



4 March 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, 9 March 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 09.02.15
- (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) Engineering Services
 - (d) Environmental Services
- (11) Delegates Reports
- (12) Committee Reports
- (13) Questions from Councillors
- (14) Closed Meeting

Yours faithfully

Rebecca Ryan
General Manager

Meeting Calendar - 2015

March

Time	Date	Meeting	Location
6.00 pm	9 March 2015	Council Meeting	Community Centre
6.00 pm	9 March 2015	Chifley LAC Community Safety Precinct Meeting	Bathurst Regional Council
6.00 pm	12 March 2015	Towns and Villages Committee	Community Centre

April

Time	Date	Meeting	Location
10.00 am	8 April 2015	Central Tablelands Water	CTW Office, Blayney
5.00 pm	9 April 2015	Economic Development Committee	Community Centre
6.00 pm	13 April 2015	Council Meeting	Community Centre
10.00 am	17 April 2015	Traffic Committee	Community Centre
5.30 pm	23 April 2015	Financial Assistance Committee	Community Centre

May

Time	Date	Meeting	Location
6.00 pm	11 May 2015	Council Meeting	Community Centre
5.00 pm	14 May 2015	Cemetery Forum	Community Centre
5.45 pm	14 May 2015	Access Advisory Committee	Community Centre
4.00 pm	19 May 2015	Local Emergency Management Committee	Community Centre
5.30 pm	21 May 2015	Sports Council	Community Centre

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HELD ON MONDAY 9 MARCH 2015

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01) **ORGANISATIONAL STRUCTURE REVIEW –
INFRASTRUCTURE SERVICES**
(General Manager)

RECOMMENDED:

1. That Council support the General Managers resourcing of Infrastructure Services workforce being the implementation of the Organisational Structural Review Stages Two (2) and Three (3).

REPORT

At the February meeting, Council received and noted information by the General Manager which provided a summary of the review of the Organisational Structure since November 2014. The General Manager detailed Stage One (1) which had been completed, and following significant staff consultation and financial analysis a proposal was made to address the resource issues and challenges associated with the current workforce levels in Infrastructure Services. This being Stage Two (2) and Three (3) of the Organisational Structure Review

This report details the proposed recruitment and appointment of those proposed skills and resources for Infrastructure Services to achieving the capital and operational infrastructure and building works program.

An implementation plan has been prepared that ensures each position has a formal position description and grade review in consultation with staff, as per the NSW Local Government Award (2014). Staff will be appointed by lateral transfer or if the position is vacant or new a recruitment process will commence.

Stage Two (2) will commence immediately and should be completed by August 2015. This includes five (5) positions that have not been formally replaced in the organisation, four (4) of which are currently filled by labour hire staff on a casual basis over an 18 month period.

Stage Three (3), which has another 18 month timeframe, will be subject to the 2015/16 Operational Plan budget process being completed and approved by Council.

Anticipated Appointment Month/Year	Position	No of Positions Filled
Stage Two (2)		
May 2015	Treatment Engineer	1
June 2015	Asset Systems (GIS) Officer	1
July 2015	Works Operator (Bitumen) Works Operator (Signs) Construction Carpenter Mechanic	4
August 2015	Relief Operator (Works/Sewer) Relief Operator (Works/Amenities) Works Operators (Vegetation) x 2	4

Anticipated Appointment Month/Year	Position	No of Positions Filled
Stage Three (3)		
February 2016	Trainee Operator (Road Construction) Trainee Operator (General Construction) Cadet Engineer	3
July 2016	Works Operators (Signs) x 3 Trainee Operator (Parks and Recreation)	4

The minor change to the proposed implementation plan that was presented to Council in February, is bringing forward the recruitment of a suitably qualified Treatment Engineer to manage the sewer business as identified within the Sewerage Strategic Business Plan (SBP). The funding of which is directly allocated and provision made for within the Sewer Fund. Whilst it was thought that this position could be shared, the demands of the role have been reassessed as requiring a full time employee.

This is a critical appointment and will ensure Council is meeting the current obligations for capital renewals, including the lining and replacement of sewer mains, pump station replacements, sewer manhole rehabilitation program, the augmentation of the Millthorpe sewer transfer main, and relining allocations, as well as operational matters including, preparation and implementation of a bio-solids management plan, preparation of an operations and maintenance plan/manual, CCTV inspections and smoke testing monitoring, co-ordination and maintenance of a sewer network reticulation model, and maintenance work including desludging of the aeration tank.

Additional work that can be undertaken by the Treatment Engineer may include development of stormwater management plans, the design and project management of stormwater devices/structures subsequently identified, and control of Council's future floodplain management program.

BUDGET IMPLICATIONS

This proposal is not seeking to increase the 2014/15 Operational Plan budget or Long Term Financial Plan (LTFP). There are employee related expenses in both capital and operational budgets which are not reflected by the current workforce levels.

As per the 31 December QBRS Employee Costs are projected to have an underspend at year end.

Capital Works

From the deferred Capital works funded from the Asset Replacement Reserve (\$1,272M) the projects which will be undertaken by external Contractors total \$571K. The remaining will be completed by Council and the labour allocation (assumed at a rate of 45%) is \$315K. Other costs include; Plant, Materials and again some contract works. These jobs are currently underway or scheduled for completion by the end of the financial year.

Based on similar assumptions, the suggested deferred Capital Works for 2014/15 includes an employee cost of \$372K.

Operational Program

There remains \$1.10M deferred Operational Works in the Asset Replacement Reserve plus the estimated deferred Operational Works of \$742K (2014/15).

Allowing for another \$400K to be allocated for specific jobs to be undertaken by Contractors this however represents a total employee component of \$650K.

An assessment of the Operational Works program will be addressed by Council during the preparation of the 2015/16 Operational Plan and budget.

Current cost of Overtime plus Labour Hire, whilst will not be eliminated, will be reduced by more than half.

Since this report was first presented, Council has been advised that an additional \$2.32m has been received from the NSW Fixing Country Roads program for the Southern Cadia Transport route along Errowanbang Road. To be delivered in a staged program, this funding will enable Council to accelerate improvements along this route, and in particular address the poor vertical and horizontal alignment from the old piggery' to the intersection with Burnt Yards Road. The labour component of this project is estimated to be \$1M.

POLICY IMPLICATIONS

The Delivery Plan and Resourcing Strategy IP&R documents (Long Term Financial Plan (LTFP), Asset Management Plans and Workforce Management Strategy) are all to be reviewed in conjunction with Council's preparation of the Council Improvement Proposal. This review has to demonstrate that Council has the financial sustainability, scale and capacity to remain a stand alone Council. Council must ensure the workforce and resources are aligned to the delivery of services to the community and ratepayers.

Workforce Management Strategy 2014-2018
Strategic Business Plan for Sewerage Services 2014

IP&R LINK

CSP 6.3 A well-run Council Organisation

Attachments

Nil

02) FIT FOR THE FUTURE – MERGER BUSINESS CASE STUDY
(General Manager)

RECOMMENDED:

That, consistent with the position of Council regarding its scale and capacity under the Fit for the Future (FFF) reforms, as adopted by resolution on 9 February 2015:

1. Council prepares a Council Improvement Proposal (Template 2) as per the FFF Guidelines and submits this to the Office of Local Government by 30 June 2015.
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, Council embark on a staged merger business case investigation with Orange City and Cabonne Councils over a six (6) month period from July to December 2015, subject to satisfying Council's requirements for its own independent due diligence.

REPORT

In determining a position of scale and capacity, Council resolved at the February 2015 meeting; that Blayney Shire Council would submit an Improvement Proposal (Template 2) which would demonstrate the future financial sustainability to remain a Council within the Central West JO. This proposal will be submitted to the NSW Office of Local Government (OLG) by 30 June 2015.

An Independent Panel, appointed by the NSW Government will assess all proposals and provide recommendations to the Minister. When a Council's individual proposal; be that a Merger (Template 1), Improvement Plan (Template 2) or Rural Council (Template 3), has been given the approval by the Minister, then that Council will be given access to the other benefits of the Fit for the Future reform package such as cheaper interest for addressing asset and infrastructure backlogs.

Notwithstanding this position of Blayney Shire, a formal invitation has been received from Orange City Council which supports a merger business case proposal evaluation in accordance with the NSW Government's Fit for the Future guidelines.

The resolution from Orange City Council is as follows;

1. *That Council resolves to lodge a merger business case with Cabonne Council and Blayney Shire Council subject to:*

- a. Confirmation of the resolved position of Cabonne Council and Blayney Shire Council to specifically agree to lodge a merger proposal to the NSW Government in June 2015; and*
 - b. Confirmation of the resolved position of Cabonne Council and Blayney Shire Council specifically agreeing to sharing of costs to prepare a proposal to merge that has 50% of costs paid by Orange City Council, and remaining costs paid in equal share by Cabonne Council and Blayney Shire Council.*
 - c. If Cabonne Council and Blayney Shire Council agree to the cost distribution, prepare a request to the NSW Government for funding for the use of a panel member from the appointed list established by the NSW Government, to prepare a merger business case.*
- 2. If only one of either Cabonne Council or Blayney Shire Council provides their resolutions to submit a merger proposal to the NSW Government along with agreed contribution level, that Council resolves to submit the merger proposal with that Council with a funding split of 60% paid by Orange City Council and 40% by the partnering Council, and seek the available funding from the NSW Government to prepare the business case.*
- 3. If neither Cabonne Council nor Blayney provides a resolution to agree to a merger proposal, that Orange City Council prepares a submission using the template for standing alone and consider as a further option selective boundary adjustments.*
- 4. That Council not support any shared services or similar model.*

FFF Program

The OLG will provide 50% of the cost of preparing a business case for proposed mergers and there is an approved technical expert panel available to undertake the work. It is assumed that both or all Councils are agreeable to the merger business case study being commissioned.

This funding is not available if Councils undertaking a merger business case study opt to utilise the services of a consultant that is not on this expert panel.

This funding is only available for one (1) merger business case study per Council.

The OLG have advised that at this stage, the funding is only available to Councils to access prior to 30 June 2015. This does not mean that funding could be made available post this timeframe.

It is expected that a merger business case study would be completed by the end of April 2015. This would, in theory, provide the community engagement and consultation about the findings of the study to be implemented prior to the final decision being made by Council as to which proposal to submit by 30 June 2015.

Any merger proposal has a minimum 28 day exhibition period and it is expected that Council would consult widely with its community of any proposed merger.

Councillors have been provided with copies of various FFF information, frequently asked questions and guidelines, sourced from www.fitforthefuture.nsw.gov.au

Risks/ Community Engagement

The major risk is that any merger business case study process at this stage will be rushed. The scope of the merger business study is of critical importance or the outcome will be skewed and interpretations of the recommendations will become points of dispute.

A merger business case study certainly demonstrates due diligence by Council to explore options on the behalf of the Blayney community. However, the timing of when this study is undertaken is critical. Should it proceed as presented to Council by Orange City, there is a risk that staff and Councillors would be diverted to supporting a merger business case study when the current timeframe and resources are already critical.

The focus of staff for the next few months is to proceed with the Improvement Proposal and implement the Community Engagement Strategy on that basis, as per the Council position adopted in February 2015

Options

To take the time and work on a staged approach with a control trigger at each step would enable the results to be assessed and scrutinised by Council before proceeding to the next level. These steps could be as follows;

1. High level review of the financial statements and Local Government comparative data of the three LGA's
2. A study of one or more Council operational areas
3. A detailed merger business case study
4. Community consultation and considerations of issues process
5. The final report for Council consideration

Should Council determine the undertaking of Step (3) above, being a detailed merger business case study, then it may be worth considering the appointment of a community reference or focus group to support the deliberations of Council.

A new Community Engagement Strategy would be required to be implemented should Council resolve to accept the request by Orange City Council.

As noted in February's report, Council in reality could be invited or should undertake a similar study with Bathurst Regional Council and/or Oberon Council's. This option has not been a point of discussion between Blayney and Bathurst Mayors/General Managers to date. And whilst this would offer some alternative view, it may pose a challenge for Council to commit to both options, in terms of cost, staff resources and community engagement.

The OLG has advised that there are some LGA's considering undertaking two (2) merger business case studies, however the funding on offer is at this stage only for one (1) per Council.

BUDGET IMPLICATIONS

The anticipated cost of a consultant to undertake the merger business case offer by Orange City, of the three (3) Council areas, might range anywhere from \$80 - \$150K depending on the scope of works and level of detail expected from the report. Blayney's 25% or 40% share assuming that OLG funding was sourced; would then range from \$10K to \$40K. If a consultant was selected who was not from the technical expert panel, this cost would increase.

Council would need to make a budget adjustment of this cost when a scope of works is completed and formal quote was available.

POLICY IMPLICATIONS

Nil

IP&R LINK

CSP 6.3 A well-run Council Organisation

Attachments

- | | | |
|---|---|----------|
| 1 | Council Merger Proposal Guidelines | 14 Pages |
| 2 | Council Merger Proposal Template 1 | 11 Pages |
| 3 | Frequently Asked Questions - Preparing a FFF Proposal | 3 Pages |

03) KING GEORGE OVAL SCOREBOARD
(General Manager)

RECOMMENDED:

1. That Council accepts the NSW Government's Community Building Partnership Offer of \$12,540 for the King George Oval Scoreboard
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.

REPORT

The NSW Government recently announced the successful Community Building Partnership (CBP) program grants of which \$300,000 is allocated per electorate. Grants are provided to fund the building and improvement of local community facilities and projects must have demonstrated a benefit to the local community through '*the building or improvement of facilities to deliver positive social, recreational or environmental outcomes*'.

Applications from local councils required a commitment of matching cash funding by the council. Projects should be ready to commence by early 2015 and be completed before the end of March 2016.

Blayney Shire Council has been successful in an application for the installation of a new electronic scoreboard at King George Oval (KGO) in Blayney and will receive 50% of the total project cost of \$25,080, being a funding offer of \$12,540.

Council approval is sought to transfer the matching funds required as per the Community Building Partnerships funding agreement from the Grant Matching Reserve (internal restriction). This bringing forward of Council's contribution will expedite the installation of the new scoreboard for the 2015 season. Football user groups have committed to providing volunteer labour where possible to assist with the installation.

A meeting has been held with user groups from local sports groups, and consensus reached in regards to this project, being one of a number of improvement opportunities at KGO. These include; the replacement of seating and upgrades to the Grandstands currently underway which is a successful 2013 CBP program and the Canteen refurbishment. The latter project is being coordinated by Council, with strong support from all user groups and is subject to a successful funding application to Council's Financial Assistance Program Round Two (2).

BUDGET IMPLICATIONS

There is no budget allocation in the 2014/15 Operational Plan for this project. The current balance of the Grant Matching Reserve internal restriction is \$25,000.

The transfer of funds to the Operational Plan budget will be reported to Council in the third Quarterly Budget Review (31 March 2015).

POLICY IMPLICATIONS

CSP 2.1 Cultural and sporting events are coordinated and resourced

Attachments

Nil

04) CENTRAL WEST LIBRARIES CONTRIBUTIONS
(Director Corporate Services)

RECOMMENDED:

1. That Council include the Central West Libraries 10 Year Financial Plan outlining Council's nett contribution for library services into its forthcoming Long Term Financial Plan and budget deliberations.

REPORT

A meeting of the Central West Libraries Committee was held 6 February 2015. An item included on the Agenda was the Central West Libraries 10 Year Financial Plan.

The plan outlines Council contributions to the Central West Libraries over the life of the plan (2015/16 – 2024/25) and forecasts increases to be greater than the forecast rate-peg. This can be attributed to the fact that revenues, including grant funding, are not keeping pace with expenditure growth associated with delivery of this service.

Councillors will recall reports in the past year regarding grant funding of library services and action being taken by the NSW Public Library Associations for increased State funding to local government for public libraries. This funding has been frozen, with no indexation over the 10 year period applied, resulting in expenditure increases to be borne by Council and ultimately the community.

The proposed 10 year financial plan is provided as an attachment and while increases per annum are fluctuating, it reflects an average of 5.06% (or \$7,037) per annum increases in contributions. The plan also assumes the Local Special Priority (LSP) grant, used to assist to defray costs of resources, to cease in 2016/17 as the certainty of the future of this funding is unknown.

A resolution of the Central West Libraries Committee passed in 2012 states that increases to contributions be limited to the extent of the rate peg. This however has not been sustainable with the challenges outlined above. Based on the 2.4% rate peg for 2015/16 and 3% rate peg for the remaining years Council's additional contribution over the life of the plan is \$32,037 or an average of \$3,204 per annum.

The only option for Council to reduce its contribution into the future would be to reduce services and consequently Branch costs. Such a strategy would require hours to be reduced by 8 hours in the first year and annual adjustments thereafter. Council at its July 2014 meeting considering the additional Central West Libraries contribution for 2014/15 resolved to provide for the 2014/15 additional contribution in the September quarterly review and in doing so endorsed retention of existing library services.

The Blayney Library service hours, 24 in total per week, are outlined below:

Hours of Opening:

Monday: 11am - 1pm & 2pm - 5pm
Tuesday: 11am - 1pm & 2pm - 5pm
Wednesday: Closed
Thursday: 11am - 1pm & 2pm - 5pm
Friday: 2pm - 6pm
Saturday: 10am - 12noon
Sunday: Closed
Closed Public Holidays

Council approval is sought for inclusion of this information into the forthcoming Long Term Financial Plan and budget deliberations, and in doing so consideration of retention of this service in its current capacity into the future.

BUDGET IMPLICATIONS

The impact of the contributions will need to be included into Councils' Long Term Financial Plan. As outlined in the report, the contribution increases will be in excess of the forecast rate-peg of 2.4% in 2015/16 and 3% per annum thereafter over the 10 year period.

POLICY IMPLICATIONS

Nil.

IP&R LINK

DP2.3.4 Provide library services in Blayney Shire.

Attachments

- 1 10 Year Financial Plan summary of Central West Libraries contribution

1
Page

05) REPORT OF COUNCIL INVESTMENTS AS AT 25 FEBRUARY 2015
(Accountant)

RECOMMENDED:

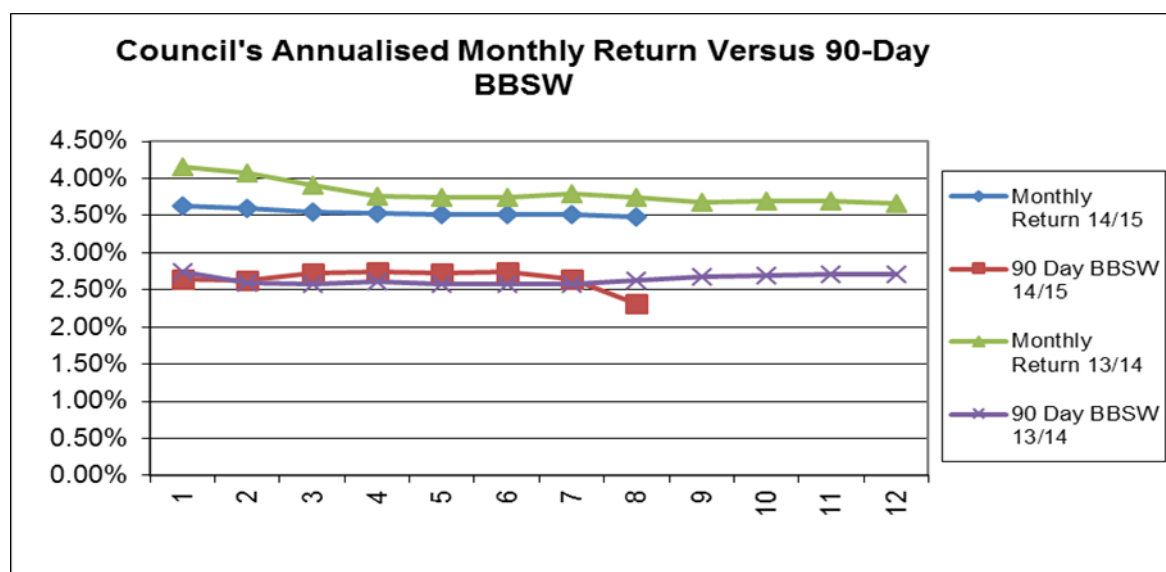
1. That the report indicating Council's investment position as at 25 February 2015 be received and noted.
2. That the certification of the Responsible Accounting Officer be noted and the report be adopted.

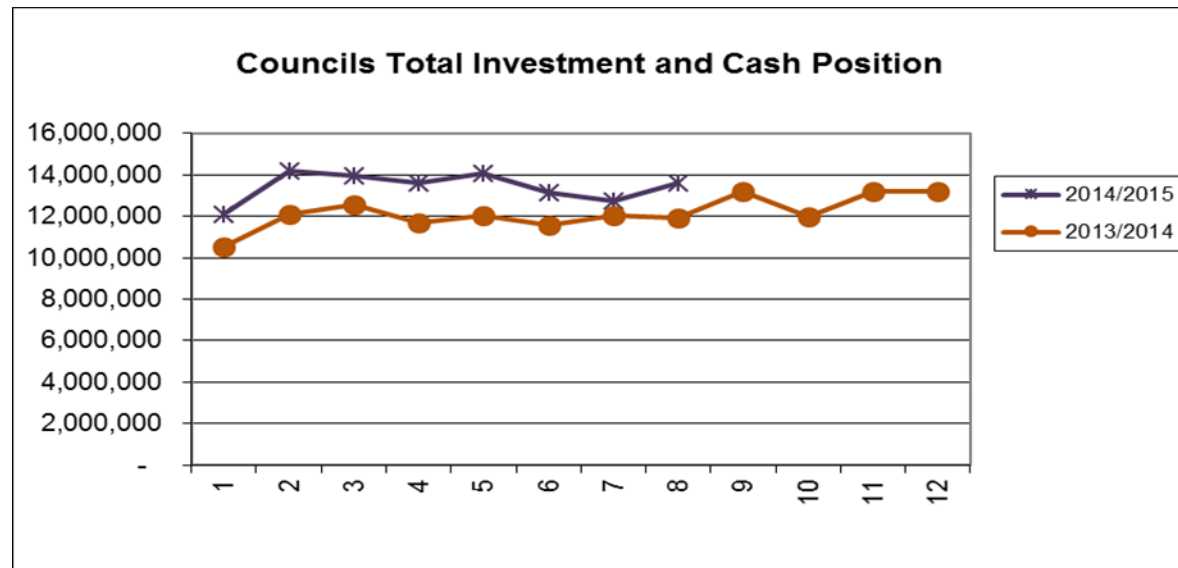
REPORT

This report provides details of Council's Investment Portfolio as at 25 February 2015.

Council's total investment and cash position as at 25 February 2015 is \$13,591,607. Investments earned interest of \$32,747 for the month of February 2015.

Council's monthly net return on Term Deposits annualised for February of 3.48% outperformed the 90 day Bank Bill Swap Rate of 2.32%.





REGISTER OF INVESTMENTS AND CASH AS AT 25 FEBRUARY 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%
Goldfields Money Ltd	Not rated	7/04/2015	500,000	3.45%
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-	25/02/2015	500,000	3.12%
Rural Bank	A2/A-	7/07/2015	500,000	3.52%
Warwick Credit Union	Not rated	3/03/2015	500,000	3.50%
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%
Total Investments			12,000,000	3.47%
Benchmarks: BBSW 90 Day Index				2.32%
RBA Cash Rate				2.25%
Commonwealth Bank - At Call Account			1,455,672	2.10%*
Commonwealth Bank Balance - General			135,935	2.10%*
TOTAL INVESTMENTS & CASH			13,591,607	

* % Interest rates as at 25/02/2015

Summary of Investment Movements - February		
Financial Institution	Invst/(Recall) Amount \$	Commentary
Bank of Sydney	(509,173.97)	Term Deposit Matured 03/02/2015
WAW Credit Union	(505,835.62)	Term Deposit Matured 04/02/2015
AMP	500,000.00	Term Deposit Invested 05/02/2015
NAB	500,000.00	Term Deposit Invested 25/02/2015

Short Term Credit Rating*	Policy Maximum	Current Holding %	Current Holding \$
A-1+	100%	17%	2,000,000
A-1	80%	17%	2,000,000
A-2	60%	58%	7,000,000
A-3	40%	0%	
Not Rated**	Existing Investments Only	8%	1,000,000
			12,000,000

*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 will mature 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%

RESTRICTED CASH, CASH EQUIVALENTS & INVESTMENTS	
	\$ 000's
External Restrictions - Sewer	4,416
External Restrictions - Other	2,459
	6,875
Internal Cash Restrictions	6,309
Available Working Capital	408
	6,717
TOTAL CASH & INVESTMENTS	13,592

* Restrictions represent balance as at 1 July 2014

CERTIFICATION – RESPONSIBLE ACCOUNTING OFFICER

I, Tiffaney Irlam, 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.

BUDGET IMPLICATIONS

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

POLICY IMPLICATIONS

Nil effect.

IP&R LINK

DP6.3.2 Maintain a stable and secure financial structure for Council.

Attachments

Nil

06) INFRASTRUCTURE SERVICES MONTHLY REPORT
(Director Infrastructure Services)

RECOMMENDED:

1. That the Director of Infrastructure Services Monthly Information report for February 2015 be noted.

REPORT

Topical Issues

- Works commenced on the replacement of the bridge on Carcoar Dam Road immediately West of Neville Road on the week commencing 23 February 2015. The bridge is being replaced with twin 1,200mm dia. concrete pipes. The road is closed during the undertaking of the works, with notifications provided to local residents, information by social media and Council's Community News in the Blayney Chronicle.
- Construction estimates for bridges that are currently load limited, have been received for Coombing Street, Browns Creek Road, Felldimber Road at Coombing Creek and Gallymont Road at Felldimber Creek. Upon review and consideration a report shall be prepared for Councilors consideration and determination of budget allocations.
- Council has recently been advised of its successful grant application through the NSW Government Fixing Country Roads Program for the upgrade of a 3.5km section of Errowanbang Road (Cadia Southern Transport Corridor) from the intersection with Burnt Yards Road to beyond the "old piggery". A review of Councils program is currently underway to commence works prior to the end of the financial year. As a result of the funding and that acquired for the current Forest Reefs Road Blackspot project, staff are preparing a revised schedule of works and priorities for discussion with Newcrest (CVO) to ensure Council demonstrates a commitment to the Cadia Southern Transport Corridor, whilst also continuing to deliver improved infrastructure outcomes in accordance with the sRV.
- Council has been notified that its application through the Australian Government Bridges Renewal Program, for funding to upgrade the bridge on Gallymont Road at Felldimber Creek was unsuccessful.
- The General Manager and Director Infrastructure Services continue to liaise with staff and Councilors to develop a suitable structure for the Infrastructure Services Department. A report by the General Manager on this topic is to be considered separately.
- Adelaide - Ogilvy Street intersection - Roads and Maritime Services have recently advised Council it is able to fund \$240,000 in pedestrian safety improvements at this intersection, in the current 2014/15 financial year. With a short time frame Council has had to commence minor on ground works (pavement marking) with a view to commencing community consultation in the week commencing 2 March 2015. Markings were placed to help articulate the proposal to adjoining businesses when consultation commences.

Works proposed include construction of new footpath blisters to narrow the crossing distance across both Adelaide and Ogilvy Streets, minor stormwater modifications and public space amenity improvements. This location has long been a concern of the community and the provision of adequate site distance for pedestrians to safely cross the road. The project has a short time frame and requires a rapid delivery program.

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, commencing 2km from Millthorpe to the intersection with Carcoar Road. Land acquisitions have been successful and fencing completed, with earthworks underway.
- RMCC, Park Street, Millthorpe – Works to rehabilitate a segment of Park Street in the vicinity of Redmond Oval have been completed. Vegetation management works of the existing London Plane trees have been deferred until winter.
- RMCC, Segment 80 Millthorpe Road – Works to undertake pavement rehabilitation on Segment 80, have been successfully completed by Cabonne Shire Council.
- Resealing program – Council continues to undertake drainage works alongside identified segments in preparation for resealing works in early March 2015. Council's resealing contractor is currently programmed to undertake the works, and may well be completed at the time this report is considered at Council.

Major Contracts

Cowriga Creek Bridge (Forest Reefs Road)

- Council has engaged Cabonne Shire Council to Project Manage the contract for the replacement of the bridge. Construction is underway, with piling, abutment, wing wall, and bridge girder installation completed. The insitu concrete deck has been poured and approach slabs are being prepared for pouring. Work continues to progress in accordance with the program and, approach works shall be undertaken by Council as part of the Forest Reefs Road upgrade project. Subject to the requirements of the contractor, Council anticipates being able to provide access over the new bridge during March.

Land Development

Cook Street (11 Lot subdivision)

- The undertaking of 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, is yet to be progressed.

Wastewater

- Council is currently preparing plans for works to be undertaken on the Millthorpe transfer main to address significant Hydrogen Sulphide attack on concrete structures located along the route, and at the inlet works of the sewerage treatment plant.

Works will involve new activated carbon filters to replace the deodorisation beds, the complete replacement of the existing manhole located at the top of Chambers Hill near Limestone Creek, and the reconstruction of the manholes located at the intersection of Plumb and Palmer Streets, and Carcoar and Martha Streets.

- Work will also be undertaken to install a Calcium Nitrate dosing system at the Millthorpe Pump Station to reduce the levels of septicity within the system.

Recreation and Environment

Napier Street Toilet Block

- Council continues to seek a suitable date for an official opening, with local member Paul Toole, MP, and local soccer and cricket clubs.

Showground Building Upgrades

- Council continues to seek a suitable date for an official opening, with local member Paul Toole, MP, and Showground user groups.

King George Oval Building Upgrades

- Council rejected all submissions for the building upgrade works, and will be re-issuing Request for Quotation documents on 5 March 2015.
- Council has issued notification to its successful contractor ICR Engineering to undertake the fabrication of the seat framing and installation of seating to the grandstands.
- Chair of the Blayney Shire Sports Council, Cllr David Kingham and a group of volunteers, recently collected the seats provided by Bathurst Regional Council, and arranged for their temporary storage at ICR Engineering.
- A request for variation to its agreement with NSW Government has been authorized with a new completion deadline of 30 May 2015. Council however anticipates being able to finalise works by end of April.

Revive! Belubula River at Pound Flat project

- Council has reviewed the draft proposal for the log jam removal, strategic placement of “snags”, weed control, plantings and creek based drop structures, and is awaiting final recommendations to be provided. On ground works remain programmed for the last quarter of 2014/15 and first quarter 2015/16. A letter has been issued to adjoining land holders seeking their support and involvement in this environmental project.

Asset Management

Road revaluation

- In 2015 Council is required to complete a revaluation of its transportation assets. Council has engaged ARRB to undertake the full condition assessment of the local and regional sealed network. ARRB are expected to commence the on ground assessment in mid March 2015, providing Council with the required data to finalise the valuation.

Asset Management System

- Council staff are preparing asset data for migration to Council's new Asset Management System

BUDGET IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

IP&R REFERENCES

- DP 1.2.2 – Improve transport linkages across the Local Government Area to support the mining industry.
- DP 2.2.2 – Establish and support a community based representative body for sporting groups.
- DP 3.1.1 – Protect and enhance biodiversity, native vegetation, river and soil health.
- DP 3.1.2 – Facilitate the delivery of more planting on Council owned and controlled land.
- DP 3.2.2 – Enhance the community's understanding of biodiversity issues and work towards positive behavioural change.
- DP 4.1.1 – Manage local road network to agreed service levels.
- DP 4.1.2 – Manage Regional and State road network to agreed service levels.
- DP 4.1.3 – Maintain and improve Council owned building assets.
- DP 4.1.5 – Implement the Blayney Shire Council Asset Management Plans.
- DP 4.1.6 – Seek additional grant funding for construction and maintenance of roads and associated facilities.
- DP 4.1.7 – Plan for future transport and road infrastructure to service future needs.
- DP 4.2.2 – Ensure Sewerage Treatment Plants are able to meet needs of the Blayney Shire.
- DP 4.2.3 – Provide an effective and safe sewerage collection network for Blayney Shire.

Attachments

Nil

07) TOWN OF BLAYNEY FLOOD STUDY
(Director Infrastructure Services)

RECOMMENDED:

1. That Council
 - a) accept the Blayney Flood Study Report 2015
 - b) place the Blayney Flood Study Report 2015 on public exhibition seeking public comment for a period of no less than twenty eight (28) days.

REPORT

Executive Summary

Under the NSW Government Flood Prone Land Policy, Councils are required to identify and manage flood prone areas within their Local Government Area (LGA).

The preparation of the Blayney Flood Study has been overseen by the Blayney Shire Floodplain Risk Management Committee, and has been prepared to define the riverine flood behavior of the Belubula River and Abattoir creek, as well as the overland flood behaviour in Blayney and the possible combined effects on the Town of Blayney.

Over the past two (2) years the consultant has undertaken a considerable amount of work in collecting and analysing data, developing hydrologic and hydraulic models, reviewing model output and preparing the attached report.

This report seeks Council's approval to release the Blayney Flood Study for public exhibition.

Background

Councillors may recall, Council was successful in attracting funding from the NSW Office of Environment and Heritage for the undertaking of a Flood Study and development of Flood a Plain Risk Management Study and Plan.

In May 2013 Council accepted the tender of SKM (now known as Jacobs Group) to undertake and prepare the above mentioned studies and plans.

Figure 2.1 (*NSW Government Floodplain Development Manual*) below describes the floodplain risk management process.

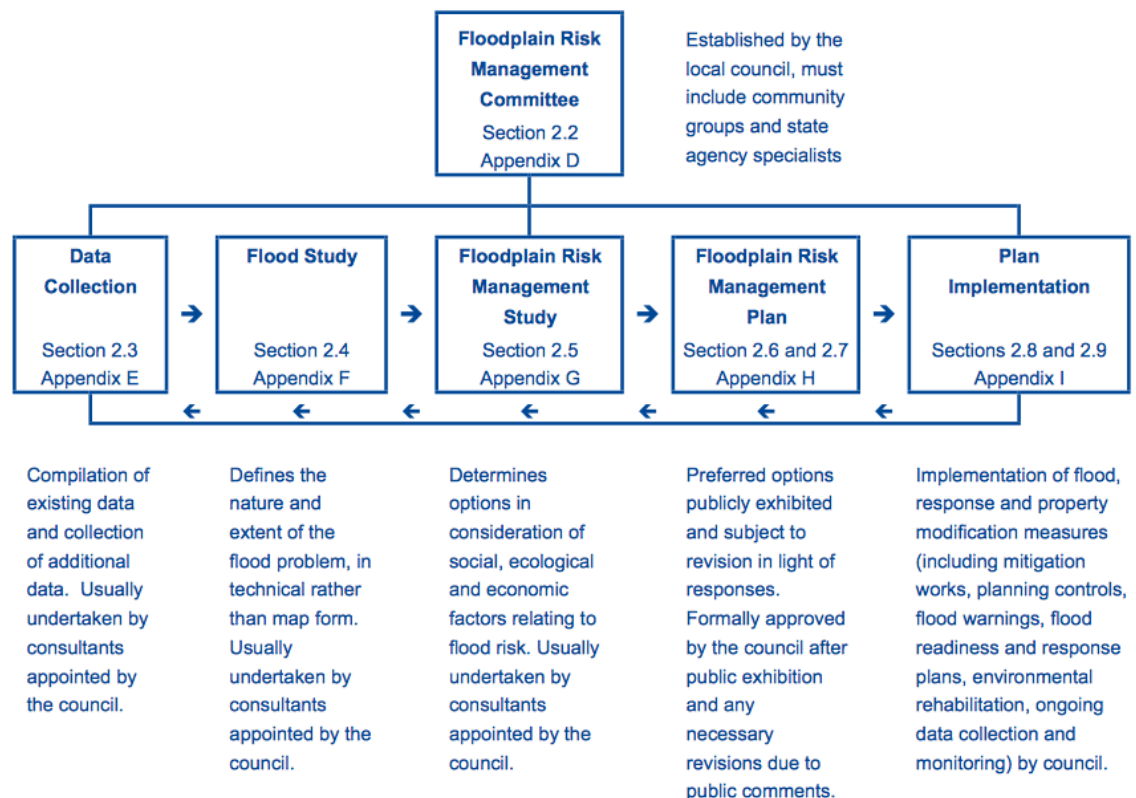


FIGURE 2.1 - The Floodplain Risk Management Process

Blayney is preparing to progress from the Flood Study phase to the Floodplain risk Management Study phase.

Upon engagement of Jacobs Group in May 2013, the Flood Study phase involved initial site inspections, review of available data, and the development of a gap analysis. As a result of the gap analysis it was identified that further survey would be required of the existing stormwater system within the Town of Blayney.

Community consultation was undertaken in order to obtain flood information of past events, with a newsletter and questionnaire produced and sent with introductory letter to two hundred and twenty (220) residents.

A total of sixteen (16) responses were received from the community. Comments were used to help validate hydrologic and hydraulic computer modeling.

A survey contractor was engaged to undertake the work, however a significant delay was incurred as the contractor and Council sought to gain access to the railway corridor where key stormwater assets were located, and to also access the abattoir site. In December 2013 under Section 191 of the Local Government Act 1993 a Notice of Entry was issued to effect the access to the site.

In November 2014, a meeting of the Floodplain Risk Management Committee was held to enable the consultant to present Council with the draft Flood Study document.

The Flood Study has produced information on flood levels, velocities and flows for a full range of riverine and overland flood events under existing catchment conditions. The results will inform and enable the next phases in the floodplain risk management process, by identifying possible management options within the Floodplain Risk Management Study and development of a draft Risk Management Plan for Council consideration.

Traditional flood studies for riverine environments used survey cross section data across river reaches, however as technology has advanced, the ability to capture level (height) data has been significantly enhanced. Therefore the area that is included in flood study today, is not just limited to the river itself.

The underlying level data used in the Blayney flood study was captured by NSW Land and Property Information and made available free of charge, and is not restricted to the riverine area alone, but covers the entire Town of Blayney.

The expanded coverage, whilst offering Council more information, also results in flood mapping across the town extents and is not just limited to the river.

It should be noted that the provided flood depth and level maps for various flood events across the extents of Blayney, are not specifically as a result of riverine flooding but may well be from rain events that result in upstream overland flooding.

It is anticipated that such information (mapping) may be concerning to members of the community as there is the possibility that the information, is misinterpreted as being their properties are susceptible to flooding from the river. It is anticipated that there will be a need to provide explanation to members of the community with specific questions upon release of the document.

It is noted that as a result of large flood events across Australia in recent years, insurance companies and banks have taken a greater interest in the risks associated with flooding. In recent weeks, Council has received enquiries from land owners following up on requests from their insurers and banks about the level of flooding in Blayney. The adoption of the flood study will provide Council with improved information to offer upon request, and assist Council in the planning and development in Blayney.

It is proposed the Flood study be placed on public exhibition for a period of not less than twenty eight (28) days. Any comments will then be considered by the FRMC, prior to finalisation of the study by the consultant.

BUDGET IMPLICATIONS

The project is funded by NSW Office of Environment and Heritage (80%) and Council (20%). Provision has been made within the Operational Plan to fund the project.

POLICY IMPLICATIONS

The preparation of the Blayney Town Flood Study and associated Risk Management Study and Plan will provide increased understanding of flood implications for the Town of Blayney and future land use planning.

It shall also provide greater information to NSW State Emergency Services in the event of a future flood response.

Attachments

1 Blayney Flood Study Draft V1 84 Pages

08) DEVELOPMENT APPLICATION NO. 122/2014 - TATOO/ART STUDIO AT LOT 102 DP1055449 - 22 BUESNEL LANE, MILLTHORPE
(Senior Town Planner)

RECOMMENDED:

That Council approve Development Application 122/2014 for a proposed Tattoo/art Studio on Lot 102 DP 1055449, 22 Buesnel Lane, Millthorpe, in accordance with the Section 79C Assessment and conditions contained within this report

REPORT

Application Number:	DA 122/2014
Development:	Tattoo/art studio
Applicant:	J Daldorf
Owner:	A Marques
Lodgment date:	4 November 2014
Land:	Lot 102 DP 1055449, 22 Buesnel Lane, Millthorpe
Local Environmental Plan:	Blayney LEP 1998
Zoning:	1(c) Rural Small Holdings

Description of Proposal

The proposed development is located at Lot 102 DP 1055449, 22 Buesnel Lane, Millthorpe, located on the northern side of the road, being 2.56ha in area.

The land currently contains a dwelling and a detached art studio, located approximately 75m from the front boundary in the centre of the property. The studio is located to the west and slightly behind the existing dwelling. Both buildings are accessed via the one existing driveway off Buesnel Lane. A copy of the plans are contained in **Attachment 1**. The nearest offsite dwelling to the east is approximately 200m away.

The studio building contains a studio work area, storage area and bathroom, which was all approved in 2004 with the dwelling (DA 121/2004). The studio is constructed of rendered Hebel panel and corrugated steel roof to match the residence.

The developer seeks to locate a business in the studio, that being an art/tattoo workshop and gallery.

The business is to operate from within the existing approved art studio from 9.30am to 5.30pm, Monday to Friday, if required. As the owner is a sole operator it will cater for up to two (2) clients per day.

The existing garden area would provide more than sufficient area for the parking of cars. No signage is required for the development. Clients are by appointment only, and all advertising for the business is to be via Facebook and a webpage.

Medical type waste is to be appropriately stored on site within the building, and collected monthly for offsite disposal at an approved waste facility by a qualified contractor.

No alterations are required to the building for the development. The operation of the business from the building will not change the Building Code of Australia classification of the building from 10a, and therefore no fire or access upgrades are required.

The business would be suitably licensed under the *Tattoo Parlours Act 2012*, would operate under the *Public Health Regulation 2012*, and would undertake registration with Council under the *Public Health Regulation 2012* for a skin penetration activity.

Licensing

Under the *Tattoo Parlours Act 2012* requirements if someone intends to operate a body art tattooing business in NSW, including working from home, they need an operator license. This license authorizes the licensee to run a body art tattooing business at the premises specified in the license in accordance with the *Tattoo Parlours Act 2012* and the conditions, if any, on the license.

The license may cover body art tattooing, and/or cosmetic tattooing procedures. NSW Applications are made to the Dept of Fair Trading, and appropriate investigations carried out as are considered necessary as to confirmation of identity, whether the person is a fit and proper person to be granted the license, and whether it would be contrary to the public interest for the license to be granted. Fingerprints and palm prints are recorded, and a national police check is carried out by the Commissioner of Police.

An application for an operator license must also include particulars in respect of close associates. This refers to associated financial or power interests in the business, relevant positions in the business, or contractors and/or employees of the business.

A separate operator license is required for each location where a body art tattooing business is conducted, and development consent or approval, if required, under the Environmental Planning & Assessment Act 1979 must be obtained.

Information required for the license application is quite extensive, a fee applies, and a license is in force for a period of three years, unless surrendered or ceased prior to the expiry date.

Background

Council deferred consideration of this matter at its meeting of 9 February in order to seek clarification of the definition under which the proposal would fall. The application received a number of objections which raised issues relating to matters including risk, business in a rural area, zoning, hours of operation, clientele, parking, waste management, disabled access and parking, amenity, definitions, licensing, inappropriate uses, traffic, health, and security.

79C (a)(i) the provisions of any environmental planning instrument

1. State Environmental Planning Policies

There are no State Environmental Planning Policies relevant to this development.

2. Local Environmental Plans

The land is zoned 1(c) Rural Small Holdings under Blayney Local Environmental Plan 1998, being within the “Deferred matter” area excluded from the current Local Environmental Plan 2012.

Background

The application was lodged as an “art/tattoo studio”. The applicant referred to it as a “business”. Under the LEP 1998, the use is not specifically prohibited. Under the LEP1998, definitions for development under which the use might fall are set down under the Environmental Planning and Assessment Model Provisions 1980, and include the following:

home industry means an industry carried on in a building (other than a dwelling-house or a dwelling in a residential flat building) under the following circumstances:

- (a) the building does not occupy a floor space exceeding 50 square metres and is erected within the curtilage of the dwelling-house or residential flat building occupied by the person carrying on the industry or on adjoining land owned by that person, and
- (b) the industry does not:
 - (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products or grit, oil or otherwise,
 - (ii) involve exposure to view from any adjacent premises or from any public place of any unsightly matter, or
 - (iii) require the provision of any essential service main of a greater capacity than that available in the locality.

In this instance, the subject building has a floor area of 134sqm, therefore this definition cannot apply.

home occupation means an occupation carried on in a dwelling-house or in a dwelling in a residential flat building by the permanent residents of the dwelling-house or dwelling which does not involve:

- (a) the registration of the building under the Factories, Shops and Industries Act 1962,
- (b) the employment of persons other than those residents,

- (c) *interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products or grit, oil or otherwise,*
- (d) *the display of goods, whether in a window or otherwise,*
- (e) *the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling-house or dwelling to indicate the name and occupation of the resident), or*
- (f) *the sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail.*

In this instance, the use is not proposed to be carried out within the residence, and this definition cannot apply.

Other definitions under the Model Provisions which might be considered are commercial premises and shops.

shop means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this clause, a building or place used for a purpose elsewhere specifically defined in this clause.

In this instance, a shop is specifically prohibited in the zone. However, the development does not “sell, expose or offer for sale by retail, goods, merchandise or materials”. It offers a service ie. tattoo art, therefore this definition cannot apply.

commercial premises means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.

In this instance, the proposed development falls within this category, and a commercial premises is permissible in the zone with consent.

Therefore, the objectives of the 1(c) zone are considered as follows:

- (a) To promote development of land identified as suitable for rural residential or small holding development

Comment: The land has been used to date in line with the intended development of the land for rural residential purposes. The proposed development is permissible in the zone, being an activity which may generate minor additional traffic and some perceived amenity issues.

- (b) To identify land suitable for future urban development, and for development for other non-agricultural purposes, in accordance with the needs for that development

Comment: The development is for a non-agricultural purpose. The developer sees a need for the activity in the wider community which may be at odds with the immediate neighbourhood’s perception of need.

- (c) To allow a range of rural living styles in appropriate locations within the zone.

Comment: The proposal would be located within a rural small holding setting, which does not prohibit the proposal. A range of rural living styles are available in the subdivision.

Clause 10 General considerations for development within the rural and environment protection zones

The general requirements are considered as follows:

- (a) The present use of the land, the potential use of the land for the purpose of agriculture and the potential of any land which is prime crop and pasture land for sustained agricultural production.

Comment: The land was created for rural small holdings in accordance with the provisions of the zone. This may allow for minor agriculture to occur. Sustained agricultural production is not appropriate for this zone. The land has been used for residential purposes and this would continue.

- (b) Vegetation, timber production, land capability (including soil resources and soil stability) and water resources (including the quality and stability of water courses and ground water storage and riparian rights)

Comment: Impact on these resources is unlikely to occur as no building works are proposed.

- (c) The future recovery from known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials.

Comment: It is not expected that there would be any significant impact on these resources from the development.

- (d) The protection of areas of significance for nature conservation or of high scenic recreational value, and of places and buildings of archaeological or heritage significance, including Aboriginal relics and places

Comment: There are no such known significant areas, places or buildings relevant to this development.

- (e) The cost of providing, extending and maintaining public amenities and services to the site of the proposed development.

Comment: The cost of any service enhancement to cater for this development would be borne by the developer. However, no such works are likely to be required.

- (f) Future expansion of settlements in the locality

Comment: The proposed development is unlikely to have an impact on settlement expansion in the village of Millthorpe.

Council must also consider the effect of the proposed development on adjoining land and other land in the locality.

Comment: The adjoining land in this vicinity comprises subdivision of a similar nature, rural small holdings. Stock grazing is the most common landuse. Adjoining residents have been notified and submissions were received. The issues raised included amenity, hours of operation, car parking, traffic, fire and disabled access, compliance with zoning and licensing, and security risk. These issues are considered later in this report.

3. Guidelines and policies

The proposal was notified to adjoining landowners. Several submissions were received, which are considered later in this report.

79C (a)(ii) the provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority that would apply to the land to which the development relates

The subject land falls within a “deferred matters” area under the BLEP2012. The areas remain under the BLEP 1998, not being included within the gazettal of BLEP 2012.

There are no other proposed instruments in any form relevant to this development.

79C (a)(iii) any development control plan that applies to the land to which the development relates

Development Control Plan No. 3 Rural Residential Development is applicable to this land. The DCP does not apply to the development, but the matters for consideration are reviewed as follows:

General subdivision layout – the proposed development is not for subdivision.

Buffers – Building envelopes with buffer areas were established at subdivision stage.

Erosion & sediment control – no construction works are proposed.

Roads and access – Council’s Engineer has not required any access upgrading works.

Waste water – onsite effluent disposal is already in place for the development.

Water – water supply for the studio and dwelling is from rainwater tanks.

Flora & fauna – the land is cleared grazing land and highly disturbed from previous agricultural activities.

Buildings – there is no construction work required for this development. The land contains a dwelling and an art studio.

Utility services – all relevant utilities are already connected to the site.

Section 94 contributions – these do not apply to the development.

Noxious weeds – not applicable.

79C (a)(iia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, that apply to the land to which the development relates

There are no such agreements relevant to this proposal.

79C (a)(iv) any matters prescribed by the regulations that apply to the land to which the development relates

There are no such matters relevant to the development.

79C (a)(v) Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development relates

Not applicable to this development.

79C (b) the likely impacts of that development

Context and setting

The development suits the site in regards to setbacks, and the built form, and will not detract visually from existing development in the area. The landscape is flat cleared grazing land with a slight slope to the road. Other allotments in the subdivision are occupied by dwellings and ancillary buildings with some landscaping or vegetation at present. Impact on context and setting is likely to be minimal, as all activities would be inside the studio building.

Access, transport and traffic

The proposed development is not expected to generate significant additional traffic. The developer expects approximately 2 clients/cars per day. Council's Engineer has not required and upgrading or construction works for the development, and Council has assessed the parking availability on site as adequate for the development.

Services/utilities

The proposed development is connected to electricity and telephone. Rain water tanks and an onsite effluent system are also in place to serve the building. The cost of any service/utility enhancement would be borne by the developer.

Site design, internal design and construction

The existing studio is located toward the centre of the allotment just to the west and slightly behind the existing dwelling, and would be accessed directly off Buesnel Lane.

The studio contains a toilet and shower but is not intended for habitation, being purely for use as an art studio. The building was originally constructed for the same purpose, but for conventional art activities.

The development should be carried out in keeping with industry standard, with limitations to the hours of operation.

Hazards – technological, natural

There are no particular known technological or natural hazards relevant to the development.

Noise and vibration

There are no known vibration impacts relevant to the development. Noise impacts relating to traffic (2 vehicles per day) would be minimized through hours of operation.

Environmental impact – flora, fauna, land resources, air and water pollution, micro climate

There are no matters such as flora, fauna or land resources relevant to the development. The site is within a highly disturbed landscape where exotic vegetation predominates. It is unlikely that there would be any significant environmental impact.

Water

Stormwater is currently directed around and away from the buildings, not onto adjoining properties, but to the existing drainage system in Buesnel Lane. Roof water is captured by rainwater tanks.

Waste

Waste associated with the development should relate mainly to medical waste, which would be appropriately collected, stored and removed off site to an approved waste facility by a licensed contractor, in accordance with the *Public Health Regulation 2012*.

Safety, Security and Crime Prevention

The proposed development should not lead to issues relating to safety, security or crime prevention, or health issues for the wider community, if carried out in line with relevant legislation and licensing. It is on private fenced land, with no general public access. Security would be ensured through lockup and adherence to approved hours of operation.

Licensing under the *Tattoo Parlours Act 2012* ensures rigorous examination of the background and associations of the operator to ensure suitability.

In the matter of *Siotis v Hurstville City Council [2012] NSWLEC 1338*, an appeal was held against the refusal by Hurstville City Council of a DA for the fit-out and use of a premises for use as a tattoo parlour. In upholding the appeal, Commissioner CT Brown would have appeared to support comments made by Mr Rigg for the Council, that concerns expressed by councillors, which centered on the potential undesirable persons that may operate the premises and that the premises may be frequented by people who may unacceptably impact on the amenity and social environment of the area, were significantly addressed through the enactment of the *Tattoo Parlours Act 2012*.

Economic impact

The proposed development may lead to local income generation, and associated flow on effects in the Millthorpe community.

Social Impact

From the information available to Council, the proposed development is not expected to have significant social impact on the community. The amenity issues have been addressed by the developer, and the activity is not expected to create landuse conflict. The studio will enable greater enjoyment by the landowner of the premises without significant impact on neighbouring properties, in line with the underlying intention of the original approval as an artist's studio.

However, a perceived adverse impact is demonstrated by the submissions received from local residents and these are discussed below.

Cumulative impact, Principles of Ecologically Sustainable Development, Sustainability and Climate Change**Cumulative Impact**

Cumulative impact relates to the operation of a small business within the rural area. The objectives of the zone, as considered in this report, are satisfied. Conditions of consent could reinforce these provisions. A tattoo/art studio is permissible in the zone subject to conditions of consent which would dictate operations to protect the general wellbeing of the community from landuse conflict.

Climate Change

The NSW Sea Level Rise Policy Statement 2009 outlines the Government's objectives and commitments in regards to sea level rise adaptation. A key Government commitment is that it will promote and support an adaptive risk-based approach to managing the impacts of sea level rise. The proposal would not significantly contribute to climate change and will not change the risk profile of the site in regard to the impacts of sea level rise.

Ecologically Sustainable Development

All potential environmental interactions should have regard for the Precautionary Principle (prevent environmental degradation and protect local environment), Inter-generational Equity (not to compromise the environment for future generations), Improved Valuation and Pricing of Environmental Resources (to utilize the land with minimal environmental impact to result in an economic benefit to the community) and conservation of biological diversity and ecological integrity. The proposal would not present significant threats of serious or irreversible environmental damage, and the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations, for the conservation of biological diversity and ecological integrity.

Other

The following impacts have been considered and are not relevant to the proposal: bushfire, heritage, flooding and contamination.

79C (b) Suitability of the site for the development

The above assessment details the aspects of the development which determine its suitability for the site. Although it would require minimal utility enhancement, it may generate some additional traffic, though not significant. The development may not be completely compatible with the perceived expectations of adjoining residents and their rural lifestyle. It may be more suitable to an urban or commercial centre, but the low key nature of the proposal and the chance being taken by the developer to locate out of town in the hope of drawing customers will dictate the success of the proposal, subject to restrictions as set down in the conditions of consent.

79C (d) Any submissions made in accordance with this Act or the Regulations

The development was notified to adjoining landowners from 6 November 2014 for 14 days, and submissions were received, along with a petition containing eleven signatures. Upon notification of the submissions received by Council the developer contacted neighbours to reassure them of his intentions through issuing to them a written explanation of his proposed business operations.

The issues raised by the submissions are considered as follows:

- The proposed development may bring an unnecessary risk to the neighbourhood, in the type of people which it may attract.
Developer response: The studio should bring no risk whatsoever – I'm not sure what is meant by "the type of people which may attract". Tattoo art has moved very much into mainstream Australia – my clients come from all walks of life, all ages and stages. People get tattoos for many reasons including fashion, celebration, bereavement and statement.
Council comment: The type of clientele will vary and it is not within Council's assessment responsibilities to make judgment on the type of people attending the studio. The licensing process scrutinizes the background and associations of the operator to ensure suitability for the position.
- This was intended as a rural residential area, not a business area, especially for businesses that may have an adverse impact on the local area.
Developer response: There are already other businesses operating in the area, and I am unsure what adverse impact my business would have given the small number of clients, the lack of noise or other disturbance and the small impact of traffic.
Council comment: Small businesses as these are permissible within this rural small holdings zone, each one subject to impact assessment on merit.
- The applicant has not addressed the development standards in their application which may apply to the development, and their rights to the zoning of the land.

Developer response: What developer standards have not been met? The property has been approved as a stand-alone artist studio – I will be utilizing the building for the same purpose.

Council comment: The developer has not addressed any possible development control plans on the application form, because although DCP No. 3 Rural Residential Development applies to the land, it does not apply to the development. The DCP relates mainly to subdivision and building works. The use is permissible in the zone and any landowner has the right to apply for similar development.

- How can Council police the hours of operation? It should not be up to residents to address this issue, should it arise.

Developer response: Council should not need to police the hours of operation any more than they police other business in the area. As the business is a sole operator the hours will be kept to the hours stated in the original application.

Council comment: The hours/days of operation are reasonable for the scale of development proposed. Operation outside these would be in breach of any development consent.

- The application has suggested 2 clients per day. However, what about the people who may attend along with the clients. These may impact upon traffic volumes.

Developer response: The nature of tattoo is a precise art and does not benefit from an audience. At most there may be one support person accompanying a client.

Council comment: The developer has suggested that there is a possibility of only one person attending as a visitor, with each client, in use of the studio. It is reasonable to assume that these persons would attend the site in the one vehicle. It is unlikely that traffic volumes will significantly increase.

- Car parking and manoeuvring on the site will not comply with regulatory requirements for car parking for a business.

Developer response: There is ample parking available on site for the few vehicles involved.

Council comment: Council is satisfied that the area around the studio can accommodate the car parking demand to be generated by the development.

- How many visits will be required by “Pink Hygiene Solutions” to the site for sufficient waste disposal? This adds to the traffic.

Developer response: Pink Hygiene Solutions will be required to visit the site once a month. This will have less impact than normal rubbish collection.

Council comment: The developer advises that Pink Hygiene will attend the site monthly, and as such this will not constitute a marked increase in traffic.

- How is the developer going to achieve “environmental sustainability” as set down in his application?

Developer response: “Environmental sustainability” – there is minimal impact on the environment by the industry and certainly I will have no impact to the local environment.

Council comment: As all activities are completely within the building it is unlikely that environmental sustainability will be adversely impacted upon. Waste management is set down by legislation, and licensing by Dept of Fair Trading requirements is in place for 3 years. By this time the developer will know if the business is sustainable at its proposed level in regards to the environment and the community.

- How is the developer going to address the needs for disabled – parking and bathroom facilities? The disabled could not open the manually operated gate to the property.

Developer response: Anyone requiring assistance through the gate will be given help. We have no plans to provide disabled facilities. It was not required with the original DA approved for an artist studio.

Council comment: The proposed development does not include construction work and therefore no requirements are applicable in regard to disabled access for the site or the building. The developer advises in this regard, and has general responsibilities under the *Disabilities Discrimination Act* to assist in access to the site and the building if required.

- How is the developer to address the fire code for operating a business?
Developer response: The building already complies with fire codes. As a business our insurance also requires we keep an up to date fire extinguisher on site.

Council comment: The business in the studio will mean the building is a class 6 building classification under the Building Code of Australia. Under that classification the proposed development is to be carried out within a building for the delivery of a service to the public. As a result in change of building classification three minor upgrades are required to comply with parts; D2.20 (hold open device on the door), D2.21 (confirmation of a lever latch on the door) and E1.6 (portable Fire Extinguisher) of the Building Code of Australia.

- Council should consider its duty of care to the residents of Buesnel Lane to ensure the peaceful nature of the street is maintained and the safety of the families also.

Developer response: I see no reason that the peaceful nature of Buesnel Lane will be impacted. I have selected this property so my business can operate quietly, where my clients will have privacy within a pleasant environment. There will be no noise, minimal traffic (at most two cars a day), no signage to impact on even the closest properties.

Council comment: Council assesses the development as having minimal adverse impact on the residents of Buesnel Lane and surrounds, as noise would be minimal, traffic increases would be insignificant, activities are completely within the building, no signage is proposed, and all required licensing would be in place. No signage is required for the development. Clients are by appointment only, and all advertising for the business is to be via Facebook and a webpage. However, within this assessment Council has had regard for the perceived impacts as set down in the submissions received.

- The commercial uses proposed under the subject development application are not in accordance with the relevant zoning and if approved, would have a detrimental effect upon surrounding properties and occupants.

Developer response: We are unsure what detrimental effect the business would have. Once operational it is unlikely people would even know it is there. Certainly there will be minimal impact on traffic, 1-2 cars per day, no noise and no signage.

Council comment: The development as a tattoo/art studio is permissible in the zone with consent and environmental impact is assessed as minimal.

- The development does not comply with the definitions of “*home industry*”, “*home occupation*” as set down in the LEP, in that the development proposed uses involve interference with the amenity of the neighbourhood by reason of generation of waste water, creation of waste products, traffic generation and creation of health risks. As such they are prohibited in the R5 zone.

Developer response: My understanding is that the business falls within the definitions of “home industry”. There will be no interference with the amenity of the neighbourhood. There will be no impact from any of the mentioned – no generation of wastewater or products, minimal traffic generation and absolutely no health risk.

Council comment: The zone of this land is not R5, but 1(c) Rural Small Holding. The use is permissible in the zone with consent. The definition of the activity falls under a commercial use, and as such is assessed on its merits. Traffic impacts are not expected to be significant. No effluent waste water is generated that cannot be accommodated by the existing effluent disposal system. Solid waste (medical waste) management and health risk is to be managed efficiently and effectively by regulation and compliance, and regular inspections by Council staff.

- The potentially serious and deleterious effects which operation of a tattoo parlor may have upon a local community are also reflected within the rigorous licensing requirements set for operators and for premises upon which tattooing is conducted.

Developer response: I am unsure of what harm or damage to the local community would be felt from operating an artist's studio. Tattoo art has moved very much into mainstream Australia – my clients come from all walks of life, all ages and stages. People get tattoos for many reasons including fashion, celebration, bereavement and statement. I have recently been through the very rigorous process of gaining a license to operate a studio in NSW, which has included police checks from Federal and NSW agencies.

Council comment: The developer would obtain all relevant licensing required for the development, with complete compliance with all relevant legislation. The relevant licenses would be displayed on the premises and copies provided to Council as a condition of consent.

- The use of an outbuilding on a large residential block as a tattoo studio is entirely inappropriate. The proposal for only 2 customers per day is incapable of monitoring or enforcement. Customers visiting a commercial enterprise which is set within a residential area of itself disturbs the amenity of the area.

Developer response: Utilising a purpose built art studio on a large block seems entirely appropriate. There are many businesses operating from residential properties in the area with little or no impact on the amenity of the area. Many of these businesses have multiple clients and cars per day. Most would be seen as a benefit to the area. I only have capacity to work on up to 2 clients per day so monitoring will not be required.

Council comment: The landuse is permissible in the zone with consent as a commercial use. Amenity disruption is minimised through low traffic numbers, no signage, efficient waste management, ongoing licensing and limit to hours of operation.

- Increased traffic is fraught with inherent risk to the safety of residents.

Developer response: As stated in the original application there will be little impact on traffic in the area. I would expect 1-2 cars only per day.

Council comment: It is unlikely that traffic numbers will increase significantly.

- In the use of the relevant building as a tattoo studio, regard must be had to relevant NSW legislative requirements which clearly reflect the health risks posed by operation of tattoo studios and the need for strict regulatory enforcement. eg. *Public Health Regulation 2012*, Divisions 2, 3, 4, *Public Health Act 2010*, Divisions 4, 5, and the fact sheet, NSW Dept of Health *Tattooing and Other Body Art – Hygiene Standards* – 27 March 2013.

Developer response: All hygiene regulations will be adhered to. The premises are perfectly suited to the operation of the studio. Having taught hygiene practices, my standards are extremely high and will continue to be so.

Council comment: Both Council and the developer have had regard for all regulations. Relevant licenses will be obtained, displayed on site and copies provided to Council. Required inspections will be carried out by Council when required by law.

- The development is prohibited by relevant zoning, presents a serious and inappropriate interference with the amenity of the surrounding area, and presents an avoidable and unacceptable risk to the health of the surrounding community.

Developer response: As stated previously there will be no health risk whatsoever to the area or its community.

Council comment: The use is permissible in the 1(c) zone with consent as a commercial use, to be assessed on merit. Traffic impacts are not expected to be significant. No waste water is generated that cannot be accommodated by the existing effluent disposal system. Solid medical waste management and health risk is to be managed efficiently and effectively by regulation and compliance, and regular inspections by Council staff.

- No wish to have urban type and fringe “odd” businesses operating nearby. It is more suited to a CBD area. An art studio is very different from a tattoo studio. This is a quiet rural country estate not a mid-centre town city centre environment, and the tattoo studio is inappropriate in the front paddock of a rural property.

Developer response: The business is a legitimate, legal art form of art. The studio is situated behind the residence at Buesnel Lane – not in the front “paddock”.

Council comment: The studio is located to the west and slightly behind the dwelling. The use is permissible in the zone with consent, and amenity is not expected to be significantly adversely impacted upon.

- An art studio for commercial purposes would also be inappropriate – cars arriving and leaving, the noise, the traffic and more.

Developer response: Once again there will be minimal if any impact on traffic, and no noise.

Council comment: Traffic numbers are not expected to increase significantly, and minimal noise is expected from the tattoo/art activities. The studio will also display the operator’s paintings and portfolio for performing tattoo application.

- Why would customers want to travel all the way out of the city/CBD town centre to have tattoos done in a quiet rural environment? Very odd.

Developer response: I have customers that will travel from as far as Sydney to be tattooed by me. I do not want to work in a CBD environment.

Council comment: It is not for Council to comment on the origin of clientele. The background and associations of the operator are extensively canvassed during the licensing process. Such a quiet rural environment may actually be conducive to the operation of such a low key activity.

The development does not meet the needs or requirements of the inhabitants of the surrounding community and threatens their right to a quiet country tranquil lifestyle. They do not want a stream of unknown people travelling in and out in cars, bikes all week.

Developer response: The community of Millthorpe have been very supportive of the proposed business. Many have stated an interest in having work done. In the original application we discussed the impact of one or two clients at most per day, creating minimal impact and certainly not a “stream” of people. I work by myself so can only see one to two clients per day.

Council comment: The business is not only designed to specifically address the needs of the immediate community, but also the wider community. The frequency of visitation is not expected to impact greatly upon general amenity in the area.

- Serious security (additional unknown traffic and activity) and possible bio-hazard concerns as well.

Developer response: There will be no “serious security” issues. Traffic increases will be minimal. There will be no “bio-hazards” or security issues.

Council comment: Bio-hazard risk is addressed through attention to legislation in waste disposal. The developer expects to receive only two clients a day as he is a sole operator, therefore security risk is minimal. Medical waste would be appropriately collected and stored within the studio building, for removal off site by regular monthly visits by a contractor.

Traffic numbers are not expected to be significant, and all aspects of the activity are to be carried out within the studio building.

- Residents have restrictions on their own properties of what they can do and build, and they respect that, and agree with it, which is why they purchased these properties.

Developer response: I understand that a DA is required and respect the process.

Council comment: The application if approved would be subject to conditions, and relevant legislation. Penalties apply for non-compliance.

Petition: The petition received wished to record objection, and request that the use not be permitted. It suggests that the use is inconsistent with the amenity of the local area and asked Council to refuse the application.

Council comment: No reasons for the inconsistency are given.

Conclusion: It is clear from the objections received that some members of the community regard tattoo parlors as socially undesirable and likely to attract undesirable persons. It is also apparent that tattoos are popular amongst a wider section of the community as in previous times. In this respect the developer has had regard for the issues raised, and has provided responses to these matters, details about his background and the licenses now required for the development to occur. The developer has undertaken training people in tattoo art and the health and safety issues associated with the industry, and has travelled in Australia and New Zealand tattooing, illustrating and studying art, and believes that the business will be a genuine artistic activity, offering the service in a quiet, non-intimidating environment.

79C (e) The public interest

There are not expected to be any further significant impacts on the public interest from this development, other than those considered above. There are no other relevant State or Federal policies, no easements, covenants or service provision matters. The general public interest has been considered in this assessment, and in the applicant's responses to the issues raised by the submissions.

In particular Council should have regard for the findings in the matter of *Harris v Hurstville City Council [2012] NSWLEC 1224*, which related to the Council's refusal of a development application for the conversion of an existing shop containing a funeral home to include a mortuary, and the weight to be given to public interest considerations.

Commissioner Hussey noted that

".....whilst issues of taste and morality are not necessarily set aside in the consideration of amenity, especially where there is a great offence to a large portion of the community, evidence on amenity impacts must be objectively assessed before a finding can be made of an adverse effect on the amenity of the area....little, if any, weight could be given to amenity impacts if there is not objective, specific, concrete, observable likely consequence. Even where an objective assessment is possible, it should be kept in mind that there remains room for opinions to differ in weighting the same objective criteria."

The Commissioner held that, especially in the absence of expert evidence, the objections based on psychological impact and the offensive nature of the [mortuary] should be given diminished weight. There was no specific evidence in the matter which demonstrated widespread offence to the community arising from the limited expansion and change of use of the development. The appeal was upheld and development consent granted.

Conclusions

The proposed development has been assessed under the provisions of all relevant legislation, and found to be suitable for the site and the locality. Siting and operational arrangements can ensure land use conflict is minimized, with regard to the expectations of the community for a rural living lifestyle. Legislative requirements minimise risk and hazard in regard to business operation and waste management.

However, Council must have regard for the issues raised in the submissions, which reveal perceived concerns about the operation of the development.

BUDGET IMPLICATIONS

No budget implications.

POLICY IMPLICATIONS

Assessment undertaken as per legislation.

IP&R LINK

DP 3.4.1 – Pursue sustainable land use practices based on the protection and restoration of natural resources, innovative land use policies and government and community partnerships.

DP5.4.1 Develop and implement a community engagement process and policy

Attachments

- | | | |
|---|-----------------------|---------|
| 1 | Plans | 2 Pages |
| 2 | Conditions of Consent | 2 Pages |

09) **MINUTES OF THE BLAYNEY SHIRE ACCESS ADVISORY
COMMITTEE MEETING HELD ON 12 FEBRUARY 2015**
(Director Planning and Environmental Services)

RECOMMENDED:

1. That the recommendations of the Blayney Shire Access Advisory Committee meeting held on 12 February 2015 be adopted.

Attachments

- 1 Access Advisory Committee Minutes 12/2/2015 3 Pages

10) **MINUTES OF THE BLAYNEY SHIRE AUDIT COMMITTEE
MEETING HELD ON 18 FEBRUARY 2015**
(Director Corporate Services)

RECOMMENDED:

1. That the Minutes of the Blayney Shire Audit Committee meeting held 18 February 2015, be received and noted.

REPORT

The minutes of the Blayney Shire Audit Committee meeting held on 18 February 2015 are attached.

BUDGET IMPLICATIONS

Costs associated with holding of Audit Committee meetings and associated service reviews have been provided for in Council's 2014/15 budget.

POLICY CONSIDERATIONS

Nil effect.

IP&R LINK

DP6.3.1 Provide a framework for the efficient and effective administration of Council.

Attachments

- 1 Blayney Shire Audit Committee minutes 2 Pages

11) **MINUTES OF THE BLAYNEY SHIRE ECONOMIC
DEVELOPMENT COMMITTEE MEETING HELD ON
19 FEBRUARY 2015**
(General Manager)

RECOMMENDED:

1. That the Minutes of the Economic Development Committee Meeting, held on Thursday 19 February, be received and noted.

Attachments

- 1 Economic Development Committee Minutes 19/02/15 2 Pages

12)

**MINUTES OF THE BLAYNEY SHIRE SPORTS COUNCIL
MEETING HELD ON 19 FEBRUARY 2015**

(Director Infrastructure Services)

RECOMMENDED:

1. That the Minutes of the Blayney Shire Sports Council Meeting, held on Thursday 19 February 2015, be received and noted.

Attachments

- | | | |
|---|---|------------|
| 1 | Blayney Shire Sports Council Meeting Minutes 19 February 2015 | 4
Pages |
|---|---|------------|

- 13) **MINUTES OF THE BLAYNEY SHIRE CEMETERY FORUM
MEETING HELD ON 26 FEBRUARY 2015**
(Director Planning and Environmental Services)

RECOMMENDED:

1. That the Minutes of the Blayney Shire Cemetery Forum Meeting, held on 26 February 2015, be adopted.

Attachments

- 1 Cemetery Forum Minutes 26/02/2015 2 Pages

Matters to be dealt with in 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.

14) LAND ACQUISITION FOR ROAD WIDENING AT 280 FOREST REEFS ROAD, MILLTHORPE.

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.

15) 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.

16) GENERAL MANAGERS PERFORMANCE AGREEMENT

This matter is considered to be confidential under Section 10A(2) (a) of the Local Government Act, as it deals with personnel matters concerning particular individuals.