



Agenda and Business Paper

Ordinary Meeting of Council

To be held on
Tuesday 11 June 2024
at 6.00pm

Civic Centre cnr Baylis and Morrow Streets,
Wagga Wagga NSW 2650 (PO Box 20)
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NOTICE OF MEETING

The proceedings of all Council meetings in open session, including all debate and addresses by the public, are recorded (audio visual) and livestreamed on Council's website including for the purpose of facilitating community access to meetings and accuracy of the Minutes.

In addition to webcasting council meetings, audio recordings of confidential sessions of Ordinary Meetings of Council are also recorded, but do not form part of the webcast.



Peter Thompson
General Manager

WAGGA WAGGA CITY COUNCILLORS



**Councillor Dallas Tout
(Mayor)**

Councillor Dallas Tout was elected to Council in 2012 and was elected Mayor in 2022.



**Councillor Amelia Parkins
(Deputy Mayor)**

Councillor Amelia Parkins was elected to Council in 2021 and was elected Deputy Mayor in 2023.



Councillor Georgie Davies

Councillor Georgie Davies was elected to Council in 2021.



Councillor Richard Foley

Councillor Richard Foley was elected to Council in 2021.



Councillor Michael Henderson

Councillor Michael Henderson was elected to Council in 2021.



Councillor Rod Kendall

Councillor Rod Kendall was elected to Council in 2004 and was elected Mayor in 2012 – 2015.



Councillor Tim Koschel

Councillor Tim Koschel was elected to Council in 2016.



Councillor Jenny McKinnon

Councillor Jenny McKinnon was elected to Council in 2021 and was elected Deputy Mayor in 2022 – 2023.

STATEMENT OF ETHICAL OBLIGATIONS

Councillors are reminded of their Oath or Affirmation of Office made under Section 233A of the Local Government Act 1993 and their obligation under Council's Code of Conduct to disclose and appropriately manage Conflicts of Interest.

QUORUM

The quorum for a meeting of the Council, is a majority of the Councillors of the Council, who hold office for the time being, who are eligible to vote at the meeting.

ORDINARY MEETING OF COUNCIL AGENDA AND BUSINESS PAPER

TUESDAY 11 JUNE 2024

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ACKNOWLEDGEMENT OF COUNTRY

Wagga Wagga City Council acknowledges the traditional custodians of the land, the Wiradjuri people, and pays respect to Elders past, present and future and extends our respect to all First Nations Peoples in Wagga Wagga.

We recognise and respect their cultural heritage, beliefs and continuing connection with the land and rivers. We also recognise the resilience, strength and pride of the Wiradjuri and First Nations communities

REFLECTION

Councillors, let us in silence reflect upon our responsibilities to the community which we represent, and to all future generations and faithfully, and impartially, carry out the functions, powers, authorities and discretions vested in us, to the best of our skill and judgement.

APOLOGIES

CONFIRMATION OF MINUTES

CM-1 ORDINARY COUNCIL MEETING - 27 MAY 2024

Recommendation

That the Minutes of the proceedings of the Ordinary Council Meeting held on 27 May 2024 be confirmed as a true and accurate record.

Attachments

1   Ordinary Council Meeting Minutes - 27 May 2024 238

DECLARATIONS OF INTEREST

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

NOM-1 NOTICE OF MOTION - RULING OUT NUCLEAR FOR WAGGA

Author: Councillor Jenny McKinnon

Summary: | Notice of Motion brought to Council by Councillor Jenny McKinnon.

Recommendation

That the Mayor write to the Hon. Mr Wes Fang, MLC to seek an explanation as to why he has nominated Wagga as a site for a nuclear power plant, including, but not limited to:

- a what community consultation he has undertaken in this Local Government Area to determine support for a nuclear reactor to be located here
- b what water source he proposes be used for ongoing nuclear energy generation purposes; and
- c what location he proposes for the generated nuclear waste to be processed and stored

Report

As the nuclear debate currently rages in Australia, NSW upper house MP, The Hon. Wes Fang, MLC, has offered Wagga as the very spot to place a nuclear power plant, as recorded in NSW Hansard on 15th May 2024.

During NSW Parliamentary debate, Mr Fang called for 'Nuclear for Wagga', 'Nuclear for Australia' and, when asked 'Should that be based in Wagga too?', Mr Fang responded 'Sure. I'll have one in my backyard'.

The Wagga community should be aware that Mr Fang is not only calling for nuclear energy for Australia, he is suggesting Wagga as the location for a nuclear power plant.

The issues associated with building a nuclear power plant, including decades-long building time, very high need for water inputs, record of nuclear reactor failures overseas, as well the problems associated with processing and storing nuclear waste, should each give this community pause to think about what a nuclear-powered energy plant would mean for Wagga Wagga.

The Wagga community deserves an explanation from Mr Fang, and he should especially offer a detailed list of the community consultation processes he undertook before offering up any site in this Local Government Area as a site for a nuclear power plant.

Financial Implications

N/A

Policy and Legislation

Code of Meeting Practice

Link to Strategic Plan

Community leadership and collaboration

Objective: Wagga Wagga has strong community leadership and a shared vision for the future

Our leaders represent our community

Risk Management Issues for Council

N/A

Internal / External Consultation

N/A

REPORTS FROM STAFF

RP-1 DRAFT CIVIC THEATRE - PERFORMING ARTS MASTERPLAN

Author: Madeleine Scully

Executive: Janice Summerhayes

Summary:

This report has been prepared for Council to consider the feedback from the public exhibition period for the draft Civic Theatre - Performing Arts Masterplan. The Plan was on public exhibition for 28 days from 12 April to 10 May 2024 and is now recommended for Council adoption.

Recommendation

That Council:

- a note all submissions and feedback received relating to the exhibited draft Civic Theatre - Performing Arts Masterplan
- b endorse the Civic Theatre - Performing Arts Masterplan
- c pursue future funding opportunities, for the continued detailed planning and design of this project, as they arise

Report

Council resolved the following at the Ordinary Meeting on 8 April 2024:

That Council:

- a *place the draft Civic Theatre - Performing Arts Masterplan on public exhibition for a period of 28 days from 12 April and invite public submissions until 10 May 2024 on the draft document*
- b *receive a further report following the public exhibition period*
 - (i) *addressing any submissions made in respect of the draft Civic Theatre – Performing Arts Masterplan*
 - (ii) *proposing any amendments to the plan considered appropriate whether as a result of the submissions or otherwise*

During the exhibition period, 242 submissions were received, which was a great response from our community. Of those submissions 231 submissions have been categorised as supportive, and 11 as non-supportive.

In summary, 95.5% of submissions indicated positive support toward the draft Civic Theatre – Performing Arts Masterplan (draft Masterplan) with 4.5% of submissions received not supportive. Notably, of the 242 supportive submissions, 142 indicated support and made no further suggestions while 89 submissions also offered suggestions for consideration in detailed design and planning phases of the project.

These suggestions have been themed in Table 1 of this report. The 11 theme areas include Parking, Environment, Capacity, Community impact, Demolition, Access, Aesthetic, Design/Construction, Acoustic, First Nations and Workforce & Business Planning. Table 2 of this report captures the 11 non-supportive submissions.

Of the 242 total submissions received, 209 were from residents who reside in the Wagga Wagga Local Government Area with the following spread of submissions;

- Wagga Wagga CBD - 36
- Ashmont – 5
- Booroma - 4
- Bourkelands - 12
- Cartwrights Hill - 1
- Currawarna - 1
- East Wagga Wagga - 1
- Estella - 3
- Glenfield Park - 13
- Gobbagombalin - 7
- Gumly Gumly - 1
- Kapooka - 1
- Koorringal - 30
- Lake Albert - 1
- Lloyd - 3
- Mount Austin - 6
- North Wagga - 2
- San Isidore - 1
- Springvale - 9
- Tatton - 7
- Tolland - 13
- Turvey Park - 25
- Central Wagga - 7
- Uranquinty - 3

The remaining 33 submissions were from organisations, industry representatives and individuals located in the wider region, from across NSW and Victoria. All submissions received are provided under separate cover.

From the 209 submissions in support of the draft Masterplan the following is a sample of quoted statements taken directly from those submissions. Following this, Table 1 outlines submission suggestions broken into themes for consideration when progressing the draft Masterplan.

Submission statements:

“I’m inspired by Wagga City Councils commitment to transforming the Civic Theatre which I fondly remember as part of my childhood. I believe that incorporating a community-focused art project into the Wagga Wagga Civic Theatre Masterplan could greatly benefit the local area. Furthermore, the Civic Theatre expansion can act as a catalyst for urban renewal in the surrounding area. It can stimulate investment in the area, leading to the development of new businesses, improved infrastructure, and a more vibrant community hub”.

“We applaud Council and for incorporating Wiradjuri design elements into the proposed building façade. This is an appropriate intervention given the site of this civic building on the banks of a significant Aboriginal place, and honours Council’s commitment to incorporating Wiradjuri design elements into civic design in the Cultural Plan 2020-2030”.

“These are significant investments to make, but LGA's that undertake redevelopment's of this nature see enormous levels of positive feedback from across their community once the projects are complete and the buildings are alive with activity, creating a strong sense of community ownership. This benefit lasts for decades through the life of the buildings, and the importance of this investment cannot be overstated”.

“This is a very exciting project! The current facility is booked out, so that local arts and culture organisations are unable to secure bookings due to commercial entities (mainly cover bands) booking out the space. An expansion of the facility, with versatile spaces, will enrich the local performing arts ecosystem as well as providing greater opportunities for visiting acts”.

“How well entrenched the Arts are in society is a barometer for how inclusive that society is. Keep up the good work WWCC”.

“WOW, absolutely amazing and what a vision Council has to future proof your community for a facility into the future providing opportunities to grow the arts and artists”.

“By enhancing the theatre's infrastructure and programming, the masterplan has the potential to significantly enrich the cultural landscape of Wagga Wagga, providing residents with access to high-quality arts and entertainment experiences”.

“These upgrades will certainly attract many more national touring acts and enhance the theatre as the creative It's hub of Wagga, providing a space for future talent to grow and develop”.

“My partner and myself are looking at potentially moving out if Sydney and having a cultural venue they is showcasing quality performances is part of our "suburb selection criteria". This puts Wagga higher on our list”.

“I think the full upgrade should go ahead. We have a new museum and new conservatorium so the Civic deserves its turn. The upgrade would meet the needs of Wagga's growing population and vibrant arts scene”.

“The plan is visionary in scope and looks to meet the needs of the community for many years to come. It will allow the flexibility to produce and support a large variety of live music and entertainment”.

“Delighted with the draft Masterplan. Wagga is such a growing community with a wide, and growing, variety of interest in live performance entertainment. The Masterplan looks absolutely fabulous and will provide a selection of wonderful venues for audiences and performers alike”.

“It's a great plan. It encompasses everything that is needed to give Wagga a world class venue that suits the size of the city. The business plan is solid and it will be an asset all the community can use. The design of the building is beautiful and perfectly works in the nature and the surrounding landscape”

The following Table 1 outlines submission suggestions broken into themes for consideration when progressing the draft Masterplan.

Table 1: Summary of submissions in support with additional feedback.

THEME	Sub No.	Submission Summary	Response
<p>PARKING</p> <p>There were 26 suggestions for parking considerations.</p>	<p>16, 27, 28, 29, 30, 54, 72, 74, 88, 90, 103, 108, 127, 134, 147, 148, 150, 154, 160, 169, 172, 185, 189, 198, 208, 209.</p>	<p>Has suggested lack of adequate parking and drop off areas surrounding the site. This was referenced to consider:</p> <p>*parking to the venue to cater for older patrons, patrons with disabilities along with pram, bus and scooter parking.</p> <p>*ensuring that local businesses neighbouring the Civic Theatre are not impacted due to parking congestion.</p> <p>The crossing in Tarcutta Street is dangerous and consideration should be given to slowing traffic by installing lights/pedestrian crossing or overhead walkway through to the theatre.</p>	<p>The Traffic and Parking Impact Assessment confirmed adequate parking available to accommodate the proposed draft masterplan. Further analysis is required in the detailed design phase to include an increase in designated parking and drop off for people with disability, older patrons along with pram and scooter parking.</p> <p>A new bus drop-off area is included in the plan and is located near the Civic Theatre entrance on Tarcutta Street. The site is already served by a bus stop located on the corner of Baylis and Morrow Streets which is 300 metres and 4 minutes walking distance from the Civic Theatre.</p> <p>To be considered in detailed design phase to recommend solutions generally for this precinct area for road calming treatments on Tarcutta Street.</p>

THEME	Sub No.	Submission Summary	Response
<p>ENVIRONMENT</p> <p>There were 8 suggestions for environmental factors.</p>	<p>50, 59, 64, 74, 90, 165, 215, 225</p>	<p>More green spaces to combat increasing temperatures as a result of climate change.</p> <p>Consider the impact on the lagoon and its wildlife inhabitants and connection/relationship to the river.</p> <p>In detailed designs consider the watercourse (pipe) and its connection to the Murrumbidgee River on the site.</p>	<p>Environmentally Sustainable Design (ESD) principles underpin the draft Masterplan. The architects have allowed 5% for ESD over and above any ESD requirements. This allows for a high percentage of vegetated area across the site in comparison to the total building footprint. This will be in consultation with local Wiradjuri/Wiradyuri Elders and community for suitable vegetation for the Wollundry Lagoon area. Energy, water, materials, waste, land-use ecology and indoor environmental quality systems will form part of future detailed site plans using EDS principles.</p> <p>Extensive consultation was undertaken with Elders, cultural knowledge holders and community regarding the significance of the Wollundry Lagoon to the Wiradjuri and First Nations community. Taking the ESD principles of the masterplan any future detailed designs and development application processes will address wildlife considerations as part of the lagoon site.</p> <p>On page 20 of the draft Masterplan, it is noted a culvert linking Wollundry Lagoon to the Murrumbidgee River is located directly below the proposed site.</p> <p>Further geographical and structural engineering advice will inform the detailed design phase of this project.</p>

THEME	Sub No.	Submission Summary	Response
<p>CAPACITY</p> <p>There were 13 suggestions for capacity.</p>	<p>3,11, 15, 34, 49, 53, 77, 78, 103, 211, 218, 226, 230.</p>	<p>The proposed Venue 2 (currently 328 seated, 774 standing) does not have a large enough capacity. Suggestions ranged from support for current sizing through to a small increase to 1000, up to 1500 or 2,500 focused for larger acts.</p> <p>Ensure size/capacity of backstage areas/green room are ample space for performers.</p>	<p>Feedback is noted and will be considered in the detailed design phase of Venue 2 to consider opportunities to increase seating and standing floor capacity.</p> <p>The backstage areas including the green rooms have been designed based on industry standards for multi-use. This includes a new kitchen, six new dressing rooms which can also be used as meeting rooms and breakout spaces, an additional green room which can also be used for meetings and events, parking for two trucks, offices, technical and storage spaces.</p> <p>Additional review will occur as part of the detailed design phase of this project.</p>
<p>COMMUNITY IMPACT</p> <p>There were 11 suggestions for community impact.</p>	<p>3,32, 65,115 , 124, 132, 180, 212, 216, 226, 230</p>	<p>Ensure the fees and charges for use by community groups, schools and not-for-profits remains low, in order to be accessible.</p> <p>For the redevelopment of the Civic Theatre the utilisation of local trades and services during construction phase to ensure spend benefits in our LGA.</p>	<p>This has been factored in as part of the business planning model to ensure affordable community access is maintained and will be considered in the community fee structure as part of operations that commence post construction phase of the project.</p> <p>Noted and is considered as part of Council's procurement policy/ processes of supply of services in the tendering of the construction phase of this project.</p>
<p>DEMOLITION</p> <p>There were 3 references to the</p>	<p>5,65, 140</p>	<p>Noted sadness regarding Wollundry cottage being demolished but accepted this as part of the redevelopment process.</p>	<p>Attachment I – Wollundry Cottage Condition report noted the below average condition of the asset, asbestos present and lack of accessibility. Attachment J – Heritage Advice report /Wollundry Cottage acknowledges the</p>

THEME	Sub No.	Submission Summary	Response
demolition of buildings.		Suggested that it's unnecessary to demolish 1 Fitzmaurice Street to create green space.	<p>history of the site and to consider incorporating into new build; on review not suitable for food & beverage and cost of adapting the building would be prohibitive. The cottage location is in a position that could be better used as a drop off point for buses and accessible parking as there are better preserved examples of this style of architecture within the Wagga Wagga conservation area. Further recommendation to place ornate stained-glass windows in the permanent collection of Museum of the Riverina, for bricks to be recycled on site to form pathways, and a sign be installed to commemorate the cottage's history.</p> <p>There are no plans to demolish 1 Fitzmaurice Street in the draft Masterplan.</p>
<p>ACCESS</p> <p>There were 15 suggestions for Access.</p>	43, 51, 89, 107, 114, 166, 169, 186, 188, 193, 197, 198, 217, 219, 222	<p>Consider more bathrooms across all venues, and to not have unisex bathrooms citing safety reasons.</p> <p>Include more seating for patrons with a disability in performance spaces.</p> <p>Increase lighting along outdoor walkways to the Civic Theatre through the Civic Centre area.</p> <p>A sensory area for patrons and children with sensory requirements as part of the fitout.</p> <p>The design should include adequate elevators.</p>	<p>Toilet facilities have been calculated to adhere to building standard codes. Male, Female and Unisex toilets will be part of the detailed design phase of the project, noting there are existing male and female identified toilets in the current Civic Theatre building.</p> <p>As per the universal design principles of the masterplan, seating for patrons with a disability will form part of the detailed design of the overall building including seating requirements and will meet industry standards.</p> <p>Noted and will be considered in detail design phase of this project to strengthen the lighting in this immediate area.</p>

THEME	Sub No.	Submission Summary	Response
		<p>Improve the city's public transport system for ease of access.</p>	<p>This is able to be included in the fit out of the building by way of a 'chill out' enclosed sensory area as part of the detailed design phase reflecting contemporary design practice in performing arts centres.</p> <p>The Draft Masterplan recommends 3 lifts; to ensure access to SOACT basement theatre, back of house and to access venues 2 & 3, catering for visitor flow and access across the entire site.</p> <p>Comments noted for inclusion in review of Wagga Wagga Integrated Transport Strategy 2040.</p>
<p>AESTHETIC There were 8 suggestions for building aesthetic/design.</p>	<p>19, 31, 50, 51, 86, 173, 180, 210</p>	<p>Ensure the design is aesthetically pleasing and is not going to date quickly.</p> <p>Retain the original Civic Theatre 1960's architecture and to be careful it is not subsumed by the extension build.</p> <p>Ensure the external treatment of the facade of moving dancers is not a traffic/safety risk and is aesthetically pleasing.</p> <p>Consider further creative treatments to the façade like outdoor projectors to enhance the street façade and bring innovation in design.</p>	<p>Comments noted and will be considered as part of the detailed design phase.</p> <p>The original 1960's façade is to be retained as part of this redevelopment project.</p> <p>The façade of moving dancers to be further developed in the detailed design phase in adherence with traffic safety standards to ensure optimum traffic safety along Tarcutta Street.</p> <p>Increased creative treatments to the façade to be considered in detailed design and costings for the project.</p>

THEME	Sub No.	Submission Summary	Response
<p>DESIGN/ CONSTRUCTION PHASE</p> <p>There were 3 references to the use of the site under construction phase.</p>	30, 121, 130	Questioned if the original Civic Theatre will be used during the construction phase and what Council plans are during this time to support community.	It is planned that the current auditorium will remain operational for most of the time through the construction phase with planned interruptions for limited periods and this will be communicated to the community with alternative venues offered such as CSU Playhouse or other venues across the city.
<p>ACOUSTIC</p> <p>There were 3 suggestions for Acoustics.</p>	33, 211, 160	<p>If the budget can allow, consideration be given to designing the space to acoustically accommodate all styles of music, specifically those that don't require electricity (non-amplified).</p> <p>The need for quality audio and sound is paramount and ensure acoustic treatments are made to ensure local businesses surrounding the Civic Theatre are not impacted Monday – Friday.</p>	<p>The draft masterplan includes an electro acoustic system in each of the new proposed spaces. These systems can create the conditions required for a variety of music including replication of the acoustics of a recital hall for classical music or non-amplified performances.</p> <p>This is already managed with large and regular events at the Civic Theatre e.g Amy Shark and other events that Council run in the CBD area. This will be managed as part of operations and the acoustic treatments detailed in the master plan regarding sound proofing requirements.</p>
<p>FIRST NATIONS</p> <p>There was 1 suggestion regarding First Nations.</p>	38	Reinforced the masterplans intent to honour Wiradyuri as foundational to community wellbeing and empowering all people to live and embody Yindymarra.	Submission noted with ongoing community consultation planned with Elders, cultural knowledge holders and community through the detailed design and construction phases of this project.

THEME	Sub No.	Submission Summary	Response
<p>WORKFORCE & BUSINESS PLANNING</p> <p>There were 7 suggestions regarding Workforce and Business Planning.</p>	77, 86, 102, 113, 148, 190, 191	<p>All new venues utilise the services of Ticketek and have self-entry, check in scanners as used in other venues.</p> <p>Highlighted the importance of adequate local accommodation services to support on-going operations of the theatre.</p> <p>Suggested naming the bars, theatres and spaces after prominent figures in Wagga's history.</p> <p>Ample storage spaces be considered for bar areas, chair removal and back fill fridges.</p> <p>Maintain a professional focus for theatre staff as the project progresses.</p> <p>Suggested consideration for truck access and ample back of house facilities.</p> <p>Consider additional office spaces for touring companies, and ample live streaming equipment, for performances and conferences.</p>	<p>Contemporary ticketing software/technology and costings will be considered as part of the operations phase of this project.</p> <p>Comment noted. Building local investment confidence to expand the accommodation offering in the City is a key focus of the work being undertaken in the development of the CBD masterplan. Consideration of this request will be included in detailed design phase of this project in consultation with Councillors and community.</p> <p>The masterplan has included storage across the entire footprint has been considered including in the new bar areas along with venue 2 and 3.</p> <p>Noted and Council is committed to working with all staff to maintain a positive and professional workplace environment.</p> <p>Truck access to the site has been considered in the Traffic & Parking assessment report (refer page 21 item 3.3 Servicing and loading and compliance). Consideration has also been made to increase the capacity of the loading dock (refer page 62 of the draft masterplan) to match the requirements of the draft masterplan including access ramps from the dock into venue 2 & a back of house lift to load venue 3.</p>

THEME	Sub No.	Submission Summary	Response
			Office spaces have been identified in the masterplan and live streaming equipment is already available and will be part of operations going forward.

The following Table 2 summaries the 11 submissions not in support of the draft Masterplan and have been categorised into seven theme areas in the below table. The categories are: Parking, Environment, Capacity, Financial, Demolition, Design & Construction and First Nations.

Table 2: Summary of submissions not in support of the draft Masterplan

THEME	Sub No.	Submission Summary	Response
PARKING There were 2 submissions regarding parking.	232,239	Lack of adequate parking surrounding the site and that parking requirements may be greater than anticipated. Lack of public transport to this site.	The traffic and parking assessment for the draft masterplan included examination of the parking availability within 500 metres of the site. This survey concluded that the expansion posed no parking issues created by the proposed additional theatre users. It concludes there is remaining spare parking availability on-street and off-street, within public car parks to accommodate parking demand generated by the proposed development, even when all three venues operating at peak capacity of 1440 patrons. A new bus drop-off area is included in the plan and is located near the civic theatre entrance on Tarcutta Street. The site is currently served by a bus stop located on the corner of Baylis and Morrow Streets which is 300 metres and 4 minutes walking distance from the Civic Theatre.

THEME	Sub No.	Submission Summary	Response
			The site is also located adjacent to the active travel link that runs along the Murrumbidgee River.
<p>ENVIRONMENT</p> <p>There was 1 submission regarding environmental factors.</p>	232	Maintain the site lines from Wollundry Bridge to the Murrumbidgee River, impact on biodiversity in the lagoon area and consideration of climate change.	<p>The site line concern is noted. The exterior of the building will complement the natural setting by creating a stronger connection to Wollundry Lagoon and green spaces in the precinct. This will be achieved through creating paved areas, new landscaping, indoor/outdoor bar and through the exterior design.</p> <p>Environmentally Sustainable Design (ESD) principles underpin the draft masterplan. The architects have allowed 5% for ESD over and above any ESD requirements. This allows for a high percentage of vegetated area across the site in comparison to the total building footprint. This will be in consultation with local Wiradjuri/Wiradyuri Elders and community for the selection of suitable vegetation for the Wollundry Lagoon area. Energy, water, materials, waste, land-use ecology and indoor environmental quality systems will form part of future detailed site plans using EDS principles.</p>
<p>CAPACITY</p> <p>There were 5 submissions regarding capacity.</p>	234, 235, 236, 237, 241	Not supportive of this project as it does not cater for large crowd capacity of up to 2,500 people in a venue.	Comment noted

THEME	Sub No.	Submission Summary	Response
<p>FINANCIAL</p> <p>There was 1 submission regarding financial implications.</p>	240	Suggested the project was a waste of rate payer money and suggested Council fix roads.	Comment noted
<p>DEMOLITION</p> <p>There was 1 submission regarding demolishing nearby buildings.</p>	239	Questioned if consultation had been undertaken with relevant stakeholders regarding demolishing council buildings	<p>The only council building that will be demolished as part of the masterplan project is the Wollundry Cottage, currently unoccupied. Attachment I – Wollundry Cottage Condition report notes the below average condition of the asset, with asbestos present & lack of accessibility.</p> <p>Attachment J – Heritage Advice report /Wollundry Cottage acknowledges the history of the site and to consider incorporating into new build; on review not suitable for food & beverage and cost of adapting the building would be prohibitive; cottage location in a position that could be better used as a drop off point for buses and accessible parking as there are better preserved examples of this style of architecture within the Wagga Wagga conservation area; with recommendation to place ornate stain glass windows in permanent collection of Museum of the Riverina and bricks to be recycled on site to form pathways and a sign be installed to commemorate the cottage’s history.</p> <p>There are no plans to demolish 1 Fitzmaurice Street in the draft masterplan and the stakeholders have been advised of this during the public exhibition period.</p>

THEME	Sub No.	Submission Summary	Response
<p>DESIGN & CONSTRUCTION</p> <p>There were 3 submissions regarding aesthetic/design</p>	232, 233, 241, 242	<p>Suggestions that the design is not aesthetically pleasing, will date quickly, is disjointed and will dwarf the Wollundry Lagoon.</p>	<p>As detailed in the draft Masterplan, the architects considered the exterior of the building and how it would compliment the natural setting by creating a stronger connection with the Wollundry Lagoon and green spaces in the precinct. This will be achieved through creating paved areas, new landscaping, indoor/outdoor bar and through the exterior design.</p>
<p>FIRST NATIONS</p> <p>There were 2 submissions regarding First Nations considerations.</p>	238, 239	<p>Questioned if the Sorry Rock will be relocated if the redevelopment doesn't proceed.</p> <p>The draft masterplan fails to acknowledge the deep historical significance of the site and it should be designed to be inclusive and reflective of all community, particularly in acknowledging First Nations culture</p>	<p>The Sorry Rock would only be relocated if the redevelopment proceeded or in the event that Wiradjuri/First Nations Elders approached Council for such a request in the future.</p> <p>The concept design is inspired by Uncle Stan Grant Snr and the Wiradjuri/Wiradyuri meaning of Wagga Wagga being a place of dance and celebration. It is proposed that the new performing arts centre would be wrapped in the image of Wiradjuri/Wiradyuri dancers reinforcing that this is a place of dance and celebration in the centre of Wagga Wagga. This unique design will reflect the creativity and culture of our community and was informed with consultation with First Nations community. Consultation will continue through the life of this project.</p>

Financial Implications

This report is to recommend the adoption of the draft Masterplan and is not committing Council to any funds. Any future funding of the Masterplan will be subject to a future report for Council consideration. The cost to construct the draft masterplan project works as per the revised AEC report is \$58,608,325 for 2024-2025. Funding options for such masterplans can include:

Fully or part funded externally by State and/or Federal Government	Fully or part funded externally by NSW Infrastructure funding and/or Federal Government grants. This is the preferred funding model given Council's deficit Long Term Financial Plan (LTFP). On occasions, opportunities arise where State and/or Federal Government agencies can provide out-of-round allocations.
Developer Contributions Plan	The plan was completed in 2019 and is fully allocated at present. When the contributions plan is reviewed in the future there will be competing priorities, and this would only be a part contribution relying on other Council or external funding to meet the full costs of the project.
Corporate Contribution	Pursue corporate funding as part of the overall budget along with contributions from State and/or Federal Governments. Whilst an option it is noted that this is unlikely to secure for Local Government infrastructure and will still require guaranteed amounts from State and/or Federal Governments to secure corporate funds.
A project within any future Special Rate Variation	Inclusion as part of any future Special Rate Variation along with contributions from State and Federal governments. This again will be with competing priorities and will require other external contributions to meet full costs of the project.

Policy and Legislation

The draft Masterplan was developed to align with various plans within Council's planning framework including:

- Community Strategic Plan
- Cultural Plan 2020-2030 item No
- Recreation, Open Space and Community Strategy and Implementation Plan (MP4)
- Reconciliation Action Plan
- All Abilities Inclusion Action Plan
- Riverina Murray Regional Plan
- NSW Cultural Infrastructure Plan 2020-2025

Link to Strategic Plan

Community Place and Identity

Objective: Our community are proud of where we live and our identity

Provide services and facilities that make Wagga Wagga a centre for arts and culture

Risk Management Issues for Council

To progress the draft Masterplan in future years for detailed designs, costings and development external funding will need to be secured.

Internal / External Consultation

In 2017 Council undertook extensive consultations to develop the Wagga Wagga Community Strategic Plan. The community indicated the need for more performance entertainment, more variety in the entertainment offering and more opportunities to participate in the performing arts. Out of Council’s Cultural Plan 2020-2030 community consultation process the community provided feedback on the idea of adding two new performance spaces to the existing Civic Theatre. This response was considered, and the expansion of the Civic Theatre became a key recommendation in the plan (1.03 - Expansion of the Civic Theatre).

In 2020/21 further consultations were conducted for the development of the draft Masterplan across local and national user groups.

Further community engagement was undertaken between 22 November 2023 and 22 December 2023 as part of the Riverside stage 3 concept plans, which included seeking community feedback on the level of support for the expansion of the Civic Theatre.

After a Councillor workshop held 15 May 2023 and a subsequent report to Council on 8 April 2024 the draft Masterplan was placed on public exhibition from 12 April 2024 to 10 May 2024. During the exhibition period, 242 submissions were received, which was a great response from our community. Of those submissions 231 submissions have been categorised as supportive, and 11 as non-supportive.

	Mail			Traditional Media				Community Engagement				Digital				
	Rates notices insert	Direct mail	Letterbox drop	Council news	Media release	Media opportunity	TV/radio advertising	One-on-one meeting(s)	Community meeting(s)	Stakeholder workshop(s)	Drop-in session(s)	Survey/feedback form(s)	Have your Say	Email newsletter	Social media	Website
Inform				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>					
Consult				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>					
Involve																
Collaborate																
Other methods (please list specific details below)																

Attachments

1.  Have Your Say - Consolidated Feedback of Responses - Provided under separate cover
2.  Individual Written Responses Received - Provided under separate cover
3.  Civic Theatre Draft Masterplan Attachment A - ARM Concept Masterplan Report - Provided under separate cover
4.  AEC - Revised WWCC Civic Theatre CBA - 6 October 2023 - Provided under separate cover
5.  Civic Theatre Draft Masterplan Attachment B - Estimate Review 30 March 2022 - Provided under separate cover
6.  Civic Theatre Draft Masterplan Attachment C - Economic Impact of Wagga Civic Theatre 2018-19 - Provided under separate cover
7.  Civic Theatre Draft Masterplan Attachment D - WWCT Expansion Project Economic Assessment April 2022 - Provided under separate cover
8.  Civic Theatre Draft Masterplan Attachment E - Traffic and Parking Impact Assessment - Provided under separate cover
9.  Civic Theatre Draft Masterplan Attachment F- SOACT ACOUSTIC REVIEW - Provided under separate cover
10.  Civic Theatre Draft Masterplan Attachment G - SOACT Access Audit Report - Provided under separate cover
11.  Civic Theatre Draft Masterplan Attachment H - Proposed Basement Floor Plan - Provided under separate cover
12.  Civic Theatre Draft Masterplan Attachment I - Wollundry Cottage Building Condition Report - Provided under separate cover
13.  Civic Theatre Draft Masterplan Attachment J - Heritage Advice - Wollundry Cottage - Provided under separate cover
14. Have Your Say - Individual Responses -Draft Civic Theatre - Performing Arts Masterplan

This matter is considered to be confidential under Section 10A(2) of the Local Government Act 1993, as it deals with: personnel matters concerning particular individuals. - Provided under separate cover

RP-2 ON-SITE SEWAGE MANAGEMENT PLAN 2024-2028**Author:** Mark Gardiner**Executive:** Janice Summerhayes**Summary:**

The On-Site Sewage Management Plan 2024-2028 provides a consistent approach for regulating On-Site Sewage Management Systems across the Local Government Area. The plan was placed on public exhibition for 28 days from 12 April 2024 to 10 May 2024 with no submissions received.

Recommendation

That Council:

- a note there were no submissions received during the public exhibition period for the draft On-Site Sewage Management Plan 2024-2028
- b adopt the On-Site Sewage Management Plan 2024-2028

Report

A review of the On-Site Sewage Management Plan was undertaken to ensure it is still contemporary and in line with health and environmental standards. The review process ensures a consistent approach for on-onsite sewage management practices as the responsible authority for regulating the systems.

Council at its meeting on 8 April 2024 endorsed the draft On-Site Sewage Management Plan 2024-2028 and placed the Plan on public exhibition for a period of 28 days from 12 April 2024 to 10 May 2024, seeking public submissions. No submissions were received on the draft Plan.

It is therefore recommended that Council adopt the On-Site Sewage Management Plan 2024-2028 as exhibited.

Financial Implications

N/A

Policy and Legislation

NSW Local Government Act 1993
NSW Local Government (General) Regulation 2021

Link to Strategic Plan

The Environment

Objective: Our built environment is functional, attractive and health promoting
Improve the facilities of our spaces and places

Risk Management Issues for Council

The On-Site Sewage Management program recognises that there is potential for risk to human health and the environment by the failure of on-site sewage management systems(OSMS) or the inappropriate irrigation of effluent. The level of risk is determined by a number of factors such as density of population, location to a water body, soil type and performance of the system.

Council has regulatory functions in respect of OSMS and offences which could be committed as a result of a failure of an OSMS. A failure by Council to exercise those regulatory functions could result in Council breaching its charter and could expose Council to liability should any damage result from the failure of an OSMS.

Internal / External Consultation

A Councillor workshop regarding the draft On-Site Sewage Management 2024-2028 was held on 18 March 2024. The draft On-Site Sewage Management Plan 2024-2028 was placed on public exhibition for 28 days from 12 April 2024 to 10 May 2024, seeking public submissions. Staff also intend to provide community information and notices as part of implementation of the On-Site Sewage Management Plan 2024-2028.

	Mail			Traditional Media				Community Engagement				Digital				
	Rates notices insert	Direct mail	Letterbox drop	Council news	Media release	Media opportunity	TV/radio advertising	One-on-one meeting(s)	Community meeting(s)	Stakeholder workshop(s)	Drop-in session(s)	Survey/feedback form(s)	Have your Say	Email newsletter	Social media	Website
Inform																
Consult				<input checked="" type="checkbox"/>									<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Involve																
Collaborate																
Other methods (please list specific details below)																

Attachments

- 1.   On-Site Sewage Management Plan 2024-2028



On-Site Sewage Management Plan 2024-2028



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1. INTRODUCTION

Effective management of domestic sewage and wastewater is an important consideration for human health and the environment. Effective management requires the active involvement of both the Council and landholders. This Management Plan is prepared in accordance with the requirements of the Local Government Act 1993 and *Local Government (General) Regulation 2021* and has been developed to help Wagga Wagga City Council assess, regulate, and manage the design, installation, operation, and maintenance of On-site Sewage Management Systems (OSMS).

The benefits of an On-site Sewage Management plan are:

- Better catchment management;
- A consistent message to householders and on-site sewage operators;
- A coordinated approach to liaise with industry, including developers, professionals, consultants, private certifiers, service agents and plumbers and
- Develop information and education strategies.

Legislation requires owners of household septic systems and other small On-site Sewage Management facilities to apply to Council for approval to operate or amend a system. Approval allows Council to monitor performance on a regular basis. In accordance with *Local Government Act 1993*, all OSMS are required to be licensed by Council. Effective management of existing and new septic systems to address sewage management issues is an important task of Council.



2. PURPOSE

This Management Plan applies to all OSMS in the Wagga Wagga City Council Local Government Area that do not directly discharge into Council sewer mains and are not regulated under a pollution control licence by the Environmental Protection Authority.

An OSMS system consists of a sewage management facility and its land application area (disposal area). For the purpose of this Management Plan an OSMS includes but is not limited to the following:

- septic tank and absorption trench;
- septic tank and evapo-transpiration area (ETA);
- aerated wastewater treatment system and irrigation area;
- wet composting toilet with sand filter and/or wetland reed bed with sub-surface application system;
- waterless composting toilet and grey water treatment system;
- grey water treatment systems;
- septic tank with sand filter and/or constructed wetland/reed bed with sub-surface application system;
- septic tank and amended soil mound system; and
- septic tank and pump-out well.

The purpose of the Management Plan is to:

- Guide landholders towards sustainable on-site management of domestic sewage and effluent water;
- Protect and enhance the quality of public health and the environment within the Wagga Wagga Local Government Area (LGA);
- Assist Council to prioritise resources for the efficient regulation and monitoring of OSMS;
- Coordinate monitoring, environmental assessment and data collection related OSMS; and
- Allow for site assessment on risk management basis and consideration of alternate solutions on environmentally sensitive sites.



3. OBJECTIVES

On-site Sewage Management systems should be selected, sited, designed, constructed, operated, and maintained to ensure the following objectives are met:

- **Reduction of public health risk** - sewage contains bacteria, viruses, parasites and other disease-causing organisms. Contact with effluent should be minimised or eliminated, particularly for children. Insects can also act as a vector for disease where they have access to effluent. Residuals, such as composted material, should be handled carefully. Treated sewage should not be used on edible plants that are consumed;
- **Protection of surface water** - surface waters are not contaminated by any flow from treatment systems and land application areas (including effluent, rainfall run-off and contaminated groundwater flow);
- **Protection of groundwater** - groundwater will not be contaminated by any flow from either the treatment systems or land application areas;
- **Protection of land and vegetation** - land is not contaminated by any flow from treatment systems, effluent, rainfall run-off or removed tank solids;
- **Protection of community amenity** - quality of life shall not be unreasonably interfered with. Where possible, systems should enhance the local amenity. Special consideration should be given to aesthetics, odour, dust, disease vectors and excessive noise; and
- **Conservation and reuse of resources** - the resources in domestic wastewater (including nutrients, organic matter, and water) should be identified and utilised as much as possible within the bounds posed by the other performance objectives. Water conservation should be practiced, and wastewater production should be minimised.



DISEASES WHICH MAY TRANSMITTED BY CONTACT WITH UNTREATED EFFLUENT

Diseases are caused by:

Viral:	gastroenteritis hepatitis A rotavirus
Bacterial:	cholera typhoid bacillary dysentery
Parasites:	cryptosporidiosis giardiasis

The above listed disease-causing microorganisms (pathogens) can be spread from untreated sewage. These pathogens can be spread directly by people coming into contact with sewage, for example, contact with untreated sewage which has discharged onto the ground surface from broken sewage pipes or indirectly by people coming into contact with pests such as flies and cockroaches which carry pathogens in or on their bodies. Livestock and domestic animals such as dogs and cats can also spread these diseases through coming into contact with or drinking water, which has been contaminated by sewage.

Primary treatment systems such as conventional septic tanks with trenches or absorption beds will not adequately treat sewage if the sewage is not disposed of underground properly or the sewage disposal system is not properly maintained. For these sewage systems to be properly maintained, all faulty (blocked, damaged, broken or worn-out) parts must be repaired as soon as possible after they stop working correctly. This will prevent any potential spread of disease.

Secondary treatment systems (Aerated Wastewater Treatment Systems - AWTS) also have the potential to spread disease if they are not serviced and maintained regularly as recommended by the system accreditations. All parts and equipment should be operated and maintained as per manufacturer requirements to ensure that sewage is effectively treated by the system.



4. GOALS

The goals of the On-site Sewage Management Plan are to:

- Review Council development standards and approval criteria to ensure sustainable On-site Sewage Management when development occurs in non-sewered areas;
- Register OSMS and maintain a database of all sites;
- Identify the additional resources needed by Council to supervise On-site Sewage Management;
- Identify additional public infrastructure needed to replace areas of failing OSMS;
- Adopt a partnership approach with households and service agents to support continual improvement of On-site Sewage Management;
- Specify qualifications and accreditation processes for third parties wishing to certify maintenance work and/or compliance with approval standards for all types of systems;
- Consult with local service agents and plumbers to ensure that they are aware of qualification and accreditation procedures recommended by the NSW Health;
- Develop site-specific Sewage Management plans that resolve identified problems;
- Offer prompt and efficient service for complaint and approval services for on-site sewage management; and
- Educate owners of OSMS of their responsibilities to maintain an effective OSMS.

5. ENVIRONMENTAL OVERVIEW

The purpose of the environmental overview is to outline factors that will affect the efficient and appropriate functioning of OSMS within the Wagga Wagga LGA.

On-site Sewage Management refers to the various methods used in the treatment and disposal of household wastewater and sewage within the confines of a property. The end-product from the treatment process that has to be managed on-site will vary in terms of the risk it poses to human and environmental health. The level of effluent treatment will primarily govern the method of disposal considered to be the safest. As an example conventional septic tank waste must be disposed of underground as a final treatment stage. An Aerated Wastewater Treatment System (AWTS) treats effluent to a standard that allows irrigation onto the ground surface.



There are a variety of factors that will influence how well an effluent application system may function; these include but is not limited to system maintenance, geology, soil type, topography, water table, vegetation, and climate. Across the LGA the importance of each factor will vary as conditions on individual sites vary. The constraints they place on systems must be recognised and considered when a system is to be installed or altered.

5.1 Soil Type

The geology of an area influences the soil types that are likely to have developed in an area. The soil type in turn will have an impact on activities that can be carried out in a safe and sustainable manner on a site. Disposal of effluent is one such activity that is affected by soil type. Within boundaries of the geological units the soil types will vary considerably, and each system's location will have its own limitations. How well a disposal area functions will depend largely on the soil in which it is constructed or the soil the effluent is irrigated onto.

An effluent disposal area is functioning efficiently and appropriately when:

- effluent is absorbed by the soil;
- there is no untreated effluent discharging on ground surface or groundwater contamination; and
- soils and vegetation on the effluent disposal site is capable of assimilating the nutrient and organic loading of the effluent applied.

5.1.1 Soil Texture

Soils with a high clay content often have low permeability. This means water is likely to pond on the surface and not drain away or be readily absorbed by the soil. Irrigated effluent may pond and underground disposal areas will quickly fail if they are not correctly sized. This can pose risks to human health and the environment. Soils with a high sand and gravel content will have very high permeability. Water will drain freely through the profile to groundwater reserves. Disposal areas on sites with highly permeable soils may contaminate groundwater with effluent if not correctly treated or constructed (Chen and McKane 1997). Soils with a high proportion of stone will contain less soil material that can absorb moisture. This may also cause the disposal area to fail. Soils with low wet bearing strengths can be easily compacted once moist (Chen and McKane 1997). The compaction of a disposal area by heavy vehicles or stock will inhibit water absorption and drainage and may damage pipe work.

5.1.2 Soil Chemistry

Sodic soils contain an elevated amount of sodium and are generally high in clay and silt. They have poor structure which inhibits drainage both underground and on the surface. Sodic soils can be conditioned with the addition of lime or gypsum to improve



drainage (Chen and McKane 1997). Effluent from residential premises contains sodium in moderate amounts. Prolonged application of residential effluent to an area will elevate soil sodium levels. Any nutrient deficiency or toxicity in the soil that inhibits plant growth should be addressed. The soil on a new disposal area may initially need fertilising. Once the system is established the nutrients added by effluent should perpetuate vigorous plant growth. Year round plant growth on a disposal area will increase water usage therefore lessening the hydraulic load on the soil. Plant growth in winter is desirable.

5.1.3 Geotechnical Soil Report

The purpose of Geotechnical soil testing is to obtain necessary information about the soil/water dynamics of a site, to enable appropriate site selection and to obtain information enabling the design and assessment of an ecologically sustainable Sewage Management system. The purpose of this assessment is to confirm constraints and to allow appropriate design adjustment to be made.

5.2 Landform

Landforms of the Wagga Wagga LGA vary markedly from the west to the southeast. The western areas are dominated by flat plains and low hills; the south-east is dominated by hills that range from gentle to very steep in slope. The elevation also increases significantly from west to south-east. Factors associated with steep slopes that will affect OSMS include shallow soils, stony outcrops, increased erosion risk and increased storm water run-on and runoff.

The positioning of an OSMS will be influenced by the local geography, particularly landform. Land with excessive slope will make construction and effluent disposal difficult. The greater the slope the more likely water run-on will affect disposal areas. A diversion bank should be placed above the effluent disposal area to divert any storm water around the disposal area. Trenches should be installed so they run directly across the slope. This will ensure the whole trench has the same wastewater load applied to it. This is necessary on both flat and steep sites but may be harder to achieve on a steep site.

Steep sites will also be more prone to erosion. Erosion on a disposal area will increase run-off of irrigated effluent into creeks and streams. It may also inhibit the proper function of an underground disposal area. Eroded sites are also difficult to establish vegetation on. Vegetation is vital for effective effluent disposal as it absorbs excess water preventing ponding and uptakes residual nutrients found in treated effluent.

Skeletal or shallow soils associated with steep slopes will only allow minimal absorption of effluent and nutrients. In this case, soil may need to be imported.



5.3 Groundwater

The river and underground water resources of the Murrumbidgee Valley form the major sources of water supply for Wagga Wagga. Groundwater across the Wagga Wagga LGA varies in both quality and availability. The depth and quality of groundwater depends largely on the underlying geology of the area. The ability of additional water to percolate down into groundwater also depends on the site geology and soils.

The Murrumbidgee floodplain is composed of sand, clay and gravel sediments. Water is contained in both the sand and gravel sediments. The best quality water comes from the deeper gravel sediment. The aquifer has a supply that is plentiful but not infinite and of very high quality. A large percentage of the water supply for Wagga Wagga is drawn from gravel sediment at a depth of approximately 70-90 metres. Remaining water is supplied from surface waters drawn from the Murrumbidgee.

Shallow groundwater is also present in the LGA but tends to be of moderate to poor quality and is generally of limited supply. Normally groundwater associated with heavy clays, granite country and sedimentary rock (variable) is of poor quality, because of low rates of supply, high salt levels or elevated nutrient levels. Effluent contaminating groundwater is a form of pollution but also poses a health risk to humans. Groundwater that occurs close to the surface will be easily contaminated. Groundwater that occurs at great depth but is overlain with highly permeable soils can also be contaminated. Where groundwater resources are to be protected the disposal area should be designed to encourage total evapo-transpiration.

Disposal areas that are positioned in areas of shallow groundwater will not only cause contamination but will not absorb moisture as effectively which will lead to failure. This failure may cause effluent to be on the ground surface, presenting a human health risk.

5.4 Storm Water and Disposal Areas

Measures should be taken to limit or prevent storm water from ponding or running across disposal areas. Increasing the amount of water that has to be absorbed by the disposal area with extra storm water will cause the disposal area to fail prematurely. Piped diversions of storm water, doming of the disposal site or construction of diversion banks on the up-slope side are water shedding methods. This should be done on all sites but is crucial in the higher rainfall/lower evaporation areas.



5.5 Water Supply

The capacity of OSMS and sizes for disposal areas will be affected by household water supplies. Houses with a reliable and plentiful water supply will generally use more water. Areas without this reliable supply will generally be more conscious of water use, therefore the amount of water to be disposed of will be less. The presence of household fixtures such as spas, dishwashers etc must also be considered. Households that have a reticulated water supply and on-site effluent disposal will require larger disposal systems due to additional wastewater loading. Water conservation practices are strongly encouraged to reduce the amount of wastewater generated.

5.6 Population Density

OSMS functioning in areas with a dense population pose additional health risks. When these systems fail a larger population is exposed and the risk is increased. Wagga Wagga has a large number of on-site systems functioning near the principal population centre. There is potential here for a serious disease outbreak to spread quickly and affect large numbers of people if it is related to failing septic systems.

5.7 Climate

5.7.1 Precipitation

Differences in rainfall and evaporation rates across the LGA may result in different recommendation for OSMS. To ensure that the disposal system works effectively and does not pose a human or environmental health risk the hydraulic load from rainfall and evaporation must be considered and the system designed and installed accordingly. Generally larger disposals systems will be needed in the higher rainfall, low evaporation areas, whilst smaller disposals systems will be sufficient in the drier areas.

Rainfall across Wagga Wagga increases significantly from the west to the southeast. This increase in rainfall is the opposite of evaporation rates which decreased markedly from the west to the south-east. In summary the western portion of the LGA has significantly lower rainfall and higher evaporation rates. The south-east has significantly higher rainfall and lower evaporation rates. Differences in rainfall will result in differing hydraulic loads being placed on soils. Areas designated for the disposal of effluent, (underground and irrigation), must be able to assimilate the wastewater load from a household as well as the natural hydraulic load.



5.7.2 Evaporation

Across the LGA, evaporation rates are generally lower than precipitation in winter, June, July and August. During this period, the soil is normally at or above field capacity. This means the ability of the soil to absorb extra moisture, in the form of effluent and household wastewater, will be minimal. Therefore, underground disposal areas should be sized to provide wet weather storage capacity, or an alternative storage disposal means provided. Storage of this excess wastewater on site can create additional health risks and management problems. In domestic applications all other practical water conservation and effluent management options should be considered before requiring wet weather effluent storage facilities.

Information of precipitation and evaporation levels for the system shall be included in the Geotechnical Soil Reports.

6. ADMINISTRATION

6.1 Approval

Under *Local Government Act 1993* s68, Council approval is required for the installation, construction or alteration of a human wastewater treatment device or storage facility and drains connected to it.

Under the provisions of the *Local Government Act 1993*, Council has the responsibility to:

- Maintain a register of OSMS within the Local Government Area;
- Ensure that approved systems are installed and operated according to approved specifications and any special requirements or conditions; and
- Ensure that each system is maintained and serviced correctly.

A Council issued licence or approval to operate is also required for the ongoing operation of the OSMS. Failure to obtain a licence/ approval to operate or failing to comply with the conditions of an approval is an offence under the *Local Government Act 1993*.



6.2 Performance Standards

The current regulations specify that OSMS should be designed, installed, and operated to ensure the following environmental and health performance objectives will continue to be met over the long term:

- Prevention of health risk;
- Protection of land;
- Protection of surface waters;
- Protection of ground waters;
- Conservation and reuse of resources; and
- Protection of community amenities.

Local Government (General) Regulation 2021, s44 requires that a system of Sewage Management must be operated in a manner that achieves the following specific performance standards:

- To prevent the spread of disease by microorganism;
- To prevent the spread of foul odours;
- To prevent the contamination of water;
- To prevent the degradation of soil and vegetation;
- To discourage insects and vermin;
- To ensure that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premise concerned;
- To minimise adverse impacts on the amenity of the land on which it is installed or constructed and other land in the vicinity of that land; and
- If appropriate, provision for the re-use of resources (including nutrients, organic matter and water).

6.3 Associated Legislation, Standards and Guidelines

The following legislation applies to On-site Sewage Management Systems:

- NSW Local Government Act 1993
- NSW Local Government (General) Regulation 2021
- Public Health Act 2010
- Protection of the Environment Act 1997
- NSW Ministry of Health Accreditation Guidelines
- Environmental Planning and Assessment Act 1979
- AS3500.2:2021 Plumbing and Drainage Part 2: Sanitary plumbing and drainage
- AS1546.1:2008 On-site Domestic Wastewater Treatment Units (part 1 applies to septic tanks)
- AS1547:2012 Disposal Systems for Effluent from Domestic Premises
- AS4419:2003 Soils for Landscaping and Garden Use



- AS2698.2:2000 Plastic Pipes and Fittings for Rural Applications
 - Part I Polyethylene, micro irrigation pipes
 - Part II Polyethylene, rural pipes
 - Part III Mechanical joint fittings for use with polyethylene micro irrigation pipes
- AS3000:2018 Electrical Installation
- AS1319 Safety Signs for the Occupational Environment
 - National Construction Code Part C3 On-site wastewater management

6.4 Non Compliance

A system is deemed to have failed when it does not satisfactorily address the performance standards. Existing systems that are failing and require modifications, are to be upgraded or replaced to comply with the legislated requirements. An OSMS Application is required to be lodged and approved by Council prior to commencement of works.

Failing to comply to operate or maintain a system in accordance with Council Approval or the requirements of NSW Department of Health is an offence.

6.5 Council Reticulated Sewer

In accordance with NSW Local Government Act Section 124 (24) premises within 75 metres of a sewer of the Council is required to connect with the Councils sewage system. WWCC Sewer Policy generally requires properties within the defined sewer district to connect to sewer.

7. ON-SITE SEWAGE TREATMENT AND DISPOSAL

7.1 On-Site Sewage Treatment Processes

Human health and the environment can be adversely affected by neglected or failing OSMS.

Treatment by a conventional septic tank involves the settling out of solids, floatation of fats and grease and the breakdown of both by bacteria. This level of treatment achieved means the effluent can only be safely disposed of underground via absorption trenches, transpiration beds or similar.

Aerated Wastewater Treatment Systems (AWTS) use mechanised aeration and disinfection processes that allow irrigation of effluent on a designated area as a safe means of disposal. Disposal areas must restrict access for humans, especially children, vehicles and livestock for human consumption. AWTS must be operated and maintained in accordance with the NSW Department of Health Accreditations. They



must be serviced by a suitably qualified service provider at the frequency specified in the accreditations.

7.2 On-Site Disposal Methods

A major risk may be posed to human health and the environment by OSMS from the failure of the disposal area. Failing underground disposal or the inappropriate method of irrigation of effluent is cause for concern. Failing underground disposal areas result in untreated effluent ponding or being pumped onto the ground surface. Untreated effluent on the soil surface allows human health to be compromised through direct contact with the effluent, or via disease carrying vectors such as insects.

Failing underground disposal systems near waterways or water bodies will increase the risk of water being contaminated with effluent. This contamination will have an adverse effect on the environment and human health. Underground disposal areas can also add significantly to the recharge of groundwater. When this is coupled with recharge from over-watering of garden areas the water table can be raised sufficiently which can cause salinity to occur. This will most likely occur in areas that have a large number and high density of OSMS. Community amenity can also be affected by failures of OSMS with the creation of offensive odours, insect breeding sites and unsightly land.

The inappropriate irrigation of treated effluent, such as watering fruit/vegetable gardens or unrestricted access to irrigation areas creates a human health hazard. Inappropriate irrigation techniques may also lead to ponding of wastewater and contamination of water bodies. An exclusion method for vehicles and livestock on effluent disposal areas is required and is a condition of approval.

7.3 Approval and Installation - New OSMS and Alter Existing OSMS

The installation and operation of any new OSMS requires an approval. An application to install such a system on a specific site shall include:

- A) OSMS Application with a Soil Report by a suitably qualified and accredited Soil Consultant / Engineer detailing.
 - Site and soil assessment which addresses climate, topography, geology and vegetation aspects
 - The most appropriate system for the subject property.
 - A recommendation for the proposed configuration and location of the system within the property together with supporting calculations
- B) Site plan
 - Drawn to scale 1:100 or larger
 - Showing the location of the septic tanks and disposal area with distance from all building and property boundaries
 - Indicating position of all fittings and drainage lines



- Indicating distances to any environmentally sensitive area eg rivers, creeks, bores, drainage gullies, farm dams etc
- C) Manufacturers Specifications with Accredited Certificates
- Full specification for the proposed system
 - NSW Department of Health -Certificate of Accreditation

Throughout the LGA soil types have a diverse range of characteristics. These soil characteristics strongly influence the degree to which effluent can be readily absorbed by the soil profile. Consequently, this determines the extent of the required effluent disposal area and a Geotechnical Soil report will assist in determining the appropriate size.

The property owners are responsible for coordination between the Geotechnical Soil Scientist, builder, plumber and service agents in determining the appropriate location, selection, design and installation of an OSMS.

7.4 Approval to Operate

A OSMS must be operated:

- in accordance with the relevant operating specifications and procedures (if any) for the on-site sewage management facilities used for the purpose, and
- so as to allow the removal of any treated sewage (and any by-product of any sewage) in a safe and sanitary manner.

It is a condition of an approval to operate a system of sewage management to comply with the requirements of s45 Local Government (General) Regulation 2021 that:

- The OSMS must be maintained in a sanitary condition and must be operated in accordance with the relevant legislated requirements.
- A OSMS must not discharge into any watercourse or onto any land other than its related effluent application area.
- The conditions of any certificate of accreditation issued by the Secretary of the Ministry of Health in respect of the plans or designs for any components of the OSMS must be complied with.
- The person operating the OSMS must provide details of the way in which it is operated, and evidence of compliance with the relevant requirements of relevant regulation and of the conditions of the approval, whenever the council reasonably requires the person to do so.

Approval to Operate – Change of Ownership

In accordance with Local Government (General) Regulation s46 an Approval to operate OSMS extends to concurrent owners and occupiers.



It remains the responsibility of new owners to obtain a copy of the original approval and ensure the system is operated and maintained in accordance with the conditions of approval.

8. RISK ASSESSMENT PROGRAM

Council will undertake an assessment of each site using the criteria contained in the Risk Assessment Matrix. In undertaking this assessment, Authorised Council officers will be mindful of the micro-environment in which the system is to be located and assess the system against Local Government (General) Regulation performance standards. Authorised officers will determine the total impact the system is likely to have on the immediate environment as well as the environment of the Council area as a whole. Council officers will also assess the impact to human health.

8.1 Risk Assessment Matrix

The matrix is designed to adapt to individual situation and for that reason is not prescriptive. The matrix will enable the majority of OSMS to be assessed. This matrix takes into account the major risk factors encountered with OSMS. These factors are location in regard to a major population, proximity of water-bodies and the size of the site.

Existing OSMS are subject to inspection after the initial inspection if the system is:

- Within 100m of another occupied dwelling;
- Within 100m of a water source;
- Situated in a residential, rural/residential area;
- Multiple user system;
- Deemed to pose a significant risk to the environmental or human health;
- Receipt of a complaint.

8.2 Monitoring Program

All new OSMS will be registered with Council. Council has developed and maintained a database of all existing OSMS operating within its boundaries. For new installations, upon approval it is Councils intention to inspect the work at critical stages. Soil testing by an accredited geotechnical engineer or consultant will be required to be carried out prior to the installation of new systems, to assess the soils ability to assimilate and or transpire waste water. The specifications of on-site systems will be assessed by Council to ensure they meet the minimum requirements of the relevant Australian standards.

All owners/occupiers with OSMS are to be advised in writing of the assessment of the site. This may include the need for inspection or repairs.



Inspections are to be carried out on existing sites where deemed necessary by the nominated Council Officer. On-going inspections of OSMS are to be carried out in accordance with the inspection regime determined at the time of assessment.

To ensure a consistency of approach to inspections of OSMS all inspections will utilise a common assessment checklist. An inspection charge and license fee will accompany the licence.

All inspection details will be entered into Councils on-site sewage database. The database will be used to ensure that inspections of OSMS have occurred by the due date and that the results of those inspections have been lodged with council. Where inspections indicate faulty, defective or unhealthy systems the owner or occupier will be notified in writing.

Where inspections and maintenance certificates have not occurred or have not been received by the due date, owners/occupiers will be sent reminder letters. In some cases depending on the risk to public health and the environment Clean-up Notices or Orders for unhealthy conditions created by defective or failed OSMS will be issued.

9. EMERGENCY RESPONSE PROGRAM

Response procedures pertaining to single system emergencies shall be:

- inspection of site within 48 hours
- contact the owner/occupier of the property(s) affected by the emergency
- issue Council Clean up Notices or Order if necessary.

10. EDUCATIONAL PROGRAM

Council will undertake the following educational activities in relation to OSMS:

- Ensure staff are appropriately trained to assess, monitor and inspect OSMS;
- Conduct public awareness activities for households with OSMS to ensure they understand the best and most effective ways to maintain their systems. Educational resource packs will be designed and provided to residents during routine inspections;
- Utilise resources to the community such as brochures on effluent disposal system design and method, fact sheets on legislative requirements AS1547.2012 to assist in the educational process;
- Arrange workshops to update trade and service providers on legislative requirements; and
- Maintain up to date information on Council's website.



11. FEES AND CHARGES

The fees and charges issued by Council for the approval to install and operate OSMS systems are issued to the owner of the property. All fees and charges are issued in accordance with Local Government Act 1993, s608.

Council will adopt a user-pays approach to OSMS

- Charges for On-site Sewage Management Services provided to properties;
- Approved fees for services (including regulatory services); and
- Fees and charges will be determined in line with Council's Revenue and Pricing Policy.

12. EVALUATION

Council will maintain an on-going evaluation of the Plan. The plan will be progressively modified as a result of the evaluation. Any additional items requiring significant expenditure or impact on the public will be reported to Council.

13. CONTINUING IMPROVEMENT – REVIEW OF THE PLAN

Wagga Wagga City Council makes a commitment to the continuing improvement in the regulation and operation of OSMS. To that end, Council undertakes to review this Plan once every four years to ensure that it reflects the needs and concerns of the community as well as meeting changes to legislation.

13.1 Council Documents Linked To On-Site Sewage Management

Other Council planning tools and documentation that impact on the implementation of this On-site Sewage Management Plan are:

- Wagga Wagga Development Control Plan 2010
- Wagga Wagga Local Environmental Plan 2010
- Wagga Wagga City Council Community Strategic Plan 2040
- Wagga Wagga City Council Enforcement and Prosecution Policy
- Wagga Wagga City Council's Revenue and Pricing Policy



GLOSSARY OF TERMS

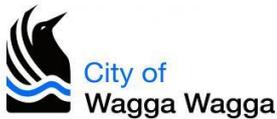
<i>Term</i>	<i>Description</i>
Absorption	Uptake of liquid into soil by infiltration and capillary action.
Adsorption	The physical or chemical attachment of substances to the soil surface.
Aerated wastewater treatment system (AWTS)	A wastewater treatment process typically involving setting of solids and flotation of scum, oxidation and consumption of organic matter through aeration, clarification- secondary settling of solids, and disinfection of wastewater before surface irrigation.
Anaerobic digestion	Decomposition of sludge in the absence of free oxygen.
Blackwater	Human excreta and water grossly contaminated with human excreta, for example toilet wastewater. Although not strictly water-based, human excreta entering waterless composting toilets is considered as 'black-water'.
Compost	The material produced by the aerobic biological decomposition of the organic constituents of a material. The material produced by the aerobic biological decomposition of the organic constituents of a material.
De-sludge	Withdrawing sludge, scum and liquid from a tank.
Disinfection	A process that destroys, inactivates or removes pathogenic microorganisms.
Domestic wastewater	Wastewater arising from household activities including wastewater from bathrooms, kitchens and laundries.
Evapo-transpiration	Removing water from soil by evaporation and from plants by transpiration.
Effluent	The liquid discharge from a wastewater treatment unit.
Greywater (sullage)	Domestic wastewater, excluding toilet waste.
Groundwater	All underground waters.
Human Excreta	Human faeces and urine.



Hydraulic loading rate	The amount of liquid applied to land over a specified time interval. Can be expressed as either a depth or a volume (with one millimetre of application equal to one litre per square metre).
Land application area	The area over which treated wastewater is applied.
Land application system	System that can consist of pumps, pipes, nozzles, or trenches designed to apply wastewater evenly over a land application area. Includes both irrigation systems and soil absorption systems.
Nutrients	Chemical elements that are essential for sustained plant or animal growth; the major nutrients essential for plant growth are nitrogen, phosphorus and potassium; in excess, nitrogen and phosphorus are potentially serious pollutants encouraging nuisance growths of algae and aquatic plants in waters and (in the case of nitrate) posing a direct human health risk.
Organic matter	Material consisting of chemical compounds based upon proteins, carbohydrates and fats that may be present in dissolved, suspended and colloidal form; it is usually measured as BOD in a liquid.
Organic matter loading	The amount of organic matter applied to land over a specified time interval. The amount of organic material in effluent is usually expressed as BOD.
Pathogens	Microorganisms that are potentially disease causing; these include but are not limited to bacteria, protozoa, parasites and viruses.
Percolation	The descent of water through the soil profile.
Permeability	The general term used to describe the rate of water movement through a soil.
pH	A measure of hydrogen ion concentration. It is an indicator of acidity or alkalinity and ranges from 0-14, where 0 is the most acid, 14 the most alkaline, and 7 neutral.
Potable	Water of a quality suitable for drinking and domestic use that does not deteriorate on storage and does not contain pathogenic organisms.



Precipitation	Deposits of water, either in liquid or solid form that reaches the earth from the atmosphere.
Residual chlorine	Chlorine remaining in solution after a specified period of contact between the solution and the chlorine.
Reticulated water supply	The provision by a water authority of water for potable and non-potable uses to households through a network of pipes.
Run-off	The part of the precipitation and/or irrigated effluent that becomes surface flow because it is not immediately absorbed into or detained on the soil.
Run-on	Surface water flowing on to an irrigation area as a result of run-off occurring higher up the slope.
Sanitary drainage system	An assembly of pipes, fittings and apparatus used to collect the discharge from the sanitary plumbing system and convey it to a centralised wastewater management facility.
Sanitary plumbing system	An assembly of pipes, fittings, fixtures and appliances used to collect wastewater from household drains and convey it to the sanitary drainage system.
Scum	Material that collects at the top of primary wastewater treatment tanks, including oils, grease, soaps and plastics.
Septage	Materials pumped out from septic tanks during de-sludge; contains partly decomposed scum, sludge and liquid.
Septic tank	Wastewater treatment device that provides a preliminary form of treatment for wastewater, comprising sedimentation of settle able solids, flotation of oils and fats, and anaerobic digestion of sludge.
Septic wastewater	Wastewater that contains no dissolved oxygen; it is black, has a foul odour, and contains high numbers of pathogenic organisms.
Sewage	Sewage includes any effluent of a kind referred to in paragraph (a) of the definition of waste in the Local Government Act.



Sewage management	Any activity carried out for the purpose of holding or processing, or re-using or otherwise disposing of, sewage or by-products of sewage.
Sludge	Mainly organic semi-solid product produced by wastewater treatment process.
Treated wastewater	Wastewater that has received treatment via a human waste treatment device.
Vectors	Insects or animals, such as flies, mosquitoes or rodents, that are attracted to the putrescibles organic material in wastewater and wastewater treatment systems, and that spread disease.
Waterbody	<p>(a) a natural waterbody, includes:</p> <p>(i) a lake or lagoon either naturally formed or artificially modified, or</p> <p>(ii) a river or stream, whether perennial or intermittent, flowing in a natural channel with an established bed or in a natural channel artificially modifying the course of the stream, or</p> <p>(b) an artificial waterbody, includes any constructed waterway, canal, inlet, bay, channel, dam, pond or lake, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.</p>

REFERENCES

Publication "*Environment and Health Protection Guidelines - On-site Sewage Management Systems for Single Households*".

Chen, X.Y. and McKane, D.J. (1997). *Soil Landscapes of the Wagga Wagga 1:100000 Sheet* Report, Department of Land and Water Conservation, Sydney.

Degeling, P.R. (1982). *Wagga Wagga 1:250000 Metallogenic Map Sheet* Report, NSW Department of Mineral Resources.



APPENDIX 1 RISK ASSESSMENT OF OSMS

RISK ASSESSMENT OF OSMS

CONV. SEPTIC AWTS COMPOSTING OTHER

CONDITION	YES / NO	COMMENTS
Structural integrity of Septic tank/ lid sealed		
Inspection openings sealed		
Induct vent sealed		
Pipe-work protected		
Inlet/Outlet T- Pieces		
Distribution box sealed		
Disposal area IO sealed		
Underground disposal		
Effluent discharging underground		
AWTS/ ADDITIONAL	YES / NO	COMMENTS
Non Aerosol Sprinklers		Number:
Regularly Serviced		Agent:
Disposal Area Size (m ²)/maintained		
Adequate For Usage		
Number of Bedrooms		
Number of Occupants		

REPAIRS / WORKS REQUIRED:

LOCATION DIAGRAM:

SYSTEM FUNCTIONALITY:

VERY POOR BELOW AVERAGE SATISFACTORY EXCELLENT



ENVIRONMENTAL FACTORS

FACTORS	VARIANCE		
Area Type:	Village 3	Rural Res 2	Rural 1
Land Size:	< 1 Ha 3	2-7 Ha 2	>8 Ha 1
Land Slope:	Steep Slope 3	Gentle Slope 2	Flat 1
Soil Type:	Non Disp 3	Moderately Disp. 2	Highly Disp. 1
Water Body:	< 75 Metres 3	75 – 100 Metres 2	> 100 Metres 1

Name: _____ Date: _____

Signature: _____

SCORE:

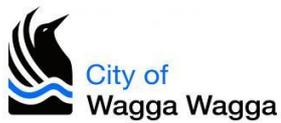
HIGH RISK: score of 13-16

MEDIUM RISK: score of 10-12

LOW RISK: score of 7-9

NEGLIGIBLE: score of 5-6

OVERALL RISK RATING: SF _____ + EF _____ = Licence =



OSMS RISK RATING TABLE

SYSTEM FUNCTIONALITY	ENVIRONMENTAL FACTORS	LICENSING PERIOD
VERY POOR	HIGH RISK	Repair then re-inspection
VERY POOR	MEDIUM RISK	Repairs then re-insp. /1 yr
VERY POOR	LOW RISK	1 YEAR
VERY POOR	NEGLIGIBLE	1 YEAR
BELOW AVERAGE	HIGH RISK	1 YEAR
BELOW AVERAGE	MEDIUM RISK	1-3 YEARS
BELOW AVERAGE	LOW RISK	3 YEARS
BELOW AVERAGE	NEGLIGIBLE	3-5 YEARS
SATISFACTORY	HIGH RISK	1-3 YEARS
SATISFACTORY	MEDIUM RISK	3-5 YEARS
SATISFACTORY	LOW RISK	5-10 YEARS
SATISFACTORY	NEGLIGIBLE	10 YEARS/EXEMPT
EXCELLENT	HIGH RISK	3-5 YEARS
EXCELLENT	MEDIUM RISK	5-10 YEARS
EXCELLENT	LOW RISK	EXEMPT
EXCELLENT	NEGLIGIBLE	EXEMPT

RP-3 SECTION 3.22 AMENDMENT - INCLUSION OF THE SP1 ZONE IN WAGGA WAGGA LEP 2010

Author: Chloe Boyd

Executive: John Sidgwick

Summary:

Council staff have identified that the SP1 zone is mapped in the Wagga Wagga Local Government Area but is not included in the Land Use Table of the Wagga Wagga Local Environmental Plan 2010. This is an error.

Council staff are seeking to undertake a section 3.22 expedited amendment to include the SP1 zone in the land use table. This amendment would be policy neutral, as including the SP1 zone in the land use table will not impact the land currently zoned SP1, nor will it zone additional land SP1.

Recommendation

That Council adopt the inclusion of the SP1 – Special Activities zone in the Wagga Wagga Local Environmental Plan 2010 land use table, via a section 3.22 expedited amendment.

Report

Council staff have identified that the SP1 – Special Activities zone is mapped in the Wagga Wagga Local Government Area, but is not included in the Land Use Table of the Wagga Wagga Local Environmental Plan 2010 (WWLEP 2010).

What is the SP1 zone?

The SP1 – Special Activities zone is applied to special land uses that are not provided for in other zones. In Wagga Wagga, it applies to approximately 30 lots, which form land uses such as the Monumental and Lawn Cemeteries, and Gregadoo Waste Management Centre. The zoning map identifies the special land use associated with the zone (see Figure 1 for an example).



Figure 1: Example of SP1 zone in Wagga Wagga LGA, with special use identified in mapping. As viewed on the NSW Planning Portal.

The permissibility of the zone aligns with the nominated land use (see extract from the *Standard Instrument – Principal Local Environmental Plan* below).

Zone SP1 Special Activities

3 Permitted with consent

Aquaculture; The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

Normally, this would be reflected in the land use table of the local environmental plan, alongside the other zones mapped in the LGA.

What steps need to be taken?

Council staff liaised with the Department of Planning, Housing and Infrastructure (DPHI) to determine the most appropriate pathway forward to address this issue. DPHI advised Council that it could lodge a section 3.22 amendment to include the SP1 zone in the WWLEP 2010, as the land use table omission was an error and required rectification.

What is a section 3.22 expedited amendment?

A section 3.22 amendment is an expedited amendment under the *Environmental Planning and Assessment Act 1979*. An extract of Division 3.2 of the *Environmental Planning and Assessment Act 1979* is provided below.

3.22 Expedited amendments of environmental planning instruments (cf previous s 73A)

- (1) An amending environmental planning instrument may be made under this Part without compliance with the provisions of this Act relating to the conditions precedent to the making of the instrument if the instrument, if made, would amend or repeal a provision of a principal instrument in order to do any one or more of the following:
 - (a) correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error,
 - (b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature,
 - (c) deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land,
 - (c1) deal with matters the NSW Reconstruction Authority considers necessary to give effect to the NSW Reconstruction Authority Act 2022.
- (2) A reference in this section to an amendment of an instrument includes a reference to the amendment or replacement of a map adopted by an instrument.

- (2A) For the purposes of subsection (1)(c1), the Minister may direct that the NSW Reconstruction Authority is:
- (a) the planning proposal authority for this Part, or
 - (b) a local plan-making authority for section 3.31.
- (2B) For subsection (2A), the Minister's direction may provide that the NSW Reconstruction Authority must exercise the functions of a planning proposal authority or local plan-making authority—
- (a) for a particular period or for particular stages of development, or
 - (b) only in relation to certain matters.

Council staff anticipate this section 3.22 amendment would be undertaken pursuant to section 3.22(1)(b), as the proposed change is of a minor nature, seeking only to match the land use table listed in the WWLEP 2010 with the zones applied on the maps of the WWLEP 2010. The Parliamentary Counsel Office will ultimately determine under which clause the amendment will be made.

What will be the impact of this amendment?

Including the SP1 zone in the land use table will not impact the land currently zoned SP1, nor will it zone additional land SP1. The amendment will only ensure consistency between the Land Use Table and the WWLEP 2010 maps.

Staff are seeking a Council Resolution to progress the section 3.22 amendment, as is consistent with the process previously used for mapping anomalies. If endorsed by councillors, staff would seek to immediately lodge the section 3.22 amendment via the form provided at Attachment 1.

Financial Implications

Council does not have to pay fees to lodge a section 3.22 amendment. The amendment will not result in direct changes to Council's finances.

Policy and Legislation

Environmental Planning and Assessment Act 1979
 Wagga Wagga Local Environmental Plan 2010
 Standard Instrument – Principal Local Environmental Plan

Link to Strategic Plan

The Environment

Objective: Future growth and development of Wagga Wagga is planned for in a sustainable manner

Ensure sustainable urban development

Risk Management Issues for Council

The omission of the SP1 zone in the land use table despite the zone being mapped in the WWLEP 2010 is an error. The Department of Planning, Housing and Infrastructure has identified that this issue requires rectification. There is also a risk that inappropriate land uses may be enabled on the SP1-zoned sites, as the permissible land uses are

not included in the WWLEP 2010. If Council does not adopt this report, the WWLEP 2010 will remain in error, creating confusion for practitioners, the community and industry.

Internal / External Consultation

A section 3.22 amendment is not subject to public exhibition, as it is generally of an inconsequential or minor nature. The proposed amendment – to include the SP1 zone in the WWLEP 2010 to reflect it being mapped in the LGA – is considered minor in nature. It will not alter the existing areas zoned SP1, nor will it zone additional areas SP1. This is a policy neutral amendment that must be undertaken to correct the WWLEP 2010.

Attachments

1   Attachment 1 - Planning Circular PS 21-014



Planning circular

PLANNING SYSTEM

Local planning; Planning Systems

Circular	PS 21-014
Issued	2 December 2021 ¹
Related	Replaces PS06-014

Minor amendments to local environmental plans using section 3.22

This circular provides guidance on the process for making minor amendments to local environmental plans in accordance with section 3.22 of the *Environmental Planning and Assessment Act 1979*.

Introduction

Section 3.22 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) allows certain types of minor amendments to be made to environmental planning instruments (EPIs) without following the usual plan-making procedures (particularly public exhibition) under Part 3 of the EP&A Act.

This circular provides guidance on the process to be followed when a council wishes to prepare an amendment to a LEP in accordance with section 3.22.

What is a section 3.22 amendment?

Section 3.22 may be used to prepare a LEP to amend or repeal another LEP to:

- correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error, or
- address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature, or
- deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.

Unless the amendment is clearly a matter that falls within (a) or (b) above, the expectation is that (c) will be relied upon for most section 3.22 amendments. This limb of section 3.22(1) requires the Minister to

form the requisite view under that provision, which is appropriate in most instances.

The ability to make an amendment in accordance with section 3.22 will need to be assessed on the facts of each individual case. While judgement will need to be exercised in such assessments, the consequence of an amendment being made in accordance with section 3.22 should be that:

- there is no need for exhibition of the draft instrument (e.g. public exhibition has previously occurred, and gazettal of the section 3.22 amendment will be sufficient notification), and
- the amendment will not have a significant impact on the environment or adjoining land.

Types of amendments that might be permitted using section 3.22

Some examples of the types of amendments that might be permitted using section 3.22 are outlined below. These examples are intended as a guide only and, as mentioned above, proposed amendments will need to be considered on the facts of each individual case.

- The correction of a minor typographical error.
- The minor correction of text relating to the intent of a provision or descriptions of land to which a provision applies.
- An amendment to resolve a minor discrepancy between the map and the written instrument.

¹ Revised 10 August 2023 to include updated reference to the *Local Environmental Plan Making Guideline*

Department of Planning, Industry and Environment – Planning Circular PS 21-014

Process for making a section 3.22 amendment

The Department processes requests under section 3.22 of the EP&A Act as follows:

1. Council should advise the Department of the proposed amendment by submission of the **attached** submission template 'Section 3.22 EP&A Act Submission' via the NSW planning portal with Part A completed. This will inform the Department's decision as to whether the matter is appropriate for a section 3.22 amendment. It will also inform the Minister's decision to make any resulting instrument.
2. The Department will check the information submitted by the council and, if it agrees that all the relevant information has been provided and that the proposed matter is appropriate for amendment under section 3.22, the relevant regional or place team within the Department will assess.
3. If the Department does not agree that the matter is appropriate for amendment under section 3.22, the Department will inform the council of this in writing. This advice may identify any issues to be addressed before the Department will reconsider the matter.
4. If the matter is considered appropriate for amendment under section 3.22, the Department's legal team will arrange the preparation of a draft LEP to give effect to the amendment.
5. Once the amending LEP is finalised, the Department will confirm with council that it wishes to proceed with the amendment.
6. The Department will then forward the amending LEP, along with the completed s3.22 submission form, to the Minister.
7. The Minister will decide whether to make the amending LEP under section 3.36(2) of the EP&A Act and in accordance with section 3.22.

8. If the Minister decides to make the amending LEP, public notification will occur through the publication of the amending LEP on the NSW Legislation website.

Further information

The **Local Environmental Plan Making Guideline** provides advice on the various stages in the plan-making process including details of plan-making functions undertaken by councils.

This guide and information on the planning proposal process is available on the Department's website at planning.nsw.gov.au

For further information please contact Service NSW on 13 77 88.

Department of Planning and Environment circulars are available at:

<https://www.planning.nsw.gov.au/policy-and-legislation/planning-system-circulars/>

Authorised by:

Marcus Ray

Group Deputy Secretary Planning and Assessment

Department of Planning and Environment

Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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Attachment: Department of Planning, Industry and Environment planning system circular PS 21-014



Planning, Industry & Environment

DPE file no:

Section 3.22 EP&A Act submission

<p>Part A. Council to complete</p>
<p>Subject:</p> <p>.....</p> <p>(Insert name of amending LEP)</p> <p>Report requesting the making of an amending local environmental plan under sections 3.22 and 3.36(2) of the <i>Environmental Planning and Assessment Act 1979</i>.</p>
<p>Background:</p> <p>..... (Insert name of council) resolved on , to amend..... (Insert name of LEP) and to request that the Minister for Planning and Public Spaces make the plan under sections 3.22 and 3.36(2) of the <i>Environmental Planning and Assessment Act 1979</i>. The draft amending plan is attached. The land to which this amendment applies is</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>(Specify area. Attach map if appropriate)</p>
<p>Why there is a need for the amendment:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>(Please attach a separate sheet if necessary)</p>

Department of Planning, Industry and Environment – Planning Circular PS 21-014

<p>What the amendment does:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>(Please attach a separate sheet if necessary)</p>
<p>Why the amending plan is suitable to be made in accordance with section 3.22:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>(Please attach a separate sheet if necessary)</p>
<p>The council requests that the Minister agree to make draft.....(Name of amending LEP)</p> <p>Signed: Date:</p> <p>Name: Position:</p> <p>On behalf of: (Name of council)</p>
<p>Part B. Department use only</p>
<p>Date deemed adequate or returned to Council as inadequate:</p>
<p>Department position:</p>
<p>Opinion that instrument may be legally made:</p>
<p>Recommendation:</p>

Department of Planning, Industry and Environment – Planning Circular PS 21-014

Date:
Signed:
Name:

RP-4 NSW ACCELERATED INFRASTRUCTURE FUND – SUCCESSFUL APPLICATION**Author:** Lou Hawkins**Executive:** John Sidgwick**Summary:**

Council has been successful in attracting \$70M of grant funding through the Accelerated Infrastructure Fund – Round 3.

The funding was announced by the Minister for Planning and Open Spaces as part of an investment of \$137.19M in the Accelerated Infrastructure Fund program to fund nine regional infrastructure projects, including three in Wagga Wagga.

The funding is designed to provide critical infrastructure to support sewer upgrades in the Northern Growth Area and the duplication of Plumpton Road North and Plumpton Road South to support the delivery of 14,500 new homes.

Recommendation

That Council:

- a accept the funding offer of \$21,225,567 for the Northern Growth Area Sewer Upgrades Project from the Department of Planning, Housing and Infrastructure
- b accept the funding offer of \$24,900,366 for the Plumpton Road North Project from the Department of Planning, Housing and Infrastructure
- c accept the funding offer of \$24,670,282 for the Plumpton Road South Project from the Department of Planning, Housing and Infrastructure
- d authorise the General Manager or delegate to enter into funding agreements with the Department of Planning, Housing and Infrastructure
- e authorise the affixing of Council's common seal to any relevant documents as required.

Report

Council has been successful in attracting \$70M of grant funding through the Accelerated Infrastructure Fund (AIF) – Round 3. The grant application sought funding for:

1. Upgrades to the sewer network in the north of Wagga Wagga
2. Duplication of Plumpton Road between Lake Albert Road and Gregadoo Road (Plumpton Road North)
3. Duplication of Plumpton Road between Gregadoo Road and Rowan Road South (Plumpton Road South)

Council initially applied for funding in October 2022 after briefing councillors on the application in September 2022, but was unsuccessful in that round. In December 2023 the Department contacted Council to advise they were considering Council's submission as part of Round 3 of the AIF process. Council staff provided additional supporting information at the request of the department. In May 2024 Council staff

were notified that the application had been successful in attracting grant funding for the three key enabling infrastructure projects.

On 29 May 2024 the Minister for Planning and Public Spaces announced a further investment of \$137.9M under the Accelerated Infrastructure Fund (Tranche 3) (see Attachment 1). The funding announcement was part of a wider announcement by the Minister for Planning and Open Spaces of \$201.9M infrastructure boost to support the delivery of 24,000 new regional homes.

Council has been successful in their application for \$70,796,215 towards three projects:

1. Northern Growth Area Sewer Upgrades
2. Duplication of Plumpton Road between Lake Albert Road and Gregadoo Road (Plumpton Road North)
3. Duplication of Plumpton Road between Gregadoo Road and Rowan Road South (Plumpton Road South)

These projects are designed to support the delivery of 14,500 new homes in Wagga Wagga.

Project Context

In November and December 2022, council staff presented papers to Council in relation to two planning proposals in the Southern Growth Area (planning proposal LEP21/0001 - Sunnyside Ventures) and LEP21/0006 (Rowan Village).

Both reports highlighted a shortfall in the funding of infrastructure contributions that could be collected under section 7.11. The intent of the AIF funding applications was to fill that contributions gap to ensure the delivery of critical infrastructure within the Northern and Southern Growth Area. In announcing the successful funding applications, the Minister for Planning and Open Space has linked the provision of funding towards critical infrastructure to support the development of new homes.

The Strategic Context

Northern Growth Area

The Northern Growth Area is a Council-led greenfield residential growth area. Preparation of technical studies and project scoping are currently underway. The Northern Growth Area sewer upgrades will complement the structure planning for the Northern Growth Area. Although additional technical work and infrastructure upgrades to the sewer network will be required as part of the structure planning process, the AIF funded sewer upgrades will contribute significantly to supporting early stages of the Northern Growth Area. There will be no conflicting or detrimental impact on the planning process for the Northern Growth Area and the infrastructure built using this funding will contribute to supporting early stages of the Northern Growth Area prior to infrastructure contributions being paid in the masterplan area.

Southern Growth Area

Council is currently working with the developers of Sunnyside and Rowan Village on a proposed planning agreement in relation to the development of Stage 1 of the Southern Growth Area. This funding directly impacts the proposed planning agreement. The current planning agreement offer includes a proposal to construct approximately \$53M worth of upgrades to Plumpton Road, including multiple intersection upgrades and duplication of specific sections. The AIF funding will require changes to the proponent's planning agreement and Council staff will liaise proactively with the proponents to update the offer. This funding announcement does not impact any other elements of the proposed planning agreement and will not affect the current negotiations with the developer on these items.

While the proposed planning agreement is most impacted by the attraction of this grant funding, there are further implications for the current planning proposal under assessment by Council. At the time of the original grant application, Council was assessing two previous applications in Sunnyside and Rowan Village, now forming Zone 1 of the Southern Growth Area. The application for the AIF grant included in its justification the need for enabling infrastructure to unlock residential growth in the Southern Growth Area and connect new growth to Wagga Wagga's key employment hubs. The justification for funding for the North and South Plumpton Road upgrades is intrinsically linked to the delivery of housing in the south of the city.

Project Overview

Northern Growth Area Sewer Upgrades

Project Description

This project links the Northern Growth Area and Bomen Special Activation Precinct and will provide capacity to cater for housing growth and industrial growth in the north of the City. This project will see an additional three pump stations on the northern side of the river, a sewer treatment plant orbital inlet, and additional 1.5km trunk main and 3.62km sewer mains.

Funding Details

Project Estimated Cost	AIF3 Funding	Council Funding Required
\$28,300,755	\$21,225,567	\$7,075,188

The Northern Growth Area includes 900 hectares of land identified for urban release. Based on general planning assumptions, the area has a dwelling yield of between 6,000 and 9,000 new dwellings over 20+ years.

The Bomen Special Activation Precinct includes 4,424 hectares of employment land, providing between 3,400 and 6,050 new jobs.

Plumpton Road North Project

Project Description

Considered Stage 1, this project includes the duplication of Plumpton Road between Lake Albert Road and Gregadoo Road (a distance of 3.15km), the upgrade of five intersections and the associated stormwater infrastructure required. These upgrades will provide direct connection between the Southern Growth Area and key employment

hubs and community services. The upgrade of this key infrastructure ahead of development will provide certainty for the development industry and the community.

Funding Details

Project Estimated Cost	AIF3 Funding	Council Funding Required
\$33,200,488	\$24,900,366 (DPHI - \$2,620,000.00) (Restart NSW - \$22,280,366)	\$8,300,122

Stage 1 of the Southern Growth Area will deliver approximately 2,900 dwellings. The enabling infrastructure will also support future development of the Southern Growth Area's Zones 2-4 in the long-term, supporting a potential additional 1,850 dwellings.

Plumpton Road South project Funding Details

This project is Stage 2 of the Plumpton Road upgrade and focuses on the area from Gregadoo Road to Rowan Road. It includes the duplication of the road (approximately 1.67 km), the upgrade of two intersections and the associated stormwater infrastructure required along the road. This project improves the connectivity from the Southern Growth Area to key employment hubs, recreation facilities, schools and community services. The provision of this upgrade before the development of the Southern Growth Area provides the community and the development industry with certainty and the infrastructure required to support the development.

Project Estimated Cost	AIF3 Funding	Council Funding Required
\$32,893,710	\$24,670,282	\$8,223,428

Stage 1 of the Southern Growth Area will deliver approximately 2,900 dwellings. The enabling infrastructure will also support future development of the Southern Growth Area's Zones 2-4 in the long-term, supporting a potential additional 1,850 dwellings.

Financial Implications

Summary

Project	Total Estimated Cost	AIF3 Funding	Council Contribution	Council contribution Funding Source
Northern Growth Area - Sewer Upgrades	\$28,300,755	\$21,225,567	\$7,075,188	Sewer Reserve
Southern Growth Area - Plumpton Road North	\$33,200,488	\$24,900,366	\$8,300,122	Interim funding source of Borrowings, with repayments paid by Developer, included in VPA

Southern Growth Area - Plumpton Road South	\$32,893,710	\$24,670,282	\$8,223,428	Interim funding source of Borrowings, with repayments paid by Developer, included in VPA
	\$94,394,953	\$70,796,215	\$23,598,738	

Under the funding requirements for the AIF, Council is required to contribute a minimum of 25% towards the grant. Over the three successful projects this equates to a Council contribution of \$23,598,736. This required contribution will be met as follows:

Northern Growth Area - \$7,075,188 Council co-contribution will be funded from the Sewer Reserve.

Southern Growth Area – The proponents for LEP24/0001 have requested to enter into a Voluntary Planning Agreement to fund the delivery of infrastructure required as part of the planning proposal. This approach has been informed by the development of an Infrastructure Servicing Delivery Plan (ISDP) that identifies and costs the necessary physical and community infrastructure required. Under the ISDP, the proponents have identified the duplication of Plumpton Road North and South, at an estimated cost of \$53M.

The \$16,523,550 Council co-contribution (\$8,300,122 + \$8,223,428) will be sought from the proponents for the current planning proposal (LEP24/0001 Sunnyside Ventures and Rowan Village), with this figure subject to cost escalation at time of payment.

Allocation of project budgets

Due to the draft 2024/25 Long Term Financial Plan currently on public exhibition, the total project budgets (including planned phasing over the life of the projects) will be included in the 2024/25 capital works program after 1 July 2024.

Policy and Legislation

N/A

Link to Strategic Plan

Growing Economy

Objective: Wagga Wagga is an attractive location for people to live, work and invest
Encourage and support investment to develop Wagga Wagga

Risk Management Issues for Council

Project Budget

While cost escalation was factored into the proposed budgets, there is risk that project costs have increased beyond initial estimates.

Project Timelines

Concept designs have been completed for the projects; however, the time required to prepare detailed design and undertake tendering for the projects poses a risk to the required June 2026 completion timeframe.

The technical reports and assessments likely to be required are expected to take 12-18 months to complete and must be completed prior to works commencing. The preparation and approval of these regulatory approvals (identified below) pose a risk to the required June 2026 completion timeframe.

Regulatory approvals

Engaging with Authorities

In the Northern Growth Area Sewer Upgrades, the duplicated trunk lines are adjacent to Dukes Creek and river crossings, which will require engagement with the relevant authorities.

Review of Environmental Factors

The projects will require approval under Part 5 of the *Environmental Planning & Assessment Act 1979* through a Review of Environmental Factors (REF).

Aboriginal Cultural Heritage

Council will need to undertake a due diligence assessment to understand whether the activity will result in harm to any Aboriginal objects. The due diligence will need to be undertaken in accordance with the *'Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales.'*

Biodiversity

The draft Planning Proposal currently under assessment for the Rowan Village and Sunnyside developments (Stage 1 of the Southern Growth Area) includes a draft 'summary of results' ('what we have') for the Plumpton Road corridor. The report was prepared by Capital Ecology. The summary of results of the biodiversity surveys were carried out in accordance with Stage 1 of the NSW Biodiversity Assessment Method (BAM) for the road widening work of Plumpton Road. The summary of results does not consider any environmental assessment under the Part 5 Activity pathway of *Environment Planning & Assessment Act 1979* or *Biodiversity Conservation Act 2016*.

The assessment does not include the associated impacts from the development footprint associated with the designed road upgrade. To move forward with completing the works, the document would need to determine if the proposed activity is likely to significantly affect Threatened Species. If so, a full Biodiversity Development Assessment Report (BDAR) would need to be completed incorporating the summary of results. Given the significant vegetation present, a BDAR or Species Impact Statement (SIS) would be required.

Property and Land

Part of the existing alignment of this stretch of Plumpton Road extends outside the existing road corridor and encroaches on Crown Land. It may be necessary to utilise and/or acquire additional land from the Crown to facilitate the construction of the road. To facilitate the road widening, there are portions of Council-owned community land adjacent to the road corridor that will need to be dedicated for road widening purposes.

Risk mitigation strategies

A Project Control Group (PCG) will be established to manage delivery of each enabling infrastructure project, with a primary PCG to oversee all three. Having PCGs with a clear governance structure will ensure that the many moving parts of these projects can be managed and delivered in the most efficient way possible. The PCGs will manage risks associated with cost, timing and regulatory approvals through the timely sharing of information, expedited decision making, budget control and time management. This approach has previously been employed to deliver the Bomen Industrial Park and was an effective and appropriate control mechanism to manage risk and major project delivery.

Planned Delivery

Schedule 5 of each of the three AIF Regional Funding Agreement Wagga Wagga City Council specify the project delivery milestones. Council staff are reviewing these funding and project milestones and will advise of suitability or requirements for variation once complete.

Date of completion	Milestone	Funding payable upon completion of Milestone		
		NGA Sewer	P'Road North	P'Road South
Date of this deed	Milestone 1 – Execution of Deed & Draft Project Plan	\$21,225,566.75 (equivalent to 100% of total funding under executed agreement)	\$2,620,000.00 – DPHI Funding (Remaining \$22,280,365.61 to be funded by Restart NSW under a separate funding agreement, to be paid at Milestone 1)	\$24,670,281.96 (equivalent to 100% of total funding under executed agreement)
No later than 1 month after the Date of this Deed	Milestone 2 – Accepted Final Project Plan and Confirmation of Recipient Contribution	Nil	Nil	Nil
In accordance with approved project plan	Milestone 3 – Completion of Planning Approvals (if applicable) and Detailed Design	Nil	Nil	Nil
No later than 20 Business Days	Milestone 4 – Notice of	Nil	Nil	Nil

Date of completion	Milestone	Funding payable upon completion of Milestone		
		NGA Sewer	P'Road North	P'Road South
before the Last Date for Commencement of Construction	Construction Commencement			
No later than 30 June 2026	Milestone 5 – Practical Completion	Nil	Nil	Nil
No later than 3 months after Milestone 5 Practical Completion	Milestone 6 – Project Acquittal	Nil	Nil	Nil

Internal / External Consultation

Councillors Workshop

Attachments

1. [Wagga Wagga City Council Letter](#)



2. [AIF Regional Funding Agreement Wagga Wagga City Council - Northern Growth Area - Sewer Upgrades](#)



3. [AIF Regional Funding Agreement Wagga Wagga City Council - Plumpton Road North \(ConFund Part\)](#)



4. [AIR Regional Funding Agreement Wagga City Council - Plumpton Road South](#)



Department of Planning, Housing, and Infrastructure



IRF24/510

Mr Peter Thompson
 General Manager
 Wagga Wagga City Council
 243 Baylis Street,
 WAGGA WAGGA NSW 2650

Via email: thompson.peter@wagga.nsw.gov.au; Hawkins.Lou@wagga.nsw.gov.au

30 May 2024

Subject: Accelerated Infrastructure Fund (AIF) Round 3 Tranche 3 funding outcome

Dear Mr Thompson,

The NSW Government has announced a further investment of \$137.19 million in the Accelerated Infrastructure Fund program (Tranche 3) to fund 9 regional infrastructure projects. The list of successful projects can be found here <https://www.planning.nsw.gov.au/plans-for-your-area/infrastructure-funding/accelerated-infrastructure-fund/round-3>.

I am pleased to advise the NSW Government has approved three new allocations of grant funding to enable the important delivery of infrastructure in the Wagga Wagga LGA.

The projects and grant funding allocations in addition to council's contribution as per the project applications are listed in the table below:

Project Name	Funding allocation approval	Council co-contribution
Plumpton Road – North	\$24,900,365.61	\$8,300,121.87
Plumpton Road – South	\$24,670,281.96	\$8,223,427.31
Northern Growth Area - Sewer Upgrades	\$21,225,566.75	\$7,075,188.68
Total	\$70,796,214.32	\$23,598,737.86

These projects were selected from the initial Accelerated Infrastructure Fund 3 Round 3 project nomination process and underwent a rigorous multi-stage assessment process including review by



Department of Planning, Housing, and Infrastructure

an independent technical consultant. The Minister for Planning and Public Spaces approved the final recommended projects.

Next steps

The next step is the execution of the funding agreements to formalise the grant funding arrangement:

- Please find attached the draft funding agreements attached for your delegate's signature. Once signed, please return them together with your invoices via email to aif@dpie.nsw.gov.au by 7 June 2024.
- Please note The Plumpton Road -North project will be partly funded by Restart NSW. A second draft funding agreement for this part funding will be sent to you shortly.
- The draft funding agreements are populated with project-specific details, including project milestones, scope of works and construction start and end dates. These details will adopt those submitted by the council as part of its project application.

If you have any questions, the Accelerated Infrastructure Fund project team would be happy to assist and can be reached at aif@dpie.nsw.gov.au

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'Hanna Shalbah'.

Hanna Shalbah

Acting Executive Director
Governance and Insights

Department of Planning, Housing and Infrastructure



**ACCELERATED INFRASTRUCTURE FUND
FUNDING DEED – ROUND 3**

WAGGA WAGGA CITY COUNCIL

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This Funding Deed is 30/05/2024

Parties:

Department

The Crown in right of the State of New South Wales acting through the Department of Planning, Housing and Infrastructure (ABN 20 770 707 468) of Level 11, 4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150.

Recipient

Wagga Wagga City Council a body politic of the State constituted under the *Local Government Act 1993* (ABN 56 044 159 537 of 243 Baylis Street, Wagga Wagga NSW 2650, Australia)

Introduction:

- A The NSW Government established the Accelerated Infrastructure Fund to support the delivery of essential infrastructure in high-growth greenfield and brownfield areas of metropolitan and regional New South Wales. The fund provides funding for local councils, State agencies and utilities to deliver essential infrastructure that will enable and support the construction of new homes.
- B Essential infrastructure includes:
- Roads and transport infrastructure;
 - Open space and parklands;
 - Stormwater and drainage infrastructure;
 - Water, sewerage and electrical infrastructure; and
 - Community facilities.
- C The Department has agreed to provide the Funding from the Accelerated Infrastructure Fund to the Recipient to facilitate the carrying out of the Project by the Recipient.
- D The Recipient has agreed to use the Funding together with funding from other sources to carry out the Project.
- E The objective of this Deed is to document the agreed outcomes for the Project including Milestones and timing for payment of the Funding and completion of the Project.

It is agreed:

In consideration of the mutual promises contained in this Deed, the parties to this Funding Deed agree as follows:

1. Definitions and interpretation

1.1 Definitions

In this Deed, unless the context clearly indicates otherwise:

ABN means (Australian Business Number) as set out in section 41 of the *A New Tax System (Australian Business Number) Act 1999* (Cth);

Annexure means any annexure to this Deed;

Asset means any item of property, purchased, leased, hired, financed, created or otherwise brought into existence either wholly or in part with use of the Funding, but excludes any Intellectual Property Rights;

Australian Accounting Standards refers to the standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the *Australian Securities and Investments Commission Act 2001* (Cth);

Australian Auditing Standards refers to the standards made by the Auditing and Assurance Standards Board created by section 227A of the *Australian Securities and Investments Commission Act 2001* (Cth);

Australian Privacy Principle has the same meaning as it has in the *Privacy Act 1988* (Cth);

Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body;

Business Day means any day that is not a Saturday, Sunday, gazetted public holiday or bank holiday in Sydney, New South Wales, and concludes at 5 pm on that day;

Capital Works means any part of the Project that comprises construction and building works within the Project Location, and includes the Capital Works listed at Item 8 of the Deed Details;

Change in Policy means a change in the NSW Government policies with respect to or in connection with the Project, funding provided under this Deed or the implementation of this Deed.

Combined Funding means the total amount of the Funding and the Recipient Contribution.

Commencement Notice has the meaning given to the term in clause 9(b).

Commencement of Construction means that:

- (a) all plans have been prepared and all approvals required by applicable Authorities have been obtained for construction of the Project; and
- (b) a contract with the principal Subcontractor has commenced, if applicable; and
- (c) excavation in respect of construction of an improvement that will become part of the Project has commenced, and where there is no excavation, it means commencement of construction of an improvement that will become part of the Project.

Confidential Information means:

- (a) terms of this Deed and all confidential information, material and technology disclosed or provided in any form by any party to any other party in connection with the subject matter of this Deed;
- (b) the information (if any) described in Item **Error! Reference source not found.** of the Deed Details; and
- (c) information that the parties agree in writing after the Date of this Deed is confidential information for the purposes of this Deed.

Construction Commencement Date means the date of the Commencement of Construction, specified in the Commencement Notice.

Copyright Material has the same meaning as it has in the *Copyright Act 1968* (Cth);

Date of this Deed means the date written on page 1 of this Deed, or if no date is written there, then the date on which the Deed is signed by the last party;

Deed means this document and includes any Schedules and Annexures;

Deed Details means those details in Schedule 1 of this Deed;

Department where the context permits, includes officers, delegates, employees and agents and successors of the Department of Planning, Housing and Infrastructure (ABN 20 770 707 468);

Department Material means any Material:

- (a) provided by the Department to the Recipient for the purposes of this Deed; or
- (b) derived at any time from the Material referred to in paragraph (a);

Dispose means to sell, licence, lease or sublease, or otherwise transfer or give up ownership or the right to occupy or use, or to enter into an agreement to do any of the preceding acts and "Disposal" means the method of so disposing;

Existing Material means all Material in existence prior to the Date of this Deed;

- (a) incorporated in;
- (b) supplied with, or as part of; or
- (c) required to be supplied with, or as part of,

the Project Material;

Force Majeure means a delay resulting from any cause or reason beyond the reasonable control of a party including any one of the following events:

- (a) civil war, insurrections, riots, floods, fires, explosions, pandemics, earthquakes, acts of God or the public enemy; and
- (b) industrial disputes, stoppages, strikes.

Financial Year means each period from 1 July to the following 30 June occurring during the Term, or any part of such a period occurring at the beginning or end of the Term;

Funding means the amount or amounts payable by the Department under this Deed as specified in Item 5 of the Deed Details on the terms and conditions set out in this Deed;

Funding Acknowledgement Guidelines means the NSW Government Funding Acknowledgement Guidelines for Recipients of NSW Government Infrastructure Grants updated from time to time and available at [Sponsorship and funding acknowledgement | NSW Government](https://www.nsw.gov.au/branding/sponsorship-and-funding-acknowledgment-guidelines) (<https://www.nsw.gov.au/branding/sponsorship-and-funding-acknowledgment-guidelines>) or as otherwise notified by the Department;

GST has the meaning that it has in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

Imposed Project Plan means a plan for the conduct of the Project, reasonably required by the Department, failing agreement on a Project Plan under clause 7.5;

Information Privacy Principle has the meaning given in the *Privacy and Personal Information Protection Act 1998* (NSW);

Intellectual Property Rights includes:

- (a) all copyright (including rights in relation to phonograms and broadcasts);
- (b) all rights in relation to inventions, plant varieties, trademarks (including service marks), designs, circuit layouts;
- (c) all other rights resulting from intellectual activity in the industrial, scientific literary or artistic fields; and
- (d) Moral Rights;

Interest means interest calculated at an interest rate equal to the general interest charge rate for a day pursuant to section 8AAD of the *Taxation Administration Act 1953* (Cth), on a daily compounding basis;

Last Date for Commencement of Construction means the date specified in Item 2 of the Deed Details;

Law includes:

- (a) Acts of the Commonwealth and the State(s) and Territory(s) in which the Project will be undertaken, and any other relevant State or Territory;
- (b) ordinances, regulations, by-laws, orders and proclamations or other instruments of legal effect made under those Acts referred to in paragraph (a);
- (c) directions by any person exercising statutory powers regarding the Recipient or the Project; and
- (d) all the requirements, standard, approvals, licences, registrations or permits of any government (including local government) department, authority, agency or regulatory body that apply to the Project,

whether currently in force or coming into force on or after the Date of this Deed;

Material means anything in which Intellectual Property Rights arise;

Milestone means a milestone or stage of completion of the Project as set out in Schedule 5;

MOG Change means changes in the title, structure, department, function or operations of the Department or any other NSW Government Entity involved in the services as a result of the machinery of government;

Monthly Update Report means the report to be provided by the Recipient to the Department on a monthly basis in accordance with the provisions of Schedule 3;

Moral Rights includes the following rights of an author of Copyright Material:

- (a) the right of attribution of authorship;
- (b) the right of integrity of authorship; and
- (c) the right not to have authorship falsely attributed;

Notice has the meaning in clause 26.1;

Personnel means:

- (a) in relation to the Recipient – any natural person who is an officer, employee, agent, or professional advisor of the Recipient or its Subcontractors; and
- (b) in relation to the Department – any natural person who is an officer, employee, agent or professional advisor of the Department;

Practical Completion means completion of the Milestones in accordance with Schedule 5;

Privacy Law means the *Privacy Act 1988* (Cth), the *Privacy Regulations 2013* (Cth), the Australian Privacy Principles, the Information Privacy Principles, the *Privacy and Personal Information Protection Act 1998* (NSW), the *Privacy and Personal Information Protection Regulations 2014* (NSW);

Procurement Certificate means a certificate to be provided by the Recipient to the Department following completion of the Project, including Practical Completion, in accordance with the provisions of Schedule 3;

Project means the Project described in Item 1 of the Deed Details and includes the provision of the Project Material to the Department;

Project Acquittal Report means a report to be provided by the Recipient to the Department following completion of the Project, including Practical Completion in accordance with the provisions of Schedule 3;

Project Commencement Date means the date set out in Item 3 of the Deed Details;

Project Completion Date means the date set out in Item 3 of the Deed Details as the Project Completion Date;

Project Location means the locations set out in Item 8 of the Deed Details;

Project Material means any Material:

- (a) created by the Recipient for the purpose of this Deed;
- (b) provided or required to be provided to the Department under the Deed; or
- (c) derived at any time from the Material referred to in paragraphs (a) or (b),

and includes

- (d) any Existing Material incorporated in the Material referred to in paragraphs (a) or (b) above;
- (e) any Promotional Material;
- (f) any Monthly Update Report;
- (g) the Project Acquittal Report; and
- (h) the Procurement Certificate;

Project Objectives means the objectives of the Project described in Item 5 of the Deed Details;

Project Period means the period specified in Item 4 of the Deed Details during which the Project must be completed;

Project Plan means the project plan referred to in clause 7.5 and annexed to this Deed at Annexure A, as amended from time to time;

Program means the program under which the Department is able to provide Funding to the Recipient as further described at Item 6 of the Deed Details;

Promotional Material means any photo, artist impression, video or any other promotional material relating to the Project reasonably required by the Department;

Recipient includes, where the context permits, the officers, employees, agents, volunteers and subcontractors, and successors of the Recipient;

Recipient Contribution means the amount the Recipient is contributing towards the Project as specified in Item 7 of the Deed Details;

Records includes documents, information and data stored by any means and all copies and extracts of the same;

Schedule means a schedule to this Deed and may include Annexures and incorporate other documents by reference;

Standard Condition takes its meaning from Schedule 4;

Subcontract means a written contract between the Recipient and a Subcontractor;

Subcontractor means a person/entity appointed by the Recipient to conduct the Project (or part of it);

Term refers to the period described in clause 2 of this Deed;

Third Party Interest means any legal or equitable right, interest, power or remedy in favour of any person other than the Department or the Recipient in connection with this Deed, including any right of possession, receivership, control or power of sale, and any mortgage, charge, security or other interest; and

Unexpended Funding means any part of the Funding that is unspent or uncommitted.

1.2 Interpretation

In this Deed, unless the context clearly indicates otherwise:

- (a) a reference to **this Deed** or another document means this deed or that other document and any document which varies, supplements, replaces, assigns or novates this deed or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (c) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing deed, to a body or authority having substantially the same objects as the named body or authority;

- (d) a reference to the **introduction**, a **clause**, **schedule** or **annexure** is a reference to the introduction, a clause, a schedule or an annexure to or of this deed;
- (e) **clause headings** and the **table of contents** are inserted for convenience only and do not form part of this deed;
- (f) the **introduction**, **schedules** (if any) and **annexures** (if any) form part of this deed;
- (g) the **introduction** accurately sets out the circumstances in which the parties have entered into this deed;
- (h) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (i) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (j) a reference to a **corporation** includes its successors and permitted assigns;
- (k) **related** or **subsidiary** in respect of a corporation has the same meaning given to that term in the Corporations Act;
- (l) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this deed;
- (m) an **obligation** or **warranty** on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally;
- (n) a reference to a **breach of warranty** includes that warranty not being complete, true or accurate;
- (o) a requirement to do anything includes a requirement to cause that thing to be done and a requirement not to do anything includes a requirement to prevent that thing being done;
- (p) **including** and **includes** are not words of limitation;
- (q) the words **at any time** mean at any time and from time to time;
- (r) a reference to a time is to that time in New South Wales;
- (s) a word that is derived from a defined word has a corresponding meaning;
- (t) **monetary amounts** are expressed in Australian dollars;
- (u) the singular includes the plural and vice-versa;
- (v) words importing one gender include all other genders; and
- (w) a reference to a thing includes each part of that thing.

1.3 Construction

Neither this Deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

2. Term

The Term of this Deed commences on the Date of the Deed and, unless terminated earlier, it expires on the day on which the Recipient provides the Project Acquittal Report and the Procurement Certificate to the Department.

3. Machinery of Government and other Changes in Policy

- (a) The Recipient acknowledges that during the term of the Deed, there may be MOG Changes, and that services supplied by the Recipient may be transferred between NSW Government entities as required without additional charges or costs being imposed as a result.
- (b) If, during the term of the Deed, a MOG Change occurs resulting in the transfer of functions from the Department to another entity, the Department may transfer this Deed in its entirety to the new entity by giving written notice to the Recipient.
- (c) If the MOG Change results in a requirement for a novation, variation or transfer of this Deed, then the Recipient agrees to enter into a deed and/or a new agreement to give effect to that change.

4. Provision of Funding

4.1 Payment of Funding

- (a) Subject to sufficient funds being available, and compliance by the Recipient with this Deed, the Department agrees to provide the Recipient with the Funding at the times and in the manner specified in Schedule 2.
- (b) The Recipient agrees to:
 - (i) undertake the Project and be responsible for any Project costs that exceed the Funding;
 - (ii) remain responsible for all maintenance costs arising from the Project (including any costs incurred after the Term); and
 - (iii) procure the Recipient Contribution and any additional funding necessary to carry out the Project in order to ensure the Project is delivered and maintained in accordance with this Deed.
- (c) The Department is not responsible for the provision of additional money to meet any expenditure in excess of the Funding.

4.2 Expenditure of Funding

- (a) No Funding can be expended prior to the Project Plan being agreed in accordance with clause 7.5, and evidence of the Recipient Contribution has been provided.
- (b) Not less than 5 Business Days prior to expending or committing Funding in an amount greater than \$200,000, the Recipient must provide a Notice to the Department specifying the:
 - (i) the amount of Funding to be expended;
 - (ii) details of the Milestone to which it relates; and
 - (iii) a copy of any tax invoices to which the expenditure relates.
- (c) The Recipient must not expend any funds the subject of a Notice under clause 4.2(a) without the prior written approval of the Department.

- (d) If at the time of provision of a Notice under Clause 4.2(a) the Recipient has failed to comply with any of the terms of this Deed, including reporting, the Department will provide Notice to the Recipient of the steps to be taken by the Recipient to remedy those failures. The Recipient must inform the Department of completion of those steps and the Department will then consider providing approval under clause 4.2(b).

5. Recipient Contribution

- (a) The Recipient agrees that it must provide the Recipient Contribution and use the Recipient Contribution towards the cost of the Project.
- (b) The Recipient must, by no later than the date specified in the Milestones Schedule for completion of the Project Plan and Recipient Contribution, provide to the Department satisfactory evidence that the Recipient holds the Recipient Contribution, including the source or sources of the Recipient Contribution, and the manner in which the Recipient Contribution is to be spent for the Project.
- (c) If for any reason, the Recipient is not able to provide evidence to the satisfaction of the Department that it holds the Recipient Contribution as required under this Deed, then the Department may:
- (i) suspend payment of the Funding until the Recipient Contribution is obtained; or
 - (ii) terminate this Deed in accordance with clause 21.
- (d) The Recipient must notify the Department in writing as soon as possible after it becomes aware of any likely or actual failure (for any reason) to obtain the Recipient Contribution as required under this Deed.

6. Cost Savings

- (a) If the cost of the completed Project is less than Combined Funding, the Department may give the Recipient notice requiring the Recipient to return to the Department, within the period specified in the notice, an amount equal to the Department's Proportion of the Cost Savings. In this subclause 6(a) "the Department's Proportion of the Cost Savings" means savings x % where:
- (i) $\text{savings} = (\text{the Combined Funding} - \text{the actual cost of the Project} - \text{any part of the Funding previously repaid to the Department under this Deed}); \text{ and}$
 - (ii) $\% = (\text{the Funding} \div \text{the Combined Funding}).$
- (b) If the Recipient receives a Notice given by the Department under subclause 6(a) the Recipient must comply with the Notice within the period specified in the Notice.

7. Project

7.1 Project Requirements

The Recipient must:

- (a) use the Funding to complete the Project and for no other purpose;
- (b) commence the Project no later than the Project Commencement Date; and
- (c) achieve Practical Completion by the Project Completion Date.

7.2 Conduct of Project

The Recipient agrees to carry out the Project:

- (a) to achieve the Project Objectives and for no other purpose;
- (b) to meet the Milestones in accordance with clause 7.3;
- (c) in an efficient, effective, economical and ethical manner;
- (d) diligently and to a high standard;
- (e) in accordance with this Deed, including the Project Plan; and
- (f) in accordance with all applicable Laws.

7.3 Milestones

The Recipient must complete, to the satisfaction of the Department:

- (a) each Milestone; and
 - (b) each obligation or requirement imposed by each Milestone,
- on or before the date specified for the completion of that Milestone in Schedule 5.

7.4 Standard Conditions

The Recipient must complete, to the satisfaction of the Department:

- (a) each Standard Condition; and
 - (b) each action, obligation or requirement imposed by each Standard Condition,
- on or before the date specified for the completion of that action, obligation or requirement imposed by the Standard Condition in Schedule 4.

7.5 Project Plan

- (a) The Recipient must provide the Project Plan to the Department by the date specified in the Milestone Schedule.
- (b) The Project Plan must be jointly agreed between the Department and the Recipient. If for any reason the parties do not jointly agree on the terms or form of the Project Plan, the Recipient must comply with an Imposed Project Plan.
- (c) If the Department requires the Project to be completed in accordance with an Imposed Project Plan, a reference to Project Plan in this Deed will be read as referring to the Imposed Project Plan.
- (d) The Recipient must carry out the Project in accordance with the Project Plan.
- (e) The Department and the Recipient acknowledge that the Project Plan may be varied in accordance with clause 28.3.

7.6 Recipient Obligations

- (a) The Recipient agrees to:
 - (i) liaise with and provide information, any reports or other documents to the Department as reasonably requested by the Department, including at any Milestones; and
 - (ii) comply with all of the Department's reasonable requests, directions, monitoring or reporting requirements.
- (iii) This clause 7.6(a) survives the termination of this Deed.

- (b) The Recipient agrees to provide to the Department written Monthly Update Reports, a Project Acquittal Report and a Procurement Certificate in the manner specified in Schedule 3.
- (c) Each of the parties may nominate, from time to time, a person who has authority to receive and sign Notices and written communications for each of them under this Deed and accept any request or direction in relation to the Project.

7.7 Responsibility of the Recipient

The Recipient is fully responsible for the performance of the Project and for ensuring compliance with the requirements of this Deed, and will not be relieved of that responsibility because of any:

- (a) involvement by the Department in the performance of the Project;
- (b) subcontracting of the Project (or any part of it); or
- (c) payment of any amount of Funding to the Recipient.

7.8 Records

The Recipient agree to comply with all obligations under, and reasonable directions from the Department in respect of, the *State Records Act 1998* (NSW) and the *State Records Regulation 2015* (NSW).

8. Subcontractors

8.1 Recipient may subcontract

- (a) The Recipient is fully responsible for the performance of the Recipient's obligations under this Deed and may subcontract any part of its obligations under this Deed.
- (b) The Recipient must have a Subcontract and ensure that each Subcontract is consistent with, and allows the Recipient to give effect to, the Recipient's obligations under this Deed.
- (c) The Recipient is responsible for ensuring the suitability of a Subcontractor for the work proposed to be carried out.
- (d) The Recipient must ensure that its Subcontractors comply with the relevant terms of this Deed and do not do anything, or omit to do anything, which if done or omitted to be done by the Recipient would be a breach of the Recipient's obligations under this Deed.
- (e) The Recipient shall be deemed to be responsible for any and all breaches of this Deed committed by its Subcontractors as if the Recipient had breached the Deed itself.

9. Commencement of Construction

- (a) The Recipient must achieve Commencement of Construction by no later than the Last Date for the Commencement of Construction.
- (b) The Recipient must provide the Department with at least 20 Business Days' notice (**Commencement Notice**) of the Construction Commencement Date (which must be no later than the Last Date for Commencement of Construction)
- (c) The Commencement Notice must:
 - (i) contain details of the Subcontractors appointed by Recipient to carry out any aspect of construction of the Project;
 - (ii) attach the Subcontracts confirming such appointment;

- (iii) identify the different aspects of the Project to be carried out by the Subcontractors, with reference to the Milestones; and
- (iv) identify the proposed Subcontract value for each aspect of the Project with reference to the Milestones;

10. Taxes, duties and government charges

The Recipient agrees to pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Deed.

11. Debt and Interest

- (a) The Recipient agrees, upon request of the Department, to pay any amount owed or payable to the Department or which the Department is entitled to recover from the Recipient under this Deed, including if demanded by the Department any Interest, as a debt due by the Recipient without further proof of the debt by the Department being necessary. Such payment is without prejudice to any other rights available to the Department under the Deed, under statute, at law or in equity.
- (b) If the Department notifies the Recipient that an amount is to be refunded or otherwise paid to the Department and the amount is not refunded or paid within 20 Business Days, or as otherwise notified by the Department, the Recipient agrees to pay Interest, unless the Department notifies the Recipient otherwise, on the amount outstanding after the expiry of the date it was due, until the amount is paid in full.
- (c) In respect to any obligation the Recipient may have under this Deed to pay the Department any Interest, the Recipient agrees that the Interest represents a reasonable pre-estimate of the loss incurred by the Department.

12. GST

12.1 Definitions

Words used in this clause that are defined in the GST Law have the meaning given in that legislation.

12.2 Consideration is GST-exclusive

Unless otherwise specified, all amounts payable under this Deed are exclusive of GST and must be calculated with regard to GST.

12.3 GST payable on taxable supply

- (a) If a supply made under this Deed is a taxable supply, the recipient of that taxable supply must, in addition to any other consideration, pay to the party making the taxable supply (**Supplier**) the amount of GST in respect of the supply.
- (b) The recipient of the taxable supply will only be required to pay an amount of GST to the Supplier if and when the Supplier provides a valid tax invoice to the recipient of that taxable supply in respect of the taxable supply.
- (c) If there is an adjustment to a taxable supply made under this Deed then the Supplier must provide an adjustment note to the recipient of that taxable supply.
- (d) The amount of a party's entitlement under this Deed to recovery or compensation for any of its costs, expenses or liabilities is reduced by the input tax credits to which that party is entitled in respect of those costs, expenses or liabilities.

13. Management Funding

13.1 Account and financial records

- (a) The Recipient agrees to ensure that the Funding is held in an account in the Recipient's name and which the Recipient solely controls, with an authorised deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia and that is an account that complies with any other reasonable requirements of the Department.
- (b) The Recipient agrees to:
- (i) keep financial accounts and Records relating to the Funding and Project that identify:
 - (A) all receipts and payments related to the Funding and Project; and
 - (B) all interest earned on the Funding.
 - (ii) unless otherwise notified by the Department, prepare financial statements for the Project in accordance with Australian Accounting Standards including:
 - (A) a register of the Assets created, acquired, written-off or Disposed of during the Financial Year to date; and
 - (B) arrange for the audit of those accounts and Records in accordance with Australian Auditing Standards.

13.2 Refunds of unexpended and misspent Funds

- (a) Without limiting the Department's rights under this Deed, the Department may by Notice in writing recover all or part of the Funding from the Recipient (as a debt due and payable on demand) in any of the circumstances set out below in Column A, but only to the extent set out in the Column B in the table below:

	Column A: Circumstance in which some or all of the Funding may be recovered by the Department	Column B: Extent to which some or all of the Funding may be recovered by the Department
1	The Recipient is paid more than the Funding as specified in this Deed.	Only to the extent of the amount of overpayment.
2	The Recipient has incorrectly claimed some or all of the Funding.	Only to the extent which part or all the Funding has been incorrectly paid to the Recipient.
3	The Recipient abandons the Project.	Repayment of the Funding in full.
4	There is Unexpended Funding at the Project Completion Date.	Only to the extent of any Unexpended Funding.
5	If this Deed is terminated in accordance with clause 21.	Repayment of the Funding in full.
6	The Department, in its discretion, determines that the Project carried out ceases to be viable during the Project Period.	Repayment of part or all of the Funding (as determined by the Department).

	Column A: Circumstance in which some or all of the Funding may be recovered by the Department	Column B: Extent to which some or all of the Funding may be recovered by the Department
7	The Department, in its discretion, determines that the Project completed, including Practical Completion did not achieve the scope of the Project.	Repayment of part or all of the Funding (as determined by the Department).
8	The Project is demolished within two (2) years of the Project Completion Date or actual completion of the Project (whichever is the latter).	Repayment of the Funding in full.
9	Change in NSW Government Policy in clause 21.2 or Force Majeure (Clause 22).	Only to the extent of any Unexpended Funding.

- (b) If the Department exercises the right to require the repayment of all or part of the Funding in accordance with clause 13.2(a), the Recipient must repay:
 - (i) the full amount of the Funding, or
 - (ii) the part of the Funding that is the subject of the Notice, and
 - (iii) Interest;

within the period (which must be reasonable in the circumstances) specified in the written Notice.
- (c) Despite clause 13.2(a)(0) above, if the cost of the completed Project, including Practical Completion is less than the Funding, the Department may by provision of a Notice require the Recipient to otherwise deal with the Unexpended Funding in accordance with any conditions that the Department considers appropriate, including conditions relating to the ongoing use and expenditure by the Recipient of that amount for particular goals or objectives associated with the Project.
- (d) If any dispute arises regarding the repayment of the Funding, the parties must attempt to resolve the dispute in accordance with clause 20.
- (e) This clause survives termination or expiry of this Deed.

14. Statutory Approvals

- (a) The Recipient must obtain all necessary statutory approvals in relation to the Project, and the Recipient must give the Department, within six months after the Date of this Deed, satisfactory written evidence that these statutory approvals have been obtained.
- (b) If the Recipient does not comply with the requirement in subclause 14(a), the Department may at the Department’s sole discretion terminate this Deed.

15. Records & Audit**15.1 Keeping Records**

The Recipient must create and maintain full and accurate accounts and Records of the conduct of the Project including, without limitation, all:

- (a) progress against the Milestones; and
- (b) receipt and use of Funding.

15.2 Retention of Records

The Recipient agrees to create and maintain Records and accounts under clause 15.1 and retain them for a period of no less than seven years after the end of the Term.

15.3 Audit

- (a) The Department may at its expense and in its discretion conduct an audit of the Recipient's compliance with this Deed.
- (b) The Department or a person commissioned by the Department will give the Recipient prior Notice of its requirements in relation to an audit and endeavour to minimise disruption and interference to the Recipient's performance of its obligations under this Deed.
- (c) The Recipient must co-operate fully with the audit, including permitting the person conducting the audit to inspect and make copies of the Recipient's Records and materials relevant to the Project and the performance of this Deed.
- (d) Except where otherwise determined by the Department, the Recipient is responsible for its own costs of participating in or conducting an audit and such costs are not to be paid out of the Funding.
- (e) The Recipient must promptly take any reasonable action required by the Department to rectify any error, non-compliance or inaccuracy identified in an audit in relation to the Project or the Recipient's performance of this Deed.
- (f) The Recipient is not entitled to any delay costs or other costs or expenses of whatever nature relating in any way to an audit.
- (g) Where the Department directs, the Recipient must not spend nor make any further commitment to spend any of Funding until such time as the audit has been completed and the Department has confirmed in writing that any action required under clause 15.3(e) has been taken.

16. Confidential information**16.1 Obligation**

- (a) Subject to this clause 16, each party must maintain in confidence all Confidential Information and ensure that the Confidential Information is kept confidential.
- (b) The Recipient agrees to secure all of the Department's Confidential Information against loss and unauthorised access, use, modification or disclosure.

16.2 Written Undertakings

The Recipient must, on request by the Department at any time, arrange for:

- (a) its Personnel; or
- (b) any person with a Third Party Interest,

to give a written undertaking in a form acceptable to the Department relating to the use and non-disclosure of the Department's Confidential Information.

16.3 Exceptions to confidentiality

The obligations on the parties under this clause 16 will not be taken to have been breached to the extent that the Confidential Information:

- (a) is required to be disclosed by Law, in which case the disclosing party must immediately notify the other party of the requirement and must take lawful steps and permit the opposition or restriction of the disclosure to preserve, as far as possible, the confidentiality of the Confidential Information;
 - (i) is disclosed by a party to its Personnel solely in order to comply with obligations, or to exercise rights, under this Deed;
 - (ii) is disclosed by the Department to the responsible Minister;
 - (iii) is disclosed by the Department, in response to a request by a House or a Committee of the Parliament of New South Wales or the Commonwealth of Australia;
 - (iv) except to the extent it is prohibited by any Law, is shared by the Department (including with other NSW government agencies), where this serves the Department's, the Crown in right of the State of New South Wales, or the Commonwealth of Australia's legitimate interests;
 - (v) is in or enters the public domain for reasons other than a breach of this Deed; or
 - (vi) is disclosed to its professional advisers to obtain professional advice.

16.4 Obligation to notify

Where a party discloses Confidential Information to another person pursuant to clause 16.3 the disclosing party must notify the receiving person that the information is confidential.

16.5 Period of Confidentiality

The obligations under this clause 16 continue, notwithstanding the expiry or termination of this Deed except to the extent any of the Confidential Information is released into the public domain, otherwise than in breach of this Deed.

16.6 Survival of clause

This clause 16 will survive the termination of this Deed.

17. Privacy

17.1 Privacy Obligations

- (a) The Recipient agrees, in conducting the Project:
 - (i) not to do any act or engage in any practice which, if done or engaged in by the Department, would be a breach of a Privacy Law;
 - (ii) to comply with the Privacy Law; and

- (iii) to comply with any directions, guidelines, determinations or recommendations of the Department, to the extent that they are consistent with the Privacy Law.
- (b) The Recipient agrees to notify the Department immediately if it becomes aware of a breach or possible breach of any of its obligations under this clause 17.1.
- (c) The provisions of this clause 17.1 survive the termination or expiration of this Deed.

17.2 No reduction in Privacy Obligations

The obligations in clause 18 do not detract from any of the Recipient's obligations under the Privacy Law or under clause 17.1.

18. Acknowledgement and publicity

18.1 Acknowledgement of support

- (a) Unless otherwise notified by the Department, the Recipient agrees, in all publications, promotional and advertising Materials, public announcements, promotional plaques and activities by the Recipient or on the Recipient's behalf in relation to the Project, or any products, processes or inventions developed as a result of it, to acknowledge the financial and other support the Recipient has received from the New South Wales Government in accordance with the Funding Acknowledgement Guidelines, or as otherwise approved by the Department prior to its use or publication.
- (b) Where the Recipient has been provided with Funding to produce any publication, a copy of the publication must, on request, be provided to the Department.
- (c) The Recipient must provide the Department with no less than 30 Business Days' Notice of any proposed publications, promotional and advertising Materials or public announcements and activities by the Recipient in connection to the Project.
- (d) If a Notice is given under subclause (c) above, the Recipient must:
 - (i) provide the Department with all such information as reasonably required by the Department regarding the time and date of the proposed publications, promotional and advertising Materials or public announcements and activities; and
 - (ii) do such things as required to allow a representative of the Department to attend or participate in (including making an announcement at any public announcement or activity) which the Department may choose to do so in its absolute discretion.

18.2 Right to publicise Funding and the Project

- (a) The Recipient will provide the Department with Promotional Material to enable the Department to publicise, promote and report on the Project. The Recipient shall be solely responsible for obtaining all necessary Intellectual Property Rights for the Department's use of the Promotional Material.
- (b) The Department reserves the right to use the Promotional Material to publicise, promote and report on the Project and/or awarding of Funding to the Recipient. The Department may do (but is not limited to doing) this by including the Recipient's name, the amount of the Funding given to the Recipient, the date the Deed commences and its term, and the title, location, purpose and a brief description of the Project in media releases, general announcements about the Funding, annual reports or through any other means as determined by the Department.

- (c) The Recipient agrees to grant to or procure for the Department a permanent, irrevocable, royalty-free, worldwide, non-exclusive, transferable licence (including a right of sublicense) to use, reproduce, exploit, communicate, adapt and distribute the Promotional Material for the purpose provided in subclause (a).
- (d) The Department may in its discretion and where it is practicable to do so, give a Notice to the Recipient of any such publication under subclause (b).
- (e) This clause survives termination or expiry of this Deed.

18.3 Retraction of promotional material

If the Department:

- (a) terminates this Deed under clause 21.1; or
- (b) otherwise determines in its absolute discretion that the Project is not consistent with the Project Objectives,

the Department may, by a Notice to the Recipient, request the Recipient to cease the use of and/or retract any publication of any Promotional Material and the Recipient must immediately comply with such request.

19. Liability and Insurance

19.1 Insurance

- (a) The Recipient must take out and maintain during the Term all appropriate insurance policies including, but not limited to:
 - (i) workers compensation insurance as required by Law for all persons involved in the delivery of the Project.
 - (ii) public liability insurance to the value of not less than \$20 million in respect of each and every occurrence and unlimited in the aggregate for any one period of cover.
 - (iii) insurance over all Assets used in connection with the Project funded or partly funded by the Funding, for their full replacement value.
- (b) On request by the Department, the Recipient must provide a copy of valid and current certificates of currency for the insurance and/or a warranty from its insurer that the policy extends to the Department and covers potential liability arising under this Deed.
- (c) The Recipient must not do, permit or suffer any act, matter or thing or omission whereby the policy referred to in this clause may be vitiated, rendered void or voidable.

19.2 Proportionate liability regime

To the extent permitted by Law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against the Recipient under or in connection with this Deed.

19.3 Indemnity

- (a) In this clause 19.3, "Fault" means any negligent or unlawful act or omission or wilful misconduct.
- (b) The Recipient indemnifies the Department from and against any:
 - (i) cost or liability incurred by the Department;
 - (ii) loss of or damage to property of the Department; or

- (iii) loss or expense incurred by the Department in dealing with any claim against it, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used, or disbursements paid by the Department,

arising from:

- (iv) any breach by the Recipient of the Deed;
 - (v) any act or omission involving fault by the Recipient in connection with this Deed;
 - (vi) the use of Assets; or
 - (vii) the use by the Department of the Project Material and/or the Promotional Material, including any claims by third parties about the ownership or right to use the Intellectual Property Rights in the Project Material and/or the Promotional Material.
- (c) The Recipient's liability under subclause (a) above will be reduced proportionately to the extent that any act or omission involving Fault on the part of the Department or its Personnel contributed to the relevant cost, liability, loss, damage or expense.
 - (d) The right of the Department to be indemnified under this clause 19.3 is in addition to, and not exclusive of, any other right, power or remedy provided by Law, provided that the Department is not compensated in excess of the amount of the relevant cost, liability, loss, damage or expense incurred by the Department.

20. Dispute Resolution

20.1 Procedure for dispute resolution

The parties agree that a dispute arising under this Deed will be dealt with as follows, and that, subject to clause 20.4, neither party will commence legal proceedings until this procedure is completed:

- (a) the party claiming that there is a dispute will give the other party a Notice setting out the nature of the dispute;
- (b) within five Business Days (or such other period as agreed by the parties in writing) each party will nominate a senior representative not having any prior involvement in the dispute;
- (c) the senior representatives will try to settle the dispute in good faith by direct negotiation between them;
- (d) failing settlement within a further 10 Business Days or such other period as agreed by the parties in writing (or failure of one or both parties to nominate a senior representative within the period set out in subclause (b) above), the parties may agree to refer the dispute to an independent third person with power:
 - (i) to intervene and direct some form of resolution, in which case the parties will be bound by that resolution; or
 - (ii) to mediate and recommend some form of non-binding resolution;
- (e) the parties will co-operate fully with any process instigated under subclause (d) in order to achieve a speedy resolution; and
- (f) if the parties have been unable to agree to refer the dispute to an independent third person, or they have agreed and a resolution is not reached within a further 20 Business

Days (or such other period as the parties may agree in writing), either party may commence legal proceedings.

20.2 Costs

Each party will bear its own costs of complying with this clause 20, and the parties will bear equally the cost of any third person engaged under subclause 20.1(d).

20.3 Continued performance

Despite the existence of a dispute, the Recipient will (unless requested in writing by the Department not to do so or subject to any order of a court) continue to perform the Recipient's obligations under this Deed.

20.4 Application of clause

This clause 20 does not apply to:

- (a) legal proceedings by either party for urgent interlocutory relief; or
- (b) action by the Department under or purportedly under clauses 4, 13 or 21.

21. Termination

21.1 Termination for fault

- (a) If the Recipient does not comply with any of its obligations under this Deed, then the Department:
 - (i) if it considers that the non-compliance is not capable of remedy – may by a Notice terminate this Deed immediately;
 - (ii) if it considers that the non-compliance is capable of remedy – may, by a Notice require that the non-compliance be remedied within the time specified in the Notice, and if not remedied within that time, may terminate this Deed immediately by giving a second Notice.
- (b) The Department may also by a Notice terminate this Deed immediately if:
 - (i) in relation to this Deed, the Recipient breaches any Law of the Commonwealth of Australia, or of a State or Territory;
 - (ii) another clause of this Deed allows for termination under this clause 21.1; or
 - (iii) the Department is satisfied that any statement made in the Recipient's application for Funding is false or misleading in a way which would have affected the original decision to approve the Funding.

21.2 Termination for Change in Government Policy

Without limiting any other rights or remedies the Department may have arising out of or in connection with this Deed, the Department may terminate this Deed immediately upon written notice to the Recipient due to a Change in Policy.

21.3 Preservation of other rights

Clause 21.1 does not limit or exclude any of the Department's other rights under this Deed or at Law.

22. Force Majeure

If either Party is unable to perform an obligation under this Deed because of a Force Majeure, then:

- (a) as soon as reasonably practicable after the Force Majeure arises, the affected party shall notify the other party of the Force Majeure and provide details of the Force Majeure and the extent to which and for how long the notifying party estimates that it is unable to perform its obligation; and
- (b) such affected party is relieved from performing its obligations under this Deed (other than the parties' obligations to pay money) to the extent it is prevented from doing so by the Force Majeure;
- (c) dates shall be extended to take into account the Force Majeure as agreed by the parties acting reasonably; and
- (d) such party prevented from performing its obligations due to a Force Majeure shall use commercially reasonable efforts to remedy the situation so it may perform its obligations.

23. Liability of Department on Termination

- (a) If this Deed is terminated under clause 21.2 ('Termination for Change in Government Policy') or clause 22 ('Force Majeure') the Recipient is entitled to payment of any Funding not yet paid, but approved under clause 4.2, as at the effective date of termination.
- (b) Except as set out in clause 23(a) above, the Department is not liable to the Recipient for the balance of the Funding and the Recipient is not entitled to make a claim for damages or loss as a consequence of termination.

24. Assignment

This Deed is personal to each party and neither party may assign the rights or benefits of this Deed to any person.

25. General Warranties

Each party warrants to each other party that this Deed creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms.

26. Notices**26.1 Notices**

Any notice, demand, consent, approval, request or other communication to be given under this Deed (**Notice**) must be:

- (a) in writing;
- (b) given to the following contact person:
 - (i) in the case of the Department, that person specified in Item 12 of the Deed Details, or other person as notified by the Department; or
 - (ii) in the case of the Recipient, that person specified in Item 13 of the Deed Details, or other person as notified by the Recipient;
- (c) served in accordance with clause 26.2; and

- (d) unless this Deed provides otherwise, in English.

26.2 Service of Notices

- (a) A Notice under this Deed is only effective if it is in writing, and addressed as follows:
- (i) if given by the Recipient to the Department – addressed to the Department at the Address for Service specified in Item 10 of the Deed Details, or other address as notified by the Department; or
 - (ii) if given by the Department to the Recipient – given by the Department and addressed as specified in Item 11 of the Deed Details, or other address as notified by the Recipient.
- (b) A Notice must be given at the recipient's Address for Service by being:
- (i) hand delivered;
 - (ii) sent by electronic mail; or
 - (iii) sent by prepaid mail within Australia.
- (c) A Notice is given if:
- (i) hand delivered, on the date of delivery;
 - (ii) sent by electronic mail, on the date of delivery unless an automated response is received by the receiver advising that the email has not been delivered to the recipient;
 - (iii) sent by prepaid mail within Australia, on the date that is 3 Business Days after the date of posting.
- (d) If a Notice is received:
- (i) after 5:00 pm on any Business Day; or
 - (ii) on a day that is not a Business Day,
- it is deemed to be received at 9:00 am on the next Business Day for the purposes of this clause 26.

27. Work Health and Safety

27.1 Compliance with Work Health and Safety Law

Where required, the Recipient must comply with:

- (a) all Laws relating to work health and safety including (but not limited to), the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2017* (NSW); and
- (b) all reasonable directions from the Department or its Personnel in relation to work health and safety.

28. General provisions

28.1 Inconsistency

If there is any inconsistency between provisions of this Deed then the order of precedence will be:

- (a) **clause 1 to clause 28**; then
- (b) any **Schedules**; then

- (c) any Annexures.

28.2 Entire agreement

This Deed constitutes the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties, whether orally or in writing.

28.3 Variation

Unless provided in Schedule 6, this Deed or any of the matters outlined in the Schedules or Annexures to this Deed must not be varied except by a later written document executed by all parties.

28.4 Waiver

A right created by this Deed cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

28.5 Conflicts of Interest

- (a) The Recipient must not do anything to bring itself into a situation where it has a conflict of interest with the Department.
- (b) Where the Recipient identifies that there is a conflict of interest between itself and the Department (whether actual, perceived or potential) it must:
- (i) immediately notify the Department;
 - (ii) take proactive steps to mitigate the impact of the conflict of interest;
 - (iii) take steps to remove or manage the conflict of interest; and
 - (iv) do whatever the Department reasonably requests of it to remove or manage the conflict.
- (c) Where the conflict of interest is unable to be managed to the satisfaction of the Department then the Department may terminate this Deed, such termination to be treated as if it were a termination for cause under clause 21.1(b)(ii) of this Deed.

28.6 Further assurances

Each party must promptly execute all documents and do every thing necessary or desirable to give full effect to the arrangements contained in this Deed.

28.7 Time for doing acts

- (a) If the time for doing any act or thing required to be done; or a time specified in a Notice (given in accordance with clause 26) expires on a day other than a Business Day, the time for doing that act or thing is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5 pm, it is taken to have been done on the following Business Day.

28.8 Governing law and jurisdiction

- (a) The Laws applicable in New South Wales govern this Deed.

- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

28.9 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Deed without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

28.10 Preservation of existing rights

The expiration or termination of this Deed does not affect any right that has accrued to a party before the expiration or termination date.

28.11 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this Deed for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

28.12 Counterparts

This Deed may be executed in any number of counterparts. All counterparts taken together constitute one instrument. Delivery of this Deed by email constitutes an effective mode of delivery.

28.13 Relationship of parties

Unless otherwise stated:

- (a) nothing in this Deed creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

28.14 Legal expenses

Each party must pay its own legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this Deed.

Execution page

Executed as a deed

Signed, sealed and delivered for and on behalf of the Crown in right of the State of New South Wales acting through the Department of Planning, Housing and Infrastructure (ABN 20 770 707 468) by its Authorised Officer but not so as to incur any personal liability in the presence of:

.....
Signature of Witness

.....
Signature of Authorised Officer

.....
Name of Witness

.....
Name and position of Authorised Officer

Signed, sealed and delivered for and on behalf of <INSERT COUNCIL NAME> (ABN INSERT ABN <> Council to insert) by its Authorised Officer:

.....
Signature of Witness

.....
Signature of Council Authorised Officer

.....
Name of Witness

.....
Name of Authorised Officer

Schedule 1 Deed Details

	Item	Detail
1.	Project Name and Description	AIF30059 - Northern Growth Area - Sewer Upgrades Construction of new trunk mains connecting the Northern Growth Area and Bomen Special Activation precinct to the Narrung Street Sewerage Treatment Plant, new pump stations and increase in storage.
2.	Project Commencement Date	The Date of this Deed.
3.	Project Period Project Completion Date	Commencing on the Date of this Deed and ending on the Project Completion Date. The completion date specified in the Approved Project Plan referred to in clause 7.5 of this deed
4.	Project Objectives	<ul style="list-style-type: none"> Provide Infrastructure to support the release of residential land within the Northern Growth Area and development of employment land within the Bomen Special Activation Precinct providing for both residential accommodation and employment to meet the projected population growth. The Northern Growth Area will provide for up to 9,000 new homes and the Bomen Special Activation Precinct will provide 6,000 new jobs.
5.	DPHI Funding	\$21,225,566.75 excl GST
6.	Recipient Contribution	\$7,075,188.68 excl GST
7.	Combined Funding	\$28,300,755.43 excl GST
8.	Capital Works	The capital works to be carried out in accordance with Project Plan.
9.	Project Location	Location as marked on Annexure B
10.	Department Address for Service	4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 Email: aif@dpie.nsw.gov.au
11.	Recipient Address for Service	INSERT STREET ADDRESS – COUNCIL TO POPULATE Email: [insert] COUNCIL TO POPULATE
12.	Department Contact Person	Program Manager, Infrastructure Delivery and Governance (or any other person acting in that role from time to time)

	Item	Detail
13.	Recipient Contact Person	<insert> COUNCIL TO POPULATE

Schedule 2 Funding

1. The Department will provide, or enable the provision of, the Funding to the Recipient in multiple payments for the Project in accordance with Schedule 5.
2. The Recipient agrees to receive the Funding in accordance with, and subject to the terms of this Deed.
3. Prior to the Department making any payment of the Funding to the Recipient, the Recipient agrees to provide the Department with:
 - (a) a valid tax invoice (including itemisation of the GST component) in accordance with the following requirements:
 - (i) be addressed to the Department;
 - (ii) prominently be identified as "Tax Invoice"; and
 - (iii) contain:
 - (A) the Recipient's name;
 - (B) the Recipient's ABN;
 - (C) the name of Project;
 - (D) the amount of Funding requested;
 - (E) the GST component (listed separately to the amount requested); and
 - (F) the total amount of Funding requested.

Schedule 3 Reporting Requirements**Monthly Update Report**

1. The Recipient must provide a Monthly Update Report to the Department. The Monthly Update Report must be provided, regardless of progress in carrying out the Project.
2. Each Monthly Update Report for the purposes of this Schedule 3 must be in the format provided by DPHI, including the extent to which (and the times at which) Milestones described in Schedule 5 have been completed, and whether the relevant outputs or outcomes in the table have been realised. Any major changes to the Project and any major issues arising out of the Project are to be outlined.
3. Each Monthly Update Report must be endorsed by an appropriate representative of the Recipient before being provided to the Department.
4. The Recipient must provide the Department with any additional reports it requests.

Project Acquittal Report

1. The Recipient must provide to the Department within 3 months of completion of the Project, a Project Acquittal Report in the form required by the Department.
2. The Project Acquittal Report must include:
 - (a) when the Project, was completed;
 - (b) an itemised breakdown and details of the actual cost of the Project, including a tabulated and indexed folder of tax invoices for, and documentary evidence of the payment of, each component of the Project;
 - (c) the date the works comprised in the Project were made available for use by the local community,and any other information required by the Department.
3. The Project Acquittal Report must be endorsed by the Recipient's Authorised Officer before being provided to the Department.

Procurement Certificate

1. The Recipient must provide to the Department within 3 months after actual completion of the Project, a Procurement Certificate.
2. The Procurement Certificate must include a statement that the Recipient in carrying out the Project, has complied with the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and the Recipient's procurement policy.
3. The Procurement Certificate must be signed by the Recipient's chief procurement officer or any person performing this function before being provided to the Department.

Schedule 4 Standard Conditions

Condition no	Condition	Action
1	To acknowledge the financial support the Recipient has received from the New South Wales Government.	The Recipient to, at its costs, install a plaque in accordance with the Funding Acknowledgement Guidelines

Schedule 5 Project Milestones

Date of completion	Milestone	Funding payable upon completion of Milestone
Date of this Deed	<p>Milestone 1 – Execution of Deed & Draft Project Plan</p> <p>Execution of Funding Deed and receipt by the Department of a Correctly Rendered Tax Invoice.</p> <p>Provision of a Draft Project Plan</p>	\$21,225,566.75 (equivalent to 100% of total funding under executed agreement)
No later than 1 month after the Date of this Deed	<p>Milestone 2 – Accepted Final Project Plan and Conformation of Recipient Contribution</p> <ul style="list-style-type: none"> • The Recipient is to provide to the Department the Project Plan, which is to include a budget plan, risk register and stakeholder plan and any ancillary document, report or information required by the Department. • The Project Plan must set out the additional Milestones for the construction stage of the Project (and where applicable, any other stages) • The Recipient is to provide to the Department satisfactory evidence that it holds the Recipient Contribution, including the source or sources of the Recipient Contribution, and the manner in which the Recipient Contribution is to be spent for the Project. • This Milestone will be complete when: <ul style="list-style-type: none"> o the Department confirms its acceptance of the Project Plan or an Imposed Project Plan is put in place, and it is incorporated into this Deed in accordance with the Variations Schedule; and o the Department confirms its acceptance of evidence of the Recipient Contribution provided by the Recipient. 	NIL
In accordance with approved project plan	<p>Milestone 3 – Completion of Planning Approvals (if applicable) and Detailed Design</p>	NIL

Date of completion	Milestone	Funding payable upon completion of Milestone
No later than 20 Business Days before the Last Date for Commencement of Construction	<p>Milestone 4 – Notice of Construction Commencement</p> <p>The Recipient must provide the Commencement Notice to the Department in accordance with clause 4.1. and receipt by the Department of a Correctly Rendered Tax Invoice</p>	NIL
No later than 30 June 2026	<p>Milestone 5 – Practical Completion</p> <ul style="list-style-type: none"> • The Recipient is to provide confirmation by written notice to the Department (including by providing appropriate documentation) of Practical Completion for the Project. • The Recipient is to provide as built drawings, a schedule of completed works, and photographic evidence of the completed works. 	NIL
No later than 3 months after Milestone 5 Practical Completion	<p>Milestone 6 – Project Acquittal</p>	NIL

Schedule 6 Variation Schedule

Both parties acknowledge and agree that:

- (a) the following clauses of this Deed may be varied by completing the schedule below:
 - (i) Schedule 1 Deed Details
 - (ii) Schedule 5 Project Milestones
- (b) on and from the relevant Effective Date, the Clause is varied to as shown in the second column, 'Amended Clause':

Clause	Amended Clause	Effective Date	Department's Authorised Officer	Recipient's Authorised Officer

Annexure A – Approved Project Plan – Milestone 2

Annexure B – Project Location

<Council shall provide a spatial/aerial map displaying the location along with start and finish co-ordinates in Latt and Long – please insert here>

Department of Planning, Housing and Infrastructure



**ACCELERATED INFRASTRUCTURE FUND
FUNDING DEED – ROUND 3**

WAGGA WAGGA CITY COUNCIL

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This Funding Deed is 30/05/2024

Parties:

Department

The Crown in right of the State of New South Wales acting through the Department of Planning, Housing and Infrastructure (ABN 20 770 707 468) of Level 11, 4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150.

Recipient

Wagga Wagga City Council a body politic of the State constituted under the *Local Government Act 1993* (ABN 56 044 159 537 of 243 Baylis Street, Wagga Wagga NSW 2650, Australia)

Introduction:

- A** The NSW Government established the Accelerated Infrastructure Fund to support the delivery of essential infrastructure in high-growth greenfield and brownfield areas of metropolitan and regional New South Wales. The fund provides funding for local councils, State agencies and utilities to deliver essential infrastructure that will enable and support the construction of new homes.
- B** Essential infrastructure includes:
- Roads and transport infrastructure;
 - Open space and parklands;
 - Stormwater and drainage infrastructure;
 - Water, sewerage and electrical infrastructure; and
 - Community facilities.
- C** The Department has agreed to provide the Funding from the Accelerated Infrastructure Fund to the Recipient to facilitate the carrying out of the Project by the Recipient.
- D** The Recipient has agreed to use the Funding together with funding from other sources to carry out the Project.
- E** The objective of this Deed is to document the agreed outcomes for the Project including Milestones and timing for payment of the Funding and completion of the Project.

It is agreed:

In consideration of the mutual promises contained in this Deed, the parties to this Funding Deed agree as follows:

1. Definitions and interpretation

1.1 Definitions

In this Deed, unless the context clearly indicates otherwise:

ABN means (Australian Business Number) as set out in section 41 of the *A New Tax System (Australian Business Number) Act 1999* (Cth);

Annexure means any annexure to this Deed;

Asset means any item of property, purchased, leased, hired, financed, created or otherwise brought into existence either wholly or in part with use of the Funding, but excludes any Intellectual Property Rights;

Australian Accounting Standards refers to the standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the *Australian Securities and Investments Commission Act 2001* (Cth);

Australian Auditing Standards refers to the standards made by the Auditing and Assurance Standards Board created by section 227A of the *Australian Securities and Investments Commission Act 2001* (Cth);

Australian Privacy Principle has the same meaning as it has in the *Privacy Act 1988* (Cth);

Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body;

Business Day means any day that is not a Saturday, Sunday, gazetted public holiday or bank holiday in Sydney, New South Wales, and concludes at 5 pm on that day;

Capital Works means any part of the Project that comprises construction and building works within the Project Location, and includes the Capital Works listed at Item 8 of the Deed Details;

Change in Policy means a change in the NSW Government policies with respect to or in connection with the Project, funding provided under this Deed or the implementation of this Deed.

Combined Funding means the total amount of the Funding and the Recipient Contribution.

Commencement Notice has the meaning given to the term in clause 9(b).

Commencement of Construction means that:

- (a) all plans have been prepared and all approvals required by applicable Authorities have been obtained for construction of the Project; and
- (b) a contract with the principal Subcontractor has commenced, if applicable; and
- (c) excavation in respect of construction of an improvement that will become part of the Project has commenced, and where there is no excavation, it means commencement of construction of an improvement that will become part of the Project.

Confidential Information means:

- (a) terms of this Deed and all confidential information, material and technology disclosed or provided in any form by any party to any other party in connection with the subject matter of this Deed;
- (b) the information (if any) described in Item **Error! Reference source not found.** of the Deed Details; and
- (c) information that the parties agree in writing after the Date of this Deed is confidential information for the purposes of this Deed.

Construction Commencement Date means the date of the Commencement of Construction, specified in the Commencement Notice.

Copyright Material has the same meaning as it has in the *Copyright Act 1968* (Cth);

Date of this Deed means the date written on page 1 of this Deed, or if no date is written there, then the date on which the Deed is signed by the last party;

Deed means this document and includes any Schedules and Annexures;

Deed Details means those details in Schedule 1 of this Deed;

Department where the context permits, includes officers, delegates, employees and agents and successors of the Department of Planning, Housing and Infrastructure (ABN 20 770 707 468);

Department Material means any Material:

- (a) provided by the Department to the Recipient for the purposes of this Deed; or
- (b) derived at any time from the Material referred to in paragraph (a);

Dispose means to sell, licence, lease or sublease, or otherwise transfer or give up ownership or the right to occupy or use, or to enter into an agreement to do any of the preceding acts and "Disposal" means the method of so disposing;

Existing Material means all Material in existence prior to the Date of this Deed;

- (a) incorporated in;
- (b) supplied with, or as part of; or
- (c) required to be supplied with, or as part of,

the Project Material;

Force Majeure means a delay resulting from any cause or reason beyond the reasonable control of a party including any one of the following events:

- (a) civil war, insurrections, riots, floods, fires, explosions, pandemics, earthquakes, acts of God or the public enemy; and
- (b) industrial disputes, stoppages, strikes.

Financial Year means each period from 1 July to the following 30 June occurring during the Term, or any part of such a period occurring at the beginning or end of the Term;

Funding means the amount or amounts payable by the Department under this Deed as specified in Item 5 of the Deed Details on the terms and conditions set out in this Deed;

Funding Acknowledgement Guidelines means the NSW Government Funding Acknowledgement Guidelines for Recipients of NSW Government Infrastructure Grants updated from time to time and available at [Sponsorship and funding acknowledgement | NSW Government](https://www.nsw.gov.au/branding/sponsorship-and-funding-acknowledgment-guidelines) (<https://www.nsw.gov.au/branding/sponsorship-and-funding-acknowledgment-guidelines>) or as otherwise notified by the Department;

GST has the meaning that it has in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

Imposed Project Plan means a plan for the conduct of the Project, reasonably required by the Department, failing agreement on a Project Plan under clause 7.5;

Information Privacy Principle has the meaning given in the *Privacy and Personal Information Protection Act 1998* (NSW);

Intellectual Property Rights includes:

- (a) all copyright (including rights in relation to phonograms and broadcasts);
- (b) all rights in relation to inventions, plant varieties, trademarks (including service marks), designs, circuit layouts;
- (c) all other rights resulting from intellectual activity in the industrial, scientific literary or artistic fields; and
- (d) Moral Rights;

Interest means interest calculated at an interest rate equal to the general interest charge rate for a day pursuant to section 8AAD of the *Taxation Administration Act 1953* (Cth), on a daily compounding basis;

Last Date for Commencement of Construction means the date specified in Item 2 of the Deed Details;

Law includes:

- (a) Acts of the Commonwealth and the State(s) and Territory(s) in which the Project will be undertaken, and any other relevant State or Territory;
- (b) ordinances, regulations, by-laws, orders and proclamations or other instruments of legal effect made under those Acts referred to in paragraph (a);
- (c) directions by any person exercising statutory powers regarding the Recipient or the Project; and
- (d) all the requirements, standard, approvals, licences, registrations or permits of any government (including local government) department, authority, agency or regulatory body that apply to the Project,

whether currently in force or coming into force on or after the Date of this Deed;

Material means anything in which Intellectual Property Rights arise;

Milestone means a milestone or stage of completion of the Project as set out in Schedule 5;

MOG Change means changes in the title, structure, department, function or operations of the Department or any other NSW Government Entity involved in the services as a result of the machinery of government;

Monthly Update Report means the report to be provided by the Recipient to the Department on a monthly basis in accordance with the provisions of Schedule 3;

Moral Rights includes the following rights of an author of Copyright Material:

- (a) the right of attribution of authorship;
- (b) the right of integrity of authorship; and
- (c) the right not to have authorship falsely attributed;

Notice has the meaning in clause 26.1;

Personnel means:

- (a) in relation to the Recipient – any natural person who is an officer, employee, agent, or professional advisor of the Recipient or its Subcontractors; and
- (b) in relation to the Department – any natural person who is an officer, employee, agent or professional advisor of the Department;

Practical Completion means completion of the Milestones in accordance with Schedule 5;

Privacy Law means the *Privacy Act 1988* (Cth), the *Privacy Regulations 2013* (Cth), the Australian Privacy Principles, the Information Privacy Principles, the *Privacy and Personal Information Protection Act 1998* (NSW), the *Privacy and Personal Information Protection Regulations 2014* (NSW);

Procurement Certificate means a certificate to be provided by the Recipient to the Department following completion of the Project, including Practical Completion, in accordance with the provisions of Schedule 3;

Project means the Project described in Item 1 of the Deed Details and includes the provision of the Project Material to the Department;

Project Acquittal Report means a report to be provided by the Recipient to the Department following completion of the Project, including Practical Completion in accordance with the provisions of Schedule 3;

Project Commencement Date means the date set out in Item 3 of the Deed Details;

Project Completion Date means the date set out in Item 3 of the Deed Details as the Project Completion Date;

Project Location means the locations set out in Item 8 of the Deed Details;

Project Material means any Material:

- (a) created by the Recipient for the purpose of this Deed;
- (b) provided or required to be provided to the Department under the Deed; or
- (c) derived at any time from the Material referred to in paragraphs (a) or (b),

and includes

- (d) any Existing Material incorporated in the Material referred to in paragraphs (a) or (b) above;
- (e) any Promotional Material;
- (f) any Monthly Update Report;
- (g) the Project Acquittal Report; and
- (h) the Procurement Certificate;

Project Objectives means the objectives of the Project described in Item 5 of the Deed Details;

Project Period means the period specified in Item 4 of the Deed Details during which the Project must be completed;

Project Plan means the project plan referred to in clause 7.5 and annexed to this Deed at Annexure A, as amended from time to time;

Program means the program under which the Department is able to provide Funding to the Recipient as further described at Item 6 of the Deed Details;

Promotional Material means any photo, artist impression, video or any other promotional material relating to the Project reasonably required by the Department;

Recipient includes, where the context permits, the officers, employees, agents, volunteers and subcontractors, and successors of the Recipient;

Recipient Contribution means the amount the Recipient is contributing towards the Project as specified in Item 7 of the Deed Details;

Records includes documents, information and data stored by any means and all copies and extracts of the same;

Schedule means a schedule to this Deed and may include Annexures and incorporate other documents by reference;

Standard Condition takes its meaning from Schedule 4;

Subcontract means a written contract between the Recipient and a Subcontractor;

Subcontractor means a person/entity appointed by the Recipient to conduct the Project (or part of it);

Term refers to the period described in clause 2 of this Deed;

Third Party Interest means any legal or equitable right, interest, power or remedy in favour of any person other than the Department or the Recipient in connection with this Deed, including any right of possession, receivership, control or power of sale, and any mortgage, charge, security or other interest; and

Unexpended Funding means any part of the Funding that is unspent or uncommitted.

1.2 Interpretation

In this Deed, unless the context clearly indicates otherwise:

- (a) a reference to **this Deed** or another document means this deed or that other document and any document which varies, supplements, replaces, assigns or novates this deed or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (c) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing deed, to a body or authority having substantially the same objects as the named body or authority;

- (d) a reference to the **introduction**, a **clause**, **schedule** or **annexure** is a reference to the introduction, a clause, a schedule or an annexure to or of this deed;
- (e) **clause headings** and the **table of contents** are inserted for convenience only and do not form part of this deed;
- (f) the **introduction**, **schedules** (if any) and **annexures** (if any) form part of this deed;
- (g) the **introduction** accurately sets out the circumstances in which the parties have entered into this deed;
- (h) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (i) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (j) a reference to a **corporation** includes its successors and permitted assigns;
- (k) **related** or **subsidiary** in respect of a corporation has the same meaning given to that term in the Corporations Act;
- (l) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this deed;
- (m) an **obligation** or **warranty** on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally;
- (n) a reference to a **breach of warranty** includes that warranty not being complete, true or accurate;
- (o) a requirement to do anything includes a requirement to cause that thing to be done and a requirement not to do anything includes a requirement to prevent that thing being done;
- (p) **including** and **includes** are not words of limitation;
- (q) the words **at any time** mean at any time and from time to time;
- (r) a reference to a time is to that time in New South Wales;
- (s) a word that is derived from a defined word has a corresponding meaning;
- (t) **monetary amounts** are expressed in Australian dollars;
- (u) the singular includes the plural and vice-versa;
- (v) words importing one gender include all other genders; and
- (w) a reference to a thing includes each part of that thing.

1.3 Construction

Neither this Deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

2. Term

The Term of this Deed commences on the Date of the Deed and, unless terminated earlier, it expires on the day on which the Recipient provides the Project Acquittal Report and the Procurement Certificate to the Department.

3. Machinery of Government and other Changes in Policy

- (a) The Recipient acknowledges that during the term of the Deed, there may be MOG Changes, and that services supplied by the Recipient may be transferred between NSW Government entities as required without additional charges or costs being imposed as a result.
- (b) If, during the term of the Deed, a MOG Change occurs resulting in the transfer of functions from the Department to another entity, the Department may transfer this Deed in its entirety to the new entity by giving written notice to the Recipient.
- (c) If the MOG Change results in a requirement for a novation, variation or transfer of this Deed, then the Recipient agrees to enter into a deed and/or a new agreement to give effect to that change.

4. Provision of Funding

4.1 Payment of Funding

- (a) Subject to sufficient funds being available, and compliance by the Recipient with this Deed, the Department agrees to provide the Recipient with the Funding at the times and in the manner specified in Schedule 2.
- (b) The Recipient agrees to:
 - (i) undertake the Project and be responsible for any Project costs that exceed the Funding;
 - (ii) remain responsible for all maintenance costs arising from the Project (including any costs incurred after the Term); and
 - (iii) procure the Recipient Contribution and any additional funding necessary to carry out the Project in order to ensure the Project is delivered and maintained in accordance with this Deed.
- (c) The Department is not responsible for the provision of additional money to meet any expenditure in excess of the Funding.

4.2 Expenditure of Funding

- (a) No Funding can be expended prior to the Project Plan being agreed in accordance with clause 7.5, and evidence of the Recipient Contribution has been provided.
- (b) Not less than 5 Business Days prior to expending or committing Funding in an amount greater than \$200,000, the Recipient must provide a Notice to the Department specifying the:
 - (i) the amount of Funding to be expended;
 - (ii) details of the Milestone to which it relates; and
 - (iii) a copy of any tax invoices to which the expenditure relates.
- (c) The Recipient must not expend any funds the subject of a Notice under clause 4.2(a) without the prior written approval of the Department.

- (d) If at the time of provision of a Notice under Clause 4.2(a) the Recipient has failed to comply with any of the terms of this Deed, including reporting, the Department will provide Notice to the Recipient of the steps to be taken by the Recipient to remedy those failures. The Recipient must inform the Department of completion of those steps and the Department will then consider providing approval under clause 4.2(b).

5. Recipient Contribution

- (a) The Recipient agrees that it must provide the Recipient Contribution and use the Recipient Contribution towards the cost of the Project.
- (b) The Recipient must, by no later than the date specified in the Milestones Schedule for completion of the Project Plan and Recipient Contribution, provide to the Department satisfactory evidence that the Recipient holds the Recipient Contribution, including the source or sources of the Recipient Contribution, and the manner in which the Recipient Contribution is to be spent for the Project.
- (c) If for any reason, the Recipient is not able to provide evidence to the satisfaction of the Department that it holds the Recipient Contribution as required under this Deed, then the Department may:
- (i) suspend payment of the Funding until the Recipient Contribution is obtained; or
 - (ii) terminate this Deed in accordance with clause 21.
- (d) The Recipient must notify the Department in writing as soon as possible after it becomes aware of any likely or actual failure (for any reason) to obtain the Recipient Contribution as required under this Deed.

6. Cost Savings

- (a) If the cost of the completed Project is less than Combined Funding, the Department may give the Recipient notice requiring the Recipient to return to the Department, within the period specified in the notice, an amount equal to the Department's Proportion of the Cost Savings. In this subclause 6(a) "the Department's Proportion of the Cost Savings" means savings x % where:
- (i) $\text{savings} = (\text{the Combined Funding} - \text{the actual cost of the Project} - \text{any part of the Funding previously repaid to the Department under this Deed}); \text{ and}$
 - (ii) $\% = (\text{the Funding} \div \text{the Combined Funding}).$
- (b) If the Recipient receives a Notice given by the Department under subclause 6(a) the Recipient must comply with the Notice within the period specified in the Notice.

7. Project

7.1 Project Requirements

The Recipient must:

- (a) use the Funding to complete the Project and for no other purpose;
- (b) commence the Project no later than the Project Commencement Date; and
- (c) achieve Practical Completion by the Project Completion Date.

7.2 Conduct of Project

The Recipient agrees to carry out the Project:

- (a) to achieve the Project Objectives and for no other purpose;
- (b) to meet the Milestones in accordance with clause 7.3;
- (c) in an efficient, effective, economical and ethical manner;
- (d) diligently and to a high standard;
- (e) in accordance with this Deed, including the Project Plan; and
- (f) in accordance with all applicable Laws.

7.3 Milestones

The Recipient must complete, to the satisfaction of the Department:

- (a) each Milestone; and
 - (b) each obligation or requirement imposed by each Milestone,
- on or before the date specified for the completion of that Milestone in Schedule 5.

7.4 Standard Conditions

The Recipient must complete, to the satisfaction of the Department:

- (a) each Standard Condition; and
 - (b) each action, obligation or requirement imposed by each Standard Condition,
- on or before the date specified for the completion of that action, obligation or requirement imposed by the Standard Condition in Schedule 4.

7.5 Project Plan

- (a) The Recipient must provide the Project Plan to the Department by the date specified in the Milestone Schedule.
- (b) The Project Plan must be jointly agreed between the Department and the Recipient. If for any reason the parties do not jointly agree on the terms or form of the Project Plan, the Recipient must comply with an Imposed Project Plan.
- (c) If the Department requires the Project to be completed in accordance with an Imposed Project Plan, a reference to Project Plan in this Deed will be read as referring to the Imposed Project Plan.
- (d) The Recipient must carry out the Project in accordance with the Project Plan.
- (e) The Department and the Recipient acknowledge that the Project Plan may be varied in accordance with clause 28.3.

7.6 Recipient Obligations

- (a) The Recipient agrees to:
 - (i) liaise with and provide information, any reports or other documents to the Department as reasonably requested by the Department, including at any Milestones; and
 - (ii) comply with all of the Department's reasonable requests, directions, monitoring or reporting requirements.
 - (iii) This clause 7.6(a) survives the termination of this Deed.

- (b) The Recipient agrees to provide to the Department written Monthly Update Reports, a Project Acquittal Report and a Procurement Certificate in the manner specified in Schedule 3.
- (c) Each of the parties may nominate, from time to time, a person who has authority to receive and sign Notices and written communications for each of them under this Deed and accept any request or direction in relation to the Project.

7.7 Responsibility of the Recipient

The Recipient is fully responsible for the performance of the Project and for ensuring compliance with the requirements of this Deed, and will not be relieved of that responsibility because of any:

- (a) involvement by the Department in the performance of the Project;
- (b) subcontracting of the Project (or any part of it); or
- (c) payment of any amount of Funding to the Recipient.

7.8 Records

The Recipient agree to comply with all obligations under, and reasonable directions from the Department in respect of, the *State Records Act 1998* (NSW) and the *State Records Regulation 2015* (NSW).

8. Subcontractors

8.1 Recipient may subcontract

- (a) The Recipient is fully responsible for the performance of the Recipient's obligations under this Deed and may subcontract any part of its obligations under this Deed.
- (b) The Recipient must have a Subcontract and ensure that each Subcontract is consistent with, and allows the Recipient to give effect to, the Recipient's obligations under this Deed.
- (c) The Recipient is responsible for ensuring the suitability of a Subcontractor for the work proposed to be carried out.
- (d) The Recipient must ensure that its Subcontractors comply with the relevant terms of this Deed and do not do anything, or omit to do anything, which if done or omitted to be done by the Recipient would be a breach of the Recipient's obligations under this Deed.
- (e) The Recipient shall be deemed to be responsible for any and all breaches of this Deed committed by its Subcontractors as if the Recipient had breached the Deed itself.

9. Commencement of Construction

- (a) The Recipient must achieve Commencement of Construction by no later than the Last Date for the Commencement of Construction.
- (b) The Recipient must provide the Department with at least 20 Business Days' notice (**Commencement Notice**) of the Construction Commencement Date (which must be no later than the Last Date for Commencement of Construction)
- (c) The Commencement Notice must:
 - (i) contain details of the Subcontractors appointed by Recipient to carry out any aspect of construction of the Project;
 - (ii) attach the Subcontracts confirming such appointment;

- (iii) identify the different aspects of the Project to be carried out by the Subcontractors, with reference to the Milestones; and
- (iv) identify the proposed Subcontract value for each aspect of the Project with reference to the Milestones;

10. Taxes, duties and government charges

The Recipient agrees to pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Deed.

11. Debt and Interest

- (a) The Recipient agrees, upon request of the Department, to pay any amount owed or payable to the Department or which the Department is entitled to recover from the Recipient under this Deed, including if demanded by the Department any Interest, as a debt due by the Recipient without further proof of the debt by the Department being necessary. Such payment is without prejudice to any other rights available to the Department under the Deed, under statute, at law or in equity.
- (b) If the Department notifies the Recipient that an amount is to be refunded or otherwise paid to the Department and the amount is not refunded or paid within 20 Business Days, or as otherwise notified by the Department, the Recipient agrees to pay Interest, unless the Department notifies the Recipient otherwise, on the amount outstanding after the expiry of the date it was due, until the amount is paid in full.
- (c) In respect to any obligation the Recipient may have under this Deed to pay the Department any Interest, the Recipient agrees that the Interest represents a reasonable pre-estimate of the loss incurred by the Department.

12. GST

12.1 Definitions

Words used in this clause that are defined in the GST Law have the meaning given in that legislation.

12.2 Consideration is GST-exclusive

Unless otherwise specified, all amounts payable under this Deed are exclusive of GST and must be calculated with regard to GST.

12.3 GST payable on taxable supply

- (a) If a supply made under this Deed is a taxable supply, the recipient of that taxable supply must, in addition to any other consideration, pay to the party making the taxable supply (**Supplier**) the amount of GST in respect of the supply.
- (b) The recipient of the taxable supply will only be required to pay an amount of GST to the Supplier if and when the Supplier provides a valid tax invoice to the recipient of that taxable supply in respect of the taxable supply.
- (c) If there is an adjustment to a taxable supply made under this Deed then the Supplier must provide an adjustment note to the recipient of that taxable supply.
- (d) The amount of a party's entitlement under this Deed to recovery or compensation for any of its costs, expenses or liabilities is reduced by the input tax credits to which that party is entitled in respect of those costs, expenses or liabilities.

13. Management Funding

13.1 Account and financial records

- (a) The Recipient agrees to ensure that the Funding is held in an account in the Recipient's name and which the Recipient solely controls, with an authorised deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia and that is an account that complies with any other reasonable requirements of the Department.
- (b) The Recipient agrees to:
- (i) keep financial accounts and Records relating to the Funding and Project that identify:
 - (A) all receipts and payments related to the Funding and Project; and
 - (B) all interest earned on the Funding.
 - (ii) unless otherwise notified by the Department, prepare financial statements for the Project in accordance with Australian Accounting Standards including:
 - (A) a register of the Assets created, acquired, written-off or Disposed of during the Financial Year to date; and
 - (B) arrange for the audit of those accounts and Records in accordance with Australian Auditing Standards.

13.2 Refunds of unexpended and misspent Funds

- (a) Without limiting the Department's rights under this Deed, the Department may by Notice in writing recover all or part of the Funding from the Recipient (as a debt due and payable on demand) in any of the circumstances set out below in Column A, but only to the extent set out in the Column B in the table below:

	Column A: Circumstance in which some or all of the Funding may be recovered by the Department	Column B: Extent to which some or all of the Funding may be recovered by the Department
1	The Recipient is paid more than the Funding as specified in this Deed.	Only to the extent of the amount of overpayment.
2	The Recipient has incorrectly claimed some or all of the Funding.	Only to the extent which part or all the Funding has been incorrectly paid to the Recipient.
3	The Recipient abandons the Project.	Repayment of the Funding in full.
4	There is Unexpended Funding at the Project Completion Date.	Only to the extent of any Unexpended Funding.
5	If this Deed is terminated in accordance with clause 21.	Repayment of the Funding in full.
6	The Department, in its discretion, determines that the Project carried out ceases to be viable during the Project Period.	Repayment of part or all of the Funding (as determined by the Department).

	Column A: Circumstance in which some or all of the Funding may be recovered by the Department	Column B: Extent to which some or all of the Funding may be recovered by the Department
7	The Department, in its discretion, determines that the Project completed, including Practical Completion did not achieve the scope of the Project.	Repayment of part or all of the Funding (as determined by the Department).
8	The Project is demolished within two (2) years of the Project Completion Date or actual completion of the Project (whichever is the latter).	Repayment of the Funding in full.
9	Change in NSW Government Policy in clause 21.2 or Force Majeure (Clause 22).	Only to the extent of any Unexpended Funding.

- (b) If the Department exercises the right to require the repayment of all or part of the Funding in accordance with clause 13.2(a), the Recipient must repay:
- (i) the full amount of the Funding, or
 - (ii) the part of the Funding that is the subject of the Notice, and
 - (iii) Interest;
- within the period (which must be reasonable in the circumstances) specified in the written Notice.
- (c) Despite clause 13.2(a)(0) above, if the cost of the completed Project, including Practical Completion is less than the Funding, the Department may by provision of a Notice require the Recipient to otherwise deal with the Unexpended Funding in accordance with any conditions that the Department considers appropriate, including conditions relating to the ongoing use and expenditure by the Recipient of that amount for particular goals or objectives associated with the Project.
- (d) If any dispute arises regarding the repayment of the Funding, the parties must attempt to resolve the dispute in accordance with clause 20.
- (e) This clause survives termination or expiry of this Deed.

14. Statutory Approvals

- (a) The Recipient must obtain all necessary statutory approvals in relation to the Project, and the Recipient must give the Department, within six months after the Date of this Deed, satisfactory written evidence that these statutory approvals have been obtained.
- (b) If the Recipient does not comply with the requirement in subclause 14(a), the Department may at the Department's sole discretion terminate this Deed.

15. Records & Audit**15.1 Keeping Records**

The Recipient must create and maintain full and accurate accounts and Records of the conduct of the Project including, without limitation, all:

- (a) progress against the Milestones; and
- (b) receipt and use of Funding.

15.2 Retention of Records

The Recipient agrees to create and maintain Records and accounts under clause 15.1 and retain them for a period of no less than seven years after the end of the Term.

15.3 Audit

- (a) The Department may at its expense and in its discretion conduct an audit of the Recipient's compliance with this Deed.
- (b) The Department or a person commissioned by the Department will give the Recipient prior Notice of its requirements in relation to an audit and endeavour to minimise disruption and interference to the Recipient's performance of its obligations under this Deed.
- (c) The Recipient must co-operate fully with the audit, including permitting the person conducting the audit to inspect and make copies of the Recipient's Records and materials relevant to the Project and the performance of this Deed.
- (d) Except where otherwise determined by the Department, the Recipient is responsible for its own costs of participating in or conducting an audit and such costs are not to be paid out of the Funding.
- (e) The Recipient must promptly take any reasonable action required by the Department to rectify any error, non-compliance or inaccuracy identified in an audit in relation to the Project or the Recipient's performance of this Deed.
- (f) The Recipient is not entitled to any delay costs or other costs or expenses of whatever nature relating in any way to an audit.
- (g) Where the Department directs, the Recipient must not spend nor make any further commitment to spend any of Funding until such time as the audit has been completed and the Department has confirmed in writing that any action required under clause 15.3(e) has been taken.

16. Confidential information**16.1 Obligation**

- (a) Subject to this clause 16, each party must maintain in confidence all Confidential Information and ensure that the Confidential Information is kept confidential.
- (b) The Recipient agrees to secure all of the Department's Confidential Information against loss and unauthorised access, use, modification or disclosure.

16.2 Written Undertakings

The Recipient must, on request by the Department at any time, arrange for:

- (a) its Personnel; or
- (b) any person with a Third Party Interest,

to give a written undertaking in a form acceptable to the Department relating to the use and non-disclosure of the Department's Confidential Information.

16.3 Exceptions to confidentiality

The obligations on the parties under this clause 16 will not be taken to have been breached to the extent that the Confidential Information:

- (a) is required to be disclosed by Law, in which case the disclosing party must immediately notify the other party of the requirement and must take lawful steps and permit the opposition or restriction of the disclosure to preserve, as far as possible, the confidentiality of the Confidential Information;
 - (i) is disclosed by a party to its Personnel solely in order to comply with obligations, or to exercise rights, under this Deed;
 - (ii) is disclosed by the Department to the responsible Minister;
 - (iii) is disclosed by the Department, in response to a request by a House or a Committee of the Parliament of New South Wales or the Commonwealth of Australia;
 - (iv) except to the extent it is prohibited by any Law, is shared by the Department (including with other NSW government agencies), where this serves the Department's, the Crown in right of the State of New South Wales, or the Commonwealth of Australia's legitimate interests;
 - (v) is in or enters the public domain for reasons other than a breach of this Deed; or
 - (vi) is disclosed to its professional advisers to obtain professional advice.

16.4 Obligation to notify

Where a party discloses Confidential Information to another person pursuant to clause 16.3 the disclosing party must notify the receiving person that the information is confidential.

16.5 Period of Confidentiality

The obligations under this clause 16 continue, notwithstanding the expiry or termination of this Deed except to the extent any of the Confidential Information is released into the public domain, otherwise than in breach of this Deed.

16.6 Survival of clause

This clause 16 will survive the termination of this Deed.

17. Privacy

17.1 Privacy Obligations

- (a) The Recipient agrees, in conducting the Project:
 - (i) not to do any act or engage in any practice which, if done or engaged in by the Department, would be a breach of a Privacy Law;
 - (ii) to comply with the Privacy Law; and

- (iii) to comply with any directions, guidelines, determinations or recommendations of the Department, to the extent that they are consistent with the Privacy Law.
- (b) The Recipient agrees to notify the Department immediately if it becomes aware of a breach or possible breach of any of its obligations under this clause 17.1.
- (c) The provisions of this clause 17.1 survive the termination or expiration of this Deed.

17.2 No reduction in Privacy Obligations

The obligations in clause 18 do not detract from any of the Recipient's obligations under the Privacy Law or under clause 17.1.

18. Acknowledgement and publicity

18.1 Acknowledgement of support

- (a) Unless otherwise notified by the Department, the Recipient agrees, in all publications, promotional and advertising Materials, public announcements, promotional plaques and activities by the Recipient or on the Recipient's behalf in relation to the Project, or any products, processes or inventions developed as a result of it, to acknowledge the financial and other support the Recipient has received from the New South Wales Government in accordance with the Funding Acknowledgement Guidelines, or as otherwise approved by the Department prior to its use or publication.
- (b) Where the Recipient has been provided with Funding to produce any publication, a copy of the publication must, on request, be provided to the Department.
- (c) The Recipient must provide the Department with no less than 30 Business Days' Notice of any proposed publications, promotional and advertising Materials or public announcements and activities by the Recipient in connection to the Project.
- (d) If a Notice is given under subclause (c) above, the Recipient must:
 - (i) provide the Department with all such information as reasonably required by the Department regarding the time and date of the proposed publications, promotional and advertising Materials or public announcements and activities; and
 - (ii) do such things as required to allow a representative of the Department to attend or participate in (including making an announcement at any public announcement or activity) which the Department may choose to do so in its absolute discretion.

18.2 Right to publicise Funding and the Project

- (a) The Recipient will provide the Department with Promotional Material to enable the Department to publicise, promote and report on the Project. The Recipient shall be solely responsible for obtaining all necessary Intellectual Property Rights for the Department's use of the Promotional Material.
- (b) The Department reserves the right to use the Promotional Material to publicise, promote and report on the Project and/or awarding of Funding to the Recipient. The Department may do (but is not limited to doing) this by including the Recipient's name, the amount of the Funding given to the Recipient, the date the Deed commences and its term, and the title, location, purpose and a brief description of the Project in media releases, general announcements about the Funding, annual reports or through any other means as determined by the Department.

- (c) The Recipient agrees to grant to or procure for the Department a permanent, irrevocable, royalty-free, worldwide, non-exclusive, transferable licence (including a right of sublicense) to use, reproduce, exploit, communicate, adapt and distribute the Promotional Material for the purpose provided in subclause (a).
- (d) The Department may in its discretion and where it is practicable to do so, give a Notice to the Recipient of any such publication under subclause (b).
- (e) This clause survives termination or expiry of this Deed.

18.3 Retraction of promotional material

If the Department:

- (a) terminates this Deed under clause 21.1; or
- (b) otherwise determines in its absolute discretion that the Project is not consistent with the Project Objectives,

the Department may, by a Notice to the Recipient, request the Recipient to cease the use of and/or retract any publication of any Promotional Material and the Recipient must immediately comply with such request.

19. Liability and Insurance

19.1 Insurance

- (a) The Recipient must take out and maintain during the Term all appropriate insurance policies including, but not limited to:
 - (i) workers compensation insurance as required by Law for all persons involved in the delivery of the Project.
 - (ii) public liability insurance to the value of not less than \$20 million in respect of each and every occurrence and unlimited in the aggregate for any one period of cover.
 - (iii) insurance over all Assets used in connection with the Project funded or partly funded by the Funding, for their full replacement value.
- (b) On request by the Department, the Recipient must provide a copy of valid and current certificates of currency for the insurance and/or a warranty from its insurer that the policy extends to the Department and covers potential liability arising under this Deed.
- (c) The Recipient must not do, permit or suffer any act, matter or thing or omission whereby the policy referred to in this clause may be vitiated, rendered void or voidable.

19.2 Proportionate liability regime

To the extent permitted by Law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against the Recipient under or in connection with this Deed.

19.3 Indemnity

- (a) In this clause 19.3, "Fault" means any negligent or unlawful act or omission or wilful misconduct.
- (b) The Recipient indemnifies the Department from and against any:
 - (i) cost or liability incurred by the Department;
 - (ii) loss of or damage to property of the Department; or

- (iii) loss or expense incurred by the Department in dealing with any claim against it, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used, or disbursements paid by the Department,
arising from:
 - (iv) any breach by the Recipient of the Deed;
 - (v) any act or omission involving fault by the Recipient in connection with this Deed;
 - (vi) the use of Assets; or
 - (vii) the use by the Department of the Project Material and/or the Promotional Material, including any claims by third parties about the ownership or right to use the Intellectual Property Rights in the Project Material and/or the Promotional Material.
- (c) The Recipient's liability under subclause (a) above will be reduced proportionately to the extent that any act or omission involving Fault on the part of the Department or its Personnel contributed to the relevant cost, liability, loss, damage or expense.
- (d) The right of the Department to be indemnified under this clause 19.3 is in addition to, and not exclusive of, any other right, power or remedy provided by Law, provided that the Department is not compensated in excess of the amount of the relevant cost, liability, loss, damage or expense incurred by the Department.

20. Dispute Resolution

20.1 Procedure for dispute resolution

The parties agree that a dispute arising under this Deed will be dealt with as follows, and that, subject to clause 20.4, neither party will commence legal proceedings until this procedure is completed:

- (a) the party claiming that there is a dispute will give the other party a Notice setting out the nature of the dispute;
- (b) within five Business Days (or such other period as agreed by the parties in writing) each party will nominate a senior representative not having any prior involvement in the dispute;
- (c) the senior representatives will try to settle the dispute in good faith by direct negotiation between them;
- (d) failing settlement within a further 10 Business Days or such other period as agreed by the parties in writing (or failure of one or both parties to nominate a senior representative within the period set out in subclause (b) above), the parties may agree to refer the dispute to an independent third person with power:
 - (i) to intervene and direct some form of resolution, in which case the parties will be bound by that resolution; or
 - (ii) to mediate and recommend some form of non-binding resolution;
- (e) the parties will co-operate fully with any process instigated under subclause (d) in order to achieve a speedy resolution; and
- (f) if the parties have been unable to agree to refer the dispute to an independent third person, or they have agreed and a resolution is not reached within a further 20 Business

Days (or such other period as the parties may agree in writing), either party may commence legal proceedings.

20.2 Costs

Each party will bear its own costs of complying with this clause 20, and the parties will bear equally the cost of any third person engaged under subclause 20.1(d).

20.3 Continued performance

Despite the existence of a dispute, the Recipient will (unless requested in writing by the Department not to do so or subject to any order of a court) continue to perform the Recipient's obligations under this Deed.

20.4 Application of clause

This clause 20 does not apply to:

- (a) legal proceedings by either party for urgent interlocutory relief; or
- (b) action by the Department under or purportedly under clauses 4, 13 or 21.

21. Termination

21.1 Termination for fault

- (a) If the Recipient does not comply with any of its obligations under this Deed, then the Department:
 - (i) if it considers that the non-compliance is not capable of remedy – may by a Notice terminate this Deed immediately;
 - (ii) if it considers that the non-compliance is capable of remedy – may, by a Notice require that the non-compliance be remedied within the time specified in the Notice, and if not remedied within that time, may terminate this Deed immediately by giving a second Notice.
- (b) The Department may also by a Notice terminate this Deed immediately if:
 - (i) in relation to this Deed, the Recipient breaches any Law of the Commonwealth of Australia, or of a State or Territory;
 - (ii) another clause of this Deed allows for termination under this clause 21.1; or
 - (iii) the Department is satisfied that any statement made in the Recipient's application for Funding is false or misleading in a way which would have affected the original decision to approve the Funding.

21.2 Termination for Change in Government Policy

Without limiting any other rights or remedies the Department may have arising out of or in connection with this Deed, the Department may terminate this Deed immediately upon written notice to the Recipient due to a Change in Policy.

21.3 Preservation of other rights

Clause 21.1 does not limit or exclude any of the Department's other rights under this Deed or at Law.

22. Force Majeure

If either Party is unable to perform an obligation under this Deed because of a Force Majeure, then:

- (a) as soon as reasonably practicable after the Force Majeure arises, the affected party shall notify the other party of the Force Majeure and provide details of the Force Majeure and the extent to which and for how long the notifying party estimates that it is unable to perform its obligation; and
- (b) such affected party is relieved from performing its obligations under this Deed (other than the parties' obligations to pay money) to the extent it is prevented from doing so by the Force Majeure;
- (c) dates shall be extended to take into account the Force Majeure as agreed by the parties acting reasonably; and
- (d) such party prevented from performing its obligations due to a Force Majeure shall use commercially reasonable efforts to remedy the situation so it may perform its obligations.

23. Liability of Department on Termination

- (a) If this Deed is terminated under clause 21.2 ('Termination for Change in Government Policy') or clause 22 ('Force Majeure') the Recipient is entitled to payment of any Funding not yet paid, but approved under clause 4.2, as at the effective date of termination.
- (b) Except as set out in clause 23(a) above, the Department is not liable to the Recipient for the balance of the Funding and the Recipient is not entitled to make a claim for damages or loss as a consequence of termination.

24. Assignment

This Deed is personal to each party and neither party may assign the rights or benefits of this Deed to any person.

25. General Warranties

Each party warrants to each other party that this Deed creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms.

26. Notices**26.1 Notices**

Any notice, demand, consent, approval, request or other communication to be given under this Deed (**Notice**) must be:

- (a) in writing;
- (b) given to the following contact person:
 - (i) in the case of the Department, that person specified in Item 12 of the Deed Details, or other person as notified by the Department; or
 - (ii) in the case of the Recipient, that person specified in Item 13 of the Deed Details, or other person as notified by the Recipient;
- (c) served in accordance with clause 26.2; and

- (d) unless this Deed provides otherwise, in English.

26.2 Service of Notices

- (a) A Notice under this Deed is only effective if it is in writing, and addressed as follows:
 - (i) if given by the Recipient to the Department – addressed to the Department at the Address for Service specified in Item 10 of the Deed Details, or other address as notified by the Department; or
 - (ii) if given by the Department to the Recipient – given by the Department and addressed as specified in Item 11 of the Deed Details, or other address as notified by the Recipient.
- (b) A Notice must be given at the recipient's Address for Service by being:
 - (i) hand delivered;
 - (ii) sent by electronic mail; or
 - (iii) sent by prepaid mail within Australia.
- (c) A Notice is given if:
 - (i) hand delivered, on the date of delivery;
 - (ii) sent by electronic mail, on the date of delivery unless an automated response is received by the receiver advising that the email has not been delivered to the recipient;
 - (iii) sent by prepaid mail within Australia, on the date that is 3 Business Days after the date of posting.
- (d) If a Notice is received:
 - (i) after 5:00 pm on any Business Day; or
 - (ii) on a day that is not a Business Day,it is deemed to be received at 9:00 am on the next Business Day for the purposes of this clause 26.

27. Work Health and Safety

27.1 Compliance with Work Health and Safety Law

Where required, the Recipient must comply with:

- (a) all Laws relating to work health and safety including (but not limited to), the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2017* (NSW); and
- (b) all reasonable directions from the Department or its Personnel in relation to work health and safety.

28. General provisions

28.1 Inconsistency

If there is any inconsistency between provisions of this Deed then the order of precedence will be:

- (a) **clause 1 to clause 28**; then
- (b) any **Schedules**; then

- (c) any Annexures.

28.2 Entire agreement

This Deed constitutes the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties, whether orally or in writing.

28.3 Variation

Unless provided in Schedule 6, this Deed or any of the matters outlined in the Schedules or Annexures to this Deed must not be varied except by a later written document executed by all parties.

28.4 Waiver

A right created by this Deed cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

28.5 Conflicts of Interest

- (a) The Recipient must not do anything to bring itself into a situation where it has a conflict of interest with the Department.
- (b) Where the Recipient identifies that there is a conflict of interest between itself and the Department (whether actual, perceived or potential) it must:
- (i) immediately notify the Department;
 - (ii) take proactive steps to mitigate the impact of the conflict of interest;
 - (iii) take steps to remove or manage the conflict of interest; and
 - (iv) do whatever the Department reasonably requests of it to remove or manage the conflict.
- (c) Where the conflict of interest is unable to be managed to the satisfaction of the Department then the Department may terminate this Deed, such termination to be treated as if it were a termination for cause under clause 21.1(b)(ii) of this Deed.

28.6 Further assurances

Each party must promptly execute all documents and do every thing necessary or desirable to give full effect to the arrangements contained in this Deed.

28.7 Time for doing acts

- (a) If the time for doing any act or thing required to be done; or a time specified in a Notice (given in accordance with clause 26) expires on a day other than a Business Day, the time for doing that act or thing is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5 pm, it is taken to have been done on the following Business Day.

28.8 Governing law and jurisdiction

- (a) The Laws applicable in New South Wales govern this Deed.

- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

28.9 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Deed without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

28.10 Preservation of existing rights

The expiration or termination of this Deed does not affect any right that has accrued to a party before the expiration or termination date.

28.11 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this Deed for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

28.12 Counterparts

This Deed may be executed in any number of counterparts. All counterparts taken together constitute one instrument. Delivery of this Deed by email constitutes an effective mode of delivery.

28.13 Relationship of parties

Unless otherwise stated:

- (a) nothing in this Deed creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

28.14 Legal expenses

Each party must pay its own legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this Deed.

Execution page

Executed as a deed

Signed, sealed and delivered for and on behalf of the Crown in right of the State of New South Wales acting through the Department of Planning, Housing and Infrastructure (ABN 20 770 707 468) by its Authorised Officer but not so as to incur any personal liability in the presence of:

.....
Signature of Witness

.....
Signature of Authorised Officer

.....
Name of Witness

.....
Name and position of Authorised Officer

Signed, sealed and delivered for and on behalf of <INSERT COUNCIL NAME> (ABN INSERT ABN <> Council to insert) by its Authorised Officer:

.....
Signature of Witness

.....
Signature of Council Authorised Officer

.....
Name of Witness

.....
Name of Authorised Officer

Schedule 1 Deed Details

	Item	Detail
1.	Project Name and Description	AIF30024 - Plumpton Road North Duplication of the Plumpton Road corridor between Lake Albert Road and Gregadoo Road, six intersection upgrades and associated storm water infrastructure.
2.	Project Commencement Date	The Date of this Deed.
3.	Project Period Project Completion Date	Commencing on the Date of this Deed and ending on the Project Completion Date. The completion date specified in the Approved Project Plan referred to in clause 7.5 of this deed
4.	Project Objectives	<ul style="list-style-type: none"> • Provide Infrastructure to support the release of residential land within the Southern Growth Area which will provide residential accommodation to meet the projected population growth. • Provide critical infrastructure providing direct connection between the Southern Growth Area and Wagga Wagga key employment hubs. • The infrastructure will support the release of residential land within the Southern Growth Area for 2,750 homes which will provide residential accommodation to meet the projected population growth.
5.	DPHI Funding	\$2,620,000.00 (remaining \$22,280,365.61 to be funded by Restart NSW under a separate funding agreement) excl GST
6.	Recipient Contribution	\$8,300,121.87 excl GST
7.	Combined Funding	\$33,200,487.48 excl GST
8.	Capital Works	The capital works to be carried out in accordance with Project Plan.
9.	Project Location	Location as marked on Annexure B
10.	Department Address for Service	4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 Email: aif@dpie.nsw.gov.au
11.	Recipient Address for Service	INSERT STREET ADDRESS – COUNCIL TO POPULATE

	Item	Detail
		Email: [insert] COUNCIL TO POPULATE
12.	Department Contact Person	Program Manager, Infrastructure Delivery and Governance (or any other person acting in that role from time to time)
13.	Recipient Contact Person	<insert> COUNCIL TO POPULATE

Schedule 2 Funding

1. The Department will provide, or enable the provision of, the Funding to the Recipient in multiple payments for the Project in accordance with Schedule 5.
2. The Recipient agrees to receive the Funding in accordance with, and subject to the terms of this Deed.
3. Prior to the Department making any payment of the Funding to the Recipient, the Recipient agrees to provide the Department with:
 - (a) a valid tax invoice (including itemisation of the GST component) in accordance with the following requirements:
 - (i) be addressed to the Department;
 - (ii) prominently be identified as "Tax Invoice"; and
 - (iii) contain:
 - (A) the Recipient's name;
 - (B) the Recipient's ABN;
 - (C) the name of Project;
 - (D) the amount of Funding requested;
 - (E) the GST component (listed separately to the amount requested); and
 - (F) the total amount of Funding requested.

Schedule 3 Reporting Requirements**Monthly Update Report**

1. The Recipient must provide a Monthly Update Report to the Department. The Monthly Update Report must be provided, regardless of progress in carrying out the Project.
2. Each Monthly Update Report for the purposes of this Schedule 3 must be in the format provided by DPHI, including the extent to which (and the times at which) Milestones described in Schedule 5 have been completed, and whether the relevant outputs or outcomes in the table have been realised. Any major changes to the Project and any major issues arising out of the Project are to be outlined.
3. Each Monthly Update Report must be endorsed by an appropriate representative of the Recipient before being provided to the Department.
4. The Recipient must provide the Department with any additional reports it requests.

Project Acquittal Report

1. The Recipient must provide to the Department within 3 months of completion of the Project, a Project Acquittal Report in the form required by the Department.
2. The Project Acquittal Report must include:
 - (a) when the Project, was completed;
 - (b) an itemised breakdown and details of the actual cost of the Project, including a tabulated and indexed folder of tax invoices for, and documentary evidence of the payment of, each component of the Project;
 - (c) the date the works comprised in the Project were made available for use by the local community,and any other information required by the Department.
3. The Project Acquittal Report must be endorsed by the Recipient's Authorised Officer before being provided to the Department.

Procurement Certificate

1. The Recipient must provide to the Department within 3 months after actual completion of the Project, a Procurement Certificate.
2. The Procurement Certificate must include a statement that the Recipient in carrying out the Project, has complied with the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and the Recipient's procurement policy.
3. The Procurement Certificate must be signed by the Recipient's chief procurement officer or any person performing this function before being provided to the Department.

Schedule 4 Standard Conditions

Condition no	Condition	Action
1	To acknowledge the financial support the Recipient has received from the New South Wales Government.	The Recipient to, at its costs, install a plaque in accordance with the Funding Acknowledgement Guidelines

Schedule 5 Project Milestones

Date of completion	Milestone	Funding payable upon completion of Milestone
Date of this Deed	<p>Milestone 1 – Execution of Deed & Draft Project Plan</p> <p>Execution of Funding Deed and receipt by the Department of a Correctly Rendered Tax Invoice.</p> <p>Provision of a Draft Project Plan</p>	\$2,620,000.00
No later than 1 month after the Date of this Deed	<p>Milestone 2 – Accepted Final Project Plan and Conformation of Recipient Contribution</p> <ul style="list-style-type: none"> • The Recipient is to provide to the Department the Project Plan, which is to include a budget plan, risk register and stakeholder plan and any ancillary document, report or information required by the Department. • The Project Plan must set out the additional Milestones for the construction stage of the Project (and where applicable, any other stages) • The Recipient is to provide to the Department satisfactory evidence that it holds the Recipient Contribution, including the source or sources of the Recipient Contribution, and the manner in which the Recipient Contribution is to be spent for the Project. • This Milestone will be complete when: <ul style="list-style-type: none"> o the Department confirms its acceptance of the Project Plan or an Imposed Project Plan is put in place, and it is incorporated into this Deed in accordance with the Variations Schedule; and o the Department confirms its acceptance of evidence of the Recipient Contribution provided by the Recipient. 	NIL
In accordance with approved project plan	<p>Milestone 3 – Completion of Planning Approvals (if applicable) and Detailed Design</p>	NIL

Date of completion	Milestone	Funding payable upon completion of Milestone
No later than 20 Business Days before the Last Date for Commencement of Construction	<p>Milestone 4 – Notice of Construction Commencement</p> <p>The Recipient must provide the Commencement Notice to the Department in accordance with clause 4.1. and receipt by the Department of a Correctly Rendered Tax Invoice</p>	NIL
No later than 30 June 2026	<p>Milestone 5 – Practical Completion</p> <ul style="list-style-type: none"> • The Recipient is to provide confirmation by written notice to the Department (including by providing appropriate documentation) of Practical Completion for the Project. • The Recipient is to provide as built drawings, a schedule of completed works, and photographic evidence of the completed works. 	NIL
No later than 3 months after Milestone 5 Practical Completion	<p>Milestone 6 – Project Acquittal</p>	NIL

Schedule 6 Variation Schedule

Both parties acknowledge and agree that:

- (a) the following clauses of this Deed may be varied by completing the schedule below:
 - (i) Schedule 1 Deed Details
 - (ii) Schedule 5 Project Milestones
- (b) on and from the relevant Effective Date, the Clause is varied to as shown in the second column, 'Amended Clause':

Clause	Amended Clause	Effective Date	Department's Authorised Officer	Recipient's Authorised Officer

Annexure A – Approved Project Plan – Milestone 2

Annexure B – Project Location

<Council shall provide a spatial/aerial map displaying the location along with start and finish co-ordinates in Latt and Long – please insert here>

Department of Planning, Housing and Infrastructure



**ACCELERATED INFRASTRUCTURE FUND
FUNDING DEED – ROUND 3**

WAGGA WAGGA CITY COUNCIL

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This Funding Deed is 30/05/2024

Parties:

Department

The Crown in right of the State of New South Wales acting through the Department of Planning, Housing and Infrastructure (ABN 20 770 707 468) of Level 11, 4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150.

Recipient

Wagga Wagga City Council a body politic of the State constituted under the *Local Government Act 1993* (ABN 56 044 159 537 of 243 Baylis Street, Wagga Wagga NSW 2650, Australia)

Introduction:

- A** The NSW Government established the Accelerated Infrastructure Fund to support the delivery of essential infrastructure in high-growth greenfield and brownfield areas of metropolitan and regional New South Wales. The fund provides funding for local councils, State agencies and utilities to deliver essential infrastructure that will enable and support the construction of new homes.
- B** Essential infrastructure includes:
- Roads and transport infrastructure;
 - Open space and parklands;
 - Stormwater and drainage infrastructure;
 - Water, sewerage and electrical infrastructure; and
 - Community facilities.
- C** The Department has agreed to provide the Funding from the Accelerated Infrastructure Fund to the Recipient to facilitate the carrying out of the Project by the Recipient.
- D** The Recipient has agreed to use the Funding together with funding from other sources to carry out the Project.
- E** The objective of this Deed is to document the agreed outcomes for the Project including Milestones and timing for payment of the Funding and completion of the Project.

It is agreed:

In consideration of the mutual promises contained in this Deed, the parties to this Funding Deed agree as follows:

1. Definitions and interpretation

1.1 Definitions

In this Deed, unless the context clearly indicates otherwise:

ABN means (Australian Business Number) as set out in section 41 of the *A New Tax System (Australian Business Number) Act 1999* (Cth);

Annexure means any annexure to this Deed;

Asset means any item of property, purchased, leased, hired, financed, created or otherwise brought into existence either wholly or in part with use of the Funding, but excludes any Intellectual Property Rights;

Australian Accounting Standards refers to the standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the *Australian Securities and Investments Commission Act 2001* (Cth);

Australian Auditing Standards refers to the standards made by the Auditing and Assurance Standards Board created by section 227A of the *Australian Securities and Investments Commission Act 2001* (Cth);

Australian Privacy Principle has the same meaning as it has in the *Privacy Act 1988* (Cth);

Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body;

Business Day means any day that is not a Saturday, Sunday, gazetted public holiday or bank holiday in Sydney, New South Wales, and concludes at 5 pm on that day;

Capital Works means any part of the Project that comprises construction and building works within the Project Location, and includes the Capital Works listed at Item 8 of the Deed Details;

Change in Policy means a change in the NSW Government policies with respect to or in connection with the Project, funding provided under this Deed or the implementation of this Deed.

Combined Funding means the total amount of the Funding and the Recipient Contribution.

Commencement Notice has the meaning given to the term in clause 9(b).

Commencement of Construction means that:

- (a) all plans have been prepared and all approvals required by applicable Authorities have been obtained for construction of the Project; and
- (b) a contract with the principal Subcontractor has commenced, if applicable; and
- (c) excavation in respect of construction of an improvement that will become part of the Project has commenced, and where there is no excavation, it means commencement of construction of an improvement that will become part of the Project.

Confidential Information means:

- (a) terms of this Deed and all confidential information, material and technology disclosed or provided in any form by any party to any other party in connection with the subject matter of this Deed;
- (b) the information (if any) described in Item **Error! Reference source not found.** of the Deed Details; and
- (c) information that the parties agree in writing after the Date of this Deed is confidential information for the purposes of this Deed.

Construction Commencement Date means the date of the Commencement of Construction, specified in the Commencement Notice.

Copyright Material has the same meaning as it has in the *Copyright Act 1968* (Cth);

Date of this Deed means the date written on page 1 of this Deed, or if no date is written there, then the date on which the Deed is signed by the last party;

Deed means this document and includes any Schedules and Annexures;

Deed Details means those details in Schedule 1 of this Deed;

Department where the context permits, includes officers, delegates, employees and agents and successors of the Department of Planning, Housing and Infrastructure (ABN 20 770 707 468);

Department Material means any Material:

- (a) provided by the Department to the Recipient for the purposes of this Deed; or
- (b) derived at any time from the Material referred to in paragraph (a);

Dispose means to sell, licence, lease or sublease, or otherwise transfer or give up ownership or the right to occupy or use, or to enter into an agreement to do any of the preceding acts and "Disposal" means the method of so disposing;

Existing Material means all Material in existence prior to the Date of this Deed;

- (a) incorporated in;
- (b) supplied with, or as part of; or
- (c) required to be supplied with, or as part of,

the Project Material;

Force Majeure means a delay resulting from any cause or reason beyond the reasonable control of a party including any one of the following events:

- (a) civil war, insurrections, riots, floods, fires, explosions, pandemics, earthquakes, acts of God or the public enemy; and
- (b) industrial disputes, stoppages, strikes.

Financial Year means each period from 1 July to the following 30 June occurring during the Term, or any part of such a period occurring at the beginning or end of the Term;

Funding means the amount or amounts payable by the Department under this Deed as specified in Item 5 of the Deed Details on the terms and conditions set out in this Deed;

Funding Acknowledgement Guidelines means the NSW Government Funding Acknowledgement Guidelines for Recipients of NSW Government Infrastructure Grants updated from time to time and available at [Sponsorship and funding acknowledgement | NSW Government](https://www.nsw.gov.au/branding/sponsorship-and-funding-acknowledgment-guidelines) (<https://www.nsw.gov.au/branding/sponsorship-and-funding-acknowledgment-guidelines>) or as otherwise notified by the Department;

GST has the meaning that it has in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

Imposed Project Plan means a plan for the conduct of the Project, reasonably required by the Department, failing agreement on a Project Plan under clause 7.5;

Information Privacy Principle has the meaning given in the *Privacy and Personal Information Protection Act 1998* (NSW);

Intellectual Property Rights includes:

- (a) all copyright (including rights in relation to phonograms and broadcasts);
- (b) all rights in relation to inventions, plant varieties, trademarks (including service marks), designs, circuit layouts;
- (c) all other rights resulting from intellectual activity in the industrial, scientific literary or artistic fields; and
- (d) Moral Rights;

Interest means interest calculated at an interest rate equal to the general interest charge rate for a day pursuant to section 8AAD of the *Taxation Administration Act 1953* (Cth), on a daily compounding basis;

Last Date for Commencement of Construction means the date specified in Item 2 of the Deed Details;

Law includes:

- (a) Acts of the Commonwealth and the State(s) and Territory(s) in which the Project will be undertaken, and any other relevant State or Territory;
- (b) ordinances, regulations, by-laws, orders and proclamations or other instruments of legal effect made under those Acts referred to in paragraph (a);
- (c) directions by any person exercising statutory powers regarding the Recipient or the Project; and
- (d) all the requirements, standard, approvals, licences, registrations or permits of any government (including local government) department, authority, agency or regulatory body that apply to the Project,

whether currently in force or coming into force on or after the Date of this Deed;

Material means anything in which Intellectual Property Rights arise;

Milestone means a milestone or stage of completion of the Project as set out in Schedule 5;

MOG Change means changes in the title, structure, department, function or operations of the Department or any other NSW Government Entity involved in the services as a result of the machinery of government;

Monthly Update Report means the report to be provided by the Recipient to the Department on a monthly basis in accordance with the provisions of Schedule 3;

Moral Rights includes the following rights of an author of Copyright Material:

- (a) the right of attribution of authorship;
- (b) the right of integrity of authorship; and
- (c) the right not to have authorship falsely attributed;

Notice has the meaning in clause 26.1;

Personnel means:

- (a) in relation to the Recipient – any natural person who is an officer, employee, agent, or professional advisor of the Recipient or its Subcontractors; and
- (b) in relation to the Department – any natural person who is an officer, employee, agent or professional advisor of the Department;

Practical Completion means completion of the Milestones in accordance with Schedule 5;

Privacy Law means the *Privacy Act 1988* (Cth), the *Privacy Regulations 2013* (Cth), the Australian Privacy Principles, the Information Privacy Principles, the *Privacy and Personal Information Protection Act 1998* (NSW), the *Privacy and Personal Information Protection Regulations 2014* (NSW);

Procurement Certificate means a certificate to be provided by the Recipient to the Department following completion of the Project, including Practical Completion, in accordance with the provisions of Schedule 3;

Project means the Project described in Item 1 of the Deed Details and includes the provision of the Project Material to the Department;

Project Acquittal Report means a report to be provided by the Recipient to the Department following completion of the Project, including Practical Completion in accordance with the provisions of Schedule 3;

Project Commencement Date means the date set out in Item 3 of the Deed Details;

Project Completion Date means the date set out in Item 3 of the Deed Details as the Project Completion Date;

Project Location means the locations set out in Item 8 of the Deed Details;

Project Material means any Material:

- (a) created by the Recipient for the purpose of this Deed;
- (b) provided or required to be provided to the Department under the Deed; or
- (c) derived at any time from the Material referred to in paragraphs (a) or (b),

and includes

- (d) any Existing Material incorporated in the Material referred to in paragraphs (a) or (b) above;
- (e) any Promotional Material;
- (f) any Monthly Update Report;
- (g) the Project Acquittal Report; and
- (h) the Procurement Certificate;

Project Objectives means the objectives of the Project described in Item 5 of the Deed Details;

Project Period means the period specified in Item 4 of the Deed Details during which the Project must be completed;

Project Plan means the project plan referred to in clause 7.5 and annexed to this Deed at Annexure A, as amended from time to time;

Program means the program under which the Department is able to provide Funding to the Recipient as further described at Item 6 of the Deed Details;

Promotional Material means any photo, artist impression, video or any other promotional material relating to the Project reasonably required by the Department;

Recipient includes, where the context permits, the officers, employees, agents, volunteers and subcontractors, and successors of the Recipient;

Recipient Contribution means the amount the Recipient is contributing towards the Project as specified in Item 7 of the Deed Details;

Records includes documents, information and data stored by any means and all copies and extracts of the same;

Schedule means a schedule to this Deed and may include Annexures and incorporate other documents by reference;

Standard Condition takes its meaning from Schedule 4;

Subcontract means a written contract between the Recipient and a Subcontractor;

Subcontractor means a person/entity appointed by the Recipient to conduct the Project (or part of it);

Term refers to the period described in clause 2 of this Deed;

Third Party Interest means any legal or equitable right, interest, power or remedy in favour of any person other than the Department or the Recipient in connection with this Deed, including any right of possession, receivership, control or power of sale, and any mortgage, charge, security or other interest; and

Unexpended Funding means any part of the Funding that is unspent or uncommitted.

1.2 Interpretation

In this Deed, unless the context clearly indicates otherwise:

- (a) a reference to **this Deed** or another document means this deed or that other document and any document which varies, supplements, replaces, assigns or novates this deed or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (c) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing deed, to a body or authority having substantially the same objects as the named body or authority;

- (d) a reference to the **introduction**, a **clause**, **schedule** or **annexure** is a reference to the introduction, a clause, a schedule or an annexure to or of this deed;
- (e) **clause headings** and the **table of contents** are inserted for convenience only and do not form part of this deed;
- (f) the **introduction**, **schedules** (if any) and **annexures** (if any) form part of this deed;
- (g) the **introduction** accurately sets out the circumstances in which the parties have entered into this deed;
- (h) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (i) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (j) a reference to a **corporation** includes its successors and permitted assigns;
- (k) **related** or **subsidiary** in respect of a corporation has the same meaning given to that term in the Corporations Act;
- (l) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this deed;
- (m) an **obligation** or **warranty** on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally;
- (n) a reference to a **breach of warranty** includes that warranty not being complete, true or accurate;
- (o) a requirement to do anything includes a requirement to cause that thing to be done and a requirement not to do anything includes a requirement to prevent that thing being done;
- (p) **including** and **includes** are not words of limitation;
- (q) the words **at any time** mean at any time and from time to time;
- (r) a reference to a time is to that time in New South Wales;
- (s) a word that is derived from a defined word has a corresponding meaning;
- (t) **monetary amounts** are expressed in Australian dollars;
- (u) the singular includes the plural and vice-versa;
- (v) words importing one gender include all other genders; and
- (w) a reference to a thing includes each part of that thing.

1.3 Construction

Neither this Deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

2. Term

The Term of this Deed commences on the Date of the Deed and, unless terminated earlier, it expires on the day on which the Recipient provides the Project Acquittal Report and the Procurement Certificate to the Department.

3. Machinery of Government and other Changes in Policy

- (a) The Recipient acknowledges that during the term of the Deed, there may be MOG Changes, and that services supplied by the Recipient may be transferred between NSW Government entities as required without additional charges or costs being imposed as a result.
- (b) If, during the term of the Deed, a MOG Change occurs resulting in the transfer of functions from the Department to another entity, the Department may transfer this Deed in its entirety to the new entity by giving written notice to the Recipient.
- (c) If the MOG Change results in a requirement for a novation, variation or transfer of this Deed, then the Recipient agrees to enter into a deed and/or a new agreement to give effect to that change.

4. Provision of Funding

4.1 Payment of Funding

- (a) Subject to sufficient funds being available, and compliance by the Recipient with this Deed, the Department agrees to provide the Recipient with the Funding at the times and in the manner specified in Schedule 2.
- (b) The Recipient agrees to:
 - (i) undertake the Project and be responsible for any Project costs that exceed the Funding;
 - (ii) remain responsible for all maintenance costs arising from the Project (including any costs incurred after the Term); and
 - (iii) procure the Recipient Contribution and any additional funding necessary to carry out the Project in order to ensure the Project is delivered and maintained in accordance with this Deed.
- (c) The Department is not responsible for the provision of additional money to meet any expenditure in excess of the Funding.

4.2 Expenditure of Funding

- (a) No Funding can be expended prior to the Project Plan being agreed in accordance with clause 7.5, and evidence of the Recipient Contribution has been provided.
- (b) Not less than 5 Business Days prior to expending or committing Funding in an amount greater than \$200,000, the Recipient must provide a Notice to the Department specifying the:
 - (i) the amount of Funding to be expended;
 - (ii) details of the Milestone to which it relates; and
 - (iii) a copy of any tax invoices to which the expenditure relates.
- (c) The Recipient must not expend any funds the subject of a Notice under clause 4.2(a) without the prior written approval of the Department.

- (d) If at the time of provision of a Notice under Clause 4.2(a) the Recipient has failed to comply with any of the terms of this Deed, including reporting, the Department will provide Notice to the Recipient of the steps to be taken by the Recipient to remedy those failures. The Recipient must inform the Department of completion of those steps and the Department will then consider providing approval under clause 4.2(b).

5. Recipient Contribution

- (a) The Recipient agrees that it must provide the Recipient Contribution and use the Recipient Contribution towards the cost of the Project.
- (b) The Recipient must, by no later than the date specified in the Milestones Schedule for completion of the Project Plan and Recipient Contribution, provide to the Department satisfactory evidence that the Recipient holds the Recipient Contribution, including the source or sources of the Recipient Contribution, and the manner in which the Recipient Contribution is to be spent for the Project.
- (c) If for any reason, the Recipient is not able to provide evidence to the satisfaction of the Department that it holds the Recipient Contribution as required under this Deed, then the Department may:
- (i) suspend payment of the Funding until the Recipient Contribution is obtained; or
 - (ii) terminate this Deed in accordance with clause 21.
- (d) The Recipient must notify the Department in writing as soon as possible after it becomes aware of any likely or actual failure (for any reason) to obtain the Recipient Contribution as required under this Deed.

6. Cost Savings

- (a) If the cost of the completed Project is less than Combined Funding, the Department may give the Recipient notice requiring the Recipient to return to the Department, within the period specified in the notice, an amount equal to the Department's Proportion of the Cost Savings. In this subclause 6(a) "the Department's Proportion of the Cost Savings" means savings x % where:
- (i) $\text{savings} = (\text{the Combined Funding} - \text{the actual cost of the Project} - \text{any part of the Funding previously repaid to the Department under this Deed}); \text{ and}$
 - (ii) $\% = (\text{the Funding} \div \text{the Combined Funding}).$
- (b) If the Recipient receives a Notice given by the Department under subclause 6(a) the Recipient must comply with the Notice within the period specified in the Notice.

7. Project

7.1 Project Requirements

The Recipient must:

- (a) use the Funding to complete the Project and for no other purpose;
- (b) commence the Project no later than the Project Commencement Date; and
- (c) achieve Practical Completion by the Project Completion Date.

7.2 Conduct of Project

The Recipient agrees to carry out the Project:

- (a) to achieve the Project Objectives and for no other purpose;
- (b) to meet the Milestones in accordance with clause 7.3;
- (c) in an efficient, effective, economical and ethical manner;
- (d) diligently and to a high standard;
- (e) in accordance with this Deed, including the Project Plan; and
- (f) in accordance with all applicable Laws.

7.3 Milestones

The Recipient must complete, to the satisfaction of the Department:

- (a) each Milestone; and
 - (b) each obligation or requirement imposed by each Milestone,
- on or before the date specified for the completion of that Milestone in Schedule 5.

7.4 Standard Conditions

The Recipient must complete, to the satisfaction of the Department:

- (a) each Standard Condition; and
 - (b) each action, obligation or requirement imposed by each Standard Condition,
- on or before the date specified for the completion of that action, obligation or requirement imposed by the Standard Condition in Schedule 4.

7.5 Project Plan

- (a) The Recipient must provide the Project Plan to the Department by the date specified in the Milestone Schedule.
- (b) The Project Plan must be jointly agreed between the Department and the Recipient. If for any reason the parties do not jointly agree on the terms or form of the Project Plan, the Recipient must comply with an Imposed Project Plan.
- (c) If the Department requires the Project to be completed in accordance with an Imposed Project Plan, a reference to Project Plan in this Deed will be read as referring to the Imposed Project Plan.
- (d) The Recipient must carry out the Project in accordance with the Project Plan.
- (e) The Department and the Recipient acknowledge that the Project Plan may be varied in accordance with clause 28.3.

7.6 Recipient Obligations

- (a) The Recipient agrees to:
 - (i) liaise with and provide information, any reports or other documents to the Department as reasonably requested by the Department, including at any Milestones; and
 - (ii) comply with all of the Department's reasonable requests, directions, monitoring or reporting requirements.
- (iii) This clause 7.6(a) survives the termination of this Deed.

- (b) The Recipient agrees to provide to the Department written Monthly Update Reports, a Project Acquittal Report and a Procurement Certificate in the manner specified in Schedule 3.
- (c) Each of the parties may nominate, from time to time, a person who has authority to receive and sign Notices and written communications for each of them under this Deed and accept any request or direction in relation to the Project.

7.7 Responsibility of the Recipient

The Recipient is fully responsible for the performance of the Project and for ensuring compliance with the requirements of this Deed, and will not be relieved of that responsibility because of any:

- (a) involvement by the Department in the performance of the Project;
- (b) subcontracting of the Project (or any part of it); or
- (c) payment of any amount of Funding to the Recipient.

7.8 Records

The Recipient agree to comply with all obligations under, and reasonable directions from the Department in respect of, the *State Records Act 1998* (NSW) and the *State Records Regulation 2015* (NSW).

8. Subcontractors

8.1 Recipient may subcontract

- (a) The Recipient is fully responsible for the performance of the Recipient's obligations under this Deed and may subcontract any part of its obligations under this Deed.
- (b) The Recipient must have a Subcontract and ensure that each Subcontract is consistent with, and allows the Recipient to give effect to, the Recipient's obligations under this Deed.
- (c) The Recipient is responsible for ensuring the suitability of a Subcontractor for the work proposed to be carried out.
- (d) The Recipient must ensure that its Subcontractors comply with the relevant terms of this Deed and do not do anything, or omit to do anything, which if done or omitted to be done by the Recipient would be a breach of the Recipient's obligations under this Deed.
- (e) The Recipient shall be deemed to be responsible for any and all breaches of this Deed committed by its Subcontractors as if the Recipient had breached the Deed itself.

9. Commencement of Construction

- (a) The Recipient must achieve Commencement of Construction by no later than the Last Date for the Commencement of Construction.
- (b) The Recipient must provide the Department with at least 20 Business Days' notice (**Commencement Notice**) of the Construction Commencement Date (which must be no later than the Last Date for Commencement of Construction)
- (c) The Commencement Notice must:
 - (i) contain details of the Subcontractors appointed by Recipient to carry out any aspect of construction of the Project;
 - (ii) attach the Subcontracts confirming such appointment;

- (iii) identify the different aspects of the Project to be carried out by the Subcontractors, with reference to the Milestones; and
- (iv) identify the proposed Subcontract value for each aspect of the Project with reference to the Milestones;

10. Taxes, duties and government charges

The Recipient agrees to pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Deed.

11. Debt and Interest

- (a) The Recipient agrees, upon request of the Department, to pay any amount owed or payable to the Department or which the Department is entitled to recover from the Recipient under this Deed, including if demanded by the Department any Interest, as a debt due by the Recipient without further proof of the debt by the Department being necessary. Such payment is without prejudice to any other rights available to the Department under the Deed, under statute, at law or in equity.
- (b) If the Department notifies the Recipient that an amount is to be refunded or otherwise paid to the Department and the amount is not refunded or paid within 20 Business Days, or as otherwise notified by the Department, the Recipient agrees to pay Interest, unless the Department notifies the Recipient otherwise, on the amount outstanding after the expiry of the date it was due, until the amount is paid in full.
- (c) In respect to any obligation the Recipient may have under this Deed to pay the Department any Interest, the Recipient agrees that the Interest represents a reasonable pre-estimate of the loss incurred by the Department.

12. GST

12.1 Definitions

Words used in this clause that are defined in the GST Law have the meaning given in that legislation.

12.2 Consideration is GST-exclusive

Unless otherwise specified, all amounts payable under this Deed are exclusive of GST and must be calculated with regard to GST.

12.3 GST payable on taxable supply

- (a) If a supply made under this Deed is a taxable supply, the recipient of that taxable supply must, in addition to any other consideration, pay to the party making the taxable supply (**Supplier**) the amount of GST in respect of the supply.
- (b) The recipient of the taxable supply will only be required to pay an amount of GST to the Supplier if and when the Supplier provides a valid tax invoice to the recipient of that taxable supply in respect of the taxable supply.
- (c) If there is an adjustment to a taxable supply made under this Deed then the Supplier must provide an adjustment note to the recipient of that taxable supply.
- (d) The amount of a party's entitlement under this Deed to recovery or compensation for any of its costs, expenses or liabilities is reduced by the input tax credits to which that party is entitled in respect of those costs, expenses or liabilities.

13. Management Funding

13.1 Account and financial records

- (a) The Recipient agrees to ensure that the Funding is held in an account in the Recipient's name and which the Recipient solely controls, with an authorised deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia and that is an account that complies with any other reasonable requirements of the Department.
- (b) The Recipient agrees to:
- (i) keep financial accounts and Records relating to the Funding and Project that identify:
 - (A) all receipts and payments related to the Funding and Project; and
 - (B) all interest earned on the Funding.
 - (ii) unless otherwise notified by the Department, prepare financial statements for the Project in accordance with Australian Accounting Standards including:
 - (A) a register of the Assets created, acquired, written-off or Disposed of during the Financial Year to date; and
 - (B) arrange for the audit of those accounts and Records in accordance with Australian Auditing Standards.

13.2 Refunds of unexpended and misspent Funds

- (a) Without limiting the Department's rights under this Deed, the Department may by Notice in writing recover all or part of the Funding from the Recipient (as a debt due and payable on demand) in any of the circumstances set out below in Column A, but only to the extent set out in the Column B in the table below:

	Column A: Circumstance in which some or all of the Funding may be recovered by the Department	Column B: Extent to which some or all of the Funding may be recovered by the Department
1	The Recipient is paid more than the Funding as specified in this Deed.	Only to the extent of the amount of overpayment.
2	The Recipient has incorrectly claimed some or all of the Funding.	Only to the extent which part or all the Funding has been incorrectly paid to the Recipient.
3	The Recipient abandons the Project.	Repayment of the Funding in full.
4	There is Unexpended Funding at the Project Completion Date.	Only to the extent of any Unexpended Funding.
5	If this Deed is terminated in accordance with clause 21.	Repayment of the Funding in full.
6	The Department, in its discretion, determines that the Project carried out ceases to be viable during the Project Period.	Repayment of part or all of the Funding (as determined by the Department).

	Column A: Circumstance in which some or all of the Funding may be recovered by the Department	Column B: Extent to which some or all of the Funding may be recovered by the Department
7	The Department, in its discretion, determines that the Project completed, including Practical Completion did not achieve the scope of the Project.	Repayment of part or all of the Funding (as determined by the Department).
8	The Project is demolished within two (2) years of the Project Completion Date or actual completion of the Project (whichever is the latter).	Repayment of the Funding in full.
9	Change in NSW Government Policy in clause 21.2 or Force Majeure (Clause 22).	Only to the extent of any Unexpended Funding.

- (b) If the Department exercises the right to require the repayment of all or part of the Funding in accordance with clause 13.2(a), the Recipient must repay:
- (i) the full amount of the Funding, or
 - (ii) the part of the Funding that is the subject of the Notice, and
 - (iii) Interest;
- within the period (which must be reasonable in the circumstances) specified in the written Notice.
- (c) Despite clause 13.2(a)(0) above, if the cost of the completed Project, including Practical Completion is less than the Funding, the Department may by provision of a Notice require the Recipient to otherwise deal with the Unexpended Funding in accordance with any conditions that the Department considers appropriate, including conditions relating to the ongoing use and expenditure by the Recipient of that amount for particular goals or objectives associated with the Project.
- (d) If any dispute arises regarding the repayment of the Funding, the parties must attempt to resolve the dispute in accordance with clause 20.
- (e) This clause survives termination or expiry of this Deed.

14. Statutory Approvals

- (a) The Recipient must obtain all necessary statutory approvals in relation to the Project, and the Recipient must give the Department, within six months after the Date of this Deed, satisfactory written evidence that these statutory approvals have been obtained.
- (b) If the Recipient does not comply with the requirement in subclause 14(a), the Department may at the Department's sole discretion terminate this Deed.

15. Records & Audit**15.1 Keeping Records**

The Recipient must create and maintain full and accurate accounts and Records of the conduct of the Project including, without limitation, all:

- (a) progress against the Milestones; and
- (b) receipt and use of Funding.

15.2 Retention of Records

The Recipient agrees to create and maintain Records and accounts under clause 15.1 and retain them for a period of no less than seven years after the end of the Term.

15.3 Audit

- (a) The Department may at its expense and in its discretion conduct an audit of the Recipient's compliance with this Deed.
- (b) The Department or a person commissioned by the Department will give the Recipient prior Notice of its requirements in relation to an audit and endeavour to minimise disruption and interference to the Recipient's performance of its obligations under this Deed.
- (c) The Recipient must co-operate fully with the audit, including permitting the person conducting the audit to inspect and make copies of the Recipient's Records and materials relevant to the Project and the performance of this Deed.
- (d) Except where otherwise determined by the Department, the Recipient is responsible for its own costs of participating in or conducting an audit and such costs are not to be paid out of the Funding.
- (e) The Recipient must promptly take any reasonable action required by the Department to rectify any error, non-compliance or inaccuracy identified in an audit in relation to the Project or the Recipient's performance of this Deed.
- (f) The Recipient is not entitled to any delay costs or other costs or expenses of whatever nature relating in any way to an audit.
- (g) Where the Department directs, the Recipient must not spend nor make any further commitment to spend any of Funding until such time as the audit has been completed and the Department has confirmed in writing that any action required under clause 15.3(e) has been taken.

16. Confidential information**16.1 Obligation**

- (a) Subject to this clause 16, each party must maintain in confidence all Confidential Information and ensure that the Confidential Information is kept confidential.
- (b) The Recipient agrees to secure all of the Department's Confidential Information against loss and unauthorised access, use, modification or disclosure.

16.2 Written Undertakings

The Recipient must, on request by the Department at any time, arrange for:

- (a) its Personnel; or
- (b) any person with a Third Party Interest,

to give a written undertaking in a form acceptable to the Department relating to the use and non-disclosure of the Department's Confidential Information.

16.3 Exceptions to confidentiality

The obligations on the parties under this clause 16 will not be taken to have been breached to the extent that the Confidential Information:

- (a) is required to be disclosed by Law, in which case the disclosing party must immediately notify the other party of the requirement and must take lawful steps and permit the opposition or restriction of the disclosure to preserve, as far as possible, the confidentiality of the Confidential Information;
 - (i) is disclosed by a party to its Personnel solely in order to comply with obligations, or to exercise rights, under this Deed;
 - (ii) is disclosed by the Department to the responsible Minister;
 - (iii) is disclosed by the Department, in response to a request by a House or a Committee of the Parliament of New South Wales or the Commonwealth of Australia;
 - (iv) except to the extent it is prohibited by any Law, is shared by the Department (including with other NSW government agencies), where this serves the Department's, the Crown in right of the State of New South Wales, or the Commonwealth of Australia's legitimate interests;
 - (v) is in or enters the public domain for reasons other than a breach of this Deed; or
 - (vi) is disclosed to its professional advisers to obtain professional advice.

16.4 Obligation to notify

Where a party discloses Confidential Information to another person pursuant to clause 16.3 the disclosing party must notify the receiving person that the information is confidential.

16.5 Period of Confidentiality

The obligations under this clause 16 continue, notwithstanding the expiry or termination of this Deed except to the extent any of the Confidential Information is released into the public domain, otherwise than in breach of this Deed.

16.6 Survival of clause

This clause 16 will survive the termination of this Deed.

17. Privacy

17.1 Privacy Obligations

- (a) The Recipient agrees, in conducting the Project:
 - (i) not to do any act or engage in any practice which, if done or engaged in by the Department, would be a breach of a Privacy Law;
 - (ii) to comply with the Privacy Law; and

- (iii) to comply with any directions, guidelines, determinations or recommendations of the Department, to the extent that they are consistent with the Privacy Law.
- (b) The Recipient agrees to notify the Department immediately if it becomes aware of a breach or possible breach of any of its obligations under this clause 17.1.
- (c) The provisions of this clause 17.1 survive the termination or expiration of this Deed.

17.2 No reduction in Privacy Obligations

The obligations in clause 18 do not detract from any of the Recipient's obligations under the Privacy Law or under clause 17.1.

18. Acknowledgement and publicity

18.1 Acknowledgement of support

- (a) Unless otherwise notified by the Department, the Recipient agrees, in all publications, promotional and advertising Materials, public announcements, promotional plaques and activities by the Recipient or on the Recipient's behalf in relation to the Project, or any products, processes or inventions developed as a result of it, to acknowledge the financial and other support the Recipient has received from the New South Wales Government in accordance with the Funding Acknowledgement Guidelines, or as otherwise approved by the Department prior to its use or publication.
- (b) Where the Recipient has been provided with Funding to produce any publication, a copy of the publication must, on request, be provided to the Department.
- (c) The Recipient must provide the Department with no less than 30 Business Days' Notice of any proposed publications, promotional and advertising Materials or public announcements and activities by the Recipient in connection to the Project.
- (d) If a Notice is given under subclause (c) above, the Recipient must:
 - (i) provide the Department with all such information as reasonably required by the Department regarding the time and date of the proposed publications, promotional and advertising Materials or public announcements and activities; and
 - (ii) do such things as required to allow a representative of the Department to attend or participate in (including making an announcement at any public announcement or activity) which the Department may choose to do so in its absolute discretion.

18.2 Right to publicise Funding and the Project

- (a) The Recipient will provide the Department with Promotional Material to enable the Department to publicise, promote and report on the Project. The Recipient shall be solely responsible for obtaining all necessary Intellectual Property Rights for the Department's use of the Promotional Material.
- (b) The Department reserves the right to use the Promotional Material to publicise, promote and report on the Project and/or awarding of Funding to the Recipient. The Department may do (but is not limited to doing) this by including the Recipient's name, the amount of the Funding given to the Recipient, the date the Deed commences and its term, and the title, location, purpose and a brief description of the Project in media releases, general announcements about the Funding, annual reports or through any other means as determined by the Department.

- (c) The Recipient agrees to grant to or procure for the Department a permanent, irrevocable, royalty-free, worldwide, non-exclusive, transferable licence (including a right of sublicense) to use, reproduce, exploit, communicate, adapt and distribute the Promotional Material for the purpose provided in subclause (a).
- (d) The Department may in its discretion and where it is practicable to do so, give a Notice to the Recipient of any such publication under subclause (b).
- (e) This clause survives termination or expiry of this Deed.

18.3 Retraction of promotional material

If the Department:

- (a) terminates this Deed under clause 21.1; or
- (b) otherwise determines in its absolute discretion that the Project is not consistent with the Project Objectives,

the Department may, by a Notice to the Recipient, request the Recipient to cease the use of and/or retract any publication of any Promotional Material and the Recipient must immediately comply with such request.

19. Liability and Insurance

19.1 Insurance

- (a) The Recipient must take out and maintain during the Term all appropriate insurance policies including, but not limited to:
 - (i) workers compensation insurance as required by Law for all persons involved in the delivery of the Project.
 - (ii) public liability insurance to the value of not less than \$20 million in respect of each and every occurrence and unlimited in the aggregate for any one period of cover.
 - (iii) insurance over all Assets used in connection with the Project funded or partly funded by the Funding, for their full replacement value.
- (b) On request by the Department, the Recipient must provide a copy of valid and current certificates of currency for the insurance and/or a warranty from its insurer that the policy extends to the Department and covers potential liability arising under this Deed.
- (c) The Recipient must not do, permit or suffer any act, matter or thing or omission whereby the policy referred to in this clause may be vitiated, rendered void or voidable.

19.2 Proportionate liability regime

To the extent permitted by Law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against the Recipient under or in connection with this Deed.

19.3 Indemnity

- (a) In this clause 19.3, "Fault" means any negligent or unlawful act or omission or wilful misconduct.
- (b) The Recipient indemnifies the Department from and against any:
 - (i) cost or liability incurred by the Department;
 - (ii) loss of or damage to property of the Department; or

- (iii) loss or expense incurred by the Department in dealing with any claim against it, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used, or disbursements paid by the Department,

arising from:

- (iv) any breach by the Recipient of the Deed;
 - (v) any act or omission involving fault by the Recipient in connection with this Deed;
 - (vi) the use of Assets; or
 - (vii) the use by the Department of the Project Material and/or the Promotional Material, including any claims by third parties about the ownership or right to use the Intellectual Property Rights in the Project Material and/or the Promotional Material.
- (c) The Recipient's liability under subclause (a) above will be reduced proportionately to the extent that any act or omission involving Fault on the part of the Department or its Personnel contributed to the relevant cost, liability, loss, damage or expense.
 - (d) The right of the Department to be indemnified under this clause 19.3 is in addition to, and not exclusive of, any other right, power or remedy provided by Law, provided that the Department is not compensated in excess of the amount of the relevant cost, liability, loss, damage or expense incurred by the Department.

20. Dispute Resolution

20.1 Procedure for dispute resolution

The parties agree that a dispute arising under this Deed will be dealt with as follows, and that, subject to clause 20.4, neither party will commence legal proceedings until this procedure is completed:

- (a) the party claiming that there is a dispute will give the other party a Notice setting out the nature of the dispute;
- (b) within five Business Days (or such other period as agreed by the parties in writing) each party will nominate a senior representative not having any prior involvement in the dispute;
- (c) the senior representatives will try to settle the dispute in good faith by direct negotiation between them;
- (d) failing settlement within a further 10 Business Days or such other period as agreed by the parties in writing (or failure of one or both parties to nominate a senior representative within the period set out in subclause (b) above), the parties may agree to refer the dispute to an independent third person with power:
 - (i) to intervene and direct some form of resolution, in which case the parties will be bound by that resolution; or
 - (ii) to mediate and recommend some form of non-binding resolution;
- (e) the parties will co-operate fully with any process instigated under subclause (d) in order to achieve a speedy resolution; and
- (f) if the parties have been unable to agree to refer the dispute to an independent third person, or they have agreed and a resolution is not reached within a further 20 Business

Days (or such other period as the parties may agree in writing), either party may commence legal proceedings.

20.2 Costs

Each party will bear its own costs of complying with this clause 20, and the parties will bear equally the cost of any third person engaged under subclause 20.1(d).

20.3 Continued performance

Despite the existence of a dispute, the Recipient will (unless requested in writing by the Department not to do so or subject to any order of a court) continue to perform the Recipient's obligations under this Deed.

20.4 Application of clause

This clause 20 does not apply to:

- (a) legal proceedings by either party for urgent interlocutory relief; or
- (b) action by the Department under or purportedly under clauses 4, 13 or 21.

21. Termination

21.1 Termination for fault

- (a) If the Recipient does not comply with any of its obligations under this Deed, then the Department:
 - (i) if it considers that the non-compliance is not capable of remedy – may by a Notice terminate this Deed immediately;
 - (ii) if it considers that the non-compliance is capable of remedy – may, by a Notice require that the non-compliance be remedied within the time specified in the Notice, and if not remedied within that time, may terminate this Deed immediately by giving a second Notice.
- (b) The Department may also by a Notice terminate this Deed immediately if:
 - (i) in relation to this Deed, the Recipient breaches any Law of the Commonwealth of Australia, or of a State or Territory;
 - (ii) another clause of this Deed allows for termination under this clause 21.1; or
 - (iii) the Department is satisfied that any statement made in the Recipient's application for Funding is false or misleading in a way which would have affected the original decision to approve the Funding.

21.2 Termination for Change in Government Policy

Without limiting any other rights or remedies the Department may have arising out of or in connection with this Deed, the Department may terminate this Deed immediately upon written notice to the Recipient due to a Change in Policy.

21.3 Preservation of other rights

Clause 21.1 does not limit or exclude any of the Department's other rights under this Deed or at Law.

22. Force Majeure

If either Party is unable to perform an obligation under this Deed because of a Force Majeure, then:

- (a) as soon as reasonably practicable after the Force Majeure arises, the affected party shall notify the other party of the Force Majeure and provide details of the Force Majeure and the extent to which and for how long the notifying party estimates that it is unable to perform its obligation; and
- (b) such affected party is relieved from performing its obligations under this Deed (other than the parties' obligations to pay money) to the extent it is prevented from doing so by the Force Majeure;
- (c) dates shall be extended to take into account the Force Majeure as agreed by the parties acting reasonably; and
- (d) such party prevented from performing its obligations due to a Force Majeure shall use commercially reasonable efforts to remedy the situation so it may perform its obligations.

23. Liability of Department on Termination

- (a) If this Deed is terminated under clause 21.2 ('Termination for Change in Government Policy') or clause 22 ('Force Majeure') the Recipient is entitled to payment of any Funding not yet paid, but approved under clause 4.2, as at the effective date of termination.
- (b) Except as set out in clause 23(a) above, the Department is not liable to the Recipient for the balance of the Funding and the Recipient is not entitled to make a claim for damages or loss as a consequence of termination.

24. Assignment

This Deed is personal to each party and neither party may assign the rights or benefits of this Deed to any person.

25. General Warranties

Each party warrants to each other party that this Deed creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms.

26. Notices**26.1 Notices**

Any notice, demand, consent, approval, request or other communication to be given under this Deed (**Notice**) must be:

- (a) in writing;
- (b) given to the following contact person:
 - (i) in the case of the Department, that person specified in Item 12 of the Deed Details, or other person as notified by the Department; or
 - (ii) in the case of the Recipient, that person specified in Item 13 of the Deed Details, or other person as notified by the Recipient;
- (c) served in accordance with clause 26.2; and

- (d) unless this Deed provides otherwise, in English.

26.2 Service of Notices

- (a) A Notice under this Deed is only effective if it is in writing, and addressed as follows:
- (i) if given by the Recipient to the Department – addressed to the Department at the Address for Service specified in Item 10 of the Deed Details, or other address as notified by the Department; or
 - (ii) if given by the Department to the Recipient – given by the Department and addressed as specified in Item 11 of the Deed Details, or other address as notified by the Recipient.
- (b) A Notice must be given at the recipient's Address for Service by being:
- (i) hand delivered;
 - (ii) sent by electronic mail; or
 - (iii) sent by prepaid mail within Australia.
- (c) A Notice is given if:
- (i) hand delivered, on the date of delivery;
 - (ii) sent by electronic mail, on the date of delivery unless an automated response is received by the receiver advising that the email has not been delivered to the recipient;
 - (iii) sent by prepaid mail within Australia, on the date that is 3 Business Days after the date of posting.
- (d) If a Notice is received:
- (i) after 5:00 pm on any Business Day; or
 - (ii) on a day that is not a Business Day,
- it is deemed to be received at 9:00 am on the next Business Day for the purposes of this clause 26.

27. Work Health and Safety

27.1 Compliance with Work Health and Safety Law

Where required, the Recipient must comply with:

- (a) all Laws relating to work health and safety including (but not limited to), the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2017* (NSW); and
- (b) all reasonable directions from the Department or its Personnel in relation to work health and safety.

28. General provisions

28.1 Inconsistency

If there is any inconsistency between provisions of this Deed then the order of precedence will be:

- (a) **clause 1 to clause 28**; then
- (b) any **Schedules**; then

- (c) any Annexures.

28.2 Entire agreement

This Deed constitutes the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties, whether orally or in writing.

28.3 Variation

Unless provided in Schedule 6, this Deed or any of the matters outlined in the Schedules or Annexures to this Deed must not be varied except by a later written document executed by all parties.

28.4 Waiver

A right created by this Deed cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

28.5 Conflicts of Interest

- (a) The Recipient must not do anything to bring itself into a situation where it has a conflict of interest with the Department.
- (b) Where the Recipient identifies that there is a conflict of interest between itself and the Department (whether actual, perceived or potential) it must:
- (i) immediately notify the Department;
 - (ii) take proactive steps to mitigate the impact of the conflict of interest;
 - (iii) take steps to remove or manage the conflict of interest; and
 - (iv) do whatever the Department reasonably requests of it to remove or manage the conflict.
- (c) Where the conflict of interest is unable to be managed to the satisfaction of the Department then the Department may terminate this Deed, such termination to be treated as if it were a termination for cause under clause 21.1(b)(ii) of this Deed.

28.6 Further assurances

Each party must promptly execute all documents and do every thing necessary or desirable to give full effect to the arrangements contained in this Deed.

28.7 Time for doing acts

- (a) If the time for doing any act or thing required to be done; or a time specified in a Notice (given in accordance with clause 26) expires on a day other than a Business Day, the time for doing that act or thing is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5 pm, it is taken to have been done on the following Business Day.

28.8 Governing law and jurisdiction

- (a) The Laws applicable in New South Wales govern this Deed.

- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

28.9 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Deed without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

28.10 Preservation of existing rights

The expiration or termination of this Deed does not affect any right that has accrued to a party before the expiration or termination date.

28.11 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this Deed for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

28.12 Counterparts

This Deed may be executed in any number of counterparts. All counterparts taken together constitute one instrument. Delivery of this Deed by email constitutes an effective mode of delivery.

28.13 Relationship of parties

Unless otherwise stated:

- (a) nothing in this Deed creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

28.14 Legal expenses

Each party must pay its own legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this Deed.

Execution page

Executed as a deed

Signed, sealed and delivered for and on behalf of the Crown in right of the State of New South Wales acting through the Department of Planning, Housing and Infrastructure (ABN 20 770 707 468) by its Authorised Officer but not so as to incur any personal liability in the presence of:

.....
Signature of Witness

.....
Signature of Authorised Officer

.....
Name of Witness

.....
Name and position of Authorised Officer

Signed, sealed and delivered for and on behalf of <INSERT COUNCIL NAME> (ABN INSERT ABN <> Council to insert) by its Authorised Officer:

.....
Signature of Witness

.....
Signature of Council Authorised Officer

.....
Name of Witness

.....
Name of Authorised Officer

Schedule 1 Deed Details

	Item	Detail
1.	Project Name and Description	AIF30058 - Plumpton Road South Duplication of the Plumpton Road corridor between Gregadoo Road and Rowan Road, 2 intersection upgrades and associated storm water infrastructure.
2.	Project Commencement Date	The Date of this Deed.
3.	Project Period Project Completion Date	Commencing on the Date of this Deed and ending on the Project Completion Date. The completion date specified in the Approved Project Plan referred to in clause 7.5 of this deed
4.	Project Objectives	<ul style="list-style-type: none"> Provide Infrastructure to support the release of residential land within the Southern Growth Area which will provide residential accommodation to meet the projected population growth. Provide critical infrastructure providing direct connection between the Southern Growth Area and Wagga Wagga key employment hubs. The infrastructure will support the release of residential land within the Southern Growth Area for 2,750 homes which will provide residential accommodation to meet the projected population growth.
5.	DPHI Funding	\$24,670,281.96 excl GST
6.	Recipient Contribution	\$8,223,427.31 excl GST
7.	Combined Funding	\$32,893,709.27 excl GST
8.	Capital Works	The capital works to be carried out in accordance with Project Plan.
9.	Project Location	Location as marked on Annexure B
10.	Department Address for Service	4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 Email: aif@dpie.nsw.gov.au
11.	Recipient Address for Service	INSERT STREET ADDRESS – COUNCIL TO POPULATE Email: [insert] COUNCIL TO POPULATE
12.	Department Contact Person	Program Manager, Infrastructure Delivery and Governance (or any other person acting in that role from time to time)

	Item	Detail
13.	Recipient Contact Person	<insert> COUNCIL TO POPULATE

Schedule 2 Funding

1. The Department will provide, or enable the provision of, the Funding to the Recipient in multiple payments for the Project in accordance with Schedule 5.
2. The Recipient agrees to receive the Funding in accordance with, and subject to the terms of this Deed.
3. Prior to the Department making any payment of the Funding to the Recipient, the Recipient agrees to provide the Department with:
 - (a) a valid tax invoice (including itemisation of the GST component) in accordance with the following requirements:
 - (i) be addressed to the Department;
 - (ii) prominently be identified as "Tax Invoice"; and
 - (iii) contain:
 - (A) the Recipient's name;
 - (B) the Recipient's ABN;
 - (C) the name of Project;
 - (D) the amount of Funding requested;
 - (E) the GST component (listed separately to the amount requested); and
 - (F) the total amount of Funding requested.

Schedule 3 Reporting Requirements

Monthly Update Report

1. The Recipient must provide a Monthly Update Report to the Department. The Monthly Update Report must be provided, regardless of progress in carrying out the Project.
2. Each Monthly Update Report for the purposes of this Schedule 3 must be in the format provided by DPHI, including the extent to which (and the times at which) Milestones described in Schedule 5 have been completed, and whether the relevant outputs or outcomes in the table have been realised. Any major changes to the Project and any major issues arising out of the Project are to be outlined.
3. Each Monthly Update Report must be endorsed by an appropriate representative of the Recipient before being provided to the Department.
4. The Recipient must provide the Department with any additional reports it requests.

Project Acquittal Report

1. The Recipient must provide to the Department within 3 months of completion of the Project, a Project Acquittal Report in the form required by the Department.
2. The Project Acquittal Report must include:
 - (a) when the Project, was completed;
 - (b) an itemised breakdown and details of the actual cost of the Project, including a tabulated and indexed folder of tax invoices for, and documentary evidence of the payment of, each component of the Project;
 - (c) the date the works comprised in the Project were made available for use by the local community,and any other information required by the Department.
3. The Project Acquittal Report must be endorsed by the Recipient's Authorised Officer before being provided to the Department.

Procurement Certificate

1. The Recipient must provide to the Department within 3 months after actual completion of the Project, a Procurement Certificate.
2. The Procurement Certificate must include a statement that the Recipient in carrying out the Project, has complied with the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and the Recipient's procurement policy.
3. The Procurement Certificate must be signed by the Recipient's chief procurement officer or any person performing this function before being provided to the Department.

Schedule 4 Standard Conditions

Condition no	Condition	Action
1	To acknowledge the financial support the Recipient has received from the New South Wales Government.	The Recipient to, at its costs, install a plaque in accordance with the Funding Acknowledgement Guidelines

Schedule 5 Project Milestones

Date of completion	Milestone	Funding payable upon completion of Milestone
Date of this Deed	<p>Milestone 1 – Execution of Deed & Draft Project Plan</p> <p>Execution of Funding Deed and receipt by the Department of a Correctly Rendered Tax Invoice.</p> <p>Provision of a Draft Project Plan</p>	\$24,670,281.96 (equivalent to 100% of total funding under executed agreement)
No later than 1 month after the Date of this Deed	<p>Milestone 2 – Accepted Final Project Plan and Conformation of Recipient Contribution</p> <ul style="list-style-type: none"> • The Recipient is to provide to the Department the Project Plan, which is to include a budget plan, risk register and stakeholder plan and any ancillary document, report or information required by the Department. • The Project Plan must set out the additional Milestones for the construction stage of the Project (and where applicable, any other stages) • The Recipient is to provide to the Department satisfactory evidence that it holds the Recipient Contribution, including the source or sources of the Recipient Contribution, and the manner in which the Recipient Contribution is to be spent for the Project. • This Milestone will be complete when: <ul style="list-style-type: none"> o the Department confirms its acceptance of the Project Plan or an Imposed Project Plan is put in place, and it is incorporated into this Deed in accordance with the Variations Schedule; and o the Department confirms its acceptance of evidence of the Recipient Contribution provided by the Recipient. 	NIL
In accordance with approved project plan	<p>Milestone 3 – Completion of Planning Approvals (if applicable) and Detailed Design</p>	NIL

Date of completion	Milestone	Funding payable upon completion of Milestone
No later than 20 Business Days before the Last Date for Commencement of Construction	<p>Milestone 4 – Notice of Construction Commencement</p> <p>The Recipient must provide the Commencement Notice to the Department in accordance with clause 4.1. and receipt by the Department of a Correctly Rendered Tax Invoice</p>	NIL
No later than 30 June 2026	<p>Milestone 5 – Practical Completion</p> <ul style="list-style-type: none"> • The Recipient is to provide confirmation by written notice to the Department (including by providing appropriate documentation) of Practical Completion for the Project. • The Recipient is to provide as built drawings, a schedule of completed works, and photographic evidence of the completed works. 	NIL
No later than 3 months after Milestone 5 Practical Completion	<p>Milestone 6 – Project Acquittal</p>	NIL

Schedule 6 Variation Schedule

Both parties acknowledge and agree that:

- (a) the following clauses of this Deed may be varied by completing the schedule below:
 - (i) Schedule 1 Deed Details
 - (ii) Schedule 5 Project Milestones
- (b) on and from the relevant Effective Date, the Clause is varied to as shown in the second column, 'Amended Clause':

Clause	Amended Clause	Effective Date	Department's Authorised Officer	Recipient's Authorised Officer

Annexure A – Approved Project Plan – Milestone 2

Annexure B – Project Location

<Council shall provide a spatial/aerial map displaying the location along with start and finish co-ordinates in Latt and Long – please insert here>

RP-5 RENEWAL OF COMMUNITY, CULTURAL AND SPORTING LEASES AND LICENCES FOR THE 2024/25 FINANCIAL YEAR

Author: Matthew Dombrovski

Executive: John Sidgwick

Summary: This report provides an update on the renewal of lease and licence agreements with sporting, cultural and community associations who occupy Council land and/or buildings which are due to expire during the 2024/25 financial year.

Recommendation

That Council:

- a delegate authority to the General Manager or their delegate to negotiate and execute renewal of the community, cultural or sporting association lease and licence agreements as detailed in the body of this report.
- b authorise the affixing of Council's common seal to all relevant documents as required

Report

Council has a portfolio of approximately 75 community, cultural and sporting association lease and licence agreements. These agreements regulate the occupation of Council owned and controlled land and building assets, and generally include the following conditions:-

STANDARD CONDITIONS	
Agreement duration	Up to five years.
Fees	Rent and other occupation fees as per the Council's Fees and Charges as at the date of commencement. (Currently the Council's minimum community rent is \$800 per annum including GST and will be reviewed as of 1 July 2024.)
Fee increases	Rent and other occupation fees reviewed annually on the anniversary of commencement as per the Council's Fees and Charges.
Public Liability Insurance	No less than \$20 million with Wagga Wagga City Council listed as an interested party.
Occupation Costs	Tenant to meet costs associated with occupation of the premises, including but not limited to water, gas, electricity, fire safety, sewer and waste disposal.
Maintenance Responsibilities	Tenant to be responsible for routine upkeep, servicing of equipment and day-to-day maintenance. The Council is responsible for works of a structural nature only (where Council owned buildings are occupied).

STANDARD CONDITIONS	
Preparation Fees	As per the Council's adopted Revenue and Pricing Policy current as at the date of commencement of the renewed agreement (currently the licence preparation fee is \$275 including GST). Where Council instructs solicitors to prepare agreements, legal fees incurred are reimbursed by the tenant on a 100% cost recovery basis.

During the 2024/25 financial year, the agreements listed below will expire. Renewal is recommended upon similar terms and conditions to the current agreements. Each of the tenants identified below have generally complied with their obligations under the current licence agreement and as such Council officers recommend renewing the licence agreement.

The agreements relate to Crown Land managed by Council, operational and community land as set out in the following tables:

CROWN LAND			
<p><i>Note: All agreements over Crown Land require review by Council's Native Title Manager in accordance with section 8.3 of the Crown Land Management Act 2016 (taking effect from 1 July 2018).</i></p> <p><i>Under the aforementioned legislation, Council manages Crown Land as community land under the Local Government Act 1993 and is required to give public notice of a proposal to lease or licence of land. If objecting submissions are received in relation to any proposed agreement, a further report will be submitted to Council for consideration.</i></p>			
Organisation	Property Address	Expiry Date	Use
Association of Riverina Cultural Clubs Inc.	133 Tarcutta Street, Wagga Wagga	11 Sept 2024	Arts and cultural meetings and activities
South Wagga Tennis Club Inc.	Tennyson Park, 40 Oates Avenue, Wagga Wagga	28 Feb 2025	Tennis clubhouse and tennis activities
Wagga & Bidgee District Pony Club Incorporated.	69 East Street, North Wagga	31 May 2025	Equestrian events and associated activities
Bidgee Dragons Incorporated.	Nelson Drive, Lake Albert	30 June 2025	Boat storage shed and associated activities
Mangoplah Cookardinia United-Eastlakes Football Club Incorporated.	Reserve 81402 at Mangoplah Oval	31 Dec 2024	Football ground and clubhouse
Wagga Triants Triathlon Club Incorporated.	Apex Park Kiosk, Lake Albert	30 Sept 2024	Storage of triathlon equipment

The Wagga Wagga Women's Shed Incorporated.	Cnr Beckwith & Kincaid Street, Wagga Wagga	31 Jan 2025	Women's shed and associated activities
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OPERATIONAL LAND

Organisation	Property Address	Expiry Date	Use
Murrumbidgee Local Health District	Part Senior Citizens Centre, 204, Tarcutta Street, Wagga Wagga	31 May 2025	Baby health clinic rooms and associated activities
Australian Red Cross Society	16 Wiradjuri Crescent, Wagga Wagga	31 May 2025	Office and meeting rooms

COMMUNITY LAND

Note: Under Section 47A of the Local Government Act 1993 Council is required to give public notice of a proposal to lease or licence of land classified as community land. If objecting submissions are received in relation to any proposed agreement, a further report will be submitted to Council for consideration.

Organisation	Property Address	Expiry Date	Use
Wagga Wagga Sailing Club Incorporated.	Lake Albert foreshore off Lakehaven Drive, Lake Albert	30 Sept 2024	Boat shed and associated activities

Financial Implications

Rent and other occupation fees are charged as per Council's adopted Fees and Charges Policy as at the date of commencement of the renewed agreement. The current minimum community fee is \$800 per annum including GST (to be reviewed 1 July 2024). The total rent received is included in Council's annual operating income budget.

The above tables represent a renewal of existing arrangements. Accordingly, there will be no further change to Council's LTFP. Lease and licence fees will continue to be reviewed in accordance with the annual review of endorsed Fees and Charges.

In respect of the Crown Land leases, the net proceeds of dedicated or reserved Crown land must be applied for permitted purposes pursuant to section 3.16 of the *Crown Land Management Act 2016* (i.e.: improving, managing and/or preparing plans of management for Crown land.)

Policy and Legislation

Local Government Act 1993
Crown Land Management Act 2016

Native Title Act 1993
 Acquisition, Disposal and Management of Land Policy (POL 038)

Link to Strategic Plan

Safe and Healthy Community

Objective: Our community embraces healthier lifestyle choices and practices

Promote access and participation for all sections of the community to a full range of sports and recreational activities

Risk Management Issues for Council

Council has a responsibility to appropriately manage its property assets. Council officers note and support the ongoing use of Council owned land by community groups who provide an important service to the community.

Failure to support to renewal of the licence agreements may have reputational implications for Council.

Internal / External Consultation

Internal consultation has been undertaken with Council’s Regional Activation, Operations and Community directorates. Public notification of proposed agreements concerning Council community land and Crown Land managed under the Local Government Act 1993 is required as outlined below. Direct consultation with Native Title Interests and Aboriginal Land Claimants may also be required in the case of Crown Land.

	Mail			Traditional Media				Community Engagement				Digital				
	Rates notices insert	Direct mail	Letterbox drop	Council news	Media release	Media opportunity	TV/radio advertising	One-on-one meeting(s)	Community meeting(s)	Stakeholder workshop(s)	Drop-in session(s)	Survey/feedback form(s)	Have your Say	Email newsletter	Social media	Website
Inform																
Consult		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>												
Involve																
Collaborate																
Other methods (please list specific details below)																

RP-6 COMMUNITY LICENCE RENEWAL AND EXTENSION OF LICENCE AREA - PART 80 CONNORTON STREET, URANQUINTY**Author:** Matthew Dombrovski**Executive:** John Sidgwick

Summary: This report seeks Council endorsement to enter into a new community licence agreement and extend the current licence area licenced by The Quinty Mens Shed Incorporated over land located at 80 Connorton Street, Uranquinty (being part Lot 2 DP 590564).

Recommendation

That Council:

- a agree to extend the area licenced by The Quinty Mens Shed Incorporated as outlined in the body of this report
- b delegate authority to the General Manager or their delegate to negotiate entry into a community licence agreement with The Quinty Mens Shed Incorporated over the land located at 80 Connorton Street, Uranquinty (being part Lot 2 DP 590564) upon the terms noted in the body of this report
- c delegate authority to the General Manager or delegate to execute all documents as required
- d authorise the affixing of Council's common seal to all documents as required

Report

Reference is made to Council owned operational land located at 80 Connorton Street, Uranquinty, being Lot 2 DP 590564. The property is zoned RU5 (Village) and has an area of approximately 6.4Ha.

The Quinty Mens Shed Incorporated (Mens Shed) currently occupy part of 80 Connorton Street, Uranquinty (being part Lot 2 DP 590564) under a community licence agreement being an area of approximately 1600m². The Mens Shed have held a licence agreement over the land since 1 January 2014 for the purpose of office duties and associated activities with the running of a Mens Shed. It is noted that the Mens Shed built the shed on site and are the current owner of the shed.

Extension of licence area:

Council officers have received a request from the Mens Shed seeking a variation to their licence area by extending the northeastern boundary 15m to the north, which will add approximately 510m² of additional land area to their existing licence agreement (to a total size of approximately 2110m²). Annexure A identifies the current licenced area to the Mens Shed and indicates the area requested to add to the licence agreement.

It is also noted that the Mens Shed have a shipping container which currently sits outside the licenced area. The proposed extension of the licence area ensures that this asset is retained in the boundary of land licensed by the Mens Shed.

The Mens Shed are currently developing an expansion plan which will involve the construction of an additional shed on site. Whilst at this time Council staff do not have any details on the shed development, it is anticipated that any new shed would be located within the additional licence area.

Council has recently resolved (Resolution 24/128) to support the relocation of the Uranquinty Rural Fire Brigade to a location northeast of the proposed extension site. Council officers understand that there are currently discussions being undertaken between the Mens Shed and the Rural Fire Service in relation to the future use of the existing Uranquinty Fire Shed. It is noted that assets of the Rural Fire Service are vested in Council pursuant to Section 119 of the Rural Fires Act 197, and therefore any final decision as to what happens to this asset will rest with Council and be the subject of a further report.

Renewal of licence agreement:

Council officers note that the current agreement is due to expire on the 31 December 2024. The Mens Shed have been active users of the site and actively involved within the Uranquinty community. The Mens Shed have generally complied with their obligations under the current licence agreement and as such Council officers recommend renewing the licence agreement in accordance with the existing terms of the licence agreement as per the table below:

STANDARD CONDITIONS	
Premises	Part Lot 2 DP 590564 known as 80 Connorton Street, Uranquinty, having an approximate area of 2110m ² shown outlined in red on the attached Annexure B.
Permitted Use	Office space and associated activities with the running of a Mens Shed.
Commencement date	1 January 2025
Agreement duration	Five (5) years
Fees	Rent and other occupation fees as per Council's endorsed Fees and Charges as at the date of commencement. (Currently the Council's minimum community rent is \$800 per annum including GST and will be reviewed as of 1 July 2024.)
Fee increases	Rent and other occupation fees adjusted annually on the anniversary of commencement as per Council's endorsed Fees and Charges.
Public Liability Insurance	No less than \$20 million with Wagga Wagga City Council listed as an interested party.
Occupation Costs	Tenant to meet costs associated with occupation of the premises including but not limited to water, gas, electricity, fire safety, sewer and waste disposal.
Maintenance Responsibilities	Tenant responsible for routine upkeep, servicing of equipment and day-to-day maintenance. The Council is responsible for works of a structural nature only (where Council owned buildings are occupied).

STANDARD CONDITIONS	
Preparation Fees	As per Council's endorsed Revenue and Pricing Policy current as at the date of commencement of the renewed agreement. (Currently the licence preparation fee is \$275 including GST and will be reviewed as of 1 July 2024.

Financial Implications

Rent and other occupation fees are charged as per Council's endorsed Fees and Charges as at the date of commencement of the renewed agreement. The total rent received is included in Council's annual operating income budget. As this report relates to the extension of the licensed area under a new licence agreement, the only financial implication to Council would be the receipt of the licence preparation fees and rent.

Policy and Legislation

Local Government Act 1993

Rural Fires Act 1997

Acquisition, Disposal and Management of Land Policy (POL 038)

Link to Strategic Plan

Community Place and Identity

Objective: Our community feel welcome, included and connected

Activate community spaces to promote connectedness

Risk Management Issues for Council

Council has a responsibility to appropriately manage its property assets. Council officers note and support the ongoing use of Council owned land by community groups who provide an important service to the community. Failure to support an extension of the licence area and the renewal of the licence agreement may lead to reputational implications for Council.

Internal / External Consultation

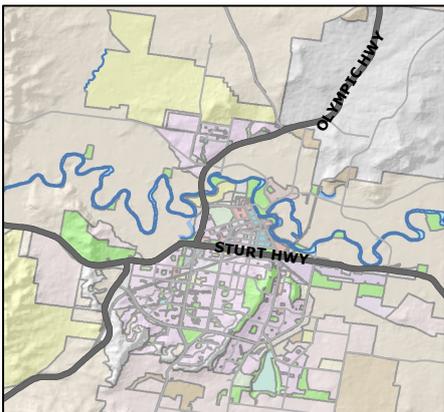
Internal consultation has been undertaken within the Regional Activation and Infrastructure directorates.

Attachments

1   Annexure A

2   Annexure B

Location Map - 80 Connorton Street, Uranquinty



Current Licenced Area to
The Quinty Mens Shed



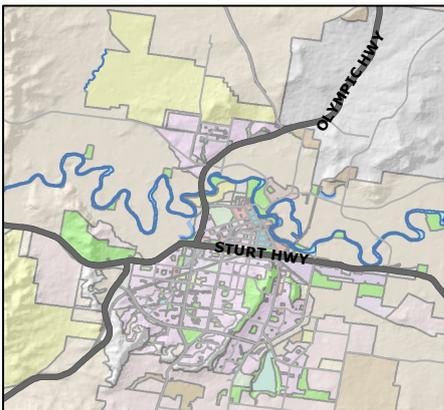
Requested extension to licenced area
(15m off current NE boundary)

Map Date: 14 May 2024

The City of Wagga Wagga does not warrant the accuracy or completeness of information in this product. Any person using or relying upon this product does so on the basis that the City of Wagga Wagga does not accept responsibility or liability for any errors, faults, defects or omissions in this product.



Location Map - 80 Connorton Street, Uranquinty



Licensed Area - The Quinty Mens Shed
Part Lot 2 DP 590564
Part 80 Connorton Street, Uranquinty

Map Date: 14 May 2024

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RP-7 WAGGA CRICKET GROUND CONCEPT MASTERPLAN**Author:** Joshua Walsh**Executive:** John Sidgwick**Summary:**

In recent years, staff have received multiple requests for consideration of projects at the Wagga Cricket Ground.

Following these requests, staff developed a list of key priorities for Wagga Cricket Ground in consultation with the key user groups.

In August 2023, staff engaged Otium Planning Group to conduct further stakeholder consultation and to prepare a concept masterplan for Wagga Cricket Ground.

Recommendation

That Council:

- a receives the Wagga Cricket Ground Masterplan
- b place the Wagga Cricket Ground Masterplan on public exhibition for a period of 30 days from 14 June 2024 to 14 July 2024 and invite submissions until 21 July 2024 on the document
- c receive a further report following the public exhibition and submission period:
 - i addressing any submission made in respect of the Wagga Cricket Ground masterplan
 - ii proposing adoption of the Wagga Cricket Ground Masterplan unless there are any recommended amendments deemed to be substantial and requiring a further public exhibition period

Report

In 2021 following multiple requests for consideration of projects at the Wagga Cricket Ground (WCG), staff met with the key user groups to discuss potential future development options. In consultation with the key user groups, staff developed a list of key priorities for the redevelopment and upgrade of the WCG.

To develop these priorities further, in August 2023, Otium Planning Group was engaged to conduct further stakeholder engagement to develop a draft concept masterplan for Wagga Cricket Ground. A key consideration of the masterplan was the removal of the cycling track from around the oval. This had previously been identified for removal once the Pomingalarna cycling complex was completed as it is reaching its end of asset life and will become an increasing maintenance burden. Removing the cycle track enables expansion of the turf playing oval, creating space for a full-sized rectangular sports field. This expansion increases the site's potential for bookings, as it would be able to be used for competitions rather than just training sessions.

It is intended the masterplan serves as a long-term strategic document, developed to guide future works by ensuring they are completed in line with identified priorities derived from stakeholder and community consultation. This approach ensures that any redevelopment occurs in a systematic manner, aligned with the masterplan's objectives, rather than via ad hoc decisions.

Initial high level in-house costings of the project estimate the total cost of implementing the masterplan to be in excess of \$4.2M. Currently, there is no allocated funding for Wagga Cricket Ground projects within the Council's Long Term Financial Plan. The development of this masterplan will assist future funding allocations and grant applications. Prior to consideration of funding, each project element will be subject to further analysis including a business case and detailed costing estimate during that project's planning phase.

Staff note that Wagga Cricket Ground is Crown Land. Any future works proposed in the masterplan would be subject to the appropriate Crown Land and Native Title assessments being completed.

Financial Implications

The total cost of implementing all items identified within the masterplan is estimated to be in excess of \$4.2M which is currently unfunded. Prior to consideration of funding each project element will be subject to further analysis including a business case and detailed costing estimate during that project's planning phase

In order for the masterplan to be implemented, grant funding along with Council contribution and other stakeholder funding will be required, which is currently not included in Council's Long Term Financial Plan.

Policy and Legislation

Recreation, Open Space and Community Strategy and Implementation Plan 2040

Link to Strategic Plan

Growing Economy

Objective: Wagga Wagga is a hub for activity

Facilitate the development of vibrant precincts

Risk Management Issues for Council

The risks associated with implementing this Master Plan relate to process, cost, environmental, WHS and contractor performance. These risks will be addressed as part of the Council's project management and contractor performance management systems.

Internal / External Consultation

The stakeholder engagement findings are included in the masterplan document. In 2021, multiple stakeholder engagement sessions were held by staff to develop a list of priorities for Wagga Cricket Ground following user group and community requests. In 2023, Otium and staff conducted further stakeholder engagements sessions during the development of the masterplan.

	Mail			Traditional Media				Community Engagement				Digital				
	Rates notices insert	Direct mail	Letterbox drop	Council news	Media release	Media opportunity	TV/radio advertising	One-on-one meeting(s)	Community meeting(s)	Stakeholder workshop(s)	Drop-in session(s)	Survey/feedback form(s)	Have your Say	Email newsletter	Social media	Website
Inform																
Consult				<input checked="" type="checkbox"/>									<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
Involve																
Collaborate																
Other methods (please list specific details below)																

Attachments

1.  Wagga Cricket Ground Masterplan - Provided under separate cover

RP-8 AUDIT, RISK AND IMPROVEMENT COMMITTEE MEMBERSHIP**Author:** Nicole Johnson**Executive:** Scott Gray**Summary:**

Amendments have been made to the *Local Government (General) Regulation 2021* impacting on Councillor voting members of the Audit, Risk and Improvement Committee. Council's current Councillor membership will expire on 30 June 2024.

It is recommended that Council appoint one non-voting Councillor member to the Audit, Risk and Improvement Committee for the remainder of the Council term.

Recommendation

That Council:

- a note amendments to the *Local Government (General) Regulation 2021* and enforcement of the Risk Management and Internal Audit for Local Government in NSW Guidelines NSW that come into effect from 1 July 2024
- b note expired membership of current appointed Councillors on the Audit, Risk and Improvement Committee (ARIC) and thank those Councillors for their service and contribution to the ARIC over this term of Council
- c appoint one Councillor as a non-voting member and one Councillor as an alternate member on the Audit, Risk and Improvement Committee for the remainder of the Council term

Report

Amendments have been made to the *Local Government (General) Regulation 2021* to require all councils to have a risk management framework and an internal audit function and includes changed provision relating to membership requirements for audit risk and improvement committees.

The *Local Government Act 1993* ('Local Government Act'), the *Local Government (General) Regulation 2021* ('Local Government Regulation') and [Risk Management and Internal Audit for Local Government in NSW Guidelines](#) (Guidelines) require each council in NSW to have:

- an audit, risk and improvement committee that continuously reviews and provides independent advice to the council on how it is functioning and managing risk
- a robust risk management framework that accurately identifies and mitigates the risks facing the council and its operations, and
- an effective internal audit function that provides independent advice as to whether the council is functioning effectively and the council's internal controls to manage risk are working.

These three mandatory governance mechanisms are key to ensuring that councils are doing things the best way they can for their communities and are on track to delivering their community's goals and objectives.

The Guidelines have been issued under section 23A of the Local Government Act which confers on the “Departmental Chief Executive” of the Office of Local Government the power to prepare, adopt or vary guidelines relating to the exercise by a council of any of its functions.

Councils are required to consider these Guidelines when implementing the requirements prescribed under the Act and the Regulation relating to Audit, Risk and Improvement Committees, risk management and internal audit.

Councils are required to comply with these requirements from 1 July 2024 and, commencing with the 2024/25 annual report, to attest to their compliance with the requirements in their annual reports.

Although Council has these requirements in place, further provisions restrict Councillors being a voting member on the Audit, Risk and Improvement Committee (ARIC). However, provisions do allow Council to have one non-voting Councillor member on the ARIC, excluding the Mayor.

As a result, Councillors Michael Henderson and Rod Kendall are no longer members of the Audit, Risk and Improvement Committee as of 30 June 2024. This provision also applies to alternate members being Councillors Tim Koschel, Jenny McKinnon and Amelia Parkins.

It is recommended that Council appoint one non-voting member for the remainder of the Council term, being one meeting on 15 August 2024.

Financial Implications

N/A

Policy and Legislation

[Risk Management and Internal Audit for Local Government in NSW Guidelines](#)
Local Government (General) Regulations 2021

Link to Strategic Plan

Community leadership and collaboration

Objective: Wagga Wagga has strong community leadership and a shared vision for the future

Our leaders represent our community

Risk Management Issues for Council

Council from 1 July 2024 must comply with amendments to the *Local Government (General) Regulation 2021*

Internal / External Consultation

Audit Risk and Improvement Committee
Current Councillor members of the Audit Risk and Improvement Committee
Councillors via Councillors Workshop with the ARIC Chair on 3 June 2024

RP-9 RIVERINA AND MURRAY JOINT ORGANISATION (RAMJO)**Author:** Scott Gray**Summary:** Council has been formally invited to join the Riverina and Murray Joint Organisation (RAMJO) as an associate member.**Recommendation**

That Council endorse becoming an associate member of the Riverina and Murray Joint Organisation (RAMJO).

Report

The RAMJO region covers an area of over 80,000 square kilometres and has a population of 152,909 people. The RAMJO membership includes the following 11 Councils:

- Albury City Council
- Berrigan Shire Council
- Carrathool Shire Council
- Edward River Council
- Federation Council
- Griffith City Council
- Hay Shire Council
- Leeton Shire Council
- Murray River Council
- Murrumbidgee Council
- Narrandera Shire Council

RAMJO have identified Wagga Wagga as a valued stakeholder and would like to further collaborate with us as they start to update their Statement of Regional Priorities in the lead-up to the September elections. As a result, Council is in receipt of the attached letter of invitation for Wagga Wagga to join RAMJO as an Associate Member.

There is no fee as an Associate Member and Council would be invited to participate in a non-voting capacity at board meetings, General Managers Advisory Committee meetings, sub-committees, working groups, events, programs etc.

Wagga Wagga is an Associate Member of the Canberra Region Joint Organisation (CRJO) and is currently an active participant. Wagga Wagga regularly collaborates with RAMJO member councils such as Albury City and Griffith City through forums such as the Riverina Regional Cities group. It is recommended that Wagga Wagga accept the invitation to be an associate member of RAMJO.

Financial Implications

There are costs to become an associate member of RAMJO.

Policy and Legislation

NSW Local Government Act 1993

Link to Strategic Plan

Community leadership and collaboration

Objective: Wagga Wagga has strong community leadership and a shared vision for the future

Plan long term for the future of Wagga Wagga

Risk Management Issues for Council

N/A

Internal / External Consultation

Discussions have occurred between the Mayor, General Manager and representatives from RAMJO.

Attachments

1   RAMJO Associate Membership Invitation to Wagga Wagga



PO Box 3572 Albury NSW 2640
02 6023 8791
ramjo.nsw.gov.au

26 April 2024

Cr. Dallas Tout
Mayor – City of Wagga Wagga
243 Bayliss Street
WAGGA WAGGA 2650
Sent via email to: councillor.tout@wagga.nsw.gov.au and council@wagga.nsw.gov.au

Dear Cr. Tout

Invitation to join the Riverina and Murray Joint Organisation as an Associate Member

In late 2023, the Riverina and Murray Joint Organisation (**RAMJO**) Board under the Chairmanship of Cr. Patrick Bourke, began discussions around expanding RAMJO's membership base, in anticipation of being required to update and redefine its *Statement of Strategic Regional Priorities*, within one (1) year of the 2024 September Local Government elections. Our board wanted to ensure that relevant stakeholders had an opportunity to genuinely contribute to this important work.

As such, City of Wagga Wagga was identified as a valued stakeholder and potential future member, with whom RAMJO would like to further collaborate with. Subsequently, the board resolved to formally invite City of Wagga Wagga to join RAMJO, as a non-voting Associate Member.

There is no fee with Associate Membership of RAMJO. As an Associate Member, City of Wagga Wagga would be invited to participate in a non-voting capacity at RAMJO's quarterly board meetings, General Managers Advisory Committee meetings, sub-committees and technical working groups, workshops, events and potentially, any programs and projects that are of interest. Furthermore, this level of membership would allow both City of Wagga Wagga and RAMJO to assess common objectives and determine potential for a more formal partnership should this be of interest, a timely pursuit given the approaching *Statement of Strategic Regional Priorities* work approaching on the near horizon.

Should you wish to discuss our invitation in more detail or have any further questions, please do not hesitate to contact me directly at yvonne.lingua@ramjo.nsw.gov.au or on 0408 498 534. Our Chairman Cr. Patrick Bourke can also be contacted on 0403 541 227.

All the best and we look forward to hearing from you soon.

Sincerely

Yvonne Lingua
RAMJO Executive Officer

Cr. Patrick Bourke
RAMJO Chairman



RP-10 QUESTIONS WITH NOTICE**Author:** Scott Gray

Summary: This report is to list questions with notice raised by Councillors in accordance with Council's Code of Meeting Practice.

Recommendation

That Council receive and note the report.

Report

The following questions with notice were received prior to the meeting, in accordance with the Code of Meeting Practice.

Councillor J McKinnon requested a progress report on the Incarnie Crescent Stormwater Augmentation project.

Council is redesigning the Incarnie Crescent Stormwater Augmentation to amend the extent of pipe works and include new pumps as modelling shows that the additional pipe work proposed to be installed as part of the current design has very little benefit for a 1 in 10 event when the flood gates are open and no benefit if the flood gates are closed and a storm event occurs unless new and upgraded pumps are installed at gates 7 & 8 respectively. Council will shortly be contacting the funding provider to explain the modelling and seek a variation to the project to modify the scope and seek an extension of time to implement the works.

Councillor R Kendall requested information in relation to an approximate five-year-old residence with partial fire damage, why does a fire damaged building with the intention to rebuild as original, require a development application in addition to a construction certificate, rather than just the issue of a construction certificate?

If the dwelling is rebuilt in regard to the consent issued for the dwelling then only a Construction Certificate will be required. However if there any changes to the layout, materials etc then this would trigger the requirement for a development application.

In regards to the specific scenario raised by Councillor Kendall, development consent is required for the demolition of the fire damaged portion of the dwelling unless a demolition order is issued. Contact has been made with the customer and options have been provided.

Councillor M Henderson requested information on Boiling Down Road in relation to the increased traffic and the deteriorating condition of the road.

There are 3 State Significant Projects along Boiling Down Road that will have an impact on Boiling Down Road during their construction phase. They are the new 500kVA overhead power lines from the Gregadoo Substation to South Australia that run parallel to Boiling Down Road (Secure Energy Project), a solar farm on the north

side of Boiling Down Road between the Gregadoo Substation and Redbank Road and a Battery Energy Storage Facility on the southwest corner of the Boiling Down Road and Redbank Road intersection. The Secure Energy Project is the only development that has commenced construction with the expansion of the Substation on the corner of Boiling Down Road and Ashfords Road. This project does have a road condition monitoring and maintenance requirement conditioned upon it as well as a complaint handling requirement. Council will inspect the road to determine its condition and if the current condition can be attributed to the project. If the current condition can be attributed to the Secure Energy Project construction, we will ask the contractor to undertake maintenance to the road. If the road requires maintenance because of fair wear and tear not specifically attributable to the Secure Energy Project, Council will undertake maintenance of it until such time as the overhead power line construction commences.

Councillor R Foley requested information on the number of abandoned houses in the City.

Council doesn't hold any specific data related to the number of abandoned or unoccupied houses within the City. There would be a number of private and publicly owned (State and/or Community Housing) houses that are not occupied from time to time due to various circumstances and managed by those entities or through arrangements with real estate agencies. This may include properties that are run down, damaged or awaiting renovations and those owned by property investors or developers holding vacant properties. If houses are damaged or dangerous to the public and of which meet categories such as being structurally unsound, unsecured with vandalism, etc... and these are brought to Council's attention via customer requests or staff's observation, appropriate action is taken. The majority of these cases for Council have been abandoned houses with there being a total of four in this category over the past 18 months. Other circumstances, staff action through referrals to other housing providers responsible for the upkeep and management of their properties. Council staff are also aware that there are a number of houses vacant and are in the process of demolition as part of the Tolland renewal project and this is being managed by HomesNSW.

Councillor T Koschell requested information on what feedback council has received from the community and local organisations after some Councillor comments in meeting and voting against the renaming of Michael Slater Oval due to Domestic Violence charges?

Feedback received to date has been limited to a small number of community suggestions for alternative names for the oval.

Financial Implications

N/A

Policy and Legislation

Code of Meeting Practice

Link to Strategic Plan

Community leadership and collaboration

Objective: Our community is informed and actively engaged in decision making and problem-solving to shape the future of Wagga Wagga

Ensure our community feels heard and understood

Risk Management Issues for Council

N/A

Internal / External Consultation

N/A

COMMITTEE MINUTES

M-1 CONFIRMATION OF MINUTES AUDIT, RISK AND IMPROVEMENT COMMITTEE - 16 MAY 2024

Author: Melinda Conolly
General Manager: Peter Thompson

Summary:

The Audit, Risk and Improvement Committee (ARIC) is an advisory committee of Council. This Report seeks that Council endorse the recommendations made by the Committee at the meeting on 16 May 2024.

Those recommendations relate to the role of the Committee in providing independent assurance and assistance to Council on financial reporting, risk management, internal controls, governance, and internal and external audit and accountability responsibilities.

Recommendation

That Council:

- a endorse the recommendations contained in the minutes of the Audit, Risk and Improvement Committee Meeting held on 16 May 2024
- b adopt the revised Audit Risk and Improvement Committee Charter
- c adopt the revised Internal Audit Charter

Report

The minutes of the Audit, Risk and Improvement Committee Meeting held on 16 May 2024 are presented to Council for adoption.

Amendment Local Government (General) Regulation 2021

Amendments have been made to the *Local Government (General) Regulation 2021*. There is a notable change in composition of the ARIC, with a new limit of one only Councillor member who will now be non-voting. The amended Regulation also contains prescribed eligibility and independence requirements for Committee members.

The Office of Local Government (OLG) has drafted *Risk Management and Internal Audit for local government in NSW Guidelines*, which were released in December 2022, to assist Councils in complying with the new requirements.

Council's ARIC Charter and Internal Audit Charter have been revised in accordance with the Model Terms of Reference and advice in the External Quality Assessment from the Institute of Internal Auditors.

The revised versions of the ARIC Charter and Internal Audit Charter were considered and endorsed by the Committee and are presented to Council for adoption.

Financial Implications

Council has granted certain authorities to the Audit, Risk and Improvement Committee within the scope of its role and responsibilities, as defined within its Charter. As an advisory committee to Council, the Audit, Risk and Improvement Committee has no authority to action items that may have a budget and/or resource implication outside of this authority unless Council resolves to adopt the recommendations.

Policy and Legislation

Audit, Risk and Improvement Committee Charter

Link to Strategic Plan

Community leadership and collaboration

Objective: Wagga Wagga City Council leads through engaged civic governance and is recognised and distinguished by its ethical decision-making, efficient management, innovation and quality customer service

Ensure transparency and accountability

Risk Management Issues for Council

The Committee considered matters relating to their role in providing independent assurance and assistance to Council on risk management, as outlined in the attached Minutes and which included consideration of Council's Corporate Strategic Risk Register.

Internal / External Consultation

The ARIC Chairperson Report was distributed to Councillors via the Councillor Bulletin on 7 June 2024.

Attachments

- 1   ARIC Minutes - 16 May 2024
- 2   Revised Audit Risk and Improvement Committee Charter
- 3   Revised Internal Audit Charter

MINUTES of the **AUDIT, RISK AND IMPROVEMENT COMMITTEE** held on **Thursday 16 May 2024**.**PRESENT**

Mr Bryce McNair (Chairperson)
Mrs Carolyn Rosetta-Walsh
Ms Rachel Harris
Councillor Michael Henderson
Councillor Rod Kendall

IN ATTENDANCE

Chief Audit Executive	Melinda Connolly
Chief Financial Officer	Carolyn Rodney
Manager Corporate Governance and Performance	David Galloway
Corporate Governance Coordinator	Nicole Johnson
Risk Management and Insurance Officer	Daniel Tallar

The meeting of the Audit, Risk and Improvement Committee commenced at 8:02pm.

ACKNOWLEDGEMENT OF COUNTRY

Wagga Wagga City Council acknowledges the traditional custodians of the land, the Wiradjuri people, and pays respect to Elders past, present and future and extends our respect to all First Nations Peoples in Wagga Wagga.

We recognise and respect their cultural heritage, beliefs and continuing connection with the land and rivers. We also recognise the resilience, strength and pride of the Wiradjuri and First Nations communities.

DECLARATIONS OF INTEREST

No declarations of interest were declared.

PROCEDURAL MOTION - ENGLOBO***Recommendation:***

On the Motion of R Harris and Councillor M Henderson

That the Audit, Risk and Improvement Committee adopt RP-7 and RP-12 as recommended in the business papers.

CARRIED

MINUTES of the AUDIT, RISK AND IMPROVEMENT COMMITTEE held on Thursday 16 May 2024.

CONFIRMATION OF MINUTES

CM-1 AUDIT, RISK AND IMPROVEMENT COMMITTEE MINUTES

Recommendation:

On the Motion of Councillor M Henderson and B McNair

That the Minutes of the proceedings of the Audit, Risk and Improvement Committee Meeting held on 22 February 2024 be confirmed as a true and accurate record, noting that the recommendations contained in the minutes of that meeting were endorsed by Council at its Ordinary Meeting on 25 March 2024.

CARRIED

REPORTS

RP-1 GENERAL MANAGER'S UPDATE

Recommendation:

On the Motion of Councillors R Kendall and B McNair

That the Audit, Risk and Improvement Committee:

- a receive and note the update provided by the General Manager**
- b receive an update on PFAS at the next ARIC meeting**

CARRIED

The Committee considered a report from the General Manager in relation to the Transgrid Acquisitions, Wagga Wagga Airport Lease and the illegal horse knackery at Wagga. The Committee discussed concerns regarding risks associated with the status of the airport and the process to resolve the matter. The Committee noted the finalisation of the RRL Riverina Regional Library Asset division dispute including the future completion of the RRL Financial Statements. The Committee requested an update on PFAS by the General Manger at the next ARIC meeting.

Senior Financial Accountant Zac Wilson entered the meeting the time being 8:40am.

Manager Information & Communications Technology Services, Reece Hamblin entered the meeting the time being 8:45am.

MINUTES of the AUDIT, RISK AND IMPROVEMENT COMMITTEE held on Thursday 16 May 2024.

RP-2 INFORMATION AND COMMUNICATIONS TECHNOLOGY UPDATE

Recommendation:

On the Motion of Councillors B McNair and C Rosetta-Walsh

That the Audit, Risk and Improvement Committee:

- a receive and note the Cyber Security and Information and Communications Technology update**
- b request that Council as a priority approve and recruit required resources in Information and Communication Technology Services**

CARRIED

Council's Manager Information and Communications Technology Services, provided an overview on progress made to date on cyber security, including the development of cyber risk appetite statements. The Committee raised concern in relation to the resources available to deliver the identified action items.

The Committee also noted work undertaken to address the NSW Audit Office recommendations on the audit log issue and Council's asset management system. The Chairperson emphasised the Committee's role in overseeing mitigation strategies and the need to ensure reasonable levels of resourcing are allocated to addressing the risk. The meeting requested that Council focus on approval and recruitment of resources to address controls and actioning all plan items not just the high priorities.

Investment Advisor, Arlo Advisory, Michael Chandra entered the meeting at 8:40am.

RP-3 PRESENTATION FROM COUNCIL'S EXTERNAL INVESTMENT ADVISOR - ARLO ADVISORY

Recommendation:

On the Motion of Councillors B McNair and M Henderson

That the Audit, Risk and Improvement Committee note the presentation from Council's independent investment advisor, Arlo Advisory.

CARRIED

The Committee received a presentation from Council's independent Investment Advisor, covering Council's investment portfolio, its compliance and risk profile. An overview of future/ongoing strategies was provided, including options concerning the investment policy and ethical investment, noting the balance between ethical obligation and the best return for the community. The Committee noted the pleasing result in a volatile market.

Reece Hamblin vacated the meeting the time being 9:04am.

Zac Wilson vacated the meeting the time being 9:05am.

MINUTES of the AUDIT, RISK AND IMPROVEMENT COMMITTEE held on Thursday 16 May 2024.

RP-4 MARCH 2024 QUARTERLY BUDGET REVIEW

Recommendation:

On the Motion of Councillors R Harris and M Henderson

That the Audit, Risk and Improvement Committee note the Quarterly Budget Review for the quarter ended 31 March 2024 reported to Council at the 29 April 2024 Council meeting.

CARRIED

The Committee received an update from Council's Chief Financial Officer, outlining Council's financial health, budget considerations, rate peg announcement and timing of reports. The Committee was advised of the reason behind the increase in legal expenses and were provided with an update on the service review program, particularly relating to the Development Assessment Division.

RP-5 CAPITAL WORKS UPDATE

Recommendation:

On the Motion of Councillors C Rosetta-Walsh and M Henderson

That the Audit, Risk and Improvement Committee:

- a receive and note the contents of the report**
- b request an update at the next meeting on the capital work program and budget outlining what has been delivered over the past 3 years and what will be delivered over the next three years**

CARRIED

The Committee considered the status of the current projects and update on the Capital Works Program, noting the recent review of the Long-Term Financial Plan and confirmed works program and one-off capital projects. The Committee raised ongoing concern regarding Council's ability to deliver those projects, requesting a report to the next meeting on what was budgeted and what was delivered over the past three years and what is proposed over the next three years.

RP-6 PEOPLE & CULTURE UPDATE

Recommendation:

On the Motion of Councillors C Rosetta-Walsh and M Henderson

That the Audit, Risk and Improvement Committee receive and note the People & Culture update.

CARRIED

The Committee discussed staff turnover and labour market challenges, noting Council's continuing effort and improved success in recruiting.

MINUTES of the AUDIT, RISK AND IMPROVEMENT COMMITTEE held on Thursday 16 May 2024.

RP-7 INTEGRATED PLANNING AND REPORTING (IP&R) - DRAFT DOCUMENTS FOR EXHIBITION

Recommendation:

On the Motion of R Harris and Councillor M Henderson

That the Audit, Risk and Improvement Committee:

- a receive and note the report**
- b note Council's endorsement of the draft Operational Plan 2024/25, draft Fees and Charges 2024/25 and draft Long Term Financial Plan 2024/25 noting the public exhibition period of 14 May 2024 to 10 June 2024**

RP-8 GOVERNANCE AND RISK UPDATE

Recommendation:

On the Motion of B McNair and Councillor M Henderson

That the Audit, Risk and Improvement Committee receive and note the report.

CARRIED

RP-9 BUSINESS CONTINUITY PLAN REVIEW AND TEST

Recommendation:

On the Motion of Councillors R Harris and B McNair

That the Audit Risk and improvement Committee

- a receive and note the Post Exercise Report from Marsh Pty Ltd following the Business Continuity Test exercise held on 19 March 2024, noting the recommendations and Council's response and action**
- b endorse the revised Business Continuity Plan**
- c endorse the reviewed Business Continuity Policy (POL 081)**

CARRIED

The Committee commended management for the post exercise report from Marsh Pty Ltd on the recent Business Continuity Plan test exercise. The report commended Council's high level of maturity to manage a business continuity event.

MINUTES of the AUDIT, RISK AND IMPROVEMENT COMMITTEE held on Thursday 16 May 2024.

RP-10 ARIC ACTION REGISTERS (RESOLUTION REGISTER ARIC MEETINGS)

Recommendation:

On the Motion of R Harris and Councillor M Henderson

That the Audit, Risk and Improvement Committee receive and note the report.

CARRIED

RP-11 INTERNAL AUDIT UPDATE

Recommendation:

On the Motion of Councillor M Henderson and B McNair

That the Audit, Risk and Improvement Committee:

- a note the Internal Audit update**
- b note the progress of internal audits on the 2023/24 Internal Audit Plan**
- c note the status of the Audit Unit Register**

CARRIED

The Committee commented on the need for resources either internal and/or external to ensure audits are done. Members expressed frustration with the lack of audits undertaken over the past few years.

RP-12 IMPROVEMENT INITIATIVES DATABASE

Recommendation:

On the Motion of R Harris and Councillor M Henderson

That the Audit, Risk and Improvement Committee:

- a note the status of the Improvement Initiatives Database**
- b endorse the revised target dates**
- c note the progress in relation outstanding action items**

CARRIED

MINUTES of the AUDIT, RISK AND IMPROVEMENT COMMITTEE held on Thursday 16 May 2024.

RP-13 CEMETERY OPERATIONS - INTERNAL AUDIT REPORT

Recommendation:

On the Motion of Councillors B McNair and R Harris

That the Audit, Risk and Improvement Committee:

- a receive and note the report from the Cemetery Operations at Wagga Wagga City Council Internal Audit**
- b congratulate the Chief Audit Executive on the report**
- c request a review and revision of audit recommendation timeframes**

CARRIED

The Chief Audit Executive explained the new regulations and the complexities and resources required to implement the new legislative requirements relating to cemeteries and crematoria. The Committee was advised that Council's operations are complaint and are well advanced compared to the rest of the sector in the implementation of new regulations. The Committee recommended that action dates be revised in consultation with staff to ensure realistic and achievable timeframes.

RP-14 EXTERNAL QUALITY ASSESSMENT REPORT

Recommendation:

On the Motion of C Rosetta-Walsh and R Harris

That the Audit, Risk and Improvement Committee receive and note the report from the External Quality Assessment undertaken by the Institute of Internal Auditors.

CARRIED

The Chief Audit Executive provided an overview of the External Quality Assessment undertaken by the Institute of Internal Auditors including the gap analysis of the revised Global Standards and update to the Internal Audit Charter to reflect the new global standards. The Committee noted the external assessment was well done, with a reasonable report, and communication on work to be done. The Committee requested the development of a checklist and inclusion of items in the Action Items Register with target deadlines.

MINUTES of the **AUDIT, RISK AND IMPROVEMENT COMMITTEE** held on **Thursday 16 May 2024**.

RP-15 AMENDMENTS TO THE LOCAL GOVERNMENT (GENERAL) REGULATION 2021 - REVISED ARIC AND INTERNAL AUDIT CHARTERS

Recommendation:

On the Motion of Councillors R Harris and B McNair

That the Audit, Risk and Improvement Committee:

- a recommend that Council adopt the revised version of the ARIC Charter**
- b approve the revised version of the Internal Audit Charter**

CARRIED

The Chief Audit Executive provided an overview of amendments to the Local Government (General) Regulations 2021, in particular provisions relating to the structure and function of the Committee and the development of the revised draft ARIC Charter and Internal Audit Charter for the Committees approval. The Committee noted updated terminology, new processes and additional documentation, approving both Charters and recommending the Audit Risk and Improvement Committee Charter to Council for adoption. The Committee discussed provisions relating to Councillor membership of the ARIC. Council will need to appoint a non-voting member of the Committee from 1 July 2024.

QUESTIONS WITH NOTICE

No Questions with Notice were received.

The Audit, Risk and Improvement Committee rose at 9:50am.

Audit, Risk and Improvement Committee

Committee Charter



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7			
8			

Reviewed by the Chief Audit Executive

..... [signed] [date]

Reviewed by the General Manager

..... [signed] [date]

Reviewed by Chair of the Audit, Risk and Improvement Committee

..... [signed] [date]

Next review date:

1 Introduction

Wagga Wagga City Council (Council) has established an Audit, Risk and Improvement Committee in compliance with section 428A of *the Local Government Act 1993*, the *Local Government (General) Regulation 2021* and the Office of Local Government's *Guidelines for risk management and internal audit for local government in NSW*. These terms of reference set out the committee's objectives, authority, composition and tenure, roles and responsibilities, reporting and administrative arrangements.

This "Audit, Risk and Improvement Committee Charter" is adopted by the Council, to define the role of the Council's Audit, Risk and Improvement Committee. The Act states the following in respect of Audit, Risk and Improvement Committees:

- A council must appoint an Audit, Risk and Improvement Committee
- The Committee must keep under review the following aspects of the council's operations:
 - Compliance
 - Risk management
 - Fraud control
 - Financial management
 - Governance
 - Implementation of the strategic plan, delivery program and strategies
 - Service reviews
 - Collection of performance measurement data by the council
 - Any other matters prescribed by the regulations.
- The Committee is also able to provide information to the council for the purpose of improving the council's performance of its functions.

The Audit, Risk and Improvement Committee is a committee of Council and plays an important role providing oversight of governance, risk management, compliance and control practices. The Committee also serves to provide confidence in the integrity of practices to enable achievement of Wagga Wagga City Council's strategic objectives.

The Committee shall be known as "the Council of the City of Wagga Wagga Audit, Risk and Improvement Committee" (hereinafter referred to as "the Committee").

This Charter provides the framework for performance of Committee activities.

2 Mandate

The Committee was established by Council Resolution No 07/008.5 on February 2007 and reconfirmed by Council resolution 22/0050 on 14 February 2022 and has the authority of Council to carry out the activities prescribed in this Charter.

3 Objective

The objective of Council's Audit, Risk and Improvement Committee is to provide independent assurance to Council by monitoring, reviewing and providing advice about the Council's governance processes, compliance, risk management and control frameworks, external accountability obligations and overall performance.

4 Independence

The Committee is to be independent to ensure it has no real or perceived bias or conflicts of interest that may interfere with its ability to act independently and to provide Council with robust, objective and unbiased advice and assurance.

The Committee is to have an advisory and assurance role only and is to exercise no administrative functions, delegated financial responsibilities or any management functions of the Council. The Committee will provide independent advice to the Council that is informed by the Council's internal audit and risk management activities and information and advice provided by staff, relevant external bodies and subject matter experts.

The Committee must always ensure it maintains a direct reporting line to and from the Council's internal audit function and act as a mechanism for internal audit to report to the governing body and the General Manager on matters affecting the performance of the internal audit function.

5 Authority

The authority of the Committee to perform its role is established within the scope of this Charter. In discharging its responsibilities, the Committee shall have no executive powers, delegated financial responsibility or management functions.

Council authorises the Committee, for the purposes of exercising its responsibilities, to:

- access any information it needs from the Council through the General Manager or delegated staff member, while ensuring that the demands placed on Council are minimised and that existing information is utilised to obtain the necessary level of assurance as far as practicable.
- use any Council resources it needs, with the understanding that it will exercise prudence and reasonableness in its demands to ensure responsible allocation and utilisation of resources.
- have direct and unrestricted access to the General Manager and senior management of the Council, as necessary for fulfilling their oversight responsibilities.
- seek the General Manager's permission to meet with any other Council staff member or contractor.
- discuss any matters with the external auditor or other external parties.
- request the attendance of any employee at committee meetings through the General Manager, and
- obtain external legal or other professional advice in line with Council's procurement policies and legal service procedure.

Information and documents pertaining to the Committee are confidential and are not to be made publicly available. The Committee may only release Council information to external parties that are assisting the Committee to fulfil its responsibilities with the approval of the General Manager, except where it is being provided to an external investigative or oversight agency for the purpose of informing that agency of a matter that may warrant its attention.

6 Composition and Tenure

The Committee consists of an independent Chair and two independent members who have voting rights and one non-voting Councillor member, as required under the *Guidelines for risk management and internal audit for local government in NSW*.

The governing body is to appoint the Chair and members of the Committee.

All committee members must meet the independence and eligibility criteria prescribed in the *Guidelines for risk management and internal audit for local government in NSW*.

Members will be appointed for up to a four-year term. Members can be reappointed for one further term, but the total period of continuous membership cannot exceed eight years. This includes any term as Chair of the Committee. Members who have served an eight-year term (either as a member or as Chair) must have a two-year break from serving on the Committee before being appointed again. To preserve the Committee's knowledge of the Council, ideally, no more than one member should retire from the Committee because of rotation in any one year.

The terms and conditions of each member's appointment to the Committee are to be set out in a letter of appointment. New members will be thoroughly inducted to their role and receive relevant information and briefings on their appointment to assist them to meet their responsibilities.

Prior to approving the reappointment or extension of the Chair's or an independent member's term, the governing body is to undertake an assessment of the Chair's or committee member's performance. Reappointment of the Chair or a committee member is also to be subject to that person still meeting the independence and eligibility requirements.

Members of the Committee must possess and maintain a broad range of skills, knowledge and experience relevant to the operations, governance and financial management of the Council, the environment in which the Council operates, and the contribution that the Committee makes to the Council. At least one member of the Committee must have accounting or related financial management experience with an understanding of accounting and auditing standards in a local government environment. All members should have sufficient understanding of the Council's financial reporting responsibilities to be able to contribute to the Committee's consideration of the Council's annual financial statements.

7 Role

The Committee supports Council by:

- Reviewing effectiveness of governance, risk management, compliance and control.
- Reviewing the financial statements and performance reporting.
- Promoting improved economy, efficiency, effectiveness and ethics.
- Reviewing reliability of management information.
- Monitoring and evaluating internal audit performance.
- Monitoring the independence and effectiveness of external audit.
- Reviewing effectiveness of fraud control measures.
- Monitoring compliance with laws, regulations, standards and good practice.

This requires Committee monitoring and oversight to encompass the broad range of functions and activities related to governance and assurance including:

- Governance structures and processes.
- Risk management structures and processes.
- Control activities.
- Financial management, accounting policies, financial statements and annual reporting.
- External audit.
- Internal audit.
- Compliance.
- Implementation of audit and other review recommendations.
- Ethics and organisation culture.
- External accountability.
- Fraud and corruption control.
- Business continuity management including ICT disaster recovery arrangements.
- Security including physical security, cybersecurity and ICT security.
- Legal issues.
- Complaint management.
- Organisation performance and management reporting.
- Work health safety.
- Environmental management.
- Major projects and business initiatives.
- Regulator activities.
- Response to significant government enquiries such as Royal Commissions.

The Committee must also provide information to Council for the purpose of improving Council's performance of its functions.

8 Responsibilities of Members

8.1 Independent members

The Chair and members of the Committee are expected to understand and observe the requirements of the *Guidelines for risk management and internal audit for local government in NSW*.

Members are also expected to:

- make themselves available as required to attend and participate in meetings
- contribute the time needed to review and understand information provided to it
- apply good analytical skills, objectivity and judgement
- act in the best interests of the Council
- have the personal courage to raise and deal with tough issues, express opinions frankly, ask questions that go to the fundamental core of the issue and pursue independent lines of inquiry
- maintain effective working relationships with the Council
- have strong leadership qualities (Chair)
- lead effective committee meetings (Chair), and
- oversee the Council's internal audit function (Chair).

8.2 Councillor Member

To preserve the independence of the Committee, the Councillor member of the Committee is a non-voting member. Their role is to:

- relay to the Committee any concerns the governing body may have regarding the Council and issues being considered by the Committee
- provide insights into local issues and the strategic priorities of the Council that would add value to the Committee's consideration of agenda items
- advise the governing body (as necessary) of the work of the Committee and any issues arising from it, and
- assist the governing body to review the performance of the Committee.

Issues or information the Councillor member raises with or provides to the Committee must relate to the matters listed in Schedule 1 and issues being considered by the Committee.

The Councillor member of the Committee must conduct themselves in a non-partisan and professional manner. The Councillor member of the Committee must not engage in any conduct that seeks to politicise the activities of the Committee or the internal audit function or that could be seen to do so.

If the Councillor member of the Committee engages in such conduct or in any other conduct that may bring the Committee and its work into disrepute, the Chair of the Committee may recommend to the Council, that the Councillor member be removed from membership of the Committee. Where the Council does not agree to the Committee Chair's recommendation, the Council must give reasons for its decision in writing to the Chair.

8.3 Conduct

Councillors, Council staff and members of Council Committees must comply with the applicable provisions of Council's Code of Conduct in carrying out the functions as Council officials. It is the personal responsibility of Council officials to comply with the standards in the Code of Conduct and regularly review their personal circumstances with this in mind.

Committee members must maintain the integrity and security of confidential documents or information in their possession, or for which they are responsible.

Complaints alleging breaches of the Council's code of conduct by an independent committee member are to be dealt with in accordance with the Procedures for the Administration of the Code of Conduct for Local Councils in NSW.

8.4 Conflicts of interest

Once a year, committee members must provide written declarations to the Council stating that they do not have any conflicts of interest that would preclude them from being members of the Committee. Independent committee members are 'designated persons' for the purposes of the Council's code of conduct and must also complete and submit returns of their interests.

Committee members and observers must declare any pecuniary or non-pecuniary conflicts of interest they may have in a matter being considered at the meeting at the start of each meeting or as soon as they become aware of the conflict of interest. Where a committee member or observer declares a pecuniary or a significant non-pecuniary conflict of interest, they must remove themselves from committee deliberations on the issue. Details of conflicts of interest declared at meetings must be appropriately minuted.

All conflicts of interest will be considered in line with the Code of Conduct. A register of interests will be maintained for the Committee Chair and members to demonstrate transparency and as a safeguard against conflict of interest.

8.5 Standards

Committee members are to conduct their work in accordance with the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors and AS/NZS ISO 31000:2018, where applicable.

9 Work Plans

The work of the Committee is to be thoroughly planned and executed. The Committee must develop a strategic work plan every four years to ensure that the matters listed in Schedule 1 are reviewed by the Committee and the internal audit function. The strategic work plan must be reviewed at least annually to ensure it remains appropriate.

The Committee may, in consultation with the governing body, vary the strategic work plan at any time to address new or emerging risks. The governing body may also, by resolution, request the Committee to approve a variation to the strategic work plan. Any decision to vary the strategic work plan must be made by the Committee.

The Committee must also develop an annual work plan to guide its work, and the work of the internal audit function over the forward year.

The Committee may, in consultation with the governing body, vary the annual work plan to address new or emerging risks. The governing body may also, by resolution, request the Committee to approve a variation to the annual work plan. Any decision to vary the annual work plan must be made by the Committee.

When considering whether to vary the strategic or annual work plans, the Committee must consider the impact of the variation on the internal audit function's existing workload and the completion of pre-existing priorities and activities identified under the work plan.

10 Assurance Reporting

The Committee must regularly report to the Council to ensure that it is kept informed of matters considered by the Committee and any emerging issues that may influence the strategic direction of the Council or the achievement of the Council's goals and objectives.

The Committee will provide an update to the governing body and the General Manager of its activities and opinions after every committee meeting.

The Committee will provide an annual assessment to the governing body and the General Manager on the Committee's work and its opinion on how the Council is performing.

The Committee will provide a comprehensive assessment every council term of the matters listed in Schedule 1 to the governing body and the General Manager.

The Committee may at any time report to the governing body or the General Manager on any other matter it deems of sufficient importance to warrant their attention. The Mayor and the Chair of the Committee may also meet at any time to discuss issues relating to the work of the Committee.

Should the governing body require additional information, a request for the information may be made to the Chair by resolution. The Chair is only required to provide the information requested by the governing body where the Chair is satisfied that it is reasonably necessary for the governing body to receive the information for the purposes of performing its functions under the *Local Government Act*. Individual Councillors are not entitled to request or receive information from the Committee.

11 Administrative Arrangements

11.1 Meetings

The Committee will meet at least 4 times per year, including a special meeting to review the Council's financial statements.

The Committee can hold additional meetings when significant unexpected issues arise, or if the Chair is asked to hold an additional meeting by a committee member, the General Manager or the governing body.

Committee meetings can be held in person, by telephone or videoconference. Proxies are not permitted to attend meetings if a committee member cannot attend.

A quorum will consist of a majority of independent voting members. Where the vote is tied, the Chair has the casting vote.

Council in consultation with the Chair of the Committee will decide the agenda for each committee meeting. Each committee meeting is to be minuted to preserve a record of the issues considered and the actions and decisions taken by the Committee.

The General Manager and the Chief Audit Executive should attend committee meetings as non-voting observers. The external auditor (or their representative) is to be invited to each committee meeting as an independent observer.

The Committee is supported by non-voting advisers / observers comprising:

- General Manager
- Chief Audit Executive
- Chief Financial Officer
- Manager Corporate Governance and Performance

The Mayor is an ex-officio of the Committee and Councillors not serving on the Committee may attend Committee meetings as observers and to contribute insights to assist Committee deliberations.

Should The committee need to meet with another council staff member or contractor to obtain information to undertake its role, the Chair of the Committee is to obtain permission from the General Manager before inviting the staff member or contractor to meet with the Committee.

Subject to the general manager's permission being given, the staff member or contractor must attend and provide any information requested. Observers have no voting rights and can be excluded from a meeting by the Chair at any time.

The Committee can hold closed meetings whenever it needs to discuss confidential or sensitive issues with only voting members of the Committee present.

The Committee must meet separately with the Chief Audit Executive and the Council's external auditor at least once each year.

11.2 Selection of Independent members

Selection of Independent Members of the Committee shall be made in accordance with Council's Appointment of Organisation Community and Individual Citizen Members to Council Committees Policy (POL 117).

11.3 Committee member induction

New members will receive relevant information and briefings on their appointment to assist them to meet their committee responsibilities.

11.4 Conference, Training and Travel Arrangements

At the request of the General Manager, independent members of the Committee may be required to attend conferences or training to support their role.

Committee members will be nominated and authorised to attend conferences and training:

- Through a resolution of the Committee endorsed by Council or
- The Mayor (or Deputy Mayor) and General Manager jointly where there is insufficient time for consideration by the Committee and Council

In the event that a committee member authorised to attend a conference is unable to attend, at least two (2) days' notice should be given to the General Manager to enable a substitute delegate to be appointed to attend in his or her place.

Costs associated with training, together with associated travel, accommodation and reasonable incidental expenses will be reimbursed to the Committee member by Council. Travel, accommodation and reasonable costs will be considered in line with the arrangements available to Councillors outlined in Councillor Expenses and Facilities Policy (POL 025).

11.5 Dispute resolution

Members of the Committee and the Council's management should maintain an effective working relationship and seek to resolve any differences they may have in an amicable and professional way by discussion and negotiation.

In the event of a disagreement between the Committee and the General Manager or other senior managers, the dispute is to be resolved by the governing body.

Unresolved disputes regarding compliance with statutory or other requirements are to be referred to the Departmental Chief Executive in writing.

11.6 Secretariat

The General Manager has nominated the Chief Audit Executive to provide secretariat support to the Committee. The secretariat will ensure the agenda for each meeting and business papers are circulated after approval from the Chair at least five working days before the meeting and ensure that minutes of meetings are prepared and maintained. Minutes must be approved by the Chair and circulated within two weeks of the meeting to each member.

11.7 Resignation and dismissal of members

Where the Chair or a committee member is unable to complete their term or does not intend to seek reappointment after the expiry of their term, they should give 4 weeks notice to the Chair and the governing body prior to their resignation to allow the Council to ensure a smooth transition to a new Chair or committee member.

The governing body can, by resolution, terminate the appointment of the Chair or an independent committee member before the expiry of their term where that person has:

- breached the council's code of conduct

- performed unsatisfactorily or not to expectations
- declared, or is found to be in, a position of a conflict of interest which is unresolvable
- been declared bankrupt or found to be insolvent
- experienced an adverse change in business status
- been charged with a serious criminal offence
- been proven to be in serious breach of their obligations under any legislation, or
- experienced an adverse change in capacity or capability.

The position of a Councillor member on the Committee can be terminated at any time by the governing body by resolution.

11.8 Vacation of Office

The office of an elected, appointed or representative member of the Committee shall become vacant:

- Upon his/her death;
- If she/he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- If she/he becomes a mentally incapacitated person;
- If he/she resigns his/her membership by notice in writing to the Committee;
- If he/she is absent for three (3) or more consecutive meetings, or 50% or more of meetings held over a rolling 12-month period, without prior approved leave of absence of the Committee;
- If he/she holds any office of profit with the Council;
- If he/she is convicted of any indictable offence or of any summary offence related to dishonesty;
- If he/she is disqualified or dismissed from holding civic office;
- If the Committee is dissolved by the Council;
- If the position is used for any pecuniary interest of the individual; or
- In the event of the Councillor ceasing to be a member of the Council.

Where such person was directly appointed by the Council, the vacancy shall be filled by the Council.

11.9 Review arrangements

The Chair of the Committee will initiate a review of the performance of the Committee annually. The review will be conducted on a self-assessment basis (unless otherwise determined by the Chair), with appropriate input from management and any other relevant stakeholders, as determined by the Chair.

At least once every council term, the governing body must review or arrange for an external review of the effectiveness of the Committee.

These terms of reference must be reviewed annually by the Committee and once each council term by the Council. Any substantive changes will be referred to Council for consideration.

Schedule 1: Audit, Risk & Improvement Committee Responsibilities

Audit

Internal Audit

- Provide overall strategic oversight of internal audit activities
- Act as a forum for communication between the governing body, General Manager, senior management, the internal audit function and external audit
- Review and advise the Council:
 - on whether the Council is providing the resources necessary to successfully deliver the internal audit function
 - if the Council is complying with internal audit requirements, including conformance with the International Professional Practices Framework
 - if the Council's internal audit charter is appropriate and whether the internal audit policies and procedures and audit/risk methodologies used by the Council are suitable
 - of the strategic four-year work plan and annual work plan of internal audits to be undertaken by the Council's internal audit function
 - if the Council's internal audit activities are effective, including the performance of the head of the internal audit function and the internal audit function
 - of the findings and recommendations of internal audits conducted, and corrective actions needed to address issues raised
 - of the implementation by the Council of these corrective actions
 - on the appointment of the head of the internal audit function and external providers, and
 - if the internal audit function is structured appropriately and has sufficient skills and expertise to meet its responsibilities

External Audit

- Act as a forum for communication between the governing body, General Manager, senior management, the internal audit function and external audit
- Coordinate as far as is practicable, the work programs of internal audit and external audit
- Provide input and feedback on the financial statement and performance audit coverage proposed by external audit and provide feedback on the audit services provided
- Review all external plans and reports in respect of planned or completed audits and monitor council's implementation of audit recommendations
- Provide advice to the governing body and/or General Manager on action taken on significant issues raised in relevant external audit reports and better practice guides

Risk

Risk Management

Review and advise the Council:

- if the Council's has in place a current and appropriate risk management framework that is consistent with the Australian risk management standard
- whether the Council is providing the resources necessary to successfully implement its risk management framework
- whether the Council's risk management framework is adequate and effective for identifying and

managing the risks the Council faces, including those associated with individual projects, programs and other activities

- if risk management is integrated across all levels of the Council and across all processes, operations, services, decision-making, functions and reporting
- of the adequacy of risk reports and documentation, for example, the Council's risk register and risk profile
- whether a sound approach has been followed in developing risk management plans for major projects or undertakings
- whether appropriate policies and procedures are in place for the management and exercise of delegations
- if the Council has taken steps to embed a culture which is committed to ethical and lawful behaviour
- if there is a positive risk culture within the Council and strong leadership that supports effective risk management
- of the adequacy of staff training and induction in risk management
- how the Council's risk management approach impacts on the Council's insurance arrangements
- of the effectiveness of the Council's management of its assets, and
- of the effectiveness of business continuity arrangements, including business continuity plans, disaster recovery plans and the periodic testing of these plans.

Internal Controls

Review and advise the Council:

- whether the Council's approach to maintaining an effective internal audit framework, including over external parties such as contractors and advisors, is sound and effective
- whether the Council has in place relevant policies and procedures and that these are periodically reviewed and updated
- whether appropriate policies and procedures are in place for the management and exercise of delegations
- whether staff are informed of their responsibilities and processes and procedures to implement controls are complied with
- if the Council's monitoring and review of controls is sufficient, and
- if internal and external audit recommendations to correct internal control weaknesses are implemented appropriately

Compliance

Review and advise the Council of the adequacy and effectiveness of the Council's compliance framework, including:

- if the Council has appropriately considered legal and compliance risks as part of the Council's risk management framework
- how the Council manages its compliance with applicable laws, regulations, policies, procedures, codes, and contractual arrangements, and
- whether appropriate processes are in place to assess compliance.

Fraud and Corruption

Review and advise the Council of the adequacy and effectiveness of the Council's fraud and corruption prevention framework and activities, including whether the Council has appropriate processes and systems in place to capture and effectively investigate fraud-related information.

Financial Management

Review and advise the Council:

- if the Council is complying with accounting standards and external accountability requirements
- of the appropriateness of the Council's accounting policies and disclosures
- of the implications for the Council of the findings of external audits and performance audits and the Council's responses and implementation of recommendations
- whether the Council's financial statement preparation procedures and timelines are sound
- the accuracy of the Council's annual financial statements prior to external audit, including:
 - management compliance/representations
 - significant accounting and reporting issues
 - the methods used by the Council to account for significant or unusual transactions and areas of significant estimates or judgements
 - appropriate management signoff on the statements
- if effective processes are in place to ensure financial information included in the Council's annual report is consistent with signed financial statements
- if the Council's financial management processes are adequate
- the adequacy of cash management policies and procedures
- if there are adequate controls over financial processes, for example:
 - appropriate authorisation and approval of payments and transactions
 - adequate segregation of duties
 - timely reconciliation of accounts and balances
 - review of unusual and high value purchases
- if policies and procedures for management review and consideration of the financial position and performance of the Council are adequate
- if the Council's grants and tied funding policies and procedures are sound.

Governance

Review and advise the Council regarding its governance framework, including the Council's:

- decision-making processes
- implementation of governance policies and procedures
- reporting lines and accountability
- assignment of key roles and responsibilities
- committee structure
- management oversight responsibilities
- human resources and performance management activities
- reporting and communication activities
- information and communications technology (ICT) governance, and
- management and governance of the use of data, information and knowledge

Improvement

Strategic Planning

Review and advise the Council:

- of the adequacy and effectiveness of the Council's integrated, planning and reporting (IP&R) processes
- if appropriate reporting and monitoring mechanisms are in place to measure progress against objectives, and
- whether the Council is successfully implementing and achieving its IP&R objectives and strategies.

Service Reviews and Business Improvement

- Act as a forum for communication and monitoring of any audits conducted by external bodies and the implementation of corrective actions (for example, NSW government agencies, Commonwealth government agencies, insurance bodies)
- Review and advise the Council:
 - If the Council has robust systems to set objectives and goals to determine and deliver appropriate levels of service to the community and business performance
 - if appropriate reporting and monitoring mechanisms are in place to measure service delivery to the community and overall performance, and
 - how the Council can improve its service delivery and the Council's performance of its business and functions generally

Performance Data and Measurement

Review and advise the Council:

- if the Council has a robust system to determine appropriate performance indicators to measure the achievement of its strategic objectives
- if the performance indicators the Council uses are effective, and
- of the adequacy of performance data collection and reporting.

Internal Audit

Charter



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3	17 July 2014	14/218	25 August 2014
4	10 August 2017	n/a	n/a
5	14 December 2017	n/a	n/a
6	9 February 2018	n/a	n/a
7			
8			

Reviewed by the Chief Audit Executive

..... [signed] [date]

Reviewed by the General Manager

..... [signed] [date]

Reviewed by Chair of the Audit, Risk and Improvement Committee

..... [signed] [date]

Next review date:

1 Introduction

This Audit Charter is a formal statement of purpose, mandate and responsibility for the internal auditing function within Wagga Wagga City Council (Council).

Council has established the Internal Audit function as a key component of Council's governance and assurance framework, in compliance with the *Local Government (General) Regulation 2021* and the Office of Local Government's *Guidelines for risk management and internal audit for local government in NSW*.

This charter provides the framework for the conduct of the Internal Audit function at Council and has been approved by the governing body (Council) considering the advice of the Audit, Risk and Improvement Committee (ARIC).

2 Purpose of Internal Audit

Internal Audit is an independent, objective assurance and consulting activity designed to add value and improve Council's operations. It helps Council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

The mission of Internal Audit is to enhance and protect organisational value by providing advice to the Council, General Manager and ARIC about Council's governance processes, risk management and control frameworks and its external accountability obligations. It also assists Council to improve its business performance.

Internal Audit services may include:

- **Assurance Services:** objective examination of evidence for the purpose of providing an independent assessment of risk management, control and governance processes of Wagga Wagga City Council.
- **Advisory Services:** advisory and related client activities, the nature and scope of which are agreed upon with the client and which are intended to add value and improve Wagga Wagga City Council's business operations.

3 Role

The role of Internal Audit is to support Council's ARIC to review and provide independent advice to the Council in accordance with section 428A of the Local Government Act 1993. This includes conducting internal audits of Council and monitoring the implementation of corrective actions.

Internal Audit also has an active role in:

- developing and maintaining a culture of accountability and integrity
- facilitating the integration of risk management into day-to-day business activities and processes, and
- promoting a culture of high ethical standards.

Internal Audit has no direct authority or responsibility for the activities it reviews. Internal Audit has no responsibility for developing or implementing procedures or systems and does not prepare records or engage in Council functions or activities (except in carrying out its own functions).

4 Internal Audit Arrangement

4.1 Head of Internal Audit

Day-to-day management of Internal Audit is the responsibility of the Chief Audit Executive (Head of Internal Audit). The Chief Audit Executive must have sufficient skills, knowledge and experience to fulfil Internal Audit's role and responsibilities to the Council and the ARIC and be independent, impartial, unbiased and objective when performing their work and free from any conflicts of interest. Responsibilities of the Chief Audit Executive include:

- managing the day-to-day activities of the Internal Audit function.
- managing Council's Internal Audit budget.
- supporting the operation of the Council's ARIC.
- approving Internal Audit project plans, conducting or supervising audits and assessments and providing independent advice to the ARIC.
- monitoring the Council's implementation of actions that arise from the findings of audits.
- assisting the ARIC to implement its annual work plan and four-year strategic work plan.
- ensuring the Council's internal audit activities comply with the Guidelines for risk management and internal audit for local government in NSW, and
- contract management and oversight of supplementary external providers (where appropriate).

5 Independence

Internal Audit is to be independent of Council so it can provide an unbiased assessment of Council's operations and risk and control activities. The Chief Audit Executive reports functionally to the Council's ARIC on the results of completed audits, and for strategic direction and accountability purposes, and reports administratively to the General Manager to facilitate day-to-day operations. Internal audit activities are not subject to direction by the Council and Council's management has no role in the exercise of Council's internal audit activities.

The ARIC is responsible for communicating any internal audit issues or information to the Council. Should the Council require additional information, a request for the information may be made to the ARIC Chair by resolution. The ARIC Chair is only required to provide the information requested by the Council where the Chair is satisfied that it is reasonably necessary for the Council to receive the information for the purposes of performing its functions under the Local Government Act. Individual Councillors are not entitled to request or receive information from the Chief Audit Executive or the ARIC.

The General Manager must consult with the Chair of the ARIC before appointing or making decisions affecting the employment of the Chief Audit Executive. If the Chief Audit Executive is dismissed, the General Manager must report the reasons for their dismissal to the Council. The ARIC, through the Chair, will contribute to the annual performance assessment of the Chief Audit Executive.

Where the Chair of the ARIC has any concerns about the treatment of the Chief Audit Executive, or any action taken that may compromise their ability to undertake their functions independently, they can report their concerns to the Council.

The Chief Audit Executive is to confirm at least annually to the ARIC the independence of Internal Audit activities from Council.

6 Conflicts of Interest

Internal Auditors are not to provide audit services for work for which they may previously have been responsible. Whilst the Standards provide guidance on this point and allow this to occur after 12 months, each instance should be carefully assessed and documented.

When engaging internal audit contractors, the Chief Audit Executive must endeavour to identify, assess and manage any perceived or actual conflicts of interest that may impinge upon internal audit work.

Instances of perceived or actual conflicts of interest by the Chief Audit Executive or internal audit contractors are to be immediately reported to the ARIC and the General Manager by the Chief Audit Executive. The subsequent management or resolution of any identified conflicts of interest shall be monitored by the ARIC.

The annual declaration of independence by the Chief Audit Executive includes a statement that there are no conflicts of interest, or details of how it has been reported and is being appropriately managed.

7 Conduct and Standards

Internal Audit (including service providers) must comply with Council's Code of Conduct. Complaints about breaches of Council's code of conduct by internal audit personnel are to be dealt with in accordance with the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW. The General Manager must consult with the ARIC before any disciplinary action is taken against the Chief Audit Executive in response to a breach of Council's Code of Conduct. Declaration and management of conflicts of interest will occur in line with the requirements of the Code of Conduct.

Internal Audit will govern itself by adherence to mandatory guidance contained in the 'International Professional Practices Framework' (IPPF) issued by the Institute of Internal Auditors (IIA):

- 'Core Principles for the Professional Practice of Internal Auditing'.
- 'Definition of Internal Auditing'.
- 'Code of Ethics'.
- 'International Standards for the Professional Practice of Internal Auditing'.

This mandatory guidance constitutes the fundamental requirements for the professional practice of internal auditing and the principles against which to evaluate the effectiveness of Internal Audit performance.

Internal Audit, including service providers engaged from time to time, will perform their work in accordance with the IPPF. While the IPPF applies to all internal audit work, technology audits may also apply the ISACA standards contained in the 'Information Technology Assurance Framework' (ITAF). Where relevant, the current Australian risk management standard may also be applied.

8 Authority and Confidentiality

Council authorises the Internal Audit function to have full, free and unrestricted access to all functions, premises, assets, personnel, records and other documentation and information that the Chief Audit Executive considers necessary for Internal Audit to undertake its responsibilities.

All records, documentation and information accessed while undertaking internal audit activities are to be used solely for the conduct of those activities. The Chief Audit Executive and individual internal audit staff are responsible and accountable for maintaining the confidentiality of the information they receive when undertaking their work.

All internal audit documentation, including service provider working papers, will remain the property of Council.

Information and documents pertaining to Internal Audit are not to be made publicly available. Internal Audit may only release Council information to external parties that are assisting Internal Audit to undertake its responsibilities with the approval of the General Manager, except where it is being provided to an external investigative or oversight agency for the purpose of informing that agency of a matter that may warrant its attention.

9 Performing Internal Audit Activities

The work of Internal Audit is to be thoroughly planned and executed.

Internal Audit must develop an annual work plan to guide the work of Internal Audit over the forward year. The Internal Audit plan should be reviewed and approved by Council's ARIC.

The Chief Audit Executive will:

- Provide the findings and recommendations of internal audits to the ARIC at the end of each audit. Each report is to include a response from the relevant senior manager.
- Establish an ongoing monitoring system to follow up Council's progress in implementing corrective actions.
- Develop and maintain policies and procedures to guide the operation of Internal Audit. These should be reviewed and approved by the ARIC as appropriate.

- Ensure that the ARIC is advised at each meeting of the internal audit activities completed during that quarter, progress in implementing the annual work plan and progress made implementing corrective actions.

10 Quality Assurance & Improvement Program

The ARIC is required by its Charter to oversee the development and implementation of a quality assurance and improvement program for the Internal Audit function, to provide assurance that internal audit work conforms to the Standards and is focused on continuous improvement.

Standard 1300 requires the Chief Audit Executive develop and maintain a Quality Assurance and Improvement Program that covers all aspects of the Internal Audit activity. This program is intended to assess the efficiency and effectiveness of the Internal Audit function and provide assurance on its conformance with the Standards and other applicable professional practices. The QAIP includes considerations for conducting internal and external assessments, ongoing monitoring activities, and continuous improvement processes.

Internal Audit shall also be subject to an independent quality review at least every five years.

11 Administrative Arrangements

11.1 ARIC Meetings

The Chief Audit Executive:

- Will attend ARIC meetings as an independent non-voting observer. The Chief Audit Executive can be excluded from meetings by the ARIC at any time.
- Must meet separately with the ARIC at least once per year.
- Can meet with the Chair of the ARIC at any time, as necessary, between committee meetings.

11.2 Relationship with External Audit

Internal and external audit activities will be coordinated to help ensure the adequacy of overall audit coverage and to minimise duplication of effort.

Periodic meetings and contact between internal and external audit shall be held to discuss matters of mutual interest and facilitate coordination.

External audit will have full and free access to all internal audit plans, working papers and reports.

11.3 Coordination with Governance & Risk

The Chief Audit Executive shall periodically consult the Manager Corporate Governance & Performance to achieve collaborations between Internal Audit, Risk Management and Governance activities and to reduce duplication of efforts.

11.4 Dispute Resolution

Internal Audit should maintain an effective working relationship with Council and the ARIC and seek to resolve any differences they may have in an amicable and professional way by discussion and negotiation.

In the event of a disagreement between Internal Audit and management, the dispute is to be resolved by the General Manager and/or the ARIC. Disputes between Internal Audit and the ARIC are to be resolved by the Council.

Unresolved disputes regarding compliance with statutory or other requirements are to be referred to the Departmental Chief Executive in writing.

11.5 Review Arrangements

Council's ARIC will review the performance of the Internal Audit function each year and report its findings to the Council. A strategic review of the performance of Internal Audit must be conducted each council term that considers the views of an external party with a strong knowledge of Internal Audit and reported to the Council.

This charter is to be reviewed annually by the ARIC and once each council term by the governing body. Any substantive changes are to be approved by the governing body.

Schedule 1: Internal Audit Responsibilities

Internal Audit

- Conduct internal audits as directed by Council's ARIC.
- Implement the annual Internal Audit work plan.
- Monitor the implementation by Council of corrective actions.
- Assist Council to develop and maintain a culture of accountability and integrity.
- Facilitate the integration of risk management into day-to-day business activities and processes.
- Promote a culture of high ethical standards.

External Audit

- Review all external plans and reports in respect of planned or completed audits and monitor Council's implementation of audit recommendations.
- Provide advice on action taken on significant issues raised in relevant external audit reports and better practice guides.

Risk Management

Review and advise:

- if Council's has in place a current and appropriate risk management framework that is consistent with the Australian risk management standard
- whether Council's risk management framework is adequate and effective for identifying and managing the risks Council faces, including those associated with individual projects, programs and other activities
- if risk management is integrated across all levels of Council and across all processes, operations, services, decision-making, functions and reporting
- of the adequacy of risk reports and documentation, for example, Council's risk register and risk profile
- whether a sound approach has been followed in developing risk management plans for major projects or undertakings
- whether appropriate policies and procedures are in place for the management and exercise of delegations
- if Council has taken steps to embed a culture which is committed to ethical and lawful behaviour
- if there is a positive risk culture within Council and strong leadership that supports effective risk management
- of the adequacy of staff training and induction in risk management
- how Council's risk management approach impacts on Council's insurance arrangements
- of the effectiveness of Council's management of its assets, and
- of the effectiveness of business continuity arrangements, including business continuity plans, disaster recovery plans and the periodic testing of these plans.

Internal Controls

Review and advise:

- whether Council's approach to maintaining an effective internal audit framework, including over external parties such as contractors and advisors, is sound and effective
- whether Council has in place relevant policies and procedures and that these are periodically reviewed and updated

- whether appropriate policies and procedures are in place for the management and exercise of delegations
- whether staff are informed of their responsibilities and processes and procedures to implement controls are complied with
- if Council's monitoring and review of controls is sufficient, and
- if internal and external audit recommendations to correct internal control weaknesses are implemented appropriately.

Compliance

Review and advise of the adequacy and effectiveness of Council's compliance framework, including:

- if Council has appropriately considered legal and compliance risks as part of Council's risk management framework
- how Council manages its compliance with applicable laws, regulations, policies, procedures, codes, and contractual arrangements, and
- whether appropriate processes are in place to assess compliance.

Fraud and Corruption

Review and advise of the adequacy and effectiveness of Council's fraud and corruption prevention framework and activities, including whether Council has appropriate processes and systems in place to capture and effectively investigate fraud-related information.

Financial Management

Review and advise:

- if Council's financial management processes are adequate
- the adequacy of cash management policies and procedures
- if there are adequate controls over financial processes, for example:
 - appropriate authorisation and approval of payments and transactions
 - adequate segregation of duties
 - timely reconciliation of accounts and balances
 - review of unusual and high value purchases
- if policies and procedures for management review and consideration of the financial position and performance of Council are adequate
- if Council's grants and tied funding policies and procedures are sound.

Governance

Review and advise of the adequacy of Council governance framework, including Council's:

- Decision-making processes
- Implementation of governance policies and procedures
- Reporting lines and accountability
- Assignment of key roles and responsibilities
- Committee structure
- Management oversight responsibilities
- Human resources and performance management activities
- Reporting and communication activities
- Information and communications technology (ICT) governance, and
- Management and governance of the use of data, information and knowledge.

Strategic Planning

Review and advise:

- of the adequacy and effectiveness of Council's integrated, planning and reporting (IP&R) processes
- If appropriate reporting and monitoring mechanisms are in place to measure progress against objectives, and
- Whether Council is successfully implementing and achieving its IP&R objectives and strategies.

Service Reviews and Business Improvement

Review and advise:

- If Council has robust systems to set objectives and goals to determine and deliver appropriate levels of service to the community and business performance
- If appropriate reporting and monitoring mechanisms are in place to measure service delivery to the community and overall performance, and
- How Council can improve its service delivery and Council's performance of its business and functions generally

Performance Data and Measurement

Review and advise:

- If Council has a robust system to determine appropriate performance indicators to measure the achievement of its strategic objectives
- If the performance indicators Council uses are effective, and
- Of the adequacy of performance data collection and reporting.

CONFIDENTIAL REPORTS

CONF-1 PROPOSED SUB-LEASE RENEWAL - SITE 232, WAGGA AIRPORT - WORLD FUEL SERVICES (AUSTRALIA) PTY LTD

Author: Matthew Dombrovski

Executive: John Sidgwick

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) (ii) commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the Council.

**CONF-2 CONSENT TO REGISTRATION OF ELECTRICAL EASEMENT OVER
LOT 3 DP 1261450 - FARRER ROAD, CHARLES STURT UNIVERSITY**

Author: Matthew Dombrovski

Executive: John Sidgwick

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) (ii) commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the Council.

CONF-3 PROPOSED SPORTING EVENT

Author: Joshua Walsh

Executive: John Sidgwick

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) (i) commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

MINUTES of the **ORDINARY MEETING OF COUNCIL** held on **Monday 27 May 2024.**

PRESENT

- The Mayor, Councillor Dallas Tout
- Councillor Georgie Davies
- Councillor Michael Henderson
- Councillor Richard Foley
- Councillor Rod Kendall
- Councillor Jenny McKinnon
- Councillor Amelia Parkins

IN ATTENDANCE

- | | |
|---|--------------------|
| General Manager | (Mr P Thompson) |
| Director Community | (Ms J Summerhayes) |
| Director Infrastructure Services | (Mr W Faulkner) |
| Director Strategy and Projects | (Mr P McMurray) |
| Director Regional Activation | (Mr J Sidgwick) |
| Chief Financial Officer | (Mrs C Rodney) |
| Chief Operating Officer | (Mr S Gray) |
| Project Director Regulatory Planning Reform | (Ms R Fox) |
| Manager Corporate Governance & Performance | (Mr D Galloway) |
| Property Coordinator | (Mr M Dombrovski) |
| Manager City Growth & Regional Assets | (Mr B Creighton) |
| Contributions Coordinator | (Mrs B McClure) |
| Strategic Planning Coordinator | (Ms L Hawkins) |
| Strategic Planner | (Ms C Boyd) |
| Corporate Governance & Coordinator | (Mrs N Johnson) |
| Communications & Engagement Coordinator | (Mr M Casey) |
| Governance Officer | (Ms K West) |

NOTICE TO MEETING

The proceedings of all Council meetings in open session, including all debate and addresses by the public, are recorded (audio visual) and livestreamed on Council's website including for the purpose of facilitating community access to meetings and accuracy of the Minutes.

In addition to webcasting council meetings, audio recordings of confidential sessions of Ordinary Meetings of Council are also recorded, but do not form part of the webcast.

Council Meetings are also subject to filming and photographing by media agencies which may form part of news and media broadcasts. Members of the gallery are also advised that recording the proceedings of the meeting of the council is prohibited without the prior authorisation of the council.

This is page 1 of the **MINUTES** of the **ORDINARY MEETING OF COUNCIL** of the Council of the **CITY OF WAGGA WAGGA** held on **27 MAY 2024**.

.....**MAYOR****GENERAL MANAGER**

MINUTES of the **ORDINARY MEETING OF COUNCIL** held on **Monday 27 May 2024**.

ACKNOWLEDGEMENT OF COUNTRY

Wagga Wagga City Council acknowledges the traditional custodians of the land, the Wiradjuri people, and pays respect to Elders past, present and future and extends our respect to all First Nations Peoples in Wagga Wagga.

We recognise and respect their cultural heritage, beliefs and continuing connection with the land and rivers. We also recognise the resilience, strength and pride of the Wiradjuri and First Nations communities.

REFLECTION

Councillors, let us in silence reflect upon our responsibilities to the community which we represent, and to all future generations and faithfully, and impartially, carry out the functions, powers, authorities and discretions vested in us, to the best of our skill and judgement.

APOLOGIES

An apology for non-attendance was received and accepted for Executive Director, People & Culture, Mrs F Piltz on the Motion of Councillors M Henderson and R Kendall.

LEAVE OF ABSENCE

Council noted that Leave of Absence was granted on 13 May 2024 to Councillor T Koschel for this meeting.

CONFIRMATION OF MINUTES

CM-1 ORDINARY COUNCIL MEETING - 13 MAY 2024

24/132 RESOLVED:
On the Motion of Councillors J McKinnon and G Davies

That the Minutes of the proceedings of the Ordinary Council Meeting held on 13 May 2024 be confirmed as a true and accurate record.

CARRIED

RECORD OF VOTING ON THE MOTION

For the Motion
D Tout
G Davies
M Henderson
R Foley
R Kendall
J McKinnon
A Parkins

Against the Motion

This is page 2 of the **MINUTES** of the **ORDINARY MEETING OF COUNCIL** of the Council of the **CITY OF WAGGA WAGGA** held on **27 MAY 2024**.

.....**MAYOR** **GENERAL MANAGER**

MINUTES of the **ORDINARY MEETING OF COUNCIL** held on **Monday 27 May 2024**.

DECLARATIONS OF INTEREST

Councillor R Kendall declared a Non-Significant Non-Pecuniary Interest in RP-4 - MICHAEL SLATER OVAL the reason being that he has a connection with the Slater family and remained in the chamber during its consideration.

Councillor R Kendall declared a Significant Non-Pecuniary Interest in CONF-2 - RFT2024-23 ROAD PAVEMENT MATERIALS SUPPLY the reason being a part owner of one of the tenderers is a business associate of his and vacated the chamber during its consideration.

PROCEDURAL MOTION - ENGLOBO

24/133 RESOLVED:
On the Motion of Councillors R Kendall and J McKinnon

That the standing orders be varied for the meeting as set out hereunder:

- **Items where councillors wish to speak**
- **Items where no councillors wish to speak**
- **Confidential**
- **Matter of urgency**
- **Closure of Meeting**

That RP-1, RP-6, RP-7, M-1, CONF-1, CONF-3 and CONF-4 be adopted as recommended in the business papers.

CARRIED

RECORD OF VOTING ON THE MOTION

<u>For the Motion</u>	<u>Against the Motion</u>
D Tout	
G Davies	
M Henderson	
R Foley	
R Kendall	
J McKinnon	
A Parkins	

PUBLIC DISCUSSION FORUM

RP-2 - NORTH WAGGA FLOOD MITIGATION OPTIONS

- Michael Friend - Speaking in favour of the Recommendation (via Zoom)
- Shaun Tipping – Speaking in favour of the Recommendation

RP-4 - MICHAEL SLATER OVAL

- Steven Dale – Speaking in favour of the Recommendation

This is page 3 of the **MINUTES** of the **ORDINARY MEETING OF COUNCIL** of the Council of the **CITY OF WAGGA WAGGA** held on **27 MAY 2024**.

.....**MAYOR****GENERAL MANAGER**

MINUTES of the ORDINARY MEETING OF COUNCIL held on Monday 27 May 2024.

PROCEDURAL MOTION - CHANGE STANDING ORDERS

24/134 RESOLVED:
On the Motion of Councillors J McKinnon and R Foley

That Council move forward consideration of RP-2 - NORTH WAGGA FLOOD MITIGATION OPTIONS & RP-4 - MICHAEL SLATER OVAL to follow the Public Discussion Forum.

CARRIED

RECORD OF VOTING ON THE MOTION

For the Motion

D Tout
G Davies
M Henderson
R Foley
R Kendall
J McKinnon
A Parkins

Against the Motion

REPORTS FROM STAFF

RP-2 NORTH WAGGA FLOOD MITIGATION OPTIONS

24/135 RESOLVED:
On the Motion of Councillors R Kendall and A Parkins

That Council receive and accept the CIE Final Report Flood Mitigations Options for North Wagga and implements the following approach that is staged and includes:

- a Stage 1 - Upgrading the existing North Wagga Levee system (Stage 1 of L4B - 5% AEP (1 in 20)) and offering Voluntary House Raising and Purchase subject to risk reduction and cost effectiveness. This process will include a Review of Environmental Factors but exclude a Biodiversity Development Assessment Report for this particular stage.**
- b Stage 2 - note that the cost of Stage 2 of option L4B is currently prohibitive and that Stage 2 of option L4B, being increasing the road heights and bridges along Hampden Ave to provide a safe evacuation route, be considered in the future subject to funding and approval processes. This future consideration may include alternate measures or new designs as outlined in the report.**

CARRIED

This is page 4 of the MINUTES of the ORDINARY MEETING OF COUNCIL of the Council of the CITY OF WAGGA WAGGA held on 27 MAY 2024.

.....MAYORGENERAL MANAGER

MINUTES of the **ORDINARY MEETING OF COUNCIL** held on **Monday 27 May 2024.**

RECORD OF VOTING ON THE MOTION

<u>For the Motion</u>	<u>Against the Motion</u>
D Tout	
G Davies	
M Henderson	
R Foley	
R Kendall	
J McKinnon	
A Parkins	

RP-4 MICHAEL SLATER OVAL

24/136 RESOLVED:
On the Motion of Councillors J McKinnon and G Davies

That Council:

- a endorse the renaming of Michael Slater Oval**
- b call for nominations from community members and stakeholders for possible alternative names for consideration**

CARRIED

RECORD OF VOTING ON THE MOTION

<u>For the Motion</u>	<u>Against the Motion</u>
D Tout	M Henderson
G Davies	R Foley
J McKinnon	R Kendall
A Parkins	

RP-1 DA23/0676 - MULTI DWELLING HOUSING (9 TWO STOREY ATTACHED DWELLINGS) INCLUDING VEHICLE MOVEMENT AREA AND CARPARKING - 251 EDWARD STREET, WAGGA WAGGA NSW 2650 (LOT 10 DP123)

24/137 RESOLVED:
On the Motion of Councillors R Kendall and J McKinnon

That Council approve DA23/0676 for Multi dwelling housing (9 two storey attached dwellings) including vehicle movement area and carparking at 251 Edward Street, Wagga Wagga NSW 2650 (Lot 10 DP123) subject to the conditions outlined in the Section 4.15 Assessment Report.

CARRIED

This is page 5 of the **MINUTES** of the **ORDINARY MEETING OF COUNCIL** of the Council of the **CITY OF WAGGA WAGGA** held on **27 MAY 2024.**

.....**MAYOR****GENERAL MANAGER**

MINUTES of the **ORDINARY MEETING OF COUNCIL** held on **Monday 27 May 2024**.

RECORD OF VOTING ON DEVELOPMENT OR PLANNING MATTERS - SECTION 375A(3) LOCAL GOVERNMENT ACT 1993

<u>For the Motion</u>	<u>Against the Motion</u>
D Tout	
G Davies	
M Henderson	
R Foley	
R Kendall	
J McKinnon	
A Parkins	

RP-2 North Wagga flood mitigation options was moved forward to follow the public discussion forum.

RP-3 TOLLAND RENEWAL PROJECT

24/138 RESOLVED:
On the Motion of Councillors R Foley and R Kendall

That Council:

- a receive and note 29 submissions and two (2) petitions were received during the public exhibition period between 11 September 2023 to 24 October 2023 on the Tolland Concept Masterplan**
- b adopt the finalised Tolland Concept Masterplan**
- c provide in principle support for the proposed Planning Agreement in relation to the Tolland Renewal Project**
- d place the proposed Planning Agreement on public exhibition for a period of 28 days from 31 May 2024 to 28 June 2024 and invite submissions until 12 July 2024**
- e receive a further report following the exhibition and submission period:**
 - i addressing any submission made in respect of the proposed planning agreement; and**
 - ii recommending whether or not to enter into the proposed planning agreement**
- f approve dispensation from Council’s Developer Infrastructure Agreements Policy (POL 121) and allow one public exhibition period for the proposed planning agreement**
- g approve dispensation from Council’s Developer Infrastructure Agreements Policy (POL 121) in relation to the requirement of an unconditional bank guarantee**
- h note the updates provided on the acquisition of land, the State-Assessed Planning Proposal and the draft development controls**

CARRIED

This is page 6 of the **MINUTES** of the **ORDINARY MEETING OF COUNCIL** of the Council of the **CITY OF WAGGA WAGGA** held on **27 MAY 2024**.

.....**MAYOR****GENERAL MANAGER**

MINUTES of the **ORDINARY MEETING OF COUNCIL** held on **Monday 27 May 2024.**

RECORD OF VOTING ON THE MOTION

- | | |
|-----------------------|---------------------------|
| <u>For the Motion</u> | <u>Against the Motion</u> |
| D Tout | |
| G Davies | |
| M Henderson | |
| R Foley | |
| R Kendall | |
| J McKinnon | |
| A Parkins | |

RP-4 Michael Slater Oval was moved forward to follow the public discussion forum.

RP-5 MARRAMBIDYA WETLAND PLAN OF MANAGEMENT

24/139 RESOLVED:
On the Motion of Councillors J McKinnon and A Parkins

That Council:

- a receive and note this report**
- b endorse the amended draft Marrambidya Wetland Plan of Management to be placed on public exhibition for a period of 42 days from 31 May 2024 to 12 July 2024 and invite submissions until 12 July 2024 on the draft Document**
- c receive a further report following public exhibition and submission period;**
 - i addressing any submission made in respect of the draft Marrambidya Wetland Plan of Management and final approval from NSW Department of Planning, Housing and Infrastructure**
 - ii proposing adoption of the draft Marrambidya Wetland Plan of Management unless there are any recommended amendments deemed to be substantial and requiring a further public exhibition period**

CARRIED

RECORD OF VOTING ON THE MOTION

- | | |
|-----------------------|---------------------------|
| <u>For the Motion</u> | <u>Against the Motion</u> |
| D Tout | |
| G Davies | |
| M Henderson | |
| R Foley | |
| R Kendall | |
| J McKinnon | |
| A Parkins | |

This is page 7 of the **MINUTES** of the **ORDINARY MEETING OF COUNCIL** of the Council of the **CITY OF WAGGA WAGGA** held on **27 MAY 2024.**

.....**MAYOR****GENERAL MANAGER**

MINUTES of the **ORDINARY MEETING OF COUNCIL** held on **Monday 27 May 2024**.

RP-6 FINANCIAL PERFORMANCE REPORT AS AT 30 APRIL 2024

24/140 RESOLVED:
On the Motion of Councillors R Kendall and J McKinnon

That Council:

- a approve the proposed 2023/24 budget variations for the month ended 30 April 2024 and note the balanced budget position as presented in this report**
- b approve the proposed budget variations to the 2023/24 Long Term Financial Plan Capital Works Program including new projects and future year timing adjustments**
- c note the Responsible Accounting Officer’s reports, in accordance with the Local Government (General) Regulation 2021 (Part 9 Division 3: Clause 203) that the financial position of Council is satisfactory having regard to the original estimates of income and expenditure and the recommendations made above**
- d note the details of the external investments as of 30 April 2024 in accordance with section 625 of the Local Government Act 1993**

CARRIED

RECORD OF VOTING ON THE MOTION

<u>For the Motion</u>	<u>Against the Motion</u>
D Tout	
G Davies	
M Henderson	
R Foley	
R Kendall	
J McKinnon	
A Parkins	

This is page 8 of the **MINUTES** of the **ORDINARY MEETING OF COUNCIL** of the Council of the **CITY OF WAGGA WAGGA** held on **27 MAY 2024**.

.....**MAYOR****GENERAL MANAGER**

MINUTES of the **ORDINARY MEETING OF COUNCIL** held on **Monday 27 May 2024.**

RP-7 REQUEST FOR FINANCIAL ASSISTANCE - SECTION 356

24/141 RESOLVED:
On the Motion of Councillors R Kendall and J McKinnon

That Council:

- a in accordance with Section 356 of the Local Government Act 1993, provide financial assistance to the following organisations:**
 - i. Snowy Valleys Council - \$10,000.00**
- b note the proposed budget available for financial assistance requests for the remainder of the 2023/24 financial year**

CARRIED

RECORD OF VOTING ON THE MOTION

<u>For the Motion</u> D Tout G Davies M Henderson R Foley R Kendall J McKinnon A Parkins	<u>Against the Motion</u>
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RP-8 QUESTIONS WITH NOTICE

24/142 RESOLVED:
On the Motion of Councillors J McKinnon and R Kendall

That Council receive and note the report.

CARRIED

RECORD OF VOTING ON THE MOTION

<u>For the Motion</u> D Tout G Davies M Henderson R Foley R Kendall J McKinnon A Parkins	<u>Against the Motion</u>
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This is page 9 of the **MINUTES** of the **ORDINARY MEETING OF COUNCIL** of the Council of the **CITY OF WAGGA WAGGA** held on **27 MAY 2024.**

.....**MAYOR** **GENERAL MANAGER**

MINUTES of the ORDINARY MEETING OF COUNCIL held on Monday 27 May 2024.

COMMITTEE MINUTES

M-1 FLOODPLAIN RISK MANAGEMENT ADVISORY COMMITTEE - 15 MAY 2024

24/143 RESOLVED:
On the Motion of Councillors R Kendall and J McKinnon

That Council receive the minutes of the Floodplain Risk Management Advisory Committee Meeting held on 15 May 2024.

CARRIED

RECORD OF VOTING ON THE MOTION

<u>For the Motion</u>	<u>Against the Motion</u>
D Tout	
G Davies	
M Henderson	
R Foley	
R Kendall	
J McKinnon	
A Parkins	

CLOSED COUNCIL

24/144 RESOLVED:
On the Motion of Councillors J McKinnon and R Foley

That the Council now resolve itself into a Closed Council, the time being 7.03pm.

CARRIED

AT THIS STAGE OF THE MEETING THE PRESS AND PUBLIC GALLERY RETIRED FROM THE COUNCIL MEETING.

This is page 10 of the MINUTES of the ORDINARY MEETING OF COUNCIL of the Council of the CITY OF WAGGA WAGGA held on 27 MAY 2024.

.....MAYORGENERAL MANAGER

MINUTES of the ORDINARY MEETING OF COUNCIL held on Monday 27 May 2024.

CONFIDENTIAL REPORTS

CONF-1 2023/24 LOAN FACILITY

24/145 RESOLVED:
On the Motion of Councillors R Kendall and J McKinnon

That Council:

- a authorise the General Manager or their delegate to enter into a Loan Facility with New South Wales Treasury Corporation for up to:**
 - i \$1,182,684 to fund the project identified as part of Tranche 2 in the body of the report**
- b approve the change in funding source from external loan borrowings to internal loan borrowings to fund expenditure incurred in 2023/24 for the Pine Gully Rd Corridor Works – Pine Gully Rd/Avocet Dr/Cootamundra Blvd Roundabout project, listed as Tranche 1 in the body of the report**
- c authorise the affixing of Council’s Common Seal to all necessary documents as required**

CARRIED

RECORD OF VOTING ON THE MOTION

<u>For the Motion</u> D Tout G Davies M Henderson R Foley R Kendall J McKinnon A Parkins	<u>Against the Motion</u>
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CONF-2 RFT2024-23 ROAD PAVEMENT MATERIALS SUPPLY

Councillor R Kendall declared a Significant Non-Pecuniary Interest and vacated the chamber, the time being 7:03pm.

24/146 RESOLVED:
On the Motion of Councillors R Foley and G Davies

That Council:

- a accept the offers from the following tenderers for the supply of road pavement materials:**
 - i. The Trustee for The Rocky Point Quarries Unit Trust (ABN:17 916 689 845) T/a Rocky Point Quarries**

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.....MAYORGENERAL MANAGER

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- ii. Bald Hill Quarry Pty Ltd (ABN: 19 033 764 725)
- iii. Burgess Earthmoving Pty Ltd (ABN: 82 002 974 496)
- iv. EB Mawson Pty Ltd (ABN: 14 004 519 617)
- b authorise the General Manager or his delegate to enter into a contract for the supply of road pavement materials with:
 - i. The Trustee for The Rocky Point Quarries Unit Trust (ABN:17 916 689 845) T/a Rocky Point Quarries
 - ii. Bald Hill Quarry Pty Ltd (ABN: 19 033 764 725)
 - iii. Burgess Earthmoving Pty Ltd (ABN: 82 002 974 496)
 - iv. EB Mawson Pty Ltd (ABN: 14 004 519 617)
- c authorise the affixing of Council's Common Seal to all relevant documents as required

CARRIED

RECORD OF VOTING ON THE MOTION

For the Motion

D Tout
G Davies
M Henderson
R Foley
J McKinnon
A Parkins

Against the Motion

Councillor R Kendall re-entered the chamber, the time being 7:04pm.

CONF-3 RFT2021-11 HIRE FLEET, PLANT & EQUIPMENT REFRESH

24/147 RESOLVED:

On the Motion of Councillors R Kendall and J McKinnon

That Council:

- a accept the offers from those Tenderers outlined in Table 1 of the report for the supply of hired plant, fleet and equipment
- b authorise the General Manager, or their delegate to enter into Contracts for the supply of hired plant, fleet and equipment in accordance with the Tenderers identified in Table 1 within the report until 30 June 2025
- c authorise the General Manager or their delegate to extend the Contracts for the supply of hired plant, fleet and equipment for one 12-month periods at the sole discretion of Council
- d approve the budget variation/s as detailed in the Financial Implications section of the report

CARRIED

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.....MAYORGENERAL MANAGER

MINUTES of the **ORDINARY MEETING OF COUNCIL** held on **Monday 27 May 2024.**

RECORD OF VOTING ON THE MOTION

For the Motion

D Tout
G Davies
M Henderson
R Foley
R Kendall
J McKinnon
A Parkins

Against the Motion

**CONF-4 PROPOSED SALE OF LOT 18 WITHIN RIFL SUBDIVISION,
CURRENTLY KNOWN AS PART LOT 11 DP1223041**

24/148 RESOLVED:

On the Motion of Councillors R Kendall and J McKinnon

That Council:

- a authorise the General Manager or their delegate to enter into a contract for the sale of proposed Lot 18 DP 1295212 (currently Part Lot 11 DP 1223041) to Regional Growth NSW Development Corporation on the terms contained in this report**
- b authorise the affixing of Council's common seal to all documents required to facilitate the sale**
- c approve the budget variation/s as detailed in the Financial Implications section of the report**

CARRIED

RECORD OF VOTING ON THE MOTION

For the Motion

D Tout
G Davies
M Henderson
R Foley
R Kendall
J McKinnon
A Parkins

Against the Motion

This is page 13 of the **MINUTES** of the **ORDINARY MEETING OF COUNCIL** of the Council of the **CITY OF WAGGA WAGGA** held on **27 MAY 2024.**

.....**MAYOR****GENERAL MANAGER**

MINUTES of the **ORDINARY MEETING OF COUNCIL** held on **Monday 27 May 2024**.

REVERSION TO OPEN COUNCIL

24/149 RESOLVED:
On the Motion of Councillors G Davies and R Foley

That this meeting of the Closed Council revert to an open meeting of the Council, the time being 7.07pm.

CARRIED

THIS COMPLETED THE BUSINESS OF THE COUNCIL MEETING WHICH ROSE AT 7.10pm.

.....
MAYOR

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.....MAYORGENERAL MANAGER