



# ORDINARY COUNCIL MEETING

Wednesday 19 February, 2025

at 9:00am

Council Chambers, 56 Chanter Street, Berrigan



# Agenda

## Our Vision

*Our diverse population and productive natural landscape fuel a vibrant economy and a harmonious and thriving community.*

## COMMUNITY STRATEGIC PLAN

Berrigan Shire Council's Community Strategic Plan Berrigan Shire 2040 is a common framework for measuring the achievement of Berrigan Shire 2040 strategic outcomes of:

CO. Our Community

EC. Our Economy

EN. Our Environment

IN. Our Infrastructure

CL. Our Civic Leadership

The Community Strategic Plan can be found here: [Community Strategic Plan 2040](#)

## RISK MANAGEMENT POLICY & FRAMEWORK

Berrigan Shire Council is committed to managing its risks strategically and systematically in order to benefit the community and manage the adverse effects to Council.

Risk Management is everyone's responsibility. It is an activity that begins at the highest level and is applied consistently through all levels of Council. All workers are required to integrate risk management procedures and practices into their daily activities and must be competent and accountable for adequately managing risk within their area of responsibility.

*The Risk Management Policy & Framework can be found here:*

[Risk Management Policy and Framework](#)



Ordinary Council Meeting  
Wednesday 19 February, 2025

**BUSINESS PAPER**

The Ordinary Council Meeting of the Shire of Berrigan will be held in the Council Chambers, 56 Chanter Street, Berrigan, on Wednesday 19 February, 2025 when the following business will be considered:-

**ITEMS OF BUSINESS**

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<b>2</b>	<b>ACKNOWLEDGEMENT OF COUNTRY .....</b>	<b>5</b>
<b>3</b>	<b>APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE OR ATTENDANCE VIA AUDIO-VISUAL LINK BY COUNCILLORS.....</b>	<b>5</b>
3.1	Apologies/Leave of Absence .....	5
3.2	Applications for Leave of Absence .....	5
3.3	Attendance Via Audio-Visual Link .....	5
<b>4</b>	<b>CONFIRMATION OF PREVIOUS MINUTES .....</b>	<b>6</b>
<b>5</b>	<b>DISCLOSURES OF INTERESTS.....</b>	<b>6</b>
<b>6</b>	<b>MAYORAL MINUTE(S).....</b>	<b>6</b>
	Nil	
<b>7</b>	<b>REPORTS OF COMMITTEES.....</b>	<b>6</b>
	Nil	
<b>8</b>	<b>REPORTS TO COUNCIL.....</b>	<b>7</b>
8.1	Correspondence December 2024 to February 2025 .....	7
8.2	Councillor requests January 2025 .....	10

8.3	Councillor expenses reporting .....	14
8.4	Development Determinations for Month of Jan 2025 .....	15
8.5	Actions from previous meetings .....	19
8.6	Finance Accounts January .....	20
8.7	Operational Plan review Q2 2024 25 .....	26
8.8	Financial Quarterly Business Review Statement 2 FY 24 25 Q2 .....	28
8.9	Consultation draft amendments to the code of meeting practice.....	33
8.10	Classification of land 12 14 Hayes St Berrigan .....	41
8.11	Terms of Reference CEO performance review panel .....	45
8.12	Event Funding application Mild to Wild Rod Run.....	53
8.13	Tocumwal and Barooga Flood Study.....	56
8.14	Policy Grants and Works Community Facilities.....	59
8.15	Planning Proposal 2024 989 1 Bruton Street Tocumwal.....	73
8.16	Planning Proposal Berrigan LEP review .....	81
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<b>9</b>	<b>NOTICES OF MOTION/QUESTIONS WITH NOTICE.....</b>	<b>88</b>
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10.2	T10-24-25 Haynes Court, Tocumwal.....	89
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10.4	T11-24-25 - National Memorial Creek Walk Bridge Replacement .....	89
<b>11</b>	<b>MOTIONS WITHOUT NOTICE / QUESTIONS WITHOUT NOTICE.....</b>	<b>90</b>
<b>12</b>	<b>COUNCILLOR REPORTS .....</b>	<b>90</b>
12.1	Mayor’s Report .....	90
12.2	Verbal Reports from Delegates .....	90
<b>13</b>	<b>CONCLUSION OF MEETING.....</b>	<b>90</b>

No business, other than that on the Agenda, may be dealt with at this meeting unless admitted by the Mayor.



KARINA EWER  
CHIEF EXECUTIVE OFFICER



## **1 OPENING OF MEETING**

In the spirit of open, accessible and transparent government, Berrigan Shire Council's meetings are recorded. By speaking at a Council Meeting, members of the public agree to being recorded. Berrigan Shire Council accepts no liability for any defamatory, discriminatory or offensive remarks or gestures that are made during the course of the Council Meeting. Opinions expressed or statements made by individuals are the opinions or statements of those individuals and do not imply any form of endorsement by Berrigan Shire Council.

Confidential matters of Council will not be audio recorded.

Recordings are protected by copyright and owned by Berrigan Shire Council. No part may be copied, recorded, reproduced or transmitted without the prior written consent of the Chief Executive Officer. Any recording is not, and shall not, be taken to be an official record of Berrigan Shire Council meetings or the discussion depicted therein. Only the official minutes may be relied upon as an official record of the meeting.

An recording of the Council Meeting will be taken for administrative and minute preparation purposes only and is provided to the public for listening purposes to support Council's statutory obligations.

## **2 ACKNOWLEDGEMENT OF COUNTRY**

"Berrigan Shire Council acknowledges the Traditional Custodians of the lands on which we live and thrive. We pay our respects to their elders; past, present and emerging. The peoples of these great Nations, their spirits and ancestors will always remain with our waterways and lands."

## **3 APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE OR ATTENDANCE VIA AUDIO-VISUAL LINK BY COUNCILLORS**

### **3.1 Apologies/Leave of Absence**

Nil

### **3.2 Applications for Leave of Absence**

### **3.3 Attendance Via Audio-Visual Link**

Nil



4 CONFIRMATION OF PREVIOUS MINUTES

**Recommendation:** That the minutes of the Ordinary Council Meeting held in the Council Chambers Wednesday 22 January, 2025 be confirmed.

5 DISCLOSURES OF INTERESTS

6 MAYORAL MINUTE(S)

Nil

7 REPORTS OF COMMITTEES

Nil



## 8 REPORTS TO COUNCIL

### 8.1 Correspondence December 2024 to February 2025

<b>Author:</b>	Chief Executive Officer, Karina Ewer
<b>Strategic Outcome:</b>	CL. Our Civic Leadership
<b>Strategic Objective:</b>	CL-A. The community is serviced in an effective, financially sustainable and responsible manner
<b>Delivery Program:</b>	CL.1. Improve Council processes to make doing business with Council easier.
<b>Council's Role:</b>	<b>Service Provider:</b> The full cost (apart from fees for cost recovery, grants etc) of a service or activity is met by Council
<b>Appendices:</b>	<ol style="list-style-type: none"> <li>Incoming.pdf (under separate cover)</li> <li>Outgoing.pdf (under separate cover)</li> </ol>

*This report is for information only.*

### Report

The report is intended to ensure our work, such as advocacy, of the Mayor and CEO is transparent to the Council and the community.

All correspondence is grouped into one attachment (incoming and outgoing) to ensure appendices are manageable.

### Incoming

DATE	FROM	TO	TOPIC	RESPONDED DATE
21 January 2025	Simon Cowie, Heart Foundation	Mayor Julia	National Heart Foundation of Australia	N/A
21 January 2025	James Wood, CEO and Legal Director, EC Legal	Karina Ewer	Proposal to amend Australia Day holiday to the Australia Long Weekend	N/A
30 January 2025	Greg Winchester, Department of Climate Change, Energy, the Environment and Water	Karina Ewer CC Merran Socha	Update on the procurement strategy for the SDLAM Acceleration water infrastructure projects and opportunities for	N/A



DATE	FROM	TO	TOPIC	RESPONDED DATE
			local businesses to get involved	
3 February 2025	Rick Firman OAM, CMA Chairman Mayor, Country Mayors Association of NSW (CMA)	Mayor Julia	CMA Chairman's letter - Your health input sought	7/02/2025
4 February 2025	Hon Tony Burke MP, Minister for Home Affairs, Minister for Immigration and Multicultural Affairs, Minister for Cyber Security and Minister for the Arts.	Mayor Julia	Australian citizenship ceremonies	N/A
5 February 2025	Gilgandra Shire Council	Matthew Hansen	ARIC Country Council's Conference Save the Date 04.02.2025	N/A
6 February 2025	Amy Humphreys, NSW Department of Customer Service	Matthew Hansen	NSWTA Digital Connectivity Principles, Local Government	N/A
7 February 2025	Gary Fry, Country Mayors Association of NSW	Mayor Julia Cc Matthew Hansen	Country Mayors Media Release - Police Minister boosts her regional connectedness	N/A
10 February 2025	Melissa Seymour, Leeton Shire Council	Karina Ewer	RSVP requested today - Roxy Community Theatre (Stage 1) Grand Reopening Invitation	N/A
10 February 2025	Gary Fry, Country Mayors	Mayor Julia	CMA Media Release: COUNTRY	N/A





DATE	FROM	TO	TOPIC	RESPONDED DATE
	Association of NSW	Cc Matthew Hansen	MAYORS SEEK RESTORATION OF COMMONWEALTH FUNDING	

## OUTGOING

DATE	FROM	TO	REGARDS	TYPE
23 January 2025	Matthew Hansen	Kerry Davies – Secretary Rotary Club of Tocumwal	National Memorial WAAF Creek Walk	Letter via email
23 January 2025	Matthew Hansen	Members of public who sent in submissions	National Memorial WAAF Creek Walk	Letter via email
24 January 2025	Matthew Hansen	Members of public who sent in submissions	Councillors Expenses and Facilities Policy	Letter via email
24 January 2025	Mayor Julia	Tocumwal Airshow	Tocumwal Airshow	Letter via email



## 8.2 Councillor requests January 2025

<b>Author:</b>	<b>Customer Communications Coordinator, Kayleigh Nolen</b>
<b>Strategic Outcome:</b>	CL. Our Civic Leadership
<b>Strategic Objective:</b>	CL-A. The community is serviced in an effective, financially sustainable and responsible manner
<b>Delivery Program:</b>	CL.2. Manage people, assets, resources, and risks responsibly to support the Council's ongoing viability and maximise value for money for ratepayers.
<b>Council's Role:</b>	<b>Service Provider:</b> The full cost (apart from fees for cost recovery, grants etc) of a service or activity is met by Council
<b>Appendices:</b>	Nil

*This report is for information only.*

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### Report

This report provides the council with an update on action against requests made by councillors as required by the councillor access to information and staff interaction policy.



Works Request Number	Logged Date	Closed Date	Fault/request Type	Service Details	Progress Comments	Resolution Comments	Requested by
8737	18/09/2024	-	Waste	Petition for the removal of waste collection in Honniball drive Tocumwal. Petition saved in Media of this request & Magiq.	- Legal Advice obtained. Town Service boundaries to be determined by councillors. -Awaiting Legal advice. Councillor Stringer has been notified by Matt Hansen. - To be included in Statement of Revenue Policy to go to Council. 05/02/2025	-	Cr Stringer
8755	25/09/2025	-	Boat Ramp	Request from Cr Stringer The sandbags have moved at Tocumwal jetty and they are catching boats. Can Gary and/or Darron contact him to work out what we can do, if anything.	River level too high to enable works to fix issue	-	Cr Stringer
8864	21/10/2024	-	Signage	Update on status of the Edwards Car Park sign	Men's shed has been contacted to make up sign, when this is done, council will put up	-	Cr Healy
9172	13/01/2025	-	Roads	Vandalism of community signs on the southern entrance to Finley	As signs need to be replaced a decision needs to be made as to who is responsible for cost as these are not Council signs.	-	Cr Ngatokoia
9200	20/01/2025	23/01/2025	Trees - Inspection required	Resident contacted me about the back limb of this tree, it seems to be splitting off from the base and he is concerned that if it falls it will damage their fence.	-	Rang on 6 Jan 2025 no answer. Tree was fine at time of inspection, will trim during winter trimming program.	Cr Ngatokoia
9201	20/01/2025	-	Parking	I would like to raise a point about disability parking that was made to me by a resident who lives in Berrigan. Her sister cares for a person in a	Under Consideration	-	Cr Dennis



				wheelchair. When they need to go to town, they are not able to park in the main centre. There are no designated parks where you can have side or rear vehicle access to disembark a wheelchair. Would it be possible to review the issue and allocate an appropriate parking area?			
9221	21/01/2025	-	Roads	Is it possible for the hole near the drain to be fixed and/or for a hazard bollard etc to be put around it?	Hole filled, will require additional works.	-	Mayor Cornwell McKean
9230	23/01/2025	24/01/2025	Water	Parts of the Splash Park are out of order.	-	One of the feature pumps was losing prime, it's been fixed. 24/1/15.	Cr Stringer
9244	28/01/2025	-	Parking issue	<p>Received from a community member</p> <p>The disabled parking places in Tocumwal are inadequate - in number and in design. They do not meet Australian Standard of 3.2 meters wide by 5.4 meters long, and do not have a kerb ramp access to the footpath on the passenger side. There are some with kerb access to a footpath on the driver side which is not usable by the passengers as it would require them to walk around the rear of the car, possibly encountering traffic. In the course of my job as volunteer community health transport driver I transport aged/infirm/disabled community members around the towns in the Berrigan Shire as well as to Albury, Shepparton, Wangaratta, Yarrawonga etc. Many of my passengers have walkers and a few have wheelchairs. The towns in our</p>	The Asset and Engineering team is conducting an investigation into DDA compliance and identifying the scope of works, including cost estimations to address any issues found. The scope of the investigation also includes assessing the possibility of additional DDA requirements in Tocumwal. The investigation report will be submitted to Gary by February 18, 2025.	-	Mayor Cornwell McKean



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				Shire have, unfortunately, very poor design for our aged community members or those with a disability. I believe we can do better with our built environment to encourage inclusion and to provide access to all areas of our towns for these community members.			
9245	28/01/2025	29/01/2025	Waste	The bins from carols are still containing rubbish and not yet collected.	-	Maintenance Crew will pick up bins next week	Cr Brooker

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### 8.3 Councillor expenses reporting

Author:	Deputy Chief Executive Officer, Matthew Hansen
Strategic Outcome:	CL. Our Civic Leadership
Strategic Objective:	CL-A. The community is serviced in an effective, financially sustainable and responsible manner
Delivery Program:	CL.2. Manage people, assets, resources, and risks responsibly to support the Council's ongoing viability and maximise value for money for ratepayers.
Council's Role:	<b>Service Provider:</b> The full cost (apart from fees for cost recovery, grants etc) of a service or activity is met by Council
Appendices:	Nil

*This report is for information only.*

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#### Report

This report informs council of its obligations to publicly report on the expenses and facilities provide to Councillors under legislation and policy.

#### Background

[Clause 217\(1\) of the Local Government \(General\) Regulation 2021](#) requires the council to include in its annual report a statement detailing the cost of the payment of expenses and the provision of facilities for the year in question.

This statement is available in the [council's 2023/24 annual report](#) (page 68).

At its meeting on 22 January 2025, the council adopted a revised Councillors Expenses and Facilities Policy.

The policy includes the following clause (6.11.9):

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

*Detailed reports on the provision of expenses and facilities to councillors will be publicly tabled at a council meeting every six months and published in full on council's website.*

*These reports will include expenditure summarised by individual councillor and as a total for all councillors.*

The reporting requirements shown in **bold** are discretionary disclosures by council, over and above council's legal obligation. Nonetheless, council has committed to make this disclosure. Note: this information would be publicly available under the *Government Information (Public Access) Act 2009* in any case.

The first report will be presented in August detailing expenses from January 2025 to June 2025, broken down by councillor and by item.



## 8.4 Development Determinations for Month of Jan 2025

<b>Author:</b>	Administration Support - Building & Planning, Kelly Milich
<b>Strategic Outcome:</b>	CO. Our Community
<b>Strategic Objective:</b>	CO-A. We're healthy and well with equitable access to services
<b>Delivery Program:</b>	CO.1. Deliver initiatives, facilities and services to advance health and wellbeing priorities
<b>Council's Role:</b>	<b>Service Provider:</b> The full cost (apart from fees for cost recovery, grants etc) of a service or activity is met by Council
<b>Appendices:</b>	Nil

### Recommendation

That Council receive and note this report.

## Report

### APPLICATIONS DETERMINED FOR JANUARY 2025

Application	Proposal	Property	Status	Work Value
58/25/DA/D5	Residential Shed	5 Pinewood Lane, Tocumwal	Approved	\$19,900
63/25/DA/D5	Veranda	23-29 Murray Street, Tocumwal	Approved	\$55,000
64/25/DA/D5	Residential Shed	110 Deniliquin Street, Tocumwal	Approved	\$44,855
61/25/DA/DM	Extension to Veranda Roof	5 Boyd Street, Tocumwal	Approved	\$11,000

### Key Performance Indicator – Development Assessment:

Average Lodgement Days - Berrigan	22
Average Assessment Days - Berrigan	50



For **Berrigan**, average lodgement timeframe was **22 days (exceeded the 14-day expectation<sup>^</sup> by 8 days)** for FY 2024-25 up to 31-Jan-2025.



Note: Calendar days include weekends and public holidays in the day count.

State Government collects data through the NSW Planning Portal to produce a ‘council league table’, an interactive digital dashboard, used to monitor the lodgement and determination of development applications. The *Statement of Expectations Order 2021* focuses on housing deliverability. The Order was updated on 1 July 2024, to outline the Minister’s expectation of lodging a development application within an average of 14 days, from the date of submission.

Development applications in January 2025 had an average lodgement time of 22 days, which is not within the Ministerial direction. The average lodgement days is defined as “total between the submission date and lodgement date for all DA’s lodged divided by the total number of applications lodged within the selected time period. Calendar days include weekends and public holidays”.

Staff are aware of the explanatory note of the Order states that *if a council is found not to be meeting these expectations, the Minister can take these matters into consideration as part of determining if it is appropriate to appoint a planning administrator or Sydney district or regional planning panel to exercise a council's functions*. Staff are changing their processes (requesting the fee as soon as possible to make sure that the application is complete, rather than including in a Request for Further Information) to meet the timeframe.





For **Berrigan**, average assessment timeframe was **50** days for FY 2024-25 up to **31-Jan-2025**.



The 1 July 2024 Order outlines the Minister’s expectation of determining a development application as soon as practical, or an average of 115 days, from lodgement; whichever is the lesser of Council’s previous financial year average.

Development applications in January 2025 had an average assessment timeframe (and were determined) within 50 days.

The Planning & Development team are well aware of the 40 day statutory timeframe requirement in the EP&A Act and Regulations for determining a development application. Whilst short staffed, they are striving to achieve this statutory requirement, in particular for the smaller applications (e.g. for a new dwelling or a shed).

**APPLICATIONS PENDING DETERMINATION AS AT 31/01/2025**

64/25/DA/D5	30-01-2025	RESIDENTIAL SHED	110 DENILQUIN STREET, TOCUMWAL NSW 2714 (Lot71//DP1304258)
32/25/CD/PC	07-01-2025	INGROUND FIBREGLASS SWIMMING POOL	43 MORRIS DRIVE, TOCUMWAL NSW 2714 (Lot34//DP270154)
53/25/ACT/ZF	08-01-2025	WATER METERS & PLUMBING WORKS	25C SNELL ROAD, BAROOGA NSW 3644 (Lot3//DP1283212)
58/25/DA/D5	08-01-2025	RESIDENTIAL SHED	5 PINWOOD LANE, TOCUMWAL NSW 2714 (Lot14//DP285573)



24/25/RA/R4	09-01-2025	VEHICLE CROSSOVER	12 ANTHONY AVENUE, TOCUMWAL NSW 2714 (Lot19//DP1068277)
59/25/DA/D9	10-01-2025	SUBDIVISION	480 TUPPAL ROAD, TOCUMWAL NSW 2714 (Lot2//DP752296)
60/25/DA/D6	16-01-2025	ADDITIONS TO DWELLING	3 KARJEN COURT, BAROOGA NSW 3644 (Lot7//DP252193)
61/25/DA/DM	20-01-2025	EXTENSION TO EXISTING VERANDAH ROOF	5 BOYD STREET, TOCUMWAL NSW 2714 (Lot163//DP1175385)
62/25/DA/D5	22-01-2025	RESIDENTIAL SHED	29 HADLEY STREET, TOCUMWAL NSW 2714 (Lot14//DP1250358)
63/25/DA/D5	23-01-2025	VERANDAH	23-29 MURRAY STREET, TOCUMWAL NSW 2714 (Lot2//DP1024391)

**OTHER CERTIFICATES ISSUED FOR JANUARY 2025**

	s10.7(2) Planning Certificate		s10.7(5) Certificate		735A Certificate		s9.34 Certificate		s6.24 Building Certificate		Swimming Pool Certificate	
	JAN	Year Total	JAN	Year Total	JAN	Year Total	JAN	Year Total	JAN	Year Total	JAN	Year Total
BAROOGA	7	41	0	2	0	0	0	0	0	1	1	7
BERRIGAN	3	32	0	0	0	1	0	0	0	0	0	0
FINLEY	6	46	0	2	0	1	0	1	0	0	0	0
TOCUMWAL	9	80	0	4	0	0	0	0	0	1	1	2
<b>TOTAL</b>	<b>25</b>	<b>199</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>9</b>



## 8.5 Actions from previous meetings

<b>Author:</b>	<b>Deputy Chief Executive Officer, Matthew Hansen</b>
<b>Strategic Outcome:</b>	CL. Our Civic Leadership
<b>Strategic Objective:</b>	CL-A. The community is serviced in an effective, financially sustainable and responsible manner
<b>Delivery Program:</b>	CL.2. Manage people, assets, resources, and risks responsibly to support the Council's ongoing viability and maximise value for money for ratepayers.
<b>Council's Role:</b>	<b>Service Provider:</b> The full cost (apart from fees for cost recovery, grants etc) of a service or activity is met by Council
<b>Appendices:</b>	<ol style="list-style-type: none"><li>1. Outstanding Actions as of 13 February 2025. (under separate cover)</li><li>2. Completed Actions 15.01.2025 13.02.2025 (under separate cover)</li></ol>

### Recommendation

That Council receive and note this report.

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### Report

Attached as appendices to this report are the following reports on actions undertaken by council staff to implement the decisions from previous council meetings, including the expected timeframe for implementation.

- ☐ Outstanding actions as of 13 February 2025
  - ☐ Completed Council Actions from 15 January 2025 to 13 February 2025
-



## 8.6 Finance Accounts January

<b>Author:</b>	<b>Finance Team Leader, Grant Martin</b>
<b>Strategic Outcome:</b>	CL. Our Civic Leadership
<b>Strategic Objective:</b>	CL-A. The community is serviced in an effective, financially sustainable and responsible manner
<b>Delivery Program:</b>	CL.2. Manage people, assets, resources, and risks responsibly to support the Council's ongoing viability and maximise value for money for ratepayers.
<b>Council's Role:</b>	<b>Service Provider:</b> The full cost (apart from fees for cost recovery, grants etc) of a service or activity is met by Council
<b>Appendices:</b>	1. Berrigan_Monthly Report_January 2025.pdf (under separate cover)

### Recommendation

That Council:

- a) receive the Financial Statement, Bank Reconciliation Certificate and Petty Cash Book made up to 31 January 2025,
- b) confirm the accounts paid as per Warrant No. 01/25 totaling \$1,998,183.84 and
- c) note the report on investments attached.

### Purpose

This report is designed to inform Council of its cash and investments as at 31 January 2025 and for council to authorise expenditure for the month ending 31 January 2025.

### Report

- a) A Financial Statement covering all funds of the Council indicating the Bank Balances as at 31 January 2025 is certified by the Finance Team Leader.
- b) The Finance Team Leader certifies that the Cash Book of the Council was reconciled with the Bank Statements as at 31 January 2025.
- c) The Finance Team Leader certifies the Accounts, including the Petty Cash Book made up to 31 January 2025, totaling \$1,998,183.84 and will be submitted for confirmation of payment as per Warrant No. 01/25.
- d) The Finance Team Leader certifies that all Investments have been placed in accordance with:
  - i. [Council's Investment Policy](#),
  - ii. [Section 625 of the Local Government Act 1993 \(as amended\)](#),
  - iii. [the Minister's Amended Investment Order gazetted 11 January 2011](#),
  - iv. [clause 212 of the Local Government \(General\) Regulations 2021](#), and



- v. Third Party Investment requirements of the Office of Local Government Circular 06-70
- e) Council’s cash and investment portfolio decreased by \$328,845.77 since December. However, funds have increased by \$217,500.97 compared to the same period last year.

**Statement of Bank Balances as at 31 JANUARY 2025**

**Bank Account Reconciliation**

Cash book balance as at 31 JANUARY 2025	\$ 7,546,505.49
Receipts for JANUARY 2025	\$ 1,759,341.54
Term Deposits Credited Back	\$ 3,000,000.00
	<b>\$ 12,305,847.03</b>
<i>Less Payments Statement No 01/25</i>	
Bank Transfers	\$ -
Electronic Funds Transfer (EFT) Payroll	\$ 1,227,923.20
Electronic Funds Transfer (EFT) Creditors	\$ 718,332.54
Term Deposits Invested	\$ -
Loan repayments, bank charges, etc	\$ 51,928.10
Total Payments for JANUARY 2025	\$ 1,998,183.84
Cash Book Balance as at 31 JANUARY 2025	<b>\$ 10,307,663.19</b>
<i>Bank Statements as at 31 JANUARY 2025</i>	
Plus Outstanding Deposits	\$ 10,307,663.19
Less Outstanding Cheques/Payments	\$ -
Reconciliation Balance as at 31 JANUARY 2025	<b>\$ 10,307,663.19</b>

**INVESTMENT REGISTER**

INSTITUTION	FUND	DEPOSIT NO.	TERM (days)	RATE	MATURITY DATE	INSTITUTION TOTAL	S&P RATING
AMP Bank	SEWER	167/24	365	5.10%	19/12/2025	\$ 2,000,000.00	AA-
Bendigo Bank	WATER	142/18	181	5.00%	26/03/2025	\$ 2,000,000.00	BBB+
Bendigo Bank	WATER	166/24	365	5.05%	18/11/2025	\$ 2,000,000.00	BBB+
NAB	GENERAL	160/24	153	5.07%	27/02/2025	\$ 2,000,000.00	AA-
NAB	GENERAL	161/24	214	5.07%	29/04/2025	\$ 2,000,000.00	AA-
NAB	WATER	162/24	242	5.04%	27/05/2025	\$ 2,000,000.00	AA-
NAB	WATER	163/24	334	4.95%	27/08/2025	\$ 2,000,000.00	AA-
NAB	GENERAL	156/24	368	5.25%	10/06/2025	\$ 2,000,000.00	AA-
NAB	SEWER	157/24	365	5.30%	30/07/2025	\$ 2,000,000.00	AA-
WESTPAC	GENERAL	150/23	365	4.82%	30/09/2025	\$ 2,000,000.00	AA-
WESTPAC	SEWER	144/19	552	4.95%	1/10/2025	\$ 2,000,000.00	AA-
WETSPAC	GENERAL	164/24	397	4.99%	12/11/2025	\$ 2,000,000.00	AA-
WETSPAC	GENERAL	165/24	551	4.85%	15/04/2026	\$ 2,000,000.00	AA-
WETSPAC	SEWER	158/24	729	4.95%	30/07/2026	\$ 2,000,000.00	AA-
						<b>\$ 28,000,000.00</b>	

Total Funds Held at 31 JANUARY 2025

**\$38,307,663.19**

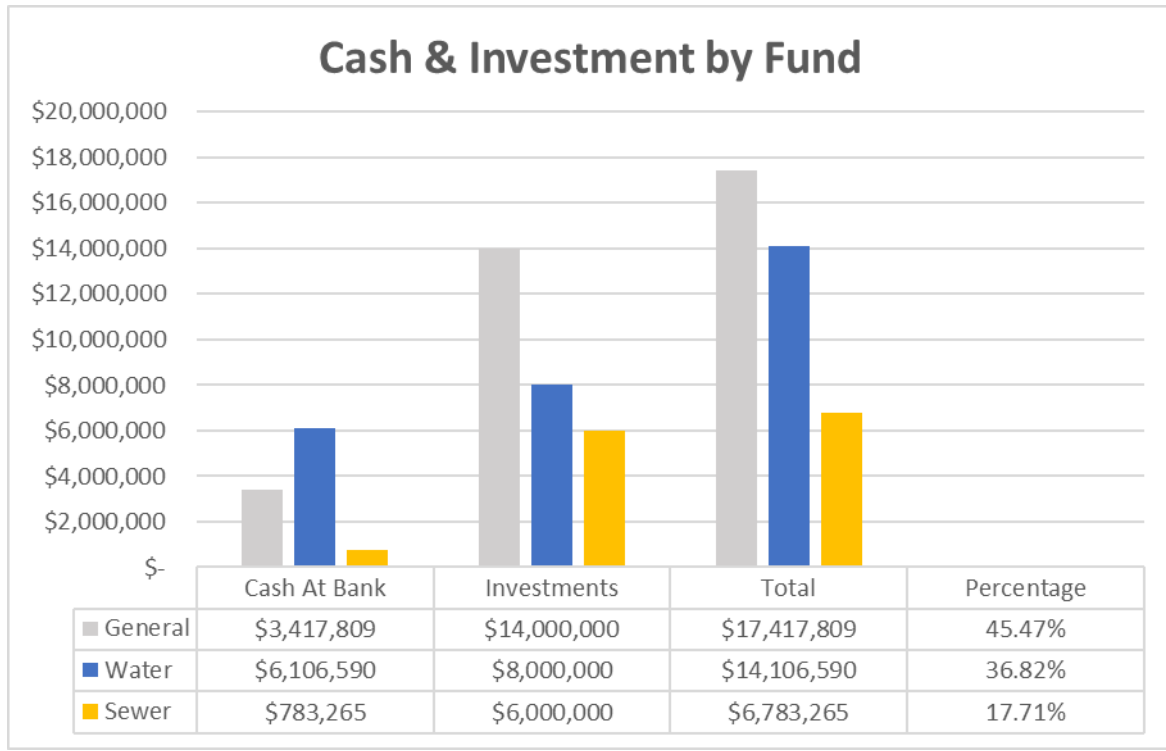
Grant Martin - Finance Team Leader

\*The Council also receives an additional 0.25% commission

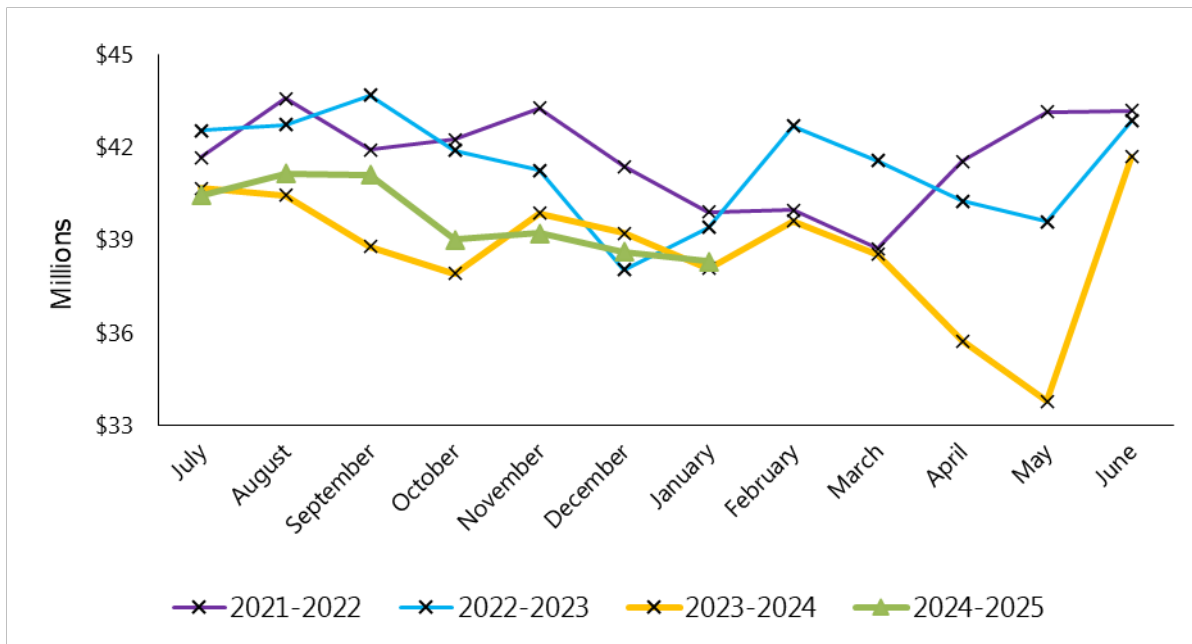
\*\*The Council also receives an additional 0.20% commission



Total Funds held between General, Water and Sewer are as follows:

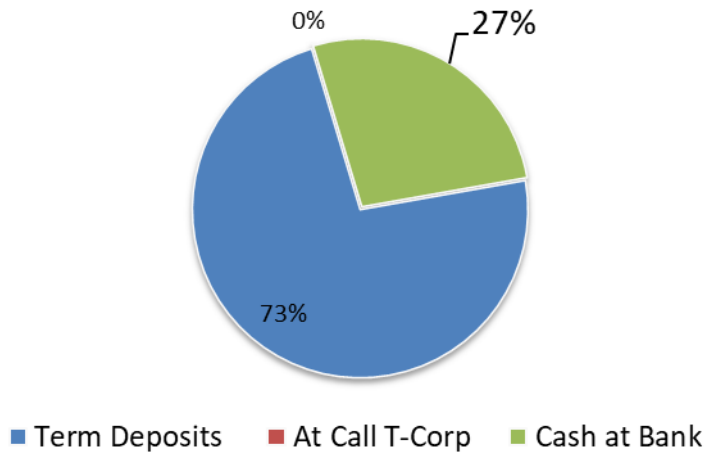


### Total Cash and Investments

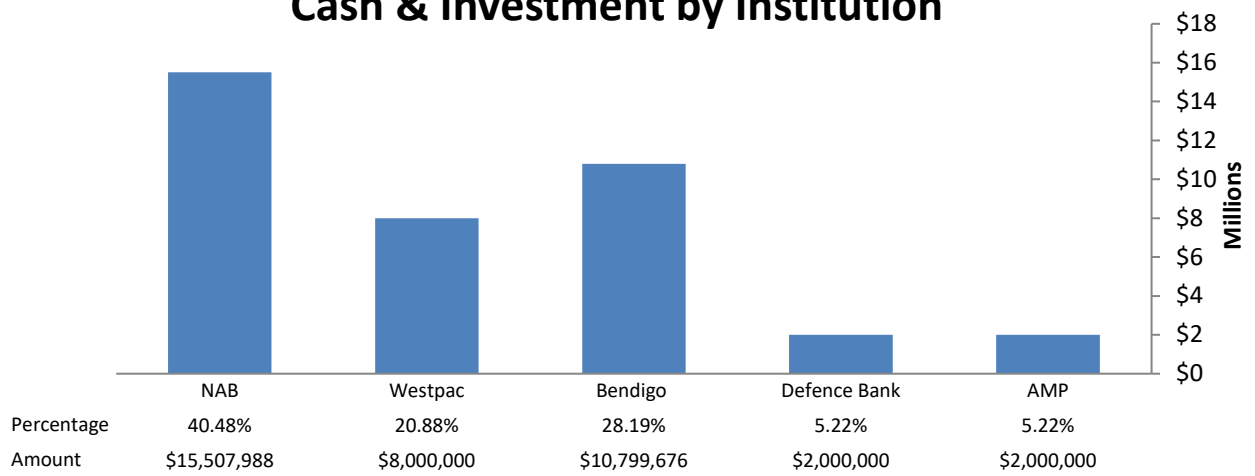




### Cash & Investment by Type

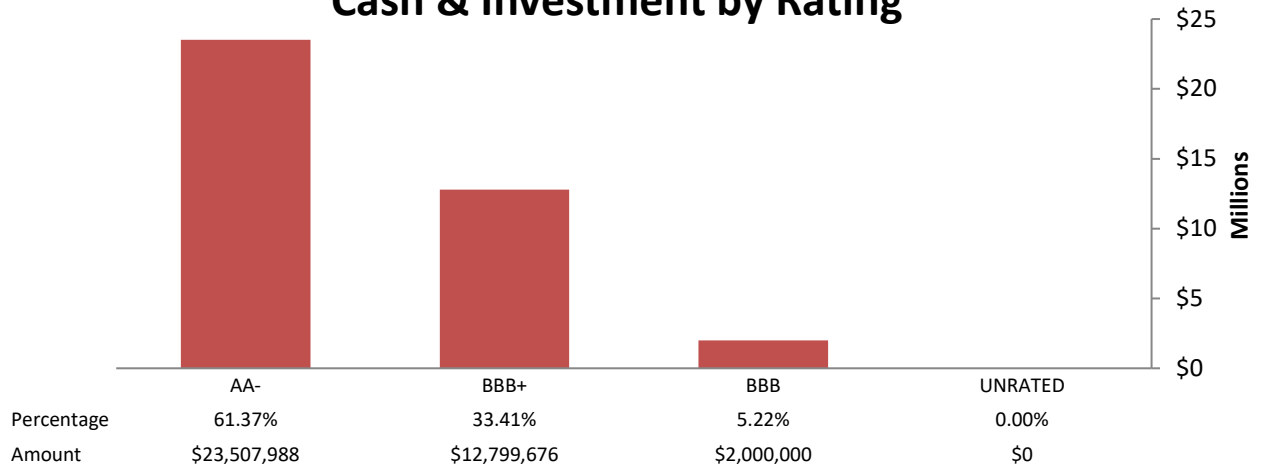


### Cash & Investment by Institution





### Cash & Investment by Rating



#### Term Deposits Credited Back

Prior Financial Institution	Term (Days)	Amount	Interest Rate	Maturity Date
DEFENCE BANK	365	\$ 2,090,003.47	5.25%	11/01/2025
WESTPAC	94	\$ 1,000,000.00	4.91%	13/01/2025

#### Term Deposits Invested / Reinvested

Current Financial Institution	Term (Days)	Amount	Interest Rate	Maturity Date
		N/A		

\*The Council also receives an additional 0.25% commission  
 \*\*The Council also receives an additional 0.20% commission





**Outstanding Borrowings:**

The Council has outstanding borrowings of \$5,402,149 as of 31 January 2024. This includes both external borrowings (\$3,032,420) and internal borrowings from Council's Sewer Fund (\$2,369,729). Council has not yet drawn down on any new borrowings in the 24/25FY.

Please see below Council's current borrowings:

Institution	Fund Borrowing	Purpose	Loan Amount	Interest Rate	Opening Balance @ 1.07.2024	Principal	Interest	Closing Balance @ 31.01.2024
NAB	General	LIRS Drainage Loan	\$1,630,000	4.26%	\$115,312	\$115,312	\$1,396	\$0
ANZ	General	LCLI Lewis Cr/Fin Park Loan	\$1,000,000	2.32%	\$619,208	\$57,362	\$8,048	\$561,846
NAB	Water	LCLI Barooga WTP	\$4,000,000	1.48%	\$2,699,290	\$228,716	\$22,459	\$2,470,574
Sewer Fund	General	General Fund	\$1,000,000	1.48%	\$715,269	\$57,011	\$6,175	\$658,258
Sewer Fund	Water	Finley WTP	\$2,600,000	1.48%	\$1,859,700	\$148,229	\$16,055	\$1,711,471
		<b>TOTALS</b>	\$10,230,000		\$6,008,779	\$606,630	\$54,133	\$5,402,149



## 8.7 Operational Plan review Q2 2024 25

<b>Author:</b>	<b>Deputy Chief Executive Officer, Matthew Hansen</b>
<b>Strategic Outcome:</b>	CL. Our Civic Leadership
<b>Strategic Objective:</b>	CL-A. The community is serviced in an effective, financially sustainable and responsible manner
<b>Delivery Program:</b>	CL.2. Manage people, assets, resources, and risks responsibly to support the Council’s ongoing viability and maximise value for money for ratepayers.
<b>Council’s Role:</b>	<b>Service Provider:</b> The full cost (apart from fees for cost recovery, grants etc) of a service or activity is met by Council
<b>Appendices:</b>	Nil

### Recommendation








That Council receive and note the Q2 report on actions identified in the 2024/25 Operational Plan.

### Report

Circulated with this Agenda as Appendix 1 is the council’s Quarter 2 Review of the council’s 2024/25 Operational Plan.

This report provides a traffic light review with comments by responsible Officers of the status of each Operational Plan actions.

The traffic light format provides a visual update on the status of each action identified in the Operational Plan. Note some statuses share a colour code.

						
Completed	On Target	Not on Target	Overdue or Not Completed	Deferred or Not Progressing	Not due to start	Not Updated

Additional information in the Delivery Program Progress Report and Operational Plan Review and includes:

1. A Year to Date (YTD) assessment by the responsible Council Officer of progress toward completion and or the achievement of the set target.
2. Comments from the Responsible Council Officer highlighting service achievements and or the challenges relevant to the Council operation and action being reported and its status.
3. The following tables (Table 1 and Table 2) provide a summary by strategic outcome of Council’s progress and performance as of 31 December 2024.



**Table 1 Operational Plan Actions Not on Target, Deferred or No Status**

OP Code	Action
CO.5.1	Partner with traditional owners and others to implement the Reconciliation Action Plan
EN.1.1	Develop Tree Risk Management Framework
EN.2.1	Implement the Finley Lake Masterplan
CL.2.7	Implement a secure and fit-for-purpose Information and Communications Technology Framework

**Table 2: Summary by strategic outcome and the year-to-date status of Council's 2023/24 Annual Operational Plan.**

	Completed	On target	Not on target	Deferred / Not due to start	Total
CO: Our Community	0	14	1	0	15
EC: Our Economy	2	16	0	1	19
EN: Our Environment	1	11	0	3	15
IN: Our Infrastructure	0	14	0	1	15
CL: Our Civic Leadership	0	16	1	1	18
<b>Total Actions</b>	<b>3</b>	<b>71</b>	<b>2</b>	<b>6</b>	<b>82</b>



## 8.8 Financial Quarterly Business Review Statement 2 FY 24 25 Q2

<b>Author:</b>	Director Corporate Services, Simon Walsh
<b>Strategic Outcome:</b>	CL. Our Civic Leadership
<b>Strategic Objective:</b>	CL-A. The community is serviced in an effective, financially sustainable and responsible manner
<b>Delivery Program:</b>	CL.2. Manage people, assets, resources, and risks responsibly to support the Council's ongoing viability and maximise value for money for ratepayers.
<b>Council's Role:</b>	<b>Asset Owner:</b> As the owner (or custodian, such as through a Trust Deed) of an asset (road, footpath, building, playground etc) the Council has a responsibility for capital, operating and maintenance costs
<b>Appendices:</b>	1. BSC QBRS2 Statement (Complete) 20250211.pdf (under separate cover)

### Recommendation

1. Note the December 2024 Quarterly Budget Review Statement attached as "Appendix 1"
  2. Note the second quarterly review of the 2024/25 budget and vote the funds contained therein as shown in "Appendix 1"
- 

### Purpose

To update Council as to the financial position of Council in the current 2024/25 financial year and advise and seek endorsement of fund allocation through to 30 June 2025

### Summary

Circulated with the Agenda as "Appendix 1" is the Quarterly Financial Review for the current financial year 2024/25.

This report considers all known factors and work variations to 31 December 2024 and those anticipated through to 30 June 2025.

On a cash-budget basis:

- Council has currently the ability to demonstrate sufficient cash liquidity to meet all current financial commitments.
- Review has determined that on a consolidated basis, there is sufficient working capital for current year purposes (closing balance = \$28.8M) inclusive of estimated \$4.3M 25/26 Financial Assistance Grant received in advance in Jun-25.
- The quarterly review has identified a potential unfunded restricted reserves risk of (\$9.4M) on a total restricted funds balance projection of (\$38.2M) but this is not fully reconciled due to time \ resourcing constraints and will need be suitably resolved prior to QBRS3.



It is the position of current interim responsible accounting officer (report author) that QBR2 position proposed for endorsement is satisfactory at this time subject to further restricted reserve analysis and reconciliation and any necessary remedial actions to be recommended in QBR3 and/or resolved via FY25/26 budget planning.

## Background – Legislative

Critical to findings in QBR2 and noted in this report are the requirements under the Local Government Act 1993 (the Act) including:

### ☐ Division 1 – Funds

#### ○ Section 409 (3):

- (a) money that has been received as a result of the levying of a special rate or charge may not be used otherwise than for the purpose for which the rate or charge was levied, and*
- (b) money that is subject to the provisions of this or any other Act (being provisions that state that the money may be used only for a specific purpose) may be used only for that purpose, and*
- (c) money that has been received from the Government or from a public authority by way of a specific purpose advance or grant may not, except with the consent of the Government or public authority, be used otherwise than for that specific purpose.*

This report addresses requirements under the *Local Government (General) Regulation 2021* (the Regulations) as pertains to:

### ☐ Definitions (Clause 196)

#### ○ responsible accounting officer of a council means:

- (a) a member of the staff of the council designated by the general manager, or*
- (b) if no such member has been designated, the general manager.*

#### ○ Section 203 Budget review statements and revision of estimates:

#### ○ Budget Review Statements and revision of estimates must be undertaken no later than 2 months after the end of each quarter by the Responsible Accounting Officer (RAO)

- ☐ Report must indicate whether the RAO “*believes that the statement indicates the financial position of the council is satisfactory having regard to the original estimate of income and expenditure*” and “*if that position is unsatisfactory, recommendations for remedial action.*”

## Report

Circulated with the Agenda as “Appendix 1” is the Quarterly Budget Review #2 as at 31 December 2024.

Council undertakes a cash-budget for each financial year and the budget adopted should be deemed “satisfactory” if all the following conditions, in the order of priority, are met:



1. On a **'purpose of charges\grants'** basis, council matches it's expenditure with funds held for such purposes and has sufficient own-source revenue liquidity for all other requirements.
2. On a **fund** basis, council has sufficient liquidity (cash) to meet it's cash requirements within the financial year.
3. On a **consolidated** basis, council has sufficient liquidity (cash) to meet it's cash requirements within the financial year.

Council's recent acceptance of "satisfactory" Quarterly budget reviews has relied upon condition #3 being met exclusively.

The outcome of the Quarterly Business Review 2 to 31 December 2024 deems the current financial forecast for the full financial year to be "satisfactory" when remaining consistent to reliance upon condition #3 above.

### Key financial indicators - QBR2

Income Statement Projections - QBR2				
	Consol	General	Water	Sewer
	\$000s	\$000s	\$000s	\$000s
<b>Income from Continuing Operations</b>				
Rates and Annual Charges	13,147	8,011	2,552	2,584
User Charges and Fees	2,265	1,329	856	80
Interest & Investment Revenue	1,756	857	713	186
Other Revenues	658	602	55	1
Grants & Contributions for Operating Purposes	7,445	7,162	283	-
Grants & Contributions for Capital Purposes - Cash	6,310	6,191	119	-
<b>Total Income from Continuing Operations</b>	<b>31,581</b>	<b>24,152</b>	<b>4,578</b>	<b>2,851</b>
<b>Expenses from Continuing Operations</b>				
Employee Costs	8,734	8,734	-	-
Borrowing Costs	211	146	65	-
Materials and Contracts	13,839	9,483	2,481	1,875
Depreciation	7,767	5,359	1,349	1,059
Other Expenses	900	897	2	1
<b>Total Expenses from Continuing Operations</b>	<b>31,451</b>	<b>24,619</b>	<b>3,897</b>	<b>2,935</b>
<b>Operating Result from Continuing Operations Surplus/(Deficit)</b>	<b>130</b>	<b>(467)</b>	<b>681</b>	<b>(84)</b>
<b>Net Operating Result for the year before Grants and Contributions provided for Capital Purposes Surplus/(Deficit)</b>	<b>(6,180)</b>	<b>(6,658)</b>	<b>562</b>	<b>(84)</b>

On a consolidated basis, Council has a projected Operating Surplus of \$130K and a Net Operating (underlying) Result before Capital grants of (\$6.18M) deficit.

Per following Cash flow statement, Council has sufficient working capital liquidity through to 30 June 2025 on a consolidated basis when not recognising current estimates for restricted funds.



<b>Cash Flow Statement Projections - QBR2</b>		
	<b>Actual</b>	<b>Budget</b>
	<b>2024</b>	<b>2025</b>
	<b>\$000s</b>	<b>\$000s</b>
<b>Cash Flows from Operating Activities</b>		
Receipts - Operating Activities		35,475
Payments - Operating Activities		(19,821)
<b>Net Cash Provided by (or used in) Operating Activities</b>		15,654
<b>Cash Flows from Investing Activities</b>		
Receipts - Infrastructure, Property, Plant & Equipment		332
Purchases - Infrastructure, Property, Plant & Equipment		(19,079)
Receipts/Purchases - Other Assets		8,490
<b>Net Cash Provided by (or used in) Investing Activities</b>		(10,257)
<b>Cash Flow from Financing Activities</b>		
Receipts - Loan Borrowings		1,000
Payments - Principal Repayments		(774)
Payments - Finance Costs		-
Receipts - Council Equity Injection		(352)
<b>Net Cash Provided by (or used in) Financing Activities</b>		(126)
<b>Net Increase/(Decrease) in Cash Assets Held</b>		5,271
<b>Cash and Cash Equivalents at Beginning of Reporting Period</b>		23,540
<b>Cash and Cash Equivalents at End of Reporting Period</b>	23,540	28,811
plus Investments on Hand - End of Reporting Period	19,090	-
<b>Total Cash, Cash Equivalents and Investments at End of Reporting Period</b>	<b>42,630</b>	<b>28,811</b>
<b>Total Restricted Funds</b>	<b>41,749</b>	<b>33,830</b>

### Restricted Funds

A full reconciliation of stated expenditure and external funding was undertaken as part of QBR2 in an attempt to suitably identify that conditions #1 and #2 previously stated were also satisfied. It was not possible to determine such given the lack of suitable supporting workpapers or evidence of sufficient procedures to ensure timely maintenance of restricted fund balances.

Doubt remains as to the total value of restricted funds reported both at 30 June 2024 and subsequent projections that rely upon, as restricted funds may already have been suitably expended for intended purpose but not reconciled and drawn down from reserve balances resulting in current restricted funds reported over-stated.

However at this stage, the current projected QBR2 restricted funds balance (\$38.2M) is materially less than the current cash & investments projection (\$28.8M) for 30 June 2025.

A detailed historic reconciliation of all existing restricted fund reserve balances was not possible prior to deadline of this quarterly review. The subsequent third quarterly review will require that necessary analysis and reconciliation is undertaken prior to determine the sufficiency of cash projections to funds that should be being held in reserve.



## QBR2 Statement

The QBR2 statement consists of:

1. Responsible Accounting Officer's statement – This is a statement from the RAO advising the Council of his opinion regarding the Council's financial position.

*If the RAO advises the Council that its financial position is not satisfactory, the RAO must provide the reasons for his concern and advice regarding what is required to remedy the situation.*

2. Income and Expenditure Budget Review Statement (Revised) – This is the budget equivalent of the Income Statement in the Annual Financial Statements. This report shows an updated projected operating result for the year and the effect of the proposed budget changes to the operating result.
  3. Capital Budget Review Statement (Revised) – This statement presents the Council's budgeted capital works program.
  4. Cash & Investments Budget Review Statement (Revised) – This statement attempts to show the movements in the Council's cash position and cash reserves as well as duplicating some of the investment and bank reconciliation detail provided in the monthly warrant report to the Council.
  5. 2024/25 Revised Budget (Proposed) Financial Statements (New) – Presentation of cash-budget in financial statements inclusive of cash-flow projections inclusive of allowances for accrual-based accounting impacts.
  6. 2024/25 Revised Capital Works Plan (Proposed) in detail (New) – Break-down of capital works plan review and adjustments for current financial year.
-





## 8.9 Consultation draft amendments to the code of meeting practice

<b>Author:</b>	<b>Deputy Chief Executive Officer, Matthew Hansen</b>
<b>Strategic Outcome:</b>	CL. Our Civic Leadership
<b>Strategic Objective:</b>	CL-A. The community is serviced in an effective, financially sustainable and responsible manner
<b>Delivery Program:</b>	CL.2. Manage people, assets, resources, and risks responsibly to support the Council's ongoing viability and maximise value for money for ratepayers.
<b>Council's Role:</b>	<b>Service Provider:</b> The full cost (apart from fees for cost recovery, grants etc) of a service or activity is met by Council
<b>Appendices:</b>	1. Submission - Code of Meeting Practice Consultation Draft

### Recommendation

That Council, regarding the consultation draft for the revised model code of meeting practice,

1. endorse the submission, as amended, attached to this report
2. direct the Chief Executive Officer to lodge this submission with the Office of Local Government.

---

### Report

This report is for council to endorse a submission to the Office of Local Government regarding the consultation draft for a revised model code of meeting practice.

### Background

In late December, the Office of Local Government (OLG) released a consultation draft for an amended model code of meeting practice.

This consultation draft was provided to the January ordinary council meeting for noting.

OLG state the reforms are designed to deliver the following outcomes:

- promoting transparency, integrity and public participation,
- promoting the dignity of the council chamber,
- depoliticising the role of the general manager (CEO) and
- simplifying the Model Meeting Code.

The proposed reforms are strongly supported by the Minister for Local Government, The Hon. Ron Hoenig MP who claims the changes "are part of the government's commitment to restoring public trust in local government which has been eroded by years of neglect and a cultural shift towards secrecy over public service."



## Submission

At its ordinary meeting held on 22 January 2025, council resolved the following (OCM 4/25)

*That Council direct the Acting Chief Executive Officer to prepare a submission regarding the proposed amendments to the Model Code of Meeting Practice for presentation at the ordinary council meeting to be held on 19 February 2025.*

Attached as an appendix to this report is the proposed submission.

The submission is structured around the consultation paper released by OLG accompanying the draft

In summary, the submission states:

- ☐ Council supports the general principle of simplifying the model code of meeting practice.
  - ☐ Council opposes restrictions on the use of audio-visual links to hold council and committee meetings. Such restrictions fail to recognise the particular circumstances of rural and remote councils, and the burden placed on part-time and poorly remunerated councillors. Decisions on the use of audio-visual links are best made by local councils in consultation with their communities.
  - ☐ Council opposes mandating formality at council meetings. Over formality is likely not to engender respect from the community. It is more likely to generate alienation and even mockery.
  - ☐ Council considers decisions relating to staff attendance at meetings and responses to questions from councillors should be made by the general manager.
-



## Berrigan Shire Council

### Submission:

#### Consultation draft – Model Code of Meeting Practice

This submission is made by Matthew Hansen, Deputy Chief Executive Officer, on behalf of Berrigan Shire Council. Further information regarding this submission can be obtained by contacting Mr. Hansen at [mail@berriganshire.nsw.gov.au](mailto:mail@berriganshire.nsw.gov.au) or by contacting the Council administration office on 03 5888 5100.

### Background

Berrigan Shire is a small, rural Council located in the southern Riverina along the Victorian border. The shire has a population of 8,800 spread across four towns and associated rural areas.

Berrigan Shire has eight Councillors, elected at large, with a Mayor elected by the Councillors.

### Summary

- Berrigan Shire Council supports the general principle of simplifying the model code of meeting practice.
- Council opposes restrictions on the use of audio-visual links to hold council and committee meetings. Such restrictions fail to recognise the particular circumstances of rural and remote councils, and the burden placed on part-time and poorly remunerated councillors. Decisions on the use of audio-visual links are best made by local councils in consultation with their communities.
- Council opposes mandating formality at council meetings. Over formality is likely not to engender respect from the community. It is more likely to generate alienation and even mockery.
- Council considers decisions relating to staff attendance at meetings and responses to questions from councillors should be made by the general manager.

### Response

#### A. Promoting the dignity of the council chamber

##### 1. Permitting the mayor to call extraordinary meetings

This is a reasonable and appropriate reform

The suggested wording is somewhat convoluted. Alternate wording is suggested below.

*3.2. The mayor may call an extraordinary meeting. Alternatively, two councillors can call an extraordinary meeting via a request in writing to the mayor.*

*3.3. Once called, an extraordinary meeting must be held as soon as practicable but, in any event, within no more than fourteen (14) days.*



2. Removing restrictions on mayoral minutes

The principle of separating the GM from political matters is understood and supported. However, a well-formed mayoral minute should address the matters raised in clause 9.10 and this expectation should be clear in the code. Rather than a report from the GM, this could be addressed by councillors raising points of order on poorly formed mayoral minutes.

3. Requiring councillors to stand when addressing council

This is not supported. While the proposed code makes an allowance for those who physically cannot stand, requiring other councillors to stand draws attention to those who cannot stand.

Requiring councillors to stand when it is not essential to perform the role is contrary to the principles of the *Disability Discrimination Act (Cwth) 1992*

4. Requiring councillors to stand when the mayor enters the chambers

This is not supported. While the proposed code makes an allowance for those who physically cannot stand, requiring other councillors to stand draws attention to those who cannot stand.

Requiring councillors to stand when it is not essential to perform the role is contrary to the principles of the *Disability Discrimination Act (Cwth) 1992*

Further, this formality is contrary to normal social practice in rural NSW and likely to attract mockery rather than respect.

Similarly, mandating modes of address is opposed. Suitable modes of address are best left for local councils and local communities to determine. Again, over formality in rural NSW is likely to attract derision and mockery rather than respect.

Additional formality will reduce the accessibility of local government. This would be a mistake for the level of the government that is closest to the people. Consequences could be:

- those who may otherwise be interested in becoming councillors may decide not to.
- members of the community may not engage as a consequence (council already receive comments from community members coming to talk to council that the process is very formal)

5. Removing the option for councils to reduce the duration of speeches

This is supported, subject to retaining the general time limit of five (5) minutes per speech in clause 10.22 of the current code.

6. Making it clear decisions are made in council meetings

This aim is supported in principle. All decisions binding on the council should be made in a formal council meeting or properly constituted committee. Pre-meeting briefing sessions can devolve into a decision-making arena.

Councillors do need the opportunity however to meet informally through periodic workshops and the code should not close off this avenue of information provision. Without this, councillors cannot meet their s223 obligations.



7. Refining the definitions of disorder

The definition of an “act of disorder” as per clause 15.10 of the proposed code is supported. The link to “disorderly” practice in the NSW parliament is supported as better practice and a welcome step towards holding parliamentarians and councillors to the same standards.

8. Providing as a default attendance in person and restricting the use of AV links

Council understands the principle behind the proposal and agrees physical attendance at meetings should be supported and encouraged. However, it opposes applying a blanket rule to all councils. Instead, this should be left to individual councils to determine in line with local community expectations.

Local councils and their communities are best placed to consider what is appropriate based on the social and geographic constraints of their communities. Rural councillors have larger distances to traverse and often have non-standard work arrangements. A blanket rule for physical attendance for councillors at Botany Bay Council, for example, may not be appropriate for Cobar Shire.

Councillors in rural NSW are not remunerated at a level where there should be an obligation to arrange their employment and family around their council obligations. They are less likely to have the option to prioritise their council role over their work obligations and family commitments. While councillors understand it is an honour to serve their community, they still need to make a living. If the conflict between work, family and council commitments becomes too great, it is the council commitment that will be the first to be discarded.

It is already difficult to schedule extraordinary meetings around people’s working and other commitments. Use of audio-visual links makes this process far more efficient, particularly for extraordinary meetings only considering one or two items.

For council to make an informed decision on compliance with these clauses of the code, the council as a collective and individual councillors will require access to private and personal health information. This is clearly not appropriate.

If the requirement to prove health or carer matters is retained, more thought needs to be given to how this information is provided, who has access to the information and who makes the decision on what is sufficient to demonstrate a requirement to attend via audio-visual link. Handwaving towards HRIPA and the health privacy principles is not sufficient.

Finally, it is contrary to the principles of participation, equity and access identified in the Office of Local Government guidelines for councillors’ expenses and facilities.

*Councillor expenses and facilities policies should be non-discriminatory, equitable and encourage participation on council of people from diverse backgrounds that represent the demographics of the local community. They should allow councillors to represent the community in different ways and take account of, as much as possible, individual differences.*

*Policies should encourage all members of the community from different walks of life, particularly under-represented groups such as those in primary caregiver roles, to seek election to council by ensuring that they would not be financially or **otherwise disadvantaged** in undertaking the civic duties of a councillor.*



Council recommends

- Clause 5.19 in the proposed code is amended to remove “where they are prevented from attending the meeting in person because of ill-health or other medical reasons or because of unforeseen caring responsibilities” and clause 5.23 should be removed.

9. Restricting the circumstances where a council may withhold a leave of absence

This is supported

10. Remove the option for staff to attend meetings by AV link

Again, a blanket rule across all NSW does not allow for the diversity of staffing arrangements across NSW. This decision is best left to individual councils in consultation with their local communities

In order to attract and retain skilled and experienced staff, many councils in rural NSW have key staff with remote or other flexible work arrangements.

Further, driving home from council meetings ending late at night is a different proposition in rural areas with poor roads and active wildlife.

Mandating in-person attendance is likely to inhibit councillors’ access to quality and timely advice from appropriately qualified staff.

This proposal is inconsistent with the proposal to allow the mayor to determine which staff should attend meetings. The council may insist on a staff member being present during debate or discussion on one report on the agenda. This staff member is now required to be present in or around the chambers until their items has been considered. This is inefficient, potentially costly and for meetings outside standard work hours, inconsistent with family responsibilities.

However, council considers physical attendance by the general manager is appropriate and should be mandatory unless the meeting is entirely via audio-visual link.

11. Allow for councillors to be expelled from meetings where they have failed to apologise for acts of disorder at previous meetings

Council does not have a position on this matter.

**B. Depoliticising the role of the general manager**

1. Remove the requirement for general managers to prepare reports for notices of motion

The principle of separating the GM from political matters is understood and supported. However, a well-formed notice of motion should address resource availability as mentioned in clause 10.9 and this expectation should be clear in the code. This could be addressed by councillors raising points of order on poorly formed notices of motion.

2. Providing that the mayor, not the general manager has discretion on whether council staff should respond to questions with notice



The removal of current code clause 3.15 is opposed. Its removal is inconsistent with the aim of depoliticising the role of the general manager. It allows councillors to use public meetings of council to make or infer allegations of wrongdoing against staff with no right of reply.

There are alternate pathways for complaints about the general manager and staff to be made that provide staff with procedural fairness.

The code should be clear that council cannot direct anyone other than the GM to respond to questions with notice - consistent with clause 9.15 of the proposed code. The GM may delegate a subordinate to respond if that is appropriate. The GM is responsible and accountable for the response in any case.

3. Conferring responsibility on the council to determine staff attendance at meeting

The proposed clause 5.44 is contrary to s355(i) of the *Local Government Act 1993*. It is the role of the general manager to direct staff.

It is not clear what this proposal is attempting to achieve. The general manager is responsible and accountable for the advice and actions of all council staff.

Is the intent to:

- permit staff to attend council meetings only if authorised by resolution?, or
- permit council to require any staff member to attend council meetings?

In any case, more thought and careful wording will be required.

**C. Simplifying the model meeting code**

1. Streamlining the code by removing unnecessary provisions

This is supported in principle.

2. Removing the non-mandatory rules governing public forums. Councils will be free to determine their own rules for public forums.

This is in line with council's long held position and supported. Decisions on appropriate community forum methods are best made by individual councils in line with community expectations. The requirements of the code are too formal and rigid to be appropriate for smaller councils.

Berrigan Shire Council's experience is that the current code's community forum requirements stifled community participation in council decision making.

3. Simplifying the rules governing public representations to the council on the closure of meetings to the public.

This is supported. Decisions on an appropriate process are best left to make individual councils to make in line with community expectations.

4. Simplifying the rules for dealing with urgent business without notice at meetings.

This is supported and removes the two-step process (resolution **and** chairperson's ruling) in the current code, at least where all councillors are present.

Submission – Consultation draft – Model Code of Meeting Practice. 19 February 2025

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5. Simplifying the rules of debate by removing the provisions allowing motions to be foreshadowed.

The council has no formal position on this proposal. The intent behind specifically removing foreshadowed motions is not clear.

6. Mandating current non-mandatory provisions on audio visual attendance

This is opposed. See rationale above. Local councils are best placed to make these decisions in consultation with their communities.

**D. Restricting councils from holding briefing sessions**

1. Decision making by councillors must be through a resolution adopted at a council or committee meeting

This is supported in principle, subject to councils being able to gather informally to discuss strategic matters freely and openly.

2. Information is to be provided to councillors through clear and established channels

This is supported in principle. Further guidance outside this code could be made available via councillor and staff interaction guidelines and the code of conduct.

3. The mayor is not subject to these restrictions.

The council has no position on this matter.





## 8.10 Classification of land 12 14 Hayes St Berrigan

Author:	Deputy Chief Executive Officer, Matthew Hansen
Strategic Outcome:	CL. Our Civic Leadership
Strategic Objective:	CL-A. The community is serviced in an effective, financially sustainable and responsible manner
Delivery Program:	CL.2. Manage people, assets, resources, and risks responsibly to support the Council's ongoing viability and maximise value for money for ratepayers.
Council's Role:	<b>Asset Owner:</b> As the owner (or custodian, such as through a Trust Deed) of an asset (road, footpath, building, playground etc) the Council has a responsibility for capital, operating and maintenance costs
Appendices:	Nil

### Recommendation

That Council formally classify Lots 19 and 20, Section 3 DP 3329 (12-14 Hayes St, Berrigan) as operational land for the purposes of s31 of the *Local Government Act 1993*.

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### Purpose

This report is to inform the council of the acquisition 12-14 Hayes St in Berrigan and to seek classification of the land as operational land as per [section 31 of the Local Government Act 1993](#).

### Summary

Council recently acquired land on Hayes St in Berrigan in lieu of payment of rates. This land is suitable for future housing development.

In order to be developed and / or sold, the land needs to be formally classified as **operational** land rather than **community** land. Community land has significant restrictions on its sale, leasing or licencing. These restrictions do not apply to operational land.

### Background

In late November 2024, council acquired Lots 19 and 20, Section 3 DP 3329 (12-14 Hayes St, Berrigan). The land consists of two "quarter acre" housing blocks, with a total area of approximately 2,300 m<sup>2</sup>



Previously Crown land, the land was awarded to council by the courts in lieu of outstanding rates and charges. The process however was not via the normal provisions of [section 713 of the Local Government Act 1993](#) (the Act). Instead, on the death of the owner in 2016, the land was handed over by the NSW Trustee and Guardian to Crown Lands NSW. There was no settlement and hence no payment made to council for the unpaid rates as would normally be the case on transfer. Crown Lands NSW then claimed Crown exemption from paying rates and refused to pay the outstanding rates and ongoing rates as they fell due.

It has taken several years, some false starts and considerable time and expense to come to a suitable outcome where council has been able to obtain the land as freehold.

This report does not propose a use for this land. A further report with options and/or opportunities will be provided to a future meeting.

However, the council has not acquired this land with the intent of using it for community purposes – i.e., a park or other community facility. The funds used to acquire the land were operational funds and not restricted to providing a community facility – i.e., a tied grant or funds raised for community purposes.

As such, it is appropriate for the council to classify the land as “operational” as allowed for the Local Government Act. This classification provides the council with the flexibility to develop or dispose of the land as it deems appropriate.

### **Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies**

Not applicable



## Issues and Implications

### Policy

- ☐ [Land acquisition and disposal policy](#)

### Financial

The costs associated with acquiring the land are as follows:

Item	Amount	Comment
Legal expenses	\$22,746.90	Includes barrister and court fees
Settlement	\$31,000.00	Settlement with mortgage holder
Rates	\$17,361.19	Written off as non-collectable, per advice
<b>TOTAL</b>	<b>\$71,108.09</b>	

### Legal / Statutory

Section 31 of the *Local Government Act 1993* (the Act) allows council, via resolution, to classify land it acquires as either community land or operational land. This classification must be made either before acquisition or within three months of acquisition.

Any land not classified with this period is taken to have been classified under council's local environmental plan (LEP) as community land.

The purpose of classification is to identify clearly that land which should be kept for use by the public (community) and that land which need not (operational). The major consequence of classification is that it determines the ease or difficulty with which land may be alienated by sale, leasing or some other means. Community land has significant restrictions on its sale, leasing or licencing. These restrictions do not apply to operational land.

The alternative option is for council to classify this land as operational via an amendment to its local environmental plan.

### Community Engagement / Communication

[Section 34 of the Act](#) requires council to provide public notice of its intent to classify public land and allow 28 days for public submissions.

The land was acquired by council on 29 November 2024. Three months from that date is 28 February.

In line with the requirements of the Act, council placed a notice on its website indicating its intent to reclassify the land. It also published a notice in its bulletin board page in the Southern Riverina News and Cobram Courier. No submissions on the matter were received in the consultation period.

### Human Resources / Industrial Relations (If applicable)

NIL

### Risks

The following risks have been assessed as per the Council's [Risk Management Framework](#):

#### 1. Financial



Likelihood	Consequence				
	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	<b>Low</b>	Medium	Medium	High
E	Low	Low	Medium	Medium	High

If the land is not classified operational, it cannot be sold. Council does have the option of reclassifying later via an amendment to its Local Environmental Plan (LEP), which is underway in any case.

## 2. Reputational

Likelihood	Consequence				
	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	<b>Low</b>	Medium	Medium	High

Reclassifying community land as operational may be controversial if the land is used or considered public open space. This is not the case with this land. It was acquired specifically for use as future housing.

## Options

1. Council can classify the land as operational, making the land available for sale.
2. Council can choose not to classify the land as operational. In this case the land could not be sold until a later amendment of the LEP.

## Conclusions

The land was acquired for operational purposes rather than for public use and classification as operational is consistent with this.



## 8.11 Terms of Reference CEO performance review panel

<b>Author:</b>	<b>Deputy Chief Executive Officer, Matthew Hansen</b>
<b>Strategic Outcome:</b>	CL. Our Civic Leadership
<b>Strategic Objective:</b>	CL-A. The community is serviced in an effective, financially sustainable and responsible manner
<b>Delivery Program:</b>	CL.2. Manage people, assets, resources, and risks responsibly to support the Council's ongoing viability and maximise value for money for ratepayers.
<b>Council's Role:</b>	<b>Service Provider:</b> The full cost (apart from fees for cost recovery, grants etc) of a service or activity is met by Council
<b>Appendices:</b>	1. Terms of Reference - CEO Performance Review Panel

### Recommendation

That Council endorse and adopt the terms of reference for the Chief Executive Officer Performance Review Panel.

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### Purpose

Council is asked to endorse and adopt Terms of Reference for the CEO Performance Review Panel

### Background

At its ordinary meeting held on 20 November 2024, council resolved the following

*That Council:*

1. *rename the "CEO remuneration committee" appointed by resolution at its meeting on 18 September 2024, the "performance review panel", consistent with the guidelines for appointment of oversight of general managers issued by the Office of Local Government*
2. *delegate the following functions to the performance review panel:*
  - a. *conduct of the CEO's performance reviews.*
  - b. *reporting the findings and recommendations of reviews to the council, and*
  - c. *development of the CEO's performance agreement.*
3. *direct the CEO and the performance review panel to develop agreed terms of reference for the panel*

Pursuant to Item 3 from the resolution, the panel has developed agreed terms of reference. These are attached as an appendix to this report.



Council is asked to endorse and adopt these terms of reference. Alternatively, council may adopt an amended document or request the performance review panel prepare a revised document for adoption.

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## Terms of Reference

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### CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW PANEL

#### 1. STATEMENT

Council delegates to the Mayor the role of day-to-day oversight of, and liaison with, the Chief Executive Officer.

This policy has been developed to provide clarity for Councillors and the Chief Executive Officer in describing the process whereby expectations and evaluation of the performance of the Chief Executive Officer is agreed.

The Office of Local Government - Guidelines for the Appointment and Oversight of General Managers 2022 were issued under Section 23A of the Local Government Act 1993, to assist Councillors to be aware of their obligations under the *Local Government Act 1993*, the Local Government (General) Regulation 2021 and the Standard Contract of Employment for General Managers when recruiting, appointing, reappointing and managing the performance of General Managers/ Chief Executive Officer.

#### 2. PURPOSE

These Terms of Reference outline Council's intention in preparing and reviewing the Performance Agreement for the Chief Executive Officer of the organisation.

The guiding principle for developing this policy is to provide a consistent approach to preparing and reviewing the Performance Agreement that forms the basis of Contract of Employment between Council and the Chief Executive Officer.

#### 3. SCOPE

These Terms of Reference will apply to elected Councillors and the Chief Executive Officer.

#### 4. OBJECTIVE

These Terms of Reference is developed to assist the Council with the Delivery Program Objective CL.2:

*Manage people, assets, resources, and risks responsibly to support the council's ongoing viability and maximise value for money for ratepayers.*

#### 5. DEFINITIONS

**CEO:** Chief Executive Officer – the person holding the position of General Manager as per the *Local Government Act 1993*.

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## Terms of Reference

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<b>Council:</b>	The elected members of Berrigan Shire Council
<b>OLG:</b>	Office of Local Government
<b>LGNSW:</b>	Local Government NSW
<b>LGPro:</b>	Local Government Professionals Australia (NSW)

### 6. POLICY IMPLEMENTATION

#### 6.1 Roles and responsibilities

The Council has responsibility for the Chief Executive Officer's performance management. It is a requirement of the Chief Executive Officer's Employment Contract that the Chief Executive Officer has an annual performance review.

The Chief Executive Officer has responsibility for the performance management policies, procedures and systems of the organisation as they apply to staff. Performance Management is an essential part of good management practice as it provides a means to monitor organisational performance by linking and aligning individual and organisational objectives and results and will therefore be undertaken at least annually.

Performance management is the means by which a Council and Chief Executive Officer can reach a mutual understanding of expectations. It is a process through which an assessment can be made as to whether the expectations have been met, exceeded, or remain unmet.

As one of the Chief Executive Officer's key responsibilities is to oversee the implementation of Council's strategic direction, it is important to align the Chief Executive Officer's performance criteria to the goals contained in the Council's Community Strategic Plan, Resourcing Strategy, Delivery Program and Operational Plan. The Chief Executive Officer has overall accountability for the leadership and effective management of the Council's human, non-financial and financial resources.

In addition, the Chief Executive Officer should ensure as far as possible, the highest levels of probity and corporate governance are adhered to across the organisation. The Mayor is accountable for two aspects inherent in their responsibilities, firstly, overall performance of the organisation and secondly, the individual performance of the Chief Executive Officer.

#### 6.2 Delegation

The performance review panel has delegated authority to:

- conduct the CEO's performance reviews.
- report the findings and recommendations of reviews to the council, and





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## Terms of Reference

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- develop the CEO's performance agreement.

Recommendations from the performance review panel to council may include:

- Remuneration, including pay and conditions
- Payment of bonuses
- Contract extensions
- Recruitment
- Disciplinary action
- Legal action

Decision making on all items remains with the council.

### 6.3 Principles of performance management

- Allows a Council to monitor and respond as to how a Chief Executive Officer delivers against the goals and the outcomes required by the Council.
- Engenders a mutual understanding of what is expected of a Chief Executive Officer by the Council.
- Links a Chief Executive Officer's personal performance objectives with the Council's organisational goals as identified in Council's strategic and management plans.
- Should reflect organisational values as well as measurable outcomes.
- Should be a constructive and collaborative process between the parties.
- Promotes communication and provides feedback on performance between the Chief Executive Officer and the Council.
- Addresses the leadership qualities of the Chief Executive Officer that are set out in the agreement.

### 6.4 Establishing the framework for performance management

The Council must establish, by resolution, a Performance Review Panel and delegate the task of performance reviews of the Chief Executive Officer to this panel. The whole process of performance management is delegated to the Performance Review Panel, including discussions about performance, any actions that should be taken and the determination of any new performance agreement.

The Performance Review Panel comprises the Mayor, the Deputy Mayor, and other councillors nominated by the council. The Mayor is the ex-officio chair of the Panel. Members of the Panel will sit until removed or replaced by council resolution. All positions on the panel will be deemed vacant at the end of the council term.

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-



## Terms of Reference

discrimination are complied with. The appointment by Council, in agreement with the Chief Executive Officer, of an External Facilitator to advise on the process should assist Council in complying with these laws and principles.

The Council and the Chief Executive Officer may agree on the involvement of an External Facilitator to assist with the process of performance appraisal and the development of a Performance Agreement. A facilitator may be selected by the Performance Review Panel. The LGNSW and LGPro can be contacted for assistance to identify suitable independent facilitators to assist in the performance management process.

All Councillors not on the Performance Review Panel can contribute to the process by providing feedback to the Mayor on the Chief Executive Officer's performance. All Councillors should be notified by the Mayor of relevant dates in the performance review cycle and be kept advised of the Performance Review Panel's findings and recommendations.

The performance management report of the Chief Executive Officer will not be released to the public and will be retained on the appropriate confidential Council employment personnel file. Release of such personal information to other than the Performance Review Panel, the Chief Executive Officer and the Councillors in confidence will be a breach of privacy legislation.

The Chief Executive Officer will ensure a staff member is available to act as secretariat for the panel, to coordinate correspondence and the review process.

### 6.5 Performance management timelines

Appendix 1 of the Guidelines for the appointment and oversight of general managers (2022) – Office of Local Government

Timeline	Activity	Responsibility
Within 3 months of the commencement date of the contract	A performance agreement setting out agreed performance criteria must be signed between the Chief Executive Officer and the Council	Council Panel and Chief Executive Officer
Within 2 months of the signing of the performance agreement	The Chief Executive Officer must prepare and submit to Council an action plan which sets out how the performance criteria are to be met	Chief Executive Officer
21 days' notice (before annual review)	The Chief Executive Officer gives the Council written notice that an annual performance review is due	Chief Executive Officer
At least 10 days notice	The Council must give the Chief Executive Officer written notice that any performance review is to be conducted	Council Panel



## Terms of Reference

Timeline	Activity	Responsibility
Mid-year	The Council may decide, with the agreement of the Chief Executive Officer, to provide interim informal feedback to the Chief Executive Officer midway through the annual review period	Council Panel and Chief Executive Officer
Prior to the annual performance review	The Chief Executive Officer may submit to Council a self-assessment of their performance	Chief Executive Officer
Annually	The Chief Executive Officer's performance must be reviewed having regard to the performance criteria in the agreement	Council Panel and Chief Executive Officer
Annually	The performance agreement must be reviewed and varied by agreement	Council Panel and Chief Executive Officer
Within 6 weeks of the conclusion of the performance review	Council will prepare and send to the Chief Executive Officer a written statement with Council's conclusions on the Chief Executive Officer's performance during the performance review period	Council
As soon as possible after receipt of the statement	The Chief Executive Officer and the Council Panel will agree on any variation to the performance agreement for the next period of review	Council Panel and Chief Executive Officer
As soon as practicable following the performance review.	The Performance Review Panel and Mayor will report back to Council in a closed session the findings of the performance review	Council Panel and Chief Executive Officer

### 6.6 Function of the performance review panel

The functions of the Performance Review Panel - Chief Executive Officer are as follows:

- To assess the performance of the Chief Executive Officer against agreed objectives and performance criteria – see Appendix 1
- Ensure Council follows the Office of Local Government Guidelines directing that the whole process of performance management be delegated to a Performance Review Panel, including decisions about performance, any actions that should be taken, and the determination of the new Performance Agreement.
- Undertake the performance management of the Chief Executive Officer, as delegated, to the Performance Review Panel.
- Note that it is Council practice to enable Councillors not on the Performance Review Panel to provide feedback to the Mayor in the week prior to each performance review.
- The Performance Review Panel provides a superior forum for constructive discussion and feedback.
- The result of the Performance Review will be reported to a Closed Meeting of Council.
- In accordance with the Office of Local Government Guidelines, the performance review report is provided in the Closed Meeting of Council and is not to be an opportunity to debate the



## Terms of Reference

results or re-enact the performance management of the Chief Executive Officer. The Chief Executive Officer should not be present when the matter is considered.

As a committee of the council consisting entirely of elected members, meetings of the Performance Review Panel will be held in line with the Berrigan Shire Council Code of Meeting Practice.

### 7. RELATED LEGISLATION, POLICIES AND STRATEGIES

#### 7.1 Legislation

- *Local Government Act 1993*
- *Local Government (General) Regulation 2021*
- *Privacy and Personal Information Protection Act 1998*
- *Government Information (Public Access) Act 2009*
- *Public Interest Disclosures Act 1994*
- *Independent Commission against Corruption Act 1988*
- *Ombudsman Act 1974*
- *Crimes Act 1900*
- *State Records Act 1998*
- Guidelines for the Appointment and Oversight of General Managers (2022 - Office of Local Government).

#### 7.2 Council policies and guidelines

- Governance Framework
- Code of Conduct
- Privacy Management Plan
- Access to Information Policy
- Discrimination, Workplace Bullying and Harassment Policy
- Grievance Policy

### 8. VERSION CONTROL

Version Number	Date	Summary	Responsible Officer
1.0		New document	Chief Executive Officer

### APPENDICES



## 8.12 Event Funding application Mild to Wild Rod Run

<b>Author:</b>	<b>Manager Economic Development &amp; Tourism, Merran Socha</b>
<b>Strategic Outcome:</b>	EC. Our Economy
<b>Strategic Objective:</b>	EC-B. A destination with a strong tourism sector and a resilient, innovative agricultural industry
<b>Delivery Program:</b>	EC.7. Market the shire as a tourist destination, highlighting the unique rural character, natural environment, culture, and lifestyle
<b>Council's Role:</b>	<b>Part Funder:</b> The Council either provides funding to another body to meet part of the cost of that body providing a function/service activity, or receives funding from another body (usually a government agency) to meet part of the cost of the Council delivering it.
<b>Appendices:</b>	1. Funding application (under separate cover)

### Recommendation

That Council provide \$5,510 from council's event funding budget to Mild2Wild Rod and Custom Club to support the Murray River Rod Run 2025, subject to:

1. Mild2Wild Rod and Custom Club acknowledging council's support in marketing and collateral, as well as during the event
2. Mild2Wild Rod and Custom Club acquitting all funds spent in a matter acceptable to council

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### Purpose

The purpose of this report is to assess the event funding application or the for the Murray River Rod Run 2025

### Summary

The Mild to Wild Rod and Custom Club hold the Murray River Rod Run on the March long weekend (Victoria) every second year. There are a series of events over the long weekend including a concert on Saturday night, a cruise through Tocumwal, a show and shine and various other events that visit other towns in the shire.

The event continues to grow in popularity and attracts overnight visitors, day trip visitors and locals. The event encourages local trading and many businesses in Tocumwal will extend trading hours to take advantage of the volume of people in town, especially on Saturday night.

The Mild to Wild committee have requested funding assistance of \$5150.00 to assist with the marketing and promotion of the event and to help cover some of the artists costs.

The event has been assessed through the Event impact calculator and the results are indicated in the table below.



Event Impact Summary			
Berrigan Shire - Modelling the effect of \$810,000 from a Sports and Recreation Activities event with Region significance			
	Output (\$)	Value-added (\$)	Local Jobs (annual jobs)
Direct impact	696,276	284,758	4.7
Industrial impact	242,985	86,908	0.9
Consumption impact	67,371	29,579	0.4
Total impact on Berrigan Shire economy	1,006,632	401,245	6

Source: National Institute of Economic and Industry Research (NIEIR) ©2024.Compiled and presented in economy.id by.id (informed decisions).

## Background

The Major Event Funding Program is available to local event organisers for larger events that encourage overnight visitation to Berrigan Shire. Council’s goal is to support a diverse range of events which contribute to community development, enhance the quality of life of residents, provide cultural and economic opportunities and are accessible and safe for the broader community. This program is for events with regional state or national significance.

## Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies

Relevance to the Community Strategic Plan

EC.6 Develop and promote local attractions and experiences.

EC.7 Market the shire as a tourist destination, highlighting the unique rural character, natural environment, culture, and lifestyle.

Relevance to the Strategy for the Visitor Economy 2022 – 2026

Local priorities – Events and sport tourism events

## Financial

The Event funding budget has been expended for 2024/2025 however this event could be funded from the Marketing and promotion budget



## Risks

The following risks have been assessed as per the Council's [Risk Management Framework](#):

### 1. Reputation

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

The Council could be criticized for funding this event at short notice.

### 2. Financial

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

The funding may not be used for its intended purpose.

## Options

1. To fund the Murray River Rod Run to the requested amount of \$5150.00
2. To fund the marketing component of the budget as presented in the application \$1990.00
3. Not offer any funding to the event

## Conclusions

To fund the event to the requested amount of \$5150.00.



## 8.13 Tocumwal and Barooga Flood Study

Author:	Director Infrastructure, Gary George
Strategic Outcome:	EN. Our Environment
Strategic Objective:	EN-A. Our environment and natural habitats are protected, and biodiversity thrives
Delivery Program:	EN.1. Protect and enhance biodiversity, including our natural environment, waterways, native flora and fauna
Council's Role:	<b>Service Provider:</b> The full cost (apart from fees for cost recovery, grants etc) of a service or activity is met by Council
Appendices:	Nil

### Recommendation

That Council adopt the Tocumwal Barooga Flood Study attached to this report

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The appendices for the Flood Study can be found in a separate folder

*This report has been prepared by Michael Eddie, Consultant Project Manager (Curry PM)*

### Purpose

The purpose of this report is to seek a resolution from Council to adopt the draft Tocumwal Barooga Flood Study following public exhibition which concluded on 20 January 2025.

### Background

At the December 2024 ordinary meeting council made the following resolution.

*That council resolve to place the Tocumwal-Barooga flood study of public exhibition for a period of 28 days.*

### Public exhibition

The Tocumwal Barooga Flood Study was placed on Public Exhibition from 16 December 2024 to 20 January 2025.

Council staff attended 3 community information sessions:

- ☐ Barooga: 7 January 2025
- ☐ Tocumwal: 9/15 January 2025

The community sessions were well attended by members of the community. The majority of attendance was at the Tocumwal sessions, with up to 10 people attending each of the 2 sessions.

There were 4 people that attended the Barooga session.





Key points discussed (information provided) included:

- ☐ Gaining an understanding rainfall map v's flood map
- ☐ Discussion around the modelling if a levee gives way
- ☐ Who maintain existing waterways
- ☐ Discussion around memories of the flood events that were used to calibrate the model
- ☐ Discussion around impacts/influences of the current infrastructure within the model area
- ☐ Localised stormwater issues
- ☐ Climate change
- ☐ Dam Control (Hume Dam level %)

There were 4 submissions received through the "Have Your Say" portal.

The items raised in 3 of the submissions are mainly related to localised flooding issues. These issues will be noted for review during the risk management phase.

The remaining submission was related to insurance concerns. Council's planning staff will respond directly to the submission.

### **Flood Risk Management Study and Plan (FRMS&P)**

Following completion of the Flood Study, Council will commence the FRMS&P phase of the Flood Risk Management Framework.

The objective of the FRMS&P is to improve understanding of flood behaviour and impacts and better inform management of flood risk (through flood risk management, emergency management and land use planning).

The FRMS&P provides an understanding of, and information on, flood behaviour and associated risk to inform:

- ☐ relevant government information systems;
- ☐ government and strategic decision makers on flood risk;
- ☐ the community;
- ☐ flood risk management planning for existing and future development;
- ☐ emergency management planning for existing and future development;
- ☐ strategic and development scale land use planning to manage growth in flood risk; and
- ☐ other key stakeholders (including utility providers and the insurance industry) on flood risk.

The FRMS&P also enables:

- ☐ the selection of practical, feasible and economic measures for management of risk;
- ☐ the development of a flood risk management plan; and
- ☐ the development of a prioritised implementation strategy.



As the Flood Study has been completed as per the revised milestones under the grant agreement, Council can now seek activation of further funding under the 2024-25 Floodplain Management Program, for undertaking the FRMS&P.



## 8.14 Policy Grants and Works Community Facilities

<b>Author:</b>	<b>Director Community and Development, Andrew Fletcher</b>
<b>Strategic Outcome:</b>	CO. Our Community IN. Our Infrastructure
<b>Strategic Objective:</b>	CO-A. We're healthy and well with equitable access to services CO-B. We have a vibrant, inclusive, and creative community life IN-C. Our community facilities are planned to meet community needs and enhance social connections
<b>Delivery Program:</b>	CO.1. Deliver initiatives, facilities and services to advance health and wellbeing priorities CO.3. Support recreation, sporting and health pursuits. CO.7. Our community groups are supported. IN.5. Community facilities are planned and maintained to meet the needs of our growing population and promote maximum use
<b>Council's Role:</b>	<b>Asset Owner:</b> As the owner (or custodian, such as through a Trust Deed) of an asset (road, footpath, building, playground etc) the Council has a responsibility for capital, operating and maintenance costs <b>Service Provider:</b> The full cost (apart from fees for cost recovery, grants etc) of a service or activity is met by Council
<b>Appendices:</b>	1. Grants and Projects - Community Facilities (Tracked Changes).pdf 2. Policy No. 29 - Works and Grants Community Facilities Policy - WORKING DOCUMENT.docx

### Recommendation

That Council adopt the version 2.0 of the Grant and Works - Community Facilities Policy.

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### Purpose

The purpose of this report is to provide an updated version of the Grant and Works on Community Facilities Policy. The Policy has been reviewed and changes have been made to ensure that the document is up to date with legislations and guidelines.

### Background

Council has the adopted the policy since 2013 (under a different name) as it provides guidance to committees and users about how projects, risk, funding and the assets will be managed and delivered.



The updated policy references the relevant legislation and other documents including the new Terms of Reference and Guidelines created by officers to assist committees. The policy once/if adopted will be circulated to all committees.

### **Conclusions**

Without having a policy Council would increase its reputational risk and works could occur on Council managed land (or Crown) without permission. The updated policy sets out clear direction about what is required and how grants and works will be managed by Council.

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**Policy**

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**GRANTS AND WORKS – COMMUNITY FACILITIES**

Strategic Outcome:	IN. Our Infrastructure	
Policy type	Statutory	
Date of Adoption:	3 August 2024	Minute Number:
Date for Review:	3 August 2028	
Responsible Officer:	<a href="#">Director Corporate Services</a> <a href="#">Director Community and Development</a>	
Document Control:	Replaces the Capital Works on Community Facilities Policy adopted 17 May 2017	
Delivery Program Link:	IN.4 Community facilities and planned and maintained to meet the needs of our growing population and promote maximum use	

**1. POLICY STATEMENT**

The Council has delegated care, control and management of many of its community facilities (such as recreation reserves, public halls, swimming pools and the like) to volunteer committees of management established under s355 of the *Local Government Act 1993*. ~~This Care and control under the Crown Lands Management Act 2016~~ is designed to allow for local control of those facilities to meet local needs.

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~~However~~ Council is cognisant that, the nature of volunteer committees may ~~make-add complexity to the~~ delivery of larger, capital-type projects ~~somewhat difficult~~ and expose the Council to ~~unacceptable increased~~ risks, including risks to the safety of volunteers, workers and the public, financial risks and risks to reputation.

This policy seeks to mitigate these risks by ~~making the~~ensuring Council's directly responsible for the management of capital projects as well as larger maintenance projects.

Nothing in this policy should be seen as detracting from the primary responsibility of the various ~~C~~committees of ~~M~~management to undertake the routine operation and maintenance of their respective facility.

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**2. PURPOSE**

The purpose of this policy is to ensure:



## Policy

- Projects are properly managed and completed.
- Risks involved in these projects are identified and managed.
- All parties understand their roles and responsibilities, in the project
- User bodies do not by-pass committees of management and deal directly with the council.
- Funding agreements are honoured and acquitted in line with any legal requirements and
- Assets created are appropriately recorded and recognised.

This policy places the responsibility on the council to effectively manage and deliver the identified projects and to address any failures encountered – in line with its statutory powers and budgeted resources.

### 3. SCOPE

This policy applies to all volunteer committees of the council responsible for the care, control and management of community facilities vested in the council and council staff.

### 4. OBJECTIVE

This policy is developed to assist the council with the delivery program objective IN.4:

*IN.4 Community facilities and planned and maintained to meet the needs of our growing population and promote maximum use*

### 5. DEFINITIONS

**Committee of Management:** A committee established under s355 of the Local Government Act 1993 to exercise a function of the council. In this case, the volunteer committees of the council delegated care, control and management of council's community facilities

**Advisory Committee:** A group that makes use of a council-provided community facility.

**User body:** A committee established by the council to provide advice and guidance to the council with the delivery of the project, usually made of representatives of user bodies

**Capital project:** A project that delivers a new or improved facility, as opposed to restoring an existing facility to its original condition.

### 6. POLICY IMPLEMENTATION

#### 6.1 Approval

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## Policy

Projects may be identified by user bodies, Committees of Management or the Council. Projects identified by user bodies must be referred to the Committee of Management for support and approval.

Committees of Management must submit proposed projects to the Council in writing, along with supporting documentation. Projects that are raised initially verbally at council meetings, or discussions with councillors outside of the formal process will not be considered until a formal project proposal is submitted.

Where the council approves the submitted project proposal to be allocated budget, The Council staff will then negotiate with the Committee of Management in relation to the project, not individual user bodies.

### 6.2 Funding

Once agreement is in place regarding the project, individual clubs can work with Council, to prepare and submit funding applications. Council must be informed before and approve the submission of any grant application is lodged. Grants acquired from other levels of government will be managed by the Council only.

Committees of management will be required to provide all information required by the funding body to appropriately report on and acquit the grant as per the requirements set out in the relevant grant agreement. Committees of management will therefore be required to provide council staff with any photographs, receipts, or any other information required to appropriately acquit the grant.

Committees of management will also abide by the grant funding agreement regarding requirements for any parliamentary representative (Federal or State) to open the facility etc. Council will make all arrangements in this regard once the project is finalised.

If Council grant funds are requested, this will be via the Committee of Management Requests for grant funding and will be assessed as per the Council's Requests for Donations and Financial Assistance Policy.

Any grant or loan funds advanced provided by the Council will be the responsibility of the Committee of Management and any reports on progress or acquittal of project funds will also be the responsibility of the committee of management. If a user body is to meet a debt to the Council for project loan funds, this repayments will be the responsibility of the Committee of Management

Committees of Management are encouraged to submit proposed projects through the Council's annual Operational Plan process. Committees must use the Council's project proposal application documentation. The proposal must be submitted before 31 December each year, to be considered in the following financial year.



## Policy

Before starting work on any project, the Council will require the Committee of Management and other partner funders to provide evidence of sufficient funds to allow them to meet their funding agreement.

### 6.3 Risk management

In accordance with Council's Risk Management Policy and Framework, a Risk Management Plan will be developed by Council, in consultation with the Committee of Management. The purpose of the Risk Management Plan is to ensure responsible management of the project is achieved.

The Risk Management Plan will outline how risks will be identified, assessed, treated and managed throughout the life of the project. Attempts will be made to eliminate risks, however where this is not possible, they will be minimised as far as is reasonably practicable.

Where risks cannot be eliminated, they will be included in the Risk Register component of the Risk Management Plan with timeframes and responsibilities for treatments assigned.

### 6.4 Project management

The Council will manage the required works as project manager and will make all payments to contractors and suppliers. The Council will take on this role whether or not Council funds are being used.

Depending on the size and nature of the project, the Council may appoint an advisory committee. The advisory committee will have no direct decision-making powers; its role is to provide advice and guidance to the Council and to act as the liaison between the Council and the user bodies.

The Council will work with user bodies and Committees of Management to manage any Development Applications or Construction Certificates that may be required for the project.

Where the Council is making a financial contribution to the project, the Council may charge the cost of any approvals etc. against the project budget. Otherwise, these costs will be assessed under the Council's Requests for Donations and Financial Assistance Policy

At its discretion, the Council may include a charge for project management in the overall project budget – depending on the size and nature of the project. Grant applications should include an allowance for project management expenses.

The Council will directly manage any tender or quotation process required, in order to comply with legislation and the Council's Procurement and Disposal Policy

### 6.5 Application or exemptions





## Policy

Projects undertaken at Council venues vary in their size and complexity and there is no hard and fast rule to determine what is a capital project and/or a larger maintenance project.

As a guide, a project cost of \$10,000 may be used as a guideline but committees should contact the Council before starting any significant project/works. Regardless of the dollar amount, projects involving construction work as defined above will always be considered a capital project for the purposes of the policy.

Because of the wide range of projects completed on lands controlled by committees of Management, the Council may consider exceptions to this policy. In this case, contact should be made with the Council so that this can be clarified and resolved any concerns without necessarily excluding a valuable project.

### 7. RELATED LEGISLATION, POLICIES AND STRATEGIES

#### 7.1 Legislation

- *Local Government Act 1993*
- *Local Government (General) Regulation 2021*
- *Work Health and Safety Act 2011*
- Office of Local Government Capital Expenditure Guidelines

#### 7.2 Council policies and guidelines

- Governance Policy
- Berrigan Shire Council Code of Conduct
- Berrigan Shire Council Risk Management Framework
- Berrigan Shire Council Guide to Operations for Volunteer Committees of Management
- Berrigan Shire 2040 (Community Strategic Plan)
- Delivery Program
- Risk Management Policy
- Fraud Control Policy
- Community Assistance Policy
- Procurement Policy
- *Committee Guidelines*
- *Committee Terms of Reference*

### 8. RECORDS MANAGEMENT

All Records must be kept in accordance with Council's Records Management Policy (currently under development) and destroyed as per the General Retention and Disposal Authority: Local Government Records (GA39).

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## Policy

### 9. REVIEW AND EVALUATION

This policy (procedure) will be evaluated and reviewed at least once every four (4) years as per Council's Governance Policy (currently under development) or as required.

### 10. DOCUMENT AVAILABILITY

A number of legislative instruments require Councils to have the policy available for inspection at Council's principal office (i.e. Policies made under Part 3, of the Local Government Act 1993). Each document should therefore state the ways in which the policy is available including any relevant fees and charges for access to such policy. An example of the required statement is provided below:

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Berrigan Shire Council  
56 Chanter Street  
BERRIGAN NSW 2712

Ph: 03 5888 5100

Email: [mail@berriganshire.nsw.gov.au](mailto:mail@berriganshire.nsw.gov.au)

### 11. VERSION CONTROL

Version Number	Date	Summary	Responsible Officer
1.0	May 2013	New Policy document	Director Corporate Services
1.1	17 May 2017	Minor review	Director Corporate Services
2.0		Major revision	<del>Karina Ewer</del> Director Community & Development

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### APPENDICES



## Policy

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### GRANTS AND WORKS – COMMUNITY FACILITIES

Strategic Outcome:	IN. Our Infrastructure	
Policy type	Statutory	
Date of Adoption:	3 August 2024	Minute Number:
Date for Review:	3 August 2028	
Responsible Officer:	Director Community and Development	
Document Control:	Replaces the Capital Works on Community Facilities Policy adopted 17 May 2017	
Delivery Program Link:	IN.4 Community facilities and planned and maintained to meet the needs of our growing population and promote maximum use	

#### POLICY STATEMENT

The Council has delegated care, control and management of many of its community facilities (such as recreation reserves, public halls, swimming pools and the like) to volunteer committees of management established under s355 of the *Local Government Act 1993*. Care and control under the Crown Lands Management Act 2016 is designed to allow for local control of those facilities to meet local needs.

Council is cognisant that, the nature of volunteer committees may add complexity to the delivery of larger, capital-type projects and expose the Council to increased risks, including risks to the safety of volunteers, workers and the public, financial risks and risks to reputation.

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Nothing in this policy should be seen as detracting from the primary responsibility of the various committees of management to undertake the routine operation and maintenance of their respective facility.

#### PURPOSE

The purpose of this policy is to ensure:

- projects are properly managed and completed,
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This policy places the responsibility on the council to effectively manage and deliver identified projects and to address any failures encountered – in line with its statutory powers and budgeted resources.

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This policy applies to all volunteer committees of the council responsible for the care, control and management of community facilities vested in the council and council staff.

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## Policy

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## RELATED LEGISLATION, POLICIES AND STRATEGIES

### Legislation

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- *Work Health and Safety Act 2011*
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### Council policies and guidelines

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- Berrigan Shire 2040 (Community Strategic Plan)
- Delivery Program



## Policy

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- Risk Management Policy
- Fraud Control Policy
- Community Assistance Policy
- Procurement Policy
- Committee Guidelines
- Committee Terms of Reference

### RECORDS MANAGEMENT

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## Policy

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### VERSION CONTROL

Version Number	Date	Summary	Responsible Officer
1.0	May 2013	New Policy document	Director Corporate Services
1.1	17 May 2017	Minor review	Director Corporate Services
2.0	February 2025	Major revision	Director Community & Development

### APPENDICES





## 8.15 Planning Proposal 2024 989 1 Bruton Street Tocumwal

<b>Author:</b>	<b>Manager Planning and Development, Sarah Griffiths</b>
<b>Strategic Outcome:</b>	EN. Our Environment CL. Our Civic Leadership
<b>Strategic Objective:</b>	EN-C. Robust planning systems support the liveability of our shire CL-B. Our community is informed and engaged in decision-making
<b>Delivery Program:</b>	EN.5. Plan for the availability of diverse and affordable housing EN.6. Our public spaces and residential developments are designed to support health, safety, and connection. EN.7. Developers provide positive social and environmental contributions CL.4. Strengthen community engagement and participation in decision-making. CL.3. Enhance communication channels between the council and residents.
<b>Council's Role:</b>	<b>Regulator:</b> The Council has legislated roles in a range of areas which it is required to fund from its own funds (apart from fees for cost recovery), government grants etc)
<b>Appendices:</b>	<ol style="list-style-type: none"><li>1 Bruton Street, Toc Planning Proposal 2024-989 Infrastructure Planning Agreement (under separate cover)</li><li>Minutes (Public)- Council Meeting - 17.07.2024 (under separate cover)</li><li>1 Burton Street, Toc Planning Proposal 2024-989 - Gateway Determination (under separate cover)</li><li>1 Bruton Street, Toc Planning Proposal 2024-989 - Gateway Assessment Report (under separate cover)</li><li>1 Bruton Street, Toc Planning Proposal 2024-989 - submissions (under separate cover)</li><li>1 Bruton Street, Toc Planning Proposal 2024-989 - Response to Submissions Report (under separate cover)</li><li>1 Bruton Street, Toc Planning Proposal 2024-989 - Planning Proposal (under separate cover)</li><li>1 Bruton Street, Toc Planning Proposal 2024-989 - September 2024 version 002C (under separate cover)</li></ol>

### Summary

<b>Applicant:</b>	<b>Premise Australia</b>
<b>Owner:</b>	<b>Peter and Jennie Cullen</b>
<b>Proposal:</b>	<b>To amend the Berrigan Local Environmental Plan 2013 by introducing Zone R1 General Residential and rezone the subject site to R1, and amend the Land Zoning Map and Lot Size Map and reduce the minimum lot size to 450sqm</b>



**Location:** 1 Bruton Street, Tocumwal

**Division:**

In Favour:

Against:

**Recommendation**

That Council support the recommendation and submit the Planning Proposal to the Department of Planning and Environment for finalisation.

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**Legislation relevant to Planning Proposal**

Planning Proposal PP-2024-989 (the PP) seeks to change the planning controls for a specific site, consistent with the adopted Berrigan Shire Strategic Framework and District Plans.

The applicant has prepared the Planning Proposal (Refer **Appendix 1**) using the [Local Environmental Plan Making Guideline – August 2023 \(nsw.gov.au\)](https://www.nsw.gov.au/local-environmental-plan-making-guideline)

Under the *NSW Local Environmental Plan Making Guideline August 2023* this is an applicant (proponent) initiated Planning Proposal and a *standard* Planning Proposal for a Local Environmental Plan (LEP) amendment. Council is the Local Plan Making Authority (LPMA).

There are 6 key stages in any Planning Proposal process. This PP is at Stage 5 \*highlighted in red:

**Stage 1- Pre-lodgement**

**Stage 2- Council to support or reject the Planning Proposal**

**Stage 3- Gateway Determination.** Submit Planning Proposal to the Department, who confirm any administrative requirements.

**Stage 4- Post Gateway.** Conditions prior to public exhibition.

**Stage 5- Public exhibition and Assessment – we are here**

**Stage 6- Finalisation.** The Department will make recommendations to the Minister.

**Subject Site**

The subject site is known as Lot 6 DP1275427, 1 Bruton Street, Tocumwal, and is a 35 hectare (Ha) in size. It has the following planning history:

- Planning Proposal PP-2023-606 (Council Ref: PP-01-2023) proposed to rezone the southern half of the site (8.8HA) from R5 (Large Lot Residential) to RU5 (Village Zone) and reduce the minimum lot size from 5,000sqm to 600sqm. The northern part of the site was due to remain as Large Lot Residential, with Lot 6 DP1275427 within that, subdivided into two lots to create the delineation between RU5 and R5, and technically provide a better planning outcome than a single lot being in the two different zones and having different development potential. The PP was reported to Council in August 2023, and was endorsed by Council. The Department



marked the PP as 'inadequate', asking for the submission of updated supply and demand data (and population projections); consideration of anticipated lot yield; a contaminated land assessment; and, a land use conflicts assessment. The Department required the PP to be re-submitted as a new proposal in the NSW Planning Portal.

- ☐ On 10 May 2022, Council approved a two-lot subdivision (consent ref:134/22/DA/D9) which was proposed under PP-2023-606. With the two lots certified, the zoning boundaries would align with the lot boundaries and change the lot numbers so that the second parcel of land could be referred to as Lot 2 of DP1275427.
- ☐ This allowed the applicant to lodge a new PP and meet the direction outlined by the Department.

### Summary of Planning Proposal PP-2024-989

- ☐ 17 July 2024 - Councillors supported and adopted the officer recommendation to send the PP to the Department for Gateway Determination.
- ☐ 19 August 2024 - Gateway Determination was issued by the Department. \*The Department has confirmed that amending the LEP must be finalised by 09/05/2025.
- ☐ 17 September 2024 - Applicant lodged updated PP (Revision 002C).
- ☐ 18 October 2024 - Infrastructure Agreement finalised and signed by relevant parties. Refer **Appendix 2**.
- ☐ November 2024 – PP started 20 day public exhibition.
- ☐ December 2024 - Six (6) submissions were received by Council.
- ☐ 13 January 2025 – Applicant lodged a 'response to submissions report'.

This PP has been prepared by Premise. It seeks a change in planning controls and an LEP amendment consistent with the Berrigan Local Environmental Plan 2013 (LEP) and policy direction in the Berrigan Shire Strategic Framework and District Plans (LEP review September 2023) and is consistent with the LEP review's introduction of the new residential zone (R1 – General Residential) and lot sizes.

It is also noted that the PP is consistent with Planning Proposal PP-2023-606, which Council endorsed in 2021, but that the applicant has now addressed the matters raised by the Department.

The PP will allow efficient use of the subject site for residential purposes by rezoning the subject site from R5 - Large Lot Residential to R1 – General Residential.

Overall, the PP seeks the following:

- 1) To rezone the subject site in its entirety to R1 – General Residential, and reduce the minimum lot size from 5,000sqm to 450sqm (a lot size which is consistent with the adopted Strategic Framework).
- 2) To change the LEP in the following ways:
  - o Update Land Zoning Map 004A from 5,000sqm to 450sqm for the minimum lot size area.
  - o Update the Land Use Table to introduce the R1 – General Residential (given that the LEP does not currently include the R1 zone).



Figure1: Aerial of subject site and surrounds

In relation to changes to the LEP, the PP will require the following:

- a) An amendment to the Land Zoning Map LZN\_004A from zone R5 to R1.
- b) Make reference to a minimum lot size of 450sqm.
- c) An amendment to the Lot Size Map 004A.
- d) Update Land Zoning Map Sheet LZN\_004A and Lot Size Map Sheet 004A from 5,000sqm to 450sqm minimum lot size.
- e) Update the Land Use Table to introduce the R1 – General Residential Zone.

In relation to changes to the LEP instrument, and specific clauses and provisions, no changes are required.

## Background

At the 17 July 2024 Council Meeting, Councillors supported and adopted the officer recommendation to submit the PP to the Department for Gateway Determination, and, for conversations on a draft infrastructure agreement to commence as soon as possible. Refer to **Appendix 3** for Council Minutes.

On 19 August 2024, Gateway Determination was issued by the Department (refer to **Appendix 4**). It included five (5) Gateway Conditions. Condition 1 (see image below) had three (3) components and required the applicant to revise the PP prior to Council carrying out public exhibition:



## Gateway Conditions

1. Prior to public exhibition, the planning proposal is to be updated to:
  - (a) Insert 'Roads' as a land use that is permitted with or without consent in the proposed Zone R1 General Residential land use table.
  - (b) Consider the inclusion of 'Dual occupancies' and 'Secondary dwellings' as land uses permitted with consent in the proposed Zone R1 General Residential land use table.
  - (c) The zoning map reference is changed from the pdf map number to the current digital zoning map.

On 17 September 2024, to address the Department's conditions, the applicant lodged an updated PP (Revision 002C) to the Department via the NSW Planning Portal. Refer **Appendix 1**.

In summary, the updated PP did the following:

- ☐ To address Condition 1 (a) – The PP was updated so that 'roads' are a land use and are permitted with consent in the Zone R1 general Residential land use table.
- ☐ To address Condition 1 (b) – The PP was updated so that a 'dwelling house', 'dual occupancies' and 'secondary dwellings' are land uses permitted with consent in the Zone R1 general Residential land use table. And 'residential accommodation' is prohibited.
- ☐ To address Condition 1 (c) – The PP was updated to change all reference from Land Zoning Map LZN\_004A (the old format) to Digital Zoning Map (the new format).

## Public Exhibition



Figure 2: Map showing properties posted a notification letter on 9/11/2024



In November 2024, the PP went on public exhibition for 20 days. Letters were sent to adjoining properties on 11 November (Figure 2 aerial above shows the notified properties in blue highlight); advertisements were placed in the Southern Riverina newspaper on 13 November and 20 November; and Have Your Say was created on Council's website on 13 November.

Six (6) submissions were received. Refer to **Appendix 5** (personal details have been redacted).

The [Local Environmental Plan Making Guideline – August 2023 \(nsw.gov.au\)](https://www.nsw.gov.au/local-environmental-plan-making-guideline-august-2023), and specifically Public Exhibition (page 54), states that *Council can conduct a public hearing into any issue associated with a Planning Proposal, including in response to requests made by a member of the public during the public exhibition period.*

The Department, in their Gateway Determination, confirmed that in their opinion a public hearing was not required to be held. However, their wording does provide flexibility in the event that Council has an obligation to conduct a public hearing (for example, in response to a submission or if reclassifying land).

A public hearing was not held during the public exhibition period due to the following:

- ☐ Officers were confident that the extent of notification encapsulated all possibly affected properties.
- ☐ The subject site is a large vacant lot in a peripheral area of Tocumwal where residential lots are not completely at odds with the zone and lot sizes proposed by the PP.
- ☐ The PP is consistent with the strategic vision and policy direction of Council.
- ☐ Officers have considered the issues raised and are able to respond within this report.

## Post Exhibition Stage

Under the [Local Environmental Plan Making Guideline – August 2023 \(nsw.gov.au\)](https://www.nsw.gov.au/local-environmental-plan-making-guideline-august-2023) the applicant is given 21 days to provide a 'response to submissions report' and advise Council if they would like to revise the Planning Proposal in an attempt to address the submitter issues.

On 13 January 2025, the applicant lodged a 'response to submissions report' and advised Council there would be *no changes to the Planning Proposal as a result of them considering submissions*. Refer **Appendix 6**.

Following the Guidelines, and specifically the 'response to submissions stage' (page 55 of the Guidelines), Council must:

- ☐ consider all submissions and the proponent's response and report this in finalising the plan or submitting to the Department for finalisation;
- ☐ review the Planning Proposal and address any community, agency or other objections and responses by the proponent; and
- ☐ prepare a recommendation for decision by the Council.

The Guidelines state that *"Council is encouraged to liaise or meet with authorities and government agencies to resolve and key issues"*. It does not make reference to how Council liaises with submitters (objectors).

The Guidelines state that *"Council is encouraged to liaise or meet with authorities and government agencies to resolve any key issues"* but in terms of liaising with submitters, the Guidelines require Council to consider, review and address all submissions in a report and recommendation to Council. In other words, there is no requirement for Council to meet or facilitate a meeting with the submitters at this stage.

Council Officers have acknowledged, all submissions and have reviewed and considered all submissions in this report. No meetings have occurred.

## Submitter Issues

Below are the main issues raised in the submissions received, and Council Officer's response to each:



### Impact on Property Values

That a minimum lot size of 450sqm will have a negative impact on property values, increased development and reduce the appeal of Tocumwal, as its large residential lots are a significant attribute to attracting potential buyers and long-term residents to the area. Smaller lots would create a city-feeling that lacks charm, individuality, and limits the types of builds on allotments. Concern was also expressed that the potential 'clientele' will not necessarily fit for the region and the current residents.

**Response:** Impact on property values is not a consideration for Council under the *Environmental Planning and Assessment Act 1979*. In terms of how each lot is potentially developed, this is considered at the subdivision stage whereby neighbourhood character, on-site amenity, and, off-site amenity are fully considered. It is also noted that this is a minimum lot size, meaning that any subdivision could create larger lots, recognising that most subdivision plans have variation in lot sizes as encouraged under the relevant provisions.

### Impact on Council services

Increased development will have a negative impact on services (including water pressure, increased stormwater run-off and access to public outdoor space - parkland). Council roads and sewerage infrastructure already struggles to cope with existing demand in this part of Tocumwal.

**Response:** The PP and LEP amendment are the first step, however it is later steps (the development application) that will manage Council services. Appropriate documentation and information will be required at the lodgement stage of an application and on and off-site amenity impacts are assessed as part of that process and managed through conditions of consent.

Any development application will be referred internally to Council's infrastructure department. Council Officers are currently conducting studies of Council assets, in order to assess the provision and age of existing infrastructure and cost associated with upgrades. Appropriate referrals and conversations will be had between Council and any future developers, in terms of design, maintenance, cost and conditions – with an understanding that the cost be bore by the developer.

### Impact on Neighbourhood Character and minimal lot size

Submitters raise a minimum lot size of 450sqm as an issue, linking this lot size to the encouragement of more intense development, higher density housing (including potentially double-storey dwellings), and overcrowding which will impact on neighbourhood character.

**Response:** A reduction in lot size from 5,000sqm to 450sqm would be perceived as an adjustment to Tocumwal. However, this was 'planned' as part of the strategy and lot site is not the only factor to define neighbourhood character. As part of any future application, Council would assess and determine the layout and size of lots proposed and help ensure that the preferred character is met.

The strategic direction of Council has been to promote or create additional land for housing around townships (including Tocumwal) and identifying a minimum of 450sqm as a lot size that can be appropriate in a residential subdivision. As outlined previously, officers would encourage a variation in lot sizes, not a plan which would just achieve the minimum.

For any subdivision application, neighbourhood character is a starting point for consideration as part of the Development Control Plan (DCP). While the PP will change the zoning of the subject site in the LEP, and allow a minimum lot size of 450sqm, a subdivision application will need to show a variation of lot sizes and demonstrate how lots will create urban places with identity, a design which is consistent and compatible with the existing neighbourhood character and ensure a transition in density. Having a minimum lot size in the LEP does not mean that 100% of lots within a future residential subdivision will be that size. The responsibility is on an applicant (and Council as the assessor) to demonstrate a clear understanding of the neighbourhood character identified, and the appropriateness of lot sizes and layout proposed.



### **Off-site amenity impact**

One submission raised the issue of noise and light pollution resulting from lot sizes that are smaller and developed with dwellings that are higher density.

**Response:** Having a minimum lot size of 450sqm in the LEP does not mean that 100% of lots within a future subdivision will be that size or be developed with dwellings that will 'max out' the lot footprint (site coverage for new dwellings is considered). Layout and lot sizes are given due consideration at a development application stage and assessed against controls in the DCP.

### **Public involvement and consultation**

Submitters believe that insufficient consultation with local residents who will be directly affected by the PP.

**Response:** Letters were posted to all properties immediately abutting the subject site (refer to Figure 2) and more broadly. Newspaper articles were placed on consecutive Wednesdays to advertise the PP and, a Have Your Say was placed on Council's website during the notification period.

As confirmed in the background section of this report, a Planning Proposal was submitted to Council in 2021 relating to the subject site (with this PP being the final reiteration) which indicates that the landowner has been wanting a change to the zoning for several years. The community has also been consulted about the LEP review (the strategy) and long-term vision for the Berrigan Shire.

### **Options**

1. Support the PP and refer the PP to the Department, for Finalisation, with a copy of the Council Report and resolution.
  2. Advise the Minister (or delegate) that the matter does not proceed.
  3. Request more time to consider the PP. As Council act as the Local Plan Making Authority (LPMA) for Standard LEP amendments, Council can withhold finalisation of the LEP amendment until it is completely satisfied with the outcome. Council can ask for further studies, information or clarification from the applicant or from Officers.
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## 8.16 Planning Proposal Berrigan LEP review

<b>Author:</b>	<b>Manager Planning and Development, Sarah Griffiths</b>
<b>Strategic Outcome:</b>	EN. Our Environment IN. Our Infrastructure CL. Our Civic Leadership
<b>Strategic Objective:</b>	EN-C. Robust planning systems support the liveability of our shire IN-C. Our community facilities are planned to meet community needs and enhance social connections CL-A. The community is serviced in an effective, financially sustainable and responsible manner CL-B. Our community is informed and engaged in decision-making
<b>Delivery Program:</b>	EN.7. Developers provide positive social and environmental contributions EN.6. Our public spaces and residential developments are designed to support health, safety, and connection. IN.5. Community facilities are planned and maintained to meet the needs of our growing population and promote maximum use CL.2. Manage people, assets, resources, and risks responsibly to support the Council's ongoing viability and maximise value for money for ratepayers. CL.4. Strengthen community engagement and participation in decision-making.
<b>Council's Role:</b>	<b>Strategic Partner:</b> The Council partners with other agencies, stakeholders, community groups etc in the delivery of a Council provided service or activity that aligns with Councils Strategic outcomes or Delivery Program.
<b>Appendices:</b>	Nil

### Summary

<b>Applicant:</b>	<b>Habitat Consultants (acting for Council)</b>
<b>Owner:</b>	<b>Berrigan Shire Council</b>
<b>Proposal:</b>	<b>To review the Berrigan Local Environmental Plan 2013 by introducing new zones, amending the Land Zoning Maps and Lot Size Maps to facilitate orderly planning in the Berrigan Shire</b>
<b>Location:</b>	<b>Berrigan Shire</b>

### Division:



In Favour:

Against:

### Recommendation

That Council support the Recommendation and submit the Planning Proposal to the Department of Planning and Environment (the Department) for Gateway Determination.

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### Relevant Legislation - General

A Local Environmental Plan (LEP) divides the Council area into land use zones to identify what types of development are allowed in each area (with or without consent or are prohibited). Through zoning and development standards, an LEP provides a framework for the way land can be developed and used.

An LEP is developed by Council, however it must incorporate compulsory sections as set out by the Standard Instrument [Principal Local Environmental Plan \(2006 EPI 155a\)](#). The *Environmental Planning and Assessment Act 1979* (the EP&A Act) section 3.21, requires councils to review their LEP and determine what updates are required, every five (5) years. Council's LEP is dated 2013.

Division 3.4 of the EP&A Act prescribes the LEP making process and the [Local Environmental Plan Making Guideline – August 2023](#) (the Guidelines) supplements it, by providing detailed explanations and practical steps to assist Council's amend an LEP.

A planning proposal is a document that sets out the justification and supporting information to allow an LEP to be made. It explains the intent of the proposed change(s) in the LEP and justifies the LEP amendments, including any changes needed to planning zones / controls to permit new development and land uses. A planning proposal is assessed and determined by the Department.

The information supporting a planning proposal is generally prepared by Council Officers with the assistance of a specialist consultant. It is submitted to the relevant council for consideration and assessment through the NSW Planning Portal.

Council must support the planning proposal before it is submitted to the Department for a Gateway determination (Stage 3). Hence the purpose of this report (stage 2).

### This Planning Proposal

This Planning Proposal (PP) is a *Council-initiated* planning proposal lodged by Habitats Consulting (proponent, Planning Proposal Authority - PPA) on behalf of Council. It is a *standard* Planning Proposal for an LEP amendment, in this case the Berrigan LEP 2013. Council will act as the Local Plan Making Authority (LPMA).

The PP is a 'standard LEP amendment' as defined on page 14 of the Guidelines:



**Standard**

A standard planning proposal refers to any one or more of the following proposed LEP amendment types, including an amendment:

- To change the land use zone where the proposal is consistent with the objectives identified in the LEP for that proposed zone
- That relates to altering the principal development standards of the LEP
- That relates to the addition of a permissible land use or uses and/or any conditional arrangements under Schedule 1 Additional Permitted Uses of the LEP
- That is consistent with an endorsed District/Regional Strategic Plan and/or LSPS
- Relating to classification or reclassification of public land through the LEP

As this report will outline, the LEP amendment is consistent with the Berrigan Land Use Strategy and Scoping Reports prepared and adopted by Council in 2024.

In terms of area, the PP covers all land in the Berrigan Shire.

There are six (6) key stages of any planning proposal. This PP is at Stage 2 \*highlighted in red:

**Stage 1- Pre-lodgement**

**Stage 2- Council to support or reject the Planning Proposal \*we are here**

**Stage 3- Gateway Determination.** Submit Planning Proposal to the Department, who confirm any administrative requirements.

**Stage 4- Post Gateway.** Conditions prior to public exhibition.

**Stage 5- Public exhibition and Assessment**

**Stage 6- Finalisation.** The Department will make recommendations to the Minister.

The applicant has prepared the Planning Proposal (Refer **Appendix 1**) using the [Local Environmental Plan Making Guideline – August 2023 \(nsw.gov.au\)](https://www.nsw.gov.au/local-environmental-plan-making-guideline-august-2023)

### **Pre-Lodgement (Stage 1)**

Stage 1 is not a legislative requirement and promotes resolving any planning issues early, in order to enable a streamlined LEP making process. The Guidelines encourage Council to consider, upfront, the need and capacity for infrastructure to support the future development resulting from the amendment.

Council Officers are well aware that infrastructure requires proper investigation in terms of water and sewer, in particular for Barooga and Tocumwal, outside this LEP review. And in terms of flooding, Council Officers acknowledge that further investigation work needs to occur outside this LEP review.

The Guidelines also encourage early engagement, stating that the LEP making process does not require formal community consultation prior to the submission of a planning proposal and that the most appropriate time for community consultation of a planning proposal is *after* a Gateway Determination being issued and all relevant reports and studies have been completed. This ensure that the community has clear and evidence-based information available to help them make informed comments on the proposal.

Over the last two (2) years Habitat and Council Officers have carried out extensive land use study, policy review, and community and Councillor engagement and consultation. While the community



are not aware of the exact date of submitting this PP, the intent of amending the LEP has been implied throughout the LEP review process.

## Planning Proposal Summary

This PP seeks to amend the LEP 2013, to provide an up to date, relevant document, which better reflects demographics and will allow a better and more efficient use of land within the Berrigan Shire. It will change the planning controls and implement the recommendations of the Berrigan Shire Strategic Framework and District Plans 2024. It will increase the number of zones through the introduction of 'discretionary' zoning to replace the current 'blanket' zones which support a wide variety of land uses; and will direct and support services, businesses and residential to the best strategic locations within the Shire. It will also identify residential land around the townships of Tocumwal, Barooga and Finley, where land is available and infrastructure can be appropriately designed in order to cater for increased demands.

In terms of the LEP instrument, specific clauses and provisions, the PP will be amended in the following ways:

- 1) Zones (land use) will be changed in Finley, Tocumwal and Barooga, to reflect the recommendations in the Berrigan Shire Strategic Framework and District Plans 2024.
- 2) It will reference a higher number of land use zones given that 'discretionary' zoning will apply, to replace the 'broader' land zones currently used. New land use zones will include the Residential 1 (general residential) zone; the E1 (local centre) zone; the MU1 (mixed use) zone; and the RE1 (public recreation) zone.
- 3) It will introduce an Urban Release Area (URA) zone to Tocumwal and Barooga, to facilitate their expansion. The URA specifies that development consent cannot not be granted unless Council is satisfied that any public utility infrastructure that is essential for the proposed development is available, or, that adequate arrangements have been made to make that infrastructure available when it is required. The objective is that Council can ensure that development occurs in an orderly, logical and cost-effective manner, in accordance with a staging plan and only after the applicant has prepared and lodged a 'development control plan' which covers items such as transport movement, circulation routes and connections (to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists); an overall landscaping strategy; stormwater and water quality management controls; suitably located public facilities and services; etc.
- 4) It will create additional clauses to reflect new zones, lot sizes and URAs.
- 5) It will update Land Zoning Maps and Land Use Tables.
- 6) It will update Land Zoning Maps to re-classify public land to Council 'operational land' including land at Jersey Street; 12-14 Hayes Street, Berrigan; and, 11 Barooga Street, Tocumwal.

Appendix A includes the PP and supporting documentation. Refer to the link [here](#) to access a shared folder containing the PP and Attachments. Refer specifically to page 33 of the PP for a full list of the amendments.



### **Environmental Planning and Assessment Act 1979 (the EP&A Act)**

Section 1.3 objectives are:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources;*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment;*
- (c) to promote the orderly and economic use and development of land.*

This PP complies with the objectives.

### **State Environmental Planning Policies (SEPP)**

SEPPs are policies prepared by the Department which deal with land use and regional development in a state-wide context. They can override an LEP (for example, by prohibiting or allowing a certain type of development in a certain zone). A SEPP can also act as standalone planning law, having legal force, such as the SEPP for Exempt and Complying Development.

The following seven (7) of the twelve (12) SEPPs, apply to Berrigan Shire:

- ☐ Exempt and Complying Development
- ☐ Biodiversity and Conservation
- ☐ Industry and Employment
- ☐ Resilience and Hazards
- ☐ Resources and Energy
- ☐ Transport and Infrastructure
- ☐ Planning Systems

The LEP review and PP amendment is consistent with the relevant SEPP.

### **Berrigan Shire Local Strategic Planning Statement 2020-2040**

Berrigan Shire Council's Local Strategic Planning Statement ([berrigan-shire-lsps-high-res.pdf](#)) establishes a 20-year vision for land use planning and growth. It documents community priorities and aspirations and Council's actions, which the PP is consistent with, including researching identified planning issues, preparing strategies or policies, and amendment existing Council plans such as the Local Environmental Plan.

### **Berrigan Shire Strategic Framework and District Plans – part of the Local Environmental Plan review**

The PP is consistent with the Berrigan Shire Strategic Framework and District Plans adopted in 2024.



The amendment acknowledges the need for Council to set aside more land for residential, industry and employment purposes, and the lack of housing development in Berrigan Shire as shown in the population and approvals data.

Council Officers are aware that flooding and infrastructure (water and sewer, in particular for Barooga and Tocumwal) require proper investigation outside this LEP review.

### **Conclusion**

This PP is the result of an extensive 2-year strategic study by Habitats Consultants and Council Officers during which time Councillors and the community have been engaged and their feedback has helped to shape the LEP amendment.

### **Options**

1. Support the Officer's Recommendation to send the PP to the Department for Gateway Determination, for the Department to confirm administrative requirements.
  2. Do not support the Officer's Recommendation to send the PP to the Department for Gateway Determination, for the Department to confirm administrative requirements.
-



**8.17 Sustainability Report (Late Covering Report)**

**Author:** Chief Executive Officer, Karina Ewer

**Strategic Outcome:**

**Strategic Objective:**

**Delivery Program:**

**Council's Role:**

Report not available at time of publishing the agenda, but will be provided prior to the meeting.

The report is substantial and will be provided via a link, along with the covering report late Friday afternoon 14 February 2025.



9 NOTICES OF MOTION/QUESTIONS WITH NOTICE

Nil





## 10 CONFIDENTIAL MATTERS

### Recommendation

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 10A(2) of the Local Government Act 1993:

#### 10.1 Berrigan Caravan Park lease

This matter is considered to be confidential under Section 10A(2) - (c) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

#### 10.2 T10-24-25 Haynes Court, Tocumwal

This matter is considered to be confidential under Section 10A(2) - (d)(i) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

#### 10.3 T07-24-25 - Alexander Avenue Berrigan

This matter is considered to be confidential under Section 10A(2) - (d)(i) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

#### 10.4 T11-24-25 - National Memorial Creek Walk Bridge Replacement

This matter is considered to be confidential under Section 10A(2) - (d)(i) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.



**11 MOTIONS WITHOUT NOTICE / QUESTIONS WITHOUT NOTICE**

**12 COUNCILLOR REPORTS**

**12.1 Mayor's Report**

**12.2 Verbal Reports from Delegates**

**13 CONCLUSION OF MEETING**

The next Ordinary Council Meeting will be held on Wednesday 19 March 2025 from 4:30pm in the Council Chambers, 56 Chanter Street, Berrigan.

There being no further business the Mayor, Mayor Julia Cornwell McKean closed the meeting at [type time](#).