

Blayney Shire Council



6 March 2013

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 March 2013 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 11.02.13
- (5) Matters arising from Minutes
- (6) Disclosures of Interest
- (7) Reports of Staff
 - (a) Corporate Services
 - (b) Engineering Services
 - (c) Environmental Services
- (8) Committee Reports

Yours faithfully

Anton Franze
ACTING GENERAL MANAGER

DRAFT MEETING SCHEDULE

Monday 11	6.00 pm	Blayney Ordinary Meeting of Council	BSCC
		<i>Central West Libraries date to be released</i>	
APRIL 2013			
Friday 5	2.30 pm	Upper Macquarie County Council	Kelso
Monday 8	6.00 pm	Blayney Ordinary Meeting of Council	BSCC
Wednesday 10	10.30 am	Central Tablelands Water Council Meeting	Blayney
MAY 2013			
Wednesday 1	10.00 am	WBC Board	Cabonne
Friday 3	2.30 pm	Upper Macquarie County Council	Kelso
Monday 6	4.00 pm	Councillor Workshop – Budget documents, & Operational Plan 2013/14	
Friday 10	9.00 am	NSW Association of Mining Related Councils	
Saturday 11*	9.30	Lachlan Regional Transport Committee	
Monday 13	6.00 pm	Blayney Ordinary Meeting of Council	BSCC
Tuesday 14*		Arts OutWest	
JUNE 2013			
Friday 1	2.30 pm	Upper Macquarie County Council	Kelso
Monday 3	4.00 pm	Councillor Workshop	BSCC
Wednesday 12	10.30 am	Central Tablelands Water Council Meeting	Molong
Monday 17	6.00 pm	Blayney Ordinary Meeting of Council	BSCC
JULY 2013			
Wednesday 3	10.00 am	WBC Board	Blayney
Friday 5	2.30 pm	Upper Macquarie County Council	Kelso
Monday 8	6.00 pm	Blayney Ordinary Meeting of Council	BSCC
AUGUST 2013			
Friday 2	2.30 pm	Upper Macquarie County Council	Kelso
Wednesday 7	10.30 am	Central Tablelands Water Council Meeting	
Friday 9	9.00 am	NSW Association of Mining Related Councils – Executive	
Monday 12	6.00 pm	Blayney Ordinary Meeting of Council	BSCC
Thursday 22	10.00 am	Centroc Board	

** To be confirmed*

Please note there may be changes to the above meeting schedule, however the intent is to provide a guide as to the frequency of meetings over the coming twelve months.

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HELD ON MONDAY 11 MARCH 2013

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CORPORATE SERVICES REPORTS
PRESENTED TO THE BLAYNEY SHIRE COUNCIL
MEETING HELD ON MONDAY, 11 MARCH 2013



01) REPORT OF COUNCILS INVESTMENTS AS AT 31 JANUARY 2013
 (Manager Financial Services)

RECOMMENDED:

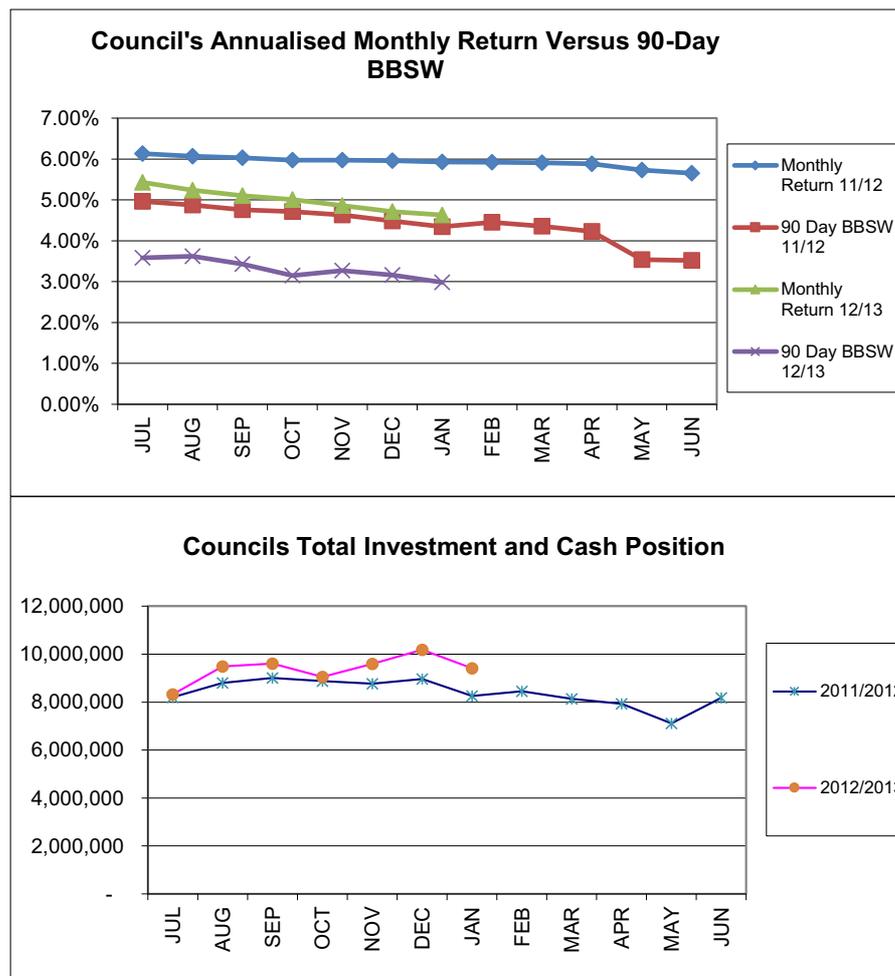
1. That the report indicating Council’s investment position as at 31 January 2013 be received and noted.

REPORT

This report provides details of Council’s Investment Portfolio as at 31 January 2013.

Council’s total investment and cash position as at 31 January 2013 is \$9,413,262. Investments earned interest of \$37,891 for the month of January 2013.

Council’s monthly net return annualised for January of 4.63% outperformed the 90 day Bank Bill Swap Rate of 3.05%.



REGISTER OF INVESTMENTS AND CASH AS AT 31 JANUARY 2013

Institution	Maturity	Amount \$	Monthly Net Return Annualised
<u>Term Deposits</u>			
NAB	4/02/2013	500,000.00	5.13%
Bankstown City Credit Union	4/03/2013	500,000.00	4.30%
Rural Bank	4/06/2013	500,000.00	4.55%
Beirut Hellenic Bank Ltd	16/04/2013	500,000.00	4.55%
The Rock Building Society	12/03/2013	500,000.00	4.45%
ME Bank	13/02/2013	500,000.00	4.80%
Defence Bank Ltd	26/02/2013	500,000.00	4.65%
Bank of Queensland	5/02/2013	500,000.00	4.65%
Railways Credit Union	19/02/2013	500,000.00	4.43%
IMB	3/04/2013	500,000.00	4.40%
Police & Nurses Credit Union	7/02/2013	500,000.00	4.38%
Gateway Credit Union	26/02/2013	500,000.00	4.41%
ING	30/07/2013	500,000.00	4.49%
Peoples Choice	16/04/2013	500,000.00	4.46%
B & E Ltd	16/04/2013	500,000.00	4.45%
Police Credit Union	26/03/2013	500,000.00	4.71%
Warwick Credit Union	19/02/2013	500,000.00	5.17%
Total		8,500,000.00	4.54%
<u>Collateralised Debt Obligation (CDO's)</u>			
ANZ Custodian (Kakadu, BBSW + 140 points)	20/03/2014	500,000.00	4.55%
Total		500,000.00	4.55%
Total Investments		9,000,000.00	4.54%
Benchmark: BBSW 90 Day Index			3.05%
Commonwealth Bank - At Call Account		365.13	
Commonwealth Bank Balance		412,897.31	
TOTAL INVESTMENTS & CASH		9,413,262.44	

Summary of Investment movements - JANUARY		
Financial Institution	Invst/(Recall) Amount \$	Commentary
<u>Term Deposits</u>		
B&E Ltd	500,000.00	Term Deposit invested 09/01/2013
B&E Ltd	(506,376.71)	Term Deposit matured 09/01/2013
Beirut Hellenic Bank	500,000.00	Term Deposit invested 15/01/2013
Beirut Hellenic Bank	(506,309.59)	Term Deposit matured 15/01/2013
ING	500,000.00	Term Deposit invested 30/01/2013
ING	(512,960.41)	Term Deposit matured 30/01/2013

Collateralised Debt Obligations (CDO's)

As per Council's Auditor recommendations the disclosure of the impact of market conditions on the value of the Collateralised Debt Obligations held is provided. It is estimated by ANZ Custodian Services that the market value of Kakadu is \$168,318 as at 31 January, 2013. It is anticipated that as the investment draws near to maturity the market value will increase. Council is also involved in ongoing legal action to minimise any losses.

Council's monthly net return annualised for January on the CDO is 4.55% outperforming the 90 day Bank Bill Swap Rate of 3.05%.

CERTIFICATION – RESPONSIBLE ACCOUNTING OFFICER

I, Chris Hodge, 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

02) REPORT OF COUNCIL INVESTMENTS AS AT 26 FEBRUARY 2013
 (Manager Financial Services)

RECOMMENDED:

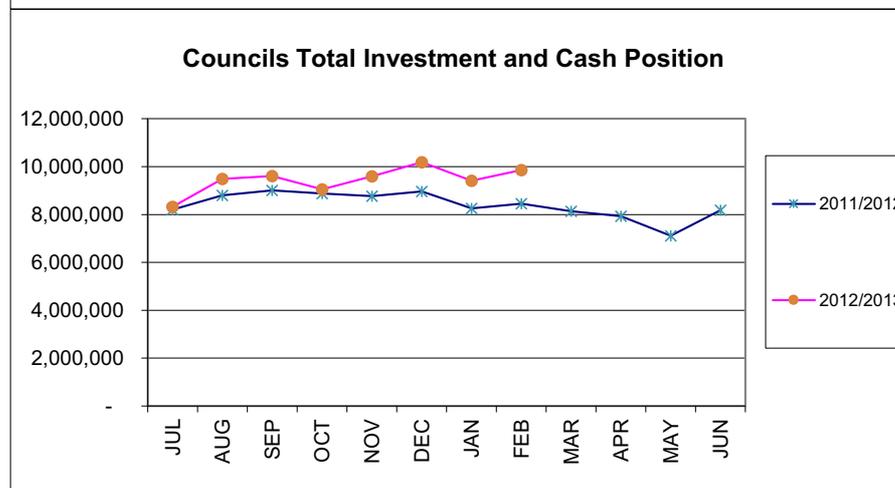
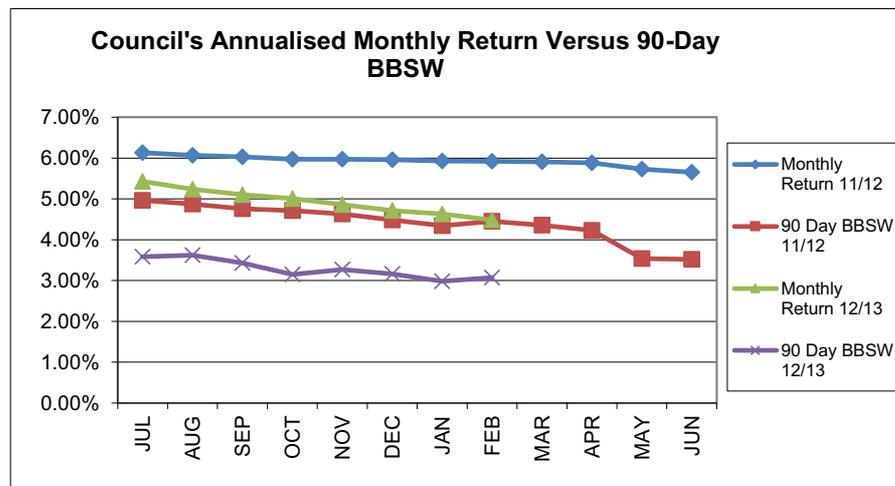
1. That report indicating Council’s investment position as at 26 February 2013 be received and noted.
2. That the certification of the Responsible Accounting Officer be noted and the report be adopted.

REPORT

This report provides details of Council’s Investment Portfolio as at 26 February 2013.

Council’s total investment and cash position as at 26 February 2013 is \$9,855,753. Investments earned interest of \$32,708 for the month of February 2013.

Council’s monthly net return annualised for February of 4.48% outperformed the 90 day Bank Bill Swap Rate of 3.07%.



REGISTER OF INVESTMENTS AND CASH AS AT 26 FEBRUARY 2013

Institution	Maturity	Amount \$	Monthly Net Return Annualised
<u>Term Deposits</u>			
NAB	9/07/2013	500,000.00	4.24%
Bankstown City Credit Union	4/03/2013	500,000.00	4.30%
Rural Bank	4/06/2013	500,000.00	4.55%
Beirut Hellenic Bank Ltd	16/04/2013	500,000.00	4.55%
The Rock Building Society	12/03/2013	500,000.00	4.45%
ME Bank	21/05/2013	500,000.00	4.35%
Bank of Queensland	8/05/2013	500,000.00	4.25%
Railways Credit Union	18/06/2013	500,000.00	3.96%
IMB	3/04/2013	500,000.00	4.40%
Police & Nurses Credit Union	15/05/2013	500,000.00	4.24%
Gateway Credit Union	4/06/2013	500,000.00	4.21%
ING	30/07/2013	500,000.00	4.49%
Peoples Choice	16/04/2013	500,000.00	4.46%
B & E Ltd	16/04/2013	500,000.00	4.45%
Police Credit Union	26/03/2013	500,000.00	4.71%
Warwick Credit Union	23/07/2013	500,000.00	3.81%
Total		8,000,000.00	4.34%
<u>Collateralised Debt Obligation (CDO's)</u>			
ANZ Custodian (Kakadu, BBSW + 140 points)	20/03/2014	500,000.00	4.55%
Total		500,000.00	4.55%
Total Investments		8,500,000.00	4.09%
Benchmark: BBSW 90 Day Index			3.07%
Commonwealth Bank - At Call Account		365.13	
Commonwealth Bank Balance		1,355,387.50	
TOTAL INVESTMENTS & CASH		9,855,752.63	

Summary of Investment movements - FEBRUARY		
Financial Institution	Invst/(Recall) Amount \$	Commentary
<u>Term Deposits</u>		
Bank of Queensland	500,000.00	Term Deposit invested 05/02/2013
Bank of Queensland	(505,796.58)	Term Deposit matured 05/02/2013
Police & Nurses Credit Union	500,000.00	Term Deposit invested 07/02/2013
Police & Nurses Credit Union	(505,520.00)	Term Deposit matured 07/02/2013
NAB	500,000.00	Term Deposit invested 08/02/2013
NAB	(512,930.42)	Term Deposit matured 08/02/2013
ME Bank	500,000.00	Term Deposit invested 13/02/2013
ME Bank	(507,890.41)	Term Deposit matured 13/02/2013
Warwick Credit Union	500,000.00	Term Deposit invested 19/02/2013
Warwick Credit Union	(505,825.76)	Term Deposit matured 19/02/2013
Gateway Credit Union	500,000.00	Term Deposit invested 26/02/2013
Gateway Credit Union	(505,920.27)	Term Deposit matured 26/02/2013
Defence Bank Limited	(505,669.18)	Term Deposit matured 26/02/2013

Collateralised Debt Obligations (CDO's)

As per Council's Auditor recommendations the disclosure of the impact of market conditions on the value of the Collateralised Debt Obligations held is provided. It is estimated by ANZ Custodian Services that the market value of Kakadu is \$168,318 as at 31 January, 2013. It is anticipated that as the investment draws near to maturity the market value will increase. Council is also involved in ongoing legal action to minimise any losses.

Council's monthly net return annualised for January on the CDO is 4.55% outperforming the 90 day Bank Bill Swap Rate of 3.07%.

CERTIFICATION – RESPONSIBLE ACCOUNTING OFFICER

I, Chris Hodge, 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

03) **2012 ELECTION EXPENSES**
(Director Corporate Services)

RECOMMENDED:

1. That the report on the 2012 Election expenses be noted.

REPORT

A report was provided to Council in July 2012 on the conduct and anticipated expenditure of the 2012 Local Government Election for Blayney Shire.

Final invoices have been received and costs have now been finalised for this activity.

The total cost incurred was \$51,357, slightly exceeding Council's budget of \$50,000. The total cost was represented by the following:

Election costs (NSW Electoral Commission)	\$44,307
Statutory advertising	\$ 6,499
Community Centre hire (Pre-poll)	\$ 550

The NSW Electoral Commission costs were within the quotation forecast provided.

Council did incur increased expenditure as a consequence of running the Pre-poll, external from Council operations, in the Blayney Shire Community Centre. This was considered a priority to keep the election at "arm's length" from Council and for probity and transparency purposes.

BUDGET IMPLICATIONS

Council has provision of \$50,000 in the 2012/13 budget for conduct of the 2012 election. Expenditure in excess of this amount will be voted in the next budget review.

POLICY IMPLICATIONS

Nil effect.

IP&R LINK

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

Attachments

Nil

ENGINEERING SERVICES REPORTS
PRESENTED TO THE BLAYNEY SHIRE COUNCIL
MEETING HELD ON MONDAY, 11 MARCH 2013



04) BLAYNEY SHIRE BRIDGES
(Director Infrastructure Services)

RECOMMENDED:

1. That the report on Rural Fire Service concerns over Blayney Shire bridges be noted, and Councillors indicate an interest in attending a meeting to discuss the matter further.

REPORT

Executive Summary

The Manager of the Canobolas Zone of the NSW Rural Fire Service has recently expressed the concerns of Blayney Shire Group Captains in relation to the continued closure of bridges within the Shire.

A request has been made for a meeting to be held between the Zone Manager, RFS Group Captains, Blayney Shire Councillors and staff.

Background Information

In recent years, Council has identified concerns relating to timber bridge structures within the Shire, both as a result of maintenance issues and flood damage.

Following concerns associated with the impending failure of Carcoar Road bridge, in 2011 Council obtained further information on the condition of some of Council's timber bridges to enable Council to properly mitigate its risk, and assist in prioritising and planning replacement of the bridges.

A Level 2 inspection was undertaken by Local Government Engineering Services of three (3) timber bridges, being Carcoar Road, Garland Road, and Naylor Street.

In relation to Carcoar Road bridge, the report indicated severe decay within the piles, head stocks, and corbels in the pier closest to Carcoar. The extent of the decay was such that the bridge was no longer suitable for any traffic, and in desperate need of repair.

Due to the nature of the route that Carcoar Road provides, Engineering Staff considered the closure of the road to be an inconvenience, not greatly restricting motorist's ability to travel throughout the district.

The bridge remains officially closed to traffic.

BUDGET IMPLICATIONS

Council is currently considering its Long Term Financial Plan, with a view to reprioritising its bridge rehabilitation/replacement program for the period 2013/14 – 2022/23.

Carcoar Road Bridge is identified in 2017/18, however remains subject to funding availability.

POLICY IMPLICATIONS

Nil Effect

IP&R REFERENCES

DP 4.1.1 – Manage local road network to agreed service levels.

DP 4.1.7 – Plan for future transport and road infrastructure to service future needs.

DP 6.4.1 – Provide support for emergency management in Blayney Shire in accordance with SERM Act.

Attachments

Nil

05) TRUCK AND DOG PURCHASE
(Operations Manager)

RECOMMENDED:

1. That Council accept the tender provided by Inland Truck Centres – Dubbo for the supply of a Kenworth Tipping Truck and Dog Trailer for a total of \$325,498.80 (exc. GST) to replace Plant Nos. 49 and 159
2. That Council approve the purchase from Inland Truck Centres – Dubbo of an additional Dog Trailer for a total of \$73,984.00 (ex GST) to replace Councils existing Pig Trailer (Plant No. 160)
3. That Council vote expenditure, in the amount of \$309,483 to the 2012/13 budget funded from the Plant Reserve.

REPORT

Executive Summary

Blayney Shire Council, in conjunction with Wellington Council, undertook a request for tender through Local Government Procurement for the replacement of a truck and dog trailer for both Wellington and Blayney Councils. The tender received six (6) total submissions, with three (3) being conforming for Blayney Shire Council.

Submissions Summary

Suppliers were requested to submit separate pricing for the tipping truck and dog trailer, and also provide pricing if two (2) units were bought or just one (1), so that Council could determine any benefit offered through joint purchasing with Wellington Council.

Three (3) Single Purchase submissions were received from:

- Volvo Commercial Vehicles (Volvo);
- VCV – Mack Trucks Sydney (Mack); and
- Inland Truck Centre- Dubbo (Kenworth).

Three (3) Joint Purchase submissions were received from

- Volvo Commercial Vehicles (Volvo);
- VCV – Mack Trucks Sydney (Mack); and
- Inland Truck Centre- Dubbo (Kenworth).

The tender process highlighted that although there was a marginal financial benefit to joint purchasing with Wellington Council, it should be noted that other savings were identified through the joint tender process including development of the document, advertising costs, and shared quote assessment. Involving Local Government Procurement also allowed Council to take advantage of their network of suppliers, due diligence and comprehensive legal and probity systems.

Analysis of Quotes

The analysis of the tenders was undertaken based on the quoted price, the payload of the combination, a workshop assessment, and an operator assessment.

The payloads of the quoted combinations are as follows:

- Volvo 28.6 tonne
- Mack 29 tonne
- Kenworth 30.7 tonne

Council's current combination payload is approximately 21-22 tonne, with a total Gross Combination Mass (GCM) of 40.5 tonne. By utilising a dog trailer, it is possible to obtain a GCM of up to 48.5 tonne, which provides the payloads indicated.

Council officers inspected the three (3) conforming vehicles to determine their mechanical serviceability and their suitability for the operators. With the results of the assessment summarised below:

	Volvo	Kenworth	Mack
1. Whole of life cost 40% Price tendered plus maintenance costs	40	37	40
2. Combination Payload 20% Total tonnes combination is able to cart	19	20	19
3. Mechanical/Workshop Assessment 20% Passive safety, serviceability	12	15	13
4. Operator assessment 20% Input on ergonomics and features of truck related to driving task	13	15	12
TOTAL	83	87	85

From the assessment undertaken, it is considered that the Kenworth provides the best value for Council.

Benefits of Dog Trailer

Due to changes in Road Regulations, it is possible to run a higher GCM with a dog trailer than with Council's current pig trailers.

By conforming to particular dimension limits, and truck requirements, it is allowable to go up to a 48.5 tonne GCM with a truck and tri axle dog trailer. As can be seen above, the payload increase is in the order of 30%, with the capability to carry an additional 8 tonnes on the combination.

The effect that this additional payload of a dog trailer has on the cost to move material to a job site is substantial, providing up to 50% saving on haulage

costs per tonne of gravel, compared to transporting it with the rigid truck alone, whilst also delivering a substantial increase in productivity.

It is also worth noting that a truck and dog combination causes less damage to roads per 1000 tonne of material shifted than a rigid truck.

Replacement of Plant No. 160

Approval is also sought to bring forward the replacement of Plant No. 160, Council's other pig trailer, with a dog trailer as quoted.

The current pig trailer was purchased second hand by Council in 2004, and was constructed in 1986. It is scheduled for replacement in the 2013/14 financial year.

Given the increase in work being undertaken in recent years, the amount of unscheduled maintenance required on this item of plant has increased dramatically, with the downtime also increasing dramatically. The downtime is placing a severe restriction on Council's ability to complete construction jobs on time, and on budget.

It is anticipated that the maintenance needs on this item of plant will increase in the coming years, as the trailer is past its useful life and is in need of a complete overhaul to return it to a suitable standard that will offer reliable service.

Sale of Existing Plant Items

As the tender process was undertaken with Wellington Council, the decision was taken to not include the sale of the existing truck and trailers within this process to simplify it for potential suppliers.

It is proposed to dispose of the existing vehicles through an auction once the new items have been delivered. Council has received an estimate of \$45,500 for the purchase of the existing truck, which will be utilised to offset the purchase cost of the new truck.

Budget Available

The truck proposed for replacement in this quote was due for replacement in the 2011/12 financial year; however this was decided to be deferred to allow it to be purchased with a dog trailer for greater combination mass. A budget allocation of \$225,000 was available for its replacement last financial year, which has been retained in the plant replacement reserve, and is available this financial year.

The budget available for the replacement of the pig trailers is \$40,000 for plant item 159, and \$70,000 for plant item 160 in the 2013/14 financial year

The total purchase price of the truck and two (2) dog trailers will be \$399,480.8 with an available budget of \$335,000. This leaves an imbalance of \$64,480.80, of which it is expected that \$50,000 will be able to be funded by

the sale of the existing truck and pig trailers, with the remaining able to be funded through the plant reserve.

BUDGET IMPLICATIONS

The replacement of the truck (plant no. 33) is able to be funded from Council's Plant Replacement Reserve and will be voted into the 2012/13 budget.

The replacement of the pig trailer (plant no. 159) is funded through this year's budget with an additional \$14,480.80 to be voted into the 2012/13 budget.

The replacement of the pig trailer (plant no. 160) will be brought forward from the 2013/14 financial year given the close proximity to the start of the 2013/14 financial year, and be funded from the Plant Reserve. This will also be voted into the 2012/13 budget.

POLICY IMPLICATIONS

Nil Effect

IP&R References

DP 6.1.1 – Resource sharing and collaboration within WBC Alliance

DP 4.1.1 – Ensuring cost effective methods are available for maintenance of Councils road network

Attachments

Nil

ENVIRONMENTAL SERVICES REPORTS
PRESENTED TO THE BLAYNEY SHIRE COUNCIL
MEETING HELD ON MONDAY, 11 MARCH 2013



06) **REFUSAL OF DEVELOPMENT APPLICATION NO.203/2012 -
ERECTION OF A TOURIST INFORMATION SIGN - 3481 MID
WESTERN HIGHWAY, BLAYNEY**
(Senior Town Planner)

RECOMMENDED:

1. That Council refuse Development Application 203/2012 for the following reasons:
 - i. The “tourist facility” the subject of this signage does not fall within the definition as set down under the Model Provision, that is:
“an establishment providing for holiday accommodation or recreation and may include a boat shed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, house boat, marina, motel, playground, refreshment room, water sport facilities or a club used in conjunction with any such activities.
 - ii. The sign does not fall within the provisions of State Environmental Planning Policy No.64 (Advertising and Signage), for a tourist information sign.
 - iii. The proposed signage threatens the safety of the travelling public in the vicinity of an intersection, as it has the potential to distract drivers negotiating the intersection.
 - iv. The signage would compromise the rural landscape and the visual amenity of the approaches to the township of Blayney.
2. That Council seek to undertake an advertising sign analysis of the industrial precinct, and incorporate provision into the draft comprehensive development control plan which might allow industrial estate directory signage to be erected in an appropriate location within the Blayney industrial estate.

REPORT

Applicant:	O'Brien Wash & Go
Owner:	DJ & JE Price
Application No:	DA 203/2012
Zone:	RU1 Rural Landscape (formerly1(a) General Rural)
Date Received:	21 September 2012
Assessment No:	A335489 (formerly 2445-10000-7)
Property:	3481 Mid Western Highway, Blayney
Proposed Development:	Erection of Tourist Information Sign

Description of Proposal

The proposed development was to be located on the Mid Western Highway north east of Blayney CBD on a rural property. The site is located on the southern side of the Highway, and opposite the end of Guyong Road. The existing sign structure is currently located within a crown road reserve, but was to be relocated slightly to the north east onto private land. A sign board would then be erected on the structure.

The sign was intended to be a tourist information sign, to direct the travelling public to a tourist facility. The tourist facility was claimed to be the food/drink vending machines, amenities (toilet and shower) and “rest area” at O’Brien’s Wash & Go car wash facility, 900m to the south west.

The sign board was to be 4m x 2.4m in area, and the structure would be 3.9m high. It was to be located 1.5m in from the existing fence. The content of the sign related to a tourist facility, the car and truck wash, a dog wash and a rest area. It contained symbols relating to toilets, an ATM, a shower, food and drink, and the fact that the car wash facility is open 24 hours.

Assessment

An assessment report was placed before Council at its Meeting of 10 December 2012, which recommended refusal, for a number of reasons, as follows:

1. The “tourist facility” the subject of this signage does not fall within the definition as set down under the Model Provisions, that is:
“an establishment providing for holiday accommodation or recreation and may include a boat shed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, house boat, marina, motel, playground, refreshment room, water sport facilities or a club used in conjunction with any such activities.”
2. The sign does not fall within the provisions of State Environmental Planning Policy No.64 (Advertising and Signage), for a tourist information sign.
3. The signage threatens the safety of the travelling public in the vicinity of an intersection, as it has the potential to distract drivers negotiating the intersection.
4. The signage would compromise the rural landscape and the visual amenity of the approaches to the township of Blayney.

Following discussion, and consideration of the recommendation, Council resolved:

“That Council consult with Roads and Maritime Services to permit the erection of a business sign board on or adjacent to the Mid-Western Highway at Marshalls Lane to allow the public to identify businesses located within the industrial estates.”

The RMS was advised of Council's resolution via letter of 9 January 2013, and a response was received, dated 30 January 2013. The RMS drew Council's attention to Clause 15 of *State Environmental Planning Policy No. 64 (Advertising and Signage)*, which states that a consent authority must not grant consent for the erection of advertising signage on rural or non-urban land where the land is not the land on which the business benefitting from the sign is located.

The SEPP also states that an exception to this requirement is where a development control plan (DCP) is in force that has been prepared on the basis of an advertising sign analysis for the relevant area or precinct.

As any development within 250m of the Highway requires RMS consultation, the RMS also advised that they would be more than happy to assist Council in the preparation of a DCP for the purpose of providing for advertising for business houses, whilst maintaining road safety and efficiency.

In addition, Council staff met with an RMS representative on 7 February, both in Council offices and on site, to discuss the matter. Discussions centred around the provision of an "industrial estate directory", either within the road reserve or on private land in the vicinity of Marshall's Lane. Such signage is preferred as opposed to a proliferation of individual signs.

Once again it was reiterated that a DCP had to be in place to accommodate this. Council was referred to the Dept of Planning's *Transport Corridor Outdoor Advertising and Signage Guidelines*, to assist in the process.

Blayney Shire Council has been a party to the preparation of a comprehensive development control plan under the WBC Alliance. The first draft of such a document was prepared in 2012, and the core document has been sent back to each member council to tailor it to suit each local government area. Under that draft, it is possible that such a sign could be approved as a pole sign - a free standing elevated sign supported by one or more columns or poles. Such sign must have the advertising panel over 2.6m above the ground and not exceed six (6) metres in height. The maximum sign area is to be 8sqm. These signs are generally discouraged unless impacts can be proven to be minor and other sign options are unavailable. Such provisions would have to come from an advertising sign analysis carried out for the relevant precinct or area.

CONCLUSION

Given the assessment carried out and previously placed before Council, and the subsequent investigation into signage options, Council is unable to consent to Development Application 203/2012 under the provisions of State Environmental Planning Policy (Advertising and Signage). However, options have now been established to accommodate the advertising aspirations of the occupants of Blayney's industrial estate.

BUDGET IMPLICATIONS

Nil effect.

POLICY IMPLICATIONS

Nil effect.

IP&R LINK

D.P. 1.1.2 Promote sustainable development and protection of our natural resources through the planning system

Attachments

- | | | |
|---|--------------------|---------|
| 1 | Location Map | 1 Page |
| 2 | Details of Signage | 2 Pages |
| 3 | RMS Advice | 1 Page |

07) **CARCOAR CEMETERY BOUNDARY ADJUSTMENT,
CARCOAR ROAD, CARCOAR**
(Director Planning and Environmental Services)

RECOMMENDED:

1. That a survey be undertaken with a view to formalising a boundary adjustment between the Carcoar General Cemetery and Lot 4, DP1085417.
2. That Council negotiate with Mr Benson in regard to survey, terms of compensation and/or land offset, and fencing.

REPORT

Applicant:	Michael Benson
Owner:	M W Benson & E A Gray, & Blayney Shire Council
Application No:	-
Zone:	1(a) General Rural
Date Received:	31 May 2012
Assessment No:	A305418
Property:	1748 Carcoar Road & Carcoar Cemetery
Proposed Development:	Boundary adjustment

BACKGROUND

Council has received an inquiry in regard to the boundaries of the Carcoar General Cemetery. The adjoining landowner, Mr Michael Benson, has brought to Council's attention that the western boundary fence of the cemetery is off line, and to construct a fence on line would take the work across several graves.

It is understood that when survey was carried out for the subdivision of the land to the west of the site (DP 1085417 – Wade Blazley. DA91/2005) that the fencing around the cemetery was found to be off line, and that some graves were partially located on private land. Re-fencing of the cemetery was commenced, but could not be completed, as graves were found to be located across the correct boundary line.

The landowner of Lot 4 DP 1085417, the land which currently wraps around the cemetery, Mr Michael Benson, now wishes to follow this up and have the matter sorted.

There are some survey pegs in place which indicate the correct line of the boundary. Relevant plans are appended to this report.

It is therefore appropriate that a boundary adjustment be carried out between Council and Mr Benson to accommodate the graves, which would involve the lodgement of a DA by Council, so that the fencing can be completed and the cemetery secured.

The existing vegetation along the western boundary would not be significantly impacted upon. The existing fences along the western and northern boundaries are not in good condition.

Under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Subdivision 38*, the boundary adjustment may be considered as Exempt Development as follows:

“The subdivision of land, for the purpose only of any one or more of the following, is development specified for this code:

- (a) Widening a public road
- (b) A minor realignment of boundaries:
 - (i) that will not create additional lots or the opportunity for additional dwellings, and
 - (ii) that will not result in one or more lots that are smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (unless the original lot or lots are already smaller than the minimum size), and
 - (iii) that will not adversely affect the provision of existing services on a lot, and
 - (iv) that will not result in any increased bush fire risk to existing buildings
- (c) (Repealed)
- (d) Rectifying an encroachment on a lot
- (e) Creating a public reserve
- (f) Excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service provision or public toilets.”

Therefore the development is permissible without lodgement of a development application with/by Council.

BUDGET IMPLICATIONS

The budget implications for Council associated with this report may include survey and fencing costs.

POLICY IMPLICATIONS

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

IP&R LINK

DP4.1.11 – Maintain cemeteries in accordance with the community’s needs and expectations.

Attachments

- | | | |
|---|---------------------|--------|
| 1 | Location Plan | 1 Page |
| 2 | Survey Plan Extract | 1 Page |
| 3 | Site Plan | 1 Page |

08) **MARRANGAROO EAST PTY LTD - DA59/2011 - CLASS 1 PROCEEDINGS IN LAND AND ENVIRONMENT COURT**
(Director Planning and Environmental Services)

RECOMMENDED:

1. That Council note the contents of this report regarding the lodgement, by Campbell Paton and Taylor, of Class 1 Proceedings in the NSW Land and Environment Court regarding an appeal against “deemed or actual refusal of application to modify development consent (S96(6) Environmental Planning and Assessment Act 1979)”.

REPORT

This development application, DA59/2011, for a subdivision at Richards Lane, Millthorpe has already been the subject of an appeal to the Land and Environment Court.

The decision, handed down on the 16 December 2011, saw the appeal dismissed (see copy of report attached).

Subsequent to this, an application to amend the approval was lodged with Council on the 27 April 2012, and following extensive discussion and negotiation with the applicant, approval for the modification was issued on the 12 December 2012.

Council has been notified of the Class 1 appeal, in regard to this modification, on the 22 February 2013. As a result the matter is being discussed with and placed in the hands of Council’s lawyers, Pikes and Verekers Lawyers, who are expected to handle the matter on Council’s behalf.

Further information and progress of the matter will be made available to Councillors as the matter progresses.

BUDGET IMPLICATIONS

Legal costs provided for in Council’s 2012/2013 budget.

POLICY IMPLICATIONS

Nil effect.

IP&R LINK

D.P. 1.1.2 Promote sustainable development and protection of our natural resources through the planning system

Attachments

1 Report to Council on 9 May 2011 1 Page

09) PROPOSED SECTION 94/94A PLAN FOR BLAYNEY SHIRE COUNCIL
(Director Planning and Environmental Services)

RECOMMENDED:

1. That Council note the preparation and contents of the Draft Plan and place the Draft Blayney Local Infrastructure Contributions Plan 2012 on public exhibition for twenty eight (28) days in accordance with the provisions of Environmental Planning and Assessment Regulations 2000, Division 2, Part 28.
2. That written comments be invited to be submitted to Council, to be considered by Council prior to further overview and consideration of adoption of the Draft Plan.

REPORT

The development and implementation of a new and readily usable Contributions Plan for Blayney Shire, under the provision of Sections 94 and 94A of the Environmental Planning and Assessment Act 1979 (as amended) became necessary to support Council's new Blayney Local Environmental Plan 2012.

A specialist planning consultancy, GLN Planning, was engaged and have provided Council, recently, with a first draft of the proposed plan.

Councillors have been provided with a copy, either previously or with this report, and Planning staff are available to answer any queries/questions Councillors may have.

Upon completion of the exhibition period, all submissions made to Council regarding the plan will be considered by staff and, if necessary Council's consultant, and the plan put back to Council for consideration of adoption, subject to any changes made to this plan.

BUDGET IMPLICATIONS

Nil effect.

POLICY IMPLICATIONS

Nil effect.

IP&R LINK

D.P. 1.1.2 Promote sustainable development and protection of our natural resources through the planning system

Attachments

- | | | |
|---|---|----------|
| 1 | Blayney Local Infrastructure Contributions Plan | 64 Pages |
| 2 | Contribution Comparison Table | 2 Pages |

10) PLANNING PROPOSAL - REZONING, 32 CHARLES STREET, BLAYNEY

(Director Planning and Environmental Services)

RECOMMENDED:

1. That the information be noted.

REPORT

Applicant:	Blayney Shire Council
Owner:	I P Fardell
Application No:	-
Zone:	R1 General Residential
Date to Dept of Planning & Infrastructure:	20 December 2012
Assessment No:	A309234
Property:	Lot 10 DP 667562, 32 Charles Street, Blayney
Proposed Development:	Rezoning

BACKGROUND

The Blayney Local Environmental Plan 2102 was made on 23 November 2012. Following that notification, an error was found to have occurred in that Lot 10 DP667562 was zoned as R1 General Residential instead of B2 Local Centre.

The site is owned together with the adjoining allotment Lot 1 DP 1094068, where an existing industrial building is erected. The site was zoned R1 General Residential under the exhibited Draft Local Environmental Plan. As a result of a submission received in relation to the existing business on the site, both lots were recommended for inclusion in the B2 zone, to enable the logical extension and continued operation of the existing premises in the urban zone. However, Lot 10 remained R1 when the LEP was made.

Lot 10 is currently vacant land and any expansion of the adjoining business cannot occur under existing use rights. The lots were always intended to be rezoned together.

The method by which Council is able to have a rezoning such as this considered is the through the preparation of a Planning Proposal to the NSW Department of Planning and Infrastructure. An examination of the matter found that the proposal remains consistent with the objectives and actions of the applicable Sub-Regional Rural and Industrial Strategy and the Blayney Settlement Strategy.

The proposal is inconsistent with the Section 117 Direction 3.1 (residential zones). However it is seen as a minor change to an existing residential zone, as the land adjoins an existing business zone and is better suited to be used

for a commercial purpose. The business zone would enable Council to continue to allow an existing employment generating activity on the site which provides jobs and economic development in the Blayney Shire.

A Planning Proposal has been prepared and forwarded to the Department, and the gateway approval was issued on 1 February 2013, subject to conditions relating to public exhibition. The development has been advertised for public comment for a period of 14 days.

No consultation is required with public authorities, and a public hearing is not required.

BUDGET IMPLICATIONS

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

POLICY IMPLICATIONS

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

IP&R LINK

DP1.6.3 – Support and encourage the establishment or expansion of local businesses.

Attachments

- | | | |
|---|----------------------|---------|
| 1 | Location Plan | 1 Page |
| 2 | Existing Zoning Plan | 1 Page |
| 3 | Proposed Zoning Plan | 1 Page |
| 4 | Photos | 5 Pages |

COMMITTEE REPORTS
PRESENTED TO THE BLAYNEY SHIRE COUNCIL
MEETING HELD ON MONDAY, 11 MARCH 2013



11) **MINUTES OF THE BLAYNEY TRAFFIC COMMITTEE**
MEETING HELD ON FRIDAY 15 FEBRUARY 2013
(Assets Manager)

RECOMMENDED:

1. That the recommendations of the Blayney Traffic Committee meeting held on 15 February 2013 be adopted.

REPORT

The minutes of the Blayney Traffic Committee meeting held on Friday 15 February 2013 are attached and Councillors attention is drawn to the following items:

- Parking of Buses in Hill Street, Blayney
- St Joseph's School Parking Concerns and Request for Extension of Footpath
- Blayney to Bathurst Cyclo Sportif
- Camp Quality Tractor Trek – 19 to 21 September 2013
- Orange Cycling and Triathlon Club – 2013 Club Racing Program

Attachments

- 1 Traffic Committee Minutes 15/02/2013 4 Pages

ATTACHMENTS
PRESENTED TO THE BLAYNEY SHIRE COUNCIL
MEETING HELD ON MONDAY, 11 MARCH 2013



Blayney Shire Council
91 Adelaide Street
PO Box 62
BLAYNEY NSW 2799
Ph: (02) 6368 2104
Fax: (02) 6368 3290
Email: council@blayney.nsw.gov.au



Created on Wednesday, 3 October 2012 by planning

Feature Report of



Map Scale: 1:2,058 Map Zoom: 0.2235 mi

Info Results

There are no features selected with textual information.
There are no features selected with textual information.

*Relocated position
of sign
1.5 m from fence
total height of sign 3.9 m.*



Disclaimer

The above information has been taken from Council's records, but Council cannot accept responsibility for any omission or inaccuracy. © The State of New South Wales (Department of Lands) 2007, © Blayney Shire Council 2007.

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485LSS

TOURIST FACILITIES
CAR WASH · TRUCK WASH
DOG WASH · REST AREA

OPEN
24 HOURS







O'BRIEN WASH & GO
VEHICLE CARE CENTRE

TURN RIGHT 900m →

← 4.2 →



Transport
Roads & Maritime
Services

WST12/00128

General Manager
Blayney Shire Council
PO Box 62
BLAYNEY NSW 2799

Dear Sir

**DA203/2012: Lot 1 DP 1081916; 2481 Mid Western Highway, Blayney
Tourist Information Sign**

Thank you for your letter dated 8 October 2012 referring development application DA203/2012 to Roads and Maritime Services (RMS).

Based on limited information provided in the submission, it is assumed that the application has been lodged as advertising signage directing the travelling public to tourist facilities in accordance with Clause 15(2)(c) of State Environmental Planning Policy No.64 'Advertising and Signage' (SEPP64)

RMS objects to the proposed development. The car/truck wash, amenities and food vending machines included on the sign do not fall within the definition of 'tourist facilities'. The proposed development is therefore inconsistent with SEPP64 and should be refused.

Please forward a copy of Council's determination of the development application to RMS at the same time it is sent to the applicant.

Should you require further information please contact Andrew McIntyre on (02) 68611453.

Please use the reference WST12/00128 in all future correspondence and communications with RMS regarding the subject development application.

Yours faithfully

Joshua Parkin
Acting Road Safety & Traffic Manager
Western

**BLAYNEY SHIRE
COUNCIL**

23 OCT 2012

Doc. No.

359665 - hard copy

Verified:

[Handwritten mark]

Disp.

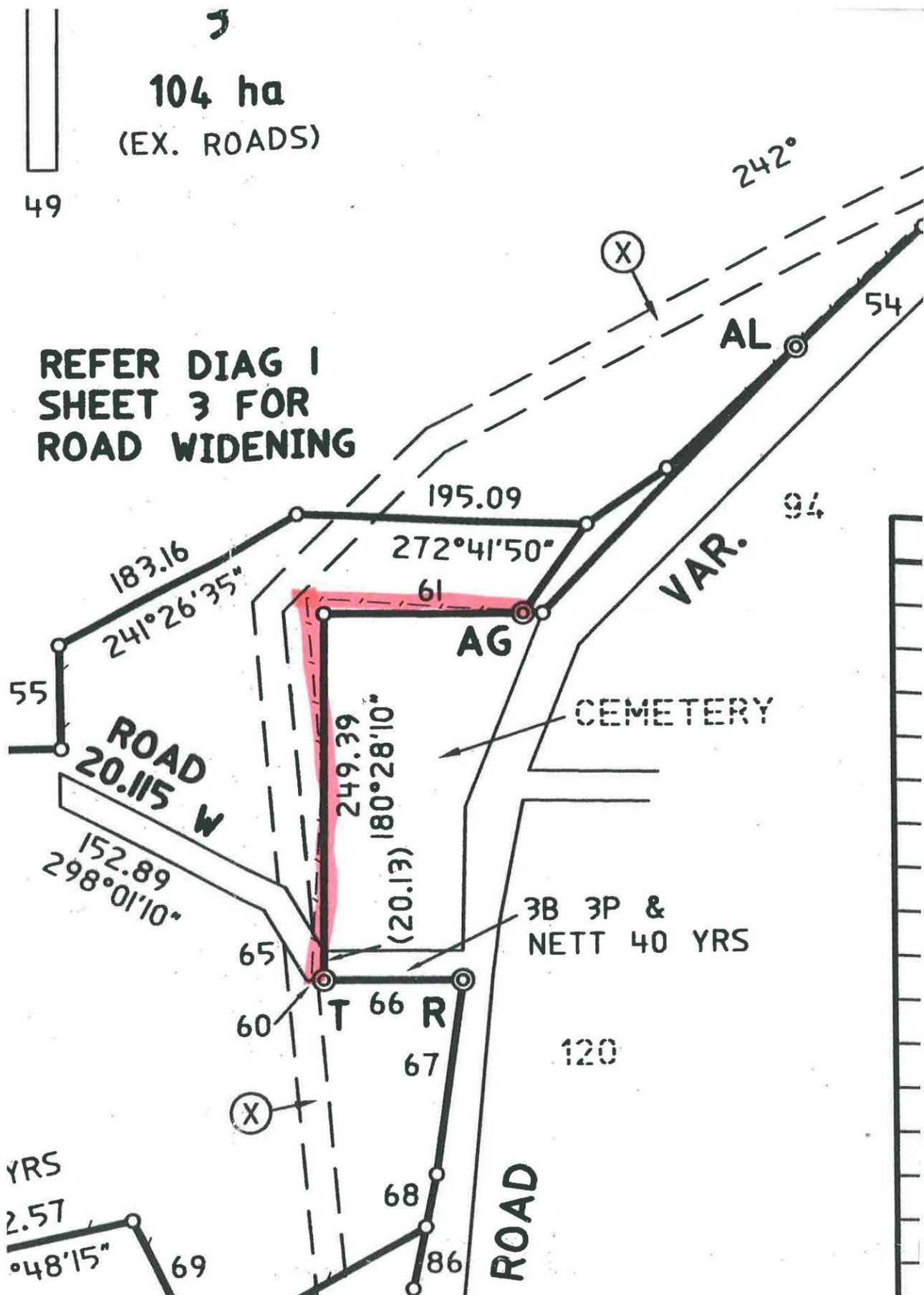
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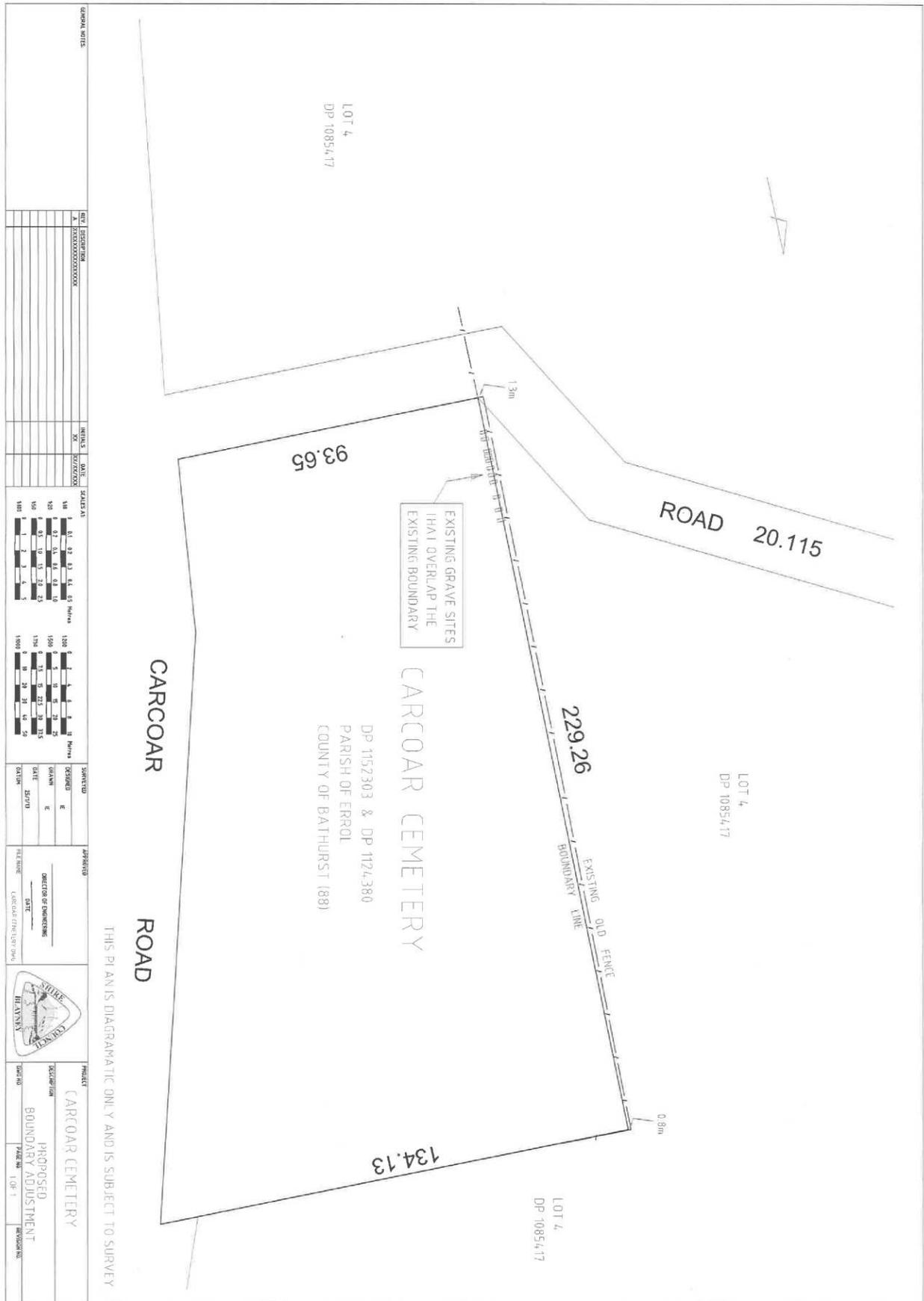
Sent. SA

Roads and Maritime Services

51-55 Cumajong Street PARKES NSW 2870
PO Box 334 PARKES NSW 2870 DX 20256
www.rta.nsw.gov.au | 13 17 82







GENERAL NOTES		SCALE		DATE		PROJECT	
1. THIS PLAN IS DIAGRAMMATIC ONLY AND IS SUBJECT TO SURVEY.		1:1000		2013		CARCOAR CEMETERY	
2. THE BOUNDARY ADJUSTMENT IS SUBJECT TO SURVEY.		1:1000		2013		PROPOSED BOUNDARY ADJUSTMENT	
3. THE BOUNDARY ADJUSTMENT IS SUBJECT TO SURVEY.		1:1000		2013		PAGE NO. 1 OF 1	
4. THE BOUNDARY ADJUSTMENT IS SUBJECT TO SURVEY.		1:1000		2013		REVISION NO.	
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20. THE BOUNDARY ADJUSTMENT IS SUBJECT TO SURVEY.		1:1000		2013		DATE	

- 22) **DA59/2011 - SUBDIVISION - 56 RICHARDS LANE,
MILLTHORPE - MARRANGAROO EAST PTY LTD V
BLAYNEY SHIRE COUNCIL [2011] NSWLEC 245**
(Director Environmental Services)

RECOMMENDED:

1. That Council note the report from the Director of Environmental Services.

REPORT

Council originally approved DA59/2011 on 9 May 2011 for a ninety six (96) lot subdivision north of Millthorpe. The applicants for the development application subsequently filed with the Land and Environment Court a Class 4 appeal against Council's condition/s requiring Section 94 Contributions and condition 45 requiring dedication of the proposed Lot 25 to Council.

Prior to the hearing the applicants met with Council's General Manager, Acting Director of Environmental Services and Senior Town Planner to try and negotiate an out of court settlement proposal that could be put to Council, but no reasonable settlement could be reached, and the matter went before the Land and Environment Court on 6 and 7 December 2011.

Council's Director of Engineering and Senior Town Planner represented Council at the hearing with Council legal representatives from Pikes Lawyers.

The decision of the appeal was handed down on 16 December 2011 by A J Moore who dismissed the application with costs (see attachment). This outcome validates Council's original approval.

Council is awaiting advice as to a potential appeal to the attached decision and this advice will be provided at the Council meeting, if available.

BUDGET IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

Attachments

- 1 Marrangaroo Judgment 18 Pages

Blayney Local Infrastructure Contributions Plan 2012



Prepared by



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Version: Blayney CP 2012 vers 4

Author: G New, J Olmos-New

Reviewer: P Grech

Signed: 

Date: 14 December 2012

Distribution: L Rodwell, Blayney Shire Council

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Blayney Local Infrastructure Contributions Plan 2012

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- Appendix A Extracts from *Austroads - Pavement Design: A Guide to the Structural Design of Road Pavements* (1992)
- Appendix B Cost Summary Report

DRAFT

1. Introduction and summary of contribution rates

1.1 Overview of this Plan

The Blayney Local Government Area (**LGA**) is likely to receive development in the future that impacts on the quality and standard of Local Infrastructure provided by Blayney Shire Council (**Council**).

Local Infrastructure includes roads, recreation facilities such as parks and sportsgrounds, and community facilities such as meeting halls and libraries.

Council wishes to promote economic development of the Shire, but also considers that is important for new developments to make a reasonable contribution toward the provision of new and / or augmented Local Infrastructure to meet the demands of new housing and employment developments.

Subdivision 3 of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) authorises a Consent Authority to grant consent to a proposed development subject to a condition requiring contributions of land and / or money for:

- the provision, extension or augmentation of Local Infrastructure in the area; or
- the recoupment of the cost of existing Local Infrastructure in the area.

These contributions are known as section 94 contributions and section 94A levies.

Where the Consent Authority is a council or an Accredited Certifier, a Local Infrastructure contribution may be imposed on a development only if it is of a kind allowed by and determined in accordance with a contributions plan, such as this Plan.

The Plan authorises Council or an Accredited Certifier to impose conditions on Development Consents or Complying Development Certificates requiring:

- section 94 contributions from Heavy Haulage Developments;
- section 94 contributions from certain types of Residential Accommodation developments;
and
- section 94A levies for other types of development.

This Plan has been prepared in accordance with the EP&A Act and *Environmental Planning and Assessment Regulation 2000* (**EP&A Regulation**); and having regard to the latest development contributions Practice Notes issued by the NSW Department of Planning and Infrastructure.

This Plan sets out:

- a Local Infrastructure program for Blayney Shire that will meet both existing demands and the projected demands arising from expected development in the Shire;
- formulas used to determine section 94 contributions;
- section 94 contribution rates and section 94A levy rates for the anticipated types of development in the area;
- maps showing the location of the Local Infrastructure items proposed to be provided by Council supported by a works schedule setting out an estimate of their cost and staging; and

Blayney Local Infrastructure Contributions Plan 2012

- administrative and accounting arrangements applying to contributions and levies.

1.2 Summary of contribution and levy rates

Table 1.1 Monetary contribution rates for development

Contribution type / Development type	Levy rate
Section 94 contributions	
Residential Accommodation development resulting in additional dwellings or lots	\$3,533 per dwelling or lot
Heavy Haulage Development	\$0.20 per ESA per km of regional sealed road \$0.17 per ESA per km of regional gravel road \$0.33 per ESA per km of local sealed road \$0.20 per ESA per km of local gravel road
Section 94A levies	
Development that is not Type A or B, and where the proposed cost of carrying out the development:	
▪ is more than \$100,000 and up to and including \$200,000	0.5% of that cost
▪ is more than \$200,000	1% of that cost

Notes:

- (1) Also refer to development exclusions identified in clause 2.8
- (2) ESA means Equivalent Standard Axle

DRAFT

Blayney Local Infrastructure Contributions Plan 2012

1.3 Calculating a contribution under this Plan

Contribution rates for different development types are shown in the tables in clause 1.2 of this Plan.

A development can only be the subject of either a section 94 contribution or a section 94A levy, not both.

1.3.1 Type A development

Under this Plan, section 94 contributions shall apply to Residential Accommodation development that will or is likely to require the provision of or increase the demand for Local Infrastructure within the Blayney Shire. In practical terms, this means any Residential Accommodation development that would, if approved, result in additional dwellings or result in additional lots with a dwelling entitlement.

The total section 94 contribution levied for any individual development is the contribution calculated using the rates shown in Table 1.1, less any allowance for assumed Local Infrastructure demand arising from existing Residential Accommodation developments on the land.

For example, where it is proposed to create 5 new residential allotments out of a single existing residential allotment, the assumed infrastructure demand for the existing single allotment will be disregarded in the calculation of the section 94 contribution. That is, the contribution would be the section 94 contribution \$ rate for Type A development in Table 1.1 multiplied by 4.

The section 94 contribution rates shown in Table 1.1 reflect the contribution rates at the date that the Plan commenced. These rates are regularly adjusted for inflation in accordance with the provisions of clause 2.17 of this Plan. Applicants should inquire at the Council for information on the latest contribution rates.

1.3.2 Type B development

Section 94 contributions for Heavy Haulage Development are levied on the basis of:

- the location of the development site;
- the anticipated cost of upgrading and maintaining sealed regional and rural roads;
- the periodic laden heavy vehicle movements generated by the development; and
- the length of sealed and gravel rural roads used by laden heavy vehicles generated by the development.

The formula for calculating a contribution under this Plan is included in clause 3.5.5 of this Plan.

The contribution rates values used in the examples shown in clause 3.5.6 of the Plan reflect the contribution rates at the time that the Plan commenced. Rates are regularly adjusted for inflation in accordance with the provisions of clause 2.17 of this Plan. Applicants should inquire at the Council for information on the latest contribution rates.

1.3.3 Type C development

Under this Plan, section 94A levies apply to development that is not Type A or B development, and which also has a proposed cost of development in excess of \$100,000.

Blayney Local Infrastructure Contributions Plan 2012

The total section 94A levy for any individual development is the monetary contribution determined by applying the applicable levy rate in Table 1.1 to the proposed cost of the development.

There is no allowance for assumed existing infrastructure demand in the calculation of any section 94A levy.

Further details on the calculation of section 94A levies are included in clause 2.15 of this Plan.

DRAFT

2. Administration and operation of this Plan

2.1 Definitions used in this Plan

In this Plan, the following words and phrases have the following meanings:

Accredited Certifier has the same meaning as in the EP&A Act.

Complying Development has the same meaning as in the EP&A Act.

Complying Development Certificate has the same meaning as in the EP&A Act.

Consent Authority has the same meaning as in the EP&A Act but also includes an Accredited Certifier responsible for issuing a Complying Development Certificate.

Council means Blayney Shire Council.

CSP means Community Strategic Plan

Development has the same meaning as in the EP&A Act.

development means:

- (a) the use of land, and
 - (b) the subdivision of land, and
 - (c) the erection of a building, and
 - (d) the carrying out of a work, and
 - (e) the demolition of a building or work, and
 - (f) any other act, matter or thing referred to in section 26 that is controlled by an environmental planning instrument,
- but does not include any development of a class or description prescribed by the regulations for the purposes of this definition.

Development Application has the same meaning as in the EP&A Act.

Development Consent has the same meaning as in the EP&A Act.

Dwelling has the same meaning as in the Standard Instrument.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EP&A Regulation means the Environmental Planning and Assessment Regulation 2000.

ESA means the Equivalent Standard Axles, which is a measure used to describe the life of a section of road.

Heavy Haulage Development means any of the following developments that are defined in the Blayney Local Environmental Plan 2012:

- (a) extractive industry,
- (b) forestry,
- (c) landscape and garden supplies,
- (d) industry,

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- (e) mining,
- (f) rural industry,
- (g) timber and building supplies, and

any other development that involves the movement of laden heavy vehicles.

LGA means local government area.

Local Infrastructure means public amenities and public services that are traditionally the responsibility of local government, excluding water supply or sewerage services.

Local Infrastructure Contribution includes a contribution imposed on a Development Consent by a Consent Authority under section 94 or section 94A of the EP&A Act.

Minister means the Minister for Planning.

Planning Agreement has the same meaning as in section 93F of the EP&A Act.

Residential Accommodation has the same meaning as in Blayney Local Environmental Plan 2012.

Self-contained Dwelling has the same meaning as in *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

Seniors Housing has the same meaning as in Blayney Local Environmental Plan 2012.

Standard Instrument means the Standard Instrument – Principal Local Environmental Plan referred to in clause 3 of the *Standard Instrument (Local Environmental Plans) Order 2006* amended from time to time in accordance with section 33A of the EP&A Act.

2.2 Local Infrastructure addressed by this Plan

The types of Local Infrastructure which are covered by this Plan are as follows:

- Roads and traffic facilities, including the upgrade and maintenance of existing roads and intersections.
- Social infrastructure, including upgraded parks, sportsfields and other recreation areas; and community facilities, including community centres, amenities buildings and halls.

2.3 Name of this Plan

This Plan is called the Blayney Local Infrastructure Contributions Plan 2012.

2.4 Purposes of this Plan

The primary purpose of the Plan is to authorise:

- the Council, when granting consent to an application to carry out development to which this Plan applies; or
- an Accredited Certifier, when issuing a Complying Development Certificate for development to which this Plan applies,

to require a Local Infrastructure Contribution to be made towards:

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- the provision, extension or augmentation of Local Infrastructure; or
- the recoupment of the previous costs incurred in providing existing Local Infrastructure.

Other purposes of the Plan are:

- to provide the framework for the efficient and equitable determination, collection and management of Local Infrastructure Contributions;
- to ensure that development makes a reasonable contribution toward the provision of Local Infrastructure that is required to meet the demands of that development;
- to ensure that the existing community is not unreasonably burdened by the provision of Local Infrastructure required (either partly or fully) as a result of development in the area;
- to inform other Consent Authorities' consideration of contributions requirements for development of land within or adjoining Blayney LGA and which impacts on the Local Infrastructure provided by Blayney Shire Council; and
- to ensure Council's management of Local Infrastructure Contributions complies with relevant legislation and practice notes, and achieves best practice in plan format and management.

2.5 Commencement of this Plan

This Plan commences on **X**.

2.6 Land to which this Plan applies

This Plan applies to all land within the Blayney LGA.

2.7 Development to which this Plan applies

Except as provided for by clause 2.8, this Plan applies to both:

- Type A development, being Residential Accommodation development that will or is likely to require the provision of or increase the demand for Local Infrastructure within the Blayney Shire; and
- Type B development, being Heavy Haulage Development,

insofar as the Plan authorises the imposition of a requirement for a section 94 contribution.

Except as provided by clause 2.8, this Plan also applies to Type C development - being other development that has a proposed cost of \$100,000 or more - insofar as the Plan authorises the imposition of a requirement for a section 94A levy.

2.8 Development exempted from contributions under this Plan

This Plan does not apply to:

- Residential Accommodation development that does not involve the creation of an additional developable lot or an additional dwelling;
- Seniors Housing development (other than Self-contained Dwellings forming part of Seniors Housing development);
- development exempted from Local Infrastructure Contributions by way of a Direction made by the Minister for Planning under section 94E of the EP&A Act;

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- [Council to insert any development it wishes to exempt from contributions or levies]

2.9 Relationship to other contributions plans

This Plan repeals the following Council contributions plans:

- [Council to insert the names of existing contributions plans it wishes to repeal]

This Plan has no effect on any other contributions plan prepared and adopted by the Council under the EP&A Act.

Clause 2.26 of this Plan contains a transitional provision consequent upon the making of this Plan.

2.10 Formulas used for determining section 94 contribution rates applicable under this Plan

Under this Plan, section 94 contributions apply to Type A and B developments described in clause 2.7.

The section 94 contribution rates for these developments have been based on the costs and demand assessments for these development types.

Formulas used to determine contribution rates are described in clauses 3.4.1 and 3.5.5 of this Plan.

2.11 Local Infrastructure Contributions may be required as a condition of Development Consent

This Plan authorises the Council or an Accredited Certifier, when determining an application for development or an application for a Complying Development Certificate relating to Type A or B development, and subject to other provisions of this Plan, to impose a condition requiring a **section 94** monetary contribution on that development to enable the provision of Local Infrastructure identified in this Plan.

This Plan also authorises the Council or an Accredited Certifier, when determining an application for development or an application for a Complying Development Certificate relating to Type C development, and subject to other provisions of this Plan, to impose a condition requiring the payment of a monetary contribution that is a **section 94A** levy.

This Plan also authorises the Council or an Accredited Certifier to require monetary contributions from development towards recouping the cost of the provision of existing Local Infrastructure that has been provided by the Council for or to facilitate the carrying out of development and which the development will benefit from.

A section 94A levy cannot be required in relation to development if a section 94 contribution is required in relation to that development.

The types of development affected by **either** section 94 contributions or section 94A levies, and the contribution rates applying to different development types, are identified in clauses 1.2, 2.7 and 2.8 of this Plan.

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Accredited Certifiers should also refer to clause 2.16 of this Plan as to their obligations in assessing and determining applications subject to Local Infrastructure Contributions authorised by this Plan.

Unless otherwise specified, references to monetary contributions in this Plan include both section 94 and section 94A contribution types.

2.12 Roadworks may be required to be undertaken in addition to contributions required under this Plan

The Blayney Shire road network has been constructed and is maintained by Council as necessary to ensure an acceptable standard of service. These roads may or may not be able to accommodate additional heavy vehicle loading generated by Heavy Haulage Development at their current standard. New roads, or upgrades to sections of the existing road network may be required to accommodate the additional heavy vehicle loading. Unformed, natural material roads may also be required to be sealed in order to accommodate the extra heavy vehicles.

Where any development requires capital works to the road network to be undertaken, the requirement will be by way of a condition imposed on the development consent under section 80A(1)(f) of the EP&A Act.

Where the development is a Type B development described in clause 2.7 of this Plan, that development may also be subject to a condition requiring payment of road maintenance contributions under this Plan for both:

- the section(s) of any new or upgraded road constructed by the developer under a section 80A(1)(f) condition; and
- for the other sections of the road network likely to be used for haulage purposes.

2.13 Planning Agreements

Planning Agreements are an alternative means available to developers to provide Local Infrastructure Contributions or other public purposes in connection with their developments.

Nothing in this Plan prevents the Council and a developer from entering into a Planning Agreement that:

- requires the developer to make monetary contributions, undertake works or provide material public benefits for Local Infrastructure; and / or
- excludes the operation of section 94 or section 94A of the EP&A Act to the development.

A Planning Agreement for Type B developments may address, for example, a situation where the vehicle loadings in a proposed heavy haulage development can be more accurately measured by audited weighbridge receipts instead of the traffic classifier method included in this Plan.

Any Planning Agreement proposed by a developer must comply with Council's Policy on Planning Agreements available from Council's administration centre.

2.14 Cooperative approach to the impacts on Local Infrastructure

Development may be proposed in Blayney LGA that has the potential to impact on the standard and condition of Local Infrastructure that is provided in adjoining LGAs. Similarly, development

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may be proposed in adjoining LGAs that impact on the standard and condition of Local Infrastructure provided in Blayney LGA. An example of this in a rural area such as Blayney is the impact on road networks generated by major heavy haulage development such as mines.

Council will work cooperatively with adjoining local councils and other Consent Authorities to ensure that anticipated Local Infrastructure impacts generated by developments are satisfactorily addressed.

This may include, but not be limited to:

- imposition of consent conditions requiring monetary contributions the same as or similar to the contributions authorised by this Plan; and
- negotiation of Planning Agreements between planning authorities and developers requiring the provision of development contributions or public purposes by developers

2.15 Additional provisions for section 94A levies

This clause applies only in respect to the calculation of section 94A levies for Type C developments.

2.15.1 Determining the proposed cost of carrying out development

Section 94A levies are calculated as a percentage of the cost of development.

Clause 25J of the EP&A Regulation sets out how the proposed cost of carrying out development is determined.

2.15.2 Cost Summary Report must accompany development application

A Development Application or application for a Complying Development Certificate shall be accompanied by a Cost Summary Report, prepared at the applicant's cost, setting out an estimate of the proposed cost of carrying out the development.

The Cost Summary Report shall be in accordance with Appendix A of this Plan.

Council will validate all Cost Summary Reports before they are accepted using a standard costing guide or other generally accepted costing method. Should the costing as assessed by Council be considered inaccurate, Council may, at its sole discretion and at the applicant's cost, engage a person referred to in clause 2.15.3 to review a Cost Summary Report submitted by an applicant.

2.15.3 Who may provide a Cost Summary Report?

The following persons are approved by the Council to provide an estimate of the proposed cost of carrying out development:

- where the applicant's initial estimate of the proposed cost of carrying out the development is less than \$1,000,000 – any building industry professional; or
- where the applicant's initial estimate of the proposed cost of carrying out the development is \$1,000,000 or more – a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors.

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2.16 Obligations of Accredited Certifiers

2.16.1 Complying Development Certificates

This Plan requires that, in relation to an application made to an Accredited Certifier for a Complying Development Certificate:

- the Accredited Certifier must, if a Complying Development Certificate is issued, impose a condition requiring a monetary contribution, if such a contribution is authorised by this Plan;
- the amount of the monetary contribution that the Accredited Certifier must so impose is the amount determined in accordance with this clause; and
- the terms of the condition be in accordance with this clause.

Procedure for Accredited Certifier to determine the amount of the section 94 monetary contribution for Type A or B development

1. If, and only if specified in writing in the application for a Complying Development Certificate, the applicant has requested a credit under section 94(6) of the EP&A Act or an exemption or part or the whole of the development under clause 2.8 of this Plan, the Accredited Certifier must:
 - (a) make a request in writing to the Council for the Council's advice on whether the request is granted, or the extent to which it is granted; and
 - (b) in calculating the monetary contribution, comply with the Council's written advice or if no such advice has been received prior to the granting of the Complying Development Certificate, refuse the applicant's request.
2. Determine the unadjusted section 94 contributions in accordance with the rates included in Table 1.1 of this Plan taking into account any exempt development specified in clause 2.8 and any advice issued by the Council under paragraph 1(b) above.
3. Adjust the calculated contribution in accordance with clause 2.17 to reflect the indexed cost of the provision of infrastructure.
4. Subtract any credit advised by the Council under paragraph 1(b), or any assumed Local Infrastructure demand relating to existing Type A development.

Procedure for Accredited Certifier to determine the amount of the section 94A levy for Type C development

1. Ensure that the development is not subject to a section 94 contribution under this Plan or any other section 94 contributions plan adopted by the Council and that remains in force.
2. Determine the section 94A levy in accordance with the Cost Summary Report prepared by or on behalf of the applicant under clause 2.15.2 of this Plan; the levy rates included in Table 1.1 of this Plan; and taking into account any exempt development specified in clause 2.8.

Terms of a section 94 condition or section 94A condition

The terms of the condition required by this clause are as follows:

Contribution

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The developer must make a monetary contribution to Blayney Shire Council in the amount of \$ [insert amount] for the purposes of the Blayney Local Infrastructure Contributions Plan 2012.

Indexation

The monetary contribution must be indexed between the date of this certificate and the date of payment in accordance with the provisions of Blayney Local Infrastructure Contributions Plan 2012.

Time for payment

The timing of payments shall be in accordance with the Council's policy contained in Blayney Local Infrastructure Contributions Plan 2012. Deferred payments of contributions may be accepted in certain circumstances and will need to be secured by bank guarantee. Refer to Blayney Local Infrastructure Contributions Plan 2012 for Council's policy on deferred payments.

Works in kind agreement

This condition does not need to be complied with to the extent specified in a works in kind agreement between the developer and the Council as allowed by Blayney Local Infrastructure Contributions Plan 2012.

2.16.2 Construction Certificates

It is the responsibility of an Accredited Certifier issuing a Construction Certificate for building work or subdivision work to ensure that each condition requiring the payment of a monetary contribution before work is carried out has been complied with in accordance with the Complying Development Certificate.

The Accredited Certifier must ensure that the applicant provides a receipt (or receipts) confirming that contributions have been fully paid and copies of such receipts must be included with copies of the certified plans provided to the Council in accordance with clause 142(2) of the EP&A Regulation. Failure to follow this procedure may render such a certificate invalid and expose the certifier to legal action.

The only exceptions to the requirement are where a work in kind, material public benefit, dedication of land and/or deferred payment arrangement has been agreed by the Council. In such cases the Council will issue a letter confirming that an alternative payment method has been agreed with the applicant.

2.17 Indexation of section 94 contribution rates included in this Plan

In accordance with clause 32(3)(b) of the EP&A Regulation, Council may, without the necessity of preparing a new or amending contributions plan, make changes to the section 94 contribution rates set out in this Plan to reflect annual variations to the Consumer Price Index (All Groups Index) for Sydney as provided by the Australian Bureau of Statistics.

2.18 Indexation of monetary contributions required by a condition imposed under this Plan

A monetary Local Infrastructure Contribution that is required by a condition of Development Consent imposed in accordance with this Plan will be indexed between the date of the grant of

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the Development Consent and the date on which the contribution is paid in accordance with the Consumer Price Index (All Groups Index) for Sydney as provided by the Australian Bureau of Statistics.

2.19 Timing of payment of monetary contributions required under this Plan

A monetary contribution required to be paid by a condition imposed in accordance with this Plan is to be paid as follows:

- For development involving subdivision – the contribution must be paid prior to the release of the subdivision certificate (linen plan).
- For development not involving subdivision, but where a Construction Certificate is required, the contribution must be paid prior to the release of the Construction Certificate.
- For other development, the contribution must be paid prior to the commencement of the use or occupation of premises.
- For Type B development, monetary contributions will be paid within 28 days of the developer's receipt of a quarterly notice from the Council stating the contribution amount pursuant to the previous quarter's heavy haulage vehicle activity.

2.20 Policy on deferred or periodic payments

The applicant or any other person entitled to act upon a Development Consent containing a monetary contribution condition imposed in accordance with this Plan may apply in writing to the Consent Authority, other than an Accredited Certifier, under section 96 of the EP&A Act to modify the condition to provide for the deferred or periodic payment of the contribution.

If it agrees to a deferred or periodic payment request, Council will require the applicant to provide a bank guarantee by a bank or a financial institution for the full amount of the contribution or the outstanding balance.

Council is mindful of the need to stimulate housing development by the efficient creation of new housing lots in the Shire. Council will therefore consider proposals to defer the payment of part or all section 94 contributions imposed on Residential Accommodation developments until the point of sale of the residential allotments in the development. Acceptance of this type of proposal shall be subject to the following, and any other condition Council thinks fit:

- The applicant providing to Council a bank guarantee by a bank or a financial institution for the full amount of the contribution or the outstanding balance.
- Payment of contributions being made to the Council on an allotment by allotment basis within 30 days of the settlement of the first sale of each allotment.
- The contribution amount paid for each allotment shall be indexed from the date of Development Consent to the date of payment to reflect quarterly variations in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.
- Payment of the indexed, total contribution amount for all the allotments shall be made in full within 36 months of the date of release of the subdivision certificate. Where payment is not received for all of the allotments within 36 months of the date of release of the subdivision certificate, Council will call on the bank guarantee to recoup that part of the total contributions amount that has not been paid.

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2.21 Material public benefits and dedication of land offered in part or full satisfaction of contributions

A person may make an offer to the Council to carry out works or provide another kind of material public benefit or dedicate land, in lieu of making a contribution in accordance with a condition imposed under this Plan.

Any offer shall be made in writing to the Council.

If the offer is made prior to the issue of a Development Consent then the offer must be made by way of a Planning Agreement, and the Council will consider the request as part of its assessment of the development application.

The Council will take into account the following matters in deciding whether to accept an offer of material public benefit:

- the overall benefit of the proposal; and
- the financial implications for cash flow and the continued implementation of this Plan's works schedule (including whether the Council would need to make up for any shortfall in contributions by its acceptance of the offer).

If Council approves the offer then it will require the applicant to enter into a written agreement for the provision of the works, land or material public benefit or in a suitable time period. If the offer is made by way of a draft Planning Agreement under the EP&A Act, the Council will require the agreement to be entered into and performed via a condition in the development consent.

The value of any works, land or material public benefit offered by the applicant may, at Council's discretion, be used to offset monetary contributions applicable to the development under this Plan.

Also, where the Council or another Consent Authority requires as a condition of Development Consent an applicant to carry out works in relation to that development, and those works are listed in this Plan's works schedule, the Council may use the value of those works to offset the monetary contributions applicable to the development.

The value of any works, land or material public benefit will be determined by a process agreed to between the Council and the applicant.

2.22 Policy on timing of provision of road infrastructure identified in this Plan

This Plan addresses the provision, upgrading and maintenance of the Shire's road network that is required as a result of Type B development.

Type B developments can be located anywhere within the Shire. Similarly, Council is responsible for the provision and maintenance of the vast majority of roads existing in the Shire.

Council will therefore expend contributions collected, and deliver roads infrastructure, under this Plan in a manner that fairly takes account of:

- the location of the contributing Type B developments;
- the likely impact of heavy haulage movements from those developments on specific sections of the Shire road network; and