



ORDINARY MEETING OF COUNCIL

held on

Monday, 10 June 2014

at

4:37pm

at

Walcha Council Chambers

PRESENT: Clr JM Archdale (Chairman) Mayor together with Councillors KW Ferrier, WJ Heazlett, L Levingston, CM Lyon and RS Thomson.

IN ATTENDANCE: Mr JG O'Hara, General Manager and Mr GA Moran, Director – Environmental Services.

1. APOLOGIES:

225 **RESOLVED** on the Motion of Councillors Heazlett and Lyon that the apologies received from Councillor Schmutter being late due to work commitments and Councillor Woods due to family commitments be **ACCEPTED**.

MINUTES



2. SENIOR OFFICERS' REPORT

226 **RESOLVED** on the Motion of Councillors Levingston and Ferrier that the Senior Officers' Reports be **RECEIVED** for further consideration.

2.1 Crown Lands Legislation White Paper WO/2014/01046

227 **RESOLVED** on the Motion of Councillors Heazlett and Levingston that Council prepare a submission on the NSW Government paper entitled *Crown Lands for the Future, Crown Lands Management Review Summary and Government Response* and *A Crown Lands Legislation – White Paper* **FURTHER THAT** Council provide a copy of the submission to Local Government NSW as per the attachment Crown Lands for the Future – Council responses.

2.2 Referral to Committee of the Whole – Tenders to Mill and Pave Derby Street

228 **RESOLVED** on the Motion of Councillors Ferrier and Heazlett that in accordance with the provisions of Section 10 of the Local Government Act, 1993, the matter of Tenders to Mill and Pave Derby Street be referred to be discussed in Committee of the Whole for the reason that it relates information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

3. COMMITTEE OF THE WHOLE

229 **RESOLVED** on the Motion of Councillors Lyon and Levingston that Council resolve into Committee of the Whole and that the press and public be excluded from the entire proceedings of the Meeting of the Committee of the Whole for the reason that it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

230 The Meeting resumed in **OPEN** Council on the Motion of Councillors Levingston and Lyon.

The Mayor reported whilst in Committee of the Whole the following matters were discussed.



PRESENT: Present and IN Attendance were the same as listed in the Minutes of the Ordinary Meeting with the exception of the press and the public.

3.1 Tender – Mill and Pave Derby Street WINT/2014/00767

The Committee **RECOMMENDED** on the Motion of Lyon and Levingston that Council accept the tender of Fulton Hogan Industries Pty Ltd to mill and pave Derby Street between Walsh Street and Legge Street at the rate of \$232.29 per tonne for DG20 AR450 R116 and \$266.06 per tonne from DG14 AR450 R116 tendered in accordance with Local Government Procurement Contract 213 - Asphaltic Concrete (AC) Materials & Related Services.

ADOPTION OF COMMITTEE OF THE WHOLE

231 **RESOLVED** on the Motion of Councillors Levingston and Ferrier that the Report and Recommendations of the Meeting of the Walcha Council Committee of the Whole held on Monday, 10 June 2014 be **ADOPTED** by Council.

The Chairman publicly declared the recommendations passed by the Committee whilst in Committee of the Whole.

THERE BEING NO FURTHER BUSINESS THE CHAIRMAN DECLARED THE MEETING CLOSED AT 5:32PM.



RECOMMENDATION	GOVERNMENT RESPONSE	COUNCIL RESPONSE
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STATE AND LOCAL LAND

1	Conduct a strategic assessment of NSW Government needs to determine which Crown land is required for core service delivery or has state or regional values.	Supported in principle – further consultation required to undertake a whole of government stocktake of Crown land.	Council supports a stocktake of Crown land
2	Conduct a pilot program, in consultation with the Division of Local Government, Department of Planning & Infrastructure and key stakeholders, to test and refine the state and local land criteria and to develop an implementation plan for the transfer of local land.	Supported in principle – The pilot design parameters require further consultation with local government stakeholders. Community consultation will be undertaken as part of the pilot. The NSW Government will need to consider the outcomes of the pilot and local community feedback before progressing on the implementation of the policy.	Councils to have the opportunity for input into the proposed guidelines for the categorisation of land being either state or local.
3	Devolve land of local interest to local councils to meet local needs.	Supported in principle – The NSW Government is committed to the <i>Intergovernmental Agreement to Guide NSW State-Local Government Relations on Strategic Partnerships</i> , particularly in relation to cost-shifting. Consultation with Local Government NSW and other local government stakeholders will be required in the first instance. If supported by local government stakeholders, this will be progressed through a pilot program in the first instance. Community consultation will be undertaken as part of the pilot process. Some forward thinking local councils have already approached Crown Lands Division with similar proposals.	Council needs to have input into any guidelines developed for the devolvement of land. Some of the areas of concern for Councils include: <ul style="list-style-type: none"> • There is not to be any forced transfers of land to Councils • All land transferred to be freehold • All land transferred to be unencumbered • Maintenance of infrastructure transferred – who is responsible? • Native title must be extinguished before any transfers • Aboriginal Land Claims on the said land must be resolved prior to transfer • Councils must have access to the current Public Reserves Management Fund or its replacement • Transfers be considered on a “case-by-case basis” with individual Councils
4	Devolve Crown land to other NSW Government agencies if they are best placed to manage the values and risks associated with a parcel of land.	Supported in principle – Further consultation with agencies is required to develop and undertake this process.	

REVIEW OF TRAVELLING STOCK ROUTES

5	Local Land Services work with the relevant stakeholders to develop assessment criteria to review all TSRs and determine their future ownership and management.	Supported – Work will commence in 2014 on a pilot program with Local Land Services. Community consultation will occur through the pilot process.	Councils to have the opportunity to be involved in developing any guidelines during the pilot program.
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BUSINESS MODEL

6	Establish Crown Lands Division as a Public Trading Enterprise through a staged transformation process.	Supported – Crown Lands Division to undertake.	
7	Upgrade Crown Lands Division’s information management systems to allow informed decision-making and comprehensive accounting.	Supported – Crown Lands Division to undertake.	
8	Develop appropriate benchmarks and key performance indicators to reflect the economic, social and environmental objectives required in the management of the Crown Estate.	Supported – Crown Lands Division to undertake.	Not supported by Council



RECOMMENDATION		GOVERNMENT RESPONSE	COUNCIL RESPONSE
CROWN LAND VALUATION AND DIVIDENDS			
9	Benchmark return on assets against opportunity cost.	Supported – Crown Lands Division to undertake.	Will this be required of Councils on all lands transferred
10	Determine an additional land value as a measure of opportunity cost – the hypothetical fee simple unencumbered freehold value based on surrounding land use and zoning.	Supported – Crown Lands Division to undertake.	
11	Express the shortfall between a community-based organisation's ability to pay and the market rent as a community service obligation payment.	Supported – Crown Lands Division to undertake. There is no intention to require community organisations to pay market rents. This process will simply improve transparency by measuring the subsidy that the NSW Government is providing to community organisations on Crown land.	When the land is transferred and there is a gap between market rent and the rents achieved (by say Councils) will there be any pressure for Councils to fund the gap? This may occur in reducing funding
12	Report on the level of contribution made by the NSW Government for the use of Crown land for community purposes.	Supported – Crown Lands Division to undertake. There is no intention to require community organisations to pay market rents. This process will simply improve transparency by measuring the subsidy that the NSW Government is providing to community organisations on Crown land.	This specifies Community groups and not Councils. Will councils be expected to pay market rents?
13	Develop specifications for new information systems based on needs identified by the Review, leveraging opportunities from the Enterprise Resource Planning (ERP) and other cutting-edge technologies.	Supported – Crown Lands Division to undertake.	
ACCOUNTING ISSUES			
14	Establish and publish separate audited accounts and budget estimates for the Crown Estate as a prelude to establishing Crown Lands Division as a Public Trading Enterprise.	Supported – Crown Lands Division to undertake.	
15	Critically review the proposed general ledger and financial reporting structure to ensure that they will meet all reporting and other requirements.	Supported – Crown Lands Division to undertake.	
16	Establish adequate internal systems and procedures for Crown Lands Division to ensure proper management of all business activities.	Supported – Crown Lands Division to undertake.	
LEGISLATION			
17	Develop new, consolidated Crown lands legislation.	Supported in principle – Public consultation on this proposal will occur through the Crown Lands Legislation White Paper.	
18	Repeal eight or more existing Acts.	Supported in principle – Public consultation on this proposal will occur through the Crown Lands Legislation White Paper.	Supported by Council
19	Abolish commons as a discrete category of land.	Supported in principle – Public consultation on this proposal will occur through the Crown Lands Legislation White Paper.	Councils have the opportunity to have input in the development of guidelines to be considered by the pilot program.



RECOMMENDATION		GOVERNMENT RESPONSE	COUNCIL RESPONSE
20	Amend the <i>Roads Act 1993</i> so that the Minister is no longer a roads authority.	Supported in principle – The NSW Government is mindful of the Final Report by the Local Government Taskforce in relation to the maintenance and renewal backlog in local government owned infrastructure. NSW Trade & Investment will undertake further consultation with Transport for NSW, Roads & Maritime Services and local government stakeholders before progressing this proposal.	Council concern is that any maintenance that is required to any infrastructure that may be in the road reserve will be the responsibility of Council.
21	Responsibility for all roads used to provide access to the general public to rest with the other roads authorities under the <i>Roads Act 1993</i> .	Supported in principle – The NSW Government is mindful of the Final Report by the Local Government Taskforce in relation to the maintenance and renewal backlog in local government owned infrastructure. NSW Trade & Investment will undertake further consultation with Transport for NSW, Roads & Maritime Services and local government stakeholders before progressing this proposal.	
22	Remove the option to dedicate Crown land in the future.	Not supported – Significant streamlining or efficiencies are not guaranteed by simply removing the legal option to dedicate land. Administrative streamlining will be pursued through the continuous improvement program within Crown Lands Division.	Supported by Council
23	Remove the land assessment requirements currently contained in the <i>Crown Lands Act 1989</i> .	Supported in principle – Public consultation on this proposal will occur through the Crown Lands Legislation White Paper.	

RED TAPE

24	Review activities requiring landowner consent from Crown Lands Division.	Supported in principle – Public consultation on this proposal will occur through the Crown Land Legislation White Paper. Key stakeholders will also be consulted on this proposal.	
25	Effective compliance arrangements for waterfront structures should be considered by the Marine Compliance Taskforce as part of the On-Water Compliance Review.	Supported – NSW Trade & Investment is working with Transport for NSW and Roads & Maritime Services to prioritise activities.	
26	Harmonise the management of submerged land in NSW.	Supported – NSW Trade & Investment is working with Transport for NSW and Roads & Maritime Services to prioritise activities.	

WESTERN LANDS

27	Review the eligibility criteria for conversion of Western Lands leases held for agriculture or cultivation and perpetual Western Lands grazing leases with current Cultivation Consents where the land has been developed.	Supported in principle – Public consultation on this proposal will occur through the Crown Land Legislation White Paper. Key stakeholders will also be consulted on this proposal.	
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RECOMMENDATION		GOVERNMENT RESPONSE	COUNCIL RESPONSE
28	Allow conversion of perpetual Western Lands grazing leases on the same terms as Western Lands leases held for agriculture or cultivation, where there is a current Cultivation Consent over all or part of the land contained in the grazing lease and the land has been developed.	Supported in principle – Public consultation on this proposal will occur through the Crown Land Legislation White Paper. Key stakeholders will also be consulted on this proposal.	
29	Compare existing Crown land leasehold conversion processes.	Supported in principle – Public consultation on this proposal will occur through the Crown Land Legislation White Paper. Key stakeholders will also be consulted on this proposal.	
30	Permit certain additional land uses where appropriate on Western Lands leases.	Supported in principle – Public consultation on this proposal will occur through the Crown Land Legislation White Paper. Key stakeholders will also be consulted on this proposal.	

MANAGEMENT OF CROWN RESERVES

31	Revise the reserves framework to better facilitate multiple use of land compatible with the reserve purpose.	Supported in principle – Public consultation on this proposal will occur through the Crown Lands Legislation White Paper.	This could be an issue where there may be incompatible land uses surrounding the reserve, further this may have LEP implications specifically in relation to zoning if the land is to be transferred to Council.
32	Move to a two-tier reserve management structure by removing reserve trusts.	Supported in principle – Public consultation on this proposal will occur through the Crown Lands Legislation White Paper.	Council support community ownership of facilities such as showgrounds
33	Allow councils to manage reserves under the local government legislation.	Supported in principle – Public consultation on this proposal will occur through the Crown Lands Legislation White Paper. Local Government NSW will also be consulted on this proposal.	Supported by Council.
34	Support community member participation in the management of Crown land that encourages good governance.	Supported in principle – Public consultation on this proposal will occur through the Crown Lands Legislation White Paper.	

NEXT STEPS

35	Release a White Paper for consultation on the proposed legislative changes.	Supported – Immediate action Crown Lands Division to undertake.	
36	Develop a plan for further exploration and implementation of internal business and reporting reforms.	Supported – Immediate action Crown Lands Division to undertake.	



WALCHA COUNCIL ISSUES

ISSUE	COMMENTS	GOVERNMENT RESPONSE	COUNCIL RESPONSE	
1	Impact of Aboriginal Land Claims on the process	Currently there are approximately 26000 claims in NSW with approximately 12-15 being finalised every 12 months	<ul style="list-style-type: none"> Existing land claims will not be affected Local Aboriginal Land Councils may be the most appropriate local managers for some parcels and Travelling Stock Reserves There is a separate review currently underway of the Aboriginal Land Rights Act 	Legislation be enacted that results in outcomes in a more timely manner
2	What will happen to TSR	Currently there are 5000 Aboriginal Land Claims over TSR	<ul style="list-style-type: none"> A review of the TSR network across NSW is required in partnership with Local Land Services Some TSRs are actually not gazetted as TSR Current and potential use to be determined ie are they used as TSR or do they have recreational, heritage or environmental values. Pilot program to be undertaken with Local Land Services 	Councils to be involved in developing the guidelines
3	Future of Commons	Proposal is that they be offered to Councils	<ul style="list-style-type: none"> Common Management Act will be revoked, and Commons be offered to Councils 	To be considered on a case by case basis
4	Governance of Crown Reserves	<ul style="list-style-type: none"> Will the reserves offered be free from contamination (rifle ranges). Will Council be responsible for the management/upkeep of any infrastructure on the land (like halls) 	<ul style="list-style-type: none"> Allow Councils to manage reserves under the Local Government Act Support community participation in the management of Crown land that encourages good governance. A pilot process is to be set up to determine criteria for devolving land of local interest to councils. 	To be considered on a case by case basis
5	Operation or Community land classification on transfer	<ul style="list-style-type: none"> Will Councils have an option of classifying any land to be transferred as Operational Land? 	The documents are silent on this issue.	Council to be given the opportunity to classify land transferred as operational land



WALCHA COUNCIL ISSUES

ISSUE		COMMENTS	GOVERNMENT RESPONSE	COUNCIL RESPONSE
6	Roads		<ul style="list-style-type: none"> Roads Act allocated to the Roads Minister with the exception of Crown Roads Councils to close and open their own roads without reference to Crown Lands (NOTE Council was advised that Crown Lands will still need to "sign" off on the process). Crown roads required for future road network to be transferred to appropriate authority. 	Council concern is that maintenance that is required to any infrastructure that may be on the road reserve will be the responsibility of Council
7	Land transfers	Will all land to be transferred to Councils be unencumbered?	The documents are silent on this issue.	Any land transferred to be unencumbered