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| **[Submission: essential energy – determination 2014-19]** |
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# Introduction

Berrigan Shire is a local government area in the southern Riverina region of New South Wales along the border with Victoria, approximately 650km south west of Sydney. The Shire consists of the four urban communities of Barooga, Berrigan, Finley and Tocumwal and the surrounding rural area. The population of the Shire is approximately 8,500 and stable.

Berrigan Shire Council has an operating budget of around $20 million and employs around 90 full-time equivalent staff. It has an overall street lighting budget of around $120,000. This includes electricity and maintenance costs.

The Council also funds a progressive program to extend and improve the street lights in its urban areas – in response to community demand for improved street lighting. This program has an annual budget of $25,000 and funds about 20 new lights per year – however the Council does not necessarily install new lights each year.

Essential Energy is the monopoly provider of maintenance of street lighting to Berrigan Shire. The proposal from Essential Energy would see the cost to Council of this service increase by 95% ($47,163) from 2014/15 to 2015/16.

The Council believes the proposed increase in street lighting maintenance charges is excessive and unaffordable and should not be supported in its current form by the Australian Energy Regulator.

# Content

This submission will mainly discuss the economic impact of the proposed increase in street lighting maintenance charges on Berrigan Shire Council and through it, the Berrigan Shire community. The Council does not have the expertise or the data to comment on the costing and pricing models used by Essential Energy nor does it have the expertise to comment on the costing assumptions made in the models.

The Council, however, is well placed to point out the impact of the proposed increases on the Council, its ratepayers and the broader community as well as the steps it has taken to reduce its maintenance and electricity charges for street lighting - ironically in partnership with Essential Energy.

# Economic impact

The impact of the proposed increase on street lighting charges on Berrigan Shire Council is significant, both in absolute and relative terms.

The Council currently has 1,068 street lights maintained by Essential Energy. In 2014/15 Essential Energy proposes to charge the Council $49,521 for this service. The proposal indicates that in 2015/16 this charge would be $96,684 – an increase of $47,163 or 95%.[[1]](#footnote-1)

For a local government authority the size of Berrigan Shire Council, this would be a difficult proposition to manage at any time. However, this increase comes at a time when the Council already has to review its operations as a result of a pause in indexation of the Financial Assistance Grants paid to Councils by the Federal Government. In the case of Berrigan Shire Council, the impact of this pause is expected to reduce Council’s income by $1m over the four year period from 2014/15 to 2018/19. Essential Energy’s proposal would see an additional impost of around $200,000 over the same period.

The regulatory environment in New South Wales makes it very difficult for the Council to pass this charge onto its ratepayers through an increase in rates. New South Wales has a system of “rate pegging” where a maximum allowable increase in “ordinary rates” – the general rate applied to property owners – is set by the Independent Pricing and Regulatory Tribunal (IPART). While the Council can apply to IPART for an increase over and above the peg, the process is costly, time consuming, and quite difficult for an organisation of the size of Berrigan Shire Council – and there is no guarantee of success. Seeking a rate increase through IPART also requires significant community consultation and support; this support would be unlikely under these circumstances.

Even if the Council was able to pass on these costs to ratepayers, the increase would come at a time when the local community is struggling with the impact of the Murray-Darling Basin Plan. Berrigan Shire has been identified as the Local Government Area most affected by the withdrawal of water from economic use under the Basin Plan. The local economy is still adjusting to the structural shifts in place as a result of the Basin Plan. In the view of this Council, there is no capacity in the community for a significant rate increase.

If this proposal is approved, the Council will have no choice to cut services provided to its community.

# Reasonableness

Essential Energy has advised the Council that the proposed increase in street lighting costs sought in this determination is to fully recover the cost of providing the service. According to Essential Energy, it currently loses $5m per annum on the service.[[2]](#footnote-2) This would seem substantial however this should be seen in the context of the overall operations of the organisation. In 2012/13, under the current determination and street lighting pricing regime, Essential Energy made an operating **profit** after income tax of $350.1m.[[3]](#footnote-3)

Essential Energy may argue that there is a cross subsidy where its electricity transmission customers are subsidising its street lighting customers. This argument would miss the point that the end customers of both services are the same people – the communities of rural New South Wales, either through their electricity bills in one case or through their rate notice in the other. The cross-subsidy argument would also require that Essential Energy would “pass on” the savings made in its street lighting operations to its transmission customers and somehow be able to ensure that those savings were in turn passed on to retail users of electricity. This would appear somewhat unlikely and it is more likely that the additional street lighting charges will act to increase operating profit and be passed on through an increased dividend.

Essential Energy is a public entity, being wholly owned by the New South Wales government and is expected to pay a dividend to the NSW government. In 2012/13 this dividend paid was $240.8m.[[4]](#footnote-4) The dividend is paid back into NSW consolidated revenue.

Any additional dividend paid by Essential Energy to the NSW government as a result of the proposed street lighting charges would be on the face of it “cost shifting” – i.e. the transferring of costs for an essential public service from the state government to local government. This cost-shifting is effectively a hidden, additional tax on rural NSW – and one levied in a non-transparent manner.

In April 2013, the NSW government and NSW local governments entered into an “Intergovernmental Agreement to guide NSW State-Local Government Relations on Strategic Partnerships”. This document includes a clause on cost shifting:

*5.8 Where local government is asked or required by the state government to provide a service or function to the people of NSW, any consequential financial impact is to be considered within the context of the capacity of local government.*[[5]](#footnote-5)

Street lighting is clearly a service to the people of NSW and the NSW government, through its agent Essential Energy, is asking local government to meet the entire cost of providing that service. As such, under the terms of the NSW government’s own agreement, **the proposal by Essential Energy should be considered within the capacity of local government**, and not merely on the narrow ground of cost recovery.

Note that the impact of these changes on the NSW community is unchanged – the additional money raised by the NSW government as a result of the increase will come in the final analysis from the NSW community – i.e. the incidence of the proposed increase is on the households and businesses of rural NSW.

The above points all assume that the costing and charging models put forward by Essential Energy in this proposal are accurate and the assumptions used in the model are well founded. As mentioned earlier in this submission, the Council does not have the data, the capacity or the technical expertise to address these points in detail.

However, it would be reasonable to assume that the proposed 95% increase in street lighting charges would suggest that either:

1. The current costing model for street lighting is fundamentally flawed, or
2. The proposed model is too conservative and based on overly pessimistic assumptions about costs incurred.

For a layperson, it is difficult to believe that Essential Energy have underestimated the cost of providing street lighting maintenance to such an extent that such a substantial increase is needed simply to recover costs. Such a claim would appear to require a reasonable amount of skepticism.

# Initiatives

While the Council is captive to a monopoly supplier of street lighting maintenance services, it has taken steps to reduce the operating and maintenance costs of its street lighting. This has been in partnership with Essential Energy, which is somewhat ironic given their proposal.

In September 2012, the Council entered into an agreement with Essential Energy for bulk replacement of its streetlights under Essential Energy’s Energy Efficient Luminaires Program. The program saw replacement of many of the Council’s older, less efficient lights with modern lights, including in some cases LED lights.

Essential Energy sold participation in the program to the Council as a means of reducing the costs of operating and **maintaining** its street lights and sharing these savings with the Council. The Council accepted these assurances about reduced costs and savings for the Council in good faith. In the light of the proposal from Essential Energy, this assumption of good faith appears unwarranted.

# Conclusion

In its current form, the proposal from Essential Energy for a massive increase in street lighting charges cannot be supported by Berrigan Shire Council.

* The increase would have a significant and ongoing impact on the operations of Berrigan Shire Council and the services it provides to the community
* The Council has no capacity to pass the costs on to ratepayers and the community has no capacity to bear these costs in any case
* In the context of the overall operations of Essential Energy, the increase is not reasonable
* The increase is effectively a hidden tax increase for rural NSW residents.
* The increase sought would put the NSW government in breach of its own agreement with local government regarding “cost shifting”.
* The huge variation between the current costing model and the proposed model demands a heavy level of skepticism
* The Council has acted in good faith to reduce its street lighting costs – in partnership with Essential Energy – and this good faith has not been reciprocated.

# Further information

Berrigan Shire Council would be pleased to provide further information regarding this submission if requested. Please contact Matt Hansen, Director Corporate Services at [matthewh@berriganshire.nsw.gov.au](mailto:matthewh@berriganshire.nsw.gov.au) or (03) 5888 5100.

1. Attachment 8.1 Public Lighting Proposal p. 27 [↑](#footnote-ref-1)
2. Letter from Gary Humphries, Essential Energy to Rowan Perkins, General Manager Berrigan Shire Council – 18 July 2014. [↑](#footnote-ref-2)
3. Annual Report – Essential Energy 2012/13 [↑](#footnote-ref-3)
4. Annual Report – Essential Energy 2012/13 [↑](#footnote-ref-4)
5. April 2013 – Intergovernmental Agreement to guide NSW State-Local Government Relations on Strategic Partnerships <http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Information/Intergovernmental%20Agreement%20to%20Guide%20NSW%20State-Local%20Government%20Relations%20on%20Strategic%20Partnerships.pdf> [↑](#footnote-ref-5)