



**MOREE PLAINS SHIRE COUNCIL**

**23 MARCH 2017**

**COMMUNITY DEVELOPMENT  
AND SERVICES  
COMMITTEE MEETING**

**PUBLIC BUSINESS PAPER**

Monday, 20 March 2017

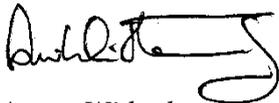
TO:

- Councillors
- General Manager
- Director – Corporate Services
- Director – Planning and Community Development
- Director – Engineering Services
- Manager – Water and Waste
- Manager – Executive Projects

Notice is hereby given that the **Community Development and Services Committee Meeting** will be held in the Council Chamber, the Max Centre, 30 Heber Street, Moree, on **Thursday, 23 March 2017** commencing at **2pm**.

Please note that all Council meetings are recorded.

Yours sincerely



Angus Witherby  
DIRECTOR PLANNING AND COMMUNITY DEVELOPMENT

### Agenda

1. Open Meeting
2. Apologies
3. Confirmation of Minutes
4. Declarations of Interest
5. Reports
  - a) Continuation of Broadband Trial into Permanent Service
  - b) South West Moree Social Plan Update
  - c) Confidential - Moree Gateway Development - Third Stage
  - d) Submission on the Exposure Draft of The Environment Planning & Assessment Amendment Bill 2017
  - e) Question on Notice Responses
6. Standing agenda item: Questions on Notice
7. Standing agenda item: Strategic Planning Proposals and Current Project Updates
8. Standing agenda item: Overseas Trade and Investment
9. Close meeting

# Community Development and Services Committee Meeting Public Business Paper

23 March 2017

## *TABLE OF CONTENTS*

### REPORTS:

1. CONTINUATION OF BROADBAND TRIAL INTO PERMANENT SERVICE .....	5
2. SOUTH WEST MOREE SOCIAL PLAN UPDATE .....	8
3. MOREE GATEWAY DEVELOPMENT - THIRD STAGE.....	10
<b>APPENDIX 1</b> .....	<b>13</b>
<b>ORIGINAL MASTERPLAN LAYOUT – MOREE GATEWAY</b> .....	<b>13</b>
4. SUBMISSION ON THE EXPOSURE DRAFT OF THE ENVIRONMENTAL PLANNING & ASSESSMENT AMENDMENT BILL 2017 .....	15
5. QUESTIONS ON NOTICE RESPONSES .....	24
<b>APPENDIX 2</b> .....	<b>26</b>
<b>QUESTIONS ON NOTICE RESPONSES</b> .....	<b>26</b>

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REPORT TITLE:	1. CONTINUATION OF BROADBAND TRIAL INTO PERMANENT SERVICE
REPORT FROM:	DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT
FILE NUMBER:	FILE 13/1036

## **SUMMARY:**

Council took part in a trial of broadband infrastructure to test the application of new technologies to, in particular, service the needs of rural businesses and landholders as well as the business community in Moree. Residential services are also possible in some areas. The trial completed in early March 2017, and accordingly Council is being asked to consider if they wish to transition to an ongoing service.

## **RECOMMENDATION:**

### **That the Committee:**

1. **Resolve into Workshop Mode to receive a presentation from City Smart Solutions.**
2. **Recommend to Council that the trial proceed on a permanent basis.**

## **REPORT**

### **BACKGROUND:**

Council has an established business relationship with City Smart Solutions, a wholly owned company of Coffs Harbour City Council. They have high level expertise in internet and also telemetry and have completed a number of projects for Council. Council staff became aware of alternative internet technologies that City Smart Solutions were looking to trial with a local government in a rural location. Moree Plains Shire fitted their criteria. Council authorised a trial to take place, with City Smart Solutions and their internet partner Just/ISP, with a further report to be brought back considering a move to a permanent system.

These technologies offer substantially higher speeds than the NBN, not only in terms of download, but also, critically, upload. As proposed for business connections, speeds of up to 100Mb down AND up are achievable in good service areas, with recent field trials demonstrating speeds of 40Mb up and down at distances of up to 40km from the signal origin. The system uses a combination of optic fibre and point-to-point wireless.

The particular targets of the system are agricultural businesses. These include grain handling businesses, cotton gins, rural producers and the like. Most of these businesses are remote from existing good quality internet connection and many rely on satellite. The SkyMuster satellite has not proved effective in meeting the needs of rural producers or businesses such as cotton gins located in rural areas. The proposed system would enable these businesses to connect to a reliable, high speed internet service that would exceed NBN speeds for Fibre to the Node, and would well-exceed SkyMuster speeds and data allowances.

Other businesses within the towns and the villages within the Shire would also benefit, and there is a real opportunity to promote Moree as a “Smart City”. In part this is through the ability to access an alternative optic fibre network to Sydney that has both considerable capacity and excellent pricing. Council, itself, would be able to obtain an alternative optic fibre connection to improve our redundancy and business continuity, and also provide significantly faster internet capacity for Council’s operations. Mainstream businesses in Moree are also showing considerable interest in the systems and are seeking participation. This includes professional firms such as accountants. With good utilisation of existing optic fibre that Council owns, plus some judicious extensions, there is also the ability to provide fibre the premises for a number of businesses within Moree. This was the original promise of the NBN, which was modified as a result of a review by the Federal Government.

A further market is residential users, and some of these have been included in the trial. Technical limitations, in particular vegetation in the town, limit the number of residential properties that are suitable. In this regard there will always be a place for the NBN in serving these premises. It should be noted that City Smart Solution are an accredited NBN reseller, and are also able to provide NBN services. At this stage, NBN is scheduled for Moree in 2018.

City Smart Solutions will be making a presentation to Council Committee on the project and possibilities, including proposed business models, and will be available to address questions.

### **COMMUNITY IMPLICATIONS:**

This project would have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome(s):

#### **S2. Our community is inclusive, connected and collaborative**

The project would be of considerable benefit to the community in accessing good-quality internet services. In particular, the non-urban areas of the Shire would benefit.

### **ECONOMIC IMPLICATIONS:**

This project would have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome(s):

#### **Ec1. Our Shire is a place that attracts and retains new businesses and residents**

#### **Ec2. Our Shire has the infrastructure we need to support our economy**

#### **Ec3. Our Shire supports existing businesses**

#### **Ec4. We have the skills and knowledge required to undertake the work available**

The project scores well on all these criteria. In particular, high quality internet is a key element in retaining and attracting new businesses. Businesses based in Moree Shire would be able to fully participate in the national and global economy. Internet infrastructure is a key item to support the economy. As per Council’s submission on the Federal enquiry into internet levels of service, it is clear that good internet is now “core” infrastructure in the same way as roads, power lines, and the like. A benefit of working with the proponents of the project is their strong commitment to “up skill” electricians and other staff within Moree to implement the project. The proponents would prefer as much as possible of the project to be delivered through local resources.

## **ENVIRONMENT IMPLICATIONS:**

This project would have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome(s):

- E2. We live sustainably and use our resources responsibly**
- E3. Our built environment – our town and villages – are desirable places to be**

Good internet access, particularly to rural producers, enhances their ability to operate in “data rich” environments, which leads to better farming and production techniques, which is of benefit to the environment. The built environment would also benefit, in that good internet would enhance the liveability our towns and villages. Provision of this standard of internet to villages in the Shire would allow teleworking, and other remote access opportunities to occur. This would enhance the desirability of our towns and villages as places to live.

## **LEADERSHIP/LEGAL IMPLICATIONS:**

This project would have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome(s):

- L3. We are engaged and well informed**
- L4. We collaborate to achieve outcomes**
- L5. We manage our finances, assets and services effectively**
- L6. We demonstrate leadership in the face of natural disaster**

The project would assist the community to be engaged and well-informed. Collaboration with City Smart Solutions represents an opportunity to achieve a worth-while outcome for the Shire. The project would allow Council to access more cost-effective internet access which would be an effective management of our finances. In addition, the systems would provide Council with redundancy in the case of natural disaster.

## **FINANCIAL/OPERATIONAL PLAN IMPLICATIONS:**

REPORT TITLE:	2. SOUTH WEST MOREE SOCIAL PLAN UPDATE
REPORT FROM:	DIRECTOR PLANNING AND COMMUNITY DEVELOPMENT
FILE NUMBER:	FILE 15/204

## **SUMMARY:**

Moree Plains Shire Council has previously adopted the South West Moree Social Plan.

This report provides an update regarding the plans progress including an update on the 'Academy of Sport Health & Education' concept which is integral to the plan.

A presentation will be made at the meeting.

## **RECOMMENDATION:**

**That the information be received by the Committee.**

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## **REPORT**

### **BACKGROUND:**

The Moree Plains Shire Council (the Council) commissioned the development of the South West Moree Social Plan (the Plan) to support the update, delivery and implementation of the South-West Moree Precinct Master Plan.

Development of the Social Plan was informed by the outcomes of consultation activities with service providers, existing residents of the precinct, and the broader community; review of baseline indicators; review of existing planning and policy documents; and, analysis of available grant funding opportunities.

The Social Plan acts to keep the needs of people and Community at the centre of any renewal processes for the South-West Moree Precinct.

### **ECONOMIC IMPLICATIONS:**

No significant economic implications have been identified.

### **COMMUNITY IMPLICATIONS:**

No significant community implications have been identified.

### **ENVIRONMENT IMPLICATIONS:**

No significant environmental implications have been identified.

## **LEADERSHIP/LLEGAL IMPLICATIONS:**

The receipt of the information contained in the report will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome:

**L3. We are engaged and well informed.**

REPORT TITLE:	3. MOREE GATEWAY DEVELOPMENT - THIRD STAGE
REPORT FROM:	DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT
FILE NUMBER:	FILE 13/1020

## SUMMARY:

In December 2016, Council was notified of an enquiry relating to the undeveloped portion of land within the southern area of the Moree Gateway. This area has generally been referred to as potentially 'Stage 3' of the Moree Gateway development and consists of approximately 426,000 square metres of non-serviced land that fronts the Newell Highway.

Council has resolved to consider future strategic directions for the third stage of the Moree Gateway development and the below report forms part of that process. The purpose of this report is to provide discussion pertaining to future development options and pose a number of fundamental questions to Councillors so that staff can receive feedback during a workshop session on the day. Further information will be provided via presentation at the Council Committee meeting.

It should be noted that the focus of Council's considerations regarding this report is as a commercial land developer.

## RECOMMENDATION:

1. That the Council Committee receive the following report and associated presentation.
2. That Council Committee adopt a position on each of the questions posed in this report
3. That Council Committee endorse testing the market for the residual southern lot at the Moree Gateway through an EOI process which incorporates the aforementioned positions.

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## REPORT

### CONFIDENTIALITY STATEMENT:

Should the Council wish to consider the report 'Moree Gateway Development, Third Stage', then they will need to resolve with explanation as follows:

**That Report - Confidential - Moree Gateway Development, Third Stage, be dealt with in Closed Council as it relates to Section 10A (2)(d)(ii) and(g) of the Local Government Act 1993 being:**

- (d) *Commercial information of a confidential nature that would if disclosed:*
  - (ii) *confer a commercial advantage on a competitor of the council.*

## **COMMUNITY IMPLICATIONS:**

No significant community implications have been identified.

## **ECONOMIC IMPLICATIONS:**

This project will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome(s):

- Ec1. Our Shire is a place that attracts and retains new businesses and residents**
- Ec2. Our Shire has the infrastructure we need to support our economy**
- Ec3. Our Shire supports existing businesses**
- Ec4. We have the skills and knowledge required to undertake the work available**

Properly managed, the third stage of the Moree Gateway Development would assist to attract and retain new businesses as well as support existing businesses. This would best occur when the development of this stage complements what is available in the first stages of the Moree Gateway Development as well as what is provided within the town overall. This reinforces the need for an appropriate strategic approach to the overall development site.

## **ENVIRONMENT IMPLICATIONS:**

This project would have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome(s):

- E2. We live sustainably and use our resources responsibly**
- E3. Our built environment – our town and villages – are desirable places to be**

An appropriate development pathway would make optimum use of Councils land resources and would also make optimum use of available servicing capacities.

Development of the site, which has a very high visual prominence and which establishes the “entry character” of the town of Moree when approaching from the south has the potential to make a significant contribution to the built environment.

## **LEADERSHIP/LEGAL IMPLICATIONS:**

This project will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome(s):

- L2. We demonstrate accountability, transparency and ethical conduct**
- L3. We are engaged and well informed**
- L4. We collaborate to achieve outcomes**
- L5. We manage our finances, assets and services effectively**

By adopting appropriate processes, Council is able to demonstrate accountability, transparency and ethical conduct. A thorough strategic planning process also ensures that Council is well-informed about the implications of the site’s development. Collaboration is a potential model for the further development of the site through a joint venture, public private partnership or the like. Finally, by engaging in appropriate market testing Council can ensure that its finances benefit from the project to the maximum realistic extent commensurate with risk and further that Council’s land assets are appropriately utilised for the overall benefit of the community.

## **FINANCIAL/OPERATIONAL PLAN IMPLICATIONS:**

Council has been in receipt of a report for information regarding the overall financial progress of the Moree Gateway Development. Development of the third and final phase of the Moree Gateway would have a significant impact in the overall final financial outcome available to Council from the project. Risks in this area need to be actively managed moving forward to ensure that Council's overall financial return is maximised commensurate with an appropriate risk level.

Development of a more detailed strategic planning process and selection of an appropriate development vehicle will involve detailed considerations as to the financial and operational plan implications.

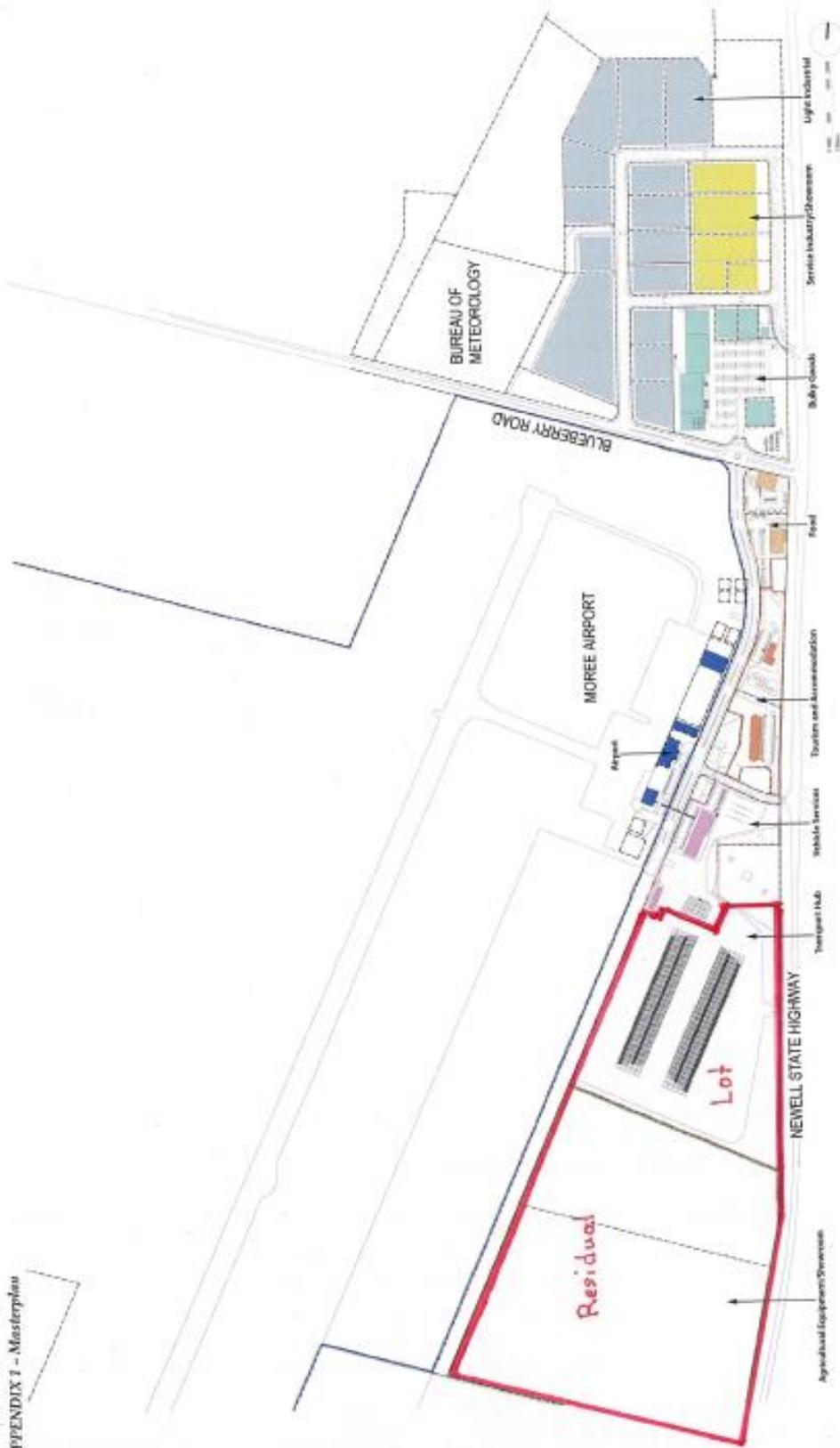
If an appropriate development vehicle was utilised to realise additional land sales at the Moree Gateway without the need to outlay significant expenses, those funds would be available to pay down debt and reduce interest expenses.

# **APPENDIX 1**

## **Report 3**

### **ORIGINAL MASTERPLAN LAYOUT – MOREE GATEWAY**

APPENDIX 1 - Masterplan



PROPOSED SITE PLAN

MOREE GATEWAY - PRECINCT MASTERPLAN



REPORT TITLE:	4. SUBMISSION ON THE EXPOSURE DRAFT OF THE ENVIRONMENTAL PLANNING & ASSESSMENT AMENDMENT BILL 2017
REPORT FROM:	DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT
FILE NUMBER:	FILE12/1268

**SUMMARY:**

The NSW Government have released an exposure draft of the Environmental Planning & Assessment Amendment Bill 2017 (Amendment Bill) which proposes to make a range of amendments to the Environmental Planning and Assessment Act 1979 (EP&A Act). The proposed changes in the Amendment Bill are part of a wider program from the NSW Government to change the NSW Planning System, including the introduction of the regional plans such as the Draft New England North West Regional Plan. The proposed changes build on some of the proposals in the Planning Bill 2013 which was dropped by the government after amendments were made in the upper house.

Submissions on the exposure draft of the Amendment Bill will be received until **31 March 2017**.

**RECOMMENDATION:**

**That Council make a submission on the Department of Planning and Environment - exposure draft of the Environmental Planning & Assessment Amendment Bill 2017 to request that it be amended to achieve the following outcomes:**

1. Councils are still given authority to determine the content of its DCP.
2. The Department should apply regular housekeeping type amendments to the standard instrument LEP to reduce the amount of duplicated planning proposals between Councils.
3. The Department identifies a clear pathway to regularise unauthorised work which involves an equivalent level of assessment as the correct approval pathway. A Building Certificate is not considered an appropriate vehicle for this assessment.
4. The proposal to extend private certification is not supported on the basis that higher impact developments require independent assessment by the local planning authority as well as increased public participation at DA stage.
5. No amendments that reduce the role of the Commission are supported.

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## REPORT

**BACKGROUND:**

The NSW Government have released an exposure draft of the Environmental Planning & Assessment Amendment Bill 2017 (Amendment Bill) which proposes to make a range of amendments to the Environmental Planning and Assessment Act 1979 (EP&A Act). The proposed changes in the Amendment Bill are part of a wider program from the NSW

Government to change the NSW Planning System, including the introduction of the regional plans such as the Draft New England North West Regional Plan. The proposed changes build on some of the proposals in the Planning Bill 2013 which was dropped by the government after amendments were made in the upper house.

Submissions on the exposure draft of the Amendment Bill will be received until 31 March 2017.

## **Current Situation**

The Amendment Bill proposes a range of new measures claimed to remove the unnecessary complexity in the planning system and deliver transparent best practice planning outcomes.

## **Key Amendments**

### **1. Community Participation Plans**

#### *Summary of proposed amendments*

Council will be required to prepare a community participation plan explaining how it will engage the community in plan-making and development decisions and updating the current minimum public exhibition requirements. Council's with broader community engagement strategies that meet the EP&A Act requirements will not need to prepare community participation plans.

#### *Staff comment*

The principle of meaningful community participation in the planning process is well understood and Moree Plains Shire Council is currently undertaking a process of comprehensive community engagement to formulate a new community strategic plan. Moree Plains Shire Council will have the option of preparing a stand-alone community participation plan or incorporating the new requirements into its current engagement strategy. The amendment is supported in principle.

### **2. Statement of reasons for decisions**

#### *Summary of proposed amendments*

Council will be required to give reasons why a development application (DA) was determined the way it was. The reasons are designed to inform the community as to how their views have been taken into account and to highlight matters that are particularly important to the decision.

#### *Staff comment*

Current legislation requires Council to give reasons why a DA is refused. It is considered good practice that this extends to DAs that are approved. The amendment is supported in principle.

### **3. Local Strategic Planning Statements**

#### *Summary of proposed amendments*

Council will be required to prepare a Local Strategic Planning Statement that articulates a 20 year vision for the local area and bridges the gap between regional and district plans produced by the State Government and Local Environmental Plans (LEPs) prepared for each Council area.

### *Staff comment*

There has long been a disconnect between the state and local level strategic planning policy. LEPs often represent a snapshot in time of the desired land use pattern and a high level strategic land use plan with a 20 year horizon in the vein of existing community strategic plans provides a more dynamic framework for planning authorities to articulate the future of the area. The amendment is supported in principle.

## **4. Regular LEP Checks**

### *Summary of proposed amendments*

Council will be required to undertake "LEP checks" every 5 years following from which the Department will set actions which may include putting forward planning proposals or performing a full LEP review.

### *Staff comment*

Moree Plains Shire Council already completes annual reviews of its LEP. This has resulted in several amendments to the LEP in the past two years. There are regular housekeeping amendments that are required to LEPs to address loopholes or unintended outcomes that are uncovered through use of the planning instrument. The Department should apply these housekeeping type amendments to the standard instrument to reduce the amount of duplicated planning proposals between Councils. The amendment is supported in principle.

## **5. Standard DCP Format**

### *Summary of proposed amendments*

Council will be required to prepare a development control plan (DCP) in a standard format. The standard format has not yet been established.

### *Staff comment*

Provided that Councils are still given authority to determine the content of its DCP no issues with standardised format have been identified. The amendment is supported in principle.

## **6. Exploring Incentives for Early Consultation**

### *Summary of proposed amendments*

There will be (yet to be detailed) incentives for developers to consult with neighbours and the surrounding community to ensure disputes are resolved prior to a DA proceeding to council.

### *Staff comment*

There is insufficient information at this time to critically appraise the proposed amendments. Early consultation with those affected by a proposed development is agreed with in principle provided that the power imbalance between professional developers and community members is corrected through a fair process. The amendment is supported in principle.

## **7. Efficient Approvals and Advice from NSW Agencies**

### *Summary of proposed amendments*

A number of efficiency measures are proposed including step-in power for the Secretary of the Department of Planning and Environment to prevent delays and resolve conflicts between agencies providing concurrence on a DA. The Secretary will be able to provide advice, concurrence or general terms of approval if there is conflict between two or more government agencies or if an agency has not provided the necessary information within statutory timeframes.

*Staff comment*

The proposed amendments are supported in principle.

**8. Strengthening Deterrence of Unauthorised Works**

*Summary of proposed amendments*

It is proposed to prevent the use of modification applications in circumstances where works have already been constructed. This presumably will lead to a greater use of Building Certificate applications when works as constructed differ from approved DA plans.

*Staff comment*

The proposed amendments will presumably lead to a greater use of Building Certificate applications when works as constructed differ from approved DA plans. Whilst it is agreed that there needs to be a deterrent for unauthorised works there also needs to be a clear pathway to regularise such occurrences which involves an equivalent level of assessment as the correct approval pathway. A Building Certificate is not considered an appropriate vehicle for this assessment. The amendment is supported in principle.

**9. Modifications Must Take Into Account Reasons For Original Consent**

*Summary of proposed amendments*

The reasons (required by 2. above) must be considered in later modification applications.

*Staff comment*

See 2. above. The amendment is supported in principle.

**10. Ongoing Work To Improve The Complying Development Pathway**

*Summary of proposed amendments*

It is proposed to extend the complying development assessment process to include greenfield developments and terrace housing and permitting the Land and Environment Court to invalidate complying development certificates (CDCs) when the Court determines prescribed criteria was not satisfied.

It is proposed to limit certain types of CDC which may only be issued by a Council (as opposed to a private certifier) (the CDC types have not yet been nominated) and permitting Council officers to suspend the carrying out works under a CDC for up to 7 days while they investigate compliance with applicable standards.

*Staff comment*

The proposal to extend private certification to include greenfield developments and terrace housing is not supported on the basis that these are higher impact developments that require independent assessment by the local planning authority as well as increased public participation at DA stage.

The proposal to permit the Land and Environment Court to invalidate CDCs is in response to the decision in *Trives v Hornsby Shire Council* [2015] NSWCA 158 and is supported. *Trives v Hornsby Shire Council* [2015] NSWCA 158 found that a decision by an accredited certifier that a development was a 'complying development' under the EPA Act was not a jurisdictional fact and could not be upset by the Land and Environment Court.

The proposal to limit certain types of CDC to issue by a Council is supported in principle.

## **11. Clearer Directions to Councils on Planning Agreements**

### *Summary of proposed amendments*

It is proposed to introduce a revised practice note, policy, planning circular and Ministerial directions to make planning agreements between developers and councils fairer, more consistent and more transparent. If adopted, the direction will require that local councils have regard to specific principles, policy and procedures when negotiating or preparing a planning agreement.

### *Staff comment*

Supported in principal

## **12. Power to Direct That a Local Planning Panel Must Make Determinations**

### *Summary of proposed amendments*

The amendments will allow the Minister to direct a council to establish a local planning panel to determine development assessments. The direction would also require the membership of the panel be approved by the Minister, and set out the circumstances in which the panel is to exercise the determination function. In most cases this would be in line with the model charter and operating procedures.

### *Staff comment*

The independent assessment provided by Council staff and planning panels is supported in principle. It is envisaged that the Minister might direct a council to establish a local planning panel where there is a significant portion of DAs are being determined by the elected Council. Moree Plains Shire Council has delegated authority to staff to determine most DAs except those where there is significant public opposition to the proposal.

## **13. Ensuring Delegation to Council Staff**

### *Summary of proposed amendments*

The new power of direction will also allow the Minister to require that more planning functions are carried out by the council staff.

### *Staff comment*

The NSW Government believes that the vast majority of DAs should be determined by council staff on delegation, given that Councils have expert practitioners on staff who are knowledgeable about local planning strategies and technical requirements. Statistics show that councils that delegate more applications to their staff have shorter processing times.

These reforms are generally attempted at focusing councillor attention on strategic planning with greater numbers of DA assessments being processed by council staff or local

planning panels. Under this model the elected council sets the strategy, policy and standards for development on behalf of their constituents, while technical assessments and decisions are made by independent experts in line with council's framework.

Moree Plains Shire Council has delegated authority to staff to determine most DAs except those where there is significant public opposition to the proposal.

#### **14. Review of Decisions**

##### *Summary of proposed amendments*

It is proposed to widen the availability of internal review options for proponents aggrieved by council decisions as a faster, low cost alternative to court action.

##### *Staff comment*

Internal review mechanisms are supported in principle.

#### **15. Enforceable Undertakings**

##### *Summary of proposed amendments*

It is proposed to introduce a new enforceable undertakings regime similar to existing regimes under the Protection of the Environment Operations Act 1997 and other legislation, in order to assist regulatory authorities to enforce compliance with the terms of development consents.

It is proposed to consolidate building provisions into a single part of the EPA Act to remove confusion for developers and certifiers.

It is proposed to introduce new provisions in the EPA Act to ensure that a construction certificate must be consistent with a development consent and that it can be declared invalid by a court if it is inconsistent with a consent (but only if proceedings are commenced within 3 months of the construction certificate being issued).

##### *Staff comment*

The amendment is supported in principle.

#### **16. Elevating the Role of Design**

##### *Summary of proposed amendments*

Design in the built environment creates an urban environment that works for individuals and communities, is fit-for-purpose, attractive, safe, efficient, built to last and can adapt to the needs of future generations. It is proposed to create a new object in the EP&A Act promoting good design in the built environment.

##### *Staff comment*

The amendment is supported in principle however it is observed that the expansion of Complying Development (a box-ticking approval mechanism) in NSW flies in the face of an increased design focus. Complying development assessment provides no formal avenue to consider design.

#### **17. Stronger Consultation Requirements for Major Projects**

##### *Summary of proposed amendments*

It is proposed to require applicants for State significant development to demonstrate how they consulted with the community prior to lodgement as part of the environmental impact statement. Expected consultation activities should be outlined in new guidelines about the EIS process set for release later this year. Public authorities able to 'self-assess' their activities under Part 5 of the Act may also need to seek concurrence from or notify other NSW agencies about activities in infrastructure corridors.

*Staff comment*

Increased public participation in state significant developments is supported in principle provided that the power imbalance between large scale developers and community members is corrected through a fair process.

**18. More Enforcement Tools to Address Non-Compliance**

*Summary of proposed amendments*

It is proposed to give the Secretary of the Department of Planning & Environment the power to accept enforceable undertakings from proponents to address non-compliance.

The Minister will also gain a power to unilaterally impose new conditions on existing approvals to require monitoring or environmental audits.

*Staff comment*

Enforceable undertakings could be used by the Department as an alternative to fines or prosecutions against proponents for significant non-compliances. Where an undertaking is given and then breached, the court will be able to make orders and issue fines.

The amendments to permit enforceable undertakings and the minister to impose new conditions are supported in principle.

**19. Conditions Requiring Financial Security and More Offsets**

*Summary of proposed amendments*

It is proposed to allow conditions requiring financial securities to fund the decommissioning or rehabilitation of sites.

*Staff comment*

This reform responds to concerns about developments where the landholder is not the proponent, particularly quarries where materials are extracted by proponents under private landholder agreements. The proposed amendments are supported.

**20. Changes to the Planning Assessment Commission Process**

*Summary of proposed amendments*

Under the proposed reforms, the Planning Assessment Commission (the Commission) will no longer have a role in reviewing development proposals. Public hearings held by the Commission will now occur at two stages - the first in the final weeks of the public exhibition period, prior to the close of public submissions; and the second, described as a 'more inquisitorial' hearing, will be held once the Department has prepared its draft assessment. The Commission will be re-named the 'Independent Planning Commission' and Commissioners will be bolstered by the inclusion of the Mining and Petroleum Gateway Panel members.

### *Staff comment*

The Commission currently fulfils a Determination, Review and Advice role. The Commission determines State Significant Development and infrastructure applications. The Commission carries out a review of any aspect of a State significant development including the holding of a public hearing. The Commission provides independent expert advice on a range of planning and development matters. No amendments that reduce the role of the Commission are supported.

## **21. Duplication and Inconsistency of Conditions in Major Project Approvals**

### *Summary of proposed amendments*

It is proposed to introduce the concept of a 'transferrable' condition – this is a specific condition in a development consent that will cease to have effect on the issue of another authorisation (such as an EPL) 'if the consent authority is satisfied that the matters regulated by those conditions will be adequately addressed by such an authorisation which it is issued'.

### *Staff comment*

The amendment is supported in principle.

## **Consultation**

### **External Consultation**

Nil.

### **Internal Consultation**

Nil.

## **COMMUNITY IMPLICATIONS:**

This proposal will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome:

### **S2. Our community is inclusive, connected and collaborative**

Council has an opportunity to provide input in the proposed planning system changes.

## **ECONOMIC IMPLICATIONS:**

This proposal will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcome:

### **Ec1. Our Shire is a place that attracts and retains new businesses and residents**

The planning system changes aim to simplify and improve the regulation and management of development, thereby making it easier for businesses.

## **ENVIRONMENT IMPLICATIONS:**

This proposal will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcomes:

- E2. We live sustainably and use our resources responsibly**
- E3. Our built environment – our town and villages – are desirable places to be**

The proposed planning system improvements intend to provide better outcomes and more efficient enforcement.

## **LEADERSHIP/LEGAL IMPLICATIONS:**

This proposal will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcomes:

- L1. Our leaders speak out for the good of our community**
- L3. We are engaged and well informed**

Council has an opportunity to provide input in the proposed planning system changes.

## **FINANCIAL/OPERATIONAL PLAN IMPLICATIONS:**

No implications from proposed planning system changes however the responsibilities for local government in delivering the amendments will need to be manageable.

REPORT TITLE:	5. QUESTIONS ON NOTICE RESPONSES
REPORT FROM:	GENERAL MANAGER
FILE NUMBER:	FILE 15/183

**SUMMARY:**

Questions on Notice (QON) provide an opportunity for Councillors to ask questions of the General Manager which are then recorded within the meeting minutes and the Council's CRM system. Councillors have indicated that they would like to ensure that the responses to QONs not answered on the day are made available to the public through inclusion in business papers.

The purpose of this report is provide a copy of the QON responses in the next available committee meeting business paper for public viewing to maintain transparency. This report is for information purposes only and does not require a recommendation.

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**REPORT****BACKGROUND:**

QON's provide an opportunity for Councillors to ask questions of the General Manager which are then recorded within the meeting minutes and the Council's CRM system. A response to this question is either provided verbally at the meeting or taken on notice if the response requires further research.

In response to requests from Councillors, a QON response system has been implemented where all responses are made available to the public through a Standing Committee Meeting business paper (as per this report). This will ensure that the answers not provided at the meeting are publically available for review by members of the public.

**COMMUNITY IMPLICATIONS:**

No significant community implications have been identified.

**ECONOMIC IMPLICATIONS:**

No significant economic implications have been identified.

**ENVIRONMENT IMPLICATIONS:**

No significant environmental implications have been identified.

**LEADERSHIP/LEGAL IMPLICATIONS:**

Review of the Questions on Notice responses will have a positive impact on the following Community Strategic Plan and Delivery Program/Operational Plan outcomes:

**L2. We demonstrate accountability, transparency and ethical conduct**

**L3. We are engaged and well informed**

Review of the QON's allows Council to closely monitor what QON's have been responded to while providing details of questions and responses in a public forum. This ensures there is transparency in Council's conduct and the community is kept well informed.

**FINANCIAL/OPERATIONAL PLAN IMPLICATIONS:**

Review of the QON's responses has no significant financial implications identified.

# **APPENDIX 2**

## **Report 5**

### **QUESTIONS ON NOTICE RESPONSES**

CRM 1420/2017

**Question on Notice -Executive - Councillor Price**

2. The infrastructure projects that everyone's been putting in, who do we give that list to? How does it work? What is the process of getting items on that list? My concern is that while there are so many things that need doing that would improve the situation, we need to ensure that we can maintain what we've already got.

*General Manager, Lester Rodgers:*

*As I've requested, if you can forward your requests and suggestions through to me. As the General Manager and also the Chair of the JO leadership team group. I will be making sure that they are put forward for consideration. Ultimately, as to whether they are included, that will be a decision of the board.*

(Strategic Asset and Works Committee Meeting 9 March 2017).

**Response:**

*At the 9 March 2017 Ordinary Council Meeting the Council resolved to no longer be a member of the Namoi Joint Organisation. Therefore, submission of this list is no longer required. The infrastructure project list will be saved on record if required in future for another purpose.*

CRM 1052/2017

**Question on Notice - Water and Waste - Councillor Tramby**

In regards to saving on water mains. What is the possible cost of plan A which was from Boolaroo to Jacaranda Park Moree and thence to Industrial Drive as compared to the South Moree Project? - Water is out there at Yarraman, issue is mains capacity.

(Finance and Governance Committee Meeting 16 February 2017).

**Response:**

*It is understood that Councillor Tramby may be referring to a Moree Water Supply Augmentation Report Prepared by the NSW Public Works in March 1986 that referenced the proposed construction of a trunk main to the reservoir proposed for Bullus Drive (sometimes referred to as Tycannah St. Reservoir).*

*Whilst a search has revealed little information, in practice this trunk main would link the Treatment Works at Broadwater to the Steel Standpipe reservoir located at Bullus Drive. The approximate length of this trunk main would be 5.5km. Assuming that a 450mm diameter main is required, the estimated cost is in the order of \$5.2 million. This takes into account the difficulty of constructing in a semi-built up area including crossing the Mehi River. A detailed design would be required to firm up the proposal.*

*By comparison, the cost of constructing bores, rising mains 2.83km x 200mm diameter and 8.76km x 250mm diameter between the proposed Walanol Road bore site and the Evergreen Precinct is \$5.67 m. The balance of the project relates to upgrading and extending the existing reticulation to improve water reticulation in the South Moree Area (\$0.57 m.) - Total project cost \$6.24m.*

*It is considered that whilst both of these two projects are worthy, it makes sense to select the option that provides the maximum improvement to Council's water security as this is the current thrust of funding considerations. This requires an appropriate consideration of risk for each project.*

**Water Availability Risk**

*The Water Sharing Plan literature for the Lower Gwydir Groundwater Source cautions:*

"Following a review of the Lower Gwydir Groundwater Source conducted in the first half of 2008, an area between Moree and Ashley was identified as having significant drawdown and recovery decline, with drawdowns of up to 40% of saturated thickness during the 2006/07 pumping season. This area between Moree and Ashley has become an area of concern in regard to the cumulative impacts on the aquifer and water users, and that the declining water levels above those anticipated under the water sharing plan may result in a reduced economic benefit to the community." *This is supported in the same literature by several graphs of declining water levels over a number of years. Further, Council recently engaged a hydrogeologist to undertake a study of historic water levels in the Yarraman area. This study also resulted in a chart showing declining groundwater levels in an observation bore.*

*From a risk perspective, in order to improve Moree's water security, it makes great sense to establish new bores outside the Area of Concern identified in the literature between Ashley and Moree. The South Moree Augmentation meets this objective.*

**Water Transfer Risk - Water Main between Main Northern Bore-field and the Water Treatment Plant**

*A 1.8km x 450mm diameter water main links the Yarraman Bore-field to the Broadwater Treatment Plant. This is a key piece of infrastructure, for which there is no back-up system. Should this main fail, it is possible that the town would be left without water for an extensive period.*

*From a risk perspective, it makes great sense to establish suitable alternative arrangements in order to improve Moree's water security. The South Moree Augmentation meets this objective.*

**Water Contamination Risk**

*Should a particular aquifer become contaminated for any reason - either by ingress of pollutants or saltation, it makes great sense to establish groundwater extraction points at alternate locations should such an event occur. The South Moree Augmentation meets this objective.*

CRM 1424/2017

**Question on Notice - Water and Waste - Councillor Tramby**

What is the requirement for Council to supply the ski lakes? If we get a water hungry industry such as the fish farm, is there water available for them, or are we locked into supplying the Ski Lakes.

*General Manager, Lester Rodgers:*

*We will take that on notice and provide a more detailed response but my recollection is that Council will use their best endeavours to provide water to ensure that the ski lakes are "fit for purpose but we are not locked into a mandatory obligation to provide ALL of our water out there. Further response required.*

*(Strategic Asset and Works Committee Meeting 9 March 2017).*

**Response:**

*The current Licence Agreement between Moree Plains Shire Council and the Moree Water Ski Club is silent on the supply of any quantity of spent artesian water to the Moree Water Ski Club. Accordingly, council has no legal obligation to supply.*

*The annual discharge of spent artesian water from the Moree Artesian Aquatic Centre (MAAC) to the Moree Water Park is in the order of 620ML per annum which is equivalent to the 620ML per annum Water Access Licence (WAL) applicable to the MAAC.*

*As a guide only, it is envisaged that a business such as a fish farm may take about 1ML (less than one days pumping from the MAAC) for the initial fill, and would then likely require about 10% of that quantity on a daily basis. Accordingly, it is expected that there would be water available for an industry with some reduction of in flow to the Water Park.*

CRM 10165/2016

**Question on Notice -Planning and Development - Councillor Tramby**

Taking photographs in this Chamber. When a TV camera is operating taking footage it needs to be given permission as it includes the spoken word. Cannot find anywhere where there is a requirement for permission to take a photograph in the Council Chambers, which is a public area. As a public area we can't restrict photographs, unless we have a policy restricting it. Councillor Humphries: It was never questioned when Councillor Gall previously stopped photographs being taken without permission. Councillor Price: They need permission to use photographs. Mr Witherby: Will take on notice and transmit to the General Manager. This will include a review of the privacy legislation.

(Committee Development and Services Committee Meeting 24 November 2016).

**Response:**

*Advice from the Information Privacy Commissioner's office is that Council, as owner of the Council Chamber, has a responsibility to ensure that breaches to the principles of the Privacy and Personal Information Protection Act 1998 do not occur on our property. Council should restrict anyone from recording the meeting without first obtaining the permission of the Council, through a resolution, and permission of those present. They should be made aware of who is taking the recordings and for what purpose and be provided the opportunity to refuse to be recorded, should they wish.*

CRM 10166/2016

**Question on Notice - Planning and Development - Councillor Tramby**

4. Taping of minutes of the meeting. The General Manager previously has indicated that this is compulsory. We have to take accurate records. Preferred method is where we type it and all councillors can agree on it. Before that we were recording them. The Act says we can record, but do not need to. The preferred method is what we are using. We used to have a policy that recording was specifically for the accuracy of the minutes and that the recordings were destroyed. Is what we are doing appropriate and legal? Concern that people would need to be asked as it is not legal to record voice without permission. Was informed by the General Manager that some recordings were kept and not destroyed. The standing policy was that the recording was to be destroyed after the minutes were adopted.

*Mr Witherby: Take on notice. A policy is to be submitted to Council's meeting of 15 December 2016. A further response required.*

(Community Development and Services Committee Meeting 24 November 2016)

**Response:**

*Council resolved the Audio Recording of Council and Committee Meeting Policy at its Ordinary Council Meeting held 23 February 2017.*

