



BUSINESS PAPER

**Civil and Environmental Services
Committee Meeting
Wednesday, 9 November 2022**

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

4 November, 2022

A Civil and Environmental Services Committee Meeting will be held in the Committee Room, Administrative Centre, 144 Otho Street, Inverell on Wednesday, 9 November, 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

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9.05am – Presentation – Debbie McCowen – Chief Executive Officer – Armajun – Health Opportunities

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 12 October, 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, 12 OCTOBER 2022 AT 9:00AM**

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

IN ATTENDANCE: Cr Kate Dight, 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

COMMITTEE RESOLUTION

Moved: Cr Paul Harmon

Seconded: Cr Wendy Wilks

That the apology received from Cr Di Baker for personal reasons be accepted and leave of absence granted.

CARRIED

2 CONFIRMATION OF MINUTES

COMMITTEE RESOLUTION

Moved: Cr Jacko Ross

Seconded: Cr Wendy Wilks

That the Minutes of the Civil and Environmental Services Committee Meeting held on 14 September, 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

Nil

4 PUBLIC FORUM

Nil

5 DESTINATION REPORTS

5.1 ANNUAL HERITAGE ADVISORY SERVICE UPDATE S18.8.3

COMMITTEE RESOLUTION

Moved: Cr Paul Harmon

Seconded: Cr Jacko Ross

- i. *That the Committee suspend standing orders to allow Heritage Advisor, Mr Mitch McKay, the opportunity to address the Committee; and*
- ii. *That the Committee recommend to Council that the 2021/2022 annual reporting and funding acquittals to the NSW Office and Environment and Heritage be noted.*

CARRIED

Mr Mitch McKay delivered the Heritage Advisory Services Update covering a period of 12 August 2020 – 11 October 2022.

During this time period Mr McKay made 21 visits to Inverell and undertook the following works:

- 41 site inspections;
- 35 heritage and urban design advisements;
- 4 pre-DA advice;
- 9 advisements on DA's;
- discussions with Council staff on various projects including the upgrades to the former Tingha Town Hall, Wing Hing Long Store and Newstead Woolshed, and a ABC Radio Interview about a Heritage Walk for the Inverell Town Centre;
- The Heritage walk is being developed through grant funding of \$43,000 from Heritage NSW and will include a walks booklet and sound trail; and
- preparation of a Heritage Strategy 2022-2027. This Strategy aims to guide heritage management within the Inverell Local Government Area (LGA) and establishes the key strategic priorities and associated actions for heritage management for the years 2022 - 2027.

Council has also continued to run a Heritage Assistance Fund program. During 2020 and 2021 the program received 27 applications, with 21 offers being made, 20 of which were accepted.

Funds available from Council totalled \$92,000 which resulted in works to the value of nearly \$350,000 being completed.

Since 2012-13 this program has seen Council allocate \$251,650 to 73 projects completing works to the value of \$856,500.87. Projects have included:

- repainting
- replacement of guttering and downpipes, weatherboards, flooring
- reroofing including reshingling
- repairs to chimneys, verandas, ceilings, stairs, timber window frames
- restumping and repiering
- reinstatement of missing items such as fences/handrails/coloured glass
- addressing rising damp in walls and render repairs
- foundation work, and
- repointing of brickwork.

Applications for 2022-2023 program were called on 15 August and closed 30 September, 2022. Council received 14 applications, which is similar in number to the previous 6 years. Assessment of these applications is now underway.

RESUMPTION OF STANDING ORDERS

Moved: Cr Paul Harmon

Seconded: Cr Jacko Ross

That standing orders be resumed.

5.2 INVERELL POLOCROSSE CLUB - OPTIONS TO ASSIST S26.1.1/13**COMMITTEE RESOLUTION**

Moved: Cr Paul Harmon

Seconded: Cr Wendy Wilks

The Committee recommend to Council that:

- i. Council supply and spread sand (30mm) for one polocrosse field;*
- ii. Council cart water (approximately 120,000L) over the three days of the 2023 Swan Cup; and*
- iii. Council assist the Inverell Polocrosse Club to develop a master plan for their facility.*

CARRIED

5.3 REPAIR PROGRAM FUNDING ALLOCATION 2022/2023 S15.8.22**COMMITTEE RESOLUTION**

Moved: Cr Wendy Wilks

Seconded: Cr Jacko Ross

The Committee recommend to Council that the 2022/2023 REPAIR Program funding be allocated as follows:

- i. MR137 "Wandera South" Road rehabilitation project (Stage 1) additional works - \$350,000; and*
- ii. MR137 "Wandera South" Stage 2 - \$739,986.*

CARRIED

6 INFORMATION REPORTS**COMMITTEE RESOLUTION**

Moved: Cr Jacko Ross

Seconded: Cr Wendy Wilks

That the information reports be received and noted.

CARRIED

6.1 WORKS UPDATE S28.21.1/15

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 Jacko Ross

That the information be received and noted.

CARRIED

The Meeting closed at 9.35 am.

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

5 DESTINATION REPORTS

5.1 ROAD CLOSURE - VENETIAN CARNIVAL

File Number: S28.23.1/15 / 22/36643

Author: Michael Frost, Technical Support Officer

SUMMARY:

Council is in receipt of a request from Apex Club of Inverell for the closure of Captain Cook Drive to allow for activities associated with the 2022 Venetian Carnival. Apex has further requested that Council waive the fee associated with the road closure. The Committee is requested to make a determination regarding the road closure and associated fees.

RECOMMENDATION:

A matter for the Committee.

COMMENTARY:

Council is in receipt of a request from Inverell Apex Club for the closure of Captain Cook Drive for activities associated with the 2022 Venetian Carnival.

The Apex Venetian Carnival is the major fundraiser for service clubs in town and attracts many families to Campbell Park to enjoy the festivities. The 2022 Carnival will be held on Saturday, 3 December. In past years, Captain Cook Drive has been closed in the vicinity of Campbell Park for the duration of the carnival to ensure the safety of pedestrians accessing the carnival.

It is proposed to close the road for the duration of the carnival, between the hours of 4pm and 10pm, at the location between Byron Street Roundabout and the entrance of Pasterfield car park. Council has legislated authority under the *Roads Act* to grant a permit for an event with an associated road closure and has approved similar requests in previous years. No issues have arisen with the closure of this section of road in previous years and a safer pedestrian environment is provided for families attending the carnival. Should Council agree to the requested road closure, the appropriate approvals will also be obtained from the NSW Police.

The estimated cost associated with implementing the road closure is \$350 which is the amount budgeted each year specifically for the Venetian Carnival. Council have previously donated \$350 towards advertising and road closure costs and the Apex Club are seeking a similar contribution for this year's event.

Council are requested to make a determination regarding:

- Granting permission for closure of Captain Cook Drive for the Venetian Carnival between the Byron Street Roundabout and entrance to Pasterfield car park between the hours of 4.00pm and 10.00pm on Saturday, 3 December 2022; and
- The request for the incurred costs associated with the road closure being considered as a donation.

RISK ASSESSMENT:

Nil

POLICY IMPLICATIONS:

Nil

CHIEF FINANCIAL OFFICERS COMMENT:**LEGAL IMPLICATIONS:**

Council has legislated authority under the *Roads Act* to grant a permit for an event with an associated road closure. Should Council agree to the requested road closure, the appropriate approvals will also be obtained from the NSW Police.

ATTACHMENTS:

Nil

5.2 AGRITOURISM CHANGES TO THE NSW PLANNING SYSTEM

File Number: S18.6.34 / 22/36899

Author: Chris Faley, Development Services Coordinator

SUMMARY:

The NSW Department of Planning and Environment (DPE) announced changes to the NSW Planning System in relation to agritourism and other small-scale agricultural development.

In addition to mandated legislative changes, DPE have requested Council to consider optional amendments to the *Inverell Local Environmental Plan 2012* and *Guyra Local Environmental Plan 2012*.

The Committee is requested to recommend to Council that the optional amendments not be adopted for the *Inverell Local Environmental Plan 2012* and *Guyra Local Environmental Plan 2012*.

RECOMMENDATION:

The Committee recommend to Council that:

1. *The land use “Agritourism” not be permitted in any additional zones of the Inverell Local Environmental Plan 2012 or Guyra Local Environmental Plan 2012;*
2. *The optional Clause 5.24 “Farm Stay Accommodation” and optional Clause 5.25 “Farm Gate” Premises of Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2022 not be adopted for the Inverell Local Environmental Plan 2012 or Guyra Local Environmental Plan 2012; and*
3. *The mandated agritourism changes to the NSW Planning System be noted.*

COMMENTARY:**Introduction**

On 6 October, 2022, the NSW Department of Planning and Environment (DPE) announced changes to the NSW Planning System in relation to agritourism and other small-scale agricultural development. An Information Sheet released by DPE is included as **Attachment 1**.

To enable the agritourism reforms, DPE will undertake mandatory amendments to:

- Standard Instrument Local Environmental Plans, including the *Inverell Local Environmental Plan 2012* and *Guyra Local Environmental Plan 2012* via the *Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2022*; and
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* via the *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Agritourism) 2022*.

The amending instruments will come into effect on 1 December, 2022.

Mandated Amendments to the Inverell Local Environmental Plan 2012 and Guyra Local Environmental Plan 2012 (Tingha Boundary Adjustment)

The *Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2022* will amend the *Inverell Local Environmental Plan 2012* and *Guyra Local Environmental Plan 2012* to:

- Introduce new land use definitions for “Agritourism”, “Commercial Farm”, “Farm Experience Premises”, “Farm Gate Premises” and “Landholding”. **Attachment 2** to this report includes a list of new and amended definitions mandated as part of the agritourism reforms;

- Adopt the definitions of “Manufactured Home” and “Primitive Camping Ground” from the *Local Government Act 1993* (refer **Attachment 2**);
- Amend the land use definitions for “Agriculture”, “Artisan Food and Drink Industry”, “Camping Ground”, “Caravan Park”, “Cellar Door Premises”, “Farm Stay Accommodation”, “Restaurant or Café” and “Retail Premises” (refer **Attachment 2**);
- Mandate “Agritourism”, which includes “Farm Experience Premises” and “Farm Gate Premises”, as a permitted use on the following land:
 - For land subject to the *Inverell Local Environmental Plan 2012*, land zoned RU1 Primary Production, C3 Environmental Management and C4 Environmental Living; and
 - For land subject to the *Guyra Local Environmental Plan 2012*, land zoned RU1 Primary Production and R5 Large Lot Residential.
- Make consequential amendments to ‘Clause 5.4 Controls relating to miscellaneous permissible uses’ and ‘Clause 5.18 Intensive livestock agriculture’.

The reason “Agritourism”, which includes “Farm Experience Premises” and “Farm Gate Premises” is permissible in the R5 Large Lot Residential zone within Guyra and not in Inverell is that “Agriculture” is prohibited within the R5 Large Lot Residential zone in Inverell. This anomaly is an example of how a seemingly straight forward mandatory amendment can become confusing and complex.

Optional Amendments to the *Inverell Local Environmental Plan 2012* and *Guyra Local Environmental Plan 2012* (Tingha Boundary Adjustment)

In addition to the mandated amendments above, DPE have:

- Created two new optional clauses (**Attachment 3**) – Clause 5.24 relating to “Farm Stay Accommodation” and Clause 5.25 relating to “Farm Gate Premises”, which Council can nominate to include within the local environmental plan; and
- Extended an opportunity to Council to nominate additional zones to permit “Agritourism”.

DPE have requested Council provide confirmation by 23 December, 2022 if they wish to adopt the additional clauses or nominate additional zones. The indicative timeframe for DPE to implement Council nominated changes is February 2023.

Development Services Staff Commentary

In essence, the optional clauses provide a simple list of considerations for “Farm Stay Accommodation” and “Farm Gate Premises”. The matters contained within the optional clauses are limited and are already considered by Council as part of the merit-based assessment of a Development Application. It is not considered necessary to adopt the optional clauses within the Inverell Shire.

In relation to the expansion of “Agritourism” to additional zones, this is not considered necessary as RU1 Primary Production is the only traditional rural zone within the Inverell Shire. It is not considered appropriate to extend “Agritourism” within the village, residential, business or industrial zones due to the inherent land use conflict that is likely to be created.

State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Agritourism) 2022

The *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Agritourism) 2022* will:

- Introduce provisions to enable the following developments to be undertaken as “Exempt Development” (i.e. without planning or building approval) subject to certain criteria:
 - Replacement of farm buildings damaged by natural disasters;
 - “Farm Experience Premises”;

- “Farm Gate Premises”;
 - “Farm Stay Accommodation” (which includes camping);
 - Roadside stalls; and
 - “Agritourism” signs.
- Introduce an “Agritourism and Farm Stay Accommodation Code” to allow “Agritourism” and “Farm Stay Accommodation” to be undertaken as “Complying Development” (i.e. a fast-track approval).

General Discussion

On 12 October, 2022, Council’s Development Services Staff attended an online information session by DPE. During this information session a number of concerns were highlighted by many NSW Councils with the agritourism reforms, including lack of consultation by DPE, complexity of the new rules, land use conflict, compliance issues and impact on Council resources.

On 13 October, 2022, Local Government NSW made a submission to the Hon. Anthony Roberts Minister for Planning and Minister for Homes, which highlighted a number of serious concerns with the agritourism reforms. A copy of this submission is included as **Attachment 4**.

Council’s Development Services staff share the same concerns as Local Government NSW, including the “diversion of planning resources – already under extreme pressure”. In recent years, DPE have embarked on a number of questionable one-size-fits-all planning reforms (i.e. NSW Planning Portal, employment zones, SEPP reviews), which have added further uncertainty and complexity to the planning system.

Whilst the principle of enabling agricultural development and providing additional income for farmers is supported, the agritourism reforms as proposed by DPE will further increase the burden on Council’s planning and compliance resources.

Conclusion

In light of the above, Council has little choice in regard to the implementation of the mandatory reforms. In regards to the optional clauses as described in **Attachment 3**, it is considered that Council has the capacity and flexibility to facilitate “Farm Stay Accommodation” and “Farm Gate Premises” development without the need for added direction and regulation provided by additional clauses.

It is also considered that Council has not been afforded sufficient time to adequately consider and address the potentially perverse outcomes, unintended consequences and compliance challenges of the mandated reforms. In comparison to other LGSs, however, it is not anticipated that Inverell will be the subject of a significant influx of, and demand for “Agritourism” development.

In response to the changes to the NSW Planning System in relation to agritourism and the request from the NSW Department of Planning and Environment for Council to consider the adoption of additional clauses, the Committee is requested to recommend to Council that:

1. The land use “Agritourism” not be permitted in any additional zones of the *Inverell Local Environmental Plan 2012* or *Guyra Local Environmental Plan 2012*;
2. That the optional Clause 5.24 “Farm Stay Accommodation” and optional Clause 5.25 “Farm Gate Premises” of *Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2022* not be adopted for the *Inverell Local Environmental Plan 2012* or *Guyra Local Environmental Plan 2012*; and
3. The mandated agritourism changes to the NSW Planning System be noted.

RISK ASSESSMENT:

Nil

POLICY IMPLICATIONS:

The agritourism reforms by the NSW Department of Planning and Environment will result in mandatory amendments to the Inverell Local Environmental Plan 2012 and Guyra Local Environmental Plan 2012.

CHIEF FINANCIAL OFFICERS COMMENT:

Nil

LEGAL IMPLICATIONS:

Nil

ATTACHMENTS:

1. DPE Agritourism Information Sheet [↓](#)
2. Agritourism Reforms - New and Amended Definitions [↓](#)
3. Agritourism Optional Clauses [↓](#)
4. LGNSW Letter to Minister Roberts re Agritourism Reforms [↓](#)

Department of Planning and Environment
Information sheet

Agritourism and small-scale agriculture development

This information sheet will help landowners understand more about the new agritourism policy. Detailed guidelines will be released ahead of the policy changes commencing on 1 December 2022.

We're helping farmers to future proof their land

The NSW Government is committed to supporting the resilience and recovery of regional and rural communities from natural disasters and unexpected events. We're doing this by encouraging the growth of emerging agritourism activities on farms that are supplementary to, or based on, agriculture.

Agritourism allows farmers to showcase what's unique about their region, offers an additional source of income and supports sustainable tourism, giving people more reasons to visit regional and rural NSW.

What is the new agritourism policy?

The NSW Government is making changes to planning rules to make it easier for farmers to use their land for agritourism businesses for new income streams.

The agritourism policy introduces new land use definitions for on-farm activities that can be undertaken as exempt and complying development if they meet specified development standards. This means landowners will have the opportunity to set up agritourism businesses without the complexity and cost of lodging a development application.

Landowners will be able to run activities on their farms more easily, including farm experiences and on farm accommodation, cellar doors, cafes, retreats, roadside stalls, fruit picking and hosting small events or weddings.

Simplifying the planning rules will help landowners add value to their existing agricultural businesses and encourage the next generation to farm the land.

New and amended terms for agritourism

Agritourism is a tourism-related experience or product that connects agricultural products, people or places, with visitors to a farm.

We are introducing clear terms for agritourism activities in NSW:

- **Farm gate premises** – where visitors interact with produce from the farm, such as fruit picking, sales, tastings, workshops and cafes.
- **Farm experience premises** – where visitors can experience life on a farm including tours, horse riding, weddings, functions and retreats.
- **Farm stay accommodation** – where visitors can stay in buildings or moveable dwellings, including tents and caravans, on a farm.

Department of Planning and Environment

Information sheet



You can read the definitions in the [Standard Instrument \(Local Environmental Plans\) Amendment \(Agritourism\) Order 2022](#)

Who will these reforms help?

These reforms will help landowners where the main use of their land is the production of agricultural goods for commercial purposes¹.

The use of the land for agritourism must be ancillary (secondary) to the agricultural use of the land.

Existing agritourism operations that are already lawfully operating are not impacted by these policy changes.

Businesses are lawfully operating if:

- the business is operating under a valid development consent or approval and complies with any conditions of that consent or approval
- the use is exempt development and complies with the requirements and development standards for that development
- the use is an ancillary (secondary) development to another lawful use of the land and that other use has development consent or approval or does not require approval.

If you are unsure whether you are operating lawfully, contact your council.

New agritourism approval pathways

There are different approval pathways, depending on the type of agritourism development you want to do:

- **Exempt development** is minor and low-impact development that can be carried out without the need for planning or building approval if it meets specified development standards.
- **Complying development** is a fast-tracked approval process for straight-forward development where planning and building standards can be signed-off by the council or a registered certifier. This process offers many benefits to applicants including certainty, as well as time and cost savings.

For more information see our [planning approval pathways](#).

If your development cannot meet the general requirements or development standards for exempt and complying development, you will need to lodge a development application with your council. Council is the best source for advice on whether you can lodge a development application and what information you need to provide. They will assess your development application having regard to requirements under the relevant policies and the council's local environmental plan (LEP) and development control plan.

Land requirements

In addition to development standards, agritourism and farm stay accommodation can only be carried out as exempt or complying development in these zones in the councils LEP:

¹ Where they have a primary production business as defined under the *Income Tax Assessment Act 1997 (Cth)* or the land has been categorised as 'farmland' by the council under the *Local Government Act 1993*.

Department of Planning and Environment Information sheet



- RU1 (Primary Production)
- RU2 (Rural Landscape)
- RU4 (Primary Production Small Lots).

For exempt development, in addition to these zones, farm stay accommodation, farm experience premises and farm gate premises can be carried out on other land where development for agritourism, extensive agriculture, intensive livestock agriculture or intensive plant agriculture is permitted with or without development consent under the council's LEP.

To carry out complying development, the land use – for example, farm gate premises – must be permissible with consent in the zone. This permissibility is set out in the council's LEP.

Exempt and complying development cannot be undertaken on certain sensitive land. Please refer to the [list of excluded land for exempt development](#) and the [list for complying development](#). The agritourism changes have introduced some other excluded land, such as certain areas in the Hunter. For full details see the [State Environmental Planning Policy \(Exempt and Complying Development Codes\) Amendment \(Agritourism\) 2022](#).

There are also requirements under other legislation you may need to meet that are not related to the planning rules. For example, to serve food at a farm event you may have obligations under the *Food Act 2003* and to place moveable dwellings on your farm you may need council approval under the *Local Government Act 1993*.

1. Farm gate premises

Farm gate premises allow a building or place on a farm, with commercial agriculture, to sell produce. The produce sold is to be mostly grown on the farm and supplemented with produce from other local farms in the area.

Examples of farm gate premises include direct shop front outlets, produce tastings, cooking classes, restaurants sourcing local produce, self-picking experiences and farm gate sales.

Retail and food activities can:

- showcase the farm, produce and the area
- provide direct contact between farmer and tourist
- enable supplementary income and increased resilience for farmers
- add to the regional rural economy
- provide additional employment opportunities in rural and regional communities.

These activities have an important role in creating a more direct connection from farm to plate.

Cellar door premises

Cellar door premises are now also a type of farm gate premises. You do not need to comply with the definition for farm gate premises but must comply with the definition for cellar door premises to seek approval for this land use.

Cellar door premises is defined in the planning system as:

Department of Planning and Environment Information sheet



‘a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.’

The types of development you can do as farm gate premises under exempt and complying development include:

- changing the use of an existing building to farm gate premises as exempt development
- erecting a marquee to sell produce or hold workshops as exempt development
- constructing a new building or alter or add to an existing building as complying development.

See some of the development standards you must meet to setup farm gate premises below.

2. Farm experience premises

Farm experience premises allow a farmer to provide small scale and low impact tourist and recreational activities and events on their farm. This allows visitors to experience farms and farm life through tours, school visits, retreats, weddings, conferences, horse riding and farm field days.

Rural events, especially weddings, have a far-reaching supply chain beyond just the hiring of a venue, that can add to the rural economy. This includes accommodation services, event services (such as photographers, stylists and transport), food and drink services, supporting services (gift shops, child minding) and facilities services (party hire).

The types of development you can do as farm experience premises under exempt and complying development include:

- changing the use of an existing building to farm experience premises as exempt development
- conducting tours of your farm as exempt development
- erecting a marquee to hold a wedding or other event as exempt development
- constructing a new building or alter or add to an existing building as complying development.

See some of the development standards you must meet to setup farm experience premises below.

3. Farm stay accommodation

On-farm accommodation provides opportunities for visitors to understand and engage with the land in greater depth than can be offered by day visits. Often the accommodation is coupled with activities within the property.

Accommodation as part of agritourism often takes the form of either a ‘farm stay’ building or use of the land for small camping areas. As farming practices have changed, many properties have spare capacity in their assets, such as older workers cottages, that can be converted to rural accommodation to help farmers diversify income streams.

The types of development you can do as farm stay accommodation under exempt and complying development include:

Department of Planning and Environment Information sheet



- changing the use of residential accommodation or a manufactured home to farm stay accommodation as exempt development
- erecting tents and have caravans or campervans on your land as exempt development
- constructing or installing a deck or other platform for glamping tents or cooking shelters as exempt development
- constructing a new building or modifying an existing building as complying development.

See some of the development standards you must meet to setup farm stay accommodation below.

4. Roadside stalls

Roadside stalls are essentially a very minor and location specific form of farm retail. Roadside stalls are often unattended, immediately adjacent to the road to attract passing traffic, and small in size. They provide a very simple way to sell goods to the passing public.

You can erect or install a roadside stall as exempt development.

See some of the development standards you must meet to setup roadside stalls below.

Department of Planning and Environment

Information sheet



5. Development standards

A range of development standards must be met to carry out farm gate premises, farm experience premises, farm stay accommodation and roadside stalls as exempt or complying development.

Some of the key development standards you must follow include:

Activity	Exempt development	Complying development
Farm gate premises	<p>Permitted in RU1, RU2, RU4 zones and in other zones where agriculture, extensive agriculture, intensive livestock agriculture and intensive plant agriculture are permitted under the LEP</p> <p>100 visitors at any one time</p> <p>Hours of operation - Sunday to Friday and public holidays 8am-5pm, Saturday 7am-5pm</p> <p>Use up to 200m² gross floor area of an existing building</p> <p>Off street parking</p>	<p>Permitted in RU1, RU2, RU4 zones where agritourism is permitted under the LEP</p> <p>Maximum 200m² gross floor area for each building to maximum 500m² for all farm gate premises and farm experience premises buildings on the landholding</p> <p>The standards for exempt development for maximum guest numbers, hours of operation and parking also apply</p>
Farm experience premises	<p>Permitted in RU1, RU2, RU4 zones and in other zones where agriculture, extensive agriculture, intensive livestock agriculture and intensive plant agriculture are permitted</p> <p>50 visitors at any one time (excluding school visits, farm tours and horse riding tours)</p> <p>Total 100 guests at any one time for all farm gate premises and farm experience premises (excluding tours and school visits)</p> <p>Maximum 52 days per year (excluding school visits, farm tours and horse riding tours)</p> <p>Hours of operation - Sunday to Thursday and public holidays 8am-6pm, Friday and Saturday 8am-midnight</p> <p>Use up to 200m² gross floor area of an existing building</p> <p>Off street parking</p>	<p>Permitted in RU1, RU2, RU4 where agritourism is permitted</p> <p>Maximum 200m² gross floor area for each building to maximum 500m² for all farm gate premises and farm experience premises buildings on the landholding</p> <p>The standards for exempt development for maximum guest numbers, maximum days, hours of operation and parking also apply</p>

Department of Planning and Environment

Information sheet



Activity	Exempt development	Complying development
Farm stay accommodation	<p>Permitted in RU1, RU2, RU4 zones and in other zones where agriculture, extensive agriculture, intensive livestock agriculture and intensive plant agriculture are permitted</p> <p>Maximum 20 guests in tents, caravans and campervans.</p> <p>Maximum 6 caravans and campervans</p> <p>Maximum 21 consecutive days of stay</p> <p>Minimum landholding of 15ha for camping/caravans</p> <p>Use up to 60m² gross floor area of an existing residential accommodation or manufactured home</p> <p>Off street parking</p>	<p>Permitted in RU1, RU2, RU4 zones where farm stay accommodation is permitted under the LEP</p> <p>Maximum 6 buildings on the landholding</p> <p>Maximum 21 consecutive days of stay</p> <p>Minimum landholding size of 15ha (new buildings)</p> <p>Maximum 60m² gross floor area for a new building or use up to 60m² of an existing building</p> <p>Use up to 25m² of an existing building to provide communal amenities or facilities</p> <p>Off street parking</p>
Roadside stalls	<p>Permitted in RU1, RU2, RU4 zones</p> <p>One stall per farm, located on the property</p> <p>Cannot be located on land adjacent to a freeway, tollway or highway</p> <p>Max 9m² footprint</p> <p>Parking on the property or on the road verge subject to certain requirements</p>	N/A

For the full requirements for exempt and complying development, please refer to the [State Environmental Planning Policy \(Exempt and Complying Development Codes\) Amendment \(Agritourism\) 2022](#).

If you cannot meet the development standards for exempt and complying development, contact your council about lodging a development application.

Requirements for approvals, licences, permits and authorities under other legislation may also apply.

6. Other changes to agriculture and development

Reconstruction of farm buildings

We want to help farmers rebuild farm buildings after natural disasters such as the most recent floods affecting northern NSW. Allowing farm infrastructure such as farm buildings and grain bunkers to be rebuilt without the need for approval will make it easier for farmers to recover.

To do this we are enabling the reconstruction of farm buildings as exempt development following a natural disaster through amendments to the State Environmental Planning Policy (Exempt and Complying Development)

Department of Planning and Environment Information sheet



2008 (Codes SEPP). To meet these criteria a building must be constructed in the same location, to the same height and meet all relevant contemporary building standards. Farm buildings will also need to meet existing development standards in the Codes SEPP for farm buildings, except in relation to location, height or setbacks (other than setbacks to natural waterbodies).

Farmers will need to comply with any existing conditions of development consent for these buildings.

Temporary stock containment

We are making changes to where farmers can temporarily contain livestock during a natural disaster or similar emergency without approval, under the State Environmental Planning Policy (Primary Production) 2021 (clause 2.16). We are doing this to reduce future negative impacts on nearby areas and run off into waterways and neighbouring resident properties.

The changes will place restrictions on where stock containment areas can be located to minimise any impacts on the environment or neighbouring properties.

Under the updated controls, temporary stock containment areas will not be allowed (without development consent):

- in environmentally sensitive areas
- in, or within 100m, of a special area within the meaning of the *Water NSW Act 2014*
- within 100m of a natural watercourse
- within 500m of a residential zone or residential accommodation on adjacent land.

Small scale pig and poultry farms

We are increasing the distance between poultry and pig farms that can be setup without a planning approval to protect the industry from biosecurity threats.

Under the new changes, poultry farms with less than 1,000 birds can be developed without consent, as long as they are not within 1km of another poultry farm (instead of 500m). Poultry farms used for the breeding of poultry must also be 5km away from other poultry farms, and vice versa. Pig farms with less than 20 breeding sows or less than 200 pigs can now be developed without consent only if they are not within 3km of another pig farm to be developed without consent.

These changes have come about due to concerns from stakeholders that the distance required between farms is too small and does not meet best-practice standards for biosecurity. Farms that are proposed to be located closer than these distances must seek approval by lodging a development application with their council.

Further information

Amendments have been made to a number of state planning policies.

If you have questions about the changes, please email agritourism@dpie.nsw.gov.au or [contact us via our online form](#).

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**NEW AND AMENDED LANE USE DEFINITIONS COMPILED FROM THE
STANDARD INSTRUMENT (LOCAL ENVIRONMENTAL PLANS) AMENDMENT
(AGRITOURISM) ORDER 2022**

Current Definition (if applicable)	New Definition
<p>agriculture means any of the following—</p> <ul style="list-style-type: none"> (a) aquaculture, (b) extensive agriculture, (c) intensive livestock agriculture, (d) intensive plant agriculture. 	<p>agriculture means any of the following—</p> <ul style="list-style-type: none"> (aaa) agritourism (a) aquaculture, (b) extensive agriculture, (c) intensive livestock agriculture, (d) intensive plant agriculture.
	<p>agritourism means the following—</p> <ul style="list-style-type: none"> (a) farm gate premises, (b) farm experience premises. <p>Note— Agritourism is a type of agriculture—see the definition of that term in this Dictionary.</p>
<p>artisan food and drink industry means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following—</p> <ul style="list-style-type: none"> (a) a retail area for the sale of the products, (b) a restaurant or cafe, (c) facilities for holding tastings, tours or workshops. <p>Note— See clause 5.4 for controls in certain zones relating to the retail floor area of an artisan food and drink industry. Artisan food and drink industries are a type of light industry—see the definition of that term in this Dictionary.</p>	<p>artisan food and drink industry means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following—</p> <ul style="list-style-type: none"> (a) a retail area for the sale of the products, (b) (b) the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, (c) (c) facilities for holding tastings, tours or workshops. <p>Note— See clause 5.4 for controls in certain zones relating to the retail floor area of an artisan food and drink industry. Artisan food and drink industries are a type of light industry—see the definition of that term in this Dictionary.</p>
<p>camping ground means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short</p>	<p>camping ground means an area of land, with access to communal amenities, used for the short term placement of campervans, tents, annexes or other similar portable and lightweight temporary shelters for</p>

term use, but does not include a caravan park.	accommodation and includes a primitive camping ground but does not include— (a) a caravan park, or (b) farm stay accommodation.
caravan park means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.	caravan park means an area of land, with access to communal amenities, used for the installation or placement of caravans, or caravans and other moveable dwellings, but does not include farm stay accommodation.
cellar door premises means a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area. Note— Cellar door premises are a type of retail premises —see the definition of that term in this Dictionary.	cellar door premises means a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area. Note— Cellar door premises are a type of farm gate premises —see the definition of that term in this Dictionary.
	commercial farm means a farm on which agriculture is undertaken that is— (a) on land categorised as farmland under the Local Government Act 1993, section 515, or (b) a primary production business within the meaning of the Income Tax Assessment Act 1997 of the Commonwealth, or part of a primary production business, including a business that— (i) was a primary production business, and (ii) has temporarily ceased to be a primary production business because of a natural disaster, including a drought, flood or bush fire.
	farm experience premises means a building or place— (a) on a commercial farm, and (b) ancillary to the farm, and (c) used to provide visitors to the farm, on a commercial basis, with small-scale and low-impact

	<p>tourist or recreational activities, including the following, but not including motor sports—</p> <ul style="list-style-type: none"> (i) horse riding, (ii) farm tours, (iii) functions or conferences, (iv) farm field days. <p>Note— Farm experience premises are a type of agritourism—see the definition of that term in this Dictionary.</p>
	<p>farm gate premises—</p> <p>(a) means a building or place—</p> <ul style="list-style-type: none"> (i) on a commercial farm, and (ii) ancillary to the farm, and (iii) used to provide visitors to the farm, on a commercial basis, with agricultural products predominantly from the farm, supplemented by products from other farms in the region, or with services or activities related to the products, including the following— <ul style="list-style-type: none"> (A) processing, packaging and sale of the products, but not the processing of animals, (B) the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, (C) tastings or workshops, (D) the provision of information or education related to the products, and <p>(b) includes cellar door premises.</p> <p>Note— Farm gate premises are a type of agritourism—see the definition of that term in this Dictionary.</p>
<p>farm stay accommodation means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.</p> <p>Note—</p>	<p>farm stay accommodation means a building or place—</p> <ul style="list-style-type: none"> (a) on a commercial farm, and (b) ancillary to the farm, and (c) used to provide temporary accommodation to paying

See clause 5.4 for controls relating to the number of bedrooms. Farm stay accommodation is a type of tourist and visitor accommodation —see the definition of that term in this Dictionary.	guests of the farm, including in buildings or moveable dwellings. Note— Farm stay accommodation is a type of tourist and visitor accommodation —see the definition of that term in this Dictionary.
	landholding means an area of land— (a) constituted or worked as a single property, and (b) if comprising more than 1 lot—the lots are— (i) contiguous, or (ii) separated only by a road or watercourse.
	manufactured home has the same meaning as in the Local Government Act 1993.
	primitive camping ground means a camping ground approved under the Local Government Act 1993, Chapter 7, Part 1 as a primitive camping ground. Note— Primitive camping ground is a type of camping ground —see the definition of that term in this Dictionary
restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided. Note— Restaurants or cafes are a type of food and drink premises —see the definition of that term in this Dictionary.	restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, but does not include the preparation and serving of food and drink to people that occurs as part of— (a) an artisan food and drink industry, or (b) farm gate premises. Note— Restaurants or cafes are a type of food and drink premises —see the definition of that term in this Dictionary.
retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold	retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold

<p>by wholesale), and includes any of the following—</p> <ul style="list-style-type: none"> (a) (Repealed) (b) cellar door premises, (c) food and drink premises, (d) garden centres, (e) hardware and building supplies, (f) kiosks, (g) landscaping material supplies, (h) markets, (i) plant nurseries, (j) roadside stalls, (k) rural supplies, (l) shops, (m) specialised retail premises, (n) timber yards, (o) vehicle sales or hire premises, <p>but does not include highway service centres, service stations, industrial retail outlets or restricted premises.</p> <p>Note— Retail premises are a type of commercial premises—see the definition of that term in this Dictionary.</p>	<p>by wholesale), and includes any of the following—</p> <ul style="list-style-type: none"> (a) (Repealed) (b) (Repealed) (c) food and drink premises, (d) garden centres, (e) hardware and building supplies, (f) kiosks, (g) landscaping material supplies, (h) markets, (i) plant nurseries, (j) roadside stalls, (k) rural supplies, (l) shops, (m) specialised retail premises, (n) timber yards, (o) vehicle sales or hire premises, <p>but does not include farm gate premises, highway service centres, service stations, industrial retail outlets or restricted premises.</p> <p>Note— Retail premises are a type of commercial premises—see the definition of that term in this Dictionary.</p>
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OPTIONAL CLAUSES 5.24 AND 5.25 EXTRACTED FROM THE STANDARD INSTRUMENT (LOCAL ENVIRONMENTAL PLANS) AMENDMENT (AGRITOURISM) ORDER 2022

5.24 Farm stay accommodation [optional]

(1) The objectives of this clause are as follows—

- (a) to diversify the uses of agricultural land without adversely impacting the principal use of the land for primary production,
- (b) to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.

Direction— Additional objectives may be included.

(2) Development consent must not be granted to development for the purposes of farm stay accommodation on a landholding unless the consent authority is satisfied all buildings or manufactured homes used to accommodate guests on the landholding will be—

- (a) on the same lot as an existing lawful dwelling house, or
- (b) on a lot of a size not less than the minimum lot size for a dwelling house to be permitted on the lot under an environmental planning instrument applying to the land.

(3) Subclause (2) does not apply if the development is a change of use of an existing dwelling to farm stay accommodation.

(4) Development consent must not be granted to development for the purposes of farm stay accommodation on land unless the consent authority has considered—

(a) whether the development will result in noise or pollution that will have a significant adverse impact on the following on or near the land—

- (i) residential accommodation,
- (ii) primary production operations,
- (iii) other land uses, and

(b) whether the development will have a significant adverse impact on the following on or near the land—

- (i) the visual amenity or heritage or scenic values,
- (ii) native or significant flora or fauna,
- (iii) water quality,
- (iv) traffic,
- (v) the safety of persons, and

(c) whether the development is on bush fire prone land or flood prone land, and

(d) the suitability of the land for the development, and

(e) the compatibility of the development with nearby land uses.

Direction— Additional development standards for farm stay accommodation may be included.

5.25 Farm gate premises [optional]

- (1) The objectives of this clause are as follows—
- (a) to allow for tourism and related commercial uses on land used principally for primary production at a scale that does not adversely affect the principal use of the land for primary production,
 - (b) to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.

Direction— Additional objectives may be included.

- (2) Development consent must not be granted to development for the purposes of farm gate premises on land unless the consent authority has considered—
- (a) whether the development will result in noise or pollution that will have a significant adverse impact on the following on or near the land—
 - (i) residential accommodation,
 - (ii) primary production operations,
 - (iii) other land uses, and
 - (b) whether the development will have a significant adverse impact on the following on or near the land—
 - (i) the visual amenity or heritage or scenic values,
 - (ii) native or significant flora or fauna,
 - (iii) water quality,
 - (iv) traffic,
 - (v) the safety of persons, and
 - (c) whether the development is on bush fire prone land or flood prone land, and
 - (d) the suitability of the land for the proposed development, and
 - (e) the compatibility of the development with nearby land uses.

Direction— Additional development standards for farm gate premises may be included.



Our Ref: R22/0029#02 Out-35061

13 October 2022

The Hon Anthony Roberts MP
Minister for Planning and Minister for Homes

By email: office@roberts.minister.nsw.gov.au

Dear Minister Roberts

Serious concerns: Agritourism reforms commencing 1 December 2022

I write again about the changes to agritourism rules which the NSW Government last week announced will commence on 1 December.

This follows my letter in August outlining the local government sector's concerns around insufficient timeframes, compliance issues and other potential impacts of eleventh-hour changes to agritourism reforms. The response from the Department of Planning and Environment (the Department) on 14 September promised a "*delayed commencement*" which "*will be sufficient to enable councils to consider the impact of the reforms ...and make decisions about whether to amend LEPs or DCPs*". The fact that the changes have now been notified to commence in less than two months flies in the face of this commitment to give councils sufficient time.

The handling of consultation for these changes and the NSW Government's disregard of local government's concerns is unacceptable. The announcement has pre-empted yet-to-be completed updates to local environmental plans (LEPs) and does nothing to allay the concerns of councils who have been waiting for details from the Department to enable them to assess these impacts and comprehensively brief their elected representatives. It is not only disappointing that there is no appreciation of realistic timeframes needed for councils to respond to the changes, but also unreasonable to announce the policy when the Department is still working with councils to determine the zones that are appropriate for the new agritourism land uses in their local areas.

There is no question that tourism and economic development are priorities for regional and rural councils. They have worked constructively to support the agritourism proposals first exhibited by the Department last year. But this latest announcement includes provisions that by the Department's own admission are more permissive than what was first exhibited. The subsequent confusion and lack of detail is creating uncertainty for councils and community members who have been contacting councils seeking clarity.

Questions are being raised about the Department's definitions used to define the scope of these reforms, with concerns that the one-size-fits-all approach could see a reduction in primary production land used for actual farming, and increase agricultural land use conflicts. This broad definition opens up these provisions to a wide range of agricultural land and

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places additional burden on councils to determine whether a farm is eligible to be able to use these provisions as a supplement to their primary agricultural income.

The significantly heightened potential for land use conflict will require attention and response from council officers. This will unfortunately divert council planning resources – already under extreme pressure – away from critically important development assessment functions – hampering the ability of councils to contribute to addressing the need for more housing, which is especially the case in communities severely affected by this year's flooding.

As noted in my earlier letter to you, councils will also need time to consider issues such as lots without dwelling entitlements, compliance implications, unregulated clearing, risk to life in camping areas (from fires and floods) and other potential impacts.

Councils have also raised biosecurity concerns that may have serious impacts on our agricultural sector yet cannot be adequately considered or mitigated due to the one-size-fits-all approach to agritourism permissibility and especially in light of the Department's timeframe for implementation.

While councils are supportive of initiatives to provide farmers with supplementary avenues of income, these changes must be introduced prudently with sufficient time and consideration to address potentially perverse outcomes. Unfortunately, the spectre of the rushed introduction of these broadened provisions is generating apprehension for some councils, which already face significant and underfunded compliance challenges. It is of great concern to these councils that if their issues are not addressed before the policy commences, their current compliance load will intensify and any unintended consequences will be difficult to wind back.

In light of these considerable concerns, it will be critical that from day one the Department has in place a system to collect data and monitor the rollout and effects (costs and benefits) of this policy. The information collected should inform a review of the policy after twelve months.

I trust you will appreciate that the degree of concern held by a considerable number of councils is sufficient to warrant postponement of commencement of the policy in these areas until their issues are addressed.

Minister, will you please commit to:

1. postponing the commencement of these reforms for any councils with concerns until such time as the Department fully completes its consultation with councils and all the details, including changes to LEPs are in place;
2. directing the Department to have in place from day one a monitoring system including costs and benefits of this policy;
3. reviewing the policy after twelve months, informed by data monitoring of the costs and benefits;
4. reconciling the compliance issues for councils and the adverse impacts on council planning teams' core planning and development assessment functions by:
 - in the short term, setting up an agritourism hotline and team of compliance investigators within the Department to respond to complaints from the public; and

- more broadly, asking the Department to initiate a project with LGNSW and councils to consider mechanisms that could be introduced to help offset the cost to local government of expanding compliance and enforcement responsibilities.

For further information or to arrange a meeting, please have your office contact LGNSW Director Advocacy, Damian Thomas, at damian.thomas@lgnsw.org.au or on 02 9242 4063.

Yours sincerely



Cr Darriea Turley AM
President

Cc: The Hon. Paul Toole MP, Deputy Premier and Minister for Regional NSW
The Hon. Dugald Saunders MP, Minister for Agriculture
The Hon. Ben Franklin MLC, Minister for Tourism

5.3 CONFLICT OF INTEREST POLICY - COUNCIL-RELATED DEVELOPMENT APPLICATIONS

File Number: S4.14.5/01 / 22/37901

Author: Anthony Alliston, Manager Development Services

SUMMARY:

This report has been initiated in response to recent amendments to the *Environmental Planning and Assessment Regulation 2021* that requires NSW Councils to formally manage conflicts of interest arising in relation to “council-related development applications”.

The Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022 will take effect on 3 April, 2023 and NSW Councils are required to have a conflict of interest policy in place to manage such conflicts.

The Committee is requested to recommend to Council that the Draft Conflict of Interest Policy be endorsed for public exhibition in conjunction with the necessary administrative changes to the Inverell Shire Community Participation Plan and placed on public exhibition for a minimum of 28 days.

A further report will be prepared for consideration at the conclusion of the public exhibition.

RECOMMENDATION:

The Committee recommend to Council that:

1. *the Draft Conflict of Interest Policy be endorsed for public exhibition in conjunction with the necessary administrative changes to the Inverell Shire Community Participation Plan and placed on public exhibition for a minimum of 28 days; and*
2. *A further report be prepared for consideration at the conclusion of the public exhibition.*

COMMENTARY:**BACKGROUND**

In response to the recommendations made by the NSW Ombudsman, recent changes have been made to the *Environmental Planning and Assessment Regulation 2021* to strengthen transparency and accountability in the planning system.

Amendments to the *Environmental Planning and Assessment Regulation 2021* will come into effect on 3 April, 2023 and will require all NSW Councils to:

- have a conflict of interest policy in place that advises how they would manage any potential conflict of interest that may arise in relation to “council-related development applications”;
- prepare a management statement which must be exhibited with a development application. The management statement must detail the potential conflict and the way council propose to manage it; and
- exhibit council-related development applications for a minimum of 28 days and record in their development application register the steps taken to manage any conflicts.

WHAT IS A COUNCIL-RELATED DEVELOPMENT APPLICATION?

The *Environmental Planning and Assessment Amended (Conflict of Interest) Regulation 2022* defines a “council-related development application” as:

“a development application, for which the Council is the consent authority, that is:

- a) made by or on behalf of the Council, or*
- b) for development of land –*
 - i) of which the Council is an owner, a lessee or a licensee, or*
 - ii) otherwise vested in or under the control of the Council”.*

COUNCIL-RELATED DEVELOPMENT APPLICATION CONFLICT OF INTEREST GUIDELINES

The Department of Planning and Environment has published guidelines titled ‘*Council-related Development Application Conflict of Interest Guidelines*’. A copy of the guidelines is included as **Attachment 1**.

The Guidelines require that a Council’s Conflict of Interest Policy in regard to council-related development applications must:

- establish management controls and/or a management strategy to address potential conflicts of interest at the different phases of the development process for the types of council-related development that the Council could be involved in;
- outline how potential conflicts of interest will be identified, the risk assessed and appropriate management controls determined; and
- outline the process that will be followed to publicly communicate the management approaches for each development application subject to the policy.

The Guidelines provide a sample conflict of interest policy and a sample management strategy statement. To ensure compliance with the requirements of the *Conflict of Interest Regulation*, it is intended that the templates contained within the guidelines be used to prepare Inverell Shire Council’s policy.

INVERELL SHIRE COUNCIL CONFLICT OF INTEREST POLICY

A Draft Conflict of Interest Policy using the template contained within the “*Council-related Development Conflict of Interest Guidelines*” is included in **Attachment 2**. The policy document also includes a checklist and a sample management strategy as appendices. The appendices do not form part of the policy as they may be amended and/or expanded over time.

The Committee is requested to recommend to Council that the Draft Conflict of Interest Policy be endorsed for public exhibition.

DISCUSSION

Councils in New South Wales make Development Applications seeking consent to carry out development on land they own, occupy or otherwise control while at the same time being the consent authority responsible for determining the application under the *Environmental Planning and Assessment Act 1979*. The conflict of interest arising in such circumstances is readily apparent.

Under current circumstances Inverell Shire Council manages conflicts of interest in regard to ‘council-related development applications’ on a case-by-case basis. Conflict of interest considerations are based on factors such as community interest, environmental impacts, compliance with standards and cost of development. It is considered that the adoption of a Conflict of Interest Policy for council-related development applications will essentially formalise the existing considerations utilised by Inverell Shire Council when assessing and determining council-related development applications.

Should the Draft Conflict of Interest Policy be endorsed for public exhibition, subsequent administrative changes should also be made to the Inverell Shire Community Participation Plan to reflect how Council deals with “council-related development applications”. This would also involve the concurrent public exhibition of the revised Inverell Shire Community Participation Plan. A further report would be prepared at the conclusion of the public exhibition of both documents.

The *Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022* amends the *Environmental Planning and Assessment Regulation 2021* to require Councils to formally manage conflicts of interest arising in relation to “council-related development applications”. The *Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022* will take effect on 3 April, 2023.

CONCLUSION

The Committee is requested to recommend to Council that the Draft Conflict of Interest Policy be endorsed for public exhibition in conjunction with the necessary administrative changes to the Inverell Shire Community Participation Plan and placed on public exhibition for a minimum of 28 days. A further report will be prepared for consideration at the conclusion of the public exhibition.

Inverell Shire Council are required to commence implementation of the policy on 3 April, 2023 for any relevant Development Applications

RISK ASSESSMENT:

Nil

POLICY IMPLICATIONS:

Adoption of a Conflict of Interest Policy for council-related development applications seeks to formalise measures already used by Inverell Shire Council when assessing and determining council-related development applications.

CHIEF FINANCIAL OFFICERS COMMENT:

Nil

LEGAL IMPLICATIONS:

The assessment and determination of council-related development applications will need to comply with the *Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022* which takes effect on 23 April, 2023.

ATTACHMENTS:

1. Council-related Development Application Conflict of Interest Guidelines [↓](#)
2. Conflict of Interest Policy - Council-related Development Applications [↓](#)

Council-related Development Application Conflict of Interest Guidelines

Introduction

Councils are development regulators. But they also can be the developer, landowner or hold a commercial interest in the land they regulate. Where councils have this dual role, an inherent conflict can arise between their interests in the development and their duty as regulator.

Identifying these conflicts of interest early and finding ways to address them is crucial to good governance and allows councils to strengthen their relationship with communities and build and enhance trust.

The following requirements have been introduced into the *Environmental Planning and Assessment Regulation 2021* to address conflicts of interest in council related development:

- Councils must adopt and have a policy that specifies how conflicts of interest in connection with council-related development applications will be handled. The policy must comply with the requirements in these Guidelines (section 66A).
- Council-related development applications must now be accompanied by either a management strategy statement, which explains how the council will manage potential conflicts of interest, or a statement that the council has no management strategy for the application (section 36A).
- Councils must record conflicts of interest in connection with each council-related development application, and the measures taken to manage the conflicts, in their existing DA register (section 242A).
- Council-related development applications must be exhibited for a minimum of 28 days to ensure transparency during the assessment process (*Environmental Planning and Assessment Act 1979*, schedule 1, clause 9B).

While the regulation changes do not mandate the use of the framework once a development consent is issued, it is best practice when developing their policies for councils to also address conflicts that may occur after development consent has been granted. This could be as simple as stating in the policy that the council will seek to enter a shared services arrangement with a neighbouring council about this phase of the development process, for any development that is the subject of the policy.

Purpose of these Guidelines

These Guidelines are intended to:

- set out the requirements for the council conflict of interest policy required under section 66A,



- assist councils in meeting these requirements by providing a sample policy and management strategy statement that can be used as a template when developing their policies
- provide general information and guidance about the policy.

Flexibility

In some circumstances, council may determine the risks associated with a council-related development are sufficiently low and no specific controls are warranted. Where this is the case, council should still publicly communicate that fact to ensure transparency.

Where a council determines for a particular class of development that the risks of a conflict of interest are very low, it may decide to not have any management controls for a specified type of development unless there is some direct involvement of a councillor or a council staff member in their private capacity.

This can happen, for instance, where the council is the owner of a large commercial building that has a range of shops within it, for which it receives many development applications for commercial fit outs and minor changes to the building facade. In those circumstances, the council's policy could outline that its management strategy for this class of development does not apply additional controls for conflicts of interest.

Other examples where this approach might be appropriate include development for internal alterations or additions to buildings that are not a heritage item, advertising signage, minor building structures projecting from a building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services), and development where the council might receive a small fee for the use of their land.

Sample policy

The sample policy below is to help councils develop their conflict of interest policies for council-related development. It provides practical solutions for developing and implementing ways to manage potential conflicts at all stages of the development process.

For councils that have local planning panels, the council's policy only needs to deal with a subset of this development, as a range of development to which the policy would otherwise apply will already be referred to local planning panels.

Using the sample policy is optional. Each council and local government area is different and has unique local settings, therefore, councils should decide what is appropriate in their circumstances and develop a policy for managing conflicts of interest about council-related development that is suitable for their local area.

An example management strategy statement is also included below.

Requirements for conflict-of-interest policies

Any policy prepared and adopted by a council must:



- establish management controls and/or a management strategy to address potential conflicts of interest at the different phases of the development process for the types of council-related development that the council could be involved in,
- outline the process through which potential conflicts of interest will be identified, the risks assessed and appropriate management controls determined, and
- outline the process that will be followed to publicly communicate the management approaches for each development subject to the policy.

Sample policy

Part 1 Preliminary

(1) Name of policy

This policy is the [insert name of policy].

Note: For example, Conflicts of interest policy – dealing with council-related development throughout the development process.

(2) Aim of policy

This policy aims to manage potential conflicts of interest and increase transparency at all stages of the development process for council-related development.

(3) Scope

This policy applies to council-related development.

(4) Definitions

(1) In this policy:

application means an application for consent under Part 4 of the Act to carry out development and includes an application to modify a development consent it does not include an application for a complying development certificate.

council means [insert name of the council]

council-related development means development for which the council is the applicant developer (whether lodged by or on behalf of council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority

development process means application, assessment, determination, and enforcement

the Act means the *Environmental Planning and Assessment Act 1979*.

(2) A word or expression used in this policy has the same meaning as it has in the Act, and any instruments made under the Act, unless it is otherwise defined in this policy.

(3) Notes included in this policy do not form part of the policy.



Note: Other definitions can be inserted.

Part 2 Process for identifying and managing potential conflicts of interest

(5) Management controls and strategies

(1) The following management controls may be applied to:

- a. the **assessment** of an application for council-related development
 - *insert control(s)*
- b. the **determination** of an application for council-related development
 - *insert control(s)*
- c. the **regulation and enforcement** of approved council-related development
 - *insert control(s).*

Note: For example, council will enter into a shared services arrangement with a neighbouring council.

(2) The management strategy for the following kinds of development is that no management controls need to be applied:

- a. commercial fit outs and minor changes to the building façade
- b. internal alterations or additions to buildings that are not a heritage item
- c. advertising signage
- d. minor building structures projecting from a building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services)
- e. development where the council might receive a small fee for the use of their land.

Notes:

1. *While councils must have a policy that sets out how they propose to deal with potential conflicts of interest for council-related development, it could implement different controls for dealing with them based on the level of risk. For example, councils could set their controls based on:*
 - a. *risk category – low, moderate, high, very high*
 - b. *types of development – non-controversial small-scale development, development of a certain value with/without a commercial interest, controversial development, or even*
 - c. *capital investment value of the proposed development.*
2. *There is a range of management controls that could be applied in particular circumstances. The following are some examples that councils could use. Note that councils are not limited to one approach and could specify more than one approach if appropriate in their local settings:*
 - a. *Assessment and determination*
 - i. *The assessment and/or determination of an application are to be undertaken by council staff under delegation – this might be appropriate if the proposal is considered to be a low-level risk or non-controversial. For more controversial projects, this might only be effective if strict role separation controls are imposed.*
 - ii. *The application could also be referred for external assessment and/or determination to either:*



1. another council
2. a local planning panel if one is in place
3. a regional planning panel (may require negotiation – RPPs are not required to accept referrals)
4. a consultant.

The involvement of an external third party might be appropriate for development where council has a commercial interest in the land, or the development is seen to be a political priority for the council.

b. Regulation and enforcement

- i. Engagement of a private certifier*
- ii. Publication of certificates issued under Part 6 of the Act on the NSW Planning Portal*
- iii. Peer review by a neighbouring council and/or entering into a shared services arrangement with a neighbouring council*
- iv. Reporting of key milestones to the full council.*

3. *Councils may also wish to take advantage of their audit and risk committee to provide guidance for the types of controls that could be applied in specific circumstances.*

(6) Identifying whether a potential conflict of interest exists, assessment of level risk and determination of appropriate management controls

- (1) Development applications lodged with the council that are council-related development are to be referred to the general manager (or a delegate) for a conflict-of-interest risk assessment.

Note: Council-related development is defined in section 4.

- (2) The general manager is to:

- a. assess whether the application is one in which a potential conflict of interest ~~exists~~,
- b. identify the phase(s) of the development process at which the identified conflict of interest arises,
- c. assess the level of risk involved at each phase of the development process,
- d. determine what (if any) management controls should be implemented to address the identified conflict of interest (in each phase of the development process if necessary) having regard to any controls and strategies outlined in clause 5 of the policy and the outcome of the general manager's assessment of the level of risk involved as set out clause 6(2)(c) of the policy,

Note: The general manager could determine that no management controls are necessary in the circumstances.

- e. document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal.

Note: The following is an example of a statement that could be published by councils to document its proposed management approach in a particular circumstance.



Scenario

BlueStar Council is upgrading one of their assets, 'Blue River Civic Place'. Council is the landowner and the applicant and is proposing to redevelop the site into a mixed-use development with a total capital investment value (CIV) of \$4.9 million. The development application seeks approval for the construction and use of an additional 2 storeys on an existing 3 storey building comprising a childcare centre, commercial office spaces and partial use of the building for council's public administration.

Example management statement

Council conflict of interest management statement	
Project name	Blue River Civic Place
DA number	DA21/0001
Potential conflict	BlueStar Council is the applicant. Blue River Civic Place has an estimated capital investment value of \$4.9 million and the council expects to receive revenue through renting commercial office spaces.
Management strategy	<p>The council is managing potential conflicts of interest in this matter as follows:</p> <ul style="list-style-type: none"> • The application will be referred to the local planning panel to determine the development application. • Council development assessment staff not involved with preparing the application will assess the DA. The staff will remain separated from the project team. • A private certifier will be engaged to undertake the certification for the development. • Green Hill Council has agreed to peer review any regulatory decisions should compliance decisions be made. • Key project milestones following the development consent will be reported at a public council meeting.
Contact	Anyone with concerns about council fulfilling its obligations should report their concerns to the council.

COUNCIL POLICY:	Conflict of Interest Policy – Council-related Development Applications
Ref:	
Contact Officer	Director Civil & Environmental Services
Approval Date	1 November 2022
Approval Authority	Council
Reviewed	
Date of Next Review	November 2026

Part 1 Preliminary

(1) Name of Policy

Conflict of Interest Policy - Council-related Development Applications.

(2) Aim of Policy

This policy aims to manage potential conflicts of interest and increase transparency at all stages of the development process for council-related development applications.

(3) Scope

This policy applies to council-related development applications.

(4) Definitions

4.1) In this policy:

Application means an application for consent under Part 4 of the Act to carry out development and includes an application to modify a development consent, it does not include an application for a complying development.

Council means Inverell Shire Council.

Council -related development means development for which the Council is the applicant developer (whether lodged by or on behalf of Council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority.

Development process means application, assessment, determination, and enforcement.

The Act means the Environmental Planning and Assessment Act 1979.

4.2) A word or expression used in this policy has the same meaning as it has in the Act, and any instruments made under the Act, unless it is otherwise defined in this policy.

4.3) Notes and appendices include in this policy do not form part of the policy.

Part 2 Process for identifying and managing potential conflicts of interest

(5) Management Controls and Strategies

5.1) All council-related development applications must be exhibited for a minimum of 28 days.

5.2) The following management controls may be applied to:

- a. The assessment of the application for Council-related development:
 - Assessment by a neighbouring council via a shared services arrangement
 - Assessment by a suitably qualified consultant
 - Assessment by the Northern Regional Planning Panel (by negotiation)
 - An external third-party review of Council's internal assessment
 - Assessment by a staff member(s) strictly separated from the project.
- b. The determination of an application for Council-related development:
 - Determination by a neighbouring council via a shared services arrangement
 - Determination by a suitably qualified consultant
 - Determination by the Northern Regional Planning Panel (by negotiation)
 - An external third-party review of Council's internal determination.
- c. The regulation and enforcement of approved Council-related development,
 - Peer review by neighbouring council via a shared services arrangement
 - Engagement of a private certifier and/or a consultant town planner
 - Reporting of key milestones to the full council.

5.3) The management strategy for the following kinds of development is that no management controls need to be applied:

- a. Commercial fit outs and minor changes to the building façade
- b. Internal alterations or additions to buildings that are not a heritage item
- c. Advertising signage
- d. Minor building structures projecting from a building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services)
- e. Development where the Council might receive a small fee for the use of their land
- f. Non-controversial development that is compliant with relevant town planning, engineering and building regulations.

(6) Identify whether potential conflict of interest exists, assessment of level risk and determination of appropriate management controls

6.1) Development applications lodged with the Council that are Council-related development are to be referred to the General Manager (or a delegate) for a conflict of interest risk assessment.

Note: Council-related development is defined in Section 4

6.2) The General Manager (or a delegate) is to:

- a. Assess whether the application is one in which a potential conflict of interest exists
- b. Identify the phase(s) of the development process at which the identified conflict of interest arises
- c. Assess the level of risk involved at each phase of the development process
- d. Determine what (if any) management controls should be implemented to address the identified conflict of interest (in each phase of the development process if necessary) having regard to any controls and strategies outlined in Clause 5 of the policy and the outcome of the General Manager's assessment of the level of risk involved as set out in Clause 6.2(c) of the policy.

Note: The General Manager could determine that no management controls are necessary in this circumstance

- e. Document the proposed management approach for the proposal in a statement that is published in the NSW Planning Portal.

*Note: **Appendix 1** includes a checklist for a council-related development. **Appendix 2** includes a template for a statement that could be published by Councils to document its proposed management approach in a particular circumstance.*

Appendix 1**Checklist - Potential conflict of interest for a Council-related development application**

<i>Potential Conflict of Interest Checklist for Council-related Development Applications</i>			
Project Name:			
Project Description:			
Location:			
Estimated Capital Investment Value:			
Potential Conflict(s):	<i>Describe (anticipated community interest / council commercial benefit / environmental sensitivities / cost / perceived council benefit)</i>		
Development for which no management controls need to be applied (Clause 5.2)			
a) Commercial fit outs and minor changes to the building.			
b) Internal alterations or additions to buildings that are not a heritage item.			
c) Advertising sign.			
d) Minor building structures projecting from building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services).			
e) Development where Council might receive a small fee for the use of their land.			
f) Non- controversial development that is compliant with relevant town planning, engineering and building regulations.			
NOTE: Development for any of the above (a)-(f) generally do not require any management controls unless there is an obvious conflict as identified above.			
Management Controls			
		YES	NO
DA Assessment	• All council-related development applications must be exhibited for a minimum of 28 days.	✓	
	• Assessment by a neighbouring Council via a shared services arrangement.		
	• Assessment by a suitably qualified consultant.		

	<ul style="list-style-type: none"> Assessment by the Northern Regional Planning Panel (by negotiation). 		
	<ul style="list-style-type: none"> An external third-party review of Council's internal assessment. 		
	<ul style="list-style-type: none"> Assessment by a staff member(s) strictly separated from the project. 		
DA Determination:	<ul style="list-style-type: none"> Determination by a neighbouring council via a shared services arrangement. 		
	<ul style="list-style-type: none"> Determination by a suitably qualified consultant. 		
	<ul style="list-style-type: none"> Determination by the Northern Regional Planning Panel (by negotiation). 		
	<ul style="list-style-type: none"> An external third-party review of Council's internal determination. 		
Regulation (Post DA Determination)	<ul style="list-style-type: none"> Peer review by neighbouring Council via a shared services arrangement. 		
	<ul style="list-style-type: none"> Engagement of a private certifier and/or a consultant town planner. 		
	<ul style="list-style-type: none"> Reporting of key milestones to the full Council. 		
Completed by:			
Signature:			
Date:			

Appendix 2

Example Management Statement

Council conflict of interest management statement	
Project name	
DA number	
Potential conflict	<i>Describe potential conflict(s) of interest</i>
Management strategy	<p>The council is managing potential conflicts of interest in this matter as follows:</p> <ul style="list-style-type: none"> Complete management strategies based on those identified within the checklist contained in Appendix 1
Contact	Anyone with concerns about council fulfilling its obligations should report their concerns to the Inverell Shire Council.

5.4 NORTH STAR ROAD**File Number:** S28.10.SR9 / 22/38107**Author:** Justin Pay, Manager Civil Engineering**SUMMARY:**

At its September 2022 meeting, Council resolved *inter alia* that the Civil and Environmental Services Committee be requested to consider the views of the Bruxner Way Committee in relation to the Getta Getta Road and how Council's current classification of this road matches this view.

This report is intended to provide the Committee with the required information to make an informed decision on the matter.

RECOMMENDATION:

The Committee recommend to Council that:

1. *The information be received and noted,*
2. *The current classification of North Star Road as Rural Arterial road be retained,*
3. *Council continues to maintain the road in accordance with the Roads Asset Management plan, and*
4. *Council monitor the situation and any forth coming data pertaining to upgrading the road be considered in accordance with Council's Restricted Access Vehicle Policy.*

COMMENTARY:

At its September 2022 meeting, Council resolved (RES-2022/122) *inter alia* that the Civil and Environmental Service Committee be requested to consider the views of the Bruxner Way Committee in relation to the Getta Getta Road and how Council's current classification of this road matches this view. This resolution was in response to item 4.1 from the minutes of the Bruxner Way Joint Committee meeting held on 12 August, 2022. A copy of the minutes of this meeting are provided in **Attachment 1** for the information of the Committee.

North Star Road within Inverell Local Government Area (LGA) is an all-weather unsealed road classified as **Rural Arterial** in Council's road hierarchy. The road commences at the intersection of Warialda Road (approximately 750m from Bruxner Way) and travels in a south west direction for 15.08km to the Ottley Creek Bridge.

From Ottley Creek Bridge you enter the Gwydir LGA and the village of North Star is a further 24.6km to the west. The road is known as the Getta Getta Road in Gwydir Shire. A map showing the locality of North Star/Getta Getta Road is provided in **Attachment 2**.

The map presented in **Attachment 3** gives a visual representation of the land holding (ownership) pattern of the agricultural land adjacent to North Star Road in Inverell Shire.

In the Inverell LGA North Star Road is predominantly a local service road providing access and egress for land owners and primary producers. The road does provide a link between the villages of Yetman and North Star and is used by various service providers e.g. mail delivery. Some sections of land adjacent to the road are highly productive and the road acts as a transport route for agricultural inputs and harvested commodities.

The most recent traffic counts from October 2022 are provided below:

Location	Traffic Volume - ADT	Heavy Vehicle %	Average Speed (km/h)
Segment 10 North Star Rd (Approx. 100M from intersection MR063)	24	70	74
Segment 110 North Star Rd (Approx. 100M east of Yetman West Rd)	22	51	70
Segment 150 North Star Rd (Approx. 50M from Gwydir Shire Boundary)	31	55	60

Table 1 – Most recent traffic count data for North Star Road – count taken October 2022 (post recent maintenance grade)

The highest recorded traffic count for the road over the previous 10 years is provided for comparison:

North Star Road

ADT – 45

HV% - 60

Average Speed – 93 KM/H

The above highest count was taken on the Ottley Creek (western) end of the road immediately after maintenance had occurred and during a period of high agricultural commodity transport. Anecdotally, use of North Star Road increases dramatically immediately after maintenance grading and is at the peak during harvest/ transportation of commodities off farm.

The average traffic count for the road over the past 10 year is provided below:

North Star Road

ADT – 29

HV% - 29

Average Speed – 85 KM/H

The below table from Council's roads asset management plan provides a description of the various classifications for Rural Local roads.

Rural Arterial	Rural roads carrying high to moderate volumes of traffic and connecting local areas to regional roads or providing access from neighbouring shires into Council's rural areas. Roads identified by the community as being important for economic, environment or social reasons.	R1
Rural Collector	Rural roads carrying moderate volumes of local and commercial traffic and connecting local areas to arterial roads in Council's rural areas.	R2
Rural Access	Rural roads carrying low to moderate volumes of local traffic. Their primary function is to provide access to agricultural properties within Council's rural area.	R3
Rural Minor	Rural roads carrying low to very low volumes of local traffic. These roads generally provide limited residential and minor commercial access to one or two rural homesteads.	R4

Table 2 - Description of the various classifications for Rural Local roads

While the above traffic volumes would not be considered high to moderate, the classification of North Star Road as a **Rural Arterial** road clearly takes into consideration the function of the road linking to regional roads and the neighbouring shire. Further, the importance of the road for local agricultural producers.

Analysis of the road usage (traffic count data, road usage characteristics and heavy vehicle volume) indicate that the current classification of Rural Arterial for North Star Road is consistent with the usage of road.

The below table provides traffic count data for other roads in Inverell Shire that are classified as Rural Arterial for comparison.

Road	Road Surface	Average Daily Traffic – vpd	HV%	Speed Avg. km/h
Coolatai Road	Sealed	65	15	80
Wallangra Road	Sealed	65	15	103
Graman Road	Sealed 2.8km Unsealed 21.4km	62	34	92
Emmaville Road	Sealed 13km Unsealed 21km	63	9	87
Oakwood Road	Sealed	166	21	98
Nullamanna Road	Sealed 17.34km Unsealed 33.8km	260	19	97

Table 3 – Traffic Count data for similar road classified as Rural Arterial road

In reviewing the traffic data for North Star Road compared with other Rural Arterial roads, the current classification of North Star road is appropriate.

In 2015 Inverell Shire Council (ISC) spent \$80,150 on gravel resheeting a number of sections of North Star Road. A further \$15,091 was spent on gravel patching the road in 2016. During the 2020 calendar year council spent \$438,927 gravel resheeting the entire length of North Star Road maintained by ISC.

The road is maintained in accordance with Council's Roads Asset Management Plan via regular routine and un-planned maintenance grading, drainage maintenance and asset inspections. Council has undertaken maintenance grading activities on the road 15 times over the past 8 years. Most recently the road received full maintenance grading during:

- April 2020 (subsequent gravel resheeting completed second half 2020)
- March 2021
- January 2022
- August 2022

Prior to the gravel resheeting in 2020 issues presented with the sandstone road surface. During dry times sections of the road would go to "bull dust", leading to pot holes and rutting that would significantly impact ride quality for road users and impact on road user safety. During persistent wet periods the sandstone material and natural sub-grade would become slippery and potentially impassable, particularly for light vehicles/small sedans. The material applied during the 2020 resheet was more comparable to a "trap rock" type gravel. At the time of the work some concerns were raised regarding the coarseness of the material and the potential for vehicle tyres to be slashed/punctured by the gravel. Council staff undertook considerable working of the gravel to minimise these issues and subsequent grading of the road has mostly eliminated these concerns. In its current state with the trap rock wearing course the road is considered an "all weather road" within the ISC boundary.

During the gravel resheeting works in 2020 the Manager Civil Engineering met with a number of land owners in the area to discuss the works and the gravel being used. At the meeting the land owners took the opportunity to request consideration be given to upgrading the road to a standard suitable for road trains, also that Council consider bitumen sealing the road. They indicated that upgrading the road would significantly reduce maintenance costs for their vehicles using the road and provide considerable efficiency gains for their businesses, particularly at harvest time.

The Manager Civil Engineering gave an undertaking to review the potential for a grant funding application, once the land owners provided Council with information regarding potential commodity haulage and road usage patterns if it were upgraded. It was made clear that Council would be happy to help with a funding application if the information provided made it feasible, within the context of Council's Restricted Access Vehicle Policy. To date the requested information has not been provided to Council and no further action has been taken by the Civil Engineering branch.

While the land owners at the meeting certainly believe that the North Star Road has the potential to serve as a strategically important route for the wider agricultural industry, without the provision of required data it is difficult to determine the veracity of this assertion. There is also anecdotal evidence that this road may serve as a strategic link for transport of commodities once the Inland Rail interface at North Star becomes operational. Currently the date of commencement of operation of the Inland Rail is unknown and at this time it is difficult to quantify the extent of change to road use patterns of North Star Road associated with the operation of the Inland Rail.

At this point in time no data exists to demonstrate that a significant benefit would be provided to the wider community should the North Star Road be upgraded. If such data/evidence was forthcoming from local residents, primary producers or a neighbouring Council, it would be prudent for Inverell Shire Council to consider the information in the context of Council's Restricted Access Vehicle (RAV) Policy. This policy states that Council will apply for grant funding from the State and Federal government for any applications (for road upgrades associated with RAV use) that have a significant benefit to the wider community.

Gwydir Shire have received grant funding to upgrade and bitumen seal IB Bore Road (road west from North Star to the Newell Highway). It is reported that they have received \$11.54 million to complete the project for the 20km unsealed section of the road. It is believed works on this upgrade commenced in April 2022. It is also understood that the Gwydir Shire are considering a business case for the upgrade of the Getta Getta Road in their Shire.

No detailed cost estimates have been prepared for upgrading and bitumen sealing North Star Road in Inverell Shire. An approximate cost to complete the upgrade of the ISC controlled 15.079km to a bitumen sealed standard for Road Train access would be \$9.75M.

Conclusion

North Star Road within Inverell Local Government Area (LGA) is a 15.079km all-weather unsealed road classified as Rural Arterial in Council's road hierarchy. A review of the current classification indicates that it is consistent with the road usage patterns and the intent of Council's Roads Hierarchy. It is recommended that Council monitor the situation and any forth coming data pertaining to upgrading the road be considered in accordance with Council's Restricted Access Vehicle Policy.

RISK ASSESSMENT:

Nil

POLICY IMPLICATIONS:

Nil

CHIEF FINANCIAL OFFICERS COMMENT:

Nil

LEGAL IMPLICATIONS:

Nil

ATTACHMENTS:

1. **Bruxner Way Joint Committee Minutes 12.8.2022** [↓](#)
2. **Map showing Locality of North Star/Getta Getta Road** [↓](#)
3. **Map showing Visual Representation of the Land Holding (Ownership) Pattern of the Agricultural Land Adjacent to North Star Road** [↓](#)

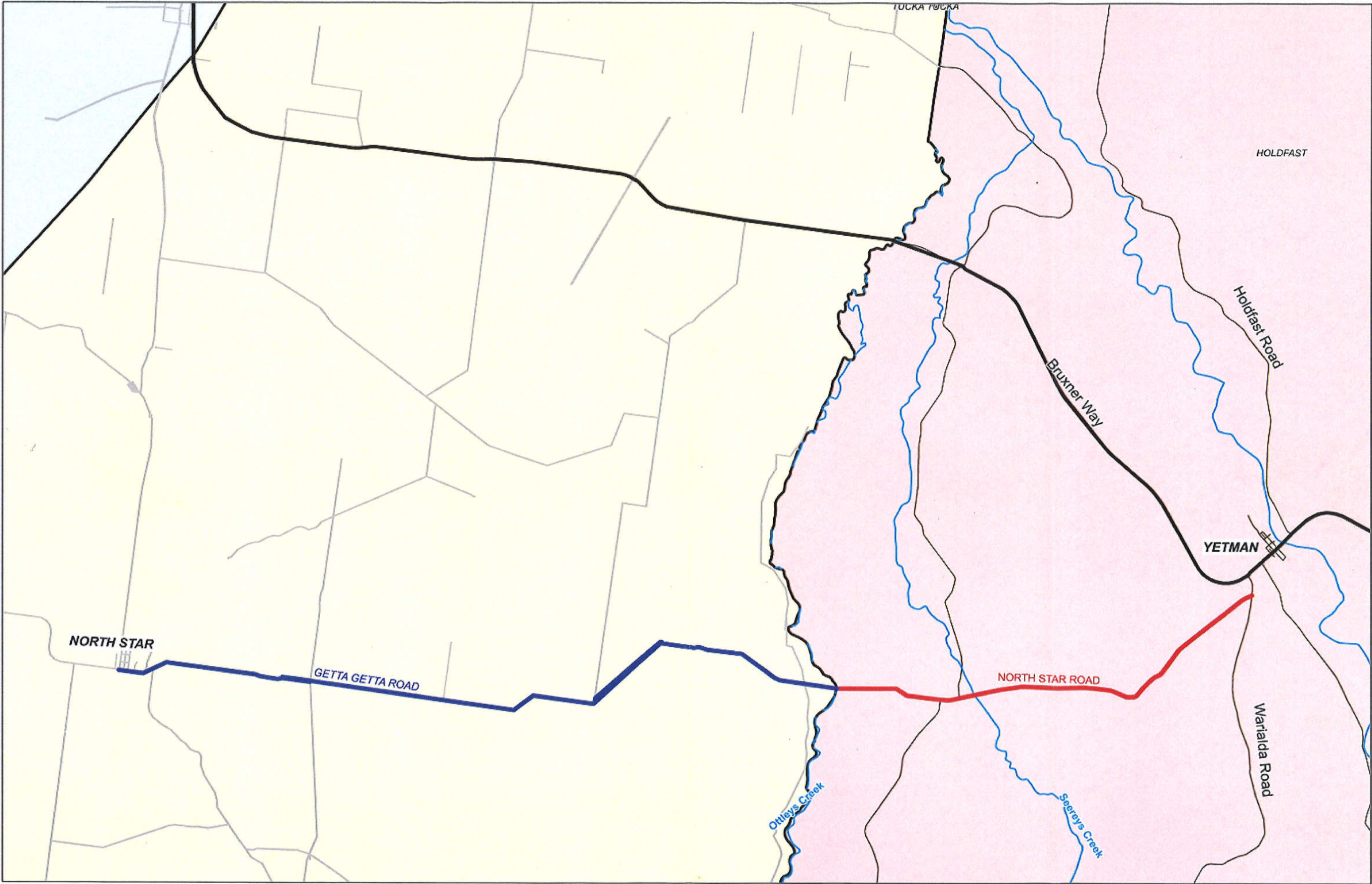
BRUXNER WAY JOINT COMMITTEE

MINUTES 12 August 2022 – Thargomindah (Bulloo Shire Council)

Venue:	Thargomindah (Bulloo Shire Council)	Date:	12 August 2022
Chair:	Cr Kate Dight	Time:	1.10pm
Attendees:	Cr Kate Dight	Inverell Shire Council	
	Cr John Coulton	Gwydir Shire Council	
	Alex Eddy		
	Nick Tobin	Moree Plains Shire Council	
File Ref:			

1.	Meeting Open:						
2.	Apologies						
	<table> <tr> <td>Cr Bronwyn Petrie</td><td>Tenterfield Shire Council</td></tr> <tr> <td>Darryl Buckingham</td><td></td></tr> <tr> <td>Moved Inverell</td><td>Seconded Gwydir</td></tr> </table> <p>That apologies be accepted.</p>	Cr Bronwyn Petrie	Tenterfield Shire Council	Darryl Buckingham		Moved Inverell	Seconded Gwydir
Cr Bronwyn Petrie	Tenterfield Shire Council						
Darryl Buckingham							
Moved Inverell	Seconded Gwydir						
3.	Minutes of Meeting						
3.1	Minutes of previous meeting not available.						
4.	Items Listed						
4.1	<p>Roads of Strategic Importance</p> <p>A written approach has been received from Sam Coulton, a property owner in the North Star area. Mr Coulton is one of many property owners that transports large quantities of freight to Goondiwindi utilising the Getta Getta Road. Mr Coulton stressed the significant importance of this road for this highly productive area and requested that consideration be given to making Getta Getta Road an all weather road.</p> <p>Moved Gwydir Seconded Inverell</p> <p>That:</p> <ul style="list-style-type: none"> a) the Committee notes the strategic importance of the Getta Getta Road (North Star – Yetman), b) as a joint initiative, Gwydir & Inverell Shire Councils investigate sources of funding which may be available to engage a consultant to build a robust business case to make the road an all-weather road. 						

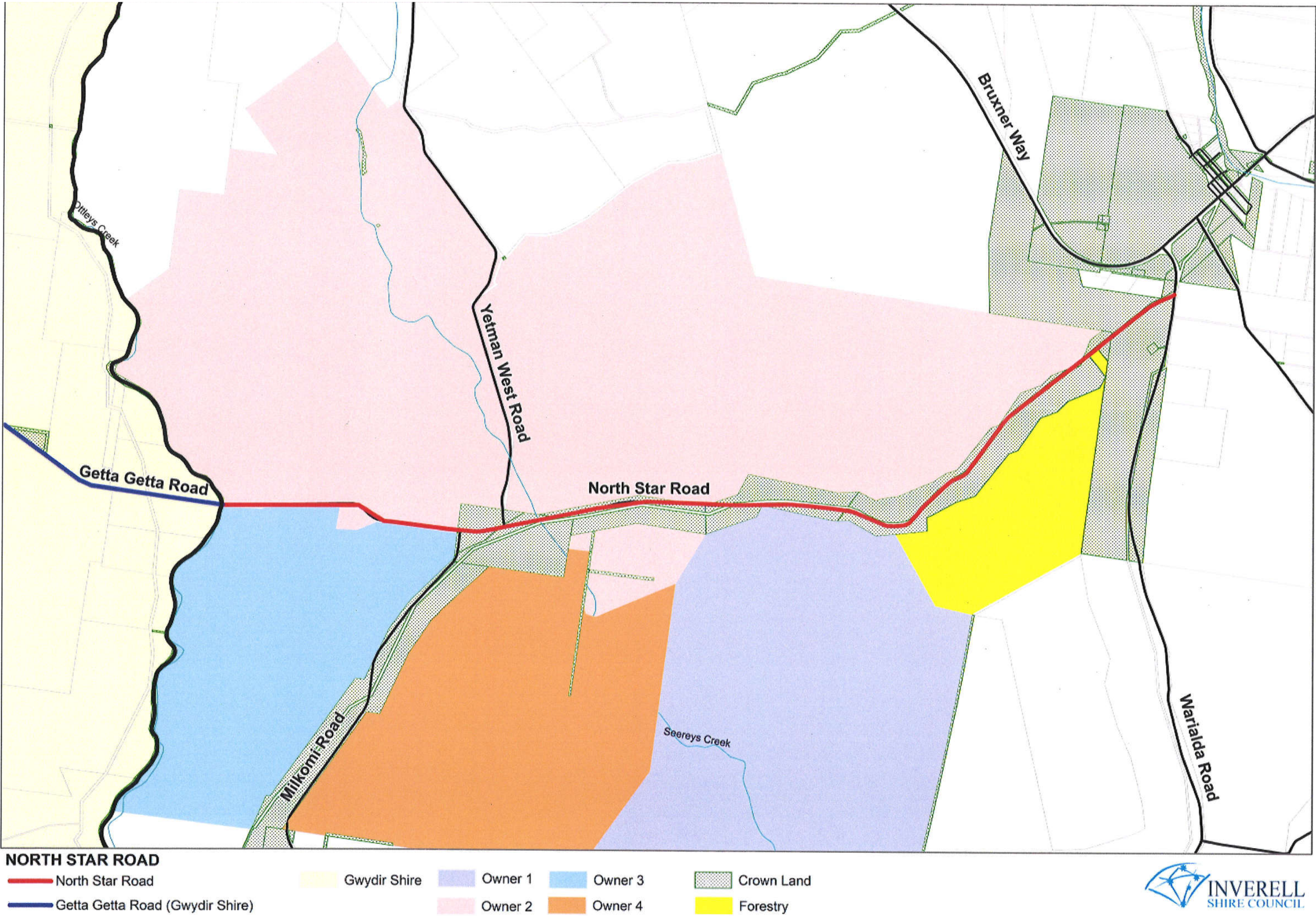
4.2	Road Classification Review Moved Gwydir Seconded Inverell That a letter on behalf of the Bruxner Way Joint Committee be forwarded to the the Hon Sam Farraway MLC, Minister for Regional Transport & Roads requesting an update on the Round 2 Road Classification Review application which seeks to hand the Bruxner Highway back to the State. Note: Tenterfield Shire Council were briefed on the matters discussed at the meeting prior to and after the meeting and were in agreeance with all aspects.
8.	General Business
	Nil.
9.	Next Meeting
	To be determined.
10.	Meeting Closed at 1.35pm



NORTH STAR ROAD

- | | | | |
|---|--|---|--|
| — North Star Road (Inverell Shire) | — Bruxner Highway | Inverell Shire | Moree Plains Shire |
| — Getta Getta Road (Gwydir Shire) | — Rivers | Gwydir Shire | |





6 INFORMATION REPORTS

6.1 WORKS UPDATE

File Number: S28.21.1/15 / 22/37716

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 at 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.

The six (6) bored piles for the replacement bridge at Moseley Dene, crossing Rob Roy Creek, have now been installed up to the abutment level ready for the construction of the abutments and wingwalls.

A request for quotation was sent out for the construction of the abutments and wingwalls to multiple concrete contractors however, Council received no responses to this request. Council has been negotiating with suitably qualified contractors to determine a timeframe for completion of these works. Contractors are able to commence works early 2023 if awarded a contract.

Delays in procurement of contractors and their availability, the constant wet weather not allowing works to progress and the current grant funding completion milestone deadline of December 2022

prompted an application for an extension to the completion milestone. An extension of 6 months was sought to allow Council to complete the works prior to the end of the 2022/2023 financial year. Council is still waiting on a decision for seeking an extension for the completion milestone of the grant funding.

The prestressed precast concrete bridge planks are currently being constructed by Waegar Constructions in Rutherford, NSW. These are due to be delivered to site towards the end of November, 2022.



Yetman Road – Moseley Dene Bridge Replacement Project – Prestressed Precast Bridge Planks Being Constructed by Waegar Constructions, Rutherford, NSW

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 included pavement widening to accommodate a turning lane into Taylor Avenue and a drainage upgrade at the location. Kerb and gutter have been constructed as well as a significant extension to underground drainage at the site.

The road has now been bitumen sealed and open to the public. Line marking will occur in the near future.

There are still some minor works remaining which include the installation of a secondary pipe across Fernhill Road and turfing. Wet weather and availability of resources have delayed these works; however, they will be completed as soon as resources and weather conditions permit.

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

Construction of the majority of the storm water drainage for the project is now complete. The protective barrier on the centreline of the highway has now been moved approximately 2m to the south. Earthworks and Lean Mix Concrete (LMC) is completed in this area. Contractors engaged to construct the concrete pavement layer commenced in the first week of November. Once the concrete pavement construction in the current works area is completed, traffic conditions will change and staff will commence works on the roundabout quadrant adjacent to Sporties.

Contractors are continuing to relocate telecommunication services at the site and this work will continue for several weeks.

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.

Relocation of other power assets has commenced with the first power poles being moved at the end of October. Another power outage is scheduled for the 13th of November when the final power poles will be relocated. Council staff have made amendments to the construction process that will allow construction of the pavement layer to progress adjacent to the remaining pole.

The project is behind schedule due to wet weather and other delays associated with third party asset relocation. The project team has a strategy in place that allows for the area to be open to traffic, without traffic lights over the Christmas period. Staff will then recommence works in January 2023 to finalise the project.



Overhead Aerial view of Roundabout construction project progress



Drainage construction works at the Roundabout construction project



Drainage construction works at the 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 1000 metre section of Moore Street and includes pavement rehabilitation, widening, a turning lane into the hospital and drainage upgrades 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 is expected to be 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.

A primer seal has been placed for a length of 1600 metres on the Inverell end of the project with the remaining earthworks delayed at present due to the ongoing weather. The remaining works will commence as soon as possible on the northern end of the project site.

Earthworks are still outstanding on the remaining 830 metres and provided there are no significant ground water issues pavement rehabilitation and construction will continue on this remaining section. Project completion is planned for December 2022.



Completion of Primer seal – Ashford Road Wandera South – Southern end of project site



Completion of Primer seal – Ashford Road Wandera South – Northern end of project site

Bitumen Resealing Program 2022-2023

Council has allocated \$1.73M from various funding programs to undertake the annual bitumen resealing program on Regional Rural Roads, Local Rural Roads, Inverell Urban Streets and Ashford Village Streets with TfNSW allocating \$800K to undertake bitumen resealing works on the Gwydir Highway.

Council at its August meeting resolved to accept the quotation from NSW Spray Seal Pty Ltd (NSWSS) under a full service contract for the 2022-2023 Bitumen Resealing Program.

The program commenced on 4 October, 2022 on the Gwydir Highway with 12 segments including final seals on the Swanvale Project and Elsmore Safety Project completed to date. Wet weather has since impacted the continuation of the reseal program on Council's rural roads, urban and village streets. Weather permitting works will recommence the first week in November and continue for approximately 4 weeks until early December 2022. The order of roads in the program will be Gwydir Highway, Regional and Rural Local Roads North, Ashford Village Streets, Inverell Urban Streets and Regional and Rural Local Roads South.



Spraying of Bitumen – Gwydir Highway East of Inverell

Maintenance Grading

The following maintenance grading works were undertaken during October 2022.

Road Number	Road Name	Length Graded (km)
SR425	Georges Creek Road	9.00km
SR426	Dry Creek Road	4.25km
SR423	Glen Hazel Road	1.00km
SR421	Aberdeen Road	9.80km
SR60	Nullamanna Road	37.60km
SR58	Rocky Creek Road	32.90km
SR23	Bedwell Downs Road	8.00km
	TOTAL	102.55km

Reactive Spot Grading

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

Gravel Patching

The following gravel patching works were undertaken during October 2022.

Road Number	Road Name	Area Patched (m2)
SR244	Western Feeder	800m2
SR245	Eastern Feeder	600m2
SR350	Jindalee Road	400m2
SR188	Eddy Park Lane	1200m2 (Flood Damage)
SR224	Airlie Brake Lane	400m2 (Flood Damage)
SR136	Dintonvale Road	800m2 (Flood Damage)
SR105	Glen Esk Road	400m2 (Flood Damage)
SR107	Northcotts Road	300m2 (Flood Damage)
SR166	Reserve Creek Road	300m2 (Flood Damage)
SR215	Schwenkes Lane	600m2 (Flood Damage)
SR236	Long Plain Lane	600m2 (Flood Damage)
SR419	Bassendean Road	200m2 (Flood Damage)
SR253	Old Armidale Road	400m2 (Flood Damage)
SR109	Cherry Tree Hill Road	400m2 (Flood Damage)
	TOTAL	7,400 m²

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 completed during October 2022.

Heavy Patching

There were no heavy patching works undertaken during October 2022.

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

6.2 UPDATE ORCHARD PLACE COMMUNITY CONSULTATION

File Number: S28.10.SR235 / 22/38129

Author: Justin Pay, Manager Civil Engineering

SUMMARY:

Council previously resolved to undertake further community consultation regarding the proposed erection of physical barriers to create a 'no through road' effect on Orchard Place.

This report is intended to update the Committee on the progress of the community consultation.

COMMENTARY:

Council previously resolved (RES-90/2022) to undertake community consultation regarding the proposed erection of physical barriers to create a 'no through road' effect on Orchard Place.

Letters have since been sent to residents of Orchard Place and other land owners in the area that adjoin the road. This correspondence included a plan that highlighted the proposed treatment and requested residents to contact Council if they wished to discuss the matter or make any specific comment.

Council has received nine (9) written responses, the Manager of Civil Engineering has fielded phone calls from three (3) separate residents and also had an "over the counter" discussion with one (1) other resident.

Further to the above, a meeting was requested by the proprietors of a local business on Orchard Place. This meeting occurred on site on 2 November, 2022 and was attended by the Manager of Civil Engineering and 12 members of the public, including local residents and employees of the local business.

The sentiment in the majority of correspondence and the meeting was that of considerable concern that the proposal would lead to inconvenience and potential safety issues for local residents.

A future report will be presented to the Committee outlining the comments and concerns presented by the local residents.

RISK ASSESSMENT:

Nil

POLICY IMPLICATIONS:

Nil

CHIEF FINANCIAL OFFICERS COMMENT:

Nil

LEGAL IMPLICATIONS:

Nil

ATTACHMENTS:

Nil