



SNOWY MONARO
REGIONAL COUNCIL

BUSINESS PAPER

PUBLIC EXHIBITION COPY

**Extraordinary Council Meeting
4 March 2021**

CONFLICTS OF INTEREST

A conflict of interest arises when the Mayor or Council staff are influenced, or are seen to be influenced, in carrying out their duties by personal interests. Conflicts of interest can be pecuniary or non-pecuniary in nature.

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of a financial gain or loss.

A non-pecuniary interest can arise as a result of a private or personal interest, which does not relate to money. Examples include friendship, membership of an association or involvement or interest in an activity.

The Mayor or staff member who considers they may have a conflict of interest should read Council Policy.

The responsibility of determining whether or not the Mayor or Council employee has a pecuniary or non-pecuniary interest in a matter, is the responsibility of that individual. It is not the role of the Mayor or Chief Executive Officer, or another Council employee to determine whether or not a person may have a conflict of interest.

COUNCIL CODE OF CONDUCT

The Council Code of Conduct is a requirement of Section 440 of the Local Government Act 1993, which requires all councils to have a code of conduct to be observed by the Mayor and Council employees attending a Council meeting or a meeting of a committee of Council.

The code of conduct sets out the responsibilities of the Mayor and Council employees attending a Council meeting or a meeting of a committee of Council. The code also sets out how complaints against a Council employee, the Mayor or Chief Executive Officer are to be made.

COUNCIL CODE OF MEETING PRACTICE

The Council Code of Meeting Practice is a requirement of Section 360(3) of the Local Government Act 1993, which requires all councils to have a code of meeting practice. The code of meeting practice is to be observed by the Administrator, members of staff, delegates of the Council and members of the public attending a Council or a meeting of a committee of Council.

Acknowledgement of Country

Council wishes to show our respect to the First Custodians of this land the Ngarigo, Walgalu, Ngunnawal and Bidhawal people and their Ancestors past and present.

Webcasting

Council meetings are recorded and live streamed to the internet for public viewing. By entering the Chambers during an open session of Council, you consent to your attendance and participation being recorded and streamed on Council's website www.snowymonaro.nsw.gov.au

**EXTRAORDINARY COUNCIL MEETING
TO BE HELD IN COUNCIL CHAMBERS, 81 COMMISSIONER STREET,
COOMA NSW 2630**

**ON THURSDAY 4 MARCH 2021
COMMENCING AT 6.00PM**

BUSINESS PAPER

- 1. OPENING MEETING**
- 2. ACKNOWLEDGEMENT OF COUNTRY**
- 3. APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE BY COUNCILLORS**
- 4. DISCLOSURE OF INTEREST**
(Declarations also to be made prior to discussions on each item)
- 5.1 KEY THEME 2. ECONOMY**
 - 5.1.1 To Determine Whether Council Will Lodge an Application for Funding with the Commonwealth Building Better Regions Funding Program for the Monaro Rail Trail.

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5.1.1 TO DETERMINE WHETHER COUNCIL WILL LODGE AN APPLICATION FOR FUNDING WITH THE COMMONWEALTH BUILDING BETTER REGIONS FUNDING PROGRAM FOR THE MONARO RAIL TRAIL.

Record No:

Responsible Officer:	Chief Executive Officer
Author:	Chief Strategy Officer
Key Theme:	2. Economy Outcomes
CSP Community Strategy:	4.1 Attract diverse businesses and industries to the region, supporting their establishment and retention
Delivery Program Objectives:	4.1.4 Strategic projects undertaken that grow the local economy
Attachments:	Nil

Cost Centre

Project

Further Operational Plan Actions:

EXECUTIVE SUMMARY

The Monaro Rail Trail covers a 214 kilometre line between Queanbeyan, via Cooma and ending in Bombala. The total expected capital cost of the Monaro Rail Trail is estimated at approximately \$70million to deliver. Monaro Rail Trail Inc has requested Council submit an application to the Building Better Regions Fund (Cwth) on their behalf to provide funds for stage 1.

While the project is seen as beneficial to the community, it is not at the stage it needs to be to be eligible under this grant scheme. More detailed information and approvals need to be in place.

At the time of writing this report Council Executive have not seen the application as drafted by MRT Inc. Council is being asked to take responsibility for a grant application that it has not developed. There is a significant level of risk involved in taking on a project of this scale due to unknown costs, the incomplete nature of the planning phase and lack of clear community consultation relating to ongoing costs to Council and community. Council has limited understanding of what it is being obliged to do under this application and will have very limited time to review the information or determine the true extent of the obligations it is taking on.

It is known that the stage 1 costs are \$19.8million and the maximum funding under this scheme is \$10million. To meet the eligibility criteria the Council will have to provide evidence of the co-contribution from a third party or assurance that it has the funds available for the project. Council does not have this level of available funds to commit to the project.

The estimated annual maintenance cost is between \$250,000-\$300,000 per annum for the corridor alone, pre-development. The net cost of the trail maintenance in operation is currently estimated at up to \$500,000 per annum. There is a high risk that the costs could exceed this as the current costing is based heavily on unit rates, without accurate information on important aspects, such as the total area to be managed. Council does not have the financial capacity to absorb such costs neither has it had the discussions with the community to gain agreement to fund this new service.

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The following officer's recommendation is submitted for Council's consideration.

OFFICER'S RECOMMENDATION

That Council:

- A. Not lodge an application under the current Building Better Regions Fund due to:
 - (a) The project not being at sufficiently developed to meet the grant criteria.
 - (b) The Council not having in place the required consultations with the community on the willingness to fund the service.
- B. Establish a Section 355 Management Committee to oversight the development the Monaro Rail Trail and invite representatives from MRT Inc. and Queanbeyan-Palerang Regional Council to participate.
- C. Enter into negotiations with the NSW Government on the proposed lease of the rail corridor.
- D. Ensure the Monaro Rail Trail is included as part of the Regional Trails Masterplan and the recommendations of the Regional Trails Masterplan are communicated to MRT Inc. in a timely fashion.
- E. Establish a management framework for all trails in the SMRC area, as recommended by the Regional Trails Masterplan, which will incorporate the Monaro Rail Trail.
- F. Continue to review grant funding opportunities to support the progression of the Monaro Rail Trail through the detailed design stage.

BACKGROUND

MRT Inc. is seeking to progress the Monaro Rail Trail through a number of avenues and have identified the Commonwealth's Building Better Regions Fund (BBR) scheme as a potential source of funding. The grant requires that the applicant be able to show that they have the authority of the land or infrastructure project owner to undertake the project. They cannot gain this as the NSW Government will only lease the railway corridor to an organisation like the Council. This makes MRT Inc. ineligible to apply.

While the project is supported, it is not near ready for inclusion under this grants process and Council has not yet gone through the necessary steps to ensure that it can sustainably fund this new service.

The grant guidelines set out that funding will only support investment ready projects. The guidelines state:

We consider a project to be investment ready where you have taken steps to allow construction to commence within 12 weeks of executing your grant agreement. This includes where you have:

- the authority of the land or infrastructure owner to undertake the project at the nominated site(s)
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- confirmed funding contributions from all sources and can provide formal documentation to verify those contributions with your application
- identified and prepared submissions for all required regulatory and/or development approvals or have already submitted and/or obtained those approvals
- finalised project designs and costings.

None of these criteria are currently met by the project. Without being able to meet these criteria the Council's application would be ineligible.

In applying for this grant Council would be asserting that they would be in a position to commence construction within roughly 34 weeks from now. It is not considered that Council could truthfully make such a statement as no agreement is in place to lease the land, no details are known of the detail of the construction, Council has no plans in place for funding the project, environmental plans have not been developed and approvals gained, landholder discussions have not been determined, native title issues are unknown, etc.

The grant program also requires the applicant to provide a cash contribution. While the guidelines state that you can apply for exceptional circumstances, these will only apply in "very limited circumstances". In addition Stage 1 has been identified as costing \$19.8million. The maximum grant amount is \$10million. Any contribution claimed must be supported by "formal documentation confirming the cash contributions from those sources (e.g. state government) such as a commercial finance agreement or letter of offer with your application." No known funding source has been advised, which would mean that the Council will have to provide evidence of its ability to fund the shortfall for the application to be eligible.

A mandatory requirement of the grant applications is:

"If you are making a cash contribution to the project, you must provide an Accountant Declaration that confirms you can fund your share of the project costs."

Council cannot make such a declaration as it is not in a position to fund its share of the project costs, based on the gap between the funding and the project costs. At this time next year's budget already needs to be significantly reduced to stem the current cash outflows.

Unless the full amount of the project can be confirmed as funded the application will be ineligible.

MRT Inc. have been working on the financial plan to support the project. This work is only in its early stages, with costing based around unit rates, both for capital and ongoing maintenance works. There is a high degree of risk that these costs may not be accurate, as some key criteria, such as the actual amount of land to be leased, are still unknown. The modelling provided so far indicates that there will be a significant subsidy needed to support the project over its lifetime. The costs has been estimated at around \$500,000 per annum. MRT Inc. are arguing that Council can take on the project as in the early year's there is only low maintenance costs and it is only in the future that cash is needed. Such an approach is unsustainable and this approach in the past is a key factor in why the Council is in such a difficult financial position today. Council needs to be financially responsible and ensure it has in place mechanisms to fund new services it wishes to take on.

The current MRT Inc. discussions with Transport for NSW indicate that SMRC would take on the head-lease for the entire rail corridor from John Holland at the end of 2021. This then establishes SMRC in the position of Landlord for all sub-leases along the corridor and taking responsibility for

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full management (sub-leases, rail line usage, infrastructure – stations, signal boxes, access roads etc, public liability, hazard reduction, and engineering – road crossings, bridges, fencing). The maintenance cost for these elements is not included in the estimated \$500,000 per annum net cost of the project. This is a significant amount of land and resources. Council has no information on the current state and condition of any of this infrastructure.

The expected cost of the new service is significant and MRT Inc. have been advised that it is considered that the community needs to be engaged prior to Council committing them to a service that will require a rate increase in excess of 3%. MRT Inc. has been advised that the focus of their current activity should be in identifying how to move the detailed feasibility forward. Once that has crystallised the costs and feasibility of the project it is important to then ensure that the community is supportive of funding this service before it is committed to. This approach aligns with the SMRC commissioned feasibility study for the MRT in 2020, undertaken by Mike Halliburton Associates and Transplan Pty Ltd. There were a number of conditions which the rail trail should proceed notably:

7. Detailed Trail Development Plans for the rail trail being prepared, which will involve a thorough and comprehensive examination of the entire corridor, the preparation of detailed works lists and cost estimates;

QUADRUPLE BOTTOM LINE REPORTING

1. Social

Lodging and application that is ineligible is not seen as providing any value to the community. Resources are seen as best being focused on moving the project through the detailed design.

2. Environmental

N/A

3. Economic

- There is a capital shortfall of \$9.8million that is unfunded.
- The cost of stage 1 is estimated to be at least \$250,000 per annum and is unfunded.
- There are estimated annualised costs exceeding \$500,000 for the full project that are unfunded.

This project will have a significant negative impact on the finance of the Council if enacted as is proposed.

The process of determining how the project is to be funded needs to be addressed before a grant can be submitted.

4. Civic Leadership

Council should ensure that it consults with the community prior to taking on new services that require a commitment of funding from the community.
