



COOTAMUNDRA-  
GUNDAGAI REGIONAL  
COUNCIL

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# Business Paper

## ORDINARY COUNCIL MEETING

**ALBY SCHULTZ MEETING CENTRE,  
COOTAMUNDRA**

**6:00PM, Tuesday 12th December, 2023**

**Administration Centres: 1300 459 689**

The Mayor & Councillors  
Cootamundra-Gundagai Regional Council  
PO Box 420  
Cootamundra NSW 2590

#### NOTICE OF MEETING

An Ordinary Meeting of Council will be held in the Alby Schultz meeting Centre, Cootamundra on:

**Tuesday, 12th December, 2023 at 6:00PM**

The agenda for the meeting is enclosed.

Steve McGrath  
Interim General Manager

#### **Live Streaming of Meetings Statement**

**This meeting is streamed live via the internet and an audio-visual recording of the meeting will be publicly available on Council's website.**

**By attending this meeting, you consent to your image and, or, voice being live streamed and publicly available. Please refrain from making any defamatory statements.**

# AGENDA

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**1 ACKNOWLEDGEMENT OF COUNTRY**

Council acknowledges the Wiradjuri people, the Traditional Custodians of the Land at which the meeting is held and pays its respects to Elders, both past and present, of the Wiradjuri Nation and extends that respect to other Aboriginal people who are present.

**ADJOURN MEETING FOR OPEN FORUM**

**2 OPEN FORUM**

**RESUME OPEN MEETING**

**3 APOLOGIES**

**4 DISCLOSURES OF INTEREST**

## 5 CONFIRMATION OF MINUTES

### 5.1 MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON TUESDAY 28 NOVEMBER 2023

REPORTING OFFICER	Teresa Breslin, Executive Assistant to Mayor and General Manager
AUTHORISING OFFICER	Steve McGrath, Interim General Manager
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	1. Minutes of the Ordinary Meeting of Council held on Tuesday 28 November 2023

### RECOMMENDATION

**The Minutes of the Ordinary Meeting of Council held on Tuesday 28 November 2023 be confirmed as a true and correct record of the meeting.**

# Minutes

## ORDINARY COUNCIL MEETING

**COUNCIL CHAMBERS, GUNDAGAI**

**6:00PM, TUESDAY 28th November, 2023**

Administration Centres: 1300 459 689

**MINUTES OF COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL  
ORDINARY COUNCIL MEETING  
HELD AT THE COUNCIL CHAMBERS, GUNDAGAI  
ON TUESDAY, 28 NOVEMBER 2023 AT 6:00PM**

**PRESENT:** Cr Charlie Sheahan (Mayor), Cr Gil Kelly (Deputy Mayor), Cr Les Boyd, Cr Logan Collins, Cr Trevor Glover, Cr David Graham, Cr Abb McAlister, Cr Penny Nicholson

**IN ATTENDANCE:** Steve McGrath (Interim General Manager), Paul Woods (Interim Deputy General Manager - CCD), Matt Stubbs (Deputy General Manager - Operations), Linda Wiles (Manager Business), Zac Mahon (Manager Finance), Michael Mason (Interim Manager Sustainable Development), Mark Ellis (Manager Engineering Cootamundra),

**1 ACKNOWLEDGEMENT OF COUNTRY**

The Chairperson acknowledged the Wiradjuri people who are the Traditional Custodians of the Land at which the meeting was held and paid his respects to Elders, both past and present, of the Wiradjuri Nation and extended that respect to other Aboriginal people who were present.

**MOTION**

**RESOLUTION 290/2023**

Moved: Cr Les Boyd

Seconded: Cr David Graham

**Council moved that item 8.3.1 Presentation of Audited Financial Statements be concidered as the first item of business.**

**CARRIED**

**8.3.1 PRESENTATION OF AUDITED FINANCIAL STATEMENTS**

**RESOLUTION 291/2023**

Moved: Cr Penny Nicholson

Seconded: Cr David Graham

**The General-Purpose Financial Statements, Special-Purpose Financial Statements and Special Schedules for the year ended 30<sup>th</sup> June 2023, be adopted following consideration of any submissions received.**

**CARRIED**

**ADJOURN MEETING FOR OPEN FORUM****RESOLUTION 292/2023**

Moved: Cr David Graham  
Seconded: Cr Trevor Glover

**Council adjourn for Open Forum.**

**CARRIED**

**2 OPEN FORUM****List of Speakers**

1. David Harris – Noise pollution and unsafe premises.

**RESUME OPEN MEETING****RESOLUTION 293/2023**

Moved: Cr Abb McAlister  
Seconded: Cr Gil Kelly

**Council resume the Open Meeting.**

**CARRIED**

**3 APOLOGIES AND LEAVE OF ABSENCE****3.1 APOLOGIES**

Nil

**3.2 LEAVE OF ABSENCE****RESOLUTION 294/2023**

Moved: Cr David Graham  
Seconded: Cr Trevor Glover

**Leave of Absence, on 28 November 2023, be granted for Cr Leigh Bowden.**

**CARRIED**

**4 DISCLOSURES OF INTEREST**

1. Charlie Sheahan – Item 8.2.1 Coota Beach Volley Ball – Significate Non-Pecuniary (left meeting for item) – Adina Board Member.
2. Les Boyd – Item 8.2.1 Coota Beach Volley Ball – Significate Non-Pecuniary (left meeting for item) – Adina Board Member.

**5 CONFIRMATION OF MINUTES****5.1 MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON TUESDAY 24 OCTOBER 2023****RESOLUTION 295/2023**

Moved: Cr Gil Kelly

Seconded: Cr Trevor Glover

1. The Minutes of the Ordinary Meeting of Council held on Tuesday 24 October 2023 be confirmed as a true and correct record of the meeting.
2. The Confidential Minutes of the Closed Session of Council held on Tuesday 24 October 2023 be confirmed as a true and correct record of the meeting.

**CARRIED**

**5.2 MINUTES OF THE EXTRAORDINARY MEETING OF COUNCIL HELD ON WEDNESDAY 18 OCTOBER 2023****RESOLUTION 296/2023**

Moved: Cr Gil Kelly

Seconded: Cr Trevor Glover

**The Minutes of the Extraordinary Meeting of Council held on Wednesday 18 October 2023 be confirmed as a true and correct record of the meeting.**

**CARRIED**

**6 MAYORAL MINUTES****6.1 MAYORAL MINUTE - COUNCILLOR ENGAGEMENT****RESOLUTION 297/2023**

Moved: Cr Les Boyd

Seconded: Cr Gil Kelly

**The information in the Councillor Engagements Mayoral Minute be received and noted.**

**CARRIED**

## 7 REPORTS FROM COMMITTEES

### 7.1 MINUTES OF THE COOTAMUNDRA-GUNDAGAI LOCAL TRAFFIC COMMITTEE MEETING HELD ON THURSDAY 9 NOVEMBER 2023

#### RESOLUTION 298/2023

Moved: Cr David Graham

Seconded: Cr Gil Kelly

1. The Minutes of the Cootamundra-Gundagai Local Traffic Committee Meeting held on Thursday 9 November 2023, attached to the report, be received and noted.
2. In consideration of the Cootamundra-Gundagai Local Traffic Committee recommendations detailed in the minutes, Council endorse the following:
  - 3.1 That NO STOPPING regulatory signage be installed 10 metres from the Bourke Street and Wallendoon Street intersecting roads off Cooper Lane in accordance with the NSW Road Rules 2008, clause 170.
  - 3.2 That Council seek funding opportunities for the installation of night visible kerbside numbering and directional street signage to assist emergency services with locating properties quickly.
  - 3.3 That further investigation commences regarding the necessity for the installation of vehicle, school bus and pedestrian separation zones at Cootamundra High School and Cootamundra Public School.
  - 3.4 That the vegetation restricting sight distance on the Wallendoon Street blister at the Cooper Street pedestrian crossing intersection be trimmed to improve visibility concerns.
  - 3.5 That School Route Bus Route Warning Signage only be considered for prioritised roads after further investigations and discussion with bus operators.
  - 3.6 That marked NO PARKING bays be painted on the roadway outside of each of the three (3) driveways exiting the Sacred Heart School car park located off Morris Street, Cootamundra following further consultation with Sacred Heart School management.
  - 3.7 That the Salvation Army Toy Run Event with the assistance of the Cootamundra Antique Motor Club scheduled for Saturday 9 December 2023 be approved and a Road Occupancy Licence be granted.
  - 3.8 That the Snake Gully Cup Carnival scheduled for the 17 and 18 November 2023 be noted.
  - 3.9 That approval be given to the Gundagai Business Network to hold the 2023 Christmas on Sheridan event on Friday 8 December 2023 subject to the following conditions:
    - a) The temporary closure of Sheridan Street between 4pm and 10pm on Friday 8 December 2023.
    - b) That all businesses along the route be advised and road closure advertised throughout the community.
    - c) The event organiser complies with any conditions set by Council and the NSW Police.
    - d) The Event Management Plan (EMP) is completed and submitted to Council (attached).
    - e) A current Certificate of Currency (COC) is submitted to Council noting Council, TfNSW and NSW Police as interested parties (attached).
    - f) Council to provide a Traffic Guidance Scheme (TGS attached) and arrange placement and removal of all road barriers.

**3.10 That approval be given to The Coota District Coop Ltd to hold the 2023 Christmas in Coota event on Thursday 14<sup>th</sup> December 2023 subject to the following conditions:**

- a) The temporary closure of Parker Street between 3:30pm and 10pm on Thursday 14<sup>th</sup> December 2023 from Wallendoon Street to Adams Street.
- b) That all businesses along the route be advised and road closure advertised throughout the community.
- c) The event organiser complies with any conditions set by Council and the NSW Police.
- d) The Event Management Plan (EMP) is completed and submitted to Council (attached).
- e) A current Certificate of Currency (COC) is submitted to Council noting Council, TfNSW and NSW Police as interested parties (attached).
- f) Council to provide a Traffic Guidance Scheme (TGS).

**CARRIED**

## **8 GENERAL MANAGER'S REPORT**

### **8.1 GENERAL MANAGER OFFICE**

#### **8.1.1 CHRISTMAS AND NEW YEAR CLOSURE**

##### **RESOLUTION 299/2023**

Moved: Cr Abb McAlister

Seconded: Cr Les Boyd

**The Christmas 2023 and New Year 2024 closures for Council facilities be noted.**

**CARRIED**

#### **8.1.2 RIVERINA EASTERN REGIONAL ORGANISATION OF COUNCILS (REROC) MEETING MINUTES**

##### **RESOLUTION 300/2023**

Moved: Cr David Graham

Seconded: Cr Les Boyd

**The draft Minutes of the Riverina Eastern Regional Organisation of Councils (REROC) Board Meeting and Annual General Meeting held on 27 October 2023, attached to the report, be received and noted.**

**CARRIED**

**8.1.3 LGNSW ANNUAL CONFERENCE - ALGWA (AUSTRALIAN LOCAL GOVERNMENT WOMEN'S ASSOCIATION) NSW BREAKFAST 14 NOVEMBER 2023****RESOLUTION 301/2023**

Moved: Cr Penny Nicholson

Seconded: Cr Gil Kelly

**The ALGWA National Networking Breakfast summary report, be received and noted.**

**CARRIED**

At 6:25 pm, Cr Charlie Sheahan left the meeting.

At 6:25 pm, Cr Les Boyd left the meeting.

**8.2 BUSINESS****8.2.1 COOTAMUNDRA BEACH VOLLEYBALL EVENT LICENCE/MOU****RESOLUTION 302/2023**

Moved: Cr Penny Nicholson

Seconded: Cr Abb McAlister

- 1. That Council award the coordination of the Coota Beach Volleyball event, via MOU, offering a 3-year agreement, with a further 3-year option, to Adina Care.**
- 2. That seed funding totalling \$10,000 already allocated to the event be transferred to Adina Care.**
- 3. Council note the in-kind support to the value of \$15,000 associated with the conduct of the event.**

**CARRIED**

At 6:30 pm, Cr Charlie Sheahan returned to the meeting.

At 6:30 pm, Cr Les Boyd returned to the meeting.

**8.2.2 CHRISTMAS CELEBRATIONS****RESOLUTION 303/2023**

Moved: Cr Penny Nicholson

Seconded: Cr Gil Kelly

**The Christmas Celebration updates, attached to the report be noted.**

**CARRIED**

**8.2.3 BUSINESS COOTAMUNDRA REQUEST FOR ASSISTANCE****RESOLUTION 304/2023**

Moved: Cr Abb McAlister  
Seconded: Cr David Graham

**Council advise Business Cootamundra that it is not in a position to provide the funding or funding relief as requested by Business Cootamundra.**

**CARRIED**

**8.2.4 CUSTOMER SERVICE CHARTER****RESOLUTION 305/2023**

Moved: Cr Trevor Glover  
Seconded: Cr Penny Nicholson

**The Customer Service Charter, attached to the report, be adopted.**

**CARRIED**

**8.2.5 DRAFT DATA BREACH POLICY****RESOLUTION 306/2023**

Moved: Cr David Graham  
Seconded: Cr Trevor Glover

**The draft Data Breach Policy, attached to the report, be adopted.**

**CARRIED**

**8.2.6 CODE OF CONDUCT COMPLAINT STATISTICS****RESOLUTION 307/2023**

Moved: Cr Les Boyd  
Seconded: Cr Gil Kelly

**The report on Code of Conduct complaint statistics for the period 1<sup>st</sup> September 2022 to 31<sup>st</sup> August 2023, be received and noted.**

**CARRIED**

**8.2.7 ANNUAL REPORT 2022/2023****RESOLUTION 308/2023**

Moved: Cr David Graham  
Seconded: Cr Abb McAlister

1. The Draft Annual Report, including a copy of the Financial Statements for the year ended 30 June 2023, attached to the report, be endorsed, noting that it will be updated to include superannuation expenses applicable to Councillors.
2. A copy of the 2022/2023 Annual Report be placed on Council's website and provided to the Minister for Local Government.

**CARRIED**

**8.2.8 DELIVERY PROGRAM/ OPERATIONAL PLAN QUARTERLY PROGRESS REPORT****RESOLUTION 309/2023**

Moved: Cr Gil Kelly  
Seconded: Cr Penny Nicholson

The Delivery Program incorporating the Operational Plan 2023/2024, quarterly progress report, (1<sup>st</sup> Quarter July to September), attached to the report, be received and noted.

**CARRIED**

**8.2.9 STOCKINBINGAL ELLWOOD'S HALL S.355 COMMITTEE MEETING MINUTES****RESOLUTION 310/2023**

Moved: Cr Les Boyd  
Seconded: Cr Abb McAlister

The Minutes of the Stockinbingal Ellwood's Hall s.355 Committee Ordinary Meeting held on 26 October 2023 attached to the report, be received and noted.

**CARRIED**

**8.2.10 THE ARTS CENTRE COOTAMUNDRA S.355 COMMITTEE MEETING MINUTES****RESOLUTION 311/2023**

Moved: Cr Trevor Glover  
Seconded: Cr Les Boyd

The Minutes of The Arts Centre Cootamundra s.355 Committee Meeting held 19 October 2023 attached to the report, be received and noted.

**CARRIED**

**8.3 FINANCE****8.3.2 FINANCE UPDATE - OCTOBER 2023****RESOLUTION 312/2023**

Moved: Cr David Graham  
Seconded: Cr Abb McAlister

**The Finance Update report, be received and noted.**

**CARRIED**

**8.3.3 RESTRICTED CASH RECONCILIATION****RESOLUTION 313/2023**

Moved: Cr Gil Kelly  
Seconded: Cr David Graham

**The Restricted Cash Reconciliation report, be received and noted.**

**CARRIED**

**8.3.4 EARLY REPAYMENT OF GRADER LOAN****RESOLUTION 314/2023**

Moved: Cr Trevor Glover  
Seconded: Cr Penny Nicholson

**That Council:**

1. Authorise the early repayment of the fixed rate loan for Plant No. 1206 John Deere Grader, in the sum of \$359,400 to the Commonwealth Bank of Australia; and
2. Authorise the Interim General Manager to complete any documentation associated with the transaction.

**CARRIED**

**8.3.5 QUARTERLY BUDGET REVIEW STATEMENT - SEPTEMBER 2023****RESOLUTION 315/2023**

Moved: Cr David Graham  
Seconded: Cr Trevor Glover

1. The September 2023 Quarterly Budget Review be received and noted.
2. The budget variations listed in the report be adopted.

**CARRIED**

**8.3.6 INVESTMENT REPORT - OCTOBER 2023****RESOLUTION 316/2023**

Moved: Cr Gil Kelly  
Seconded: Cr David Graham

**The report detailing Council Cash and Investments as at 31 October 2023, be received and noted.**

**CARRIED**

**8.4 SUSTAINABLE DEVELOPMENT****8.4.1 FLOOD STUDY FOR THE VILLAGES OF COOLAC, NANGUS, TUMBLONG AND DARBARLARA****RESOLUTION 317/2023**

Moved: Cr Les Boyd  
Seconded: Cr David Graham

**Councillor Glover be nominated to Chair the Gundagai Villages Floodplain Management Committee, with Councillor Collins nominated as the alternate Chair.**

**CARRIED**

**8.5 ENGINEERING COOTAMUNDRA****8.5.1 CGRC ENGINEERING REPORT - NOVEMBER 2023****RESOLUTION 318/2023**

Moved: Cr David Graham  
Seconded: Cr Les Boyd

**The CGRC Engineering Report for the month of November 2023 be noted.**

**CARRIED**

**8.6 ENGINEERING GUNDAGAI****8.6.1 GUNDAGAI RAIL BRIDGE****RESOLUTION 319/2023**

Moved: Cr Penny Nicholson  
Seconded: Cr Abb McAlister

**Council consider the report and provide advice to relevant authorities that;**

1. Middleton Drive and O I Bell drive are to remain open with appropriate works to be carried out to make the structures safe for motorists and pedestrians.
2. The closure of the Tumut Street section of the same bridge that has been closed for several years and of concern, has received no action for reopening to date.

CARRIED

## 8.7 REGIONAL SERVICES GUNDAGAI

### 8.7.1 REGIONAL SERVICES GUNDAGAI WORKS REPORT FOR NOVEMBER 2023

#### RESOLUTION 320/2023

Moved: Cr Abb McAlister  
Seconded: Cr Les Boyd

Regional Services Gundagai Report for November 2023, be received and noted.

CARRIED

## 8.8 REGIONAL SERVICES COOTAMUNDRA

### 8.8.1 REGIONAL SERVICES OCTOBER WORKS REPORT

#### RESOLUTION 321/2023

Moved: Cr Les Boyd  
Seconded: Cr Gil Kelly

The Cootamundra Regional Services Department, Monthly Works Report be received and noted.

CARRIED

## 9 MOTION OF WHICH NOTICE HAS BEEN GIVEN

### 9.1 NOTICE OF MOTION - VILLAGE FLOOD STUDY (WALLENDBEEN, STOCKINBINGAL & MUTTAMA)

#### RESOLUTION 322/2023

Moved: Cr Logan Collins  
Seconded: Cr Gil Kelly

CGRC pursues funding for a flood study focusing on the villages of Wallendbeen, Stockinbingal & Muttama and once funding is achieved, immediately engages the relevant bodies to conduct the flood study.

CARRIED

**9.2 NOTICE OF MOTION - ROAD CLOSURE COSTS ASSOCIATED WITH CHRISTMAS CELEBRATIONS****RESOLUTION 323/2023**

Moved: Cr Penny Nicholson

Seconded: Cr Abb McAlister

**Council provides in-kind support to cover the expense of road closures for the Christmas celebration evenings in Gundagai and Cootamundra being organised by Gundagai Business Network (GBN) and Coota District Co-Op to the value of GBN - \$2,740 + GST and Coota District Co-Op - \$3,100 + GST.**

**CARRIED**

At 7:38 pm, Cr Logan Collins left the meeting.

**10 QUESTIONS WITH NOTICE**

Nil

**11 CONFIDENTIAL ITEMS****11.1 CLOSED COUNCIL REPORT****RESOLUTION 324/2023**

Moved: Cr Gil Kelly

Seconded: Cr Abb McAlister

- 1. Items 11.2 and 11.3 be considered in closed Council at which the press and public are excluded in accordance with the applicable provisions of the Local Government Act, 1993 and related public interest reasons detailed.**
- 2. In accordance with section 11 (2) and (3) of the Local Government Act, 1993, the reports, correspondence and other documentation relating to Items 11.2 and 11.3 be withheld from the press and public.**

**CARRIED**

**RESUMPTION OF OPEN COUNCIL MEETING****RESOLUTION 325/2023**

Moved: Cr Les Boyd

Seconded: Cr Abb McAlister

**The Open Council meeting resume.**

**CARRIED**

**ANNOUNCEMENT OF CLOSED COUNCIL RESOLUTIONS**

Note: The Chairperson announced the resolutions made in Closed Council.

**11.2 LEASING OF LAND AT THE COOTAMUNDRA AERODROME - EXPRESSION OF INTEREST****RESOLUTION 326/2023**

Moved: Cr Gil Kelly

Seconded: Cr Penny Nicholson

**That Council endorse the awarding of the lease of the land at the Cootamundra Aerodrome for five years from 1 January, 2024 - 31 December, 2029 to Wallandoon Pty Ltd for the sum of \$10,028.40 per annum to be adjusted by the CPI figure each year.**

**CARRIED****11.3 INLAND RAIL PROJECT - COUNCIL ROAD LICENCE AND ACQUISITIONS****RESOLUTION 327/2023**

Moved: Cr David Graham

Seconded: Cr Abb McAlister

1. **That Council executes the Licence to perform works on a public road – Section 138 Roads Act 1993 (NSW); and**
2. **That Council Delegate authority to the Interim General Manager to finalise and execute the Deed of compulsory acquisition by agreement – Section 29 Land Acquisition (Just Terms Compensation) Act 1991 (NSW).**

**CARRIED**

The Meeting closed at 7:50PM.

The minutes of this meeting were confirmed at the Ordinary Council Meeting held on 12 December 2023.

**CHAIRPERSON****GENERAL MANAGER**

## 6 MAYORAL MINUTES

### 6.1 MAYORAL MINUTE - COUNCILLOR ENGAGEMENT

DOCUMENT NUMBER	403774
AUTHORISING OFFICER	Charlie Sheahan, Mayor
REPORTING OFFICER	Charlie Sheahan, Mayor
ATTACHMENTS	Nil

To keep the community aware of Councillor and my engagements, on behalf of Council I intend to provide regular updates through my Mayoral Minutes.

#### RECOMMENDATION

**The information in the Councillor Engagements Mayoral Minute be received and noted.**

#### 20 November 2023

I, Cr Sheahan (Mayor) attended a meeting with Counsel House and the Interim General Manager and Deputy General Manager.

#### 21 November 2023

I, Cr Sheahan (Mayor) attended a catch-up meeting with the Interim General Manager and Deputy General Manager.

Crs Kelly (Deputy Mayor), Collins, Glover, Graham, McAlister, Nicholson and I, Cr Sheahan (Mayor) attended a Workshop in Gundagai.

#### 22 November 2023

Cr Glover attended the Muttama Hall s.355 Committee Annual General Meeting.

#### 24 November 2023

Cr Bowden attended the Eastern Riverina Arts Advisory Committee meeting.

#### 27 November 2023

I, Cr Sheahan (Mayor) attended regular fortnightly meeting with the Office of Local Government and the Interim General Manager.

#### 28 November 2023

I, Cr Sheahan (Mayor) attended a catch-up meeting with the Interim General Manager and Deputy General Manager.

I, Cr Sheahan (Mayor) attended weekly meeting with Counsel House and the Interim General Manager and Deputy General Manager.

Crs Kelly (Deputy Mayor), Boyd, Collins, Glover, Graham, McAlister, Nicholson and I, Cr Sheahan (Mayor) attended a Workshop and Ordinary Council Meeting in Gundagai.

29 November 2023

Cr Bowden, and I, Cr Sheahan (Mayor) attended the Cootamundra Co-op AGM and Board meeting.

1-3 December 2023

Cr Bowden attended the ALGWA NSW Executive Committee meeting at Blacktown.

5 December 2023

I, Cr Sheahan (Mayor) attended a catch-up meeting with the Interim General Manager and Deputy General Managers.

I, Cr Sheahan (Mayor) attended weekly meeting with Counsel House and the Interim General Manager and Deputy General Manager.

I, Cr Sheahan (Mayor) attended the Cootamundra Public School Annual Presentation awards ceremony.

7 December 2023

I, Cr Sheahan (Mayor) attended regular fortnightly meeting with the Office of Local Government and the Interim General Manager.

Cr Glover attended the Gundagai Villages Flood Committee meeting in Gundagai.

8 December 2023

I, Cr Sheahan (Mayor) attended the Riverina JO and REROC Board Meetings and the REROC Executive Meeting.

Cr Glover attended the Wallendbeen Public School Annual Presentation awards ceremony.

9 December 2023

I, Cr Sheahan (Mayor) attended the Lions Club Christmas Carnival and Fireworks in Cootamundra.

10 December 2023

I, Cr Sheahan (Mayor) attended the Carols in the Park event in Cootamundra.

11 December 2023

Cr Glover attended the E.A Southee Public School Annual Presentation awards ceremony.

Cr Glover attended the Cootamundra High School Annual Presentation awards ceremony.

Cr Bowden attended the s.355 Committees Thank You Morning Tea.

12 December 2023

I, Cr Sheahan (Mayor) attended a catch-up meeting with the Interim General Manager and Deputy General Managers.

I, Cr Sheahan (Mayor) attended weekly meeting with Counsel House and the Interim General Manager and Deputy General Manager.

Cr McAlister attended the Gundagai South Public School Annual Awards Night.

Crs Kelly (Deputy Mayor), Bowden, Boyd, Collins, Glover, Graham, Nicholson and I, Cr Sheahan (Mayor) attended a Workshop and Ordinary Council Meeting in Cootamundra.

**6.2 MAYORAL MINUTE - CORRESPONDENCE FROM SISTER CITY - HEMET CALIFORNIA**

DOCUMENT NUMBER	404214
AUTHORISING OFFICER	Charlie Sheahan, Mayor
REPORTING OFFICER	Charlie Sheahan, Mayor
ATTACHMENTS	1. Correspondence from City of Hemet <a href="#">↓</a>

**RECOMMENDATION**

**That Council acknowledge the correspondence and gift received from the City of Hemet and respond in kind.**

**Introduction**

Council received correspondence (attached) and a small gift from Joe Males, Mayor of Hemet California, international Sister City to Cootamundra. Mayor Males acknowledged the significant 62 year partnership milestone.

The gift consisted of a Hemet mug and glass, which will be displayed in the display cabinet within the Alby Schultz Meeting Room, Cootamundra.



## OFFICE OF THE MAYOR

Cootamundra Regional Council  
Document Received

2 Nov 2023

File No. \_\_\_\_\_  
Initials \_\_\_\_\_

Municipality of Cootamundra  
81 Wallendoon Street  
Cootamundra, NSW 2590

Dear Sister City,

I hope this letter finds you in good health and high spirits. As the Mayor of the City of Hemet in California, I am honored to extend my warmest greetings and heartfelt congratulations to you and the people of Cootamundra on the occasion of our cherished sister city relationship.

This year marks a significant milestone in our partnership as we celebrate 62 years of collaboration. Our connection has strengthened bonds between our communities, fostering goodwill and understanding across borders and oceans.

Looking ahead, I am excited about the future possibilities that lie before us. Together, we can continue to explore new avenues for collaboration, whether in the fields of education, tourism, or cultural exchange. By leveraging our shared values and resources, we can create a more vibrant and interconnected global community.

On behalf of the City of Hemet, I extend my warmest congratulations once again on this momentous occasion. I am grateful for the enduring friendship between Hemet and Cootamundra and look forward to future collaboration.

Please convey my heartfelt greetings to the citizens of Cootamundra and I hope to have the pleasure of welcoming you and your delegation to Hemet in the near future.

Yours sincerely,

A handwritten signature in black ink that reads "Joe Males".

Mayor Joe Males, City of Hemet

**7 REPORTS FROM COMMITTEES**

Nil

**8 GENERAL MANAGER'S REPORT**

## 8.1 GENERAL MANAGER OFFICE

### 8.1.1 MEETING DATES 2024

DOCUMENT NUMBER	401947
REPORTING OFFICER	Teresa Breslin, Executive Assistant to Mayor and General Manager
AUTHORISING OFFICER	Steve McGrath, Interim General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>4. Collaborative and progressive leadership</b></p> <p>4.4 Recognised as a premier local government Council that represents and advocates for community needs</p>
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

### RECOMMENDATION

That:

1. The Ordinary Council Meetings take place at 6:00pm on the fourth Tuesday of the Month from January to November.
2. The Workshop Meetings of Council take place at 4:00pm on the second and fourth Tuesday of the Month from February to November.
3. The Ordinary Council Meeting and Workshop held in December take place on the second Tuesday of the Month.
4. The January Workshop Meeting take place on the fourth Tuesday of the Month.
5. The current arrangement of alternating meetings between Cootamundra and Gundagai remain in place for CGRC.
6. Alternatives to the current meeting arrangements be considered if requested.

### Introduction

A report is submitted annually for Councillors to consider the dates and times of Ordinary Council Meetings and Workshops for the following year.

### Discussion

It is timely to review and consider alternative days and times should any Councillor be of the opinion that the current format is unsustainable. General discussion by Council is encouraged to raise any concerns in relation to the day of the month and the time the ordinary meetings are held.

### 8.1.2 NSW ALGWA CONFERENCE 2024

DOCUMENT NUMBER	404248
REPORTING OFFICER	Teresa Breslin, Executive Assistant to Mayor and General Manager
AUTHORISING OFFICER	Steve McGrath, Interim General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>4. Collaborative and progressive leadership</b></p> <p>4.4 Recognised as a premier local government Council that represents and advocates for community needs</p>
FINANCIAL IMPLICATIONS	Total costs to be allocated from the Councillors Conferences and Seminars budget – Estimated at \$1700 pp including any additional meal/travel costs.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	1. ALGWA Conference Program 2024 <a href="#">↓</a>

### RECOMMENDATION

1. The Australian Local Government Women's Association (ALGWA) NSW program, attached to the report, be received and noted.
2. Council support Cr Bowden and Cr Nicholson to attend the ALGWA NSW Conference in 2024.

### Introduction

The Australian Local Government Women's Association (ALGWA) is the peak body for women in local government. A voluntary-run organisation, ALGWA supports both employees and elected representatives.

The Annual NSW Conference is an opportunity to come together and engage in learning and networking that will assist in personal and professional development.

### Discussion

The 2024 ALGWA NSW Annual Conference is designed to provide training and support for councillors and staff, whether they are new to local government or have been around for a long time. It's an opportunity to learn and gain valuable insights from our guest speakers along with networking with other delegates from across NSW. The City of Ryde is proud to host this important event in 2024.

The theme of this year is "The World Belongs to Optimists". In an era marked by rapid change it's the optimists that see beyond immediate challenges and envisage a world where technological advances compliment human endeavours and elevates them to new heights. Together let's delve deeper to explore the economic impacts to society, the potential, and embrace opportunities to shape our future communities.

### **Conference Details**

**When:** Thursday 14 March – Saturday 16 March 2024

**Venue:** MGSM Executive Hotel, 99 Talavera Road, Macquarie Park

### Financial

All-inclusive price for the conference includes:

- Welcome Reception Party on Thursday night
- Conference Friday and Saturday
- Transport to Eastwood on Friday night
- Dinner Saturday night (including transfers to Curzon Hall)

Early Bird discount before 1 January 2024 - \$1,100.00. After 1 January 2024 - \$1,300.00.

Accommodation is estimated at \$200 a night. (3 nights = \$600 pp).

### OLG 23a Guideline consideration

The objective of this report does not conflict with the Guidelines.

# NSW ALGWA 2024 CONFERENCE

*The World Belongs to Optimists*



## CONFERENCE PROGRAM



**AUSTRALIAN LOCAL  
GOVERNMENT WOMEN'S  
ASSOCIATION  
NEW SOUTH WALES BRANCH**

THURSDAY 14 MARCH –  
SATURDAY 16 MARCH 2024

Venue: MGSM Executive Hotel  
99 Talavera Road, Macquarie Park

ORGANISED BY

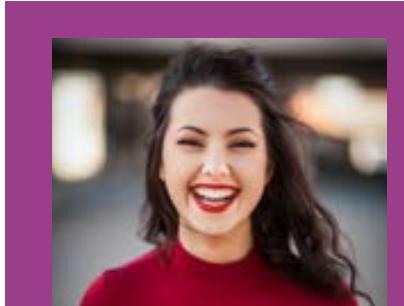


Lifestyle and opportunity  
at your doorstep

# Introduction

The Australian Local Government Women's Association (ALGWA) is the peak body for women in local government. A voluntary-run organisation, ALGWA supports both employees and elected representatives.

The 2024 ALGWA NSW Annual Conference is designed to provide training and support for councillors and staff, whether they are new to local government or have been around for a long time. It's an opportunity to learn and gain valuable insights from our guest speakers along with networking with other delegates from across NSW. The City of Ryde is proud to host this important event in 2024.



## *The World Belongs to Optimists*

In an era marked by rapid change it's the optimists that see beyond immediate challenges and envisage a world where technological advances compliment human endeavours and elevates them to new heights. Together let's delve deeper to explore the economic impacts to society, the potential, and embrace opportunities to shape our future communities.

Optimism is the most powerful tool a Leader has. Our NIDA masterclass will help you master intentional optimism as you pay close attention to the energy and language you are bringing into the space in leading your communities.



SILVER SPONSOR



# Schedule

## THURSDAY 14 MARCH

2.00 - 4.00pm Guests to check in at hotels  
4.00 - 5.30pm Registrations open  
6.00 - 8.00pm Welcome Cocktail Party - Ubar - Macquarie University



### JUANITA PHILLIPS

For 21 years, Juanita Phillips anchored the ABC's flagship 7.00pm News in Sydney, making her the public broadcaster's longest-serving prime-time female TV news presenter. She resigned from the ABC in 2023 to focus on her writing and speaking work. She specialises in gender equality, business, fintech and cyber security, but has a wide range of both business and government clients, including the mining and banking industries, local and state governments, and the finance and technology sector.

## FRIDAY 15 MARCH – “Artificial Intelligence”

7.00am Morning Activity  
8.00 - 8.45am Registrations  
8.45 - 9.30am MC Welcome - Juanita Phillips  
ALGWA NSW President Welcome - Cllr Dianna Baker – B.U.R.P.(Hons) J.P  
Mayor Welcome - Cllr Sarkis Yedelian OAM, City of Ryde Mayor

#### Guest speaker:



### MELISSA NEIGHBOUR

Melissa is an environmental town planner, community builder and sustainability specialist. She is the Owner of Sky Town Planning, a purpose-driven town planning consultancy based in Sydney. She has developed and implemented award-winning sustainable development projects across Australia, and is on a mission to activate sustainable forms of living in urban spaces of the future. She is a founding member of the World Economic Forum Sydney Shaper Hub, and was the National Convener for the United National Association of Australia Young Professionals Network.

9.30 - 10.30am Morning tea  
10.30 - 11.00am



### EFFIE ZAHOS

Effie Zahos is one of Australia's leading personal finance commentators. Known for her no-nonsense approach, she has a knack for making money matters simple. Effie is also the author of A Real Girl's Guide to Money, Ditch the Debt & Get Rich and The Great \$20 Adventure. She is the host of Channel 9's "Your Money" segments on the Today Show and regularly speaks with media across Australia.

\*Speakers are subject to change

# Schedule

## FRIDAY 15 MARCH – “Artificial Intelligence”

...continued

12.00 - 12.30pm	Discover Ryde
12.30 - 1.30pm	Lunch
1.30 - 3.00pm	



### AMANDA JOHNSTONE

Amanda Johnstone is the CEO of Transhuman and is one of Australia's most globally recognised AI technologists and emerging technology communicators. TIME have awarded her as a Next Generation Leader for her work in social impact technology, The CEO Magazine awarded her as Start-up Executive of the Year. She's been highlighted by peak bodies including GSMA and Singularity and has been appointed an expert keynote speaker and panellist on emerging technologies for YPO, Allianz, Stanford, Google, Optus, The Australian Government, Commonwealth Bank, The Education Department, MYOB, Zoom and more.

3.00 - 3.30pm	Afternoon Tea
3.30 - 4.30pm	Panel discussion
4.30 - 5.30pm	Networking, drinks and entertainment
6.30pm	Explore Eastwood

\*Speakers are subject to change

## SATURDAY 16 MARCH – “Professional Development”

7.00am	Morning Activity
9.00 - 11.00am	NIDA Corporate Training: Executive Voice
	NIDA Corporate Training will join us to deliver the 'Owning the Space' course to assist you in achieving the following outcomes:
	<ul style="list-style-type: none"><li>• To build participants knowledge of the power of visual and vocal signals when presenting</li><li>• To help manage nerves when talking to large groups</li><li>• To feel comfortable and authentic networking and meeting new people</li><li>• To be confident presenting delivering formal and informal presentations.</li><li>• To experience using Improvisation techniques to stay present and focused while presenting and manage uncertain moments.</li></ul>
11.00 - 11.30am	Morning Tea
11.30 - 12.30pm	
	<b>DEBBIE HASKI-LEVENTHAL</b>
	Author of the bestselling book <i>Make it meaningful</i> , Debbie is an awarded and well-published professor of business management and the MBA Director at Macquarie University, Australia. With over sixty academic articles, five books and a TED talk, she dedicates her teaching, research, and knowledge to creating impact and enabling others to find meaningfulness and purpose.
12.30 - 1.00pm	Voting
1.00 - 1.30pm	Lunch
1.30 - 2.00pm	Voting result
2.00 - 2.30pm	ALGWA hotspots
2.30 - 3.30pm	ALGWA NSW General Meeting
3.30pm	Close
3.30 - 5.00pm	Optional - Macquarie University tour
6.30pm	Bus from MGSM to Curzon Hall
7.00pm - 10.00pm	Gala dinner with entertainment by <i>The Cockroaches</i>

# Additional Information

## Accommodation options

**MGSM Executive Hotel** (Limited rooms are available)

**Mercure Sydney Macquarie Park** (2 minute walk from venue)

Other hotel options are available within the Macquarie Park precinct.

## Transport options

### Car

The Macquarie Park Executive Centre is an easy, 20 minute drive from Sydney's CBD and approximately a 35-minute drive from Sydney's Domestic and International Airport. There is ample on-site parking, free of charge, for MGSM Executive Accommodation and conference centre guests. Parking is available at the rear of the MGSM Executive Hotel off Executive Road and through the boomgate (at the boomgate speaker, mention you are a conference participant).

### Train

Macquarie University train station is just a few minutes' walk from the Macquarie Park Executive Centre. Trains to Sydney's CBD (and Epping line) depart every few minutes. Macquarie University to Sydney's CBD takes approximately 25 minutes and approximately 4 minutes to Epping.

### Bus

Buses arrive and depart just a few minutes' walk from the Macquarie Park Executive Centre and travel to and from many Sydney Metropolitan areas, including the City, Hills District, North Shore, Chatswood, Manly, the Ryde and Carlingford areas, and the Western Suburbs.

## Pricing

All inclusive price for the Conference includes:

- Welcome Reception Party on Thursday night
- Conference Friday and Saturday
- Transport to Eastwood on Friday night
- Dinner Saturday night (including transfers to Curzon Hall)

Early Bird discount before 1 January 2024 - \$1,100.00

After 1 January 2024 - \$1,300.00

## Bookings

To book, [register online](#) or scan the QR code.

Bookings open from Friday 1 December 2023 at 7.00am.



SCAN TO BOOK

## 8.2 BUSINESS

### 8.2.1 AUSTRALIA DAY 2024

DOCUMENT NUMBER	404189
REPORTING OFFICER	Linda Wiles, Manager Business
AUTHORISING OFFICER	Paul Woods, Interim Deputy General Manager - CCD
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>1. A vibrant, safe, and inclusive community</b></p> <p>1.2 A welcoming community that cares for and looks after each other</p>
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

#### RECOMMENDATION

- Information on Australia Day Awards 2024 be received and noted.**
- Council acknowledge the overview of the Australia Day Award nominations at its 12 December workshop and also acknowledge the nominated award recipients for the 2024 Australia Day Ceremonies.**
- The submission of the Australia Day 2024 Community Grant be noted.**

#### Introduction

Council proposes to present its annual Australia Day Awards on Thursday, 26th January 2023, at two distinct ceremonies: one to be held in Gundagai and one to be held in Cootamundra.

#### Discussion

Advertising and promotion have commenced requesting nominations for Australia Day Awards for the following categories:

1. Citizen of the Year
2. Young Citizen of the Year
3. Sportsperson of the Year / Sports Achievement Award

Nominations for all categories have been received.

The National Australia Day Council, with the assistance of the Australian Government, has once again made grants available to assist eligible event organisers to ensure Australia Day 2024 events proceed and include strong recognition of Aboriginal and/or Torres Strait Islander peoples, through the Australia Day Community Grants Program.

The intended outcomes of this grant opportunity are to provide funding for Australia Day 2024 events that deliver an inclusive event whilst supporting local businesses and communities.

Council has registered to be part of the Australia Day Ambassador program for both Cootamundra and Gundagai.

#### Financial

Council staff have been successful in receiving \$10,000 (GST exclusive), to ensure inclusive Australia Day 2024 events proceed (Base Grant). An additional \$5,000 (GST exclusive) for events that include strong recognition of Aboriginal and/or Torres Strait Islander peoples (Additional Grant).

#### OLG 23a Guideline consideration

The objective of this report does not conflict with the Guidelines.

**8.2.2 MUTTAMA HALL MANAGEMENT S.355 COMMITTEE AGM MEETING MINUTES AND MEMBERSHIP**

DOCUMENT NUMBER	403640
REPORTING OFFICER	Anne Chamberlain, Governance Officer
AUTHORISING OFFICER	Paul Woods, Interim Deputy General Manager - CCD
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>4. Good governance: an actively engaged community and strong leadership team</b></p> <p>4.2 Active participation and engagement in local decision-making</p>
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	To comply with the Section 355 Committee Management Manual.
ATTACHMENTS	1. MHMC AGM Minutes - 22 November 2023 <a href="#">Download</a>

**RECOMMENDATION**

- 1. The Minutes of the Muttama Hall Management s.355 AGM Meeting held on 22 November 2023, attached to the report, be noted.**
- 2. The office bearers and membership of the Muttama Hall Management s.355 Committee, as detailed in the report, be endorsed.**

Introduction

The attached Minutes of the Muttama Hall Management s.355 Committee Annual General Meeting (AGM) held on 22 November 2023 are submitted for the information of Council and the community.

Membership

The Muttama Hall Management s.355 Committee conducted their Annual General Meeting (AGM) on 22 November 2023. The details of office bearers and membership is provided for Council's consideration, as follows:

**Chairperson:** Robert Flint

**Secretary:** Cathy Last

**Treasurer:** Lien Puddicombe

**Other Members:** Anne Last, Hilary Connors, Bill Buckley, Sarah Ingold, Sam Puddicombe, Eliza Butt, Kate Last.

Council's endorsement of the Committee's elected office bearers and membership is requested.

Financial

There are no financial implications associated with this report.

OLG 23a Guideline consideration

Report purpose does not conflict with guidelines.



# Minutes

## MUTTAMA HALL MANAGEMENT COMMITTEE SECTION 355 COMMITTEE

### ANNUAL GENERAL MEETING (AGM)

**MUTTAMA HALL**  
**6.34PM, WEDNESDAY, 22 NOVEMBER 2023**

#### 1 MINUTES

##### 1.1 Attendance

**Present:**

**President/Chairperson: Robert Flint**

**Secretary: Hilary Connors**

**Treasurer: Lien Puddicombe**

**Other Members: Bill Buckley, Sam Puddicombe**

**Non-committee member attendees: CGRC representative/Returning Officer: Trevor Glover**

**Sarah Ingold, Jim Hamilton, Anne Last**

##### 1.2 Apologies

List Members that were unable to attend: N/A

Non-committee member: CGRC representative Darrell Edwards

##### 1.3 Confirmation of previous Annual General Meeting Minutes

The minutes of the last **Muttama Hall Management Committee** Section 355 Committee meeting dated **23 November 2022** are confirmed as true and correct.

##### 1.4 Reading of Annual reports from the Chairperson / Treasurer (if available).

**President:**

Robert Flint referred to the difficulties experienced earlier in the last twelve months and subsequent changes to the Executive team. Robert thanked Hilary for taking over the Secretary's role after Faith Morris' departure for Canberra.

The delayed painting of the front of the hall and repairs to the back wall were able to be completed. The support of CGRC's Andrew Brock and Darrell Edwards was key to the kitchen being installed, insulated, lined and with a mini-orb ceiling to match the original style of materials. The kitchen is complete with water tank, pump, HWS and an absorption drain. More work still needs to be done; e.g. an accessibility path, sealing the ovens and chimneys. Members are investigating the cost of a suitable fridge, oven, galvanized water tank, shelving and a commercial vacuum cleaner.

**Secretary:**

Hilary reported that two Community War Memorials Fund grants have now been acquitted. This enables the committee to apply for another grant to do such works as lining the back room, sealing the ovens and chimneys and installing an accessibility path to the side door. A quote has been received for the committee to consider at the next general meeting. Applications close about the third week of February 2024.

**Treasurer:**

Lien reported the balance in the account is \$6,705.36

*The Chairperson declares all positions vacant and the Returning Officer (which can be a committee member) appointed by the Committee takes the chair and presides over the remaining items:*

**1.5 Acceptance of nominations from committee members for the positions of:**

- Chairperson: Robert Flint
- Secretary: Cathy Last
- Treasurer: Lien Puddicombe
- Bookings officer: N/A

**1.6 Election of Office Bearers and committee member**

- Chairperson: Robert Flint
- Secretary: Cathy Last
- Treasurer: Lien Puddicombe
- Bookings officer: N/A
- Committee members: Anne Last, Hilary Connors, Bill Buckley, Sarah Ingold, Sam Puddicombe, Eliza Butt, Kate Last, Kaede Nicka.

**1.7 Closing Remarks**

President Flint thanked Faith Morris, Hilary Connors and Andrew Brock for their support in progressing the committee's aspirations to see the hall restored. Thank you was extended to Andrew Brock for his efforts to see to this stage of completion. Given Andrew's departure from Council, the liaison, and good, contact is Darrell Edwards who has already made an impact on the progression of works. Going forward, the committee needs to set a goal and plan for a substantial celebration of the hall's centenary in May 2025.

As Kerry Edgerton voluntarily mows around the hall, he has been supplied with some fuel.

In relation to the accessibility path, a gap would be created between it and the wall. An idea for the next meeting to consider is that families with links to the hall and district may like to have their names inscribed on pavers that could fill the gap.

CGRC Councillor Trevor Glover provided an update on the possible and probably likely demerger of the CGRC. The question was asked about the boundaries with Councillor Glover's response that they would probably be the same as they were before the merger.

Committee member Sarah Ingold proposed the committee host next year's Australia Day celebration at the hall, as it was traditionally held there. This will be decided at the next general meeting in January 2024.

**1.8 Date and Time of Next Meeting (if known)**  
**Wednesday, 20<sup>th</sup> November 2024**

**1.9 Time Meeting Closed: 7.38 PM**

**Sign Off in the Volunteer Attendance Register: Done**

**8.2.3 THE ARTS CENTRE COOTAMUNDRA S.355 COMMITTEE MEETING MINUTES**

DOCUMENT NUMBER	403644
REPORTING OFFICER	Anne Chamberlain, Governance Officer
AUTHORISING OFFICER	Paul Woods, Interim Deputy General Manager - CCD
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>4. Collaborative and progressive leadership</b> 4.3 Actively engaged and supportive community
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	To comply with the Section 355 Committee Management Manual
ATTACHMENTS	1. TACC Meeting Minutes - 16 November 2023 <a href="#">Download</a>

**RECOMMENDATION**

**The Minutes of The Arts Centre Cootamundra s.355 Committee Meeting held 16 November 2023 attached to the report, be received and noted.**

Introduction

The attached Minutes of The Arts Centre Cootamundra s.355 Committee meeting held on 16 November 2023, is submitted for the information of Council and the community.

Financial

There are no financial implications associated with this report.

OLG 23a Guideline consideration

Report purpose does not conflict with guidelines.



# Minutes

THE ARTS CENTRE COOTAMUNDRA  
SECTION 355 COMMITTEE

THE ARTS CENTRE COOTAMUNDRA, 18 WALLENDOON STREET

5.22 PM, THURSDAY 16 NOVEMBER 2023



# Minutes

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1.9 New General Business .....	4
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1.11 Time Meeting Closed .....	5

## 1 MINUTES

### 1.1 Attendance and Confirmation of Quorum

**Present:** President/Chairperson: Amanda-Lee Boatwain

Vice Chairperson: Julie Cowell

Secretary: Natalie Cowled

Treasurer: Shane Kovacs

Council Representative:

**General Members:** Rosie Fowler-Sullivan, Denise Price, Louise Whitton, Isabel Scott

**Other Attendees:** Lucy Main

**Confirmation of a Quorum:** There are [11] Members appointed to this Committee.  
Quorum numbers are met **yes**.

**Note:** If quorum numbers are not met no actions can be made at this meeting. An informal discussion on items on the agenda can only take place. All agenda items from this meeting will be transferred to the next meeting for determination. Notes on the informal discussion can be made for reference at the next meeting.

*We acknowledge the Traditional Custodians of the land on which we live, work, and create. We pay respect to Elder's past, present and emerging.*

### 1.2 Apologies

Peter Beath, Leigh Bowden

### 1.3 Disclosure of Interests

There were no disclosures of Interest.

### 1.4 Confirmation of previous meeting Minutes

The minutes of the last **The Arts Centre Cootamundra** Section 355 Committee meeting dated 19 October 2023 be confirmed as true and correct. (Appendix A)

(Moved: Rosie, Seconded: Denise)

### 1.5 Correspondence in/out:

Email – Council Volunteer Invitation (Appendix B) – Julie, Lou & Isabel to attend on TACC behalf. Natalie to RSVP and copy the attendees in.

Email – TACC Christmas Party and Coota Quest Finale (Appendix C)

### 1.6 WHS

Electricity Box Quote – Julie to find/chase Todd Basham & speak to Steven Lowe about quote previously accepted by TACC (at \$18,000)

Window Panel Miss Em – Window fixed by Council

### 1.7 Reports:

#### 1.7.1 Financial Report

- Shane & Julie to contact council for regular statement of grant holdings

**1.7.2 Report for Visual Arts**

- No report

**1.7.3 Report from Performing Arts**

- No questions

**1.7.4 Report for Administration & Movies**

- Tarkett cutting event – volunteers required to help cut in sides on 22<sup>nd</sup> at 4pm
- Quote for picnic races catering - \$440. Julie to ask who else is catering & what they are serving.
- Ex-Services Club advertising - \$1 day – Yes, go ahead. No to medical centre.
- Julie has put together basic proforma for hiring spaces, links emailed.

(Moved: Shane, Seconded: Denise)

**1.8 Business Arising from previous Minutes**

- IT updates & changes
  - Digitising forms (Amanda-lee & Shane)
  - Event proforma – See Admin report above. Forms started, WIP.
- Ladies bathroom – feminine hygiene bin (Natalie) – Complete!
- Celebrate 2024 (Isabel) – Isabel to work with Isabel to confirm wording on flyers/posters. January cut off date for sponsorship, sponsorships being chased up. Possibility of adding link to website for sponsorship or support for event. Promotion of 20 year celebration starting in January. Logos for sponsors to be chased up for thank you starting in February. Timeline etc of advertising and thank you to be discussed and decided by Celebrate 2024 Subcommittee.
- Reinstating DGR (Julie) – Julie emailed Tim, to follow up in January meeting.
- Credit card options for reception (Shane) – WIP Prepaid card possibility – mastercard options at Post office
- Membership for centre - wording and advertising in process – 5 members to date. Nat to look into lockers for member equipment. Students to be given links/printed info with instructions on signing up as a member.
- Refresh of facilities –
  - Julie to find at least 3 days of no access and volunteers for painting of studio 7 and stage floor – Floor painting in January
  - Walls/refresh in January
- Cleaning equipment - Eric to get quote for vacuum, and floor cleaner this weekend. Shane and Eric to organise and purchase asap.
- FibreFest – Nov 11. Event went well. Not as big as last year, but in some ways it was more successful. There were 5 market stalls and spinning, weaving, printing, dyeing and papermaking demonstrations occurring. Very particular thank you to Robyn Williams who helped out over multiple days in the lead up and on the day. Special thanks to our volunteers who helped on the day – Rachel Magrath, Marj Smith, Daina Trettheway and Anne Steinke. Thanks to Annabel for all her help in organising the demos! Thanks to Lucy for pushing everything on our socials, and as always, thanks to Julie & Eric for the set up and pack down help. The people who attended had a great time, most attendees were more invested in what was available, they were all hobbyists. A number of people travelled to attend (including someone who travelled from Sydney just for the day) which indicates the possibility of making it a pretty big event if we can get the word out to serious hobbyists/professionals. Feedback is to hold it in early/cold months. Lack of participants in the exhibition part means we need to retool, possibly have a set competition and have people make a specific item. Nat to look into Coota calendar for next year to see if there is a time when FF can be held in conjunction with another event.
- TACC to approach Soroptimists to sponsor award next year – TACC first in for next year, happy to accept sponsorship. Next year, art workshop for girls 14-18 (8 girls at risk per group) – possibility of using TACC for the workshop. (Mel)

## COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL

- Subcommittee formed to discuss website, style guide, marketing & social media. Amanda-Lee to organise next meeting – likely in January.
- Infrastructure grants for Future Planning items below – Regional Development Grant available. TACC to push to get work done separate from Council as wait is taking too long. Subcommittee formed to drive work & planning – Isabel, Nat, Julie, Mel. Step 1. Seek pro-bono structural engineer/draftsperson/architect. Craig, drafts person spoke to Julie – can create drafts that can be reviewed by architect. Waiting on council to decide next steps for work relating to compliance
  - Grants folder to be created on g-drive to save all grant applications etc for future reference
  - Julie to email council about laneway decision
- Centre manager position (Nat) – Julie willing to step aside to allow for extra hours as she does not have time to do more. Talk to ERA about subsidies for employees – Julie invite Tim to discuss employees for Arts Centre. All to think of questions to ask Tim. Amanda-Lee to email Steve McGrath Interim General Manager to ask about options for perm part time staff – Council staff that TACC pays for. Possibility for part time council worker to do extra workers. WIP
- Coota Christmas – Stall at main street festival? 14<sup>th</sup> December Thursday evening. Frames to be bought for prints in arts room (Julie to speak to Annabel), attempt to sell prints. Christmas cards printing for kids (Amanda-Lee). Shane/Amanda-lee to drop off solar lights. Nat to bring spinning wheel. Set up on Commonwealth side
- Marketing/Comms (Lucy)
  - Interacting with social media pages – Committee to like, share, etc.
  - Ensure all information for workshops to Lucy at least 6 weeks before event – if it is less than 6 weeks, Lucy cannot guarantee that she is able to get everything done and numbers that book in a usually far less than required.
  
- Future Planning
  - Calendar ready for filling for 2023/24
  - 1 year plan: compliance (sliding doors, bio box, fireproofing, electrical, egress, etc. see report), roller door in kitchen, ~~clean up~~, paint, foyer lighting
- Items on hold
  - Photos of various layouts for website (Nat) – For 2024
  - Signage in car park
  - 2 year plan: ceilings, furniture refresh
  - 3 year plan: secure storage, bar area
  - 4 year plan: Men's shed rebuild
  - 10 year plan: theatre rejig

*(Moved: Lou, Seconded: Denise)*

## 1.9 New General Business

- Smart screen quote (appendix H) & Sound system in exhibition room - Quote for screen received for smart screen. \$7500
  - Amanda also quoting for sound system & microphone etc that can connect
  - Natalie moved to accept quote, Shane Seconded. 6 Yays, no nays or abstain. Amanda-Lee to confirm purchase of screen.
- Curtains/Screens for theatre. Julie chasing up quotes and options for purchasing. Isabel to give details to Julie.
- Glass workshop table in pottery room – glass table to come back and board to be placed on it for general art work, Small pottery tables to go to pottery shed.

## COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL

- TACC lights (and general equipment) hire for outside spaces (Julie) – All equipment that leaves the space should be for hire. Eric to do inventory on all equipment that can be hired and list to be created.
- Certificates – Lucy to create generic editable certificate to be used for awards and sponsorships etc. A letter to be created to explain memberships
- Sponsorships/Donation – Shane and Julie to figure out how to account for these in accounts system
- Bar Upgrade - Lou to look into bar design (possibility of movable, definitely lockable)
- Office close down from Christmas to New Years.

**1.10 Date and Time of Next Meeting**

5.15pm 18 January 2024

**1.11 Time Meeting Closed**

7:15 pm



**COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL**

ABN: 46 211 642 339  
PO Box 420, Cootamundra NSW 2590  
Phone: 1300 459 689  
Email: [mail@cgrc.nsw.gov.au](mailto:mail@cgrc.nsw.gov.au)  
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**8.2.4 COOTAMUNDRA HERITAGE CENTRE MANAGEMENT S.355 COMMITTEE MEETING MINUTES**

DOCUMENT NUMBER	403987
REPORTING OFFICER	Anne Chamberlain, Governance Officer
AUTHORISING OFFICER	Paul Woods, Interim Deputy General Manager - CCD
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>4. Collaborative and progressive leadership</b> 4.3 Actively engaged and supportive community
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	To comply with the Section 355 Committee Management Manual.
ATTACHMENTS	1. CHCMC Minutes - 6 November 2023 <a href="#">Download</a>

**RECOMMENDATION**

**The Minutes of the Cootamundra Heritage Centre Management s.355 Committee Meeting held 6 November 2023, attached to the report, be received and noted.**

**Introduction**

The attached Minutes of the Cootamundra Heritage Centre Management s.355 Committee meeting held on 6 November 2023, are submitted for the information of Council and the community.

**Financial**

There are no financial implications associated with this report.

**OLG 23a Guideline consideration**

Report purpose does not conflict with guidelines.

**THE REPORT AND RECOMMENDATIONS OF THE COOTAMUNDRA HERITAGE CENTRE  
MANAGEMENT COMMITTEE MONTHLY MEETING HELD AT THE COOTAMUNDRA  
HERITAGE CENTRE ON MONDAY 6 NOVEMBER 2023 COMMENCING AT 4.03PM**

**Present:** Geoff Larsen (Chairperson), Les Boyd, Helen Hamilton, Michele Pigram, Betti Punnett, Marie Scott, Leah Sutherland

Yarriambiack  
Regional Council  
Document Received

**Apologies:** Yvonne Forsyth, Craig Stewart, Ros Wight

28 NOV 2023

**Disclosure of Interest:** There was no disclosure of interest.

File No.....

**Minutes from the Previous Meeting:** Moved Betti Punnett, seconded Michele Pigram that the Minutes be confirmed. Initials **CARRIED**

**Business Arising:** \* Vacuum stick = Betti Punnett has lent hers to be used.

\* VIC passports - Leah Sutherland to order same

\* Christmas Party - Leah Sutherland will liaise with C/GRC re the date and venue.

\* Curiosity Cabinet display - Betti Punnett has set up two drawers with ex Cootamundra District Hospital items. Michele Pigram will check/correct labelling.

**Financial Report:** Betti Punnett presented the October Monthly Balance and the Financial Report from 9 October - CHC 282 Ch 7 \$273.90 VIC 141 Souvenirs \$169.70 EFTPOS \$72.00 Total \$515.60 Moved Betti Punnett, seconded Michele Pigram **CARRIED**

**Correspondence:** OUT: October Minutes, Agendas

IN: Donna Wilks NMA re Data Logger

**General Business:** \* Arthur Ward morning tea - 10.30am 10 November To be held outside. Betti Punnett to purchase milk.

\* South West Credit Union account - Geoff Larsen and Helen Hamilton now the 2 signatories. \$1000 deposited from C/GRC. Marie Scott considering being Treasurer. Moved Les Boyd, seconded Betty Brown that Marie Scott be a member of the CHC Management Committee.

**CARRIED**

\* Cootamundra District A Photographic History Book V111 received

\* New presentation - 1050s Lawn mower (David Hardy??) accepted by members

There being no further business the meeting closed at 4.50pm

*4 December*  
Bett Punnett Secretary/Treasurer      Next meeting: Monday 6 November 2023

**Should you have any item/s you wish to place on next month's meeting agenda, please notify me by 30 November**

**[bettipunnett@bigpond.com](mailto:bettipunnett@bigpond.com) 69421158**

**8.2.5 MUTTAMA CREEK REGENERATION GROUP S.355 COMMITTEE MEETING MINUTES**

DOCUMENT NUMBER	404238
REPORTING OFFICER	Anne Chamberlain, Governance Officer
AUTHORISING OFFICER	Paul Woods, Interim Deputy General Manager - CCD
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>4. Collaborative and progressive leadership</b> 4.3 Actively engaged and supportive community
FINANCIAL IMPLICATIONS	There are no financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	To comply with the Section 355 Committee Management Manual.
ATTACHMENTS	1. MCRG Minutes - 9 October 2023 <a href="#">🔗</a>

**RECOMMENDATION**

**The Minutes of the Muttama Creek Regeneration Group s.355 Committee meeting held 9 October 2023, attached to the report be, received and noted.**

Introduction

The attached Minutes of the Muttama Creek Regeneration Group s.355 Committee meeting held on 9 October 2023, is submitted for the information of council and the community.

Financial

There are no financial implications associated with this report.

OLG 23a Guideline consideration

The objective of this report does not conflict with guidelines.

## Muttama Creek



## Regeneration Group

### Muttama Creek Regeneration Group

Minutes: Monday October 9, 2023

**Present:** Graeme Johnson, Di Pearton, Paulina Butler, Doug Butler, Lou Whitton.

**Apologies:** Lin Chaplin, Isolde Kamerman.

**Welcome:** Meeting opened at 5.05 pm. Welcome to new members.

GJ presented the evacuation plan for the building as required prior to every meeting.

GJ read the meeting minutes and they were accepted by Paulina Butler, seconded by Lou Whitton.

#### **Business Arising:**

- **CCSN Coota Connections Expo:** Linley to contact Brett Seckold from Workforce Australia, held over- Linley is an apology for today.
- **Reports from Council meetings-** Flood Management Committee report/conclusions and Council response, held over- Steve and Charlie not attending today's meeting.
- Group discussed courtesy email from Mark Ellis re clearing debris and silt 10 meters upstream and downstream of urban causeways and bridges- effectiveness questioned and probability of erosion discussed.
- Exotic removal- no progress, exotics have spread further, open drain beside the Elm and Wren is now smothered. Does Council have a plan for Creek management?
- **Working bees:** Bird Walk, Mackay Street: Flood debris, rubbish and dead plants removed, mulch spread.

**Next working bees-** 14 October at 9 am- Thompson St entrance to Bird Walk  
04 November at 9 am -Thompson St entrance to Bird Walk

#### **GENERAL BUSINESS:**

Lou Whitton submitted a grant for a turtle sculpture on the creek path, and another at the Cootamundra Arts Centre- Peter Hogan is the sculptor, and Wayne Bennett the Council contact.

**Meeting closed at 6.00 pm.**

**Next Meeting: Monday, at 5pm, Stephen Ward Rooms**

## 8.3 FINANCE

### 8.3.1 FINANCE UPDATE - NOVEMBER 2023

DOCUMENT NUMBER	404073
REPORTING OFFICER	Zac Mahon, Manager Finance
AUTHORISING OFFICER	Paul Woods, Interim Deputy General Manager - CCD
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>4. Collaborative and progressive leadership</b></p> <p>4.1 A clear strategic direction that is delivered upon</p>
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

### RECOMMENDATION

**The Finance Update report, be received and noted.**

#### Report

The November Finance Update has been reviewed and no issues have been detected.

#### **Operations**

##### Income

The operational income is at 53% when comparing actual to budget, with the annual rates already being recognised as income but becoming due and payable quarterly throughout the year.

Department	ACTUAL YTD	BUDGET	% Received	Result	Comment
Development & Building	235,576	315,000	75%	😊	OK
Finance	10,704,154	12,118,026	88%	😊	OK
Business	44,315	88,000	50%	😊	OK
Executive	12,080	40,000	30%	😊	OK
Regional Services - Cootamundra	2,248,001	3,553,500	63%	😊	OK
Regional Services - Gundagai	1,213,987	1,441,500	84%	😊	OK

Engineering - Cootamundra	211,097	483,084	44%	😊	OK
Engineering - Gundagai	197,328	455,116	43%	😊	OK
Water - Cootamundra	1,636,340	3,092,720	53%	😊	OK
Water - Gundagai	805,959	1,523,280	53%	😊	OK
Sewer - Cootamundra	1,304,604	2,753,150	47%	😊	OK
Sewer - Gundagai	346,793	731,850	47%	😊	OK
Grants & Contributions	6,398,247	20,990,374	30%	😊	OK
<b>TOTAL</b>	<b>25,358,482</b>	<b>47,585,600</b>	<b>53%</b>	😊	OK

#### Expenditure

The Operational expenditure actual spend to budget is at 48% which is tracking well to budget. Finance, in collaboration with the department manager will review the spend in Gundagai Sewer.

Department	TOTAL YTD	BUDGET	% Spent	Result	Comment
Development & Building	552,574	1,223,715	45%	😊	OK
Finance	5,554,869	14,157,325	39%	😊	OK
Business	2,260,164	3,430,000	66%	😊	OK
Executive	863,361	2,030,000	43%	😊	OK
Regional Services - Cootamundra	2,289,200	5,189,300	44%	😊	OK
Regional Services - Gundagai	1,526,133	2,407,200	63%	😊	OK
Engineering Cootamundra	4,261,663	9,953,520	43%	😊	OK
Engineering Gundagai	3,779,211	5,174,400	73%	😊	OK
Water Cootamundra	759,548	2,154,050	35%	😊	OK
Water - Gundagai	374,106	1,060,950	35%	😊	OK
Sewer Cootamundra	950,076	1,429,900	66%	😊	OK

Sewer - Gundagai	252,552	380,100	66%	😊	High compared to budget,
	23,423,457	48,590,460	48%	😊	OK

## Capital

### Income

Capital income is at 29% of budget as at 30 November 2023, the plant replacement program has been planned and is progressing in line with budget estimates.

CAPITAL INCOME to 31 October 2023					
ASSET CATEGORY	TOTAL YTD	BUDGET	% SPENT	RESULT	COMMENTS
Plant & Equipment - Cootamundra	73742	188750	39%	😊	
Plant & Equipment - Gundagai	35909	188750	19%	😊	
<b>TOTAL</b>	<b>109651</b>	<b>377500</b>	<b>29%</b>	😊	OK

### Expenditure

Capital expenditure is at 21% of budget as at 30 November 2023. Council is continuing to develop a program of works that will forecast expected capital expenditure to ensure projects are progressing.

ASSET CATEGORY	TOTAL YTD	BUDGET	% SPENT	RESULT	COMMENTS
Bridges - Cootamundra	0	0	0%	😊	N/A
Bridges - Gundagai	46307	920000	5%	😊	
Buildings - Cootamundra	58903	1119502	5%	😊	Finance to follow up re status of projects
Buildings - Gundagai	30558	1101325	3%	😊	Finance to follow up re status of projects
Land - Cootamundra	59550	0	0%	😊	Expenditure covered by building reserve
Land - Gundagai	0	0	0%	😊	N/A
Plant & Equipment - Cootamundra	1126209	1240378	91%	😊	
Plant & Equipment - Gundagai	516527	1240378	42%	😊	
Cemeteries - Cootamundra	0	0	0%	😊	N/A
Cemeteries - Gundagai	0	80000	0%	😊	Finance to follow up re status of projects
Recreation - Cootamundra	148238	161032	0%	😊	QBR Adjustment to cover grant funded expenditure

Recreation - Gundagai	153868	1637331	9%	😊	Finance to follow up re status of projects
Roads - Cootamundra	1323906	2317056	57%	😊	Works at planning/procurement stage
Roads - Gundagai	672006	4550185	15%	😊	Works at planning/procurement stage
Waste - Cootamundra	0	522000	0%	😐	Finance to follow up re status of projects
Waste - Gundagai	0	520000	0%	😐	Finance to follow up re status of projects
Sewer - Cootamundra	58883	2850000	2%	😊	Works at planning/procurement stage
Sewer - Gundagai	382210	745000	51%	😊	OK
Water - Cootamundra	90132	1240000	7%	😊	Works at planning/procurement stage
Water - Gundagai	6000	1584000	0%	😊	Works at planning/procurement stage
<b>TOTAL</b>	<b>4673297</b>	<b>21828187</b>	<b>21%</b>	<b>😐</b>	OK

#### Financial

There are no financial implications associated with this report.

#### OLG 23a Guideline consideration

Report purpose does not conflict with guidelines.

**8.3.2 RESTRICTED CASH RECONCILIATION - NOVEMBER 2023**

DOCUMENT NUMBER	404076
REPORTING OFFICER	Zac Mahon, Manager Finance
AUTHORISING OFFICER	Paul Woods, Interim Deputy General Manager - CCD
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>4. Collaborative and progressive leadership</b> 4.1 A clear strategic direction that is delivered upon
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

**RECOMMENDATION**

**The Restricted Cash Reconciliation report, be received and noted.**

Report

The restricted cash figures have been reconciled to 30 November 2023 as shown in the below table.

Internally Restricted Reserves	Bal 30 June 2023	Transfers To	Transfers From	Bal 30 Nov 2023
Aerodrome Bitumen Resurfacing	165,588			165,588
Bradman's Birthplace	94,337			94,337
Cootamundra Caravan Park	172,553	38,745	(1,883)	190,984
Heritage Centre	27,181	1,503	(1,355)	27,329
Development - Land & Buildings	1,182,693		30,476	1,213,169
Employee Leave Entitlements	1,774,746			1,774,746
Quarries & Pit Restoration	570,207	1,556	(31,645)	540,118
Plant Replacement	3,026,533	1,501,080	(1,579,269)	2,948,344
Saleyards	0	67,701	(83,454)	0
Swimming Pool Pump & Equipment	0			0
Cemetery	102,989	150,439	(102,938)	150,490
Southern Phone	586,464			586,464
Waste Management	500,000			500,000
	8,203,291	1,761,024	(1,770,068)	8,191,569

Externally Restricted Reserves				
Domestic Waste	806,958	579,099	(145,777)	1,240,280
Water Supply	7,462,014	1,221,530	(1,376,196)	7,307,348
Sewerage Service	5,402,866	730,417	(1,412,244)	4,721,039
Stormwater Infrastructure Renewal	262,011	31,949		293,960
Developer Contributions	1,037,818	30,521		1,068,339
General Fund Unspent Grants & Contributions	6,665,901		(600,970)	6,064,931
	21,637,568	2,593,516	(3,535,187)	20,695,897
<b>TOTALS</b>	<b>29,840,858</b>	<b>4,354,540</b>	<b>(5,305,255)</b>	<b>28,887,465</b>

#### Restricted Cash Reconciliation

Restricted Cash	28,887,465
Cash at 30 November 2023	33,784,217
Unrestricted Balance	4,896,752
Grant Debtors Outstanding	684,004
Balance	5,580,756

#### Financial

There are no financial implications associated with this report.

#### OLG 23a Guideline consideration

Report purpose does not conflict with guidelines.

**8.3.3 INVESTMENT REPORT - NOVEMBER 2023**

DOCUMENT NUMBER	404100
REPORTING OFFICER	Zac Mahon, Manager Finance
AUTHORISING OFFICER	Paul Woods, Interim Deputy General Manager - CCD
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>4. Collaborative and progressive leadership</b></p> <p>4.1 A clear strategic direction that is delivered upon</p>
FINANCIAL IMPLICATIONS	Council's cash and investment portfolio increased \$3,825,180.93 from \$29,959,036.14 as at 31 <sup>st</sup> October 2023 to \$33,784,217.07 as at 30 <sup>th</sup> November 2023.
LEGISLATIVE IMPLICATIONS	Council investments comply fully with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2021.
POLICY IMPLICATIONS	Investments comply fully with the Council's Investment Policy.
ATTACHMENTS	Nil

**RECOMMENDATION**

**The report detailing Council Cash and Investments as at 30 November 2023, be received and noted.**

Introduction

A report on Council's Investments is required to be presented for Council's consideration in accordance with Clause 212 of the Local Government (General) Regulation 2021.

Financial

Council's cash and investment portfolio increased \$3,825,180.93 from \$29,959,036.14 as at 31<sup>st</sup> October 2023 to \$33,784,217.07 as at 30<sup>th</sup> November 2023.

OLG 23a Guideline consideration

Report purpose does not conflict with guidelines.

**Cash and Investment Portfolio**

Type	Long Rating	Short Rating	Issuer	Frequency	Purchase	Maturity	Days	Rate	Benchmark*	Principal
TD	BBB	A2	Beyond Bank	At Maturity	12/09/2023	12/12/2023	91	4.82	4.16	\$4,000,000.00
TD	BBB	A2	AMP Bank	At Maturity	15/08/2023	16/01/2024	154	5.20	4.16	\$4,000,000.00
TD	AA-	A1+	CBA	At Maturity	13/09/2023	13/02/2024	153	4.82	4.16	\$4,000,000.00
TD	BBB-	A3	Judo Bank	At Maturity	11/10/2023	12/03/2024	153	5.00	4.16	\$1,000,000.00
TD	AA-	A1+	NAB	At Maturity	13/09/2023	12/03/2024	181	4.95	4.16	\$3,000,000.00
TD	AA-	A1+	NAB	At Maturity	10/10/2023	9/04/2024	182	5.05	4.16	\$4,000,000.00
TD	BBB+	A2	Bank of QLD	At Maturity	10/10/2023	7/05/2024	210	5.10	4.16	\$2,000,000.00
CASH	AA-	A1+	CBA	Monthly				4.10	4.10	\$5,754,175.58
CASH	AA-	A1+	CBA	Monthly				4.10	4.10	\$3,947,137.04
CASH	A+	A1+	Macquarie Bank	Monthly				4.40	4.10	\$2,010,302.59
CASH	AA-	A1+	NAB	Monthly				3.10	4.10	\$72,601.86
<b>Total</b>										<b>\$33,784,217.07</b>

\*Benchmarks

On Call - RBA Cash

Floating Rate Deposit - 3m BBSW

Term Deposit - BBSW

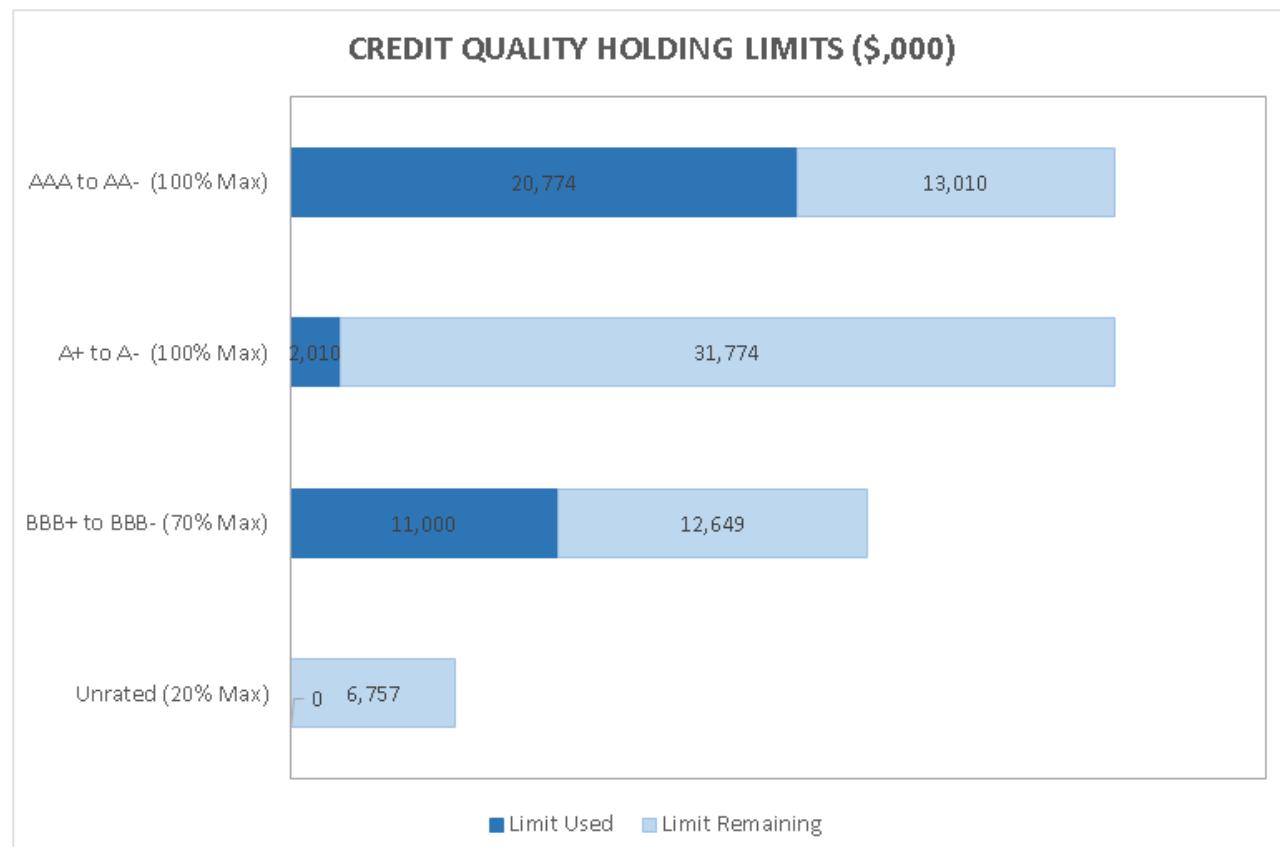
## Performance

Cootamundra-Gundagai Regional Council's investment portfolio outperformed the relevant BBSW Index benchmark by 15.69%. The average weighted yield for October was 4.80%, over an average weighted term of 84 days, with a benchmark of 4.15%.

Total Cost <b>33,784,217.07</b>	Monthly Interest Received <b>115,856</b>	Weighted Average Term <b>52 Days</b>
Total Value <b>33,784,217.07</b>	Yearly Interest Received <b>617,850</b>	Weighted Average Yield <b>4.82%</b>

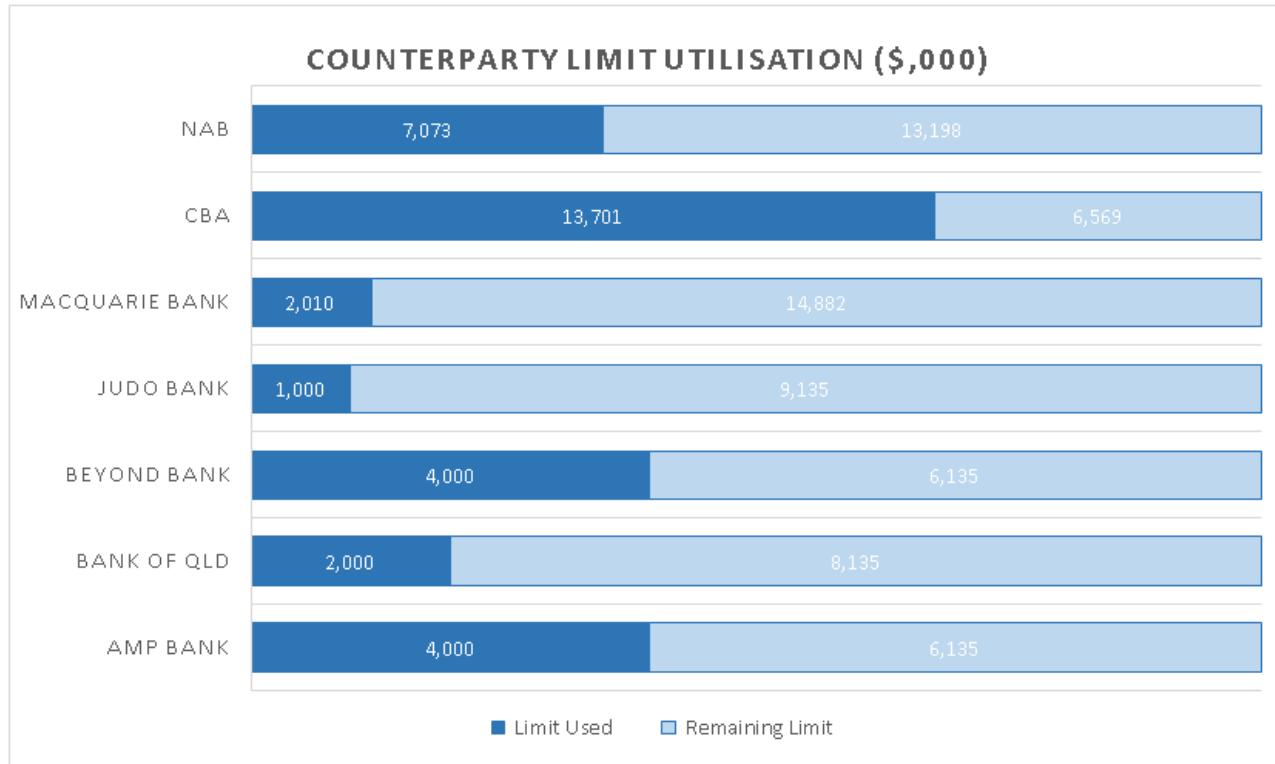
## Credit Quality Compliance

Council's investment portfolio was compliant with policy in terms of S&P long term rating credit quality limits, as displayed below.



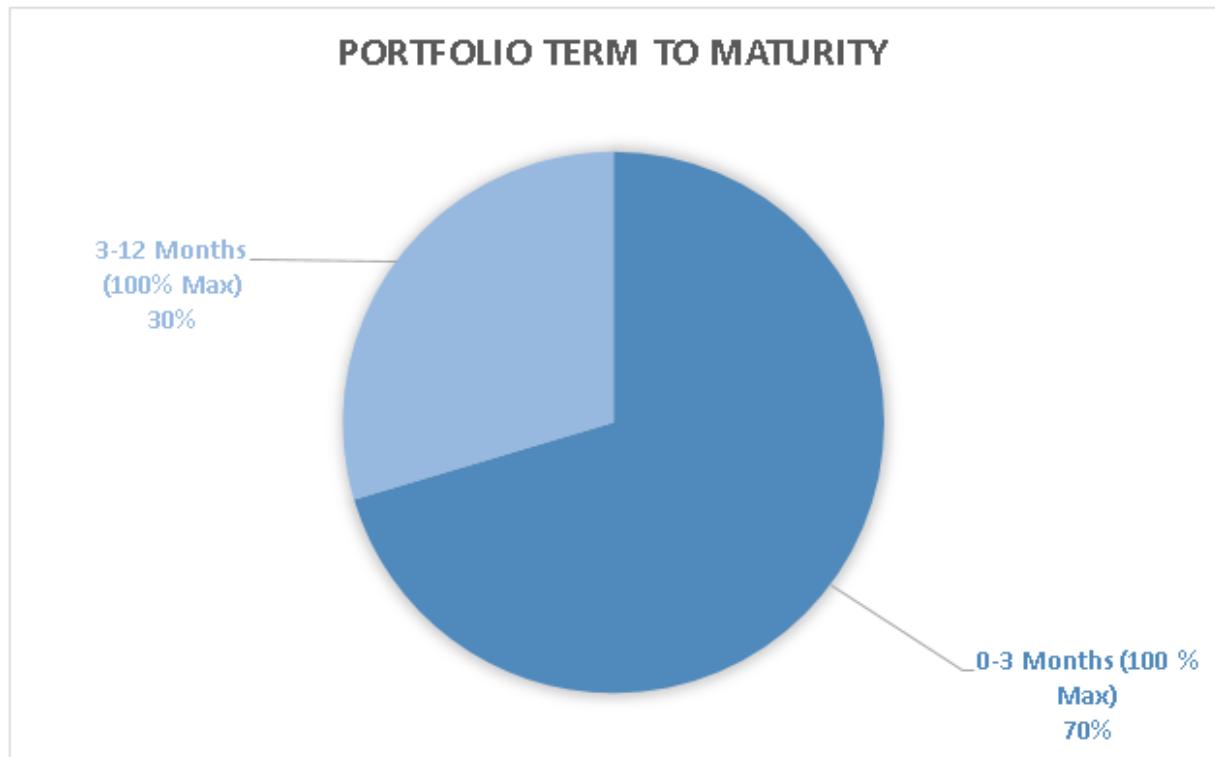
### Counter Party Compliance

As at the end of November, Council was compliant with policy. It is worth noting that capacity limits are affected by changes in the on-call account balance compared to the total portfolio balance.



### Term to Maturity

Council's investment portfolio maturities shown graphically below were also compliant with policy requirements. All of the investments are short term to deal with liquidity and to be prepared for the demerger split.



**Declaration**

I hereby certify that investments listed in the report have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2021 and Council's Investment Policy.

Signed

A handwritten signature in black ink that reads "Zac Mahon". The signature is fluid and cursive, with "Zac" on the top line and "Mahon" on the bottom line.

Zac Mahon  
Responsible Accounting Officer

## 8.4 SUSTAINABLE DEVELOPMENT

### 8.4.1 DRAFT SWIMMING POOL INSPECTION POLICY AND PROGRAM

DOCUMENT NUMBER	403260
REPORTING OFFICER	Lauren Dawes, Senior Building Surveyor
AUTHORISING OFFICER	Paul Woods, Interim Deputy General Manager - CCD
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>1. A vibrant, safe, and inclusive community</b></p> <p>1.1 Our health and wellbeing needs are met</p>
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	1. Draft Swimming Inspection Pool Policy and Program <a href="#">↓</a>

### RECOMMENDATION

1. To place the *Draft Swimming Pool Inspection Policy and Program* on public exhibition for a period of 28 days.
2. That, if no submissions are received during the exhibition period that would require material alteration to the draft *Swimming Pool Inspection Policy and Program*, it be adopted.

### Introduction

The purpose of the Swimming Pool Inspection Policy and Program (the Policy) is to establish clear guidelines and protocols for councils' officers, outlining the framework within which Council exercises its powers as a swimming pool barrier inspection and enforcement agency under the *Swimming Pools Act 1992*.

The Policy has been developed and is based on the *Swimming Pools Act 1992* and *Swimming Pool Regulation 2018*. It outlines Council's roles and responsibilities in the ongoing inspection and monitoring of public and private swimming pools against relevant the legislation.

It is noted that Council also has an obligation under section 22B of the *Swimming Pools Act 1992* (the Act) to adopt a program for the inspection of swimming pools in the local government area in line with the requirements of the Act and associated regulation.

### Discussion

The principal purpose of the Policy is to ensure that Council is complying with its obligation to under section 22B of the *Swimming Pools Act 1992* (the Act) to adopt and implement a program for the inspection of swimming pools and that the adopted policy and program:

- The reflects Council's roles and responsibilities in the ongoing inspection and monitoring of public and private swimming pools against the relevant legislation, including details of pools

required to be inspected, the points in time when an inspection is required and the process for investigating complaints about non-compliant barriers.

- Provides a framework for how Council will undertake assessments of swimming pool barriers and enforce compliance through application of a risk based escalating approach.

#### Financial

There are no direct financial implications of the Policy.

#### OLG 23a Guideline consideration

The objective of this report does not conflict with 23a guidelines.



# Draft Swimming Pool Inspection Policy

## Policy Approval and Distribution

<b>Approved by</b>	Council Resolution
<b>Responsible Officer</b>	Manager of Development, Building and Compliance
<b>Council Service Unit</b>	Development, Building and Compliance
<b>Next Review Date</b>	Four years from commencement or as legislation is updated

## Version Control

Ref	Date	Description	Resolution Number
1.0	12/12/2023	<i>Presented to Council for public exhibition</i>	TBA

## Purpose

The purpose of this Program is to:

- To meet Councils obligations with the requirements of section 22B of the Swimming Pools Act 1992 as amended;
- Increase awareness of pool safety and reduce the incidence of drowning and near drowning events for young children in the Cootamundra Gundagai Regional Council (CGRC) Local Government Area;
- Ensure all private swimming pools are surrounded by a child resistant barrier which is designed, constructed and maintained to the prescribed standard;
- Ensure pools in tourist and visitor accommodation as well as multi-unit accommodation are maintained in a compliant manner;
- Ensure swimming pools are maintained and operated in accordance with the prescribed standards;
- Outline the process related to the monitoring and inspection of swimming pools in the CGRC Local Government Area; and
- Ensure corrective works are carried out where a non-compliant swimming pool is identified.

## Scope

This plan applies to:

- All swimming pools located within the CGRC local government area; and
- All proposed swimming pool installations within the CGRC local government area.
- All staff involved in applying the inspection program.

This plan is principally aimed at outlining Council's roles and responsibilities in the ongoing inspection and monitoring of public and private swimming pools against relevant legislation.

## Definitions

### CGRC

Cootamundra Gundagai Regional Council

### Tourist and visitor accommodation

Means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—

- (a) backpackers' accommodation,
- (b) bed and breakfast accommodation,
- (c) farm stay accommodation,
- (d) hotel or motel accommodation,
- (e) serviced apartments,

but does not include—

- (f) camping grounds, or
- (g) caravan parks, or
- (h) eco-tourist facilities.

### Swimming Pool

Means an excavation, structure or vessel—

1. that is capable of being filled with water to a depth greater than 300 millimetres, and
2. that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity.

### Spa Pool

Includes any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.

### Local authority:

- (a) in relation to premises that are situated within an area within the meaning of the *Local Government Act 1993*—the council of that area, or
- (b) in relation to premises that are situated within an area within the Western Division that is not within the area of a council within the meaning of the *Local Government Act 1993*—the person appointed under section 3A, or
- (c) in relation to premises situated on Lord Howe Island—the Lord Howe Island Board.

### Barrier:

A fence or a wall, and includes:

- a) Any gate or door set in the fence or wall, and
- b) Any other structure or thing declared by the regulations to be a barrier for the

purposes of the Swimming Pools Act.

**Certificate of compliance:**

Means a certificate issued under Section 22D of the Swimming Pools Act.

**Certificate of non-compliance:**

Means a certificate issued under clause 21 of the NSW Swimming Pools Regulations 2018.

**Direction:**

The local authority may, by order in writing served on the owner of any premises in or on which a swimming pool is situated, direct the owner to take, within such reasonable time as is specified in the direction, such measures as are so specified to ensure that the swimming pool or premises comply with the requirements of Part 2 of the Swimming Pools Act.

**Emergency Direction:**

A direction given where there is serious risk to safety. An emergency direction can require immediate action without service of a notice of intention beforehand.

**Notice of Intention:**

Before giving a direction, the local authority who gives the direction must give notice to the person to whom the direction is proposed to be given of the intention to give the direction.

**Relevant Occupation Certificate:**

In respect of a swimming pool means an occupation certificate issued under the Environmental Planning and Assessment Act 1979 that is less than 3 years old and that authorises the use of the swimming pool.

**Residential building:**

Means a building (such as a dwelling-house, residential flat building or boarding-house) that is solely or principally used for residential purposes, and includes any structure (such as a garage or shed) that is ancillary to any such building, but does not include:

- a) A building that merely forms part of a complex of buildings (such as a school or recreational centre) that is principally used for non-residential purposes, or
- b) A moveable dwelling, or
- c) Tourist and visitor accommodation, or
- d) A shed that is ancillary to a swimming pool and the primary purpose of which is to store equipment that is used in connection with the swimming pool (but not a shed of a kind prescribed by the regulations), or
- e) A building or structure of a kind prescribed by the regulation.

## Legislative Framework

- Swimming Pools Act 1992
- Swimming Pools Regulation 2018
- Swimming Pools (Amendment) Act 2012
- Building Code of Australia
- Australian standard 1926.1
- Australian standard 1926.2

## Related CGRC Documents

- Cootamundra Gundagai Regional Council Fees Policy
- Cootamundra Gundagai Regional Council Complaints policy
- Cootamundra Gundagai Regional Council Enforcement Policy

## Review Period

This document is to be reviewed every 4 years, or as legislative requirements are updated to ensure that it remains relevant and meets legislative requirements.

## Policy Statement

### Introduction

Cootamundra Gundagai Regional Council are required to have in place and to implement a program of swimming pool inspections. The purpose of inspection is to assess against the prescribed standard whether a pool barrier is compliant and issue either a certificate of compliance or a certificate of non-compliance as appropriate.

### To what properties does this program apply?

The program applies to swimming pools, both indoor and outdoor, and spas that are situated or installed, on a premises on which a residential building, a moveable dwelling or tourist and visitor accommodation is located but does not apply to swimming pools and spas that are situated, or proposed to be constructed or installed, on any premises occupied by the crown or by a public authority.

### A pool barrier must be assessed.

- When a property with a pool is sold.
- Every three years if the property is rented.
- Every three years if the premises is either a tourist or visitor accommodation.
- Every three years if the property contains more than 2 dwellings.
- When requested by the owner of a swimming pool.
- When a complaint has been made concerning the compliance and safety of a swimming pool barrier.

### Process for investigating complaints about non-compliant barriers.

An authorised officer will firstly check whether a life-threatening circumstance exists, and if so, determine an immediate course of action. In the event the information from the complaint is not considered immediately life threatening, the matter will be prioritised accordingly by the authorised officer.

Complaints will be handled in accordance with Cootamundra Gundagai Regional Council's Enforcement Policy.

### Nominated Inspection Time Frames

Circumstance requiring inspection	Time frame for low risk	Time frame for high risk
Where the swimming pool or spa barrier is subject of a complaint		
Where a request has been received to inspect the pool barrier by the owner.		
Where a request has been received to inspect the pool barrier by the owner or an agent of the owner prior to the sale or lease of the premises.		
Where the premises is subject of a Building Certificate inspection, regardless if it relates to the swimming pool or spa.	Within 14 days <sup>1</sup>	Within 0-72 hours <sup>2</sup>
Mandatory 3 Yearly inspection of any swimming pool situated on premises on which there is tourist and visitor accommodation, rental property or more than 2 dwellings.		
Where Council has been informed that a swimming pool has been removed from the state register		

<sup>1</sup> If circumstances are deemed low risk council will aim to complete inspection within nominated time, however occasionally high workloads and/or staffing shortages may lead to extended waiting times.

<sup>2</sup> If circumstances are deemed very high or an extreme risk council may nominate a shorter period & prohibit use of the pool until compliant.

### Fees

The *Swimming Pools Act* provides that Council may charge a fee for inspection conducted by an authorised officer, being a fee that is not greater than the maximum fee prescribed by the Swimming Pools Regulation.

[FEES AND CHARGES | Cootamundra Gundagai Regional Council \(nsw.gov.au\)](#)

### Inspection Procedure

- 1) Application for an inspection received (where relevant) and associated fee paid.\*
- 2) Inspection time scheduled.
- 3) Photos and/or videos may be taken of the pool fence for records and reporting purposes.
- 4) Where it is identified there are non-compliant pool safety matters, Council will issue a Certificate of Non-Compliance and accompanying letter (notice) under cl. 22E of the Act detailing;
  - a) The date of the notice
  - b) The date on which the inspection took place
  - c) The address of the swimming pool to which the notice relates
  - d) The reasons why the registered certifier is not satisfied that the requirements for the issue of a certificate of compliance have been met and the steps that need to be taken in order to meet those requirements.
  - e) Whether the registered certifier is of the opinion that the swimming pool poses a significant risk to the public and the reasons for this decision.
- 5) Where a pool is non-compliant Council may provide the owner of the property with an opportunity to enter into voluntary undertakings setting out:-
  - Proposed rectification works;
  - Timeframe for completing the works; and

- Any interim measures proposed to be applied until such time as the works are completed.

6) If no voluntary undertaking is received, or the pool is assessed as being of significant risk, Council may issue a Notice of Intention to issue a Direction or Direction, without notice.

- \* In the case of investigations of non-compliant swimming pool barriers an application will not be required prior to an inspection being undertaken.
- \* Council may contact owners of tourist and visitor pools as well as multi residential to arrange inspection as part of the program where certificates have/are approaching expiry.



#### 8.4.2 DRAFT MODEL CONTAMINATED LAND POLICY

DOCUMENT NUMBER	403973
REPORTING OFFICER	Sally Atkinson, Environmental Health Officer
AUTHORISING OFFICER	Paul Woods, Interim Deputy General Manager - CCD
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>3. Protected and enhanced environment</b> 3.1 A natural environment is valued and protected
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	1. Model Contaminated Land Policy 2023 <a href="#">Download</a>

#### RECOMMENDATION

That Council resolve:

1. To place the **Draft Model Contaminated Land Policy** on public exhibition for a period of 28 days.
2. That, if no submissions are received during the exhibition period that would require material alteration to the **Draft Model Contaminated Land Policy**, it be adopted.

#### Introduction

In 2017 Council adopted the RAMROC-REROC Model Contaminated Land Policy. Since that time, there have been changes to legislation and feedback from member Councils, which resulted in a REROC Contaminated Land Management Project. The Project, in collaboration with FNWJO, the Dubbo, Northern Rivers and Bathurst CRCB projects, and CRJO, resulted in the review of the current Policy and development of a draft *Model Contaminated Land Policy (2023)*.

The purpose of the policy is to ensure that Council continues to have a framework that outlines how Council will act in good faith within the *Contaminated Land Planning Guidelines* when considering the potential for site contamination in its land-use planning and development control decision-making processes.

#### Discussion

The objectives of the draft Model Policy are unchanged, solely on the basis that the *Resilience and Hazards SEPP (2021)* incorporated an unchanged *SEPP55 Planning Guidelines – Remediation of Land (1998)*.

However, the DPE did release a draft 'contaminated land planning guidelines' (2018) that outlined proposed amendments to the SEPP55 Planning Guidelines. A number of these amendments have been incorporated in the draft Model Policy including:

- Adding 'Council depots' to the table in Appendix 1 on potential activities that may give rise to site contamination, and

- The 'Initial Evaluation' checklist.

The draft Model Policy has also been amended to reflect updates in the regulatory landscape relevant to contaminated land, including:

- The EP&A Act in relation to the 'planning proposal' process (i.e. Local Planning Direction 4.4),
- The Complying development guidelines regarding development on land previously subject to management orders under the Contaminated Land Management Act,
- The Code SEPP in relation to procedures for 'unexpected finds', and
- The UPSS Regulation 2019 in relation to 'appropriate regulatory authority' responsibilities related to the design, installation, operation, maintenance and decommissioning of underground petroleum storage systems ('UPSS').

Feedback from and consultation with member Councils also resulted in amendments to the draft Model Policy, including:

- An update of the risk-based approach for the assessment of site contamination,
- An extension of the risk-based approach to include UPSS, and
- An extension of the coverage of the 'best practice resources', including development assessment and consent clauses

#### Implications for Council

The draft Model Policy does not present any new implications on Council regarding the management of contaminated land. Contaminated land clauses remain unchanged with exception to those related to changes in the regulatory landscape that Council has already implemented.

This includes Local Planning Direction 4.4 where a 'preliminary site investigation' report is required to be attached to a planning proposal only when specific conditions are triggered.

The draft Model Policy includes a new section on UPSS. This section outlines requirements of an 'appropriate regulatory authority' under the UPSS Regulation 2019. These requirements are not new and have been applied by Council in development assessment and consent processes for new or significantly modified UPSS.

The new UPSS section also outlines an 'optional' risk-based approach for Council to manage risks associated with the ongoing operation and maintenance of UPSS in their local government area.

#### Conclusion

The draft *Model Contaminated Land Policy (2023)* presents no significant changes to how contaminated land is managed by Council. It remains anchored in the SEPP55 Planning Guidelines – Remediation of Land (1998), as required by Schedule 6 of the EP&A Act (*vis-à-vis* the 'good faith' defence).

#### Financial

There are no financial implications associated with this report.

#### OLG 23a Guideline consideration

The objective of this report does not conflict with the 23a Guidelines.

# MODEL CONTAMINATED LAND POLICY

**PREPARED BY:**

Riverina and Murray Joint Organisation  
Riverina Eastern Regional Organisation of Councils  
Far North West Joint Organisation  
Dubbo Regional Council





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## 1. PURPOSE

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THE PURPOSE OF THIS POLICY IS TO ESTABLISH A FRAMEWORK THAT OUTLINES HOW COUNCIL WILL ACT IN GOOD FAITH WITH THE CONTAMINATED LAND PLANNING GUIDELINES WHEN CONSIDERING THE POTENTIAL OF SITE CONTAMINATION IN ITS LAND-USE PLANNING AND DEVELOPMENT CONTROL DECISION-MAKING PROCESSES.

## 2. OBJECTIVES

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### This policy aims to:

- enable Council to consider the likelihood of land contamination as early as possible in land-use planning and development control processes
- avoid any inappropriate restrictions on land use
- ensure a proposed change in land use or any development will not increase the risk of harm to human health and the environment
- ensure any contaminant is remediated to a level that complies with relevant contamination criteria as required by regulation, thereby ensuring the land is suitable for its intended use
- enable Council to provide accurate and timely information and advice to inform and support decision-making in land-use planning and development control processes
- enable the community to be informed of Council's requirements regarding the management of contaminated land
- enable Council to exercise its land-use planning and development control functions with a reasonable standard of care and diligence.

## 3. SCOPE

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This policy provides information to internal and external stakeholders, interested parties and the broader community on Council's position on managing land contamination.

This policy applies to all land within the [CouncilName] local government area.

This policy is predicated on the requirements of Chapter 4 ('Remediation of Land') of the *State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)*,<sup>1</sup> as elaborated in its contaminated land planning guidelines.<sup>2</sup>

This policy is applicable to staff involved in Council land-use planning and development control functions, as well as in waste management and in managing public land and Council assets.

### This policy is also applicable to:

- a principal certifying authority
- consultants (for example, strategic and statutory planning, contaminated land practitioners, underground petroleum storage systems practitioners)
- property developers
- landowners and/or managers
- members of the public.

<sup>1</sup> The content of Chapter 4 of the *Resilience and Hazards SEPP* was formerly the *State Environmental Planning Policy No. 55 – Remediation of Land* (guidelines for which can be found in *Managing Land Contamination: Planning Guidelines: SEPP55 – Remediation of Land*, <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/clm/managing-contaminated-land-guidelines-remediation.pdf>).

<sup>2</sup> These guidelines, referred to in the *Resilience and Hazards SEPP*, are those found in Schedule 6(3) of the *Environmental Planning and Assessment Act 1979*.

## 4. DEFINITIONS

Term	Definition
<b>Abbreviations</b>	
<b>ARA</b> (appropriate regulatory authority)	Under section 6(3) of the <i>POEO Act</i> , Council is declared as the ARA for matters under the <i>UPSS Regulation</i> .
<b>PCA</b> (principal certifying authority)	<p>A certifier can be either a council or a registered certifier. A registered certifier is also known as a principal certifying authority.</p> <p>Certifiers have statutory obligations and functions under the <i>Building and Development Certifiers Act 2018</i>, the <i>EP&amp;A Act</i> and other legislation, including the <i>Building and Development Certifiers Regulation 2020</i>. This includes issuing construction and occupation certificates under Part 6 of the <i>EP&amp;A Act</i>.</p>
<b>UPSS</b> (underground petroleum storage system)	A system of tanks, pipes, valves and other equipment that is designed to either contain petroleum or to control its passage into, out of, through or within the system. The system includes any structure through which petroleum routinely passes from one part of the system to another.
<b>Legislation</b>	
<i>Contaminated Land Management Act 1997 (CLM Act)</i>	Establishes a process for the EPA to identify, investigate and (where appropriate) order the remediation of land if the EPA considers the land to be significantly contaminated.
<i>Contaminated Land Planning Guidelines</i>	Under Schedule 6 section 3 of the <i>EP&amp;A Act</i> , the Minister can notify the publication of planning guidelines related to contaminated land under the <i>Resilience and Hazards SEPP</i> for purposes of Schedule 6 section 2 ('good faith' provisions) of the <i>EP&amp;A Act</i> .
<i>Environmental Planning and Assessment Act 1979 (EP&amp;A Act)</i>	The principal legislation of the NSW planning system that governs land-use planning and development control functions in NSW.
<i>Protection of the Environment Operations Act 1997 (POEO Act)</i>	Establishes a framework to protect, control and investigate pollution.
<i>Protection of the Environment Operations (Underground Petroleum Storage System) Regulation 2019 (UPSS Regulation)</i>	Establishes a framework for the design, installation, operation, maintenance and decommissioning of an underground petroleum storage system. Also designates Council as the 'appropriate regulatory authority' to administer the requirements of the <i>UPSS Regulation</i> .
<i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Exempt and Complying Development Codes SEPP)</i>	Establishes the rules and standards for exempt and complying development.
<i>State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)</i>	<p>Outlines a planning framework for the remediation of contaminated land.</p> <p>Formerly known as SEPP55 – Remediation of Land.</p>

Term	Definition
<b>Processes</b>	
<b>Category 1 remediation work</b>	Remediation work that requires the consent of Council under the <i>Resilience and Hazards SEPP</i> .
<b>Category 2 remediation work</b>	Remediation work not requiring the consent of Council under the <i>Resilience and Hazards SEPP</i> .
<b>Detailed site investigation</b>	<p>An investigation to define the extent and degree of contamination, to assess the potential risk posed by contaminants to health and the environment, and to obtain sufficient information for developing a remediation action plan if required.</p> <p>Reporting requirements for a detailed site investigation are as outlined in the <i>National Environmental Protection (Assessment of Site Contamination) Measure 1999</i> (amended 2013) and in relevant guidelines made by the EPA regarding reports to be prepared by contaminated land consultants.</p>
<b>Independent review</b>	An evaluation by an independent expert, with the appropriate competencies and qualifications, of the work of a primary consultant for all types of contaminated sites.
<b>Initial evaluation</b>	A process undertaken by Council to consider the potential for land to be contaminated, and the impacts of that contamination on the suitability of the land for proposed uses, when determining development applications or when preparing environmental planning instruments.
<b>Preliminary site investigation</b>	<p>An investigation to identify any past or present potentially contaminating activities; provide a preliminary assessment of site contamination; and, if required, provide a basis for a detailed investigation.</p> <p>Reporting requirements for a preliminary site investigation are as outlined in the <i>National Environmental Protection (Assessment of Site Contamination) Measure 1999</i> (amended 2013) and in relevant guidelines made by the EPA regarding reports to be prepared by contaminated land consultants.</p>
<b>Remediation</b>	The remediation of contaminated land is the (i) preparation of an environmental management plan (if required); (ii) removal, dispersal, destruction, reduction, mitigation or containment of the land contamination; and (iii) elimination or reduction of any hazard arising from the land contamination (including by preventing the entry of persons or animals on the land).
<b>Remediation action plan</b>	<p>A plan that sets out remediation goals and that documents the proposed process for remediating a site.</p> <p>Reporting requirements for a remediation action plan are outlined in the relevant guidelines made by the EPA regarding reports to be prepared by contaminated land consultants.</p>
<b>Validation</b>	<p>The process of determining whether the objectives for remediation and any conditions of development consent have been achieved.</p> <p>A report on the validation is to detail the site work undertaken and demonstrate compliance with the remedial action plan for the site, and compliance with the contaminated land planning guidelines and all other applicable regulatory requirements.</p> <p>Reporting requirements for validation are elaborated in the relevant guidelines made by the EPA regarding reports to be prepared by contaminated land consultants.</p>

Term	Definition
<b>Terms</b>	
<b>Authorised officer</b>	Authorised officers have regulatory powers and functions under environment protection legislation, as prescribed in Council's delegations of authority.
<b>Complying development certificate</b>	A certificate indicating approval for straightforward residential, commercial and industrial development, generally for building works larger than exempt development.
<b>Contaminated land</b>	<p>Contaminated land is typically land that have been used for industrial or agricultural activities, or individual sites that store chemicals, such as service stations and dry cleaners.</p> <p><i>Also see - Appendix 2</i></p>
<b>Contamination</b>	<p>The presence in or under the land of a substance above the concentration at which the substance is normally present in or under that land at the same locality, being a presence that poses a risk of harm to human health or any other aspect of the environment (section 5 of the <i>CLM Act</i>).</p> <p><i>Also see – ‘pollution incident’</i></p>
<b>Development control plan</b>	Provides detailed planning and design guidelines to support the planning controls in the local environmental plan developed by Council.
<b>Environmental management plan</b>	An environmental management plan for contaminated land documents the mitigation measures and/or monitoring requirements where full clean-up of a site is not feasible or where the onsite containment of contamination is proposed.
<b>EPA guidelines</b>	Guidelines made or approved by the EPA in relation to managing site contamination.
<b>Investigation area</b>	Land declared to be an investigation area by a declaration in force under Part 3 Division 2 of the <i>CLM Act</i> .
<b>Local environment plan</b>	A plan that guides planning decisions for Council through zoning and development controls. Amendments to the local environment plan are through planning proposals.
<b>Newbury test</b>	The Newbury test states that a condition of consent must be imposed for a planning purpose (not an ulterior one); must fairly and reasonably relate to the development that is the subject of the development application; and must not be so unreasonable that no planning authority would have imposed it.
<b>Planning proposal</b>	Council may draft a planning proposal to amend a local environment plan and submit it to the department for Gateway determination.
<b>Pollution incident</b>	<p>An incident or set of circumstances during or as a consequence of which there is or is likely to be a leak, spill or other escape or deposit of a substance, as a result of which pollution has occurred, is occurring or is likely to occur. It includes an incident or set of circumstances in which a substance has been placed or disposed of on premises.</p> <p><i>Also see – ‘contamination’</i></p>

Term	Definition
<b>Terms</b>	
<b>Section 10 planning certificates</b>	<p>Formerly section 149 planning certificates.</p> <p>Section 10 planning certificates provides information regarding the development potential of a parcel of land. There are two types of planning certificates – section 10.7(2) and section 10.7(5).</p> <p>These certificates show the zoning of the property, its relevant state, regional and local planning controls and other property constraints such as land contamination, level of flooding and bushfire prone land.</p> <p>Section 10.7(5) certificates also include advice from 'other authorities' and certain information that Council holds on a property that is relevant to the land but is not disclosed in a section 10.7(2) certificate.</p>
<b>Sensitive receptor</b>	<p>Receiving environment or sensitive receiver. This is either a use of land for residential, educational, recreational or childcare purposes, or for the purposes of a hospital, or land identified as sensitive environmental land.</p>

## 5. REFERENCES

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The following Council policies and procedures are relevant to this policy:

- [Asbestos management policy]
- [Compliance and enforcement policy]
- [Soil and water management policy]
- [Engineering guidelines and technical specifications]
- [Inspection and monitoring procedures]
- [Tree preservation order process]
- [Flood mapping]
- [Add additional relevant policies and procedures]

The following legislation and standards are referenced in this policy:

### LEGISLATION

- o *Building and Development Certifiers Act 2018*
- o *Building and Development Certifiers Regulation 2020*
- o *Contaminated Land Management Act 1997*
- o *Conveyancing Act 1919*
- o *Environmental Planning and Assessment Act 1979*
- o *Environmental Planning and Assessment Regulation 2021*
- o *Environmentally Hazardous Chemicals Act 1985*
- o *Government Information (Public Access) Act 2009*
- o *Home Building Act 1989*
- o *Local Government Act 1993*
- o *Local Planning Directions*
- o *National Environment Protection (Assessment of Site Contamination) Measure 1999 (as amended)*
- o *Protection of the Environment Operations Act 1997*
- o *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*
- o *Protection of the Environment Operations (Waste) Regulation 2014*
- o *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*
- o *State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 4 ('Remediation of Land')*
- o *Water Management Act 2000*
- o *Workplace Health and Safety Act 2011*
- o *Workplace Health and Safety Regulation 2017*

### GUIDELINES

- o *Guide to Complying Development (2022)*
- o *Guide to Writing Conditions of Consent (2021)*
- o *Guidelines for Implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019 (2020)*
- o *Guidelines for the Vertical Mixing of Soil on Former Broad-Acre Agricultural Land (2003)*
- o *Noise Policy for Industry*
- o *Interim Construction Noise Guideline*
- o *Liquid Trade Waste Management Guidelines (DPIE, 2021)*
- o *Managing Land Contamination: Planning Guidelines: SEPP55 – Remediation of Land (1998) (and its revised form, the Contaminated Land Planning Guidelines, when released)*
- o *Managing Urban Stormwater: Soils and Construction (4th ed., LANDCOM, March 2004)*
- o *Waste Classification Guidelines (2014)*
- o *Statutory guidelines made or approved by the NSW EPA under the Contaminated Land Management Act 1997*
- o *Non-statutory guidance documents made by the NSW EPA*

### STANDARDS

- o *Australian Standard AS 1940-2017: Storage and Handling of Flammable and Combustible Liquids*
- o *Australian Standard AS 4897-2008: The Design, Installation and Operation of Underground Petroleum Storage Systems*
- o *Australian Standard AS 4976-2008: The Removal and Disposal of Underground Petroleum Storage Tanks.*

Best practice resources are available to assist Council in implementing this policy. These resources are listed in Appendix 1.

## 6. CONTENT

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### 6.1. Policy statement

1. Council acknowledges that land contamination poses a risk of harm to human health and the environment.

### 6.2. Responsibilities

1. Council will act in good faith with the *Contaminated Land Planning Guidelines* by ensuring due care and diligence in considering land contamination in Council's land-use planning and development control functions.
2. Council will identify, evaluate and manage contaminated land so as to not increase the risk of harm to human health and the environment:
  - a. when preparing or making a planning instrument (including a planning proposal) and a development control plan (Part 3 of the EP&A Act)
  - b. when considering the potential for land contamination in development assessment and consent processes (Part 4 of the EP&A Act) and in environmental impact assessment processes (Part 5.1 of the EP&A Act)
  - c. in building and subdivision certification processes (Part 6 of the EP&A Act)
  - d. when managing public land and assets, including land managed or under the control of Council
  - e. when managing waste, including contaminants in soil.
3. Council will not approve a development application or lodge a planning proposal unless it is satisfied, based on information available to it under this policy, that that land is suitable, or can be made suitable, for its proposed use.
4. Council will consider the potential of land contamination in a process to furnish the contaminated land information that is required on planning certificates (section 10.7 of the EP&A Act).
5. With respect to sites with operational or abandoned underground petroleum storage systems, Council acknowledges that it is the ARA under the *UPSS Regulation*.
6. Council also acknowledges the regulation of underground petroleum storage systems sites is also under various other legislation administered by state departments and agencies, including SafeWork NSW and NSW Fair Trading.

### 6.3. Information management

1. Council will maintain and update a contaminated land site register so as to comply with section 59(2) of the *CLM Act* in furnishing contaminated land information on planning certificates under section 10.7 of the *EP&A Act*.
2. The contaminated land site register will include information on actual and potential land contamination to inform its land-use planning and development control functions in alignment with the *Contaminated Land Planning Guidelines*.
3. The list of sites in the contaminated land site register will be compiled, maintained and updated in good faith in the interests of responsible land-use planning and development control and is to be used as a first point of reference by Council.
4. Information on actual or potential land contamination contained in Council's contaminated land site register is to be supplied to the public only by either:
  - a. issuing a section 10.7 planning certificate under the *EP&A Act*
  - b. a Council officer with delegation to approve the release of reports identified in Appendix 3 that have been provided to Council
  - c. providing access to information and documents in accordance with *Local Government Act 1993* and *Government Information (Public Access) Act 2009*.

### CONTAMINATED LAND SITE REGISTER

5. Council's contaminated land site register should contain accurate and reliable information for individual parcels of land on:
  - a. land-use history and zoning so as to flag the potential for land contamination for a parcel of land if Council reasonably suspects historical land use or zoning may indicate a use of land involving a potential land use or activity listed in Appendix 2
  - b. artefacts received by Council in relation to
    - i. reports on the assessment of site contamination listed in Appendix 3
    - ii. site audit statements
    - iii. EPA notifications under section 59(1) of the *CLM Act*
    - iv. notifications for category 2 remediation works
    - v. notifications of completion of category 1 and category 2 remediation works
  - c. any land-use restrictions on the land relating to possible contamination, such as notices issued by the EPA or other regulatory bodies.

## 6. CONTENT (CONT.)

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6. If an EPA notification under section 59(1) of the *CLM Act* lists reports on the assessment of site contamination, Council will request copies of these reports to be included in its contaminated land site register.
7. Council will either modify an existing record or create a new record in its contaminated land site register if it approves a new or significant modification (as defined by the *UPSS Regulation*) to an existing underground petroleum storage system.
8. Information contained in this register is to be used by Council in
  - a. furnishing contaminated land information required on section 10.7 planning certificates under the *EP&A Act*
  - b. determining the suitability of land for its proposed use
  - c. determining conditions of development consent so as to not increase the risk of harm, to human health and the environment, of an approved use of land.
9. Council will consider the potential for contamination of adjacent land in any process prescribed in section 6.3(8).
10. Council will update records in the contaminated land site register with:
  - a. information provided to it in relation to the (actual or potential) contamination status of land, including notifications, notices and orders, and reports on the assessment of site contamination
  - b. information obtained from Council's inspection and monitoring of contaminated sites and from the inspection of sites operating underground petroleum storage systems
  - c. information directly obtained by Council in land-use planning and development control processes from
    - i. EPA online databases, in relation to sites subject to an investigation order and/or regulation under the *CLM Act*
    - ii. SafeWork NSW, in relation to underground petroleum storage systems licensed under Schedule 11 of the *Workplace Health and Safety Regulation 2017*
    - iii. NSW Fair Trading, in relation to registered retail fuel service stations
    - iv. other sources of information used as input into an assessment of historical land use.
11. In lieu of a contaminated land site register, Council should identify and assess historical use of land using information identified in section 6.3(10)(c) in any process prescribed by section 6.3(8).

### SECTION 10.7 PLANNING CERTIFICATE

12. Council will furnish contaminated land information required on section 10.7(2) planning certificates including:
  - a. whether any adopted Council policy restricts the development of land subject to the planning certificate if Council knows or reasonably suspects land contamination
  - b. information prescribed by section 59(2) of the *CLM Act*
  - c. whether the land was or remains the subject of a preliminary investigation order under section 10(1)(a)–(b) of the *CLM Act*
  - d. whether the land is a remediation site
  - e. information on the potential of contamination of the land subject to the planning certificate due to its historical or current use. This information may be furnished using the annotations provided in Appendix 4 of this policy.
13. Council may furnish additional contaminated land information on section 10.7(5) planning certificates, including:
  - a. report(s) possessed by Council and identified in Appendix 3 relating to the assessment or regulation of site contamination of that land or adjacent land
  - b. a statement that the site has been assessed and/or remediated
  - c. a statement that any person relying on the certificate is advised to consider these artefacts and to seek Council's advice regarding further development of the site.

### 6.4. Council land-use planning function

1. Council will consider land contamination in land-use planning processes in accordance with processes, procedures and standards prescribed by the *Contaminated Land Planning Guidelines*.
2. Council will consider the potential for land to be contaminated when there is a proposed change in the permissible uses of that land.
3. Council will not include land in a zone that would permit a change of use of that land from the existing use unless:
  - a. Council has considered whether the land is contaminated
  - b. if the land is contaminated, Council is satisfied that the land is suitable in its contaminated state or can be made suitable for its proposed use after remediation, for all purposes for which land in the zone concerned is permitted to be used

## 6. CONTENT (CONT.)

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- c. if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, Council will impose conditions in development consent and approvals under Parts 4 and 5 of the *EP&A Act* to ensure the land is suitable for its proposed use through remediation prior to or during development works.

### INITIAL EVALUATION

4. Council will undertake an initial evaluation to investigate the potential for land contamination when preparing or making a planning instrument, development control plan or planning proposal (rezoning proposal) under Part 3 of the *EP&A Act*, using the potential land uses and activities listed in Appendix 2 as a guide in this evaluation.

### PRELIMINARY SITE INVESTIGATION

5. In alignment with *Local Planning Directions 4.4* ('Remediation of Contaminated Land'), Council will prepare and submit a preliminary site investigation report with a planning proposal if that proposal seeks to rezone land to a proposed use that is a sensitive receptor (as defined by this policy), and there is no knowledge (or incomplete knowledge) as to whether that and adjacent land involve a land use or activity listed in Appendix 2.
6. The preliminary site investigation is to be carried out in accordance with the requirements of relevant guidelines made or approved by the NSW EPA in alignment with the requirements of the *CLM Act*. The proponent is responsible for engaging a suitably qualified consultant to undertake this investigation.
7. Council will require a preliminary site investigation to be provided if it reasonably suspects, from an initial evaluation, that land may be contaminated because of the land's history (or historical zoning), condition or other information known to Council.
8. If the risk of contamination of land subject to a land-use planning process makes the land unsuitable for its proposed use, and it is not feasible to make the land suitable (that is, remediate the land) for its proposed use, Council will either:
  - a. restrict the range of permissible uses of that land in planning instruments
  - b. elect not to proceed with the planning proposal to rezone that land.
9. If the preliminary site investigation identifies that the land can be made suitable for its proposed use through remediation, Council will include provisions in its local environment plan or development control plan that ensure the potential for contamination and the suitability of land for any proposed use is further addressed prior to the development of that land.

## 6.5. Council development control function

### 6.5.1. Development assessment

1. In alignment with section 4.15(1)(c) of the *EP&A Act*, Council shall consider land contamination in subdivision and development applications, particularly when a change in land use is proposed. This is to ensure that contaminated land:
  - a. is suitable for its proposed use in its contaminated state
  - b. can be made suitable for its proposed use through remediation
  - c. presents no increased risk of harm to human health and the environment.
2. Council will undertake an initial evaluation to identify and consider the possibility of all forms of potential contamination based on an assessment of the historical or current use of that or adjacent land, particularly if the historical or current use is a use or activity listed in Appendix 2, and the proposed use is a sensitive receptor.
3. If the initial evaluation identifies a potential for land contamination then, in alignment with section 4.6(4) of the *Resilience and Hazards SEPP*, Council will initiate an assessment of site contamination (as prescribed in section 6.5.4 of this policy) to ascertain the nature and extent of contamination.

### 6.5.2. Exempt and complying development

1. Development must not be carried out on land designated as 'significantly contaminated land' within the meaning of the *CLM Act* for complying development specified for Codes identified in section 1.19 under Part 1 of the *Exempt and Complying Development Codes SEPP*.
2. During development work on land subject to a complying development certificate, if land contamination is detected or reasonably suspected, Council requires that:
  - a. all development work immediately cease
  - b. Council and the EPA be notified of the potential contamination
  - c. the notification be sent by the PCA or by the person who issued the complying development certificate.
3. Exempt development must not be carried out on land designated as 'significantly contaminated land' within the meaning of the *CLM Act*.

## 6. CONTENT (CONT.)

### 6.5.3. Development consent

1. Council will, under section 4.17 of the *EP&A Act*, impose conditions in development consent to ensure there is no increased risk of harm to human health and the environment associated with:
  - a. development works (including complying development) on land that is known to be or is potentially contaminated
  - b. onsite management of contaminants in soil, including
    - i. soil used as infill at a development site (that is, virgin excavated natural material)
    - ii. soil that may contain asbestos
    - iii. contaminated soil from remediation works
  - c. offsite management of contaminants in soil, including waste material generated during remediation for offsite processing (a waste classification report<sup>3</sup> must be provided prior to transporting waste material offsite)
  - d. the detection of contamination on land that is subject to a complying development certificate
  - e. the ongoing operation of an approved use of land that involves a land use or activity listed in Appendix 2.
2. Standard conditions prescribed by Council in development consent related to contaminated land are those either:
  - a. contained in the *Council Guidance on Implementing the Contaminated Land Policy* document
  - b. developed by the NSW Department of Planning and Environment and located in the NSW Planning Portal (voluntary contaminated land conditions)
  - c. developed by Council in accordance with the NSW Department of Planning and Environment's *Guide to Writing Conditions of Consent* and which align with the 'Newbury Test'.
3. Council can impose a condition of development consent that requires the applicant to:
  - a. prepare a report on the assessment of site contamination, and to submit this report to Council prior to issuance of a subdivision works or construction certificate
  - b. submit a validation report to Council prepared by a certified consultant prior to commencing development works, confirming the land has been made suitable through remediation for its proposed use, and whether any ongoing monitoring is required to manage residual site contamination

- c. prior to lodging a construction certificate, provide Council with the design specifications for a new or significantly modified underground petroleum storage system that was prepared by a 'duly qualified person' (within the meaning of the *UPSS Regulation*)
- d. prior to lodging an occupation certificate, provide Council with
  - i. works as executed plans related to the installation of new or significantly modified underground petroleum storage systems by a 'duly qualified person'
  - ii. a copy of the fuel system operation plan that has been prepared in accordance with the *UPSS Regulation*
- e. engage an accredited site auditor to review an assessment of site contamination and reports thereon, including a validation report. This is most appropriate for high-risk sites involving a change in land use to a sensitive receptor.

### 6.5.4. Assessment of site contamination

1. Council will require:
  - a. investigations on the nature and extent of land contamination to be undertaken by appropriately qualified contaminated land consultants
  - b. reports on these investigations to be prepared, or reviewed and approved by, an appropriately qualified and certified consultant in accordance with relevant guidelines made by the NSW EPA.

### PRELIMINARY SITE INVESTIGATION

2. If the initial evaluation identifies a potential for land contamination, then, in alignment with section 4.6(4) of the *Resilience and Hazards SEPP*, Council will require a preliminary site investigation to be submitted with a subdivision works or development application to carry out development where the land concerned is:
  - a. land that is within an investigation area (within the meaning of the *CLM Act*)
  - b. land on which development for a purpose listed in Appendix 2 is currently being, or is known to have been, carried out
  - c. to the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land
    - i. in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose listed in Appendix 2 has been carried out
    - ii. on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

<sup>3</sup> <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/contaminated-land/20p2233-consultants-reporting-on-contaminated-land-guidelines.pdf>

## 6. CONTENT (CONT.)

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3. Council will also require a preliminary site investigation when:
  - a. Council reasonably suspects the land is contaminated because of its historical use (or zone), its condition or other information known to Council
  - b. the land has been investigated and/or remediated, but there is insufficient information available to Council on the nature and extent of contamination and/or remediation works undertaken, or the circumstances have changed
  - c. there are restrictions on, or conditions attached to, the use of the land by a regulatory or planning authority that are or may be related to contamination, but there is insufficient information available to Council on the nature and extent of contamination
  - d. Council records show that the land is associated with pollution incidents or the illegal dumping of waste
  - e. the land is adjacent to land historically or currently being used for a purpose listed in Appendix 2, and Council reasonably suspects it is likely that this use may have contaminated the land subject to the preliminary site investigation
4. The preliminary site investigation is to be carried out in accordance with the requirements of relevant guidelines made or approved by the NSW EPA in alignment with the requirements of the *CLM Act*. The applicant is responsible for engaging a suitably qualified consultant to undertake this investigation.

### DETAILED SITE INVESTIGATION

5. Council will require a detailed site investigation to be undertaken when either:
  - a. the results of the preliminary site investigation state the potential for or existence of contamination that may not be suitable for the proposed use of the land
  - b. Council is not satisfied with the content and/or completeness of the preliminary site investigation.
6. Council may request the preliminary and detailed site investigations to be combined when the land is known to be contaminated.
7. The detailed site investigation is to be carried out in accordance with the requirements of relevant guidelines made or approved by the NSW EPA in alignment with the requirements of the *CLM Act*. The applicant is responsible for engaging a suitably qualified consultant to undertake this investigation.

8. A report on the detailed site investigation must include a statement as to whether the land is suitable for its proposed use or if remediation is necessary to make the land suitable for its proposed use. If remediation is required, the report must list the feasible remediation options available.

### REMEDIATION ACTION PLAN

9. A remediation action plan is to be provided to Council if the report on the preliminary or detailed site investigation states that the land is not suitable for its proposed use but can be made suitable through remediation.
10. Prior to determining a subdivision or development application, Council must be satisfied that remedial measures have been or will be undertaken in accordance with the remediation action plan lodged with Council.
11. A remediation action plan must identify, upon completion of remediation works, the need for ongoing land management due to residual contamination. This plan may also include an outline of the environmental management plan.

### VALIDATION REPORT

12. A validation report must be lodged with Council after remediation works have been completed.
13. Where applicable, Council will include a condition of development consent requiring this report to be provided to Council prior to issuance of the subdivision works or construction certificate.

### REMEDIATION WORKS

14. Remediation work that is ordinarily category 2 remediation work but which is ancillary to designated development that requires development consent under Part 4 of the *EP&A Act* and an environmental impact statement under Part 5 of the *EP&A Act* may, as an applicant chooses, either:
  - a. be made part of the subject of the development application for the designated development instead of being made the subject of a separate development application
  - b. be treated as category 2 remediation work, which does not require the consent of Council.
15. All remediation work must be consistent with the *Contaminated Land Planning Guidelines* and carried out in accordance with guidelines made or approved by NSW EPA as required by the *CLM Act*.
16. Council requirements regarding site management of remediation works are outlined in Appendix 5 and are required to be included in a remediation action plan.

## 6. CONTENT (CONT.)

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17. Council must be notified within 30 days of the completion of remediation works, in alignment with section 4.14(2) of the *Resilience and Hazards SEPP*. This notice is required to include:

- information prescribed in section 4.15 of the *Resilience and Hazards SEPP*
- a validation report.

### CATEGORY 1 REMEDIATION WORKS

18. Remediation work that requires development consent is category 1 remediation work. Category 1 remediation work is remediation work that is either:

- identified in section 4.8(a)–(f) of the *Resilience and Hazards SEPP*
- not being work to which section 4.11(b) of the *Resilience and Hazards SEPP* applies
- not carried out in accordance with the site management provisions outlined in Appendix 5.

### CATEGORY 2 REMEDIATION WORK

19. Remediation work that does not require development consent is category 2 remediation work. Section 4.11 of the *Resilience and Hazards SEPP* defines what constitutes category 2 remediation work.

20. Council must be notified of the intent to undertake category 2 remediation work at least 30 days before commencement. This notification is to include the information identified in section 4.13(3) of the *Resilience and Hazards SEPP*.

21. Council also requires the following information to be lodged 14 days before commencing these works:

- a copy of the preliminary site investigation report, detailed site investigation report and remediation action plan for these works
- a copy of the soil and water management plan, where applicable (that is, for the management of flooding and of contaminants in soil)
- the contact details of the contractor responsible for remediation works and of the party responsible for ensuring compliance of remediation work with all relevant regulatory requirements.

22. A validation report is to be submitted to Council upon the completion of category 2 remediation works.

23. For category 2 remediation works associated with underground petroleum storage systems, Council requires:

- if a storage system is to be decommissioned, that the person responsible for the storage system notify Council no later than 30 days before the storage system is decommissioned or removed, and that the notification include both

- a report on the assessment of site contamination, which is likely to be a report on the preliminary site investigation
- a remediation action plan

- if a storage system is decommissioned, that the person responsible for the storage system either
  - submit a site report (preliminary site investigation report) to Council no later than 60 days after the system is decommissioned
  - submit the site report and a validation report to Council if remediation of the site is required, and submit these 60 days after the completion of the remediation works
- if a storage system is to be modified and involves the removal or replacement of an underground petroleum storage tank, that the person responsible
  - not commission the modified underground petroleum storage system unless the reports prescribed by this clause are submitted to Council
  - submit an updated fuel system operation plan to Council
  - prepare, in accordance with guidelines made by the NSW EPA, the reports prescribed by this clause.

### SITE AUDIT

24. Specific circumstances that may trigger an independent review ('audit') of information pertaining to an assessment of site contamination (including reports thereon) include when Council either:

- reasonably suspects that information provided by the applicant is incorrect or incomplete
- needs to verify that information provided by the applicant adheres to appropriate standards, procedures and guidelines
- does not have the capacity to technically review reports on the assessment of site contamination.

25. A statutory site audit is required only when there is a requirement to demonstrate compliance with:

- a requirement under the *CLM Act*
- an approved voluntary management proposal
- a requirement imposed by at least one of the following
  - the *CLM Act*
  - the *Resilience and Hazards SEPP*
  - the *EP&A Act* (that is, development consent or any other approval under this Act)
- any other requirement imposed by or under a relevant Act.

## 6. CONTENT (CONT.)

26. Independent review ('audit') can be undertaken by a consultant with the necessary competencies and qualifications.
27. A statutory site audit must be undertaken by a site auditor accredited under the relevant provisions of the *CLM Act*.
28. For statutory site audits (within the meaning of the *CLM Act*), Council must be provided:
  - a. the site audit statement that outlines the conclusions of a site audit
  - b. the site audit report that summarises the information reviewed by the accredited site auditor.
29. Requirements of site auditors are prescribed in the relevant guidelines made by the NSW EPA on the site auditor scheme under the *CLM Act*.
30. Costs associated with an independent review or the site audit process are with the applicant.

**ENVIRONMENTAL MANAGEMENT PLAN**

31. An environmental management plan is required when either:
  - a. residual contamination on land requires ongoing management to manage the risk of harm to human health and the environment, especially when onsite containment of contamination is proposed or is in place
  - b. there are restrictions on the use of the land due to contamination.
32. An environmental management plan is to consider:
  - a. suitable management systems (active or passive)
  - b. potential for intrusive works, including any works arising from the maintenance of service infrastructure or exempt and complying development works
  - c. ecologically sustainable development
  - d. management of offsite contamination.
33. Council can, under section 4.17 of the *EP&A Act*, include a condition of development consent that requires an applicant to prepare and submit to Council an environmental management plan.
34. An environmental management plan is to be prepared in accordance with the requirements prescribed by the NSW EPA *Practice Note: Preparing Environmental Management Plans for Contaminated Land*.
35. An environmental management plan is to be prepared by an appropriately qualified contaminated land consultant and can be reviewed by an accredited site auditor. Environmental management plans prepared to comply with the *CLM Act* must be prepared, or reviewed and approved by, a contaminated land consultant who is certified under a certification scheme recognised by the NSW EPA.
36. Notations indicating that land is subject to an environmental management plan are required in:
  - a. section 10.7(2) and 10.7(5) planning certificates under the *EP&A Act*
  - b. covenants registered on a land title under section 88B of the *Conveyancing Act 1919*.
37. Provisions of environmental management plans must be legally enforceable. Council can rely on section 4.17 of the *EP&A Act* to include, as a condition of development consent, that an ongoing environmental management plan be prepared and may also consider orders under section 124 of the *Local Government Act 1993*.

### 6.5.5 Maintaining compliance with development consent

#### CONTAMINATED LAND

1. Council may monitor sites subject to an environmental management plan in accordance with any role or responsibility prescribed to it under that plan.
2. Council may monitor sites subject to remediation works to confirm that those works are undertaken in accordance with the site management provisions in Appendix 5.

#### UNDERGROUND PETROLEUM STORAGE SYSTEM

3. Council authorised officers may inspect and monitor these sites to ensure that the operation of underground petroleum storage systems maintains compliance with development consent and does not present an increased risk of harm to human health or the environment through site contamination (for example, through leaks and spills). The following are excluded:
  - a. sites with operational or abandoned underground petroleum storage systems licensed under Schedule 1 of the *POEO Act*
  - b. Council-owned or managed sites with operational or abandoned underground petroleum storage systems for which the NSW EPA is the ARA.
4. The inspection and monitoring of underground petroleum storage systems will focus on:
  - a. retail fuel service stations
  - b. fuel depots
  - c. multipurpose premises with retail fuel service (for example, general stores and post offices).

## 6. CONTENT (CONT.)

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5. Council monitoring of these sites will be proportionate to the risk of harm posed by the underground petroleum storage system, which is to be determined by Council as a function of:
  - a. the age of underground petroleum storage tanks
  - b. existence of an onsite fuel system operation plan
  - c. evidence of loss monitoring
  - d. evidence of leak detection
  - e. proximity to a sensitive receptor, which would also include both
    - i. irrigation channels for agricultural use
    - ii. the use of groundwater for potable water use.
6. Council may determine and/or amend the potential risk of harm for an individual underground petroleum storage system site using information obtained from any of the following:
  - a. an annual inspection
  - b. an inspection at a frequency commensurate with the determined risk of the site
  - c. an assessment of responses provided to the Council's survey of underground petroleum storage system sites by the person responsible for the underground petroleum storage system
  - d. a formal notification received by Council under Part 5.7 of the *POEO Act* in relation to a potential leak in the underground petroleum storage system
  - e. any other notification sent to Council regarding the operation or decommissioning of the underground petroleum storage system
  - f. notifications under sections 91 and 96 of the *POEO Act* in relation to clean-up and prevention notices, respectively
  - g. the finding of an abandoned underground petroleum storage tank on public or private land.
7. Artefacts generated from Council's inspection and monitoring of underground petroleum storage systems are to be kept in Council's electronic document and records management system and linked to Council's contaminated land site register and/or to Council's database of underground petroleum storage systems.

### 6.6. Duty to notify

1. Where Council considers that contamination on a site triggers the duty to report contamination under clause 60 of the *CLM Act*, and it is not clear whether or not the polluter or site owner has reported the contamination, Council may notify the EPA.
2. Where the land is under Council management and/or control, or Council is the polluter of land, Council will notify the EPA in accordance with clause 60 of the *CLM Act*.

### 6.7. Public land

1. Community or public land (or part thereof) under Council's control or management that is known to be contaminated will be managed so as to not increase the risk of harm to human health and the environment.<sup>4</sup>

### 6.8. Use of consultants

1. Contaminated land investigations will be undertaken by, and reports on these investigations are to be prepared, or reviewed and approved by, an appropriately qualified and certified consultant in accordance with relevant guidelines made by the NSW EPA.
2. The design and installation of underground petroleum storage systems will be undertaken by duly qualified persons within the meaning of the *UPSS Regulation*.

<sup>4</sup> <https://www.epa.nsw.gov.au/your-environment/contaminated-land/managing-contaminated-land/procedures-for-land-managers>

## 7. DOCUMENTATION

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This policy is supported by a range of capacity resources, documents, forms and templates that are either included or referred to in:

- **Appendix 1** – ‘Best Practice Resources on Managing Contaminated Land’ (including the *Council Guidance on Implementing the Contaminated Land Policy*) to assist and inform Council’s navigation of the contaminated land regulatory landscape
- **Appendix 2** – ‘Potential Land Uses and Activities That May Cause Site Contamination’
- **Appendix 3** – ‘Artefacts Generated in the Process of Managing Contaminated Land’
- **Appendix 4** – ‘Annotations for Section 10.7 Planning Certificates on Contaminated Land’
- **Appendix 5** – ‘Site Management Provisions for Remediation Works’.

## 8. AUTHORISATION

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<b>Owner</b>	<b>Directorate</b>	Input Directorate – Team Name
	<b>Responsible Officer</b>	Insert Officer Position
<b>Authorisation</b>	Insert ‘Approved Executive’ or ‘Adopted Council’ Include date approved/adopted	
<b>Review Date</b>	Insert date four years from last issue date, or earlier if required	
<b>Register</b>	Indicate if this policy is included in the public policy and procedure register.	
<b>Record of Amendments</b>	Insert date	Provide brief description of the change.
	Insert date	Provide brief description of the change.

## APPENDIX 1 Best practice resources on managing contaminated land

The resources listed in Table A1.1 below are based on *Managing Land Contamination: Planning Guidelines: SEPP55 – Remediation of Land (SEPP55 Guidelines)*, guidelines made or approved by the EPA and on resources developed by the EPA and other NSW councils. They have been updated, where applicable, to reflect changes in the regulatory landscape.

The resources are also provided for processes ancillary to managing contaminated land, including underground petroleum storage systems, onsite and offsite

management of contaminants (including waste material) in soil, and the selection of consultants, among other processes.

A draft revision of the *SEPP55 Guidelines* (that is, the *Contaminated Land Planning Guidelines*) was released by the NSW Department of Planning and Environment in 2018 but has yet to be finalised at the time of finalising the model policy. As already noted, the Contaminated Land Framework includes (where appropriate) elements of the draft guidelines.

**Table A1.1:** Best practice resources available to Council on managing contaminated land and underground petroleum storage systems

RESOURCE	AUTHOR	DESCRIPTION
<b>Assessment of Site Contamination Reports</b>	RAMJO-REROC, Ballina and Bathurst CRCB projects	A resource to assist Council to ascertain the completeness of the report and to assist in the interpretation and use of its content. Also includes checklists to provide Council with a degree of confidence and certainty on the report.
<b>Managing Offsite Transport of Soil</b>	Ballina, RAMJO-REROC and FNWJO CRCB projects	A resource outlining best practices in the offsite management of soil, including soil that includes waste materials generated during remediation, for offsite processing.
<b>Managing Asbestos in Development Control Processes</b>	FNWJO CRCB project	A resource for Council on managing asbestos in its operations. It is complementary to the Council Asbestos Management Policy.
<b>A Guide to Selecting a Consultant</b>	RAMJO-REROC and Ballina CRCB projects	An important resource for Council to identify the required competencies and qualifications of consultants for specific stages of the assessment of site contamination, in the design and installation of underground petroleum storage systems, and in managing asbestos.
<b>A Guide to Retail Service Station Owners on Managing UPSS Systems</b>	NSW EPA (updated by RAMJO-REROC and FNWJO CRCB projects)	A quick reference guide on the obligations of owners, operators and site managers of UPSS infrastructure. This guide is a retired NSW EPA resource that has since been updated by RAMJO and its collaborators.
<b>UPSS and Council ARA Responsibilities</b>	RAMJO-REROC CRCB project	A quick reference guide for Council on their responsibilities as the ARA regarding UPSS systems.
<b>Decommissioning an Underground Petroleum Storage Tank or System</b>	NSW EPA	A fact sheet for Council on the process to decommission an underground petroleum storage system.
<b>Statutory guidelines made or approved by the EPA</b>	NSW EPA	The NSW EPA has made or approved a range of statutory guidelines dealing with different types of contamination. These guidelines are to be considered by accredited site auditors, contaminated land consultants, and those with a duty to report contamination to the NSW EPA.
<b>Non-statutory guidelines made or approved by the EPA</b>	NSW EPA	The NSW EPA has made or approved a range of non-statutory guidance documents dealing with different types of contamination. These guidance documents are to be considered by accredited site auditors, contaminated land consultants, and those with a duty to report to the EPA.

**Note:** RAMJO = Riverina and Murray Joint Organisation; REROC = Riverina Eastern Regional Organisation of Councils; CRCB = Council Regional Capacity Building; FNWJO = Far North West Joint Organisation.

## APPENDIX 2 Potential land uses and activities that may cause site contamination

Information provided in this appendix is taken from the Department of Planning and Environment's draft *Contaminated Land Planning Guidelines*. This information relates to activities that may cause contamination, as well as industries and associated chemicals that may cause contamination. The coverage of activities, industries and associated chemicals are largely the same when compared to the corresponding table in the *SEPP55 Guidelines*. Differences are presented in *italics*.

The information in these tables is to be used as a guide by Council in an initial evaluation of the potential for site contamination. However, a conclusive find as to whether land is 'contaminated' or 'not contaminated' can only be determined after a preliminary site investigation or a detailed site investigation.

**Table A2.1:** Activities that may cause site contamination

Acid and alkali plant and formulation	Iron and steel work
Agricultural and horticultural activities	Landfill sites
Airports	Metal treatment
Asbestos production and disposal	Mining and extractive industries
Battery manufacture and recycling	Oil production and storage
Breweries and distilleries	Paint formulation and manufacture
Chemical manufacture and formulation	Pesticide manufacture, formulation and use
<i>Council depots</i>	Power stations
Defence works	Printing shops
Drum reconditioning works	Railway yards
Dry-cleaning	<i>Research institutions (laboratories)</i>
Electrical manufacturing (transformers, capacitors)	Scrap yards
Electroplating and heat treatment premises	Service stations and fuel storage facilities (depots)
Engine works	Sheep and cattle dips
Explosives industry	Smelting and refining
<i>Firefighting training and the use of firefighting foams</i>	Tanning and associated trades
Foundries	<i>Waste processing, storage and treatment</i>
Fuel storage	Water and sewerage treatment plants
Gas works	Wood preservation
<i>Hospitals</i>	

**Source:** Table 1 in Appendix 1 of the Department of Planning and Environment's draft *Contaminated Land Planning Guidelines*.  
The use of *italics* indicates an activity not identified in these guidelines but is known to cause site contamination.

**Table A2.2:** Industries and associated chemicals that may cause contamination

INDUSTRY OR ACTIVITY	MAIN CHEMICAL GROUP	ASSOCIATED CHEMICALS
Agricultural and horticultural activities		See – ‘chemical manufacture and use’ (‘fertiliser’, ‘fungicides’, ‘herbicides’ and ‘pesticides’).
Airports	Hydrocarbons	Aviation fuels (total petroleum hydrocarbons, kerosene), PFAS
	Metals	Particularly lead, aluminium, magnesium, chromium, chlorinated solvents
Asbestos production and disposal	Asbestos	Asbestos (bonded and fibrous). Be aware of assessments in areas of naturally occurring asbestos. <sup>1</sup>
Battery manufacture and recycling	Acids	Sulfuric acid
	Metals	Lead, manganese, zinc, cadmium, nickel, cobalt, mercury, silver, antimony
Breweries and distilleries	Alcohol	Ethanol, methanol, esters
Chemical manufacture and use	Acid and alkali	Mercury; chlorine (chloralkali process); sulfuric, hydrochloric and nitric acids; sodium and calcium hydroxides
	Adhesives and resins	Polyvinyl acetate, phenols, formaldehyde, acrylates, phthalates
	Drum reconditioning works	Chemicals, paints, resins, tars, adhesives, oils, fuels, solvents, drum residues
	Dyes	Chromium, titanium, cobalt, sulfur organic compounds, nitrogen organic compounds, sulfates, solvents
	Explosives	Acetone, nitric acid, ammonium nitrate, pentachlorophenol, ammonia, sulfuric acid, nitroglycerine, calcium cyanamide, lead, ethylene glycol, methanol, copper, aluminium, bis(2-ethylhexyl) adipate, dibutyl phthalate, sodium hydroxide, mercury, silver
	Fertiliser	Calcium phosphate, calcium sulfate, nitrates, ammonium sulfate, carbonates, potassium, copper, magnesium, molybdenum, boron, cadmium, arsenic
	Flocculants	Aluminium
	Foam production	Urethane, formaldehyde, styrene
	Fungicides	Carbamates, copper sulfate, copper chloride, sulfur, chromium, zinc

<sup>1</sup> <https://trade.maps.arcgis.com/apps/PublicInformation/index.html?appid=87434b6ec7dd4aba8cb664d8e646fb06>

INDUSTRY OR ACTIVITY	MAIN CHEMICAL GROUP	ASSOCIATED CHEMICALS
Chemical manufacture and use (cont.)	Herbicides	Ammonium thiocyanate, carbamates, organochlorines, organophosphates, arsenic, mercury, triazines
	Paints	<u>Heavy metals</u> – arsenic, barium, cadmium, chromium, cobalt, lead, manganese, mercury, selenium, zinc, titanium. <u>Solvents</u> – toluene oils, either natural (for example, pine oil) or synthetic, hydrocarbon
	Pesticides	<u>Active ingredients</u> – arsenic, lead, organochlorines, organophosphates, sodium tetraborate, carbamates, sulfur, synthetic pyrethroids. <u>Solvents</u> – xylenes, kerosene, methyl isobutyl ketone, amyl acetate, a wide range of chlorinated solvents
	Pharmaceutical	<u>Solvents</u> – acetone, cyclohexane, methylene chloride, ethyl acetate, butyl acetate, methanol, ethanol, isopropanol, butanol, pyridine methyl ethyl ketone, methyl isobutyl ketone, tetrahydrofuran
	Photography	Hydroquinone, sodium carbonate, sodium sulfite, potassium bromide, monomethyl para-aminophenol sulfate, ferricyanide, chromium, silver, thiocyanate, ammonium compounds, sulfur compounds, phosphate, phenylene diamine, ethyl alcohol, thiosulfates, formaldehyde
	Plastics	Sulfates, carbonates, cadmium, solvents, acrylates, phthalates, styrene
	Rubber	Carbon black
	Soaps, detergents	<u>General</u> – potassium compounds, phosphates, ammonia, alcohols, esters, sodium hydroxide, surfactants (sodium lauryl sulfate), silicate compounds. <u>Acids</u> – sulfuric acid and stearic acid <u>Oils</u> – palm, coconut, pine, tea tree
	Solvents	<u>General</u> – ammonia <u>Hydrocarbons</u> – for example, BTEX <u>Chlorinated organics</u> – for example, tetrachloroethene (perchloroethylene) trichloroethene, trichloroethane, dichloroethane, carbon tetrachloride, methylene chloride

INDUSTRY OR ACTIVITY	MAIN CHEMICAL GROUP	ASSOCIATED CHEMICALS
<i>Council depots</i>		Hydrocarbons, PAH, asbestos, heavy metals, pesticides, herbicides, <i>PFAS</i>
Defence works		Hydrocarbons, <i>PFAS</i> , asbestos See also – ‘chemical manufacture and use’ (‘explosives’), ‘foundries’, ‘engine works’, ‘service stations and fuel storage facilities (depots)’
Dry-cleaning	Chlorinated solvents	Tetrachloroethylene (perchloroethylene), trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride, white spirit (mixed hydrocarbons)
Electrical manufacturing	Solvents, metals	PCBs (transformers and capacitors), solvents, tin, lead, copper, mercury
Engine works	Hydrocarbons, metals, solvents, acids, alkalis, refrigerants	Refrigerants – chlorofluorocarbons, hydro chlorofluorocarbons, hydrofluorocarbons
	Antifreeze	Particularly aluminium, manganese, iron, copper, nickel, chromium, zinc, cadmium, lead, and oxides, chlorides, fluorides and sulfates of these metals
Foundries	Metals	Particularly aluminium, manganese, iron, copper, nickel, chromium zinc, cadmium, lead, and oxides, chlorides, fluorides and sulfates of these metals
<i>Firefighting training and the use of firefighting foam</i>	<i>PFAS</i>	Hydrocarbons, solvents, chlorinated solvents, inorganics
Gas works	Inorganics	Asbestos, ammonia, cyanide, nitrate, sulfide, thiocyanate, aluminium, antimony, arsenic, barium, cadmium, chromium, copper, iron, lead, manganese, mercury, nickel, selenium, silver, vanadium, zinc
	Organics	BTEX, phenolics, PAHs and coke
<i>Hospitals</i>	Waste	Asbestos, various
	Radioactive material	Diagnostic and therapeutic isotopes
Iron and steel work	Organics, metals	BTEX; phenolics; PAHs; metals and oxides of iron, nickel, copper, chromium, magnesium, manganese and graphite
Landfill sites	Gases, metals, organics	Methane, carbon dioxide, ammonia, sulfides, heavy metals, organic acids, hydrocarbons, asbestos
Marinas	Antifouling paints	Copper, tributyltin. See also – ‘engine works’, ‘metal treatments’ (‘electroplating’ metals)

INDUSTRY OR ACTIVITY	MAIN CHEMICAL GROUP	ASSOCIATED CHEMICALS
<b>Metal treatment</b>	Electroplating	<u>Metals</u> – nickel, chromium, zinc, aluminium, copper, lead, cadmium, tin. <u>Acids</u> – sulfuric, hydrochloric, nitric and phosphoric acids. <u>General</u> – sodium hydroxide, 1,1,1-trichloroethane, tetrachloroethylene, toluene, ethylene glycol, cyanide compounds
	Liquid carburising baths	Sodium, cyanide, barium, chloride, potassium chloride, sodium chloride, sodium carbonate, sodium cyanate
<b>Mining and extractive industries</b>		Arsenic, mercury and cyanides. See also – ‘chemical manufacture and use’ (‘explosives’). Aluminium, arsenic, copper, chromium, cobalt, lead, manganese, nickel, selenium, zinc and radio radionuclides. The list of heavy metals should be decided according to the composition of the deposit and known impurities. Consideration should be given to chemicals associated with any mineral processing that also occurred on the mine site. PFAS chemicals associated with firefighting equipment to protect mining infrastructure
<b>Oil production and storage</b>		See – ‘service stations and fuel storage facilities (depots)’
<b>Paint formulation and manufacture</b>		See – ‘chemical manufacture and use’ (‘paints’)
<b>Pesticide manufacture, formulation and use</b>		See – ‘chemical manufacture and use’ (‘pesticides’)
<b>Power stations</b>		Asbestos, PCBs, fly ash metals, water treatment chemicals
<b>Printing shops</b>		Acids, alkalis, solvents, chromium, trichloroethene, methyl ethyl ketone. See also – ‘chemical manufacture and use’ (‘photography’)
<b>Railway yards</b>		Hydrocarbons, asbestos, arsenic, phenolics (creosote), heavy metals, nitrates, ammonia
<b>Research Institutions (laboratories)</b>		Various, depending on the nature of work being carried out. A case-specific evaluation is required.
<b>Scrap yards</b>		Hydrocarbons, metals, solvents, asbestos

INDUSTRY OR ACTIVITY	MAIN CHEMICAL GROUP	ASSOCIATED CHEMICALS
<b>Service stations and fuel storage facilities (depots)</b>	Petroleum hydrocarbons, PAHs and lead	Aromatic hydrocarbons, BTEX, naphthalene, PAHs, phenols, lead
<b>Sheep and cattle dips</b>		Arsenic, organochlorines, organophosphates, carbamates, synthetic pyrethroids
<b>Smelting and refining</b>		Metals, fluorides, chlorides and oxides of copper, tin, silver, selenium lead, and aluminium
<b>Tanning and associated trades</b>	Various	<u>Metals</u> – chromium, manganese, aluminium <u>General</u> – ammonium sulfate, ammonia, ammonium nitrate, arsenic phenolics, formaldehyde, sulfide, tannic acid
<b>Water and sewerage treatment plants</b>	Metals and chemicals used in water treatment and wastewater and biosolids treatment	Aluminium, arsenic, cadmium, chromium, cobalt, lead, nickel, fluoride, lime, zinc
<b>Waste processing, storage and treatment</b>	Fire retardants, plastics	Polybrominated diphenyl ethers, PFAS, plasticisers
<b>Wood preservation</b>	Metals	Chromium, copper, arsenic, naphthalene, ammonia, pentachlorophenol, dibenzofuran, anthracene, biphenyl, ammonium sulfate, quinoline, boron, creosote, organochlorine pesticides

**Note:** PFAS = per- and polyfluoroalkyl substances; BTEX = benzene, toluene, ethylbenzene, xylene; PAH = polycyclic aromatic hydrocarbons; PCB = polychlorinated biphenyl.

**Source:** Table 2 in Appendix 1 of the Department of Planning and Environment's draft *Contaminated Land Planning Guidelines*. The use of *italics* indicates an activity not identified in these guidelines but is known to cause site contamination.

### APPENDIX 3 Potential land uses and activities that may cause site contamination

Table A3.1 lists artefacts either prepared by or for Council in a process to consider and assess site contamination. These artefacts should be retained in Council's electronic document and records management system and also linked to the respective record in Council's contaminated land site register.

These artefacts can also be provided with section 10.7 planning certificates under the *EP&A Act*.

**Table A3.1:** Artefacts generated in a process to assess site contamination

PROCESS	ARTEFACT	PREPARED BY	DESCRIPTION
Initial evaluation	Checklist	Council	To guide Council's consideration of the potential for site contamination.
Preliminary site investigation	Report on the preliminary site investigation	Consultant	Reports the possibility of potential contamination based on historical land use. It includes the development of the conceptual site model.
	Checklist	Council	Confirms whether the requirements of the investigation have been met.
Detailed site investigation	Report on the detailed site investigation	Consultant	Defines the extent and degree of contamination and assesses potential risks posed to health and the environment by contaminants. The investigation is also used to obtain sufficient information for the development of a remediation action plan if required.
	Checklist	Council	Confirms whether the requirements of the investigation have been met.
Remediation	Remediation action plan	Consultant	A plan that sets out remediation objectives and documents the proposed remediation process.
	Validation report	Consultant	Reports on whether the objectives for remediation and any conditions of development consent have been achieved.
Site audit	Site audit report	Consultant	A summary of information reviewed by the accredited site auditor.
	Site audit statement	Consultant	An outline of the conclusions of a site audit.
Environmental management plan		Consultant	Outlines the mitigation measures and/or monitoring requirements where the full clean-up of a site is not feasible or where onsite containment of contamination has been proposed.

Table A3.2 lists key artefacts generated in a process to regulate contaminated land and underground petroleum storage systems.

These artefacts should be retained in Council's electronic document and records management system, and also linked to the respective record in Council's contaminated land site register.

These artefacts may also be included on section 10.7 planning certificates under the *EP&A Act*.

**Table A3.2:** Artefacts generated in a process to regulate contaminated land and underground petroleum storage systems

PROCESS	ARTEFACT	PREPARED BY
EPA notices and orders under the <i>CLM Act</i>	Preliminary investigation order	EPA
	Significant contaminated land notice	EPA
	Management order	EPA
	Voluntary management proposal	Landowner, or person managing an activity that caused the site contamination
	Environmental management plan	EPA/landowner
	Revocation of orders under the <i>CLM Act</i>	EPA
Pollution prevention	Waste classification report	Person responsible for remediation
	UPSS inspection form	Council
	Contaminated land investigation form	Council
	<i>POEO Act</i> section 91 clean-up notice	Council/EPA
	<i>POEO Act</i> section 96 prevention notice	Council/EPA
	Leak notification under the <i>POEO Act</i> Part 5.7	Council / UPSS operator
	Fuel system operation plan	Council / UPSS operator
	Loss monitoring reports	Council / UPSS operator
	Leak detection reports	Council / UPSS operator
Decommissioning of a UPSS (category 2 remediation works)	Development application	
	Notifications (leak notification)	UPSS owner
	Validation report	Consultant
Information management	<i>POEO Act</i> section 192 and 193 requests for information	Council
	Survey of UPSS operators	Council
Compliance	Penalty infringement notices	Council

**Note:** UPSS = underground petroleum storage system.

## APPENDIX 4 Annotations for section 10.7 planning certificates on contaminated land

Council is required to include contaminated land information on section 10.7 planning certificates. This requirement is anchored in:

- the *EP&A Act*
- section 10.7(2), as elaborated by the *Environmental Planning and Assessment Regulation 2021*
- section 10.7(5), in relation to advice on other matters affecting the land
- section 10.7(6), in relation to furnishing of contaminated land information in good faith with Schedule 6 of the *EP&A Act*
- section 10(1) in schedule 2 of the *Environmental Planning and Assessment Regulation 2021* in relation to whether an adopted Council policy restricts the development of land because of site contamination

- the *CLM Act*
- section 10(1)(a)–(b), in relation to preliminary investigation orders issued by the EPA for the land
- section 44, in relation to the EPA's repeal or revoking of orders and notices issued under section 10 of the *CLM Act*
- section 59(2), in relation to matters that are to be included in section 10.7 planning certificates.

The information required to be included on a planning certificate is outlined in Table A4.1. Council must note that information prescribed under section 59(2) of the *CLM Act* pertains to land that 'is' subject – not 'was' subject – to the prescribed regulatory processes. However, Council can elect to include this historical information on planning certificates in accordance with its *Contaminated Land Policy*.

**Table A4.1:** Contaminated land information required on section 10.7 planning certificates

PLANNING CERTIFICATE	CONTAMINATED LAND INFORMATION
<b>Section 10.7(2)</b>	<p>A statement that Council has adopted a policy to restrict the development of land because of the actual or potential likelihood of that land being contaminated.</p> <p>See Table A4.2 for annotations that Council can use.</p>
	<p>At the date of issue of the planning certificate, a statement that the land to which the planning certificate relates is:</p> <ul style="list-style-type: none"> <li>• significantly contaminated land within the meaning of the <i>CLM Act</i>, including whether only part or all of the land is significantly contaminated</li> <li>• subject to a management order under the <i>CLM Act</i></li> <li>• the subject of an approved voluntary management proposal under the <i>CLM Act</i></li> <li>• subject to an ongoing maintenance order under the <i>CLM Act</i></li> <li>• the subject of a site audit statement under the <i>CLM Act</i>.</li> </ul>
	<p>Council may elect to include information on the potential of site contamination because the historical use of that land is known or reasonably suspected by Council to be an activity identified in Appendix 2.</p> <p>See Table A4.2 for annotations that Council can use.</p>
<b>Section 10.7(5)</b>	<p>Information provided on section 10.7(2) planning certificates and additional information Council may elect to disclose pertaining to the actual or potential contamination of the land.</p> <p>See Table A4.2 for annotations that Council can use.</p>

**Table A4.2:** Annotations for additional information on section 10.7 planning certificates for land that is or may be contaminated

SITUATION	ANNOTATION
<p>Council has identified that the land:</p> <ul style="list-style-type: none"> <li>has a previous land-use history that could have involved the use of contaminants on the site (for example, the land may have been used for an activity listed in Appendix 2)</li> <li>is known to be contaminated but has not been remediated.</li> </ul>	<p>'Council has adopted by resolution a policy on contaminated land that may restrict the development of the land.</p> <p>This policy is implemented when zoning or land-use changes are proposed on lands that have previously been used for certain purposes.</p> <p>Consideration of Council's adopted policy and the application of provisions under relevant State legislation is warranted.'</p>
<p>Council has identified that the land is known to contain contaminants but that it has been remediated for a particular use or range of uses, and some contamination remains on the site (for example, encapsulated).</p>	<p>'Council has adopted by resolution a policy on contaminated land that may restrict the development of the land.</p> <p>This policy is implemented when zoning or land-use changes are proposed on lands that are considered to be contaminated or on lands that have been remediated for a specific use.</p> <p>Consideration of Council's adopted policy and the application of provisions under relevant State legislation is warranted.'</p>
<p>Council records do not contain a clear site history without significant gaps in information, and Council cannot determine whether the land is contaminated and, therefore, the extent to which Council's policy should apply.</p>	<p>'Council has adopted by resolution a policy on contaminated land that may restrict the development of the land.</p> <p>This policy is implemented when zoning or land-use changes are proposed on lands that have previously been used for certain purposes. Council records do not have sufficient information about the previous use of this land to determine whether the land is contaminated.</p> <p>Consideration of Council's adopted policy and the application of provisions under relevant state legislation is warranted.'</p>

**Note:** The information in this table applies where Council has adopted a policy to restrict the development of land because of the actual or potential likelihood of that land being contaminated.

## APPENDIX 5 Site management provisions for remediation works

Council can impose site management provisions for proposed remediation works. Council will request that these provisions be included in a remediation action plan that is to be lodged to Council prior to commencing these works. Council will require remediation works to be carried out in accordance with the remediation action plan.

The site management provisions listed in Table A5.1 are taken from the *Resilience and Hazards SEPP* and amended to reflect best practice site management, as included in the draft *Contaminated Land Planning Guidelines* and in other Council contaminated land policies.

Remediation work must comply with the requirements of the:

- *CLM Act*
- *Contaminated Land Planning Guidelines*
- *Resilience and Hazards SEPP*
- *POEO Act*.

Council will also require the validation report to be lodged with Council within 60 days of the completion of remediation works and, where applicable, prior to the issuance of a subdivision or construction certificate.

**Table A5.1:** Site management provisions to be included in a remediation action plan

PARAMETER	PROVISION TO BE INCLUDED IN A REMEDIATION ACTION PLAN
Air quality	<p>Emissions of dust, odour and fumes from a remediation site are to be appropriately controlled and in accordance with relevant regulations and guidelines made or approved by the EPA.</p> <p>These may include but are not limited to:</p> <ul style="list-style-type: none"> <li>• ensuring no onsite burning of material</li> <li>• maintaining equipment in a functional manner to minimise exhaust emissions</li> <li>• covering vehicles transporting soil (including contaminated soil) and/or infill onsite or offsite</li> <li>• establishing dust suppression and control measures to minimise windborne emissions of dust, having regard to site-specific wind conditions</li> <li>• monitoring and managing odours, including the use of a hydrocarbon mitigating agent on the impacted areas and materials</li> <li>• covering stockpiles of contaminated soil that remain onsite for more than 24 hours (see 'stockpiles' for additional provisions)</li> <li>• regularly monitoring air quality throughout remediation work.</li> </ul>
Bunding	<p>Any areas used for remediation or the stockpiling of construction materials or contaminated soils shall be controlled to contain surface water run-off and run-on and be designed and constructed so as to prevent the leaching of contaminants into the subsurface or groundwater.</p> <p>Locate stockpiles and construction materials away from drainage lines and provide bunding of disturbed areas and excavations to prevent run-off to waterways or stormwater where necessary.</p> <p>All surface water discharges from the bunded areas to Council's stormwater system shall not contain detectable levels of the contaminants of concern and must comply with the relevant EPA and ANZECC standards for water quality.</p> <p>Any discharge must satisfy the provisions of the <i>POEO Act</i>.</p>

## (CONT.)

PARAMETER	PROVISION TO BE INCLUDED IN A REMEDIATION ACTION PLAN
<b>Capping or containment of contaminated soil</b>	<p>Capping of contaminated soil should occur only after alternative remediation works have been investigated, particularly in urban zoning or areas identified as future growth in Council's local environment plan or development control plan.</p> <p>Contaminated soil is only permitted to be capped if it does not prevent any permitted use of the land and if it can be demonstrated that there will be no ongoing impacts on human or environmental health.</p> <p>Capping of contaminated soil that exceeds zoning permissible levels is classified as category 1 remediation work and may only be permitted with development consent.</p> <p>The soil investigation levels for urban redevelopment in NSW are contained in <i>National Environment Protection (Assessment of Site Contamination) Measure 1999</i> (as amended).</p> <p>Where the proposed remediation involves the onsite containment of contaminated material, the need for a continuing monitoring program should be assessed by both the applicant's consultants and Council. To ensure that future owners of the site are aware of the contaminated material and any ongoing maintenance and monitoring, Council may impose a consent condition on any subsequent development application for the subject site, requiring a covenant to be registered on the title of the land that gives notice of the existence of onsite containment of the contaminated soil. The covenant may also bind the owners or any future owners to the responsibility of ongoing monitoring and maintenance (as described in an environmental management plan) and any future remediation works required.</p> <p>Records of any maintenance undertaken on the site shall be kept for future reference and provided to Council annually.</p> <p>The cost of preparing the covenant is borne by the applicant.</p>
<b>Consultants</b>	<p>Ensure consultants (or contractors) undertaking the remediation works have the required competencies and qualifications.</p> <p>Remediation work requiring validation by a site auditor (that is, a statutory site audit) must use a site auditor accredited under Part 4 of the <i>CLM Act</i>.</p> <p>Validation of remediation work that is not a statutory site audit is to be undertaken by a consultant with the necessary competencies and qualifications.</p>
<b>Consultation</b>	<p>Written notification to adjoining owners and occupants is to occur at least two days prior to commencing remediation works.</p> <p>This notification is to include:</p> <ul style="list-style-type: none"> <li>• the estimated length of remediation work</li> <li>• the hours of remediation work</li> <li>• the contact details of the site manager.</li> </ul> <p>Signage visible from the road and adjacent to site access is to display the site manager and remediation contractor contact details for the duration of the works.</p>

## (CONT.)

PARAMETER	PROVISION TO BE INCLUDED IN A REMEDIATION ACTION PLAN
<b>Decommissioning of underground petroleum storage systems</b>	<p>The removal of all UPSSs is to be undertaken in accordance with the:</p> <ul style="list-style-type: none"> <li>• <i>UPSS Regulations</i></li> <li>• SafeWork NSW requirements</li> <li>• <i>Australian Standard AS 4976-2008: The Removal and Disposal of Underground Petroleum Storage Tanks.</i></li> </ul> <p>Decommissioning of an underground petroleum storage tank or system must be undertaken by a duly qualified person who holds a demolition licence from SafeWork NSW and is competent and experienced in the task.</p> <p>Following the removal of an underground petroleum storage tank or system, the site area, which includes bowser lines and fuel lines, shall be assessed, remediated if need be and validated in accordance with the requirements above and with guidelines made or approved by the NSW EPA.</p> <p>All documents must be submitted to Council, including (but not limited to) a validation report (or tank pit validation) prepared in accordance with relevant guidelines made or approved by the EPA.</p>
<b>Erosion and sediment control</b>	<p>An erosion and sediment control plan (ESCP) is to be prepared and submitted to Council for approval prior to commencing remediation works.</p> <p>The ESCP is to be developed with regard to the requirements detailed in Council's <i>Soil and Water Management Policy</i> and Council's <i>Engineering Guidelines and Technical Specifications</i> and must include leachate collection and disposal.</p> <p>Sediment control structures shall be provided to prevent sediment from entering drainage systems, particularly where surfaces are exposed or where soil is stockpiled.</p> <p>All erosion and sediment control measures must be maintained in a functional condition throughout the remediation works.</p> <p>Vehicles are to be cleaned prior to leaving the site.</p> <p>Also see – 'soil and water management' for related provisions.</p>
<b>Hazardous material</b>	<p>Hazardous and industrial wastes arising from the remediation work shall be removed and disposed of in accordance with the requirements of the NSW EPA and SafeWork NSW, together with the:</p> <ul style="list-style-type: none"> <li>• <i>Workplace Health and Safety Act 2011</i></li> <li>• <i>Workplace Health and Safety Regulation 2017</i></li> <li>• <i>CLM Act</i> and subordinate regulations</li> <li>• <i>Environmentally Hazardous Chemicals Act 1985</i> and subordinate regulations.</li> </ul> <p>Under the <i>POEO Act</i>, the transportation of Schedule 1 hazardous waste is a scheduled activity and thereby required by the EPA to be carried out by a transporter licensed by the NSW EPA.</p> <p>Also see – 'waste' for additional related site management provisions.</p>
<b>Health and safety</b>	<p>All works associated with remediation works must comply with workplace health and safety legislation and other applicable SafeWork NSW requirements.</p> <p>This requires:</p> <ul style="list-style-type: none"> <li>• the preparation of a health and safety plan</li> <li>• site fencing, public safety warning signs and security surveillance (where applicable) to be established for the remediation site.</li> </ul>

## (CONT.)

PARAMETER	PROVISION TO BE INCLUDED IN A REMEDIATION ACTION PLAN
<b>Hours of work</b>	<p>All remediation work (including the delivery and removal of materials or equipment) shall be limited to the following hours of work (unless through an alternative mutual agreement in writing with Council):</p> <ul style="list-style-type: none"> <li>• Monday to Saturday – 7.00 am to 5.00 pm</li> <li>• Sunday and Public Holidays – no remediation work is permitted</li> </ul> <p>Note: The hours of work listed above are in accordance with the <i>Exempt and Complying Development Codes SEPP</i>.</p>
<b>Importation of infill</b>	<p>All fill imported to the site shall be validated as virgin excavated natural material as defined in the <i>POEO Act</i> to ensure that it is:</p> <ul style="list-style-type: none"> <li>• suitable for the proposed land use from a contamination perspective</li> <li>• compatible with the existing soil characteristics for site drainage purposes.</li> </ul> <p>Council may, in certain instances, require the details of the appropriate validation of imported fill material to be submitted with any application for the future development of the site. Hence, all fill imported onto a site is to be validated by one or both of the following methods during remediation works:</p> <ul style="list-style-type: none"> <li>• Imported fill should be accompanied by documentation from the supplier that certifies that the material is not contaminated, based upon analyses of the material or the known past history of the site where the material is obtained.</li> <li>• Sampling and analysis of the fill material should be conducted in accordance with the <i>NSW EPA Sampling Design Guidelines</i> to ensure that the material is not contaminated.</li> </ul> <p>Fill should be imported and exported in accordance with the provision of a virgin excavated natural material exemption or an NSW resource recovery order and exemption.</p> <p>Fill is permitted for use provided that it:</p> <ul style="list-style-type: none"> <li>• is not itself contaminated, particularly with waste material (including asbestos)</li> <li>• is weed and pest free</li> <li>• is compatible with the existing soil characteristics so as not to adversely affect site drainage.</li> </ul>
<b>Landscaping and rehabilitation</b>	<p>The remediation work site must be stabilised to ensure that no offsite impacts occur on the site after completion. This requires:</p> <ul style="list-style-type: none"> <li>• the preparation of a landscaping plan</li> <li>• landscaping of the site in accordance with the landscape plan</li> <li>• the progressive stabilisation and revegetation of disturbed areas in accordance with the landscape plan.</li> </ul> <p>There shall be no removal or disturbance to trees or native understorey without prior written consent obtained through Council's tree preservation order process.</p> <p>All trees that will be retained on the site must be suitably protected from damage during remediation works. This includes the provision of protective fencing to protect the root zone of these trees. The fencing must extend, at a minimum, to the drip line of each tree.</p> <p>No stockpiling, storage, excavation, vehicle parking or vehicle movement is to occur within the root zone protection area. Tree protection fencing must remain in place until the end of remediation works.</p> <p>All exposed areas shall be progressively stabilised and revegetated upon the completion of remediation works.</p>

## (CONT.)

PARAMETER	PROVISION TO BE INCLUDED IN A REMEDIATION ACTION PLAN
<b>Noise and vibrations</b>	<p>Any noise and vibrations from the site shall be limited by complying with the NSW EPA's <i>Noise Policy for Industry</i> (2017) and the <i>Interim Construction Noise Guideline</i>.</p> <p>All equipment and machinery shall be operated in an efficient manner to minimise noise from the site on adjoining properties, including (when necessary) ensuring that plant equipment noise is suppressed.</p> <p>The use of any plant or machinery shall not, on any premises, cause vibrations in excess of the relevant NSW EPA guidelines and Australian Standards.</p>
<b>Rodents and vermin</b>	<p>Rodents and vermin are to be adequately controlled and disposed of in an environmentally appropriate manner.</p>
<b>Site access and vehicle use</b>	<p>Vehicle access to the site shall be designated to prevent the tracking of sediment onto public roadways and footpaths. Soil, earth, mud or similar material must be removed from the roadway by sweeping, shovelling or a means other than washing on a daily basis or as required by an appropriate authority. Soil residue from vehicle wheels shall be collected and disposed of in an appropriate manner.</p> <p>All vehicles are to:</p> <ul style="list-style-type: none"> <li>• enter and exit the site in a forward motion</li> <li>• comply with all road rules, including vehicle weight limits</li> <li>• minimise the use of local roads by using state roads where available</li> <li>• be cleaned pre-work and post-work to prevent the movement of weed seeds</li> <li>• have all loads securely covered or sealed to prevent the release of any dust, fumes, soil or liquid emissions during transportation</li> <li>• conduct deliveries of soil, materials, equipment or machinery during the hours of remediation work (see 'hours of work').</li> </ul>
<b>Site security and lighting</b>	<p>The site shall be secured to ensure against all unauthorised access by using appropriate fencing.</p> <p>It is recommended that security lighting be used to deter unauthorised access. If security lighting is used, it shall be shielded to protect the amenity of adjoining landowners.</p>
<b>Soil and water management</b>	<p>All remediation works shall be conducted in accordance with a site-specific soil and water management plan prepared in accordance with the requirements of LANDCOM's <i>Managing Urban Stormwater: Soils and Construction</i>.<sup>1</sup></p> <p>The plan should aim to segregate and manage both contaminated and non-contaminated areas in a manner that minimises the potential dispersal of contaminants and any cross-contamination of contaminated and non-contaminated materials. In some cases, standard erosion and sediment control requirements will be inadequate for managing contaminated soils and water.</p> <p>Where remediation work involves the excavation of soil, the person responsible for the remediation work shall consult Council's flood mapping. Where works are proposed to be undertaken within an area identified by Council as having the potential to be impacted by flood waters (that is, inundation), such works shall be undertaken in alignment with the responsive actions for such potential site inundation as described in the site-specific soil and water management plan.</p> <p>A copy of the remediation action plan and the soil and water management plan shall be kept onsite and made available to Council officers on request.</p> <p>Soil and water management measures for remediation work in relation to stockpiles, site access, excavation pump-out, landscaping and rehabilitation, and bunding are discussed elsewhere in this table.</p> <p>See – 'erosion and sediment control' for related provisions.</p>

<sup>1</sup> <https://www.environment.nsw.gov.au/research-and-publications/publications-search/managing-urban-stormwater-soils-and-construction-volume-1-4th-edition>

## (CONT.)

PARAMETER	PROVISION TO BE INCLUDED IN A REMEDIATION ACTION PLAN
<b>Stockpiles</b>	<p>No stockpiles of soil or other materials shall be placed on public land (for example, footpaths, reserves or nature strips).</p> <p>All stockpiles shall be placed away from drainage lines, gutters or stormwater pits or inlets. All stockpiles of soil or other material shall be maintained to prevent dust, odours or seepage. All stockpiles of contaminated soils shall be secured to prevent dust, odour or seepage if being stored for more than 24 hours.</p> <p>Stockpiling of contaminated materials requires special measures to manage the generation of leachate, run-off, vapours, odours and airborne particulates.</p> <p>Store any temporary stockpiles of contaminated soil in a secure area.</p>
<b>Unexpected finds during remediation works</b>	<p>Council is required to be notified of any new information that comes to light during remediation works that has the potential to alter previous conclusions regarding site contamination.</p>
<b>Validation report</b>	<p>The validation report is to be prepared in accordance with relevant guidelines made by the NSW EPA.</p> <p>A copy of the validation report is to be provided to Council within 60 days of completing the remediation works and prior to commencing development works at the site.</p> <p>The validation report is to:</p> <ul style="list-style-type: none"> <li>contain a copy of any reports or records taken during remediation or following the completion of validation works</li> <li>contain a validation statement detailing that all works have been undertaken and completed satisfactorily and in accordance with relevant guidelines made or approved by the EPA</li> <li>demonstrate that the objectives of the remediation action plan have been achieved, any conditions of development consent have been complied with and whether any further remediation work or restrictions on land use are required</li> <li>provide evidence confirming that all NSW EPA, SafeWork NSW and other regulatory authorities' license conditions, approvals and/or regulatory requirements have been met, including in respect of managing contaminated soil and other waste material generated by the remediation works</li> <li>identify the need for continued monitoring in situations where clean-up is not feasible or onsite containment has occurred</li> <li>state the suitability of the site for its current or proposed use.</li> </ul> <p>Successful validation is the statistical confirmation that the remediated site complies with the clean-up criteria set for the site.</p> <p>The full cost of the validation is borne by the applicant.</p>
<b>Vertical mixing (on agricultural land)</b>	<p><i>The Guidelines for the Vertical Mixing of Soil on Former Broad-Acre Agricultural Land</i> relates to the remediation of large agriculture properties with low-level but broad-spread contamination.</p> <p>The relevant NSW EPA guidelines are not designed or suitable for use in the remediation of contamination, including lead contamination, on small allotments. Therefore, Council will not support remediation action plans relying on this methodology, and an alternative remediation methodology shall be used for small allotments.</p>

## (CONT.)

PARAMETER	PROVISION TO BE INCLUDED IN A REMEDIATION ACTION PLAN
<b>Waste</b>	<p>If contaminated soil and other waste material generated by the remediation works are to be treated and managed onsite, the treatment and management of each is to be in accordance with relevant guidelines made or approved by the EPA.</p> <p>If contaminated soil and other waste material generated by the remediation works are to be removed from the site, then this must be in accordance with the POEO Act and its waste regulation. This includes:</p> <ul style="list-style-type: none"> <li>• the preparation of a waste management plan</li> <li>• that the waste classification process complies with the <i>Protection of the Environment Operations (Waste) Regulation 2014</i> and is undertaken by an appropriately qualified consultant</li> <li>• record-keeping for waste going to a licensed landfill or a resource recovery facility regarding <ul style="list-style-type: none"> <li>◦ how the waste is to be treated and transported</li> <li>◦ evidence that the landfill is licensed to accept this waste</li> </ul> </li> <li>• the requirement that transport of the waste to or from a site must be by a licensed waste transport contractor.</li> </ul> <p>Any enquiries associated with the offsite disposal of waste from a contaminated site should be referred to the EPA helpline (phone 131 555).</p> <p>If contaminated soil or other waste generated by the remediation works is to be transported to Council's landfill or waste management facility:</p> <ul style="list-style-type: none"> <li>• Council's Waste Management Facility only accepts waste in accordance with its Environment Protection Licence (number XXXX).</li> <li>• Section L5 Waste requires that waste be general solid waste. Analysis of the contaminated soil is to be undertaken to verify that the waste is general solid waste.</li> <li>• All documentation is to be provided to Council's Waste Management Team and approved prior to the waste entering the landfill.</li> </ul> <p>See – 'hazardous material' for related site management provisions.</p>
<b>Water quality: dewatering – excavation and groundwater pump-out</b>	<p>Only clean and unpolluted waters are to be discharged to Council's stormwater system or any watercourse. Any discharge must satisfy the provisions of the POEO Act.</p> <p>Prior to any dewatering commencing, a dewatering management plan shall be submitted to Council.</p> <p>All pump-out water must be analysed for concentrations of suspended solids, pH and any contaminants of concern. The analytical results must comply with the relevant NSW EPA and ANZECC standards for the quality of water discharged to stormwater.</p> <p>If necessary, the water shall be treated prior to discharge.</p> <p>If the water quality does not comply with the identified criteria, then it cannot be discharged to stormwater. Alternative arrangements for the disposal of water shall be provided, if necessary (for example, offsite disposal by a licensed liquid waste transporter for treatment or disposal at an appropriate waste treatment or processing facility).</p> <p>Dewatering may require a licence from the NSW Office of Water.</p>
<b>Water quality: groundwater</b>	<p>Any contamination assessment, carried out in accordance with the requirements of the relevant guidelines made or approved by NSW EPA in accordance with the CLM Act, shall address the potential for contamination of groundwater at the site.</p> <p>Any work below the water table may require a licence from the NSW Office of Water. Such works include bores for water supply, testing and monitoring, and any dewatering or extraction.</p> <p>If the groundwater at the site is found to be contaminated, then Council, the NSW Office of Water and the NSW EPA are to be notified.</p>

**Note:** ANZECC = Australian and New Zealand Environment and Conservation Council; UPSS = underground petroleum storage system; ESCP = erosion and sediment control plan.

**8.4.3 DA2023/101 - 6 PINKERTON LANE, COOTAMUNDRA**

DOCUMENT NUMBER	404003
REPORTING OFFICER	Lauren Dawes, Senior Building Surveyor
AUTHORISING OFFICER	Paul Woods, Interim Deputy General Manager - CCD
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>2. A region for the future</b>  2.2 A thriving region that attracts people to live, work and visit</p> <p><b>3. Protected and enhanced environment</b>  3.1 A natural environment is valued and protected</p>
FINANCIAL IMPLICATIONS	There are no financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	1. Development Assessment Report - DA2023/101 - 6 Pinkerton Lane, Cootamundra <a href="#">Download</a>

**RECOMMENDATION**

That Council issue Deferred Commencement Approval for the following development subject to the consent conditions below:

- **Application No: DA2023/101**
- **Property: Lot: 1 DP: 1296902, 6 Pinkerton Lane, Cootamundra**
- **Erection of a new shed ancillary to existing dwelling and continued use of carport (erected without consent) ancillary to existing dwelling.**

**DEFERRED COMMENCEMENT CONDITION**

This consent does not operate and may not be acted on until the consent authority is satisfied of the following matter(s):

Testing of the imported fill on which the shed is proposed to be located has been undertaken and shows the material is:

- a) Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*; or
- b) a material identified as being subject to a resource recovery exemption by the NSW EPA; or
- c) a combination of Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* and a material identified as being subject to a resource recovery exemption by the NSW EPA.

Evidence of the above relevant matter(s) must be produced to the consent authority, within 366 days of the date of the determination, otherwise the consent will lapse.

Under section 88(3) of the EP&A Regulation, the consent authority will notify you in writing if the matters above have been satisfied and the date from which this consent operates.

The conditions of development consent below apply from the date that this consent operates.

**General Conditions**

**1 Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989**

1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.
2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.
3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia.
4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.
5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.
6. This section does not apply—
  - a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or
  - b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.

**Condition reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.**

**2 Erection of signs**

1. This section applies to a development consent for development involving building work, subdivision work or demolition work.
2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out—
  - a. showing the name, address and telephone number of the principal certifier for the work, and
  - b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.
3. The sign must be—
  - a. maintained while the building work, subdivision work or demolition work is being carried out, and
  - b. removed when the work has been completed.

4. This section does not apply in relation to—

- a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
- b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.

3 Notification of Home Building Act 1989 requirements

- 1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council.
- 2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following—
  - a. for work that requires a principal contractor to be appointed—
    - i. the name and licence number of the principal contractor, and
    - ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,
  - b. for work to be carried out by an owner-builder—
    - i. the name of the owner-builder, and
    - ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989—the number of the owner-builder permit.
- 3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.
- 4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

Condition reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.

4 Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
A.01	C	Site Plan	DA Busters	21/09/2023 received by council 30/11/2023
-	B	Carport Plans	DA Busters	30/11/2023
-	-	Shed Plan and Elevations	Shed Tech	24/03/2023

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

**Condition reason:** To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

**Before building work commences**

**5 Appointment of a Principal Certifier**

**Prior to the commencement of any construction works, the person having benefit of this Development Consent must appoint a Principal Certifier.**

**Condition reason:** To ensure legislative requirements are met.

**6 Construction Certificate**

**A Construction Certificate must be submitted and approved by a nominated Certifier prior to any building works taking place on the subject site. The Construction Certificate must be lodged via the NSW Planning Portal.**

**Condition reason:** To ensure compliance with the requirements of the Environmental Planning and Assessment Regulation 2021.

**7 Erosion and sediment controls in place**

**Before any site work commences, the Principal Certifier, must be satisfied that erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).**

**Condition reason:** To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

**8 Notice of intention to commence building work**

**The proponent must give the Principal Certifier at least 2 days notice of their intention to commence building works. The notice of intention to commence building works must be lodged on the NSW Planning Portal in accordance with Section 6.6 of Environmental Planning and Assessment Act 1979 and Section 59 of Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.**

**Condition reason:** To ensure legislative requirements are met

**9 Underground Services**

**The proponent shall locate and identify all existing underground services prior to commencement of works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.**

**Condition reason:** To ensure the utility services are protected and satisfactory for the proposed development.

**During building work**

**10 Discovery of relics and Aboriginal objects**

**While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:**

- a. the work in the area of the discovery must cease immediately;**
- b. the following must be notified**
  - i. for a relic – the Heritage Council; or**

- ii. for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the *National Parks and Wildlife Act 1974*, section 85.

Site work may recommence at a time confirmed in writing by:

- a. for a relic – the Heritage Council; or
- b. for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the *National Parks and Wildlife Act 1974*, section 85.

Condition reason: To ensure the protection of objects of potential significance during works.

#### 11 Procedure for critical stage inspections

While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.

Condition reason: To require approval to proceed with building work following each critical stage inspection.

#### 12 Approved Plans

A copy of the endorsed plans, specifications, development consent, the construction certificate and any other certificates to be relied upon shall be available on site at all times during construction.

Condition reason: To ensure compliance with relevant plans and approvals

#### 13 Deliveries

While site work is being carried out, deliveries of material and equipment must only be carried out between—

- Mondays to Fridays - 7:00am to 6:00pm;
- Saturdays - 8:00am to 1:00pm;
- No work permitted on Sundays and Public Holidays.

Condition reason: To protect the amenity of neighbouring properties.

#### 14 Earthworks

No earthworks are permitted to be undertaken beyond those detailed on the approved plans unless otherwise permitted by the exempt development provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Condition reason: To ensure that the development is consistent with the approval

#### 15 Footpath Storage

Building materials not to be stored on Council footway or nature strip at any time.

Condition reason: To ensure an adequate level of public safety is maintained.

#### 16 Hours of Work

Site work must only be carried out between the following times –

- Mondays to Fridays - 7:00am to 6:00pm;
- Saturdays - 8:00am to 1:00pm; and
- No work is permitted on Sundays and Public Holidays.

Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.

**Condition reason: To protect the amenity of the surrounding area.**

**17 Restricted Public Access**

**It is the responsibility of the proponent to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied in accordance with SafeWork NSW Regulations.**

**Condition reason: To ensure public safety is maintained.**

**18 Roof Water**

**Roof water generated by the development must be discharged to the water table or a rainwater tank complying with exempt development provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. The stormwater outlet or tank overflow outlet must discharge:-**

- to the watertable; and
- away from any buildings, structures, property boundaries and effluent disposal area;

**The point of discharge from the overflow must be**

- protected from being crushed or damaged; and
- provided with scour protection to prevent erosion

**Condition reason: To ensure that roof water is disposed of without nuisance to neighbours, damage to property or the environment.**

**19 Works Near Electricity Infrastructure**

**Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.**

**Condition reason: Safety of workers and building occupants.**

**20 Activities within Electricity Easements and Close to Infrastructure**

**Essential Energy's records indicate there is electricity infrastructure located within close proximity of the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.**

**Condition reason: Safety of workers, building occupants and protection of electricity infrastructure.**

**Before issue of an occupation certificate**

**21 Repair of infrastructure**

**Before the issue of an occupation certificate any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council.**

**Condition reason: To ensure any damage to public infrastructure is rectified.**

**22 Occupation of building**

**A person must not commence occupation or use of the whole or any part of the buildings unless an occupation certificate has been issued by the appointed Principal Certifier.**

**Condition reason: To ensure the development is completed to a safe standard to allow use or occupation and to ensure compliance with the requirements of this consent.**

### **23 Stabilisation of Earthworks**

**Prior to the issue of an Occupation Certificate all earthworks must be appropriately retained or battered at a ratio no steeper than 1:3 (vertical: horizontal) and vegetated to prevent erosion.**

**Any retaining wall constructed on-site must comply with the exempt development provisions of State Environmental Planning Policy (Exempt and Complying development Codes) 2007 or have necessary development and construction approval.**

**Condition reason: To ensure earthworks are appropriately protected.**

#### **Occupation and Ongoing use**

### **24 Use of non-habitable structures**

**The shed shall not be used or adapted for any residential, commercial or industrial purpose unless prior development consent has been obtained.**

**Condition reason: To ensure the structure is used in accordance with this approval.**

## Introduction

This report assesses a development application (DA2023/101), for the construction of a 123.5m<sup>2</sup> shed ancillary to existing dwelling on the property and the continued use of an existing 51m<sup>2</sup> carport ancillary to the dwelling which was constructed without necessary development and construction approvals at Lot: 1 DP: 1296902, 6 Pinkerton Lane, Cootamundra.

The application is referred to full Council for determination, as the application seeks a variation of minimum setback requirements for carports set out by the Cootamundra Development Control Plan (DCP) 2013.

## Discussion

The assessment of the application has thoroughly considered all relevant matters under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act) and the requirements of relevant Environmental Planning Instruments and the Cootamundra DCP 2013.

Council staff have delegation to determine developments that comply with the Cootamundra LEP 2013 and DCP 2013, however, delegations do not extend to the determination of developments where a variation of the DCP 2013 is sought. In such circumstances, delegations require the application to be referred to Council for determination.

The development assessment concludes that the development, including proposed setback variation for the carport, is appropriate in the context of the area. However, the shed proposed to be constructed would be located on imported fill that has been placed on the site without consent. The source of the fill is unknown, and no testing certificates or certification has been submitted that demonstrates that it is clean and free of contaminants. Subsequently, Council cannot be satisfied that the development would not cause adverse impacts to the natural environment unless testing of the material is undertaken and results assessed as part of the application.

In light of this, it is the recommendation of council staff that a deferred development consent be granted. A deferred consent would require testing of the fill to be undertaken to verify that it does not contain hazardous or polluting materials and meets the requirements of Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to a resource recovery exemption by the NSW EPA. Upon

the submission of satisfactory testing results, an operational development consent may be issued, permitting the progression of the development. No subsequent development application would be required for the applicant to secure an operational consent; rather, compliance with the recommended condition would suffice.

Should the test results indicate contaminated material in the fill, corrective measures would need to be implemented, including the removal of the material and remediation of the site. The specific actions required would be contingent upon the outcomes of the required test results.

Financial

There are no financial impacts to this development.

OLG 23a Guideline consideration

There are no impacts or considerations in regard to the 23a Guidelines.

# DEVELOPMENT ASSESSMENT REPORT

Pursuant to the Environmental Planning & Assessment Act 1979  
Section 4.15 (as amended)


**DATE OF REPORT COMMENCEMENT:**

21/09/2023

**COUNCIL OFFICER COMPLETING DEVELOPMENT ASSESSMENT:**

Lauren Dawes

**DEVELOPMENT REFERENCE:**

DA 2023/101

**DEVELOPMENT ADDRESS:**

6 Pinkerton Lane COOTAMUNDRA

**DEVELOPMENT LOT / SEC / PLAN:**

Lot: 1 DP: 1296902

**OWNER(S):**

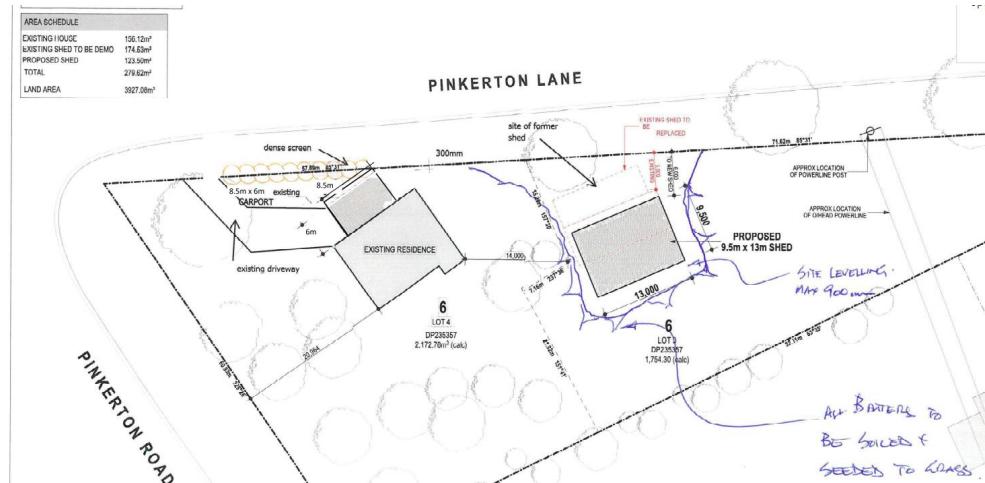
Lynda Anne Ponting  
6 Pinkerton Lane  
COOTAMUNDRA NSW 2590

**APPLICANT:**

Lynda Anne Ponting  
6 Pinkerton Lane  
COOTAMUNDRA NSW 2590

**PROPOSED DEVELOPMENT:**

Erection of a new shed 13 x 9.5m ancillary to existing dwelling and continued use of carport 6 x 8.5m (erected without consent).



# DEVELOPMENT ASSESSMENT REPORT

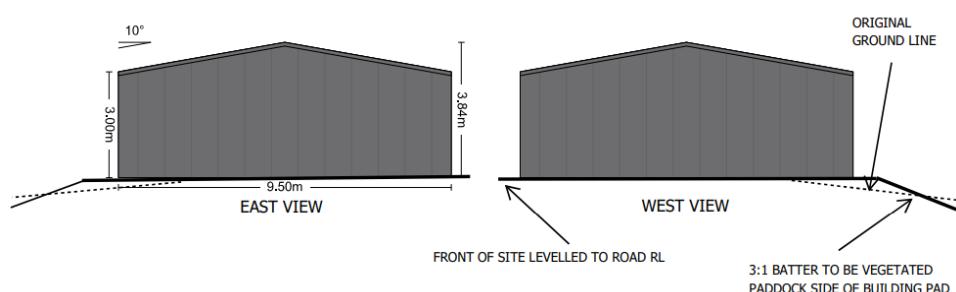
*Pursuant to the Environmental Planning & Assessment Act 1979  
Section 4.15 (as amended)*

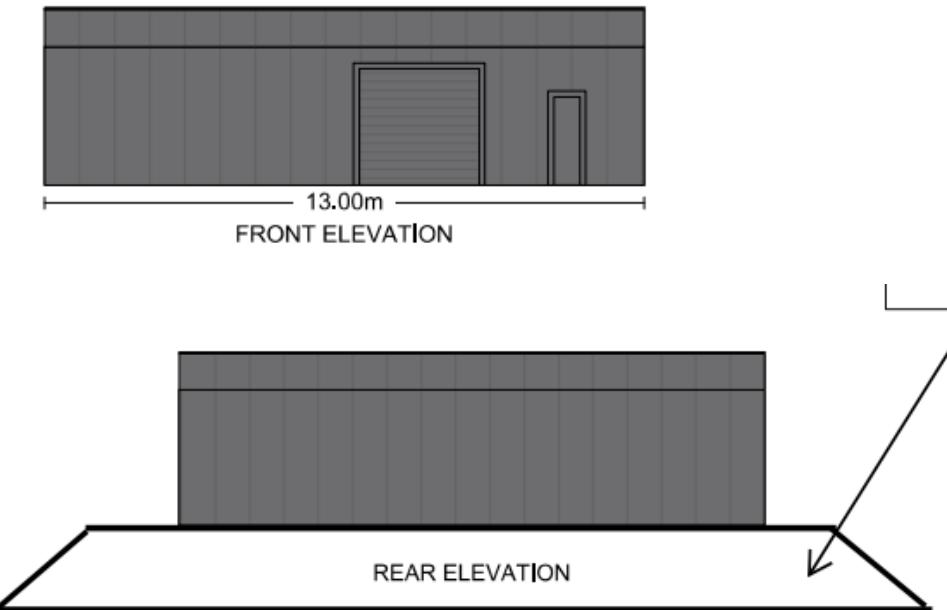
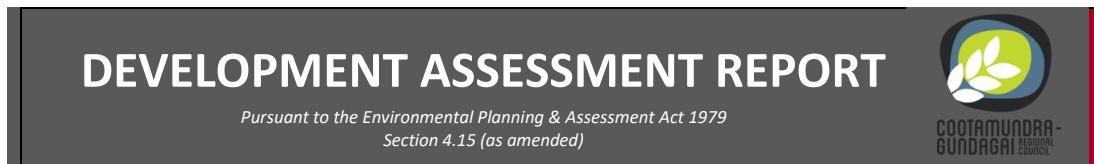


**Figure 1 - Submitted site plan (extract) (not to scale)**



**Figure 2 - Existing carport subject of application viewed from Pinkerton Lane**





**Figure 3 - Proposed shed elevations**

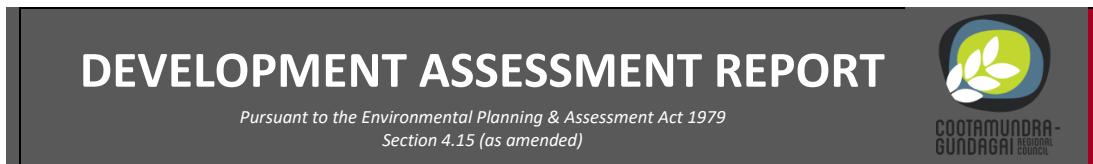
**SITE:**

Site is an existing rural residential site in the town of Cootamundra sized approximately 4000m<sup>2</sup>, it has frontage to Pinkerton Road and Pinkerton Lane. The site is recently consolidated into one lot and is trapezoidal in shape with sealed frontages to both Pinkerton Road of approximately 60m and 130m secondary frontage to Pinkerton Lane.

The site zoned RU4 – Primary Production Small Blocks and is surrounded by a mix of larger and similar sized properties.

Use of the site is residential. A small number of goats are present on-site.

On the site exists an original brick and fibro cottage from around 1940-50, facing Pinkerton Road, however, vehicle access is from Pinkerton Lane with the addressing of the site showing number 6 Pinkerton Lane. The cottage is positioned approximately 18m from the primary frontage and 4m from the secondary boundary. Cottage has town water connected and is serviced by a traditional septic and trench on-site sewage management system located on the southern side of the dwelling.



Also existing onsite 12m from the rear of the dwelling is new earthworks which have been undertaken without approval in preparation for a new steel framed shed subject of this application. The site of the earthworks is in the approximate location of an old existing shed which has been demolished prior to lodgement.

The site slopes down to the south-west and is mostly cleared with only a small number of trees and shrubs surrounding the cottage.

Housing and buildings on surrounding properties are of mixed types, with a wide range of building ages and styles existing, presenting no theme for the area.



Figure 4 - Satellite view from SIXMAPS (previous shed now removed)

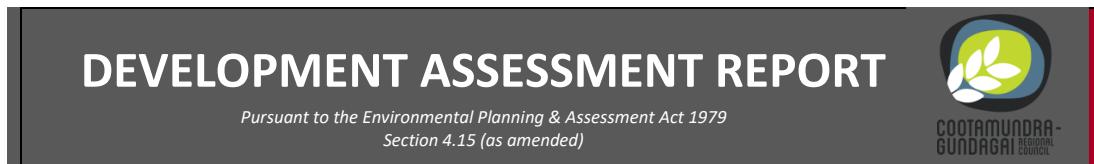
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**Figure 5 - Satelite view from council mapping (lots not reflected accurately following consolidation, shed since demolished).**





**Figure 6 - Earthworks undertaken without consent, placement of fill viewed from Pinkerton Lane.**



**Figure 7 – Shed now demolished, looking from East to West (source:realestate.com)**

#### BACKGROUND:

The application was submitted following correspondence from council after it was identified that the existing shed had been demolished, earthworks undertaken and carport constructed without necessary approvals being obtained.

From that correspondence the application has been lodged to seek subsequent approval for continued use of the carport, noting retrospective approval cannot be granted, and seeking consent for the erection of a new shed on the site of the earthworks.

#### PREVIOUS DEVELOPMENT PROPOSALS AND DECISIONS:

Nil identified

#### GENERAL REQUIREMENTS OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979:

##### 1.7 Application of Part 7 of *Biodiversity Conservation Act 2016* and Part 7A of *Fisheries Management Act 1994*

The development is not a key threatening process under either Act, and the site contains no known threatened species or EECs, has not been declared critical habitat or an area of outstanding biodiversity value, and is not mapped on the Biodiversity Values Map. It is not considered that the development is likely to significantly affect threatened species,

# DEVELOPMENT ASSESSMENT REPORT

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populations or ecological communities, as it does not impact on any flora, fauna or their habitat, including terrestrial biodiversity and river systems.

Clearing of any native vegetation does not exceed the threshold of 0.5ha applicable to lots with a minimum lot size of 1ha to less than 40ha.

## 2.22 Mandatory community participation requirements

As per this section and Schedule 1, of the Act, the development was notified in accordance with the CGRC Community Participation Plan (CPP), for a period of fourteen (14) days.

No submissions were received.

The notification period was open from 22 September 2023 to 9 October 2023

## 4.5 Designation of consent authority

The development is not state significant or regionally significant, and therefore Council is the determining authority.

## 4.10 Designated development

Schedule 3 of the EP&A Regulation defines the various types of designated development, but the application does not meet any of the criteria and therefore is not designated.

## 4.13 Consultation and concurrence

If required by an environmental planning instrument, this section requires Council to consult with or obtain the concurrence of the person.

Referral to Essential Energy for comment was required and undertaken in accordance with Section 2.48 of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, as detailed and addressed below.

## 4.14 Consultation and development consent—certain bush fire prone land

The land is not bushfire prone and therefore consideration of *Planning for Bush Fire Protection*, is not required.

## 4.22 Concept development applications

The development is not a concept development (development undertaken in stages).

## 4.33 Determination of Crown development applications

The development is not a Crown development.

## 4.36 Development that is State significant development

The development is not State significant development (of a size, type, value or with impacts deemed to be significant).

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## 4.46 Integrated development

The development is not integrated development (requires consent or an approval from another government agency).

## 4.55 Modification of consents - generally

Not applicable

### SECTION 4.15 CONSIDERATIONS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979:

#### 4.15(1)(a)(i) The provisions of any environmental planning instrument:

##### *State Environmental Planning Policies (SEPPs) and deemed SEPP's*

The following SEPPs are relevant to the development.

n/a

##### SEPP (Resilience and Hazards) 2021

##### *Chapter 3 – Hazardous and offensive development - N/A*

##### *Chapter 4 – Remediation of land*

Council must not consent to the carrying out of any development on land, unless it has considered whether the land is contaminated, and if contaminated whether it is suitable for the intended use, or requires remediation.

The subject property is not identified by council's contaminated land register as contaminated or potentially contaminated land. There is no known historical use of the property which would have resulted in contamination of the site. Site inspection undertaken did not identify any evidence or current or historical uses which would result in contamination. Further, no change of use of the property is proposed as part of this application. The submitted development proposal is for structures and associated works ancillary to existing residential use.

Given the above, no further site investigations are required.

However, notwithstanding the above, the status of the fill placed on the lot is unknown and is discussed in considerations under the LEP provided in this report.

##### SEPP (Transport and Infrastructure) 2021

##### *Chapter 2 - Infrastructure*

- *Section 2.48 (Determination of development applications—other development) requires referral to the electricity supply authority, for development comprising:*

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- penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,
- development within or immediately adjacent to an easement for electricity purposes
- development immediately adjacent to an electricity substation
- development within 5m of an exposed overhead electricity power line
- installation of a swimming pool any part of which is within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level,
- installation of a swimming pool any part of which is within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool
- involving or requiring the placement of power lines underground.

The existing carport subject of proposed continued use is located directly below the overhead service line which services the dwelling.



**Figure 8 - photo of carport and overhead service line.**

Referral was sent on 9/10/2023. The following comments were received on 25/10/2023.

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Strictly based on the documents submitted, Essential Energy has no comments to make as to potential safety risks arising from the proposed development.

Essential Energy makes the following general comments:

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
3. In addition, Essential Energy's records indicate there is electricity infrastructure located within close proximity of the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as [ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure](#). Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
4. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW).
5. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines* and *Code of Practice – Work near Underground Assets*.

## Figure 9 - Essential Energy referral comments

- *Section 2.77 (Development adjacent to gas pipeline corridors)* requires referral to the pipeline operator, for development compromising:

- within the licence area of a pipeline for gas
  - within 20m of the centreline of a pipeline
  - within 20m of land the subject of an easement for a relevant pipeline.

The development does not meet this criteria, so no formal referral to APA Group, was required.

- *Division 15, Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors—notification and other requirements*, requires referral to the rail authority, for development compromising:

- *Section 2.97* - access via a level crossing
  - *Section 2.98* development adjacent a rail corridor that is likely to have an adverse effect on rail safety, places a metal finish on a structure and the corridor is used by electric trains, use of a crane in the air space above the corridor, within 5 m of an exposed overhead power line used for railway purposes and infrastructure,
  - *Section 2.99* – penetration of the ground to a depth of 2 m or greater, within a rail corridor or within 25 metres of a rail corridor

The development does not meet this criteria, so no formal referral to the rail authority, was required.

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- **Section 2.100 (Impact of rail noise or vibration on non-rail development)**, requires consideration of the impact of noise and vibration on residential accommodation, a place of public worship, hospital, educational establishment or child care facility, where they are located in or adjacent a rail corridor.

The development is not for this form of development and/or is not located adjacent a rail corridor, and therefore consideration of this clause is not required.

- **Section 2.119 (Development with frontage to classified road)**, the development does not front a classified road and therefore this clause does not apply to this development,
- **Section 2.120 (Impact of road noise or vibration on non-road development)**, does not apply as the AADT volume of the adjacent road is less than 20,000 vehicles, and/or the development is not for residential accommodation, a place of public worship, hospital, educational establishment or child care facility.
- **Section 2.121 (Excavation in or immediately adjacent to corridors)**, does not apply as the development will not result in the penetration of the ground to a depth of 3m or greater, within or adjacent the Hume Motorway.
- **Section 2.122 and Schedule 3 (Traffic generating development)**, does not apply, as the type/and or scale of the works is not identified in the Schedule.

## ***Local Environmental Plan (LEP)***

The applicable LEP is the Cootamundra LEP 2013 (CLEP) and the relevant provisions of the LEP are discussed as follows.

### **1.2 Aims of Plan**

The development is not inconsistent the aims of the LEP.

### **1.4 Definitions**

A 'shed' and 'carport' are not defined land uses under the LEP, but are permitted with consent as ancillary to the existing dwelling and residential use of the property.

### **1.6 Consent authority**

The consent authority for the purposes of this Plan is (subject to the Act) the Council.

### **1.9A Suspension of covenants, agreements and instruments**

Nil to consider

### **2.1 Land use zones**

The site is zoned RU4 – Small Lot Primary Production.

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2.3 Zone objectives

The proposed development is not inconsistent with the objectives of the zone, detailed below.

- *To enable sustainable primary industry and other compatible land uses.*
- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

2.7 Demolition requires development consent

Small, existing shed and carport within the footprint of the building are to be removed.

2.8 Temporary use of land

N/A

## COOTAMUNDRA CLAUSES

4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings –

This is the installation of an ancillary structure to the site and does not involve the erection of a dwelling or secondary dwelling

5.10 Heritage conservation

There are no heritage items on-site (identified on either the SHR or in the LEP), and the site is not located in a HCA.

A AHIMS Search did not identify any known aboriginal sites or places within 200m of the property.

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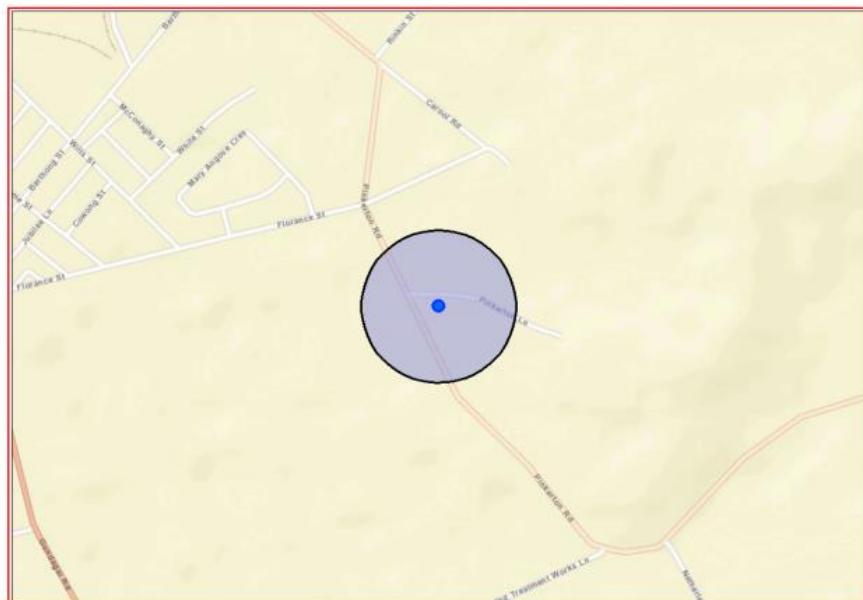
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Dear Sir or Madam:

**AHIMS Web Service search for the following area at Address : 6 PINKERTON LANE COOTAMUNDRA 2590 with a Buffer of 200 meters, conducted by Lauren Dawes on 28 November 2023.**

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

<b>0</b> Aboriginal sites are recorded in or near the above location.
<b>0</b> Aboriginal places have been declared in or near the above location.*

**Figure 10 - AHIMS search result**

**5.21 Flood planning**

The land is not in the flood planning area.

**6.1 Earthworks**

Under the provisions of subclause (3) Council must consider the following matters prior to giving consent for earthworks ancillary to the development.

*(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*

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- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

**Note—**

*The National Parks and Wildlife Act 1974, particularly section 86, deals with harming Aboriginal objects.*

Earthworks ancillary to the development have been largely completed already. Earthworks predominantly consist of fill to the proposed shed site, providing a level base on which a concrete slab can be constructed and shed kit erected. Exact extent of earthworks cannot be determined noting that there is no detailed survey data showing contours prior to undertaking of the earthworks and post earthworks. Submitted site plan details a maximum of 900mm fill depth, site inspection identified that fill may be deeper on south elevation.

Additional earthworks which will still be required associated with the proposed shed include boring of footings for the slab and some trenching for undertaking of stormwater drainage.

Construction of carport has not required the carrying out of earthworks beyond excavation of piers.

While the majority of earthworks have already been undertaken, consideration must still be given to the suitability of allowing the earthworks undertaken to remain by granting consent to the erection of the shed.

**The submitted Statement of Environmental Effects does not address the quality or source of the fill.**

**As Council cannot be satisfied that the fill does not contain contaminants, it is considered that it is not suitable to issue an active development consent until such time as evidence is submitted that demonstrates that the fill is free of contaminants.**

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**Given this, it is recommended that a deferred development consent be issued requiring testing/evidence of fill suitability prior to an operational development consent being issued.**

In the event that the material is not clean certified fill, there is a risk that leaching of contaminants will result in adverse environmental impacts. Should test results reveal the fill is inappropriate compliance action would need to be undertaken to remove the material and remediate the site. Actions would be dependant on test results.

Providing the suitability of existing fill already undertaken is verified:

- The earthworks undertaken, and minor works remaining, are not likely to disrupt alter or have a detrimental impact on drainage patterns or soil stability.
- Earthworks are not considered likely to adversely impact any potential future use or redevelopment of the land.
- The earthworks are not anticipated to result in any adverse impact on the amenity of adjoining property/s, the works are located some distance from the adjoining property.
- Given the site was already largely disturbed, being the site of the previous shed, it is unlikely that relics would have been disturbed or will be disturbed as part of the minor remaining earthworks.
- The earthworks are not anticipated to adversely impact any waterway, drinking water catchment or environmentally sensitive area. The area is not located near or in close proximity to waterway, drinking water catchment or environmentally sensitive area. Identified existing grass coverage to the remainder of the lot provides some filtration of any sediment and erosion.

In order to minimise the risk of sediment laden waters leaving the property a condition shall be applied to any consent requiring the provision of erosion and sediment controls during construction, until such time as vegetation coverage of the batters can be established.

Further, conditions shall be applied restricting the undertaking of any additional earthworks unless they meet exempt development provisions or separate development consent has been obtained as well as providing for maximum slope ratio of batters to ensure earthworks are stabilized.

## 6.3 Terrestrial biodiversity

This clause applies to land that is identified as biodiversity land on the *Terrestrial Biodiversity Map*, but the site is not mapped as being affected, and accordingly this clause is not applicable.

## 6.4 Groundwater vulnerability

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This clause applies to land that is identified as groundwater vulnerable on the *Groundwater Vulnerability Map*, the site is mapped as being affected, and accordingly this clause must be addressed. Under the provisions of subclause (3) and (4) Council must consider the following matters prior to granting consent for any development on the site.

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

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

(4) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Providing the suitability of existing fill already undertaken is verified as being clean and free of contaminants as part of recommended deferred commencement condition, the development will not result in discharge of any pollutants and is unlikely to result in any contamination of groundwater.

The nature of the developments is such that it is not likely to have any adverse impact on groundwater dependent ecosystems.

No extraction of groundwater is proposed as part of the development and as such it is unlikely to result in any adverse cumulative impact.

Given no negative impact is anticipated as a result of the development mitigation and minimization measures are not required.

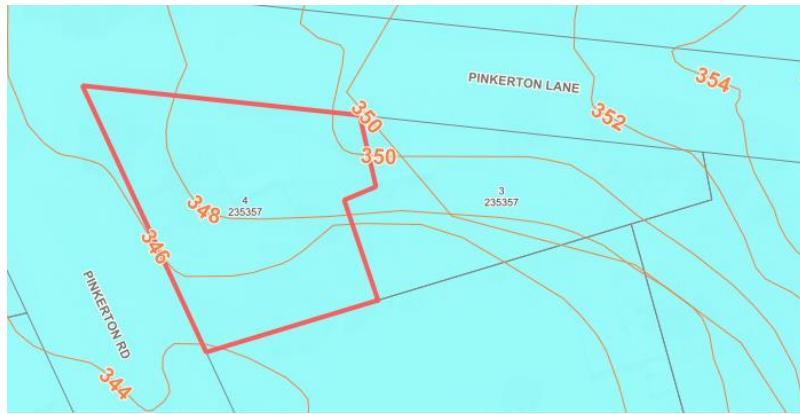
The development is sited and can be managed to avoid any significant adverse environmental impact.

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COOTAMUNDRA-  
GUNDAGAI  
REGIONAL COUNCIL



**Figure 11 – Groundwater vulnerability map**

**6.5 Riparian land and watercourses**

This clause applies to land that is identified as a watercourse on the *Watercourses Map*, or is within 40 metres of a mapped watercourse, but the site is not mapped as being affected, and accordingly this clause is not applicable.

**6.6 Salinity**

This clause applies to land identified as dryland salinity on the *Natural Resources Land Map*, but the site is not mapped as being affected, and accordingly this clause is not applicable.

**6.7 Highly erodible soils**

This clause applies to land identified as high soil erodibility on the *Natural Resources Land Map*, but the site is not mapped as being affected, and accordingly this clause is not applicable.

**6.8 Airspace operations**

This clause applies to developments that penetrate the Limitation or Operations Surface of the Cootamundra Airport. Works proposed on the site would not project into the Airport airspace.

**6.9 Essential Services**

Council must not consent to the proposed development unless satisfied that the development meets to requirements of subclause (2).

*(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that any of the following*

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*services that are essential for the development are available or that adequate arrangements have been made to make them available when required—  
(a) the supply of water,  
(b) the supply of electricity,  
(c) the disposal and management of sewage,  
(d) stormwater drainage or on-site conservation,  
(e) suitable vehicular access.*

The existing dwelling has existing reticulated water arrangement and mains power connection. Ancillary structures would not create any significant increase in demand.

Wastewater from the existing dwelling is managed through an existing on-site sewage management system. The earthworks undertaken and proposed shed provide for some reduction in land area that could all for on-site for wastewater management in the event that the existing system were to fail. However, sufficient area will remain to provide for a reserve area. The development does not propose in amenities which would increase wastewater output.

There is no existing reticulated stormwater infrastructure servicing the site. Natural drainage of the site is to the Southwest. Suitable for roofwater to be directed to natural drainage. Conditions should be applied to ensure it is not directed onto neighbouring land and is kept away from buildings, structures and existing on-site sewage management system.

Accessing legal and practical vehicle access is existing from Pinkerton Lane. No changes to vehicle access is proposed as part of the development.

## **4.15(1)(a)(ii) The provisions of any draft environmental planning instrument:**

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

There are no draft SEPP's which relate to this development.

### ***Local Environmental Plan (LEP)***

There are no draft LEP's which apply to this land.

## **4.15(1)(a)(iii) The provisions of any development control plan:**

The Cootamundra Development Control Plan (DCP) applies to the land, and the provisions are discussed as follows:

- Chapter 1 – General information**

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- Section 1.7 - Notification of Development Applications: The provisions of the Community Participation Plan takes precedence over this section of the DCP (see comments above in Section 2.22)
- **Chapter 2 - Residential Development** – Assessment against this section of the DCP is as follows:

Acceptable solution	Comment
<b>2.1 Building line setbacks</b>	
<b>Front Primary Building Line Setback Requirements</b>	
An average of the front setbacks of the nearest two neighbouring houses within forty (40) metres	<p><b>Complies</b> No change to primary setbacks on site to Pinkerton Road. All works are conducted off the secondary frontage.</p>
<b>Setbacks For Garages, Sheds And Carports - General Requirements:</b>	
Garages, sheds and carports must be setback at least 1m from the primary or secondary building line	<p><b>Partial compliance – Variation Sought</b> Both the shed and carport are proposed to be behind the primary building line of the dwelling by more than 1m</p> <p>The existing dwelling is setback 3m from the secondary street frontage (Pinkerton Lane), as such the minimum setback for outbuildings is 4m, to be not less than 1m behind the secondary frontage.</p> <p>Shed is proposed to be setback a minimum of 6m from Pinkerton Lane, complying with the minimum setback requirement.</p> <p>Proposed variation seeks that the existing carport be permitted to remain wholly forward of the secondary frontage.</p>

## Variation Request

The applicant submits the following justification for the proposed variation.

- *"Dwelling and adjacent parking space longstanding, just putting carport over,*
- *Existing dense vegetation to Pinkerton Lane frontage shielding the front of the dwelling when viewed from a public place adjacent,*
- *>21m setback from Principal Road =- Pinkerton Rd,*
- *No changes to existing driveway and crossover,*

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- *Structure open in nature and behind vegetation so not affording bulk,*
- *Vegetation screening gap to be reinstated with photinias or the like for even less impact on Lane.*

*For these reasons it is put forward that the application is reasonable, and variation would appear logical."*

**Comment:**

Giving consideration to the above the following comments are made: -

- It is agreed that the site constraints and features make it practical to construct a roof over the existing parking area.
- The existence of an existing carparking area adjacent the dwelling doesn't warrant that such an area should or must be provided with a roofed structure.
- There is adequate room onsite for other structures for vehicle storage, including within the proposed 13m x 9.5m shed that forms part of this application.
- The carport is wholly located forward of the secondary frontage with a setback at the narrowest point being only 300mm (approx.), as such the proposed variation is significant. Approval of such a significant variation may be regarded as setting an undesirable precedent, however, the following Planning principle established by the Land Environment Court in Super Studio v Waverley [2004] NSWLEC 91 considered relevant in this regard.

*"The principle relates to the extent to which an approval for this application would be used as a precedent in favour of approving other applications for roof terraces. The possibility that an approval may constitute a precedent has not been a factor in my decision. Other roof terraces would have different impacts from those of the current proposal."*

While the subject principle relates to the approval of a roof terrace rather than a carport, the principle is relevant to considerations that approval may establish a precedent as well as any consideration that the presence of other developments, such as outbuildings with reduced setbacks in the area establish a precedent and provide justification for the development. Developments have impacts unique to the individual proposal, each must be considered on individual merit and impacts.

- Being open in nature and accessed from the western elevation, not directly from the secondary road frontage, the carport does not present any safety issues relating to the movement of vehicles and/or visibility. Vehicles have sufficient space to reverse and exit the property in a forward direction.
- The structure is low set being of skillion design and positioned behind an existing hedge screen which limits the impact on the streetscape. Where a gap presently exists in the vegetation screen, the applicant proposes to provide additional vegetation screening.
- Noted that enforcement of conditions requiring vegetation screening be maintained for the life of the development poses difficulties for council in being able to monitor

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and enforce compliance with such a condition. Vegetation such as hedging can be altered easily by the owner/occupants of a property. The following Planning principle established by the Land Environment Court in *Super Studio v Waverley [2004]* NSWLEC 91 should be considered in this regard.

*"where proposed landscaping is the main safeguard against overlooking, it should be given minor weight. The effectiveness of landscaping as a privacy screen depends on continued maintenance, good climatic conditions and good luck. While it is theoretically possible for a council to compel an applicant to maintain landscaping to achieve the height and density proposed in an application, in practice this rarely happens."*

While in this instance the proposed purpose of the vegetation screen is to lessen the visual impact of the carport, not to provide privacy to the subject or adjoining properties the principle is still relevant and existing/proposed vegetation screen given only minor weight.

- The carports' location is within a rural / residential type area (zoned RU4) where there are a number of large rural buildings and outbuildings, the bulk and scale of which are considered to have a more significant impact on the streetscape than what is posed by the carport.

Overall, noting the low set nature of the structure, access from the western elevation rather than directly from the street, and rural/residential setting, it is considered the carport as constructed does not pose any significant adverse impact on the street frontage.

While the presence of existing and proposed screening provides improvement to visual impacts of the carport be screening it from view from the road, the structure is considered to be suitable without the screening.

- **Chapter 3 - Business & Industrial Development** - Does not apply to this zone.
- **Chapter 5 – Car parking and vehicle access** – Dwellings are required to have a minimum of 2 on-site carparking spaces. The proposed development includes in excess of 2 car parking spaces.
- **Chapter 4 – Subdivision** – The development is not a subdivision.
- **Chapter 6 – Environmental Management** – Not applicable as land is not bushfire prone, flood prone or potentially contaminated.
- **Chapter 7 – Heritage** – Not applicable as the site does not contain a heritage item and is not in the HCA.

## **4.15(1)(a)(iii) Any planning agreement or draft planning agreement:**

The developer has not entered into a planning agreement, nor has offered to enter into a draft planning agreement.

# DEVELOPMENT ASSESSMENT REPORT

*Pursuant to the Environmental Planning & Assessment Act 1979  
Section 4.15 (as amended)*



## 4.15(1)(a)(iv) Matters prescribed by the Regulations:

Council has considered the following matters as prescribed by Regulations:

### Section 61 (Additional matters for consideration): -

- No demolition works proposed.
- the development is not for the carrying out of development on land that is subject to a subdivision order made under Schedule 7 to the Act,
- the development is not located within the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle (to which the Dark Sky Planning Guideline applies),

### Section 62 (Consideration of fire safety)

- the development is not for a change of building use for an existing building.

### Section 63 (Considerations for erection of temporary structures)

- the development is not for a temporary structure.

### Section 64 (Consent authority may require upgrade of buildings)

- the development does not involve the rebuilding, enlargement or extension of an existing building.

### Section 65 (Special provision relating to Sydney Opera House)

- the development does not relate to the Sydney Opera House.

## 4.15(1)(b) The likely impacts of that development:

### *Context and Setting:*

The surrounding land is generally semi residential in nature. The development will have minimal impact on any scenic qualities and features of the landscape. The scale, form, character, density, and design of the development would not have a significant adverse impact on the character and amenity of the locality and streetscape.

It will not impact on adjacent properties in terms of visual and acoustic privacy.

### *Access, Transport and Traffic:*

Existing accesses from Pinkerton Lane is suitable. Internal referral to council's engineer team did not identify any safety concerns or other issues. The development would not result in any increase to traffic or vehicle movements beyond construction.

### *Public Domain:*

# DEVELOPMENT ASSESSMENT REPORT

*Pursuant to the Environmental Planning & Assessment Act 1979  
Section 4.15 (as amended)*



The development would not impact negatively in terms of such things as recreational opportunities, or the amount, location, design, use and management of public spaces.

***Utilities:***

There are no changes proposed or required in relation to water, on-site sewer, phone, gas, stormwater or power.

***Heritage:***

There is no adverse impact on Aboriginal or European heritage anticipated, as a result of the development.

***Other Land Resources:***

The development would not have any significant adverse effect on conserving and using valuable land resources such as productive agricultural land, mineral extractive resources or water supply catchments.

***Water:***

The issue of water supply is discussed above, and there would be no increase in demand on council's supply.

It is appropriate to apply conditions minimising any potential adverse impacts from sediment and erosion.

***Soil:***

The development would have no impact on soil conservation in terms of - soil qualities or instability, management of soils, soil erosion and degradation, sedimentation and pollution of water bodies contamination, or acid sulphate soils. Appropriate conditions would be imposed in relation to sedimentation and erosion controls.

***Air and Microclimate:***

The development is not anticipated to have any adverse impact on air quality and microclimatic conditions in terms of existing air quality or pollution. It does not propose any inclusions which would result in air pollutants (beyond those associated with embodied energy).

***Flora and Fauna:***

# DEVELOPMENT ASSESSMENT REPORT

*Pursuant to the Environmental Planning & Assessment Act 1979  
Section 4.15 (as amended)*



The development does not result in the removal of any significant vegetation and therefore, it is not anticipated to have any adverse impact on critical habitats, threatened species or populations, ecological communities or any other protected species, or on native fauna or vegetation.

***Waste:***

There will be some construction waste. The development would not result in any increase in domestic waste generated by the existing dwelling.

***Energy:***

The development would not have any significant demand on energy supply.

***Noise and Vibration***

Minimal impacts expected during construction, but amenity conditions will be imposed. It is not considered that the finished development would generate offensive noise pollution or vibrations.

***Natural Hazards:***

There are no known risks to people, property or the biophysical environment from – geologic or soil instability, bushfire or flooding.

***Technological hazards***

Conditions to be applied in accordance with Essential Energy Electricity comments relating to undertaking of works near electricity infrastructure.

***Safety, security and crime prevention***

It is not considered that the development will adversely impact on the security and safety of the area.

***Social Impacts in the Locality:***

It is considered that the development would not have a negative social impact in terms of the health and safety of the community, social cohesion, community structure, character, values or beliefs, social equity, socio-economic groups or the disadvantaged, and social displacement.

***Economic Impact in the Locality:***

# DEVELOPMENT ASSESSMENT REPORT

Pursuant to the Environmental Planning & Assessment Act 1979  
Section 4.15 (as amended)



Small positive impact anticipated as a result of construction works. No long term economic impacts anticipated.

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

Proposed design of development is considered suitable to the site.

## ***Construction Matters:***

No issues have been identified preventing the structures from complying with the Building Code of Australia and relevant Australian Standards. A Building information Certificate application for the carport has yet to be determined. Issue of a DA for the continued use of the carport does not prevent council from taking compliance action if required (until such time as a BIC is issued), requiring alterations to the carport to meet construction requirements either to meet BCA or address other construction matters such as stormwater.

Site inspection revealed that fill does not appear to have been compacted. Investigations would need to be undertaken on the suitability of fill for construction of the shed slab. Site specific engineered design would be required, if approved by council.

## ***Cumulative impacts***

No significant adverse cumulative impacts have been identified.

### **4.15(1)(c) - The suitability of the site for the development:**

The development would result in a development that fits in the locality. There are no constraints posed by adjacent developments that would prohibit the development. It is considered that the air quality and microclimate are appropriate for the development, and there are no hazardous landuses or activities nearby, and ambient noise levels are suitable for the development.

### ***Are the site attributes conducive to development ?***

The site is not subject to natural hazards including flooding, bushfire, subsidence, slip or mass movement. The soil characteristics are appropriate for the development, and there are no critical habitats, or threatened species, populations, ecological communities or habitats on the site. The development would not prejudice future agricultural production and there are no known mineral or extractive resources on the site. This issue of potential site contamination has been discussed previously.

### **4.15(1)(d) - Any submissions made:**

# DEVELOPMENT ASSESSMENT REPORT

Pursuant to the Environmental Planning & Assessment Act 1979  
Section 4.15 (as amended)



Nil submissions received.

## 4.15(1)(e) - The public interest:

The Riverina Murray Regional Plan 2036 has been developed to plan for future population's needs for housing, jobs, infrastructure and a healthy environment, in the Region. The development is consistent with the Directions in the Plan.

Staff are not aware of any other policy statements from either Federal or State Government that are relevant to this proposal, nor any planning studies or strategies. There is no management plan that is applicable to a development of this nature, and no codes or guidelines. The issue of easements has been discussed above.

Overall, the proposal would not contravene the public interest.

## OTHER MATTERS:

### Section 7.11 and 7.12 Contributions Policies:

Section 7.12(2) of the EPA Act, states that "*a consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 7.11*". Accordingly, Council can only require payment of either a 7.11 or 7.12 contributions.

#### Section 7.11 Contributions Plans

There is no section 7.11 plan in force in the former Cootamundra LGA.

#### Section 7.12 Contributions Plans

The Cootamundra-Gundagai Regional Council Section 7.12 Fixed Development Consent Levy Contributions Plan 2018, applies to the land and this development, based on the following costings:

Proposed Cost of the Development	Maximum Percentage of the Levy	Contribution payable
Up to \$100,000	Nil	N/A
\$100,001-\$200,000	0.5 %	N/A
\$200,001 +	1 %	N/A

### Section 64 water and sewer contributions policies:

Neither the Goldenfields Water s64 water contributions plan or the Cootamundra s64 sewer contributions plan, applies to this development.

### Disclosure of political donations and gifts:

The application and notification process did not result in any disclosure of Political Donations and Gifts.

# DEVELOPMENT ASSESSMENT REPORT

*Pursuant to the Environmental Planning & Assessment Act 1979  
Section 4.15 (as amended)*



## FINANCIAL IMPACTS:

Nil impacts for Council

## POLICY IMPACTS:

Nil

## ORGANISATIONAL IMPACT:

Nil

## RISK MANAGEMENT IMPACTS:

Nil

## LEGAL ISSUES:

Nil

## CONCLUSION:

Council has considered the all matters under the relevant legislation, and it considers that the proposed development is appropriate having regard to those matters, and that any impacts can be managed through appropriate conditions.

## RECOMMENDATION:

### Determination:

That Council issue deferred commencement approval for the following development, subject to the consent conditions outlined in attached report:

- Application No.: DA 2023/101
- Property: Lot: 1 DP: 1296902  
6 Pinkerton Lane, COOTAMUNDRA
- Development: Erection of a new shed ancillary to existing dwelling and continued use of carport (erected without consent) ancillary to existing dwelling.

## REASONS FOR CONDITIONS:

- To confirm the details of the application as submitted by the applicant and as approved by Council.
- To manage any inconsistencies between the approved plan and documents and conditions of consent.
- To confirm the imported fill is not contaminated, prior to release of an operation consent.
- To ensure that the demolition is conducted in a manner that maintains acceptable safety, environmental and legislative standards.
- To ensure the amenity of the neighbourhood is maintained during construction.
- To ensure that adequate measures are in place so that damage from sediment run off to adjoining sites and waterways is minimised.
- To ensure that roof water is disposed of without nuisance to neighbours,
- To ensure public safety is maintained.
- To ensure all works are carried out in accordance with the development consent.

# DEVELOPMENT ASSESSMENT REPORT

*Pursuant to the Environmental Planning & Assessment Act 1979  
Section 4.15 (as amended)*



## SCHEDULE 1, DIVISION 4, CLAUSE 20 - REASONS FOR THE DECISION:

This section of the Act requires the public notification of certain decisions, the date of the decision, the reasons for the decision and how community views were taken into account in making the decision. The reasons for the decision and how community views were taken into account, as it relates to this development application are:

- The development is in keeping with the existing character of the area.
- The impacts of the development are minimal.
- The development complies with all local environmental planning instruments.
- Conditions have been imposed to preserve the amenity of the area.
- The development application was notified, and no submissions were received.

## DEVELOPMENT ASSESSMENT SIGNING OFFICER:

Lauren Dawes

Senior Building Surveyor

1 December 2023

**8.4.4 DA2023/035 - 190 AND 274 TURNERS LANE, COOTAMUNDRA - PROPOSED SIX (6) LOT SUBDIVISION**

DOCUMENT NUMBER	404084
REPORTING OFFICER	Laura Schweiger, Town Planner
AUTHORISING OFFICER	Paul Woods, Interim Deputy General Manager - CCD
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>2. A region for the future</b></p> <p>2.2 A thriving region that attracts people to live, work and visit</p> <p><b>2. A region for the future</b></p> <p>2.3 A region that can accommodate and support strategic growth</p> <p><b>4. Collaborative and progressive leadership</b></p> <p>4.1 A clear strategic direction that is delivered upon</p>
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	Policy implications are discussed within the attached development application assessment report.
ATTACHMENTS	1. DA 2023-035 DA Assessment Report <a href="#">Download</a>

**RECOMMENDATION**

That Council approve the following development, subject to the consent conditions below:

- Application No.: DA2023/035
- Property: Lots 5 and 6 DP 1150609  
190 and 274 Turners Lane  
COOTAMUNDRA NSW 2590
- Development: Subdivision – to subdivide the lots into 6 lots of 2 ha, 2.01 ha, 2.01 ha, 2.09 ha, 2.01 ha and 22.53 ha.

**CONDITIONS:**
**PART A – ADMINISTRATIVE CONDITIONS**
**Terms of approval**

A1. The developer shall carry out the development generally in accordance with the following plans and documents:

Drawing name	Sheet No.	Issue	Prepared by	Dated	Submitted
21288subdivision	1 of 7	6	CMS Surveyors	Nov 2023	28.11.2023

21288subdivision	2 of 7	6	CMS Surveyors	Nov 2023	28.11.2023
21288subdivision	3 of 7	6	CMS Surveyors	Nov 2023	28.11.2023
21288subdivision	4 of 7	6	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	1 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	2 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	3 of 12	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	4 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	5 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	6 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	7 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	8 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	9 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	10 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	11 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	12 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	13 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
21288Adetail	14 of 14	5	CMS Surveyors	Nov 2023	28.11.2023
Statement of environmental effects (53 pages), prepared by CMS Surveyors Pty Ltd, Rev03, dated 28/11/2023, submitted 28.11.2023.					

#### Inconsistencies between documents

A2. In the event of any inconsistency between the documentation referred to in Condition A1, the most recent document shall prevail to the extent of the inconsistency.

A3. In the event of any inconsistency between conditions of this approval and documents referred to in Condition A1, the conditions of this approval shall prevail to the extent of the inconsistency.

#### Lapsing of approval

A4. This development approval shall lapse five (5) years after the date on which it is granted, unless the works associated with the development have physically commenced.

#### Statutory Requirements

A5. All licences, permits and approvals must be obtained and maintained as required throughout the life of the development. No condition of this approval remove the requirement to obtain, renew or comply with such licences, permits or approvals.

#### Cost of works

A6. All works associated with the proposal, or required by this consent, will be at no cost to Council.

#### Prescribed Conditions

A7. All relevant prescribed conditions under Part 4, Division 2 of the *Environmental Planning & Assessment Regulation 2021* apply and must be complied with.

#### PART B – PRIOR TO ISSUE OF SUBDIVISION WORKS CERTIFICATE

##### Road design plan

B1. A road design plan shall be prepared by a Civil Engineer or other suitably qualified professional, in accordance with all relevant *Austroads "Guide to Road Design"*. The plan shall be submitted to, and approved by, Council, prior to the issue of a subdivision works certificate. The plan shall include but not be limited to details of design and construction for the following:

- (a) the widening of Turners Lane to achieve a minimum width of 5.5 metres (2 x 2.75 metres lanes), from the common boundary of Lots 10 and 11 DP 1217995 (to west of the site), through to the eastern boundary of Lot 2 DP 1004745 (to the east of the site),
- (b) access to each lot, including type, location and available sight distance (from either the existing road or proposed road extension),
- (c) signage in accordance with Australian Standard *AS1742 - Manual of uniform traffic control devices*,
- (d) tree removal and/or pruning.

**NOTE:** If the detailed engineering plans identify that additional tree removal (not approved as part of this consent) is required, a modification application for the additional tree removal, must be lodged and approved, prior to a subdivision works certificate being issued.

## **PART C – PRIOR TO COMMENCEMENT OF WORKS**

### **Subdivision works certificate**

C1. A subdivision works certificate must be obtained from Council or an Accredited Certifier prior to work commencing, for all road construction works.

C2. Full engineering design plans, prepared in accordance with Part B conditions, shall accompany the applications for a subdivision works certificate, and shall cover all civil works.

### **Notice to be Given Prior to Commencement**

C3. The Principal Certifier (PC) and Council shall be given written notice, at least 48 hours prior to the commencement of works on the site.

C4. Seven days prior to commencement of engineering works on the site, the person having the benefit of the consent shall notify Council and the PC of:

- (a) the appointed Project Manager
- (b) the appointed Construction Contractor
- (c) the intention to start site works,
- (d) a 24 hour telephone number, for contact with the construction manager, to be operated for the duration of the construction works.

C5. The Project Manager shall arrange an on-site meeting with the nominated Contractor, Council's Engineering Representative and PC, prior to work commencing.

### **Application to carry out works in road reserve.**

C6. Any works constructed or undertaken on public roads dedicated in the name of Cootamundra-Gundagai Regional Council or utilised for the carrying out of work on adjacent properties, shall not be undertaken until an approval under *the Roads Act, 1993* (works within the road reserve application), has been obtained.

C7. The following documentation and plans shall accompany the application for approval under the Roads Act 1993:

- (a) a Traffic Control Plan (TCP prepared by an accredited person, which contains their Certification Number, origin of issue and the date of issue),
- (b) the approved road design plans and accompanying construction certificate (where Council has not issued the construction certificate).

#### Site notice

C8. A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of development details including, but not limited to:

- (a) details of the PC;
- (b) the approved hours of work;
- (c) the name of the site/project manager and the primary contact the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries; and
- (d) a statement that unauthorised entry to the site is not permitted.

#### Sedimentation and erosion controls

C9. Where necessary, site erosion control measures shall be incorporated into site management, prior to work commencing. Care shall be taken to ensure that no nuisance is created to adjoining properties or public space by way of sediment run off.

### PART D – DURING CONSTRUCTION

#### Hours of construction

D1. Construction hours shall be limited to the following:

- (i) Mondays to Fridays – 7:00 am to 6:00 pm
- (ii) Saturdays – 8:00 am to 1:00 pm
- (iii) Sundays and public holidays – Nil
- (iv) Any other times – only with the prior written consent of Council.

#### Noise management

D2. All activities on the site shall be undertaken with the objective of minimising noise emissions from plant and equipment, by installing and maintaining, wherever practicable, efficient silencers and low-noise mufflers.

#### Dust management

D3. All activities on the site shall be undertaken with the objective of preventing visible emissions of dust from leaving the site, including wind-blown and traffic-generated dust. Should such visible dust emissions occur at any time, the Developer shall identify and implement all practicable dust mitigation measures, including cessation of relevant works or dampening of site roads and work areas, as appropriate, such that emissions of visible dust cease.

#### Construction waste

D4. The storage of waste shall occur within the boundaries of the site, by way of a screened area of silt stop fabric, shade cloth or waste disposal bin/skip.

D5. Any waste materials removed from the site shall only be directed to a waste management facility lawfully permitted to accept the materials.

D6. The Developer shall maximise the treatment, reuse and/or recycling on the site of any excavated soils, slurries, dusts, aggregate and sludges associated with the development, to minimise the need for treatment or disposal of those materials outside the site.

#### Tree removal and protection measures

D7. Approval is granted for the removal of the following trees/shrubs located in the Turners Lane Road reserve:

- (a) two eucalyptus trees located at the proposed location of the access to Lots 104 and 105,
- (b) removal of the exotic shrub/bush immediately to the east of the proposed location of the access to Lots 104 and 105,
- (c) removal of the exotic shrub/bush at the proposed location of the access to Lots 101 and 102,
- (d) removal of the exotic shrub/bush located approximately 17 metres to the east of the proposed location of the access to Lots 101 and 102.

D8. Approval is granted for the pruning of the low-hanging branches on the following trees/shrubs located in the Turners Lane Road reserve, to a height of approximately eight (8) metres:

- (a) eucalyptus tree located approximately 15 metres to the west of the access to Lots 101 and 102,
- (b) kurrajong tree located approximately 20 metres to the east of the access to Lots 101 and 102.

D9. No approval is granted for the removal of any other trees on the site or in the road reserve as a result of the subdivision.

D10. All trees on the site and on Council land, and that may be threatened by the works, are to be suitably protected in accordance with AS 4970-2009 Protection of trees on development sites, by way of tree guards, barriers or other measures as necessary in order to protect tree root systems, trunks and branches, during construction.

#### Fencing

D11. A rural stock proof fence shall be erected along all allotment boundaries (internal and external). The developer shall ensure that the fence lines adjacent to public roads are on the correct boundary alignment, by having the boundaries marked by a Registered Surveyor, and a written statement shall be lodged by the Surveyor, confirming that all fencing is erected and on the correct alignment.

D12. All fencing shall be located to avoid tree removal, with any minor deviations in the fencing to be reflected on the final plan of subdivision.

#### Approved Plans to be On-site.

D13. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification, and all relevant environmental approvals, shall be always kept on the site, and shall be made available for perusal by any officer of Council or the PC on request.

#### Unexpected finds

**D14. The applicant must ensure that if any unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified as required by s146 of the *Heritage Act 1977*. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.**

#### **Setting out of Infrastructure / Structures**

**D15. The engineering works shall be set out by a registered surveyor to verify the correct position of the infrastructure in relation to property boundaries and the approved alignment levels. A report from the registered surveyor shall be furnished to the PC and Council for verification prior to any inspections being carried out by the PC.**

#### **Certification and inspection of subdivision works.**

**D16. The subdivision works must be inspected and tested by the PC, at each relevant stage of construction to demonstrate compliance with the approved plans. Where Council is not the PC, documentary evidence shall be provided by the PC to Council, demonstrating compliance.**

**D17. Where Council is nominated as the PC, Council shall be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the PC.**

#### **Installation of services**

**D18. Service conduits for electricity and telecommunications cabling shall not be trenched across any road pavements.**

#### **State Survey Marks**

**D19. The developer shall ensure that any existing State Survey Marks will not be disturbed. If it so happens that any SSMs falls within any works associated with the development it shall be relocated at the developer's cost or if it is disturbed, reinstatement costs shall also be borne by the developer.**

### **PART E – PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

#### **Completion of engineering works**

**E1. All engineering works (roadworks) shall be completed in accordance with the approved plans and subdivision works certificate, prior to the issue of a subdivision certificate.**

#### **Water supply**

**E2. Evidence shall be supplied to Council in the form of a works as executed plan, demonstrating that the private water supply line proposed to be relocated, has been relocated in accordance with the approved plans.**

#### **Utility services**

**E3. Prior to the issue of a Subdivision Certificate, a copy of the Notice of Arrangement (NOA) from Essential Energy, which states that satisfactory supply arrangements have been made for the provision of electricity to each of the lots in the subdivision, shall be provided to Council.**

**E4. Prior to the issue of a Subdivision Certificate written advice shall be obtained from an approved telecommunications carrier stating that satisfactory arrangements have been made to ensure the provision of adequate services to the development.**

**Damage to infrastructure or services**

**E5. The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the developer prior to the release of any subdivision certificate.**

**Street addressing**

**E6. Rural addressing numbers shall be purchased from Council and erected for each lot, in accordance with the *NSW Addressing User Manual* prepared by the Geographical Names Board of NSW, as follows:**

<b>Lot No.</b>	<b>Primary number</b>
<b>101</b>	<b>186 Turners Lane, Cootamundra</b>
<b>102</b>	<b>188 Turners Lane, Cootamundra</b>
<b>103</b>	<b>200 Turners Lane, Cootamundra</b>
<b>104</b>	<b>218 Turners Lane, Cootamundra</b>
<b>105</b>	<b>220 Turners Lane, Cootamundra</b>
<b>106</b>	<b>274 Turners Lane, Cootamundra</b>

**NOTE: Rural addressing numbers to be confirmed when entrances constructed, which may result in changes to the above numbers.**

**Defects Liability Period and bond**

**NOTE: These following conditions only apply in respect of works carried out by a contractor other than Cootamundra-Gundagai Regional Council.**

**E7. For a period of twelve (12) months after the subdivision certificate is issued, the subdivider must remedy any defects or omissions in the subdivision works.**

**NOTE: Defects do not include reasonable wear and tear or damage caused to the works by inappropriate use (e.g. damage or abuse from traffic accidents or vandalism).**

**E8. The defects liability bond must be submitted with the subdivision certificate application. The bond must be in the form of cash or unconditional bank guarantee (no lapse date) for an amount of 5% of the agreed value of the subdivision works or \$ 5,000, whichever is the greater.**

**E9. At any time during the defects liability period, the consent authority may direct the subdivider to rectify any omission or defect in the subdivision works. The direction will identify the scope of works to rectification and state the time by which the subdivider shall complete the work of rectification (or stages of the rectification) and may state the time by which rectification shall commence.**

**E10. If the subdivider fails conforming to the direction or part of the direction, the consent authority may perform the works and charge costs to the subdivider. The Council will deduct any costs incurred from the defects liability bond.**

E11. At the expiry of the defects liability period the subdivider shall arrange Council to carry out an inspection of the subdivision works, and request a return of the defects liability bond.

E12. If Council determines that the subdivision works are satisfactory, Council will refund the balance of the defects liability bond.

E13. If unremedied subdivision work defects or omissions are detected by the Council during the inspection, the subdivider must remedy these works and re-apply for an off defects liability inspection. Council may retain some or all of the defects liability bond for a further period of twelve (12) months.

#### Final subdivision plans

E14. The submission of a final plan of subdivision suitable for registration at the Land Titles Office.

#### Registration of easements and restriction as to users

E15. Easements shall be created over all services to the satisfaction of the relevant authority, and/or wherever Council deems necessary to allow unrestricted access to the service, and restrictions as to user created, under section 88B of the Conveyancing Act 1919, including, but not limited to, the following:

- release of the existing power easement on Lot 5 DP 1150609 (created by DP 1062169), and creation of a new power easement over the power lines on-site,
- release of the existing restriction as to user on Lot 5 DP 1150609 (created by DP 1004745),
- release of the existing water supply easement on Lot 5 DP 1150609, that benefits Lot 2 DP 850604 (created by DP 1004745), and creation of a new water supply easement over the relocated water supply line, benefiting Lot 2 DP 850604,
- right of access over Lot 102 to benefit Lot 101,
- a reciprocal right of access over the combined access to Lots 104 and 105,
- restriction as to user on proposed Lots 101, 102, 104 and 105), that requires the installation/provision of water storage with a minimum capacity of 20,000 litres for fire-fighting purposes with an appropriately sized Storz fitting.

E16. The 88B Instrument shall be submitted to the PCA with the final plan of subdivision as a prerequisite to the endorsement of the subdivision certificate.

E17. Council is not to be nominated as the prescribed authority in the 88B instrument, in relation to any restrictions imposed by the developer relating to buildings and improvements (e.g building materials, setbacks, design matters, etc).

#### REASONS FOR THE CONDITIONS:

- To confirm the details of the application as submitted by the applicant and as approved by Council.
- To manage any inconsistencies between the approved plan/documents and conditions of consent.
- To achieve the objectives of section 1.3 of the *Environmental Planning and Assessment Act 1979*, having regard to the relevant matters for consideration contained in section 4.15 of the Act and the Environmental Planning Instruments applying to the land.
- To ensure that adequate access is provided to each lot, and the road network is upgraded to cater for the additional traffic generated by the development.
- To ensure works are carried out to the appropriate standard.
- To ensure the lots are adequately serviced.
- To protect the existing trees.
- To protect the amenity of the local environment, residents and adjoining landowners.

- To ensure the development complies with all relevant approvals.

**SCHEDULE 1, DIVISION 4, CLAUSE 20 - REASONS FOR THE DECISION:**

This section of the Act requires the public notification of certain decisions, the date of the decision, the reasons for the decision and how community views were taken into account in making the decision. The reasons for the decision and how community views were taken into account, as it relates to this development application are:

- the proposed development is not inconsistent with the objectives of the zone,
- the proposed development is permitted in the zone,
- the proposed development does not compromise the relevant Environmental Planning Instruments,
- any potential concerns have been ameliorated by appropriate conditions,
- the proposal is not inconsistent with the key planning provisions contained within the applicable environmental planning instruments,
- the proposal will have an acceptable environmental impact,
- the proposal is consistent with the zone and desired future character of the area,
- notification of the application in accordance with the relevant environmental planning instrument and/or policy was carried out, and no submission were received, and the issues raised in the submission have been addressed during the assessment and through the imposition of conditions of consent.

### Introduction

This report assesses a development application for the subdivision of Lots 5 and 6 DP 1150609, 190 and 274 Turners Lane, Cootamundra, into six (6) lots of 2 ha, 2.01 ha, 2.01 ha, 2.09 ha, 2.01 ha and 22.53 ha.

### Discussion

This application was duly notified, and five (5) submissions were received, raising a number of issues and/or concerns with the proposed subdivision including such things as road conditions, traffic access, noise, dust, amenity, suitability of the stem tree removal and stormwater. The development also proposes some policy variations. On this basis, the application has been presented to Council for determination.

The assessment of the application has considered all relevant matters under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act), the objects of the Act and the comments from the Environment Protection Authority. The assessment concludes that the application can be approved, subject to conditions. See development assessment report (Attachment 1).

With the implementation of the recommended conditions, it is considered that the impacts of the development can be appropriately managed and/or mitigated. Consequently, it is considered that the development meets all relevant environmental and amenity criteria and that the development is in the public interest and recommended for approval, subject to conditions.

### Financial

There are no financial impacts to this development.

### OLG 23a Guideline consideration

There are no impacts or considerations regarding any 23a Guidelines.

# DEVELOPMENT ASSESSMENT REPORT

Pursuant to the Environmental Planning & Assessment Act 1979  
Section 4.15 (as amended)


**DATE OF REPORT COMMENCEMENT:**

30 November 2023

**COUNCIL OFFICER COMPLETING DEVELOPMENT ASSESSMENT:**

Laura Schweiger

**DEVELOPMENT APPLICATION NUMBER:**

DA2023/035

**DEVELOPMENT ADDRESS:**

190 and 274 Turners Lane, Cootamundra

**LOT / SEC / PLAN:**

Lots 5 and 6 DP 1150609

**OWNER(S):**

Todd James Bryant & Emma Louise Bryant

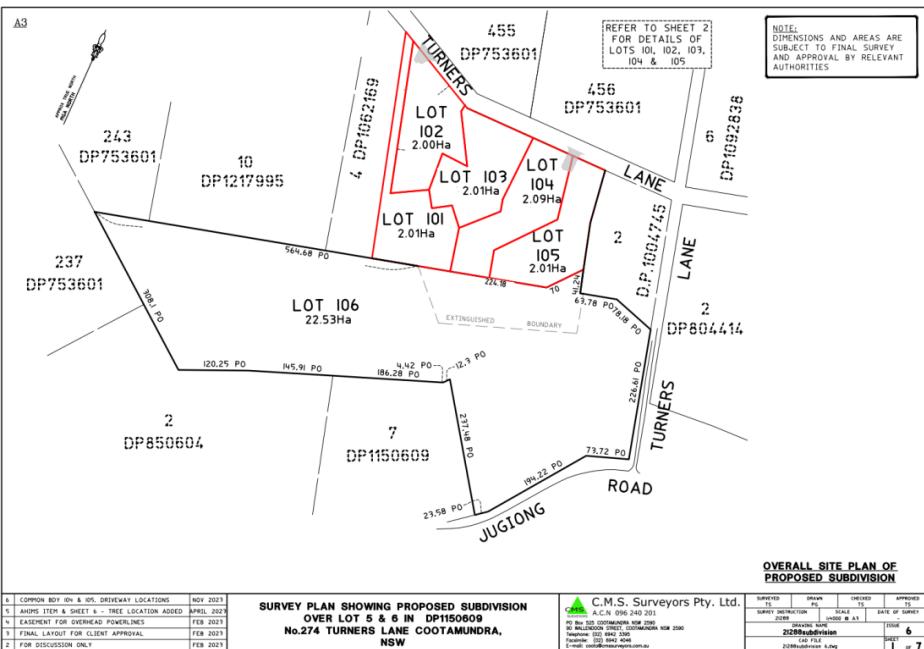
**APPLICANT:**

Peter Gailey  
PO Box 525  
COOTAMUNDRA NSW 2590

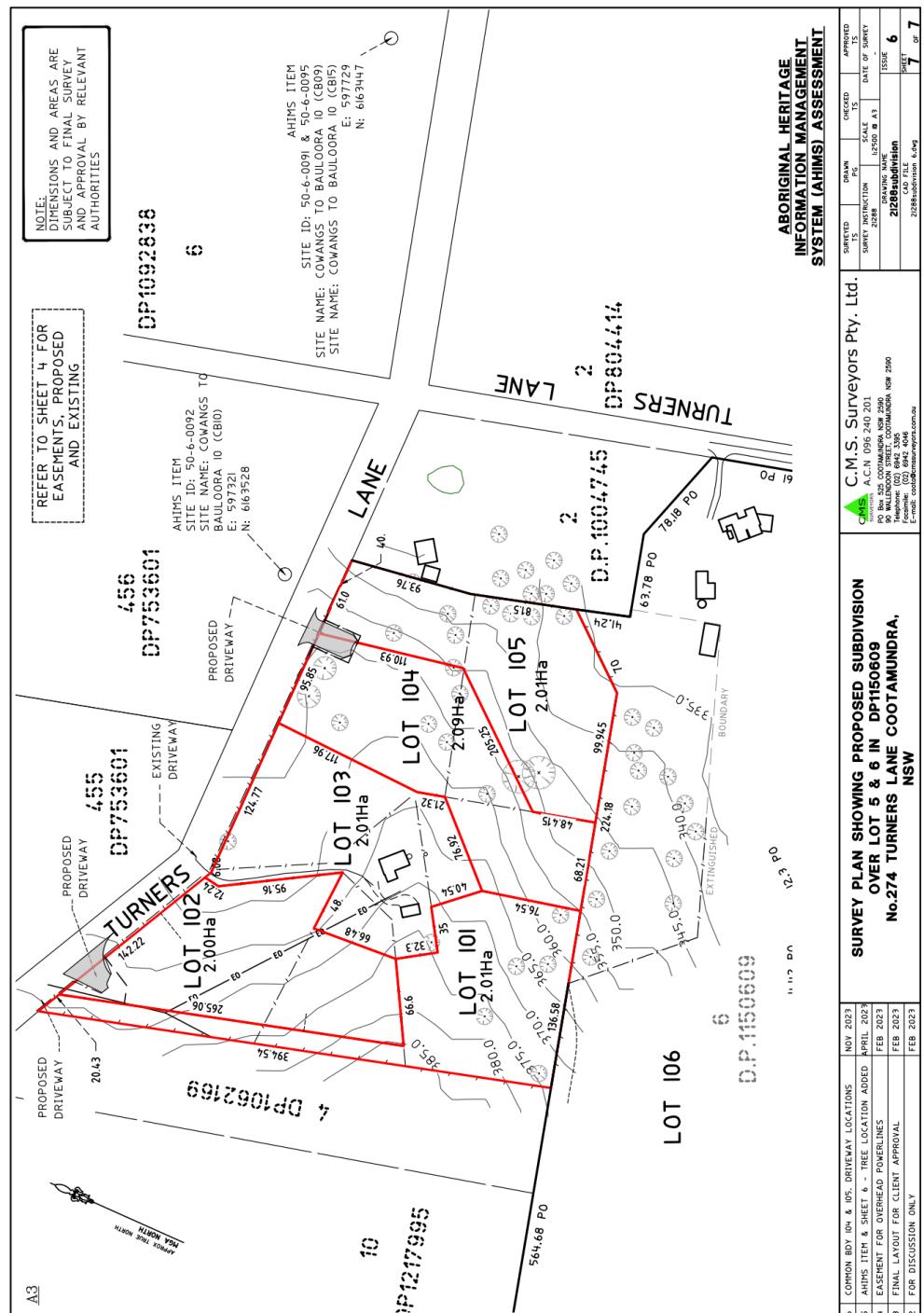
**PROPOSED DEVELOPMENT:**

Subdivision – to subdivide the lots into 6 lots of 2 ha, 2.01 ha, 2.01 ha, 2.09 ha, 2.01 ha and 22.53 ha.

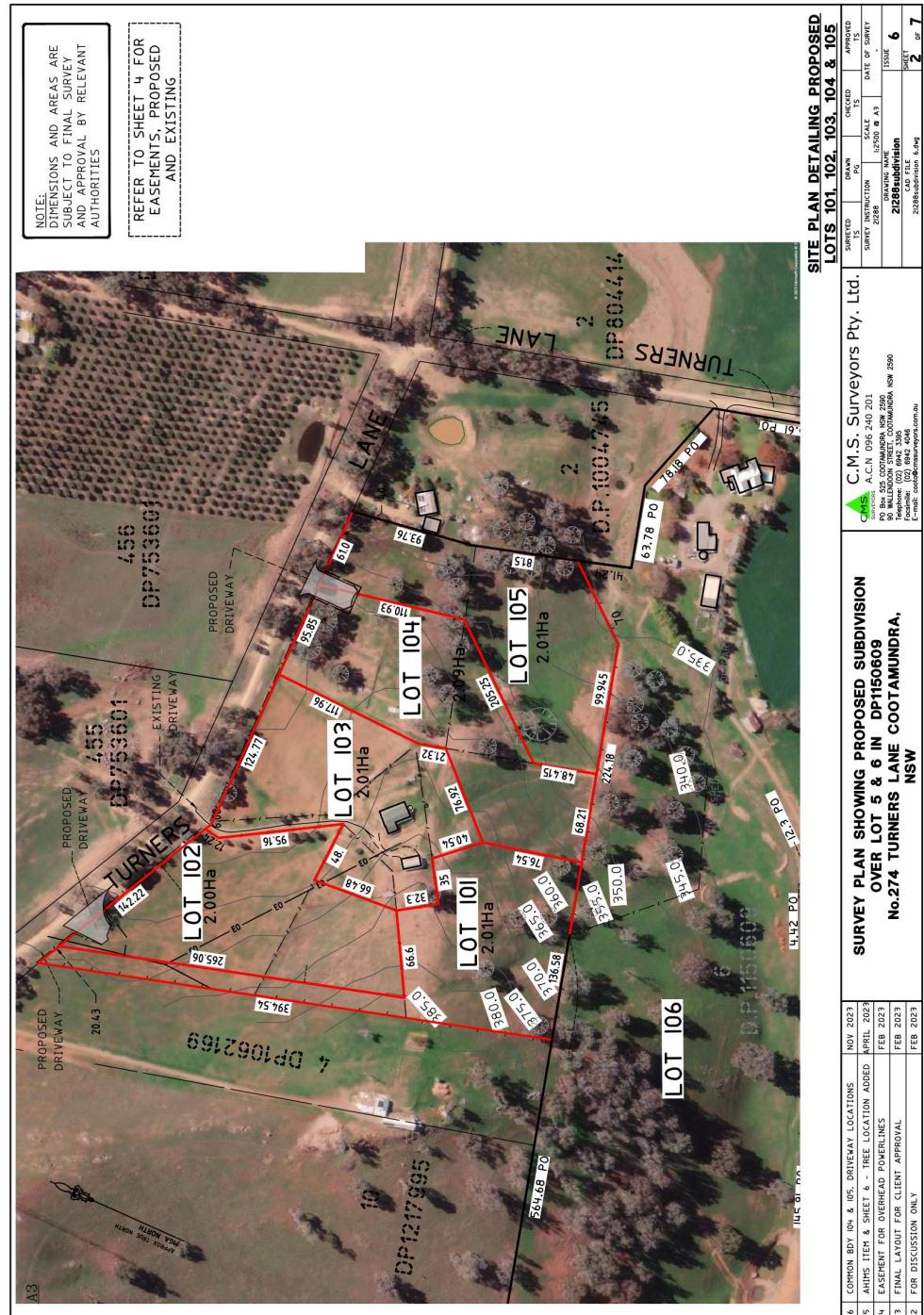
**Figure 1 – Subdivision plan (whole plan)**



**Figure 2 – Subdivision plan (part plan focusing on smaller lots)**



**Figure 3 – Subdivision plan – aerial overlay (part plan focusing on smaller lots)**



**SITE AND LOCALITY:**

The 32.68 ha site is located approximately 4 km southeast of the Cootamundra CBD, and fronts both Turners Lane to the north and east, and Jugiong Road to the south. It is an irregular shaped property comprising two (2) lots, being Lot 5 to the north (12.36 ha) and Lot 6 to the south (20.32 ha). From the high point along the western boundary of existing Lot 5, the site falls moderately to the east, and strongly to the south, before it flattens out in the south-east corner adjacent Turners Lane/Jugiong Road.

Both existing lots support a dwelling and ancillary sheds and structures, and whilst the site is largely cleared, it does support some patches of remnant vegetation, including Blakelys Red Gum - Yellow Box grassy tall woodland and White Box grassy woodland, along with other isolated paddock trees dotted across the site. There is watercourse that runs generally east-west through the site, located predominantly in existing Lot 6.

The surrounding land is a mixture of rural, rural-residential and lifestyle land uses, supporting a variety of cropping and grazing activities, and more intensive land uses, including an olive grove 500 metres to the south-east and a cattle feedlot 1.5 km to the south-east. In the wider area, there are a number of industrial uses, including the Cootamundra waste transfer station, sewage treatment plant, recycling facility and a mattress and tyre recycling business, located approximately 1 km to the northeast.

**Figure 4 – Location plan (NSW Six Maps)**

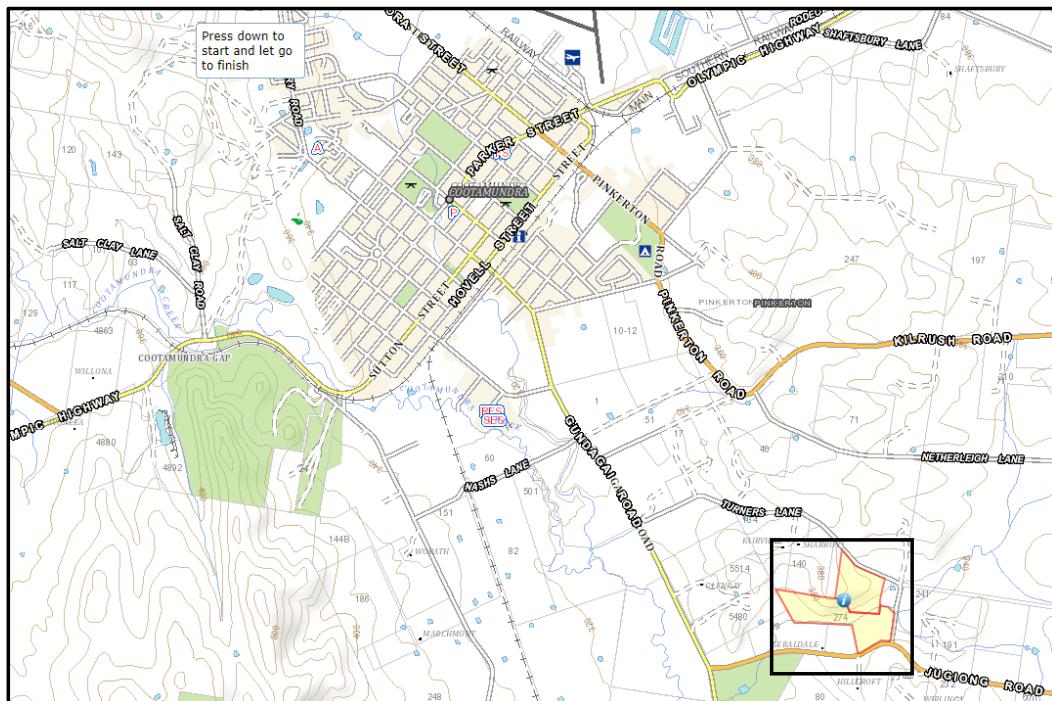


Figure 5 – Aerial view – locality (Google Earth 28.10.2023) – property outlined red/coloured yellow



Figure 6 – Aerial view – site and adjacent properties (Google Earth 28.10.2023) – property outlined red/coloured yellow



**GENERAL REQUIREMENTS OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979:**
**1.7 Application of Part 7 of *Biodiversity Conservation Act 2016* and Part 7A of *Fisheries Management Act 1994***

These sections of the Acts, requires Council to consider whether the development or activity is likely to significantly affect threatened species, populations or ecological communities (as per the relevant test in each Act). As per these sections and tests, it is not considered that the development is likely to significantly affect threatened species, populations or ecological communities, because:

***Biodiversity Conservation Act 2016***

- the site has not been declared as an area of outstanding biodiversity value,
- the development does not exceed the biodiversity offsets scheme thresholds (is not mapped as high biodiversity value on the Biodiversity Values Map and does not exceed the clearing threshold of 5,000 m<sup>2</sup>),
- the development is not a key threatening process, e.g no loss of hollow bearing trees, removal of dead trees/wood, or clearing of native vegetation to such an extent as to result in the loss, or long-term modification, of the structure, composition and ecological function of a stand (of trees/plants).

See also LEP assessment for further assessment on trees and biodiversity.

***Fisheries Management Act 1994***

- all threatened species, endangered populations and endangered ecological communities known to occur in the LGA, or thought to be extinct in the LGA, are confined to the Murrumbidgee River or river system, and the development is nowhere near this river system,
- there is no declared critical habitat in the region,
- the development is not a key threatening process.

**2.22 Mandatory community participation requirements**

As per this section and Schedule 1, of the Act, the development was notified in accordance with the CGRC Community Participation Plan (CPP), for a period of fourteen (14) days. Five (5) submissions were received, raising the following concerns:

Issue	Submission No.				
	1	2	3	4	5
road condition, traffic, access					
▪ the existing amount of traffic and increase in traffic	✓				
- Turners Lane is already very busy	✓				
- there will be an increase in traffic during construction	✓				
- there will be increased traffic from additional hobby farms/lots/ dwellings	✓	✓	✓		
- there is excessive traffic from an industrial kitchen joinery on Turners Lane	✓				
- Turners Lane is not structurally ready to take the increased traffic flow					✓
▪ the condition of the road					
- the gravel surface is dangerous and slippery during wet periods	✓				

Issue	Submission No.				
	1	2	3	4	5
- Turners Lane has from time to time been in a very rough, unsafe state	✓				
- there are deep ruts on the side of the road				✓	
- additional traffic will make the conditions of Turners Lane worse					✓
- the industrial area of Turners Lane near the tip has grown and traffic increased (especially truck movements), but nothing has been done to that section of Turners Lane					✓
- not improving the road will cause damage to the rest of the lane					✓
▪ bitumen sealing of Turners Lane is necessary	✓				
- needs to be sealed to reduce dust		✓			
- needs to be sealed due to increased traffic				✓	
- Turners Road was to be sealed years ago, but other roads were sealed first (allegedly as Council staff lived on those other roads)				✓	
▪ access					
- access to the subdivision is a safety issue		✓			
- the driveways are on blind points of the road			✓		
▪ width of the current road					
- sections of the road do not allow for two-way traffic	✓				
- the whole dirt/gravel section of Turners Lane needs to be widened to allow two-way traffic	✓				
- a tree needs to be removed, or the road widened, on the bend to improve the visibility of oncoming cars	✓				
- Turners Lane needs to be widened on the frontage of this development			✓		
- the road is very narrow				✓	
noise					
▪ the existing traffic causes plenty of noise	✓				
▪ there is excessive noise from an industrial kitchen joinery on Turners Lane	✓				
dust					
▪ the existing traffic causes huge amounts of dust when it is dry	✓				
amenity					
▪ wants to return to, and remain enjoying, the once peaceful rural residential neighbourhood	✓				
topography and suitability of the site					
▪ the area is hilly land with limited flat or suitable area to develop		✓			
overland stormwater flow					
▪ the natural flow of water will change due to the extent of earthworks		✓			
▪ concern with increased water flow through adjacent property (on lower side of the subdivision), as water already runs off into and through neighbouring land and shed			✓		
tree removal					
▪ the number of trees to be removed for the driveways				✓	

These issues will be addressed throughout this report.

**4.5 Designation of consent authority**

The development is not state significant or regionally significant, and therefore Council is the determining authority.

**4.10 Designated development**

Schedule 3 of the EP&A Regulation defines the various types of designated development, but the application does not meet any of the criteria and therefore is not designated.

**4.13 Consultation and concurrence**

If required by an environmental planning instrument, this section requires Council to consult with or obtain the concurrence of the person. No consultation was required in this instance (see also SEPP and bushfire sections below, pertaining to referrals).

**4.14 Consultation and development consent—certain bush fire prone land**

The site is not bushfire prone, and therefore no referral to the NSW Rural Fire Service was required, and no consideration of *Planning for Bush Fire Protection* is required.

**4.22 Concept development applications**

The development is not a concept development (a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications).

**4.33 Determination of Crown development applications**

The development is not a Crown development.

**4.36 Development that is State significant development**

The development is not State significant development (of a size, type, value or with impacts deemed to be significant).

**4.46 Integrated development**

The development is not integrated development (requires consent or an approval from another government agency, as identified in the Act).

**SECTION 4.15 CONSIDERATIONS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979:****4.15(1)(a)(i) The provisions of any environmental planning instrument:*****State Environmental Planning Policies (SEPPs) and deemed SEPP's*****SEPP (Biodiversity and Conservation) 2021*****Chapter 2 - Vegetation in non-rural areas***

Does not apply to this zone.

**SEPP (Resilience and Hazards) 2021*****Chapter 4 – Remediation of land***

Council must not consent to the carrying out of any development on land, unless it has considered whether the land is contaminated, and if contaminated whether it is suitable for the intended use, or requires remediation. The site is not identified on Council's potentially contaminated land register, and there is no evidence to indicate that the land is a site of possible contamination from past landuses, which historically have been cropping and grazing, with ancillary residential use. Accordingly, it is considered that the land is suitable for the proposed development, and no further investigation is warranted.

**SEPP (Transport and Infrastructure) 2021*****Chapter 2 - Infrastructure***

- **Section 2.48 (Determination of development applications—other development)** applies to a development application for development in proximity to electricity infrastructure (e.g within 5 metres of an exposed overhead power line, near substations, etc). Even though there are overhead power lines on the site, as no buildings are being erected, no referral was necessary.
- **Section 2.76 (Development adjacent to gas pipeline corridors)** requires applies to developments adjacent to a pipeline corridor, but there are no gas pipelines in the immediate area and consideration of this clause is not required.
- **Division 15, Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors—notification and other requirements, including Sections 2.97, 2.98, 2.99 and 2.100** applies to developments adjacent a rail corridor requires or that involve a level crossing, but the site is not adjacent the railway corridor, and therefore these clauses do not apply to this development.
- **Section 2.119 (Development with frontage to classified road)**, the development does not front a classified road and therefore this clause does not apply to this development,
- **Section 2.120 (Impact of road noise or vibration on non-road development)**, does not apply as the AADT volume of the adjacent road is less than 20,000 vehicles.
- **Section 2.121 (Excavation in or immediately adjacent to corridors)**, does not apply as the development will not result in the penetration of the ground to a depth of 3 m or greater, within or adjacent any of the nominated roads,
- **Section 2.122 and Schedule 3 (Traffic generating development)**, does not apply, as the type and/or scale of the works is not identified in the Schedule (50 lots on a classified road or 200 lots on any road require referral).

**Local Environmental Plan (LEP)**

The applicable LEP is the Cootamundra LEP 2013 (CLEP), and the relevant provisions of the LEP are discussed as follows.

**1.2 Aims of Plan**

The subdivision is largely consistent with the aims of the LEP, in that local amenity is maintained through lot design, and does not impact on viable agricultural land through conflict, due to the setbacks from actively farmed large scale agricultural holdings.

**1.4 Definitions**

Subdivision of land is not defined in the LEP, rather it relies upon the definition in Part 6 of the *Environmental Planning and Assessment Act, 1979*, being:

***subdivision of land*** means the division of land into 2 or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition.

1.6 Consent authority

The consent authority for the purposes of this Plan is the Council.

1.9A Suspension of covenants, agreements and instruments

Both existing lots (Lots 5 and 6) are affected by several easements and restriction as to users, detailed as follows:

Purpose	Width	Burdened	Benefited	Comment
Water supply (DP1004745)	3 m	Lots 5 & 6	Lot 2 DP 850604 (adj lot)	Application proposes to change the location of this easement, as a result of the associated water supply line being relocated. The water supply line and easement is proposed to run along the external boundary of proposed Lot 105, instead of through the middle of the lot. There are no issues with this, and does not prevent the subdivision of the land.
Water supply (DP1004745)	3 m	Lots 5 & 6	Lot 21 DP 733220	Easement does not prevent the subdivision of the land, however, will only burden proposed Lot 106, when the subdivision is registered.
Water supply (DP1004745)	3 m	Lot 2 DP 733220	Lots 5 & 6	Easement does not prevent the subdivision of the land, however, only proposed Lot 106 will benefit, when the subdivision is registered.
Water supply (DP1062169)	5 m	Lot 4 DP 1062169 (adj lot)	Lot 5	No changes proposed or required, and does not prevent the subdivision of the land.
Electricity purposes (DP1062169)	20 m	Lot 5	Country Energy [sic]	Survey reveals that existing infrastructure is located outside of the easement, and therefore the easement is to be released and recreated in the correct location.
Restriction as to user (DP1004745)	N/A	Lot 5	CGRC	RATU states that the lot is not to be transferred to another person unless the owner (at the time the subdivision was original was carried out in 1999) provides water, power, phone and access to the lot, to the satisfaction of Council. This has long been complied with, and in fact is a redundant restriction that should be removed.

2.1 Land use zones

The site is zoned RU4 Primary Production Small Lots, and the proposed development is permitted in the zone with consent.

2.3 Zone objectives

Under this clause Council must have regard to the objectives of the zone when determining the development. The development is considered to be consistent with the following objectives:

- *to enable sustainable primary industry and other compatible land uses* – extensive agriculture, aquaculture and intensive plant agriculture are all permitted land uses in the zone. Whilst it is unlikely that extensive agriculture would be carried out based on the proposed lot sizes, it is feasible that a small-scale intensive agricultural activity could be carried out on the lots (e.g. small plant nursery, growing fruit and vegetables or limited grazing and pasture improvement), if the owner wishes,
- *to minimise conflict between land uses within this zone and land uses within adjoining zones* – as discussed above in relation to the aims of the LEP, the land is located a sufficient distance from actively farmed land, such that conflict is minimised,
- *to encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature* – this objective is largely irrelevant to the subdivision, which does not actively work for or against this objective.

2.6 Subdivision—consent requirements

This clause states that “land to which this Plan applies may be subdivided, but only with development consent”. Accordingly, this application has been lodged. This clause also contains provisions relating to the subdivision of land on which a secondary dwelling is situated, but is not relevant to this application.

2.7 Demolition requires development consent

This development does not involve any demolition works.

4.1 Minimum subdivision lot size

The minimum lot sizes stipulated for the subject land is 2 ha (Lot 5) and 5 ha (Lot 6), which each lot in this subdivision equals or exceeds, as shown below (extract from SEE).

**Figure 6 – Extract from SEE relating to lot sizes**

**3.1.4. Minimum Lot Size – Cootamundra**

Lot	Designation	Minimum	Proposed area	Complies
Lot 101	Z	2.0Ha	2.01Ha	Yes
Lot 102	Z	2.0Ha	2.0 Ha	Yes
Lot 103	Z	2.0Ha	2.01Ha	Yes
Lot 104	Z	2.0Ha	2.04Ha	Yes
Lot 105	Z	2.0Ha	2.05Ha	Yes
Lot 106	AA	5.0Ha	22.53Ha	Yes

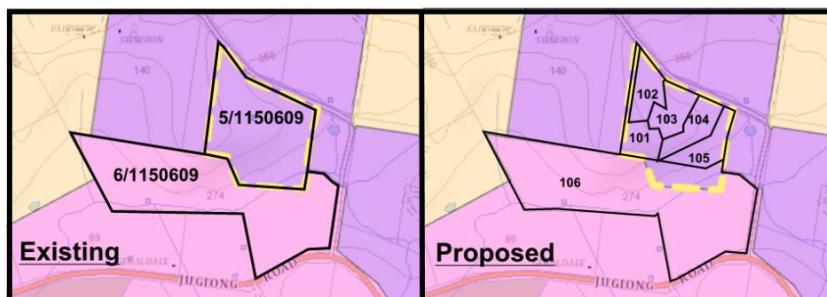


Figure 6; Minimum Lot Size Mapping with existing and proposed subdivision configurations over laid. Mauve area denotes 2.0Ha minimum, pink area denotes 5Ha minimum. *Lot size mapping extracted from Dept. Planning - ePlanning Spatial Viewer - <https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/lot>*

4.6 Exceptions to development standards

No variations to any EPI is proposed or required to facilitate this application.

5.10 Heritage conservation

There are no heritage items on-site (identified on either the SHR or in the LEP), and the site is not located in an HCA.

A search of the AHIMS database found that within 1 km of the site, three (3) Aboriginal sites are recorded, but no Aboriginal places have been declared, in the area. When the search was refined to a 50 metres radius of the property, one (1) Aboriginal site was recorded, located to the north of the site.

As per the AHIMS report, if a basic search reveals any item, then an extensive search is to be carried out. The Applicant carried out an extensive search of the AHIMS database, which provided the coordinates of the site, which the surveyor plotted on the subdivision plan. This showed that the site was not on the property or within the road reserve. Accordingly, Council is satisfied that the subdivision will have no impact on known European or Aboriginal heritage, although an unexpected finds condition will be imposed.

5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones

The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or environment protection zones concerned, particularly between residential land uses and other rural land uses. This clause applies to land in the RU4 Primary Production Small Lots zone, and therefore consideration of this clause is required on this instance. A consent authority must take into account the matters specified in subclause (4) in determining whether to grant development consent to development on land to which this clause applies for a subdivision of land proposed to be used for the purposes of a dwelling, and therefore the following matters have been considered:

- (a) *the existing uses and approved uses of land in the vicinity of the development,*  
Predominantly, the existing and approved uses in the immediate area, are rural and lifestyle / rural-residential lots, that support dwelling houses with varying types and intensities of agricultural use, but generally involve cropping and grazing.
- (b) *whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*  
It is not considered that the subdivision will have a significant impact on land uses near the development. The subdivision will allow for the continued use of the adjacent land for rural-residential purposes, consistent with the zoning and the surrounding land uses, and is setback a sufficient distance from the actively farmed land, so as to minimise any potential land use conflicts.
- (c) *whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*  
As discussed above, it is not considered that the development will be incompatible with the existing land uses, but will allow them to be continued unaffected.
- (d) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).*

No measures are proposed, or required, in order to mitigate any incompatibility, as there are sufficient setbacks in place and proposed.

5.21 Flood planning

The site is not located in the flood planning area, and therefore consideration of this clause is not required.

6.1 Earthworks

There will be earthworks associated with the subdivision, predominantly in the road reserve, relating to the upgrade and/or provision of access to the lots and with the road widening along Turners Lane. This will be managed through the subdivision work certificate process. There will be some minor works associated with the fencing and the extension of the power (erection of fence posts and poles). It is not expected that the associated earthworks will have any detrimental effect on, drainage patterns and soil stability in the locality of the development. The earthworks will not impact the future use of the land, and will not affect the amenity of adjoining properties. No fill is expected to be brought onto the site or taken off it, and suitable erosion and sedimentation control measures will be required to be installed where necessary, so that there are no adverse impacts on any waterways.

6.3 Biodiversity protection

This clause applies to land that is identified as biodiversity land on the Terrestrial Biodiversity Map. Some parts of the site are mapped as biodiversity (see green shaded areas in the adjacent image), being those areas containing the remnant vegetation, and which is predominantly located on proposed Lot 106, generally in the middle of the site. Some of the vegetation along Turners Lane, road reserve is also mapped as biodiversity.



The surveyor has superimposed the location of these mapped biodiversity areas over the proposed plan of subdivision (see adjacent image). Furthermore, the survey plan submitted identifies the location of each tree on the site, with respect to each proposed lot boundary. So, whilst proposed boundaries pass through mapped biodiversity areas, it will not result in the removal of any trees on site, or the likely removal of any trees, for the following reasons:

- the fencing that passes through the bulk of the mapped areas to the south (northern boundary of proposed Lot 106), is already in place and no works are to be carried out in this area, and no removal of vegetation is proposed or required,
- there is only one (1) tree in the biodiversity mapped area through which the boundary between proposed Lots 104 and 105 passes, which is not impacted by the development. There are two (2) other trees outside the mapped areas which are



adjacent to the proposed boundary, but they are located a suitable distance so that they do not need to be removed,

- the indicative building envelopes show that a dwelling could be located clear of the mapped biodiversity areas,
- the route of the relocated water line (and its 3 metres wide easement), along the southern and eastern boundaries of proposed Lot 105, is clear of any significant vegetation.

Concern was expressed in the submissions relating to the number of trees required to be removed to provide access to the lots. This issue (along with driveway placement to achieve the required sight distance), was discussed with the Applicant, and resulted in the access locations being amended (see further discussion on access below).

As a result of this, the number of trees in the road reserve potentially impacted by the subdivision has been reduced, and will result in the removal of two (2) mature eucalypt trees (to provide access to Lots 104 and 105). These trees are estimated to be approximately 25 years old, based on trunk diameter and historical aerial imagery, and the trees are positioned quite close to the edge of the road pavement (see adjacent photo). The trees are located immediately adjacent each other, and one (1) tree is a single trunk (0.25 m diameter), and the second is a codominant stemmed tree (2 trunks joined close to the ground). Codominant trees are prone to structural weakness and failure, uneven growth, bark inclusion, thinning crowns from competition, and significant trunk lean. This tree shows some of these features, in particular one (1) trunk leaning over the road. Neither of the trees have any visible hollows, which is consistent with the age of the trees, with hollows generally taking 100 years or more to form. Based on the nature and age of these trees, the extent of the existing vegetation in the area, and the minor loss of trees as a percentage of total tree cover, it is concluded that the development will not have any impact on critical habitats, threatened species or populations, ecological communities or any other protected species, or on native fauna or vegetation.

Two (2) native trees (eucalypt and kurrajong) will require low hanging branches to be removed to improve sight distance, but the bulk of these trees will be retained, with pruning only required to a height of between 6 and 8 metres. This pruning will not adversely impact the health and wellbeing of the trees. Furthermore two (2) exotic shrubs will also be removed from the road reserve to improve sight distance, and which will not have any significant impact on biodiversity in the area.

The preliminary engineering plans for the widening of the road, do not show any tree removal associated with those works. However, when detailed engineering plans are prepared to accompany the application for a subdivision works certificate, if it determines that tree removal is required, the application will need to be modified and by a flora and fauna study prepared.



Conditions pertaining to tree removal and retention will be imposed to ensure that trees are suitably protected and only those consented to for removal or trimming are impacted.

Accordingly, Council is satisfied that the development is designed, sited and will be managed to avoid any significant adverse environmental impact on terrestrial biodiversity, and that there will be no substantial adverse impacts on fauna and flora on the land, habitat or connectivity as a result of the subdivision.

6.4 **Groundwater vulnerability**

This clause applies to land that is identified as groundwater vulnerable on the Groundwater Vulnerability Map, and all of the site is mapped as affected. Council has considered the likelihood of groundwater contamination from the subdivision, and given the closest bores to the site (including the bore on site), show groundwater is deep (see following table), and the onsite disposal of effluent from any dwelling on the additional lots is at the subsoil level, is unlikely to impact the groundwater.

<b>Bore No.</b>	<b>Location</b>	<b>Water bearing zones</b>
GW001187	On-site (existing Lot 5 / proposed Lot 101)	39.9 metres
GW400737	85 metres to the west of existing Lot 6	15.25 – 42.87 metres
GW064366	325 metres to the west of existing Lot 5	29.8 – 32 metres

Furthermore, whilst there is terrestrial groundwater dependent ecosystems mapped as being on-site (being the remnant vegetation), groundwater is not proposed to be extracted as a result of the subdivision, with Goldenfields Water reticulated water currently connected to both houses, and the new lots having the option of connecting to this supply, or relying on roof water from a future dwelling. Finally, no cumulative impacts from the subdivision on groundwater have been identified, and, no measures are proposed or required to avoid, minimise or mitigate the impacts of the development.

6.5 **Riparian land and watercourses**

This clause applies to land that is identified as a watercourse on the Watercourses Map, and whilst there is a watercourse onsite, it has not been mapped in the LEP, and accordingly this clause is not applicable. Nonetheless, no impact on the watercourse is anticipated in any event.

6.6 **Salinity**

This clause applies to land identified as dryland salinity on the Natural Resources Land Map, and parts of the site have been mapped as shown in the adjacent image (red area). This is an area that encompasses the watercourse that passes through the site.



Before determining a development application for development on land to which this clause applies, the consent authority must consider whether the development is likely to have any adverse impact on salinity processes on the land, whether salinity is likely to have an impact on the development, and any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Generally, dryland salinity occurs as a result of rising groundwater (to within 1 or 2 metres of the surface), and often results from replacing deep-rooted native vegetation with shallower-rooted crops and pastures, which take up less water. Other factors that contribute to dryland salinity include an arid climate (where evaporation greatly exceeds rainfall), shape of the landscape (flatter land reduces the speed of runoff and allows it to accumulate), hydrogeology (high groundwater levels), geology (that affect the groundwater flow path) and soils (excessive loss of topsoil, erosion, compaction of soils and soil structure decline).

The subdivision does not propose any substantial tree removal, and the local bores show that groundwater is not high. There is only minimal work to be carried out in the mapped area (relocation of the existing water supply line), which will not impact on any of the above environmental factors contributing to dryland salinity. The resultant additional building lots are all outside of the mapped area, so that dryland salinity is unlikely to have an impact on the future use of these lots. In fact the subdivision will result in the bulk of the mapped area being located on the large Lot 106, allowing for better management of the watercourse and the mapped areas of dryland salinity. Accordingly, Council is satisfied that the subdivision is designed, sited and will be managed to avoid any significant adverse environmental impact in this regard.

#### 6.7 Highly erodible soils

This clause applies to land identified as high soil erodibility on the Natural Resources Land Map, and a small part of the site has been mapped as shown in the adjacent image (brown patch). The reason why this relatively small area alone has been mapped as being highly erodible is unclear, noting that the LEP mapping was provided to Council by a State agency, with no clarification as to why land was mapped or not mapped.



In any event, there are no works proposed or required to be carried out in this mapped area, so Council is satisfied that the development is designed, sited and will be managed to avoid any significant adverse environmental impact on soil erosion processes.

#### 6.8 Airspace operations

This clause applies to developments that penetrate the Limitation or Operations Surface of the Cootamundra Airport, which this development does not as there are no building works, and therefore this clause is not applicable.

#### 6.9 Essential Services

This clause applies to land that is zoned RU4 Primary Production Small Lots, and therefore the consent authority must be satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

However, this clause does not apply to development for the subdivision of land that is more than 800 metres from any public sewer main. Accordingly, these matters are addressed below in the DCP assessment and Section 4.15 assessment.

**4.15(1)(a)(ii) The provisions of any draft environmental planning instrument:*****State Environmental Planning Policies (SEPPs)***

There are no draft SEPP's which relate to this development.

***Local Environmental Plan (LEP)***

There are no draft LEP's which apply to this land.

**4.15(1)(a)(iii) The provisions of any development control plan:**

The Cootamundra Development Control Plan (DCP) applies to the land, and the provisions are discussed as follows:

**Chapter 1 – General information****Section 1.7 - Notification of Development Applications**

The provisions of the Community Participation Plan takes precedence over this section of the DCP (see comments above in Section 2.22)

**Chapter 2 - Residential Development** - Does not apply to this type of development.

**Chapter 3 - Business & Industrial Development** - Does not apply to this type of development.

**Chapter 4 – Subdivision** – the following performance criteria (PC) and acceptable solution (AS) provisions apply to a subdivision in the RU4 zone.

- 4.1 Rural Subdivision
- 4.3 Subdivision in the RU4 Primary Production Small Lots, RUS Village and R5 Large Lot Residential Zones

An assessment against Section 4.3 of the DCP has been carried out (below), as whilst it is unclear which sections apply or take precedence over the other, they are both very similar in terms of the provision, but 4.3 appears to be more targeted at a lot created for residential purposes.

***PC All new lots have legal and practical access to a dedicated public road.***

**AS** *Each allotment created has legal access to a public road either through direct frontage, or by consolidation with an existing allotment that has public road access;*  
Satisfied – each lot has legal access to a public road (Turners Lane). See also Section 4.15 assessment below, relating to access

**AS** *Battle axe allotments are not acceptable access to lots*  
Acceptable solution not satisfied but performance criteria met – a single battle-axe lots is proposed, being Lot 101, and the Applicant has stated that the primary Influence which resulted in Lot 101 being a battle-axe configuration was the location

of the overhead powerlines and the easement for overhead powerlines 20 wide which burdens the north-western corner of the property. The battle-axe handle burdened by the easement would prohibit the siting of a dwelling, and therefore, to make the area of land burdened by the easement functional, it was decided to use the area as a means of access.

Despite this acceptable solution not being met, the performance outcome has been achieved, in that legal and practical access has been provided to the lot from a public road, and this is considered acceptable.

**AS** *Rights of carriage way are not acceptable access to lots.*

Not satisfied – a right of carriageway is proposed over Lot 102 to facilitate access to Lot 101, as insufficient site distance is available at for Lot 101 the road boundary. Council will also require a reciprocal right of carriageway over the combined access to Lots 104 and 105, as parts of each property are relied upon for access. In this instance, right of carriageways are supported to ensure suitable access is available to each lot, to minimise the number of new accesses, and reduce the number of potential conflict points.

**AS** *For lots created with the right to apply for a dwelling, access is provided to a non-classified road where possible, and in accordance with Council's Engineering Subdivision and Development guidelines*

Satisfied – access is to a non-classified road (Turner Lane).

**AS** *Where access to a classified road is necessary, this is to be provided in accordance with RMS standards for access to a rural dwelling*

Not applicable

**PC** *The subdivision provides safe and appropriate vehicle access for residents*

**AS** *Standard of construction for roads built and roads fronted or other road network facilities are provided as part of the development application, such standards to incorporate:*

- *A 2 coat bitumen sealed standard with a 20 metre wide road reserve, 8 metre road formation width and 7 metre seal width. The road pavement is to be designed to meet the requirements of the Austroads design guidelines with a minimum gravel pavement thickness of 250mm.*

Acceptable solution not satisfied but performance criteria is met – The east-west running section of Turners Lane road reserve is 30 metres in width. The western section of this road (generally to the west of the Goldenfields Water pump station) has a road formation width of approximately 5 metres to 6 metres, while the eastern section of the road (generally to the east of the Goldenfields Water pump station and adjacent this subdivision), has a road formation width of approximately 3.5 metres to 4 metres. Only the very western end, and the very eastern end, of the road is sealed, while the rest of the road is unsealed.

Due to the increase in traffic as a result of the subdivision, Council will require the road formation of the east-west section of Turners Lane (generally to the east of the pump station and adjacent the subdivision), to be widened to a width of 5.5 metres, and preliminary engineering plans have been supplied to show the extent of widening. The bulk of Turners Lane is unsealed, and given the volume of traffic (existing and proposed) is low, Council's Engineers have indicated that sealing of the

road adjacent the subdivision is not required in this instance, and it is not reasonable to require the developer to seal the full length of the Turners Lane, for four (4) additional lots. Despite the road not being sealed, Council is satisfied that the subdivision satisfies the performance criteria, in that it provides safe and appropriate vehicle access for residents.

The submissions received raised a variety of matters relating to the existing condition of Turners Lane, including that it is rough and unsafe, is dangerous and slippery in wet weather, is structurally unsound, there are deep ruts on the side of the road, additional traffic will further deteriorate the road, sections of the road are narrow and do not allow for two-way traffic, and the section of road adjacent the subdivision needs to be widened. The proposed works required to be carried out, will address many of these issues, specifically relating to the eastern section of Turners Lane. The western section of Turners Lane is considered suitable in its present condition to cater for the increase in traffic, as is the north-south running section of the road. Ongoing maintenance of Turners Lane will be as per Council's current works program, and as required.

For further discussion on traffic generation, and access to each lot, see section 4.15 assessment below.

**AS** *Subdivisions exceeding 25 lots have their main subdivision service road connect to the existing road network in at least two locations.*

Not applicable

**AS** *Property numbering is provided in accordance with the rural addressing scheme;*  
Satisfied – to be conditioned.

#### Servicing requirements

**PC** *All new lots with a dwelling entitlement are provided with appropriate services.*

**AS** *Electricity, water and telecommunications are available and provided to the new lots.*

Electricity – Satisfied – There are existing power lines on site and in the area, and some minor extensions will be required to service some of the lots. No changes are required to the services to the existing dwellings on proposed Lot 106 and proposed Lot 103, but an extension will be required to service Lots 104 and 105 which is proposed as part of the application. It is possible that additional or upgraded transformers will be required to service the additional lots. Prior to the release of the subdivision certificate, written confirmation will need to be provided from Essential Energy, confirming that power is available to each lot.

Water – Satisfied – Council's reticulated water supply system is located over 2.5 km from the site, and therefore the site is outside of the Cootamundra Reticulation Area. However, the site is located in the Goldenfields Water reticulation area, and there is a water main on the northern side of Turners Lane. Water is connected both existing lots (although not currently connected to the house on Lot 5), and both connections are to be retained, with proposed Lot 102 to retain the unused water connection on existing Lot 5. It is not intended provided any further water connections to the land, at the subdivision stage. Goldenfields Water have indicated this is acceptable, and advised that future owners can apply for a water connection if required.

Council is satisfied that each lot is of a sufficient size to harvest runoff water or to erect a sufficient size dwelling and ancillary structures to harvest roof water.

As indicated above, an existing private water supply running through the property, which services the properties on Jugiong Road, will need to be relocated, and the easement modified.

See also comments below.

Telecommunications – see comments below.

**AS** *Written confirmation is provided by a telecommunications carrier stating that facilities are available to each allotment or that suitable arrangements have been made.*

Satisfied – the Applicant has stated that the necessary pre-provisioning letters and or other written forms will be forwarded to Council. This will also be reinforced as a condition of consent.

**AS** *Where reticulated water is available, all allotments created are provided with a connection point to Council's water mains, the connection to which is designed and constructed in accordance with Council's standard.*

Not applicable – whilst reticulated water is in the area, and connected to the existing lots, the water supply scheme does not belong to Council. Goldenfields Water do not require additional connections to be provided or headworks charges to be paid as part of the subdivision, and have indicated that if future owners want connections they can be applied and paid for at that time.

**AS** *Water storage with a minimum capacity of 20, 000 L is provided for fire fighting purposes with a 40mm Storz water coupling suitable for connection to the local fire brigade water tanker.*

Satisfied – A restriction as to user shall be placed on each vacant lot to be created (proposed lots 101, 102, 104 and 105), that requires the installation of water tanks for fire-fighting purposes, at such time as a house is built, which will be reinforced with a condition of consent.

**AS** *Where sewer is available, allotments are connected to the sewer.*

Not applicable – sewer is not available, being located a minimum of 1 km away, and it is not reasonably or feasibly able to be extended.

**AS** *Where sewer is not available, adequate provision is made to enable allotments to provide an appropriate effluent treatment system for dwellings*

Satisfied – sewer is not available and there is ample room on each site for the disposal of effluent. The existing on-site system for the existing dwellings on proposed Lots 103 and 106, are located a suitable distance from any new boundaries.

**PC** *The subdivision of land for dwelling entitlements provides building envelopes that are constraint-free.*

**AS** *Bushfire prone land, flood prone land, slope are identified and considered and appropriate building envelopes are identified on the development application plans*

Satisfied – None of the land is affected by flooding or bushfire, and whilst indicative building envelopes have been shown on each lot, to show that there is room to erect a dwelling, it is not considered necessary for building envelopes to be provided on the final plan of subdivision.

***PC The development provides a means of funding local infrastructure and services required as a result of the subdivision***

**AS Payment of any Section 94 or Section 94A contributions applicable to the development**

There are no 7.11 or 7.12 contribution plans in force that apply to the subdivision of rural land.

***PC The subdivision provides roads that are constructed to a standard that is durable and suitable for the proposed development, and which are capable of being upgraded to serve standard residential allotments.***

**AS All roads created as a part of the subdivision are sealed and are designed and constructed in accordance with Council's Engineering Guidelines for Subdivision and Development.**

Not applicable – no new roads are being created as part of this application.

**Chapter 5 – Car parking and vehicle access** – Not applicable as no impact on parking

**Chapter 6 – Environmental Management** – Not applicable as land is not bushfire prone, flood prone, potentially contaminated or located adjacent a quarry, extractive industry, forestry, infrastructure assets or renewable energy generating facilities.

**Chapter 7 – Heritage** – Not applicable as the site does not contain a heritage item and is not in the HCA.

**4.15(1)(a)(iii) Any planning agreement or draft planning agreement:**

The developer has not entered into a planning agreement, nor has offered to enter into a draft planning agreement.

**4.15(1)(a)(iv) Matters prescribed by the Regulations:**

Council has considered the following matters as prescribed by Regulations:

**Section 61 (Additional matters for consideration): -**

- demolition is not proposed as part of this application,
- the development is not for the carrying out of development on land that is subject to a subdivision order made under Schedule 7 to the Act,
- the development is not located within the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle (to which the Dark Sky Planning Guideline applies),
- the development does not pertain to a manor house or multi dwelling housing (terraces),
- the development is not land to which the Penrith LEP applies to.

**Section 62 (Consideration of fire safety)**

- the development is not for a change of building use for an existing building.

Section 63 (Considerations for erection of temporary structures)

- the development is not for a temporary structure.

Section 64 (Consent authority may require upgrade of buildings)

- the development does not involve the rebuilding, enlargement or extension of an existing building.

Section 65 (Special provision relating to Sydney Opera House)

- the development does not relate to the Sydney Opera House.

**4.15(1)(b) The likely impacts of that development:*****Context and Setting:***

The issue of context and setting deals with a number of aspects, including the scenic qualities and features of the landscape, the character and amenity of the area, the scale and density of the development, the relationship and compatibility of adjacent land uses, visual and acoustic privacy, overshadowing, views and vistas and boundary treatments and fencing.

Given the nature of the existing area and the proposed development, there will be little impact on the scenic qualities and features of the landscape in either a regional or local context. The character of the area is predominantly rural and rural-residential in nature, with a low settlement density, comprising a variety of different lot and holding sizes, generally supporting either none, or small scale agricultural activities, with most holdings supporting dwellings. Adjacent the northern part of the site (that proposes the creation of 5 x 2 ha lots), are a number of similar sized lots, including a 2.7 ha lot immediately to the east, a 3.3 ha lot immediately to the west and a 2 ha lot 120 metres to the west. On this basis, it is considered that the density, design and scale of the development is in keeping with the existing character of the area.

In relation to overshadowing, visual and acoustic privacy, etc, it is not considered that any of the existing residences in the area will be adversely impacted, given the generous setbacks.

One (1) of the submissions objected to the development on the basis that the area should return to, and remain as, a peaceful rural residential neighbourhood. It is not considered that the proposed development, which will see the creation of four (4) additional lots, will have an adverse impact on the amenity of the area, given the number of lots, size of the lots, and setbacks to the adjacent dwellings.

***Access, Transport and Traffic:*****Access**

Some of the submissions received objected to the development on the grounds that access to the subdivision is a safety issue, and the driveways are on blind points of the road. The Austroads Guide to Road Design, recommends that a sight distance of 139 metres be achieved for accesses located in 100 km/h speed zone, which may be varied with suitable justification, based on a variety of factors such as the actual design speed of the road and gradient.

The accesses to proposed Lots 103 and 106 (which will contain the existing dwelling houses) are existing, and it is proposed to retain these accesses in their current locations, which is considered suitable, as there is no additional impact or usage associated with this access points.

Proposed Lots 101 and 102 will share a new access, which will be located within Lot 102 towards the western end of the lot. A right of access will then be provided across Lot 102, to benefit Lot 101, to ensure legal access to the lots is maintained. The sight distance available at this location is 126 metres to the west and 132 metres to the east, which is increased to 168 metres and 140 metres, after some minor trimming of trees and the removal of some exotic shrubs, which complies with the required standard.

Proposed Lots 104 and 105 will also share a new access located on the common boundary of the lots, and a reciprocal right of access will be required over the first 25 metres of the access internal of the property. This access location has been chosen so that the required sight distance is achieved in both directions, with 157 metres to the west and 166 metres to the east. However, this location directly impacts two (2) small tree eucalypts, requiring their removal, as well as the removal of an exotic bush. Vegetation removal is discussed elsewhere in this report.

Accordingly, Council is satisfied that the proposed access locations are suitable.

Traffic

In terms of traffic, several of the submissions expressed concern with, or objected to the development on the grounds that, there would be increased traffic along Turners Lane, citing it is very busy already, in particular the western section in the industrial area.

In this regard, the western end of Turners Lane supports a number of traffic generating uses, including the mattress/tyre recycling business and the Cootamundra Waste Depot, recycling facility and to a lesser extent the STP. In terms of traffic generation along the unsealed east-west section of Turners Lane, there are ten (10) existing dwellings that have access only to Turners Lane, and a further three (3) dwellings that have secondary access to the road (with their primary access to Netherleigh Lane). Furthermore, the north-south section of Turners Lane which joins Jugiong Road, is accessed by two (2) dwellings.

So in terms of existing traffic generation along Turners Lane, to establish the worst-case scenario, it is assumed that all existing traffic will travel along the east-west section of Turners Lane, rather than use the north-south section. On this basis, the existing traffic has been assessed as follows:

Use	Vehicle movements per days (a single movement – in or out)
Waste depot / recycling facility	140
Mattress and tyre recycling facility	57
STP	10
12 dwellings <sup>1</sup>	108
<b>TOTAL</b>	<b>316</b>

<sup>1</sup> Excluding the dwellings that have their primary access to Netherleigh Lane.

Additional traffic movements associated with four new dwellings has been assessed as:

Use	Vehicle movements per days (single movement)
4 dwellings	36

In terms of total traffic pre- and post-development, the impact has been assessed in relation to the sealed western section of Turners Lane, which carries the bulk of the traffic, and then has been considered in relation to the unsealed east-west section of the Road, as follows:

Section of road	Existing vehicle movements	Estimated vehicle movements	Increase (%)
Western sealed section (all traffic)	316	352	11 %
Unsealed east-west section (resident traffic only)	108	144	33 %

In both instances, the amount of traffic and increase in traffic along the various sections of Turners Lane, is considered relatively low, particularly along the unsealed section of Turners Lane, and several lengthy site inspections, confirms this, with little or no traffic observed whilst on-site. Given the current standard of Turners Lane (particularly the sealed western section), and the upgrading works proposed, staff are satisfied that the existing and additional traffic generated can be adequately catered for in the existing/upgraded road network. This includes any future construction traffic associated with building dwellings, which will be temporary and transient in nature.

**Public Domain:**

It is not envisaged that this development will impact adversely on public recreational activities in the locality, or on the amount, location, design or use of public spaces.

**Utilities:**

The issue of utilities has been discussed above in relation to the relevant provisions of the LEP and DCP, and all necessary services are available or can be extended.

**Heritage:**

As discussed above, there are no known European or indigenous heritage items on the site, and accordingly, it is not considered that the development would have any impact in terms of historic, scientific, social, aesthetic, anthropological, cultural, spiritual or archaeological significance.

**Other Land Resources:**

The State's Land and Soil Capability mapping represents the capability of the land to sustain agricultural landuses, based on an eight (8) class system, which is derived through the assessment of key soil and landscape limitations, including water erosion, wind erosion, salinity, topsoil acidification, shallow soils/rockiness, soil structure decline, waterlogging and mass movement. The northern part of the site, has been mapped as Class 4 land (moderate capability land), which is defined as *"Land has moderate to high limitations for high-impact land uses. Will restrict land management options for regular high-impact land uses such as cropping, high-intensity grazing and horticulture. These limitations can only be managed by specialised management practices with a high level of knowledge, expertise, inputs, investment and technology"*.

Accordingly, Council is satisfied that the development will not have any adverse effect on conserving and using valuable land resources such as productive agricultural land, mineral extractive resources or water supply catchments.

**Water:**

The issue of water supply has been addressed in the report elsewhere.

In terms of stormwater, the existing structures are well clear of the new boundaries, such that there will be no adverse impact on the new lots from stormwater runoff from these structures. Each lot is of a sufficient size, that the on-site for the disposal stormwater can be managed without causing a nuisance, but this will be further assessed when applications are lodged in the future.

One of the submissions raised concerns with overland stormwater flow, concerned that the natural flow of water will change due to the extent of earthworks. However, as identified previously in this report, there will be minimal earthworks on site, and these works will not change the existing overland flow patterns.

Concern was also raised about the increased water flow through the adjacent property (to the east), citing that water already runs off, into and through the neighbouring land and shed. However, the subdivision of the land itself will not generate any additional stormwater, or change flow paths, and therefore will have no adverse impact on the adjacent property. If and when the resultant lots are developed in the future, there is potential for increased run-off, but as indicated above the lots are of a sufficient size to manage stormwater onsite and will be addressed at that stage.

There will be no effect by the proposed development on groundwater, drainage flows or water quality.

***Soil:***

Appropriate conditions pertaining to sedimentation and erosion control will be imposed, in any consent issued.

***Air and Microclimate:***

The final development will not affect air quality and microclimatic conditions in terms of existing air quality or pollution, as there will be no long-term emissions of dust, particulates, odours, fumes, gases or pollutants from the subdivision itself.

Several of the submissions objected to the development on the grounds that existing traffic already causes dust, and Turners Lane needs to be sealed to reduce dust, due to the increased traffic. It has also been stated that Turners Lane was to be sealed several years ago, but funds were diverted elsewhere.

Of the dwellings along the east-west section of Turners Lane (not including the dwelling on the site), the majority are setback between 200 and 400 metres from the road, and the remaining two (2) are setback 40 metres and 65 metres. Whilst the additional traffic created by the development will contribute to the generation of additional dust from the road in dry periods, given the setbacks, existing tree coverage, the volume of traffic and the speed of traffic along the road, it is unlikely that dust will cause a significant adverse impact, that would warrant refusal of the application, or sealing of the entire length of Turners Lane by the Applicant.

Furthermore, whilst the Developer agrees that Council indicated in 2018/2019 that money would be allocated to the maintenance and upgrade of Turners Lane, and this has not occurred, it is correctly points out that this is not an issue relating to the subdivision.

***Flora and Fauna:***

See previous discussion.

***Waste:***

There will be little or no waste associated with the carrying out of the subdivision, but in any event appropriate conditions will be imposed on any consent issued, in relation to the storage and disposal of waste. Waste from the future use of the lots, will be assessed and managed at that stage.

***Energy:***

In terms of energy efficiency and conservation of energy, the size and orientation of the vacant allotments, will allow houses to be positioned to take advantage of passive energy design principles, in terms of solar light and heating, and natural ventilation.

***Noise and Vibration***

One of the submissions objected to the development on the grounds that existing traffic causes lots of noise [and assumedly additional traffic will create more noise], and so does the kitchen joinery on Turners Lane. The noise from the joinery is not relevant to this application, and for the same reasons as identified in relation to dust generation, it is not considered that additional traffic will generate offensive noise pollution, nor will the noise generated be different in nature to what is currently experienced. It is not considered that the development will have a detrimental effect on surrounding properties, to any degree that would justify refusal of the development application.

Noise relating to the construction phase is able to be conditioned, through hours of operation, etc, and the impact of this will be discussed further below.

***Natural Hazards:***

There are no known risks to people, property or the biophysical environment from – geologic or soil instability, flooding or bushfire.

***Technological hazards***

There are no known risks to people, property or the biophysical environment from industrial and technological hazards, land contamination and remediation or building fire risk.

***Safety, security and crime prevention***

It is not considered that the proposed development will impact on the security and safety of adjoining properties nor will the design of the subdivision encourage criminal activity.

***Social Impacts in the Locality:***

It is not considered that the proposed development would impact negatively on the health and safety of the community, or that the community structure and character will be adversely impacted, and there will be no negative impact in terms of social equity or the socially disadvantaged.

***Economic Impact in the Locality:***

It is not considered that the development will have a detrimental economic impact on the area.

***Site Design and Internal Design:***

The subdivision has been designed to provide direct road frontage to each lot, and to provide suitable building envelopes on each lot, considering site constraints such as setbacks, slope, vegetation and easements, and is considered acceptable. Whilst some of the lots are odd-shaped, when onsite the boundaries are a logical placement, to provide usable areas of land.

***Construction Matters:***

The environmental issues and impacts associated with the construction phase of the development have been addressed throughout this report as necessary, and includes such things as erosion and sedimentation control, noise and dust control, etc, where necessary. In general, impacts associated with construction are to be expected and some disruption to neighbours may occur, but is relatively short lived and transient in nature.

***Cumulative impacts***

Nil adverse cumulative impacts have been identified.

**4.15(1)(c) - The suitability of the site for the development:*****Does the proposal fit in the locality ?***

The proposed development can fit in the locality, given the nature of the area. There are no constraints posed by adjacent developments that would prohibit this proposal. As discussed above the development would not lead to unmanageable transport demands, and no additional recreational opportunities are required.

There are adequate utilities and services available that are appropriate to a rural residential subdivision, and the air quality and microclimate are appropriate for the development. There are no hazardous landuses or activities nearby, and ambient noise levels are suitable for the development.

***Are the site attributes conducive to development ?***

The site is not subject to natural hazards including flooding, subsidence, slip, mass movement or bushfires. The soil characteristics are appropriate for the development (subject to controls during the construction phase), and there are no critical habitats, or threatened species, populations, ecological communities or habitats on the site. The development will not prejudice future agricultural production and there are no known mineral or extractive resources on the site.

One of the submissions objected to the development due to the topography and suitability of the site, stating that it is hilly with limited flat or suitable areas to develop. Council agrees that the northern part of the site (containing proposed Lots 101 – 105) is not flat, however, land with a moderate to strong slope such as this site, does not make it unsuitable from a building perspective, and any future building on the site will need to consider and take into account the slope of the land. Furthermore, several of the lots proposed do have areas that are less constrained by slope, offering a choice of position for future owners.

**4.15(1)(d) - Any submissions made:**

The submissions received have been discussed throughout this report.

**4.15(1)(e) - The public interest:**

Staff are not aware of any policy statements from either Federal or State Government that are relevant to this proposal. There is no management plan, planning guideline or advisory document that is applicable to a development of this nature. Also, there are no covenants, easements, or agreements that affect the proposal, and the health and safety of the public will not be affected. Overall, the proposal would not contravene the public interest.

**OTHER MATTERS:****Section 7.11 and 7.12 Contributions Policies:**

Section 7.12(2) of the EPA Act, states that “*a consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 7.11*”. Accordingly, Council can only require payment of either a 7.11 or 7.12 contributions.

***Section 7.11 Contributions Plans***

The only Section 7.11 plan in force is the “Development Generating Heavy Vehicle Usage of Local Road”, which only applies in Gundagai, and is therefore not relevant to this development.

#### **Section 7.12 Contributions Plans**

The *Cootamundra-Gundagai Regional Council Section 7.12 Fixed Development Consent Levy Contributions Plan 2018*, does not apply to this development.

#### **Disclosure of political donations and gifts:**

The application and notification process did not result in any disclosure of Political Donations and Gifts.

#### **FINANCIAL IMPACTS:**

Nil impacts for Council

#### **POLICY IMPACTS:**

The development seeks to vary Council’s DCP as discussed above. The variations are considered either minor and necessary to facilitate the subdivision (e.g. battle-axe handled lot, ROWs, etc), or unwarranted based on the scale of the development (sealing of Turners Lane).

#### **ORGANISATIONAL IMPACT:**

Nil

#### **RISK MANAGEMENT IMPACTS:**

Nil

#### **LEGAL ISSUES:**

Nil

#### **CONCLUSION:**

It is considered that the subdivision is an appropriate development of the site, and that the resulting subdivision pattern is in keeping with the preferred character of the area. The development comfortably couples with the relevant controls contained in the LEP and DCP, and this subdivision is a form of development envisaged by the controls.

The issues in the submissions have been addressed, and there are no reasons warranting refusal, and therefore, it is recommended that the application be approved subject to conditions.

## 8.5 ENGINEERING COOTAMUNDRA

### 8.5.1 CGRC ENGINEERING REPORT - DECEMBER 2023

DOCUMENT NUMBER	403015
REPORTING OFFICER	Julie Buckley, Operations Support Officer
AUTHORISING OFFICER	Matt Stubbs, Deputy General Manager - Operations
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>5. Integrated and accessible region</b> 5.2 Easily accessible from major cities and other regional towns
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

### RECOMMENDATION

**The CGRC Engineering Report for the month of December 2023 be noted.**

#### Introduction

The CGRC Engineering Report for the month of December 2023 is submitted for the information of Council and the community.

#### Discussion

##### Fixing Local Roads

Salt Clay Road, Cootamundra, has now been bitumen sealed. Signposting and other delineation will be completed as soon as possible.

Pavement preparation works are continuing on Stage two of the Brawlin Road (Brawlin) project with bitumen sealing scheduled for the second week of December. These works will see another 1.8km of gravel road upgraded to bitumen seal.

##### Regional Roads REPAIR Program

West Street (Gundagai) Rehabilitation is expected to commence after the kerb and gutter has been completed.

At this stage rehabilitation is expected to be completed in December 2023, subject to favourable weather conditions.

##### Local Roads and Community Infrastructure Program (LRCI)

Sheridan Street (Gundagai) Block 3 Stage 2 has achieved final approval from Essential Energy to relocate a light pole. This project is expected to start construction in early 2024 in order to not impact the peak Christmas period.

### *State Highways*

Heavy patching has now been completed along the Burley Griffin Way between Stockinbingal and Wallendbeen.

Transport for NSW (TfNSW) is continuing with their construction crew working on a section of the Olympic Highway between Old Gundagai Road and Wallendbeen. Part of this work was sealed in mid-November with expectations the remainder will be sealed by the second week in December. These works involve full reconstruction of the pavement that failed during the wet spring of 2022.

Other works are continuing on the Olympic Highway with additional culvert widening north of Wallendbeen. This work is a continuation of the road widening projects identified by TfNSW and is being project managed by Council.

### *Cootamundra Township*

The replacement of the kerb and gutter in Hurley Street between Ursula and Margaret Street, Cootamundra was due to commence the last week of November but wet weather delayed the start. Work will now proceed in early December. This work is being funded from Council's internal capital works budget.

### *Gundagai Works*

Annie Pyers Drive, Gundagai replacement is expected to start construction soon. Council is liaising with the local business owners on when an exact construction start time will least impact their businesses. While it was initially scheduled to commence late November, this is subject to change, as a result of consultation.

### *Water and Sewer*

Water breaks and sewer chokes are being attended to as required.

Royal Well Pump Station (Gundagai) is now online. The former pump station has been decommissioned. The contractors are currently monitoring and rectifying any issues/bugs with the system as they are found. Fencing and site rehabilitation are yet to be completed.

The Gundagai STP Tertiary Ponds have been cleaned out and are currently being backfilled with clean fill. This is expected to be completed early 2024 – well ahead of the late 2024 deadline required under our Environmental Protection Licence.

The Cootamundra Sewer Rising Main investigation and design is progressing with the appointed contractor. A consultant has also been engaged to undertake the Cootamundra Sewer Treatment Plant upgrade. Investigation and design with preliminary discussions are underway with that contractor. The tender for the replacement of several old water mains in the Cootamundra Township is currently live and will close prior to Christmas.

### *General Works*

Bitumen road patching is being undertaken as required across the whole Council area. Further gravel road maintenance has been undertaken on Brawlin Road (Brawlin).

Clean up and removal of storm damage trees and limbs from the December 2021 and January 2022 has now been completed. Replacement of the Forsyth's Lane causeway, which was also damaged in that storm event, have now commenced. Delays in these projects was due to final approval being

received from TfNSW. Similarly, approval for repairs to works from flooding events in October 2022 and March 2023 are yet to be received.

Financial

Projects funded from various funding sources, as noted above.

Maintenance works funded from the General Fund.

OLG 23a Guideline consideration

Report purpose does not conflict with guidelines.

**8.5.2 PROPOSED STREET NAME FOR THE BOUNDARY ROAD SUBDIVISION DEVELOPMENT  
COOTAMUNDRA**

DOCUMENT NUMBER	403632
REPORTING OFFICER	Julie Buckley, Operations Support Officer
AUTHORISING OFFICER	Matt Stubbs, Deputy General Manager - Operations
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>3. Sustainable natural and built environments: we connect with the places and spaces around us</b> 3.2 Our built environments support and enhance liveability
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

**RECOMMENDATION**

1. The report on the Proposed Street Name for the Boundary Road Subdivision Development Cootamundra be received and noted.
2. The following proposed street name for the Boundary Road Subdivision Development, Cootamundra be noted:

**2.1 Acacia Street**
Introduction

The developer of the new subdivision currently being developed on Boundary Road, Cootamundra has put forward the proposed street name as detailed in the report. Council has submitted several proposed names to the Geographical Names Board for consideration and approval for four (4) of the internal streets of this development.

Discussion

Generally, all new proposed names for streets are given Council consent before being adopted and the following are those suggestions. Currently there is no Council policy for naming of new roads, however, all street names have to be approved by the Geographical Names Board (GNB) being a NSW Government body.

In terms of street names, several have been suggested by the developer with the process being first commenced in November, 2020. Unfortunately, the GNB have particular requirements for naming such which has ruled out several of the previously proposed street names to date.

As the subdivision is open for further residential development, with requirements for street names on titles, the approval of the street name is required as soon as possible.

The proposed name submitted to, and currently being considered by the GNB is:

Acacia Street – this name is in keeping with rural flora of Cootamundra area and will allow for other streets in future developments to be named after native flora and fauna.

As the development progresses, further proposals for road names will be put forward for consideration.

Financial

Nil

OLG 23a Guideline consideration

Report purpose does not conflict with guidelines.

**8.6     ENGINEERING GUNDAGAI**

Nil

## 8.7 REGIONAL SERVICES GUNDAGAI

### 8.7.1 REGIONAL SERVICES GUNDAGAI WORKS REPORT FOR NOVEMBER 2023

DOCUMENT NUMBER	404098
REPORTING OFFICER	Donna Britton, Operations Support Officer - Facilities
AUTHORISING OFFICER	Matt Stubbs, Deputy General Manager - Operations
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<b>2. A region for the future</b> 2.2 A thriving region that attracts people to live, work and visit
FINANCIAL IMPLICATIONS	There are no financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

### RECOMMENDATION

**Regional Services Gundagai Report for December 2023, be received and noted.**

#### Introduction

The report for December 2023, is a snapshot of the diverse works Gundagai Regional Services performed over the previous month and intends to give an update on the ongoing works being conducted.

#### Discussion

This report focuses on the divisions projects as we progress through to completion, details our operational activities, informs, and updates the continued routine duties of this division.

#### **1. Gundagai Parks & Gardens Section – Parks, Reserves, Sporting Fields and Playgrounds.**

##### **Achievements for the month of October include:**

- Spraying and mowing at Burra Rd, Adjungbilly area, Tarrabandra Rd, Mt Adrah Cemetery, Closed Rd Eagle St, Spring Flat Rd.
- Rejuvenation of park structures and furniture continues.
- Watering and feeding of all hedges.
- Repair pavers in Sheridan St.

Recently two of our staff travelled to Temora to take part in a Mosquito workshop held by NSW Health. These staff members will now take part in a Surveillance and Mosquito Monitoring program in the Gundagai area.

Removal of dangerous tree at Yarri Park carpark area, the tree was completely hollow with only minimum timber remaining. Trimming of tree in Sheridan St, removal/clean-up of limbs and debris from storm damage.

## 2. Cemeteries

### Cemetery achievements include:

- There have been 5 funerals in the previous month across all cemeteries, with the first burial in 20 years taking place at Mt Adrah.
- Repairs to sunken graves have been completed due to torrential rain.
- Ongoing maintenance of all 10 cemeteries continues.

## 3. Biosecurity Section:

### News and Achievements include:

- Normal weed control continues to be a priority with qualified staff carrying out successful spot/general spraying.
- Spray activity areas for the month are Burra Rd, Adjungbilly area, Tarrabandra Rd, Closed Rd Eagle St, Spring Flat Rd.

**Below are the spray records for the spraying completed for November 2023.**

Roadside Spray Records for the month of November 2023				
Date	Chemical	Quantity	Location	Weeds
1/11/2023	Glyphosate	4L	Adjungbilly Rd	All Weeds
	Metsulfuron	8g		
1/11/2023	Glyphosate	8L	Darbalara Rd	All Weeds
	Metsulfuron	120g		
1/11/2023	Glyphosate	8L	Adjungbilly Rd	All Weeds
	Metsulfuron	120g		
1/11/2023	Glyphosate	8L	Adjungbilly Rd	All Weeds
	Metsulfuron	120g		
2/11/2023	Glyphosate	12L	Snowball Rd/Jessups Lagoon Rd	All Weeds
	Metsulfuron	180g		
2/11/2023	Glyphosate	8L	Threeways Rd	All Weeds
	Metsulfuron	120g		
3/11/2023	Glyphosate	4L	Threeways Rd	All Weeds
	Metsulfuron	60g		
3/11/2023	Glyphosate	8L	Nanangroe Rd	All Weeds
	Metsulfuron	120g		
7/11/2023	Glyphosate	4L	Adjungbilly Rd	All Weeds
	Metsulfuron	60g		
7/11/2023	Glyphosate	8L	Gobarralong Rd	All Weeds
	Metsulfuron	120g		
7/11/2023	Glyphosate	8L	Burra Rd	All Weeds
	Metsulfuron	140g		
8/11/2023	Glyphosate	8L	Burra Rd	All Weeds
	Metsulfuron	120g		
8/11/2023	Glyphosate	8L	Burra Rd	All Weeds
	Metsulfuron	120g		
8/11/2023	Glyphosate	4L	Reno Rd	All Weeds
	Metsulfuron	60g		
8/11/2023	Glyphosate		Caulderwood Rd	All Weeds
	Metsulfuron			
10/11/2023	Glyphosate	8L	Caulderwood Rd	All Weeds
	Metsulfuron	120g		
10/11/2023	Glyphosate	4L	Edwardstown Rd	All Weeds
	Metsulfuron	60g		

**4. Gundagai Public & Council Facilities:**

Gundagai Pool has opened with a fantastic start to the season with the new lessee doing a wonderful job. The newly repaired 50m pool leak has been a huge success. This will lead to great water savings over this coming season.



When the pool season finishes the refurbishment of the amenities will commence.

Carberry Park Public Toilet block with lift & change accessible bathroom is due to commence with security fencing being erected and the slab due to be laid prior to Christmas (weather permitting). The surveyors have been onsite to do the set out.



Gundagai Visitor information Centre has also had the surveyors in attendance to do the set out with works due to commence Mid-January. This project will run consecutively with the public toilet project.

Council has joined with Powerbank Electrical P/L in a Government incentive scheme to help convert Council facilities that have eligible old electric hot water systems to new Eco friendly efficient hot water systems to help meet zero emissions by 2050. Not all Council sites have been eligible to complete this conversion however, we have been able to facilitate this at 13 Council facilities across the Gundagai area.

## 5. Gundagai Waste:

### Landfill/Transfer Station Operations

Social media posts reminding the community of Christmas opening times.



The scrap metal has been collected from the landfill; CRC shed has cleared with the latest pickup.

### Gundagai Landfill/ Transfer Station/ RV Park Income Nov 23

Transaction Report Date	Income Amount
1/11/2023 - 26/11/2023	\$3,641.00

## 6. Compliance:

Compliance with the Companion Animals Act 1998

Local Government (General) Regulation 2021 – Reg 217(1)(f)

- Barking dog complaints have been addressed.
- 3 Cats were surrendered to Council.
- Illegal Dumping – Council have had another instance of illegal dumping requiring clean-up.

## 7. Gundagai Saleyards:

Monitoring of overnight stock being held at the saleyards continues.

### Financial

There are no financial implications as all work has been carried out as per the approved 23/24 budget allocations.

### OLG 23a Guideline consideration

There are no implications to the guidelines.

## 8.8 REGIONAL SERVICES COOTAMUNDRA

### 8.8.1 MOA FOR THE SOUTH WEST REGIONAL WASTE MANAGEMENT GROUP

DOCUMENT NUMBER	403972
REPORTING OFFICER	Wayne Bennett, Manager Regional Services Cootamundra
AUTHORISING OFFICER	Matt Stubbs, Deputy General Manager - Operations
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>2. A region for the future</b></p> <p>2.3 A region that can accommodate and support strategic growth</p>
FINANCIAL IMPLICATIONS	There are no financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	<ol style="list-style-type: none"> <li>1. Proposed MOA <a href="#">↓</a></li> <li>2. Existing MOA <a href="#">↓</a></li> <li>3. Draft Report SWRWG Report <a href="#">↓</a></li> </ol>

### RECOMMENDATION

That Council:

1. Endorse the proposed Memorandum of Agreement, attached to the report, and
2. Delegates authority to the Interim General Manager to execute all associated documentation.

### Introduction

Attached is a report from the South West Regional Waste Management Group (SWRWG) to each member Council and revised South-West Regional Waste Management Group (SWRWMG), Memorandum of Agreement (MOA) for the group associated with the landfill operations at the Bald Hill Quarry (trading as Ecofill).

The attached report outlines the background associated with the revised MOA and highlights and makes recommendations to each member Council, on how the Group will manage waste to the Bald Hill Landfill facility and how to best seeks opportunities on how to best extend the current life expectancy of Bald Hill (Ecofill) Landfill.

On the 27<sup>th</sup> of June 2023, Council resolved the following recommendations:

That Council:

- (a) Receive and note the report.
- (b) Reinstate the Memorandum of Agreement between the Councils of the South-West Regional Waste Management Group for a preliminary period of 12 months.

- (c) Delegate to the General Manager to execute all associated documentation relating to the Memorandum of Agreement between the Councils of the South-West Regional Waste Management Group (SWRWMG).
- (d) That the South-West Regional Waste Management Group prior to 23<sup>rd</sup> December 2023, review the reinstated Memorandum of Agreement between the Councils of the South-West Regional Waste Management Group as to formalise the Agreement for a further extended period.

## **1. BACKGROUND**

The Memorandum of Agreement (the “MOA”) between Councils established the Group on 18 September 2002 for a period of 20 years. The MOA has since expired on December 17, 2022, and the Group is currently operating by informal cooperation of the Councils, the MOA is (Attachment 1.)

The MOA covers administrative arrangements for the Group including:

- The establishment, membership, and role of the Group committee
- Delegation of functions by each Group Council to the committee
- Procedures for the ordinary functioning of the committee
- The roles of the committee and the managing Council
- Procedures for the determination and levying of fees and charges to Group Councils for waste transport and disposal.

The Group committee is responsible for appointing the managing Council. Harden Shire Council was the initial managing Council and this role passed to Hilltops Council at the amalgamation of Boorowa, Harden, and Young Shire Councils on 12 May 2016.

Under the Terms and Conditions of the revised MOA, Hilltops Council will continue to exercise the functions of the managing Council and holds financial reserves and assets on behalf of the Group.

Harden Shire Council previously employed a Waste Management Officer on behalf of the Group to undertake the day-to-day management of the Group. Administrative requirements of the Group have continued to be undertaken by Hilltops Council. The SWRWG is again seeking to fill this position on a permanent basis on behalf on the SWRWG.

Financial reserves are held in trust to provide for the Group’s waste transport and disposal activities, defined capital works at the landfill, replacement of plant, and closure and rehabilitation of the landfill at its end of life in its current form.

Attached is the revised MOA which is submitted to Council for support and endorsement.

### **Financial**

There are no direct costs associated with this report.

### **OLG 23a Guideline consideration**

There is no conflict associated with this report.



## **Memorandum of Agreement**

**Hilltops Council**

**and**

**Cootamundra Gundagai Regional Council**

**and**

**Snowy Valleys Council**

**and**

**Yass Valley Council**

Date: 30 November 2023

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**Memorandum of Agreement****Hilltops Council, Cootamundra Gundagai Regional Council****Snowy Valleys Council and Yass Valley Council****Memorandum of Understanding****Table of Contents**

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**Memorandum of Agreement**

**Hilltops Council, Cootamundra Gundagai Regional Council  
Snowy Valleys Council and Yass Valley Council**

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**Memorandum of Understanding****Summary Sheet****Hilltops Council:**

**Name:** Hilltops Council  
**Address:** 189 Boorowa Street, Young NSW 2594  
**Telephone:** 1300 445 586  
**Email:** mail@hilltops.nsw.gov.au  
**Representative:** Anthony O'Reilly, General Manager

**Cootamundra Gundagai Regional Council:**

**Name:** Cootamundra Gundagai Regional Council  
**Address:** 81 Wallendoon Street, Cootamundra NSW 2590  
**Telephone:** 1300 459 689  
**Email:** mail@cgrc.nsw.gov.au  
**Representative:** Steve McGrath, General Manager

**Snowy Valleys Council:**

**Name:** Snowy Valleys Council  
**Address:** 76 Capper Street, Tumut NSW 2720  
**Telephone:** 1300 275 782  
**Email:** info@svc.nsw.gov.au  
**Representative:** Steven Pinnuck, General Manager

**Yass Valley Council:**

**Name:** Yass Valley Council  
**Address:** 209 Comur Street, Yass NSW 2582  
**Telephone:** 02 6226 1477  
**Email:** council@yass.nsw.gov.au  
**Representative:** Chris Berry, General Manager

**Memorandum of Agreement**

**Hilltops Council, Cootamundra Gundagai Regional Council  
Snowy Valleys Council and Yass Valley Council**

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**Memorandum of Understanding – Waste Management Agreement****Parties**

**Hilltops Council** ABN 33 984 256 429 of 189 Boorowa Street, Young NSW 2594  
(Hilltops)

and

**Cootamundra Gundagai Regional Council** ABN 46 211 642 339 of 81  
Wallendoon Street, Cootamundra NSW 2590

(CGRC)

and

**Snowy Valleys Council** ABN 53 558 891 887 of 76 Capper Street, Tumut NSW 2720 (SVC)

and

**Yass Valley Council** ABN 50 119 744 650 of 209 Comur Street, Yass NSW 2582 (YVC)

**Background**

- A Since 2002, the Parties have worked together to provide the Services efficiently and cost effectively within their respective local government areas through the Group. The First Agreement recorded the basis on which the Group operated and the commitments of each Party.
- B The First Agreement expires on 23 December 2023.
- C The Parties wish to continue to work together to provide the Services after 23 December 2023 and propose to do so in a similar manner as under the First Agreement.
- D This Agreement records the way in which the Parties will continue to work together to deliver the Services.

**Operative provisions****1 Interpretation**

1.1 In this Memorandum the following definitions apply:

**Act** means the *Local Government Act 1993*.

**Approval** includes approval, consent, licence, permission or the like.

**Base Tonnage** is 10,000 tonnes per financial year.

**Memorandum of Agreement**

**Hilltops Council, Cootamundra Gundagai Regional Council  
Snowy Valleys Council and Yass Valley Council**

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**Claim** includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

**Commencement Date** means 24 December 2023.

**Confidential Information** means information that is not in the public domain or publicly available, but does not include information which:

- is or becomes part of the public domain through no act, failure or default of the Party receiving the information,
- is disclosed to the receiving Party by a third party lawfully in possession of such information and who is under no obligation to maintain such information in confidence.

**Cost** means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

**Dispute** means a dispute or difference between the Parties arising under or in connection with this Agreement.

**First Agreement** means the Memorandum of Agreement dated 18 September 2002 between the predecessor councils which now constitute the various Parties namely: the Council of the Shire of Boorowa, the Council of the Shire of Cootamundra, the Council of the Shire of Harden, the Council of the Shire of Gundagai; the Council of the Shire of Tumbarumba; the Council of the Shire of Tumut, the Council of the Shire of Yass and the Council of the Shire of Young.

**General Manager** means the person holding the position of General Manager of a Party under the Act.

**Group** means the South West Regional Waste Management Group made up of the Parties.

**Group Manager** means the person employed by the Managing Council to carry out the functions of the Group Manager as specified in clause 17 of this Agreement.

**Regional Landfill** means the landfill operated by Bald Hill Quarry Pty Ltd pursuant to the Regional Landfill Agreement.

**Managing Council** means Hilltops Council.

**Model Code** means the Model Code of Meeting Practice 2020 adopted under the Act.

**Party** means a party to this Agreement.

**Regional Landfill Agreement** means the Agreement between the predecessor councils that now make up the Parties and the Regional Landfill Operator dated 23 December 2002 to operate the Regional Landfill and accept certain Waste delivered to the Regional Landfill on behalf of the Parties.

**Regional Landfill Operator** means Bald Hill Quarry Pty Ltd (t/a Ecofill).

**Services** means the collection, transportation, disposal and processing (by way of recycling or otherwise) of Waste and the provision of services associated with such collection, transportation, disposal and processing of Waste including the management of the Regional Landfill Agreement.

**Term** means the period of five (5) years commencing on the Commencement Date.

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**Hilltops Council, Cootamundra Gundagai Regional Council**  
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**Waste** means has the same meaning as in the *Protection of the Environment Operations Act 1997*.

**Waste Manager** means the employee of a Party holding the position responsible for the management of Waste within that Party's local government area.

**Working Group** means the group of Waste Managers established under clause 8.2.

- 1.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:
  - 1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
  - 1.2.2 A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
  - 1.2.3 If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing shall be done on the next business day.
  - 1.2.4 A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
  - 1.2.5 A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
  - 1.2.6 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
  - 1.2.7 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
  - 1.2.8 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
  - 1.2.9 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
  - 1.2.10 References to the word 'include' or 'including' are to be construed without limitation.
  - 1.2.11 A reference to a Party to this Agreement includes a reference to the servants, agents and contractors of the Party, and the Party's successors and assigns.
  - 1.2.12 Any schedules, appendices and attachments form part of this Agreement.

## **2 Purpose**

- 2.1 The Parties acknowledge that the Group was originally established under the First Agreement. The Parties enter this Agreement so as to enable the

**Memorandum of Agreement**

**Hilltops Council, Cootamundra Gundagai Regional Council  
Snowy Valleys Council and Yass Valley Council**

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Parties to exercise their powers jointly with each other pursuant to s355(d) of the Act.

- 2.2 On and from the Commencement Date the Group shall continue to operate in accordance with the terms of this agreement and the terms of this Agreement will govern the provision of the Services.
- 2.3 The Parties acknowledge and agree that this Agreement deals with:
  - 2.3.1 the manner in which the Parties will continue to work together to ensure that the Services are carried out efficiently and cost effectively;
  - 2.3.2 the extent of the Parties' monetary contribution towards the Services and the allocation of Costs between them;
  - 2.3.3 the management of the Regional Landfill Agreement; and
  - 2.3.4 the mechanisms for the Parties to collaborate in order to improve waste management and resource recovery in their local government areas.
- 2.4 For the avoidance of doubt, nothing in this Agreement alters the Regional Landfill Agreement.

### **3 Legal Relationship between the Parties**

- 3.1 This Agreement is intended to be legally binding once it is executed by all Parties.
- 3.2 The Parties acknowledge that:
  - 3.2.1 the Group exists only for the purpose of managing the delivery of the Services and this Agreement is limited to such matters that may be necessary for that purpose.
  - 3.2.2 this Agreement does not create, nor should it be construed to create any relationship between the parties of:
    - (a) employment;
    - (b) partnership; or
    - (c) principal and agency (except as specifically provided for in this Agreement).

### **4 Commencement and Duration**

- 4.1 This Agreement commences and has force and effect on and from the Commencement Date for the Term.
- 4.2 Upon consideration of a recommendation from the Group and with the agreement of all Parties, this Agreement may be extended at any time during the Term for such further periods as the Parties consider appropriate. If the Agreement is extended under this clause then all references to the Term under this Agreement shall be interpreted to be a reference to the Term as extended.

**Memorandum of Agreement****Hilltops Council, Cootamundra Gundagai Regional Council****Snowy Valleys Council and Yass Valley Council****5 Execution of this Agreement**

- 5.1 Each Party must have:
  - 5.1.1 all executed the same copy of this Agreement; or
  - 5.1.2 each executed separate counterparts of this Agreement and exchanged the counterparts.
- 5.2 The date on which all Parties execute the Agreement or exchange counterparts is to be inserted on the front page and on the execution page.

**6 Effect of termination of the First Agreement**

- 6.1 Notwithstanding anything to the contrary in the First Agreement:
  - 6.1.1 except as expressly provided for in this Agreement, nothing in this Agreement is intended to alter the allocation of funds or assets as they existed immediately before the Commencement Date;
  - 6.1.2 the Parties acknowledge that it is not intended to disburse any funds or assets the subject of the First Agreement and the Group shall continue to operate without any such disbursement taking place. Each Party agrees that to the extent necessary clause 28.2 of the First Agreement is of no effect and no Party will bring, or permit to be brought in its name, any Claim arising out of the matters referred to in clause 28.2 of the First Agreement.

**7 Scope of Operation**

- 7.1 The Services to be carried out under this Agreement apply to all Waste accepted or generated in the local government area of a Party.

**8 Role of the Group**

- 8.1 The role of the Group shall be to:
  - 8.1.1 ensure the provision of a regional landfill facility for the purpose of accepting waste generated within each Party's local government area and manage the transportation of that waste to that facility,
  - 8.1.2 co-ordinate community education and engagement activities aimed at encouraging better Waste management practices,
  - 8.1.3 assist each Party to find economically and environmentally responsible solutions to the carrying out of the Services; and
  - 8.1.4 encourage the improvement of Waste management practices by each Party, ratepayers, visitors and businesses operating in the Parties local government areas.
- 8.2 The Group shall establish a Working Group be made up of the Waste Managers from each Party. The role of the Working Group is to provide advice to the Group and the Group Manager to assist them with the day to day management and forward planning of the Services.

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**Hilltops Council, Cootamundra Gundagai Regional Council**  
**Snowy Valleys Council and Yass Valley Council**

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**9 Delegations**

- 9.1 Subject to the provisions of section 377 of the Act, each Party shall delegate, such powers and functions to:
  - 9.1.1 the Group; and
  - 9.1.2 the General Manager of the Managing Councilas are necessary to carry this Agreement into effect.
- 9.2 The General Manager of the Managing Council may sub delegate such powers and functions delegated to the General Manager under this Agreement as in the opinion of the General Manager is appropriate.

**10 Membership of Group**

- 10.1 Upon execution of this Agreement by a Party, that Party shall continue its membership of the Group.
- 10.2 Each Party shall appoint its General Manager as its representative. The General Manager is entitled to vote at each meeting of the Group.
- 10.3 In addition to the voting representatives, the Group Manager is a non-voting member of the Group.
- 10.1 No Party will terminate its membership of the Group without a resolution of the Group approving such termination.

**11 Alternates**

- 11.1 If a Party's representative is unable to attend to their duties under this Agreement, that Party may by resolution appoint an alternate.
- 11.2 An alternate shall have all the powers and authorities of the Party's representative under this Agreement.
- 11.3 No-one will be entitled to inquire as to whether or not an occasion has arisen requiring or authorising an alternate in the place of the Party's representative.
- 11.4 All things done or omitted to be done by an alternate when acting in the place of the Party's representative shall have the same effect and consequences as if done or omitted by the Parties Representative in whose place the alternate is acting.

**12 Vacancies**

- 12.1 If there is a vacancy in the representative membership of the Group the person who is in acting in the role of the representative shall automatically replace the representative until such time as the representatives position is filled.
- 12.2 A replacement delegate shall hold office until such time as the position of the office of the vacating delegate is filled on a permanent basis.

**Memorandum of Agreement****Hilltops Council, Cootamundra Gundagai Regional Council****Snowy Valleys Council and Yass Valley Council****13 Cooperation between the Parties**

- 13.1 The Parties agree to:
  - 13.1.1 cooperate with each other to ensure the timely and efficient delivery of the Services;,,
  - 13.1.2 provide information reasonably requested by another Party for the purposes of the Services;,,
  - 13.1.3 be transparent in dealings with each other.

**14 Meetings of the Group**

- 14.1 A quorum is constituted if fifty (50) per cent of the Parties plus one other Party, all represented by a voting representative are present at a meeting. In determining if a quorum is constituted, the General Manager of the Managing Council must be present on behalf of the Managing Council. If a quorum is not present the meeting of the Group must be adjourned to a time and place fixed:
  - 14.1.1 by the Chair; or
  - 14.1.2 in the Chair's absence, by the majority of Parties' representatives present; or
  - 14.1.3 failing that, the Group Manager.
- 14.2 The Chair shall be the representative of the Managing Council. The Chair shall preside over all meetings and has the power to maintain order at the meeting and adjourn the meeting.
- 14.3 The Parties acknowledge and agree that the Model Code has not been adopted by the Group and does not govern the operation of the Group.
- 14.4 Meetings of the Group shall be held at least once a quarter at a venue to be determined at the preceding meeting. The Group shall, at the beginning of each calendar year schedule the date and time for these meetings.
- 14.5 In addition to the ordinary meetings referred to in clause 14.4, the Chair may:
  - 14.5.1 at their discretion; or
  - 14.5.2 upon receiving a written request from at least two Parties, call a meeting by issuing a notice of a meeting to each Party. If the Chair is of the opinion that an item of business should be dealt with urgently, the Chair may call a meeting with 24 hours' notice or with such shorter notice as all Parties' representatives agree.
- 14.6 A meeting of the Group may be held by audio-visual link or other electronic means.
- 14.7 A notice of a meeting must be issued to each Party at least 3 days prior to the proposed meeting and accompanied by an agenda and a business paper for any item of business to be discussed at the meeting.
- 14.8 Business can be considered at a meeting even if due notice of the business has not been given provided a majority of those present at the meeting pass a

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motion to have the business considered at the meeting or the Chair considers the business to be urgent.

- 14.9 Decisions of the Group are made by way of a simple majority. Voting is to be by way of a show of hands.
- 14.10 If a matter before the Group becomes deadlocked the Chair must use their reasonable endeavours to promote consensus between the Parties. If consensus cannot be reached the Chair may adjourn discussion upon the question for such period as the Chair considers appropriate but no later than the following meeting.
- 14.11 If a deadlock cannot be resolved after the process in clause 14.10 has been followed, the Chair may use their casting vote to resolve the deadlock.
- 14.12 The Group shall cause minutes to be made and kept of all business enacted at its meetings.
- 14.13 The minutes of a meeting of the Group shall be submitted for approval at the next successive meeting of the Group and if approved each page of the minutes shall be signed by the Chair and countersigned by the Group Manager.
- 14.14 A copy of the minutes of each meeting of the Group is to be supplied to each Party's representative.

**15 Powers of the Group**

- 15.1 Subject to the provisions of the Act, the Group has the following functions:
  - 15.1.1 to manage the provision of the Services;
  - 15.1.2 to manage of the Regional Landfill Agreement subject to the terms of that agreement;
  - 15.1.3 to prepare a budget for the provision of the Services for each financial year for adoption by a Party;
  - 15.1.4 to recommend the charges applicable to a Party for the various components of the Services including the use of the Regional Landfill;
  - 15.1.5 to the extent permitted by law, approve entry into such agreements, which in the opinion of the Group are necessary for the proper management and provision of the Services;
  - 15.1.6 to ensure the proper maintenance of equipment used to provide the Services;
  - 15.1.7 to confirm expenditure by way of purchase, lease or any other means for equipment which in the opinion of the Group is necessary for the conduct of the Services provided the expenditure is within the budget adopted by each Party for the relevant financial year and to approve reimbursement to the Managing Council for such expenditure;
  - 15.1.8 to recommend to a Party the approval of expenditure beyond that approved in the budget adopted by a Party as required;
  - 15.1.9 to authorise reimbursement to the Managing Council for Costs incurred in carrying out its functions under this Agreement
- 15.2 Private garbage contractor delivery services to the Regional Landfill on behalf of any or all of the Councils in lieu of utilising the Group's approved transport

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system must be approved by the Group prior to the private garbage contractor being authorised as a Group contractor.

**16 Role of the Managing Council**

- 16.1 The Managing Council will be responsible for the day to day administration of the Services and will specifically have responsibility for the following:
  - 16.1.1 employment of the Group Manager and provision of other staff as necessary to carry out the tasks and duties necessary for the effective functioning of the Group subject to approval of the Group;
  - 16.1.2 payment of claims or invoices from third parties for services provided as part of carrying out the Services including payment of invoices from the Regional Landfill Operator for accepting Waste under the Regional Landfill Agreement;
  - 16.1.3 management of the Regional Landfill Agreement;
  - 16.1.4 investment of funds and the landfill restoration reserve in accordance with approved investment rules and regulations;
  - 16.1.5 raising of monthly charges for members for the tonnages deposited at the Regional Landfill;
  - 16.1.6 acquisition, maintenance and safe custody of plant and equipment as approved by the Group;
  - 16.1.7 effecting all necessary insurance cover for the performance of the Services;
  - 16.1.8 the preparation of the annual and quarterly budgets and reports as provided for in clauses 18 and 19 of this Agreement for consideration by the Group;
  - 16.1.9 attending to any repayments arising from any approved loans and advances;
  - 16.1.10 miscellaneous administrative and accounting functions.
- 16.2 The General Manager of the Managing Council must attend all meetings of the Group in accordance with clause 14 of this Agreement.
- 16.3 The Managing Council shall be entitled to:
  - 16.3.1 be reimbursed, in the proportions specified in clause 21 for all Costs incurred in carrying out the functions specified in clause 16.1; and
  - 16.3.2 paid an administration contribution as approved by the Group for carrying out the functions specified in this clause 16.1

**17 Role of the Group Manager**

- 17.1 The Group Manager will have such specific functions and responsibilities as may be delegated by the General Manager of the Managing Council to ensure the effective performance of the Services and functioning of the Group including:

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- 17.1.1 the day to day administration of the Group;
- 17.1.2 the day to day administration of the Regional Landfill Agreement;
- 17.1.3 the preparation of such estimates and financial statements as required to be presented to the Group under this Agreement;
- 17.1.4 the preparation of the annual report under clause 19 of this Agreement; and
- 17.1.5 the implementation of the lawful decisions of the Group and the General Manager of the Managing Council under this Agreement.

17.2 The functions set out in clause 17.1 shall be exercised in consultation with the Working Group. To this end, the Group Manager shall ensure that the Working Group meets regularly and not less than once every calendar month.

17.3 The Group Manager may call a meeting of the Working Group by issuing a written notice of a meeting to each Waste Manager at least 3 days prior to the meeting. If the Group Manager is of the opinion that an item of business must be dealt with urgently, the Group Manager may call a meeting with 24 hours written notice or with such shorter written notice as all members of the Working Group may agree.

17.4 The Group Manager has the following secretarial duties:

- (a) to keep the minutes of meetings of the Group and the Working Group;
- (b) to be responsible for the Minute Book and other records of the Group and the Working Group;
- (c) to provide reports to the Working Group to enable the Waste Managers to report to their respective Councils;
- (d) prepare and present to the Group an annual report;
- (e) to keep the accounts of the Group and present them for audit from time to time in accordance with the requirements of the Act for the keeping and auditing of the accounts of a Council; and
- (f) to send and receive correspondence on behalf of the Group.

**18 Accounts**

- 18.1 The Managing Council shall establish and maintain a separate accounting system to enable all income and expenditure received and incurred in managing the operation of the Group and carrying out the Services and all assets acquired and liabilities incurred on behalf of the Parties by the Group in providing the Services to be accurately recorded.
- 18.2 Within a period of six weeks from the end of each quarter, the Managing Council shall prepare a financial statement in respect of the Group's operations showing the estimated total income and expenditure of funds on present trends for the year under review and the estimated funds position at

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the close of that year. The statements shall be prepared on the income and expenditure system of accounting and in accordance with the *Local Government Regulation 2021* and shall be presented to the first meeting of the Group after their preparation.

- 18.3 The Managing Council shall prepare and submit to the Group:
  - 18.3.1 in sufficient time to allow all Parties to include the required levies in their respective management plans, estimates of the income and expenditure for the management of the Services for the following financial year; and
  - 18.3.2 by no later than 30 September each year, an annual financial statement prepared in accordance with the Act and regulations and associated professional accounting standards.
- 18.4 The Group shall annually appoint a duly qualified local government auditor to carry out the annual audit of the financial records applicable to the Services managed by the Group.

**19 Annual Reports**

- 19.1 By 30 September each calendar year the Managing Council is to submit to the Group for its consideration an annual report and audited financial statement, setting out the activities of the Group for the preceding year.
- 19.2 Upon approval, the annual report and audited financial statement is to be sent to each Party.

**20 Undertakings and Indemnities**

- 20.1 The Parties hereby mutually agree to be responsible for and to pay in the proportion specified for each Party in clause 21 all wages, salaries, Costs, and all other liabilities whatsoever properly incurred by the Group or Party representative to the Group, the Managing Council or any other delegate of the Managing Council, in carrying out of this Agreement.
- 20.2 Subject to clause 20.3, the Parties shall jointly and severally keep harmless and indemnify the representatives of each Party, the Managing Council, delegates of the Managing Council and each of them respectively for all Claims and all other liabilities of any kind that may be brought against all or any of them in connection with carrying out their obligations under this Agreement.
- 20.3 For the purposes of clauses 20.2 each Party shall only be liable under the indemnity given in that clause in the proportion applicable to that Party as set out in clause 21.6.2(d)
- 20.4 If a Claim arising out of the operation of this Agreement is made against a Party or all of them then each Party indemnifies and hold harmless the other but only to the extent equivalent to the proportion applicable to that Party as set out in clause 21.6.2(d).
- 20.5 Clauses 20.1 -20.4 apply to include any Claims or liabilities arising in

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connection with the closure of and rehabilitation of the Regional Landfill even if such claims arise after the closure of the Regional Landfill and irrespective of whether or not the Councils were members of the Group for the Term.

**21 Contributions**

- 21.1 Each Party contributes to the payment of the Services and operation of the Group by paying:
  - 21.1.1 the fee for the Base Tonnage and the per tonne levy beyond the Base Tonnage as set out in the Regional Landfill Agreement;
  - 21.1.2 the levy described as the post monitoring levy as set out in the Regional Landfill Agreement; and
  - 21.1.3 such other amounts as are either determined by the Group provided those amounts are within the budget approved by the Parties, or otherwise agreed between the Parties from time to time.
- 21.2 If the annual financial statements disclose any deficiency in the operation of the Services and management of the Group, the Group may apportion that deficiency in accordance with this clause.
- 21.3 If during a financial year it appears that the Group will incur a deficiency for that financial year the Group may resolve to recommend to each Party that each Party pay an advance towards meeting that deficiency, the amount of such advance to be determined in accordance with paragraph 21.6 of this clause.
- 21.4 Contributions to deficiencies called for by the Group in accordance with this clause shall be paid by each Party within one calendar month from the date of receipt of the call.
- 21.5 If a Party fails to pay the contribution called for under clause 21.4 any other Party may, but is not obliged to, pay the amount owing by the non-paying Party to the Managing Council. Such amount shall be recoverable by the paying Party as a debt from the non-paying Party in a court of competent jurisdiction.
- 21.6 The following formula shall be used for the calculation of contributions required if the funds available to the Group are insufficient to meet its commitments:
  - 21.6.1 Payment to the Regional Landfill Operator if the Base Tonnage is not deposited at the Regional Landfill-
    - (a) the deficiency is to be met by the proportion of the shortfall in the waste deposited by each Party at the Regional Landfill in comparison to the three year rolling average tonnages for that Party. Those Parties depositing in excess of their three year rolling average tonnages will not be required to contribute under this clause.
  - 21.6.2 If the Managing Council is not holding sufficient funds on behalf of the Group and
    - (a) the Base Tonnage deposit at the Regional Landfill is exceeded; and/or
    - (b) the amounts under clause 21.6.1 are raisedthe following shall take place:

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- (c) The Managing Council shall meet initially the shortfall as a debt, such debt including interest, is to be repaid by the Parties within 28 days of the date of a notice being issued by the Managing Council under subclause 21.6.2(d)
- (d) Each Party shall contribute to the repayment of the debt referred to in clause 21.6.2(c) in proportion to that Party's three year rolling average calculated in accordance with clause 21.8.
- (e) A notice under this clause may be issued as soon as practicable after the completion of the financial year ended 30 June annually.
- (f) In the event of an extraordinary deficiency occurring during the year including the need to incur unplanned costs for replacement equipment or urgent capital works, the Parties agree to recompense the Managing Council for such costs incurred provided the Group has made a recommendation to the Parties that it is satisfied that these costs are required to enable the ongoing efficient provision of the Services.
- (g) The financial reports, which form the basis of the imposition of the contribution under this clause shall be tabled at the next meeting of the Group. If there is a discrepancy in the financial reports as tabled, then the contributions are to be adjusted as appropriate.

21.7 If this Agreement is terminated, any shortfall in funds after the Group stops operating will be met on a proportionate per tonne basis of deposits over the life of the Agreement as at the date of termination.

21.8 Each Party's "three year rolling average" shall be the average of the previous three full financial years of deposits at the Regional Landfill.

21.9 The "three year rolling average" at the Commencement Date is as follows:

Hilltops	7763 tonnes/year
CGRC	3317 tonnes /year
SVC	5364 tonnes/year
YVSC	6240 tonnes/year

**22 Charges Based on tonnage being exceeded**

22.1 If the Base Tonnage is exceeded in any given year, the charges levied upon a Party for deposits as from the beginning of the next calendar month shall be reduced by the discount contained for deposits in excess of the Base Tonnage, as allowed in the Regional Landfill Agreement.

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**23 Admission of new Councils**

- 23.1 The Group may recommend to the Parties that a new council be admitted to the Group on such terms and conditions as the Group considers appropriate.
- 23.2 If the Parties agree to such admission, this Agreement shall be varied as appropriate.

**24 Access to Information**

- 24.1 The Parties agree that the same information should be available to all Parties and to this end agree to make available to each other all information that may be relevant to the Services.
- 24.2 Despite anything to the contrary in this clause, the Parties agree that this Agreement is not intended to:
  - 24.2.1 require the Parties to share information beyond what is necessary for the Services; and
  - 24.2.2 require the Parties to share information the subject of legal professional privilege.

**25 Confidentiality**

- 25.1 The Parties must not at any time, and must ensure that those authorised by them to access Confidential Information, do not disclose Confidential Information.
- 25.2 Each Party agrees and undertakes not to use or attempt to use any or all of the Confidential Information other than for the purposes set out in this Agreement.
- 25.3 Each Party must take all reasonable steps to ensure that its staff, subcontractors, directors and agents do not make public or disclose any Confidential Information.
- 25.4 This clause survives expiration or other termination of this Agreement.

**26 Disputes**

- 26.1 This clause applies to any Dispute between the Parties or between one or more Party.
- 26.2 A Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 26.3 If a notice is given under clause 26.2, the representatives of the Parties in dispute are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 26.4 If after diligent efforts to resolve the Dispute, the Dispute is not resolved within a further 28 days, the Parties may if they consider the Dispute is appropriate to be mediated, refer it to mediation in accordance with the Mediation Rules of the Law Society of New South Wales as are published from time to time and are to request the President of the NSW Law Society to select a mediator.

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- 26.5 If the Dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- 26.6 Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- 26.7 The Parties are to share equally the costs of the President, the mediator, and the mediation.
- 26.8 For the purposes of clause 27, this clause survives termination of this Agreement.

**27 Procedure upon termination**

- 27.1 Upon termination of this Agreement a calculation shall be made if the interest of each of the Parties in any funds and assets, which may be held on behalf of the Parties.
- 27.2 The Parties shall meet to agree how funds and assets are to be distributed between the Parties. In determining how to distribute funds and assets, the Parties shall consider the proportions determined under clause 21.6.2.
- 27.3 This clause survives termination of this Agreement.

**28 Variation**

- 28.1 The terms of this Agreement may be varied with the Agreement of all the Parties following consideration of a request from the Group or at the request of a Party.
- 28.2 If a Party proposes to seek the agreement of the Group to a proposed amendment at least 7 days' notice of any proposal to amend the Agreement must be provided to the Parties.

**29 Illegality**

- 29.1 If this Agreement or any part of it is or becomes illegal or invalid, the Parties are to co-operate and negotiate in good faith any amendments to this Memorandum to give effect to the purpose of this Agreement.

**30 Notices**

- 30.1 Any notice, consent, information, application or request that is to or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:
  - 30.1.1 delivered or posted to that Party's representative at its address set out in the Summary Sheet, or
  - 30.1.2 emailed to that Party's representative at its email address set out in the Summary Sheet.

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- 30.2 If a Party gives the other Party 3 business days' notice of a change of its address or email, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or emailed to the latest address.
- 30.3 Any notice, consent, information, application or request is to be treated as given or made if it is:
  - 30.3.1 delivered, when it is left at the relevant address,
  - 30.3.2 sent by post, 2 business days after it is posted, or
  - 30.3.3 sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- 30.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.
- 30.5 A notice to a member of the Working Group is given or made if it is in writing and emailed to the Waste Manager at the email address last provided to the Group Manager. Each Waste Manager is responsible for keeping the Group Manager up to date with their current email address.

**31 Governing Law and Jurisdiction**

- 31.1 This Agreement is governed by the law of New South Wales.

**32 Severability**

- 32.1 If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- 32.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

**33 Waiver**

- 33.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- 33.2 A waiver by a Party is only effective if it is in writing.
- 33.3 A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

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**34 Electronic Execution**

34.1 Each Party:

- 34.1.1 consents to this Agreement being signed by electronic signature by the methods set out in clause 34.3;
- 34.1.2 agrees that those methods validly identify the person signing and indicates that person's intention to sign this Agreement d;
- 34.1.3 agrees that those methods are reliable as appropriate for the purpose of signing this Agreement , and
- 34.1.4 agrees that electronic signing of this Deed by or on behalf of a Party by those methods indicates that Party's intention to be bound.

34.2 If this Agreement is signed on behalf of a legal entity, the persons signing warrant that they have the authority to sign.

34.3 For the purposes of clause 34.1, the methods are:

- 34.3.1 insertion of an image (including a scanned image) of the person's own unique signature onto the Agreement ; or
- 34.3.2 insertion of the person's name onto the Agreement ; or
- 34.3.3 use of a stylus or touch finger or a touch screen to sign the Agreement,

provided that in each of the above cases, words to the effect of 'Electronic signature of me, [insert full name], affixed by me, or at my direction, on [insert date]' are also included on the Deed; or

- 34.3.4 use of a reliable electronic signing platform (such as DocuSign or AdobeSign) to sign the Agreement ; or

34.3.5 as otherwise agreed in writing between the Parties.

**35 No Fetter**

35.1 Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

**36 Approvals and Consent**

36.1 Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party.

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**Execution**

**Dated:**

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**Executed on behalf of Hilltops Council pursuant to delegation  
granted on**

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Delegate

Witness

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**Executed on behalf of Cootamundra Gundagai Regional Council  
pursuant to delegation granted on**

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Delegate

Witness

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**Executed on behalf of Snowy Valleys Council pursuant to  
delegation granted on**

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Delegate

Witness

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**Executed on behalf of Yass Valley Council pursuant to  
delegation granted on**

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Delegate

Witness

## MEMORANDUM OF AGREEMENT

**AGREEMENT** made the eighteenth day of September, 2002

Pursuant to the Local Government Act 1993 (the Act) between

**THE COUNCIL OF THE SHIRE OF BOOROWA,  
THE COUNCIL OF THE SHIRE OF COOTAMUNDRA,  
THE COUNCIL OF THE SHIRE OF GUNDAGAI,  
THE COUNCIL OF THE SHIRE OF HARDEN,  
THE COUNCIL OF THE SHIRE OF TUMBARUMBIA  
THE COUNCIL OF THE SHIRE OF TUMUT,  
THE COUNCIL OF THE SHIRE OF YASS and  
THE COUNCIL OF THE SHIRE OF YOUNG ('the Councils')**

**WHEREAS** section 24 of the Act empowers a Council to provide goods, services and facilities, and Council activities, appropriate to the current and future needs ,within its local community and of the wider public, subject to the Act the regulations under the Act and any other law

**AND WHEREAS** section 355 of the Act provides that a function of a Council maybe exercised by two or more Councils jointly

**AND WHEREAS** the Councils are of the view that it is appropriate to the current and future needs of their local communities to provide a waste management service ("the service") and to enter into an agreement pursuant to section 355 of the Act to provide the service throughout all their areas

**NOW THIS AGREEMENT WITNESSES** that the Councils mutually covenant and agree as follows:

### 1. Objectives

**1.1** The objectives of this agreement are:

- 1.1.1.** to establish the South West Regional Waste Management Group ("the Committee") to provide a regional waste landfill within the areas of the Councils, and
- 1.1.2.** to detail the functioning of the Committee and the commitment of the Councils to achieve these objectives through mutual cooperation

### 2. Area of Operation

**2.1** This agreement shall operate within the areas of the Councils, ("the area of operations").

### **3. Establishment ,and Role of the Committee**

- 3.1** The Committee is established on and from the date of the agreement. Each of the Councils shall be bound by this Agreement for the full period contained in Clause 29 and for any extensions thereof.
- 3.2** No Council will be permitted to terminate its membership of the South West Regional Waste Management Group as formed under this Agreement for the period or periods pursuant to clause 29 without the express resolution of the Committee approving such termination.
- 3.3.** The role of the Committee shall be:
  - 3.3.1** to co-ordinate the provision and utilisation of a regional landfill facility for the purpose of acceptance of waste from each of the Council's areas.
  - 3.3.2** to promote activities and initiatives designed to achieve the objectives of this agreement and to monitor and survey the results of those activities and initiatives pursuant to the Local Government Act 1993
  - 3.3.3** to admit new members to the Agreement and to approve applications by any of the Councils which are signatories to the Agreement for their termination of membership.

### **4. Delegations**

- 4.1** Each of the Councils shall delegate, subject to the provisions of section 377 of the Act, such powers and functions to the Committee as are necessary to carry this agreement into effect.

### **5. Membership of the Committee**

- 5.1** Each Council which is a signatory to this Agreement is admitted as a member of the Committee
- 5.2** Each of the Councils shall nominate two delegates as their representatives on the Committee, one of whom shall be entitled to vote at Committee meetings. The voting delegate must be declared at the commencement of the meeting.
- 5.3** Each delegate shall hold office from the date of their appointment up until the next general quadrennial Council election and shall, unless disqualified, be eligible for re-appointment. In the terms following the initial appointment of delegates to this Committee, the appointment would take place immediately after the Council next meets following the general quadrennial election.

### **6. Cessation of Membership by Delegates**

- 6.1** A delegate to the Committee shall cease to be a delegate if-.
  - 6.1.1** his or her appointment is revoked by the Council which appointed him or her; or
  - 6.1.2** he or she resigns from the Committee in writing.; or

- 6.2 In the event of there being a vacancy in the delegate membership of the Committee the Council from which the Council vacating delegate came shall nominate a replacement delegate within three months from the date on which the vacancy occurred.
- 6.3 A replacement delegate shall hold office for the balance of the term of office of the vacating delegate.

## 7. Quorum

- 7.1 A simple majority of the members (Councils) of the Committee, represented by a voting delegate present at a meeting, shall constitute a quorum.

## 8. Meetings of the Committee

- 8.1 Subject to clause 9 the provisions of the Act and of the Local Government (Meetings) Regulation 1993 shall apply to the conduct of the meetings and general business of the Committee.
- 8.2 Meetings of the Committee shall be held at least once in every six month period at a venue to be determined at the preceding meeting.
- 8.3 The Chairman
  - i) may call a meeting at his discretion or
  - ii) upon receiving a written request from at least two Councils shall call a meeting.

## 9. Chair

- 9.1 The Committee shall at the first meeting held after September in each year elect from one of its delegates to be Chairman and to hold office for the ensuing twelve months. The Chairman is eligible for re-election to the position unless disqualified.
- 9.2 The Chair shall preside over all meetings of the Committee, but in the absence of the Chairman for any reason any other delegate of the Committee who is a Councillor may be elected to act as Chair during that absence;
- 9.3 The Chair shall exercise the same powers and perform the same duties for the Committee as exercised and performed by the Mayor for a Council.
- 9.4 No expenditure in excess of five hundred dollars (\$500.00) shall be incurred by the Chair without the authority of the Committee.

## 10. Deputy Delegates

- 10.1 in the event that any delegate of the Committee is unable to attend to his duties the Council represented by that delegate may by resolution appoint a deputy in place of that delegate.
- 10.2 A deputy delegate shall whilst acting in the place of a delegate have, all the powers and authorities of the delegate.
- 10.3 No-one will be entitled to inquire as to whether or not an occasion has arisen requiring or authorising a deputy delegate to act in the place of a delegate.
- 10.4 All things done or omitted to be done by a deputy delegate when acting in the place of a delegate shall have the same effect and consequences as if done or omitted by the delegate in whose place the deputy delegate is acting.

**11. Secretary**

11.1 the Committee shall appoint as Secretary, being an officer of the managing Council.

**12. Minutes**

12.1 The Committee shall cause minutes to be made and kept of all business enacted at all of its meetings.

12.2 The minutes of a meeting of the Committee shall be submitted for approval at the next successive meeting of the Committee and if approved each page of the minutes shall be signed by the Chair and countersigned by the Secretary.

12.3 A copy of the minutes of each meeting of the Committee is to be supplied to each Council represented on the Committee.

**13. Powers of the Committee**

13.1 The Committee shall subject to the provisions of the Local Government Act 1993, have the following powers:

13.1.1 to manage the regional landfill service within the areas of the Councils subject to the terms of the contract entered into with the landfill operator;

13.1.2 to prepare a budget for the ensuing financial year for adoption by member Councils

13.1.3 to recommend the charges applicable to member Councils for the use of the landfill service

13.1.4 to enter into any agreements which it considers necessary for the conduct of the service

13.1.5 to acquire by way of purchase, lease or any other means land and equipment within or outside the areas of the Councils which in the opinion of the Committee is necessary for the conduct of the service;

13.1.6 to arrange for such advances and loans as may from time to time in the opinion of the Committee be necessary for the purposes of this agreement;

13.1.7 To appoint a managing Council to carry out the day to day administration of the service.

13.1.8 To approve mode of transport services and infrastructure requirements and development.

13.1.9 Private garbage contractor delivery services to Bald Hill on behalf of any or all of the Councils in lieu of utilising the Committee's approved transport system must be approved by the Committee prior to the private garbage contractor being authorised as a Committee contractor.

**14. Reimbursement of Expenses**

14.1 In compliance with resolutions of the Committee the Committee may reimburse its delegates for out-of-pocket expenses reasonably incurred for travelling expenses and subsistence in attending upon inspections or other business of the Committee whether within or outside the areas of the Councils.

## 15 Managing Council

15.1 The managing Council will be responsible for the day to day administration of the regional landfill service and will specifically have responsibility for the following –

- 15.1.1 Provision of staff to carry out the tasks and duties necessary subject to approval of the Committee upon positions required.
- 15.1.2 Payment of claims made against the Committee for the provision of the service.
- 15.1.3 Management of the contract entered into with the landfill operator
- 15.1.4 Investment of Committee funds and the landfill restoration reserve
- 15.1.5 Raising of monthly charges for members for the tonnages deposited at the landfill
- 15.1.6 Acquisition and safe custody of plant and equipment as approved by the Committee
- 15.1.7 To effect all necessary insurance cover for the overall operations of the service.
- 15.1.8 The compilation of the annual and quarterly budgets for consideration by the Committee
- 15.1.9 To raise loans and advances on behalf of the Committee and to attend to repayments
- 15.1.10 Miscellaneous administrative and accounting functions
- 15.1.11 The General Manager of the managing Council or his nominee is required to attend all meetings of the Group as per Clause 8 of this Agreement

15.2 The Secretary shall have the following specific duties and responsibilities

- 15.2.1 To keep the minutes of meetings of the Committee;
- 15.2.2 To have charge of the Minute Book and other records of the Committee;
- 15.2.3 To keep the accounts of the Committee and present them for audit from time to time in accordance with the requirements of the Act for the keeping and auditing of the accounts of a Council; and
- 15.2.4 To send and receive correspondence on behalf of the Committee.

15.3 The managing Council shall be paid an administration contribution as approved by the Committee to offset the costs of providing the services outlined in Clause 15.

## 16. Auditor

16.1 The Committee shall annually appoint a duly qualified local government auditor to carry out the annual audit of the Committee's financial records..

## 17 Accounting

17.1 The managing Council on behalf of the Committee shall establish and maintain.

- 17.1.1 a separate accounting system to enable all income and expenditure, assets and liabilities to be accurately recorded

**18. Estimates**

- 18.1 The Secretary shall prepare and submit to the Committee, Estimates of the income and expenditure of the overall landfill operation for the following year and in sufficient time to allow all member-Councils to include the required levies in their respective Management Plans
- 18.2 For the purposes of this clause, "year" shall mean the year as defined from 1 July to 30 June.

**19. Financial Statements**

- 19.1 The Secretary shall prepare and submit annually to the Committee an Annual Financial Statement prepared in accordance with the Local Government Act and Regulations and associated professional accounting standards.
- 19.2 Within a period of six weeks from the end of each quarter, the Secretary shall prepare a financial statement in respect of the Committee's operations showing the estimated total income and expenditure of funds on present trends for the year under review and the estimated funds position at the close of that year, The statements shall be prepared on the income and expenditure system of accounting and in accordance with the Local Government (Financial Management) Regulation 1993, and shall be presented to the first meeting of the Committee after their preparation .

**20. Undertakings and Indemnities**

- 20.1 The Councils hereby mutually agree to be responsible for and to pay all wages, salaries, costs, charges, expenses and all other liabilities whatsoever properly incurred by the Committee or the Chair or the managing Council or any other delegate of the Committee for the carrying out of the terms of this agreement.
- 20.2 The Councils hereby jointly and severally agree to save harmless and keep indemnified, in the proportions set out in clause 21, the Committee and the Chair, the managing Council and delegates of the Committee and each of them respectively for all claims or actions for wages, salaries, costs, charges, expenses and all other liabilities whatsoever and all other liabilities of any kind that may be brought against them or any of them in respect of or in connection with the carrying out of the provisions of this agreement.
- 20.3 The undertakings provided in Clauses 20.1 and 20.2 will specifically include any liabilities associated with the post closure and rehabilitation of the landfill irrespective of whether or not the Councils were members of the South West Regional Waste Management Group for the full term of the Agreement or otherwise.

**21. Contributions to Deficiencies**

- 21.1 In the event that the annual financial statements disclose any deficiency in the operation of the scheme the Committee may apportion that deficiency in accordance with this clause.
- 21.2 if during a year it appears that the Committee will incur a deficiency for that year the Committee may require the Councils to make an advance towards meeting that deficiency, the amount of such advance to be determined in accordance with paragraph 21.5 of this clause.

**21.3** Contributions to deficiencies called for by the Committee in accordance with this clause shall be paid by the Councils within one calendar month from the date of receipt of the call.

**21.4** In the event that a Council, to which a call for a contribution has been made pursuant to this clause, has not paid the amount of that call in accordance with paragraph 21.5 of this clause, it shall be lawful but not obligatory for the other Councils which are delegates of the scheme, or any one of them, to pay the amount of that call to the Committee and recover the amount of it as a debt in a court of competent jurisdiction from the Council by which the payment was required to have been made under this agreement.

**21.5 Contributions Formula:**

The following formula shall be utilised for the calculation of contributions required in the event that the funds available to the Committee are insufficient to meet its commitments.

**21.5.1** Payment to Bald Hill in the event that the base tonnage of 10,000 tonnes is not deposited at the landfill-

the deficiency to be met by the proportion of the shortfall in deposit by each Council at the landfill in comparison to the initial survey tonnages. Those Councils depositing in excess of the initial survey tonnage will not be required to contribute under this Clause .

For the purposes of this Clause, the initial survey tonnages of November 2001 are to be used for the first 3 years of this agreement. From then on, the applicable tonnages shall be the rolling average of the actual tonnages deposited at the landfill by each Council over the previous 3 years from any given year in which a shortfall in the deposit of the base tonnage of 10,000 occurs.

**21.5.1.1** In the event that the Committee suffers an insufficiency of funds and

- a) the overall base tonnage deposit is exceeded
- b) and/or the levies under Clause 21.5.1 are raised

the following procedure shall take place;

- i) The managing Council to meet initially the shortfall as a debt, such debt including interest, to be repaid by the Councils within 28 days of it being levied by the managing Council.
- ii) Such levy to be in proportion to each Council's initial survey tonnage or rolling 3 year tonnage as per Cl 21.5.3 as compared to the overall initial survey tonnage or rolling 3 year tonnage as per Cl 21.5.3.
- iii) The levy as per this clause may be made as soon as practicable after the completion of the financial year ended 30 June annually.
- iv) In the event of an extraordinary deficiency occurring during the year, nothing will prevent the Committee levying the Councils upon the terms of this Clause to meet that deficiency.

v) The financial reports, which are the basis of the imposition of a levy under this Clause shall be tabled at the next meeting of the Committee. In the event that there is a discrepancy in the financial reports as tabled, then the levies are to be adjusted as appropriate.

**21.5.2** In the event that the agreement is terminated by the Committee, any shortfall in funds after the affairs of the Committee are wound up will be met on a proportionate per tonne basis of deposits over the life of the agreement as at the date of cessation of the agreement.

**21.5.3** Estimated Waste tonnages as per November 2001 shall be termed the "initial survey tonnages" and are as follows-

Boorowa	400
Cootamundra	3000
Gundagai	1000
Harden	1200
Tumbarumba	1000
Tumut	3000
Yass	2500
Young	3000

After three full years of operation the average of the Councils tonnages deposited over the 3-year period shall be termed the "three year rolling average" and shall replace the "initial survey tonnages". Thereafter, the "three year rolling average" shall be the average of the previous three full years of deposits at the landfill as at each 30 June. This agreement to be updated to reflect the current "three year rolling average" after being reporting to the Committee. Such amendment shall not require the terms of Clause 29 to be implemented.

The Councils listed in this sub clause are also termed the "Foundation Councils" for the purpose of Clause 24.

## **22. Charges upon Base Tonnage being Exceeded.**

The base tonnage is defined as 10,000 tonnes per financial year 1 July to 30 June. In the event that the base tonnage of 10,000 tonnes is exceeded from all sources, the charges levied upon the Councils for deposits as from the beginning of the next calendar month shall be reduced by the discount contained for deposits in excess of the base tonnage, as allowed in the contract between the South West Region Waste Management Group and the landfill operator.

## **23. Annual Reports**

**23.1** The Committee shall submit an annual report and audited financial accounts, setting out the activities of the Committee for the preceding year, to each of the Councils.

**24. Admission of Foundation Councils to the Committee which did not deposit waste at the landfill at the initial commencement date but which contribute the buy in charge.**

24.1 For Foundation Councils listed in Clause 21.5.3 that do not commence depositing garbage at the landfill at the commencement of this agreement, the admission charges are as follows-

24.1.1 i) \$4 per tonne per annum (paid and indexed annually by the ratepegging limit imposed by the Minister for Local Government) of initial survey tonnages for that Council as per Clause 21.5.3,

ii) The transport charge for new Foundation Members which have paid up front as per sub-clause i) will be charged the same rate as the existing members at the date of admission of the new Foundation Member;

**25. Admission of Foundation Councils to the Committee which did not deposit waste at the landfill at the initial commencement date and which did not contribute the buy in charge .**

25.1 Buy in charge and transport charges to be determined by the Committee at time of application.

**26. Admission of new Councils to the Committee.**

26.1 The Committee shall have the authority to admit new Councils to the Committee upon such terms and conditions as it determines appropriate.

26.2 Any contributions received from new Councils joining the Committee will be distributed to the existing member Councils on a proportionate basis of total deposits as per Clause 21.5.2

**27. Landfill Supervisory Licence**

27.1 In accordance with the terms of the License under the Protection of the Environment Operations Act, 1997, the South West Region Waste Management Group shall hold the supervisory licence for the landfill. In the event that the South West Region Waste Management Group is unable (by means of legislative or administrative reason given in writing by the Environment Protection Authority) to be the supervisory license holder, Harden Shire Council will be designated licence holder on behalf of the other Councils.

27.2 The terms of Clause 20, Undertakings and Indemnities shall apply specifically to the Supervisory License holder as defined by clause 24.1 of this agreement.

**28. Procedure on termination**

- 28.1 Upon termination of this agreement an adjustment shall be made of the interest of each of the Councils in any funds and assets, which may be held by the Committee and which, are not required for the purposes of this agreement.
- 28.2 Such funds and assets shall be disbursed in the proportions determined under Clause 21.5.2.

**29. Period of Agreement**

- 29.1 This agreement shall remain in force for a period of 20 years from the date of its commencement.
- 29.2 This agreement may at any time during its currency be extended for such further period as the Councils consider appropriate.

**30. Resolution of Disputes**

- 30.1 In the event that any dispute arises between the Councils, or between one or more of those Councils, and the Committee as to the construction of this agreement or any matter arising under or in connection with it, then such dispute shall be resolved pursuant to section 742 of the Act

**31. Amendment of this Agreement**

- 31.1 The terms of this agreement may be amended as required during the course thereof including any renewal periods by the following means.

**31.1.1 Proposed by a member Council-**

- a) a simple majority of the member councils plus one resolving the amendment as proposed

OR

**31.1.2 By the Committee –**

- a) proposing an amendment to the Councils, such amendment having at least a simple majority of the voting Committee members plus one voting in favour thereof and subsequently
- b) a simple majority of the member councils plus one resolving the amendment as proposed

- 31.2 All Committee members must be provided with at least 7 days notice of any proposal to amend the agreement.

- 31.3 All amendments to the agreement must be carried out under the Common Seal of Council

**IN WITNESS WHEREOF** the Common Seals of the Councils have been hereunto affixed.

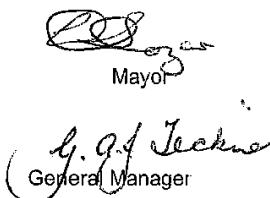
**THE COMMON SEAL of THE COUNCIL  
OF THE SHIRE OF BOOROWA** was hereunto  
Affixed on the 10th day of January 2002 in  
pursuance to a resolution of the Council passed on  
the 27th day of May, 2002 and in the  
presence of:



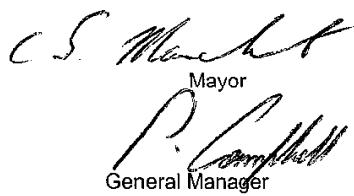
**THE COMMON SEAL of THE COUNCIL  
OF THE SHIRE OF COOTAMUNDRA** was hereunto  
Affixed on the 24th day of October 2002 in  
pursuance to a resolution of the Council passed on  
the 4th day of October 2002 and in the  
presence of:



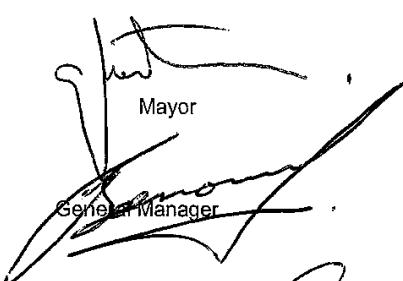
**THE COMMON SEAL of THE COUNCIL  
OF THE SHIRE OF GUNDAGAI** was hereunto  
Affixed on the 17 of December 2002 in  
pursuance to a resolution of the Council passed on  
the 8 day of OCTOBER 2002 and in the  
presence of:



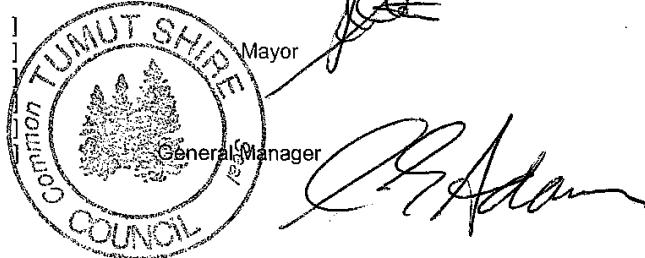
**THE COMMON SEAL of THE COUNCIL  
OF THE SHIRE OF HARDEN** was hereunto  
Affixed on the 18th day of September 2002 in  
pursuance to a resolution of the Council passed on  
the 18th day of September 2002 and in the  
presence of:



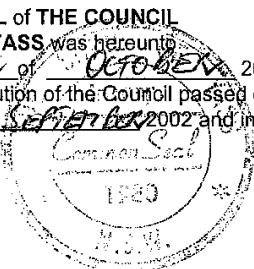
**THE COMMON SEAL of THE COUNCIL  
OF THE SHIRE OF TUMBARUMBIA** was hereunto  
Affixed on the 18 of December 2002 in  
pursuance to a resolution of the Council passed on  
the 26 day of September 2002 and in the  
presence of:

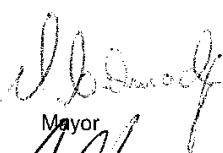


**THE COMMON SEAL of THE COUNCIL  
OF THE SHIRE OF TUMUT** was hereunto  
Affixed on the 18th of November 2002 in  
pursuance to a resolution of the Council passed on  
the 24th day of September 2002 and in the  
presence of:

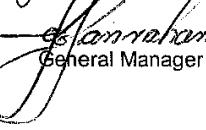


THE COMMON SEAL of THE COUNCIL  
OF THE SHIRE OF YASS was hereunto  
Affixed on the 22 of OCTOBER 2002 in  
pursuance to a resolution of the Council passed on  
the 25 day of SEPTEMBER 2002 and in the  
presence of:



  
Mayor  
  
General Manager

THE COMMON SEAL of THE COUNCIL  
OF THE SHIRE OF YOUNG was hereunto  
Affixed on the 4th of OCTOBER 2002 in  
pursuance to a resolution of the Council passed on  
the 18 day of SEPTEMBER 2002 and in the  
presence of:

  
Mayor  
  
General Manager

**CONFIDENTIAL ORDINARY MEETING AGENDA**

&lt;DATE&gt;

Held in the &lt;PLACE AND ADDRESS&gt;

**12.X – 22/XX – Memorandum of Agreement – South West Regional Waste Management Group**

Responsible Officer: General Manager

**PURPOSE**

The purpose of this report is to seek Council's endorsement of a new Memorandum of Agreement (MOA) for the continued operation of the South West Regional Waste Management Group (SWRWMG).

**RECOMMENDATION****That Council:**

- (a) Receive and note the report;**
- (b) Endorse the Memorandum of Agreement at Attachment 1;**
- (c) Delegate to the General Manager to execute all associated documentation.**

**REPORT/SUMMARY/BACKGROUND**

The South West Regional Waste Management Group (SWRWMG) was established in 2002 by the Councils of the Shires of Boorowa, Cootamundra, Gundagai, Harden, Tumut, Tumbarumba, Yass and Young to establish, maintain and operate a common waste disposal facility for their local government areas.

Since the Group was established, Council mergers have resulted in the Group now comprising the Councils of Cootamundra-Gundagai, Hilltops, Snowy Valleys and Yass Valley (the "Group Councils").

The Memorandum of Agreement (the "MOA") between Councils established the Group on 18 September 2002 for a period of 20 years. The MOA was reinstated in June 2023 to expire on 23 December 2023.

The MOA covers administrative arrangements for the Group including:

- The establishment, membership and role of the Group committee
- Delegation of functions by each Group Council to the committee
- Procedures for the ordinary functioning of the committee
- The roles of the committee and the managing Council
- Procedures for the determination and levying of fees and charges to Group Councils for waste transport and disposal.

The Group committee is responsible for appointing the managing Council. Harden Shire Council was the initial managing Council and this role passed to Hilltops Council at the amalgamation of Boorowa, Harden and Young Shire Councils on 12 May 2016.

Under the MOA, the managing Council is responsible for the day-to-day management of the regional landfill service provided by the SWRWMG. Hilltops Council continues as the managing Council and holds financial reserves and assets on behalf of the Group.

The General Managers and waste managers of the Group Councils met on 25 September 2023 to discuss the principles to be incorporated in a new MOA proposed to be entered into by 23 December 2023.

**CONFIDENTIAL ORDINARY MEETING AGENDA**

&lt;DATE&gt;

Held in the &lt;PLACE AND ADDRESS&gt;

The principles have been drafted into the proposed new MOA at **Attachment 1** for consideration by each of the Group Councils at their November ordinary meeting.

**ATTACHMENTS**

Attachment 1 – Proposed New Memorandum Of Agreement  
Attachment 2 – Existing Memorandum Of Agreement

**POLICY AND LEGISLATION**

- Local Government Act 1993
- Protection of the Environment Operations Act 1997

**COMMUNITY STRATEGIC PLAN LINKAGE**

- 4C.3. Managing local assets and resources ethically, prudently and efficiently.
- 5B.3. Strengthen the current and future essential service delivery and infrastructure needs of the region.

**FINANCIAL IMPLICATIONS**

- The fees charged by SWRWMG for waste disposal require review to ensure that they are adequate to cover all costs associated with the activity, including rehabilitation of the Bald Hill Regional Landfill at its end of life.
- The costs associated with the operation of the SWRWMG will not change as a result of the proposed new MOA.

**RISK IMPLICATIONS**

- Failure to enter into a new MOA before 23 December 2023 may result in termination of the existing MOA and associated separation of assets between the Group Councils.
- Continuing the operation of the SWRWMG reduces the operating risks of the Group Councils by allowing for efficiencies and greater negotiating power than each Council operating on its own.
- The new MOA would address some risks associated with the current MOA, by providing clarity of its legal basis.

**CONSULTATION AND TIMING**

- The current MOA between the Councils was extended at the June ordinary meeting to expire on 23 December 2023. The current MOA is provided at **Attachment 2** for reference purposes.
- The General Managers and staff of the Group Councils have collaborated to develop the proposed new MOA to take effect immediately following endorsement by each of the Group Councils.

**8.8.2 REGIONAL SERVICES DEPARTMENT MONTHLY WORKS REPORT**

DOCUMENT NUMBER	404274
REPORTING OFFICER	Wayne Bennett, Manager Regional Services Cootamundra
AUTHORISING OFFICER	Matt Stubbs, Deputy General Manager - Operations
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>2. A region for the future</b></p> <p>2.2 A thriving region that attracts people to live, work and visit</p>
FINANCIAL IMPLICATIONS	There are no financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	There are no Legislative implications associated with this report.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

**RECOMMENDATION**

**The Cootamundra Regional Services Department, Monthly Works Report be received and noted.**

Introduction

This report has been prepared to inform Council of the activities undertaken by the Cootamundra Regional Services Department over the month of November 2023.

Discussion**1. Cootamundra Parks & Gardens & Sportfields Section**

Works have consisted in most part of mowing and maintaining the sport fields, urban and village public open spaces and associated facilities. The regular rainfall is maintaining strong grass growth.

**2. Cootamundra Urban Street Tree Unit**

Staff continue to work through the substantial back log of customer requests, with actions based on priorities.

**3. Cootamundra Public Facilities Unit**

Staff are carrying out the routine maintenance of Council's open space facilities e.g., public toilets, BBQ's, playgrounds etc. This Unit also carries out Council's regulated safety inspection of all Cootamundra playgrounds, Sportfields and carries out minor repairs to local street and park furniture, vandalism, litter bins etc.

**4. Landfill/Transfer Station Operations Unit**

Council/Management will continue to seek opportunities that will both improve the level of waste reduction, reuse and increase cost recovery.

## Sheep Sale Figures for 2023

Cootamundra Saleyards - Sheep Sales FY 2024												
Report No.		Ewes	Hoggets	Lambs	Sheep	Stag	Sucker	Rams	Wethers	Total	Avg. Price	
336	5-Jul-23	392	4	1028	0	0	0	3	16	1443	\$121.42	
337	19-Jul-23	2	39	1393	5	0	0	1	2	1442	\$111.43	
338	2-Aug-23	506	10	949	0	2	103	0	0	1579	\$75.44	
339	16-Aug-23	107	34	1232	0	0	228	0	0	1601	\$87.73	
340	30-Aug-23	754	92	2084	0	0	7	10	0	2947	\$61.90	
341	13-Sep-23	305	88	981	0	0	123	43	0	1540	\$62.60	
342	27-Sep-23	186	179	699	0	0	547	21	0	1632	\$61.54	
343	11-Oct-23	450	49	345	0	0	1112	7	108	2071	\$77.89	
344	25-Oct-23	231	89	777	25	0	1453	5	0	2580	\$78.62	
345	8-Nov-23	549	208	539	11	0	583	15	0	1905	\$62.25	
346	22-Nov-23	178	145	152	27	0	267	28	20	817	\$49.08	
	6-Dec-23									0		
	20-Dec-23									0		
	3-Jan-24									0		
	17-Jan-24									0		
	31-Jan-24									0		
	14-Feb-24									0		
	28-Feb-24									0		
	13-Mar-24									0		
	27-Mar-24									0		
	10-Apr-24									0		
	24-Apr-24									0		
	8-May-24									0		
	22-May-24									0		
	5-Jun-24									0		
	19-Jun-24									0		
<b>Annual Total</b>		<b>3660</b>	<b>937</b>	<b>10179</b>	<b>68</b>	<b>2</b>	<b>4423</b>	<b>133</b>	<b>146</b>	<b>19557</b>	<b>\$77.26</b>	

## Weed Spraying Activities

Roadside Spraying									
November									
Date	Location	Application	Land Use	Weed	Chemical/s	Quantity	Amount of Spray Mix	Operator	Comments
1/11/2023	Dudauman Road	Spot Spray	Roadside	St John's Wort	Woody	3l	600l	Jabe Polsen	
					Metsulfuron	60g			
					Wetter	600ml			
2/11/2023	Dirmaseer Road	Spot Spray	Roadside	St John's Wort	Woody	3l	600l	Jabe Polsen	
					Metsulfuron	60g			
					Wetter	600ml			
2/11/2023	Old Cootamundra Road	Spot Spray	Roadside	St John's Wort/ Blackberry	Woody	3l	600l	Jabe Polsen	
					Metsulfuron	60g			
					Wetter	600ml			
3/11/2023	Old Cootamundra Road	Spot Spray	Roadside	St John's/ Blackberry	Woody	3l	600l	Jabe Polsen	
					Metsulfuron	60g			
					Wetter	600ml			
3/11/2023	Ryan's Lane	Spot Spray	Roadside	St John's Wort/ Blue Thistle	Metsulfuron	40g	300l	Jabe Polsen	
					Wetter	300ml			
6/11/2023	Old Cootamundra Road	Spot Spray	Roadside	St John's Wort	Woody	600l	600l	Jabe Polsen	
					Metsulfuron	60g			
					Wetter	600ml			
7/11/2023	Old Cootamundra Road	Spot Spray	Roadside	St John's Wort & Briar	Woody	3l	600l	Jabe Polsen	
					Metsulfuron	60g			
					Wetter	600ml			
10/11/2023	Old Cootamundra Road/Stock Yards	Spot Spray	Roadside/Reserve	Coolatai Grass & Various	Glyphosate	5l	300l	Jabe Polsen	
10/11/2023	Burley Griffin Way	Spot Spray	Roadside	St John's Wort & Blackberry	Woody	2l		Jabe Polsen	
					Metsulfuron	40g			
					Wetter	400ml			
15/11/2023	Burley Griffin Way	Spot Spray	Roadside	St John's Wort & Briar	Tridophy & Pidoram	2l	400l	Jabe Polsen	
					Metsulfuron	60g			
					Wetter	600ml			
16/11/2023	Burley Griffin Way	Spot Spray	Roadside	St John's Wort	Tridophy & Pidoram	3l	600l	Jabe Polsen	
					Metsulfuron	60g			
					Wetter	600ml			
20/11/2023	Burley Griffin Way	Spot Spray	Roadside	St John's Wort & Briar	Tridophy & Pidoram	3l	600l	Jabe Polsen	
					Metsulfuron	60g			
					Wetter	600ml			
21/11/2023	Burley Griffin Way/Stockinbingal	Spot Spray	Roadside	St John's Wort & Blackberry	Tridophy & Pidoram	3l	600l	Jabe Polsen	
					Metsulfuron	60g			
					Wetter	600ml			
	Stockinbingal Road	Spot Spray	Roadside	St John's Wort	Tridophy & Pidoram	2l	400l	Jabe Polsen	
					Metsulfuron	40g			
					Wetter	400ml			
24/11/2023	Stockinbingal Road	Spot Spray	Roadside	St John's Wort & Blackberry	Tridophy & Pidoram	1.5l	300l	Jabe Polsen	
					Metsulfuron	30g			
					Wetter	300ml			
28/11/2023	Old Wallendbeen Road	Spot Spray	Roadside	St John's Wort	Tridophy & Pidoram	3l	600l	Jabe Polsen	
					Metsulfuron	60g			
					Wetter	600ml			
30/11/2023	Burley Griffin Way	Spot Spray	Roadside	St John's Wort/Briar	Tridophy & Pidoram	3l	600l	Jabe Polsen	
					Metsulfuron	60g			
					Wetter	300ml			

**RANGERS Activities for November 2023**

- 3 dog seized and returned to owner.
- 7 dogs seized and released to owner.
- 2 cat seized rehomed to rescue.
- 10 dogs seized, impounded, and rehomed.
- Total registrations paid \$1,446.00.
- Council Rangers attended 3 barking dog issues.
- Council Rangers reported 4 illegal dumping incidents.

Education programs running for Cleaning up after your dog and keeping dogs on leash.

Poo bag stations regularly being filled up.

**Financial**

Currently there are no negative financial consequence to Councils adopted operational or capital budgets and approved programs.

**OLG 23a Guideline consideration**

All works and budgets detailed within this report align with the OLG 23a guidelines and Councils 2022/2023 Financial and Operational Plans.

**9 MOTION OF WHICH NOTICE HAS BEEN GIVEN**

Nil

**10 QUESTIONS WITH NOTICE**

Nil

## 11 CONFIDENTIAL ITEMS

11.1 CLOSED COUNCIL REPORT	
DOCUMENT NUMBER	404111
REPORTING OFFICER	Teresa Breslin, Executive Assistant to Mayor and General Manager
AUTHORISING OFFICER	Steve McGrath, Interim General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p><b>4. Collaborative and progressive leadership</b></p> <p>4.1 A clear strategic direction that is delivered upon</p>
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	To facilitate compliance with sections 10 and 11 of the Local Government Act 1993.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

### Note

Council's Code of Meeting Practice allows members of the public present to indicate whether they wish to make representations to the meeting, before it is closed to the public, as to whether that part of the meeting dealing with any or all of the matters listed should be closed.

### RECOMMENDATION

1. **Item 11.2 be considered in closed Council at which the press and public are excluded in accordance with the applicable provisions of the Local Government Act, 1993 and related public interest reasons detailed.**
2. **In accordance with section 11 (2) and (3) of the Local Government Act, 1993, the reports, correspondence and other documentation relating to Item 11.2 be withheld from the press and public.**

### 11.2 MAYORAL MINUTE - INTERIM GENERAL MANAGER ROLE

#### Provisions for Confidentiality

Section 10A (2) (a) – The Confidential Report contains personnel matters concerning particular individuals (other than councillors).

#### Public Interest

Not applicable.