



## NEW ENGLAND COUNTY COUNCIL

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12 April 2023

Dear Councillors,

You are requested to attend an Extraordinary Meeting of the New England County Council, to be held in the offices of the New England Weeds Authority, 2/129 Rusden Street, Armidale NSW 2350 on:

**Monday, 17 April 2023 at 2:00pm**

Yours sincerely

A handwritten signature in black ink, appearing to read "Tim Weeks".

Tim Weeks  
GENERAL MANAGER



## AGENDA

Extraordinary Meeting of Council commencing at 02:00pm on Monday, 17 April 2023

*Statement in relation to Video Recording of Council Meetings*

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**BUSINESS PAPER**

**Ordinary Meeting of Council commencing at 02:00pm on  
Monday 17 April 2023**

**Statement in relation to Video Recording of Council Meetings**

*The Council and Public are to be advised that the Meeting is not being live streamed, however, a video recording of the meeting will be available on the County Council's website.*

**1.0 PRESENT**

**2.0 APOLOGIES**

**3.0 DECLARATION OF INTEREST**

**4.0 MINUTES OF THE ORDINARY MEETING OF THE NEW ENGLAND  
COUNTY COUNCIL HELD ON TUESDAY 7 MARCH 2023**

Minutes of the Ordinary Meeting of the New England County Council held on Tuesday 7 March, are not available as they are incomplete and await the details required of the Closed Session of Council during which members of executive staff were excluded from the meeting.

**5.0 MATTERS ARISING FROM MINUTES OF THE ORDINARY MEETING  
OF NEW ENGLAND COUNTY COUNCIL HELD ON 7 MARCH 2023**

None, see above.

**6.0 AUTHORISATION OF THE CONTRACT FOR THE CONSTRUCTION OF  
NEW OFFICES AND DEPOT IN ACCORDANCE WITH ADOPTED TENDER.**

**RECOMDATION**

1. That the General Manager be authorised to sign the Construction Contract with the successful Tenderer, Rice Construction Group, at the price set out in their Tender Submission.
2. That a 5% contingency be authorised to meet any necessary Contract Variations, in accordance with the General Manager's established Delegations.
3. That Armidale Regional Council (ARC) should be appointed as certifiers of the construction process and the issuing of a Construction Certificate.

**PURPOSE**

Following the evaluation of the Tender by the Review Committee, and the preparation of a Construction Contract reflecting the Tender Price and Terms, the General Manager is to be authorised to sign the Construction Contract, including the appointment of ARC as certifier of the Construction process. A 5% contingency is proposed to cover the cost of *Variations* and unforeseen contingencies.

**BACKGROUND**

Following the resolution of Council to construct new offices, a depot and wash-down bay, to be located on Council owned land at 21 Waller Avenue, Armidale; a *Selective Tender* was conducted during January and February 2023, closing on 24<sup>th</sup> February 2023.

The formal Tender was conducted in accordance with the Tendering Guidelines for NSW Local Government, and an analysis was completed of the 3 selected tenderers, most qualified and available to undertake this project.

A Tender Review Committee was formed, comprising Laurie Knight (CFO), Andrew Murat (ex-NEWA Councillor & Property Developer) and Tim Weeks (GM). The Tender Review Committee undertook a review of the successful tender and a Construction Contract was finalised.

EXTRAORDINARY MEETING OF NEW ENGLAND COUNTY COUNCIL  
HELD ON MONDAY 17 APRIL 2023 IN NEWA OFFICES AT 02:00PM

### **FINANCIAL AND RESOURCE IMPLICATIONS**

A separate report has been prepared by NEWA's Chief Financial Officer (CFO) setting-out alternative funding options and a preferred option. The report includes an updated Long Term Financial Plan (LTFP), which is based on the LTFP adopted by Council in November 2022, which includes the financing cost of the Office and Depot construction. The report is attached separately.

### **LEGAL IMPLICATIONS**

Under the Tendering Provisions of the Local Government (General) Regulation 2021, the anticipated cost of construction required a *Tender* to be prepared. A Selective Tender was undertaken following a call for Expressions of Interest (EOI).

### **RISK IMPLICATIONS**

The formal Tender was conducted in accordance with the Tendering Guidelines for NSW Local Government, and no risk implications existed.

### **OPTIONS**

No alternative options exist.

### **CONCLUSION**

The New England County Council, currently leasing space on a month to month basis, is obliged to finalise alternative arrangements for accommodation, noting its particular need for chemical storage and use and the dictates of the EPA. The least expensive option was found to be the construction of owned premises on land purchased by Council. Having completed a rigorous tender process, Council is now in a position to advance this project with the signing of the construction contract.

### **LINK TO POLICY AND/OR COMMUNITY STRATEGIC PLAN**

This project has been anticipated for over 3 years and is consistent with the goals of the Business Activity Strategic Plan (BASP) and has been mentioned in both the 2022 and 2023 Annual Operational Plans and requirements of the Local Government Regulation 2021.

### **SUPPORTING INFORMATION**

- Tender Document 2022/1
- Plans of the proposed Facility
- Report of Financing Options

**7.0 AUTHORISATION OF FINANCING PLAN FOR CONSTRUCTION OF  
NEW OFFICES AND DEPOT**

**RECOMDATION**

1. That Council proceed with the raising of loan funds as provided in the 2022-23 Operational Plan and Budget for the financing of the construction of NEWA's new offices and depot.
2. That the Chief Financial Officer (CFO) be authorised to negotiate arrangements with an approved lender, in accordance with the recommendations of the Financial Options Report.
3. That the land purchased by Council and located at 21 Waller Avenue, Armidale be confirmed as *Operational Land*.

**FINANCIAL AND RESOURCE IMPLICATIONS**

This report outlines various options for Council to provide the necessary funding for the construction of new offices and depot/chemical storage facilities on Council's newly acquired land at 21 Waller Avenue, Armidale. This report accompanies the previous item (6.0) relating to entering into a construction contract with the successful tenderer, including recommendation for a 5% contingency provision.

The funding to be sourced amounts to \$1.761 million (ex GST), which includes the proposed 5% provision.

**Consideration of Options**

There are various options available to Council to provide the required funding as outlined below:

- Loan funding
- External grant funding (where available)
- Internal Restricted funds (accumulated surplus)
- Raising a special charge (payable by member councils)
- Combinations of the above.

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Construction works are expected to be fully completed by 30 June 2024. This will require funding to be dispersed progressively over the next 12 months, with some initial progress payments to be met prior to 30 June 2023 in the current financial year.

In adopting its 2022-23 Budget, Operational Plan and Long Term Financial Plan, Council has already provided for a level of loan funding to support the construction costs, supplemented by general revenue (accumulated surplus).

An [excerpt from the 2022-23 Operational Plan \(page 5\)](#) is attached as supplementary documentation for the information of Councillors. This advice noted that NEWA intended to commence construction of the new Works Depot and Office Building in the current financial year and further, that loan funding was proposed to include the construction works.

A copy of the adopted Long Term Financial Plan is also attached for the information of Councillors. The Plan identifies that a loan amount of \$600,000 was to be drawn down in the 2022-23 financial year, with a further \$400,000 to be drawn during the 2023-24 financial year, this was based on expectations of timing when the Plans were initially formulated. Anticipated loan repayments associated with the loan funding have also been included in the adopted Budget and LTFP.

Options for grant funding will be limited and given that the local member is no longer a member of the Government, it may be difficult to secure support for additional funding from grant streams. Notwithstanding this, there are some avenues to explore, and we will continue to assess any possibility of grants to supplement the funding mix. Any new grant funding will require a longer lead time for submission and approval and in the meantime, an alternate strategy is required.

While Council has not specifically identified internal restricted funds to commit towards the construction cost, Council reported an overall accumulated surplus of \$1.9 million at 30 June 2022, including an unrestricted cash position of \$871,000.

Considering NEWA's charter and operational capacity, this is considered to be a reasonably sound financial position and there is scope for Council to draw upon some of the accumulated surplus to meet the balance of construction costs.

This should be considered in the context of the new Works Depot and Offices being probably the largest capital commitment that NEWA would ever undertake and is also a once-off project. As part of future budgets, Council should consider ensuring an annual operating surplus is budgeted for, to ensure accumulated funds and unrestricted cash is replenished over time.

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The last option, and one which would be the least palatable, would be to consider raising a charge against member Councils under Section 501 of the LG Act. Even if this were to be considered as an option, it would take time to implement and would need to be included as part of Council's annual Operating Plan and Revenue Policy, which is subject to public consultation.

I am anticipating that this is not an option Councillors would consider lightly and I have included it only for completeness. Should there be any interest in pursuing this option it would only supplement other options and could be formulated at a later stage.

### **Recommended Funding Option**

As the groundwork for raising a loan of \$1 million has already been approved in the current Operational Plan, Budget and LTFP, and given the timing of required funding, the most sensible option is to take up a new \$1 million loan, supported by a drawdown of accumulated surplus for the balance of construction costs of approximately \$761,000.

Should Councillors have any concerns about the reduction in accumulated funds, it is open to consider possible further loan options in the coming budget, noting that there would be a corresponding increase in loan interest costs to be factored in, along with the impact on future general revenue for additional annual repayments.

In the event that grant funds might become available later, these would assist in recouping the draw down of accumulated surplus earlier than expected.

### **Lending Source**

Council has two possible sources of loan funds, one being NSW Treasury (TCorp), the other being an approved commercial lender, subject of course to all the required approvals being satisfied, and the lender meeting the requirements of the Minister's Approved Borrowing Order.

If pursuing a loan through TCorp, there is a minimum loan approval for local government entities of \$1 million and a maximum borrowing term of 20 years. Submission of a range of application details, including LTFP, Forward CAPEX program and evidence of financial capacity to service the loan, are also required. No doubt commercial lenders would have similar application requirements.

Loan rates from TCorp are expected to be more competitive with standardised application procedures and economies of scale for public sector borrowing, whereas commercial lenders, having different shareholder objectives, may not be as competitive. Nonetheless, both options will be reviewed to maximise the advantage to Council, prior to acceptance of the loan terms.



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**Budget Implications**

While the current LTFP anticipates loans being drawn down in two separate amounts, there would be an advantage in drawing the loan in one larger amount which would give Council the ability to capitalise on short term investment rates until the loan is progressively expended.

Draw down of the loan would be timed to minimise any impact on the current year's Budget, most likely in the last week of June 2023.

With completion of the tendering process and acceptance of a fixed price contract, the cost of the capital works is now known, and this will be reflected in the upcoming March Quarterly Budget Review.

The 2023-24 Budget is about to be prepared for consideration by Council at its May meeting, and this would also take into account the estimated loan interest variations, as well as any short-term advantage gained from reinvesting the temporary available loan funds during the year.

**Capital Expenditure Review**

Councillors will recall a discussion over the submission of a formal Capital Expenditure Review in accordance with OLG Capital Expenditure Guidelines – December 2010, relating to the acquisition of land and construction of the new Works Depot and Office facilities.

It is understood that the decision of the previous Council to proceed with the project occurred during 2020 and was included in the Community Strategic Plan and Budget for 2020-21 financial year. If a Capital Expenditure Review was to be of any assistance in guiding Council in the decision-making process, that would have been the time to undertake such a review.

For clarification, the circumstances were discussed with an officer from OLG who confirmed that while technically applying to all local government entities, the Guidelines were not generally considered as relevant for County Councils, as their operations are usually singularly focussed and they do not rely on rate revenue to fund operations.

Councillors would be aware that the Guidelines were developed in response to a number of high-profile, general-purpose councils undertaking significant capital works projects, which then incurred unplanned cost increases and corresponding adverse impacts on their respective communities, including the need to meet ballooning costs through Special Rate Variations.

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The officer also confirmed that no County Council had previously submitted a review under the Guidelines, and that any submission from NEWA would be unlikely to raise any objection, providing the planned works had been properly considered and all alternatives reviewed to ensure the needs of the Council and its constituents were addressed.

With the project already partly implemented and subsequent actions well advanced, there does not appear to be any value in preparing a retrospective submission, considering the advice from OLG that it is unlikely any comment would be forthcoming.

My recommendation therefore is to proceed with raising of loan funds in accordance with the information provided in this report.

**8.0 MATTERS OF URGENCY**

**9.0 NEXT MEETING - TUESDAY 2 MAY 2023 AT 1:00PM**

**10.0 ATTACHMENTS**

- [REPORT OF CFO - FINANCING OF NEW OFFICES AND DEPOT INCLUDING LONG TERM FINANCIAL PLAN \(LTFP\)](#)
- [TENDER DOCUMENT # 2022/1](#)
- [PLANS OF THE PROPOSED FACILITY](#)

