



# **BUSINESS PAPER**

**Civil and Environmental Services  
Committee Meeting  
Wednesday, 13 July 2022**

**INVERELL SHIRE COUNCIL****NOTICE OF CIVIL AND ENVIRONMENTAL SERVICES COMMITTEE MEETING**

8 July, 2022

A Civil and Environmental Services Committee Meeting will be held in the Committee Room, Administrative Centre, 144 Otho Street, Inverell on Wednesday, 13 July, 2022, commencing at **9:00AM**.

Your attendance at this Civil and Environmental Services Committee Meeting would be appreciated.

Please Note: Under the provisions of the Code of Meeting Practice the proceedings of this meeting (including presentations, deputations and debate) will be recorded. The audio recording of the meeting will be uploaded on the Council's website at a later time. Your attendance at this meeting is taken as consent to the possibility that your voice may be recorded and broadcast to the public.

**I would like to remind those present that an audio recording of the meeting will be uploaded on the Council's website at a later time and participants should be mindful not to make any defamatory or offensive statements.**

**P J HENRY PSM**

**GENERAL MANAGER**

**Agenda**

<b>1</b>	<b>Apologies .....</b>	<b>5</b>
<b>2</b>	<b>Confirmation of Minutes.....</b>	<b>5</b>
<b>3</b>	<b>Disclosure Of Conflict Of Interests/Pecuniary And Non-Pecuniary Interests .....</b>	<b>10</b>
<b>4</b>	<b>Public Forum.....</b>	<b>10</b>
<b>5</b>	<b>Destination Reports.....</b>	<b>11</b>
5.1	Bitumen Resurfacing Program 2022/2023.....	11
5.2	Smoke-free Outdoor Public Places Policy .....	15
5.3	Briefing - Planning Matter .....	16
<b>6</b>	<b>Information Reports.....</b>	<b>22</b>
6.1	IPART Determination Water NSW Bulk Water Charges 2022/23 .....	22
6.2	Works Update .....	43
6.3	First Release of 2021 Census Data by Australian Bureau of Statistics .....	57
6.4	NSW Planning Portal - Performance Audit .....	60
6.5	Development Application Processing Times.....	100

## Ethical Decision Making and Conflicts of Interest

A guiding checklist for Councillors, officers and community committees

### Ethical decision making

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

### Conflict of interest

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

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

### The test for conflict of interest

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

### Identifying problems

- 1st** Do I have private interests affected by a matter I am officially involved in?  
**2nd** Is my official role one of influence or perceived influence over the matter?  
**3rd** Do my private interests conflict with my official role?

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

For more detailed definitions refer to Sections 442, 448 and 459 or the *Local Government Act 1993* and Model Code of Conduct, Part 4 – conflicts of interest.

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

Under the provisions of Section 451(1) of the *Local Government Act 1993* (pecuniary interests) and Part 4 of the Model Code of Conduct prescribed by the Local Government (Discipline) Regulation (conflict of interests) it is necessary for you to disclose the nature of the interest when making a disclosure of a pecuniary interest or a non-pecuniary conflict of interest at a meeting.

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

## Quick Reference Guide

Below is a legend that is common between the:

- Inverell Shire Council Strategic Plan;
- Inverell Shire Council Delivery Plan; and
- Inverell Shire Council Operational Plan.





**1 APOLOGIES**

**2 CONFIRMATION OF MINUTES**

**RECOMMENDATION:**

*That the Minutes of the Civil and Environmental Services Committee Meeting held on 8 June, 2022, as circulated to members, be confirmed as a true and correct record of that meeting.*

**MINUTES OF INVERELL SHIRE COUNCIL  
CIVIL AND ENVIRONMENTAL SERVICES COMMITTEE MEETING  
HELD AT THE COMMITTEE ROOM, ADMINISTRATIVE CENTRE, 144 OTHO STREET,  
INVERELL  
ON WEDNESDAY, 8 JUNE 2022 AT 9:00AM**

**PRESENT:** Cr Stewart Berryman (Chairperson), Cr Paul Harmon (Mayor), Cr Di Baker, Cr Jacko Ross and Cr Wendy Wilks.

**IN ATTENDANCE:** Cr Kate Dight, Cr Paul King OAM, Cr Nicky Lavender and Cr Jo Williams.

Paul Henry (General Manager), Brett McInnes (Director Civil & Environmental Services), Paul Pay (Director Corporate and Economic Services), Justin Pay (Manager Civil Engineering) and Anthony Alliston (Manager Development Services).

**1 APOLOGIES**

Nil

**2 CONFIRMATION OF MINUTES**

**COMMITTEE RESOLUTION**

Moved: Cr Di Baker

Seconded: Cr Paul Harmon

*That the Minutes of the Civil and Environmental Services Committee Meeting held on 11 May, 2022, as circulated to members, be confirmed as a true and correct record of that meeting.*

**CARRIED**

**3 DISCLOSURE OF CONFLICT OF INTERESTS/PECUNIARY AND NON-PECUNIARY INTERESTS**

Cr Dight declared a pecuniary interest in Item #6.3 'Border Rivers and Gwydir River Water Strategies – Update S11.15.1'. The nature of the interest is that Cr Dight is the owner of land with water licence holdings that will be impacted by the Border Rivers Regional Water Strategy.

Brett McInnes declared a non-pecuniary interest in Item #5.3 – 'Petition – Old Bundarra Road Cycleway and Speed Limit', the nature of the interest is that Mr McInnes is a resident in the area.

**4 PUBLIC FORUM**

Nil

**5 DESTINATION REPORTS**

**5.1 ORCHARD PLACE S28.10.SR235**

**COMMITTEE RESOLUTION**

Moved: Cr Paul Harmon

Seconded: Cr Jacko Ross

*That the Committee recommend to Council that:*

1. *The report be received and noted;*
2. *Further community consultation take place prior to completing items in Council Resolution 91/17; and*
3. *A further report be presented to Council on the outcome of the community consultation.*

**CARRIED**

## 5.2 REFERRAL OF CONFIDENTIAL REPORT

### COMMITTEE RESOLUTION

Moved: Cr Jacko Ross

Seconded: Cr Paul Harmon

*That the Committee move into Closed (Public excluded) meeting of the Committee and that the press and members of the public be asked to leave the chambers whilst the Committee considers the following items:*

**Item:** #8.1 S28.7.18/96 - Design, Manufacture and Supply of Precast Pump Track Components

**Authority:** Section 10A (2) (c) 'Information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.' Local Government Act 1993.

**CARRIED**

Brett McInnes declared a non-pecuniary interest in Item #5.3 – 'Petition – Old Bundarra Road Cycleway and Speed Limit', the nature of the interest is that Mr McInnes is a resident in the area.

## 5.3 PETITION - OLD BUNDARRA ROAD CYCLEWAY AND SPEED LIMIT S28.10.SR214

### COMMITTEE RESOLUTION

Moved: Cr Jacko Ross

Seconded: Cr Paul Harmon

*That the Committee recommend to Council that:*

1. *The report be received and noted;*
2. *Council request TfNSW carry out a speed zone review on the section of Old Bundarra Road between Wynne Street and Defraignes Lane, noting that the warrant for a 50km/h speed limit is not met;*
3. *Note the request for a cycleway along Old Bundarra Road and consider this matter when the next Pedestrian Access and Mobility Plan (PAMP) review is undertaken; and*
4. *The lead author of the petition be notified, in accordance with Council's policy regarding corresponding with petitions.*

**CARRIED**

**6 INFORMATION REPORTS****COMMITTEE RESOLUTION**

Moved: Cr Nicky Lavender

Seconded: Cr Jacko Ross

*That the following information reports be received and noted.*

**CARRIED****6.1 WORKS UPDATE S28.21.1/15****6.2 UPDATE ON STRATEGIC PLANNING MATTERS S18.6.49**

Cr Dight declared a pecuniary interest in Item #6.3 'Border Rivers and Gwydir River Water Strategies – Update S11.15.1'. The nature of the interest is that Cr Dight is the owner of land with water licence holdings that will be impacted by the Border Rivers Regional Water Strategy.

**6.3 BORDER RIVERS AND GWYDIR RIVER WATER STRATEGIES - UPDATE S11.15.1****7 GOVERNANCE REPORTS****7.1 GOVERNANCE - PERFORMANCE REPORTING ON ROAD MAINTENANCE COUNCIL CONTRACTS S1.2.3/15****COMMITTEE RESOLUTION**

Moved: Cr Paul Harmon

Seconded: Cr Wendy Wilks

*That the information be received and noted.*

**CARRIED****8 CONFIDENTIAL MATTERS (COMMITTEE-OF-THE-WHOLE)**

At 9.32am, the Chairperson noted that no members of the public or press were in attendance at the meeting therefore the Committee proceeded to consider the motion to close the meeting to the press and public.

**COMMITTEE RESOLUTION**

Moved: Cr Jacko Ross

Seconded: Cr Paul Harmon

*That the Committee proceeds into Closed Committee to discuss the matters referred to it, for the reasons stated in the motions of referral.*

**CARRIED**

**COMMITTEE RESOLUTION**

Moved: Cr Paul Harmon  
Seconded: Cr Di Baker

*That the Committee proceeds out of Closed Committee into Open Committee.*

**CARRIED**

Upon resuming Open Committee at 9.34am, the Chairperson verbally reported that the Committee had met in Closed Committee, with the Press and Public excluded, and had resolved to recommend to Council the following:

**8.1 DESIGN, MANUFACTURE AND SUPPLY OF PRECAST PUMP TRACK COMPONENTS S28.7.18/96****RECOMMENDATION:**

*That the Committee recommend to Council that the tender for the design, manufacture and supply of precast pump track components for the Inverell Pump Track be awarded to Parkitect Australia Pty Ltd to the value of \$261,000.*

**ADOPTION OF RECOMMENDATIONS****COMMITTEE RESOLUTION**

Moved: Cr Paul Harmon  
Seconded: Cr Wendy Wilks

*That the recommendations of Closed Committee be adopted.*

**CARRIED**

**The Meeting closed at 9.35am.**

- 3 DISCLOSURE OF CONFLICT OF INTERESTS/PECUNIARY AND NON-PECUNIARY INTERESTS**
- 4 PUBLIC FORUM**

## 5 DESTINATION REPORTS

### 5.1 BITUMEN RESURFACING PROGRAM 2022/2023

**File Number:** S28.21.1/15 / 22/22557

**Author:** Scott Hamilton, Project Engineer

#### SUMMARY:

Funding allocations have been determined for the 2022-2023 Bitumen Resurfacing Program. This report details the breakdown of this funding and which road resurfacing works are proposed to be undertaken.

#### RECOMMENDATION:

*The Committee recommend to Council that:*

- *the 2022-2023 Bitumen Resurfacing Program be adopted as presented; and*
- *the adopted Bitumen Resurfacing Program be placed on Council's website for the information of the community.*

#### COMMENTARY:

The 2022-2023 Bitumen Resurfacing Program is scheduled to commence in October 2022. Council's recurrent funding allocation for bitumen resurfacing is \$1,731,080.

The funding allocation for State Roads RMCC Ordered Works has not yet been determined by TfNSW.

Details of the funding allocations and sources for the program are as follows:

i)	Urban Street (Inverell) -	ACRD	\$ 188,490
ii)	Village Streets (Ashford)	ACRD	\$ 43,720
		Council	\$ 25,350
iii)	Rural Roads – Northern and Southern - R2R5 Yr4		\$ 693,280
		ACRD	\$ 254,780
		ACRD	\$ 89,830
iv)	Regional Roads	Block Grant	\$ 435,630
v)	State Roads	RMCC Ordered Works	subject to confirmation by TfNSW
		Total funding allocation	\$1,731,080
		Estimated cost	\$1,727,301 (includes contingency)

The funding has been allocated on a priority basis, as determined by Council's Asset Management System. A detailed investigation into the sealed road network was undertaken in 2020, which included a condition assessment by an independent contractor, in accordance with recognised asset management standards. The information collected includes data on cracking, roughness, rutting, edge break and local surface defects, among others. Council's asset staff and maintenance supervisors continually inspect and assess the sealed road network to ensure that service levels are being met. The results of these inspections are recorded in Council's asset management system and are considered when formulating capital expenditure and maintenance works programs.

This information was assessed, along with consideration of the age of existing seal, to determine the condition of the bitumen surface. This information was then confirmed in the field by Council's operational staff and the final program determined. Heavy patching has yet to be determined however; it will be undertaken on all segments with excessive defects, such as pavement failures and roughness and rutting issues prior to the program commencing. This ensures the longevity of the new sealed surface, whilst improving the ride quality of the road network. Council have commenced some preparation works on the regional and rural road network with further preparation works on the Urban Streets and Village Streets due to commence shortly.

A detailed list of each road identified for bitumen resurfacing in the 2022-2023 financial year is contained in **Attachment 1** for the information of the Committee.

**RISK ASSESSMENT:**

Nil

**POLICY IMPLICATIONS:**

Nil

**CHIEF FINANCIAL OFFICERS COMMENT:**

Nil

**LEGAL IMPLICATIONS:**

Nil

**ATTACHMENTS:**

1. Bitumen Resurfacing Program 2022-2023 [↓](#)



## BITUMEN RESURFACING PROGRAM 2022-2023

Road & Segment Id	Road Name	Description	L (m)	Area (m2)	Classification	Estimated Cost
IU067-030	Edward Street	BP Fuel Yard & EOF	387	2167	Urban Minor	\$11,920
IU073-020	Evans Street	Otho Street & Vivian Street	127	2667	Urban Collector	\$14,669
IU073-030	Evans Street	Vivian Street & Lawrence Street	215	4515	Urban Collector	\$24,833
IU103-010	Killeen Street	Swanbrook Road to Culvert	12.5	156	Urban Collector	\$859
IU103-015	Killeen Street	Culvert @ School Crossing	21	191	Urban Collector	\$1,051
IU103-017	Killeen Street	Culvert & Brissett Street	154	1786	Urban Collector	\$9,825
IU113-100	Lawrence Street	Byron Street & Sweeney Street	75	1575	Urban Access	\$8,663
IU113-110	Lawrence Street	Sweeney Street & Captain Cook Drive	77	1663	Urban Access	\$9,148
IU117-040	Lindsay Avenue	Angel Avenue & Culvert (Butler West)	84	781	Urban Collector	\$4,297
IU120-010	Macintyre Street	Tingha Access Road & EOF	82	459	Urban Minor	\$2,526
IU124-015	May Street	George Street & Cloonan Terrace	69	642	Urban Minor	\$3,529
IU124-020	May Street	George Street & Brae Street	45	419	Urban Access	\$2,302
IU124-050	May Street	Prince Street & Ring Street	168	1562	Urban Collector	\$8,593
IU132-060	Moore Street	South Of Woodland Avenue	235	1269	Urban Minor	\$6,980
IU139-010	Oak Place	Waratah Avenue & Cul-de-sac	113	904	Urban Minor	\$4,972
IU155-010	Prince Terrace	O'Conner Street & Cul-de-sac	189	907	Urban Minor	\$4,990
IU165-030	Ross Street	Mansfield Street & Wood Street	232	2830	Urban Access	\$15,567
IU167-030	Rosslyn Street	Old Bundarra Road & Borthwick Street	85	476	Urban Minor	\$2,618
IU185-030	Tingha Access Road	Tingha Road & Macintyre Street	100	320	Urban Minor	\$1,760
IU188-010	Urabatta Street	Brae Street & Rose Street	174	1601	Urban Access	\$8,804
IU202-010	Wood Street	Clive Street & East Street	120	1104	Urban Access	\$6,072
IU202-020	Wood Street	East Street & Bennett Street	131	1205	Urban Access	\$6,629
IU202-030	Wood Street	Bennett Street & Greaves Street	129	1187	Urban Access	\$6,527
IU182-020	Sweeney Street	Lawrence Street & Mansfield Street	229	3206	Urban Access	\$17,633
AU208-010	Albury Street	David Street & Fraser Street	231	2772	Urban Access	\$15,246
AU208-020	Albury Street	Fraser & MR137	162	3402	Urban Access	\$18,711
AU218-020	Ely Street	Bukkulla Street & Bala Street	139	834	Urban Access	\$4,587
AU218-030	Ely Street	Bala Street & Cook Street	224	1344	Urban Access	\$7,392
AU218-040	Ely Street	Cook Street & Inverell Street	150	900	Urban Access	\$4,950
AU209-030	Bala Street	MR 137 & Martyn Street	190	3990	Urban Minor	\$21,945
SR199-010	Auburn Vale Road	Gwydir Highway & Carlyle Street	326	4042	Rural Arterial	\$22,233
SR199-030	Auburn Vale Road	Harland Street & Yabby Creek	1141	8672	Rural Arterial	\$47,694
SR199-050	Auburn Vale Road	Yabby Creek South	145	972	Rural Arterial	\$5,343
SR199-060	Auburn Vale Road	Minnamurra Lane East	151	1087	Rural Arterial	\$5,980
SR199-070	Auburn Vale Road	Minnamurra Lane South	534	3524	Rural Arterial	\$19,384
SR199-130	Auburn Vale Road	Leviathan Road & Auburn Vale Creek	710	3905	Rural Arterial	\$21,478
SR199-140	Auburn Vale Road	Leviathan Road & Causeway North	973	4962	Rural Access	\$27,293
SR148-020	Bolands Lane	Brosnans Lane & EOF	234	1170	Rural Access	\$6,435
SR148-010	Bolands Lane	Brosnans Lane & EOF	513	2668	Rural Access	\$14,672
SR192-030	Copeton Dam Road	Beaulieu	1332	8658	Rural Arterial	\$47,619
SR192-040	Copeton Dam Road	Beaulieu	1492	9698	Rural Arterial	\$53,339
SR249-010	Dodds Lane	Elsmore Road & Gwydir Highway	1812	10872	Rural Arterial	\$59,796
SR234-160	Kings Plains Road	East Of Property 'Dunoola'	523	3033	Rural Arterial	\$16,684
SR234-090	Kings Plains Road	Long Plain Lane	1398	8388	Rural Arterial	\$46,134
SR234-100	Kings Plains Road	Long Plain Lane	1624	9744	Rural Arterial	\$53,592
SR048-150	Pindari Dam Road	Upper Severn River Rd East	1454	8433	Rural Arterial	\$46,383
SR036-060	Wallangra Road	West Of Cawdor	1673	9034	Rural Arterial	\$49,688
SR036-115	Wallangra Road	Honeysuckle Creek	863	4401	Rural Arterial	\$24,207
SR050-230	Bukkulla Road	Frazers Creek Bridge	1156	6705	Rural Arterial	\$36,876
SR054-060	Emmaville Road	Myall Creek Gravel Pit	1796	9698	Rural Arterial	\$53,341
SR054-070	Emmaville Road	Myall Creek Gravel Pit	1738	9385	Rural Arterial	\$51,619

Road & Segment Id	Road Name	Description	L (m)	Area (m2)	Classification	Estimated Cost
MR462-420	Bruxner Way	Mascotte	1141	7417	Regional	\$40,791
MR462-425	Bruxner Way	Green Hills Creek	103	680	Regional	\$3,739
MR462-430	Bruxner Way	Green Hills Creek	1106	7300	Regional	\$40,148
MR462-520	Bruxner Way	Seaforth	471	3062	Regional	\$16,838
MR462-523	Bruxner Way	Seaforth	31	202	Regional	\$1,108
MR462-525	Bruxner Way	Seaforth	563	3772	Regional	\$20,747
MR137-429	Inverell-Bonshaw Road	Culvert & Duff Street	137	904	Regional	\$4,973
MR137-426	Inverell-Bonshaw Road	Culvert	12	72	Regional	\$396
MR137-420	Inverell-Bonshaw Road	Culvert & David Street	244	2928	Regional	\$16,104
MR187-490	Yetman Road	Bedwell Downs Road	1487	11896	Regional	\$65,428
MR187-510	Yetman Road	Glen Lee	1436	10052	Regional	\$55,286
MR187-560	Yetman Road	Carinya	1323	10055	Regional	\$55,301
MR187-550	Yetman Road	Carinya	1393	11144	Regional	\$61,292
MR073-460	Bundarra Road	Shire Boundary North of Bundarra	1321	9247	Regional	\$50,859
MR073-440	Bundarra Road	Shire Boundary North of Bundarra	1538	10766	Regional	\$59,213
MR073-420	Bundarra Road	Tienga Road Int	688	4816	Regional	\$26,488
MR073-410	Bundarra Road	Large Culvert/Guard Rail	21	147	Regional	\$809
MR073-400	Bundarra Road	Tienga Road North/Large Culvert	1651	11557	Regional	\$63,564
MR073-380	Bundarra Road	North of The Gap	1254	8778	Regional	\$48,279
MR073-370	Bundarra Road	Glen Hazel Road	2533	17731	Regional	\$97,521
MR073-090	Bundarra Road	Ironbark Ridge	688	5642	Regional	\$31,029
<b>Totals</b>			<b>45078.5</b>	<b>314053</b>		<b>\$1,727,301</b>

**5.2 SMOKE-FREE OUTDOOR PUBLIC PLACES POLICY****File Number:** S24.17.1 / 22/22655**Author:** Brett McInnes, Director Civil and Environmental Services**SUMMARY:**

Council has placed the Draft Smoke-free Outdoor Public Places Policy on public exhibition. At the time of business paper preparation, the draft policy was still on exhibition. The Committee is being asked to consider a supplementary report in this matter.

**RECOMMENDATION:**

*That a supplementary report on this matter be received.*

**COMMENTARY:**

At its Ordinary meeting on the 25 May, 2022 Council endorsed the Draft Smoke-free Outdoor Public Places Policy for the purposes of public exhibition. The draft policy was subsequently placed on public exhibition on 10 June, 2022 for a period of 28 days. At the time of writing the exhibition period was still under way and will end at the close of business on Thursday, 7 July 2022.

It is intended that a supplementary report be provided on this matter taking into consideration public submission received.

**RISK ASSESSMENT:**

Nil

**POLICY IMPLICATIONS:**

Nil

**CHIEF FINANCIAL OFFICERS COMMENT:**

Nil

**LEGAL IMPLICATIONS:**

Nil

**ATTACHMENTS:**

Nil

**5.3 BRIEFING - PLANNING MATTER****File Number:** DA-38/2022 / 22/22336**Author:** Chris Faley, Development Services Coordinator**SUMMARY:**

Council has received a Development Application for the construction of a single dwelling on 112 Old Mill Road, Tingha. This is a replacement of a dwelling destroyed during the Tingha Plateau Bushfire in 2019.

The purpose of this report is to brief Committee Members on issues relating to “suitable vehicular access” to 112 Old Mill Road over Crown Land, which has potential implications for the broader Inverell Shire.

**RECOMMENDATION:**

*That the information be noted and that a further report be prepared for the Committee upon receipt of additional information on this matter.*

**COMMENTARY:****INTRODUCTION**

Council has received a Development Application (DA-38/2022) for the construction of a single dwelling on 112 Old Mill Road, Tingha. This dwelling will replace a dwelling destroyed during the Tingha Plateau Bushfires in 2019. The application particulars are as follows:

<b>Applicant:</b>	Mr Jonathon Bourne
<b>Owner:</b>	Ms Mary Jane Chedzey
<b>Application No:</b>	DA-38/2022
<b>Address:</b>	112 Old Mill Road, Tingha
<b>Title Particulars:</b>	Lot 146 DP 753678
<b>Lodgement Date:</b>	8 April 2022
<b>Proposed Development:</b>	Dwelling
<b>Estimated Cost of Development:</b>	\$180,000.00
<b>Site Area:</b>	2.398 Hectares
<b>Zoning:</b>	RU1 Primary Production

A map showing the location of Lot 146 DP 753678, 112 Old Mill Road, Tingha is provided as **Figure 1**. Lot 146 DP 753678 is located approximately 1 kilometre off Old Mill Road and is accessed by an existing gravel driveway through:

- The Tingha Common (Lot 11 DP 1184421); and
- A Crown Reserve for Future Public Requirements (Lot 7308 DP 1156842).

This access arrangement is shown on **Figure 1**.

Based on Council’s assessment of DA-38/2022, it is considered that the construction of the dwelling, to replace the fire-destroyed dwelling, is permissible with consent under the *Guyra Local Environmental Plan 2012* and generally complies with the controls of the *Guyra Development Control Plan 2015*.

The primary, and only outstanding, consideration for DA-38/2022 is whether the access over the Tingha Common and Crown Reserve (refer **Figure 1**) satisfies the requirement for “suitable vehicular access” to the dwelling. Detailed discussion on “suitable vehicular access” is provided below.



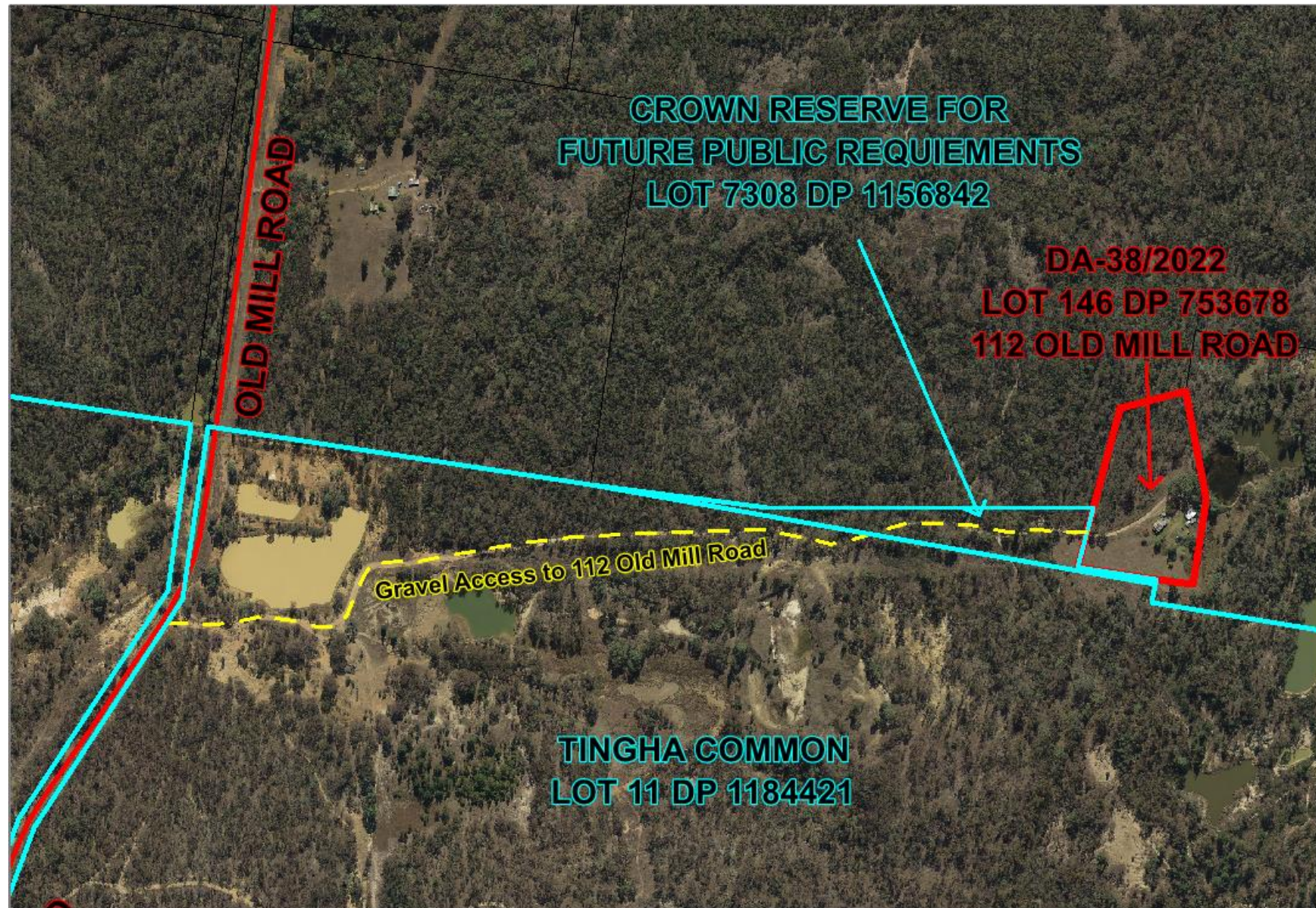


Figure 1 – Aerial Image of 146 DP 753678, 112 Old Mill Rod, Tingha and Access over Tingha Common and Crown Reserve



**ASSESSMENT – “SUITABLE VEHICULAR ACCESS”****Requirement to Provide “Suitable Vehicular Access”**

Pursuant to Clause 6.4 of the *Guyra Local Environmental Plan 2012*:

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—*

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

It is considered that “suitable vehicular access” is essential for the proposed new dwelling on 112 Old Mill Road. On this basis, Clause 6.4 of the *Guyra Local Environmental Plan 2012* prevents Council from approving DA-38/2022 unless “suitable vehicular access” is provided.

*Note: The requirement to provide “suitable vehicular access” to a development is also contained within Clause 6.6 of the Inverell Local Environmental Plan 2012.*

**What constitutes “suitable vehicular access” where it involves neighbouring land?**

The NSW Land and Environment Court recently considered the matter of “suitable vehicular access” over neighbouring land as part of **Fitton v Central Coast Council [2022] NSWLEC 1215**.

**During this case**, the **Land and Environment Court accepted** that “suitable vehicular access” involving neighbouring land must comprise all three of the following:

1. A physical method of access suitably servicing the development;
2. A proprietary right or entitlement to traverse the land; and
3. Regulatory permission to use the ROW for the purpose that the access would serve.

**Does 112 Old Mill Road, Tingha have “suitable vehicular access”?**

Consistent with **Fitton v Central Coast Council [2022] NSWLEC 1215**, to determine whether 112 Old Mill Road, Inverell has “suitable vehicular access”, Council must be satisfied that 112 Old Mill Road, Tingha has:

1. A physical method of suitably servicing the development

As shown in **Figure 1**, Lot 146 DP 753678, 112 Old Mill Road has access through the neighbouring Tingha Common (Lot 11 DP 1184421) and Crown Reserve (Lot 7308 DP 1156842). This access is comprised of a gravel driveway constructed from Old Mill Road to the boundary of Lot 146 DP 753678. Whilst minor upgrade works would be required to the access to achieve compliance with *Planning for Bush Fire Protection 2019* (e.g. installation of passing bays), it is considered there is a “physical method of access suitably servicing the development”.

2. A proprietary right or entitlement to traverse the Tingha Common (Lot 11 DP 1184421) and Crown Reserve (Lot 7308 DP 1156842); and

Generally, for a property to have a proprietary right or entitlement to traverse neighbouring land:

- The access should be contained within a defined road reserve, whether controlled by Council or NSW Crown Lands;
- The neighbouring land is to be a Travelling Stock Reserve and access is permitted under Clause 75 of the *Local Lands Act 2013*;

- A right of carriageway or other land dealing is registered on the Certificate of Title of the respective properties; or
- A right of access is available under another NSW Act or Regulation, granting owners or occupiers a right to traverse land.

Council has undertaken a review of the access to Lot 146 DP 753678, 112 Old Mill Road, Tingha which included consultation with NSW Crown Lands. This review found that:

- The access driveway from Old Mill Road is not contained within a defined road reserve;
- A title search for Lot 146 DP 753678 confirms that no right of carriageway or other land dealing relating to access is registered on the property;
- The Tingha Common (Lot 11 DP 1184421) and Crown Reserve (Lot 7308 DP 1156842) are not Travelling Stock Reserves. Therefore, Clause 75 of the *Local Lands Services Act 2013* is not applicable;
- The Tingha Common is subject to the *Commons Management Act 1989*. NSW Crown Lands have not identified any provisions within the *Commons Management Act 1989* or subordinate regulations that provides a proprietary right of access over the Tingha Common (Lot 11 DP 1184421); and
- The Crown Reserve (Lot 7308 DP 1156842) is subject to the *Crown Land Management Act 2016*. NSW Crown Lands have not identified any provisions within the *Crown Land Management Act 2016* or subordinate regulations that provides a proprietary right of access over the Crown Reserve (Lot 7308 DP 1156842).

In addition to the findings above, consultation was undertaken with NSW Crown Lands in relation to whether a right of carriageway is capable of being granted by NSW Crown Lands over the Tingha Common (Lot 11 DP 1184421) and Crown Reserve (Lot 7308 DP 1156842). A copy of the response from NSW Crown Lands is included as **Attachment 1** to this report. In follow-up discussions with NSW Crown Lands staff, it has been confirmed that the response (**Attachment 1**) is based on a legal opinion obtained by the Crown.

Based on the response from NSW Crown Lands, it is understood that the *Native Title Act 1993* (Federal legislation) currently prevents NSW Crown Lands (State agency) from granting a right of carriageway.

At this point in time, Council's Development Services staff cannot be satisfied that Lot 146 DP 753678, 112 Old Mill Road has a proprietary right or entitlement to traverse the Tingha Common (Lot 11 DP 1184421) or Crown Reserve (Lot 7308 DP 1156842).

3. Regulatory permission to use the ROW for the purpose that the access would serve.

Until such time that a proprietary right or entitlement traverse the Tingha Common (Lot 11 DP 1184421) and Crown Reserve (Lot 7308 DP 1156842) has been established, further assessment of regulatory permissions is not warranted.

## CONCLUSION

Whilst Lot 146 DP 753678, 112 Old Mill Road, Tingha has a physical method of access through the Tingha Common (Lot 11 DP 1184421) and Crown Reserve (Lot 7308 DP 1156842), there does not appear to be a proprietary right of entitlement to use this access. At this point in time, Lot 146 DP 753678, 112 Old Mill Road, Tingha is not considered to have "suitable vehicular access" as established in **Fitton v Central Coast Council [2022] NSWLEC 1215**, and therefore, **Council cannot approve DA-38/2022 pursuant to Clause 6.4 of the Guyra Local Environmental Plan 2012.**

Rather than determine DA-38/2022 by way of refusal, Council's Development Services staff are seeking further advice in respect to this development. This includes:

- Council seeking its own legal opinion in relation to access through the Tingha Common (Lot 11 DP 1184421) and Crown Reserve (Lot 7308 DP 1156842) to 112 Old Mill Road, Tingha; and
- Council seeking additional advice from NSW Crown Lands in relation to an Indigenous Land Use Agreement under the *Native Title Act 1993*, which may enable the granting of an easement.

A further report will be presented to the Civil and Environmental Services Committee on this matter once the legal opinion and additional NSW Crown Lands advice has been received. DA-38/2022 may also be referred to the Civil and Environmental Services Committee for determination.

**RISK ASSESSMENT:**

Nil

**POLICY IMPLICATIONS:**

In addition to the proposed development under DA-38/2022, there are likely other properties within the Inverell Shire that take access through Crown Land subject to a Native Title Claim. Whilst each property access would need to be considered on its individual circumstances, the determination of DA-38/2022 will likely provide guidance for future developments accessing through Crown Land.

**CHIEF FINANCIAL OFFICERS COMMENT:**

Nil

**LEGAL IMPLICATIONS:**

Nil

**ATTACHMENTS:**

1. DA-38/2022 - Correspondence from NSW Crown Lands [↓](#)



## Christopher J. Faley

---

**From:** Rodney O'Brien <rodney.obrien@crowland.nsw.gov.au>  
**Sent:** Tuesday, 3 May 2022 11:12 AM  
**To:** Christopher J. Faley  
**Subject:** RE: DA-38/2022 - Dwelling on Lot 146 DP 753678 (replacement of dwelling lost in Tingha Plateau bush fire) - Access over Crown Land

Hi Chris

- Granting of the easement for access must be consistent with the Objects and Principles of the CLM Act and there must also be a provision in the *Native Title Act 1993 (Commonwealth) (NT Act)* which can operate to validate the grant.
- The grant of an easement for access will be a future act as defined in s233 of the NT Act as it will be act that takes place on or after 1 January 1994 and validly affects native title in relation to the land and waters to any extent.
- Section 227 of the NT Act provides that an act "affects" native title if it extinguishes native title rights and interests or if it is wholly or partly inconsistent with their continued existence, enjoyment or exercise.
- None of Reservation 2558 of Lot 11/1184421 (**Lot 11**) for Tingha Common, Reservation 753678 of Lot 7308/1156842 (**Lot 7308**) for Future Public Requirements or the Proclamation and Reservation from Sale of Tingha Gold Fields extinguish native title.
- The grant of the easement for access cannot be validated pursuant to Section 24JA of the NT Act because Reservation 753678 for future public requirements took place on 29 June 2007, being after the date of 23 December 1996 prescribed in section 24JA.
- The grant of the easement for access is most likely not able to be validated pursuant to section 24LA of the NT Act because presumably a registered easement will continue after a determination recognising native title. Further, the easement would normally authorise the carrying out of works which would mean the act is not a low impact future act within the scope of section 24LA, but this will depend on the terms of the easement.
- The grant of the proposed easement for access can be validated by an Indigenous Land Use Agreement (ILUA) under Part 2 Division 3 of the NT Act.

I hope this helps explain the situation.

Thanks

Regards

**Rodney O'Brien**  
**Group Leader Armidale & Moree**

Crown Lands | Department of Planning, Industry and Environment  
T 02 6770 3101 | M 0400 529 660  
E [rodney.obrien@crowland.nsw.gov.au](mailto:rodney.obrien@crowland.nsw.gov.au)  
92 Rusden Street, Armidale NSW 2350  
PO Box 1138, Armidale NSW 2350

[www.crowland.nsw.gov.au](http://www.crowland.nsw.gov.au)



## 6 INFORMATION REPORTS

### 6.1 IPART DETERMINATION WATER NSW BULK WATER CHARGES 2022/23

**File Number:** S32.9.1 / 22/21363

**Author:** Michael Bryant, Manager Environmental Engineering

#### SUMMARY:

The Independent Pricing and Regulatory Tribunal (IPART) has released a Final Report, 7 June 2022, on its annual review of WaterNSW rural bulk water charges for 2022/2023.

#### COMMENTARY:

A report was considered at the May 2022 Civil & Environmental Services Committee Meeting on the Draft decision by IPART to accept the WaterNSW annual pricing application to maintain the charges set under the 2021 Determination. IPART was proposing that bulk water charges only increase by inflation (estimated at the time to be 3.2%) from 1 July 2022 to 30 June 2023.

It was noted that since the Draft determinations were announced (27 April 2022) the CPI increase for the previous twelve months was 5.1% which indicated the IPART forecast of 3.25% was much lower than what would be applied in the Final determination.

The proposed Draft price increases were significant and not in line with the 3.25% indicated by IPART, which was misleading. Prices proposed for the Border Rivers and Gwydir Valley were well above 3.25% as summarised below.

- Gwydir Valley High Security Access charge to increase by 7.6% and Border Rivers by 8.8%.
- Gwydir Valley General Security Access charge to increase by 2.7% and Border Rivers by 2.9%.
- Usage charges in the Gwydir Valley to increase by 8.7% and Border Rivers by 8%.

The access charge is based on the water licence volume and applies in full, irrespective of the volume of water actually used during the water year.

From the above it was clear that the Draft bulk water charges in the Gwydir Valley and Border Rivers Valley would be well above what IPART had predicted, except usage charges. However, with a higher than expected April 2022 CPI increase of 5.1% the usage charges would also increase above the 3.25% predicted by IPART

At the May 2022 Council meeting it was resolved;

*That:*

- Council make a submission to IPART highlighting the disparity in the proposed 2022/23 price increases for the Gwydir Valley and Border Rivers compared with the IPART forecast; and*
- that in view of the very high price increases already applied to both valleys effective 1 October, 2021, no increase be applied to both valleys during 2022/23.*

Attachment 1 contains a copy of the IPART Final Report on the Annual Review of WaterNSW Rural Bulk Water Charges for 2022/23 for the information of Councillors.

The Table below shows the 2021/22 bulk water charges, plus Final 2022/23 charges for the Border Rivers and Gwydir Valley determined by IPART in June 2022.

Town water supply is classed as High Security and attracts higher access (fixed) charges than General Security. Ashford town water supply is sourced from the Border Rivers Valley and Copeton scheme from the Gwydir valley.

Summary Water NSW Final Regulated River Price Increases Effective 2022/23									
Valley/River	High Security Access			General Security Access			Usage		
	2021/22 \$/ML	2022/23 \$/ML	Increase %	2021/22 \$/ML	2022/23 \$/ML	Increase %	2021/22 \$/ML	2022/23 \$/ML	Increase %
Border Riv.	6.58	6.92	5.17	2.41	2.53	4.98	7.03	7.39	5.12
Gwydir	17.40	18.29	5.11	4.04	4.25	5.2	17.19	18.07	5.12

The IPART approved maximum prices will be increased annually by the Consumer Price Index up to 30 June 2025.

The price increases for both valleys have been adjusted to around 5.1%, in line with the recently announced CPI increase of 5.1%.

Council's submission and requests to IPART were partly met, in that a CPI increase was applied to all fees and charges. The issue of disparity in the high charges proposed in the Draft determination for the Border Rivers and Gwydir Valley was addressed with overall price increases being capped to around 5.1%. Had the proposed increased prices prevailed High Security water charges in both valleys would have been increased to around 10.3%, well in excess of the 5.1% CPI increase.

The IPART Final Report on 2022/23 charges, page 2 states;

*"We received feedback on our draft decisions*

*On 22 April, we published our Draft Report, Draft Approval and financial model and invited stakeholders to provide feedback on our draft decisions. In response, we received one confidential submission and one public submission from Inverell Shire Council. The public submission raised several issues about our Draft Report. For example, the Council was concerned that price increases appeared to be higher than inflation. The Council was also concerned about the impact that price increases would have on water customers in the Border Rivers and Gwydir River valley (i).*

*To address Council's first concern, our draft decision was to maintain charges for 2022-23 as set in the 2021 Determination. In our [Draft Report](#), we showed most charges were increasing by inflation only. In Appendix A of this report, we compare prices for 2021-22 and 2022-23 and show prices increasing by 5.1%.*

*In addition, we acknowledge the Council's concern about the impact that price increases would have on customers. When we set prices in our 2021 Determination, we made sure that rural customers pay no more than is required to receive safe and reliable bulk water services from WaterNSW.*

*We also acknowledge the current high inflation rate of 5.1% is increasing the costs of goods and services and adding to cost of living pressures. We note that the recent spike in inflation is being driven by several factors including upstream cost pressures and follows several years of relatively low inflation (averaging around 1% to 2% between 2015 and 2021).(ii) We note the Reserve Bank is forecasting inflation to fall towards 3% in the medium term (iii).*

*Our final decision considered whether any new information (including from submissions) provided evidence of a sustained shift in water sales and therefore whether it was reasonably necessary to*

*update charges for 2022-23. We have not found evidence of a sustained shift in water sales, therefore our final decision is to maintain the charges set under the 2021 Determination. This means adjusting most of WaterNSW's rural bulk water charges in line with inflation, which is 5.1%, from 1 July 2022 to 30 June 2023."*

**Financial Impact on Council Town Water Supplies**

In 2020/21 Council expended \$87K on bulk water purchases.

Subject to actual water usage the projected 2022/23 Council expenditure on water purchase will be in the order of \$122K. The Final PART determination of a 5.1% CPI increase in charges will increase expenditure to approximately \$128K.

**Conclusion**

Council's submission to IPART on the Draft determination has been effective in limiting WaterNSW 2022/23 price increases for the Border Rivers and Gwydir Valley to a 5.1% CPI increase. If Council's submission not been taken on board by IPART the annual price increases would have been around 10.3%.

**RISK ASSESSMENT:**

Nil

**POLICY IMPLICATIONS:**

Nil

**CHIEF FINANCIAL OFFICERS COMMENT:**

Council's adopted 2022/2023 budget allocates \$100K for bulk water purchases. Council can access its Water – Revenue Equalisation Externally Restricted Reserve which provides financial security for movements in water sales and water purchase in any given year to fund the estimated \$28K shortfall.

Budget allocation will be increased during the next budget preparation process for the 2023/2024 budget. Council's annual water charge and water usage charges will increase as a result.

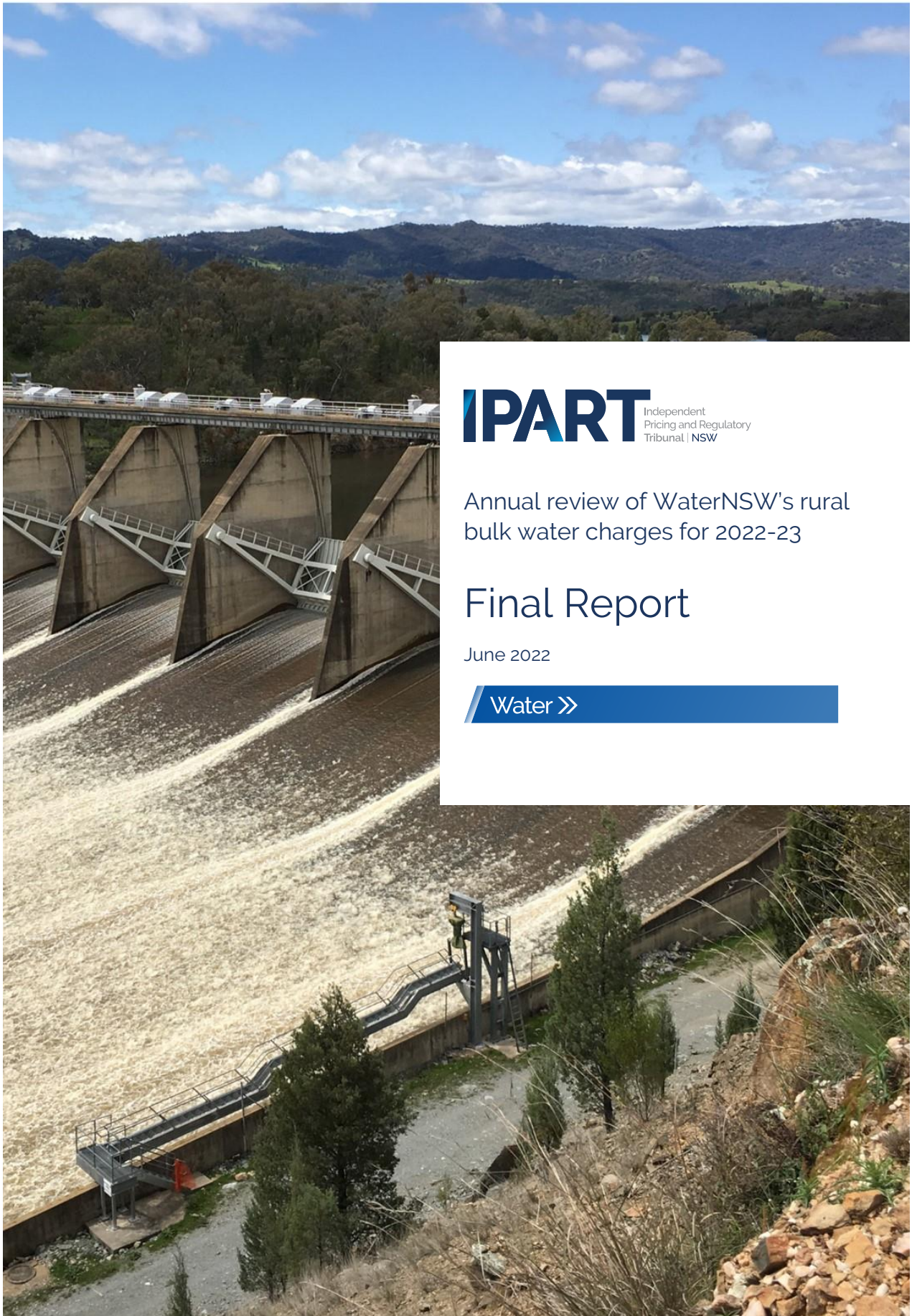
**LEGAL IMPLICATIONS:**

Nil

**ATTACHMENTS:**

1. **IPART Final Report on the Annual Review of WaterNSW Rural Bulk Water Charges for 2022/23** [🔗](#)





**IPART** Independent  
Pricing and Regulatory  
Tribunal | NSW

Annual review of WaterNSW's rural  
bulk water charges for 2022-23

## Final Report

June 2022

Water »

---

### **Tribunal Members**

The Tribunal members for this review are:

Carmel Donnelly, Chair  
Deborah Cope  
Sandra Gamble

Enquiries regarding this document should be directed to a staff member:

Matthew Mansell (02) 9113 7770  
Maricar Horbino (02) 9290 8409  
Adrian Thomas (02) 9019 1921

### **The Independent Pricing and Regulatory Tribunal (IPART)**

Further information on IPART can be obtained from [IPART's website](#).

### **Acknowledgment of Country**

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders, past, present and emerging.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

---

## Contents

### **Executive summary**

---

Regulated charges will increase by inflation only from 1 July 2022	2
We received feedback on our draft decisions	2

### **Context and our approach**

---

The annual review framework is set by WCR	4
The annual review only applies to MDB valleys and Fish River	5
Our assessment follows a 2-step approach	5

### **Our assessment of rural charges for 2022-23**

---

WaterNSW proposed increasing charges by inflation only	6
We do not see evidence of a sustained shift in water sales	6
WaterNSW proposed a formula-driven assessment process	8
We see merit in applying discretion to updating charges at each annual review	9

### **Charges to apply in 2022-23**

#### **A Comparison of charges before and after inflation**

---

## Executive summary

IPART has completed its annual review of WaterNSW's regulated charges for rural bulk water services in the Murray-Darling Basin (MDB)<sup>1</sup> and the Fish River Water Supply Scheme (Fish River). We have reviewed the charges set out under the 2021 Determination of WaterNSW's rural bulk water charges from 1 October 2021 to 30 June 2025 (the 2021 Determination). We have decided not to vary any of the charges set out in our 2021 Determination for 2022-23.

Under the *Water Charge Rules 2010 (Cth)* (WCR), we may only vary the charges from the 2021 Determination to the extent that it is "reasonably necessary" to do so, having regard to changes in demand or consumption forecasts for the regulated bulk water services, price stability and consistency with the WCR. We measure changes in demand or consumption by changes in water allocations, entitlements and sales. The scope of this annual review did not include reviewing other elements of our 2021 Determination, such as the efficient costs of providing these services or the price structures.

This report sets out our decisions on WaterNSW's regulated charges for 2022-23 and explains how we have reached these decisions. While this report focuses on water entitlement and water usage charges, our decisions apply to all charges set under the WCR in the 9 MDB valleys and Fish River, including miscellaneous and metering charges. Other supporting information, including WaterNSW's pricing application, is available on our [website](#).

Figure 1 Valleys in and out of the scope of this annual review



Note: This map is not to scale and is for illustrative purposes only. This annual review excludes urban customers in Fish River.

<sup>1</sup> This includes nine valleys: Border, Gwydir, Namoi, Peel, Lachlan, Macquarie, Murray, Murrumbidgee and Lowbidgee.



## Regulated charges will increase by inflation only from 1 July 2022

WaterNSW requested that IPART approve charges for 2022-23 in line with the 2021 Determination and adjust those charges by inflation only. It proposed to keep charges unchanged before inflation to limit the impact on customers who have been and are continuing to experience the impacts of flooding across NSW.

Our decision is to accept WaterNSW's pricing application to maintain the regulated charges as set under the 2021 Determination. After considering the latest changes in water sales, we decided that it is not reasonably necessary to vary the charges set under the 2021 Determination. This is because we found no evidence of a sustained shift in water sales. However, the 2021 Determination includes indexation for most charges. Therefore, this means most charges for 2022-23 will increase by inflation, which is 5.1%, from 1 July 2022 to 30 June 2023.

In its pricing application, WaterNSW also proposed to introduce a more formula-driven price adjustment for future annual reviews. WaterNSW said this was to secure sufficient revenue streams for its business and promote price stability for customers.

Our decision is to maintain discretion when considering whether to update charges. We consider our approach remains appropriate for future annual reviews and is in line with the requirements of the WCR. Our approach is to only change charges if there is evidence of a sustained shift in water sales. Under WaterNSW's proposal, charges would change each year in response to year to year fluctuations in water sales. We consider our approach supports price stability by allowing charges to gradually adjust in response to a sustained shift in water sales while not introducing price volatility in response to year-on-year fluctuations in water sales. Further, we set a revenue volatility allowance in our 2021 Determination to enable WaterNSW to manage the risk of actual water sales being higher or lower than forecast.

## We received feedback on our draft decisions

On 22 April, we published our Draft Report, Draft Approval and financial model and invited stakeholders to provide feedback on our draft decisions. In response, we received one confidential submission and one public submission from Inverell Shire Council. The public submission raised several issues about our Draft Report. For example, the Council was concerned that price increases appeared to be higher than inflation. The Council was also concerned about the impact that price increases would have on water customers in the Border Rivers and Gwydir River valley.<sup>1</sup>

To address Council's first concern, our draft decision was to maintain charges for 2022-23 as set in the 2021 Determination. In our [Draft Report](#), we showed most charges were increasing by inflation only. In Appendix A of this report, we compare prices for 2021-22 and 2022-23 and show prices increasing by 5.1%.

In addition, we acknowledge the Council's concern about the impact that price increases would have on customers. When we set prices in our 2021 Determination, we made sure that rural customers pay no more than is required to receive safe and reliable bulk water services from WaterNSW.

We also acknowledge the current high inflation rate of 5.1% is increasing the costs of goods and services and adding to cost of living pressures. We note that the recent spike in inflation is being driven by several factors including upstream cost pressures and follows several years of relatively low inflation (averaging around 1% to 2% between 2015 and 2021).<sup>ii</sup> We note the Reserve Bank is forecasting inflation to fall towards 3% in the medium term.<sup>iii</sup>

Our final decision considered whether any new information (including from submissions) provided evidence of a sustained shift in water sales and therefore whether it was reasonably necessary to update charges for 2022-23. We have not found evidence of a sustained shift in water sales, therefore our final decision is to maintain the charges set under the 2021 Determination. This means adjusting most of WaterNSW's rural bulk water charges in line with inflation, which is 5.1%, from 1 July 2022 to 30 June 2023.

## Context and our approach

### The annual review framework is set by WCR

Under Part 6 of the WCR, we are accredited by the Australian Competition and Consumer Commission (ACCC) to determine WaterNSW's bulk water charges for rural customers in the MDB valleys and the Fish River.

The WCR requires us to follow a 2-stage price review process for determining or approving these regulated charges:

1. Determine the rural bulk water charges for a set determination period<sup>v</sup>
2. Conduct an annual review of the rural bulk water charges for the second year of the period, and for each subsequent year within the determination period.<sup>v</sup>

For the annual reviews, the WCR requires that we determine the regulated charges for the relevant year.<sup>vi</sup> They also state that we must not vary the charges from those set out in the prevailing price determination, except to the extent that it is reasonably necessary, having regard to 3 matters only:

1. the "changes in the demand or consumption forecasts" set out in WaterNSW's application for an annual review
2. "price stability"<sup>vii</sup>
3. the consistency of the charges with the requirements in other provisions of the WCR.

We completed the first stage of this price review in September 2021, when we set the charges for rural bulk water services for the 2021 determination period.

We have now completed the first annual review of WaterNSW's rural bulk water charges for the 2021 determination period. Our report focuses on charges that are influenced by water entitlements, allocations and water sales. However, our decisions apply to all charges for rural customers in the 9 MDB valleys and Fish River, including miscellaneous and metering charges.<sup>2</sup>

We have also considered whether the charges we set in 2021 remain consistent with the WCR. This annual review requires us to consider the WCR as amended on 1 July 2020, whereas we applied the preceding version of the WCR in determining the charges in 2021. We have carefully compared the two versions of the WCR and are satisfied that our charges remain compliant.

<sup>2</sup> Under the 2021 Determination, the Yanco Creek System entitlement charge and meter accuracy deposit will be held constant in nominal terms. Therefore, our decision on inflation will not affect this charge.

## The annual review only applies to MDB valleys and Fish River

Only the regulated charges that are set under WCR are within the scope of this annual review. Therefore, the review applies to rural customers in the nine MDB valleys and Fish River (Figure 1). It does not apply to the charges for rural customers in the North Coast, South Coast, urban customers in Fish River and Hunter Valleys. These charges were set under the *Independent Pricing and Regulatory Tribunal Act 1992 (NSW)* (IPART Act) and are not subject to WCR.

The annual review applies to WaterNSW, Murray-Darling Basin Authority (MDBA) and Barwon-Dumaresq Border Rivers Commission (BRC) charges. The price structure for these charges comprises of:

- Usage charges (\$ per megalitre (ML) of water used) in both the MDB valleys and Fish River. In reviewing these charges, we consider the latest data on usage volumes based on a 20-year rolling average of historical water sales volumes.
- Fixed entitlement charges (\$ per ML of licensed entitlement per year) in the MDB valleys or fixed Minimum Annual Quantity (MAQ) charges (\$ per ML of MAQ per year) in Fish River.

The scope of this annual review does not include reviewing other elements of our 2021 Determination, such as the efficient costs of providing these services or the price structures.

Although this annual review considers WaterNSW's application for 2022-23 charges, including charges for metering and telemetry services, this report focuses on charges that are impacted by changes in water entitlements and sales.

## Our assessment follows a 2-step approach

In assessing whether it is necessary to update WaterNSW's regulated charges, we work through the following process.

### Step 01 Update data and calculate updated charges

- 01 We update water entitlement and water sales data, calculate updated historical averages and calculate updated charges based on this updated data.

### Step 02 Consider whether there is evidence of a sustained shift in demand or consumption and therefore whether or not to update charges

If there is evidence of a sustained shift in demand or consumption, we can be confident that updating charges to reflect this sustained shift will support price stability. That is, it will allow charges to begin transitioning towards levels that are likely to be determined at the next major price review.

## Our assessment of rural charges for 2022-23

We decided to accept WaterNSW's application to maintain the rural water charges for 2022-23 set under the 2021 Determination. That is, charges will only be adjusted for inflation of 5.1% from 1 July 2022.<sup>3</sup> This is consistent with our assessment that it is not reasonably necessary to vary charges because we have not found evidence of a sustained shift in water sales.

We also decided to maintain our current approach for future annual reviews. We consider our approach is consistent with the requirements under WCR.

This chapter sets out WaterNSW's pricing application and our assessment in response. We have separated WaterNSW's application into 2 sections: WaterNSW's proposal for charges to apply in 2022-23 and WaterNSW's proposal for a formula-driven approach for future annual reviews. Each section is followed by our respective response and assessment.

### WaterNSW proposed increasing charges by inflation only

WaterNSW submitted its pricing application for the annual review of rural water charges in MDB valleys and Fish River for 2022-23 to IPART on 4 April 2022. In its pricing application, WaterNSW requested that IPART approve regulated charges for 2022-23 in line with the 2021 Determination and adjust those charges by inflation only.

WaterNSW did not request to change charges for 2022-23 based on changes in water demand or consumption (i.e. using latest data on water entitlements, allocations and sales). It considered the need to provide price relief to customers as it recognised that rural regions are experiencing economic uncertainty caused by recent flooding.

### We do not see evidence of a sustained shift in water sales

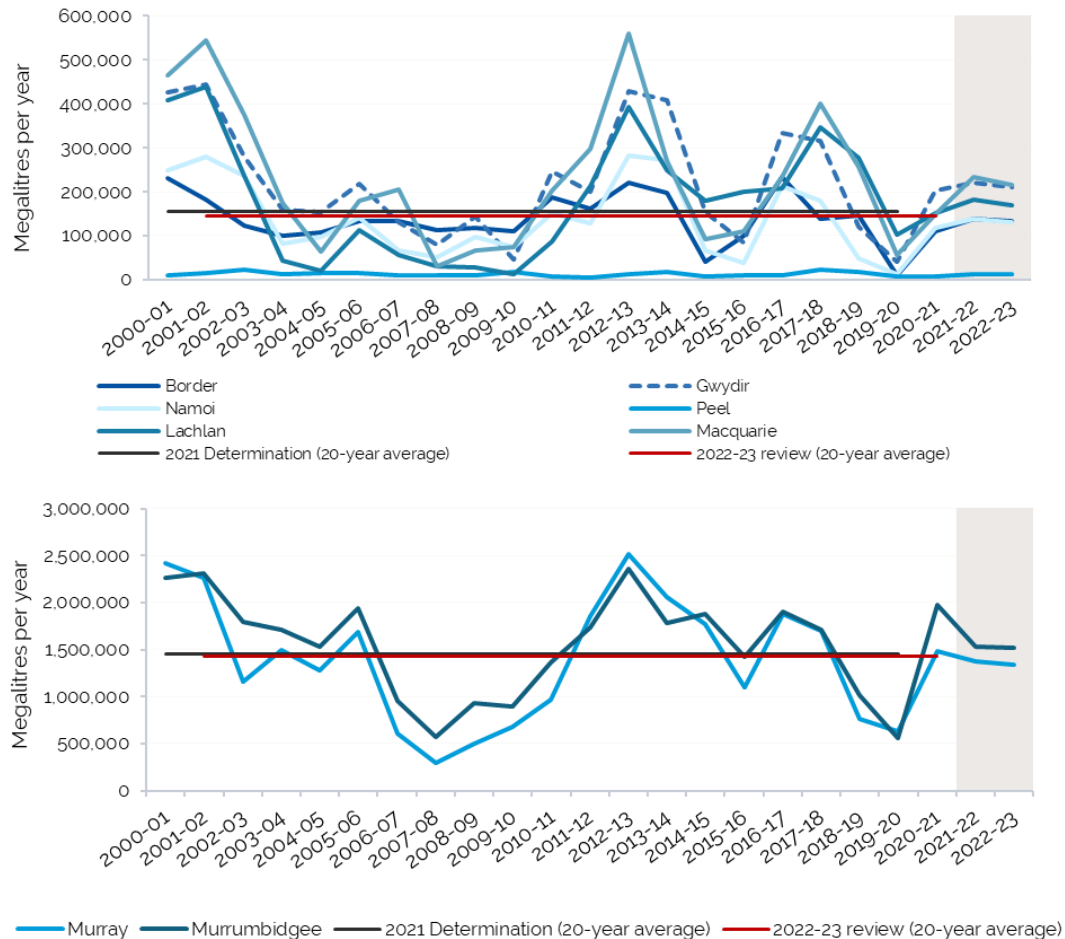
We focused our assessment on changes in water sales. This is because we found water entitlements or minimum annual quantity have been relatively consistent with the levels we used to set charges in 2021.

For MDB valleys, the long-term averages for water sales volumes have remained relatively stable. In Figure 2, we observed annual volumes have been volatile over the last 20 years and significant increases or decreases in volumes year-on-year are not unusual. However, the updated 20-year rolling averages for sales volumes is only decreasing by around 3% from the levels we used to set charges in 2021 (represented by the black and red lines in Figure 2). The key driver for this marginal decline is the sales volumes captured within the 20-year averaging period. We did not observe a consistent change in recent years to suggest that there has been a sustained shift in sales volume. Therefore, we consider there is no evidence of sustained shift in sales based on historical data.

---

<sup>3</sup> The Yanco Creek System entitlement charge and meter accuracy deposit will not increase by CPI. As per the 2021 Determination, the Yanco Creek System entitlement charge will be held constant at \$0.90/ML in nominal terms.

Figure 2 Historical and forecast water sales volumes in MDB valleys



Note: The 2000-01 to 2019-20 historical sales volumes are based on the data used in the 2021 Determination while the 2020-21 to 2022-23 actual and forecast sales volumes are from WaterNSW's 2022-23 pricing application to IPART.

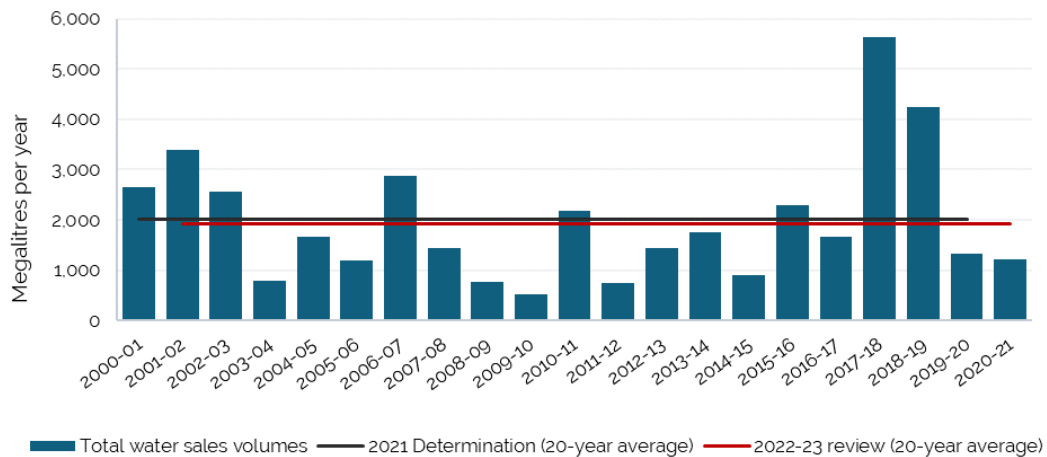
Source: 2021 Determination model with data provided by WaterNSW.

Based on the data provided by WaterNSW, we consider there is no evidence of a sustained shift in water sales. We consider this signals that it is too early to know whether recent changes in sales represent a sustained shift since the 2021 Determination.

We understand there are a number of factors that influence water sales in each valley such as weather, availability of water, commodity charges and other economic conditions. The impact of these factors on water sales are complex. For example, the occurrence, severity and impact of weather events are difficult to predict. Recent rain events have increased dam storage levels across NSW to around 93% capacity<sup>viii</sup> and would likely lead to greater water availability across the state. However, how this will impact water sales in the short and longer term, given all the other factors at play, is unclear at this stage.

For Fish River, we also did not find evidence of a sustained shift in water sales. Similar to MDB valleys, the annual volumes in Fish River are also volatile. However the updated 20-year rolling average for sales volumes has decreased by around 4% only (represented by the black and red lines in Figure 3). The driver for this marginal decline is the sales volumes captured within the 20-year averaging period. Therefore, we consider this does not represent a sustained shift in sales. We are also not aware of information to suggest there would be a sustained shift in future sales volume in Fish River.

Figure 3 Total sales and rolling averages used to forecast FRWS sales



Source: WaterNSW submission to IPART annual price review (data input into IPART model), March 2022 and IPART analysis.

Overall, we do not consider there is evidence of a sustained shift in water sales. Therefore, we decided to maintain charges in line with the 2021 Determination. This will see most charges increase in line with inflation.

Our decision is:



1. To maintain the regulated charges set under the 2021 Determination for 2022-23, adjusted for inflation only.

## WaterNSW proposed a formula-driven assessment process

In its pricing application, WaterNSW proposed IPART introduce a formula-driven price adjustment in the MDB valleys for future annual reviews that secures enough revenue for WaterNSW while maintaining price stability for its customers.<sup>ix</sup>

WaterNSW suggested there would be several benefits from updating charges each year. For example, WaterNSW considered it could promote long term price stability because it could avoid price shocks at the next determination if water sales changed significantly. Another benefit WaterNSW noted is that using the latest water sales could lead to more accurate forecasting and charges.

WaterNSW also welcomed the preliminary findings of IPART's Economic Framework Review, in which IPART is exploring the benefits of implementing more flexible forms of price control. WaterNSW stated that it is looking forward to working with IPART to introduce potential flexible forms of price control at the next determination.<sup>x</sup>

## We see merit in applying discretion to updating charges at each annual review

Our current approach involves examining the data and looking for evidence of a sustained shift in demand or consumption to inform our decision on whether it is reasonably necessary to update charges.

We consider WaterNSW's proposal for a formula-based approach could introduce price volatility. This is because charges would change in response to fluctuations and temporary changes in water sales.

We agree a formula-based approach would provide greater revenue certainty to WaterNSW. However, we explicitly acknowledged revenue volatility risk and set a revenue volatility allowance to compensate WaterNSW for carrying this risk as part of our 2021 Determination.

Our decision is to maintain our discretion-based approach to annual reviews of WaterNSW's charges. We consider our approach remains appropriate for future annual reviews and is in line with the requirements under WCR.

Our decision is:



2. To maintain our current discretion-based approach for future annual reviews when considering whether it is reasonably necessary to update charges.



## Charges to apply in 2022-23

We have calculated the charges that customers will pay in 2022-23 based on our decision to maintain regulated charges as set under the 2021 Determination. These charges are shown in Table 1, Table 2 and Table 3. Our decision also applies to other charges in the 9 MDB valleys and Fish River, including miscellaneous and metering charges.

For the Final Report, we used an inflation rate of 5.1% to convert the charges to nominal dollars for the 2022-23 period. Appendix A provides a comparison of prices between 2021-22 and 2022-23.

Table 1 WaterNSW rural bulk water charges for 2022-2023 (\$2022-23)

Valley	HS fixed charge (\$/ML)	GS fixed charge (\$/ML)	Usage charge (\$/ML)
Border	6.92	2.53	7.39
Gwydir	18.29	4.25	18.07
Namoi	30.41	10.62	32.45
Peel	64.49	6.12	25.76
Lachlan	26.38	3.90	32.76
Macquarie	21.21	4.14	22.74
Murray	2.38	1.04	3.08
Murrumbidgee	4.38	1.50	5.22
Lowbidgee	0.0	1.81	0.00

Source: IPART, *Prices for rural bulk water services from 1 October 2021 – Determination*, September 2021, pp 10-11, adjusted for inflation.

Table 2 MDBA and BRC rural bulk water charges for 2022-2023 (\$2022-23)

Valley	HS fixed charge (\$/ML)	GS fixed charge (\$/ML)	Usage charge (\$/ML)
Border	5.09	1.86	0.90
Murray	9.08	3.99	1.94
Murrumbidgee	1.95	0.67	0.39

Source: IPART, *Prices for rural bulk water services from 1 October 2021 – Determination*, September 2021, p 12, adjusted for inflation.

Table 3 Fish River rural bulk water charges for 2022-2023 (\$2022-23)

Valley	Access (or MAQ) charge (\$/kL)	Usage up to MAQ (\$/kL)	Usage in excess of MAQ (\$/ML)
Raw water – major customers	0.51	0.35	0.86
Raw water – minor customers	0.51	0.35	0.86
Filtered water – minor customers	0.90	0.56	1.46

Source: IPART, *Prices for rural bulk water services from 1 October 2021 – Determination*, September 2021, p 13, adjusted for inflation.

# Appendices

---

## A Comparison of charges before and after inflation

The tables below provide WaterNSW's rural bulk water charges for 2021-22 and for 2022-23. The 2022-23 charges are equal to the 2021-22 charges indexed by CPI of 5.1%.

Table A.1 WaterNSW rural bulk water charges for 2021-22 and 2022-2023

Valley	2021-22 \$2021-22	2022-23 \$2022-23
<b>HS fixed charge (\$/ML)</b>		
Border	6.58	6.92
Gwydir	17.40	18.29
Namoi	28.93	30.41
Peel	61.36	64.49
Lachlan	25.10	26.38
Macquarie	20.18	21.21
Murray	2.26	2.38
Murrumbidgee	4.17	4.38
<b>GS fixed charge (\$/ML)</b>		
Border	2.41	2.53
Gwydir	4.04	4.25
Namoi	10.10	10.62
Peel	5.82	6.12
Lachlan	3.71	3.90
Macquarie	3.94	4.14
Murray	0.99	1.04
Murrumbidgee	1.43	1.50
Lowbidgee	1.72	1.81
<b>Usage charge (\$/ML)</b>		
Border	7.03	7.39
Gwydir	17.19	18.07
Namoi	30.88	32.45
Peel	24.51	25.76
Lachlan	31.17	32.76
Macquarie	21.64	22.74
Murray	2.93	3.08
Murrumbidgee	4.97	5.22

Source: IPART analysis.

Table A.2 MDBA and BRC rural bulk water charges for 2021-22 and 2022-2023

Valley	2021-22 \$2021-22	2022-23 \$2022-23
<b>HS fixed charge (\$/ML)</b>		
Border	4.84	5.09
Murray	8.64	9.08
Murrumbidgee	1.86	1.95
<b>GS fixed charge (\$/ML)</b>		
Border	1.77	1.86
Murray	3.80	3.99
Murrumbidgee	0.64	0.67
<b>Usage charge (\$/ML)</b>		
Border	0.86	0.90
Murray	1.85	1.94
Murrumbidgee	0.37	0.39

Source: IPART analysis.

Table A.3 Fish River rural bulk water charges for 2021-22 and 2022-2023

Valley	2021-22 \$2021-22	2022-23 \$2022-23
<b>Access (or MAQ) charge (\$/kL)</b>		
Raw water – major customers	0.49	0.51
Raw water – minor customers	0.49	0.51
Filtered water – minor customers	0.86	0.90
<b>Usage up to MAQ (\$/kL)</b>		
Raw water – major customers	0.33	0.35
Raw water – minor customers	0.33	0.35
Filtered water – minor customers	0.53	0.56
<b>Usage in excess of MAQ (\$/ML)</b>		
Raw water – major customers	0.82	0.86
Raw water – minor customers	0.82	0.86
Filtered water – minor customers	1.39	1.46

Source: IPART analysis.

---

© Independent Pricing and Regulatory Tribunal (2022).

With the exception of any:

- a. coat of arms, logo, trade mark or other branding;
- b. photographs, icons or other images;
- c. third party intellectual property; and
- d. personal information such as photos of people.

this publication is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia Licence.



The licence terms are available at the [Creative Commons website](https://creativecommons.org/licenses/by-nc-nd/3.0/au/)

IPART requires that it be attributed as creator of the licensed material in the following manner: © Independent Pricing and Regulatory Tribunal (2022).

The use of any material from this publication in a way not permitted by the above licence or otherwise allowed under the Copyright Act 1968 (Cth) may be an infringement of copyright. Where you wish to use the material in a way that is not permitted, you must lodge a request for further authorisation with IPART.

**Disclaimer**

Nothing in this document should be taken to indicate IPART's or the NSW Government's commitment to a particular course of action.

This document is published for the purpose of IPART fulfilling its statutory or delegated functions as set out in this document. Use of the information in this document for any other purpose is at the user's own risk, and is not endorsed by IPART.

**ISBN** 978-1-76049-572-5

- 
- <sup>i</sup> Inverell Shire Council submission to IPART Annual Review Report, May 2022, pp 1-2.
- <sup>ii</sup> Australian Bureau of Statistics, [CPI rose 2.1% in the March 2022 quarter](#), accessed on 27 May 2022.
- <sup>iii</sup> Reserve Bank of Australia, [Statement on Monetary Policy – May 2022](#), accessed on 27 May 2022.
- <sup>iv</sup> *Water Charge (Infrastructure) Rules 2010* Part 6 Division 2.
- <sup>v</sup> *Water Charge (Infrastructure) Rules 2010* Part 6 Division 3.
- <sup>vi</sup> *Water Charge (Infrastructure) Rules 2010* Rule 29.
- <sup>vii</sup> *Water Charge (Infrastructure) Rules 2010* Sub-rule 37(2).
- <sup>viii</sup> WaterNSW, [Regional NSW Storage Levels](#), accessed 12 April 2022.
- <sup>ix</sup> WaterNSW, [Application to IPART's 2022-23 Review of Regulated Charges](#), April 2022, p 2.
- <sup>x</sup> WaterNSW, [Application to IPART's 2022-23 Review of Regulated Charges](#), April 2022, p 2.

**6.2 WORKS UPDATE**

**File Number:** S28.21.1/15 / 22/21754

**Author:** Justin Pay, Manager Civil Engineering

**SUMMARY:**

This report is intended to keep Council updated on the capital works and maintenance programs.

**COMMENTARY:**

**Fixing Country Roads Funding Grant**

Council has been successful in obtaining \$3.685M from the Fixing Country Roads Funding Grant to complete works on Yetman Road between Palaroo Lane and Oakwood.

An additional private contribution of \$20K from an industry beneficiary brings the total funding to \$3.705M. This grant will allow Council to upgrade this section of road to allow road train access. This will result in improved freight access and efficiency. Currently, road train access on Yetman Road terminates at the Inverell Regional Livestock Exchange however, once this project is complete, a further 12km along Yetman Road will have road train access.

This project includes the following works:

- Construction of a new two-lane bridge on a new and improved alignment crossing Rob Roy Creek to replace the old narrow bridge at Moseley Dene.
- Construction of 400m of approaches for the new bridge alignment.
- Full reconstruction and widening of 2km of road from Hunts Gully to approx. 300m past Stewarts Grain Trading.
- Widening and drainage works to 3.6km of road to bring the existing road up to standard for road train access.
- Drainage works for 1.2km to clean out and restore table drains.
- Replacement of 9 pipe sets between Palaroo Lane and Stewart's Grain Trading.

The new bridge at Moseley Dene has been designed and the review of the Environmental Factors and Aboriginal Cultural Heritage Study has been completed. A Fisheries Permit has also been obtained.

Works commenced in January 2022, which included the opening up of the existing table drains for the full reconstruction section from Hunts Gully to Stewart's Grain Trading. The pavement works for Hunts Gully to Stewart's Grain Trading full reconstruction have now been completed with the bitumen seal applied at the end of May as planned. The issues identified with the bitumen seal were rectified by the bitumen seal supplier and the line marking has been installed which completes this section of the project.

This project is currently on track and is required to be completed by the end of 2022.



MR187 Yetman Road – Line marking completed Hunt's Gully to Stewart's Grain Trading





MR187 Yetman Road – Line Marking Completed Hunt's Gully to Stewart's Grains Trading

### **Fixing Local Roads Funding Grant**

Council has been successful in obtaining \$2.62M from the Fixing Local Roads Funding Grant to complete works on various roads throughout the shire. These roads include the following:

- SR050 Bukkulla Road
- SR035 Coolatai Road
- SR192 Copeton Dam Road
- SR246 Elsmore Road
- SR101 Gragin Road
- SR123 Mount Russell Road
- SR214 Old Bundarra Road
- SR048 Pindari Dam Road

Works commenced late October 2020, which included shoulder grading on each of the roads. Vegetation removal works along Elsmore Road have been completed, Mount Russell Road trimming works and removals have also been completed.

In the northern part of the Shire, Bukkulla Road, Coolatai Road and Pindari Dam Road vegetation control works and heavy patching works have been completed.

Works along Gragin Road have been continuing over the past month with the shoulder grading completed. Bitumen sealing was booked in to be completed the week of writing this report which will finalise these works.



Fixing Local Roads Funding Grant – Gragin Road Shoulder Grading ready to seal



**Yetman Road-Taylor Avenue Intersection Upgrade**

Council secured funding from the Local Roads and Community Infrastructure Program for the upgrade of Yetman Road-Taylor Avenue Intersection.

The works will include pavement widening to accommodate a turning lane into Taylor Avenue and will also include a drainage upgrade at the location. Kerb and gutter will be constructed as well as a significant extension to underground drainage at the site.

Works have recommenced on this project with the completion of the installation of box culverts and transition pits. Boxing out of the road for the installation of kerb and gutter commenced at the time of writing this report.



Taylor Avenue Intersection Upgrade Project – Box Culverts and Transition Pit Installed

**Roundabout Construction – Intersection of Gwydir Highway, Bundarra Road and Chester Street**

Project work is continuing on the construction of a roundabout at the intersection of Gwydir Highway, Bundarra Road and Chester Street. A construction budget of \$5,882,000 has been provided which includes contributions from the State Government of \$2.2M and the Federal Government of \$1.5M. The key budget components include:

- Design & Legal - \$660,000
- Works Authority Deed (TfNSW) - \$172,446
- Demolition/Rehabilitation - \$203,062
- Roundabout Construction - \$4,156,302
- Contingency - \$690,190

Council has entered into funding deeds with both the State and Federal Governments. These deeds require the completion of the roundabout construction by November 2022.

The project includes the following:

- Earthworks
- Vegetation clearing and grubbing
- Significant storm water drainage works
- Realignment of underground services including power, Telstra, NBN, water and sewer
- Realignment of the intersection
- Construction of a concrete pavement and roundabout
- Flexible pavement construction on roundabout approaches
- Kerb and gutter construction
- Footpath works
- Traffic management at multiple intersections in Inverell township

Staff are currently finalising construction of storm water drainage in Chester Street. Earthworks and other pavement related works are continuing in the Chester Street leg of the roundabout. In this location the Select Material Zone (SMZ) of the pavement has been completed, Council's concrete crew will soon begin construction of the Lean Mix Concrete (LMC) sub-base pavement layer. Drainage works across the highway are nearing completion and earthworks on the southern approach to the roundabout are continuing. Contractors have begun relocating telecommunication services at the site and this work will continue for several weeks. In the coming weeks the project will progress with further earthworks and pavement works.

Current traffic management at the site includes Chester Street being closed at the intersection of Gwydir Highway and traffic light control on the other legs of the intersection. As an added safety measure, the northern leg of the Rosslyn Street – Gwydir Highway intersection is closed. This is to ensure that any traffic that may detour past the roundabout construction site does not cause safety issues at the Rosslyn Street intersection.





Earthworks underway at Roundabout construction project



SMZ pavement construction underway at Roundabout construction project

### **Moore Street Upgrade – Hospital Entrance**

Council has secured funding to complete upgrade works on Moore Street at the Inverell hospital entrance. The project cost is \$1,349,000 funded by the State Government's Fixing Local Roads Program (\$911,654), contribution from NSW Health Infrastructure (\$337,250) and Council contribution (\$100,096).

The recent redevelopment of the Inverell Hospital resulted in the 'main entrance' for this facility being moved to Moore Street. Council has received grant funding from the State Government to undertake upgrade works to Moore Street to meet subsequent demand.

The project includes works along a 1,000-metre section of Moore Street and includes pavement rehabilitation, widening, a turning lane into the hospital and drainage upgrade including construction of kerb and gutter. The key aim of the project is to improve sight distance impacting safe access to the new hospital.

In order to meet the milestones of the funding deed for the project, Council commenced construction during April and must have construction completed and open to the traffic no later than 30 June, 2023.

Site preparation works have been undertaken to meet the project commencement milestone. The main body of works will be undertaken later in the calendar year and construction completed and open to the traffic in accordance with the completion milestone.

### **Ashford Road Rehabilitation and Widening – Wandera South**

Council has allocated \$1,742,253 (\$1,089,986 from the Repair Program and \$652,267 from the Bitumen, Heavy Patching Stabilisation Fund) to complete rehabilitation and widening works on a section of Ashford Road 11.47km to 13.90km north of Inverell. This section of road, south of the village of Wandera is undulating with narrow travel lanes and substandard horizontal curves.

Vegetation clearing and stormwater culvert extensions have been completed with a contractor engaged to undertake the stormwater culvert relining at the end of June 2022.

Earthworks are currently underway for pavement widening and realignment on the northern end of the project site and will continue until the end of July 2022 at which time pavement reconstruction works will commence.

Works are programmed to continue for approximately four (4) months until October 2022.



Vegetation Clearing and Earthworks – Ashford Road Wandera South





Culvert extension and erosion control – Ashford Road Wandera South

### **Flood Damage**

Council's road network received significant flood damage during 2021 from a number of severe storm and rainfall events. In particular there were three (3) events that were declared natural disasters within our LGA where Council were eligible to make application for repairs through the Disaster Recovery Funding Arrangements (DRFA).

NSW Storms and Flood - 10 March 2021 (AGRN #960)

NSW Storms and Floods - 16 July 2021 onwards (AGRN #975)

NSW Severe Weather and Flooding - 9 November 2021 onwards (AGRN #987)

Under these arrangements Council are able to make application for the Restoration of Essential Public Assets under the sub-categories; Emergency Works (EW), Immediate Restoration Works (IRW) and Essential Public Asset Reconstruction Works (EPARW). The Restoration of Essential Public Assets Program is administered by Transport for NSW (TfNSW).

Council has submitted applications for reimbursement for EW/IRW for all three (3) events and EPAR applications for AGRN #960 and AGRN #987.

Council have received funding agreements for the AGRN's listed below:

AGRN #960

- EW-IRW Regional Roads, agreed funding schedule of \$641,799.47 (yet to be formally accepted by Council).
- EW-IRW Local Roads, no agreed funding schedule received to date.
- EPARW Local Unsealed Roads, no agreed funding schedule received to date.

AGRN #975

- EW-IRW Local Roads, agreed funding schedule of \$170,746.61 received and accepted.

AGRN #987

- EW-IRW Regional Roads, agreed funding of \$6399.78 received and accepted.
- EW-IRW Local Roads, agreed funding schedule of \$402,888.84 received and accepted.
- EPARW Regional Roads, agreed funding schedule of \$115,768.00 received and accepted.

TfNSW have indicated that the EW, IRW and EPARW applications for AGRN 960 have been approved and a formal response will be received by the end of July 2022.

EPARW for AGRN #987 Bruxner Way (Beardy Bridge) has commenced. Guardrail replacement works has been completed at Beardy Bridge with a bitumen reseal to be completed in conjunction with Council's Bitumen Resealing Program in November 2022. Shoulder works on Texas Road have not commenced to date.



Damaged sustained to Beardy Bridge in November 2021





Guardrail replacement on Beardy Bridge, Bruxner Way

### **Maintenance Grading**

The following maintenance grading works were undertaken during June 2022.

Works were completed by Council maintenance grading crews supplemented by contractor crews.

Road Number	Road Name	Length Graded (km)
SR246	Elsmore Road	24.60km
SR105	Glen Esk Road	12.90km
SR128	Delungra/Graman Road	17.80km
SR255	Silvermines Road	7.25km
SR25	Baltimore Loop Road	23.90km
SR41	Karoola Road	12.55km
SR24	Mount Hallam Road	24.05km
SR 43	Pukawidgi Road	13.30km
	<b>TOTAL</b>	<b>136.35 km</b>

**Reactive Spot Grading**

There were no reactive spot grading works undertaken during June 2022.

**Gravel Patching**

The following gravel patching works were undertaken during June 2022.

<b>Road Number</b>	<b>Road Name</b>	<b>Area Patched (m2)</b>
SR212	Leviathan Road	1200m2
SR215	Schwenkes Lane	600m2
SR214	Old Bundarra Road	200m2
SR230	Rickeys Lane	800m2
SR16	Keetah Road	39,295m2
	<b>TOTAL</b>	<b>42,095 m<sup>2</sup></b>

**Gravel Re-sheeting**

Due to the regular wet weather, Council was unable to gain access to gravel pits with machinery which resulted in no gravel re-sheeting works being finalised during June 2022.

**Heavy Patching**

The following heavy patching works were undertaken during June 2022.

<b>Road Number</b>	<b>Road Name</b>	<b>Area Patched (m2)</b>
SR123	Mount Russell Road	10,485m2
	<b>TOTAL</b>	<b>10,485 m<sup>2</sup></b>

**Other Maintenance Activities**

Council's State, Regional and Local Roads, Urban and Village Street maintenance activities, such as bitumen patching, drainage and shoulder repairs as well as vegetation control, are continuing as required. Town maintenance will continue as programmed.

**ATTACHMENTS:**

Nil

### 6.3 FIRST RELEASE OF 2021 CENSUS DATA BY AUSTRALIAN BUREAU OF STATISTICS

**File Number:** S14.16.9 / 22/22203

**Author:** Chris Faley, Development Services Coordinator

#### SUMMARY:

The Australian Bureau of Statistics has released the first set of data from the 2021 Census. The purpose of this report is to provide Committee Members with key 2021 census statistics for the Inverell Local Government Area. The Committee is requested to note this information.

#### COMMENTARY:

On 28 June 2022, the Australian Bureau of Statistics (ABS) released data from the 2021 Census in relation to “place of usual residence” and “place of enumeration” on Census night (10 August 2021). Further data releases are proposed by the ABS in October 2022 (e.g. employment data) and early/mid 2023 (e.g. complex topics such as socio-economic indexes).

Based on the data released by the ABS on 28 June 2022, **Table 1** below shows key 2021 census statistics for the Inverell Local Government Area.

**Table 1 – 2021 Census Statistics – Inverell Local Government Area**

<b>Total People</b>	<b>17,853</b>
Male	49.2%
Female	50.8%
Median age	43
<b>No. of Families</b>	<b>4,607</b>
Average number of children per family:	
- for families with children	1.9
- for all families	0.7
<b>All private dwellings</b>	<b>8,115</b>
Average number of people per household	2.4
Median weekly household income	\$1,163
Median monthly mortgage repayments	\$1,210
Median weekly rent <sup>(a)</sup>	\$260
Average number of motor vehicles per dwelling	1.9
<i>(a) For 2021, median weekly rent calculations exclude dwellings being occupied rent-free.</i>	

Source: Australian Bureau of Statistics – 2021 Census Quickstats – Area Code LGA14220.

To demonstrate the growth of the Inverell Shire over the last twenty years, **Table 2** below shows total population data for the Inverell Local Government Area from the 2001 Census to the 2021 Census. It should be noted that the boundary adjustment between Armidale Regional Council and Inverell Shire Council occurred on 1 July 2019, resulting in Tingha and surrounding areas becoming part of the Inverell Shire. At the time of the boundary adjustment, exact population figures for the adjusted area were not available; however, the estimated population of Tingha and surrounding areas was 970 people at the time of the adjustment.

**Table 2 – Population Growth of the Inverell Local Government Area – 2001 to 2021**

	Total Population (No. of Persons)	Population Growth	
		No. of Persons	Percentage
2001 Census	15,020		
2021 Census	15,510	490	3.26%

2011 Census	16,075	565	3.64%
2016 Census	16,483	408	2.54%
1 July 2019 Estimate <sup>(a)</sup>	17,453 <sup>(a)</sup>	970 <sup>(a)</sup>	
2021 Census	17,853	400 <sup>(b)</sup>	2.43% <sup>(c)</sup>

(a) Estimate at the time of boundary adjustment between Armidale Regional Council and Inverell Shire Council resulting in Tingha and surrounding areas becoming part of the Inverell Shire

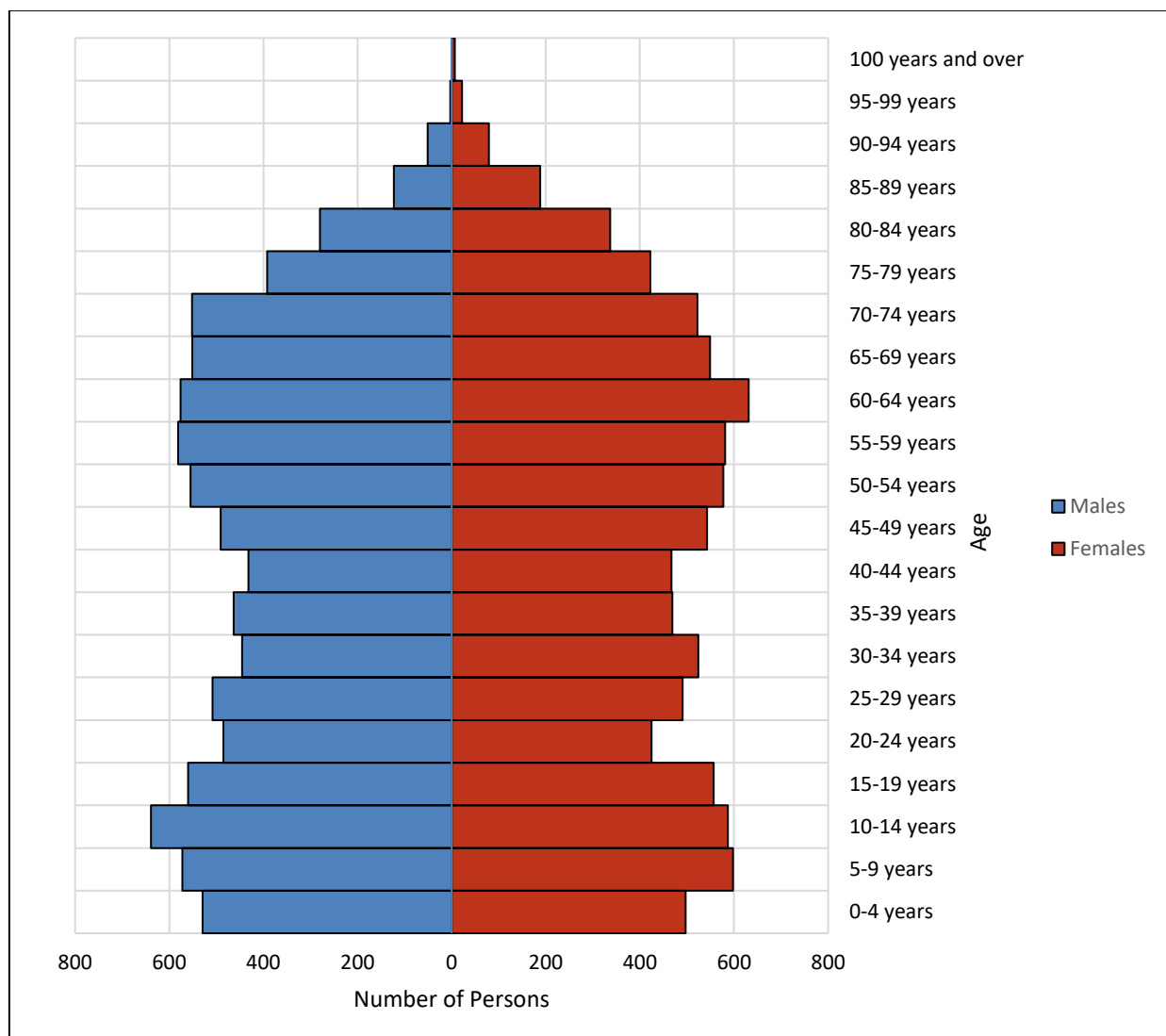
(b) Estimate only due to 2019 boundary adjustment.

(c) Percentage change excludes the estimated 970 persons increase on 1 July 2019.

Source: Australian Bureau of Statistics – 2001-2021 Census Quickstats – Area Codes LGA14200 and LGA14220.

As shown in **Table 2** above, the Inverell Local Government Area has sustained consistent growth over the twenty-year period from 2001 to 2021.

Lastly, the data released by the ABS also breaks down the population data by age and sex. Using the 2021 Census data, a Population Pyramid for the Inverell Shire Local Government Area has been produced as **Figure 1** below.



Source: Australian Bureau of Statistics – General Community Profile (LGA14220) – Table G04 Age by Sex

**Figure 1 – Inverell Local Government Area 2021 Population Pyramid**

The Population Pyramid in **Figure 1** is generally consistent with expectations for regional areas throughout Australia and other developed nations. Inverell has a high level of children and middle age persons, with a decline between the ages of 20 to 44, characteristic of people seeking employment or lifestyle opportunities in other areas. An interesting note is the higher number of females in older aged brackets compared to males in the same age bracket.



**RISK ASSESSMENT:**

Nil

**POLICY IMPLICATIONS:**

Nil

**CHIEF FINANCIAL OFFICERS COMMENT:**

Nil

**LEGAL IMPLICATIONS:**

Nil

**ATTACHMENTS:**

Nil

**6.4 NSW PLANNING PORTAL - PERFORMANCE AUDIT**

**File Number:** S18.6.60 / 22/22303

**Author:** Anthony Alliston, Manager Development Services

**SUMMARY:**

The NSW Auditor-General's Report on the performance of the NSW planning portal was released on 21 June, 2021. The purpose of this report is to provide the Civil and Environmental Services Committee with information in regard to the NSW planning portal and the Auditor General's Performance Audit Report dated 21 June 2022.

**COMMENTARY:****Background – NSW Planning Portal**

The ePlanning program is an initiative of the Department of Planning and Environment to deliver a digital planning service for New South Wales through the NSW planning portal. The department defines the portal as an online environment where community, industry and government can work together to better understand and meet their obligations under the NSW *Environmental Planning and Assessment Act 1979*.

From 1 July 2021, the NSW Government mandated that all development and building applications must be lodged and processed through the NSW planning portal. This includes lodgement of:

- Development Applications;
- Construction Certificates;
- Complying Development Certificates;
- Occupation Certificates;
- Subdivision Works Certificates;
- Subdivision Certificates; and
- Appointment of Principal Certifiers.

Council can no longer accept the lodgement of applications via traditional methods such as in person, via post or e-mail.

**Performance Audit**

The objective of the NSW Auditor-General's performance audit was to assess the effectiveness of the department's implementation, governance and stakeholder engagement in delivering the NSW planning portal. The performance audit investigated whether:

- delivery of the NSW planning portal was planned effectively;
- sound governance arrangements are in place to ensure effective implementation of the program; and
- users of the NSW planning portal are supported effectively to adopt and use the system.

A copy of the Performance Audit – 21 June 2022 is included as **Attachment 1**.

**Key Findings of the Audit**

The following is a summary of the performance audit findings:

- Shortcomings in the department's initial planning and management of the program led to a significant time overrun;
- The department did not provide time contingency in the project schedules;

- The department now has a clear view of the scope necessary to finalise the program, but has not yet published the services it plans to implement in 2022 and 2023;
- Mandating the portal's use for all development applications changed the program's strategic risk environment, but the department kept its overall delivery approach the same;
- The program steering committee has managed key issues, but has had less success in managing strategic risks;
- The portal has delivered financial benefits but reported benefits are overstated;
- The department has only reported benefits since 2019 and has not independently assured the calculation of benefits.

### Audit Recommendations

The following recommendations are contained on page 5 of the Audit (**Attachment 1**).

*"By December 2022, the Department of Planning and Environment should:*

- 1. publish a roadmap of the services it expects to release on the NSW planning portal across 2022 and 2023;*
- 2. update its ePlanning program assumptions, benefits, targets and change management approach to reflect the government's decision to mandate the use of the portal for all stages of a development application; and*
- 3. independently assure and report publicly the correct calculation of ePlanning program benefits to account for:*
  - errors and assumptions in the calculation of benefits due to changed holding costs for developers*
  - the contribution of other planning reforms to reduced timeframes to determine planning applications*
  - any dis-benefits which may be experienced by stakeholders."*

### Conclusions

The 21 June 2022 performance audit of the NSW planning portal concludes that:

*"Since implementation commenced in 2013, the NSW planning portal has progressively achieved its objectives to provide citizens with access to consolidated planning information and allow them to prepare and submit development applications online. Implementation was initially hindered by deficiencies in planning and it has taken the department significantly longer and cost significantly more to implement the portal than first anticipated. While the portal's implementation has delivered financial benefits, the department has overestimated their value. As a result, the department cannot yet demonstrate that the portal has achieved overall financial benefits, relative to its costs."*

In relation to Inverell, evidence would suggest that there is a level of frustration from staff, the building industry and the broader community in regard to the effectiveness of the department's implementation, governance and stakeholder engagement in delivering the NSW planning portal.

### RISK ASSESSMENT:

Nil.

### POLICY IMPLICATIONS:

From 1 July 2021, Development Applications and post consent certificates must be lodged through the NSW Planning Portal in accordance with the *Environmental Planning and Assessment Amendment (Planning Portal) Regulation 2020*.

**CHIEF FINANCIAL OFFICERS COMMENT:**

Nil.

**LEGAL IMPLICATIONS:**

*Nil.*

**ATTACHMENTS:**

1. NSW planning portal performance audit - 21 June 2022 [📎](#)



PERFORMANCE AUDIT

21 JUNE 2022

# NSW planning portal

NEW SOUTH WALES AUDITOR-GENERAL'S REPORT



## THE ROLE OF THE AUDITOR-GENERAL

The roles and responsibilities of the Auditor-General, and hence the Audit Office, are set out in the *Government Sector Audit Act 1983* and the *Local Government Act 1993*.

We conduct financial or 'attest' audits of state public sector and local government entities' financial statements. We also audit the Consolidated State Financial Statements, a consolidation of all state public sector agencies' financial statements.

Financial audits are designed to add credibility to financial statements, enhancing their value to end-users. Also, the existence of such audits provides a constant stimulus to entities to ensure sound financial management.

Following a financial audit the Audit Office issues a variety of reports to entities and reports periodically to Parliament. In combination, these reports give opinions on the truth and fairness of financial statements, and comment on entity internal controls and governance, and compliance with certain laws, regulations and government directives. They may comment on financial prudence, probity and waste, and recommend operational improvements.

We also conduct performance audits. These examine whether an entity is carrying out its activities effectively and doing so economically and efficiently and in compliance with relevant laws. Audits may cover all or parts of an entity's operations, or consider particular issues across a number of entities.

As well as financial and performance audits, the Auditor-General carries out special reviews, compliance engagements and audits requested under section 27B(3) of the *Government Sector Audit Act 1983*, and section 421E of the *Local Government Act 1993*.



GPO Box 12  
Sydney NSW 2001

The Legislative Assembly  
Parliament House  
Sydney NSW 2000

The Legislative Council  
Parliament House  
Sydney NSW 2000

In accordance with section 38E of the *Government Sector Audit Act 1983*, I present a report titled '**NSW planning portal**'.

A handwritten signature in black ink, appearing to read 'Margaret Crawford'.

**Margaret Crawford**  
Auditor-General for New South Wales  
21 June 2022

© Copyright reserved by the Audit Office of New South Wales. All rights reserved. No part of this publication may be reproduced without prior consent of the Audit Office of New South Wales. The Audit Office does not accept responsibility for loss or damage suffered by any person acting on or refraining from action as a result of any of this material.





## RECONCILIATION COMMITMENT STATEMENT

The Audit Office of New South Wales pay our respect and recognise Aboriginal people as the traditional custodians of the land in NSW.

We recognise that Aboriginal people, as custodians, have a spiritual, social and cultural connection with their lands and waters, and have made and continue to make a rich, unique and lasting contribution to the State. We are committed to continue learning about Aboriginal and Torres Strait Islander peoples' history and culture.

We honour and thank the traditional owners of the land on which our office is located, the Gadigal people of the Eora nation, and the traditional owners of the lands on which our staff live and work. We pay our respects to their Elders past and present, and to the next generation of leaders.



# contents

## NSW planning portal

### **Section one – NSW planning portal**

Executive summary	1
Introduction	6
Implementation	11
Benefits	20

### **Section two – Appendices**

Appendix one – Response from agency	25
Appendix two – About the audit	27
Appendix three – Performance auditing	30

## **Section one**

NSW planning portal

---

## Executive summary

The ePlanning program is an initiative of the Department of Planning and Environment (the department) to deliver a digital planning service for New South Wales through the NSW planning portal (the portal, or the planning portal). The department defines the portal as an online environment where community, industry and government can work together to better understand and meet their obligations under the *Environmental Planning and Assessment Act 1979* (NSW). Using the portal, relevant planning activities can be carried out online throughout New South Wales. This includes, but is not limited to:

- applying for and gaining planning approval
- applying for and gaining approval for building works, sub-dividing land and similar activities
- issuing occupancy and other certificates.

The portal has been developed under three separate business cases. The first business case in 2013 led to the creation of a central portal, which made planning information available to view by planning applicants and allowed some planning applications to be lodged and tracked online.

Under a second business case prepared in 2014, the department set out to improve and widen the functions available via the portal. The department prepared a third business case in 2020 to fund further improvements to the portal over the period July 2020 to June 2023. The third business case also extended the portal's functions to support the building and occupation stages of the planning cycle.

In late 2019, the government mandated the use of the portal for all stages of development applications. This decision took effect across 2020–21 and applied to all councils as well as certifiers and others involved in the planning process.

The objective of this performance audit was to assess the effectiveness of the department's implementation, governance and stakeholder engagement in delivering the NSW planning portal. We investigated whether:

- delivery of the NSW planning portal was planned effectively
- sound governance arrangements are in place to ensure effective implementation of the program
- users of the NSW planning portal are supported effectively to adopt and use the system.

## Conclusion

**Since implementation commenced in 2013, the NSW planning portal has progressively achieved its objectives to provide citizens with access to consolidated planning information and allow them to prepare and submit development applications online. Implementation was initially hindered by deficiencies in planning and it has taken the department significantly longer and cost significantly more to implement the portal than first anticipated. While the portal's implementation has delivered financial benefits, the department has overestimated their value. As a result, the department cannot yet demonstrate that the portal has achieved overall financial benefits, relative to its costs.**

In the first two years of the ePlanning program, the department delivered a portal that allowed planners, developers, certifiers and the public to view important planning information. However, the department found the delivery of a second, transactional version of the portal in 2017 to be much more challenging. This version was intended to offer more integrated information and allow development applications to be submitted and managed online. The department did not rollout this version after a pilot showed significant weaknesses with the portal's performance. A subsequent review found that this was partly because the department did not have a clear view of the portal's role or the best way to implement it. In recent years the department has improved the planning, implementation and governance of the ePlanning program resulting in improved delivery of the portal's core functions.

By the time the program reaches its scheduled completion in 2023, it will have taken the department ten years and around \$146 million in capital expenditure to implement the portal. This will be significantly longer and more expensive than the department originally expected. This overrun is partly due to an increased scope of services delivered through the portal and an initial under-appreciation of what is involved in creating a standard, central resource such as the portal. The department also experienced some significant implementation difficulties – which saw the transactional portal discontinued after it was found to be not fit for purpose. Following this, the department re-set the program in 2017–18 and re-planned much of the portal's subsequent development.

In November 2019, the New South Wales Government decided to mandate the use of the portal for all stages of development applications by the end of 2020–21. The department had previously planned that the portal would be progressively adopted by all councils and other stakeholders over the five years to 2025. The decision to mandate the portal's use for all development applications brought forward many of the portal's benefits as well as the challenges of its implementation. The department did not change its overall delivery approach in response to the changed risks associated with the government's decision to mandate use of the portal.

The current version of the portal has given the department more timely and comprehensive planning information and has helped New South Wales to provide continuous planning services during COVID-19 lockdowns, which interrupted many other public functions. The portal has also delivered financial benefits, however the department has not independently assured benefits calculations carried out by its consultant, and the reported benefits are overstated. In addition, some stakeholders report that the portal is a net cost to their organisation. This has included some certifiers and some councils which had implemented or had started to implement their own ePlanning reforms when use of the portal was mandated in 2019. The department now needs to address the issues faced by these stakeholders while continuing to deliver the remaining improvements and enhancements to the portal. Over the remaining year of the program, it will be critical that the department focuses on the agreed program scope and carefully evaluates any opportunities to further develop the portal to support future planning reforms.

## 1. Key findings

### **Shortcomings in the department's initial planning and management of the program led to a significant time overrun**

The first two ePlanning business cases were each intended to last for two years, four years in total. Program delivery under the first business case met the two-year timeframe, but the second business case took five years. The time overrun was partly caused by a failure to plan for the full scale of work required to design and build an online government service of this nature. There were other reasons for the time overrun, such as the department's failure to effectively manage its contract with an external implementation partner, and the department initially not having a clear view of the portal's role or the best way to implement it.

### **The department did not provide time contingency in the project schedules**

The department's three ePlanning business cases did not include any contingency for a time overrun. The department's first business case was prepared at the same time as the department was consulting stakeholders on wider reforms to the planning system. The department set a timeline of two years to deliver the service and chose not to include any time contingency to help manage the risks associated with building a new government service or the risks associated with business requirements which were developing in parallel to the system development.

The department's second business case aimed to extend and strengthen the portal services beyond what had been set out in 2013 in the government's planning system White Paper. The second business case set out an ambitious program of activities designed to respond to high-priority user requirements and identified service needs. Delivery was originally intended to take place from July 2015 to June 2017.

Actual delivery of the second business case took place over the five years from July 2015 to June 2020, three years longer than planned. While some of this overrun can be attributed to implementation challenges, failing to fully plan for risks to the delivery timeframe was a fundamental contributor.

### **The department now has a clear view of the scope necessary to finalise the program, but has not yet published the services it plans to implement in 2022 and 2023**

The department has a clear scope of services in its third business case and has a governance process to ensure that any additions to the program scope are well managed. As a result, the department is now better positioned to manage the ePlanning program scope through to the program's conclusion in 2023.

The department's overall program planning disciplines have improved. However, it is still considering additions to its current program of work. While the program should respond to important new policy and other requirements, it should also aim to closely define its future program of work and clearly communicate this to stakeholders. However, the department has not yet communicated the new services it plans to add, or improvements that it plans to make, to the portal over the remainder of the program.

### **Mandating the portal's use for all development applications changed the program's strategic risk environment, but the department kept its overall delivery approach the same**

In November 2019 the New South Wales Government decided to mandate the use of the planning portal for all development applications. Use of the portal had previously been required in some circumstances but the government's decision required the portal to be used for all stages of development applications lodged in New South Wales as well as certificates for construction, sub-division, sub-division works and occupation. This significantly changed the program's strategic risk environment, primarily because the program was now required to work more closely with councils and technology vendors that had previously been less engaged with the program.

When use of the portal became mandatory for all stages of development applications, the department had to work more closely with a cohort of stakeholders, many of whom did not want to adopt the portal. This added complexity and difficulty to the program's efforts to ensure the widescale adoption of the planning portal by users. However, the department did not update its main change management approach, alter any key planning assumptions, or provide additional time or cost contingency to support the mandatory use of the portal.

The decision to mandate the use of the planning portal for all stages of development applications brought forward the expected benefits as well as potential costs of the ePlanning program. However, the department did not update the third business case to reflect the mandate. It instead continued to finalise the business case under its previous assumptions which included a much slower uptake of portal services by councils and other users.



### **The program steering committee has managed key issues, but has had less success in managing strategic risks**

The ePlanning steering committee has focused on issue management and general project oversight. However, the steering committee has not dedicated regular time to carry out strategic risk management and has not always sought information on strategic risks which would help it to discharge its important responsibilities.

The steering committee could have reduced the likelihood of issues impacting the program if it had reserved regular time to focus on strategic risk management. For example, the steering committee could have better managed the risks attached to the department's management of:

- the implementation partner's overall performance rather than just its timeliness
- change management and technology risks following the government's decision to mandate the use of the portal for all development applications.

### **The portal has delivered financial benefits but reported benefits are overstated**

In September 2021, the department reported that the program had achieved \$334 million of benefits over the three financial years to June 2021 plus the first two months of 2021–22. The reported benefits were significantly higher than the expected benefits of \$93 million. This was primarily because the department has not updated its benefit targets to reflect the impact of the 2019 decision to mandate the use of the portal for all development applications.

However, the department's calculation of benefits is overstated because:

- a proportion of reported benefits is likely to be due to other planning reforms
- the calculation of the largest single benefit is incorrect
- the reported benefits may not fully account for dis-benefits reported by some stakeholders.

The largest contribution to the department's September 2021 benefit report was an estimated saving of \$151 million for developers due to lower costs associated with holding their investments for a shorter time. However, the department's calculation of this benefit assumes a high baseline for the time to determine a development application. It also assumes that all development applications except for additions or alterations to existing properties will incur financing costs, whereas a small but material number will be self-financed. The calculation also includes several data errors in spreadsheets.

Some users consulted as part of this audit report that the planning portal is not intuitive and creates additional work for them. The department recognises that the portal does not currently deliver an optimum experience for all users and has established a project to develop and release enhancements to the portal monthly until June 2022. It has published information to help councils and certifiers to automatically integrate their systems with the portal and has also provided \$4.8 million funding to assist regional councils with this task. Once fully implemented, the department expects the system integration will reduce costs incurred by stakeholders.

### **The department has only reported benefits since 2019 and has not independently assured the calculation of benefits**

The department originally intended to track benefits from October 2014. However, it only started to track benefits in 2019 when it appointed an external provider to calculate the benefits achieved by the program. Any benefits or dis-benefits between the introduction of the portal and 2019 are unknown and not included in the department's calculation of benefits.

The department has appointed an external provider to calculate the benefits achieved by the portal. The department does not have access to the benefits calculation model which is owned and operated by the external provider. The department trusts that the provider correctly calculates the benefits and does not verify the reported benefit numbers.

## 2. Recommendations

By December 2022, the Department of Planning and Environment should:

1. publish a roadmap of the services it expects to release on the NSW planning portal across 2022 and 2023
2. update its ePlanning program assumptions, benefits targets and change management approach to reflect the government's decision to mandate the use of the portal for all stages of a development application
3. independently assure and report publicly the correct calculation of ePlanning program benefits to account for:
  - errors and assumptions in the calculation of benefits due to changed holding costs for developers
  - the contribution of other planning reforms to reduced timeframes to determine planning applications
  - any dis-benefits which may be experienced by stakeholders.

---

# 1. Introduction

## 1.1 The ePlanning program

The ePlanning program is an initiative of the Department of Planning and Environment (the department) to deliver a digital planning service for New South Wales through the NSW planning portal (the portal, or the planning portal). The department defines the planning portal as an online environment where community, industry and government can work together to better understand and meet their obligations under the *Environmental Planning and Assessment Act 1979* (NSW).

The department first launched the ePlanning program in 2013 and has implemented the program continuously since then. The department's current aims for the program are to:

- centralise and publish more planning information
- help the public to be involved in the planning process
- reduce the need for planning applicants to provide repeat information
- improve the customer experience to deliver easy and equitable access to planning services and reduce assessment times
- ensure planning decisions and oversight are supported by clear data and evidence.

### Changed management of digital planning services

The department has prepared three business cases to direct its ePlanning program activities. The first business case in 2013 focused on creating a central online environment (the portal), making important planning information available to view by planning applicants and stakeholders, and developing a facility to lodge and track some planning applications. Under a second business case prepared in 2014, the program set out to improve and widen the transactional functions in the portal and add a tool to calculate certain contributions paid by developers. The department prepared a third business case in 2020 which funds enhancements to the portal over the period July 2020 to June 2023.

#### Exhibit 1: Characteristics of the three ePlanning program business cases 2013 to 2020

Characteristic	2013	2014	2020
Model	Central repository of planning information and optional planning application services	Central repository of planning information and optional planning application services	Central repository of planning information and mandatory planning application services
Key services	Planning portal: <ul style="list-style-type: none"><li>• Interactive House, which shows domestic rules and codes on a simplified domestic house</li><li>• Spatial Viewer, which displays some planning information, zoning, etc for locations</li><li>• development application lodgement and tracking (for limited types of planning application)</li></ul>	Services under the previous business case plus: <ul style="list-style-type: none"><li>• planning dashboard, including single sign-on</li><li>• enhanced planning viewer, showing planning rules linked to specific land parcels</li><li>• development application lodgement and tracking (for additional types of application)</li><li>• ability to view fees and make payments</li></ul>	Services under the previous business cases plus: <ul style="list-style-type: none"><li>• integration with more planning and some licensing functions such as liquor licensing</li><li>• digital 'building manual'</li><li>• public access to local planning panels</li><li>• development application lodgement and tracking (for additional types of application)</li></ul>

Characteristic	2013	2014	2020
	<ul style="list-style-type: none"> <li>stakeholder consultation mechanisms and forums</li> </ul>		<ul style="list-style-type: none"> <li>registration of compliance and post-consent certificates</li> </ul>
Councils in scope	120 out of 152	120 out of 152	128 out of 128
Funding basis	Centrally funded	Centrally funded	Centrally funded plus user fees
Investment costs (planned)	\$30 million	\$21.8 million	\$55.5 million
Delivery time (planned)	2 years	2 years	3 years

Source: Audit Office of NSW analysis of Department of Planning and Environment documents.

## 1.2 Key stakeholders

The planning portal is used by stakeholders including:

- applicants, including developers and others who need planning approval for developments
- local authorities, such as councils which evaluate and can consent to planning applications
- state agencies, such as the department and other agencies which may also consent to planning applications or which otherwise rely on information in the portal
- certifiers, including those employed in the public and private sector, who can inspect building work and issue certificates for construction, occupation and compliance.

## 1.3 Planning services supported by the portal

The current version of the portal supports the end-to-end planning lifecycle of:

- applying for and gaining planning approval
- carrying out building works, sub-dividing land and similar activities
- occupation and compliance activities.

## Exhibit 2: End-to-end planning services supported by the portal

Planning service	Detail	Supported by business case
Investigate	Understand requirements using modelling tools and viewers	Business cases 1 and 2
Enquire	Access information and provide feedback	
Lodge	Prepare and submit planning applications	
Assess	Track application status	
Determine	Decide and advise applicants	
Confirm	Access data and provide reports	Business case 3
Certify	Receive conditions of consent	
Build	Understand obligations	
Occupy	Prepare and receive occupancy and other certificates	
Compliance	Access records and understand ongoing obligations	

Source: Audit Office of NSW analysis of Department of Planning and Environment documents.

## 1.4 Large program in a wider set of planning reforms

The ePlanning program is a key part of the department's wider planning reforms which are designed to deliver a better planning system. The department has work underway which aims to improve assessment time frames, reduce administration and accelerate projects. This includes, but is not limited to, the:

- Planning Reform Action Plan, which was announced in 2020 and is defined by the department as a long-term structural reform of the planning system. It includes measures to:
  - reduce assessment times for planning proposals, regionally significant development applications and major projects
  - provide new resources for the Land and Environment Court
  - reduce concurrence and referral cases between agencies
  - expand complying development
  - accelerate precinct coordination.
- Planning Delivery Unit, which the department introduced to progress priority planning projects. The unit operates a case management and concierge service. It also supports regional councils with:
  - access to a panel of planning consultants to help speed up planning decisions
  - office facilities for regional planners which reduces the need for them to relocate or travel.

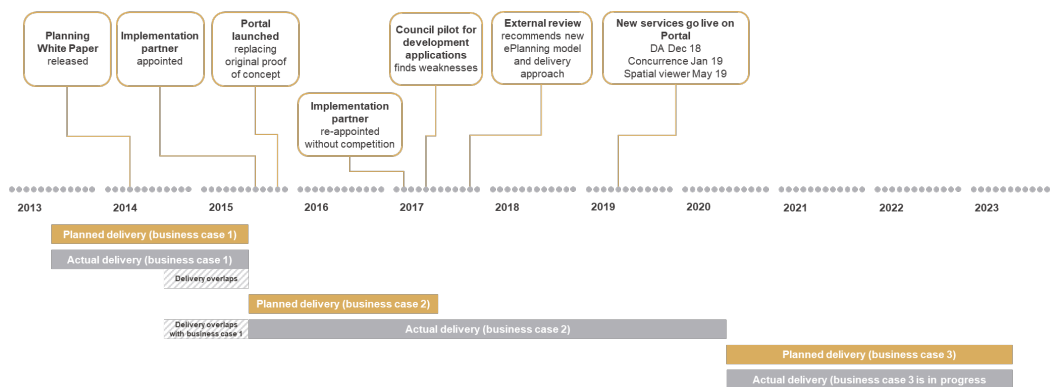
## 1.5 Timeline of key events in the program

The department started the ePlanning program in July 2013 and now expects to complete the program in June 2023. Further development of the planning portal after then will be carried out as part of the department's normal business and not through a dedicated program.

The department developed a proof-of-concept version of the planning portal in 2014. It replaced this in November 2015 with an information-only version of the portal before developing a version of the portal that could support the lodgement of development applications, which it piloted with one council in May 2017. However, the department and stakeholders determined that this version was unsuitable for rollout to councils. The department then commissioned an external review of the portal's design, software and operating model.

In November 2017 the department recommenced the program under new management with a changed operating model and new system design. The department assumed greater direct responsibility for technical delivery from then and reports that it moved from a waterfall style delivery approach to a project management approach which includes significant components of agile project management. New development application services went live in December 2018. Since then, the department has added new services and worked to improve the existing services.

### Exhibit 3: Timeline of services and delivery (planned and actual) for the ePlanning program 2013 to 2023



Source: Audit Office of NSW analysis of Department of Planning and Environment documents.



## 1.6 Regulation changes during the life of the program

Since 2013, the department has reformed the New South Wales planning system to implement changes in government policy and to respond to events, such as the economic impacts of COVID-19. Many of the changes to the planning system have impacted the portal. Key changes include:

- *Environmental Planning and Assessment Amendment Act 2014* which provided for the establishment of the planning portal and database
- Environment Planning and Assessment Amendment (ePlanning) Regulation 2015 which provided for fees to be used to operate the planning portal and maintain the database
- Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 which, as an interim measure, allowed the registration of a development consent or other approval on the portal to be considered a notification to the applicant
- Environmental Planning and Assessment Amendment (ePlanning—Complying Development Certificates) Regulation 2018 which allowed Complying Development Certificates to be lodged on the portal
- regulations made in 2018 which provided for the use of the portal for development applications which require concurrent review by government agencies, or which are integrated development
- regulations made in 2020 which provided for the use of the portal to publish certain documents online rather than in newspapers, and which established transitional provisions to phase in the use of the planning portal for all development applications by 1 July 2021.

The *Design and Building Practitioners Act 2020* and Design and Building Practitioners Regulation 2021 were also introduced requiring use of the portal by professional engineers and design and building practitioners.

## 1.7 About the audit

This audit assessed the department's performance in bringing a range of planning services online since it first launched the ePlanning program in 2013. It considered the ePlanning program's links to the department's wider planning reforms but did not review those reforms.

The audit objective was to assess the effectiveness of the department's implementation, governance and stakeholder engagement in delivering the NSW planning portal.

The audit investigated whether:

- delivery of the NSW planning portal was planned effectively
- sound governance arrangements are in place to ensure effective implementation of the program
- users of the NSW planning portal are supported effectively to adopt and use the system.

---

## 2. Implementation

This part of the report sets out how:

- the ePlanning program has been planned and delivered
- users of the portal have been supported
- the program has been governed.

### 2.1 Planning and delivering the first two ePlanning business cases in 2013 and 2014

The department's first two business cases were approved in July 2013 and October 2014. Under these business cases, program delivery took place over the seven years to June 2020 and delivered services including:

- an online spatial viewer showing planning information by location, and an interactive building showing domestic rules and codes on a simplified domestic house
- a central repository for environmental planning instruments such as district plans
- lodgement and tracking services for some types of planning application
- concurrence and referral services, which are used when multiple government agencies consider a planning application
- a contribution payment system, free trees application, cladding register, analytics, information and other services
- a pilot portal which could support the lodgement of development applications which was trialled in May 2017.

#### **The department initially failed to plan for the scale of work required, which led to a significant time overrun**

The department's first two business cases were each scoped to last for two years, four years in total. Actual program delivery took place over seven years, with delivery under the second business case taking five years. The time overrun was partly caused by a failure to plan for the scale of work required to design and build a new online government service of this nature.

In 2013, the department intended the program to be the key enabler for many of the reforms proposed in a government White Paper on the planning system. The department anticipated the program would be a two-year, \$30 million project which would be completed by 30 June 2015. Although this first business case noted that this investment could be a foundation for future work, it presented the portal as a stand-alone project which would deliver New South Wales 'a customer-focused electronic planning system'.

The first business case did not scope any subsequent phases of work or indicate that further investment or implementation might be required. This was despite the business case acknowledging that there were business requirements which were not yet defined as they were subject to an ongoing consultation on the government's planning system White Paper.

In 2014, the department prepared a second business case to extend the scale and scope of the ePlanning program beyond what had been set out in the planning system White Paper. The second business case was again a two-year program and included a capital investment of \$21.8 million and \$2.2 million for an upgrade of the system after five years of operation. The second business case presented the new two-year program as a crucial step in achieving improved user experience and updating the planning platform. It did not scope any subsequent phases of work or link the delivery of a full planning portal service to any further program implementation.

Program delivery under business cases one and two took place over the seven years to June 2020. The department then prepared a third business case which sought funding for three further years of the ePlanning program. The third business case extended the program's scope into the building, occupation and compliance stages of the planning lifecycle. It was approved in July 2020.

#### **The department failed to effectively manage the contract with its implementation partner**

The department initially appointed an implementation partner in September 2015 to build and operate the first version of the portal which replaced an existing proof-of-concept portal. The department was satisfied with the initial performance of its partner and wanted the partner to further develop the portal to enable the lodgement and management of development applications. In February 2017 the department obtained Ministerial approval to reappoint the same vendor and negotiate a new contract without further testing the market.

The department paid its implementation partner a total of \$8.7 million. The department and the partner built the second version of the portal and piloted the development application lodgement service in 2017 at Liverpool City Council and provided demonstrations to other councils. The pilot found a range of performance issues and an overall poor user experience. The department paused the rollout of the development application lodgement service and reviewed the ePlanning program and the work carried out by its implementation partner.

The department reports that the system built in 2017 was inflexible, not fit for purpose, and required significant rework. Despite this, it negotiated a reduction of only \$600,000 from the contracts with its implementation partner and sought no formal remedy for the poor performance of the portal built in 2017.

#### **The department did not have a clear view of the portal's role or the best way to implement it**

Following the difficulties experienced with the pilot in 2017, the department commissioned an external review of the program, which considered the portal's software design and operating model. The review found that:

- The department was not clear on the portal's overall role or the range of services that it should deliver. The review found that there was a lack of consistency and clarity around the department's vision for the portal, its desired capabilities and the extent to which it would process different types of development application.
- The portal software was highly customised and not sufficiently flexible.

By November 2017 the department had re-commenced the program under new management with a changed operating model and new system design. The department also assumed greater direct responsibility for technical delivery. As part of this, the department reports that it moved from a waterfall style project management approach to one which included significant components of agile delivery.

#### **The department did not provide time contingency in the project schedules**

The department's three ePlanning business cases did not include any contingency for a time overrun. The inclusion of a time contingency was particularly important for the first two business cases because:

- the department was designing and building a new government service, which inherently involves some complexity and has an associated risk to timely delivery
- both program schedules were planned to be only two years, which are relatively short durations for government technology programs.

The department's first business case was prepared at the same time as the department was consulting stakeholders on wider reforms to the planning system. The business case acknowledged that this meant some business requirements were not yet precisely known and could only be defined once the consultation had ended. Despite this uncertainty, the department set a timeline of two years to deliver the services and chose not to include any time contingency to help manage the risks associated with building a new government service or the risks associated with business requirements which were developing in parallel to the system development.

The department's second business case was developed after one year of the program. It aimed to extend and strengthen the planning portal services beyond what had been set out in the government's 2013 planning system White Paper and was originally intended to take place from July 2015 to June 2017. It set out an ambitious program of activities designed to respond to high-priority user requirements and identified service needs.

The second business case also lacked time contingency and was optimistic in some key areas. For example, it set out how the department intended to secure an implementation partner to build and operate the second release of the planning portal. It described the department's requirements as a 'complex solution' and noted that a 'best of breed' or 'challenger' vendor should be considered. At that time, the department had started but not yet completed an initial expression of interest.

The business case expected that procurement activity, contract negotiation and initial services to release a new version of the portal would take place over only nine months from September 2014 to June 2015. However, the procurement and contract negotiation steps alone took 12 months.

Successful delivery of the second business case required a combination of high-quality program management, strong technical development, a clear operating model, sound vendor management, and supportive and engaged stakeholders. The department judged that these conditions were sufficiently present to commit to a second business case schedule of only two years. Actual delivery of the second business case took place over the five years July 2015 to June 2020, three years longer than planned. While some of this overrun can be attributed to implementation challenges, failing to fully account for risks to the planned delivery timeframe was a fundamental contributor.

## 2.2 Planning and delivering the third business case in 2020

The department prepared a third business case for the ePlanning program in 2020 which provides for enhancements to the portal over the period July 2020 to June 2023. Under this business case, the vision for the portal is to provide a digital experience that supports effective planning and decision making in support of the *Environment Planning and Assessment Act 1979* (NSW).

The work planned under the third business case includes:

- mechanisms for online community engagement
- support for local planning panels
- additional services in the build and occupy stages of construction, leading to a buildings 'digital manual'
- broadened development application services including for Crown Land applications and State Significant Development and State Significant Infrastructure
- integration with licensing decisions for complex and high-risk liquor and gaming decisions
- improvement and expansion of digital mapping functions.

**In late 2019 the government mandated the portal's use for all development applications; this changed the program's strategic risk environment, but the department kept its overall delivery approach the same**

In November 2019 the New South Wales Government decided to mandate the use of the planning portal for all stages of development applications, initially by all metropolitan councils and some larger regional councils as well as certifiers and others involved in planning. Use of the portal had previously been required in some circumstances but the government's decision significantly changed the program's strategic risk environment, primarily because the program was now required to work more closely with councils and technology vendors that had been less engaged with the program.

Although the department understood that mandating the portal would have significant implications for councils and other users, it did not update its main change management approach, alter any key planning assumptions, or provide additional time or cost contingency to support the new mandatory use of the portal.

The decision to mandate the portal was announced in November 2019 but took effect on 1 July 2020 when the Environmental Planning and Assessment (Planning Portal) Regulation 2020 became effective. This required the portal to be used for all stages of development applications, as well as certificates for construction, sub-division works and occupation. Greater Sydney and some regional local government areas were required to do this by 31 December 2020, and this was extended to all local government areas by 1 July 2021.

On 1 July 2020, 68 out of 128 councils were using the development application lodgement service. The new mandatory requirement particularly affected the 60 other councils, as well as certifiers and other prospective users who had so far chosen not to adopt the portal for managing their development applications. These stakeholders were now required to use the portal. The new mandate required them to change aspects of their own systems and processes, irrespective of their quality or maturity. As a result of the mandate, many councils had to separate the integration of their planning systems from other council systems such as finance systems or property and rating systems. For these and some other users, the portal may bring more costs than benefits however it was beyond the scope of this audit to validate the costs to stakeholders.

The department's overall change management approach has matured but not significantly changed throughout the ePlanning program's lifecycle. The approach aims to promote the benefits of the portal to councils and other potential users. It involves:

- understanding the scale and scope of changes arising from implementation of the portal
- identifying and supporting sponsors and champions within councils
- promoting awareness and gaining acceptance of changes arising from implementation of the portal.

When use of the portal became mandatory, the department had to work more closely with a cohort of stakeholders, many of whom did not want to adopt the portal. This added complexity and difficulty to the program's efforts to ensure the widescale adoption of the planning portal by users.

The department responded by increasing the number of stakeholder engagements and prepared a regulation under the *Environmental Planning and Assessment Act 1979* (NSW) that gave regional councils an additional six months to comply with the mandate. The department did not refine its planning assumptions or update its change management approach. The department also has not provided time contingency for the implementation challenges that it may still face in the remaining two years of the program.

**The department did not update the third business case to reflect the higher benefits that were expected under the mandated portal**

The decision to mandate the portal for the lodgement of all development applications increased the department's estimation of the benefits that were expected from the portal. This was because all councils and certifiers would be required to use the planning portal for this purpose by the end of 2020–21. This was earlier than they otherwise would have used the portal and four years sooner than the department was modelling in its third business case, which was draft at the time.

The decision to mandate the use of the planning portal for all development applications brought forward the expected benefits as well as potential costs of the ePlanning program. However, the department did not update the third business case to reflect the mandate. It instead continued to finalise the business case under its previous assumptions which included a much slower uptake of portal services by councils and other users.

Chapter 3 discusses the expected and reported benefits from the ePlanning program.

**The department now has a clear view of the scope necessary to finalise the program**

The department's third business case sets out a clear program of work. Once the business case is delivered, the planning portal will become part of the department's normal business operations. At that time, the portal will provide services which allow applicants to enquire, lodge and track planning applications, receive planning consent, and receive construction and other certificates. The business case includes additional services to link with some licensing decisions for complex and high-risk liquor and gaming decisions, as well as broadened and improved development application services. The services built under the third business case are designed to complement and build on those created under the first two business cases.

The department has recently re-activated a 'design authority', which is a key committee in the ePlanning program's governance. The design authority helps to ensure any additions to the program's scope are carefully considered. The design authority also advises the ePlanning steering committee on technical considerations such as standards for ePlanning, technology architecture arrangements, prospective new ePlanning services and opportunities to manage technology risk. The department intended that membership of the design authority would include an independent technical advisor, however at the time of the audit this position was unfilled.

The department's clear scope of services, supported by the design authority, means that it is now better positioned to manage the ePlanning scope through to the conclusion of the program in 2023.

**A roadmap of planned services for calendar years 2022 and 2023 is not yet published**

While the department's overall program planning disciplines have improved, it is still considering additions to its current program of work (such as changes to State Environment Planning Policies to support reforms in housing, design and place, and codes). While the program should respond to important new policy and other requirements, it should also aim to closely define its future program of work and clearly communicate this to stakeholders. However, it has not yet communicated the new services it plans to add, or improvements that it plans to make, to the portal over the remainder of the program.



## Capital costs over the three business cases

Capital expenditure for the ePlanning program was \$119.6 million from July 2013 to December 2021. This was \$38.5 million or 47.5% more than expected. The majority of the overspend occurred under the second business case.

### Exhibit 4: Capital expenditure for the ePlanning program 2013 to 2021

Business case	Planned (\$ million)	Actual (\$ million)
One	30.0	20.1
Two	21.8	58.7
Three (1 July 2020 to 31 December 2021)	29.3	40.9
<b>Total</b>	<b>81.1</b>	<b>119.6</b>

Note: The approved capital budget for business case three, which covers planned program expenditure through to 30 June 2023, is \$55.5 million.

Source: Audit Office of NSW analysis of Department of Planning and Environment documents.

## 2.3 Supporting users of the planning portal

### The department's stakeholder management approach encourages stakeholder views to be considered in the program

The department has established a series of representative stakeholder groups to help ensure the system is well designed and targeted to user needs. The department's third business case identified over 100 stakeholders for the portal reforms. To help coordinate and manage the engagement with this large stakeholder group, the department has convened separate reference groups for industry, councils, certifiers and state government agencies. The department uses these reference groups to share information and seek feedback, including on the desirability of various features on the portal. The department also works with councils on a one-to-one basis to support the portal's adoption and uses feedback from stakeholders to improve the planning portal.

### Training and support services are available to help developers, certifiers, councils and other stakeholders to use the system

The department runs training sessions and provides other information to stakeholders when it releases new functions on the portal. This includes:

- quick reference guides and similar 'how to' documents
- videos, articles and promotional material in a variety of industry and department publications
- in-person and remote training sessions.

From August to November 2021, the department delivered:

- over 100 sessions for councils and government agencies, attended by 2,215 people
- 17 sessions for certifiers and trade and industry representatives, attended by 200 people.

### Some users report that the system can be difficult to use and creates additional work for them

The department uses feedback from stakeholders to improve the planning portal. The department operates a service desk which records and responds to customer queries. The department then analyses this data to identify and develop system improvements. The department also responds to feedback from the reference groups for industry, councils, certifiers and state government agencies. Despite this, some users consulted as part of this audit report that the system is not intuitive and creates additional work for them, primarily because the portal duplicates work that they carry out in their own systems.

The introduction of the portal has required councils to re-engineer aspects of their own business systems and create new ways of integrating council information systems with the state government's portal. Mandatory use of the portal has also required additional, ongoing work for some certifiers.

The department recognises that the planning portal does not currently deliver an optimum experience for all users. To address this, it has established a project to develop and release enhancements to the portal monthly until June 2022.

**The department has performance targets for its user support activities but does not report its performance against them**

In July 2020, the department and Local Government NSW agreed a Memorandum of Understanding which sets out obligations and expectations of the department and councils for the use of the planning portal. The agreement is non-binding but describes the intention of both parties to cooperate in a timely manner, act in good faith and manage any issues. The agreement also sets out target resolution times for incidents and planned customer support for the portal. This includes:

- level one queries which are handled by Service NSW via an online form, email or telephone between 7am to 7pm Monday to Friday
- level two queries which are escalated from Service NSW and are handled by the ePlanning program
- level three queries which are handled by the ePlanning program in consultation with external specialists.

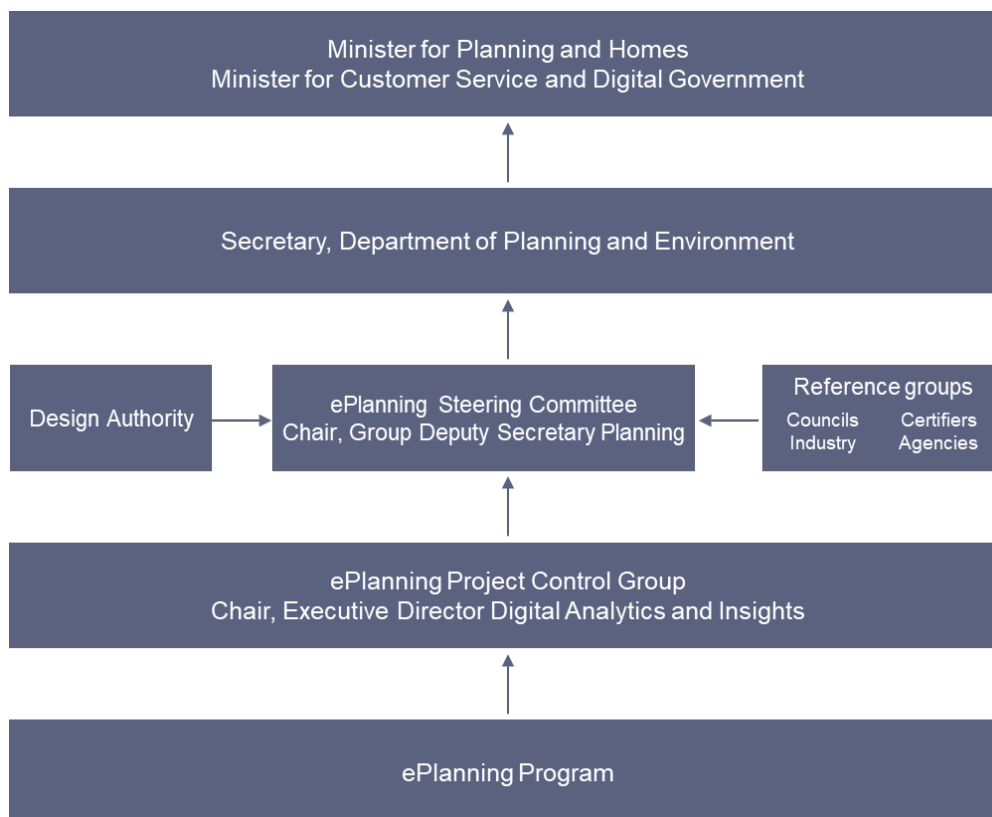
The department does not currently report to Local Government NSW its performance against the standards set out in the Memorandum of Understanding.

## 2.4 Governing the ePlanning program

**A senior-level steering committee governs the program**

The ePlanning program is governed by a steering committee chaired by the department's Group Deputy Secretary Planning. The committee includes an external specialist and representatives from other government agencies and policy and operational areas within the department. The steering committee meets monthly and is supported by a design authority, a project control group and stakeholder reference groups.

#### Exhibit 5: ePlanning program governance 2020 to 2022



Source: Department of Planning and Environment.

#### The steering committee has managed key issues but has had less success in managing strategic risks

The steering committee has focused on issue management and general program oversight. These are important functions which cannot generally be delegated. As part of this, the steering committee has:

- commissioned the November 2017 review which led to the program being reset under new management with a changed operating model and new system design
- responded to mandatory assurance reviews such as those led by the department of Customer Service
- ensured the program received funding and resources
- maintained oversight of the actions to address identified program weaknesses.

The steering committee has not dedicated regular time to carry out strategic risk management and has not always sought information on strategic risks which would help it to discharge its important responsibilities. Particularly in the early years of the program, the steering committee's ability to govern the program was also hampered by the quality of information and analysis presented to it. For example, in November 2016 the program team provided the steering committee with a high-level roadmap leading up to the first major portal go-live. The roadmap consisted of four stages over the following seven months with a total of nine projects or activities. It did not show dependencies or provide contingencies or give any clear idea of where implementation risk was likely to be. This was despite the main rollout of services under the new portal being planned to commence only five months later.

The steering committee could have reduced the likelihood of issues impacting the program if it had reserved regular time to focus on strategic risk management. For example, the steering committee could have better managed the risks attached to:

- **the department's management of the implementation partner, as well as the quality of the portal delivered by the partner, rather than just its timeliness.** In January 2017 the steering committee received an extract from the program risk register which highlighted a risk of the 'inability of the implementation partner to reach the desired delivery date for the full solution'. This risk had been unreviewed for 12 months. The steering committee may have reduced the likelihood of the quality issues which effected the May 2017 pilot of the portal if it had sought a more timely and comprehensive consideration of the risks attached to the implementation partner
- **the new strategic risk environment after the decision to mandate the portal.** In November 2019 the New South Wales Government decided to mandate use of the portal for lodgement of development applications. This decision had wide-ranging and important implications for the program and significantly changed the program's strategic risk environment. However, the steering committee failed to seek a new risk assessment from the program. If it had done so, it may have identified and reduced change management and technology risks attached to use of the portal by councils.

More recently, the program and the steering committee have balanced their attention more evenly between issue management (addressing the existing and short-term actions required to keep the program on track) and strategic risk management (addressing the longer-term actions required to keep the program on track). The program has improved its risk surveillance and reporting. However, this overall improved risk management has not been consistently maintained by the department. For example, in April 2021 an external assurance review found that the steering committee was no longer receiving regular risk updates from the program. This practice was restarted soon after.

### 3. Benefits

This part of the report sets out the ePlanning program's:

- expected and reported financial benefits
- calculation of financial benefits.

#### In 2019, the department increased its expectations for net financial benefits

The department's three ePlanning business cases each forecast substantial financial benefits from the implementation of the planning portal. The department expected that most financial benefits would flow to planning applicants due to a quicker and more consistent planning process. It also expected that government agencies and councils would benefit from the portal.

#### Exhibit 6: Summary of the financial benefits originally expected

	Business case 1 (\$ million)	Business case 2 (\$ million)	Business case 3 (\$ million)	Total (\$ million)
Benefits	90.0	44.3	270.9	405.2
Costs	43.3	29.4	89.8	162.5
Net benefits	46.7	15.0	181.1	242.7

Note: Benefits and costs are incremental. All amounts are calculated over ten years. Amounts for business case 1, 2 and 3 amounts are expressed in 2013, 2015 and 2019 dollars respectively. All amounts are discounted at seven per cent to show their value at the time when they were calculated. Amounts may not add due to rounding.

Source: Audit Office analysis of data provided by the Department of Planning and Environment.

In 2019 the department commissioned a review to explore opportunities to better identify, monitor and realise the benefits of the ePlanning program. Using this work, the department updated the expected benefits for business cases 1 and 2 to take account of:

- errors and miscalculations in the original benefits calculations
- slower delivery of the portal and changes to the take-up of portal services by councils
- changes to the services supported by the portal.

#### Exhibit 7: Summary of the financial benefits expected for business case 1 and 2 after the 2019 update

	Original business case 1 and 2 (combined) (\$ million)	New business case 1 and 2 (combined) (\$ million)
Benefits	134.3	210.6
Costs	72.7	96.3
Net benefits	61.7	114.3

Note: Benefits and costs are incremental. All amounts are calculated over ten years. Amounts for the original business case 1 and 2 are expressed in 2013 and 2015 dollars respectively. The new combined amount is expressed in 2019 dollars. All amounts are discounted or inflated at seven per cent to show their value at the time when they were calculated. Amounts may not add due to rounding.

Source: Audit Office analysis of data provided by the Department of Planning and Environment.

### Reported benefits significantly exceed the current targets

In September 2021, the department reported that the program had achieved \$334 million of benefits over the three financial years up to June 2021 plus the first two months of 2021–22. These reported benefits were significantly higher than expected.

#### Exhibit 8: Reported financial benefits from the ePlanning program

	2018–19 (\$ million)	2019–20 (\$ million)	2020–21 (\$ million)	July to August 2021 (\$ million)	Total (\$ million)
Benefits	5.2	68.8	214.7	45.1	333.8
Target	2.5	14.4	56.7	19.2	92.8
Amount and per cent above target	2.7 108%	54.4 378%	158 279%	25.9 135%	241 260%

Source: Audit Office analysis of data provided by the Department of Planning and Environment.

The department attributes the higher-than-expected financial benefits to the following:

- benefit targets have not been updated to reflect the impact of the 2019 decision to mandate the use of the portal for all development applications. This decision brought forward the expected benefits as well as potential costs of the program. However, the department did not update its third business case which was draft at the time. The business case was subsequently approved in July 2020
- one-off cost savings for agencies not having to develop their own systems
- public exhibitions of planning proposals continuing to be available online during 2020 when some newspapers stopping printing due to COVID-19.

### The calculation of benefits is overstated

The department reported \$334 million of benefits in September 2021 due to the ePlanning program. This calculation is overstated because:

- a proportion of reported benefits is likely to be due to other planning reforms
- the calculation of the largest single benefit is incorrect
- the reported benefits may not fully account for dis-benefits reported by some stakeholders.

The program's benefits are calculated primarily from changes in planning performance data, such as the time it takes to determine a planning development application. The department currently attributes the benefits from shorter planning cycles entirely to the effect of the ePlanning program. However, planning cycles are impacted by many other factors such as the complexity of planning regulations and the availability of planning professionals. Planning cycles may also be impacted by other departmental initiatives which are designed to improve the time that it takes for a planning application to be evaluated. The Introduction describes some of these initiatives.

The largest contribution to the department's September 2021 benefit report was an estimated saving of \$151 million for developers due to lower costs associated with holding their investment for a shorter time. However, the department's calculation of this benefit assumes a high baseline for the time to determine a development application. It also assumes that all development applications except for additions or alterations to existing properties will incur financing costs. However, a small but material number of these applications will be self-financed. The calculation also includes several data errors in spreadsheets.



The calculation of some benefits relies upon an extrapolation of the benefits experienced by a small number of early-adopter councils, including lower printing and scanning costs, fewer forms and quicker processing times. However, some councils report that their costs have increased following the introduction of the portal, primarily because aspects of the portal duplicate work that they carry out in their own systems. The portal has also required some councils to re-engineer aspects of their own systems, such as the integration of their planning systems with other council systems such as finance or property and rating systems. It has also required councils to create new ways of integrating council information systems with the planning portal.

The department has published information to help councils and certifiers to automatically integrate their systems with the planning portal. This approach uses application programming interfaces (or APIs) which are an industry-standard way for systems to share information. In April and May 2021, the government granted \$4.8 million to 96 regional councils to assist with the cost of developing, implementing and maintaining APIs. The maximum amount of funding for each council was \$50,000. The department is closely monitoring the implementation of APIs by councils and other portal users. Once they are fully implemented the department expects APIs to reduce costs incurred by stakeholders.

The department has not yet measured stakeholder costs. It was beyond the scope of this audit to validate these costs.

#### **The department has not independently assured the calculation of reported benefits**

In 2020 the department appointed an external provider to calculate the benefits achieved by the ePlanning program. The department advised that it chose to outsource the calculation of benefits because the provider had the required expertise and because it wanted an independent calculation of the benefits. The process involves:

- extraction and verification of planning performance data by the department
- population of data input sheets by the department
- calculation of benefits by the external provider using the data input
- confirmation by the department that the calculation includes all expected benefit sources.

The department does not have access to the benefits calculation model which is owned and operated by the external provider. The department trusts that the provider correctly calculates the benefits and does not verify the reported benefit numbers. However, as the benefits model involves many linked spreadsheets and approximately 300 individual data points, there is a risk that the calculation model contains errors beyond those discussed in this audit.

#### **The reported benefits have only been calculated since 2019**

The department originally intended to track benefits from October 2014. However, it only started to track benefits in 2019 when it appointed an external provider to calculate the benefits achieved by the portal. Any benefits or dis-benefits between the introduction of the portal and 2019 are unknown and not included in the department's calculation of benefits.

## **Section two**

### Appendices

---

## Appendix one – Response from agency



### Office of the Secretary

IRF22/1882

Margaret Crawford  
Auditor-General for New South Wales  
Via email: [mail@audit.nsw.gov.au](mailto:mail@audit.nsw.gov.au)

Dear Auditor-General

A handwritten signature in blue ink that reads "Margaret".

Thank you for your correspondence on 17 May 2022, attaching the NSW Audit Office Report (final).

I acknowledge and thank the Audit Office of NSW and its team for the collaborative approach taken with the Department of Planning and Environment (the Department), its stakeholders and specifically, our Digital Analytics and Insights team during the audit process.

The Department accepts and is already working to implement your three recommendations. We will provide a report to the Audit Office of NSW on our progress in December 2022.

I appreciate your acknowledgement that the Department's ePlanning program has progressively achieved its objectives and that our improvements to the planning, implementation and governance of the program has resulted in improved delivery.

At this point in time, the ePlanning program consists of nearly 30 digital planning services, has more than 180,000 registered users and has accepted more than 170,000 development applications. An adjustment period and stakeholder issues are to be expected when a digital transformation of this magnitude is progressively introduced.

I am pleased to say that more than 85 per cent of users gave the 'thumbs up' through the Departments customer service feedback widget.

As the number of digital planning services increases, the Department will intensify its work with its stakeholders, as well as adapt its change management approach by increasing training, customer support, communications, and stakeholder forum opportunities.

The ePlanning program has led the digital transformation of the NSW planning system from a heavily paper-based, low democratised and opaque system to one that is digital, transparent and provides access to near real-time data.

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 | Locked Bag 5022 Parramatta NSW 2124 | [planning.nsw.gov.au](http://planning.nsw.gov.au)



As testament to this achievement, the NSW Government's ICT Assurance Review conducted in December 2020 noted that "the program had effectively adopted an agile development methodology which has contributed to a consistent record of delivery. This approach, along with a council stakeholder feedback loop, has contributed to a strong level of engagement with stakeholders and the continual improvement of the Portal".

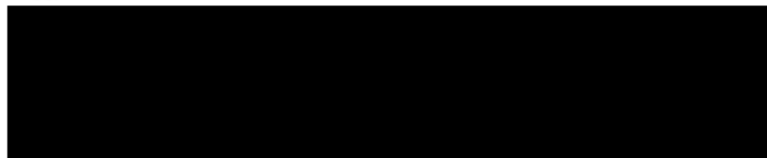
Should you have any further inquiries, please do not hesitate to contact my office.

Yours sincerely

**Mick Cassel**  
**Secretary**  
**NSW Planning**

8 June 2022

CC:



---

## Appendix two – About the audit

### Audit objective

This audit assessed the effectiveness of the Department of Planning and Environment's (the department) implementation, governance and stakeholder engagement in delivering the NSW planning portal.

### Audit criteria

Criterion 1: Delivery of the NSW planning portal was planned effectively.

- The department had plans in place at each stage of the project and followed these plans.
- The department worked with all relevant stakeholders to understand business needs at the outset of each stage of the project.
- Significant variations to the project delivery approach, scope, budget and timeframe were justified, approved and supported by a revised business case.

Criterion 2: Sound governance arrangements are in place to ensure effective implementation of the program.

- The department uses a governance framework to support sound decision-making and monitor project implementation.
- The department effectively identifies, monitors and addresses key project risks and issues.
- The department is effectively measuring, monitoring and managing realisation of benefits.

Criterion 3: Users of the NSW planning portal are supported effectively to adopt and use the system.

- The department has developed and is implementing an effective stakeholder engagement strategy.
- The department has established an effective support function for internal and external users.
- The department has performance measures in place to provide support to system users and uses these measures to inform its ongoing support strategy.

### Audit scope and focus

The audit assessed the effectiveness of the department's planning and implementation of the NSW planning portal. The audit focused on the department's decision-making in relation to the project, governance arrangements and engagement with relevant stakeholders.

The audit scope included:

- project implementation from 2013 to present
- project management and governance
- project scope, timeframes and budget management, including alterations made
- stakeholder consultation and support.

### Audit exclusions

The audit did not seek to:

- comment on the merits of government policy objectives
- examine other programs and initiatives delivered as part of the ePlanning reforms
- examine implementation of ePlanning at councils
- validate reported benefits.

The audit does, however, comment on the above where these affect our findings and/or are contextually relevant.

## Audit approach

The audit team conducted the audit in accordance with ASAE 3500 'Performance Engagements' and ASAE 3000 'Assurance Engagements Other than Audits or Reviews of Historical Financial Information'. The standards require the audit team to comply with relevant ethical requirements and plan and perform the audit to obtain reasonable assurance about an activity's performance against identified criteria and express a reasonable assurance conclusion against the audit objective.

Our procedures included:

1. Interviews and system demonstrations with the department's staff involved in the program. The audit involved consultation with other stakeholders including:
  - interviews with staff from select councils
  - interviews with key external stakeholder groups such as Local Government NSW
  - interviews with other relevant internal and external stakeholders.
2. Examining and analysing documents relating to planning and implementation of the program, including:
  - relevant legislation, regulations, policies, guidelines, ministerial circulars and ministerial orders
  - documentation/formal procedures and guidance around the delivery strategy and governance framework
  - documentation/formal procedures and guidance around risk management, such as risk management plan, risk registers, issues logs, minutes of meetings, etc.
  - program plans and business cases
  - program variations and corresponding formal approvals, justifications and revisions in business cases
  - implementation plans
  - scope, budget and timeframe management documents
  - benefits realisation assumptions and management documents
  - stakeholder engagement strategy
  - user support strategy, agreements and policies
  - minutes of meetings
  - emails and other correspondence
  - briefing and recommendations to decision-makers
  - delegations and approvals.
3. Analysing data:
  - project performance monitoring and evaluation
  - user support function, including user support performance measures and/or performance management data.

We also examined:

- documentation from other stakeholders obtained throughout the audit such as research and studies, statistical data and analysis.

The audit approach was complemented by quality assurance processes within the Audit Office to ensure compliance with professional standards.



## **Audit methodology**

Our performance audit methodology is designed to satisfy Australian Audit Standard ASAE 3500 'Performance Engagements' and other professional standards. The standards require the audit team to comply with relevant ethical requirements and plan and perform the audit to obtain reasonable assurance and draw a conclusion on the audit objective. Our processes have also been designed to comply with requirements specified in the *Government Sector Audit Act 1983* and the *Local Government Act 1993*.

## **Acknowledgements**

We gratefully acknowledge the co-operation and assistance provided by the Department of Planning and Environment.

## **Audit cost**

The estimated cost of this audit including disbursements is \$330,000.

---

## Appendix three – Performance auditing

### What are performance audits?

Performance audits determine whether State or local government entities carry out their activities effectively, and do so economically and efficiently and in compliance with all relevant laws.

The activities examined by a performance audit may include a government program, all or part of an audited entity, or more than one entity. They can also consider particular issues which affect the whole public sector and/or the whole local government sector. They cannot question the merits of government policy objectives.

The Auditor-General's mandate to undertake performance audits is set out in section 38B of the *Government Sector Audit Act 1983* for state government entities, and in section 421B of the *Local Government Act 1993* for local government entities.

### Why do we conduct performance audits?

Performance audits provide independent assurance to the NSW Parliament and the public.

Through their recommendations, performance audits seek to improve the value for money the community receives from government services.

Performance audits are selected at the discretion of the Auditor-General who seeks input from parliamentarians, State and local government entities, other interested stakeholders and Audit Office research.

### How are performance audits selected?

When selecting and scoping topics, we aim to choose topics that reflect the interests of parliament in holding the government to account. Performance audits are selected at the discretion of the Auditor-General based on our own research, suggestions from the public, and consultation with parliamentarians, agency heads and key government stakeholders. Our three-year performance audit program is published on the website and is reviewed annually to ensure it continues to address significant issues of interest to parliament, aligns with government priorities, and reflects contemporary thinking on public sector management. Our program is sufficiently flexible to allow us to respond readily to any emerging issues.

### What happens during the phases of a performance audit?

Performance audits have three key phases: planning, fieldwork and report writing.

During the planning phase, the audit team develops an understanding of the audit topic and responsible entities and defines the objective and scope of the audit.

The planning phase also identifies the audit criteria. These are standards of performance against which the audited entity, program or activities are assessed. Criteria may be based on relevant legislation, internal policies and procedures, industry standards, best practice, government targets, benchmarks or published guidelines.

At the completion of fieldwork, the audit team meets with management representatives to discuss all significant matters arising out of the audit. Following this, a draft performance audit report is prepared.

The audit team then meets with management representatives to check that facts presented in the draft report are accurate and to seek input in developing practical recommendations on areas of improvement.

A final report is then provided to the head of the audited entity who is invited to formally respond to the report. The report presented to the NSW Parliament includes any response from the head of the audited entity. The relevant minister and the Treasurer are also provided with a copy of the final report. In performance audits that involve multiple entities, there may be responses from more than one audited entity or from a nominated coordinating entity.

### **Who checks to see if recommendations have been implemented?**

After the report is presented to the NSW Parliament, it is usual for the entity's Audit and Risk Committee/Audit Risk and Improvement Committee to monitor progress with the implementation of recommendations.

In addition, it is the practice of Parliament's Public Accounts Committee to conduct reviews or hold inquiries into matters raised in performance audit reports. The reviews and inquiries are usually held 12 months after the report received by the NSW Parliament. These reports are available on the NSW Parliament website.

### **Who audits the auditors?**

Our performance audits are subject to internal and external quality reviews against relevant Australian standards.

The Public Accounts Committee appoints an independent reviewer to report on compliance with auditing practices and standards every four years. The reviewer's report is presented to the NSW Parliament and available on its website.

Periodic peer reviews by other Audit Offices test our activities against relevant standards and better practice.

Each audit is subject to internal review prior to its release.

### **Who pays for performance audits?**

No fee is charged to entities for performance audits. Our performance audit services are funded by the NSW Parliament.

### **Further information and copies of reports**

For further information, including copies of performance audit reports and a list of audits currently in-progress, please see our website [www.audit.nsw.gov.au](http://www.audit.nsw.gov.au) or contact us on 9275 7100.

Professional people with purpose

## OUR VISION

Our insights inform and challenge government to improve outcomes for citizens.

## OUR PURPOSE

To help Parliament hold government accountable for its use of public resources.

## OUR VALUES

Pride in purpose  
Curious and open-minded  
Valuing people  
Contagious integrity  
Courage (even when it's uncomfortable)



**6.5 DEVELOPMENT APPLICATION PROCESSING TIMES****File Number:** S18.6.60 / 22/22697**Author:** Anthony Alliston, Manager Development Services**SUMMARY:**

The NSW Department of Planning and Environment have released data in regard to Development Application processing times. The live data has been released in the NSW Planning Portal – NSW Planning Performance Dashboard. The purpose of this report is to provide the Civil and Environmental Services Committee with information in regard to Inverell's Development Application processing times and to provide a comparison between similar sized Councils.

**COMMENTARY:****Background**

In June 2022 the NSW Department of Planning and Environment released data in regard to Development Application processing times for all NSW Councils. The live data has been released in the NSW Planning Portal – NSW Planning Performance Dashboard.

**NSW Planning Portal Data**

As part of the data collection, the Department categorises Councils according to their relative size. Inverell is categorised as a "Large Rural Council". Large Rural Councils are made up of both Group 10 and Group 11 Councils based on the Australian Classification of Local Governments (ACLG) determined by the Australian Bureau of Statistics (ABS). For the purposes of this report, **Table 1** (below) only includes data from the "Group 11" Councils.

**Table 1 – Live Data from the NSW Planning Performance Dashboard – Group 11 Councils**

	<u>No. of Determined Development Applications (DA)</u>	<u>DA Determinations - Assessment Times (Gross Days)</u>	<u>DA Determinations – Development Cost (Millions)</u>
	<u>2021/2022</u>	<u>2021/2022</u>	<u>2021/2022</u>
<b><i>Inverell</i></b>	<b>165</b>	<b>31</b>	<b>24.5</b>
<i>Bellingen</i>	60	79	9.2
<i>Cabonne</i>	185	52	36.1
<i>Cootamundra - Gundagi</i>	190	44	69.6
<i>Cowra</i>	113	55	37.9
<i>Federation</i>	206	33	41.6
<i>Greater Hume</i>	225	35	45.2
<i>Gunnedah</i>	78	79	26.6
<i>Hilltops</i>	230	48	35.5
<i>Leeton</i>	127	28	16.3
<i>Moree Plains</i>	65	31	20.6
<i>Murray River</i>	274	66	72.5
<i>Muswellbrook</i>	129	83	15.8
<i>Nambucca</i>	412	35	84.2
<i>Narrabri</i>	80	35	24.7



<i>Parkes</i>	130	34	23.0
<i>Snowy Valleys</i>	172	54	29.5
<i>Upper Hunter</i>	182	38	44.9
<i>Yass Valley</i>	234	98	82.4

The data included in **Table 1** includes information on the number of Development Applications (DAs) determined, average DA processing times (gross days) and development costs (millions). The live data is from the 2021/2022 financial year.

In comparing the data from the Group 11 Council's it can be seen that Inverell's average DA processing time during the 2021/2022 financial year was 31 gross days. This is second behind Leeton with an average DA processing time of 28 days.

**Table 2** (below) shows Inverell's Development Application Data for the last five (5) years. The data is sourced from a combination of NSW Planning Performance Dashboard, Inverell Shire Council internal data and Local Development Performance Monitoring by the NSW Department of Planning.

**Table 2 – Inverell Development Application Data for the last five (5) years**

	<u>No. of Determined Development Applications</u>	<u>DA Determinations - Assessment Times (Gross Days)</u>	<u>DA Determinations - Development Cost (Millions)</u>
2021/2022 <sup>(a)</sup>	165	31	24.5
2020/2021 <sup>(b)</sup>	189	28	54.1
2019/2020 <sup>(a)</sup>	140	23	33.6
2018/2019 <sup>(c)</sup>	149	30	18.1
2017/2018 <sup>(c)</sup>	156	22	22.6
<sup>(a)</sup> Data sourced from NSW Planning Portal – NSW Planning Performance Dashboard <sup>(b)</sup> Data sourced from Inverell Shire Council internal data <sup>(c)</sup> Data sourced from Local Development Performance Monitoring by the NSW Department of Planning			

The data shown in **Table 2** indicates that Inverell's average DA assessment time (gross days) has remained relatively stable for the past five (5) years, with an increase of eight (8) days from 2019/2020 to 2021/2022 (the last three years).

The data from **Table 1** shows that Inverell, in terms of average Development Application processing times, is performing well in comparison to other Group 11 Councils. **Table 2**, which shows Inverell's data for the past five years indicates there has been an increase in average DA assessment time, particularly since 2019/2020 where the average DA processing time was 23 days.

## Conclusion

In reviewing the data for Inverell, it can be seen that there was an increase in Development Application average processing time from 23 to 28 days during the transition between 2019/2020 and 2020/2021 and a further jump to 31 days in the 2021/2022 financial year.

While Inverell Council is still performing comparatively well against the other Group 11 Councils, it is considered that the Department's mandatory requirement for all Councils to use the NSW Planning Portal from the 1 July, 2021 for the lodgement of Development Applications has had a noticeable influence on processing times.

Council staff, the building industry and the broader community alike have all experienced frustrations and delays in processing times as a result of the effectiveness of the department's implementation, governance and stakeholder engagement in delivering the NSW planning portal since 1 July, 2021.

**RISK ASSESSMENT:**

Nil

**POLICY IMPLICATIONS:**

Nil

**CHIEF FINANCIAL OFFICERS COMMENT:**

Nil

**LEGAL IMPLICATIONS:**

Nil

**ATTACHMENTS:**

Nil