

4 May 2015

Dear Councillor,

Your attendance is requested at an Ordinary Council Meeting of the Blayney Shire Council to be held in the Chambers, Blayney Shire Community Centre on Monday, 11 May 2015 at 6.00 pm for consideration of the following business -

- (1) Acknowledgement of Country
- (2) Recording of Meeting Statement
- (3) Apologies for non-attendance
- (4) Confirmation of Minutes - Ordinary Council Meeting held on 13.04.15
- (5) Matters arising from Minutes
- (6) Disclosures of Interest
- (7) Public Forum
- (8) Mayoral Minute
- (9) Notices of Motion
- (10) Reports of Staff
  - (a) Executive Services
  - (b) Corporate Services
  - (c) Infrastructure Services
  - (d) Planning and Environmental Services
- (11) Delegates Reports
- (12) Questions from Councillors
- (13) Closed Meeting

Yours faithfully



Rebecca Ryan  
**General Manager**

**Presentations:**  
**5.45pm – NSW Rural Fire Service Canobolas Zone – David Hoadley**

## **Meeting Calendar 2015**

### **May**

<b>Time</b>	<b>Date</b>	<b>Meeting</b>	<b>Location</b>
5.00 pm	7 May 2015	Economic Development Committee	Community Centre
6.00 pm	11 May 2015	Council Meeting	Community Centre
6.00pm	14 May 2015	Public Meeting	Community Centre
6.00pm	18 May 2015	Extraordinary Council Meeting	Community Centre
4.00 pm	19 May 2015	Local Emergency Management Committee	Community Centre
5.30 pm	21 May 2015	Sports Council	Community Centre

### **June**

<b>Time</b>	<b>Date</b>	<b>Meeting</b>	<b>Location</b>
10.00 am	10 June 2015	Central Tablelands Water	Canowindra
6.00 pm	11 June 2015	Towns and Villages Committee	Community Centre
5.45 pm	11 June 2015	Access Advisory Committee	Community Centre
5.00 pm	11 June 2015	Cemetery Forum	Community Centre
6.00 pm	15 June 2015	Council Meeting	Community Centre
10.00 am	19 June 2015	Traffic Committee	Community Centre

### **July**

<b>Time</b>	<b>Date</b>	<b>Meeting</b>	<b>Location</b>
5.00 pm	9 July 2015	Economic Development Committee	Community Centre
6.00 pm	13 July 2015	Council Meeting	Community Centre
9.00 am	22 July 2015	Audit Committee	Community Centre

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**HELD ON MONDAY 11 MAY 2015**

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**01) MINUTES OF THE PREVIOUS MEETING**

**Department:** Executive Services

**Author:** General Manager

**CSP Link:** 6.3 A well-run Council organisation.

**File No:** GO.ME.2

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**RECOMMENDATION:**

1. That the Minutes of the Ordinary Council Meeting held on 13 April 2015, being minute numbers 1504/001 to 1504/015 be confirmed.

**MINUTES OF THE BLAYNEY SHIRE COUNCIL ORDINARY MEETING  
HELD IN THE COMMUNITY CENTRE COUNCIL CHAMBERS,  
ON 13 APRIL 2015, COMMENCING AT 6.00 PM**

Present: Crs S Ferguson (Mayor), G Braddon OAM, A Ewin, D Kingham, S Oates, K Radburn and D Somerville.

General Manager (Mrs R Ryan), Director Corporate Services (Mr A Franze), Director Infrastructure Services (Mr G Baker), Director Planning & Environmental Services (Mr M Dicker), Administrative Officer (Ms S Hibbert)

**ACKNOWLEDGEMENT OF COUNTRY**

**RECORDING OF MEETING STATEMENT**

**APOLOGIES**

Nil

**CONFIRMATION OF MINUTES**

**1504/001 RESOLVED:**

That the Minutes of the Ordinary Council Meeting held on 9 March 2015, being minute numbers 1503/001 to 1503/018 be confirmed.

Kingham / Ewin  
Carried

**MATTERS ARISING FROM THE MINUTES**

Nil

**DISCLOSURES OF INTEREST**

The General Manager reported the following Disclosure of Interest forms had been submitted:

Councillor/ Staff	Interest	Item	Pg	Matter	Reason
Somervaille	Pecuniary	N/A	N/A	Feral Goat Abattoir Newbridge Road Blayney NSW 2799	Cr Somervaille owns a property adversely affected by the proposed Development.  Cr Somervaille's wife operates a business adversely affected by the proposed Development.
	<p>The Environmental Impact Statement was released for the proposed Smallstock Abattoir by the proponent; Metiziya Pty Ltd, for Public Comment on 9 April 2015.</p> <p>Whilst Council is not the Consent Authority for the Development, Cr Somervaille will not participate in any Council discussion on this topic and will absent himself from any Council Meeting, Committee Meeting or Council Workshop at which the matter or topic is considered.</p>				

**Executive Services Reports****COMMUNITY CORRECTIONS****1504/002****RESOLVED:**

That Council authorise the participation in the Community Service Order Scheme and make application to become an accredited Community Agency Partner with NSW Corrective Services.

Oates / Braddon  
Carried

**FIT FOR THE FUTURE UPDATE****1504/003****RESOLVED:**

That Council note the General Manager's Fit for the Future update report.

Radburn / Somervaille  
Carried

**Corporate Services Reports****MINUTES OF THE FINANCIAL ASSISTANCE COMMITTEE  
MEETING HELD 7 APRIL 2015****1504/004****RESOLVED:**

1. That the minutes of the meeting held 7 April 2015 be noted
2. That the recommendations for 2014/15 Round 2 of the Financial Assistance Program by the Financial Assistance Committee be endorsed subject to any application conditions being satisfied.

3. That Council
  - a) grant financial assistance amounting to \$54,119 to the persons and in the amounts set out in the following Table 1: Round 2 (2014/15) Financial Assistance Program; and
  - b) provide feedback to the unsuccessful applicants as indicated.

Somerville / Oates

Carried

**REPORT OF COUNCIL INVESTMENTS AS AT 31 MARCH 2015**

**1504/005 RESOLVED:**

1. That the report indicating Council's investment position as at 31 March 2015 be received and noted.
2. That the certification of the Responsible Accounting Officer be noted and the report be adopted.

Kingham / Somerville

Carried

**YOUTH WEEK 2015**

**1504/006 RESOLVED:**

1. That the report on Youth Week 2015 be noted; and
2. That the allocations of funding under the Youth Week grants program be endorsed.

Oates / Radburn

Carried

**Infrastructure Services Reports**

**PEDESTRIAN FACILITY UPGRADE - ADELAIDE AND OGILVY STREET INTERSECTION**

**1504/007 RESOLVED:**

That Council vote funding in the amount of \$65,000 from Council's Infrastructure Asset reserve for the construction of the pedestrian facility upgrade works at the Adelaide and Ogilvy Street intersection.

Radburn / Ewin

Carried

**INFRASTRUCTURE SERVICES MONTHLY REPORT**

**1504/008 RESOLVED:**

That the Director of Infrastructure Services Monthly report for April 2015 be received for information purposes only.

Braddon / Oates

Carried

**MINUTES OF THE BLAYNEY TRAFFIC COMMITTEE MEETING HELD ON THURSDAY 20 FEBRUARY 2015**

**1504/009 RESOLVED:**

That the Minutes of the Blayney Traffic Committee Meeting, held on Thursday 20 February 2015, be received and noted.

Radburn / Ewin

Carried

**BRIDGE PROGRAM UPDATE**

**1504/010 RESOLVED:**

That Council approve the replacement of Coombing Street bridge in Carcoar, and the Gallymont Road bridge over Felltimber Creek, by Design and Construction tender in accordance with the recommendations provided in the Director Infrastructure Services report.

Oates / Braddon

Carried

**Delegates Reports**

**WBC ALLIANCE EXECUTIVE OFFICER REPORT**

**1504/011 RESOLVED:**

That the report from the WBC Alliance Executive Officer be received and noted.

Braddon / Ewin

Carried

**CLOSED meeting**

**1504/012 RESOLVED:**

That the meeting now be closed to the public in accordance with Section 10A of the Local Government Act (1993), for consideration of the following matters;

**LIQUID TRADE WASTE DEBTOR**

*This matter is considered to be confidential under Section 10A(2) (b) of the Local Government Act, as it deals with the personal hardship of any resident or ratepayer.*

**TENDER FOR SUPPLY OF BITUMEN PRODUCTS - CENTROC**

*This matter is considered to be confidential under Section 10A(2) (c) of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

Somervaille / Ewin

Carried

**Confidential Meeting Reports**

**LIQUID TRADE WASTE DEBTOR**

**1504/013 RESOLVED:**

That subject to;

- a) the lodgement of a Development Application for the new premises in Adelaide Lane, Blayney;
- b) application is made for an approved Category 2 Trade Waste discharger for the business and
- c) these requirements are met by 30 April 2015,

1. Having considered the hardship caused, that Council reduces the 2014/15 charge applicable to Assessment No A306692 to Category 2 'with approval' Waste Discharger of \$1.55 per KL reducing the 3<sup>rd</sup> instalment Liquid Trade Waste Levy 2014/15 as invoiced, accordingly by the difference been \$3,646.31.
2. That Council apply the Category 2 'with approval' until the end of the 2015/16 financial year to enable construction of the new premises and relocation of the business with installed LTW pre-treatment solution.

Braddon / Kingham  
Carried

**TENDER FOR SUPPLY OF BITUMEN PRODUCTS -  
CENTROC**

**1504/014 RESOLVED:**

That Council

1. endorse Bitupave Ltd - Specialty Products (Boral Ashphalt) as the preferred supplier for bitumen emulsion; and
2. advise Centroc of its decision.

Braddon / Radburn  
Carried

**1504/015 RESOLVED:**

That as consideration of the matters referred to in the closed meeting has been concluded, the meeting now be opened to the public.

Oates / Ewin  
Carried

**AT THE RE-OPENING OF THE MEETING TO THE PUBLIC, THE MAYOR ANNOUNCED THE OUTCOMES RESOLUTION NUMBERS 1504/013 TO 1504/014.**

There being no further business, the meeting concluded at 6.37pm

**Enclosures**

Nil

**Attachments**

Nil



**02) MAYORAL MINUTE - CERTIFICATE PRESENTATION TO NICHOLAS BIRD**

**Department:** Executive Services

**File No:** GO.ME.2

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**Item:**

Congratulations to Nicholas Bird who successfully completed his vocational training in Horticulture Certificate III, through Skillset in February 2015.

Council was represented at the ceremony by Director Infrastructure, Grant Baker.

**Enclosures**

Nil

**Attachments**

Nil

**03) MAYORAL MINUTE - MITCHELL CONSERVATORIUM  
SCHOLARSHIP WINNER MYA BROWN**

**Department:** Executive Services

**File No:** GO.ME.2

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**Item:**

The Mitchell Conservatorium Scholarship Winners Concert was held on Saturday 2 May 2015. Congratulations to Mya Brown who has received a 2015 Blayney Shire Council Scholarship for the second year in a row.

**Enclosures**

Nil

**Attachments**

Nil

**04) COOOE AND BOOMERANG MARCHES RE-ENACTMENT 2015**

**Department:** Executive Services

**Author:** General Manager

**CSP Link:** 2.1 Cultural and sporting events are coordinated and resourced.

**File No:** CR.ME.6

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**RECOMMENDATION:**

1. That Council assist with the preparation and facilitation of the Centenary of ANZAC services and events
2. That Council waive all fees and charges relating to Centenary of ANZAC services including the Cooee March and Boomerang March re-enactments.

**Reason for Report:**

Council is being asked to waive Council fees and charges in support of the efforts of the re-enactment of the Cooee and Boomerang Marches, being two (2) of the nine (9) 'snowballing' World War One recruiting marches held in NSW. These marches traversed the Blayney Shire from the north-western and western NSW districts in 1915.

**Report:**

The Cooee March 2015 re-enactment will be held from 17 October to 11 November 2015. It is proposed to march into Blayney Shire from Orange on Wednesday 28 October into Millthorpe, arriving in the afternoon for a service at the War Memorial and overnight stay at Redmond Oval. On Thursday 29 October, the March will proceed to Blayney for a morning service at the Blayney War Memorial and overnight at the Blayney Showground. The March will leave on Friday 30 October, heading north towards Bathampton and Bathurst.

The Boomerang March 2015 re-enactment is planned to commence from Parkes on Saturday 31 October and end in Bathurst on Tuesday 10 November. It will work its way through the Blayney Shire as follows;

- Friday 6 November – Arrive into Lyndhurst and stay overnight at the Lyndhurst Memorial Hall
- Saturday 7 November – Depart Lyndhurst, march through Mandurama into Carcoar and stay overnight at Carcoar Showground
- Sunday 8 November – Depart Carcoar, march through Blayney and arrive at Newbridge and stay overnight at the Newbridge Showground
- Monday 8 November – Depart Newbridge march towards Bathurst

Council staff have been liaising with each of the organising committee representatives, ensuring there is a local Town and Villages Committee member contact in each location.

Schools, Churches, community organisations and local RSL members are being included so that they have the opportunity to be involved at the community service or commemoration.

Councillors and the community will be advised of the dates and times of memorial services and commemorative events to be held in each of the shire's villages and Blayney.

**Issues:**

Traffic Management Plans (TMP) and Traffic Control Plans (TCP) are being developed with NSW Police and NSW Transport Management Centre. Both re-enactment marches have been approved in principal by the Blayney Shire Traffic Advisory Committee subject to the furnishing of an approved TMP, TCP and Public Liability Insurance.

The NSW Premier and Minister for Local Government issued a Ministerial Circular (No 15-02) in February 2015, which reiterated the NSW Governments support for the Returned and Services League (RSL) during these Centenary of ANZAC commemorations.

Councils were '*encouraged to assist in the preparation of the Centenary of ANZAC services and events*' and '*urged to use discretion and remain mindful of the importance of the services when deciding whether or not to impose fees for development applications and other local approvals*'.

Furthermore the NSW Government hoped that '*due to the local, state and national significance of these events that councils will see fit to waive any fees that may traditionally be imposed*'.

There will be Council costs incurred for any Traffic Controls and Traffic Management, variable messaging signage and Council Fees applicable for camping at any Showground or Oval.

**Budget Implications:**

Traffic Control and Traffic Management typically costs Council \$4,000 for ANZAC Day commemorations across the shire. Foregone camping and facility hire at Redmond Oval and Blayney Showground as per the draft 205/16 Fees and Charges for one night/day would be an estimated \$500.

It is recommended that these fees and charges are waived as a demonstration of Council's 'in kind' support to facilitating these important cultural events that will have significant community impact.

**Enclosures**

Nil

**Attachments**

Nil

**05) CODE OF MEETING PRACTICE**

**Department:** Executive Services

**Author:** General Manager

**CSP Link:** 6.3 A well-run Council organisation.

**File No:** GO.ME.1

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**RECOMMENDATION:**

That Council approve the Code of Meeting Practice and place on public exhibition for a period of 28 days for comment.

**Reason for Report:**

Some suggested amendments to the Public Forum Speaker's Registration Form, has prompted a review of Council's Code of Meeting Practice which was last reviewed in November 2012.

If Council is of the opinion that the amendments are not substantial, it may adopt the amended Code without public exhibition. However, Blayney Shire Council has in past practice always provided this opportunity for public comment and it is recommended that these amendments should now be placed on Public Exhibition for a period of 28 days for comment.

**Report:**

Council must have a Code of Meeting Practice as per the sections 360 – 364 of the Local Government Act (1993). Some anomalies relating to Council's current Public Forum Speaker's Registration Form prompted a review of the Code of Meeting Practice in general and some general tidying up has been made.

According to the current Code of Meeting Practice, Council conducts a Public Forum at the commencement of each Council meeting, with a maximum time of 15 minutes allocated for this purpose. Each speaker is permitted to speak for only 5 (five) minutes each and the Speaker's Request Form has to be submitted to the General Manager by no later than 4pm by the 1<sup>st</sup> Monday of the month, being one week prior to the Council Meeting and before the Business Paper Agenda is closed.

The Business Paper is only released to the public on the website by the Thursday prior and in hard copy at the Library and at Council Offices, on the Friday prior to the Monday Meeting. The requirement to lodge a request to address Council by the Monday that week prior to the Council meeting is not very conducive to receiving community comment or feedback.

It is suggested that Appendix C, the Public Forum Speaker's Request Form be amended with the intent that members of the community who wish to address Council may submit a request to speak up until 4.30pm of the day of the Council meeting.

Similarly it is considered appropriate that the Mayor, or Chairperson has the discretion to provide more time for an individual speaker or the Public Forum overall, to ensure that important matters be given a proper hearing.

These changes above prompted a review of the whole Code of Meeting Practice Policy document and there have been changes to reflect the following;

6.1 Order of Business

- Executive Services added to Staff Reports

6.3 Availability of Business Papers (Councillor Access)

- Councillors receive the Business Paper by close of business the Tuesday prior via email and the Wednesday prior in hard copy in sealed envelopes.

6.3 Availability of Business Papers (Public Access)

- Available online to the public by the Thursday prior to the meeting and available in hard copy on the Friday prior to the meeting from Council Offices, Blayney Library, Tourist Information Centre and Village Post Offices.

6.10 Members of the Public Addressing Council

- At the discretion of the Chair, more time may be provided for the Public Forum and/or an individual speaker

7.4 Declarations of Pecuniary Interest

- A disclosure by a Councillor may be made in writing with the same detailed information as required in Appendix B and signed by the Councillor

13.8 Representation by the Public Before a Council Meeting is Closed

- At the discretion of the Chair, more time may be provided for an individual speaker to address Council on a confidential matter.

Appendix A - Closed Council Announcements

- The Mayor or General Manager then reports on the recommendations of the closed meeting for consideration.

**Issues:**

The reviewed Code of Meeting Practice follows with the amendments noted in red so that Councillors and the public may see the changes as recommended.

The draft Speaker's Request Form was forwarded to Councillors in March for feedback. The General Manager has accepted any Speaker's Request Forms up until 4.30pm of the day of the Council meeting since February 2015 which is contrary to the current approved Policy.

**Budget Implications:**

Nil

**Enclosures**

1 Speakers Registration Form 2 Pages

**Attachments** (separate document)

2 Code of Meeting Practice 59 Pages

**BLAYNEY SHIRE COUNCIL  
PUBLIC FORUM****SPEAKERS REGISTRATION FORM**

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**Present this form to Council no later than 4.30pm on the day of the Council Meeting**

Enquiries: phone 6368 2104

Lodge Form by: email [council@blayney.nsw.gov.au](mailto:council@blayney.nsw.gov.au) / fax 6368 3290 / over the counter

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**NAME:** .....

**PHONE:** .....

**ADDRESS:**.....

.....

**REPRESENTING:** .....

(Self / Name of Organisation / Other Party)

**DATE OF MEETING:** .....

**SUBJECT OF DISCUSSION:** .....

**MEETING AGENDA ITEM REFERENCE** *(if applicable)*: .....

.....

**Agreement**

I have read and understand the Conditions, Conduct and Unacceptable Behaviour at the Public Forum details as set out over leaf

**Signature:** ..... **Date:** .....

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The information supplied by you is private information for the purposes of the Privacy and Personal Information Protection Act. Your information is being collected by Council and may be used in the future to provide feedback on any issue raised. The information will not be used for any other purpose, and you can elect not to provide particular details, however your name and the topic for discussion must be supplied.

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Code of Meeting Practice



**Conditions**

The maximum speaking time is five minutes per speaker. The Public Forum will run for 15 minutes. At the discretion of the chair, more time may be provided for a speaker.

Any issue may be addressed; however should there be an agenda item, there must be a direct link between the member of the public wishing to address Council and the substance of the agenda item.

Should there be more than one person wishing to address Council on an issue, those persons are to nominate one person to represent the group (applicable only if the 15 minutes are exceeded).

The Public Forum cannot be used to request reports, nor used to address matters in the minutes of an earlier meeting or other matters already dealt with at the meeting.

Persons speaking in the Public Forum may, with the permission of the Chair, use appropriate materials or documents to support their position, but may not table documents to be actioned or use electronic presentations.

Please be advised that this is a public forum, and speakers need to be aware that they have no protection from action in response to any comments they may make.

**Code of Conduct**

Speakers will abide by Council's Code of Conduct when addressing the Council, Committee or Forum.

The Code of Conduct incorporates integrity, objectivity, accountability, openness, honesty and respect.

The Public Forum does not provide private parliamentary privilege to speakers, Councillors or staff.

Speakers are expected to

- behave in a manner that does not cause any reasonable person unwarranted offence or embarrassment
- act lawfully honestly and to exercise a degree of care and diligence in the comments made
- observe the highest standards of honesty and integrity, and to avoid conduct (verbal/actions) that might suggest any departure from the key principles of conduct
- avoid any behaviour that could be deemed to be an act of disorder or misbehaviour such as insults or personal reflections on or imputes improper motives when discussing others
- not behave in a manner that might be considered to be threatening to or harassment of Councillors or Council staff

**Unacceptable behaviour at the Public Forum**

Persons who conduct themselves in a manner considered by any reasonable person, to be disorderly, will be expelled from the forum in a similar manner as that provided under the Meetings Regulations for Council and Committee meetings (Section 258) Local Government (General) Regulation 2005.

Should the behaviour of a speaker and/or audience be such that the Mayor/Chairperson of the forum deems if necessary to discontinue a particular section of the forum, then the following will apply:

- speaker and/or persons will be asked to discontinue the offensive behaviour;
- speaker and/or persons may be asked to leave the building where the meeting is being held;
- a Police Officer or any person authorised for the purpose by Council, or the person presiding may, by using only such force as is necessary, remove the person/persons from the building and if necessary restrain that person from re-entering the building;
- the person may be advised to correspond in future with Council via mail or email and/or Council's appointed legal representative

Code of Meeting Practice

**06) COUNCIL RESOLUTION REPORT**

**Department:** Executive Services

**Author:** General Manager

**CSP Link:** 6.3 A well-run Council organisation.

**File No:** GO.ME.1

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**RECOMMENDATION:**

That Council notes the first Resolution Report from January to March 2015.

**Reason for Report:**

The General Manager is responsible for ensuring that Council's policies, decisions and priorities are implemented in a timely and efficient manner, consistent with the goals and objectives of Council. The General Manager provides the management oversight in relation to all information progressing from appropriate staff to Council for consideration via the Business Paper.

After a Council meeting, each resolution is allocated to the General Manager or responsible Director to action in accordance with the intent of the Council decision. Directors then provide feedback to the General Manager as to the progress of these resolutions on a monthly basis.

Council have requested a Resolution Report on a quarterly basis, the first of which was meant to be presented at the April Council meeting. However due to some minor formatting issues with the software that compiles the Business Paper reports, this performance measure was not reached.

**Report:**

This first Council Resolution Report commences from January 2015 up until the March 2015 Meeting. There were a total of 36 Resolutions for this period and 8 Resolutions remain 'In Progress'.

As data is collated the Resolution Report will commence from July 2014 to align with Financial Year and Operational Plan. The most recent month's resolutions will not be included since these are already itemised in the Minutes of the Previous Meeting.

A note in the status section has been completed by the relevant responsible officer with a reason if available.

Meeting	Resolution Number	Subject
Ordinary Council Meeting 09 February 2015	1502/012	WIRE MESH REPLACEMENT IN CARCOAR AND NEWBRIDGE
<b>RESOLVED:</b> That Council vote funding in the amount of \$95,000 from Council's reserves for the replacement of wire mesh fencing in Carcoar and Newbridge with wire rope guardrail. <div style="text-align: right;">(Braddon/Ewin) Carried</div>		
<b>Status</b> In progress - Budget amendment made in the March QBRS		
Meeting	Resolution Number	Subject
Ordinary Council Meeting 09 February 2015	1502/014	Land acquisition for road widening at 425 Forest Reefs Road, Millthorpe
<b>RESOLVED:</b> 1. That Council approve the acquisition of land for the purpose of road widening, being part of Lot 209 DP1086768 as required for road alignment safety improvements along the Forest Reefs Road, and the land be classified as Public Road. 2. That Council authorise the Mayor and General Manager to affix the council seal and execute all associated sale documents. <div style="text-align: right;">(Radburn/Ewin) Carried</div>		
<b>Status</b> In progress - Advice provided to legal consultant, to progress land transfers		

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2. Notwithstanding resolution 1 above, the Mayor and General Manager be authorised to proceed with discussions with neighbouring councils regarding joint services, shared resources and/or possible merger business case studies and report to Council any outcomes or strategies for consideration.
3. Depending on the outcome of these discussions, and subject to first finalising and lodging the Council Improvement Proposal, Council agrees to fund and embark on a staged merger business case investigation with Orange City and Cabonne Councils subject to satisfying Council's requirements for its own independent due diligence.

(Ferguson/Somervaille)  
Carried

**Status**

In progress

Meeting	Resolution Number	Subject
Ordinary Council Meeting 09 March 2015	1503/004	King George Oval Scoreboard
<b>RESOLVED:</b> <ol style="list-style-type: none"> <li>1. That Council accepts the NSW Government's Community Building Partnership Offer of \$12,540 for the King George Oval Scoreboard</li> <li>2. That Council approves the transfer of \$12,540 from the Grant Matching Reserve (Internal Restriction) to provide Council's matching funds for the project.</li> </ol> <p style="text-align: right;">(Kingham/Oates) Carried</p>		
<b>Status</b> In progress - Included in QBRS for period ended 31 March 2015		

Meeting	Resolution Number	Subject
Confidential Ordinary Council Meeting 09 March 2015	1503/016	Land acquisition for road widening at 280 Forest Reefs Road, Millthorpe.
<b>RESOLVED:</b> That Council approve <ol style="list-style-type: none"> <li>a. the acquisition of land for the purpose of road widening, being that part of Lot 2 DP546309 identified on the plan as required for road alignment safety improvements along the Forest Reefs Road, and the land be classified as Public Road.</li> </ol>		

- b. the placement of Council seal on all associated documentation.  
(Kingham/Oates)  
Carried

**Status**

In progress - Advice provided to legal consultant, to progress land transfers

Meeting	Resolution Number	Subject
Confidential Ordinary Council Meeting 09 March 2015	1503/017	Land acquisition for road widening at 1324 Errowanbang Road, Errowanbang.
<b>RESOLVED:</b> That Council approve <ol style="list-style-type: none"> <li>the acquisition of land for the purpose of road widening, being that part of Lot 1 DP231602 identified on the plan as required for road alignment safety improvements along the Errowanbang Road, and the land be classified as Public Road.</li> <li>the placement of Council seal on all associated documentation. (Kingham/Oates) Carried</li> </ol>		
<b>Status</b> In progress - Further report provided to May Council meeting		

**Issues:**

Resolutions that remain 'In Progress' for a 12 month period will trigger a detailed update in the next Business Paper for Council with an explanation as to why it remains this status. This will provide the opportunity for Council to reaffirm or take action if a new decision is required.

**Budget Implications:**

Nil

**Enclosures**

Nil

**Attachments**

Nil

**07) FIT FOR THE FUTURE**

**Department:** Executive Services

**Author:** General Manager

**CSP Link:** 6.1 Good governance across our communities.

**File No:** CM.PL.2

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**RECOMMENDATION:**

That Council endorse the Blayney Shire Improvement Proposal (Template 2) in Draft and place on public exhibition seeking community comment whilst implementing the approved Fit for the Future Community Engagement Strategy.

**Reason for Report:**

Council has been preparing the Council Improvement Proposal (Template 2) which is to be submitted via the Fit for the Future Expert Advisory Panel online portal by 30 June 2015.

This proposal must be endorsed by Council at the next meeting, on Monday 15 June 2015.

Following a number of invaluable staff and Councillor workshops held over the past six (6) months, draft responses to each section have been prepared by Council staff. In addition an Action Plan and strategies have been developed which demonstrate that Blayney Shire Council meets the NSW Government's Key Financial Performance Benchmarks and Scale and Capacity criteria.

The draft Improvement Proposal has been provided to Councillors under separate cover, for endorsement to commence the Community Engagement Strategy. Council has always intended to engage with Blayney Shire residents and rate payers and have the Draft FFF submission on public exhibition for a period of 28 days. In addition a FFF Roadshow to the shire's Town and Villages is being scheduled over a three (3) week period commencing mid May.

**Report:**

The NSW Government has appointed IPART as the Fit for the Future Expert Advisory Panel, and they have released on Monday 27 April a consultation paper on the 'Methodology for the Assessment of Council Fit for the Future Proposals'. The online portal will be open on 1 June, as will the methodology for the assessment process.

As per the NSW Government guidelines, a FFF council is one that is:

- Sustainable
- Efficient

- Effectively manages infrastructure and delivers services for communities
- Has the scale and capacity to engage effectively across community, industry and government.

The Draft FFF Improvement Proposal is attached to this report and is presented as a document rather than the Template design for ease of reading under the following headings;

1. Executive Summary
2. About the local government area
3. Key Challenges and Opportunities
4. Performance against the FFF Benchmarks
  - Operating Performance Ratio
  - Own Source Revenue
  - Building and Infrastructure Asset Renewal
  - Infrastructure Backlog Ratio
  - Asset Maintenance Ratio
  - Debt Service Ratio
  - Real Operating Expenditure per capita
5. Water Utility Performance
6. Improvement Action Plan and Strategies/Milestones

**Issues:**

A Peer Review of the Centroc member council's FFF submissions is being held in early June in Blayney. The Office of Local Government (OLG) will provide facilitation and a guest expert panel from TCorp and others to assist staff who are finalising either a Template 1, 2 or 3 Proposal; fine tune their responses.

All Council Proposals will be published with all the supporting documentation unless there are particular confidentiality requirements preventing otherwise. Councils may be given the opportunity to provide more information and present in person if IPART so require.

IPART will provide to the Minister for Local Government and the Premier with a final report by 16 October 2015 identifying that a Council is 'fit' or 'not fit' and the reasons for this assessment. This information will be publicly released following Cabinet approval.

**Budget Implications:**

Nil

**Enclosures**

Nil

**Attachments**

Nil



**08) COMMUNITY BANNER POLES POLICY**

**Department:** Corporate Services

**Author:** Director Corporate Services

**CSP Link:** 1.3 A well established, connected and prosperous tourism industry.

**File No:** ED.IN.5

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**RECOMMENDATION:**

That the draft Community Banner Poles Policy be placed on public exhibition for a period of at least 28 days.

**Reason for Report:**

To establish a Council policy for arrangements and administration associated with using community banner poles by event holders.

**Report:**

Council has developed a policy following the installation of banner poles at the town entrances to Blayney at the Martha Street /Carcoar Street intersection and Hill Street / Mid Western Highway intersection.

The policy is in response to requests from not-for-profit community groups and organisations to erect banners in Blayney to promote community events and aims to provide details and parameters for use of the Community Banner Poles.

A copy of the policy and guideline has been provided as an attachment to this report. As part of Council's commitment to transparency and openness, public notice is recommended to be given prior to the policy adoption process.

**Issues:**

There are no issues foreseen by the endorsement of this policy for public exhibition. Following exhibition and receipt of public submissions on the policy a report will be tabled for Council for policy adoption.

**Budget Implications:**

There is no cost to Council associated with endorsement of this policy for public exhibition. There will however be a small cost to Council in hanging banners as applications are received.

**Enclosures**

- 1** Community Banner poles policy 5 Pages
- 2** Community Banner poles guideline 5 Pages

## **Blayney Shire Council**



### **Policy Register**

**Reference No. 9I**

**Title** Community Banner Poles Policy

**Officer Responsible**

**Last Review Date**

### **Objective**

To set out Council's policy for the approval of banner displays by community organisations wishing to utilise banner poles provided by Council.

## **Blayney Shire Council**



### **Community Banner Pole Policy**

## 1. PURPOSE

- 1.1 To describe Blayney Shire Council's approach to the approval of banner displays for installation on permanent purpose built banner poles, at designated community banner pole sites on Council managed land.
- 1.2 To establish a framework to assist community groups to determine if a proposed banner display can be approved for display at Council managed community banner pole sites.

## 2. DEFINITIONS

- 2.1 Commercial or for-profit enterprise is defined as any group that is NOT a non-profit organisation and which operates for the profit or gain of its individual members, whether these gains would have been direct or indirect.
- 2.2 Community benefit generally refers to an outcome, usually of an event, program or activity, that delivers an improvement to the welfare or well-being of a community or which seeks to reduce a social or economic disadvantage within a community. In broad terms a community benefit involves an activity which;
  - Responds to needs of special populations such as persons living in poverty and other disenfranchised persons
  - Aims to supply, augment or maintain a social services or program that would likely be discontinued or reduced without financial assistance
  - Responds to a public health or public safety need
  - Raises community awareness or involves education or research that improves overall community health and well-being
  - Supports the active participation of residents in community and civic life who otherwise might face barriers which would prevent their participation usually generates a low or negative financial return
- 2.3 Community event is an event whose primary purpose is not to generate income for private gain and which is generally open to all residents to attend. Where an entry fee is payable, the level of the fee is generally determined on a cost recovery basis or alternatively has been imposed to raise funds for a charitable purpose usually in conjunction with an advertised community appeal.
- 2.4 Community or not-for-profit organisation is taken to refer to a community association or legal entity registered under the Associations Incorporation Act 2009 which has generally been established for the purpose of engaging in small-scale, non-profit and non-commercial activities. A not-for-profit organisation is one which does not operate for the profit or gain of its individual members, whether these gains would have been direct or indirect. A not-for-profit organisation may generate income to operate; including profit, but this income must be used to carry out its purposes and cannot be distributed to owners, members or other private people.

### **3. SCOPE**

This Policy applies to community organisations and other entities requesting to display banners at Council managed banner poles sites.

### **4. BACKGROUND**

4.1 In response to requests from not-for-profit community organisations to erect banners in Blayney to promote community events and activities, Council has erected permanent banner poles.

### **5. PRINCIPLES**

5.1 Council acknowledges that it has a role in assisting community organisations to raise awareness about issues impacting on residents and to promote activities and events which are undertaken for the community's benefit.

5.2 Council recognises that working in partnership with community groups to promote community events and to publicise public health and safety messages will complement Council's strategic and operational objectives.

5.3 Council has established community banner pole sites to provide safe and permissible locations for the display of banners by community organisations. Council's primary aim in establishing these sites is to support local community groups, with limited access to funds, to undertake promotional activities. Council will operate these sites in a way that minimises the cost to community organisations of accessing these sites for the display of banners deemed to be in the community interest.

5.4 Approval to display a banner at a designated community banner pole site managed by Council may convey an implied association between Council and the banner applicant. In providing a community organisation with access to a community banner pole site for the purpose of promotion and/or information sharing, there will be an obligation on the part of the banner applicant to ensure that the text of the banner is appropriate and is consistent with the principles outlined in this Policy. While the text and content of a banner remains the responsibility of the banner applicant, the banner applicant should be aware that the wording and intent of a banner displayed at a community banner pole site may be perceived by the community as communicating information which Council has approved or endorsed.

5.5 Where a banner which has been approved for display is subsequently determined to be in breach of the provision of Clause 4.2 or 4.4 Council reserves the right to remove and impound a banner without reference to the banner applicant.

## **6. BANNER SPECIFICATIONS**

6.1 The banner dimensions should as follows:

- 2900mm Horizontally
- 1200 mm Vertically
- One reinforced eye-lit on each 4 corners and one centred at top and bottom of banner.
- The border around the banner shall be double stitched.
- To minimise wind damage there should be strategically placed slits within the banner to allow wind to pass through.

## **7. SPONSORSHIP CONTENT**

7.1 Council acknowledges that a degree of sponsorship is typically negotiated to assist in the staging of a banner campaign. The advertising slogan or corporate or organisational logo of such a sponsor may be allowed to occupy some space on a flag or banner. Such advertising on a banner can occupy a maximum of 10% of its total area. If there are a number of companies or organisations sponsoring an event, a maximum of 20% of the area of the banner may be allocated for advertising.

## **8. MESSAGE GUIDELINES**

- 8.1 Messages on banners must relate to an event or activity that promotes community events affecting; or with the potential to affect the Blayney Shire LGA.
- 8.2 Potentially offensive messages or images will not be permitted.
- 8.3 Politically or religiously biased messages will not be permitted.
- 8.4 Material deemed to be inappropriate or offensive to the community at large, or a particular community sector, will not be permitted

## **9. SUITABLE EVENTS FOR PROMOTION**

9.1 As a guide Council considers events including, but not limited to, those listed below to be suitable for promotion:-

- Community
- Recreational
- Cultural
- Economic development
- Educational
- Artistic
- Tourism
- Sustainability
- Environmental
- Awareness raising
- Commemorative
- Celebratory

**10. UNSUITABLE EVENTS/ACTIVITIES FOR PROMOTION**

10.1 Blayney Shire Council does not consider the following events/activities suitable for promotion:

- The manufacture, distribution and wholesaling of tobacco related products, pornography and addictive drugs;
- Coordinated by those found guilty of illegal or improper conduct by ICAC or any other legal authority;
- That of a political nature; and
- That involve services or products that are considered to be injurious to health, or are seen to be in conflict with Council's policies and responsibilities to the Community.

**11. SPECIAL CONSIDERATIONS**

11.1 Special consideration may be given at an ordinary meeting of Council, regarding promotion of a significant National campaign, e.g. a bicentennial of a company, award recipients etc.

**12. ADMINISTRATION OF POLICY**

12.1 Administration of this policy will be conducted in conjunction with the Community Banner Poles Procedure.

**13. APPROVAL PROCESS**

13.1 Applications will be assessed on a merit basis in accord with requirements of policy.

**END**

<b>Adopted:</b>	<b>Date:</b>	<b>Minute:</b>
<b>Lasted Reviewed:</b>	<b>Date:</b>	<b>Minute:</b>
<b>Next Reviewed:</b>	<b>Date:</b>	

## **Blayney Shire Council**



### **Procedures & Guidelines Register**

**Reference No. 9I**

**Title** Community Banner Poles

**Document/File No.**

**Officer Responsible**

**Last Review Date**

### **Objective**

To set out Council's policy for the approval of banner displays by community organisations wishing to utilise banner poles provided by Council.

## **Blayney Shire Council**



### **Community Banner Pole Policy**

## **1. SCOPE**

This Procedure applies to community organisations and other entities requesting to display banners at Council managed banner poles sites and should be read in conjunction with the Community Banner Poles policy.

## **2. Definitions**

2.1 Commercial or for-profit enterprise is defined as any group that is NOT a non-profit organisation and which operates for the profit or gain of its individual members, whether these gains would have been direct or indirect.

2.2 Community benefit generally refers to an outcome, usually of an event, program or activity, that delivers an improvement to the welfare or well-being of a community or which seeks to reduce a social or economic disadvantage within a community. In broad terms a community benefit involves an activity which;

- Responds to needs of special populations such as persons living in poverty and other disenfranchised persons
- Aims to supply, augment or maintain a social services or program that would likely be discontinued or reduced without financial assistance
- Responds to a public health or public safety need
- Raises community awareness or involves education or research that improves overall community health and well-being
- Supports the active participation of residents in community and civic life who otherwise might face barriers which would prevent their participation usually generates a low or negative financial return

2.3 Community event is an event whose primary purpose is not to generate income for private gain and which is generally open to all residents to attend. Where an entry fee is payable, the level of the fee is generally determined on a cost recovery basis or alternatively has been imposed to raise funds for a charitable purpose usually in conjunction with an advertised community appeal.

2.4 Keys refer to the keys used to open the banner poles.

2.5 Community or not-for-profit organisation is taken to refer to a community association or legal entity registered under the Associations Incorporation Act 2009 which has generally been established for the purpose of engaging in small-scale, non-profit and non-commercial activities. A not-for-profit organisation is one which does not operate for the profit or gain of its individual members, whether these gains would have been direct or indirect. A not-for-profit organisation may generate income to operate, including profit, but this income must be used to carry out its purposes and cannot be distributed to owners, members or other private people.

2.6 Week for the purposes of this Policy a week is determined as Monday to Sunday.



### **3. ROLES AND RESPONSIBILITIES**

<b>ROLE</b>	<b>RESPONSIBILITIES</b>
<b>Customer Service Staff</b>	Receiving applications and processing, answering incoming enquiries/bookings, handling of payment and bonds, managing the loading of keys.

### **4. TRAINING REQUIRED**

- 4.1 Training and refresher sessions will be arranged from time to time for relevant Council officials on the contents and implementation of this policy.
- 4.2 All groups are given a procedure for the installation and removal of banners on the permanent banner poles prior to attempting this activity.

### **5 PROCEDURES**

5.1 This Policy allows for the erection of banners by not-for-profit organisations for community information/activities/events held within the Blayney Local Government area or for a purpose approved by the General Manager.

5.2 Banners are to be placed on permanent purpose built banner poles at the locations as determined in the above approval.

5.3 Commercial or not-for-profit enterprises may apply to display a banner provided that the purpose of the banner is consistent with the Principles outlined in the Policy.

5.4 Council managed civic and community events often have short notice periods for their organisation and therefore at the time of seeking to use them, the banner poles are already pre-booked by other groups. Due to their importance and the Council's commitment to support their own sponsored or hosted event, the Director of Infrastructure Services can give permission for their banners to be placed at alternative locations.

5.5 The displaying of a banner is subject to the following conditions:

- 5.5.1 Permission to erect banners to be obtained by written application.
- 5.5.2 Applicants must provide evidence of Public Liability Insurance for a minimum of \$20 million (twenty million dollars)
- 5.5.3 Due to the high demand for the usage of banner spaces, banners can only be erected for a maximum of one (1) week periods
- 5.5.4 Bookings will be accepted no earlier than two (2) months prior to an Event. Bookings are for one (1) banner at one (1) location only, to allow maximum use of available space by the community. Additional banners could be displayed, subject to space being available when a request is received – no more than three (3) weeks prior to the advertised event.
- 5.5.5 Responsibility for erection and removal of the banner is to remain with Council.



## **Blayney Shire Council**

### **COMMUNITY BANNER POLES** **APPLICATION FORM**

The information you provide is personal information for the purposes of the Privacy and Personal Information Protection Act 1998. The supply of the information by you is voluntary. If you cannot provide or do not wish to provide the information sought, your application may be unable to be processed.

<b>APPLICANT DETAILS</b>			
APPLICANT NAME:			
CLUB NAME:			
ADDRESS			
PHONE (w):		PHONE (m):	
EMAIL:			
APPLICANT SIGNATURE:		DATE	

<b>EVENT/ACTIVITY DETAILS</b>	
DESCRIPTION:	
DATE/S OF EVENT/ACTIVITY/PROGRAM	

<b>INSURANCE</b>			
Council requires evidence of your current Public Liability Policy, identifying and naming Blayney Shire Council or "any local government where the activity is taking place", with a cover of \$20 million			
EMAIL:			
APPLICANT SIGNATURE:		DATE	

<b>OFFICE USE (Job No. Trust Account No.2)</b>			
PROOF OF IDENTITY			
KEY No.			
DEPOSIT PAID \$	RECEIPT No.	DATE:	
ISSUED BY			

**CONDITIONS OF HIRE OF COUNCIL COMMUNITY BANNER POLES**

**Acceptance** – Council may accept or reject any application for use and need not give reasons for its rejection. A person must not use the Community Banner Poles unless Council has approved the use of the Community Banner Poles to that person/organisation. No approval arises unless Council agrees to the approval in writing.

The placement of a banner is subject to the following conditions:

*Permission to erect banners to be obtained by written application.*

*Applicants must provide evidence of Public Liability Insurance for a minimum of \$20 million (twenty million dollars)*

*Due to the high demand for the usage of banner spaces, banners can only be erected for a maximum period of two weeks.*

*Bookings will be accepted no earlier than 6 (six) months prior to an event for 1 (one) banner only at 1 (one) location only, to allow maximum use of available space by the community. Additional banners could be displayed, subject to space being available when a request is received – no more than 3 (three) weeks prior to the advertised event).*

Responsibility for erection and removal of the banner is to remain with Council.

Keys can be collected on the required Monday between 9.00am and 4.30pm.

Banners are to be removed and the keys returned on the required Monday between 9.00am and 4.30pm. A late fee is applicable as per Council's Fees and Charges if the banner is not removed and/or the key not returned within the required timeframe.

I ..... as .....  
(Name) (Secretary, etc)

of ..... acknowledge that  
(Organisation)

I have read the above conditions and policy and will ensure the compliance of my organisation with the conditions outlined.

*(To be filled out and returned with a copy of the applicant's certificate of currency.)*

**Council Details**

Address:	Blayney Shire Council	Website:	<a href="http://www.blayney.nsw.gov.au">www.blayney.nsw.gov.au</a>
	91 Adelaide Street, BLAYNEY NSW 2799	Email:	<a href="mailto:council@blayney.nsw.gov.au">council@blayney.nsw.gov.au</a>
	PO Box 62 BLAYNEY NSW 2799	Phone:	(02) 6368 2104
		Fax:	(02) 6368 3290

**09) FINANCIAL ASSISTANCE GRANTS TO LOCAL GOVERNMENT**

**Department:** Corporate Services

**Author:** Director Corporate Services

**CSP Link:** 6.3 A well-run Council organisation.

**File No:** GS.LI.1

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**RECOMMENDATION:**

That Council

1. Acknowledge the importance of federal funding through the Financial Assistance Grants program for the continued delivery of Council services and infrastructure;
2. Acknowledges that Council will receive \$2.395 million in 2014/15 ;  
and
3. Will ensure that this federal funding, and other funding provided by the Federal Government under relevant grant programs, is appropriately identified as Commonwealth grant funding in Council publications, including its Annual Report.

**Reason for Report:**

To inform Council on the campaign mounted by the Australian Local Government Association (ALGA) to have Financial Assistance Grants (FAGs) indexation restored immediately, and for the Commonwealth Government to consider both their adequacy and indexation methodology going forward.

**Report:**

Council is in receipt of correspondence from Local Government NSW on how Council can assist with the Australian Local Government Association (ALGA) campaign.

Councillors would be aware of the Commonwealth's decision to freeze indexation of its Financial Assistance Grants (FAGs) and its threat to seriously compromise Local Government's ability to provide adequate levels of infrastructure and services in communities' right across Australia.

These untied Grants are currently valued at \$2.3 billion, but the Federal Government has frozen them at 2014/15 levels, leading to a permanent 13% reduction in the FAGs base.

The Government's decision in the 2014 Federal Budget to freeze the indexation of FAGs for three years beginning in 2014-15 will unfortunately cost councils across Australia an estimated \$925 million by 2017-18.

ALGA and the state local government associations are seeking the support of Council for advocacy to have the Federal Government reverse the decision to freeze the indexation of FAGs.

Councils require this funding to be reinstated to maintain adequate funding for local roads, parks, swimming pools, and libraries. ALGA has mounted a campaign to have FAGs indexation restored immediately, and for the Commonwealth Government to consider both their adequacy and indexation methodology going forwards.

Assistance from Council, along with every other Council in Australia, has been sought to:

- Pass a resolution acknowledging the importance of Financial Assistance Grants
- Acknowledge receipt of Financial Assistance Grants from the Commonwealth in media releases and council publications, including your annual report.
- Illustrate the importance and impact of the Grants by identifying an individual project of a similar size to your annual or quarterly FAGs payment and to highlight this to the media and your local Federal MP and Senator in a positive story on the grant funds.

**Issues:**

Nil.

**Budget Implications:**

The 2014/15 Financial Assistance Grant for Blayney Shire Council is \$2,394,776 and equates to the 2014/15 capital expenditure programs for Local Roads (rehabilitation and reseal programs) and Local Bridges. The freezing of the indexation on this funding will equate to the loss of \$222,000 by 2017/18.

**Enclosures**

1 Correspondence from LGNSW 2 Pages



LOCAL  
GOVERNMENT  
NSW

Our ref: R90/00835-11 Out - 23571



AUSTRALIAN LOCAL  
GOVERNMENT ASSOCIATION

20 April 2015

Cr Scott Ferguson  
Mayor  
Blayney Shire Council  
PO Box 62  
BLAYNEY NSW 2799

Dear Cr Ferguson

**Re: Financial Assistance Grants to Local Government**

As you would be aware, the Commonwealth's decision to freeze indexation of its Financial Assistance Grants (FAGs) threatens to seriously compromise Local Government's ability to provide adequate levels of infrastructure and services in communities right across Australia. These untied Grants are currently valued at \$2.3 billion, but the Federal Government has frozen them at 2014/15 levels, leading to a permanent 13% reduction in the FAGs base.

We need your help if Councils such as yours are to maintain adequate funding for local roads, parks, swimming pools, and libraries. ALGA has mounted a campaign to have FAGs indexation restored immediately, and for the Commonwealth Government to consider both their adequacy and indexation methodology going forwards.

**How Councils can help:**

With the third quarterly FAGs payment now received, ALGA is calling on Councils across Australia to:

- pass a resolution acknowledging the importance of Financial Assistance Grants (see attached)
- acknowledge receipt of Financial Assistance Grants from the Commonwealth in media releases and council publications, including your annual report.
- illustrate the importance and impact of the Grants by identifying an individual project of a similar size to your annual or quarterly FAGs payment
- highlight this to the media and your local Federal MP and Senator in a positive story on the grant funds.

Full details on FAGs payments for the current financial year are available on the Department of Infrastructure and Regional Development website at <http://www.regional.gov.au/local/assistance/>

Thank you for your commitment to the Local Government sector and your assistance in our campaign to restore the indexation of Federal Assistance Grants.

Yours sincerely

Cr Keith Rhoades AFSM  
President  
Local Government New South Wales

Mayor Troy Pickard  
President  
Australian Local Government Association

LOCAL GOVERNMENT NSW  
GPO BOX 7003 SYDNEY NSW 2001  
LB: 28 MARGARET ST SYDNEY NSW 2000  
T 02 9242 4000 F 02 9242 4111  
LGNSW.ORG.AU LGNSW@LGNSW.ORG.AU  
ABN 49 853 913 882

BLAYNEY SHIRE  
COUNCIL

22 APR 2015

Doc. No.

Verified:

Disp.  
GA39:

Sent.



### Council Resolution

#### *That the Council:*

- 1. Acknowledges the importance of federal funding through the Financial Assistance Grants program for the continued delivery of council services and infrastructure;*
- 2. Acknowledges that the council will receive \$X.Y million in 2014 - 15; and*
- 3. Will ensure that this federal funding, and other funding provided by the Federal Government under relevant grant programs, is appropriately identified as Commonwealth grant funding in council publications, including annual reports.*

### Rationale

FAGs are a vital part of the revenue base of all councils, and this year councils will receive \$2.3 billion from the Australian Government under this important program.

The Government's decision in the 2014 Federal Budget to freeze the indexation of FAGs for three years beginning in 2014-15 will unfortunately cost councils across Australia an estimated \$925 million by 2017-18.

ALGA and the state local government associations are seeking the support of Council for advocacy to have the Federal Government reverse the decision to freeze the indexation of FAGs.

While the FAGs are paid through each state's Local Government Grants Commission, the funding originates with the Commonwealth and it is important it is recognised as such. Council, and every other council in Australia, have been asked to pass a resolution acknowledging the importance of the Commonwealth's Financial Assistance Grants in assisting Council to provide important community infrastructure.

Council is also being asked to acknowledge the receipt of Financial Assistance Grants from the Commonwealth in media releases and council publications, including our annual report, and to highlight to the media a council project costing a similar size to the FAGs received by Council so that the importance and impact of the grants can be more broadly appreciated.

**10) ENDORSEMENT OF 2015/16 OPERATIONAL PLAN**

**Department:** Corporate Services

**Author:** Director Corporate Services

**CSP Link:** 6.3 A well-run Council organisation.

**File No:** GS.LI.1

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**RECOMMENDATION:**

1. That Council endorses the draft 2015/16 Operational Plan
2. That the 2015/16 Operational Plan be placed on public exhibition for a period of 28 days.
3. That the Community Financial Assistance Policy be placed on public exhibition for a period of 28 days.

**Reason for Report:**

For Council to consider and endorse the 2015/16 Operational Plan for public exhibition, pursuant to section 405 of the Local Government Act (1993). The Draft 2015/16 Operational Plan has been provided to Councillors under separate cover.

**Report:**

All councils in NSW are required to develop long term, medium term and short term plans under new legislative requirements, the Local Government Amendment Planning and Reporting Act 2009, which transitioned councils to the new Integrated Planning and Reporting (IP&R) Framework.

Council adopted its Community Strategic Plan, Delivery Program and Resourcing Strategy and Community Engagement Strategy in 2014 for its term of Council. Council is now obligated to endorse its 2015/16 Operational Plan.

The Operational Plan spells out the individual projects and activities that will be undertaken each year to achieve the commitments made in the four (4) year Delivery Program.

In accordance with Section 405 of the Act, Council must adopt its annual Operational Plan before the beginning of each financial year, outlining the activities to be undertaken that year, as part of the Delivery Program. The Operational Plan must also include the Statement of Revenue Policy.

The Operational Plan has been reviewed and updated to reflect service delivery for 2015/16 year. The plan is in two parts as follows:

- Part 1 – Activities. This part outlines specific actions and tasks that Council will do.
- Part 2 – Financials. This part outlines the annual budget, revenue policy, fees and charges and other important financial information.



Following public exhibition, Council must consider public submissions made in the exhibition period prior to the adoption of the 2015/16 Operational Plan at the June meeting.

The following rating structure for 2015/16 is proposed:

<b>Rating Structure 2015/2016 - (Includes 6% Special Rate Variation)</b>				
<b>Category &amp; sub category</b>	<b>Base rate</b>	<b>Ad valorem rate</b>	<b>Rate yield</b>	<b>% Total Rating Income</b>
<b>Residential</b>				
Ordinary Rate	\$ 275	0.00350212	\$ 738,656	8.63%
Sub Category:				
Blayney	\$ 325	0.00638491	\$ 931,393	10.89%
Millthorpe	\$ 325	0.00513176	\$ 275,582	3.22%
Carcoar	\$ 275	0.00596604	\$ 50,440	0.59%
<b>Business</b>				
Ordinary Rate	\$ 325	0.00731261	\$ 74,739	0.87%
Sub Category:				
Blayney, Millthorpe & Carcoar	\$ 325	0.0100929	\$ 257,427	3.01%
<b>Farmland</b>				
Ordinary Rate	\$ 400	0.00415561	\$ 2,063,798	24.12%
<b>Mining</b>				
Ordinary Rate	\$ 1,000	0.05966590	\$ 15,320	0.18%
Gold and Copper	\$ 1,000	0.05816375	\$ 4,148,075	48.48%
			<b>\$ 8,555,430</b>	<b>100.00%</b>

Included in the above table is the year 2 of the approved Special Rate Variation increase of 5.11%, Blayney Shire Community Centre special rate variation for 2015/16 on all rateable properties being \$275,250 and the Cadia Special Rate Variation of \$1.650m

Sewer Charges have been indexed by 10% as recommended in the Strategic Business Plan set out by NSW Public Works. Non-Residential sewer charges for Millthorpe Sewer Scheme have been harmonised with Blayney Sewer Scheme resulting in all charges now being aligned. This has reduced income for the Sewer Fund by \$16,828. The following waste water (sewer) service charges for 2015/16 are proposed:

<b>Residential</b>		
	<b>Access Charge</b>	<b>No of Properties</b>
Connected	\$545.00	1458
Vacant/Unmetered	\$280.00	135

<b>Non Residential</b>				
	<b>Annual Charge (Prior to SDF Factor)</b>	<b>No of Properties</b>	<b>Charge before SDF</b>	<b>quarterly amount charged</b>
20mm Water Service	\$450.00	160	\$113	\$136
25mm Water Service	\$696.00	21	\$174	\$136
32mm Water Service	\$1,141.00	18	\$285	\$136
40mm Water Service	\$1,783.00	11	\$446	\$136
50mm Water Service	\$2,785.00	24	\$696	\$136
80mm Water Service	\$7,127.00	1	\$1,782	
100mm Water Service	\$11,136.00	6	\$2,784	
150mm Water Service	\$25,057.00	2	\$6,264	
Vacant/Unmetered	\$280.00	46		

Waste management charges have been indexed by 8.8% for Domestic Waste to \$370 per service and by 17.6% for Non-Domestic Waste to \$400 per service. Vacant land charge is proposed to remain static at \$40. The following waste management charges for 2015/16 are proposed:

<b>Domestic</b>		
	<b>Annual Charge</b>	<b>No. of Properties</b>
Domestic Waste Management Charge	\$370.00	2097
Domestic Waste Management Charge – Vacant Land	\$40.00	315
Domestic Waste Management Charge – Rural Areas	\$370.00	324
<b>Non-Domestic</b>		
Non-Domestic Waste Management Charge	\$400.00	266
<b>Extra Services</b>		
Additional Garbage Charge – per bin	\$210.00	76
Additional Recycling Charge – per bin	\$190.00	32

The interest rate charged on overdue rates and charges for 2015/16 is yet to be advised by the Office of Local Government and is currently proposed for the 2014/15 maximum recommended rate on overdue rates and charges of 8.5%.

Included in the 2015/16 Operational Plan is the Community Financial Assistance Policy that outlines associated guidelines and allocation of proposed funding. This policy is based on the previous Financial Assistance Program guidelines and has been incorporated into the 2015/16 Operational Plan to expedite the funding process and for greater transparency to the community.

The draft Operational Plan must be publicly exhibited for at least 28 days and public submissions can be made to Council during the consultation period. Council must accept and consider any submissions made on the draft Operational Plan before its adoption. Council must post a copy of its Operational Plan on its website within 28 days following plan adoption.

**Issues:**

Nil.

**Budget Implications:**

The financial implications of this report are detailed in the 2015/16 Operational Plan and an overview is provided as follows:

Councils 2015/16 Draft Operational Plan budget proposes an operational surplus forecast of \$275K before capital grants and contributions. This consists of a forecast surplus from the General Fund of \$715K and a deficit from the Sewer Fund of \$(439)K. The Sewer Fund aligns with the Strategic Business Plan set out by NSW Public Works.

The major contributors to Councils income in the draft budget for the 2015/16 financial year include the following:

- Approved second year special rate variation of 5.11% which equates to approximately \$297k increase to Councils general income.
- The mining rate sees a boost of \$1.8m due to a supplementary revaluation of Cadia land. Although the increase is welcomed, Council should not be fully reliant on this income to help fund the operations of Council and should be geared towards funding capital projects.
- Domestic Waste annual charge will increase by 9% to anticipate the increased costs of waste collection and is representative of reasonable cost.
- Non-Domestic Waste continues to be subsidised by ratepayer funding as its net cost are forecast not being covered by users.
- Council has been successful in obtaining \$2m from the Fixing Country Roads Grant Funding which will be spread over 2 years as work is complete with \$1m received in 15/16 through progress payments and the remaining \$1m in 16/17 as the capital work is completed on Errowanbang Road.
- Another \$500k of grant income successfully obtained by Council to be used on Redmond Oval.
- Council is still in the midst of the Financial Assistance Grant indexation freeze with the Government in the 2014/15 Budget announcing that “the indexation applied to the Financial Assistance Grant programme would be paused for three years (2014/15 to 2017/18).” Council will receive in 15/16 \$2.4m of untied grant money.

The major contributors to Councils expenditure for the 2015/16 Financial Year Draft Budget include the following:

- Increase in Employee Costs with the progressive implementation of stage 2 & 3 in staff increases.
- Major and Minor Plant replacement program has been delayed in 14/15 with a large replacement schedule to take place in the 15/16 year totaling \$1.6m
- Building capital works to continue at CentrePoint with \$200k to be spent on the continuous improvement of the facility.
- Bridge replacement program to continue with a spending budget of \$489k for 15/16.
- Road capital works consists of a \$3.4m budget. Major works on the roads to Cadia are Errowanbang Rd with approximately \$1.1m spent funded by the 'Fixing Country Roads Grant Program" and Cadia Mining SRV income, with the SRV income also contributing to Burnt Yards Rd with a budget of \$400k. Hobbys Yards will receive work worth \$815k and the rest of the budgeted amount to the heavy patching and reseals program.

No provision for borrowings is proposed in the 2015/16 Operational Plan.

**Attachments** (separate document)

- |   |   |          |
|---|---|----------|
| 1 | 2015/16 Operational Plan - Part 1: Activities     | 73 Pages |
| 2 | 2015/16 Operational Plan - Part 2: Revenue Policy | 42 Pages |

**11) REPORT OF COUNCIL INVESTMENTS AS AT 30 APRIL 2015****Department:** Corporate Services**Author:** Chief Financial Officer**CSP Link:** 6.3 A well-run Council organisation.**File No:** FM.IN.1**RECOMMENDATION:**

1. That the report indicating Council's investment position as at 30 April 2015 be received and noted.
2. That the certification of the Responsible Accounting Officer be noted and the report be adopted.

**Reason for Report:**

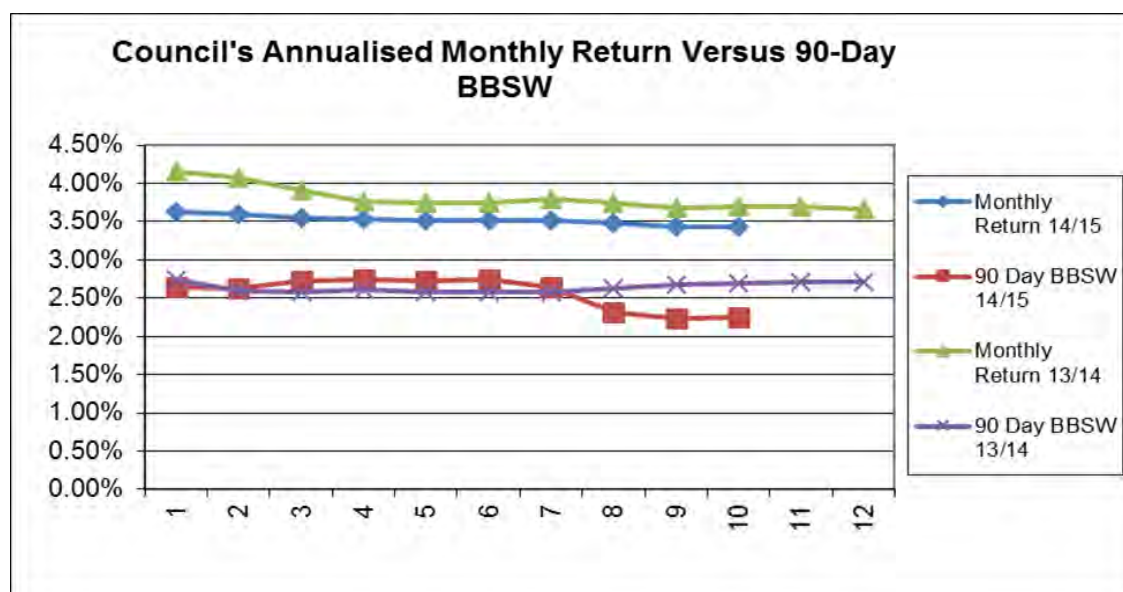
For Council to endorse the Report of Council Investments as at 30 April 2015.

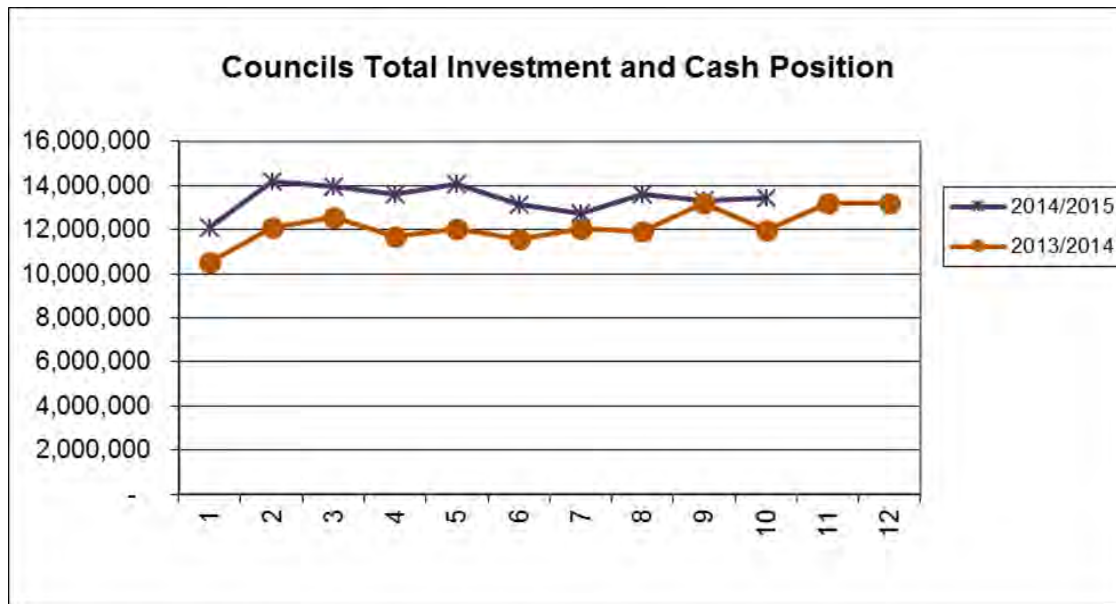
**Report:**

This report provides details of Council's Investment Portfolio as at 30 April 2015.

Council's total investment and cash position as at 30 April 2015 is \$13,451,508. Investments earned interest of \$36,595 for the month of April 2015.

Council's monthly net return on Term Deposits annualised for April of 3.44% outperformed the 90 day Bank Bill Swap Rate of 2.26%.





REGISTER OF INVESTMENTS AND CASH AS AT 30 APRIL 2015				
Institution	Rating	Maturity	Amount \$	Interest Rate
AMP Bank Limited	A1/A+	6/01/2016	500,000	3.40%
AMP Bank Limited	A1/A+	18/08/2015	500,000	3.50%
AMP Bank Limited	A1/A+	3/11/2015	500,000	3.30%
Bank of Queensland	A2/A-	30/06/2015	500,000	3.50%
Bank of Queensland	A2/A-	3/06/2015	500,000	3.55%
Bank of Queensland	A2/A-	2/09/2015	500,000	3.50%
Bankwest	A1+/AA-	5/05/2015	500,000	3.45%
Bendigo & Adelaide Bank	A2/A-	17/11/2015	500,000	3.35%
Beyond Bank Australia	A2/BBB+	26/05/2015	500,000	3.51%
IMB	A2/BBB	3/09/2015	500,000	3.50%
ING Bank	A2/A-	5/05/2015	500,000	3.47%
ING Bank	A2/A-	28/05/2015	500,000	3.57%
ING Bank	A2/A-	9/06/2015	500,000	3.55%
ING Bank	A2/A-	18/08/2015	500,000	3.46%
Macquarie Bank	A1/A	2/09/2015	500,000	3.35%
ME Bank	A2/BBB+	1/09/2015	500,000	3.50%
NAB	A1+/AA-	9/06/2015	500,000	3.62%
NAB	A1+/AA-	1/12/2015	500,000	3.60%
NAB	A1+/AA-	25/05/2015	500,000	3.12%
NAB	A1+/AA-	22/09/2015	500,000	3.09%
Rural Bank	A2/A-	7/07/2015	500,000	3.52%
Wide Bay Australia	A2/BBB	8/03/2016	500,000	3.01%
Wide Bay Australia Ltd	A2/BBB	5/01/2016	500,000	3.50%
Wide Bay Australia Ltd	A2/BBB	17/12/2015	500,000	3.55%
<b>Total Investments</b>			<b>12,000,000</b>	<b>3.44%</b>
Benchmarks: BBSW 90 Day Index				2.26%
RBA Cash Rate				2.25%
Commonwealth Bank - At Call Account			1,151,266	2.10%*
Commonwealth Bank Balance - General			300,243	2.10%*
<b>TOTAL INVESTMENTS &amp; CASH</b>			<b>13,451,508</b>	

\* % Interest rates as at 30/04/2015

Summary of Investment Movements - April		
Financial Institution	Invst/(Recall) Amount \$	Commentary
Goldfields Credit Union	(508,506.85)	Term Deposit Matured 07/04/2015

Short Term Credit Rating*	Policy Maximum	Current Holding %	Current Holding \$
A-1+	100%	21%	2,500,000
A-1	80%	17%	2,000,000
A-2	60%	63%	7,500,000
A-3	40%	0%	-
Not Rated**	Existing Investments Only	0%	-
			12,500,000

\*Councils current investment portfolio contains only short term investments and has therefore been rated accordingly.

\*\* Non rated institutions will be phased out as the investments mature. The last non rated investment matured in April 2015.

Overall Portfolio Return to Maturity			Actual %
Portfolio % < 1 Year	Min 40%	Max 100%	100%
Portfolio % > 1 Year	Min 0%	Max 60%	0%
Portfolio % > 3 Year	Min 0%	Max 30%	0%
Portfolio % > 5 Year	Min 0%	Max 20%	0%

<b><u>RESTRICTED CASH, CASH EQUIVALENTS &amp; INVESTMENTS</u></b>	
	<b>\$ 000's</b>
External Restrictions - Sewer	4,416
External Restrictions - Other	2,459
	<b>6,875</b>
Internal Cash Restrictions	6,460
Available Working Capital	117
	<b>6,577</b>
<b>TOTAL CASH &amp; INVESTMENTS</b>	<b>13,452</b>

\* Restrictions represent balance as at 1 July 2014

Council's cash holding (At Call Account) of \$1,151,266 is unusually high and can be attributed to rates payments made on the last day of the month.

The above table shows that the current holding for A-2 rated investments is 63% and exceeds the policy maximum of 60%. This is as a result of timing of the maturity of an unrated investment and will be rectified in May.

#### **CERTIFICATION – RESPONSIBLE ACCOUNTING OFFICER**

I, David Mead, certify that the investments listed in this report have been made in accordance with Section 625 of the Local Government Act 1993, the Local Government (General) Regulation 2005 and Council Policy.

#### **Issues:**

Nil

#### **Budget Implications:**

A good investment strategy optimises Council's return on investments.

#### **Enclosures**

Nil

#### **Attachments**

Nil



**12) DIRECTOR OF INFRASTRUCTURE SERVICES MONTHLY REPORT**

**Department:** Infrastructure Services

**Author:** Director Infrastructure Services

**CSP Link:** 4.1 Adequate provision of transport, roads, rail, information and communication technologies and community social assets.

**File No:** GO.ME.1

---

**Recommendation:**

That the Director of Infrastructure Services Monthly Information report for May 2015 be received.

**Reason for Report:**

To update Councillors on matters associated with shire infrastructure, its maintenance, operation, upgrade and construction.

**Report:**

**Topical Issues**

- Council has recently received survey data to enable design to commence on the NSW Government Fixing Country Roads funded Errowanbang Road upgrade project. Council officers continue to liaise with potentially affected landholders to discuss the proposed corridor. Current programming continues to enable commencing a section of works from Burnt Yards Road for 750m prior to the end of the financial year.

**Major Works**

Major road construction and notes on current works are as follows:

- Forest Reefs Road – Council continues upgrade works on 2.5kms of Forest Reefs Road. Final base gravel placement and trimming of the section from the Cowriga Creek bridge is underway with laying of a primer seal programmed for early to mid-May.
- Adelaide Street Intersection upgrade – Drainage upgrades and utility services adjustments continue to progress on the western side of Adelaide Street. Work on kerb and gutter installation will start the week commencing 27 April 2015, and be followed by paving and landscaping.
- Gravel resheeting works, were delayed due to wet weather and redirection of resources to other priorities, however activity in this area will once again be underway upon publication of this report.

**Major Contracts**

Cowriga Creek Bridge (Forest Reefs Road)

- In agreement with the contractor Council has recovered gravel materials utilised in the bypass track, and the contractor will return to remove associated structures and make good the site.

### **Land Development**

#### **Cook Street (11 Lot subdivision)**

- Council is currently awaiting a fee estimate from a suitably qualified consultant to undertake further investigatory works to ensure that no contamination exists, and that any fill provides suitable bearing capacity for the construction of houses on the site.

### **Wastewater**

- NSW Public Works are currently finalising plans for works to be undertaken on the Millthorpe transfer main to address significant Hydrogen Sulphide attack on concrete structures.
- Preparatory site works are underway for the installation of a Calcium Nitrate dosing system at the Millthorpe Pump Station to reduce the levels of septicity within the system. It is anticipated these works will be completed by mid-May.

### **Recreation and Environment**

#### **King George Oval Building Upgrades**

- Council's contractor is currently undertaking the identified upgrade works to the KGO buildings.

#### **Revive! Belubula River at Pound Flat project**

- The Revive project is Blayney Shire Council's first NSW Environmental Trust Grant funded project and the largest environmental restoration project undertaken by Council. Progress is steadily being made on the project and the past 3 months has seen:
  - o The Belubula River at Pound Flat assessed by a specialist consultant to ensure that the works will maximise environmental benefit whilst minimising environmental harm.
  - o The Review of Environmental Factors (REF) completed which fulfils Council's Part V obligations under the Environmental Planning and Assessment Act.
  - o The submission of the Part 7A Fisheries Permit application.
  - o An update presentation to the Carcoar Village Committee.
  - o The advertising of the request for quotation to complete the works in large willow and debris removal from the Belubula River at Pound Flat in the Blayney Chronicle (30 April 2015).
- The next steps in the project will be training of volunteers in weed control techniques and commencing the works within the river on debris removal.
- It is envisaged that the project will be completed in September 2017.

### **Issues:**

Nil

**Budget Implications:**

Nil

**Enclosures**

Nil

**Attachments**

Nil

**13) PLANET FOOTPRINT HALF YEARLY REPORT**

**Department:** Infrastructure Services

**Author:** Director Infrastructure Services

**CSP Link:** 6.3 A well-run Council organisation.

**File No:** GO.ME.2 ET.LI.2

---

**RECOMMENDATION:**

That Council note the 2014-15 Planet Footprint Half Yearly Performance Review for electricity consumption.

**Reason for Report:**

In 2012 Council engaged Planet Footprint to monitor and report on Councils energy consumption, with the intent of better managing its assets and facilities energy demands.

This report provides information on Councils energy consumption performance for the first half of the 2014-15 Financial Year.

**Report:**

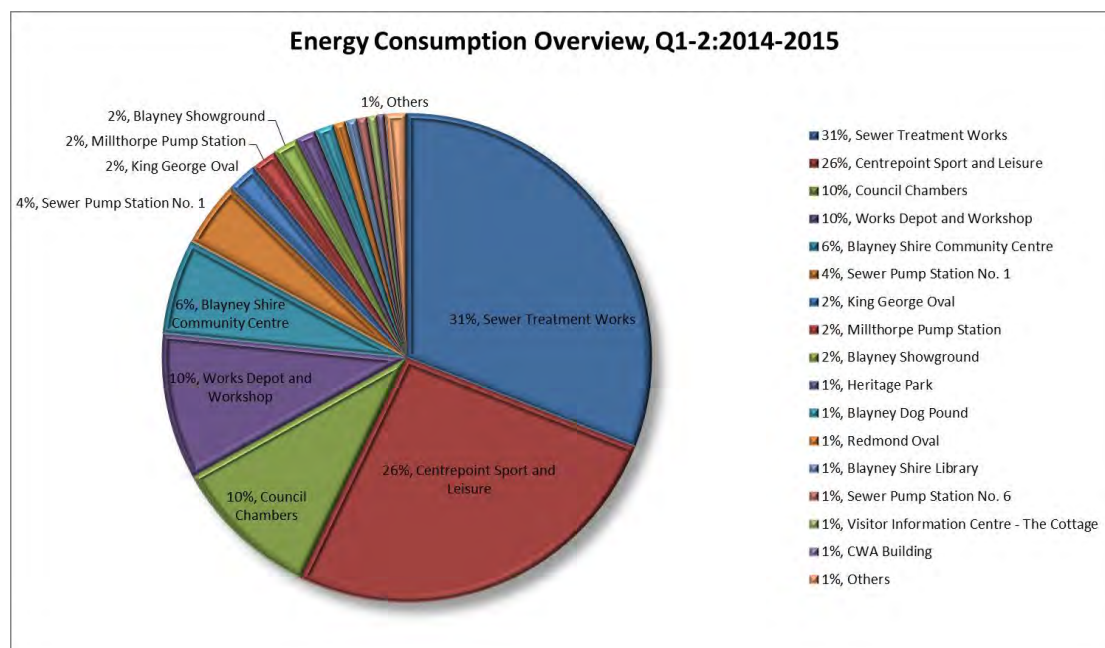
Planet Footprint captures Councils electricity consumption/billing data directly from utility providers and analyses the information to monitor, benchmark and report on electricity consumption, greenhouse gas emissions and anomalies.

Highlights from Quarters 1-2 for 2014/15 included:

- Total electricity consumption was \$91,539 or 330.1 MWh.
- Total electricity consumption has increased by 6% on the same period in 2013/14.
- The average cost of electricity was \$0.277/kWh in comparison to \$0.281/kWh for 2013/14.
- The average cost of electricity decreased by 1% in comparison to 2013/14.

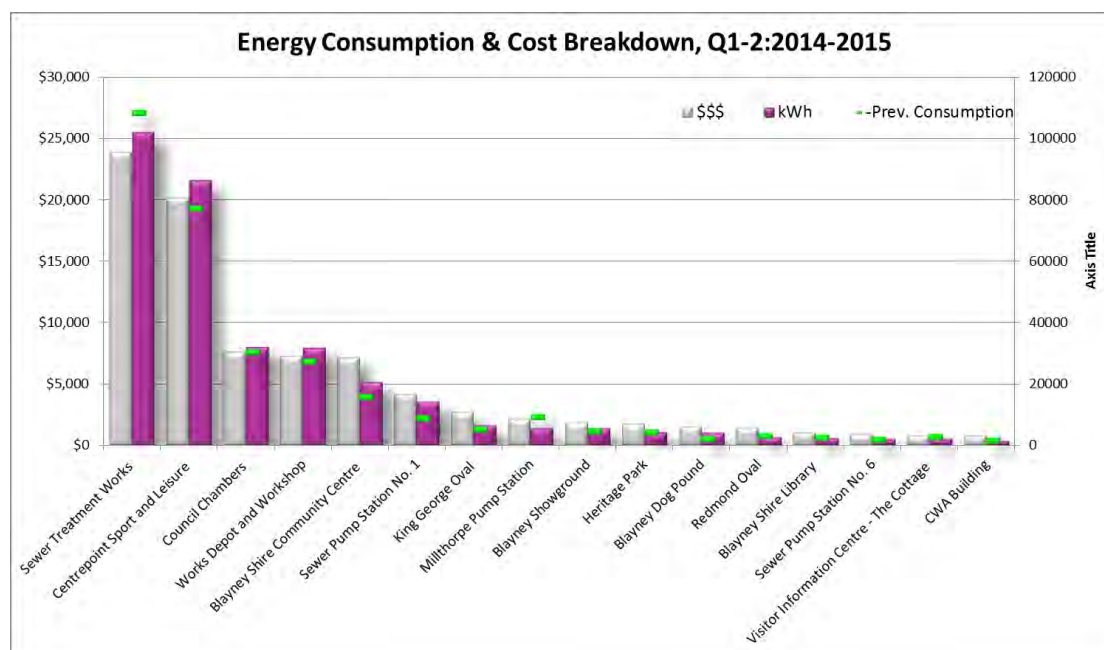
A summary of the data and performance is provided in the following charts:

Figure 1. identifies Councils 5 largest consumers are the Blayney sewerage treatment works, Centrepont Sport and Leisure, Council Chambers, Council works depot and the Blayney shire Community Centre. These five facilities represent 83% of Councils total electricity consumption.



**Figure 1. Consumption overview**

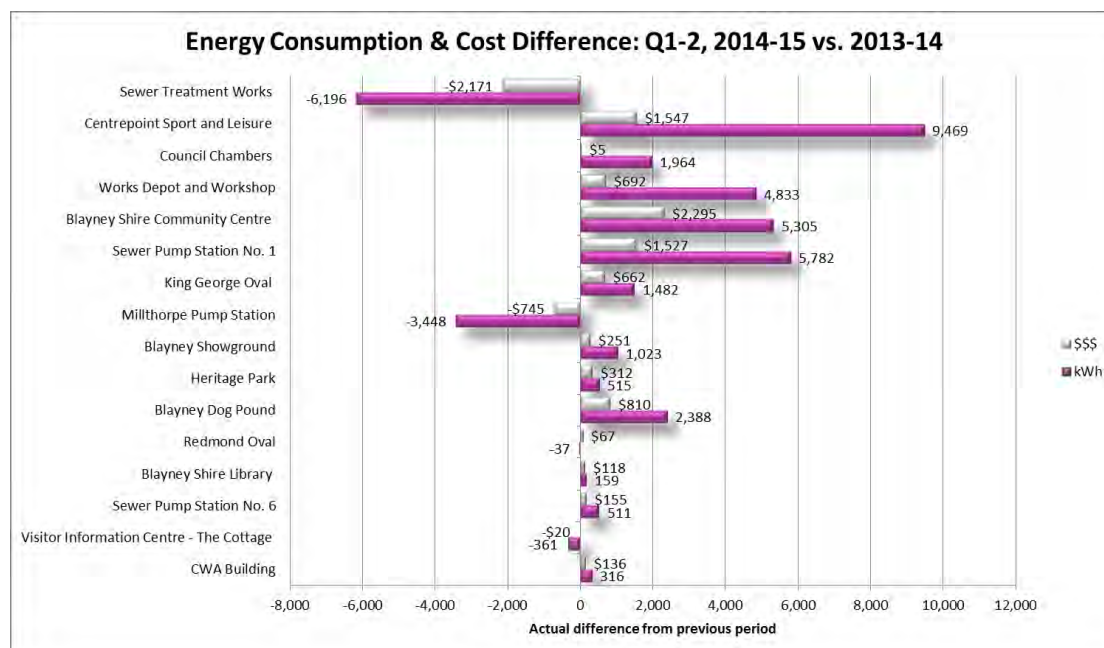
Figure 2. provides a consumption and cost breakdown and comparative consumption with the previous period.



**Figure 2. Consumption/Cost Breakdown**

Figure 3. identifies the consumption/cost differences, for each facility. The notable changes are:

- Sewerage Treatment Works: - 6,196 kWh (-\$2,171)
- Centrepont Sport and Leisure: + 9,469 kWh (+\$1,547)
- Sewer Pump Station No. 1: + 5,782 (+\$1,527)
- Community Centre: + 5,305 (+\$2,295)
- Millthorpe Pump Station: - 3,448 (-\$745)



**Figure 3. Difference in Consumption/Cost**

A number of factors can be attributed to these figures, including:

- Changes in energy providers, with reduced rates/charges (savings), and access to meters for reading purposes (over estimates).
- Reduced inflows to the sewer reticulation network and treatment works as a result of dryer climatic conditions.
- Installation of energy efficient lighting and fittings at the Council Chambers.
- Changes to metering and conversion to “time of use” billing at the Community Centre, Council Chambers and Centrepont Sport and Leisure to benefit from reduced tariffs.

### **Current Energy Efficiency Works**

Council has been actively working to reduce energy consumption from its own operations for a few years, and has implemented some energy efficient features into its buildings and assets.

Upgrade works to the pavilion and amenities building at Blayney Showground have included the upgrade of lighting fixtures to energy efficient LED lighting that has been funded under NSW Government Sport and Recreation and Community Building Partnership programs.

Councillors will recall that the Australian Government is currently providing funding via the Community Energy Efficiency Program. Blayney Shire Council was successful in sourcing funding for various projects. Of note is the recent completion of various building modifications at Centrepont Sport and Leisure (CEEP2).

Works previously undertaken at the Sewerage Treatment Works under the CEEP2 program have been routinely monitored and further adjustments made to settings to ensure Council achieves maximum benefit.

A recent inspection by Public Works officers identified an opportunity to lower the aerators further into the aeration tank. Whilst a cost saving cannot be attributed to this presently, early indications are that the systems settings have now been optimised and the variable speed drives are working as initially planned.

**Future Energy Efficiency Works**

Council water utility accounts are now being fed into the Planet Footprint system, in order for it to track and assess consumption and cost, and identify possible options for further savings. At present this data is being “cleaned” to ensure it is accurate, and it is anticipated that further savings will be possible once this is complete.

With changes in the renewable energy sector, including State and Federal Government policy, the area is a challenging environment to navigate and understand. It is hoped Federal decisions on the Renewable Energy Target may provide the sector with more confidence and increase activity and competition once again.

**Issues:**

It is noted that with a change of energy retailer there have been issues related to access to electricity meters for reading purposes, and this has resulted in estimates being applied to bills. This may explain some of the differences in energy consumption when compared to the results of the previous report.

As these issues have arisen Council has been arranging for installation of a standard electricity lock, to resolve the matter.

**Budget Implications:**

Nil

**Enclosures**

Nil

**Attachments**

Nil

**14) MINUTES OF THE BLAYNEY TRAFFIC COMMITTEE MEETING HELD ON FRIDAY 17 APRIL 2015 AT THE BLAYNEY SHIRE COMMUNITY CENTRE - CADIA ROOM**

**Department:** Infrastructure Services

**Author:** Infrastructure Manager

**CSP Link:** 4.1 Adequate provision of transport, roads, rail, information and communication technologies and community social assets.

**File No:** TT.ME.1

---

**Recommendation:**

1. That the Minutes of the Blayney Traffic Committee Meeting, held on Friday 17 April 2015 be accepted, and Recommendations be adopted by Council.

**Reason for Report:**

**MINUTES OF THE BLAYNEY TRAFFIC COMMITTEE MEETING HELD ON FRIDAY 17 APRIL 2015 AT THE BLAYNEY SHIRE COMMUNITY CENTRE – CADIA ROOM**

Meeting commenced at 10.00am

**PRESENT**

Prue Britt (Roads & Maritime Services), Reg Rendall (Paul Toole Representative), Geoff Paton (Blayney Shire Council), Cr Kevin Radburn (Chair) and Iris Dorsett (Roads Safety Officer),

**APOLOGIES**

Peter Foran (NSW Police)

**CONFIRMATION OF MINUTES**

**RESOLVED:** That the minutes of the previous Traffic Committee Meeting (via email conference) held on Thursday, 20 February 2015 be confirmed to be a true and accurate record of that meeting. (Cr Kevin Radburn/Reg Rendall)

**TRAFFIC REGISTER**

Update provided and information noted.

**CORRESPONDENCE**

**20150417:01 - Local Roads Review – Ramsay, Burke and Hay Streets Lyndhurst**



**RESOLVED:** That the Local Traffic Committee (LTC) recommends that Council and the RMS undertake review of the signage. (Cr Kevin Radburn/Reg Rendall)

Council's Road Safety Officer to conduct shire wide education campaign on driver behaviour in villages.

**20150417:02 - Speed Zone Review - Mid Western Highway Lyndhurst – RMS**

The Local Traffic Committee noted the response from Roads and Maritime Services.

**20150417:03 - Orange Road – Truck Parking**

**RESOLVED:** That the Local Traffic Committee recommends that Council pass concerns onto Local Police. (Cr Kevin Radburn/Prue Britt)

**20150417:04 - School Crossings - Blayney Public School Church Street Parking**

**RESOLVED:** That the Local Traffic Committee recommends that Council advises that revised parking arrangements have been implemented and will be promoted through a media campaign. (Reg Rendall/Cr Kevin Radburn)

**20150417:05 - Coo-ee March 2015 Re-enactment**

**RESOLVED:** That the Local Traffic Committee provides in principle support, to the Coo-ee March 2015 Re-enactment. (Cr Kevin Radburn/Reg Rendall)

Council to contact organisers of each event to clarify the routes of the marches.

**GENERAL BUSINESS**

**20150417:06 - Speed Limit Sign - Uralba Retirement Village**

**RESOLVED:** That the Local Traffic Committee recommends that Council advises that RMS is responsible for Speed Zone Reviews (SZR) on public roads. Private owners are entitled to sign post a speed limit on private land (as per attached diagram). (Reg Rendall/Cr Kevin Radburn)



**20150417:07 - Notice Of Intention To Hold A Public Assembly - Winter Solstice Market Day - 20 June 2015 - Newbridge Progress Association**  
**RESOLVED:** That the Local Traffic Committee supports the event, subject to the provision of appropriate Traffic Control Plan, Traffic Management Plan and insurances. (Reg Rendall/Cr Kevin Radburn)

**20150417:08 - Newman's Bus Route - Forest Reefs**

**RESOLVED:** That the Local Traffic Committee recommends that Council considers Long Swamp Road to be adequate for a full size bus and notes that Woodville Road is in Cabonne Council areas.

Council also notes that there has been no assessment of pick up and drop off points along the proposed route extension within Blayney Shire. (Cr Kevin Radburn/Reg Rendall)

**20150417:09 - Curve Advisory Signage – Forest Reefs Road**

**RESOLVED:** That the Local Traffic Committee recommends that Council undertake a warning signage review on the northern segment of Forest Reefs Road. (Prue Britt/Reg Rendall)

**INFORMAL MATTERS**

**Monthly Road Safety Reports – February and March 2015.**  
Reports were noted.

**FUTURE MEETING DATES**

- Friday 19 June 2015
- Friday 21 August 2015
- Friday 16 October 2015
- Friday 11 December 2015

**MEETING CLOSED**

The meeting closed at 12:03pm.

**TRAFFIC COMMITTEE REGISTER**

**IGA/Farm Lane**

- Refer any complaints to Work Cover.
- Only offence is obstructing traffic – not likely to be enforceable.
- Council have done everything they can for now.
- Enforcement at IGA site in Bathurst may have flow on.

**B Double Old Lachlan Road**

- Talk to Mr Death and see if he can:
  - Establish a pattern
  - Take photo from front, but advice that by may have to go to Court.
- Council to investigate use of:
  - Cameras
  - Weight of Loads enforcement (can contractor be made an authorised person). Need to look into.
- Iris to talk with CTLX and put up maps of approved routes.

**COUNCIL ISSUES**

**Development of Policy and Guidelines for Advisory Signs**

**Enclosures**

Nil

**Attachments**

Nil

**15) PLANNING PROPOSAL TO AMEND BLAYNEY LOCAL ENVIRONMENT PLAN 2012**

**Department:** Planning and Environmental Services

**Author:** Director Planning and Environmental Services

**CSP Link:** 3.3 Heritage sites in the natural and built environment are identified and understood.

**File No:** LP.PL.2

**RECOMMENDATION:**

That Council forward a Planning Proposal to the Minister for Planning and Environment seeking to amend Schedule 5 and the corresponding Heritage Maps within the Blayney Local Environmental Plan 2012.

**Reason for Report:**

The purpose of this report is to seek Council resolution to submit a Planning Proposal to the Department of Planning & Environment (DPE) to amend the Blayney Local Environmental Plan 2012 (BLEP).

**Report:**

Councillors will recall that at its Ordinary Meeting of 16 September 2015 it resolved to proceed to prepare three (3) planning proposals to amend the BLEP 2012.

This Planning Proposal seeks to amend Schedule 5 of BLEP2012 and the corresponding Heritage Maps (where applicable) for a limited range of lots/items/areas detailed within the document.

The amendments include: removal of four (4) heritage items, addition of one (1) new item and resolve administrative errors or mis-description of five (5) existing items in the Schedule. The aim is to ensure BLEP2012 accurately reflects the heritage significance of items or heritage conservation areas and to remove requirements for heritage assessment where one is unlikely to improve the development assessment outcomes.

**Issues:**

Nil.

**Budget Implications:**

Nil.

**Enclosures**

- 1 Proposed Amendments to Blayney LEP 2012 14 Pages

**Attachments (separate document)**

- 2 Annexure of Proposed Amendments to Blayney LEP 2012 30 Pages



## Planning Proposal

**Proposed Amendment(s) to *Blayney Local Environmental Plan 2012* to  
Amend Heritage Items (Schedule 5) and Heritage Maps**

**Prepared on behalf of Blayney Shire Council for submission to the  
NSW Department of Planning & Environment**

26 February 2015

Version A

## **Document Control**

<b>Date</b>	<b>Version</b>	<b>Purpose</b>	<b>Recipients</b>
26 February 2015	A	Draft for Internal Review	Mark Dicker – Blayney Shire Council Patsy Moppett – Blayney Shire Council

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## **1. INTRODUCTION**

### **1.1. Aim of Amendment**

Blayney Shire Council ('Council') is seeking to update and amend the list of Heritage items in Schedule 5 and the relevant Heritage Maps that form part of *Blayney Local Environmental Plan 2012* ('BLEP2012').

It is proposed to remove four (4) local heritage items from heritage listing, add one (1) new item, and resolve administrative errors or mis-descriptions for another five (5) existing heritage items.

These amendments are due to revisions to the heritage significance of relevant items and/or minor mis-descriptions of listed items and are supported by updated heritage inventory sheets and community / stakeholder consultation.

### **1.2. Process Overview**

This Planning Proposal has been prepared in accordance with the requirements of:

- Letter from DPE dated 5/9/14 notifying Blayney Shire of amended procedures for drafting and notifications of local environmental plans;
- The *Environmental Planning & Assessment Act 1979* ('EP&A Act');
- The Department of Planning (October 2012) '*A guide to preparing planning proposals*';
- Planning Circular No. PS12-006 – *Delegations and independent review of plan-making decisions*; and
- *Blayney Local Environmental Plan 2012* ('BLEP2012').

A gateway determination under Section 56 of the EP&A Act is requested from the Department of Planning & Environment ('Department') to allow this planning proposal to be placed on public exhibition.

We also request delegation to Council (as the Relevant Planning Authority or RPA) of the power to make this amendment to the *Blayney Local Environmental Plan 2012*. Whilst there is no relevant endorsed strategy relating to these heritage amendments they are consistent with the recommendations/ strategies of the *Sub-Regional Rural & Industrial Land Use Strategy* (2008) and sufficient justification has been provided here and/or the amendments are so minor that it is suitable for delegation to be granted.

**We submit that there is sufficient detail in this Planning Proposal to justify a positive Gateway Determination considering the low complexity of the proposed amendment and limited impacts of these amendments on appropriate heritage items, conservation areas, and character.**



## 2. RELEVANT STRATEGIES

### 2.1. Heritage Studies

Heritage is an issue that has traditionally been dealt with either through Shire-wide heritage studies or through site-specific responses. The two most recent heritage studies include:

- a) Blayney Heritage Study (1989) by Perumal Murphy P/L ('1989 Heritage Study');
- b) Community Heritage Study (2010) – David Scobie Architects ('2010 Review').

This Proposal includes updated Heritage Inventory Sheets for all relevant items to justify the proposed amendments. This identifies where these original studies addresses or identified these sites.

### 2.2. Sub-Regional Rural & Industrial Land Use Strategy

The *Sub-Regional Rural & Industrial Land Use Strategy* for the Councils of Blayney, Cabonne and Orange City (2008) did cover the issue of heritage broadly and provide a review of items on the register of State heritage and National Estate (Local Profile); notes that the local of known and potential heritage items should be considered when addressing future development (Issues Paper); and a set of strategies to preserve and enhance heritage and culture of the Sub-Region (Final Strategy).

The Final Strategy noted that the standard heritage provisions should be included in the new LEP (complete) including an updated list of heritage items and conservation areas. Several relevant strategies include:

Policy Actions	Impact of Proposed Amendments
1.1 Review existing heritage lists to identify what is important to the community in terms of heritage conservation.	This Planning Proposal is part of an ongoing review of heritage lists to identify what is important to the community and whilst it removes 4 items and 1 heritage conservation area it reflects the heritage significance of these properties and adds an additional item.
1.2 Ensure that adequate community consultation is undertaken with respect to identification of heritage items. This is to include discussions with affected landowners.	See the section on Community / Stakeholder Engagement to demonstrate appropriate consultation levels.
3.2 Include a list of heritage items, conservation areas and Aboriginal areas (where appropriate) in the LEP.	This Proposal seeks to update the list of heritage items (all non-Aboriginal items).

The Subregional Strategy was adopted by Council on 28 July 2008 and approved by the NSW Government by letter dated 30 June 2011 from the former NSW Department of Planning & Infrastructure. This demonstrates that this Proposal is broadly consistent with this Strategy.

### 3. PROPOSED HERITAGE AMENDMENTS

#### 3.1. Significant Changes to Heritage Items

The following tables are a list of the heritage items that are proposed for significant amendment and a table summary of the justification for the amendment.

Suburb/ Item No.	Item Name / Significance	Address; Property Description	Proposal
Blayney – Item No.59	Blayney Abattoirs and saleyard (former) (Local)	31 Gerty Street Lot 1 DP 134341, Lots 4 & 6 DP871015, Lot 2 DP 881855	<b>Remove from LEP.</b>
Blayney – Item No.78	Cottage and garden (Local)	274 Millthorpe Road Lot 1 DP 168843	<b>Remove from LEP.</b>
Neville – Item No.327	Cottage (Local)	9 Macquarie Street Lot 2 Section 1 DP 37459	<b>Remove from LEP.</b>
Neville – Item No.331	State Pine Forest (Local)	Mount Macquarie Road Lot 2 DP130387; Lots 1, 3 & 4 DP231822; Lots 2 & 4 DP241517; Lot 1 DP526649; Lots 18, 21, 44, 68, 69, 83, 85, 87, 100, 120, 125, 127 & 131 DP750407; Lot 7001 DP1023326; Lot 1 DP1094747	<b>Remove from LEP.</b>
New Item	Lime Siding Cottage	254 Millthorpe Road, Blayney Lot 1 DP 168844, Lot 1 DP 931585	<b>New Item.</b>

The Heritage impacts of the proposed amendments are addressed in the attached Heritage Inventory Sheets and the key justifications summarised into the table below.

Suburb/ Item No.	Proposal / Summary of Justification for Amendment (see attached work from Council's Senior Planner / Heritage Advisor – Patsy Moppett).
Blayney – Item No.59, Blayney Abattoirs and saleyard (former) (Local)	<p>The sale yards and the abattoir are separate sites. Neither the sale yards nor the abattoir are currently operational. The sale yards were decommissioned in ~2005 and there are only remnants of the yards including concrete slabs and some stock yards. The abattoir was closed in 1998 but still retains significant buildings. Whilst both uses were significant in the history of the Town of Blayney and the district the facilities are rather typical and not rare. It is important to note the abattoir was not included as an item of heritage significance in the 1989 Heritage Study and the 2009 inventory sheet lists lots facing Gerty Street (sale yards) but not the abattoir even though the abattoir is mentioned. In effect in 2009 the details were not recorded accurately and the implications of listing were not fully considered and may create a barrier to future remediation and re-use of these sites. It is important that these sites are re-used from an economic and social perspective.</p> <p><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>That the listing of the abattoir and the sale yards are removed from Schedule 5 of the Blayney LEP 2012, but that the State Heritage Inventory (SHI) sheet is retained as a record of this significant complex in the history of the town of Blayney and district.</li> <li>That the inventory sheet should be revised with accurate information to reflect the site details for both items. It should be regularly reviewed and updated, with the history of</li> </ul>

Suburb/ Item No.	Proposal / Summary of Justification for Amendment (see attached work from Council's Senior Planner / Heritage Advisor – Patsy Moppett).
	the construction and occupation of the site being further investigated.
Blayney – Item No.78 Cottage and garden (Local)	<p><b>Remove from LEP.</b> Approval for demolition under DA 59/2014. The building was listed in the 2012 LEP but the details in regards to why the building was significant are unclear as the inventory sheets do not relate to the building but may relate to No.254 Millthorpe Road (proposed for listing below). Whilst No.274 Millthorpe Road is still associated with the Blayney lime kilns, the building is not particularly significant from an architectural point of view and no particularly notable occupants or history are known. Now that it has been demolished (with consent) there is no need to retain a heritage listing on the property. There has been some archival recording. The site was not listed in the 1989 Heritage Study.</p> <p><b>Recommendation</b></p> <p>That the dwelling listing be removed from Schedule 5 of the Blayney LEP 2012, but that the State Heritage Inventory (SHI) sheet be retained as a record of this low key dwelling in the history of the town of Blayney and the lime kilns. The inventory sheet should be regularly reviewed and updated, with the history of the construction and occupation of the building being further investigated.</p>
Neville – Item No.327 Cottage (Local)	<p><b>Remove from LEP.</b> This item has been removed at the request of the current land owner. Whilst it is a substantial dwelling built in the Federation style it is typical of a number of dwellings in the district and it has been substantially altered including alloy windows, infill verandahs, and replaced flooring. There are no known associations or social significance. The building was identified as being of heritage significance in the 1989 Heritage Study but was not listed in the previous 1998 LEP.</p> <p><b>Recommendation</b></p> <p>That the dwelling listing be removed from Schedule 5 of the Blayney LEP 2012, but that the State Heritage Inventory (SHI) sheet be retained as a record of this significant dwelling in the history of the town of Neville. The inventory sheet should be regularly reviewed and updated, with the history of the construction and occupation of the building being further investigated.</p>
Neville – Item No.331 State Pine Forest (Local)	<p><b>Remove from LEP.</b> This is a mature State pine forest located on Mount Macquarie managed by Forestry NSW and established from 1955 and is currently due for harvest. Whilst it was never intended that the heritage listing prevented harvesting it was suggested that harvesting be limited to retain some of the current planting around the periphery. This is inconsistent with its forestry function and the current planting does not have special significance warranting protection. The replanting after harvesting is likely to address the need to recognise this historical use of the land. The aesthetic significance will change as it regrows and is harvested but is not sustainable. It was not recognised in the 1989 Heritage Study or the 1998 LEP but a heritage inventory sheet was created in 2009.</p> <p><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• That the listing be removed from Schedule 5 of the Blayney LEP 2012, but that the State Heritage Inventory (SHI) sheet be retained as a record of this significant landscape feature near the villages of Carcoar and Neville. The inventory sheet should be regularly reviewed and updated.</li> <li>• That the property description of the place be accurately recorded on the inventory sheet.</li> </ul>
New Item	<b>New Item.</b> The new listing should cover the 'Cottage and outbuildings'. The attached

<b>Suburb/ Item No.</b>	<b>Proposal / Summary of Justification for Amendment (see attached work from Council's Senior Planner / Heritage Advisor – Patsy Moppett).</b>
- Lime Siding Cottage	heritage inventory sheet summary demonstrates that these buildings were important examples for the Lime Siding community and associated with the Blayney lime kilns across the road and the Jarman family. It includes a dwelling (substantially rebuilt), cottage and kitchen, blacksmith's shop, hay/workshop shed and sulky shed.

### **3.2. Minor (Administrative) Changes to Heritage Items**

A number of items within the Blayney Local Environmental Plan 2012 Schedule 5 have typographical errors which require attention. The items themselves are fully documented as to their significance and there is no proposal to remove the items from the Schedule. The anomalies are documented as follows:

<b>Suburb / Item No.</b>	<b>Item Name / Significance</b>	<b>Address, description</b>	<b>Proposal</b>
Blayney – Item No.64	Former Catholic Convent (Local)	40 Hill Street Lot 456 DP 1127058	Property description is wrong. The property should be No. 40, not 42.
Carcoar – Item No.131	Part Roman Catholic Church group (Local)	7-13 Collins Street Lots 17-20 Section 10 DP 758225	Remove Lot 16 from the description. Lot 16 Section 10 DP 758225 (No. 15), is owned by the Catholic Church, but is vacant land, outside the grounds of the heritage items.
Cadia – Item No.358	Cadia Cemetery (Local)	Lot 100 DP 576778	Remove street address from LEP. Lot 100 DP 576778 is mostly within the Cabonne LGA so only the curtilage applies. The address is not relevant.
Cadia – Item No.357	Cadia Engine House (curtilage only)(State)	Lot 100 DP 576778	Remove street address, alter LEP description. Lot 100 DP 576778 is mostly within the Cabonne LGA. The address is not relevant.  The engine house itself is totally within the Cabonne LEP. Part of its curtilage is within Blayney LGA.
Forest Reefs – Item No.365	Forest Reefs Cemetery	Off Convent Lane, Forest Reefs Lot 1 DP 668340, Lot 1 DP 668339, Lot 1 DP 668341, Lot 7300 DP 1146833	Remove reference to Calvert Lane. The cemetery location is off Convent Lane. Add in additional Lot 1 DP 668341

## **4. PLANNING PROPOSAL**

The layout of this section is in accordance with the requirements of the Department of Planning's document dated October 2012 entitled '*Guide to preparing planning proposals*'.

### **4.1. Part 1 – Objectives and Intended Outcomes of Proposed Instrument**

**Part 1** of the planning proposal should be a short, concise statement setting out the objectives or intended outcomes of the planning proposal. It is a statement of what is planned to be achieved, not how it is to be achieved. It should be written in such a way that it can be easily understood by the general community.

The objective of this planning proposal is to make amendments to *Blayney Local Environmental Plan 2012* ('BLEP2012') to update and amend the list of heritage items protected under the planning instrument to accord with community and Council recognition of their heritage significance.

### **4.2. Part 2 – Explanation of Provisions to be included in Proposed Instrument**

**Part 2** of the planning proposal provides a more detailed statement of how the objectives or intended outcomes are to be achieved by means of amending an existing local environmental plan.

The proposed mechanism(s) to achieve the objective(s) in Part 1 above is to amend *Blayney Local Environmental Plan 2012* (BLEP2012) as follows:

- a) Amend the Heritage Maps to remove / add the relevant heritage items as per this Proposal;
- b) Amend Schedule 5 - Environmental Heritage to remove/add/alter the listing for the relevant heritage items as per this Proposal.

### **4.3. Part 3 – Justification of Objectives, Outcomes & Process for Implementation**

**Part 3** of the planning proposal provides a justification that sets out the case for the making of the proposed instrument. The overarching principles that guide the preparation of planning proposals are:

- The level of justification should be proportionate to the impact the planning proposal will have;
- It is not necessary to address the question if it is not considered relevant to the planning proposal (as long as a reason is provided why it is not relevant);
- The level of justification should be sufficient to allow a Gateway determination to be made with the confidence that the instrument can be finalised within the time-frame proposed.

As a minimum a planning proposal must identify any environmental, social and economic impacts associated with the proposal. Generally detailed technical studies are not required prior to the Gateway determination.

Note that more justification has been provided for the addition/removal of heritage items than for minor (administrative) amendments to correct references to existing heritage items.

The Director General has set out the following requirements as matters that must be addressed in the justification of all planning proposals:

#### **4.3.1. SECTION A**

##### **1) Is the planning proposal the result of any strategic study or report?**

This planning proposal has not been initiated by a shire-wide strategic study or report but does respond to updated heritage inventory information prepared by Council's Senior Planner & Heritage Advisor. This

seeks to address the recommendations of the *Subregional Rural & Industrial Land Use Strategy* and the need to regularly update the heritage schedule and listing.

**2) Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The only way to update the local heritage listing in the Local Environmental Plan is to amend them through a Planning Proposal.

**4.3.2. SECTION B**

**3) Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?**

As stated above, the proposed amendments are consistent with the recommendations of the Subregional Strategy to update the heritage list and appropriately protect and enhance the existing heritage and culture of the Shire.

**4) Is the planning proposal consistent with a council's local strategy or other local strategic plan?**

The Subregional Strategy addressed in Section 5 of this Proposal is the overarching strategy for all land uses in Blayney LGA. In addition, this is supported by local heritage studies. Any discrepancies between local heritage studies over time (particularly the 1989 Heritage Study and the 2010 Review) have been addressed in the justification and result from different interpretations of heritage significance.

The only other local strategy that has high level objectives for development in Blayney LGA is the *Community Strategic Plan 2025*. Its purpose is to identify the community's main priorities and aspirations for the future and to plan strategies for achieving those goals. Future Direction 3 aims to 'Preserve and enhance our heritage and rural landscapes'. Relevant strategies include:

CSP 3.3 – Heritage sites in the natural and built environment are identified and understood	The Statements of Heritage Significance that support these changes updated our understanding of these items.
Performance indicators – Increased signage and information about heritage.	

Therefore, the proposal can be seen to be consistent with Council's local strategies.

**5) Is the planning proposal consistent with applicable State Environmental Planning Policies?**

The Planning Proposal is consistent with all of the State Environmental Planning Policies. There are no specific SEPPs that apply to heritage and/or these heritage amendments will not constrain development that is mandated by any SEPPs applicable to the Shire.

**6) Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

The Planning Proposal is consistent with all of the relevant Ministerial Directions as follows:

<b>1. Employment &amp; Resources</b>
There are a variety of directions that seek to protect employment and resources. Whilst the addition of a new heritage item may affect future development of that item it is an existing dwelling and there is approval by the landowner. For those items that are being removed it will make it easier to redevelop those sites for employment (particularly where they are in an industrial or business zone).
<b>2. Environment &amp; Heritage - 2.3 Heritage Conservation</b>

This is the most relevant Ministerial Direction to this Proposal. It states under subclause (4) that: A draft LEP shall contain provisions that facilitate the conservation of heritage items/objectives/places etc. and Aboriginal objects or places or landscapes. A draft LEP may be inconsistent with this direction only if Council can satisfy the Director-General that the draft LEP complies with Part 5 of the *Heritage Act 1977* and the significance of the item is conserved by other legislation or regulations or the provisions of the draft LEP that are inconsistent are of minor significance.

The provision of Statements of Heritage Significance attached to this report highlight the reasons for all of the changes including correction of minor mis-descriptions. These Statements have been prepared in accordance with the *Heritage Act* and those items recommended for removal from the heritage schedule are not worthy of local heritage significance / status. We believe this addresses this Direction and is justified by consistency with *Direction 6.3 Site Specific Provisions* addressed below.

### **3. Housing, Infrastructure & Urban Development**

There are a variety of directions that seek to protect housing and infrastructure development. Whilst the addition of a new heritage item may affect future development of that item it is an existing dwelling and there is approval by the landowner. For those items that are being removed it will make it easier to redevelop those sites for housing or infrastructure (where permissible & suitable).

### **4. Hazard & Risk**

A thorough hazard and risk assessment for each site is not required because any amendments to heritage status are unlikely to affect existing development potential and these matters can be addressed as part of any future development application. However, a preliminary review would suggest no additional flood or bushfire or geo-technical hazards from this proposal.

### **6. Local Plan Making - 6.3 Site Specific Provisions**

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. Whilst this Proposal is not aimed at allowing specific development proposals to be carried out it broadly recognises that heritage status may not be or may be required for particular items based on updated Statements of Heritage Significance.

#### **4.3.3. SECTION C**

#### **7) *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?***

There are no known natural environmental impacts from the proposed changes. The removal of heritage listing from some items may facilitate their future redevelopment (or at least not provide an additional layer that must be addressed). However, any impacts on the natural environment as a result of any future development can be addressed as part of any merit based assessment process.

#### **8) *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?***

Any possible increase in development potential is less related to its heritage status and more to its inherent site constraints and the market, but if relevant, no significant additional development potential is created in areas where this would be inappropriate (e.g. areas of high natural hazard, proximity to existing or proposed extractive industries or primary industries etc.).

#### **9) *Has the planning proposal adequately addressed any social and economic effects?***

The summarised justifications for the proposed amendment in this Proposal (and the attached full heritage inventory sheets) have adequately addressed any social and economic effects of the amendments in terms of the standard requirements for heritage listing. They have also considered constraints posed by heritage listing on economic development (particularly of industrial sites) where additional flexibility may be



required. The impact of removing heritage items has been justified by the provision of other suitable heritage protections in the Shire.

#### **4.3.4. SECTION D**

##### **10) Is there adequate public infrastructure for the planning proposal?**

No additional public infrastructure is required to implement these amendments.

##### **11) What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Council has briefly discussed this matter with the NSW Department of Planning & Environment and no issues have yet been raised. Further consultation with other key agencies is recommended in the 'Community Consultation' section below. No Commonwealth authorities are believed to be relevant to this application but this can be determined at the Gateway stage.

#### **4.4. Part 4 – Maps (where relevant) showing Intent of Planning Proposal**

If required, the amendments to the Heritage Maps can be prepared prior to the public exhibition period as a Condition of the Gateway Determination. The descriptions in this proposal and attached heritage inventory sheets provide sufficient location of all of the items subject to change (where relevant).

#### **4.5. Part 5 - Community Consultation**

##### **4.5.1. Key Stakeholders**

The key stakeholders include:

- a) The affected land owners;
- b) Department of Planning & Environment (Gateway Determination process & Heritage branch);
- c) Office of Environment & Heritage (within DPE) for heritage issues;

It is not believed that any of the heritage items are relevant to the National Heritage Trust and no Aboriginal items are included so the National Parks & Wildlife Service does not require consultation.

Additional stakeholders that may need to be notified when the Planning Proposal is on public exhibition include:

- a) Cabonne Council (as the Cadia Engine House sits within Cabonne LGA);
- b) Heritage Council of NSW (advisory body only).

##### **4.5.2. Proposed Notification**

In addition to the previous notification of some key stakeholders during the preparation of this Planning Proposal, Council is likely to provide a letter notifying all key stakeholders listed above of the dates that the Planning Proposal is on public exhibition and providing opportunity for further submissions (if required). Council will also ensure adequate notification to the community through key newspapers and other media outlets.



#### **4.5.3. Proposed Public Exhibition & Community Notification**

##### Public Exhibition

Council will provide public notice of a proposed resolution to rezone land and specify a 28 day period during which submissions may be made to Council.

Notice will include:

- a) Notification in the *Blayney Chronicle* newspaper prior to the public exhibition period;
- b) Written notification to all adjacent land owners (as noted above) OR notification through multiple media outlets;
- c) Provision of a copy of the Gateway Determination, Planning Proposal and supporting information at the Council Offices in Blayney.
- d) Any other requirements of the Gateway Determination made by the Department.

##### Submissions

Council will accept public submissions up to the close of the public exhibition period. All public submissions will be reviewed and summarised. The outcomes of any public hearing (if required) will also be considered prior to making a recommendation to Council.

##### Public Hearing

Under Section 57 of the EP & A Act Council must arrange a public hearing in respect of a planning proposal if one is requested by a key stakeholder or member of the public. The public hearing must be presided over by someone who is not a councillor or employee of Council (in the last five years). The presiding person should make a report available to Council on the outcomes of the public hearing.

## **APPENDICES / ANNEXURES**

### **1. Statements of Heritage Significance**

**16) FLYERS CREEK WINDFARM - VOLUNTARY PLANNING AGREEMENT (VPA)**

**Department:** Planning and Environmental Services

**Author:** Director Planning and Environmental Services

**CSP Link:** 1.5 Sustainable water, energy and transport sectors to support future growth.

**File No:** LP.PL.2

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**RECOMMENDATION:**

1. That the report be received for information,
2. Council place on public exhibition for 28 days the proposed Voluntary Planning Agreement and Explanatory Note,
3. Following the public exhibition and community consultation period should no submissions be received that Council authorise the General Manager to enter into and sign the Voluntary Planning Agreement.

**Reason for Report:**

Flyers Creek Wind Farm Pty Ltd has written to Council seeking amendments to the previously agreed Voluntary Planning Agreement (VPA) between Blayney Shire Council and Flyers Creek Wind Farm Pty Ltd.

**Report:**

Councillors will recall that at its Ordinary Meeting of 14 April 2014 it resolved to enter into a VPA with Flyers Creek Wind Farm Pty Ltd as part of Major Project Application no. 08\_0252.

The previous Blayney Shire Council General Manager subsequently signed the VPA and forwarded the document to Flyers Creek Wind Farm Pty Ltd for finalisation where it was discovered by legal representatives that the VPA contained errors.

Subsequently Flyers Creek Wind Farm Pty Ltd have not signed the original VPA and are now seeking an amendment to correct the errors within the VPA.

Should any submissions be received during the public exhibition and community consultation period a further report will be submitted to Council for consideration.

**Issues:**

Nil

**Budget Implications:**

Implementation of the VPA will result in a substantial financial contribution to Council over 25 years directed to the Community Benefit Fund, Road Maintenance and Project Related Council Administration and observation.

**Enclosures**

1 Planning Agreement with Tracked Changes 16 Pages

# Planning Agreement

Between



**Blayney Shire Council**

ABN: 47619651511

and



**Flyers Creek Wind Farm Pty Ltd**

ACN: 130 749 012

14/04/2014

**Blayney Shire Council**

**91 Adelaide Street Blayney NSW 2799**

**Phone 02 6368 2104**

[council@blayney.nsw.gov.au](mailto:council@blayney.nsw.gov.au) / [www.blayney.nsw.gov.au](http://www.blayney.nsw.gov.au)

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**1. PARTIES**

- Blayney Shire Council of 91 Adelaide Street, Blayney, NSW 2799 (**'Council'**);
- Flyers Creek Wind Farm Pty Ltd of Level 22, 56 Pitt Street, Sydney, NSW 2000 (**'Proponent'**).

**2. BACKGROUND**

- 2.1 On 16<sup>th</sup> December 2008 the Proponent made a Development Application to the NSW Department of Planning & Infrastructure for Development Consent to carry out the Development on the Land (approximately 15 kilometres west of Blayney). This Development is identified by the Department of Planning & Infrastructure as Major Project Application No. 08\_0252.
- 2.2 The Proponent has agreed to enter into this Agreement and, provided that Construction Commencement is achieved, to pay the Development Contributions to the Council on the basis that Development Consent is granted by the NSW Government.

**3. OPERATIVE PROVISIONS OF THIS AGREEMENT**

**3.1 PLANNING AGREEMENT UNDER THE ACT**

The Parties agree that this Agreement is a Planning Agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act.

**3.2 APPLICATION OF THIS AGREEMENT**

This Agreement applies to the Development as identified in Attachment A of this Agreement on Land which is identified in Attachment A of this Agreement.

**3.3 OPERATION OF THIS AGREEMENT**

- a) The operation of this Agreement is subject to and conditional upon:
- (i) final Development Consent for the Development being received on terms and conditions acceptable to the Proponent acting reasonably; and
  - (ii) Construction Commencement being achieved,
- (together the **'Conditions'**).
- b) This Agreement shall have no force or effect until both of the Conditions have been satisfied.
- c) Payment of the financial contributions due in the first calendar year shall be made pro rata, dependent on the date in that year the Conditions are met.

**3.4 DEFINITIONS AND INTERPRETATION**

In this Agreement, the following definitions apply:

**Act** means the *Environmental Planning and Assessment Act, 1979*.

**Approval** means any approvals, consents, certificates, permits, endorsements, licences, conditions or requirements (and any modifications or variations to them) which may be required by law or by adjoining owners for the commencement and carrying out of the Development generally and includes an approval under Part 3A of the Act (if relevant).

**Base Year** means the calendar year commencing 1 January ~~2013~~2014.

**Business Day** means a day on which banks are open for general business in Sydney excluding Saturdays, Sundays and public holidays.

**Conditions** is defined in clause 3.3(a).

**Council** means Blayney Shire Council.

**Construction Commencement** means the Project has reached financial close in securing all debt and equity required to build the Project, the Department has approved the Construction Environmental Management Plan for the Project and an Environmental Protection Licence has been issued by the NSW Department of Environment on terms acceptable to the Proponent and the Proponent has mobilised to site in preparation for commencing civil works on public road infrastructure and the project site itself. For the avoidance of doubt, mobilisation to site does not include undertaking activities such as geotechnical investigations, surveys of any nature or resource monitoring.

**CPI** means:

- a) the Consumer Price Index (All Groups, Sydney) published by the Australian Bureau of Statistics from time to time; or
- b) if for any reason the Consumer Price Index (All Groups, Sydney) is not published for any year, or if publication is delayed until after the relevant CPI Adjustment Date, the Consumer Price Index (All Groups, Sydney) published for the previous year; or
- c) if the Australian Bureau of Statistics ceases to publish the Consumer Price Index (All Groups, Sydney) and publishes another index which replaces it, then the other index.

**CPI Adjustment Date** means 1 January in each successive year after the Base Year.

**Dealing**, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

**Decommissioning** means the date of which the Proponent has ceased commercial operations and removed the plant and equipment that comprise the Wind Farm and returns the land formations upon which plant and equipment was installed, as far as practicable, to the levels existing prior to the Construction Commencement in accordance with the conditions of any Approvals.

**Department** means the NSW Department of Planning and Infrastructure.

**Development ~~of~~ Project or Wind Farm** means the project known as the 'Flyers Creek Wind Farm' as detailed in Attachment A of this document.

**Development Application** has the same meaning as in the Act.

**Development Consent** has the same meaning as in the Act.

**Development Contribution** means a monetary contribution or the provision of a material public benefit, the schedule of which is listed in Table 1 contained herein.

**Dispute** is defined in clause 7.1.

**GST** has the same meaning as in the GST Law.

**GST Law** has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other act or regulation relating to the imposition or administration of the GST.

**Insolvency Event** means any of the following events:

- a) a Party ceases to (or is unable to) pay its creditors (or any class of them) in the ordinary course of business, or announces its intention to do so;
- b) a receiver, manager, receiver and manager, administrator or similar officer is appointed with respect to a Party or any of its assets;
- c) a Party enters into, or resolves to enter into, a scheme of arrangement, compromise or composition with any class of creditors;
- d) a resolution is passed or an order is made for the winding up or dissolution of a Party; or
- e) anything having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

**Land** means the land described in Attachment A of this Agreement.

**Modification** –means a modification to the Development Application that would result in more than forty three (43) wind turbines being approved for the Project.

**Party** means a party to this agreement, including its successors and assigns.

**Proponent** means Flyers Creek Wind Farm Pty Ltd or any subsequent owner of the Development.

**Traffic Study** means the study conducted as part of the Construction Traffic and Management Plan specified in Schedule C - Administrative Conditions of the Development Consent

### 3.5 INTERPRETATION OF THIS AGREEMENT

In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
- b) A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- c) If the day in which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
- d) A reference in this Agreement to 'dollars' or '\$' means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
- e) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

- f) A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- g) A reference to a clause, part, schedule or attachment is a reference to a clause, part schedule or attachment to this Agreement.
- h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- k) References to the word 'include' or 'including' are to be construed without limitation.
- l) A reference to this Agreement includes the agreement recorded in this Agreement.
- m) A reference to a party to this Agreement includes a reference to the servants, agents, and contractors of the party, and the party's successors and assigns. For the avoidance of doubt, all future owners of Flyers Creek Wind Farm Pty Ltd are bound by the terms of this agreement.
- n) Any schedules, tables and attachments form part of this Agreement.

#### **4. DEVELOPMENT CONTRIBUTIONS TO BE MADE UNDER THIS AGREEMENT**

- 4.1 Subject to satisfaction of the Condition and the operation of clause 3.3, the Proponent commits to make the Development Contributions listed in Table 1 below to Council, by Electronic Funds Transfer, in accordance with the manner and timing stated in the same table.

**Table 1: The Development Contributions**

Number	Summary Description	Total Financial Contribution to be made (\$)	Manner & Timeframe for Payment of the Contributions
1	Community Benefit Fund	1,375,000	\$55,000/year paid for 25 years, with 50% payable on 1 <sup>st</sup> July and 50% payable on 5 <sup>th</sup> January each year.
2	Road Maintenance	1,000,000	\$40,000/year paid for 25 years with 50% payable on 1 <sup>st</sup> July and 50% payable on 5 <sup>th</sup> January each year.
3	Project Related Council Administration and Observations	300,000	\$12,000/year paid for 25 years, with 50% payable on 1 <sup>st</sup> July and 50% payable on 5 <sup>th</sup> January each year.
	<b>Total over the first 25 years of the life of the Project</b>	<b>2,675,000 + CPI</b>	



The Proponent will not be required to make any ad hoc contributions (in addition to the Development Contributions); however, it may at its discretion make other donations for community purposes.

- 4.2 On each CPI Adjustment Date, Development Contributions which are payable by the Proponent will be indexed by reference to the CPI for the year ending 31 September in the calendar year preceding the year in which the CPI Adjustment Date occurs. The adjustment is to be calculated by the following formula:

$$DC_n = DC_1 \times I_n / I_1$$

where:

$DC_n$  is the indexed Development Contribution (for year n);

$DC_1$  is the original amount of the Development Contribution, as set out in column 4 of Table 1;

$I_n$  is the CPI for the year ending 31 September in the calendar year preceding the year for which the calculation is being made; and

$I_1$  is the CPI for the Base Year.

- 4.3 The Development Contributions paid pursuant to subclause 4.1 may be pooled with other monies held by Council which have similar and relevant objectives, subject to the Proponent having the opportunity to make representations for certain expenditure for the benefit of ~~Flyers Creek and district residents in the district near the Project~~. The Council must have regard to the opinions expressed by the Proponent but will not be bound by them.

- 4.4 In addition to the Development Contributions listed in Table 1 above, and as per the findings of the Traffic Study conducted as part of the Construction Traffic and Management Plan as specified in Schedule C – Administrative Conditions of the Development Consent (acceptable to both Parties), the Proponent undertakes at its own expense to:

- a) upgrade Errowanbang Road (between the Mid-Western Highway and Gap Road) and Gap Road (and related intersections, causeways, etc), in accordance with plans approved by Council, prior to any Project construction work commencing (other than site mobilisation);
- b) upgrade other roads, bridges, intersections, in the Flyers Creek district that require modification in the reasonable opinion of Council, to allow construction of the Development, in accordance with plans approved by Council, prior to any Project construction work commencing (other than site mobilisation);
- c) maintain Errowanbang Road (between the Mid-Western Highway and Gap Road) and Gap Road for the duration of the construction phase of the Development, to the reasonable satisfaction of Council;
- d) If, during the life of the Project, Council provides evidence of significant increases in traffic volumes or vehicle types on other roads in the locality not addressed in the abovementioned Traffic Study that can be directly attributable to the Project, the

Proponent agrees to reach a negotiated settlement with Council to provide additional funds for road repair, maintenance or upgrade works. In an endeavour to avoid this impact the Proponent will require contractors and staff to travel on designated routes to be agreed with Council; and

- e) pay Council \$120/tonne (adjusted for CPI in accordance with clause 4.2 as if they were Development Contributions) plus any reasonable carbon cost imposed by the waste management facility that accepts the waste generated by the Project.

The works a) to c) above shall be carried out by the Proponent as soon as practicable after the date the Conditions are satisfied but subject always to the operation of clause 3.3.

## **5. CONFIDENTIALITY**

- 5.1 The Parties agree that the terms of this Agreement are not confidential and that this Agreement may be treated as a public document and exhibited or reported without restriction by either Party.

## **6. AMENDMENT TO THIS AGREEMENT**

- 6.1 This Agreement may only be amended if Council and the Proponent agree to enter into a new Agreement or in accordance with clause 19.

## **7. DISPUTE RESOLUTION**

- 7.1 In the event a dispute between the Parties arises in relation to any activity, payment or item as covered in this Agreement (a "**Dispute**"), the Dispute is to be resolved through the following process (as required):

- a) A Party claiming that a Dispute has arisen must give written notice to the other Party specifying the nature of the Dispute;
- b) Within ten (10) days of receipt of notice of a claim of a Dispute, both Parties must endeavour, in good faith, to resolve the Dispute swiftly using informal dispute resolution methods such as discussion or expert evaluation as agreed by both Parties;
- c) If the Parties fail to resolve the Dispute within 21 Business Days of receipt of notice (or any further period agreed in writing by them) as to:

- i) the Dispute resolution method and procedures to be adopted;
- ii) the timetable for all steps in those procedures; or
- iii) if applicable, the selection and compensation of the independent person required for any agreed expert evaluation,

the Parties must mediate the Dispute in accordance with the Alternative Dispute Resolution process of the Law Society of NSW. The Parties must request the President of the Law Society of NSW or the President's nominee to select the mediator;

- d) The costs associated with the mediation must be shared equally between the Parties, unless the mediator determines otherwise; and

- e) If the Dispute is not resolved within 60 Business Days after the initial notice of the Dispute is given under clause 7.1(a), then either Party, having exhausted efforts to resolve the Dispute in accordance with this section, may, in writing, terminate the Dispute resolution process and commence court proceedings in relation to the Dispute.

## **8. ENFORCEMENT**

- 8.1 The Proponent commits an "event of default" if it commits, permits or suffers to occur any breach or default in the due and punctual observance and performance of any of the covenants, obligations and provisions to be performed or observed by the Proponent under this Agreement.
- 8.2 Where the Proponent commits an event of default the Council may:
  - a) serve a notice on the Proponent requiring the breach of this Agreement to be rectified within a reasonable period (being not less than 28 Business Days from the date of the notice); and
  - b) claim damages for breach of contract from the Proponent.
- 8.3 The rights vested in Council pursuant to clause 8.2 above do not prevent the Council from exercising any other rights that it may possess at law.
- 8.4 If there is any Dispute as to whether an event of default has occurred, then any enforcement by the Council of this Agreement shall be suspended pending the outcome of the Dispute resolution procedure prescribed in clause 7.

## **9. TERMINATION AND SUSPENSION**

- 9.1.1 Subject always to clause 8.4, this Agreement terminates upon the occurrence of any of the following events:
  - ~~a)~~ the Parties agree in writing to terminate this Agreement;
  - ~~a)b)~~ Decommissioning of the Wind Farm;
  - ~~b)c)~~ an Insolvency Event affects a Party; or
  - ~~c)d)~~ the Council, acting reasonably, serves notice on the Proponent terminating this Agreement where the Proponent has failed to comply with a notice issued in accordance with clause 8.2(a).
- 9.2 Upon termination of this Agreement:
  - a) all future rights and obligations of the Parties under this Agreement are discharged; and
  - b) all pre-existing rights and obligations of the Parties under this Agreement continue to subsist.

## **10. NOTICES**

- 10.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- a) delivered or posted to that Party at its address set out below; or
- b) faxed to that Party at its fax number set out below.

**Blayney Shire Council**

Attention: General Manager

Address: 91 Adelaide Street Blayney, NSW 2799

PO Box 62, Blayney, NSW 2799

Fax Number: (02) 6368 3290

**Flyers Creek Wind Farm Pty Ltd**

Attention: Mr Jonathan Upson, Senior Development Manager

Address: Level 22, 56 Pitt Street, Sydney, NSW 2000

Fax Number: (02) 9247 6086

- 10.2 If a Party gives the other Party three Business Days notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.
- 10.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:
- a) if it is delivered, when it was left at the relevant address;
  - b) if it is sent by post, two Business Days after it is posted; or
  - c) if it is sent by fax, as soon as the sender receives from the sender's fax machine, a fax report of an error free transmission to the correct fax number.
- 10.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a Business Day, or if on a Business Day, after 5 pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next Business Day.

## **11 COSTS**

Each Party shall pay its own costs in relation to negotiating, preparing and executing this Agreement.

## **12 ENTIRE AGREEMENT**

This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or

by a director, officer, agent or employee of that Party, before this Agreement was executed except as permitted by law.

### **13 FURTHER ACTS**

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

### **14 GOVERNING LAW AND JURISDICTION**

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

### **15 NO FETTER**

Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

### **16 REPRESENTATIONS AND WARRANTIES**

16.1 Each of the Parties represents and warrants to the other Party that it has power to enter this Agreement and comply with its obligations under this Agreement and that entry into this Agreement will not result in the breach by it of any law applicable to it.

16.2 Each Party warrants to each other Party that:

- a) this Agreement creates a legal, valid and binding obligation, enforceable against the relevant Party in accordance with its terms; and
- b) unless otherwise stated, it has not entered into this Agreement in the capacity of trustee of any trust.

### **17 SEVERABILITY**

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of the Agreement is not affected.

### **18 MODIFICATION**



No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

## **19 RENEWAL/REPLACEMENT OF THIS AGREEMENT**

During the term of this Agreement, the Parties agree to review and amend the Agreement if a Modification to the original planning consent is sought for the Development. Any amendments resulting from such a review will only become effective if the Modification is approved by the consent authority and the works relating to the Modification are commenced.

Regardless, during the twenty fifth year after ~~commencement of construction~~Construction Commencement of the Development, the Parties agree to negotiate a replacement for, or an extension of, this current Agreement as determined by circumstances at the time.

This Planning Agreement shall be deemed to remain in force, even beyond the initial twenty five year period, and until such time as it is renegotiated and replaced.

## **20 WAIVER**

The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of that obligation or breach in relation to any other occasion.

## **21 GST**

- 21.1 Capitalised terms used in this clause 21 which are not otherwise defined have the same meanings as in the GST Law.
- 21.2 Any consideration or amount payable under this Agreement, including any non-monetary consideration (as reduced in accordance with clause 21.6 if required) ("**Consideration**") is exclusive of GST.
- 21.3 If GST is or becomes payable on a Supply made under or in connection with this Agreement, an additional amount ("**Additional Amount**") is payable by the Party providing the Consideration for the Supply ("**Recipient**") equal to the amount of GST payable on that Supply as calculated by the Party making the Supply ("**Supplier**") in accordance with the GST Law.
- 21.4 The Additional Amount payable under clause 21.3 is payable at the same time and in the same manner as the Consideration for the Supply but is only payable on receipt of a valid Tax Invoice.
- 21.5 If for any reason (including the occurrence of an Adjustment Event) the amount of GST payable on a Supply made under or in connection with this Agreement (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under clause 21.3:

- a) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
- b) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and
- c) the Supplier must notify the Recipient of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within 14 days after becoming aware of the occurrence of the Adjustment Event.

21.6 Notwithstanding any other provision in this ~~Sublease Agreement~~, if an amount payable under or in connection with this Agreement (whether by way of reimbursement or otherwise) is calculated by reference to an amount incurred by a Party, whether by way of cost, expense, outlay, disbursement or otherwise ("**Amount Incurred**"), the amount payable must be reduced by the amount of any Input Tax Credit to which that Party is entitled in respect of that Amount Incurred.

21.7 Any reference in this clause 21 to an Input Tax Credit to which a Party is entitled includes, without limitation, an Input Tax Credit arising from a Creditable Acquisition by that Party but to which the Representative Member of a GST Group of which the Party is a Member is entitled.

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**EXECUTION**

DATED:

EXECUTED AS AN AGREEMENT:

The Common Seal of **Blayney Shire Council** was affixed in the presence of:

\_\_\_\_\_

Mayor

Name (printed)

\_\_\_\_\_

General Manager

Name (printed)

Executed by **Flyers Creek Wind Farm Pty Ltd** in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by authority of its directors:

\_\_\_\_\_

Director:

Name (printed)

\_\_\_\_\_

Director/Secretary:

Name (printed)



**ATTACHMENT A**

**THE DEVELOPMENT**

The proposed Flyers Creek Wind Farm as described in the Environmental Assessment report dated May 2011 and further described in the Preferred Project Report of May 2013, and submitted to the NSW Department of Planning and Infrastructure for review and determination.

**DESCRIPTION OF SUBJECT LAND**

The Land Title details are shown below:

Property or Landowners	Land Title Details		Turbine Numbers	Met Mast	Wind farm ancillary items
	Lot	DP			
Wind Farm Area 1	12	1063204			
	6	550053	3	Northern	New track, track upgrade, 33kV UG Cabling
	76	750358			
	53	750358	5, 6, 7		New track, track upgrade, 33kV UG Cabling
	50	750358			
Wind Farm Area 2	41	750367			UG cabling and possible track
	28	750367	4		Site office, New track, track upgrade, 33 kV UG Cabling
Wind Farm Area 3	8	750358			Substation, 132 kV Line, 33kV Line, 33 kV UG Cabling, track upgrade
	52	750358			
Wind Farm Area 4	62	750358	8		New track, 33 kV UG Cabling, 33kV Line
	181	750358	10, 11, 12		Track upgrade, 33 kV UG Cabling, New Track
	180	750358			132 kV line, New track
	10	750358			New track
Wind Farm Area 5	63	750358	9		33 kV UG Cabling
Wind Farm Area 6	7	750358	13, 14		New track, track upgrade
	66	750358			New track, track upgrade

Property or Landowners	Land Title Details		Turbine Numbers	Met Mast	Wind farm ancillary items
	Lot	DP			
	65	750358			
Wind Farm Area 7	68	750358	16		33 kV UG Cabling, 33 kV Line, New track
Wind Farm Area 8	67	750358	15		New track and track upgrade, 33 kV UG Cabling
Wind Farm Area 9	69	750358		Central	Central
Wind Farm Area 10	5	1031238			33 kV OH Line
Wind Farm Area 11	6	1031238			New track, 33 kV OH Line
Wind Farm Area 12	163	750358			
	427	1067009	21, 22, 24		New track, track upgrade, 33 kV UG Cabling
	425	1067009			
	426	1067009			
Wind Farm Area 13	162	750358	18, 19		New track, 33 kV Line
Wind Farm Area 14	161	750358	20		New track, 33 kV UG Cabling, 33 kV Line
Wind Farm Area 15	208	750359	38		New track, 33 kV UG Cabling, 33 kV Line
	72	750359			Access track to T38
	66	750359	39, 40		Access tracks and UG cabling
	1	1089162			
	2	1089162			
	1	1089147			
	2	1089147			
	3	1089147			33 kV UG Cabling
	96	750358			New track
	95	750358			New track
	94	750358			Track upgrade

Property or Landowners	Land Title Details		Turbine Numbers	Met Mast	Wind farm ancillary items
	Lot	DP			
Wind Farm Area 16	75	750358	43 to 46		New track, track upgrade, 33 kV UG cabling
Wind Farm Area 17	1	396680	23, 25		New track, track upgrade, 33 kV UG cabling
	1	1079963	26, 31, 32		New track, track upgrade, 33 kV UG cabling
Wind Farm Area 18	201	750359	28, 29		New track, 33 kV UG cabling
Wind Farm Area 19	202	750359	27, 30		New track, 33 kV UG cabling
	204	750359			
Wind Farm Area 20	206	750359	33, 34	Southern	New track, 33 kV UG cabling
	2	519767			
	120	750359			
	1	519767			
	84	750359			New track
Wind Farm Area 21	533	749105	35		New track, 33 kV UG cabling
	1	1071270			
Wind Farm Area 22	83	750359	36, 37		New track, 33 kV UG cabling
Wind Farm Area 23	78	750359	41, 42		New track, 33 kV UG cabling
	62	750359			
	1	927568			

**Matters to be dealt with in closed committee**

In accordance with the Local Government Act (1993) and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in Section 10(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

**17) LAND ACQUISITION FOR ROAD WIDENING AT 1649  
ERROWANBANG ROAD, ERROWANBANG**

*This matter is considered to be confidential under Section 10A(2) (c) of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

**18) LAND ACQUISITION FOR ROAD WIDENING AT 1324  
ERROWANBANG ROAD, ERROWANBANG**

*This matter is considered to be confidential under Section 10A(2) (c) of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*