

**ENVIRONMENTAL SERVICES REPORTS**  
**PRESENTED TO THE BLAYNEY SHIRE COUNCIL**  
**MEETING HELD ON MONDAY, 9TH MARCH 2009**



**09) DEVELOPMENT APPLICATIONS – FEBRUARY 2009**

(Director Environmental Services)

**RECOMMENDED:**

1. That the Report on Development Applications received for February 2009, be noted.

**REPORT**

The following is a list of Development Applications received during the month of February 2009, totalling \$1,712,549.00.

DA No.	Applicant	Construction	Value (\$)	Address	Report
93/2009	Tracey & John Mackie	Erection of a Pergola	\$5,000	4 Burton Street, Blayney	No
94/2009	Dave Cowan Constructions	Erection of a Dwelling	\$125,000	70 Kentucky Road, Neville	No
95/2009	GR O'Malveney	Erection of a Shed	\$600	6376 Mid Western Highway, Lyndhurst	No
96/2009	William and Maria Bevan	Erection of a Shed	\$58,498	1 Curtain Street, Newbridge	Yes
97/2009	Todd Humphrey	Alteration of an Existing Bedroom into an Ensuite	\$4,500	9 Stringybark Road, Newbridge	No
98/2009	GJ Gardner Homes	Erection of a Dwelling and Water Tank	\$221,652	101 Forest Reefs Road, Millthorpe	No
99/2009	Dianne Blazley	Erection of a Machinery Shed/Workshop	\$9,000	7 Wirraway Lane, Carcoar	No
100/2009	Anthony Redfern	Erection of a Garage	\$11,785	8 Bluett Close, Forest Reefs	No
101/2009	GJ Gardner Homes	Erection of a Dwelling	\$253,514	6 Patrick Close, Blayney	No
102/2009	Millthorpe and District Historical Society	Internal Alterations	\$6,000	37 Park Street, Millthorpe	No
103/2009	RW & ME Dowsett	Erection of a Transportable Dwelling	\$210,000	534 Trunkey Road, Neville	No
104/2009	WE & J Hayden	Erection of a Carport	\$7,000	44 Adelaide Street, Blayney	No
105/2009	Greater Western Area Health Service	Extension and Refurbishment of Blayney Hospital	\$500,000	1 Osman Street, Blayney	Yes
106/2009	C McNab & SL Fisher	Erection of a Dwelling and Demolition of Existing Dwelling	\$300,000	218 Junction Reefs Road, Mandurama	No
<b>TOTAL</b>			<b>\$1,712,549.00</b>		

It is noted that no Development Applications were submitted to Council seeking a variation of development standards under SEPP1 within this reporting period.

**BUDGET IMPLICATIONS**

Applications provide processing fees.

**POLICY CONSIDERATIONS**

Nil effect.

**10) DEVELOPMENT APPROVALS – FEBRUARY 2009**

(Director Environmental Services)

**RECOMMENDED:**

1. That the Report on Development Approvals for February 2009 be noted.

**REPORT**

The following is a list of Development approvals determined during the months of February 2009.

DA No.	Applicant	Construction	Address	Determination Date
83/2009	TA & EL Malfroy	Erection of a Honey Packaging Facility and Signage	40 Lawson Street, Blayney	29/01/2009
89/2009	Wayne Davies	Erection of Two (2) Shop Signs and One (1) "A" Frame Advertising Sign	62 Adelaide Street, Blayney	30/01/2009
86/2009	AH & JM Oborn	Demolition and Erection of a Farm Shed	368 Forest Reefs Road, Forest Reefs	30/01/2009
84/2009	Kenwood Homes Pty Ltd	Erection of a Dwelling	19 Piggott Place, Blayney	30/01/2009
93/2009	Tracey & John Mackie	Erection of a Pergola	4 Burton Street, Blayney	02/02/2009
97/2009	Todd Humphrey	Conversion of a Bedroom into an Ensuite	9 Stringybark Road, Newbridge	05/02/2009
173/2007	TransGrid	Establishment of a Telecommunication Compound including the Erection of an 80 Metre High Steel Angel Tower and the Erection of an Equipment Hut	Crown Reserve located within the State Forest at top of Mount Macquarie	05/02/2009
95/2009	GR O'Malveney	Erection of a Shed	6376 Mid Western Highway, Lyndhurst	10/02/2009
90/2009	Mark Perizzolo	Erection of a Shed	8 Hunt Place, Blayney	10/02/2009
91/2009	RL Bennetts	Conversion of a Garage to a Living Room Area	4 Euroka Place, Blayney	10/02/2009
47/2009	Anglican Church Property Trust	Re-cladding of Existing Church Spire with Plain Colorbond Sheeting	15 Belubula Street, Carcoar	10/02/2009
75/2009	R Howard & N Kable	Extension to Existing Shed and Use of the Land for the Receiving and Processing of Drilling Samples	27 Tollbar Street, Blayney	10/02/2009
68/2009	Blayney Shire Council	Redevelopment of the Blayney Community Centre	41 Church Street, Blayney	10/02/2009
87/2008	Peter Beuzeville	Completion of Extension to Dwelling and Construction of a new Garage	40 Orange Road, Blayney	11/02/2009
88/2009	Geoff Capper	Erection of a Farm Shed	45 Arley Lane, Lyndhurst	17/02/2009
87/2009	John Power	Extension of Awning over	1 Jarman Crescent,	17/02/2009

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		Loading Deck	Blayney	
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**BUDGET IMPLICATIONS**

Applications provide processing fees.

**POLICY CONSIDERATIONS**

Nil effect.

11) **UPDATE ON THE BLAYNEY SHIRE COUNCIL COMMUNITY BASED HERITAGE STUDY PROJECT**  
(Senior Town Planner)

**RECOMMENDED:**

1. That the report on the update on the Blayney Shire Council Community Based Heritage Study project be received and noted.

**REPORT**

The Community Heritage Working Group allows members of the community to investigate the history of the area and assess items and places of heritage significance in preparation of the new Blayney Local Environmental Plan, in consultation with Council staff and the Heritage Consultant.

Throughout the months of January and February in 2009, Council advertised within the local newspaper for volunteers to join the Community Heritage Working Group.

Due to the lack of feedback received, Council wrote letters to historical organisations and societies within the local community and residents who had applied for a Local Heritage Assistance Grant in the last two (2) years. Council received positive feedback and Council has the following ten (10) members on the Community Heritage Working Group;

- David Scobie (Heritage Consultant)
- Cr Geoff Braddon OAM
- Paul O'Brien (Director of Environmental Services)
- Claire Stewart (Senior Town Planner)
- Jill Cole
- Sandra Retallack
- Elaine Kaldy
- Karen Somerville
- Gwenda Stanbridge
- Rhonda Jones

Council encourages Councillors and community members to be involved throughout the Heritage Study Project and to contribute information on Heritage Listed Items or potential listings.

The next stage of the study is to organise and hold community consultation meetings throughout the local government area. A report will be presented at the next Ordinary Council Meeting outlining the description and locations of the community consultation meetings.

**BUDGET IMPLICATIONS**

The preparation of a new Local Environmental Plan and the Heritage Study for Blayney Shire Council will require input from all the staff of the Environmental Services Department, the appointed WBC Alliance Strategic Planner and external consultants. The work has been acknowledged in the 2008/2009 Management Plan and the December 2008 Ordinary Council Meeting.

It is noted that the NSW Heritage Office has offered a dollar for dollar grant of up to \$12,300 to assist Blayney Shire Council to prepare the Community Based Heritage Study.

**POLICY CONSIDERATIONS**

Preparation of a Draft Local Environmental Plan for the local government area of Blayney will repeal the *Blayney Local Environmental Plan 1998* and the Heritage Study 1991.

12) **DA 85/2009 – ERECTION OF A WATER TANK AND A WATER RECYCLING SYSTEM – 190 MARSHALLS LANE, BLAYNEY**  
(Senior Town Planner)

**RECOMMENDED:**

1. That Council grant consent to Development Application No. 85/2009 for the erection of a water tank and a water recycling system at 190 Marshalls Lane, Blayney, subject to the conditions contained in the attached Schedule "A".

**REPORT**

<b>Applicant:</b>	Western White Linen
<b>Owner:</b>	KW & GR Haylan
<b>Application No:</b>	85/2009
<b>Zone:</b>	2(v) Urban or Village
<b>Date Received:</b>	23 <sup>rd</sup> December 2008
<b>Assessment No:</b>	921-01000-5
<b>Property:</b>	Lot 21 DP 806163 – 190 Marshalls Lane, Blayney
<b>Proposed Development:</b>	Erection of a water tank and a water recycling system.

Council has received Development Application 85/2009 on the 23<sup>rd</sup> December 2008, for the erection a water tank and steel shed to house a water recycling system at 190 Marshalls Lane, Blayney. On the 23<sup>rd</sup> February 2009 the applicant modified the application to gain consent for the erection of a water tank and a water recycling system, which proposes to be contained within the existing main building, instead of the originally proposed steel shed.

The development application was referred to adjoining land owners on the 8<sup>th</sup> January 2009, for comment in accordance with Council's *Public Notification of Development Application Policy*. One (1) letter was received. Please refer to the attached document.

The letter received on the 20<sup>th</sup> January 2009 indicated that King Cain Solicitors intended to forward a submission to Council within one (1) week. The letter also requested a copy of all relevant documents relating to the application. Council replied to the letter on the 22<sup>nd</sup> January 2009, extending the submission period to the close of business on the 30<sup>th</sup> January 2009 and forwarded a copy of the relevant documents to allow a submission to be received and to be considered by Council.

One (1) submission was received on the 2<sup>nd</sup> February 2009.

Due to the applicant modifying the submitted application it was considered that the proposed development did not require re – notification to adjoining land owners, as the water recycling system is proposed to be contained with the existing main building on the subject land, thus creating minimal impact to surrounding development.

**Section 79C Assessment:****(a)(i) the provisions of any environmental planning instrument**Environmental Planning and Assessment Act 1979

In determining the application Council must take into consideration the relevant matters under Section 79C of the Environmental Planning and Assessment Act 1979. These are assessed below:

State Environmental Planning Policy's (SEPP)

<b>SEPP No.</b>	<b>DESCRIPTION</b>	<b>COMMENT</b>
No. 1	Development Standards	Not applicable
No. 4	Development without consent and Miscellaneous Exempt and Complying Development	Not applicable
No. 6	Number of Storeys in a Building	Not applicable
No. 8	Surplus Public Land	Not applicable
No. 9	Group Homes.	Not applicable
No. 11	Traffic Generating Developments.	Not applicable
No. 15	Rural Landsharing Communities	Not applicable
No. 16	Tertiary Institutions	Not applicable
No. 21	Caravan Parks	Not applicable
No. 22	Shops and Commercial Premises.	Not applicable
No. 30	Intensive Agriculture	Not applicable
No. 32	Urban Consolidation (Redevelopment of Urban Land).	Not applicable
No. 33	Hazardous & Offensive Development	Not applicable
No. 34	Major Employment Generating Industrial Development	Not applicable
No. 35	Maintenance Dredging of Tidal Waterways	Not applicable
No. 36	Manufactured Home Estates	Not applicable
No. 37	Continued Mines & Extractive Industries.	Not applicable
No. 44	Koala Habitat Protection	Not applicable
No. 45	Permissibility of Mining	Not applicable
No. 48	Major Putrescible Landfill Sites.	Not applicable
No. 50	Canal Estate Development	Not applicable
No. 55	Remediation of Land	Not applicable
No. 64	Advertising and Signage	Not applicable
No. 65	Design and Quality of Residential Flat Development	Not applicable
ARTC Rail Infrastructure	ARTC Rail Infrastructure 2004	Not applicable
Seniors Living	Seniors Living 2004	Not applicable
BASIX	(Building Sustainability Index: BASIX) 2004	Not applicable
Major Projects	SEPP (Major Projects) 2005	Not applicable
Rural Lands	SEPP (Rural Lands) 2008	Not applicable

Regional Environmental Plans (REP)

None Relevant

Local Environmental Plan (LEP)

The subject land is zoned 2(v) Urban or Village under the provisions of the *Blayney Local Environmental Plan 1998*. The proposed development is permissible, subject

to the consent of Council in accordance with the provisions of the *Blayney Local Environmental Plan 1998*.

#### Zone Objectives

*The objective of this zone is to promote development in existing towns and villages in a manner which is compatible with their urban function.*

The proposed development is permissible within the subject land, and is considered compatible with the existing land use pattern.

#### Permissibility

The proposed development is permissible with the development consent of Council under the *Blayney Local Environmental Plan 1998*.

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

There are no known draft environmental planning instruments applicable to the subject land.

#### **(a) (iii) any development control plans**

The *North Blayney Development Control Plan No. 1/96* applies to the subject land and is located in the *Sub-Zone No. 4 Industrial Zone*.

The objectives of this sub – zone are to:

- 1. Provide suitable areas for those industrial enterprises which should be kept away from residential neighbourhoods; and*
- 2. Require all development to be environmentally responsible and not adversely affect either adjoining sites or existing residences.*

The proposed development is considered to be consistent with the objectives of the sub – zone, due to the proposed development being for the erection of a water tank and a water recycling system for an existing commercial business, located within a locality comprising of commercial and industrial development.

Within the sub – zone all development must comply with the objectives and:

- 1. Heavy industrial development or transport terminals must be more than 100 metres from sub- zone No. 1 and from any occupied dwelling, unless it can be demonstrated beyond all doubt that the activity will not adversely affect the amenity of the neighbourhood by reasons of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise;*
- 2. All development must not further adversely affect local amenity and must respect nearby existing occupied dwellings, by locating buildings in such a way that they shield them from any outdoor activities or plant which might otherwise cause some noise or nuisance; and*
- 3. Proper provision is made to control all emissions from the site*

The proposed development does not involve the operation of heavy industrial development or transport terminals.

It is considered unlikely that the proposed development will have adverse affects on the surrounding local amenity or existing occupied dwellings (one (1) existing dwelling house is located approximately 200metres north from the existing main building). This is due to existing mature trees located along the northern boundary of the allotment, creating a buffer between the proposed development and the existing dwelling house. It is noted that the subject land is currently used for the operation of a commercial business, *Western White Linen*.

The applicant proposes to install a commercial water filtering recycling and temperature control unit known as the “Aquamiser” and the “Optimser” systems, which shall be housed within the existing main building on the subject land.

These systems are self- contained units which receive wastewater from the bulk laundering machines, filter to remove larger items which includes lint, paper and the like which is disposed of to garbage waste collection bins and filtered again to remove small particles down to 25um. The secondary filters are automatically backwashed (cleaned) every 3-5 minutes, and the backwash water is disposed of to the sewer system. The wastewater is then suitable for re-use in the laundering process, and is re-heated by the temperature control unit.

The recycling system will significantly reduce the fresh water usage of the operation and also reduce the volume of wastewater entering Council`s sewer system by approximately 35%.

A pH monitoring and control system will manage the pH of the waste water to between 6 & 10 and the heat recovery system will reduce wastewater temperature to below 38°C. The temperature and pH levels will be data logged and be available for Council to monitor. There will be no increases in Bio Chemical Oxygen Demand or Chemical Oxygen Demand with the new system.

The introduction of the system will result in wastewater discharge to sewer which falls within the terms of the current Trade Waste Agreement for this factory and the recycling system is therefore recommended for approval.

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

Clause 92 of the Environmental Planning and Assessment Regulation 2000 prescribes certain matters that must be considered by Council in determining a development application. There are no relevant prescribed matters that would apply to this proposal.

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

The subject land is located in a 2(v) Urban or Village zone, approximately 5km north of the main centre of Blayney. The subject land is currently used for the operation of a commercial business, *Western White Linen*.

Land use within the locality comprises of commercial and industrial development. One (1) dwelling house is located to the north of the proposed development, approximately 200 metres from the existing shed.

**Visual Impact**

The proposed water tank is located near the south boundary of the subject land, behind the existing building line and the water recycling system within the existing main building. Existing mature trees are located along the northern boundary of the subject land, which softens the proposed development from the adjoining property and dwelling house. However, due to the surrounding land use patterns, it is considered that the proposed development will not have any negative visual impact on the surrounding development.

**Access, Transport and Traffic**

Access to the subject site is via Marshalls Lane, which is a full width bitumen sealed. The subject land has an existing full width concrete layback and crossing, which satisfies Council's specifications.

**Utilities**

The subject site is connected to existing services including, electricity, telecommunications and water services.

**Sewer**

Sewer mains are located along the northern boundary of the subject site. Effluent created from the existing commercial operation is connected as trade waste to Council's sewer. Standard conditions of consent will apply to ensure that the proposed development will be connected as trade waste to Council's sewer and that the applicant provides details of effluent (quantity and quality) before and after recycling equipment has been installed.

**Stormwater**

Stormwater disposal shall be connected to the proposed 5000 Litre tank.

**Heritage****European Heritage**

There are no known heritage items on the subject site. The site is not located within the Heritage Conservation Area.

**Aboriginal Heritage**

There are no known items of Aboriginal heritage located on the subject land.

**Other Land Resources**

The proposed development will not adversely impact on productive agricultural land, mineral and extractive industries or water supply catchments, as it is located in a 2(v) Village or Urban Zone. Land use within the locality comprises of commercial and industrial development. One (1) existing dwelling house is located approximately 200 metres north from the existing shed.

**Water, Air, Soil & Microclimate**

The proposed development is not likely to cause any adverse impacts in terms of water, air, soil or microclimate, due to the nature of the development.

**Flora & Fauna**

The surrounding land use is characterised by industrial and commercial development, no known critical habitats or threatened species exist on the subject site.

**Waste**

Any waste generated from the construction of the proposed development will be removed from the subject site after the completion of the works.

**Noise and Vibration**

Noise and vibration levels may increase during the construction phase of the proposed development. It is considered that the proposed water recycling system will not create detrimental noise impacts, due to the system being contained within the existing main building.

**Natural Hazards**

There are no known natural hazards on the subject site.

**Technological Hazards**

Council has no records or evidence to suggest that the site may be contaminated and it is unlikely that the subject land would be subject to any form of land contamination.

**Safety, Security & Crime Prevention**

The proposed development addresses the principles of safety, security and crime prevention through the design portraying a sense of ownership, respect and territorial responsibility under the principles of CPTED.

**Social & Economic Impact on the locality**Social

The proposed development allows an existing business to upgrade and maintain a high standard of commercial operations within the Blayney local government area.

Economic

The proposed development will create a number of employment opportunities during the construction phase and could potentially lead to employment opportunities once the proposed development is in operation.

**Construction**

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The proposed development will be built in accordance with the Building Code of Australia and Council's Policies. A standard condition of consent will apply.

### **Site Design and Internal Design**

The site and internal design of the proposed development is considered generally appropriate as it takes into consideration existing structures and facilities.

### **Cumulative Impacts**

It is considered unlikely that any cumulative impacts will be experienced as a result of the proposed development.

### **The suitability of the site for the development**

The subject site is zoned 2(v) Urban and Village under *Blayney Local Environmental Plan 1998* and complies with *North Blayney Development Control Plan No.1/96*. It is considered that the subject site is suitable for the proposed development, as the surrounding land use is characterised by industrial and commercial development.

#### **(a) any submissions made in accordance with this Act or the regulations**

The development application was referred to adjoining land owners on the 8<sup>th</sup> January 2009, for comment in accordance with Council's *Public Notification of Development Application Policy*. One (1) letter was received. Please refer to the attached document.

The letter received on the 20<sup>th</sup> January 2009 indicated that King Cain Solicitors intended to forward a submission to Council within one (1) week. The letter also requested a copy of all relevant documents relating to the application. Council replied to the letter on the 22<sup>nd</sup> January 2009, extending the submission period to the close of business on the 30<sup>th</sup> January 2009 and forwarded a copy of the relevant documents to allow a submission to be received and to be considered by Council.

One (1) submission was received on the 2<sup>nd</sup> February 2009.

The submission received raised the following issues:

- The development will be visually prominent in the surrounding area and in particular to Mr Marshall as neighbouring resident.

Land use within the locality comprises of commercial and industrial development. One (1) dwelling house is located to the north of the proposed development, approximately 200 metres from the existing main building on the subject land. Existing mature trees are located along the northern boundary of the allotment, creating a buffer between the proposed development and the one (1) existing dwelling house.

- The proposed development is not consistent with the existing streetscape or Council's setback policies, in particular as Mr Marshall's property is a residential / rural zoning.

Land use within the locality comprises of commercial and industrial development within the 2(v) Urban or Village zone. The proposed development involves the

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erection of a water tank and a water recycling system. Council's *Development Control Plan No. 5 – Medium Density Development* applies to the subject land and states that *buildings are to be setback approximately 8 metres from the front boundary*, the proposed development complies with the Development Control Plan No.5. Mr Marshall's adjoining land is zoned 1(a) General Rural – which is not a residential zone.

- The proposed development will be out of character for the surrounding area, as it is a residential / rural area.

Land use within the locality comprises of commercial and industrial development. One (1) dwelling house is located to the north of the proposed development, approximately 200 metres from the existing main building. The next closest dwelling house is greater than 400 metres to the north west of the proposed development.

- There will be a significant increase in traffic movements, in particular the additional arrival and departure of vehicles.

Land use within the locality comprises of commercial and industrial development. Access to the subject site is via Marshalls Lane, which is a full width bitumen sealed. The subject land has an existing full width concrete layback and crossing, which satisfies Council's specifications and is considered appropriate to cater for the increase in traffic movement. However, it is considered unlikely that the proposed development will increase traffic movements, due to the nature of the development. Traffic movements may increase during the construction phase.

- There will be significant environmental impacts regarding the development application due to the smell of detergents and excess water storage and waste and by products.

It is considered that no significant environmental impacts regarding the smell of detergents, excess water storage and by products will affect surrounding development, due to the water recycling system being contained within the main existing building.

- Environmental Impact Study

Due to the nature of the proposed development an Environmental Impact Study is not required under the Environmental Planning and Assessment Act 1979 or Environmental Planning and Assessment Regulation 2000.

**(b) the public interest**

The public interest is recognised by Council's consideration of the proposal.

**BUDGET IMPLICATIONS**

Nil

**POLICY CONSIDERATIONS**

Nil

**SCHEDULE "A"**  
**CONDITIONS ISSUED WITH**  
**DEVELOPMENT APPLICATION NO. 85/2009**

<b>Applicant:</b>	Western White Linen
<b>Owner:</b>	KW & GR Haylan
<b>Application No:</b>	85/2009
<b>Zone:</b>	2(v) Urban or Village
<b>Date Received:</b>	23 <sup>rd</sup> December 2008
<b>Assessment No:</b>	921-01000-5
<b>Property:</b>	Lot 21 DP 806163 – 190 Marshalls Lane, Blayney
<b>Proposed Development:</b>	Erection of a water tank and a water recycling system.

1. The determination shall be regarded as being in accordance with the particulars and endorsed plans set out and described in Development Application No. 85/2009 registered in Council's records as of 23<sup>rd</sup> December 2008 except where varied by any or all of the following conditions. Any additional development not subject to this approval shall require the further consent of Council.

**GENERAL****REASON: To comply with Council's policy and requirements for development.**

2. As Principal Certifying Authority, Council will require to inspect the various stages of construction as follows:
  - a. Strip footing/slab etc. when steel is laid prior to pouring concrete.
  - b. Internal and external drainage prior to covering
  - c. Framework prior to lining internally.
  - d. Flashing of wet areas prior to tiling.
  - e. Stormwater drainage before covering.
  - f. Final - when building is completed and painted, in accordance with approved plans and specifications, **prior to occupation.**

**It should be noted that if a stage requires a second inspection, due to work being incomplete or wrong, Council may require an additional fee to carry out the work.**

**STATUTORY****REASON: To comply with Council's statutory requirements.**

3. That all Certificates issued in relation to the development are to be submitted to Council.
4. That the building be constructed and maintained in accordance with the requirements of the Building Code of Australia.

**ENVIRONMENTAL****REASON: To comply with Council's statutory requirements.**

5. That the applicant install, prior to the commencement of works, adequate sediment and soil erosion controls in accordance with Council's Erosion and Sediment Control Policy (copy attached).

**CONSTRUCTION****REASON: To comply with Council's policy and requirements.**

6. That before commencement of any work, a sign is to be erected at the front boundary of the land clearly identifying the lot number and names of the owner, builder and licence number and emergency telephone contact numbers.
7. That any damage to Council's footpath, road or other land being restored in accordance with Council's specifications. Contact Council's Works & Services Department.
8. That no materials or machinery to be used in the construction of the building shall be stored or stacked on Council's footpath, nature strip or roadway.
9. That there be no burning of waste material, felled trees or other material on the site.
10. The shed is to be provided with adequate ventilation taking into account the internal temperatures which may be generated.

**DRAINAGE****REASON: To comply with Council's requirements to ensure the site/buildings are adequately protected from storm water.**

11. That the site be prepared so as to effectively divert surface water away from and around the building.  
In this regard, Council may require permanent surface or subsoil drains or a combination of both, to all excavated areas and depressions and the invert of such drains shall be a minimum of 200mm below finished habitable floor level and shall have a minimum grade of 1:100 to the stormwater system or to a point satisfactory to Council's Building Surveyor.
12. That the storm water be discharged to the existing stormwater system.

**INFRASTRUCTURE****REASON: To comply with Council's requirements for the provision of infrastructure. To prevent damage to Council's Sewerage Treatment Works and subsequent pollution of the Belubula River and comply with the Local Government (Approvals) Regulation 1999. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended**

13. Applicant to provide details of effluent (quantity and quality) before and after recycling equipment installed.

14. Prior to the commissioning of the Aquimiser and Energy Optimiser units, the applicant is to submit a trade waste application (copy enclosed) to Blayney Shire Council and upon approval enter into a new trade waste agreement with Blayney Shire Council.

**13) DA 7/2007 – SECTION 96 (1A) MODIFICATION OF CONSENT – 50 HILLSIDE LANE, FOREST REEFS**  
(Senior Town Planner)

**RECOMMENDED:**

1. That Council grant consent to the proposed modification of development consent No. 7/2007 which proposes to terminate the approved new road approximately 136 metres to the east, Lot 4 have direct access from Gartholme Lane and Lot 3 be reduced to 1.9ha, as per the attached modification conditions contained in the attached Schedule “B” which replaces Schedule “A”.
2. That Council grant consent to the alteration pursuant to its concurrence powers under *State Environmental Planning Policy No.1 – Development Standards*. The provisions permit a 10% variation of the 2ha standard for Lot 3.

**REPORT**

<b>Applicant:</b>	Peter Basha Planning and Development
<b>Owner:</b>	Mr D Nell & Mrs L Ward
<b>Application No:</b>	7/2007
<b>Zone:</b>	1(c) Rural Small Holdings
<b>Date Received:</b>	30 <sup>th</sup> October 2008
<b>Assessment No:</b>	145-22220-4
<b>Property:</b>	Lot 1 DP 1063715 – 50 Hillside Lane, Forest Reefs
<b>Proposed Development:</b>	Section 96(1A) Modification of Consent

Council has received an application to modify Development Application 7/2007 under Section 96(1A) of the *Environmental Planning and Assessment Act 1979*. Council issued development consent on the 20<sup>th</sup> September 2006 for the subdivision of one (1) Lot into eight (8) Lots for the purposes of dwelling houses.

Consent is sought to modify the approved subdivision layout. Please refer to the attached plan and the following modifications:

- Terminate the approved new road approximately 136 metres to the east of the presently approved position.
- Lot 4 have direct access from Gartholme Lane, rather than the right of way over Lot 5.

As such, the proposed modification to the subdivision layout has changed the original approved size of Lot 3 from 2ha to 1.9ha.

The *Blayney Local Environmental Plan 1998, Clause 15 – Subdivision for the purpose of dwelling houses in Zone No. 1(c)* states that:

*(1) The Council shall not consent to an application to subdivide land within Zone No. 1 (c) unless each allotment intended to be created primarily for the purposes of a dwelling – house has an area of 2 hectares or more.*

The applicant has requested that Council allow this alteration pursuant to its concurrence powers under *State Environmental Planning Policy No.1 – Development Standards*. The provisions permit a 10% variation of the 2ha standard for one (1) Lot within the subdivision. It is noted that *State Environmental Planning Policy No.1 – Development Standards* are reported to the Department of Planning.

The application states that *the proposed modification is due to the road design and the valid desire of the owner to retain a significant row of trees. Retention of the trees is important in terms of maintaining amenity and landscape values. However, this results in the proposed road reserve being moved further to the south which then positions the road on steep and rocky terrain. As a consequence road construction would be difficult and impractical.*

The development application was originally referred to adjoining land owners on the 21<sup>st</sup> July 2006, for comment in accordance with Council's *Public Notification of Development Application Policy*. One (1) letter was received; however the letter raised several issues, which were rectified and the application was approved under delegation. Please refer to the attached document.

The proposed modification referred to adjoining land owners on the 21<sup>st</sup> January 2009, for comment in accordance with Council's *Public Notification of Development Application Policy*. One (1) letter was received. Please refer to the attached document.

### **Section 79C Assessment:**

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

#### Environmental Planning and Assessment Act 1979

In determining the application Council must take into consideration the relevant matters under Section 79C of the Environmental Planning and Assessment Act 1979. These are assessed below:

#### State Environmental Planning Policy's (SEPP)

<b>SEPP No.</b>	<b>DESCRIPTION</b>	<b>COMMENT</b>
No. 1	Development Standards	SEPP No. 1 applies to the proposed modification, due to the variation from Council's Local Environmental Plan and Development Control Plan No.3 – Rural Residential Development.
No. 4	Development without consent and Miscellaneous Exempt and Complying Development	Not applicable
No. 6	Number of Storeys in a Building	Not applicable
No. 8	Surplus Public Land	Not applicable
No. 9	Group Homes.	Not applicable

No. 11	Traffic Generating Developments.	Not applicable
No. 15	Rural Landsharing Communities	Not applicable
No. 16	Tertiary Institutions	Not applicable
No. 21	Caravan Parks	Not applicable
No. 22	Shops and Commercial Premises.	Not applicable
No. 30	Intensive Agriculture	Not applicable
No. 32	Urban Consolidation (Redevelopment of Urban Land).	Not applicable
No. 33	Hazardous & Offensive Development	Not applicable
No. 34	Major Employment Generating Industrial Development	Not applicable
No. 35	Maintenance Dredging of Tidal Waterways	Not applicable
No. 36	Manufactured Home Estates	Not applicable
No. 37	Continued Mines & Extractive Industries.	Not applicable
No. 44	Koala Habitat Protection	Koala Habitat Assessment was submitted with the application. The report concluded that the subject site does not constitute a potential Koloa habitat and the development will not have any effect on Koloa populations.
No. 45	Permissibility of Mining	Not applicable
No. 48	Major Putrescibles Landfill Sites.	Not applicable
No. 50	Canal Estate Development	Not applicable
No. 55	Remediation of Land	Not applicable
No. 64	Advertising and Signage	Not applicable
No. 65	Design and Quality of Residential Flat Development	Not applicable
ARTC Rail Infrastructure	ARTC Rail Infrastructure 2004	Not applicable
Seniors Living	Seniors Living 2004	Not applicable
BASIX	(Building Sustainability Index: BASIX) 2004	Not applicable
Major Projects	SEPP (Major Projects) 2005	Not applicable
Rural Lands	SEPP (Rural Lands) 2008	Not applicable

#### Regional Environmental Plans (REP)

None Relevant

#### Local Environmental Plan (LEP)

The subject land is zoned 1(c) Rural Small Holdings under the provisions of the *Blayney Local Environmental Plan 1998*. The proposed development is permissible, subject to the consent of Council in accordance with the provisions of the *Blayney Local Environmental Plan 1998*.

## Zone Objectives

*The objectives of this zone are:*

- (a) to promote development of land identified as suitable for rural – residential or small holding development, and*
- (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, and*
- (c) to allow a range of rural living styles in appropriate locations within the zone.*

The proposed development is considered suitable for rural – residential development and promotes a range of allotment sizes for rural living within the locality.

## Permissibility

The proposed development is permissible with the development consent of Council under the *Blayney Local Environmental Plan 1998*.

### *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.*
- (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, and*
  - (b) the desirability of providing a range and mixture of allotment sizes, and*
  - (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, and*
  - (d) the capability of the land to accommodate septic disposal of household waste, and*
  - (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, and*
  - (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, and*
  - (g) the purpose for which the land is to be used after subdivision*
- The proposed modification to the subdivision layout has changed the original approved size of Lot 3 from 2ha to 1.9ha. The applicant has requested that Council allow this alteration pursuant to its concurrence powers under *State Environmental Planning Policy No.1 – Development Standards*. The provisions permit a 10% variation of the 2ha standard for one (1) Lot within the subdivision.

The application states that *the proposed modification is due to the road design and the valid desire of the owner to retain a significant row of trees. Retention of the trees is important in terms of maintaining amenity and landscape values. However, this results in the proposed road reserve being moved further to the south which then positions the road on steep and rocky terrain. As a consequence road construction would be difficult and impractical (Sub Clause (1)).*

- The subject land does not pose any natural constraints or hazards (*Sub Clause 2 (a)*).
- The proposed development offers a range and mixture of allotment sizes (*Sub Clause 2 (b)*).
- Geotechnical Reports were submitted with the subject application and are considered generally appropriate. (*Sub Clause 2 (c)*).
- Geotechnical Reports were submitted with the subject application and are considered generally appropriate. (*Sub Clause 2 (d)*).
- Carcoar Road, Hillside Lane and Gartholme Lane are of adequate standard to cater for the additional traffic expected to be generated by the proposed development (*Sub Clause 2 (e)*).
- The proposed development will provide additional opportunities for rural residential development within the locality which is in close proximity to services and facilities offered by Blayney, Millthorpe and Orange. (*Sub Clause 2 (f)*).
- The proposed development are intended to be used for rural residential purposes (*Sub Clause 2 (g)*).

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

There are no known draft environmental planning instruments applicable to the subject land.

**(a) (iii) any development control plans**

The *Blayney Development Control Plan No. 3 – Rural Residential Development* applies to the subject land. The proposal is considered to be in accordance with the *Blayney Development Control Plan No. 3 – Rural Residential Development*.

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

Clause 92 of the *Environmental Planning and Assessment Regulation 2000* prescribes certain matters that must be considered by Council in determining a development application. There are no relevant prescribed matters that would apply to the proposed modification.

**(b) the likely impacts of the development**

**Context and Setting**

The subject land is located in a 1(c) Rural Small Holdings Zone, approximately 8km south of Millthorpe and approximately 8km north of Forest Reefs. The subject land contains an existing dwelling house and shed.

The topography of the subject land is described as gently undulating country with a hill dominating the southern part of the property in the vicinity of the existing dwelling. Land use within the locality comprises of agricultural and residential development.

**Visual Impact**

Due to the topography, existing vegetation and the subdivision design and layout, it is considered that the proposed development will create minor visual impact to the surrounding locality.

**Access, Transport and Traffic**

The proposed modification principally affects access to proposed Lots 4 & 5. Initially, all proposed Lots had direct access to the proposed road. The proposed modification seeks to reduce the road length by about 136 metres and that Lot 4 gains access from Gartholme Lane and that Lot 5 gain access directly to the extended Hillside Lane by way of a battle axe handle between Lots 3 & 6. There is no requirement in this instance for upgrading the standard of Gartholme Lane which remains as a minor unsealed road. Standard conditions of consent will apply.

**Utilities**Water

There is no town water reticulation that services the subject site. Water supply for properties in the locality will be provided via rainwater collection tanks, dams and bores, in accordance with Council requirements at the construction stage for a dwelling house.

Wastewater Disposal

There is no sewer reticulation system that services the subject site. A wastewater disposal system services the existing dwelling house. Geotechnical Reports were submitted with the original application, however, due to the modification, Council requested that a Geotechnical Report for proposed Lot 3 be resubmitted, due to the decrease in Lot size.

Electricity and Telecommunications

Electricity and telecommunication services are connected to existing dwelling houses in the locality and will be connected to the proposed Lots prior to the release of the subdivision certificate.

Stormwater Drainage

There is no formal stormwater drainage system that services the subject site. Stormwater from the subject site is either captured on the site for water supply purposes, or returned to the rural catchment via natural channels, roadside drainage lines and culverts.

**Heritage**

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### European Heritage

There are no known heritage items on the subject site. The site is not located within the Heritage Conservation Area.

### Aboriginal Heritage

There are no known items of Aboriginal heritage located on the subject land.

### **Other Land Resources**

The proposed development will not adversely impact on productive agricultural land, mineral and extractive industries or water supply catchments, as it is located in a 1(c) Rural Small Holdings zone. Land use within the locality comprises of agricultural and residential development and it is considered unlikely that the proposed modification will impact on other land resources within the area.

### **Water, Air, Soil & Microclimate**

The proposed development is not likely to cause any adverse impacts in terms of water, air, soil or microclimate. The resubmitted Geotechnical Report for proposed Lot 3 is considered generally appropriate.

### **Flora & Fauna**

The Statement of Environmental Effects (SoEE) submitted with the application stating that *the subject land and surrounding area has been used for several years for grazing, farming and rural small holdings development. The natural state of the area has been highly modified as a result of such activities, particularly the removal of native vegetation.* The proposed modification will not create any adverse affects on the subject land, due to minimal vegetation and absence of any potential resources that may attract less common native species to the subject land.

### **Waste**

There is no sewer reticulation system that services the subject site. A wastewater disposal system services the existing dwelling house. Geotechnical Reports were submitted with the original application, however, due to the modification, Council requested that a Geotechnical Report for proposed Lot 3 be resubmitted, due to the decrease in Lot size. The resubmitted Geotechnical Report for proposed Lot 3 was considered generally appropriate

Any waste generated from the construction of the proposed development will be removed from the subject site after the completion of the works.

**Noise and Vibration**

Noise and vibration levels may increase during the construction phase and for the use of the subject land as rural residential development.

**Natural Hazards**

There are no known natural hazards on the subject site.

**Technological Hazards**

Council has no records or evidence to suggest that the site may be contaminated and it is unlikely that the subject land would be subject to any form of land contamination.

**Safety, Security & Crime Prevention**

The proposed development addresses the principles of safety, security and crime prevention through the design portraying a sense of ownership, respect and territorial responsibility under the principles of CPTED.

**Social & Economic Impact on the locality**Social

The proposed development will provide additional opportunities for rural residential development within the locality which is in close proximity to services and facilities offered by Blayney, Millthorpe and Orange.

Economic

The proposed development will create a number of employment opportunities during the construction phase and provide additional opportunities for rural residential development within the locality.

**Construction**

Construction works will involve the proposed road works in accordance with Council's specifications.

**Site Design and Internal Design**

The site and internal design of the proposed development is considered generally appropriate as it takes into consideration the existing topography and vegetation on the subject land.

**Cumulative Impacts**

It is considered unlikely that any cumulative impacts will be experienced as a result of the proposed development.

**The suitability of the site for the development**

The subject land is considered suitable for the proposed development, due to the availability of existing services, no known natural hazards and the rural residential land use patterns within the locality.

The proposed road works are considered generally appropriate and standard conditions of consent will apply to ensure compliance with Council specifications

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

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The development application was originally referred to adjoining land owners on the 21<sup>st</sup> July 2006, for comment in accordance with Council's *Public Notification of Development Application Policy*. One (1) letter was received; however the letter raised several issues, which were rectified and the application was approved under delegation. Please refer to the attached document.

The proposed modification referred to adjoining land owners on the 21<sup>st</sup> January 2009, for comment in accordance with Council's *Public Notification of Development Application Policy*. One (1) letter was received. Please refer to the attached document.

The following issues were raised:

- Locations of watercourses on the proposed Lots

The location of watercourses and drainage lines were considered in the subdivision design and layout, with a minimum of 40 metres between a building envelope and a watercourse. The Geotechnical Reports also take into consideration surrounding natural features, including watercourses, as outlined within the submitted reports.

- Adequate Fencing and Access points for proposed Lot 3

A standard condition of consent will apply that states:

*That all new lots and the new road reserve be fenced to a stock proof standard, prior to the issuing of a subdivision certificate.*

- Upgrading of Gartholme Lane

There is no requirement in this instance for upgrading the standard of Gartholme Lane which remains as a minor unsealed road. Section 94 Contributions will apply.

- Dust issues, relating to proposed Lot 4

The designated building envelope for proposed Lot 4 is approximately 30 metres from Gartholme Lane.

**(d) the public interest**

The public interest is recognised by Council's consideration of the proposal.

**BUDGET IMPLICATIONS**

Nil effect.

**POLICY CONSIDERATIONS**

Nil effect.

**SCHEDULE “B”****CONDITIONS ISSUED WITH  
DEVELOPMENT APPLICATION NO. 7/2007 –  
SECTION 96(1 A) MODIFICATION**

<b>Applicant:</b>	Peter Basha Planning and Development
<b>Owner:</b>	Mr D Nell & Mrs L Ward
<b>Application No:</b>	7/2007
<b>Zone:</b>	1(c) Rural Small Holdings
<b>Date Received:</b>	30 <sup>th</sup> October 2008
<b>Assessment No:</b>	145-22220-4
<b>Property:</b>	Lot 1 DP 1063715 – 50 Hillside Lane, Forest Reefs
<b>Proposed Development:</b>	Section 96(1A) Modification of Consent

1. The determination shall be regarded as being in accordance with the particulars and endorsed plans set out and described in Development Application Modification No. 7/2007 registered in Council's records as of 30<sup>th</sup> October 2008 except where varied by any or all of the following conditions issued as part of this modification of that consent. Any additional development not subject to this approval shall require the further consent of Council.

**STATUTORY****REASON: To comply with the statutory requirements of other authorities.**

2. That documentary evidence be provided to Council that arrangements have been made with Country Energy for the supply of electricity.
3. That documentary evidence be provided to Council that arrangements have been made with the relevant telecommunications authority for the provision of telephone services
4. That an original plan of subdivision be submitted for Council's registration.

**INFRASTRUCTURE****REASON: To comply with Council's requirements for the provision of infrastructure.**

5. That an instrument under Section 88(b) of the Conveyancing Act 1919 be prepared over proposed Lot 1, 2, 3, 4, 5, 6, 7 & 8 prohibiting any residential development or use on the lot/s burdened, outside the approved building envelopes, with the Authority benefited being Blayney Shire Council.
6. That a report be submitted to Blayney Shire Council prepared by an authorised officer under the provision of the Noxious weeds Act 1993, indicating that adequate control and eradication of noxious weeds, if any, has been carried out on Lots 1, 2, 3, 4, 5, 6, 7 & 8.
7. That road widening or land resumption required for public road purposed be undertaken at no cost to Council.

**ACCESS**

**REASON: To comply with Council's policy and requirements for the provision of access.**

8. That an access to proposed Lot 4 from the road shoulder to the property boundary be constructed to Council's policy standard of gravel surface 100mm thick, on a sound subgrade and with adequate drainage to be determined by the access location in consultation with Council. That the fencing of such access being recessed in order that the gate/ramp is situated not less than 15 metres from the edge of the existing formation to ensure that any vehicle entering the property stands clear of the existing Gartholme Lane.
9. That access to proposed Lots 1 – 3 & 5 – 8, from the road shoulder to the property boundary be constructed to Council's policy standard of bitumen seal for distance of 15 metres, with adequate drainage to be determined by the access location, in consultation with Council. That the fencing of such access being recessed in order that the gate/ramp is situated not less than 15 metres from the edge of the existing formation to ensure that any vehicle entering the property stands clear of the existing road.
10. That the new road be constructed to Council's RB1 road standard with a minimum 80kph design standard, incorporating a cul – de – sac turning area. Rural cul – de – sacs are to have a minimum radius (to the edge of sealed carriageway) of 12.5 metres. The boundary should be curved to a minimum 17 metre radius, to provide for a 4.5 metre verge.
11. That the access points to the new lots be determined in consultation with Council
12. That all new lots and the new road reserve be fenced to a stock proof standard, prior to the issuing of a subdivision certificate.
13. That the applicant install adequate erosion and sediment controls prior to and during the construction of the road and access works.
14. That were additional access to the proposed lots is required, an application shall be made to Council for approval prior to construction of any additional access.

**SECTION 94 CONTRIBUTIONS**

**REASON: To comply with Council's policy for a contribution towards headworks.**

15. That the applicant contribute **\$18,207.00** towards headworks. 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. The cost of the applicable headworks during the 2008/09 financial year is as follows:-

BSC1 Rural Roads (unsealed)	\$1,801.00
BSC1 Rural Roads (sealed)	\$10,806.00
BSC8 Bushfire Services	\$2,184.00
BSC10 Community Services	\$3,416.00
Total	\$18,207.00

16. Payment is to be made prior to the issue of the subdivision certificate.

**GENERAL**

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**REASON: To comply with Council's policy and requirements for development.**

17. As Principle Certifying Authority, Council will issue compliance certificates at satisfactory completion of the following stages of work:
  - a. Road works (including kerb and gutter)
  - b. AccessInspection fees are to be paid prior to issue of Construction Certificate, in accordance with Councils Fees and Charges Schedule.
18. That full engineering design plans to be submitted to Council for approval prior to the issue of the Construction Certificate:
  - a. Roads
  - b. Access
19. That works as executed plans, including materials test results, for road works to be submitted to Council, prior to the issue of the subdivision certificate.
20. Prior to the issue of the construction certificate, road plans dated 23/06/2008 require further revision to amend cul – de – sac design, lot layout and access to Lots 4 &5, including deletion of references to any Right of Way. These plans shall indicate the basis of the pavement design, material specifications and testing requirements.

**STATUTORY****REASON: To comply with Council's statutory requirements.**

21. That a Construction Certificate be submitted to Council prior to works commencing.
22. That a Subdivision Certificate be submitted to Council.
23. That all Certificates issued in relation to the development are to be submitted to Council.
24. That the works be constructed and maintained in accordance with the requirements of the Building Code of Australia.

**CONSTRUCTION****REASON: To comply with Council's policy and requirements.**

25. NOTE: You are advised that where telephone connections or alterations are proposed, you should contact Telstra at their Business Office, Orange 132200 prior to construction.
26. That any damage to Council's footpath, road or other land being restored in accordance with Council's specifications. Contact Council's Works & Services Department.
27. That no materials or machinery to be used in the construction of the building shall be stored or stacked on Council's footpath, nature strip or roadway.
28. That there be no burning of waste material, felled trees or other material on the site.

**ENGINEER'S DETAILS****REASON: To ensure the structural adequacy of the work.**

29. That certification of the works be supplied by an engineer at the completion of works, certifying that the works have been carried out under his/her supervision and to his/her requirements.

- 14) **DA 66/2009 – GRAVEL QUARRY – ‘INGLEMER’ KINGHAMS LANE, MILLTHORPE**  
(Senior Town Planner)

**RECOMMENDED:**

1. That Council grant consent to Development Application No. 66/2009 for a gravel quarry at ‘Inglemer’ Kinghams Lane, Millthorpe subject to the conditions contained in the attached Schedule “A”.

**REPORT**

<b>Applicant:</b>	Coleman’s Earthmoving & Plant Repairs Pty Ltd
<b>Owner:</b>	William Russell Kingham
<b>Application No:</b>	66/2009
<b>Zone:</b>	1(a) General Rural
<b>Date Received:</b>	18 <sup>th</sup> November 2008
<b>Assessment No:</b>	312-00000-3
<b>Property:</b>	‘Inglemer’ Kinghams Lane, Millthorpe
<b>Proposed Development:</b>	Gravel Quarry

Council has received Development Application 66/2009 for a gravel quarry at ‘Inglemer’ Kinghams Lane, Millthorpe.

The proposed development is considered Integrated Development under s91 of the *Environmental Planning and Assessment Act 1979*. Integrated Development is development (not being complying development) that, in order for it to be carried out, requires development consent and one or more of the scheduled approvals under the *Environmental Planning and Assessment Act 1979*.

As such, the application was referred to the *Department of Environment and Climate Change (DECC)*. DECC has responsibilities under the *Protection of the Environment Operations Act (1997)*, *National Parks and Wildlife Act (1974)*, the *Threatened Species Conservation Act (1995)* and the *Native Vegetation Act (2003)*. DECC reviewed the application and determined that it is able to issue an environmental protection licence for the proposal, subject to conditions of consent.

The development application was referred to adjoining land owners on the 8<sup>th</sup> January 2009, for comment in accordance with Council’s *Public Notification of Development Application Policy*. One (1) letter was received. Please refer to the attached document.

**Section 79C Assessment:****(a)(i) the provisions of any environmental planning instrument**Environmental Planning and Assessment Act 1979

In determining the application Council must take into consideration the relevant matters under Section 79C of the *Environmental Planning and Assessment Act 1979*.

The proposed development is considered Integrated Development under s91 of the *Environmental Planning and Assessment Act 1979*. Integrated Development is development (not being complying development) that, in order for it to be carried out, requires development consent and one or more of the scheduled approvals under the *Environmental Planning and Assessment Act 1979*.

As such, the application was referred to the *Department of Environment and Climate Change (DECC)*. DECC has responsibilities under the *Protection of the Environment Operations Act (1997)*, *National Parks and Wildlife Act (1974)*, the *Threatened Species Conservation Act (1995)* and the *Native Vegetation Act (2003)*. DECC reviewed the application and determined that it is able to issue an environmental protection licence for the proposal, subject to conditions of consent.

State Environmental Planning Policy's (SEPP)

SEPP No.	DESCRIPTION	COMMENT
No. 1	Development Standards	Not applicable
No. 4	Development without consent and Miscellaneous Exempt and Complying Development	Not applicable
No. 6	Number of Storeys in a Building	Not applicable
No. 8	Surplus Public Land	Not applicable
No. 9	Group Homes.	Not applicable
No. 11	Traffic Generating Developments.	Not applicable
No. 15	Rural Landsharing Communities	Not applicable
No. 16	Tertiary Institutions	Not applicable
No. 21	Caravan Parks	Not applicable
No. 22	Shops and Commercial Premises.	Not applicable
No. 30	Intensive Agriculture	Not applicable
No. 32	Urban Consolidation (Redevelopment of Urban Land).	Not applicable
No. 33	Hazardous & Offensive Development	Not applicable
No. 34	Major Employment Generating Industrial Development	Not applicable
No. 35	Maintenance Dredging of Tidal Waterways	Not applicable
No. 36	Manufactured Home Estates	Not applicable
No. 37	Continued Mines & Extractive Industries.	Not applicable
No. 44	Koala Habitat Protection	Flora and Fauna Assessment was undertaken by WODEC. Fauna record study was undertaken, no threatened species recorded within the local area. The

		assessment identified that Koloa species are likely to be extinct within the subject site.
No. 45	Permissibility of Mining	Not applicable
No. 48	Major Putrescible Landfill Sites.	Not applicable
No. 50	Canal Estate Development	Not applicable
No. 55	Remediation of Land	Not applicable
No. 64	Advertising and Signage	Not applicable
No. 65	Design and Quality of Residential Flat Development	Not applicable
ARTC Rail Infrastructure	ARTC Rail Infrastructure 2004	Not applicable
Seniors Living	Seniors Living 2004	Not applicable
BASIX	(Building Sustainability Index: BASIX) 2004	Not applicable
SEPP	SEPP (Mining, Petroleum Production and Extractive Industries) 2007	The subject development application is considered generally appropriate in terms of the matters of general considerations of the SEPP.
Major Projects	SEPP (Major Projects) 2005	Not applicable
Rural Lands	SEPP (Rural Lands) 2008	Not applicable

### Regional Environmental Plans (REP)

None Relevant

### Local Environmental Plan (LEP)

The subject land is zoned 1(a) General Rural under the provisions of the *Blayney Local Environmental Plan 1998*. The proposed development is permissible, subject to the consent of Council in accordance with the provision of the *Blayney Local Environmental Plan 1998*.

### Zone Objectives

*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, and*
  - (ii) *soil stability by controlling and locating development in accordance with soil capability, and*
  - (iii) *forests of existing and potential commercial value for timber production, and*
  - (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, and*
  - (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, and*

- (vi) *water resources for use in the public interest, and*
  - (vii) *areas of significance for nature conservation, including areas with rare plants, wetlands and significant habitat, and*
  - (viii) *places and buildings of archaeological or heritage significance, including Aboriginal relics and places, and*
- b) *preventing the unjustified development of prime crop and pasture land otherwise than for the purpose of agriculture, and*
  - 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, and*
  - d) *facilitating farm adjustments, and*
  - 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, and*
  - 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, and*
  - g) *allowing a range of rural living styles in appropriate locations within the zone, and*
  - h) *encouraging the establishment of rural and related industries within the zone*

The proposed development is considered to be consistent with the objective (a)(iv) of the *Blayney Local Environmental Plan 1998*.

a) *Protecting, enhancing and conserving:*

- (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, and*

#### Permissibility

The proposed development is permissible with the development consent under the *Blayney Local Environmental Plan 1998*.

#### *Clause 10 General considerations for development within rural and environment protection zones of the Blayney Local Environmental Plan 1998*

(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, and*
- (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), and*

- (c) *the future recovery from known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials, and*
  - (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, and*
  - (e) *the cost of providing, extending and maintaining public amenities and services to the site of the proposed development, and*
  - (f) *future expansion of 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.*

Clause 10 of the *Blayney Local Environmental Plan 1998* has been considered throughout the *Section 79C* assessment process under the *Environmental Planning and Assessment Act 1979*.

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

There are no known draft environmental planning instruments applicable to the subject land.

**(a) (iii) any development control plans -**

There are no known development control plans applicable to the subject land.

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

Clause 92 of the *Environmental Planning and Assessment Regulation 2000* prescribes certain matters that must be considered by Council in determining a development application. There are no relevant prescribed matters that would apply to this proposal.

**(b) the likely impacts of the development**

**Context and Setting**

The subject land is located in a 1(a) General Rural zone, approximately 4.4km southwest of Millthorpe. The proposed development covers an area approximately 2.5ha of land within the property of 'Inglemer'. Land use within the locality comprises of agricultural and residential development.

The subject site has existing excavation present as it has been historically used as a source of road base material, predominately during the 1950s and 1960s.

**Visual Impact**

The subject site is visible from a number of residential and other public vantage points (including Kinghams Lane and Carcoar Road), predominantly to the west and northeast. The submitted Statement of Environmental Effects (SoEE) states that *the primary objectives of the application in managing the visibility of the proposed operations and visual amenity of residents surrounding the subject site are:*

- *minimise changes in the visual amenity of surrounding residential dwellings and the local area in general; and*
- *ensure any visual controls are consistent with the visual amenity and the local area.*

*In order to minimise the visual intrusion of the proposed activities, the applicant would implement the following controls and management procedures.* The controls and management procedures outlined within the SoEE are considered appropriate to minimise the visual impact of the proposed development.

Standard conditions of consent will apply.

### **Access, Transport and Traffic**

Access to the subject site is serviced by Kinghams Lane and is approximately 3.5 metre wide gravel pavement with grassed verges and roadside drains. Kinghams Lane services four (4) dwelling houses and minimal heavy traffic is associated with the surrounding rural and residential activities. The proposed development will increase the traffic movement along Kinghams Lane, which have been addresses throughout the SoEE.

The SoEE states that *the applicant would construct a separate access road between the private road to the Kingham residence and the extraction area.*

Standard conditions of consent will apply.

### **Public Domain**

The proposed development will not impact on the public domain in terms of public recreation, public spaces or access and pedestrian linkages, due to the nature and location of the proposed development.

### **Utilities**

The submitted SoEE outlines that *no permanent amenities or infrastructure would be established on the subject site with the only amenities to be a portable chemical – type toilet.*

The proposed development does not require power, water or sewage services to the subject site. All communications would be mobile phone or in – vehicle two – way radio.

### **Heritage**

There are no known heritage items of European significance located on the site.

The subject site was surveyed by a member of the Local Aboriginal Land Council on the 25<sup>th</sup> September 2008. No Aboriginal sites or artefacts were identified on the subject site and as such, no specific operational controls or safeguards have been designed.

### **Other Land Resources**

The subject land is located in a 1(a) General Rural zone, approximately 4.4km southwest of Millthorpe. The proposed development covers an area approximately

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2.5ha of land within the property of 'Inglemer'. Land use within the locality comprises of agricultural and residential development.

The subject site has existing excavation present as it has been historically used as a source of road base material, predominately during the 1950s and 1960s.

The submitted SoEE states that *capability of the land on the Project Site currently used as a sheep camp is interpreted as Class VI, i.e. Not capable of cultivation, less productive grazing and may require some structural works and maintenance of good ground cover. The Project Site land on the cleared and cultivated slopes of the 'Inglemer' property is interpreted as Class IV, i.e. Land not capable of being regularly cultivated but suitable for grazing with occasional cultivation. The existing borrow pit is classified as Class M, i.e. mining.*

### **Water**

The submitted SoEE states that *groundwater would not be encountered by the proposed extraction activities and therefore, no further consideration of potential impacts has been included in the document. The proposed extraction and associated extraction and associated activities, would however, have the potential to impact on the local surface water resources.*

The operational safeguards, controls and management procedures outlined within the SoEE are considered appropriate to minimise the impact on water resources created from the proposed development.

Standard conditions of consent will apply.

### **Soils**

The submitted SoEE states that *over the extraction area there is little topsoil present with the siltstone gravel effectively outcropping, or covered by a thin layer of clayey soil. Further down the slope of the hill away from the proposed extraction area, as the under laying geology changes to weathered basalt, the soil becomes a reddish brown loam with a weak to moderate fin crumb structure. The subsoil is expected to change gradually to a dark reddish crown clay loam with a moderate fine crumb structure.*

It is considered that the soil capability would not constrain the proposed development as the majority of the disturbances would be restricted to the lower capability class hill top which retains limited soil resources.

Standard conditions of consent will apply.

### **Air and Microclimate**

Due to the nature of the proposed development it is considered that dust and other particulate matter will be the main air contaminant. The submitted SoEE states that *the focus of operational management of dust and other particulate matter for the proposed development would be maximising the efficiency and effectiveness of dust suppression practices and procedures as follows.*

The controls and management procedures outlined within the SoEE are considered appropriate to minimise the impact of dust and other particulate matter caused by the proposed development.

Standard conditions of consent will apply.

### **Flora & Fauna**

A Flora and Fauna Assessment was undertaken by *West of the Divide Environmental Consultants* and was submitted with the subject application. The SoEE stated that *considering no threatened species or Endangered Ecological Communities were identified on the Project Site, nor are any likely to occur there, the disturbed nature of the vegetation and the limited clearing to take place, flora and fauna issues are unlikely to constrain the development of the proposed quarry.* As such, it is considered that impacts of the proposed development on native flora and fauna are unlikely to be significant.

### **Waste**

The submitted SoEE states *the applicant would maintain easily accessible rubbish bins within the extraction area for all rubbish generated by site personnel. All general waste would be removed from the quarry on a daily basis as part of normal operating procedures.*

*There will be little by – product of the proposed extraction activities as the extractable resource lies immediately beneath the soil. Should any rock material be extracted that is not suitable for sale or despatch, it would be temporarily stockpiled before placed over the final flood of the extraction areas as part of final profiling and rehabilitation activities.*

### **Energy**

The conservation of energy and efficiency is not applicable in terms of the energy needs due to the nature of the proposed development.

### **Noise and Vibration**

A Noise Assessment was undertaken by *Spectrum Acoustics Pty Ltd* in accordance with the recommendations identified in the DECC's Industrial Noise Policy (EPA, 1999). The proposed operations are likely to create, construction noise, operational noise and traffic noise.

The submitted SoEE states that *based on the results of the noise modelling completed by Spectrum (2008), and assuming the implementation of the proposed safeguards and control, the proposed Kingham's Lane Quarry could be developed and operated without resulting in unacceptable noise levels at surrounding residences.*

Standard conditions of consent will apply.

### **Natural Hazards**

There are no known natural hazards on the subject site.

### **Technological Hazards**

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Council has no records or evidence to suggest that the site may be contaminated and it is unlikely that the subject land would be subject to any form of land contamination.

### **Safety, Security & Crime Prevention**

The proposed development addresses the principles of safety, security and crime prevention through the design portraying a sense of ownership, respect and territorial responsibility under the principles of CPTED.

### **Social & Economic Impact on the locality**

#### Social

It is considered that the proposed development would not adversely affect the current or future land use with the local locality. The scale of operations proposed would result in minor changes to noise, traffic and air quality conditions, however, operational safeguards, controls and management procedures as outlined in the SoEE will minimise the impact on the local amenity.

#### Economic

The principle economic considerations relate to the benefits that would arise for the applicant. Additional economic benefits are obtained by the wider community through the security of supply of quality road construction materials.

### **Construction**

The subject site has existing excavation present as it has been historically used as a source of road base material, predominately during the 1950s and 1960s. The submitted SoEE states that *the extraction of the siltstone gravel would be undertaken by ripping the already fractured material using the tyres of a bulldozer, with ripped gravel loaded directly to trucks by frontend loader for dispatch from the Project Site or stockpiled on the quarry floor for future loading to trucks and despatch from the Project Site. No crushing or screening activities would be required to reduce or control the size of the extracted gravel.*

It is proposed that on the completion of the proposed development, the subject site would be rehabilitated to allow for the recommencement of agricultural activities.

Standard conditions of consent will apply.

### **Site Design and Internal Design**

The site design of the proposed development is considered generally appropriate, as it takes into consideration the existing residential development, native trees in the vicinity and the existing excavation present as it has been historically used as a source of road base material, predominately during the 1950s and 1960s.

### **Cumulative Impacts**

It is considered unlikely that any cumulative impacts will be experienced as a result of the proposed development. The submitted SoEE acknowledges that changes to the local environment may occur causing a detrimental impact on the local amenity. As such, *the applicant would endeavour to operate the proposed Kingham's Lane Quarry such that:*

- *Real or perceived changes to the local setting are minimised; and*
- *Local stakeholders are regularly consulted to discuss ways of reducing any changes to the local setting.*

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

The development application was referred to adjoining land owners on the 8<sup>th</sup> January 2009, for comment in accordance with Council's *Public Notification of Development Application Policy*. One (1) letter was received. Please refer to the attached document.

The following issues were identified:

- Proposed development entails blasting and will result in an increase in noise and vibration

The submitted SoEE states that *the extraction of the siltstone gravel would be undertaken by ripping the already fractured material using the tyres of a bulldozer, with ripped gravel loaded directly to trucks by frontend loader for dispatch from the Project Site or stockpiled on the quarry floor for future loading to trucks and despatch from the Project Site. No crushing or screening activities would be required to reduce or control the size of the extracted gravel.*

A Noise Assessment was undertaken by *Spectrum Acoustics Pty Ltd* in accordance with the recommendations identified in the DECC's Industrial Noise Policy (EPA, 1999). The proposed operations are likely to create, construction noise, operational noise and traffic noise.

The submitted SoEE states that based on the results of the noise modelling completed by Spectrum (2008), and assuming the implementation of the proposed safeguards and control, the proposed Kingham's Lane Quarry could be developed and operated without resulting in unacceptable noise levels at surrounding residences. Standard conditions of consent will apply

- Effect on water resources, e.g. Bore water

The proposed development is considered to have minor influences on drainage within local Cowriga Creek and regional Lachlan River catchments.

The proposed development is considered to be designed with sufficient surface water controls to manage surface water run – off from disturbed areas of the subject site.

**(d) the public interest**

The public interest is recognised by the notification of adjoining owners in accordance with Council's *Public Notification of Development Application Policy* and Council's consideration of the proposal.

**BUDGET IMPLICATIONS**

Nil effect.

### **POLICY CONSIDERATIONS**

Nil effect.

### **SCHEDULE “A”** **CONDITIONS ISSUED WITH** **DEVELOPMENT APPLICATION NO. 66/2009**

<b>Applicant:</b>	Coleman’s Earthmoving & Plant Repairs Pty Ltd
<b>Owner:</b>	William Russell Kingham
<b>Application No:</b>	66/2009
<b>Zone:</b>	1(a) General Rural
<b>Date Received:</b>	18 <sup>th</sup> November 2008
<b>Assessment No:</b>	312-00000-3
<b>Property:</b>	‘Inglemer’ Kinghams Lane, Millthorpe
<b>Proposed Development:</b>	Gravel Quarry

1. The determination shall be regarded as being in accordance with the particulars and endorsed plans set out and described in Development Application No. 66/2009 registered in Council’s records as of 18<sup>th</sup> November 2008 except where varied by any or all of the following conditions. Any additional development not subject to this approval shall require the further consent of Council.

### **ACCESS**

#### **REASON: To comply with Council’s policy and requirements for the provision of access.**

2. That Kinghams Lane be upgraded to Council’s RB1 Sealed Rural Roads standard to the a point east of access to the proposed development.
3. That Kinghams Lane be extended to Council’s RB1 Sealed Rural Roads standard to a point east of the proposed quarry access road. This includes the removal of the ramp at 0.9km.
4. That the intersection of Carcoar Road and Kinghams Lane be upgraded to BAR and BAL standard. Signage on Carcoar Road to include warning signs for T – intersection (W2-4B) and Trunks Turning 100m (W5-22B and W8-5B).
5. Prior to the commencement of commercial operations, the developer shall have arranged and completed the transfer of the crown road reserve known as Kinghams Lane up to 10m beyond the project site entrance, to Council control as public road.
6. Prior to commencement of commercial operations, the developer shall lodge with Council a bond equal to five (5) % of the total value of road works as agreed by Council, to be held until such time as 15,000m<sup>3</sup> has been extracted from the quarry and reported in the annual return for the quarry operations to the Department of Environment and Climate Change.

**SECTION 94 CONTRIBUTIONS****REASON: To comply with Council's policy for a contribution towards headworks.**

7. That the applicant submit to Council a copy of the Annual Report to the Department of Environment and Climate Change. That the applicant pay to Council on an annual basis, a contribution to the maintenance at a 3 cents per tonne/kilometre for the life of the development. The amount per tonne/kilometre applicable will be dependant 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.
8. That the applicant contribute **\$2,601.00** towards headworks. The amount applicable will be dependant 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. The cost of the applicable headworks during the 200/09 financial year is as follows:-
 

BSC 1	Rural Roads	\$1,801.00
BSC 8	Bushfire Services	\$312.00
BSC 10	Community Facilities	\$488.00
9. Payment is to be made prior to the issue of a construction certificate.

**GENERAL****REASON: To comply with Council's policy and requirements for development.**

10. That the hours of operation be restricted to:-
 

Monday to Friday	7am to 6pm
Saturday	7am to 6pm
Sunday	Nil
Public Holidays	Nil
11. As Principal Certifying Authority, Council will issue compliance certificates at satisfactory completion of the following stages of work:
  - a. Road works
  - b. Access
 Inspections fees are to be paid prior to issue of Construction Certificate, in accordance with Councils Fees and Charges Schedule.
12. That full engineering design plans to be submitted to Council for approval prior to the issue of the Construction Certificate for:
  - a. Roads
13. That works as executed plans for road be submitted to Council, prior to the commencement of commercial operations.

**STATUTORY****REASON: To comply with Council's statutory requirements.**

14. That a Construction Certificate be submitted to Council prior to works commencing.
15. That an Occupation Certificate be submitted to Council when the road works have been completed and prior to the commercial use of the quarry building.
16. That all Certificates issued in relation to the development are to be submitted to Council.

**ENVIRONMENTAL****REASON: To comply with Council's statutory requirements.**

17. That the applicant install, prior to the commencement of works, adequate sediment and soil erosion controls in accordance with Council's Erosion and Sediment Control Policy (copy attached).

**CONSTRUCTION****REASON: To comply with Council's policy and requirements.**

18. That before commencement of any work, a sign is to be erected at the front boundary of the land clearly identifying the lot number and names of the owner, builder and licence number and emergency telephone contact numbers.
19. That any damage to Council's footpath, road or other land being restored in accordance with Council's specifications. Contact Council's Works & Services Department.
20. That no materials or machinery to be used in the construction of the building shall be stored or stacked on Council's footpath, nature strip or roadway.
21. That there be no burning of waste material, felled trees or other material on the site.

**STATUTORY****REASON: To comply with Statutory requirements**

22. This consent is subject to the conditions set out in the General Terms of Approval from the Department of Environment and Climate Change, dated the 11<sup>th</sup> February 2009 (Council stamped copy attached).
23. That once the life of the quarry has exceeded or operations permanently cease, rehabilitation procedures must be completed and undertaken as outlined in the Statement of Environmental Effects, prepared by R.W.Corkery & Co. Pty. Ltd.
24. That a written agreement between the proponent and the current owner of 'Inglemer' in relation to residual noise impacts be submitted to Council prior to the issue of the Construction Certificate.