

# ***Blayney Shire Council***

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27 February 2012

Dear Councillor,

Your attendance is requested at an Extraordinary Council Meeting of the Blayney Shire Council to be held in the Council Chambers on Tuesday, 21 February 2012 at 5.00 pm for consideration of the following business -

- (1) Acknowledgement of Country
- (2) Recording of Meeting Statement
- (3) Apologies for non-attendance
- (4) Disclosures of Interest
- (5) Reports from Staff
  - (a) Environmental Services

Yours faithfully

GA Wilcox  
**GENERAL MANAGER**



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**HELD ON TUESDAY 21 FEBRUARY 2012**

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**ENVIRONMENTAL SERVICES REPORTS**  
**PRESENTED TO THE BLAYNEY SHIRE COUNCIL**  
**MEETING HELD ON TUESDAY, 21 FEBRUARY 2012**



01) **SECTION 96 MODIFICATION OF CONSENT APPLICATION -  
DEVELOPMENT APPLICATION NO.59/2011 - RICHARDS  
LANE AND SPRINGVALE LANE, MILLTHORPE**  
(Director Environmental Services)

**RECOMMENDED:**

That Council consent to the Section 96 Modification of Consent for Development Application No.59/2011 subject to the following conditions of consent:

1. The determination shall be regarded as being in accordance with the particulars and endorsed plans set out and described in Development Application No. 59/2011 registered in Council's records as of 2 December 2010 and Section 96(2) application registered in Council's record system on 19 August 2011.

**PUBLIC ASSETS**

**REASON: To ensure that the public interest is upheld.**

2. That before commencement of any work, a sign is to be erected at the front boundary of the land clearly identifying the lot number and names of the owner, contractor and license number and emergency telephone contact numbers.
3. That any damage to Council's footpath, road or other land be restored in accordance with Council's specifications. Should you have any questions please contact Council's Engineering Department on (02) 63689618.
4. That no materials or machinery to be used in the construction of the development shall be stored or stacked on Council's footpath, nature strip or roadway.
5. That the hours of construction be restricted to:-

Monday to Friday	7:00am to 6:00pm
Saturday	8:00am to 1:00pm
Sunday & Public Holidays	Nil

**ENVIRONMENTAL**

**REASON: To comply with Council's statutory requirements.**

6. Erosion and sediment control measures are to be established prior to commencement of construction and maintained to prevent silt and sediment escaping the site or producing erosion. This work must be carried out and maintained in accordance with the *WBC Guidelines for Engineering Works*, and *Department of Housing – Soil and Water Management for Urban development (Blue Book)*.

NOTE: All erosion and sediment control measures must be in place prior to earthworks commencing. Copies of the above guidelines are available from Council's

Environmental Planning and Building Services Department.

7. Any proposed site filling is to be clean material only, free from organic matter, and compacted in horizontal layers not more than 250mm thick to 95% of the standard maximum dry density of the soil. All such works are to comply with *WBC Guidelines for Engineering Works*.  
NOTE: Soil density tests from a NATA registered laboratory, and conducted in accordance with Australian Standard 1289, will be required prior to the issue of any construction certificate for the erection of a building or the issue of a subdivision certificate.
8. That there be no burning of waste material, felled trees or other material on the site.

### **LANDSCAPING**

**REASON: To comply with Council's Policy for the provision of landscaping.**

9. That the approved landscaping as identified in the landscaping plan be completed prior to the issue of the Subdivision Certificate for any allotment to which it relates.
10. The existing avenue planting of Plane trees along Park Street is to be extended from Richards Lane to meet the Village avenue planting, so as to enhance the streetscape and provide visual screening.
11. That a Section 88B Instrument be created to include a positive covenant on allotments 21, 52, 53, 79, 80, 81, 82, 83, 91, 95 and 96 to ensure that the approved landscaping, as per the landscaping plan be maintained by the owner.

### **STATUTORY**

**REASON: To comply with the statutory requirements of other authorities.**

12. That documentary evidence be provided to Council that arrangements have been made with Central Tablelands Water for the supply of water prior to the issue of a Subdivision Certificate for any allotment to which it relates.
13. That documentary evidence be provided to Council that arrangements have been made with Essential Energy for the supply of electricity prior to the issue of a Subdivision Certificate for any allotment to which it relates.
14. That documentary evidence be provided to Council that arrangements have been made with the relevant telecommunications authority for the provision of telephone services prior to the issue of a Subdivision Certificate for any allotment to which it relates.

15. The applicant is to obtain a construction certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended from either Council or a accredited certifying authority. Certifying that the proposed works are in accordance with the *WBC Guidelines for Engineering Works* prior to any subdivision works commencing.
16. The applicant is to obtain a subdivision certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended from Council. The final survey plan and two paper copies are to be submitted to Council along with the application for the subdivision certificate prior to its lodgement with the Lands Titles Office.  
NOTE: Council will only issue a Subdivision Certificate in relation to the subdivision or any part thereof when it is satisfied that all conditions of development consent have been complied with and the appropriate fees paid with respect to the subdivision or that part to which the Subdivision Certificate relates.
17. That the final plan of survey is to provide for the dedication as public road all roads required to be (re) constructed under this consent.  
NOTE: The applicant is to make arrangements for the closure and transfer of that part of the public road within proposed allotment 9 to provide for the realignment of Richards Lane.
18. That an original plan of subdivision be submitted for Council's registration prior to the issue of the Subdivision Certificate for any allotment to which it relates.

#### **STATUTORY**

##### **REASON: To comply with the statutory requirements of Council's Policy and Development Control Plans.**

19. That all new and replacement electricity, coaxial, telecom and other cables are to be laid underground.
20. That above ground utility installations and cabinets are to be kept to a minimum in size and number and if possible located on existing poles.
21. That any bicycle paths or footpaths are to be finished with a cement stabilised decomposed granite material from a local supply.
22. Prior to the issue of a construction or subdivision certificate, the applicant is to submit an electronic copy (AutoCAD 2000 format) and three (3) paper copies of engineering plans, specifications and calculations in relation to Condition(s) 30, 31, 33, 38, 39, 40, 41, 42, 43, 45, 46, 47, 48, 51, 52 and 54. Further, the works are to comply with *WBC Guidelines for Engineering Works*.



23. During the course of construction, the applicant is to obtain a compliance certificate pursuant to Section 109C of the *Environmental Planning and Assessment Act 1979*, as amended, from either Council or an accredited certifying authority, certifying that the engineering work required by condition(s) 30, 31, 33, 38, 39, 40, 41, 42, 43, 45, 46, 47, 48, 51, 52 and 54 has (have) been constructed in accordance with the approved plans and *WBC Guidelines for Engineering Works*.  
NOTE: Where Council is the Certifying Authority in relation to engineering works fees will be payable in accordance with Council's Revenue Policy.
24. Prior to the issue of a subdivision certificate, the applicant is to submit to Council an electronic copy of the works as executed plans for the works required by Condition(s) 30, 31, 33, 38, 39, 40, 41, 42, 43, 45, 46, 47, 48, 51, 52 and 54 in AutoCAD 2000 format. Further, the works are to comply with *WBC Guidelines for Engineering Works*.  
NOTE 1: Information provided shall also include the provision of a table on the works as executed plan which details: the distance from the centre of the downstream manhole/pit to each sideline, house connection, and dead end; the depths to invert; and the length of such sidelines.  
NOTE 2: Information provided shall also include the provision of information on the works executed plan which details: road levels, road crossfalls & longitudinal grades.
25. During the course of construction, the applicant is to arrange an inspection of the subdivision works by Council's Engineering Department at the following stages of the development. This condition applies notwithstanding any private certification of the engineering works.

	COLUMN 1	COLUMN 2
A	Road Construction	<ul style="list-style-type: none"> <li>• Following site regrading, and prior to installation of footway services;</li> <li>• Excavation and trimming of subgrade;</li> <li>• After compaction of subbase;</li> <li>• After compaction of base, and prior to sealing;</li> <li>• Subsoil Drainage;</li> <li>• Road pavement surfacing;</li> <li>• Pavement test results (compaction, strength).</li> </ul>
B	Drainage	<ul style="list-style-type: none"> <li>• After laying of pipes and prior to backfill;</li> <li>• Pits after rendering openings and installation of step irons.</li> <li>• Following channel shaping</li> </ul>

		prior to topsoiling and seeding
C	Sewerage	<ul style="list-style-type: none"> <li>• After laying of pipes and prior to backfill;</li> <li>• Main - air pressure testing;</li> <li>• Installation and commissioning of sewerage pump stations.</li> <li>• Manhole - water test for infiltration, exfiltration.</li> </ul>
D	New Gate – Rural Crossing	<ul style="list-style-type: none"> <li>• Prior to commencement of excavation works.</li> <li>• After compaction of base and prior to sealing</li> <li>• Road pavement surfacing</li> </ul>
E	Erosion and Sediment Control	<ul style="list-style-type: none"> <li>• Prior to the installation of erosion measures.</li> </ul>
F	All Development & or Subdivision Works	<ul style="list-style-type: none"> <li>• Practical completion.</li> </ul>
G	Road Openings	<ul style="list-style-type: none"> <li>• Upon completion of works.</li> </ul>

26. Prior to the issue of a Construction Certificate, Engineering Inspection fees must be paid in accordance with Councils Fees and Charges for that length of road to be constructed to which the Construction Certificate relates.

## **SECTION 94 CONTRIBUTIONS**

### **REASON: To comply with Council's policy for a contribution towards headworks.**

27. That the applicant pays Section 94 Contributions as required by Council's Section 94 Plans. The amount applicable will be dependant upon the date on which payment is made and will be as per Council's adopted fees and charges for the financial year in which payment is made. Section 94 Contributions will not be applied to the first 25 allotments for which a Subdivision Certificate is issued. Section 94 Contributions will not apply to proposed allotment 25 – Open Space.
28. That the applicant pays sewer head works charges pursuant to the Millthorpe Development Servicing Plan (Section 64). The amount applicable will be dependant upon the date on which payment is made and will be as per Council's adopted fees and charges for the financial year in which payment is made.
29. Payment of applicable Section 94 and 64 Contributions to be made prior to the issue of a Subdivision Certificate for any allotment to which they relate.
30. The developer is to lodge a bond with Council equal to 5% of the total subdivision civil construction costs for that part of the subdivision to which the Construction Certificate relates, at practical completion to be held by Council for a minimum period of twelve (12) months. The

bond must be lodged with Council before a subdivision certificate will be issued by Council.

## **INFRASTRUCTURE**

### **REASON: To comply with Council's requirements for the provision of infrastructure.**

31. Sewer mains are to be constructed such that there is a separate and distinct sewer connection wholly within the boundary of each proposed allotment, in accordance with the Local Government (Approvals) Regulation 1999 and in accordance with *WBC Guidelines for Engineering Works*.  
NOTE: The developer is to construct a 150 mm sewer riser at each property junction; each riser is to be constructed so that riser cap finishes 150 mm above the finished surface level of each allotment created.
32. The location of proposed sewer manholes shall be such that they are located entirely outside the designated 1% Annual Exceedance Probability (AEP) flood inundation zone.
33. The final plan of survey is to show an easement to drain sewage 4 metres wide within allotments 1 and 3 and in favour of Council
34. The location of each proposed sewerage pump station shall be such that it is located entirely within its own allotment and entirely outside the designated 1% Annual Exceedance Probability flood inundation zone. The allotment shall be sized to ensure suitable access is maintained at all times, for servicing of the pump station.
35. The pump station allotment(s) shall be transferred to Blayney Shire Council as allotment(s) in fee simple, and connections made for the separate servicing with water and electricity.
36. The developer is to relocate, if necessary, at the developer's cost any utility services.
37. During and after construction, minimum distances from powerlines are to be maintained.
38. Prior to the commencement of construction, the developer is to provide to Council a letter from Essential Energy indicating that satisfactory clearances from power lines will be maintained.
39. Prior to any work being undertaken on site, all roads (existing and proposed) within the proposed development, including Richards Lane and Springvale Lane are to be designed to Council's RB1 Road standard, in accordance with the Blayney shire Council *DCP No. 6, Development Guidelines for North Millthorpe*, and the *WBC Guidelines for Engineering Works* where applicable.
40. Provision for bus stops shall be provided such that no allotment is further than 400m from a bus stop. Bus stops

- are to be constructed and sealed in accordance with Section 3.4.8.2 of the Roads and Traffic Authority's Road Design Guide prior to the issue of Subdivision Certificate.
41. The development of any one of the proposed allotments shall require the construction of all roads servicing and fronting the proposed allotments, to Council's RB1 Road standard. (Prior to the issue of Subdivision Certificate.)
  42. The development of any one of the proposed Allotments numbered 3 – 8 in Dwg No. 08-074 Rev C shall require the reconstruction of Richards Lane from the end of seal of Crowson Street to the northern boundary of Allotment 8 to Council's RB1 Road standard. (Prior to the issue of Subdivision Certificate)
  43. The development of any one of the proposed Allotments numbered 9 -96 (excluding Allotment 25) in Dwg No. 08-074 Rev C shall require the reconstruction of; Richards Lane from Park Street (MR245) to the northern boundary of Allotment 8, Springvale Road to the western boundary of Allotment 54, and those roads that front proposed Allotments 22 – 24 & 71, to Council's RB1 Road standard. (Prior to the issue of Subdivision Certificate)
  44. Prior to the development of the twenty-fourth (24<sup>th</sup>) allotment gaining access via Richards Lane to Park Street or Crowson Street. The developer shall upgrade the intersection of Park Street (MR245) and Richards Lane in accordance with the NSW Roads and Traffic Authority requirements in letter dated 2 June 2010. Prior to the issue of Subdivision Certificate.  
NOTE: For the purpose of the calculation of the number of allotments, allotment 25 (open space) is not included.
  45. Proposed lot 25 shall be created at the time of release of the first subdivision certificate for the proposed subdivision. Upon its creation this lot is to be dedicated to Council. All works required to be completed by the developer upon this lot are to be completed prior to its dedication to Council.
  46. The developer is to construct an appropriate pedestrian and cycle link between Stabback Street and the unnamed street to the north of proposed lot 25, prior to release of the first subdivision certificate for the proposed subdivision. This link is to be constructed so as to be trafficable above the designated 1% Annual Exceedance Probability (AEP) flood inundation zone. Full plans and specifications for this pedestrian and cycle link are to be approved by Council prior to construction.

## **RURAL ADDRESSING**

**REASON: To comply with Council's Policy and requirements for the provision of rural addressing.**

47. The designated number plate(s) shall be obtained and

erected in accordance with the Specifications for Erection of Street Address Numbers as supplied by Council. Written notification is to be provided to Council indicating rural addressing number(s) has/have been erected. This letter is to be supplied to Council or Principal Certifying Authority prior to the issue of a Subdivision/Occupation Certificate.

## **ACCESS**

### **REASON: To comply with Council's policy and requirements for the provision of access.**

48. During the course of construction, construct an all-weather 2WD vehicular access to each proposed allotment. Such access shall include:
- (a) A gate or stock grid set back in accordance with the following table:

COLUMN 1	COLUMN 2
Allotment area greater than 1 Ha.	A minimum distance of 15m from the edge of the road formation.
Allotment area of 1 Ha or less	A minimum distance of 10m from the edge of the road formation.

- (b) A minimum 4.0 metre wide sealed footway crossing, extending from the edge of the bitumen seal on the public road to the entrance gate or stock grid.
- (c) A 150 mm thick 3.0 metre wide concrete dish drain or 450 mm minimum diameter reinforced concrete pipe culvert with headwalls, aligned with the table drain in the public road.

NOTE: Any new vehicular access points are to be located such that all RTA stopping sight distances are achieved.

49. That all accesses are to be designed and constructed to provide all weather access to the subject land. If the 1% Annual Exceedance Probability storm can-not be catered for with piped drainage, the over road flow must have a velocity-depth product of less than 0.7m<sup>2</sup>/s.
50. Vehicular access shall not be created or used to give access to a road closer than 20 metres to any intersection with another road.

NOTE: Access to allotment 54 is to be provided off Springvale Lane.

51. During the course of construction, within and for the full length of the access handle(s) of the hatchet shaped allotment(s) and over the footway, construction of a sealed vehicular driveway(s) 2400 mm wide, designed to *WBC Guidelines for Engineering Works*. Further, the applicant is to obtain a compliance certificate pursuant to Section 109C of the *Environmental Planning and Assessment Act* at the completion of construction of the

footway crossing from Council or an accredited certifying authority certifying that the works have been completed in accordance with *WBC Guidelines for Engineering Works* prior to issue of Subdivision Certificate.

NOTE: If other hard standing, dust free and weather proof surfaces are proposed instead of sealing, written approval is to be obtained from Council that the proposed alternative is acceptable.

52. The final plan of survey is to show a right of carriage way 10 metres wide within allotment 83 and in favour of allotment 84.

#### **LIABILITY**

**REASON: To comply with Council's requirements for insurance coverage against claims.**

53. Prior to the commencement of any works on Council controlled land including a public road, the applicant is to affect Public Liability Insurance in the minimum amount of \$20 million. This insurance is to note Council's interest and is to remain current for at least the period from the issue of the Construction Certificate until the issue of a Compliance Certificate for the works. Documentary evidence of the currency of the cover is to be provided to Council prior to the issuing of a Construction Certificate.

#### **DRAINAGE**

**REASON: To comply with Council's requirements to ensure the site/buildings are adequately protected from storm water.**

54. A Stormwater Management Plan is to be submitted, and approved by Council for development of the entire site, detailing water flow characteristics within and from the site to a designated drainage channel, treatment and handling of runoff from the development, potential pollution sources and proposed control mechanisms. The Stormwater Management Plan is to comply with *WBC Guidelines for Engineering Works* and be approved prior to issue of Construction Certificate for any allotment to which it relates.

NOTE 1: Implementation of the Stormwater Management Plan may necessitate the creation of easements over adjoining properties.

NOTE 2: The applicant shall demonstrate compliance with the Central West Councils Salinity & Water Quality Alliances *Stormwater to Smartwater: S<sub>2</sub>S – Supporting Technical Guidelines* by incorporating Water Sensitive Urban Design principles into the stormwater system of the development.

55. The developer is to construct inter allotment drainage to drain all allotments not draining naturally to a public road.

The drainage system is to include, but not be limited to, grassed swales, drop structures and energy dissipation devices. All drainage works are to comply with the provisions of AS/NZS 3500 and the *WBC Guidelines for Engineering Works*.

56. The final plan of survey shall show easements to drain water over the land affected by the interallotment drainage in favour of those allotments benefiting from the interallotment drainage.

NOTE: The interallotment drainage system shall be designed to cater for the 1% AEP event plus a 500mm freeboard without any overtopping.

57. All road and inter allotment drainage is to be conveyed to a legal point of discharge, in accordance with the *WBC Guidelines for Engineering Works*.

NOTE. The current rural catchment discharge rates are to be used as the maximum post development discharge.

58. The final survey plan is to show easements in gross to drain water in favour of Council over all storm water drains conveying road and inter allotment drainage.

## **REPORT**

**Applicant:**

**Owner:**

**Application No:** 59/2011

**Zone:** 1(c) Rural Small Holdings

**Date Received:** 19 August 2011

**Assessment No:** 1536-11310-1

**Property:** Lot 36 DP 750384, Lot 4 DP 750384, Lot 350 DP 1073010 and Lot 21 DP 1148965 – Richards Lane and Springvale Lane, Millthorpe

**Proposed Development:** Section 96 Modification of Consent Application – Development Application No. 59/2011 proposes to amend fourteen (14) original conditions of development consent.

## **BACKGROUND**

Development Application No.59/2011, for the subdivision of Lot 36 DP 750384, Lot 4 DP 750384, Lot 350 DP 1073010 and Lot 21 DP 1148965, Richards Lane and Springvale Lane, Millthorpe, into ninety six (96) allotments was reported to an Ordinary Council Meeting and subsequently granted conditional approval on the 9 May 2011.

The Applicant filed a Class 4 appeal to the Land and Environment Court against Council regarding the validity of Council's Section 94 Contribution Plan, BSC1 - Roads Road (2009 Review), the validity of condition 27 requiring the contributions and the validity of condition 45 requiring dedication of land free of charge to Council. The matter was presented to the Land and Environment Court on the 6 and 7 December 2011 and the decision was

handed down on the 16 December 2011 by AJ Moore who dismissed the application with costs.

The application now before Council proposes a modification to the approved subdivision under Section 96(2) of the Environmental Planning and Assessment Act 1979, proposing amendments to fourteen (14) original conditions of development consent.

The Section 96 Modification of Consent Application is reported to Council as the original Development Application was determined at Council and nine (9) submissions were received in relation to the Section 96 Modification of Consent Application.

A copy of the Section 96 Modification Application and supporting documents are included in the attachments to this report.

### **PROPOSAL**

The application proposes amendments to the following fourteen (14) original conditions of development consent.

#### ***Condition No.5:***

***That the hours of construction be restricted to:-***

***Monday to Friday                      7:00am to 8:00pm***

***Saturday                                7:00am to 1:00pm***

***Sunday and Public Holidays   Nil***

#### **Proposed Amendment:**

That the hours of construction be restricted to-

Monday to Saturday        7:00am to 8:00pm

Sunday and Public Holidays    As approved by Council at the request of the developer.

#### **Assessment Response:**

According to the NSW Office of Environment and Heritage, the *Interim Construction Noise Guidelines*, 2009 states the following recommended hours of construction:

Monday to Friday                      7:00am to 6:00pm

Saturday                                8:00am to 1:00pm

Sunday and Public Holidays    Nil

It is recommended that condition number 5 be amended as per the NSW Office of Environment and Heritage Guidelines for Construction Noise.

#### ***Condition No. 10:***

***The existing avenue planting of Plane trees along Park Street is to be extended from Richards Lane to meet the Village avenue planting, so as to enhance the streetscape and provide visual screening.***

#### **Proposed Amendment:**

Delete the condition on the following grounds:



- a) The condition is uncertain in its terms;
- b) Park Street is not a street directly related to the proposed development; and
- c) The landscape plan as submitted in relation to the subdivision does not refer to any part of Park Street.

**Assessment Response:**

It is recommended that condition number 10 not be amended as it complies with DCP No.6, Section 3.3, Figure 5 outlining that the avenue planting to Richards Lane be extended for screening and streetscape purposes.

**Condition No. 11:**

***That the approved landscaping be maintained for the life of the development.***

**Proposed Amendment:**

That the condition be deleted/amended on the following grounds:

- a) The condition is unreasonable in that it requires the developer to maintain the landscaping in perpetuity;
- b) The condition is uncertain in its terms;
- c) To the extent that some landscaping is located on land which is owned by Council or will be dedicated to Council, the maintenance of that landscaping will be the responsibility of Council;
- d) That land on which landscaping is undertaken which is sold by the developer will be the responsibility of subsequent owners to maintain, not the developer.
- e) Potentially the condition could be modified to enable a positive covenant to be placed on the title to the affected private properties (particularly lots 21 to 79 to 83, 91, 95, 96, 52 and 53) which would ensure that purchasers of the land would be aware of maintenance requirements of the landscape buffer.

**Assessment Response:**

It is recommended that condition number 11 be amended to the following condition:

That a Section 88B Instrument be created to include a positive covenant on allotments 21, 52, 53, 79, 80, 81, 82, 82, 83, 91, 95 and 96 to ensure that the approved landscaping, as per the landscaping plan be maintained by the owner.

**Condition No.16:**

***The applicant is to obtain a subdivision certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended from Council. The final survey plan and two paper copies are to be submitted to Council along with the application for the subdivision certificate prior to its lodgement with the Lands Titles Office.***

***NOTE: Council will only consider issuing a subdivision certificate in relation to the subdivision when it is satisfied that all conditions of***

***development consent have been complied with and the appropriate fees paid.***

**Proposed Amendment:**

Delete the NOTE and replace with NOTE: Council will only issue a subdivision certificate in relation to the subdivision or any part thereof when it is satisfied that all conditions of development consent have been complied with and the appropriate fees paid with respect to the subdivision or that part to which the subdivision certificate relates.

**Assessment Response:**

It is recommended that condition number 16 be amended as per the proposal, as it will allow the release of the Subdivision Certificates to occur for each Stage of the subdivision.

**Condition No.27:**

***That the applicant pays Section 94 Contributions as required by Council's Section 94 Plans. The amount applicable will be dependent upon the date on which payment is made and will be as per Council's adopted fees and charges for the financial year in which payment is made. Section 94 Contributions will not be applied to the first 25 allotments for which a Subdivision Certificate is issued. Section 94 Contributions will not apply to proposed allotment 25 – Open Space.***

**Proposed Amendment:**

Delete the existing condition and replace with –

That the applicant pays the following Section 94 Contributions:

- a) BSC8 Bushfire Services Contribution Plan at \$331.00 per lot; and
- b) BSC 10 Community Services Facilities Contribution Plan at \$518.00 per lot.

The prescribed rate will be varied in accordance with the indexation rate prescribed by each relevant Contribution Plan on or after the 1 July 2011.

**Assessment Response:**

It is recommended that condition number 27 not be amended due to the matter being presented to the Land and Environment Court and the decision being handed down on the 16 December 2011 by AJ Moore who dismissed the application with costs.

**Condition No.39:**

***Prior to any work being undertaken on site, all roads (existing and proposed) within the proposed development, including Richards Lane and Springvale Lane are to be designed to Council's RB1 Road standard, in accordance with the Blayney Shire Council DCP No. 6 – Development Guidelines for North Millthorpe, and the WBC Guidelines for Engineering Works where applicable. NOTE: Richards Lane shall be considered an Arterial Road for the purpose of stormwater design in accordance with the WBC Guidelines for Engineering Works.***

**Proposed Amendment:**

Delete the NOTE from the condition.

**Assessment Response:**

It is recommended that condition number 39 be amended as per the proposal. The current condition references DCP No.6 and requires a drainage design to cater for a 1% Annual Exceedance Probability.

**Condition No.40:**

***Provision for bus stops shall be provided such that no allotment is further than 400m from a bus stop. Bus stops are to be constructed and sealed in accordance with Section 3.4.8.2 of the Roads and Traffic Authority's Road Design Guide prior to the issue of a Subdivision Certificate.***

**Proposed Amendment:**

Delete the condition.

**Assessment Response:**

It is recommended that condition number 40 not be amended as it complies with DCP No.6; Section 3.2.2 outlining that bus stopping bays are required.

**Condition No. 41:**

***The development of any one of the proposed allotments shall require the construction of all roads servicing and fronting the proposed allotments, to Council's RB1 Road standard, prior to the issue of a Subdivision Certificate.***

**Proposed Amendment:**

Delete the words 'servicing and' from the condition.

**Assessment Response:**

It is recommended that condition number 41 not be amended due to the Applicants desire to Stage the development in any matter they choose. Therefore, the condition is worded to ensure that any allotment that is subdivided has a suitable sealed road providing access to the property from either Crowson or Park Street, Millthorpe.

**Condition No. 45:**

***Proposed lot 25 shall be created at the time of the release of the first subdivision certificate for the proposed subdivision. Upon its creation this lot is to be dedicated to Council. All works required to be completed by the developer upon this lot are to be completed prior to its dedication to Council.***

**Proposed Amendment:**

Amend the condition to the following:

Proposed lot 25 shall be created at the time of the release of the first subdivision certificate for that part of the proposed subdivision north of lot 25. Upon its creation lot 25 is to be dedicated to Council. The Council is to

compensate the applicant for the dedication of lot 25. In the event that the developer and the Council do not agree upon the compensation payable then:

- i) Compensation shall be paid by the Council determined in accordance with s54(1) of the Land Acquisition (Just Terms Compensation) Act 1991;
- ii) Compensation shall be determined by a Valuer appointed by the parties or if the parties do not agree by the President of the Real Estate Institute of NSW at the request of either party. The valuer shall act as an expert and not an arbitrator and his decision shall be binding on both parties.

All works required to be completed by the developer upon lot 25 pursuant to this consent to be completed prior to the dedication of lot 25 to Council.

**Assessment Response:**

It is recommended that condition number 45 not be amended due to the matter being presented to the Land and Environment Court and the decision being handed down on the 16 December 2011 by AJ Moore who dismissed the application with costs.

**Condition No. 46:**

***The developer is to construct an appropriate pedestrian and cycle link between Stabback Street and the unnamed street to the north of proposed lot 25, prior to the release of the first Subdivision Certificate for the proposed subdivision. This link is to be constructed so as to be trafficable above the designated 1% Annual Exceedance Probability (AEP) flood inundation zone. Full plans and specification for this pedestrian and cycle link are to be approved by Council prior to construction.***

**Proposed Amendment:**

Delete the condition, due to the following reason:

The construction of any structure across the water way section of the Open Space area to provide the required cycle way/footpath will interfere with flow of stormwater. The first stage of the project (the urban subdivision) was accompanied by a flood study prepared to determine the minimum floor levels for the lots at the end of Unwin and Stabback Streets. Any obstruction of the water flow (particularly and obstruction above the 1% AEP) could adversely affect these lots, as well as upstream adjoining lots.

**Assessment Response:**

It is recommended that condition number 46 not be amended as it complies with DCP No.6 and it is considered that a suitable engineering solution can be achieved to ensure that the pedestrian and cycle link does not obstruct water flow to adjoining allotments.

**Condition No. 48:**

***During the course of construction, construct an all weather 2WD vehicular access to each proposed allotment. Such access shall include:  
(a) A gate or stock grid set back in accordance with the following table:***

<b>COLUMN 1</b>	<b>COLUMN 2</b>
<b>Allotment area greater than 1Ha.</b>	<b>A minimum distance of 15m from the edge of the road formation.</b>
<b>Allotment area of 1Ha or less.</b>	<b>A minimum distance of 10m from the edge of the road formation.</b>
<p><b>(b) A minimum 4.0 metre wide sealed footway crossing, extending from the edge of the bitumen seal on the public road to the entrance gate or stock grid.</b></p> <p><b>(c) A 150mm thick 3.0 metre wide concrete dish drain or 450mm minimum diameter reinforced concrete pipe culvert with headwalls, aligned with the table drain in the public road.</b></p> <p><b>NOTE: Any new vehicular access points are to be located such that all RTA stopping sight distances are achieved.</b></p> <p><b>Proposed Amendment:</b> Delete this condition, due to the following reason: Access conditions should be applied upon approval of a development application for a dwelling to be erected on any allotment in the subdivision and positioned so as to suit the design of the residence to be erected.</p> <p><b>Assessment Response:</b> It is recommended that condition number 48 not be amended. Council requires accesses to be constructed at the time of subdivision to service each new allotment. In addition, it is considered that due to the allotment sizes the access locations will not hinder dwelling location options on the allotments.</p>	

**Condition No. 55:**

**The developer is to construct inter allotment drainage to drain all allotments not draining naturally to a public road. The drainage system is to include, but not be limited to, grassed swales, drop structures and energy dissipation devices. All drainage works are to comply with the provisions of AS/NZS 3500 and the WBC Guidelines for Engineering Works.**

**Proposed Amendment:**

Delete the condition, due to the following reason:

The development when completed will cater for 95 additional home sites. Each of these home sites is expected to have a rainwater tank attached (under the BASIX requirements) and absorption trenches where required. The allotment sizes are 4000 square metres and above, and the flows of water across the grassed surface are not expected to increase as a result of the development.

**Assessment Response:**

It is recommended that condition number 55 not be amended as it is unreasonable to expect any absorption trench to be sized suitably to ensure that all generated flows are captured within the trench. Due to the density of the development the overflow from these trenches will be required to be

discharged to a legal point of discharge which may necessitate the need for interallotment drainage.

**Condition No. 56:**

***That the final plan of survey shall show easements to drain water over the land affected by the interallotment drainage in favour of those allotments benefiting from the interallotment drainage.***

***NOTE: The interallotment drainage system shall be designed to cater for the 1% AEP event plus a 500mm freeboard without any overtopping.***

**Proposed Amendment:**

Delete the condition, due to the amendment requesting condition number 55 to be deleted.

**Assessment Response:**

It is recommended that condition number 56 not be amended as it is required for condition number 55.

**Condition No. 57:**

***All road and inter allotment drainage is to be conveyed to a legal point of discharge, in accordance with the WBC Guidelines for Engineering Works. NOTE: The current rural catchments discharge rates are to be used as the maximum post development discharge.***

**Proposed Amendment:**

Amend the condition to state the following:

All road drainage is to be conveyed to a legal point of discharge, in accordance with the *WBC Guidelines for Engineering Works*.

**Assessment Response:**

It is recommended that condition number 57 not be amended as it provides environmental benefits to limit the discharge rate to the existing land.

**MATTERS FOR CONSIDERATION**

In accordance with Section 96(2) of the Environmental Planning and Assessment Act 1979, the proposed modification is considered to be substantially the same development for which consent was originally granted.

The proposed modification has been assessed against the relevant matters for consideration listed under Section 79C (1) of the Environmental Planning and Assessment Act 1979. The assessment is as follows:

***(a) The provisions of:***

***(i) any environmental planning instrument, and***

**Blayney Local Environmental Plan 1998**

The subject land is zoned 1(c) Rural Small Holdings under Blayney Local Environmental Plan 1998 (BLEP 1998).

Schedule 10 of the BLEP1998 specifies that Council may grant development consent to the subdivision of the land to create lots each having an area of less than 4,000m<sup>2</sup>, subject to the connection of reticulated services, electricity and telecommunications services.

***(b) any proposed instrument that is or has been the subject of public consultation under this Act and that been notified to the consent authority, and***

#### **Draft Blayney Local Environmental Plan**

The site is proposed to be zoned RU5 Large Lot Residential under the Draft Blayney Local Environmental Plan and the same provisions apply as outlined in the BLEP1998.

***(c) any development control plans***

#### **Development Control Plan No.6 – Development Guidelines for North Millthorpe**

The proposed modification complies with all matters outlined in DCP No.6.

***(iia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and***

There are no planning agreements applicable to the proposed modification.

***(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)and***

The proposed modification is consistent with matters in the Environmental Planning and Assessment Regulation 2000 that apply to the proposed modification.

***(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),***

Not applicable to the subject land.

***(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,***

The likely impacts of the proposed modification have been considered and addressed in the proposal section of this report.

***(c) the suitability of the site for the development***

The proposed modification is considered to satisfy the aims and objectives of the zone, as outlined in the Blayney Local Environmental Plan 1998, the site therefore, is considered suitable for the proposed modifications as outlined in the proposal section of this report.

***(d) any submissions made in accordance with this Act or the regulations,***

The proposed modification was notified to adjoining landowners. Notice of the modification application was advertised and notified in accordance with Council's Policy 19A Development Consent – Notification. Nine (9) submissions were received in relation to the modification proposal.

On the 17 November 2011 Council provided a summary of the submissions received during the advertising/notification period and requested the Applicant to provide comments on the submissions. To date the Applicant did not provide any comment to Council.

The issues raised in the submissions related to the proposed amendments to the fourteen (14) original conditions of development consent which have been considered and addressed in the proposal section of this report.

Copies of the submissions are included in the attachments to this report.

***(e) public interest***

The public interest has been considered throughout the assessment of this application.

**CONCLUSION**

The modification proposal has been lodged under Section 96(2) of the Environmental Planning and Assessment Act 1979, in that the proposed modification is considered to be substantially the same development for which consent was originally granted.

The proposed amendments to the fourteen (14) original conditions of development consent have been considered and addressed in the proposal section of this report and it is recommended that Council consent to the Section 96 Modification of Consent to Development Application No. 59/2011 subject to the conditions contained within this report.

**BUDGET IMPLICATIONS**

There are no budget implications for Council associated with this report.

**POLICY IMPLICATIONS**

There are no policy implications for Council associated with this report.

**Attachments**

- 1 DA 59/2011 Application Documents
- 2 DA 59/2011 Submissions received



CR BR Kingham  
**MAYOR**

MR GA Wilcox  
**GENERAL MANAGER**


**Campbell Paton & Taylor**

SOLICITORS ATTORNEYS AND NOTARIES  
Offices in Orange and Molong  
ABN 44 093 265 917

Anson House, 193-195 Anson Street, Orange  
New South Wales Australia  
**Telephone (02) 6362 1922** Facsimile (02) 6361 3674  
Postal Address P.O. Box 1068, Orange NSW Australia 2800  
DX 3011 Orange  
Email cpr@cptlegal.com.au

FOUNDED 1868

PARTNERS  
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Ian T. MacMicking  
Timothy G. Dalla  
S.F. (Fiona) Pigot ★  
Mason R. Manwaring  
Andrew D. Kernode

CONSULTANTS  
Christine A. McIntosh

ASSOCIATES  
Deirdre K. May  
Robert J. Rogers

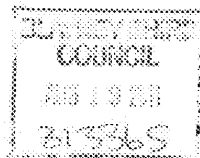
CONVEYANCER  
Margot J. Sawyer

Our Ref: ADK:20101099:ADK

Direct email: kerm@cptlegal.com.au

Your Ref:

The General Manager  
Blayney Shire Council  
PO Box 62  
BLAYNEY NSW 2799



18 August 2011

By hand

Dear Sir,

Marrangaroo East Pty Ltd Subdivision  
North Millthorpe  
DA 59/2011

We act for Marrangaroo East Pty Limited.

Please find enclosed by way of service:

1. Summons in the Land and Environment Court of New South Wales proceedings 40682 of 2011; and
2. Request for section 96(2) of the Environmental Planning and Assessment Act 1979 modification DA 59/2011 ("Section 96 Modification")

Please find enclosed cheque in the sum of \$500.00 payable to Blayney Shire Council being the relevant fee in relation to the section 96 modification.

The Section 96 Modification is lodged as an alternative to the Land and Environment Court of New South Wales proceedings 40682 of 2011 challenging the validity of the BSC 1 Rural Roads Contribution Plans and conditions 27 and 45 of the consent. In the event that this application is approved before our client is required to file and serve its evidence in those proceedings it will not pursue the challenges to the validity of those contributions plans and conditions.

Yours faithfully,

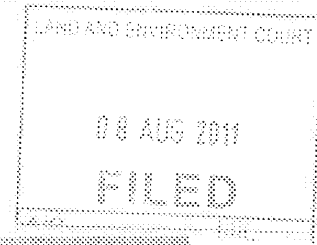
CAMPBELL PATON & TAYLOR

Andrew D Kernode  
Partner

00384097

Liability limited by the Solicitors Scheme, approved under  
Professional Standards Legislation  
★ Accredited Family Law Specialist  
Registered Migration Agents No.s 0101697 • 0745677

Form 4A (version 1)  
UCPR 6.2

**SUMMONS****COURT DETAILS**

Court	The Land and Environment Court of New South Wales
Division	Class 4
Registry	Sydney
Case number	40602 of 2011

**TITLE OF PROCEEDINGS**

<b>Applicant</b>	Marrangaroo East Pty Ltd ACN 111 170 793
<b>Respondent</b>	Blayney Shire Council

**FILING DETAILS**

Filed for	Applicant
Legal representative	Campbell Paton & Taylor
Legal representative reference	ADK20101099
Contact name and telephone	Andrew Kermode 02 6362 1922

**HEARING DETAILS**

This summons is listed at 9.15am - 2 SEP 2011 225 Macquarie St Sydney  
(WINDEYER CHAMBERS)

**TYPE OF CLAIM**

Proceedings seeking an order to remedy a breach of the *Environmental Planning and Assessment Act 1979* pursuant to s. 123 of that Act.

A copy of this document  
must be served

15 AUG 2011  
by.....

**RELIEF CLAIMED**

- 1 A declaration that the plan made by the respondent identified as *BSC 1 Rural Roads* is invalid.
- 2 A declaration that the plan made by the respondent identified as *2009 Review BSC 1 Rural Roads* is invalid.
- 3 A declaration that condition 27 of development consent 59/2011 granted by the respondent on or about 9 May 2011 is invalid.
- 4 In the alternative, a declaration that the amount payable pursuant to condition 27 of development consent 59/2011 granted by the respondent on or about 9 May 2011 in respect of roads is \$nil.
- 5 A declaration that condition 45 of development consent 59/2011 granted by the respondent on or about 9 May 2011 is invalid.
- 6 An order that the respondent pay the applicant's costs of these proceedings.

**SIGNATURE OF LEGAL REPRESENTATIVE**

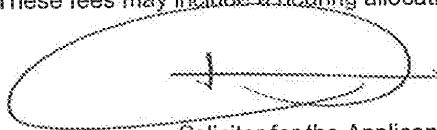
This summons does not require a certificate under section 347 of the Legal Profession Act 2004.

I have advised the applicant that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.

Signature

Capacity

Date of signature



Solicitor for the Applicant

5 August 2011

**NOTICE TO RESPONDENT**

If your solicitor, barrister or you do not attend the hearing, the court may give judgment or make orders against you in your absence. The judgment may be for the relief claimed in the summons and for the applicant's costs of bringing these proceedings.

You must enter an appearance before you can appear before the court.

**HOW TO RESPOND**

Please read this summons very carefully. If you have any trouble understanding it or require assistance on how to respond to the summons you should get legal advice as soon as possible.

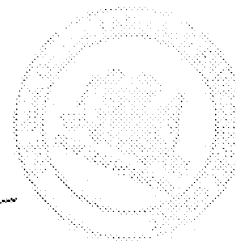
You can get further information about what you need to do to respond to the summons from:

- The court registry.
- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au).

Court forms are available on the UCPR website at [www.lawlink.nsw.gov.au/ucpr](http://www.lawlink.nsw.gov.au/ucpr) or at any NSW court registry.

**REGISTRY ADDRESS**

Street address	225 Macquarie Street Sydney NSW 2000
Postal address	As above
Telephone	9113 8200



**PARTY DETAILS**

[Include only if more than two applicants and/or more than two respondents.]

**PARTIES TO THE PROCEEDINGS****Applicant**

Marrangaroo East Pty Ltd

**Respondent**

Blayney Shire Council

**FURTHER DETAILS ABOUT APPLICANT****Applicant**Marrangaroo East Pty  
Limited

84	Cawarra	Road
Caringbah	NSW	2229

**Legal representative for Applicant**

Name	Andrew Donald Kermode
Practising certificate number	23170
Firm	Campbell Paton & Taylor

**Address**

193-195	Anson	Street
Orange	NSW	2800

DX address 3011 Orange

Telephone 02 6362 1922

Fax 02 6361 3674

Email cpt@cptlegal.com.au

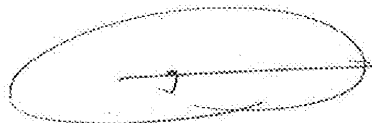
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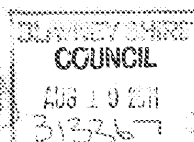
**DETAILS ABOUT RESPONDENTS****First Respondent**

Name Blayney Shire Council

**Address**

91	Adelaide	Street
Blayney	NSW	2799





"WBC STRATEGIC ALLIANCE PARTNERS - WORKING FOR OUR COMMUNITIES"

## MODIFICATION OF A DEVELOPMENT CONSENT

Form No. WBC011

This form is to be used to modify a Development Consent that has been granted under the Environmental Planning and Assessment Act 1979.

<b>EXISTING CONSENT</b>	
DA Number <u>59/2011</u>	Complying Development Certificate No .....
Date of Determination <u>09/05/2011</u>	

<b>PROPERTY DETAILS</b>			
Lot/Section/DP Numbers can be found on the Certificate of Title or the Rates Notice for the land.			
Parcel No .....	Lot No/s <u>3, 4, 350 &amp; 21</u>	Section .....	DP No/s <u>750384, 750384, 1079010 &amp; 1148965</u>
Property No .....	Street/Road Name <u>RICHARDS LANE &amp; SPRINGVALE LANE</u>		
Property Name .....	Town/Locality <u>NORTH HILLTHORPE</u> Postcode .....		

<b>APPLICANT DETAILS</b>			
Name/s <u>MARRANGAROO EAST P/L (OWNER)</u>			
Postal Address <u>C/ 14 SAUE ST</u>			
Town/Locality <u>ORANGE NSW 2800</u>		Postcode <u>2800</u>	
Daytime Phone <u>6362 5433</u>		Mobile .....	
Email <u>tony@cheneywilson.com.au</u>		Fax .....	
Signature/s <u>X PER OWNERS CONSENT/APPLICANT</u>			Date <u>17/8/2011</u>

<b>OWNERS CONSENT</b>	
<ul style="list-style-type: none"> <li>* If more than one owner, every owner must sign.</li> <li>* If you are signing on the owner's behalf as their legal representative, please state your legal authority (eg Power of Attorney, Executor, Trustee) ..... and attached evidence of this authority.</li> <li>* If the property owner is within a strata plan, the consent of the Owners Corporation is required under seal.</li> </ul>	
If the owner is a Company - all Directors must sign.	
Full Name: <u>MARRANGAROO EAST P/L - PER P/A</u>	Full Name: .....
Postal Address: <u>C/ 14 SAUE ST, ORANGE</u>	Postal Address: .....
Signature/s: <u>X</u>	Signature/s: <u>X</u>
Date: <u>17 / 8 / 2011</u>	Date: <u>17 / 8 / 2011</u>
If signing on behalf of a company, please indicate your position within the Company.	
Position: <u>POWER OF ATTORNEY</u>	Position: .....

<b>REASONS FOR MODIFICATION</b>
Give details on the extent and manner of modification.
<u>PER ATTACHED DOCUMENT.</u>

<b>OFFICE USE ONLY</b>	
Type of Modification	<input type="checkbox"/> Minor s96(1) Error or Misdescription <input type="checkbox"/> Minimal Environmental Impact s96(1a) <input checked="" type="checkbox"/> Major s96(2)



18 August 2011

Your Ref: DA 59/2011  
Our Ref: 10014\_mod03

The General Manager  
Blayney Shire Council  
PO Box 62  
BLAYNEY NSW 2799

Attn – Paul O'Brien

Dear Paul

**REQUEST FOR SECTION 96(2) MODIFICATION – DA 59/2011  
NORTH MILLTHORPE**

With regard to the above development consent we advise that the conditions of consent have been reviewed and after consideration we request the following amendments to be made (under section 96(2) of the EP and A Act). The reasons for the request for amendments are set out in the table below and are generally designed to enhance certainty in the scope of works prior to construction.

We confirm that this request is limited to the consent conditions listed below, and that no other aspect of the consent is at issue at this point in time.

Condition Number	Description of Condition	Proposed Amended Condition
5	Hours of construction.	That the hours of construction be restricted to- Monday to Saturday: 7.00am to 8.00pm Sunday and Public holidays as approved by Council at the request of the developer.
10	Extension of planting of Plane trees in Park Street from Richards Lane to meet the existing plantings.	Condition to be deleted on the following grounds- (a) The condition is uncertain in its terms; (b) Park Street is not a street directly related to the proposed development (c) The landscape plan as submitted in relation to the subdivision does not refer to any part of Park Street.
11	Maintenance of approved landscaping.	Condition should be deleted/amended on the following grounds-  (a) The condition is unreasonable in that it requires the developer to maintain the landscaping in perpetuity;

**LAND AND ENGINEERING SURVEYORS, TOWN PLANNING CONSULTANTS**

MPF Surveying Pty Ltd ABN 92 109 448 372  
PO Box 495 ORANGE NSW 2806  
Telephone 02 6360 1161 Facsimile 02 6360 3171  
Email: mfsurvey@bigpond.com

REGISTERED SURVEYOR -  
M.P. FORSYTH, B. SURV., M.I.S. AUST.  
Grad. Dip. Urban and Regional Planning.  
Member of the Institution of Surveyors, Australia



		<p>(b) The condition is uncertain in its terms;</p> <p>(c) To the extent that some landscaping is located on land which is owned by Council or will be dedicated to Council, the maintenance of that landscaping will be the responsibility of Council;</p> <p>(d) That land on which landscaping is undertaken which is sold by the developer will be the responsibility of subsequent owners to maintain, not the developer.</p> <p>(e) Potentially the condition could be modified to enable a positive covenant to be placed on the title to the affected private properties (particularly Lots 21, 79 to 83, 91, 95, 96, 52 and 53) which would ensure that purchasers of the land would be aware of maintenance requirements of the landscape buffer.</p>
16	Subdivision Certificate.	<p>Delete -</p> <p>“NOTE: Council will only consider issuing a subdivision certificate in relation to the subdivision which it is satisfied that all conditions of development consent have been complied with and the appropriate fees paid.”</p> <p>Replace with -</p> <p>“NOTE: Council will only issue a subdivision certificate in relation to the subdivision or any part thereof when it is satisfied that all conditions of developments consent have been complied with and the appropriate fees paid with respect to the subdivision or that part to which the subdivision certificate relates”.</p>
27	Section 94 contribution .	<p>Delete the existing condition and replace with --</p> <p>That the applicant pays the following Section 94 contributions:</p> <p>(a) BSC8 Bushfire Services Contribution at \$331.00 per lot;</p> <p>(b) BSC 10 Community Facilities Contribution at \$518.00 per lot.</p> <p>The prescribed rate will be varied in accordance with the indexation rate proscribed by each relevant contribution plan on or after the 1 July 2011.</p>

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39	Road design.	<p>Delete -</p> <p>"NOTE: Richards Lane shall be considered an Arterial Road for the purpose of stormwater design in accordance with the <i>WBC Guidelines for Engineering Works</i>".</p> <p>Reason -</p> <p>Richards Lane is not an Arterial Road and does not require piped drainage to be designed for a 2% annual exceedance probability.</p> <p>Richards Lane will service less than 100 Lots which the WBC Guidelines clause 2.3.1 defines as an "Urban Local Access Road".</p> <p>WBC Guidelines clause 3.3.1 requires drainage in urban residential road to be designed for a 20% annual exceedance probability.</p>
40	Bus Stops.	<p>Delete this condition on the grounds that presently there are no bus services in the area.</p> <p>Upon contacting local bus companies we have been advised that if a service is provided the proposed route will follow the main transport links and will not travel through the internal roads of the proposed subdivision.</p>
41	Road Construction.	Delete the words "servicing and".
45	Proposed dedication of Lot 25.	<p>Amend to -</p> <p>"Proposed Lot 25 shall be created at the time of the release of the first subdivision certificate for that part of the proposed subdivision north of Lot 25. Upon its creation Lot 25 is to be dedicated to Council. The Council is to compensate the applicant for the dedication of Lot 25. In the event that the developer and the Council do not agree upon the compensation payable then :</p> <p>(i) Compensation shall be paid by the Council determined in accordance with s 54(1) of the Land Acquisition (Just Terms Compensation) Act 1991;</p> <p>(ii) Compensation shall be determined by a Valuer appointed by the parties or if the parties do not agree by the President of the Real Estate Institute of NSW at the request of either party. The valuer shall act as an expert and not an arbitrator and his decision shall be binding on both parties.</p>

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		All works required to be completed by the developer upon Lot 25 pursuant to this consent to be completed prior to the dedication of Lot 25 to Council.
46	Pedestrian and Cycle Link.	<p>Delete the condition for the following reasons -</p> <p>The construction of any structure across the water way section of the Open Space area to provide the required cycle way/footpath will interfere with flow of stormwater . The first stage of the project (the urban subdivision) was accompanied by a flood study prepared to determine the minimum floor levels for the lots at the end of Unwin and Stabback Streets. Any obstruction of the water flow (particularly an obstruction above the 1% AEP) could adversely affect these lots, as well as upstream adjoining lots.</p>
48	Access to Lots.	<p>Delete this condition for the following reasons -</p> <p>Access conditions should be applied upon approval of a development application for a dwelling to be erected on any allotment in the subdivision and positioned so as to suit the design of the residence to be erected.</p>
55	Inter allotment drainage.	<p>Delete this condition for the following reasons -</p> <p>The development when completed will cater for 95 additional home sites. Each of these home sites is expected to have a rainwater tank attached (under the Basix guidelines) and absorption trenches where required. The Lot sizes are 4000 square metres and above, and the flows of water across the grassed surface are not expected to increase as a result of the development.</p>
56	Easements for inter allotment drainage.	<p>Delete this condition for the following reasons -</p> <p>By virtue of the deletion of condition 55 there will be no requirements for inter allotment drainage easements.</p>
57	Drainage requirements.	<p>Amend to -</p> <p>All road drainage is to be conveyed to a legal point of discharge, in accordance with the <i>WBC Guidelines for Engineering Works</i>.</p>

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Please contact the undersigned should you require clarification of any aspect of this submission.

Yours sincerely

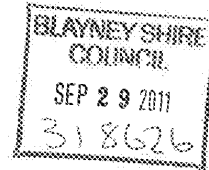


Matthew P. Forsyth  
Registered Surveyor  
Town Planner

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The General Manager  
Blayney Shire Council  
P.O. Box 62  
Blayney  
NSW 2799

27 September 2011



DA 59/2011 : 96 Lot Subdivision

Dear Sir

Marrangaroo East's proposed amendments to conditions of consent should not come as a surprise to Council because this action is entirely consistent with this developer's conduct in the recent past. While it is possible to sympathise to some extent with Marrangaroo East's representations in respect of bus stops for instance, most of the conditions for consent imposed by Council are very well justified in terms of quality standards or community interests and Council should stand by them.

We consider that Marrangaroo East's objection to Condition No. 5 (Hours of Construction), should be rejected simply on the basis of good sense and standard practice. Nobody needs a possible 365 working days in a year!

Condition 11 (landscaping) needs to be modified to clarify what "the life of the development" means - certainly not in perpetuity as suggested by the developer - and also along the lines suggested in 11(e) (Covenant).

Condition 27 (Section 94 Contribution) should not be modified, especially in the light of the timeframe for this development. The developer must be bound by the rules at the time.

Condition 39 (Road Design) should be maintained as is. The condition relates to stormwater, not traffic, and this developer has a history of under-engineering stormwater drainage.

Condition 41 (Road Construction) should not be amended. The developer should ensure that the approaches to the new blocks are of the same standard as those fronting the new blocks. This is in the developer's interest anyway.

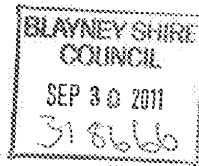
Condition 45 (Lot 25) should be maintained as it stands. Council must insist on the creation of this public space, with the pedestrian and cycle link) before the first subdivision certificate is issued. No compensation should be considered; adequate compensation has been given in terms of Condition 27.

Condition 55, 56 & 57 (Inter-allotment Drainage) should be maintained. Marrangaroo East failed in this respect on the Stabback/Unwin extensions DA, and Council was landed with major problems.

Yours sincerely

Two handwritten signatures. The one on the left is "Anne Newton" and the one on the right is "Brian Newton".

Brian and Anne Newton  
21 Stabback Street  
Millthorpe



Reference 287901  
David and Diane Dixon  
"Roscommon"  
Forest Rd,  
Millthorpe,  
NSW 2798  
Ph (02) 6366 3397

Thursday, September 29 2011

General Manager,  
Blayney Shire Council,  
PO Box 62,  
NSW 2799

Dear Sir/Madam,

We would like to provide a written submission to Blayney Shire Council regarding the Marrangaroo East Pty Ltd Development Application No. 59/2011/1.

Specifically, we would like to comment on a number of the proposed amendments to the Development Application proposed by MPF Surveying (Reference 10014\_mod03).

Our submission on the proposed amendments are as follows:

**Condition 5:** We believe that the hours of construction should remain as in the original approval; this is a major development and nearby landholders should be exempted from the noise, disruption, dust, and inconvenience caused by development at the times listed in the original condition.

**Condition 16:** The conditions relating to issuing of subdivision certificates should not be amended as requested by the developer. This is because Council's more onerous requirements will ensure that ALL conditions of the development have been complied with before certificates are issued, not just for specific areas of the development.

**Condition 40:** The original conditions regarding placing bus stops within 400M of each allotment should be retained. All levels of State Government are spending vast amounts of money to reduce impacts of global warming and providing alternatives to private motor car use in new developments. Removing this requirement flies in the face of Government policy at all levels of Government in Australia. Also, a number of children living in homes in this development will be required to catch buses to and from school. At present Orange Buslines Buses detour through a number of local streets to drop children traveling into and from Orange schools outside their houses. There is no reason to believe that this will not be the case with this development. Removing the bus stops would cause substantial inconvenience to families living in the new development, and would also lead to considerable inconvenience to children living in the development, and endanger lives by requiring children to walk substantial distances to and from bus stops each day.

**Condition 45: Dedication of Lot 25:** The proposed amendment removing the requirement of the developer to dedicate Lot 25 to Council must be opposed vehemently by Council in any shape or form. This dedication, as part of the original conditions of the proposal, was one of the major benefits suggested by a string of Council Officers to a number of Millthorpe residents over a number of years during a number of public meetings. For Council or its officers to now consider requiring Council to now buy this Lot would be in complete breach of the trust between Council and the residents. It would also be a complete repudiation of a number of promises the developer made, before the approval had been issued, on a gift of land that would be made to the citizens of Millthorpe via Council. Furthermore, as landholders who are presently negotiating with Council regarding remediation works on poorly-constructed drainage onto our land which led to the damaging floods in December 2010 — and which Council has begged a lack of funds for a delay in such works — we would be extremely disappointed in any proposal that saw a dilution in the requirement to gift Lot 25 to the Council from the developer. In fact, any such amendment to this condition would be nothing less than a direct transfer of wealth from the Council and the ratepayers to the pockets of the developers in the order of millions of dollars. This is for developers, who in any reasonable assessment, are likely to make millions of dollars out of the said development as it is. If a Council that continually cries poor when required to undertake capital works, and which has a habit of levying ratepayers surcharges on all and any major works carried out in the Shire, considered changing, amending, or modifying this Condition, the Council would likely be reported to the Independent Commission Against Corruption for acting against the interests of ratepayers and in the direct interests of the North Millthorpe developers.

**Condition 46:** This condition should remain unamended. The provision of the Pedestrian Cycle Link can be constructed without compromising the integrity of the natural flow of stormwater through the development. The issue of stormwater flow and the pedestrian and cycle link could be described as a furphy for the developer to not do such work as previously agreed, again saving the developer thousands of dollars to the detriment of the residents and ratepayers.

**Condition 55:** This proposed amendment should be rejected. Drainage problems are endemic to Millthorpe, as we know from experience. Therefore any mediation or precautionary work as required under AS/NZS 3500 and the WBC Guidelines should be adhered to in the strictest form to reduce over flow water impacting on other properties and on streets in the village.

**Condition 56:** As per above.

**Condition 57:** As per above.

We would like these comments and observations to be forwarded to all Council members for consideration of this development.

Yours Sincerely,

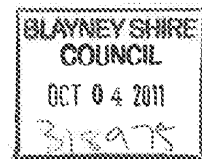


David and Diane Dixon.

Submission re DA No 59/2011 modification (Section 96A)

Development by Mahangaroa East Pty

To the General Manager  
Blayney Shire Council.



Dear Sir,

We are dismayed that the above developers continue to seek variations to the DA approved in regard to the above development in North Milthorpe. They won the right to vary the allotment size so that some 91 allotments were able to be created where in fact there should have been only some 25 allotments allowed within the council zoning of the effected land.

Notwithstanding their offers of considerable contribution to the area, it seems that now the deal is done so to speak Council is being faced with the last incredible demand for variation to the approval to the granted DA.

We remind and refer to the objections lodged by us over several years this development has been going on.

Enclosed as attachments are of some of our submissions from the past. It would seem that the above developers had no intentions to honor their past overtures and promises.

In regard to the lot now known as lot 25 (the very fragile Riparian swamp land) and are now requiring Council to agree to compensate them for this land not being developed. The further amendments in regard to Richards Lane are also a reversal of what appeared to be agreements with Council and the Minister of Planning as to what the developer's intentions were if approval to develop were granted after the variation was allowed.

We think it is time this Council reviews the way it has conducted negotiations with the developers and looked after the Ratepayers interests. As it stands the developers are trying to develop piecemeal the area and thus avoid the agreement consents. At considerable cost to all the Blayney Shire Rate payer.

Please note that I wish to address Council on the night the request for variation is discussed.

Yours faithfully

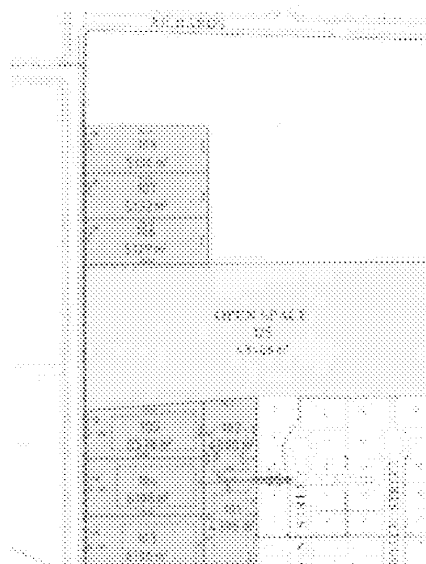
A handwritten signature in dark ink, appearing to read 'E. Kaldy'.

Gedera  
13 Statback Street  
Milthorpe 2798



## Lot 101 - 108, Lots 101-8 Richards Lane, Millthorpe, NSW 2798

- Starting from \$175,000.00



Blowes Real Estate - Orange

- 245 Summer Street
- Orange 2800

From this it is clear that the developer Marrangaroo Pty. Ltd will not proceed to put in all the infrastructure at the one time and thus the tree plantings will be inconsistent and at different times not the way at all that is in the included presentation DA or the best interests of our environment.

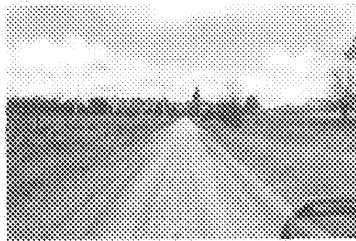
It seems to us that there is a conflict that becomes dependant on whether Council can require the developer to put the entire infrastructure in place before selling any of the 96 lots. We believe there is no way Council can.

It is our opinion that in regard to Richards Lane and Springvale Road there is nothing Council can do to prevent the piecemeal development of this area as the roads are Council owned. And thus any road side planting planned by the developer will be very haphazard as it seems the development will be fragmented into stages.

Our closing comments are regardless of what approvals or conditions Council make when consenting to the DA the developer has a history of applying for variations and we are concerned that they will use this right to further avoid observing the Council requirements in the present approval being sort that ostensibly refers to 96 allotments. We for see the first fragment of the 96 allotments will be the 8 allotments presently being advertised as being for sale. See our above reference.

Yours faithfully

(Above comments from our previous submission and highlight an notice for sale of some of the land off Richards lane ).



Richards Lane Millthorpe 2007

To the General Manager.

Mr A Roach

Submission re modified consent to DA 51/2008

Applicant Marrangaroo East P/L

Wednesday, 26 March 2008

**Conditions 2, 3 and 4 Statutory**

It would seem to be a reasonable for Council to be given documentary evidence of all arrangements made with providers of water, electricity and telephone services.

We feel that this request for modification should be refused.

**Condition 7.**

We refer to Councils DCP 3 and the requirements outlined as **4.4 Roads and access on part page 10 and pages 11, 12 and 13** for this reason;

we feel that the request for this modification should be refused.

We also feel that to rely on the developer experience does not reflect the traffic styles typical of Millthorpe.

The village has families involved in trucking and no doubt the 2 hectare allotments will attract people employed in the trucking industry. We often see large eight wheeled vehicles parked in the village streets, including Park St lower Crowson St, Pearce St and a special parking bay has been created for a Semi that parked on the area now known as Mill Green. We suggest the

requested modification not be allowed.



Example of semi outside the owners home

**Condition 8**

This is a crown road and to date we have seen no evidence that Council has any consent from the Crown Lands department to require the Tar sealing of Richards Lane from Crowson St to the intersection with Park St.

The failure to address this issue also;

Gives the developer reasonable grounds to request that this section be deleted.

We also feel the Council has very little chance of enforcing the sealing of Richards Lane in the area that will be adjacent to allotments fronting Richards Lane, because of certain BSC policies.

**Condition 9.**

There is a problem of description in places this condition is referred to as Springvale Road and in other places as Springvale lane in the DA consent. Springvale Road is a Council owned Road and as such Council requirements as set out in DCP 3 should apply as stated on part page 10 and pages 11, 12 and 13 for this reason we feel that the request for this modification be refused. However see our comments re DCP's and the conflict with BSC policies

**Condition 12**

We have no comment as we feel it is a matter that is effected by Richards Lane being a Crown Road and the need to first provide evidence of written negotiations with the Crown Land Department .Also see our comments re DCP's and BSC policies

**Condition 10**

We feel that to amend the carriage ways from eight metres to 6 is not in the interest of future traffic needs. See also photo of semi it maybe that person eventually building on the allotments will be involved in the trucking industry

Conditions 17 and 18

We support the developers request in this regard.

**Condition 19.**

We feel that Council should not concede to this request by the developer to amend this condition as requested.

**Condition 22**

Again we find that we agree with the developer the wording of this section refers to building work and does not apply to the subdivision submission.

**Condition 26.**

While the statements contained in this condition refer to a building site ( sloppy cutting and pasting perhaps) there is significant reasons that Council require the developer to erect signs that indicate details of construction companies, the developer ect, along with phone numbers.

We have many children living near by and construction sites are tempting places. Accidents can happen so there is a real need for signage that indicates the above details

### Our further comments

We also note that condition 28 needs rewording to reflect that this a subdivision development site requirement and not a building site requirement as Council has set out in this section.

We are further concerned that Council allows such considerable concessions in regard to the payment of levies under section 94 contributions. The formula as under BSC1/2 is to be offset by 50%. We also think that the developer is right in regard to his statements regarding the way Council can levy developer contributions for public services and amenities.

We wish to say that Council policies in regard to discounting by 50% section 94 contributions for community infrastructure can in fact be seen as a subsidy by all ratepayers in the Blayney Shire for such developments.

No wonder we have poor community amenities.

We clearly see that this developer will be able to avoid complying with Councils requirements in some cases because of the law in regard to section 94, the BSC policies and the resultant conflict that occurs in regard to Council DCP's

Even Applying 4 people per allotment is, it seems according to the BSC policies covered in the BSC1/2/3. Council will not be able to enforce its requirement to tar seal or otherwise improve the two unsealed existing roads, being Richards Lane (A crown road) and Springvale Road.

We feel that these facts highlight Council lack of consistency between the various policies and DCP's when applied to subdivision development of this nature.

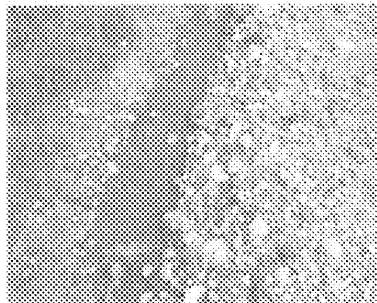
### Condition 1 Landscaping and Tree Planting

We are very concerned that the applicant states that tree planting and buffer zones were not retained in the Council consent of 11<sup>th</sup> of December 2007

We feel the development needs some form of buffer to demark the village area from the rural residential development. So that the historic ambience of Millthorpe is protected. We also note that there is no protection for the riparian swamplands that have been embedded in an application to vary allotment sizes from two hectares to 4,000 square metres. This application is being made by the same developer over the same lands. The Executive summary of the EIS of 2005 in par 5 on page 6 states in part: **provide dual drainage open space corridor in the south, which also distinguishes the rural living developments from the village houses.** This statement verifies the recognition for some demarcation of the village and ant rural housing development, and should have been rigorously applied to the present DA.

Further it was not particularly correct of the solicitor to state that section 94 Contributions plan applicable is BSC 1.

In fact this deals with Blayney in the first instance. Village roads are within BSC 2. So the correct reference would appear to be BSC1/2. Clearly the fax goes on to state section 94 under the EP& A act is the sole source of power for the Council to levy contributions for public amenities, and as we said before: this payment is calculated on the basis of a 50% discount by council. As such will produce little by way of income that should be spent on infrastructure needs. We have included pictures of Richards Lane to illustrate:



The above pictures were taken at the junction of Richards Lane as it turns east and in the vicinity of Springvale intersection.

*Part of letter written to the Minister Hon F Sator in August 2007*

It is my experience over the 12 years I have lived in the vicinity that this riparian swamp land, contains many species of amphibians, four specie of snakes, various lizards and supports several aquatic bird species it is also a resting and feeding area for migrating birds. I have photographed and recorded the amphibians that inhabit the area as I have come across them. Others and I feel that this particular Riparian swamp land would make an ideal buffer between the Millthorpe and any development of the Rural 1 (c) zone

This is a photo of the natural sink hole. This is a vital habitué to fauna and is the main water holding area in part lot 71. It has never been dry and is a part of the riparian swamp not recognized by the EIS. The background is looking across the proposal to the north from close to the village



#### Riparian communities

##### The riparian zone

The riparian zone is the area of the landscape directly associated with the stream or river. It has a number of sections to it

- Floodplain. This is the level ground furthest from the watercourse. This area usually gets inundated during flood periods.
- Banks. The banks are the sides to any stream or river. Depending upon the velocity of the water flows they may be deep or shallow.
- Bench. This is the flat area on the bottom of the riparian zone that is not submerged by the streamflow.
- Streambed. This is the active flow channel where the stream or river flows most of the time.

##### Riparian communities

Riparian communities are found along the watercourses of our district. These areas have higher moisture levels than the surrounding landscape and may also experience periodic flooding. In our district these communities are generally woodlands or fringing forests.

Plants of riparian communities are usually adapted to living in a particular part of the riparian zone. For example, large trees are usually found on the floodplain, shrubs and grasses on the banks, and rushes and sedges are often found close to or even in, the water.

##### Biodiversity

##### Central Tablelands Landcare Natural Resource Toolkit 21

Riparian communities are important as biodiversity corridors allowing wildlife and birds to move across the landscape. They are also important in maintaining stable stream banks and in keeping the aquatic ecological communities in our waterways healthy.

##### Riparian forest communities

These are relative relatively dense forests of trees along creeks and rivers. River she-oaks often make up these communities along the rocky streams and creeks of our district. They may also contain a variety of shrubs, sedges, rushes and grasses.

##### Figure 7.2.4

Fringing forests of River She-oaks at Summer Creek, north of Orange. (D.Hardwick)

##### Riparian woodland communities

Many of our riparian areas consist of open woodland communities of a few species. Ribbon Gum and Apple Box communities are commonly found above about 700m in the Tablelands. Further west, on the slopes, River Red Gum is a dominant species in riparian woodland communities.

##### Changes to the riparian zones and communities

In the Central Tablelands Landcare district many riparian communities have been cleared for agriculture whilst intensive grazing and disturbance by livestock has prevented native plant species from regenerating. Weeds such as willows, phalaris and blackberries have invaded many of our riparian communities and there has been significant modifications to the riparian zone.

Dr Aaron Simmons  
 17 Unwin St  
 Millthorpe NSW 2798  
 6366 3371  
 17<sup>th</sup> September 2011

To whom it may concern,

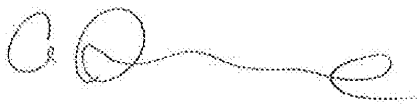
Please accept this submission, from we the undersigned, into the Modification to Development Application 59/2011. My concerns regarding the modifications, and the conditions themselves, are detailed below. On a general note, the council has the moral obligation to ensure the development ensures a safe environment for community members that encourages a healthy lifestyle. Council also has the obligation to ensure that the development is in keeping with current village.

Condition number	Description of condition	Reason for objection
5	Hours of construction	Residents in the vicinity of the development have the right to spend evenings at home without building noise. For example, allowing building to continue at an hour when small children are being put to bed for the evening is unreasonable. The size of the development also means that building work is likely to be continuous for a number of years.
10	Extension of planting of Plane trees....	We agree with the applicant on point a) -- what the council wants is unclear, and it is concerning that council is unable to write a clear and concise condition of consent. Nevertheless it is the councils obligation to ensure the development merges into the existing landscape and does not appear an island to the village. Continuing Plane trees to Richards Lane will buffer the view of the new houses in the development.
27	Section 94 contribution	If the applicant is trying to reduce section 94 contributions then this is unacceptable.
41	Road construction	Should the developer wish to develop these blocks then it is the responsibility of the developer to make sure roads



		servicing the development are suitable for the traffic to the development. It is NOT in the best interest of the community (i.e. Blayney Shire ratepayers) to subsidise the developer, especially when they will not obtain financial benefit from the development. Roads in Millthorpe and other parts of the shire are in a state of disrepair and funds should not be diverted from ANY other program to subsidise the developer.
46	Pedestrian and cycle link	The suggestion that a cycle path could impact on storm water flows is preposterous. Engineering a solution to this supposed problem should be relatively easy. This path will provide safe passage for residents who wish to access the existing village (e.g. primary students walking to school) and provide an incentive for a healthier lifestyle (e.g. walking to the shop rather than driving). This pathway has the potential to reduce vehicle traffic on the village roads and will ensure a safer walking environment.
55	Inter-allotment drainage.	According to the Australian Bureau of Statistics, the average Australian house size is 264 m <sup>2</sup> . The provision of water tanks under BASIX is a null point as these tanks are never empty and rarely exceed 2 000 L. Millthorpe regularly gets summer storms where 30 mm or more of rainfall falls in a short period of time. In a situation where the tank is full from a previous storm, simple mathematics shows that a 30 mm rainfall event on a 264 m <sup>2</sup> roof will produce nearly 8 000 L of water that needs to be disperse. Provision needs to be

		made for water in excess of 8 000 L to be dispersed onto land while minimising storm water impacts.
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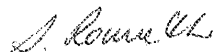


Aaron Simmons



Janine Friedrich

17 Unwin St Millthorpe



Sue Roweth

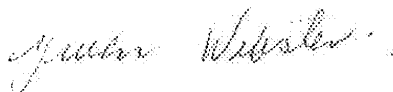


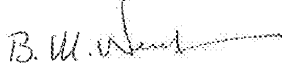
Leon Roweth

16 – 18 Unwin St Millthorpe

Gwen Webster

19 Unwin St Millthorpe





Brian Newton



Anne Newton

21 Stabback St Millthorpe

Stewart Turner



Sharon Turner

12 Unwin St Millthorpe



Peter Cullen

Dianne Cullen

9 Unwin St Millthorpe

Richard Tennant

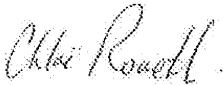


Tracy Nash

Crowson St Millthorpe



Jason Roweth



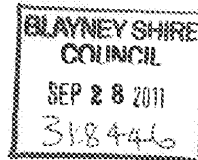
Chloe Roweth

19 Stabback St Millthorpe

Patricia Marie McKenna  
"Paddington Grove"  
19 Richards Lane  
MILLTHORPE NSW 2798

27<sup>th</sup> September, 2011

Mr Paul O'Brien  
Director environmental Services  
For the General Manager  
Blayney Shire Council  
PO Box 62  
BLAYNEY NSW 2799



Cc: Paul Obrien, Councillors

*Claire Johnston*

RE: Opposition to the proposed Modification of Conditions of Consent  
No. 58/2011

Dear Paul O'Brien,

As the owner of adjacent property please see below the facts for why this Development Application should stay as is and not altered in any form.

Condition 5

HOURS OF CONSTRUCTION:

**This is unacceptable as Millthorpe is a major Tourist destination during weekends and public holidays. With construction eg: noise and dust levels will travel throughout the tranquil village as it does now on weekdays. Also I feel this will also allow a domino affect with future construction eg: Housing.**

Condition 10

**EXTENSION OF PLANTING OF PLANE TREES IN PARK STREET  
FROM RICHARDS LANE TO MEET THE EXISTING PLANTINGS.**

**Clearly this condition should stay in its entirety. As to soften street scapes as well keep and overall even flow from existing village through to new development.**

**PLEASE REFER TO DCP PAGES 14 - 16**

## Condition 11

## MAINTENANCE OF APPROVED LANDSCAPING

THE DCP REQUIREMENTS SHOULD STAY AS IS. IT SHOULD BE THE FULL RESPONSIBILITY OF DEVELOPERS TO PERMANENTLY MAINTAIN TREES AS TO KEEP UNSEEN THROUGH OUT STREETS. THIS IS A UNIQUE VILLAGE AND SHOULD NOT LOOK HODGE PODGE AT ANY STAGE.

## Condition 16

## SUBDIVISION CERTIFICATE.

THIS TOO SHOULD STAY IN ITS ENTIRETY AS COUNCIL AT THE END OF THE DAY ARE FULLY RESPONSIBLE FOR ALL CERTIFICATES CONSENTS AND FEES. AND NOT PART OF TO WHICH THE DEVELOPER WOULD LIKE TO INSERT.

## Condition 27

## SECTION 94 CONTRIBUTION

THIS IS ANOTHER WAY TO MAKE RATE PAYERS PICK UP THE TAB WHICH MILLTHOPRE RESIDENTS DID NOT WANT TO SEE HAPPEN.

## Condition 39

## ROAD DESIGN

RICHARDS LANE WILL AND IS THE MAIN ROAD THROUGHOUT THIS DEVELOPMENT WE LIVE ON THE SOUTHERN SIDE OF THIS ROAD AND WHEN IT RAINS WATER GUSHES DOWN TOWARDS FENCE LINES WITH EXTREMELY LARGE POOLS OF WATER. THIS TOO WILL AND DOES NOT LOOK GOOD WITH BEING A MAIN ENTRANCE TO THIS DEVELOPMENT.

Condition 40

**BUS STOPS**

**IN THIS CASE, the developers clearly have it WRONG. Over the past 13 years children have been catching the bus from two services from the closed down garage and being dropped off on the other side of this dangerous road and walk across. It is commonsense thinking that more children will need to use this facility. A plan must be in place to ensure the safety of children. Which Council would agree comes first and foremost.**

Condition 45

**PROPOSED DEDICATION OF LOT 25**

**THIS ISSUE HAS BEEN RAISED MANY TIMES AND HAS ALWAYS BEEN ENFORCE AS A CONDITION. THIS IS OPEN SPACE AND IS VITAL TO THIS DEVELOPMENT, TO WHICH THE DEVELOPERS HAVE BEEN REQUESTED TO SEE TO THE WHOLE TIME.**

Condition 46

**Pedestrian and Cycle Link.**

**FROM THE START OF THIS DEVELOPMENT IT HAS BEEN THE REQUEST FROM RESIDENCE THAT THIS BE PUT IN PLACE THIS CONDITION WAS AND IS IMPOSED BY BLAYNEY SHIRE COUNCIL AND MUST STAY IN ITS ENTIRETY.**

Condition 48

**Access to Lots**

**THERE SHOULD NOT BE AMENDED AS THIS IS A COMMON PRACTICE WITH BLAYNEY SHIRE COUNCIL THAT ALL ACCESS BE COMPLETED EG: ELECTRICITY, GAS, TELSTRA AND ENTRY WAYS.**

Condition 55, 56, 57

INTER ALLOTMENT DRAINAGE  
EASEMENTS FOR INTER ALLOTMENT DRAINAGE  
DRAINAGE REQUIREMENTS

**THIS MUST STAY IN ITS ENTIRITY AND NOT BE AMENDED AS  
IT IS CLEAR TO SEE THAT THE DEVELOPERS DO NOT WANT  
TO PAY. AGAIN THE DRAINAGE HAS AND IS A MAJOR  
CONCERN THROUGHOUT THIS PROCESS, AND MUST BE  
ENFORCED.**

After reading the Developers request, it is clear that all of the above is just a cost cutting exercise.

I feel that at the end of the day it will be Millthorpe residents paying.

It is the residents of these small villages within the shire who have given Blayney Shire Council and its Councillors the power to ensure these areas are looked after. Millthorpes fabric needs to be looked after and not hodge podge.

kind Regards



Patricia McKenna



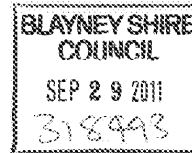
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p.1

Wayne Anthony McKenna  
"Paddington Grove"  
19 Richards Lane  
MILLTHORPE NSW 2798

27<sup>th</sup> September, 2011

Mr Paul O'Brien  
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My other concern is that the woodblind factory in Millthorpe has restrictions on when they can operate due to noise pollution. I do not know the hours of operation as I have to submit a letter to receive this information. Hopefully all councillors would ask this same question.

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28 Sep 2011 11:29AM PATWAYS TRANSPORT SERVICE 63663884

p. 2

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28 Sep 2011 11:29AM PATWAYS TRANSPORT SERVICE 63663884

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## Access to Lots

THERE SHOULD NOT BE AMENDED AS THIS IS A COMMON PRACTICE WITH BLAYNEY SHIRE COUNCIL THAT ALL

28 Sep 2011 11:29AM PATWAYS TRANSPORT SERVICE 63663884

p. 4

**ACCESS BE COMPLETED EG: ELECTRICITY, GAS, TELSTRA  
AND ENTRY WAYS.**

Condition 55, 56, 57

**INTER ALLOTMENT DRAINAGE  
EASEMENTS FOR INTER ALLOTMENT DRAINAGE  
DRAINAGE REQUIREMENTS**

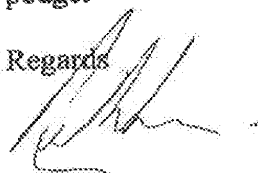
**THIS MUST STAY IN ITS ENTIRITY AND NOT BE AMENDED AS  
IT IS CLEAR TO SEE THAT THE DEVELOPERS DO NOT WANT  
TO PAY. AGAIN THE DRAINAGE HAS AND IS A MAJOR  
CONCERN THROUGHOUT THIS PROCESS, AND MUST BE  
ENFORCED.**

After reading the Developers request, it is clear that all of the above is just a  
cost cutting exercise.

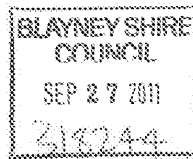
I feel that at the end of the day it will be Millthorpe residents paying.

It is the residents of these small villages within the shire who have given  
Blayney Shire Council and its Councillors the power to ensure these areas  
are looked after. Millthorpes fabric needs to be looked after and not hodge  
podge.

Regards



Wayne McKenna



The General Manager  
Blayney Shire Council  
P.O. Box 62  
Blayney  
NSW 2799

25 September 2011

**DA 59/2011 : 96 Lot Subdivision**

Dear Sir

We note that the developer, Marrangaroo East Pty Ltd, after agreeing to conditions imposed by Council in order to obtain consent to this development, is now seeking to renege on this agreement and has requested amendments to the conditions, and suggested that many be deleted altogether.

This is embarrassing for Council which would have assumed that with the signing of the conditions of consent the matter was settled. It now appears that Council assumed good faith on the part of the developer, and was mistaken. Having obtained the overall approval sought for the development, Marrangaroo East evidently feels it is in a position to reopen negotiations!

As you know, we have been following and commenting on this proposal, in its variously revised forms, for more than two years. Other residents of Millthorpe have been similarly interested and have commented in detail. Unfortunately these representations seem to have been without much effect.

Had Council given more weight to our earlier representations this embarrassing situation might not have arisen.

In general, the Millthorpe Village Committee feels Council was justified in imposing conditions intended to ensure that quality standards are maintained and that the community will benefit from this development, and urges Council to insist on compliance with the conditions agreed by the developer.

No special treatment or concessions should be granted to this developer, whose performance on earlier projects has been less than satisfactory.

Most particularly, Council should insist most strongly on conditions pertaining to roads, drainage and flood control - which were found to be defective in the recent Stabback/Unwin Streets subdivisions.

We also urge Council to insist on compliance with Condition 46, "Pedestrian and Cycle Link". The Millthorpe Village Committee has been very critical of the lack of public space and community facilities in the DA. Lot 25, now the only space allocated for public use in the development will remain mostly unusable without this access.

There are several other points in the letter from MPF Surveying that we regard as having serious implications, and which we would like to discuss with Council staff. We would therefore welcome a meeting when staff have assessed the impact of the various amendments and deletions requested, but before a recommendation has been made to Council.

Thank you for your attention to this submission.

Yours truly



John Mason  
President, Millthorpe Village Committee

22 September 2011

Blayney Shire Council  
91 Adelaide Street  
BLAYNEY NSW 2799

N & J Irvine  
34 Crowson Street  
MILLTHORPE NSW 2798

U.K.F.  
SEP 23 2011  
317889

**Re: Modifications to Development Application 59/2011**

Dear Sir/Madam,

We recently received a letter from council about the proposed development for north Millthorpe and wish to raise a number of concerns in regards to the DA.

**No: 5 Hours of construction** – It is totally unacceptable to extend this for an extra hour as there are already 12 hours a day that residents in the near vicinity have to tolerate the noise and activity, which given the size of the development could extend for a number of years. Young families in particular need the opportunity to settle their children to bed at a reasonable hour without having the inconvenience of construction noises to make this very important family task manageable.

**No: 10 Extension of planting of Plane trees** – It is important that the council considers this point but what the council is proposing is unclear. The idea that the new development merges into the existing landscape and does not appear as an isolated appendage to the village is important and at least continuing the plane trees along Park Street to Richards Lane would at least obscure the view of a brand new housing estate that is not in sympathy with the heritage look of Millthorpe.

**No: 27 Section 94 contribution** – If the applicant is trying to reduce section 94 contributions this is unacceptable.

**No: 41 Road Construction** – Given the state of many of the roads in the shire area it is imperative that the council does not divert any of its funds from any other programs to subsidise the developer in this project. It must be incumbent on the developer to make sure roads and servicing the development for suitable traffic loads is properly undertaken and not the responsibility of the rate payers of the Blayney Shire.

**No: 46 Pedestrian and cycle line** – to use the argument that a cycle path would impact on storm water flows is unacceptable. Engineers are more than capable of finding a solution when the will is there. The potential benefits of such a path, far outweighs the so called problems that can be overcome.

**No: 55 Inter-allotment drainage** – according to the Australian Bureau of Statistics, the average Australian house size is 264 metres squared. The provision of water tanks under BASIX is a null point as these tanks are never empty and rarely exceed 2 000 litres. Millthorpe regularly gets summer storms where 30mm or more of rainfalls in a short period of time. In a situation where the tank is

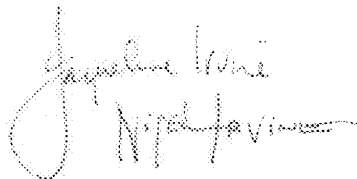
full from a previous storm , the simple mathematics shows that a 30mm rainfall event on a 264 metre square roof will produce nearly 8 000 litres of water that needs to disperse. Provision needs to be made for water in excess of 8 000 litres to be dispersed onto land while minimising storm water impacts.

These are merely concerns that address the actual DA rather than our overriding concern in regards to the whole concept of the development itself and its impact on the integrity of Millthorpe and its heritage, about which we have previously written to council.

It is also of concern that the letter sent by council did not have an address for submissions to be sent nor do they have the details of this DA easily accessible other than by a visit to Blayney and the Shire chambers. In this modern age of communications it is surely not unreasonable to expect that this information cannot be accessible on the council website.

We trust that these comments along with those of others in Millthorpe will enable the council to make sensible decisions in regard to this contentious development.

Yours sincerely,

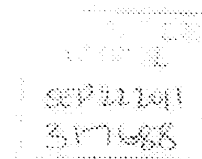
Handwritten signature of Jacqueline Irvine, with the name 'Jacqueline Irvine' written in a cursive script.



General Manager  
Blayney Shire Council  
PO box 62  
Blayney NSW 2799

19/9/11

Michael Uttley  
Richards Lane  
Millthorpe NSW 2798  
02 63 663 407



**RE: Development Application 59/2011 Modification – Richards and Springvale Lanes Millthorpe**

Dear Paul

Re the recent amendments to the above application I would like to take exception to some of the amendments

5. There is no reason given to extend the hours of construction. Developments of this size and associated traffic and noise will impose not just on nearby residents but on the tourist trade which is a vital resource for this small community on Saturday afternoons, Sundays and Public Holidays. The increase in traffic will also significantly increase the risk of accidents when the town receives many out of town visitors and children are out and about on the public roads including Richards and Springvale Lanes.

11. Landscaping needs to remain part of the proposal until such time the subdivided blocks have been purchased and landscaping of the blocks can become the responsibility of the new owners. If the lots are not purchased they need to be maintained either by council or the developers.

40. The information is incorrect. Currently there are already 3 children who utilize a bus service at Richards Lane and a fourth soon (across 2 separate bus services). There is no bus stop or area to escape inclement weather. With the number of blocks on plan this number will increase considerably and it is quite possible a bus route will be diverted through the development.

46. This is a key bike/walkway for Millthorpe residents and pedestrians need the ability to get off the road through a cycle/walkway. Further residents will compound the issue. There needs to be a circular track that extends from Millthorpe Public School along Park Street to Richards Lane continuing to the end of seal of Crowson Street.

55-57. This is a major concern. Living in Richards Lane run off is already an issue and inadequate drainage could compound this further. Our driveway has washouts as currently run off from Richards Lane enters our driveway causing considerable damage. Richards Lane itself is under considerable repair from wash outs at the Crowson St end much of the year through inadequate drainage. Drainage points will be required as the increase in hard surface areas and shorter pasture/lawn length will considerably increase run off especially when soils are at saturation point which is most of winter in Millthorpe.

Finally while not an amendment I would like council to consider issue 43 whereby the Parks St end of Richards Lane is not to be reconstructed until lots 9-96 begin. Reconstruction needs to be undertaken at the start of any work as the main thoroughfare and access point will be Park St for all construction vehicles. It is the logical entry point for any vehicle accessing any part of the subdivision, especially trucks, as it avoids town. It is also the most direct route from Orange. Today as some 20 loads of earth was being dumped at the end of Richards Lane the traffic noise and dust was considerable. If road reconstruction is not to happen until lots 9-96 pass then what guarantee do we have from council the Parks end of Richards Lane will not be used as the main thoroughfare?

All these amendments appear to be cutting corners where no dollar return can be made for the developer eg landscaping, walkways, bikeways, bus stops etc. Conversely every amendment looks to disadvantage local and town residents. I hope they are not passed.

Regards

Michael Uttley

