their construction within two years.*
2. *The Mayor write to the Member for Goulburn to request support to finalise the school planning, design and construction processes.*

FINANCIAL IMPLICATIONS

Nil.

POLICY & LEGISLATION

- *Educational Establishments and Child Care Facilities SEPP 2017*
- *Better Placed Design Guide for Schools –Government Architect NSW*
- *Better Placed Environmental Design in Schools –Government Architect NSW*
- *NSW Education Planning New Schools: School Safety and Urban Planning Advisory Guidelines (2016)*

REPORT

1. Murrumbateman School Background

The delivery of a school at Murrumbateman has moved from community and Council advocacy to the planning stage over the past few years. A chronology of the discussions between Council and Department of Education (DoE) is provided:

- **September 2017** - Council and DoE entered into a Memorandum of Understanding (MOU) to work collaboratively and progress Joint Use Projects. Advised at that time that the Murrumbateman School Project was not feasible due to population projections.
- **January 2018** – Changes limiting enrolment of NSW students to specified ACT public schools.
- **June 2018** – Member for Goulburn, Pru Goward announced funding to be allocated to commence planning for a school at Murrumbateman.
- **July 2018**- Murrumbateman School Working Group established by Council. Invited DoE to visit Murrumbateman and the preferred (Council owned) site on Merryville Drive which was selected using DoE's guidelines.

The proximity of overhead powerlines was raised by DoE, but as Council owns a large area of land it was agreed that the boundaries could be adjusted if needed.

- **August-December 2018** – Regular discussions with DoE regarding the Merryville Site. DoE advised they were 'pausing' further school planning until Council completed land capability studies. Verbal advice received from DoE that the powerlines should not be an issue.

- **May 2019** – DoE advised that Council land was still under consideration, and sought updates on the studies. Proximity to powerlines was raised again by DoE, leading to a request from Council for the required setback distances so that the site configuration could be adjusted.
- **October 2019**- DoE requested update on studies. Two finalised (Land Contamination Assessment, Cultural Heritage), two being finalised (Flood, Ecology)
- **November 2019** – DoE (new contact) request for Council background history of preferred site.
- **December 2019** – DoE advised that Council owned site was no longer preferred option and other sites were being considered.
- **January 2020** – DoE advised that an alternative site (not owned by Council) is being considered and the Department is undertaking its due diligence assessment. The location of this site will not be disclosed by DoE until such time as due diligence completed (estimate 1-2 months).

Discussions have also taken place throughout this period with the State Member's Office.

2. Murrumbateman School Planning

A review of the discussions that have taken place between Council and DoE demonstrates that until recently, the preference was for the school to be located on land owned by Council. Council had initially made the offer of land at low or no cost to the Department as an incentive for DoE to construct the school more quickly and at a lower cost. Council owns 286ha of land to the immediate north of Murrumbateman which is relatively unconstrained, but remains zoned RU1 Primary Production.

DoE provided positive feedback on the location of the preferred site on Merryville Drive, however insisted that the site capability studies were the responsibility of Council, which were commenced accordingly. Over a period of 18 months, these discussions continued while the studies have been completed. At no time was there ever any suggestion of a different site or that the DoE was undertaking its own assessments.

There has only ever been one issue raised by DoE regarding Council's land, which was the presence of the overhead powerlines. Some staff considered it a possible constraint, others were dismissive, but none have been able to provide evidence as to why they might be a constraint, and whether it is visual or safety related.

The planning process has been impeded by the continual staff changes within DoE, with four changes in personnel in the Regional Director role and four changes in our main contact – the Senior Asset Planner/Property Officer role during a period of 18 months. This has meant the process is setback each time a staff member changes, as they have to visit the site, understand the background as well as the needs of the Murrumbateman community.

While there has been a recent improvement in the frequency and quality of communication from DoE, it is disappointing that just as the site capability studies are being finalised, DoE has abandoned consideration of the Council owned Merryville site. Consideration of alternative locations by DoE is supported, however this should have commenced 18 months ago. It also means that new land capability studies will need to be commissioned by DoE for any new site, as well as the land acquisition process which will add further delays to the planning process. It will also add to the overall cost, and could threaten the viability of the project.

3. Yass Multi-Purpose Indoor Sports Centre

A similar situation has occurred with the Yass High School Multi-Purpose Indoor Sports Centre project. Council and DoE signed a Statement of Intent in August 2018 to plan for and create a Multi-Purpose Indoor Sports Centre and to enter into arrangements relating to access and community use of the facility outside school hours. There were initial enquiries from DoE regarding the possibility of constructing this building on the adjacent Crown land (Victoria Park/carpark for School), however it was decided that it would be constructed within the boundaries of the school site.

It has been very difficult to find out the status of this project, despite promises that Council would be involved as a stakeholder. The most recent update was in November 2019, where it was advised that DoE had approved the business case for the project, and would be appointing an architect. A

stakeholder meeting was proposed to be held prior to Christmas, however it is unclear whether this took place.

A timeline and commitment should be sought for both these projects from the Minister for Education, given the delays experienced and the significant staff turnover within the department.

STRATEGIC DIRECTION

Key Pillar	4. Our Infrastructure
CSP Strategy	IN9 - Improve accessibility to, and support the development of, education and training facilities in the region
Delivery Program Action	IN9.1 - Continue to advocate on behalf of the community for education and training activities to serve our residents
Operational Plan Activity	IN9.1.1 - Continue to advocate on behalf of the community for education and training activities to serve our residents

ATTACHMENTS: Nil

6.2 DEVELOPMENT CONSENT NO. DA155133E - LAND & ENVIRONMENT COURT APPEAL, TRUCK DEPOT, 46 CARRINGTON ROAD, SPRINGRANGE

SUMMARY

A Class 1 appeal has been lodged in the NSW Land & Environment Court in relation to modification DA155133E which was determined by Council in March 2019. The appeal seeks a merit review of Council's decision to refuse to grant approval to the removal of the condition which restricts the movement of heavy vehicle movements along Carrington Road during the school bus period. In the proceedings the Applicant is seeking an order for the condition to be removed by the Court.

Solicitors and an independent expert has been engaged on behalf of Council. This report presents consideration of the legal and independent expert advice, and seeks direction from Council on the proceedings.

RECOMMENDATION

That this item of the Acting Director Planning's report be classified as CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to advice concerning litigation, or advice that would otherwise be privilege from production in legal proceedings on the ground of legal professional privilege.

FINANCIAL IMPLICATIONS

Resources for development assessment and defence of Council planning decisions are provided for in the current Operational Plan.

POLICY & LEGISLATION

- *Environmental Planning & Assessment Act 1979*
- *Environmental Planning & Assessment Regulation 2000*
- *Local Government Act 1993*
- Yass Valley Local Environmental Plan 2013
- Road Rules 2014
- Truck and Transport Depots in Rural Areas Policy

REPORT

1. Application Details

Date Development Consent Determined	-	October 2015
Date Modification Determined	-	March 2019
LEC Appeal Date	-	September 2019
LEC Hearing Date	-	19 May 2020
Land	-	46 Carrington Road, Springrange
Area	-	24.34ha
Zoning	-	RU1 Primary Production

2. Site Description and Locality

The site is located on Carrington Road, just off Spring Range Road, Springrange. The southern boundary of the property forms the ACT-NSW border. The surrounding land uses are rural and rural residential in nature. A locality plan is included as **Attachment A**.

The property is dissected by Carrington Road, with a dwelling located on either side. The southern portion of the site rises steeply towards the ACT-NSW border where a dwelling is located. The area allowed for truck parking (excluding one truck) is at the lower part of the southern portion, just beyond the property entrance.

Carrington Road is currently an unsealed road with localised narrowing and was upgraded in late 2016 by the Applicant as required under the Consent for a truck depot. There is a bus stop/shelter at the corner of Carrington and Spring Range Roads. The bus stop has its own turning bay which allows the bus to pull off the travel lanes of both Spring Range and Carrington Roads.

3. Background

In November 2015 Development Consent No. 5.2015.133.1 was issued for the establishment of a truck depot, truck parking area, uncovered/unfenced horse arena and a storage shed at 46 Carrington Road, Spring Range.

The Development Consent contained a number of conditions including:

- A requirement to upgrade Carrington Road with a gravel pavement and localise narrowing
- A restriction on the movement of heavy vehicles on Carrington Road during school bus period and limited hours of operation.

Applications have been made to modify the Development Consent on several occasions.

In August 2016 a request to reduce the restriction on heavy vehicle movements was partially supported by reducing the duration of the morning school bus period by 15 minutes and adding a requirement for record keeping of heavy vehicle movements.

In December 2017 a modification was sought to remove the conditions which:

- Prohibit the movement of heavy vehicles along Carrington Road during the school bus period
- Prohibit the fuelling, washing down and servicing of heavy vehicles
- Require the applicant to keep a record of heavy vehicle movements in and out of the site.

The planning report recommended that the request to remove the condition which restricted the movement of heavy vehicle movements be supported but to refuse both other requests. However Council determined to refuse the modification application in its entirety.

In March 2019 a further modification was sought to remove the conditions which:

- Prohibit the movement of heavy vehicles along Carrington Road during the school bus period
- Remove the restriction on hours of operation (or proposed an alternative restriction)
- Remove the restriction limiting the parking of heavy vehicles to the designated 'truck parking area' only.

The modification also sought to remove the uncovered/unfenced horse arena from the development.

The application attracted 37 objections. Four letters of support were supplied with the Applicant's documentation.

In March 2019 Council considered a planning report which recommend to:

- Support the request to remove the horse arena from the development
- Support the request to remove the condition restricting heavy vehicle movements along Carrington Road during the school bus period
- Refuse the request to remove the restrictions relating to hours of operation and the location of truck parking area.

Council determined to:

- Support the request to remove the horse arena from the development.

- Modify the condition which restricted the location of truck parking in order to allow one truck to be parked outside of the 'truck parking area'.
- Refuse the request to remove the condition restricting heavy vehicle movements along Carrington Road during the school bus period.
- Refuse the request to remove the condition restricting the hours of operation.

This modification request is now subject to the Land & Environment Court appeal.

4. Land & Environment Court Appeal

On 24 September 2019 the Applicant commenced an appeal in the Land & Environment Court in relation to the Council decision in March 2019.

The appeal seeks a merit review of Council's decision to refuse to grant Consent to the removal of the condition which restricts the movement of heavy vehicle movements along Carrington Road during the school bus period. In the proceedings the Applicant is seeking an order for the condition to be removed by the Court. The condition currently states:

(14) Heavy vehicle movements along Carrington Road associated with this development shall not occur between 7:30am to 8:15am and 3:45pm to 4:45pm on school days; (Replaced 10 August 2016 and amended 12 October 2016)

Bradley Allen Love (BAL) Lawyers have been engaged as legal representation for Council in the proceedings. The legal and advice from an independent expert has been detailed in the report to be considered by Council in closed session as this relates to the legal proceedings.

STRATEGIC DIRECTION

Key Pillar 1. Our Environment

CSP Strategy EN1 - Protect and enhance the existing natural environment, including flora and fauna native to the region

Delivery Program Action EN1.1 - Protect our natural assets in line with community values

Operational Plan Activity EN1.1.1 – Ensure assessment of development applications protects our natural environment

ATTACHMENTS: A. Locality Plan [↓](#)



yass valley council
the country the people

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Email: info@yassvalley.nsw.gov.au

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Drawn By: Jeremy Knox

Projection: GDA94 / MGA zone 55

Date: 6/02/2020 3:04 PM

Map Scale: 1:9738 at A4

6.3 DEVELOPMENT APPLICATION NO DA190179 - HORSE ARENA COVER, MCINTOSH CIRCUIT, MURRUMBATEMAN

SUMMARY

To present the assessment of Development Application No DA190179 for the erection of a horse arena cover at McIntosh Circuit, Murrumbateman. The proposal is referred to Council due to the scale of the development and refusal is recommended.

RECOMMENDATION

That Development Application No DA190179 for a horse arena cover at Lot 3 DP1257138, McIntosh Circuit, Murrumbateman be refused on the basis that the scale of the development is inconsistent with that of the locality and the R2 Low Density Residential zoning of the land.

FINANCIAL IMPLICATIONS

Resources for development assessment are provided for in the current Operational Plan.

POLICY & LEGISLATION

- *Environmental Planning & Assessment Act 1979*
- *Environmental Planning & Assessment Regulation 2000*
- Yass Valley Local Environmental Plan 2013
- Yass Valley Community Engagement Strategy
- Building Line – Rural and Rural Residential Land Policy
- Application Assessment and Decision Making Policy

REPORT

1. Application Details

Date Received	-	25 October 2019
Land	-	Lot 3 DP1257138, McIntosh Circuit, Murrumbateman
Area	-	1.48ha (or 4ha including Lot 410 DP 1130392)
Zoning	-	R2 Low Density Residential

2. Site Description and Locality

The site is located on McIntosh Circuit and is held in family ownership with the adjoining Lot 410 DP1130392, 1 McIntosh Circuit on which there is a dwelling house and the Applicant resides. A locality plan is included as **Attachment A**

The locality is characterised as a low-density rural residential area. The land to the south and south-west is part of the Shaw Vineyard holding, however is zoned for low-density residential development and it is anticipated that subdivision of this land will occur at some point in time.

In 2016 Development Consent was granted for the construction of an uncovered horse arena on the subject site. The un-covered horse arena is established, along with other ancillary development such as sheds and horse stables.

3. Proposal

A Development Application has now been lodged to erect a cover over the horse arena (refer **Attachment B**). The dimensions are 8.3 m in height to the roof ridge, and 80 by 36 m with a total covered area of 2,880m². It is proposed to be setback 9m from the northern and 29m from the western property boundary. The structure is setback 119m from McIntosh Circuit and behind the current building line of the property. The horse arena cover will be of steel construction and is enclosed on the western end only.

4. Public Exhibition

Public exhibition included notice to six nearby and adjoining property owners. No submissions were received.

5. Assessment

An assessment has been completed in accordance with the planning legislation. Whilst the proposal generally complies with Council's minimum setback requirements, the scale of the development is inconsistent with that of the locality and the Low Density Residential zoning of the land.

The proposed covered area is 2,880m² and represents one of the largest structures in the Yass Valley. As a comparison, the proposal is larger than the original shed (i.e. 2,700m²) at Martins Fertilizers in the new North Yass industrial area.

The subject land and the immediately adjoining land is zoned Low Density Residential. The Low Density Residential zone is firstly a residential zone but with a minimum lot size of 6,500m² in this locality. The objectives of the zone relate to providing for housing needs of the community in a low density residential environment, as well as providing for other facilities or services that meet the day to day needs of residents. Whilst the horse arena is currently and proposed to be used for personal use only, the scale of the covered structure is beyond what is consistent with the low density residential land zoning or could reasonably be considered as ancillary infrastructure to the residential land use.

The Shaw Vineyard and a number of other residential properties contain large buildings, sheds, dwellings or the like, however the proposed horse arena cover is at a significantly larger scale. The issue with scale is amplified by the fact that the site is relatively elevated on the high point of McIntosh Circuit. Although no submission has been received from the owners of 16 Marquess Place, the scale of the horse arena cover is considered to significantly interrupt the outlook from the rear of that property as it occupies most of the southern boundary.

The Applicant has noted that they compete in a horse sport (reining) which requires a very specific arena size and surface, generally built to the Olympic dressage size. The Applicant also outlines that the regular use of the current uncovered arena and the valuable nature of the horses means that a cover is necessary to continue regular training and success in the sport. Furthermore, the Applicant suggests that the horse arena cover will reduce dust generation as it will allow the surface to stay moist for longer.

Horse arena covers have been approved in the past, including at 33 Nirta Drive, Murrumbateman and 134 Read Road, Sutton, however these examples and others have generally been both smaller in scale and located on land zoned for a rural or rural residential purposes (e.g. RU1 Primary Production or R5 Large Lot Residential).

The Applicant's needs for their training and horses is noted and it is accepted that Murrumbateman is a horse friendly community, however this does not mean that Development Consent should automatically be granted as the proposal must be considered on planning merit. In this instance, the scale of the development is inconsistent with that of the locality and the Low Density Residential zoning of the land. It is considered that a horse arena cover of this scale is a development which is generally more suitable for land zoned for rural purposes and larger lots, rather than residential.

The Applicant has indicated in their submission if the proposed horse arena cover is not supported, then they would request consideration of a smaller proposal of 1,400m² in floor area. However this remains significantly larger than a small dressage arena which is usually 800m². Even at half the size the proposal would still be a significantly larger than the surrounding development.

6. Conclusion

From an assessment of the proposal it is considered that the proposed horse arena cover is inconsistent with the scale of development in the locality and the Low Density Residential zoning. It is recommended that the proposal be refused.

If Council is of the mind to approve the horse arena cover, it is suggested this only be on the basis of the reduction in size and height. Any approval that may issue should be subject to standard conditions.

STRATEGIC DIRECTION

Key Pillar 1. Our Environment

CSP Strategy EN1 - Protect and enhance the existing natural environment, including flora and fauna native to the region

Delivery Program Action EN1.1 - Protect our natural assets in line with community values

Operational Plan Activity EN1.1.1 – Ensure assessment of development applications protects our natural environment

ATTACHMENTS:

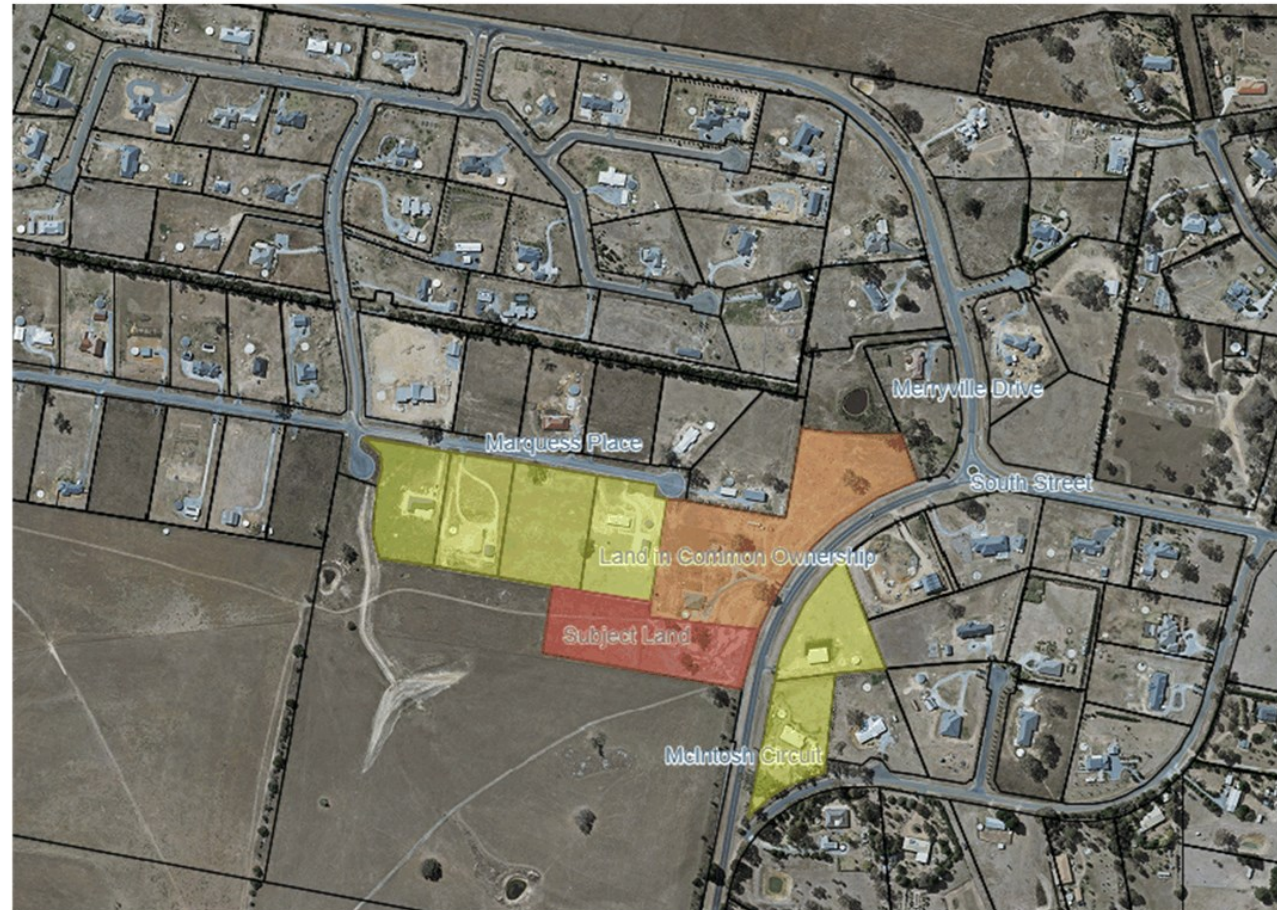
- A. Locality Plan [↓](#)
- B. Submitted Plans [↓](#)
- C. Applicant's Request [↓](#)

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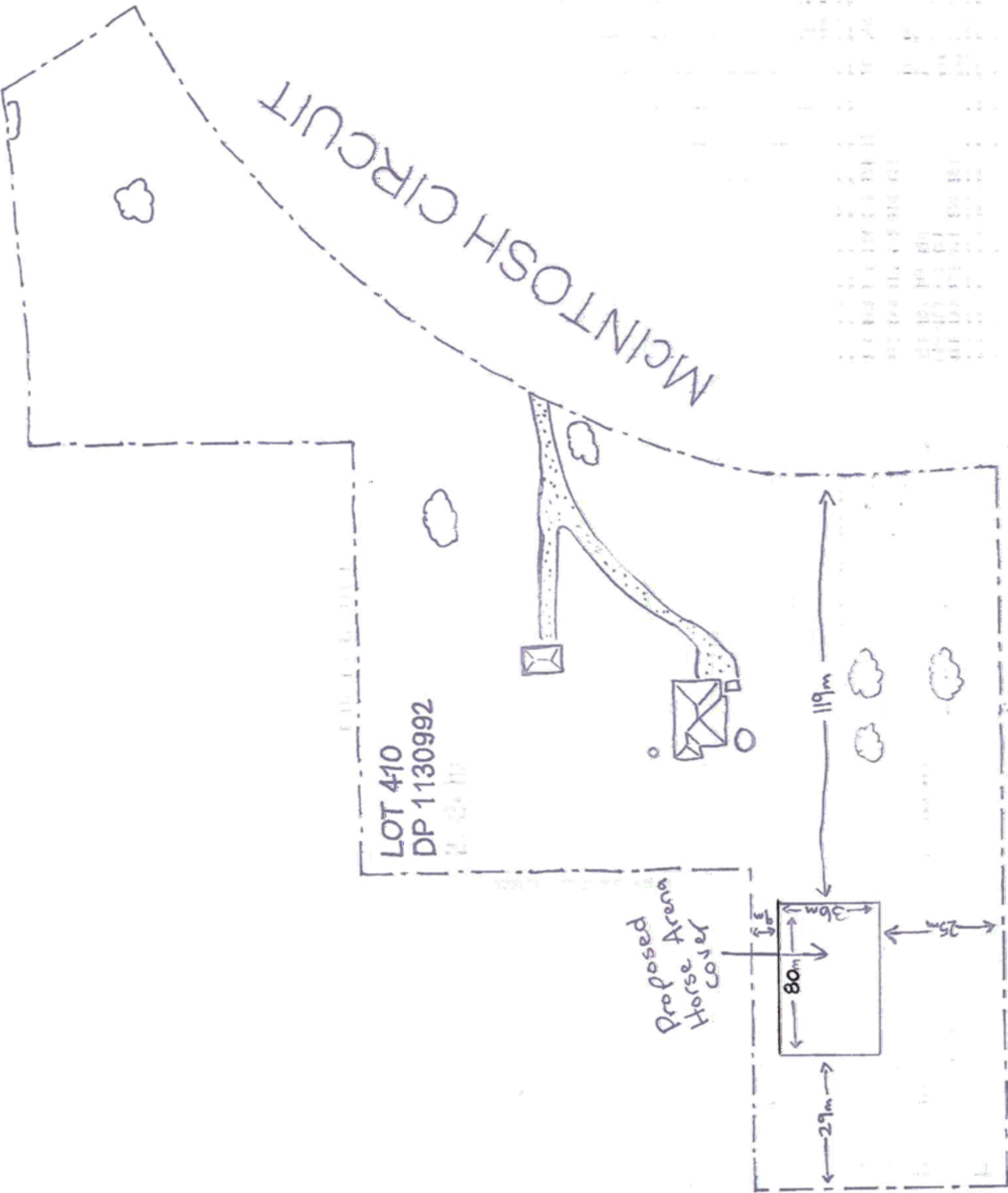
McIntosh Cirt, Murrumbateman

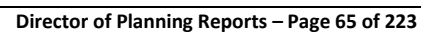
Legend:

- Subject Property
- ★ Neighbouring Properties Notified



DISCLAIMER: The details provided in this diagram reflect information contained in Yass Valley Council's records. No warranty of accuracy is given and no responsibility is accepted by Council if the information is inaccurate.





Yass Valley Council
Development Department

31/01/2019

Regarding DA190179 for the horse arena on McIntosh Circuit I would like to put forward some supporting information to assist in the approval of the application.

I require an arena cover of this size as my current arena which was completed in late 2016 for private use sits at 80 x 40 metres already. It has a hardened clay base with a surface of river sand.

The sport I compete in (Reining) requires a very specific arena size and surface. As a rule most arenas are built to Olympic dressage arena size which is way too small for what I do and the surface most public and private arenas have is also unsuitable as in my sport we do big long sliding stops so we need a very smooth, slick base to allow this to happen which again means I have very specific requirements in order to train my horses.

My horses are very expensive, and training is essential in order to be successful. Having a cover will allow me to continue my current success and go on to be even more successful as training will be able to be conducted all year round.

I already have an open arena bigger in size than the proposed cover that I use a minimum of 5 days a week, this amount of use will not change with the cover, it will just mean that during wet or extreme heat weather I will be able to train more efficiently.

The current set up can become a little dusty as exposure to the elements means it dries out very quickly but with a cover it will allow me to keep the arena moist therefore reducing the dust to almost zero. My neighbours are all very welcoming to the idea of me setting up to become even more successful as they too have shared my journey to where I am today.

Speaking of my success, I started reining in 1999 and until I completed my own arena in late 2016, I was just another competitor getting around with high hopes. I can now boast several high achievements including State champion in NSW and Victoria, Club champion in 6 categories in 2019, National Reserve champion in 2018 and National Champion as well as two National reserve champions in 2019. As you can see, having my own training arena has allowed me to climb the ladder very fast and to have a cover over it would mean my success would grow even higher as I would then have the opportunity to train all year round without the weather dictating when I can and can't ride. My plans for 2020 include going to Queensland to chase yet another championship as well as Victoria and NSW again.

I know there are several covered arenas in Murrumbateman already, I even work for a local show jumper who has one so its not an uncommon thing to see within our Murrumbateman community.

I understand that the size sounds huge but when you have been able to use arenas for training of this size like at the CSU in Wagga and K Ranch in Camden, as well as a privately owned ones in Gosford, Tatura etc it actually isn't that big and there are many structures (shed homes etc) already in Murrumbateman which leave one questioning how they were approved

as they are very ugly, large and not within the current feel of the area. At least an arena cover sits within the Murrumbateman culture of horse crazy people!!

Michael and I would love to invite you all out to our property to get a better look, and feel of what we have done with our property as well as the lay of the land which again brings things into better perspective and you will see that with how things are set up, the arena cover would actually blend in and not be an eye sore or stand out structure.

Our property already boasts 12 horse paddocks, a large home, barn, shed and club house. We get many compliments on the property from the locals and we take pride in what we have been able to achieve in such a short time frame.

If council was still against our proposal I would like to make the suggestion of approving a half size roof (35x40) which would still allow me to train correct size circles and other manoeuvres but not my run downs and sliding stops should the weather be bad. Although this is not really what I want it would still prove beneficial to my training.

Even though we love Murrumbateman and the surrounding areas, my children go to the local schools and between us we have been living in the area for 35 plus years because my horses and sport are now our life style and what our future holds it would be a shame if we would have to leave the area to relocate to another town where we could ultimately set up our perfect training property.

I appreciate your time in considering the application and hope we can come to some mutual agreement.

Regards,

Amanda Halliday and Michael Shaw

6.4 DEVELOPMENT APPLICATION NO. DA190192 - HOME INDUSTRY, 4498 GUNDAROO ROAD, GUNDAROO

SUMMARY

To present the assessment of Development Application No DA190192 for a home industry (beer production only) and residential swimming pool at 4498 Gundaroo Road. The application is referred to Council due to the number of submissions received, however the proposal has been significantly amended in response to concerns in the submissions. Approval is recommended following receipt of a satisfactory waste water management report and the response from Transport for NSW.

RECOMMENDATION

That Conditional Development Consent be issued for a home industry (beer production only – no retail) and a swimming pool at 4498 Gundaroo Road, Gundaroo following receipt of a satisfactory waste water management report and the response from Transport for NSW.

FINANCIAL IMPLICATIONS

Resources for development assessment are provided for in the current Operational Plan.

POLICY & LEGISLATION

- *Environmental Planning & Assessment Act 1979*
- *Environmental Planning & Assessment Regulation 2000*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *Yass Valley Local Environmental Plan 2013*
- *Yass Valley Community Engagement Strategy*
- *Application Assessment and Decision Making Policy*
- *Yass Valley Development Contributions Plan 2018*

REPORT

1. Application Details

Date Received	-	10 October 2019
Land	-	4498 Gundaroo Road, Gundaroo
Area	-	20.98ha
Zoning	-	RU1 Primary Production

2. Site Description and Locality

The site is located on Gundaroo Road, approximately 5kms north of the Gundaroo village (refer **Attachment A**). There is currently a dwelling under constructed on the land (nearing completion) as well as a large shed. The area can be characterised as rural with a number of nearby properties having dwellings.

3. Proposal

The initial Development Application lodged in October 2019 was for:

- The conversion of an existing shed into a micro-brewery (beer production)

- Construction of a new shed/building for the purposes of a cellar door
- Function centre and restaurant, carpark
- Installation of a swimming pool (residential use only)

However, following public exhibition and preliminary assessment it has now been revised significantly in scale and includes a home industry (beer production only) within the existing shed and the installation of a swimming pool (residential use only). The proposal no longer involves a retail component, cellar door, function centre or restaurant. Output of beer production is anticipated to be around 270,000 litres annually or the equivalent of 300 pallets of cans.

Details of the revised proposal are included as **Attachment B**.

4. Public Exhibition

Public exhibition included notice to five nearby and adjoining property owners. During the public exhibition period there were three submissions received (refer **Attachment C**) including one on behalf of multiple property owners.

Following the initial public exhibition and assessment the proposal was revised significantly by the Applicant. The revised proposal was renotified and persons who had previously made a submission were requested to advise whether this now addressed their concerns, and if so, requested to amend or withdraw their submission. During this second public exhibition period there were no additional or amended submissions received, however no submissions have been withdrawn either.

5. Assessment

An assessment has been completed in accordance with the planning legislation. The proposal generally complies with the relevant planning controls, policies and guidelines.

The following is a response to the planning issues identified in the assessment, including the issues which could be considered as still outstanding and relevant to the revised proposal from the submissions received.

5.1 Extent and Duration of Public Exhibition

Concern has been raised in the submissions in relation to the extent and duration of the initial public exhibition. The public exhibition extent included all adjoining properties for a period of in accordance with Council's *Community Engagement Strategy*. The application was also placed on Council's website.

The initial public exhibition period ran from 28 October 2019 to 11 November 2019, with letters sent on 24 October 2019. Following the revisions to the proposal the application was renotified.

Those impacted by the proposal have made submissions.

5.2 Permissibility

Following consideration of the initial proposal it was generally determined that it would be more accurately characterised as an 'artisan food and drink premises' which is currently a prohibited land use in the Primary Production zone.

A submission suggested that a micro-brewery is classified as an 'industry' (but not a rural industry).

The production or manufacture of beer is considered to be 'industrial activity' as defined in the LEP. However the revised proposal is now for a 'home industry', which permissible provided it does not involve:

- The employment of more than 2 persons other than those residents
- Interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise
- The exposure to view, from any adjacent premises or from any public place, of any unsightly matter

- The exhibition of any signs (other than a business identification sign)
- The sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building
- Bed and breakfast accommodation or sex services premises.
- Is not greater than 100m² in floor space

The revised proposal is considered to satisfy the requirements for a 'home industry' and is permitted with Development Consent in the Primary Production zone.

5.3 Amenity and Noise

Amenity and noise impacts were raised in submissions in relation to the initial proposal. The revised proposal of a home industry only with no retail is not considered to result in an adverse impact on amenity or result in noise impacts due to the small and limited scale.

It is also important to note that the definition of a home industry specifically requires that there must not be an interference with the amenity of the neighbourhood. In the event a compliant about amenity impacts was received it would need to be established as having a significant adverse impact to trigger the need for any compliance action.

5.4 Onsite Waste Water Management

The Applicant has indicated that the home industry will connect into the existing onsite waste water management system for the dwelling.

The Applicant will need to demonstrate that the existing system and disposal area is capable of handling the additional load or alternatively design a system suitable for the intended use. Such a report is needed prior to the issue of any approval and will form the basis of any conditions in any approval that may issue.

5.5 Water Supply

The Applicant has indicated that water for the beer production will be provided by rainwater tanks, a stock and domestic bore, and the dam. Whilst these options are generally considered suitable from a planning perspective, the Applicant will need to make their own enquiries with WaterNSW to ensure that the bore has an appropriate licence to allow water to be drawn for this purpose.

NSW Health also recommends that groundwater is not used for drinking, cooking, personal hygiene or swimming pools without testing and appropriate treatment including disinfection, which is the responsibility of the Applicant.

5.6 Property Access Safety and Traffic

Concern had been raised in the submissions in relation to the safety of the existing driveway to accommodate the proposed traffic volumes. This concern had been raised in the context of the initial proposal but with the revised proposal scaling back the development and involving significantly less traffic generation this is no longer expected to be an issue.

5.7 Liquor Licence

The Applicant will be required to obtain a producer/wholesaler liquor licence from NSW Liquor & Gaming. NSW Liquor & Gaming have their own assessment process for the issue of liquor licences and includes requiring Council to confirm that any necessary Development Consent is in place.

5.8 Future Development

Concern has also been raised that the revised proposal of a home industry may be the Applicant's first step to achieving their larger initial proposal over time (e.g. cellar door, restaurant and function centre). Whilst an understandable concern, the Development Application must be assessed on the basis of what is being proposed and not what may be proposed at a later point in time. Any future Development Application, if lodged, would be subject to a full assessment in accordance with the requirements of the Act.

A condition can be included in any approval that may issue limiting the activities to the home industry that has been applied for.

6. Conclusion

The Applicant has amended the proposal in response to concerns raised. The revised proposal is consistent with a 'home industry', is permissible and is not considered to have an adverse impact on the amenity of the neighbourhood. From an assessment of the proposal is recommended that Development Consent is issued once a satisfactory onsite waste water management report is submitted. Draft conditions are included as **Attachment D**.

STRATEGIC DIRECTION

Key Pillar 1. Our Environment

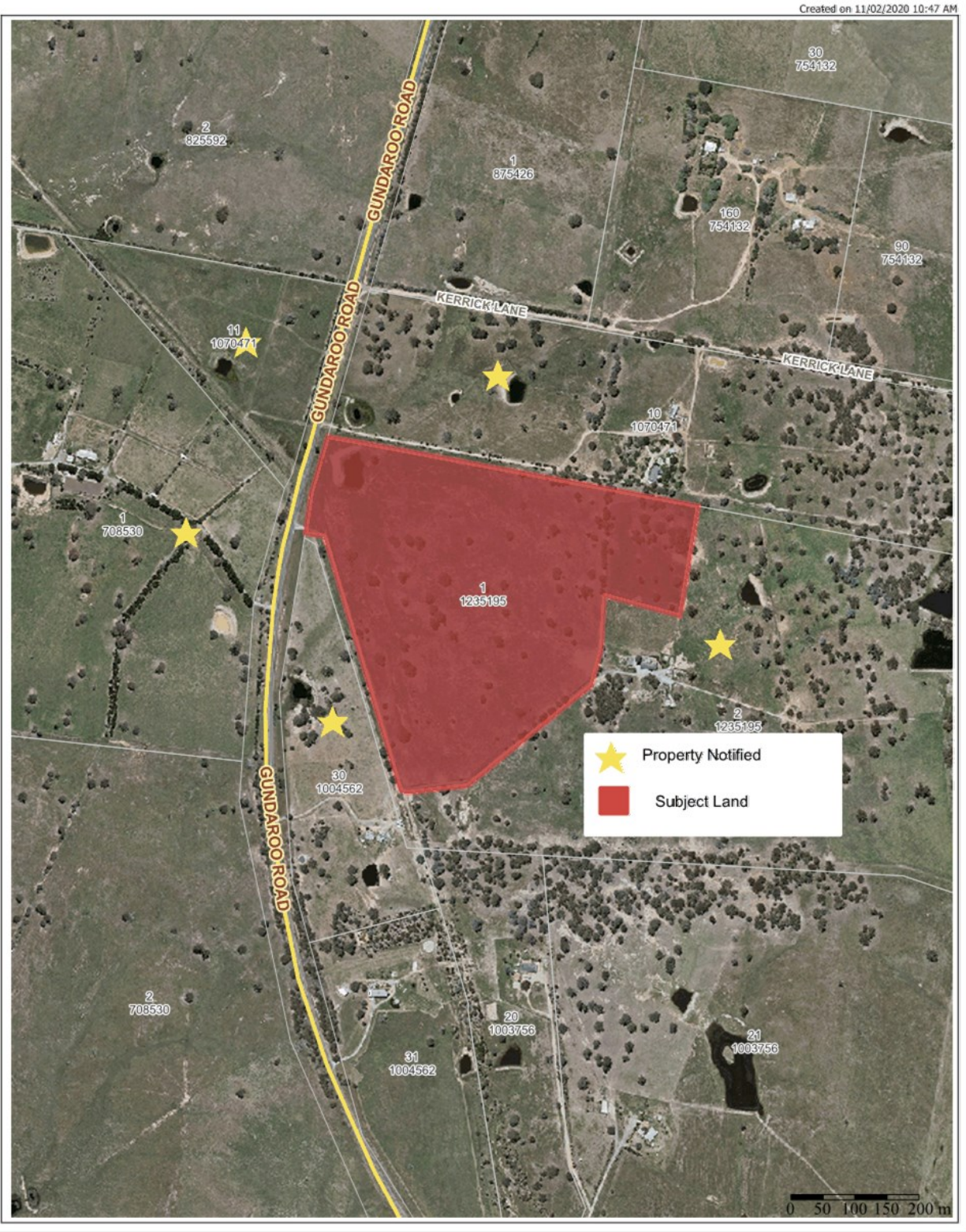
CSP Strategy EN1 - Protect and enhance the existing natural environment, including flora and fauna native to the region

Delivery Program Action EN1.1 - Protect our natural assets in line with community values

Operational Plan Activity EN1.1.1 – Ensure assessment of development applications protects our natural environment

ATTACHMENTS:

- A. Locality Plan [↓](#)
- B. Proposal Details and Plans [↓](#)
- C. Submissions [↓](#)
- D. Draft Conditions [↓](#)



yass valley council
the country the people

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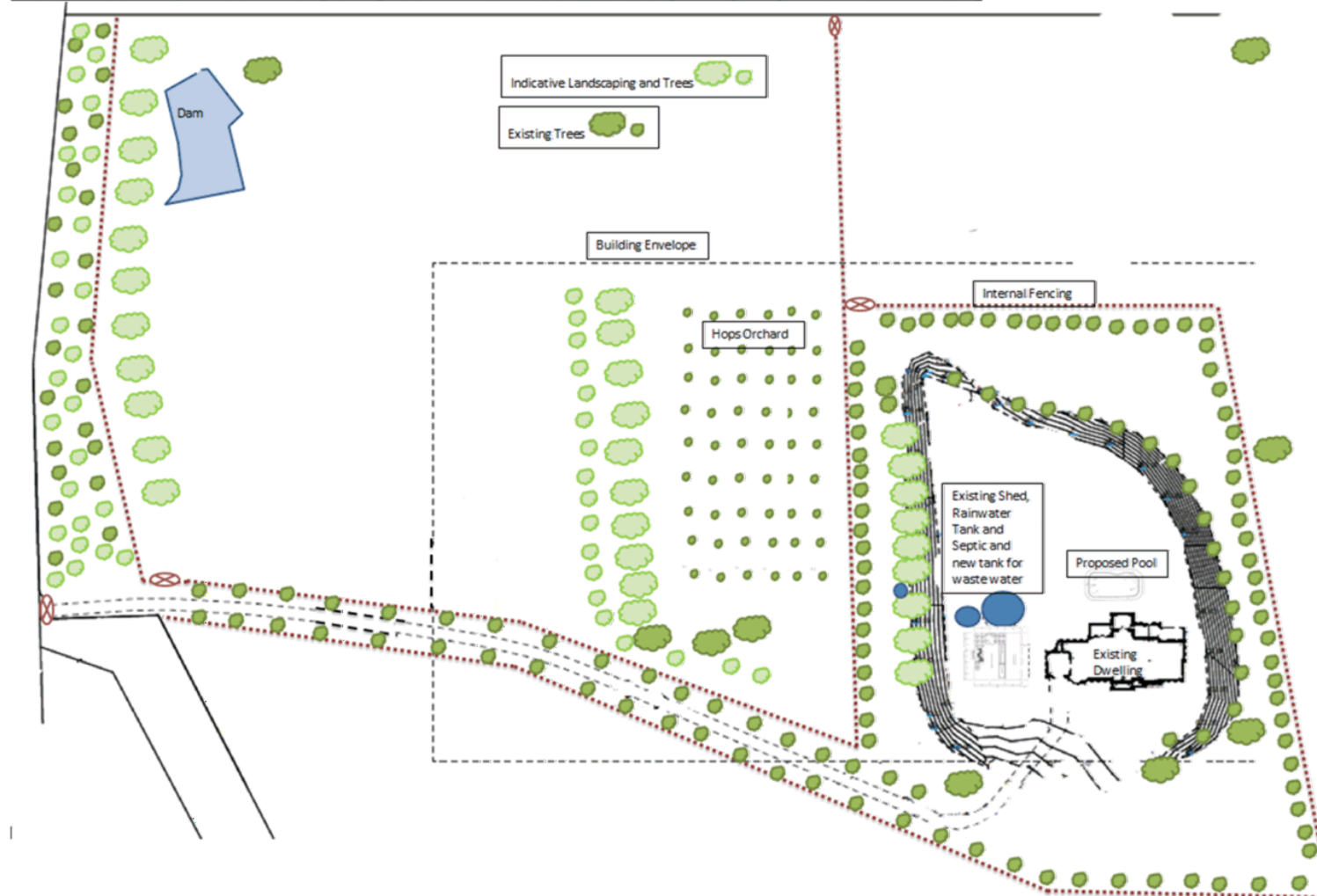
Drawn By: Jeremy Knox

Projection: GDA94 / MGA zone 55

Date: 11/02/2020 10:47 AM

Map Scale: 1:7952 at A4

4498 Gundaroo Road. Map 3: Location of existing buildings. Location and Setbacks of proposed buildings. Parking arrangements. Indicative landscaping



STATEMENT OF ENVIRONMENTAL EFFECTS.

Revised February 2020

FOR PROPOSED HOME INDUSTRY (BREWERY) AND PRIVATE RESIDENTIAL POOL.

LOT 1 DP1235195 GUNDAROO

EXISTING

The existing land is situated outside of the Gundaroo Township and is a small property with a house for personal permanent residence on the land and an adjacent farm shed and rainwater tank. The proposed site is situated in a location where minimum interference to the natural environment will occur and provides the best outcome for sustainable design considering solar passive design.

There is also internal fencing, driveway and landscaping. There is a single dam on the farm which is spring fed and remains full nearly all year round. The property has power connected and stock and domestic bore provides water to the house, shed, gardens and paddocks.

The paddocks are a mix of introduced and native pastures, dominated by annual grasses and medics. There are scattered paddock trees including Yellow Box, no existing trees will be affected by the development. No threatened species have been found on the property and there are also no cultural heritage items on the property.

PROPOSED

The proposed Home Industry (brewery) will be built within the existing farm shed with associated facilities including ingredient storage, packaging storage covering no more than 100m² and a cool room which will also be used for private use. This will be supported by a hop orchard that will provide hops for the beer brewing.

This will be completed in one stage. The character of the buildings are country style with a mix of colour bond, timber and stone as well as shading devices such as pergolas which is consistent with the local vernacular.

The brewery will produce, at maximum capacity, 4 brews per week, that is approximately 6,000 litres with net output being around 270,000 litres per annum. This is the equivalent of 300 pallets of cans, or 10 truckloads.

For traffic that would mean less than one truck per month if fully loaded, but considering a lot of the deliveries will be by us then that number would actually be even less.

The employees will be residents of the property, all in a part time capacity. At this stage we do not have any plans to employ additional people in the brewery and do not envisage that this would be more than two non-residents at any stage in the future.

The proposed pool is to add to the value and amenity of the existing house and garden setting for the private residence. The proposed pool will contain approximately 82,500 litres. The water for the pool will be supplied by the stock and domestic bore, not by the rainwater tank. The attached BASIX certificate does not allow accounting that the pool will be filled by a bore, even though there is capacity in the existing 160,000 litre rainwater tank.

The development is wholly contained within the building envelope and have been sighted to ensure positive environmental, social or economic outcomes will be achieved and any impacts will be offset by the development.

DESIGN CONSIDERATIONS

Apart from satisfying the home industry functional needs an important consideration was to enhance the existing character of the site and its rural setting. By the use of the selected materials and the buildings location, it responds to the site and its context to the farming / rural community with its style of architecture. The proposed buildings do not interrupt any vistas from neighbouring properties.

The neighbouring buildings are residential and farm sheds. There will be no impact upon these buildings by the development from visual amenity, dust or other air pollution, water, odour or any other negative impacts as these will not be created by the development.

The pool will be located directly to the north of the existing private residence and will be enclosed amongst a landscaped garden. It will not be visible to any neighbours.

FUNCTION AND USE OF PROPOSED DWELLING

The building of the home industry in the existing farm shed will be done in one stage and will be completed by qualified tradespeople as required.

The use of the pool will be for personal use only and built by qualified tradespeople. The pool will be filled and kept topped up using the stock and domestic bore.

WASTE MANAGEMENT /DRAINAGE / WATER

The buildings have been carefully considered in their locations and has generous setbacks from the site boundaries. While under construction the builder will supply and maintain sediment fencing to help prevent erosion and contamination where required. The existing shed will have a toilet, shower and basin installed that will connect to the existing private residence septic system. Waste water from the brewery will be properly treated and tested as required. A tank for storing waste water will be installed next to the existing shed for treating water as required to ensure it is then suitable for reuse on the farm for supplementary watering of trees and pastures.

No part of the development will be built in areas that may be subject to flooding.

Additional tree planting will use water from the septic system to enhance growth and biodiversity values.

Plantings will also incorporate plants that have traditional cultural heritage uses.

Water will be provided through rainwater from tanks connected to all sheds and residential buildings on the property. Currently there is more than 640m² of roof area collecting rainwater which has the capacity to capture more than 360,000 litres on an average rainfall year. A stock and domestic bore with a yield of approximately 3,000 litres per hour will be able to supply water as required for the pool and domestic purposes. The dam, which is spring fed, will also be able to supply water for stock and domestic purposes on the property. All water sources will be tested and appropriate filtering / treatment processes will be put in place.

VEHICULAR MOVEMENT AND PARKING

Vehicles will access the site from Gundaroo Road and proceed down a private driveway to the site.

All roads and parking areas are hard surfaces of compacted road base and gravel and built to a standard that suits the environment and is able to cope with private residential passenger car movements and a small number of light truck and medium rigid vehicles such as delivery and farm trucks.

At maximum capacity the brewery will produce 4 brews per week, that is approximately 6,000 litres with net output being around 270,000 litres per annum. This is the equivalent of 300 pallets of cans, or 10 truckloads.

That means less than one truck per month if fully loaded, but considering a lot of the deliveries will be by us then that number would actually be even less.

BUILDING SETBACKS

The proposed setbacks are generous on all sides and there are no encroachments. There is no overshadowing or other issues with the buildings. Please refer to the site plan for setbacks.

BUSHFIRES

The development area is not within a bushfire prone area. Regardless the developer will maintain firebreaks as required, maintain a small firefighting unit and manage fuel loads through grazing of livestock and slashing as required. This will ensure that there is no environmental damage through uncontrolled wildfire.

SOILS

The development will not have any impact on salinity or other soil degradation. During construction appropriate sediment control measures will be put in place where required. Compost produced by the development as waste by products will be used to build soil organic matter and carbon to increase water holding capacity and productivity of the soils for enhanced plant growth.

Soil fill from the pool excavation will be added to existing batters and fill areas of the Brewpub site.

VEGETATION

The development will have a positive impact upon vegetation. No existing trees will be removed. Significant additional planting of native and deciduous trees, shrubs and groundcovers will occur to enhance the appeal of the development, provide shade, windbreaks and biodiversity. There will be drought hardy, soil binding plants planted to maximise water use and minimise soil erosion. There will provide habitat for native animals and

amenity for visitors. Species will include plants used for traditional cultural heritage uses which will acknowledge the traditional owners of the land.

No vegetation is required to be removed for the pool. The pool area will be landscaped with trees, shrub and lawn once installed.

AIR AND NOISE

There will be no impact on air and noise by the development.

There will be no significant additional noise created by the home industry as the pumps used in the brewery will be contained within the shed and will not contribute more noise than for instance farming equipment such as tractors and motorbikes create. These pumps do not operate for the entire brewing process. There is also significant additional tree planting being undertaken which will further reduce the impact of any noise created from affecting any neighbours. All home industry operations will be predominantly undertaken between 7am and 7pm so will not occur at times inconsistent with general farming activities.

It will not create any pollution which will affect the development, any neighbours or downstream properties. Dust will not be created during the course of brewing and the road will have traffic advisory speed limit of 10km/hr.

THREATENED SPECIES

The development will not have a negative impact on threatened species. No habitat trees will be affected, and the development does not impact upon any flight paths or other habitat characteristics for any threatened species. The development will have positive benefits through the establishment of new habitat corridors on the property which connect to neighbouring habitat as well.

OPERATION TIMES

The home industry will operate up to 7 days a week during regular business hours and deliveries will occur as required. The amount of additional traffic will be limited to approximately 1 truck per month to deliver ingredients or packaging supplies as well as picking up finished product for delivery to wholesale and retail markets.

ENVIRONMENTAL EFFECT

It is anticipated that the proposed development will have no detrimental environment impact based on the following rationale:

- The proposed development is consistent with the local and state legislation.
- The scale and character of the development is consistent with the local surrounds.
- The proposed development will enhance the aesthetic appeal of the existing site.
- The proposed development is contextually sensitive to the surrounding area.
- The processes carried out within the proposed construction will not have detrimental environment effect.

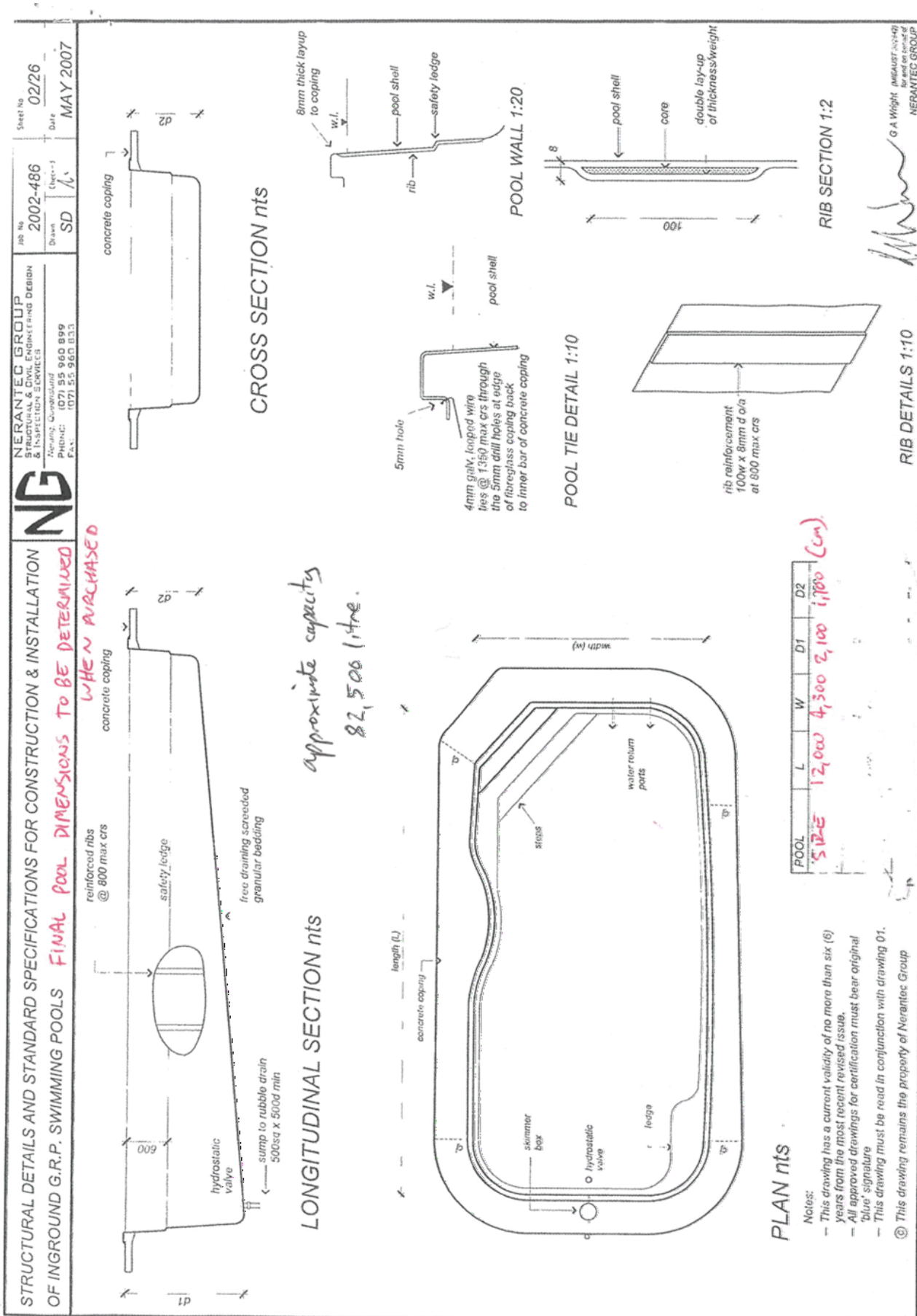
ECONOMIC IMPACT

The development will have a significant positive economic impact. It will add to the cool climate wine region trails and support local employment with no more than 2 non-resident FTE staff required to run all aspects of the home industry. Initially however it is likely that the only employees will be residents of the property.

The Home Industry (brewery) will produce beer for local, national and international consumption and utilise hops grown on the property and grain sourced direct from farmers. Waste water from the brewery will be properly treated and tested as required. A tank for storing waste water will be installed next to the existing shed for treating water as required to ensure it is then suitable for reuse on the farm for supplementary watering of trees and pastures. Spent grain from the brewing system will be fed to livestock on the farm and also provide additional drought support to other local farmers when required. Waste from the facilities will be composted where possible to add to the fertility of the soils on the farm which will lead to increased soil health, biodiversity and soil carbon sequestration outcomes.

SOCIAL IMPACT

The development will have many positive social outcomes. It will also provide benefits to the local community with additional income through employment for the residents and no more than 2 additional employees. These will all result in positive outcomes for the local farming community, the Gundaroo district and the Yass Valley Shire Council.



Jeremy Knox

From: Yass Valley Council <no-reply@wufoo.com>
Sent: Sunday, 10 November 2019 12:42 AM
To: YVC Customer Service Team
Subject: Public Consultation online submission [#111]

Name *

Address * 

Gundaroo, NSW 2620
Australia

Email *

Phone

Number *

What item DA190192 - 4498 Gundaroo Road, Gundaroo
are you
making a
submission
on? *

Submission *

To Whom It May Concern

The site is located in a predominantly rural area where occupiers could reasonably expect a level of amenity concurrent with the property. The use of the property as a entertainment venue introduces a diverse element that by reason of the use is likely to result in noise and disturbance to the detriment of neighbour's residential amenity.

As a resident in proximity to this development I object to the current proposal on the following grounds:

- Inadequate consideration of traffic management particularly turning vehicles onto and off Gundaroo Road currently a 100 km zone. There is no ability to pass a slowing, turning or stopped vehicle let alone multiple vehicles. The development application suggests a much higher volume of traffic with visitors insecure of location.
- Detrimental impact upon residential amenities particularly potential for noise pollution with proposed hours of operation to 12am and potential for 500 guests. This is not deemed appropriate in a residential area, nor should it

be deemed appropriate in a quiet rural area where sound travels easily over long distances. Hours of operation should be limited to 9am to 5pm, 7 days a week if the 'entertainment' venue is approved.

- Noise levels and restrictions have not been suggested nor regulated in the development application. It is the responsibility of the council to ensure development does not encroach current land holders right to peaceful enjoyment of all their possessions, which includes the home and other land.
- Application does not limit special events to a number of events per year, rather 'suggests' 2. Should the application be approved without a specific cap on 'special' events these could be 'continuous'. Such special events should adhere to normal noise restrictions within normal operations if approved.
- The application does not respect the character of the surroundings as rural land. An entertainment venue would be more suitable in a commercial area closer to a population centre.
- Signage does not respect the character of surroundings as currently no signs are present in this area.

I believe the proposal, if approved, it will be to the detriment of the quality, character and amenity of the area, as outlined in the points above.

In conclusion I would also like to request that, should the application be approved, the council consider using its powers to enforce controlled hours of operation and other restrictions that might make the operation of such an entertainment venue to be more bearable.

I would be grateful if the council would take these objections into consideration when deciding this application. I would welcome the opportunity to meet with a representative of the planning department at our home and on site to illustrate our objections at first hand.

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Our Ref: ILM:PB:191771

7 November 2019

General Manager
Yass Valley Council
209 Comur Street
YASS NSW 2582

By Email: council@yass.nsw.gov.au

Dear Sir/Madam,

Notice of Objection – DA 190192

We advise that we act for Gundaroo and
Gundaroo, and
Gundaroo in relation to the development application DA 190192 - 4498 Gundaroo Road,
Gundaroo.

Our client's object to the proposed development application. The objection is based on the following grounds:

1. Zoning

It is submitted that the proposed development is contrary to the RU1 Primary Production zoning of Yass Valley Council. In order for the development to proceed, a rezoning would be required of the lot on which the proposed development is to be established.

Micro-breweries are classified as an industry (but not a rural industry) which is not permitted within rural zoning.

2. Amenity of the area

The proposed development is to be located in an RU1 Primary Production zone. The objectives of this zone are set out in the objectives of the zone in the LEP. One of the objectives is to maintain the rural character of Yass Valley.

People move to RU1 zones to be in an agricultural area with the surrounding views and peace and quiet. It is noted, in the development application, that there could be up to five hundred (500) people at the establishment. Also, there would be playing of loud music.

This clearly impacts upon the amenity of the area, just not only visually but also for the quality of life of the surrounding residents.

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Solicitors
ABN 694 534 12636

3. Noise

Our clients' houses are approximately 400 metres and 200 metres respectively from the proposed development. The proposed development would lead to excessive noise, particularly when functions of up to five hundred (500) people are taking place.

We note in the development application that it is proposed to operate from Thursday to Saturday between 10:00am and midnight and on Sunday between 10:00am and 10:00pm. Further, this may be expanded to seven (7) days per week.

Further there will be vibration from the venue and brewery shed as well as noise from patrons and motor vehicles coming and going.

Clearly our client's enjoyment of their property would be severely impacted by this. It would be unfortunate if the police had to attend almost on a daily basis in response to complaints about noise.

4. Sewerage

We note that it is proposed that unisex toilets be provided which can deal with up to two hundred and fifty (250) people. However, it is noted in the development application at times there will be up to five hundred (500) people on the site. The sewerage system would not be able to cope.

It is noted that the lot for the proposed development is located in the Yass River Catchment Area. This could severely impact the quality of the water in the river if there were to be any failure of the sewerage system.

5. Traffic

There are concerns for traffic safety in the area. The speed limit adjacent to the lot is 100 kilometres per hour. It is a country road. If people are continually turning in and out of the lot, there could be severe issues with traffic safety. This is particularly so if there are going to be large functions and also for buses turning into and out of the site.

6. Erosion concerns

The overflow carpark is not proposed to be sealed. If there are numerous vehicles parking and going to and from unsealed parking areas, there will be significant erosion areas which again may flow into the Yass river as it is part of the catchment area.

Further, impacting on the amenity of the area would be the glare from cars and car windscreens during the day. This would be very detrimental to our client's enjoyment of their property.

7. Devaluation of their property

People move to rural areas, particularly RU1 areas, for a quiet and peaceful lifestyle. They seek rural views and amenity away from industry. The impact of having a micro-brewery conducted in two large sheds with up to 500 people at a time being on the premises with

buses and cars continually coming and going would severely affect the value and marketability of our client's property in a negative way.

8. Wildlife

The area in which the development application relates is currently a wildlife corridor.

Greening Australia has been planting trees and encouraging native animals to use the corridor. The increase in traffic caused by the development would clearly affect the wildlife corridor and could lead to many accidents on the road involving wildlife.

9. Essential Services

All essential services, namely police, fire brigade and ambulance, are located significant distances from the proposed developments.

The proposed development is in an isolated area and could take up to 45 minutes to attend the premises in the case of an emergency.

For all of the above reasons, our clients object to the proposed development.

Yours faithfully,

Marjason & Marjason Solicitors


Ian Marjason - Partner
Accredited Specialist (Advocacy)
Notary Public
Email: ian.marjason@marjason.com.au



Development Application - DA190192 – 4498 Gundaroo Road, Gundaroo

To the officer in charge,

We are immediate neighbours to the north of Tim and Camille and have several concerns about this DA.

The DA is a mixture of several developments – Pool, Brewery/shed conversion, and Brewpub (which is described from a simple caravan/shed to a restaurant/function centre catering for up to 500).

While we are good neighbours of Tim and Camille and want to see their business succeed, the DA as submitted is far too vague and mixed to be approved in its current form.

What we **don't** object to: -

- a) **The pool** at the residence
- b) **The operation of a brewery** in the existing shed, subject to
 - a. **Deliveries** to be in early morning and business hours (not after hours at night)
- c) The setting up of a small sales outlet via another shed and/or caravan, subject to
 - a. Council/RMS addressing the **traffic access** off the main road (see traffic issues below)
 - b. **Hours of operation** to be reasonable such as close at 8pm (maybe 10pm at most)
 - c. **Ambience** improvement – tree planting or other screens to soften the look from the road, perhaps less glare from the car park.
 - d. **Parking** - there is no reference to bus parking
 - e. **Noise** level. If a shed will it be soundproofed and what is the max db level
 - f. **Signage** is not large and distracting (i.e. no neon signs on main road)

What we **do** object to: -

1. The **granting of approval of a restaurant/function centre as defined in the DA**. This should be the subject of another DA with proper consideration for this type of business. The multitude of issues to address from larger traffic management, extra toilet / sewerage, extra parking, extra noise, longer opening hours, licences, and ambience is not adequately covered when they are simply referred to as another section within this DA for a residential pool and conversion of an existing shed.
2. **Public consultation period and extent has been inadequate**. The issues here are
 - a. Three (3) immediate neighbours, ourselves included, were notified in postal mail received on Monday 4th of November giving us only 7 days to respond. This is despite the date of the letter being 24th Oct. *That is too short.*
 - b. Some immediate neighbours, such as _____, were not notified until we let them know some days later. *That is unfair.*
 - c. The potential impact zone is greater than immediate neighbours, and therefore the notification zone *has not been done properly*. The restaurant / function centre as defined in the DA allows (potentially) for a business that can operate 7 days/ week up to midnight and cater for up to 500 people. This clearly has implications that go well beyond 4 immediate boundary neighbours and the impacts could be felt by other

surrounding neighbours up to perhaps a 1 kilometre radius. While Tim and Camille may have good intentions (see their letter in Appendix A) the facts are that this DA could endorse a large development, which ultimately Tim and Camille could on sell and council and neighbours would find themselves unable to combat a transformation of a small business into something much bigger.

3. In particular, council should NOT endorse a new shed which may become a restaurant/function centre that

- a. Operates business hours beyond 10pm (8pm is preferred)
- b. Can have 50 cars/day enter without better traffic /noise management, and parking
- c. Could allow up to 500 guests without strict festival style conditions such as
 - i. Number of events per annum
 - ii. Control of noise and alcohol
 - iii. Serious traffic management
 - iv. Consideration of our farm business practice immediately adjacent that may be affected
 - v. Advanced notice of large events

4. Traffic management if not addressed properly

IMPORTANT INFORMATION TO PASS TO RMS

There are two existing dangerous driving hazards in this immediate area that need consideration by RMS/council in relation to this DA.

- a. **Overtaking and Controlling speed after cresting the hill.** When cars travelling north on Gundaroo Road reach the summit of the hill after the Fairfield bridge they have been slowed behind other cars under double lines for a long distance (about 3k from Gundaroo). As a result, frustrated drivers often overtake at the first chance and the double lines stop just after the hill. This makes turning into ALL nearby farms quite perilous at times. This issue is right at this juncture of this DA. This issue is particularly bad between 5pm-7pm (peak hour at night for commuters) and worse in winter or bad/foggy weather. The same can be said for commuters travelling south in the morning if left turning traffic increases but at the moment it's not as bad as northbound. Accidents have occurred here before (deaths as well as a truck rollover). These entrances affected are ALL entrances (not just 4498) in the 500m or so stretch
 - 4410 – entrance
 - 4483 - Larry Greetham/Gay Williamson's entrance
 - 4450 - Andrew Jones' entrance
 - 4496 - Brian and Jan Whinnen's entrance
 - **4498 - Tim and Camille's entrance**
 - 4425 - Jen Beer's entrance (4525)
 - 4514 - Jed Johnson/Liz Lynzaat's entrance
 - Kerrick Lane entrance (~4600 mark)
- b. **No Armco railing at the point where rollovers/crashes are most likely.** A high drop off occurs immediately after 4498 and extends in front of our entrance at 4514 and opposite up to 4525 where NO Armco safety rail exists. The drop off is up to 3m in places. It has been a recipe for a serious accident. We have attended a truck rollover and know from neighbours of 4 youths who died in a car rollover many years ago. Same

spot. This DA will dramatically increase the probability of accidents and near misses and affected area is not just the entrance of 4498 but about 500m of the roadway before and after the entrance to 4498.

We ask the council to

- Extend the consultation period to all neighbours who missed out on notices as well as for those of us who have been short changed on the time to respond
- Split the restaurant / function centre component from the DA and have it resubmitted as a new DA with a wider public consultation and notification zone
- apply almost all the new restrictions listed in Tim's email at Appendix A at a minimum
- Take traffic management here seriously no matter what you approve as someone will die or be seriously injured otherwise. We know this road intimately having used it for decades.
- Consider how council can impose a condition or other enforcement so that should the restaurant/function centre be approved there is mutual respect for other nearby businesses, including ours. That is, no neighbour's business should be so poorly affected by the other to force one or the other to have to close.

Regards

9/11/19

Bellmount Forest

p.s. Note, council continue to refer to our own address and neighbours as "Gundaroo". We are not, we are all in Bellmount Forest. The next issue we have is to rename the road correctly as Sutton Road – but that is another matter.

Appendix A

This private email sent by Tim and Camille demonstrates the discord between the intent and the actual DA as submitted.

From: Tim & Camille Sides
Sent: Wednesday, 6 November 2019 10:30 AM
To:
Subject: Fwd: 4498 Gundaroo Road DA - Wild Polly Brewing

Sent from my iPhone

Begin forwarded message:

From: Camille & Tim Sides
Date: 5 November 2019 at 9:25:05 pm AEDT
To:

Cc:
Subject: 4498 Gundaroo Road DA - Wild Polly Brewing

Hi _____ and

By now you should have received notification from council regarding our DA for the brewery and brewpub. If not let us know and we can fill you in on what we are doing. (Thanks Jed & Liz for letting us know council was being expedient in getting this happening!).

Being a combined application it might not be clear about the purpose and real intent of each part of the proposal. We have broken it down to a few key elements to clarify any queries.

Brewery (existing shed next to house):

Will not have visitors. It will operate as part of the farm.

The point about "deliveries outside normal business hours" meant that just like when you have a truck coming to pick up sheep to take them to the saleyards, sometimes the truck arrives early in the morning (e.g.: 6.30am) or in the early evening during daylight savings (e.g.: 7pm). We will be similar however this will not be the norm and most deliveries will occur between 8 and 4. Even this would also be quite infrequent, as most of the raw material grain would be delivered only every couple of months, the rest will be part of our own regular comings and goings in our cars.

The brewery won't produce any noise or odours, all the brewing occurs in the shed and will not look, sound or smell any different to the shed as it stands at the moment.

As we are currently working full time the brewing hours are defined as "7 days" to allow us to brew when we can between our day jobs. This won't be working "through the night" or other odd times.

Brewpub / restaurant / function centre (proposed new shed near the road):

This will only be built if the initial brewery concept is successful, within the DA timeframes. Also, in the interim we intend on having a much smaller "cellar door" such as a converted "caravan bar" see attached pictures, for occasional tasting and service and for us to use at events off-farm – this is part of the DA.

The brewpub will be a family-friendly farm feel. See attached photos and website links for examples. It will not be unsightly and will fit in to the landscape / rural environment.

The shed will be insulated to minimise noise going out and heat or cold coming in, there will be substantially more trees around the buildings and between the road and the brewpub than shown on the maps. We intend on having the tree plantings well and truly established before any construction which will reduce any aesthetic impact from neighbouring views of our property as well as act as a noise buffer.

The hours we intend are similar to a cellar door. We envisage this being Thursday to Sunday 11am to 4pm, and public holidays. We will not be open 7 days or open to 12am. Occasionally, as we get fully set up, this may include private functions such as birthdays and weddings. We definitely do not see this as being a regular event. However when we do have a large function booked we will make sure all the neighbours know it is happening well in advance as a common courtesy.

We will not be having bands or "doof-doof" music. Any live music would be to support local musicians such as acoustic guitar / singers etc. We want people to be able to come and have conversations with each other in a relaxed rural setting, not having to yell over the top of the music.

The maximum number of vehicles we have mentioned in the DA would be on the odd occasion a vintage car club / motorcycle tour group turned up, this would be only occasionally, with prior booking, and would most likely require additional event signage / traffic control in coordination with council and any requirements they require. Longer term any additional traffic requirements to make, in particular, the right turn into the entrance heading north, will be as required in consultation with council. We want the road to be safe for visitors, locals and other road users alike

In regard to signage, we are not going to have any neon or other types of lights, all signage will be low key.

Agricultural Practices:

Being farmers ourselves we completely understand agricultural practices such as fertilizer application, dust and animal noises. We know this is part of what happens on a farm and will definitely not be trying to restrict any practices; we want to see this as an opportunity to educate our customers on rural life and being a brewery-in-a-paddock. In fact we are going to encourage visitors to engage with nature and farming life by highlighting our hops orchard, the paddock-to-plate/pint concept of us buying grain direct from farmers and feeding it to our livestock (and potentially yours if we have too much ourselves) and look at the way we have undertaken our native vegetation plantings on the farm for biodiversity.

We want this business to fit around our lifestyle and family, which does not mean working 24/7! We want to be part of the local community and have the business not impacting upon you, our neighbours, or even our own home. We want to contribute to the local economy by purchasing locally where possible and employing local staff.

When we travelled around Australia a few years ago it was the small, family owned businesses that caught our eye, these are just a few examples of near and far locations that we want to build our brewery concept on, as well as some more general ideas;

<https://heiferstation.com/>

<https://fourwindvineyard.com.au/pages/photo-gallery>

<http://bostonbrewing.com.au/>

<https://cowaramupbrewing.com.au/>
<https://www.wilkadene.com.au/history/>
https://www.pinterest.com.au/pin/121597258670794130/feedback/?fsf=undefined&invite_code=4efd3815f81b4e2fa2a1d0f97d806c79&sender_id=121597396097438661

We hope this has clarified a few things. We will be out at the farm this Saturday so feel free to pop over between 12 and 4 to have a chat, see what we are up to. We are sure we can answer any other questions you have about what we want to do. We'll have an esky of Wild Polly for tasting as well!
Cheers
Tim & Camille

Tim, Camille, & Sides

DA190192 – Draft Conditions – 4498 Murrumbateman Road

Proposed Development:	Change of use of existing storage shed into a home industry (beer production only – no retail) and installation of a swimming pool.
Proposed Use:	Beer Production - Home Industry Swimming Pool - Ancillary to Residential Use

PART A - GENERAL CONDITIONS

- (1) Consent is granted generally in accordance with the plans and details submitted to Council with the Development Application. The plans and details have been stamped and attached to this consent. The development must be carried out in accordance with the stamped plans or as modified by these conditions.
- (2) Work on any building shall not commence until a Construction Certificate, complying in all respects with the provisions of the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000* and the Building Code of Australia, has been issued.

Note: A Construction Certificate Application has not been lodged with Council.

- (3) This approval relates only to the development referred to in the development application and specifically does not amount to an approval or acceptance by the Council of any works or buildings already erected on the land, whether or not those works or buildings are the subject of a prior development or building approval.
- (4) The Development Consent is limited to a 'home industry' only which is defined in the Dictionary attached to the *Yass Valley Local Environmental Plan 2013* as:

"means a dwelling (or a building ancillary to a dwelling) used by one or more permanent residents of the dwelling to carry out an industrial activity that does not involve any of the following—

- (a) the employment of more than 2 persons other than those residents,*
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,*
- (c) the exposure to view, from any adjacent premises or from any public,*
- (d) place, of any unsightly matter,*
- (e) the exhibition of any signage (other than a business identification sign),*
- (f) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,*

but does not include bed and breakfast accommodation or sex services premises.

Note. See clause 5.4 for controls relating to the floor area used for a home industry."

In this regard, clause 5.4(3) states:

"If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than 100 square metres of floor area."

- (5) Despite Condition (4) in Part A, at no time shall the use of the proposed development involve the sale of items (whether goods or materials) or the exposure or offer for sale of items directly from the site to the public by retail, cellar door or the like unless otherwise approved in writing by Council;
- (6) The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times to the satisfaction of Council as shall any techniques to suppress dust and the tracking of sediment onto existing sealed roads.
- (7) All adjustments to existing utility services whether caused directly or indirectly by this proposed development are to be undertaken at the developer's expense.
- (8) This development must comply with all requirements of the NSW Food Authority as applicable;

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

- (1) A copy of a quote or invoice of the total cost of labour and materials involved in the proposed development prepared by a suitably qualified builder or quantity surveyor shall be submitted to Council.

If the total cost of works exceeds the amount in the Development Application further fees may be applicable and will need to be paid prior to issuing a Construction Certificate.

- (2) In accordance with section 7.12 *Environmental Planning and Assessment Act 1979* and the Yass Valley Development Contributions Plan 2018, a monetary contribution must be paid to Council if the proposed cost of carrying out the development exceeds \$100,000.

The contribution rate is determined in accordance with the table below:

Proposed cost of carrying out the development	Contribution Rate
Up to and including \$100,000	Nil
More than \$100,000 and up to and including \$200,000	0.5% of that cost
More than \$200,000	1% of that cost

- (3) Fully dimensioned and detailed construction drawings shall be submitted to the Principal Certifier prior to the issue of a Construction Certificate. Drawings shall include a window and door schedule.
- (4) Details of the proposed fixed work platform, walkway and stairway showing compliance with the National Construction Code (NCC) /Building Code of Australia (BCA) and AS 1657 shall be submitted to the Principal Certifier prior to the issue of a construction certificate.
- (5) Structural drawings for the swimming pool prepared by a suitably qualified and experienced Structural Engineer being submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. The plans shall detail:

- (a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas where applicable);
 - (b) Footings of the proposed structure;
 - (c) Structural steel wall frames, roof framing members, beams, columns, bearers, joists and wall/roof bracing (as applicable to the development).
- (6) A Certificate of Adequacy issued by a suitably qualified and experienced Structural Engineer shall be submitted to the Principal Certifier prior to the issue of a construction certificate certifying the adequacy of existing structure to support the additional loads.
- (7) Plans and specifications demonstrating compliance with the National Construction Code (NCC) /Building Code of Australia (BCA) are to be submitted to and approved by the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate.

Where an application for a Construction Certificate is lodged with Council plans, product and general construction specifications submitted shall demonstrate compliance with the Deemed to satisfy provisions of the NCC/BCA.

Significant parts of Volume 1 of the NCC/BCA which must be addressed include (but are not limited to):

Part D - Access and Egress and Access for People with a Disability

Door widths, travel distances, ramps, handrails, door operation etc. Path of travel from the property boundary to the principal entry

Part E - Services and Equipment

Plan indicating location of required essential services, Hydraulic plans where required

Part F2 - Sanitary Facilities including Disabled and ambulant facilities

Details of handrails, toilet location, toilet height, etc. demonstrating AS 1428.1 compliance

The current plans do not show ambulant toilet facilities.

Part J - Energy Efficiency

A report showing compliance with all parts of this section is to be provided with the application for a Construction Certificate.

General Compliance

A building specification which outlines the construction standard of each element of the building (i.e. Glazing to comply with AS 1288 – 2006 – Glass in Buildings – Selection and Installation, Masonry to comply with AS 3700-2001 Masonry Structures etc.)

PART C - PRIOR TO COMMENCEMENT OF WORKS

- (1) Council shall be informed of the name and details of the Principal Certifier and the date construction work is proposed to commence, no later than two days prior to such commencement;
- (2) A waste management plan for the work must be submitted to the principal certifier at least 2 days before work commences on the site. The waste management plan must:

- (a) Identify all waste (including excavation, demolition and construction waste materials) that will be generated by the work on the site, and
 - (b) Identify the quantity of waste material in tonnes and cubic metres to be—
 - (i) Reused on-site, and
 - (ii) Recycled on-site and off-site, and
 - (iii) Disposed of off-site, and
 - (c) If waste materials are to be reused or recycled on-site—specify how the waste material will be reused or recycled on-site, and
 - (d) If waste materials are to be disposed of or recycled off-site—specify the contractor who will be transporting the materials and the waste facility or recycling outlet to which the materials will be taken.
- (3) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (4) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- (5) If a wall on a lot is to be built to a boundary and there is a wall (the adjoining wall) on the lot adjoining that boundary that is less than 0.9m from that boundary, the person having the benefit of the consent must obtain a dilapidation report on the adjoining wall.
- Note:** If the person preparing the report is denied access to the adjoining lot for the purpose of inspecting the adjoining wall, the report may be prepared from an external inspection of the adjoining wall.
- (6) Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
- (a) diverting uncontaminated run-off around cleared or disturbed areas, and
 - (b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
 - (c) preventing the tracking of sediment by vehicles onto roads, and
 - (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- (7) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifier for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.

This sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed

- (8) A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

Note: Clauses 2.67 and 2.68 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specify which scaffolding, hoardings and temporary construction site fences are exempt development and state the applicable standards for that development.

- (9) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet provided must be:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- (c) be a temporary chemical closet approved under the Local Government Act 1993.

- (10) Each Plumber and Drainer that works on the development must notify the Yass Valley Council of their intention to carry out works as outlined in the *Plumbing and Drainage Act 2011*. Such notification is to come in the form of the standard Notice of Work (NoW) form prepared by the Office of Fair Trading.

Note: The minimum amount of notice under this Act is two business days.

PART D – INSPECTIONS

- (1) Critical stage inspections as required by Clause 162A of the *Environmental Planning and Assessment Regulation 2000* must be carried out by the Principal Certifier. Where Council is nominated as the Principal Certifier, inspections will be required at the following stages of construction:

Inspection		Hold Point
(a)	Stormwater	prior to covering any stormwater drainage connections
(b)	Final	All works relating to the proposed development are complete and all conditions of development consent are complied with.

- (2) As the local plumbing and drainage regulator Yass Valley Council must undertake inspections at the following stages of construction:

Inspection		Hold Point
(a)	All internal sanitary drainage.	Prior to backfill;

- | | | |
|-----|--|--|
| (b) | All external sanitary drainage | Prior to backfill; |
| (c) | Connection to Councils stormwater system (street or inter-allotment) | Prior to backfill; |
| (d) | Subsurface land application area and/or surface drip line. | Prior to backfill or covering. |
| (e) | Inspection prior to use of the system. | At point of commissioning of the system. |
| (f) | At the completion of all plumbing and drainage works. | Prior to the occupation of the dwelling. |
- (3) Upon inspection of each stage of construction, the Principal Certifier (or other suitably qualified person on behalf of the Principal Certifier subject to the provisions of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
- (a) Sediment control measures.
 - (b) Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
 - (c) Maintenance of the public place free from any unauthorised materials, waste containers or other obstructions.

PART E – DEMOLITION

- (1) All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601—2001, *The demolition of structures*;
- (2) All utility services are to be disconnected to the requirements of the relevant authorities;
- (3) Asbestos waste, if present in the building proposed to be demolished, is to be removed, handled, transported and disposed of in accordance with *NSW WorkCover* requirements and the provisions of both the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2014*;

Note: There is no waste facility licensed to receive asbestos within the Yass Valley Local Government Area. The nearest suitably licensed waste management facilities are located in Jugiong and Canberra.

- (4) All waste is to be disposed of at a suitably licenced waste management facility. Copies of receipts relating to the disposal of waste must be submitted to the Yass Valley Council upon request.
- (5) The deliberate burning of demolition materials shall not be permitted.
- (6) All demolition work must be carried out totally within the allotment boundaries and must not extend onto public footpath, public roadway or adjoining properties.

- (7) Vehicles transporting demolition material off site shall have loads secured against any loss during transit.

PART F – CONSTRUCTION

- (1) Works must be carried out in accordance with the plans and specifications to which this consent relates.
- (2) All building work shall be carried out in accordance with the provisions of the National Construction Code/Building Code of Australia (as amended) and all relevant Australian Standards;
- (3) Hours for construction - Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- (4) If any part of the work is the erection of a new building, or an alteration or addition to an existing building, that is located less than 3m from the lot boundary, a survey certificate must be given to the principal certifier:

- (a) Before any form work below the ground floor slab is completed, or
(b) If there is no such form work, before the concrete is poured for the ground floor slab.

Note: The survey certificate must be prepared by a registered land surveyor and show the location of the work relative to the boundaries of the site.

- (5) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (6) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.

Note: Copies of receipts relating to the disposal of waste at a licensed waste management facility (or facilities) must be submitted to the Yass Valley Council upon request.

- (7) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- (8) During construction:
- (a) all vehicles entering or leaving the site must have their loads covered, and
(b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- (9) At the completion of the works, the work site must be left clear of waste and debris.
- (10) A sign shall be erected in the pool area containing the words; *“YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL”; “POOL GATES MUST BE KEPT CLOSED AT ALL TIMES”; AND “KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES*

CLEAR OF THE POOL FENCE AT ALL TIMES”, together with details of resuscitation techniques (for adults, children and infants);

- (11) The pool must be erected in accordance with the provisions relating to instructional posters of the document entitled *Policy Statement No. 9.4.2: Guidelines of the Preparation of Posters on Resuscitation*, published by the Australian Resuscitation Council;
- (12) Temporary fencing in accordance with AS1926 “Swimming Pool Safety” must be provided until such time as the proposed pool fencing is installed;
- (13) Pool fences, gates and window/door openings, shall comply with Australian Standards 1926 and the Swimming Pool Act, 1992 and regulations;
- (14) Swimming pool backwash water must be discharged and contained onsite to a suitably vegetated area in a manner which does not impact on the adjoining landowners;

Note: Swimming pool backwash water must not be discharged into an On-Site Sewage Management System.

- (15) The pool, its filter system or the disposal of pool backwash water must not interfere with any effluent application area associated with the On-Site Sewage Management System;

PART G – PLUMBING AND DRAINAGE

- (1) All Plumbing and Drainage work shall comply with the provisions of the Plumbing Code of Australia.
- (2) Plumbing and Drainage shall comply with the provisions of the *Plumbing and Drainage Act 2011* and *Plumbing and Drainage Regulation 2012*.

Note: The *Plumbing and Drainage Act 2011* requires each Plumber and Drainer that works on the development to submit the following information to the Yass Valley Council:

- Notice of Work (NoW);
- Sewer Service Diagram (SSD);
- Certificate of Compliance (CoC).

PART H – STORMWATER DRAINAGE

- (1) If the work is the erection of, or an alteration or addition to, a building, the roof stormwater drainage system must be installed and connected to the drainage system before the roof is installed.
- (2) Stormwater drainage work shall comply with *AS/NZS 3500.3, 2003 - Stormwater drainage*;
- (3) Stormwater collected from the development shall not cause nuisance to adjoining landowners;
- (4) Where up-stream surface water flows through the allotment the development shall not redirect or divert this water in such a manner that would intensify flows onto adjoining properties.

PART I – ONSITE SEWAGE MANAGEMENT FACILITY

<<Conditions to be inserted upon submission of satisfactory onsite waste water management report>>

PART J – CONDITIONS OF TRANSPORT FOR NSW

<<Conditions to be inserted upon receipt from Transport for NSW>>

PART K – BUSINESS IDENTIFICATION SIGNAGE

- (1) Details of any proposed business identification signage that is not 'exempt development' for the purposes of *State Environmental Planning Policy (Exempt and Complying Codes) 2008* shall be submitted to and approved in writing by Yass Valley Council prior to its erection.

PART L - PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

- (1) Prior to the issue of any Occupation Certificate, An application for an occupation certificate must be lodged with the Principal Certifier.
- (2) Prior to the issue of any occupation certificate, all applicable Clauses under Section 6.10 of the *Environmental Planning and Assessment Act 1979* shall be complied with.
- (3) An occupation certificate authorising a person:
 - (a) to commence occupation or use of a partially completed new building, or
 - (b) to commence a new use of a part of an existing building,must not be issued unless the building will not constitute a hazard to the health or safety of the occupants of the building.
- (4) The fire safety measures, as detailed in the relevant Fire Safety Schedule are to be installed and maintained in accordance with the provisions of Clause 168 Environmental Planning and Assessment Regulation 2000.
- (5) A fire safety certificate in accordance with Clause 174 Environmental Planning and Assessment Regulation 2000 is to be submitted to the Yass Valley Council prior to the issue of an Occupation Certificate.
- (6) Prior to the issue of any occupation certificate, certificates of compliance/installation for contractor's works as applicable to the development shall be submitted to the Principal Certifier.

Where Council is nominated as the Principal Certifier, the following certificates will be required as applicable to the development:

- Plumbing/drainage
- Stormwater
- Gas fitting
- Electrical
- Photovoltaic electricity generating system

- Timber Frame
- Waterproofing
- Glazing (windows, glazed doors and shower screens)
- Air-conditioning
- Termite Protection Systems
- Solid Fuel Heater
- Smoke Alarms
- Installation or maintenance of refrigeration systems

As applicable to the works, a copy of the tradespersons license number, name, address and the Australian Standards to which the certificate relates is to be included on the Certificate.

- (7) If the work includes a mechanical ventilation system that is a regulated system within the meaning of the Public Health Act 2010, the system must be notified as required by the Public Health Regulation 2012, before an occupation certificate for the work is issued.
- (8) Prior to the issue of any occupation certificate, A commissioning/installation certificate verifying that the installed Onsite Sewage Management System for effluent disposal, has been installed in accordance with the manufacturer's specifications and the relevant approved On-Site Effluent Disposal report. <<Condition only required if new system or alterations to existing system are proposed>>
- (9) The premises (swimming pool) shall not be occupied until all commitments of the relevant BASIX Certificate have been complied with in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.
- Note:** All critical stage inspections must be carried out in accordance with Section 109E(3)(d) of the *Environmental Planning and Assessment Act 1979* prior to the issue of any Occupation Certificate.
- (10) The applicant is to submit written certification to the Principal Certifying Authority certifying that the development (swimming pool) has been constructed in accordance with the commitments of the relevant BASIX Certificate. Such certification shall make reference to the:
- Address of the site;
 - Development Consent number;
 - BASIX Certificate Number.
- (11) Prior to the issue of Any Occupation Certificate, a copy of the Certificate of Registration is to be submitted to Yass Valley Council certifying that the swimming pool has been registered on the NSW Government Swimming Pool register.

Note: Swimming pools/spas can be registered by going to www.swimmingpoolregister.nsw.gov.au

NOTES ACCOMPANYING DEVELOPMENT CONSENT DA190192

(Please read these notes carefully to ensure you are fully conversant with the conditions under which this consent is granted.)

- (1) This consent has been granted under clause 2.3 and clause 5.4(3) of the Yass Valley Local Environmental Plan 2013;
- (2) All fees and charges associated with this consent shall be adjusted annually from the date of this consent in accordance with seasonal movements in the CPI for the Canberra region;
- (3) Any additional Council inspection, beyond the scope of any Compliance Certificate package and needed to verify the compliance of any work, shall be charged at the individual inspection rate nominated in Council's Fees and Charges Schedule;
- (4) This development consent does not guarantee compliance with land specific agreements, by-laws, covenants, 88B restrictions, community management plans, or other similar development restrictions that may be applicable to the land. It is the responsibility of the land owner, applicant and developer to make their own enquiries in order to be satisfied that compliance with these restrictions has been achieved.
- (5) The applicant shall ensure all sub-contractors are licensed by the NSW Department of Fair Trading;
- (6) The following items shall be considered where the proposed development looks to achieve compliance with the 'deemed to satisfy' provisions of the Building Code of Australia:
 - A complying fire hydrant system must be provided to serve the building. A compliant system satisfies this requirement if it complies with Australian Standard 2419.1 Fire Hydrant Installations – System Design, Installation and Commissioning and Part E1.3 of the Building Code of Australia;
 - Fire Hose Reels shall be designed and installed in the building and/or on-site in accordance with Part E1.4 of the Building Code of Australia and AS 2441;
 - Portable fire extinguishers shall be installed in the building or portions of the building compatible to the hazard/s posed by equipment or functions associated with the use of the building, in accordance with Part E1.6 of the Building Code of Australia and AS 2444 (Portable Fire Extinguishers and Fire Blankets Selection and Location);
 - Required exit doors are to swing in the direction of egress in accordance with clause D2.20 of the Building Code of Australia;
 - The proposed exits are not to be blocked at the point of discharge. Where necessary, suitable barriers must be provided to prevent vehicles from blocking the exit or access to it;
 - A door in a required exit, forming part of a required exit or in the path of travel to a required exit, must be readily openable without a key from the side that faces a person seeking egress, by a single hand action on a single device which is located between 900mm and 1100mm from the floor;

- An emergency lighting system which complies with *AS 2293.1- 2005 Emergency escape lighting and exit signs for buildings* shall be installed within the building;
 - All required exit doors shall be provided with Illuminated exit signage which complies with *AS 2293.1- 2005 Emergency escape lighting and exit signs for buildings*;
 - All new walkways, platforms, ladders, stairs, ramps, landings, handrails or balustrades providing access to the building shall comply with Part D of the *Building Code of Australia*;
 - Access for people with disabilities is to be provided to the building from any required accessible car parking space on the allotment by means of a continuous path of travel in accordance with *AS 1428.1, 'Design for Access and Mobility'*;
 - The accessible sanitary facility and the sanitary facility for persons with ambulant disabilities shall be constructed in accordance with *AS 1428.1: 'Design for Access and Mobility'*;
 - The main points of pedestrian entry into the building shall achieve compliance with *AS 1428.1-2009 'Design for Access and Mobility'*. Particular attention should be given to the following:
 - Colour contrast between the door and the door frame;
 - The width of the door;
 - Door hardware;
 - Tactile ground surface indicators shall be provided in accordance with Clause D3.8 of the *Building Code of Australia*, Volume 1 and *AS1428.4*;
 - Signage shall be provided in accordance with Clause D3.6 of the *Building Code of Australia*, Volume 1 and *AS1428.1*;
 - The unobstructed width of each path of travel to an *exit* must be not less than 1m;
- (7) NSW Health does not recommend the use of groundwater for general domestic purposes including filling swimming pools, without appropriate knowledge of the quality and treatment of the source water. Appropriate treatment of that water including disinfection should then be undertaken to mitigate any risk of pathogenic microorganisms being present in the water. Therefore the advice of a water treatment expert should be sought.
- (8) The *Work Health and Safety Act 2011*, the *Work Health and Safety Regulation 2011* and various Australian Standards provide a comprehensive set of risk control measures and procedures for development sites which cover all types of risk. This legislation is administered by WorkCover New South Wales which has produced a variety of guidelines and other supporting documents for the information of developers.

All persons undertaking work in connection with this consent should ensure that all required risk control measures and procedures are complied with.

- (9) To arrange a building or plumbing inspection please use Council's on-line booking system. Access to the booking system and information about Inspections is available on Council's website - <https://www.yassvalley.nsw.gov.au/our-services/planning-and-building/certification-and-inspections/inspections/>

Your development is in the **Gundaroo area** for the purpose of booking these inspections.

6.5 DEVELOPMENT APPLICATION NO. DA190204 - STORAGE SHED, 32 LUTE STREET, GUNDAROO

SUMMARY

To present the assessment of Development Application DA190204 for the erection of a storage shed at 32 Lute Street, Gundaroo. The proposal is referred to Council as the location of the storage shed is forward of the building line set by the dwelling house and therefore contrary to Council's setback policy. Refusal is recommended.

RECOMMENDATION

That Development Application No DA190204 for a storage shed at 32 Lute Street, Gundaroo be refused on the following basis:

- *It is located forward of the building line set by the dwelling house, contrary to Council's Building Line (Urban) Policy*
- *There is no planning-based merit or justification for a variation to Council's setback policy to be supported*
- *The proposed location would have adverse impact on the established building line and streetscape*

FINANCIAL IMPLICATIONS

Resources for development assessment are provided for in the current Operational Plan.

POLICY & LEGISLATION

- *Environmental Planning & Assessment Act 1979*
- *Environmental Planning & Assessment Regulation 2000*
- Yass Valley Local Environmental Plan 2013
- Yass Valley Community Engagement Strategy
- Building Line – Urban Policy
- Application Assessment and Decision Making Policy

REPORT

1. Application Details

Date Received	-	19 November 2019
Land	-	32 Lute Street, Gundaroo
Area	-	1,900m ²
Zoning	-	RU5 Village

2. Site Description and Locality

The site is located on Lute Street, between Harp Street and Lot Street, at the eastern edge of the Gundaroo village. The area can be characterised as village with development including single detached dwellings. There is a dwelling on the subject land.

A locality plan is included as **Attachment A**.

3. Proposal

The submitted proposal involves the erection of a storage shed (refer **Attachment B**). The location of the proposed storage shed is setback 6m from the Lute Street property boundary, directly in front of the dwelling. A site plan is included in **Attachment C**.

4. Public Exhibition

Public exhibition included notice to four nearby and adjoining property owners. No formal submissions were received.

5. Assessment

An assessment has been completed in accordance with the planning legislation. The proposal does not comply with Council's *Building Line (Urban) Policy* for urban and village areas which requires sheds to be located behind the building line set by the dwelling house on the lot. In this instance the shed is proposed to be directly in front of the dwelling.

The Applicant has requested a variation to Council policy (refer **Attachment D**) on the basis of there being limited laneway access from the back of the property, as well as the location of water and septic tanks.

All properties on the western side of Lute Street between Harp and Lot Street have outbuildings located behind the building line.

The adjoining property to the north is a corner lot fronting Harp Street and has a shed which is located forward of the building line set by the dwelling on the Lute Street frontage. However it is important to note that for this lot Lute Street is the secondary frontage with the recently constructed dwelling presenting to Harp Street. The location of the shed on the adjoining lot does not establish the building line along Lute Street nor does it set a precedent for sheds to be located forward of dwellings in this location. Site photos are included in **Attachment E**, and there is currently a shipping container on the proposed site for the shed.

The possibility of relocating the shed has been discussed with the Applicant. It was discussed that the preference was for the shed to be located in the rear of the property in order to comply with the setback policy. An alternate option of moving the shed so that it was near the northern boundary and closer to the house was also discussed (i.e. at the end of the existing driveway). Although this location would have still been forward of the building line set by the dwelling, it would have still potentially allowed the dwelling to retain street presence, as well as being closer to the shed on the adjoining lot. The Applicant was not receptive to the alternate options proposed and requested that the application be determined based on the current location.

In this regard, the proposed location is not considered to be acceptable and it is being recommended that the Development Application be refused on the following basis:

- It is located forward of the building line set by the dwelling house, contrary to Council's setback policy
- There is no planning-based merit or justification for a variation to Council's setback policy to be supported
- The proposed location would have adverse impact on the established building line and streetscape.

The proposed scale and solid construction would also interrupt views between the existing dwelling to and from the road, and the shed would become the dominant visual feature.

If it is refused, the Applicant can consider lodging a new Development Application for the shed in a more appropriate location as suggested above.

5. Conclusion

From an assessment of the proposal it has been determined that the proposed location forward of the building line and in front of the dwelling house is not acceptable. It is recommended that Development Application DA190204 be refused on the basis of it being contrary to the setback policy, there being

no planning-based merit for the variation, and the proposed location having an adverse impact on the established building line and streetscape.

STRATEGIC DIRECTION

Key Pillar 1. Our Environment

CSP Strategy EN1 - Protect and enhance the existing natural environment, including flora and fauna native to the region

Delivery Program Action EN1.1 - Protect our natural assets in line with community values

Operational Plan Activity EN1.1.1 – Ensure assessment of development applications protects our natural environment

ATTACHMENTS:

- A. Locality Plan [↓](#)
- B. Shed Plans [↓](#)
- C. Site Plan [↓](#)
- D. Variation Request [↓](#)
- E. Site Photos [↓](#)



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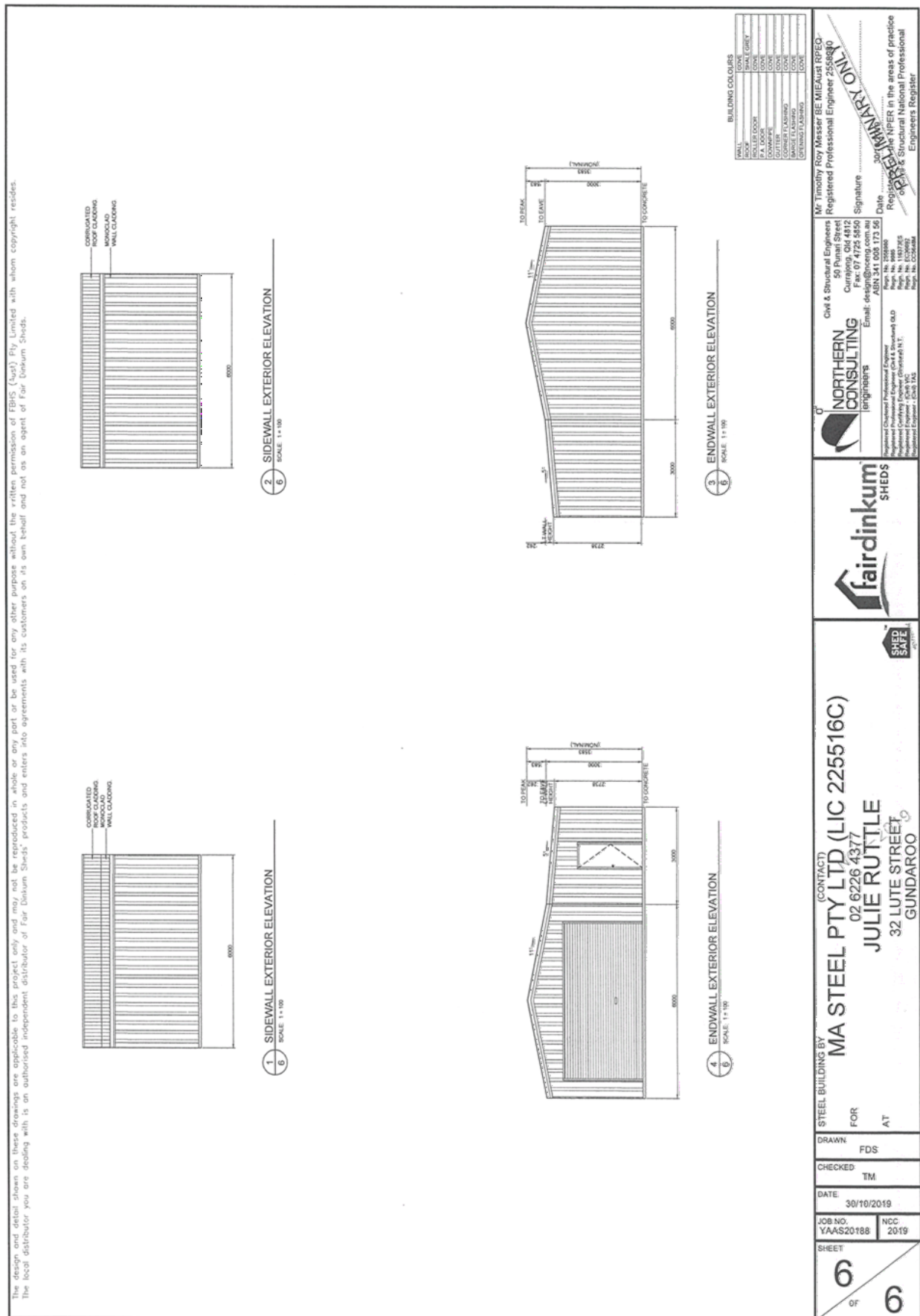
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Map Scale: 1:914 at A4





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the country the people

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Map Scale: 1:300 at A4

30/10/2019

Julie Ruttle
32 Lute St
Gundaroo. NSW. 2620

Att Sue
Yass Shire Council

Please find details for our proposed shed.

As mentioned, it is required to be out the front due to limited laneway access from the back of the property as well as our water and septic tanks would be too close to the structure.

Out the front it will be 12 metres from the house, one metre from the side boundary and approx. 12 metres from the front boundary fence.

Should you require any additional information, please don't hesitate in contacting me.

Regards
Julie





Photo 1: 32 Lute Street



Photo 2: Shed Corner Lot and Lute Streets

6.6 2019/20 COMMUNITY GRANTS

SUMMARY

A report recommending grants to be made through Council's Community Grants Program.

RECOMMENDATION

That:

- The following grants be made under Council's Community Grants Program for expenditure in 2020, subject to incorporation requirements being met:*

Organisation	Grant amount	Purpose
Wee Jasper Community Association	\$4,000	Sanding and sealing of the Wee Jasper Hall dance floor and kitchen floor
Murrumbateman Landcare Group	\$3,200	An ecological survey of the Murrumbateman Bush Cemetery, installation of signs showing images of flora and fauna found in the cemetery and small scale re-seeding of specific areas of the cemetery with tube stock.
Yass Pony Club	\$4,000	Purchase of 20 portable show-jump wings and flags and a jumps trailer.
Yass Railway Heritage Centre	\$2,600	Construction of a replacement roof for a display locomotive.

- Up to \$4,000 of the 2019/20 Community Grants funding allocation be expended on grants application-writing workshops for members of community organisations.*

FINANCIAL IMPLICATIONS

Council allocated \$49,000 to Community Grants in the 2019/20 budget.

POLICY & LEGISLATION

- Community Grants Policy

REPORT

Applications for Community Grants were invited in November 2019 and closed on 20 December 2019. Five applications were lodged by the due date, one of which was subsequently withdrawn. Of the remaining four applications, one did not meet the eligibility criteria, being from an unincorporated entity.

The initiatives proposed by the three remaining applications all address relevant strategies of the Community Strategic Plan and meet all other selection criteria.

The small number of applications in this round is considered to be largely the result of the grants cycle having been delayed due to review of administrative arrangements. In October 2019 Council determined that a partnership with the Foundation for Rural and Regional Renewal for the purpose of administering the Community Grants Program should not proceed. Another round of applications will be invited in July 2020.

The eligible applications were assessed by a panel comprising Council's Community Planner, Councillor Frost and Councillor Jones.

Members of the Panel declared no pecuniary and non-pecuniary interests prior to conducting the assessments.

The assessments are summarised at **Attachment A**.

There is still a large proportion of the 2019/20 Community Grants budget remaining. It is proposed that Council allocate up to \$4,000 to engage a consultant to hold grant application-writing workshops for members of community organisations. This can be expected to contribute to the quality of future grant applications and build capacity within Yass Valley community organisations.

STRATEGIC DIRECTION

Key Pillar	3. Our Community
CSP Strategy	CO2 - Encourage and facilitate active and creative participation in community life
Delivery Program Action	CO2.5 - Support the growth of a diverse range of community events
Operational Plan Activity	CO2.5.1 - Provide access to financial support for development of community events through Council's Community Grants Program

ATTACHMENTS: A. Assessment Schedule for 2019/20 Community Grants [↓](#)

Assessment Schedule for 2019/20 Community Grants

Project number & date received	Applying organisation	Project summary & primary CSP strategy	Funding requested	Source of matched funding	Clear objective, design & budget	Capacity to undertake initiative	Is there an alternative source of funds?	Eligibility criteria met	Funding recommended
1 Received 17/12/19	Wee Jasper Community Association (unincorporated group)	Sanding & sealing of the Wee Jasper Hall dance floor & kitchen floor IN4	\$4,000	Fundraising	Yes	Yes	Possibly Building Better Communities grants	In the process of becoming incorporated	\$4,000
2 Received 19/12/19	Yass Area Network of Landcare Groups (YAN) Inc INC2527618		Application withdrawn 3/2/20 – decided to change design						Nil
3 Received 20/12/19	Murrumbateman Landcare Group (MLG) #2573316	An ecological survey of the Murrumbateman Bush Cemetery, installation of signs showing images of flora and fauna found in the cemetery and small scale re-seeding of specific areas of the cemetery with tube stock EN1	\$3,200	The organisation's existing resources	Yes	Yes	No	Yes	\$3,200

6.6 2019/20 Community Grants
Attachment A Assessment Schedule for 2019/20 Community Grants

4 Received 20/12/19	Yass Railway Heritage Centre INC1700463	Construction of a replacement roof for a display locomotive CO2	\$5,200 – the total cost of the project	Accumulated funds from entry fees and donations	Yes	Yes	The organisation's own funds	Yes	\$2,600
5 Received 20/12/19	Yass Pony Club Y1127840	Purchase of 20 portable show- jump wings and flags and a jumps trailer CO5	\$4,000	Completed fundraising	Yes	Yes	None known	Yes	\$4,000
6 Received 2/1/20	Gundaroo Soldiers Memorial Hall Management Committee Inc Y1791016	Lighting and air circulation upgrades for Hall IN4	\$4,000	Fundraising	No budget provided	Yes	GSMH Mgt Committee has for some years received \$5k pa for hall maintenance works via the YVC projects budget	No – application lodged after closing date and costing details not provided	Nil

7.1 SWIMMING POOLS - FREE ENTRY TRIAL

SUMMARY

In December 2019 Council determined to conduct a trial of the Yass and Binalong Pools to allow free entry on days where the expected temperature was 40°C or above. This report presents the outcomes of this trial.

RECOMMENDATION

That:

1. *The additional impact on 2019/20 operational cost associated with the operation of the Yass and Binalong pools as a result of the 'free entry' trial in December 2019 and January 2020 be noted.*
2. *The application of 'free entry' days to the Yass and Binalong pools be considered as part of the 2020/21 budget deliberations, subject to:*
 - a. *Free entry to Yass and Binalong pools be restricted to residents and ratepayers of Yass Valley Local Government Area except those days where wider natural disasters (such as bushfires) occur.*
 - b. *The number of 'free entry' days be restricted to a maximum of 10 per season, with no more than five in any given month.*
 - c. *No refunds or further rebates being provided to season ticket holders for any given 'free entry' days.*

FINANCIAL IMPLICATIONS

The provision of 'free entry' to the Yass and Binalong pools will negatively impact on the operational budget associated with the Yass and Binalong pools. This impact is expected to be \$8,598.74 for the 2019/20 financial year.

POLICY & LEGISLATION

- *Local Government Act 1993*

REPORT

1. Background

Free entry days were conducted at the Yass and Binalong Pools where days over 40°C predicted 72 hours previously by the Bureau of Meteorology in Yass on:

- 21 December 2019
- 3 January 2020
- 4 January 2020'
- 10 January 2020
- 30 January 2020
- 31 January 2020

A further free entry day in December 2019 was provided by the Pool Supervisor not in accordance with the terms of the Council decision and without the authority or knowledge of senior staff. This matter has been dealt with and for the purposes of this report, this free entry day has been included in the 'free entry day' calculations.

During the period 1 December - 31 January 2020 (refer **Attachments A** and **B**) Council forewent entry fees associated with entry of some 1,148 patrons at Yass and 417 at Binalong over the seven 'free entry' days. Based on an average daily taking of \$2.03 per patron at Yass and \$0.79 per patron at Binalong (taking into account spectator entries at a reduced fee) this represents total forgone entry fees of \$2,662.66; or \$380.38 per 'free entry' day.

2. Labour costs

Excluding pool operating costs associated with management of water quality additional lifeguards were required to be rostered on when the pool was open for free based on a maximum capacity of each pool being reached. This equates to 2 per shift (2 shifts per day) lifeguards at Yass and 1 lifeguards at Binalong or \$790 per day.

Generally 2 (per shift) and 1 lifeguards are rostered on at Yass and Binalong pools respectively; or \$1,287 per day.

3. Other Matters

Council has also received a number of enquiries regarding as to whether those who had purchased season tickets would be provided a proportional refund for the seven free entry days. Based on an average season ticket of \$210 this would equate to a refund of some \$10.08 per ticket holder (family pass) for those seven days.

4. Overall Costs

Therefore to provide the 'free entry' to Yass and Binalong Pools required additional expenditure of \$5,530 for additional lifeguards and \$2,662.66 in foregone entry fees, excluding additional running costs of the pools; or \$8,192.66 over the seven days.

If refunds of memberships and season ticket holders (assuming 282 as some ticket holders include multiple persons)) is also included this equates to \$8,598.74 over the seven free entry days in total; or \$1,228.39 per day.

5. 2019/20 Budget impact

Council currently recoups \$140,000 in user fees associated with the two pools with operating expenses (excluding capital upgrades) of \$312,000; a net operating loss of \$172,000.

Assuming budget estimates were achieved without the 'free entry' days, the current trial of 'free entry' days in December 2019 and January 2020 have increased the net operating loss to \$180,598.74.

6. Social Impact

It is noted that Council received a number of positive comments through its Facebook account, especially during the intense bushfire situation in early January. However it was noted that a number of those patrons who attended the Binalong pool on those 'free entry' days did not reside in the Yass Valley but travelled from areas where pools were not free. Comments were also made that a number of these patrons did not spend money in the pool but brought food and drink with them.

7. Other considerations

Should Council consider such a proposal for the 2020/21 swimming season it may be relevant to restrict free entry to residents and ratepayers of Yass Valley Council except those days where wider natural disasters (such as bushfires) occur.

While it acknowledged that climatic conditions are changing across the region, Council may also wish to consider restricting the number of free entry days to the Yass and Binalong pools across the entire swimming season to manage the impact of such a service on the overall operating expenses for the two pools, noting that on only one day (30 January 2020) the Yass Pool reached capacity (200 persons).

It is proposed that the number of 'free entry' days be restricted to a maximum of 10 per season, with no more than five in any given month for days predicted to be over 40°C 48 hours previously by the Bureau of Meteorology. Based on current 'free entry' day costs this would incur a loss of \$12,283.91 over the proposed 10 days.

It is not proposed to offer refunds or further rebates to season ticket holders for any given 'free entry' days as the purchase of a season ticket already provides a significant discount on entry across the entire season.

8. Summary

The provision of 'free entry' to the Yass and Binalong Pools on days of over 40°C has had a net negative impact on the operating budget of the Yass and Binalong Pools of approximately \$8,598.74. While it is not possible to determine which of the 1,380 patrons who visited the pools on those 'free entry' days would not have done so if the entry was not free Council's reputation has been enhanced through the provision of this service.

STRATEGIC DIRECTION

Key Pillar	4. Our Infrastructure
CSP Strategy	IN4 - Maintain and update existing community facilities, and support the development of new community infrastructure as needed
Delivery Program Action	IN4.1 - Develop and maintain new and existing recreational and community assets to address our communities needs in a sustainable manner
Operational Plan Activity	IN4.1.3 - Maintain and operate Council's commercial assets including swimming pools and Yass Caravan Park

ATTACHMENTS:	A. Free Entry Pool Trial December 2019 ↓
	B. Free Entry Pool Trial January 2020 ↓

Attachment A

Yass Pool

During the period 1 December - 31 December 2019 (note Yass pool was closed on 25 and 26 December due to public holidays) the following statistics were collated:

Membership entries	Free days	171	(average daily patronage 86)
	Other days	1783	(average daily patronage 66)
Daily Entries	Free days	215	(average daily patronage 108)
	Other days	3186	(average daily patronage 118)
Spectator Entries	Free days	0	(average daily patronage 0)
	Other days	214	(average daily patronage 8)
Total Patronage	Free days	386	(average daily patronage 193)
	Other days	5183	(average daily patronage 192)
Daily takings	Free days	\$0	(average daily takings \$0)
	Other days	\$10,818.33	(average daily takings \$400.68)
Kiosk Takings	Free days	\$1,266.09	(average daily takings \$633.00)
	Other days	\$7,765.61	(average daily takings \$287.62)

Binalong Pool

During the period 1 December - 31 December 2019 the following statistics were collated (note Binalong pool was closed on 25 and 26 December due to public holidays):

Membership entries	Free days	45	(average daily patronage 23)
	Other days	321	(average daily patronage 12)
Daily Entries	Free days	48	(average daily patronage 24)
	Other days	163	(average daily patronage 6)
Spectator Entries	Free days	0	(average daily patronage 0)
	Other days	9	(average daily patronage 0)
Total Patronage*	Free days	93	(average daily patronage 47)
	Other days	733	(average daily patronage 27)
Daily takings	Free days	\$0	(average daily takings \$0)
	Other days	\$568.50	(average daily takings \$21.06)

*Includes Swim Club Entries

Attachment B

Yass Pool

During the period 1 January - 31 January 2020 (note Yass pool was closed on 5 January 2020 due to maintenance issue) the following statistics were collated:

Membership entries	Free days	690	(average daily patronage 138)
	Other days	2570	(average daily patronage 99)
Daily Entries	Free days	72	(average daily patronage 14)
	Other days	2565	(average daily patronage 99)
Spectator Entries	Free days	0	(average daily patronage 0)
	Other days	170	(average daily patronage 7)
Total Patronage	Free days	762	(average daily patronage 152)
	Other days	5305	(average daily patronage 204)
Daily takings	Free days	\$25.50	(average daily takings \$5.10)
	Other days	\$10,515.80	(average daily takings \$404.45)
Kiosk Takings	Free days	\$3,239.56	(average daily takings \$647.91)
	Other days	\$7,133.89	(average daily takings \$277.71)

Binalong Pool

During the period 1 January - 31 January 2020 the following statistics were collated:

Membership entries	Free days	242	(average daily patronage 138)
	Other days	530	(average daily patronage 20)
Daily Entries	Free days	52	(average daily patronage 26)
	Other days	207	(average daily patronage 8)
Spectator Entries	Free days	0	(average daily patronage 0)
	Other days	22	(average daily patronage 1)
Total Patronage*	Free days	324	(average daily patronage 162)
	Other days	1059	(average daily patronage 39)
Daily takings	Free days	\$0	(average daily takings \$0)
	Other days	\$839.00	(average daily takings \$31.07)

*Includes Swim Club Entries

7.2 ROAD RESERVE WEED SPRAYING TRIAL

SUMMARY

This report is to present a proposed road reserve priority weed spraying trial on selected roads within Yass Valley with the view to consider expanding this program as part of the 2020/21 budget considerations.

RECOMMENDATION

That:

1. *\$50,000 be allocated from the 2019/20 roads maintenance budget to undertake a limited targeted weed spraying trial along selected sealed roads*
2. *Funding of \$200,000 to undertake a program of maintenance works associated with the spraying of priority weeds along Council managed and maintained road reserves be considered in the 2020/21 Budget deliberations.*

FINANCIAL IMPLICATIONS

Funding for a limited trial on selected roads can be accommodated within existing road maintenance budgets. However consideration of a widening of this service will need to be considered in the preparation of future budgets.

POLICY & LEGISLATION

- *Local Government Act 1993*
- *Protection of the Environment Operations Act 1997*
- *Roads Act 1993*
- *Biosecurity Act 2015*

REPORT

1. Report Details

The ownership (care and control) of public road reserves within NSW is governed by the *Roads Act 1993* with around 2,940km of lineal road reserve (or 1,470km of road) under Council's care and control.

At present, road reserve weed spraying is not specifically funded and is part of the overall road management budget and Council does not currently spray priority weeds within its road reserves. While some spraying is undertaken along our roads, this is confined to the immediate shoulders of the sealed road network and does not extend into the whole of the road reserve.

It was proposed at Council's October 2019 meeting that a cooperative targeted approach to roadside weed management is required. This will be achieved through Council's Environmental Services and Maintenance Management Business Units, together with adjacent property owners, to manage weeds in priority locations rather than across the whole local government area.

In December 2019 it was proposed to undertake a trial of road reserve priority weed spraying in 2019/20 subject to funding being identified within the existing budget to do so. The purpose of this trial was to give guidance to Council in effectiveness of such a limited program of work and the possible required funding for an ongoing Council-wide program to assist in the management of priority weeds along Council's road reserves.

It is not intended for this wider program to manage priority weeds on road reserves or other land not under Council's care and control, including Crown Roads and private Rights of Way and is separate to other control programs associated with open space and resealed road shoulders.

2. Proposed Trial

It is proposed that a cooperative targetted approach to road reserve weed management be conducted, involving Council's regulatory arm (ie Environmental Services for identification), Council's operational arm (ie Maintenance Management) and adjacent property owners (application), to manage weeds in a given locale rather than across the whole of Council at one time.

However this will require an ongoing commitment from both landowner and Council, which over time will increase the commitment required by Council as more and more localities and landowners come on board, with the eventual aim being the whole of the Council being managed effectively.

It is intended that \$50,000 will be allocated from the existing road maintenance budgets to undertake a limited targeted trial along selected sealed roads to assess the effectiveness of the service, costs with the view that the trial ceased should allocated funding be expended. This limited program will allow a one month treatment of blackberry and a one month treatment of other priority weeds (African lovegrass, Bathurst Burr, St John's Wort etc). However there is still uncertainty around of time required as little data is available on infestation densities. it is anticipated that if the 'natural seed bank' cycle can be interrupted in these areas the need to undertake spraying may decrease over time.

It is proposed that the following road reserves to be sprayed under this trial (in order):

- Yass River Road (commencing at Gundaroo Road end) (37.4km)
- East Tallagrandra Lane (commencing at Mulligans Flat Road) (5.7km)
- Spring Range Road (commencing at Barton Highway) (12km)
- Wargellia Road (commencing at Yass Valley Way) (21.9km)
- Red Hill Road (5.9km)
- Ilalong Road (11km)
- Hughsonia Road (13.8km)
- Dog Trap Road (29.9km)

These roads represent distributor roads within the Local Government Area.

3. Program Costs

There continues to be uncertainty around costs to provide a targetted service taking into account the number of landowners who may wish to be involved, the variety of weeds and chemicals, prevailing weather conditions. Additionally the timing of application is also important as this involves the availability of Council resources and the availability of the local landowners resources coupled with optimum application windows.

To date discussions with local qualified service providers have highlighted these uncertainties and the impacts that such uncertainties have on them being able to provide even an indicative cost for such as service and the provision of such additional funds is not likely to have significant impact of current maintenance activities without increasing the overall allocation of funding to road maintenance.

Assuming a targetted approach to road reserve weed management (independent of current roadside spraying activities), the internal provision of such a restricted service involving one work team and supervisor is expected to in the order of \$410,000 in the first instance. This would require the current local sealed roads maintenance budget to be increased from \$400,000 to \$810,000 per annum, with the potential for this to increase to \$1,250,000 over time.

It is proposed that \$200,000 be considered with the 2020/21 budget deliberations to commence a wider service, initially be undertaken by contractors, to enable Council to further evaluate the effectiveness of such a program prior to consideration to a longer term commitment of funding and its quantum.

4. Summary

The conducting of limited trial will provide further information regarding the probable costs associated with the provision of a wider program of works and allow an evaluation of the merits of such a service and the likely impacts of on other programs and services.

STRATEGIC DIRECTION

Key Pillar 4. Our Infrastructure

CSP Strategy IN3 - Maintain and improve road infrastructure and connectivity

Delivery Program Action IN3.1 - Deliver transport asset infrastructure, maintenance, renewal and enhancement programs for urban, rural and regional roads to maintain or improve overall condition

Operational Plan Activity IN3.1.2 - Develop and deliver annual maintenance programs for urban, rural and regional roads based on priority and in accordance with allocated budgets

ATTACHMENTS: Nil

7.3 DRAFT WATER RESTRICTIONS POLICY

SUMMARY

In November 2019 Council determined to place a draft *Water Restrictions Policy* on public exhibition and adopted if no significant submissions were made. Three submissions have been received.

RECOMMENDATION

That the revised draft Water Supply Restriction Policy be adopted

FINANCIAL IMPLICATIONS

Nil

POLICY & LEGISLATION

- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*

REPORT

In November 2019 Council determined to place a draft *Water Restrictions Policy* on public exhibition and adopt if no significant submissions were made. Three submissions have been received (refer **Attachment A**). The issues raised relate to the definition of elderly, shift workers, timeframes and watering methods and are discussed as follows.

- **Elderly Definition**

The definition of 'elderly' within the restriction clarifications has been queried. It is proposed that, for clarity, the definition of elderly be a person over the age of 65.

- **Shift Workers**

One submission raised concerns with shift workers ability to maintain gardens with the timeframes listed in the restrictions.

The current timeframes are considered relevant to the general population. The adoption of alternative timeframes for shift works is not proposed and is considered problematic to enforce.

- **Timeframes**

A suggestion has been made for decreasing time frames with increasing levels of restriction, e.g.:

- Level 1: 3 hours between 6-10pm during Summer and 4-9pm during Winter
- Level 2: 2 hours between 6-10pm during Summer and 4-9pm during Winter
- Level 3: 1 hours between 6-10pm during Summer and 4-9pm during Winter
- Level 4: ½ hour between 6-10pm during Summer and 4-9pm during Winter

This suggestion is considered problematic and likely to be unclear in its adoption and use. The current timed restrictions provide clarity to the general public on when watering can occur and when it cannot.

Another suggestion indicated that where months end on an odd date both even and odd numbered housing can water on the last day of the month. This suggestion is also considered problematic. The odd/even system is generally well understood in the community and has been in place in other areas for many years when water restrictions have been applied.

Clarification has been sought as to restrictions during Autumn and Spring.

With climatic conditions changing and the traditional season timeframes becoming less apparent it is perhaps more useful to utilise the timeframes associated with daylight savings rather than introduce a secondary discussion around seasonal timeframes.

In NSW daylight savings runs from 6 October 2019 to 5 April 2020 and again from 4 October 2020 to 4 April 2021. As these dates are widely published and largely cover a mid-point in both traditional Autumn and Spring seasons there is some logic in adopting a definition of:

- **Summer:** the period to which daylight savings applies in NSW (Australian Eastern Daylight Savings Time or AEDST)
- **Winter:** the period to which daylight savings does not apply in NSW (Australian Eastern Savings Time or AEST)

- **Watering Methods**

The use of hoses with twist based connections, rather than trigger based connections, be allowed for persons with mobility issues has been raised.

Twist based hose connections are likely to be problematic in their application and will allow residents to leave hoses on unattended.

The use of a buckets is currently allowed under Levels 1 to 4 “for essential garden watering only that does not cause pooling or run off”. The use of watering cans under these same conditions is not expected to be detrimental to the water restriction regime.

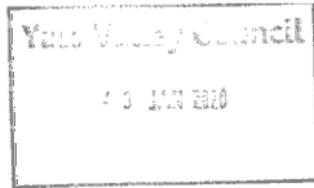
A revised policy reflecting the above discussion along with several administrative changes is included in **Attachment B**. The revised policy is now suitable for adoption.

STRATEGIC DIRECTION

Key Pillar	4. Our Infrastructure
CSP Strategy	IN5 - Ensure high quality water supply options for the towns in the region
Delivery Program Action	IN5.1 - Council to supply quality water, cater for growth and quality enhancements that addresses the community needs
Operational Plan Activity	IN5.1.1 - Council to supply quality water, cater for growth and quality enhancements that addresses the community needs

ATTACHMENTS: A. Submissions [↓](#)
 B. Revised Water Restrictions Policy [↓](#)

Attachment A



Submission 1

The General Manager
Yass Valley Council
PO Box 6
YASS NSW 2582

Dear Sir,

WATER RESTRICTIONS

I wish to have my objection to certain wording in the council recent Water Restrictions notifications

The wording "**Houses only with elderly are allowed to water between 7am-10am on alternative days**"

Is misleading, ambiguous and an insult to people like myself who is a self-funded retiree

I am 88 years of age (elderly) I have in the past 12 months had serious medical problems from which I have fortunately recovered, so far. (Sepsis Septicaemia, Breast Cancer, Bowel Cancer and Hernia problems.

I worked hard for 63 years retiring in 2016 at the age of 84 plus. I am very proud of my self-funded retirement basis and fail to see how your description **people with an aged pensioner concession card** qualifies concession card holders with a right to have special watering hours. Surely the dangers of evening watering (especially trips and falls) applies to **all elderly**

I believe this statement is discriminatory and request it be removed from the council material

Yours sincerely

Submission 2

1 Exert from Draft Policy WS-POL-11 Level 1 water restrictions as resolved by Councillors in November 2019 for actioning 31st of December and as also current policy.

Odd street numbered houses 6.00 pm. to 9.00 pm. in the summer months and 4.00 pm. to 7.00 pm. in the winter months, on odd numbered days;

• Even street numbered houses, 6.00 pm. to 9.00pm. in the summer months and 4.00 pm. to 7.00 pm. in the winter months, on even numbered days.

• Houses only with elderly people are allowed to water between 7.00am and 10.00am on alternative days.

Firstly, for houses with elderly, I think that an "also" needs to be added between **are** and **allowed** or the words **"have the option of"** as I assume that the elderly would have the option to use the evening period or the morning. (poor wording and proof reading by staff and it needs fixing)
Being a bit more pedantic, it would be less confusing if a consistent order were used when stating street numbering, time and season. Also are the alternate days alternate to each other or alternate to the odds and evens?

Then we get to Council's current advertised level 1 water restrictions as changed and advertised by staff.

• Odd street numbered houses on odd numbered days – 6pm to 9pm in the summer months and 4pm to 7pm in the winter months.

• Even street numbered houses on even numbered days – 6pm to 9pm in the summer months and 4pm to 7pm in the winter months.

• Houses only with elderly people (people with an aged pensioner concession card) are allowed to water between 7am-10am on alternative days.

Council staff obviously believe they can add words to what was resolved by Councillors and in doing so choose to discriminate towards self funded retirees, any elderly person who provides for themselves or has family support and probably the disabled and the sick. As an example my mother is 90 years old has no aged pension card and would appreciate flexible watering times.

This changing of the minuted wording is not a new practice but one Councillors should frown upon as it not playing by the rules.

The deal is Councillors create policy and staff enact it. Staff should not add tid bits or anything to Councillor's resolutions. Councillors need to put on hold the draft policy, decide on a definition of who might be exempted, get the wording right and remove **(people with an aged pensioner concession card)** from the advertising or add it to the policy or add something else to the policy, then probably put it out for public exhibition again.

In simpler words Councillors need to take back control.

In the mean time can the community please be advised ASAP as to who exactly is to be believed, staff advertising or Councillor policy. The elderly would like to know when they can water their plants, lawn and veges and would also like to know what Council's definition of elderly is.

Submission 3

Canal@yass.nsw.gov.au

TO: Manager Inlet and Wastewater

RE: ^{Suggestions and} Comments on water supply restrictions

- (1) Need definition of elderly, is it over 55, 65 70 years etc.
Also need to include disabled households with eyesight and mobility problems whatever age.
- (2) Shiftworkers have problems with maintaining restrictions and maintaining a good garden i.e. households who work in Canberra and finish at 7pm would not be home and would rarely be eligible for watering their gardens.
- (3) Wastage of opportunity to water is too small for people waiting some distance away or shiftworkers etc.
Suggest: Level 1 3 hours between summer ^{6-9pm} and winter ^{7-10pm}
Level 2 2 hours " " "
Level 3 1 hour " " "
Level 4 1/2 hour " " "
- (4) Suggest months that end with an odd number of days both even and odd numbers can water otherwise even numbers cannot water for nearly 3 days whilst odd numbers can water for 2 days in a row.
- (5) Hoses are easier to use for households with mobility issues. Some households with difficulties find it hard to twist hose connections easier than the trigger hose connections.
- (6) Can budgets or watering cans be used? i.e. can a watering can be substituted for a budget. Please clarify as it is better to use a watering can as you have more control and less likely to cause runoff etc.
- (7) How will it be monitored?
If you would like to discuss please call

FROM:

3/12/19.

Policy:	WATER SUPPLY RESTRICTIONS	WS-POL-11
Division	Infrastructure And Assetsengineering	
Responsible Officer:	Manager Water & Wastewater	

1. INTRODUCTION

The design of water supply systems generally is such that water supply head-works should be sized so that water restrictions are only necessary on average once every ten (10) years, and when applied, should not be needed on average for longer than six months.

This is in recognition of the fact that:

- It is neither practical, economic nor environmentally responsible to provide “restriction free” water supply systems; and
- A trade-off is necessary between the security of supply i.e. the relative severity of restrictions, and the associated capital and operating costs.

Council’s water supply system is designed in accordance with these parameters, and therefore Council may need to implement water restrictions to secure supply during drought periods.

There may also be times when, due to operational faults, the available stored water or the available capacity of supply to an area of the water supply system is so limited that restrictions are necessary in the water supply system.

2. POLICY OBJECTIVE

Take such steps as are necessary to ensure the continued supply of potable water to consumers.

Promote an integrated framework for dealing with water restrictions.

Ensure consistency and fairness in the manner in which the Council deals with potable water consumers.

Ensure compliance with legislative requirements under the *Local Government (General) Regulation 2005*.

Make the Council's policies and requirements for water restrictions accessible to the public.

3. POLICY SCOPE

This Policy applies on to areas of the LGA serviced by the Yass Water Supply network or the Murrumbateman Water Supply network.

4. POLICY PROVISIONS

Clause 137 ~~of the~~ *Local Government (General) Regulation 2005* allows for restrictions to be imposed.

5. REVIEW

The review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines.

This policy will be reviewed every two years from the adoption date.

6. LEGISLATIVE AND LEGAL FRAMEWORK

This policy is to be read in conjunction with the following:

- Water Supply Policy WS-POL-1.
- Section 637 of the Local Government Act 1993
- Clause 137 of the Local Government (General) Regulation 2005

7. DEFINITIONS

LGA: Local Government Area

Water supply system: The network of pipes and other infrastructure constructed by on or behalf of Council to convey potable water to households in the LGA.

Yass Water Supply network: properties serviced by the Yass Water Treatment Plant

Murrumbateman Water Supply network: properties serviced by the Murrumbateman bore.

Water Restrictions: actions and levels as detailed in Table 1 of this Policy.

8. RESPONSIBILITIES

The General Manager or Director Infrastructure and Assets Engineering may authorise water restrictions in areas of the water supply system if, due to operational faults, the available stored water or the available capacity of supply is so limited that restrictions are necessary. Water restrictions introduced shall be at a level considered necessary to achieve the required reduction in demand.

Customers may apply for exemptions to this policy. The General Manager or Director Infrastructure and Assets may authorise exemptions from water restriction on completion of an application and payment of the appropriate fee published in the Council's Fees and Charge. Exemptions will be considered on the individual circumstances taking into account any water saving measures that have been installed by the applicant.

~~The General Manager or Director Engineering may authorise exemptions from water restriction on completion of an application and payment of the appropriate fee.~~

As soon as practicable following water restrictions being applied due to operational issues, a report detailing the reasons for the water restrictions, the duration or intended duration of restrictions and the numbers of consumers affected shall be reported to the Council.

During Level 4 & 5 Water Restrictions, Council's Stand Pipe Supply will be restricted to residential requirements only within the LGA.

Council's Rangers are delegated to issue penalties for non-compliance with water restrictions under ~~Section 637 of the Local Government Act 1993.~~

9. HISTORY

EMT Review Date	Report to Council	Minute No.	Exhibition Period	Adoption	Rescission Date
Date	27/11/2019		29/11/19-31/12/19	Day after exhibition date if no submissions received	

Table 1 - WATER RESTRICTIONS STAGES

Level 0 - No restrictions

Level	Private	Commercial	Public
Permanent	Sprinklers (include pop-ups and micro sprays) or hand held hoses or drippers that does not cause pooling or runoff.	Same as private usage.	Parks, ovals and gardens watered at minimum level for sustainability.
	Vehicle washing on grassed rather than paved surfaces, no more than once per week using: <ul style="list-style-type: none"> • A bucket or watering can; • A hand held hose fitted with a trigger nozzle. 	No restrictions on commercial vehicle wash operations.	Same as private usage.
	Private swimming pools:- <ul style="list-style-type: none"> • Filling and topping up with a hand held hose only. • Pool covers are encouraged. 	Same as private usage.	Same as private usage.
	Buckets and watering cans can be used anytime for essential garden watering only that does not cause pooling or runoff	Same as private usage.	Same as private usage.
	No hosing of hard surfaces unless cleaning is required as the result of an accident, fire, health hazard or other emergency.	Same as private usage.	Same as private usage.

Level 1 Restrictions

Level	Private	Commercial	Public
Dam 81%	Sprinklers (these include pop-ups and micro-sprays) or hand held hoses or drippers in accordance with the following schedule:	Same as private usage.	Parks, ovals and gardens watered at minimum level for sustainability.
Bore 1.59 L/s	<ul style="list-style-type: none"> • Odd street numbered houses 6.00 pm. to 9.00 pm. in the summer months and 4.00 pm. to 7.00 pm. in the winter months, on odd numbered days; • Even street numbered houses, 6.00 pm. to 9.00 pm. in the summer months and 4.00 pm. to 7.00 pm. in the winter months, on even numbered days. • Houses only with elderly people are allowed to water between 7.00am and 10.00am on alternative days. 		
	Vehicle washing on grassed rather than paved surfaces, no more than once per week using: <ul style="list-style-type: none"> • A bucket or watering can; • A hand held hose fitted with a trigger nozzle. • A high pressure/low volume cleaner. 	No restrictions on commercial vehicle wash facilities.	Same as private usage.
	Private swimming pools:- <ul style="list-style-type: none"> • Filling and topping up with a hand held hose only. • Pool covers are encouraged. 	Same as private usage.	Same as private usage.
Dam 81%	Buckets and watering cans can be used anytime for essential garden watering only that does not cause pooling or runoff.	Same as private usage.	Same as private usage.
Bore 1.59 L/s	No hosing of hard surfaces unless cleaning is required as the result of an accident, fire, health hazard or other emergency.	Same as private usage.	Same as private usage.

Level 2 Restrictions

Level	Private	Commercial	Public
Dam 73.4% Bore 1.53 L/s	Sprinklers (these include pop-ups and micro-sprays) or hand held hoses or drippers in accordance with the following schedule: <ul style="list-style-type: none"> • Odd street numbered houses 7.00 p.m. to 9.00 pm. in the summer months and 4.00 pm. to 6.00 pm. in the winter months, on odd numbered days; • Even street numbered houses, 7.00 pm. to 9.00 pm. in the summer months and 4.00 pm. to 6.00 pm. in the winter months, on even numbered days. • Houses only with elderly people are allowed to water for two hours only between 7.00am and 10.00am on alternative days. 	Same as private usage.	Parks, ovals and gardens watered at minimum level for sustainability.
	Vehicle washing on grassed rather than paved surfaces, no more than once per fortnight using: <ul style="list-style-type: none"> • A bucket or watering can; • A hand held hose fitted with a trigger nozzle. 	No restrictions on commercial vehicle wash facilities	Same as private usage.
Dam 73.4% Bore 1.53 L/s	Private swimming pools:- <ul style="list-style-type: none"> • No emptying of pools without prior written approval. • Refilling or topping up of pools are permitted without prior written approval if the pool is covered when not in use. • Only topping up with a hand held hose only. • Pool covers are encouraged. 	Same as private usage.	Same as private usage.
	Buckets and watering cans can be used anytime for essential garden watering only that does not cause pooling or runoff.	Same as private usage.	Same as private usage.
	No hosing of hard surfaces unless cleaning is required as the result of an accident, fire, health hazard or other emergency.	Same as private usage.	Same as private usage.

Level 3 Restrictions

Level	Private	Commercial	Public
Dam 62.4 Bore 1.47 L/s	<p>Sprinklers (these include pop-ups and micro-sprays) or hand held hoses or drippers for one hour only in accordance with the following schedule:</p> <ul style="list-style-type: none"> • Odd street numbered houses between 7.00 p.m. to 9.00 pm. in the summer months and between 4.00 pm. to 6.00 pm. in the winter months, on odd numbered days; • Even street numbered houses, between 7.00 pm. to 9.00 pm. in the summer months and between 4.00 pm. to 6.00 pm. in the winter months, on even numbered days. • Houses only with elderly people are allowed to water for one hour only between 7.00am and 10.00am on alternative days. 	<p>Same as private usage.</p>	<p>Parks, ovals and gardens watered at minimum level for sustainability.</p>
	<p>Vehicle washing on grassed rather than paved surfaces, no more than once per fortnight using:</p> <ul style="list-style-type: none"> • A bucket or watering can; • A hand held hose fitted with a trigger nozzle. 	<p>No restrictions on commercial vehicle wash operations.</p>	<p>Same as private usage.</p>

Level 3 Restrictions (continued)

Level	Private	Commercial	Public
Dam 62.4% Bore 1.47 L/s	Private swimming pools:- <ul style="list-style-type: none"> No emptying or refilling of pools without prior written approval. No topping up of pools without written approval and only if the pool is covered when not in use. Pool covers are required. 	Same as private usage.	Same as private usage.
	Buckets <u>and watering cans</u> can be used anytime for essential garden watering only that does not cause pooling or runoff.	Same as private usage.	Same as private usage.
	No hosing of hard surfaces unless cleaning is required as the result of an accident, fire, health hazard or other emergency.	Same as private usage.	Same as private usage.

Level 4 Restrictions

Level	Private	Commercial	Public
Dam 52.8% Bore 1.42 L/s	Sprinklers (these include pop-ups and micro-sprays) or hand held hoses or drippers for half an hour only in accordance with the following schedule: <ul style="list-style-type: none"> • Odd street numbered houses between 7.00 p.m. to 9.00 pm. in the summer months and between 4.00 pm. to 6.00 pm. in the winter months, on odd numbered days; • Even street numbered houses, between 7.00 pm. to 9.00 pm. in the summer months and between 4.00 pm. to 6.00 pm. in the winter months, on even numbered days. • Houses only with elderly people are allowed to water for half an hour only between 7.00am and 10.00am on alternative days 	Same as private usage.	Parks, ovals and gardens watering is restricted and permitted on prior written approval.
	Vehicle washing is not permitted.	Vehicle wash is permitted only at commercial car wash facility which holds an exemption allowing use of potable water	Same as private usage.
	Private swimming pools:- <ul style="list-style-type: none"> • Emptying, refilling or topping up of pools is not permitted. • Pool covers are required. 	No topping up of pools without prior written approval and only given if the pool is covered when not in use.	Same as private usage.
	Buckets and watering cans can be used anytime for essential garden watering only that does not cause pooling or runoff.	Same as private usage.	Same as private usage.
	No hosing of hard surfaces unless cleaning is required as the result of an accident, fire, health hazard or other emergency.	Same as private usage.	Same as private usage.

Level 5 Restrictions

Level	Private	Commercial	Public
Dam 45.1%	All external use of town water is banned.	Same as private usage.	Same as private usage.
Bore 1.42 L/s	Vehicle washing is not permitted.	Same as private usage.	Same as private usage.
	Private swimming pools: <ul style="list-style-type: none"> Pool covers are required. All external use of town water is banned. 	Same as private usage.	Same as private usage.
	No hosing of hard surfaces unless cleaning is required as the result of an accident, fire, health hazard or other emergency.	Same as private usage.	Same as private usage.

N.B. "Dam" refers to the level of the Yass Dam, percentage full.

"Bore" refers to the yield of the Murrumbateman Bore.

"Elderly" refers to persons over the age of 65.

"Summer" refers to the period to which daylight savings applies in NSW (Australian Eastern Daylight Savings Tim or AEDST)

"Winter" refers to the period to which daylight savings does not apply in NSW (Australian Eastern Savings Tim or AEST)

~~"Dam" refers to the level of the Yass Dam, percentage full.~~

~~"Bore" refers to the yield of the Murrumbateman Bore.~~

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Version No:	Author: Director Engineering	Doc Type: 30
File Name: Water Supply Restrictions	Adopted:	

8.1 DRAFT UNREASONABLE CONDUCT BY CUSTOMER POLICY

SUMMARY

In November 2019, Council determined to place a draft *Unreasonable Conduct by Customer Policy* on public exhibition and adopt it if no significant submissions were made. One submission was received.

RECOMMENDATION

That Unreasonable Conduct by Customer Policy be adopted as exhibited

FINANCIAL IMPLICATIONS

There are no financial implications attached to a decision about this matter.

POLICY & LEGISLATION

- Unreasonable Complainant Conduct – Practice Manual, May 2012- NSW Ombudsman
- Customer Service Charter
- Code of Conduct

REPORT

In November 2019, Council determined to place a draft *Unreasonable Conduct by Customer Policy* (refer **Attachment A**) on public exhibition and adopt it if no significant submissions were received. One submission has been received (refer **Attachment B**).

As previously reported this policy is closely based on a model policy developed and provided by the Office of the NSW Ombudsman, the lead agency for complaint handling in NSW. One purpose of the NSW Ombudsman's office is to provide resources to agencies and organisations to help them improve the quality, integrity and fairness of their administrative practices and service delivery. Councillors were provided with information about management of complaints and responding to unreasonable conduct by customers and complainants during a presentation in November 2019.

The submission received states there are already sufficient safeguards and he questions the need for such a policy. The submission requests that the draft policy be amended or dismissed. The covering email for the submission includes the following:

2 A new Unreasonable Conduct by Customer policy, CA-POL-05

As the new policy has a inbuilt complaint counter and as I have complained about staff making up the rules and staff changing the minuted words previously I do not wish to use up more points by writing to the General Manager. Should any Councillor wish to restrict or not receive any emails from me please advise and I will ostrich your you.

I ask that a Councillor take the water restrictions matter to Council not as a complaint but as a concerned ratepayer's observation and provide an answer to the community and that I simply be notified of the outcome.

The over arching story here is that while ever Councillors turn a blind eye to staff over reaching their position it empowers staff while dis-empowering those who question. (see attached copy of submission)

I am also providing a copy of the policy to Consumer Affairs as my advice is that it breaks consumer law provisions. It is not legitimate to tie separate matters to each other or restrict services based on such.

I bring Councillors attention to Council's own words.

"Council is committed to ensuring that all customers of Council will be treated fairly and impartially their dealings with Council and to considering all matters based on the specific merits of the specific matter."

Are Councillors sure the Unreasonable Conduct by Customer policy, CA-POL-05, is legal? You have a responsibility to check?

Existing safeguards that negate the need for this new policy have not been identified. Section 23 *Local Government Act 1993* states a Council may do all such things as are supplemental or incidental to, or consequential on the exercise of its functions. This includes the making of policy. Placing restrictions on customer communication, as described by the Office of the NSW Ombudsman, is not barred by any statute in Australia.

This new policy provides a framework of strategies to minimise the often disproportionate and unreasonable impacts of unreasonable customer conduct on Council staff, time and resources. It creates a shared understanding for the community and Council about how we will respond to unreasonable customer conduct. The policy adopts best practice provided by the lead NSW government agency. It is recommended that the policy be adopted with no changes.

STRATEGIC DIRECTION

Key Pillar	5. Our Civic Leadership
CSP Strategy	CL1 - Effect resourceful and respectful leadership and attentive representation of the community
Delivery Program Action	CL1.2 - Address the community's needs in a sustainable manner
Operational Plan Activity	CL1.2.1 – Continue to align with Office of Local Government (OLG) financial ratio benchmarks

ATTACHMENTS: A. Draft Unreasonable Conduct by Customer Policy [↓](#)
 B. Submission [↓](#)

Policy:	UNREASONABLE CONDUCT BY CUSTOMER	CA-POL-05
Division	Finance & Corporate	
Responsible Officer:	Customer Service Coordinator	

1. INTRODUCTION

Yass Valley Council is committed to delivering quality customer service and to communicating effectively with our community.

Yass Valley is committed to being accessible and responsive to all customers who approach Yass Valley Council for assistance with a request for service, request for information or with a complaint.

At the same time the success of our organisation depends on;

- Our ability to do our work and perform our functions in the most effective and efficient ways possible;
- The health, safety and security of our staff, and
- Our ability to allocate our resources fairly across all the complaints we receive.

When customers behave unreasonably in their dealings with us, their conduct can significantly affect our success. As a result, Yass Valley Council will take proactive and decisive action to manage any customer conduct that negatively and unreasonably affects us and will support our staff to do the same in accordance with this policy.

2. POLICY OBJECTIVE

This Policy is aligned to the NSW Ombudsman 'Unreasonable Conduct by Complainants' (UCC) model policy.

Its aim is to ensure that Customers and Yass Valley Council staff:

- Have a clear understanding of the criteria that will be considered before we decide to change or restrict a customer's access to our services.
- Are aware of the processes that will be followed to record and report UCC incidents as well as the procedures for consulting and notifying customers about any proposed actions or decisions to change or restrict their access to our services.
- Are familiar with the procedures for reviewing decisions made under this policy, including specific timeframes for review.

3. POLICY SCOPE

This Policy applies to all staff of Yass Valley Council who deal in customer service.

4. POLICY PROVISIONS

4.1. UNREASONABLE CONDUCT BY CUSTOMERS

Most customers who come to our office act reasonably and responsibly in their interactions with us, even when they are experiencing high levels of distress, frustration and anger about their complaint.

However in a very small number of cases some customers behave in ways that are inappropriate and unacceptable – despite our best efforts to help them. They are aggressive and verbally abusive towards our staff. They threaten harm and violence, bombard our offices with unnecessary and excessive phone calls and emails, make inappropriate demands on our time and our resources and refuse to accept our decisions and recommendations in relation to their complaints. When customers behaving in these ways we consider their conduct to be ‘unreasonable’.

Unreasonable conduct by customers (‘UCC’) is any behaviour which, because of its nature or frequency raises substantial health, safety, resource or equity issues for our organisation, our staff, other service users and customers or the customer himself/herself.

UCC can be divided into five categories of conduct:

- Unreasonable persistence
- Unreasonable demands
- Unreasonable lack of cooperation
- Unreasonable arguments
- Unreasonable behaviours

4.2 Unreasonable Persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a customer that has a disproportionate and unreasonable impact on the Yass Valley Council, staff, services, time and/or resources. Some examples of unreasonably persistent behaviour include:

- An unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and dealt with.
- Persistently contacting Yass Valley Council about the same matter when it has been comprehensively considered and dealt with.
- Pursuing and exhausting all available review options when it is not warranted and refusing to accept further action cannot or will not be taken on their complaints.
- Reframing a complaint in an effort to get it taken up again.
- Bombarding our staff/organisation with phone calls, visits, letters, and emails (including cc’d correspondence) after repeatedly being asked not to do so.
- Contacting different people within our organisation and/or externally to get a different outcome or more sympathetic response to their complaint – internal and external forum shopping.

4.3 Unreasonable Demands

Unreasonable demands are demands (express or implied) that are made by a customer that have a disproportionate and unreasonable impact on Yass Valley Council, staff, services, time and/or resources. Some examples of unreasonable demands include:

- Issuing instructions and making demands about how we have/should handle their complaint, the priority it was/should be given, or the outcome that was/should be achieved.
- Insisting on talking to a senior manager or the [CEO / Director General/ Director / General Manager] personally when it is not appropriate or warranted.
- Emotional blackmail and manipulation with the intention to guilt trip, intimidate, harass, shame, seduce or portray themselves as being victimised – when this is not the case.

- Insisting on outcomes that are not possible or appropriate in the circumstances – e.g. for someone to be sacked or prosecuted, an apology and/or compensation when no reasonable basis for expecting this.

Demanding services that are of a nature or scale that we cannot provide when this has been explained to them repeatedly

4.4 UNREASONABLE LACK OF COOPERATION

Unreasonable lack of cooperation is an unwillingness and/or inability by a customer to cooperate with our organisation, staff, or complaints system and processes that results in a disproportionate and unreasonable use of our services, time and/or resources. Some examples of unreasonable lack of cooperation include:

- Sending a constant stream of comprehensive and/or disorganised information without clearly defining any issues of complaint or explaining how they relate to the core issues being complained about – only where the customer is clearly capable of doing this.
- Providing little or no detail with a complaint or presenting information in ‘drips and drabs’.
- Refusing to follow or accept our instructions, suggestions, or advice without a clear or justifiable reason for doing so.
- Arguing frequently and/or with extreme intensity that a particular solution is the correct one in the face of valid contrary arguments and explanations.
- Displaying unhelpful behaviour – such as withholding information, acting dishonestly, misquoting others, and so forth.

4.5 UNREASONABLE ARGUMENTS

Unreasonable arguments include any arguments that are not based in reason or logic, that are incomprehensible, false or inflammatory, trivial or delirious and that disproportionately and unreasonably impact upon our organisation, staff, services, time, and/or resources. Arguments are unreasonable when they:

- Fail to follow a logical sequence
- Are not supported by any evidence and/or are based on conspiracy theories
- Lead a customer to reject all other valid and contrary arguments
- Are trivial when compared to the amount of time, resources and attention that the customer demands
- Are false, inflammatory or defamatory.

4.6 UNREASONABLE BEHAVIOUR

Unreasonable behaviour is conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated that a customer is – because it unreasonably compromises the health, safety and security of our staff, other service users or the customer himself/herself. Some examples of unreasonable behaviours include:

- Acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks
- Harassment, intimidation or physical violence.
- Rude, confronting and threatening correspondence.
- Threats of harm to self or third parties, threats with a weapon or threats to damage property including bomb threats.
- Stalking (in person or online).
- Emotional manipulation.

Yass Valley Council has a zero tolerance policy towards any harm, abuse or threats directed towards staff.

4.7 RESPONDING TO AND MANAGING UNREASONABLE CONDUCT BY A CUSTOMER

4.7.1 Changing or restricting a Customer's access to Yass Valley Council

UCC incidents will generally be managed by limiting or adapting the ways that we interact with and/or deliver services to customers by restricting:

- **Who they have contact with** – limiting a customer to a sole contact person/staff member in our organisation.
- **What they can raise with us** – restricting the subject matter of communications that we will consider and respond to.
- **When they can have contact** – limiting a customer's contact with our organisation to a particular time, day, or length of time, or curbing the frequency of their contact with us.
- **Where they can make contact** – limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office.
- **How they can make contact** – limiting or modifying the forms of contact that the customer can have with us. This can include modifying or limiting face-to-face interviews, telephone and written communications, prohibiting access to our premises, contact through a representative only, taking no further action or terminating our services altogether.

When using the restrictions provided in this section we recognise that discretion will need to be used to adapt them to suit a customer's personal circumstances, level of competency, literacy skills, etc. In this regard, we also recognise that more than one strategy may need to be used in individual cases to ensure their appropriateness and efficacy.

4.7.2 Who – limiting the customer to a sole contact point

Where a customer tries to forum shop internally within our organisation, changes their issues of complaint repeatedly, reframes their complaint, or raises an excessive number of complaints it may be appropriate to restrict their access to a single staff member (a sole contact point) who will exclusively manage their complaint(s) and interactions with our office. This may ensure they are dealt with consistently and may minimise the chances for misunderstandings, contradictions and manipulation.

Customers who are restricted to a sole contact person will however be given the contact details of one additional staff member who they can contact if their primary contact is unavailable due to taking leave or are otherwise unavailable for an extended period of time.

4.7.3 What – restricting the subject matter of communications that Yass Valley Council will consider

Where customers repeatedly send written communications, letters, emails, or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content or relate to a complaint/issue that has already been comprehensively considered and/or reviewed (at least once) by our office, we may restrict the issues/subject matter the customer can raise with us/we will respond to. For example, we may:

- Refuse to respond to correspondence that raises an issue that has already been dealt with comprehensively, that raises a trivial issue, or is not supported by clear/any evidence. The customer will be advised that future correspondence of this kind will be read and filed without acknowledgement

unless we decide that we need to pursue it further in which case, we may do so on our 'own motion'.

- Restrict the customer to one complaint/issue per month. Any attempts to circumvent this restriction, for example by raising multiple complaints/issues in the one complaint letter may result in modifications or further restrictions being placed on their access.
- Return correspondence to the customer and require them to remove any inappropriate content before we will agree to consider its contents. A copy of the inappropriate correspondence will also be made and kept for our records to identify repeat/further UCC incidents.

4.7.4 When - limiting when and how a customer can contact Yass Valley Council

If a customer's telephone, written or face-to-face contact with our organisation places an unreasonable demand on our time or resources because it is overly lengthy (e.g. disorganised and voluminous correspondence) or affects the health safety and security of our staff because it involves behaviour that is persistently rude, threatening, abusive or aggressive, we may limit when and/or how the customer can interact with us. This may include:

- Limiting their telephone calls or face-to-face interviews to a particular time of the day or days of the week.
- Limiting the length or duration of telephone calls, written correspondence or face-to-face interviews. For example:
 - Telephone calls may be limited to 10 minutes at a time and will be politely terminated at the end of that time period.
 - Lengthy written communications may be restricted to a maximum of 15 typed or written pages, single sided, font size 12 or it will be sent back to the customer to be organised and summarised – This option is only appropriate in cases where the customer is capable of summarising the information and refuses to do so.
 - Limiting face-to-face interviews to a maximum of 45 minutes.
- Limiting the frequency of their telephone calls, written correspondence or face-to-face interviews. Depending on the natures of the service(s) provided we may limit:
 - Telephone calls to 1 every month.
 - Written communications to 1 every month.
 - Face-to-face interviews to 1 every month.

For irrelevant, overly lengthy, disorganised or frequent written correspondence we may also:

- Require the customer to clearly identify how the information or supporting materials they have sent to us relate to the central issues that we have identified in their complaint.
- Restrict the frequency with which customers can send emails or other written communications to our office.
- Restrict a customer to sending emails to a particular email account (e.g. the organisation's main email account) or block their email access altogether and require that any further correspondence be sent through Australia Post only.

Writing only restrictions

When a customer is restricted to 'writing only' they may be restricted to written communications through:

- Australia Post only

- Email only to a specific staff email or our general office email account
- Fax only to a specific fax number
- Some other relevant form of written contact, where applicable.

Any communications that are received by our office in a manner that contravenes a 'write only' restriction will either be returned to the customer or read and filed without acknowledgement.

4.7.5 Where – limiting face to face interviews to secure areas

If a customer is violent or overtly aggressive, unreasonably disruptive, threatening or demanding or makes frequent unannounced visits to our premises, we may consider restricting our face-to-face contact with them.

These restrictions may include:

- Restricting access to particular secured premises or areas of the office – such as the reception area or secured room/facility.
- Restricting their ability to attend our premises to specified times of the day and/or days of the week only – for example, when additional security is available or to times/days that are less busy.
- Allowing them to attend our office on an 'appointment only' basis and only with specified staff. Note – during these meetings staff should always seek support and assistance of a colleague for added safety and security.
- Banning the customer from attending our premises altogether and allowing some other form of contact – e.g. 'writing only' or 'telephone only' contact.

Contact through a representative only

In cases where we cannot completely restrict our contact with a customer and their conduct is particularly difficult to manage, we may also restrict their contact to contact through a support person or representative only. The support person may be nominated by the customer but must be approved by Yass Valley Council.

4.7.6 Completely terminating a customer's access to Yass Valley Council

In rare cases, and as a last resort when all other strategies have been considered and/or attempted, the General Manager may decide that it is necessary for our organisation to completely restrict a customer's contact/access to our services.

A decision to have no further contact with a customer will only be made if it appears that the customer is unlikely to modify their conduct and/or their conduct poses a significant risk for our staff or other parties because it involves one or more of the following types of conduct:

- Acts of aggression, verbal and/or physical abuse, threats of harm, harassment, intimidation, stalking, assault.
- Damage to property while on our premises
- Threats with a weapon or common office items that can be used to harm another person or themselves.
- Physically preventing a staff member from moving around freely either within their office or during an off-site visit – e.g. entrapping them in their home.
- Conduct that is otherwise unlawful.

In these cases the customer will be sent a letter notifying them that their access has been restricted.

A customer's access to our services and our premises may also be restricted (directly or indirectly) using the legal mechanisms such as trespass laws/legislation

or legal orders to protect members of our staff from personal violence, intimidation or stalking by a customer.

4.8 MANAGING CUSTOMERS SEEKING ACCESS TO INFORMATION

The *Government Information (Public Access) Act 2009 (GIPA Act)* provides our customers with a general right of access to information held by Yass Valley Council unless there is an overriding public interest consideration against disclosure of the information, and as long as releasing the information is consistent with privacy, copyright and other legislation. Information is provided proactively, and customers may make either an informal request or a formal access application under the Act.

Information is provided via the informal process either directly by staff as part of business operations, or by the Information Access team in Information Services. All requests for information are assessed and determined in accordance with the legislation.

There is also provision for a customer to make a formal information access application. Formal applications are processed by the Information Access team and final determinations regarding what information is released are made by the Governance team. Formal applications are managed in a structured way under GIPAA that includes application and processing fees, defined response times and appeal provisions.

Customers seeking access to information that Yass Valley Council holds who demonstrate unreasonable conduct can be managed using the following strategies:

4.8.1 Who – limiting the customer to a sole contact officer

Where a customer requests the same information from different staff, it may be appropriate to restrict their access to a single staff member (a sole contact officer) who will exclusively manage their request(s) for information. This will ensure they are dealt with consistently and minimise the chances for misunderstandings.

4.8.2 What – restricting the subject matter of communications that Yass Valley Council will consider

Where customers repeatedly request information that has already been provided, Yass Valley Council may refuse to respond to these requests. The customer will be advised that future correspondence requesting information that has already been provided will be read and filed without acknowledgement.

4.8.3 How – applying GIPAA rules

Under GIPAA:

- A customer requesting information from Yass Valley Council cannot be prohibited from contacting Yass Valley Council.
- Yass Valley Council cannot be required to consider an informal request, or to provide information in response to such a request.
- Yass Valley Council must consider all formal access applications it receives.

Where a request for information causes concern in a business unit because the customer demonstrates unreasonable conduct the business unit may refer the request to the Information Access team within the Information Services Unit.

The Information Access team will assess the request and decide whether to deal with it as an informal request.

If the decision is not to deal with the informal request, the customer will be advised that they have the option of lodging a formal access application. Formal access applications are managed by the Information Access team in accordance with the GIPA Act.

The GIPA Act (s60) allows for refusal to deal with a formal access application only on the following grounds:

- Unreasonable and substantial diversion of resources
- Applicant has previously been provided with the information
- Applicant has previously applied for the same information, and the earlier application has been decided, and there are no reasonable grounds to believe revisiting the matter would result in a different decision.

4.9 ALTERNATIVE DISPUTE RESOLUTION

4.9.1 Using alternative dispute resolution strategies to manage conflicts with customer

If Yass Valley Council determines that services to a customer cannot be terminated in a particular case or that we/our staff bear some responsibility for causing or exacerbating their conduct, they may consider using alternative dispute resolution strategies ('ADR') such as mediation and conciliation to resolve the conflict with the customer and attempt to rebuild our relationship with them.

If ADR is considered to be an appropriate option in a particular case, the ADR will be conducted by an independent third party to ensure transparency and impartiality.

4.10 CHANGING A CUSTOMER'S ACCESS TO YASS VALLEY COUNCIL

4.10.1 Relevant staff will be consulted about their contact with the customer on matters including:

- The circumstances that gave rise to the UCC/incident.
- The impact of the customer's conduct on our organisation, relevant staff, our time, resources, etc.
- The customer's responsiveness to the staff member's warnings/requests to stop the behaviour.
- The actions the staff member has taken to manage the customer's conduct, if any.
- The suggestions made by relevant staff on ways that the situation could be managed.
- Whether the conduct in question involved overt anger, aggression, violence or assault (which is unacceptable in all circumstances).
- Whether the customer's case has merit.
- The likelihood that the customer will modify their unreasonable conduct if they are given a formal warning about their conduct.
- Whether changing or restricting access to our services will be effective in managing the customer's behaviour.
- Whether changing or restricting access to our services will affect the customer's ability to meet their obligations, such as reporting obligations.
- Whether changing or restricting access to our services will have an undue impact on the customer's welfare, livelihood or dependents etc.
- Whether the customer's personal circumstances have contributed to the behaviour? For example, the customer is a vulnerable person who is under significant stress as a result of one or more of the following:
 - Homelessness

- Physical disability
 - Illiteracy or other language or communication barrier
 - Mental or other illness
 - Personal crises
 - Substance or alcohol abuse.
- Whether the customer's response/ conduct in the circumstances was moderately disproportionate, grossly disproportionate or not at all disproportionate.
 - Whether there any statutory provisions that would limit the types of limitations that can be put on the customer's contact/access to our services.

Once Yass Valley Council has considered these factors a decision will be made on the appropriate course of action.

4.10.2 Providing a warning letter

Unless a customer's conduct poses a substantial risk to the health and safety of staff or other third parties, they will be provided with a written warning about their conduct in the first instance.

The warning letter will:

- Specify the date, time and location of the UCC incident.
- Explain why the customer's conduct/ UCC incident is problematic.
- List the types of access changes and/or restrictions that may be imposed if the behaviour continues. (Note; not every possible restriction should be listing on those that are most relevant).
- Provide clear and full reasons for the warning being given.
- Include an attachment that briefly states the standard of behaviour that is expected of the customer. See Appendix A.
- Provide the name and contact details of the staff member who they can contact about the letter.
- Be signed by the relevant Director or General Manager.

4.10.3 Providing a notification letter

If a customer's conduct continues after they have been given a written warning or in extreme cases of overt aggression, violence, assault or other unlawful/unacceptable conduct Yass Valley Council has the discretion to send a notification letter immediately restricting the customer's access to our services (without prior written warning).

This notification letter will:

- Specify the date, time and location of the UCC incident(s).
- Explain why the customer's conduct/UCC incident(s) is problematic.
- Identify the change and/or restriction that will be imposed and what it means for the customer.
- Provide clear and full reasons for this restriction.
- Specify the duration of the change or restriction imposed, which will not exceed 12 months.
- Indicate a time period for review.
- Provide the name and contact details of the senior officer who they can contact about the letter and/or request a review of the decision.
- Be signed by the relevant Director or General Manager.

4.10.4 Continued monitoring/oversight responsibilities

Once a customer has been issued with a warning letter or notification letter Yass Valley Council will review the customer's record/restriction every [3 months], on request by a staff member, or following any further incidents of UCC that involve the particular customer to ensure that they are complying with the restrictions/the arrangement is working.

If Yass Valley Council determines that the restrictions have been ineffective in managing the customer's conduct or are otherwise inappropriate they may decide to either modify the restrictions, impose further restrictions or terminate the customer's access to our services altogether.

4.11 APPEALING A DECISION TO CHANGE OR RESTRICT ACCESS TO YASS VALLEY COUNCIL

4.11.1 Right of Appeal

Customers are entitled to one appeal of a decision to change/restrict their access to our services. This review will be undertaken by a senior staff member who was not involved in the original decision to change or restrict the customer's access. This staff member will consider the customer's arguments along with all relevant records regarding the customer's past conduct. The customer will be advised of the outcome of their appeal by letter.

If a customer continues to be dissatisfied after the appeal process, they may seek an external review from an oversight agency such as the Ombudsman. The Ombudsman may accept the review (in accordance with its administrative jurisdiction) to ensure that we have acted fairly, reasonably and consistently and have observed the principles of good administrative practice including, procedural fairness.

Note: customers making formal application for information from Yass Valley Council have review rights under the GIPA Act. The rights of appeal described in section 8 do not apply to customers making formal GIPAA applications.

4.12 PERIODIC REVIEWS OF ALL CASES WHERE A CHANGE OR RESTRICTION TO ACCESS IS APPLIED

4.12.1 Period of Review

All UCC cases where this policy is applied will be reviewed every 6 months and not more than 12 months after the service change or restriction was initially imposed or continued/upheld.

4.12.2 Notifying the customer of an upcoming review

Yass Valley Council will invite all customers to participate in the review process unless they determine that this invitation will provoke a negative response from the customer (i.e. further UCC). The invitation will be given and the review will be conducted in accordance with the customer's access restrictions (e.g. if contact has been restricted to writing only then the invitation to participate will be done in writing).

4.12.3 Criteria to be considered during a review

When conducting a review Yass Valley Council will consider:

- Whether the customer has had any contact with the organisation during the restriction period.
- The customer's conduct during the restriction period.
- Any information/arguments put forward by the customer for review.
- Any other information that may be relevant in the circumstances.

Note – Sometimes a customer may not have a reason to contact our office during their restriction period. As a result, a review decision that is based primarily on the fact that the customer has not contacted our organisation during their restriction period (apparent compliance with our restriction) may not be an accurate representation of their level of compliance/reformed behaviour. This should be taken into consideration, in relevant situations.

4.12.4 Notifying a customer of the outcome of a review

Yass Valley Council will notify the customer of the outcome of their review using the appropriate/relevant method of communication as well as a written letter explaining the outcome, as applicable. The review letter will:

- Briefly explain the review process.
- Identify the factors that have been taken into account during the review.
- Explain the decision/outcome of the review and the reasons for it.

If the outcome of the review is to maintain or modify the restriction the review letter will also:

- Indicate the nature of the new or continued restriction.
- State the duration of the new restriction period.
- Provide the name and contact details of the Manager Customer Service who the customer can contact to discuss the letter.

4.13 TRAINING AND AWARENESS

Yass Valley Council is committed to ensuring that all staff are aware of and know how to use this policy. All staff who deal with customers in the course of their work will also receive appropriate training and information on using this policy and on managing UCC on a regular basis in particular, on induction.

4.14 OMBUDSMAN MAY REQUEST COPIES OF OUR RECORDS

Yass Valley Council will keep records of all cases where this policy is applied, including a record of the total number of cases where it is used every year. This data may be requested by the Ombudsman to conduct an overall audit and review in accordance with its administrative functions and/or to inform its work on UCC.

5 REVIEW

Yass Valley Council will review the UCC policy biennially (every 2 years).

6 LEGISLATIVE AND LEGAL FRAMEWORK

- Yass Privacy and Personal Information Protection Act 1998
- Health Records Information Privacy Act 2002
- Independent Commission Against Corruption Act 1988
- Government Information (Public Access) Act 2009
- Local Government Act 1993
- Library Act 1939
- Library Regulation 2010
- Protected Disclosures Act 1994
- Ombudsman Act 1974
- Inclosed Lands Protection Act 1901

7 DEFINITIONS

UCC refers to Unreasonable Conduct by Customer



8 RESPONSIBILITIES

The Customer Service Coordinator will provide any necessary support to staff for the operation of this policy and for the development of any procedures for the effective implementation of this policy.


9 HISTORY

<i>EMT Review Date</i>	<i>Report to Council</i>	<i>Minute No.</i>	<i>Exhibition Period</i>	<i>Adoption</i>	<i>Rescission Date</i>
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Document No: CA-POL-05	Created/Revised:10/2019	Review date: 10/2021
Version No:1	Author: Customer Service Coordinator	Doc Type: 30
File Name: Unreasonable Conduct by Customer	Adopted:	

8.1 Draft Unreasonable Conduct by Customer Policy Attachment B Submission

Sun 22/12/2019 3:22 PM

 Yass Valley Council <vcc-reply@wufoo.com>
Public Consultation online submission [#114]

o YVC Customer Service Team

 If there are problems with how this message is displayed, click here to view it in a web browser.
Click here to download pictures. To help protect your privacy, Outlook prevented automatic download of some pictures in this message.

Name *	Touie Smith snr
Address *	<div></div>
	Australia
Email *	
Phone Number *	
What item are you making a submission on? *	Draft "Unreasonable Conduct by Customer" policy
Submission *	<p>I wish to object to the policy in its current form. The draft policy is heavy handed, heavily weighted to staff and open to abuse by aggressive staff.</p> <p>History shows that when General Managers, Directors and senior staff have previously used tactics as outlined in the draft policy that it has only inflamed the situation and in most cases ended up in Council backing down and being embarrassed.</p> <p>There are already sufficient safeguards for management and staff and I question the need for the policy in its current form.</p> <p>I ask that Councillors amend or dismiss the policy.</p>

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8.2 INVESTMENT AND BORROWINGS REPORT

SUMMARY

In accordance with Clause 212 *Local Government (General) Regulation 2005*, this report provides a summary of Council's investments as at 31 January 2020. In accordance with paragraph (1)(b), it can be certified that the investments listed have been made in accordance with the Act, the Regulations and Council's Investment Policy.

RECOMMENDATION

The Investment Report as at 31 January 2020 be received and it be noted that the summary has been prepared in accordance with the Act, the Regulations and Council's Investment Policy.

FINANCIAL IMPLICATIONS

Council's investment portfolio provides funding for some projects identified in the Operational Plan.

POLICY & LEGISLATION

- *Local Government Act 1993*
- *Local Government General Regulation 2005*
- Investment Policy

REPORT

1. Comments on Economic Climate

Interest rates have been maintained at the existing rate of 0.75% at the RBA's February meeting. The Board indicated that with interest rates already at very low levels, keeping interest rates steady recognised the lags in the impacts of monetary policy on the economy.

2. Council Investments

Valuations of Council investments are detailed in **Attachment A**.

Details of investment compliance with Council's Investment Policy are provided in the tables below.

Table 1 – Exposure by Credit Rating Type as at 31 January 2020

S&P Rating (or equivalent)	Exposure	Maximum % Invested per Policy
A1+/AAA	Nil	100%
A1/AA	72.59%	100%
A2/A	Nil	60%
A3/BBB	6.38%	30%
N/A	21.03%	<i>Note 1</i>

Note 1 – The TCorp Strategic Cash Facility is an allowable investment under the Ministerial Order.

Table 2 – Exposure to Single Institutions at 31 January 2020

Institution	S&P Rating (or equiv)	Exposure	Max Exposure per Policy
NAB	A1/AA	42.18%	50%
IMB	A3	6.38%	30%
CBA	A1/AA	30.41%	50%
TCorp	N/A	21.03%	<i>Note 1 above</i>

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3. Council Loans

Council has four loans with an estimated 31 January 2020 value of \$17.518m. It should be noted that there may be small balance variations as current balances are based on indicative payment schedules. The table below provides loan details at 31 January 2020. Indicative repayments for 2019/20 are shown for both principal and interest for all current loans. Balances will not change on a monthly basis as the most frequent repayment cycle is quarterly. The NSW Treasury interest free loan (\$7.5M), sourced for the raising of the dam wall, has been completed with the final payment of \$750k having been made in December 2019.

	Current Balance	Interest rate	Comment	Principal 2019/20	Interest 2019/20
General Loan	\$834,638	5.91% fixed	To be fully repaid in 2020/21	\$ 645,058	\$ 53,967
Sewer - CBA Loan for Sewer Infrastructure	\$4,027,201	4.82% fixed	Payable over 20 years, fully repaid in 2035/36	\$ 168,053	\$ 195,684
Water – NSW Treasury Loan for Dam wall	\$0	Interest free	FULLY REPAID December 2019	\$ 750,000	\$ -
Water – Dam wall	\$9,155,120	6.96% fixed	Total loan over 30 years. Fixed rate period of 10 years to 2022, to be renegotiated at that time.	\$ 250,019	\$ 665,199
Water - Yass to Murrumbateman water supply (Tcorp)	\$2,263,730	2.55% fixed	Payable over 10 years.	\$ 215,714	\$ 59,786
Water main and pump station upgrades (Tcorp)	\$1,236,883	2.55% fixed	Payable over 10 years.	\$ 117,864	\$ 32,666

STRATEGIC DIRECTION

Key Pillar 5. Our Civic Leadership

CSP Strategy CL1 - Effect resourceful and respectful leadership and attentive representation of the community

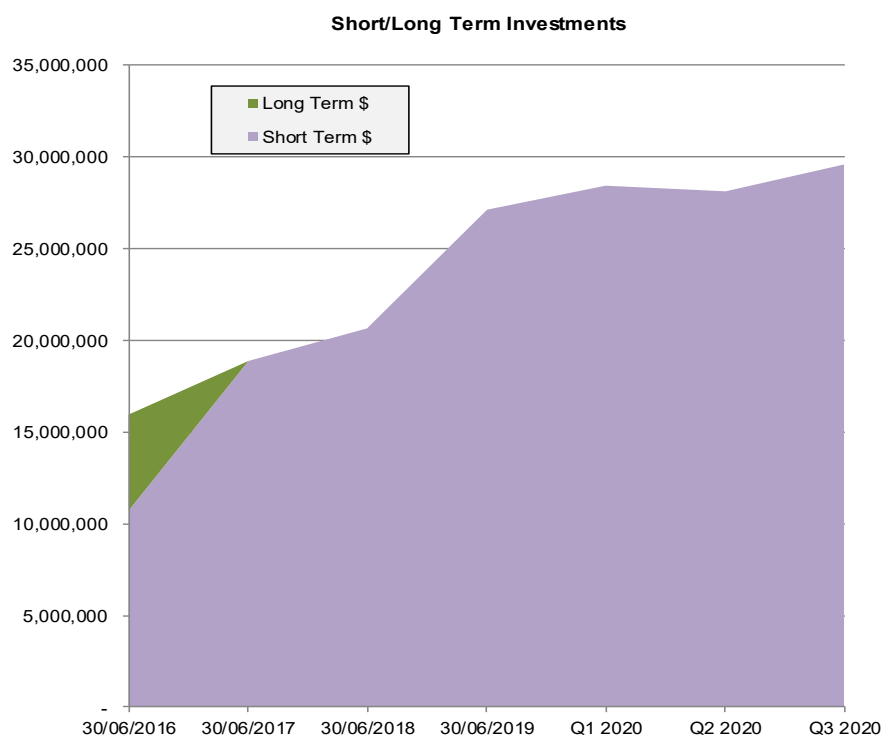
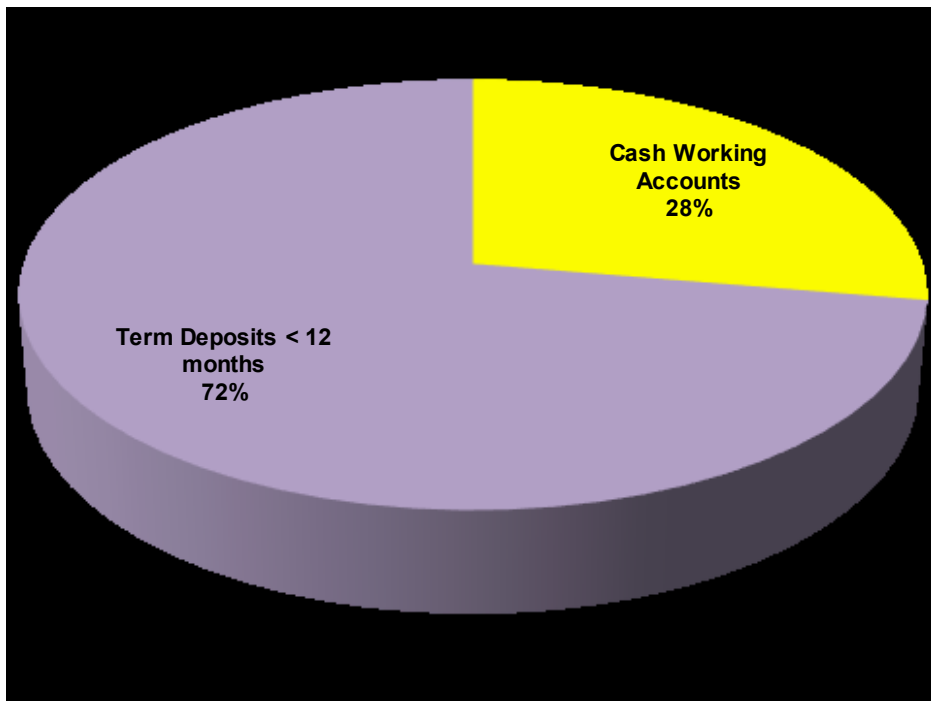
Delivery Program Action CL1.6 - Maximise Council's ability to generate income

Operational Plan Activity CL1.6.3 - Review commercial activities to ensure Council is maximising returns

ATTACHMENTS: A. investment Valuations [↓](#)

Short Term Investments (Cash Accounting) as at 31 January 2020

Investment Type	Par Value \$	Market Value \$	Maturity	Rate	Interest \$ July 19 to June 20
Cash Working Accounts					
NAB Working Account	8,194,495.66	8,194,495.66	n/a	0.75%	35,148.32
	8,194,495.66	8,194,495.66			35,148.32
Term Deposits < 12 Months					
IMB 29876	1,762,743.00	1,762,743.00	1/05/2020	1.55%	33,201.34
IMB - Youth Bequest	125,107.13	125,107.13	1/05/2020	1.55%	2,686.05
NAB Term Deposit	2,690,340.10	2,690,340.10	27/07/2020	1.10%	33,627.42
NAB Term Deposit	1,597,239.98	1,597,239.98	30/03/2020	1.60%	28,993.20
CBA	2,084,974.36	2,084,974.36	3/02/2020	1.45%	39,117.28
CBA	1,175,558.73	1,175,558.73	10/03/2020	1.36%	10,086.50
CBA	2,111,084.41	2,111,084.41	3/02/2020	1.62%	15,706.72
CBA	1,577,474.88	1,577,474.88	28/05/2020	1.43%	11,908.83
CBA	2,049,181.29	2,049,181.29	12/02/2020	2.21%	15,483.49
Tcorp Strategic Cash Facility	6,224,497.67	6,224,497.67	at call	n/a	59,819.60
Interest Recalled Funds *					-
	21,398,201.55	21,398,201.55			250,630.43
Total Short Term	29,592,697.21	29,592,697.21			285,778.75
Investment Property					
Hawthorn - Current Fair Value		3,900,000.00	Revalued April 2017		
* Refers to interest received in the current financial year for investments no longer held by council					



8.3 RATE ARREARS

SUMMARY

To update Council on rate arrears to the end of the second quarter of the 2019/20 financial year.

Rate arrears totalled \$1,289,675.96 as at 30 June 2019 and this has now been reduced to \$540,578.36 as of 31 December 2019. This represents an improvement of \$749,097.60 or 58.08%.

RECOMMENDATION

That the report on rate arrears be noted

FINANCIAL IMPLICATIONS

Nil.

POLICY & LEGISLATION

Rate arrears are closely monitored and debt recovery is fully compliant with Council's *Debt Recovery Policy*.

REPORT

Table 1 – Arrears as of 31 December 2019

	Rates and Charges Levied (includes interest)	Paid 1 July to 31 December	Balance Outstanding	% Paid (1 July to 31 December)
Arrears to 30/6/2019	\$1,289,675.96	\$749,097.60	\$540,578.36	58.08
Current Years Rates, Charges and Interest billed since 1/7/19	\$17,731,423.73	\$9,318,768.16	\$8,412,655.57	52.56
TOTALS	\$19,021,099.69	\$10,067,865.76	\$8,953,233.93	52.93

Table 2 – Summary of Prior Year's Outstanding Balance as of 31 December 2019

Year	No of Assessments	Amount	Details
2004/2005	1	\$201.52	Proposed Private Cemetery in Middle of Crown Land – Never Developed – No Burials (1)
2005/2006	1	\$309.09	As Above
2006/2007	1	\$342.02	As Above
2007/2008	1	\$437.26	As Above
2008/2009	5	\$2,373.52	As Above / Private Cemetery (2) / Pt Bendenine Rd (1) / Pt Riverbank Park (1) / Vacant Block Kangiara Village (1)
2009/2010	5	\$3,497.44	As Above
2010/2011	5	\$3,408.90	As Above
2011/2012	5	\$3,923.27	As Above
2012/2013	5	\$4,277.60	As Above
2013/2014	5	\$4,628.24	As Above

2014/2015	9	\$12,591.21	As Above / 2 Properties Subject of Ongoing Debt Recovery action – Owner Declared Bankrupt / 2 Additional Properties With Payment Arrangement
2015/2016	10	\$14,106.71	As Above / Additional Property With Payment Arrangement
2016/2017	18	\$23,179.97	As Above / 6 Additional Properties With Payment Arrangements / 2 Additional Properties Subject of Ongoing Debt Recovery Action
2017/2018	62	\$81,544.39	As Above / All Additional Properties With Either Payment Arrangements or Subject of Ongoing Debt Recovery Action
2018/2019	431	\$385,757.22	As Above
	TOTAL	\$540,578.36	

Legend – (1) – Owner(s) Deceased – (2) – Company Deregistered

Many long term debts have now been either satisfied or have payment arrangements in place. It is proposed to sell all eligible properties without payments agreements for overdue rates in 2020 under s713 *Local Government Act 1993*.

Table 3 – Rates and Charges Levied and Payments Made 1 July to 31 December

	Rates and Charges Levied (includes interest)	Paid 1 July to 31 December	Balance Outstanding	% Paid (1 July to 31 December)
1/7/16 – 31/12/16	\$14,199,906.83	\$7,859,115.68	\$6,340,791.15	55.35%
1/7/17 – 31/12/17	\$15,298,237.70	\$8,322,210.22	\$6,976,027.48	54.40%
1/7/18 – 31/12/18	\$16,558,376.08	\$8,493,908.86	\$8,064,467.22	51.30%
1/7/19 – 31/12/19	\$17,731,423.73	\$9,318,768.16	\$8,412,655.57	52.56%

Note: Special rate variation in place 2016/17 to 2019/20

The rate arrears as of 30 June 2019 showed an outstanding balance of \$1,289,675.96 which has now been reduced to \$540,578.36 as shown in **Table 1**. The yearly breakup of these arrears is shown in **Table 2**.

The Rates and Charges Levied and the payments made up until the end of the financial year is shown in **Table 3**. Also included are comparative figures for the previous three financial years. It can be seen that the percentage of rates and charges paid has slightly decreased over the past two years. This decrease in rates paid may partially be due to the special rate variation being in place but the majority of the decrease can be attributed to the lack of debt recovery action over the last 18 months. This matter is currently being addressed.

STRATEGIC DIRECTION

Key Pillar 5. Our Civic Leadership

CSP Strategy CL4 - Actively investigate and communicate funding sources and collaboration opportunities that can strengthen the region

Delivery Program Action CL4.1 - Monitor and distribute information from government agencies relating to funding opportunities

Operational Plan Activity CL4.1.1 - Provide information to community organisations on funding opportunities

ATTACHMENTS: Nil

8.4 SIX MONTHLY REPORTING ON THE 2017/18- 2020/21 DELIVERY PROGRAM AND 2019/2020 OPERATIONAL PLAN

SUMMARY

In line with the Integrated Planning and Reporting Framework, Council is required to prepare every six months, a report on progress against the actions and activities identified in its Delivery Program and Operational Plan. This report contains the status of actions and activities undertaken for the period 1 July 2019 to 31 December 2020. This report will be placed on Council's website.

RECOMMENDATION

That the six monthly Progress Report for the 2017/18 – 2020/21 Delivery Program and 2019/20 Operational Plan for period 1 July 2020 to 31 December 2020 be noted

FINANCIAL IMPLICATIONS

Reports progress against Council's adopted Key Performance Indicators for the Delivery Program and Operational Plan and has no direct financial impact.

POLICY & LEGISLATION

- *Local Government Act 1993*
- *Local Government Regulations 2005*
- *Integrated Planning and Reporting Framework*

REPORT

The report provided at **Attachment A** tracks progress against the actions and activities adopted by Council in its 2017/18 – 2020/21 Delivery Program and 2019/20 Operational Plan across the period 1 July 2019 to 31 December 2020.

The report highlights significant achievements against the Community Strategic Plan for all the actions and activities that have been completed, but also summarises actions that have not completed.

STRATEGIC DIRECTION

Key Pillar	5. Our Civic Leadership
CSP Strategy	CL1 - Effect resourceful and respectful leadership and attentive representation of the community
Delivery Program Action	CL1.4 - Be compliant, more efficient and effective
Operational Plan Activity	CL1.4.2 - All regulated compliance is adhered to

ATTACHMENTS: A. Operational Plan Performance Reporting July 2019 to December 2019 (*Under Separate Cover*) ➡

8.5 2ND QUARTER BUDGET REVIEW 2019/20

SUMMARY

This report represents the 2nd Quarterly Budget Review Statement (QBRs) for the period 1 October 2019 to 31 December 2019 in the financial year ending 30 June 2020.

RECOMMENDATION

That:

1. *The 2nd Quarterly Budget Review Statement adjustments as detailed in the attachments be adopted and the relevant income and expenditure budget adjustments be approved.*
2. *In accordance with the Local Government (General) Regulation (NSW) Clause 203 (2)(a), Council's financial position as at 31 December 2019 is satisfactory, having regard to revised projected estimates of income and expenditure, and the original budgeted income and expenditure.*

FINANCIAL IMPLICATIONS

Full details of the financial implications of this quarter's QBRs are contained within the following report.

POLICY & LEGISLATION

- *Local Government Act 1993*
- *Local Government General Regulation 2005*
- QBRs Guidelines, Office of Local Government 2010

REPORT

1. Background

In accordance with Clause 203 (Budget Review Statements and Revision of Estimates) *Local Government (General) Regulations 2005*:

- (1) Not later than 2 months after the end of each quarter, the responsible accounting officer of a Council must prepare and submit to the Council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the Council's Revenue Policy included in the Operational Plan for the relevant year, a revised estimate of the income and expenditure for that year.
- (2) A budget review statement must include or be accompanied by:
 - (a) A report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the Council is satisfactory, having regard to the original estimate of income and expenditure; and
 - (b) If that position is unsatisfactory, recommendation for remedial action.

In accordance with Clause 211 (Authorisation of expenditure) *Local Government (General) Regulations 2005*:

- (1) A council, or a person purporting to act on behalf of a council, must not incur a liability for the expenditure of money unless the council at the annual meeting held in accordance with subclause (2) or at a later ordinary meeting:
 - (a) has approved the expenditure, and

- (b) has voted the money necessary to meet the expenditure.

2. Budget Review

The Quarterly Budget Review Statement (QBRs) presents a summary of Council's financial position at the end of the second quarter for the financial year ended 30 June 2020.

The quarterly budget review process is the mechanism through which Council and the community are informed of Council's progress against the Operational Plan (annual budget), together with recommendations for changes and reasons for any budget variations.

The QBRs appear as **Attachment A**, and has been produced in accordance with the guidelines and standards issued by the Office of Local Government.

Council is provided with a breakdown of the budget and actuals by functional/service unit and key performance indicators (financial ratios). Staff have undertaken a mapping process to ensure this information is accurate.

2.1 Summary

Council's operational revenue is currently \$22m which is on track to achieve the budget forecast of \$30m. This variance is expected and is due to phasing and timing differences. Operational expense of \$12.4m (including depreciation) is currently under budget, which is readily attributable to phasing of some annual expenditures.

Capital Revenue is under budget on an annualised basis. This is due to the timing of the grant payments being received, and dependent on the achievement of relevant milestones. Capital Expenditure (including commitments) is currently in line with the revised budget forecast of \$34m.

2.2 Operational Budget Result

As a result of this budget review, Council's projected year end net operating result before capital items is expected to reduce slightly from a revised budgeted surplus of \$2.151m at 30 September 2019 to a budgeted surplus of \$2.868m at 31 December 2019 for 2019/20 financial year.

2.3 Capital Budget Result

As a result of this budget review, Council's anticipated expenditure on capital items is expected to be \$33.685m for 2019/20. This increase is a result of grant funding for the upgrade of the water treatment works and an integrated water catchment management strategy for water and sewer funds.

2.4 Commentary on Key Variances

\$55k extra Rates Income due to the timing difference between calculation of the levy for the estimates and the actual levy in July;

An additional \$44.5k will be received for the Financial Assistance Grant;

\$786k has been received for the sale of Southern Phone shares. This amount has been put into a reserves for future infrastructure use;

Information Communication & Technology - \$50k increase in expenditure for computer software and \$35k phone costs transferred from Engineering;

Engineering Management has a \$100k saving due to staff vacancies of which \$62k for a staff position being transferred to local roads and a \$23k reduction in Road Safety costs;

\$130k reduction in Planning income due to general downturn in development proposals;

\$112k Oak Hill and other works related to grants from prior years;

\$60k net reduction in expenditure for Economic Development & Tourism;

\$39k Library increase in expenditure related to grants from prior years;

Water & Sewer have extra funding to complete the water treatment works improvements and complete an integrated water catchment management strategy.

STRATEGIC DIRECTION

Key Pillar 5. Our Civic Leadership

CSP Strategy CL1 - Effect resourceful and respectful leadership and attentive representation of the community

Delivery Program Action CL1.4 - Be compliant, more efficient and effective

Operational Plan Activity CL1.4.2 - All regulated compliance is adhered to

ATTACHMENTS: A. Q2 Budget Review Statement [↓](#)



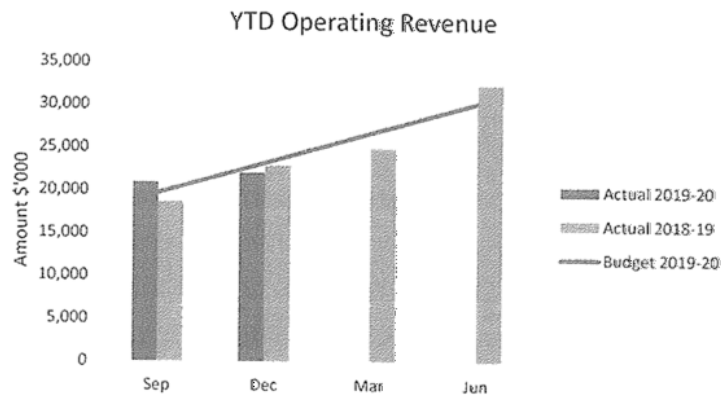
Quarterly Budget Review Statement
for the period 01/10/19 to 31/12/19

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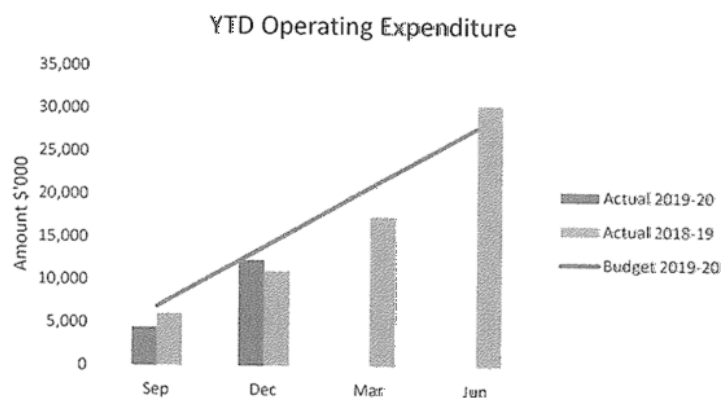
Yass Valley Council

Quarterly Budget Review Statement
for the period 01/10/19 to 31/12/19

Key Performance Indicator (KPI) Budget Review Statement

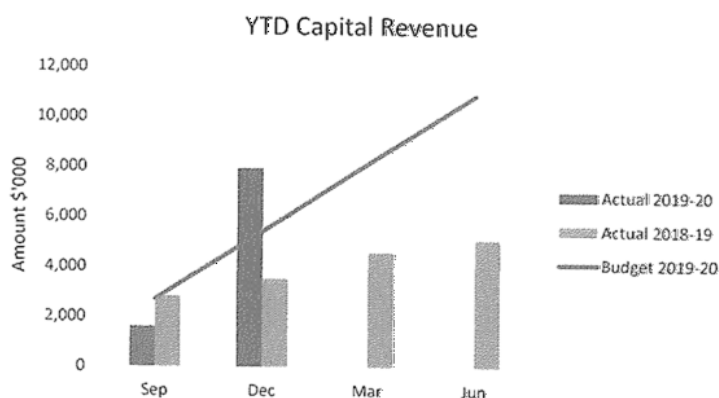


Comments:
• Operating Revenue of \$22m is in line with the budget forecast of \$30m



Comments:
• Operating Expenditure is currently \$12.4m which is \$1.7m under budget on a proportional basis.

• This is due to the timing of some operational expenditure, which could be seasonal, semi-annually or annually



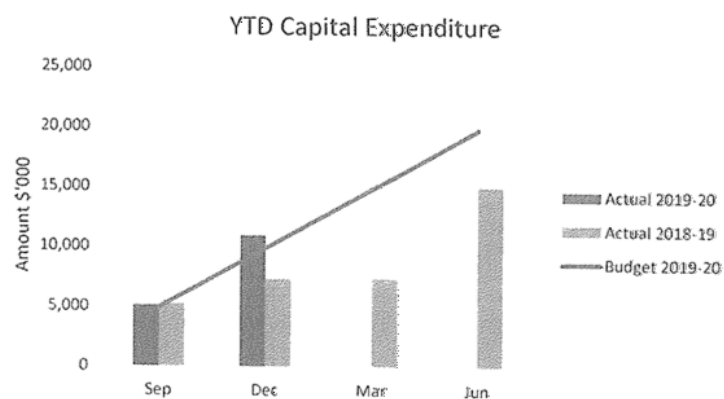
Comments:
• Capital Income is currently \$8m which is lower than forecast for this time of the financial year

• This is due to the timing of the grant payments being received, as some of the payments are only made after the projects are completed, or certain criteria are met.

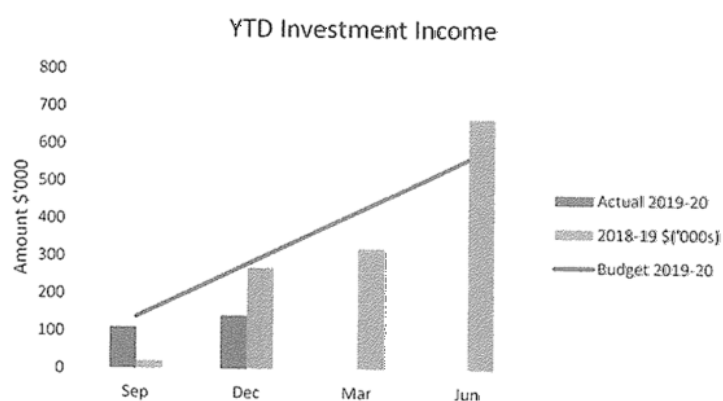
Yass Valley Council

Quarterly Budget Review Statement
for the period 01/10/19 to 31/12/19

Key Performance Indicator (KPI) Budget Review Statement



Comments:
• Capital Expenditure is currently \$11m which is well below the budget forecast for this time of year



Comments:
• Investment income is expected to reach budgeted figures.
• The timing of the maturing dates for term deposits has an impact on this.

Yass Valley Council

Quarterly Budget Review Statement
for the period 01/10/19 to 31/12/19

Income & Expenses Budget Review Statement

Budget review for the quarter ended 31 December 2019

Income & Expenses - Council Consolidated

(\$000's)	Original Budget 2019/20	Approved Changes		Revised Budget 2019/20	Variations for this Dec Qtr	Notes	Projected Year End Result	Actual YTD figures
		Carry Forwards	Other than by QBRs					
Income								
Rates and Annual Charges	17,355	-	-	17,355	55	1	17,410	17,613
User Charges and Fees	5,713	-	-	5,713	(141)	2	5,572	2,263
Interest and Investment Revenues	583	-	-	583	(20)	3	563	111
Other Revenues	839	-	-	839	3		842	408
Grants & Contributions - Operating	5,759	-	-	5,793	46	4	5,839	1,683
Grants & Contributions - Capital	10,883	-	-	6,480	1,392	5	18,755	7,856
Net gain from disposal of assets	-	-	-	-	786	6	786	96
Share of Interests in Joint Ventures	-	-	-	-	-		-	-
Total Income from Continuing Operations	41,132	-	-	47,646	2,121		49,767	
Expenses								
Employee Costs	11,773	-	-	11,773	(328)	7	11,445	5,214
Borrowing Costs	1,329	-	-	1,329			1,329	208
Materials & Contracts	5,324	-	204	5,528	346	8	5,874	1,829
Depreciation	5,976	-	-	5,976			5,976	2,988
Other Expenses	3,526	-	-	3,526	(6)		3,520	2,153
Net Loss from disposal of assets	-	-	-	-			-	-
Share of interests in Joint Ventures	-	-	-	-			-	-
Total Expenses from Continuing Operations	27,928	-	204	28,132	12		28,144	12,392
Net Operating Result from Continuing Operation	13,204	-	-	19,514	2,109		21,623	(12,392)
Discontinued Operations - Surplus/(Deficit)	-	-	-	-	-		-	-
Net Operating Result from All Operations	13,204	-	-	19,514	2,109		21,623	(12,392)
Net Operating Result before Capital Items	2,321	-	-	2,151	717		2,868	(20,248)

This statement forms part of Council's Quarterly Budget Review Statement (QBRs) for the quarter ended 31/12/19 and should be read in conjunction with the total QBRs report

Yass Valley Council

Quarterly Budget Review Statement
for the period 01/10/19 to 31/12/19

Income & Expenses Budget Review Statement
Recommended changes to revised budget

Budget Variations being recommended include the following material items:
Additional detail regarding key variations is contained in the body of the report.

Notes Details

1	Increase in general rates due to variations in rate structure from original estimates until time of rate levy - \$55k
2	A reduction in planning & building activity has caused a decrease in user fees & charges in the Planning division - (\$141k)
3	Dividend payments from Southern Phone will cease due to the sale of Council's share in the company - (\$20k)
4	A small increase of \$45k to the Financial Assistance Grant has been included in the budget review to match payments being received this year
5	Capital Grants for the Water Treatment Plant upgrade and Integrated Water Catchment Management Plan for Water & Sewer Funds have resulted in an increase to the budgeted income for this year - \$1.392m
6	The sale of Southern Phone shares has resulted in an increase to the budget for sale of assets - \$786k
7	Staff vacancies have resulted in a reduction of salaries paid this year - \$328k
8	The use of consultants for various projects such as software development and performance reporting and the use of contractors to complete day to day tasks have resulted in an increase to the Materials and Contract costs - \$346k

Yass Valley Council

Quarterly Budget Review Statement
for the period 01/10/19 to 31/12/19

Capital Budget Review Statement
Recommended changes to revised budget

Budget Variations being recommended include the following material items:
Additional detail regarding key variations is contained in the body of the report.

Notes Details

1	Proposed land acquisition for water capital works - \$100k
2	Capital works for the Water Treatment Plant upgrade and Integrated Water Catchment Management Plan for Water & Sewer Funds have resulted in an increase to the budgeted capex for this year - \$1.52m
3	Capital income to match the Water and Sewer Capex is \$1.392m
4	The sale of Southern Phone shares has resulted in an increase to the budget for sale of assets - \$786k

Yass Valley Council

Quarterly Budget Review Statement
for the period 01/10/19 to 31/12/19

Cash & Investments Budget Review Statement

Comment on Cash & Investments Position

Investments

Investments have been invested in accordance with Council's Investment Policy.

Cash

The Cash at Bank figure included in the Cash & Investment Statement totals \$7,162,099

This Cash at Bank amount has been reconciled to Council's physical Bank Statements.
The date of completion of this bank reconciliation is 31/12/19

Reconciliation Status

The YTD Cash & Investment figure reconciles to the actual balances held as follows: \$ 000's

Cash at Bank (as per bank statements)	6,807
Investments on Hand	21,312

Reconciled Cash at Bank & Investments	<u>28,119</u>
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Balance as per Review Statement:	<u>28,119</u>
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Difference:	-
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Yass Valley Council

Quarterly Budget Review Statement
for the period 01/10/19 to 31/12/19

Consultancy & Legal Expenses Budget Review Statement

Consultancy & Legal Expenses Overview

Expense	YTD Expenditure (Actual Dollars)	Budgeted (Y/N)
Consultants	208,091	Y
Legal Fees	33,146	Y

Definition of a consultant:

A consultant is a person or organisation engaged under contract on a temporary basis to provide recommendations or high level specialist or professional advice to assist decision making by management. Generally it is the advisory nature of the work that differentiates a consultant from other contractors.

9.1 INDEPENDENT OMBUDSMAN

SUMMARY

To present a report seeking clarification on the terms of reference for the engagement of an Independent Ombudsman service to review several unresolved complaints.

RECOMMENDATION

That:

1. *An Independent Ombudsman service (or similar arrangement) be engaged to review the complaints raised by the owners in respect of matters not relating to the Liberty Theatre referred to in the Probity Report (noting that not every matter will be suitable for review due to the age of the underlying incidents, or because relevant staff are no longer employed by Council, or where the prospect of remedy is unavailable or unlikely in all the circumstances)*
2. *Centium be endorsed to undertake this service*

FINANCIAL IMPLICATIONS

The cost of the Independent Ombudsman service is approximately \$8,000 - 10,000.

POLICY & LEGISLATION

- Council Resolution 28 August 2019
- Procurement Policy

REPORT

1. Background

In August 2019 Council determined that an Independent Ombudsman service be engaged to review the complaints by the property owners that do not relate to the Liberty Theatre.

The decision to appoint an Independent Ombudsman service was based on the findings of the Probity Report into the Liberty Theatre i.e.

Council consider the appointment of an independent Ombudsman service (or similar arrangement) to review the complaints raised by the owners in respect of matters not relating to the Liberty Theatre (noting that not every matter will be suitable for review due to the age of the underlying incidents, or because relevant staff are no longer employed by Council, or where the prospect of remedy is unavailable or unlikely in all the circumstances)

The Probity Report made mention of several unresolved complaints that had been raised by Mr and Mrs Smith in interviews with the reviewers. Unfortunately these matters were not detailed in the report.

The Council decision was that the engagement of the Ombudsman service be only to review the complaints mentioned (but not detailed) in the Probity Report. This was not an open ended decision for an independent service for every past, existing and future complaint by the Smiths.

As the report did not detail these unresolved matters Mr and Mrs Smith were requested to detail them so that quotations for the engagement of an Independent Ombudsman service could be sought on a known scope of works and to meet best value objectives under Council's *Procurement Policy*. Mr Smith provided a list of 20 matters that needed to be reviewed. This was used as the basis for seeking two quotations.

Centium were appointed to provide the Independent Ombudsman service. Their proposal (refer **Attachment A**) made reference to the Probity Report and did not simply rely on the wording of the Council resolution. The proposal was prepared in the context of the entire officer report, Probity Report and the Council decision.

2. Request

The Smiths recently placed any discussions with Centium on hold pending consideration of the following matters:

- Clarification of the Council's August 2019 resolution
- Action by staff that may have compromised the impartiality of the Independent Ombudsman
- Cost of the Independent Ombudsman service and staff time and costs

Representations by the Smiths are included in **Attachment B**.

3. Intent of Resolution

The intent of the resolution was to engage an Independent Ombudsman service to review the complaints mentioned (but not detailed) in the Probity Report. This process was to enable the Smiths to air their concerns to a third party and at arm's length from Council and staff. This was not an open ended decision for every past, existing and future complaints by the Smiths. Staff acted in accordance with the resolution and sought to procure the service of an Independent Ombudsman on this basis.

4. Process Concerns

There was some concerns by the Smiths regarding the process and an explanation was provided (refer **Attachment C**).

The Smiths were also advised that the only alternative, if the Independent Ombudsman service was not acceptable, was to rely on the NSW Ombudsman's Office to review the matters at arm's length from Council and staff.

In a meeting with the Smiths on 10 October 2019 advice was provided that there was scope to refine the list of concerns (but not to fundamentally change them) once the initial interview with the Independent Ombudsman had taken place.

The Smiths subsequently provided a list of 20 matters to be examined.

5. Background Information

The Independent Ombudsman indicated that a review of Council documents in relation to the complaints was one of their key tasks.

The 230 page document provided by staff (refer **Separate Enclosure**) was provided to the Independent Ombudsman as background material to the 20 matters raised by the Smiths. No judgement was made in respect of this information. The information was compiled by staff and provided to the Independent Ombudsman to meet this requirement.

6. Costs

The engagement of the Independent Ombudsman is approximately \$8,000 to \$10,000.

Staff time in procuring the service and contract supervision, responding to information requests and records searches are not separately accounted for. These are part of the cost of employing staff in the organisation. However the following estimate of the time and costs involved to date is provided:

Officer	Tasks	Estimated hours	Estimated Cost
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			(excluding overheads)
General Manager	Defining scope of work	5.0	\$650
	Seeking quotes	2.0	\$260
	Meeting with the Smiths	1.5	\$195
	Evaluation of Quotes	2.0	\$260
	Contract supervision	Not yet determined	TBD
Director Corporate & Finance	Evaluation of Quotes	2.0	\$220
Executive Assistant	Search of Council records	12.0	\$420
	Compiling information	4.0	\$140
Total		28.5	\$2,145

7. Conclusion

Council initiated the Independent Ombudsman service as a process to enable the Smiths to air what they considered to be their outstanding complaints to a third party and at arm's length from Council and staff. Council committed resources to this process in an effort to finalise these matters. Such a process would also be a reference point to refer back to in the event these matters were raised again.

It is acknowledged that the process requires Council and staff involvement in the commitment of resources and for the procurement of the service to provide independent advice to the organisation.

Centium has been engaged to specifically provide independent advice – they have not been engaged to simply provide a particular pre-determined view.

The August 2019 Council resolution and its intent as outlined in this report should be reaffirmed. This can be achieved by endorsing the wording of the recommendation in the Probity Report as the terms of the brief and Centium as the Independent Ombudsman service.

If this process is not acceptable to the Smiths then the options are:

- Abandon the Independent Ombudsman Service
- The Independent Ombudsman review be conducted on the available information and without the benefit of any input from the Smiths
- The Smiths rely on the NSW Ombudsman office for an arm's length review of the outstanding concerns

This last option is certainly the most cost effective as there is no direct cost to Council and the community (other than staff time in cooperating with the NSW Ombudsman). It also overcomes any actual or perceived concerns that Council is directly influencing the outcomes of the review as it is paying for the service.

STRATEGIC DIRECTION

Key Pillar 5. Our Civic Leadership

CSP Strategy CL2 - Encourage and facilitate open and respectful communication between the community, the private sector, Council, and other government agencies

Delivery Program Action CL2.2 - Inform and engage with the community on all actions of Council

Operational Plan Activity CL2.2.1 - Deliver communication campaigns which clearly inform the community of Council's actions

ATTACHMENTS:

A. Centium Proposal [↓](#)

B. Request for Review of Terms of Reference [↓](#)

C. Process Explanation [↓](#)



Mr Chris Berry
General Manager
Yass Valley Council
By email: chris.berry@yass.nsw.gov.au

4 November 2019

Dear Chris,

REVIEW OF COMPLAINTS MADE BY MR TOUIE & MRS SMITH TO COUNCIL

Thank you for the opportunity to submit a proposal for Centium to provide a comprehensive review of twenty individual complaints (estimated) made by two members of the public (Mr Touie and Mrs Denise Smith). This review will initially assess each complaint and identify which complaints are supported by evidence. The second phase will include the interviewing and debriefing of the two complainants. The final phase will include the compilation of a report with recommendations to resolve any known issues.

Attached is our proposal that outlines the review process that will be incorporated for this engagement. Daphne Brown, Manager Governance and Assurance will lead this review. I will personally oversee this engagement through to the final stages.

I would be pleased to provide any further information you may like in relation to our proposal.

Kind regards,

Roy Cottam

DIRECTOR ETHICAL CONDUCT & INVESTIGATIONS

0417 697 600
roy.cottam@centium.com.au

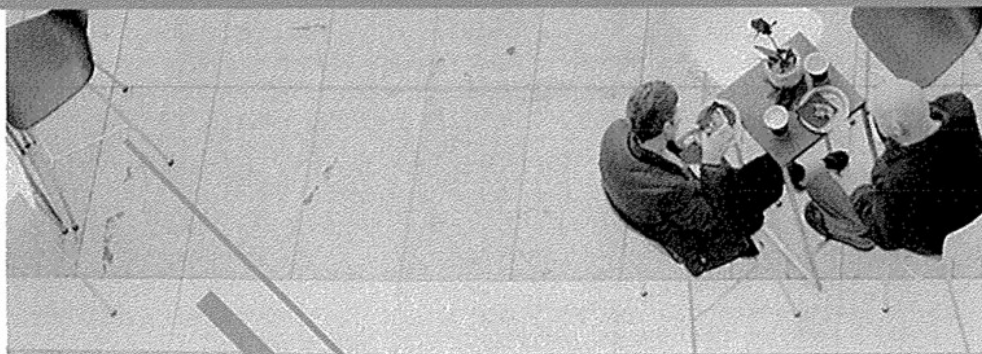
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ABN 65 216 748 481



complaints review yass valley council



complaints review - yass valley council 3

BACKGROUND

It is our understanding that Yass Valley Council would like an independent complaints assessment of a number of complaints that have been made by two members of the community (Mr Touie & Mrs Smith). It has been ascertained that both complainants have listed twenty separate complaint areas relating to Yass Valley Council.

These individual complaints have been made following a Probity Advising Report by O'Connor Marsden (OCM) which was noted at the Ordinary Meeting of Council on 28 August 2019. During this meeting the following recommendation 50. b. (amongst other recommendations) was made to Council:

60. As a basis for moving forward, the Review recommends that:

- a. Council give appropriate priority to the preparation of an asset management plan. [Ref: paragraph 37]
- b. Council consider the appointment of an independent Ombudsman service (or similar arrangement) to review the complaints raised by the Smiths in respect of matters not relating to the Liberty Theatre (noting that not every matter will be suitable for review due to the age of the underlying incidents, or because relevant staff are no longer employed by Council, or where the prospect of remedy is unavailable or unlikely in all the circumstances). [Ref: paragraph 39]
- c. Council conduct a fresh First Pass assessment of the proposal to purchase the Liberty Theatre, with direct reference to the policies of Council, and with consideration being given to independent review. [Ref: paragraphs 44–46.]

Council have therefore requested that Centium provide a proposal to act in the role as independent Ombudsman to assess all the complaints made by the complainants outside the Probity Review scope.

OBJECTIVE

The objective of this project is to provide independent complaints advice to Yass Valley Council in regard to the complaint listing twenty separate complaints by Mr Touie & Mrs Smith. The objective also includes providing an overall complaints assessment with recommendations to Yass Valley council, as per the below scope.

SCOPE

Following our discussions regarding your external complaints made by Mr Touie & Mrs Smith, we have set out below the necessary steps that we believe will be covered by The Complaints Assessor (Independent Ombudsman), including our assumptions:

- Review of Council documentation with regard to the current external complaints made by the two complainants
- Review of relevant Council policies and relevant Local or State Government legislation and guidelines

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- Interview the two complainants and obtain their accounts using an evidence-based approach
- Interview key individuals who may possess information relating to the complaints
- Cross match the complainants accounts against all relevant documentary evidence that the Council holds
- Prepare an independent Complaints Assessment Report.

The following complaints have been submitted by the complainants and will be assessed independently by Centium:

1. Land surrounding Council, reasons for purchasing, reasons for paying above market prices, reasons for no market valuations, and more?
2. Probity re Liberty Theatre, why now, why Liberty, why not Landmark and why Council ignored all calls for transparency in land deals.
3. Councillor using their position to promote private interests.
4. False declarations
5. Council staff changing minutes.
6. Hume Park asbestos.
7. Issues surrounding the creation of the 2014 Deed of Agreement, Council's subsequent non-compliance to items contained in the deed and its termination without process.
8. Council interference in land tenure.
9. Restriction of services as payback.
10. Hawthorn land purchase and hiding of vendor loan.
11. Inadequate disclosure of General Manager's contracts.
12. Mount St Kerb and gutter.
13. Code of Meeting Practice. Councillors voting on matters outside of meeting.
14. Caltex dust
15. 72 Lead St sewer, access, gate, tree
16. Council's different story to different ratepayers.
17. Discrepancies in staff's information to ratepayers and Councillors.
18. Authority cards and cover-up.
19. False reports by staff.
20. Non-compliance to fire regulations.



our team



ROY COTTAM

Director, Ethical Conduct
& Investigations (ECI)



SKILLS AND EXPERIENCE

Roy is an experienced executive in Ethical Conduct, Fraud Prevention, Forensic Investigations & Probity professional practice. He has extensive experience leading complex investigations at international, national and local levels. Roy has successfully implemented a number of governance frameworks within state and local government. He has extensive knowledge managing sensitive allegations relating to workplace misconduct and serious corruption.

Roy has been involved with Probity Advising for NSW Government entities and has chaired Delegations Review Groups and led changes in the governance practice areas, including leading service reviews relating to contract procurement panels.

Roy is a Fellow of the Governance Institute of Australia (GIA) and supports the Australian wide governance network by speaking at key events and contributing to national training initiatives. Roy has worked closely with the NSW ICAC and NSW Ombudsman, together with several federal oversight agencies.

Roy has a vast amount of both strategic and operational experience across a range of risk, governance and investigations areas of practice. He has successfully led a number of high-level investigations, which have resulted in positive outcomes and included fraud prevention recommendations. He has in depth knowledge of Federal, State and Local Government Code of Conduct and fraud planning frameworks.

EXAMPLES OF RECENT PROJECTS

- Led large government review of Complaints Management Process
- Led Machinery of Government (MOG) Workplace Cultural Assessment Program
- Provided Probity advice for a large state corporation managing contractual change and a state led tender process.
- Provided independent probity advice to a large government agency tender panel.
- Public Sector investigation involving serious corruption.
- Public Sector investigation into a Federal issue- relating to leaks of confidential information.
- Managed misconduct investigations teams dealing with multi-faceted code of conduct matters.
- Public sector investigation into corruption relating to betting & gaming syndicates
- Managed Public Interest Disclosure (PID) investigations working closely with the NSW Ombudsman and local government authority.
- Investigation into a large-scale attempted fraud working closely with state police (NSWPF)

our team 7

- A Code of Conduct investigation into government staff member misusing company resources.
- Local Government fraud prevention planning, simplifying all code of conduct, delegations, fraud prevention and internal investigations capability enhancements.
- Delivered Conflicts of Interest training to government Advisory Panels.
- Implemented an internal conduct investigations capability within a large metropolitan council.
- Implemented Code of Conduct training program for a local authority to 200 staff.

EDUCATION/MEMBERSHIPS

- Master of Leadership & Management (CSU)
- Bachelor of Policing (Hons)
- Certificate in Governance Practice (FGIA)
- Certificate in Health & Safety Management (HSOC)
- Certificate IV in Government Investigations
- Commercial and Private Investigations Operators Licence (CAPI)
- Assessing Board Performance (GIA)

DAPHNE BROWN

Manager Governance and Assurance

SKILLS & EXPERIENCE

Daphne is a governance professional with 15 years of work experience within the government sector in Australia and the UK where she has contributed comprehensively to the establishment, implementation and review of effective governance frameworks. Daphne has led on sensitive allegations into corruption and misconduct with successful outcomes, including the identification of fraud and corruption controls.



Daphne held senior change management positions within the Care Quality Commission, the healthcare, social care and mental healthcare regulator for England, where she was responsible for significant projects including the movement of regional to centralised operations, and decommissioning all aspects of the Care Standards Act Legislation whilst ensuring effective and continual good governance and risk management.

Daphne most recently worked in the City of Sydney Council where she was responsible for the work conducted by the corporate governance department to continually review and improve good governance across the organisation. Daphne led the City's fraud and corruption prevention program, which included workshop facilitation and providing professional advice to staff at all levels right up to and including the Executive team. Daphne led on the recent review of the fraud and corruption framework and the subsequent development and implementation of a new and improved fraud and corruption prevention plan.

Daphne is a Fellow member of the Governance Institute of Australia, holds a Certificate IV in Government Investigations and has in-depth knowledge of the Local Government Act. In Daphne's career to date in Australia, she has built good working relationships with stakeholders in the ICAC, the NSW Ombudsman, the IPC, and the Office of Local Government.

EXAMPLES OF RECENT PROJECTS

- Coordinated the review and implementation of a fraud and corruption control framework in a local government agency.
- Coordinated the development of a code of conduct training package to 2000+ public officials.
- Training on fraud and corruption control to 70+ public officials.
- Utilised new technology to develop, implement and roll out a significantly improved reporting tool to improve the monitoring and process of conducting policy reviews.
- Provided probity advice to a public sector organisation in relation to extending the provision of their delegations to include contractors.
- Public Sector review into an allegation of a privacy breach relating to the disclosure of personal information, whilst liaising closely with the IPC.

our team 9

- Conducted sensitive reviews and investigations of alleged breaches of the code of conduct by public officials.
- Led Public Interest Disclosure investigations, whilst working closely with the NSW Ombudsman.
- Led on investigations including multiple attempted frauds, and an attempted bribe working closely with the NSW police.
- Conducted a complex code of conduct investigation into a public official misusing company resources to obtain personal benefits.

EDUCATION/MEMBERSHIPS

- Certificate in Governance Practice (FGIA)
- Bachelor in Public Service Management (Hons)
- Certificate IV in Government Investigations
- Certificate in Corporate Investigations
- PRINCE2 Registered Practitioner

Chris Berry

From: Touie Smith Snr
Sent: Thursday, January 2, 2020 6:31:01 PM
To: Nathan Furry <Nathan.Furry@yass.nsw.gov.au>; Mike Reid <Mike.Reid@yass.nsw.gov.au>; Michael McManus <michael.mcmanus@yass.nsw.gov.au>; Kim Turner <Kim.Turner@yass.nsw.gov.au>; Jasmin Jones <jasmin.jones@yass.nsw.gov.au>; Geoff Frost <geoff.frost@yass.nsw.gov.au>; Cecil Burgess <cecil.burgess@yass.nsw.gov.au>; Allison Harker <Allison.Harker@yass.nsw.gov.au>
Cc: Daphne Brown Centium
Subject: Councillor decision required.

Dear Councillors,

We feel that staff again are not following the intent of a resolution by Councillors and are concerned about interference into what is supposed to be an independent process.

Resolution by Councillors on 28th of August 2019.

6. An independent Ombudsman service (or similar) be engaged to review the complaints by the property owners that do not relate to the Liberty Theatre.

We believed and still believe that the inclusion of this recommendation by the probity group OCM and the intent of OCM and Councillors was to provide a conduit for us to air matters of concern. We also believed and still believe that allowing us to air matters to an independent body and having an independent assessment and possible investigation of some matters could provide a finality to us and Council to most and possibly all that is of concern.

Following the August resolution we looked forward to what lay ahead with anticipation. What has transpired since has lowered our expectations as we believe that Council staff are using wording and actions without Councillors knowledge in a way to circumvent the direction given to them by the resolution. Experience and advice have also provided us with the awareness that the Unreasonable Conduct by Customer Policy is now an extra tool in the Council staff's favour.

BACKGROUND POST RESOLUTION

We were contacted by General Manager Chris Berry on 26/09/2019 requesting a short summary of complaints so he could brief an Ombudsman. We questioned the logic of us providing our complaints to the entity that we were complaining about. Many emails went back and forth without a resolution or compromise. A private meeting with Chris Berry was had at Council. Regardless of our position Mr Berry's story was no list no brief, no brief no Ombudsman and so stalemate or the possibility of checkmate by Mr Berry.

Given the options of no Ombudsman or a list, we conceded to provide a list. We conceded because such a list moved things forward and we felt it could be written broadly enough to cover the matters we wished to bring to the Ombudsman plus we felt we had a right of free speech to that authority. This was all discussed in front of Mr Berry.

See attached our email (Appointment of an Ombudsman) of the 23/10/2019 to Mr Berry.

Upon reading the email you will gain an insight into our wish to have discussions with the Ombudsman and set priorities. Basically we wanted to have a discussion, something General Manager's seems not to understand. We wanted to have the ability to discuss a range of matters with the Ombudsman, be given advice or opinion on those matters and put aside that considered a waste or not worth following. We also wanted to bring to the table some matters and get advice / opinion on our legal standing if we provided complaint on what we see as criminal matters. We wanted to create a concise list of matters that had teeth and forget the rest. We wanted to get it done and move on with a minimum of cost to the ratepayers.

Things have not gone that way. Mr Berry has misrepresented our position by providing our list of 20 matters to the Ombudsman and presenting them as our complaint. It should be noted that the paragraphs containing our sentiment in our letter were not included. We are not privy to what the Ombudsman's brief looks like but since the 16/12/2019 we have been engaged in emails to and fro with Centium, Council's chosen "**Ombudsman or similar.**" (See attached - Re Review eml)

WHERE WE ARE NOW

Since sending our last email to Centium on New Years Eve we have gained a bit more insight into the road we are being led down and so we choose to apply the brakes. A copy of this email and a follow-up email will be sent to Centium advising them that our meeting of the 13/01/2020 is on hold.

It is to Councillors we turn as it is Councillors who drive policy and direct the General Manager. Councillors are asked to consider the matters listed below and provide direction.

* Clarification of what Councillors meant by the resolution on 28/08/2019.
Is it Council providing the complaint or is it us?

* Has the wording of the brief, the 230 pages of documentation provided by Mr Berry or any other actions by Mr Berry or staff, compromised the Ombudsman's ability to be impartial or indeed independent?

* We have been accused many times of wasting Council resources in the past. The cost to the ratepayer of the Ombudsman and Council staff time should be of concern but Mr Berry shows no such concern as not only have staff had to compile some 230 pages but the Ombudsman has had to read them and our complaints are yet to be defined. This guessing by Mr Berry of what might or might not be is testament to a Council culture that grasps for anything that might benefit their position. There is no way this level of information, prior to knowing what direction our complaint might take, can be seen as professional conduct or a good use of resources. Our addition to the cost is also on Council as the additional emails back and forth asking Centium for clarification would not have been necessary if the game was played straight. We are happy to provide all documentation we hold to any Councillor upon request. We suggest that Councillors ask Mr Berry for all he has given to Centium including the 230 pages. We are unable to attach the 230 pages as the file is too large but should a Councillor request such we will get a copy to them.

* The cost to the ratepayers is important to us, as it should be to Councillors, so can the General Manager please provide the cost to date, and the projected cost of the Ombudsman process.. This needs to include staff time, his own time and Ombudsman costs. Centium's quote could be useful.

WHERE TO FROM HERE

We appreciate that the next Council meeting isn't until February and that we are in a holiday period. There is no urgency on our part but there may be inconvenience to Centium as the meeting of the 13th is on hold.

At some point Councillors need to consider all that is now before you and provide a clear direction to the General Manager, Centium and us.

Councillors with any prior or present conflict of interest will need to stand aside as any involvement may compromise further what is becoming very messy.

Yours sincerely
Touie and Denise Smith

Chris Berry

From: Touie Smith Snr
Sent: Wednesday, 23 October 2019 2:48 PM
To: YVC Customer Service Team
Subject: Appointment of an Ombudsman

To Acting General Manager Chris Berry

Dear Chris,

Denise and I thank Council for allowing us to bring matters of concern for independent analysis and look forward to being able to provide examples and evidence of such things as, misrepresentation, cover-up, abuse of power, manipulation, double standards, lack of transparency and such. Basically how Council over two decades has operated and how it impacts the lives of those it is supposed to serve.

The list is so vast and the paper trail so big that priorities need to be set. There needs to firstly be a conversation where we can talk through what an independent ombudsman sees as important to shorten the list.

The list will include,

1 Land surrounding Council, reasons for purchasing, reasons for paying above market prices, reasons for no market valuations, and more?

2 Probity re Liberty Theatre, why now, why Liberty, why not Landmark and why Council ignored all calls for transparency in land deals.

3 Councillor using their position to promote private interests.

4 False declarations

5 Council staff changing minutes.

6 Hume Park asbestos.

7 Issues surrounding the creation of the 2014 Deed of Agreement, Council's subsequent non compliance to items contained in the deed and it's termination without process.

8 Council interference in land tenure.

9 Restriction of services as payback.

10 Hawthorn land purchase and hiding of vendor loan.

11 Inadequate disclosure of General Manager's contracts.

12 Mount St Kerb and gutter.

13 Code of Meeting Practice. Councillors voting on matters outside of meeting.

14 Caltex dust

15 72 Lead St sewer, access, gate, tree

16 Council's different story to different ratepayers.

17 Discrepancies in staff's information to ratepayers and Councillors.

18 Authority cards and cover-up.

19 False reports by staff..

20 Non compliance to fire regulations.

For this process to be independent and without fear or favour all meetings must be away from Council premises. Our office is acceptable or somewhere selected by the Ombudsman. We look forward to the next step.

Regards Touie

Chris Berry

From: Touie Smith Snr
Sent: Tuesday, 31 December 2019 3:38 PM
To: Daphne Brown
Subject: Re: Review

Good afternoon Daphne,

January 13th, 11am, at our office for approximately 3 hours is locked in.

In reference to the other points,

* We feel that Mr Berry has not been totally upfront. We were, and still are, of the opinion that we were being provided the opportunity to make complaint to an Ombudsman. We see that in forcing us to provide a list and now providing that list to you as our total complaint list is interference in what is supposed to be independent. To add further insult we now see that Council has provided, and by your own admission have accepted and we assume read and absorbed, some 230 pages of Council's view of things as the first step. These 230 pgs show the extent that this Council will go to control events. We strongly suggest that you put the 230 pages aside until you hear what we have to say. We will be making a complaint regarding the 230 pages and the interference by Chris Berry.

* Even though the list was constructed by us to be as broad as possible so as to catch matters we wish to discuss we reserve the right to discuss what ever we want. We will not be held to some pre-script by Council as it prostitutes all that is supposed to be "independent". If this is not acceptable we need to be advised.

* Council and your acceptance of a submission from Council pre discussions with us is seen as dodgy in the least and we are now even more wary of a stitch up by a Council controlled process.

* We accept your offer to discuss the terms of reference pre meeting. We also want to know your powers. We will then make a decision as to how we proceed as to date all that we see does not please us.

* Just so you understand what we see is a Council in crisis taking unusual, extreme and costly measures in an effort to silence a critic. We are sceptical that this will end well for all or any of us.

Regards Touie and Denise

----- Original Message -----

From: [Daphne Brown](#)
To: [Touie Smith Snr](#)
Cc: [Peter Mulhall](#)
Sent: Tuesday, December 31, 2019 7:40 AM
Subject: RE: Review

Good morning Touie,

That's great thank you Touie. Peter and I can come to your offices on the morning of the 13 January – is it possible please to make the interview time 11am please to allow for our travel from, and back to Sydney on the day? Also, that's no problem if you would like someone to attend the interview with you and Denise in a support role capacity. Also, we'd like to keep this initial meeting on 13 January to approximately three hours please and can meet again with you at another time if required.

For clarification, and in response to points 1 & 2 in your correspondence below, as per the wording of the Council resolution '*the appointment of an independent Ombudsman service (or similar arrangement) to review the complaints raised by the owners in respect of matters not relating to the Liberty Theatre*' Centium has been engaged as an independent Ombudsman to conduct an independent complaints review of the 20 separate complaints you have made to Council as per the list below:

- 1 Land surrounding Council, reasons for purchasing, reasons for paying above market prices, reasons for no market valuations, and more?
- 2 Probity re Liberty Theatre, why now, why Liberty, why not Landmark and why Council ignored all calls for transparency in land deals.
- 3 Councillor using their position to promote private interests.
- 4 False declarations
- 5 Council staff changing minutes.
- 6 Hume Park asbestos.
- 7 Issues surrounding the creation of the 2014 Deed of Agreement, Council's subsequent non compliance to items contained in the deed and it's termination without process.
- 8 Council interference in land tenure.
- 9 Restriction of services as payback.
- 10 Hawthorn land purchase and hiding of vendor loan.
- 11 Inadequate disclosure of General Manager's contracts.
- 12 Mount St Kerb and gutter.
- 13 Code of Meeting Practice. Councillors voting on matters outside of meeting.
- 14 Caltex dust
- 15 72 Lead St sewer, access, gate, tree
- 16 Council's different story to different ratepayers.
- 17 Discrepancies in staff's information to ratepayers and Councillors.
- 18 Authority cards and cover-up.
- 19 False reports by staff.
- 20 Non compliance to fire regulations.

Please click on this link to obtain the information we have been provided by Council in relation to these matters:

<https://centiumaus.sharepoint.com/:b:/s/YassValleyComplaintsReview/EXbepHv7mIZEkBES25e1vgIBGY8OqLFtVcWymI1WSPMNMQ?email=touie%40libertytheatre.com.au&e=ugOrCz>

Centium has not had discussions with Council on your complaints - information and clarification will be sought first and foremost from you in the interview. Therefore, the purpose of the interview with you is to get your account of the complaints and obtain information on these complaints.

In response to point 3, the interview with you will be recorded and captured as a record for Centium as part of this review.

Would it assist you if, on the 13 January for the first part of the interview we go through our terms of reference and discuss any other concerns/questions you may have?

In the meantime, please do not hesitate to call me if you would like to discuss this matter.

Kind regards,

Daphne

Daphne Brown
Manager Governance & Ethical Conduct



Level 8, 66 Goulburn Street SYDNEY NSW 2000
Level 7, 101 Collins Street MELBOURNE VIC 3000

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From: Touie Smith Snr
Sent: Tuesday, 24 December 2019 2:56 PM
To: Daphne Brown
Subject: Re: Review

Dear Daphne,

Our office is at ground floor level at 8 Plunkett St Yass and we have no objection to it being recorded as long as we get a copy. Monday the 13th of January is ok but 1pm is too late. We need an earlier start. Say 9am or 10 to allow travel. We have no objection to you bringing other people as long as we are given the same opportunity.

We do however have a problem that requires clarification before we start.

As you have probably figured out by now trust of Council is in short supply and as you are employed and being paid by Council we need to understand the process and you.

At last you have provided the answer we suspected. Council has provided you with their version of how things are and are to be by giving you a list of complaints. This is not acceptable to us.

As the wording of your brief is ambiguous, "**to review the complaints raised by the owners**" we are now more suspicious of Council's intentions. We understood this meant that you were to look into complaints raised by us to you. This seems to be not the case as Council has provided of list and to them the wording means complaints they say.

The plot thickens as Council, Chris Berry, wanted to know what we wanted to complain about prior to appointing an Ombudsman. We said that we didn't want to provide this information as Council needed to be apart from our complaints. Mr Berry refused to make an appointment unless we told him what we wanted to complain about so we provided a vague list without any specific detail as a way of getting the process started. We can only assume that this is the list you speak of. Mr Berry's actions are seen as interference into the process and cause for concern.

We also see it as quite relevant that Council is also in the process of enacting its Unreasonable Conduct Policy and suspect that there is a link. (see attached)

Considering the antics to date and considering Council's long term behaviour we need assurances by way of information and a reset of your dot points in your last email. In other words put things on hold.

We need

1. A copy of this list from Council and denial or confirmation that you have had discussions with Council regarding these matters. A copy of all documentation if any has been provided by Council on the listed matters for factual verification
2. Clarification of your brief. We see and have always understood and as explained to us by Mr Berry that the Ombudsman, when appointed, would look into complaints made by us to that Ombudsman. We require your version as to what you think you have been engaged to do.
- 3 We require clarification as to confidentiality of what we discuss.

A possible solution to our nervousness might be a pre meeting at your offices prior to the 13th. You get to provide us with all we ask and we get to get a feel for who you are and what you represent. You get to see us and visa versa.

We require the information requested above in written form prior to either meeting and suggest that no further work be done until matters are clarified.

Yours sincerely
Touie and Denise Smith

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----- Original Message -----
From: Daphne Brown

To: Touie Smith Snr
Cc: Peter Mulhall
Sent: Tuesday, December 24, 2019 10:57 AM
Subject: RE: Review

Good morning Touie,

Many thanks for your email and sending through the dates you and Denise are available. Would it be possible please to meet with you and Denise in a ground floor location at 1pm on Monday 13 January in Yass Valley? If your offices are located in a ground floor location we're more than happy to come there. Please note that Centium's Director Ethical Conduct & Investigations, Peter Mulhall will also be in attendance. It is our normal practice to record and provide a transcript of the interview – can you please let me know if this is acceptable for you?

By way of background Centium has been engaged by Council as per the Council resolution: *'the appointment of an independent Ombudsman service (or similar arrangement) to review the complaints raised by the owners in respect of matters not relating to the Liberty Theatre (noting that not every matter will be suitable for review due to the age of the underlying incidents, or because relevant staff are no longer employed by Council, or where the prospect of remedy is unavailable or unlikely in all the circumstances)'*.

The objective of Centium's engagement is to conduct an independent complaints review of the 20 separate complaints you have made to Council. The scope of works includes the following:

- Review of Council documentation with regards to the current external complaints
- Review of relevant Council policies and procedures and relevant Local or State Government legislation and guidelines
- Interview with you and Denise to obtain your accounts using an evidence-based approach
- Interview key individuals who may possess information relating to the complaints
- Cross match your accounts against all relevant documentary evidence that the Council holds
- Prepare an independent Complaints Assessment Report

To clarify, the information I am going through in relation to this matter is the complaints you have raised to Council to review the information and assess it independently. And, the interview with you is to get your account of the complaints and obtain information related to the complaints. Centium is disinterested in this matter and will conduct an independent and objective review.

Please do not hesitate to call me if you would like to discuss.

Kind regards,

Daphne

Daphne Brown
Manager Governance & Ethical Conduct



Level 8, 66 Goulburn Street SYDNEY NSW 2000
Level 7, 101 Collins Street MELBOURNE VIC 3000

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From: Touie Smith Snr
Sent: Sunday, 22 December 2019 3:55 PM
To: Daphne Brown
Subject: Re: Review

Hi Daphne, Where are you suggesting we meet? The days in January we are free at this stage 13, 14,16, 20, 21,23 and 24.

We would also appreciate details of your brief from Council as it is unclear to us whether you are accepting complaints both about us or just from us. Initially we thought that you were being engaged to take complaint from us and to do an impartial investigation into what we bring to the table.

Your wording of "***Please note that we are currently going through the information in relation to this matter***" indicates that Council have already had your ear. Your previous correspondence does not deny this so may we please have clarification.

May we also be provided with your scope and how you see the evidence being presented. We have already stated we see a meeting to lay out what you see as worthy of investigation and then move on from there but this may not be the case if you have already been compromised by a submission from Council.

Awaiting your response.

Touie and Denise Smith

----- Original Message -----

From: Daphne Brown

To: Touie Smith Snr

Sent: Friday, December 20, 2019 3:49 PM

Subject: RE: Review

Good afternoon Touie,

Can I check please if it would be convenient for you to meet w/c 13 January or w/c 20 January please and if so, what days are good for you?

I also look forward to meeting with you and Denise.

Kind regards,

Daphne

Daphne Brown

Manager Governance & Ethical Conduct



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Level 7, 101 Collins Street MELBOURNE VIC 3000

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From: Touie Smith Snr

Sent: Friday, 20 December 2019 2:39 PM

To: Daphne Brown

Subject: Re: Review

Dear Daphne, Based on events to date are sceptical of anything to do with Council and, until proven otherwise, see your appointment and brief from Council as Council utilising another tool to cover up and silence critics.

We look forward to our meeting and hopeful that we are wrong.

Touie Smith

----- Original Message -----

From: Daphne Brown

To: Touie Smith Snr

Sent: Thursday, December 19, 2019 10:40 AM

Subject: RE: Review

Dear Touie,

Firstly, thank you for coming back to me so quickly. I would like to assure you that I am an independent complaints reviewer who has been asked to meet with you and obtain your account of complaints and associated information. As an independent reviewer (Ombudsman), Centium will be reviewing your complaints, so that I can obtain detailed information and assess the material in an independent manner.

Therefore, my priority is to meet with you in person and discuss your complaints. I am more than happy to attend your offices to do this.

I look forward to confirming a date to meet with you in person. I am happy to discuss dates on the phone with you.

Kind regards,

Daphne

Daphne Brown

Manager Governance & Ethical Conduct



Level 8, 66 Goulburn Street SYDNEY NSW 2000
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From: Touie Smith Snr

Sent: Wednesday, 18 December 2019 3:29 PM

To: Daphne Brown

Subject: Re: Review

Hi Daphne, I look forward to our meeting but am some what confused as, to date, we have provided you with nothing to go through.

We can only assume that you have taken instructions from Council and so we see that we have to question the independence of the process.

The wording of the resolution by Councillors is as follows, "*An Independent Ombudsman service (or similar) be engaged to review the complaints by the property owners that do not relate to the Liberty Theatre*".

As we see it, as stated to Chris Berry and as should be obvious, many at Council cannot be trusted with the truth and which got us to this point in time and the need for an independent assesment of much at Council.

As stated to Chris Berry we see the way forward as you, as the Independent Ombudsman, to meet with us the owners to hear our complaints.

As it is Council we are complaining about and as some matters are quite serious touching on criminal we are not about to tell Mr Berry all that we will discuss with you.

Please provide details of our meeting. Our preference is at our office as we carry all the documentation here. We suggest a full day is necessary in the minimum. We will provide lunch and drinks.

Regards Touie Smith.

----- Original Message -----

From: Daphne Brown
To: touie
Sent: Monday, December 16, 2019 5:31 PM
Subject: Review

Good afternoon Touie,

Centium has been engaged by Yass Valley Council to undertake the Independent Ombudsman role to review the complaints you have raised.

Please note that we are currently going through the information in relation to this matter and we will be in touch with you early in the new year to arrange a suitable day and time to meet with you and Denise.

Kind regards,

Daphne

Daphne Brown
Manager Governance & Ethical Conduct

centium

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Chris Berry

From: Chris Berry
Sent: Tuesday, 1 October 2019 3:50 PM
To: 'Touie Smith Snr'
Subject: RE: Appointment of Ombudsman

Thanks Touie will get Shirree to set up a meeting

From: Touie Smith Snr
Sent: Tuesday, 1 October 2019 3:47 PM
To: Chris Berry
Subject: Re: Appointment of Ombudsman

Hi Chris,

To clarify your last point we have no issue with Council engaging an independent ombudsman our issue is with telling Council what we want to complain about. We need an environment where we can talk openly without fear or favour.

There will be a solution that suits us all and we see that we should meet and work one out.

Please ring or get your secretary to organise a mutual agreed time.

Denise

Thanks Touie

----- Original Message -----
From: Chris Berry
To: 'Touie Smith Snr'
Sent: Tuesday, October 01, 2019 12:10 PM
Subject: RE: Appointment of Ombudsman

Touie and Denise

To comply with Council's decision I had every intention of appointing an external person/organisations to undertake the task rather than using any in house person. Certainly OCM is one such option particularly as they already familiar with your concerns. However I also have a responsibility to ensure Council receives best value when appointing any consultants/advisors so I would need to obtain 2 to 3 quotes for the service and make an evaluation on who should be appointed. This would be an appointment I would make not one that involves a decision by Councillors at a Council meeting.

I generally agree with the process you have outlined that following the appointment of an Independent Ombudsman there would be an initial meeting with you (at a location of your choosing) followed by interviews with whoever they thought was necessary. Yes I am aware that most of what you are likely to say is in written form in past correspondence but I don't want to be accused of misrepresenting your concerns in any way – hence my request.

As I was not privy to your discussions with OCM on what the non-Liberty Theatre complaints were nor where they detailed in the Probity Report, I have some difficulty in providing a brief to any consultants for a quotation to allow a comparison of services and costs and making a decision on who will be the independent Ombudsman. Hence my request from you for a short summary of the complaints that need to be examined so that I could provide to each potential Independent Ombudsman so they in turn could provide me with a quote. Unless those providing a quote understand the scope of the task I am unlikely to get any meaningful order of costs and timing.

My interpretation of the Independent Ombudsman role is that Council and you will abide by the outcomes whatever they may be. Councillors will be informed of the findings from the Independent Ombudsman but in my view if there is corrective action to be taken it will be a matter for the GM to implement (and certainly would be the case while ever I am in the GM role).

I am trying hard to organise a process that will address what you see as several outstanding complaints. I acknowledge that you have trust issues with the organisation based on your past experiences however I need you to have some trust in me and what I say as without your agreement to participate in the process outlined the Independent Ombudsman will not work.

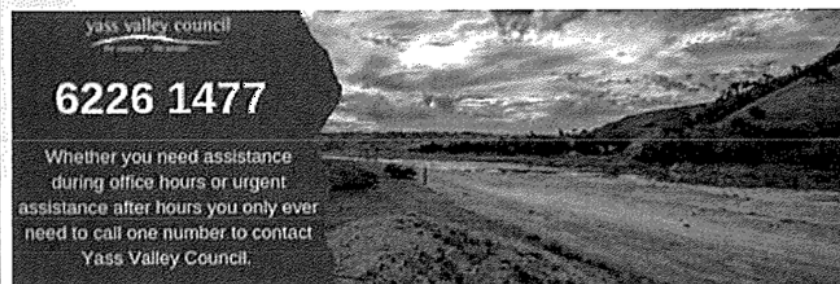
In my mind the only other option for an Independent Ombudsman, in which Council and staff are not involved in engaging, is for you to use the NSW Ombudsman's office to have your list of concerns investigated. Again I would act on any findings by the NSW Ombudsman.

From your email in 26 Sept 2019 I acknowledge you would need a little time to compile your list of concerns and I am happy to oblige.

Chris Berry | Acting General Manager | Yass Valley Council
P: +61 (0)2 6226 1477
E: Chris.Berry@yass.nsw.gov.au | W: www.yassvalley.nsw.gov.au

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From: Touie Smith Snr
Sent: Monday, 30 September 2019 4:43 PM
To: YVC Customer Service Team <Council@yass.nsw.gov.au>
Subject: Apointment of Ombudsman

To Acting General Manager Chris Berry
Dear Chris,

Denise and I have given the matter of the independent Ombudsman a lot of thought and see that for the process to mean anything it needs to be actually independent, apart from Council. This is no reflection on you but you represent Council and it is matters pertaining to Council that we wish to raise.

It is fully understandable that those appointed for the task need to know what the task and that you need to contract them for the task. Most of what we want to say is already in written form and can be compiled into a submission along with some oral expansion and explanation.

As we are not prepared to give Council any wriggle room but recognise that you have a job to do so we suggest that you appoint an independent Ombudsman and that we have a meeting, not at Council, at which we will lay out what we want to cover. This would take about an hour. We get a feel as to what format is preferred and you could get a report on we assume costs, timing, etc.

We are open to other suggestions.

As OCM has recommended an Ombudsman they must have clearly seen problems worthy of a closer look. The reason we are at this point is the way we have been treated over a prolonged period and the way that many at Council have conducted themselves. There is just no trust in any process that includes Council.

Yours sincerely

Touie and Denise

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9.2 INFRASTRUCTURE PLANNING PRIORITIES

SUMMARY

To present the initial infrastructure priorities discussed at recent Councillor Workshops for endorsement.

RECOMMENDATION

That:

1. *The following infrastructure priorities be endorsed:*
 - *Council Administration Complex*
 - *Yass War Memorial Swimming Pool upgrades*
 - *Murrumbateman Community Hall*
 - *Amenities at the Yass Pool/Skate Park and Murrumbateman*
 - *New Companion Animals Facility*
 - *Parks and playgrounds upgrades*
 - *Bike park, Adventure Playground and Yass River activation*
 - *Memorial Hall*
 - *Murrumbateman Dog Park*
2. *\$250,000 from the Property Reserve be considered as part of the 2020/21 Operational Plan and budget process for the preparation of plans for the Council Administration Complex, Yass Swimming Pool upgrade and Murrumbateman Community Hall.*
3. *Toilet amenities at the Yass Swimming Pool/Skate park and Murrumbateman and a new dog park at Murrumbateman be considered as part of the 2020/21 Capital Works Program.*
4. *Strategic planning work be undertaken in 2020/21 for leisure infrastructure across whole of Yass Valley including an adventure playground, bike park, parks and playground facilities.*
5. *Investigations be undertaken in 2020/21 into the use of Crown Land in Murrumbateman and near the Yass Dam for parklands.*
6. *A further report be presented to a future Council meeting reviewing the operational and strategic needs of Council land.*

FINANCIAL IMPLICATIONS

The finalisation of a long term loan will free resources to assist with implementing the priority infrastructure projects. There is the capacity to increase borrowings without impacting on Council's financial indicators.

Funds within the existing Property Reserve can be used to assist with the preparation of plans and documentation for identified priority infrastructure assets.

Any grants and proceeds from the sale of surplus land can be directed into an infrastructure reserve to assist with funding the priorities.

POLICY & LEGISLATION

- *Local Government Act 1993*

REPORT

1. Background

In October and December 2019, two Councillor Workshops were held on infrastructure planning and priorities, and the alignment of Council property holdings to support Council's objectives.

2. Infrastructure Priorities

At the conclusion of the second workshop, the following infrastructure asset priorities were identified:

Infrastructure Asset	Description
Council Administration Complex	<p>Design and construct a new administration precinct on the current site in Comur Street Yass. Proposed scope includes:</p> <ul style="list-style-type: none"> • An administration building capable of housing staff over the next 30 years • An integrated new Library • Meeting spaces and digital access facilities for Council and the community use • Integrated customer service centre for State government tenants • On site self-contained accommodation (primarily to reduce operational cost of contractors and consultants) • Outdoor public area integrated with activation of the heritage listed old mill (potential cafe or restaurant) • Commercial spaces to provide a new income stream for Council
Yass War Memorial Swimming Pool	<p>Create a detailed design for a new swimming complex at the current site similar to the concept plans provided to Council by the Director Engineering. The detailed design will:</p> <ul style="list-style-type: none"> • Create a shovel ready project that will allow Council to be highly responsive to grant opportunities and community fund raising • Allow for staged development of the site as funds become available from any source • Minimise disruption to the use of the complex • Minimise ongoing maintenance and running costs through design excellence • Provide facilities for diverse community demographics
Community Hall (Murrumbateman)	Design and construct new updates to the Community Hall to serve the needs of the growing Murrumbateman area
Amenities	<p>Yass War Memorial Swimming Pool – add a unisex toilet to provide year round access for that area of Yass</p> <p>Murrumbateman – add two new public toilets at a location to be determined</p>
Companion Animal Facility (Yass)	Build a new facility in Faulder Avenue (See ROC 23 August 2017). Concept plan for subdivision of Council land to place facility required
Parks and Playgrounds	Murrumbateman and Bookham Playgrounds - Consideration of upgrades and relocation

Youth Facilities	Determine future needs of community with consideration of assets such as a bike park, adventure playground and Yass River activation
Memorial Hall	Continue community consultation about sustainable future use
Dog Park (Murrumbateman)	Design and create a new dedicated dog park in the Murrumbateman area

There was also peripheral discussion on the potential for the development of Crown Land for:

- A parkland in Murrumbateman
- A park reserve adjacent to the Yass Dam

These opportunities can be developed through a separate body of work given the land management complexities around Crown Land and can be part of the strategic planning for this type of asset to be undertaken by the Manager Recreation Assets role.

3. Financial Outlook

The status of the current loans and their projected impacts on future borrowings and the Long Term Financial Plan have been examined. This shows that Council can add new borrowings to commence the implementation of the identified infrastructure priorities without adversely affecting Council's financial benchmarks. This is primarily due to record low interest rates and the retirement/renewal of significant Council debt over the next two years. Any grant contributions and surplus land sales income would only improve the projected outcomes.

There are several Council property holdings that are not aligned with any projected operational or strategic needs. These holdings are effectively surplus to community and organisational requirements and could be disposed of to provide working capital for identified infrastructure priorities. While Discovery Drive, Dutton Street precinct, and former Saleyards were discussed as potential surplus sites, a more comprehensive review of the property holdings needs to be conducted. Such a review must clearly establish the operational or community need for the land. A separate report on this review will be presented to a future Council meeting.

4. Next Steps

A key task for each of these priorities is to undertake the planning and design work so the projects are 'shovel ready' and able to take advantage of any grant funding opportunities that arise from time to time. To achieve this the provision of resources for the preparatory work will ideally be considered as part of the 2020/21 Operational Plan and budget process with a recommendation for funding from the current Property Reserve. These resources may be funding to engage appropriately qualified consultants or allocation of staff time to complete projects 'in house'.

5. Priorities

At the Workshops, the Council Administration Complex, the Yass War Memorial Swimming Pool, and Murrumbateman Community Hall were identified for funding of 'shovel ready' plans. The estimated cost for the preparation of these plans is \$250,000. Once completed, these plans will provide for more detailed cost information and clear funding options. Commencing the preparatory work for these projects in 2020/21 would allow any construction works to be aligned with the finalisation of the long term loans in subsequent financial years.

Construction of smaller scale projects (e.g. amenities at Yass Pool/Skate Park and Murrumbateman, Dog Park) can be considered as part of the 2020/21 Capital Works Program.

Upcoming strategic planning work for leisure infrastructure across the whole of Yass Valley will incorporate investigations into an adventure playground, bike park, parks and playground facilities.

STRATEGIC DIRECTION

Key Pillar 4. Our Infrastructure

CSP Strategy IN4 - Maintain and update existing community facilities, and support the development of new community infrastructure as needed

Delivery Program Action IN4.1 - Develop and maintain new and existing recreational and community assets to address our communities needs in a sustainable manner

Operational Plan Activity IN4.1.4 - Manage Council's properties and buildings

ATTACHMENTS: Nil

9.3 ORGANISATIONAL REALIGNMENT

SUMMARY

To present a proposed realignment of the organisational structure to reflect recent Council decisions.

RECOMMENDATION

That:

1. *A three divisional structure headed by three Directors continue.*
2. *The revised organisational structure be endorsed with the Library and Economic Development and Tourism being moved into the Corporate & Community Directorate.*
3. *All Directors continue to be classified as 'Senior Staff' positions and employed on performance based contracts on the minimum remuneration package as specified under s332 Local Government Act 1993.*
4. *The position of Director Finance and Corporate Services be renamed Director Corporate & Community.*
5. *The position of Director Engineering be renamed Director Infrastructure & Assets.*
6. *The position of Director Planning be renamed Director Planning & Environment.*

FINANCIAL IMPLICATIONS

Nil

POLICY & LEGISLATION

- *Local Government Act 1993*

REPORT

The last review of the whole organisational structure was undertaken in February 2016. At the time financial stability was the key focus for the organisation following the introduction of the Special Rate Variation.

The adjustments to the structure at the time included the move of:

- Organisational Development activities from the General Manager to the Finance and Corporate Services Division
- Community Development (including HLSS and Library) to the Planning Division
- Economic Development and Tourism to the Planning Division
- Media and Communications to report directly to the General Manager

The current organisational structure is included in **Attachment A**.

Following the appointment of a new General Manager in October 2019:

- There is currently a vacancy in the Director Planning position
- An Engineering Division realignment with a stronger focus on asset planning and management has been endorsed
- Council has agreed to transfer its community service functions to another organisation
- The Special Rate Variation is coming to an end

There is now the opportunity to realign the structure to reflect these recent changes and the current organisational priorities. A suggested realignment of the structure is included in **Attachment B**.

The proposed structure remains based on three Directorates.

The main change for affected staff (i.e. Library, Economic Development and Tourism) is the reporting lines. There are no other changes to their employment arrangements.

The Finance and Corporate Services Directorate be renamed Corporate and Community. This is consistent with practices elsewhere in Local Government. The role remains consistent with the existing skill sets of the current Director.

The Engineering Directorate being renamed Infrastructure & Assets to reflect the focus on asset planning and management.

The Planning Directorate being renamed Planning & Environment.

There would be no change to the current contractual arrangements of Directors.

The Staff Consultative Committee considered the proposal at its meeting on 29 January 2020 and supported the realignment subject to several minor amendments. These adjustments have been incorporated into the proposed structure.

The realigned structure is presented for endorsement in accordance with s332 and s333 *Local Government Act 1993*.

STRATEGIC DIRECTION

Key Pillar 5. Our Civic Leadership

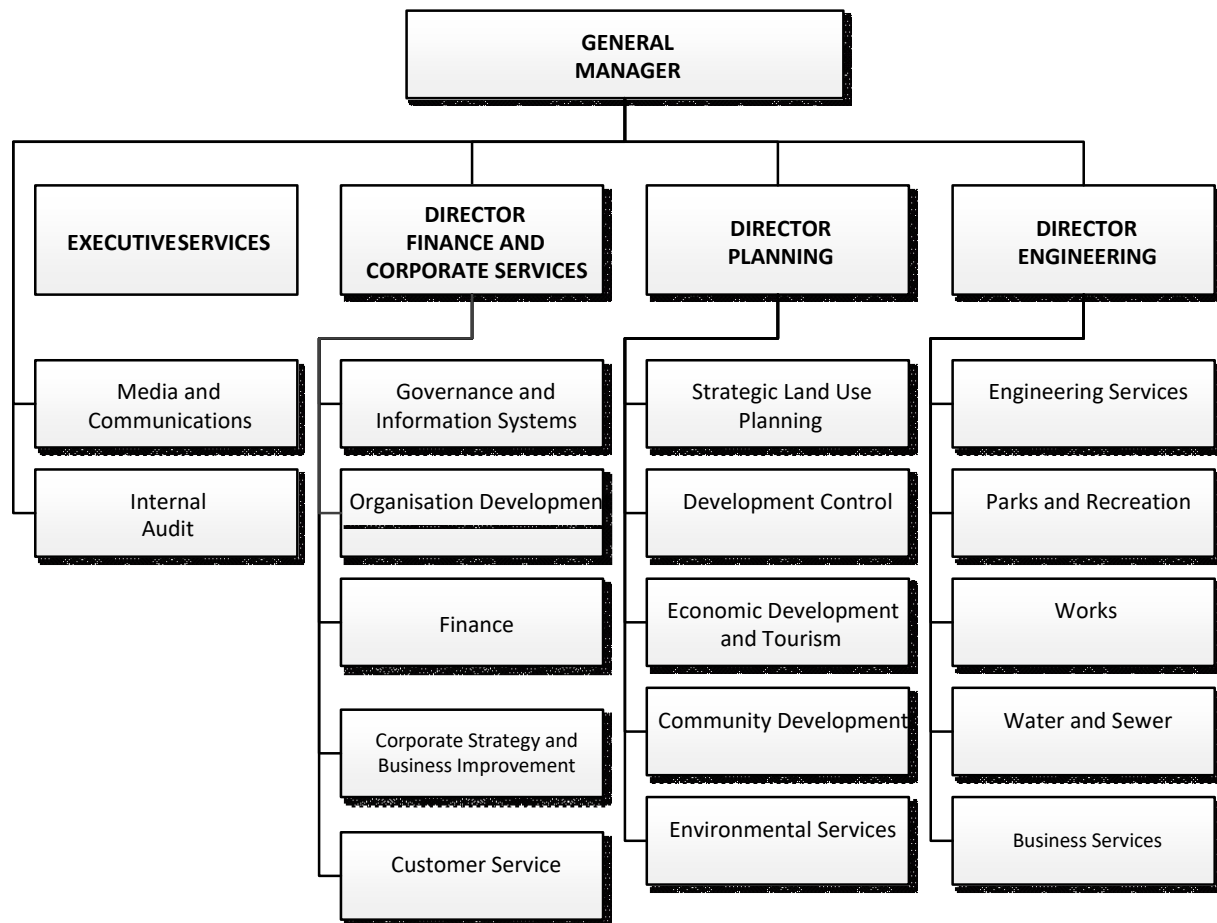
CSP Strategy CL1 - Effect resourceful and respectful leadership and attentive representation of the community

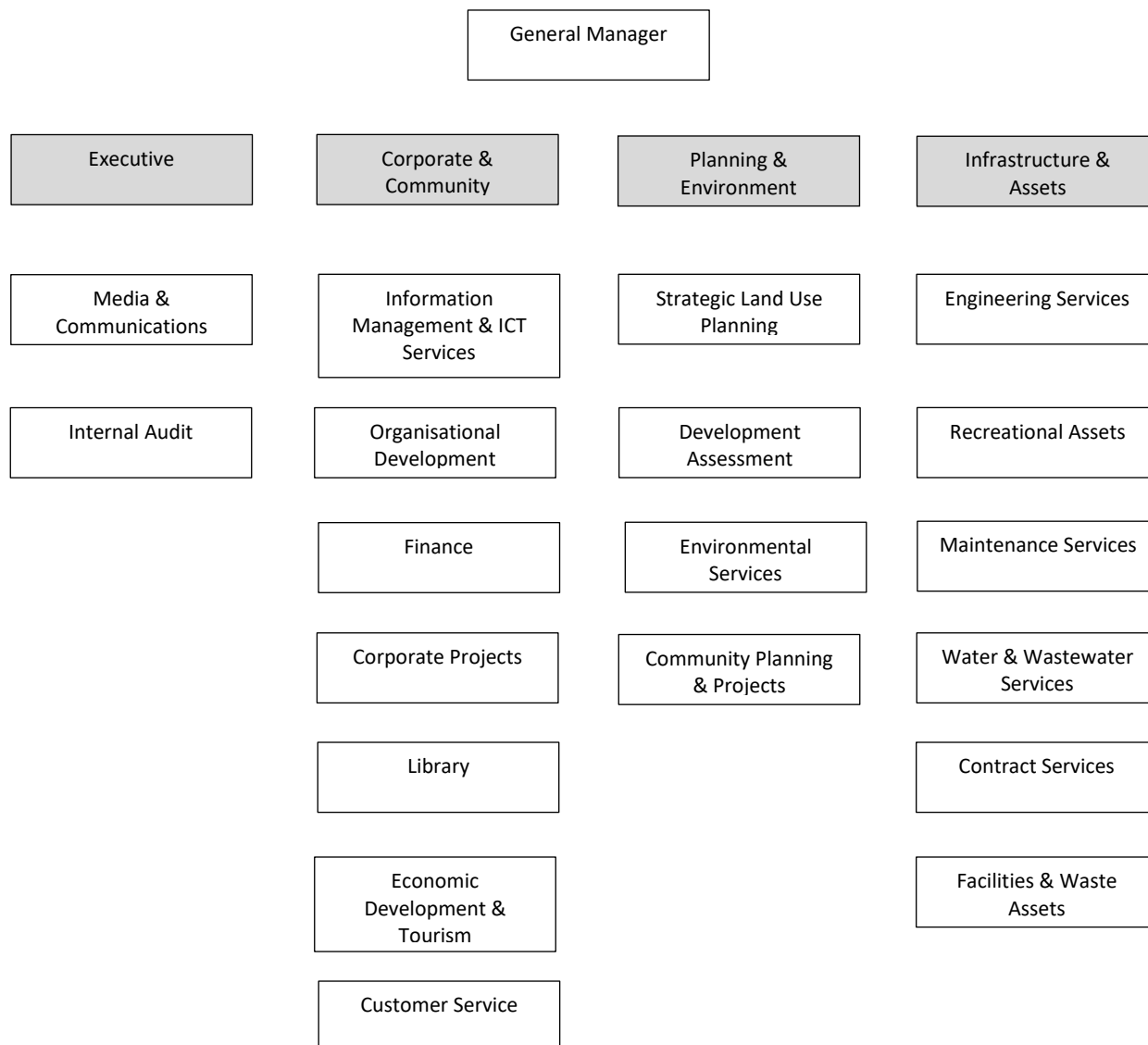
Delivery Program Action CL1.2 - Address the community's needs in a sustainable manner

Operational Plan Activity CL1.2.1 - Continue to align with Office of Local Government (OLG) financial ratio benchmarks

ATTACHMENTS: A. Existing Organisational Structure [↓](#)
B. Proposed Organisational Structure [↓](#)

EXISTING ORGNISATIONAL STRUCTURE





9.4 PETITION - PROPOSED DISTILLERY, WEE JASPER

SUMMARY

Tabling a petition lodged requesting Council to review the Development Application for a proposed distillery so that the iconic views and access to Wee Jasper General Store, the fuel forecourt and parking arrangements be preserved.

RECOMMENDATION

That the tabled petition on the Development Application for a proposed distillery in Wee Jasper be noted.

FINANCIAL IMPLICATIONS

Nil

POLICY & LEGISLATION

- *Petitions Policy*

REPORT

1. Background

In November 2019 Development Application No DA190213 for a distillery at 6494 Wee Jasper Road, Wee Jasper was lodged.

The proposal as placed on public exhibition and several submissions have been received. The assessment of the application has not yet been completed however it is anticipated that it will be reported to the March 2020 Council meeting for determination.

The petition requests Council to review the Development Application for the proposed distillery so that the iconic views and access to Wee Jasper General Store, the fuel forecourt and parking arrangements be preserved. The petition was organised by Terry Ryan owner of the adjoining Wee Jasper General Store. The petition is attached under Separate Cover.

2. Comments

The petition is generally consistent with Council's *Petition Policy* and although it does not include a statement specifying the number of signatories. There are 48 signatories of visitors to the General Store and campers to the Wee Jasper Reserves.

Taking into account the number of submissions received this proposal will be presented to Council for consideration. The issues raised in the petition and in all other submissions will be considered as part of the usual assessment process for any Development Application.

STRATEGIC DIRECTION

Key Pillar 5. Our Civic Leadership

CSP Strategy CL2 - Encourage and facilitate open and respectful communication between the community, the private sector, Council, and other government agencies

Delivery Program Action CL2.2 - Inform and engage with the community on all actions of Council

Operational Plan Activity CL2.2.3 - Implement Council's Community Engagement Strategy

ATTACHMENTS: A. Petition (*Under Separate Cover*) ➡

12.1 MINUTES OF THE LOCAL EMERGENCY MANAGEMENT COMMITTEE AND RESCUE COMMITTEE MEETINGS

REPORT

The minutes of the Local Emergency Management Committee and Rescue Committee meetings held on 4 February 2020 are included in **Attachments A** and **B**.

From these minutes there are no items which covers matters that:

- Requires expenditure not provided for in the current Operational Plan
- Involves a variation to a Council policy
- Is contrary to a previous decision or position of Council
- Relates to a matter which requires Council to form a view or adopt a position
- Deals with a matter of specific interest

RECOMMENDATION

That the minutes of the Local Emergency Management Committee and Rescue Committee meetings held on 4 February 2020 be noted.

ATTACHMENTS: A. Local Emergency Management Committee Minutes 4 February 2020 [↓](#)
 B. Rescue Committee Minutes 4 February 2020 [↓](#)

DRAFT Minutes of the Yass Valley Local Emergency Management Committee held on 4 February 2020

Present

LEMC Members

Stan Robb (Chair), Tony Stevens - Yass Valley Council, Dave Cowell (LEOCON) - NSW Police, Dean Campbell, Scott Lang - FRNSW, Kurt Bailey – SES, Fiona Leech and Chris Harris (LLS)

Also Present

Shirree Garland (Yass Valley Council)

Apologies

Peter Alley, George Shepherd (NSWRFS), Paul Lloyd (REMO) and Nicola Barnes (Southern NSW Health Services)

Confirmation of Minutes

*It was RESOLVED that the minutes of the meeting held on 5 November 2019 be accepted.
(D Cowell/K Bailey)*

Business Arising from Minutes

Marine Exercise

Marine rescue exercise to be rescheduled.

Correspondence

Bushfire Emergency correspondence

Matters Brought Forward from the Rescue Committee

Nil

Delegates Reports

1. NSW Police

Dave Cowell advised that Inspector Matt Hinton has been transferred to the position of OIC at Goulburn. As a result of this transfer Dave will be undertaking the role of LEOCON and will also be the acting Inspector until recruitment takes place.

The opening of the Regional Emergency Operations Centre during the New Year period provided valuable experience for all involved.

2. NSW Ambulance

Nil.

3. Fire Rescue NSW

Scott Lang advised that for 2019 there was a 3% increase with 183 jobs. Dec/Jan were above average months, excluding deployments. Following completion of recruitment there is a complement of 14 staff (13 operational). 45 fire safety checks have been undertaken. Training is continuing.

It was noted that the working relationship with the RFS on local incidents, has been excellent. The joint communication system is working well.

4. Rural Fire Service

Nil

DRAFT Minutes of the Yass Valley Local Emergency Management Committee held on 4 February 2020

State Emergency Service

Kurt Bailey spoke to provided report – copy attached. Kurt also advised that the recent fire emergencies have stretched the service to capacity but a lot of experience has also been gained.

5. Binalong Volunteer Rescue Association

Nil

6. Local Land Services

Chris Harris advised that it had been a very busy period. Staff have been deployed to a number of areas in the South East. Tasks have included assessing livestock; manning EOCs, managing fodder and water requests etc. It again has been a learning time to assist in being prepared for the future.

7. Southern NSW Local Health District

Nil

8. NSW Department of Family & Community Services

Nil

9. Red Cross

Nil

10. Council

Tony Stevens advised that Council staff were involved at the Regional Emergency Operations Centre, gaining a good working knowledge. Experience of using EMOS and working with other agencies has been invaluable.

Stan Robb advised that Council had come under a lot of criticism with social media. There is a need to have two different messages, one for local and the regional/state message, for any future incidents.

Region Emergency Management Officer Report – Paul Lloyd

Nil

General Business

1. EOC Exercise

EOC exercise held in October assisted in identifying issues eg EMOS issues and set up of room. This exercise will help ensure a more workable EOC.

2. GRN Radios

Chris Harris raised the issue of GRN radios and the value of having access to channels and assistance with training. It was agreed that this would greatly improve communications within emergency situations if all agencies were able to use the same network.

Action: Dave Cowell to discuss with Paul Lloyd. Paul to investigate possibilities of all agencies having access to one channel in emergency situations.

3. Water Situation

Fiona Leech advised that farm water is now becoming a major issue. Stan advised that Council was currently looking at ways to possibly assist farmers.

Stan Robb advised that Council was currently working on communication strategies in preparation for the possible drop in water quality and quantity. Rural grading has been stopped due to the lack of water.

DRAFT Minutes of the Yass Valley Local Emergency Management Committee held on 4 February 2020

Next Meeting

Next meeting 5 May 2020

Meeting closed 11.34 am

DRAFT Minutes of the Yass Valley Local Emergency Management Committee held on 4 February 2020



Yass Valley LEMC/LRC Agency Report

To: Yass Valley LEMC/LRC
From: SES NSW Yass-Hilltops Local Commander Kurt Bailey
Date: 03 February 2020

Information Covering Period 05 November 2019 to 03 February 2020

Community engagement

- Due to operational Activity there have been no Community Engagement Events during this period

Preparedness

- Focus on Currency training for Flood rescue.
- LARO Cache has been placed at the Yass unit for use by qualified FRNSW and SES members.

General:

Requests for assistance

- During this period we have had a total of 67 Requests For Assistance between Sutton and Yass units. 47 of these were support roles for the RFS.
- Yass and Sutton units were heavily involved in support for RFS out of the Queanbeyan FCC from the 2nd of December to the 25 of January. This involved up to 10 members each day for 47 days on Radio, Phones, Logistics and road clearing duties.
- A Yass unit team was deployed for 8 days to Batemans Bay from the 2nd of January
- A Team from Yass was deployed to Cooma on the 5th of January to help with infrastructure damage after a fire.
- Teams from Yass and Sutton were deployed to the ACT and Queanbeyan from the 20th to the 27th of January to help out with the damage from the hail storm.

DRAFT Minutes of the Yass Valley Local Emergency Management Committee held on 4 February 2020

- A team from Yass were deployed to Cooma from the 31st of January to the 3rd of February to help out with Logistics out of the Cooma-Monaro FCC.

Recruitment

- Yass have had 7 new recruits join in this period
- Sutton has had 6 new recruits join in this period

Position Changes

- N/A

END OF REPORT

NSW State Emergency Service – Yass/Hilltops
P 02 6118 6331 M 04 27845675 E kurt.bailey@member.ses.nsw.gov.au

1410 Laidlaw Street Yass NSW 2582
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DRAFT Minutes of the Yass Valley Rescue Committee Meeting held on 4 February 2020

Present

Dave Cowell (Deputy LEOCON), Dean Campbell (Fire Rescue NSW), Scott Lang (Fire Rescue NSW), Kurt Bailey (SES)

Also Present

Shirree Garland (Yass Valley Council)

Meeting commenced at 9.40 am

1. Apologies

Peter Alley, George Shepherd (NSW RFS) and Paul Lloyd (REMO)

2. Confirmation of Minutes

Recommended that the Minutes of the Committee meeting held on 5 November 2019 be taken as read and confirmed.

(S Lang/K Bailey)

3. Business Arising from Minutes

Marine Rescue Exercise

Marine rescue exercise to be rescheduled.

Wind Turbine Exercise

Proposed wind turbine exercise to be discussed with Paul Lloyd.

4. Correspondence

Nil

5. Delegates Reports

5.1 Fire & Rescue NSW

Scott Lang advised that for 2019 F&R attended a total of 43 motor vehicle accidents (MVAs), seven animal rescues. The majority of MVAs occurred on the Hume Highway, with a quarter occurring on the Barton Highway. A late model van and car have been provided by ANCAP for rescue training purposes.

Scott advised that F&R's role at a HAZMAT incident is to immediately lock down the scene to ensure no transfer contaminates occurs.

5.2 Rural Fire Service

Nil

5.3 SES

Kurt Bailey spoke to report provided.

DRAFT Minutes of the Yass Valley Rescue Committee Meeting held on 4 February 2020

5.4 NSW Police

Dave Cowell advised that a Regional Emergency Operations Centre was opened during the New Year to support the local EOCs in operation due to the emergency fire situations.

6. General Business

Nil

Next Meeting

5 May 2020 at 9.30 am

Meeting closed at 10.20 am

DRAFT Minutes of the Yass Valley Rescue Committee Meeting held on 4 February 2020



Yass Valley LEMC/LRC Agency Report

To: Yass Valley LEMC/LRC
From: SES NSW Yass-Hilltops Local Commander Kurt Bailey
Date: 03 February 2020

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- Yass and Sutton units were heavily involved in support for RFS out of the Queanbeyan FCC from the 2nd of December to the 25 of January. This involved up to 10 members each day for 47 days on Radio, Phones, Logistics and road clearing duties.
- A Yass unit team was deployed for 8 days to Batemans Bay from the 2nd of January
- A Team from Yass was deployed to Cooma on the 5th of January to help with infrastructure damage after a fire.
- Teams from Yass and Sutton were deployed to the ACT and Queanbeyan from the 20th to the 27th of January to help out with the damage from the hail storm.

DRAFT Minutes of the Yass Valley Rescue Committee Meeting held on 4 February 2020

- A team from Yass were deployed to Cooma from the 31st of January to the 3rd of February to help out with Logistics out of the Cooma-Menaro FCC.

Recruitment

- Yass have had 7 new recruits join in this period
- Sutton has had 6 new recruits join in this period

Position Changes

- N/A

END OF REPORT

NSW State Emergency Service – Yass/Hilltops
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1410 Laidlaw Street Yass NSW 2582
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12.2 MINUTES OF THE TRAFFIC COMMITTEE MEETING HELD ON 5 FEBRUARY 2020

REPORT

The minutes of the Traffic Committee meeting held on 5 February 2020 are included in **Attachment A**.

From these minutes there is one item which covers matters that:

- Requires expenditure not provided for in the current Operational Plan
- Involves a variation to a Council policy
- Is contrary to a previous decision or position of Council
- Relates to a matter which requires Council to form a view or adopt a position
- Deals with a matter of specific interest

RECOMMENDATION

That the minutes of the Traffic Committee meeting held on 5 February 2020 be noted and the following recommendation be endorsed:

Item 7.2 Request for Additional Parking Signs from the Yass office of NSW Fire and Rescue

That the request from the Yass office of NSW Fires and Rescue to install an additional parking restriction sign (Meehan Street) to improve access to their facility be approved

ATTACHMENTS: A. Traffic Management Committee Minutes 5 February 2020 [↓](#)



Minutes of the Traffic Facilities Committee Meeting

Wednesday 5 February 2020

10.30am

Council Chambers

209 Comur Street, Yass

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Present

Councillor Jasmin Jones (Chairperson), Sergeant Steve Pidgeon (Police), Terry Cooper (Engineering Services Manager), Faz Hoque (TfNSW South West) and Trish Rayner (Minutes).

1. Apologies

Michael Buckley (TfNSW South West)

Greg Minehan (TfNSW South West)

2. Declarations of Interest

Nil

3. Confirmation of Minutes

RECOMMENDATION

That the minutes of the Traffic Facilities Committee Meeting held on 06 November 2019, adopted at Council Ordinary Meeting, 27 November 2019 be taken as read and confirmed.

Note – that Council when considering the draft minutes the following recommendation was added:

A letter be written to the Minister for Transport and the Local Member for Goulburn outlining Council concerns over the withdrawal of funding under the safety around schools program, the transfer of responsibility from the State Government to Local Government and the resultant impacts on resourcing within Councils

4. Business Arising

Nil

5. Presentations

Nil

6. Special Agenda Items

Nil

7. Staff Reports

**7.1 REQUEST FOR CAR PARKING SPACE FOR DISABLED PERSONS JONES PARK
MURRUMBATEMAN**

SUMMARY

To consider a request to create a formal disable car parking space in the Jones Park Murrumbateman carpark.

DECISION:

That

1. *The Committee supports in principal the installation of a designated disable car parking space in Jones Park and notes TfNSW is currently preparing plans for consultation for the upgrade of this area, which will be presented to the Committee once it is received.*
2. *The requester be advised of this outcome*

7.2 REQUEST FOR ADDITIONAL PARKING SIGNS FROM THE YASS OFFICE OF NSW FIRE AND RESCUE

SUMMARY

Council has received a request from the Yass office of NSW Fire Rescue, Meehan Street, to install additional parking restricts to improve access to their facility.

RECOMMENDATION:

That the request from the Yass office of NSW Fires and Rescue to install an additional parking restriction sign (Meehan Street) to improve access to their facility be approved.

7.3 SPEED ZONE REVIEW REQUEST - EUROKA AVENUE AND PATEMANS LANE

SUMMARY

Council has received a number of request for the speed zones in Euroka Avenue and Patemans Lane to be reviewed.

DECISION:

As Council does not hold delegation to change speed zones, the request to reduce the speed zone on Euroka Avenue and Patemans Lane has been referred to TfNSW South West by Council staff.

7.4 SPEED ZONE REVIEW REQUEST - WARGEILA ROAD

SUMMARY

Council has received a request for the speed zone Wargeila Road to be reviewed..

DECISION:

1. *As Council does not hold delegation to change speed zones, the request to reduce the speed zone on Wargeila Road has been referred to TfNSW South West for consideration.*
2. *Council staff to review the lighting and directional signage at the intersection of Yass Valley Way and the Waregeila Road turn off and report back with an approximate price*

7.5 MEMBER'S UPDATE

SUMMARY

To provide each Committee member an opportunity to provide the Committee with an update on traffic matters as it relates to their area of responsibility.

UPDATE:

TfNSW South West

- *updated the Committee on the Yass Public School car parking issue, TfNSW are awaiting on Council staff to provide a plan for the car parking to TfNSW to assess and comment on.*
- *to follow up and provide feedback to the Committee three outstanding speed zone reviews, Yass Valley Way, East Tallagandra Lane & Yass River Road.*
- *Noted that TfNSW South West is currently reviewing traffic delegations and how these should be managed in the future*

NSW Police – Nil

Council

- *Inquired about whether reoccurring annual events e.g. ANZAC Day, Picnic Races, Australia Day, will need to continue to be approved annually by the NSW Police & TfNSW. The advice was yes.*
- *Noted that Council is currently reviewing how it will undertake the Traffic delegations including whether the current approval via the Traffic Committee will continue.*
The Police and TfNSW representatives noted that they prefer to continue with the current format of using the Traffic Committee

7.6 UPDATE OF CURRENT TRAFFIC MANAGEMENT COMMITTEE ISSUES

SUMMARY

To provide the Committee an update on progress on Committee issues/activities.

DECISION:

That:

1. *the information be noted.*
2. *Council to follow up on what is outstanding or has been completed.*
3. *Council prepare draft designs to address parking concerns etc at Yass Public School including the potential of installing a boom gate for consideration by Council and the Traffic Committee*

8. General Business

Nil

9. Next Meeting

Wednesday, 6th May 2020

The meeting closed at 11:41am

13 CONFIDENTIAL MATTERS

RECOMMENDATION

THAT pursuant to Section 10A of the Local Government Act, 1993 the following items on the agenda be classified as CONFIDENTIAL and considered in the Closed Meeting of Council in accordance with Section 10A(2) of the Local Government Act for the reasons as specified:

13.1 Development Consent No DA155133E - Land and Environment Court Appeal - Truck Depot - 46 Carrington Road, Springrange

Item 13.1 is confidential in accordance with section s10(A)(2)(g) of the Local Government Act because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

13.2 Mayoral Minute: General Manager Performance Agreement

Item 13.2 is confidential in accordance with section s10(A)(2)(a) of the Local Government Act because it contains personnel matters concerning particular individuals (other than councillors) and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.