



*the bushland shire*

*creating a living environment*

# **SUPPLEMENTARY BUSINESS PAPER**

## **ORDINARY MEETING**

**Wednesday, 17 March, 2010  
at 6.30pm**

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**SUPPLEMENTARY ITEMS**

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## 2 STREET LIGHTING CHARGES

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Following the release of the Australian Energy Regulator's (AER) Interim Determination last year on street lighting charges, the Southern Sydney Regional Organisation of Councils (SSROC), on behalf of 34 Councils in Sydney, submitted a substantial case which resulted in the AER issuing a Determination which effectively reduced Councils' costs by 16%. EnergyAustralia lodged an Appeal to the Australian Competition Tribunal. During that hearing EnergyAustralia sought to bring into the deliberations a number of matters to which SSROC strongly objected. Of particular concern was the view of EnergyAustralia that it could "recoup" additional funds for a "delayed" component from the previous IPART Determination. Whilst the Tribunal acknowledged the arguments raised by SSROC it ruled that the AER should re-determine the matter. Accordingly all parties were required to make further submissions to the AER.

The Australian Energy Regulator has now released a Draft Decision on the re-determination of street lighting pricing for 2009-2014. The AER Draft Decision can be found at:

<http://www.aer.gov.au/content/index.phtml/itemId/734638>.

In the Draft Decision the AER has ultimately accepted the Councils' contention that EnergyAustralia's maintenance costs as unreasonably high and cut back the company's original request by more than \$19.5m. Outweighing this however, the AER has proposed a substantial revision to the assumed asset valuation as sought by EnergyAustralia. Revaluation of the assets will be particularly troubling for Councils given the concerns about the aged infrastructure of EnergyAustralia and a history of investing in poorly performing lighting assets. However, the AER has concluded that it does not have the power to consider past mis-investment by EnergyAustralia and is also of the view that it must accept the previous "understanding" between IPART and EnergyAustralia as substantiating a case for a higher asset value. SSROC contends that this was not articulated in the IPART Determination and should be ignored.

The Draft Decision is unfortunately a major setback for Councils, substantially overturning key aspects of the AER pricing decision made last year. At this stage, Council-specific impacts have not been outlined in the Draft Decision but the summary table on page 63 of the Draft Decision suggests that **price increases from 1 July 2010 could be to the order of an average 54% increase in street lighting capital and maintenance costs (when an adjustment for 09/10 pricing is taken into account)**. Additionally, the AER allowed for an increase in EnergyAustralia's return on capital to be increased by an additional 2%. This is particularly concerning given that this service is a monopoly (with no risk), yet Councils must meet the charge.

SSROC is urgently reviewing the Draft Decision to better understand the potential impacts on Councils and possible avenues of objection. However, in view of the limited Council resources to fund a further legal challenge, and following a meeting last week with the General Manager of the Australian Energy Regulator, the prospects of substantial changes to the Draft Decision are limited. The only potential option is for another sustained campaign to the NSW Government, particularly in light of the recent advice as to the limited increase in general rates.

Currently Hornsby Shire Council pays a flat \$118,645.09 (inc GST) per month capital and maintenance for pre-June 2009 assets; new or post-June 2009 assets are charged separately as they are installed (It is assumed these will not be affected by the Determination but for many years will only form a small proportion of the street lighting asset base). If this 54% is applied to the above amount this will cause an increase of \$64,068.35 per month or \$768,820.18 (inc GST) per annum. The figures are indicative only with the exact amount of the increase only to be known after AER hands down its Final Determination around 15 April.

**An increase in street lighting costs of about \$750,000 per annum is**

- **equivalent to a 1.5 percent rate increase , or**
- **almost 60 percent of the Minister for Local Government's 2.6 percent rate pegging increase for 2010/11.**

Unfortunately this will affect dramatically Council's 2010/2011 budget as the increase applies as soon as the Determination is handed down. Council cannot lift rates to raise funds for these increases so that means diverting funding away from our usual programs such as drainage, road and footpath improvements, community centre upgrades and park and playground improvement projects.

The matter of the governance of street lighting has been a perennial challenge for Councils. At present there is no clear governance regime for public lighting in NSW (e.g. no contracts and no service regulation) and a significant misalignment of interests between the utilities owning the assets and the Councils who are responsible for delivering lighting to the community. This has resulted in persistent problems for Councils across a wide range of lighting technology, service, capital works and pricing issues in recent years.

The NSW Department of Industry & Investment is now finally reviewing the NSW Public Lighting Code and has issued a Draft for discussion.

In reviewing the Draft it is disappointing to note that key aspects have been ignored, such as making the code mandatory, ensuring that contracts are developed and implemented, and, ensuring that penalties are in place for lack of adherence to performance standards. SSROC has made a detailed submission to the Department on behalf of Councils participating in the Street Lighting Improvement Program.

Whilst sustained SSROC pressure appears to be bringing much welcomed improvements in EnergyAustralia's street lighting maintenance performance in recent months as well as much greater attention to emerging energy efficient lighting, there is no structural framework to ensure that these improvements will be sustained after this current activity. The lack of any clear governance framework for public lighting remains an overarching concern for the future. This is particularly so in view of the substantial price increases foreshadowed in the Draft Decision of the AER.

It would appear that to gain any improvements it will be necessary to undertake a further and targeted campaign.

**RECOMMENDATION**

THAT Council write to the Premier, Minister for Industrial Relations, Commerce, Energy and Public Sector Reform, the Leader of the State Opposition and the Shire's local State members, with copies to the Southern and Northern Sydney Regional Organisations of Councils and the Local Government Association (LGA):

1. indicating that the Australian Energy Regulator's (AER) Draft Decision to increase the cost of street lighting capital and maintenance to Councils is a destructive impost on local government;
2. requesting the State government represent local government's interests before the AER by funding an appeal and funding the future determined increase in street lighting charges;
3. lobbying the State Government to introduce mandatory performance and stronger contract obligations for energy providers delivering public lighting to councils;
4. demanding the capability for Councils to seek the competitive provision of street lighting services; and
5. advising that while the State Government maintains inadequate levels of rate pegging and continues to burden local governments with excessive increases in water, electricity and election costs the State government is severely constraining Councils' ability to provide basic, everyday services.

NICK BERMAN  
Mayor

**Attachments:**

There are no attachments for this report.

File Reference: F2004/08619-02  
Document Number: D01357640

## 1 REZONING OF INDUSTRIAL LANDS

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### COUNCILLOR MILLS

THAT a report be prepared outlining opportunities and constraints to rezoning industrial land in Kookaburra Road, Hornsby Heights to residential land, to facilitate the long term relocation of existing industrial developments to a more appropriate location.

#### **Notes from Councillor:**

At the March 2010 Planning Meeting, Council considered the Ku-ring-gai and Hornsby Subregional Employment Study.

A key recommendation of that study was for Council to protect existing strategic industrial centres and promote those centres as a competitive place for industrial activity.

Where residential development has encroached upon existing industrial areas, Council has a policy role to play in assisting the gradual shift of industrial development away from residential areas to more suitable areas as identified by the Study.

#### **Attachments:**

There are no attachments for this report.

File Reference: F2004/07457

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