



I hereby give notice that an Extraordinary Meeting of Council will be held on:

Date: Wednesday, 29 January 2020
Time: 2:00pm
Location: Condobolin Council Chambers

BUSINESS PAPER

Extraordinary Council Meeting

29 January 2020

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- 1 ACKNOWLEDGEMENT OF COUNTRY AND ELDERS**
- 2 LEAVE OF ABSENCE**
- 3 PUBLIC FORUM**
- 4 DISCLOSURE OF INTEREST**

5 INFRASTRUCTURE SERVICES

5.1 MAJOR PROJECTS - GRANT FUNDED PROJECTS FOR LACHLAN SHIRE COUNCIL - ENGAGEMENT OF PUBLIC WORKS

TRIM Number: R20/2

Author: Director Infrastructure Services

PURPOSE

To advise Councillors of communication with New South Wales Government representatives since the Ordinary Meeting of Council on 11 December 2019.

To seek a resolution from Council that an application be made to the Minister for Water, Property & Housing for the construction of grant funded water supply and sewerage projects.

SUPPORTING INFORMATION

Reports to Council:

R19/330 Major Project – B-Section Pipeline Collaboration Project - Forbes, Parkes & Lachlan Shire Councils dated 11 December 2019.

R19/326 Major Projects – Condobolin Water Treatment Plant Upgrade or Replacement and Sewerage Treatment Plant Replacement dated 11 December 2019.

R19/323 Major Projects – Restart NSW Audit Report – Grand Funded Projects for Lachlan Shire Council.

R19/305 RNSW841 Tottenham Water Security Project & RNSW842 Effluent Management System Project – Funding for Council Co-contributions dated 11 December 2019.

R18/588 Major Project – Restart NSW RNSW842 Effluent Management System Project dated 29 August 2018.

R18/499 Major Project – Tottenham Water Supply & Restart NSW Grant RNSW841 dated 25 July 2018.

R17/60 Grant Deeds for Restart NSW – RNSW841 Tottenham Water Security Project & RNSW842 Lachlan Shire Effluent Management Systems dated 22 March 2017.

R16/119 Major Project – Tottenham Water Supply & Restart NSW Grant RNSW841 dated 26 October 2016.

BACKGROUND

Council has been previously informed by reports to Council regarding the Restart NSW grants awarded, progress on projects funded by those grants, the Restart NSW audit report into those projects and Council obligations to co-contribute towards those projects.

ISSUES AND COMMENTS

Since the last Ordinary Meeting of Council on 11 December 2019, there have been conversations between Council senior staff and representatives of the Department of Planning, Industry & Environment and Restart NSW. These discussions have been around the Restart NSW audit report, Council staff's responses, the difficulties Council has experienced in attracting and retaining suitably qualified and experienced professional staff and alternatives to staff recruitment for Lachlan Shire Council.

Those conversations have led to discussions around how Lachlan Shire Council can get project management support to deliver existing and potential capital works projects for water and sewerage infrastructure. Such projects include:

RNSW755 Condobolin Borefields II Project (Stage 1)

RNSW841 Tottenham Water Security Project
RNSW842 Effluent Management Systems Project
Condobolin Sewerage Treatment Plant Replacement
Condobolin Water Treatment Plant Upgrade or Replacement
Condobolin Borefields II Project (Stage 2)
B-Section Pipeline Collaboration Project

FINANCIAL AND RESOURCE IMPLICATIONS

Financial implications of grant funded projects and associated co-contributions have been explained in report to Council R19/305 RNSW841 Tottenham Water Security Project & RNSW842 Effluent Management System Project – Funding for Council Co-contributions dated 11 December 2019.

Challenges in resourcing for project management and professional staff has been explained in report to Council R19/323 Major Projects – Restart NSW Audit Report – Grand Funded Projects for Lachlan Shire Council.

Should the Minister agree to the construction of these works under the Public Works Act 1912, it would mean the appointment of Public Works Advisory as project managers, with responsibility for development and delivery of the works. Council would need to continue to source funding for these works. See Legal Implications below. Council would need to ask Public Works Advisory to assist with that.

LEGAL IMPLICATIONS

Application to the Minister for the works to be constructed under the Public Works Act 1912, is legislated under Section 57 of the Local Government Act 1993. Sections 58 and 59 are also relevant to Council should the application be successful. Refer excerpts below:

57 Construction of works

- (1) The Minister for Primary Industries may, on the application of one or more councils, construct works of water supply, sewerage or stormwater drainage under the Public Works Act 1912 .*
- (2) The Minister for Primary Industries may agree to the construction of the works by the council or councils concerned on the Minister's behalf.*

58 Handing over of works

- (1) The Minister for Primary Industries may, on or before the completion of any such works, by notice given to the council or councils concerned, charge the council or councils with the care and management of the whole or part of the works (and of land on which the works are, or are being, constructed).*
- (2) The notice may include provisions relating to the responsibility of the council or councils concerned for financial costs associated with the works.*
- (3) The notice has effect according to its tenor from the date the notice is given to the council or councils concerned.*
- (4) If more than one council is charged with the care and management of works, each council may be charged with the care and management of a specified portion of the works or the councils may be charged jointly as to the whole or a specified portion.*

59 Vesting of works

- (1) The Minister for Primary Industries may, by notice published in the Gazette, do either or both of the following--*
- (a) declare that land acquired for the purposes of any such works, or any part of the works, is vested in the council or councils,*
- (b) declare that all right, title and interest of the Minister in any such works, or part of the works, are vested in the council or councils.*

(2) The notice has effect according to its tenor from the date the notice is published in the Gazette.

(3) If, on the date on which a notice under this section is published in the Gazette, the council or councils concerned have not made all payments to the Minister that may finally be required to be made in respect of the cost of the acquisition of the land and of constructing the works, or part of the works (whether or not that cost has been finally determined), the council or councils concerned continue to be liable to make those payments.

RISK IMPLICATIONS

There is the risk that the cost of the works by Public Works Advisory exceed available grant funding and Council's co-contributions. In accordance with Section 58 (2) the Minister may, by notice given to the Council, levy the Council for the cost of the works:

(2) The notice may include provisions relating to the responsibility of the council or councils concerned for financial costs associated with the works.

Council will need to make sure that Public Works Advisory advises Council of cost forecasts for the works and any grant opportunities to cover any additional costs which are over and above existing funds (including grants) for the projects. It is expected that Public Works Advisory will have a close relationship with grant bodies through their role delivering these works.

STAKEHOLDER CONSULTATION

The following NSW Government Representatives have been consulted:

Michael Blackmore, Director Water Utilities, Department of Planning, Industry and Environment

Ross Parker, Executive Director, Performance Management, Infrastructure NSW

Julie Paton, Director, Performance Management, Infrastructure NSW

OPTIONS

Council has the option of trying to develop and deliver its grant funded water and sewer capital works projects and risk ongoing under performance and potential loss of grant funds.

Alternatively, Council has the option of applying to the Minister for construction of these works under the Public Works Act 1912 and eliminate the risk of ongoing under performance and potential loss of grant funds.

Council does not have the option of outsourcing the development and delivery of these works by engaging project management consultants as there is inadequate funding in these projects to carry this cost.

CONCLUSION

It is recommended that Council resolve to make an application to the Minister for Water, Property & Housing for the construction of Council's grant funded water supply and sewerage projects under the Public Works Act 1912.

LINK TO POLICY AND / OR COMMUNITY STRATEGIC PLAN

- 4.2 Water, sewer and energy utilities meet best practice standards with up to date technology
- CSP No. 4.5 Grants income support infrastructure programs

ATTACHMENTS

Nil

RECOMMENDATION

That

1. The Director Infrastructure Services Report No. R20/2 be received and noted.
2. Council resolves to make application to the Minister for Water, Property & Housing for the construction of the grant funded water supply and sewerage projects, RNSW755, 841, 842, under Clause 57 of the NSW Local Government Act 1993.
3. The Minister also be advised of Council's intention to make similar applications for any future grant funding for projects such as the construction of the Condobolin Borefields Pipeline, Condobolin Water Treatment Plant upgrade or replacement, Condobolin Sewer Treatment Plant replacement and the B-section pipeline replacement.

6 CLOSED SESSION**RECOMMENDATION**

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 10A(2) of the Local Government Act 1993:

6.1 Staff Matter

This matter is considered to be confidential under Section 10A(2)a of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with personnel matters concerning particular individuals (other than councillors).