

ORDINARY MEETING OF BATHURST REGIONAL COUNCIL

31 January 2024

His Worship the Mayor & Councillors

Notice of Ordinary Meeting of Bathurst Regional Council – Wednesday 7 February 2024

I have to advise that an Ordinary Meeting of Bathurst Regional Council will be held in the Council Chambers on Wednesday 7 February 2024 commencing at 6:00 PM or immediately following the conclusion of the Public Forum session.

Public Forum will be held from 6.00 pm where there will be an opportunity for members of the public to raise matters with Council.



D J Sherley
GENERAL MANAGER

**MINUTES OF THE ORDINARY MEETING OF
BATHURST REGIONAL COUNCIL
HELD ON Wednesday 7 February 2024**

Table of Contents

1 PUBLIC FORUM	4
2 RECORDING OF MEETINGS	7
3 MEETING COMMENCES	7
4 PRAYER AND ACKNOWLEDGEMENT OF COUNTRY	7
5 APOLOGIES OR ATTENDANCE BY AUDIO-VISUAL LINK.....	7
6 MINUTES	8
6.1 CONFIRMATION OF MINUTES - ORDINARY COUNCIL MEETING 13 DECEMBER 2023.....	8
7 DECLARATION OF INTEREST	10
8 MAYORAL MINUTE.....	11
8.1 COST SHIFTING	11
9 RECEIVE AND DEAL WITH GENERAL MANAGER'S AND DIRECTORS' REPORTS	14
9.1 DIRECTOR ENVIRONMENTAL PLANNING AND BUILDING SERVICES REPORT	14
9.1.1 SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.....	14
9.1.2 GENERAL REPORT.....	17
9.1.3 DEVELOPMENT APPLICATION NO. 2023/148 - BOUNDARY ADJUSTMENT AND USE OF EXISTING SITE AND BUILDINGS AS DEPOT. 344 LIMEKILNS ROAD KELSO. OWNER: JVE ADMIN PTY LTD. APPLICANT: J VAN EMMERICK.....	19
9.1.4 SECTION 8.2 REVIEW OF DEVELOPMENT APPLICATION NO. 2023/66 FOR SPECIALISED RETAIL PREMISES AND ASSOCIATED SIGNAGE AT 1-5 INGERSOLE DRIVE, KELSO. APPLICANT: BEACON LIGHTING CORPORATION PTY LTD. OWNER: LARGE FORMAT PROPERTY FUND PTY LTD.....	30

9.1.5	ECONOMIC DEVELOPMENT 2023 FOURTH QUARTER REPORT	52
9.2	DIRECTOR CORPORATE SERVICES AND FINANCE'S REPORT	58
9.2.1	STATEMENT OF INVESTMENTS	58
9.2.2	MONTHLY REVIEW - 2022/2026 DELIVERY PLAN AND OPERATIONAL PLAN 2022/2023	61
9.2.3	POWER OF ATTORNEY	63
9.2.4	SUNDRY SECTION 356 DONATIONS, BATHURST MEMORIAL ENTERTAINMENT CENTRE COMMUNITY USE SUBSIDY AND MOUNT PANORAMA FEE SUBSIDY	65
9.3	DIRECTOR ENGINEERING SERVICES' REPORT	67
9.3.1	LAND CLASSIFICATION OF LOT 337 IN DP1287674 - OPHIR ROAD, ABERCROMBIE	67
9.3.2	WATER SUPPLY UPDATE	69
9.4	DIRECTOR CULTURAL AND COMMUNITY SERVICES' REPORT	71
9.4.1	MUSEUMS BATHURST - MANAGER MUSEUMS' APPOINTMENT TO TRANSPORT HERITAGE NSW (THNSW BOARD) AND MUSEUMS AND GALLERIES NSW INTERNATIONAL FELLOWSHIP	71
9.4.2	2023/2024 RURAL VILLAGE IMPROVEMENT PROGRAM - UPDATE	74
9.4.3	WAMBUUL MEMORIAL GARDEN, DHULUNY COMMEMORATIVE PROGRAM 2024	75
10	COUNCILLORS / DELEGATES REPORTS	78
10.1	MINUTES - BATHURST REGIONAL YOUTH COUNCIL - 11 DECEMBER 2023	78
11	RESOLVE INTO CONFIDENTIAL COMMITTEE OF THE WHOLE TO DEAL WITH CONFIDENTIAL REPORTS	80
11.0.1	Resolve into Confidential Committee of the Whole	80
11.1	GENERAL MANAGER'S REPORT	81
11.1.1	WATER HARVESTING CONTRACT PROGRESS	81
11.1.2	WATER HARVESTING CONTRACT PROGRESS	81
11.2	DIRECTOR ENGINEERING SERVICES' REPORT	81
11.2.1	12 MONTH EXTENSION - PROVISION OF LABOUR & EQUIPMENT - MOWING MAINTENANCE CONTRACT	81
11.2.2	NETWASTE TENDER FOR COLLECTION AND PROCESSING OF USED MATTRESSES	81
12	RESOLVE INTO OPEN COUNCIL	82
13	ADOPT REPORT OF THE COMMITTEE OF THE WHOLE	82

1 PUBLIC FORUM

MINUTE

Russell Marsh - 5G Towers - Spoke to the article he came across and was presented to Council wanting to know if a response was sent? Who is responsible for issues? What is the process for approval? Will Council do a study on this?

DEPBS - Noted the document has been received and a reply has been sent, will advise details if Mr Marsh sends in a request. DEPBS spoke to processes in place and responsibilities that exist and the need for DA's. Noted at this time no study has been proposed as does not fall under Council's jurisdiction. Health issues should be forwarded to relevant Health authorities.

Mayor - Spoke to prior history of Council and advice that had been received.

Vanessa Russell - Raglan resident - Spoke to article in the newspaper which quoted Cr Fry about Centennial Park and the tree canopy being maintained. Asked whether the canopy cover will be extended to Ralph Cameron Oval at Raglan.

Natalie Cranston - Figure It Out BRC - Raised matters about future budgets and what is currently occurring and significant actions. Noted the SRV process. Spoke to Centennial Park and the estimate of \$4.5 Million for the Master Plan. Asked how much more was there to go? Noted that the area looks fantastic. Carrington Park capital works \$13 million, have any works been done?

Mayor - Noted significant action is reliant on land sales.

DES - Spoke to the Master Plan in place and the costings of various stages. Provided a response noting that the original value of \$4.5 million was correct in 2028 but estimated. Noted that only part 1 and 2 of the project is complete. Also noted that the only funds spent on Carrington Park have been on design.

Ms Cranston spoke to Mayoral Minute about cost-shifting.

Mayor - provided details and advice on the minute and the collaboration with LGNSW and the adding of Bathurst Regional Council's voice to industry concerns

Ms Cranston spoke to the Go Kart Track.

General Manager - provided advice on the Go Kart Track proposal and the DA process occurring.

Sophie Wright - Figure it out BRC - Spoke to the rates notice from July 2023 not mentioning the SRV and then spoke to communications. Spoke to the Mayor being a supporter of the SRV and that this is "grooming" into the future. Spoke further to SRV and asset backlog that is in place, and the value of water and sewer backlog as against general fund backlog and the levels of service being provided. What was the additional \$170.5 million for? Then raised issues about the BARN project, Winburndale Pipeline and the Performing Arts Center. Noting BARN project costs, originally \$4.8 million and how this has now increased to \$8.9 million. Was the SRV to fund the BARN?

General Manager - advised no.

Vanessa Comisky - Supreme Court Cases, Fireworks at New Years Eve and payments
– Asked about Supreme Court Cases, Fireworks at New Years Eve and payments. Spoke to Electric Vehicle (EV) usage and emissions that are incurred and also charging costs. Is Council trying to force Electric Vehicle's on residents? Then spoke to climate change issues, noted doesn't believe in it, just a way of trying to get control over persons. Then spoke to 5G issues.

General Manager and Mayor – Provided a response on issues raised.

Gavin Press – Works Depot Update - Asked about the Council works depot, asked if any works have occurred yet? Asked if the project has down scaled?

DES - Tender has been received around \$1 Million. Explanation was given as to the pricing and works that were subject of the tender. Noted open tender process was followed.

Gordon Crisp - Resident - Noted that he is no longer a property owner. Spoke to the settlement of his property and that Council took money from him. This was wrong as he owed no money to Council and noted an estimate was used. Then spoke to government authorities that will be undertaking investigations into Council. Wants maximum penalties to be applied to councillors.

Bob Triming – Disability Access Advocate – Referred to Dam visit and thanked Council. Also thanked Council for addressing special event items raised. Accessible toilet downstairs is hard to access. Layback at Post Office is a safety issue. Please address when we do works in Howick Street. Spoke to vegetation concerns with property in Commonwealth Street (housing commission) has been a problem for over a year, could Council chase this up. Spoke to Library toilets, when is work going to occur?

DCCS – Advised will seek advice on library toilets and get back to Mr Triming.

Marilyn Osborne - Quarterly Budget – When will the quarterly budget report come up?

Acting DCSF – Advised will be at the next Ordinary Council Meeting.

Asked when the budget will go to Council?

Acting DCSF – Advised intended for the April Ordinary Council Meeting.

Libby Seymour – Vegetation on Russell and Havannah Streets round-a-bout – Raised concerns around foliage on Russell and Havannah Streets round-a-bout, there are no sight lines for people wanting to cross. Could this be looked at, as if in a wheelchair or use a walker it is dangerous?

DES - Spoke to the round-a-bout maintenance standards, will review the intersection.

Elaine West - Roadworks at Windradyne – Noted that a hole has been left at the Windradyne roadworks when a pole was removed in Coleville Street. An accident could happen, asked that Council look at this. Spoke to safety concerns around Cyclists on Kath Knowles walkway. The path is very narrow, there is no signage to say both path and cycleway.

Public Forum closed 6.49pm

2 RECORDING OF MEETINGS

3 MEETING COMMENCES

MINUTE

Meeting commenced at 6:50pm.

Present: Cr W Aubin, Cr K Burke, Cr B Fry, Cr J Jennings, Cr G Hanger, Cr M Hogan, Cr I North, Cr A Smith (TEAMS), Cr R Taylor

4 PRAYER AND ACKNOWLEDGEMENT OF COUNTRY

5 APOLOGIES OR ATTENDANCE BY AUDIO-VISUAL LINK

MINUTE

MOVED: Cr I North SECONDED: Cr B Fry

RESOLVED:

That the attendance via audio-visual link of Cr A Smith be accepted.

6 MINUTES

6.1 CONFIRMATION OF MINUTES - ORDINARY COUNCIL MEETING 13 DECEMBER 2023

File No: 11.00005

RECOMMENDATION:

That the Minutes of the Ordinary Council Meeting of Bathurst Regional Council held on 13 December 2023 be adopted.

REPORT:

The Minutes of the Ordinary Council Meeting of Bathurst Regional Council held on 13 December 2023 are attached.

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

01 Inform - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

1. 131223 Minutes Only [6.1.1 - 40 pages]

MINUTE

RESOLUTION NUMBER: ORD2024-1

MOVED: Cr I North SECONDED: Cr W Aubin

RESOLVED:

That the Minutes of the Ordinary Council Meeting of Bathurst Regional Council held on 13 December 2023 be adopted.

7 DECLARATION OF INTEREST

Declaration of Interest

MINUTE

RESOLUTION NUMBER: ORD2024-2

MOVED: Cr M Hogan SECONDED: Cr R Taylor

RESOLVED: That the Declaration of Interest be noted.

Cr I North declared a non-pecuniary, significant interest in item 9.1.3 of the DEPBS Report.

REASON: Son works for OS Trees.

8 MAYORAL MINUTE

8.1 COST SHIFTING

File No: 16.00196

RECOMMENDATION:

THAT:

1. Council receive and note the findings of the LGNSW Cost Shifting report for the 2021/2022 financial year; and
 2. A copy of the cost shifting report be placed on Council's website so that our communities can access it; and
 3. Council write to the Premier, the NSW Treasurer and the NSW Minister for Local Government seeking that they urgently seek to address these costs through a combination of regulatory reform, budgetary provision and appropriate funding
-

REPORT:

Councillors,

The pressure on councils to continue to provide services of appropriate standard to our communities is now extraordinary.

The unrelenting growth of cost shifting to councils, coupled with rate pegging, is increasingly eroding any possibility of financially sustainable local government and risking the capacity of councils to deliver tailored, grassroots services to their communities and properly deliver and maintain vital local infrastructure.

Alarmingly, the latest research commissioned by Local Government NSW (LGNSW) shows that the increase in cost shifting has been accelerated by various NSW Government policies.

As shown in the latest cost shifting report produced by independent consultants Morrison Low on behalf of LGNSW for the 2021/2022 financial year (www.lgnsw.org.au/costshifting), an amount of \$1.36 billion of expense has been passed on to councils to fund. This is an increase of \$540 million since the last report from the 2017/2018 financial year and represents lost services, lost opportunity and lost amenity for all our residents and businesses.

On average, this represents an additional cost of \$460.67 for every ratepayer across the state.

With councils having to fund this ongoing subsidy for the State Government each and every year it means our communities get less or go without. They go without better roads, they go without better parks, they go without important community services that only councils provide, and they and their ratepayers are effectively paying hidden taxes to other levels of government.

Councillors, our communities deserve better and this must stop. Prior to the most recent state election the then Minns Opposition wrote to LGNSW acknowledging that cost shifting had undermined the financial sustainability of the local government sector.

Now in 2024, it is important to councils and communities that the NSW Government urgently seek to address cost shifting through a combination of regulatory reform, budgetary provision and appropriate funding.

As a result I move the following:

1. That Council receive and note the findings of the LGNSW Cost Shifting report for the 2021/2022 financial year; and
2. That a copy be placed on Council's website so that our communities can access it; and
3. That Council write to the Premier, the NSW Treasurer and the NSW Minister for Local Government seeking that they urgently seek to address cost shifting through a combination of regulatory reform, budgetary provision and appropriate funding.

FINANCIAL IMPLICATIONS:

Cost shifting is a significant burden for the industry and reduces funding availability for Council services to the community.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

- | | |
|--------------|---|
| Strategy 6.1 | Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region. |
| Strategy 6.2 | Work with our partners and neighbouring councils to share skills, knowledge and resources and find ways to deliver services more efficiently. |
| Strategy 6.6 | Manage our money and our assets to be sustainable now and into the future. |
| Strategy 6.9 | Progressive Local Leadership. |

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

Nil

MINUTE

RESOLUTION NUMBER: ORD2024-3

MOVED: Cr J Jennings

RESOLVED:

THAT:

1. Council receive and note the findings of the LGNSW Cost Shifting report for the 2021/2022 financial year; and
2. A copy of the cost shifting report be placed on Council's website so that our communities can access it; and
3. Council write to the Premier, the NSW Treasurer and the NSW Minister for Local Government seeking that they urgently seek to address these costs through a combination of regulatory reform, budgetary provision and appropriate funding

9 RECEIVE AND DEAL WITH GENERAL MANAGER'S AND DIRECTORS' REPORTS

9.1 DIRECTOR ENVIRONMENTAL PLANNING AND BUILDING SERVICES REPORT

9.1.1 SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

File No: 03.00053

RECOMMENDATION:

That the information be noted.

REPORT:

Section 4.15 of the Environmental Planning and Assessment Act 1979 is provided below to assist Council in the assessment of Development Applications.

4.15 Evaluation (cf previous s 79C)

- (1) **Matters for consideration—general** In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—
- (a) the provisions of—
 - (i) any environmental planning instrument, and
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),
 - (v) (Repealed)
 - (b) that apply to the land to which the development application relates,
 - (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
 - (c) the suitability of the site for the development,
 - (d) any submissions made in accordance with this Act or the regulations,
 - (e) the public interest.

- (2) **Compliance with non-discretionary development standards—development other than complying development** If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority—
- (a) is not entitled to take those standards into further consideration in determining the development application, and
 - (b) must not refuse the application on the ground that the development does not comply with those standards, and
 - (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards, and the discretion of the consent authority under this section and section 4.16 is limited accordingly.
- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards—
- (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and
 - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note—

The application of non-discretionary development standards to complying development is dealt with in section 4.28(3) and (4).

- (3A) **Development control plans** If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority—
- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and
 - (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and
 - (c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, **standards** include performance criteria.

- (4) **Consent where an accreditation is in force** A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the *Building Code of Australia* if the building product or system is accredited in respect of that requirement in accordance with the regulations.
- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).
- (6) **Definitions** In this section—
- (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided,

- respectively, pursuant to the grant of consent to a development application,
and
- (b) ***non-discretionary development standards*** means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

Nil

MINUTE

RESOLUTION NUMBER: ORD2024-4

MOVED: Cr B Fry SECONDED: Cr K Burke

RESOLVED:

That the information be noted.

9.1.2 GENERAL REPORT

File No: 03.00053

RECOMMENDATION:

That the information be noted.

REPORT:

The following reports are provided for Council's information.

- (a) Applications approved using authority delegated to the Director Environmental Planning & Building Services during December 2023 (**Attachment 1**).
- (b) Applications refused during December 2023 (**Attachment 2**).
- (c) Applications under assessment as at the date of compilation of this report (**Attachment 3**).
- (d) Applications pending determination for greater than 40 days as at the date of compilation of this report (**Attachment 4**).
- (e) Applications with variations to development standards under Clause 4.6 of Bathurst Regional LEP 2014 approved in December 2023 (**Attachment 5**).
- (f) No political disclosure statements have been received in relation to any "planning applications" being considered at this meeting.

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Sustainable and balanced growth.

Strategy 4.6 Plan for, assess and regulate development activity.

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

1. DAs approved [9.1.2.1 - 1 page]
2. DAs refused [9.1.2.2 - 1 page]
3. DAs pending [9.1.2.3 - 2 pages]
4. Over 40 days [9.1.2.4 - 1 page]
5. Variations [9.1.2.5 - 1 page]

MINUTE

RESOLUTION NUMBER: ORD2024-5

MOVED: Cr M Hogan SECONDED: Cr W Aubin

RESOLVED:

That the information be noted.

**9.1.3 DEVELOPMENT APPLICATION NO. 2023/148 - BOUNDARY
ADJUSTMENT AND USE OF EXISTING SITE AND BUILDINGS AS
DEPOT. 344 LIMEKILNS ROAD KELSO. OWNER: JVE ADMIN PTY
LTD. APPLICANT: J VAN EMMERICK**

File No: 2023/148

RECOMMENDATION:

That Council:

(a) as the consent authority, grant consent pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 to Development Application No. 2023/148, subject to conditions able to be imposed pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, as amended, including but not limited to:

1. The development shall only operate Monday to Friday between the hours of 6.30am to 5pm.
2. All exterior lighting associated with the development shall have LED luminaires and be designed and installed so that no obtrusive light will be cast onto any adjoining property or in an upward manner.

NOTE 1: Compliance with Australian Standard AS4282 "Control of the Obtrusive Effects of Outdoor Lighting" will satisfy this condition.

3. Prior to the issue of any Construction Certificate or the Commencement of use of the site, a Site Management Plan must be prepared and provided to Council. The Plan must include the following matters:
 - Areas to be used for the storage of organic waste.
 - Measures for the management of organic waste including storage, managing of leachate and runoff
 - Measures for disposal of any organic waste.
 - Testing of stormwater for potential contaminants
4. The final survey plan is to show an easement for drainage over the internal drainage swales and detention basin within Proposed Lot 1 and in favour of Proposed Lot 2.

(b) notify those that made submissions of its decision; and

(c) call a division.

REPORT:

Site

The site consists of two land parcels:

- Lot 32 in DP789513, known as 342 Limekilns Road Kelso, being 3.642ha in size and containing an existing single-storey dwelling and four (4) sheds; and
- Lot 31 in DP789513, known as 344 Limekilns Road Kelso, being 4047m² in size and containing four (4) existing sheds.

344 Limekilns Road has development consent to operate as a rural industry including arborists services and plant nursery, ancillary structures and signage (DA2010/0104). That consent does not currently extend to the use of 342 Limekilns Road although activities associated with the depot are currently undertaken on that part of the property.

A location plan and aerial photo is provided at **Attachment 1**.

Proposed development

There are three components to the proposal, namely, a boundary adjustment between the 2 properties to enable the depot to be wholly located on proposed lot 2, the approval of the use of the existing sheds and land as a depot, and the construction of a detention basin on proposed lot 1 (with appropriate easements) to manage stormwater runoff from the property.

The boundary adjustment between the two properties will increase the area of 344 Limekilns Road from 4047m² to approximately 9482m² to enable the whole of the depot to be located on 344 Limekilns Road.

The proposed size of the land parcels is as follows:

Lot no.	Proposed Size	Existing Improvements
1	3.098ha	Existing dwelling and two ancillary sheds
2	9482m ²	Six (6) existing sheds for depot operations

The second component of the proposal is to seek approval for use of the existing sheds located on proposed lot 2 – which is currently approved as a rural industry – as a ‘depot’. Note that the reference to “rural industry” in the 2010 development consent is reflective of the land use planning definitions in place at that time.

The third component is to construct a detention basin in the south-eastern corner of proposed lot 1 to control stormwater from the subject property entering neighbouring properties.

Development plans are provided at **Attachment 2**.

The Statement of Environmental Effects is provided at **Attachment 3**.

Summary of Attachments

Attachment No.	Description
1	Location Plan and Aerial Photo
2	Development Plans
3	Statement of Environmental Effects
4	Submissions
5	Applicant response to submissions
6	Acoustic Report

State Environmental Planning Policies

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

- “(a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

In considering the above, 344 Limekilns is identified on Council's Contaminated Land Information System as having the potential to be contaminated as a result of the existing rural industry located on the land. As the proposal entails a boundary adjustment to contain the proposed use of a 'depot' on proposed lot 2 and the underlying land use will not change, the land is considered to be suitable for the proposed use without further investigation. No further assessment under this Chapter is required.

Bathurst Local Environmental Plan 2014

The land is zoned RU1 Primary Production. The objectives of the RU1 zone are as follows:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- To minimise the fragmentation and alienation of resource lands.*
- To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- To maintain the rural and scenic character of the land.*
- To provide for a range of compatible land uses that are in keeping with the rural character of the locality, do not unnecessarily convert rural land resources to non-agricultural land uses, minimise impacts on the environmental qualities of the land and avoid land use conflicts.*

The proposed use of proposed lot 2 is a 'depot'. This is defined in the *Bathurst Regional Local Environmental Plan 2014* as:

depot means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use, but does not include a farm building.

Depots are permitted with consent in the RU1 zone. It is understood that the proposed

depot is to contain the existing arborist business operating from the site. The proposal is considered to be consistent with the zone objectives.

Clause 4.2D Boundary changes between lots in certain rural and conservation zones

Clause 4.2D applies to land in the RU1 zone. The objective of this clause is to permit the boundary between 2 lots to be altered in certain circumstances to give landowners a greater opportunity to achieve the objectives of a zone.

Clause 4.2D(3) states:

- (3) *Despite clause 4.1(3), development consent may be granted to the subdivision of 2 or more adjoining lots to which this clause applies, if the subdivision will not result in—*
 - (a) *an increase in the number of lots, and*
 - (b) *an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots.*

The proposed boundary adjustment subdivision will not result in an increase in the number of lots, nor an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots.

Before determining a development application for the subdivision of land under this clause, Council must consider:

- (a) *the existing uses and approved uses of other land in the vicinity of the subdivision,*

The existing and approved uses of other land in the vicinity of the subdivision is for small lot rural purposes, including rural residential and hobby farm type uses, as well as the existing approved rural industry/depot on the subject land.

- (b) *whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,*

The proposed subdivision is not likely to significantly impact the preferred and predominant land uses in the vicinity of the development, as it reconfigures the land parcels to separate the existing rural residential use from the existing rural industry/depot use of the land.

- (c) *whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),*

The subdivision is not likely to be incompatible with the existing and preferred uses of the land in the vicinity.

- (d) *whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,*

The land in the vicinity of the subject land is zoned RU1.

- (e) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),*

Not applicable.

- (f) *whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land, and*

The subdivision is considered appropriate having regard to the natural and physical constraints affecting the land.

- (g) *whether or not the subdivision is likely to have an adverse impact on the environmental values, heritage vistas or landscapes or agricultural viability of the land.*

The subdivision is not likely to have an adverse impact on the environmental values, heritage vistas or landscapes or agricultural viability of the land.

The proposal is considered to comply with the requirements of this clause.

Bathurst Development Control Plan 2014

Chapter 3 – Subdivision of land

Standard	Comment
3.3 Subdivision requirements: All zones	
Requirement	Discussion
3.3.1 Electricity and telephone services	Electricity and telephone connections to the site are existing.
3.3.3 Drainage	The proposal includes the construction of a detention basin in the south-eastern corner of the site to address the existing issue of stormwater from the site draining into adjoining properties.
3.3.5 Rural Water Supply	Rural water supply is existing on the property.
3.3.9 Land Contamination	Addressed under SEPP (Resilience and Hazards) 2021 above. The proposal does not include a change in use from the existing approved uses of the land, and therefore a Preliminary Site Investigation is not considered to be required in this instance.
3.5 Subdivision requirements: Rural and Rural Lifestyle development	The proposal complies with the requirements of this part as follows: <ul style="list-style-type: none">• Driveway access to both subject properties is existing and is considered to comply with Council's Guide to Engineering Works.• Standard conditions of consent will be imposed regarding fencing• The land is not identified as bushfire prone.

Chapter 11 – Outdoor lighting

Concerns have been raised in submissions regarding obtrusive lighting. Standard conditions of consent will be imposed to ensure that any outdoor lighting is to comply with the requirements of Australian Standard (AS) 4282 Control of the Obtrusive Effects of Outdoor Lighting.

Public Consultation

As there were previous representations to Council regarding the use of the land as a depot, the application was notified in accordance with Council’s Community Participation Plan 2019 between 13 and 22 June 2023. Four (4) submissions were received during the notification period. Two of those submissions raised concerns regarding the proposals. Two submissions were provided in support of the applicant. The submissions are provided at **Attachment 4**. The applicant’s response to the submissions is provided at **Attachment 5**.

The issues raised are summarised below:

Issue Raised	Applicant Response	Council Officer Comment
Adequacy of property entrance for large vehicles	Bathurst Regional Cranes is no longer operating [from the site].	The entrance complies with Council’s Engineering Guidelines.
Warning signs for motorists to slow down	Given that the road reserve is Council property, I would assume that the responsibility for installing signs for the already approved site at 344 Limekilns Rd lies with the Council.	Council has reviewed the request for additional signage and it is not considered to be required for the existing business operating from the site.
Operating hours curfew and monitoring, including a request for card access to depot to monitor compliance with operation hours	Agile Arbor haven’t requested for longer hours of operation and intend to operate within the already approved hours of consent. 344 Limekilns Rd already has security gate and fence installed.	<p>The existing development consent governing the use of the depot does not contain limitations on the operating hours. In that context there are currently no “approved hours”.</p> <p>The submitted Noise Impact Assessment (attachment 6) advises that the hours of operation for the site “will be 6.30am to 5pm Monday to Friday”. The submitted Noise Impact Assessment indicates that operations during these periods may occur in accordance with the EPA’s Noise Policy for Industry.</p> <p>That said the extension of the depot represents an intensification of the current usage and extends the areas of operations closer to the adjoining dwellings compared to the current approved area of operations.</p> <p>Establishing operating hours consistent with those assessed in the Noise Impact Assessment is therefore appropriate under the circumstances.</p>

<p>Stormwater and runoff enters adjoining properties and causes nuisance</p>	<p>Since constructing improved drainage for 344 and 342 Limekilns Rd, I, Jaz Van Emmerik, engaged in multiple discussions with the Council, to address the persisting issue. The root of the problem lies in the original Development Application for 344 Limekilns Rd, where it is stated that the stormwater is to be directed to a street system. However, the Council acknowledges the impracticality of this approach due to the lay of the land, as water cannot flow uphill. Consequently, it is imperative to redirect water in alignment with the natural lay of the land.</p>	<p>The land slopes generally to the south and east. Additional impervious areas in the form of buildings and impervious areas has the potential to increase the flows over and above existing “natural” flows.</p> <p>The proposal includes the construction of a detention basin in the south eastern corner of the property (refer to Stormwater Concept Plan at (Attachment 7)).</p> <p>The concept plans demonstrate that, upon construction, stormwater discharges to the adjoining properties post development are less than the predevelopment flows in both the 20% and the 100% AEP flood events.</p>
<p>Significant excavation undertaken</p>	<p>I have addressed the stormwater above. 342 and 344 Limekilns Rd also take on stormwater from the Council’s road reserve, that we have to manage as well. The improvements have also accommodated Council’s contribution to the volume of water.</p>	<p>The applicant has provided a statement regarding previous measures to address stormwater runoff from the property. The detention basin is proposed to alleviate this stormwater issue.</p>
<p>Request acoustic fence to be installed to limit noise transmission onto neighbouring properties</p>	<p>I, Jaz Van Emmerik, utilise chainsaws and equipment owned by Agile Arbor for personal use only. I adhere to the noise restrictions outlined by the Council. I want to clarify that Agile Arbor does not conduct any business operations at 342 Limekilns Rd. A sound-proof fence is unrealistic, and we will proceed with operating in accordance with the approved consent of operation.</p>	<p>An acoustic report was submitted as part of the application to address concerns raised by neighbours regarding noise. This is provided at Attachment 6.</p> <p>An acoustic fence is not required to achieve the standards provided in the EPA Noise Policy for Industry.</p> <p>By its nature, the use of the land as a depot suggests that machinery is stored at the site and is transported to other locations to be operated as part of the business undertaking.</p> <p>Conditions limiting hours of operation are considered</p>

		<p>appropriate as noted above.</p> <p>Regarding the personal use of machinery and in particular those that may be used for rural activities, these are controlled by the <i>Protection of the Environment Operations Act 1997</i>.</p>
Depot is not consistent with the rural character of the locality	<p>Agile Arbor is a growing business that does require additional space. The other rented shed spaces, such as Bathurst Regional Cranes and MGC, was aimed at enhancing Agile Arbor's operations. The inclusion of a crane business was intended to facilitate tree removal operations, while having an on-site mechanic like MGC was clearly a beneficial addition to my business. It's important to note that although MGC operated beyond the consent, as soon as the Council provided notice, MGC vacated the premises.</p>	<p>Depots are permitted with consent within the RU1 zone. The proposed use is considered to be consistent with the objectives of the zone and the requirements of the applicable environmental planning legislation.</p>
Safety concerns regarding the use of cranes on the site	<p>Bathurst Regional Cranes is no longer operating [from the premises].</p>	<p>No further comment, as Bathurst Regional Cranes no longer operates from the site.</p>
Number of buildings located on the property	<p>Response for Council</p>	<p>The proposed rural industry was approved in accordance with DA2010/0104. The development was undertaken in accordance with this consent.</p>
Adjoining owners not notified about original rural industry development application	<p>Response for Council</p>	<p>DA2010/0104 was notified to the adjoining properties as they were at that time. Properties to the south east were not included as they did not adjoin 344 Limekilns Road.</p>
Air pollution and bushfire threat as a result of organic waste stored on the site	<p>In accordance with the Council's statements and EPA guidelines, I, Jaz Van Emmerik, can store organic waste produced by Agile Arbor. In response to multiple complaints, I have taken the initiative to relocate the entire mulch pile, keeping only small quantities away from the boundary of 320 Limekilns Rd. This proactive measure is aimed at maintaining a tidy property,</p>	<p>Organic waste is able to be stored on the property where it occurs in conjunction with the use of the properties as a depot.</p> <p>The relocation of the pile to reduce the impact on neighbouring properties is considered sufficient in the circumstances.</p>

	addressing their concerns and preventing further disputes.	A condition of consent will be imposed requiring an operational management plan for the business that includes details regarding the storage of organic waste and how this will be managed and disposed of.
Sub-letting of the premises to other businesses	MGC have ceased renting at 344 Limekilns Rd and I have also never had a dog minding business.	The heavy machinery mechanic and the crane hire businesses were required to relocate from the premises due to not complying with the development approval.
Potentially contaminated stormwater entering adjoining properties		Stormwater is proposed to be captured in the proposed detention basin and released at pre development flow rates. A condition of consent will be imposed requiring an operational management plan for the business that includes the testing of runoff and provide mitigation measures for potential contaminants.

CONCLUSION:

The proposed boundary adjustment between 342 and 344 Limekilns Road, Kelso and use of the land at 344 Limekilns Road, Kelso as a depot complies with the planning controls applicable to the subject land and proposed development. Two (2) submissions objecting to the development were received from adjoining neighbours regarding the proposed development. The merits of the proposed development were weighed against the submissions and it is considered that on balance, the proposed development can be supported with appropriate conditions.

FINANCIAL IMPLICATIONS:

N/A

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Sustainable and balanced growth.

Strategy 4.6 Plan for, assess and regulate development activity.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

1. Site Location and Aerial Photo [9.1.3.1 - 1 page]
2. Development Plans [9.1.3.2 - 3 pages]
3. Statement of Environmental Effects [9.1.3.3 - 23 pages]
4. Submissions [9.1.3.4 - 13 pages]
5. Response to Submissions [9.1.3.5 - 16 pages]
6. Acoustic report [9.1.3.6 - 49 pages]
7. Stormwater Concept Plan [9.1.3.7 - 4 pages]

Cr I North declared a non-pecuniary, significant interest in item 9.1.3 of the DEPBS Report and left the room.

REASON: Son works for OS Trees.

MINUTE

RESOLUTION NUMBER: ORD2024-6

MOVED: Cr K Burke SECONDED: Cr B Fry

RESOLVED:

That Council:

a. as the consent authority, grant consent pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 to Development Application No. 2023/148, subject to conditions able to be imposed pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, as amended, including but not limited to:

1. The development shall only operate Monday to Friday between the hours of 6.30am to 5pm.
2. All exterior lighting associated with the development shall have LED luminaires and be designed and installed so that no obtrusive light will be cast onto any adjoining property or in an upward manner.

NOTE 1: Compliance with Australian Standard AS4282 "Control of the Obtrusive Effects of Outdoor Lighting" will satisfy this condition.

3. Prior to the issue of any Construction Certificate or the Commencement of use of the site, a Site Management Plan must be prepared and provided to Council. The Plan must include the following matters:
 - Areas to be used for the storage of organic waste.
 - Measures for the management of organic waste including storage, managing of leachate and runoff
 - Measures for disposal of any organic waste.
 - Testing of stormwater for potential contaminants
4. The final survey plan is to show an easement for drainage over the internal drainage swales and detention basin within Proposed Lot 1 and in favour of Proposed Lot 2.

b. notify those that made submissions of its decision; and

c. call a division.

On being **PUT** to the **VOTE** the **MOTION** was **CARRIED**

The result of the division was:

In favour of the motion - Cr W Aubin, Cr K Burke, Cr B Fry, Cr J Jennings, Cr G Hanger,
Cr M Hogan, Cr A Smith and Cr R Taylor

Against the Motion - Nil

Absent - Cr I North

Abstain - Nil

9.1.4 SECTION 8.2 REVIEW OF DEVELOPMENT APPLICATION NO. 2023/66 FOR SPECIALISED RETAIL PREMISES AND ASSOCIATED SIGNAGE AT 1-5 INGERSOLE DRIVE, KELSO. APPLICANT: BEACON LIGHTING CORPORATION PTY LTD. OWNER: LARGE FORMAT PROPERTY FUND PTY LTD

File No: 2023/66

RECOMMENDATION:

That Council:

- (a) having undertaken a review of the application pursuant to Section 8.2 of the Environmental Planning and Assessment Act 1979, change its decision and grant consent to Development Application 2023/66 for a specialised retail premises and associated signage, subject to conditions able to be imposed pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, as amended;
- (b) support the variation to the 7.0 metre maximum height of buildings development standard pursuant to Clause 4.3 *Height of building* in the Bathurst Regional Local Environmental Plan 2014 and the associated Height of Buildings Map for the subject land for the construction of the proposed complex; and
- (c) Support the variation to the maximum signage area development standard pursuant to Chapter 12 *Signage and Colour Schemes* in the Bathurst Regional Development Control Plan 2014.
- (d) call a division.

REPORT:

The Site

Council has received a Development Application (DA) for a specialised retail premises (with four separate tenancies) and associated advertising signage at 1, 3 and 5 Ingersole Drive Kelso, described as Lots 1, 2 and 3 in DP 1281337.

Lot Description	Area (m²)
Lot: 1 DP: 1281337	2238
Lot: 2 DP: 1281337	4672
Lot: 3 DP: 1281337	4198
Total	11,108

See location plan and aerial photo at **Attachment 1**.

The site is currently vacant. The surrounding sites are a mixture of vacant lots, specialised retail premises, fast food outlets, a child care centre and a service station. The adjoining property to the south-west contains a large manufacturing plant (Devro), while the adjoining property to the north-west contains a fruit packing shed.

Summary of attachments

Attachment No.	Description
1	Location plan and aerial photo
2	Applicant's response to reasons for refusal
3	Traffic Impact Assessment
4	Bulk earthworks plan
5	DA Plans
6	Clause 4.6 Variation

History of the Proposal

The subject Development Application was refused by Council, under delegated authority, on 28 September 2023 for the following reasons:

- 1. The applicant has failed to submit sufficient detail to enable Council and Transport for NSW to assess the traffic impact of the proposed development.**
- 2. The applicant has failed to submit sufficient detail to enable Council to assess the extent and impact of the proposed earthworks.**
- 3. The proposed signage exceeds the maximum area development standard prescribed in the Bathurst Regional Development Control Plan 2014 and no justification has been submitted for the exceedance.**

The applicant has now submitted a request for review of the determination under Section 8.2 of the Environmental Planning & Assessment Act 1979. Because the previous determination was made under delegation by Director Environmental Planning and Building Services, the review must be determined by Council. The reasons for refusal related to there being insufficient information supplied by the applicant. It came to pass that the applicant had prepared this additional information prior to the decision to refuse, but Council was not advised of this. The determination by refusal must now be reconsidered through the review process.

The reasons for refusal have been addressed as follow:

Reasons for Refusal	Comment
The applicant has failed to submit sufficient detail to enable Council and Transport for NSW to assess the traffic impact of the proposed development.	A detailed Traffic Impact Assessment (TIA) has been submitted with the Section 8.2 review request. The TIA concludes that the proposed development will not have any adverse impact on the intersection of Ingersole Drive and Sydney Road (The Great Western Highway). Further the TIA concludes that the site will have an adequate number of functional car parking spaces.
The applicant has failed to submit sufficient detail to enable Council to assess the extent and impact of the proposed earthworks.	A detailed bulk earthworks plan has been submitted with the Section 8.2 review request.
The proposed signage exceeds the maximum area development standard prescribed in the Bathurst Regional Development Control Plan 2014 and no justification has been submitted for the	A written justification has been submitted in support of the proposed signage area exceedances has been submitted with the Section 8.2 review request.

exceedance.	
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See applicant's written request for review addressing additional information at **Attachment 2**.

See Traffic Impact Assessment **Attachment 3**.

See bulk earthworks plan at **Attachment 4**.

The proposal

The proposal includes the following:

- Four (4) specialised retail premises:
- Advertising signage for the two respective tenants including flush wall signage and a freestanding pole sign:
- A car park with 76 spaces; and
- Bulk earthworks.

Note that Beacon Lighting is the nominated tenant for "Building 1". Other tenants have not been nominated.

The plan of proposed development is provided at **Attachment 5**.

Planning Context

State Environmental Planning Policy (Transport and Infrastructure)

The proposal is considered "traffic generating development" for the purposes of Clause 2.122 of SEPP (Transport and Infrastructure) in that it has a floor area in excess of 2,500 square metres and the entrance is located within 90 metres of the classified road (Sydney Road).

- 4) *Before determining a development application for development to which this section applies, the consent authority must—*
- (a) *give written notice of the application to TfNSW within 7 days after the application is made, and*
 - (b) *take into consideration—*
 - (i) *any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and*
 - (ii) *the accessibility of the site concerned, including—*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - (iii) *any potential traffic safety, road congestion or parking implications of the development.*

As part of the original referral process the RMS requested provision of a Traffic Impact Assessment addressing issues surrounding traffic generation levels, turning movements at the intersection of Ingersole Drive and Sydney Road, potential conflicts with other developments in the vicinity and parking rates.

The application has now been supported by a Traffic Impact Assessment (refer **Attachment 3**).

The updated TIA has been referred to RMS for comment but no further commentary has been received and concurrence is not required.

As to the matters required to be considered by Council as the consent authority the following is noted:

- Whilst the site has frontage to Sydney Road (being a classified road) it does not propose access to it.
- Ingersole Drive has been designed to accommodate the development as proposed.
- The existing intersection of Ingersole Drive and Sydney Road is limited to left turn in/left turn out.
- The proposal will not alter the expected Level of Service at any intersections having regard to the expected traffic generation levels.
- The nearest public transport routes are near the corner of Ashworth Drive and Sydney Road.
- Parking is generally provided at a ratio of 1 space per 50 sqm which is considered appropriate and generally consistent with other specialised retail premises in the estate.

Having regard to these matters the proposal is considered acceptable.

Bathurst Regional Local Environmental Plan 2014

The subject site is zoned E3 Productivity Support under the provisions of the *Bathurst Regional Local Environmental Plan 2014*.

Specialised retail premises are permissible with consent in the E3 Productivity Support zone.

Specialised retail premises is defined as:

specialised retail premises means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires—

- (a) *a large area for handling, display or storage, or*
- (b) *direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,*
- (c) *but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale, hire or display of other goods referred to in this definition*

Beacon Lighting may be considered as a specialised retail premises. The vacant showrooms may be used for other types of specialised retail premises as tenants are identified.

The proposal is consistent with the objectives of the zone which are as follows:

- *To provide a range of facilities and services, light industries, warehouses and offices.*

- *To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.*
- *To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.*
- *To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.*
- *To provide opportunities for new and emerging light industries.*
- *To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.*
- *To promote development that will protect the scenic qualities and enhance the visual character of the entrances to the city of Bathurst.*
- *To promote development of a scale and type that is compatible with the role of the Bathurst central business district as the primary retail and business centre in the region.*

Clause 4.3 Height of buildings

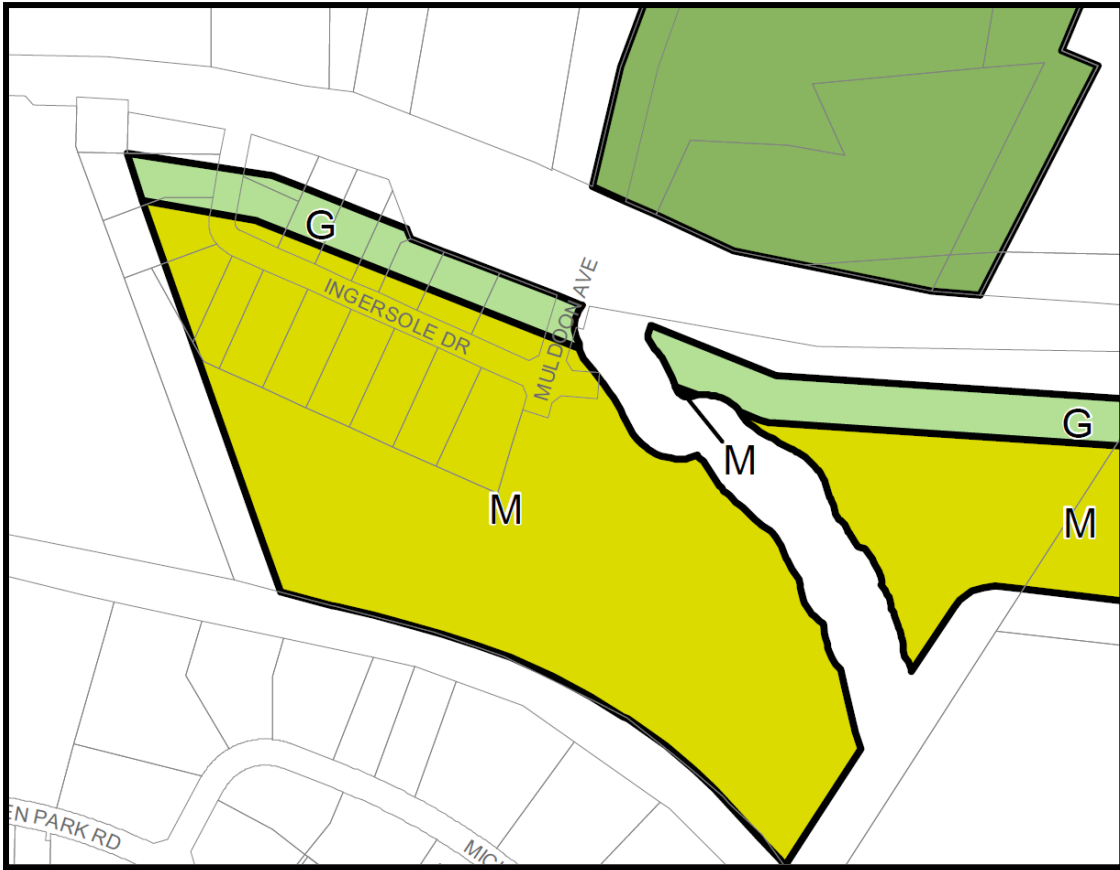
(1) *The objectives of this clause are as follows—*

(a) to establish the maximum height limit to which buildings may be erected in certain locations.

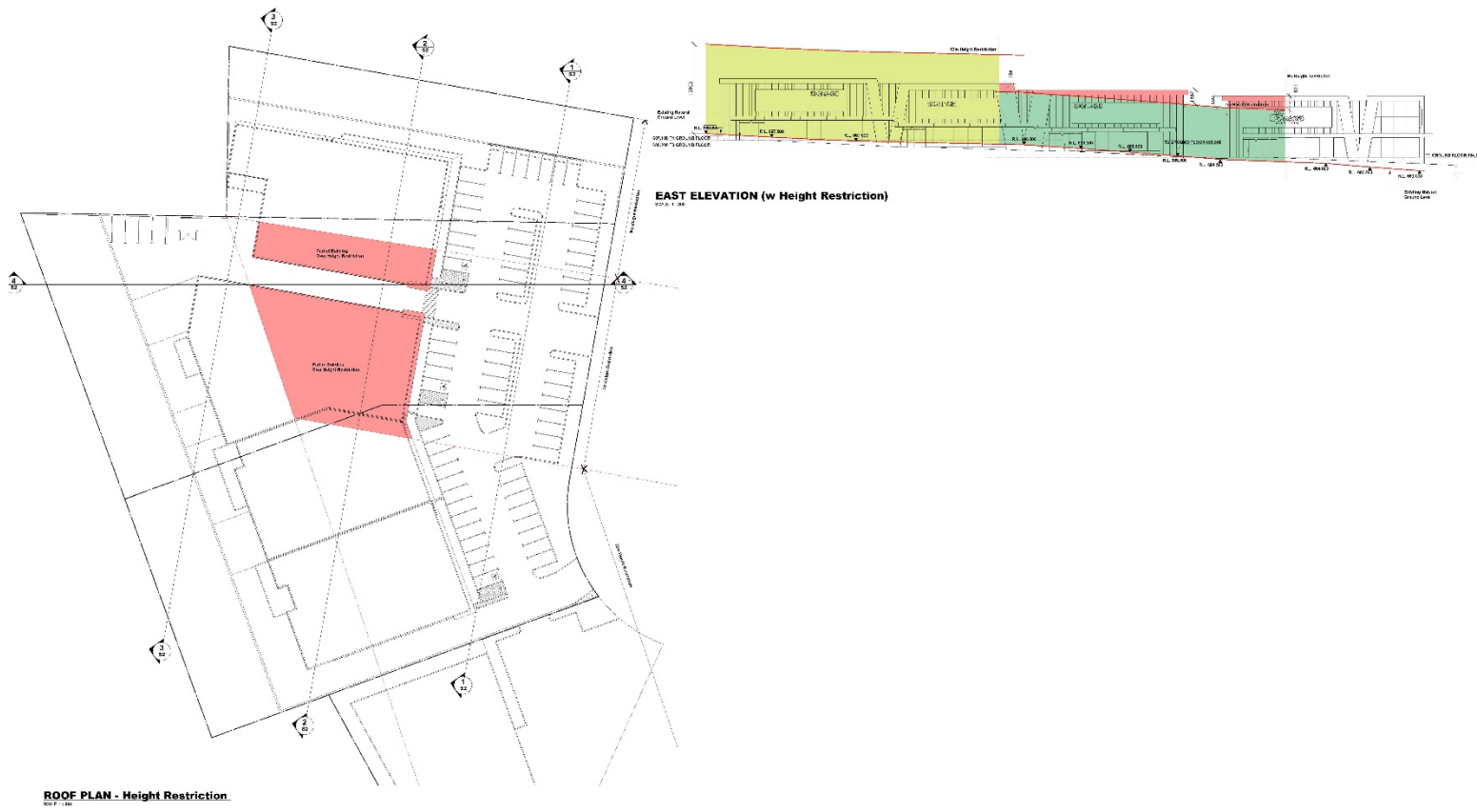
(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The property is subject to variable maximum Height of Buildings across different parts of the site.

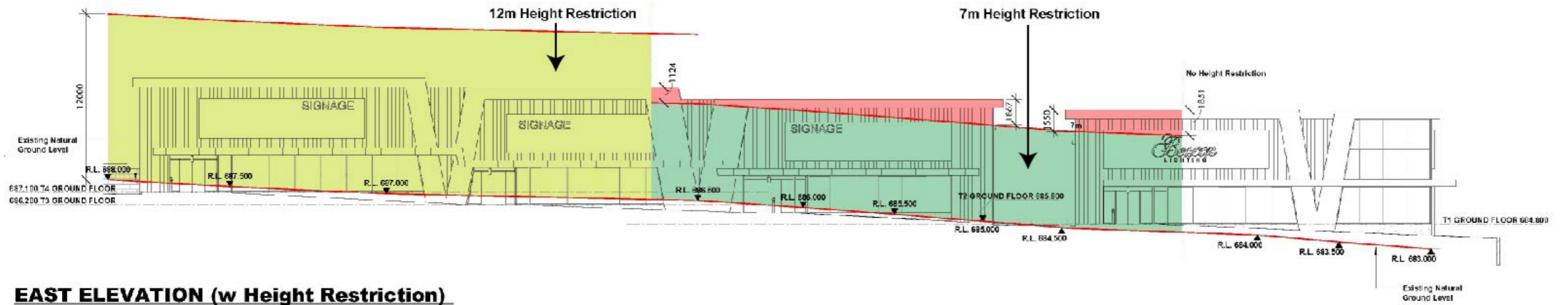
The Height of Buildings Map for this locality identifies a maximum building height limit ranging from 7.0 metres (identified as Area G below) and 12.0 metres (identified as Area M below). It is noted that there are unrestricted parts of the site along the northern and western boundaries where no maximum Height of Buildings would apply.



Plans for the proposed development indicate that the proposed buildings will exceed the 7.0 metre maximum building height limit by up to 1.867 metres for parts of Building 1 and Showroom 2. These areas are indicated as red on the plan provided below.



See following page for enlarged excerpt.



EAST ELEVATION (w Height Restriction)

SCALE: 1:200

The applicant has lodged a Clause 4.6 Variation to justify the exceedance to the maximum building height limit (see below).

Clause 4.6 Exceptions to development standards (as in force when the Development Application was lodged)

- (1) *The objectives of this clause are as follows—*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless—*
 - (a) *the consent authority is satisfied that—*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Planning Secretary has been obtained.*

Clause 4.6(3)

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

The applicant has made the following case as to why the development standard is unreasonable or unnecessary in the circumstances of the case:

This Clause requires the applicant to provide justification that strict compliance with the maximum building height development standard is unreasonable or unnecessary in the circumstances of this development.

The Five Part Test establishes the justification in accordance with relevant caselaw, which

determines where a development standard could be considered unreasonable or unnecessary.

Five Part Test

1. The objectives of the Standard are achieved notwithstanding noncompliance with the standard

The objective standards are:

(a) to establish the maximum height of buildings.

The proposal achieves this objective. The objective primarily has a descriptive administrative purpose as opposed to an environmental outcome. Despite this, the proposed variation does not comprise the environmental outcome intended to be achieved for the standard, as discussed below.

The proposed development variation would not change the established maximum height limit within the locality of the proposed development for other future development as it is only requesting a variation for the proposed development associated with this development application and, as such, would not set a 'precedent' for future development as each development application is assessed by merit.

Therefore, despite not achieving the development standard, the proposed development does not hinder or decrease the capacity of the objective of the standard to be achieved and the maximum height limit will still be established in the locality.

(b) to minimise visual impact and protect the amenity of adjoining development in terms of solar access to buildings and open space.

The existing Gateway Enterprise Park subdivision works is a consequence of the road pattern and Lot layout approved as part of the original subdivision. The land is zoned for commercial purposes in an already established commercial locality.

The site to the north and east is surrounded by existing public roads and State Highways, consequently the proposed development will not have any sensitive neighbouring developments to the north or east.

The variation predominately relates to the parapet of the roofline, which is integrated into the architecture of the building. These minor variations arise as a consequence of the slope of the block and the limitations that come with that, and the proponents need for a certain building height to allow the use to be carried out. They are minor variations and would not be perceptible. This variation would not impede on solar access, site lines or impact on the amenity of the adjoining industrial developments to the south and west.

The nature of the proposed variation would have no adverse effect on the shadows cast to adjoining properties. The shadows would not affect any residential lands or public open space. As such, the development minimises any visual impact and protects the amenity of adjoining development and sensitive lands within proximity.

(c) to facilitate higher density development in and around commercial centres and major transport routes.

The proposed development provides for a new development that is situated within an existing commercial precinct, contributing to the vitality of the Bathurst economy. Sydney Road (Great Western Highway) is located to the north of the site, and the Gateway Enterprise Park is easily accessible from the road network. The site is within convenient walking distance to the commercial centre and bus routes, thereby achieving this objective.

2. **The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.**

This matter is not applicable in this instance as the underlying objectives and purpose is applicable to the development.

3. **The underlying objective or purpose of the standard would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.**

This matter is not applicable in this instance.

4. **The development standard has been virtually abandoned or destroyed by the councils own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary or unreasonable.**

This matter is not applicable in this instance.

5. **The compliance with the development standard is unreasonable or inappropriate due to the existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.**

This matter is not applicable in this instance.

The applicant has made the following case as to what the environmental planning grounds are to justify contravening the standard:

The environmental planning grounds which support the contravention of the height of building standard relate to:

- *The site is predominately surrounded by public roads, including Sydney Road (The Great Western Highway). This provides added separation to all future adjoining development, which is not accounted for by the generic application of development standards such as height.*
- *The height encroachments are associated with part of the roof line and parapet, which forms part of its architectural design. These encroachments would not be visibly obtainable from public locations.*
- *The minor variations associated with the height exceedance are effectively disparate components of the roof features of the building and have been designed to enhance to aesthetic quality of the building, whilst ensuring the proponent is provided with a building that will allow the development and associated use to proceed.*
- *The closest residential area to the subject site is found 150m north of the subject site on the other side of Sydney Road. The height of the proposed building is considered to not have any significant adverse effect on the amenity of the residential area. There would be no overshadowing of residential land, nor would it effect solar and wind access.*
- *The site topography has been taken into consideration. The site will be altered by cut and fill in order to eliminate the fall towards Sydney Road and eliminate the affect that would have on building height. The fill towards Sydney Road would result in the site being higher than natural ground level, and in turn raise the level of the building height. But this has been considered and the design built with respect to the natural ground level as shown in Figure 2 above.*

The proposed variations relate to a relatively minor encroachment to the development standard and do not relate to an attempt to create additional floor space for the development. Consequently, the proposal would be consistent with the following objectives of the EP&A Act (Section 1.3):

- (c) *to promote the orderly and economic use and development of land,*

(g) to promote good design and amenity of the built environment,

In addition, there are no known negative impacts as a result of the proposed development.

Clause 4.6(4)

- (4) Development consent must not be granted for development that contravenes a development standard unless—
- (a) the consent authority is satisfied that—
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Planning Secretary has been obtained.

Comment:

The applicant's written request adequately addresses the matters in subclause (3). It provides commentary on the reasons why the development standard is unreasonable or unnecessary in the circumstances of the case and the environmental planning grounds to justify contravening the development standard.

The objectives of the development standard are:

- (a) to establish the maximum height limit to which buildings may be erected in certain locations.

The proposed development is consistent with the objectives of the development standard given that most of the proposed building complies with the 7 metre and 12 metre height limits applying to the subject site. Further, the maximum exceedance is only 1.867 metres when measured from natural ground level. When measured from proposed ground level there will be little to no exceedance.

The objectives of the E3 Productivity Support zone are:

- To provide a range of facilities and services, light industries, warehouses and offices.
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
- To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.
- To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.
- To provide opportunities for new and emerging light industries.
- To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.
- To promote development that will protect the scenic qualities and enhance the visual character of the entrances to the city of Bathurst.
- To promote development of a scale and type that is compatible with the role of the Bathurst central business district as the primary retail and business centre in the region.

The proposed development is consistent with the objectives of the zone.

It is considered that the approval of the proposal with a minor exceedance in height is in the public interest for the following reasons:

- The proposal is not inconsistent with the Objectives of the development standard or the Objectives of the E3 Productivity Support zone.
- The proposal will create consumer choice and market competition which will reinforce the viability of the Bathurst economy.

- The maximum exceedance is only 1.867 metres when measured from natural ground level. When measured from proposed ground level there will be little to no exceedance.
- The exceedance will not be discernible on site or from surrounding roads.
- The proposal contributes to the orderly development of a new commercial precinct.

See applicant's Clause 4.6 Variation justification at **Attachment 6**.

Clause 4.4 Floor space ratio

- (b) *The objectives of this clause are as follows—*
- (a) *to ensure that the density, bulk and scale of development is appropriate for employment zones, and*
- (b) *to ensure that the density, bulk and scale of development integrates with the streetscape and character of the area in which the development is located.*
- (c) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

The Floor Space Ratio Map for this locality identifies a maximum floor space ratio of 1:1. The proposed development has a combined gross floor area (GFA) of 3,701m² and a total site area of 11,108m² resulting in a floor space ratio of 0.33:1.

Clause 7.3 Airspace operations

While the subject site is within the Bathurst Airport environs, the proposed development will not penetrate the Limitation or Operations Surface.

7.5 Essential services

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

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

Essential Service	Comment
(a) the supply of water	Filtered water is available outside the property boundary in Ingersole Drive.
(b) the supply of electricity	Electricity connections are available for each of the three existing lots.
(c) the disposal and management of sewage	Each of the three existing lots have an existing sewer junction.
(d) stormwater drainage or on-site conservation	Stormwater from the proposed development will be conveyed to Council's underground drainage system in Ingersole Drive.
(e) suitable vehicular access	The proposed complex will have a primary 8.0 metre wide combined ingress/egress point and a single 7.0 egress point.

Bathurst Regional Development Control Plan 2014

Bathurst Regional Development Control Plan 2014 – Chapter 5 Business and Industrial Development

Siting Considerations		
Location	Minimum Building Line	Compliance
Zone E3 Business Development	<p><u>Front Building Line Setback</u></p> <ul style="list-style-type: none"> 10m– to a highway or major road. (unless otherwise specified on a DCP map) 5m to a minor road. <p><u>Side and Rear Building Line Setback</u></p> <ul style="list-style-type: none"> For corner lots, 5m (unless otherwise specified on a DCP Map) to a side street (major road). 3m to a side street (minor road). As specified by the NCC to an adjoining property. 	<p>Complies.</p> <p>Proposed front setbacks of 32 metres and 23 metres setback from Ingersole Drive. Front setback of 15 metres from Highway. Side and rear setbacks in accordance with National Construction Code (NCC).</p>
Soil and Water Management		
Development Standards		Compliance
<p>a) For developments with a disturbance area of less than 2500m², development must comply with Council’s <i>Erosion and Sediment Control Guidelines for Building and Work Sites</i>.</p> <p>b) For developments with a disturbance area of greater than 2500m², development must comply with the requirements of the document: <i>Managing Urban Stormwater: Soils and Construction 2004</i>, produced by Landcom. Due consideration is to be given to potential impacts on off-site streams in terms of channel stability under modified flow regimes resulting from development.</p> <p>c) As a condition of consent for sites with a disturbance area of greater than 2500m², Council will require the submission of a soil and water management plan prior to the commencement of any building construction or civil construction works on site. A Soil and Water Management Plan must be lodged with Council prior to the issue of any construction certificate.</p> <p>d) Following approval of the soil and water management plan, erosion and sediment control works will be required to be installed prior to work commencing on the site. Such control measures are to be maintained during the construction period. All work is to be undertaken to the satisfaction of Council.</p> <p>e) Erosion and sediment control measures are to be maintained in accordance with the recommendations in Council’s <i>Erosion and Sediment Control Guidelines for Building and Work Sites</i> or <i>Managing Urban Stormwater: Soils and Construction 2004</i> and remain in place while ever earthworks are being completed, and until such time that the site is revegetated.</p>		<p>Complies.</p> <p>Given that the total disturbance area will exceed 2500m² a condition will be imposed requiring the submission of a detailed soil and water management plan prior to the issue of any Construction Certificates.</p>
Building Design Standards – Zone E3 Productivity Support		
Development Standards		Compliance
<p>a) Exterior walls visible to a street, including the visible return facades to at least 6 metres along the visible side walls, are to be masonry, concrete block or tilt up concrete. If concrete blocks or tilt up concrete are used, it is to be appropriately painted or rendered and include decorative detail and</p>		<p>Complies.</p> <p>While the buildings are predominantly tilt-panel concrete, the elevations facing the Highway and Ingersole Drive</p>

<p>elements.</p> <p>b) Sheet metal exterior walls are only to be used on non-visible exterior walls, or as a design feature on facades visible to the street. High contrast, bright and reflective surfaces are not acceptable.</p> <p>c) All roofing materials are to be of a non-reflective material. Samples of materials, or technical brochures must be submitted to Council and approval obtained prior to the commencement of construction.</p>	<p>have a variety of cladding types with varying colours and finishes.</p>
Parking Access and Manoeuvring Areas	
Development Standards	Compliance
<p>a) The number of car parking spaces and bicycle parking spaces and facilities are to be provided on-site in accordance with section 14 - Parking of this Plan.</p> <p>b) On site car parking spaces and loading/unloading areas shall not form part of the vehicle manoeuvring areas.</p> <p>c) All car parking areas are to be located behind the building line or a minimum 3 metres from the front property boundary. Adequate landscape screening is to be provided within the 3 metre setback and Council must be satisfied that the proposed landscaping/screening will adequately reduce the effect of the parking area on the streetscape.</p> <p>d) All vehicular parking areas are to be paved and line marked.</p> <p>e) Car parking spaces must comply with the minimum sizes outlined in Schedule 2 of this Plan.</p> <p>f) Where an allotment of land immediately adjoins a classified road, access to the land must be in accordance with any criteria specified by the NSW Road and Maritime Service.</p> <p>g) Manoeuvring area is to be provided within the site to enable all vehicles serving the development to enter and leave the site in a forward direction, in accordance with Schedule 3 of this Plan. All manoeuvring areas are to be adequate for a truck 12.5 metres long.</p> <p>h) A minimum 6 metres access width is to be provided at the property boundary. Major traffic generating developments may require a greater access width, divided at the property boundary. Council may consider a lesser access width within Zone E2 - Commercial Centre.</p> <p>i) The entrance to a site shall not be located in close proximity to an intersection. Generally a minimum distance of 30 metres should be provided between an entrance and an intersection with a highway or major road.</p> <p>j) Loading and unloading facilities should be in the form of a loading dock and are to be provided on-site such that service vehicles are located wholly within the site and do not create conflicts with parking areas or manoeuvring areas.</p> <p>k) Vehicular crossings and laybacks must be provided for satisfactory ingress/egress.</p>	<p>Complies.</p> <p>Specialised retail premises are business premises and therefore require 1 space per 50m². With a GFA of 3702m² a total of 74 parking spaces are required.</p> <p>Plans for the proposed development indicate a total of 76 car parking spaces.</p> <p>Specialised retail premises are business premises and therefore require 2 bicycle parking spaces per 300m² for employees and 1 space per 1000m² for customers</p> <p>With a GFA of 3702m² a total of 16 parking spaces are required.</p> <p>All parking is located a minimum of 3 metres from the front property boundary which will allow for landscaping.</p> <p>An 8.0 metre access and a 7.0 metre access are proposed. The northern access will be located over 50 metres from the intersection with the Highway. No direct highway access is proposed.</p> <p>All manoeuvring areas have been designed to accommodate a 12.5 metre rigid truck. Dedicated loading/unloading areas will be provided at the rear of each tenancy.</p>
Clean Business and Industry	
Development Standards	Compliance
<p><u>Drainage and Stormwater Quality</u></p> <p>a) Development must comply with the requirements of the document: <i>Managing Urban Stormwater: Soils and Construction 2004</i>, produced by Landcom. Due consideration</p>	<p>Complies.</p> <p>All stormwater from the proposed development will be collected and conveyed to the existing Council</p>

<p>is to be given to potential impacts on off-site streams in terms of channel stability under modified flow regimes resulting from development.</p> <p>b) Council may require the submission of a soil and water management plan prior to the commencement of any new building work on-site and the erection and maintenance of control measures during the period of construction.</p>	<p>stormwater system on the northern boundary of the subject site.</p> <p>Given that the total disturbance area will exceed 2500m² a condition will be imposed requiring the submission of a detailed soil and water management plan prior to the issue of any Construction Certificates.</p>
Open Areas and Fencing	
Development Standards	Compliance
<p>a) All loading/unloading, storage, garbage or open work areas are to be located behind the building alignment and are to be fully screened from the view of a public road.</p> <p>b) Fences/screen walls (including security fencing) are not to be located within 5 metres of the front property boundary and 3 metres of a property boundary adjoining a side or rear street, unless adequate landscape screening is provided.</p> <p>c) Details of proposed materials and the type of construction for (a) and (b) above should be included with the Development Application.</p>	<p>Complies.</p> <p>Dedicated loading/unloading areas will be provided at the rear of each tenancy on the western elevation of the proposed buildings and will therefore not be visible from any public road.</p>
Urban Design – Gateway Enterprise Park – Zone E3 Productivity Support	
Development Standards	Compliance
<p>a) Buildings are to be designed to incorporate different textures, materials and distinctive architectural features that add visual interest to any façade which is visible from any road.</p>	<p>Complies.</p> <p>The proposed building includes different external materials including tilt-panel concrete, glass and a variety of cladding types. The proposed building includes a variety of architectural features including different height parapets, protruding fascia's and glazing.</p>
<p>b) Buildings are to be designed to add scale and interest to the building facade by articulated massing to any façade which is visible from any road.</p>	<p>Complies.</p> <p>The proposed building is broken up with different height parapets, protruding fascia's and glazing.</p>
<p>c) Buildings with blank walls fronting Sydney Road are discouraged. Architectural features, enhanced materials, fenestration, planting, lighting, and signage may contribute to a more pedestrian friendly streetscape.</p>	<p>Complies.</p> <p>The northern elevation facing Sydney Road is broken up with different height parapets, protruding fascia's, glazing and a variety of materials.</p>
<p>d) Buildings should be designed so that they contribute to neighborhood safety by providing windows at the street level.</p>	<p>Complies.</p> <p>Substantial glazing is provided along the elevations of the building facing Ingersole Drive and Sydney Road.</p>
<p>e) Buildings, other than those used for warehousing or distribution centres or industrial purposes and located in the 'Additional Uses' land management area (as shown on DCP Map 8 – Gateway Enterprise Park) are to be designed so that the exterior walls visible to the street, including the visible return facades to at least 6 metres along the visible side walls, are:</p>	<p>Complies.</p> <p>The proposed building will be predominantly constructed from tilt-panel concrete.</p>

<p>(i) Constructed predominately of masonry, concrete blocks or tilt-up concrete panels. Sheet metal is permitted as a building feature only provided masonry, concrete blocks or tilt-up concrete panels is the dominant building material.</p> <p>(ii) Concrete blocks or tilt-up concrete panels shall be painted, clad or painted with a material and colour appropriate to the nature of the site.</p>	
<p>f) Any sheet metal building materials used on the exterior walls and roof of the building are to be of a non-reflective material. Samples of materials, or technical brochures must be submitted to Council and approval obtained prior to the commencement of construction. High contrast, white, bright and reflective surfaces are not acceptable due to the proximity of the site to the Bathurst Regional Airport.</p>	<p>Complies.</p> <p>Sheet metal wall and roof cladding will be non-reflective factory-finished materials.</p>
<p>g) Buildings with more than one street frontage shall address each road/street frontage with an interesting architecturally designed façade.</p>	<p>Complies.</p> <p>The proposed building has architectural features creating visual interest on both the Sydney Road and Ingersole Drive elevations.</p>
<p>h) Buildings which have frontage to Sydney Road shall have a frontage designed to address Sydney Road, notwithstanding that direct access to Sydney Road will not be permitted. The maximum continuous wall frontage to Sydney Road is 50 metres.</p>	<p>Complies.</p> <p>The proposed building has architectural features creating visual interest on both the Sydney Road and Ingersole Drive elevations. The Sydney Road elevation has continuous walls of 43 metres. This is considered acceptable given colour variation, signage and architectural features on this elevation.</p>
<p>i) Site services, mechanical plant equipment including visually exposed air conditioning equipment, condenser units and cooling towers shall not be visible from Sydney Road or internal access roads.</p>	<p>Complies.</p> <p>All plant and equipment will be hidden behind the proposed parapet walls.</p>
<p>j) Rainwater tanks shall be integrated into the building design and screened from public view.</p>	<p>Not applicable as rainwater tanks are not proposed.</p>

Bathurst Regional Development Control Plan 2014 – Chapter 11 Outdoor Lighting

Development Standards	Compliance
<p>a) Light is to be directed downwards, not upwards, to illuminate the target area. If there is no alternative to up-lighting, then shields and baffles must be used to reduce spill light to a minimum.</p> <p>b) Specifically designed lighting equipment is to be used that, once installed, minimises the spread of light near to, or above, the horizontal.</p> <p>c) Do not 'over' light. Provide adequate lighting to achieve the desired effect. To keep glare to a minimum, the main beam angle of all lights directed towards any potential observer is to be kept below 70 degrees. It should be noted that the higher the mounting height, the lower can be the main beam angle. In places with low ambient light, glare can be very obtrusive and extra care should be taken in positioning and</p>	<p>Complies.</p> <p>A condition will be imposed to ensure that any exterior lighting is installed in accordance with AS 4282 <i>Control of the Obtrusive Effects of Outdoor Lighting</i>.</p>

<p>aiming light.</p> <p>d) Floodlights with asymmetric beams are to be used that permit the front glazing to be kept at or near parallel to the surface being lit.</p> <p>e) For domestic and small scale security lighting of business premises, the following solutions should be applied:</p> <p>i) Passive infra-red detectors can be used to good effect, if correctly aligned and installed. A 150W (2000 lm) tungsten halogen lamp is more than adequate. Lamps of 300W/500 W create too much light, more glare and darker shadows.</p> <p>ii) All-night lighting at low brightness, is equally acceptable. For an entry light, a 9 W (600 lm) compact fluorescent lamp is more than adequate in most locations.</p>	
<p>a) All fittings must have fully shielded fittings to reduce light spill onto adjoining properties.</p> <p>b) For the purposes of Table 2 of Australian Standard (AS) 4282 Control of the Obtrusive Effects of Outdoor Lighting, "curfewed hours" are taken to be those hours between 10pm and 7am on the following day.</p>	
<p>a) Under awning (whiteway) lighting must be recessed or integrated with the awning.</p> <p>b) Building façade lighting must aim downwards.</p>	

Bathurst Regional Development Control Plan 2014 – Chapter 12 Signage & Colour Schemes

Sign Type	Development Standards	Compliance
Business identification sign	<ul style="list-style-type: none"> Signs are to be placed in an appropriately or purposely designed space on new buildings or within the original historic signage space on an existing building. If backing boards are used, their shape and size must be of the right proportions for the allocated space on the building so that signage does not cover the architectural features of a building. 	Complies.
Flush wall sign	<ul style="list-style-type: none"> Signs must be placed in an appropriately or purposely designed space on new buildings or within the original historic signage space on an existing building. If backing boards are used, their shape and size must be of the right proportions for the allocated space on the building so that signage does not cover the architectural features of a building. Signs must not exceed 6 square metres in area or 5% of the elevation of the building on which the sign is fixed whichever is the lesser. 	Does not comply. See discussion below.

The proposal includes flush wall signage for each of the four proposed tenancies. The front tenancy, being on a corner, will have a flush wall sign on its north and east elevations. The following table outlines the area of the proposed signage.

	BUILDING 1		BUILDING 2	
	Elevation Area	Signage Area	Elevation Area	Signage Area
East Elevation	220.7m ²	33.6m ²	530.8m ²	97.8m ²
North Elevation	394.3m ²	33.6m ²		

TOTAL	615m ²	67.2m ²	530.8m ²	97.8m ²
PERCENTAGE	10.90%		18.40%	

As noted in the table above the signage on the north and east elevations exceeds 5% of the area of the respective elevation.

The applicant has requested a variation to the development standard based on the following justification:

- *It is important to note that the elevations to the west and south do not contain any proposed signage. If cumulatively calculated, the total signage vs the total elevation area of the building would equate to approximately 5-6%;*
- *The proposed signage is consistent with other signage that has been established in the Gateway precinct;*
- *The signage does not impede any visual sightings in the area, nor does it block any other advertisers in the locality;*
- *The signage provides effective communication to vehicles and pedestrians for the proposed development;*
- *Given the bulk and scale of the building, the size of the signage is considered appropriate;*
- *The proposed development spans across three separate allocations (to be consolidated). Therefore the signage is considered suitable when reviewing the bulk and scale of the proposed development; and*
- *The signage is consistent with Schedule 5 of SEPP (Industry and Employment 2021), as discussed in the submitted Statement of Environmental Effects.*

The variation to the maximum elevation coverage development standard is considered appropriate in this instance for the following reasons:

- The signage panels have been incorporated into the overall design of the buildings – they are a design feature rather than a post-development afterthought.
- The signage panels are appropriate for the scale of the buildings and they are balanced across both the north and east facades.
- The signage panels provide uniformity and equality across the entire complex regardless of who the future tenants are.
- The signage panels allow for the display of corporate colour schemes which could not otherwise be accommodated in this particular design of building.
- The proposed signage is consistent with the design and scale of existing signage in the surrounding commercial precinct.

Bathurst Regional Development Control Plan 2014 – Chapter 13 Landscaping & Greening

As only indicative landscaped areas have been identified on the plans for the proposed development, a condition will be imposed to require the submission of a detailed landscape plan prior to the issue of a Construction Certificate.

Bathurst Regional Development Control Plan 2014 – Chapter 14 Parking

Specialised retail premises are business premises and therefore require 1 space per 50m². With a GFA of 3702m² a total of 74 parking spaces are required.

Plans for the proposed development indicate a total of 76 car parking spaces.

Business premises require 2 bicycle parking spaces per 300m² for employees and 1 space per 1000m² for customers. With a GFA of 3702m² a total of 16 parking spaces are required. A condition will be imposed to ensure at least 16 bicycle parking spaces are provided across the complex.

Bathurst Regional Development Control Plan 2014 – Chapter 16 Earthworks

Development Standards	Compliance
<ul style="list-style-type: none"> a) The developer is to ensure that there is no more than 1 metre change in level at the boundary (either by filling or cutting). b) Where cut and/or fill in excess of 1 metre is proposed, any change in level (in excess of 1 metre) is to be stepped away from the boundary at a minimum of 45°. c) Where cut and/or fill in excess of 1 metre is proposed, a cross section plan is to be provided demonstrating compliance with AS 2890 with respect to the driveway and the cut and fill provisions outlined in Chapter 16 of this DCP. d) Outside of the building footprint cut and fill to 1.0m is permissible to achieve flatter backyards, outdoor living areas, BBQ areas, clothes drying areas and the like. Consideration will be given to greater cut and fill thresholds subject to: <ul style="list-style-type: none"> (i) Justification of the proposal and design intent through a site analysis including consideration of the likely streetscape impacts and compatibility with existing streetscape character. (ii) Demonstration of a structural system of the house appropriate to the site and slope. (iii) Justification and documentation of full site sections showing all existing and proposed levels and proposed retaining walls and batters. (iv) Consideration of the likely amenity impacts including overlooking, overshadowing, drainage and structural issues. (v) Limiting multiple retaining walls to 1.0m encouraging terracing rather than one large wall. (vi) Suitable storm water and drainage management. e) Excavations and fill in excess of 1 metre may be permitted to allow for compliant driveways and basement garages providing the excavations are adequately retained and drained in accordance with engineering requirements. f) Where a property is burdened by storm water or water and sewerage mains then Council will generally preclude any excavation or filling within that easement. g) Where more than one retaining wall is required, this should be in the form of terracing with landscaped areas between level changes to soften the visual impact of the retaining wall. h) Retaining walls, unless constructed for the sole purpose of landscaping, should be constructed of a material such as concrete, masonry, rock or other permanent type material. Timber retaining walls are not acceptable for walls that support side boundaries or structures. i) Cut and fill batters shall not: <ul style="list-style-type: none"> (i) exceed a slope of 1:4 (v:h) unless geotechnical reports result in Council being satisfied with the site stability. All 	<p>Generally complies.</p> <p>A detailed bulk earthworks plan has been submitted with the Section 8.2 review request.</p> <p>The proposed development includes two retaining walls:</p> <ol style="list-style-type: none"> 1. A maximum 900mm high masonry retaining wall along the southern boundary of the site. 2. A maximum 1.1 metre retaining wall along the north-west corners of the site and across the front of the site (but 10 metres off the front boundary). <p>The 100mm exceedance on the second retaining wall is considered acceptable given that it is only for a small section of the wall.</p>

<p>batters are to be provided with both short term and long term stabilization to prevent soil erosion.</p> <p>(ii) be located where they will impact on the privacy of neighbours.</p> <p>(iii) shall not extend onto Council's road reserve.</p>	
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Public Notification

The criteria in the Community Participation Plan has been considered and a determination has been made that the Development Application not be notified to adjoining property owners in accordance with the Community Participation Plan.

CONCLUSION:

Council has received a request to review its decision to refuse the abovementioned Development Application pursuant to Section 8.2 of the Environmental Planning and Assessment Act 1979. The Development Application was refused under Delegated Authority on 28 September 2023. The requested plans and documents have been submitted with the Section 8.2 review request and are addressed in this report.

It is recommended that Council, having undertaken a review of the application pursuant to Section 8.2 of the Environmental Planning and Assessment Act 1979, change its decision and grant consent to Development Application 2023/66 for a specialised retail premises and associated signage

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Sustainable and balanced growth.

Strategy 4.6 Plan for, assess and regulate development activity.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

1. Location Plan & Aerial [9.1.4.1 - 2 pages]
2. Applicant's Response [9.1.4.2 - 4 pages]
3. Traffic Impact Assessment [9.1.4.3 - 39 pages]
4. Bulk Earthworks Plan [9.1.4.4 - 1 page]
5. DA Plans [9.1.4.5 - 11 pages]
6. Clause 4.6 Variation [9.1.4.6 - 9 pages]

MINUTE

RESOLUTION NUMBER: ORD2024-7

MOVED: Cr R Taylor SECONDED: Cr W Aubin

RESOLVED:

That Council:

- a. having undertaken a review of the application pursuant to Section 8.2 of the Environmental Planning and Assessment Act 1979, change its decision and grant consent to Development Application 2023/66 for a specialised retail premises and associated signage, subject to conditions able to be imposed pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, as amended;
- b. support the variation to the 7.0 metre maximum height of buildings development standard pursuant to Clause 4.3 *Height of building* in the Bathurst Regional Local Environmental Plan 2014 and the associated Height of Buildings Map for the subject land for the construction of the proposed complex; and
- c. Support the variation to the maximum signage area development standard pursuant to Chapter 12 *Signage and Colour Schemes* in the Bathurst Regional Development Control Plan 2014.
- d. call a division.

On being **PUT** to the **VOTE** the **MOTION** was **CARRIED**

The result of the division was:

In favour of the motion - Cr W Aubin, Cr K Burke, Cr B Fry, Cr J Jennings, Cr G Hanger, Cr M Hogan, Cr I North, Cr A Smith and Cr R Taylor

Against the Motion - Nil

Absent - Nil

Abstain - Nil

9.1.5 ECONOMIC DEVELOPMENT 2023 FOURTH QUARTER REPORT

File No: 20.00323

RECOMMENDATION:

That the information be noted

SUMMARY:

This report provides an overview of the Bathurst Economy for the fourth quarter of 2023 as well as summarising the activities and economic development programs undertaken by Council during the quarter.

REPORT:

Economy

The national economy grew 0.2 % during the September quarter and 2.1% annually to date. It was the eighth straight quarter of economic growth, although the rate of growth has slowed. Growth this quarter was driven by Government expenditure and capital investment.

Inflation remains elevated although there is a downward trend in inflation with the November 2023 rate 4.3% down from 4.9% in October. Food, Alcohol & Tobacco, Housing, Health and Insurance all recorded rises higher than 4.3%, however this was tempered with a reduction in prices of Clothing and Footwear and Furnishings.

On a CPI basis rents rose 7.6% across the last year, the largest annual increase in fourteen years. Household savings were low, only saving 1.1% of income during the September quarter, the lowest since December 2007. (Source ABS)

Gross Regional Product

Gross Regional Product measures the amount of the nation's wealth that is generated by businesses, organisations, and individuals working in the Bathurst Local Government Area.

Bathurst Gross Regional Product (GRP) as of 31 June 2022 was \$2.62 billion, an increase of 0.4% over the previous financial year (Source .id), representing the fourth year of continued growth.

Population Growth

As of 30 June 2022, the Estimated Resident Population (ERP) of Bathurst was 44,112. This equates to 1.0% growth on 2021, or an additional 438 people added to the population (Source ABS).

Bathurst's population growth is forecast to increase by 1.30% annually, increasing by

12,895 to 56,560 by 2041. (Source.id) January 2023.

Unemployment

In the 2023 June quarter, the unemployment rate in Bathurst remained steady at 1.6%, which is well below that of Regional NSW 2.9%, NSW 3.2%, and Australia 3.5%. (Source ABS)

In 2021/22 local jobs increased by 207 workers to 21,941. The five-year growth rate was 6.26% (2,184 jobs) driven by Health Care (681 jobs), Construction (493 jobs), Public Administration & Safety (373 jobs), Transport (234), and Education (196 jobs) (Source .id).

GST Registered Businesses

There were an estimated 3,733 total GST-registered businesses in the Bathurst Regional Council area in the March 2023 quarter, a net increase of 14 businesses (Source: ABR, compiled by .id).

Other Economic Data

- Median House Price: \$656,000 (Source: htag.com)
- Median Unit Price: \$408,000 (Source: htag.com)
- Rental vacancy rates: The November rental vacancy rate in Bathurst was 1.4% a slight increase from September 1.1%. By comparison the vacancy rate at Orange sits at 3.6% confirming the continued high demand for properties in Bathurst as the population continues to grow. (Source: SQM research)
- The strongest sectors by economic contribution and employment are Health Care and Social Assistance, Education and Training, and Construction.

Initiatives

Grant Guru

Grant Guru is a comprehensive grants database that includes grants and assistance across all levels of government and the private sector (including philanthropic grants), each summarised into a one-page template for easy comparison.

Grant Guru is provided free of charge by Council to enhance economic growth by improving the likelihood of attracting more funds into the region through an increase in grant program awareness, applications and successful submissions from local businesses, community organisations and Council staff.

Groups and individuals can register to receive alerts on upcoming and open grants.

The site also offers support and strategic advice on how to navigate the grant process and compile grant applications. This is an ongoing resource for the community and compliments the bi-annual grant writing workshops held across the year, the next of which will be held on Wednesday 17 April 2024.

For more information www.bathurstliveinvest.com.au/bathurst-grants-hub/

CBD Shop Count

The bi-annual CBD shop count commenced in October, the count indicates Business trends and occupancy of the Bathurst CBD since its inception in 2019. The count's primary focus is on ground floor space.

In October 2023, the count identified 514 ground floor shop spaces of which 448 were occupied by a business. 66 vacant shops gave a ground floor occupancy rate of 87.2% or a 12.8 % vacancy rate, similar to the previous count in May 2023 and a 1.3% improvement on the November 2022 vacancy rate of 14.1%, the lowest recorded to date.

A full Report is shown in **Attachment 1**.

Regional Drought Resilience Plan

Bathurst Regional Council, Lithgow City Council, and Oberon Council have received funding from Federal and State Governments under the Regional Drought Resilience Planning Program to develop a Regional Drought Resilience Plan. This Plan will identify the region's priorities and provide a roadmap of actions to help prepare and act early to mitigate future drought risks, reducing impacts on our people, environment, and economy.

Community workshop sessions facilitated by consulting firm WSP were held across October to capture insight and ideas relating to drought preparation, management, and recovery, ensuring consistency across the Central West area. The report has been submitted to the CSIRO for review and the final report is expected to be released in early 2024.

Bathurst Buy Local Gift Card - Shop Local Campaign

The "Shop Local" activation campaign launched in October and ran throughout the fourth quarter encouraging residents and visitors to shop with "Bathurst Buy Local" participating businesses. In conjunction with Why Leave Town, a two-phase campaign was rolled out to maximise the exposure of participating businesses and to spend their "Bathurst Buy Local" gift cards.

Phase one encouraged shoppers to spend with registered buy local businesses and go into a draw to win four \$200 gift cards. There were over four thousand entries received and \$3,200 value of gift cards won over the four week competition.

Phase two focused on buying "Bathurst Buy Local" gift cards as the perfect gift for Christmas. The marketing campaign called on shoppers to "give the gift of choice this Christmas" with 467 gift cards purchased across the quarter. BVIC sold the most cards across the campaign, followed by Books Plus and Trinity News and Gifts.

The Shop Local campaign actively encourages shoppers to support local businesses, across the Black Friday and traditional Christmas shopping period, reducing escape spend.

A full report is shown in **Attachment 2**.

Events

Welcome Lunch

The Welcome Wagon is a bi-annual event that aims to welcome new residents to Bathurst. During the event, new residents have the opportunity to meet the Mayor,

Councillors and other people who are new to the area. The Bathurst Business Chamber is a partner in this event.

The lunch was held on Sunday 22 October 2023 at the Bathurst Visitors Information Centre. Over fifty people attended, including representatives from several local community groups.

The objectives of the event are to welcome new residents to Bathurst, provide information about Bathurst and the surrounding area, introduce new residents to Council programs and events and allow new residents to meet their elected representatives.

The next Welcome Lunch will be held on Sunday, 24 March 2024.

Central West Inspired Women – LinkedIn Masterclass

Council was a co-sponsor of the Central West Inspired Women LinkedIn Masterclass hosted by Regional Development Australia Central West (RDACW) at The Greens on William on the 9 November. Facilitated by Lucy Bingle, one of Australia's leading LinkedIn strategists, participants were shown how to stand out, build an online following and keep the LinkedIn community engaged and entertained.

Around fifty attendees enjoyed connecting and building out a LinkedIn plan to build professional connections, improve their LinkedIn profile and enhance their brand.

This was the first Central West Inspired Women event in Bathurst, and Council will continue to work with RDACW for more events in 2024 to provide opportunities for Bathurst businesswomen to learn and engage.

Bathurst Business Chamber After 5 – Christmas Function

The Bathurst Business Chamber After 5 Christmas function was held at the National Motor Racing Museum on the 5 December with 45 guests from the local business community attending to network and take the opportunity to look back on the year and celebrate Bathurst's vibrant business community as well as provide the opportunity to speak to Councillors and senior staff from Council.

In another first, this event also involved the Bathurst Young Professionals group of which Council is a sponsor.

Upcoming Events

Bathurst Winter Festival Consultation Session:

Conducted Tuesday 23 January, the information session delivered event insights, guidance, and tools on how business can develop their own festival-themed initiatives and opportunities. This was highly successful with 34 businesses represented to work with Council to maximise opportunities the event will generate. Survey information is being collated and a full report will be presented in the 2024 First Quarter Report.

Bathurst Welcome Lunch: Sunday 24 March. The Welcome Wagon is a bi-annual event held to welcome new residents to Bathurst, who have the opportunity to meet the Mayor, Councillors, and other new residents to Bathurst.

Grant Writing Workshop: Wednesday 17 April 2024. The workshop is open to local businesses and community groups interested in learning more about the grant writing

process.

The workshop will cover the key tips on how to prepare and submit funding applications, including:

- assessing if you are grant-ready
- how to search for the right grant
- ensuring you meet the criteria
- where to find support for your application
- navigating the new Bathurst Grants Hub

For more details refer to www.bathurstliveinvest.com.au

CONCLUSION:

Continued support to Bathurst businesses is a focus of Council and we thank all those who participated in the activities conducted throughout the fourth quarter.

FINANCIAL IMPLICATIONS:

There are no financial implications resulting from this report.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 2: A smart and vibrant economy.

- Strategy 2.1 Support local business and industry.
Grow local employment, investment and attract new businesses skills by nurturing and supporting entrepreneurs, partnerships and local skill development.
- Strategy 2.2
- Strategy 2.4 Promote our City and Villages as an attractive place to live.

Objective 5: Community health, safety and well being.

- Strategy 5.3 Help build resilient, inclusive communities.

Objective 6: Community leadership and collaboration.

- Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

1. CBD Business Count [9.1.5.1 - 5 pages]
2. 2023 Bathurst Buy Local Competition Report [9.1.5.2 - 9 pages]

MINUTE

RESOLUTION NUMBER: ORD2024-8

MOVED: Cr K Burke SECONDED: Cr B Fry

RESOLVED:

That the information be noted.

9.2 DIRECTOR CORPORATE SERVICES AND FINANCE'S REPORT

9.2.1 STATEMENT OF INVESTMENTS

File No: 16.00001

RECOMMENDATION:

That the information be noted.

REPORT:

\$80,425,000 was invested at 31 December 2023 in accordance with Council's investment policies, the Minister's Investment Order dated 12 January 2011, the Local Government Act 1993 and associated regulations. All investments have been reconciled with Council's general ledger and are listed below:

	<u>Rating</u>	<u>Balance</u>	<u>Average Return</u>
<u>Short Term 1 – 365 Days</u> (comprising Commercial Bills, Term Deposits, Debentures and Certificates of Deposits):			
National Australia Bank Limited	A-1+	13,500,000	4.95%
CBA	A-1+	12,000,000	5.08%
Suncorp	A-1	12,000,000	4.69%
AMP	A2	6,000,000	4.78%
Bank of Queensland Limited	A2	4,500,000	5.15%
Bendigo & Adelaide	A2	3,000,000	3.70%
IMB	A2	1,500,000	5.27%
Maritime, Mining & Power Credit Union Ltd	ADI	7,500,000	5.23%
		60,000,000	4.90%
<u>Long Term > 365 Days</u> (comprising Commercial Bills, Term Deposits, Debentures and Bonds):			
<u>Floating Rate Term Deposits</u>			
Westpac Coupon Select 2	AA-	1,500,000	4.50%
Westpac Fixed Term deposit	AA-	1,500,000	1.25%
Maritime Mining & Power Credit Union Ltd	ADI	125,000	1.45%
		3,125,000	2.82%
<u>Floating Rate Notes</u>			
CBA Green	AA-	1,500,000	4.78%
National Australia Bank	AA-	700,000	5.29%
National Australia Bank 1	AA-	1,200,000	4.79%
National Australia Bank 2	AA-	1,000,000	5.27%
HSBC Sydney	AA-	1,500,000	5.20%
HSBC Sydney 1	AA-	1,500,000	5.42%

Westpac	AA-	1,000,000	5.43%
Macquarie Bank 2	A+	1,500,000	4.84%
Macquarie Bank 3	A+	800,000	5.20%
UBS AG Australian	A+	650,000	5.21%
Suncorp Metway Ltd	A+	500,000	4.83%
Suncorp Metway Ltd	A+	1,550,000	4.83%
Suncorp Metway Ltd	A+	500,000	5.30%
Sumitomo Mitsui Banking Corp	A	1,000,000	5.53%
Auswide Bank	BBB+	1,000,000	5.86%
Bendigo & Adelaide Ltd 4	BBB+	900,000	4.89%
Bendigo & Adelaide Ltd 5	BBB+	500,000	5.51%
		17,300,000	5.15%

Total Investments **\$80,425,000** **4.87%**

These funds were held as follows:

Reserves Total (includes unexpended loan funds)	32,562,152
Grants held for specific purposes	1,512,637
Section 7.11 Funds held for specific purposes	46,318,211
Unrestricted Investments	32,000
Total Investments	80,425,000

Total Interest Revenue to 31 December 2023 **\$2,027,381.18** **4.87%**

A Jones
Responsible Accounting Officer

FINANCIAL IMPLICATIONS:

There are no financial implications resulting from this report.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

Strategy 6.6 Manage our money and our assets to be sustainable now and into the future.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

1. 31 December 2023 Investments [9.2.1.1 - 2 pages]

MINUTE

RESOLUTION NUMBER: ORD2024-9

MOVED: Cr I North SECONDED: Cr W Aubin

RESOLVED:

That the information be noted.

9.2.2

MONTHLY REVIEW - 2022/2026 DELIVERY PLAN AND OPERATIONAL PLAN 2022/2023

File No: 16.00187

RECOMMENDATION:

That the information be noted.

REPORT:

Bathurst Regional Council has in place the Our Region Our Future Community Strategic Plan which aims to inform the community about the major directions and programs Council is undertaking in shaping the future of the Bathurst Region. These directions are summarised as objectives and strategies in the Community Strategic Plan which was adopted by Council on 15 June 2022. The Plan is available for viewing at the council offices at 158 Russell Street or can be downloaded from the Public Documents section of Council's website, www.bathurst.nsw.gov.au/council/plans-policies/community-strategic-plan. A listing of the Objectives and Strategies from the Community Strategic Plan can be found within the Plan commencing from page 18.

At **attachment 1** is an update of Council's progress towards achieving the Strategies and Objectives for the 2022-2026 Delivery Plan and the Annual Operational Plan 2022-2023. The Local Government (General) Regulation 2005 has been amended by inserting clause 413A to make it the duty of the General Manager to give timely information to Councillors about any fines or penalty notices from agencies such as the Australian Taxation Office, the Roads and Maritime Services or the Environment Protection Authority, or where a court or tribunal makes a costs order against a council.

Fines or penalty notices this month - Refer to **attachment 1**.

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

1. Dec 23 Operational Plan Review [9.2.2.1 - 74 pages]

MINUTE

RESOLUTION NUMBER: ORD2024-10

MOVED: Cr G Hanger SECONDED: Cr K Burke

RESOLVED:

That the information be noted.

9.2.3 POWER OF ATTORNEY

File No: 11.00007

RECOMMENDATION:

That the information be noted.

REPORT:

That the General Manager's action in affixing the Power of Attorney to the following be noted.

Purchaser	Address	Lot & DP	Agreement Type
Master Communications & Electronics Pty Limited	Communications Site, McPhillamy Park, Mount Panorama	Part Lot 1 DP634401	Licence Agreement
Bathurst Pony Club	39 Seldon Street, Perthville NSW 2795	Lot 7003 DP1028774	Licence Agreement
Bathurst Miniature Railway Society	John Matthews Complex	Part Lot 6006 DP1057676, Part Lot 10 DP1157553 and Part Lot 100 DP1255393	Licence Agreement

Linen Plan Release

Applicant	Subdivision Type	Lot & DP	Address
Mr I G Roxburgh	Transfer of sewage and water easement	Lot 408 DP1078156	50 Emerald Drive, Kelso
Mr J & Mrs T Sultana, Mr G E Cutler, Pretty Heights Pty Ltd & Lara (NSW) Pty Ltd	88B Instrument for sewage, water and right of carriageway easements	Lot 1 DP179203, Lot 1152 DP1297680	240 & 240A Limekilns Road, Kelso

General Items

Nil

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

Nil

MINUTE

RESOLUTION NUMBER: ORD2024-11

MOVED: Cr B Fry SECONDED: Cr I North

RESOLVED:

That the information be noted.

9.2.4 SUNDRY SECTION 356 DONATIONS, BATHURST MEMORIAL ENTERTAINMENT CENTRE COMMUNITY USE SUBSIDY AND MOUNT PANORAMA FEE SUBSIDY

File No: 18.00004

RECOMMENDATION:

That the information be noted and any additional expenditure be voted.

REPORT:

At **attachment 1** is a list of Sundry Section 356 Donations, Bathurst Memorial Entertainment Centre Community Use Subsidies and Mount Panorama Fee Subsidies granted by Council for the period ending 31 December 2023 including a report on annual Rental Subsidies granted by Council.

FINANCIAL IMPLICATIONS:

Council's Sundry Section 356 Donations and Bathurst Memorial Entertainment Centre Community Use Subsidies and Mount Panorama Fee Subsidies are included in the current budget, which currently have a balance as follows:

Section 356:	\$ 0.00 **
BMEC Community use:	\$ 0.00
Mount Panorama:	\$ 19,244.37

** The above amount includes donations already committed but not yet paid. After allowing for the committed donations the remaining balance is \$0.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

1. 356 Council Report Dec 2023 [9.2.4.1 - 3 pages]

MINUTE

RESOLUTION NUMBER: ORD2024-12

MOVED: Cr B Fry SECONDED: Cr G Hanger

RESOLVED:

That the information be noted and any additional expenditure be voted

9.3 DIRECTOR ENGINEERING SERVICES' REPORT

9.3.1 LAND CLASSIFICATION OF LOT 337 IN DP1287674 - OPHIR ROAD, ABERCROMBIE

File No: 22.18363

RECOMMENDATION:

That Council:

- a) classify Lot 337 in DP1287674 as operational land in accordance with the provision of Section 31(2) of the Local Government Act 1993.
- b) Include the lot on Council's land register.

REPORT:

In 2010 Council received a development application for a 148 lot residential subdivision at Ophir Road, Abercrombie which was approved by Council's Environmental, Planning & Building Services Department. A condition of the development consent required the developer to dedicate to Council as a separate and distinct allotment, any land on which a sewer pumping station is contained.

A plan of subdivision for one of the developments stages was registered on 12 April 2023 as DP1287674, where Lot 337 was created for dedication to Council as it contained a sewer pumping station. A copy of sheet 1 of the subdivision plan showing Lot 337 in the south-western corner is shown in **attachment 1**.

Notification has been received that the title to folio 337/1287674 was transferred to Council on 30 November 2023. In accordance with the Local Government Act 1993 (LG Act), all public land must be classified as either community or operational land and section 31(2) of the LG Act states:

"Before a council acquires land, or within 3 months after it acquired land, a council may resolve (in accordance with this Part) that the land be classified as community land or operational land."

Land that is kept for use by the general public, such as parkland, should be classified as community land, whereas land not open to the public should be classified as operational land.

It is therefore recommended that Council classify Lot 337 in DP1287674 as operational land in accordance with the provision of Section 31(2) of the Local Government Act 1993.

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Sustainable and balanced growth.

- Strategy 4.1 Facilitate development in the region that considers the current and future needs of our community.
- Strategy 4.3 Ensure services, facilities and infrastructure meet the changing needs of our region.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

1. Council Report Attachment 1 [**9.3.1.1** - 1 page]

MINUTE

RESOLUTION NUMBER: ORD2024-13

MOVED: Cr W Aubin SECONDED: Cr B Fry

RESOLVED:

That Council:

- a. classify Lot 337 in DP1287674 as operational land in accordance with the provision of Section 31(2) of the Local Government Act 1993.
- b. Include the lot on Council's land register.

9.3.2 WATER SUPPLY UPDATE

File No: 32.00017

RECOMMENDATION:

That the information be noted.

REPORT:

Council at its Ordinary Meeting held 16 March 2022 requested a monthly report regarding storage levels within Council's water supply dams.

As at Tuesday 23 January 2024, Chifley Dam was at 100.0%, with 30,100ML in storage. Refer to **attachment 1** for a graph of Chifley Dam storage levels. Chifley Dam has been at capacity or overflowing for over 40 months.

Water release from Chifley Dam outlet pipework is currently 4.35ML/day.

Winburndale Dam was at 90.9% on Tuesday 23 January 2024. The level is 0.76m below the crest level and there is 1,545ML in storage.

In Bathurst, the estimated residential water usage varies from week to week and whilst it rose over summer, it has dropped and remains at or below the target for Level 5 water restrictions. Over the last 4 weeks, the average estimated residential water usage is 10.4ML/d. Refer to **attachment 2** for details of consumption.

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 3: Environmental stewardship.

Objective 3: Environmental stewardship.

Strategy 3.2 Develop Bathurst as a Smart City.

Strategy 3.3 Minimise the City's environmental footprint, live more sustainably and use resources more wisely.

Objective 4: Sustainable and balanced growth.

Strategy 4.3 Ensure services, facilities and infrastructure meet the changing needs of our region.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

1. Chifley Dam Monthly Storage Graph [9.3.2.1 - 1 page]
2. Estimated Residential Water Usage Graph [9.3.2.2 - 1 page]

MINUTE

RESOLUTION NUMBER: ORD2024-14

MOVED: Cr M Hogan SECONDED: Cr B Fry

RESOLVED:

That the information be noted.

9.4 DIRECTOR CULTURAL AND COMMUNITY SERVICES' REPORT

9.4.1 MUSEUMS BATHURST - MANAGER MUSEUMS' APPOINTMENT TO TRANSPORT HERITAGE NSW (THNSW BOARD) AND MUSEUMS AND GALLERIES NSW INTERNATIONAL FELLOWSHIP

File No: 21.00144

RECOMMENDATION:

That the information be noted.

REPORT:

Council's Manager Museums has recently been appointed to the Board of Transport Heritage NSW and received an International Fellowship with Museums and Galleries NSW, recognising Bathurst Regional Council's reputation and skills in this area.

Transport Heritage NSW Board Appointment

Following a recruitment process in November 2023 it is noted that the Manager Museums at Bathurst Regional Council has been appointed as a Director on the Transport Heritage NSW (THNSW) Board for a three-year term.

THNSW is a not-for-profit, member-based organisation focused on delivering in the following four areas:

- Heritage and collections management of a portfolio of primary rail heritage assets owned by the NSW Government on behalf of Transport for NSW.
- Operation of two public heritage sites that include the NSW Rail Museum and the Valley Heights Locomotive Depot Heritage Museum.
- Heritage events and experiences that deliver major events, heritage train experiences and education programs. *Note that Bathurst Rail Museum has partnered with THNSW to bring a steam train to Bathurst during June long weekends.*
- Sector development providing leadership and support to the heritage transport sector on behalf of the NSW Government.

The THNSW Board consists of eight Directors, three appointed, of which Council's Manager Museums is one, and four elected by the voting members. The current Chair of the Board is the Hon. Nathan Rees who oversees six Board meetings a year with additional working committees.

The Board is primarily responsible for overseeing the management of THNSW by providing strategic direction, monitoring operating budgets, overseeing the performance of the CEO and monitoring compliance including corporate governance and safety requirements.

The announcement of the appointment was made at the Annual General Meeting held on the 18 November 2023.

THNSW Chair, The Hon. Nathan Rees, announced the appointment of Janelle Middleton to the Board of Directors. Janelle works as the Manager Museums at Bathurst Regional Council and brings a strong background in museums, managing and caring for collections and the NSW regional visitor economy. We are excited to welcome Janelle aboard!

Onboarding and the first Board meeting has occurred in November. All costs associated with this appointment will be covered by THNSW.

Museums & Galleries NSW International Fellowship

Council's Manager Museums has also been successful in her application for the 2023 Fellowship program offered by Museums & Galleries NSW.

This professional development program provides staff of museums, galleries, and Aboriginal cultural spaces with an opportunity to extend their knowledge, enrich their skills and cultivate their networks through access to the expertise and resources of international cultural organisations.

The fellowship will take place at the Corinium museum in Cirencester UK and will strengthen the already established relationship. The fellowship will provide the opportunity to work with staff at the Corinium museum in areas such as collection management, education and public programs. It will also provide an opportunity to make other connections within the Cirencester community and neighbouring museums.

The Fellowship will cover all associated costs and will take place in the second half of 2024.

Participation by Council's Manager Museums, as a Director of the THNSW Board and the M&GNSW Fellowship, will;

1. Continue the ongoing development of museum staff and the cultural sector in Bathurst through the continued development and strengthening of partnerships,
2. Enhance Bathurst's reputation as a centre of excellence in cultural services,
3. Align with the State government's new Creative Communities – the NSW Government's Arts, Culture and Creative Industries Policy,
4. Advance our Sister City / Friendship relationship with Cirencester, aligning with the Objectives at clause 1.1 as listed in the MOU.

FINANCIAL IMPLICATIONS:

There are no financial implications resulting from this report.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 1: Our sense of place and identity.

Strategy 1.3 Enhance the cultural vitality of the region.

Objective 6: Community leadership and collaboration.

Strategy 6.7 Invest in our people.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

Nil

MINUTE

RESOLUTION NUMBER: ORD2024-15

MOVED: Cr I North SECONDED: Cr B Fry

RESOLVED:

That the information be noted.

9.4.2 2023/2024 RURAL VILLAGE IMPROVEMENT PROGRAM - UPDATE

File No: 16.00104

MINUTE

RESOLUTION NUMBER: ORD2024-16

MOVED: Cr I North SECONDED: Cr B Fry

RESOLVED:

as follows:

Name of Association	Project Requested	Total Requested
Hill End & District Volunteer Bushfire Brigade	Purchase and install picnic tables to place around the village.	\$2,500
Peel Residents Association	No project provided at time of report, further request to be provided to Council at a later meeting.	\$0
TOTAL AMOUNT		\$2,500

9.4.3

WAMBUUL MEMORIAL GARDEN, DHULUNY COMMEMORATIVE PROGRAM 2024

File No: 21.00039

RECOMMENDATION:

That the information be noted.

REPORT:

The Wambuul Memorial Garden, Public Art Commission Brief establishes the broader vision for the development of a nationally and internationally significant historical marker, the public art commission will commemorate the 200 years since the declaration of Martial Law by Governor Thomas Brisbane on 14 August 1824 across the Bathurst Plains.

The commission is a critical vehicle for commemoration, truth telling and celebrating the continued role and resilience of Wiradjuri People, Culture and Country in this place we now call Bathurst.

The commission will be a key component of the 2024 commemorative program, entitled Dhuluny, in Bathurst. The artist selected for the commission is internationally renowned Wiradyuri/Kamilaroi contemporary artist Jonathan Jones, who has been selected to propose a work of public art in consultation with the Wiradyuri Elders and the Public Art Program Committee (PAPC). Commissioned by BRAG and funded by the Regional Arts NSW Regional Arts Fund (2021), private benefaction, the Bathurst Regional Art Gallery Friends Society (BRAGS) and Council, and supported by BRAG, the commission will be added to the Public Art Register.



Figure 1: Site for Wambuul Memorial Garden

The site for the proposed garden is shown by the triangle on the above map, essentially located on the bank of the Macquarie/Wambuul River, near the Pillars of Bathurst installation.

Further updates will be provided as the project progresses.

FINANCIAL IMPLICATIONS:

Funding for this item has been sourced through:

- Regional Arts Fund
- Private benefaction
- Bathurst Regional Council
- Bathurst Regional Art Gallery Friends Society

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 1: Our sense of place and identity.

- Strategy 1.1 Respect, protect and promote the region's Indigenous heritage assets.
- Strategy 1.3 Enhance the cultural vitality of the region.
- Strategy 1.4 Protect and improve the region's landscapes, views, vistas and open space.
- Strategy 1.5 Promote good design in the built environment.

Objective 2: A smart and vibrant economy.

- Strategy 2.1 Support local business and industry.
- Strategy 2.6 Promote our City and Villages as a tourist destination.

Objective 3: Environmental stewardship.

- Strategy 3.1 Protect and improve our natural areas and ecosystems, including the Macquarie River - Wambuil and other waterways.
- Strategy 3.3 Minimise the City's environmental footprint, live more sustainably and use resources more wisely.

Objective 5: Community health, safety and well being.

- Strategy 5.2 Help make the Bathurst CBD, neighbourhoods and the region's villages attractive and full of life.
- Strategy 5.3 Help build resilient, inclusive communities.
- Strategy 5.4 Make our public places safe and welcoming.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

Nil

MINUTE

RESOLUTION NUMBER: ORD2024-17

MOVED: Cr B Fry SECONDED: Cr K Burke

RESOLVED:

That the information be noted.

10 COUNCILLORS / DELEGATES REPORTS

10.1 MINUTES - BATHURST REGIONAL YOUTH COUNCIL - 11 DECEMBER 2023

File No: 11.00020

RECOMMENDATION:

That the information be noted.

REPORT:

The Bathurst Regional Youth Council considered a number of items at their meeting held on Monday 11 December 2023, including the following:

- Guest Speaker – Council's Manager Tourism & Visitor Services informed the Youth Council that tourism is doing great and is looking for ideas on how to get more youth engagement.
- Social media discussion.
- Youth Council project planning discussion.

The minutes of the Bathurst Regional Council Meeting, held Monday 11 December 2023, are **attached**.

FINANCIAL IMPLICATIONS:

There are no financial implications resulting from this report.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Sustainable and balanced growth.

Strategy 4.1 Facilitate development in the region that considers the current and future needs of our community.

Objective 5: Community health, safety and well being.

Strategy 5.1 Provide opportunities for our community to be healthy and active.

Strategy 5.4 Make our public places safe and welcoming.

Objective 6: Community leadership and collaboration.

Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst

region.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

1. Minutes 11 December 2023 [**10.1.1** - 3 pages]

MINUTE

RESOLUTION NUMBER: ORD2024-18

MOVED: Cr B Fry SECONDED: Cr M Hogan

RESOLVED:

That the information be noted.

11 RESOLVE INTO CONFIDENTIAL COMMITTEE OF THE WHOLE TO DEAL WITH CONFIDENTIAL REPORTS

11.0 RESOLVE INTO CONFIDENTIAL COMMITTEE OF THE WHOLE

11.0.1 Resolve into Confidential Committee of the Whole

MINUTE

RESOLUTION NUMBER: ORD2024-19

MOVED: Cr I North SECONDED: Cr K Burke

The Mayor invited members of the public to make submissions on whether the matter/s should or should not be dealt with in Confidential Committee.

There were no representation from the public.

RESOLVED:

That:

- a. Council resolve into closed Council to consider business identified, together with any late reports tabled at the meeting. Including Supplementary Report #11.1.2 Water Harvesting Contract Progress, of which due notice has previously been given.
- (b) Pursuant to section 10A(1)-(3) of the Local Government Act 1993, the media and public be excluded from the meeting on the basis that the business to be considered is classified confidential under the provisions of section 10A(2) as outlined above.
- (c) Correspondence and reports relevant to the subject business be withheld from access.

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005:

1. In accordance with Section 9(2A) of the Local Government Act 1993, it is the opinion of the General Manager that the following business is of a kind as referred to in section 10A(2) of the Act and should be dealt with in a part of the meeting closed to the media and public.
2. In accordance with Section 10B(1) it is considered that discussion of the matter in open meeting, would on balance, be contrary to the public interest.
3. In accordance with Section 10A(4) members of the public are invited to make representations to the Council as to whether the matters should or should not be dealt with in Confidential Committee.

11.1 GENERAL MANAGER'S REPORT

11.1.1 WATER HARVESTING CONTRACT PROGRESS

Reason: 10A (2) (c) Contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business, and Commercial information of a confidential nature that would, if disclosed, (i) prejudice the commercial position of the person who supplied it, (ii) confer a commercial advantage on a competitor of the Council.

This item relates to the progress of the Water Harvesting contract.

11.1.2 WATER HARVESTING CONTRACT PROGRESS

Reason: 10A (2) (d) (i) Contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. Discussion of the matter in open council would, on balance, be contrary to the public interest as it would prejudice the commercial position of the person who supplied it.

This item relates to the Water Harvesting contract, and for the General Manager to act in accordance with the report.

11.2 DIRECTOR ENGINEERING SERVICES' REPORT

11.2.1 12 MONTH EXTENSION - PROVISION OF LABOUR & EQUIPMENT - MOWING MAINTENANCE CONTRACT

Reason: 10A (2) (d) (i) Contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. Discussion of the matter in open council would, on balance, be contrary to the public interest as it would prejudice the commercial position of the person who supplied it.

This item relates to the proposal to extend the contract for the Provision of Labour and Equipment – Mowing Maintenance.

11.2.2 NETWASTE TENDER FOR COLLECTION AND PROCESSING OF USED MATTRESSES

Reason: 10A (2) (d) (i) Contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. Discussion of the matter in open council would, on balance, be contrary to the public interest as it would prejudice the commercial position of the person who supplied it.

This item relates to the proposed Netwaste tender for the collection and processing of used mattresses.

12 RESOLVE INTO OPEN COUNCIL

RECOMMENDATION:

That Council resume open Council.

13 ADOPT REPORT OF THE COMMITTEE OF THE WHOLE

MINUTE

RESOLUTION NUMBER: ORD2024-20

MOVED: Cr M Hogan SECONDED: Cr K Burke

RESOLVED:

That the Report of the Committee of the Whole, resolution numbers CONF2024-1 to CONF2024-5 be adopted.

14 MEETING CLOSE

MINUTE

The Meeting closed at 7:46 pm.

CHAIR:
