

# Minutes



## SPECIAL MEETING OF COUNCIL

### MINUTES

1 AUGUST 2023

---

## TABLE OF CONTENTS

Item	Subject	Page No.
<b>1.0</b>	<b>Meeting Opened.....</b>	<b>4</b>
1.1	Acknowledgement of Country .....	4
<b>2.0</b>	<b>Leave of Absence.....</b>	<b>4</b>
<b>3.0</b>	<b>Declaration of any Prescribed conflicts of interests/Declarable conflicts of interest by councillors.....</b>	<b>5</b>
3.1	Declaration of Prescribed Conflict of Interest on any Item of Business .....	5
3.2	Declaration of Declarable Conflict of Interest on any Item of Business .....	5
<b>4.0</b>	<b>Executive Office Reports .....</b>	<b>8</b>
<b>5.0</b>	<b>People, Customer and Corporate Services Reports .....</b>	<b>8</b>
<b>6.0</b>	<b>Community and Regional Prosperity Reports.....</b>	<b>8</b>
<b>7.0</b>	<b>Infrastructure Reports .....</b>	<b>8</b>
7.1	Request for exception from obtaining competitive offers for the construction of a 'safer place' building at Lockyer Waters .....	8
<b>8.0</b>	<b>Items for information .....</b>	<b>13</b>
<b>9.0</b>	<b>Confidential Items .....</b>	<b>13</b>
9.1	Strategic Land Acquisition - Laidley Flood Mitigation.....	14
<b>10.0</b>	<b>Meeting Closed.....</b>	<b>16</b>

**ATTENDANCE:**

**Apologies**

- Cr Tanya Milligan (Mayor)

**Councillors Present**

- Cr Jason Cook (Deputy Mayor) (Chairperson)
- Cr Brett Qualischefski
- Cr Janice Holstein
- Cr Chris Wilson
- Cr Michael Hagan
- Cr Rick Vela

**Officers Present**

- Ian Church, Chief Executive Officer
- Amanda Pugh, Group Manager Community & Regional Prosperity
- John Keen, Group Manager Infrastructure
- Bella Greinke, Council Business Officer
- Neil Williamson, Coordinator, Engagement and Communications
- Frances Hudson, Manger Community Recreation and Facilities (part of meeting)

**1.0 MEETING OPENED**

*The Deputy Mayor, Cr Cook as Chairperson, opened the meeting at 9:00am and welcomed all present.*

**1.1 Acknowledgement of Country**

*The Chairperson acknowledged the traditional owners of the land on which the meeting is being held.*

**2.0 LEAVE OF ABSENCE**

**RESOLUTION**

**THAT leave of absence be granted to Mayor Tanya Milligan for this meeting.**

**Moved By: Cr Holstein**

**Seconded By:**

**Cr Qualischefski**

**Resolution Number: 20-24/0888**

**CARRIED**

**6/0**

---

**3.0 DECLARATION OF ANY PRESCRIBED CONFLICTS OF INTERESTS/DECLARABLE CONFLICTS OF INTEREST BY COUNCILLORS**

**3.1 Declaration of Prescribed Conflict of Interest on any Item of Business**

Pursuant to Chapter 5B, Part 2 of the *Local Government Act 2009*, a councillor who has a prescribed conflict of interest in an issue to be considered at a meeting of a local government, or any of its committees must:

- (a) inform the meeting of the prescribed conflict of interest in the matter, including the following about the interest –
  - i. if it arises because of a gift, loan or contract, the value of the gift, loan or contract
  - ii. if it arises because of an application or submission, the subject of the application or submission
  - iii. the name of any entity other than the councillor that has an interest in the matter
  - iv. the nature of the councillor's relationship with the entity that has an interest in a matter
  - v. details of the councillor's and any other entity's interest in the matter; and
- (b) leave the meeting room, including any area set aside for the public, and stay out of the meeting room while the matter is being discussed and voted on unless the subject councillor has written notice from the Minister to participate in the matter.

**3.2 Declaration of Declarable Conflict of Interest on any Item of Business**

Pursuant to Chapter 5B, Part 3 of the *Local Government Act 2009*, a councillor who has a declarable conflict of interest in a matter to be considered at a meeting of the local government or any of its committees must inform the meeting about the personal interest in the matter, including the following particulars about the interests:

- (a) the nature of the interests
- (b) if it arises because of the councillor's relationship with a related party:
  - i. the name of the related party to the councillor
  - ii. the nature of the relationship of the related party to the councillor
  - iii. the nature of the related party's interest in the matter
- (c) if it arises because of a gift or loan from another person to the councillor or a related party:
  - i. the name of the other person
  - ii. the nature of the relationship of the other person to the councillor or related party
  - iii. the nature of the other person's interest in the matter
  - iv. the value of the gift or loan and the date the gift or loan was made.
- (d) how the councillor intends to handle the matter i.e. leave the meeting or proposes to stay in a meeting.

*In accordance with Sections 150EQ(3)(b) and 150EQ(3)(c) of the Local Government Act 2009, Councillor Qualischefski informed the meeting that he had a declarable conflict of interest in Item 9.1, "Strategic Land Acquisition - Laidley Flood Mitigation." The nature of the interest is that Councillor Qualischefski owns a residence in Laidley. The premises that he owns in Laidley is subject to minor potential flooding and it is still unclear if the flood mitigation solution will improve or decrease the impacts. Although Councillor Qualischefski has a declarable conflict of interest, he believes a reasonable person would perceive that he can be impartial when dealing with this matter in an open and transparent way. Councillor Qualischefski has a high level of knowledge of the Laidley area and the adverse impacts of flooding and can make a valuable contribution to the discussion.*



3/0

*For: Cr Cook, Cr Holstein, Cr Hagan.*

*In accordance with Section 150ET(2) of the Local Government Act 2009, Councillors Wilson, Qualischefski and Vela were not eligible to vote, and therefore refrained from voting on the matter.*

*In accordance with Sections 150EQ(3)(b) and 150EQ(3)(c) of the Local Government Act 2009, Councillor Vela informed the meeting that he had a declarable conflict of interest in Item 9.1, "Strategic Land Acquisition - Laidley Flood Mitigation." The nature of the interest is that Councillor Vela owns and leases residential and business premises in Laidley. The residential and business premises in Laidley are subject to minor potential flooding and it is still unclear if the flood mitigation solution will improve or decrease the impacts. Although Councillor Vela has a declarable conflict of interest, he believes a reasonable person would perceive that he can be impartial when dealing with this matter in an open and transparent way. Councillor Vela has a high level of knowledge of the Laidley area and the adverse impacts of flooding and can make a valuable contribution to the discussion.*

*In accordance with Section 150ES(3) of the Local Government Act 2009, the eligible Councillors were required to decide whether Councillor Vela may participate in the discussion and make a decision in relation to Agenda Item 9.1, "Strategic Land Acquisition - Laidley Flood Mitigation," including voting on the matter.*

**RESOLUTION**

**THAT pursuant to Section 150ES(3) of the Local Government Act 2009, Council resolve to allow Cr Vela to participate in the discussion and vote on Item 9.1, "Strategic Land Acquisition - Laidley Flood Mitigation," despite Cr Vela's conflict of interest declaration, because of his knowledge of the Laidley area and the adverse impacts of flooding and the fact that he can make a valuable contribution to the discussion**

**Moved By: Cr Cook**

**Seconded By:**

**Cr Hagan**

**Resolution Number: 20-24/0891**

**CARRIED**

**3/0**

*For: Cr Cook, Cr Holstein, Cr Hagan.*

*In accordance with Section 150ET(2) of the Local Government Act 2009, Councillors Vela, Wilson and Qualischefski were not eligible to vote, and therefore remained from voting on the matter.*

**4.0 EXECUTIVE OFFICE REPORTS**

*No Executive Office Reports.*

**5.0 PEOPLE, CUSTOMER AND CORPORATE SERVICES REPORTS**

*No People, Customer and Corporate Services Reports.*

**6.0 COMMUNITY AND REGIONAL PROSPERITY REPORTS**

*No Community and Regional Prosperity Reports.*

**7.0 INFRASTRUCTURE REPORTS**

**7.1 Request for exception from obtaining competitive offers for the construction of a 'safer place' building at Lockyer Waters**

**Author:** Frances Hudson, Manager Community Recreation and Facilities

**Responsible Officer:** John Keen, Group Manager Infrastructure

**Purpose:**

The purpose of this report is to seek a Council resolution under Section 235(a) of the Local Government Regulation 2012 to enter a large-sized contractual arrangement without first obtaining written quotes or tenders, to allow Council to construct a new community hall at Lockyer Waters.

**Officer's Recommendation:**

**THAT Council resolve to:**

- (a) Apply the exception in Section 235(a) of the *Local Government Regulation 2012* to enable Council to enter into a large-sized contractual arrangement to construct a new hall at Lockyer Waters without obtaining written quotes or tenders as Council is satisfied that there is only one supplier who is reasonably available that can meet Council's requirements;**
- (b) Delegate to the Chief Executive Officer the authority to negotiate and enter a subsequent contract.**

**RESOLUTION**

**THAT Council resolve to:**

- (a) Apply the exception in Section 235(a) of the *Local Government Regulation 2012* to enable Council to enter into a large-sized contractual arrangement to construct a new hall at Lockyer Waters without obtaining written quotes or tenders as Council is satisfied that there is only one supplier who is reasonably available that can meet Council's requirements;**
- (b) Delegate to the Chief Executive Officer the authority to negotiate and enter a subsequent contract.**



<b>Moved By:</b>	<b>Cr Hagan</b>	<b>Seconded By:</b>	<b>Cr Holstein</b>
<b>Resolution Number: 20-24/0892</b>			
<b>CARRIED</b>			
<b>6/0</b>			

### Executive Summary

The Local Government Regulation 2012 (the Regulation) requires Council to invite written tenders before Council can enter into a large sized contractual arrangement, defined as contracts over \$200,000 in value. The regulation does provide exceptions in certain circumstances, and this report seeks a resolution from Council to apply an exception to enter into a contract with a suitable local supplier to construct a new 'safer place' community hall facility at Lockyer Waters.

### Proposal

Council was successful in receiving \$1.5M from the Australian Government funded Black Summer Bushfire Recovery (BSBR) grant. The purpose of the BSBR grant is to work in conjunction with relevant community groups to conduct renewal works to community halls to make them more suitable as emergency hubs during disasters and to build social connection, capacity, and resilience between disaster events.

At the Ordinary Council meeting held on 21 September 2022 it was resolved to allocate \$702,300 of the funding to nine (9) community halls throughout the Lockyer Valley Region and the remaining funding of \$797,000 to upgrade Council owned facilities. The remaining funds are allocated to Council owned halls, project management, administration, inspections and contingency.

At the Ordinary Council meeting held on 18 January 2023, Council approved to reallocate \$605,000 from the BSBR Program assigned to other Council facilities, to fund the replacement of the community hall at Lockyer Waters to provide a higher level of reliable functionality for disaster response and recovery in the Lockyer Waters locality.

Projects funded under the BSBR must be fully completed by 31 March 2024, with completion report and acquittal finalised by 30 April 2024.

Concept planning, design development and community consultation have been completed. Based on this a bespoke slab on ground building was designed and a full tender procurement process was undertaken. Though extensive market sounding was undertaken prior to the tender and despite substantial verbal interest, none of these suppliers submitted a tender. At the conclusion of this tender process two non – conforming tenders were submitted. Only one tenderer submitted a tender to construct a building, with the submitted tender price approximately double the available budget.

Given the following, a full tender approach again will make the project non deliverable within the funding timeframe.

- failure of the initial market probing and tender
- largely unsuccessful outcome from most recent enquiries with suppliers in relation to the rescoped requirements
- current market and industry volatility with extended lead times, material and labour shortages, increased costs
- need to deliver the total project within the available budget
- need to complete the delivery of the project by end March 2024

There is still a high level of public interest in ensuring the delivery of a 'safer place' building for Lockyer Waters.

Therefore, the project has been rescoped to provide a more generic transportable building which can be delivered within the available budget and grant program timeframe. To meet the BSBR objectives of providing a 'safer place' community hall facility, design and procurement options were appraised and priority considerations were given to ensuring deliverability and functionality of the building.

The most feasible form of building type considering the above appears to be a modular, on stumps/frame, that could be manufactured off site and delivered in a near practical completion status. In addition, the ability and capacity to seamlessly deliver the building, including project management, functionality completeness (eg kitchenette, security screens, external generator point) and integration and coordination with Council and other external contractors that will be engaged, (e.g. sewer and water, electrical, civil etc), is a major factor. The approval and delivery of utility services will need to be coordinated in parallel with timeframe of the manufacture of the building off-site and subsequently a minimum of 4 – 6 weeks will be required once the building is on site to complete installation, construction, operationalising connections and finalising approvals and utility works.

Over several weeks during June and July 2023, Council officers made multiple enquires with various possible industry suppliers (shed, portable/modular) to establish the likelihood of meeting the identified constraints as well as the project management capacity and capability. Overall, the ability to meet all these factors was not achievable or acceptable by the majority for one or more reasons such as:

- functionality exclusions
- unprovided design (e.g., slab on ground only, no fit out)
- construction approach (e.g., do not project manage entire build and services integration, multiple exclusions)
- timeframes
- base construction/ manufacture cost
- business model, capacity and capability and willingness to work with Council on an integrated and fast-track quality outcome that benefits the community beyond the 'project' (e.g., local economic benefit)

A local supplier who manufactures and install modular homes and offices, showed a high degree of interest and willingness to meet the above factors and considerations, particularly in relation to the timeline constraints, functionality and design form and working with Council. The engagement of this local supplier would align with Councils contracting principals of value for money and the development of competitive local business. The critical dates indicated require an order and the deposit by 21 August 2023 in order to achieve the deadlines.

Community engagement on the change of building form and the ability to successfully deliver the project in the timeframes will be managed through a community engagement plan. This will be developed once clarity of design layout and procurement approach is resolved by Council.

The following options have been considered.

#### Options

1. Apply an exemption in accordance with Section 235(a) of the Local Government Regulation 2012, for Council to enter a large-sized contractual arrangement with the local supplier to construct a new hall at Lockyer Waters without obtaining written quotes or tenders as Council is satisfied that there is only one supplier who is reasonably suitable and available; and to delegate to the Chief Executive Officer the authority to negotiate and enter a contract.

2. Return to the market and undertake a full open tender to project manage and deliver a functional designed and modular form building. This option would have a very high probability of decreasing the available time to deliver and subsequently become untenable (i.e., grant deadline missed and Council required to fund the full costs).
3. Do not proceed with the Lockyer Waters 'safer place' community hall and return the Black Summer Bushfire Recovery (BSBR) funds, being too late in the timeframes to reallocate/ and or seek variation approvals and complete works. This option is not preferred.

#### Previous Council Resolutions

20-24/0642 - 21 September 2022

*THAT Council approve funding allocations to the following Community Hall Committees, for the purposes of upgrading the halls as places of refuge in accordance with the Black Summer Bushfire Recovery Grant:*

- Stockyard Creek Hall \$139,000
- Postmans Ridge Pioneer's Memorial Hall \$189,800
- Junction View Hall \$72,000
- Mulgowie Hall \$75,500
- Glenore Grove Hall \$22,500
- Blenheim Hall \$31,500
- Ingoldsby Recreation Centre \$18,000
- Ropehill Community Sports Centre \$90,000
- Forest Hill School of the Arts \$64,000

*Moved By: Cr Hagan      Seconded By: Cr Wilson*

20-24/0732 - 18 January 2023

*THAT Council approve the reallocation of \$605,000 from the Black Summer Bushfire Recovery Grants Program, currently assigned to other Council facilities, to fund the replacement of the community hall at Lockyer Waters due to the need for a higher level of reliable functionality for disaster response and recovery in the Lockyer Waters locality.*

*And further;*

*THAT the governance arrangements for the use of the facility are determined in consultation with its key users.*

*Moved By: Cr Holstein      Seconded By: Cr Qualischefski*

#### Critical Dates

- Sole source approval – August 2023
- Approvals and pre-certifications – 4 weeks
- First deposit to commence manufacture – 21 August 2023
- Manufacture – 12 up to 18 weeks
- Install on site – up to 4 weeks
- External services work – 4-6 weeks to be finalised with contractor availability. Some aspects can be delivered concurrent to manufacture with majority will be after the installation of building on site
- Access and management arrangements finalised – before 14 February 2024
- Practical completion – before 28 February 2024
- Certification and operationalisation – by 17 March 2024
- BSBR project completion - 31 March 2024
- BSBR acquittal finalisation required - 30 April 2024

## **Strategic Implications**

### Corporate Plan

Lockyer Business, Farming and Livelihood – Encourage opportunities for the Lockyer Valley to drive economic and community outcomes.

### Finance and Resource

Allocated funding of approximately \$605,000 minus already expended funds of approximately \$41,000.

### Legislation and Policy

Under section 235 of the *Local Government Regulation 2012*, a local government may enter into a large-sized contractual arrangement (more than \$200,000 exclusive of GST) without first inviting written quotes or tenders if:

(a) the local government resolves it is satisfied that there is only one (1) supplier who is reasonably available;

The application of this exception is a matter for subjective consideration and determination by Council.

### Risk Management

The critical dates indicated require an order and the deposit by 21 August 2023 in order to achieve the deadlines.

Key Corporate Risk Category: FE2

Reference and Risk Descriptor: Finance and Economics – Decision making governance, due diligence, accountability and sustainability.

### Consultation

#### *Internal Consultation*

The following business units have been consulted in the preparation of this report:

- Coordinator Governance and Property 26/7/2023
- Procurement – initial tender process and advice prior to approach April – June 2023
- Finance – Business partner and Grants Officer 26/7/23

## **Attachments**

There are no attachments for this report.

**8.0 ITEMS FOR INFORMATION**

*No Information Items.*

**9.0 CONFIDENTIAL ITEMS**

In accordance with the provisions of section 254J(3) of the *Local Government Regulation 2012*, a Local Government may resolve to close a meeting to the public to discuss confidential items, when its Councillors or members consider it necessary to close the meeting.

**CLOSED SESSION**

**THAT the meeting be closed to the public, the time being 9:14am, to discuss the following item which is considered confidential in accordance with section 254J(3) of the *Local Government Regulation 2012*, for the reasons indicated.**

**15.1 Strategic Land Acquisition - Laidley Flood Mitigation**

*This item is confidential in accordance with Section 254J(3)(h) of the Local Government Regulation 2012, as the matter involves negotiations relating to the taking of land by the local government under the Acquisition of Land Act 1967.*

**Moved By: Cr Hagan**

**Seconded By:**

**Cr Wilson**

**Resolution Number: 20-24/0893**

**CARRIED**

**6/0**

**OPEN SESSION**

**THAT Council move into open session, the time being 9:32am.**

**Moved By: Cr Vela**

**Seconded By:**

**Cr Hagan**

**Resolution Number: 20-24/0894**

**CARRIED**

**6/0**

*In accordance with Sections 150EQ(3)(b) and 150EQ(3)(c) of the Local Government Act 2009, Councillors Qualischefski, Wilson and Vela informed the meeting they have declarable conflicts of interest in Item 9.1, "Strategic Land Acquisition – Laidley Flood Mitigation."*

*In accordance with Section 150ES(3) of the Local Government Act 2009, Councillors Cook, Hagan and Holstein voted that Councillors Qualischefski, Wilson and Vela participate in the discussion and make a decision in relation to Agenda Item 9.1, "Strategic Land Acquisition – Laidley Flood Mitigation," as per resolutions 20-24/0889, 20-24/0890, and 20-24/0891.*

---

**9.1 Strategic Land Acquisition - Laidley Flood Mitigation**

**Author:** Amanda Pugh, Group Manager Community & Regional Prosperity

**Responsible Officer:** Amanda Pugh, Group Manager Community & Regional Prosperity

*That the above item be considered in Closed Session to the exclusion of the press and public in accordance with Section 254J (3) (h) of the Local Government Regulation, 2012, as the matter involves negotiations relating to the taking of land by the local government under the Acquisition of Land Act 1967.*

---

**Purpose:**

This report requests that Council consider the purchase of 12 parcels of privately owned land for the purposes of flood mitigation in Laidley.

**Officer's Recommendation:**

**THAT Council resolve to:**

- a) **acquire the following parcels of land in Laidley for purposes relating to water, namely flood mitigation, in accordance with the principles of the *Acquisition of Land Act 1967*:**
  - **Property ID 150840 and Land ID 18401**
  - **Property ID 150840 and Land ID 18451**
  - **Property ID 150840 and Land ID 18411**
  - **Property ID 150840 and Land ID 18381**
  - **Property ID 150840 and Land ID 18441**
  - **Property ID 150840 and Land ID 18391**
  - **Property ID 150840 and Land ID 18491**
  - **Property ID 150840 and Land ID 18461**
  - **Property ID 150840 and Land ID 18511**
  - **Property ID 150840 and Land ID 18531**
  - **Property ID 150840 and Land ID 18521**
  - **Property ID 150840 and Land ID 18361**
- b) **endorse the preliminary negotiations, including as to compensation, conducted with the property owners to date; and**
- c) **delegate authority to the Chief Executive Officer to enter into a resumption agreement on behalf of Council to acquire the land under the *Acquisition of Land Act 1967* and to do all things necessary to give effect to it and achieve gazettal.**
- d) **agree to lease back part of the land identified below for a period of no more than 12 months as part of the compensation arrangements as authorised under the *Acquisition of Land Act 1967*:**
  - **Property ID 150840 and Land ID 18511**
  - **Property ID 150840 and Land ID 18531**
  - **Property ID 150840 and Land ID 18521**

e) apply the exception from tendering in Section 236(1)(c)(v) of the *Local Government Regulation 2012* to enable a lease to be granted to the property owners over the following properties after acquisition by Council in accordance with the terms of the resumption agreement:

- Property ID 150840 and Land ID 18511
- Property ID 150840 and Land ID 18531
- Property ID 150840 and Land ID 18521

## RESOLUTION

THAT Council resolve to:

- a) acquire the following parcels of land in Laidley for purposes relating to water, namely flood mitigation, in accordance with the principles of the *Acquisition of Land Act 1967*:
- Property ID 150840 and Land ID 18401
  - Property ID 150840 and Land ID 18451
  - Property ID 150840 and Land ID 18411
  - Property ID 150840 and Land ID 18381
  - Property ID 150840 and Land ID 18441
  - Property ID 150840 and Land ID 18391
  - Property ID 150840 and Land ID 18491
  - Property ID 150840 and Land ID 18461
  - Property ID 150840 and Land ID 18511
  - Property ID 150840 and Land ID 18531
  - Property ID 150840 and Land ID 18521
  - Property ID 150840 and Land ID 18361
- b) endorse the preliminary negotiations, including as to compensation, conducted with the property owners to date; and
- c) delegate authority to the Chief Executive Officer to enter into a resumption agreement on behalf of Council to acquire the land under the *Acquisition of Land Act 1967* and to do all things necessary to give effect to it and achieve gazettal.
- d) agree to lease back part of the land identified below for a period of no more than 12 months as part of the compensation arrangements as authorised under the *Acquisition of Land Act 1967*:
- Property ID 150840 and Land ID 18511
  - Property ID 150840 and Land ID 18531
  - Property ID 150840 and Land ID 18521
- e) apply the exception from tendering in Section 236(1)(c)(v) of the *Local Government Regulation 2012* to enable a lease to be granted to the property owners over the

following properties after acquisition by Council in accordance with the terms of the resumption agreement:

- Property ID 150840 and Land ID 18511
- Property ID 150840 and Land ID 18531
- Property ID 150840 and Land ID 18521

Moved By: Cr Holstein

Seconded By:

Cr Hagan

Resolution Number: 20-24/0895

**CARRIED**

**6/0**

**10.0 MEETING CLOSED**

*There being no further business, the meeting closed at 9:34am.*