



9 August 2016

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, 15 August 2016 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) Disclosures of Interest
- (5) Public Forum
- (6) Mayoral Minute
- (7) Notices of Motion
- (8) Confirmation of Minutes - Ordinary Council Meeting held on 18.07.16
- (9) Matters arising from Minutes
- (10) Reports of Staff
 - (a) Executive Services
 - (b) Corporate Services
 - (c) Infrastructure Services
 - (d) Planning and Environmental Services
- (11) Delegates Reports
- (12) Questions from Councillors
- (13) Closed Meeting

Yours faithfully

Rebecca Ryan
General Manager

5.45pm – Local Government Road Safety Program – Road Safety Officer, Bathurst Regional Council

Meeting Calendar 2016

August

Time	Date	Meeting	Location
6.00pm	1 August 2016	Culture Centre Working Group Meeting	Community Centre
6.00 pm	15 August 2016	Council Meeting	Community Centre
4.00pm	16 August 2016	Local Emergency Management Meeting	Community Centre
5.30pm	18 August 2016	Sports Council	Community Centre
10.00am	19 August 2016	Traffic Committee	Community Centre

September

Time	Date	Meeting	Location
5.00pm	1 September 2016	Cemetery Forum	Community Centre
5.45pm	1 September 2016	Access Committee Meeting	Community Centre
6.00pm	5 September 2016	Culture Centre Working Group Meeting	Community Centre
6.00 pm	15 September 2016	Towns and Village Committee Meeting	Community Centre
6.00 pm	19 September 2016	Council Meeting	Community Centre
5.30pm	21 September 2016	Financial Assistance Committee Meeting	Community Centre

October

Time	Date	Meeting	Location
	3 October 2016	Labour Day Public Holiday	
6.00pm	4 October 2016	Culture Centre Working Group Meeting	Community Centre
6.00 pm	17 October 2016	Council Meeting	Community Centre
9.00am	19 October 2016	Audit Committee Meeting	Community Centre
10.00am	21 October 2016	Traffic Committee	Community Centre

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HELD ON MONDAY 15 AUGUST 2016

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01) MINUTES OF THE PREVIOUS MEETING HELD MONDAY 18 JULY 2016

Department: Executive Services

Author: General Manager

CSP Link: 6.3 A well-run Council organisation.

File No: GO.ME.3

Recommendation:

That the Minutes of the Ordinary Council Meeting held on 18 July 2016, being minute numbers 1607/001 to 1607/026 be confirmed.

**MINUTES OF THE BLAYNEY SHIRE COUNCIL ORDINARY MEETING
HELD IN THE CHAMBERS, BLAYNEY SHIRE COUNCIL COMMUNITY
CENTRE, ON 18 JULY 2016, COMMENCING AT 6.00 PM**

Present: G Braddon OAM, A Ewin (Deputy Mayor), D Kingham and D Somervaille

General Manager (Mrs R Ryan), Director Corporate Services (Mr A Franze), Director Infrastructure Services (Mr G Baker), Director Planning & Environmental Services (Mr M Dicker), Acting Executive Assistant to the General Manager (Ms S Hibbert)

ACKNOWLEDGEMENT OF COUNTRY

RECORDING OF MEETING STATEMENT

APOLOGIES

1607/001 RESOLVED

That the apology, tendered by Crs S Ferguson (Mayor), Cr Oates and Cr Radburn, be accepted.

(Braddon/Somervaille)
CARRIED

DISCLOSURES OF INTEREST

Nil

CONFIRMATION OF MINUTES

MINUTES OF THE PREVIOUS MEETING HELD MONDAY 20 JUNE 2016

1607/002

RESOLVED

That the Minutes of the Ordinary Council Meeting held on 20 June 2016, being minute numbers 1606/001 to 1606/023 be confirmed.

(Kingham/Somervaille)

CARRIED

MATTERS ARISING FROM THE MINUTES

Nil

EXECUTIVE SERVICES REPORTS

COUNCIL RESOLUTION REPORT

1607/003

RESOLVED

That Council notes the Resolution Report from March 2016 to June 2016.

(Braddon/Kingham)

CARRIED

WBC STRATEGIC ALLIANCE

1607/004

RESOLVED

1. That the minutes of the WBC Alliance Board Meeting, held Monday 22 June 2016, be received.
2. That Council endorse and adopt the following recommendations from the WBC Alliance Board;
 - Blayney and Cabonne Councils will be responsible for 40% each and Central Tablelands Water 20% of the ongoing costs (inclusive of all on-costs) of the WBC Alliance effective for the operational year 2016/17 commencing 1 July 2016.
 - In the event that Blayney and Cabonne cease to exist and are merged into a new council area that any potential future costs regarding redundancy of the WBC Executive Manager be covered 50/50 by Blayney and Cabonne.
 - In the event that Blayney and Cabonne cease to exist as individual entities the WBC Alliance will be terminated as at the date of proclamation pursuant to Clause (L) of the WBC Strategic Alliance Agreement dated 29 August 2003 notwithstanding the absence of requisite notice.

(Somervaille/Braddon)

CARRIED

MINING RELATED COUNCILS VOLUNTARY PLANNING AGREEMENTS

1607/005 RESOLVED

That Council endorse the Association of Mining Related Councils Memorandum of Understanding (Negotiating Voluntary Planning Agreements for NSW Mining Development) and Voluntary Planning Agreement Negotiation Process V7.0 documents.

(Braddon/Somervaille)

CARRIED

REPORT ON CONTRACTUAL CONDITIONS OF SENIOR STAFF

1607/006 RESOLVED

That the Council receive and note the report on the contractual conditions of senior staff in accordance with section 339 of the Local Government Act, 1993.

(Somervaille/Kingham)

CARRIED

RISK, WORK HEALTH AND SAFETY QUARTERLY REPORT

1607/007 RESOLVED

That the Risk, Work Health and Safety Report for the quarter April to June 2016 be noted and received.

(Kingham/Braddon)

CARRIED

REGIONAL TOURISM ORGANISATION REFORM

1607/008 RESOLVED

That Council note the information and report on the NSW Government Regional Tourism Organisation reform.

(Braddon/Somervaille)

CARRIED

MINUTES OF THE BLAYNEY SHIRE TOWNS AND VILLAGES COMMITTEE MEETING HELD 16 JUNE 2016

1607/009 RESOLVED

That the minutes of the Towns and Villages Committee Meeting, held Thursday 16 June 2016, be received.

(Kingham/Somervaille)

CARRIED

MINUTES OF THE BLAYNEY SHIRE CULTURAL CENTRE WORKING GROUP MEETING HELD 4 JULY 2016

1607/010 RESOLVED

That the minutes of the Cultural Centre Working Group Meeting, held Monday 4 July 2016, be received.

(Kingham/Somervaille)

CARRIED

CORPORATE SERVICES REPORTS

- 1607/011** **PAYMENT OF EXPENSES AND THE PROVISION OF FACILITIES TO THE MAYOR AND COUNCILLORS POLICY**
RESOLVED
 That the Payment of Expenses and the Provision of Facilities to the Mayor and Councillors policy be placed on public exhibition for a period of at least 28 days.
 (Braddon/Somervaille)
CARRIED

- 1607/012** **REVIEW OF AGENCY INFORMATION GUIDE**
RESOLVED
 That Council adopt the Agency Information Guide and Proactive Release Program for the ensuing 12 months and make it available through Council's website.
 (Somervaille/Braddon)
CARRIED

- 1607/013** **SUSTAINABLE MUSEUM COLLECTIONS PROGRAM**
RESOLVED
 That Council continue its support of the Sustainable Collections Program through the commitment of \$15,000 in the 2016/17 budget on the basis that reports are furnished on project achievements to Council and community on a six monthly basis.
 (Braddon/Kingham)
CARRIED

- 1607/014** **COMPLIANCE AND REPORTING ACTIVITIES**
RESOLVED
 That the report on Compliance and Reporting Activities for January to June 2016 be received.
 (Braddon/Somervaille)
CARRIED

- 1607/015** **INALA UNITS UPDATE**
RESOLVED
1. That Council endorse removal of the registration on the land title of Inala Units, lot 221/DP593369 at 33 Park Street, Millthorpe noting it as being used as a retirement village.
 2. That an investigation and report, with community consultation, into the proposed sale of Inala Units including costs associated with bringing the asset to a saleable condition, be brought to Council for further determination.
- (Braddon/Kingham)
CARRIED

REPORT OF COUNCIL INVESTMENTS AS AT 30 JUNE 2016**1607/016 RESOLVED**

1. That the report indicating Council's investment position as at 30 June 2016 be received.
2. That the certification of the Responsible Accounting Officer be received and the report be adopted.

(Braddon/Somervaille)

CARRIED**AMENDMENT TO 2016/17 SECTION 94 CONTRIBUTIONS****1607/017 RESOLVED**

1. That Council approve the amended 2016/17 section 94 contributions for public exhibition for a period of not less than 28 days;

Title of Fee or Charge	2016/17 Amended Fee
Section 94 Contributions	
Residential accommodation development resulting in additional dwelling or lot	\$5,976.00 per new dwelling or lot
Heavy haulage developments:	
- Regional Sealed Road	\$0.21 per ESA per km
- Local Sealed Road	\$0.35 per ESA per km
- Local Gravel Road	\$0.21 per ESA per km
Note: ESA means Equivalent Standard Axles	

2. That should no submissions be received the section 94 contributions as amended be adopted.

(Kingham/Braddon)

CARRIED**INFRASTRUCTURE SERVICES REPORTS****DIRECTOR INFRASTRUCTURE SERVICES MONTHLY REPORT****1607/018 RESOLVED**

That the Director of Infrastructure Services Monthly report for July 2016 be received and noted.

(Kingham/Somervaille)

CARRIED

PURCHASE OF BACKHOE LOADER

1607/019 RESOLVED

1. That Council accept the quotation provided by JCB Construction Equipment Australia for the supply of 1 JCB 3CX Classic Backhoe for a net cost of \$132,500 (ex GST) and dispose of Council's Case 590SR Series 3 via trade-in.
2. That Council approve the vote of \$132,500 into the 2016/17 budget from the Plant Reserve

(Braddon/Somervaille)

CARRIED

PURCHASE OF SCOREBOARD FROM BLAYNEY JUNIOR RUGBY LEAGUE

1607/020 RESOLVED

1. That Council endorse the purchase of the Blayney Junior Rugby League scoreboard for \$3,737; and
2. That an amendment in the first quarter budget review of \$8,737 be effected to accommodate the purchase and installation of the scoreboard at Blayney Showground.

(Kingham/Somervaille)

CARRIED

MINUTES OF THE BLAYNEY TRAFFIC COMMITTEE MEETING HELD ON FRIDAY 17 JUNE 2016

1607/021 RESOLVED

1. That Council accept the Minutes of the Blayney Traffic Committee Meeting held on Friday 17 June 2016.
2. That Council write to Bernardi's Marketplace advising that Council has observed they are not complying with their Traffic Control Plan and advise them of the liability issue associated with not complying.
3. That Council investigate the feasibility of developing a turn facility and bus stop on Bulb Farm Lane.
4. That Council arrange the grinding of the lip of the ramp in Henry Street alongside the Christ Church Retirement Village and review the need to remove the existing double lines to legalise parking either side of the existing ramp and edge lines be put either side of the ramp within current standards. Further, that the area not be formalised as a Disabled Parking space.
5. That RMS will inspect Spring Hill Road, Millthorpe for a speed zone review and will report to Council the outcome of the inspection with recommendations for Council to advise the proponent.
6. That Council provides in principal support to the Orange Cycle Club – Bicycle Races to be held on Saturday 5 and Saturday 19 November 2016 subject to the following conditions:

The Event Organiser is to comply with the following:

- a) That Council receive certified and signed Traffic Control Plans.
 - b) Development and implementation of a Traffic Management Plan (including Traffic Control Plans). All implementation and Traffic Control Works and Plans are to be completed by persons qualified to do so.
 - c) Approval is to be obtained from the Roads and Maritime Services Traffic Operations Manager.
 - d) Approval is to be obtained from NSW Police.
 - e) Council is to be provided with a copy of a \$20M Public Liability Insurance Policy indicating Blayney Shire Council's, Police & RMS interests, with the date and location of the event.
 - f) The Event Organiser is to notify all Emergency Services of the event including Blayney Hospital.
 - g) The Event Organiser is to notify all business proprietors and residents affected by the event at least 7 days prior to the event.
 - h) The Event Organiser is to comply with the requirements of the "Guide to Traffic and Transport Management for Special Events" (Version 3.4), 2 August 2006, for a class 1 event.
 - i) The Event Organiser is to comply with the requirements of the "Guide for Bicycle Road Races" NSW 1 January 2004.
7. That Council provides support to the Alpine Classic 2016 Event to be held on Saturday 22 and Sunday 23 October 2016.
 8. That Council support the removal of the formal children's crossing at St Joseph's Catholic School and that Council replace the no parking sign with parallel parking on the Eastern side of Adelaide Street.
 9. That Council work with the Millthorpe Public School and RMS, Safety Around Schools Project Officer to progress the blistering of the school zone signs on the Western leg of Victoria Street. That Council also look into implementing Reverse Angle parking to the east of the proposed blisters.
 10. That Council investigate the Community Centre/Cultural Centre car park noting there are no fundamental objections but would require community consultation and investigation.
 11. That Council writes to the Millthorpe Village Committee in relation to the safety of the intersection at Victoria and Park Streets Millthorpe advising that the intersection meets the required stopping sight distance for a 50km/h zone.

12. That Council:

- a) Includes the replacement of the stairs in Park Street, Millthorpe with a grade compliant ramp in the Active Movement Strategy, and seek a funding contribution to complete the modification.
- b) Task the Road Safety Officer undertake observations at the location to ascertain any need for a temporary extension of the No Stopping Zone to the south of the existing driveway layback adjacent to the existing stairs.

13. That the LTC advises Council that they consider the current intersection arrangement at Marshall's Lane, Blayney to be adequate and that it complies with the requirements for an 80Km/h zone.

(Braddon/Somervaille)

CARRIED

CLOSED MEETING

1607/022

RESOLVED

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

LEGAL MATTER, 13-17 SELWYN STREET BARRY

This matter is considered to be confidential under Section 10A(2) (a) (g) of the Local Government Act, as it deals with personnel matters concerning particular individuals; AND advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

**EOI LEASE CAFE VISITOR INFORMATION CENTRE
BLAYNEY**

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

(Somervaille/Braddon)

CARRIED

CONFIDENTIAL MEETING REPORTS

LEGAL MATTER, 13-17 SELWYN STREET BARRY

1607/023 RESOLVED

That the report on legal proceedings pertaining to 13-17 Selwyn Street Barry is received and noted.

(Braddon/Somervaille)

CARRIED

EOI LEASE CAFE VISITOR INFORMATION CENTRE

BLAYNEY

1607/024 RESOLVED

That Council authorise the General Manager to execute a 2x2 year Lease Agreement for the Café operations at the Visitor Information Centre (The Cottage) at 97 Adelaide Street Blayney with Ironbark Espresso Bar as per the terms and conditions detailed in the Expression of Interest for a rental of \$300 per week excluding GST.

(Braddon/Kingham)

CARRIED

1607/025 RESOLVED

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

(Somervaille/Kingham)

CARRIED

AT THE RE-OPENING OF THE MEETING TO THE PUBLIC, THE DEPUTY MAYOR ANNOUNCED THE OUTCOMES OF RESOLUTION NUMBERS 1607/023 TO 1607/024.

REQUEST FOR LEAVE OF ABSENCE

1607/026 RESOLVED

That the leave of Absence for Cr Kingham for August Council Meeting be approved.

(Somervaille/Braddon)

CARRIED

There being no further business, the meeting concluded at 7.32pm

The Minute Numbers 1607/001 to 1607/026 were confirmed on 15 August 2016 and are a full and accurate record of proceedings of the Ordinary Meeting held on 18 July 2016.

Cr S Ferguson
MAYOR

Mrs R Ryan
GENERAL MANAGER

02) BLAYNEY SHIRE DEVELOPMENT COORDINATOR PROGRAM

Department: Executive Services

Author: General Manager

CSP Link: 5.4 Capable, self sufficient communities engaged in decision making about issues that affect them.

File No: CR.PL.1

Recommendation:

That Council approve the Memorandum of Understanding and Funding Agreement between Council, providing financial assistance for the engagement by the Incorporated Association of a Development Coordinator.

Reason for Report:

To provide an update to Council on the Blayney Shire Development Coordinator Program and seek approval for the provision of funding to the Incorporated Association for each cluster under a MOU and Funding Agreement substantially in the form contained in the enclosure following this Report.

Report:

Council approved the implementation of the Blayney Shire Development Coordinator program totalling \$100,000 under section 356 of the Local Government Act (1993) from the Village Enhancement Plan budget. This funding is subject to the Town and Village Associations (Millthorpe, Blayney, Barry, Newbridge, Neville, Hobbys Yards, Carcoar, Mandurama and Lyndhurst) each being in agreement to the funding offer and signing of a Memorandum of Understanding (**Resolution No 1606/001**).

This is a community capacity building program with the following objectives;

- supporting our local town and village leaders;
- empowering our small communities towards self- governance and autonomy;
- building a culture of self-determination where volunteers are valued and recognised; and
- facilitating two-way communication and collaboration between Council and community groups.

All Town and Villages Associations, Progress Associations, Hall Trusts in some cases; were invited to attend an information evening held in Blayney on 14 July with the Mayor, General Manager and Councillors Somervaille and Kingham.

Over 40 people representing the whole shire attended this session which generated questions, suggestions, discussion and the feedback was overall very positive.

The program has generated much interest and positive discussion in the region, with public commendation given to Blayney Shire Council for the commitment to supporting volunteer organisations in our town and villages.

Issues:

In addition to the financial support on offer, Council provided draft documents to facilitate this program. These included a;

- Constitution - which is based on the model Incorporated Association Constitution with some items relating to Council's relationship and powers to intervene;
- Memorandum of Understanding and Funding Agreement as per the subject of this report;
- Resolution to establish a Sub-committee and Instrument of Delegation by an Association when and if the Association has the need to establish a sub-committee;
- role description of the Development Coordinator; and
- a draft letter of appointment of the Development Coordinator by the Association.

The Memorandum of Understanding and Funding Agreement clearly sets out the purpose of the Council grant being provided, the conditions and obligations of both parties. It establishes the reporting requirements and importantly the GST status so that the Association may receive and then claim the GST. Further, it binds Council to providing financial assistance for the engagement by the Association of a Development Coordinator for the duration of the Agreement.

It is essential that a document of this nature is formally executed, in the event extenuating circumstances which require intervention actions and management by Council.

Initial concerns raised by the community groups who were apprehensive about creating another layer of Incorporated Association, includes the necessity to adhere to a formal Funding Agreement and associated reporting schedule in addition to managing the engagement and supervision of a Development Coordinator. These questions have been responded to and meetings attended at both Millthorpe and Lyndhurst helped to further explain the program objectives to the wider membership of each group and Council's expectations and vision.

Budget Implications:

Nil

Enclosures (following report)

1 MOU Funding Agreement

12 Pages

Attachments (separate document)

Nil



Funding Agreement
Development Coordinator Program

Blayney Shire Council
ABN 47 619 561 511

and

[XYZ] Association

ABN

Providing financial assistance for the engagement by the
Association of a Development Coordinator

DEVELOPMENT COORDINATOR PROGRAM - MEMORANDUM OF UNDERSTANDING

1. The agreement on the following pages is the formal document between Council and the [XYZ] Association, under which Council agrees to provide financial assistance to fund the engagement of a part time Development Coordinator.
2. Council will be at arm's length in the management of the position, leaving the Association responsible for contracting and the day to day supervision of the Development Coordinator.
3. Council staff will be available to assist with the recruiting process to fulfil the role of Development Coordinator and will provide support and facilitate funding opportunities, networking and training of the Development Coordinator when appropriate.
4. The key terms of the funding agreement are:
 - (a) The period of funding is 4 years, ending 30 June 2020, provided the terms of the agreement are complied with by the Association and provided the necessary expenditure has been voted by Council for each subsequent Funding Year after the first year of the Program.
 - (b) The funding is \$20,000 (plus GST) per annum, payable in 4 quarterly instalments, together with funds up to \$5,000 per annum to cover the Association's establishment costs, annual audit cost and public liability insurance and any associated overhead admin costs.
 - (c) The main obligations on the Association are:
 - (i) to use the funding only to engage a Development Coordinator and pay the expenses referred to above;
 - (ii) to report quarterly to Council on the operation of the Program and the activities of the development coordinator. This is to ensure accountability and transparency of Council financial assistance being provided;
 - (iii) to maintain incorporation under the *Associations Incorporation Act* and to comply with statutory obligations;
 - (iv) to be registered for GST during the term of the agreement.
5. The Development Coordinator must be an independent contractor to the Association, and have their own ABN. Council has provided a standard consultancy letter which sets out the role of the development coordinator and other standard terms and conditions.

MOU Final July 2016

6. It is expected that the Development Coordinator will source, or on behalf of the Association or other community associations, external funding equivalent to \$50,000 per annum over the 4 year term.
7. Payment of quarterly progress payments will be made by Council under its usual payment terms on receipt of a valid tax invoice.
8. Council will monitor compliance by the Association with its obligations under the Program and specifically this funding agreement. If there is a breach by the Association, Council may, at its option and depending on the nature of the issue which has caused the breach:
 - (a) terminate the funding agreement and cease providing funding; or
 - (b) exercise its rights under the constitution of the Association to step in and attempt to rectify the issue.

MOU Final July 2016

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FUNDING AGREEMENT made on 2016

BETWEEN:

- (1) **Blayney Shire Council** ABN 47 619 561 51 of 91 Adelaide Street, Blayney New South Wales (**Council**); and
- (2) **[XYZ] Association Inc.** ABN [] of [address] New South Wales (the **Association**)

RECITALS:

- (A) Pursuant to resolution dated 20 June 2016, Council has established a program for the provision of financial assistance to community groups pursuant to section 356 of the Local Government Act 1993 to assist with the engagement of a Development Coordinator
- (B) The Association's application for funding under the Program has been successful.
- (C) This Agreement sets out the terms on which the funding will be provided.

THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document.

Association's Representative means the president for the time being of the Association or any other officer or committee member of the Association nominated in writing as such by the president.

Council means Blayney Shire Council or any council which is the successor to the contractual rights and obligations of Blayney Shire Council.

Council's Representative means the general manager of Council or any other officer of Council nominated in writing as such by the general manager.

Development Coordination Services means the services set out in the schedule to this Agreement.

Development Coordinator means the person engaged by the Association to carry out the Development Coordination Services.

Funding Amount means, in respect of each Funding Year, the aggregate of:

- (a) \$20,000; and

- (b) such amount not exceeding \$5,000 as is expended by the Association on the Reimbursable Expenses.

Funding Year means each of the financial years commencing 1 July 2016, 1 July 2017, 1 July 2018 and 1 July 2019.

Program means the Blayney Shire Development Coordinator Program approved by Council by resolution passed on 20 June 2016.

Progress Payments means four equal quarterly instalments of \$5,000 payable, on receipt of a tax invoice, in July, September, January and April

Reimbursable Expenses means the actual costs paid by the Association in a Funding Year for the costs of incorporation under the *Associations Incorporation Act* (if not already incorporated), annual registration fees, standard public liability insurance costs, administrative costs and the costs of an annual independent audit of financial statements.

Step-in Rights means the rights of Council under the constitution of the Association.

Term means the period from 1 July 2016 to 30 June 2020

2. FUNDING

2.1 Provision of funding

In consideration of the commitment by the Association referred to in clause 2.2, Council agrees to provide the following financial assistance to the Association during the Term:

- (a) the Funding Amount to the Association by way of the Progress Payments; and
- (b) the Reimbursable Expenses upon a valid tax invoice with such supporting information as Council requires.

2.2 Commitment by Association

The Association unconditionally and irrevocably undertakes to Council, as a condition of receiving the Funding Amount:

- (a) to enter into a contract with a Development Coordinator to provide the Development Coordination Services;
- (b) to participate in and support the Program and provide Council with the information required under this Agreement; and
- (c) to use the Funding Amount for the purposes of the Program, and not to use the Funding Amount for any other purpose.

2.3 Conditions precedent to payment

- (a) Payment of the first instalment of the Funding Amount is conditional on Council being provided with evidence that:
 - (i) the Association has entered into a contract with a Development Coordinator;
 - (ii) the constitution of the Association contains the Step-in Rights; and
 - (iii) the Association is registered for GST purposes.
- (b) Payment of subsequent instalments of the Funding Amount is conditional on, as at the time for payment:
 - (i) the necessary expenditure having been voted by Council in respect of the relevant Funding Year; and
 - (ii) the Association complying with and not being in breach of the requirements of this Agreement.

2.4 Payment claims

- (a) The Association must give Council and Council's Representative a claim for payment:
 - (i) within 7 days after the end of each Quarter;
 - (ii) which includes the evidence reasonably required by Council of the costs incurred by the Association;
 - (iii) in the format Council reasonably requires.
- (b) Within 30 days of receiving a payment claim under clause 2.4(a), Council must pay the amount claimed (or such lesser amount as Council determines is then payable).

2.5 No other funding or support

Council has no obligation to provide the Association with:

- (a) any funding in addition to the Funding Amount or the Reimbursable Expenses;
or
- (b) any other support or services of any kind.

3. ASSOCIATION'S OBLIGATIONS

3.1 Continuing obligations

The Association undertakes to Council that, throughout the Term:

- (a) it will to engage the services of a Development Coordinator for a minimum of ten hours per week;
- (b) if the Development Coordinator position becomes vacant, it will undertake a full and proper recruitment process and a Council representative (Councillor or staff) will be invited to join the selection panel;
- (c) it will maintain its incorporation under the *Associations Incorporation Act 2009*;
- (d) the constitution of the Association will at all times include the Step-in Rights;
- (e) it will advise Council in writing of any amendments to its constitution;
- (f) a representative of the Association and its sub committees will whenever possible attend meetings of Council's Towns and Villages committee (or other applicable section 355 committee of Council with a charter covering local communities within Council's local government area);
- (g) it will maintain public liability insurance for at least \$20 million;
- (h) it will not approve the Development Coordinator becoming an officer or member of the executive of the Association or any Sub-committee and
- (i) it will comply with its reporting obligations under this Agreement.

3.2 Association's Representative

- (a) The Association's Representative is responsible for managing the Association's obligations under this Agreement and must:
 - (i) be available at all reasonable times for communications with Council or Council's Representative referred to in clause 3.3; and
 - (ii) be capable to act with the Association's full authority in matters relating to this Agreement.
- (b) The Association must notify Council and Council's Representative immediately of any change to the Association's Representative.

3.3 Council's representative

- (a) Council may, from time to time, nominate in writing a representative to act on Council's behalf to validate the Association's reporting in accordance with the Association's payment claims.
- (b) The Association must co-operate with Council's Representative.
- (c) Council's Representative has no authority to amend or waive the requirements of this Agreement.

3.4 Reporting

The Association must provide the following written reports to Council or, if directed, Council's Representative:

- (a) a quarterly report outlining the activity of the Development Coordinator for the quarter, including meetings attended, external grants applied for, grants received and a progress report on works undertaken or completed with grant moneys; and
- (b) an annual report including the Association's independently audited financial statements.

3.5 Access and audit rights

- (a) Council reserves the right to audit the Association's compliance with this Agreement.
- (b) Provided that reasonable prior notice is given to the Association, the Association must provide Council or Council's Representative or their authorised representative with access to its books and records.

4. BREACH AND TERMINATION

4.1 Rectification of a breach by the Association

If the Association is in breach of any of its obligations under this Agreement, or is otherwise not undertaking or is unable to carry out the Program, then Council may:

- (a) exercise its Step in Rights under the constitution of the Association; and/or
- (b) request a rectification plan from the Association;
- (c) reject or approve the rectification plan; and
- (d) suspend any further Progress Payments until the breach has been rectified.

4.2 Termination for breach

- (a) Council may immediately terminate this Agreement if:
 - (i) the Association fails to remedy any material breach of this Agreement within a reasonable period after receiving notice from Council directing it to do so;
 - (ii) Council is the victim of any fraud or dishonest conduct by the Association in connection with this Agreement or the Program; or
 - (iii) the Association is, or admits in writing that it is, or is declared to be, or is taken under any applicable law to be (for any purpose), insolvent or unable to pay its debts.

5. GENERAL

5.1 Notices

- (a) All notices in relation to this Agreement must be in writing and must be signed by the party's representative.
- (b) A notice will be taken to be received:
 - (i) if it is delivered in person - when it is delivered to the relevant party's address specified in the Agreement Particulars or such other address as is notified by that party from time to time;
 - (ii) if it is sent by mail - 3 Business Days after the day it was posted to the relevant party's address specified in the Agreement Particulars or such other address as is notified by that party from time to time

5.2 No agency or partnership

- (a) This Agreement does not constitute a relationship of partners, employer and employee or principal and agent.
- (b) The Association must not, and must procure that its contractor does not, represent itself as being a partner, employee or agent of Council,.

5.3 No waiver

- (a) If Council delays, partially exercises, or chooses not to exercise any right under this Agreement or law, Council is not prevented from exercising that or any other right in the future.
- (b) No waiver of a breach of this Agreement operates as a waiver of another breach of this Agreement.

- (c) A waiver or consent given by Council under the Agreement is only effective and binding if it is given or confirmed in writing.

5.4 Variation of this Agreement

This Agreement may only be varied in writing, signed by both parties.

EXECUTED as an agreement

Name and Signature
General Manager of **Blayney Shire Council**

Name and Signature
The President of **[XYZ] Association Inc.**

SCHEDULE 1**Development Coordination Services**

The role of the Development Coordinator is to:

- represent the Association in its dealings with Council when required
- act as advocate and champion for the relevant community of interest,
- supporting the office bearers of the Association
- support locally based community organisations to coordinate and promote local events
- source external grant funding for local community projects
- facilitate and support the lodgement of grant applications made on behalf or by the Association and other volunteer sporting, cultural or charity community groups from within the geographical cluster group
- Provide support to locally based community organisations to coordinate and promote local events.
- Support initiatives that promote and encourage sustainable tourism business and community development opportunities
- Support community capacity building and community development strategies
- Facilitate the review and update Tourism Promotional material as required
- Assist Blayney Shire Council with building partnerships and networks with the community to build social and community development capacity.
- Assist the community to implement the Blayney Shire Council Town/Village Community Plans
- Attend and participate in Association, villages meetings as required and necessary
- Attend Council facilitated Development Coordinator Program forums
- Provide quarterly reports detailing grants applied for, received and pending

03) LGNSW ANNUAL CONFERENCE 2016

Department: Executive Services

Author: General Manager

CSP Link: 6.3 A well-run Council organisation.

File No: GR.ME.2

Recommendation:

1. That Council nominates the Mayor as voting delegate to the LGNSW Annual Conference 2016.
2. That Council approves the registration and attendance of the Mayor, Deputy Mayor and General Manager as Blayney Shire Council Delegates to attend the LGNSW Annual Conference 2016.

Reason for Report:

To inform Council of the Local Government NSW (LGNSW) Annual Conference 2016 and appoint the voting delegate for Blayney Shire Council.

To seek Council approval for the registration and payment of expenses as per Council Policy for Council Delegates attending the LGNSW Annual Conference.

Report:

The LGNSW Annual Conference is to be held at the WIN Entertainment Centre, Wollongong, from Sunday 16 October to Tuesday 18 October 2015.

Councils must register the names of their delegates for voting during formal business sessions by **Friday 30 September 2016**. Blayney Shire Council is entitled to 1 voting delegate, which has in the past been allocated to the Mayor.

All members (including newly merged councils which are LGNSW members) are able to put forward motions to be considered at conference.

Motions are required to be submitted online by Monday 22 August 2016 to allow printing and distribution of the Business Paper. The latest date motions can be accepted for inclusion in the Conference Business Paper is Sunday 18 September 2016.

There are a number of LGNSW guidelines for submitting motions including;

- meeting all 7 of the board-endorsed criteria;
- clearly worded with a call to action to a specific body (eg Minister, LGNSW, State Government) and have a specific outcome it is seeking to achieve;
- which of the 5 categories the motion will fit; and
- evidence and Council's formal support of motion.

Issues:

Subject to the merger proposal and court proceedings currently underway Blayney Shire Council may not be a member of LGNSW in October.

The LGNSW constitution states that voting delegates must be either '*an elected member of a Council, a member of the Board of the Aboriginal Land Council (ALC) or an Administrator of a member that was financial on 1 March 2016*'. Blayney Shire Council was a financial member of LGNSW as at 1 March 2016, therefore the appointed Administrator for the merged council (Blayney, Cabonne and Orange) should this be the case; will be entitled to 1 vote.

The merging of Blayney, Cabonne and Orange will not prevent participation by a non-voting delegate ie; a past Mayor, Deputy Mayor or General Manager of Blayney Shire Council. These Councillors may be members of an Implementation Advisory Group or a Local Representative Committee and the conference proceedings would still be relevant.

Should a delegate be unable to attend once registered, a substitute delegate may attend in their place at no additional charge.

The next Council meeting is Monday 19 September and currently there are no motions from Blayney Shire Council. Should Council wish submit a motion as per the LGNSW Guidelines, this meeting is the only opportunity to demonstrate formal support.

Any Councillors that have an issue for LGNSW Conference are requested to bring this matter and draft motion for consideration by Council to the meeting.

Budget Implications:

The 2016/17 budget includes an allocation for the Mayor, Deputy Mayor and General Manager to attend the LGNSW Conference.

As per Councils '*Payment of Expenses and the Provision of Facilities to the Mayor and Councillors Policy*' Council will meet the Registration, Accommodation, Travel and Car Parking costs for Council Delegates attending the LGNSW Conference as authorised by Council Resolution.

Any additional accommodation costs incurred as a result of the attendance of partners shall be borne by the Councillor or Delegate.

Enclosures (following report)

Nil

Attachments (separate document)

Nil

04) WINTER WONDERLAND FESTIVITIES

Department: Executive Services

Author: Community Development and Tourism Projects Officer

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

File No: CR.CB.2

Recommendation:

That Council approve the donation of \$650 raised through Winter Wonderland 2016 event from merchandise sales and ticketing on behalf of the community to be donated to the Blayney Palliative Care Unit fundraising project for the Blayney Rotary Club.

Reason for Report:

To provide Council with the outcomes following the recent Winter Wonderland campaign which demonstrated Council's leadership, role and resources as an enabler for community engagement projects; where businesses, school groups, community members collaborate to deliver beneficial outcomes for the region.

To seek Council approval as to the disbursement of donated entry and sales of merchandise funds to the Blayney Palliative Care Unit.

Report:

Blayney and Villages Winter Wonderland was held from 11 to 24 July 2016 as a joint Council, community and local business marketing, tourism and community engagement campaign. The aim of the Winter Wonderland event was to prompt activities and events of community groups, business and school groups through a collaborative marketing platform to maximise opportunities for promotion and create a buzz throughout the area.

Rather than random, ad hoc events, the Winter Wonderland campaign effectively focused efforts to generate a stronger momentum to buy local, attract visitors to the area and bring the community together to socialise, embrace the season and discover what Blayney Shire to offer. In effect, the campaign provided a catalyst for collaboration and development. It demonstrated what is possible through a co-ordinated community and business.

This concept of Council working in partnership with community groups and businesses to leverage desired collective outcomes is aligned with the current Tourism Destination Management Plan.

Winter Wonderland was built on the success of last year's 'Christmas in July 2015' campaign which featured similar activities and events.

Learning from that feedback, the campaign had a longer lead time (about 2 months) to encourage maximum awareness and featured the introduction of a new event, the Winter Wonderland Community Movie Night.

Council coordinated the event, which provided an opportunity for School P&Cs from Blayney & Villages, Rotary Club Blayney and other community groups and businesses to host fundraising stalls on Saturday 16 July, ahead of a themed Blayney Farmers' Markets the next day.

A number of events and promotions took place during Winter Wonderland which generated positive results including:

- Winter Wonderland Community Movie Night
- Winter Wonderland Facebook photo competition
- Winter Wonderland business window display competition
- Special offers and events at local businesses were promote through Council's Facebook page and on our website including:

Council reaching out to businesses, school and community groups for involvement, awareness and inclusion helped to build those relationships and demonstrated the value Council can play with promotions and campaign development to attract economic activity to the area.

Blayney Shire Council Facebook 'likes' expanded by about 200 new followers to 1,200 during the period.

Widespread TV media coverage and promotional activity with tourism partners such as prominent stories in Brand Orange and F.O.O.D Week E-newsletters, Council website, Council Connect E-newsletters, advertising in neighbouring towns such as, Canowindra Phoenix, posters, community banners poles.

Issues:

The event did consume Council and resources to create the campaign and organise the event. Council utilised funding from the 2015/16 Tourism budget to employ a casual Events Co-ordinator to support the implementation of activities and stock merchandise which promoted the event.

In addition, the Community Development & Tourism Officer and other staff (many who volunteered their time and expertise) worked on the event for 6 weeks prior to the campaign start.

Feedback has been very positive and most groups have commented they would like an event such as the Community Movie Night to be held more frequently, possibly quarterly. The groups who participated on average were able to fundraise in the vicinity of \$200 - \$300 profit each.

As a marketing and promotions exercise the event was an overwhelming success, however it is recognised that for Council to remain as the lead organisation is not sustainable.

There is an opportunity for a local community group such as the Blayney Town Association or a Sub Committee, could coordinate an event like this with the templates and running sheets provided by Council, even with less fanfare to reduce costs.

There may be a project that a community group who can use this model for fundraising.

Budget Implications:

The total cost to Council of the campaign, including wages, Community Centre hire, cleaning, decorations, promotional material, merchandise and movie licence was \$9,960 (ex GST). This was funded from the Tourism Promotions 2015/16 budget and whilst most of the expense was paid prior to the end of the financial year but due to the timing of the campaign by nature, some costs needed to be paid in July and will require Council revote to 2016/17.

Entry by gold coin donation and sales of merchandise totalled \$650, which was promoted to be supporting the Blayney Rotary Club Palliative Care Unit project.

Enclosures (following report)

Nil

Attachments (separate document)

Nil

05) MINUTES OF THE BLAYNEY SHIRE CULTURAL CENTRE WORKING GROUP MEETING HELD 1 AUGUST 2016

Department: Executive Services

Author: General Manager

CSP Link: 5.4 Capable, self sufficient communities engaged in decision making about issues that affect them.

File No: ED.LI.2

Recommendation:

That the minutes of the Cultural Centre Working Group Meeting, held Monday 1 August 2016, be received.

**MINUTES OF THE CULTURAL CENTRE WORKING GROUP MEETING
HELD ON MONDAY 1 AUGUST 2016
AT THE BLAYNEY SHIRE COMMUNITY CENTRE**

Meeting commenced at 6.30pm.

PRESENT

Cr Allan Ewin (Chair), Cr David Kingham, Rebecca Ryan, Gwenda Stanbridge, Ian Tooke, Jan Richards, Loretta Kervin, Margaret Paton, Penny May, Tom Williams

APOLOGIES

Cr Scott Ferguson, Elizabeth Russ

Recommended that the apologies submitted on behalf of Cr Scott Ferguson and Elizabeth Russ be accepted.

(Ian Tooke / Penny May)

DISCLOSURES OF INTEREST

Nil

MINUTES FROM PREVIOUS MEETING – 4 JULY 2016

Recommended that the minutes from the previous Cultural Centre Working Group Meeting held on 4 July 2016 be adopted.

(Gwenda Stanbridge / Penny May)

BUSINESS ARISING

Nil

STAGE 1 UPDATE

1. Coffee Shop/Café VIC/Cottage
 - DA Lodged to Council for approval, change of use
 - Draft Plans prepared have been modified now following consultation with Leasee and VIC/Cottage Arts & Crafts Group

2. EOI Lease
 - EOI Advertised in May closed late June
 - Report provided to July Council Meeting
 - Council have awarded 2x2 year lease to Ironbark Espresso Bar at \$300 per week (ex GST)
 - Hours of Operation
 - Monday to Friday 6.00am to 4.00pm
 - Saturday and Sunday 7.00am to 2.00pm
 - Public Holidays By Negotiation
 - Ironbark Espresso Bar are a locally owned business, currently operating from premises in 102 Adelaide Street Blayney.
 - Additional services either already provided or suggestions for consideration include;
 - Collaboration with local artists to display and sell works
 - Saturday morning music sessions
 - Special Events such as Art Gallery/VIC
 - Community Notices in the Café
 - After Hours meetings and workshop venue for arts and crafts, jewellery and cooking
 - Ironbark has embraced the intent of the Cultural Centre Working Group vision to create a vibrant community hub.

3. VIC Refurbishment
 - Public Toilets Wheelchair access completed
 - Painting external delayed due to weather
 - Schedule for works programmed October to December (12 weeks) will result in Cottage being closed for period.
 - The VIC is the first priority (front room and storage space) to be completed and operational, and works can continue without further disruption to the VIC/Cottage Volunteers

DESIGN BRIEF DISCUSSIONS

Draft Design Brief reviewed and purpose of document discussed. Information provides great structure for a Business Plan for Cultural Centre, which could be an essential document for any Grant Application.

Action: Each stakeholder to provide feedback to Penny for Cultural Centre Business Plan

CULTURAL CENTRE STAGE 2

David Scobie initial draft concepts provided to group on 18/7/16. Feedback invited and issues raised by Town Planner for consideration. Footprint is larger than space avails, and some downsizing or compromise of meeting room needs to be made. Preference is for a single story – as a mezzanine will increase height and require lift. Option to make an L or U shape the other way without a courtyard. Family History Group spaces and linkages to Library, aside from Viv Kable Collection have been left off and needs to be conveyed to Architect.

Potential project for Sustainable collections to assist with a Digitisation Project of paper originals. Family History Group are volunteers and have time and experience constraints.

Is Stage 3 an archival storage or regional repository? Tree can go and courtyard not practical or space limitations.

Action: GM to investigate adjoining strip of land options

GENERAL BUSINESS

Nil

NEXT MEETING

Next meeting will be held Monday 5 September 2016 at 6.00pm.

MEETING CLOSE

There being no further business the meeting closed at 7.30pm.

Enclosures (following report)

Nil

Attachments (separate document)

Nil

06) ADOPTION OF ASBESTOS MANAGEMENT POLICY

Department: Corporate Services

Author: Director Corporate Services

CSP Link: 6.3 A well-run Council organisation.

File No: PM.PO.2

Recommendation:

That the Asbestos Management policy be adopted and included in Council's policy register.

Reason for Report:

For Council to adopt policy developed for Asbestos Management pursuant to Part 8 Work and Safety Regulations.

Report:

Council at its meeting held 20 June 2016 resolved to place the Asbestos Management policy on public exhibition.

The objective of the policy is to articulate Council's commitment to managing asbestos to minimise the risk of exposure and provide information and guidance to Council workers and the community. It is based on the Model Asbestos Policy and Guide developed by Local Government NSW in partnership with the NSW Government and input from industry reference groups.

The closing date for public exhibition was 20 July 2016 and no submissions on the draft policy were received.

A copy of the policy for adoption is provided as an attachment to this report.

Issues:

Nil.

Budget Implications:

Nil effect.

Enclosures (following report)

1 Draft Asbestos Policy

3 Pages

Attachments (separate document)

Nil



Blayney Shire Council

Policy Register

Policy No 9J

Policy Title	Asbestos Management Policy
Officer Responsible	Risk Officer
Last Review Date	15/08/2016

Objectives

To articulate Council's commitment to managing asbestos to minimise the risk of exposure and provide information and guidance to Council workers and the community.

Policy Statement

Blayney Shire Council



Asbestos Management Policy

Policy Intent:

This Policy provides documented evidence of Council's commitment to ensuring management of asbestos containing material (ACM) in Council owned buildings and assets, asbestos contaminated land under Council's control, naturally occurring asbestos (NOA) within the Blayney Local Government Area and where Council is the appropriate regulatory authority.

Council aims to minimise the risks of exposure to asbestos and provide information, as far as reasonably practicable, to protect the health and wellbeing of workers (employees, volunteers and contractors) in Council workplaces and the community in accordance with the Model Asbestos Policy and Guide developed by Local Government NSW in partnership with the NSW Government and input from industry reference groups.

Context:

Local Government plays a critical role in reducing the risks posed by asbestos. Councils work together with the State Government and wider public to address the legacy of asbestos in building materials and land contaminated with asbestos, as well as addressing naturally occurring asbestos.

Where material containing asbestos is in a non-friable form (that is, cannot be crushed by hand into a powder), undisturbed and painted or otherwise sealed, it may remain safely in place. However, where asbestos containing material is broken, damaged, disturbed or mishandled, fibres can become loose and airborne posing a risk to health. Breathing in dust containing asbestos fibres can cause asbestosis, lung cancer and mesothelioma.

Asbestos was commonly used in Australian buildings and infrastructure between the 1940's and the 1980's because of its durability, fire resistance and excellent insulating properties. Its use was gradually phased out from the mid-1980's and the supply and installation of asbestos containing goods has been prohibited since 31 December 2003.

Asbestos is found as a naturally occurring mineral in many areas of NSW and may occur in veins within rock formations. NSW Trade and Investment mapping has identified areas with potential for naturally occurring asbestos within Blayney Shire Council. Naturally occurring asbestos is generally found when building roads, working on construction sites and undertaking excavation activities.

Asbestos contamination may result from dumping or relocation of asbestos containing materials', incidents such as building fires or building demolition.

Various legislation and regulations impose responsibility and obligations for managing asbestos on organisations and individuals. The Blayney Shire Council Asbestos Management Plan 2016, developed from the Local Government NSW Model Asbestos Policy, provides guidance in relation to measures that will assist compliance with those requirements.

Review:

This Policy will be reviewed within twelve months of the date of election of a new Council or as a result of any changes necessitating revision or variation of this Policy.

Relevant Documents:

Model Asbestos Policy for NSW Councils (Office of Local Government)
Blayney Shire Council Asbestos Management Plan 2016
Work Health and Safety Act 2011
Work Health and Safety Regulation 2011
Contaminated Land Management Act 1997
Local Government Act 1993
SafeWork NSW - Code of practice, How to manage and control asbestos in the workplace
SafeWork NSW – Health & Safety > Safety Topics A-Z > Asbestos - Factsheets

End of Policy

Adopted:	15/08/2016	
Last Reviewed:	15/08/2016	
Next Reviewed:	14/11/2017	

**07) LGNSW - REQUEST FOR ASSISTANCE WITH LEGAL COSTS:
COWRA SHIRE COUNCIL**

Department: Corporate Services

Author: Director Corporate Services

CSP Link: 6.3 A well-run Council organisation.

File No: GR.AD.2

Recommendation:

That \$301.20 be paid to the Local Government NSW (LGNSW) being Blayney Shire Councils' share of legal assistance under the LGNSW Legal Assistance Policy & Guidelines.

Reason for Report:

For Council to consider a request from Local Government NSW (LGNSW) to contribute to legal assistance towards defence an appeal matter sought by Cowra Shire Council under the LGNSW Legal Assistance Policy & Guidelines.

Report:

Council is in receipt of correspondence from the LGNSW on behalf Cowra Shire Council in seeking assistance with legal costs to defend an appeal matter brought against them.

The LGNSW Board considered the matter to be of importance to local government throughout the State, as the proceedings relates to the interpretation of councils' powers under and reliance upon the Local Government Act NSW (LG Act) to issue notices and orders where animal welfare issues are not covered by other laws.

The Land and Environment Court, in the matter McCudden v Cowra Shire Council, agreed that councils should be able to issue orders under section 124 of the LG Act.

Council is under no obligation to contribute.

Details of the case are included in the attached correspondence from LGNSW.

Issues:

Nil.

Budget Implications:

There are sufficient funds within Council's Legal Expenses – Administration allocation to fund this request.

Enclosures (following report)

1	Local Government NSW Correspondence	2 Pages
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Attachments (separate document)

Nil



Our ref: R90/0240-02-out 24866

20 July 2016

Ms Rebecca Ryan
General Manager
Blayney Shire Council
PO Box 62
BLAYNEY NSW 2799

BLAYNEY SHIRE COUNCIL
29 JUL 2016
Doc. No.
Verified:
Disp. GA39:
Gent.

Dear Ms Ryan

Request for Legal Assistance – Cowra Shire Council

On 23 February 2016, councils were advised that the Local Government New South Wales Board approved an application made by Cowra Shire Council for legal assistance to defend an appeal matter under the LGNSW Legal Assistance Policy & Guidelines. The LGNSW Board considered that this matter to be of importance to all local government throughout NSW as the appeal relates to the interpretation of councils' powers under the *Local Government Act NSW* (the Act) and councils' ability to rely on the Act to issue notices and orders where animal welfare issues are not covered by other laws.

The Land and Environment Court has agreed that councils should be able to issue orders under section 124 of the Act and the judgment can be viewed via that Court's website – the citation is *McCudden v Cowra Shire Council [2016] NSWLEC 14*.

Financial contributions are now being sought from councils as the Land and Environment Court has resolved this matter and the costs of the proceedings have been determined.

You are reminded that there is no obligation for a council to provide assistance. If Council chooses not to provide assistance, the attached invoice can be disregarded.

Please do not hesitate to contact me on (02) 9242 4142 if you have any questions on this matter.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Bruce McCann'.

Bruce McCann
Legal Officer

LOCAL GOVERNMENT NSW
GPO BOX 7003 SYDNEY NSW 2001
L8, 28 MARGARET ST SYDNEY NSW 2000
T 02 9242 4000 F 02 9242 4111
LGNSW.ORG.AU LGNSW@LGNSW.ORG.AU
ABN 49 853 913 882



ABN: 49 853 913 882
GPO Box 7003 SYDNEY NSW 2000
Level 8 28 Margaret Street SYDNEY NSW 2000
Tel: (02) 9242 4000 Fax (02) 9242 4111
www.lgnsw.org.au lgnsw@lgnsw.org.au

Tax Invoice

Invoice Number 74970
Date 20/07/16

Invoice to:
Blayney Shire Council
Po Box 62
BLAYNEY NSW 2799

Customer Code	Customer Reference
ZZBLAY	

Item Code	Item Description	Invoice Quantity	Per	Price	GST	Amount
LEGA	Legal Assistance Cowra Council for legal costs incurred by Council (refer attached letter)	1		273.82	27.38	301.20

Attn: The General Manager

Terms: 30 Days Invoice Date

Total Includes GST of
27.38

Total
301.20

08) REPORT OF COUNCIL INVESTMENTS AS AT 31 JULY 2016

Department: Corporate Services

Author: Acting CFO

CSP Link: 6.3 A well-run Council organisation.

File No: FM.IN.1

Recommendation:

1. That the report indicating Council's investment position as at 31 July 2016 be received.
2. That the certification of the Responsible Accounting Officer be received and the report be adopted.

Reason for Report:

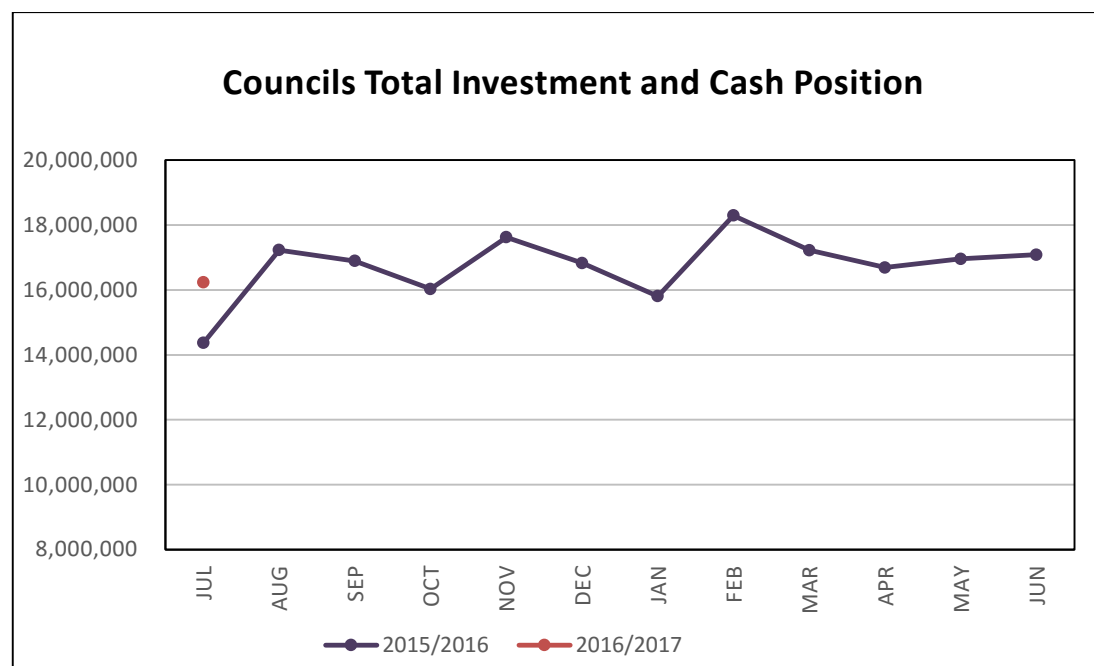
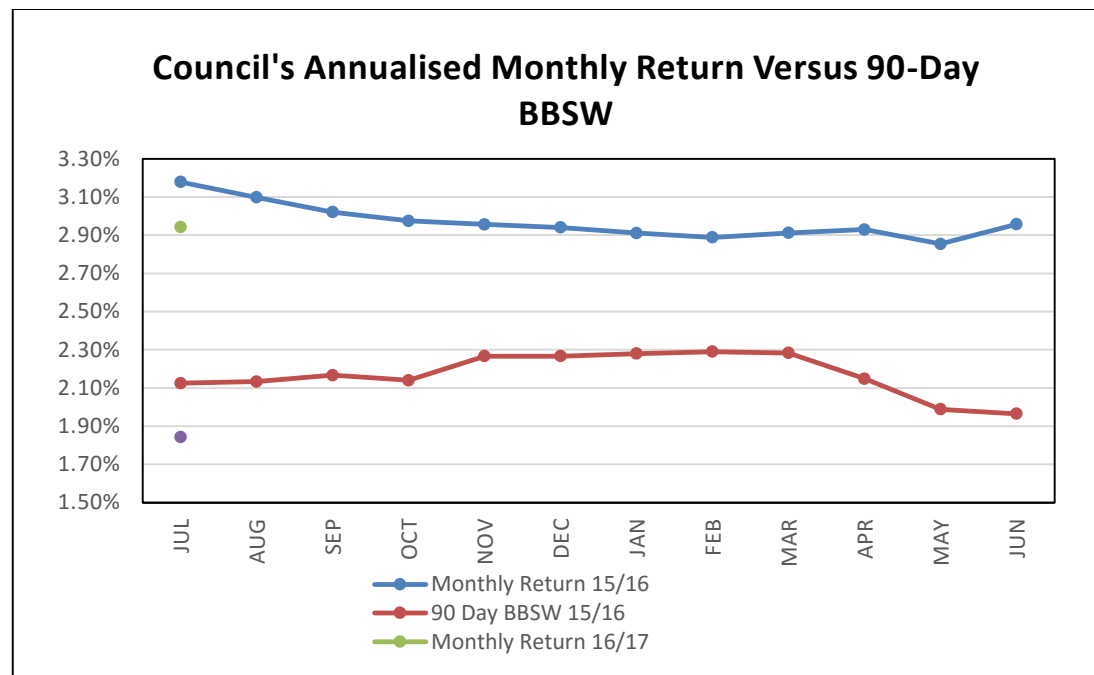
For Council to endorse the Report of Council Investments as at 31 July 2016.

Report:

This report provides details of Council's Investment Portfolio as at 31 July 2016.

Council's total investment and cash position as at 31 July 2016 is \$16,234,645. Investments earned interest of \$41,867 for the month of July 2016.

Council's monthly net return on Term Deposits annualised for July of 2.86% outperformed the 90 day Bank Bill Swap Rate of 1.843%.



REGISTER OF INVESTMENTS AND CASH AS AT 31 JULY 2016				
Institution	Rating	Maturity	Amount \$	Interest Rate
AMP Bank	A1/A+	6/01/2017	500,000	2.850%
AMP Bank	A1/A+	9/05/2017	500,000	3.000%
AMP Bank	A1/A+	31/05/2017	500,000	3.000%
AMP Bank	A1/A+	15/06/2017	500,000	2.900%
AMP Bank	A1/A+	17/01/2017	500,000	2.850%
AMP Bank	A1/A+	16/08/2016	500,000	2.900%
Auswide Bank Ltd	A2/BBB	7/03/2017	500,000	3.000%
Bank of Queensland	A2/A-	3/01/2017	500,000	2.950%
Bank of Queensland	A2/A-	2/08/2016	500,000	3.050%
Bank of Queensland	A2/A-	15/08/2016	500,000	3.050%
Bankwest	A1+/AA-	2/08/2016	500,000	3.000%
Bankwest	A1+/AA-	4/10/2016	500,000	2.950%
Bankwest	A1+/AA-	14/02/2017	500,000	2.850%
Bankwest	A1+/AA-	11/10/2016	500,000	2.800%
Bankwest	A1+/AA-	29/11/2016	500,000	2.800%
Bendigo & Adelaide Bank	A2/A-	22/11/2016	500,000	2.800%
Bendigo & Adelaide Bank	A2/A-	13/06/2017	500,000	2.900%
IMB	A2/BBB	1/09/2016	500,000	2.800%
ING Bank	A2/A-	28/02/2017	500,000	3.100%
Macquarie Bank	A1/A	9/08/2016	500,000	2.800%
ME Bank	A2/BBB+	6/03/2017	500,000	3.070%
ME Bank	A2/BBB+	20/12/2016	500,000	3.000%
ME Bank	A2/BBB+	29/11/2016	500,000	2.900%
ME Bank	A2/BBB+	7/03/2017	500,000	3.070%
NAB	A1+/AA-	6/09/2016	500,000	3.120%
NAB	A1+/AA-	29/11/2016	500,000	2.920%
NAB	A1+/AA-	23/05/2017	500,000	2.890%
NAB	A1+/AA-	21/02/2017	500,000	3.130%
NAB	A1+/AA-	13/12/2016	500,000	2.940%
Westpac	A1+/AA-	6/12/2016	500,000	2.860%
Total Investments			15,000,000	2.942%
Benchmarks:	BBSW 90 Day Index			1.843%
	RBA Cash Rate			1.750%
Commonwealth Bank - At Call Account			150,319	1.045%
Commonwealth Bank Balance - General			1,084,326	0.950%
TOTAL INVESTMENTS & CASH			16,234,645	

* % Interest rates as at 31/07/2016

Summary of Investment Movements - July 2016		
Financial Institution	Invst/(Recall) Amount \$	Commentary
Bank Of Queensland	(507,354.79)	Term Deposit Matured 05/07/2016
Bank Of Queensland	500,000.00	Term Deposit Reinvested 05/07/2016
Bank west	(504,890.41)	Term Deposit Redeemed 12/07/2016
ME Bank	(507,354.79)	Term Deposit Matured 19/07/2016
AMP Bank	500,000.00	Term Deposit New Investment 20/07/2016
Bank Of Queensland	(506,328.77)	Term Deposit Redeemed 26/07/2016

Short Term Credit Rating*	Policy Maximum	Current Holding %	Current Holding \$
A-1+	100%	37%	5,500,000
A-1	80%	23%	3,500,000
A-2	60%	40%	6,000,000
A-3	40%	0%	-
			15,000,000

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

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

Individual Institution Limit	Rating	Policy Maximum	Actual Maximum
AMP Bank	A1/A+	3,000,000	3,000,000
Auswide Bank Ltd	A2/BBB	3,000,000	500,000
Bank of Queensland	A2/A-	3,000,000	1,500,000
Bankwest	A1+/AA-	3,000,000	2,500,000
Bendigo & Adelaide Bank	A2/A-	3,000,000	1,000,000
IMB	A2/BBB	3,000,000	500,000
ING Bank	A2/BBB+	3,000,000	500,000
Macquarie Bank	A1/A	3,000,000	500,000
ME Bank	A2/BBB+	3,000,000	2,000,000
NAB	A1+/AA-	3,000,000	2,500,000
Westpac	A1+/AA-	3,000,000	500,000

<u>RESTRICTED CASH, CASH EQUIVALENTS & INVESTMENTS</u>	
	\$ 000's
External Restrictions - Sewer	4,890
External Restrictions - Unexpended Grants*	1,480
External Restrictions - Other*	1,112
	7,482
Internal Cash Restrictions*	6,444
Unrestricted	2,308
	8,752
TOTAL CASH & INVESTMENTS	16,235

* Restrictions represent balance as at 1 July 2015. Confirmations of these balances at 30 June 2016 will not be known until finalisation of the annual financial statements

CERTIFICATION – RESPONSIBLE ACCOUNTING OFFICER

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

Issues:

Nil

Budget Implications:

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

Enclosures (following report)

Nil

Attachments (separate document)

Nil

09) SIX MONTHLY DELIVERY PLAN REVIEW - JUNE 2016

Department: Corporate Services

Author: Director Corporate Services

CSP Link: 6.3 A well-run Council organisation.

File No: GS.LI.1

Recommendation:

That the six-monthly review, as at 30 June 2016, of Council's 2014/15 – 2017/18 Delivery Plan be received.

Reason for Report:

To review progress of Council's 2014/15 – 2017/18 Delivery Plan.

Report:

As part of the Integrated Planning and Reporting Framework the Office of Local Government (OLG) requires Council to adopt a suite of strategic planning documents. These documents include a long term Community Strategic Plan, a 4 year Delivery Plan and an annual Operational Plan and Budget. These documents are supported by the Resourcing Strategy comprising the Long Term Financial Plan, Asset Management Policy and Plans and the Workforce Plan.

The current Delivery Plan was originally adopted in 2013 following consultation surrounding the Blayney Shire Council Community Strategic Plan 2025 involving the community, Councillors and Council staff. The Delivery Plan is a document which outlines what will be delivered to the community during the 4 year term of Council using the Blayney Shire Council Community Strategic Plan 2025 as an overarching guide.

It is a further requirement of the OLG that progress reports are provided to Council and the community every 6 months. At the conclusion of the life span of the Delivery Program a full and comprehensive report is prepared for the benefit of the outgoing Council and community.

This 6 monthly progress report is presented in a format which summarises the activities across the organisation using qualitative and quantitative information sourced from Managers and Directors.

Issues:

There are no issues foreseen by the consideration of this report.

Budget Implications:

Nil effect.

Enclosures (following report)

1	Delivery Plan Review As At 30 June 2016	13 Pages
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Attachments (separate document)

Nil

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

DP Ref.	TASK	MEASURE	COMMENT
STRATEGIC DIRECTION 1: GROW THE WEALTH OF THE SHIRE			
CSP1.1: A viable agricultural sector with niche opportunities and products coupled with lifestyle.			
1.1.1	Maintain and strengthen partnerships with organisations responsible for natural resource management	Attendance at meetings	Ongoing attendance at regional meetings during period by Council delegates and representatives.
1.1.2	Promote sustainable development and protection of our natural resources through the planning system.	Review of LEP and Council	2 Planning Proposals completed; amending Heritage Items in BLEP 2012 and transfer of E3 to RU1 completed. Rural Lands and Large Lot Residential PP commenced.
1.1.3	Ensure planning activities support long term sustainability of agricultural sector.	Support by agricultural sector/landcare groups for planning scheme	2016 Employment Lands Study completed. Submission to DoPE undertaken for the Central West Regional Plan.
1.1.4	Explore and promote opportunities for Agriculture value adding industries.	Production of a economic development strategy in 2013. Establishment of new industries.	Blayney 2020 Masterplan completed.
CSP1.2: A thriving mining industry that supports and works well with the community.			
1.2.1	Manage the development of mining as it develops in the Shire in order to preserve sustainable industrial diversity into the future.	Industry meeting. Policy development.	Continue to meet with current and prospective mining companies on a regular basis.
1.2.2	Improve transport linkages across the Local Government Area to support the mining industry.	Development of work plan.	Submission to Bathurst Regional Council made supporting the potential sale of Treated Effluent for Kings Plains Gold Mine.
1.2.3	Build meaningful relationships between the mining industry and community.	Established communication channels. Attendance at meetings. Working relationships and cooperation. Mutual projects.	Participation and representation at Cadia Community Consultative Committee and Mining Related Council's meetings.

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

DP Ref.	TASK	MEASURE	COMMENT
CSP1.3: A well established, connected and prosperous tourism industry.			
1.3.1	Implement Blayney Shire Tourism Plan	Implementation of plan and targets. Tourism business thriving	<p>Destination Management strategy and plan 2016-18 written and finalised.</p> <p>Community noticeboards in development for Mandurama (including DA) Newbridge, Neville Lyndhurst.</p> <p>Joint 'village series' postcards project with Orange and Cabonne councils launched via the Blayney Visitor information centre.</p> <p>New tourism billboards 'welcome to Wiradjuri country' promoting Councils tourism website with business listing launched with community and Mayor for NAIDOC Week attracting media coverage from WIN TV and Prime TV.</p> <p>Business seminar series for local business development and networking including "maximising Social media" and "building a better customer experience" with local expert speakers.</p>
1.3.2	Develop a structure to effectively support and grow tourism and local business.	Structure in place. Productive meetings.	<p>Advertising campaigns and promotions for 'Blayney & Villages' in Brand Orange promotional material, Caravanning Australia, local media, regional media and via Central NSW Tourism communications channels.</p> <p>What's on events listing compiled and published every 2nd month on Council's website and hard copies distributed through Council and village community channels.</p> <p>Attended the LG Professionals Tourism conference for networking, sharing best practice ideas and strategies .</p>

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

DP Ref.	TASK	MEASURE	COMMENT
CSP1.4: Internationally recognised brand for Blayney Shire.			
1.4.1	Work with the community and organisations within the region to develop a recognised brand for the Blayney Shire.	Brand developed	<p>Blayney Bike Month' Campaign to build community engagement and attract visitors to coincide with B2B cycling event and Newcrest Orange cycling challenge including B2B event management (Blayney end), social media campaign, launch of the inaugural Blayney Hay Bale Art Challenge with 11 sculptures built by local families, community groups which generated more than 100 visitors per day along the B2B route and over 40,000 visitor reach to BSC Facebook page, media coverage by WIN TV, Prime TV, the Land Newspaper, Chronicle, CWD and Western Advocate.</p> <p>Village and attraction flyers produced including Lyndhurst, Mandurama, Carcoar, Carcoar Dam, Blayney Heritage Walk and CTLX.</p> <p>With business advertising opportunities to be distributed through VICs, online.</p> <p>Revive program at Carcoar Pound flat promoted on local TV with Carcoar Public School.</p> <p>Winter Wonderland community development and shop local campaign including Facebook competition, business decorations and window displays, pop up shopping events, photo exhibition to promote towns and villages and encourage more resident and visitor traffic/ presence.</p>
CSP1.5: Sustainable water, energy and transport sectors to support future growth.			
1.5.1	Advocate for increased funding for transportation assets through Federal and State programs	Representations made to relevant agencies	<p>Regional strategy for transportation networks being developed via meetings of Central West Strategic Regional Roads Group including NSW Government agencies, Centroc and Local Government.</p> <p>Met with developers on potential future sustainable energy development within the shire.</p> <p>Attended all Flyers Creek Wind Farm Community Consultative Committee meetings.</p>
1.5.2	Promote sustainable energy development and use within the Shire.	Provision of information.	
CSP1.6: A vibrant local retail and business sector.			
1.6.1	Seek opportunities to build a vibrant local retail and business sector.	Cooperative projects. Opportunities identified and followed up.	<p>Ongoing dialogue with Office of Small Business, Dept. of Industry and Investment and RDA.</p> <p>Business Investment information added to Council website. Blayney 2020 Masterplan completed.</p> <p>Promotion of NBN Rollout through electronic and social media.</p>
1.6.2	Build and retain relationships with government bodies and NGO's to assist small business	Productive relationships. Number of activities.	
1.6.3	Support and encourage the establishment or expansion of local businesses	New businesses. Empowered local business.	
1.6.4	Develop an environment that will attract technology or internet based industry to come to Blayney.	Establishment of technology industries and technologies.	

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

DP Ref.	TASK	MEASURE	COMMENT
STRATEGIC DIRECTION 2: A CENTRE FOR SPORTS AND CULTURE			
CSP2.1: Cultural and sporting events are coordinated and resourced.			
2.1.1	Encourage development of a calendar of sport and cultural events.	Information provided on web site and updated by sporting groups.	Tourism and Calendar of Events website maintained, driven by information submitted from event/sporting club organisers. Our Carcoar and New Newbridge Community Village Plans in draft following community workshops. Towns and Villages Committee combined with Economic Development Committee has proven successful.
2.1.2	Engage with key groups and organisations with a view to developing community partnerships for conducting activities and programs.	Participation of organisations.	Specialist Swimming Pool Consultant engaged to assess the 3 CentrePoint swimming pools and propose options for upgrading the 3 swimming pools and plant room. Variety Liberty Swing was installed in Heritage Park. VIC public toilets were upgraded to ensure compliance with AS1428.1-2001
2.1.3	Engage with the Shire youth to facilitate progress and activities across the Shire.	Youth activities held. Meetings of Youth Council.	CentrePoint activities and facilities ongoing during period. Member visits: 16,809; 418 membership renewals; active members 709; casual entries 7,708; 4,443 attended group fitness classes run though period. 28 participants in 10 week challenge programs.
2.1.4	Work proactively with the community groups to assist with event management.	Develop Community events guide and policies.	Learn to swim: Term 3 2015 – 171 students enrolled Term 4 2015 – 283 students enrolled Term 1 2016 – 276 students enrolled Term 2 2016 – 188 students enrolled Kids Fit and Kids Holiday Programs run with good success with 256 participants over the financial period.
2.1.5	Encourage and facilitate an active and healthy community by developing accessible programs through CentrePoint and local sporting groups.	Develop programs and activities with the community. Maintain facilities in accordance with financial estimates.	Mixed Sports competitions run in Terms 3 (7 teams), Term 4 (5 teams) and Term 1 (5 Teams) . Small schools rotation program ran fortnightly and a number of school visits occurred over the year. Activities run by 3rd parties over the year include Rock the Rim Basketball program, Martial Arts, Table Tennis, Girl Guides, Jasmines Jitterbugs (Millthorpe Ballet School), Jets Swimming, Blayney Dolphins Swim Club. Coordination and support provided to Millthorpe Markets (April and December) Blayney to Bathurst Cyclo Sportif (April). Redmond Oval canteen construction and playing surface upgrade significantly progressed, with maintenance periods in operation. Blayney Showground ring fence completed. Newbridge Recreation Ground tennis court replacement completed. Canteen upgrade at King George Oval works finalised. Electronic scoreboard installed and activated at King George Oval.

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

DP Ref.	TASK	MEASURE	COMMENT
CSP2.2: Strong participation in sporting events and competitions.			
2.2.1	Encourage active participation in sport.	Participation in Regional Sport promotions.	Blayney Shire Sports Council meetings conducted on quarterly basis and minutes presented to Council. Informal meetings held with various sporting groups as required to address site specific matters and club requirements.
2.2.2	Establish and support a community based representative body for sporting groups.	Report written and council established	Shire sporting ovals and facilities well maintained with capital upgrades undertaken at various locations.
CSP2.3: Blayney Shire - a centre for arts, performance and entertainment.			
2.3.2	Develop partnerships with other arts organisations to help deliver arts and cultural activities	Arts and cultural activities coordinated.	Community Centre usage over 2015/16 period: Meetings: 70; Conferences: 7; Other functions: 69; Council related activities / meetings: 125; Unused days: 144 .
2.3.3	Encourage the use of the Blayney Shire Community Centre as a facility for arts and culture.	Use of facility.	Council has facilitated exhibitions in the Blayney Visitors Centre. Blayney Pop Up Art Gallery (December). Council support formalise for acquisitive prize Textures of One Art Exhibition.
2.3.4	Provide library services in the Blayney Shire	Usage of library services	Cultural Centre Working Group established and meeting monthly.

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

DP Ref.	TASK	MEASURE	COMMENT
STRATEGIC DIRECTION 3: PRESERVE AND ENHANCE OUR HERITAGE AND RURAL LANDSCAPES			
CSP3.1: Retention of native vegetation with linking corridors.			
3.1.1	Protect and enhance biodiversity, native, vegetation, river and soil health.	Developed strategies for protection	Blayney submission made to DoPE on the Central West Regional Plan.
3.1.2	Facilitate the delivery of more planting on Council owned and controlled land.	Compliance with strategy	Contributions made to the CENTROC submission made to DoPE on the Central West Regional Plan. Revive! Belubula River instream works monitoring and maintenance continue on routine basis in conjunction with Carcoar Urban Landcare Group. On bank works continue, including placement of nesting boxes in trees, and further revegetation works in conjunction with Carcoar Public School. Data capture for mapping of open and public space trees completed.
CSP3.2: Biodiversity of waterways.			
3.2.1	Adopt and implement the Draft Integrated Water Cycle Management Plan (IWCM) Plan.	Implementation of agreed activities and tasks	IWCM approved by NSW Office of Water.
3.2.2	Enhance the community's understanding of biodiversity issues and work towards positive behavioural change	Research resourced and made available.	Biodiversity education provided through community tree planting days, Community News and Ratepayer newsletters.
CSP3.3: Heritage sites in the natural and built environment are identified and understood.			
3.3.1	Pursue recognition of heritage items in draft LEP 2012.	Information to public Heritage advice	Planning Proposal to update Heritage Items within BLEP 2012 completed. Provision of Heritage Architect available during the period.
3.3.2	Identify items of natural heritage in Blayney Shire.	Information to public Heritage advice	Local Heritage Assistance Fund saw \$8575 assistance to heritage projects provided in period.
CSP3.4: Sustainable land use practices across the Shire.			
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.	Develop partnerships with relevant organisations.	Neville Cemetery grant funding project completed. Green Army grant funding secured for cemeteries work in 2016/17 financial year. Blayney 2020 Masterplan completed. 2016 Employment Lands Study undertaken which considered an approach to rezone some land to residential.

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

DP Ref.	TASK	MEASURE	COMMENT
STRATEGIC DIRECTION 4: DEVELOP AND MAINTAIN SHIRE INFRASTRUCTURE			
CSP4.1: Adequate provision of transport, roads, rail, information and communication technologies and community social			
4.1.1	Manage Local Road Network to agreed service levels.	Performance budget/time/quality. Meeting service levels. Customer request system.	Routine and non routine inspections undertaken, and maintenance delivered in accordance with prioritisation protocols, within budget allocations.
4.1.2	Manage Regional and State Road Network to agreed service levels.	Service levels provided in accordance with State Government funding.	Resealing and heavy patching programs completed. Stage 1 of the Fixing Country Roads project (Southern Cadia Access Route) Errowanbang Road completed, with land acquisition investigations underway for Dirt Hole Creek Bridge and Forest Reefs Road projects.
4.1.3	Ensure Ancillary Road facilities are serviceable and in line with current standards e.g. footpaths, cycleways, kerb and gutter, bus stops etc.	Performance budget/time/quality. Meeting service levels. Customer request system.	Maintenance grading and resheeting programs completed on unsealed road network as and where required within budget allocations. Removal of Old Lachlan Road bridge undertaken and replaced with wet crossing.
4.1.4	Source road making materials in environmentally responsible	Regulatory compliance	Bridge replacement program and budget determined, with preparatory investigations undertaken. Tendering documents under development, with RFT anticipated in Q1 2016/17.
4.1.5	Implement the Blayney Shire Council Asset Management Plans	Quantity and quality of information allocated	Culvert investigations completed with prioritisation works to be allocated in Q2 2016/17.
4.1.6	Seek additional grant funding for construction and maintenance of roads and associated facilities	Applications submitted and Grant funds received.	Draining works underway along Browns Creek Road in preparation for rehabilitation work in 2016/17 and beyond. Essential Energy continue to undertake street lighting maintenance.
4.1.7	Plan for future transport and road infrastructure to service future needs	Projects are 'shovel ready'	Injury surveys completed in accordance with requirements on quarterly basis.
4.1.8	Investigate opportunities for stormwater harvesting and reuse	Projects identified and implemented. Successful grant applications.	Crushing operations completed in Gordons and Cadia quarries. Inspection of hired plant undertaken in accordance with legislative requirements.
4.1.9	Apply the principles of Water Sensitive Urban Design (WSUD) to stormwater management	Completion of WSUD policy. Investigate grant funding.	Assets system software implemented with data input underway. Active Transport program funded works along Carcoar and Martha Streets completed, with crossing works on Martha Street delayed due to weather.
4.1.10	Prepare Stormwater Management Plans	Completion of Plans	Development of Active Movement Strategy undertaken in consultation with community, and adopted by Council.
4.1.11	Maintain cemeteries in accordance with the community's needs and expectations	Compliance with regulations. Maintain records.	Capital Works program design work completed for 2015/16 and 2016/17 underway.

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

DP Ref.	TASK	MEASURE	COMMENT
4.1.12	Identify surplus Council owned assets for possible sale to be invested in infrastructure reserve.	Assets identified for sale	<p>Council attends quarterly meetings with Local Land Services (Environment and Waterways Alliance), and seeks specialist advice as and where required.</p> <p>Cemeteries were maintained in accordance with regulations. GIS mapping project undertaken, electronically mapping every grave in every cemetery commenced.</p> <p>Cemetery Forum took place quarterly. Opportunities for building assets improvements identified and included in the 2016/17 Operational Plan.</p>
4.1.13	Maintain and improve Council owned building assets	Implementation of Building maintenance program	<p>Council Admin Building Capital works completed. VIC building external painting commenced.</p> <p>VIC public toilets were upgraded to ensure compliance with AS1428.1-2001.</p> <p>KGO canteen upgraded.</p> <p>Redmond Oval canteen upgrade completed with internal fit out programed for Q1 2016/17.</p> <p>Various maintenance works undertaken to Council facilities as required.</p>

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

DP Ref.	TASK	MEASURE	COMMENT
CSP4.2: Every village has access to water and sewerage services.			
4.2.1	Maintain the availability and quality of water for use in rural areas	Water availability and quality. Operational bores.	Inspections of Council owned water bores undertaken, with future budget allocated for upgrade works.
4.2.2	Ensure Sewerage Treatment Plant are able to meet needs of the Blayney Shire	Maintain to licensing standards	Inspections of sewerage treatment plant (STP) undertake on routine basis in conjunction with EPA and NSW Office of Water. Sewer main CCTV and pipe relining works completed.
4.2.3	Provide an effective and safe Sewerage Collection Network for Blayney Shire	Achieve network maintenance	EHO position currently vacant. Progression of the Blayney Shire Onsite Waste Water Policy hinges on an EHO being employed.
4.2.4	Ensure that the disposal of liquid waste in rural areas is carried out in a healthy manner without negative environmental impact.	SMF's (sewerage management facilities) reviewed.	
CSP4.3: Improved access to community and public transport between villages and centres.			
4.3.1	Lobby to improve public transport around the shire	Improved transport services. Greater accessibility across the Shire.	Public Transport services maintained. Newbridge Railway Station deterioration of Heritage building raised with local state member for referral to Minister.
CSP4.4: Integrated medical and aged care facilities across the Shire.			
4.4.1	Advocate for the upgrading of rail infrastructure	Meeting attended.	Joint application submitted to NSW Fixing Country Rail pilot program for works on Blayney-Demondrille Railway between Harden and Young. Advocacy via Centroc, Central West Strategic Regional Roads Group, in conjunction with village progress associations for improved rail infrastructure.
CSP4.5: Sustainable Waste Management.			
4.5.1	Develop and promote programs that increase the participation of the community in recycling and reducing waste going to landfill.	Attendance at NetWaste meetings. Educational material developed. Participation in recycling program.	NetWaste meetings attended during period. Domestic Waste Collection undertaken by JR Richards monitored quarterly. New 10 year Waste Collection Contract finalised and commenced in April 2016. Waste consultant engaged to audit and report on the current operations at Blayney Waste Facility. Neville Community Recycling Station established.

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

DP Ref.	TASK	MEASURE	COMMENT
STRATEGIC DIRECTION 5: DEVELOP STRONG AND CONNECTED COMMUNITIES			
CSP5.1: A diverse and sustainable population in our communities and villages.			
5.1.1	Assist incorporated village committees, progress associations and hall committees.	Active village committees	Council staff and Councillors attended various meetings, events and activities in particular Mayor, during Fit for the Future process and merger preference consultation.
5.1.2	Promote living in the Blayney Shire	Residents Pack developed.	Residents pack on website and available from Blayney Visitor Information Centre.
CSP5.2: Fit and healthy community members.			
5.2.1	Build partnerships with community groups to increase use of parks and reserves	Interaction with use groups	Blayney Shire Sports Council has developed capital improvement projects prioritisation list for 2016/17.
5.2.2	Provide for the implementation of projects, identified in Council's Pedestrian and Access Mobility, Bike Plan to improve community health and fitness	Meetings attended	Active Transport program funded works along Carcoar and Martha Streets completed, with crossing works on Martha Street delayed due to weather. Development of Active Movement Strategy undertaken in consultation with community, and adopted by Council.
CSP5.3: Full and equitable access and strong usage of Information and communication technologies across the Shire.			
5.3.1	Implement programs to build community skills with computer technology, to build community participation and social inclusion amongst older Australians.	Internet access available to community. Program participation.	Information on website. Internet access maintained at Cottage and Library. Promotion of Seniors Kiosk ongoing.
CSP5.4: Capable, self sufficient communities engaged in decision making about issues that affect them.			
5.4.1	Develop and implement a community engagement process and policy	Informed communities	Communications strategy implemented in November/December regarding Fit for the Future and Blayney Shire merger preferences including; Newspaper, Facebook, newsletters to all residents, rates notice newsletter and Mayor and some Councillors attendance at every Town and Village Association Meeting.
5.4.2	Develop and implement plans for villages and township	Plans developed. Implementation ongoing as funds become available.	Villages and townships engaged and community Plans developed for Blayney; Millthorpe; Lyndhurst; Mandurama; Carcoar and Millthorpe.
5.4.3	Encourage volunteerism within the Community	Promotion undertaken	Presence at Blayney Farmers' Markets in November and Millthorpe Markets in December with Council tent. Community Engagement Policy remains current. Village Enhancement Plans included into works programs. Volunteerism promoted on Council website.

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

DP Ref.	TASK	MEASURE	COMMENT
STRATEGIC DIRECTION 6: LEADERSHIP			
CSP6.1: Good governance across our communities.			
6.1.1	Councillors to exhibit leadership on Council and participate in Council and regional communities as well as community organisations.	Attendance to meeting. Councillor presence on relevant committees.	Council continues to support Centroc pilot JO participating at Centroc AGM, GMAC and WBC AGM. Blayney has resumed Chair and Secretariat of WBC Alliance, Wellington ceased membership 31 December.
6.1.2	Promote resource sharing and collaboration with regional organisations.	Participation in meetings. Resource sharing projects.	Grant funding and social media workshops held for community groups.
6.1.3	Encourage sound governance practice in community organisations.	Provide assistance and training as requested.	
CSP6.2: Meaningful communication between the Shires communities and Council.			
6.2.1	Identify and engage with Shire Community Groups.	Establish regular communications with Shire Community Groups.	Engagement with community being undertaken being undertaken in various forms.
6.2.2	Implement Council's Community Engagement Plan	Engagement activities conducted	Website and media communications channels utilised to promote Council activities. Acknowledgement process to emails and correspondence in place and ongoing.
6.2.3	Develop communications between Councillors and the community to provide community opinion.	Community satisfaction with communication processes. Available to community.	Activity reports issued to Directors monthly. Rates notice newsletters, 2GZ, B Rock and 2BS radio presence, half page Blayney Chronicle advert and GM conversation weekly.
6.2.4	Manage a customer request system to assist communications between community and Council.	Response times to requests.	

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

CSP6.3: A well-run Council organisation.			
6.3.1	Provide a framework for the efficient and effective administration of Council.	Assess Council's position against Better Practice Review.	Blayney Shire deemed Not Fit according to IPART criteria of population < 10,000 however financially sustainable.
6.3.2	Maintain a stable and secure financial structure for Council.	Report financial outcomes as required by legislation.	Audited Financial Statements submitted to OLG, presented to Council unqualified and within regulations.
6.3.3	Support actions for the sustainable future of local government.	Review Destination 2036 outcomes and actions to improve local government.	Reviews undertaken of Council processes associated with development applications, insurances, fuel rebates and strategies for improvement effected.
6.3.4	Develop strategies that respond to the impact of climate change on the community.	Supply of community information.	Annual report and Financial reports finalised and lodged within statutory timeframes. All legislative reporting submitted per requirements and regulations including PID report, GIPA report etc. BASIX requirements undertaken with any applicable development. Part J BCA requirements for all commercial development.

DELIVERY PLAN PERFORMANCE STATUS REPORT - JUNE 2016

DP Ref.	TASK	MEASURE	COMMENT
CSP6.4: A safe community.			
6.4.1	Provide support for emergency management in Blayney Shire in accordance with SERM Act	Emergencies responded to.	Emergency Management Plan (EMPLAN) and Consequence Management Guides approved by REMC. Environmental Health and Animal Control activities were undertaken in accordance with applicable legislation.
6.4.2	Undertake regulatory responsibilities for environmental health and animal control.	Regulatory responsibilities are met	Road Safety Officer continues to deliver road safety education and information program, and attend Traffic Committee. RSO accepted two awards on behalf of the Tablelands Road Safety program, and delivered a paper at the Institute of Public Works Engineering Australasia (IPWEA) 2015 NSW State Conference.
6.4.3	Educate communities on road and pedestrian safety	Programs delivered	Child restraint fitting day delivered in Blayney in Dec. 2015.
6.4.4	Review risk management of council operations.	Plan is implemented and risk managed.	Review of Council Risk Framework undertaken. Enterprise wide Risk Register populated. Continuous Improvement Pathway using Risk Management Action Plan in conjunction with Statewide Mutual undertaken. Development of draft Business Continuity Plan and Shire wide Asbestos Management Framework. Undertaken Contractor Management Improvement Program. Audit Committee engagement and overview of risk activities.

10) MINUTES OF THE BLAYNEY SHIRE AUDIT COMMITTEE MEETING HELD 20 JULY 2016

Department: Corporate Services

Author: Director Corporate Services

CSP Link: 6.3 A well-run Council organisation.

File No: FM.AU.1

Recommendation:

That the minutes of the Blayney Shire Audit Committee meeting held 20 July 2016 be received.

MINUTES OF THE MEETING OF BLAYNEY SHIRE AUDIT COMMITTEE HELD IN THE COMMUNITY CENTRE WEDNESDAY 20 JULY 2016

The meeting commenced at 10:30 am.

1. Present

Cr. Somervaille	(Councillor)
Phil Burgett	(Independent)
Steve Kent	(Chair – Independent)
Jennie Robson	(Risk Officer)
Anton Franze	(Director Corporate Services – secretariat)
Rebecca Ryan	(General Manager)
Tiffaney Irlam	(Acting Chief Financial Officer)

2. Apologies

Cr. Ferguson	(Councillor)
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3. Declarations of Interest

Nil.

4. Adoption of Previous Minutes

Minutes of meeting held 17 February 2016 were adopted.

5. Risk Management Update

Report provided by Risk Officer:

- Continuous Pathway Improvement Program: Risk Management Action Plan (RMAP) - Analysis provided on 2015/16 RMAP verification. 2016/17 RMAP to be developed over coming weeks
- MANEX to develop new RMAP for new year
- A number of incentives achieved.

- Council in receipt of \$15,000 (10% base tariff) Statecover rebate for 2015/16 and 5% up front discount on Workers Compensation premium. Rebate attributable to good performance.
- Risk Treatment Action Plan
- General Manager Initiative - Merger Implementation process including development of checklists to attain a state of readiness for the organisation.
- 02I Risk Management Policy reviewed 21-03-2016 (1603/007)
- Contractor Management Procedure V1.1 included contractor management forms
- Draft Asbestos Management Policy on public exhibition – to August meeting
- Draft Asbestos Management Plan on public exhibition with Policy – including Naturally Occurring Asbestos
- Asbestos building inspections and development of Asbestos Register complete
- Test & Tag electrical register reviewed & updated.
- Risk Treatment Action Plans for Risks identified on the risk register.
- On-going review of WHS procedures, safe work method statements and inspections

Committee requested a summarised Risk Register report.

6. Business Continuity Plan

- Report and draft Business Continuity Plan (BCP) tabled for discussion.
- Recommendations from Desktop Audit have been to MANEX for endorsement.
- Recommendations from Desktop Audit by independent 3rd party (Echelon) to be incorporated into Recommendations Status Report.
- Ready for staff training on document.
- Councillor workshop to be undertaken.

Audit Committee accepted and endorsed BCP report.

7. Development Applications process review

- DA Review Process Review report tabled.
- Appendix B – Action plan discussed.
- Three areas identified for further action and timelines determined.

Audit Committee accepted report with improvements to be incorporated into Recommendations Status Report for future tracking

8. Interim Audit Reports

- 2 interim visits by auditor – May 2016 and June 2016.
- Report for inclusion onto Recommendations Status Report.

Audit Committee noted reports from External Auditors and action effected by Management in response.

9. Status of Prior Report Recommendations

- Status report of prior report recommendations tabled.
- Items 25 and 30 now finalised and proposed for removal.

Audit Committee noted progress on status report of prior report recommendations and removal of items 25 and 30.

10. Insurance Policy Review

- No significant issues
- Sick Leave Policy premium increase as a result of increased staffing levels and wages declaration figure.

11. PFS (Centroc) Insurance Policy Review

- Report tabled on Insurance Policy Review undertaken by PFS as part of Centroc project.
- Review has given assurance that breadth and level of cover is adequate.
- Review has also made some recommendations at a regional level for consideration.

10. Major developments / issues since last meeting

- No major update on merger.
- Woollahra court case determined today.

11. Other Business

- Local Government Internal Auditors Network Meeting – August
- Local Government Internal Auditors Conference – Later in the year.

12. Meeting Dates

Next meeting is to be held 19 October 2016 at the Blayney Shire Community Centre.

Future meeting dates are as follows:

- TBA

There being no further business the meeting closed at 12:27pm.

Enclosures (following report)

Nil

Attachments (separate document)

Nil

11) DIRECTOR INFRASTRUCTURE SERVICES MONTHLY REPORT

Department: Infrastructure Services

Author: Director Infrastructure Services

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

File No: GO.ME.1

Recommendation:

That the Director of Infrastructure Services Monthly report for August 2016 be received and noted.

Reason for Report:

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

Report:

Topical Issues

LED Street lighting upgrades

There is quite a bit of activity in this sector at present, with a variety of projects underway, working toward the introduction of LED into street lighting across the region.

There various examples of successful replacement programs, including the recently completed WSROC program, that received \$5.3m of funding under Australian Governments CEEP Round 2.

Centroc has submitted an application to the NSW Office of Environment and Heritage Thriving Regional Networks Program to increase energy efficiency by recognizing the need for decision makers and the community to align their efforts and use LED street lighting as a catalyst to this. This program would share advice with the community; and jointly determine service levels as technologies change; as is currently the case.

Essential Energy has recently provided advice to Centroc that it proposes to commence negotiations on pricing for the bulk replacement roll out of LED shortly. Such negotiation has to be undertaken in accordance with the approved negotiation framework and the ROC's within the Essential Energy distribution area have come together to engage an external street lighting consultant to undertake this on the groups behalf.

Based upon Essential Energy's current lamp replacement schedule, this would occur in Blayney, commencing January 2017.

Blayney Shire Men's Shed

In accordance with a Council direction in March 2014, Council staff commenced work to close part of Oldham Place in support of the Blayney Men's Shed.

Under Section 35 of the Roads Act 1993, Council provided notice by way of public notification via the Blayney Chronicle in April 2016 issued letters to adjoining owners, and public agencies, that the Minister for Natural Resources, Lands and Water would consider the closing of the road. This work has been completed, and it was intended to seek a further resolution of Council to progress the matter.

Following meetings with the Chair of the Blayney Men's Shed Inc. (the Chair) it has become evident that the road proposed for closure will not be the only land matter requiring attention. It is the Incorporated body's intent to construct the main building (shed) across existing land parcel boundaries, and place a storage container between the rear boundary of private land fronting Carcoar Street and the existing netball courts.

Each parcel of land involved has a different status and purpose, and more detailed advice is required from Crown Lands in order to determine the costs that may be incurred, and whom will fund this.

The Chair has commenced discussions with Crown Lands and has sought further information in order to progress the matter.

As the matter is ongoing a report to Council in relation to the road closure has not been prepared to date.

Funding Applications

Council is in the process of completing the requirements for the final application for the State Governments Resources for Regions application. Council has already been shortlisted for \$5.42M. this project will see the completion of the upgrade and sealing of the Southern Cadia Access Route from the Mid-Western Highway along Errowanbang Road, Panuara Raod and Cadia Road to the Shire boundary. This will also see the replacement of the Dirt Hole Creek Bridge on Errowanbang Road.

Staff are also in the process of developing funding submissions for projects under the State Governments 2017/18 Walking and Cycling Programs. These submissions will include seeking funding for design works in some instances and for the actual construction of Shared Paths in other cases. The prioritisation of these projects will be derived from Council's new Active Movement Strategy.

Ongoing wet weather impacts

Council outdoor staff have provided a valuable resource during these challenging times, working throughout the night and over weekends to ensure roads are safe for use.

Disaster Recovery

Following the recent rainfall events over the last couple of months, most notably that of 20 July, across the Shire, Council has made enquiries toward submitting an application for Natural Disaster Funding under the Australian Governments Natural Disaster Relief and Recovery Arrangements (NDRRA).

Council staff have set up specialised software for the collation of information on damaged roads and other infrastructure in order to be able to submit a claim under the NDRRA, in the event that the recent wet weather is declared as a natural disaster. It is not clear at the time of writing if these recent events will be declared as a natural disaster, but the information will assist council in prioritising repair works regardless of any natural disaster declaration.

Sporting Ovals

As a result of the wet conditions, access to playing fields has been significantly restricted this winter.

Council has been concerned about the ability to provide quality playing surfaces toward the final end of the season, and player safety when assessing conditions. Unfortunately, this has impacted upon training regimes and weekend games, across the region. Council has been mindful of this, and prepared Carcoar Sportsground for training and games where suitable for rugby codes, easing the impact upon those that use King George Oval.

Grounds are gradually being released for games, however access for training has continued to be restricted.

King George Oval and Blayney Showground have now been released for games only. Despite King George Oval being used by multiple clubs, and having recently hosted the Blayney Junior Rugby League “Pink and Purple” gala day, the ground continues to provide a quality playing surface.

Council has provided sporting clubs and media outlets with updates following weekly inspections.

Sewerage Treatment

The continual wet weather has impacted on the flows through the Sewerage Treatment Plant over the past few months. Average monthly flows through the plant are typically around 24 ML, however, July showed flows through the plant in excess of 62 ML. The increase in volumes through the plant have resulted in discharge to the Belubula River for the first time in the past 15 years. Cadia have also increased the volumes they have harvested from the effluent ponds, however there is a limit to their capacity to draw water.

Council continues to undertake treatment in accordance with its EPA license approval, which includes approval to discharge to the river. As a result of activating the river outlet, further testing is required to be undertaken, and there will be a minor additional cost in licensing fees for the load based discharge.

Major Works

As a result of the weather, Council staff have been attending to tree clearing, and associated road damage. This is delaying a number of projects identified for completion in the 2015/16 financial year. Further notes on projects are provided below: -

- Blayney Bridge Program – As a result of delays in preparation of the Report on Environmental Factors at each bridge site, delivery of the tender documentation has been delayed. It is now anticipated a Request for Tender will be issued to the market in late August, with a report recommending tender award to the November Council meeting.

- Heavy Patching Program – Draining works are being finalised along Carcoar Road between Forest Reefs Road and Tallwood Road in preparation for heavy patching works to commence.

Major Contracts

Redmond Oval Canteen

- Budget \$144,536.36 (ex GST)
- The Contractor has achieved Practical Completion with minor internal works to be finalised.
- As a result of the unsuccessful Request for Quotation process, invitations to provide a Quotation for the kitchen fit out were provided to suitable contractors. Unfortunately, this did not result in the selection of a contractor, and Council will now look to identify a suitable installer, and procure the equipment itself.

Redmond Oval Upgrade

- Budget \$700,000 (ex GST)
- Works on Redmond Oval still remain on hold. Council in combination with the Redmond Oval Committee hosted an information night for the community to advise of the works to date on the project as well as the expected delays caused by the continuing wet weather conditions. The night was attended by approximately 20 persons who all spoke positively of the project.

Building Maintenance Works

- Commencement of works for the Redmond Oval Rotunda is programmed to occur shortly with a qualified contractor engaged to remove the existing kiosk and ceiling lining of the rotunda.
- Relining of the eaves at the Mandurama Recreation Ground toilet block have been undertaken.

Wastewater

Sewer pipe CCTV Camera

Council will receive delivery of the new CCTV camera next week with training to operate the camera to be undertaken by sewer staff. Following this inspection of the sewer network will commence. The aim is that over time Council can evaluate the critical asset components of the network to better target asset maintenance.

Assets

Council has completed an inspection of the Shire footpath network. This has resulted in a condition grading being assigned to all footpath segments (generally a full block) and the identification of individual defects that require attention. Council staff will assess these findings to determine priorities for the footpath renewal and footpath maintenance programs for the current financial year. Defects are assessed by type and severity, with attention being prioritised on the basis of intervention levels, which require differing response times.

Council staff have completed the revaluation of 'Other Assets', which includes all parks and gardens assets (excluding footpaths). The revaluation results will be included in the end of year financial statements in compliance with Office of Local Government and Australian Accounting Standards Board requirements. Staff have also completed a valuation of Council's almost 1,400 rural culverts, which will be reflected in the 2015/2016 end of year financial statements.

Heavy Plant and Fleet

- Council has taken delivery of the JCB Backhoe, with Council been offered a free upgrade to a higher specification model which was accepted.
- 2 Front Deck mowers have been delivered to Council, these will prove valuable in the spring given the winter rainfall that has been experienced.
- The Volvo Truck is due to be delivered in the week of 8 August 2016, following delays in the building of the body. Prior to putting this truck into operation, it will be thoroughly weighed to confirm its final payload, and positioning of the payload. This measuring assists Council in meeting its Chain of Responsibility obligations.
- Council does not yet have a firm estimated delivery time for the grader, as it has been ordered to be built in the factory. However, progress has been made on the procurement of the machine guidance software, with a decision expected to be made by the end of August on this system.
- Council has recently advertised for two (2) slashing tractors, these are currently being assessed with a report to be included in the September Council Meeting.
- A number of items that have been replaced have been sent to Pickles Auctions for disposal, with these items being picked up in the early weeks of August. Information on the disposal prices will be provided to Council once they are sold.

Issues:

Nil

Budget Implications:

At present flood damage is being assessed for Natural Disaster funding, additional funding will be recorded as part of the Quarterly Budget Review process.

Enclosures (following report)

Nil

Attachments (separate document)

Nil

12) DEVELOPMENT APPLICATION NO. 114/2012 - SUBDIVISION - LOT 486 DP1081771, LOT 676 DP793188 - 126 ROSEDALE ROAD, BROWNS CREEK

Department: Planning and Environmental Services

Author: Senior Town Planner

CSP Link: 5.4 Capable, self sufficient communities engaged in decision making about issues that affect them.

File No: DB.AB.351

Recommendation:

That Council approve Development Application 114/2012 for an eleven (11) lot subdivision on Lot 486 DP 1081771, Lot 676 DP 793188, 126 Rosedale Road, Browns Creek, subject to the conditions in Enclosure 5.

Reason for Report:

For Council to consider and determine Development Application 114/2012 an 11 lot subdivision on Lot 486 DP 1081771, Lot 676 DP 793188, 126 Rosedale Road, Browns Creek, as submissions were received during the notification of the proposed development.

Report:

Applicant:	M Millner C/- Peter Basha Planning & Development P/L
Owner:	M Millner
Application No:	114/2012
Zone:	1(c) Rural Small Holdings, RU1 Primary Production
Date Received:	6 February 2012
Assessment No:	A3505148
Property:	Lot 486 DP1081771, Lot 676 DP793188 - 126 Rosedale Road, Browns Creek
Proposed Development:	Development Application No. 114/2012 - Subdivision - Lot 486 DP1081771, Lot 676 DP793188 - 126 Rosedale Road, Browns Creek

The site is located on Rosedale Road, approximately 6km west of Blayney off Browns Creek Road. The site is located on the southern side of Browns Creek Road, being part of a large rural property of some 850ha in total.

The development site comprised some 147ha. The subdivision proposes 11 lots, 10 being for rural small holdings and 1 for agricultural purposes.

The property is largely cleared undulating to steep grazing land, with scattered shade trees. Sugarloaf Creek and other minor drainage lines pass through the land. The site contains numerous farm dams, and sheds on the proposed Lots 5 and 10.

The various proposed allotments are to be accessed off Rosedale Road. A power line runs through the land from north to south, which serves the existing off-site dwelling to the north and the existing main homestead on the applicant's remaining large rural property, "Rosedale".

The former Browns Creek mine site and mining lease area, now occupied by Australian Native Landscapes' composting production and agricultural operations, is located immediately to the west of the subdivision site.

Originally the proposal comprised 10 rural lots, seven lots from 2-4ha, and three lots from 27ha to 48ha, all vacant lots. Detail involving building envelopes, fencing, water supply, entrances and geotechnical reports for onsite effluent disposal were provided for each lot.

Where the land is less steep, lots were smaller along Rosedale Road. Terrain, drainage lines, access and native timber led to the remaining lots being larger. A power line traverses the site which was accommodated in the subdivision design.

The development was to be released in stages as follows:

Stage 1 – Lot 1.

Stage 2 – Lots 2 & 3.

Stage 3 – Lots 4-8.

Stage 4 – Lots 9 & 10.

The application was notified to adjoining owners in February 2012 and one submission received. It was also referred to the Department of Trade & Investment (Resources and Energy) under *State Environmental Planning Policy (Mining, Petroleum Production & Extractive Industries) 2007*, as the land is within the Section 117 Browns Creek Identified Resource Transition Area and the Cowriga Creek Potential Resource Area, identified mineral (gold & copper) resource areas (and possible limestone resource in the Browns Creek area).

The Department of Trade & Investment did not support the development proposal. They requested that the proposal is modified so that dwellings were situated outside of the Section 117 areas ie. on the eastern side of the subject land.

The Department advised that the transition areas relate not just to the extent of the open cut area, but beyond it into the Mining Lease (ML) area, to include such potential activities as blasting, crushing, stockpiling and truck movements which contribute to noise, vibration and dust creation, creating problems for nearby residents, which in turn creates a problem for re-opening and operating the mine.

Subsequently a revised plan was received on 25 July 2014 for subdivision, which was for 11 lots, introducing the new Lot 11 of 20.79ha. This brought additional land to the south west into the subdivision. The other proposed lots were reconfigured to allow for six small lots of 2-4ha and five lots of 12-48ha.

The dwelling envelopes nominated on each new lot now have a buffer of at least 500m to the exploration leases, which the Department of Trade & Investment is satisfied with.

The proposed Lot 11 (20.79ha) is now to be created as an agricultural lot only, for primary production, with no dwelling entitlement. The existing dwelling and outbuildings remain on the larger residue property of about 700ha, not part of this DA.

All other detail remains the same. Geotechnical reports have been provided for each lot and effluent disposal areas nominated.

Section 79C (1) Assessment:

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

1. State Environmental Planning Policies

State Environmental Planning Policy (Mining, Petroleum Production & Extractive Industries) 2007, applies to the development.

Clause 2 Aims of Policy

The aims of this Policy are, in recognition of the importance to New South Wales of mining, petroleum production and extractive industries:

- a) to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and
- b) to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and
- b1) to promote the development of significant mineral resources, and
- c) to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and
- d) to establish a gateway assessment process for certain mining and petroleum (oil and gas) development:
 - (i) to recognise the importance of agricultural resources, and
 - (ii) to ensure protection of strategic agricultural land and water resources, and
 - (iii) to ensure a balanced use of land by potentially competing industries, and
 - (iv) to provide for the sustainable growth of mining, petroleum and agricultural industries.

Comment: In order to address these objectives, Council contacted the Department of Trade and Investment (Resources and Energy).

Following a redesign of the subdivision, the Department advised in letter to Council of 1 September 2014, that:

“The proposed development lies adjacent to metalliferous and industrial mineral resources as well as an operation where rock extraction, crushing and stockpiling takes place. Ideally, in order to avoid land use conflict, MRB [Mineral Resources Branch] would prefer to see dwellings outside of the one kilometer transition zone of the Browns Creek mining leases and the Cowriga Creek Potential Resource Area. However, MRB has given further consideration to this proposal and acknowledges that the development is permissible under the LEP which took into consideration earlier (and subsequently superseded) mineral resource Section 117 advice.

Although there remains a small gold and copper resource beneath the Browns Creek open cut it is acknowledged that within the foreseeable future that resource is unlikely to be exploited due to logistical difficulties. If mining were to resume it is envisaged that most of the activity will take place in the vicinity of, and to the west of, the open cut. Therefore, the proposed dwellings will be situated more than one kilometer away from the main mining and processing activities.

The Cowriga Creek Potential Resource area contains several limestone bodies which could potentially be quarried in the future and one such body occurs 850m south west of the newly proposed dwelling envelope for Lot 6. However, this is a substantial improvement upon the previous proposal. The new housing layout sees dwellings located at least 500m away from the Browns Creek mining leases. This is consistent with our previous advice with regards to the current activities of Australian Native Landscapes, in order to avoid possible issues with dust, noise and odour.

MRB therefore considers the modified proposal to be acceptable with regards to potential impact upon mineral resources. It is desirable, however, that any prospective buyers of the lots be informed of their proximity to an identified gold and copper resource and a potential limestone resource, either or both of which may be exploited in the future.

Clause 13 Compatibility of proposed development with mining, petroleum production or extractive industry

(2) Before determining an application to which this clause applies, the consent authority must:

a) consider:

- (i) the existing uses and approved uses of land in the vicinity of the development, and
- (ii) whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and
- (iii) any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and

- a) evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a) (i) and (ii), and
- b) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).

Comment: The subject development is permissible in the relevant zones with consent of Council, under relevant local environmental plans as outlined later in this report.

The potential impacts of the proposed subdivision on mining activities might relate to dust, noise and odour.

Following receipt of the submission of the submission from Trade and Investment of 1 September 2014, it would appear as though the impact of the proposed subdivision can be minimised through the recognition of a 500m buffer for building envelopes from the exploration and mining leases, and from the actual potential future extraction area. In addition, with any potential future mining activity area expected to be to the west of the existing open cut area, impacts are expected to be further minimised.

In this way the public benefit of future mining activity is protected. The developer has addressed the requirements of MRB by identifying building envelopes for each allotment, concentrating smaller allotments together and placing larger lots on the more steeply constrained land. On site disposal areas and entrances are also identified for each lot. Native and pine timber stands are retained and waterlines and dams protected. Therefore, the public benefit of an effective low impact provision of rural lifestyle blocks, as set down as an objective of the 1(c) zone (suitable for rural-residential or small holding development) is potentially achieved.

State Environmental Planning Policy (Rural Lands) 2008 applies to the proposed Lot 11. This SEPP provides flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.

The proposed Lot 11 is to be created as an agricultural lot with no dwelling entitlement, being only 20.79ha in area. It does contain three farm dams and a permanent watercourse.

The SEPP does not apply to the remainder of the proposed subdivision.

Clause 7 The Rural Planning Principles are examined as follows:

- a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,

Comment: The proposed subdivision excises 147ha from a large property of 850ha, thus keeping intact the main property on the more productive land. The northern sector is set aside for rural small holdings under the 1(c) zone. Lot 11 is proposed as a lot for agricultural purposes, grazing, having little impact on either the 1(c) zone, or the main property.

- b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,

Comment: The proposed subdivision seeks to take advantages of the 1(c) zone, whilst at the same time retaining a large rural property of 700ha intact. Lot 11 is retained for agriculture, limited to grazing due to topography.

- c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,

Comment: The subdivision seeks to retain a large rural holding intact for the economic benefit of the wider rural community and primary production. The smaller lots 1-10 would provide the social benefits of a rural residential lifestyle opportunity.

- d) in planning for rural lands, to balance the social, economic and environmental interests of the community,

Comment: The subdivision has been provided in accordance with the 1(c) zone objectives, to provide land identified as suitable for rural-residential or small holding development. In addition, it retains a large economically viable rural holding. The creation of Lot 11 would be for grazing, with no building entitlement, and due to topography and location it would have minimal impact on either of these other landuses.

- e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,

Comment: The proposed subdivision has had regard for topography, watercourses and existing vegetation in the design, clustering the small lots together along Rosedale Road, and placing the larger lots to the east where the physical constraints limit building and effluent disposal sites.

- f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,

Comment: The proposed subdivision allows for rural small holdings in accordance with the 1(c) zone objectives, and retains a large rural property intact.

- g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,

Comment: All sites would be fully serviced. The proposed Lot 11 does not require servicing as no dwelling entitlement is sought, although an entrance would be created into the land.

- h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

Comment: There is no relevant Department regional strategy or local strategy relevant to the application, under the BLEP 1998.

Clause 8 Rural Subdivision Principles are examined as follows:

- a) the minimisation of rural land fragmentation.

Comment: The majority of the land comprising Lot 11 was zoned 1(a) General Rural under the Blayney LEP 1998. It seeks to create a lot of 20.79ha for agricultural purposes, of which some 4.6ha is zoned 1(c). The development site is part of a larger rural holding to the south comprising 850ha. Although the lot is adjacent to the proposed subdivision within the 1(c) zone, it excises a small amount of land from the main agricultural holding, leaving the main farm intact.

- b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses.

Comment: With regard to the proposed Lot 11 for agricultural purposes, the proposed lot does not seek a dwelling entitlement. However, its location between the remaining large rural holding and the proposed rural small holding subdivision would retain an agricultural grazing use and also provide a buffer to the main holding from the rural small holding subdivision.

- c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands.

Comment: The land to the west is the current large ANL site, being the former Browns Creek mining site. To the south and east are large agricultural holdings and to the north are rural small holdings. The majority of the land in the subdivision is within the 1(c) zone as rural small holdings, as designated in the BLEP1998. The land proposed as an agricultural lot is only suitable for grazing, and would not retain a dwelling entitlement.

- d) the consideration of the natural and physical constraints and opportunities of land.

Comment: The land contains topographical constraints which limit development, and it is only suitable for grazing.

- e) ensuring that planning for dwelling opportunities takes account of those constraints.

Comment: Dwelling opportunities are addressed throughout the remainder of the proposed subdivision.

Clause 9 Rural subdivision for agricultural purposes

- (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.
- (2) Land in a rural zone may, with consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size otherwise permitted for that land.
- (3) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.
- (4) A dwelling cannot be erected on such a lot.

There are no other particular SEPPs that are relevant to this development.

2. Regional Environmental Planning Policies

There are no particular REPPs that are relevant to this development.

3. Local Environmental Plans

The application was originally lodged on 6 February 2012 under Blayney *Local Environmental Plan 1998*. The land is zoned 1(c) Rural Small Holdings and the development was permissible in the zone as a ten (10) lot subdivision, wholly within this zone.

Subsequently a revised plan was submitted which proposes eleven (11) lots, one being outside of the 1(c) zone, and within the 1(a) General Rural zone under Blayney Local Environmental Plan 1998.

The development application was lodged under BLEP 1998 and must be assessed under that LEP. Therefore, the application is assessed under each set of zone objectives.

Blayney Local Environmental Plan 1998:

The objectives of the 1(c) zone are examined as follows:

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

Comment: The land has been identified prior to the BLEP1998 as suitable for rural-residential development.

- b) to identify land suitable for future urban development, and for development for other non-agricultural purposes, in accordance with the need for that development.

Comment: The development is not for urban development or non-agricultural purposes, but for rural residential. The land will still be available for grazing of stock.

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

Comment: The proposed subdivision provides for a range of lot sizes, allowing options for alternate landuses suitable for each parcel of land.

The objectives of the 1(a) zone are examined as follows:

The objectives of this zone are to promote the proper management and utilisation of resources by:

- a) protecting, enhancing and conserving:
 - (i) agricultural land in a manner which sustains its efficient and effective agricultural production potential,

Comment: The proposed subdivision excises 147ha from a large rural property, leaving a 700ha viable rural residue intact.

- (ii) soil stability by controlling and locating development in accordance with soil capability,

Comment: The principle works involved in the subdivision are engineering works. A soil and sediment erosion control plan is required to be provided prior to commencement of works, and erosion and sediment control measures in place during road/entrance construction.

- (iii) forests of existing and potential commercial value for timber production,

Comment: There are no significant forest resources on the land.

- (iv) valuable deposits of minerals, coal, petroleum and extractive materials by controlling the location of development in order to ensure the efficient extraction of those deposits,

Comment: The application acknowledges the operation of the ANL development on the land to the west, and the potential for the former Browns Creek mine on the same land to be developed in the future. The mine site is protected by a buffer of 500m from the mining leases, crated to the satisfaction of the Department of Trade and Investment.

- (v) trees and other vegetation in environmentally sensitive areas where the conservation of the vegetation is significant to scenic amenity or natural wildlife habitat or is likely to control land degradation,

Comment: there are stands of native vegetation on the property, including along drainage lines. Building envelopes are generally clear of vegetation, and no land clearing would be required at building stage. The remainder of the land is cleared grazing land and highly disturbed from agricultural activities.

- (vi) water resources for use in the public interest,

Comment: It is unlikely that there will be impacts on groundwater. Although groundwater is not mapped for the 1(c) zone, and sugarloaf creek passes

through the site, dwelling sites and effluent disposal areas have been carefully chosen to avoid impact on this waterway and possible groundwater.
There are no particular other water resources relevant to the proposal.

- (vii) areas of significance for nature conservation, including areas with rare plants, wetlands and significant habitat,

Comment: There are no particular known areas of nature significance relevant to the proposed development.

- (viii) places and buildings of archaeological or heritage significance, including Aboriginal relics and places,

Comment: These matters are not relevant to the proposed subdivision.

- b) preventing the unjustified development of prime crop and pasture land otherwise than for the purpose of agriculture,

Comment: The land the subject of the development is not prime crop and pasture land. However, the subdivision retains a large viable agricultural holding of 700ha.

- c) ensuring that any allotment created for intensive agricultural land uses is potentially and physically capable, on its own, of sustaining a range of such uses or other agricultural land uses as a commercial agricultural operation suitable to the locality,

Comment: No land within the subdivision is to be created for intensive agriculture.

- d) facilitating farm adjustments,

Comment: Through development of the northern 1(c) sector of the property, on land less suitable for agriculture, the large residue is retained intact, and the income from the subdivision directed back into the main farm.

- e) minimising the cost to the community of:
 - (i) fragmented and isolated development of rural land, and
 - (ii) providing, extending and maintaining public amenities and services,

Comment: The subdivision is carried out on land zoned for rural small holdings, and is not in isolation from other similar development. Each lot would be fully serviced, with the exception of Lot 11, which would not retain a building entitlement.

- f) identifying land suitable for future urban development, for rural-residential development and for other non-agricultural development, in accordance with the need for that development,

Comment: The subdivision does not identify urban land. Rather it develops land zoned for the purpose, rural residential development, as identified under the BLEP 1998.

- g) allowing a range of rural living styles in appropriate locations within the zone,

Comment: Due to the variety of lot sizes, opportunities for different living styles would exist within the subdivision.

- h) encouraging the establishment of rural and related industries within the zone.

Comment: Not applicable to this proposal.

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

(1) The Council must, before consenting to the carrying out of development on land within Zone No 1 (a), 1 (c), 7 (a) or 7 (c), make an assessment of the impact of carrying out that development on:

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

Comment: The present use of the land is for grazing, as part of a larger property to the south, owned by the developer. The proposed lots would retain the potential for grazing, although the land is not prime crop and pasture land due to topography.

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

Comment: Impacts on these resources is to be minimised through attention to erosion and sediment control measures during any construction works, and attention to the provisions of the geotechnical reports provided for onsite effluent disposal.

Dwelling sites and effluent disposal areas have been carefully chosen to minimise impact on sugarloaf creek and possible groundwater.

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

Comment: It has been documented that the adjoining Browns Creek Mining Lease (ML) as potential for copper, gold and limestone resources. The subdivision has been redesigned to provide a 500m buffer to the mining leases, to protect these resources. Trade & Investment are satisfied with the current design and that the mining resources are sufficiently protected.

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

Comment: There are no such sites relevant to the proposed development, other than the Former Browns Creek mine site. Although the site is heritage listed, it is still within an area which may be reopened in the future. There is limited ability for heritage protection of any mining remnants, should the mine be reactivated. It is not expected that the proposed subdivision would impact on the existing mine remains.

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

Comment: The developer would be responsible for provision of public services. Section 94 contributions are payable for road public services and amenities.

- f) future expansion of settlements in the locality

Comment: The development is unlikely to lead to the expansion of other existing settlements in the locality.

(2) Before granting such a consent, the Council must also take into consideration the effect of the proposed development on adjoining land and other land in the locality.

Comment: Overall the subdivision is not expected to adversely impact upon adjoining rural landuses. The land to the north and east contains a number of small rural small holdings. To the south is the larger property owned by the proponent, and topography limits impact. To the west is the Browns Creek mineral resource area, which is protected by a 500m buffer to all building envelopes on the western side of the subdivision.

However, one land owner to the north has concerns for interruption to views from their dwelling, saying that landscaping of a new dwelling on the proposed Lot 1 would only exacerbate the situation. The objector requested a further assessment be carried out. This matter is discussed later in this report.

Clause 11 Subdivision of land generally

(1) A person must not subdivide land to which this plan applies except with the consent of the Council.

(2) The Council must not consent to the subdivision of land within Zone No 1 (a), 1 (c), 7 (a) or 7 (c) unless it has obtained all relevant information in relation to, and made an assessment of:

- a) the primary purpose for which each allotment to be created by the subdivision is intended to be used,

Comment: The primary purpose of the lots in this subdivision is for rural small holdings development.

- b) whether any allotment to be created by the subdivision is intended to be used primarily for the purpose of agriculture,

Comment: One allotment, Lot 11, is to be created under BLEP 2014, Clause 4.2 for primary production, with no dwelling entitlement.

- c) whether a dwelling is intended to be erected on any allotment to be created by the subdivision and the approximate location of any such dwelling,

Comment: Dwellings are proposed for ten allotments and building envelopes have been designated for each lot.

- d) whether any proposed allotment contains an existing dwelling-house and the location of any such dwelling-house.

Comment: There are no existing dwellings on the land.

Clause 12 Subdivision for the purpose of agriculture in zone Nos 1(a), 7(a) & 7 (c)

Council may consider Council may consent to a subdivision that creates lots of less than 100 hectares if the Council is satisfied that:

- a) each such lot will be developed in accordance with a farm management plan prepared for the lot and endorsed by the Director-General of the Department of Agriculture, and
- b) none of the lots will be used for rural-residential purposes, such as hobby farms.

Comment: This Clause is not relevant as the creation of Lot 11 is sought under SEPP (Rural Lands), as discussed above.

Clause 15 Subdivision for the purpose of dwelling-houses in Zone No 1 (c)

(1) The Council must not consent to the subdivision of land within Zone No 1 (c) unless each allotment intended to be created primarily for the purpose of a dwelling-house has an area of 2 hectares or more.

Comment: Each proposed allotment is over 2ha in area.

(2) The Council must not grant consent to the subdivision of land within Zone No 1 (c) unless it has made an assessment of:

- a) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the density of the allotments proposed to be created,

Comment: The land was identified originally for rural small holdings in LEP 1998, and then re-examined under the Rural and Industrial Landuse Strategy, given the constraints highlighted at the time.

- b) the desirability of providing a range and mixture of allotment sizes,

Comment: The proposed subdivision provides lots varying from 2ha up to 48.7ha.

- c) whether the design of each allotment to be created by the subdivision is satisfactory for the economic provision of services and the physical suitability for on-site disposal of wastes,

Comment: Geotechnical reports have been provided for each lot to address on site effluent disposal. Confirmation from service providers will be addressed through conditions of consent (phone and power). Water supply would be via rainwater tanks, and onsite effluent disposal systems employed.

- d) the capability of the land to accommodate septic disposal of household waste,

Comment: Geotechnical reports provided suggest that onsite disposal can be achieved.

- e) the standard and capacity of public roads serving the land relative to the likely volume of traffic to be generated as a consequence of the density of the proposed development, and the means available to improve roads to a standard appropriate to the level of traffic likely to be generated,

Comment: Council's Engineer has assessed the development and applied conditions of consent which will address access to each lot and the upgrade/maintenance of local roads to serve the development.

- f) the availability of other similar kinds of services and social services relative to the likely demand for those services and costs of their provision,

Comment: Other facilities and social services to serve the development would be available in Blayney township, 6km to the east.

- g) the purpose for which the land is to be used after subdivision.

Comment: Rural small holdings.

4. Guidelines and policies

The proposal was notified to adjoining landowners from 10 February 2012 for 14 days, and the amended plan from 19 September 2014 for 14 days. One submission was received at the first notification. The same objector provided a submission at the second notification, along an objection from one other resident. The issues raised are considered later in this report.

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

There are no such proposed planning instruments relevant to this proposal.

The application was lodged under the previous BLEP 1998, and as such must be assessed under that planning instrument, in accordance with Clause 1.8A of the BLEP 2012, in that if a development application has been made before the commencement of BLEP2012 in relation to land to which the Plan applies and the application has not been finally determined before that commencement, the application must be determined as if the Plan had not commenced.

However, the following points are to be noted:

- The land the subject of the proposed Lot 11 was zoned 1(a) General Rural under the BLEP 1998, and has been assessed as such in this report, due to the lodgement date of the application.
- It is noted that under the BLEP 2012 the proposed Lot 11 is now zoned RU1 Primary Production.
- The land the subject of Lots 1-10 in this development application are all currently zoned 1(c) Rural Small Holdings under the BLEP 1998.
- When BLEP 2012 was gazetted, the 1(c) zone remained in place as a “deferred matter”, to be rezoned at a later date.
- A Planning Proposal (PP) is currently under consideration with respect to that rezoning, having been publically exhibited, to reconsider the 1(c) rural small holding “deferred matter” zone, to draw it within the bounds of the BLEP 2012.
- Within the PP, a proposed amendment would transfer all land zoned 1(c) Rural Small Holdings under the BLEP 1998 in the vicinity of Browns Creek Road, Blayney, to R5 Large Lot Residential under the BLEP 2012 with a minimum lot size of 20ha.
- The PP considered the take-up of lifestyle blocks in the 1(c) zone, including the fact that this development application for 10 allotments had already been lodged.
- The PP seeks to minimise the potential for landuse conflict and maximize the efficient use of the remaining agricultural land in this location, by increasing the minimum lot size from 2ha to 20ha.
- Council is obliged to honour and uphold any development approval obtained for lifestyle lot subdivision, which remain legally binding.

(a)(iii) any development control plans

Development Control Plan No. 3 Rural Residential Development is applicable to this proposal. The main objective of the DCP is to provide details of Council’s general development requirements, and establish clear guidelines in respect to site assessment, development standards, servicing requirements and amenity for subdivision and development of rural-residential land.

The development is proposed to be staged as follows:

- Stage 1 – Lot 1
- Stage 2 – Lots 2, 3
- Stage 3 – Lots 4 - 8
- Stage 4 – Lots 9 -11

The developer has provided a site analysis within the plans submitted and the Statement of Environmental Effects.

The following are matters for consideration:

General subdivision layout – the proposed subdivision provides designated building envelopes on lots of varying sizes, with individual access, having regard for geographical constraints, mining lease buffer, and adjoining properties and landuses.

Buffers – Building envelopes have been located on the proposed lots 1-10, having regard for buffers to adjoining dwellings, and also the adjoining ML, allowing a 500m buffer to the eastern boundary the mine site to the building envelopes on the proposed Lots 1-6.

The DCP suggests that the 35m buffer is to apply where there is a potentially conflicting land use on adjoining land. The DCP suggests that these may be rural industries, mines, intensive agriculture, vineyards sites of pesticide spray, and the like. Where the adjoining landuse is the same ie, rural small holdings, a larger buffer is less relevant.

Erosion & sediment control – construction works relating to access/road construction will involve erosion and sediment control measures prior to commencement.

Roads and access – Council's Engineer has conditioned the consent to provide for access and road construction in accordance with *WBC Guidelines for Engineering Works*.

Waste water – geotechnical reports have been provided to address onsite effluent disposal.

Water – water supply is not required for the subdivision stage. Future water supply for dwellings would be from rainwater tanks.

Flora & fauna – there are stands of native vegetation on the property, including along drainage lines. Building envelopes are generally clear of vegetation, and no land clearing would be required at building stage. The remainder of the land is cleared grazing land and highly disturbed from agricultural activities.

Buildings – there are no buildings involved in this subdivision, other than sheds on Lots 5 and 10. Future dwellings would be located in designated building envelopes. Lot 11 would not have building entitlement.

Utility services – Council will require written confirmation of availability of services of phone and power as a condition of development consent.

Section 94 contributions – these apply to the development, which would be charged accordingly under conditions of consent and Council's current fees and charges.

Noxious weeds – Council is able to condition the consent to address noxious weed management through Upper Macquarie County Council.

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

There are no such agreements relevant to this proposal.

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

There are no such matters relevant to the development.

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

Not applicable to this development.

(b) the likely impacts of the development

Context and Setting

The proposed development seeks to provide for subdivision of a large rural property, with the existing grazing use to continue. The property is accessed directly from Rosedale Road via existing and proposed entrances. The site is located to the west of Blayney, in a rural setting with similar lifestyle blocks to the north. Surrounding properties to the south and east are also utilised for agriculture. To the west is the former Browns Creek mine site, now occupied by ANL.

The context and setting are suitable for the subdivision, having regard for the site constraints of topography, drainage lines, rock outcrops and access. The development of the land for rural residential was identified in the former BLEP1998 for this use.

Access, transport and traffic

The site is currently accessed via an unsealed existing formed road.

There is expected to be significant increase in traffic nature, volume and frequency from the use of the site for this rural development, and Council's Engineer has required particular construction and upgrading requirements for allotment entrances, road upgrading and a requirement for road numbering.

Services/utilities

Additional services or utilities are required for the subdivision development. The cost of any relocation of utilities required for the development would be borne by the developer. Electricity and telephone would be connected at dwelling stage, but services confirmed as available now. Water supply for future dwellings is to be from rainwater tanks, and waste dealt with through onsite effluent disposal systems.

Site design, internal design and construction

There is no building construction work required for this development, but construction relating to entrances and road works.

Council is to be satisfied with the location of entrances, and roadworks will be required to Rosedale road and its intersection with Browns Creek Road. The existing landscape is cleared undulating grazing land, and no land clearing is required.

Hazards – technological, natural

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

A buffer is provided of 500m from dwelling sites to the mining leases, which MRB expects to address concerns for dust, noise and odour from mining as well as the ANL operation.

The developer notes that composting facilities (ANL), under designated development, are required to be at least 250m from offsite dwellings, having regard to topography and local meteorological conditions, noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic, and this is addressed by the 500m buffer proposed.

Noise and vibration

There are no particular significant matters relating to noise and vibration which might apply to this development. The lack of neighbouring dwellings allows for minimal conflict from the proposed activities.

The 500m buffer is expected to address noise impact from proximity to ANL and to any future mining activities on the former Browns Creek mine site to the west.

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 rural property. No other land resources such are affected, other than extractive industries, as discussed elsewhere in this report. Air pollution is minimized, and existing mitigation measures would continue to prevent environmental impact.

Water

There are no particular additional water requirements for the development. Future dwellings would utilize rainwater tanks for supply, supplemented with raw water where possible from bores and dams.

Waste

The development is not expected to generate anything other than construction waste such as soil. Soil would be reused on site in the construction of entrances and road upgrades.

Household effluent is to be addressed through onsite effluent systems for each future dwelling.

Air

The development is not expected to generate dust or other air pollution. Vehicular movement is to be on both unsealed and sealed surfaces.

Dust suppression would occur during construction of roadworks to minimize impact.

The 500m buffer is expected to address dust impact from proximity to ANL and to any future mining activities on the former Browns Creek mine site to the west.

Safety, Security and Crime Prevention

There are no particular matters relating to safety, security and crime prevention that are relevant to this development.

Economic impact

The economic impacts from this development include employment for local people, and increased use of local industries and businesses during operations.

As each allotment is developed, new residents would also utilize local tradesmen and businesses.

Social Impact

The social impacts relating to this development relate to the effective operation of rural residential land as identified for the zone, and similar to that located to the immediate north, providing a rural residential lifestyle, within easy reach of urban services in Blayney. The environment is protected with minimal adverse impact on amenity.

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

Cumulative Impact

The cumulative impact of the development is for the continued creation of rural residential opportunities, in accordance with the zone, within effective industry standards, that leads to minimisation of environmental and community impact.

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, heritage, contamination and bushfire.

(c) suitability of the site for the development

The site is located within a rural area as an excision from a larger rural property of 850ha, which is suitable for the development. The land has previously been identified as suitable for rural residential and complies with the provisions of the planning instrument and the DCP. No further construction works are required beyond access arrangements, and noise from within the subdivision is not expected to be an issue. Access is to be appropriate for the level of use and soil/water movement across the site is to be controlled. The 500m buffer to the mining leases and ANL to the west is expected to minimise landuse conflict, according to the Mineral Resources Board.

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

Adjoining landowners were notified for 14 days from 10 February 2012 for 14 days, and one submission was received. Upon receipt of an amended plan the application was again notified for 14 days from 17 September 2014, and two submissions were received.

Consultation with the Department of Trade and Investment (Minerals and Energy) resulted in the amended plan, as discussed earlier in this report. The issues raised in the submissions from both notifications are considered as follows:

1. *Serious impacts on the adjoining composting and quarrying operation, impacting upon the existing and future business, and employment.*

Developer response: No impact is expected. The dwelling envelopes are located approximately 1km from the edge of the open quarry area. It is noted that new composting facilities which are *designated development* must not be within 250m of a dwelling.

Council comment: The developer has observed a 500m buffer for building envelopes to the edge of the mining leases, as satisfactory to the Department of Trade and Investment, to protect both potential mining on the site and the ANL operation.

2. *Decreases buffer distances to the adjoining composting and quarrying operations. The site was chosen in 2003 based on large buffer distances of over 1km.*

Developer response: As point 1 above.

Council comment: As point 1 above.

3. *Out of character with the surrounding larger rural lots.*

Developer response: The lots are characteristic of lot sizes that have occurred or been approved in this area, in accordance with LEP 1998.

Council comment: The subdivision is created on land zoned for the purpose, and of similar character to the existing rural small holding subdivision to the north.

4. *A larger number of lots than previously presented is now proposed.*

Developer response: Only one additional agricultural lot, with no dwelling entitlement. Still only 10 dwelling lots.

Council comment: The one additional allotment is an agricultural lot with no dwelling entitlement.

5. *Serious impact on amenity of potential residents.*

Developer response: The lots are intended for the same use as the existing lots to the north, large lot residential.

Council comment: The location of building envelopes has been chosen to minimise impact on amenity future resident, and the subdivision satisfies the objectives of the zone.

6. *Lot size is small compared to the local subdivision pattern, creating a town-like subdivision, not a sprawling rural environment.*

Developer response: The proposed lot sizes are generally consistent with or larger than lot sizes that have been approved/developed in this locality.

Council comment: The land is zoned for rural residential subdivision, with a 2h minimum lot size. A variety of lots sizes have been provided, compliant with the minimum lot size, and similar to other rural residential subdivision in the locality.

7. *The new LEP was to rule out such type of subdivision as unsuitable and not in Blayney's best interests.*

Developer response: This application is lodged under BLEP 1998, and should be assessed under that instrument.

Council comment: This land was a “deferred matter” under the BLEP2012, and therefore the BLEP 1998 still applies to the land. Therefore, it must be assessed under the LEP 1998.

8. *Potentially unacceptable impacts on significant district views from an objector's house, and a corresponding diminution in the longstanding rural amenity of the person's property as a result of it no longer being situated in a largely undisturbed rural setting. In particular, the objector has concerns with respect to the location of the building envelope for the proposed Lot 1. The objection relates to visual amenity and proximity of less than 100m of a future dwelling.*

Developer response: The visual impacts of future development is a matter for consideration as part of the approval process for future development within the lots. The establishment of dwellings within the proposed lots is consistent with the settlement pattern that is emerging in this locality under BLEP 1998.

Council comment: The land to be subdivided is zoned for the type of subdivision proposed, that is, a similar character of subdivision to that already existing to the north. The fact that the land has been zoned for this and that no one has taken up a subdivision option is not a matter for this assessment. The building envelope on Lot 1 takes the proximity of a new dwelling to about 120m from the existing dwelling to the north, which is acceptable in terms of the DCP requirements.

I could be assumed that, in turn, the future occupant of Lot 1 will want to protect privacy and will undertake landscaping to minimise visual impact. However, that dwelling site can be conditioned for such in the future DA for the dwelling.

9. *Landscaping of future dwelling sites will only serve to exacerbate the problem of district views towards Mount Macquarie and the surrounding hillside.*

Developer response: The landscaping of future dwelling sites is a matter for consideration as part of the approval process for a dwelling.

Council comment: The landscaping of future dwelling sites is a matter for consideration as part of the approval process for a dwelling, and species may be specified if appropriate at the time.

To the north are similar lifestyle blocks, and the resident has expressed concern for loss of visual and rural amenity, particularly with regard to the proposed Lot 1. These blocks as well as the majority of the development site, have been zoned for rural residential land (2ha minimum area) since at least 1998. The subject off site dwelling would be approximately 120m north of the edge of the building envelope for Lot 1. In other 2ha subdivision estates (eg, Charles Booth Way, Twin Pines Estate) the distance between dwellings is anything from 90m to 200m. Therefore, 120m proximity in this case is a reasonable proposal.

However, it is unreasonable to expect long views to be preserved, especially where the land is zoned for such rural residential development, and a building envelope has been identified.

10. Further assessment is required to examine the feasibility of the building envelopes being located so as to conceal the proposed dwelling from view of the objector's house. The objector cites case law.

Developer response: The closer settlement of dwellings is a characteristic of the 1(c) zone. Existing vegetation and outbuildings already limit views from the existing dwelling toward the south and the Lot 1 building envelope. Landscaping can be provided along the northern boundary of Lot 1 to enhance privacy.

In response to the objector's reference to case law, the principles have been considered as set down in *Tenacity v Warringah Council 2004*. The type of view must be established (whole or part), from what part of the property are the views obtained (what views are realistic to protect), extent and degree of the impact, and is the proposed development reasonable if it complies with all planning controls.

In this regard, and due to the existing vegetation and outbuildings, only partial views are in place from the existing dwelling. A future dwelling would not destroy the views, but might partially impinge on views, without a total loss. Due to elevation the existing dwelling would enjoy wider views in other directions. A reasonable degree of view sharing is able to be achieved. In addition, the subdivision complies with planning controls, and a redesign of the subdivision is not warranted.

Council comment: In the matter of *Tenacity v Warringah Council 2004*, one matter considered was on views, making an assessment of view sharing based on Clause 61 of the Warringah LEP at the time. View sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. In order to decide whether or not view sharing is reasonable, the Senior Commissioner adopted a four step assessment:

- Assessment of the type of views to be affected – eg water views v. land views, iconic views v. views without icons, whole views v. partial views.
- From what part of the property the views are obtained.
- The extent of the impact – negligible, minor, moderate, severe.
- Reasonableness of the proposal that is causing the impact.

The first three points were then assessed on a subjective level by the Commissioner ie. in his opinion. In this instance, Council would submit that this issue is the consideration of a partial land view (still important to the resident), taken, it is assumed from the existing dwelling. However, the view is already partial due to the resident's own landscaping and outbuildings.

In terms of the reasonableness of the proposal, the proposal complies with all relevant planning controls. The building envelope provides a minimum of 120m distance from the existing dwelling for a future dwelling, and the developer has offered landscaping along the northern boundary of the proposed Lot to address privacy and visual amenity.

11. *Once this proper assessment has been carried out, the objector respectfully requests the opportunity to review it and potentially make a further submission to the Council as to whether it is acceptable or otherwise. The subject assessment will also enable the Council to properly assess the subject DA in light of established planning principles for view loss and neighbouring amenity, such as those set out by the NSW Land & Environment Court in **Tenacity Consulting v Warringah Council** [2004] NSWLEC 140; **Davies v Penrith City Council** [2013] NSWLC 1141; and **Pafburn v North Sydney Council** [2005] NSWLEC 444.*

Developer response: As per point 10 above.

Council comment: It is unlikely that land use conflict will result from this development, as detailed in this report. One submission also mentions loss of visual amenity, and loss of long views to Mt Macquarie, which might be exacerbated by landscaping around a dwelling on Lot 1 intended to improve visual amenity. The objector cites case law to support his comments.

The matter of *Tenacity v Warringah Council 2004* has been considered in Point No. 10 above.

In the matter of *Pafburn v North Sydney Council 2005*, Senior Commissioner Roseth set down principles by which to assess visual amenity, as follows:

- How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?
- How necessary and/or reasonable is the proposal causing the impact?
- How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?
- Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?
- Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?

However, the principles were revised by Senior Commissioner Moore in 2013 in *Davis v Penrith City Council*. He suggested that suggestions of necessity may be related to the circumstances of the private owner. Considering that development consents run with the land, it was held that issues of necessity were not relevant. Accordingly, the Senior Commissioner amended the planning principle for assessing impact on neighbouring properties by amending the principle to - *“how reasonable is the proposal causing the impact”*.

In this instance it is unreasonable to expect long views to be preserved, especially where the subject land is zoned for such rural residential development, and a building envelope has been identified which sets any new dwelling at least 20m from its own boundary and in this instance, at least 120m from the existing dwelling to the north. However, the development of a dwelling on Lot 1 could incorporate landscaping to protect privacy and visual amenity both to and from the future dwelling and the existing dwelling to the north. Such landscaping may include species which achieve this, without intrusion into the higher line of sight.

12. If the assessment reveals that an outcome cannot be achieved, the application for Lot 1 should be refused on the basis of that its impact on a neighbouring property and overall rural amenity is unacceptable.

Developer response: As per point 10 above.

Council comment: The above assessment shows that an outcome can be achieved, subject to conditions of consent, and the application should not be refused on the basis of the assessment of Lot 1 alone.

13. To do away with Lot 1 would provide a significant buffer which would ameliorate the impacts of the remainder of the proposed subdivision on the area's overall amenity.

Developer response: As per point 10 above.

Council comment: The above assessment shows that an outcome can be achieved, subject to conditions of consent, and the application should not be refused on the basis of the assessment of Lot 1 alone, nor does the subdivision require a redesign. The land is zoned for rural small holdings and is expected to carry the same characteristics as the land to the north, already subdivided for this purpose.

14. A complete absence of assessment by the applicant in his supporting documentation of the applicable planning controls under the Blayney Local Environmental Plan 2012, RU1 zone, which it is understood applies to at least part of the subject land.

Developer response: The rural residential allotments are entirely within the area covered by Blayney LEP 1998. Lot 11 may fall under the BLEP 2012 RU1 zone, but is an agricultural lot with no dwelling entitlement.

Council comment: The application was lodged under the BLEP 1998, and as such must be assessed under that planning instrument, in accordance with Clause 1.8A of the BLEP 2012, in that if a development application has been made before the commencement of BLEP2012 in relation to land to which the Plan applies and the application has not been finally determined before that commencement, the application must be determined as if the Plan had not commenced.

15. *The objectives of the RU1 zone place a greater emphasis on the preservation of existing agricultural land use compared to the desirability of carrying out rural-residential subdivision of the kind proposed by the subject DA and indeed the previous 1(c) zone.*

Developer response: As per point 14 above.

Council comment: As per point 14 above. In addition, the proposed Lot 11 is being sought as an agricultural lot, with no dwelling entitlement.

(e) the public interest

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

Conclusion:

The above assessment illustrates that the proposed development is suitable for the site, provides for a low key rural subdivision on the site, created in accordance with industry guidelines and compliance with appropriate legislative requirements, for the protection of the local environment, ensured through compliance with conditions of consent and the details provided with the application.

Issues:

Assessment undertaken as per legislation.

Budget Implications:

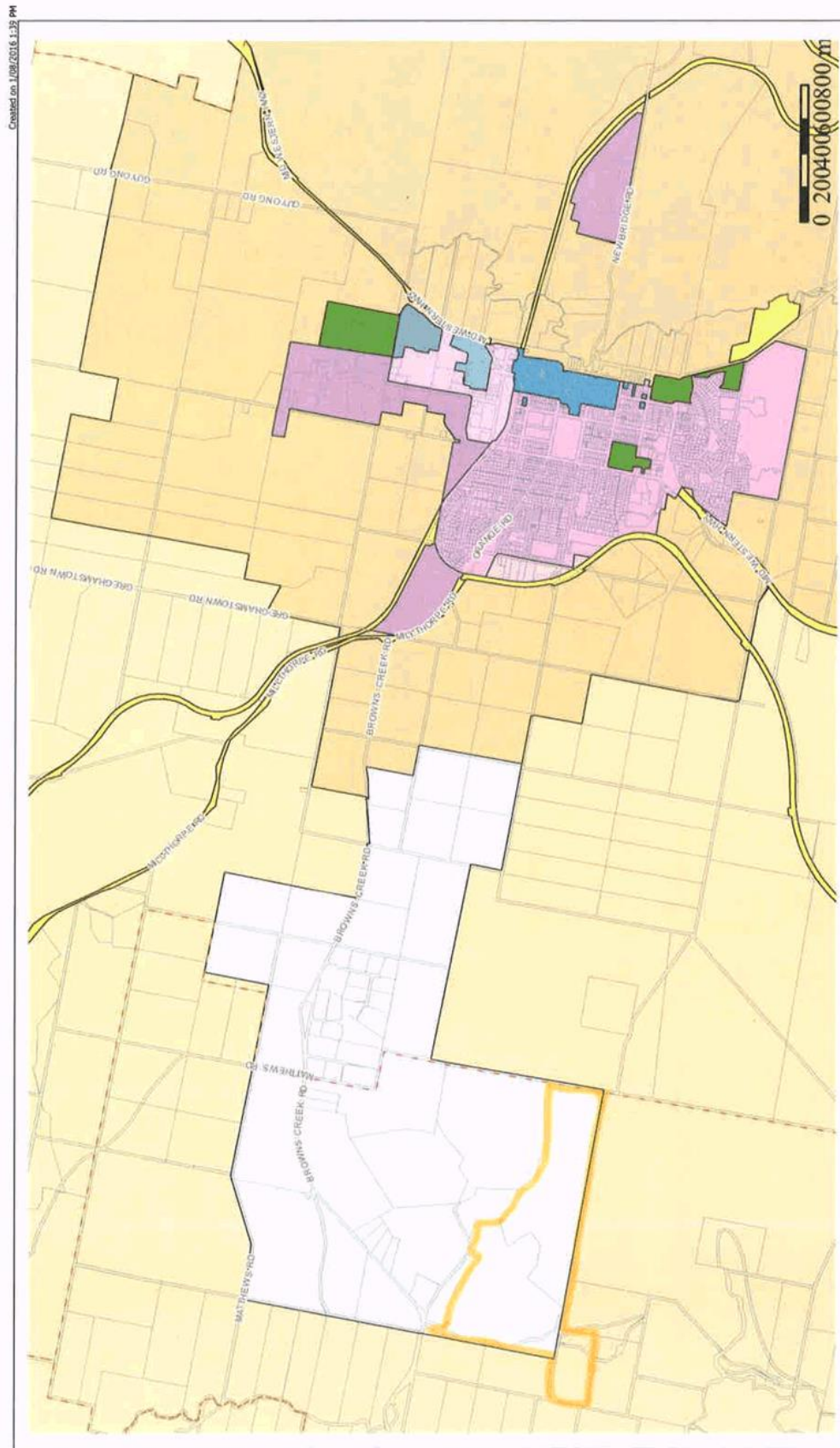
Nil.

Enclosures (following report)

1	Location plan	1 Page
2	Zoning plan	1 Page
3	Property plan	1 Page
4	Subdivision plan	1 Page
5	Conditions of Consent	6 Pages

Attachments (separate document)

Nil



Location plan

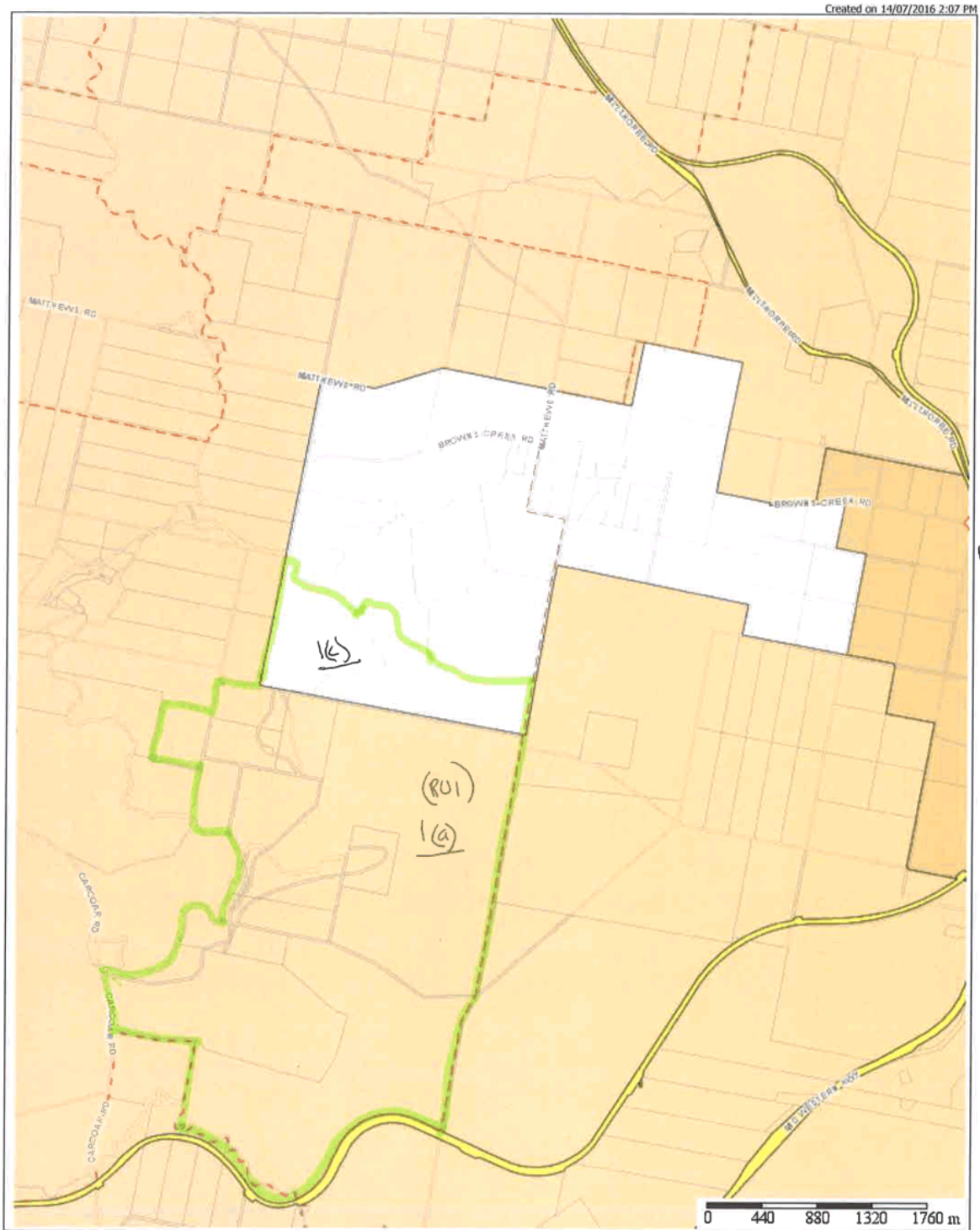
Projections: GDA94 / MGA zone 55


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Created By: Patsy Hoppert

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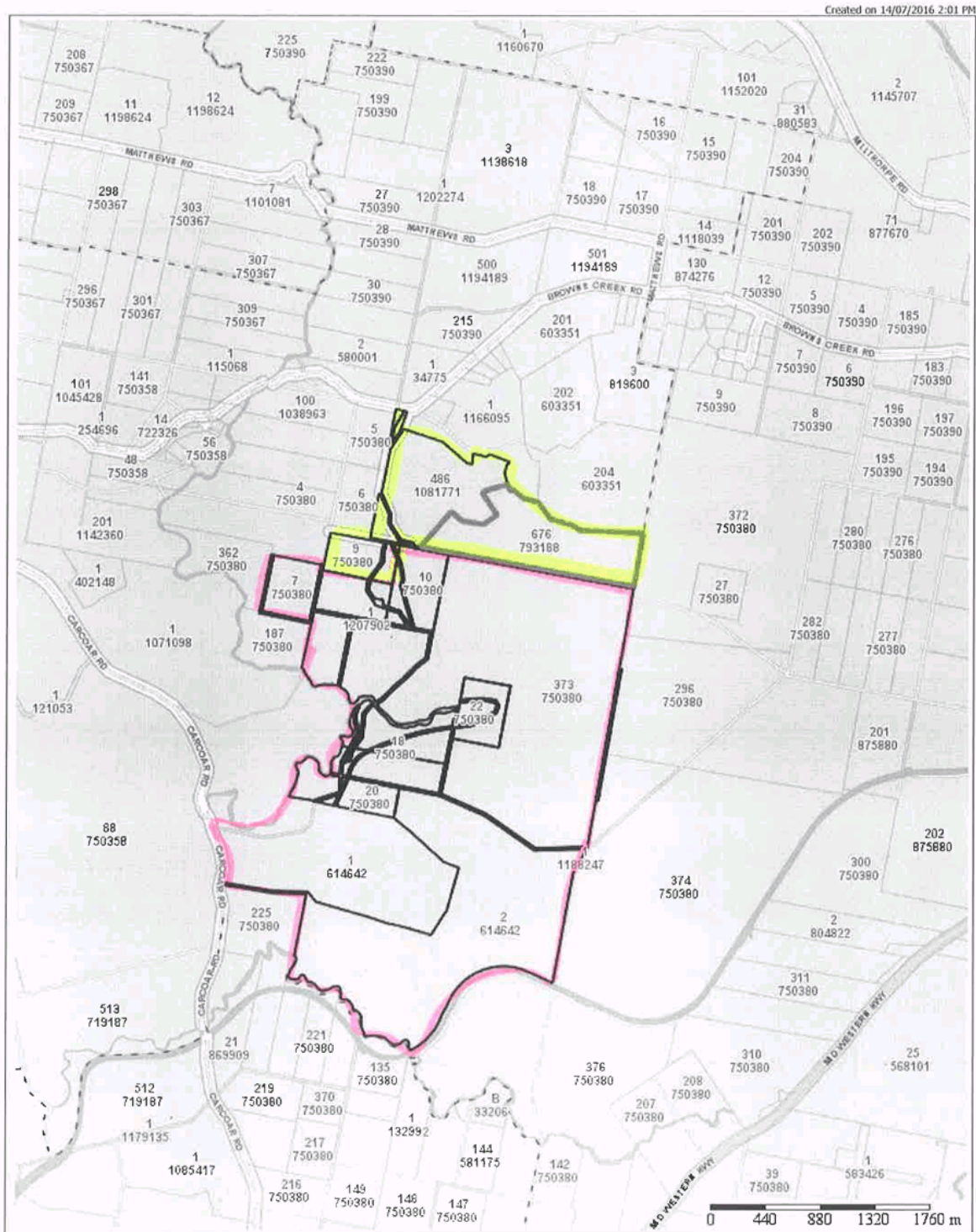
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Zenings





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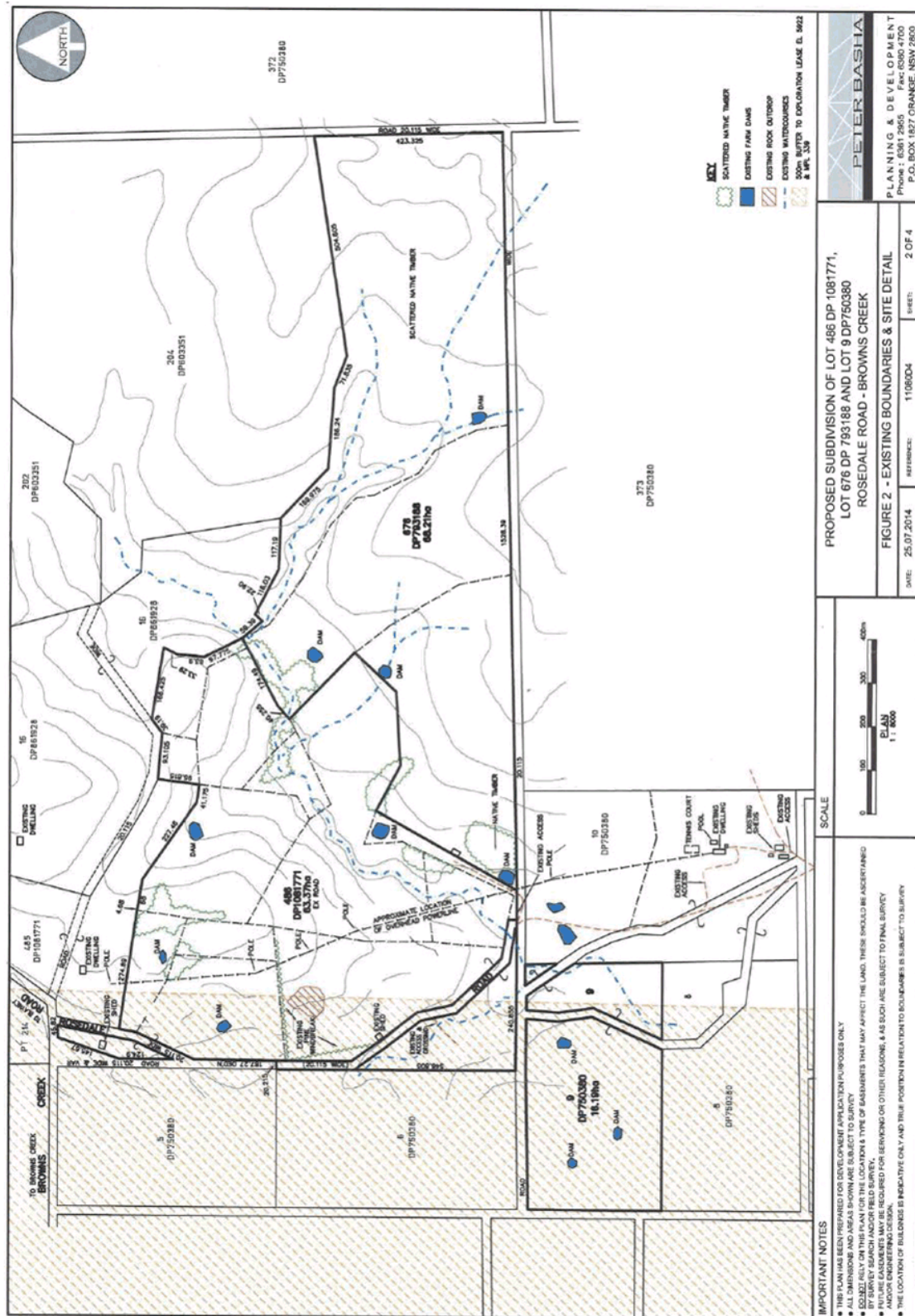
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Main Property

Subdivision



CONDITIONS ISSUED WITH
DEVELOPMENT APPLICATION NO. 114/2012 - SUBDIVISION - LOT 486
DP1081771, LOT 676 DP793188 - 126 ROSEDALE ROAD, BROWNS CREEK

STATUTORY**REASON: Statutory requirement**

1. Development is to take place in accordance with the attached stamped plans (Ref No. DA 114/2012), 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 may require an application for modification of this consent or a new application.

2. The subdivision is to be staged, as follows:

- Stage 1 – Lot 1
- Stage 2 – Lots 2, 3
- Stage 3 – Lots 4 - 8
- Stage 4 – Lots 9 -11

3. Consent conditions relevant to each stage are to be addressed **prior** to the issue of the Subdivision Certificate for each stage, as follows:

- Stage 1 – 3, 4, 7, 9, 10, 11, 12, 13, 15, 16, 19, 20, 22, 24, 25, 26, 27, 28, 29, 30.
- Stage 2 – 3, 7, 9, 10, 13, 16, 19, 20, 22, 24, 25, 26, 27, 28, 30. 10, 12, 13,
- Stage 3 – 3, 7, 8, 9, 10, 11, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30.
- Stage 4 – 3, 7, 9, 10, 11, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 27, 28, 30.

4. The applicant shall apply to Council for the issue of a Subdivision Certificate for the approved subdivision for each stage, and submit the final plan of survey of the subdivision and five (5) copies for Council's endorsement for each stage.

Note: Council will only consider issuing subdivision certificates in relation to this subdivision when it is satisfied that all conditions of development consent have been complied with and the appropriate fee paid, for each stage.

5. The developer is to furnish Council with documentary evidence that arrangements, satisfactory to Essential Energy and the appropriate telecommunications authority, for the provision of electrical power and telephone lines, respectively, to serve each lot, have been made, for each stage.

Note: This information must be submitted before Council will issue the Subdivision Certificate relating to each stage.

6. Unless the development is deemed as exempt, the applicant is to obtain a Construction Certificate for engineering works pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended from either Council or an accredited certifying authority, which compliments the detail provided in the development consent, that the proposed works are in accordance with *WBC Guidelines for Engineering Works*, prior to any subdivision works commencing.

Note 1: No building, engineering or excavation work is to be carried out in relation to this development until the necessary construction certificate or certificates have been obtained.

Note 2: YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE, even if you made an application for a Construction Certificate at the same time as you lodged this development application.

Note 3: It is the responsibility of the applicant to ensure that the development complies with the provisions of the Building Code of Australia in the case of building work and the applicable Council Engineering Standards in the case of subdivision works. This may entail alterations to the proposal so that it complies with these standards.

Optional note: Dangerous Goods - the Construction Certificate plans and specifications will need to be approved by the Dangerous Goods Branch, NSW Industrial Relations, prior to the commencement of any work.

ENVIRONMENTAL

REASON: Statutory requirement and public interest

7. Prior to the commencement of works, the applicant shall install and maintain adequate sediment and soil erosion controls in accordance with *WBC Guidelines for Engineering Works*.

CONSTRUCTION

REASON: Statutory requirement and public interest

8. The applicant is to submit three (3) copies of engineering plans, specifications and calculations in relation to Conditions 17 & 18 under Stage 3 of the development. Further, the works are to comply with *WBC Guidelines for Engineering Works*.

9. The applicant is to prepare and implement a Traffic Management Plan that provides necessary direction to traffic or pedestrian movement through or past the work site. The Traffic Management Plan is to be prepared by a suitably qualified person in accordance with the provisions of the relevant Australian Standards and is to be submitted to Council for approval PRIOR to its implementation.

10. The developer is to submit a soil and water management plan for the site in accordance with *WBC Guidelines for Engineering Work*. No building, engineering, or excavation work, or topsoil stripping or vegetation removal, is to be carried out in relation to this development until such time as a Compliance Certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended, **or inspection report** has been issued by Council or an accredited certifying authority, certifying that the plan is in accordance with Council's *WBC Guidelines for Engineering Works*. Upon certification, the measures in the Soil and Water Management Plan are to be implemented during the course of the development.

11. The applicant is to submit to Council an electronic copy of the works as executed plans for the works required by Conditions 17 and 18 in AutoCAD 2000 format. Further, the works are to comply with *WBC Guidelines for Engineering Works*.

Optional note 1:

The provision of a table on the works as executed plan which details: the distance from the centre of the downstream manhole/pit to each sideline, house connection, and dead end; the depths to invert; and the length of such sidelines.

Optional note 2:

The provision of information on the works executed plan which details: road levels, road crossfalls & longitudinal grades

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

13. The applicant is to obtain a Compliance Certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended, **or inspection report** from either Council or an accredited certifying authority, certifying that the engineering work required by conditions 17 and 18 has been constructed in accordance with the approved plans and *WBC Guidelines for Engineering Works*.

Note: Where Council is the Certifying Authority in relation to engineering works fees will be payable in accordance with Council's Revenue Policy.

14. Payment of \$12.50 per lineal metre (1,300m) is to be made for the inspection of the road during construction. The amount applicable will be dependent upon the date on which payment is made and will be as per Council's adopted fees and charges for the financial year in which payment is made.

15. The developer is to lodge a bond with Council equal to 5% of the total subdivision civil construction costs at practical completion, to be held by Council for a minimum period of twelve (12) months. The bond must be lodged with Council prior to the issue of the Subdivision Certificate.

16. The applicant is to arrange an inspection of the subdivision works by Council's Engineering Department, at the following sectors of the development, as relevant to each stage. This condition applies notwithstanding any private certification of the engineering works.

	COLUMN 1	COLUMN 2
A	Road Construction	<ul style="list-style-type: none"> * Following site regrading, and prior to installation of footway services; * Excavation and trimming of subgrade; * After compaction of sub-base; * After compaction of base, and prior to sealing; * Establishment of line and level for kerb and gutter placement; * Subsoil Drainage; * Road pavement surfacing;

		* Pavement test results (compaction, strength).
B	Drainage	* After laying of pipes and prior to backfill; * Pits after rendering openings and installation of step irons.
C	New Gate – Rural Crossing	* Prior to commencement of excavation works. * After compaction of base and prior to sealing * Road pavement surfacing
D	All Development & or Subdivision Works	* Practical completion.
E	Road Openings	* Upon completion of works.

17. Rosedale Road is to be designed and constructed in accordance with *WBC Guidelines for Engineering Works* as a Rural Local Access Road, at Stage 3 of the development.

18. The intersection of Rosedale Road and Browns Creek Road is to be upgraded to formalize a BAR/BAL type intersection at Stage 3 of the development. Works are to be carried out in accordance with the provisions of *WBC Guidelines for Engineering Works*.

19. An all-weather 2WD vehicular access is to be constructed to each proposed allotment. Such access shall include:

- (a) a gate or stock grid set back a minimum distance of fifteen (15) metres from the edge of the public road.
- (b) a minimum 4.0 metre wide sealed footway crossing, extending from the edge of the bitumen seal on the public road to the entrance gate or stock grid.
- (c) a 150 mm thick 3.0 metre wide concrete dish drain or 450 mm minimum diameter reinforced concrete pipe culvert with headwalls, aligned with the table drain in the public road.

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

20. The exit driveway is to be designed so that drivers will have a full view of the footway prior to crossing, to comply with *WBC Guidelines for Engineering Works*.

21. A 4 metre wide all-weather 2WD vehicular access is to be constructed for all battle axe lots. These access roadways are 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 *WBC Guidelines for Engineering Works*.

22. The site shall be managed so that:

- (a) No additional filling shall be placed on the land which may impede the flow of flood waters;
- (b) Any clearing or drainage activities shall not alter the drainage patterns across the site;

- (c) No landscaping or similar type structures shall be installed which will inhibit the flow of flood waters;
- (d) Any plant or goods stored upon the site shall be stored in a manner which will not allow pollution of the flood waters;
- (e) All actions shall be taken upon the site which will minimise the effect of the property upon the flood waters.

23. An energy dissipating structure is to be constructed on each culvert outlet at the point where the storm water from the development will enter the channel, in accordance with *WBC Guidelines for Engineering Work*.

24. The developer is to relocate any utility services if required, at the developer's cost.

25. Clearance from power lines is to be provided during and after construction. Minimum distances from powerlines are to be maintained.

RURAL ADDRESSING

REASON: Statutory requirement and public interest

26. The location of each eligible entrance shall be established and a number allocated based upon measurements taken by the Principal Certifying Authority which will be in accordance with Standard AS/NZS 4819:2003.

27. The designated number plates shall be obtained and erected in accordance with the *Specifications for Erection of Rural Address Numbers* as supplied by Council. Written notification is to be provided to Council indicating rural addressing number(s) has/have been erected. This letter is to be supplied to Council or Principal Certifying Authority PRIOR to the issue of a Subdivision/Occupation Certificate.
Note: These plates are available from Council at the fee specified in Council's Fees and Charges.

CONTRIBUTIONS

REASON: Statutory requirement and public interest

28. Contributions are to be paid to Council at each stage towards recouping the cost of the provision of existing infrastructure provided by Council, or to facilitate the carrying out of development and which the development will benefit from, that amount being \$5,721.00 per new block created (8). This contribution rate is current at the date of this consent. However, the amount payable will be calculated on the basis of the Council's Operational Management Plan and the contribution rates as set down in Council's fees and charges, at the time of payment. Evidence of payment of the contributions is to be provided to the Principle Certifying Authority prior to the issue of the Subdivision Certificate.

AMENITY

REASON: Statutory requirement and public interest

29. Landscaping is to be undertaken along the northern boundary of the proposed Lot 1 to screen the development from the adjoining dwelling, prior to the issue of the Subdivision Certificate.

30.Noise generating construction activities are to be restricted to the hours of:

- Monday to Friday 7am to 6pm
- Saturday 8am to 5pm
- Sundays and Public Holidays Nil

13) DEVELOPMENT APPLICATION NO. 60/2016 – CHILD CARE CENTRE - LOT 1 DP 575622 - 2 GEORGE STREET, MILLTHORPE

Department: Planning and Environmental Services

Author: Senior Town Planner

CSP Link: 5.4 Capable, self sufficient communities engaged in decision making about issues that affect them.

File No: DB.AB.1002

Recommendation:

That Council approve Development Application 60/2016 for a child care centre at Lot 1 DP 575622, 2 George Street, Millthorpe, subject to the conditions in Enclosure 5.

Reason for Report:

For Council to consider and determine Development Application 60/2016 for a child care centre at Lot 1 DP 575622, 2 George Street, Millthorpe as 10 submissions were received during the notification of the proposed development.

Report:

Applicant:	J Smith
Owner:	J Smith
Application No:	60/2016
Zone:	RU5 Village
Date Received:	9 June 2016
Assessment No:	A326765
Property:	Lot 1, DP575622 – 2 George Street, Millthorpe
Proposed Development:	Development Application No. 60/2016 – Child Care Centre - Lot 1 DP 575622 - 2 George Street, Millthorpe

The proposed development seeks consent to utilise and convert an existing dwelling to a child care centre.

The building is located within a residential area some 450m from the centre of the Millthorpe village.

The building is a three-bedroom dwelling constructed in the 1950s, mainly of timber cladding and floor with a steel roof and a small front porch, and is located to the centre south of the allotment. The building is located on brick footings.

A carport is located on the northern side of the dwelling. The site contains some large shrubs front and back, is fenced on three sides and is some 787.84sqm in area. It has a slight slope away from the road to the north west of the property.

The site is surrounded by residential development, dwellings and associated outbuildings in landscaped gardens.

The site is accessed off George Street, near the corner of Pitt Street. George Street is a sealed road with kerb and gutter along the western side of the street. The eastern side has a wide grassed verge.

The Millthorpe Public School and Redmond Oval are located about 200m to the north west of the site across Victoria Street.

A sewer line runs through the rear of the property, and the dwelling is connected. The location of the former septic tanks site has been identified, along the southern boundary of the rear yard. A water line runs past the front of the site in George Street.

Description of proposal

The use of the premises as a child care centre will involve considerable extensions to the northern side of the dwelling, a rear deck, creation of concrete paths around the building, and an outdoor play area, incorporating all of the rear yard being 381.9sqm. A front setback of 8m would be retained from George Street.

The altered building would be reclad in weathertex in muted colours, with a steel roof, and aluminium framed windows, and the carport would be removed. The building would contain an office, entry foyer, activities rooms, play area, kitchen, bathrooms and laundry, entrance ramp. and a rear deck with ramp.

The centre would contain a child capacity of 38, plus 8 staff at any one time. The hours of operation would be 6.30am to 6pm, Monday to Friday. Some business signage would be erected at the front of the centre.

The proposal states that pedestrian access is available to the site, but parking (for parents/carers, and staff) will be on the street, and on the grass verge opposite. This parking would be accommodated with 4 parallel spaces in front of the centre, 8 spaces opposite in a formed and sealed car parking area, and one accessible space on site.

Site landscaping would be retained where possible, paving minimised, alighting provided for access and security.

Section 79C (1) Assessment:**(a)(i) the provisions of any environmental planning instrument****1. State Environmental Planning Policies**

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

2. Regional Environmental Planning Policies

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

3. Local Environmental Plans

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

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

Comment: The proposal seeks to promote child care services within the village.

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

Comment: Adjoining development is largely residential. Conflict is perceived according to the submissions received, and the main issues relate to traffic and parking, and amenity. The issues are considered later in this report.

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

Comment: The development is expected to increase opportunities for employment and growth, through employment of staff, and increased child care facilities in the village.

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

Comment: This development seeks to promote child care services in the village. The issues raised in the submissions must be addressed before the impact can become compatible with adjoining development.

Clause 5.10 Heritage conservation

The subject building is located within the historic Millthorpe Heritage Conservation Area precinct, and the building is not heritage listed.

The building is constructed of timber and iron. The visual impact of the use of the building is expected to be improved with recladding and painting, with no significant impact on the heritage significance of the central precinct, due to location.

Council's Heritage Advisor provided comments relating to landscaping, colours, roof form and windows, which the developer has taken on board.

The visual impact of the proposed facility would be compatible with the variety of residential building designs and colour schemes already located in the vicinity.

4. Guidelines and policies

The proposal was notified to adjoining landowners. Ten 10 submissions and a small petition were received, which are considered later in this report.

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

There are no such proposed instruments relevant to this development.

(a)(iii) any development control plans

The Millthorpe Development Control Plan No. 2 is relevant to the proposed 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: Streetscape elements and building styles for George Street are not specified. The site is within the Heritage Conservation Area, although development along the street and in the vicinity in Pitt Street is quite variable, with a mix of residential development, old and new. Development of the land for residential development has resulted in maintenance of an attractive streetscape.

Together with a sympathetic colour scheme and landscaping the child care centre is expected to complement the existing visual character of the neighbourhood.

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

Comment: Assessment of the development's relationship to neighbouring properties presents issues relating to parking, traffic and amenity. Adjoining owners were notified, and 10 submissions and a short petition were received, which are considered later in this report.

The provisions of the DCP are examined as follows:

Scale – the proposed development is compatible with the largely residential nature of the streetscape in terms of bulk and scale. With careful choice of landscaping and colour scheme, impacts would be minimised.

Materials and colours – the child care centre would be clad in Weathertex with an iron roof. The developer has shown preference for a Shale Grey roof, and agrees with the Heritage Advisor's recommendation for a Newport style profile cladding in Dulux Paperbark.

Roofs – the roof is to be steel, in Shale Grey.

Windows – side and rear windows would be aluminium frame, and the front windows timber frame double hung in agreement with the Heritage Advisor's recommendations.

Setbacks – the building is set back from the street by 8m and with the extensions this will be maintained. The southern side boundary setback of about 2m would be maintained. The additions would take place on the northern side of the building, maintaining a setback of 3.6m - 3.8m.

Garages, carports and sheds – an existing carport on the land would be demolished.

Fencing – no particular front fencing is nominated for this development. The rear and side boundaries would undertake colorbond fencing as recommended by the Heritage Advisor.

Landscaping – as much existing landscaping as possible will be retained, including large shrubs and mature trees.

Utility/service structures – no additional utility/servicing structures are required for the development. The dwelling has been connected to water, sewer, power and telephone.

Commercial development – the development is for a commercial child care centre.

Rural Residential Development – not applicable.

Demolition – the development does not involve demolition, beyond removal of the carport. Any asbestos removal would be undertaken in accordance with Australian Standard AS2601-1991: The Demolition of Structures, and NSW WorkCover requirements.

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

There are no such agreements relevant to this proposal.

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

It should be noted that this development involves a change of building classification from a Class 1a dwelling to a Class 9b child care centre under the Building Code of Australia (BCA).

Some BCA requirements have been applied as conditions of consent in regard to Section J compliance, fire extinguishers, air conditioning, floor coverings, access for people with a disability access compliance, and fire upgrading requirements to the southern wall of the building.

The building's southern wall is setback less than 3 metres from the property boundary and will have to be upgraded to achieve a minimum Fire Resistance Level of 60/60/60. Additionally, there are 3 existing windows in this southern wall which are located in the proposed Bathroom and Activities Room respectfully, these openings are required to be fire-protected to fully comply with the BCA.

However, in accordance with clause 94(2) of the Environmental Planning and Assessment Regulation 2000 (EPAR 2000) Council as the consent authority has discretion to require only partial conformity with the Building Code of Australia (BCA) for a development involving the rebuilding, alteration, enlargement or extension of an existing building.

Caution must be used when considering partial BCA compliance, however; given the relatively low fire risk of the proposed use of the building, significantly small size of the windows (0.12m², 0.64m² and 0.81m² respectively), the largest window (0.81m²) is to a wet area and the building on the adjoining property is approximately 3m away requiring full BCA conformity in this instance is not considered necessary.

The building is required to be accessible and is to be provided with an accessible sanitary facility in accordance with the Access Premises Standards and the BCA and an accessible car parking space will have to be provided on the property. A continuous accessible path of travel from the accessible car parking space to and within the building will have to be provided in compliance with Australian Standard AS1428.1-2009. The plans will have to be amended at CC stage to indicate full compliance with these requirements.

The developer has indicated that they will ensure compliance with all fire/BCA requirements and disabled access requirements to be detailed with the Construction Certificate submission, and acknowledge that the change of use triggers this compliance.

There are no other such matters relevant to the development.

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

Not applicable to this development.

(b) the likely impacts of the development**Context and Setting**

A child care centre is an important community service, which contributes to the positive development and growth of children and should operate with minimal impact on the locality.

The proposed development seeks to provide for the provision of child care services within the village of Millthorpe. The site is surrounded by a mix of residential development, different ages, materials and styles, and the proposal would be visually compatible. The use is also compatible with the heritage conservation area and there are no heritage items nearby.

Anecdotal evidence from other local government areas suggests that parents' expectations for a child care centre are that it is within a residential area, has proximity to public transport, and complementary uses such as schools and parks, a location with no significant heavy vehicle movements, noise or toxic emissions, and a safe distance from electro-magnetic radiation.

Providers, however, appear to be preferring larger sites such as in industrial areas, but which are subject to traffic, parking, health and safety, and amenity issues.

The amenity issues raised in the submissions from residents relating to context and setting, include operation of a commercial operation in a residential area, traffic and parking issues, heritage impact, and amenity. These matters are considered separately below, as is the matter of safe distance from the NBN tower near the railway station.

There is therefore, a balance to be weighed up between the criteria used by the applicant in the choice of site, the parents' requirements for a suitable centre for their child, and the residents' amenity issues.

The use is permissible in the zone, subject to merit assessment and consent from Council. Child care centres are highly regulated at State and national level, and any consent issued by Council would require compliance with those regulations.

Access, transport and traffic

The site is currently accessed via an existing entrance off George Street. An existing layback provides access into private parking in a carport. The developer proposes to demolish the carport, and extend the child care centre out across that part of the site. Therefore, there would be no onsite parking available for use by staff or parents/carers (unless the driver holds an accessible parking permit).

There is expected to be a significant increase in traffic volume and frequency as a result of the development. The developer's expectation is that visitors and staff will park on the street in parallel parking.

Across the front of the site would accommodate four vehicles, and the proposal is that other vehicles utilize the grass verge opposite the property. This grassed area is to be constructed as a formal parking area for 8 vehicles.

One accessible space would be provided on site. The developer suggests that U turns would occur at the top of or elsewhere in George Street, and vehicles move down to park in front of the site. The developer does not see an issue with the short sight distance to the north, as the site is on a slight bend.

Peak periods are seen as 6.30am to 8.45am during the drop off time, when parents would incorporate the drop off with multipurpose trips to work, shopping or a gym.

Council's Engineer has required a footpath be constructed along the western side of the street in front of the child care centre, which provides access for prams off the road across the kerb. In addition, the developer has proposed an eight space car park on the eastern side of the street, to be sealed and kerbed. This will reduce vehicles having to move further up George Street, and enable safer turning opportunities.

Council must balance the amenity of a neighbourhood with the need to provide sufficient parking, also considering general pedestrian safety, and traffic conflict.

A traffic study is not triggered unless the centre is a much larger centre or the site is along a main road or at a busy intersection.

Generally, Council adopts the standards set down by the RTA's *Guidelines for Traffic Generating Development* for onsite car parking requirements. That document suggests one (1) space for every four (4) children. In this instance that would equate to 9.5 spaces. Thirteen spaces are to be provided in all, which includes one accessible space.

The submissions received have raised a number of issues relating to traffic and parking. This includes concern for the lack of street parking and the lack of kerb and gutter on the eastern side, safety of pedestrians going to and from the centre as well as those walking past the centre and the potential for traffic conflict, the use of George Street and other entrances for turning and the congestion of intersections in the vicinity, particularly in peak periods, and the need for signage.

The developer has agreed to the construction of an eight space car park, together with associate signage to indicate a child/pedestrian safety area.

Services/utilities

Water supply, power, sewer and telephone are available to the site. No additional services or utilities are required for the development. Council's Engineer advises that the reticulated system has been designed to allow for village expansion.

Given that the north Millthorpe subdivision did not eventuate, there is more capacity than expected that would be able to cater for the development.

Site design, internal design and construction

There is construction work required for this development. The building comprises a three-bedroom dwelling constructed in the 1950s, mainly of timber cladding and floor with a steel roof and a small front porch, and is located to the centre south of the allotment. The building is located on brick footings, and a carport is located on the northern side of the dwelling.

The establishment of the child care facility would entail extensive additions and alterations to the building, extensions to the northern side of the dwelling, a rear deck, creation of concrete paths around the building, and an outdoor play area. The carport would be demolished.

Landscaping should provide privacy and visual screening along the street frontage and side and rear boundaries, at the same time of maintaining local character and amenity. A plan is required to demonstrate this.

The building works would be undertaken in compliance with Building Code of Australia and Australian Standards relating to fire protection, safety and disability access.

The site and the centre should be designed in accordance with the *Education and Care Services National Law Act 2010* ('National Law') and the *Education and Care Services National Regulations 2011* ('National Regulations'), and the requirements of NSW Community Services, and the *Children and Young Persons (Care and Protection) Act 1998*.

The developer has indicated that they will ensure compliance with all fire/BCA requirements imposed by Council and disability access requirements to be detailed with the Construction Certificate submission, and acknowledge that the change of use triggers this compliance.

Hazards – technological, natural

There are a number of hazards which should be considered in the establishment of the child care centre, as follows:

- Possible asbestos within the existing building, which should be removed and disposed of at an approved waste facility, and potential for Naturally Occurring Asbestos (NOA) on the site generally. The process of demolition and asbestos removal is addressed in the conditions of consent. A Clearance Certificate is required to be provided from a competent, independent Asbestos Assessor in accordance with the National Occupational Health and Safety Commission Code of Practice for the Safe Removal of Asbestos, verifying that there is no presence of asbestos in the building, no NOA in the outdoor playground areas of the child care centre, and confirming that no fill has been placed in the playground area which may contain asbestos.

- Possibility of exposure to electro-magnetic waves from the nearby NBN tower at the railway station. There may be perceived concerns in regard to electromagnetic radiation exposure from the existing NBN facility at the railway station.

The Australian Communications and Media Authority advise regulatory arrangements with respect to electromagnetic radiation exposure, and the facility complies with this advice. All installations 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 were applied and the site is secured to prevent public access. An electromagnetic energy (EME) report was previously provided to Council when the facility was installed 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 Department of Education objects to wireless towers being closer than 500m to a school. The existing tower would be 600m from the proposed day care centre.

- The former septic tank on the site has been removed and the building connected to the reticulated sewer system. However, it is required as a condition of consent that confirmation the remediation occurred in accordance with legislation and that the site is safe, and confirming the nature of any fill which may have been placed in the playground area.

There are no other particular known hazards relating to the development.

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 urban property. No other land resources are affected. Air pollution is minimized, and existing mitigation measures would continue to prevent environmental impact.

Water

There are no particular additional water requirements for the development. The facility is connected to the existing reticulated system.

Waste

Business and domestic waste is to be collected, stored and removed off site for disposal at an approved waste facility.

The building is already connected to the existing reticulated sewer system. The additional bathroom facilities would also be catered for by the reticulated system. Council's Engineer advises that the system was designed to cater for village expansion.

Heritage

The subject building is located within the Millthorpe Heritage Conservation Area and is not a heritage listed building.

There are no listed heritage items in the immediate vicinity of the site, whose significance might be affected by the proposal.

The visual impact of the use of the building is expected to be minimal, with no significant impact on the heritage significance of the precinct or the conservation area, due to fencing and landscaping.

Visual amenity

The use of the extended building would be suitable for the purpose, and compliant with the Building Code of Australia. It is unlikely to impinge upon the heritage significance of heritage listed buildings elsewhere in the village or the amenity of the wider Heritage Conservation Area. Fencing on the side and rear boundaries will assist with privacy considerations, and existing landscaping would be retained and enhanced. Colour schemes would be compatible with the neighborhood, which comprises a mix of old and new development, building materials and styles.

Noise & vibration

Possible noise impacts from the centre has been identified in submissions. The setbacks from boundaries are acceptable, and the rear yard would be fenced securely to address both privacy amenity for adjoining properties and for protection of the children.

Although the Millthorpe primary School is located only 200m to the north west, the outside playground hours for the school as opposed to the child care centre are different, with the potential for more extensive hours at the child care centre.

However, development controls can only address excessive noise against accredited standards. Noise levels should not exceed 5dba above the background levels. This may still not be acceptable to some residents, as noise can be quite personal and varies between individuals. Therefore, this matter cannot be addressed within the planning framework, and a condition would be placed on any consent to address the maximum allowable level.

There are no known external sources of noise which might impact upon the health and wellbeing of the children at the centre. There are no other particular matters relating to noise and vibration which might apply to this development.

Safety, Security and Crime Prevention

The developer will have a security system in place to enable site security, safety and crime prevention.

Economic impact

The economic impacts from this development may include employment opportunities, and increased use and support of local businesses.

A child care centre already exists in Millthorpe, approved by Council under DA 136/2004. It was notified to adjoining owners at the time and no submissions were received. It was approved for 20 places, is located on a double block and in a different character precinct with regards to traffic, although minimal parking is provided on site.

Although the impact of the proposed development on the existing child care centre in Elliott Street has been flagged in submissions, business competition decisions by either the old centre or the proposed centre are not matters to be taken into consideration in development assessment.

Social Impact

The social impacts relate to the effective operation of a local business, which can work with the local community on a number of different levels. It relates to the positive and negative impacts on individuals, groups and communities resulting from changes arising from development.

The child care centre business would provide employment and the environment is managed and protected, with minimal adverse impact on amenity, upon adherence to the conditions of consent, the solutions and strategies provided by the developer in the additional information provided.

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

Cumulative Impact

The cumulative impact of the development is for the operation of a local business, within effective industry standards, that leads to minimization of environmental and community impact.

It is unlikely that this development would create a precedent, as there is already one other child care centre in Millthorpe. As far as development within a residential area is concerned, home businesses and home occupations are also permitted in the residential areas and would be assessed on their merits.

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, bushfire.

(c) suitability of the site for the development

Comment: The site is suitable for the development of a child care centre utilising the existing building, with alterations and additions, in keeping with the residential character of the precinct, and the significance of the Heritage Conservation Area, only if it is established and managed in accordance with the information provided by the applicant, and addendum, and any conditions of consent which might be applied by Council.

The facility must also comply with the national *Education and Care Services National Law*, and the *Education and Care Services National Regulations 2011*. It should have regard for the requirements of NSW Community Services, and the *Children and Young Persons (Care and Protection) Act 1998*.

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

Comment: Adjoining landowners were notified for 14 days from 14 June 2016. Ten (10) submissions were received, and one short petition. The issues raised are considered as follows:

Parking & traffic impact

1. *No onsite parking, the plans are inconsistent: there is kerb and guttering on one side of the street only, so all parking (staff, parents, carers) will be on grassed verges in narrow streets, concentrated on the pickup/drop-off times.*

Developer response: The developer has consulted with Council's Engineer to provide a sealed, kerb and guttered area for parking opposite the site.

Council comment: The developer has discussed arrangements for parking of 13 vehicles to cater for the centre, four in front of the centre and eight opposite, in a sealed and kerbed parking area, and associated signage. One accessible space would be provided on site.

2. *It is proposed to paint the kerb yellow, to prevent cars parking on an area for prams and wheelchairs. This limits street parking.*

Developer response: We have focused on the pickup/drop off nature of traffic movements with the opportunity for 5 vehicles to park adjacent to the existing kerb.

Council comment: Four vehicles can be catered for in front of the centre. Another eight will park opposite in a sealed parking area, where there are no residential properties seeking access onto the street. One accessible space would be provided on site. Parking elsewhere in the street will not be impacted upon. A footpath would be constructed along in front of the centre to cater for the centre and for passing pedestrian and wheelchair traffic.

3. *Complete kerb and gutter is needed in the street.*

Developer Response: A sealed and kerbed area will assist in managing the area opposite the proposed centre.

Council comment: The area opposite the centre will be sealed and kerbed to form a parking area to cater for 8 vehicles. It is not the developer's responsibility to seal the whole street.

4. *Parking on the opposite verge suggests that people should walk or carry small children across the road.*

Developer response: Signage can be installed in both directions to identify a children safety area.

Council comment: A formal sealed car park would be constructed opposite the centre, and signage installed to indicate pedestrian and children activity in the precinct.

5. *Even with kerbs, kerbside parking by parents/carers and staff would not allow cars to pass in George Street.*

Developer response: There is ample width of 10m to allow vehicles to pass in both directions. It has been proven that narrower streets encourage drivers to slow down.

Council comment: The sealed width of George Street is only 6m. However, parking in front of the centre, and the offset parking area on the opposite side will still allow cars to pass safely.

6. *Good signage need to direct people where to park.*

Developer response: Signage can be installed in both directions to identify a children safety area.

Council comment: The developer agrees to any signage relevant to enable the safety of vehicular and pedestrian traffic in the vicinity of the proposed centre. This would include clear signage and pavement delineation of parking areas.

7. *Many of these verges are maintained by residents. Council will now need to monitor these verges to check on degradation and erosion.*

Developer response: The developer has discussed opportunities for parking opposite the property in the grass verge area, allowing for safe sight distance in both directions for approximately 8 vehicles. This will result in a sealed and kerbed area to assist in managing the area opposite the development site.

Council comment: Part of the verge opposite the centre is to be formed into a sealed and kerbed parking area, at cost to the developer, thus minimizing upkeep by Council.

8. *Council may incur costs for road upgrades which ratepayers should not have to carry.*

Developer response: The developer has discussed opportunities with Council in regard to parking, to be carried out at cost to the developer.

Council comment: Any road upgrades relevant to the proposal would be at cost to the developer.

9. *Stormwater from uphill in Pitt and George Streets would flow down to the grassed parking areas, which already become boggy. In summer the verges are a dust bowl.*

Developer response: The works as discussed with Council's Engineer will ensure the sealed and kerbed area will assist in managing this area opposite the subject area.

Council comment: The verge area opposite the site is to be sealed as a car parking area. Stormwater in Pitt Street is not a concern for this development. Stormwater from further up George Street would be directed past the site down to the existing stormwater system in lower George Street and on to Victoria Street.

10. *Council does not have car parking requirements for child care centres, and adopt Road and Maritime Services rates for development. Calculated on the RMS rate of 1 space per 4 children, peak periods would generate 9-10 cars, plus staff parking, all in the street in front of residences.*

Developer response: Car parking would be provided at 8 spaces opposite the centre and 5 spaces in front of the centre at the existing kerb, with one accessible space on site.

Council comment: Twelve (12) spaces would be provided by the centre on the street, as provided in consultation with Council, and this would cater for the centre at 38 child places.

11. *Traffic generation in George and William Streets will amount to an increase in the order of 30 vehicle trips per day in peak periods, and traffic will bank up in George Street.*

Developer response: It is envisaged that vehicles will travel past the child care centre up the hill and return to allow parking next to the kerb. Given the short drop off period of 3-5 minutes we consider that there will be ample parking for the 2 higher volume periods. In the middle of the day and after 4pm the level of traffic will reduce significantly.

We also noted that most residential movements are at 8am to 8.30am and after 5pm as parents come home from work. We therefore consider the traffic impact will blend with existing residential vehicle patterns.

Council comment: With the provision for 12 parking spaces in front of the centre, and one accessible space on site, and the short drop off/pick up times, it is not expected that traffic will bank up.

12. Pickup/drop-off times will be more than 3 minutes, as suggested.

Developer response: The short drop off period is expected to be 3-5 minutes.

Council comment: Pickup/drop off times would be quite variable. The proposed parking areas would enable short and long term parking as required. Signage could reinforce parking times.

13. Vehicles will need to U turn to leave George Street as the access at the south western end of George Street is not suitable to most vehicles, rocky and steep at the Blake Street end.

Developer response: We envisage that vehicles will travel past the child care centre up the hill and return to allow parking next to the kerb.

Council comment: It is expected that most traffic will enter and leave George Street at the northern end. However, with the provision of an 8 space car park the majority of turns would occur into and out of the car park, and not further up George Street.

14. The slight bend in George Street will limit driver visibility.

Developer response: As vehicles travel past the child care centre up the hill and return to allow parking next to the kerb, this will ensure safe sight distance at the curve in George Street. Notes with invoices/emails to parents and the like can educate users to manage the local traffic environment.

Council comment: The bend is only slight and verges are wide and unencumbered by vegetation or fencing. Sight distance is expected to be sufficient to enable the safe passage of traffic in the locality.

15. U turning on verges, at the intersection or 3 point turns in existing driveways is not acceptable.

Developer response: No comment.

Council comment: The majority of turning would occur into and out of the proposed car parking area.

16. Such vehicular traffic will also impact on the safety of children walking on the already uneven verges down to the primary school, or residents walking along the street in general. The road surface is currently the only hard surface.

Developer response: Signage can be installed in both directions to identify a children safety area.

Council comment: A footpath would be constructed along the frontage of the centre to cater for both visitors to the centre and for passing pedestrian and wheelchair traffic. Signage would assist with pedestrian safety. Safe pedestrian areas along the remainder of George Street are not a matter for this application.

17. It will impact on residents wanting to drive out of their properties during peak periods.

Developer response: Signage can be installed in both directions to identify a children safety area.

Council comment: With the construction of a dedicated car parking area, traffic parking further along George Street would be minimised.

18. Stop sign required at the George Street/Victoria Street intersection for safety reasons.

Developer response: Discussions with Council's Engineer have considered opportunities for traffic and parking management, which would include signage where relevant.

Council comment: Council's Engineer has advised that as this is an existing intersection Council can investigate the necessity for installation of a Give Way or Stop sign for this intersection and is not a matter for the developer.

19. The Victoria/Kingham/George Street intersection and the Boomerang Road/Victoria Street intersection are already precarious. Increased traffic will make this worse.

Developer response: Discussions with Council's Engineer have discussed opportunities for traffic and parking management, which would include signage where relevant.

Council comment: Signage for safety would be provided in accordance with *WBC Guidelines for Engineering Works*, as determined by Council's Engineer.

20. *The school now achieves access off Boomerang Road. Adding to this will increase traffic, increasing disruption to residents and risk the safety of pedestrians and drivers in this precinct.*

Developer response: Discussions with Council's Engineer have discussed opportunities for traffic and parking management, which would include signage where relevant. In addition, signage can be installed in both directions to identify a children safety area.

Council comment: Signage for safety would be provided in accordance with *WBC Guidelines for Engineering Works*, as determined by Council's Engineer.

21. *Their traffic management does not deal with the pickup/drop-off times.*

Developer response: We consider that the traffic management measures discussed with Council will enable traffic impact to blend with existing residential vehicle patterns.

Council comment: Traffic management has been addressed through the proposal for a parking area on the eastern side of George Street to address the various traffic matters which arise during peak periods.

Amenity impact

22. *Increase in traffic and activity in a residential area, impacting on tranquility and safety of residents.*

Developer response: Our traffic and parking management plan will ensure the safety of pedestrians. Peak periods of traffic apply, not impacting the overall tranquility of the street. Noise from children will be dependent on weather conditions and seasons with children outside for a maximum of 3 hours causing minimal noise pollution to the residents.

Council comment: The developer has undertaken discussions with Council's Engineer to discuss the matters of traffic and parking. The resolutions reached are documents in points 1-21 above.

23. *Development such as this should be in a commercial area, not a residential area.*

Developer response: The majority of existing child care centres in Blayney, Millthorpe and Orange are in residential areas. This is encouraged to provide ease of access to families and to allow parents to return to work, improving and strengthening the economy of the area. A current council guideline for an appropriate sized centre within a residential area in NSW is considered to be 49. This centre will be 38, well below this requirement.

Council comment: Location in a commercial area presents other issues of safety, health and wellbeing for the children. Council must strike a balance in its assessment. The development is permissible in the zone with consent and must be assessed on its merits.

24. The village has had a heritage feel and reputation due to keeping commercial development out of residential area.

Developer response: See 25 below.

Council comment: The principle part of the heritage precinct in Millthorpe is the commercial centre. There are no heritage listed properties in the immediate vicinity of the development site, although the site is within the Heritage Conservation Area, it is unlikely that the heritage feel of the village would be affected by the development.

25. This proposal would set a precedent.

Developer response: We have worked with the Heritage Advisor to ensure the child care centre will be in keeping with the heritage feel of Millthorpe. Furthermore, Millthorpe already has a number of commercial buildings in residential areas already. Millthorpe also offers many forms of accommodation in residential areas. We do not feel as though the proposed centre would affect the heritage feel or reputation of Millthorpe or set a precedent.

Council comment: It is unlikely that another child care centre would seek establishment in Millthorpe. However, given that this might occur, both a child care centre and any other business which is permissible in the zone, would be considered on its merits.

26. Impact on the local sewerage system and the reticulated water supply, with an increase in loads and demand for water.

Developer response: The existing infrastructure for water and sewer allows for village expansion, and increases in water or sewer demand. Water saving toilets will ensure water minimization practices. We consider that the centre will have a minimal increase on demand for water and sewer.

Council comment: The reticulated systems cater for village expansion, and given that the north Millthorpe proposal did not eventuate, the centre can be adequately catered for.

27. Being adjoining a child care centre is different from “background noise” from the school down the road. It cannot be compared.

Developer response: See point 32 below.

Council comment: The child care centre would have different outdoor play times than the school, longer hours. However, the children would be under the control of staff where noise could be minimised. Noise should not exceed 5dba above normal levels, and any consent would be conditioned to this effect. It is noted that the main school is some 200m away.

28. Outdoor play times are different with the school and a day care centre. Much longer hours for the centre.

Developer response: As point 32 below.

Council comment: The child care centre would have different outdoor play times than the school, longer hours. However, the children would be under the control of staff and be in small groups where noise could be minimised. It is noted that the main school is some 200m away.

29. Loss of privacy, and peaceful and quiet areas of adjoining gardens.

Developer response: As point 32 below.

Council comment: This issue is a subjective and personal one, relating to perceived impact, and one over which Council has little control. However, the property would be securely fenced to minimise loss of privacy, landscaping would also assist with visual impact and noise limited to no higher than 5dba above normal. It should be noted that any noise from the existing primary school some 200m away would be factored into normal noise level readings for the location, although would have a low effect on noise levels.

30. No information is available about the height of the boundary fences for the child care centre.

Developer response: No comment.

Council comment: The developer indicates that the fence would be a standard 1.8m high colorbond fence.

31. No information is available with regard to a playground plan.

Developer response: As point 32 below.

Council comment: A total of 381.9sqm is to be provided. This equates to the 7sqm required by the National Regulation. No actual plan of the playground layout has been provided.

32. Opening hours and noise disturbance for residents from 6.30am to 6pm.

Developer response: Outdoor play times will be between 9.30am-11.30am and 3.30pm-4.30pm, dependent on the seasons and weather conditions. While they are different to the school break hours of 11am-11.25am and 1pm-1.50pm, the proposed centre will have significantly less children contributing to background noise. The school currently has approximately 240 students on their playground while the proposed centre will contain a maximum of 38, eight of whom would be infants. In addition, the children would be divided into three age groups and may not all be accessing the outdoor area at one time. Furthermore, the proposed centre adheres to the current Education and Care Services National Regulations 108 which states that each child requires 7sqm of unencumbered outdoor space. This allows noise contribution to be distributed appropriately and safely within the space.

Council comment: It is unlikely that noise will be continuous during this time. The peak time is suggested to be 6.30am to 8.45am, with variable times during the afternoon as parents collect their children at different times. Playground times will also vary, with use by the children in small groups. However, although the main school has some 240 students, they are located much further away (200m) from the child care centre site, and cannot be compared effectively with regard to noise.

Social impact

33. *Federal Community Support programs for child care centres in rural and regional areas will be phased out over the next 2 years, placing financial pressure on both the existing and a new centre. Millthorpe may lose both services. Current waiting lists at the existing centre stand at 12.*

Developer response: The proposed centre will not be reliant on government funding.

Council comments: Family day care centres (which are an approved form of child care that is provided in the family day care educators own home) are concerned for the scaling back of the Federal Government's Community Support Program is. Long day care centres such as the proposed, fall under *Early Childhood and Child Care* and do have other funding options.

34. *There is already an existing centre in town. Is this centre required in Millthorpe?*

Developer response: This is an economic argument beyond Council's role as an approval authority. Competition with an existing child care centre is not reasonable grounds for refusal.

Council comment: The business decision to seek establishment of another child care centre in the village is not a matter for the Section 79C assessment.

35. *Against the interests of the people of Millthorpe and the wider area.*

Developer response: The proposed facility is considered to provide an essential service for a family oriented village such as Millthorpe. The proposed centre therefore provides a service that is both economically and socially sustainable.

Our business research finds that there is a current shortage of childcare available in Millthorpe, Blayney and the wider area, especially for children under 3 years. Existing centres are often unable to cater for under 3's. A child care centre is very much in the interests of the people of Millthorpe and the wider area.

Council comment: This report examines the issues raised in the submissions, and has considered possible solutions to address community concern.

In such consideration it has been found that most issues can be managed for minimal impact, or should be dealt with outside the bounds of this development application.

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

(e) the public interest

Comment: A variety of matters have been raised which demonstrate community concerns with regard to the proposal. In consideration of the public interest, Council must weigh the factors in favour of the proposed child care centre and the community's need for it, against unfavorable public interest factors, the expectations of local residents for quality local amenity.

This report examines the issues raised, and considers possible solutions to address concerns. In such consideration, most issues can be managed for minimal impact, or should be dealt with outside the bounds of this development application.

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

Conclusion:

It is generally accepted that where uncertainty exists concerning the nature or scope of environmental impact, decision makers should be cautious. In this instance the matters raised by the submissions received have been examined in this report. The applicant has provided solutions to address issues where he can, and Council is able to condition any consent to address outstanding matters.

The above assessment illustrates that the development has proven suitable for the site, provides for establishment of a local business in accordance with industry guidelines in the protection of heritage and the environment, and compliance with appropriate legislative requirements.

Issues:

Assessment undertaken as per legislation.

Budget Implications:

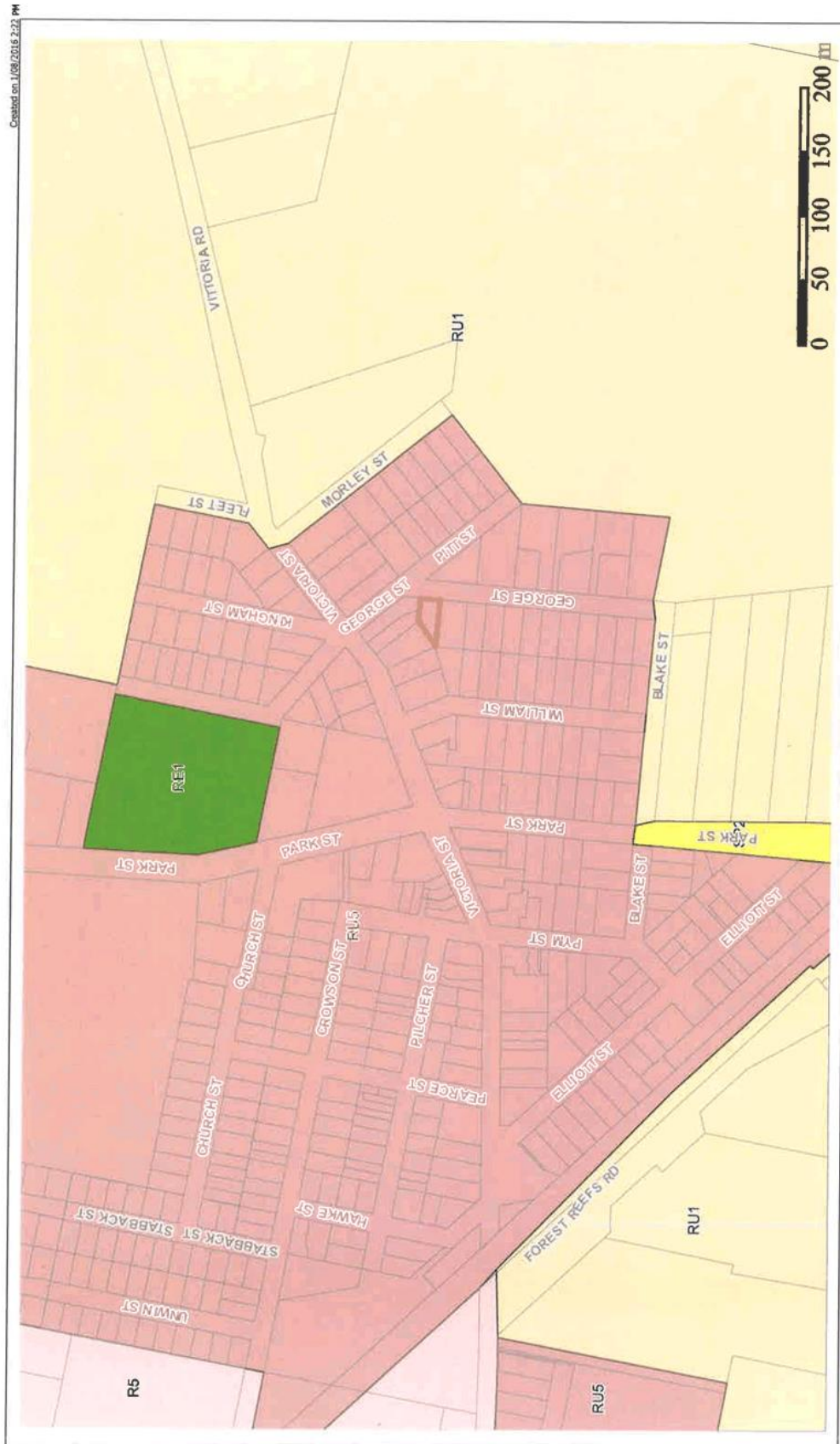
Nil

Enclosures (following report)

1	Location plan	1 Page
2	Site plans	2 Pages
3	Building plans	4 Pages
4	Parking plan	1 Page
5	Conditions of Consent	7 Pages

Attachments (separate document)

Nil



Project: GDA94 / MGA zone 55

Date: 1/08/2016

Created By: Patsy Moppett

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GENERAL NOTES:

- 1. All dimensions are in metres unless otherwise stated.
- 2. All dimensions are to the centre of the boundary unless otherwise stated.
- 3. All dimensions are to the centre of the boundary unless otherwise stated.
- 4. All dimensions are to the centre of the boundary unless otherwise stated.
- 5. All dimensions are to the centre of the boundary unless otherwise stated.
- 6. All dimensions are to the centre of the boundary unless otherwise stated.
- 7. All dimensions are to the centre of the boundary unless otherwise stated.
- 8. All dimensions are to the centre of the boundary unless otherwise stated.
- 9. All dimensions are to the centre of the boundary unless otherwise stated.
- 10. All dimensions are to the centre of the boundary unless otherwise stated.

SITE CALCULATIONS:

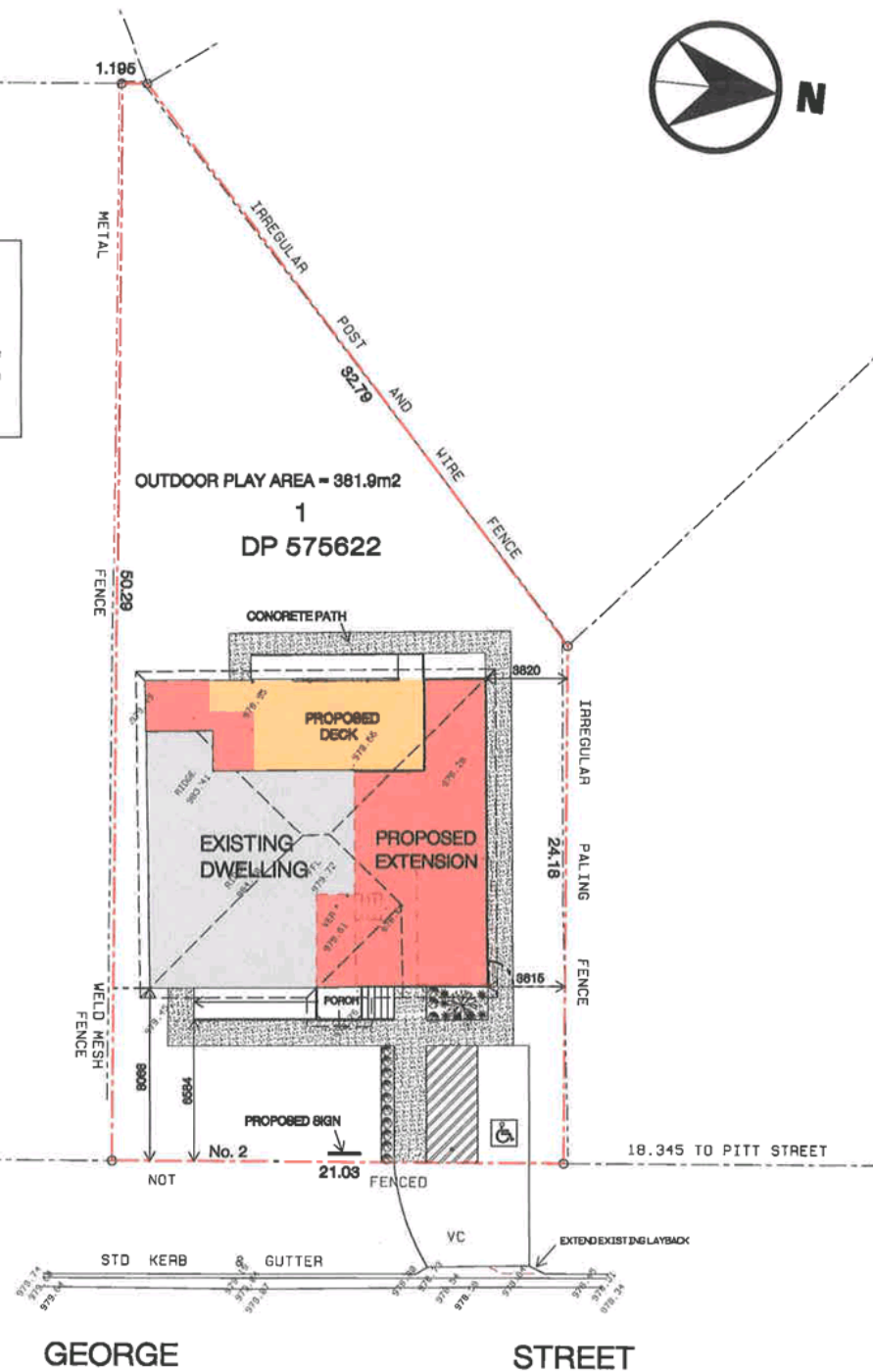
PROPOSED CHILDCARE CENTRE
at lot 1 (DP.575622)
No.2 GEORGE STREET
MILLTHORPE N.S.W.

SITE AREA = 798.0 sqm
CHILDCARE BUILDING
INCLUDING DECK & PORCH = 229.4 sqm
SITE COVERAGE = 28.7 %



SIGN DETAIL
SCALE 1:50

No. 4
FIBRO STYLE
RESIDENCE
METAL ROOF

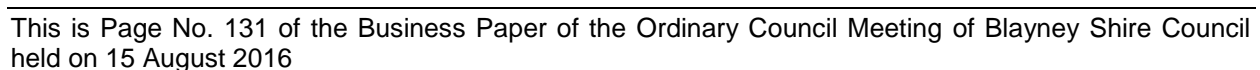


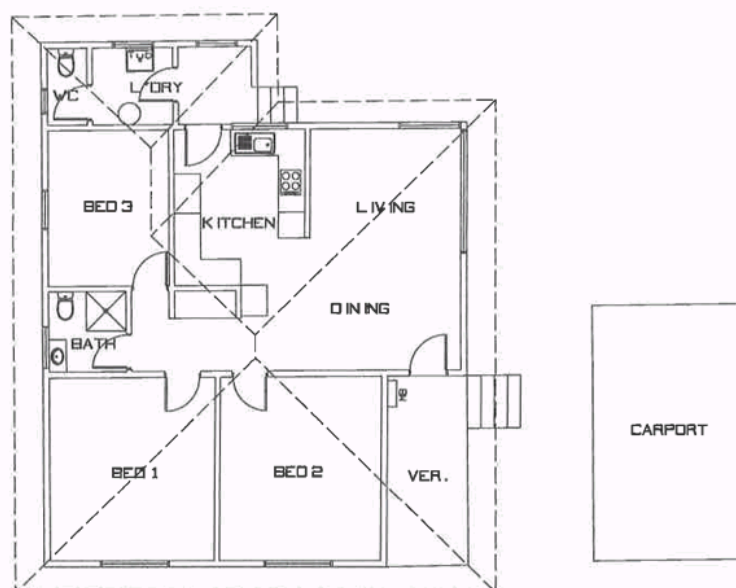
PROPOSED SITE PLAN
SCALE 1:200

NOTE: EXISTING SITE PLAN FROM DETAIL SURVEY
PROVIDED BY MPF SURVEYING PTY LTD.


Project:		PROPOSED EXTENSION TO EXISTING RESIDENCE AT No.2 GEORGE STREET MILLTHORPE, NSW	
C	ACCESSIBLE CAR SPACES ADDED	04.08.18	
B	AMENDED FOR HERITAGE REPORT	19.07.18	
A	RAMP LENGTH EXTENDED	14.08.18	
No. 1	Description	Site	
Author:		18-029	
Drawn:	7.8.8	Scale:	1:200
Check:	7.8.8	Scale:	1:200
Project:		18-029	
Drawn:		DA5	
Check:		C	
Project:		18-029	
Drawn:		DA5	
Check:		C	







EXISTING FLOOR PLAN

			PROJECT:		
			PROPOSED EXTENSION TO		
			EXISTING RESIDENCE AT		
			1445 GEORGE STREET		
			MILLTHORPE, NEW		
			TIER:		
			EXISTING FLOOR PLAN		
No. 1 Description			Date		
Description					
Unit 1	Drawn	Unit	DATE		
AS NOTED	T.B.S.	1445	14/4/2014		
			JOB NO. 16-029		
DRG. NO. DA1			SCALE		
DRG. NO. 05			DATE		
PREPARED BY: DAVID A. BASSMANN			CHECKED BY: DAVID A. BASSMANN		
DATE: 14/4/2014			SCALE: 1/4" = 1'-0"		
PROJECT NO. 1445			JOB NO. 16-029		
DRAWING NO. DA1			SCALE 1/4" = 1'-0"		
PREPARED BY: DAVID A. BASSMANN			CHECKED BY: DAVID A. BASSMANN		
DATE: 14/4/2014			SCALE: 1/4" = 1'-0"		
PROJECT NO. 1445			JOB NO. 16-029		
DRAWING NO. DA1			SCALE 1/4" = 1'-0"		
PREPARED BY: DAVID A. BASSMANN			CHECKED BY: DAVID A. BASSMANN		
DATE: 14/4/2014			SCALE: 1/4" = 1'-0"		
PROJECT NO. 1445			JOB NO. 16-029		
DRAWING NO. DA1			SCALE 1/4" = 1'-0"		
PREPARED BY: DAVID A. BASSMANN			CHECKED BY: DAVID A. BASSMANN		
DATE: 14/4/2014			SCALE: 1/4" = 1'-0"		
PROJECT NO. 1445			JOB NO. 16-029		
DRAWING NO. DA1			SCALE 1/4" = 1'-0"		
PREPARED BY: DAVID A. BASSMANN			CHECKED BY: DAVID A. BASSMANN		
DATE: 14/4/2014			SCALE: 1/4" = 1'-0"		
PROJECT NO. 1445			JOB NO. 16-029		
DRAWING NO. DA1			SCALE 1/4" = 1'-0"		
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[illegible]

PROPOSED EAST ELEVATION
SCALE 1:100

PROPOSED NORTH ELEVATION
SCALE 1:100

PROPOSED WEST ELEVATION
SCALE 1:100

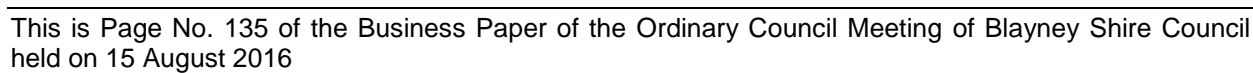
PROPOSED SOUTH ELEVATION
SCALE 1:100

STAIR NOTE:
NEW STAIRS BUILT IN ACCORDANCE WITH THE REQUIREMENTS OF THE BCA.
RISERS = MAX. - 190mm
MIN. - 115mm
GOING = MAX. - 355mm
MIN. - 250mm
2R + G = MAX. - 700mm
MIN. - 550mm

STAIR HANDRAIL NOTE:
FIXED AT A HEIGHT OF NOT LESS THAN 865mm ABOVE THE NOSINGS OF STAIR TREADS & THE LANDINGS.
(TO COMPLY WITH PART D2.17 OF THE B.C.A.)

BALUSTRADE NOTE:
SELECTED 1020mm HIGH HANDRAIL OR BALUSTRADE WITH VERTICAL BARS AT 125mm MAX.CTS.
(TO COMPLY WITH THE B.C.A.)

BASSMANN DRAFTING SERVICES
18/02/16
DA4 B
05



CONDITIONS ISSUED WITH
DEVELOPMENT APPLICATION NO. 60/2016 – CHILD CARE CENTRE - LOT 1
DP 575622 - 2 GEORGE STREET, MILLTHORPE

STATUTORY**REASON: Statutory requirement**

1. Development is to take place in accordance with the attached stamped plans (Ref No. DA 60/2016), 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 building shall be constructed and maintained in accordance with the requirements of the Building Code of Australia. In this regard the following must be indicated on the plans submitted with the Construction Certificate application in accordance with the Building Code of Australia (Volume 1):

- a. facilities listed in Clause F2.3(g);
- b. details to indicate compliance with the energy efficiency provisions of Section J;
- c. portable fire extinguishers and a fire blanket must be provided in accordance with Australian Standard AS2444-2001;
- d. should ducted air-conditioning be provided in the building, automatic shutdown of the system shall be provided in accordance with NSW Table E2.2b of the Building Code of Australia (Volume 1);
- e. floor coverings and carpets must comply with the Fire Hazard Properties of Specification C1.10; and
- f. access for people with a disability in accordance with Part D3 and Australian Standard AS1428.1-2009.
 - i. An accessible carparking space complying with AS/NZS2890.6 shall be provided on the property in accordance with Clause D3.5. The carparking space and shared areas shall be identified and delineated in accordance with Section 3 of AS/NZS 2890.6. A bollard shall be provided to ensure that the shared space at the side of the carparking space remains unobstructed.
 - ii. A continuous accessible path of travel shall be provided from the carparking space and from the pedestrian entry to the property to the entry of the building via walkways, ramps and landings that comply with AS1428.1-2009.
 - iii. All doors in the building shall have a clear opening width of 850mm with D-type lever handles located between 900mm and 1 metre above the floor and have a luminance contrast of 30% to the adjacent walls.
 - iv. The accessible sanitary facility must comply with Clause 15 of AS1428.1 and the access door be provided with signage in accordance with Clause D3.6. The other toilet must be an

ambulant sanitary compartment in accordance with Clause F2.4(c) complying with Clause 16 of AS1428.1-2009, and the access door be provided with signage in accordance with Clause D3.6.

- v. Circulation spaces at the entry porch and within the building must comply with AS1428.1-2009.
- vi. The rear sliding glass is not accessible due to the tracks and must be changed to a door with a level threshold.
- vii. Tactile indicators are required in accordance with Clause D3.8.

3. In accordance with Clause 94 of the Environmental Planning and Assessment Regulation 2000, the following upgrading work shall be carried out to the building prior to the issue of an Occupation Certificate:

- The south wall of the building that is less than 3 metres from the side boundary shall be clad with a lightweight fire wall system to achieve a Fire Resistance Level of 60/60/60 when measured from the outside. Details of the proposed wall system to be utilized shall be submitted with the Construction Certificate application.

4. The applicant is to submit to Council, at least two (2) days prior to the commencement of any works, a notice of commencement of building or subdivision works and Appointment of Principal Certifying Authority (PCA).

5. The developer is to provide a clearly visible sign to the site stating:

- a) Unauthorised entry to the worksite is prohibited;
- b) Street number or lot number;
- c) Principal contractor's name and licence number; or owner builders permit number;
- d) Principal contractor's contact telephone number/after-hours number;
- e) Identification of Principal Certifying Authority, together with name, address & telephone number.

Note: Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out.

6. Prior to the occupation or use of the building an Occupation Certificate is to be obtained and where Council is not the PCA a copy is submitted to Council.

7. The applicant is to show evidence of compliance with their obligations as a service provider under the *Education and Care Services National Law Act 2010* ('National Law') and the *Education and Care Services National Regulations 2011* ('National Regulations'), prior to issue of the Occupation Certificate.

CONSTRUCTION

REASON: Statutory requirement

8. All excavation and backfilling associated with the erection/demolition of the building must:

- a) be executed safely and in accordance with appropriate professional standards, and

- b) be properly guarded and protected to prevent them from being dangerous to life or property.

9. The developer is to submit a soil and water management plan for the site in accordance with *WBC Guidelines for Engineering Work*.

No building, Engineering, or excavation work, or topsoil stripping or vegetation removal, is to be carried out in relation to this development until such time as; the plan has been approved by council and the measures detailed in the plan are in place prior to works commencing. The measures detailed in the plan are to remain in place until all landscaping is completed.

10. The applicant is to submit three (3) copies of engineering plans, specifications and calculations in relation to carparking and drainage, Conditions 16 & 17. Further, the works are to comply with *WBC Guidelines for Engineering Works*.

11. The applicant is to prepare and implement a Traffic Management Plan that provides necessary direction to traffic or pedestrian movement through or past the work site. The Traffic Management Plan is to be prepared by a suitably qualified person in accordance with the provisions of the relevant Australian Standards and is to be submitted to Council for approval PRIOR to its implementation.

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

13. The applicant is to obtain a Construction Certificate from Council, for the engineering work required by conditions 16 & 17. The Construction Certificate is to be obtained prior to works commencing for the works associated with conditions 16 & 17. Design shall be in accordance with *WBC Guidelines for Engineering Works*.

Note: Where Council is the Certifying Authority in relation to engineering works fees will be payable in accordance with Council's Revenue Policy.

14. The developer is to lodge a bond with Council equal to 5% of the total civil construction costs at practical completion of the works on George Street, to be held by Council for a minimum period of twelve (12) months. The bond must be lodged with Council prior to the issue of the Subdivision Certificate.

15. The developer is to make a payment to Council for the provision of each street sign. The amount applicable will be dependent upon the date on which payment is made and will be as per Council's adopted fees and charges for the financial year in which payment is made. Parking signs (to be approved through Council's Traffic Committee) would include:

- Two (2) "Warning Children" signs.
- Disabled parking sign.

16. Car parking shall be provided for the development in accordance with Council's relevant Development Control Plan and/or *Australian Standard AS 2890.1 – 1993*

Car Parking:

- a) Provision shall be made opposite the site for 8 angle parking vehicle spaces, each to be of minimum dimensions 5.5 x 2.5 metres, separately and clearly delineated.
- b) Provision shall be made in front of the site for 4 parallel parking vehicle spaces, each to be of minimum dimensions 5.5 x 2.5 metres, separately and clearly delineated.
- c) The proposed car parking and access areas are to be constructed of material that would avoid the potential raising of dust.

17. One off-street accessible parking space is to be provided on site in accordance with AS/NZS2890.6.

18. All parking and/or loading bays shall be permanently marked out on the pavement surface with loading bays and visitor parking facilities being clearly indicated by means of appropriate signs to facilitate the orderly and efficient use of on-site parking and loading/unloading facilities.

Note: If other hard standing, dust free and weather proof surfaces are proposed other than concrete, written approval is to be obtained from Council that the proposed alternative is acceptable.

19.A 2.5 metre wide, 100 mm thick concrete footpath is to be constructed from the existing kerb fronting No. 2 George Street to the property boundary, and perambulator laybacks are to be constructed in that that kerb all in accordance with *WBC Guidelines for Engineering Works*.

20. The applicant is to arrange an inspection of the development/subdivision works by Council's Engineering Department, at the following stages of the development. This condition applies notwithstanding any private certification of the Engineering works.

	COLUMN 1	COLUMN 2
A	Road Construction	<ul style="list-style-type: none"> * Following site regrading, and prior to installation of footway services; * Excavation and trimming of subgrade; * After compaction of sub-base; * After compaction of base, and prior to sealing; * Establishment of line and level for kerb and gutter placement; * Subsoil Drainage; * Road pavement surfacing; * Pavement test results (compaction, strength).
B	Concrete Footway Crossings	<ul style="list-style-type: none"> * After placing of formwork and reinforcement, and prior to concrete placement;
C	Road Openings	<ul style="list-style-type: none"> * Upon completion of works.

21. All road and inter allotment drainage is to be conveyed to the gutter in George Street in accordance with *WBC Guidelines for Engineering Works*.

22. The developer is to relocate any utility services if required, at the developer's cost.

DEMOLITION & ASBESTOS

REASON: To comply with Council's statutory requirements.

23. Demolition work shall be carried out in accordance with Australian Standard AS2601-1991: The Demolition of Structures, and NSW WorkCover requirements.

24. Precautions shall be taken in accordance with the requirements of NSW WorkCover in respect of;

- a) Protection of site workers and the public.
- b) Asbestos handling and disposal where applicable.

25. Suitable measures shall be taken to ensure that there is no adverse effect to occupants of adjoining buildings and the public by the generation of dust and/or noise during demolition.

26. Should there be any asbestos present in the building, it shall all be removed as part of the alterations and additions to convert the dwelling to the child care centre.

27. **Fourteen (14) days prior to the commencement of any demolition works involving asbestos**, all immediate neighbours should be notified in writing of the intention to carry out asbestos demolition works. Copies of these written notifications should be retained and provided to Council.

28. Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Demolition Licence.

29. An independent Asbestos Assessor is to provide the following to Council prior to issue of the Occupation Certificate;

- A Clearance Certificate in accordance with the National Occupational Health and Safety Commission Code of Practice for the Safe Removal of Asbestos, the removal of any asbestos sheeting (even if asbestos sheeting is under 10m²),
- Verification that there is no presence of asbestos materials in the outdoor playground areas (if any fill has been placed onsite which could contain asbestos), and
- There is no Naturally Occurring Asbestos (NOA) within close proximity to the surface of the outdoor playground areas that could pose a threat to any person.

30. Documentary evidence in the form of tip receipts from an approved Waste Management Facility shall be obtained demonstrating the appropriate disposal of the asbestos waste. Tip receipts shall be provided to Council at the completion of demolition works and prior to any further works on the site.

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

31. 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 Council's website).

32. 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 placed on the development site prior to commencement of operations. Materials or machinery to be used in association with the development must be stored and stacked wholly within the building outside of the hours of operation 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.

33. There shall be no burning of waste material, felled trees or other material on the site.

34. Noise generating construction activities are to be restricted to the hours of:

- Monday to Friday 7am to 6pm
- Saturday 8am to 5pm
- Sundays and Public Holidays Nil

35. Certification is to be provided to the satisfaction of Council that the original septic tank and trench were appropriately removed and the site remediated, and the nature of any fill which might have been placed in the playground area, prior to the issue of the Occupation Certificate.

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

36. Noise levels (measured at any point on the boundary of the site between the proposed development and adjoining property), should not exceed 5dba above the L90 background level during the hours of operation.

37. A landscaping plan is required to be lodged with Council which demonstrates the provision of privacy and visual screening along the street frontage and side and rear boundaries, at the same time of maintaining local character and amenity, prior to issue of the Construction Certificate.

SECTION 94A CONTRIBUTIONS (TYPE C - OTHER)**REASON: To comply with Council's statutory requirements**

38. Contributions are to be paid to Council under the *Blayney Local Infrastructure Contributions Plan 2013*. The contribution equates to 0.5% of the development cost. In this regard a cost summary report or the signed building contract confirming the total cost of the development is to be provided with the Construction Certificate to calculate the contribution payable.

Evidence of payment of the contributions is to be provided to the Principle Certifying Authority prior to the issue of the Construction Certificate.

SECTION 68**REASON: To comply with Council's statutory requirements**

39. All drainage and plumbing work is to be carried out in accordance with the current *Plumbing and Drainage Code of Practice* by a licensed plumber and drainer.

40. A works as executed plan drawn to the scale of 1 in 200 of drainage is to be submitted to Council at the time of inspection.

ADVICE AND NOTES**Inspection Schedule**

The Principal Certifying Authority is required to ensure all work is carried out in accordance with the consent, Building Code of Australia (BCA), and relevant standards, which is done during inspections at nominated stages of the work. The "Inspection Schedule" lists the mandatory and other required inspections that must be carried out by Blayney Shire Council during construction of the work.

As the Principal Certifying Authority, Council must be contacted to undertake inspections of the various stages of construction as follows:

- a. Internal and external sanitary drainage.
- b. Slab/footing inspection when steel is laid prior to the pouring of concrete.
- c. Frame inspection
- d. Hot and cold water prior to internal lining.
- e. Waterproofing prior to tilling.
- f. Final/stormwater inspection at time of completion of all works.

Notice of Commencement

Notice of commencement of building works – The attached form needs to be completed and faxed or mailed to Council at least 2 days before any work commences on the site.

Reference to the Building Code of Australia

A reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

14) PLANNING PROPOSAL TO AMEND BLAYNEY LOCAL ENVIRONMENTAL PLAN 2012 - SECTION 73A AMENDMENT

Department: Planning and Environmental Services

Author: Senior Town Planner

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

File No: LP.PL.2

Recommendation:

That Council prepare an amendment and forward a request to the Department of Planning & Environment to consider the amendment, to correct a misdescription which occurred in drafting the main *Blayney Local Environmental Plan 2012* (BLEP 2012) amendment mapping under PP_2015_BLAYN_002_00, to amend Heritage Map HER_004B within the *Blayney Local Environmental Plan 2012*.

Reason for Report:

The purpose of this report is to seek Council resolution to submit an amendment to the BLEP 2012 to the Department of Planning & Environment (DPE) to amend a drafting misdescription in the mapping submitted to the DPE for the Planning Proposal relating to the heritage items on Schedule 5 of *Blayney Local Environmental Plan 2012* (BLEP).

Report:

Councillors will recall that at its Ordinary Meeting of 13 April 2016 it resolved to forward a Planning Proposal to the Minister for Planning and Environment seeking to amend Schedule 5 and the corresponding Heritage Maps within the *Blayney Local Environmental Plan 2012*. The instrument was signed by the General Manager on 31 May 2016, and the Map Cover Sheet was signed by the General Manager on 1 June 2016. The plan was gazetted on 3 June 2016.

Subsequently an inconsistency has been discovered in the mapping in relation to Item 59 – Blayney Abattoirs. The Blayney abattoir site sat across two maps, and Council sought to have the item removed from both sheets. On Map HER_004BA, the item has been removed, but on Map HER_004B, it appears to be still on the map, even though the Signed Map Cover sheet included both maps.

The Department advise that this will need to be corrected via a section 73A amendment. The s73A process is an expedited amendment process, where the usual procedures for preparing an instrument are not required for minor amendments, such as exhibition and agency consultation.

A resolution is required from Council initially to prepare the amendment.

Issues:

Nil

Budget Implications:

Nil

Enclosures (following report)

- | | | |
|---|------------------|--------|
| 1 | HER_004BA markup | 1 Page |
| 2 | HER_004B markup | 1 Page |

Attachments (separate document)

Nil

