

Blayney Shire Council



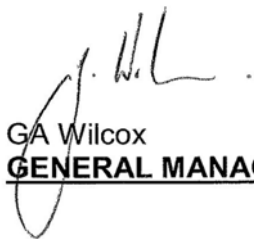
6 May 2013

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, 13 May 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 11.03.13 and Extraordinary Council Meeting held on 30.04.13
- (5) Matters arising from Minutes
- (6) Disclosures of Interest
- (7) Mayoral Minute
- (8) Reports of Staff
 - (a) Corporate Services
 - (b) Engineering Services
 - (c) Environmental Services
- (9) Delegates Reports
- (10) Committee Reports
- (11) Questions from Councillors

Yours faithfully



G.A. Wilcox
GENERAL MANAGER

5:45 PM

CITIZENSHIP CEREMONY

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HELD ON MONDAY 13 MAY 2013

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CORPORATE SERVICES REPORTS
PRESENTED TO THE BLAYNEY SHIRE COUNCIL
MEETING HELD ON MONDAY, 13 MAY 2013



01) **SALE OF LAND FOR UNPAID RATES**
(Director Corporate Services)

RECOMMENDED:

1. That Council proceed with preparation of a sale of land for unpaid rates in accordance with legislation.

REPORT

Pursuant to Section 713 of the Local Government Act, 1993 Council may sell any land on which a rate or charge has remained unpaid for more than five years from the date on which it became payable. The sale is required to be by Public Auction.

A review of Council records indicate that there are 11 properties with in excess of five (5) years rates owing and an amount outstanding at time of report preparation of \$88,075. It is Council's intention to commence this process on the above properties in coming months.

All efforts will be made to contact owners, including the issue of reminder notices, pre-legal demand letters, referral to a Mercantile Agent and notification of intended sale of land for unpaid rates and charges letters in an attempt to recover the outstanding rates and charges. It will be after this process that Council resort to sale of land for unpaid rates and charges.

BUDGET IMPLICATIONS

All proceeds of sale are paid to the Council and in accordance with Section 718 of the Local Government Act, 1993 are to be discharged in the following order:-

- a) Reimbursement of all Council expenses associated with the sale, then;
- b) Discharge of any rate or charge in respect of the land due to the Council, or any other rating authority, and any debt in respect of the land (being a debt of which the Council has notice) due to the Crown.

Should insufficient funds be recovered to satisfy all rates, charges and debts, then a pro rata of funds to debts occurs with all debts then deemed as satisfied. Surplus funds are held within Council's Trust Fund pending discharge to persons having interest in the properties. Where no claim is forthcoming the balance of sale proceeds is remitted to the State Government in accordance with the Unclaimed Moneys Act.

POLICY IMPLICATIONS

Pensioner and Hardship Policy.

IP&R LINK

DP 6.3.2 – Maintain a stable and secure financial structure for Council.

Attachments

Nil

02) **AMENDMENT TO DELEGATIONS REGISTER**
(Director Corporate Services)

RECOMMENDED:

1. That the proposed amendments to Council's Register of Delegations, as detailed within this report, be adopted.

REPORT

A complete review of the Register of Delegations was undertaken and adopted by Council at the December 2012 Council meeting.

A recent review undertaken identified some amendments including changes to legislation and regulatory powers assisting in the seamless operation of Council and effective provision of service.

The following outline provides an overview of amendments to Council's current Register of Delegations.

Remove:

16. *To deal with all matters pertaining to Cadia Valley Operations, including the application of Council's Seal, where appropriate and a report be presented to Councillors when the delegated authority is utilised.*

Justification: Delegation introduced by previous Council (2008- 2012) whereby a vote by Council was not possible due to declarations of interest by a majority of Councillors.

Amendment:

14A – Development Application Consent

- h) Subdivision in the village and Rural 1c zones which comply with the provisions of ~~BLEP 1998~~ the current LEP in force.
- i) Subdivision in the Rural 1a, 7a, and 7c zones which comply with the provisions of ~~BLEP 1998~~ the current LEP in force.

Justification: To reflect the updated LEP adopted by Council in force.

BUDGET IMPLICATIONS

Nil effect.

POLICY IMPLICATIONS

The Local Government Act (1993) Chapter 12 Part 3 outlines requirements pertaining to delegation of authority.

IP&R LINK

DP 6.3.1 – Provide a framework for the efficient and effective administration of Council.

Attachments

Nil

03) REPORT OF COUNCIL INVESTMENTS AS AT 30 APRIL 2013
 (Manager Financial Services)

RECOMMENDED:

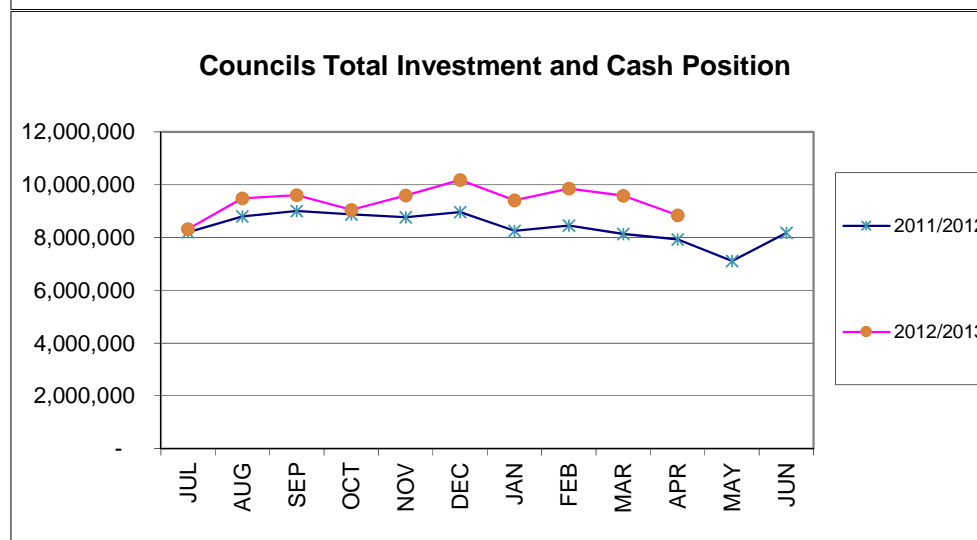
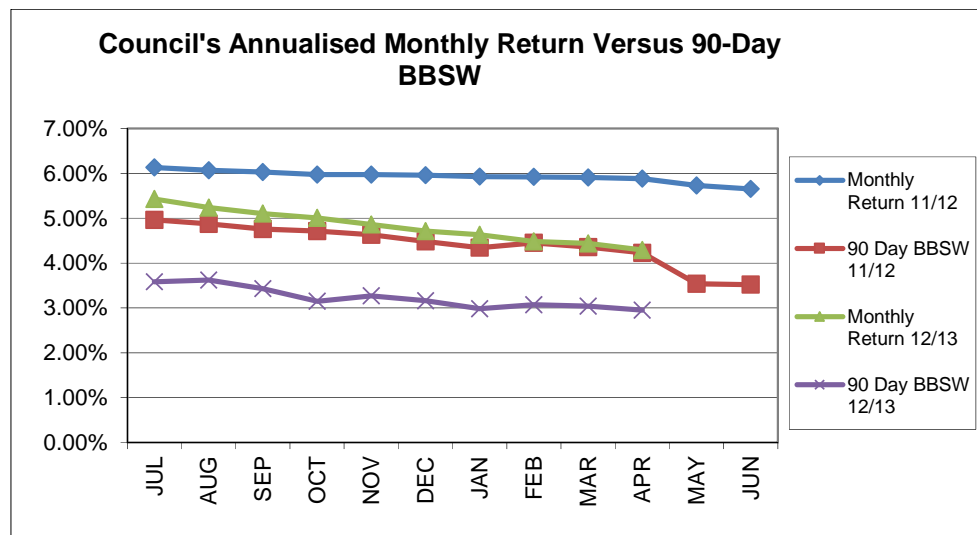
1. That the report indicating Council's investment position as at 30 April 2013 be received and noted.
2. That the certification of the Responsible Accounting Officer be noted and the report be adopted.

REPORT

This report provides details of Council's Investment Portfolio as at 30 April 2013.

Council's total investment and cash position as at 30 April 2013 is \$8,847,854. Investments earned interest of \$32,984 for the month of April 2013.

Council's monthly net return annualised for April of 4.29% outperformed the 90 day Bank Bill Swap Rate of 2.95%.



REGISTER OF INVESTMENTS AND CASH AS AT 30 APRIL 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	4/06/2013	500,000.00	4.20%
Rural Bank	4/06/2013	500,000.00	4.55%
Beirut Hellenic Bank Ltd	23/07/2013	500,000.00	4.45%
The Rock Building Society	16/07/2013	500,000.00	4.25%
ME Bank	21/05/2013	500,000.00	4.35%
St George Bank	27/08/2013	500,000.00	4.20%
Bank of Queensland	8/05/2013	500,000.00	4.25%
Railways Credit Union	18/06/2013	500,000.00	3.96%
IMB	2/07/2013	500,000.00	4.15%
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	16/07/2013	500,000.00	4.16%
Police Credit Union	25/06/2013	500,000.00	4.35%
Warwick Credit Union	23/07/2013	500,000.00	3.81%
Total		8,000,000.00	4.24%
<u>Collateralised Debt Obligation (CDO's)</u>			
ANZ Custodian (Kakadu, BBSW + 140 points)	20/03/2014	500,000.00	4.45%
Total		500,000.00	4.45%
Total Investments		8,500,000.00	4.25%
Benchmark: BBSW 90 Day Index			2.95%
Commonwealth Bank - At Call Account		-	
Commonwealth Bank Balance		347,854.00	
TOTAL INVESTMENTS & CASH		8,847,854.00	

Summary of Investment movements - APRIL		
Financial Institution	Invst/(Recall) Amount \$	Commentary
<u>Term Deposits</u>		
IMB Ltd	(507,232.88)	Term Deposit matured 03/04/2013
IMB Ltd	500,000.00	Term Deposit invested 03/04/2013
Beirut Hellenic Bank Ltd	(505,671.92)	Term Deposit matured 16/04/2013
Beirut Hellenic Bank Ltd	500,000.00	Term Deposit invested 16/04/2013
Peoples Choice Credit Union	(507,270.41)	Term Deposit matured 16/04/2013
Peoples Choice Credit Union	500,000.00	Term Deposit invested 16/04/2013
B & E Ltd	(505,913.01)	Term Deposit matured 16/04/2013

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 \$165,720 as at 31 March, 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 April on the CDO is 4.45% outperforming the 90 day Bank Bill Swap Rate of 2.95%.

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

04) **QUARTERLY PERFORMANCE REPORT - MARCH 2013**
(Director Corporate Services)

RECOMMENDED:

1. That the Quarterly Review of Council's 2012/2013 Operational Plan including quarterly budget review as at 31 March 2013 be noted and the adjustments to votes of income and expenditure adopted.

REPORT

Under S.404(5) of the Local Government Act Council is required to report on progress of its Delivery Program including the Operational Plan. The Operational Plan identifies the specific actions to be completed in 2012/2013 under each of the four year objectives expressed in the delivery program. It comprises actions with performance measures and budget required to achieve these.

The Division of Local Government issued new Quarterly Budget Review Statement Guidelines in 2010 as part of the new Integrated Planning and Reporting (IP&R) framework. The guidelines are mandatory for all Council's from 1 July 2011 and provide a list of minimum quarterly reporting requirements for Council.

The purpose of the quarterly review of the Operational Plan performance measures is to inform Councillors of Council's progress to achieve the specific actions planned. In addition, this report allows members of the community to form their own assessment of Council's performance.

The purpose of the quarterly budget review is to act as a barometer of Council's financial health during the year and disclose Council's overall financial health position. It is also a means to ensure council meets its objectives, targets and outcomes as set out in its operational plan.

Following this report is the update of those performance targets set out in the 2012/2013 Operational Plan and the detailed review of Council's 2012/2013 Budget Review covering the March 2013 quarter.

BUDGET IMPLICATIONS

The variations contained within this report maintain a balanced budget as at 31 March 2013, for the 2012/2013 financial year.

POLICY IMPLICATIONS

Nil.

IP&R LINK

DP 6.3.2 – Maintain a stable and secure financial structure for Council.

Attachments

- 1 Quarterly Performance Report 22 Pages
- 2 Quarterly Budget Review 22 Pages

05) **ADOPTION OF INTEGRATED PLANNING AND REPORTING DOCUMENTS**

(Director Corporate Services)

RECOMMENDED:

1. That in accordance with Sections 402-406 of the Local Government Act 1993, the Community Strategic Plan, Community Engagement Strategy, Delivery Program 2013/14 to 2016/17, Operational Plan 2013/14 and Resourcing Strategy be adopted by Council;
2. That Council adopt the Revenue Policy for 2013/14, as outlined in the Operational Plan 2013/14;
3. That Council adopt the Statement of Rating Structure and their respective short names as contained in the Operational Plan 2013/14 and make the Ordinary Rate and charges, including domestic waste management charges, pursuant to section 494 and 496 of the Local Government Act 1993 detailed in the tables below;

Category - Sub Category	Base Amount (p.a.)		Ad Valorem	Total Yield
	%	\$	(rate in \$)	\$
Residential				
Blayney	27.90%	\$180.00	0.007299	\$738,616
Blayney Vacant Land	25.05%	\$180.00	0.007299	\$80,490
Millthorpe	22.62%	\$170.00	0.005667	\$213,423
Millthorpe Vacant Land	24.67%	\$170.00	0.005667	\$22,049
Carcoar	31.68%	\$160.00	0.006988	\$38,386
Carcoar Vacant Land	29.71%	\$160.00	0.006988	\$5,385
Other Areas	25.53%	\$150.00	0.003934	\$656,280
Business				
Blayney	20.08%	\$220.00	0.009544	\$179,705
Millthorpe	14.86%	\$210.00	0.009357	\$25,445
Carcoar	16.78%	\$200.00	0.010640	\$10,725
Villages	41.69%	\$190.00	0.007728	\$9,114
Other Areas	16.64%	\$220.00	0.006983	\$56,836
Mining				
Gold/Copper Mining	0.03%	\$305.00	0.054906	\$2,292,382
Farmland				
Farmland	5.62%	\$140.00	0.004017	\$1,803,184
TOTAL YIELD				\$6,132,021

Blayney Sewerage Service	Access Charge (p.a.)	Quarterly Charge before SDF	Minimum Quarterly Charge	Total Yield
	\$		\$	\$
Residential				
Connected	\$496.00	\$0.00	\$0.00	\$548,080
Vacant/Unmetered	\$256.00	\$0.00	\$0.00	\$32,000
Non Residential				
20mm Water Service	\$436.00	\$109.00	\$124.00	
25mm Water Service	\$676.00	\$169.00	\$124.00	
32mm Water Service	\$1,108.00	\$277.00	\$124.00	
40mm Water service	\$1,732.00	\$433.00	\$124.00	
50mm Water Service	\$2,704.00	\$676.00	\$124.00	

80mm Water Service	\$6,920.00	\$1,730.00	\$0.00	
100mm Water Service	\$10,812.00	\$2,703.00	\$0.00	
150mm Water Service	\$24,328.00	\$6,082	\$0.00	
Vacant/Unmetered	\$256.00	\$0.00	\$0.00	
Non-Residential (Estimated)				\$238,000
TOTAL YIELD (ESTIMATED)				\$818,080

Millthorpe Sewerage Service	Access Charge (p.a.)	Quarterly Charge before SDF	Minimum Quarterly Charge	Total Yield
	\$		\$	\$
Residential				
Connected	\$788.00	\$0.00	\$0.00	\$235,612
Vacant/Unmetered	\$701.00	\$0.00	\$0.00	\$39,957
Non Residential				
20mm Water Service	\$740.00	\$185.00	\$197.00	
25mm Water Service	\$1,156.00	\$289.00	\$197.00	
32mm Water Service	\$1,892.00	\$473.00	\$197.00	
40mm Water service	\$2,956.00	\$739.00	\$197.00	
50mm Water Service	\$4,624.00	\$1,156.00	\$197.00	
80mm Water Service	\$11,832.00	\$2,958.00	\$0.00	
100mm Water Service	\$18,484.00	\$4,621.00	\$0.00	
150mm Water Service	\$41,592.00	\$10,398.00	\$0.00	
Vacant/Unmetered	\$701.00	\$0.00	\$0.00	
Non-Residential (Estimated)				\$42,800
TOTAL YIELD (ESTIMATED)				\$318,369

Waste Management Charges	Annual Charge	Total Yield
Domestic		
Domestic Waste Management Charge	\$310.00	\$637,050
Domestic Waste Management Charge – Vacant Land	\$40.00	\$14,040
Domestic Waste Management Charge – Rural Areas	\$310.00	\$89,590
Non-Domestic		
Non-Domestic Waste Management Charge	\$310.00	\$73,160
Extra Services		
Additional Garbage Charge – per bin	\$165.00	\$12,540
Additional Recycling Charge – per bin	\$145.00	\$4,495
TOTAL YIELD		\$830,875

4. That Council approve the borrowing of \$876,000 for the Barry Road rehabilitation, Old Lachlan Road bridge and Carcoar Dam Road bridge programs during 2013/14 and authorise the affixing of the Council Seal to all documents relating to that loan;
5. That the Financial Assistance Program under Local Government Act section 356 be adopted.
6. That the Division of Local Government be advised of Council's adopted Delivery Program 2013/14 to 2016/17, Operational Plan 2013/14 and Resourcing Strategy within 28 days of adoption by Council.

REPORT

Public exhibition of Council's Community Strategic Plan, Delivery Program 2013/14 to 2016/17 and annual Operational Plan 2012-13 concluded on 6 May 2013, in accordance with the Council resolution of 8 April 2013. Council adhered to the mandatory exhibition period of 28 days as required under the Local Government Act 1993, in order to allow sufficient time for all members of the community to become aware of the plans, proposed programs and special rate variation proposed in the Long Term Financial Plan.

While not formally placed on exhibition, being a management tool for Council, the Resourcing Strategy and a range of supplementary documents were also made available to the community to provide the full scope of information on Council's financial, asset and resourcing position.

Fundamentally, the legislation requires:

- adoption of the Community Strategic Plan;
- the development and adoption of a ten year community strategic plan;
- the development and adoption of a delivery program for the first four years of the ten year strategic plan, supported by a resourcing strategy covering council's asset strategy, workforce plan and financial plan;
- the development and adoption of an operational plan and revenue policy annually, for each year of the four year delivery program.

As a newly elected Council it must review and adopt the Community Strategic Plan. This also entails adoption of the Community Engagement Strategy previously adopted by Council in February 2013. The remaining documents for adoption by Council are as follows:

1. Council's Resourcing Strategy that identifies the funding and resources needed by Council to implement the strategies the Council is responsible for under '*Blayney Shire 2025*'. The strategy incorporates Council's:
 - (i) Asset Management Strategy for the next ten years;
 - (ii) Workforce Plan, addressing issues of sourcing and retaining the workforce skills and capability needed over the next four years; and
 - (iii) Financial Plan for the next ten years, addressing Council's revenue streams, pricing policy, assumptions, risks and forecasts. This document proposes a 15% special variation from 2014/15 onwards (impacting on all rating categories).
2. Council's Delivery Program 2013/14 to 2016/17 which identifies objectives to be completed over the next four years in relation to each of the outcomes and supporting strategies of *Blayney Shire 2025*; and
3. Council's Operational Plan 2013/2014 which identifies the specific actions to be completed in 2013/2014 under each of the four year objectives expressed in the delivery program.

It is a requirement that any submissions received be considered by Council in the process of finalisation and adoption of the draft plans. At the time of report preparation, Council had received one submission on the Delivery Program and Operational Plan. A summary of submission issues and responses is

included as an attachment to this report for Council's consideration. Should further submissions be received they will be tabled at the Council meeting.

Statement of Rating Structure 2012/13

A rate increase of 3.324% increase is proposed for 2013/14 are as shown in the recommendation of this report. Council's rate income will generally equate to approximately 59% of the total annual revenue required by Council to maintain current services and service levels.

Council's Annual Charges and Schedule of Fees & Charges have also been exhibited. The Annual Charges for adoption are as shown in the recommendation of this report.

Four year Capital Works Program 2013/14 to 2016/17

Council's principal mechanism for carrying out capital works is a four year rolling works program incorporated into the Delivery Program 2013/14 to 2016/17. The Capital Works Program details the individual projects and works that will be undertaken each year to achieve the commitments made in the delivery program.

The program:

- Defines the capital projects that will help ensure the continued delivery of Council services;
- Allows advance planning of projects, including investigation, design and documentation;
- Is a key component of Council's infrastructure financing, planning maintenance and replacement strategy;
- Is an information source for the community;
- Allows integration of issues where projects have a wide-ranging impact across the community.

While inevitably refinements to the program will be made, it is appropriate and necessary to have the basis of a longer term schedule to allow appropriate planning both within the community and Council.

A listing of works is included in the Delivery Program. It should be noted that the program includes works and initiatives proposed to be funded by additional revenue generated through a Special Rate Variation (SRV). The undertaking of these works will be subject to the success of the SRV application for commencement in the 2014/15 year.

Section 356 Financial Assistance Program

Also detailed within Council's Draft Operational Plan is the Blayney Shire Financial Assistance Program under section 356 of the Local Government Act. An amount of \$100,000 has been provided for 2013/2014.

Summary

The Delivery Program 2013/14 to 2016/17, Operational Plan 2013/14 and Resourcing Strategy are the culmination of an intense period of work for Council.

Whilst the integrated planning and reporting requirements now in place under the Act are the catalyst to the change, the key driver of the change has been the community engagement underpinning and expressed through *Blayney Shire 2025*, and the framework this provides for the objectives and actions expressed in both the delivery program and operational plan. The result is a very comprehensive and clear statement of the direction and activities of the Council over the next four years, and the beginning of an integrated and more effective approach to the delivery of services by Council.

The adoption of these documents will set us on our path to the Blayney Shire that all stakeholders – the community, councillors and staff would all like to experience in the future.

BUDGET IMPLICATIONS

The financial implications of this report are detailed in the Delivery Program 2013/14 to 2016/17 and Operational Plan 2013/14. It should be noted that works in the Delivery Program to be funded by additional revenue from 2014/15 onwards will not proceed if the application is not approved by IPART.

POLICY IMPLICATIONS

Adoption of the Community Strategic Plan, Delivery Program 2013/14 to 2016/17, Operational Plan 2013/14 and Resourcing Strategy establishes a comprehensive and clear statement of the direction and activities of the Council over the next four years, and in particular establishes Council's Revenue Policy for the year ahead.

Attachments

1	Summary of Submissions to Council's Plans	1 Page
2	Submission - F Gregory	1 Page
3	Community Strategic Plan	36 Pages
4	Workforce Plan	14 Pages
5	Asset Management Strategy	41 Pages
6	Long Term Financial Plan	32 Pages
7	Delivery Program	59 Pages
8	Operational Plan: Part 1 - Activities	91 Pages
9	Operational Plan: Part 2 - Financial Information	62 Pages
10	Community Engagement Strategy	19 Pages

06) **DEEDS OF LEASE - CADIA PIPELINE AGREEMENT**
(Director Corporate Services)

RECOMMENDED:

1. That the report on the Deeds of Lease – Cadia Pipeline Agreement be noted; and
2. That Council endorse execution of the Deeds of Lease – Cadia Pipeline agreement and associated documentation by the Mayor and General Manager under Council seal.

REPORT

Council has been in negotiation with Cadia Holdings Pty Ltd over the past 2 years over lease of land for a second pipeline. The second pipeline is a concentrate delivery network to cater for increased production levels from the Cadia East development.

The delays in negotiation can be significantly attributed to the specialised valuation process required for such an arrangement. Council also took the opportunity to obtain a valuation of the original pipeline pursuant to the existing lease in place.

The agreement commencement date is 23 May 2011 and expires 21 November 2018. A renewal option of 21 years is also available to the lessee.

Council has now received the Deeds of Lease for the Cadia Pipeline for execution and Council approval is sought to this end.

BUDGET IMPLICATIONS

Council has provision in its 2012/13 budget for this arrangement. The annual rent will be \$33,500 (excl. GST) and will be subject to annual review in line with the Sydney (All Groups) CPI.

POLICY IMPLICATIONS

Nil effect.

IP&R LINK

DP 1.2.1 - Manage the development of mining as it develops in the Shire in order to preserve sustainable industrial diversity into the future.

DP 1.2.3 - Build meaningful relationships between the mining industry and community

Attachments

Nil

INFRASTRUCTURE SERVICES REPORTS
PRESENTED TO THE BLAYNEY SHIRE COUNCIL
MEETING HELD ON MONDAY, 13 MAY 2013



07) **STATE EMERGENCY & RESCUE MANAGEMENT ACT:
LOCAL EMERGENCY MANAGEMENT COMMITTEE**
(Director Infrastructure Services)

RECOMMENDED:

1. That Council delegate to the General Manager, the following functions:
 - a. "318. "To appoint a representative of Council as the Chairperson to the Local Emergency Management Committee in accordance with Section 28 of the State Emergency and Rescue Management Act (1989) as amended."
 - b. "12B – Chairperson of Local Emergency Management Committee. That the General Manager delegate a representative of Council as the Chairperson to the Local Emergency Management Committee in accordance with Section 28 of the State Emergency & Rescue Management Act (1989) as amended."

REPORT

Executive Summary

The State Government has recently amended the State Emergency and Rescue Management (SERM) Act (1989), and advice provided in relation to concerns of Local Government including the role of Chairperson of the Local Emergency Management Committee.

This report clarifies the delegation to the General Manager by Council of the role of Chairperson of the Local Emergency Management Committee.

Background Information

Councillors may recall a report provided to the February 2013 ordinary meeting of Council on recent amendments to the SERM Act.

Advice from the Ministry for Police and Emergency Services received upon completion of the February report was as follows:

"The amendments to the SERM Act that are particularly relevant to Local Government are:

- *The General Manager of the Council is now to be the Chairperson of the Local Emergency Management Committee - previously, the Chairperson was to be a person with the authority of the Council to co-ordinate and use the Council's resources. Councils may consider whether the General Manager's power to delegate under Section 378 of the Local Government Act 1993 can be exercised in relation to this function.*
- *The functions of a Local Emergency Management Committee (LEMC) are now specified to reflect modern practice. These*

include that an LEMC may:

- *give effect to and carry out emergency management policy and practice, consistent with information on that policy and practice disseminated by the State Emergency Management Committee. This reflects the LEMCs existing role as part of the tiered emergency management structure.*
- *review and prepare plans in respect of the relevant local government area that are, or are proposed to be, subplans and supporting plans established under the State Emergency Management Plan. This could include local emergency management plans. It does not supplant the Combat Agency's existing planning responsibilities.*
- *make recommendations about and assist in the co-ordination of training in relation to emergency management in the relevant local government area.*
- *develop, conduct and evaluate local emergency management training exercises.*
- *facilitate local level emergency management capability through inter-agency co-ordination, co-operation and information sharing arrangements.*
- *assist the Local Emergency Operations Controller (LEOCON).*
- *other functions related to this act and/or assigned to the Committee by the relevant Regional or State Emergency Management Committee.*
- *in section 31(1B)(b) the reference to the Minister will be omitted which means the LEOCON may assume responsibility for controlling the response to an emergency from the combat agency if the combat agency has required or agreed to the LEOCON assuming responsibility.*
- *Section 32(2) will be omitted which will remove the reference to the Local Emergency Management Officer as the principal executive officer to the LEMC.*

The Ministry for Police and Emergency Services considers that the inclusion of the specific reference to the Local Emergency Management Officer was a policy and not a legislative title, and therefore does not consider that there should be any practical changes to the executive support provided by Council staff. The responsibility in Section 32(1) for Councils to provide executive support facilities for the Local Emergency Management Committee and the Local Emergency Operations Controller in its area has not been altered. Consequently, the office of the LEMO will be set out in the new State Emergency Management Plan (EMPLAN) which will replace the current State Disaster Plan (Displan).”

At the time of receipt of this advice, the Ministry of Police and Emergency Services recognised that NSW was entering into the 2012-13 Bushfire Season, and stated:

“Given that the State is entering into the 2012-13 Bushfire Season, the Ministry accepts that transitional arrangements may need to be put in place to transfer the role of the Chair to the Council General Manager, where it has been held by another senior Council Officer.”

Delegation - LEMC – Chairperson

In regard to the question of delegation, in particular, the Chairperson role of the Local Emergency Management Committee (LEMC) Section 378 of the Local Government Act states:

"378 Delegations by the General Manager

- (1) The General Manager may delegate any of the functions of the General Manager, other than this power of delegation.*
- (2) The General Manager may sub-delegate a function delegated to the General Manager by the Council to any person or body (including another employee of the Council).*
- (3) Subsection (2) extends to a function sub-delegated to the General Manager by the Council under Section 377(2)."*

This section provides the power for the General Manager to sub-delegate his/her functions.

Further, Section 381 of the Local Government Act states:

"381 Exercise of functions conferred or imposed on Council employees under other Acts

- (1) If, under any other Act, a function is conferred or imposed on an employee of a Council or on the Mayor or a Councillor of a Council, otherwise than by delegation in accordance with this section, the function is taken to be conferred or imposed on the Council.*
- (2) Such a function may be delegated by the Council in accordance with this Part.*
- (3) A person must not, under any Act, delegate a function to:*
 - o the General Manager, except with the approval of the Council.*
 - o an employee of the Council, except with the approval of the Council and the General Manager."*

This covers the exercise of functions conferred or imposed on Council employees under other Acts. This report clarifies the delegation to the General Manager by Council of the role of Chairperson of the Local Emergency Management Committee.

The old provisions of the State Emergency and Rescue Management Act (1989) at Section 28 read as follows:

"28 Local Emergency Management Committees

- (1) There is established by this Act a Local Emergency Management Committee for each Local Government area.*

- (2) *Each such Committee is to consist of:*
- (a) *a senior representative of the Council of the relevant Local Government area nominated by that Council who is to be the Chairperson of the Committee, and*
 - (b) *a senior representative of each emergency services organisation operating in the relevant local government area, and*
 - (c) *representatives of such organisations providing services in functional areas in the relevant Local Government area as the Council of that area may from time to time determine, and*
 - (d) *the Local Emergency Operations Controller for the relevant Local Government area.*
- (3) *The Chairperson of a Committee is to be a person who has the authority of the Council to co-ordinate the use of the Council's resources in the prevention of, preparation for, response to and recovery from emergencies.*
- (4) *(Repealed)*
- (5) *The representative of an organisation is to be nominated by the organisation.*
- (6) *(Repealed)*
- (7) *Schedule 2 has effect with respect to the members and procedure of a Local Emergency Management Committee."*

This section has been amended through Schedule 3 of the Amendment of State Emergency & Rescue Management Act 1989, No 165, as follows:

"[25] Section 28 Local Emergency Management Committees

Omit Section 28(2)(a). Insert instead:

- (a) *The General Manager of the Council of the relevant Local Government area, who is to be the Chairperson of the Committee, and*

[26] Section 28(2)(c)

Omit the paragraph. Insert instead:

- (c) *a representative of each organisation that:*
- (i) *provides services in a functional area or areas in the relevant Local Government area; and,*
 - (ii) *the Council of that area determines from time to time is to be represented on the Committee, and*

[27] Section 28(3)

Omit the subsection."

The change at Section 28(2)(a) has created the need for more red-tape.

This report includes within the delegations register of Council that the appointment of an appropriate person to handle the role as Chair of the LEMC, is a matter for the General Manager to delegate.

Council's current appointee to the LEMC is the Director Infrastructure Services who currently fulfils the role of Local Emergency Management Officer (LEMO) and Chairperson of the LEMC.

It is considered that the current Delegations Instrument at Clause 18 – Corporate and Executive Powers, provides power to delegate the role of Chairperson. However in the interests of clarity, and to ensure there are no future misunderstandings, it is proposed to add a Clause 318 to the Engineering section of the Delegations Instrument:

"To appoint a representative of Council as the Chairperson to the Local Emergency Management Committee in accordance with Section 28 of the State Emergency and Rescue Management Act (1989) as amended."

And, to also include under Item 12 – Emergency

"12B Chairperson of Local Emergency Management Committee.
That the General Manager delegate a representative of Council as the Chairperson to the Local Emergency Management Committee in accordance with Section 28 of the State Emergency & Rescue Management Act (1989) as amended."

Delegation to be: GM

Levels of Delegation to be: DIS, OM

BUDGET IMPLICATIONS

Nil

POLICY IMPLICATIONS

Council's Director Infrastructure Services, currently acts as Chairperson of the Local Emergency Management Committee, the report supports this through amendment of Council's Delegation Register

IP&R REFERENCES

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

Attachments

Nil

08) TBL SEWERAGE BENCHMARKING REPORT
(Director Infrastructure Services)

RECOMMENDED:

1. That the summary of the results of the 2011/12 Blayney Shire Council Triple Bottom Line (TBL) Performance Report as published by the NSW Office of Water be noted.

REPORT

Executive Summary

In line with the National Water Initiative, the NSW Government developed the Best Practice Management of Water Supply and Sewerage Guidelines. These guidelines are the key driver in the NSW Government's reform agenda for planning and management and for continuing performance improvement by Local Water Utilities (LWUs).

The guidelines require LWUs to undertake annual performance monitoring in accordance with the National Water Initiative, with the aim of improving the quality and efficiency of services to all NSW residents.

This report provides an annual update on the performance of Council's Sewerage business and is provided for noting.

Background Information

Best Practice Compliance

Council's compliance level with the NSW Best Practice Management Guidelines Requirements is 100%.

The key achievement in the 2011/12 reporting period was the commencement of a routine program for CCTV inspection of the sewer mains as recommended in the Strategic Business Plan.

Council has received its Triple Bottom Line (TBL) Performance Report for the 2010/11 period.

Characteristics		
Indicator	Result	Comments
Properties served per km of main	26	A property density below approx. 30 significantly increases the cost per property of providing services. Blayney number is low due to the spatial separation of Millthorpe and Blayney and low urban density within these two catchments. Increased urban density or infill development may help improve this indicator. Statewide median 40.

Renewals Expenditure	0.0% of CRC ¹ Ranking ² 3 (4)	Council's maintenance and renewals expenditures are low. Expenditure as programmed in Asset Management Plan would provide for improved result. Quality of data and resourcing levels limit capacity to improve this factor. Statewide median 0.3%.
Employees per 1,000 properties	1.0 Ranking 1 (1)	Recommend consideration of additional staff member. Statewide median 2.3 for similar sized utilities.
Social – Charges		
Typical residential bill (TRB) 11/12 (\$)	465 Ranking 3 (3)	Satisfactory. The TRB is in accordance with Council's Strategic Business Plan for Sewer. Statewide median \$574.
Typical Developer Charges 12/13 (\$ per ET ³)	3,180 Ranking 1 (3)	Very Good To be reviewed as part of CWUA Best Practice program. Statewide median \$4,500 per ET.
Non-residential sewer usage charge (c/kl)	110 Ranking 3 (4)	Satisfactory. Review of charge required to be comparable to operating cost per kL. Statewide median 125 c/kL
Social – Health		
Urban properties without reticulated sewerage service (%)	29.7 Ranking 5 (5)	Result is low due to outer villages not being connected to the network. Connection levels in the Village of Millthorpe continue to grow. Statewide median 3.8%
Social – Levels of Service		
Odour complaints / 1,000 properties	0 Ranking 1 (1)	Very Good Statewide median 0.5
Service Complaints / 1,000 properties	7 Ranking 2 (2)	Good Statewide median 11
Average sewerage interruption (mins)	60 Ranking 1 (1)	Very Good Statewide median 102
Total days lost (%)	0 Ranking 1 (1)	Very Good Statewide median 2
Environmental		
Volume of sewage collected per property (kL)	184 Ranking 2 (1)	
Recycled water (%)	77% Ranking 1 (1)	Very Good Heavily reliant upon external demand Statewide median 5%

Net greenhouse gas emissions (t CO ² /1000 properties)	170	Good Proposed variable speed drive (VSD) project (subject to Federal CEEP2 Grant application) will reduce CO2 emissions. Statewide median 370
Compliance with BOD and SS in license (%)	100% Ranking 1 (1)	Very Good
Sewer main breaks & chokes / 100km of main	18 Ranking 2 (2)	Good Renewals expenditure as programmed in Asset Management Plan may provide for improved result. Statewide median 33
Sewer overflows to the environment / 100km of main	0 Ranking 1 (1)	Very good Dry conditions may have reduced potential impact of infiltration. Renewals expenditure as programmed in Asset Management Plan will provide for more consistent result. Statewide median 15
Economic		
Non-residential % of sewage collected	8 Ranking 4 (5)	Statewide median 17
Non-residential revenue (%)	8 Ranking 5 (5)	Considered in line with the non-residential % of sewage collected. May require review with view to increasing.
Economic real rate of return (%)	0.4 Ranking 2 (3)	Good Statewide median 1.0%
Return on assets (%)	1 Ranking 2 (2)	May require review An ROA > 0% is required for full cost recovery. Statewide median 0.5%
Loan payment (\$) per property	59 Ranking 1 (2)	Good Statewide median \$87
Operating Cost (OMA) / property (\$)	317 Ranking 3 (2)	Satisfactory Affected by spatial separation of Millthorpe and Blayney. Increased urban density or infill development may help improve this indicator. Statewide median \$410
Management cost / property (\$)	95 Ranking 3 (2)	Satisfactory Increased urban density or infill development may be supporting trend downward. Statewide median is \$140
Treatment cost / property (\$)	155 Ranking 4 (4)	May require review Affected by economies of scale Statewide median \$137

Pumping cost / property (\$)	25 Ranking 2 (2)	Good Statewide median \$70
Sewer main cost / property (\$)	40 Ranking 3 (3)	Satisfactory Statewide median \$45
Notes:		
<ol style="list-style-type: none"> 1. CRC – Current replacement cost of system assets. 2. Ranking – The ranking relative to similar size Local Water Utilities (LWU's) with 200 to 1,500 connected properties is shown first, followed by the ranking relative to all LWU's within brackets. 3. ET – Equivalent Tenements 		

BUDGET IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

IP&R REFERENCES

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

09) **WATER SENSITIVE URBAN DESIGN**
(Director Infrastructure Services)

RECOMMENDED:

1. That the report on Water Sensitive Urban Design be received and noted.

REPORT

The Salinity & Water Quality Alliance (the Alliance), with support from the Central West Catchment Management Authority (CWCMA) is encouraging the adoption of Water Sensitive Urban Design (WSUD) in the region. Water sensitive urban design is the “term used to describe a new approach to urban planning and design that offers sustainable solutions for integrating land development and the natural water cycle” (Lloyd 2001). It typically involves strategies to conserve and recycle water, minimize the generation of wastewater, and manage stormwater quality and quantity.

To date the Alliance and CWCMA have undertaken a range of WSUD-related capacity building initiatives, including:

- Preparing a WSUD policy and supporting technical guidelines, designed to link to Council’s development control plans.
- Presentations on the WSUD policy.
- Providing local practitioners with MUSIC software modeling licenses and training.

Council staff recently attended a workshop in Molong which sought to investigate the key barriers to the local implementation of WSUD and practical ways to overcome these barriers.

At the workshops typical barriers were identified to the adoption of WSUD, such as knowledge, skills, tools, organizational systems and processes, organizational cultures, leadership, intra- and inter- organizational relationships, legislation, policy, planning, finance, governance, incentives etc. The principal elements that are required for an organisation to foster adoption of WSUD are:

- Knowledge (access to research, tools, science)
- Professional development activities (workshops etc)
- Organisational strengthening activities (commitment and collaboration)
- Directive reforms (mandatory controls, plans, objectives, assessment and enforcement)
- Facilitative reforms (incentives, funding, leadership)

As a result of workshops in the Central West a **WSUD Resources Info Sheet** (see *attached at Attachment A*) has been developed by the Alliance that links straight to online resources and brings together the best resources from across Australia. It is advised to follow the links and build on a knowledge base of WSUD.

The **Stormwater NSW Conference** which is being held this year at the Fairmont Resort Blue Mountains in Leura from 17-19th September 2013 provides two days of conference presentations and a full day of technical tours incorporating practical demonstrations relevant to the stormwater discipline, with a strong and increasing focus on WSUD.

The Alliance have also recommended information issued by the Sydney Metropolitan Catchment Management Authority in their e-Newsletter April/May 2013 at www.wsud.org , and a video about the development and construction of a wetland on the Cooks River in Sydney:
<http://www.sydneywatertalk.com.au/crbnp/2013/03/19/cup-and-saucer-wetlands-informational-video/>

WSUD is not new to Blayney Shire. The wetlands in Heritage Park at Blayney were constructed utilising State Government funding in 2000. Blayney Shire Council was the first to undertake such a project west of the Blue Mountains. Heritage Park is a multi-use facility and reserve fronting Martha and Adelaide Streets, with tennis courts, barbeques area, play equipment, with amenities and pathways, together with interpretive signage and passive recreation area.

Pollutants in the township at the time of project construction emanated from a number of industries with limited pollutant quality regulation. The range of pollutants entering the waterways included heavy metals, salts, animal fats, soaps and detergents, oils and grease, organic matter and sediment, litter, weeds, chemicals and pathogens.

Carcoar Dam on the Belubula River to the south east of the town was known as a highly polluted water body, with continual outbreaks of blue-green algae. The project addressed the key principles of Ecologically Sustainable Development (ESD), and the following characteristics of the catchment:

- Ecological – enhancement of the natural and diverse ecosystem, healthy riparian vegetation, and reduction of algal buildup.
- Social – recreation potential of the Carcoar Dam, water quality, reduction in exotic vegetation (willows).
- Economical – stock watering, irrigating and general agricultural use, the tourism \$\$, cost of water treatment.

The purpose of the project was to address poor stormwater quality in the Belubula River and the streams feeding into it from the Blayney township. The facility constructed in the Park includes a gross pollutant trap (GPT) which is linked by open grassed swales to two wetland ponds. The GPT and the viewing platform were sponsored by Nestle Purina.

Wetland areas were constructed at four sites, one near the abattoir, the one in Heritage Park, one near the Blayney Sewerage Treatment Plant (STP) on Hobbys Yards Road, and one at Carcoar Dam.

The Blayney abattoir site is now abandoned along with the wetland area nearby, and the plant closure in 1998 saw a significant decrease in pollutants

entering the local stormwater system. However it would still be having a positive impact on the river system.

The Council STP site requires monitoring under the operating license issued by the EPA, and Cadia source water from here for operational use.

At Carcoar Dam the sump was used for rural runoff and to trap pollution from Blayney. The dam has now safely returned to recreational use, including fishing.

At Heritage Park, the two wetlands have been designed with varying depths and island refuges to promote flora and fauna diversity. Much waste from urban runoff is captured by the trap and relocated to landfill. Sediment drops out in the shallows and the plants act as a bio filter. The design allows for wetting and drying cycles to allow sediment to dry and crystallize, locking up nutrients. The deeper water is then clear and slow before it leaves the ponds and enters the Belubula River.

The facility has been utilised as an educational facility and is safe for public access via interlinked pathways and the viewing platform.

The benefits of the scheme include:

- Improved stormwater quality for the Belubula River
- Native flora and fauna habitat
- Improve public amenity of land not previously able to be utilized
- Heightened awareness of environmental issues along the river system, and how the urban area contributes to stream health
- Awareness of local environmental issues in local schools
- Use as a recreational facility
- Benchmark stormwater treatment techniques
- Attenuate storm water flow

Some site monitoring was originally done by school children on Heritage Park, incorporated into school programs under the wetland project, although not in recent years.

BUDGET IMPLICATIONS

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

POLICY IMPLICATIONS

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

IP&R LINK

DP4.1.8 – Investigate opportunities for stormwater harvesting and reuse (2014, 2015)

DP 4.1.9 – Apply the principles of Water Sensitive Urban Design (WSUD) to stormwater management (2014)

Attachments

- 1 WSUD Resources Sheet 4 Pages

10) **LIQUID TRADE WASTE MONITORING PROGRAM**
(Director Infrastructure Services)

RECOMMENDED:

1. That the report on Council's Liquid Trade Waste Monitoring program be received and noted.

REPORT

Executive Summary

This report provides information on Council's proposed Liquid Trade Waste Monitoring program to be undertaken across the Blayney and Millthorpe Sewer network.

Background

All Councils are required by the NSW Office of Water (NOW) to implement changes to their management of sewerage operational practices to achieve what NOW has determined to be 'Best Practice'. As part of that process, Blayney Shire Council has developed the 6 plans required to meet the requirements of Best Practice and is progressively implementing the actions highlighted and imposed by the State Government back in about 2007.

An important part of the responsibilities placed on local water utilities for sewerage services is the approval and monitoring of liquid trade waste (LTW) dischargers to the sewerage system, and the levying of appropriate sewerage and liquid trade waste fees and charges. These charges are imposed to cover the cost of the sewage treatment so that the treated effluent meets the Licence requirements imposed by the EPA. This requires sound management to ensure satisfactory performance and protection of the infrastructure, the land and water resources and the Blayney Shire communities, and Council's staff health and safety.

For example, inappropriate LTW to sewer can destroy the treatment process at the Sewerage Treatment Plant (STP) requiring emergency actions to re-establish the treatment process. Restaurants which discharge too much fat to the sewer without a grease trap or a suitable sized grease trap can cause pump blockages and incur Council and the community excessive and unnecessary costs. Therefore a properly monitored and implemented LTW Policy can improve the operations of Council's infrastructure, with the costs to operate the system fairly distributed to those who add the most load to the treatment process.

Council adopted its Liquid Trade Waste Policy at its ordinary meeting of October 2011, which was based on the model Policy provided by the State Government.

Implementation of the Policy is due to commence over the next few months which will involve an inspection of each business premises where LTW is a factor. These inspections are likely to highlight deficiencies in the discharge

of this waste stream which will require those business owners to undertake works to address the requirements of Council's Policy.

It is intended that qualified consultants, experienced in this area will undertake this initial work on Council's behalf and will provide Council with details of the businesses connected to the sewer along with details of their LTW. Those businesses where remedial action is required will also be highlighted. Once Council has this information available, Council's staff are then able to monitor and ensure compliance from that point in time.

It is expected that Councillors might receive enquires from the community about this process, hence this information is provided so that Councillors can be informed of these activities. Any detailed enquiries can be forwarded to Council's consultants through Infrastructure Services.

BUDGET IMPLICATIONS

Provision exists within the Blayney and Millthorpe Sewer Business' to fund the proposed inspections.

POLICY IMPLICATIONS

Monitoring will satisfy the requirements of Council's Liquid Trade Waste Policy

IP&R REFERENCES

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

11) **TOWN OF BLAYNEY FLOOD STUDY & FLOODPLAIN RISK MANAGEMENT STUDY AND PLAN (CONTRACT NO. 6/2013)**
(Director Infrastructure Services)

RECOMMENDED:

1. In accordance with the Local Government (General) Regulation 2005, Clause 178 (1)(a), Council accept the tender of Sinclair Knight Merz (SKM) for Blayney Flood Study, in the sum of \$96,179 excluding GST and subject to variations.
2. Council delegate to the General Manager the authority to finalise and execute the contract and any other documentation required to give effect to this resolution.
3. Council grant authority for the use of the Common Seal of Council on the contract and any other documentation, should it be required, to give effect to this resolution.

REPORT

Executive Summary

This report recommends acceptance of a tender for the Town of Blayney Flood Study in accordance with the requirements of the Local Government Act (1993) and the Local Government (General) Regulation 2005.

The Town of Blayney catchment is approximately 140km² in size.

Six (6) tenders were received from five (5) consultants and the report recommends Council accept the tender of Sinclair Knight Merz (SKM) utilising 2D analysis.

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.

The flood study will assist Council in the planning and development in the Town of Blayney and more specifically alongside the Belubula River and the various tributaries that flow into it through the urban area of the town.

The primary objective of the study is to define the flood behaviour under historical and existing conditions in the Town of Blayney catchment. It is also desirable to define flood damages that would occur under current floodplain conditions. This study will be conducted in accordance with the NSW Government's Flood Policy, as detailed in the NSW "Floodplain Development Manual: The Management of Flood Liable Land (2005)".

The study will produce flood levels, velocities, flows, hydraulic categories and provisional hazard categories from existing conditions under a range of design

flood events in addition to the above, the study will recommend appropriate planning setbacks and flood planning levels (FPL's).

Tenders were invited by the selective tender method with a close of tenders of 4.00 pm on 16 April 2013.

Six tenders were received by the close of tenders and all tenders have been evaluated by the Director Infrastructure Services and staff of the NSW Office of Environment and Heritage.

Tenders were evaluated in accordance with the following evaluation criteria (Table 1.)

Table 1.

No.	Criteria	Weighting
1	Relevant Experience	5%
2	General Track Record	5%
3	Technical Skills	30%
4	Methodology	30%
5	Management Skills	5%
6	Time Performance	5%
7	Price	20%

The tender evaluation utilised a numerical scoring method for the assessment of tenders which allocates a numerical score out of five in relation to the level of compliance offered by the tenders to each of the assessment criteria. The method then takes into account pre-determined weightings for each of the assessment criteria, which provides for a total score out of five (5) to be calculated for each tender. The tender with the highest total score is considered to be the tender that best meets the requirements of that tender in providing best value to Council. Table 2 below summarises the results of the tender assessment and the ranking of tenders.

Table 2.

Tenderer	Ranking
Lyall & Associates	2
Worley Parsons	5
Cardno	4
Sinclair Knight Merz (2D)	1
Wma Water	3

It is noted SKM provided two (2) tender alternatives, however upon discussion with the NSW Office of Environment and Heritage it was determined that the appropriate tender solution for Council was the TUFLOW submission being a 2D proposal, rather than the older 1D solution. The 1d proposal has therefore been excluded from Table 2.

It is recommended that Council authorise the engagement of SKM to carry out the works in accordance with the scope of works and technical specifications developed for the project.

SKM has submitted an acceptable tender and is capable of undertaking the works to Council standards and in accordance with the technical specification.

BUDGET IMPLICATIONS

The project is to be funded over the two (2) forthcoming financial years, 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.

IP&R References

- DP 1.1.2 – Promote sustainable development and protection of our natural resources through the planning system.
- 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.
- DP 6.4.1 – Provide support for emergency management in Blayney Shire in accordance with the SERM Act.

Attachments

Nil

PLANNING AND ENVIRONMENTAL SERVICES REPORTS
PRESENTED TO THE BLAYNEY SHIRE COUNCIL
MEETING HELD ON MONDAY, 13 MAY 2013



12) **PROPOSED BLAYNEY LOCAL INFRASTRUCTURE PLAN
(SECTION 94/94A) FOR BLAYNEY SHIRE COUNCIL**
(Director Planning and Environmental Services)

RECOMMENDED:

1. That Council note the proposed changes to the Draft Plan and place the amended Draft Blayney Local Infrastructure Contributions Plan 2013 back on public exhibition for twenty eight (28) days in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000, Division 2, Part 28.
2. That written comments be invited to be submitted to Council, for consideration by Council prior to further consideration of adoption of the Draft Plan.

REPORT

Council at its meeting on the 11 March 2013 considered a report on the Draft Plan and resolved to place this plan on public exhibition.

During this public exhibition period, further discussions were held between Council staff and GLN Planning and this resulted in an updated contribution plan works schedule and an updated contribution rate for dwelling.

Because of these changes it is considered necessary for the document to be re-exhibited for another 28 days.

Councillors will be provided with an amended copy of the Draft Plan prior to the Council meeting and Planning staff are available to answer any queries/questions that may arise.

Upon completion of the exhibition period, all submissions made to Council, regarding the plan will be considered by staff and, if necessary GLN Planning, and the plan put back to Council for consideration of adoption, subject to any changes that may be made to the Draft Plan.

BUDGET IMPLICATIONS

Nil effect.

POLICY IMPLICATIONS

Nil effect.

IPR LINK

DP 1.1.2 – Provide sustainable development and protection of our natural resources through the planning system.

Attachments

1	Blayney Local Infrastructure Contributions Plan - Updated Contributions Plan Works Schedule	2 Pages
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13) **DEPARTMENT OF PLANNING AND INFRASTRUCTURE**
LOCAL DEVELOPMENT PERFORMANCE MONITORING
2011-2012

(Director Planning and Environmental Services)

RECOMMENDED:

1. That the report be received for information.

REPORT

The Department of Planning and Infrastructure released the annual Local Development Performance Monitoring Report for 2011-12 on the 30 March 2013.

The data is recorded in Mean Gross, Mean Net, Media Gross and Media Net determination times and while there are all relative factors affecting processing times, the Mean Gross times is important, to applicants, as it measures the total processing time taken between lodging an application and receiving the final decision.

Blayney Mean Gross times have been exhibited for Development Applications and Complying Development Certificates and the results compared with the State average and Group 10 Councils, of which Blayney Shire is ranked.

The determination times for Blayney Shire are:

Development Applications

Blayney	54 days
Class 10 Councils	66 days
State	71 days

Complying Development Certificates

Blayney	17 days
Class 10 Councils	10 days
State	18 days

Blayney Shire reported the lowest average determination time of 9 days for development applications valued between \$1 and \$5 million dollars.

Overall the processing times are a credit to Council's Planning and Environment Services Department staff and they are to be commended for their efforts in achieving there very creditable figures.

BUDGET IMPLICATIONS

Nil effect.

POLICY IMPLICATIONS

Nil effect.

IPR LINK

DP 1.1.2 – Promote sustainable development and protection of our natural resources through the planning system.

Attachments

Nil

- 14) **THE PLANNING WHITE PAPER: GROWTH, CERTAINTY AND ENGAGEMENT**
(Director Planning and Environmental Services)

RECOMMENDED:

1. That Council note the contents of the report regarding the release by the NSW Government's proposed new NSW Planning System.

REPORT

The Planning White Paper was released, for public information and comment, on the 16 April 2013, for a 10 week consultation period.

The new planning system is proposed to be based in 5 keys elements:

1. **Community participation** – upfront community participation will become a legal right and will be backed up by a Community Participation Charter enshrined in law, which is an Australian first.
2. **Infrastructure** – delivering infrastructure alongside growth and providing a more certain and consistent way of funding infrastructure.
3. **Strategic planning** – better strategies, developed early in the process with the community, to guide the best places for growth and identify the areas to be protected from development.
4. **Cultural change** – a planning system that is easy to access with timely results for customers.
5. **Development assessment** – an easy-to-use system that provides certainty for everyday applications such as family homes, extensions and small businesses.

The proposed new system contains many proposed changes to the Environmental Planning and Assessment Act and some of the major elements are:

- A Community Participation Charter which guarantees community participation in the planning process. Councils and communities will need to develop Community Participation Plans which are consistent with this Charter.
- The planning system will move into the 21st Century with a 'one-stop shop' NSW Government electronic portal will enable people to comment on 3D interactive models of planning proposals and find all relevant planning controls in one place.
- Comprehensive Growth Infrastructure Plans will be prepared alongside major planning changes – NSW is the first state or territory in Australia to take this approach.
- Introduction of a far more rigorous approach to building standards.
- The State's development contribution system will be made more robust and accountable, with councils required to spend the money on local

infrastructure with three years to ensure infrastructure is delivered when it is needed.

- Additional funds will be made available for schools, regional roads, open space and stormwater/drainage – including in existing suburbs – through the new regional infrastructure contribution system. Costs will be more evenly shared by new developments in existing suburbs in the new land release areas.

Following release of the White Paper, Local Government NSW (LGNSW) expressed its concerns on whether the proposed new Planning System will “be practical in delivering better outcomes and effective in engaging communities”.

Concerns have also been expressed by LGNSW “that the changes could mean that neighbours and local representative’s interest may not be heard, and that the proposed processes are ‘top heavy’ with too much focus on a ‘top down’ approach”.

The LGNSW will provide a comprehensive response to the proposed system following wide consultation with its members, other experts and the community.

Following a preliminary review of the White Paper and the apparent involvement of Council, and particularly Council staff, in the further development and implementation of the new system it is very unclear what, if any, funding will be made available to Councils, from the NSW Government, to develop and implement this process.

Council will be kept informed of the progress and implication of the proposed new scheme.

BUDGET IMPLICATIONS

Nil effect (at this time).

POLICY IMPLICATIONS

Council may have to develop and implement policy change as result of the proposed new planning laws if they are adopted in the form.

IPR LINK

The proposed new scheme, if adopted as suggested, may affect this following primary Direction of Council’s Community Strategic Plan.

No.1 – Grow the wealth of the Shire.

No.3 – Preserve and enhance our heritage and rural landscapes.

No.4 – Develop and maintain Shire infrastructure.

No.6 – Leadership.

Attachments

Nil

15) **NETWASTE MEMORANDUM OF UNDERSTANDING**
(Director Planning and Environmental Services)

RECOMMENDED:

1. That Council enter into the Memorandum of Understanding for Regional Tender for Waste Services with NetWaste.

REPORT

The Memorandum of Understanding is between the participating Council to indicate each Council's intention to commit to the tendering process.

The purpose of the Memorandum of Understanding is:

- To indicate to other participating Councils that adequate consideration has been given to deciding to be included in the tender and that appropriate attention shall be given to the procurement process so as not to cause any disruption to the process which may result in extra work or expense to participating Councils;
- To indicate to prospective tenderers that each of the participating Councils are committed to follow the tender process i.e. that Councils are genuinely committed to receiving, properly evaluating and possibly accepting a tender. The commitment and expense of submitting a tender is recognised;
- Elevates the importance of the waste collection contract to the executive within each Council, so as to gain each Council's commitment and adequate resourcing of the procurement process. This is also often the first point of reference for each Council and is anticipated to be backed by a Council resolution to enter into the Memorandum of Understanding.

Whilst a Memorandum of Understanding is not an Agreement that is enforceable in any way between the parties, it is generally accepted that to enter into such an undertaking is an indication of the intention to act in a certain way i.e. in this case, to request tenders with the intention of accepting a submission/s and entering into a contract following the tender process. Notwithstanding this, the Memorandum of Understanding does not preclude Councils from rejecting tenders i.e. you are not bound to accept a tender.

BUDGET IMPLICATIONS

Waste tendering and collection costs contained in LTFP.

POLICY IMPLICATIONS

No policy implications.

IP&R LINK

DP 4.5.1 – Sustainable waste management.

Attachments

- 1 NetWaste Memorandum of Understanding 7 Pages

- 16) **DEVELOPMENT APPLICATION NO.7/2013 - NBN
TELECOMMUNICATIONS FACILITY - 244 KENTUCKY ROAD,
NEVILLE**
(Director Planning and Environmental Services)

RECOMMENDED:

1. That Council note the submissions made in regard to the proposed development, and that Council consent to the Development application No. 7/2013 subject to the following conditions of consent:

STATUTORY

REASON: Statutory requirement

1. Development is to take place in accordance with the attached stamped plans (Ref No. DA 7/2013), Documentation submitted with the application and subject to the conditions below, to ensure the development is consistent with Council's consent.
*Note: Any alterations to the approved development application plans must be clearly identified **WITH THE APPLICATION FOR A CONSTRUCTION CERTIFICATE.** The Principal Certifying Authority (PCA) for the project may request an application for modification of this consent or a new application in the event that changes to the approved plans are subsequently made.*
2. The proposal is to be constructed and maintained in accordance with the requirements of the Building Code of Australia.
3. The development is to comply with all provisions of the principles within *NSW Telecommunications Facilities Guidelines* including *Broadband (July 2010)*

ENVIRONMENTAL

REASON: Statutory requirement and public interest

4. Prior to the commencement of works, the applicant shall install and maintain adequate sediment and soil erosion controls in accordance with WBC Engineering Guidelines. (reference the website)
5. All rubbish and debris associated with the development, including that which can be windblown, must be contained on site in a suitable container at all times. The container shall be erected on the development site prior to work commencing.
Materials, sheds or machinery to be used in association with the development must be stored and stacked wholly within the worksite unless otherwise approved by Council

Note 1: No rubbish or debris associated with the development will be placed or permitted to be placed on any adjoining public reserve, footway or road.

Note 2: Offenders are liable for prosecution without further warning.

6. Construction work must only be carried out within the following times, as per the *NSW Telecommunications Facilities Guidelines*:
 - a) Monday to Friday – 7:00 am to 5:00 pm;
 - b) Saturday – 7:00 am to 5:00 pm
 - c) No work to be carried out on Sunday or Public Holidays.

Note: The principal contractor shall be responsible to instruct and control their sub-contractors regarding the hours of work.

7. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.
8. The developer is to relocate, if necessary, at the developer's cost any utility services.

CONSTRUCTION

REASON: Statutory requirement and public interest

9. The construction of an all-weather 2WD vehicular access to each proposed allotment. Such access shall include:
 - (a) a gate or stock grid
 - (b) a minimum 4.0 metre wide sealed footway crossing, extending from the edge of the bitumen seal on the public road to the entrance gate or stock grid.

NOTE: Any new vehicular access points are to be located such that all RTA stopping sight distances are achieved.
10. A Traffic Management Plan is to be lodged with and approved by Council prior to the commencement of construction, to address the following stages of development:
 - (a) The proposed development construction phase
 - (b) Future site maintenance and management phase

REPORT

Applicant:	NBN Co Ltd
Owner:	BD Scott & N Twohill-Scott
Application No:	DA7/2013
Zone:	E3 Environmental Management, BLEP 2012
Date Received:	25 January 2013
Assessment No:	A336299
Property:	244 Kentucky Road, Neville
Proposed Development:	Telecommunications Facility

Description of Proposal

The subject land is located approximately 2km from the village of Neville, to the south east of Blayney township and is zoned E3 Environmental Management. The proposed development, being the installation of a communication facility (utility installation), is permissible with consent under State Environmental Planning Policy (Infrastructure).

The subject land is currently used for agricultural purposes and the addition of the proposed development on a small area of land (12m x 8 m), is unlikely to significantly impact on the effective use of the agricultural land.

The proposed development includes the installation of a compound (12m x 8m) with a 40m high monopole, 4 antennas and various small storage cupboards.

Section 79C Evaluation - matters for consideration

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

1. State Environmental Planning Policies

SEPP (Infrastructure) 2007

The proposed development is permissible with consent (due to the zone being E3) under the *SEPP (Infrastructure) 2007 – Clause 21 Telecommunications and Other Communication Facilities*.

The SEPP outlines that the *NSW Telecommunications Facilities Guidelines* including *Broadband (July 2010)* must be taken into consideration as follows:

PRINCIPLE 1	
(a) As far as practical, a telecommunications facility that is to be mounted on an existing building or structure should be integrated with the design and appearance of the building or structure.	Not applicable
(b) The visual impact of telecommunications facilities should be minimized, visual clutter is to be	Not applicable

<p>reduced particularly on tops of buildings, and their physical dimensions (including support mounts) should be sympathetic to the scale and height of the building to which it is to be attached, and sympathetic to adjacent buildings.</p> <p>(c) Where telecommunications facilities protrude from a building or structure and are predominantly backgrounded against the sky, the facility and their support mounts should be either the same as the prevailing colour of the host building or structure, or a neutral colour such as grey should be used.</p> <p>(d) Ancillary facilities associated with the telecommunications facility should be screened or housed, using the same colour as the prevailing background to reduce its visibility, including the use of existing vegetation where available, or new landscaping where possible and practical.</p> <p>(e) A telecommunications facility should be located and designed to respond appropriately to its rural landscape setting.</p> <p>(f) A telecommunications facility located on, or adjacent to, a State or local heritage item or within a heritage conservation area, should be sited and designed with external colours, finishes and scale sympathetic to those of the heritage item or conservation area.</p> <p>(g) A telecommunications facility should be located so as to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista or a</p>	<p>Not applicable.</p> <p>The proposed development suggests that the outdoor cabinets will be a cream colour (and small in size) to reduce their visibility.</p> <p>The proposed development will use mitigation measures to ensure that the visual impact is minimized. Cables are to be run underground and existing landscaping utilized to ensure the development is screened from the road.</p> <p>The subject land is not identified as being of heritage significance, located within a heritage conservation area, a state or local listed heritage item nor located in the vicinity of a heritage item.</p> <p>No lopping or removal of vegetation is required for the proposed development. No particular heritage items, landmarks, or streetscapes are relevant to the development. The site</p>
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<p>panorama, whether viewed from public or private land.</p> <p>(h) The relevant local government authority must be consulted where the pruning, lopping, or removal of any tree or other vegetation would contravene a Tree Preservation Order applying to the land or where a permit or development consent is required.</p> <p>(i) A telecommunications facility that is no longer required is to be removed and the site restored, to a condition that is similar to its condition before the facility was constructed.</p> <p>(j) The siting and design of telecommunications facilities should be in accordance with any relevant Industry Design Guides.</p>	<p>is located such that it will not be viewed from a public road.</p> <p>No land clearance is required for the development.</p> <p>A condition would be placed on any consent to this effect.</p> <p>The most appropriate site for the development has been considered by the developer in relation to the facility's efficiency, visual amenity and distance from townships and schools etc.</p>
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2.

PRINCIPLE 2	
<p>(a) Telecommunications lines are to be located, as far as practical, underground or within an existing underground conduit or duct.</p> <p>(b) Overhead lines, antennas and ancillary telecommunications facilities should, where practical, be co-located or attached to existing structures such as buildings, public utility structures, poles, towers or other radiocommunications equipment to minimize the proliferation of telecommunication facilities and unnecessary clutter.</p> <p>(c) Towers may be extended for the purposes of co-location.</p> <p>(d) The extension of an existing tower must be considered as a practical co-</p>	<p>Not applicable</p> <p>There are no existing telecommunication facilities in the area. There is an existing power pole located to the north of the site of the proposed development, however, this power pole is operated and maintained by a different company and due to the compound that is required to be constructed around the proposed development, it would be inappropriate for the proposed development to be located any closer to the power pole.</p> <p>Not applicable</p> <p>Not applicable</p>

<p>location solution prior to building new towers.</p> <p>(e) If a facility is proposed not to be co-located the proponent must demonstrate that co-location is not practicable.</p> <p>(f) If the development is for a co-location purpose, then any new telecommunications facility must be designed, installed and operated so that the resultant cumulative levels of radio frequency emissions of the co-located telecommunications facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.</p> <p>Note: Co-location is 'not practicable' where there is no existing tower or other suitable telecommunications facility that can provide equivalent site technical specifications including meeting requirements for coverage objectives, radio traffic capacity demands and sufficient call quality.</p>	<p>The developer has shown that there are no other options in the locality for co-location.</p> <p>Not applicable</p>
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3.

PRINCIPLE 3	
<p>(a) A telecommunications facility must be designed, installed and operated so that the maximum human exposure levels to radiofrequency emissions comply with Radiation Protection Standard. Refer also to Appendix D.</p> <p>(b) An EME Environmental Report shall be produced by the proponent of development to which the Mobile Phone Network Code applies in terms of design, siting of facilities and notifications. The Report is to be in the format required by the Australian Radiation Protection Nuclear Safety Agency. It is to show the predicted levels of</p>	<p>The proposed development will comply with the ACMA regulations with respect to radiation exposure. This will be a condition of consent.</p> <p>This report accompanies the application as Appendix 2 and shall be stamped as part of the development consent.</p>

<p>electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and demonstrate compliance with the Mobile Phone Networks Code.</p>	
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4.

PRINCIPLE 4	
<p>(a) The siting and height of any telecommunications facility must comply with any relevant site and height requirements specified by the <i>Civil Aviation Regulations 1988</i> and the <i>Airports (Protection of Airspace) Regulations 1996</i> of the Commonwealth. It must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority Australia.</p>	<p>The proposed development includes a 40m monopole which is less than the 110m outline of a ‘tall structure.’</p>
<p>(b) The telecommunications facility is not to cause adverse radio frequency interference with any airport, port or Commonwealth Defence navigational or communications equipment, including the Morundah Communication Facility, Riverina.</p>	<p>The design of the development allows for no electrical interference problems with other radio based systems and meets the AS.</p>
<p>(c) The telecommunications facility and ancillary facilities are to be carried out in accordance with the applicable specifications (if any) of the manufacturers for the installation of such equipment.</p>	<p>The development is to be carried out in accordance with the plans and specifications submitted.</p>
<p>(d) The telecommunications facility is not to affect the structural integrity of any building on which it is erected.</p>	<p>Not applicable.</p>
<p>(e) The telecommunications facility is to be erected wholly within the</p>	<p>The proposed development is to be located wholly within Lot 8 DP</p>

<p>boundaries of a property where the landowner has agreed to the facility being located on the land.</p> <p>(f) The carrying out of construction of the telecommunications facilities must be in accordance with all relevant regulations of the Blue Book – ‘Managing Urban Stormwater: Soils and Construction’ (Landcom 2004), or its replacement.</p> <p>(g) Obstruction or risks to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction are to be mitigated.</p> <p>(h) Where practical, work is to be carried out during times that cause minimum disruption to adjoining properties and public access. Hours of work are to be restricted to between 7.00am and 5.00pm, Mondays to Saturdays, with no work on Sundays and public holidays.</p> <p>(i) Traffic control measures are to be taken during construction in accordance with <i>Australian Standard AS1742.3-2002 Manual of uniform traffic control devices – Traffic control devices on roads</i>.</p> <p>(j) Open trenching should be guarded in accordance with <i>Australian Standard Section 93.080 – Road Engineering AS1165 – 1982 – Traffic hazard warning lamps</i>.</p> <p>(k) Disturbance to flora and fauna should be minimized and the land is to be restored to a condition that is similar to its condition before the work was carried out.</p> <p>(l) The likelihood of impacting on threatened species and communities should be identified in consultation</p>	<p>236814.</p> <p>This will be a condition of consent.</p> <p>Due to the location of the proposed development it is considered that the potential risk to pedestrians and vehicles during the construction process or by the development once completed would be minimal.</p> <p>Hours of construction will be a condition of consent, in accordance with these times.</p> <p>This will be a condition of consent.</p> <p>This will be a condition of consent.</p> <p>This will be a condition of consent.</p> <p>The subject land is not identified as a habitat for threatened or endangered species.</p>
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<p>with relevant state or local government authorities and disturbance to identified species and communities avoided wherever possible.</p> <p>(m) The likelihood of harming an Aboriginal Place and / or Aboriginal object should be identified. Approvals from the Department of Environment, Climate Change and Water (DECCW) must be obtained where impact is likely, or Aboriginal objects are found.</p> <p>(n) Street furniture, paving or other existing facilities removed or damaged during construction should be reinstated (at the telecommunications carrier's expense) to at least the same condition as that which existed prior to the telecommunications facility being installed.</p>	<p>The subject land is not identified as being an area of possible Aboriginal cultural significance.</p> <p>Due to the location of the development being in a rural area, this is not relevant.</p>
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5. Regional Environmental Planning Policies

No REPs are relevant. As of 1 July 2009, regional environmental plans (REP's) are no longer part of the hierarchy of environmental planning instruments in NSW. All existing REP's are now deemed State environmental planning policies (SEPP's). The Department is reviewing all these remaining REP's as part of the NSW planning systems reforms.

6. Local Environmental Plans

Blayney Local Environmental Plan 2012

The subject land is zoned E3 Environmental Management. The development is prohibited in the zone under the LEP, but permissible under SEPP (Infrastructure) as outlined above.

However, the objectives of the E3 zone are considered as follows:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values

COMMENT: The proposed development has the potential to have a negative aesthetic impact to the area due to the size of the monopole. However, existing vegetation will assist in screening the antenna from the road, along with the choice of colour (light grey) to blend in with the back ground. There are no specific areas with such values identified for this locality.

- To provide for a limited range of development that does not have an adverse effect on those values

COMMENT: The proposed development may impact on the visual amenity of the area. However it is unlikely to impact upon those values or the water catchment as long as mitigation measures such as erosion and sediment control are put in place. The development is not permissible in the zone, but allowable under SEPP (Infrastructure) subject to compliance with *NSW Telecommunications Facilities Guidelines* including *Broadband (July 2010)*, as examined above.

- To protect drinking water catchments from the impacts of development by minimising impacts on the quality and quantity of water entering drinking water storages.

COMMENT: The proposed development is located in a drinking water catchment, however, the proposed development is considered to have a minimal impact on the quality of quantity of water in the catchment area through attention to erosion and sediment control.

7. Guidelines and policies

Telecommunications Act

As outlined in the Act, development defined as 'low impact' is classified as exempt and does not require planning approval. The proposed development is not considered to be 'low impact' and as such required development consent.

79C (a)(ii) the provisions of any draft environmental planning instrument Draft State Environmental Planning Policies

There are no Draft SEPPs relevant to the proposed development.

8. Draft Local Environmental Plans

There are currently no Draft LEPs relevant to the development.

79C (a)(iii) any development control plan

There are no DCPs relevant to the land.

79C (a)(iv) any matters prescribed by the regulations

Prescribed matters in relation to the regulations were considered but are not relevant to the proposed development.

79C (b) the likely impacts of that development

Context and setting

The subject land is located approximately 2km from the village of Neville, to the south east of Blayney township.

The proposed development includes the installation of a compound (12m x 8m) with a 40m high monopole, 4 antennas and various small storage cupboards.

The subject land is currently used for agricultural purposes and the addition of the proposed development on a small area of land (12m x 8 m), is unlikely to significantly impact on the effective use of the agricultural land.

Impact is partly minimised through the use of existing vegetation to screen the development and the colour chosen for the panel antennas (light grey).

Access, transport and traffic

The proposed development is considered to have a minimal impact on traffic generation to the area due to the purpose of the development and the annual maintenance schedule the facility requires. Some construction traffic would be applicable during the construction stage.

Council's Engineer has raised issues relating to the current access provisions to the development site.

1. The current access to the proposed development has major turning restrictions caused by mature eucalyptus trees growing between the existing gravel road formation and the property boundary. A vehicle greater than 6m in length would have difficulty in entering and existing the gateway.

Developer comment: The developer advises that any vehicles associated with the construction and maintenance of the facility would be able to negotiate the entrance. They also point out that the entrance has been used for access to the property for many years.

2. The current access also has limited sight distance to the east. A crest exists within 40m of the entrance which will pose a safety issue for both the road user and developer.

Developer comment: The developer advises that the entrance has been used for access to the property for many years. Traffic control measures through a traffic control plan could be implemented for the construction phase. A new gate and driveway would disturb further land and require land clearing.

Council's Engineer has reviewed the comments and advises that Council is still concerned in regard to the issue of public safety. As a minimum Council would require a traffic management plan should be lodged with and approved by Council. This would be in place for the development works on the site and for the future maintenance of the site. It should be noted that regardless of how many traffic movements are generated by the development unless the proposed access is relocated or vehicular access to the existing entrance is traffic controlled, public safety would be at risk.

Services/utilities

The only utility required by the development is power to run the air conditioner, which would be sourced from an underground cable from the existing adjacent power pole.

Site design, internal design and construction

The site is to be fenced into a small compound which would house the base of the pole and service/facility cabinets. Construction times are fixed to minimize impact.

Heritage

The subject land is not identified as being of heritage significance, located within a heritage conservation area, a state or local listed heritage item nor located in the vicinity of a heritage item.

Hazards – technological, natural

There are no identified technological or natural hazards in this locality relevant to the development.

Noise and vibration

There is not expected to be any issue relating to noise and vibration in the long term. There may be some limited noise during the construction phase. During the operational phase the only noise and vibration would relate to the air conditioner. The nearest dwelling is 250m to the west of the site where it is unlikely that the unit will be heard.

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

There are no matters arising from this development which might affect flora or fauna, as the site is a highly disturbed industrial property. No other land resources such as extractive industries are affected. Air pollution is minimized, and existing mitigation measures would continue to prevent environmental impact.

Water

There are no particular water requirements for the development. Sediment and erosion control measures would be established across the site to direct surface water away from the site and into stormwater drains or natural drainage systems.

Waste

The development is not expected to generate waste during operation. Any waste accumulated during the construction phase would be collected, stored and disposed of appropriately.

Safety, Security and Crime Prevention

The company will have a security system in place, including fencing and signage to enable site security, safety and crime prevention.

Economic impact

The economic impacts from this development include increase in opportunity for fixed wireless broadband with high speed coverage to the Blayney region. This should enhance business performance in the area, enabling business to undertake a wider range of communication opportunities.

Social Impact

The social impacts relating to this development relate to the more effective operation of a local businesses, residences and education facilities, through more effective communication. In addition, the environment is protected and amenity unaffected.

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

Cumulative Impact

The cumulative impact of the development is for the operation of local broadband services within effective industry standards that would lead to positive environmental and community impact on communications.

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: flooding, contamination, heritage and bushfire.

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

The site is suitable for the development, being separated from industry and nearby residences by distance, open areas and vegetation. Access is appropriate for the level of use, and soil/water movement across the site would be controlled.

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

The proposed development required notification to adjoining owners and advertisement for a period of 14 days. Two submissions were received and a number of issues were raised. The developer was advised of the issues and provided a response as outlined below:

ISSUE	APPLICANTS RESPONSE
<p><u>Visual impact</u></p> <ul style="list-style-type: none"> • Visual impact to surrounding properties, especially those in closest proximity. • Screening of the proposed facility from the adjoining land in the north. 	<p>Potentially visible from a number of view points within the surrounding locality</p> <p>Partial screening from existing trees. Due to nature of towers, not possible to alleviate all visual impact. Impact minimized through site choice, existing vegetation, slim line tower, grey non-reflective colour. But tower needs a high elevation for effectiveness.</p>
<p><u>Impact on Existing Electrical Services</u></p> <ul style="list-style-type: none"> • Possible interference on mobile EFTPOS machines, mobile phones, cordless phones, wireless internet, radio and television reception. 	<p>Interference is prevented through the use of different frequencies and power output. Interference is strictly managed and regulated by the Australian Communications and Media Authority</p>
<p><u>Incorrect Information in ‘Statement of Environmental Effects’</u></p> <ol style="list-style-type: none"> 1. Page 11: “there are no sensitive land users within 500m” 2. Page 29: “the existing trees and along the boundaries of the paddocks will provide considerable screening of views toward the NBN Facility” 3. Page 29: “the new 40m high tower will be located in a large rural property surrounded by rural paddocks, other rural properties and some local roads” <ul style="list-style-type: none"> • 23 Egbert Street, at boundary, is 265m to the north of the proposed facility. Our business, under the BLEP with the land/use is defined as Plant Nursery which is a form of retail premises also our extensive developing display gardens are ancillary to this use. Therefore we are a sensitive land use. • No trees along the northern boundary of subject land. • The tower is a part of lot 8 DP246814. The large rural holding is only attached to the west boundary of this portion. The 727.12m north 	<p>By definition under the ACIF code a “sensitive landuse” is considered to be “<i>residential areas, child care centres, schools, aged care centres and hospitals</i>”. A plant nursery (retail premises) is not a sensitive land use.</p> <p>Error acknowledged in the SEE report. There are trees along the southern boundary, and along western boundary, plus scattered trees.</p> <p>The site is located on a large rural property used for agriculture. Visual impact is outweighed by the significant benefits that are potentially provided by the network.</p>

<p>boundary is attached to our property, 23 Egbert Street. Kentucky Road fronts the southern and part of eastern boundaries. The rest of the eastern boundary is exposed to 102 Kentucky Road Lot 426 DP750399.</p> <p>4. Page 31: short distance viewpoints <300m. “This land owner owns a large portion of the surrounding area around the proposed monopole which is used for farming. Therefore there will be minimal impact on surrounding land owners”</p> <ul style="list-style-type: none"> • There will be a significant impact to our property only 265m approx. away. <p>5. Page 31: medium and long distant perspectives 300m – 1km. “There are several properties including one in Egbert Street...Figure 7 below” “figure 7 – views of neighbouring property on Egbert Street, located 640 meters from the site.”</p> <ul style="list-style-type: none"> • The subject property is 102 Kentucky Road and is approximately 400m south of Egbert Street. The distance to the boundary from the proposed site is more like 500m. <p>6. Page 32: “The monopole will have the greatest visibility/visual impact from the adjoining property on Egbert Street.”</p> <ul style="list-style-type: none"> • This would be a true statement if the reference was to our property 23 Egbert Street but as mentioned above it refers to 102 Kentucky Road. <p>7. Page 35: “Educational benefits Education context” Neville Public School already has Telstra Optical fibre connection.</p> <p>8. “Medical services medical monitoring services.” “ Business can barrier to business”</p> <ul style="list-style-type: none"> • Most properties in Neville have satellite broadband connection. <p>9. Page 15 – Figure 4</p> <ul style="list-style-type: none"> • Aerial photo shows Neville Public 	<p>The pole will be located 265m from the said property boundary. Not aware of any houses located along the boundaries. Nearest house is 500m away to the north – minimal adverse impact expected.</p> <p>Distances mentioned in the report are approximate. There are no statutory restrictions regarding the proximity of telecommunications facilities to property boundaries, houses, residential areas or other land uses.</p> <p>Reference to property addresses is confusing. May not have referenced a property address that the members or the community or Council are familiar with.</p> <p>The benefits go beyond the school premises, but the school cannot connect to NBN right now. Educational benefits if the school had a choice of networks.</p> <p>Wireless broadband network is more efficient and cost effective than the satellite connection. NBN will mean that residents will have a choice.</p>
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<p>School in the wrong location. The point marker is actually over the Neville Hotel. The school is at 8 Crouch Street 500m west of hotel.</p> <p>10. Page 10 – Figure 2</p> <ul style="list-style-type: none"> • Google Earth Image is several years out of date. 	<p>An updated map has been provided showing the correct location of the school.</p> <p>Not feasible to charter a plane or satellite to get a more recent image.</p>
<p><u>Omissions in ‘Statement of Environmental Effects’</u></p> <ul style="list-style-type: none"> • The land use of the property located north of the subject land. • Short distance and medium distance view points do not consider the property directly to the north in which the boundary is located approx. 265 meters from proposed facility. • A map or equivalent showing the properties in Neville and surrounds which are likely to have access to the facility. i.e ‘line of sight’ • A photo showing the uninterrupted views from the proposed facility to the northern adjoining land owner. • No consideration of compliance requirements for placing and fixing aerials to heritage listed buildings • No consideration of obstructions caused by trees in Crouch Street between Carcoar and Bathurst Street, which is a heritage listed streetscape. • No consideration of the large shed and north to south wind break (8-9m tall and still growing) on northern adjoining property as line of sight obstructions. 	<p>Now aware of the existence and location of the plant nursery. This was considered an agricultural activity.</p> <p>For visual amenity, we focused on houses, not property boundaries.</p> <p>A map has been provided showing the coverage area, influenced by topography, vegetation and location of other NBN facilities.</p> <p>A photo has been provided.</p> <p>Not applicable. The site is not a heritage item.</p> <p>The site is located some 1.48km from the corner of Crouch and Carcoar Streets.</p> <p>Trees currently are unlikely to grow greater than a height of 30m to obstruct radio signal from the proposed facility.</p>

The issues raised are now assessed as follows:

Visual amenity: It is acknowledged that visual amenity cannot be addressed from every property or public road in the locality. However the nature of the facility is that it requires an elevated site for effective use. The site has been chosen with regard to the location of other NBN towers in the region, and together with consideration of existing vegetation, design of the tower (slim

line and grey colour) and topography, the visual impact has been minimized as much as possible to achieve a balance between amenity and efficiency.

Impact on existing services: The applicant advises that interference with electrical devices, television/radio signal etc is minimized as the service utilizes different frequencies and power outputs, which are strictly managed and regulated by the Australian Communications and Media Authority. The ACMA does provide opportunity for making complaints in regard to interference via their website.

The applicant advises that the Australian Communications Industry Forum (ACIF) code defines “sensitive land use’ as “*residential areas, child care centres, schools, aged care centres and hospitals*”, and that the code does not include retail premises or a plant nursery under this definition.

In fact the code, while not specifically defining community sensitive locations, provides examples of sites that have sometimes been considered sensitive. Examples include child care centres, schools, aged care centres and hospitals. While carriers must consider the implications of community sensitive locations, they may still place infrastructure at such sites or nearby. The code does not specify a distance at which infrastructure must be sited from community sensitive locations.

All mobile phone base stations must comply with the mandatory regulations for EME. In some instances, locating the infrastructure away from a sensitive area can mean that it has to operate at greater power to meet service requirements, which may result in higher exposure levels in the sensitive location.*

**(Placement of Mobile Phone Tower Fact Sheet, ACMA 2012)*

Wireless broadband facilities are considered to be more effective and reliable than satellite connection. The location of a broadband facility in the locality will mean that the school and the community will have another option for the delivery of telecommunications services, and that they can choose to remain with a satellite service or convert to the broadband services.

Surrounding landuses: The developer has had regard for existing dwellings in the vicinity and not property boundaries. The site is to be located within a large agricultural property, with the nearest dwelling being approximately 500m away to the north. They acknowledge that the distances are approximate. However there are no statutory restrictions in the code regarding the proximity of telecommunications facilities to property boundaries, dwellings, residential area or other land uses. As mentioned above, the code does not specify a distance at which infrastructure must be sited from community sensitive locations.

Heritage: The development site does not contain any heritage listed items, nor are there any in the vicinity. In the event that a landowner wishes to

place/fix an antenna to a listed heritage building, or on a building adjoining a heritage listed building, or in the heritage conservation area, the development would be considered on its merits.

The developer believes that the trees within the heritage listed streetscape and are unlikely to grow to such an extent that they will obstruct radio signal from the proposed facility. Similarly the developer indicates that nearby windbreaks and agricultural buildings will not interrupt signal.

Perceived errors in SEE: The developer has corrected error in the SEE relating to trees along boundaries, and provided photographs and plans to clarify several matters relating to the location of the school, views from the tower location site and the expected coverage area.

79C (e) The public interest

The public interest was considered in the notification and advertisement of the proposal, and the subsequent consideration of the submissions raised.

There are no other matters of public interest relevant to the development that have not already been considered in this report.

Conclusions

The above assessment illustrates that the proposed development is suitable for the site, provides for enhancement of existing internet services in accordance with industry guidelines in the protection of the environment and the community, and complies with appropriate legislative requirements.

The issues raised in the submissions have been reviewed and it is considered that each one has been satisfactorily addressed. There are no other reasons to suggest that the development cannot be approved subject to conditions.

BUDGET IMPLICATIONS

No budget implications.

POLICY IMPLICATIONS

Assessment undertaken as per legislation.

IP&R LINK

DP 1.1.2 – Promote sustainable development and protection of our natural resources through the planning system.

Attachments

- 1 Location Plan 1 Page
- 2 DA7/2013 Plans 3 Pages

- 17) **PLANNING PROPOSAL - REZONING, 32 CHARLES STREET, BLAYNEY**
(Director Planning and Environmental Services)

RECOMMENDED:

1. That the Department of Planning and Infrastructure be advised that the instrument may be made, and the LEP may be notified on the NSW legislation website.

REPORT

Applicant:	Blayney Shire Council
Owner:	I P Fardell
Application No:	-
Zone:	R1 General Residential
Date to Parliamentary Counsel:	11 April 2013
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.

A Planning Proposal to rezone the land was prepared by Council and submitted to the Department of Planning and Infrastructure on 20 December 2012, and a gateway determination issued on 1 February 2013.

This matter was previously reported to Council on 11 March 2013.

The development was subsequently advertised for public comment for a period of 14 days, and no submissions were received.

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

The final report was forwarded to the Parliamentary Counsel's Office (PCO) for Opinion on 11 April 2013. This Opinion was received by Council on 1 May 2013, the PCO advising that the draft environmental planning instrument to rezone the land may legally be made. Council's delegate for plan-making powers was nominated as the General Manager at Council's Meeting of 12 November 2012.

A Timeline is provided at Attachment A to illustrate this process.

Council is now able to resolve to make the instrument, and notify PCO to have the instrument published on the NSW legislation website.

BUDGET IMPLICATIONS

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

POLICY IMPLICATIONS

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

Attachments

- | | | |
|---|--|---------|
| 1 | Parliamentary Counsel Opinion | 4 Pages |
| 2 | Delegated Plan Making Reporting Template | 1 Page |

18) **DEVELOPMENT APPLICATION NO.13/2013 - NBN
TELECOMMUNICATIONS FACILITY - 37 RODD STREET,
CARCOAR**

(Director Planning and Environmental Services)

RECOMMENDED:

1. That Council note the submissions made in regard to the proposed development, and that Council consent to the Development Application No. 13/2013 subject to the following conditions of consent.

STATUTORY

REASON: Statutory requirement

1. Development is to take place in accordance with the attached stamped plans (Ref No. DA 13/2013), Documentation submitted with the application and subject to the conditions below, to ensure the development is consistent with Council's consent.

*Note: Any alterations to the approved development application plans must be clearly identified **WITH THE APPLICATION FOR A CONSTRUCTION CERTIFICATE**. The Principal Certifying Authority (PCA) for the project may request an application for modification of this consent or a new application in the event that changes to the approved plans are subsequently made.*

2. The proposal is to be constructed and maintained in accordance with the requirements of the Building Code of Australia.
3. The development is to comply with all provisions of the principles within *NSW Telecommunications Facilities Guidelines* including *Broadband (July 2010)*

ENVIRONMENTAL

REASON: Statutory requirement and public interest

4. Prior to the commencement of works, the applicant shall install and maintain adequate sediment and soil erosion controls in accordance with WBC Engineering Guidelines. (reference the website)
5. All rubbish and debris associated with the development, including that which can be windblown, must be contained on site in a suitable container at all times. The container shall be erected on the development site prior to work commencing.
Materials, sheds or machinery to be used in association with the development must be stored and stacked wholly within the worksite unless otherwise approved by Council

Note 1: No rubbish or debris associated with the development will be placed or permitted to be placed on any adjoining public reserve, footway or road.

Note 2: Offenders are liable for prosecution without further warning.

6. Construction or demolition work must only be carried out within the following times, as per the *NSW Telecommunications Facilities Guidelines*:
- a) Monday to Friday – 7:00 am to 5:00 pm;
 - b) Saturday – 7:00 am to 5:00 pm
 - c) No work to be carried out on Sunday or Public Holidays.
- Note: The principal contractor shall be responsible to instruct and control their sub-contractors regarding the hours of work.*
7. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.

CONSTRUCTION

9. The developer is to relocate, if necessary, at the developer's cost any utility services.
10. All site works to comply with Council's *WBC Guidelines for Engineering Works*, where applicable. (See Council's website.)
11. The construction of a 4.0 metre wide all-weather 2WD vehicular access from the fence line that crosses Mandurama Street to the proposed man-proof fence gate. This access roadway is to be appropriately formed and contain suitable measures for the prevention of soil erosion, including mitre drains and piped culverts where necessary. All such works are to comply with the *WBC Guidelines for Engineering Works*.

REPORT

Applicant:	NBN Co Ltd
Owner:	Central Tablelands Water
Application No:	DA13/2013
Zone:	RU5 Village, BLEP 2012
Date Received:	19 February 2013
Assessment No:	A321993
Property:	37 Rodd Street, Carcoar
Proposed Development:	Telecommunications Facility

Description of Proposal

The proposed development is to install a new fixed wireless broadband facility which includes a fenced compound, antennas (three panel antennas and a radio link dish) on mounts attached to the existing water reservoir, equipment cabinets and other ancillary equipment. The proposed facility is necessary to provide NBN Co fixed wireless broadband with high speed coverage to the Carcoar region.

The applicant advised that a number of sites were considered, and the land in Rodd Street was found to be the most suitable for the following reasons:

- Optimal required quality of service
- Attached to an existing structure with no requirement for an additional tower.
- Access to existing electricity infrastructure
- Vehicular access for construction and maintenance

All apparatus would be located in a fenced, secure compound in a cleared, grassy paddock site, on the existing reservoir on Lot 11. The nearest dwelling is approximately 78m away to the north.

Access for construction would be directly off the eastern end of Rodd Street. Once constructed, the development site will require maintenance once a year, for a period of one day.

Noise levels would be low. Construction noise would be short term, followed by ongoing low level noise from the operation of air-conditioning equipment.

Section 79C Evaluation - matters for consideration**79C (a)(i) the provisions of any environmental planning instrument****1. Commonwealth Legislation**

The *Telecommunications Act* applies has been considered for this development. In order to be exempt from the planning approval process, the development must be deemed “low impact”. The proposed development is not defined as “low impact” and therefore development consent is required.

2. State Environmental Planning Policies

State Environmental Planning Policy (Infrastructure) applies to this development. The proposed development cannot be considered as exempt or complying development as it is not within any of the allowable zones. Also NBN is not a public authority. However the telecommunications facility is permissible with the consent of Council.

3. Regional Environmental Planning Policies

As of 1 July 2009, regional environmental planning policies (REPs) are no longer part of the hierarchy of environmental planning instruments in NSW. All existing REPs are now deemed State Environmental Planning Policies (SEPPs). The Department of Planning is reviewing all these remaining REPs as part of the NSW planning system reforms.

4. Local Environmental Plans

The land is zoned RU5 Village under the Blayney Local Environmental Plan 2012, and the development is permissible in the zone. The objectives of the zone are considered as follows:

- To provide for a range of land uses, services and facilities that are associated with a rural village.

Comment: The proposal will enable an enhancement of broadband internet services within the area to complement existing businesses, residences and facilities.

- To minimize conflict between land uses within this zone and land uses within adjoining zones.

Comment: The proposed development is unlikely to adversely impact upon landuses within the zone, nor land uses beyond the RU5 zone. Adjoining owners were notified and one submission was received.

- To encourage and provide opportunities for population and local employment growth commensurate with available services.

Comment: The enhancement of local broadband services would improve local communications for business and residences, and particularly for emergency services.

- To minimize the impact of non-residential uses and ensure those uses are in character and compatible with the surrounding residential development.

Comment: The development is a non-residential use, which will serve to complement existing development in the town, limiting adverse visual impact through co-location of the reservoir structure.

Clause 5.10 Heritage conservation

The objectives of this Clause are:

- (a) To conserve the environmental heritage of Blayney
- (b) To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views
- (c) To conserve archaeological sites
- (d) To conserve Aboriginal objects and Aboriginal places of heritage significance

Comment: The subject site is located in the vicinity of several heritage listed sites, to the west. The main site is the former Catholic presbytery, now a residence. The residence would be barely visible from the development site due to vegetation and topography. In turn the visibility of the development site, the tower, is variable across the town due to vegetation and topography.

The former Catholic presbytery which is now a private home, was constructed in 1877. It is a single storey brick building, and a large barn and stable are located within the grounds. With extensive landscaped gardens it is a significant feature of the streetscape.

The development site is located within the Carcoar Heritage Conservation Area. The town is also listed on the register of the National Estate and classified by the National Trust. The conservation area has been identified due to the significance of Carcoar as an excellent example of a Victorian township, retaining much of its earlier character and its setting in the Belubula River valley. The town is also visibly isolated from other settlements by topography.

The Catholic Church buildings are relevant to the history of Carcoar, which was gazetted as a town in 1839. Thomas Icely had established a settlement on the southern side of the Belubula River with Combing Park and in 1838 demanded that the Surveyor General establish law and order for the district. Government buildings were then constructed on the northern side of the river, the old bridge connecting the two settlements.

Historically the district was based on agriculture, which was followed by mining of iron ore, cobalt, copper and later, gold. Together with Bathurst, Carcoar became the most populous town west of the Blue Mountains in the 1850s.

The Municipality of Carcoar was formed in 1879, and the rail line completed in 1888. Although the highway has now bypassed the town, Carcoar remains one of the most beautifully preserved historic villages.

It is unlikely that the development will adversely impact upon heritage sites or the heritage conservation area due to its nature. A statement of heritage impact was submitted with the development which finds that adverse impact on the significance of these sites is expected to be minimal.

There are no known site as described in (c) and (d) which apply to this development.

Clause 5.12 Infrastructure development and use of existing buildings of the Crown

The LEP 2012 does not restrict or prohibit the carrying out of any work that is permitted with or without consent under SEPP (Infrastructure).

5. Guidelines and policies

The *NSW Telecommunications Facilities Guideline including Broadband 2010* is applicable to this development. The purpose of the Guideline is to guide State wide planning provisions and development controls, and [provide guidance to assist the rollout of broad band services in NSW.

The Guideline sets out principles to guide the site selection, design, construction and operation of facilities. The principles are examined as follows:

- Visual impact - the proposed cabinets would be located close to the ground at only about 1.5m high, painted light grey or cream. The pole itself is 3m in overall height above the height of the water tower and would be coloured to match the tower. Adjacent properties are vacant or residential, with the nearest dwelling being 78m to the north.

- Co-location – there are no other opportunities for co-location in the vicinity. The water tower was found to be suitable due to the following:
 - Suitable quality of service
 - No separate new tower required
 - Access to electricity infrastructure
 - Existing access track
- Health standards – the Australian Communications and Media Authority advises regulatory arrangements with respect to electromagnetic radiation exposure, and the facility will comply with this advice. All designs are designed and certified in accordance with relevant Australian Standards, and should not result in any increase in the level of risk to the public. Mandatory standards for human exposure are applied and the site will be secured to prevent public access. An electromagnetic energy (EME) report is provided which shows that the maximum cumulative EME level at 1.5m above ground level is estimated to be 0.016% of the (Australian Radiation Protection And Nuclear Safety Agency) ARPANSA public exposure limits.
- Disturbance, risk and compliance – the SEE as submitted advises that the height of the pole is well below the CASA limit of 110m. Overall height will be 18m. Electrical interference is minimized, and erosion and sediment control measures are to be undertaken prior to construction, in accordance with the Blue Book. No threatened species of flora and fauna are likely to be found on this highly disturbed industrial site. An AHIMS search shows no Aboriginal heritage is located in the vicinity. Construction work is to be carried out between 7am to 5pm, Monday to Saturday.

Note: Maintenance of facilities is not to result in any more than a minimal increase in size, area occupied by, or noise levels associated with the facility.

Comment: The area to be occupied by the proposed development is only the immediate surrounds of the water tower, with the cabinets being located on the south western side of the tower. Following construction, noise would be limited to the air conditioning unit. These specifications would not be altered by the annual maintenance activities.

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

Draft State Environmental Planning Policies

There are no Draft SEPPs relevant to this development.

Draft Local Environmental Plans

There are no draft local environmental plans relevant to this development.

79C (a)(iii) any development control plan

The *Carcoar Control Plan No. 4* applies to this development.

The aims of this DCP are considered as follows:

- Providing design guidelines for buildings that should be considered when planning new development.

Comment: The guidelines as outlined within this DCP are examined below with respect to the proposed development.

- Outlining significant streetscape elements and building styles for individual streets that should be taken into account when designing new development in the vicinity

Comment: Although the proposal is not for residential development, the use is not inappropriate for the area. The facility will amount to little more than an additional power pole in the village area. The nearest residence is under 100m away to the west.

- Requiring submission of Council's "good neighbor" policy with any development application submitted for work in the area that this plan applies to.

Comment: The proposed development will address sediment and erosion control to protect water quality. As the site is already highly disturbed, it is unlikely that threatened flora and fauna species would be affected.

Operational noise will only amount to an air conditioning unit.

The Australian Communications and Media Authority advise regulatory arrangements with respect to electromagnetic radiation exposure, and the facility will comply with this advice. All designs are designed and certified in accordance with relevant Australian Standards, and should not result in any increase in the level of risk to the public.

Mandatory standards for human exposure are applied and the site will be secured to prevent public access. An electromagnetic energy (EME) report is provided which shows that the maximum cumulative EME level at 1.5m above ground level is estimated to be 0.016% of the (Australian Radiation Protection and Nuclear Safety Agency) ARPANSA public exposure limits.

The provisions of the DCP relating to new development are considered as follows:

Scale – the development will prove less intrusive than if a new tower was required. A new tower would be some 40m in height, whereas the overall height of this installation will be 18m.

Materials and colours – the components of the installation on the water tower would be grey, and the cabinets at ground level would be cream, behind a wire security fence.

Roofs – not applicable

Windows – not applicable

Verandahs – not applicable

Setbacks – the cabinets would be located on the south western side of the water tower and at least 3m inside the 2.4m high chainlink security compound fence.

Garages, carports and sheds – not applicable

Fencing – the compound would be fenced with a 2.4m high chainlink security compound fence.

Landscaping – the developer is intending to establish landscaping along part of the northern boundary of the compound to screen the site from Rodd

Street. Existing vegetation in the form of mature eucalypts and other species is relied upon to screen the water tower from the remainder of the town.

Utility/service structures – power is the only utility service in demand for the facility, which is readily available in the locality.

Commercial development – the development is not for commercial purposes

Demolition – there is no demolition applicable to the development

Streetscape – the development will be screened from the immediate vicinity of Rodd Street with new landscaping..

Advertising signage – there is no signage applicable to the development, other than security signage.

79C (a)(iv) any matters prescribed by the regulations

Comment: There are no such matters relevant to the development.

79C (b) the likely impacts of that development

Context and setting

The proposed development seeks to provide NBN Co fixed wireless broadband with high speed coverage to the Blayney region. The site is located in an isolated area of the residential area adjacent to an existing concrete water tank facility. All apparatus would be located in a fenced, secure compound in a cleared, grassy paddock site, on Lot 11, on the south western side of the water tower. The nearest dwelling is about 78m away to the north.

Views of the water tower throughout the village are quite variable due to topography and existing vegetation. Even where the tower can be clearly viewed, and with the proposed antenna extending only 3m above the water tower (18m height in all), adverse visual amenity is unlikely to be significant.

Access, transport and traffic

Access for construction would be via a new entrance off Rodd Street. Once constructed, the development site will require access for maintenance once a year, for a period of one day.

There is not expected to be any significant increase in traffic nature, volume or frequency. Council's Engineer has upgrading requirements relating to the entrance.

Services/utilities

The facility will require connection to electricity, which is available in the vicinity. No other additional services or utilities are required for the development.

Site design, internal design and construction

The construction work required for this development includes a fenced compound, apparatus attached to the existing water tower, dish antennas, three panel antennas, and equipment cabinets and other ancillary equipment. The overall height of the water tower with the attached facility would be 18m, considerably lower than a free standing pole would be at 40m.

The works are to be located immediately adjacent to Rodd Street, and would include sediment and erosion control measures to protect the adjoining properties from erosion and sediment movement. The facility is to be constructed to industry standard and the requirements of the Building Code of Australia.

Hazards – technological, natural

There are no particular natural hazards associated with the development.

There may be perceived concern in regards to electromagnetic radiation exposure from the facility. The Australian Communications and Media Authority advise regulatory arrangements with respect to electromagnetic radiation exposure, and the facility will comply with this advice. All designs are designed and certified in accordance with relevant Australian Standards, and should not result in any increase in the level of risk to the public. Mandatory standards for human exposure are applied and the site will be secured to prevent public access. An electromagnetic energy (EME) report is provided which shows that the maximum cumulative EME level at 1.5m above ground level is estimated to be 0.016% of the (Australian Radiation Protection and Nuclear Safety Agency) ARPANSA public exposure limits.

Noise and vibration

There are no particular matters relating to noise and vibration which might apply to this development. Noise levels would not significantly increase as a result of the development. The only noise emanating from the site following construction will be the operation of an air conditioning unit.

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

There are no matters arising from this development which might affect flora or fauna, as the site is a highly disturbed industrial property. No other land resources such as extractive industries are affected. Air pollution is minimized, and existing mitigation measures would continue to prevent environmental impact.

Water

There are no particular water requirements for the development. Sediment and erosion control measures would be established across the site to direct surface water away from the site and into stormwater drains or natural drainage systems.

Waste

The development is not expected to generate waste during operation. Any waste accumulated during the construction phase would be collected, stored and disposed of appropriately.

Heritage

The subject site is located within a heritage conservation area. There is a heritage item in the form of the former Catholic presbytery, now a residence, further down Rodd Street to the west.

As discussed previously, it is unlikely that the development will adversely impact upon heritage sites or the heritage conservation area due to its nature. A statement of heritage impact was submitted with the development which finds that adverse impact on the significance of these sites is expected to be minimal.

Safety, Security and Crime Prevention

The company will have a security system in place, including fencing and signage to enable site security, safety and crime prevention.

Economic impact

The economic impacts from this development include increase in opportunity for fixed wireless broadband with high speed coverage to the Blayney region. This should enhance business performance in the area, enabling business and residences to undertake a wider range of communication opportunities.

Social Impact

The social impacts relating to this development relate to the more effective operation of a local businesses, residences and education facilities, through more effective communication. In addition, the environment is protected and amenity unaffected.

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

The cumulative impact of the development is for the operation of local broadband services within effective industry standards that would lead to positive environmental and community impact on communications.

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: flooding, contamination and bushfire.

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

Comment: The site is suitable for the development, being separated from nearby residences by distance, topography and vegetation. Access is appropriate for the level of use, and soil/water movement across the site would be controlled.

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

Comment: Adjoining landowners were notified for 14 days from 22 February 2013. One submission was received, and a number of issues were raised. The developer was advised of these issues and commented that the fact that only one submission was received says that the remainder of the community are supportive of the proposal. The developer has provided responses as follows:

1. The installation directly adjoins a residential block of land which is for sale. One of the proposed antennae for the transmitter is within 3.5m of the boundary of the property, and directly overlooks the main dwelling site. Another microwave antenna also overlooks this site, and is a great big eyesore.

Comment: NBN attempts to balance service provision and amenity impact. However due to the nature of a communications facility, certain height requirements are unavoidable to prevent radio signal obstructions. Some minor loss of amenity is expected. Co-location has been utilized to minimize impact, compared to a stand-alone structure. It is common for wireless telecommunications facilities to be located in residential areas as they are the main target of the service. Whether or not the adjacent property is for sale does not impact the assessment of this application, as the sale of nearby properties is continually in a state of flux.

2. The installation would change what is essentially a quiet and semi-rural block of land into an industrial site with all the attendant loss of amenity.

Comment: The proposal is not for an industrial use, and would not change the area into an industrial area. The site currently contains a water tower, a public utility. Antennas would be attached to this non-residential use. It is considered appropriate to co-locate such facilities to reduce the potential environmental impacts of a new facility. The current use would continue.

3. The installation of a 2.4m security fence which would form the boundary between the block and the water tower is completely out of character with the surrounding area, which would severely devalue the land.

Comment: The security fence with a locked gate and warning signs is required to restrict public access into the facility for public safety reasons. The proposed fence would replace the existing fence on the western side of the lot to reduce clutter and visual impact.

4. The subject of electromagnetic radiation from these towers is not a settled science and would once again severely devalue the land directly surrounding this installation, especially given that the land is being sold for residential purposes.

Comment: The potential impact on property values is not a relevant matter for consideration in the development assessment process under the EP & A Act. Fluctuations in price are subject to a vast number of factors, many of which are subjective. Increasing demand for access to mobile phone service and broadband means base stations are essential to support the services. NBN is not aware of any credible evidence that directly links the siting of a telecommunications facility to an either increase or decrease in property prices.

5. There is no access road being sealed to the site according to the plans. Given the Council enforces this requirement for any housing development in Carcoar, it seems a contradiction in Council policy.

Comment: The development is not for residential development, where a sealed entry is more appropriate due to greater vehicular numbers. Following construction the site will only generate about 4 vehicular trips per year. An unsealed entrance is not appropriate for this low level of use.

6. How does the placing of an industrial installation in what is essentially a residential area such as this comply with the much vaunted LEP for Carcoar?

Comment: The development is a ‘telecommunications facility’ not an industrial use. They are permissible in the zone under BLEP 2012, and also permitted and supported under SEPP (Infrastructure). The application submitted addresses the objectives of the zone, providing a facility that addresses the needs of the local community in internet access now and in the future, and also for the wider community. The presence of the NBN facilities will not hinder the proper and orderly development of the locality. The facility is not an industrial use by character, not generating noise, production, transport, air pollution etc.

7. Given that this installation is on a site that is very prominent, and can be seen from just about everywhere, what consideration has been made to the environmental aspects of this proposal?

Comment: A telecommunications facility must have certain elevation to be effective. Therefore it will be visible. Co-location will reduce potential visual/environmental impact compared to a stand-alone tower, and would best meet coverage objectives. The colour of the antennas would blend into the skyline, also reducing visual impact.

8. There should be a lot more discussion in the public arena before this development can go ahead. No one even knows the development is even taking place.

Comment: It is our understanding that the development application has been advertised and notified in accordance with Council policies and the relevant legislation.

Assessment of Issues raised:

Note: Council notes that the submission also indicated that the writer intends to take legal action in the event that Council refuses to listen to his arguments. In addressing this matter Council has explored each issue raised in the following assessment:

Visual impact: It is acknowledged that visual amenity cannot be addressed from everywhere in the village. However the nature of the facility is that it requires an elevated site for effective use. The site has been chosen with regard to the location of other NBN towers in the region, and together with consideration of existing vegetation, design of the tower (co-location on an existing water tower) and topography, the visual impact has been minimized as much as possible to achieve a balance between amenity and efficiency. The impact is further lessened through the grey colours chosen for the antennas. In addition the overall height of the facility would be only 18m high, considerably lower than a stand-alone tower (40m). The developer has sought to achieve a balance between the need to minimize impact and the need for the service in the community.

The objector is making a decision on behalf of future landowners who may in fact benefit from the facility. It is noted that the land has been for sale for quite some time, as advised by another resident of the town.

Industrial land use: The use is defined as a ‘*telecommunications facility*’ under the EP & A Act and SEPP (Infrastructure). Industrial land uses are separately defined. Telecommunications facilities are permissible in the RU5 Village zone. It is expected that some minor disturbances may occur on the site and in the immediate vicinity during the construction phase. However, following construction the site will only be visited up to 4 times annually for maintenance, when impact is expected to be minimal.

Fencing: Fencing is required to be constructed to certain standards to secure the site and protect public amenity and safety. The fence partially replaces existing rural fencing in the vicinity.

Land value: The potential impact on property values is not a relevant matter for consideration in the development assessment process under the EP & A Act. Property values are calculated by comparing data for the property to that of similar properties that have been sold, with adjustments made for any differences. These are reviewed regularly and the property value may change from year to year. This revaluation reflects changes in the property market

based on the sale of properties over the year, and any new developments made to the property.

The industry advises that interference with electrical devices, television/radio signal etc is minimized as the service utilizes different frequencies and power outputs, which are strictly managed and regulated by the Australian Communications and Media Authority. The ACMA does provide opportunity for making informed decisions in regard to development, and for lodging complaints in regard to interference via their website.

Access: The use of the site following construction does not warrant a sealed driveway, with only 4 vehicle trips per year being generated by the development. Council's Engineer has required an all-weather access road from the road verge to the security gate.

Permissibility: The development is defined as a '*telecommunications facility*' not an industrial use. A *telecommunications facility* is permissible in the Village zone under BLEP 2012, and also permitted in the Village zone under State Environmental Planning Policy (Infrastructure). The nature of the development is such that it is appropriate because it serves the residential area with wireless broadband service.

Environmental impact: Council has considered the environmental impacts of the development throughout this report, and reiterates as follows:

- Visual amenity - addressed through choice of colours, co-location, and use of existing vegetation and topography.
- Flora and fauna - it is unlikely that flora and fauna would be affected as this is already a disturbed urban site.
- Heritage - nearby heritage sites would be barely visible from the development site due to vegetation and topography. In turn the visibility of the development site, the tower, is variable across the town due to vegetation and topography. It is unlikely to impact upon the heritage conservation area, or the landscape generally, any more than the water tower already is. The antennas extend only 3m above the water tower and from a distance would be barely visible.
- Technological hazards - different frequencies and power outputs used by the facility are strictly managed and regulated by the Australian Communications and Media Authority such that signal interference on other devices is minimized.

Public discussion: Council undertakes to notify immediately adjoining landowners on significant development as a matter of course. In this instance Council recognized the perceived sensitive nature of the development, and chose to notify landowners in a wider than usual area around the development site. Council received the one written submission, and one other phone call that was in support of the proposal.

79C (e) The public interest

Comment: There are no other matters of public interest relevant to the development that have not already been considered in this report.

Conclusions

The above assessment illustrates that the proposed development is suitable for the site, provides for enhancement of existing internet services in accordance with industry guidelines in the protection of the environment and the community, and complies with appropriate legislative requirements.

BUDGET IMPLICATIONS

No budget implications.

POLICY IMPLICATIONS

Assessment undertaken as per legislation.

IP&R LINK

DP 1.1.2 – Promote sustainable development and protection of our natural resources through the planning system.

Attachments

- 1 Location Plan 1 Page
- 2 DA13/2013 Plans 3 Pages